

Council Meeting Agenda - 23 March 2022



Meeting will be held in the Council Chamber at Level 2, Philip Laing House
144 Rattray Street, Dunedin - Councillors
[ORC YouTube Livestream](#) - Members of the Public

Members:

Cr Andrew Noone, Chairperson	Cr Gary Kelliher
Cr Michael Laws, Deputy Chairperson	Cr Kevin Malcolm
Cr Hilary Calvert	Cr Gretchen Robertson
Cr Michael Deaker	Cr Bryan Scott
Cr Alexa Forbes	Cr Kate Wilson
Cr Carmen Hope	

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Dianne Railton, Governance Support Officer

23 March 2022 01:00 PM

Agenda Topic	Page
1. APOLOGIES	
No apologies were received prior to publication of the agenda.	
2. PUBLIC FORUM	
Requests to speak should be made to the Governance Support team on 0800 474 082 or to governance@orc.govt.nz at least 24 hours prior to the meeting; however, this requirement may be waived by the Chairperson at the time of the meeting.	
Gerrard Eckhoff will speak at Public Forum regarding Governance.	
3. CONFIRMATION OF AGENDA	
Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
4. CONFLICT OF INTEREST	
Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
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	That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987), namely:	
	<ul style="list-style-type: none"> - Minutes of the 9 December 2021 public-excluded Council Meeting - Minutes of the 23 February 2022 public-excluded Council Meeting - On-lending Agreement - Lower Waitaki River Control Scheme Operation and Funding Agreement 	
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11.	CLOSURE	



Minutes of an ordinary meeting of
Council held in the
Council Chamber on
Wednesday 23 February 2022 at 1:00pm

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Alexa Forbes
Cr Michael Deaker
Cr Carmen Hope
Cr Gary Kelliher
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 1:11 pm. Staff present in the Chamber were Amanda Vercoe (GM Governance, Culture and Customer), Richard Saunders (GM Regulatory and Communications), and Liz Spector (Governance Support Officer) and present electronically were Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Gwyneth Elsum (GM Strategy, Policy and Science), Gavin Palmer (GM Operations), Dianne Railton (Governance Support Officer, minute-taker), Anita Dawe (Manager Policy and Planning), Tom De Pelsemaeker (Team Leader), Anne Duncan (Manager Strategy), Andrea Howard (Manager Environmental Implementation), and Anna Ferguson (Principal Advisor Environmental Implementation). Also in attendance electronically were legal representatives, Alastair Logan for item 7.1 and Michelle Mehlhopt for item 7.2.

1. APOLOGIES

No apologies were received. Cr Deaker, Cr Kelliher, Cr Robertson and Cr Scott attended the meeting electronically.

2. PUBLIC FORUM

Ms Kris Nicolau spoke at the Public Forum regarding noise mitigation for the neighbourhood surrounding Port Otago. Ms Nicolau's statement will be sent to Port Otago for the next Port Otago Liaison Committee meeting.

3. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

4. CONFLICT OF INTEREST

Due to possible conflict of interest, Cr Wilson and Cr Kelliher advised that they would leave the meeting for item 7.2 Plan Change 7, and Cr Calvert advised she would leave the meeting for item 7.6 Whare Runaka/Head Office Update.

5. CONFIRMATION OF MINUTES

Resolution: Cr Noone Moved, Cr Laws Seconded

That the minutes of the (public portion of the) Council meeting held on 9 December 2021 and the Extraordinary Council meeting held on 9 February 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

6. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)

The status report on the resolutions of the Council Meeting was reviewed.

7. MATTERS FOR CONSIDERATION

7.1. Making Plan Change 5A (Lindis: Integrated Water Management) to the Regional Plan: Water for Otago operative

The report was provided for Council to approve Plan Change 5A (Lindis: Integrated Water Management) (PC5A) to the Regional Plan: Water for Otago (Water Plan) and to set a date for making the plan change operative by incorporating the amended provisions into the operative Water Plan. Gwyneth Elsum (GM Strategy, Policy and Science), Anita Dawe (Manager Policy and Planning), Tom De Pelsemaeker (Team Leader Freshwater and Land) and Alastair Logan (Lawyer, Ross Dowling) were present to speak to the paper and respond to questions.

Mr De Pelsemaeker advised that this is a procedural step that is mandatory under the RMA. He said that the plan change will be publicly notified on Saturday 26 February 2022 and it will become operative from Saturday 5 March 2022. Cr Scott asked what ORC has learnt from this process and Ms Dawe responded that the Policy Team are doing things differently now, ensuring improvements are made and there are different personnel now. She also said it won't happen again due to law changes. Cr Wilson recommended that members of the Lindis Catchment Group and Fish & Game Otago be invited to meet with Councillors to work on improving and understanding each other's roles.

Resolution CM22-107: Cr Wilson Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** minor changes made to Proposed Plan Change 5A in accordance with clause 16(2) of Schedule 1 of the RMA.
- 3) **Approves** Plan Change 5A, and incorporates these provisions into the Operative Water Plan in accordance with clause 17(2) of Schedule 1 to the RMA.
- 4) **Affixes** Council's seal to Plan Change 5A to the Water Plan in accordance with clause 17(3) of Schedule 1 of the RMA.
- 5) **Resolves** to make Plan Change 5A operative from Saturday 5 March 2022, and publicly notify this date on Saturday 26 February 2022, in accordance with clause 20 of Schedule 1 of the RMA.
- 6) **Requests** that the Chairman write to the Lindis Catchment Group inviting them to meet Councillors in their area, subject to a change in covid settings, in May 2022, and similarly to Fish & Game Otago to work on improving our understanding of each other's roles.

MOTION CARRIED

Cr Wilson and Cr Kelliher left the meeting due to a possible conflict of interest.

**7.2. Making the Water Permits Plan Change (WPPC - Plan Change 7) to the Regional Plan:
Water for Otago operative**

To approve Plan Change 7 (PC7) - Water Permits Plan Change to the Regional Plan: Water for Otago (Water Plan) and to set a date for making the plan change operative by incorporating the amended provisions into the operative Water Plan. Gwyneth Elsum (GM Strategy, Policy and Science), Anita Dawe (Manager Policy and Planning), Tom De Pelsemaeker (Team Leader Freshwater and Land), and Michelle Mehlhopt (Special Counsel from Wynn Williams), were present to speak to the report and respond to questions.

Mr De Pelsemaeker advised that the plan change would be publicly notified on Saturday, 26 February 2022, and would be operative from Saturday, 5 March 2022. Cr Calvert and Cr Laws raised concerns of equity issues that effect people who had applied for a consent prior to Plan Change 7. Cr Calvert asked for the information contained in this paper to be referred to the 10 March 2022 Regulatory Committee with regard to the application of the fees and charges policy.

Resolution CM22-108: Cr Calvert Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** minor changes made to Proposed Plan Change 7 in accordance with clause 16(2) of Schedule 1 of the RMA.
- 3) **Approves** Plan Change 7, and incorporates these provisions into the Operative Water Plan in accordance with clause 17(2) of Schedule 1 to the RMA.
- 4) **Affixes** Council's seal to Plan Change 7 to the Water Plan in accordance with clause 17(3) of Schedule 1 of the RMA.

- 5) **Resolves** to make Plan Change 7 operative from Saturday 5 March 2022, and publicly notify this date on Saturday 26 February 2022, in accordance with clause 20 of Schedule 1 of the RMA.
- 6) **Refers** the information contained in this paper to the 10 March 2022 Regulatory Committee with regard to the application of our fees and charges policy.

MOTION CARRIED

Cr Wilson and Cr Kelliher returned to the meeting.

7.3. Consultation on the Resource Management Reform

The paper was provided for Council to approve ORC's feedback on the Ministry for the Environment's (MfE) discussion document on the future resource management system, released in November 2021. Gwyneth Elsum (GM Strategy, Policy and Science), Anita Dawe (Manager Policy and Planning) and Anne Duncan (Manager Strategy), were present to speak to the report and respond to questions.

Cr Malcolm expressed his concerns about the prohibition for statutory liability insurance, which he had raised at the recent workshop, and following discussion it was noted that this would be included in the submission. Ms Dawe confirmed that the submission closed on 6 March 2022 and would be signed by the Chair.

Resolution CM22-109: Cr Hope Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the submission on *Our Future Resource Management System*, subject to any changes as articulated in the Council meeting, to be lodged with the Ministry for the Environment, by 28 February 2022.

MOTION CARRIED

7.4. ECO Fund Review

This paper was provided for Council's endorsement of the recommendations arising from the review of the ECO Fund. Gavin Palmer (GM Operations), Andrea Howard (Manager Environmental Implementation), and Anna Ferguson (Principal Advisor Environmental Implementation) were present to speak to the report and respond to questions.

Ms Ferguson provided an update on the recommended changes which includes incentives that are funded through LTP funding for rabbit management, planting for water quality, and planting after wilding conifer removal. There was discussion on changing the time to uplift the grant from 6 months to 3 months.

Resolution CM22-110: Cr Deaker Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** an invitation be extended to a *mana whenua* representative to join the ECO Fund assessment panel.
- 3) **Approves** the inclusion of the following incentive budget in the ECO Fund process, noting these budgets will be 'ring-fenced' to ensure any additional or specific criteria are met:

- a. *Sustained rabbit management incentives with the ECO Fund – note additional criteria at Appendix 1 (up to \$100,000) – approved LTP biosecurity funding*
 - b. *Planting for water quality incentives with the ECO Fund (up to \$30,000) – approved LTP freshwater funding*
 - c. *Planting after wilding conifer removal (up to \$50,000) - approved LTP biosecurity funding*
- 4) **Approves** the change from two ECO Fund rounds being held each year to one round being held in May / June 2022 and thereafter in March / April 2023.
 - 5) **Approves** the revised assessment criteria outlined in Table 4.
 - 6) **Approves** the funding of multi-year projects up to 3 years to be fully funded from the round in which they are assessed (if successful) and subsequent year funding be provided on receipt of project reports that demonstrate appropriate progress. Multi-year projects would be capped at \$50,000 in total (the current cap for the ECO Fund).
 - 7) **Approves** the updating of the Terms of Reference for the 'decision' panel, as suggested in Attachment 3, to reflect the recommendations of this review.
 - 8) **Notes** that the ECO Fund templates and processes will be amended to reflect the recommendations approved.

MOTION CARRIED

There was discussion on the whether the time to uplift the grant should change from 6 months to 3 months.

Resolution CM22-111: Cr Deaker Moved, Cr Hope Seconded

That the Council:

- 1) **Approves** changing the time in which successful applicants can take up their grant from 6 months to 3 months following notification of their grant being approved unless otherwise agreed.

MOTION LOST

7.5. Code of Conduct Review: Update

The report was provided as a progress update on reviewing the Otago Regional Council's Code of Conduct, including work being undertaken by other agencies, and seek guidance from Council on preferred next steps. This followed legal advice from Mr Len Andersen QC to full Council in public on 24 November 2021, which highlighted points for consideration in the current code. Amanda Vercoe (GM Governance, Culture and Customer) was present to speak to the report and respond to questions.

Ms Vercoe advised that she had spoken to LGNZ and Bruce Robertson, Director of R Bruce Robertson Limited, who would have capacity to undertake a Code of Conduct review in the next couple of months should Council wish to proceed with an independent review. Mrs Gardner said that with LGNZ also reviewing the code, essentially ratepayers would be paying twice, by paying LGNZ fees and then paying Bruce Robertson. Cr Laws said that an option would be for Councillors to meet, by workshop or similar, to work out what we are trying to achieve and what works best.

Resolution CM22-112: Cr Noone Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

Resolution CM22-113: Cr Noone Moved, Cr Malcolm Seconded

That the Council:

- 1) **Directs** the Chief Executive to proceed with engaging Bruce Robertson to undertake a review of the ORC Code of Conduct to address the issues raised by Len Andersen QC at the 24 November 2021 Council Meeting and report back to Council by 30 June 2022.

MOTION CARRIED

Resolution CM22-114: Cr Noone Moved, Cr Malcolm Seconded

That the Council:

- 1) **Directs** the Chief Executive to provide the legal advice from Len Andersen QC to LGNZ.

MOTION CARRIED

Resolution CM22-115: Cr Noone Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** that the Local Government Commission has prepared a report reviewing local government Codes of Conduct and submitted it to the Minister for Local Government for consideration.

MOTION CARRIED

A division was called:

Vote

For:	Cr Calvert, Cr Deaker, Cr Hope, Cr Kelliher, Cr Malcolm, Cr Noone and Cr Wilson
Against:	Cr Forbes, Cr Laws, Cr Robertson and Cr Scott
Abstained:	Nil

MOTION CARRIED (7 votes for, 4 votes against)

The meeting adjourned for a break at 3:30pm, and reconvened at 3:48pm

Cr Calvert left the room due to a possible conflict of interest.

7.6. ORC Whare Rūnaka/Head Office Update

The report provided an update on activity of the ORC Whare Rūnaka / Dunedin Head Office Accommodation project. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions. Mr Donnelly advised a lot of work has been undertaken since the last update to Council in October 2021, including GHD designers meeting and engaging with staff, and also meeting with the Internal Steering Group (ISG), which includes Cr Noone and Cr Malcom. Cr Scott and Cr Kelliher raised their concerns that the first time they had seen the concept designs were shown in the public Port Otago presentation to the Finance Committee. Mr Donnelly said that next step is for the Internal Steering Group to meet, and then arrange for GHD Design to present to Councillors.

Resolution CM22-116: Cr Noone Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

Cr Calvert returned to the meeting.

7.7. Annual Review of Delegations Manual

The report was provided for Council approval of proposed amendments to the Otago Regional Council's Delegation's Manual which have been identified, after a staff review, as requiring updating. The Manual is a combination of delegations by the Council and the Chief Executive. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions. Mr Donnelly advised that on 24 June 2020, Council approved the Otago Regional Council's delegation manual, and at that meeting Council requested a review of the Delegations Manual to be reported back to the second Council Meeting of 2022. There was discussion regarding Section 17 Court Proceedings of the Delegations Manual and while there were no changes to this section, Cr Calvert asked for a review of this section.

Resolution CM22-117: Cr Calvert Moved, Cr Noone Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the delegation changes as provided for in this report.
- 3) **Approves** the Chief Executive to update the Council's Delegations Manual accordingly.

MOTION CARRIED

Resolution CM22-118: Cr Calvert Moved, Cr Noone Seconded

That the Council:

- 1) **Seek** a review of Delegations in Section 17 Court Proceedings to be brought to the 25 May 2022 Council Meeting.

MOTION CARRIED

7.8. Regional Shared Services

The paper was provided for Council's endorsement for ORC to become a shareholder in a proposed regional sector shared services organisation (RSHL – Regional Software Holdings Limited) and seek approval to prepare documentation to undertake consultation on that proposal. This paper was originally presented to Council on 9 December 2022 where Council requested more information around any risk to ORC around shareholder exposure to cost overruns in projects undertaken by the CCO. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions.

Resolution CM22-119: Cr Malcolm Moved, Cr Noone Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Endorses** the establishment of a regional sector shared services organisation.
- 3) **Endorses** ORC becoming a shareholder in a regional sector shared services organisation once that entity is established.

- 4) **Approves** the preparation of consultation documentation as required under the Local Government Act 2002 to enable consultation to be undertaken on ORC becoming a shareholder in a new regional sector shared services organisation.
- 5) **Authorises** the Chief Executive to provide a letter to Regional Services Holdings Limited, indicating ORC’s intent to become a shareholder in the proposed new regional sector share services organisation subject to outcome of consultation.
- 6) **Requests** the GM Corporate Services and CFO to confirm reporting structure of the new entity at the conclusion of the consultation period.

A division was called:

Vote

For:	Cr Deaker, Cr Forbes, Cr Laws, Cr Malcolm, Cr Noone, Cr Robertson and Cr Scott
Against:	Cr Calvert, Cr Hope, Cr Kelliher and Cr Wilson
Abstained:	Nil

MOTION CARRIED (7 votes for, 4 votes against)

8. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

8.1. Recommendations of the Data and Information Committee

Resolution CM22-120: Cr Calvert Moved, Cr Laws Seconded

That the Council adopts the resolutions of the 8 December 2021 Data and Information Committee.

MOTION CARRIED

8.2. Recommendations of the Implementation Committee

Resolution CM22-121: Cr Calvert Moved, Cr Laws Seconded

That the Council adopts the resolutions of the 8 December 2021 Implementation Committee.

MOTION CARRIED

8.3. Recommendations of the Regulatory Committee

Resolution CM22-122: Cr Calvert Moved, Cr Laws Seconded

That the Council adopts the resolutions of the 9 December 2021 Regulatory Committee.

MOTION CARRIED

8.4. Recommendations of the Strategy and Planning Committee

Resolution CM22-123: Cr Calvert Moved, Cr Laws Seconded

That the Council adopts the resolutions of the 9 February 2022 Strategy and Planning Committee.

MOTION CARRIED

9. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

9.1. Chairperson's Report

Resolution: Cr Laws Moved, Cr Calvert Seconded

That the Chairperson’s report be received.

MOTION CARRIED

9.2. Chief Executive's Report

Resolution: Cr Calvert Moved, Cr Noone Seconded

That the Chief Executive's report be received.

MOTION CARRIED

10. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Laws Moved, Cr Hope Seconded:

That the public be excluded from the following parts of the proceedings of this meeting, (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

- *Minutes of the public excluded Council meeting held on 9 December 2021*
- *Minutes of the public excluded Extraordinary Council meeting held on 9 February 2022*
- *Clutha/Mata Au River - depositing of material on bed of river*

Chair Noone also moved that Mr Len Andersen, QC, be permitted to remain at this meeting, after the public has been excluded, as he would be providing legal advice to Council on the Clutha/Mata Au River - depositing of material on bed of river.

MOTION CARRIED

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>1.1 Minutes of the public excluded meeting of Council held on 9 December 2021</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>1.2 Minutes of the public excluded meeting of Council held on 9 February 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of

		the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.1 Clutha/Mata Au River - depositing of material on bed of river</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution was made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.

11. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 5:07pm.

Chairperson

Date

COUNCIL – OPEN ACTIONS OF RESOLUTIONS AT 23 MARCH 2022

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
09/12/2021	ENG2102 Review of Flood Protection Management Bylaw 2012	Completed	Commence a review of the Flood Protection Management Bylaw 2012. GM21-204	General Manager Operations, Manager Engineering	10/01/2022 Manager Engineering The contract has been awarded to the Consultant supporting this review. The contract was awarded to Beca on the 17th December 2021. Contract start up meeting with Beca and ORC is occurring on the 12th January 2022. 23/02/2022 Ex The review is underway. A report on progress will be provided to the March 2022 Regulatory Committee. 11/03/2022 Bylaw Approval to Commence Consultation paper will be provided to Council on 23 March 2022.	30/11/2021
09/12/2021	GOV2164 Annual Plan 2022-23 Rating Considerations	Completed	Convene a working party comprised of Finance and Engineering staff, Cr Malcolm and Cr Wilson to report back to the 23 Feb 2022 Finance Committee meeting on ways to pilot a review of the Taieri drainage and flood scheme rates. CM21-217	General Manager Corporate Services and CFO, General Manager Operations	19/01/2022 To start 13/02/2022 General Manager Corporate Services and CFO The working group met on 2 February 2022 and an update is being provided to the Finance Committee meeting on 23 February 2022. 23/02/2022 The working group met on 2 February 2022 and an update was provided to the Finance Committee meeting on 23 February 2022. The Committee made resolutions that are being actioned by staff and the Working Party.	23/02/2022
09/12/2021	COMS2106 Community Survey Report	Completed	Staff to develop an action plan in response to the Community Survey and report back to the Governance, Comms, and Engagement Committee on 10 March 2022. CM21-211	General Manager Regulatory and Communications	7/03/2022 General Manager Regulatory and Communications A paper including a draft action plan has been prepared for the GCE Committee meeting on 10 March 2022	10/03/2022
09/12/2021	GOV2161 FMU Liaison Councillor Nominations	Completed	Update the Council Committee Terms of Reference to reflect change to FMU /rohe Councillor liaisons. CM21-212	General Manager Governance, Culture and Customer, Governance Support Officer	14/02/2022 The Terms of Reference have been updated and published to the website.	30/11/2021
26/08/2020	GOV1937 Electoral System for 2022 and 2025 Local Body Elections	In Progress	Work with Electoral Officer to include a poll asking for voter preference for STV/FPP alongside voting papers for the 2022 local elections.	General Manager Governance, Culture and Customer, Governance Support Officer	1/09/2020 Contacted Electoral Officer Anthony Morton of Electionz for information. He will update our file, noting the request to conduct the poll with the 2022 election. He indicated additional cost of approx \$75,000, not including additional comms that will be necessary. 14/09/2020 Public Notice in ODT on 12/9/20 to meet legislative requirements and to advise ORC intends to conduct a poll on voting systems alongside the 2022 local body elections.	01/01/2022

Council Meeting Agenda - 23 March 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
					<p>2/02/2022</p> <p>This work is underway and has been contracted with Electionz.com to run the poll alongside the October 2022 Local Body Elections.</p>	
24/11/2021	HAZ2109 South Dunedin Future Programme Update Report	In Progress	Provide an update to Council on the South Dunedin Future Programme mid-year 2022. Res CM21-193	General Manager Operations	<p>23/02/2022</p> <p>An update on the programme will be provided to the April 2022 meeting of the Strategy and Planning Committee. The programme plan report will be provided to the June 2022 Council meeting.</p>	30/06/2022
24/11/2021	GOV2158 Code of Conduct Complaint: Investigation Report	In Progress	The CE to get a report that considers the points raised by Mr Len Anderson QC, and recommends a change of Code with options including a possible mediation cause, as appropriate, to report back to the Council meeting in February 2022. Res CM21-199	Chief Executive	<p>14/02/2022</p> <p>Progress update report provided to Council on 23 February 2022 agenda.</p>	23/02/2022
23/06/2021	GOV2116 Zero Carbon 2030 Alliance Memorandum of Understanding	Assigned	Staff will update Council on discussions and activities related to the Zero Carbon 2030 Alliance. Res CM21-127	General Manager Governance, Culture and Customer, Senior Advisor - Mayoral Forum	<p>2/11/2021</p> <p>No activity to report currently.</p>	09/12/2021
29/09/2021	Chairperson's Report	Assigned	Staff organise a Bicultural Competency workshop. Res CM21-166	General Manager Governance, Culture and Customer	<p>20/10/2021 General Manager Governance, Culture and Customer</p> <p>Staff are working with Aukaha to set up a learning opportunity for early 2022. Further information will be provided as the detail is developed.</p> <p>9/02/2022 General Manager Governance, Culture and Customer</p> <p>Update from Aukaha early Feb, suggesting May/June timing for this opportunity.</p>	30/04/2022
29/09/2021	Chairperson's Report	Assigned	Undertake a review of the Manuherehia Governance decision making process. Res CM21-167	Chairperson	<p>9/02/2022</p> <p>Delayed until TAG complete science work.</p>	09/12/2021
24/11/2021	HAZ2109 South Dunedin Future Programme Update Report	Assigned	Write to DCC reiterating that we are happy to work together on a joint governance group on the South Dunedin Future Programme. Res CM21-193	Chairperson	<p>9/02/2022</p> <p>Yet to be actioned.</p>	24/02/2022
23/02/2022	SPS2202 Making Plan Change 5A (Lindis: Integrated Water Management) to the Regional Plan: Water for Otago operative	Assigned	Chairman to write to the Lindis Catchment Group inviting them to meet Councillors in their area, subject to a change in Covid settings, in May 2022, and similarly to Fish & Game Otago, to work on improving our understanding of each other's roles. Res CM22-107	Chairperson		29/04/2022
23/02/2022	GOV2208 Code of Conduct Review: Update	Assigned	Chief Executive to proceed with engaging Bruce Robertson to undertake a review of the ORC Code of Conduct to address the issues raised by Len Andersen QC at the November 2021 Council Meeting and report back to Council by 30 June 2022. Res CM22-113	Chief Executive, General Manager Governance, Culture and Customer		22/06/2022

Council Meeting Agenda - 23 March 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
23/02/2022	GOV2208 Code of Conduct Review: Update	Assigned	Chief Executive to provide the legal advice from Len Andersen QC to LGNZ. Res CM22-144	Chief Executive, General Manager Governance, Culture and Customer		31/03/2022
23/02/2022	CS2211 Annual Review of Delegations Manual	Assigned	A review of Delegations in Section 17 Court Proceedings is to be brought to the 25 May 2022 Council Meeting. Res CM22-118	General Manager Corporate Services and CFO, Legal Counsel		25/05/2022

7.1. Annual Plan 2022-23

Prepared for: Council
Report No. CS2214
Activity: Governance Report
Author: Mike Roesler, Corporate Planning Manager
Endorsed by: Nick Donnelly, General Manager Corporate Services
Date: 23 March 2022

PURPOSE

[1] This report enables Council to endorse supporting material for community engagement on the proposed Annual Plan 2022-2023 (proposed AP) and direct staff to begin that engagement.

RECOMMENDATION

That the Council:

- 1) **Notes** this report provides supporting information for community engagement on the proposed Annual Plan 2022-2023.
- 2) **Endorses** the supporting information for community engagement on the proposed Annual Plan 2022-2023.
- 3) **Authorises** community engagement for the Annual Plan 2022-23 to begin.

BACKGROUND

- [2] Councillors at their 23 February 2022 Finance Committee meeting made the following resolutions that provided staff with clarity on how to proceed with the Annual Plan process. Key resolutions included:
- *Approving draft financial estimates for 2022-2023 as a basis for engaging with the community*
 - *Approving a 'targeted community engagement' approach*
 - *Directing staff to prepare the supporting information for community engagement and for Council endorsement.*
- [3] Table 1 and 2 provide a recap of the headline expenditure and funding estimates as approved at the 23 February 2022 Finance Committee meeting. The detailed and underpinning estimates are formalised in a version of the financial model.

Table 1: Expenditure – proposed Annual Plan

Group	<i>(000's)</i>	<i>21-22 LTP (yr1)</i>	<i>22/23 LTP (yr2)</i>	<i>22/23 AP (draft)</i>
Regional Leadership		21,771	23,128	23,545
Environment		25,665	28,245	31,206
Safety and Resilience		17,500	18,959	19,289
Transport		32,880	35,840	34,762
Total Expenditure		97,816	106,172	108,801

Table 2: Funding – proposed Annual Plan

Funding <i>(000's)</i>	Source	<i>21-22 LTP (yr1)</i>	<i>22/23 LTP (yr2)</i>	<i>22/23 AP (draft)</i>
General rates		19,577	23,113	23,127
Targeted rates		20,462	24,128	24,101
Fees & charges; Grants		35,501	36,002	37,472
Reserves		8,348	8,000	9,174
Port Otago dividends; investment interest		13,928	14,928	14,928
Total Revenue		97,816	106,172	108,801

- [4] The proposed total rating revenue (general and targeted) is \$47.2 million. This is in line with the adopted LTP Yr2 estimated revenue. Compared to the LTP Yr1 the proposed total rates have increased by \$7.2 million (18%). This adopted increase is comprised \$3.6 million (18.1%) general rates, and \$3.6 million targeted rates.
- [5] Importantly, this proposed rating requirement includes a dividend 'offset' from Port Otago of \$14 million. Dividends increased over year 1 and 2 of the LTP to reduce rating impacts on the region's ratepayers.
- [6] The above increases are in line with what the Council consulted and agreed last year. In addition, Council is also sticking with the direction and work programme that this expenditure and funding supports.
- [7] While there is no significant change in the proposed AP, a decision was made to provide opportunity for community feedback.
- [8] Accordingly, the Finance Committee meeting, on 23 February 2022, agreed to a 'targeted community engagement' approach. It provides for both broad community feedback via our on-line platform 'Yoursay' and targeted feedback with key partners and stakeholders.

DISCUSSION

- [9] This report provides five items that Council staff intend on using for community engagement. They are attached for Council endorsement and include:
- Messaging material - for communication channels (attachment 1)
 - Online summary material for the proposed Annual Plan (attachment 2)
 - Partner and stakeholder list and assessment criteria (attachment 3)
 - Proposed Annual Plan 2022-23 (attachment 4)

- [10] Recommendation 2 of this report seeks Council's endorsement of the above material. This Committee has some scope at this meeting to direct on refinements to the material presented in this report. Council staff will advise at this meeting what, if any, impact Council requested change might have on the process and timelines.
- [11] Recommendation 3 seeks Council's approval for staff to begin community engagement. Council staff have programmed 31 March 2022 as the start date and plan to initiate the on-line platform and the follow-up promotion campaign.
- [12] Usually Council provides a 'rates calculator' as a background tool that enables people to assess their rates bill under the proposed plan. Unfortunately, the necessary valuation information provided by Valuation New Zealand (VNZ) will not be available in time to meet Council's process timelines. This is likely to be a 'one-off' occurrence and is due to work programme delays VNZ have experienced under the COVID pandemic. Council staff did investigate options for priming the 'rates calculator' with current rating data. This would result in highly inaccurate results due to the large shifts in Queenstown valuations missing from the current data set.
- [13] A 'work around' to this issue will be provided on the Council's website in the form of a simple manual worksheet that property owners can use to calculate the proposed rate for 2022-2023 using their last rate invoice.

Targeted engagement – partners and stakeholders

- [14] Attachment 5 identifies 'key stakeholders' for the purpose of targeted engagement and shows the selection process, including criteria. It's important to note that this process isn't precluding Councillors from talking to or meeting with any other parties – that discretion remains.
- [15] This process informs future targeted engagement leading up to, and inputting to, the next LTP. The aim is to embed engagement practices that:
- Assist Council leadership and the organisation to focus resource (i.e. time) on priority issues and objectives
 - Enables a deeper awareness and understanding of respective work programmes
 - Encourages partnership and synergy
 - Support decision-making particularly in LTP process.
- [16] Key stakeholders will be contacted and offered the opportunity to meet and discuss the proposed AP. In addition, separate meetings will be offered to entities representing our Iwi partners, who submitted to the LTP.
- [17] Importantly all groups and organisations that submitted to the LTP in April-May 2021 will receive letters from Council informing them about the proposed Annual Plan, including feedback opportunity.

Public Transport

- [18] At the Implementation Committee meeting on 9 March 2022, Council approved additional costs in relation to service improvements to accommodate changes to school services that have occurred in the Dunedin network at the start of 2022.

[19] The Committee asked for the financial impact of those costs and the rates increase to fund that, rather than using reserves to be provided.

[20] In the Annual Plan 2022-23 the additional costs of these services have not specifically been added to the Dunedin public transport budget, but they are intended to be covered within the existing bus contract and service improvements budgets. Those budgeted costs are shown below:

Sub Activity	21/22 LTP	22/23 LTP	22/23 AP
Bus Contracts (DN)	16,462,000	16,908,288	16,908,000
Low Cost Low Risk Services	527,000	1,339,392	880,000

[21] PT services are funded by a combination of fare revenue, Waka Kotahi subsidies, targeted rates and reserves. Reserves are used to fund any shortfalls in funding that occur as a result of fare and rate increases lagging behind cost increases.

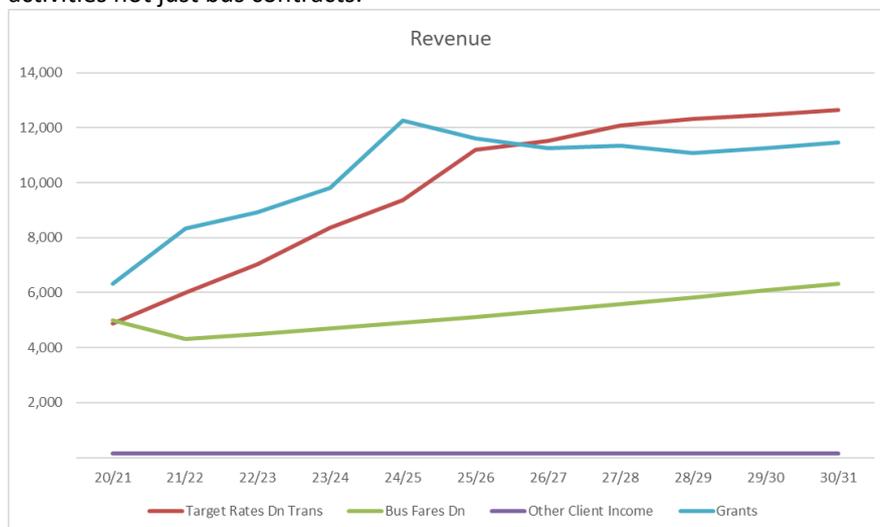
Account Description	21/22 LTP	22/23 LTP	22/23 AP	21/22 LTP	22/23 LTP	22/23 AP
Targeted Rates Dn Trans	4,806,500	5,429,076	5,531,920	29%	32%	33%
Grants	6,202,620	6,332,682	6,991,080	38%	37%	41%
Fares	4,300,000	4,491,264	3,200,000	26%	27%	19%
Reserve - SRD	1,152,880	655,266	1,185,000	7%	4%	7%

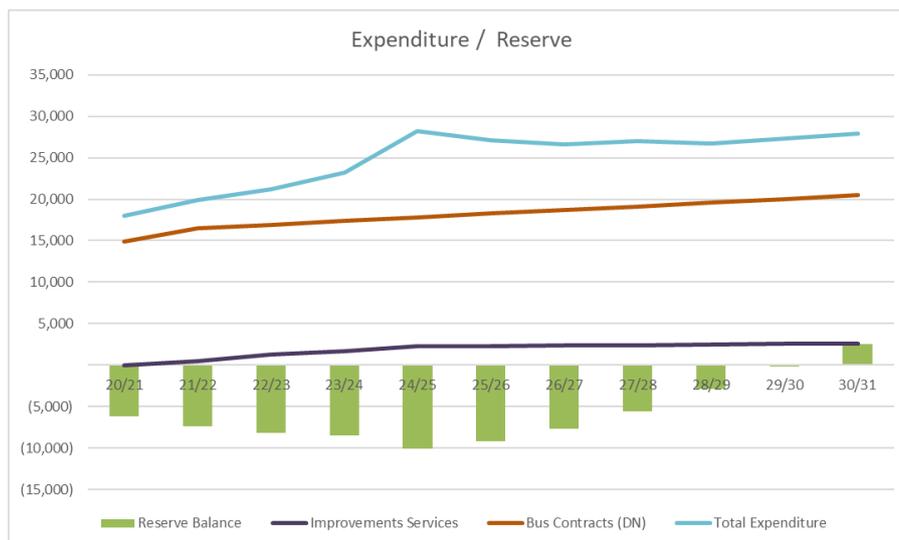
[22] The intention is to increase fares and rates over time to the point where operational costs are fully funded in the year they occur. In the short term this means a portion of cost is funded by the reserve being in deficit.

[23] Service improvements (low cost / low risk services) are funded by Waka Kotahi subsidies and targeted rates.

Account Description	21/22 LTP	22/23 LTP	22/23 AP	21/22 LTP	22/23 LTP	22/23 AP
Target Rates Dn Trans	258,230	656,302	431,200	49%	49%	49%
Grants	268,770	683,090	448,800	51%	51%	51%

[24] The revenue and expenditure / reserve estimates included in the LTP for Dunedin PT are shown below. Note targeted rates, expenditure and reserves cover all Dunedin PT activities not just bus contracts.





- [25] In the LTP 2021-31 Dunedin targeted transport rates had increases of 23%, 17% and 19% included in years 1-3. Reserve deficits occur in years 1-4 at which point the reserve deficit reaches a maximum of \$10.051m.
- [26] The Annual Plan 2022-23 has reduced the targeted rate increase slightly to 15% and \$1.0m remains reserve funded (LTP year 2 \$1.1m).
- [27] If the additional cost of service improvements relating to school services (\$144k pa) was added to targeted rates the additional increase would be 2.4% making the total targeted rate increase 17.4%.
- [28] If the operational deficit included in the Annual Plan 2022-23 of \$1.0m (this includes provision for service improvements) was added to targeted rates the additional increase would be 16.7% making the total targeted rate increase 31.6%.
- [29] Note that would still leave a reserve deficit of approximately \$6.5m outstanding so further targeted increases would be required in the 2022-23 or subsequent years to repay this amount.

OPTIONS

- [30] This report is focused on specific recommendations of the 23 February 2022 Finance Committee meeting that do not require options.
- [31] Following the ‘targeted community engagement’ Council will have the option to decide on final changes, if any, to the AP.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [32] No considerations.

Financial Considerations

- [33] The draft AP contains expenditure and revenue statements for Group of Activity.

- [34] The funding impact of the draft AP on individual property rates will be calculated following receipt of required valuation data. There is a chance that this will be after the engagement period.
- [35] Fees and charges as agreed at the 23 February 2022 Finance Committee meeting will be scheduled and provided on-line engagement platform.

Significance and Engagement

- [36] Under the Local Government Act 2002 there is expectation is that no significant or material change.

Legislative and Risk Considerations

- [15] The process outlined in this report is consistent with the relevant planning requirements under the Local Government Act 2002.

Climate Change Considerations

- [37] No considerations.

Communications Considerations

- [38] The Council's Communication Team are managing the messaging and use of channels to inform people of the opportunity to provide feedback about the AP.

NEXT STEPS

- [39] The planned next steps include:
- Targeted community engagement (31 March to 29 April 2022)
 - Meetings with partners and stakeholders, where requested
 - Reporting community feedback to the 25 May Finance Committee)
 - Final adjustments to the draft estimates (post 25 May 2022 Finance Committee meeting)
 - Adoption of the AP 2022-2023 (23 June 2022)

ATTACHMENTS

1. Messaging Material - for Communication Channels [7.1.1 - 1 page]
2. On line summary material of proposed Annual Plan [7.1.2 - 9 pages]
3. Partner and Stakeholder List and Assessment Criteria [7.1.3 - 6 pages]
4. Proposed Annual Plan 2022-2023 [7.1.4 - 37 pages]

Messaging for use in communication channels

PRINT Advertisement

Have your say

on our proposed Annual Plan for 2022-23

You told us what you wanted in our 2021-31 Long Term Plan – a 10-year programme of work– and this year Otago Regional Council proposes some minor changes as part of this one-year Annual Plan.

Jump online to find all the details:

yoursay.orc.govt.nz/AP22

Footer:

Have your say by 29 April 2022

To see a paper copy:

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customerservices@orc.govt.nz

ORC logo – QR code

DIGITAL advertisement

ORC's Proposed Annual Plan for 2022-23

Available now

Have your say by 29 April

(includes link to yoursay.orc.govt.nz/AP22)

Social media

Have your say on ORC's proposed Annual Plan 2022-23

The ORC is catching up on its work and responding to central government expectations to achieve more for the wellbeing of Otago's environment and communities.

We are sticking very closely to the 2021-31 Long Term Plan the community helped us form last year, with some minor changes. We are also sticking to our forecast 18% rates rise.

Have your say by 29 April 2022.

Find out more at: yoursay.orc.govt.nz/AP22

Annual Plans

Annual Plans provide a process for the ORC to review the detailed budgets contained in the Long-term Plan 2021-31 (LTP).

The nature and level of change to the LTP is of interest to the community and influences the way we reach out.

Where change is not significant, we can carry on with the programme as already agreed with the community.

To find out how to submit on an annual plan, click [here](#).

Proposed Annual Plan 2022-23

We have completed a draft Annual Plan that reflects a review of the detailed financial budgets in year two of the LTP. While no significant change is proposed to the LTP agreed back in June last year, there are some minor adjustments. Therefore, public feedback is now open until 1 May 2022.

[Click here](#) to go to our proposed Annual Plan 2022-23 information and to provide your feedback.

Draft Annual Plan 2022-23 Your Say web page

What's the Story?

Why is Council planning to increase rates for next year?

These are challenging times for everyone in Otago as we balance what is expected of us with what is affordable and achievable. Otago Regional Council (ORC) is both catching up on its work and responding to central government expectations to achieve more for the wellbeing of Otago's environment and communities.

Our 10-year Long term-Plan 2021-31 (LTP), as consulted with the community last year, set out the services and work. This proposed Annual Plan 2022-23 aligns very closely with what was agreed in the LTP – we intend sticking to our plan.

There's a lot to be done and doing more costs more.

How we pay for the planned services is defined in our Financial Strategy provided in the LTP. It shows a stepped increase in rating in the first two years and much smaller increases beyond. Year 2, being this proposed Annual Plan, shows an 18% increase in average total rates.

It's important to note that we have carefully considered the use of all available funding sources, including investment income and debt, to reduce the need for and impact of rating Otago's households and businesses.

We're keen to hear from you before 1 May 2022 about our proposed plan via our feedback form below.

Kā mihi nui

Andrew Noone, Otago Regional Council Chairperson

What will you get for your money?

Our proposed Annual Plan 2022-2023 delivers a work programme across the following activities. It closely reflects what was agreed last year following consultation with the community. There are only minor adjustments.

Environment

Environmental management is at the heart of what Otago Regional Council does. Our focus is to improve how our natural resources are managed. We have made good progress on improving Otago's regional plan framework, which sets the guidance and rules for the community.

Our effort 'on the ground' is increasing, including: our priority site enhancement projects; grant-funded programmes; catchment group support; and more work delivering our Regional Pest Management Plan. Importantly, we continue to progress with an integrated catchment action planning approach - a new way to decide and achieve 'on the ground' results.

Quality environmental information is essential, and we have improved our science and monitoring capacity.

The proposed Annual Plan supports the LTP work programme, with key points including:

Land and water

- Progressing the Land and Water Regional Plan review (target of December 2023 to notify a plan for the community)
- Environmental monitoring network and operational work continues to grow in scale and complexity (e.g., Wetlands, estuaries, water quality attributes)
- Science work is focused on supporting the Land and Water Regional Plan review and direct the monitoring programme (e.g., Coastal programme, Impact of land activity)
- New grant funded enhancement programmes (e.g., Te Haka Pupu/ Pleasant River restoration).

Biodiversity and biosecurity

- Continue to improve knowledge on Otago's biodiversity to inform monitoring and future work
- Support of Catchment initiatives through Eco Fund and government grants (such as: Jobs for Nature; and Wallabies Pest Contract Management); and education awareness progressively integrated into farm support programmes.
- Strengthening the regional partnership approach with Councils, other agencies and Kāi Tahu.
- Regional Pest Management Plan is implemented with improved IT systems and work practices including inspections and compliance checks.
- Continued regional-scale pest and predator projects (e.g., Predator Free Dunedin).

Air quality

- Continue with the Air Regional Plan review with an issues and option paper(s) completed by June 2023.
- Continue to monitor air quality and pollutants.
- Air quality implementation remains reprioritised until 2023-2024.

Transport

In line with the LTP, the proposed Annual Plan supports improved bus services in Dunedin and Queenstown. Key assumptions have been made about: patronage (including COVID pandemic and visitor number effects); targeted rating on the geographic benefit areas (increases by \$1.4million); low emission technologies (linked to contract renewals and government support/policy; Waka Kotahi support for the 'living wage' (uncertain); and a national ticketing system (from year 4).

Dunedin Buses:

- Service improvements aligned with contract renewals with service operators.
- Fare structure (e.g., \$2 dollar fares) requires further careful consideration. The service continues to cost more to run than its funding provides and is creating debt.
- Changes to current routes and timetables (e.g., Palmerston-Dunedin) to be considered in a separate process

Queenstown Buses:

- The process of considering infrastructure development and the associated business case remains on track (year 7-8 LTP).

- Queenstown Ferry service is included in the proposed Annual Plan.

Safety and Resilience

As with the LTP, the proposed Annual Plan provides for a steady increase in Council's capacity to understand natural risks, to educate communities and guide decision-making on action. Our priorities for the next 10 years are flood protection, drainage control and river management. Climate change is a critical and related issue.

Points to note include:

Flood protection, drainage and river management

Our LTP Infrastructure Strategy identifies the flood and drainage schemes managed by Council and highlights key issues that influence the service provided. From these issues we understand:

- we need to know more about how climate change and development impacts on catchments
- improved asset management planning is necessary to see how change impacts the service, and decisions facing Otago communities
- there is uncertainty about the community's appetite for risk (e.g., climate change) and the costs associated with maintaining service levels.

The proposed Annual Plan work programme is consistent with the LTP. Key work components include:

- climate change adaptation investigations
- Taieri and Clutha flood protection scheme reviews
- flood damage repair and government subsidised resilience works
- pump station and technology improvements
- fish passage adaptation investigations
- core river management functions - control of channel erosion, willow maintenance, vegetation control, removing obstructions, and repairing key erosion works.

Emergency management

The proposed Annual Plan includes an increase of three full-time equivalent staff (from 14 to 17) to the emergency management team.

Regional Leadership

The proposed Annual Plan is consistent with the LTP that supports:

- Otago's elected regional councillors to perform their role
- Council's communication and engagement with the community
- Our regulatory work educating and ensuring regional and national rules are followed
- Overarching strategic planning largely focused on the implications of, and giving feedback on, national direction, policy and key issues.

Fees and Charges - we are proposing some changes to the scale of hourly charge out rates for staff time (e.g., consent applications), and the 'Deposits' amounts for 'Publicly notified application deposits', 'Deemed permitted activity', and 'Section 417 certificates'. The detailed schedule is available on our website [\[URL\]](#)

Paying for these services

The table below shows the different types of funding used to pay for the Council’s work – totalling \$109 million for the proposed Annual Plan.

While all this funding is important it is usually the rates component that grabs attention – it provides 43% of the money needed to deliver all services.

Understanding the two types of rates on your bill gives insight on who pays for what. Ratepayers across the region don’t all receive the same service. This is reflected in the rates they pay.

- General rates are paid by all Otago ratepayers for services where there is a perceived benefit to everyone.
- Targeted rates are paid for service(s) to a specific community (e.g., a district or a smaller geographic area). These services may be public transport, flood protection, and drainage.

In a nutshell, people living in different parts of Otago may receive different Council services (targeted rates) depending on the local environment and economic activity where they live – and pay accordingly.



[figure needs to updated to \$109M 2022-23]

We are proposing to stick to the Financial Strategy consulted with the community last year. The rate income required in the proposed Annual Plan 2022-23 remains unchanged.

It equates to a 18% increase in average total rates.

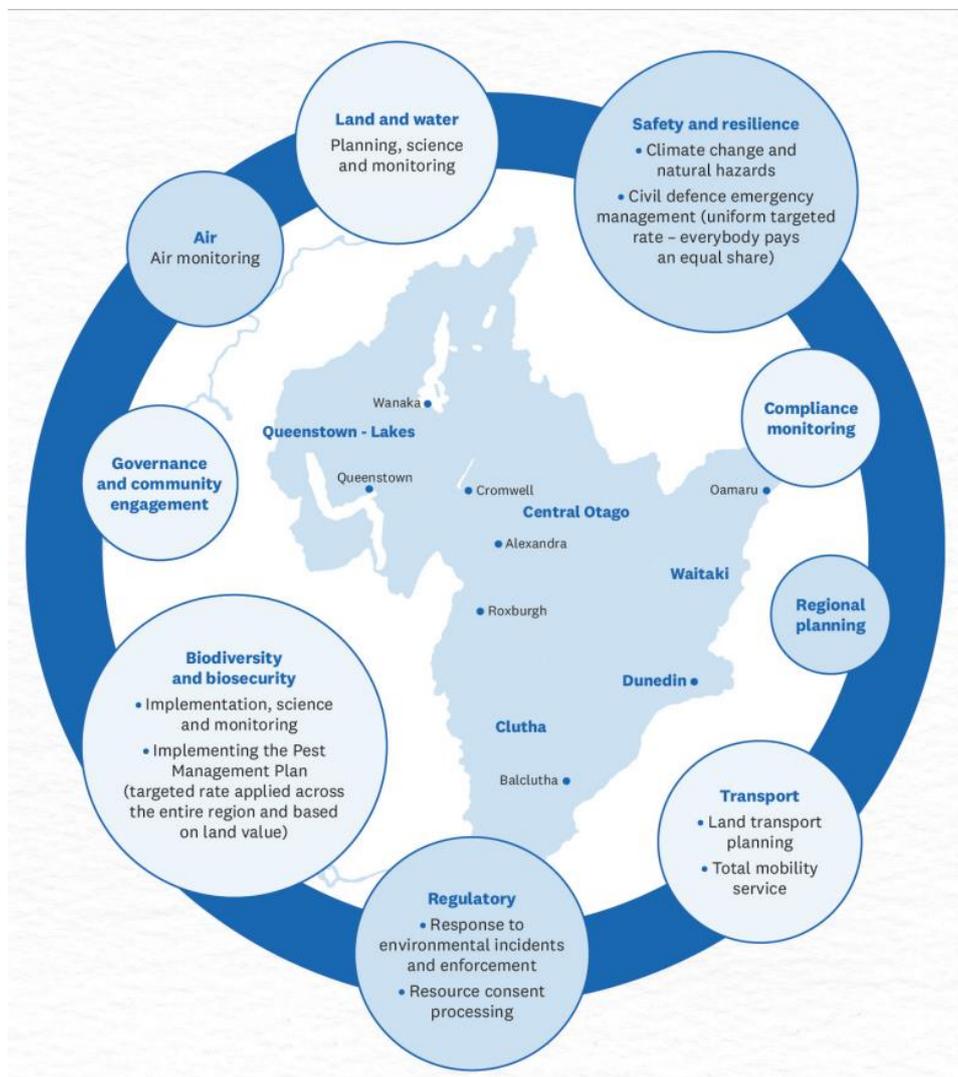
Our total funding has changed and this largely reflects funding from central government for Environmental work.

Funding Type (000’s)	Current Year (2021-22)	What we agreed LTP (2022-23)	Proposed Annual Plan (2022-23)
General Rates	19577	23113	23127
Targeted Rates	20462	24128	24101
Grants (eg from central government)	18856	18510	22102
Other income (eg bus fares)	10483	10509	8258
Fees and charges (eg consents)	6408	6984	7111
Reserves	8348	8000	9174
Dividends and Investments	13928	14928	14928
Total Funding	97816	106172	108801

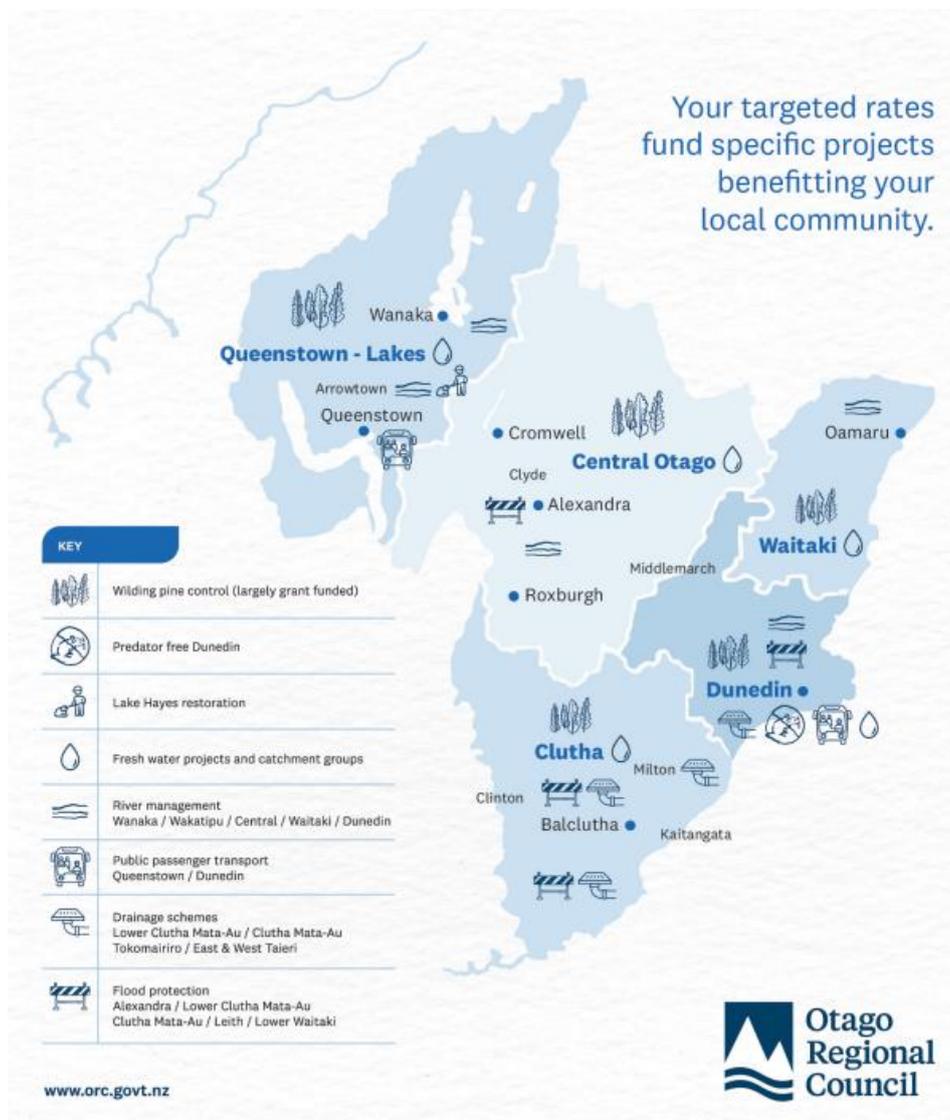
Activity Cost (000’s)	Current Year (2021-22)	What we agreed LTP (2022-23)	Proposed Annual Plan (2022-23)
Regional Leadership			
Governance and Engagement	5728	6327	6585

Regional Planning	3681	3500	3483
Regulatory	12363	13301	13477
Environment			
Land and Water	16033	18040	18936
Biodiversity and Biosecurity	9149	9390	11454
Air	482	815	816
Safety and Resilience			
Climate change and Hazards	2732	3763	3413
Flood protection, Drainage and Rivers management	12009	12400	12540
Emergency management	2759	2796	3335
Transport	32880	35840	34762
Total Cost	97816	106172	108801

Services funded by general rates across Otago



District Targeted rates



Stakeholder selection and assessment

Selection criteria

Stakeholders have been selected using the following criteria:

1. They were submitters to the 2021 Draft LTP consultation process
2. They are representative of specific or broad interests
3. Technical understanding and expertise to inform ORC financial planning
4. Involvement in existing key ORC projects, including freshwater and public transport
5. Level of resourcing
6. The stakeholder is regionally focused
7. Depth of interest (including overlapping regulatory or legislative responsibilities)
8. Breadth of information and communication channels

Selected stakeholders

Due to timeframes, limited resourcing and the commitments that come with responding to one-on-one stakeholder discussion, targeted engagement will only occur with defined stakeholders.

Key stakeholders for the purpose of this project have been selected using the criteria above. These are:

- Dunedin City Council
- Queenstown Lakes District Council
- Central Otago District Council
- Clutha District Council
- Waitaki District Council
- Department of Conservation
- Business South
- Otago Fish and Game
- Federated Farmers
- Otago Catchment Community
- Forest and Bird

A broader assessment of these stakeholders is provided at Table 2 in Appendix 1.

Stakeholders who were assessed as not meeting some but not all of the criteria are also assessed, at Table 3 in Appendix 1. These stakeholders should be considered 'possibles', or 'next cabs off the rank' should staff capacity and timeframes permit.

It's important to note that the criteria and resulting levels of stakeholder interaction isn't 'fixed in stone' and will be assessed as Council moves into the LTP process. An underlying theme is that 'leadership time' is valued appropriately (ie how it is used in decision-making process) and focuses on matters that make the most difference for Otago.

Selection process

Submitters to the LTP were assessed using the criteria above. Stakeholders who met all the criteria are included in Table 2, below.

Table 1: Key stakeholders

Stakeholder	Selection criteria met	Detail
Dunedin City Council	All	Breadth of interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Queenstown Lakes District Council	All	Breadth of interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Central Otago District Council	All	Breadth of interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Clutha District Council	All	Breadth of interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Waitaki District Council	All	Breadth of interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Department of Conservation		Breadth of interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Business South	Most	Breadth of interests Semi-complementary work programmes and resourcing Peripheral understanding of ORC work programmes Technical expertise

		Broad range of interests and communication channels
Otago Fish and Game	Most	Defined environmental focussed interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Federated Farmers	Most	Defined environmental focussed interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Otago Catchment Community	Most	Freshwater focused interests Complementary work programmes and resourcing Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels
Forest and Bird	Most	Environmentally focused interests Complementary work programmes Deep understanding of ORC work programmes Technical expertise Broad range of interests and communication channels

Submitters to the LTP process who were assessed as meeting some, but not all of the assessment criteria are listed below. These stakeholders should be considered ‘the next cabs off the rank’.

Table 1: Secondary stakeholders

Stakeholder	Selection criteria met	Detail
Wai Wanaka	Some	Breadth of interests Expertise in the catchment planning and environmental management spaces Complementary work programmes and resourcing Deep understanding of ORC work programmes Broad range of interests and communication channels Geographically specific focus
Predator Free Dunedin	Some	Specific interests Expertise in biosecurity Complementary work programmes and resourcing Deep understanding of ORC pest control Specific interests and communication channels

		Geographically specific focus
Otago Rescue Helicopter Trust	Some	Existing agreement with ORC Specific interests Good communications channels
Queenstown Airport Corporation	Some	Specific interests Corporate/planning focus Moderate understanding of ORC work programmes Specific interests and communication channels Geographically specific focus
Central Otago Wilding Conifer Group	Some	Specific interests Expertise in biosecurity Complementary work programmes and resourcing Deep understanding of ORC pest control Specific interests and communication channels Geographically specific focus
Guardians of Lake Hawea	Some	Breadth of interests Understanding of environmental management Complementary work programmes and resourcing Understanding of ORC work programmes Specific range of interests and communication channels Geographically specific focus
Friends of Lake Hayes	Some	Breadth of interests Understanding of environmental management Complementary work programmes and resourcing Understanding of ORC work programmes Specific range of interests and communication channels Geographically specific focus
Yellow Eyed Penguin Trust	Some	Specific interests Expertise in biodiversity and biosecurity Complementary work programmes and resourcing Deep understanding of ORC pest control Specific interests and communication channels Geographically specific focus
University of Otago		Specific interests Broad expertise Peripherally complementary work programmes and resourcing Moderate understanding of ORC responsibilities Specific interests and communication channels Geographically specific focus

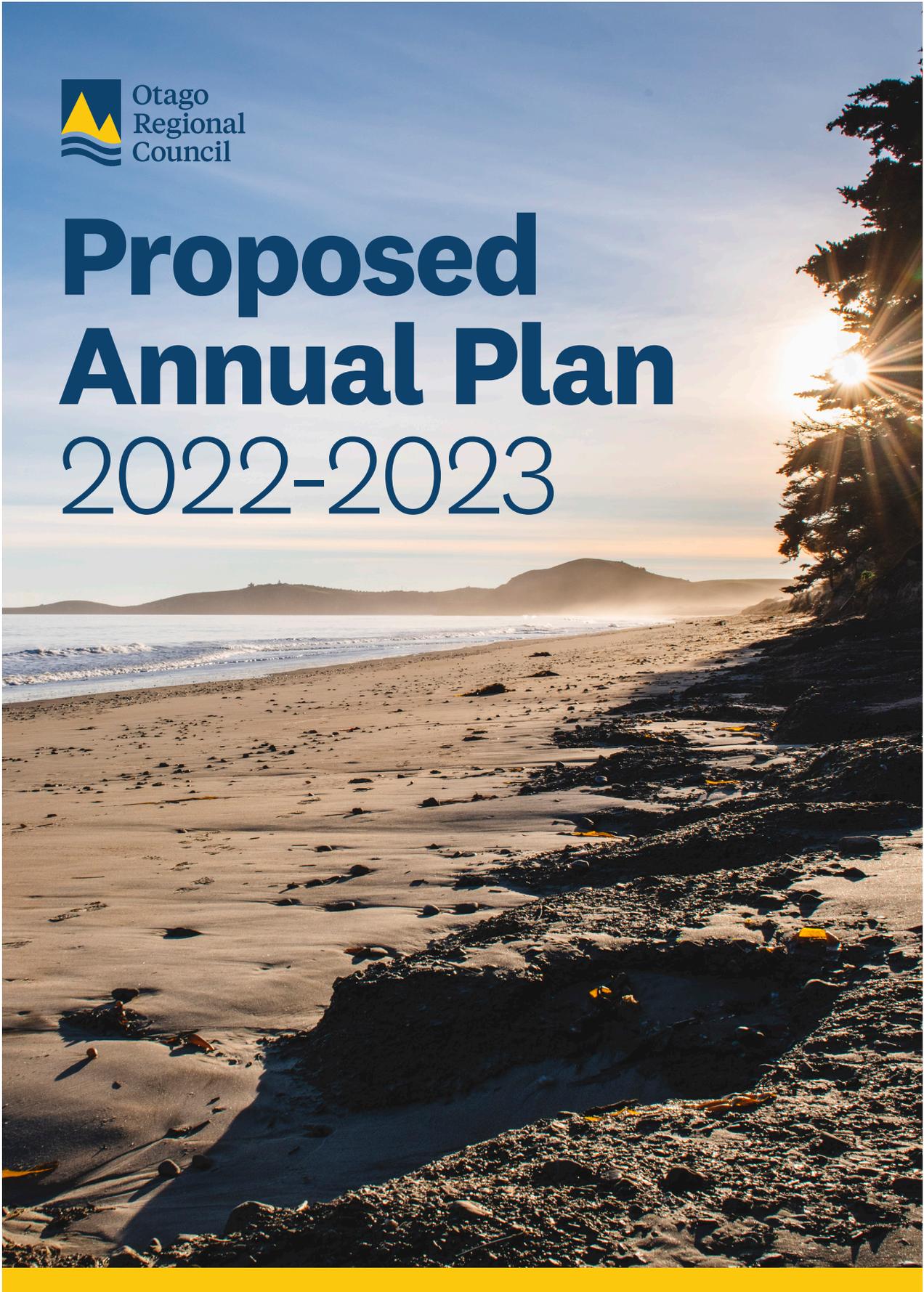
Otago Polytechnic		<p>Specific interests</p> <p>Broad expertise</p> <p>Peripherally complementary work programmes and resourcing</p> <p>Moderate understanding of ORC responsibilities</p> <p>Specific interests and communication channels</p> <p>Geographically specific focus</p>
Wakatipu Wilding Conifer Group		<p>Specific interests</p> <p>Expertise in biosecurity</p> <p>Complementary work programmes and resourcing</p> <p>Deep understanding of ORC pest control</p> <p>Specific interests and communication channels</p> <p>Geographically specific focus</p>
Waitaki Irrigators Collective		<p>Specific interests, primarily water take and use</p> <p>Understanding of environmental management</p> <p>Complementary work programmes and resourcing</p> <p>Understanding of ORC work programmes</p> <p>Specific range of interests and communication channels</p> <p>Geographically specific focus</p>
Glenorchy Community Association		<p>Specific interests</p> <p>Peripheral understanding of environmental management</p> <p>Complementary work programmes and resourcing</p> <p>Peripheral understanding of ORC work programmes</p> <p>Specific range of interests and communication channels</p> <p>Geographically specific focus</p>
Shaping Our Future		<p>Breadth of interests</p> <p>Understanding of environmental management</p> <p>Complementary work programmes and resourcing</p> <p>Understanding of ORC work programmes</p> <p>Specific range of interests and communication channels</p> <p>Geographically specific focus</p>
Tiaki Maniototo		<p>Breadth of interests</p> <p>Understanding of environmental management</p> <p>Complementary work programmes and resourcing</p> <p>Understanding of ORC work programmes</p> <p>Specific range of interests and communication channels</p> <p>Geographically specific focus</p>
Strath Taieri Irrigation Company		<p>Specific interests, primarily water take and use</p> <p>Understanding of environmental management</p> <p>Complementary work programmes and resourcing</p> <p>Understanding of ORC work programmes</p> <p>Specific range of interests and communication channels</p> <p>Geographically specific focus</p>

<p>Generation Zero</p>		<p>Breadth of interests Broad understanding of environmental management Complementary work programmes and resourcing Peripheral understanding of ORC work programmes Specific range of interests and communication channels to a traditionally hard to reach audience</p>
<p>Pomahaka Watercare Group</p>		<p>Breadth of interests Understanding of environmental management Complementary work programmes and resourcing Understanding of ORC work programmes Specific range of interests and communication channels Geographically specific focus</p>

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Proposed Annual Plan 2022-2023



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Introduction from the Chair

These are challenging times for everyone in Otago as we balance what is expected of us with what is affordable and achievable. Otago Regional Council (ORC) is both catching up on its work and responding to central government expectations to achieve more for the wellbeing of Otago's environment and communities.

Our 10-year Long term-Plan 2021-31 (LTP), as consulted with the community last year, set out the services and work. This proposed Annual Plan 2022-23 aligns very closely with what was agreed in the LTP – we intend sticking to our plan.

There's a lot to be done and doing more costs more.

