

Council Meeting Agenda - 29 June 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 Kevin Malcolm, Deputy Chairperson	Cr Michael Laws
Cr Hilary Calvert	Cr Gretchen Robertson
Cr Michael Deaker	Cr Bryan Scott
Cr Alexa Forbes	Cr Kate Wilson
Cr Carmen Hope	

Senior Officer: Pim Borren, Interim Chief Executive

Meeting Support: Dianne Railton, Governance Support Officer

29 June 2022 01:00 PM

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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.	
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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9. INTERIM CHIEF EXECUTIVE'S REPORT

10. [RESOLUTION TO EXCLUDE THE PUBLIC](#) 843

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:

- Minutes of the 11 May 2022 public-excluded Extraordinary Council Meeting
- Minutes of the 18 May 2022 public-excluded Extraordinary Council Meeting
- Minutes of the 25 May 2022 public-excluded Council Meeting
- Minutes of the 26 May 2022 public-excluded Emergency Council Meeting
- Minutes of the 1 June 2022 public-excluded Emergency Council Meeting
- Kuriwao Sales
- ORC Clutha Inquiry - Panckhurst Report

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11. CLOSURE



Minutes of an emergency meeting of Council
held in the Council Chamber
at Level 2 Philip Laing House, 144 Rattray Street, Dunedin
on Wednesday 11 May 2022 at 3:00pm

Membership

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

Welcome

Chairperson Noone welcomed Councillors to the meeting at 3:14 pm. Staff present included Dianne Railton (Governance Support Officer).

1. APOLOGIES

There were no apologies. Cr Deaker, Cr Laws and Cr Scott attended the meeting electronically.

2. CONFIRMATION OF AGENDA

There were no changes to the published agenda.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the public and staff be excluded from the following parts of the proceedings of this meeting under LGOIMA 48(1)(a), namely:

- *Governance Proposal*

MOTION CARRIED

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

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
3.1 Governance Proposal	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 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.

8. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 3:14pm.

Chairperson

Date

DRAFT MINUTES



Minutes of an extraordinary meeting
of Council held in the Council Chamber
at Level 2 Philip Laing House, 144
Rattray Street, Dunedin on
Wednesday 18 May 2022 at 1:00pm

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Michael Deaker
Cr Alexa Forbes
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 1:01 pm. Staff present in the Chamber included Sarah Gardner (Chief Executive), Anita Dawe (Acting GM Policy and Science), Richard Saunders (GM Regulatory and Communications), Amanda Vercoe (GM Governance, Culture and Customer), Mr Edward Ellison, Dianne Railton (Governance Support Officer), and present electronically were Nick Donnelly (GM Corporate Services), Gavin Palmer (GM Operations). Also present Professor Skelton, Shannon Wallace and Jazmynn Hodder-Swain from MfE.

1. APOLOGIES

No apologies were received. Cr Deaker, Cr Forbes, Cr Hope, Cr Kelliher and Cr Scott attended the meeting electronically. Cr Laws was not present.

2. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. MATTERS FOR COUNCIL CONSIDERATION

4.1. Minister's s24A Investigation - May 2022

Resolution: Cr Noone Moved, Cr Wilson Seconded

Chair Noone moved that the paper 4.1 Minister's s24A Investigation - May 2022 be considered in public excluded pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely 7(2)(c)(i).

MOTION CARRIED

5. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 1:03pm.

Chairperson

Date



Minutes of an ordinary meeting of Council held in the
Council Chamber on
Wednesday 25 May 2022 at 1:00 pm

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 1:00 pm. Staff present in the Chamber included Gavin Palmer (GM Operations), Amanda Vercoe (GM Governance, Culture and Customer), Dianne Railton (Governance Support Officer), Steve Rushbrook (Harbourmaster), Andrea Howard (Manager Environmental Implementation), and present electronically were Nick Donnelly (Acting Chief Executive), Anita Dawe (GM Policy and Science), Richard Saunders (GM Regulatory and Communications), Tom de Pelsemaeker (Team Leader Freshwater and Land), Warren Hanley (Senior Resource Planner Liaison), Francisco Hernandez (Principal Advisor Climate Change), Anne Duncan (Manager Strategy), Alison Weaver (Commercial Regulatory Lead - Engineering) and.

1. APOLOGIES

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the apology for Cr Hope be accepted.

MOTION CARRIED

Cr Deaker and Cr Laws attended the meeting electronically.

4. CONFIRMATION OF AGENDA

Chair Noone said to accommodate Professor Skelton and MfE staff who were briefing Council in the first public-excluded item 3.1, the meeting would move into public-excluded after confirmation of the agenda. Following the briefing, Chair Noone said that he would adjourn the public-excluded meeting and reconvene the public meeting, following the published order.

Resolution: Cr Wilson Moved, Cr Calvert Seconded.

- 1) *That the meeting moves into public-excluded to consider item 3.1 of that agenda. Following consideration of public-excluded item 1, the public meeting will reconvene and following the published order.*

MOTION CARRIED

Chair Noone reconvened the public meeting at 1.29pm following consideration of the first item 3.1 on the public-excluded agenda.

2. PUBLIC FORUM

Mr Don Robertson spoke at the Public Forum regarding his concerns for Otago's Deepwater Alpine Lakes. Chair Noone thanked Mr Robertson and confirmed that Mr Robertson had also provided his concerns in writing, which had been circulated to Councillors.

3. PETITION

Chair Noone delivered the petition with 96 signatures, submitted by Alastair Chapman, relating to the Palmerston Bus Users requesting an extension to the existing Palmerston-Dunedin return bus service to include a pick-up, drop-off loop around Palmerston.

5. CONFIRMATION OF MINUTES

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Council meeting held on 23 March 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Robertson Seconded

That the minutes of the (public portion of the) Council meeting held on 30 March 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Council meeting held on 14 April 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Council meeting held on 10 May 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

7. CONFLICT OF INTEREST

No conflicts of interest were advised.

8. MATTERS FOR CONSIDERATION

8.1. Election of New Deputy Chairperson for ORC

The report advised the Council of the procedure to elect a new deputy chairperson following the resignation of Councillor Laws from the role, and to nominate and elect a new deputy chairperson. Amanda Vercoe (General Manager, Governance, Culture and Customer) was present to speak to the report and respond to questions.

Resolution CM22-155: Cr Wilson Moved, Cr Calvert Seconded

That the Council:

- 1) **Chooses** voting system A (election by the majority of members) for the election of a deputy chairperson.
- 2) **Agrees** that in the event of a tie under voting system A, the candidate to be excluded from the next round of voting shall be resolved by lot, as set out in paragraph 8.
- 3) **Agrees** to the process for nominating and election of a new deputy chair, outlined in paragraph 10.

MOTION CARRIED

Chair Noone nominated Cr Kevin Malcolm to be Deputy Chairperson and following discussion, moved:

Resolution CM22-156: Cr Noone Moved, Cr Wilson Seconded

That the Council:

- 1) **Appoints** Cr Malcolm as Deputy Chairperson, nominated by Cr Noone.

A division was called:

Vote

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

MOTION CARRIED (9 to 1)

8.2. Code of Conduct

The report was provided for Council to consider revisions to the Code of Conduct for the Otago Regional Council. Amanda Vercoe (General Manager, Governance, Culture and Customer) and Mr Bruce Robertson (CouncilMARK Consultant who reviewed the Code of Conduct) were present to speak to the report and respond to questions.

Mr Robertson said that the terms of reference for the review of the ORC Code of Conduct designated a focus on the complaints process. He advised that following the workshop with Councillors on 11 May 2022, he also met with Mr Len Andersen QC, who had previously spoken to Council about his concerns with the Code of Conduct. Mr Robertson then spoke to his recommended changes to the Code of Conduct.

Resolution CM22-157: Cr Calvert Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report, explanatory note and revisions, and updated code of conduct.
- 2) **Notes** not less than 75% support (9 Councillors) is required to adopt the updated code of conduct.
- 3) **Agrees** to incorporate the revised Section 12, Section 13 and Appendix C into the ORC Code of Conduct without changes.
- 4) **Adopts** the Code of Conduct 2022 (attached), with 75% or more support.
- 5) **Appoints** the Independent Member of the Audit and Risk Subcommittee to be the Independent Person under the update Code of Conduct.
- 6) **Refer** the paper and its result to LGNZ and LGC so they understand the process.

MOTION CARRIED

9 Councillors voted for the motion (75%). Cr Laws requested his vote against the motion be recorded in the minutes.

8.3. Order of Candidate Names on Voting Documents

The report outlined options to order candidate names on voting documents for the 8 October 2022 election and any subsequent by-elections that may become necessary. Amanda Vercoe (General Manager, Governance, Culture and Customer) was present to speak to the report and respond to questions.

Resolution CM22-158: Cr Wilson Moved, Cr Calvert Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the continued use of random order for candidate names on voting documents and any by-election voting documents for the 2022 triennial election.

MOTION CARRIED

8.4. Land and Water Governance Group Structure

The paper was provided to Council to update the structure of the Governance Group for the Land and Water Regional Plan (LWRP) by providing a permanent seat for Ngai tahu ki Murihiku. Anita Dawe (General Manager, Policy and Science) and Tom de Pelsemaeker (Team Leader Freshwater and Land) were present to speak to the report and respond to questions.

Ms Dawe advised that Ngai tahu ki Murihiku and Aukaha have reviewed the report, and Chair Noone noted that he forwarded the report to Mr Edward Ellison. Cr Wilson expressed concern that the Councillors who weren't part of the Land and Water Governance Group were not advised of the Governance Group's meetings. Cr Malcolm foreshadowed he would move a motion that Councillors are informed and invited to the Land and Water Governance Group meetings.

Resolution CM22-159: Cr Robertson Moved, Cr Forbes Seconded*That the Council:*

- 1) **Notes** this report.

MOTION CARRIED

A division was called:

Vote

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

MOTION CARRIED (9 to 1)**Resolution CM22-160: Cr Robertson Moved, Cr Forbes Seconded***That the Council:*

- 1) **Approves** the establishment of a permanent Ngāi Tahu ki Murihiku position on the Land and Water Regional Plan Governance Group, which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.

A division was called:

Vote

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

MOTION CARRIED (7 to 3)**Resolution CM22-161: Cr Malcolm Moved, Cr Forbes Seconded***That the Council:*

- 1) **Requests** that all Councillors be informed of and invited to the Land and Water Governance Group meetings.

MOTION CARRIED*The meeting adjourned for a break at 3.35pm and reconvened at 3.57pm***8.5. PC8 Rural Provisions Approval**

The paper was provided for Council to approve part of Plan Change 8 (PC8) Discharge Management to the Regional Plan: Water for Otago (Water Plan) as amended by the Environment Court Decision No. [2022] NZEnvC 6[1] and to set a date for making the plan change partially operative by incorporating the amended provisions into the operative Water Plan. Anita Dawe (General Manager, Policy and Science) and Tom de Pelsemaeker (Team Leader - Freshwater and Land) were present to speak to the report and respond to questions.

Resolution CM22-162: Cr Calvert Moved, Cr Wilson Seconded*That the Council:*

- 1) **Notes** this report.

- 2) **Approves** the provisions of Plan Change 8 (Rural Discharges) that have been amended by Environment Court Decisions [2022] NZEnvC 6 and [2022] NZEnvC 67 in accordance with Clause 17(2) of Schedule 1 of the RMA; and
- 3) **Approves** minor changes made to Proposed Plan Change 8 in accordance with clause 16(2) of Schedule 1 of the RMA.
- 4) **Affixes** Council's seal to Plan Change 8 (Rural discharges) to the Water Plan in accordance with Clause 17(3) of Schedule 1 of the RMA; and
- 5) **Resolves** to make Plan Change 8 partially operative from 4 June 2022, and publicly notify this date on 28 May 2022, in accordance with Clause 20 of Schedule 1 of the RMA.
- 6) **Thanks** the stakeholders for constructively participating in mediation to get to a final resolution by consent.

MOTION CARRIED

8.6. ORC Submission on New Zealand Emission Trading Scheme Proposed Amendments – Managing Exotic Afforestation Incentives

The paper was provided to report on the staff submission lodged on the Ministry for Primary Industries' (the Ministry) consultation: "*Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme.*" (the consultation). Anita Dawe (General Manager Policy and Planning) and Warren Hanley (Senior Resource Planner Liaison) were present to speak to the report and respond to questions.

Cr Scott left the meeting at 4:04 pm due to a possible conflict of interest. Following discussion, Cr Malcolm moved:

Resolution CM22-163: Cr Malcolm Moved, Cr Kelliher Seconded

That the Council:

- 1) **Notes** this report and the submission on the Ministry for Primary Industries' consultation, "*Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme.*"

MOTION CARRIED

Cr Scott returned to the meeting at 4:09 pm.

8.7. Otago Navigational Safety Bylaw 2020 Infringement Regime

The report was provided for Council approval of the proposed Navigation Safety Bylaw Infringement Offence Regime. Richard Saunders (General Manager Regulatory and Communications) and Steve Rushbrook (Harbourmaster) were present to speak to the report and respond to questions.

Resolution CM22-164: Cr Noone Moved, Cr Kelliher Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Acknowledges** the submissions received on the proposed infringement offence fee regime and staff response to those submissions.
- 3) **Endorses** the proposed infringement offences and fees for the Otago Regional Council's Navigation Safety Bylaw 2020.

- 4) **Authorises** the Chief Executive to make a formal request to the Ministry of Transport to make new infringement regulations for the Otago Regional Council's Navigation Safety Bylaw 2020.
- 5) **Notes** that the Parliamentary Counsel Office or the Ministry of Transport may require amendments to the proposed infringement offences and fees.

MOTION CARRIED

8.8. Briefing on National Adaptation Plan Consultation

The report was provided to inform Councillors on the Ministry for Environment (MfE) current consultation: "*Adapt and Thrive: Building a climate-resilient New Zealand; Draft National Adaptation Plan; Managed Retreat*" (the consultation). Anita Dawe (General Manager Policy and Planning), Anne Duncan (Senior Resource Planner Liaison), Francisco Hernandez (Principal Advisor Climate Change), were present to speak to the report and respond to questions.

Resolution CM22-165: Cr Wilson Moved, Cr Kelliher Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves a staff submission to be lodged, under the delegated authority of the Chief Executive, on the Ministry for the Environment's consultation: "Draft National Adaptation Plan."**
- 3) **Notes** that staff hosted a workshop on the Draft National Adaptation Plan on 18 May 2022 to provide an opportunity for Councillors' input to the submission.
- 4) **Notes** that a copy of the final submission will be provided in a report back to a full Council meeting in June 2022.

MOTION CARRIED

8.9. Emergency Management Otago Partnership Agreement

To report was provided for Council approval of a written agreement describing the partnership arrangement between Otago Regional Council (ORC) and the five territorial authorities of Otago for the delivery of civil defence and emergency management (CDEM) responsibilities within the Otago CDEM Group area. Gavin Palmer (General Manager Operations) was present to speak to the report and respond to questions.

Cr Scott asked how Council receives feedback from the Otago CDEM Group. Dr Palmer responded that CDEM report back to the CEG and CDEM Joint Committee, and that the minutes of the CDEM Joint Committee are posted on the Emergency Management Otago website. Dr Palmer also noted that reporting to Councillors could be through the Chair's Report.

Resolution CM22-166: Cr Wilson Moved, Cr Malcolm Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Endorses** the proposed Otago Civil Defence and Emergency Management Partnership Agreement.
- 3) **Notes** that the proposed Partnership Agreement has been endorsed by the Otago Civil Defence and Emergency Management Coordinating Executive Group and discussed by the Joint Committee.

- 4) **Authorises** the Council Chairperson and Chief Executive to sign the Otago Civil Defence and Emergency Management Partnership Agreement on behalf of Council.

MOTION CARRIED

Cr Laws left for the remainder of meeting.

8.10. Waitaki Designation Notice of Requirements

Cr Malcolm sat back from the table due to a possible conflict of interest.

The paper was provided for Council approval to request new designations from the Waitaki District Council ("WDC") as part of WDC's District Plan ("the plan") review, for land on which Otago Regional Council (ORC) flood protection works and assets are situated. Dr Gavin Palmer (GM Operations) and Alison Weaver (Commercial and Regulatory Lead) were present to speak to the report and respond to questions.

Resolution CM22-167: Cr Calvert Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the recommendation to request new designations from Waitaki District Council for:
 - a. Hilderthorpe Floodway.
 - b. Hendersons and Waikoura Creek Floodways.
 - c. Groynes adjacent to the Waitaki River riverbed (Lower Waitaki River Control Scheme).
 - d. Cross banks adjacent to the Waitaki River riverbed (Lower Waitaki River Control Scheme).
- 3) **Approves** the proposed Notice of Requirement (attachment 1) for public consultation.
- 4) **Approves** proceeding with public consultation on the proposed Notice of Requirement.

MOTION CARRIED

Cr Malcolm returned to the table.

8.11. Otago Catchment Community/ORC Contract

Cr Scott left the meeting due to a possible conflict of interest.

The report was provided for Council approval to enter a multi-year agreement with Otago Catchment Community Inc (OCC) to support Catchment Groups across Otago to improve the environment. Gavin Palmer (General Manager Operations) and Andrea Howard (Manager Environmental Implementation) were present to speak to the report and respond to questions.

Dr Palmer advised that an advantage of entering a multi-year agreement will be more operational efficiency. Cr Robertson thanked staff and said this will provide surety, allowing it to be easier for catchment groups to get co-funding.

Resolution CM22-168: Cr Robertson Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.

- 2) **Approves** the staff recommendation to enter into a three-year funding agreement with Otago Catchment Community Inc starting in 2022/2023, with funding in each year subject to funds being allocated in Council's Annual Plans.
- 3) **Notes** that funding totals \$1.175M (excluding GST) over the three-year period.
- 4) **Authorises** the Chief Executive to sign the agreement on behalf of Otago Regional Council.

MOTION CARRIED

Cr Scott returned to the meeting.

9. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

9.1. Chairperson's Report

It was noted that Chair Noone will write to DCC Mayor Hawkins and QLDC Mayor Boulton confirming receipt of their letter regarding transfer of public transport responsibilities, as Council will need to discuss the letter of response drafted by Cr Forbes.

Resolution: Cr Calvert Moved, Cr Forbes Seconded

That the Chairperson's report be received.

MOTION CARRIED

10. NOTICES OF MOTION

10.10. Notice of Motion - Revoking Decision for Poll on STV/FPP

Cr Wilson spoke to her Notice of Motion of 18 May 2022. She said that given the Future for Local Government review being undertaken at present, it seems likely that a voting system will be directed in any new legislation and as such the purpose of the poll in the 2nd part of original motion is now moot and does not justify the expense.

Resolution CM22-169: Cr Wilson Moved, Cr Noone Seconded

That the Council:

- 1) **Considers** the Notice of Motion.
- 2) **Revokes** its decision to hold a poll as part of the 2022 elections.

MOTION CARRIED

11. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

11.1. Recommendations of the Strategy and Planning Committee

Resolution CM22-170: Cr Wilson Moved, Cr Robertson Seconded

That the Council adopts the resolutions of the 13 April 2022 Strategy and Planning Committee.

MOTION CARRIED

11.2. Recommendations of the Implementation Committee

Resolution CM22-171: Cr Scott Moved, Cr Noone Seconded

That the Council adopts the resolutions of the 14 April 2022 Implementation Committee.

MOTION CARRIED

11.3. Recommendations of the Otago and Southland Regional Transport Committees

Resolution CM22-172: Cr Forbes Moved, Cr Wilson Seconded

That the Council adopts the resolutions of the 8 April 2022 Otago and Southland Transport Committees.

MOTION CARRIED

12. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the meeting moves to public-excluded to consider the remaining items 3.2 through to 3.4 of the public-excluded agenda per the order paper.

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>Minutes of the public excluded Council Meeting 23 March 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a); 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 and industrial negotiations) – Section 7(2)(i).	
<i>Minutes of the Extraordinary public excluded Council Meeting 30 March 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a).	
<i>3.1 Professor Skelton to discuss matters arising out of meetings with senior ORC staff following the discussions with Council</i>	To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied – Section 7(2)(c)(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.
<i>3.2 Delegations Manual – s.17 Court</i>	To maintain legal professional privilege – Section 7(2)(g).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution

<p><i>Proceedings</i></p>		<p>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>3.3 Unit 3 Public Transport Tender Evaluation</i></p>	<p>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).</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>3.4 Lake Wakatipu Ferry</i></p>	<p>To protect information where the making available of the information— would disclose a trade secret – Section 7(2)(b)(i); To protect information where the making available of the information— would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information – Section 7(2)(b)(ii); To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h).</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>

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.

13. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 5.03pm.

Chairperson

Date

DRAFT MINUTES



Minutes of an emergency meeting of
Council held in the Council Chamber at
Level 2 Philip Laing House, 144 Rattray
Street, Dunedin on
Thursday 26 May 2022 at 8:30am

Membership

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

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 8:30 am. Staff present included Amanda Vercoe (General Manager Governance, Culture and Communication) and Dianne Railton (Governance Support).

1. APOLOGIES**Resolution: Cr Wilson Moved, Cr Calvert Seconded:***That the apologies for Cr Hope, Cr Laws and Cr Robertson be accepted.***MOTION CARRIED****2. CONFIRMATION OF AGENDA**

The agenda was confirmed as published.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. RESOLUTION TO EXCLUDE THE PUBLIC**Resolution: Cr Noone Moved, Cr Wilson 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 Extraordinary PE Council 2022.04.14*
- *Minutes of the Extraordinary PE Council 2022.04.21*
- *Interim Chief Executive: Recommended Candidate*

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 Extraordinary PE Council 2022.04.14</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	
<i>1.2 Minutes of the Extraordinary PE Council 2022.04.21</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	
<i>2.1 Interim Chief Executive: Recommended Candidate</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(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.

5. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 8:35am.

Chairperson

Date

DRAFT MINUTES



Minutes of an emergency meeting of
Council held in the Council Chamber at
Level 2 Philip Laing House,
144 Rattray Street, Dunedin on
Wednesday 1 June 2022 at 1:00pm

Membership

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

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 1:04 pm. Staff present in the Chamber included Amanda Vercoe (GM Governance, Culture and Customer), Liz Spector (Governance Support Officer) and present electronically was Dianne Railton (Governance Support Officer - Minute-taker).

1. APOLOGIES

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the apology for Cr Forbes, and the apology for Cr Laws lateness be accepted. Cr Deaker, Cr Kelliher, Cr Malcolm, Cr Robertson, Cr Wilson and Cr Laws attended electronically.

MOTION CARRIED

2. CONFIRMATION OF AGENDA

There were no changes to the published agenda.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Wilson 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:

- *ORC: Interim Chief Executive Appointment*

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
2.1 Interim Chief Executive	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 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:

5. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 1:06pm.

Chairperson

Date

DRAFT MINUTES

OPEN ACTIONS FROM RESOLUTIONS OF THE COUNCIL (PUBLIC) AT 29 JUNE 2022

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
23/02/2022	CS2211 Annual Review of Delegations Manual	Completed	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	24/05/2022 General Manager Corporate Services and CFO Review reported to 25 May 2022 Council meeting	25/05/2022
23/02/2022	GOV2208 Code of Conduct Review: Update	Completed	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	29/03/2022 In progress. 15/05/2022 General Manager Governance, Culture and Customer Workshop held with Bruce Robertson on 11 May 2022. Paper to come to Council on 25 May 2022 for consideration of revised Code of Conduct.	22/06/2022
23/06/2021	GOV2116 Zero Carbon 2030 Alliance Memorandum of Understanding	In Progress	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	02/11/2021 No activity to report currently.	09/12/2021
29/09/2021	Chairperson's Report	In Progress	Staff organise a Bicultural Competency workshop. Res CM21-166	General Manager Governance, Culture and Customer	20/10/2021 General Manager Governance, Culture and Customer Staff are working with Aukaha to set up a learning opportunity for early 2022. Further information will be provided as the detail is developed. 09/02/2022 General Manager Governance, Culture and Customer Update from Aukaha early Feb, suggesting May/June timing for this opportunity. 15/05/2022 General Manager Governance, Culture and Customer Agreed at Mana to Mana in April 2022 to hold this training for the start of the new triennium. Scheduled to take place at Ōtākou Marae in October 2022, alongside the first partnership hui.	28/10/2022
29/09/2021	Chairperson's Report	In Progress	Undertake a review of the Manuherekia Governance decision making process. Res CM21-167	Chairperson	09/02/2022 Delayed until TAG complete science work. 29/03/2022 Still waiting for TAG to complete the science work.	09/12/2021
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	23/02/2022 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. 22/04/2022 An update on the programme was provided to the 13 April 2022 meeting of the Strategy and Planning Committee. The programme plan report will be provided to the June 2022 Council meeting.	30/06/2022
23/03/2022	ENG2202 Bylaw Approval to Commence Consultation	In Progress	Dr Palmer (GM Operations) to develop a policy around construction of walkways on ORC owned floodbanks by 30 June 2022. Res CM22-132	General Manager Operations	22/04/2022 Executive Assistant A policy is in preparation. The timeframe is unable to be met due to the resolution made by finance committee on 1 June 2022.	30/06/2022
25/05/2022	GOV2227 Code of Conduct	In Progress	Refer the ORC Code of Conduct paper and its result to LGNZ and LGC so they understand the process. Res CM22-156	General Manager Governance, Culture and Customer		31/07/2022

7.1. Annual Plan 2022/23 - Adoption

Prepared for: Council
Report No. CS2233
Activity: Governance Report
Author: Mike Roesler, Corporate Planning Manager
Endorsed by: Nick Donnelly, General Manager Corporate Services
Date: 29 June 2022

PURPOSE

- [1] The purpose of this report is to adopt the Otago Regional Council Annual Plan 2022-23 (AP) and enable the subsequent approval of rates and charges for the 1 July 2022 to 30 June 2023 financial year.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Notes** the recommendations from the 1 June 2022 Finance Committee meeting have been communicated to council management for action and inclusion in 2021-22 and 2022-23 work programmes.
- 3) **Adopts** the Otago Regional Council Annual Plan 2022-23 as circulated with this report.

BACKGROUND

- [2] Since August 2021 the Council has been implementing a review of year 2 of its' Long-term Plan 2021-31 (LTP) via an annual planning process. This statutory process has required Council to consider what, if any, change is required to the financial estimates and associated work programme adopted back in June 2021.
- [3] In March 2022 the Council decided to consult with the community on a draft proposal for the 2022-23 financial year. The consultation period was from 7 April to 6 May 2022 with all community feedback provided informally to all Otago Regional Councillors on 18 May 2022.
- [4] Formal deliberation on the public submissions to the Otago Regional Council Annual Plan 2022-23 (AP) process occurred at the 1 June 2022 Finance Committee meeting.
- [5] The Committee considered the public feedback in conjunction with background information on options to reduce rate funding requirements from that consulted and the impacts of doing so. Importantly the committee decided that, on balance, sticking with the LTP, as per the consulted AP proposal, was the best approach for Otago.
- [6] The background information, provided in an earlier workshop, showed the relationship between proposed rate increase and work programme. Immediate short-term options to reduce the impact on ratepayers, but not lose momentum around work to improve
-

Otago, were considered. While options were available there was associated risk of under-delivery through unintended consequences of resource cuts. In response a 'fiscal prudence' recommendation was made to direct council staff.

- [7] The 1 June 2022 Finance Committee meeting concluded with recommendations to staff about completing the Annual Plan 2022-23 for adoption at the 29 June 2022 Council meeting. In addition, recommendations on a range of other matters for Council staff to follow-up on where also made. The recommendations included:

Community Liaison

- *Report requested for the on 15 September 2022 Governance, Comms and Engagement Committee as to how nominated community members and Councillors work with staff and their preferred timetables for meetings for liaison committees (for example, Dunedin bus users, central lakes work, Pomahaka River management, and a flood protection liaison committee) as trials for community engagement and communication on upcoming work schedules.*
- *Requests a draft timeline for staff and Councillors to work together on nominating community members and proposing terms of references.*

Climate Change

- *Staff to advise on improved measures for Climate Change Action as part of the 2023/24 Annual Plan process.*

Cycleways

- *Report requested on potential sites for public access to flood and drainage schemes*
- *Request staff along with Councillors consult with landowners and cycleway/walkway proponents together before completing development of the policy on cycleway/walkway development on flood and drainage infrastructure.*

Public Transport

- *Requests staff advice in time for consideration for consultation on the draft 2023/24 Annual Plan process the costs and work required to develop a business case for Central/Lakes Public Transport.*

Biosecurity

- *Issues discussion paper requested for potential funding of large site-led community biosecurity projects be brought to the 14 September 2022 Implementation Committee.*

Coast Plan and ORC jurisdiction

- *In response to submission 41, G Robinson, Councillors want clarity about ORC's jurisdiction.*

Financial performance and service delivery

- *Council elect expectation that a balanced budget is achieved for the 2022/23 financial year. This may mean savings will need to be made to allow for inevitable unforeseen costs.*

Suggestions and ideas on ORC strategic direction (from Submissions)

- *Request that staff group the suggestions and ideas raised in the submission comments to the 2022/2023 AP as they relate to our strategic directions and highlight them to the new Council prior to developing the Annual Plan 2023-24.*

DISCUSSION

- [8] Having completed the review of the year 2 LTP financial estimates and work programme, including consideration of community feedback, recommendation 3 enables the Otago Regional Council to adopt its' Annual Plan 2022-23 (AP). Doing so enables Council to:
- Provide certainty to the community regarding services and rate requirements.
 - Implement key reporting and revenue processes.
 - Meet core planning legislative requirements.
- [9] Attachment 1 of this report provides the AP. Following adoption, the only changes that will occur to attached version are:
- Corrections resulting from a final and detailed editorial proof.
 - Minor design work to improve formatting of the document.
 - Any further recommendations of Council from its 29 June 2022 meeting.
- [10] The attached version contains editorial changes to some measures and targets as compared to the consulted version. The changes reflect ongoing staff efforts to improve the wording of existing measures, to make targets more quantitative (measurable), and to align measures with advances in practice (e.g. Integrated Catchment Planning). Importantly these changes do not diminish the quantum, quality or intent of the measures and targets included in the consulted version. Opportunity(s) for councillors to consider progress on measures and targets will be provided as part of next annual plan process beginning August 2022 and/or via the quarterly reporting process.

OPTIONS

- [11] This is not an options report but rather presents the final deliverable of a decision-making process that has reviewed year 2 of the adopted Long-term Plan 2021-31. This process was initiated with the Otago Regional Council elected representatives in August 2021 and has included multiple reports and workshop presentations to reach this point.

CONSIDERATIONS

Strategic framework and policy considerations

- [12] No further considerations at this final stage of the process.

Financial considerations

- [13] The full suite of required financial and funding statements have been completed and included in the AP provided for adoption. They fully and accurately reflect the recommendation of the 1 June 2022 Finance Committee meeting to proceed with completing the 'Financial Statements' based on the draft proposal as approved for consultation with the community.
- [14] Table 1 provides the forecast expenditure at the activity level. It totals \$108.8 million compared to the \$106.2m as consulted and agreed with the community for the LTP yr2. The proposed total expenditure represents an increase of \$ 2.6 million compared to the

year 2 Long-term Plan forecast. This increase is comprised of external grant funded work that does not impact rates.