How we pay for the planned services is defined in our Financial Strategy provided in the LTP. It shows a stepped increase in rating in the first two years and much smaller increases beyond. Year 2, being this proposed Annual Plan, shows an 18% increase in average total rates.

It's important to note that we have carefully considered the use of all available funding sources, including investment income and debt, to reduce the need for and impact of rating Otago's households and businesses.

We're keen to hear from you before 29 April 2022 about our proposed plan via our feedback form available on-line or out customer services .

Ngā mihi nui
Andrew Noone
Chair
Otago Regional Council

Overview

Why does this document matter?

This proposed Annual Plan 2022-2023 (AP) reflects the results of a process that decides what adjustments, if any, are required to the adopted Otago Regional Council Long-term Plan 2021-31 (LTP).

The LTP assists Council to achieve the purpose of local government under the Local Government Act (2002) to:

- [1] Enable democratic local decision-making and action by, and on behalf of, communities and
- [2] Promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

Council has identified how it contributes to 'well-being' and this is reflected in Part two Community Outcomes section of the LTP.

Priorities and Direction (LTP 2021-31)

Importantly the LTP 2021-31 describes the Council activity and work programmes that will deliver desired community outcomes. The required expenditure and funding (including rates) for this activity is also identified.

What change is proposed ?

The adopted position for year 2 (being 2022-2023) of the LTP indicated an 18.1% increase in total rates (ie general and targeted rates) would be required to fund the agreed direction, priorities and associated work.

This proposed Annual Plan 2022-2023 sticks to what was agreed for the LTP, but with some adjustments including:

- Additional external grants funded work including the Jobs for Nature programme, the Mt Pleasant/Te Haka Pupu River restoration project, and the Wallabies Pest Contract Management programme. Note this represents most of the total additional LTP year2 expenditure.
- Additional staffing for Emergency Management Activity.
- Iwi liaison staff capacity in the governance and engagement activity
- A requirement to reclassify natural hazards LIDAR work programme expenditure from capital to operational expenditure.
- Reprioritising existing expenditure tagged to developing the Land and Water Plan to complete an economic assessment of Otago's natural fresh water.

The net impact of these changes in expenditure as been managed to keep within the LTP year 2 total average rate requirement of 18.1%.

What we will deliver

In this section you'll find an outline of our work represented as ten activities grouped under four key headings:

Our work activities:

- Regional Leadership
 - Governance and Engagement
 - Regional Planning
 - Regulatory
- Environment
 - Land and Water
 - Biodiversity and Biosecurity
 - Air
- Safety and Resilience
 - Climate Change and Hazards
 - Flood Protection, Drainage and River Management
 - Emergency Management
- Transport
 - Transport (including Regional Land Transport and Public Transport)

Regional Leadership

This Group of Activities include the following council activities:

- Governance and Community Engagement
- Regional Planning
- Regulatory

Group Revenue and Expenditure (10yrs) - Regional Leadership

2021/22 AP \$000s		2022/23 LTP \$000s	2022/23 Proposed AP \$000s
5,728	Governance and Community Engagement	6,327	6,585
3,681	Regional Planning	3,500	3,483
12,363	Regulatory	13,301	13,477
21,771	Expenditure	23,128	23,545
15,706	General rates	16,340	16,499
188	Targeted Rates	200	200
5,300	Fees & Charges	5,805	5,833
75	Grants	75	75
270	Other Income	276	260
233	Reserves	432	678
21,771	Revenue	23,128	23,545

Governance and Engagement

What we do

This activity includes work to support Otago's elected regional council representatives to complete their duties. It also ensures the council can enable and strengthen democracy at a regional level through our support of structures and process. Examples include:

- Elected member committee structure, council meetings,
- Secretariat support for the 'Otago Mayoral Forum'
- Partnership with Kāi Tahu and Iwi liaison
- Council communications and engagement capacity and expertise to assist with connecting council and the community

Why we do it

Supporting governance, good decision-making, and connecting and engaging with our communities are essential features of a civilized society. Connecting the community in a timely and accessible way to decision-making and the work of Council is critical. Legislation also enshrines principles, powers, duties and functions that underpin this activity and the need for it.

Key work for years 2 to 3

The proposed Annual Plan maintains the level of capacity associated with council's activity to date, albeit with a 1 full time equivalent increase associated with capacity to support partnership with Kāi Tahu and Iwi liaison and strategic stakeholders. Planned projects are identified in Part 1 'Partnering with Manu Whenua' of the Long-term Plan.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Provide and promote governance processes and democratic decision making that is robust and transparent for the community.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Percentage of council agendas that are publicly available two working days or more before a meeting	100%	100%	100%	100%
Percentage of official information requests responded to within 20 working days of being logged.	100%	100%	100%	100%

LOS: Develop and deliver robust and effective corporate planning and reporting.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Deliver our statutory requirements with acceptable process and deliverables to decision-makers and the community.	Unmodified audit reports received	Unmodified audit reports received	Unmodified audit reports received	Unmodified audit reports received

LOS: Build mana whenua participation in Council decision making through a treaty-based partnership approach in our engagement.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Work done in partnership with iwi; increase the number of outputs and groups working together on projects.	Establish baseline	Maintain or Increase numbers	Maintain or Increase numbers	Maintain or increase numbers
Build the bicultural competency of ORC staff and councillors.	≥50 participants in programme per year	≥50 participants in programme per year	≥50 participants in programme per year	≥30 participants in programme per year

LOS: Provide relevant, timely and accessible communications and engagement activities which enable the community to understand and participate in ORC's programmes and decision making.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Annual survey is conducted to understand and improve community awareness, perceptions and expectations of ORC.	Survey completed to establish baselines and a report made public	Survey results show increased community awareness and improved perception of ORC performance	Survey results show increased community awareness and improved perception of ORC performance	TBC
Customers express high levels of satisfaction with customer service provision.	Determine methodology and conduct benchmarking of customer satisfaction	Customer satisfaction levels are maintained or improve	Customer satisfaction levels are maintained or improve	Customer satisfaction levels are maintained or improve

Regional Planning

What we do and why

This activity includes work that provides overarching strategic direction and support across Council and particularly the ‘Environment’ group of activity. It provides leadership with advice to effect or influence change. Much of the work under this activity is required by national legislation and also assists the council and Otago community to align with national direction.

The Regional Policy Statement (RPS) is a critical component of this activity that umbrella’s the various plans required under the Resource Management Act. These plans include water (fresh water, land and coast), air, and waste.

There is also value in developing strategic direction on non-RMA plans, such as biodiversity, and for important issues such as climate change. Information needed to support the understanding of community wellbeing when setting direction and priorities is also important..

As part of this activity we work with our partners to give effect to strategic direction. An important component is working with Dunedin City Council and Otago’s District Councils on resource management matters and urban development. Input, by way of a whole-organization perspective, into ORC’s transition to integrated catchment action planning. This forms the basis of levels of service, planning, and engagement.

Key work for years 2 to 3

The proposed Annual Plan provides additional capacity to complete comprehensive economic assessment relating to Otago’s freshwater. This new work adds to the LTP stepped increase in capacity to provide direction on non-RMA plans, important regional issues and urban development. We also have a work programme to improve our understanding of regional wellbeing issues and what that means for Council and its partners. The result sought is the provision of better advice to leadership to assist decision-making and our response to community needs.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Support Otago’s councils and communities to manage environmentally sustainable urban growth.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Develop an integrated planning framework that enables well managed urban growth across Otago	Establish partnership agreements with DCC and QLDC by 30 June	Develop draft regional Urban Development Strategy by 30 June	Joint ORC and DCC/QLDC HBA* update and joint FDS** completed by 30 June	no target

*Housing and Business Capacity Assessment (HBA)

** Future development strategy (FDS)

LOS: Develop and maintain an environmental planning framework that aligns with national directions and enables sustainable management of natural and physical resources.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Complete review of existing Regional Policy Statement (RPS)	Respond to hearing recommendations within specified timeframes	Make RPS operative by 30 June 2023	no target	no target
Lead the development, implementation and review of Integrated Catchment Plans (ICP), in collaboration with iwi and community.	Commence development of an Integrated Catchment Planning programme and report to Council on progress by 30 June	Commence spatial systems and analysis to inform and define ICP programme by 30 June	Prepare Integrated Catchment Plan (Target detail to be determined)	Prepare Integrated Catchment Plans (Target detail to be determined)

LOS: Collect information on Otago regional wellbeing (economic, social, cultural, and environmental) and identify significant issues.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Report on community wellbeing indicators	Develop baseline wellbeing indicators and report to Council	Annual report on wellbeing indicators and issues completed and reported to Council	Annual report on wellbeing indicators and issues completed and reported to Council	Annual report on wellbeing indicators and issues completed and reported to Council

LOS: Collect and make publicly available accurate, relevant and timely information on climate change in Otago.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Information on climate change in Otago is shared with the community and stakeholders.	no target	Regional GHG* inventory completed and reported to Council by 30 June	no target	Regional GHG inventory completed reported to Council by 30 June 2024 OCCRA** completed and reported to Council by 31 Dec 2026

* Green House Gas Inventory

**Otago Climate Change Risk Assessment

LOS: Lead a regional approach to climate change in partnership with local councils and iwi.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Report on regional stakeholder engagement and collaboration on climate change	No target (programme commences Yr2)	Complete an annual report on regional climate change collaboration and report to Council	Complete an annual report on regional climate change collaboration and report to Council	Regional partnership priorities and approach defined, formalised and reported to Council by 30 June 2025. 2025-2031: Regional partnership approach implemented

Regulatory

What we do and why

As a regulatory authority we provide services to ensure that activities in Otago are consistent with both national and regional rules. This activity gives effect to the Council's Regional Plans under the Resource Management Act, and other specific requirements under Maritime Transport Act, and Building Act. Our regulatory work includes:

- Consent processing
- Compliance monitoring of consents and permitted activities
- Incident response, investigations and enforcement
- Harbours and waterway management

A common theme across this work is our role of applying the rules developed under the various legal/ planning frameworks, and how we work with the communities and individuals to achieve desired results for Otago.

Judgement is required on what the appropriate balance is between enforcement (that can result in legal proceedings), and influencing via advice, education and sometimes support. It provides elected leadership with an important lever to effect change where needed and in an appropriate way. The desire for this dual approach is reflected in our regional plans and bylaws.

We have already taken significant steps with implementing an internal review that recommended substantive improvement in Council service. The steps have included additional staffing for: consent processing, increasing compliance audits, input into plan changes, and incident response coverage to better reflect the demand across the region. The focus of this additional capacity is on Land and Water and reflects Council's broader priority to implement a freshwater framework that aligns Otago with national objectives on freshwater reform.

Key work for years 2 to 3

The proposed Annual Plan 2022-23 maintains the agreed LTP programme. As a recap a significant step in capacity (staff) occurred in 2020/21 as a result of an internal review. The LTP focused on completing the implementation of that review, and importantly delivering the desired and increased service including:

- Consent processing – continues to build, particularly in year 1, on the stepped change in staff capacity that occurred in 2020/21. We will focus on managing expiring consents with the assumption that most will result in applications for replacement, including Deemed Permits. While some uncertainty exists about new consents, such as for intensive winter grazing, there will be other critical work to undertake.
- Compliance monitoring - a stepped change in staff capacity occurred in year 1 to meet the planned increase in consenting and permitted activity including the associated administration and supporting systems. An increase in an education-first approach to on-site engagement with farmers and consent holders about National Environmental Standards Fresh Water (NESFW).

Contaminated sites is also part of our work programme, albeit small in comparison, and includes the support or coordination of a remediation fund.

- Incident response, Investigations and Enforcement – some redeployment of staff capacity to compliance monitoring activity.

Service delivery over this LTP will reflect the Council's desire to assist the community in understanding the changes, the requirements, and overarching reasons. There is clearly a lot of change that will continue to occur on how Otago manages its fresh water resource – this activity is crucial piece of the integrated delivery jigsaw.

- Harbours and waterways management – modest increase in planned work supporting education and enforcement of the bylaw via the addition of a trainee harbour master and a small craft in Central Otago.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Provide effective, efficient and customer centric consenting processes under the Resource Management Act (RMA) 1991 to enable the lawful use of natural and physical resources.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Percentage of resource consent applications processed in accordance with Resource Management Act 1991 legislative timeframes.	≥98%	≥98%	≥98%	≥98%
Percentage of public inquiries for consent information completed within 7 working days.	establish baseline	maintain or increase	maintain or increase	maintain or increase

LOS: Provide effective and efficient compliance monitoring, investigations and enforcement services and take appropriate actions to ensure the lawful use of natural and physical resources.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Percentage of performance monitoring returns completed each year, as per the Compliance Audit and Performance Monitoring Schedule targets.	≥90%	≥90%	≥90%	≥90%
Percentage of programmed inspections/audits completed each year, as per the Compliance Audit and Performance Monitoring Schedule targets.	≥85%	≥90%	≥90%	≥90%
Percentage of significant non-compliances identified where action is taken in accordance with Compliance Policy.	100%	100%	100%	100%

LOS: Provide effective and efficient environmental response services to pollution incidents or notifications of non-compliant activities.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Maintain 24-hour/7 day a week response for environmental incidents.	Pollution hotline staff available/on call 24/7	Pollution hotline staff available/on call 24/7	Pollution hotline staff available/on call 24/7	Pollution hotline staff available/on call 24/7
Maintain 20 appropriately trained responders for maritime oil pollution incidents.	20 responders attend 3 exercises per year	20 responders attend 3 exercises per year	20 responders attend 3 exercises per year	20 responders attend 3 exercises per year

LOS: Develop and maintain robust regulations and procedures to enable safe use and navigation of our region's ports, harbours, coastal areas and inland waterways.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Maintain compliance with Port and Harbour Marine Safety Code.	Annual self review* is completed by ORC and POL and signed off by the Chief Executives.	Annual self review* is completed by ORC and POL and signed off by the Chief Executives.	External review** is completed and deemed to be code consistent.	Annual self review* is completed by ORC and POL and signed off by the Chief Executives.

**Annual self-review is conducted by the Harbourmaster and the GM Marine of Port Otago Ltd and it is jointly signed off by the CE of ORC and the CEO of Port Otago Ltd.*

***External review is conducted by Maritime NZ every 3 years.*

LOS: Promote and encourage safe use of ports, harbours, coastal areas and inland waterways and take appropriate action in response to non-compliance and incidents.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Major incidents on Otago's harbours and waterways will be responded to.	Major incidents and ORC's response are reported to Council quarterly	Major incidents and ORC's response are reported to Council quarterly	Major incidents and ORC's response are reported to Council quarterly	Major incidents and ORC's response are reported to Council quarterly
On-water engagement, education of recreational users and safety campaigns are documented and reported annually.	Report to Council by 30 June	Report to Council by 30 June	Report to Council by 30 June	Report to Council by 30 June

Environment

This Group of Activities include the following council activities:

- Land and Water
- Biodiversity and Biosecurity
- Air quality

Overall direction

Environmental management is at the heart of what the regional council does. Our focus is to enhance the overall effectiveness of environmental management by:

- Continuing the review of our regional plans (for water, air and coast), while still working with community groups, stakeholders and land managers to promote good environmental outcomes
- Increasing our level of work in biosecurity management
- Continuing to promote well-coordinated and cross-agency biodiversity initiatives across the region
- Transitioning towards integrated catchment action planning, to improve what we do and the results achieved for freshwater, land, the coastal environment, or ecosystems
- Increasing our science capacity with a focus on environmental monitoring to better inform our regional planning and understanding of Otago's natural resources.

Due to funding pressures, we are pausing most of our air quality work until year 3 LTP. Beyond that, we'll be striving to develop more effective solutions to manage air pollution in Otago. In the meantime we continue with a air monitoring and regional planning work.

Group Revenue and Expenditure - Environment

2021/22 AP \$000s		2022/23 LTP \$000s	2022/23 Proposed AP \$000s
16034	<i>Land and Water</i>	18,040	18,936
9149	<i>Biodiversity and Biosecurity</i>	9,390	11,454
482	<i>Air</i>	815	816
25665	Expenditure	28,245	31,206
13938	General rates	17,078	16,859
3373	Targeted Rates	5,171	4,814
200	Fees & Charges	205	205
3877	Grants	2,536	5,518
964	Other Income	364	364
3313	Reserves	2,890	3,446
25665	Revenue	28,245	31,206

Land and Water

What we do

- We assess and monitor the health of Otago's fresh- and coastal water and their ecosystems and investigate the risks and issues likely to affect their values;
- We prepare, assess, and review the Regional Plan: Water and Coast
- We carry out non-regulatory interventions that support sustainable land management practices and environmental initiatives that enhance Otago's water bodies and coast.

Why we do it

Otago's water bodies and its coast are highly valued by the community:

- Majority¹ of Otago's rivers and lakes are swimmable; and support a wide range of recreational activities
- Freshwater is a key resource for domestic use, agriculture and electricity;
- Otago's waters provide the habitats for 25 species of indigenous freshwater fish, of which 18 are classified as threatened or at risk; and for a large range of marine life and sea birds.

Water also plays a significant role in Kāi Tahu spiritual beliefs and cultural traditions. When the natural environment is strong and healthy, the people are strong and healthy and so too is their mana.

Degrading freshwater quality is a key community concern in the region. Although parts of the region have good or excellent water quality, some catchments have degraded water quality and there have been a greater number of degrading water quality trends than improving trends across ORC's monitoring sites between 2006 and 2017. There have also been strong pressures on water allocation in some parts of the region.

ORC has a key role to play to ensure Otago's water bodies and coast support healthy ecosystems, and a healthy community:

- Only ORC has the power to control the use of water, land, and the coast under the Resource Management Act (1991)
- It must engage with the region's communities to define visions and objectives for the region's freshwater bodies, and identify the methods to achieve these visions and objectives (National Policy Statement for Freshwater (2020))
- It has the technical expertise and knowledge to advise on the region's environmental health, issues and risks, and to monitor natural water resources.

Key projects

The proposed Annual Plan 2022-23 maintains the agreed LTP programme. As a recap the key work programmes include:

- Preparation of the Land and Water Regional Plan. It will define freshwater objectives, as required by national legislation and set policies and rules for decision-making. Work includes:
 - Programmed consultation across FMU/Rohe
 - Underpinning work supporting discussions on options, and presentation of preferred options. This includes science support (eg modelling, freshwater accounting, land use mapping, groundwater resources, ecological threshold analysis)
 - Development of 'region-wide' provisions
 - Drafting of plan for notification in December 2023
- Review of the Regional Plan: Coast for Otago

¹ This estimate applies to larger rivers and lakes, defined as "rivers that are fourth order in the River Environment Classification system and lakes with a perimeter of 1.5km or more" – ORC Policy Committee Report – 29 Nov 2018 - PPRM1843

- Notified by 2025-2026
- Update existing rules and policies based on latest information and legislation and set policies and rules for decision-making
- Includes science support (ie coastal monitoring, mapping and analysis)
- Environmental Enhancement (fresh water implementation)
 - Priority site specific projects of Lake Hayes, Tomahawk Lagoon and Lake Tuakitoto
 - Support for catchment groups and land managers delivering desired results
 - Develop a regional perspective, including a programme and funding approach for enhancement and remediation
 - Complete scoping study for an Otago Lakes Strategic Plan
- Preparation of Integrated Catchment Plans
 - Integrates actions for water, ecosystems, biodiversity, and biosecurity, and natural hazards mitigation
 - Year 1 - establish the new worksteam
 - Year 2 - resources to commence planning including spatial systems and analysis (additional 3fte)
 - Year 3 onwards - Planning and implementation (additional 6fte)

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Monitor the state of Otago's freshwater resources and coastal environment and make accurate, relevant and timely information publicly available.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Implement a regional coastal environment monitoring programme	Develop regional coastal monitoring programme and report to Council by 30 June	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council
Implement freshwater and estuarine environment monitoring programmes	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council
Percentage of data from the water monitoring network* that is captured quarterly.	≥95% data capture achieved	≥95% data capture achieved	≥95% data capture achieved	≥95% data capture achieved

* Details of the State of the Environment network and the water monitoring sites across Otago are available on the ORC website: <https://www.orc.govt.nz/managing-our-environment/water/water-monitoring-and-alerts>

LOS: Monitor Otago's land use and make accurate, relevant and timely information on sustainable land use publicly available.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031

Develop and implement a regional land use monitoring programme	Develop regional land use monitoring programme and report to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council
Percentage of data from the land-use monitoring network* that is captured quarterly.	no target (programme established in Yr2)	≥95% data capture achieved	≥95% data capture achieved	≥95% data capture achieved

* Details of the land-use monitoring network and sites will be available on the ORC website once the programme is established.

LOS: Provide a robust and integrated environmental planning framework for Otago’s land, water and coast resources.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Complete the Land and Water Regional Plan (LWRP)	Report to Council on proposed management options for 3 Rohe or FMU’s* by 30 June	Report to Council on proposed management options for 5 Rohe or FMU’s by 30 June	Notify LWRP by 31 December 2023	no target
Complete a review of the Regional Plan Coast	no target (programme commences Yr 2)	Issues and options papers developed and reported to Council by 30 June	Community engagement for development of Regional Plan - Coast completed and reported to Council by 30 June	Notify Regional Coastal Plan for Otago by 30 June 2026.

*In Otago there are five Freshwater Management Unit (FMU). The Clutha/Mata-au is the largest FMU in Otago and has been divided into five sub areas called rohe. For mor detail visit the ORC website:

<https://www.orc.govt.nz/plans-policies-reports/regional-plans-and-policies/water/freshwater-management-units>

LOS: Support Catchment Groups in Otago to deliver their environmental outcomes and objectives.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
‘Otago Catchment Communities’ is supported to meet deliverables and targets of funding agreement.	Funding is administered as per agreement	Funding is administered as per agreement	Funding is administered as per agreement	Funding is administered as per agreement

	Report to Council on deliverables and targets achieved by 30 June	Report to Council on deliverables and targets achieved by 30 June	Report to Council on deliverables and targets achieved by 30 June	Report to Council on deliverables and targets achieved by 30 June
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LOS: Promote and enable best practice land management for soil conservation, water quality preservation, the efficient use of water and to enhance Otago’s biodiversity and ecosystems.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Land owner/community led projects promoting best practice land management for soil conservation, water quality and the efficient use of water are identified and supported.	Three or more projects supported per year	Three or more projects supported per year	Three or more projects supported per year	Three or more projects supported per year

LOS: Collaborate with iwi, communities and landowners to develop and deliver a programme of actions to improve water quality and indigenous biodiversity in selected degraded waterbodies.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
At least three site specific action plans for selected degraded waterbodies are developed, prioritised, and implemented.	Projects confirmed and priority actions identified by 30 September	Projects confirmed and priority actions identified by 30 September	Projects confirmed and priority actions identified by 30 September	Projects confirmed and priority actions identified by 30 September
	90% of priority actions undertaken as scheduled	90% of priority actions undertaken as scheduled	90% of priority actions undertaken as scheduled	90% of priority actions undertaken as scheduled

Biodiversity and Biosecurity

What we do

- We lead and facilitate collaboration on biodiversity programmes and initiatives in the region.
- We investigate, monitor and provide information about Otago's biodiversity, including improving our understanding of its vulnerability to climate change
- We lead pest and biosecurity management in the region
- We promote and support community and farmer initiatives to protect and enhance Otago's biodiversity and ecosystems

Why we do it

Otago's biodiversity is under threat as a result of both past and current human activities. Mapping in 2020 showed that some ecosystem types are as low as 3% of their historical distribution and there are 10 ecosystems (of 62) with a distribution of less than 10 ha. At the species level, some 44% of Otago's bird species are threatened or at risk; 88% of lizard species; and 72% of indigenous fish species. Current threats to biodiversity include invasive species (both weeds and predators), vegetation clearing, habitat fragmentation and grassland "improvement", poor water quality (nutrients and sediments), dredging and overfishing. Climate change adds significantly to the risks of continuing decline.

There are many agencies and stakeholders across different land tenures involved in and/or with an interest in biodiversity in Otago. Knowledge and data to inform development of programmes and initiatives for protection and restoration is not collated or coordinated across the region.

At a national level the 2020 *Te mana o te Taiao*, National Indigenous Biodiversity Strategy, articulated the urgency of addressing biodiversity decline in New Zealand and the draft National Policy Statement on Indigenous Biodiversity identified a key role for regional government in leading collaboration and coordinating efforts.

ORC is the only agency with a remit across all of Otago to promote biodiversity protection and enhancement. It has a key role in facilitating regional collaboration, including both developing a monitoring approach and seeking to partner in projects and initiatives. While ORC currently has its own Biodiversity Strategy and Action Plan, these need to be refined and updated alongside development of the regional strategy, to reflect new knowledge about Otago's biodiversity values which is now available, and which can provide priorities to better target action.

Pest management supports Otago's ability to enable thriving biodiversity (the variety of life in a given habitat), maintain healthy ecosystems and use natural resources for economic gain (eg TB free land). Under the Biosecurity Act 1993, Otago's Regional Pest Management Plan (RPMP) identifies 51 species to be managed by land occupiers, with oversight from us.

Key work for years 2 to 3

The proposed Annual Plan 2022-23 maintains the agreed LTP programme. As a recap the programme includes:

- Development of a regional partnership approach to indigenous biodiversity
We are lifting our leadership role in the region by facilitating and coordinating a regional biodiversity hui and working with TA's, other regional agencies and Kai Tahu to develop a regional strategy to inform partnerships and future regional investment in biodiversity protection, restoration and enhancement.
- Increase indigenous biodiversity knowledge and develop a monitoring approach
We are doing more to improve our knowledge about Otago's biodiversity over this LTP through [continuing and building on our mapping and inventory work](#). This informs the development of our monitoring framework for indigenous biodiversity that is planned for implementation from year 2. This

monitoring framework will provide a better understanding of the vulnerability of Otago's biodiversity, including to climate change.

- Implementing the RPMP

Our LTP includes a modest increase in staff capacity to undertake more education, engagement and enforcement to manage pests. This additional work consolidates our existing role as defined under the RPMP. Our work programme will build progressively over years 1 to 3 LTP.

Planned work on rabbit will substantially increase with more inspections, monitoring and support of local rabbit control groups. Management of other biosecurity threats, for example in marine ecosystems, will need to be progressively developed over time as resources permit.

Current regional-scale pest and predator projects addressing biodiversity threats, such as wilding conifer and possum control will continue to be supported and their coverage is planned to increase over time.

New central government funding for wallaby control is included the proposed Annual Plan 2022-23.

- Partnerships to maintain the gains already achieved by OSPRI's TBfree work and Predator Free Dunedin start from 2022-23 (year 2).

To improve the effectiveness and efficiency of these operations, strategies will be progressively developed to inform on-ground investment for the future. As part of this we will increase our investment in biosecurity data and information systems to ensure that progress is monitored and that actions are as effective and efficient as possible.

- Supporting on-ground biodiversity restoration, enhancement and protection initiatives

New central government grants relating to 'Jobs for Nature' scheme are included the proposed Annual Plan 2022-23.

The Eco Fund grants programme will gradually expand over the LTP providing increasing opportunity for local groups to access support for their activities.

Otago Catchment groups and their environmental enhancement initiatives will continue to be supported and increasingly ORC will be looking to invest in landscape restoration and enhancement as an integrated part of our regional pest and predator control programmes.

Education and awareness about Otago's biodiversity and how to protect/restore it will be progressively integrated into our farm support programmes and in the longer term into our approach to farm plans.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Monitor the state of Otago's indigenous biodiversity ecosystems and make accurate, relevant and timely information publicly available				
Performance Measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Develop and implement a regional indigenous biodiversity ecosystems monitoring programme	No target (programme not being undertaken)	Develop monitoring programme (including requirements of NPSIB*) and report to Council by 30 June	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council
Percentage of data from the biodiversity monitoring network** that is captured quarterly.	No target	No target	≥95% data capture achieved	≥95% data capture achieved

*National Policy Statement on Indigenous Biodiversity

** Details of the regional indigenous biodiversity ecosystems monitoring network and sites will be available on the ORC website once the programme is established.

LOS: Collaborate with iwi, DOC and other key organisations to develop, coordinate and deliver a programme of actions to enhance indigenous biodiversity.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Actions listed in the Biodiversity Action Plan (BAP) are prioritised and progressed.	Priority actions achieved within timeframes specified in annual work plan	Priority actions achieved within timeframes specified in annual work plan	Priority actions achieved within timeframes specified in annual work plan	Priority actions achieved within timeframes specified in annual work plan
Partnerships established in line with the Biodiversity Action Plan and joint projects developed.	Establish baseline number of partnership engagement activities and events, and report to Council	Maintain or increase number of partnership engagement activities and events, and report to Council	Maintain or increase number of partnership engagement activities and events, and report to Council	Maintain or increase number of partnership engagement activities and events, and report to Council
	Joint projects scoped and milestones identified and reported to Council	Joint projects developed and progress against milestones publicised and reported to Council	Joint projects developed and progress against milestones publicised and reported to Council	Joint projects developed and progress against milestones publicised and reported to Council

LOS: Provide support and funding to selected initiatives and organisations across the region which deliver biosecurity, biodiversity and environmental outcomes that align with our strategic objectives.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Complete a report on the initiatives and organisations supported and the key deliverables achieved.	Report to Council by 30 June	Report to Council by 30 June	Report to Council by 30 June	Report to Council by 30 June
Percentage of funding administered as per agreements.	100%	100%	100%	100%

LOS: Develop and deliver practices and programmes that give effect to the Regional Pest Management Plan (RPMP).				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Priority targets within the Biosecurity Operational Plan (BOP) are identified and achieved.	Priority actions achieved within timeframes specified in annual work plan	Priority actions achieved within timeframes specified in annual work plan	Priority actions achieved within timeframes specified in annual work plan	Priority actions achieved within timeframes specified in annual work plan

Air

What we do

- We monitor air quality and pollutant emissions, and investigate emission sources
- We prepare, assess, and review the Regional Plan: Air for Otago
- We carry out non-regulatory interventions that support clean heating and warm homes; and the reduction of other harmful emissions

Why we do it

Some of Otago's communities have among the worst air quality in New Zealand. In Otago air pollution is mostly driven by emissions from home heating home insulation and ventilation and is mostly observed in winter. Arrowtown, Clyde, Cromwell, Alexandra and Milton are the pollution hotspots of the region. Outdoor burning is an additional factor to air pollution.

The link between air quality and human health has been well established. The pollutant of most concern in Otago is particulate matter (PM). Particulate matter can result in a range of health serious effects depending on where it ends up in the human body.

ORC has a key role to play to protect Otago's people from the risks of air pollution. Only ORC has the power to control discharges of pollutants to air under the Resource Management Act (1991) and must implement the National Environmental Standards for Air Quality (2004).

Key projects

The proposed Annual Plan 2022-23 maintains the agreed LTP programme. As a recap the programme includes:

- Review the Regional Plan: Air – requires an update to existing rules, policies and information to provide an appropriate regulatory framework for Otago.
 - Continue with the Air Regional Plan review with initial issues and option paper(s) completed by June 2023
 - Drafting in year 4 for notification by 30 June 2025
- Maintaining our air quality monitoring over the next 10 years
- Pausing our air quality implementation work until July 2023. An Air Implementation Strategy will be drafted to direct the suite fo future action(s) to reduce air pollution.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Monitor Otago’s air quality and make accurate, relevant and timely information publicly available.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Implement regional air monitoring programme.	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council	Annual report on monitoring programme completed and reported to Council
Percentage of data from the air monitoring network* that is captured quarterly.	≥95% data capture achieved	≥95% data capture achieved	≥95% data capture achieved	≥95% data capture achieved

* Details of the State of the Environment network and the air monitoring sites across Otago are available on the ORC website: <https://www.orc.govt.nz/managing-our-environment/air>

LOS: Provide a robust and integrated environmental planning framework for Otago’s air resource.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Complete review of the Regional Plan – Air.	no target (programme commences Yr2)	Issues and options papers developed by 30 June	Community engagement for development of Regional Plan - Air completed by 30 June	Regional Plan - Air notified by 30 June 2025

LOS: Develop and implement partnerships and programmes to reduce harmful emissions and support clean heating, warm homes and clean air.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Clean heat, clean air implementation programme has a high level of local engagement in targeted air sheds.	no target (programme commences Yr 3)	no target (programme commences Yr 3)	Establish engagement levels in all targeted air sheds	Engagement levels improve in all targeted air sheds

Safety and Resilience

This Group includes the following council activities:

- Natural Hazards and Climate Change
- Flood Protection, Drainage and River Management
- Emergency Management

Overall Direction

Risk management and building resilience is a key focus for ORC and we have continued to build on our previous LTP with additional expenditure for this group of activity. This reflects signals from government and our community about climate change and the need act.

The challenge is to support our communities to understand the implications of risk and to make informed decisions. Our priority focus areas for the next 10 years in safety and hazards are flood protection, drainage control and river management. Climate change is a critical and related issue. We are focused on developing a comprehensive spatial approach to natural hazard risks to inform future priorities, at the same time as undertaking specific projects for the risks we already know about.

Our LTP contains an Infrastructure Strategy. It identifies the flood and drainage schemes that we manage and highlights key issues that influence the services we provide. From these issues we understand that:

- There is complexity that needs to be better understood about how climate change and development impacts on catchments
- We need to improve our asset management planning to better understand how change impacts on our service and the decisions the community faces
- Our plan to maintain service levels is shadowed by uncertainty about our communities' expectations regarding managing changing risk (e.g. climate change impacts) and the associated costs. We work collaboratively on these issues with government, city and district councils, and technical advisory groups.
- This LTP maintains current services and address the issues outlined above.

While our planned capacity for natural hazards activity is increasing we have maintained our resource associated with climate change adaptation over the short term. This reflects our funding priorities particularly for fresh water work and an expectation that our level of work will build as direction from central government consolidates. This LTP maintains the existing level of capacity for emergency management response.

Group Revenue and Expenditure – Safety & Resilience

2021/22 Annual Plan \$000s		2022/23 LTP \$000s	2022/23 Proposed AP \$000s
2,732	<i>Climate Change and Natural Hazards</i>	3,763	3,413
12,010	<i>Flood Protection, Drainage and River Management</i>	12,400	12,540
2,759	<i>Emergency Management</i>	2,796	3,336
17,500	Expenditure	18959	19,289
3,116	General rates	3,859	3,935
9,611	Targeted Rates	10,002	10,337
408	Fees & Charges	462	522
1,700	Grants	1,558	1,337
736	Other Income	831	869
1,929	Reserves	2,247	2,289
17,500	Revenue	18,959	19,289

Natural Hazards and Climate Change

What we do

- We set direction on the management of natural hazard risks and support decision making for the mitigation of natural hazards and adaptation to climate change.
- We provide information and warnings about natural hazards and climate change.
- We engage with people, communities, iwi partners, and other stakeholders in the region to develop partnerships and implement projects to address natural hazards and adaptation to climate change and to increase awareness and understanding.

Why we do it

The Otago region is exposed to a wide variety of natural hazards that impact on people, property, infrastructure and the wider environment. The natural hazards threats range from coastal erosion and flooding in lowland coastal areas to alluvial fan deposition, landslip, rock fall, river and lake flooding in alpine areas of the region. There is a need to consider all of these and their interactions as well as the additional risk and uncertainty created by climate change. The RMA requires that natural hazards risks and climate change are addressed as part of regional scale planning.

While high risk places have been identified there is a need to have comprehensive assessment and spatial mapping of the risks to inform planning and decision making. Within communities and businesses there are also different levels of awareness and risk tolerance to hazards, including the implications of climate change and the need for adaptation. Community engagement and communication, including as part of planning for natural hazards and climate change adaptation, is needed to inform the community, and facilitate the awareness and planning necessary to ensure resilient communities.

Key work for years 2 to 3

The proposed Annual Plan 2022-23 maintains the agreed LTP programme. As a recap the programme includes:

- Develop a comprehensive risk assessment and mapping of natural hazards across Otago.
- Plan the implementation of the Otago Climate Change Risk Assessment.
- Work collaboratively with district and city councils to inform planning for natural hazards.
- Continue to lead the South Dunedin climate change adaptation programme in partnership with DCC.
- Planning and strategy development for managing natural hazards risk for Lindsay Creek and Clutha Delta.
- Managing natural hazard and climate adaptation risk for Roxburgh and the Head of Lake Wakatipu in conjunction with District Councils.
- Continue to monitor and provide information on natural hazards and events, including making improvements to the coastal hazard monitoring network.
- Continue to provide timely warning of flood events and operate the 24/7 flood monitoring.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Provide information on natural hazards and risks, including the effects of climate change, so that communities and stakeholders can make informed decisions.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Relevant and up to date natural hazards information is available via the web-based Otago Natural Hazards Database.	Database information is checked and updated monthly	Database information is checked and updated monthly	Database information is checked and updated monthly	Database information is checked and updated monthly
Percentage of flood warnings that are issued in accordance with the flood warning manual.	100%	100%	100%	100%

LOS: Collaborate with communities and stakeholders to develop and deliver natural hazards adaptation strategies.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Complete regional natural hazards risks assessment (NHRA) and develop a regional approach for prioritising adaptation* to inform adaptation planning and implementation.	Commence natural hazard risk assessment and investigation of prioritisation approach	Report to Council on progress of natural hazard risk assessment and	Complete natural hazard risk assessment and define a regional approach for	Develop a regional prioritisation plan for natural hazard risks adaptation

		prioritisation approach	prioritising adaptation	
Implement prioritized natural hazard risks adaptation works.	Work in priority areas** is delivered as per plan by 30 June	Work in priority areas** is delivered as per plan by 30 June	Work in priority areas** is delivered as per plan by 30 June	Work in priority areas** is delivered as per plan by 30 June
	The Head of Lake Wakatipu natural hazards adaptation strategy progresses as per annual work plan	The Head of Lake Wakatipu natural hazards adaptation strategy progresses as per annual work plan	The first Head of Lake Wakatipu natural hazards adaptation strategy completed by 30 June	Actions developed, implemented and reviewed, as per Head of Lake Wakatipu natural hazard adaptation strategy
	Collaboration framework for South Dunedin and Harbourside natural hazards adaptation strategy is defined by 30 June	South Dunedin and Harbourside natural hazards adaptation strategy progresses as per annual work plan	South Dunedin and Harbourside natural hazards adaptation strategy progresses as per annual work plan	Actions developed, implemented and reviewed, as per South Dunedin and Harbourside natural hazard adaptation strategy

* The regional approach for prioritising adaptation is based on natural hazard risk and other criteria

** Priority areas include Head of Lake Wakatipu and South Dunedin and Harbourside

Flood Protection, Drainage and River Management

What we do

Council operates and maintains seven flood protection and drainage schemes throughout Otago. The schemes, associated infrastructure assets and more specific detail such as the issues, service standards and work programmes are provided in our Infrastructure Strategy (IS).

Core functions include:

- Maintenance, renewal, and development of infrastructure.
- Investigation, development and renewal of amenity projects.
- Operation of flood protection and drainage schemes during floods.
- Bylaw processing and monitoring of technical compliance with bylaws.
- River management including the control of channel erosion, willow maintenance, vegetation control, removing obstructions, and repairing critical erosion works.
- Input to consent applications for gravel extraction with a focus on flood protection, river health.
- Processing of consents in conjunction with Council's Natural Hazards activity where consent applications may affect flood protection assets and/or rivers.

Why we do it

While there is a relationship between the purpose of our flood protection and drainage work there is also a fundamental difference. Flood protection schemes are intended to protect people and property from flood events. Drainage schemes are designed to maintain the productive capability of land on an ongoing basis but within the limitation of the flood protection schemes.

River and waterway management works are carried out to maintain river and stream channel capacity, channel stability and environmental outcomes in scheduled rivers and waterways.

Council also has responsibilities under the Soil Conservation and Rivers Control Act 1941, Land Drainage Act 1908 and other requirements such as ensuring our infrastructure is appropriately managed, and the management and maintenance of Otago rivers.

Operational and Capital Work Programme - 10 years LTP, 30 years Infrastructure Strategy

Up to date information about Council's planned operational and capital works programme is provided on the ORC Annual Plan 2022-2023 website page. The figures presented for years 2 and 3 represent a more detailed level of planning, years 4 to 10 is more indicative, and years 11 to 30 are more subject to changes in strategic direction. For example completing the year 1-2 scheme performance reviews is highly likely to impact decisions about future service.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Provide the standard of flood protection and control agreed with communities.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Major flood protection and control works are maintained, repaired, and renewed to the key standards defined in relevant planning documents.	≥80% of planned maintenance programme completed	≥85% of planned maintenance programme completed	≥90% of planned maintenance programme completed	≥90% of planned maintenance programme completed
	Schemes function to their constructed design standards	Schemes function to their constructed design standards	Schemes function to their constructed design standards	Schemes function to their constructed design standards
	≥90% of renewals programme completed	≥90% of renewals programme completed	≥90% of renewals programme completed	≥90% of renewals programme completed

LOS: Respond efficiently and effectively to damage from natural hazard events.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Damage identified, prioritised and a repair programme communicated with affected communities in a timely manner.	Programme developed and communicated within 3 months of the event	Programme developed and communicated within 3 months of the event	Programme developed and communicated within 3 months of the event	Programme developed and communicated within 3 months of the event

LOS: Maintain channel capacity and stability, while balancing environmental outcomes and recognising mana whenua values in rivers.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Percentage of identified and reported issues that have been investigated and appropriate action determined and communicated to affected landholders within 20 working days.	100%	100%	100%	100%
Percentage of planned maintenance actions achieved each year	≥90%	≥90%	≥90%	≥90%

Emergency Management

What we do and why

This activity is responsible for the co-ordination of hazard reduction, readiness, response and recovery for emergency events. It is provided in partnership with councils, emergency response organisations and other stakeholders of the Otago region.

The work of the Otago CDEM Group is administered and co-ordinated by the Otago Regional Council, while governance and operations are overseen by the Coordinating Executive Group (CEG) and the Otago CDEM Joint Committee.

This Committee has the statutory responsibility for civil defence emergency management in Otago. It is a statutory committee of Council under the Civil Defence Emergency Management Act 2002 (the Act) and the Local Government Act. Ultimately it is responsible for:

- Integrating and coordinating civil defence emergency management planning and activities
- Ensuring the response to and management of the adverse effects of emergencies within Otago
- Overseeing the coordination of the response and recovery activities across a range of agencies.

Key work for years 2 to 3

The proposed Annual Plan includes an increase compared to the LTP, of three full-time equivalent staff (from 14 to 17) for the emergency management team.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Support the Otago CDEM Group in improving the resilience of Otago to civil defence emergencies.				
Performance measure	Targets			
	2021/22	2022/23	2023/24	2024-2031
Support is provided to the Otago CDEM Group as per the CDEM Act and Otago CDEM Partnership Agreement	Fulfil all requirements as the administering authority	Fulfil all requirements as the administering authority	Fulfil all requirements as the administering authority	Fulfil all requirements as the administering authority

LOS: Provide resources to coordinate an efficient and effective region-wide response to a civil defence emergency.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
An adequate Emergency Coordination Centre (ECC) facility and staffing are available	Adequate staff* who are trained and available for any activation of the ECC	Adequate staff* who are trained and available for any activation of the ECC	Adequate staff* who are trained and available for any activation of the ECC	Adequate staff* who are trained and available for any activation of the ECC
	An appropriate facility** is available for activation at all times	An appropriate facility** is available for activation at all times	An appropriate facility** is available for activation at all times	An appropriate facility** is available for activation at all times
ECC activated in a timely manner	ECC activated within 1 hour of Group Controller's decision to activate	ECC activated within 1 hour of Group Controller's decision to activate	ECC activated within 1 hour of Group Controller's decision to activate	ECC activated within 1 hour of Group Controller's decision to activate

*Adequate staffing consists of staff who are trained (two staff trained as leads across each of the six functions) and available (a minimum of four staff per function) for any activation of the ECC.

**An appropriate ECC facility is an IL4 rated building (67% of building code) with power and communication contingencies

Transport

There is one activity also named Transport. It includes the key work programmes of:

- Regional Land Transport Plan
- Public Transport Dunedin
- Public Transport Queenstown
- Regional Total Mobility Service

Group Revenue and Expenditure – Transport

2021/22 Annual Plan \$000s		2022/23 LTP \$000s	2022/23 Proposed AP \$000s
407	Transport Planning	417	424
20,371	Dunedin Public Transport	21,648	20,667
9,767	Queenstown Public Transport	11,381	11,261
2,335	Other Programmes (including Total Mobility)	2,394	2,410
32,880	Expenditure	35,840	34,762
745	General rates	763	762
7,290	Targeted Rates	8,756	8,750
250	Fees & Charges	256	301
13,203	Grants	14,341	15,172
8,517	Other Income	9,293	7,016
2,874	Reserves	2,432	2,761
32,880	Revenue	35,840	34,762

Regional Land Transport Plan (work programme)

What we do and why

Transport features strongly in our changing world, with climate change, technology and our expectations of lifestyle all in the mix. We are already seeing the opportunities of non-fossil fuelled and autonomous vehicles, along with the use of smart technology in the provision of transport services. Embracing change will require significant decisions about the transport network and how it's used and will provide positive benefits over the long run.

For ORC's part we need to be responsive to Government Policy Statement on Land Transport 2018, Government direction on climate change and urban development. Our regional transport system is an enabler of economic growth and social cohesion, connecting businesses, providing access to and between communities, and ensuring that we can import and export goods.

The LTP provides for a Regional Land Transport Programme that co-ordinates transport planning across the region. It enables a resilient, multi-modal transport system for the safe efficient and effective movement of people and goods around the region. The Otago and Southland Regional councils share this planning function through the support of a Regional Transport Committee.

A new Regional Land Transport Plan must be developed every 6 years and the plan reviewed after 3 years of operation. A new plan was completed for the period 2021-2031. It outlines proposed transport network improvements for the next six years, and forms the application for funding from the National Land Transport Fund for the next three years. This RLTP will influence decisions taken throughout this LTP cycle and potentially beyond.

Key work for years 2 to 3

By statute, the Committee is responsible for the preparation, review and implementation of the Regional Land Transport Plan. It shapes decisions and actions about Otago's land transport system and reflects central government's strategic direction including:

- Improving accessibility to transport and create more choice in how we travel
- Reducing the impacts of transport on climate change
- Improving urban environments and public health
- Reducing deaths and serious injuries

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Advocate for Otago's regional transport planning priorities and aspirations at a national level				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
The Regional Land Transport Plan (RLTP) is reviewed and submitted in line with the Land Transport Management Act 2003 and any guidance issued by the New Zealand Transport Agency (NZTA)	RLTP implementation progress reported annually to Regional Transport Committee	RLTP implementation progress reported annually to Regional Transport Committee	RLTP review completed and adopted by Council by 30 June 2024	RLTP completed and adopted by Council by 30 June 2027

Public Transport Dunedin and Queenstown (programme)

What we do and why

The LTP was agreed on the assumption that the ORC will continue to maintain responsibility for the provision of public passenger transport over the next 10 years. The work programme covers the operation of the buses (Dunedin and Queenstown) and ferries (Queenstown), as well as the 'Total Mobility' scheme.

Operators are contracted by ORC to provide bus services in Dunedin, bus and water ferry services in Queenstown, and to provide the Total Mobility scheme across the region. Orbus, our public transport network, is our largest work programme.

Our LTP supports this strategic direction by outlining how we will continue to improve Otago's public passenger transport services. This includes planning, working with partners on the long-term vision for public transport across the region and on the delivery of infrastructure that supports public transport services in Dunedin and Queenstown, and renewing contracts (with service improvements) for Dunedin and Queenstown public transport services as required.

The next 10 years will be a challenging but exciting period for our public transport system as it responds to changes from population growth and movement, to uncertain economic conditions. Technology is improving and more accessible, at the same time we have national goals to lower carbon emissions. Public transport will need to become the preferred mode of travel for more people more often to support broader societal, economic and environmental outcomes.

Importantly this LTP signals, during this 10 year planning horizon, significant decisions on public transport infrastructure, particularly in Queenstown. At this stage the Council is working with its partners to bring this vision to life for future community consideration.

This programme faces challenges including:

- COVID impact on patronage numbers for the Queenstown. We continue to carefully consider our planning assumptions about future patronage in regards to the COVID pandemic and tourism.
- Private motor vehicle use - a large number of urban residents are opting to use alternative modes of travel, largely single occupancy private car trips. This means the Otago region, particularly the areas paying the targeted transport rate, is not fully benefiting from public transport. Higher patronage provides more funding for more public transport service improvement - a virtuous cycle that reduces traffic volumes, reduces greenhouse emissions, reduces the need for infrastructure to accommodate private vehicles (eg carparking, roading), improves safety, and encourages more active lifestyles.
- Financial sustainability - delivering a service that attracts desired levels of patronage whilst remaining financially sustainable for our customers, ratepayers and our funding partners is an important issue. Expenditure on public transport needs to be at a level our communities can afford. To date the service has been operating with a shortfall, even with the Waka Kotahi 51% contribution. This shortfall has been supported by reserve funds and additional one-off grants. The transport reserves are in deficit reflecting this situation. Without the transport services making a positive contribution (via fares), there are reduced funds to keep making desired changes and improvements. The Dunedin Public Transport Joint Committee - consisting of Otago Regional Council and Dunedin City Council and NZTA will consider funding, including fares over this LTP cycle.

Key work for years 2 to 3

The proposed Annual Plan 2022-23 maintains the agreed LTP programme. As a recap the programme includes:

- Dunedin bus service contract renewals in year 2 that provide opportunity for further service improvements
- The ‘living wage’ adjustment for bus drivers was included in year 1. Any future adjustments are subject to council consideration and support from Waka Ko Tahī.
- Assumptions on fare revenue for Dunedin services are based on pre-COVID levels
- Assumptions on Queenstown bus services are based on a delayed recovery of patronage due to the COVID pandemic and impacts to tourism.
- Queenstown contract renewals with associated service improvements are planned in year 4 of this LTP and development of infrastructure from Years 7 and 8.
- Assumptions on changes in the bus fleet to low greenhouse emission are based on the timing of contract renewals, Government funding and procurement process, and an open mind regarding the type of technology.
- Increased targeted rating of property in the areas where there is direct benefit for the services provided. It increases a further \$1.4million, from \$7.3million (yr1) to \$8.7million (yr2).
- The maximum Total Mobility fare subsidy remains unchanged with Council currently subsidizing 50 percent of the total fare up to a maximum of \$25 per trip.

Level of Service Statements, Measures and Targets

The service statements (LoS), measures and targets for this activity are defined in the table(s) below.

LOS: Provide efficient, reliable and accessible public transport services that meet community needs.				
Performance measures	Targets			
	2021/22	2022/23	2023/24	2024-2031
Annual public transport boardings in Queenstown per capita	increase*	increase	increase	increase
Annual public transport boardings in Dunedin per capita	increase*	increase	increase	increase
Overall passenger satisfaction with Wakatipu Public Transport system at annual survey.	97%	97%	97%	97%
Overall passenger satisfaction with Dunedin public transport system at annual survey	93%	97%	97%	97%
Percentage of scheduled services delivered (reliability)**	95%	95%	95%	95%
Percentage of scheduled services on-time (punctuality – to five minutes)***	95%	95%	95%	95%
Percentage of users who are satisfied with the provision of timetable and services information	establish baseline	maintain or increase	maintain or increase	maintain or increase
Percentage of users who are satisfied with the overall service of the Total Mobility scheme	establish baseline	maintain or increase	maintain or increase	maintain or increase

*The 2020-21 boardings per capita will form the baseline for these targets.

**Reliability is based on scheduled trips completed in full. A service trip leaving the origin stop >59 seconds early or >9 minutes and 59 seconds late is deemed not to have operated.

***Punctuality is based on scheduled service trips leaving origin stop between 59 seconds before and four minutes and 59 seconds after the scheduled departure time

7.2. Bylaw Approval to Commence Consultation

Prepared for: Council
Report No. ENG2202
Activity: Flood Protection & Control Works
Author: Alison Weaver, Team Leader Commercial and Regulatory (Engineering)
Michelle Mifflin, Manager Engineering
Endorsed by: Gavin Palmer, General Manager Operations
Date: 23 March 2022

PURPOSE

- [1] To seek approval to commence public consultation on the proposed Flood Protection Management Bylaw 2022 ("Proposed Bylaw") in accordance with the Statement of Proposal.

EXECUTIVE SUMMARY

- [2] On 9 December 2021 Council approved a review of the Flood Protection Management Bylaw 2012. Following that Council decision, staff have reviewed the bylaw and prepared the Proposed Bylaw. Staff have also prepared a Statement of Proposal in accordance with the Local Government Act 2002 (LGA).
- [3] Council approval is sought to undertake consultation on the Proposed Bylaw in accordance with the Statement of Proposal.

RECOMMENDATION

That the Council:

- 1) **Receives** the report.
- 2) **Adopts** the recommendation that the Proposed Bylaw is the most appropriate form of the bylaw.
- 3) **Notes** that the Proposed Bylaw does not give rise to any implications under, nor is it inconsistent with the New Zealand Bill of Rights Act 1990.
- 4) **Approves** the proposed Statement of Proposal for the review of the Flood Protection Management Plan 2012 for public consultation in accordance with the Statement of Proposal.
- 5) **Approves** the appointment of Mr Allan Cubitt as an independent member of the hearing panel.
- 6) **Appoints** two Councillors for a hearing panel to hear from submitters, consider all submissions received, deliberate and make recommendations to Council in relation to the Proposed Bylaw.

BACKGROUND

- [4] ORC provides flood protection and land drainage to approximately 20,000 hectares of rural and urban land. This relies on assets set out in Table 1.

- [5] The flood protection, river and drainage assets, and the schemes they make up, primarily consist of floodbanks, pump stations, floodgates, and culverts.

Table 1 ORC’s Strategic Flood Protection and Land Drainage Assets

Scheme	Catchment Area (,000 ha)	Area Protected (,000 ha)	Assets				
Alexandra Flood Protection	1,511	0.01	1	-	3	-	-
Leith Flood Protection	4	0.2	-	-	-	-	-
Lower Clutha Flood Protection and Drainage	2,110	9.3	110	153	5	189	5
Lower Taieri Flood Protection	565	13	107	-	-	-	-
West Taieri Drainage	8	8.1	-	144	3	22	20
East Taieri Drainage	17	4.8	-	128	3	84	1
Tokomairiro Drainage	40	7.7	-	110	-	74	19
Lower Waitaki River Control	65km length of Waitaki River						
Lower Shotover Delta Scheme	430m length training line						
Stoney Creek Scheme	200m length contour channel & 2 sediment traps						
TOTAL	4,256	43	218	535	14	369	55

Key

- Length of floodbanks (km)
- Length of drains (km)
- No. of pump stations
- No. of culverts
- No. of bridges

- [6] In addition to the assets in the above table there are other assets that form part of Councils infrastructure including:¹
- a. The training line that guides the river and sediment in the Shotover River.
 - b. Smaller floodways and river groynes that make up the Lower Waitaki River Control Scheme.
 - c. Trees and vegetation which is planted and maintained along river channels and margins are a defence asset which reduce erosion to river channels and adjacent floodbanks.
 - d. Rock buttress and placed rock within rivers and flood protection schemes, such as the Albert Town rock buttress.
- [7] The primary focus of this Bylaw renewal was to meet requirement to replace the current Bylaw by 8 August 2022 deadline, as it lapses on this date. It also focusses on the most critical and significant assets Council assets. The asset management function has a parallel piece of work underway in addition to the Bylaw renewal, that continues assessing assets and verifying their ownership. This is also linked with the development

¹ Extract from the Infrastructure Strategy, section 3.2 Asset Summary by Scheme

of interface arrangements as part of the Three Waters transition. Further assets may be included in the Bylaw by way of variation to the Bylaw during 2023.

- [8] At the Council meeting² on 8 December 2021, Council:
- a. Adopted the staff recommendation that a Bylaw is the most appropriate way to ensure the integrity and satisfactory performance of the Council's flood protection works; and
 - b. Approved the staff recommendation to commence a review of the Flood Protection Management Bylaw 2012.
- [9] A draft Flood Protection Management Bylaw 2022 ("Proposed Bylaw") and a Statement of Proposal have been prepared by staff with input from consultants. The Proposed Bylaw is included as Attachment 1 including the Bylaw Maps as Attachment 1A. The Statement of Proposal is included as Attachment 2. The Summary of Information is included as Attachment 3. Additional information is provided in Attachment 4 (a memorandum dated 4 March 2022, explaining the proposed changes on a clause-by-clause basis) and Attachment 5 (a memorandum setting out considerations in the review).
- [10] The inclusion of the Shotover training line and the Albert Town rock buttress in the Proposed Bylaw is required so that these works have the protection of the Bylaw. The Albert Town rock buttress has had significant investment in repairs from the flooding event in February 2020, and also provides a critical function in the stabilisation of the embankment which falls under ONL (outstanding natural landscape) status. The Shotover training line provides an essential river management control of the Shotover river flows into the Kawarau River ensuring that the flow is directed downstream of Lake Wakatipu mitigating flooding from the confluence of these rivers. The protection of these structures is significant to ensuring their functionality is not compromised by external activities around these structures. If these structures were damaged or removed there would be significant consequences that these structures would otherwise provide protection and function around.
- [11] This paper seeks approval to move to the next stage which is approval of the Proposed Bylaw and the commencement of public consultation.

DISCUSSION

Proposed Bylaw

- [12] Council may make Bylaws under section 149 of LGA for flood protection and control works and has done so under this provision since 2008 (and prior to this under former legislation). The purpose of the Proposed Bylaw, as with previous versions, is to manage, regulate and protect the effective operation and integrity of flood protection works owned by, or under the control of Council.
- [13] Under the LGA, bylaws must be reviewed no later than 5 years after the date on which they were made.
- [14] The Flood Protection Management Bylaw 2008 (2008 Bylaw) came into force on 1 July 2008. It was reviewed and replaced by the 2012 Bylaw, which came into operation on 1 September 2012 after a Council Decision dated 8 August 2012.

² Report No. ENG2102, Flood Protection & Control Works, 9 December 2021

- [15] Further reviews of a bylaw are required under the LGA 2002 no later than ten years after it was last reviewed. This review is a ‘further review’ of the Flood Protection Management Bylaw.
- [16] The Flood Protection Management Bylaw 2012 has provided adequate protection to the ORC flood protection and drainage assets during its 10-year period. There have been limited instances of damage to flood protection and draiange assets which may be attributed to the respective controls in place through the Bylaw and Designation.
- [17] A summary of the Bylaw applications processed and received over the past five years is shown in Table 2.

Table 2 Summary of Bylaw Decisions (2017 – 2022)

Bylaw applications since January 2017						
Source: Objective						
Year	Numbers					
	Applications received	Bylaw Authority granted	Declined/ Withdrawn	Bylaw approval not required	Application incomplete	Under Assessment
2017	25	23	2			
2018	14	13		1		
2019	15	12	3			
2020	27	22	3	1	1	
2021	25	19	1	1		4
2022	13	2				

Under assement refers to Bylaws currently being processed

Application incomplete means the Bylaw does not meet requirements for assessment

- [18] The objectives of the Proposed Bylaw are to:
 - a. Amend the 2012 Bylaw if appropriate following review;
 - b. Enable asset management;
 - c. Enable appropriate mechanisms to ensure the effective operation and integrity of Council’s flood protection works; and
 - d. Ensure that the Proposed Bylaw is concise, consistent, effective, efficient, and relevant.
- [19] The key proposed changes to the 2012 Bylaw are summarised in Table 3.

Table 3 Summary of proposed changes to the 2012 Bylaw

Item	Section of Bylaw Reviewed	Proposed Change	Review Comment
1	3.2.i Defences Against Water and Excavation - sensitive Areas	Expanding the land disturbance restrictions to include all earthworks.	The excavation provisions in the 2012 Bylaw are difficult to apply. Use of “excavation” in conjunction with “cultivation” makes it

Item	Section of Bylaw Reviewed	Proposed Change	Review Comment
			easier to identify what sort of earthworks or excavation may require bylaw approval.
2	3.2.i Defences Against Water and Excavation-sensitive Areas), 3.4.g Groynes and Cross-banks, and 2 Definition of Cultivation	Allowing cultivation within 20m of a defence against water (such as a floodbank, spillway or retaining wall) and within 50m of a groyne or cross-bank.	This provision means that landowners are not unduly restricted from undertaking usual farming activities as a result of the alteration of the excavation and earthworks provisions.
3	3.0 Activity Requiring Bylaw Authority	Recording that the Proposed Bylaw does not apply to Council employees, or persons authorised by Council, who are carrying out maintenance or emergency works on its flood protection assets.	Under the 2012 Bylaw it has the unintended consequence that ORC must apply for Bylaw approval to undertake most maintenance activities such as rabbit hole repairs, drain cleaning, spraying and other day to day activities.
4	3.1.c Scheduled Drains and Overland Flow Paths, 3.2.c Defences Against Water and Excavation-Sensitive Areas, and 3.3.c Floodways	Restrictions around the planting or growing of shrubs, hedges or trees within specified areas.	Under the 2012 Bylaw, the planting of trees in some areas is restricted. Tree root systems can damage flood protection works. The same risks arise with hedges and shrubs, and it is proposed to extend the restriction.
5	Schedule 2	Adding Albert Town rock buttress to the maps in the schedule	The Albert Town rock buttress has been added to Schedule 2 to ensure adequate protection of the works. It is to be subject to the restrictions in section 3.2.

Item	Section of Bylaw Reviewed	Proposed Change	Review Comment
6	3.2.d Defences Against Water and Excavation - Sensitive Areas	Restrictions around removing trees on or near defences against water.	As with the planting of trees, shrubs and hedges, the removal of trees, particularly the root system, can detrimentally affect the flood protection work.
7	3.2.f Defences Against Water and Excavation - Sensitive Areas	Restrictions around removing or altering structures between the bank of a river and any associated defence against water.	While few structures are situated or likely to be situated in this area, the addition of this provision ensures proper consideration is given to the removal of such structures if the issues arise.
8	Schedule 4	Adding Shotover Training Line to the maps in the schedule	The Shotover Training Line has been added to Schedule 4 to ensure adequate protection of the works.
9	3.4 Groynes, Cross-banks and Training Lines	Adding reference to training lines which are to be subject to the provisions in this section	The Shotover Training Line is proposed to be subject to the provisions in section 3.4.
10	3.4 Addition of Shotover Delta Training Line and Albert Town rock buttress	Restrictions on activity extended to these structures.	The Shotover Delta Training Line and the Albert Town rock buttress are relatively recent additions to Council flood protection works. The restrictions provide protection to the works so the integrity of the structures is retained.
11	3.5 Flood Protection Vegetation 2 Definition of Flood Protection Vegetation	Combining 'plantings' and 'anchored tree protection' under 'flood protection vegetation' and implementing specific rules (e.g., restricting stock grazing) within these areas.	The combination of different forms of "live" structures reflects the environment in the Waitaki District where the plantings and tree protections are intermingled throughout the areas identified on the Maps.

Item	Section of Bylaw Reviewed	Proposed Change	Review Comment
12	5.3 Objections process	Provision for an objections process.	Currently the only avenue for objection to the Bylaw process is a judicial review application to the High Court. An objection process allows applicants to air their concerns through a more timely and less formal and expensive process.
13	Amendment made to 6.1 (Revocation of Authority)	Additional details on the revocation process (when authorities are cancelled) including the ability of Council to revoke an authority immediately where flood protection works are compromised.	Further assurance to applicants/approval holders that a clear process is in place which will be followed.
14	Amendment made to add Appendix 1 (Diagrams Referencing Activities Requiring Bylaw Authority)	Adding diagrams of drains, overland flow paths and defenses against water in Appendix 1.	
15	Amendment made to Appendix 2 (Bylaw Approval Application Form)	Expanding the details required in the application form.	
16	Schedule 1: Tokomairiro scheduled drains. Schedule 2: Alexandra defences against water. Schedule 1: Lower Taieri defence against water, sheet 5. Schedule 1: Lower Clutha scheduled drains Schedule 1: East Taieri scheduled drains and overland flow paths.	Updating maps in the Schedule.	The Shotover Delta Training Line and the Albert Town rock buttress are new flood protection works proposed to be included. Most amendments are to remedy errors in previous maps or where works have been disposed of.
17	2 Definitions: Cultivation, Drains, Earthworks, Flood Protection Vegetation, River, Scheduled Drain	Adding or amending definitions to support changes in the Proposed Bylaw.	

Statement of Proposal

- [20] A Statement of Proposal has been prepared pursuant to sections 83, 86 and 155 of the LGA for the purposes of reviewing the 2012 Bylaw and calling for and hearing for submissions from the public. It is included as Attachment 2.
- [21] The Statement of Proposal recommends that the Proposed Bylaw is taken through the Special Consultative Procedure as defined by Section 83 and modified by section 86 of the LGA.
- [22] If the Statement of Proposal is approved, consultation will take place from 31 March 2022 until 5pm on 1 May 2022.
- [23] Consultation will include:
 - a. The full proposal and the submission form will be provided online. Copies may be requested at ORC offices that are open to the public; territorial council offices; public libraries; and at www.orc.govt.nz. Copies can also be obtained on request.
 - b. Written submissions can be posted, delivered, emailed, or sent by facsimile.
 - c. If required, a hearing will be held on 4 May 2022. The hearing will be held online.
- [24] The timeline summarising the key dates for the consultation process is summarised in Figure 1.

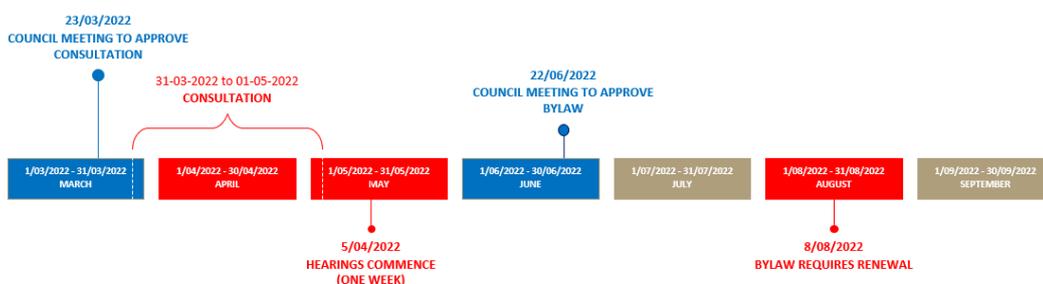


Figure 1: Timeline summary of consultation process

Hearing

- [25] A hearings panel comprising of two Councillors (one of who should be appointed as Chair of the panel), and Mr Allan Cubitt is recommended. A panel of this size was used for the last ORC bylaw process (the Otago Navigation Safety Bylaw) and for the review of the bylaw in 2012.
- [26] Given the technical nature of the matters which need to be considered, staff have approached Mr Allan Cubitt³ to see if he is willing and available to perform this role. Mr Cubitt has confirmed his availability.

³ Mr Allan Cubitt has 35 years’ experience as a planning consultant and as a hearing’s commissioner for Regional and District Councils around the South Island, including the Otago Regional Council. This includes the consideration of applications for works that contravene the ORC’s Flood Protection Bylaw. Mr Cubitt also has much experience in the preparation of policy documents including District Plans, Reserve Management Plans and Bylaws

Other LGA considerations

Does the Proposed Bylaw give rise to any implications under the NZ Bill of Rights Act 1990?

- [27] Council must determine whether the Proposed Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (“NZBORA”). The NZBORA affirms, protects and promotes human rights and fundamental freedoms in New Zealand; and affirms New Zealand’s commitment to the International Covenant on Civil and Political Rights. It details rights and freedom in relation to life and security of people; democratic and civil rights; non-discrimination and minority rights; search, arrest, and detention; criminal procedure and right to justice.
- [28] The purpose of the Proposed Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by, or under the control of Council. The Proposed Bylaw does not give rise to any implications under, nor is it inconsistent with the NZBORA.

Is the Proposed Bylaw the most appropriate way of addressing the perceived problem?

- [29] This was considered in the 9 December 2021 paper and is included for completeness. The ‘perceived problem’ is the risk of damage to property, livestock and infrastructure assets is increased if a mechanism such as a bylaw is not in place for management of the flood protection works. These assets are protected by flood protection works, and to ensure their operation and integrity, the Bylaw is considered the most appropriate management mechanism.
- [30] Alternative methods to using a bylaw which can be considered include:
- a. Doing nothing;
 - b. Other regulatory methods such as designating flood protection works or adding rules to the regional plan;
 - c. Non-regulatory methods such as developing strategy/agreements with landowners and education; and
 - d. The transference of responsibility to territorial authorities.
- [31] As considered in the 9 December 2021 paper, the above options do not provide a solution as effective as the bylaw.
- [32] A standalone bylaw is seen as the most appropriate form of bylaw to manage the perceived problem.
- [33] Consolidation with other bylaws (the other bylaw held by ORC is the Navigation Safety Bylaw 2020) is not seen as appropriate given the significant difference in function of the two bylaws.

OPTIONS

- [34] The recommended option is to approve consultation on the Proposed Bylaw in accordance with the Statement of Proposal. Consultation will allow for robust discussion of the Proposed Bylaw terms. This option means that the review will be able to be completed before the lapse date of 8 August 2022.

- [35] An alternative option is to do nothing. This option will result in the 2012 Bylaw being revoked on 8 August 2024. This is 2 years after the date of which it was required due to be renewed/replaced. This option assumes there is not a perceived problem and risks underperformance of flood schemes and infrastructure integrity.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [36] There are no strategic framework and policy considerations associated with receiving this report.
- [37] There are no policy considerations associated with receiving this report.
- [38] The Proposed Bylaw aligns with the Infrastructure Strategy, which was approved by Council on 1 March 2021, in that it provides protection of the integrity and operation of flood protection works which provides certainty for actions contemplated by the Strategy.
- [39] With the Proposed Bylaw in place, Council can be confident that strategies such as the approach to asset renewal or improved environmental performance can occur with certainty.

Financial Considerations

- [40] There are no financial considerations associated with receiving this report. This programme of work is budgeted for in the 2021 – 2031 LTP.
- [41] If Council recommend further consideration of an option or the statement of proposal outlined in this report, there may be a financial consideration, and this may need to be considered under separate Council approval.

Significance and Engagement

- [42] The Bylaw review will trigger the Significance and Engagement Policy however because the consultative procedures under the LGA are being used, these address the requirements for ensuring public participation.

Legislative and Risk Considerations

- [43] The Bylaw review will be undertaken in accordance with the requirements of the LGA.
- [44] There is risk associated with not having a Bylaw in place by 8 August 2022 and that risk will need to be managed. The Bylaw will lapse if the review is not complete by 8 August 2022.

Climate Change Considerations

- [45] There are no climate change considerations with receiving this report.

Communications Considerations

- [46] Communications engagement is required to support consultation as provided for in the Statement of Proposal. These are described above.

NEXT STEPS

- [47] If Council approves consultation on the Proposed Bylaw, then it will be publicly notified in accordance with the timeline described above.

ATTACHMENTS

1. Attachment 1 Draft Flood Protection Management Bylaw [7.2.1 - 34 pages]
2. Attachment 1 A Draft Flood Protection Management Bylaw Schedule 1-4 Maps [7.2.2 - 33 pages]
3. Attachment 2 Statement of Proposal [7.2.3 - 14 pages]
4. Attachment 3 Summary of Information [7.2.4 - 4 pages]
5. Attachment 4 Bylaw Review Report [7.2.5 - 20 pages]
6. Attachment 5 Memorandum dated 16 March 2022 changes to Bylaw [7.2.6 - 9 pages]



Proposed
Flood Protection
Management Bylaw
20122

[Date]
[ISBN]

Flood Protection Management Bylaw, [date] 20122

1

Cover Page

Common Seal page

Flood Protection Management Bylaw, [date] 2012

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Chairperson's Foreword

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First Schedule

Maps of scheduled drains and overland flow paths.

Second Schedule

Maps of defences against water and excavation-sensitive areas.

Third Schedule

Descriptions and maps of floodways.

Fourth Schedule

Maps of groynes, cross-banks, training lines and flood protection vegetation, ~~anchored tree protection and plantings.~~

Appendix One

Diagrams referencing Activities requiring Bylaw Authority

Appendix Two

Bylaw ~~Approval~~ Authority Application Form.

Flood Protection Management Bylaw, [date] 2012

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FLOOD PROTECTION MANAGEMENT BYLAW 20122

The Otago Regional Council, pursuant to the powers contained in the Local Government Act 2002, makes the following Bylaw:

Title

This Bylaw shall be known as the Flood Protection Management Bylaw 20122.

Commencement

This Bylaw shall come into force on the 1st of September [date] 20122.

1.0 PURPOSE

The purpose of this Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by or under the control of the Otago Regional Council.

Flood protection works can include scheduled drains, overland flow paths, defences against water, floodways, groynes, cross-banks, training lines and flood protection vegetation, anchored tree protection and plantings.

This Bylaw only controls activities that may affect the integrity or operation of flood protection works.

2.0 DEFINITIONS

Note: where a word is defined it is shown in the Bylaw text in *italics*.

~~**Anchored Tree Protection** means any anchored tree protection shown in the Fourth Schedule.~~

Authority means written approval issued by the *Council* under this Bylaw.

Bed means the space of land which the waters of the *river* cover at its fullest flow without overtopping its banks.

Council means the Otago Regional Council and includes any person duly authorised by the *Council* to exercise any of the powers conferred upon the *Council* by this Bylaw.

Cross-bank means any cross-bank shown in the Fourth Schedule.

Cultivation means the alteration or disturbance of land (or any matter constituting land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or crops, to a depth of no more than 300 millimetres below the existing ground surface.

Defence against water means any defence against water shown in the Second Schedule and includes the *bed* of the Water of Leith and Lindsay Creek as marked in red on the Leith Lindsay map in the Second Schedule.

Ditches means any drainage network, other than scheduled drains.

Drain means any drain shown in the First Schedule artificial watercourse designed, constructed, or used for the drainage of surface water or subsurface water, but excludes artificial watercourses used for the conveyance of water for electricity generation, irrigation, or water supply purposes (note also the definition of Scheduled drain).

Earthworks means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock).

Excavation means the removal of material, which results in a hole or cavity.

Excavation-sensitive areas means any excavation-sensitive area shown in the Second Schedule.

Flood protection works include scheduled drains, overland flow paths, defences against water, floodways, groynes, cross-banks, training lines and flood protection vegetation, anchored tree protection and plantings.

Flood protection vegetation means all trees and shrubs, including those deliberately planted, or self-seeded, owned or controlled by Council for flood or erosion protection purposes occurring between the 'Flood protection vegetation' lines in the Fourth Schedule. Where only one 'flood protection vegetation' line is shown, the area of vegetation to be managed for flood protection will be the area between the line and the adjacent edge of the active channel in the Fourth Schedule.

Floodway means any floodway shown in the Third Schedule.

Groynes means any groyne shown in the Fourth Schedule.

Occupier in relation to any property, means the lawfully authorised inhabitant occupier of that property and persons who have legal right to undertake activities on that property.

Overland flow path means any overland flow path shown in the First Schedule.

Owner in relation to any property, means the person entitled to receive the rack rent thereof, or who would be so entitled if the property were let to a tenant at a rack rent.

Plantings means any planting shown in the Fourth Schedule.

River means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse.

Scheduled drain means any *drain* or *river* shown in the First Schedule.

Structure includes any building, crossing, equipment, device or other facility made by people and which is fixed to land; and includes any raft (and also includes, but is not limited to, any driveway, fence, gate, line or cable and any culvert, pipe, or other kind of conduit) but does not include any lines or cables to be carried upon existing bridges or utility support structures authorised in accordance with this Bylaw.

Training line means any training line shown in the Fourth Schedule.

3.0 ACTIVITIES REQUIRING BYLAW AUTHORITY

Nothing in this Bylaw applies to Council employees or persons authorised by Council undertaking maintenance or emergency works on those flood protection works subject to the Bylaw

Resource consent or authorisation may also be required from the Otago Regional Council, relevant territorial authority or the Department of Conservation.

Note: Diagrams are included in Appendix 1 to illustrate the relevant areas of the flood protection works covered by sections 3.1 and 3.2.

3.1 Scheduled Drains and Overland Flow Paths

No person shall, without the prior *authority* of the *Council* –

- a. Alter any scheduled drain or overland flow path;
- b. Remove or interfere with any machinery or equipment relating to any scheduled drain;
- c. Plant or allow to grow any tree, shrub, hedge or part thereof
 - i. in any scheduled drain or overland flow path, or
 - ii. on, or within, seven metres of the top of the bank of any scheduled drain;
- d. Construct or put any *structure*
 - i. in, over, through or under any scheduled drain or overland flow path, or
 - ii. on, or within, seven metres of the top of the bank of any scheduled drain;
- e. Dump or deposit any thing in any scheduled drain or overland flow path;
- f. Obstruct any scheduled drain or overland flow path;
- g. Drive, take or operate any vehicle, machinery or equipment, in or through any scheduled drain;
- h. Allow livestock in or through any scheduled drain;
- i. Connect any pipe, channel or other conduit to any scheduled drain or overland flow path.

3.2 Defences Against Water and Excavation-Sensitive Areas

No person shall, without the prior *authority* of the *Council* –

- a. Alter any *defence against water* except as provided for by rule 3.2 (fg);

- b. Remove or interfere with any machinery or equipment relating to any *defence against water*;
- c. Plant or allow to grow any tree, shrub, hedge or part thereof
 - i on any *defence against water*, or
 - ii. within seven metres of the landward side of any *defence against water*, or
 - iii between the bank of any river and associated *defence against water*;
- d. Cut down or remove any tree
 - i on any *defence against water*, or
 - ii. within seven metres of the landward side of any *defence against water*, or
 - iii between the bank of any river and associated *defence against water*;
- ~~e.~~e. Construct or put any structure
 - i. in, on, over, through or under any *defence against water*, or
 - ii. within seven metres of the landward side of any *defence against water*, or
 - iii. between the bank of any river and associated *defence against water*;
- ~~e.~~f. Remove or alter any *structure*
 - i. in, on, over, through or under any *defence against water*, or
 - ii. within seven metres of any *defence against water*, or
 - iii. between the bank of any river and associated *defence against water*, or
 - ~~iv.~~iii. within any *excavation-sensitive area*;
- ~~f.~~g. Dump or deposit any thing
 - i. on any *defence against water*, or
 - ii. within seven metres of the landward side of any *defence against water*, or
 - iii. between the bank of any river and associated *defence against water*;
excluding materials for maintenance of existing authorised access;
- ~~g.~~h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *defence against water*;
- ~~h.~~i. Carry out any *excavation-earthworks*
 - i. in, on, through or under any *defence against water*, or

- ~~ii. within 20 metres of the landward side of any *defence against water* which lowers the existing ground surface by more than 300 millimetres in depth, or~~
- ii. within 20 metres of the landward side of any *defence against water* unless the earthworks relate to *cultivation*, or
- iii. between the bank of any river and associated *defence against water*, or
- iv. within any *excavation-sensitive area*, if the *earthworks* involve *excavation*.

3.3 Floodways

No person shall, without the prior *authority* of the *Council* –

- a. Alter any *floodway* except as provided for by rules 3.3 (e) and (g);
- b. Remove or interfere with any machinery or equipment relating to any *floodway*;
- c. Plant or allow to grow any tree, shrub, hedge or part thereof in any *floodway*;
- d. Construct or put any *structure* in, on, over, through or under any *floodway*;
- e. Dump or deposit any thing in any *floodway*, excluding materials for maintenance of existing authorised access, or as a result of maintenance of *ditches drains* undertaken in accordance with rule 3.3 (g);
- f. Obstruct any *floodway*;
- g. Carry out any *excavation earthworks* in any *floodway*, excluding maintenance of *ditches drains*;
- h. Connect any pipe, channel or other conduit to the Hilderthorpe or Hendersons and Waikoura Creeks floodways.

3.4 Lower Waitaki River Groynes ~~and~~, Cross-banks and Training Lines and Anchored Tree Protection

No person shall, without the prior *authority* of the *Council*–

- a. Alter any *groyne* ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*;
- b. Remove or interfere with any machinery or equipment relating to any *groyne* ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*;
- c. Plant ~~or allow to grow~~ any tree, shrub, hedge or part thereof ~~on, or within~~ seven metres, ~~of any~~ *groyne*, ~~cross-bank~~ ~~or~~ *anchored tree protection*;
 - i. ~~on any~~ *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line*; ~~or~~
 - ii. ~~within seven metres of any~~ *groyne* ~~or~~ *cross-bank* ~~or~~ *training line*;
- d. Construct or put any *structure*
 - i. in, on, over, through or under any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*, ~~or~~
 - ii. within seven metres of any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*;
- e. Remove or alter any *structure*
 - i. in, on, over, through or under any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*, ~~or~~
 - ii. within seven metres of any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*;
- f. Dump or deposit any thing on, or within fifty metres of any ~~and~~ *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*; excluding materials for the purpose of access authorised maintenance;
- g. Carry out any ~~excavation~~ earthworks
 - i. in, on, through or under any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*, ~~or~~
 - ii. within fifty metres of any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~unless the earthworks relate to~~ *cultivation* ~~or~~ *anchored tree protection* ~~which lowers the existing ground surface by more than 300 millimetres in depth, or~~
 - iii. ~~between the bank of any river and associated~~ *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*;
- h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *groyne*, ~~or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*.

3.5 Lower Waitaki Plantings Flood Protection Vegetation

No person shall, without the prior *authority* of the *Council* –

- a. Remove, alter or interfere with any *plantings flood protection vegetation*; or
- b. Add to any *plantings*. Plant or allow to grow any tree, shrub, hedge or part thereof within any *flood protection vegetation*;
- c. Allow stock to graze within any *flood protection vegetation*.

Note: The extent of this vegetation is defined as the area between the ‘flood protection vegetation’ lines, or where there is only one ‘flood protection vegetation’ line, the area of vegetation to be managed for flood protection will be the area between the line and the adjacent edge of the active channel as shown in the Fourth Schedule.

4.0 ACTIVITIES REQUIRED TO BE UNDERTAKEN

4.1 Structures

The *owner* of every *structure* shall keep it in good repair.

4.2 Floodways

- a. Within any *floodway* every fence and gate shall be maintained free of debris.
- b. Within the Hilderthorpe *Floodway*, every fence shall include a floodgate which enables the free flow of flood water.

4.3 Fencing of Drains

The *Council's* Chief Executive may, by written notice, require every *owner*, and every *occupier* of land adjoining any *scheduled drain* to, in the time and manner stated in the notice, erect fencing to prevent livestock entering the *scheduled drain* at the cost of the *owner*, if in the opinion of the Chief Executive, fencing is necessary to ensure the effective operation and integrity of the *scheduled drain*.

4.4 Access

The *Council's* Chief Executive may, by way of notice displayed on site, prohibit or restrict access to any *flood protection works*, if, in the opinion of the Chief Executive the restriction or prohibition is necessary to ensure the effective operation and integrity of the *flood protection works*.

5.0 APPLYING FOR AN AUTHORITY

5.1 Authority

- a. An application to the *Council* for *authority* under this Bylaw shall be made in accordance with the Bylaw Approval Application Form (Appendix ~~One~~Two) and be accompanied by the prescribed fee;
- b. Any *authority* under this Bylaw may be granted on such conditions as the *Council* considers appropriate. When considering applications for *authority*, the *Council* shall have regard, but not be limited to, the following assessment criteria, in order to ensure the effective operation and integrity of the *flood protection works*:
 - Capacity
 - Stability, scour and erosion risk
 - Access for inspection and maintenance purposes
 - Duration of authority
 - Water quality
- c. If *Council* refuses an application for *authority*, the *Council* shall give written reasons for that decision.
- e.d. Every person to whom an *authority* is granted shall produce that *authority* for inspection on request by the *Council*.

5.2 Fees

- a. The *Council* may, by using the special consultative procedure in Section 83 of the Local Government Act 2002, prescribe any fee payable by any person who applies for an *authority* under this Bylaw.
- b. The *Council* may, in such situations as the *Council* may determine, refund, remit, or waive the whole or any part of any fee payable under this Bylaw.

5.3 Objections Process

- a. Any person who applies for authority under this Bylaw, within five working days of receiving any decision or *authority* in relation to this Bylaw, may object in writing to the Council in regard to that decision or authority. Objections to a decision or *authority* are limited to a refusal of the *authority* or the conditions placed on the *authority*.
- b. The *Council* may uphold, amend or rescind the decision or *authority*, and in making its determination must have regard to:

- i. the evidence on which the decision or *authority* was based;
 - ii. the matters presented in support of the objection; and
 - iii. any other relevant matters.
- c. The Council must, as soon as practicable, give written notice to the applicant, including the reasons for that determination.

6.0 COMPLIANCE AND ENFORCEMENT

6.1 Revocation of Authority

- a. The *Council* may, in accordance with this clause, revoke any *authority* granted under this Bylaw, if the holder of the *authority* contravenes or fails to comply with any condition of the *authority*.
- b. Subject to 6.1(d), Bbefore revoking any *authority*, the *Council* shall give written notice to the holder of the *authority* that the *Council* may revoke the *authority* which:
 - i. written notice to the holder of the *authority* that the *Council* may revoke the *authority* sets out the respects in which the holder has contravened or failed to comply with any condition of the *authority*; and
 - ii. the holder an opportunity of making, within 14 days, written submissions relating to the possible revocation of the *authority*. if the breach or failure is capable of remedy, gives the holder a reasonable time within which to remedy it; and
 - iii. warns the holder that the *Council* may revoke the *authority* if the holder does not either:
 1. remedy the breach or failure within the time specified or within such further time as the *Council* may allow on application; or
 2. make, within 14 days, a written submission to the *Council* setting out reasons why the *authority* should not be revoked.
- c. On receipt of a request by the holder for further time pursuant to clause 6.1(a)(iii)(1), or of a submission pursuant to clause 6.1(a)(iii)(2), the *Council* may at its sole discretion:
 - i. grant the further time sought; or
 - ii. accept the submission made (as the case may be); or
 - iii. or revoke the *authority*.
- d. *Council* may revoke *authority* to obtain immediate efficacy and effectiveness of the *flood protection works* or in the event of pending or current flood events.
- e. Nothing in this clause applies to a revocation of *authority* under clause 6.1(d).

6.2 Offence

- a. Every person commits an offence against this Bylaw who -

- i. Commits a breach of any clause of Section 3 or 4 of this Bylaw;
 - ii. Causes or permits to be done anything in contravention of any clause of Section 3 or 4 of this Bylaw;
 - iii. Omits to do anything required by this Bylaw or the conditions of the relevant *authority*;
 - iv. Fails to comply with any written notice served under this Bylaw.
- b. Every person who commits an offence against this Bylaw is liable to the penalties prescribed by section 242 of the Local Government Act 2002.

6.3 Notice to Remedy

The *Council* may, by written notice, require any mitigation or remediation considered necessary by *Council*, in relation to the contravention of any clause of Section 3 or 4, or the conditions of the relevant *authority*, in the time, and in the manner stated in the notice, at the cost of the *owner*.

6.4 Removal of Works

The *Council*, or any agent of the *Council*, may remove or alter any work or any thing, constructed or being in contravention of any provision of this Bylaw, or any conditions of an *authority*, and may recover the costs incurred by the *Council* in connection with the removal or alteration.

The undertaking of this action shall not relieve any person from liability to any penalty incurred by reason of the breach.

First Schedule - Drains and Overland Flow Paths

Maps of *scheduled drains* and *overland flow paths* owned by or under the control of the *Council*, to which this Bylaw applies.

Lower Clutha Scheduled Drains

Tokomairiro Scheduled Drains

East Taieri Scheduled Drains and Overland Flow Paths

West Taieri Scheduled Drains and Overland Flow Paths

Second Schedule – Defences Against Water and Excavation-Sensitive Areas

Maps of *defences against water* and *excavation-sensitive areas* owned by or under the control of the *Council*, to which this Bylaw applies.

Lower Clutha Defences Against Water

Lower Taieri Defences Against Water and Excavation-Sensitive Areas

Leith Lindsay Defences Against Water

Alexandra Defences Against Water

Albert Town Defences Against Water

Third Schedule - Floodways

Descriptions and maps of *floodways* owned by or under the control of the *Council*, to which this Bylaw applies.

- Lower Clutha Floodway
- Lower Taieri (Upper Pond) Floodway
- East Taieri Silver Stream Floodway
- Lower Taieri River Floodway
- Miller Road and Otokia Road Contour Channel Floodways
- Hendersons and Waikoura Creeks Floodway
- Hilderthorpe Floodway

Lower Clutha Floodway

This channel provides flood relief to Balclutha, shortening the flow path of the Koau branch between the Bifurcation (point at which the Clutha splits into the Koau and Matau branches) and Finegand. It runs in a SSE direction, is approximately 500 m wide and 1.9 km long. The floodway is grass-lined (pastoral farmland when not in operation) with floodbanks on either side and a lower height sill at the bottom end (to prevent the bottom end being drowned in river flows less than the operating threshold).

Lower Taieri (Upper Pond) Floodway

The Lower Taieri Flood Protection Scheme incorporates two flood storage ponds designed to maximise the peak flow the Scheme can accommodate. The northern most pond (upper pond) has a defined spill point from the Taieri River. A demountable barrier structure (with collapsible props) gives some control to the discharge but most of the spillway is 'uncontrolled' (flatter riverward batter and a steeper landward batter lined with rock, with concrete grouting). Although not physically delineated, the area of pastoral farmland between the spillway and Riverside Road conveys flow spilled from the Taieri River to the upper ponding area.

East Taieri Silver Stream Floodway

Although not physically delineated, this floodway encompasses an area adjacent to the Silver Stream (Gordon Road) Spillway. This floodway conveys flow spilled from the Silver Stream which eventually discharges to the Upper Ponding Area via gated culverts through the cutoff bank.

The Silver Stream (Gordon Road) Spillway is a lowered section (approximately 1km long) of the true right Silver Stream floodbank between Gordon Road and Riccarton Road. This section is a design feature of the Lower Taieri Flood Protection Scheme. It is designed to mitigate the flood risk for Mosgiel (protected by the true left floodbank) by allowing spilling over the true right floodbank. ~~Spill starts when the flow in the Silver Stream reaches approximately 170 m³/s.~~

Lower Taieri River Floodway

The Taieri River Floodway defines the area of river berm between Allanton and the Waipori River confluence that assists with the conveyance of flood flows. The true left extent of the floodway between Allanton and the Waipori River confluence is defined

by higher ground (lower than the opposite bank floodbank crest level). The true right side of the river from Otokia to the Waipori River confluence is defined by floodbanks or elevated sections of State Highway 1 (locally known as the “Flood Free Highway”).

Miller Road and Otokia Road Contour Channel Floodways

Two uncontrolled spillways are located on the Contour Channel left bank, one just upstream of Miller Road and one immediately downstream of Otokia Road. These spillways consist of a lowered (relative to adjoining sections) section of Contour Channel floodbank. Thus when the water level in the Contour Channel reaches the spillway crest level, spill will begin automatically. The spilled water occupies the floodways before reaching the old course of Lee Creek (now a scheduled drain). This water eventually reaches the Waipori pump station and is discharged into Lake Waipori.

Hendersons and Waikoura Creeks Floodway

The Hendersons and Waikoura Creeks floodway consists of artificially constructed channels designed to collect flood flows on the north-eastern side of Georgetown-Pukeuri Road (SH83) and convey them to the Waitaki River during significant rainfall events. This floodway is not part of a wider flood protection scheme.

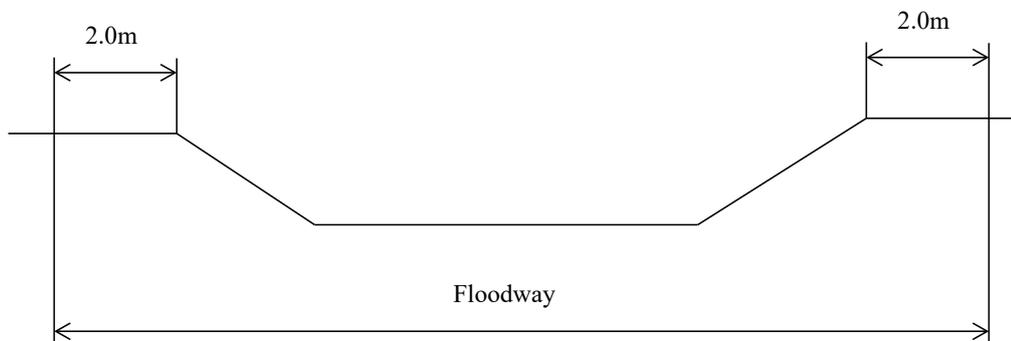
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

Hilderthorpe Floodway

The Hilderthorpe Floodway is a channel, both natural and artificially constructed, designed to convey overland flow from Gray Road to the Hilderthorpe Race alongside Steward Road during significant rainfall events. This floodway is not part of a wider flood protection scheme.

The natural sections of the channel follow the course of a paleochannel.

The map indicates the extent of the Hilderthorpe floodway. The general cross section of the Hilderthorpe floodway is shown below.



Flood Protection Management Bylaw, 1 September 2012

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**Fourth Schedule – Groynes, Cross-Banks, Training Line,
~~Anchored Tree Protection and Plantings~~ and
Flood Protection Vegetation**

Maps of groynes, cross-banks, training line, ~~anchored tree protection and plantings~~
and flood protection vegetation owned by or under the control of the *Council*, to which
this Bylaw applies.

Lower Waitaki River Groynes, Cross-Banks and Flood Protection Vegetation,
~~Anchored Tree Protection and Plantings~~
Shotover River Training Line and Flood Protection Vegetation

Appendix One: Diagrams referencing Activities requiring Bylaw Authority

Note: These diagrams are for illustrative purposes and are not to scale.

Figure 1: Scheduled drains and overland flow paths

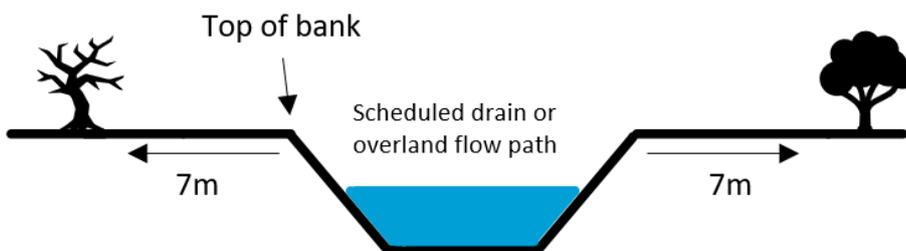


Figure 2: Defences against water - floodbank

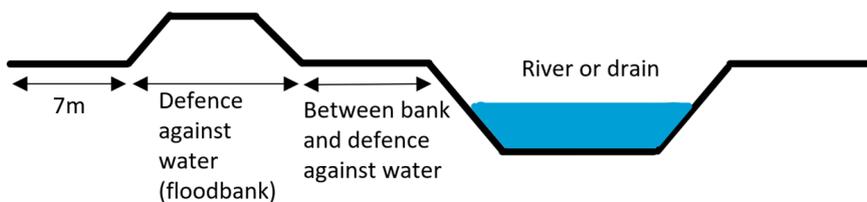
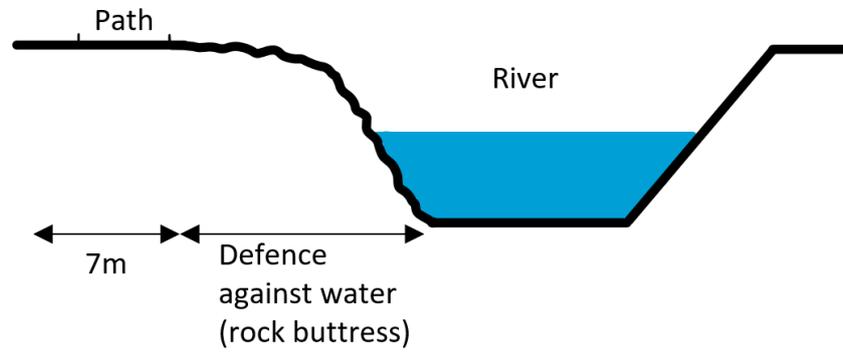


Figure 3: Defences against water – rock buttress



Bylaw Approval Application Form



Appendix Two: Bylaw Approval Authority Application Form

Flood Protection Management Bylaw, 1 September 2012

1. Applicant(s) Details

Name: _____

Organisation name
(if applicable): _____

Are you: the owner an occupier agent on behalf

Key contact details for applicant:

Postal Address _____

_____ Post Code _____

Phone Number Business _____ Private _____

Mobile _____ Fax _____

Email Address _____

Key contact details for consultant (if applicable):

Postal Address _____

_____ Post Code _____

Phone Number Business _____

Mobile _____

Email Address _____

2. Property to which this Bylaw ~~Authority Approval~~ Relates

Property Address _____

Legal description: _____

Co-ordinates (NZTM 2000): Northing – _____ Easting - _____

3. Section(s) of the Bylaw to which this ~~Approval Authority~~ Relates

6. Assessment against the assessment criteria

Please assess the effects of the proposed works against the following assessment criteria.

Capacity:

Stability, scour and erosion risk:

Access for inspection and maintenance purposes:

Water quality:

Duration of authority sought

Proposed start date:

Proposed end date:

Signed _____

Dated _____

Note: It is the applicant's responsibility to ensure they have all the required permissions from Otago Regional Council and other regulatory agencies, such as District Councils, Department of Conservation, Heritage New Zealand Pouhere Taonga. Please contact these agencies to discuss your proposal.



Map Scale @ A3: 1:50,000

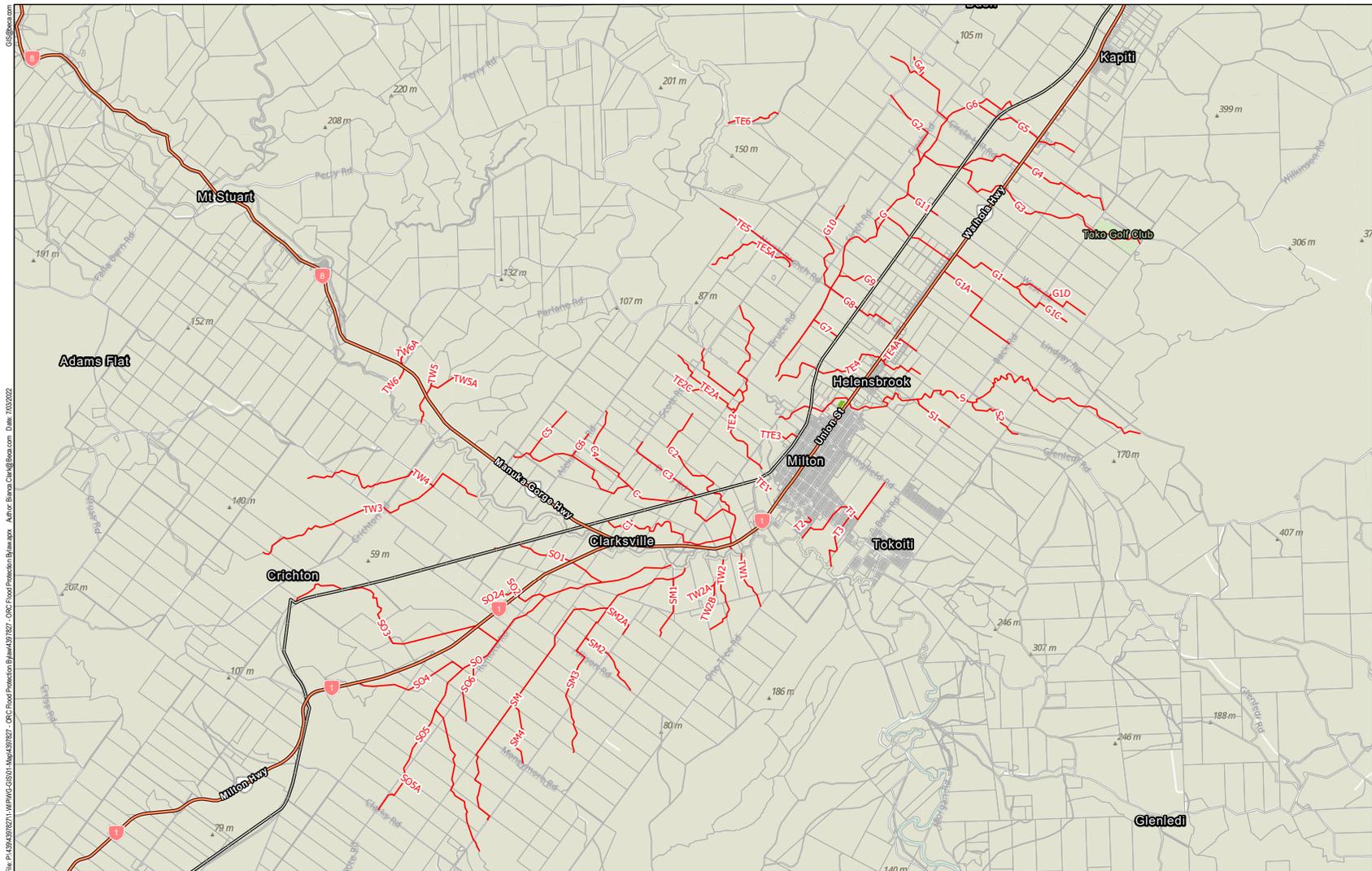
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First Schedule
Lower Clutha Scheduled Drains

Legend

- Scheduled Drains
- NZ Primary Land Parcels

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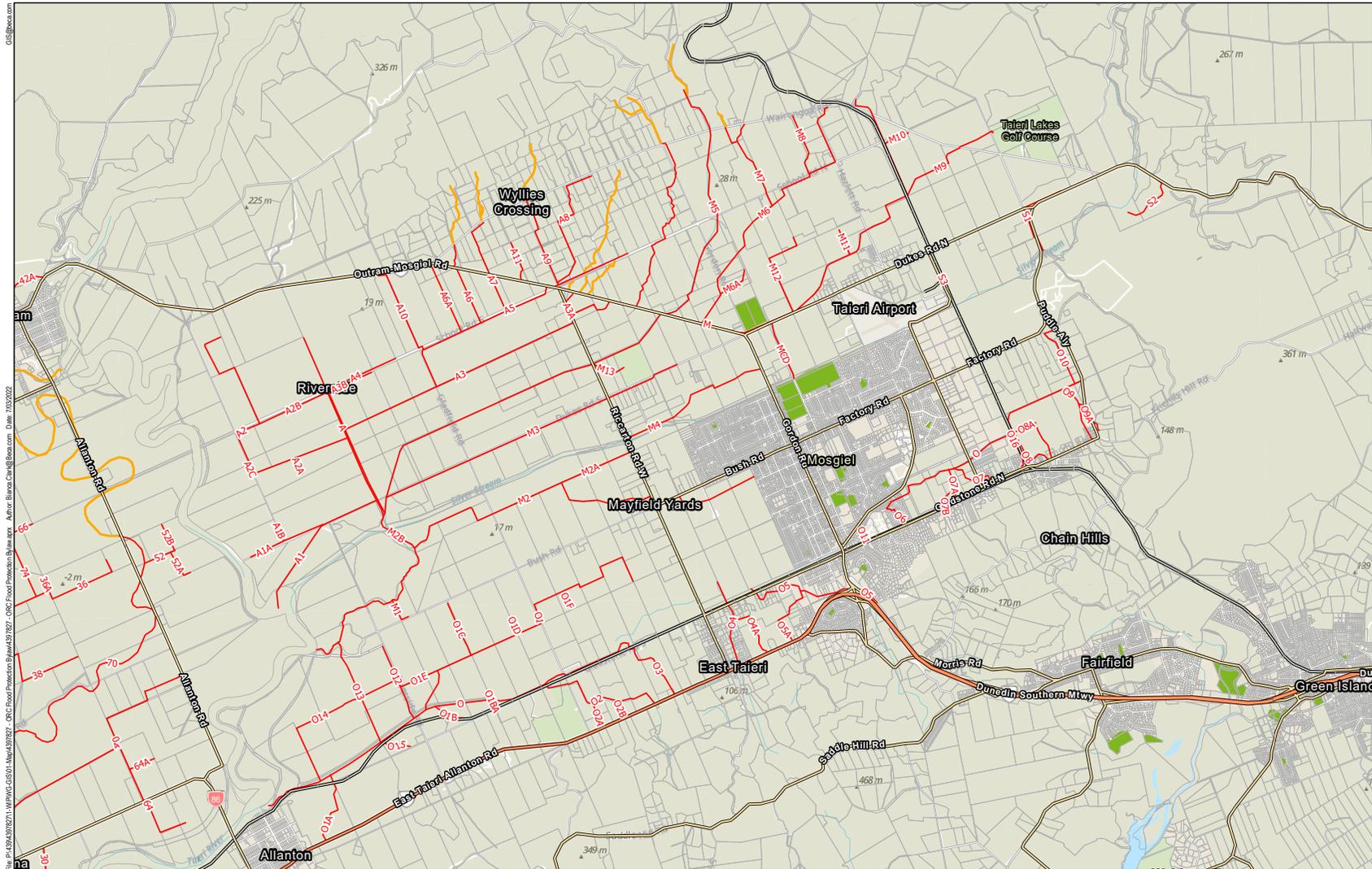
First Schedule
Tokomairiro Scheduled Drains

Legend

- Scheduled Drains
- NZ Primary Land Parcels

Map Scale @ A3: 1:50,000
0 2 Kilometres

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First Schedule
East Taieri Scheduled Drains and Overland Flow Paths

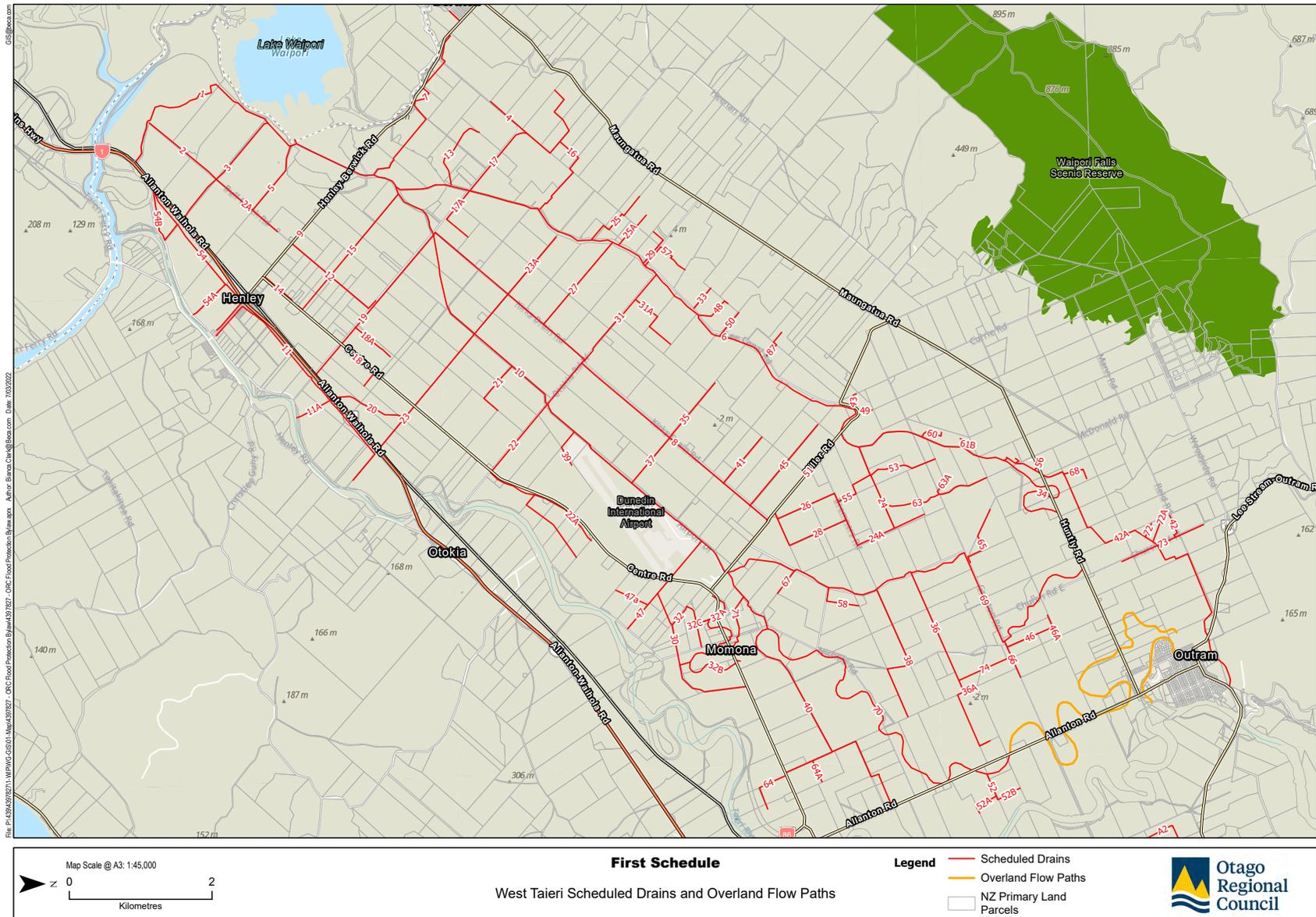
Legend

- Scheduled Drains
- Overland Flow Paths
- NZ Primary Land Parcels

Map Scale @ A3: 1:40,000
0 2 Kilometres

Otago Regional Council

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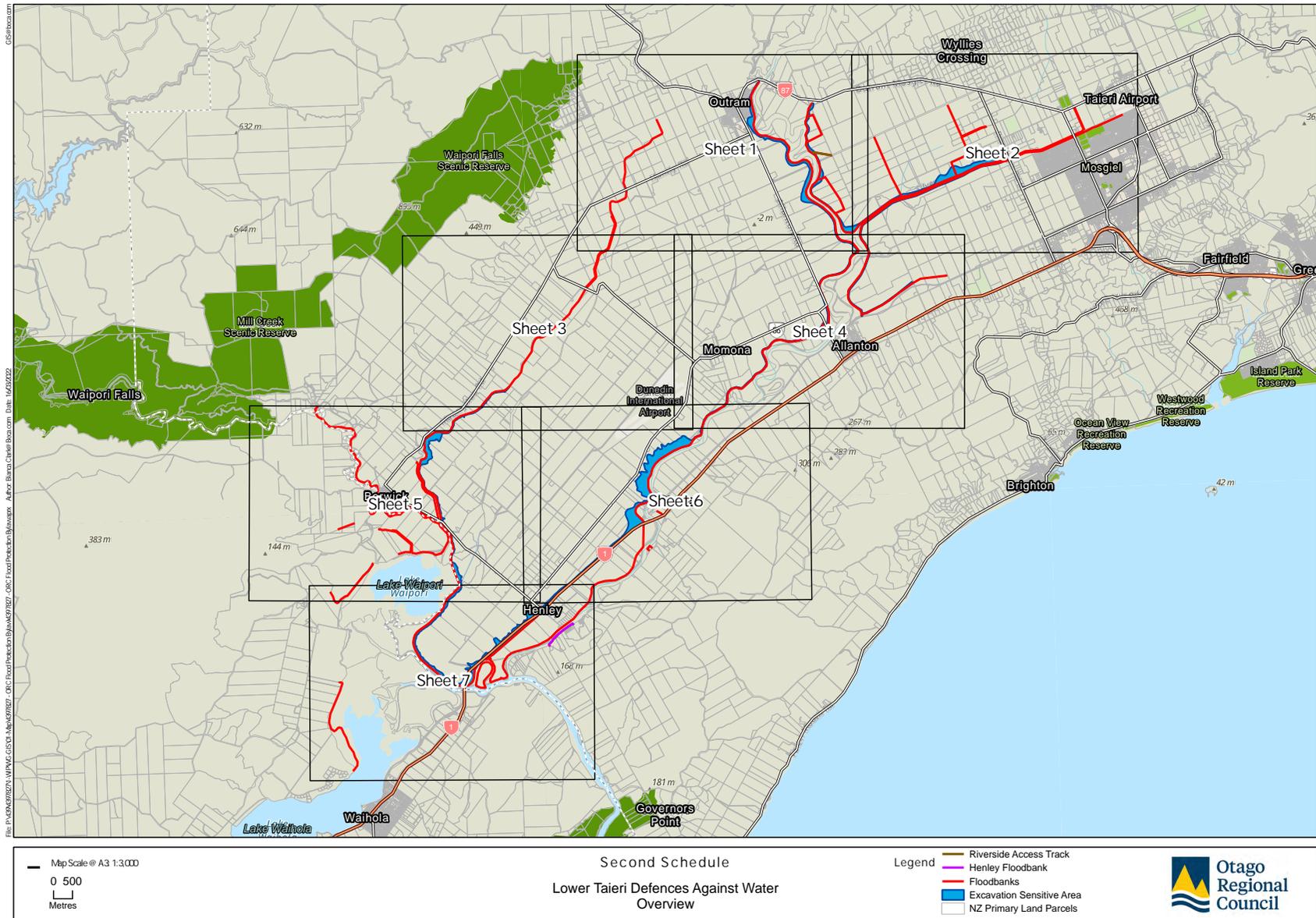


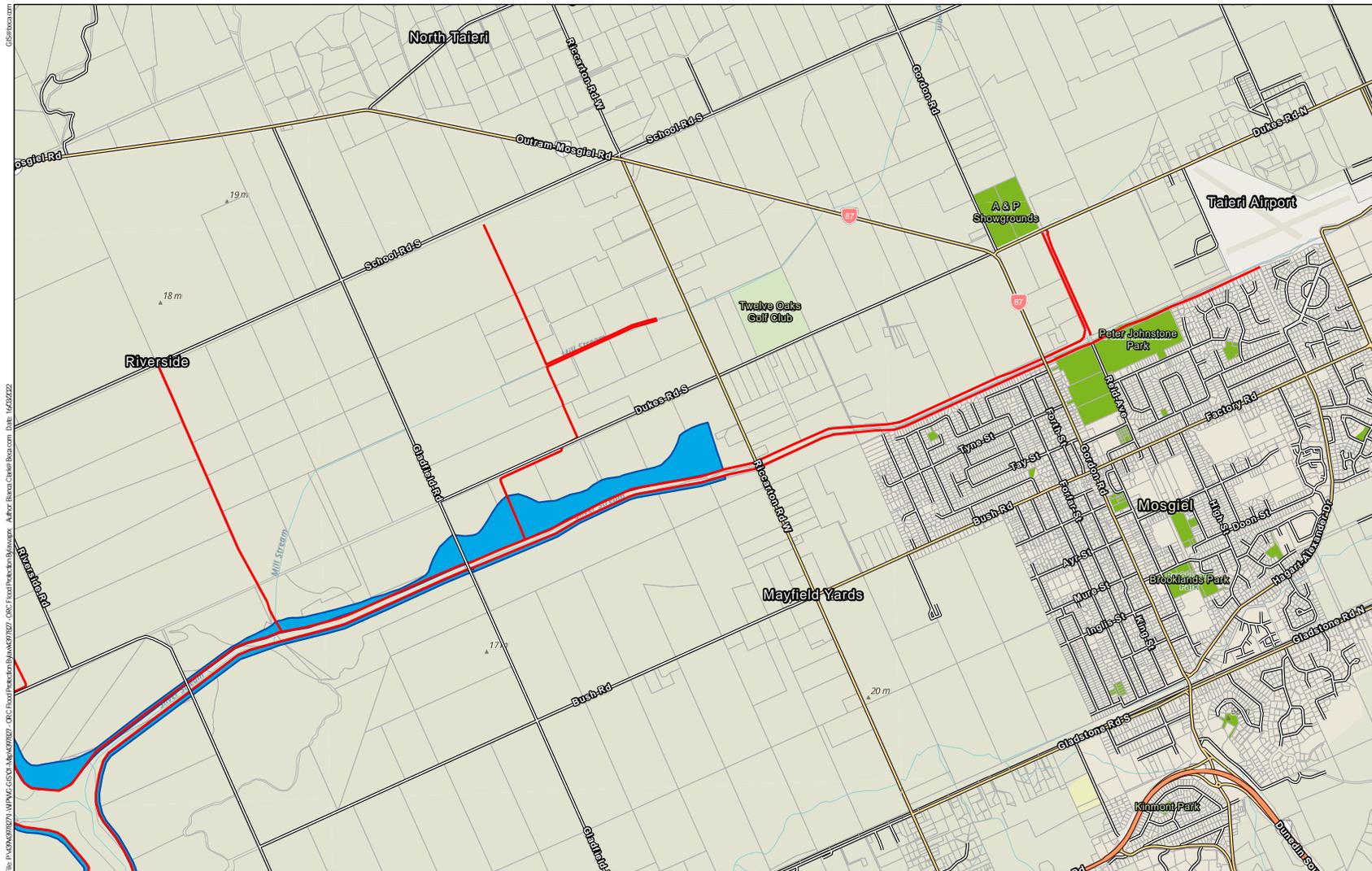
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Second Schedule
 Lower Clutha Defences Against Water

Legend
 Floodbanks
 NZ Primary Land Parcels

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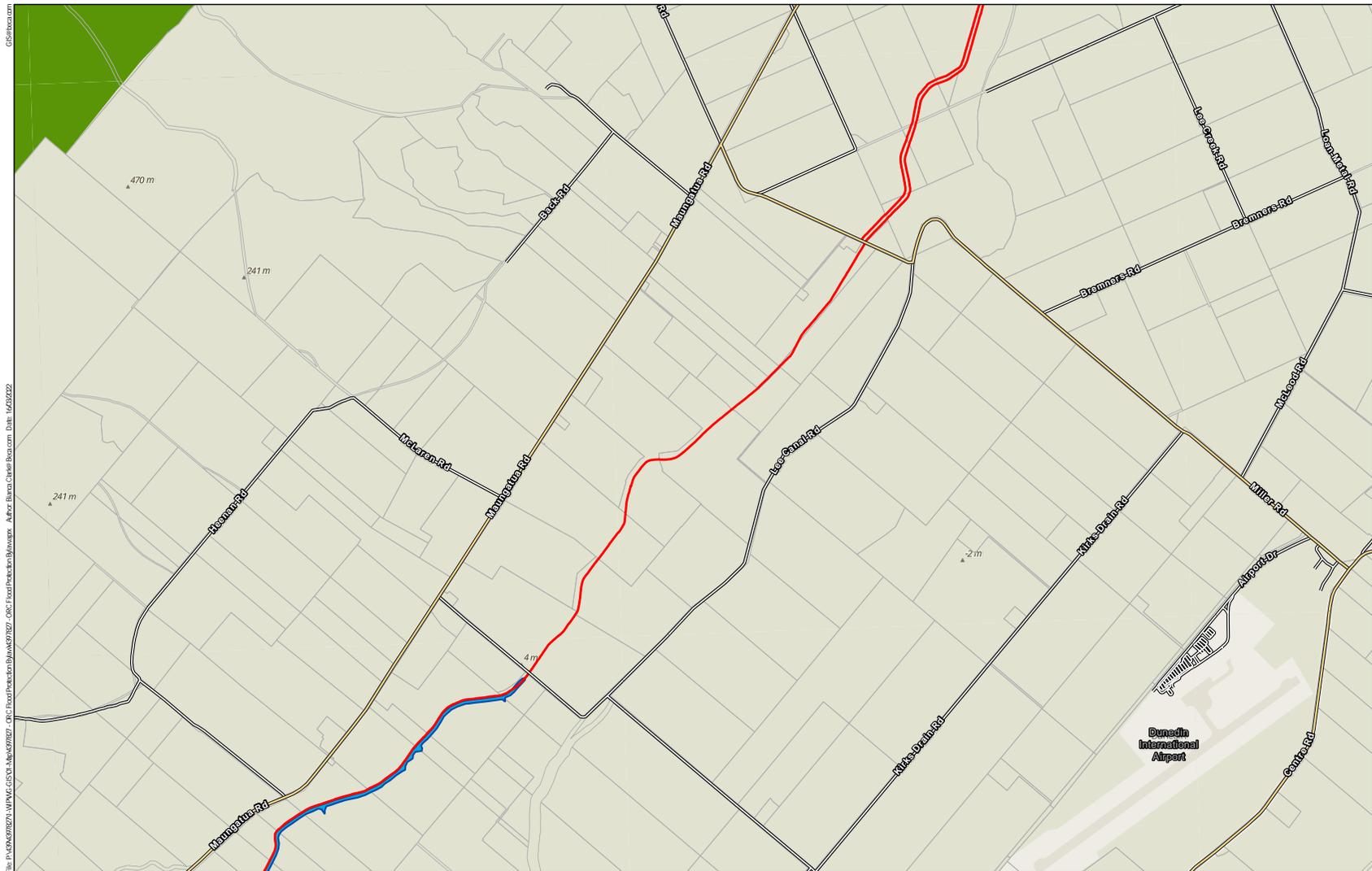
Second Schedule
Lower Taieri Defences Against Water
Sheet 2

Legend

- Floodbanks
- Excavation Sensitive Area
- NZ Primary Land Parcels



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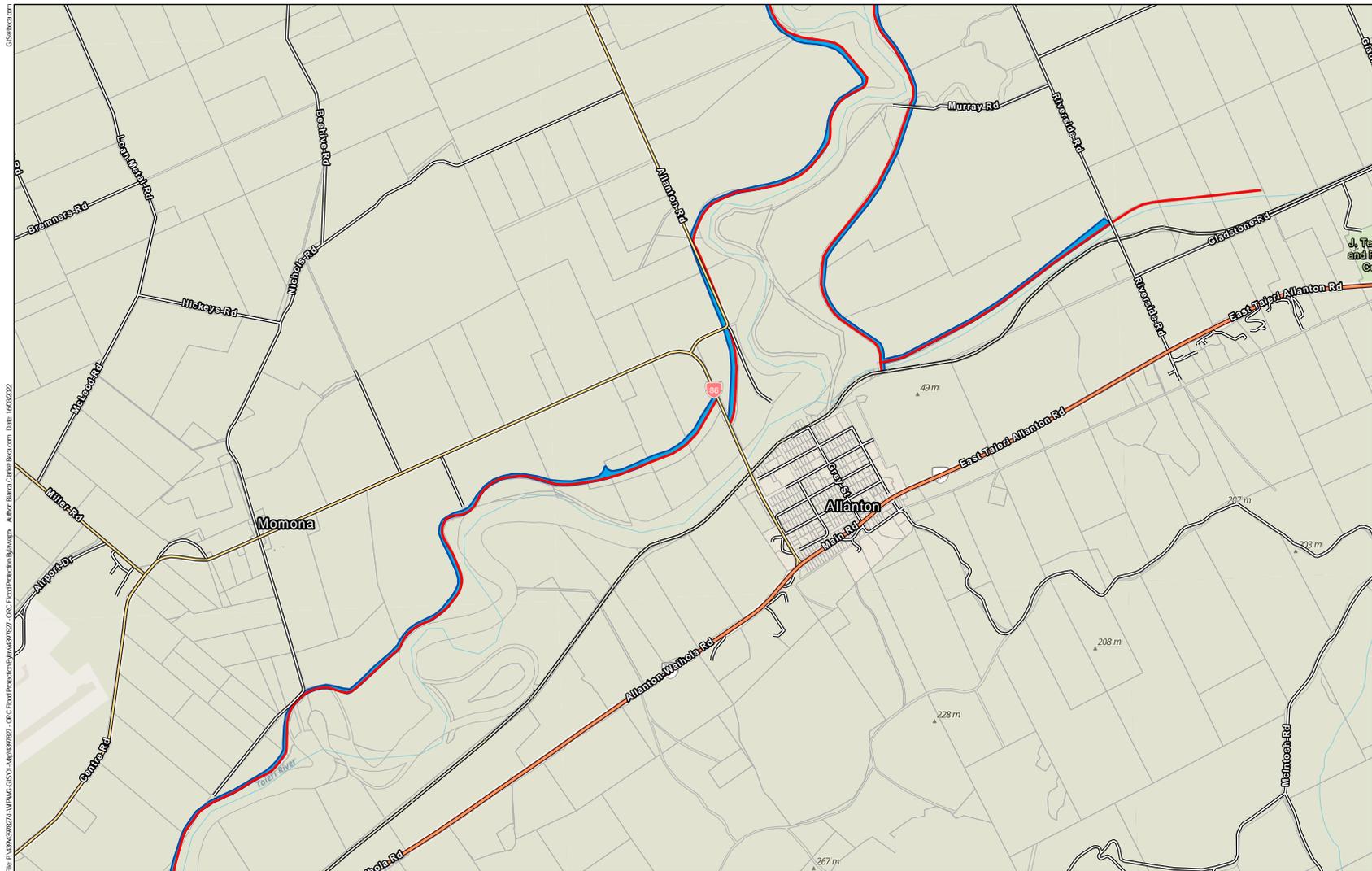
Second Schedule
Lower Taieri Defences Against Water
Sheet 3

Legend

- Floodbanks
- Excavation Sensitive Area
- NZ Primary Land Parcels



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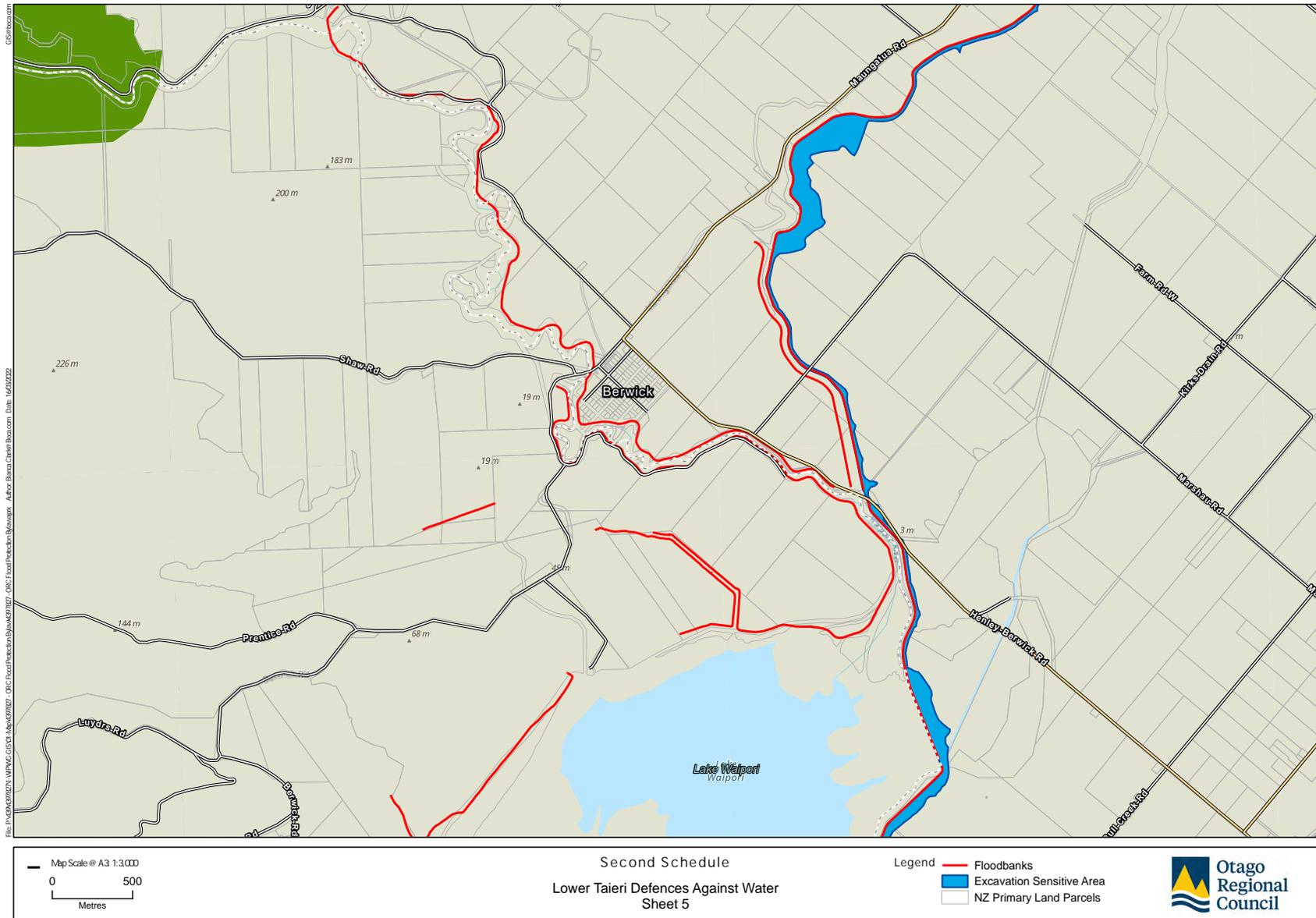