Table 1: Total Forecast Expenditure

Group	Activity	21-22 LTP (yr1) (000's)	22/23 LTP (yr2) (000's)	22/23 AP (for adoption) (000's)
Regional Leadership	Governance and Community Engagement	5,728	6,327	6,585
	Regional Planning	3,681	3,500	3,484
	Regulatory	12,362	13,301	13,477
<i>Sub total</i>		21,771	23,128	23,545
Environment	Land and Water	16,034	18,040	18,937
	Biodiversity and Biosecurity	9,149	9,390	11,454
	Air	482	815	816
<i>Sub total</i>		25,665	28,245	31,206
Safety and Resilience	Flood Protection, Drainage and River Management	12,010	12,400	12,540
	Climate Change and Hazards	2,732	3,763	3,413
	Emergency Management	2,758	2,796	3,335
<i>Sub total</i>		17,500	18,959	19,288
Transport	Transport	32,880	35,840	34,762
TOTAL		97,816	106,172	108,801

[15] The forecast sources of revenue budgeted to cover the cost of Council activity are shown in Table 2.

Table 2: Total Forecast Revenue

Funding Source	21-22 LTP (yr1) (000's)	22/23 LTP (yr2) (000's)	22/23 AP (for adoption) (000's)
General rates	19,577	23,113	23,127
Targeted rates	20,462	24,128	24,101
Fees & charges; Grants	35,501	36,003	37,471
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

[16] The total 2022-23 AP 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 forecasted 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. The general rate component relates to a range of key service deliverables agreed in the LTP including:

- Water state of the environment monitoring
- Biodiversity and environmental enhancement
- 2022 Elections

- [17] The targeted rate component relates to a range of key service deliverables agreed in the LTP including:
- Emergency Management
 - Pest management
 - Drainage and flood protection
- [18] The AP, while sticking very closely to the LTP, includes some changes. The net impact of these changes in expenditure has been managed to keep within the forecasted year 2 total rate requirement. The changes include:
- 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 the additional year 2 expenditure compared to LTP
 - 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
- [19] Importantly, the 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.

Fees and charges

- [20] The schedule of fees and charges are provided in the Annual Plan 2022-23 as presented for adoption and remain unchanged from those presented in the consultation proposal.

Significance and engagement considerations

- [21] There are no further considerations for Council at this final stage of the process. The assumption at this stage of the process is that no change will be introduced to the forecast estimates and associated work programme that might be deemed significant.

Legislative and risk considerations

- [22] This report enables the Council to meet core planning and decision-making requirements under the Local Government Act 2002. The final legislative process consideration is meeting the 30 June 2022 deadline for adopting this AP.
- [23] The risk of a material misstatement within the AP has been managed via internal process, albeit six working days to finalise the plan increases the misstatement risk.
- [24] Risk associated with service delivery under this AP has been discussed with Councillors through the AP process. The quarterly activity and financial reporting to Council and corporate risk reporting to the Audit Risk Committee provides a means of monitoring delivery risk.
- [25] A known risk associated with the revenue estimates for expenditure on the proposed Regional Policy Statement Freshwater Hearing Panel process has been flagged during the AP. The risk is that actual costs will exceed budget.

Climate change considerations

[26] Improvement to measures and targets associated with ORC's Climate Change programme will be reported to the Finance Committee during 2022-23.

Communications considerations

[27] As with previous corporate planning processes that have included community consultation, letters will be sent to submitters thanking them for participating and outlining the decisions of Council.

[28] As part of above, council staff will also respond to a small number of submitters on the direction of the 1 June 2022 Finance Committee. This response relates to specific operational and policy matters that while not directly relating to the AP process, require a follow-up.

NEXT STEPS

[29] The next steps are:

1. Approval of the Council Rating Resolution at this Council meeting.
2. Implementation of the AP from 1 July 2022.
3. Respond to submitters regarding the Council's final decisions
4. Report to Finance Committee on the year 3 AP process including the 'good ideas/suggestions' from AP community consultation.

ATTACHMENTS

1. Annual Plan 2022-23 [7.1.1 - 60 pages]



Annual Plan

2022-23



Otago Regional Council

Private Bag 1954, Dunedin 9054

Level 2, 144 Rattray St, Dunedin 9016

orc.govt.nz

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Cover Image: Katiki beach, North Otago

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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 to put ORC ontrack. This Annual Plan 2022-23 aligns very closely with what was agreed in the LTP – we are 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 smaller increases beyond. Year 2, being this 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.

On behalf of Council I thank those individuals and organisations that provided feedback over April 2022 about our proposal to stick to the LTP. While there was solid support for sticking to the existing agreed direction, we also heard the voices and issues about the financial pressures on households and business. We've taken the tough decision of weighing up the importance of what the ORC needs to provide Otago and uncertain economic times. The Council will be focused more than ever on utilising our resources and the funding we receive wisely and effectively for the benefit of Otago's people and environment.

Ngā mihi nui
Andrew Noone
Chair
Otago Regional Council

Overview

Why does this document matter?

This 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 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 changed?

The LTP indicated an 18.1% increase in total rates (ie general and targeted rates) for year 2 (being 2022-2023). This increase relates to a range of key service deliverables agreed in the LTP, including:

- Water state of the environment monitoring (general rate)
- Biodiversity and environmental enhancement (general rate)
- 2022 Elections (general rate)
- Emergency Management (targeted rate)
- Pest management (targeted rate)
- Drainage and flood protection (targeted rate)

The AP sticks to what was agreed for the LTP, but includes 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 has been managed to keep within the LTP year 2 total average rate requirement of 18.1%. Also while rating hasn't changed, total expenditure and revenue between Year 2 LTP and the AP does increase (\$2.4 million). This relates to government grant funded and reserve funded work with no rating impact.

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 includes:

- Governance and Community Engagement
- Regional Planning
- Regulatory

Group Revenue and Expenditure (10yrs) - Regional Leadership

2021/22 LTP \$000s		2022/23 LTP \$000s	2022/23 AP \$000s
5,728	Governance and Community Engagement	6,327	7,775
3,681	Regional Planning	3,500	2,293
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, process and deliverables. 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
- Advice and information to assist direction setting and decision-makers including an understanding of community wellbeing in Otago

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 year 2

The AP 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.

We continue our work to improve the understanding of regional wellbeing issues and what that means for Council and its partners. We expect the result of this work to assist decision-making and the 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.

Level of Service: Provide and promote governance processes and democratic decision making that is robust and transparent for the community.	
Performance measures	Targets
Percentage of council agendas that are publicly available two working days or more before a meeting	100%
Percentage of official information requests responded to within 20 working days of being logged.	100%

Level of Service: Develop and deliver robust and effective corporate planning and reporting.	
Performance measure	Target
Deliver our statutory requirements with acceptable process and deliverables to decision-makers and the community.	Unmodified audit reports received

Level of Service: Build mana whenua participation in Council decision making through a treaty-based partnership approach in our engagement.	
Performance measures	Targets
Work done in partnership with iwi; increase the number of outputs and groups working together on projects.	Maintain or increase numbers*
Build the bicultural competency of ORC staff and councillors.	≥50 participants in programme per year

*from 2021-22 baseline

Level of Service: 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
Annual survey is conducted to understand and improve community awareness, perceptions and expectations of ORC.	Survey results show increased community awareness and improved satisfaction with the performance of ORC
Customers express high levels of satisfaction with customer service provision.	Determine methodology for establishing customer satisfaction

Level of Service: Collect information on Otago regional wellbeing (economic, social, cultural, and environmental) and identify significant issues.	
Performance measure	Targets
Report on community wellbeing indicators.	Complete annual report on wellbeing indicators and issues and report to Council by 30 June

Level of Service: Collect and make publicly available accurate, relevant and timely information on climate change in Otago.	
Performance measure	Targets
Information on climate change in Otago is shared with the community and stakeholders.	Complete regional GHG* inventory and report to Council by 30 June

* Green House Gas

Level of Service: Lead a regional approach to climate change in partnership with local councils and iwi.	
Performance measure	Targets
Report on regional stakeholder engagement and collaboration on climate change.	Complete annual report on regional climate change collaboration and report to Council by 30 June

Regional Planning

What we do and why

This activity provides a framework and advice for both leadership and delivery activities regarding resource management legislation and associated national direction. It assists the council and Otago community to align with this direction.

The Regional Policy Statement (RPS) is a critical component of this activity that sits over the various plans that ORC has developed under the Resource Management Act. These plans include water (fresh water, land and coast), air, and waste. As part of this activity we also work with our partners including the Dunedin City Council and Otago's District Councils to implement our RPS. This liaison role with the City and District Councils also supports some of Council's other functions such as engineering and hazards management. Importantly our Urban Development works within this planning, partnership and advisory framework and indeed other regulatory frameworks such as Transport. An integrative approach is taken.

Key work for year 2

The Annual Plan maintains capacity to:

- Complete the review of the RPS as programmed
- Respond to national legislative processes to advocate for Otago eg submissions, select hearings
- Work with the regions other councils regarding the implementation of the Regional Plan
- Work in partnership with Dunedin City Council and Queenstown District Council on an Urban Development Strategy.

Level of Service Statements, Measures and Targets

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

Level of Service: Support Otago's councils and communities to manage environmentally sustainable urban growth.	
Performance measure	Target
Develop an integrated planning framework that enables well managed urban growth across Otago.	Develop draft regional Urban Development Strategy by 30 June

Level of Service: Develop and maintain an environmental planning framework that aligns with national directions and enables sustainable management of natural and physical resources.	
Performance measure	Target
Complete review of existing Regional Policy Statement (RPS).	Make RPS operative by 30 June

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 balanced 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 year 2

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 – a stepped change in staff capacity occurred in 2020/21 and 2021-22 (yr1 LTP). 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 LTP 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). In addition we will monitor the Dunedin City to reflect consenting.

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 – maintain service capacity regarding; education and enforcement of the bylaw, oil spill response, ongoing replacement of navigation assets, Port Otago harbour control contribution.

Level of Service Statements, Measures and Targets

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

Level of Service: 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
Percentage of resource consent applications processed in accordance with Resource Management Act 1991 legislative timeframes.	≥98%

Percentage of public inquiries for consent information completed within 7 working days.	maintain or increase*
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**from 2021-22 baseline*

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
Percentage of performance monitoring returns completed each year, as per the Compliance Audit and Performance Monitoring Schedule targets.	≥90%
Percentage of programmed inspections/audits completed each year, as per the Compliance Audit and Performance Monitoring Schedule targets.	≥90%
Percentage of significant non-compliances identified where action is taken in accordance with Compliance Policy.	100%

Level of Service: Provide effective and efficient environmental response services to pollution incidents or notifications of non-compliant activities.	
Performance measures	Targets
Maintain 24-hour/7 day a week response for environmental incidents.	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

Level of Service: 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	Target
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.

**External review is conducted by Maritime NZ every 3 years; next due 2023-24.*

Level of Service: 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 measures	Targets
Major incidents on Otago's harbours and waterways will be responded to.	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

Environment

This Group of Activities includes:

- 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 LTP \$000s		2022/23 LTP \$000s	2022/23 AP \$000s
16,034	<i>Land and Water</i>	18,040	18,936
9,149	<i>Biodiversity and Biosecurity</i>	9,390	11,460
482	<i>Air</i>	815	810
25,665	Expenditure	28,245	31,206
13,938	General rates	17,078	16,859
3,373	Targeted Rates	5,171	4,814
200	Fees & Charges	205	205
3,877	Grants	2,536	5,518
964	Other Income	364	364
3,313	Reserves	2,890	3,446
25,665	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 AP 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
 - Complete an economic assessment relating to Otago's freshwater.
- 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 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.

Level of Service: Monitor the state of Otago's freshwater resources and coastal environment and make accurate, relevant and timely information publicly available.	
Performance measures	Targets
Implement a regional coastal environment monitoring programme	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
Percentage of data from the water monitoring network that is captured quarterly.	≥95% data capture achieved

Level of Service: Monitor Otago's land use and make accurate, relevant and timely information on sustainable land use publicly available.	
Performance measures	Targets
Develop and implement a regional land use monitoring programme	Annual report on monitoring programme completed and reported to Council
Percentage of data from the land-use monitoring network that is captured quarterly.	≥95% data capture achieved

Level of Service: Provide a robust and integrated environmental planning framework for Otago’s land, water and coast resources.	
Performance measures	Targets
Complete the Land and Water Regional Plan (LWRP).	Report to Council on proposed management options for all FMUs (including all rohe) by 30 June

Level of Service: Develop and maintain an environmental planning framework that aligns with national directions and enables sustainable management of natural and physical resources.	
Performance measure	Target
Integrated Catchment Action Plans (CAPs) are developed in collaboration with iwi and community.	One Catchment Action Plan drafted

Level of Service: Support Catchment Groups in Otago to deliver their environmental outcomes and objectives.	
Performance measures	Targets
Otago Catchment Communities funding is administered as per agreement.	100%
Otago Catchment Communities is supported to meet deliverables and targets of funding agreement.	Report to Council on deliverables and targets achieved by 30 June

Level of Service: 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	Target
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

Level of Service: 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
At least three site specific action plans for selected degraded waterbodies are developed, prioritised, and implemented.	Projects confirmed and actions identified by 30 September
	90% of actions undertaken within specified timeframes

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 AP 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.

Level of Service: Monitor the state of Otago’s indigenous biodiversity ecosystems and make accurate, relevant and timely information publicly available	
Performance Measures	Targets
Develop and implement a regional indigenous biodiversity ecosystems monitoring programme.	Develop monitoring programme* and report to Council by 30 June

*including requirements of National Policy Statement on Indigenous Biodiversity (NPSIB)

Level of Service: Collaborate with iwi, DOC and other key organisations to develop, coordinate and deliver a programme of actions to enhance indigenous biodiversity.	
Performance measures	Targets
Actions listed in the Biodiversity Action Plan (BAP) are prioritised and progressed.	90% of current year actions achieved within timeframes specified
Biodiversity and biosecurity partnerships established and joint projects developed and progressed.	Maintain or increase number of partnership engagement activities and events and report to Council
	Projects and progress against milestones reported to Council

Level of Service: 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 measures	Targets
Percentage of funding administered as per agreements.	100%
Complete a report on the initiatives and organisations supported and the key deliverables achieved.	Report to Council by 30 June

Level of Service: Develop and deliver practices and programmes that give effect to the Regional Pest Management Plan (RPMP).	
Performance measure	Target
Actions within the Biosecurity Operational Plan (BOP) are identified and progressed.	90% of actions achieved within timeframes specified

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 This work is paused to focus resource to achieve other priorities.

Why we do it

Some of Otago's communities have poor air quality and 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.

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.

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 of 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.

Level of Service: Monitor Otago’s air quality and make accurate, relevant and timely information publicly available.	
Performance measures	Targets
Implement regional air monitoring programme.	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

Level of Service: Provide a robust and integrated environmental planning framework for Otago’s air resource.	
Performance measure	Target
Complete review of the Regional Plan: Air.	Issues and options papers developed by 30 June

Safety and Resilience

This Group of Activities includes:

- 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 capacity and work under 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 addresses the issues outlined above.

While our planned capacity for natural hazards activity is increasing we have maintained our resource associated with climate change adaptation, albeit we have introduced a dedicated resource to improve oversight on all climate change activity within Council. The overall level of resourcing reflects our funding priorities particularly for fresh water work and an expectation that our level of work will build over time as direction from central government consolidates.

Group Revenue and Expenditure – Safety & Resilience

2021/22 LTP \$000s		2022/23 LTP \$000s	2022/23 AP \$000s
2,732	Climate Change and Natural Hazards	3,763	3,413
12,010	Flood Protection, Drainage and River Management	12,400	12,540
2,759	Emergency Management	2,796	3,336
17,500	Expenditure	18,959	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 year 2

The AP 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.

Level of Service: 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
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
Percentage of flood warnings that are issued in accordance with the flood warning manual.	100%

Level of Service: Collaborate with communities and stakeholders to develop and deliver natural hazards adaptation strategies.	
Performance measures	Targets
Develop a regional natural hazards risks assessment and a regional approach for prioritising adaptation.	Report to Council on progress of natural hazard risk assessment and prioritisation approach
Develop and implement prioritised natural hazard risks adaptation works.	Work in priority areas is delivered as per plan by 30 June
	Head of Lake Wakatipu natural hazards adaptation strategy progresses as per annual work plan
	ORC contribution to the South Dunedin Future programme* progresses as per annual work plan

* The South Dunedin Future (SDF) programme is a joint partnership with DCC and will provide a framework for developing climate change adaptation options for 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 available 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.

Level of Service: Provide the standard of flood protection and control agreed with communities.	
Performance measures	Targets
Major flood protection and control works are maintained, repaired, and renewed to the key standards defined in relevant planning documents.	≥85% of planned maintenance programme completed
	Schemes function to their constructed design standards
	≥90% of renewals programme completed

Level of Service: Respond efficiently and effectively to damage from natural hazard events.	
Performance measure	Targets
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

Level of Service: Maintain channel capacity and stability, while balancing environmental outcomes and recognising mana whenua values in rivers.	
Performance measures	Targets
Percentage of identified and reported issues that have been investigated and appropriate action determined and communicated to affected landholders within 20 working days.	100%
Percentage of planned maintenance actions achieved each year.	≥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 year 2

The AP 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.

Level of Service: Support the Otago CDEM Group in improving the resilience of Otago to civil defence emergencies.	
Performance measure	Target
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

Level of Service: Provide resources to coordinate an efficient and effective region-wide response to a civil defence emergency.	
Performance measures	Targets
An adequate Emergency Coordination Centre (ECC) facility and staffing are available.	Adequate staff who are trained and available for any activation of the ECC
	An appropriate facility is available for activation at all times
Maintain response functionality to enable operational situational awareness when ECC activated.	Response solutions are checked as scheduled and any issues remedied

Transport

This Group contains one activity, also named Transport. This activity reports against 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 LTP \$000s		2022/23 LTP \$000s	2022/23 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 Mobiity)	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 year 2 and beyond

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.

Level of Service: Advocate for Otago's regional transport planning priorities and aspirations at a national level	
Performance measures	Targets
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

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 that includes 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 infrastructure requirements to accommodate increasing vehicle usage (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 year 2 and beyond

The AP 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.

Level of Service: Provide efficient, reliable and accessible public transport services that meet community needs.	
Performance measures	Targets
Annual public transport boardings in Queenstown per capita.	increase*
Annual public transport boardings in Dunedin per capita.	increase*
Overall passenger satisfaction with Wakatipu Public Transport system at annual survey.	97%
Overall passenger satisfaction with Dunedin public transport system at annual survey.	97%
Percentage of scheduled services delivered (reliability).	95%
Percentage of scheduled services on-time (punctuality).	95%
Percentage of users who are satisfied with the provision of timetable and services information.	maintain or increase*
Percentage of users who are satisfied with the overall service of the Total Mobility scheme.	maintain or increase*

**from 2021-22 baselines*

Forecast Financial Information

Overview

Operational expenditure (000's)

Group	Activity	21-22 LTP (yr1)	22/23 LTP (yr2)	22/23 AP
Regional Leadership	Governance and Community Engagement	5,728	6,327	7,775
	Regional Planning	3,681	3,500	2,293
	Regulatory	12,362	13,301	13,477
	Sub total	21,771	23,128	23,545
Environment	Land and Water	16,034	18,040	18,937
	Biodiversity and Biosecurity	9,149	9,390	11,454
	Air	482	815	816
Sub total	25,665	28,245	31,206	
Safety and Resilience	Flood Protection, Drainage and River Management	12,010	12,400	12,540
	Climate Change and Hazards	2,732	3,763	3,413
	Emergency Management	2,758	2,796	3,335
	Sub total	17,500	18,959	19,288
Transport	Transport	32,880	35,840	34,762
Total Expenditure		97,816	106,172	108,801

Forecast expenditure at the activity level totals \$108.8 million compared to the \$106.2m as consulted and agreed with the community for the LTP yr2. The proposed total expenditure represents an increase of \$ 2.6 million compared to the year 2 Long-term Plan forecast. Most of this increase is comprised of external grant funded work that does not impact rates.

Sources of funding (000's)

Funding Source	21-22 LTP (yr1)	22/23 LTP (yr2)	22/23 AP
General rates	19,577	23,113	23,127
Targeted rates	20,462	24,128	24,101
Fees & charges; Grants	35,501	36,003	37,471
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

The table above shows the forecast sources of revenue applied to the cost of Council activity. The total rating revenue (general and targeted) is \$47.2 million. This is in line with the adopted LTP Yr2 estimated revenue. Grants from government have increased in the AP compared to that forecasted in the LTP process. Further detail about these grants is provided in the 'Environment' group activity section above.

Planning Assumptions

The significant forecasting assumptions are scheduled in the Long Term Plan 2021-31 (LTP). The significant forecasting assumptions from the LTP are discussed below. Actual results achieved are likely to vary from the information presented and these variations may be material.

Sources of Funds for Future Replacement of Significant Assets

Sources of funds for the future replacement of significant assets are in accordance with Council’s financing policy. For scheme related assets, these are funded through scheme depreciation, reserves, targeted rates from defined scheme areas, grants where possible and where necessary, borrowings. Council assets are funded from the asset replacement reserve and where necessary, general reserves and borrowings. This assumption is assessed as having a low level of risk.

Growth Change Factors

Economic growth in Otago is dominated by tourism, primary production and education. Economic growth is not expected to impact directly on the level of work carried out by Council, given the nature of its activities.

Primary production growth is dependent on the availability of water. Council has included in this plan increased work on water management issues in this regard.

Population within certain areas of Otago is forecast to grow over the next 10 years, more significantly in the Queenstown Lakes and Central Otago districts.

Changes in population will impact on the level of certain activities carried out by Council, such as transport, demand on resource use, environmental incidents, civil defence and emergency management and natural hazards.

Council’s work programmes have considered the projected growth in the region, with new initiatives and resources that reflect population growth. This assumption is assessed as having a medium level of risk.

Inflation

The financial information is based on the following adjustments for inflation, the BERL forecasts being used as the basis for price level changes:

	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31
Staff rates	-	2.4%	2.5%	2.5%	2.6%	2.6%	2.6%	2.7%	2.7%	2.7%
Other	-	2.4%	2.5%	2.5%	2.6%	2.6%	2.6%	2.7%	2.7%	2.7%

The risk is that actual price movements may not reflect those projected and, therefore, the actual cost of services might be different to that indicated.

NZ Transport Agency (Waka Kotahi) Subsidy Rates

The following rates of subsidy used are based on rates currently advised by the NZ Transport Agency:

- Transport planning and public passenger transport to receive 51% subsidy;
- Total Mobility to receive 60% subsidy;
- Total Mobility flat rate payments to receive 100% subsidy.

The risks of these assumptions are assessed as having a low to medium level of uncertainty. The NZ Transport Agency has given no indication that the rates may change during the period. If the subsidy for total mobility was to decrease, the impact would be directly on general rates. Any changes in subsidy for public passenger transport would impact directly on targeted rates, fares and/or the scope of services.

Useful Lives of Significant Assets

The useful lives of significant assets are as recorded in asset management plans or based upon current financial standards. Depreciation has been calculated in accordance with current accounting policy. This assumption is assessed as having a low level of risk.

Revaluation of Non-Current Assets

The non-current assets that are revalued annually are Council's investment properties and its shareholding in Port Otago Limited. With respect to the Port Otago Limited investment, the actual results are dependent on factors outside the control of Council and the management of Port Otago Limited. For the purposes of this plan, an assumption has been made that the value of Council's investment in Port Otago will grow in value by around 4% every year of the plan.

Investment properties are assumed to increase in value by 1%.

The risk of these assumptions is assessed as having a high level of uncertainty. However, the revaluation of non-current assets does not directly impact rates.

Forecast Return on Investments

Forecast returns used in the estimates are as follows:

- Rate of return of 2% per annum on cash balances and the managed fund.
The risk of this assumption is that a lower return on cash investments will be received. This risk is deemed very low.
- All Port Otago Limited dividends will be received fully imputed and accordingly no taxation liability will arise in respect of them.
The risk of this assumption is assessed as having a low to medium level of uncertainty because Port Otago Limited has a stable trade base. Shipping trends over past years have been consistent, as are predictions for future trade, allowing for stable dividend payments. Investment income is used to reduce general rates, any change in return on investments directly impacts general rating requirements.

Capital Expenditure

Various projects require spending of a capital nature. The estimates are prepared using actual costs, adjusted for inflation, where known, or "Rough Order of Costs". These have been determined using methods such as current known costs.

The risk of the assumptions made on capital expenditure are assessed as having a medium level of uncertainty due to risks outside of Council control, such as the cost of construction materials, freight etc. over long timeframes.

Capital purchases in respect of flood and drainage schemes are funded by those schemes and so any variation in costs will impact on their depreciation and reserves. Variations in other capital expenditure will impact on Council's Asset Replacement Reserve.

Investment Properties

This plan assumes that Council will not sell any of its investment properties over the next 10 years.

Legislation

This plan assumes that there will be some changes in the legislation under which Council operates that will impact on its work programmes over the next 10 years. Council is aware of new requirements from central government. Council's work programme has taken account of the known changes coming. The risk of this assumption is low. Changes in Government policy may directly impact the responsibilities of Council.

Climate Change

The assumption is made that climate change will have impacts on parts of Otago over the next 10 years. The infrastructure strategy notes the climate context over next 30 years. To help address this assumption, Council has incorporated some work programmes in the Flood Protection and Control works activity and in the Safety and Hazards activity to address the risk of potential additional flooding. The risk of this assumption being incorrect is low.

Natural Disasters and Adverse events

The assumption is made that there could be major natural disasters over the next 10 years that could cause widespread and significant damage to Council's infrastructural assets, i.e. our flood and drainage schemes. What, when, where and how big are impossible to predict, but this Long Term Plan provides for us to be ready to respond. Such initiatives include Council's civil defence and emergency management work programme, the retention of Council's Emergency Response Fund and a proactive approach to managing asset resilience through renewals. This assumption has a high level of uncertainty.

Fare Revenue

Covid-19 has had an impact on patronage for both Dunedin and Queenstown public transport networks. Dunedin patronage is expected to reach pre-covid levels in year 1 and grow 2% per annum. The Queenstown network is impacted more so due to the tourism downturn, patronage to expected to be 70% of pre covid levels in year 1, 80% in year 2, 90% in year 3 and back to pre-covid levels in year 4. This assumption has a medium level of risk

Financial Statements

Prospective Statement of Comprehensive Revenue and Expense for the year ending 30 June 2022

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
	REVENUE:		
	Revenue from non-exchange transactions		
40,039	Rates revenue	47,242	47,228
18,856	Grant revenue and subsidies	18,510	22,102
12,649	Other revenue	13,077	10,949
	Revenue from exchange transactions		
13,000	Dividends	14,000	14,000
750	Interest & Investment revenue	750	750
4,740	Other revenue	5,073	5,040
90,034	Total Revenue	98,651	100,069
	EXPENDITURE:		
	Operating Expenditure:		
27,417	Employee benefits expense	30,978	32,692
3,574	Depreciation and amortisation expense	4,090	4,356
250	Finance cost	256	250
60,964	Operating expenses	64,916	66,022
92,206	Total Operating Expenditure	100,240	103,320
740	Other gains/(losses)	1,006	1,064
(1,433)	Surplus/(Deficit) for the period	(583)	(2,186)
	OTHER COMPREHENSIVE REVENUE & EXPENSES		
20,935	Revaluation gains/(losses)	21,772	24,531
19,502	TOTAL COMPREHENSIVE REVENUE & EXPENSES	21,189	22,344

Prospective Depreciation by Activity for the year ending 30 June 2022

Long-Term Plan 2021-22 \$000s	Activity	Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
350	Environment	455	392
986	Flood Protection	1,024	972
25	Safety & Hazards	42	12
121	Regulatory	126	175
580	Transport	580	788
1,512	Corporate	1,862	2,017
3,574	Total	4,090	4,356

Prospective Statement of Financial Position as at 30 June 2022

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
	Current Assets:		
8,466	Cash and cash equivalents	(1,967)	2,049
34,022	Other financial assets	34,872	36,796
11,398	Trade and other receivables	12,390	9,304
514	Other current assets	514	698
54,400	Total current assets	45,810	48,847
	Non-current assets:		
97,646	Property, plant and equipment	105,137	106,065
15,519	Investment property	15,674	16,810
564,299	Shares in Port Otago Ltd	586,071	657,795
6,687	Intangible assets	8,046	3,982
98	Deferred tax asset	98	98
684,248	Total non-current assets	715,026	784,750
738,648	Total assets	760,836	833,597
	Current liabilities:		
11,918	Accounts payable	12,718	18,614
2,215	Employee entitlements	2,415	2,343
14,133	Total current liabilities	15,133	20,957
	Non-current liabilities:		
25,000	Borrowings	25,000	25,000
25,000	Total non-current liabilities	25,000	25,000
39,133	Total liabilities	40,133	45,957
699,515	Net assets	720,703	787,640
	Equity:		
122,185	Public equity	128,062	121,520
544,299	Available for sale reserve	566,071	637,796
2,316	Asset replacement reserve	1,138	754
7,235	Building reserve	2,147	1,938
(40)	Environmental enhancement reserve	(40)	9
4,059	Emergency response reserve	4,119	4,611
(0)	Water management reserve	(0)	5
6,003	Kuriwao endowment reserve	5,594	6,258
13,458	Asset revaluation reserve	13,613	14,749
699,515	Total equity	720,703	787,640

Prospective Statement of Changes in Net Assets/Equity as at 30 June 2022

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
680,013	Balance at 1 July	699,515	765,296
19,502	Net Comprehensive Income	21,189	22,344
699,515	Balance at 30 June	720,703	787,640
	Net Movements		
(2,172)	Net surplus transferred to Public Equity	(1,589)	(3,250)
9,342	Public Equity	7,466	7,504
20,935	Available for Sale Revaluation Reserve	21,772	24,531
(993)	Asset Replacement Reserve	(1,179)	(1,184)
60	Emergency Response Reserve	61	68
(315)	Kuriwao Reserve	(409)	(399)
154	Asset Revaluation Reserve	155	166
(920)	Water Mgt Reserve	(0)	0
(6,541)	Building Reserve	(5,088)	(5,091)
(48)	Environmental Enhancement Reserve	(1)	0
19,502	Net comprehensive income	21,189	22,344
699,515	Balance at 30 June	720,703	787,640

Prospective Statement of Reserves as at 30 June 2022

Reserves	Opening Balance 1 July 2022 \$000s	Transfers In \$000s	Transfers Out \$000s	Closing Balance 30 June 2023 \$000s
Public Equity	71,702	24,995	(18,090)	78,607
Available for Sale Revaluation Reserve	613,266	24,531	-	637,796
Asset Replacement Reserve	1,938	3,076	(4,260)	754
Emergency Response Reserve	4,543	68	-	4,611
Kuriwao Reserve	6,657	212	(612)	6,258
Asset Revaluation Reserve	14,583	166	-	14,749
Water Mgt Reserve	5	-	-	5
Building Reserve	7,029	29	(5,120)	1,938
Environmental Enhancement Reserve	9	297	(297)	9
River Management Dunedin	1,296	197	(569)	924
River Management Clutha	127	391	(565)	(47)
River Management Central Otago	350	344	(492)	202
River Management Wakatipu	953	233	(454)	732
River Management Wanaka	(77)	220	(325)	(181)
River Management Waitaki	583	409	(377)	615
Emergency Management	(228)	3,336	(3,334)	(226)
Alexandra Flood Protection	98	306	(263)	142
Leith Flood Protection	(13,818)	1,641	(704)	(12,881)
Lower Clutha Flood Protection & Drainage	(994)	1,794	(2,227)	(1,427)
Lower Taieri Flood Protection	1,251	1,802	(1,765)	1,288
West Taieri Drainage	(2,430)	1,550	(1,983)	(2,863)
East Taieri Drainage	38	716	(852)	(98)
Tokomairiro	133	162	(189)	106
Lower Waitaki Flood Protection & River Control	(6)	190	(190)	(6)
Public Transport Dunedin	(7,696)	19,677	(20,158)	(8,178)
Public Transport Wakatipu	(1,977)	9,596	(11,155)	(3,537)
Dairy Compliance	32	200	(236)	(3)
Lake Hayes Remediation	(8)	240	(693)	(461)
Biosecurity	(743)	7,783	(8,392)	(1,351)
Wilding Pines	(293)	200	(204)	(298)
Rural Water Quality	1,034	1,163	(1,953)	243
Infrastructure Assets	67,937	3,230	(949)	70,218
Total	765,296	108,753	(86,408)	787,640

Prospective Statement of Cashflows for the year ended 30 June 2022

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
	Cashflow from Operating Activities		
	<i>Cash provided from:</i>		
	Receipts from non-exchange transactions		
40,039	Rate Receipts	47,242	47,228
18,856	Grant Income	18,510	22,102
	Receipts from exchange transactions		
750	Interest	750	750
13,000	Dividends	14,000	14,000
17,396	Other Receipts	18,157	15,997
90,041	Total Income	98,658	100,077
	<i>Cash Applied to:</i>		
88,382	Payments to Employees & Suppliers	95,894	98,714
250	Interest	256	250
88,632	Total Payments	96,150	98,964
1,409	Net Cash from Operating Activities	2,508	1,113
	Cashflow From Investing Activities		
	<i>Cash provided from:</i>		
410	Property, Plant & Equipment Sales	420	420
0	Term Investment Maturity	0	0
0	Deferred Tax Asset realised	0	0
0	Managed Fund Withdrawal	0	0
410	Total Cash	420	420
	<i>Cash Applied to:</i>		
10,000	Managed Fund	0	0
6,224	Property, Plant & Equipment	11,467	11,258
1,525	Intangible Assets	1,894	1,850
17,749	Total	13,361	13,108
(17,339)	Net Cash from Investing Activities	(12,941)	(12,688)
	Cashflow From Financing Activities		
	<i>Cash provided from:</i>		
25,000	Borrowings	0	0
	<i>Cash Applied to:</i>		
0	Repayment of Borrowings	0	0
25,000	Net Cash from Financing Activities	0	0

9,070	Net Increase/(Decrease) in Cash Held	(10,433)	(11,575)
(604)	Cash at 1 July 2022	8,466	13,624
8,466	Cash at 30 June 2023	(1,967)	2,049

Reconciliation of Net Surplus to Net Cash from Operating Activities

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
	RECONCILIATION OF NET SURPLUS TO NET CASH		
(1,433)	Net Surplus(deficit) from Activities	(583)	(2,186)
	Add(deduct) non cash items:		
3,574	Depreciation	4,090	4,356
(740)	Other (gains)/losses	(1,006)	(1,064)
7	Bad Debts	7	7
1,409	Net Cash from Operating Activities	2,508	1,113

Schedule of Capital Expenditure

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
	Environmental		
45	Air Monitoring	92	90
0	Public Awareness	0	100
1,295	Water Monitoring Sites	1,595	1,563
20	Harbour Mgt	51	120
90	Biodiversity	92	90
470	Hazards	650	0
30	Compliance	0	0
	Transport		
0	Transport	0	0
	Flood Protection & Control Works		
0	Alexandra Flood Protection	20	20
0	Leith Flood Protection	154	250
1,000	Lower Clutha Flood & Drainage	799	680
1,020	Lower Taieri Flood Protection	973	950
1,195	West Taieri Drainage	1,157	1,130
380	East Taieri Drainage	184	180
30	Tokomairiro	20	20
0	Wanaka River Mgt	0	0
	Council		
100	Property	5,222	5,220
675	Vehicles	691	675
1,625	Computers & Software	1,997	1,950
20	Plant	20	20
50	Sundry	51	50
8,045	Total Capital Expenditure	13,771	13,108

Summary of Accounting Policies

Overview

Reporting Entity

The Council is a regional local authority governed by the Local Government Act 2002.