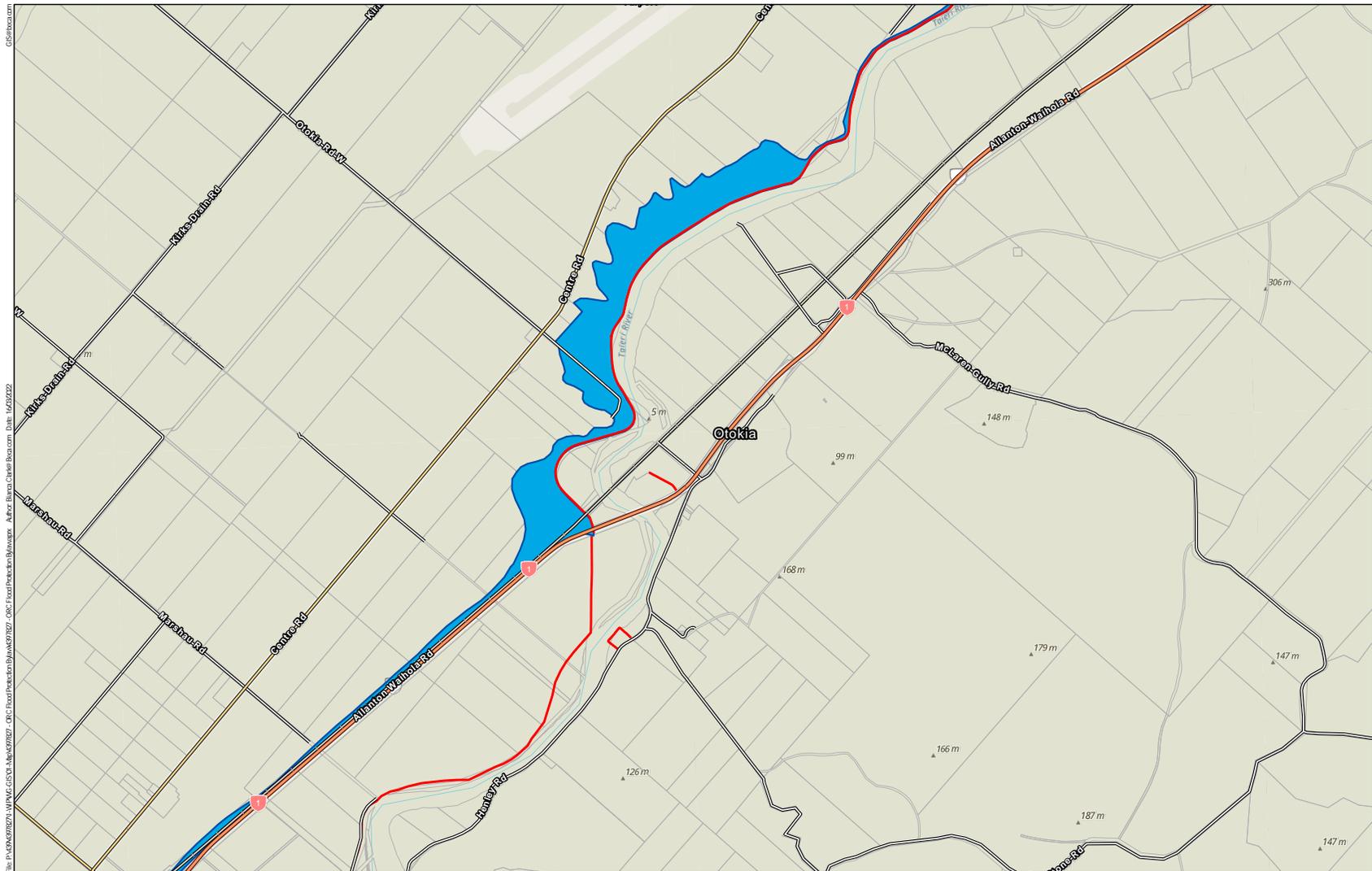
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Second Schedule
 Lower Taieri Defences Against Water
 Sheet 4

Legend
 Floodbanks
 Excavation Sensitive Area
 NZ Primary Land Parcels

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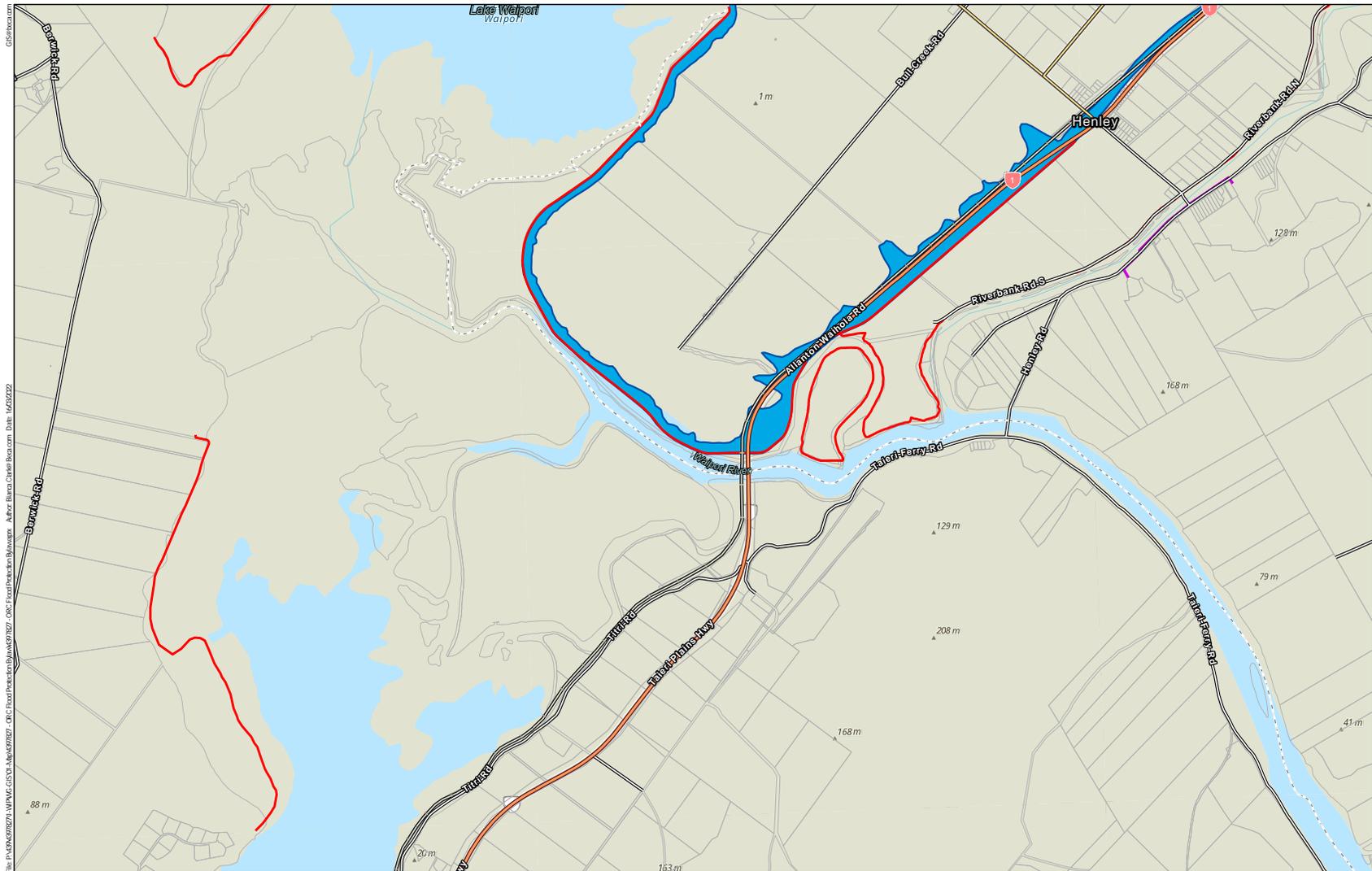


Map Scale @ A3 1:3,000
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Second Schedule
 Lower Taieri Defences Against Water
 Sheet 6

Legend
 Floodbanks
 Excavation Sensitive Area
 NZ Primary Land Parcels

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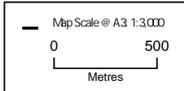
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Second Schedule
 Lower Taieri Defences Against Water
 Sheet 7

Legend

- Henley Floodbank
- Floodbanks
- Excavation Sensitive Area
- NZ Primary Land Parcels

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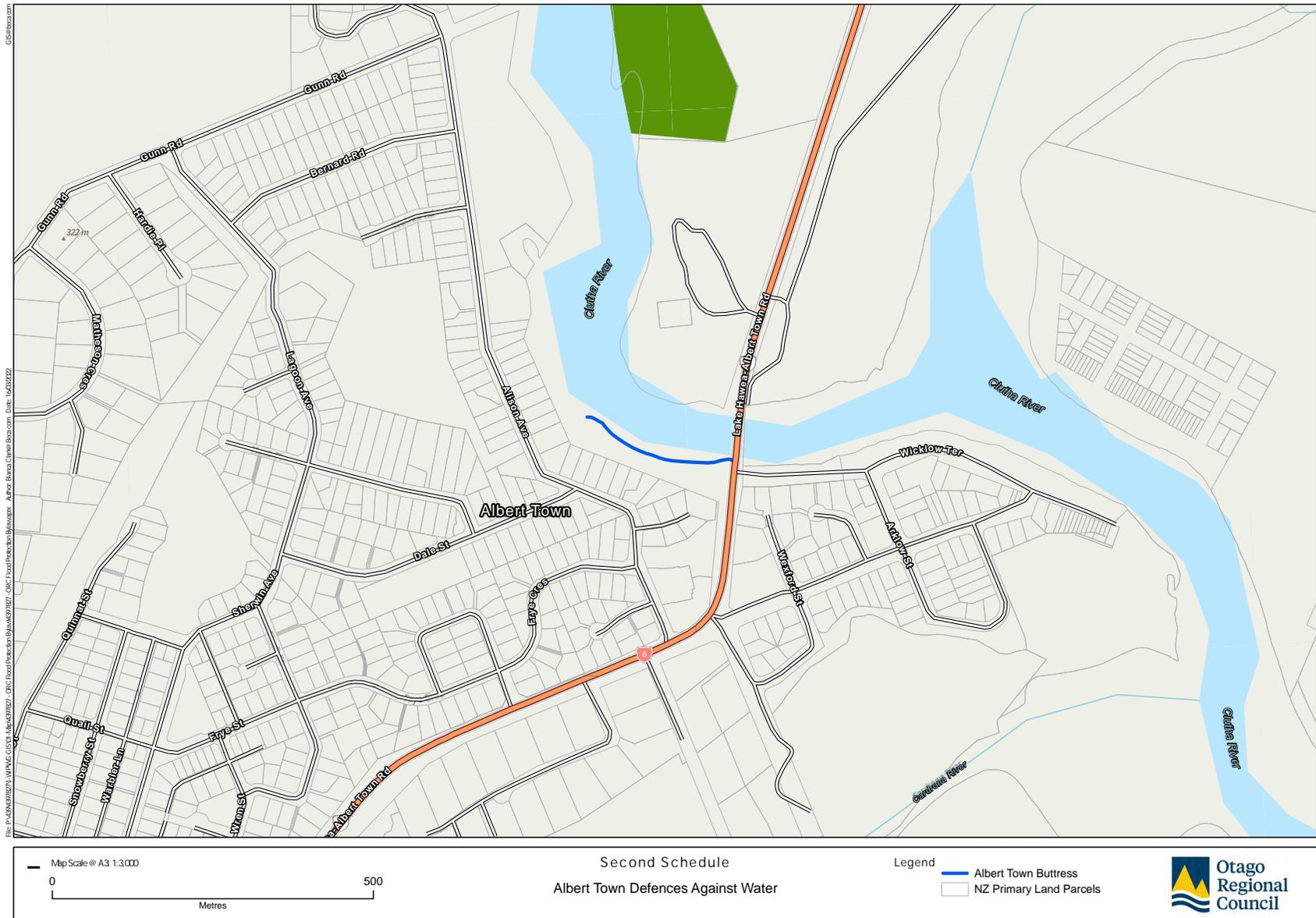
Second Schedule
Leith Lindsay Defences Against Water

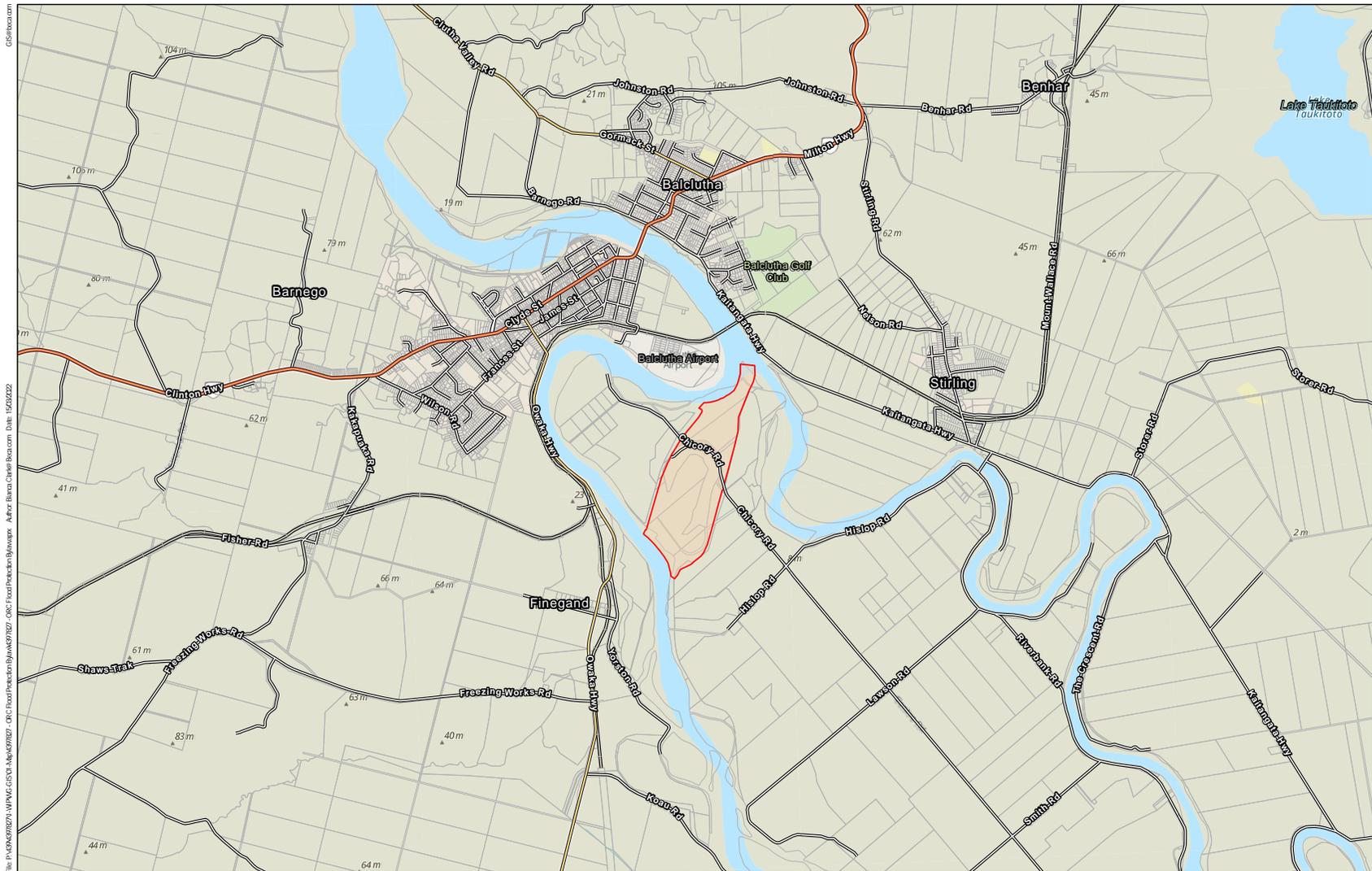
- Legend
- Leith Lindsay Floodbank
 - NZ Primary Land Parcels



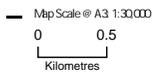
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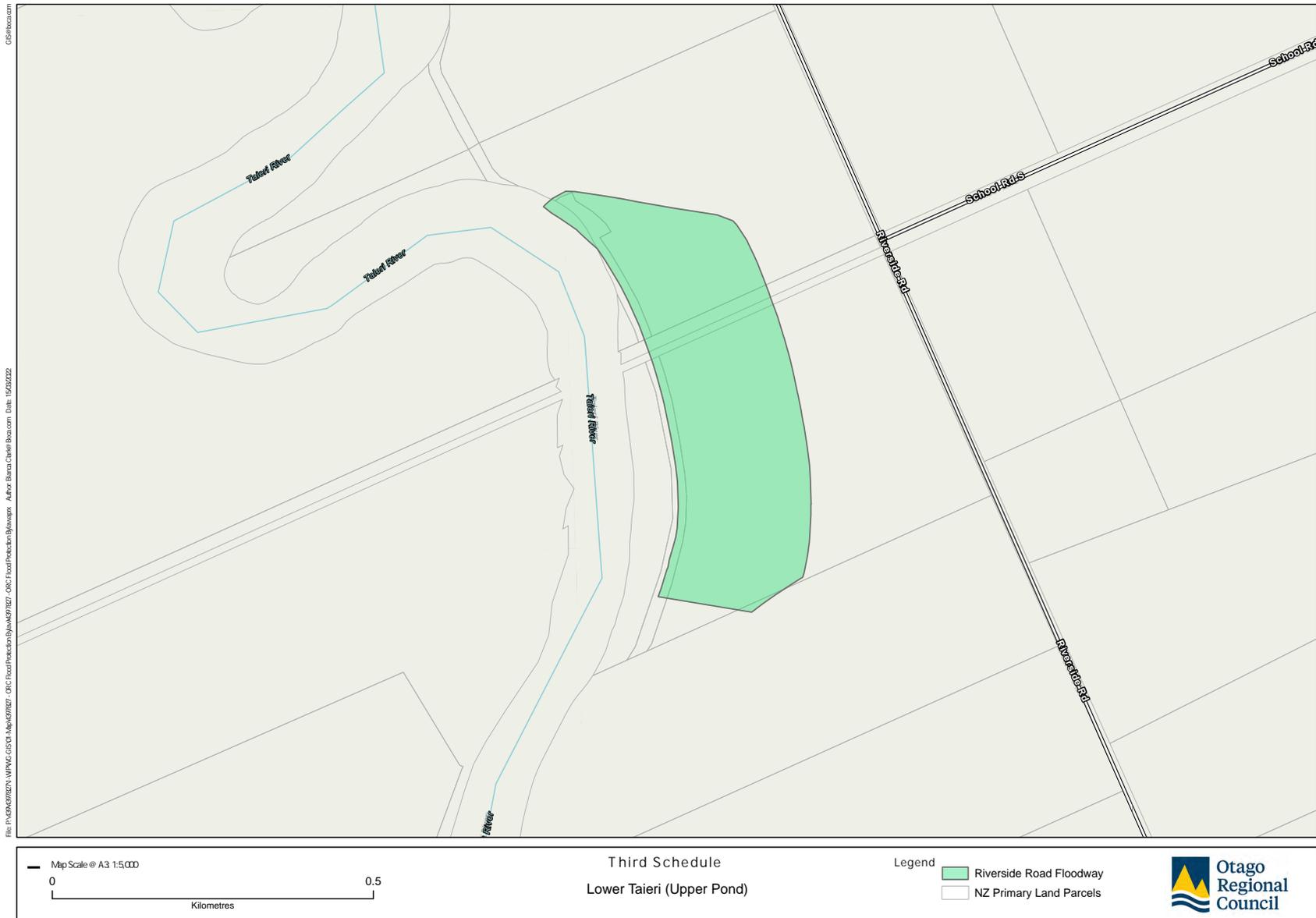


Third Schedule
Lower Clutha Floodway

- Legend
- Lower Clutha Floodway
 - NZ Primary Land Parcels



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Map Scale @ A3 1:115,000
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 Kilometres

Third Schedule
 East Taieri Silver Stream

Legend
 Gordon Road Floodway
 NZ Primary Land Parcels

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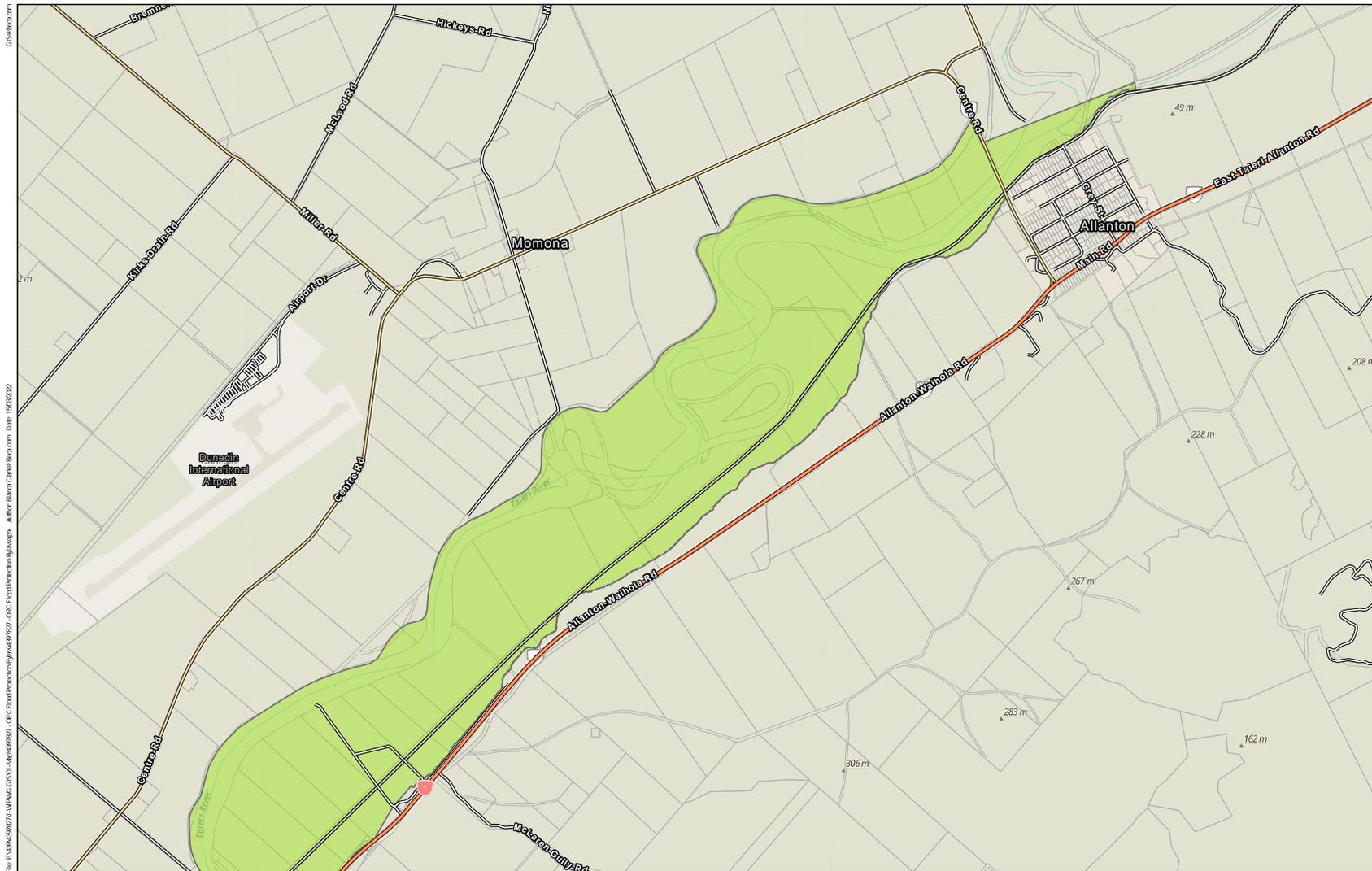


Map Scale @ A3 1:55,000
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Third Schedule
Lower Taieri River Floodway
Overview

<p>Legend</p> <ul style="list-style-type: none"> Taieri River Floodway Otokia Floodway Miller Road Floodway NZ Primary Land Parcels 	 <p>Otago Regional Council</p>
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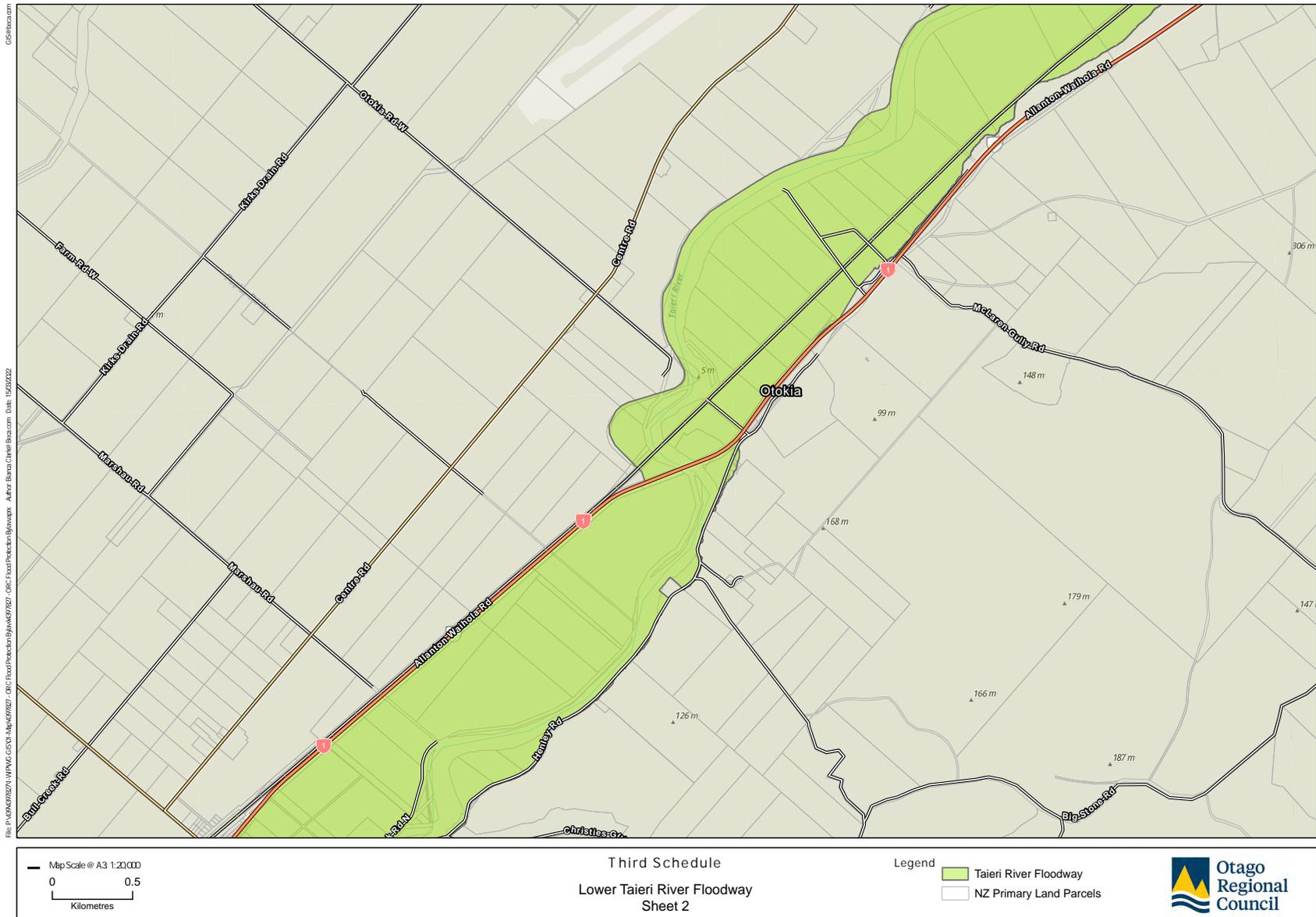


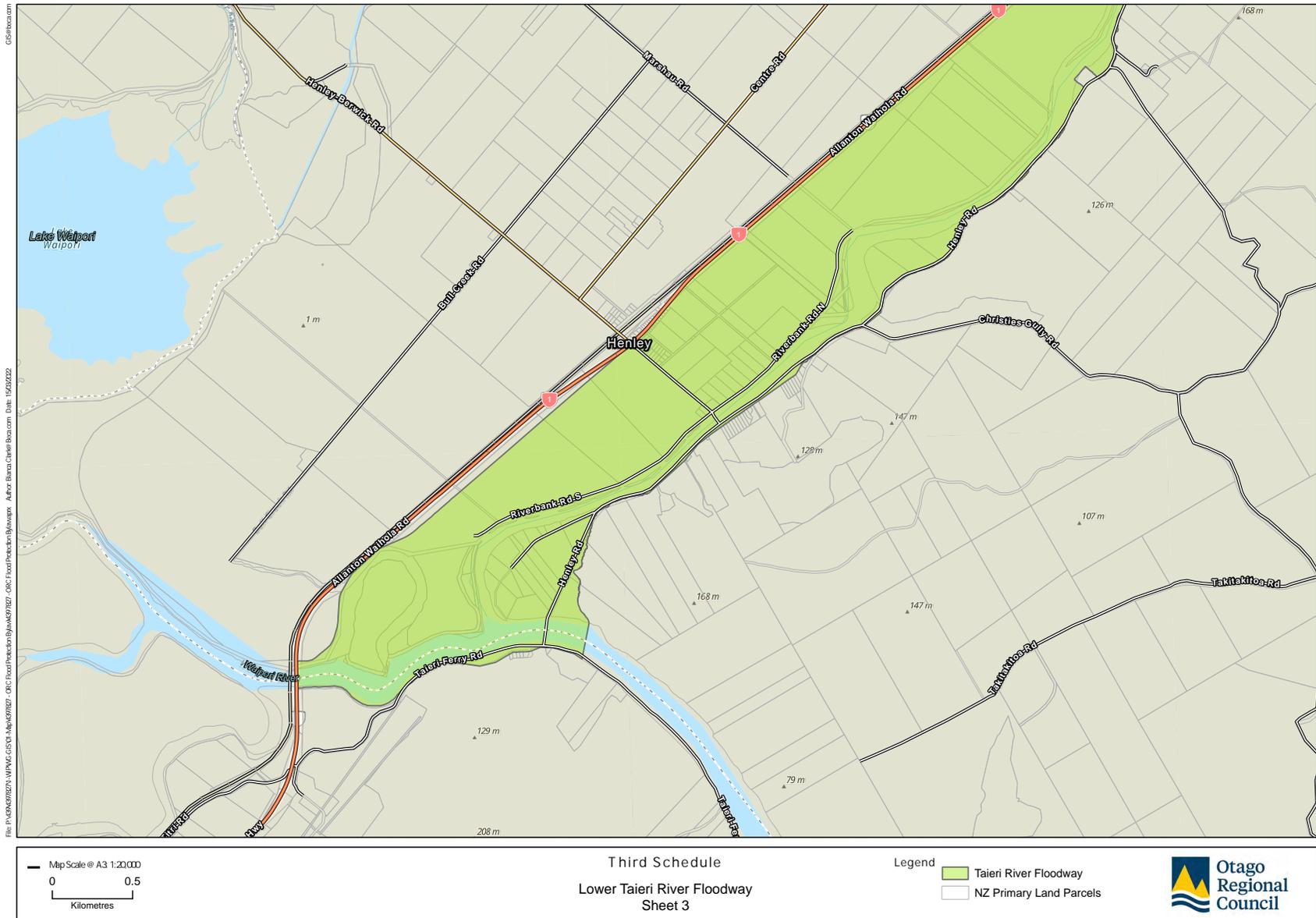
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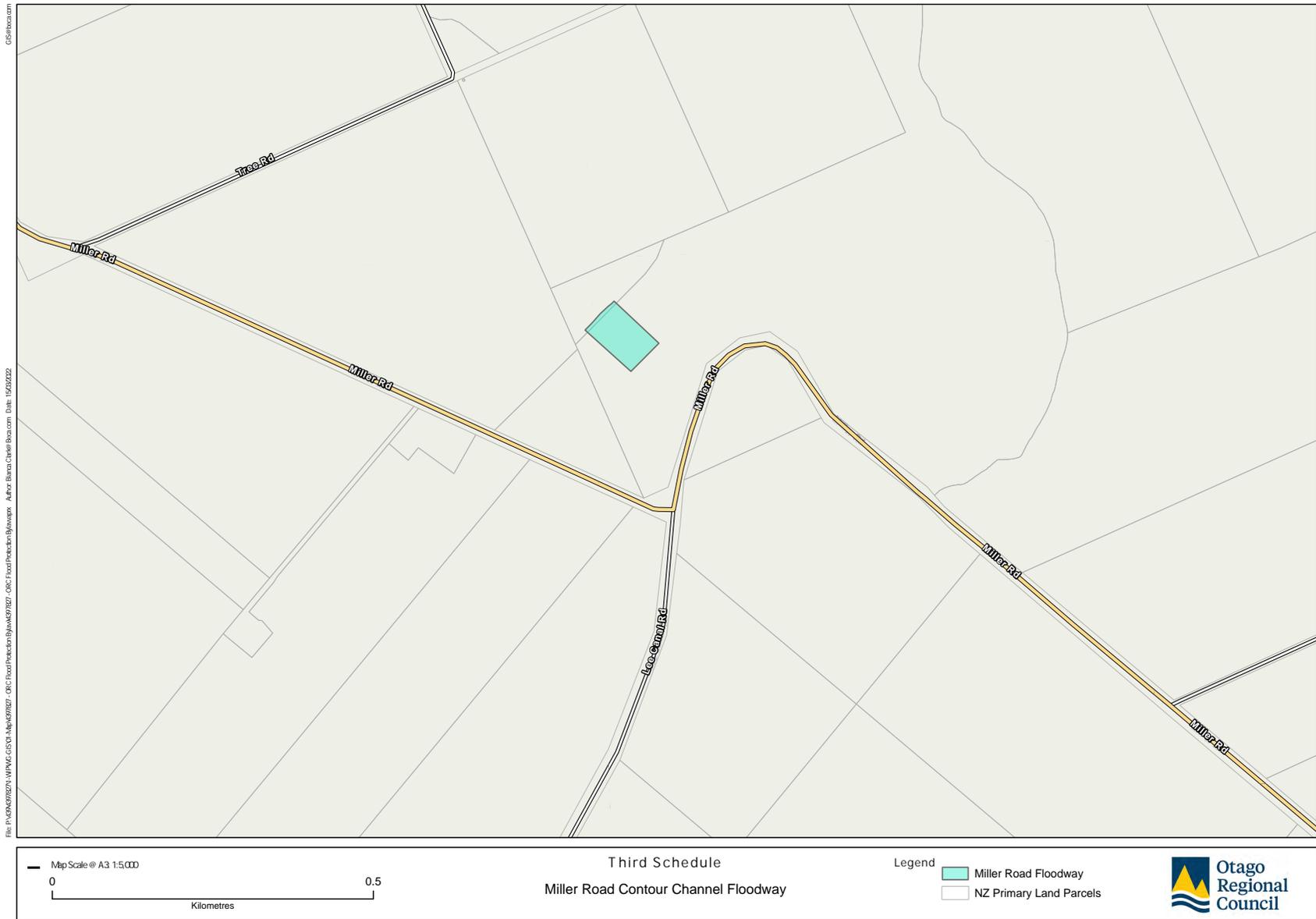
Third Schedule
 Lower Taieri River Floodway
 Sheet 1

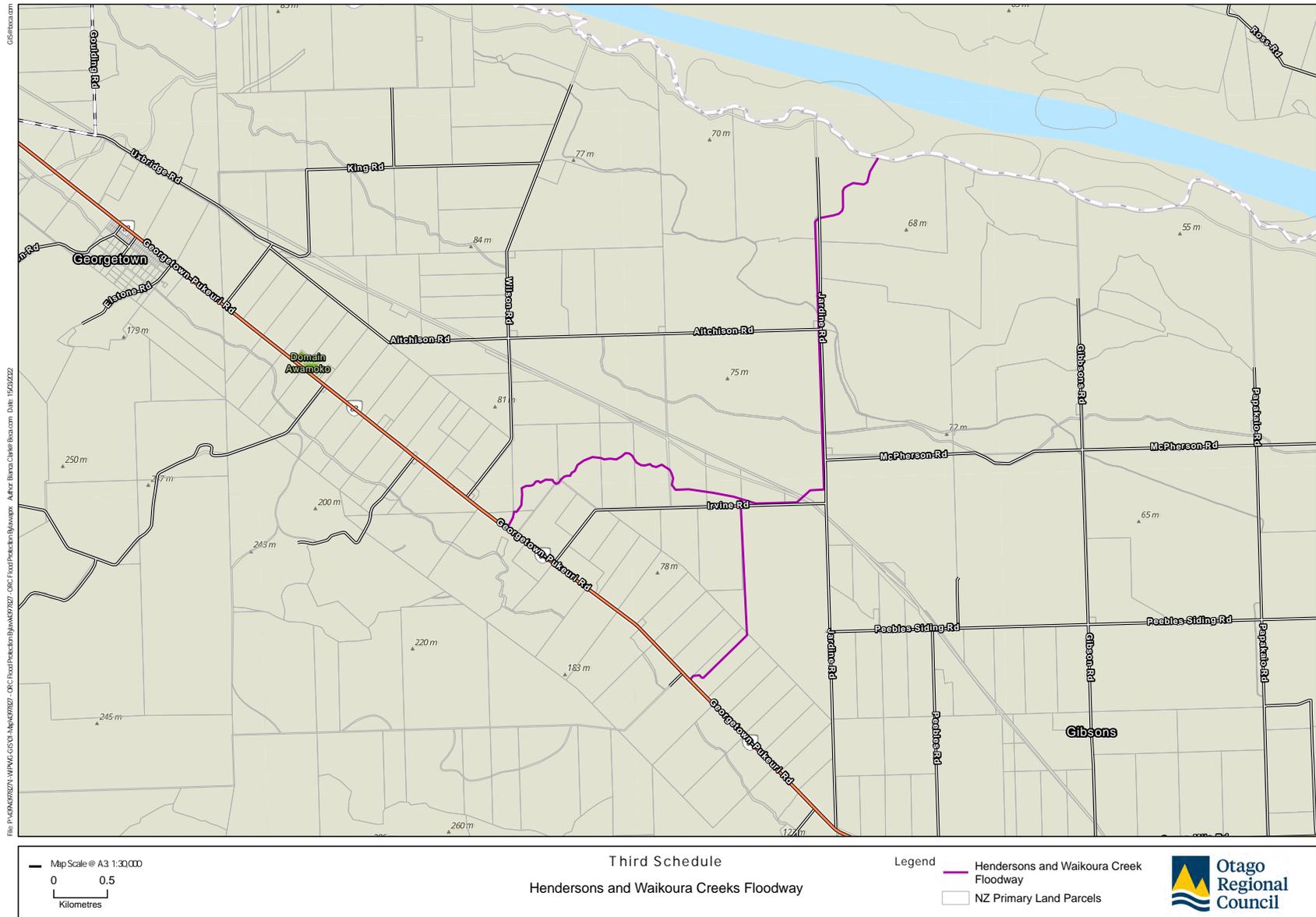
Legend
 Taieri River Floodway
 NZ Primary Land Parcels

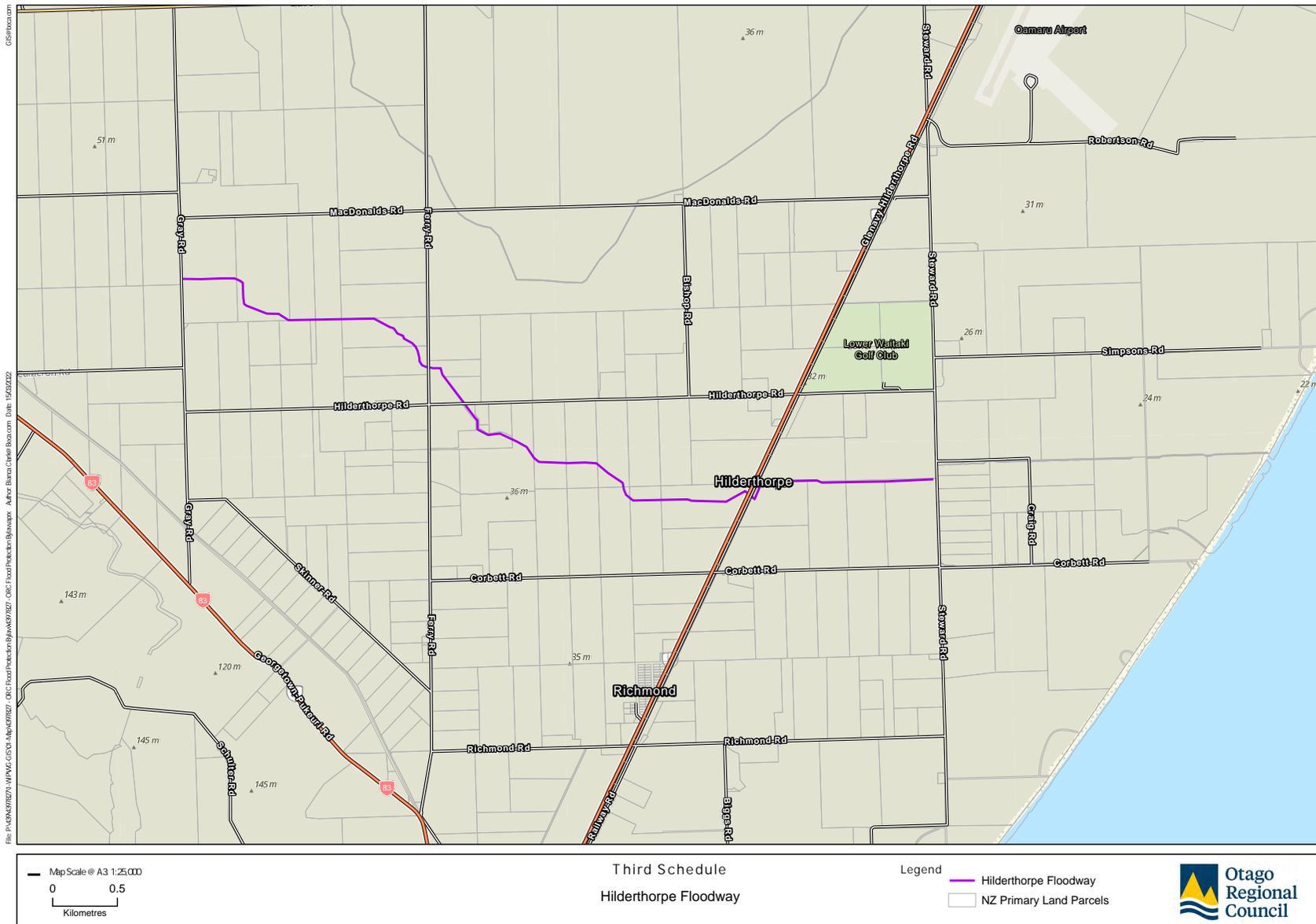
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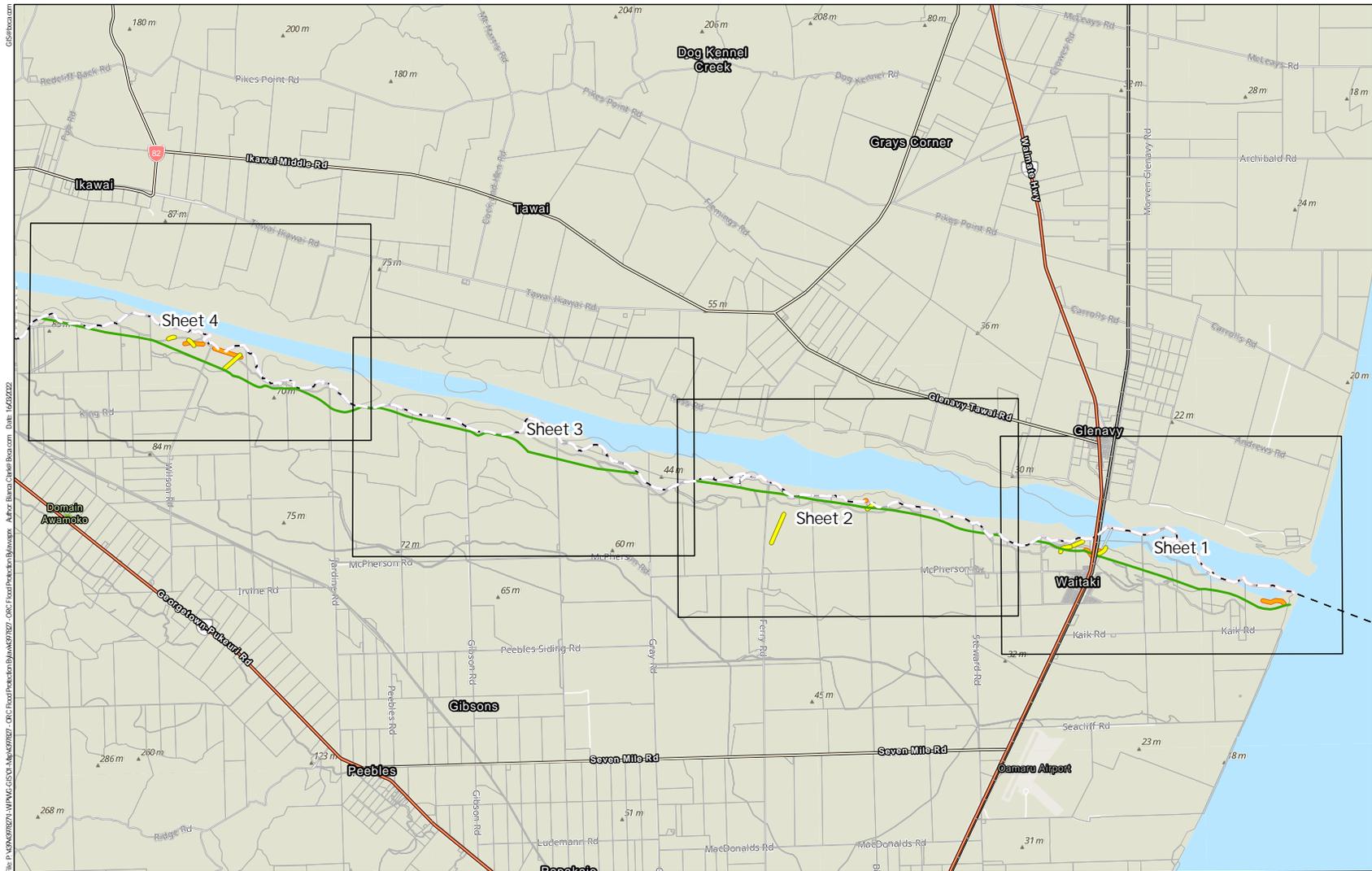












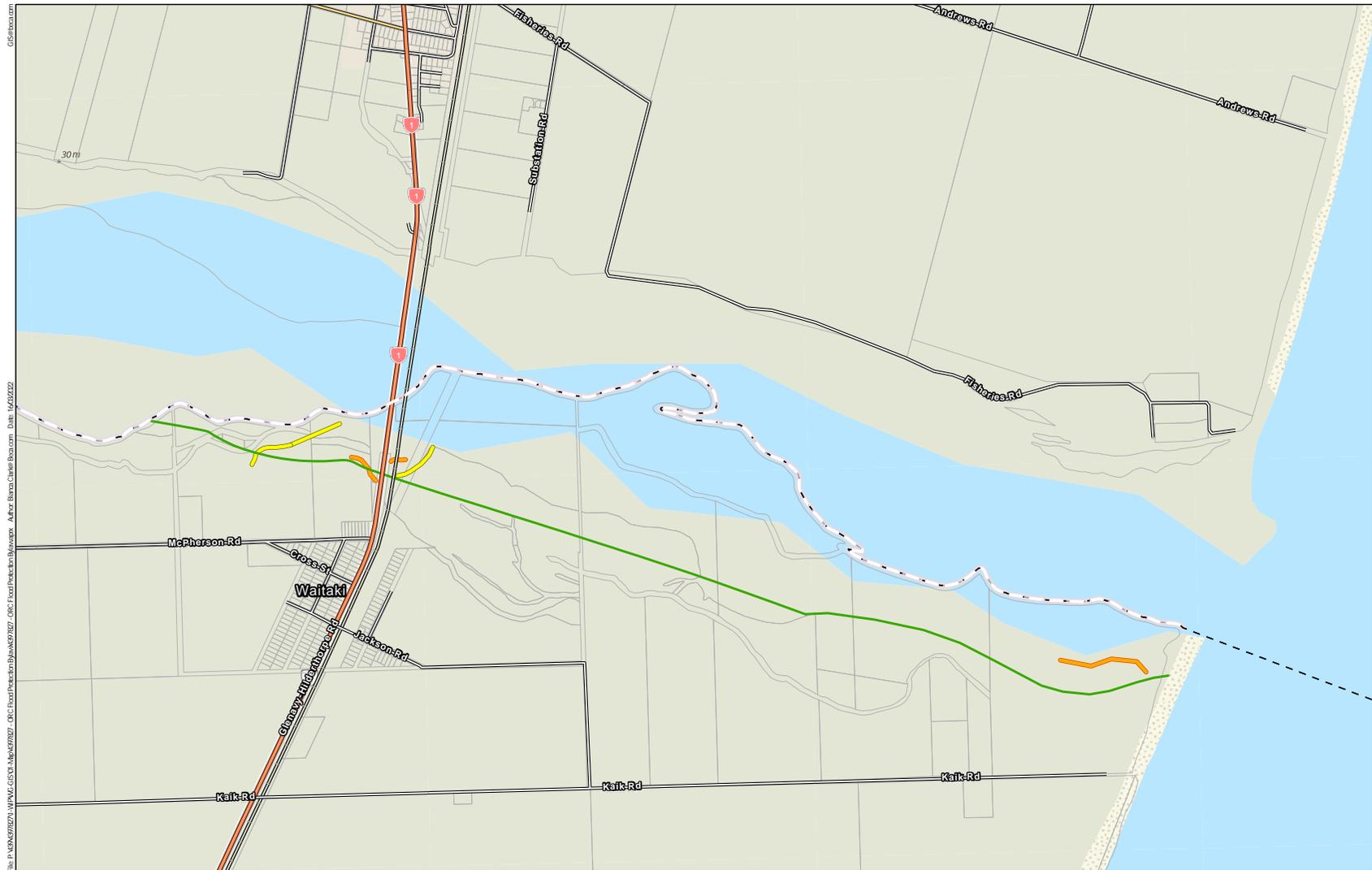
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Fourth Schedule
 Groynes, Cross-banks and Flood Protection Vegetation Boundary
 Lower Waitaki Overview

Legend
 Groynes
 Cross-banks
 Flood Protection Vegetation Boundary
 NZ Primary Land Parcels
 Regional Council Boundaries

Otago Regional Council

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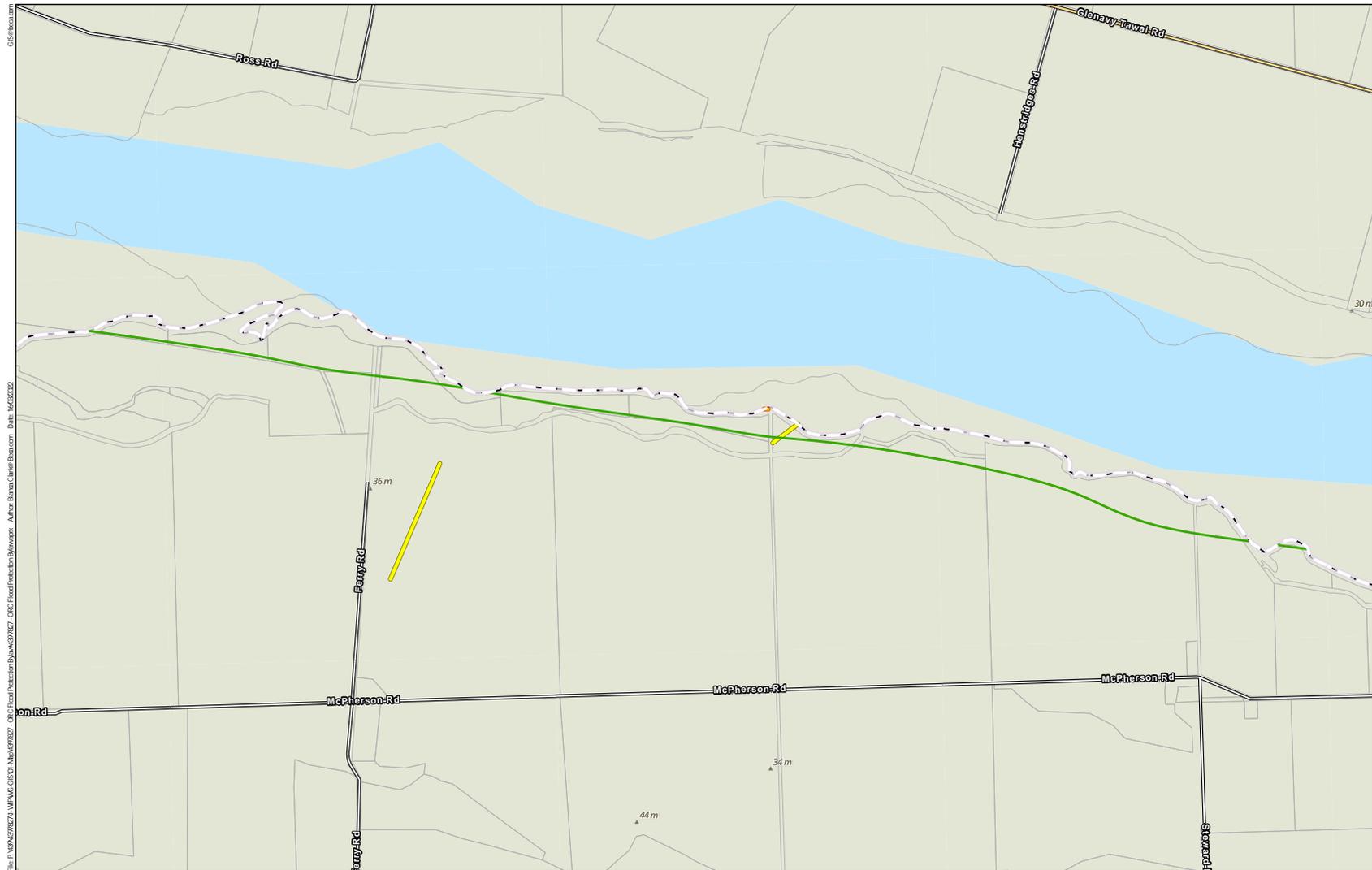
Fourth Schedule
Groynes, Cross-banks and Flood Protection Vegetation Boundary
Lower Waitaki Sheet 1

Legend

- Groynes
- Cross-banks
- Flood Protection Vegetation Boundary
- NZ Primary Land Parcels
- Regional Council Boundaries

Otago Regional Council

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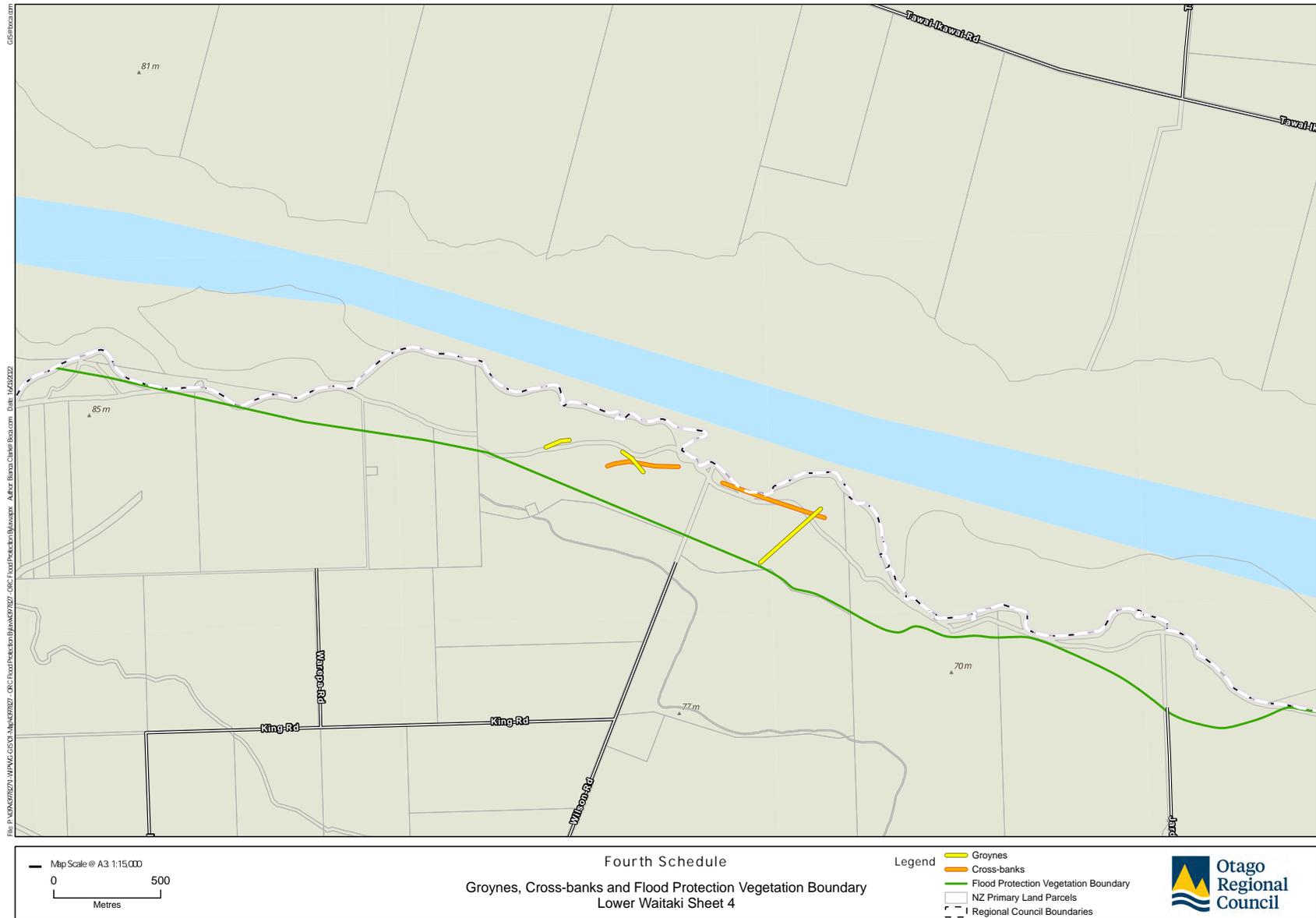
Fourth Schedule
Groynes, Cross-banks and Flood Protection Vegetation Boundary
Lower Waitaki Sheet 2

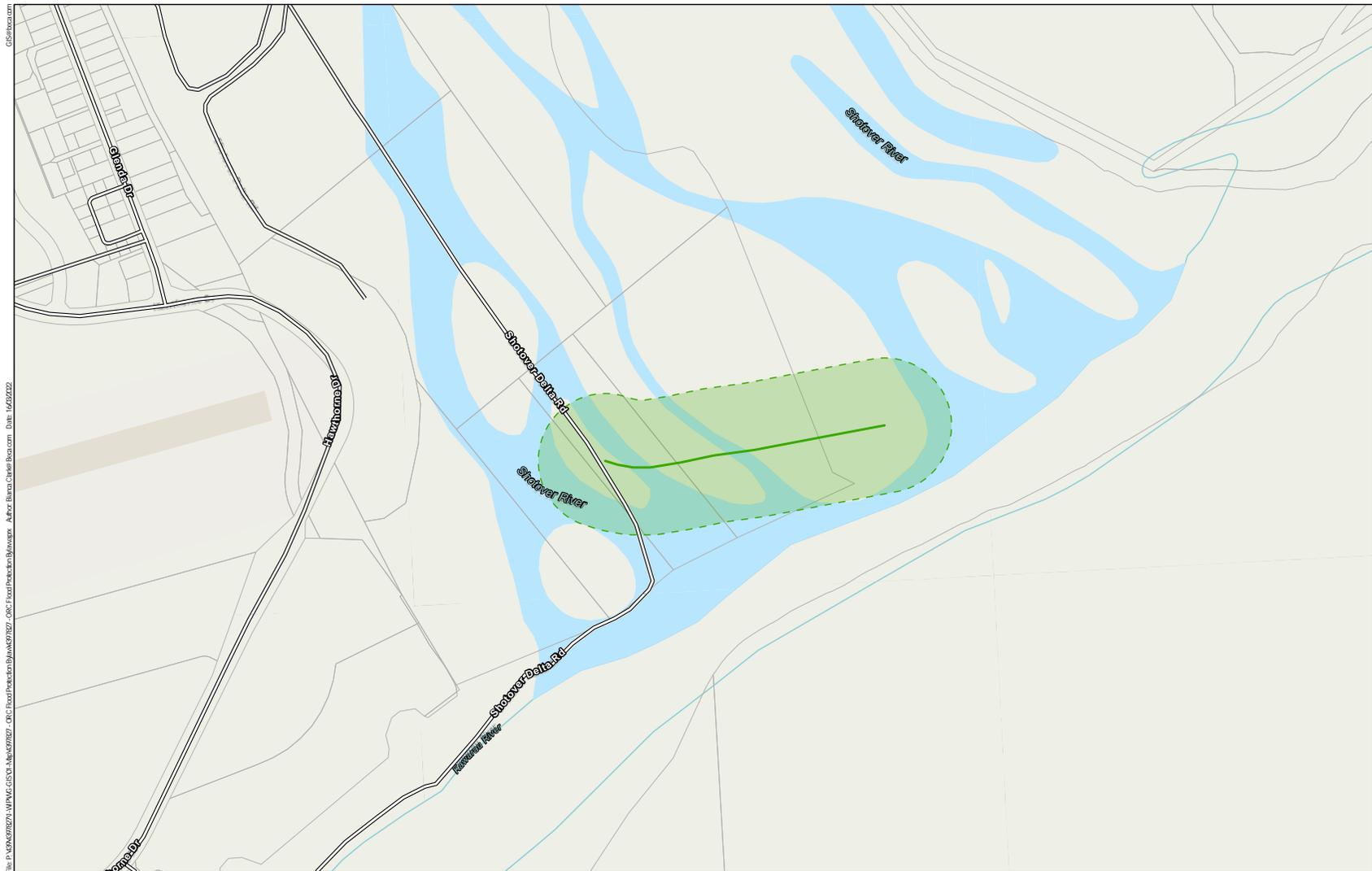
Legend

- ▬ Groynes
- ▬ Cross-banks
- ▬ Flood Protection Vegetation Boundary
- NZ Primary Land Parcels
- Regional Council Boundaries

 Otago Regional Council

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Map Scale @ A3 1:5,000
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Fourth Schedule
Training Line and Flood Protection Vegetation Boundary
Shotover

Legend

- Shotover Training Line
- Flood Protection Vegetation Boundary
- NZ Primary Land Parcels
- Regional Council Boundaries



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Sensitivity: General

Otago Regional Council

Statement of Proposal

To make the

Flood Protection Management Bylaw 2022

Sensitivity: General



16 March 2022
Accompanying ISBN

Sensitivity: General

Sensitivity: General

Statement of Proposal Proposed Flood Protection Management Bylaw 2022

This Statement of Proposal is prepared pursuant to sections 83, 86 and 156 of the Local Government Act 2002 (LGA 2002).

1. Introduction

The Otago Regional Council has undertaken a review of its Flood Protection Management Bylaw 2012 (2012 Bylaw) as required by s159 of the LGA 2002.

As part of the review, a Proposed Flood Protection Management Bylaw 2022 (Proposed Bylaw) has been prepared and is provided as Appendix 1 to this Statement of Proposal.

The purpose of the Proposed Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by, or under the control of Council.

Flood protection works can include scheduled drains, overland flow paths, defences against water, floodways, groynes, cross-banks, training lines and flood protection vegetation.

The objectives of the Proposed Bylaw are to:

- Replace the 2012 Bylaw (if appropriate);
- Enable asset management;
- Enable appropriate mechanisms to ensure the effective operation and integrity of Council's flood protection works;
- Ensure that the Proposed Bylaw 2022 is concise, consistent, effective, efficient and relevant.

Special Consultative Procedure as defined by Section 83 and modified by section 86 of the LGA 2002 requires the preparation of this Statement of Proposal to guide the Bylaw review.

This Statement of Proposal includes a copy of the Proposed Bylaw, the reasons for the proposal and reports on the relevant determinations made by Council.

2. Council's Current Role in Relation to Flood Protection Works / Schemes

Council provides flood protection and land drainage to approximately 43,000ha of rural and urban land throughout Otago. These flood protection works are designed to protect people and minimise damage to property, livestock and infrastructure from flood events. This is achieved through managing infrastructural assets that include 218km of floodbanks, 12 pumping stations, 55 bridges, culverts, and various other

Sensitivity: General

assets, across the region's rivers and a total of seven flood protection and/or drainage schemes.

Different types of assets are situated within our rivers to maintain river and stream channel capacity, and bank stability in targeted areas, as well as satisfying environmental needs. These assets may include rock buttresses, groynes and floodbanks, outside of those within Council's flood protection and drainage schemes.

It is of critical importance that flood protection works function properly, and the integrity or operation of the flood protection works is not compromised.

The integrity or operation of flood protection works can be compromised by various activities, including but not limited to alteration of the works; removal or interference with machinery or equipment; planting of trees; placing of structures; dumping and deposition of materials; obstruction of drains and flow paths; excavation; and damage by livestock and machinery.

Flood protection works are currently controlled and protected by the 2012 Bylaw. A key role of Council is to ensure the effective operation and integrity of Council's flood protection works / schemes. Additional protection is provided by Designations in the Dunedin City Council district plans and will be sought from other territorial authorities as plan reviews occur.