The Council Group (Group) consists of the Council and its subsidiary Port Otago Limited (100% owned). The Port Otago Limited Group consists of Port Otago Limited, its subsidiaries, associates and joint ventures.

The primary objective of the Council is to provide goods or services for the community or social benefit rather than making a financial return. Accordingly, the Council has designated itself and the Group as public benefit entities for financial reporting purposes.

The prospective financial information contained in this Annual Plan relates to the Council only as the group parent. The Council has not presented group prospective financial statements because the Council believes that the parent prospective financial statements are more relevant to users. The main purpose of prospective financial statements in the Annual Plan is to provide users with information about the core services that the Council intends to provide ratepayers, the expected cost of those services and as a consequence how much the Council requires by way of rates to fund the intended levels of service. The level of rate funding required is not affected by subsidiaries except to the extent that the Council obtains distributions from those subsidiaries. Distributions from the Council's subsidiary Port Otago Limited are included in the prospective financial statements of the Council.

The Prospective Financial Statements of Council are to be adopted by Council on 23 June 2021.

Statement of Compliance

The prospective financial statements have been prepared in accordance with PBE FRS 42, Prospective Financial Statements, and in accordance with Tier 1 PBE Standards appropriate for public benefit entities, as it relates to prospective financial statements.

The actual results achieved for any given financial year are likely to vary from the information presented and may vary materially depending upon the circumstances that arise during the period. The prospective financial information is prepared in accordance with Section 93 of the Local Government Act 2002. The information may not be suitable for use in any other capacity. No actual results have been incorporated in these prospective financial statements.

Council is responsible for the prospective financial statements presented, including the appropriateness of the assumptions underlying the prospective financial statements and all other required disclosures.

Basis of Accounting

The prospective financial statements have been prepared on the historical cost basis, except for the revaluation of certain assets. They are presented in New Zealand dollars, rounded to the nearest thousand.

Standards and interpretations issues but not yet adopted

Council has not yet adopted the below standards and expects to adopt them in the period they become mandatory. Council anticipates that the below standards are not expected to have a material impact on the financial statements.

PBE IPSAS 41 : Financial Instruments

PBE IPSAS 48 : Service Performance Reporting

Significant Accounting Policies

Revenue Recognition

Revenue is recognised to the extent that it is probable that the economic benefits or service potential will flow to the group and the revenue can be reliably measured, regardless of when the payment is being made.

Type	Recognition and measurement
Revenue from Non Exchange Transactions	
Rates revenue	Rates revenue is recognised as income when levied. Council levies general rates for those functions that are assessed as providing benefits to all ratepayers within each of the constituent districts and city, and levies targeted rates where functions benefit a defined group of ratepayers
Grants and subsidies	Grants and subsidies are recognised upon entitlement, as conditions pertaining to expenditure have been fulfilled
Other fee income	Other fee income from non-exchange transactions is recognised when the supplies and services have been rendered.
Revenue from Exchange transactions	
Dividend income	Dividend income is recognised on the date of the dividend declaration.
Interest revenue	Interest revenue is recognised on a time proportionate basis using the effective interest method.
Revenue from port services	Revenue from port services is recognised in the accounting period in which the actual service is provided.
Revenue from the rendering of services	Revenue from the rendering of services, including relating to contracts and consent application that are in progress at balance date, is recognised by reference to the stage of completion of the transaction at balance date, based on the actual service provided as a percentage of the total services to be provided.
Rental income from operating leases	Rental income from operating leases is recognised on a straight line basis over the term of the relevant lease. Initial direct costs incurred in negotiating and arranging an operating lease are added to the carrying amount of the leased asset and recognised as an expense on a straight-line basis over the lease term.
Fees and charges	Fees and charges are recognised as income when supplies and services have been rendered. Fees received from the following activities are recognised as revenue from exchange transactions: resource consent processing, pest animal and plant contract work, grazing leases and licenses and enforcement work.

Other Gains and Losses

Gains and losses on the sale of investment property, property, plant and equipment are recognised when an unconditional contract is in place and it is probable that the Council will receive the consideration due and significant risks and rewards of ownership of assets have been transferred to the buyer.

Where a physical asset is acquired for nil or nominal consideration, the fair value of the asset received is recognised as revenue. Assets vested in the Council are recognised as revenue when control over the asset is obtained.

Trade and Other Receivables

Trade and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment.

Trade and other receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less provision for impairment. A provision for doubtful debts is established when there is objective evidence that the Council will not be able to collect all amounts due according to the original terms of the receivables. The amount of the provision is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the effective interest rate. The amount of the provision is expensed in the surplus/(deficit).

Intangible Assets

Computer Software

Computer software assets are stated at cost, less accumulated amortisation and impairment. The amortisation periods range from 1 to 5 years.

(a) Impairment

At each reporting date, the Council reviews the carrying amounts of intangible assets to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss (if any). Where the asset does not generate cash flows that are independent from other assets, the Council estimates the recoverable amount of the cash-generating unit to which the asset belongs.

Property, Plant and Equipment

Property, plant and equipment consist of the following.

Operational Assets

Operational assets include Council owned land, endowment land, buildings, and plant and vehicles.

Infrastructural Assets

Infrastructural assets deliver benefits direct to the community and are mostly associated with major flood protection and land drainage schemes. Infrastructural assets include flood banks, protection works, structures, drains, bridges and culverts, and in the passenger transport, Dunedin bus hub and associated shelters.

Transport infrastructure assets and hardware deliver benefits to the transport bus network in Queenstown and Dunedin.

Restricted Assets

Endowment land is vested in the Council by the Otago Regional Council (Kuriwao Endowment Lands) Act. The Act restricts disposition of this land to freeholding initiated by lessees.

(a) Cost

Land and Buildings are recorded at cost or deemed cost less accumulated depreciation and any accumulated impairment losses.

Other property, plant and equipment are recorded at cost less accumulated depreciation and any accumulated impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the assets. Where an asset is acquired for no cost, or for a nominal cost, it is recognised at fair value at the date of acquisition. When significant, interest costs incurred during the period required to construct an item of property, plant and equipment are capitalised as part of the asset's total cost.

(b) Depreciation

Operational assets with the exception of land, are depreciated on a straight-line basis to write-off the cost of the asset to its estimated residual value over its estimated useful life.

Infrastructural assets including flood banks, protection works and drains and culverts are constructions or excavations of natural materials on the land and have substantially the same characteristics as land, in that they are considered to have unlimited useful lives and in the absence of natural events, these assets are not subject to ongoing obsolescence or deterioration of service performance, and are not subject to depreciation. Other infrastructural assets are depreciated on a straight-line basis to write off the cost of the asset to its estimated residual values over its estimated useful life.

Expenditure incurred to maintain these assets at full operating capability is charged to the surplus/(deficit) in the year incurred.

The following estimated useful lives are used in the calculation of depreciation:

Asset	Life
Operational Assets	
Buildings – Council	10-50 years
Plant and vehicles – Council	3-20 years
Infrastructural Assets	
Floodbanks	Unlimited
Protection works	Unlimited
Drains	Unlimited
Culverts	Unlimited
Structures	8-100 years
Bridges	33-100 years
Transport infrastructure and hardware	5-15 years

The estimated useful lives, residual values and depreciation method are reviewed at the end of each annual reporting period.

(c) Disposal

An item of property, plant and equipment is derecognised upon disposal or recognised as impaired when no future economic benefits are expected to arise from the continued use of the asset.

Any gain or loss arising on derecognition of the asset (calculated as the difference between the net disposal proceeds and the carrying amount of the asset) is included in the surplus/(deficit) in the period the asset is derecognised.

(d) Critical Judgements and Assumptions

The Council owns a number of properties that are held for service delivery objectives as part of the Council's various flood protection schemes. The receipt of market-based rental from these properties is incidental to holding these properties. These properties are accounted for as property, plant and equipment.

Borrowings

Borrowings are recognised initially at fair value. Subsequent to initial recognition, borrowings are stated at amortised cost, with any difference between cost and redemption value being recognised in the Income Statement over the period of the borrowings, using the effective interest method. The carrying amount of borrowings reflects fair value as the borrowing finance rates approximate market rates.

The council's secured borrowings are secured by a charge over current and future rates revenue.

Reserve

Restricted and Council Created Reserves

Restricted reserves are a component of equity generally representing a particular use to which various parts of equity have been assigned. Reserves may be legally restricted or created by the Council.

Restricted reserves are those subject to specific conditions accepted as binding by the Council and which may not be revised by the Council without reference to the Courts or a third party. Transfers from these reserves may be made only for certain specified purposes or when certain specified conditions are met.

Also included in restricted reserves are reserves restricted by Council decision. The Council may alter them without references to any third party or the Courts. Transfers to and from these reserves are at the discretion of the Council.

Available-for-Sale Revaluation Reserve

The available-for-sale revaluation reserve arises on the revaluation of the shares in subsidiary.

Asset Replacement Reserve

This reserve represents funds held for the replacement of Council operational assets.

Emergency Response Reserve

This reserve is separately funded to enable Council to respond appropriately to emergency situations.

Kuriwao Endowment Reserve – Restricted

This reserve represents the accumulation of net income from Kuriwao Endowment land less any distribution of that income. The reserve is available to fund works for the benefit of the Lower Clutha District.

Asset Revaluation Reserve

This reserve arises on the revaluation of investment property.

Water Management Reserve

The purpose of this reserve is to provide funding for water management initiatives in Otago.

Hedging Reserve

This reserve comprises the effective portion of the cumulative net change in the fair value of cash flow hedging instruments relating to interest payments that have not yet occurred.

Building Reserve

The purpose of this reserve is to set aside funding for a new head office for the Council.

Environmental Enhancement Reserve

The purpose of this reserve is to provide funding for the maintenance or enhancement of areas of the natural environment within the Otago region.

Prudence Disclosures

The purpose of this statement is to disclose the Council's planned financial performance in relation to various benchmarks to enable the assessment of whether the Council is prudently managing its revenues, expenses, assets, liabilities, and general financial dealings.

The Council is required to include this statement in its Annual Plan in accordance with the Local Government (Financial Reporting and Prudence) Regulations 2014 (the regulations). Refer to the regulations for more information, including definitions of some of the terms used in this statement.

Benchmark	Limit	Annual Plan 2022/2023	Met
Rates affordability			Yes
- Income	N/A	N/A	
- Increases	18%	18%	
Debt affordability benchmark			Yes
- Net debt/total revenue	175%	25%	
Balanced budget benchmarks	98%	96%	No
Essential services benchmark	323%	332%	Yes
Debt servicing benchmark	0%	0%	Yes

Rate Funding and Funding Impact Statements

Funding Impact Statement

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
	Sources of operating funding:		
19,577	General rates, UAGC & rate penalties	23,113	23,127
20,462	Targeted rates	24,128	24,101
18,856	Subsidies & grants	18,510	22,102
6,158	Fees & charges	6,728	6,861
13,750	Interest & dividends from investments	14,750	14,750
11,231	Fines, infringement fees & other receipts	11,422	9,128
90,034	Total operating funding	98,651	100,069
	Applications of operating funding:		
88,216	Payments to staff & suppliers	95,725	98,547
350	Finance costs	358	350
465	Other operating funding applications	496	424
89,032	Total applications of operating funding	96,579	99,322
1,002	Surplus(deficit) of operating funding	2,072	748
	Sources of capital funding:		
-	Subsidies & grants for capital expenditure	-	-
-	Financial contributions	-	-
-	Increase(decrease) in debt	-	-
410	Gross proceeds from sale of assets	420	420
-	Lump sum contributions	-	-
-	Other dedicated capital funding	-	-
410	Total sources of capital funding	420	420
	Application of capital funding:		
	<i>Capital expenditure:</i>		
-	- to meet demand	-	-
1,995	- to improve level of service	2,676	2,813
6,050	- to replace existing assets	11,095	10,295
(6,633)	Increase(decrease) in reserves	(11,279)	(11,940)
-	Increase(decrease) in investments	-	-
1,412	Total applications of capital funding	2,492	1,168
(1,002)	Surplus(deficit) of capital funding	(2,072)	(748)
-	Funding balance	-	-

Reconciliation of Funding Impact Statement to Statement of Comprehensive Revenue and Expense

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
1,002	Surplus(deficit) of operating funding per funding Impact statement	2,072	748
	Add/(deduct):		
(3,574)	Depreciation	(4,090)	(4,356)
740	Other gains/(losses)	1,006	1,064
400	Other	429	358
(1,433)	Adjusted Surplus/(Deficit) from Funding Impact Statement	(583)	(2,186)
(1,433)	Surplus/(Deficit) from activities per Statement of Comprehensive Revenue & Expense	(583)	(2,186)

Funding Impact Statement – Calculation of Rates for the 2022/23 Year

Otago Regional Council does not require a lump sum contribution for any of its targeted rates.

Source of funding and activities	Valuation system and basis of calculation	Matters for differentiation	Est. Revenue sought for 2022-23 including GST	Estimated rates payable including GST			
				Capital Value \$250,000	Capital Value \$500,000	Capital Value \$4,000,000	
General rates:							
General rates							
Contributes to all activities of council	Capital value	Where the property is situated	Allocated as: Central Otago Clutha Dunedin Queenstown Waitaki	\$19,947,000 \$2,223,000 \$1,544,000 \$7,748,000 \$7,184,000 \$1,248,000	\$43.52 \$44.22 \$61.15 \$32.09 \$43.12	\$87.04 \$88.45 \$122.29 \$64.18 \$86.23	\$696.35 \$707.60 \$978.36 \$513.47 \$689.86
Uniform Annual General Charge							
Contributes to all activities of council	Fixed charge per rating unit		Calculated as \$57.11 per rating unit	\$6,649,000	\$57.11	\$57.11	\$57.11
Targeted rates – refer to maps of targeted rating areas							
Flood protection and control works							
Leith flood protection scheme	Capital value	Where the property is situated within the defined scheme area	Allocated as: Direct benefit zone: * Forsyth Barr Stadium * Excluding stadium * Indirect benefit zone	\$1,680,000 \$34,000 \$806,000 \$840,000	\$43.84 \$192.15 \$9.90	\$87.69 \$384.29 \$19.79	\$701.50 \$3,074.36 \$158.34
Lower Taieri flood protection scheme	Capital value	Where the property is situated using approved classifications	Allocated as: Lower Taieri Flood Protection WF1 Lower Taieri Flood Protection WF2 Lower Taieri Flood Protection WF3 Lower Taieri Flood Protection WF4 Lower Taieri Flood Protection WF5 Lower Taieri Flood Protection WF6 Lower Taieri Flood Protection WF7 Lower Taieri Flood Protection WF8 Lower Taieri Flood Protection WF9 Lower Taieri Flood Protection EF1 Lower Taieri Flood Protection EF2 Lower Taieri Flood Protection EF3 Lower Taieri Flood Protection EF4 Lower Taieri Flood Protection EF5 Lower Taieri Flood Protection EF6 Lower Taieri Flood Protection EF7 Lower Taieri Flood Protection EF8 Lower Taieri Flood Protection EF9 Lower Taieri Flood Protection EF10 Lower Taieri Flood Protection EF12 Lower Taieri Flood Protection EF13	\$1,207,430 \$522,000 \$539,000 \$267 \$163 \$0 \$0 \$0 \$1,000 \$0 \$33,000 \$43,000 \$1,000 \$12,000 \$2,000 \$1,000 \$1,000 \$41,000 \$4,000 \$2,000 \$2,000 \$2,000 \$3,000	\$644.72 \$381.48 \$6.04 \$9.42 \$0.00 \$0.00 \$0.00 \$45.31 \$0.00 \$347.46 \$363.47 \$361.30 \$293.53 \$8.16 \$360.93 \$4.96 \$4.68 \$2.17 \$2.70 \$426.53 \$426.64	\$1,289.44 \$762.96 \$12.08 \$18.85 \$0.00 \$0.00 \$0.00 \$90.61 \$0.00 \$694.93 \$726.93 \$722.59 \$587.05 \$16.31 \$721.86 \$9.92 \$9.37 \$4.34 \$5.41 \$853.06 \$853.28	\$10,315.49 \$6,103.64 \$96.63 \$150.79 \$0.00 \$0.00 \$0.00 \$724.90 \$0.00 \$5,559.43 \$5,815.47 \$5,780.73 \$4,696.42 \$130.48 \$5,774.92 \$79.38 \$74.94 \$34.75 \$43.26 \$6,824.46 \$6,826.22
Lower Clutha flood and drainage scheme	Capital value	Where the property is situated using approved classifications	Allocated as: Flood Protection & Drainage A Flood Protection & Drainage B Flood Protection & Drainage C Flood Protection & Drainage D Flood Protection & Drainage E Flood Protection & Drainage F Flood Protection & Drainage U1 Flood Protection & Drainage U2 Flood Protection & Drainage U3 Flood Protection & Drainage U4	\$1,092,000 \$68,000 \$176,000 \$343,000 \$63,000 \$57,000 \$38,000 \$4,000 \$253,000 \$18,000 \$72,000	\$1,862.44 \$739.51 \$698.42 \$438.23 \$232.81 \$27.39 \$739.49 \$246.50 \$54.78 \$41.08	\$3,724.88 \$1,479.01 \$1,396.85 \$876.45 \$465.61 \$54.78 \$1,478.98 \$493.01 \$109.55 \$82.17	\$29,799.01 \$11,832.10 \$11,174.79 \$7,011.60 \$3,724.92 \$438.23 \$11,831.87 \$3,944.04 \$876.43 \$657.34
Tokomairiro drainage scheme	Capital value	Where the property is situated within the defined scheme area	Allocated as: Tokomairiro Drainage A Tokomairiro Drainage B Tokomairiro Drainage C Tokomairiro Drainage D Tokomairiro Drainage E Tokomairiro Drainage F Tokomairiro Drainage U1	\$184,000 \$9,000 \$18,000 \$25,000 \$33,000 \$20,000 \$27,000 \$52,000	\$212.83 \$159.64 \$127.71 \$95.78 \$53.21 \$21.28 \$31.93	\$425.67 \$319.27 \$255.41 \$191.56 \$106.42 \$42.57 \$63.85	\$3,405.33 \$2,554.19 \$2,043.29 \$1,532.49 \$851.38 \$340.55 \$510.83

Council Meeting Agenda - 29 June 2022 - MATTERS FOR COUNCIL CONSIDERATION

Source of funding and activities	Valuation system and basis of calculation	Matters for differentiation	Est. Revenue sought for 2022-23 including GST	Estimated rates payable including GST			
				Capital Value / Hectare	Capital Value / Hectare	Capital Value / Hectare	
				\$250,000	\$500,000	\$4,000,000	
			CV Ha	0.07	2.00	20.00	
East Taieri drainage scheme	Fixed charge per hectare	Where the property is situated within the defined scheme area	Allocated as: East Taieri Drainage - ED1 \$201,000 East Taieri Drainage - ED2 \$134,000 East Taieri Drainage - ED4 \$21,000 East Taieri Drainage - ED5 \$81,000 East Taieri Drainage - ED7 \$24,000 East Taieri Drainage - ED8 \$44,000 East Taieri Drainage - ED9 \$33,000 East Taieri Drainage - ED10 \$14,000	\$552,000	\$14.94	\$426.92	\$4,269.22
	Fixed charge per hectare	Where the property is situated within the defined scheme area	Allocated across ED1, ED2, ED4, ED5, ED8, ED9 and ED10	\$184,000	\$2.78	\$79.42	\$794.24
West Taieri drainage scheme	Fixed charge per hectare	Where the property is situated within the defined scheme area	Allocated as: West Taieri Drainage - WD1 \$522,000 West Taieri Drainage - WD2 \$92,000 West Taieri Drainage - WD3 \$31,000 West Taieri Drainage - WD4 \$15,000 West Taieri Drainage - WD5 \$263	\$660,263	\$9.51	\$271.76	\$2,717.61
	Fixed charge per hectare	Where the property is situated within the defined scheme area	Allocated across WD1, WD2, WD3 and WD4.	\$283,000	\$2.94	\$84.07	\$840.69

Source of funding and activities	Valuation system and basis of calculation	Matters for differentiation	Est. Revenue sought for 2022-23 including GST	Estimated rates payable including GST			
				Capital Value	Capital Value	Capital Value	
				\$250,000	\$500,000	\$4,000,000	
River and waterway management City and district waterway and river management	Capital value	Where the property is situated	Allocated as: Central Otago \$391,000 Clutha \$449,000 Dunedin \$356,000 Waitaki \$460,000 Wakatipu \$446,000 Wanaka \$336,000	\$2,438,000	\$7.65	\$15.31	\$122.47
Lower Waitaki	Capital value	Where the property is situated within the defined scheme area	Allocated as: Lower Waitaki A \$125,000 Lower Waitaki B \$71,000	\$196,000	\$370.58	\$741.17	\$5,929.34
Rural water quality	Capital value	Land use type being: - Rural arable farming - Rural dairy - Rural forestry - Rural market gardens and orchards - Rural mineral extraction - Rural multi use within rural industry - Rural specialist livestock - Rural stock finishing - Rural store livestock - Rural vacant - Lifestyle 2 hectares and above	Allocated as: Central Otago \$219,000 Clutha \$230,000 Dunedin \$161,000 Queenstown \$247,000 Waitaki \$138,000	\$995,000	\$11.09	\$22.17	\$177.38
Wilding trees	Fixed charge per rating unit		Calculated as \$1.98 per rating unit	\$230,000	\$1.98	\$1.98	\$1.98
Emergency Management	Fixed charge per rating unit		Calculated as \$32.95 per rating unit	\$3,836,000	\$32.95	\$32.95	\$32.95
Dairy monitoring	Fixed charge per rating unit	The activity of being a dairy farm	Calculated as \$532.41 per dairy shed	\$230,000	\$532.41	\$532.41	\$532.41
Transport Dunedin passenger transport	Capital value	Where the property is situated within the defined scheme area, and differentiated on basis of land use: Class A – non-residential Class B - others	Allocated as: Class A \$2,164,000 Class B \$5,866,000 * Dunedin \$35,000 * Waitaki	\$8,065,000	\$227.80	\$455.59	\$3,644.74
Wakatipu passenger transport	Capital value	Where the property is situated within the defined scheme area, and differentiated on basis of land use: Class A – non-residential Class B - others	Allocated as: Class A \$528,000 Class B \$1,469,000	\$1,997,000	\$26.54	\$53.08	\$424.64
Biosecurity City and district pest management plan	Land value	Where the property is situated	Allocated as: Central Otago \$441,000 Clutha \$313,000 Dunedin \$1,174,000 Queenstown \$1,739,000 Waitaki \$218,000	\$3,885,000	\$16.51	\$33.03	\$264.22

Effect of Rating

Long-Term Plan 2021-22 \$000s		Long-Term Plan 2022-23 \$000s	Annual Plan 2022-23 \$000s
19,577	General rates	23,113	23,127
-	Targeted air quality rates	-	-
523	Rural water quality rate	1,208	865
188	Dairy inspection rate	200	200
	Targeted River Management rates:		
320	- Central Otago District	340	340
360	- Clutha District	390	390
280	- Dunedin City	313	310
350	- Wakatipu	388	388
264	- Wanaka	292	292
400	- Waitaki	400	400
171	- Lower Waitaki	175	171
	Targeted Passenger Transport services rate:		
6,000	- Dunedin	7,019	7,013
1,290	- Queenstown	1,737	1,737
	Flood Protection & Drainage rates:		
580	- East Taieri Drainage	640	640
1,461	- Leith Flood Protection	1,461	1,461
850	- Lower Clutha	950	950
950	- Lower Taieri	1,050	1,050
150	- Tokomairiro	160	160
730	- West Taieri Drainage	820	820
2,436	Biosecurity Rates	3,385	3,379
	Targeted Wilding Tree rates:		
24	- Central Otago District	25	24
17	- Clutha District	17	17
91	- Dunedin City	93	91
49	- Queenstown Lakes District	50	49
19	- Waitaki District	20	19
	Emergency Management rates:		
357	- Central Otago District	362	403
248	- Clutha District	251	280
1,358	- Dunedin City	1,375	1,531
720	- Queenstown Lakes District	729	812
275	- Waitaki District	278	310

Schedule of Fees and Charges

Scale of Charges

The following Scale of Charges is to be applied where indicated to activities includes in this Schedule of Fees and Charges:

Charge	
Staff time per hour:	
- Management	\$205
- Team Leader/Principle	\$185
- Senior Technical	\$165
- Technical	\$145
- Field staff	\$145
- Administration	\$110
- Specialist Expert Services (i.e. Science, Hazards or Engineering)	\$165
Disbursements	Actual
Additional Site Notice	Actual
Advertisements	Actual
Vehicle use per kilometre	\$0.70
Harbourmaster vessel per hour	\$375
Travel and accommodation	Actual
Testing charges	Actual
Consultants	Actual
Commissioners	Actual
Councillor Hearing fees per hour:	
- Chairperson	\$100
- Member	\$80
- Expenses	Actual

Resource Management Act – Section 36 Charges

Set out below are details of the amounts payable for those activities to be funded by fees and charges, as authorised by Section 36(1) of the Resource Management Act 1991.

Resource Consent Application Fees

Note that the fees shown below are a deposit to be paid on lodgement of a consent application and applications for exemptions in respect of water measuring devices. The deposit will not usually cover the full cost of processing the application, and further actual and reasonable costs are incurred at the rate shown in the scale of charges. GST is included in all fees and charges. Costs for applications are typically invoiced at the end of process.

Pre-Application Work

We offer a pre-application service to help customers. The first 30 minutes of pre-application advice or review of application documents is free of charge. We will always advise before we start charging for application advice. For larger pre-application projects we may invoice before, during, and after the process is complete. Fees payable for pre-application work carried out before a consent application is lodged with Council will be incurred at the rates shown in the scale of charges.

Deposits		
Publicly Notified Applications Deposits: ³	First application	\$15,000
Non-Notified Applications and Limited Notification Applications Deposits: ³	First application	\$1,750
	Multiple Applications	\$2,300
Other Application Types		
	Variation to Conditions – s127	\$1,750
	Administrative Variation – s127	\$1,750
	Multiple Bores	\$1,500
	Deemed Permitted Activity	\$1,750
Fixed Fees		
Single Bore		\$750
Exemption under regulation 7A of the Water Metering Regulations		\$150
Exemption under regulations 9 or 10 of the Water Metering Regulations		\$450
Hearings		Per Note 2 below
	Payment for Commissioner request – s100A	Per Note 4 below
Objections	Payment for Commissioner request – s357AB	Per Note 4 below
Transfer of Consent Holder and Certificates Deposits:		
	Transfer of permits and consents	\$200
	Priority Table	\$200
	Certificate of Compliance	\$1,750
	All Other Costs	As per Scale of Charges

Notes:

- For additional permits in respect of the same site, activity, applicant, time of application, and closely related effect as the first application.
- The deposit payable shall be 90% of the cost of a hearing as calculated by Council in accordance with information contained in the application file and using the scale of charges. The amount payable will be due at least 10 working days before the commencement of the hearing. If the amount is not paid by the due date, then the Council reserves the right under S36(7) of the Resource Management Act to stop processing the application. This may include cancellation of the hearing.
Should a hearing be cancelled or postponed due to the non-payment of the charge, the applicant will be invoiced for any costs that arise from that cancellation or postponement.
Following completion of the hearing process, any shortfall in the recovery of hearing costs will be invoiced, or any over recovery will be refunded to the applicant.
- Where actual and reasonable costs are less than the deposit paid, a refund will be given.