The Bylaw remains a necessary part of the approach to flood protection and control due to the overarching protection it provides to critical assets being those protecting urban areas, high value areas or those critical to effective operation of the schemes. The Bylaw is supported by other approaches such as district authority planning, education, arrangements with landowners and communities.

The 2012 Bylaw is operating effectively but some improvements and additions are proposed. Anecdotal evidence from ORC staff is that landowners adjacent to the works subject to the Bylaw are aware of the fact and consequence of the Bylaw. Approximately 20 to 25 applications for Bylaw approval are received annually. The large majority are approved on a basis which is acceptable to ORC and to the applicant reflecting the purpose of the Bylaw and the outcomes of the applicant as agreed in the granting of the Bylaw with conditions.

3. The Proposal

Council has prepared a replacement bylaw to enable it to continue to ensure the effective operation and integrity of Council's flood protection works / schemes

The Proposed Bylaw lists activities which require written approval (authority) from the Council before those activities are undertaken on or near flood protection works, as they could adversely affect the operation or integrity of these works. These activities include, but are not limited to:

- Alteration of flood protection works

Sensitivity: General

- Tree, shrub or hedge planting
- Removal of trees, in some locations
- Construction of structures
- Dumping and depositing material
- Obstruction of flood protection works
- Removal, interference or operation of machinery and equipment
- Earthworks

The proposed changes to the 2012 Bylaw can be summarised in Table 1:

Table 1: Summary of Bylaw sections reviewed

Item	Section of Bylaw reviewed	Proposed Change	Review Comment
1	3.2.i Defences Against Water and Excavation - sensitive Areas	Expanding the land disturbance restrictions to include all earthworks.	The excavation provisions in the 2012 Bylaw are difficult to apply. Use of “excavation” in conjunction with “cultivation” makes it easier to identify what sort of earthworks or excavation may require bylaw approval.
2	3.2.i Defences Against Water and Excavation-sensitive Areas), 3.4.g Groynes and Cross-banks, and 2 Definition of Cultivation	Allowing cultivation within 20m of a defence against water (such as a floodbank, spillway or retaining wall) and within 50m of a groyne or cross-bank.	This provision means that landowners are not restricted from undertaking usual farming activities as a result of the alteration of the excavation and earthworks provisions.
3	3.0 Activity Requiring Bylaw Authority	Recording that the Proposed Bylaw does not apply to Council employees, or persons authorised by Council, who are carrying out maintenance or emergency works on its flood protection assets.	Under the 2012 Bylaw it has the unintended consequence that ORC must apply for Bylaw approval to undertake most maintenance activities such as rabbit hole repairs, drain cleaning, spraying and other day to day activities.
4	3.1.c Scheduled Drains and Overland Flow Paths, 3.2.c Defences Against Water and Excavation-Sensitive Areas, and 3.3.c Floodways	Adding restrictions around the planting or growing of shrubs, hedges or trees within specified areas.	Under the 2012 Bylaw, the planting of trees in some areas is restricted. Tree root systems can damage flood protection works. The same risks arise with hedges and shrubs, and it is proposed to extend the restriction.

Sensitivity: General

Item	Section of Bylaw reviewed	Proposed Change	Review Comment
5	Schedule 2	Adding Albert Town rock buttress to the maps in the schedule	The Albert Town rock buttress has been added to Schedule 2 to ensure adequate protection of the works. It is to be subject to the restrictions in section 3.2.
6	3.2.d Defences Against Water and Excavation - Sensitive Areas	Adding restrictions around removing trees on or near defenses against water.	As with the planting of trees, shrubs and hedges, the removal of trees, particularly the root system, can detrimentally affect the flood protection work.
7	3.2.f Defences Against Water and Excavation - Sensitive Areas	Adding restrictions around removing or altering structures between the bank of a river and any associated defence against water.	While few structures are situated or likely to be situated in this area, the addition of this provision ensures proper consideration is given to the removal of such structures if the issues arise.
8	Schedule 4	Adding Shotover Training Line to the maps in the schedule	The Shotover Training Line has been added to Schedule 4 to ensure adequate protection of the works.
9	3.4 Groynes, Cross-banks and Training Lines	Adding reference to training lines which are to be subject to the provisions in this section	The Shotover Training Line is proposed to be subject to the provisions in section 3.4.
10	3.4 Addition of Shotover Delta Training Line and Albert Town rock buttress	Restrictions on activity extended to these structures.	The Shotover Delta Training Line and the Albert Town rock buttress are relatively recent additions to Council flood protection works. The restrictions provide protection to the works so the integrity of the structures is retained.
11	3.5 Flood Protection Vegetation 2 Definition of Flood Protection Vegetation	Combining 'plantings' and 'anchored tree protection' under 'flood protection vegetation' and implementing specific rules (e.g., restricting stock grazing) within these areas.	The combination of different forms of "live" structures reflects the environment in the Waitaki District where the plantings and tree protections are intermingled throughout the areas identified on the Maps.
12	5.3 Objections process	Making provision for an objections process.	Currently the only avenue for objection to the Bylaw process is a judicial review application to the High Court. An objection

Sensitivity: General

Item	Section of Bylaw reviewed	Proposed Change	Review Comment
			process allows applicants to air their concerns.
13	Amendment made to 6.1 (Revocation of Authority)	Additional details on the revocation process (when authorities are cancelled) including the ability of Council to revoke an authority immediately where flood protection works are compromised.	Further assurance to applicants/approval holders that a clear process is in place which will be followed.
14	Amendment made to add Appendix 1 (Diagrams Referencing Activities Requiring Bylaw Authority)	Adding diagrams of drains, overland flow paths and defences against water in Appendix 1.	
15	Amendment made to Appendix 2 (Bylaw Approval Application Form)	Expanding the details required in the application form.	
16	Schedule 1: Tokomairiro scheduled drains. Schedule 2: Alexandra defences against water. Schedule 1: Lower Taieri defence against water, sheet 5. Schedule 1: Lower Clutha scheduled drains Schedule 1: East Taieri scheduled drains and overland flow paths.	Updating maps in the Schedule.	The Shotover Delta Training Line and the Albert Town rock buttress are new flood protection works proposed to be included. Most amendments are to remedy errors in previous maps or where works have been disposed of.
17	2 Definitions: Cultivation, Drains, Earthworks, Flood Protection Works, Flood Protection Vegetation, Occupier, River, Scheduled Drain, Training Line	Adding or amending definitions to support changes in the Proposed Bylaw.	

The Council encourages anyone who is interested in the Proposal to review the proposed amendments set out in full in Appendix 1.

4. Reasons for the Proposal

Sensitivity: General

Under the LGA 2002, bylaws must first be reviewed no later than 5 years after the date on which they were made. The Flood Protection Management Bylaw 2008 (2008 Bylaw) came into force on 1 July 2008. It was reviewed and replaced by the 2012 Bylaw, which came into operation on 1 September 2021 after a Council Decision dated 8 August 2012.

Further reviews of a bylaw are required under the LGA 2002 no later than ten years after it was last reviewed. This review is a 'further review' of the Flood Protection Management Bylaw.

This Statement of Proposal includes the Proposed Bylaw which is intended to ensure that Council can continue managing, regulating and protecting flood protection works owned by, or under the control of Council in order to ensure their effective operation and integrity.

Changes to the 2012 Bylaw are proposed to ensure that activities that could cause adverse effects are managed, and that flood protection works are appropriately mapped and controlled in order to ensure Council's flood protection schemes continue to operate effectively.

5. Statutory requirements for reviewing a bylaw

The LGA 2002 sets out the process for reviewing a bylaw:

- Section 158(1) states that bylaws must first be reviewed no later than five years after the date it was made. The 2008 Bylaw was reviewed on 8 August 2012 and replaced by the 2012 Bylaw.
- Section 159 states that a further review of bylaws must occur no later than ten years after the bylaw was last reviewed under section 158. The current review is a 'further review' of the bylaw.
- Section 160 outlines the procedure and nature of bylaw reviews required under sections 158 and 159. It requires the Council to make determinations under section 155, firstly as to the appropriateness of a Bylaw, and then whether it is the most appropriate form of bylaw and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990. These determinations were made by Council on [insert date determinations made] and are summarised in sections 5.1 – 5.3 below.
- Section 160 then goes on to outline that where Council considers the bylaw should be amended (as is the case), it must act under section 156 (consultation requirements - which includes using the special consultative procedure as modified by section 86). The public notification, request for submissions and hearing (as outlined in section 7 of this Proposal) comply with the requirements of section 156.

5.1 Is a bylaw the most appropriate way of addressing the perceived problem?

Sensitivity: General

The 'perceived problem' is that the risk of damage to property, livestock and infrastructure assets is increased if a mechanism such as a bylaw is not in place for management of the flood protection works. These assets are protected by flood protection works, and to ensure their operation and integrity, the Bylaw is considered the most appropriate management mechanism.

Section 149 states that regional councils may make bylaws in relation to the matters listed (which include 'flood protection and flood control works undertaken by, or on behalf of, the regional council'), for the purpose of 'managing, regulating, against, or protecting from, damage, misuse, or loss, or for preventing the use of property owned or controlled by the regional council'. This indicates that this Bylaw was anticipated by the LGA. The use of a bylaw also provides the Council with an enforcement tool should unauthorised actions be undertaken.

Taking into consideration all other options below, Council [consider/do not consider] that a bylaw is the most appropriate method for addressing the perceived problem. It is a tried and tested method, common among other Councils, and has been proven to work well for this Council to date. It provides a means for enforcement actions to be taken if the integrity or operation of the flood protection works are at risk. The decision-making process for reviewing and amending a Bylaw under the LGA is a robust and comprehensive process, which appropriately reflects the significance of the matter and includes an opportunity for the public to provide input into the preparation and adoption of the rules that will be applied.

Alternative methods to using a bylaw that were considered and not thought to be appropriate include:

- Doing nothing - If nothing is done, the current Bylaw will expire on 8 August 2024. If this was to occur, there would be no mechanism in some cases for ensuring that the flood protection works are maintained, and their integrity is not challenged. Council would not have any powers for enforcing appropriate behaviours, and damage or misuse could result in significant flooding outcomes and/or significant costs for repair.
- Designations - ORC currently hold designations from Dunedin City Council for the protection of flood protection works within the Dunedin City Boundary, which affords them a further degree of legal protection. Under section 176(1) of the Resource Management Act 1991 ("RMA") no person may, without the prior written consent of the requiring authority (namely the Council), do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project. Designations have, to date, not been sought from the other territorial authorities. The designation only applies to the flood protection works within the designation and will not authorise activities that require consent under sections 13, 14 or 15 of the RMA. The designation cannot control activities outside of the designation. While a designation is a useful tool, the constraints identified above means it is not considered an appropriate option for the full management of the assets. ORC is due to commence consultation associated with

Sensitivity: General

seeking designation of flood protection works in the Waitaki District Council region.

- Adding rules to the Regional Plan - The regional plans are prepared under the RMA to assist the regional council in carrying out its functions under that Act. These functions relate to the sustainable management of natural and physical resources, which does not include the protection of flood protection assets. As the purpose of the regional plan is not asset protection, this is not considered to be an appropriate option.
- Developing strategy/agreements with landowners - A strategy or collective agreement between landowners/occupiers and the Regional Council could be prepared with guidelines for the landowners/occupiers. This would require public consultation to determine roles and responsibilities of the parties, and there would need to be a large number of parties involved due to the extent of the flood protection works. It would be a non-regulatory tool, relying on goodwill, and would not be enforceable. Due to the significance of the assets, it is considered there should be some means of approval of works and enforcement available to ensure their integrity and operation is maintained, and as such this is not considered an appropriate option.
- Education - An educational campaign to increase community awareness of the assets and their importance could be used. Due to the significance of the assets, it is considered there should be some means of approval of works and enforcement available to ensure their integrity and operation is maintained, and as such this is not considered an appropriate option as a sole means of management but could be beneficial in conjunction with another measure.
- For completeness, the final option considered is the transference of responsibility to the relevant territorial authorities. This would require consultation under the LGA. It is considered more appropriate to retain these responsibilities as the regional council is the manager of the flood protection schemes and has the necessary experts employed. Splitting the management across districts could result in inconsistent management, or the prioritisation of the interests of the district above the region. For example, some Taieri flood protection works are included in both the Dunedin City Council and Clutha District Council districts. This is not considered to be an appropriate option for these reasons.

5.2 Is the Proposed Bylaw the most appropriate form of Bylaw?

A standalone bylaw is [considered/not considered] by Council to be the most appropriate form of bylaw, rather than consolidation with other bylaws.

The form of the Proposed Bylaw is [considered/not considered] by Council to be appropriate, noting that the 2012 Bylaw has been in force and effective in this form

Sensitivity: General

for some time. It is also of a very similar format and content to bylaws used by other regional councils in the protection of their flood management assets (namely being Environment Southland, Environment Canterbury, Bay of Plenty Regional Council and Taranaki Regional Council).

5.3 Does the Proposed Bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990?

Council must determine whether the Proposed Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

The New Zealand Bill of Rights Act 1990 affirms, protects and promotes human rights and fundamental freedoms in New Zealand; and affirms New Zealand's commitment to the International Covenant on Civil and Political Rights. It details rights and freedom in relation to life and security of people; democratic and civil rights; non-discrimination and minority rights; search, arrest, and detention; criminal procedure and right to justice.

The purpose of the Proposed Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by, or under the control of Council. As such, Council [consider/do not consider] that the Proposed Bylaw does not give rise to any implications under, nor is it inconsistent with the New Zealand Bill of Rights Act 1990.

5.4 Approval for Consultation

On [insert date determinations made] Council approved the Proposed Bylaw be released for consultation in accordance with the LGA 2002.

6. Public Notification, Submissions and Hearing

The Council is inviting submissions on the Proposed Bylaw. Any person or organisation can make a submission on the proposal.

Submissions close at 12pm, Monday 2 May 2022.

The Proposed Bylaw, Statement of Proposal, Summary of Information, Council report dated [insert date] and the submission form can be viewed at:

- ORC offices, (open Monday to Friday 8.00am to 1.00pm; 2:00pm to 4:30pm, closed on public holidays):
 - Dunedin Office
 - Philip Laing House
 - Level 2
 - 144 Rattray Street
 - Dunedin 9016
 - Queenstown Office
 - Alta House

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- Level 1
- Terrace Junction
- 1092 Frankton Road
- Queenstown 9300
- City and District Council offices
- Public libraries throughout Otago
- www.orc.govt.nz

Copies can be obtained from:

- ORC offices
- www.orc.govt.nz
- By phoning 0800 474 082
- By emailing floodbylawreview@orc.govt.nz

Submissions can be sent to:

- Post: ORC, Private Bag 1954, Dunedin
- Deliver: ORC Offices
- Fax: (03) 479 0015
- Email: floodbylawreview@orc.govt.nz

In addition to written submissions, there will be opportunity to present your views at a Council Hearing.

8. Timeline

Public notification:	Thurs 31 March 2022
Submissions close:	Mon 2 May 2022, 12.00pm
Hearing's:	4 May 2022
Council Decision:	22 June 2022

If you have any questions, please contact:

Email: floodbylawreview@orc.govt.nz

Phone 0800 474 082

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APPENDIX 1: PROPOSED FLOOD PROTECTION MANAGEMENT BYLAW 2022

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Summary of Information

Proposed Flood Protection Management Bylaw 2022

Introduction

The Otago Regional Council (ORC) has reviewed the Flood Protection Management Bylaw 2012 (Current Bylaw) and prepared the Proposed Flood Protection Management Bylaw 2022 (Proposed Bylaw).

The purpose of the Proposed Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by, or under the control of the ORC.

Council provides flood protection and land drainage to approximately 43,000ha of rural and urban land in Otago. This is achieved through managing infrastructural assets that include 218km of floodbanks, 12 pumping stations, 55 bridges, culverts, and various other assets, across the region's rivers and a total of seven flood protection and/or drainage schemes.

Different types of assets are situated within or near to our rivers to maintain river and stream channel capacity, and bank stability in targeted areas, as well as satisfying environmental needs.

Flood protection works can include:

- Scheduled drains
- Overland flow paths
- Defences against water (e.g. rock buttresses and floodbanks)
- Floodways
- Groynes
- Cross-banks
- Training lines
- Flood protection vegetation.

The ORC encourages anyone who is interested in the Proposed Bylaw to review its contents and provide a submission.

Submissions on the Proposed Bylaw can be made until 12pm Monday 2nd May 2022.

Proposal

The Proposed Bylaw lists activities which require prior written approval from ORC if undertaken on or near flood protection works, as they could adversely affect the operation and integrity of the flood protection works. These include, but are not limited to:

- Alteration of flood protection works
- Tree, shrub or hedge planting
- Removal of trees, in some locations
- Construction of structures
- Dumping and depositing material
- Obstruction of flood protection works

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- Removal, interference or operation of machinery and equipment
- Earthworks

Proposed changes to the Current Bylaw include:

- Expanding the land disturbance restrictions to include all earthworks
- Allowing cultivation within 20m of a defence against water (such as a floodbank, spillway or retaining wall) and within 50m of a groyne or cross-bank
- Recording that the Proposed Bylaw does not apply to ORC employees, or persons authorised by ORC, who are carrying out maintenance or emergency works on its flood protection assets
- Adding of the Albert Town rock buttress and Shotover training line and associated flood protection vegetation to the relevant schedules
- Restrictions around the planting or growing of shrubs, hedges or trees within specified areas
- Restrictions around removing trees on or near defences against water
- Restrictions around removing or altering structures between the bank of a river and any associated defence against water
- Combining 'plantings' and 'anchored tree protection' under 'flood protection vegetation' and implementing specific rules (e.g., restricting stock grazing) within these areas
- Provision for an objections process
- Additional details on the revocation process (when authorities are cancelled) including the ability of ORC to revoke an authority immediately where flood protection works are compromised
- Adding diagrams of drains, overland flow paths and defences against water in Appendix 1
- Expanding the details required in the application form
- Updating maps in the Schedules
- Adding or amending definitions to support changes in the Proposed Bylaw

Note: No physical works are proposed as part of this review.

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Area where the Proposed Bylaw applies is shown on Figure 1.

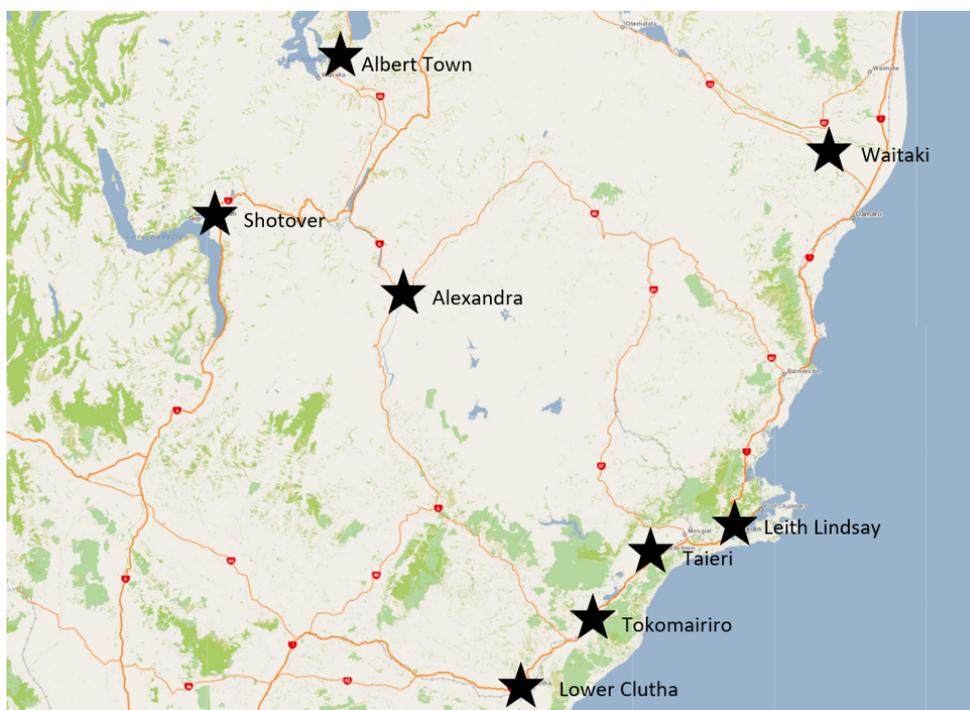


Figure 1: Map showing where the Bylaw applies across ORC's flood protection assets

Timeline:

- Public notification Thursday 31 March 2022
- Submissions close Mon 2 May 2022, 12.00 pm
- Hearings 4 May 2022
- Council Decision 22 June 2022

Please indicate in your submission if you wish to speak to your written submission at a hearing. The hearing will be heard online by a panel.

Statement of Proposal and Consultation

The Statement of Proposal includes:

- Proposed Flood Protection Management Bylaw 2022
- The reasons for the proposal

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- A report on relevant Council determinations

View the full proposal and submission form at:

- ORC offices, (open Monday to Friday 8.00am to 1.00pm; 2:00pm to 4:30pm, closed on public holidays):
 - **Dunedin Office**
Philip Laing House
Level 2
144 Rattray Street
Dunedin 9016
 - **Queenstown Office**
Alta House
Level 1
Terrace Junction
1092 Frankton Road
Queenstown 9300
- City and District Council offices in Otago
- Public libraries throughout Otago
- www.orc.govt.nz

Obtain copies from:

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- www.orc.govt.nz
- By phoning 0800 474 082
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Send submissions to:

- Post: ORC, Private Bag 1954, Dunedin
- Deliver: ORC Offices
- Fax: (03) 479 0015
- Email:

For more information, contact:

Phone: 0800 474 082

Email: floodbylawreview@orc.govt.nz

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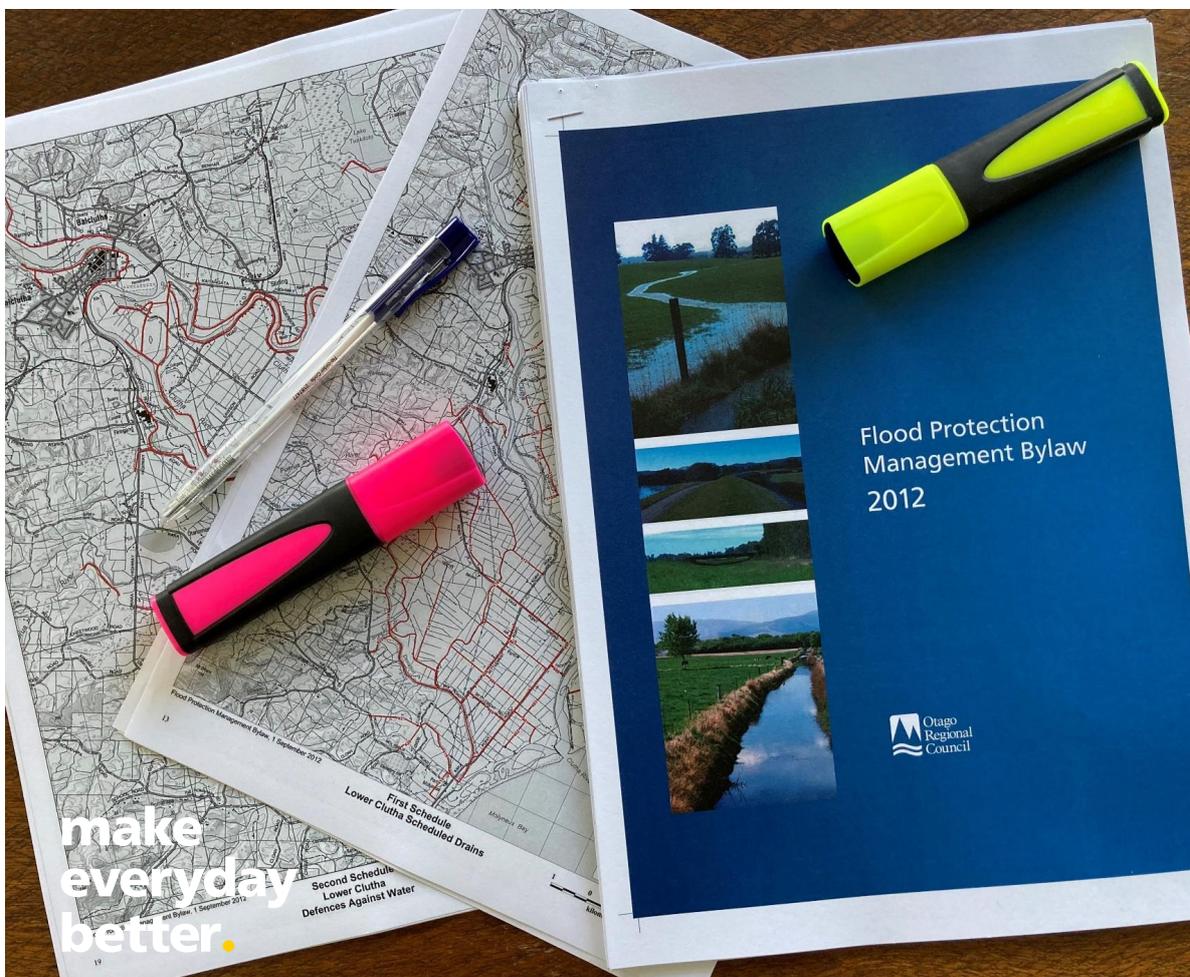


Initial Review of the Otago Flood Protection Management Bylaw 2012

Prepared for Otago Regional Council

Prepared by Beca Limited

2 February 2022



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Revision History

Revision N°	Prepared By	Description	Date
A	Josie Burrows	Final	02/02/2022

Document Acceptance

Action	Name	Signed	Date
Prepared by	Josie Burrows		02/02/2022
Reviewed by	Paul Whyte		02/02/2022
Approved by	Paul Whyte		02/02/2022
on behalf of	Beca Limited		

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Executive Summary

Beca Limited (Beca) has been engaged by the Otago Regional Council (ORC) to assist with the review and updating of the ORC Flood Protection Management Bylaw (the Bylaw) as required by section 159 of the Local Government Act 2002 (LGA).

This report describes:

- The legislative review under section 155 of the LGA for determination as to whether the Bylaw is appropriate.
- The review of four recent flood management bylaws from other regional councils across New Zealand; and
- The outcomes of a workshop with ORC Staff.

The review found the following:

- The legislative review under section 155 of the LGA determines that the Bylaw is the most appropriate way of addressing the perceived problem, a standalone bylaw is most appropriate, and the Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990, nor is it inconsistent with that Act.
- The flood management bylaws of Environment Canterbury, Environment Southland, Bay of Plenty Regional Council and Taranaki Regional Council are very similar to one another, with additional provisions identified around land entry powers, deeming authority from other authorisations, an objections process, provision for global consents, and diagrams showing the areas covered by the bylaws.
- A workshop was held with ORC Staff which provided some beneficial 'hands-on' experience. Some of the take-away points were that ORC are required to get Bylaw approval for their standard maintenance works and emergency works, there are some issues with the interpretation of definitions, people have concerns around the excavation definition and rules in that they don't currently protect the assets sufficiently, the identification that the effects of vegetation planting and removal is not only limited to trees, and discussion around the inclusion of an objections process.

1 Introduction

Beca Limited (Beca) has been engaged by the Otago Regional Council (ORC) to assist with the review and updating of the ORC Flood Protection Management Bylaw (the Bylaw) as required by section 159 of the Local Government Act 2002 (LGA).

As per our proposal, this report documents the review of the current Bylaw involving:

- A legislative review under section 155 of the LGA for determination as to whether the Bylaw is appropriate (section 2).
- A review of four recent flood management bylaws from other regional councils across New Zealand (section 3), being:
 - Environment Canterbury Flood Protection and Drainage Bylaw (2013, amended 2019)
 - Environment Southland Flood Control and Drainage Management Bylaw (2020)
 - Bay of Plenty Regional Council Flood Protection and Drainage Bylaws (2021)
 - Taranaki Regional Council River Control and Flood Protection Bylaw (2020)
- A workshop with ORC Staff to discuss the appropriateness, benefits, issues or concerns with the current provisions, and their ability to protect the flood management infrastructure or take enforcement action as required (section 4).

2 Legislative review under the Local Government Act 2002

2.1 Legislative background

Section 158 of the LGA requires that a local authority review a bylaw made under this Act no later than 5 years after the date on which the bylaw was made. The Flood Protection Management Bylaw 2008 was replaced by the Flood Protection Management Bylaw 2012, with the Council Decision dated 8 August 2012. The replacement Bylaw came into operation on 1 September 2021.

Section 159 of the LGA requires further reviews of a bylaw made under this Act must be completed no later than 10 years after it was last reviewed. The date of the last review is considered to be 8 August 2012, not 1 September 2012 as previously understood. This has been confirmed by ORC Legal Counsel.

Section 160 of the LGA outlines the procedure for and nature of the review, being:

- Making the determinations required by section 155 of the LGA (it describes that subsection 155 applies with all necessary modifications)
- If, after the review, the local authority considers the bylaw should be amended, revoked, or revoked and replaced, act under section 156 of the LGA
- If it should continue without amendment, the local authority must consult on the proposal using the appropriate procedure as described in this clause.

The information relating to continuing without amendment has not been addressed further here as it is understood that subject to the review under section 155, ORC wish to make amendments to the Bylaw. Should this not be the case, an updated direction on continuing without amendment to the Bylaw will be provided.

Section 160A of the LGA states that a bylaw that is not reviewed as required under sections 158 and 159 is revoked on the date that is 2 years after the last date on which the bylaw should have been reviewed under that section. As described above, the date the Flood Protection Management Bylaw 2012 was considered to

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Legislative review under the Local Government Act 2002

be 'last reviewed' was 8 August 2012, and as such this bylaw review must be completed by 8 August 2022 (i.e. it must have been accepted by Council by this date). This defines the timeline with which this Bylaw review process must comply.

2.2 Determinations under section 155

Section 155 of the LGA lays out the process for determination whether a bylaw made under the LGA is appropriate. The full section is copied below for reference:

An assessment against section 155 in Table 1 below, concludes that the Bylaw is the most appropriate way of addressing the perceived problem; a standalone bylaw is most appropriate; and the Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990, nor is it inconsistent with that Act.

Table 1: Assessment of the Bylaw against section 155 of the LGA

Section 155 provision	Assessment of ORC Flood Bylaw
(1AA) This section applies to a bylaw only if it is made under this Act or the Maritime Transport Act 1994.	The Flood Protection Management Bylaw 2012 was made under the Local Government Act 2002, so section 155 applies.
(1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.	<p>What is the perceived problem?</p> <ul style="list-style-type: none"> • ORC provides flood protection and land drainage to approximately 43,000ha of rural and urban land throughout Otago. • The flood protection works are designed to protect people and minimise damage to property, livestock and infrastructure from flood events. They comprise over 200km of floodbanks, 12 pumping stations, 55 bridges, culverts and various other assets. • It is of critical importance that flood protection works are always functioning properly, and the integrity or operation of the flood protection works is not compromised. • The integrity or operation of flood protection works can be compromised by various activities, including but not limited to alteration of the works; removal or interference with machinery or equipment; planting of trees; placing of structures; dumping and deposition of materials; obstruction of drains and flow paths; excavation; and damage by livestock and machinery. <p>Is a bylaw the most appropriate way of addressing the perceived problem?</p> <p>Section 149 of the Act states that regional councils may make bylaws in relation to the matters listed (which include 'flood protection and flood control works undertaken by, or on behalf of, the regional council'), for the purpose of 'managing, regulating, against, or protecting from, damage, misuse, or loss, or for preventing the use of property owned or controlled by the regional council. This indicates that this Bylaw was anticipated by the LGA. The use of a bylaw also provides the Council with an enforcement tool should unauthorised actions be undertaken.</p> <p>Taking into consideration the assessment of other options below, it is considered that a bylaw is the most appropriate method for addressing the perceived problem. It is a tried and tested method, common among other Councils, and has been proven to work well for ORC to date. It provides a means for enforcement actions to be taken if the integrity or operation of the flood protection works are at risk. The decision-making process for reviewing and amending a Bylaw under the LGA</p>

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| Legislative review under the Local Government Act 2002 |

is a robust and comprehensive process, which appropriately reflects the significance of the matter.

Alternative methods to using a bylaw that were considered and not considered to be appropriate include:

- Doing nothing - If nothing is done, the current Bylaw will expire on 8 August 2023. If this was to occur, there would be no mechanism for ensuring that the flood protection works are maintained and their integrity is not challenged. Council would not have any powers for enforcing appropriate behaviours, and damage or misuse could result in catastrophic flooding outcomes and/or significant costs for repair.
- Designations - ORC currently hold designations from Dunedin City Council for the protection of flood protection works within the Dunedin City Boundary, which affords them a further degree of legal protection. Under section 176 (1) of the RMA no person may, without the prior written consent of the requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project. Designations have, to date, not been sought from the other territorial authorities. The designation only applies to the flood protection works within the designation and will not authorise activities that require consent under sections 13,14 or 15 of the RMA. The designation cannot control activities outside of the designation. While a designation is a useful tool, the constraints identified above means it is not considered an appropriate option for the full management of the assets.
- Adding rules to the regional plan - The regional plans are prepared under the Resource Management Act 1991 to assist the regional council with carrying out its functions to meet the purpose of the Act. These functions relate to the sustainable management of natural and physical resources, which does not include the protection of assets. Further to this, amending regional plans is a lengthy and costly process which requires significant public consultation. Regardless, as the purpose of the regional plan is not asset protection, this is not considered to be an appropriate option.
- Developing strategy / agreements with landowners - A strategy or collective agreement between landowners/occupiers and the Regional Council could be prepared with guidelines for the landowners/occupiers. This would require public consultation to determine roles and responsibilities of the parties, and there would need to be a large number of parties involved due to the extent of the flood protection works. It would be a non-regulatory tool, relying on goodwill, and would not be enforceable. Due to the significance of the assets, it is considered there should be some means of approval of works and enforcement available to ensure their integrity and operation is maintained, and as such this is not considered an appropriate option.
- Education - An educational campaign to increase community awareness of the assets and their importance could be used. Due to the significance of the assets, it is considered there should be some means of approval of works and enforcement available to ensure their integrity and operation is maintained, and as such this is not considered an appropriate option as a sole means of management but could be beneficial in conjunction with another measure.
- For completeness, the final option considered is the transference of responsibility to the relevant territorial authorities. It is considered more appropriate to retain these responsibilities as the regional council is the manager of the flood protection schemes and has the necessary experts employed. Splitting the management across districts could result in inconsistent management, or the prioritisation of the interests of the district

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| Review of recent flood management bylaws |

	above the region. This is not considered to be an appropriate option for these reasons.
(2) If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw— (a) is the most appropriate form of bylaw; and (b) gives rise to any implications under the New Zealand Bill of Rights Act 1990.	(a) A standalone bylaw is considered to be the most appropriate form of bylaw, rather than consolidation with other bylaws (an approach sometimes taken by District Councils with respect to bylaws). The other bylaw held by ORC is the Navigation Safety Bylaw 2020. (b) The New Zealand Bill of Rights Act 1990 affirms, protects and promotes human rights and fundamental freedoms in New Zealand; and affirms New Zealand's commitment to the International Covenant on Civil and Political Rights. It covers: <ul style="list-style-type: none"> • Life and security of the person • Democratic and civil rights • Non-discrimination and minority rights • Search, arrest and detention The proposed bylaw will not give rise to any implications under the New Zealand Bill of Rights Act 1990.
(3) No bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.	The proposed bylaw will not be inconsistent with the New Zealand Bill of Rights Act 1990.

3 Review of recent flood management bylaws

A review of four flood management Bylaws from other Regional Councils that have been recently prepared or reviewed was undertaken. The Bylaws reviewed are:

- Environment Canterbury Flood Protection and Drainage Bylaw (2013, amended 2019), referred to as 'the Canterbury Bylaw'.
- Environment Southland Flood Control and Drainage Management Bylaw (2020), referred to as 'the Southland Bylaw'.
- Bay of Plenty Regional Council Flood Protection and Drainage Bylaws (2021), referred to as 'the Bay of Plenty Bylaw'.
- Taranaki Regional Council River Control and Flood Protection Bylaw (2020), referred to as 'the Taranaki Bylaw'.

The Bylaws are reviewed with reference to the provisions of the ORC Bylaw and are presented as a comparative review across the different sections of the Bylaws (being purpose, definitions, activities requiring authority, activities required to be undertaken, applying for an authority, and compliance and enforcement). The findings are outlined in the following sections 3.1 – 3.9.

To summarise, the Canterbury Bylaw is very similar to the ORC Bylaw, with the main differences being statements on land entry, deeming authority from resource consents (see section 3.6.3), the inclusion of an objections process and diagrams describing the areas covered.



The Southland Bylaw is more simplified than both the ORC and Canterbury Bylaws, in that it has one section on activities requiring bylaw authority with all flood control works addressed together (rather than being separated into different sections by drains, floodways, etc). Other than that it is very similar to the Canterbury Bylaw in that it also deems authority from resource consents and includes an objections process.

The Bay of Plenty Bylaw provides a more 'RMA' description involving 'balancing risk, safety to communities, and the unique relationship tangata whenua have with whenua, taonga, and wai through their culture and tradition'. Unlike the other Bylaws, it is split into three parts:

- Part I applies to all river and drainage schemes in the region (that are managed by, or under the control of, Bay of Plenty Regional Council).
- Part II applies only to the lower reaches of the Rangitāiki, Tarawera, and Kaituna Rivers, where pumiceous soils dominate and provide additional protection measures for drains and assets.
- Part III identifies the region's designated floodways, spillways, and ponding areas, and provides additional protection measures for these areas

The Bay of Plenty Bylaw also provides the option of 'Written Authority Management Plans' for activities that necessitate multiple authority applications, statements on land entry, the ability to suspend an authority, an objections process and diagrams.

The Taranaki Bylaw is possibly the most simplified of the Bylaws reviewed. It provides for global permits, describes land entry powers, and deems authority from authorisations granted prior to the bylaw.

3.1 Purpose

The Purpose of the Otago Bylaw is:

'to manage, regulate and protect the effective operation and integrity of flood protection works owned by or under the control of the Otago Regional Council. Flood protection works can include drains, overland flow paths, defences against water, floodways, groynes, cross-banks, anchored tree protection and plantings. This Bylaw only controls activities that may affect the integrity or operation of flood protection works.'

The Purpose of the Southland Bylaw is identical to the Otago Bylaw first and third sentences, however, does not include the second sentence relating to the definition of flood protection works.

The Purpose of the Canterbury and Taranaki Bylaws are similar to each other (and generally in keeping with the Otago Bylaw), in that they are to manage, regulate and protect flood protection and flood control works from damage or misuse (noting the Taranaki Bylaw only refers to protecting and not management or regulation). They also state that the Bylaw only controls activities that may affect the integrity or effective operation and maintenance of flood protection and flood control works.

The Purpose of the Bay of Plenty Bylaw differs from the other four in that it provides a more holistic purpose with reference to balancing various matters, being:

'The purpose of these Bylaws is to provide a regulatory framework to protect and control flood protection and drainage assets managed by, or under the control of, the Bay of Plenty Regional Council whether they are in a rural or urban environment, whilst balancing risk, safety to communities and the unique relationship tangata whenua have with whenua, taonga and wai through their culture and tradition.'

3.2 Definitions

The definitions across the five Bylaws are generally very similar, while there are some additional or different words used across the bylaws, mainly as they specifically relate to the rules and terms used in those bylaws.

The other Bylaws tend to have more detailed descriptions and explanation of the flood management measures than the Otago Bylaw. For example:

- Defence against water is defined in the Canterbury, Bay of Plenty and Taranaki Bylaws respectively as:
 - Canterbury – *'Means any structure or equipment, including any dam, bund, weir, spillway, floodgate, bank, stopbank, retaining wall, rock, protection structures (including erosion protection structures), groyne, anchored tree protection or reservoir, that is designed to have the effect of stopping, diverting, controlling, restricting or otherwise regulating the flow or spread of water, including floodwaters, in or out of a watercourse, for the purpose of flood mitigation and/or drainage. For the purposes of this Bylaw, means any defence against water that is owned or controlled by the Canterbury Regional Council. This includes all defences located between the flood protection vegetation lines, the floodway lines, and along the drains and small watercourses as shown in Schedules 1-3.'*
 - Bay of Plenty – *'Includes any dam, bund, weir, bank, stopbank (and any associated geotechnical treatment), carriageway, floodgate, groyne, pump station and any structure or equipment of which has, or may have, the effect of stopping, diverting, controlling, restricting or otherwise regulating the flow or spread, into or out of a watercourse, of water, including floodwaters, which is developed or retained for the purpose of flood mitigation'.*
 - Taranaki - *'means any managed structure or appliance of whatsoever kind that has the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence of water in or out of a watercourse, including flood waters, and includes associated dam, bund, weir, floodgate, channel, bank, stopbank, flood wall, retaining wall, protection structure, carriageway, groyne, or reservoir, and includes those identified in Part 6 [Maps]'*
- Drain:
 - Canterbury / Southland – *'Means a channel, either artificially constructed or a modified watercourse, which is used to either lower the water table or divert water. For the purposes of this Bylaw, means any drain as shown in Schedules 1 and 2 (Canterbury) / Appendix 2 (Southland).'*
 - Bay of Plenty – *'A watercourse of channel, either occurring naturally, or artificially constructed, or a modified watercourse which is used to either lower the water table or divert (remove runoff) water'.*
 - Taranaki - *'has the same meaning as in section 2 of the Land Drainage Act 1908 (as set out below): includes every passage, natural watercourse, or channel on or under ground through which water flows continuously or otherwise, except a navigable river, but does not include a water race as defined in section 58 hereof.'*
- Equipment:
 - Canterbury / Taranaki – *'Means any equipment, devices or machinery associated with managing drains, small watercourses or defences against water. For example floodgates, pump stations and water level recorders'.*
- Floodway:
 - Southland – *'means an area managed by the Council that has the effect or is intended to have the effect of regulating or controlling the flow or spread of flood water. For the purposes of this Bylaw, means any floodway as shown in Appendix 2'.*
 - Bay of Plenty – *'A defined corridor that confines floodwaters up to a specific design level'.*
 - Taranaki – *'means any area managed by the Council which is designed to provide passage for floodwaters and includes those identified in Part 6 [Maps]'*
- Groyne:
 - Bay of Plenty – *'A low wall or sturdy barrier, built out into a river to control erosion'.*

The use of the term's earthworks and excavations (as well as small-scale gardening) was noted throughout the Bylaws reviewed. The Otago Bylaw uses only the term 'excavation'. The Canterbury, Southland and Taranaki Bylaws use both 'excavation' and 'earthworks'. The Bay of Plenty Bylaw uses the terms 'earthworks'

and 'small-scale gardening'. These terms are all defined below for reference (please note, the Southland Bylaw does not define these terms):

- Excavation:
 - Otago – *'means the removal of material, which results in a hole or cavity'*.
 - Canterbury – *'means the removal of material, which results in a hole or cavity, other than boring or digging of holes up to 1.5metres depth for immediate placement of posts or piles, or driving posts or piles'*.
 - Taranaki – *'means the removal of material, which results in a hole or cavity, other than boring or digging of holes up to 1.5 metres depth for immediate placement of posts or piles, or driving posts or piles'*.
- Earthworks:
 - Canterbury – *'means any activity that exposes, disturbs, places or deposits soil, other than routine cultivation of soil up to a depth of 300 millimetres in preparation for sowing grass or crops'*
 - Bay of Plenty – *'Any activity that disturbs soil deeper than 300 mm, including but not limited to, any activity that exposes, disturbs, places, deposits, or removes soil. See also the definition for "small-scale gardening"'*.
 - Taranaki – *'has the same meaning as set out in the National Planning Standards (as set out below): means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excluding gardening, cultivation, and disturbance of land for the installation of fence posts'*.
- Small-scale gardening:
 - Bay of Plenty - *'The disturbance of soil for the purpose of small-scale growing of crops (vegetables), ornamentals (flowers) and small shrubs in yards; to a depth of no more than 300 mm'*.

Regarding the definitions of occupiers, the following definitions were noted, with the latter being more comprehensive :

- Otago / Bay of Plenty – *'In relation to any property, means the inhabitant occupier of that property'*.
- Canterbury / Southland / Taranaki – *'In relation to any property, means the lawfully authorised inhabitant occupier of that property and persons who have legal right to undertake activities on that property'*

The Taranaki Bylaw includes the definition of 'person' as meaning *'anybody, except those authorised by the Council in the exercise of any powers or duties provided for under this Bylaw'*. The Canterbury Bylaw defines 'person' as *'for the purposes of this Bylaw does not include any person duly authorised by Council in the exercise of any powers or duties conferred upon Council under this Bylaw'*. This appears to enable the Councils to undertake those remedial or removal works as required in relation to compliance and enforcement, and the activities listed in 'activities required to be undertaken' without themselves requiring a Bylaw authority.

3.3 Activities requiring authority

The Otago, Canterbury and Southland Bylaws include a statement at the front of these sections of the Bylaw that resource consent or other authorisations may be required from other authorities. Bay of Plenty and Taranaki includes this earlier in the introduction and explanatory notes sections, respectively.

The Otago Bylaw is split into subsections of those activities requiring authority, being drains and overflow paths; defences against water and excavation-sensitive areas; floodways; and Lower Waitaki groynes, cross-banks and anchored tree protection; and Lower Waitaki plantings.

Broadly, the restrictions in the Otago Bylaw relate to altering the flood management assets' removing or interfering with machinery or equipment; planting trees; constructing, removing or altering structures; dumping or depositing things; obstructing flows; driving machinery or equipment in identified areas; allowing livestock access; connecting pipes and channels to drains or floodways; carrying out excavation in identified areas; and

removing, interfering or adding to identified plantings. Where the restrictions extend landward from the flood protection works, this is for a distance of 7m.

3.3.1 Canterbury Bylaw

The Canterbury Bylaw is set out in a similar way to the Otago Bylaw, being split into subsections for drains and small watercourses; floodways; defences against water; flood protection vegetation; hydrological devices and equipment; survey benchmarks and unauthorised defences against water. Broadly, the Canterbury Bylaw appears to have very similar restrictions to the Otago Bylaw, with the following differences of note:

- Drain and floodway rules - Refers to vegetation (not only trees), and restricts this with respect to access for maintenance or inspection and impeding the flow of water
- Drain and defences against water rules - The distance covered by this section extends to 7.5m on the landward side of the drain (compared to 7m in the Otago Bylaw).
- Drain rules explanation – provides for routine maintenance of structures in and beside drains that existed prior to the Bylaw if there are no new adverse effects.
- Floodways explanation – provides for fences in, over, or through drains and floodways provided they are constructed and maintained so they do not impede or deflect the flow of water or block access for maintenance.
- Defences against water rules – Has a rule stating that no person shall damage or allow damage to occur; explicitly restricts the construction of crossings; and restricts constructing, or forming through repeated use, a road, track or ford for the passage of vehicles, people or stock, on any defence against water (these could be considered to fall under existing provisions in my opinion).
- Defences against water rules – Refers to 'shrub, hedge, tree, or part thereof' (not just trees)
- Defences against water rules – Refers to both earthworks and excavation in the rule relating to this
- Defences against water rules – Restricts constructing, or forming through repeated use, a road, track or ford for the passage of vehicles, people or stock, on any defence against water.
- Flood protection vegetation rules – no person shall remove or damage, or allow stock to graze within, any flood protection vegetation.
- Hydrological devices and equipment and survey benchmark rules – there are specific sections stating that no person shall remove, damage or interfere with these.
- Unauthorised defences against water – a specific rule stating that no person shall erect or permit to be erected any defence against water in the specified locations.

3.3.2 Southland Bylaw

The Southland Bylaw differs from the other Bylaws reviewed in that it has one section on the activities requiring Bylaw authority, rather than separation based on type of flood control works. Despite this, the restrictions appear to be very similar to the Otago Bylaw. Differences of note are:

- Specifically states that no person shall damage or allow damage to occur to flood control works
- Refers to vegetation (not only trees)
- The distance covered by this section extends to 7.5m on the landward side flood control works (compared to 7m for drains and 20m from defences against water for excavation in the Otago Bylaw).
- Allows for the storage of gravel on a property provided that the stockpile does not exceed 400m³ and a footprint of 20m x 20m and it is present for no more than 4 weeks per 12-month period
- Refers to both earthworks and excavation in the rule relating to this but does not define them in the Bylaw.

3.3.3 Bay of Plenty Bylaw

The Bay of Plenty Bylaw provisions appear very similar to the Otago Bylaw, with the main difference being formatting in that it is split into three parts:

- Part I applies to all river and drainage schemes in the region

Sensitivity: General

| Review of recent flood management bylaws |

- Part II applies only to the lower reaches of the Rangitāiki, Tarawera, and Kaituna Rivers, where pumiceous soils dominate and provide additional protection measures for drains and assets.
- Part III identifies the region’s designated floodways, spillways, and ponding areas, and provides additional protection measures for these areas

The Bay of Plenty Bylaw makes use of helpful diagrams describing the drains and defences against water, splitting the different zones which are described in writing in the other Bylaws into ‘areas’. Figure 1 and Figure 2 below shows the diagram used for drains and defences against water.

FLOOD PROTECTION AND DRAINAGE BYLAW APPLICABLE AREAS – DRAINAGE SCHEME DRAINS

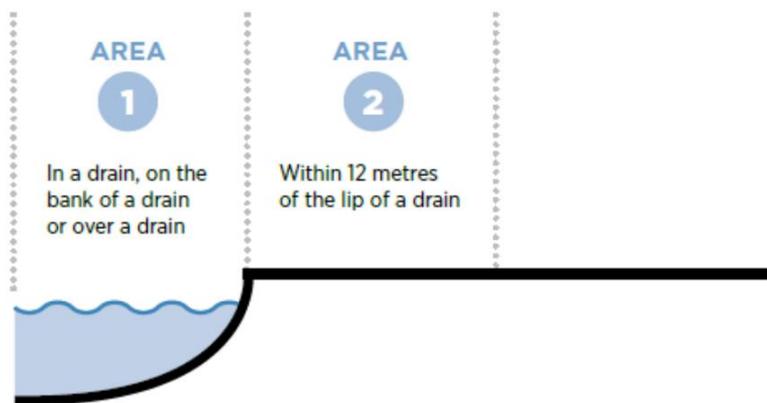


Figure 1: Drain applicable areas diagram (source: Bay of Plenty Bylaw)

DEFENCES AGAINST WATER – FLOOD PROTECTION AND DRAINAGE BYLAW APPLICABLE AREAS

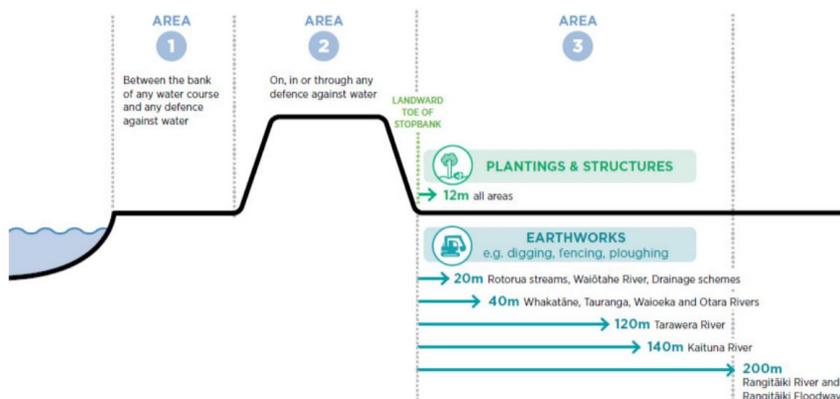


Figure 2: Defences against water applicable areas diagram (source: Bay of Plenty Bylaw)



Other differences to the Otago Bylaw of note are:

- Drain and defences against water rules - The distance covered by the Bylaw extends to 12m on the landward side flood control works and specified distances ranging between 20m and 200m from waterways for earthworks (compared to 7m for drains and 20m from defences against water for excavation in the Otago Bylaw).
- Drain and defences against water rules - Refers to 'tree, shrub, hedge, or any part thereof' (not only trees) and restricts allowing plants to grow over or in drains that may impede the flow of water or interfere with access for maintenance or inspections.
- Drain and defences against water rules - Restricts constructing or dismantling a road or stock passage within 12m of a drain
- Drain rules - Restricts allowing an object or structure to be located within 1.5m vertical above normal water level for drains and canals maintained by the weedcutter and/or spray boats identified in a schedule of the Bylaw.
- Defences against water rules – There shall be no cutting down or removal of established trees within 12m of a defence against water without authority.
- Defences against water rules - The disturbance of soil to a depth of 300mm for small-scale gardening (defined) is permitted.
- No person will under any circumstance - there is a specific section stating that no person shall damage, or allow damage to occur; stock to damage or overgraze; or erect any stopbank or defence against water without authority.
- Grass Carp - include provisions relating to grass carp (which are used in some drains in the region as biological weed control and are as such considered a Council asset)
- Pump stations – includes provisions stating that Council has full rights and powers to temporarily shut down pumping stations during high river and/or drain flows, if it is considered that there is a risk of seepage failure occurring in the adjoining stopbanks or stopbank foundations.
- Part II provides additional restrictions applying to areas of pumiceous soils that are more susceptible to seepage and piping failures. This has not been reviewed in detail as it is understood this is not an issue in Otago. If this is incorrect, please advise and this review can be completed.
- Part III – restricts removal of plant cover and earthworks or ploughing within 20m of a spillway structure.

3.3.4 Taranaki Bylaw

The Taranaki Bylaw appears very similar to the Otago Bylaw, split into sections relating to floodways, defences against water, flood protection vegetation, hydrological devices, equipment and survey benchmarks. They do not have scheduled drains like the other councils reviewed.

Differences of note in the Taranaki Bylaw when compared to the Otago Bylaw are:

- Floodway rules – refers to planting or allowing to grow any vegetation (not only trees), and restricts this in the floodway if it impedes or deflects the flow of water or interferes with access for maintenance or inspection purposes
- Defences against water rules – Similar to the Canterbury Bylaw, has a rule stating that no person shall damage or allow damage to occur; explicitly restricts the construction of crossings; and restricts constructing, or forming through repeated use, a road, track or ford for the passage of vehicles, people or stock, on any defence against water (these could be considered to fall under existing provisions in my opinion).
- Defences against water rules – Refers to both earthworks and excavation in the rule relating to this
- The distance covered by this section extends to 7.5m on the landward side defences against water (compared to 7m for most activities and 20m for excavation in the Otago Bylaw).
- Flood protection vegetation rules – no person shall remove or damage, or allow stock to graze within, any flood protection vegetation.

- Hydrological devices and equipment and survey benchmark rules – there is a specific section stating that no person shall remove, damage or interfere with these.

3.4 Activities required to be undertaken

The Otago, Canterbury, Southland and Bay of Plenty Bylaws have activities that are required to be undertaken, while the Taranaki Bylaw does not. The Otago, Canterbury and Southland Bylaws have a separate section addressing these activities, while the Bay of Plenty Bylaw includes it in the relevant flood management section.

The Otago Bylaw has requirements relating to keeping structures in good repair; keeping fences and gates within floodways free of debris and fencing must include a floodgate in the Hilderthorpe Floodway; the Council may require the erection of fencing to prevent livestock (at the cost of the owner) and may prohibit or restrict access to any flood protection works.

The Canterbury, Southland and Bay of Plenty Bylaws have similar provisions, with these additional provisions have been identified:

- Owners and occupiers for which there is an agreement that the crossing will be used by Council for drain maintenance / flood protection purposes shall keep the crossing maintained to a standard agreed by the parties (Canterbury, Southland, Bay of Plenty).
- All fence crossings that would otherwise deny access to and along the drain margins for Council shall have a minimum 3.6m wide gate (Canterbury, Bay of Plenty)
- Owners and occupiers on which any drain or watercourse is located shall, if required by Council, remove and tree, plant or other material or object that obstructs, or is considered by Council to be at high risk of falling and obstructing, the free flow of water (Canterbury, Southland, Bay of Plenty)
- Owners and occupiers shall keep the body of water and adjoining land for a distance of 67.5m free from all vegetation that is likely to obstruct free flow of water or impede access for machinery (Southland)
- Council has the full rights and powers to temporarily shut down pumping stations during high river / drain flows if it considers there is risk of seepage failure (Canterbury)
- No dead stock or any part thereof are to be, or remain in, any drain (Bay of Plenty)
- No owner or occupier shall damage, interfere with, or allow damage to occur to, any drain or drain bank (Bay of Plenty)

The Southland Bylaw goes on to state in the 'activities to be undertaken' that if any owner fails to comply with those requirements, the Council may by written notice, specify the work to be undertaken and the period in which it must be carried out. If the owner fails to comply with the conditions, the Council may enter the land and carry out the works at the cost of the owner.

3.5 Land entry

The Otago Bylaw does not include information on land entry powers, rights and authorities. This is understood to be because other mechanisms, such as landowner agreements and the powers provided for by the LGA. The Southland Bylaw also does not include this information.

The Canterbury, Bay of Plenty and Taranaki Bylaws have a section stating the powers, rights and authorities of Council regarding land entry for inspection, surveys and maintenance works. They also state that no person shall unreasonably obstruct or hinder any employee of the Council, or any contractor engaged by the Council in the performance of their duties, or bringing or operating drain clearing plant or machinery which is being used in the discharge of those duties.

In this section, these three Bylaws provide for landowners / occupiers who wish to avoid herbicide use for the maintenance of drains adjacent to or through their properties to undertake the drain clearance themselves (or employ contractors to do so) subject to prior written authority of the Council, the works being carried out to a standard specified by Council and signs stating that it is a 'Chemical Free Area' being erected. If the works are

not carried out to the prescribed standard, the Council may give notice of its intention to maintain the drain and that remediation may include the use of herbicides.

3.6 Applying for an authority

3.6.1 Authority

The Otago, Canterbury, Southland and Taranaki Bylaws are all very similar in their descriptions of requirements to apply for an authority, while the Bay of Plenty Bylaw is somewhat lighter in detail.

The Canterbury, Southland and Taranaki Bylaws provide a greater level of description on the matters which Council shall have regard to when compared to the Otago Bylaw, being:

- Drainage and flood flow capacity
- Stability/scour/erosion risk
- On-going functionality
- Access for inspection and maintenance purposes
- Term of authority (only Canterbury and Taranaki)

Additional provisions in the other Bylaws include:

- Any condition imposed will be commensurate with the scale and nature of the activity proposed and for giving effect to the purpose of the Bylaw (Canterbury, Southland)
- If the Council decision is to refuse an authority, the Council shall include in writing the reasons for that decision (Canterbury, Southland, Taranaki)
- Every authority granted under this bylaw shall be binding on every subsequent occupier of that land, unless it specifically states otherwise (Canterbury, Southland, Taranaki)
- The Council shall keep a register of all authorities granted or refused (Canterbury, Southland, Taranaki)

The Taranaki Bylaw provides for authorities for individual activities or a single global authority for a programme of work or reoccurring maintenance activities over a specified period, while the Bay of Plenty Bylaw provides activities that could necessitate multiple applications (e.g. Seasonal activities, routine maintenance, emergency works, traditional cultural practices or management of areas of wāhi tapu) to be provided with the opportunity to co-design specific management plans for those activities.

3.6.2 Fees

The Otago, Canterbury and Southland Bylaw fees sections are the same.. They have the same statements that, by using the special consultative procedure the Council may prescribe any fee payable by any person who applies for an authority under the Bylaw; and may in its discretion refund, remit or waive the whole or part of such fee.

In addition to this, the Otago Bylaw prescribes a deposit of \$300 to be paid with the application and states that additional costs will be invoiced or refunded reflective of actual costs as appropriate; while the Canterbury and Southland plans do not have any deposit or cost details here.

The Bay of Plenty Bylaw states that 'Council reserves the right to set and charge reasonable fees and charges under s150 of the Local Government Act 2002', and that 'fees will be reviewed periodically following consultation', as well as that the council may refund, remit or waive the whole or any part of fees in its absolute discretion. It states in a Schedule to the Bylaw that a standard application fee is no cost, whereas written authorites that are not routine and require investigation (e.g. Engineering design, advice, surveying and site visits) will be charged at rates set under the Council's Long Term Plan.

The Taranaki Bylaw states that the fees are set out in the Long Term Plan, and as with the other Bylaws, also allows Council in its absolute discretion to refund, remit or waive the whole or part of such fee.

3.6.3 Deeming authority

The Canterbury, Southland and Taranaki Bylaws provide for 'deeming authority' under the Bylaw from other approvals. The Otago and Bay of Plenty Bylaws do not provide for this.

The Canterbury Bylaw states that authority can be deemed from resource consents or agreements issued by Council prior to April 2013 and any fully discretionary consent granted by Council after April 2013. The Southland Bylaw states that authority can be deemed from any resource consent or agreement granted by Council, and the Taranaki Bylaw allows for deeming authority from an existing resource consent or agreement granted by Council prior to the Bylaw coming into force.

In all cases, the works must be carried out to the conditions and duration set in the resource consent or agreement.

3.7 Compliance and enforcement

3.7.1 Revocation of authority

All five Bylaws provide scope for Council to revoke an authority if the holder contravenes or fails to comply with any condition of the authority. Further to this, the Canterbury, Southland and Taranaki Bylaws, can revoke an authority if the information in the application contained inaccuracies which materially influenced the decision made.

The Otago Bylaw is less draconian in this section than the other Bylaws, stating that before revoking an authority the Council shall give written notice to the holder that Council may revoke the authority and giving the holder an opportunity of making a written submission within 14 days relating to the possible revocation. It does not provide any details on the process after this or how a decision is made.

The Canterbury, Southland, Bay of Plenty and Taranaki Bylaws provide more detail, stating that the written notice must set out the respects in which the holder has contravened or failed to comply with the authority; and, if the breach or failure is capable of remedy, gives the holder reasonable time to remedy it. Canterbury, Southland and Bay of Plenty go on to warn the holder that the authority may be revoked if the breach or failure is not remedied in the specified timeframe or within such further time as the Council may allow on application or the holder make a written submission to the Council setting out the reasons why the authority should not be revoked. On receipt of a request for further time or a submission on why the authority should not be revoked, the Council may at its sole discretion grant the further time or accept the submission made or revoke the authority.

The Bay of Plenty Bylaw also provides a section relating to the suspension of written authority, allowing the Council to suspend a written authority if the holder contravenes or fails to comply with conditions until that contravention has been remedied, an objection is made or it is clear that it will not be remedied, and the Council revokes the authority. The effect of the suspension is that the holder may not do anything that the authority previously authorised them to do, except to take measures to remedy the failure or contravention.

3.7.2 Offence

The Otago, Canterbury and Bay of Plenty Bylaws describe when an offence against the bylaw has been committed with reference to the sections and states that 'every person who commits an offence against this Bylaw is liable to the penalties prescribed by section 242 of the Local Government Act.

The Southland Bylaw is the same, except does not have reference to a person committing an offence if they 'fail to comply with any condition of a permit, or written notice served under this bylaw'.

The Taranaki Bylaw only states the second part, in that any person who commits an offence is liable to penalties but does not state when a person has committed an offence.

3.7.3 Notice to Remedy

The Otago, Canterbury, Southland and Taranaki Bylaws describe that the Council may, by written notice, require any mitigation or remediation considered necessary by the Council in relation to the contravention of a clause or conditions of the authority, in the time and manner stated in the notice, at the cost of the owner.

The Bay of Plenty Bylaw provides more detail on the remediation terms. It starts with the same initial paragraph as the other Bylaws, and then goes on to describe in more detail that the notice will advise the nature and steps to be taken. Bay of Plenty describe the equivalent of the 'removal of works' section (described for the other Bylaws below) which authorises Council to remediate and recover costs, in this section of the Bylaw rather than a standalone section as in the other Bylaws, and that the taking of this action does not relieve any person from liability to any penalty incurred by reason of the breach.

3.7.4 Removal of works

The Otago, Canterbury, Southland and Taranaki Bylaws have similar statements, allowing Council to remove or alter any work or anything constructed or being in contravention of any provision of the Bylaw or conditions of an authority. It goes on to state that Council may recover the costs incurred in connection with this, and that the undertaking of this action does not relieve any person from liability to any penalty incurred by reason of this breach.

As described above, the Bay of Plenty Bylaw includes this in the 'notice to remedy' section, rather than having a standalone section.

3.7.5 Objection process

The Canterbury, Southland and Bay of Plenty Bylaws provide details on an objections process, while the Otago and Taranaki Bylaws do not.

The Canterbury and Southland Bylaws set out that any person who applies for authority, or owner or occupier of land subject to the Bylaw, within 14 days of receiving a decision may object in regard to the decision or authority and has the right to be heard in support of that objection. They describe that when considering an objection may uphold, amend or rescind the decision, and in making that determination must have regard to the evidence on which the decision or authority was based, the matters in support of the objection and any other relevant matters. The Council must give written notice to the objector of the decision as soon as practicable, including reasons for that decision.

The Bay of Plenty Bylaw has a very similar objections process to Canterbury and Southland, but it requires any objection to be within 10 working days, and the decision is to be reviewed by Council within 20 working days.

3.8 Application forms

The application forms across the five Bylaws are very similar. The Bay of Plenty and Taranaki Bylaw application forms are online forms, whereas the others have 'paper' forms. Additional requirements identified in other application forms are:

- Legal description (Canterbury, Bay of Plenty)
- Co-ordinates of the main activity (Southland)
- Property valuation number (Bay of Plenty)
- Whether the person applying is the legal owner of the land (Canterbury, Southland)
- If not the owner, whether the applicant has the permission of the legal owner of the land (Canterbury, Bay of Plenty)
- Confirmation if applying on behalf of someone else they have authority to apply (Canterbury)
- Assessment against the regional plan rules (Canterbury)

- Timeframe of works – start / finish dates (Canterbury, Taranaki)

3.9 Maps

The Otago, Canterbury and Southland Bylaws have associated maps as a separate document, also available on a Geographical Information System (GIS) server.

The Bay of Plenty Bylaw has a schedule showing spillway, floodway and ponding areas. There here does not appear to be a map showing the drains or erosion protection structures, and it appears that to determine whether your property is in a Bylaw applicable area you need to fill in a form and submit it to Council.

The Taranaki Bylaw presents the maps as Part 6 of the Bylaw. They do not appear to be on a GIS browser.

4 Workshop with ORC staff

A workshop was held with Otago Regional Council (ORC) staff on 26 January 2022. This workshop was held online due to COVID19 restrictions. The purpose of the workshop was to discuss the Flood Protection Management Bylaw 2012 (the Bylaw), including its appropriateness, benefits, issues or concerns with the current provisions and staff's ability to protect the flood management infrastructure or undertake enforcement action as required.

The workshop was hosted by Josie Burrows (Beca) with the following ORC staff members in attendance:

- Alison Weaver – Commercial and Regulatory Lead
- Pam Wilson – Infrastructure Engineering Lead
- Michelle Mifflin – Manager Engineering
- Neil Shearer – Regulatory Coordinator
- Daniel King – Operations and Maintenance Lead
- Jean-Luc Payan – Manager Natural Hazards
- Jo Galer – Manager Communications and Marketing (present for some of the workshop)

The key points that require further investigation to come out of the workshop were:

- Discussion on how best to address ORC approvals under the Bylaw for work they undertake for the purpose of maintaining the integrity and operation of the flood protection works (i.e. for the purpose of the Bylaw) or emergency repairs, and whether this should require written approval or be excluded from being subject to the Bylaw.
- If ORC approvals are to be managed by global bylaw authorities, discussion on how the compliance of these (and any enforcement action, if necessary) should be undertaken given the same department would be the authority holder and regulator.
- Whether other assets, such as those associated with the drainage network (like gravity gates and pump stations), bridges and erosion protection structures could be added and captured within the scope of the Bylaw.
- Issues or concerns with definitions, in particular:
 - Whether there should be more detail provided on the descriptions of the flood protection works
 - Definitions of 'ditch' and 'structure' not being clear
 - Definition of 'excavation' not being clear, and/or excluding works that should be captured under the Bylaw as they have the potential to affect the integrity and operation of the flood management structures.
 - Addition of the definition of 'person', and potential exclusion of ORC from the definition of person when it comes to works required to be undertaken by the Bylaw
- Restrictions on activities, in particular:

- Concerns with the ability for people to commence new discharges to drains via existing pipework which will increase flows and therefore risk of flooding
- Need for inclusion of a wider range of vegetation planting restrictions, not just trees, and restriction on the removal of vegetation / trees as they can influence the function of the flood protection works.
- Concerns with the excavation rules, in that they are difficult to follow, and they appear to allow for excavation to 300mm without management which can have adverse effects on flood protection works.
- Access to properties is provided for by land access agreements as well as the warrants issued under the LGA. Questions around whether the warrants allow for access for emergency works were raised.
- Many other Councils flood management bylaws have an objections process, and discussion on whether it would be appropriate or beneficial to include one in the ORC Bylaw.
- The use of diagrams showing the different areas restricted by the Bylaw would be helpful and assist with the readers understanding.

5 Summary

The legislative review under section 155 of the LGA determines that the Bylaw is the most appropriate way of addressing the perceived problem, a standalone bylaw is most appropriate, and the Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990, nor is it inconsistent with that Act.

The flood management bylaws of Environment Canterbury, Environment Southland, Bay of Plenty Regional Council and Taranaki Regional Council have been reviewed, with reference to the Otago Bylaw. Broadly, the provisions of the other bylaws are very similar to one another, with additional provisions identified around land entry powers, deeming authority from other authorisations, an objections process, provision for global consents, and diagrams showing the areas covered by the bylaws.

A workshop was held with ORC Staff regarding the appropriateness, benefits, issues and concerns with the current provisions, and their ability to protect the flood management infrastructure or take enforcement as required. The workshop provided some beneficial 'hands-on' experience, and some take-away points included that ORC are required to get Bylaw approval for their standard maintenance works and emergency works; there are some issues with the interpretation of definitions; people have concerns around the excavation definition and rules in that they do not currently protect the assets sufficiently; the identification that the effects of vegetation planting and removal is not only limited to trees; and discussion around the inclusion of an objections process.

Memorandum

To: Alison Weaver, Commercial and Regulatory Lead, ORC
Date: 16 March 2022
From: Josie Burrows, Planner, Beca
Our Ref: 4397827-1305597384-86
Copy: Paul Whyte, Senior Associate - Planning, Beca
Subject: Memorandum outlining the proposed changes to the draft Flood Protection Management Bylaw 2022

1 Purpose

The purpose of the Bylaw has been amended in part to refer to 'scheduled drains' instead of 'drains', 'training lines' to cover the Shotover Training Line and 'flood protection vegetation' instead of 'anchored tree protection' and 'plantings'. This has been done to ensure the references to the flood protection works are correct. The reasons for the use of these terms are outlined in the following sections.

2 Definitions

Definition	Explanation of changes
Anchored Tree Protection means any anchored tree protection shown in the Fourth Schedule.	This definition has been deleted and both 'Anchored Tree Protection' and 'Plantings' are now referred to as 'Flood protection vegetation'.
Authority means written approval issued by the Council under this Bylaw.	This definition remains unchanged from the 2012 Bylaw.
Bed means the space of land which the waters of the river cover at its fullest flow without overtopping its banks	This definition remains unchanged from the 2012 Bylaw.
Council means the Otago Regional Council and includes any person duly authorised by the Council to exercise any of the powers conferred upon the Council by this Bylaw.	This definition remains unchanged from the 2012 Bylaw.
Cross-bank means any cross-bank shown in the Fourth Schedule.	This definition remains unchanged from the 2012 Bylaw.
Cultivation means the alteration or disturbance of land (or any matter constituting land including soil, clay, sand and rock) for the purpose of sowing, growing or harvesting of pasture or	This definition has been added to provide clarity about what constitutes the cultivation that is allowed for by clauses 3.2(j) and 3.4(g) (cultivation within 20m of the landward side of a defence against water).

Memorandum

<p><u>crops, to a depth of no more than 300 millimetres below the existing ground surface.</u></p>	<p>This definition has been mainly taken from the National Planning Standards (to allow consistency with other regulatory documents), however the requirement that the depth of cultivation does not exceed 300 millimetres has been added to the National Planning Standards definition. This is to provide some limitations on the extent of cultivation able to be undertaken to ensure adequate protection of flood protection works and is generally consistent with existing Bylaw provisions.</p>
<p>Defence against water means any defence against water shown in the Second Schedule and includes the <i>bed</i> of the Water of Leith and Lindsay Creek as marked in red on the Leith Lindsay map in the Second Schedule.</p>	<p>This definition remains unchanged from the 2012 Bylaw.</p>
<p>Ditches means any drainage network, other than scheduled drains.</p>	<p>The term 'ditches' has been deleted and the definition of 'drain' amended to include a more accurate description of these type of channels ('ditch' does not appear to be referred to in other documents and there was confusion about its use).</p>
<p>Drain means any drain shown in the First Schedule <u>artificial watercourse designed, constructed, or used for the drainage of surface water or subsurface water, but excludes artificial watercourses used for the conveyance of water for electricity generation, irrigation, or water supply purposes (note also the definition of <i>scheduled drain</i>).</u></p>	<p>The definition for 'drain' has been taken from the National Planning Standards definition. Whilst this currently differs from the definition in the Regional Plan: Water for Otago, that will also be updated to the National Planning Standards definition in due course.</p>
<p>Earthworks means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock).</p>	<p>The term 'earthworks' has been added because the existing term 'excavation' referred to holes and cavities only and did not capture the issue of the removal of a significant amount of topsoil being allowed without requiring authorisation. The term 'excavation' is included in the definition as a type of earthworks, and defined separately due to use in a clause 3.2(i) relating to excavation-sensitive areas.</p> <p>This definition for 'earthworks' has been taken mainly from the National Planning Standards (to allow consistency with other regulatory documents), however the final part of the National Planning Standards definition ('...but excludes gardening, cultivation, and disturbance of land for the installation of fence posts') has not been included. The reason for this is that</p>

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	<p>gardening, cultivation and disturbance of land for fenceposts is not appropriate in many of the areas where earthworks are restricted under this bylaw (e.g., floodbanks).</p> <p>The use of the term and definition of 'cultivation' has been used specifically in the Bylaw where cultivation is considered to be appropriate.</p>
<p>Excavation means the removal of material, which results in a hole or cavity.</p>	<p>This definition remains unchanged from the 2012 Bylaw. It has been retained for use in clause 3.2(i) relating to 'excavation-sensitive areas'.</p>
<p>Excavation-sensitive areas means any excavation-sensitive area shown in the Second Schedule.</p>	<p>This definition remains unchanged from the 2012 Bylaw.</p>
<p>Flood protection works include <u>scheduled drains, overland flow paths, defences against water, floodways, groynes, cross-banks, training lines and flood protection vegetation, anchored tree protection and plantings.</u></p>	<p>This definition has been amended to include the terms 'scheduled drains' which replaces 'drains', 'training lines' to cover the newly added Shotover Training Line and 'flood protection vegetation' which replaces 'Anchored Tree Protection' and 'Plantings'.</p>
<p>Flood protection vegetation means <u>all trees and shrubs, including those deliberately planted, or self-seeded, owned or controlled by Council for flood or erosion protection purposes occurring between the 'Flood protection vegetation' lines in the Fourth Schedule. Where only one 'flood protection vegetation' line is shown, the area of vegetation to be managed for flood protection will be the area between the line and the adjacent edge of the active channel in the Fourth Schedule.</u></p>	<p>This definition has been added and replaces both 'Anchored Tree Protection' and 'Plantings'. This has been done to use the same terminology as Environment Canterbury for clarity to Bylaw users because the flood protection vegetation in the Waitaki River area crosses the Otago Regional Council and Environment Canterbury boundary and it is not sensible to have different definitions or provisions for them.</p>
<p>Floodway means any floodway shown in the Third Schedule.</p>	<p>This definition remains unchanged from the 2012 Bylaw.</p>
<p>Groynes means any groyne shown in the Fourth Schedule.</p>	<p>This definition remains unchanged from the 2012 Bylaw.</p>
<p>Overland flow path means <u>any overland flow path shown in the First Schedule.</u></p>	<p>This definition remains unchanged from the 2012 Bylaw</p>
<p>Occupier in relation to any property, means the <u>lawfully authorised inhabitant occupier of that property and persons who have legal right to undertake activities on that property</u></p>	<p>This definition has been amended to better align with the legal definitions of 'occupier' that are found in the Resource Management Act 1991 and the Trespass Act 1980.</p>
<p>Owner in relation to any property, means the person entitled to receive the rack rent thereof, or</p>	<p>This definition remains unchanged from the 2012 Bylaw.</p>

Memorandum

who would be so entitled if the property were let to a tenant at a rack rent.	
Plantings means any planting shown in the Fourth Schedule.	This definition has been deleted and both 'Anchored Tree Protection' and 'Plantings' are now referred to as 'Flood protection vegetation'.
River means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse.	This definition has been added because scheduled drains comprise both drains and rivers as defined under the Resource Management Act 1991, so whilst they are referred to as drains for their drainage purposes, they are technically rivers and this should be acknowledged and made clear to readers. Accordingly, other legislation (e.g. Regional Plan: Water for Otago and the National Environmental Standards for Freshwater) may also apply.
Scheduled drain means any drain or river shown in the First Schedule.	This definition has been added to provide clarity between drains and scheduled drains, to acknowledge some scheduled drains are rivers, to avoid the use of the term 'ditches' and to align with the terms used in the Bylaw maps.
Structure includes any building, crossing, equipment, device or other facility made by people and which is fixed to land; and includes any raft (and also includes, but is not limited to, any driveway, fence, gate, line or cable and any culvert, pipe, or other kind of conduit) but does not include any lines or cables to be carried upon existing bridges or utility support structures authorised in accordance with this Bylaw.	'Driveway' has explicitly been added to this definition. Driveways have always been considered to be included in the definition, but as Council have received numerous enquiries on this matter, 'driveway' has been added in to provide clarity.
Training line means any training line shown in the Fourth Schedule	This definition has been added to cover the Shotover Training Line which has been added to the assets to be protected by the Bylaw.

3 Activities requiring Bylaw Authority

A statement has been added saying, 'Nothing in this Bylaw applies to Council employees or persons authorised by Council undertaking maintenance or emergency works on those flood protection works subject to the Bylaw'.

This has been added to allow Council to undertake maintenance and emergency works on the flood protection works without requiring a Bylaw authority. This is considered to be appropriate because Council are responsible for the ongoing operation and integrity of the flood protection works, and ultimately responsible for ensuring the works do not fail.

Memorandum

The current process by which Council have to obtain authorities for even the smallest of works (e.g. fixing rabbit holes and stock damage in a floodbank) is proving to be detrimental to the speed and cost at which standard maintenance works are able to be completed. It is in Council's best interests that any works are undertaken in a responsible manner.

3.1 Section 3.1 Scheduled Drains and Overland Flow Paths

- The term 'drain' in this section has been changed to 'scheduled drain' to align with the definitions and the Bylaw maps.
- Clause 3.1(c) has been amended include 'allow to grow' as well as 'planting' to protect the operation and integrity of the drains and overland flow paths (plants can block water flows and cause floodwaters to back up). The Council do not want plants growing, regardless of whether they have been explicitly planted or rather just 'allowed to grow' (e.g. self-seeding plants).
- Clause 3.1(c) has been amended to extend to 'shrub, hedge or part thereof', as well as a 'tree' which was already included. A shrub or a hedge has the same potential as a tree to block water flows and cause floodwaters to back up.

3.2 Section 3.2 Defences Against Water and Excavation-Sensitive Areas

- Clause 3.2(c) has also been amended include 'allow to grow' as well as planting to protect the operation and integrity of the defences against water (plants, including their roots, can damage or weaken defences against water). The Council do not want plants growing, regardless of whether they have been explicitly planted or rather just 'allowed to grow' (e.g. self-seeding trees).
- Clause 3.2(c) has also been amended to extend to 'shrub, hedge or part thereof', as well as a 'tree' which was already included. A shrub or a hedge has the same potential as a tree to weaken or damage defences against water.
- A new clause has been added (new clause 3.2(d)) so that Council controls the removal of trees as well as planting to protect the operation and integrity of the defences against water:
 - This clause restricts the cutting down or removal of trees located on any defence against water, within 7m of the landward side of any defence against water, or between the bank of any river and an associated defence against water.
 - The removal of trees can adversely affect the flood protection works, for example, removal of trees can change flow paths and removal of root balls can result in holes susceptible to erosion and scour.
- Clause 3.2(f) has been amended to include requiring that no person shall remove or alter any structure between the bank of any river and associated defence against water. It was not clear why this had previously not been included and possibly it was an oversight. However, the ability to manage removal or alteration of structures between the bank of a river and the associated defence against water is paramount to ensuring the operation and integrity of the flood protection works because they can block or divert the flow of water.
- The term 'authorised' has been added to clause 3.2(g) make it clear that it is only legally authorised accesses that can continue to be maintained under this provision.
- Clause 3.2(i) has been changed to refer to the term 'earthworks' instead of 'excavation'. As described in the definitions section, the term 'earthworks' has been added due to concerns that the previously used term 'excavation' referred only to holes / cavities and did not capture the issue of the removal of a significant amount of topsoil.

Memorandum

- Council have previously received legal advice that clause 3.2(i)(ii) was worded in a way that was difficult to enforce. This is understood to be because it was unclear whether the clause meant that the ground surface could only be lowered to 300mm at any time (understood to be the intended restriction) or that the ground could be lowered by more than 300mm as long as the final ground surface was no more than 300mm below existing (e.g., a hole of 1.5m could be dug and then backfilled up to 300mm below ground level and comply with the rule). The allowance for 'cultivation' is considered to be very similar to that which would have previously been authorised under the intended interpretation of the rule that some soil disturbance within this area to shallow depths is appropriate given that such an activity could be part of normal farming operations.
- Additional clarification has been added to clause 3.2(i)(iv) in that this provision is triggered only if the earthworks involve excavation. This has been done so that it provides the same level of protection as the 2012 Bylaw and does not place unnecessary restrictions on landowners. These specific areas are sensitive to excavation and not necessarily other earthworks (unless other clauses are triggered due to their proximity to other assets).

3.3 Section 3.3 Floodways

- Clause 3.3(c) has also been amended to include 'allow to grow' as well as planting to protect the operation and integrity of the floodways (plants can block or divert water flows and cause floodwaters to back up). The Council do not want plants growing in floodways, regardless of whether they have been explicitly planted or rather just 'allowed to grow' (e.g. self-seeding trees).
- Clause 3.3(c) has also been amended to extend to shrub, hedge or part thereof, as well as tree which was already included. A shrub or a hedge has the same potential as a tree to weaken floodways by blocking or diverting water flows and causing floodwaters to back up.
- Clause 3.3(e) has been amended to refer to 'drains' instead of 'ditches', as per the amended definitions to use the correct terminology and to be consistent with other documents.
- The term 'authorised' has been added to clause 3.3(e) make it clear that it is only legally authorised accesses that can continue to be maintained under this provision.
- Clause 3.3(g) has been amended to refer to 'earthworks', as per the amended definition and for the reasons outlined in the definitions section (relating to the previously used term 'excavation' not providing sufficient protection).
- Clause 3.3(g) has been amended to refer to 'drains' instead of 'ditches', as per the amended definitions to use the correct term and to be consistent with other documents.

3.4 Section 3.4 Groynes, Cross-banks and Training Lines

- The heading of Section 3.4 has been changed to refer to "Groynes, Cross-banks and Training Lines", with 'anchored tree protection' deleted in accordance with other changes (anchored tree protection is now included within the definition of 'flood protection vegetation and addressed in section 3.5).
- The reference to 'Lower Waitaki' in the title has also been removed as this chapter now relates to assets in the Lower Waitaki and Shotover areas.
- Reference to a 'training line' have been added to all section, so that the Shotover Training Line receives the same level of protection as the Lower Waitaki River groynes and cross banks.
- All references to 'anchored tree protection' within this section have been removed for the reasons described above.

Memorandum

- Clause 3.4(c) has also been amended include 'allow to grow' as well as planting to protect the operation and integrity of the groynes, cross-banks and training lines (plants can block or divert water flows, and plant roots can damage structures). The Council do not want unauthorised plants growing on or near groynes, cross-banks or training lines, regardless of whether they have been explicitly planted or rather just 'allowed to grow' (e.g. self-seeding trees).
- Clause 3.4(c) has also been amended to extend to shrub, hedge or part thereof, as well as tree which was already included. A shrub or a hedge has the same potential as a tree to weaken groynes, cross-banks or training lines (plants can block or divert water flows, and plant roots can damage structures).
- The term 'authorised' has been added to clause 3.4(f) make it clear that it is only legally authorised accesses that can continue to be maintained under this provision.
- Clause 3.4(g) has been changed to refer to the term 'earthworks' instead of 'excavation'. As described in the definitions section, the term 'earthworks' has been added due to concerns that the previously used term 'excavation' referred only to holes / cavities and did not capture the issue of the removal of a significant amount of topsoil.
- Council have previously received legal advice that clause 3.4(g)(ii) was worded in a way that was difficult to enforce. This is understood to be because it was unclear whether the clause meant that the ground surface could only be lowered to 300mm at any time (understood to be the intended restriction) or that the ground could be lowered by more than 300mm as long as the final ground surface was no more than 300mm below existing (e.g., a hole of 1.5m could be dug and then backfilled up to 300mm below ground level and comply with the rule). The allowance for 'cultivation' is considered to be very similar to that which would have previously been authorised under the intended interpretation of the rule that some soil disturbance within this area to shallow depths is appropriate given that such an activity could be part of normal farming operations.

3.5 Section 3.5, Flood Protection Vegetation

- Section 3.5 has been amended to refer to 'flood protection vegetation' rather than 'plantings', and now also includes what were previously referred to as 'anchored tree protection' and protected in section 3.4. As described in the definitions section, this term has been used to provide consistency with the Environment Canterbury provisions (which refer to 'flood protection vegetation') because the flood protection vegetation in this area crosses the regional council boundary.
- The reference to 'Lower Waitaki' in the title has also been removed as this chapter now relates to assets in the Lower Waitaki and Shotover areas.
- Clause 3.5(b) has been amended to ensure consistency with the wording in the other sections of the Bylaw. As described above, to protect their operation and integrity the Council do not want plants of the sizes of trees, shrubs or hedges growing within the flood protection vegetation.
- Clause 3.5(c) has been added to ensure that stock do not damage the flood protection vegetation, and also to ensure consistency with the Environment Canterbury Bylaw (because the flood protection vegetation in the Lower Waitaki area crosses the regional council boundary).
- A note has been added at the bottom of this section to re-iterate where the flood protection vegetation is located. This aligns with the approach taken in the Environment Canterbury Bylaw

Memorandum

4 Activities required to be undertaken

- In clause 4.3, the term 'drain' in this section has been changed to 'scheduled drain' to align with the definitions and the Bylaw maps.

5 Applying for an Authority

- The assessment criteria in clause 5.1(b) have been expanded upon to provide more context as to what the assessments entail. The 'duration of the authority' has been added as an assessment criterion to make it clear that it is within the Council's jurisdiction to determine the duration that the authority is valid for.
- Clause 5.1(c) has been added which requires that, should council refuse an application, the reasons for this are done in writing. This is to provide transparency in the process.
- Clause 5.3, which outlines an objections process, has been added. This is to provide transparency and timeframes around the objections process.

6 Compliance and enforcement

- Clause 6.1(b) has been expanded to provide greater transparency to the revocation process. Previously, only written notice to the authority holder of the authority's intention to revoke the authority and an opportunity to make a written submission within 14 days of receiving that letter, were outlined in the Bylaw. Additional steps require that the reason for the breach is explicitly outlined, and the authority holder is provided with an opportunity to remedy the breach or failure within a reasonable timeframe.
- Clause 6.1(c) has been added and provides for the Council to grant further time sought for the remedy of the breach, accept the submission (as the case may be) or revoke the authority.
- Clause 6.1(d) and 6.1(e) have also been added which are to allow Council to revoke an authority immediately if the efficacy or effectiveness of the flood protection works are compromised or in the event of a pending or current flood event.

7 Schedules and Appendices

- The First Schedule has been amended to refer to 'scheduled drains' instead of 'drains'.
- An addition has been made to the Second Schedule to reference the Albert Town defences against water. This is to be subject to the provisions of section 3.2 (defences against water).
- The Fourth Schedule has been amended to refer to 'training lines' to cover the addition of the Shotover Training Line to the Fourth Schedule maps and 'flood protection vegetation' instead of 'anchored tree protection' and 'plantings'. The Shotover training line is to be subject to the provisions of section 3.4 and flood protection vegetation is to be subject to section 3.5
- Appendix One, has been added and includes diagrams of a scheduled drain and an overland flow path (see Figure 1) and floodbank and rock buttress defences against water (see Figures 2 and 3). These diagrams have been provided for illustrative purposes only and are not to scale.
- The Bylaw application form now refers throughout to 'authority' rather than 'approval' which aligns with the wording throughout the Bylaw.

Memorandum

- The Bylaw form has been updated to ensure all information required by the Council is requested in the forms. This has included the addition of:
 - Identification of the applicant (owner, occupier, agent on behalf)
 - Key contact details for the applicant
 - Key contact details for the consultant (if applicable)
 - Legal description and location co-ordinates for the property to which the application relates
 - The assessment criteria
 - Proposed start and end date of the works
 - A note stating that it is the applicant's responsibility to ensure they have all other required permissions (e.g. resource consents, Department of Conservation or Heritage New Zealand Pouhere Taonga approvals).



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7.3. Bus and Ferry Fares

Prepared for: Council
Report No. OPS2212
Activity: Transport: Public Passenger Transport
Author: Garry Maloney, Principal Advisor – Transport Planning
Endorsed by: Gavin Palmer, General Manager Operations
Date: 23 March 2022

PURPOSE

- [1] This paper seeks a decision from Council on whether or not to implement between April and June 2022, central government’s half-priced public transport fare initiative.

EXECUTIVE SUMMARY

- [2] On Monday, 14 March 2022, the Prime Minister announced as part of a package to reduce the impact of high fuel prices on the country, that *“all public transport fares will be half price for the next three months”* (1 April to 30 June 2022) to make public transport more affordable.
- [3] Subsequent clarification by Waka Kotahi New Zealand Transport Agency (WKNZTA) staff is that the setting of fares is the responsibility of local Public Transport Authorities (like ORC) and the intention is that this reduction comes at no cost to Council.
- [4] The current public transport fares are shown in Figure 1 (GST inclusive) and if Council agrees to implement central government’s initiative, the fares would be half those shown.

Dunedin Bus Fares

	Bee Card		Cash
	Adult	Youth	All
All	\$2.00	\$1.20	\$3.00
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend		

Queenstown Bus Fares

	Bee Card		Cash	
Zones travelled	Adult	Youth	Adult	Youth
1	\$2.00	\$1.50	\$5.00	\$4.00
Airport			\$10.00	\$8.00
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend			

Queenstown Ferry Fares

	Single	Return	10-Trip Concession
All	\$10.00	\$15.00	\$50.00

Figure 1: Current Public Transport Fares (March 2022)

- [5] It is not clear at the time of preparing this paper if the proposed reduction also applies to the Total Mobility scheme.
- [6] Council has two options available to it. They are:
1. Option 1: reduce bus and ferry fares by 50%.
 2. Option 2: not reduce bus and ferry fares by 50% (that is, retain the status quo).
- [7] Staff recommend Option 1. This will mean the bus and ferry fares will be halved.
- [8] To manage capacity and financial risks however, staff also recommend that if half fares are implemented it is under the constraints of the current vehicle/vessel fleets. That is, Council will not attempt to introduce extra capacity in response to excess demand. That may mean some bus customers are left at stops to await the next service.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** reducing Dunedin and Queenstown bus and Queenstown ferry fares by 50% between 1 April and 30 June 2022.
- 3) **Approves** the implementation of the half fares within the constraints of the current vehicle/vessel fleets (that is, Council will not introduce extra capacity to meet excess demand).

BACKGROUND

- [9] On Monday, 14 March 2022, the Prime Minister announced as part of a package to reduce the impact of high fuel prices on the country, that *“all public transport fares will be half price for the next three months”* (1 April to 30 June 2022) to make public transport more affordable.
- [10] Following the Prime Minister’s public announcement, Waka Kotahi staff advised public transport authorities by e-mail that:
“As you have likely seen this afternoon the Government announced that public transport fares would be reduced by 50% for a three month period ...
- The announcement noted that the setting of fares is the responsibility of local Public Transport Authorities, but that they are hopeful that every region will take up this option. The start date has been suggested to be 1 April 2022.*
- Details of the exact processes around how the increased subsidy will be applied are still to be worked through”* (e-mail from E Wright, WKNZTA, March 14, 2022).
- [11] It is not clear at the time of preparing this paper if the proposed reduction applies to the Total Mobility scheme.
- [12] Fares are set by public transport authorities like ORC, not by the government or Waka Kotahi.

- [13] If Council chooses, the initiative will apply to Council’s contracted public transport services – Dunedin and Queenstown urban bus services and the Queenstown ferry service.
- [14] The current fares are shown in Figure 1 (GST inclusive):

Dunedin Bus Fares

Bee Card			Cash
	Adult	Youth	All
All	\$2.00	\$1.20	\$3.00
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend		

Queenstown Bus Fares

Bee Card			Cash	
Zones travelled	Adult	Youth	Adult	Youth
1	\$2.00	\$1.50	\$5.00	\$4.00
Airport			\$10.00	\$8.00
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend			

Queenstown Ferry Fares

	Single	Return	10-Trip Concession
All	\$10.00	\$15.00	\$50.00

Figure 1: Current Public Transport Fares (March 2022)

- [15] It must be remembered that the Dunedin bus fares that applied before the Covid-19 pandemic were (see Figure 2):
- [16] The Queenstown bus fares applying prior to the Covid-19 pandemic are the same as shown in Figure 1.

Dunedin Bus Fares - pre-Covid-19 pandemic

Go Card				Cash	
Zones travelled	Adult	Child	Tertiary student / other concessions	Adult	Child
1	\$1.92	\$1.15	\$1.72	\$2.60	\$1.60
2	\$2.53	\$1.52	\$2.28	\$3.40	\$2.10
3	\$4.44	\$2.66	\$4.00	\$6.00	\$3.60
4	\$7.58	\$4.55	\$6.82	\$10.20	\$6.10
5	\$11.41	\$6.85	\$10.27	\$15.30	\$9.20
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend				

Figure 2: Pre-Covid-19 Pandemic Dunedin Bus Fares

DISCUSSION

[17] Making the current fares half-price (that is, reducing them by 50%) would mean the following will be charged to customers (see Figure 3).

Dunedin Bus Fares - 50% reduction

Bee Card		Cash
Adult	Youth	All
All	\$1.00	\$0.60
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend	

Queenstown Bus Fares - 50% reduction

Bee Card			Cash	
Zones travelled	Adult	Youth	Adult	Youth
1	\$1.00	\$0.75	\$2.50	\$2.00
Airport			\$5.00	\$4.00
SuperGold Card	Free weekday 9:00 am - 3:00 pm, after 6:30 pm; all weekend			

Queenstown Ferry Fares - 50% reduction

	Single	Return	10-Trip Concession
All	\$5.00	\$7.50	\$25.00

Figure 3: Half-Priced Fares

[18] Matters to note are:

- Based on past experience when fuel prices rose significantly, those prices will be encouraging those willing to change to public transport to do so without fares being lowered;
- There are a range of reasons why people do not use public transport (for example, it may be more convenient for a parent to drop their child at day-care, or a student at school on their way to work) – reducing public transport fares is unlikely to change that behaviour;
- Based on accepted elasticities, it is estimated that a 50% fare reduction will generate about an additional 18% in patronage – it is likely that a significant part of this patronage will be induced travel as opposed to the diversion of motorists to public transport;
- Results from surveying customers of the Dunedin bus service both before and after the Dunedin \$2 fare change showed that:
 - before the Covid-19 pandemic and based on zones – 82.3% of respondents were satisfied that their fare offered value for money; and
 - during the Covid-19 pandemic and based on a \$2 flat fare - 93.9% of respondents were satisfied that their fare offered value for money;
- As reported to the 9 March 2022 meeting of the Data and Information Committee, 2021-22 year-to-date patronage in Dunedin is 17% lower than the corresponding

2020/21 period, largely due to the impacts of COVID-19 restrictions through August and September 2021 (it is similar for November to January). That said, Dunedin bus patronage has held up particularly well during the pandemic unlike most other New Zealand centres;

- From the same Committee meeting, Queenstown public transport patronage is lower by 16% overall, compared to 2020/21;
- As reported to the 9 March 2022 meeting of the Implementation Committee, providing for school bus services in Dunedin at the start of the year has utilised the spare vehicles available and *“the Covid-19 pandemic has worsened the issue of driver availability”*. Council has approved a plan for staged scaling back of services to match driver availability as the pandemic worsens. Anything that increases patronage at this time will likely cause that staged reduction in services to be implemented sooner.
- Implementing a fare reduction will require the Bee Card system to be changed to recognise the new fares before they can be implemented. As Council is one of nine partners in the Bee Card ticketing system consortium, all nine Councils may be requiring the supplier to amend their ticketing structure at the same time for a 1 April 2022 implementation date (ten Councils if ECAN is counted as they have the same supplier), and then making further changes at the end of the 3-month period.

[19] In summary, half-priced public transport fares will require the Bee Card ticketing system to be updated before the new fares apply and are likely to result in increased patronage and in Dunedin at least, may require some additional vehicles to meet demand. Those vehicles are unlikely to be available and if they (and drivers) can be found, unlikely to be fitted with ticketing hardware (meaning they will free to customers using them).

OPTIONS

[20] Council has two options available to it. They are:

1. Option 1: reduce bus and ferry fares by 50%.
2. Option 2: not reduce bus and ferry fares by 50% (that is, retain the status quo).

[21] Staff recommend Option 1. This will mean the bus and ferry fares will be halved.

[22] To manage capacity and financial risks however, staff also recommend that if half fares are implemented it is under the constraints of the current vehicle/vessel fleets. That is, Council will not attempt to introduce extra capacity in response to excess demand. That may mean some customers are left at stops to await the next service.

[23] Implementing Option 1 will clearly reduce the cost to customers to use public transport – it will put more money in people’s pockets and/or enable them to travel twice as much as they currently pay to do.

[24] However, Council should note:

- Evidence shows that the current Dunedin and Queenstown bus fares are considered to be affordable by most. Council’s 2021 survey of bus passengers

showed that 93.9% of respondents in Dunedin were satisfied that their fare offered value for money and in Queenstown it was 89.1%.

- Members will recall that they agreed at the Implementation Committee meeting on 9 December 2022, to a bus service levels reduction if the Covid-19 pandemic worsens primarily to deliver service reliability to the community. Reducing fares will likely stimulate an increase in demand at a time when the ability to service that through vehicle and driver unavailability is challenging. This will result in customers being left at stops and customer dissatisfaction. To manage this risk, staff are recommending that Council be very clear with the community that it will not be introducing additional vehicles into service if demand exceeds capacity.

Based on current patronage, excess demand as a result of half fares is likely to be a Dunedin, but not Queenstown, bus issue. It may be a Queenstown ferry issue as well.

- Reducing fares further (ORC has already reduced these to \$2) will make it even more difficult for Council to revert, should it wish to do so, to the pre-\$2.00 situation. It will also likely translate to a drop in patronage at the time fares return to the current level.

CONSIDERATIONS

Strategic Framework and Policy Considerations – Long Term Plan

[25] *“The purpose of the Long-term Plan is to provide direction for Council decision making and set Council work programme priorities and detailed budgets for the first three years, in less detail to ten years and beyond” (page 4, 2021-31 ORC LTP).*

[26] Council’s 2021-31 Long Term Plan (LTP) contains a community outcome for sustainable, safe and inclusive transport. That means:

- *“People travel safely in Otago, on land and on water. Otago’s people transition away of fossil-fuel private cars, and increasingly choose to travel by bus, on foot or on a bike.*
- *Public transport is accessible, and offers a sustainable, safe and inclusive means of transport.”*

[27] Council will measure delivery of outcome above by a range of performance measures, one of which is to annually increase Dunedin public transport boarding’s per capita.

Strategic Framework and Policy Considerations – Regional Public Transport Plan

[28] The new Regional Public Transport Plan (RPTP) seeks to:

- Contribute to carbon reduction (goals 2 and 8);
- Contribute to social and economic prosperity (goals 6 and 7);
- Retain and attract new customers that are highly satisfied with the service (goal 2); and

- Deliver affordable fares (goals 1, 3, 4, 6 and 7).

[29] The RPTP addresses the matter of fares in section 5.5. The policies in this section give effect to the Objective of:

- *“deliver fares that are affordable for both users and communities.”*

[30] In summary, key themes running through the RPTP policy are that fares should be affordable for users and the resulting net cost of services to the wider community; they should be simple, consistent and reward frequent use.

Financial Considerations

[31] Implementing Option 1 within the constraints of the current contracted bus fleets in Dunedin and Queenstown should not have a further (in addition to the current \$2.00 fare in Dunedin) financial impact on Council.

[32] The WKNZTA has indicated that *“the intention is that this reduction comes at no cost to Council, with the cost of fares and actual implementation costs (ie, changes to RITS) covered by the Crown”* (e-mail communication from D Myers, Manager Public Transport, WKNZTA, 16 March 2022).

[33] Taken at face-value, implementing Option 1 (half-price fares) should not cost Council (and its ratepayers) anything. However, it cannot be ruled out that there may be some unforeseen and unbudgeted cost that it may have to bear. If that does eventuate, it should be a small cost, but as outlined above, the intention is that this initiative comes at no cost to Council.

Significance and Engagement

[34] The LTP and RPTP were consulted on in accordance with the consultation principles set out in the Local Government Act 2002.

[35] There is no requirement in the RPTP to consult on bus fare changes.

Legislative and Risk Considerations

[36] There are no legislative considerations for Council relating to the recommendations in this report. However, there is a reputational risk in agreeing to Option 1, as even with the best messaging, it is likely there will be some customer dissatisfaction if demand exceeds capacity.

Climate Change Considerations

[37] Implementing Option 1 is consistent with Council’s RPTP in regard to carbon reduction.

Communications Considerations

[38] Following Council decisions on this matter there will need to be communications released to the community, Council’s local government partners and WKNZTA.

[39] Should Council agree to Option 1, it will be necessary to clearly communicate with all the conditions under which the half fares will be implemented (that is, within the constraints of the current vehicle/vessel fleets).

NEXT STEPS

[40] The next step is to communicate Council’s decision.

- [41] Should Council adopt Option 1, Council staff will need to arrange for changes to be made to the ticketing system and negotiate with two of its three contractors to collect a reduced fare.

ATTACHMENTS

Nil

7.4. National Environmental Standards Drinking Water (NESDW) Submission

Prepared for: Council
Report No. SPS2210
Activity: Governance Report
Author: Anita Dawe, Manager Policy and Planning
Warren Hanley Senior Resource Planner - Liaison
Endorsed by: Gwyneth Elsum, General Manager Strategy, Policy and Science
Date: 23 March 2022

PURPOSE

- [1] To provide Council with a copy of the ORC submission lodged with the Ministry for the Environment (MfE) on *'Improving the protection of drinking-water sources: Proposed amendments to the Resource management (National Environmental standards for sources of Human Drinking Water) Regulation 2007: Consultation document'*

EXECUTIVE SUMMARY

- [2] The current National Environmental Standards for Sources of Human Drinking Water (2007) (NESDW) has had significant implementation challenges which has prevented achieving its purpose of providing a robust framework to ensure New Zealand's source of drinking water are protected for our health and safety.
- [3] ORC is supportive of the proposal to amend the NESDW to better provide clarity and certainty, to enable the NESDW to achieve this purpose. However, on reviewing the proposed amendments, ORC governance and staff identified a range of matters, some fundamental, that would need to be addressed by MfE to successfully implement an improved NESDW.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Notes** the attached submission, that was lodged with the MfE on 4 March 2022 and signed off under staff delegation.

BACKGROUND

- [4] In 2016, New Zealand experienced a significant health incident when a gastroenteritis outbreak occurred in the town of Havelock North, leading to widespread illness and four deaths.
- [5] The source of the outbreak was attributed to *Campylobacter* contamination in the town's drinking water source, likely resulting from animal waste entering via a bore head.

- [6] Concerned a similar breach could be repeated elsewhere in New Zealand, Central Government commissioned a review of the Three Waters (Potable Supply, Wastewater, and Storm water) regulatory system, which includes the NESDW.
- [7] The review highlighted issues with the NESDW, including:
- Its complexity
 - Interpreting its provisions
 - Implementation challenges
 - Not covering enough activities of risk to drinking water sources; and
 - Not provide protecting for water supplies serving less than 500 people
- [8] These issues were considered to contribute to significant weakness in New Zealand's approach to protecting drinking water sources. In addition to the proposed amendments to address the NESDW issues, a complementary suite of new national regulatory instruments have been introduced for wider management of freshwater, all which will assist with protecting drinking water sources. These new instruments include:
- National Policy Statement for Freshwater Management 2020
 - National Environmental Standard for Freshwater 2020
 - Stock Exclusion Regulations 2020

DISCUSSION

- [9] Management, and protection of, drinking water sources is an important and complex responsibility. Drinking water sources can draw from either surface or groundwater sources – which are technically complex environments to understand and manage. In addition, activities in the wider environment can impact the quality of these sources.
- [10] Through the current Regional Plan: Water (RPW), ORC recognises and provides for the taking and use of water for potable supply. In terms of protection of potable supplies, along with the current NESDW direction, ORC approaches this by:
- Identifying in Schedule 1B water takes from lakes and rivers for public water supply purposes, and Schedule 3B groundwater takes for community water supplies – the policy and rule framework of the RPW gives specific direction for the consideration, and protection, of these supplies in managing other activities (such as discharges); and
 - Identifying previously unknown wells/bores when observed by staff (or when volunteered by landowners), including the status of their use and condition where possible, and recording this on ORC's GIS database; and
 - Requiring appropriate separation distances of a range of activities from wells/bores; and
 - A compliance inspection of newly consented bores to ensure they are properly installed. Bore condition is then audited every 2-3 years thereafter.
- [11] To date, these approaches, along with the NESDW framework, have provided a level of protection for drinking water.
- [12] In reviewing the proposed NESDW amendments, ORC supports, in principle, the need for a strengthened NESDW so that it protects more water supplies from a greater range of activities. Staff have identified several technical issues that, if resolved, would assist with improved implementation and protection.

- [13] The primary concerns of staff were:
- Uncertainty as to how using travel time of contaminants within lakes, rivers or groundwater could be practically implemented and determined
 - Scale and practicality of setting proposed Source Water Risk Management Areas (SWRMAs) 2 and 3 in Otago, particularly due to our large rivers and lakes
- [14] ORC staff presented an overview of the NESDW consultation to ORC Councillors and our iwi partners at a workshop on 22 February 2022. Councillors similarly supported the intent of the proposed amendments and raised several concerns.
- [15] The primary concerns raised by Councillors were:
- Significant underestimation by Government of the likely cost to authorities to implement the amendments as proposed, and that these would be unbudgeted for ORC
 - Uncertainty whether the amendments would be retrospective and how restrictions within Source Water Risk Management Areas (SWRMAs) might impact existing, legal activities
 - Scope of impact and costs on landowners if subsurface bores to be prohibited, particularly if this was to be retrospective
- [16] The concerns of Councillors and staff were represented in the ORC submission, attached as Appendix 1 to this report.
- [17] ORC's submission requested the MfE consider running a government funded pilot trial of the amended NESDW, once finalised, and that ORC would be willing to be the pilot subject.

OPTIONS

- [18] There are no options to present to Council, as the submission has been lodged.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [19] ORC submission addressed our Strategic Directions for the Council, and that our principled support for amending the NESDW aligns with our vision for Otago that our communities have a sustainable way of life and an environment that supports healthy people and ecosystems.
- [20] Our submission demonstrates that ORC will take a leadership role on important issues that will impact Otago, and that our concerns, and suggested solutions promote enabling healthy water.
- [21] Once finalised, the NESDW amendments will need to be given effect to by ORC, particularly through its Land and Water Regional Plan (LWRP) which is in development. Ideally, the NESDW changes will have been adopted sufficiently ahead of the notification of the LWRP so they are sufficiently incorporated.

Financial Considerations

- [22] As raised in ORC's submission, the NESDW amendments as proposed have the potential to add significant costs to ORC's operation. These costs are both uncertain, and unbudgeted.

Significance and Engagement Considerations

[23] ORC's submission process is consistent with ORC's significance and engagement policy.

Legislative and Risk Considerations

[24] The proposals are for amendments to an existing NES which ORC gives effect to.

[25] ORC has submitted on the proposed changes to the NES given the significant impact they could have on the community, and ORC work programmes.

Climate Change Considerations

[26] In terms of the scope of the proposed amendments, there are no climate change considerations of relevance.

Communications Considerations

[27] ORC communications team will be kept advised of any developments in the consultation process that may require external communication.

NEXT STEPS

[28] ORC staff will report back to Council on any significant progress of the consultation, including any specific dialogue by the MfE with ORC as a result of ORC's submission and requests.

ATTACHMENTS

1. ORC submission on amendments to NES-DW appendix 1 answers to consultation questions [7.4.1 - 12 pages]
2. ORC submission on proposed amendments to NES-DW [7.4.2 - 5 pages]



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
Questions: the default method for delineating SWRMA		
<p>1. Domestic and international evidence suggests that delineating three at-risk areas is a good approach for protecting sources of drinking water. Do you think this is a good approach for protecting our source waters</p>		<ul style="list-style-type: none"> As a default, defined areas will make enforcement easier to undertake. However due to the very changeable nature of rivers, enforcement using flows measured by distance over time will be challenging. There should be greater flexibility as the characteristics of rivers and lakes can vary such that the default of 3 SWRMA may be either insufficient or too onerous. It is not clear what 'drinking water quality protection level' is to be achieved under a Source Water Risk Management Area (SWRMA), nor how objective testing can support the implementation of the SWRMA. Without clarity on a protection level to be achieved, the distances and times are arbitrary and unable to be reasonably replaced by alternatives with the same or more stringent effect.
	<p><i>What other approach can you think of that could contribute to protecting our drinking water sources?</i></p>	<ul style="list-style-type: none"> An NES for activities that can pose a high risk to drinking water sources e.g. domestic wastewater discharges. There would need to be a balance between those activities that can be effectively managed by a national level regulation and those that would be best managed at a regional level for reasons such as variables that may differ from region to region and require different management approaches.
	<p><i>Do you think that three areas (and therefore levels of control) are sufficient to protect our drinking water sources?</i></p>	<ul style="list-style-type: none"> Yes, but in combination with Plan Rules and Resource Consents and the ability to have flexibility on the number of areas where warranted.
<p>2. In your view, is the method to determine each SWRMA, for each type of water body, the best option? – Should other factors be considered in determining size?</p>		<ul style="list-style-type: none"> A set distance may provide more certainty and protection than a 'travel time' of water over a distance. E.g What is "catchment"? including the entire Clutha River/Mata-au catchment for a Balclutha water take would be unnecessarily onerous.
	<p><i>– What challenges can you foresee in delineating SWRMAs?</i></p>	<ul style="list-style-type: none"> For groundwater – aquifer heterogeneity in geology & hydraulic gradient, and that with so many aquifers over a large region, and the expense to investigate, we still have gaps in our data about aquifer parameters in many areas of Otago.



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Consultation Questions		ORC Response
		<ul style="list-style-type: none"> Rivers - due to the very changeable nature of rivers, enforcement using flows measured by distance over time will be challenging and time consuming. We also require clarity over whether ephemeral/intermittent water sources need accounted for, in defining lake SWMRA?
	<i>-Do you have any comments or feedback on the detail contained in the technical guidance materials?</i>	<ul style="list-style-type: none"> Overall, the guidance appears sound. However, it will require an increased number of technical resources/capabilities for many regional councils to apply. It is also unclear whether the access to the models used by the consultants in the guideline documents will be open and/or what the costs for these will be.
	<i>- Should SWRMA for all aquifers be bespoke so their unique features, depth and overall</i>	<ul style="list-style-type: none"> Otago has more than >40 identified aquifers and due to the challenges and complexities of understanding aquifer configurations, there are gaps in our data (e.g. their parameters) for many of them.
	3. For lakes, do you agree that SWRMA 2 should include the entire lake area? <i>- What might be an alternative approach?</i>	<ul style="list-style-type: none"> Not in all cases as there are some extremely large lakes in Otago by volume and area, and with high inflow/outflows. An alternative would be to put lakes into categories or require specific lakes to be identified as a SWRMA2.
	4. SWRMA 1 for lakes and rivers is proposed to extend 5 metres into land from the river/lake edge. This contrasts with 3 metre setback requirement of the Resource Management (Stock Exclusion) Regulations 2020. SWRMA 1 is proposed to be used as a basis for controlling activities close to source water intakes, and applies to a wide range of activities. Do you think these differing setbacks will cause confusion or result in other challenges?	<ul style="list-style-type: none"> Yes, ideally there should be consistency with the setbacks. Either setback requirement as arbitrary defaults are likely more effective in terms of enforcement rather than any certainty of protected or improved freshwater quality SWRMA1 setbacks should be sized accordingly to ensure an appropriate level of protection of registered drinking water supplies.
	5. There is evidence suggesting that a 10–30-metre radius around source water bores is	<ul style="list-style-type: none"> ORC's Regional Plan: Water uses a 50-meter default separation distance for managing a range of activities where there is a potential risk to water sources. ORC is concerned that the signal of the



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
<p><i>a preferable way to delineate the area where activities would be heavily restricted (SWRMA 1). However, a 5-metre radius is the most workable option for the location of intakes in New Zealand.</i></p>	<p>– Do you agree that a 5-metre radius around a source water bore gives enough protection? Why or why not?</p>	<p>NES-DW review is a preference for ‘workability’ over the goal of improved human health and source water body protection.</p> <ul style="list-style-type: none"> Managing risk to bore heads by a blanket minimum separation area may be ineffective within the limitations of the NES-DW. It won’t suit all situations, and within Otago a 5 m radius would be inconsistent with ORC’s Regional Plan: Water.
	<p>– If not, what alternative would you suggest?</p>	<ul style="list-style-type: none"> It may be more practical, and certain, for the NES-DW to require greater bore head security which may be achieved by a wider range of means than relying on only a default separation area.
	<p>6. While water takes from complex spring systems or wetlands may require a bespoke SWRMA to ensure consideration of any contamination pathways present, a default method is necessary to ensure interim protection. Do you think a default method is practicable in most situations?</p>	<p>– Do you think a regional council should determine (on a case-by-case basis) the most applicable default method for a river, lake or aquifer, or is a different default approach necessary?</p>
	<p>– If so, what alternative would you suggest?</p>	<p>No comment provided.</p>
<p>Questions: regional council mapping of SWRMAs</p>		
<p>7. How long do you think is necessary for regional councils to delineate SWRMAs for currently registered water supplies in each region using the default method?</p>		<ul style="list-style-type: none"> Time will greatly depend on: <ul style="list-style-type: none"> The quality of data about the water bodies including extent, directionality/flow (over long distances) and the location of take points Availability of resources (noting that these have not been budgeted) to undertake what are likely to be very complex assessments of this information It may be more efficient for the Ministry for the Environment/Taumata Arowai and regional councils to develop an agreed approach using national datasets (eg NIWA/MFE River data) and existing registered suppliers to start with to explore issues and come up with an acceptable solution via technical guidance.



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
		<ul style="list-style-type: none"> • Due to high growth areas within Otago, ORC will be frequently needing to add new suppliers to mapping. This raises issues of resourcing and regional plan implementation. • The exercise will also require confirming bores that need decommissioning. Otago has many old, unreported wells that ORC updates its records with as they are identified.
	<p>8. <i>What challenges do you foresee in delineating SWRMAs, when previously unregistered supplies are registered with Taumata Arowai (see Proposal 3 for more details)?</i></p>	<ul style="list-style-type: none"> • Significant high costs due to the potentially high number of unregistered suppliers that will require assessment to account for their activity in setting SWRMAs. • Given many water suppliers are likely to be concentrated in areas of readily available water sources, many will ultimately be located within the same SWRMAs, and won't each trigger a new or expanded SWRMA. • Resourcing (internal/external) to do this work. • Data gaps about location of users and aquifer parameters.
	<p>9. <i>What support could enable regional councils to delineate SWRMAs within shorter timeframes?</i></p>	<ul style="list-style-type: none"> • MfE and Taumata Arowai working with interested regional councils to develop an approach that is set out in guidance and is deemed acceptable as a first cut. E.g. as a model builder template, python script or FME workbench. • Using existing Regional Council bore numbers in the Taumata Arowai database of suppliers to prevent double ups/lost data. If the databases are linked it'll also facilitate that any changes to data can happen once (as the databases are linked). This will save resources, increase accuracy, and enable having "one source of truth".
	<p>10. <i>Do you think consideration should be given to mapping currently unregistered supplies as they register (but before the four-year deadline provided under the Water Services Act), or do you think that waiting and mapping them all at the same time is a better approach?</i></p>	<ul style="list-style-type: none"> • ORC believes adding these suppliers as they register, or in batches, is preferable to waiting to all are registered, which is uncertain. This will ensure protection is afforded to these newly registered suppliers which is the goal of the NES-DW.
<p>Question: the bespoke method for delineating SWRMAs</p>		



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
<p>11. If a regional council has already established local/regional source water protection zones through a consultative process, should there be provision to retain that existing protection zone as a bespoke method without further consultation or consideration against new national direction?</p>		<ul style="list-style-type: none"> No, an assessment against the NES should be required, but as noted is difficult as the 'metrics' of the NES protections are unclear
<p>Questions: SWRMA 1 controls</p>		
<p>12. Do you think national direction on activities within SWRMA 1 is necessary?</p>		<ul style="list-style-type: none"> Yes
	<p><i>If so, what activities should it address?</i></p>	<ul style="list-style-type: none"> Prohibited status for high-risk activities/discharges
	<p><i>– How restrictive should controls be in SWRMA 1, for resource users other than water suppliers?</i></p>	<ul style="list-style-type: none"> High level of restriction, but with specificity so it is clear and regional plan rules can align.
	<p><i>Are there any activities you believe should be fully prohibited in this area?</i></p>	<ul style="list-style-type: none"> Prohibited status for high-risk activities/discharges. The proposed amendments to the NES-DW appear to refer high risk such as drilling bores, earthworks but does not identify risks from septic tanks or other discharges to land.
	<p><i>Are there any activities you believe should be permitted or specifically provided for or acknowledged in this area?</i></p>	<ul style="list-style-type: none"> Flood mitigation, Defence against water, structures for access (short term effects) boardwalks, jetties, moorings recreational community projects.
<p>13. For water suppliers, are there any other activities beyond intake maintenance/management that should be provided for?</p>		<ul style="list-style-type: none"> Backflows, filter backwash, pipework, storage tanks



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 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
<p>14. <i>In and around freshwater, control of pest species (including aquatic pest species) may be necessary, including through physical control (removal, that may include bed disturbance) or chemical control (discharge).</i></p>	<p>– How much of an issue is this in and around abstraction points?</p>	<ul style="list-style-type: none"> It will depend on the location, as many of these are permitted activities in ORC’s Regional Plan: Water (and Air).
	<p>How critical is that work?</p>	<ul style="list-style-type: none"> This is critical as spraying is used to keep water intakes clear of pest plants.
	<p>– How often is this work mandated by other regulation or requirements?</p>	<ul style="list-style-type: none"> This is unknown as it is a permitted activity.
	<p>How frequently is this work undertaken by parties other than the drinking-water supplier (or their contractors)?</p>	<ul style="list-style-type: none"> This is unknown as it is a permitted activity however ORC staff are aware that after spraying, drinking water supplies are shut down for 24 hours.
<p>Questions: SWRMA 2 controls</p>		
<p>15. <i>Do you think national direction on activities within SWRMA 2 is necessary?</i></p>		<ul style="list-style-type: none"> In some areas of Otago, SWRMA 2 will be a huge area, e.g. a significant part of the QLDC area could be in the whole SWRMA 2 area. ORC considers national direction may be more appropriate to limit to SWRMA1 areas.
	<p>If so, what activities should it address?</p>	<ul style="list-style-type: none"> We would prefer SWRMA2 are set by regional authorities.
<p>16. <i>In your view, how much will this proposal impact the current situation in your region?</i></p>		<ul style="list-style-type: none"> Depending on the SWRMA size it could have a large impact. Several types of discharges to water are currently permitted. ORC already considers water supplies when assessing consent applications.
	<p>What discharges to water are currently permitted?</p>	<ul style="list-style-type: none"> Stormwater discharges, water to water discharges, etc as outlined in Chapter 12 of the ORC’s Regional Plan: Water



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
	Should provision be made to continue to permit those activities? What controls are typically used to ensure potential adverse effects are managed?	<ul style="list-style-type: none"> • ORC is conscious of the potential to create unreasonable reverse sensitivity impacts on existing, legal activities within SWRMA. This risk needs to be carefully managed by the NES-DW.
17.	<i>Are there any other activities that should not be permitted within SWRMA 2?</i>	<ul style="list-style-type: none"> • Due to the large area of SWRMA 2, and the many variables that need to be considered on a case-by-case basis, it would be best if activities are regulated by regional plan rules.
18.	<i>The original intent of SWRMA 2 was to manage microbial contamination. However, there are indications that protections against other contaminants may be required. What contaminants do you think should be controlled in SWRMA 2?</i>	<ul style="list-style-type: none"> • For consistency, those contaminants and their specified limits as identified in the NZ Drinking Water Standards. • Nitrates will be important to include as it reinforces the requirement under the NES-F to limit nitrogen to 190kg/ha/pa – both providing clear and robust tools in protecting source water quality • Potentially chemicals (from agriculture) and hydrocarbons? Though some of these have limits in the drinking water standards.
19.	<i>What other challenges do you see when making a consent application within SWRMA 2?</i>	<ul style="list-style-type: none"> • An applicant may be required to provide information to show it would not affect drinking water supplies within a large lake (and potentially its tributaries). This would likely be a large and costly exercise and possibly not commensurate with the scale of the proposed activity. • Identifying existing activities, defining the time of travel/breakdown rates for groundwater, particularly looking at the impact of takes and how they affect groundwater flow.
<u>Question: SWRMA 3 controls</u>		
20.	<i>Do you think any additional controls, other than broad consideration of the effects of the activity on source water, are required in SWRMA 3?</i>	<ul style="list-style-type: none"> • It would be unreasonable to do more than a broad approach to ensure that only the most high-risk activities are captured and/or consent applications required. • Consideration should also be given to aligning the NES-DW with the Water Services Act so that activities that cause harm to drinking water supplies within a SWRMA 3 area are an exacerbating factor in any enforcement action/breaches.



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 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
Questions: groundwater bore management		
21. What is your view on how to address issues with bores – should it be enough to amend the NZS 4411:2001 (with reference to that standard in the NES-DW), or should greater direction be given in the NES-DW itself?		<ul style="list-style-type: none"> • ORC constantly reviews its land use consent conditions for bores which provides a level of sufficient control. • ORC would prefer the NES-DW not to provide detailed specifications re controlling bores. It would be more appropriate to update the NZS 4411:2001, ideally in line with the more comprehensive Australian guidelines. This would complement regional plan rules. • National adaptation of accreditations such as Environment Canterbury’s approved drillers scheme is another option for improving bore management.
22. For existing bores:	What is your view on requiring unused bores to be decommissioned?	<ul style="list-style-type: none"> • We support this. Under ORC land use consents bores are required to be sealed at the end of their use.
	<i>Should bores of poor quality be required to be upgraded or decommissioned? What timeframe might be reasonable to do this?</i>	<ul style="list-style-type: none"> • ORC would support a requirement of landholders to fill any unused, historic wells and upgrade bores that are currently of poor quality. As many regional councils will not have records of very old wells, and to support landowners to do the right thing, a funding assistance programme may be of value to achieving this goal.
	<i>– For many older bores there are no records. What sort of evidence could be used to support the ongoing use of these bores, or demonstrate they pose a low risk to the security of the aquifer?</i>	<ul style="list-style-type: none"> • Again, a funding programme to support landowners to report old wells, whether to be decommissioned or that need work to bring up to standards may expedite resolving this issue. • Site visits by compliance officers/contractors (e.g. well drillers) can assist with assessments of well condition and risk. ORC has developed some check sheets for bore head security (in collaboration with ECan/HBRC). ORC may consider implementing through its LWRP a warrant of fitness scheme similar to Bay of Plenty Regional Council’s. • Any person constructing a well/bore must be required to be appropriately qualified for such technical work.
23. What is your view on prohibiting below-ground bore heads?		<ul style="list-style-type: none"> • ORC staff are supportive of this due to the risk below ground bores attract. Below ground bores are common in areas that experience low temperatures, such as Central Otago and the wider inland lower South Island. However, above ground bores can be weather and temperature protected. ORC has developed bore guidance (https://www.orc.govt.nz/media/9828/orc-bore-specification-booklet.pdf) which promotes above ground bores however this is not enforceable at this time. The NES-DW could support this.



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<u>Consultation Questions</u>		<u>ORC Response</u>
		<ul style="list-style-type: none"> Other factors such as areas prone to flooding need to be considered and how the risk to a bore is appropriately managed.
<p>24. Regional councils are responsible for control of the use of land for the purpose of maintenance and enhancement of the quality of water in water bodies (RMA section 30(1)(c)(ii)). Do you think territorial authorities have a role in land management over aquifers, and if so, what is that role?</p>		<ul style="list-style-type: none"> Yes, an important role. TA's should control land use in a way that recognises the potential for adverse effects on water quality e.g. permitting dairy farming in all Rural Zoned Areas. Greater collaboration between territorial and regional authorities should ensure regional councils don't have to undertake avoidable enforcement action due to a consented land use activity giving rise to an illegal discharge.
Questions: identifying and managing activities over vulnerable aquifers		
<p>25. It is not clear which approach might be best for ensuring risk to vulnerable aquifers is appropriately managed. Do you think that an NES-DW is the right tool for addressing this? If not, what approach might be better?</p>		<ul style="list-style-type: none"> Due to its broader scope and ability to consider complex issues, managing is better controlled through a Regional Plan and its mechanisms.
<p>26. Would it be helpful if guidance on vulnerable aquifers was provided to support freshwater planning as the NPS-FM is given effect?</p>		<ul style="list-style-type: none"> Yes, all guidance is helpful for both implementing and enforcing the requirements of the NES-DW.
Questions: retrospective application of the NES-DW to existing activities		
<p>27. What activities do you believe the NES-DW should retrospectively apply to / not apply to, and why?</p>		<ul style="list-style-type: none"> It will be important to carefully and reasonable manage legally undertaken activities such as discharge to land, septic tanks, intensive farming which can all impact drinking water quality. The issue of whether additional retrospective management needs to be provided for under the NES-DW needs careful consideration, including the potential impacts on those undertaking these activities.
<p>28. In your view, what are the key challenges and benefits to retrospective application?</p>		<ul style="list-style-type: none"> Cost for consent holders, resources of Councils who are already dealing with large amounts of legislative change. Also prohibiting a discharge from a municipal WWTP that has had funding assigned to it in a 10-year plan. Farm improvement and investment may be impacted if banks are



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
		concerned about uncertainties related to potential 'new' activities coming on-line and impacting farming activities
Question: criteria when considering effects on source water?		
29. Do you agree with the proposed list of criteria?	<i>Are any additional criteria needed, or clarifications?</i>	<ul style="list-style-type: none"> Allowing for, and measuring cumulative effects over time
Questions: proactive response planning		
30. What types of activity might pose a significant risk to a water supply in an accident, emergency, or other natural event?		<ul style="list-style-type: none"> Burst wastewater and/or stormwater pipes, car accidents entering water/tanker, failure of dams, fires, intensive farming, discharge to land, landfills, industrial activities.
31. Do you think it is reasonable to require all activities with some potential to affect source water to undertake response planning, or just those with a higher risk (likelihood and consequence)?		<ul style="list-style-type: none"> All those in SWRMA1 and only high-risk activities in SWRMA 2
Questions: water supplier involvement		
32. Do you agree that resource users should engage with water suppliers in consenting matters, within SWRMA 1 and 2?		<ul style="list-style-type: none"> This should be dealt with through Section 95 of the RMA (notification process)
33. What hurdles do you see in promoting this engagement with water suppliers?		<ul style="list-style-type: none"> It is likely to result in mostly negative experiences, especially between private landowners who are not familiar with the process and what it may/may not mean
34. What support might small water suppliers need to effectively engage in the consent process?		<ul style="list-style-type: none"> As Regulators the Consent Authority must be neutral, other than providing consent process advice, and application forms – particularly as they will also ultimately be regulators of any consent conditions etc.