4. Where an applicant requests under s100A (for a consent hearing) or under s357AB (for the hearing of an objection) an independent commissioner(s); the applicant will be required to pay any increase in cost of having the commissioner(s).

Use of Consultants for resource consents

If ORC uses an external consultant for the processing of a consent, or to provide technical input into the application then the full actual and reasonable costs of the consultant is charged to the applicant. This may include instances where the applicant makes a request for urgency, the application involves complex and/or technical matters or a peer review is necessary. ORC will also charge the applicant for time spent managing the consultant. ORC will advise the applicant before engaging a consultant.

If ORC uses a consultant to commission a report under section 92(2) of the RMA, the full cost of the consultant is charged to the applicant.

Review of Consent Conditions

Following the granting of a consent, a subsequent review of consent conditions may be carried out at either the request of the consent holder, or as authorised under Section 128, as a requirement of Council. Costs incurred in undertaking reviews requested by the consent holder will be payable by the consent holder at the rates shown in the Scale of Charges above.

Reviews initiated by Council will not be charged to consent holders.

Compliance Monitoring

Performance Monitoring

The following charges will apply to the review of performance monitoring reports for all consent holders, except those listed in ‘Fees for Specific Consent Holders’ section below. The charges shown are annual fixed fees per performance monitoring report or plan, and are inclusive of GST.

Resource Consent Monitoring and Annual Administration Charges	
One off compliance administration fee to be charged on all new applications. Covers the cost of compliance monitoring systems.	\$150
Ongoing compliance administration fee to be charged on consents with Performance Monitoring requirements.	\$50
Late performance monitoring fee to be charged as required.	\$150
Annual Consent Compliance Monitoring Charges	
Compliance monitoring charge for each other item due during the financial year (unless covered by one of the fees below) examples include management plans, provision of photos, bore logs, notifications, record of complaints, annual reports.	\$70
Annual charge for the receipt and processing of telemetered water take data/information (including verifications returns)	\$175
Each additional telemetered water measuring device	\$50

Annual charge for the receipt and processing of manual and data logger water take data/information (including verification returns), excludes those who hold a WEX for the installation of telemetry.	\$225
Each additional non telemetered water measuring device	\$100
Annual charge for the receipt and processing of all returns relating to small/simple discharge consents.	\$75
Annual charge for the receipt and processing of all returns relating to medium/moderately complex discharge consents.	\$300
Annual charge for the receipt and processing of all returns relating to large/complex discharge consents.	\$900
Inspection reports for small dams	\$145
Inspection reports for large dams	\$280
Structural integrity report	\$100
Low flow monitoring charges	
Kakanui at McCones	\$350
Unnamed Stream at Gemmels	\$1,550

Fees for Specific Consent Holders

Performance monitoring will be charged as 75% of actual costs where applying the fixed charges listed above do not represent a fair and reasonable charge. This includes major consent holders who hold a large number of individual consents and/or consents which contain complex monitoring requirements. It also includes consents where data or information is consistently submitted in a way which generates significant extra costs for Council.

Additional charges may be incurred for new consents granted during the year.

Resource Consent Monitoring

Resource Consent Audits

Monitoring compliance with consents and audit of resource consents will be charged at the actual and reasonable cost incurred using the Scale of Charges. This includes, but is not limited to:

- Staff time to carry out an inspection (if required), audit any monitoring information provided by consent holders, follow up any non-compliance and report back to consent holders (if required).
- Any disbursements related to the monitoring, including sampling and testing costs and any specialist or technical advice needed.

Resource consent non-compliance

Where non-compliance with resource consent conditions is identified, all follow-up work and enforcement action related to the consent non-compliance will be charged at the Scale of Charges. This includes, but is not limited to:

- Staff time to consider the non-compliance, prepare reports and correspondence, and any disbursements (eg sampling services, technical advice) related to consent non-compliance.
- Costs for generating and issuing enforcement notices.
- Inspections to determine compliance with an enforcement order or abatement notice to confirm that the required action has been taken and full compliance with the notice is achieved.
- Reactive site visits as a result of an incident notification (eg a complaint about water pollution or odour release), the consent holder is only charged if the consent is breached and non-compliance is observed

Other Compliance Activities

The following activities will be charged at the actual and reasonable cost incurred, using the Scale of Charges:

- Performance and compliance monitoring of permitted activities under a National Environmental Standard, including but not limited to Freshwater, Plantation Forestry and Storing Tyres Outdoors.
- Monitoring compliance of farm operators with freshwater farm plan regulations and receiving notifications and audit reports of freshwater farm plans
- Monitoring Compliance Certificates

Non-Compliance, Incidents and Complaints

Pollution incidents and non-compliance with permitted activity rules

Where non-compliance with the RMA or permitted activity rules in Regional Plans or National Environment Standards is identified, the actual and reasonable costs and expenses incurred may be charged at the Scale of Charges. This includes, but is not limited to:

- Dealing with initial response to the pollution incident such as initial enquiries and site visit.
- Enforcement work including staff time for investigating, monitoring and reporting and any disbursements (eg, sampling services and technical advice) related to the non-compliance.
- Costs of any actions required to avoid, remedy, or mitigate the adverse environmental effect, including the remediation and clean-up

Gravel Inspection and Management

Gravel extraction fee – \$0.66 per cubic metre (incl. GST). Where more than 10,000 cubic metres of gravel is extracted within a prior notified continuous two-month period, the actual inspection and management costs will be charged, as approved by the Director Corporate Services.

Resource Monitoring

Water or air monitoring work carried out for external parties – Scale of Charges.

Private Plan Changes

Work carried out on privately initiated plan changes – Scale of Charges.

Biosecurity Act – Section 135 Charges

Pest Management Strategy Implementation

Work carried out resulting from inaction of landowners not complying with Council's Pest Management Strategy for Otago. The 'Scale of Charges' applies.

Review of Rabbit Control Programmes from non-compliant farms, and work associated with ensuring implementation of those programmes – Scale of Charges.

Local Government Act – Section 150 Charges

Transport Licensing Exempt Services

Apply to register or vary an existing registration - Scale of Charges; deposit payable of \$575.

Bylaw Application Processing

Processing bylaw applications with the 'Scale of Charges' applying and deposit payable of \$300.

Local Government Official Information and Meetings Act – Section 13 and Resource Management Act Section 36(1)

Information Requests

Information requests that require more than half an hour to respond to, and multiple copies of Council reports. The 'Scale of Charges' applies.

Local Government (Rating) Act 2002 – Section 88 Charges

Postponement

A postponement fee to cover administration and financial costs may be charged on postponed rates – scale of charges

7.2. Rates Report and Rates Resolution

Prepared for:	Council
Report No.	CS2238
Activity:	Governance Report
Author:	Sarah Harrisson, Manager Finance, Revenue
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	29 June 2022

PURPOSE

- [1] The purpose of this report is to provide details of each of the rates to be set, and to recommend that Council adopts the rates resolution for the 2022-23 financial year.

EXECUTIVE SUMMARY

- [2] Following the adoption of the Annual Plan 2022-23, Council is required to adopt a rates resolution, which formally sets the rates for the 2022-23 financial year.
- [3] The rates resolution is attached to this report.
- [4] A table is attached to this report showing the rate effect of the rates contained in the rating resolution on a range of properties within the Otago region. The table includes rates for the 2021-22 year for comparative purposes.

RECOMMENDATION

That the Council:

- 1) **Receives** this report and the attached Rating and Sample Reports.
- 2) **Adopts** the Rating Resolution for the 2022-23 financial year.

DISCUSSION

GENERAL RATES

General rate amount and collection basis

- [5] The GST inclusive general rate requirement for the 2022-23 year of \$26,596,000 represents an increase of 18% on the 2021-22 rate of \$22,514,000.
- [6] Of the general rate requirement, the total amount of rates to be collected by way of Uniform Annual General Charge is \$6,649,000 equating to a charge of \$57.11 (including GST) on each rateable property compared to \$49.32 in the 2021-22 year.
- [7] General rates, excluding the portion collected as a Uniform Annual General Charge, are charged on a capital value basis.

Equalisation of capital values

- [8] Revaluations of property for rating purposes are conducted on a cyclic three-yearly basis.

- [9] The Dunedin City and the Central Otago Districts were last revalued in 2019 and the Waitaki and Clutha Districts were revalued in 2020. Due to COVID-19, the Queenstown Lakes District revaluation was delayed but has since been carried out in September 2021.
- [10] Council obtained a certificate of projected values from Quotable Value Limited that provides an assessment of the overall “equalised” capital values of the city and each of the districts within Otago, as at the common date of 1 September 2021.
- [11] The equalised values are applied to apportion the general rate amount to be collected on a capital value basis from the region as a whole and are also applied in those instances where rates are to be collected on a common basis where the rating base takes in more than one district.
- [12] The following table shows the equalised values for the city and districts as at 1 September 2021 that are applicable for 2022-23 rates and the comparative values applicable to the 2021-22 rates.

Equalised capital values of the Otago region				
	Values for the 2022/23 year		Values for the 2021/22 year	
City/Districts	Values \$billion	District %	Values \$billion	District %
Central Otago	16.109	11.93%	13.407	12.65%
Clutha	9.821	7.28%	8.655	8.17%
Dunedin	44.404	32.89%	37.411	35.31%
Queenstown	56.315	41.71%	39.329	37.12%
Waitaki (part)	8.353	6.19%	7.148	6.75%
Total	135.002	100.00%	105.950	100.00%

Significant general rate amounts

- [13] The following are the significant general rate amounts to be levied on the basis of capital value:

	General rates 2022/23 (GST inclusive) \$	General rates 2021/22 (GST inclusive) \$
Contact Energy Limited:		
Clyde Hydro Dam	94,437	87,369
Roxburgh Hydro Dam	47,170	42,734
Dunedin Waste Water Business Unit:		
Three major facilities	203,029	186,585
Total	346,636	316,689
Percentage of total general rates	1.74%	1.88%

- [14] The amount of general rate to be collected from these ratepayers, and the percentage of these rates in relation to the total general rate, is not considered unreasonable given the effects of the presence and operations of these properties.

RIVER AND WATERWAY MANAGEMENT RATES

- [15] The targeted rates to be levied for the purposes of maintenance and enhancement of rivers and waterways within the territorial authority city/districts and within the Lower Waitaki river area are as follows:

River and waterway management rates (inclusive of GST)		
Rating area	2022/23 \$	2021/22 \$
Central Otago District	391,000	368,000
Clutha District	449,000	414,000
Dunedin City	356,000	322,000
Queenstown-Lakes District - Wakatipu area	446,000	402,000
Queenstown-Lakes District - Wanaka area	336,000	304,000
Waitaki District	460,000	460,000
Lower Waitaki rating area	196,000	196,000
Total	2,634,000	2,466,000

- [16] The river and waterway management rates are assessed differentially on the rateable capital value of all rateable land situated within the territorial authority city/districts and within the Wakatipu and Wanaka waterway and river management rating districts. In respect of the Lower Waitaki scheme, the rates are assessed differentially on the rateable capital value of all rateable land within two scheme classifications.

FLOOD AND DRAINAGE SCHEME RATES

- [17] The rating levels for the various flood protection and drainage scheme rating districts are as follows:

Flood and drainage scheme rates (inclusive of GST)		
Targeted rating district	2022/23 \$	2021/22 \$
<i>Rates charged on a capital value basis:</i>		
Lower Taieri Flood	1,208,000	1,093,000
Lower Clutha Flood & Drainage	1,092,000	978,000
Tokomairiro Drainage	184,000	172,000
Leith Flood Protection	1,680,000	1,680,000
<i>Rates charged on an area basis:</i>		
West Taieri Drainage	943,000	840,000
East Taieri Drainage	736,000	667,000
Total	5,843,000	5,430,000

- [18] These rates are levied on either a classified or differentially targeted basis in accordance with assessed benefits.

Lower Taieri, Lower Clutha and Tokomairiro Schemes

- [19] The total rate requirement for these schemes is set on the capital value within each of the relevant classifications. The Lower Taieri Scheme has 21 classifications (*WF5, WF6, WF7 and WF9 are not financially viable to rate on due to the administration cost being*

higher than rate collected e.g. less than \$10 per classification), the Lower Clutha has 10 classifications, and the Tokomairiro has 7 classifications.

Leith Flood Protection

- [20] This rate is set on a capital value basis comprising two classifications, the Direct Benefit Zone and the Indirect Benefit Zone.
- [21] The Forsyth Barr Stadium is to contribute 4% of the rate requirement attributed to the Direct Benefit Zone, with other Direct Benefit Zone properties contributing 96% of the Direct Benefit Zone rate requirement.

West Taieri Drainage

- [22] This rate is set on an area basis comprising five differential classifications.
- [23] Of the total rate requirement, 30% is collected by way of a targeted uniform rate on classifications WD1 through to WD4 (inclusive), and the remainder is collected by way of a differential rate on classifications WD1 through to WD5 (inclusive).

East Taieri Drainage

- [24] This rate is set on an area basis comprising 10 classifications.
- [25] Of the total rate requirement, 25% is collected by way of a targeted uniform rate on all classifications except ED3, ED6 and ED7, and the remainder is collected by way of a differential rate on all classifications except ED3 and ED6.
- [26] This scheme includes a \$33,000 adjustment for rates overcharged across the uniform and differential rate in 21/22 as agreed by council on 29th September 2021 to defer the adjustment to 2022/23. Ratepayers impacted by greater than \$100 were contacted (60 ratepayers) with 6 of these ratepayers choosing to defer the adjustment to 2022/23.

TRANSPORT RATES

Dunedin Transport Rate

- [27] The Dunedin transport services targeted rate is to be levied on two classifications of ratepayer, Class A and Class B.
- [28] Class A ratepayers are made up of those properties within the inner city and St Kilda/St Clair areas that do not have a land use description of any of the following:
- Residential: bach,
 - Residential: multi-use within residential, multi-use residential,
 - Residential: multi-unit,
 - Residential: single unit excluding bach, and
 - Residential: vacant.
- [29] Class B comprises all properties within the transport services targeted rating area other than those designated as Class A. Class A ratepayers will pay a differential rate equating to 3.75 times the amount paid by Class B ratepayers.

- [30] The Dunedin Transport rates to be levied are as follows:

Dunedin Transport Rate (inclusive of GST)		
Classification	2022/23 \$	2021/22 \$
Class A	2,164,000	1,873,000
Class B	5,901,000	5,027,000
Total	8,065,000	6,900,000

Queenstown Transport Rate

- [31] The Queenstown transport services targeted rate is to be levied on two classifications of ratepayer, Class A and Class B. Class A ratepayers will pay a differential rate equating to 2.0 times the amount paid by Class B ratepayers.
- [32] Class A ratepayers are made up of those properties within the Queenstown Transport Services Rating Area that have the land use description of:
- Commercial: Retail, Multi-use within Commercial, and Services,
 - Community Services: Multi-use within Community Services,
 - Multi-use: Commercial,
 - Residential: Public Communal-licensed, and Public Communal-unlicensed,
 - Transport: Air Transport, and Multi-use within Transport, and
 - Recreational: Entertainment, Multi-use within recreational, Active indoor, Active outdoor, Passive indoor, and Passive outdoor.
- [33] Class B comprises all properties within the Queenstown Transport Services rating area other than those designated as Class A.
- [34] The Queenstown transport rates to be levied are as follows:

Queenstown Transport Rate (inclusive of GST)		
Classification	2022/23 \$	2021/22 \$
Class A	528,000	381,000
Class B	1,469,000	1,103,000
Total	1,997,000	1,484,000

RURAL WATER QUALITY RATE

- [35] The Rural Water Quality rate will be levied on the capital value of all rateable land situated within the Otago region that:
- (a) Has a rural land use description; or
 - (b) Has a lifestyle land use description and a land area of at least two hectares.
- [36] The proportion of the total rate requirement to be collected within each territorial authority district/city will be based on the equalised capital values of each district/city.
- [37] The GST inclusive rate requirement of \$995,000 for the 2022-23 year represents an increase of 65% on the amount of \$602,000 levied in the 2021-22 period.

Rural Water Rate (inclusive of GST)		
Rating Area	2022/23 \$	2021/22 \$
<i>Rates charged on a capital value basis:</i>		
Central Otago	219,000	137,000
Clutha	230,000	153,000
Dunedin	161,000	104,000
Queenstown	247,000	120,000
Waitaki (part)	138,000	88,000
Total	995,000	602,000

DAIRY MONITORING RATE

[38] The Dairy Monitoring rate will be levied on a targeted uniform basis on all rateable land, situated within the Otago region that operates a Dairy Farm.

[39] The GST inclusive rate requirement of \$230,000 for the 2022-23 year represents an increase of 6% on the amount of \$216,000 levied in the 2021-22 period.

WILDING TREE RATE

[40] The Wilding Tree rate will be levied on a targeted uniform basis on all rateable land situated within the Otago region.

[41] The GST inclusive rate requirement of \$230,000 for the 2022-23 year remains the same as the rates levied in the 2021-22 period.

CIVIL DEFENCE AND EMERGENCY MANAGEMENT RATE

[42] The Civil Defence and Emergency Management rate will be levied on a targeted uniform basis on all rateable land situated within the Otago region.

[43] The GST inclusive rate requirement of \$3,836,000 for the 2022-23 year represents an increase of 13% on the amount of \$3,403,000 levied in the 2021-22 period.

BIOSECURITY RATE

[44] The Biosecurity rate is to fund the management of pest plants and animals. It will be assessed differentially on the rateable land value of all rateable land situated within the territorial authority city/districts.

Biosecurity rates (inclusive of GST)		
Rating Area	2021/22 \$	2020/21 \$
<i>Rates charged on a land value basis:</i>		
Central Otago	441,000	352,000
Clutha	313,000	277,000
Dunedin	1,174,000	847,000
Queenstown	1,739,000	1,141,000
Waitaki (part)	218,000	184,000

Total	3,885,000	2,801,000
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PAYMENT AND PENALTY DATES

[45] The attached resolution provides that the due date for rates to be paid is 31 October 2022.

[46] It also provides for penalty dates in November 2022 and May 2023 as follows:

- A 10% penalty will apply to all unpaid rates on 1 November 2022.
- A 10% penalty will apply to all rates levied in previous financial years remaining unpaid on 1 May 2023.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[47] These rates are the result of Council's Annual Plan process.

Financial Considerations

[48] Financial considerations associated with this report have been reported separately as part of the Annual Plan 2022-23 adoption process.

Significance and Engagement

[49] Consultation on these rates requirements was undertaken as part of the Annual Plan 2022-23 consultation process with feedback submitted and considered as part of that process. Recommendations were made in regard to rate requirements and the details in the rates resolution reflect the amounts agreed.

Legislative Considerations

[50] The Otago Regional Council sets its rates in accordance with the requirements of the Local Government (Rating) Act 2002 - *Sections 23 and 24*, and the Local Government Act 2002.

Risk Considerations

[51] There are no risk considerations associated with this report.

Climate Change Considerations

[52] There are no climate change considerations associated with this report.

Communications Considerations

[53] There are no communications considerations associated with this report.

ATTACHMENTS

1. Rating Resolution for Adoption Jun 22 (2) [7.2.1 - 8 pages]
2. Rating Report 2022 23 Sample Rates v 0.1 [7.2.2 - 14 pages]
3. Mean CV samples 2022 23 v 0.1 [7.2.3 - 2 pages]

Rating Resolution for Adoption

That in accordance with the provisions of the Local Government (Rating) Act 2002, the Otago Regional Council Annual Plan 2022-23, and all other power or authorities in that behalf enabling it, the Otago Regional Council sets the following rates for the period commencing on the 1st day of July 2022 and ending on the 30th day of June 2023, namely:

1 General Rates

A Uniform Annual General Charge set under section 15 of the Local Government (Rating) Act 2002 made on every rating unit within the Otago region, assessed as a fixed amount of \$57.11 per rating unit. Revenue sought from the Uniform Annual General Charge amounts to \$6,649,000.

A general rate set under sections 13 and 14 of the Local Government (Rating) Act 2002 made on every rating unit within the Otago region, assessed differentially on the rateable capital value of all rateable land situated within the territorial authority districts as detailed below:

District	Rate cents in \$ on Capital Value	Revenue Sought \$
Central Otago	0.017409	2,223,000
Clutha	0.017690	1,544,000
Dunedin	0.024459	7,748,000
Queenstown Lakes	0.012837	7,184,000
Waitaki	0.017247	1,248,000
Total		19,947,000

2 River and Waterway Management Rates

2.1 Territorial Authority Districts

For the purpose of providing for maintenance and enhancement works of waterways within the Otago region, a targeted rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, made on every rating unit, assessed differentially on the rateable capital value of all rateable land situated within the territorial authority districts and the Wakatipu and Wanaka river and waterway management rating districts, as detailed below:

District	Rate cents in \$ on Capital Value	Revenue Sought \$
Central Otago District	0.003062	391,000
Clutha District	0.005140	449,000
Dunedin City	0.001125	356,000
Waitaki District	0.006358	460,000
Wakatipu River & Waterway Management Rating District	0.001216	446,000
Wanaka River & Waterway Management Rating District	0.001742	336,000
Total		2,438,000

2.2 Lower Waitaki Rating Area

For the purpose of providing for maintenance and enhancement works of waterways within the Lower Waitaki Rating Area, a targeted rate set under sections 16, 17, 18 and 146(1)(b) of the Local Government (Rating) Act 2002, made on every rating unit within the rating area,

assessed differentially on the rateable capital value of all rateable land within the classifications as detailed below:

Lower Waitaki Rating Area		
Classification	Rate cents in \$ on Capital Value	Revenue Sought \$
A	0.148423	125,000
B	0.074118	71,000
Total		196,000

3 Flood Protection and Drainage Scheme Rates

3.1 Lower Clutha, Tokomairiro and Lower Taieri Schemes

For the purpose of providing for the maintenance and improvement of works, in the river and drainage schemes listed below, a targeted rate set under sections 16, 17, 18 and 146(1)(b) of the Local Government (Rating) Act 2002, made on every rating unit within the scheme area, assessed differentially on the rateable capital value of all rateable land within the scheme classifications as detailed below.

The targeted rates set below are the cents in the dollar on the rateable capital value of rateable land situated within each classification.

Lower Clutha Flood Protection & Drainage Scheme		
Classification	Rate cents in \$ on Capital Value	Revenue Sought \$
A	0.744975	68,000
B	0.295802	176,000
C	0.279370	343,000
D	0.175290	63,000
E	0.093123	57,000
F	0.010956	38,000
U1	0.295797	4,000
U2	0.098601	253,000
U3	0.021911	18,000
U4	0.016433	72,000
Total		1,092,000

Tokomairiro Drainage Scheme		
Classification	Rate cents in \$ on Capital Value	Revenue Sought \$
A	0.085133	9,000
B	0.063855	18,000
C	0.051082	25,000
D	0.038312	33,000
E	0.021285	20,000
F	0.008514	27,000
U1	0.012771	52,000
Total		184,000

Lower Taieri Flood Protection Scheme					
Classification	Rate cents in \$ on Capital Value	Revenue Sought \$	Classification	Rate cents in \$ on Capital Value	Revenue Sought \$
WF1	0.236825	522,000	EF3	0.132964	1,000
WF2	0.140128	539,000	EF4	0.107821	12,000
WF3	0.002214	267	EF5	0.002996	2,000
WF4	0.003469	163	EF6	0.132589	1,000
WF5	0.000000	0	EF7	0.001819	1,000
WF6	0.000000	0	EF8	0.001721	41,000
WF7	0.000000	0	EF9	0.000798	4,000
WF8	0.016645	1,000	EF10	0.000993	2,000
WF9	0.000000	0	EF12	0.156712	2,000
EF1	0.127633	33,000	EF13	0.156703	3,000
EF2	0.133511	43,000			
Total					1,207,430

NOTE: The Lower Taieri Scheme has 21 classifications but WF5, WF6, WF7 and WF9 are not financially viable to rate on due to the administration cost being higher than rate collected e.g. less than \$10 per classification.

3.2 East Taieri Scheme

For the purpose of providing for the maintenance and improvement of works, in the East Taieri drainage scheme, the following two rates are set:

Targeted Uniform Rate

A targeted uniform rate of \$39.71 per hectare set under sections 16, 17, 18 and 146(1)(b) of the Local Government (Rating) Act 2002, made on all rating units on all land within the scheme area, except for land situated within classifications ED3, ED6 and ED7.

Revenue sought from the targeted uniform rate amounts to \$184,000 but due to an overcharge in the 2021-22 rating year only \$178,000 will be charged as agreed by council on 29th September 2021 where 2021-22 rates would remain as charged and a correction would be processed in 2022-23.

Targeted Differential Rate

A targeted rate set under sections 16, 17, 18 and 146(1)(b) of the Local Government (Rating) Act 2002, made on every rating unit within the scheme area, except those rating units situated within classifications ED3 and ED6, assessed differentially on the area of land of all rateable land situated within the scheme classifications as detailed below.

The targeted differential rates set below, are the dollars per hectare of rateable land situated within each classification.

2022-23 East Taieri revenue sought as per the Annual Plan

East Taieri Drainage Scheme - Targeted Differential Rate		
Classification	Rate \$ per hectare	Revenue Sought \$
ED1	226.43	201,000
ED2	172.68	134,000
ED4	190.91	21,000
ED5	86.11	81,000
ED7	294.11	24,000
ED8	57.13	44,000
ED9	49.56	33,000
ED10	44.03	14,000
Total		552,000

2022-23 East Taieri revenue adjusted and sought (for the 2021-22 over charge)

East Taieri Drainage Scheme - Targeted Differential Rate		
Classification	Rate \$ per hectare	Revenue Sought \$
ED1	213.46	189,000
ED2	159.44	123,000
ED4	179.98	20,000
ED5	81.18	76,000
ED7	361.38	29,000
ED8	53.86	42,000
ED9	46.72	31,000
ED10	41.51	13,000
Total		523,000

The overcharge in the 2021-22 rating year for the above classifications as agreed by council on 29th September 2021 where 2021-22 rates would remain as charged and a correction would be processed in 2022-23, this has been included in the rate and revenue sought. The amount to be collected includes the \$29,000 (total amount was \$33,000, \$4,000 related to the uniform rate) overcharged in the prior year as per the second table above.

Letters were sent to the 60 ratepayers whose adjustment was greater than \$100, 9 ratepayers contacted us with 6 of these ratepayers choosing to defer the adjustment to 2022/23.

3.3 West Taieri Scheme

For the purpose of providing for the maintenance and improvement of works, in the West Taieri drainage scheme, the following two rates are set:

Targeted Uniform Rate

A targeted uniform rate of \$42.03 per hectare set under sections 16, 17, 18 and 146(1)(b) of the Local Government (Rating) Act 2002, made on all rating units on all land situated within classifications WD1, WD2, WD3 and WD4 located within the scheme area.

Revenue sought from the targeted uniform rate amounts to \$283,000.

Targeted Differential Rate

A targeted rate set under sections 16, 17, 18 and 146(1)(b) of the Local Government (Rating) Act 2002, made on every rating unit within the scheme area, assessed differentially on the area of land of all rateable land situated within the scheme classifications as detailed below.

The targeted differential rates set below, are the dollars per hectare of rateable land situated within each classification.

West Taieri Drainage Scheme - Targeted Differential Rate		
Classification	Rate \$ per hectare	Revenue Sought \$
WD1	135.88	522,000
WD2	37.34	92,000
WD3	101.39	31,000
WD4	135.87	15,000
WD5	0.55	263
Total		660,263

3.4 Leith Flood Protection Scheme

For the purpose of providing for flood protection works, in the Leith Flood Protection scheme area, a targeted rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, made on every rating unit within the scheme area, assessed differentially on the rateable capital value of all rateable land situated within the scheme classifications as detailed below:

Leith Flood Protection Scheme		
Classification	Rate cents in \$ on Capital Value	Revenue Sought \$
A – Direct benefit zone – Excluding Forsyth Barr Stadium	0.076859	806,000
A – Direct benefit zone – Forsyth Barr Stadium only	0.017537	34,000
B – Indirect benefit zone	0.003959	840,000
Total		1,680,000

4 Transport Services Rates

For the purpose of providing for urban passenger transport services within the Dunedin city area and a service to Palmerston, and public passenger transport services within the Queenstown area, targeted rates set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, made on every rating unit within the transport rating areas, assessed differentially on the rateable capital value of all rateable land situated within the transport rating classifications, as detailed below:

Dunedin Transport Services Rate		
Classification	Cents in \$ on Capital Value	Revenue Sought \$
Class A	0.091118	2,164,000
Class B (within Dunedin City)	0.024298	5,866,000
Class B (within Waitaki District)	0.020181	35,000
Total		8,065,000

Queenstown Transport Services Rate		
Classification	Cents in \$ on Capital Value	Revenue Sought \$
Class A	0.010616	528,000
Class B	0.005308	1,469,000
Total		1,997,000

5 Rural Water Quality Rate

For the purpose of providing for the monitoring of rural water quality, a targeted rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, assessed on the capital value of all rateable land situated within the territorial authority districts within the Otago region, that has a land use type being:

Rural land use types, as follows:

- Rural - Arable Farming
- Rural - Dairy
- Rural - Forestry
- Rural - Market Gardens and Orchards
- Rural - Mineral Extraction
- Rural - Multi-Use within Rural Industry
- Rural - Specialist Livestock
- Rural - Stock Finishing
- Rural - Store Livestock
- Rural - Vacant

Lifestyle land use types, with a land area of 2 hectares or greater, as follows:

- Lifestyle - Multi-Unit
- Lifestyle - Multi-Use within Lifestyle
- Lifestyle - Single Unit
- Lifestyle - Vacant

Rural Water Quality Rate		
	Rate cents in \$ on Capital Value	Revenue Sought \$
Central Otago	0.004434	219,000
Clutha	0.003931	230,000
Dunedin	0.004854	161,000
Queenstown Lakes	0.003481	247,000
Waitaki	0.004032	138,000
Total		995,000

6 Dairy Monitoring Rate

For the purpose of providing for monitoring the environmental effect of dairy farms, a targeted uniform rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, assessed on all rateable land used for dairy farming in the Otago region.

Dairy Monitoring Rate		
	Uniform rate \$	Revenue Sought \$
All rating units	532.41	230,000
Total		230,000

7. Wilding Tree Rate

For the purpose of providing for the control of wilding trees, a targeted uniform rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, assessed on all rateable land in the Otago region.

Wilding Tree Rate		
	Uniform rate \$	Revenue Sought \$
All rating units	1.98	230,000
Total		230,000

8. Civil Defence and Emergency Management Rate

For the purpose of providing for Civil Defence and Emergency Management functions undertaken by the Council, a targeted uniform rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, assessed on all rateable land in the Otago region.

Civil Defence and Emergency Management Rate		
	Uniform rate \$	Revenue Sought \$
All rating units	32.95	3,836,000
Total		3,836,000

9. Biosecurity Rate**9.1 Territorial Authority Districts**

For the purpose of managing pest plants and animals through inspections, education and promotion of landowner led initiatives alongside undertaking control works for specified pests including rooks and wallabies within the Otago region. This is a targeted rate set under sections 16, 17 and 18 of the Local Government (Rating) Act 2002, made on every rating unit, assessed differentially on the rateable land value of all rateable land situated within the territorial authority, as detailed below:

District	Rate cents in \$ on Land Value	Revenue Sought \$
Central Otago	0.005883	441,000
Clutha	0.006605	313,000
Dunedin	0.005100	1,174,000
Queenstown Lakes	0.008334	1,739,000
Waitaki	0.005599	218,000
Total		3,885,000

10 Other Matters

10.1 Rate Collection

That the Otago Regional Council collects the rates set and assessed in the Otago region, and that the rates become due and payable on or before 31 October 2022.

10.2 Penalties on Unpaid Rates

Pursuant to Sections 57 and 58 of the Local Government (Rating) Act 2002, penalties will be added to unpaid rates assessed by the Council within the Otago region and due to the Council during the 2022/2023 financial year as follows:

- a) A penalty of 10% to be added to rates assessed during the 2022/2023 financial year, or any previous financial year, and which remain unpaid on 1 November 2022.
- b) A penalty of 10% to be added to rates which have been levied in any previous financial year and which remain unpaid on 1 May 2023.

Penalties will not be added to rate balances where the ratepayer has elected the tri-annual direct debit option of payment and where all payments under this payment option are honoured on the due payment date.

The amount of unpaid rates to which a penalty shall be added shall include:

- Any penalty previously added to unpaid rates under Section 58 of the Local Government (Rating) Act 2002.
- Any additional charges previously added to the amount of unpaid rates, and under Section 132 of the Rating Powers Act 1988.
- Any rates previously levied under the Rating Powers Act 1988 that remain unpaid.

10.3 Valuation and Rating Records

That the valuation rolls and rate records for the rates collected by the Otago Regional Council be made available for inspection during normal working hours at the office of the Council, Philip Laing House, Level 2, 144 Rattray Street, Dunedin.

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Dunedin City	Amount of rate per capital value							
Dunedin Residential	\$250,000		\$500,000		\$750,000		\$1,000,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$115,000</i>		<i>\$240,000</i>		<i>\$360,000</i>		<i>\$550,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional rates								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	61.15	56.19	122.29	112.39	183.44	168.58	244.59	224.78
River & Waterway Management (CV)	2.81	2.57	5.63	5.13	8.44	7.70	11.25	10.26
Biosecurity (LV)	9.58	6.92	20.00	14.43	30.00	21.65	45.84	33.08
Leith scheme - indirect benefit (CV)	9.90	9.98	19.79	19.96	29.69	29.94	39.59	39.92
Transport - class B (CV)	60.75	52.31	121.49	104.63	182.24	156.94	242.98	209.26
	144.19	127.97	289.21	256.54	433.81	384.81	584.25	517.30
Total rates including Leith scheme indirect rate	236.22	209.12	381.24	337.69	525.84	465.96	676.28	598.44
Add the Leith scheme direct benefit rate margin (CV)	192.15	192.12	384.29	384.24	576.44	576.36	768.59	768.48
Total for properties in the Leith Direct Benefit zone	418.47	391.26	745.74	701.97	1,072.60	1,012.38	1,405.28	1,327.00

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Dunedin City	Amount of rate per capital value							
	\$250,000		\$500,000		\$750,000		\$1,000,000	
<i>Mosgiel Residential</i>	<i>\$115,000</i>		<i>\$240,000</i>		<i>\$360,000</i>		<i>\$550,000</i>	
<i>Assumed Land Value - Biosecurity rate</i>	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	61.15	56.19	122.29	112.39	183.44	168.58	244.59	224.78
River & Waterway Management (CV)	2.81	2.57	5.63	5.13	8.44	7.70	11.25	10.26
Biosecurity (LV)	9.58	6.92	20.00	14.43	30.00	21.65	45.84	33.08
Transport - class B (CV)	60.75	52.31	121.49	104.63	182.24	156.94	242.98	209.26
Lower Taieri Flood - Class-EF8 (CV)	4.68	4.30	9.37	8.60	14.05	12.90	18.73	17.21
East Taieri Differential rate per ha - Class ED7	25.30	13.93	28.91	15.92	36.14	19.90	180.69	99.51
	164.27	136.22	307.69	261.10	454.31	387.68	744.09	594.09
Total rates	256.30	217.37	399.72	342.25	546.34	468.83	836.12	675.24

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Dunedin City	Amount of rate per capital value							
Dunedin Commercial	\$500,000		\$1,000,000		\$1,500,000		\$2,000,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$250,000</i>		<i>\$500,000</i>		<i>\$750,000</i>		<i>\$1,000,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	122.29	112.39	244.59	224.78	366.88	337.17	489.18	449.56
River & Waterway Management (CV)	5.63	5.13	11.25	10.26	16.88	15.39	22.51	20.52
Biosecurity (LV)	20.84	15.03	41.67	30.07	62.51	45.10	83.34	60.14
Transport - class A (CV)	455.59	392.36	911.18	784.71	1,366.78	1,177.07	1,822.37	1,569.42
Leith scheme - indirect (CV)	19.79	19.96	39.59	39.92	59.38	59.88	79.17	79.84
	624.14	544.87	1,248.28	1,089.74	1,872.43	1,634.61	2,496.57	2,179.48
Total Rates	716.17	626.02	1,340.31	1,170.89	1,964.46	1,715.76	2,588.60	2,260.62

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Dunedin City	Amount of rate per capital value							
West Taieri Farm	\$500,000		\$800,000		\$1,000,000		\$1,500,000	
Assumed Land Value - Biosecurity rate	\$600,000		\$750,000		\$1,100,000		\$1,100,000	
Assumed hectares	15		20		30		50	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	122.29	112.39	195.67	179.82	244.59	224.78	366.88	337.17
River & Waterway Management (CV)	5.63	5.13	9.00	8.21	11.25	10.26	16.88	15.39
Biosecurity (LV)	31.25	22.55	50.01	36.08	62.51	45.10	91.68	66.15
Rural water quality (CV)	24.27	15.55	38.83	24.88	48.54	31.10	72.81	46.65
Lower Taieri Flood - Class WF1 (CV)	1,289.44	1,184.13	2,063.10	1,894.60	2,578.87	2,368.25	3,868.31	3,552.38
West Taieri drainage - Uniform rate per ha	630.52	561.70	840.69	748.93	1,261.04	1,123.40	2,101.73	1,872.34
West Taieri Differential rate per ha - Class WD1	2,038.21	1,814.87	2,717.61	2,419.83	4,076.42	3,629.74	6,794.03	6,049.57
	4,141.61	3,716.32	5,914.92	5,312.36	8,283.22	7,432.63	13,312.33	11,939.64
Total Rates - Non-Dairy Farm	4,233.64	3,797.46	6,006.95	5,393.50	8,375.25	7,513.78	13,404.36	12,020.79
Add Dairy Farm uniform rate	532.41	508.71	532.41	508.71	532.41	508.71	532.41	508.71
Total Rates - Dairy Farm	4,766.05	4,306.17	6,539.35	5,902.21	8,907.66	8,022.49	13,936.76	12,529.49

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Queenstown Lakes District								
Amount of rate per capital value								
Wakatipu Residential	\$500,000		\$750,000		\$1,000,000		\$1,500,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$340,000</i>		<i>\$440,000</i>		<i>\$560,000</i>		<i>\$750,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	64.18	74.20	96.27	111.30	128.37	148.40	192.55	222.60
River & Waterway Management (CV)	6.08	8.22	9.12	12.34	12.16	16.45	18.24	24.68
Biosecurity (LV)	17.34	19.50	22.44	25.23	28.56	32.11	38.25	43.01
Transport - class B (CV)	26.54	29.64	39.81	44.47	53.08	59.29	79.62	88.94
	114.14	131.57	167.65	193.34	222.17	256.25	328.66	379.22
Total Rates	206.17	212.72	259.68	274.49	314.20	337.40	420.69	460.37

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Queenstown Lakes District		Amount of rate per capital value						
Wanaka Residential		\$500,000		\$750,000		\$1,000,000		\$1,500,000
<i>Assumed Land Value - Biosecurity rate</i>		<i>\$340,000</i>		<i>\$440,000</i>		<i>\$560,000</i>		<i>\$750,000</i>
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	64.18	74.20	96.27	111.30	128.37	148.40	192.55	222.60
River & Waterway Management (CV)	8.71	13.39	13.06	20.09	17.42	26.78	26.13	40.17
Biosecurity (LV)	17.34	19.50	22.44	25.23	28.56	32.11	38.25	43.01
	90.23	107.09	131.78	156.62	174.34	207.30	256.92	305.78
Total Rates	182.26	188.24	223.81	237.77	266.37	288.44	348.96	386.93

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Queenstown Lakes District		Amount of rate per capital value						
Wakatipu Commercial		\$500,000		\$1,000,000		\$1,500,000		\$2,000,000
<i>Assumed Land Value - Biosecurity rate</i>		<i>\$250,000</i>		<i>\$500,000</i>		<i>\$750,000</i>		<i>\$1,000,000</i>
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	64.18	74.20	128.37	148.40	192.55	222.61	256.73	296.81
River & Waterway Management (CV)	6.08	8.22	12.16	16.45	18.24	24.67	24.33	32.89
Biosecurity (LV)	12.75	14.34	25.50	28.67	38.25	43.01	51.00	57.35
Transport - class A (CV)	53.08	59.29	106.16	118.58	159.24	177.87	212.32	237.16
	136.09	156.05	272.19	312.10	408.28	468.15	544.38	624.20
Total Rates	228.12	237.20	364.22	393.25	500.31	549.30	636.41	705.35

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Central Otago District	Amount of rate per capital value							
Alexandra Residential	\$250,000		\$500,000		\$750,000		\$1,000,000	
Assumed Land Value - Biosecurity rate	\$115,000		\$240,000		\$360,000		\$550,000	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	43.52	39.43	87.04	78.86	130.56	118.29	174.09	157.72
River & Waterway Management (CV)	7.65	7.36	15.31	14.73	22.96	22.09	30.62	29.46
Biosecurity (LV)	7.60	6.17	15.85	12.87	23.78	19.30	36.33	29.49
	58.77	52.96	118.20	106.46	177.31	159.69	241.03	216.67
Total Rates	150.80	134.11	210.24	187.61	269.34	240.84	333.06	297.82

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Central Otago District	Amount of rate per capital value							
Central Otago Farm	\$500,000		\$1,000,000		\$1,500,000		\$2,000,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$375,000</i>		<i>\$750,000</i>		<i>\$1,125,000</i>		<i>\$1,500,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	87.04	78.86	174.09	157.72	261.13	236.58	348.17	315.44
River & Waterway Management (CV)	15.31	14.73	30.62	29.46	45.93	44.19	61.23	58.92
Biosecurity (LV)	24.77	20.11	49.54	40.22	74.31	60.33	99.08	80.44
Rural water quality - on qualifying land use types (CV)	22.17	14.06	44.34	28.12	66.52	42.17	88.69	56.23
	149.29	127.76	298.59	255.51	447.88	383.27	597.18	511.03
Total Rates - Non-Dairy Farm	241.33	208.90	390.62	336.66	539.91	464.42	689.21	592.18
Add Dairy Farm uniform rate	532.41	508.71	532.41	508.71	532.41	508.71	532.41	508.71
Total Rates - Dairy Farm	773.73	717.61	923.03	845.37	1,072.32	973.12	1,221.62	1,100.88

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Clutha District	Amount of rate per capital value							
	\$250,000		\$500,000		\$750,000		\$1,000,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$115,000</i>		<i>\$240,000</i>		<i>\$360,000</i>		<i>\$550,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	44.22	41.06	88.45	82.11	132.67	123.17	176.90	164.22
River & Waterway Management (CV)	12.85	11.93	25.70	23.86	38.55	35.80	51.40	47.73
Biosecurity (LV)	6.44	5.72	13.44	11.93	20.16	17.89	30.80	27.34
Lower Clutha Flood Protection - Class U2 (CV)	246.50	222.84	493.01	445.67	739.51	668.51	986.01	891.34
	310.02	281.54	620.59	563.58	930.89	845.37	1,245.10	1,130.63
Total Rates	402.05	362.69	712.62	644.72	1,022.92	926.51	1,337.14	1,211.77

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Clutha District Milton Residential	Amount of rate per capital value							
	\$250,000		\$500,000		\$750,000		\$1,000,000	
Assumed Land Value - Biosecurity rate	\$115,000		\$240,000		\$360,000		\$550,000	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	44.22	41.06	88.45	82.11	132.67	123.17	176.90	164.22
River & Waterway Management (CV)	12.85	11.93	25.70	23.86	38.55	35.80	51.40	47.73
Biosecurity (LV)	6.44	5.72	13.44	11.93	20.16	17.89	30.80	27.34
Tokomairiro Drainage - Class U1 (CV)	31.93	30.16	63.85	60.31	95.78	90.47	127.71	120.63
	95.44	88.86	191.44	178.22	287.16	267.33	386.80	359.92
Total Rates	187.47	170.01	283.47	259.37	379.19	348.48	478.83	441.06

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Clutha District	Amount of rate per capital value							
	\$500,000		\$1,000,000		\$1,500,000		\$2,000,000	
Clutha Farm	\$375,000		\$750,000		\$1,125,000		\$1,500,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$375,000</i>		<i>\$750,000</i>		<i>\$1,125,000</i>		<i>\$1,500,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	88.45	82.11	176.90	164.22	265.35	246.33	353.80	328.45
River & Waterway Management (CV)	25.70	23.86	51.40	47.73	77.10	71.59	102.80	95.46
Biosecurity (LV)	21.00	18.64	41.99	37.28	62.99	55.91	83.99	74.55
Lower Clutha Flood Protection - Class C (CV)	1,396.85	1,262.74	2,793.70	2,525.48	4,190.55	3,788.21	5,587.39	5,050.95
Rural water quality - on qualifying land use types (CV)	19.66	13.02	39.31	26.04	58.97	39.06	78.63	52.08
	1,551.65	1,400.37	3,103.30	2,800.75	4,654.96	4,201.12	6,206.61	5,601.49
Total Rates - Non-Dairy Farm	1,643.68	1,481.52	3,195.34	2,881.89	4,746.99	4,282.27	6,298.64	5,682.64
Add Dairy Farm uniform rate	532.41	508.71	532.41	508.71	532.41	508.71	532.41	508.71
Total Rates - Dairy Farm	2,176.09	1,990.23	3,727.74	3,390.60	5,279.39	4,790.97	6,831.05	6,191.34

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Waitaki District	Amount of rate per capital value							
	\$250,000		\$500,000		\$750,000		\$1,000,000	
Oamaru Residential	\$115,000		\$240,000		\$360,000		\$550,000	
Assumed Land Value - Biosecurity rate	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	43.12	39.16	86.23	78.32	129.35	117.49	172.47	156.65
River & Waterway Management (CV)	15.89	16.01	31.79	32.03	47.68	48.04	63.58	64.06
Biosecurity (LV)	6.77	5.72	14.12	11.93	21.18	17.89	32.36	27.34
	65.78	60.89	132.14	122.28	198.21	183.42	268.40	248.05
Total rates	157.81	142.04	224.17	203.43	290.24	264.57	360.43	329.19

Attachment to the Rating Report 2022/23								
Proposed 2022/23 rates for a sample of properties								
(current year rates included for comparative purposes)								
Waitaki District	Amount of rate per capital value							
Waitaki Farm	\$500,000		\$1,000,000		\$1,500,000		\$2,000,000	
<i>Assumed Land Value - Biosecurity rate</i>	<i>\$375,000</i>		<i>\$750,000</i>		<i>\$1,125,000</i>		<i>\$1,500,000</i>	
	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22	2022/23	2021/22
Uniform regional charges								
Uniform annual general charge	57.11	49.32	57.11	49.32	57.11	49.32	57.11	49.32
Emergency management uniform rate	32.95	29.82	32.95	29.82	32.95	29.82	32.95	29.82
Wilding trees uniform rate	1.98	2.02	1.98	2.02	1.98	2.02	1.98	2.02
	92.03	81.15	92.03	81.15	92.03	81.15	92.03	81.15
Variable charges (capital value/land value/hectares)								
General rate (CV)	86.23	78.32	172.47	156.65	258.70	234.97	344.93	313.30
River & Waterway Management (CV)	31.79	32.03	63.58	64.06	95.37	96.09	127.16	128.11
Biosecurity (LV)	22.06	18.64	44.12	37.28	66.19	55.92	88.25	74.55
Rural water quality - on qualifying land use types (CV)	20.16	13.02	40.32	26.04	60.48	39.06	80.63	52.08
	160.24	142.01	320.49	284.02	480.73	426.03	640.97	568.05
Total Rates - Non-Dairy Farm	252.27	223.16	412.52	365.17	572.76	507.18	733.00	649.19
Add Dairy Farm uniform rate	532.41	508.71	532.41	508.71	532.41	508.71	532.41	508.71
Total Rates - Dairy Farm	784.68	731.87	944.93	873.88	1,105.17	1,015.89	1,265.41	1,157.90

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Attachment to the Rating Report 2022/23											
Proposed 2022/23 rates for a sample of properties based on estimated median capital values											
(current year rates included for comparative purposes)											
Dunedin City		Amount of rate per capital value		Dunedin City		Amount of rate per capital value		Dunedin City		Amount of rate per capital value	
Dunedin Residential		\$420,000	\$420,000	Mosgiel Residential		\$420,000	\$420,000	Dunedin Commercial		\$2,300,000	\$2,300,000
Assumed land value		\$210,000	\$210,000	Assumed land value		\$210,000	\$210,000	Assumed land value		\$1,150,000	\$1,150,000
		Assumed hectares				Assumed hectares				Assumed hectares	
		2022/23	2021/22			2022/23	2021/22			2022/23	2021/22
Uniform regional rates											
Uniform regional charges				Uniform regional charges				Uniform regional charges			
Uniform annual general charge		57.11	49.32	Uniform annual general charge		57.11	49.32	Uniform annual general charge		57.11	49.32
Emergency management uniform rate		32.95	29.82	Emergency management uniform rate		32.95	29.82	Emergency management uniform rate		32.95	29.82
Wilding trees uniform rate		1.98	2.02	Wilding trees uniform rate		1.98	2.02	Wilding trees uniform rate		1.98	2.02
		92.03	81.15			92.03	81.15			92.03	81.15
Variable charges (capital value/land value/hectares)											
General rate (CV)		102.73	94.41	General rate (CV)		102.73	94.41	General rate (CV)		562.56	516.99
River & Waterway Management (CV)		4.73	4.31	River & Waterway Management (CV)		4.73	4.31	River & Waterway Management (CV)		25.88	23.60
Biosecurity (LV)		17.50	12.63	Biosecurity (LV)		17.50	12.63	Biosecurity (LV)		95.84	69.16
Transport - class B (CV)		102.05	87.89	Transport - class B (CV)		102.05	87.89	Transport - class A (CV)		2,095.72	1,804.83
Leith Indirect (CV)		16.63	16.77	Lower Taieri Flood - Class EFB (CV)		7.87	7.23	Leith scheme - Indirect (CV)		91.05	1,469.96
		243.63	216.00	East Taieri Differential rate per ha - Class ED7		28.91	15.92	West Taieri drainage - Uniform rate per ha		2,871.05	2,506.40
						263.79	222.38	West Taieri Differential rate per ha - Class WD1		1,358.81	1,209.91
Total rates including Leith scheme indirect rate		335.67	297.15					Total Rates - Non-Dairy Farm		3,549.96	3,139.25
Add the Leith scheme direct benefit rate margin (CV)		322.81	322.76					Add Dairy Farm uniform rate		532.41	508.71
Total for properties in the Leith Direct Benefit zone		641.85	603.14	Total rates		355.82	303.53	Total Rates - Dairy Farm		4,082.36	3,647.95
Queenstown Lakes District											
Wanaka Residential		\$1,190,000	\$840,000	Wakatipu Residential		\$1,190,000	\$840,000	Wakatipu Commercial		\$2,570,000	\$1,530,000
Assumed land value		\$595,000	\$420,000	Assumed land value		\$595,000	\$420,000	Assumed land value		\$1,285,000	\$765,000
		2022/23	2021/22			2022/23	2021/22			2022/23	2021/22
Uniform regional rates											
Uniform regional charges				Uniform regional charges				Uniform regional charges			
Uniform annual general charge		57.11	49.32	Uniform annual general charge		57.11	49.32	Uniform annual general charge		57.11	49.32
Emergency management uniform rate		32.95	29.82	Emergency management uniform rate		32.95	29.82	Emergency management uniform rate		32.95	29.82
Wilding trees uniform rate		1.98	2.02	Wilding trees uniform rate		1.98	2.02	Wilding trees uniform rate		1.98	2.02
		92.03	81.15			92.03	81.15			92.03	81.15
Variable charges (capital value/land value/hectares)											
General rate (CV)		152.76	124.66	General rate (CV)		152.76	124.66	General rate (CV)		329.90	227.06
River & Waterway Management (CV)		20.73	22.49	River & Waterway Management (CV)		14.47	13.82	River & Waterway Management (CV)		31.26	25.16
Biosecurity (LV)		30.34	24.09	Biosecurity (LV)		30.34	24.09	Biosecurity (LV)		65.53	43.87
		203.83	171.24	Transport - class B (CV)		63.17	49.80	Transport - class A (CV)		272.83	181.42
						260.74	212.36			699.52	477.52
Total Rates		295.86	252.39	Total Rates		352.77	293.51	Total Rates		791.55	558.66
								Add Dairy Farm uniform rate		532.41	508.71
								Total Rates - Dairy Farm		1,237.42	1,042.02
Central Otago District											
Alexandra Residential		\$530,000	\$520,000	Central Otago Farm		\$1,460,000	\$1,460,000				
Assumed land value		\$265,000	\$260,000	Assumed land value		\$1,095,000	\$1,095,000				
		2022/23	2021/22			2022/23	2021/22			2022/23	2021/22
Uniform regional rates											
Uniform regional charges				Uniform regional charges							
Uniform annual general charge		57.11	49.32	Uniform annual general charge		57.11	49.32				
Emergency management uniform rate		32.95	29.82	Emergency management uniform rate		32.95	29.82				
Wilding trees uniform rate		1.98	2.02	Wilding trees uniform rate		1.98	2.02				
		92.03	81.15			92.03	81.15				
Variable charges (capital value/land value/hectares)											
General rate (CV)		92.27	82.02	General rate (CV)		254.17	230.27				
River & Waterway Management (CV)		16.23	15.32	River & Waterway Management (CV)		44.70	43.01				
Biosecurity (LV)		17.50	13.94	Biosecurity (LV)		72.33	58.72				
		126.00	111.28	Rural water quality (CV)		64.74	41.95				
						435.94	373.05				
								Total Rates - Non-Dairy Farm		527.97	454.20
								Add Dairy Farm uniform rate		532.41	508.71
Total Rates		218.03	192.42	Total Rates - Dairy Farm		1,060.38	962.90				

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Clutha District			Clutha District			Clutha District		
Balclutha Residential	Amount of rate per capital value	\$280,000	Milton Residential	Amount of rate per capital value	\$270,000	Clutha Farm	Amount of rate per capital value	\$1,320,000
Assumed land value	\$137,500	\$135,000	Assumed land value	\$137,500	\$135,000	Assumed land value	\$990,000	\$960,000
	2022/23	2021/22		2022/23	2021/22		2022/23	2021/22
Uniform regional charges			Uniform regional charges			Uniform regional charges		
Uniform annual general charge	57.11	49.32	Uniform annual general charge	57.11	49.32	Uniform annual general charge	57.11	49.32
Emergency management uniform rate	32.95	29.82	Emergency management uniform rate	32.95	29.82	Emergency management uniform rate	32.95	29.82
Wilding trees uniform rate	1.98	2.02	Wilding trees uniform rate	1.98	2.02	Wilding trees uniform rate	1.98	2.02
	92.03	81.15		92.03	81.15		92.03	81.15
Variable charges (capital value/land value/hectares)			Variable charges (capital value/land value/hectares)			Variable charges (capital value/land value/hectares)		
General rate (CV)	49.53	44.34	General rate (CV)	49.53	44.34	General rate (CV)	233.51	210.21
River & Waterway Management (CV)	14.39	12.89	River & Waterway Management (CV)	14.39	12.89	River & Waterway Management (CV)	67.85	61.09
Biosecurity (LV)	7.70	6.71	Biosecurity (LV)	7.70	6.71	Biosecurity (LV)	55.43	47.71
Lower Clutha Flood Protection - Class U2 (CV)	276.08	240.66	Tokomairiro Drainage - Class U1 (CV)	35.76	32.57	Lower Clutha Flood Protection - Class C (CV)	3,687.68	3,232.61
	347.71	304.60		107.38		Rural water quality (CV)	51.90	33.33
							4,096.36	3,584.95
						Total Rates - Non-Dairy Farm	4,188.39	3,666.10
						Add Dairy Farm uniform rate	532.41	508.71
Total Rates	439.74	385.75	Total Rates	199.41	177.65	Total Rates - Dairy Farm	4,720.80	4,174.81
Waitaki District	Amount of rate per capital value	\$330,000	Waitaki District	Amount of rate per capital value	\$1,130,000	Waitaki Farm	Amount of rate per capital value	\$1,030,000
Oamaru Residential	\$165,000	\$165,000	Waitaki Farm	\$848,750	\$772,500	Assumed land value		
Assumed land value	2022/23	2021/22	Assumed land value	2022/23	2021/22			
Uniform regional charges			Uniform regional charges					
Uniform annual general charge	57.11	49.32	Uniform annual general charge	57.11	49.32			
Emergency management uniform rate	32.95	29.82	Emergency management uniform rate	32.95	29.82			
Wilding trees uniform rate	1.98	2.02	Wilding trees uniform rate	1.98	2.02			
	92.03	81.15		92.03	81.15			
Variable charges (capital value/land value/hectares)			Variable charges (capital value/land value/hectares)					
General rate (CV)	56.91	51.69	General rate (CV)	194.89	161.35			
River & Waterway Management (CV)	20.98	21.14	River & Waterway Management (CV)	71.84	65.98			
Biosecurity (LV)	9.71	8.20	Biosecurity (LV)	49.64	38.40			
	87.60	81.03	Rural water quality (CV)	45.56	26.82			
				361.93	292.54			
			Total Rates - Non-Dairy Farm	453.96	373.69			
			Add Dairy Farm uniform rate	532.41	508.71			
Total rates	179.63	162.18	Total Rates - Dairy Farm	986.37	882.40			

7.3. ECO Fund Approval

Prepared for: Council
Report No. ENV2206
Activity: Governance Report
Author: Richard Ewans, Partnership Lead - Biodiversity
Endorsed by: Gavin Palmer, General Manager Operations
Date: 29 June 2022

PURPOSE

- [1] This report seeks Council approval to fund the recommended ECO Fund applications and applications for additional incentives funding for the April 2022 round.

EXECUTIVE SUMMARY

- [2] The ECO Fund supports community driven projects that protect, enhance and promote Otago's environment. The Otago Regional Council provided \$290,000 to the ECO Fund for the April 2022 round. Additional contestable incentives community funding totalling \$180,000 was provided for Long Term Plan 2021-2031 priorities for: sustained rabbit management (\$100,000), native planting after wilding pine removal (\$50,000) and native planting for water quality (\$30,000). The additional incentives funding was assessed, and will be administered, using ECO Fund processes.
- [3] The April 2022 funding round including the additional incentives funding received 53 applications seeking a total of \$1,108,239. The ECO Fund Assessment Panel met on 30 May 2022 to assess the applications. Following the assessment, the Assessment Panel has recommended 25 applications to Council for funding to a total value of \$443,125 (see paragraph 15).

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the funding recommendations of the ECO Fund Assessment Panel for the April 2022 round to a total value of \$443,125.
- 3) **Notes** that the annual review of ECO Fund will be completed by December 2022 in time for the next round in March 2023.

BACKGROUND

- [4] The ECO (Environment. Community. Otago) Fund supports community driven projects that protect, enhance and/or promote Otago's environment. The Otago Regional Council (ORC) provided \$290,000 to the ECO Fund for the April 2022 round.
- [5] The ECO Fund was established in July 2018. The ECO Fund has funded 76 projects (from 184 applications) totalling just over \$753,000 (out of \$2.59 million requested) over 7 rounds. Each round has averaged 26 applications being submitted and has been oversubscribed by around 300% on average.

- [6] Additional contestable incentives community funding totalling \$180,000 was provided for the following strategic Long-Term Plan 2021-2031 priorities: sustained rabbit management (\$100,000), native planting after wilding pine removal (\$50,000) and native planting for water quality (\$30,000). Council approved administration of this funding using ECO Fund processes on 23 February 2022. The additional incentives funding was ringfenced for each priority.
- [7] The ECO Fund was reviewed by staff in early 2022 and recommendations were adopted by Council on 23 February 2022¹. Changes included moving to annual funding rounds (from biannual) and revised assessment criteria. The following supporting documents are provided as attachments to this paper: ECO Fund Terms and Conditions (Attachment 1), ECO Fund Assessment Criteria Scoring (Attachment 2), Additional Rabbit Management Criteria (Attachment 3).
- [8] Development of an online application form took place during March 2022 and applications for this round opened on 31 March and closed on 1 May 2022. A total of 53 applications were received seeking a total of \$1,108,239 as detailed in Table 1 below.

April 2022 Funding Round			
Category	Number of applications	Funds requested	Funds available
ECO Fund	40	\$879,289	\$290,000
Incentives - sustained rabbit management	4	\$159,150	\$100,000
Incentives - native planting after wilding pine removal	4	\$23,125	\$50,000
Incentives - native planting for water quality	5	\$46,675	\$30,000
TOTAL	53	\$1,108,239	\$470,000

Table 1 – Summary of funds requested for the April 2022 round of ECO Fund and additional incentives funding.

- [9] There have been 7 previous rounds of the ECO Fund, all of which have been heavily oversubscribed. The number of applications and level of oversubscription per round suggest there is significant demand for community-driven environmental projects in Otago. The summary details of the previous rounds of the ECO Fund are shown in Table 2 below.

Round	Number of applications	Funds requested	Number of Projects funded	Total amount funded
March 2021	25	\$296,725	11	\$123,525
October 2020	35	\$534,877	10	\$124,743
March 2020	24	\$323,312	14	\$132,574
October 2019	24	\$388,264	11	\$117,426
May 2019	25	\$331,731	11	\$73,666
January 2019	24	\$386,321	9	\$73,666
September 2018	27	\$332,824	10	\$107,666
TOTAL	184	\$2,594,054	76	\$753,266

Table 2 – Summary of previous ECO Fund rounds.

¹ ECO Fund Review, Report OPS2204, Report to 23 February 2022 meeting of Otago Regional Council.

- [10] Administration of the ECO Fund is a multi-staged process. This process is detailed in Figure 1 below. This paper to Council marks Step 5 in the process.