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
Questions: general matters relating to managing source-water risks		
<p>35. A National Environmental Standard is a regulation under the Resource Management Act 1991 (RMA) that requires, among other things, that regional councils make changes to their regional plan rules. Making these changes can add costs (eg, financial, administrative) for regional councils.</p> <p>– In your view, how might regional councils be affected by the NES-DW's new requirements to change regional plan rules?</p> <p>– Do these effects outweigh the expected benefits of better source water protection?</p>		<p>If new drinking water supplies are constantly added and require mapped and included in a regional plan, this will create significant burdens in terms of keeping plans updated and creating certainty.</p> <p>It would be useful for guidance on how often supplies should be included and further, if they could be included without using a typical Schedule 1 process to reduce the administrative burden.</p>
<p>36. In your view, how could the amendments to the NES-DW better align with farm plans?</p> <p>– Is reliance on the NPS-FM, NES-F and Stock Exclusion Regulations enough to manage the long-term effects of farming activities on underlying aquifers and water bodies?</p> <p>– Can you identify potential duplication between the NES-DW and other regulations that control land use?</p>		<p>Consistency with exclusion distances from waterbodies.</p>
<p>37. If you are a water supplier, do you think these amendments will affect your ability to supply water (positively or negatively)? Would they influence whether you continue to provide water?</p>		<p>No comment provided.</p>
<p>38. If you are a resource user, do you think these amendments will affect how you currently use your land or undertake activities? Will you have to change how you do things as a result?</p>		<p>No comment provided.</p>
Questions: which water supplies should be protected by the NES-DW		



Appendix 1 to ORC submission on NES Sources of Human Drinking Water review 2022
 ORC response to Consultation Questions

<u>Consultation Questions</u>		<u>ORC Response</u>
39. Do you think the protections of the NES-DW should apply to all registered water supplies?		<ul style="list-style-type: none"> • Yes
	<i>– If not, what types of supplies should be excluded, and why?</i>	No comment provided.
40. The WSA has a registration timeframe of four years for currently unregistered supplies.	<i>– Do you agree with aligning application of the NES-DW with the WSA? If not, why?</i>	<ul style="list-style-type: none"> • Yes
	<i>In your view, what are the challenges resulting from including these newly registered supplies within the NES-DW framework?</i>	<ul style="list-style-type: none"> • Mapping will need to be constantly updated which may mean some as yet unregistered water supplies may not be considered in assessments, increased data management and costs for councils. Constant updating of maps which restricts consenting/compliance activities (as existing activities will be affected by newly added water suppliers).

Our ref: A1609065

4 March 2022

Ministry for the Environment
Wellington

nesdw.consultation@mfe.govt.nz

To whom it may concern

ORC submission on the Ministry for the Environment's 2022 consultation 'Kia kaha ake te tiakina o nga puna wai-inu / Improving the protection of drinking-water sources: Proposed amendments to the Resource management (National Environmental Standards for sources of Human Drinking Water) Regulation 2007: Consultation document.

Introduction

Otago Regional Council (ORC) appreciates the opportunity to provide comment to the Ministry for the Environment (the Ministry) on proposed amendments to the National Environmental Standards for Sources of Human Drinking Water (NESDW). The consultation is timely as ORC is developing both a new Regional Policy Statement (RPS) and a new Land and Water Regional Plan (LWRP) for Otago. The protection of drinking water sources is relevant to both these regulatory documents.

This submission is informed from input of ORC Councillors and staff. The main body of ORC's submission discusses issues of concern to ORC outlined below. Appended to our submission is a table of answers from ORC staff in response to the Ministry's specific consultation questions.

ORC agrees that the current NES-DW will benefit from updates to be more effective in achieving its goals of safe drinking water, and to make it easier for councils to implement as an effective tool to help management and protection of drinking water sources. Despite the support in principle, ORC has some residual concerns which we would like to be considered:

1. ORC is concerned that some aspects of the proposed amendments are unclear in how they can be achieved and what outcome they serve to promote. For example, using an 8-hour travel time for contaminants is ambiguous and difficult to measure and monitor.
2. ORC is concerned the estimation of costs severely underestimates the actual time and cost that will be required to implement the proposals. These changes will create a significant work programme, and the impact on resourcing for regional authorities is not reflected or properly addressed by the cost estimation.
3. ORC understands why applying SWRMA's retrospectively will benefit source drinking water. The actual implementation of this however would have significant on the ground costs and impacts and will create conflict between existing/new drinking water activities and existing lawfully established activities.
4. ORC understands and has experience with bores that are not maintained well and are risks to source drinking water. However, the impact of requiring them all to be removed is not insignificant and should not be underestimated.

For our future

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz

ORC Strategic Direction

In addition to its regulatory framework, ORC has a strategic direction framework setting a clear vision and direction for our work programmes and goals

- ORC's **Vision for Otago** includes providing for "A sustainable way of life for everyone in Otago" and "An environment that supports healthy people and ecosystems"
- ORC's commitments include implementing central government directions and delivering integrated environmental management

ORC's strategic direction further sets out its actions to achieve these commitments:

- *Taking Regional leadership for relevant and important issues,*
- *Promoting and enabling healthy water, soil and coast*

Our strategic directions align with the support ORC gives in principle to the proposed amendments of the NES-DW and will assist ORC with its responsibilities to implement it. Our strategic directions also require that we take leadership on issues that would affect the interests of our Otago communities which is why ORC's submission addresses the issues that will need resolution for the amended NES-DW to be implemented successfully.

Otago's Growth

Otago is experiencing significant growth, particularly in the Central and Queenstown Lakes districts resulting in a high volume of subdivision activity across rural and urban areas. This development will result in new privately administered communal drinking water supplies or an increase on the demand on municipal schemes. Consequently, there are a greater number of interactions between drinking water sources and discharges from farm and urban runoff, and new on-site wastewater systems.

Conversely, in Otago's early history, many wells were created, often without record of their location. Many of these wells still exist today, and are identified by, or to, ORC through various processes which allows ORC staff to determine the well's condition and if it is in use. However, there are still significant gaps regarding wells location and status. This legacy of unidentified wells poses a high risk to drinking water supplies as, due to a lack of data, they are not accounted for in resource consent assessments that determine if they may affect, or be affected by, surrounding consented and permitted activities.

Existing Activities

Throughout Otago, many existing activities, primarily small-scale water takes and use, and domestic wastewater discharges, are legally enabled under Otago's Regional Plan: Water and/or section 14 of the Resource Management Act 1991. Most of these activities can be undertaken without the requirement to notify ORC.

The implementation of SWRMAs is anticipated to create conflict between these existing activities and new drinking water supplies. This is further complicated as there are many instances where ORC has no record of existing activities. Requiring the identification of affected parties where activities are not known is problematic and will need to be carefully and clearly managed under the provisions of the NES-DW. ORC's submission speaks to this matter further.



Proposal 1 – Delineation of Source Water Risk Management Areas

ORC supports, in principle, the intent to delineate SWRMA, and remove the uncertainty around terms such as 'upstream'. However, we are concerned that the proposal generates as many questions as answers for ORC, in terms of how it will be implemented and how it will benefit protecting source waters.

It is clear to ORC that the work to identify, generate and administer SWRMA, particularly SWRMA 2 and 3, will be significant. None of the necessary resources and work which would be required to implement any SWRMA has been budgeted for in ORC's Long-Term Plan. ORC is highly concerned that the cost considerations that are in the consultation document are not reflective of the actual time and resources required to deliver.

The impact such a work programme would have on our rate payers could be substantial, and in addition to significant rate rises over the last two years due to the increased work programme associated with implementing various central government initiatives.

ORC requests that the Ministry urgently seeks expert advice on the actual cost impacts that could be expected by regional authorities to implement these amendments.

ORC requests the Ministry consider a Ministry funded pilot scheme with a regional authority who would implement the proposed amendments ahead of the current staged timeframes. The value of a pilot would be to test the many variables that may arise in delineating a SWMRA, including:

- Identifying and filling knowledge and data gaps
- Working with, and educating, affected landowners and stake holders
- Developing and implementing spatial information for internal and external processes
- Testing impacts on consenting and compliance resourcing and processes
- Determine workable timeframes to implement the amended NES-DW

Importantly, the pilot would provide an accurate account of costs regional authorities may incur and provide the Ministry with real-world evidence to support finalising the amendment to the NES-DW.

ORC would be willing to be the subject of the pilot given it is well positioned to do so, particularly being New Zealand's first regional authority required to have its NPSFM 2020 compliant plan notified. The new Plan, which is to be notified by December 2023, will give effect to both the NPSFM and the NES- F, as well as any changes to the NES -DW.

The cost of the pilot scheme would be significantly offset by helping mitigate the risks that all regional authorities incur and replicate unnecessary costs of the uncertainties and likely issues ORC has identified with the current proposal. Ultimately, the learnings from the pilot scheme would support the roll out of the new NES-DW with increased effectiveness and efficiencies to all regional authorities who will be better served in anticipating the costs, challenges, solutions and opportunities for their implementation programme.

Proposal 2 – Managing Activities within SWRMA

ORC understands that the SWRMA delineation can and will affect existing activities but have concerns that the consultation does not demonstrate a sufficient level of clarity to understand how they will be affected, classified, or treated.



In both rural and semi-rural areas of Otago, we are witnessing greater demand for changes to land use, particularly subdivision for residential use and ongoing intensification of rural activities. This situation already results in impacts on surrounding existing legally established activities, and under the proposed NES-DW amendments, may result in further impacts and increased restrictions on these activities. It is important to note here that resource consent applications for subdivision development are not always notified to surrounding landowners if they meet the non-notified criteria of a district plan. Issues with jurisdictional and regulatory frameworks are well traversed in the background to the Three Waters Reform and the NES-DW proposed amendments would contribute to a lack of wider considerations of the potential impacts of otherwise 'benign' subdivision and land use intensification.

Under the principles of *Te mana o te Wai*, use (and by association, protection) of water for human consumption is to be given priority over other human uses of freshwater resources. It is not clear whether the NES-DW will be retrospective in restricting existing legal activities which use or impact freshwater within a SWRMA. To our understanding the principles of *Te mana o te Wai* would require that such existing activities will be retrospectively impacted. However, this remains unclear under the amendments as proposed.

Of significant concern to ORC is that investment in, and reliance on, existing legal activities may be impacted, particularly in instances where landowners were not afforded any opportunity to raise concerns of possible reverse sensitivity because a change in land use, such as but not limited to subdivision, was not notified. This may create an undesirable flow on effect whereby productive land use is frustrated by restrictions under a SWRMA and in turn either risk unanticipated costs to adapt to ensuring those land use activities can continue or ultimately encourages those affected landowners to change the use of their land from productive to development for residential living, following the "if you can't beat them, join them" approach.

ORC therefore requests that the Ministry investigate further options to ensure legal, existing activities are not unjustly restricted by the development of SWMRA and incorporate these into the amendments.

Otago has numerous bores installed underground, due in part to winter temperatures. Our compliance staff have numerous examples of below ground bore heads that are poorly maintained leading to ponding of overland flow/rainwater, exposure to hydrocarbon runoff, and other adverse effects. From a technical perspective, staff therefore support the NES-DW effectively prohibiting this practice due to the greater risk they can create if not carefully managed.

However, more broadly ORC is concerned this would impact a significant number of below ground bores which could number in the thousands across Otago. If any such prohibition would be retrospective then this would create significant cost and technical implications for many operators of such bores, of whom a large proportion – many who do currently maintain their subsurface bores appropriately. Capacity of service providers to make any necessary modifications to subsurface bores would be another matter that needs consideration in setting timeframes for implementing prohibition.

ORC requests the Ministry consider that should below ground bore installations (including existing bores) become prohibited, sufficient timeframes and economic support is provided from central government to bore owners and operators to implement any necessary changes.



Proposal 3 – Protecting all registered water supplies

In addition to ORC’s concerns with Proposal 2, we are concerned the ‘one size fits all’ approach to setting SWRMA risks unjustified restrictions to legal activities and putting neighbours and communities in difficult positions of conflict due to the rigid requirements under the proposed SWRMA framework.

The proposed SWRMA framework does not allow flexibility for councils to account for varying ground conditions and topography which may provide additional natural protections to source water, such that activities within a SWRMA should not be either prohibited or restricted.

Ground conditions (e.g., soil type or elevation) that would naturally slow or prevent potential contamination from an activity to a source water should be able to be considered by a council in setting a SWRMA and reduce its extent to only that which is justifiable for protecting a source water.

However, it is also difficult to determine what an alternative approach that would result in the same or better level of protection would be as there is no information on the level of protection to source water the currently proposed distances will provide, which are themselves seemingly compromised by unarticulated concerns about ‘workability’.

ORC’s views some aspects of the proposed SWRMA framework as being focused on compliance of the SWRMA’s seemingly arbitrary separation distance provisions rather than the outcomes (measurable increases in protection of source water bodies) it seeks to achieve.

ORC requests the Ministry include a default process mechanism that enables taking into account individual catchment characteristics such as flowrates, volumes, geology etc.

We look forward to the development of this review of the NES-DW ORC staff would welcome answering any questions the Ministry may have in response to our submission.

Yours sincerely



Gwyneth Elsum
General Manager Strategy, Policy, and Science



7.5. Six Monthly Update to the Minister

Prepared for:	Council
Report No.	SPS2212
Activity:	Governance Report
Author:	Anita Dawe, Manager Policy and Planning
Endorsed by:	Gwyneth Elsum, General Manager Strategy, Policy and Science
Date:	23 March 2022

PURPOSE

- [1] To present, for adoption by Council, the fifth progress report to the Minister for the Environment, in accordance with section 27 of the Resource Management Act 1991 in relation to the recommendations made under section 24A of the Resource Management Act 1991.

EXECUTIVE SUMMARY

- [2] The Minister for the Environment wrote to the Otago Regional Council on 18 November 2019, setting out several recommendations regarding the development of a fit for purpose planning framework for Otago. One of the requirements outlined in the letter was a formal report, every six months, on progress against three measures. The first two reports were provided in 2020, and two further reports were provided in March and September 2021.
- [3] The report, as attached, updates the Minister on both capacity and capability, and work programmes, in accordance with the requirements set out in the initial 2019 correspondence.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the fifth report to the Minister for the Environment, that reports on progress against the recommendations made in his letter of 19 November 2019; and
- 3) **Notes** that the next report will be brought to Council on 28 September 2022.

BACKGROUND

- [4] In December 2019, ORC agreed to the work programme as set out by the Minister, in response to the investigation led by Professor Skelton under Section 24A of the Resource Management Act. Part of that work programme requires 6-monthly progress reports.
- [5] The first two progress reports were approved and provided to the Minister, in April and October 2020, and two more in March and September last year. The reports address the recommendations of the Minister, which are to:
-

1. *Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits;*
 2. *Develop and adopt a programme of work to achieve the following*
 - i. *By November 2020, a complete review of the current RPS that is publicly notified, with the intention that it is made operative before the review of its LWRP is notified;*
 - ii. *By 31 December 2023, a new LWRP for Otago that includes region wide objectives, strategic policies, region-wide activity policies, and provisions for each of the Freshwater Management Units, covering all catchments within the region.*
 3. *Prepare a Plan Change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with the requirements in the National Policy Statement for Freshwater Management.*
- [6] In addition, the following matters were to be included as part of the 6-monthly updates:
- *Progress made in developing science, planning, consenting, monitoring and enforcement, and land management organisational capability and capacity;*
 - *Progress in achieving the [above] recommendations 1, 2 and 3; and*
 - *A summary of freshwater resource consenting activity for the reporting period.*
- [7] The fifth report is due by 30 April 2022 however due to Council meeting schedules, is presented to you today.

DISCUSSION

- [8] Since the first two years of reporting, staff have continued to work to implement the agreed work programme.
- [9] A full report is appended but in summary, against the formal request above, the following has been undertaken:
- Progress continues to be made across the organisation to develop and improve organisational capacity and capability across planning, science, environmental monitoring, consents and compliance monitoring. This includes the appointment of a new Science Manager and recruitment to fill the new roles created across the consents, monitoring, and science teams.
 - The Environmental Implementation Team is continuing to expand in terms of staff numbers. This team will deliver on non-regulatory activities, in conjunction with the Land and Water Regional Plan, including work on Integrated Catchment Management. The growth and work programmes of the Environmental Implementation team is budgeted.
 - The Freshwater Hearings Panel for the proposed RPS 2021 (pRPS 2021) has issued its first Minute and Directions, with hearings due to commence on 30 May 2022.
 - The High Court declaratory proceedings hearing on determining if the proposed RPS is a Freshwater Instrument in its entirety, took place in February of this year. The High Court advised this month that a decision will not be made until at least July 2022.

- The Land and Water Regional Plan work programme is well underway with a significant amount of technical – scientific and economic – work being undertaken during 2022.
- The first stage of pre-notification community engagement in each freshwater management unit across Otago is complete with the second round expected to commence in July 2022.
- The Technical Advisory Group for the Manuherekia River continues to progress the workstream it developed, with a further report back to Council anticipated in May of this year.
- The development of a fit for purpose planning framework is progressing well, with Plan Change 7 now operative, the rural parts of Plan Change 8 to be made operative in March or April, parts of Plan Change 1 operative, and the balance of Plan Changes 1 and 8 progressing through the Environment Court process.
- Consideration of Plan Change 7 continues in decision making on deemed and water permits, with some applications proceeding to hearings during this reporting period. Significant training in the consent area has been undertaken to support implementation of Plan Change 7.
- A summary of freshwater consenting has been prepared and is included in the attached report.

OPTIONS

- [10] The options for Council are to accept the report, and update the Minister, in accordance with his recommendations. The report simply outlines the progress on work programmes, and improvements in capacity and capability.
- [11] Councillors could choose not to update the Minister and be in breach of their commitment to the Minister to do so.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [12] The outcome of the Ministers review was to ensure ORC developed a fit for purpose framework for managing Otago's land and freshwater. This most closely aligns with *Healthy water, soil and coast* but also touches on a number of other parts of the Strategic Directions.
- [13] There are no particular policy considerations as a result of this paper. The policy considerations relate to the planning work programme and will be considered on a case-by-case basis, as the work programme is implemented.

Financial Considerations

- [14] There are no particular financial considerations in relation to this paper. The report to the Minister can be accommodated within existing budgets and/or approved budget variations.

Significance and Engagement

- [15] This paper does not trigger any requirements of He Mahi Rau Rika: Significance, Engagement and Māori Participation Policy 2021.

Legislative and Risk Considerations

- [16] The Minister has requested a formal response under section 27 of the Resource Management Act 1991. Section 27 *Minister May Require Local Authorities to Provide*

Certain Information outlines the circumstances under which the Minister may request information and the criteria for local authorities to provide it.

Climate Change Considerations

[17] There are no climate change considerations from this paper or the report to the Minister

Communications Considerations

[18] There are no specific communications consideration as a result of the report.

NEXT STEPS

[19] The next steps are to continue to implement the work programme and prepare for the next report due in September this year.

ATTACHMENTS

1. March 2022 Report to the Minister [7.5.1 - 14 pages]

23 March 2022

Minister for the
Environment
Private Bag 18041
Parliament Buildings
Wellington 6160

BY EMAIL

Dear Minister

Report under Section 27 of the Resource Management Act 1991

In accordance with your letter of 18 November 2019 and following on from our first two reports in 2020, and two reports in 2021 (March and October), the following comprises the Otago Regional Councils' fifth report, in accordance with Section 27 of the Resource Management Act 1991 (the Act) and therecommendations pursuant to Section 24 of the Act.

This report will address the following:

- *Progress made in developing science, planning, consenting, monitoring and enforcement, and land management organisational capability and capacity; and*
- *Progress in achieving the [above] recommendations 1, 2 and 3 (copied below for ease of reference):*
 1. *Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits;*
 2. *Develop and adopt a programme of work to achieve the following*
 - i. *By November 2020¹, a complete review of the current RPS that is publicly notified, with the intention that it is made operative before the review of its LWRP is notified;*
 - ii. *By 31 December 2023, a new LWRP for Otago that includes region wide objectives, strategic policies, region-wide activity policies, and provisions for each of the Freshwater Management Units, covering all catchments within the region.*
 3. *Prepare a Plan Change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with the requirements in the National Policy Statement for Freshwater Management; and;*
- *A summary of freshwater resource consenting activity for the reporting period.*

¹ Please note an extension of this date to 30 June 2021 as per your letter to ORC of 11 September 2020.

Progress Made in Developing Science, Planning, Consenting, Monitoring and Enforcement, and Land Management Organisational Capability and Capacity

The following table outlines the particular improvements in each of the areas specifically identified in your report.

Area	What we advised in October 2021	Latest Update
Science	<p>The Science Team is in place and developing and implementing programmes for biodiversity, land and water. An experienced team of mentors have also been engaged to support the Science Team deliver the programme of work for the new Land and Water Plan.</p> <p>The Manager Science position is vacant and under recruitment. Two vacancies in the science team continue to prove hard to fill in a competitive market. In these circumstances ORC is reliant on consultants to carry out work.</p> <p>A new team leader role in the Environmental Monitoring Team is being recruited.</p> <p>In May 2021 ORC completed the move from Hilltop to Aquarius, our new Environmental Monitoring System. Aquarius is now providing greater quality assurance of environmental data. Focus is now on developing a web interface to provide enhanced access to environmental water data for customers, stakeholders and the public.</p>	<p>The Science Team is in place and developing and implementing programmes for biodiversity, land and water. Most programmes are now in an implementation phase.</p> <p>The Manager Science position has been filled. Two vacancies in the science team continue to prove hard to fill in a competitive market. In these circumstances ORC is reliant on consultants to carry out work.</p> <p>A new team leader role in the Environmental Monitoring (EM) Team has been recruited. Further resources will be established in the Environmental Monitoring team in the first half of 2022 to support the growing work programme. The EM team work closely with the Science team and are responsible for the State of the Environment monitoring programme. Their work programme will also be critical to the implementation of the NPSFM, including through the increased monitoring requirements.</p>
Planning	<p>A full governance model for the delivery of the new Land and Water Plan is now in place including project management and engagement expertise to support the delivery team. The governance arrangements also provide for partnership with Ngai Tahu at every level of decision making. The Land and Water Regional Plan Governance Group is co-chaired by ORC's Chairman Andrew Noone, and Ngai Tahu kaumatua Edward Ellison. Membership also includes Hoani</p>	<p>The Land and Water Regional Plan Governance Group are continuing to meet. Recently a request was made by Te Ao Marama Inc to have a seat on the Governance Group and that request is under consideration.</p> <p>One of the Senior vacancies in the Land and Freshwater team has been filled, however we have been unable to fill the urban vacancy and the second Land and Freshwater vacancy.</p>

	<p>Langsbury for Ngai Tahu, and Councillor Gretchen Robertson. In addition, other councillors and Ngai Tahu representatives attend meetings to provide addition input on specific FMU's as required.</p> <p>ORC's Long-Term Plan provides for 3 fixed term (3 year) roles in the Land and Freshwater team. All three of these roles have been filled with a range of graduate planners and planners, with commencement dates ranging from September through November 2021.</p> <p>There are also two senior vacancies in the Land and Freshwater team and one vacancy in the urban team, which are all being recruited.</p> <p>Members of the Land and Freshwater team are continuing to be involved in work on the implementation of Plan Change 8 provisions and supporting the Essential Freshwater package</p>	<p>The Land and Freshwater team are continuing to be involved in work on implementing Plan Change 8, and in particular the Rural Provisions which are to be made operation in March or April this year. This has put some resourcing pressure on the team which is being alleviated through the use of consultants.</p> <p>The development of the RPS has also been heavily reliant on the use of consultants.</p> <p>The timeline for the RPS is subject to the current High Court declaratory proceedings. The High Court have advised that it will be no sooner than July before a decision is issued, and the hearings on the proposed RPS will have commenced by that stage. If the Declaratory Judgement does not consider the pRPS a freshwater instrument in its entirety, there will be implications in terms of when the RPS will be operative. This in turn impacts the proposed LWRP.</p>
<p>Consenting</p>	<p>Staffing levels remain in line with those indicated in the previous report and support is continued to be provided by contractors for over-flow processing. An additional FTE is now budgeted for the next financial year at the Principal level to support the wider team.</p> <p>Work on the Manuherekia consents has continued by the project team set up to process the permits. These applications are 'on hold', at the request of the consent holders, waiting for a decision on Plan Change 7. The applications are being processed by an external consultant, with internal project leadership.</p> <p>Applications for permits relating to deemed and water permits that expire on 1 October have continued to be lodged. Most of these are 'on hold' pending a decision on Plan Change 7. This will be a bubble of work for the team when a decision is</p>	<p>Staffing levels remain in line with those indicated in the previous report and support is continuing to be provided by contractors, for over-flow processing.</p> <p>Significant work was undertaken to prepare the team for processing consents under Plan Change 7 once the decision was released. This included multiple training sessions and updates to existing procedures. Work was completed on updating report templates, drafting practice notes and updating conditions. Extensive work was completed to prepare resources for external use including new application forms, practice notes and a form to be used when amending applications. Stakeholders and consultants have been kept regularly up to date on processing and resources available.</p> <p>An update on consent processing under Plan Change 7 is provided further down in the report.</p>

	<p>released, but it is manageable with the resources in place. Staff are in regular communication with these applicants. At the time of writing 9 days before 1 October, applications were still being submitted.</p> <p>Preparation work is being undertaken to be ready for a decision on Plan Change 7. This includes drafting new application forms, updating report templates, drafting practice notes and updating conditions. These cannot be finalised until there is a decision and are in outline form at present. Legal advice is also being sought about the implications of the decision on PC7 for existing applications. This is to ensure we provide clear advice to applicants and process consents in line with the RMA and best practice</p>	
<p>Monitoring & Enforcement</p>	<p>Staffing levels remain in line with those indicated in the previous report. Two additional FTE are budgeted for the 2021/22 year to support delivery of the ORC Compliance Plan 2020-22 and new regulations in place.</p> <p>The ORC Regulatory Committee approved an operational compliance programme for the 2021/22 year. There has been a delay in some on-site audits due to Covid-19 Alert Level restrictions, but it is expected that targets will be met by year end.</p> <p>The RMA Compliance and Enforcement Policy was adopted by the Regulatory Committee in March 2021. The Policy is consistent with the principles of the Regional Sector Strategic Compliance Framework 2019-24 and the MfE Best Practice Guidelines. There have been significant improvements made to the enforcement process and framework.</p> <p>Ongoing training for staff continues to ensure understanding of the rules and a consistent approach is taken to</p>	<p>Internal appointment of two additional FTEs for roles of Principal Advisor Investigations (new role), and a Principal Compliance Specialist (additional role) have been made. These positions focus on supporting improved good practice and increasing the compliance monitoring and enforcement (CME) capabilities across the team.</p> <p>Staff turnover has increased, with six Environmental Officers, two Environmental Data Officers and one Incident Responder recruited in the last six months.</p> <p>Recruitment is underway for a Team Leader Compliance Monitoring (in Central Otago a), a Team Leader Investigations and a Senior Investigator. It has been challenging to recruit suitably qualified people for these roles in a competitive labour market.</p> <p>A total of 27.60 FTE dedicated to CME activities is budgeted in the 2021/22 financial year.</p>

	<p>compliance monitoring and enforcement.</p> <p>Aquarius, ORC’s new Environmental Monitoring System includes significant custom configuration designed to improve the Council’s monitoring of water metering and sampling data relating to resource consents.</p> <p>Two additional FTE are budgeted for the 2021/22 year in the Council’s Regulatory Data and Systems Team. One will support the technical management of the new system, the other will increase the resource dedicated to data monitoring from 3 to 4 FTE.</p>	<p>Ongoing business process and system improvements continue to enable staff to better undertake their CME activities, including introducing tools for mobility in the field, updating SOPs and streamlining our enforcement and compliance monitoring processes. These efficiency improvements are reflected in both increased onsite audits and inspections as well as formal enforcement actions being taken by ORC.</p> <p>Work continues to improve the Council’s new Environmental Monitoring System. Year on year desktop compliance inspections have increased by 9.4%.</p>
<p>Land Management</p>	<p>As of 9 July 2021, a new Environmental Implementation Team has been established (previously referred to as the Biosecurity and Rural Liaison Team). The team comprises a range of roles and specialist areas of focus aimed at better supporting the delivery of Council’s biosecurity, biodiversity, and freshwater operational work. Additional funding from the 2021 – 2031 Long-Term Plan, has enabled the revision and creation of new roles and supports an increase in staff numbers.</p> <p>The new team comprises additional ‘on the ground’ community facing roles, as well as specialist operational advisory and environmental project management delivery roles, spatial analysis capabilities and quality assurance functions. In addition to its traditional core responsibilities (biosecurity compliance, land management and development of partnerships), the team will also facilitate the design and implementation of Council’s new integrated catchment approach (as adopted through the Long-Term Plan), deliver the non-regulatory</p>	<p>Since October 2021, the Environmental Implementation Team has increased to 28 FTEs, including 1 role funded through Jobs for Nature project funding.</p> <p>Recruitment is underway for a biosecurity specialist position, a project delivery role and three additional catchment advisors.</p> <p>The team has been building on the core biosecurity work by increasing the strategic focus and face to face community led management approaches. The new biosecurity specialist will enable further strategic approaches and integration of the biosecurity work.</p> <p>On the ground community facing work continues to build with catchment advisors making new networks and developing projects. In addition, the project delivery specialists are managing large scale projects involving the community and mana whenua partners.</p> <p>Work on the Integrated Catchment Management approach has progressed with a draft framework for delivery through Catchment Action Plans being endorsed by</p>

	<p>Land and Water Regional Plan actions and design and deliver, with others, locally specific targeted environmental action plans.</p> <p>The 2021- 2031 Long-Term Plan provides for 27 full time equivalents (FTEs) in Y1(2021/22), 34 FTEs inY2 and 37 FTEs in Y3. The team currently has a headcount of 19 staff.</p>	<p>Council in December 2021. This framework is being developed further through an internal cross directorate working group before going to the community and our mana whenua partners for collaborative development of integrated catchment action plans. These CAPs are planned to align to the FMUs and will give effect to the action plans required in the NPSFM 2020.</p>
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Progress in Achieving the specified recommendations

The particular recommendations as outlined in the original letter, and ORC’s response, to date, is detailed below:

Action	What we advised in October 2021	Latest Update
<i>Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits.</i>	Mediation on the rural provisions of Plan Change 8 has been undertaken and all provisions were agreed. Given the call-in is a first instance hearing, the provisions have been set down to be heard by the Environment Court in the week of 1 November 2021. The hearing is uncontested and several of the submitters are preparing evidence for or to support ORC.	The hearing for the rural provisions of Plan Change 8 occurred in November 2021, and a decision on the provisions was released at the end of January 2022. The appeal period has just passed, with no appeals received however staff have identified a minor error in the decision and are waiting on the decision to be reissued. Once that happens, staff will prepare a paper to Council, to approve the Plan Change.
	Mediation on dust suppressants which is part of Plan Change 1 occurred on 6 September 2021, however the mediation on Landfills (PC1) and Regionally Significant Infrastructure (PC8) that was scheduled for 7 September was vacated due to the Covid-19 lockdown and some parties unable to participate fully.	The decision on Plan Change 1: Dust Suppressants, was released in March 2022, after the Environment Court considered the mediation agreement and evidence, without a formal hearing. These provisions are now in the appeal phase and subject to no appeals being lodged, will be taken to Council for approval in due course.
	Mediation on the urban provisions of PC8 was set down for 4 and 5 October 2021 but has also been vacated due to the Covid-19 lockdown. Staff are anticipating that hearings will be required, irrespective of the mediation outcome, for the balance of PC8 and for PC1 and they are likely to occur in early 2022.	Mediation on the urban provisions of PC8 occurred in November 2021, and while several matters were agreed, there remained outstanding issues around the proposed rules to manage residential earthworks. The PC8 Urban Provisions are now set down for a contested hearing late in March 2022.
<i>By November 2020, a complete review of the current RPS that is publicly notified, with the intention that it be made operative before the review of the LWRP is notified</i>	The proposed RPS21 was publicly notified, as a freshwater instrument, on 26 June 2021. The period for making submissions closed on 3 September, and an approximate total of around 1500 submissions have been received. More than 1000 of those do not have any contact details on them and will need to be considered by the Hearing Panel to determine	The Summary of Decisions Requested on the proposed RPS21 was released for further submissions on 30 October, with the period for submissions running from 1 – 12 November 2021. A corrigendum was released on 17 November and open for further submissions until 1 December 2021. 59 further submissions were

	<p>their validity.</p> <p>ORC provided a submission period of 50 working days, rather than the statutory minimum of 40 working days. The submission period coincided with the August 2021 Covid-19 Level 4 lockdown and ORC received requests to extend the submission period. ORC did not extend the period for submissions but did advise parties that it would not oppose the receipt of late submissions.</p> <p>In July 2021 the Royal Forest and Bird Protection Society (F&B) wrote to ORC questioning the decision of Council that the pRPS21 is a freshwater instrument in its entirety. On Friday 3 September, ORC lodged joint proceedings to the High Court to determine whether the pRPS21 is a freshwater instrument in its entirety. ORC is plaintiff in the Statement of Claim and F&B is the other party to the proceedings. Due to the nature of the High Court claim, ORC has sought directions that all submitters to the pRPS21 are served notice of the proceedings. Directions from the High Court have been issued, and a hearing date set down to consider this matter on 8th and 9th February 2022.</p> <p>While the High Court proceedings are underway, staff continues to progress the proposed RPS process, and prepare the documents required to be provided to the Chief Freshwater Commissioner in December 2021. Staff are working to summarise the decisions requested and make the summary available, as soon as practically possible.</p> <p>ORC is having ongoing discussions with the Chief Freshwater Commissioner in terms of both timing, and the actual process, for</p>	<p>received in total, with 55 submissions received by the closing date.</p> <p>On 11 November 2021 the ORC advised the Chief Freshwater Commissioner (CFC) of its two Commissioner nominees to sit on the Freshwater Hearing Panel. ORC also advised on this date of its intention to provide the pRPS21 as a Freshwater Instrument in its entirety.</p> <p>On 2 December 2021 the ORC advised the CFC of the local tangata whenua nominee.</p> <p>The CFC (Professor Skelton) appointed 4 of the members of the Freshwater Hearing Panel in December 2021, and the Chair, Judge Newhook appointed the fifth and final member on 17 January 2022.</p> <p>The Freshwater Hearings Panel appointed is:</p> <ul style="list-style-type: none"> • Judge Laurie Newhook - Chair and Freshwater Commissioner • Ron Crosby - Freshwater Commissioner • Bianca Sullivan – ORC nominated panel member • Allan Cubitt - ORC nominated panel member • Rauru Kirikiri - tangata whenua nominated panel member. <p>The Panel issued its first Minute and Directions on 1 March, with the hearings on the pRPS set to commence on 30 May 2022, and sit every second week until approximately October 2022.</p> <p>The High Court declaration hearing on whether the proposed RPS 21 is a freshwater instrument in its entirety was heard in February 2022, with the decision reserved. This process presents some risk to the RPS if the Court does not agree</p>
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	<p>hearing a freshwater instrument. ORC has completed the process to identify its nominations for the Freshwater Hearings Panel to hear the pRPS21.</p> <p>Recommendations are being made to Council in September 2021.</p> <p>With regard to the partially operative RPS, the Court of Appeal hearing in relation to the Port appeal was undertaken in Wellington in early July. A decision on that appeal is anticipated soon</p>	<p>that the RPS is a freshwater instrument in its entirety. Such a decision may impact the timeframe for progressing the RPS. AS noted above, the pRPS hearings will have commenced before a decision is made.</p> <p>With regard to the partially operative RPS, the Court of Appeal dismissed Port Otago Limited's (PoL) appeal. PoL have now sought leave to apply to the Supreme Court on the same matter. No decision on that leave application has yet been made.</p>
<p><i>By 31 December 2023, a new LWRP for Otago that includes objectives, strategic policies, region-wide activity policies, & provisions for each of the FMU's, covering all catchments within the region</i></p>	<p>The Water Plan review is now being finalised.</p> <p>In June 2021, Council noted the proposed broad scale regional approach to be taken by the ORC Science Team to underpin the Land and Water Regional Plan development. This paper to Council outlined the high-level science work programme now being implemented. The programme has workstreams covering water quantity, surface water quality, groundwater, land use, soil attributes, wetlands, estuaries, biodiversity, ecological habitats and fish passage. The link to the 23 June 2021 Council Agenda – 7.7 Science Programme to Inform the Land and Water Plan is: https://www.orc.govt.nz/media/10015/agenda-council-20210623.pdf</p> <p>Staff have commenced work in the Upper Lakes rohe, and the Catlins FMU, and community consultation sessions in those two areas are scheduled for November this year. Staff are also working on an online consultation platform that will enable consultation to continue, should another lockdown occur. The Arrow and Cardrona minimum flows and allocation, as recommended by staff, have been formally noted by Council. No</p>	<p>The Policy Team are leading the first-round consultations and working in partnership with iwi on the overarching policy direction for the LWRP.</p> <p>Consultation summaries for Upper Lakes and Catlins FMU are now finalised.</p> <p>Staff have now commenced work in all remaining Freshwater Management Units and/or rohe.</p> <p>The first round of consultation for the Dunstan, and Roxburgh rohe and the Clutha Mata-au FMU were undertaken in late February and early March. This consultation was undertaken online, in accordance with ORC's response to the current Covid- 19 Traffic Light settings.</p> <p>The first round of consultation for North Otago, Dunedin and Coast and Taieri FMU's are scheduled for mid-March and will also be undertaken online.</p> <p>A second round of community engagement is scheduled to commence mid-2022.</p> <p>The science work programme is well underway, with contracts in place to support internal staff with modelling for water quality and</p>

	<p>additional work is proposed on flows and allocation in these rivers. The resolution is set out in full below;</p> <p>Moved: Cr Deaker Seconded: Cr Calvert</p> <p>That the Committee:</p> <p><i>1) Notes this report. 2) Notes the flow and allocation limits that will be adopted for the Arrow and Cardrona Rivers as part of the Land and Water Regional Plan; 3) Notes the process going forward, for the full Land and Water Regional Plan.</i></p> <p>In accordance with the approach to the LWRP adopted by Council in July 2020, staff recommended that Council note their advice on Manuherekia rohe minimum flows at the August 25 Council meeting. Staff are now implementing Council’s resolution that requests reports from the Technical Advisory Group (TAG) established in 2019 to advise ORC with regard to the Manuherekia rohe on further science to be completed for the catchment. The TAG was established in response to criticism in 2019 around the science underpinning the minimum flows that were proposed at that time. The TAG included representatives from the irrigation community, the Department of Conservation, Fish and Game and iwi and were tasked with working together to establish as much agreement about the science to support flows and allocation.</p> <p>The full resolution from the August meeting is:</p> <p>Resolution CM21-140: Cr Noone Moved, Cr Calvert Seconded</p>	<p>water quantity. The science approach was adopted by Council in June 2021 and the agenda link is copied here for your assistance (agenda-council-20210623.pdf (orc.govt.nz)).</p> <p>The science programme includes quality modelling to undertake analysis of future mitigation scenarios for nitrogen, phosphorus, sediment and E.coli at the regional scale. The quality models will assess the effectiveness of a series of on-land mitigation strategies at reducing instream contaminant levels at regionwide scale. This modelling approach will draw on and refine work published by Our Land and Water programme as a part of the National Science Challenge.</p> <p>The quantity modelling commissioned to date includes bespoke modelling in 15 catchments where detailed analysis is required. All other catchments will be covered by a region wide model. This modelling is also supported by ecological habitat model development in some catchments, although this work may not be completed this summer as river flows have persisted at unseasonably high levels.</p> <p>With regard to the Manuherekia rohe, the Technical Advisory Group are continuing to work to an agreed set of tasks, and likely to report back to Council in May this year.</p> <p>The economics work programme includes an Industry Action work stream, a Farmer Grower work stream, and a Māori economy workstream. The Industry Action Group has been set up to provide comments on the set of actions (mitigations) developed by ORC to deliver on the ground changes.</p>
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	<p>That the Council:</p> <p>1) <i>Requests that the Technical Advisory Group (TAG) be requested to provide regular reports to the Strategy and Planning Committee on progress towards finalising the required science for the Manuherehia catchment.</i></p> <p>The TAG has met in September and will report back to Council in October.</p>	<p>Those actions will also be reviewed by an independent consultant with specific expertise in on farm mitigations.</p> <p>The Farmer Grower workstream is being developed in conjunction with the Ministry for Primary Industries (MPI) and industry good groups from across agriculture, horticulture and viticulture to develop robust industry knowledge for Otago. Technical experts will use the information to test the impacts of different actions on rural businesses in terms of profitability, production and employment.</p> <p>The economics work also includes Catchment Stories which is designed to allow communities to showcase their voice, outlining the on the ground actions already occurring within their catchments.</p> <p>The Māori economy work - Te Ōhanga ki Kai Tahu – has been designed to provide Aukaha and Te Ao Marama to consider their ōhanaga (both historical and present day) as part of their mahi on the implications of the Land and Water Regional Plan for Kai Tahu. They will also look to highlight the kaitiakitanga and manaakitanga of mana whenua in catchments ki uta ki tai (from the mountains to the sea). The final part of the economics programme at this stage is to prepare a Regional Economic Profile for Freshwater. This project is about exploring the economy's use of water as inputs and outputs, the value of that use (as oncome and employment) and connections between industries.</p> <p>A contract for delineating Outstanding Water Bodies is about to be awarded, and legal services are being procured.</p>
<i>Prepare a Plan</i>	Plan Change 7 has now concluded	The final decision on Plan Change 7

<p><i>Change by 31 March 2020 that will provide an adequate interim planning & consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with requirements in the NPSFM.</i></p>	<p>the substantive hearings (over more than 10 hearing weeks) across Dunedin and Cromwell. The Environment Court also undertook a helicopter site visit across the Upper Taieri and Manuherekia valleys, and a 4WD trip across Alexandra, Clyde, and Cromwell. A decision is due in mid- October (delayed from September due to the latest Covid-19 lockdown). The latest communication from the Environment Court is a Minute at the start of September to confirm the status of the proposed RPS.</p>	<p>was released on 17 November 2021, after an interim decision approving the plan change was released on 22 October 2021. Appeals on the interim and final decisions closed in November and December 2021 respectively. No appeals were received and Plan Change 7 was approved by Council in February and operative on and from 5 March 2022.</p> <p>This action is now considered complete.</p> <p>With regard to consent processing, applications covered by Plan Change 7 are being processed in a staging plan that has been agreed with consultants and applicants. This also allows for people to be working on one part of the region at once and allows time for the water use analysis to be completed for permits in a similar area at one time.</p> <p>Work on the Manuherekia consents has continued by the project team set up to process the permits. These applications were 'on hold', at the request of the consent holders, waiting for a decision on Plan Change 7. The applications are being processed by an external consultant, with internal project leadership. Staff are currently undertaking the water use analysis for these takes and providing these reports to the Manuherekia applicants. The applicants will then use these to help inform amendments to their applications.</p> <p>There have been concerns raised by some councillors about the cost of the deemed permit replacement consents in light of the PC7 decision and the subsequent short terms on these consents. Staff continue to apply charges consistent with the RMA.</p>
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Summary of Freshwater Resource Consenting Activity – for the period 11 September 2021 – 28 February 2022

The following is a summary of the freshwater resource consenting activity for the reporting period:

- Between 11 September 2021 and 28 February 2022, the Otago Regional Council received 95 applications for water take consents. These applications are being processed as 124 separate resource consents, with 22 for taking groundwater and 102 for taking surface water. Of the 95 applications, 41 relate to the replacement of Deemed Permits.
- From the 95 applications lodged between 11 September 2021 and 28 February 2022, Council issued 25 resource consents, 8 for taking groundwater and 17 for taking surface water. Of the remaining 99 resource consents, 88 are currently being processed and 11 have been rejected or withdrawn.
- The Council also issued a further 12 resource consents relating to applications lodged before 11 September 2021. These include 3 resource consent for taking groundwater and 9 for taking surface water. Of the 12 resource consents issued, 2 related to the replacement of 2 Deemed Permits.
- In total, the Council is currently processing 151 applications for water take consents. These applications are being processed as 253 Resource Consents, with 19 for taking groundwater and 234 for taking surface water. Of the 151 applications, 90 relate to the replacement of Deemed Permits.
- Between 11 September 2021 and 28 February 2022 no applications relating to taking water were publicly notified, and 4 applications were limited notified.
- There are currently 326 active Deemed Permits in the Otago Region including 37 that have been replaced but not surrendered.
- No new appeals relating to decisions on an application for new water permits relating to deemed permit, have been lodged with the Environment Court.

Conclusion

Work is generally on track for completion within the timelines your recommendations prescribe. However, there is some risk related to the RPS process and the Declaratory Judgement in particular and the flow on impacts that will have to the LWRP.

Next Steps

With the first stage of community engagement for the LWRP complete, staff are now working on preparing the technical analysis required for the next round of community engagement due to commence in July. The focus for the RPS team is on preparation and attendance at the hearings. Our next report back to you will be in October 2022.

In the interim, if you have any questions or need further clarification, please don't hesitate to get in touch with Anita Dawe (anita.dawe@orc.govt.nz; or 021 445 993).

Yours sincerely

Sarah Gardner
Chief Executive Officer

7.6. Local Government New Zealand Annual Conference 2022 Attendance

Prepared for: Council
Report No. GOV2215
Activity: Governance Report
Author: Amanda Vercoe, General Manager Governance, Culture and Customer
Endorsed by: Sarah Gardner, Chief Executive
Date: 23 March 2022

PURPOSE

- [1] To determine ORC representation at the Local Government New Zealand 2022 Conference.

EXECUTIVE SUMMARY

- [2] The Local Government New Zealand (LGNZ) annual conference is to be held from Wednesday 20 July – Friday 22 July 2022 in Palmerston North. The theme for the 2022 conference is “Heke Mai. The Future.”
- [3] ORC has traditionally been represented by the Chairperson, and two Councillors.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Nominates** ORC Councillor representatives to attend the 2022 LGNZ Conference.

BACKGROUND

- [4] More information on the programme can be found at this link <https://www.lgnz2022.co.nz/>

DISCUSSION

- [5] Nil.

OPTIONS

- [6] Nil.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [7] Nil.

Financial Considerations

- [8] The travel costs associated with attending the conference will be met out of the governance budget, and will include flights, accommodation, transfers and meal expenses.

Significance and Engagement

[9] Nil.

Legislative and Risk Considerations

[10] Nil.

Climate Change Considerations

[11] Nil.

Communications Considerations

[12] Nil.

NEXT STEPS

[13] Once ORC representatives are confirmed, registration will be confirmed, and travel arrangements will be made.

ATTACHMENTS

Nil

7.7. Documents Signed Under Council Seal

Prepared for: Council
Report No. GOV2216
Activity: Governance Report
Author: Dianne Railton, Governance Support Officer
Endorsed by: Amanda Vercoe, General Manager Governance, Culture and Customer
Date: 23 March 2022

PURPOSE

[1] To inform the Council of delegations which have been exercised during the period 17 November 2021 through 2 March 2022.

Date of application of seal	Description
08/12/2021	Deed of Agreement for Private Development: Grandview (2011) Ltd; Dunedin City Council; Otago Regional Council. Legal Description: Lot 2 Deposited Plan 486537; 56.0274 hectares more or less
23/02/2022	PC5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago to be operative
23/02/2022	Water Permits Plan Change 7 to the Regional Plan: Water for Otago operative
23/02/2022	Deed of Lease: Landlord - Philip Laing House Limited and Otago Regional Council - Tenant
02/03/2022	Deed of Agreement for private development: Daisy Link Garden Centre Limited (Developer), Dunedin City Council, Otago Regional Council. 27 Inglis Street and part 58 Ayr Street rezoning. Part Section 9-11 Block III East Taieri Survey District (Record of Title OT1B/687); Lot 2 Deposited Plan 304960 (contained in Record of Title 20445)

RECOMMENDATION

That the Council:

1) **Notes** this report.

7.8. LGFA Port Lending

Prepared for:	Council
Report No.	CS2218
Activity:	Governance Report
Author:	Nick Donnelly, General Manager Corporate Services
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	23 March 2022

PURPOSE

- [1] To seek approval for Council to borrow via the LGFA and on-lend to Port Otago Limited and to approve amendments to Council's Treasury Management Policy to permit on-lending to occur.

EXECUTIVE SUMMARY

- [2] Council joined the LGFA in 2021 and can borrow at rates lower than those offered by commercial lenders.
- [3] Port Otago is unable to join the LGFA and borrow through them directly, however Council is permitted to borrow from the LGFA and on-lend to the Port if it chooses to do so.
- [4] Port Otago would like the ability to borrow up to \$100M for up to 10-year fixed terms through the LGFA. This would form the base of their debt and they would retain existing lending facilities with ANZ to manage their ongoing working capital debt requirements.
- [5] On-lending to Port Otago would allow them to access the lower cost of funding available through the LGFA and increase their overall debt facilities without the need to introduce a second commercial bank.
- [6] The loan agreement from Council would be in the form of a shareholder advance and the terms of amounts advanced will mirror those of the underlying LGFA loan to Council. As a result, there would be no net cost or financial impact to Council.
- [7] This proposal was initially discussed at the Port Liaison Working Group meeting on 2 December 2021, and the members of that group were supportive of the proposal being progressed and presented to Council for their consideration.
- [8] The Finance Committee considered the proposal on 23 February 2022 and the Committee endorsed the proposal being progressed and the Co-Chairs of Finance were delegated to work with staff and oversee the process of drafting a debt facility agreement.

- [9] Council’s Treasury Management Policy (TMP) has been revised to permit on-lending from Council to the Port and is attached to this report for Council’s consideration and approval.
- [10] A loan agreement has been drafted and will considered separately in the Public Excluded part of this meeting.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the attached Treasury Management Policy which has been revised to permit on-lending to Port Otago.
- 3) **Endorses** Council providing a Shareholder Advance to Port Otago Limited subject to approval of the formal loan agreement being considered separately.
- 4) **Notes** Council will commence the process to obtain a credit rating.

BACKGROUND

- [11] Council joined the LGFA in 2021 to gain access to the lower interest rates made available to local authorities. Interest rate savings are typically in the 0.80% to 1.00% range depending on how the debt is structured and the market rates available from commercial lenders.
- [12] Council is planning to borrow \$25M in the 2021/22 financial year to replace internal debt with external debt from the LGFA (as indicated in the LTP).
- [13] Council must comply with financial covenants and borrowing limits. These are stated in the LGFA membership agreements and mirrored in Council’s Treasury Management Policy.

Financial Covenant	Standard Limit	Limit with Credit Rating
Net debt / total revenue	<175%	<280%
Net interest / total revenue	<20%	<20%
Net interest / rates income	<25%	<30%
Liquidity	>110%	>110%

- [14] The LGFA net debt / total revenue limit with a credit rating above is current 300% reducing to 280% for the financial year ending 30 June 2026. The revised Treasury Management Policy has used the lowest limit that will apply during this period.
- [15] Council’s budgeted income and maximum debt based on the Long-Term Plan are:

LTP 2021/31 (\$'000)	2021/22 Year 1	2030/31 Year 10
Rates revenue	\$40,039	\$67,746
Grant revenue	\$18,856	\$25,957
Other revenue	\$17,389	\$25,110
Interest and dividends	\$13,750	\$20,750

Total revenue	\$90,034	\$139,563
Net debt / total revenue	175%	175%
Maximum net debt	\$157,560	\$244,235
Plus liquid financial assets	\$42,488	\$74,913
Maximum gross debt	\$200,048	\$319,148
Net debt / total revenue	280%	280%
Maximum net debt	\$252,095	\$390,776
Plus liquid financial assets	\$42,488	\$74,913
Maximum gross debt	\$294,583	\$465,689

DISCUSSION

- [16] The Port currently has lending facilities with ANZ of \$110M and drawn debt of \$93M as at 31 December 2021. They have an option to extend that facility to \$150M.
- [17] The Port is requesting to borrow from the LGFA, through Council, up to \$100M for up to a 10-year term. This would form their base debt with maintenance of their facilities with the ANZ to manage their remaining working capital debt requirements.
- [18] On a \$50M loan, estimated savings to the Port and therefore the group are \$465,000 per annum for a 5-year term and \$415,000 for 10 years. Savings on a \$100M loan would be double this at \$930,000 and \$830,000 respectively. These savings are pre-tax and the post-tax savings on \$100M would be \$670,000 and \$597,000 for the 5-year and 10-year terms respectively.
- [19] The terms of the on-lending loans to Port will mirror the terms of the underlying loans from the LGFA to Council.
- [20] The Port's covenants with the ANZ are to maintain >50% equity (currently 84%) and to maintain a >1.75 interest cover ratio (currently 7.69).
- [21] The Statement of Corporate Intent also includes financial performance measures that relate to equity and interest cover:

Measure	Target		
	2022	2023	2024
Shareholders' funds (Equity)	\$640m	\$650m	\$660m
Equity ratio	Between 70%-85%		
Interest cover ratio	5	5	5

- [22] Gross debt of \$125M (\$25M for Council and \$100M passed onto Port) sits well below the gross debt limit of \$200M (based on Year 1 of the LTP and the standard covenant limit).
- [23] LGFA rules allow pass-through lending to CCO's to be excluded from the net debt covenant calculation so the amount of debt on-lent to the Port would not impact this ratio or Council's ability to borrow for its own funding requirements. It is also possible to request the LGFA to calculate the financial covenants on a group basis although this would not need to be considered as the loan to the Port will not impact the net debt to revenue ratio.

Treasury Management Policy

- [24] Council's Treasury Management Policy was updated when Council joined the LGFA. This did not contemplate Council on-lending to the Port and the policy has now been revised to reflect this arrangement.
- [25] Section 3.7 "On-lending to Port Otago" has been added to the policy. This section permits on-lending to Port Otago with any agreement to on-lend requiring Council approval.
- [26] Other changes have been made to the TMP to ensure the on-lending arrangement is reflected where needed and that the internal borrowing limits (section 3.5) notes limits that will apply if a credit rating is in place. Definitions for the components of each covenant has also been added for clarity and completeness.

Credit Rating

- [27] LGFA interest rates vary depending on whether a Council is a guarantor and whether they have a credit rating. The rates and savings shown above have been calculated based on Council not having a credit rating.
- [28] Rated Councils receive funding rates from the LGFA at a minimum of 10 bps less than non-rated Councils. Once total borrowing is above \$50M the additional interest savings from having a credit rating outweigh the cost of obtaining and maintaining a rating which is approximately \$50,000 per annum.
- [29] If this proposal is endorsed, Council intends to obtain a credit rating as there will be increased savings to the Group in doing so. Once obtained the lower interest rates available due to having a credit rating will only apply to new borrowing from that point forward.
- [30] Under the terms of the loan agreement, Port Otago, will pay for the cost of obtaining a credit rating.

Tax Implications

- [31] Provided there is no margin charged then on-lending to the Port does not result in any net assessable income to Council.
- [32] Potential issues created in the initial drafting of the Taxation (Annual Rates for 2021-22, GST and Remedial Matters) Bill have now been resolved and no changes to interest deductibility are now envisaged. The Bill is now progressing through it final stages and is expected to be enacted later this month.

Local Government Reform

- [33] There is a Future for Local Government review currently in progress. There is the possibility that may lead to changes in the structure of Council and/or the nature of the Port shareholding. The loan agreement reflects that the loan would transfer/continue in these circumstances and termination notice gives the Port sufficient time to source replacement debt funding.

- [34] This risk is also mitigated by the time any reform would take to implement and it would be highly likely a new organisation/shareholder would want to continuing facilitating the Port's access to LGFA funding.

OPTIONS

Lending Structure

- [35] CCOs can now borrow from the LGFA directly however the Port is not considered a CCO under the LGFA so any lending to them must go indirectly via on-lending from Council or a CCO of Council.
- [36] On-lending arrangements are common in local authorities both directly from Council and through intermediary holding companies.
- [37] Holding companies are typically utilised when there are multiple shareholders, or a Council is utilising and funding multiple CCOs. There will be additional cost and administration in establishing and maintaining a holding company. As Council is the sole shareholder of the Port and the Port is Council's only CCO, this structure is not preferred and lending directly from Council is recommended.
- [38] Note a different structure may be considered in the future if further lending via the LGFA is considered or Council's structure changes i.e., a change in the shareholding of the Port or Council establishes and funds other CCOs.

Loan Terms and Conditions

- [39] Terms and conditions of the loan amounts advanced from Council to the Port will mirror the terms and conditions of the underlying loan from the LGFA to Council. This will keep the arrangement simple and neutral for Council from both a financial and tax perspective.

Security

- [40] A loan agreement is in the form of an unsecured shareholder advance.
- [41] There are options around security ranging from unsecured to obtaining various levels of general or specific security. As security levels increase the administration and cost of holding that security increases, especially when other lenders are involved.
- [42] Council owns 100% of the Port and by taking security it would effectively be incurring cost to obtain security from itself so securing the advance is not recommended.
- [43] Council's risk in the advance being unsecured is mitigated by the strength of the Port's balance sheet and the high level of equity it maintains. The Port currently has a \$110M debt facility (drawn to \$94M) and Net Assets of \$641M. This includes \$229M of Fixed Assets, \$500M of Investment Property and \$17M of Property Inventory.
- [44] Existing bank covenants prevent equity from falling below 50% and the current equity ratio is sitting at 84%. Council maintains further oversight over the Port's performance and financial position via the Statement of Corporate Intent and the regular reporting processes currently in place.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [45] Council's Financial Strategy outlines Council's use of external borrowing. That document included external borrowing for Council funding purposes but did not contemplate borrowing to on-lend to the Port. The net debt position of lending to the Port via the LGFA is neutral so it does not impact the position outlined in the Financial Strategy.
- [46] The Financial Strategy will be updated in due course to note that the estimates included in the document are net of any on-lending to Port Otago as that has no impact on the financial statements or the funding of Council activities.
- [47] The proposed changes to Council's Treasury Management Policy have been outlined in this paper and a revised Policy is attached for Council's approval.

Financial Considerations

- [48] There will be no financial impact of this arrangement on Council. The loan from the LGFA and onto the Port will mirror each other and the net impact on Council will be nil.
- [49] The Port will pay the full cost of obtaining a credit rating so long as their lending is greater than \$50M. They will also pay any costs directly associated with their loan advances.

Significance and Engagement Considerations

- [50] The proposal is not considered significant as it has no impact on Council's funding or expenditure and is neutral from a net debt perspective. The Port's underlying debt position is unchanged from that previously forecast with the proposal replacing existing bank debt with a cheaper source of borrowing from the LGFA.

Legislative and Risk Considerations

- [51] The Local Government Act 2002 includes lending restrictions on councils lending to CCTOs. Councils cannot guarantee CCTO debt (section 62), and councils cannot lend to CCTOs at more favourable rates than it can borrow at itself (section 63).
- [52] The Port is not a CCTO, so this legislation does not apply and there are no similar restrictions under the Port Companies Act 1988.
- [53] The primary risk is that Port Otago is unable to repay the interest and principal amounts on due dates. This is mitigated by the credit risk profile of Port Otago and the strength of the Port's balance sheet (as outlined in paragraph 43).
- [54] Council maintains further oversight over the Port's performance and financial position via the Statement of Corporate Intent and the regular reporting processes currently in place (as noted in paragraph's 21 and 44).

Climate Change Considerations

- [55] Not applicable.

Communications Considerations

[56] Not applicable.

NEXT STEPS

[57] Council will consider the Loan Agreement in the Public Excluded part of this Council meeting.

[58] Assuming the agreement is approved, Council will initiate the process of obtaining a credit rating and the Port will be entitled to draw down funding under the agreement.

ATTACHMENTS

1. Treasury Management Policy - Draft March 2022 - marked up [7.8.1 - 46 pages]

TREASURY MANAGEMENT POLICY

Incorporating

LIABILITY MANAGEMENT POLICY AND INVESTMENT POLICY

| ~~June 2021~~ March 2022



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1. Introduction

The Local Government Act 2002 requires local authorities to adopt a Liability Management Policy and an Investment Policy. The Otago Regional Council's ("Council") prepared policies have been combined into one document called the Treasury Management Policy.

The Liability Management Policy is designed to provide a framework for prudent debt management and sets out how Council may wish to use debt as a funding mechanism.

The Investment Policy is designed to ensure that the financial resources of the Council are managed in an efficient and effective way. It sets out how Council can utilise funds from the sale of assets and what should be done with the investment income.

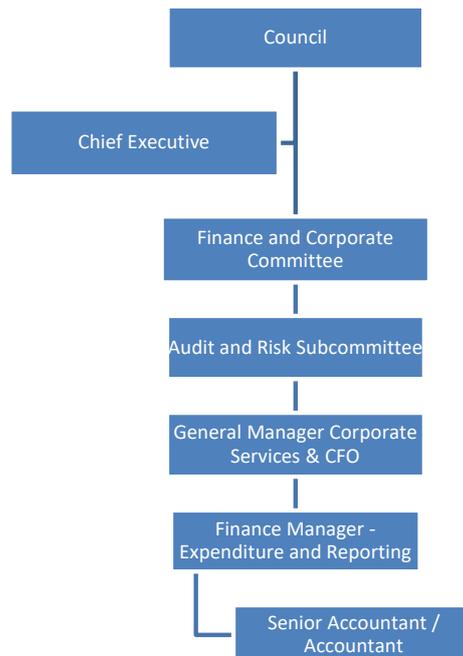
Council has set up a structure of responsibilities and reporting lines to ensure the appropriate management and accountability of the liability management and investment management activities.



2. Structure

2.1 Treasury and Investment Organisational Structure

The organisation chart for the treasury and investment activity is as follows:



2.2 Treasury and Investment Responsibilities

The key responsibilities of the above positions are as follows:

Council

The primary responsibilities of Council are planning, policy and governance.

- Approve and adopt the Liability Management and Investment Policies.
- Review at least on a three yearly basis the Liability Management and Investment Policies, and approve any revisions or amendments as required.
- Approve by resolution all external Council borrowing.
- To encourage the appointment of Audit and Risk Subcommittee members with the relevant experience and competencies to achieve the stated objectives.
- To ensure that the roles and responsibilities of all parties are documented and clearly defined.
- Reviewing and assessing budgets during the budget review process.
- Appointment of Investment Managers.



- Reviewing investment performance and investment reports periodically throughout the year and at year end.
- Approve any transaction that falls outside the guidelines of the IP and Statement of Investment Policy and Objectives (“SIPO”).

Finance and Corporate Committee

The Council has established the Finance and Corporate Committee and has delegated such powers and duties to the Committee as the Council sees fit. The Finance and Corporate Committee operates as per the Council’s constitution. Members serving on the Finance and Corporate Committee are appointed by the Council. The Audit and Risk Subcommittee is a subcommittee of the Finance and Corporate Committee.

Audit and Risk Subcommittee

The Council has established the Audit and Risk Subcommittee and has delegated such powers and duties to the Committee as the Council sees fit. The Audit and Risk Subcommittee operates as per the Council’s constitution. Members serving on the Audit and Risk Subcommittee are appointed by the Council.

- To provide guidance and leadership on the appointment, management, monitoring and review of appropriate Investment Managers.
- Reviewing all matters concerning the SIPO, considering any changes or amendments to the SIPO and making appropriate recommendations
- Regularly reviewing the Investment Managers reports and reporting exceptions.
- Ensuring that all parties overseeing, advising and managing ORC’s investments disclose any potential conflicts of interest. In the event that conflicts of interest arise the policies and procedures for managing these are to be clearly defined, although, in principle, such conflicts should be avoided.
- Ensuring that an appropriate SIPO is developed and maintained.
- Ensuring that contracts for investment advisory/management, custodial and consultancy services are reviewed at least every three years.
- To recommend the appointment and removal of Investment Managers as appropriate.
- Ensuring investment portfolios are prudently diversified to meet the agreed risk/return profile.
- Approving the asset classes and sub-asset classes to be included in any investment portfolios.
- Ensuring that all service agreements and contracts are in writing and are consistent with fiduciary standards of care.
- To ensure that the practices and policies set out in the SIPO are adhered to.
- To follow formal criteria to monitor, evaluate and compare the investment performance results achieved against relevant benchmarks and objectives on a regular basis.
- To confirm on an annual basis that best practice with respect to execution, brokerage, money sweep facilities, foreign currency spreads, transaction costs and management fees is being applied.



General Manager Corporate Services and CFO

- Responsible for setting investment, borrowing and risk management strategy in conjunction with the Finance Manager and the Manager Projects.
- Responsible for recommending the level of cash available for investment and that held for working capital purposes.
- Recommend to Council amendments to the Liability Management and Investment Policies as required.
- Manages the funding and liquidity activities of the Council.
- Determines the level of future core debt is to be used for interest rate risk management purposes.
- Maintains lender relationships with the banks and the capital markets including the LGFA.
- Monitors and reviews the ongoing treasury risk management performance of the Council to ensure compliance with the policy parameters.
- Review internal audit reports and approve as appropriate any recommendations made.
- Administering and attending to the day-to-day financial matters associated with the management of investment portfolios, including serving as the primary point of contact for the Investment Manager.

Finance Manager – Expenditure and Reporting

- Responsible for all activities relating to the daily implementation and maintenance of the Liability Management and Investment Policies.
- To control and account for all investment, recordkeeping and administrative expenses associated with management of the funds.
- Prepares quarterly treasury reports.
- To report at least annually to the Audit and Risk Sub-committee 'Total cost of Delivery' being the sum of:
 - Investment Advisory Fees,
 - Custodial Fees,
 - Administration Fees, and
 - Total Fund Fees – made up of; annual management fees (including annual management fees of underlying investments), performance-based fees (including performance based fees of underlying investments), and any other fees and costs.
- Assist in determining the most appropriate sources and terms for borrowing and investing.
- Negotiate investment and borrowing transactions.
- Responsible for keeping the General Manager Corporate Services & CFO informed of significant treasury activity and market trends.
- Responsible for reviewing/approving the weekly cashflow and cash management transaction requirements completed by the [Senior Accountant](#) / Accountant.