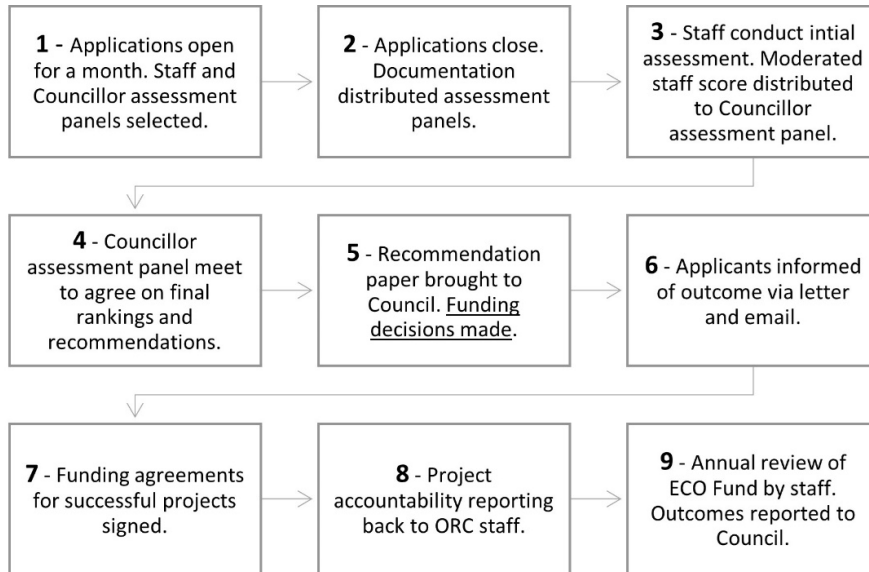


Figure 1 – ECO Fund process for administration.

DISCUSSION

- [11] Applications to the ECO Fund were assessed against the criteria listed in Attachment 2 of this paper. Each application was given a score out of 30 in the assessment. Funding recommendations are determined by how highly an application scores relative to the other applications assessed in the funding round. Applications that did not meet the ECO Fund Terms and Conditions (Attachment 1) were not scored.
- [12] A five member staff panel independently reviewed and scored applications, then met on 17 May 2022 to conduct an initial assessment of applications and provide a single moderated staff score for each application to the Council Assessment Panel. The Assessment Panel, consisting of three Council members² and one mana whenua representative, also independently reviewed and scored applications, then met on 30 May 2022 supported by three staff. The Assessment Panel moderated scoring and determined final recommendations for funding to be brought to Council for approval.
- [13] A summary of all applications to the April 2022 round of ECO Fund with their final score is provided in Attachment 4. A map showing the location of all applications received is provided in Attachment 5.
- [14] The Assessment Panel did not consider 3 of the 53 applications for assessment. This was because the applications were incomplete or did not meet all Terms and Conditions of the ECO Fund (see Attachment 1).
- [15] Following the assessment process for the April 2022 round, the Assessment Panel are recommending 25 applications for funding at a total value of \$443,125: 14 applications totalling \$290,000 from ECO Fund and 11 applications totalling \$153,125 from the

² Councillors Deaker, Forbes and Wilson.

additional incentives funding. The recommended projects for funding from the Panel to Council are detailed in Tables 3-6 below. All funding was fully allocated except for the incentives funding for planting after wilding pine removal which was undersubscribed and had \$26,875 unallocated. As the incentives for this programme are 'ring-fenced' the amount cannot be re-allocated to other applications. It will remain in the 2021/22 budget un-spent.

- [16] The amount recommended to be granted to some projects is less than that requested. This is due to one of three reasons:
- i. The applicant had funds remaining from a previous ECO Fund grant which can be utilised towards this year's project;
 - ii. The project was ranked lowest within the cut off of funds available and hence could only be funded the remaining balance of funds available; and/or
 - iii. The project had ineligible or inappropriate costs within the application.

Applicant	Project type	ECO Fund priority	Amount
Southern Lakes Sanctuary	Mohua translocation - helicopters and bait stations	Biodiversity	\$26,125.00
Haehaeata Natural Heritage Charitable Trust	Community nursery - wages	Biodiversity	\$38,124.00
Yellow-eyed Penguin Trust	Revegetation of yellow-eyed penguin habitat	Biodiversity	\$17,091.00
Save The Otago Peninsula Inc. (STOP)	Fencing significant forest remnant	Biodiversity	\$17,926.00
Wakatipu Reforestation Trust	Education through workshops and planting days	Environmental education	\$45,733.00
Friends of Bullock Creek Incorporated	Weed control	Water quality	\$12,000.00
Aroha Kaikorai Valley Trust	Trap network - operations plan and traps	Biodiversity	\$19,226.00
Quarantine Island Kamau Taurua Community (Inc)	Revegetation, weed control, predator control - volunteer expenses and coordinator	Biodiversity	\$18,002.00
Royal Forest & Bird Protection Society - Dunedin Branch	Predator control costs for long-tailed bats	Biodiversity	\$16,261.00
Mana Tāhuna	Trap line	Biodiversity	\$15,000.00
Te Kākano Aotearoa Trust	Revegetation	Biodiversity	\$4,000.00
Hokonui Runanga (operating as Hokonui Runanga Floriculture Ltd)	Possum control	Biodiversity	\$38,413.78
Waitaki Branch of Forest and Bird	Community plant nursery plant sourcing	Biodiversity	\$3,000.00
Aspiring Biodiversity Trust	Trap network	Biodiversity	\$19,098.22
TOTAL			\$290,000.00

Table 3 – List of recommended projects and funding allocation from ECO Fund for the April 2022 round.

Applicant	Project type	ECO Fund priority	Amount
Arrowtown Choppers	Revegetation planting consumables	Biosecurity	\$11,706.00
Cape Wanbrow	Revegetation of titi habitat	Biosecurity	\$2,500.00
Quail Rise Residents Group	Site preparation for revegetation	Biosecurity	\$1,000.00
Mokihi Reforestation Trust	Soil preparation materials for revegetation	Biosecurity	\$7,919.00
TOTAL			\$23,125.00

Table 4 – List of recommended projects and funding allocation from additional incentives funding for native planting after wilding pine removal for the April 2022 round.

Applicant	Project type	ECO Fund priority	Amount
Dunedin Environment Centre Trust	Revegetation - plants and consumables	Water quality	\$5,000.00
Ōtokia Creek and Marsh Habitat Trust	Revegetation - admin, materials, labour	Water quality	\$23,700.00
East Otago Catchment Group	Revegetation - plants	Water quality	\$1,300.00
TOTAL			\$30,000.00

Table 5 – List of recommended projects and funding allocation from additional incentives funding for native planting for water quality for the April 2022 round.

Applicant	Project type	ECO Fund priority	Amount
Hidden Hills Residents Association	Rabbit fencing	Biosecurity	\$48,883.00
Friends of Tucker Beach Wildlife Management Reserve	Rabbit management - plan and control costs	Biosecurity	\$33,000.00
Otago Peninsula Biodiversity Group (OPBG)	Rabbit community consultation for management plan	Biosecurity	\$14,067.00
Wentworth Estate Residents Group	Rabbit control and fencing	Biosecurity	\$4,050.00
TOTAL			\$100,000.00

Table 6 – List of recommended projects and funding allocation from additional incentives funding for sustained rabbit management for the April 2022 round.**OPTIONS**

- [17] Two options have been identified to assist Council with their decision making.
- [18] **Option One** – approve the recommendations of the Assessment Panel to award funding to the 25 applications as listed in paragraph 15 (Tables 3-6), to a total value of \$443,125.

- [19] **Option Two** – reject the recommendations of the Assessment Panel and direct the Panel to reassess the applications.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [20] This paper does not trigger policy considerations.

Financial Considerations

- [21] The Council has a total of \$290,000 budgeted for the April 2022 round of the ECO Fund with a further \$180,000 budgeted for additional incentives funding.

Significance and Engagement

- [22] This paper does not trigger ORC's policy on Significance and Engagement.

Legislative and Risk Considerations

- [23] This paper does not trigger legislative considerations.

Climate Change Considerations

- [24] This paper does not trigger climate change considerations.

Communications Considerations

- [25] All successful and unsuccessful applicants to the April 2022 round will be communicated with to inform them of outcome and provide the option for feedback.

NEXT STEPS

- [26] Following a final Council decision on funding, staff will progress the next steps of the ECO Fund process detailed in Figure 1 (paragraph 10). The immediate next steps will be to advise applicants of the outcomes and to draw up funding agreements with successful applicants.
- [27] ORC staff will implement a review of the ECO Fund process to identify and act on opportunities for improvement. This review and subsequent improvements will be completed prior to the next ECO Fund round opening.

ATTACHMENTS

1. ECO Fund - April 2022 - Terms and conditions [7.3.1 - 2 pages]
2. ECO Fund - April 2022 - Assessment criteria scoring [7.3.2 - 3 pages]
3. Incentives funding - April 2022 - Rabbit management additional criteria [7.3.3 - 2 pages]
4. ECO Fund and incentives funding - April 2022 - List of applications and recommendations [7.3.4 - 4 pages]
5. ECO Fund and incentives funding - April 2022 - Map of applications [7.3.5 - 1 page]

ECO Fund - Terms and conditions

General

- Except for multi-year projects, projects must be completed within 12 months of receiving funding.
- All applications for each round are assessed and ranked against the ECO Fund assessment criteria (link to criteria to be provided).
- All funding is GST exclusive. All financial information provided in an application must be exclusive of GST.
- The ECO fund supports both one-off projects and those running over multiple years for up to 3 years. For multiple year funding, funds will be released annually conditional upon appropriate project reports which demonstrate meaningful progress being submitted.
- Successful applicants must agree to Otago Regional Council promoting their project.
- If work funded is not completed within the specified time frame or funds are not spent as agreed, Otago Regional Council reserves the right to demand the return of funds.
- The ECO Fund does not provide funding for:
 - commercial or private gain
 - government organisations
 - projects created to comply with Resource Consent conditions
 - responses to any actual or potential enforcement action (excluding projects under the sustained rabbit control programme)
 - the purpose of seed capital
 - individuals
 - maintenance for existing projects
 - retrospective costs

Applications

- Applicants can only submit one application per funding round.
- Projects must have a defined start and finish date.
- Applicants must disclose any other funding they have applied for or received for their project.
- If funding is requested for salary costs, only 50% will be funded. Applicants need to demonstrate that requested salary funding is not more than 50% of total cost, and detail where the additional funding will come from.

Assessment

- All applications are assessed and ranked against the ECO Fund assessment criteria.
- If the ECO Fund is over-subscribed in any funding round priority will be given to projects in threatened and vulnerable habitats and ecosystems.
- If an applicant is unsuccessful in one round of the ECO Fund, they may apply again in a subsequent funding round.
- Decisions made by Otago Regional Council are final and are made at our sole discretion.
- Where applicants seek funding exceeding \$50,000, Otago Regional Council will only fund a proportion of the total project (to be determined on a case-by-case basis).

Decision and Grant

- Successful applicants must accept the grant by signing an acceptance letter and funding agreement.
- Recipients must pay all costs associated with the project. ECO Fund grants will be transferred to recipients' nominated bank accounts.
- Nominated bank accounts cannot be private accounts; it must be an account in the Applicant's name.
- Successful applicants must agree to report on the project outcomes to ORC within a specified timeframe, and account for how funds were spent. Successful applicants must agree to submit progress reports, where applicable, and a final report on the project outcomes to ORC within a specified timeframe, and account for how funds were spent.
- Successful applicants agree to report on their project at a council meeting, if requested.
- Funds granted expire 6 months after Council approval. If the applicant fails to comply with the Otago Regional Council's terms and conditions within 6 months (unless otherwise agreed), the funding lapses.
- Grants are approved subject to the Otago Regional Council being satisfied that the information given by recipients is true and correct. Otago Regional Council reserves the right to refuse grant funding, and/or request return of grant funding where it determines that it has been misled, that the applicant or recipient has omitted relevant information, or if the recipient enters into receivership, liquidation or ceases to exist (e.g. removed from register).

ECO Fund - Assessment criteria scoring

Criteria	Description	Scoring & guidance
Strategic	<p>1. Achieves ECO Fund objectives</p> <p>The objectives of the ECO Fund which are to:</p> <ul style="list-style-type: none"> - Protect and enhance Otago's environment - Enable community-driven environmental activities <p>How much is the project likely to contribute to achieving these objectives?</p> <p>Projects can address these objectives through on-ground works or education and capacity building activities.</p>	<p>4 = Yes, will contribute significantly to both objectives</p> <p>3 = Yes, will contribute in some way to both objectives, or significantly to one</p> <p>2 = Yes, will contribute one objective</p> <p>1 = May contribute indirectly</p> <p>0 = No, will not contribute at all</p>
	<p>2. Aligns with ORC activities and priorities</p> <p>The Annual Plan 2020-21 lists the following significant activity areas (relevant to the ECO Fund):</p> <ul style="list-style-type: none"> - Freshwater quality - Biosecurity - Biodiversity <p>Other relevant documents which can guide this criterion include:</p> <ul style="list-style-type: none"> - Biodiversity Strategy - Biosecurity Strategy - Urban & Rural Water Quality Strategies - Long-Term Plan (Land, Water and Biodiversity 'Must Do's') 	<p>4 = Clear alignment with two or more current strategic actions</p> <p>3 = Clear alignment with one current strategic action</p> <p>2 = Some alignment (not directly) with at least one strategy</p> <p>1 = Aligns with general policy</p> <p>0 = No obvious alignment with strategy or policy</p>
Project merits	<p>3. Project objectives are realistic, and actions are likely to achieve the objectives</p> <p>Setting a clear project objective helps track the success of the project. Objectives should be realistic and able to be achieved within the timeframe of the project.</p> <p>The project should also outline what actions will be undertaken to achieve the objective. There should be a clear linkage between the action and the intended outcome.</p> <p>Consider overall group objectives and assess specific project actions in application in terms of contribution to that overall group objective / vision.</p> <p>Projects that are implementing existing catchment group plans could be considered as higher scoring.</p>	<p>4 = Objectives are realistic and highly likely to be achieved within the timeframe. Obvious links between actions and objectives</p> <p>3 = Objectives are realistic and likely to be achieved within the timeframe. Some linkage between the actions and objectives</p> <p>2 = Objectives could be achievable, but project planning does not clearly demonstrate how proposed actions will lead to objectives</p> <p>1 = Objectives are limited, and actions are not linked to the project objectives and unlikely to be achieved within the timeframe</p> <p>0 = Objectives are unrealistic, irrelevant or unachievable.</p>

Project outcomes	4. Project is technically sound	<p>The likelihood of a successful project is increased when the applicants are well informed or experts in the area.</p> <p>Projects should demonstrate that the planned approach is technically feasible and reflects best management practice.</p> <p>This could be through the expertise of the project applicants or through information they have sought and intend on implementing</p>	<p>4 = Proponent has sought appropriate advice and/ or have the relevant expertise. Best practice is clearly being proposed.</p> <p>3 = Proponent has sought some advice and/ or has some relevant experience. Best practice is being proposed.</p> <p>2 = Proponent has sought some advice and/ or has some relevant experience. Best practice is not being proposed or is not clear.</p> <p>1 = Proponent has not demonstrated advice was sought or what relevant experience is being utilised. Best practice is not being proposed or is not clear.</p> <p>0 = Best practice is not being implemented and proposed techniques are questionable.</p>
	5. Impact of the project	<p>The impact a project can have can be assessed by:</p> <ul style="list-style-type: none"> - Scale, how far reaching will the project outcomes be - Longevity, how enduring will the project outcomes be - Intervention level, is the project addressing the cause or symptom of a problem 	<p>4 = Significant environmental benefits at a regional scale for long-term</p> <p>3 = Moderate environmental benefits at district scale, for medium-term</p> <p>2 = Benefits are site scale but long-term</p> <p>1 = Benefits are site scale and short-term</p> <p>0 = No clear benefits to the environment</p>
	6. Level of community engagement	<p>A key objective for the ECO Fund is community involvement. This criterion assesses how much community involvement is being proposed and how far reaching that involvement may be.</p> <p>If the recommendation in section 1 regarding mana whenua engagement is supported, this criterion will also include level of mana whenua engagement</p>	<p>4 = Project is led by a community group and engages with other members of the community</p> <p>3 = Project is led and implemented by a community group with some community engagement</p> <p>2 = Not led by community but involves community in the implementation</p> <p>1 = No community groups involved but outcomes will benefit or be utilised by the community</p> <p>0 = No community involvement or benefit</p>

Financial	<p>7. Value for money</p> <p>Considering any level of investment contributed by the applicant, that is, their level of investment is a good measure for value for money.</p> <p>See Funding Details section in application.</p> <p>Applicant investment can include in-kind contributions such as labour or volunteer hours (\$20 per hour minimum), monetary input from the group itself or project partners.</p> <p>However, contributions from other grants are not considered applicant's investment and should not be used to leverage funding.</p>	<p>4 = Project is more than 1:1 cost sharing between fund requested and fund contributed</p> <p>3 = Project is 1:1 (or within 5%) cost sharing</p> <p>2 = Project is 1:2 applicant vs ECO Fund requested</p> <p>1 = Project has some applicant contribution but not clear or costed</p> <p>0 = Project relies solely on ECO Fund and/or other grants</p>
Applicant history	<p>8. New applicants</p> <p>It is good to encourage new applicants to access funding.</p> <p>However, previous applicants are also typically involved in good works and maintaining momentum can be good.</p> <p>Some previous successful applicants may not have completed all previous commitments, e.g. reporting.</p>	<p>2 = New applicant or previously unsuccessful applicant to the ECO Fund (with eligible project)</p> <p>1 = Previous successful applicants with all requirements completed on time</p> <p>0 = Previous successful applicant with outstanding reports or other commitments</p>

Incentives funding – Rabbit management additional criteria

This fund supports coordinated community-led rabbit management throughout Otago. It aims to provide community groups, or groups of neighbours working collaboratively, with an opportunity to lead the improvement of rabbit management in their area.

Funding is available for:

- Groups of landowners (five or more adjacent landholdings)
- Non-profit community organisations e.g., community association, charitable trust, incorporated society

Funding is not available for:

- Individuals or work on individual properties (unless operating collaboratively with neighbours or as a community)
- Territorial authorities or government agencies

Examples of community led approaches eligible for funding

Working together

- Forming a community group to coordinate rabbit management in your area
- Forming a community group to collect landowner contributions for collective rabbit management
- Developing collaborative long-term rabbit management plans / community action plan
- Forming new partnerships with other groups including community, government agencies, school groups, absentee landholders, landcare groups and mana whenua groups

Building and sharing skills and knowledge

- Building community capacity for best practice rabbit management techniques, e.g., hosting community workshops, training in best practice, hosting expert guests.
- Raising awareness of your programme via media, e.g. You Tube clips, webinars
- Show casing community groups participating in best practice rabbit management
- Producing advertising material to promote your community plan
- Designing rabbit management signage for your local area

Control costs

- Newly created groups (within first year) implementing long-term control methods such as fencing across multiple properties (number of properties required will depend on local context)

Innovation

- Trialling new techniques to inform best practice rabbit management
- Trialling creative new community engagement / collaboration ideas

Monitoring

- Developing a citizen science programme to monitor rabbit numbers in your area

- Developing tools to monitor and map rabbit densities in your area
- Collecting data to assist with local area rabbit management planning

ECO Fund and incentives funding – List of applications and final recommendations

ECO Fund

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
1	Southern Lakes Sanctuary	\$26,125.00	Mohua translocation - helicopters and bait stations	27	\$26,125.00	n	Approve - full
2	Haehaeata Natural Heritage Charitable Trust	\$38,124.00	Community nursery - wages	24	\$38,124.00	Y	Approve - full
3	Yellow-eyed Penguin Trust	\$17,091.00	Revegetation of YEP habitat	24	\$17,091.00	n	Approve - full
4	Save The Otago Peninsula Inc. (STOP)	\$17,926.00	Fencing SNA	24	\$17,926.00	n	Approve - full
5	Wakatipu Reforestation Trust	\$50,000.00	Education through workshops and planting days	24	\$45,733.00	Y	Approve - part
6	Friends of Bullock Creek Incorporated	\$12,000.00	Weed control	23	\$12,000.00	n	Approve - full
7	Aroha Kaikorai Valley Trust	\$19,226.00	Trap network - ops plan and traps	23	\$19,226.00	n	Approve - full
8	Quarantine Island Kamau Taurua Community (Inc)	\$18,002.00	Revegetation, weed control, predator control - volunteer expenses and coordinator	23	\$18,002.00	n	Approve - full
9	Royal Forest & Bird Protection Society - Dunedin Branch	\$16,261.00	Predator control costs for long-tailed bats	23	\$16,261.00	n	Approve - full
10	Mana Tāhuna	\$15,000.00	Trap line	22	\$15,000.00	n	Approve - full
11	Te Kākano Aotearoa Trust	\$4,000.00	Revegetation	22	\$4,000.00	n	Approve - full
12	Hokonui Runanga (operating as Hokonui Runanga Floriculture Ltd)	\$48,822.00	Possum control	22	\$38,413.78	Y	Approve - part
13	Waitaki Branch of Forest and Bird	\$3,000.00	Community plant nursery plant sourcing	22	\$3,000.00	n	Approve - full
14	Aspiring Biodiversity Trust	\$46,300.00	Trap network	22	\$19,098.22	n	Approve - part

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
15	Mosgiel Rotary Club	\$15,000.00	Revegetation - consumables for Milton prison to grow plants, signage and seating	21	\$0.00	n/a	Decline - rank
16	Lower Manorburn Reserve Working Group	\$3,261.00	Revegetation and ecological assessment	21	\$0.00	n/a	Decline - rank
17	Otago South River Care	\$3,288.00	Fence for native revegetation	21	\$0.00	n/a	Decline - rank
18	Routeburn Dart Wildlife Trust	\$33,600.00	Cat trapping and dispatching	21	\$0.00	n/a	Decline - rank
19	Watershed Solutions Ltd	\$2,500.00	Bylaw costs for Taieri plains riparian planting	21	\$0.00	n/a	Decline - rank
20	Penguin Rescue	\$50,000.00	Revegetation - digger and rabbit fencing control costs	20	\$0.00	n/a	Decline - rank
21	WAI Wānaka	\$50,000.00	Environmental education	20	\$0.00	n/a	Decline - rank
22	University of Otago (New Zealand Marine Studies Centre)	\$49,372.00	Estuary monitoring using citizen science - project management costs	20	\$0.00	n/a	Decline - rank
23	Lake Hayes Estate and Shotover Country Community Association	\$7,500.00	Revegetation and weed control	19	\$0.00	n/a	Decline - rank
24	Lower Waitaki Irrigation limited	\$25,000.00	Willow control in wetland	19	\$0.00	n/a	Decline - rank
25	Lindis Pass Conservation group Inc	\$17,250.00	Lupin control - contractor costs	19	\$0.00	n/a	Decline - rank
26	Whakatipu Wilding Conifer Control Group Inc (WCG)	\$1,264.00	Wilding pine toolkit for volunteers	19	\$0.00	n/a	Decline - rank
27	Otago Peninsula Trust	\$48,760.00	Red billed gull research	19	\$0.00	n/a	Decline - rank
28	St Gerards Primary	\$5,000.00	School plant nursery construction	19	\$0.00	n/a	Decline - rank
29	Grow Wanaka Community Garden	\$20,963.00	Waste minimisation - community garden materials and consumables	19	\$0.00	n/a	Decline - rank

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
30	Initial Volco Trust	\$24,995.00	Revegetation, community nursery, wetland creation, weed control, predator control expenses	18	\$0.00	n/a	Decline - rank
31	Glenorchy Community Association	\$50,000.00	Community plant nursery construction	18	\$0.00	n/a	Decline - rank
32	Lip Gloss and Gumboots	\$2,402.00	Native planting workshop	18	\$0.00	n/a	Decline - rank
33	Dunedin Wildlife Trust (Wild Dunedin Festival/NZ Festival of Nature)	\$40,000.00	Nature festival event live streaming costs	17	\$0.00	n/a	Decline - rank
34	Open Valley Urban Ecosanctuary (VUE)/ The Valley Project	\$11,685.00	Urban nature - comms and staff costs	17	\$0.00	n/a	Decline - rank
35	Penguin Place	\$7,000.00	Revegetation of YEP habitat	17	\$0.00	n/a	Decline - rank
36	QT Cats	\$20,000.00	Cat trapping and rehoming	16	\$0.00	n/a	Decline - rank
37	Otago Fish & Game	\$18,077.00	Willow spraying	16	\$0.00	n/a	Decline - rank
38	The Wanda Foundation	\$26,732.00	Waste minimisation education	15	\$0.00	n/a	Decline - rank
39	Danone Nutricia New Zealand Limited	\$12,000.00	Inorganic waste, revegetation, education	0	\$0.00	n/a	Decline - ineligible
40	Otago Heritage Bus Society Inc	\$1,763.00	Historic bus rides	0	\$0.00	n/a	Decline - ineligible

Incentives funding – native planting after wilding pine control

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
1	Arrowtown Choppers	\$11,706.00	Revegetation planting consumables	25	\$11,706.00	n	Approve - full
2	Cape Wanbrow	\$2,500.00	Revegetation of titi habitat	22	\$2,500.00	n	Approve - full
3	Quail Rise Residents Group	\$1,000.00	Site preparation for revegetation	21	\$1,000.00	n	Approve - full

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
4	Mokihi Reforestation Trust	\$7,919.00	Soil preparation materials for revegetation	19	\$7,919.00	n	Approve - full

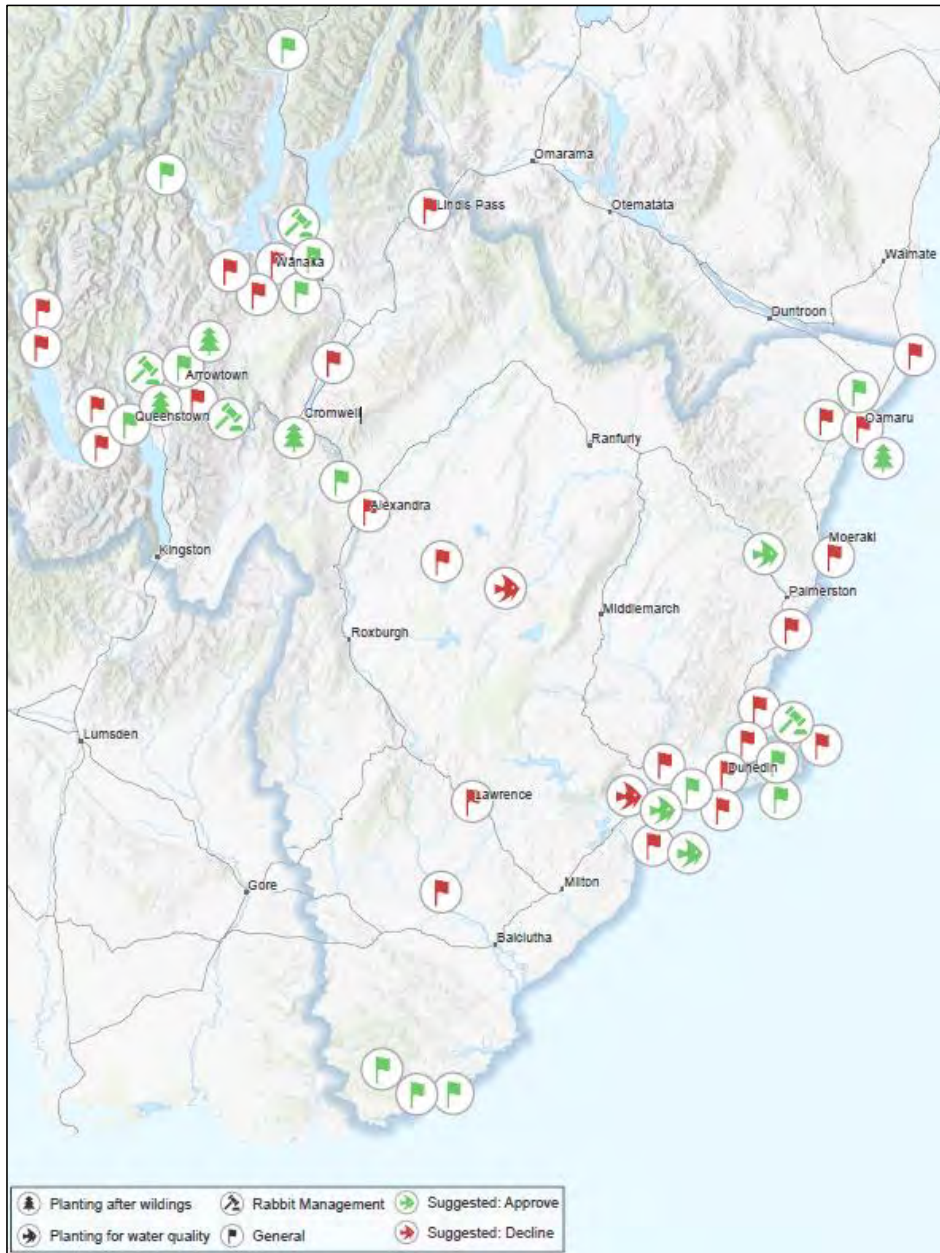
Incentives funding – native planting for water quality

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
1	Dunedin Environment Centre Trust	\$5,000.00	Revegetation - plants and consumables	21	\$5,000.00	n	Approve - full
2	Ōtokia Creek and Marsh Habitat Trust	\$26,200.00	Revegetation - admin, materials, labour	21	\$23,700.00	n	Approve - part
3	East Otago Catchment Group	\$5,800.00	Revegetation - plants	20	\$1,300.00	n	Approve - part
4	NZ Landcare Trust	\$4,675.00	Revegetation - plants and misc workshop costs	17	\$0.00	n/a	Decline - rank
5	Serpentine Stream Rehab	\$5,000.00	Revegetation - unspecified	16	\$0.00	n/a	Decline - ineligible

Incentives funding – sustained rabbit management

Rank	Applicant	Amount requested	Project type	FINAL score	Amount granted	Multi year	Decision
1	Hidden Hills Residents Association	\$48,883.00	Rabbit fencing	23	\$48,883.00	n	Approve - full
2	Friends of Tucker Beach Wildlife Management Reserve	\$46,200.00	Rabbit management - plan and control costs	23	\$33,000.00	y	Approve - part
3	Otago Peninsula Biodiversity Group (OPBG)	\$14,067.00	Rabbit community consultation for management plan	22	\$14,067.00	n	Approve - full
4	Wentworth Estate Residents Group	\$50,000.00	Rabbit control and fencing	22	\$4,050.00	n	Approve - part

ECO Fund and incentives funding – Map of applications to April 2022 round



7.4. Bylaw Review Adoption

Prepared for: Council
Report No. ENG2203
Activity: Governance Report
Author: Michelle Mifflin, Manager Engineering
Alison Weaver Commercial and Regulatory Lead
Endorsed by: Gavin Palmer, General Manager Operations
Date: 29 June 2022

PURPOSE

- [1] To seek Council approval of the Hearing Panel recommendations to replace the Flood Protection Management Bylaw 2012 with the proposed Flood Protection Management Bylaw 2022 ("Proposed Bylaw").
- [2] To adopt the Flood Protection Management Bylaw 2022.
- [3] To seek Council approval of the proposed amendments to the Otago Regional Council's Delegations Manual arising from the adoption of the Hearing Panel recommendations.

EXECUTIVE SUMMARY

- [4] Otago Regional Council has publicly consulted on a bylaw (Proposed Bylaw) to replace the Flood Protection Management Bylaw 2012. The Proposed Bylaw has been reviewed with submissions received and deliberated upon by the Hearing Panel. The Hearing Panel has made its recommendations and these and the Proposed Bylaw are presented to Council for adoption.
- [5] Consequent upon the adoption of the Proposed Bylaw by Council, amendments to the Delegations Manual will be required. These are described in this paper.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Notes** that Council has previously determined, under section 155(1) of the Local Government Act 2002 (LGA), that a bylaw is the most appropriate way of addressing problems relating to the protection and effective management of flood protection owned or controlled by the Council
- 3) **Notes** that Council has previously concluded that the Flood Protection Management Bylaw 2012 should be reviewed following public consultation and approved a proposed Bylaw for consultation.
- 4) **Receives** the Recommendations of the Hearing Panel on the Proposal for the Proposed Otago Regional Council Flood Protection Management Bylaw 2022 dated 13 June 2022 (the "Recommendations") (Attachment 1).

- 5) **Adopts** the Otago Regional Council Flood Protection Management Bylaw (Attachment 2) 2022, as recommended by the Hearing Panel (Attachment 1) with a commencement date of 1 September 2022.
- 6) **Approves** the affixing of the common seal to the Flood Protection Management Bylaw 2022.
- 7) **Revokes the** Flood Protection Management Bylaw 2012 ('2012 Bylaw') on 31 August 2022.
- 8) **Resolves** to publicly notify, in accordance with section 157 of the LGA, the Proposed Bylaw, specifying that it will come into operation from 1 September 2022 and that copies of the Bylaw may be viewed and obtained from Council offices.
- 9) **Approves** the changes to the Delegations Manual as provided for in this report.
- 10) **Approves** the Chief Executive to update the Council's Delegation's Manual accordingly.

BACKGROUND

- [6] Following a review commenced in December 2021¹ and in accordance with the LGA requirement to review the 2012 Bylaw 10 years after its last review, Otago Regional Council has publicly consulted on a bylaw (Proposed Bylaw) to replace the 2012 Bylaw².
- [7] At the Council meeting of 23 March 2022³, Councillor Kate Wilson (Chair), Councillor Gretchen Robertson and Mr Allan Cubitt were appointed to a Hearing Panel to hear from submitters, deliberate and make recommendations to Council in relation to the Proposed Bylaw.
- [8] The Proposed Bylaw was publicly notified in the Otago Daily Times and local papers during April 2022 and on the Otago Regional Council ("ORC") webpage.
- [9] Submissions commenced on 31 March 2022 and closed at 12pm on 5 May 2022. Twenty submissions were received within the submission period. Two submissions were received after the close of submissions with the prior agreement of the Hearing Panel. Three other submissions were received after the close of the submissions and accepted by the Hearing Panel.
- [10] The submissions and staff comment on the submissions are contained in the Summary of Submissions which is Attachment 2 to the Recommendations.
- [11] Submissions were heard on 13 May 2022. Ten submitters presented to the Hearing Panel.
- [12] The Hearing Panel reconvened on 19 May 2022 to deliberate on:
 - a. the submissions, the Summary of Submissions (Attachment 2 to the Recommendations);
 - b. the Response to Panel enquiries for deliberation on 19 May 2022 (Attachment 3 to the Recommendations).

¹ Approval to commence Review of Flood Protection Management Bylaw 2012, Report ENG2102, Report to 9 December 2021 meeting of Otago Regional Council.

² Bylaw Approval to Commence Consultation, Report ENG2202, Report to 23 March 2022 meeting of Otago Regional Council.

³ Ibid

- [13] Following deliberations, ORC staff prepared a further Response to Panel enquiries dated 2 June 2022 (Attachment 4 to the Recommendations)
- [14] The Hearing Panel has now deliberated and provided the Recommendations (Attachment 1) including the Proposed Bylaw (Attachment 2).
- [15] The Delegations Manual was last reviewed February 2022. Minor amendments are proposed to the Manual in the event the Proposed Bylaw is adopted by Council.

DISCUSSION

- [16] The Council must give its decision on the recommendations of the Hearing Panel.
- [17] The Hearing Panel has recommended the amendments contained in the Proposed Bylaw. The amendments are summarised as follows:
 - a. Expanding land disturbance restrictions to include all earthworks except filling
 - b. Allowing cultivation and domestic gardening within 20m of a defence against water (such as a floodbank, spillway or retaining wall) and within 50m of a groyne or cross-bank)
 - c. Recording that the 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
 - d. Adding of the Albert Town rock buttress and the Shotover training line and associated flood protection vegetation to the relevant schedules
 - e. Adding restrictions around the planting of shrubs, hedges or trees within specified areas
 - f. Adding restrictions around removing trees on or near defences against water
 - g. Adding restrictions around removing or altering structures between the bank of a river and any associated defence against water
 - h. Combining 'plantings' and 'anchored tree protection' under 'flood protection vegetation' and implementing specific rules (e.g., restricting stock grazing) within these areas
 - i. Addition of an objections process
 - j. Clarity on the matters of regard for an approval application
 - k. Additional details on the revocation process (when approvals are cancelled), including the ability of ORC to revoke an approval immediately where flood protection works are compromised
 - l. Adding diagrams of drains, overland flow paths and defences against water in Appendix 1
 - m. Adding and amending definitions for clarity
 - n. Minor amendments to the map schedules
- [18] The Proposed Bylaw incorporating the amendments is the most appropriate way of addressing the perceived problem which is ensuring the maintenance and effective operation of flood protection works. The Proposed Bylaw is similar to the 2012 Bylaw which has operated appropriately for 10 years. Amendments made in response to the review have updated the provisions so that the Proposed Bylaw can continue to address the perceived problem.

- [19] The New Zealand Bill of Rights Act 1990 (“NZBORA”) affirms, protects and promotes human rights and fundamental freedoms in New Zealand. The Proposed Bylaw is to manage, regulate and protect the effective operation of flood protection works owner by or under the control of the Council. It does not give rise to any implications under the NZBORA.
- [20] If the Council adopts the Proposed Bylaw it must publicly notify that it has made the Bylaw and the date on which it comes into operation in accordance with section 157 of the Local Government Act 2002. Submitters shall be notified of the adoption by email.
- [21] If the Council adopts the Proposed Bylaw, the paper and electronic versions of the Proposed Bylaw shall be designed by Council staff.
- [22] If the Council adopts the Proposed Bylaw, the Delegation Manual will require amendments as follows:
- a. Replace references to Flood Protection Management Bylaw 2012 with references to Flood Protection Management Bylaw 2022.
 - b. Add clause 5.3 and an addition to clause 6.1 to clarify additional delegation authority.
- [23] The proposed amendments to the Manual are shown underlined in the table below.:

24.2 Flood Protection Management Bylaw 2022

Clause	Function	Delegated to
Authority to carry out work		
5.1	To approve/refuse authority under the Bylaw, including granting authority on such conditions as are considered appropriate.	Manager Engineering or Team Leader Commercial and Regulatory, except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
5.2	Determining, refunding, remitting or waiving the whole or any part of any fee payable under the Bylaw.	GM Operations; or GM Regulatory except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM

		Regulatory and co-chairs of the Regulatory Committee.
5.3	<u>To uphold, amend or rescind a decision or authority under the Bylaw</u>	<u>Manager Engineering or Team Leader Commercial and Regulatory, except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.</u>
Compliance and Enforcement		
6.1	Revocation of an authority granted under the Bylaw <u>Grant an extension to remedy a breach or failure</u>	Manager Engineering or Team Leader Commercial and Regulatory
6.3	Issue a notice to remedy	GM Regulatory GM Operations
6.4	Authorisation of removal of works and cost recovery	refer Local Government Act 2002 delegations

OPTIONS

- [24] The recommended option is to accept the Hearing Panel recommendations so that the Proposed Bylaw is adopted with effect from 1 September 2022. This means that a flood protection and management bylaw remains in place with updated provisions.
- [25] One alternative option is to reject some or all of the Hearing Panel recommendations. The Hearing Panel and Council staff would need to consider the consequences of the changes. This may mean that a new Bylaw is not adopted prior to the lapsing of the 2012 Bylaw on 30 August 2022.
- [26] In the case of the amendments to the Designation Manual, the recommended option is to accept the amendments to the Designation Manual if the Hearing Panel recommendations are accepted. The Designation Manual amendments should not be accepted if the Hearing Panel recommendations are not accepted as the Designation Manual will not require change.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [27] There are no strategic framework and policy considerations associated with receiving this report.
- [28] 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.
- [29] 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

- [30] There are no financial considerations for ORC associated with receiving this report. This programme of work is budgeted for in the 2021 – 2031 LTP.
- [31] 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.
- [32] New areas are included in the Proposed Bylaw to ensure protection for the assets in those areas. For example, the structures included at Albert Town and the Shotover, and the vegetation protection provisions near the Waitaki River have been extended. The majority of land affected is publicly owned. This may result in costs for landowners subject to the Bylaw if Bylaw approval is required for activities

Significance and Engagement Considerations

- [33] The Bylaw review triggered 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

- [34] The Bylaw review is undertaken in accordance with the requirements of the LGA.
- [35] There is a risk associated with not having a Bylaw in place by 1 September 2022 and that risk will need to be managed. The Bylaw will lapse in two years time if the review is not completed by 1 September 2022.

Climate Change Considerations

- [36] The assets that are the subject of the 2012 Bylaw and the Proposed Bylaw assist in adaptation to the effects of future climate change.

Communications Considerations

- [37] Communications engagement occurred during consultation on the Proposed Bylaw during April 2022. Communications engagement will occur to notify public of the adoption of the Proposed Bylaw if adoption occurs.

NEXT STEPS

- [38] If Council resolves to adopt the Proposed Bylaw and amend the Delegations Manual:
- a. Council staff will complete design input and publication of a paper and online version of the Bylaw.
 - b. Public notices of the adoption of the Proposed Bylaw will be placed in the Otago Daily Times and local papers.
 - c. Submitters will be notified of the resolution of the Council.
 - d. The Delegations Manual will be updated.

ATTACHMENTS

1. Attachment 1 Hearing Panel Report with attachments [7.4.1 - 289 pages]
2. Attachment 2 Proposed Flood Protection Management Bylaw 2022 [7.4.2 - 65 pages]

Hearing Panel recommendations to Otago Regional Council

13 June 2022

1. Introduction and structure of report

This report presents the recommendations of the Hearing Panel to Otago Regional Council in relation to the Proposed Flood Protection Management Bylaw 2022.

Consultation on the reviewed Bylaw was agreed to by Council at its meeting on 23 March 2022. At that meeting a panel of Councillors Kate Wilson and Gretchen Robertson and independent commissioner Allan Cubitt was also appointed to hear submissions and make a recommendation back to Council.

The Flood Protection Management Bylaw 2022 incorporating all the changes recommended for acceptance by Council is attached to this report as Attachment 1.

The consultation period ran from 31 March to 2 May. Prior to closure of submissions two parties sought short extensions, which were granted. Three late submissions were also received as outlined below, which the Panel subsequently also accepted. This report presents the decision to accept late submissions (section 2), recommendations on the submissions received (section 3), recommendations on additional changes proposed by Council Staff (section 4), and other recommendations made by the Hearing Panel (section 5).

In this report we make reference to three documents prepared by Council Staff (listed below) and attached to this report:

- Summary of Submissions dated 9 May 2022 prepared by Council Staff in response to the submissions received during the public consultation period (Attachment 2);
- "Staff response to Panel requests" document (undated, presented on 19 May 2022 at Deliberations) which presents Council Staff response to questions and clarification sought by the Hearing Panel at the public hearing on 13 May 2022 (Attachment 3); and
- "Staff response to Panel requests #2 - deliberations" document (2 June 2022) which presents Council Staff response to questions and clarification sought by the Hearing Panel at the deliberations session on 19 May 2022 (Attachment 4) as amended to correct an error

2. Acceptance of late submissions

Three submissions were received after the close of submissions, without the prior approval of the Hearing Panel. We confirm that we accept the following late submissions:


- 20 – Leigh Griffiths, Environment Canterbury
- 22 – Colin Brown, Taieri Trails Trust
- 23 – Ian Bryant, IH & DJ Bryant


3. Recommendations on submissions received

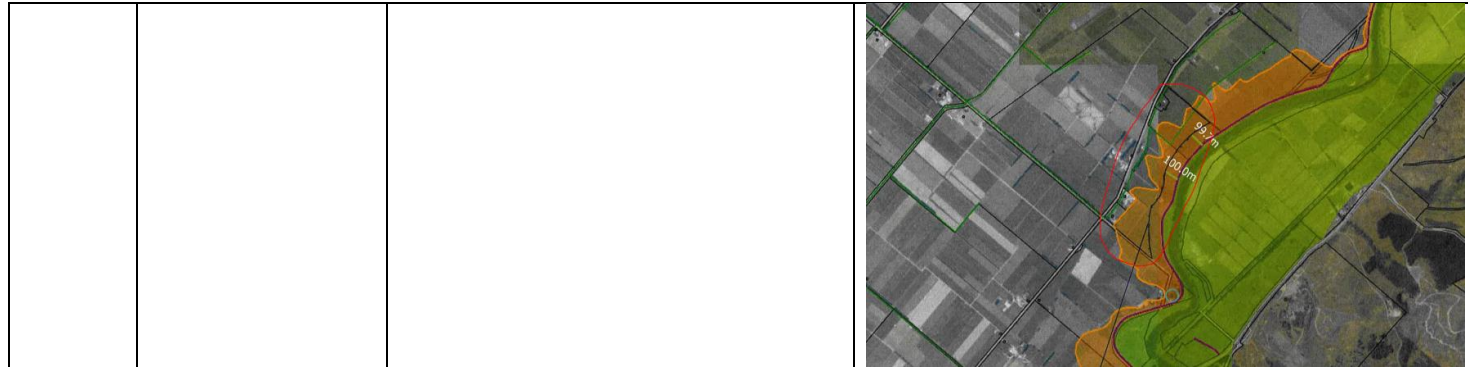
We have worked through the submissions in the order they were presented in the Summary of Submissions report (ordered by topics), followed by additional amendments to the Bylaw proposed by Council Staff in the Summary of Submissions report.

Recommendations on submissions

Topic: Amendments to schedules and submissions relating to specific locations

Submitter number	Name	Overall Hearing Panel recommendation	Resultant changes to the Proposed Bylaw
4	Colin Scurr, Taurima Farms	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 6-8) is adopted. 	<ul style="list-style-type: none"> None-except staff are seeking a legal opinion on the status of the Contour Chanel
5	Kirk Pritchard	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (page 8) is adopted. 	<ul style="list-style-type: none"> The Second Schedule be amended to remove the Defence Against Water on 12, 14, 16, 18 and 20 Orchard Drive (shown highlighted in yellow in image below). 
7	Submitter 7	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 8-9) is adopted. 	<ul style="list-style-type: none"> None – this was beyond the scope of the bylaw review, and the suggestion could not be considered in time for inclusion in the review. Staff will follow up with the submitter the proposal.

10	J.K. Miller, Maungatua Dairies Ltd	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 10-11) is adopted. 	<ul style="list-style-type: none"> None- except staff are seeking a legal opinion on the status of the Contour Chanel
11	Dainel Lyders, P R Lyders Trust	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 11-12) is adopted. 	<ul style="list-style-type: none"> The Second Schedule be amended to remove the Defence Against Water adjacent to the property owned by P R Lyders Trust (shown highlighted in yellow in image below). 
23	Ian Bryant, IH & DJ Bryant	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 12-13) has been superseded by an updated comment in the "Staff response to Panel requests" document and the original Staff Comment is not adopted. The updated Staff Comment presented in paragraphs 31 and 32 (deletion of excavation sensitive area) of the "Staff response to Panel requests" document is adopted. 	<ul style="list-style-type: none"> Based on previous advice in the Tonkin + Taylor report the Second Schedule be amended to reduce the Excavation Sensitive Area on the IH & JD Bryant property to the black line (shown circled in red in image below).



Topic: Public access and trails on floodbanks

Submitter number	Name	Hearing Panel recommendations	Resultant changes to the Proposed Bylaw
6	Brian Peat, Taieri Plains Environmental Trails Group	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 14-16) is adopted. 	<ul style="list-style-type: none"> None- but the advice is noted that a policy is to be developed for council on public access to flood and drainage infrastructure
12	Lindsay Dey, Dunedin Tracks Network Trust	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 16-17) is adopted. 	<ul style="list-style-type: none"> None- but the advice is noted that a policy is to be developed for council on public access to flood and drainage infrastructure
22	Colin Brown, Taieri Trails Trust	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 17-19) is adopted. 	<ul style="list-style-type: none"> None- but the advice is noted that a policy is to be developed for council on public access to flood and drainage infrastructure

Topic: Planting of vegetation and ecological effects

Submitter number	Name	Hearing Panel recommendations	Resultant changes to the Proposed Bylaw

1	Alan Cutler	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 20-21) is adopted. 	<ul style="list-style-type: none"> None
8	Craig Simpson, Watershed Solutions Ltd	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 21-23) is adopted. 	<ul style="list-style-type: none"> None -noting that the submitter could apply for a programme of work that could alleviate the need for multiple applications, and that there are provisions to waiver costs on suitable applications.
21	Nicole Foote, NZ Landcare Trust	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 23-26) is adopted. We recommend the powerpoint presented by Ms Foote be provided to Council to consider, outside of this bylaw review process. 	<ul style="list-style-type: none"> None – noting that the submitter could apply for a programme of work that could alleviate the need for multiple applications, and that there are provisions to waiver costs on suitable applications.
25	Open Valley Urban Ecosanctuary	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 26-30) is adopted. 	<ul style="list-style-type: none"> None - noting that the submitter could apply for a programme of work that could alleviate the need for multiple applications, and that there are provisions to waiver costs on suitable applications.

Topic: Specific provisions

Submitter number	Name	Hearing Panel recommendations	Resultant changes to the Proposed Bylaw
14	Emma Peters, Sweep Consultancy Ltd	<ul style="list-style-type: none"> The Staff Comments numbered 1 and 2 presented in the Summary of Submissions (pages 30-31) is adopted. 	<ul style="list-style-type: none"> Remove the phrase 'allow to grow' from 3.1(c), 3.2(c), 3.3(c), 3.4(c) and 3.5(b). Clause 5.3(a) and and clause 6.1(b)(ii)(2) to be extended to 20 working days.

		<ul style="list-style-type: none"> The Staff Comments numbered 3 and 4 (extension of objection periods) presented in the Summary of Submissions (pages 31-32) has been superseded by an updated comment in the “Staff response to Panel requests” document and the original Staff Comment is not adopted. The updated Staff Comment presented in paragraphs 21-30 (extension of objection period) of the “Staff response to Panel requests” document is adopted. 	<ul style="list-style-type: none"> Amend definition of “earthworks” to exclude filling, such that it says: <i>“Earthworks means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring or excavation of earth (or any matter constituting the land including soil, clay, sand and rock)”</i>.
15	Steve White, Thorndale Farm Ltd	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd. 	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd.
16	Charlotte Young	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd. 	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd.
17	Charlotte Farming Trust	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd. 	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd.
18	Grasslands Farm Ltd	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd. 	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd.
19	Jason Coutts	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd. 	<ul style="list-style-type: none"> Same as response to submission 14 by Ms Peters, Sweep Consultancy Ltd.
9	Kevin Wood, University of Otago	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 34-41), except for the response to point 5, is adopted. 	<ul style="list-style-type: none"> Remove the phrase ‘allow to grow’ from 3.1(c), 3.2(c), 3.3(c), 3.4(c) and 3.5(b). Amend definition of cultivation to say: <i>“Cultivation means the alteration or disturbance of land (or any other matter constituting land</i>

		<ul style="list-style-type: none"> • The updated Staff Comment presented in paragraphs 6-20 of the “Staff response to Panel requests” document is adopted. • The updated Staff Comment presented in paragraphs 27-29 of the “Staff response to Panel requests #2 - deliberations” document is adopted. 	<p><i>including soil, clay, sand and rock) to a depth of no more than 300 millimetres below the existing ground surface for the purpose of sowing, growing or harvesting of pasture, crops, or domestic gardening. Cultivation does not include the planting of trees, shrubs or hedges.”</i></p> <ul style="list-style-type: none"> • Amend the location of the Leith Lindsay defence against water mapped line so that it is along the rivers. • Amend the definition of defence against water to say: <i>“Defence against water means any defence against water shown in the Second Schedule. The beds of the Water of Leith and Lindsay Creek and associated flood protection structures are defences against water. The locations of the Water of Leith and Lindsay Creek are marked in blue in the Second Schedule.</i> • Amend the map legend description in the Leith Lindsay map from “Floodbank” to “Leith Lindsay Defence Against Water”. • Note staff advise that the University can apply for a work programme to alleviate the need for multiple applications
13	Oliver Hornbrook	<ul style="list-style-type: none"> • The Staff Comments numbered 1-6 and 8-36 presented in the Summary of Submissions (pages 41-48) are adopted. • The Staff Comments numbered 6 (italicising terms in definition in purpose), 7 (removal of definition in purpose) 26 (replacing “approval” with “authority”), 27 (italicising “authority”), 29 (in part - italicising “authority”), 30 (in part - 	<ul style="list-style-type: none"> • Add “4.2 Floodways... 16” to table of contents. • Add full stop to Fourth Schedule definition. • Replace two references to “Otago Regional Council” (clauses 1.0 and 3.0) with “Council” • Capitalise ‘W’ in ‘where’ in clause 2.0 • Add definition of ‘authorised access’ to clause 2.0: <i>“Authorised access means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised under this Bylaw.”</i>

		<p>italicising “authority”) and 35 (replacing “approval” with “authority”) have been superseded by updated comments in the “Staff response to Panel requests #2 – deliberations” and the original Staff Comment is not adopted (however Council Staff have confirmed the recommendations in these points relating to italicisation have been carried forward to the term “approval”).</p> <ul style="list-style-type: none"> • The updated Staff Comment presented in paragraphs 14 – 15 (definition in purpose) of the “Staff response to Panel requests #2 - deliberations” document are adopted. 	<ul style="list-style-type: none"> • Add clarity that the definition of drain is used only in clause 3.3. • Delete reference to “scheduled drain” from the “drain definition”. • Amend the definition of “scheduled drain” to: <i>“Scheduled drain means any drain or river shown as a Scheduled drain in the First Schedule”</i>. • Remove the phrase ‘allow to grow’ from 3.1(c), 3.2(c), 3.3(c), 3.4(c) and 3.5(b). • Italicise “structure” in clause 3.2(e). • Replace “access authorised maintenance” in clause 3.4(f) with “authorised access maintenance”. • Amend clause 3.4(g)(ii) by removing erroneous space at the beginning of “ within” • Remove the entire paragraph beginning “Note:” in clause 3.5. • Amend clause 4.1 to state: “The owner of every structure impacted by clauses 3.1 to 3.4...” • Correct formatting in clause 5.3(b)(i) • Italicise reference to “Council”.
24	Eleanor Linscott, The Federated Farmers of New Zealand	<ul style="list-style-type: none"> • The Staff Comment numbered 8 – 11, 13 – 26 and 28 presented in the Summary of Submissions (pages 48-56) are adopted. • The Staff Comments numbered 12 and 25 (replacing “approval” with “authority” in the application form; consistency of terminology in clause 5.1) have been superseded by the proposed use of the term 	<ul style="list-style-type: none"> • Remove the phrase ‘allow to grow’ from 3.1(c), 3.2(c), 3.3(c), 3.4(c) and 3.5(b). • Amend the grammar in clauses 3.1(c)(ii) and 3.1(d)(ii) to say: <i>“on, or within seven metres of the top of, any scheduled drain”</i>. • Replace ‘access authorised maintenance’ in clause 3.4(f) with ‘authorised access maintenance’. • Remove the entire paragraph beginning ‘Note:’ in clause 3.5.

		<p>“approval”; and 27 (stating the period to make a submission on a revocation is 15 working days) has been superseded by the proposal to make the submission period 20 working days. As such, these points have not been adopted.</p> <ul style="list-style-type: none"> The updated Staff Comment presented in paragraphs 22-25 (objection period) of the “Staff response to Panel requests” document is adopted. 	<ul style="list-style-type: none"> Clause 5.3(a) and and clause 6.1(b)(ii)(2) to be extended to 20 working days.
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Topic: Targeted Rates

Submitter number	Name	Hearing Panel recommendations	Resultant changes to the Proposed Bylaw
2	Peter Whitlock	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 56-57) is adopted. 	<ul style="list-style-type: none"> None

Topic: Support for Proposed Bylaw with no requested amendments

Submitter number	Name	Hearing Panel recommendations	Resultant changes to the Proposed Bylaw
3	Submitter 3	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (pages 57-58) is adopted. 	<ul style="list-style-type: none"> None
20	Leigh Griffiths, Environment Canterbury	<ul style="list-style-type: none"> The Staff Comment presented in the Summary of Submissions (page 58) is adopted. 	<ul style="list-style-type: none"> None

4. Recommendations on additional changes proposed by Council Staff

Scheduled drain O6

The Staff Comment presented on page 59 in relation to the removal of scheduled drain O6 is adopted.

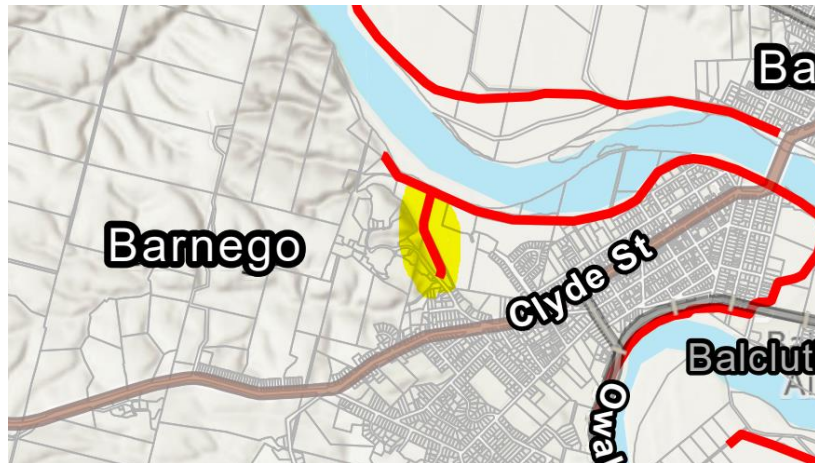
We recommend the First Schedule should be amended to remove the this scheduled drain (shown highlighted in yellow in image below).



Hospital Creek floodbank

The Staff Comment presented on page 60 in relation to the removal of the Hospital Creek floodbank is adopted.

We recommend the Second Schedule be amended to remove this floodbank (shown highlighted in yellow in image below).



5. Other recommendations made by the Hearing Panel

Use of term "authorised"

The Staff Comment presented in paragraphs 40 – 41 of "Staff response to Panel requests" has been superseded and is **not** adopted.

The updated Staff Comment presented in paragraphs 6 – 10 of the "Staff response to Panel requests 2- deliberations" document are adopted.

We recommend the word "authority" when referencing a Bylaw application approval is changed to "approval" throughout the Proposed Bylaw.

Definition of "owner"

The Staff Comment presented in paragraphs 11- 13 of the "Staff response to Panel requests #2- deliberations" document are adopted.

We recommend the definition of "owner" be amended to:

"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, and includes the owner of the fee simple of the land."

Definition of flood protection works in the purpose statement

The Staff Comment presented in paragraphs 14 - 15 of the "Staff response to Panel requests #2 - deliberations" document are adopted.

We recommend the definition be deleted from the purpose statement.

Use of terms "rule" and "clause" throughout the Proposed Bylaw

The Staff Comment presented in paragraphs 16 -17 of the "Staff response to Panel requests #2 - deliberations" document are adopted.

We recommend the term "clause" is used throughout the document.

Amendments to diagrams in Appendix One

The Staff Comment presented in paragraphs 18 - 19 of the "Staff response to Panel requests #2 - deliberations" document are adopted.

We recommend the diagrams are amended as copied below:

Figure 1: Scheduled drains and overland flow paths

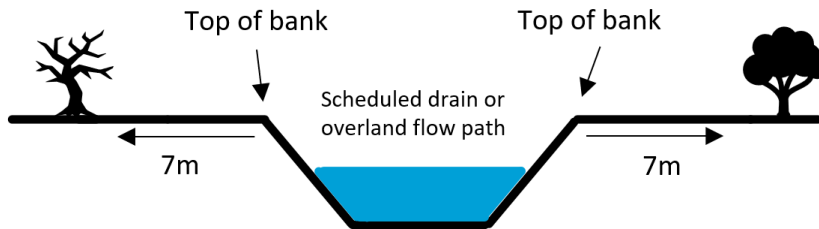


Figure 2: Defences against water - floodbank

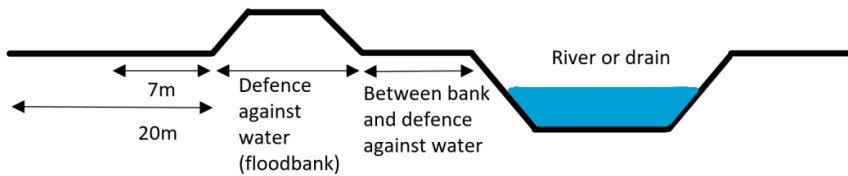
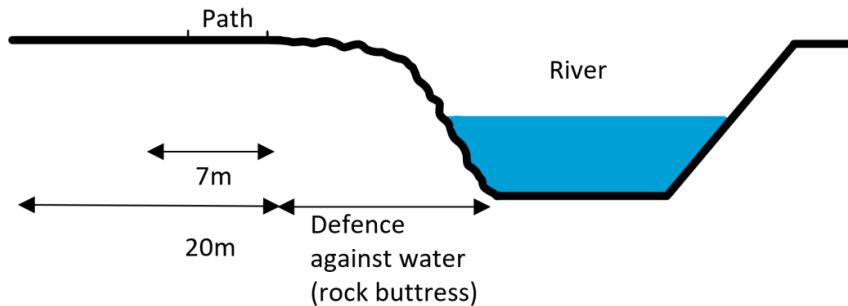


Figure 3: Defences against water – rock buttress



Requirement to provide reasons for objections

The Staff Comment presented in paragraphs 20 - 21 of the "Staff response to Panel requests #2 - deliberations" document are adopted.

We recommend the wording of clause 5.3(a) be amended to say:

"Any person who applies for approval under this Bylaw, within 20 working days of receiving any decision or approval in relation to this Bylaw, may object in writing to the Council in regard to that decision or approval. Objections to a decision or approval are limited to a refusal of

the approval or the conditions placed on the approval and must state the reasons for the objection.”

Use of term “groynes” in definitions

The Staff Comment presented in paragraphs 22 - 24 of the “Staff response to Panel requests #2 - deliberations” document are adopted.

We recommend the use of the term “groynes” in the definition be changed to refer to “groyne”.

Minor wording amendment

The Staff Comment presented in paragraphs 25 - 26 of the “Staff response to Panel requests #2 - deliberations” document are adopted.

We recommend the word “respects” be replaced with “matters” in clause 6.1(b)(i).

6. Hearing Panel Recommendation

Having considered all submissions received we resolve to recommend to Otago Regional Council that the Flood Protection Management Bylaw 2012 be replaced with the proposed Flood Protection Management Bylaw 2022 in Attachment 1 to this report.

Dated this 13th day of June 2022



Kate Wilson
Otago Regional Councillor
Chair of Hearing Panel



Gretchen Robertson
Otago Regional Councillor
Member of Hearing Panel

A handwritten signature in black ink, appearing to read "Allan Cubitt". The signature is written in a cursive style with a small mark above the 'i'.

Allan Cubitt
Independent Panel Member

ATTACHMENT 1

Flood Protection Management Bylaw 2022 – For approval by Council

For approval

Chairperson's Foreword

This page has deliberately been left blank. The Chairperson's Foreword will be inserted at a later date.

For approval

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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.