- Responsible for confirming adherence to Liability Management and Investment Policies, through internal audit reviews, to be performed on an annual basis. Reports findings to the General Manager Corporate Services & CFO.
- Assist in identifying amendments to the investment, borrowing and risk management strategy, which may require amendment of the Liability Management and Investment Policies.

Senior Accountant / Accountant

- Prepare and manage Council's cashflow and cash requirements.
- Report to the Finance Manager on the weekly cashflow position and resulting cash management transactions required.

Council may also appoint an Independent Treasury Advisor ("ITA") to advise on the management of the treasury risks.



3. Liability Management Policy

3.1 General Liability Management Policy

The Council, on such terms and conditions as it considers appropriate and by resolution, exercises its borrowing powers pursuant to the Local Government Act 2002.

Council may borrow for the following primary purposes:

- Fund special one-off type projects.
- Fund expenditure for items of an intergenerational nature.
- Short-term borrowing to manage timing differences between cash inflows and outflows.
- On-lending to Port Otago Limited.

Council can borrow from external sources utilising the following borrowing mechanisms.

- Committed bank facilities.
- The capital markets using Commercial Paper ("CP"), Floating Rate Notes ("FRN") and Fixed Rate Bonds ("FRB"), also referred to as Medium Term Notes ("MTN")
- The Local Government Funding Agency using standby facilities, CP, FRNs and FRBs, also referred to as MTNs.

When evaluating new borrowings, the Council will take into consideration the following:

- The impact on its borrowing limits (refer Section 3.5).
- The impact on its interest rate exposure limits (refer Section 3.2).
- The available terms of borrowing including interest rates, level and timing of repayments and security.
- The size and economic life of the asset / project being funded.
- The level and timing of earnings which may flow from the asset / project.
- The advantages and disadvantages of various borrowing mechanisms including the relevant margins under each borrowing source.
- Council's overall debt maturity profile, to ensure concentration of debt is avoided at reissue / rollover time.
- Consistency with the Council's long-term financial strategy.
- Legal documentation and financial covenants.
- The Council cannot borrow in foreign currencies.



3.2 Interest Rate Exposure Policy

Interest rate risk management has the objective of managing Council's interest rate exposures in order to:

- Give a sufficient level of certainty to Council's funding costs while, at the same time, allowing Council to participate if interest rates and credit spreads move favourably.
- Control variations in interest expense for the debt portfolio from year to year, taking into consideration relevant budgetary assumptions.
- Recognise Council's exposure to the local and international economies and maintain sufficient flexibility in its interest rate risk management profile to enable TDH to respond as appropriate.

Hedging controls relate to the level of core debt. Core debt is defined as the level of current and projected future debt as determined by the CFO. Core debt projections should be supported by appropriate budgetary analysis.

Council will maintain fixed interest rate cover for core debt within the control limits detailed in the table below. Fixed rate debt is defined as all debt that has at least one more rate reset outstanding (typically quarterly) or has more than three months to maturity in the case of a fixed rate term loan. Compliance with these parameters is at the discretion of the CFO if core debt is less than \$10.0 million. Any hedging in excess of 8 years must be approved by the full Council.

The following interest rate risk management parameters apply if debt ([excluding debt obtained for on-lending to Port Otago Limited](#)) is greater than \$10.0 million:

Fixed Rate Hedging Percentages		
	Minimum Fixed Rate Amount	Maximum Fixed Rate Amount
0-2 years	40%	100%
2-4 years	20%	80%
4-8 years	0%	60%

The approved interest rate risk management instruments are as follows.

- Fixed interest rate swaps, including forward starting swaps.
- Interest rate options – includes caps, swaptions and collars. For a collar the amount of the sold option must match the amount of the purchased option.
- Fixed rate term loans.

Options that hedge floating rate debt with an exercise rate greater than 1.50% above the equivalent period fixed interest rate at the time of inception cannot be included as part of the fixed rate cover percentage calculation. For example, a two-year cap at 2.00% would only count as a fixed rate hedge if the underlying two-year swap rate at the time of inception was higher than 0.50%.



3.3 Liquidity and Funding Risk Management

Liquidity risk is the risk that an unforeseen event or miscalculation in the required liquidity level may lead to Council being unable to meet its day-to-day obligations.

Liquidity risk management has the objective of ensuring that adequate liquid assets and funding sources are available at all times to meet both the short and long-term commitments of TDH as they arise, in an orderly manner. The two main sources of liquidity requirements are for working capital and material adverse business events.

To manage liquidity risk Council must maintain a liquidity percentage of 110% above the projected peak borrowing requirement over the following twelve months e.g. if debt was \$25 million, the Council must maintain liquidity of at least \$2.5 million. Liquidity is defined as external debt plus committed loan facilities plus liquid investments divided by external debt.

Appropriate cash flow reporting mechanisms must also be maintained to monitor Council's estimated liquidity position over the next twelve months.

Funding risk is defined as an inability to secure access to external lines of credit sufficient to enable the Council to achieve its strategic short term and long-term objectives where the financial requirements to achieve those goals exceed the funds being generated from operating activities. Funding risk covers both working capital requirements and core debt.

- The Council must approve all new debt funding facilities and/or revision to the parameters of existing debt funding facilities.
- To ensure that all of the Council's debt is not exposed to excessive refinancing risk at any one time, no more than 40% of all debt facilities should mature within a rolling twelve-month period. Compliance with this provision is not required if total external debt is less than \$10.0 million and excludes debt obtained for on-lending to Port Otago Limited.
- The CFO must renegotiate/replace maturing bank funding facilities on a timely basis. Specifically, the CFO must obtain an indicative letter of offer no later than three months before the maturity of any bank facility.

3.4 Credit Risk Management

The management of counterparty credit risk in relation to the Council's borrowing and interest rate risk management activities has the objective of minimising financial loss through the default of a financial counterparty, usually a financial institution, due to the financial insolvency of the counterparty, the inability of the counterparty to perform due to country decree, or any other circumstance such as an adverse market event. The purpose of counterparty credit limits is to limit the loss that the Council may incur if a counterparty was to default or be unable to meet its obligations.

The Council's exposure to counterparty credit risk will be managed by entering into financial market transactions and funding arrangements with only approved counterparties. Approved counterparties are defined as follows:



- An approved counterparty must be a New Zealand Registered Bank or financial institution with a long term credit rating of 'A-' or above by Standard & Poor's ("S&P"), or the Moody's Investors Service ("Moody's) or Fitch Ratings ("Fitch") equivalents.

3.5 External Borrowing Limits

In managing its borrowings, the Council will adhere to the following limits (based on the Council's latest financial statements):

- Net debt ~~shall~~ will not exceed 175% of total revenue (if Council maintains a long-term credit rating of 'A' equivalent or higher net debt will not exceed 280% of total revenue).
- Net interest ~~expense shall~~ will not exceed 20% of total revenue.
- Net interest ~~expense~~ will not exceed 25% of ~~total annual rates income per annum~~ (if Council maintains a long-term credit rating of 'A' equivalent or higher net interest will not exceed 30% of annual rates income).
- ~~Net interest expense shall not exceed 20% of total revenue.~~
- ~~Net debt shall not exceed 175% of total revenue.~~
- Liquidity ~~will~~ **shall** not be less than 110%.

"Total revenue" is defined as cash earnings from rates, grants and subsidies, user charges, interest, dividends, financial and other revenue and excludes non-government capital contributions (e.g. developer contributions and vested assets).

"Net debt" is defined as total debt less liquid financial assets and investments.

"Liquidity" is defined as external debt plus committed loan facilities plus liquid investments divided by external debt.

"Net Interest" is defined as the amount equal to all interest and financing costs less interest income for the relevant period.

"Annual rates income" is defined as the amount equal to the total revenue from any funding mechanism authorised by the Local Government (Rating) Act 2002 together with any revenue received from other local authorities for services provided (and for which the other local authorities rate).

Financial covenants are measured on a Council only basis and not a consolidated group basis. Both borrowing and loan amounts associated with on-lending from Council to Port Otago Limited will be included in covenant calculations and may be offset if in covenant calculations if permitted under LGFA covenant calculation rules.

3.6 Local Government Funding Agency



The Council may borrow from the New Zealand Local Government Funding Agency (“LGFA”) and, in connection with that borrowing, may enter into the following related transactions to the extent it considers necessary or desirable:

- Contribute a portion of its borrowing back to the LGFA as an equity contribution to the LGFA.
- Provide guarantees of the indebtedness of the LGFA.
- Commit to contributing additional equity (or subordinated debt) to the LGFA if required.
- Subscribe for shares and uncalled capital in the LGFA and.

Secure its borrowing from the LGFA, and the performance of other obligations to the LGFA or its creditors with a charge over the Council’s rates and rates revenue.

3.7 On-lending to Port Otago

This section applies while Port Otago Limited remains a subsidiary of the Council.

To better achieve the strategic and commercial objectives of the group, Council may provide financial support in the form of debt funding to Port Otago Limited.

On-lending terms and conditions are expected to mirror the underlying loan obtained for that purpose. Council will not provide on-lending on terms and conditions that are more favourable than those Council has obtained in the underlying loan to on-lend.

Any agreement to on-lend to Port Otago must be approved by Council and the following should be considered:

- Credit risk profile of Port Otago Limited, and the ability to repay interest and principal amounts on due dates.
- Impact on Council’s credit standing, lending covenants with the LGFA and other lenders and Council’s future borrowing capacity.
- Whether the loan is unsecured or if secured, the form and quality of any security arrangements provided.
- On-lending arrangements must be recorded in a legally enforceable loan contract (and any associated transaction documentation).
- Accounting and taxation impact of the arrangement.

3.87 Security

It is Council policy to offer security for its borrowing by way of a charge over its rates. In the normal course of business, Council policy is not to offer security over any of the other assets of the Council. However, in special circumstances and if it is considered appropriate, Council may resolve to offer such security on a case-by-case basis.

3.98 Repayment



The Council repays borrowings from rates, surplus funds, investment income, proceeds from the sale of investments and assets, or from specific sinking funds.



4.03.9 Internal Debt Management

When considered appropriate, the Council uses accumulated reserves as a borrowing mechanism, thereby reducing the level of external borrowings. The following operational guidelines apply to the use of reserves for funding rather than external borrowings:

- Interest is charged on the month end loan balances.
- The interest rate charged is equivalent to what Council would earn if it had been invested.
- Reserves available for internal borrowing are limited to 50% of total reserves.



4. Investment Policy

4.1 General Investment Policy

Guiding Principles

The guiding principles which govern ORC's equity and financial market investment activities are as follows:

- ORC's time horizon is long term, i.e. it is greater than 15 years, and it intends to hold investments for the long term.
- There is a positive relationship between risk and return, higher expected returns means higher risk.
- Every investment has an associated level of risk. This risk is best mitigated by diversification.
- Investors who have a Strategic Asset Allocation ("SAA"), and a Statement of Investment Policy and Objectives ("SIPO") which they follow, generally outperform investors who do not.
- Frequent trading, completely liquidating all investments, or allocating all investments to one specific sector which is predicted to outperform is speculation, not investment.
- Periodic rebalancing back to SAA target weights is likely to enhance investment returns over the long term.
- Periodic review of IP and the SIPO is likely to ensure that any material changes in circumstances are captured and reflected in the management of the portfolio. Reviews should occur not less than three yearly.

Objectives

Council's primary objective when investing is the protection of its initial investment. Accordingly, the risk profile of all investment portfolios must be conservative (see Appendix 1).

Within the approved credit limits contained in Appendix 1, the Council also seeks to:

- Maximise investment returns.
- Manage potential capital losses due to interest rate movements, currency movements and price movements.
- Maintain the real value of investment assets in perpetuity.
- Ensure that the real value of distributions can be maintained.
- Maintain intergenerational equity between current and future ratepayers of Otago Regional Council.



4.2 Risk Tolerance

The Council recognises and acknowledges that some risk must be assumed in order to achieve the long-term investment objectives.

Risk tolerance is affected by three factors:

- Capacity to accept risk,
- Willingness to accept risk, and
- Required rate of return.

Capacity to Accept Risk

ORC's capacity to accept risk is a function of its investment time horizon, prospective future contributions, current financial condition, level of funding requirements and reserve facilities.

Time Horizon

ORC is expected to exist in perpetuity. The investment time horizon of ORC is therefore long term. This increases capacity to accept risk.

Financial Capacity

ORC's current financial condition and level of funding requirements imply reasonable capacity to tolerate short to medium term volatility in the value of its investments. This increases capacity to accept risk.

Based on the combination of time horizon and financial circumstances, ORC's overall capacity to accept risk is assessed as **Medium to High**.

Willingness to Accept Risk

ORC is a risk averse entity. The Council seeks, where possible, to minimise volatility or risk. Notwithstanding this risk aversion, the Council, Finance and Corporate Committee and Audit and Risk Subcommittee, acknowledge that investing solely in capital stable investments exposes the Council's asset base to the risk of inflation and is willing to accept some risk in order to increase expected return, subject to ORC's capacity to accept risk.

Required Rate of Return

Careful consideration of cash flow requirements is essential to determine the required rate of return. In order to achieve the desired level of contributions to cash flow, while maintaining the real value of ORC's capital over time, the real (i.e. inflation adjusted) required return for ORC must be greater than the spending rate.

Based on a spending rate of \$2,000,000 per annum and an assumed investment asset base of \$40,000,000 to \$50,000,000, inflation expectations of 2.0% per annum, a return of 2.0% to 3.0% may be sufficient to meet ORC's objectives.



4.3 Investment Mix

The Council has a significant portfolio of investments that may be comprised of the following:

- Strategic equity investments.
- Strategic property investments.
- Kuriwao endowment.
- Short term liquidity.
- Long term fixed interest
- Long term investment portfolio
- Investment in irrigation schemes
- Local Government Funding Agency
- [On-lending to Port Otago Limited \(refer to section 3.7\)](#)

4.4 Strategic Equity Investments – Port Otago

Nature of Investments and Rationale for Holding

The Council owns 100% of Port Otago Limited.

Port Otago is a significant strategic asset held by the Council on behalf of the regional community, with its activities complementing and supporting the economic development of the region.

Review of Holding

The Council will from time to time review the equity held in Port Otago Limited, and may, if considered strategically appropriate, amend the percentage shareholding held.

Disposition of Revenue

Port Otago Limited has consistently paid a dividend to the Council. The company’s Statement of Corporate Intent produced annually, specifies the level of dividend that will be paid. These dividends are to be used to subsidise general rate funding. Special dividends received may be used towards special projects of a one-off nature.

Risk Management

The Council’s investment in Port Otago Limited is not without risk. Dividends receivable are driven by the level of profitability that Port Otago can continue to generate, and ultimately, the value of the Council’s investment in the company.

The Council’s risk management procedures include:

- Appointing external directors with appropriate expertise to Port Otago Limited’s Board of Directors.
- Reviewing / approving on an annual basis Port Otago Limited’s Statement of Corporate Intent.
- Regular reporting to Council as specified in the Company’s Statement of Corporate Intent.



Management Reporting Procedures

Management reporting issues have been noted under risk management issues above.

4.5 Property Investment

Nature of Investment and Rationale for Holding

The Council owns investment properties within Dunedin City, the land having been gifted to the Council. The land is leased on commercial terms.

Council considers that holding this investment is in the interests of residents and ratepayers, because the return by way of rentals is at commercial rates.

Review of Holding

The Council will from time to time review the investment properties, and may, if considered strategically appropriate, reduce the holdings.

Disposition of Revenue

Revenue earned from investment properties is used to subsidise general rate funding.

Proceeds from the sale of investment properties would be allocated to the Asset Replacement Reserve.

Risk Management

The risk in respect of holding investment property is evaluated as low given the location of the property and its current and long-term use. A valuation of the property is carried out on an annual basis by an Independent Registered Valuer, with gains or losses in value being taken directly to the property revaluation reserve.

Rental income earned from investment properties is considered low risk, due to the fixed and long-term nature of the lease agreements. Lease rental is negotiated at the time that the leases expire, with independent and expert advice being obtained on the market conditions.

Management Reporting Procedures

Returns from investment properties are monitored on a regular basis.

On an annual basis, the market value of the investment properties is recorded and reported on in the Council's financial statements.



4.6 Kuriwao Endowment

Nature of Investments and Rationale for Holding

This land was vested in the Council by the Otago Regional Council (Kuriwao Endowment Lands) Act 1994 ("the Act"). The Otago Regional Council leases the land to private individuals.

Disposition of Revenue

The Act allows the Council to sell the land if it so desires but stipulates that sales proceeds and any earnings from those proceeds must be used for the benefit of the Lower Clutha district.

In accordance with the Act, rental income from the leases is also used for the benefit of the Lower Clutha district, and is used primarily for catchment works in that district.

Risk Management

The risk in respect of holding investment property is evaluated as low given the location of the property and its current and long-term use.

Rental income earned from endowment land is considered low risk, due to the fixed and long-term nature of the lease agreements. Lease rental is negotiated at the time that the leases expire, with independent and expert advice being obtained on the market conditions.

Management Reporting and Procedures

Returns from the leased land are monitored on a regular basis.

The value of the land is recorded and reported on in the Council's financial statements.

4.7 Short Term Liquidity

Nature of Investment and Rationale for Holding

This type of investment will be in the form of cash deposits held for various periods from "on call" to 365 days or longer. It will be held for working capital purposes, emergency funds and as an investment when deemed appropriate.

Deposition of Revenue

Revenue earned on cash holdings is added to the reserve balance that the cash holdings relate to, e.g. Emergency Response Reserve. When earned on general cash held from rate takes and other external funding sources it is used to subsidise general rates.

Risk Management

Investments are to be held with financial institutions as approved by the General Manager Corporate Services and CFO, and in accordance with the limits set out in Appendix 1.

- No more than 30% of cash is to be invested at any one time with any one institution, unless this is the diversified cash management portfolio managed by a fund manager when 100% can be invested (see Appendix 1).



Management Reporting

Cash holdings are managed as part of the Council's daily operational procedures (refer section 5).

4.8 Long Term Investment Portfolio

Nature of Investment and Rationale for Holding

The Council has established a Long-Term Investment Portfolio in order to assist with the subsidising of rates and maintaining intergenerational equity between current and future ratepayers.

Council considers that holding this investment is in the interests of residents and ratepayers, because the opportunity to earn higher investment returns through income and capital growth than is achievable through short term liquidity or long-term fixed interest provides a greater chance of maintaining the real value of ORC's asset base in the face of inflation.

Review of Holding

The Council will from time to time review the Long-Term Investment Portfolio, and may, if considered strategically appropriate, reduce or increase the amount of funds allocated to the Long-Term Investment Portfolio.

Disposition of Revenue

Revenue earned from the Long-Term Investment Portfolio is used to subsidise rate funding.

Risk Management

The Council's investment in the Long-Term Investment Portfolio is not without risk. The income and capital growth likely to be achieved from the Long-Term Investment Portfolio will vary and may not meet Council's expectations in any one quarter or year.

The Council's risk management procedures include:

- Appointing an independent Investment Manager with appropriate expertise to manage the Long-Term Investment Portfolio.
- Requiring the Investment Manager to adhere to a SIPO which defines the nature of the investment management mandate including restrictions, exclusions and minimum reporting requirements.
- Requiring the Investment Manager to report compliance with the SIPO.
- Requiring the Investment Manager to report formally against appropriate benchmarks quarterly, and peer group at least annually.
- The Council will conduct a formal review of incumbent Investment Managers not less than three yearly. This may result in a tender process for the Investment Management of the Council's Long-Term Investment Portfolio.

Management Reporting and Procedures



Long-Term Investment Portfolio returns, and portfolio characteristics are monitored on a quarterly basis against relevant benchmarks and compliance reporting criteria established in the SIPO.

On an annual basis, portfolio returns are benchmarked against an appropriate peer group.

4.9 Investment in Irrigation Schemes

Nature of Investment and Rationale for Holding

This type of investment would be in the form of equities in irrigation schemes. Such investments could only be entered into where an equity holding by Council will enable a scheme to proceed, if committed supply contracts alone are not sufficient to enable this, **and** where an equity holding will enable wider community benefits in water management.

Any consideration of an equity investment will only occur after normal corporate loan and equity funding had been diligently explored by the developers of the irrigation scheme, and reasons for rejection identified.

Any proposed investment in an irrigation scheme must be consulted on before proceeding with the investment.

Disposition of Revenue

Revenue earned from equity investment in irrigation schemes is to be used to subsidise general rates.

Proceeds from the sale of equities will be allocated to the general reserve.

Risk Management

Investment in Irrigation Schemes is assessed as having a high risk. Returns on this type of equity investment may not be earned until such time as the investment is sold, or may not be at levels that may be returned on other types of investment.

Further there is a risk that there will be no readily available option for selling the investment, should the Council wish to do so.

The Council's risk management procedures include:

- Requiring a full business plan that shows a commercial return on investment, and a real opportunity to sell the investment.
- Being entitled to having a representative on the Board of the irrigation scheme company.
- Requiring regular reporting to Council of the activities and progress of the scheme, and the uptake of shares by farmers joining the scheme.

Investments are to be held in accordance with the limits set out in Appendix 1.

Management Reporting

The value of equity investment in irrigation schemes is to be recorded and reported annually in the Council's financial statements.



4.10 Local Government Funding Agency

Council may invest in shares and other financial instruments of the LGFA and may borrow to fund that investment. The Council's objective in making any such investment will be to:

- Obtain a return on the investment; and
- Ensure that the LGFA has sufficient capital to become and remain viable, meaning that it continues as a source of debt funding for the Council.

Because of this dual objective, the Council may invest in LGFA shares in circumstances in which the return on that investment is potentially higher than the return it could achieve with alternative investments.

If required in connection with the investment, the Council may also subscribe for uncalled capital in the LGFA.



5. Cash Management

The finance department is responsible for managing the Council's cash surpluses and deficits as they arise. These may arise due to a mismatch of daily receipts and payments.

Council maintains weekly cashflow forecasts. These cashflows determine the level of cash required for working capital purposes, any surpluses available for investment, and any deficits that may require short-term borrowing. Any cash to be invested for longer than 12 months is covered by sections 4.7 and 4.8 of this policy document.

The following operational guidelines apply to the cash management processes:

- **Cashflow surpluses will be invested in accordance with section 4.7 of this document.**
- **A committed bank overdraft facility will be maintained, to meet interim cash and liquidity requirements.**

Dedicated cash held in respect of special rating districts or special funds will accumulate interest on those funds to an amount equivalent to that earned by the Otago Regional Council on its cash deposits.



APPENDIX 1:

Approved Credit Ratings and Limits

Approved Credit Ratings

S&P Rating	Maximum Percentage of NZ Fixed Interest Asset Class
AAA to BBB-	100%
A+ to BBB-	55%
BBB+ to BBB-	15%
Sub-investment Grade/Unrated	0%
Government	100%
Equities in Irrigation Schemes*	10%

* Subject to consultation and Council approval as per section 4.9

Individual Security Guidelines

S&P Rating	Individual Security Maximum Percentage of NZ Fixed Interest Asset Class
AAA	15%
AA	10%
A	10%
BBB	5%
Sub-investment Grade/Unrated	0%
Equities in Irrigation Schemes*	10%

* Subject to consultation and Council approval as per section 4.9

Note the above table provides guidelines for assessing an individual security. Section 4.7 of the Investment Policy sets the risk management limit on maximum issuer exposure for Short Term Liquidity and Section 4.4 of the SIPO provides diversification guidelines to manage maximum issuer exposure for the Long-Term Investment Portfolio.



APPENDIX 2:



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1. Purpose

The purpose of this Statement of Investment Policy and Objectives (SIPO) is to provide the policy framework for Otago Regional Council (the Council) to effectively supervise, monitor and evaluate the management of the investment activities of the Council.

The SIPO defines the key responsibilities and the operating parameters within which the investments and their ongoing management are to operate. The SIPO should at all times encourage the use of methodologies and processes that reflect industry best practice, encompass the principles of good corporate governance, and reflect the corporate vision of Otago Regional Council.



2. Objectives

2.1 Introduction

The Local Government Act 2002 requires local authorities to adopt an Investment Policy to ensure that the financial resources of the Council are managed in an efficient and effective way.

2.2 Objectives

Otago Regional Council's primary investment objectives are:

- To protect and maintain the purchasing power of the current investment assets and all future additions to the investment assets.
- To maximise investment returns within reasonable and prudent levels of risk.
- To maintain an appropriate asset allocation in order to make distributions as required while preserving the real value of the Council's capital from the effects of inflation.

2.3 Time Horizon

The investment guidelines are based upon an investment horizon of greater than seven years. Therefore, interim fluctuations should be viewed with appropriate perspective.

2.4 Risk Tolerance

The Otago Regional Council is a risk-averse entity but some risk must be assumed in order to achieve the long-term investment objectives of the portfolio, given there are uncertainties and complexities associated with investment markets. It is the express desire of the Council to minimise portfolio volatility through the adoption of prudent portfolio management practices. Overall, a conservative investment approach is to be adhered to.

2.5 Performance Expectations

Otago Regional Council aims to earn a net real return on the portfolio of 2.3-3.1% per annum after investment management costs and inflation (assumed to average 2.0% per annum), on average over five years.

The Council recognises that the target rate of return is a long term one and will not be achieved in every measurement period.



2.6 Risk Summary and Selection of Asset Allocation

The table below summarises the Council's level of risk tolerance as measured by the three risk factors:

Risk Measure	Level of Risk
Capacity to accept risk	Medium to High
Willingness to accept risk	Low to Medium
Required rate of return	Inflation plus 2.3% - 3.1% (net)

Over the long term, the average rate of investment return is related to the level of risk within the portfolio, as illustrated in the table below:

Estimated Rate of Return (net of fees) Inflation plus:	Estimated Gross Return	Level of Investment Risk	Growth Asset Strategy
1.5% - 2.3%	6.0% - 6.5%	Low	20% to 40%
2.3% - 3.1%	6.5% - 7.2%	Low to medium	40% to 60%
3.1% - 3.8%	7.2% - 7.8%	Medium to high	60% to 80%
3.8% - 4.3%	7.8% - 8.1%	High	80% to 90%

Returns above are per annum. The table comprises estimates based on standard portfolio and custodial fees and assumes a tax rate of 0%. Estimated gross returns increase as the portfolio allocation to growth assets increases. Actual returns may be higher or lower than those detailed above.

Based on ORC's required rate of return, capacity and willingness to accept risk, it is recommended that a portfolio incorporating 40% to 60% growth assets is adopted which is suitable for a low to medium level of risk. Aim is to achieve 50% income assets, 50% growth assets.

2.7 Policy Setting and Management

The Council may from time to time approve/amend the policy parameters set in relation to Otago Regional Council's investment activities. These changes will be minuted and incorporated into the SIPO and the dates of the changes noted.



3. Duties and Responsibilities

3.1 The Council

The primary responsibilities of the Council are planning, policy and governance.

The Council will take cognisance of the prudent person and duty of care rules as set out in the Trustee Amendment Act 1988.

As fiduciaries, the primary responsibilities of the Council are:

- To state in a written document the Council' attitudes to risk, expectations, objectives and guidelines for the investment of their assets.
- To review this SIPO on a regular basis.
- To ensure Otago Regional Council's investment assets are prudently diversified to meet the agreed risk/return profile.
- To establish formal criteria to select, monitor, evaluate and compare the investment performance results achieved by the investment adviser and the overall portfolio against agreed benchmarks, peer groups and Otago Regional Council's objectives on a regular basis.
- To avoid prohibited transactions and conflicts of interest.
- To encourage effective communications between the Council and parties involved with investment management decisions.
- To encourage the appointment of Audit and Risk Subcommittee members with the relevant experience and competencies to achieve the stated objectives.
- To ensure that the roles and responsibilities of all parties are documented and clearly defined.
- Appointment of Investment Managers.
- Reviewing investment performance and investment reports periodically throughout the year and at year end.
- Approve any transaction that falls outside the guidelines of the SIPO.



3.2 The Audit and Risk Subcommittee

The Council has established the Audit and Risk Subcommittee and has delegated such powers and duties to the Committee as the Council sees fit. The Audit and Risk Subcommittee operates as per the Council's constitution. Members serving on the Audit and Risk Subcommittee are appointed by the Council.

- To provide guidance and leadership on the appointment, management, monitoring and review of appropriate Investment Managers.
- Reviewing all matters concerning the SIPO, considering any changes or amendments to the SIPO and making appropriate recommendations.
- Regularly reviewing the Investment Managers reports, and reporting exceptions.
- Ensuring that all parties overseeing, advising and managing Otago Regional Council's investments disclose any potential conflicts of interest. In the event that conflicts of interest arise the policies and procedures for managing these are to be clearly defined, although, in principle, such conflicts should be avoided.
- Ensuring that an appropriate SIPO is developed and maintained.
- Ensuring that contracts for investment advisory/management, custodial and consultancy services are reviewed at least every three years.
- To recommend the appointment and removal of Investment Managers as appropriate.
- Approving the asset classes and sub-asset classes to be included in any investment portfolios.
- Ensuring that all service agreements and contracts are in writing and are consistent with fiduciary standards of care.
- To ensure that the practices and policies set out in the SIPO are adhered to.
- To follow formal criteria to monitor, evaluate and compare the investment performance results achieved against relevant benchmarks and objectives on a regular basis.
- To confirm on an annual basis that best practice with respect to execution, brokerage, money sweep facilities, foreign currency spreads, transaction costs and management fees is being applied.



3.3 Custodian

Custodians are responsible for the safekeeping of Otago Regional Council's investment assets. The specific duties and responsibilities of the custodian are to:

- Value all investment assets.
- Collect all income and dividends owed to the portfolio.
- Settle all transactions (buy/sell orders) initiated by the Investment Manager.
- Provide monthly reports that detail transactions, cash flows, securities held and their current value. The report should also detail the change in value of each security and the overall portfolio since the previous report.
- Maintaining separate accounts.

3.4 Investment Advisor

The Council may retain an objective, third-party investment adviser to assist the Council in managing the overall investment process. The adviser will be responsible for guiding the Council through a disciplined and rigorous investment process to enable the Council to prudently manage their fiduciary duties and responsibilities. The investment adviser will:

- Provide advice on appropriate strategic asset allocation, security and fund manager selection.
- Periodically monitor the SIPO and its appropriateness, (in conjunction with the Council).
- Specify and advise on asset and sub-asset class allocation strategies.



3.5 Investment Manager

The Council will appoint an investment Manager to manage the assets under their supervision in accordance with the guidelines and objectives outlined in the SIPO and in their service agreements. The investment Manager will:

- Periodically review the custodial arrangements and make recommendations.
- Provide instructions to each fund manager with respect to the lodging or withdrawing of funds placed.
- Oversee and monitor the performance of the fund managers.
- Appoint and remove fund managers.
- Deliver quarterly reports to the Council which detail the following:
 - Portfolio valuation,
 - Fixed Interest Portfolio duration,
 - Compliance reporting,
 - Portfolio Performance Summary for the portfolio and by asset class,
 - Performance against benchmarks,
 - Asset transactions summary, and
 - Cash transactions.
- Make available appropriate personnel to attend meetings as agreed between the Council and the adviser.
- Report to the Council annually as to the total expenses incurred and tax paid in managing Otago Regional Council's investment portfolio.
- Communicate to the Council all significant changes pertaining to the portfolio it manages or the adviser's firm itself. Changes in ownership, organisational structure, financial condition and professional staff are examples of changes to the firm in which the Council are interested.
- Use the same care, skill, prudence and due diligence under the prevailing circumstances that an experienced investment professional, acting in a like capacity and fully familiar with such matters, would use in like activities for like portfolios with like aims in accordance with all applicable laws, rules and regulations.
- Ensure that "expected" and "modelled" returns for asset classes are based on sound return and risk premium assumptions.
- Outline expected returns and risk, or volatility, within the selected strategies.
- Recommend a Custodian to hold and report on investment assets.
- Rebalance individual investments and asset class groups to within agreed benchmarks as described in the rebalancing policy contained in the SIPO.
- To effect all transactions for the portfolio at the best price.
- Regularly report on compliance exceptions with the SIPO.
- Disclose any potential conflicts of interest and steps taken to mitigate such conflicts.



3.6 Fund Managers

Fund Managers are utilised by the Investment Manager to manage a part of the Long-Term Investment Portfolio.

- To manage an allocated part of the portfolio on terms and conditions consistent with their mandate.



4. Investment Policy and Implementation

4.1 Asset Class Guidelines

Long-term investment performance is primarily a function of strategic asset allocation and asset class mix.

History shows that while interest-generating investments, such as fixed interest portfolios, have the advantage of relative stability of capital value, they provide little opportunity for real long-term capital growth due to their susceptibility to inflation. On the other hand, equity investments have a significantly higher expected return but have the disadvantage of much greater year-on-year variability of return. From an investment decision-making point of view, this year-on-year variability may be worth accepting, provided the time horizon for the equity portion of the portfolio is sufficiently long, (10 years or greater).

Authorised Investments

The following investments, within New Zealand and internationally, are authorised by the Council:

- Cash – term deposits, cash on call, cash funds.
- NZ fixed interest – NZ Government, local authority and NZ State-Owned Enterprise bonds, corporate bonds, fixed interest funds.
- International fixed interest – either direct, if appropriate or via managed funds.
- Listed property companies, property funds and direct property investments.
- Equities, either via managed funds or directly.

Excluded Investments

The following investments are not permitted:

- Preference shares.
- Leveraged investments.
- Options.
- Futures (excluding those employed as risk management strategies by fund managers).
- Commodities contracts.
- Precious metals.
- Hedge funds.
- Unlisted equity securities.
- Private equity investments.
- Illiquid investments.
- Investments in Council Controlled Organisations (other than those described in Section 4.4 of the Investment Policy).



4.2 Asset Allocation

Academic research offers considerable evidence that the strategic asset allocation decision far outweighs security selection and market timing in its impact on portfolio variability and performance. On this basis the Council prefer to adopt a strategic asset allocation and passive strategy over an active and/or tactical asset allocation strategy.

The asset allocation benchmark is to be:

Asset Class	Target Allocation	Acceptable Range	
		Minimum	Maximum
Cash	5%	0%	25%
NZ Fixed Interest	35%	25%	45%
International Fixed Interest	10%	5%	15%
Defensive Total	50%	40%	60%
NZ Property	5%	2%	8%
NZ Equities	15%	10%	20%
Australian Equities	15%	10%	20%
International Equities	15%	10%	20%
Growth Total	50%	40%	60%
Total	100%		

Note target allocation is 50% income assets and 50% growth assets.

4.3 Rebalancing Guidelines

The percentage allocation to each asset class may vary depending upon market conditions.

The SAA has upper and lower limits for each asset class as set out in the table above. The limits are based on the following guidelines:

- Plus or minus 5% for an asset class comprising 20% or more of the SAA,
- Plus or minus 25% of the allocation to a single asset class, where that asset class comprises less than 20% of the SAA (e.g. an asset class comprising 4% of the SAA would have limits of plus or minus 1%).
- The result of the above formulas are then rounded to the nearest full percentage (minimum is round down and maximum is rounded up).

To remain consistent with asset allocation guidelines, the Investment Manager(s) will periodically review the portfolio and each asset class. If the actual weighting has moved outside the tolerances described above, the Investment Manager(s) shall rebalance the portfolio back towards the recommended weighting. This rebalancing is to be completed as required, at least annually, and reported to the Audit and Risk Sub-committee.

Rebalancing tends to involve buying underperforming assets at relatively lower prices, and selling relatively higher priced assets.



4.4 NZ Fixed Interest Investment Guidelines

4.4.1 Portfolio Objectives for Direct NZ Fixed Interest

To gain a diversified exposure to the New Zealand Fixed Interest market through investing in direct securities with the following objectives identified below:

- Provide access to the market in a cost-effective manner,
- Provide a stable income and capital preservation (in nominal terms) over a full market cycle,
- Reduce overall volatility of a strategically diversified portfolio, and
- Provide a high level of transparency.

4.4.2 Portfolio Construction Guidelines

a. Diversification

The portfolio should be constructed to achieve appropriate diversification (in the constraints of the NZ market) relative to:

- New Zealand fixed interest issuers,
- The industries/sectors the issuers are involved with,
- The individual issue and overall portfolio duration, and
- Overall credit risk exposure of a portfolio.

The level of the diversification will be governed by the size of the fixed interest portfolio.

Credit ratings will have an impact on the level of diversification. Securities with lower credit ratings require a higher level of diversification.

b. Number of Securities

To achieve sufficient levels of diversification, a minimum of 15 securities where the size of the NZ Fixed Interest portfolio is more than \$1,000,000, and 10 securities where the size of the NZ Fixed Interest portfolio is less than \$1,000,000, is required. Where appropriate diversification cannot be achieved due to the size of the portfolio or availability in the market, surplus funds may be directed to money market instruments until availability improves.

c. Duration

The portfolio should be diversified across all durations to minimise the adverse effects of reinvestment risk on maturity. Otago Regional Council should be aware if the duration of their portfolio deviates from the benchmark duration by more than 1 year.

d. Liquidity

Although Otago Regional Council invests into the direct New Zealand fixed interest market with a "buy and hold" philosophy, over time its needs may change and greater levels of liquidity may be required.



The more liquidity is required, the more government and liquid (i.e. senior debt issues of \$150m or greater) corporate securities should be included in the portfolio.

e. Exposure Levels by Credit Rating

Guidelines for maximum security exposure levels for individual securities are set by credit rating. The following criteria should be considered when making decisions on exposure levels within a portfolio:

- Consideration should be given to excessive exposure to any single issuer,
- Consideration should be given to other asset class exposures Otago Regional Council may have to an issuer,
- The portfolio should be distributed across credit ratings, and

The following table presents a set of guidelines that need be used when constructing a portfolio.

Guidelines:

S&P Rating band (or Moody's or Fitch equivalent)	Overall maximum % of Income Assets
AAA to AA-	100%
A+ to A-	55%
BBB+ to BBB-	15%
Sub-Investment Grade / Unrated	0%
Government	100%

A maximum of 5% of floating rate/annual resettable securities is permitted in a portfolio. Where possible, the following maximum individual security guidelines should be followed to gain diversification whilst ensuring sound credit quality within portfolios.

Maximum Individual Security Guidelines:

S&P Rating band (or Moody's or Fitch equivalent)	Individual security maximum % of Income Assets
AAA	15%
AA	10%
A	10%
BBB	5%
Sub-Investment Grade / Unrated	0%

Note that the above table provides guidelines for assessing an individual security. Although there is no maximum issuer exposure specified, diversification guidelines described under the "Diversification" heading are to be followed.



f. Perpetual Securities

Given the equity structure (including potential imputation credits) of perpetual securities, this class of fixed interest is not to be used.

g. Structured credit

Due to the complexity of structured credit instruments and the lack of sophisticated monitoring systems required to provide ongoing assessment, Otago Regional Council should not include this type of investment in its NZ fixed interest portfolio. It is considered that the required fixed interest exposure can be adequately achieved by investing in securities with simple structures which possess typical fixed interest characteristics.

h. Ratings Downgrade

If a security is downgraded, the mandatory guidelines table should be revisited to ensure that the new rating falls within the ratings framework. A decision must be made by the Council in light of the downgrade as to the future holding of the security (which could potentially be outside the guidelines).

i. Reinvestment

Recommendations to reinvest the proceeds from a maturity should take into account all of the above portfolio construction guidelines.

Where it is uneconomical to gain a direct exposure to NZ or international fixed interest, investment may occur via a recommended managed fund in order to gain an appropriate level of diversification.

4.5 International Fixed Interest

4.5.1 Portfolio Objectives for International Fixed Interest

The inclusion of international fixed interest has the benefit of increasing diversification and reducing volatility by providing exposure to a greater range of issuers, credit ratings and yield curves than is achievable through domestic fixed interest.

4.5.2 Portfolio Construction Guidelines

Given the quantum of the allocation to international fixed interest this asset class must be invested in through one or more Collective Investment Vehicles (CIVs). CIVs must invest in diversified portfolios of fixed interest securities and have exposure limits, minimum credit ratings and policies and procedures acceptable to the Council.

International fixed interest investments must be 100% hedged to the New Zealand dollar.



4.6 Property Investment Guidelines

4.6.1 Portfolio Objectives for Property Investment

To provide an exposure to the New Zealand listed property sector.

4.6.2 Portfolio Construction Guidelines

For direct New Zealand property investments, the following rules shall apply:

- Investment in property entities that are listed on the New Zealand Stock Exchange.
- Investments in partly paid shares in respect of shares of the type referred to above are permitted following a formal submission from the Investment Manager and Audit and Risk Subcommittee approval.
- Not more than 25% of this asset class to be invested in any one entity.

4.7 New Zealand Equity Investment Guidelines

4.7.1 Portfolio Objectives for New Zealand Equity Investment

To provide a combination of capital growth and income via a broad exposure to the New Zealand equity market.

4.7.2 Portfolio Construction Guidelines

For direct New Zealand equity investments, the following rules shall apply:

- Investment in companies listed on the New Zealand Stock Exchange.
- Investments in partly paid shares in respect of companies of the type referred to above are permitted following a formal submission from the Investment Manager and Audit and Risk Subcommittee approval.

Exposure limits for direct New Zealand equity investments (based on the dollar value of the NZ Equities sector of the Long-Term Investment Portfolio) are set out below:

Security Type	Minimum percentage of NZ equities	Maximum percentage of NZ equities
Companies not represented in the Benchmark	0%	20%
Individual company in the Benchmark	0%	Benchmark weight +/-8%
Individual company not in the Benchmark	0%	4%



4.8 Australian Equity Investment Guidelines

4.8.1 Portfolio Objectives for Australian Equity Investment

To provide a combination of capital growth and income via a broad exposure to the Australian equity market.

4.8.2 Portfolio Construction Guidelines

For direct Australian equity investments, the following rules shall apply:

- Investment in companies listed on the Australian Stock Exchange.
- Investments in partly paid shares in respect of companies of the type referred to above are permitted following a formal submission from the Investment Manager and Audit and Risk Subcommittee approval.

Exposure limits for direct Australian equity investments (based on the dollar value of the Australian Equities sector of the Long-Term Investment Portfolio) are set out below:

Security Type	Minimum percentage of Aust equities	Maximum percentage of Aust equities
Companies not represented in the Benchmark	0%	20%
Individual company in the Benchmark	0%	Benchmark weight +/- 8%
Individual company not in the Benchmark	0%	4%

4.9 International Equity Guidelines

4.9.1 Portfolio Objectives for International Equity Investment

To provide an exposure to investments in the international equities sector.

4.9.2 Portfolio Construction Guidelines

For direct international equity investments, the following rules apply:

- Investment in international equities will be through one or more CIVs.
- International equity investments must be hedged in accordance with the requirements contained in Foreign Currency Management.
- CIVs in international equities must hold a broadly diversified portfolio of equity securities, be consistent with underlying benchmarks, be managed according to appropriate policies and procedures and impose reasonable exposure limits.
- Ensure that any investment is sufficiently liquid to enable exit from the investment at any time.



4.10 Foreign Currency Management

Historically, fluctuation of the New Zealand dollar against other major currencies has been significant and has resulted in additional portfolio volatility.

To minimise the risks associated with currency fluctuations the following policies apply:

- Holdings of international fixed interest investments are to be fully hedged back to NZ dollars at all times.
- When investing in international equities either directly or via managed funds, a neutral currency position is the preferred strategy however, 0% to 100% of the international equities being hedged back to NZ dollars is permitted at any one point in time. Any change to the actual hedging level should be disclosed to the General Manager Corporate Services & CFO and Audit and Risk Subcommittee and may require the Council's approval/endorsement.

4.11 Tax Policy

Any investment strategy employed needs to take into account Otago Regional Council's tax status, although this should not be to the detriment of the long-term strategic asset allocation.

Any tax leakage is to be quantified by the investment adviser and reported to the Council annually.



5. Monitoring and Evaluation

5.1 Performance Objectives

The Council acknowledges fluctuating rates of return characterise the securities markets, particularly during short time periods. Recognising that short-term fluctuations cause variations in performance; the Council intends to evaluate investment performance from a long-term perspective.

The Council is aware the ongoing review and analysis of the investment options is just as important as the due diligence process. The performance of the investment options will be monitored on an ongoing basis and it is at the Council's discretion to take corrective action by replacing a manager if they deem it appropriate at any time.

On a timely basis, but not less than annually, the Council will meet to review whether the investment adviser and the investment options selected continue to conform to the criteria outlined in the SIPO, specifically:

- Adherence to the asset allocation levels set with rebalancing occurring within the agreed parameters and in a timely fashion.
- Adherence to the agreed investment philosophy and constraints;
- The adherence of individual investments to investment guidelines;
- Material changes in the investment options, organisation, investment philosophy and/or personnel; and
- Any legal or other regulatory agency proceedings affecting the investment options.



5.2 Benchmarks

The Council has determined that performance objectives should be established for each investment option and for the overall investment portfolio. Investment Manager performance will be evaluated in terms of an appropriate market index and the relevant peer group. These are to be agreed to between the Council and the Investment Manager. Asset classes and relevant benchmarks:

Asset Class	Index
Cash (on call and securities less than 1 year to maturity)	S&P/NZX 90 Day Bank Bill Index
New Zealand Fixed Interest	S&P/NZX Corporate A Grade Bond Index
International Fixed Interest - \$NZD Hedged	Barclays Capital Global Aggregate Bond Index (NZD Hedged)
New Zealand Property	S&P/NZX All Real Estate Industry Group Index (Gross)
New Zealand Equities (Excluding NZ Listed Property)	S&P/NZX 50 Index (Gross)
Australian Equities	S&P/ASX 200 Accumulation Index (Unhedged)
International Equities	MSCI All Country World Index (Unhedged)
NZ Government Bonds	S&P/NZX NZ Government Stock Index

5.3 Compliance

The Council and Audit and Risk Subcommittee are aware that the ongoing review and analysis of investments is just as important as the due diligence process. Performance will be monitored on an ongoing basis and it is at the Audit and Risk Subcommittee's discretion to take corrective action by recommending the replacement of an Investment Manager at any time. The Council may direct the Audit and Risk Subcommittee to take such action if it deems this is required.

Specifically, the following will be confirmed and reported to the Audit and Risk Subcommittee:

- Performance reporting as described in roles and responsibilities above.
- Adherence to the SAA and rebalancing within approved limits occurring in a timely fashion.
- Adherence to agreed investment philosophy and constraints.
- Adherence to investment guidelines.
- Material changes in the investment organisation, investment philosophy and/or personnel.
- Any legal or other regulatory proceedings affecting the Investment Manager's organisation and/or reputation.

5.4 Watch List Procedures

An investment option and/or Investment Manager may be placed on watch list and a thorough review and analysis may be conducted when:



- Performance is below median for their peer group over a one, three and/or five-year cumulative period;
- The three-year risk adjusted return falls below the peer group's median risk-adjusted return;
- There is a change in the professionals managing the investment;
- There is an indication the investment option and/or investment adviser is deviating from the stated style and/or strategy;
- There is an increase in fees and expenses;
- Any extraordinary event occurs that may interfere with the investment option and/or Investment Adviser's ability to prudently manage investment assets.

This process is delegated to the investment adviser and/or a nominated third party and they will report to the Council at least annually.

5.5 Measuring Costs

The total portfolio delivery costs should be fair and reasonable. The appointed Investment Manager should offer a fee-only service with all commissions returned to Otago Regional Council.

The investment adviser is to report to the Council annually on the breakdown and the total costs of delivery including:

- Administration/custodial reporting fees;
- Management expense ratios for managed fund investments;
- Advisory fees;
- Other brokerage or fees.



6. Review of the Statement of Investment Policy and Objectives

The Council will review this SIPO at least annually to determine whether the stated investment objectives are still relevant and it is feasible that they will be achieved. It is not expected that the SIPO will change frequently. In particular, short-term changes in the financial markets should not require adjustment to the SIPO.

Approved by Otago Regional Council:

Signature	Position	Date

Copy to Investment Manager:

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Copy sent by Date

8.1. Recommendations of the Finance Committee Resolution

That the Council adopts the resolutions of the 23 February 2022 Finance Committee (public).

Report	Resolution	Res#	Mover/ Seconder
Port Otago Half-Year Report Presentation	1. That the Committee requests the Chair to send a letter of appreciation to the Te Raone Beach team from the Councillors.	FIN22-101	Cr Malcolm / Cr Hope
Quarterly Activity and Finance Report - 31 December 2021	1. Notes this paper and the Activity and Financial Performance Reports for the period 1 July 2021 to 31 December 2021 (quarter 2 of the 2021-22 financial year).	FIN22-102	Cr Calvert / Cr Hope
Draft Annual Plan 2022-23 and Engagement Approach	<ol style="list-style-type: none"> 1. Notes the position reached by Council at the 9 December 2021 meeting on proposed adjustments to the Long-Term Plan 2021-31 as presented in Background section of this report. 2. Notes the post 9 December 2021 proposed adjustments to the Long-Term Plan 2021-31 as presented in Discussion section of this report. 3. Notes the funding impacts of the post 9 December 2021 adjustments as summarised in this report. 4. Approves the proposed draft financial estimates and that supports the Long-term Plan year 2 work programme as a basis for engaging with the community about any further refinement that may be required to the Long-term Plan 2021-31. 5. Approves the proposed adjustments to Council's Fees and Charges. 6. Agrees the post 9 December 2021 adjustments as 	FIN22-103	Cr Wilson / Cr Noone

	<p>summarised in this report do not represent significant or material changes to the Long-term Plan 2021-31.</p> <p>7. Approves Option 1 being ‘targeted community engagement’ as the approach Council staff will implement for engagement on the Proposed Annual Plan for 2022/23.</p> <p>8. Directs staff to prepare the supporting information for community engagement and for Council’s endorsement at its 23 March 2022 meeting.</p>		
Taieri Flood and Drainage Rates	<p>1. Notes staff are preparing further information on benefits, exacerbators, affordability/fairness and simplicity/logic and request that this information be provided three weeks prior to the next Finance meeting in order that the working group can provide a report to the next Finance Committee meeting as to possible next steps.</p>	FIN22-104	Cr Wilson / Cr Calvert
Enviroschools Programme Future Options	<p>1. Notes this report.</p> <p>2. Considers the options presented for inclusion in the 2023/24 Annual Plan.</p> <p>3. Requests discussion of expansion of the Enviroschools Programme be presented to the Otago Mayoral Forum by the ORC Chair for consideration at the 1 April 2022 meeting.</p>	FIN22-105	Cr Deaker / Cr Hope

**8.2. Recommendations of the Implementation Committee
Resolution**

That the Council adopts the resolutions of the 9 March 2022 Implementation Committee.

Report	Resolution	Res#	Mover/ Seconder
River Management Update: Quarters 1 and 2	<ol style="list-style-type: none"> 1. Notes this report. 2. Notes the River Morphology and Riparian Strategy's for the Waianakarua River, Pomahaka River, Kakanui River, Taieri River and Shag/Waihemo River. 3. Notes the progress that is being made with the reporting, planning and progression of the framework that supports river management activities. 4. Pass on the Committee's appreciation for the new reporting regime. 	IMP22-101	Cr Kelliher / Cr Laws
Environmental Implementation Quarterly Update	<ol style="list-style-type: none"> 1. Notes this report. 2. Notes the range of implementation activities being undertaken to maintain and improve Otago Regional Council's delivery of environmental implementation activities. 3. Notes the retirement of Bruce Monaghan and expresses grateful thanks to him for his service as Catchment Advisor (Central Otago) to ORC and to the wider Otago region. 4. Develop a credible methodology to measure effectiveness of the Pest Management Plan with regards to combatting the #1 pest in Otago. 	IMP22-102	Cr Hope / Cr Wilson

8.3. Recommendations of the Data and Information Committee Resolution

That the Council adopts the resolutions of the 9 March 2022 Data and Information Committee.

Report	Resolution	Res#	Mover/ Seconder
Annual Air Quality Report 2021	1. Notes this report.	DAIC22-101	Cr Noone / Cr Kelliher
Annual Water Quality and Biomonitoring Results (SoE Report Card)	1. Notes this report.	DAIC22-102	Cr Malcolm / Cr Wilson
SoE Monitoring Biannual Update	1. Notes this report which provides an SoE Monitoring Biannual Update.	DAIC22-103	Cr Malcolm / Cr Calvert
Quarterly Monitoring Report - Urban Development	1. Notes this report and the Quarterly Monitoring Report up to and including December 2021.	DAIC22-104	Cr Noone / Cr Calvert
Queenstown and Dunedin Patronage Report	1. Notes this report.	DAIC22-105	Cr Noone / Cr Malcolm

8.4. Recommendations of the Governance, Communications and Engagement Committee Resolution

That the Council adopt the resolutions of the 10 March 2022 Governance, Communications, and Engagement Committee.

Report	Resolution	Res#	Mover/ Secunder
Otago Regional Council Community Survey 2021 Draft Action Plan	<ol style="list-style-type: none"> 1) Notes this report. 2) Adopts the draft ORC Community Survey Action Plan 2021 / 2022. 3) Requests that staff report back on progress against the action plan as part of the reporting of ORC Community Survey Results for 2022/2023. 	GCE22-101	Cr Malcolm / Cr Calvert
Port Directors Appointment Guidelines	<ol style="list-style-type: none"> 1) Notes this report. 2) Approves the amended Appendix B Guidelines for the Appointment of Directors to Port Otago Limited. 	GCE22-102	Cr Calvert / Cr Malcolm
Chief Executive's Staff/Councillor Protocol	<ol style="list-style-type: none"> 1) Lays this report on the table to allow the Chief Executive and Councillors to review video of discussions held on the <u>Code of Conduct Review: Update</u> report to the 23 Feb 2023 Council Meeting. 	GCE22-103	Cr Malcolm / Cr Forbes
Notice of Motion – Community Engagement work programme for the LWRP FMUs	<ol style="list-style-type: none"> 1) Receive an update from staff on the community engagement work programme for the LWRP FMUs, including: <ol style="list-style-type: none"> a. The community consultation events, their conduct, and their publicity, and b. The online survey component of the consultation, including the ability to make anonymous submissions. 	GCE22-104	Cr Deaker / Cr Calvert
Notice of Motion – Community Engagement work programme for the LWRP FMUs	<ol style="list-style-type: none"> 1) Receives the verbal update from General Manager Strategy, Planning and Science Gwyneth Elsum. 2) Directs the ORC Chair to seek clarification from Local Government New Zealand (LGNZ) as to consultation advice, particularly the use of anonymity in online surveys and feed that clarification back into this process through the Land and Water Regional Plan Governance Group. 	GCE22-105	

8.5. Recommendations of the Regulatory Committee

Resolution

That the Council adopts the resolutions of the 10 March 2022 Regulatory Committee.

Report	Resolution	Res#	Mover/ Seconder
Harbourmaster Summer Activity Report	Notes this report on Harbourmaster activity over the 2021/2022 summer.	REG22-101	Cr Calver / Cr Hope
Regulatory Group – Quarterly Activity report	Notes the Quarterly Update Report from the Regulatory Group	REG22-102	Cr Noone / Cr Robertson

9.1. Chairperson's Report

Prepared for: Council
Activity: Governance Report
Author: Cr Andrew Noone, Chairperson
Date: 23 March 2022

KEY MEETINGS

- Met with Chair of Fish and Game Otago, to work on improving our understanding of each other's role.
- Met with Ciaran Keogh a resident of Moeraki to discuss pest management.
- I attended a Zone 5 & 6 meeting on zoom, along with Cr Hope.
- Had an introductory meeting with Sir Graham Panckhurst.
- Sarah and I met with Fonterra representatives Rob Stevens and Michael Jones (Regional Head – Otago and Southland, Farm Source).
- Met with GM Strategy Policy Science, Gwyneth Elsum, to discuss learnings from Manuherekia process.
- Attended zoom meeting with South Island Regional Council Chairs, Dep Chairs and CEO's.
- Cr Malcolm and I attended a webinar on Forestry/Carbon Land Use. Hon Stuart Nash, Minister of Forestry, gave an opening address; other speakers included Local Government NZ, Carbon Farming companies, Iwi Forestry Interests and Beef and Lamb.

LETTERS SENT

- Minister Shaw – under 5 metre tree rule excluded from calculations when considering sequestration. Letter has been referred to Minister for Forestry, Hon Stuart Nash.
- Ministers Parker and O'Connor – highlighting our concerns about ongoing funding for Jobs for Nature Projects once Government funding ends.
- DCC Mayor and Councillors about the South Dunedin Future Programme.
- Chair of Fish and Game Otago.
- Chair of Lindis Catchment Group.

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

ATTACHMENTS

1. Kiwi Rail Stakeholder Hillside Newsletter Feb 2022 FINAL Print nocrop [9.1.1 - 2 pages]



Hillside Redevelopment Project Newsletter

Hillside workshops update

The first phase of demolition at KiwiRail's historic Hillside workshops site is now well underway, in preparation for redevelopment there.

Just like cars and trucks, locomotives, rail wagons and carriages must be maintained and it's workshops like the one at Hillside that make that possible. With Government support, we will also be assembling at least 1,500 new wagons at the site – creating skilled jobs.

Hillside has long played an important role in Dunedin's engineering sector. Once the revitalisation project is complete, Hillside will once again be bustling place with more than 100 KiwiRail people working on site.



Progress update

Demolition and construction work at Hillside will support around 250 construction jobs and create business for local material supply companies.

We're using South Island based company Taggart to complete the demolition and we are making solid progress.

Phase one of the demolition is more than half-way through. We've leveled the buildings which will be replaced by a new

mechanical workshop. The team will move into crushing concrete slabs, demolishing foundations and excavation of contaminated soils.

Phase two of the demolition is currently being negotiated. The remainder of the buildings that need to come down will be demolished and we expect most of this work to be complete by the end of the year.

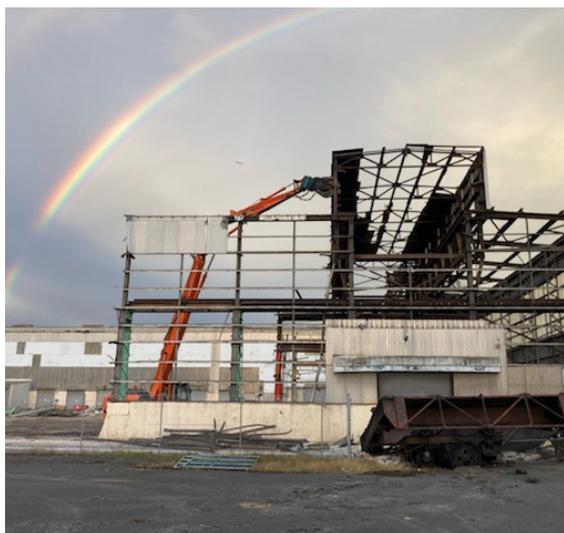
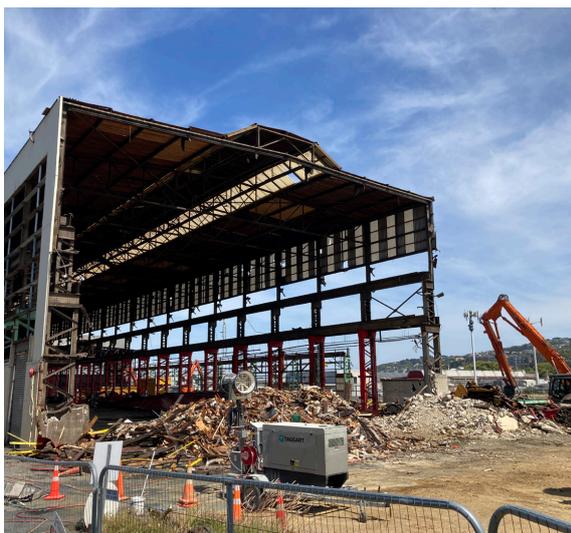
Demolition milestone

99%
of the superstructure
(above foundations) of phase 1
demolition complete.

When will construction begin?

In February the team prepared the new building footprints for piling. Construction will begin in a few months' time alongside demolition to shorten timelines.

The final design of the buildings is underway and the main contractor works is out for tender. The tender consists of three new buildings for the new mechanical workshop, networks and office/amenities.



Meet Arnold Storm

His Hillside journey will be full circle.

“I began in the Foundry/Pattern-shop at Hillside in 1978 when it was a bustling place to be. I was there until the workshop closed in 2012 when I moved into the Track Infrastructure team, so it’s great to now be on the steering committee having some say in the revitalisation – it’s a thrilling project to be a part of”

Arnold is a KiwiRail Asset Engineer and will be based at Hillside when the project is complete.



What can our neighbours expect over the next three months?

While we'll do our best to minimise noise, vibrations and dust, some can be expected. Noise will be mitigated where possible with controlled demolition activities happening during the day time. Dust suppression cannons and sprinklers will be used to minimise the spread of dust.

Traffic management on Hillside Road will be in place as

required and you can expect the footpath and road to be affected more from February 2022.

Wherever we can we aim to do as much work as possible during the day. However due to the nature and scale of these works, at times we may need to work overnight or on the weekend.

Sign up for Hillside future work email notifications and to receive our newsletter by emailing us at contactus@kiwirail.co.nz.

Thank you for your patience while we carry out this important work which will rejuvenate this site.



9.2. Chief Executive's Report

Prepared for: Council
Activity: Governance Report
Author: Sarah Gardner, Chief Executive
Date: 23 March 2022

KEY MEETINGS ATTENDED

- 24 February: Finance Committee; Workshop: National Environmental Standards for Drinking Water; Audit & Risk Subcommittee
 - 25 February: Regional Sector meeting
 - 28 February: Three Waters Steering Group
 - 28 February: Dunstan FMU Values Zoom
 - 1 March: Weekly Chair, Deputy Chair, CEO meeting
 - 3 March: Jobs for Nature funding
 - 3 March: ORC New Office Steering Committee
 - 3 March: Reforms update – Mayors, Chairs & CE's
 - 4 March: RCEO group fortnightly catch-up
 - 4 March: Te Hakaupū Job for Nature Project
 - 7 March: Manuhēkia Exemplar Catchment Programme Governance Group meeting
 - 9 March: Councillor/CE alone time; Data & Information Committee; Implementation Committee
 - 9 March: Otago Regional Leadership Group
 - 10 March: Governance, Comms & Engagement Committee; Regulatory Committee; Workshop: Future of Local Government Reform
 - 10 March: ODT interview re increasing aggression against staff
 - 14 March: Weekly Chair, Deputy, CEO meeting
 - 14 March: Three Waters Steering Group
 - 15 March: Zoom introduction to Michael Jones the new Regional Head for Otago/Southland, Fonterra
 - 16 March: Taieri FMU Values Zoom
 - 17 March: Met with Sir Graham Panckhurst re Clutha Inquiry
 - 18 March: Otago CE Forum
 - 18 March: CDEM CEG
 - 21 March: Weekly Chair, Deputy, CEO meeting
-

- 22 March: Joint ORC/Aukaha executive teams meeting
- 22 March: Meeting with the Panel of the Review into the Future for Local Government
- 22 March: South Island Regional Councils Governance Group (Chairs/Deputy Chairs/CEOs)

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

DISCUSSION

COVID Operations

As you are aware the organisation is working to government guidelines under the RED setting and that includes a maximum of 50% capacity at any site at any time. So far we have done exceptionally well and are not having any business continuity issues or operational constraint, other than what might normally occur outside of COVID times.

Our greatest challenge at present is managing our public transport services and you have recently voted on a paper to manage staff shortages during COVID. Access is an important part of community support during COVID and hence we have reported the risk that we cannot provide full services to the Regional Leadership Group that is responsible for leadership across key agencies in Otago including the Southern DHB and Ministry of Social Development.

Recruitment and Access to External Services

We are experiencing challenges at present that are in a consequence of our current environment, and our economy. Previously I have talked about the “Great Resignation” and we are presently noting that some positions are becoming more difficult to fill. Some have been advertised now for at least two rounds. In addition, we are seeing a decline in the interest we might usually get for our tender processes, with some engineering work tenders receiving no response at all. This may impact work programmes and end of year financial results if this trend continues.

ATTACHMENTS

Nil

That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<p><i>1.1 Minutes of the public excluded meeting of Council held on 9 December 2021</i></p>	<p>To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)</p>	<p>Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>
<p><i>1.2 Minutes of the public excluded meeting of Council held on 23 February 2022</i></p>	<p>To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)</p>	<p>Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>
<p><i>3.1 On-lending Agreement</i></p>	<p>To maintain legal professional privilege – Section 7(2)(g) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial</p>	<p>Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of</p>

	and industrial negotiations) – Section 7(2)(i)	the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.2 Lower Waitaki River Control Scheme Operation and Funding Agreement</i>	To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.