Appendix One

Flood Protection Management Bylaw, 2022

3

Diagrams referencing Activities requiring Bylaw Approval

Appendix Two

Bylaw Approval Application Form.

For approval

FLOOD PROTECTION MANAGEMENT BYLAW 2022

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 2022.

Commencement

This Bylaw shall come into force on the [date] 2022.

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 *Council*.

This Bylaw 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*.

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

Authorised access means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised 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) to a depth of no more than 300 millimetres below the existing ground surface for the purpose of sowing, growing or harvesting of pasture, crops or domestic gardening. Cultivation does not include the planting of trees, shrubs or hedges.

Defence against water means any defence against water shown in the Second Schedule. The beds of the Water of Leith and Lindsay Creek and associated flood

protection structures are defences against water. The locations of the Water of Leith and Lindsay Creek are marked in blue in the Second Schedule.

Drain, in clause 3.3 Floodways, means any 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.

Earthworks means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring 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.

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.

Groyne 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, and includes the owner of the fee simple of the land.

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 as a Scheduled drain 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.

For approval

3.0 ACTIVITIES REQUIRING BYLAW APPROVAL

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 *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 clauses 3.1 and 3.2.

3.1 Scheduled Drains and Overland Flow Paths

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

- a. Alter any *defence against water* except as provided for by clause 3.2 (g);
- b. Remove or interfere with any machinery or equipment relating to any *defence against water*;
- c. Plant 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. 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*;
- 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. within any *excavation-sensitive area*;
- 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;

h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *defence against water*;

i. Carry out any *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* 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 *approval* of the *Council* –

- a. Alter any *floodway* except as provided for by clauses 3.3 (e) and (g);
- b. Remove or interfere with any machinery or equipment relating to any *floodway*;
- c. Plant 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 *drains* undertaken in accordance with clause 3.3 (g);
- f. Obstruct any *floodway*;
- g. Carry out any *earthworks* in any *floodway*, excluding maintenance of *drains*;
- h. Connect any pipe, channel or other conduit to the Hilderthorpe or Hendersons and Waikoura Creeks floodways.

3.4 Groynes, Cross-banks and Training Lines

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

- a. Alter any *groyne cross-bank* or *training line*
- b. Remove or interfere with any machinery or equipment relating to any *groyne cross-bank* or *training line*
- c. Plant any tree, shrub, hedge or part thereof
 - i. on any *groyne, 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, cross-bank* or *training line*, or
 - ii. within seven metres of any *groyne, cross-bank* or *training line*;
- e. Remove or alter any *structure*
 - i. in, on, over, through or under any *groyne, cross-bank* or *training line*, or
 - ii. within seven metres of any *groyne, cross-bank* or *training line*;
- f. Dump or deposit any thing on, or within fifty metres of any *groyne, cross-bank* or *training line*; excluding materials for the purpose of authorised access maintenance;
- g. Carry out any *earthworks*
 - i. in, on, through or under any *groyne, cross-bank* or *training line*, or
 - ii. within fifty metres of any *groyne, cross-bank* or *training line* unless the earthworks relate to *cultivation*, or
 - iii. between the bank of any river and associated *groyne, cross-bank* or *training line*;
- h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *groyne, cross-bank* or *training line*.

3.5 Flood Protection Vegetation

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

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

For approval

4.0 ACTIVITIES REQUIRED TO BE UNDERTAKEN

4.1 Structures

The *owner* of every *structure* impacted by clause 3.1 to 3.4 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 APPROVAL

5.1 Approval

- a. An application to the *Council* for *approval* under this Bylaw shall be made in accordance with the Bylaw Approval Application Form (Appendix Two) and be accompanied by the prescribed fee;
- b. Any *approval* under this Bylaw may be granted on such conditions as the *Council* considers appropriate. When considering applications for *approval*, 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 approval
 - Water quality
- c. If *Council* refuses an application for *approval*, the *Council* shall give written reasons for that decision.
- d. Every person to whom an *approval* is granted shall produce that *approval* 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 *approval* 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 *approval* under this Bylaw, within 20 working days of receiving any decision or *approval* in relation to this Bylaw, may object in writing to the Council in regard to that decision or *approval*. Objections to a decision or *approval* are limited to a refusal of the *approval* or the conditions placed on the *approval* and must state the reasons for the objection.
- b. The *Council* may uphold, amend or rescind the decision or *approval*, and in making its determination must have regard to:
 - i. the evidence on which the decision or *approval* 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.

For approval

6.0 COMPLIANCE AND ENFORCEMENT

6.1 Revocation of Approval

- a. The *Council* may, in accordance with this clause, revoke any *approval* granted under this Bylaw, if the holder of the *approval* contravenes or fails to comply with any condition of the *approval*.
- b. Subject to 6.1(d), before revoking any *approval*, the *Council* shall give written notice to the holder of the *approval* that the *Council* may revoke the *approval* which:
 - i. sets out the matters in which the holder has contravened or failed to comply with any condition of the *approval*; and
 - ii. 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 *approval* 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 20 working days, a written submission to the *Council* setting out reasons why the *approval* 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 *approval*.
- d. *Council* may revoke *approval* 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 *approval* under clause 6.1(d).

6.2 Offence

- a. Every person commits an offence against this Bylaw who -
 - i. Commits a breach of clauses 3 or 4 of this Bylaw;
 - ii. Causes or permits to be done anything in contravention of clauses 3 or 4 of this Bylaw;

- iii. Omits to do anything required by this Bylaw or the conditions of the relevant *approval*;
 - 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 clauses 3 or 4, or the conditions of the relevant *approval*, 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 *approval*, 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 – Scheduled 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

FOR approval

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

FOR approval

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.

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.

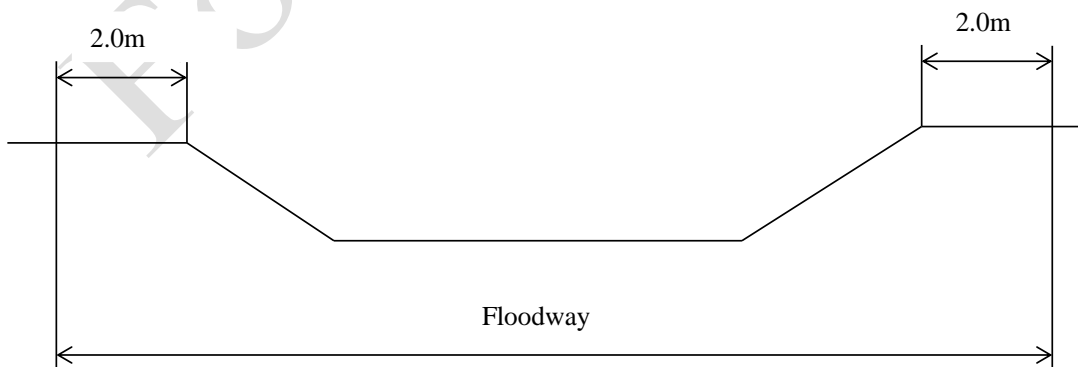
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

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.



Fourth Schedule – Groynes, Cross-Banks, Training Line and Flood Protection Vegetation

Maps of groynes, cross-banks, training line 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,
Shotover River Training Line and Flood Protection Vegetation

For approval

Appendix One: Diagrams referencing Activities requiring Bylaw Approval

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

Figure 1: Scheduled drains and overland flow paths

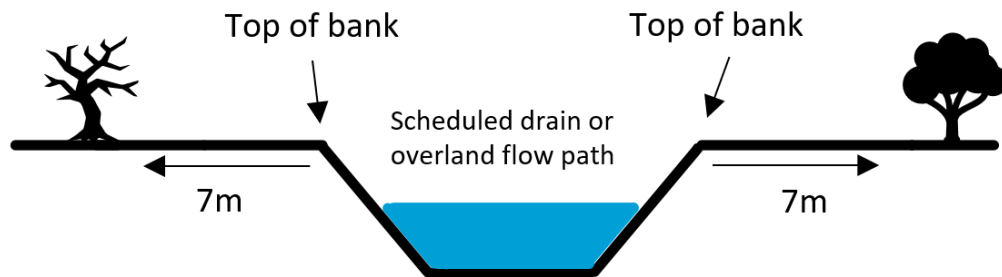


Figure 2: Defences against water - floodbank

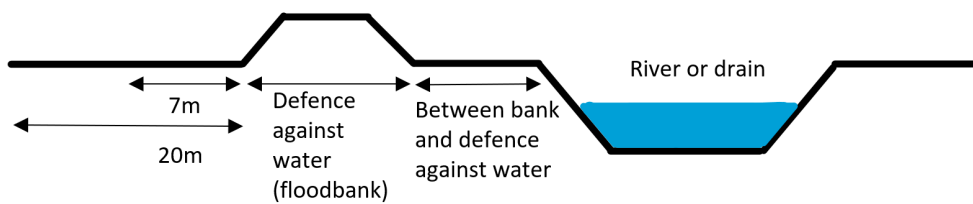
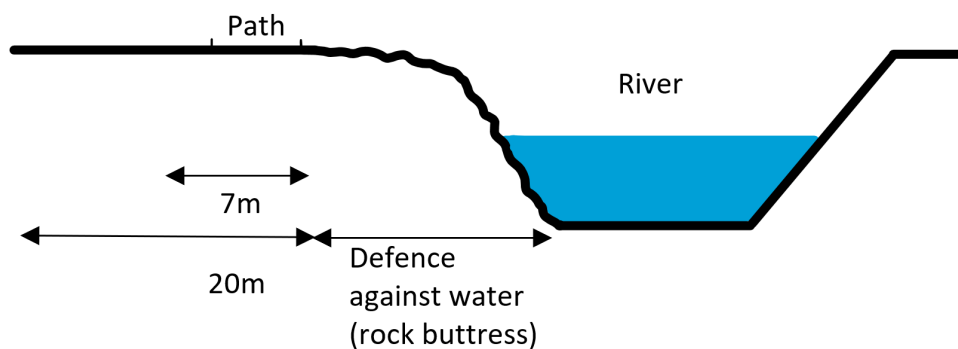


Figure 3: Defences against water – rock buttress



Appendix Two: Bylaw Approval Application Form

For approval

Bylaw Approval Application Form



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 _____

Mobile _____

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 Approval relates

Property Address _____

Legal description: _____

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

3. Clause(s) of the Bylaw to which this Approval relates

Bylaw Authority Application Form



4. Diagram of Location of Proposed Works

Please provide a diagram of the property below, detailing where the works are proposed to occur and other relevant diagrams (e.g. cross-section). If possible please also provide photos of the location.

A large, empty rectangular box intended for the applicant to draw a diagram of the property and the location of proposed works. A large, light grey watermark reading "For approval" is oriented diagonally across the box.

5. Description of the Proposed Works

Please describe the proposed works, the reasons for them, when and how they will be undertaken, who will be doing the works, and any other relevant information.

Bylaw Approval Application Form



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 approval 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.

ATTACHMENT 2

Otago Regional Council
Flood Protection Management Bylaw
Review

Summary of Submissions

9 May 2022



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1. Readers Guide

This document is a summary of the 25 submissions received in response to public consultation on the Otago Regional Council (ORC) Proposed Flood Protection Management Bylaw (Proposed Bylaw).

The summary of engagement is described in section 2 of this report.

In section 3 of this report, every submitter has been allocated a submitter number and whether they wish to be heard in the hearing is identified. The submissions have been split into those submissions received on time, those submissions received late with an extension having been granted by the Hearing Panel prior to their late submission, and late submissions which the Hearing Panel has not yet considered.

Section 4 presents a summary of the submissions and Council staff comment on each submission. This section is ordered according to broad submission topics (rather than submitter number) to allow for similar submissions to be addressed in a group.

In section 5 of this report, two changes for consideration by the Hearing Panel are also sought by ORC staff to the maps in the First and Second Schedules.

This report has been prepared by Josie Burrows (Environmental Planner, Beca Ltd) with assistance and input from Council staff.

2. Engagement Activity Summary:

Council resolved on 23 March 2022 to approve the Proposed Flood Protection Management Bylaw for public consultation.

A website was set up containing all relevant information (<https://yoursay.orc.govt.nz/flood-bylaw-review>) and copies of the Summary of Proposal, Statement of Proposal and hard copy consultation forms were made available at ORC and district council offices, libraries and service centres around the region.

A media release and several social media updates were released. Letters were sent to landowners and emails sent to mana whenua and key stakeholders. Staff were available to respond to queries during the consultation period.

The submission period ran between 31 March 2022 through until 12pm on Monday 2 May 2022. During this consultation period submissions were able to be made through the website via a Have Your Say portal (<https://yoursay.orc.govt.nz/flood-bylaw-review>), email address (floodbylawreview@orc.govt.nz and floodbylaw@orc.govt.nz), freepost and hand delivery.

A total of 25 submissions on the Proposed Bylaw were received. Twenty submissions were received within the submission period, two submissions were received after the close of submissions with the

prior agreement of the Hearing Panel. Three other submissions were received after the close of submissions.

3. Submitter Details

The following submissions shown in Table 1 were received within the submission period. Two submissions are referred to by submitter number rather than their name, due to privacy reasons.

Table 1: Submissions received within the submission period

Submitter #	Contact name/Organisation	Wishes to be heard
1	Alan Cutler	No
2	Peter Whitlock	Yes
3	Submitter 3	No
4	Colin Scurr, Taurima Farms	No
5	Kirk Pritchard	No
6	Brian Peat, Taieri Plains Environmental Trails Group	Yes
7	Submitter 7	To be confirmed
8	Craig Simpson, Watershed Solutions Ltd	Yes
9	Kevin Wood, University of Otago	Yes
10	J K Miller, Maungatua Dairies Ltd	Yes
11	Daniel Lyders, P R Lyders Trust	No
12	Lindsay Dey, Dunedin Tracks Network Trust	Yes
13	Oliver Hornbrook	No
14	Emma Peters, Sweep Consultancy Ltd	Yes
15	Steve White, Thorndale Farm Ltd	No
16	Charlotte Young	Yes
17	Charlotte Farming Trust	No
18	Grassyards Farm Ltd	No
19	Jason Coutts	Yes
21	Nicole Foote, NZ Landcare Trust	Yes

The following submissions shown in Table 2 were received after the close of submissions with the prior approval of the Hearing Panel.

Table 2: Submissions received after the close of submissions with the prior approval of the Hearing Panel

24	Eleanor Linscott, Federated Farmers of New Zealand	No
25	Open VUE	To be confirmed

The following submissions shown in Table 3 were received after the close of submissions.

Table 3: Submissions received after the close of submissions

20	Leigh Griffiths, Environment Canterbury	No
22	Colin Brown, Taieri Trails Trust	Yes
23	Ian Bryant, IH & DJ Bryant	Yes

4. Submission Summary by topic

All submitters have been allocated a submitter number (see details in section 3) and the full submissions are provided in Appendix 1 of this report. This section responds to the matters in each submission individually, or where submissions are very similar it refers to the comments made on the first of that similar submission.

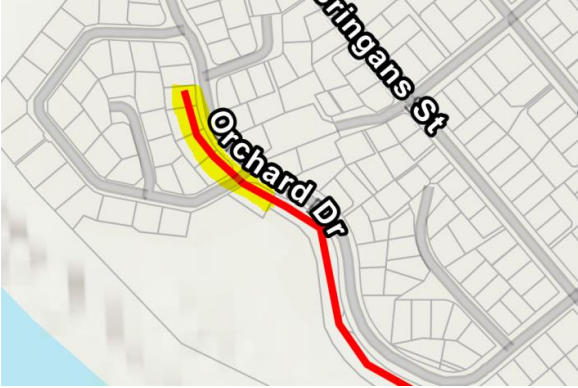
The submissions have been broadly categorised into topics to allow for similar submissions to be addressed together. The submissions have been categorised into one of the following topic areas:

- Amendments to schedules and submissions relating to specific locations
- Public access and trails on floodbanks
- Planting of vegetation and ecological effects
- Specific provisions
- Targeted rates
- Support for Proposed Bylaw with no requested amendments

An amended Proposed Bylaw (track changes) addressing the submission comments and snips of the Schedule maps to be updated is provided in Appendix 2 and Appendix 3 to this report for the Hearing Panel’s reference.

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
4	Colin Scurr, Taurima Farms	<p>Taurima Farms consider the Contour Channel on the West Taieri should be added to the First Schedule (Scheduled Drains) of the Proposed Bylaw.</p> <p>They consider that the Contour Channel is an artificial drain that is vital for the drainage and flood protection of the West Taieri, and that ORC staff need to have the</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>The Contour Channel is currently not identified in the First Schedule of the Proposed Bylaw, however the adjacent floodbank(s) and excavation sensitive area are identified in the Second Schedule, and the Otokia Floodway and Miller Road Floodway are identified in the Third Schedule.</p>


Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
		<p>right to maintain the capacity of the channel without getting resource consent.</p> <p>They state that ORC staff have previously advised landowners that they cannot remove gravel in the channel below the water level, which they consider results in the channel invert not being maintained.</p>	<p>The Contour Channel is understood to be a natural waterbody (not an artificial drain as put forward by Taurima Farms) and classified as a 'river' under the Resource Management Act by the ORC regulatory team. As such, any works in the Contour Channel require assessment under the relevant regional plan rules, and resource consent if any permitted activity rules cannot be complied with.</p> <p>ORC Engineering are seeking a global resource consent for river management and vegetation control activities, including gravel extraction, and are now looking to include the Contour Channel in that application for resource consent.</p> <p>Adding the Contour Channel to the First Schedule will not change its status as a 'river' under the Resource Management Act, and assessment under the regional plan rules/resource consent would still be required to undertake any maintenance works regardless of whether the Contour Drain is identified in the First Schedule.</p> <p>The Contour Channel is not identified as a Scheduled Drain in the ORC asset management system, and Council staff consider that the adjacent floodbanks (defences against water) and floodways are appropriately managed, regulated and protected by the provisions in the Proposed Bylaw.</p>

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
			OVERALL STAFF COMMENT: No further action required.
5	Kirk Pritchard	<p>Mr Pritchard's submissions states that the location of the Alexandra Defence Against Water has been incorrectly placed over five houses on Orchard Drive (12, 14, 16, 18 and 20 Orchard Drive) in the Second Schedule.</p> <p>Mr Pritchard considers the line should be removed from this location.</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>Council staff agree that the Alexandra Defence Against Water has been incorrectly placed over the properties at 12, 14, 16, 18 and 20 Orchard Drive.</p> <p>OVERALL STAFF COMMENT: The Second Schedule be amended to remove the Defence Against Water on those properties (as shown highlighted yellow in the image below).</p> 
7	Submitter 7	Submitter 7's submission relates to a scheduled drain (identified as drain A3) which, in its current configuration, restricts	Council thanks the submitter and acknowledges the submission.

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
		<p>the flow of water and in their opinion puts the adjacent properties at risk of flooding.</p> <p>The submission explains observations of the March 2018 flooding event at that location, and then proposes an alternate configuration of the scheduled drain which they consider would reduce flooding risk in this area.</p>	<p>The submission relates to potential changes to the configuration of the scheduled drain network.</p> <p>If to be addressed within the bylaw review process, a full review of the existing flood risks, potential consequences and priority of the proposal would need to be completed to ensure that it is appropriate.</p> <p>We consider that it would be more appropriately addressed outside of the bylaw review process as the assessment of these matters cannot be undertaken in the timeframe associated with the bylaw review.</p> <p>If, following an assessment of the proposal, ORC agree that a change to the scheduled drain configuration in this area is appropriate, the works can be undertaken (subject to any required authorisations) and changes to the First Schedule (scheduled drains) maps can be amended at a later date.</p> <p>As such, this submission will be passed to Commercial & Regulatory Team (Neil Shearer and Alison Weaver), who will contact Submitter 7 about their submission to discuss it further (subject to Hearings Panel agreement).</p> <p>OVERALL STAFF COMMENT: No further action required with respect to the Proposed Bylaw at this stage.</p>

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
10	J. K. Miller, Maungatua Dairies Ltd	<p>Maungatua Dairies submit to allow for the maintenance of the Contour Channel through the taking of gravel deposits.</p> <p>The submission describes that the Contour Channel is not a natural waterway and describes that it was constructed in the early 1900s by horse and cart. The channel intercepts runoff from the various steep stream on the Maungatua Range and conveys this to the Waipori River, with several spillways built into the floodbank to allow for controlled spills.</p> <p>Maungatua Dairies Ltd describe that the profile of the channel promotes concentration of overtopping during flood events, which can lead to relatively rapid floodbank failure. Failure could potentially inundate 7,300ha of highly productive agricultural land and Dunedin International Airport. The submission reflects on a failure of the floodbank during the 1980 flood which resulted, most notably, in the Airport being underwater for six weeks.</p> <p>The submitter describes that the steep creek on their property brings varying quantities of gravel downstream. If the</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>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 is comfortable that the provisions of the Proposed Bylaw will effectively manage, regulate and protect the effective operation and integrity of the flood protection works.</p> <p>We note that the Contour Channel is understood to be a natural waterbody (not an artificial drain as put forward by Maungatua Dairies Limited) and classified as a 'river' under the Resource Management Act by the ORC regulatory team. As such, any works in the Contour Channel require assessment under the relevant regional plan rules, and resource consent if any permitted activity rules cannot be complied with.</p> <p>ORC Engineering are seeking a global resource consent for river management and vegetation control activities, including gravel extraction, and are now looking to include the Contour Channel in that application for resource consent.</p> <p>OVERALL STAFF COMMENT: No further action required with respect to the Proposed Bylaw.</p>

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
		<p>gravel is not removed from the streams weir and gravel trap, it causes a bottleneck and continues to accumulate, resulting in water ponding upstream and flowing over the spillway above Miller Road (rather than flowing into the Waipori River. The submission reflects on the 2006 rainfall event when this occurred).</p> <p>They conclude that if maintenance of the flood protection scheme is not completed, then land in the area will be flooded unnecessarily, causing significant costs to landowners.</p>	
11	Daniel Lyders, P R Lyders Trust	<p>P R Lyders Trust submission advises that there are floodbanks identified in the Second Schedule that are not an ORC asset.</p> <p>The submission relates to the Meggatburn floodbanks located adjacent to property owned by P R Lyders Trust and references a court case which determined that the banks were not an ORC asset because Council had not built or ever done any work on the said banks.</p> <p>P R Lyders Trust considers that the Meggatburn floodbank at the</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>The Proposed Bylaw maps were updated as part of the bylaw review but did not remove all the floodbank in question from the property. Council staff agree with the submission of P R Lyders Trust and consider that the referenced portion of the Meggatburn floodbank should be removed from the Second Schedule).</p> <p>STAFF COMMENT: The Second Schedule be amended to remove the Defence Against Water on those properties (as shown highlighted yellow in image below).</p>

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
		aforementioned location should be removed from the Second Schedule.	
23	Ian Bryant, IH & DJ Bryant	<p>IH & DJ Bryant submission requests the Excavation Sensitive Area boundaries as it relates to their property are amended.</p> <p>They advise that the outer border of the zone was based on a desktop analysis, whereas a later report based on fieldwork showed minimal risk of piping under the floodbanks on their property.</p> <p>They consider a more acceptable boundary would be a uniform 100m from the floodbank, rather than the current extent which is up to 1km from the floodbank.</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>Council staff have reviewed the Proposed Bylaw schedules and identified the extent of the excavation sensitive area on IH & DJ Bryant's property. It does not appear to be 1km from the floodbank, but closer to 300m.</p> <p>Excavation sensitive areas are those areas where if excavation is undertaken there is increased risk of seepage and piping (internal erosion) to the floodbanks.</p> <p>This submission has been sent to the relevant engineering experts who have, on initial review, advised an excavation sensitive zone that extends up to 1km would be unreasonable. They have advised that 100m may be reasonable, depending on the site-specific conditions.</p>

Topic: Amendments to schedules and submissions relating to specific locations			
Submitter #	Name	Summary of submission	Staff Comment
			<p>This submission was received following the close of submissions and as such we have not have sufficient time to seek site-specific advice regarding whether the extent of the excavation sensitive area at this location should be amended.</p> <p>If to be addressed within the bylaw review process, a full review of the risk to the floodbank from nearby excavation activities would need to be completed to determine the appropriate extent of the zone.</p> <p>We consider that it would be more appropriately addressed outside of the bylaw review process as the assessment cannot be undertaken in the timeframe associated with the bylaw review.</p> <p>If, following an assessment of the submission, ORC agree that a change to the excavation sensitive zone in this area is appropriate, it can be undertaken and changes to the Second Schedule maps can be amended at a later date.</p> <p>As such, this submission will be passed to Commercial & Regulatory Team (Neil Shearer and Alison Weaver), who will contact IH & DJ Bryant about their submission to discuss it further (subject to Hearings Panel agreement).</p> <p>OVERALL STAFF COMMENT: No further action required with respect to the Proposed Bylaw at this stage.</p>

Topic: Public access and trails on floodbanks			
Submitter #	Name	Summary of submission	Staff Comment
6	Brian Peat, Taieri Plains Environmental Trails Group	<p>Taieri Plains Environmental Trails Group consider that the Proposed Bylaw should be amended to allow access to the floodbanks for public use.</p> <p>They state that the public currently use the Silverstream and Taieri floodbanks as cycle and walking trails, and request that this is formalised through the Proposed Bylaw.</p> <p>They also advise that farmers who graze stock on the floodbanks often use vehicles on the floodbanks, and there are numerous road crossings over the floodbanks which are normally gravelled, with one situation near Outram where the farmers regular use heavy trucks on the floodbanks. They note that approvals must have been obtained for these purposes.</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>The power of the Regional Council to make bylaws is contained in s149 of the Local Government Act 2002 (“LGA”). Councils may make bylaws for “flood protection and flood control works undertaken by, or on behalf of, the regional councils” (s149(1(c))).</p> <p>The primary 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. Floodbanks are integral components of the flood management undertaken by ORC and it is of major importance that their function is not compromised.</p> <p>The Proposed Bylaw does not exclude public use of the floodbanks, for example for walking or cycling activities, but nor does it not explicitly allow the use of floodbanks for public use.</p> <p>ORC recognizes that public access to these assets is desired and as such intends to address this matter through the preparation of a policy, as discussed during the Council meeting on 23 March, 2022.</p> <p>It is noted that there are various aspects that need to be worked through to address public access to floodbanks, including but not limited to land</p>

Topic: Public access and trails on floodbanks			
Submitter #	Name	Summary of submission	Staff Comment
			<p>ownership (not all land on which floodbanks are located is owned by ORC), lease agreements between ORC and private parties which do not provide for public access, and maintenance responsibilities that are associated with dedicated trails. Policy and other approaches can allow for consideration of access which is not appropriate in this forum.</p> <p>With respect to the second part of Taieri Plains Environmental Trails Group's submission, the Proposed Bylaw does provide for livestock, vehicles, machinery, and equipment to be used on the floodbanks, provided they do not adversely affect their integrity (clause 3.2(h)).</p> <p>Council staff consider that this is appropriate, as it allows the use of that land for standard farming activities without compromising the flood protection works.</p> <p>With respect to the reference to the construction of gravelled road crossings and use of heavy trucks (if they adversely affect the integrity of the floodbank), it is considered appropriate that Bylaw Authorisations be required. These activities have the potential to adversely affect the integrity and operation of the flood protection works, and as such it is important that they are regulated activities and</p>

Topic: Public access and trails on floodbanks			
Submitter #	Name	Summary of submission	Staff Comment
			<p>adequate assessment of any effects of the proposal can be made prior to any works being undertaken.</p> <p>OVERALL STAFF COMMENT: No further action required with respect to the Proposed Bylaw.</p>
12	Lindsay Dey, Dunedin Tracks Network Trust	<p>Dunedin Tracks Network Trust seek that ORC take an enabling stance with respect to the development of shared trails leading to and running beside waterways, including floodbanks.</p> <p>Further to this they request ORC take an enabling stance allowing access to trail development and biodiversity groups and the commitment to connecting to Trails of Regional Significance, and recognise the safety provided by creating off-road shared paths for the community. They request consideration of creating or setting aside access strips to facilitate public access. considering public access to Outstanding Natural Features and Landscapes on the rivers, and recognizing the value of low carbon commuter, recreational and tourist trails that encourage local vacations. They request that Otago Regional Council work with Iwi, territorial authorities, Department of Conservation, Waka Kotahi and Trail groups to support a regional trail network supporting</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>The power of the Regional Council to make bylaws is contained in s149 of the Local Government Act 2002 (“LGA”). Councils may make bylaws for “flood protection and flood control works undertaken by, or on behalf of, the regional councils” (s149(1(c)).</p> <p>The primary 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. Floodbanks are integral components of the flood management undertaken by ORC and it is of major importance that their function is not compromised.</p> <p>The Proposed Bylaw does not exclude public use of the floodbanks, for example for walking or cycling activities, but nor does it not explicitly allow the use of floodbanks for public use.</p> <p>ORC recognizes that public access to these assets is desired and as such intends to address this matter</p>

Topic: Public access and trails on floodbanks			
Submitter #	Name	Summary of submission	Staff Comment
		<p>social, human, natural and economic capital wellbeing.</p> <p>The submission provides details of the Hawkes Bay Trails group model who are undertaking similar collaborative works.</p>	<p>through the preparation of a policy, as discussed during the Council meeting on 23 March 2022.</p> <p>It is noted that there are various aspects that need to be worked through to address public access to floodbanks, including but not limited to land ownership (not all land on which floodbanks are located is owned by ORC), lease agreements between ORC and private parties which do not provide for public access, and maintenance responsibilities that are associated with dedicated trails. Policy and other approaches can allow for consideration of access which is not appropriate in this forum.</p> <p>OVERALL STAFF COMMENT: No further action required with respect to the Proposed Bylaw.</p>
22	Colin Brown, Taieri Trails Trust	<p>Taieri Trails Trust request the bylaw be amended to allow for greater public access to the Taieri River and Silverstream floodbanks.</p> <p>They also request that the removal of grass surfaces of the floodbanks and replacement with compacted metal be permitted to allow the construction of a hard surface trail, provided that the work has had the design approval of Council Engineers.</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>The power of the Regional Council to make bylaws is contained in s149 of the Local Government Act 2002 ("LGA"). Councils may make bylaws for "flood protection and flood control works undertaken by, or on behalf of, the regional councils" (s149(1(c))).</p> <p>The primary purpose of the Proposed Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by or</p>

Topic: Public access and trails on floodbanks			
Submitter #	Name	Summary of submission	Staff Comment
		<p>The group wishes to construct a safe off-road walking and cycling network which connects the existing Clutha Gold Trail with the Wingatui Tunnel Project, to 'complete the loop' and provide for greater recreational access for locals and tourists. Using the Taieri River and Silverstream floodbanks are a logical means of achieving this trail network.</p>	<p>under the control of the ORC. Floodbanks are integral components of the flood management undertaken by ORC and it is of major importance that their function is not compromised.</p> <p>The Proposed Bylaw does not exclude public use of the floodbanks, for example for walking or cycling activities, but nor does it not explicitly allow the use of floodbanks for public use.</p> <p>ORC recognizes that public access to these assets is desired and as such intends to address this matter through the preparation of a policy, as discussed during the Council meeting on 23 March 2022.</p> <p>It is noted that there are various aspects that need to be worked through to address public access to floodbanks, including but not limited to land ownership (not all land on which floodbanks are located is owned by ORC), lease agreements between ORC and private parties which do not provide for public access, and maintenance responsibilities that are associated with dedicated trails. Policy and other approaches can allow for consideration of access which is not appropriate in this forum.</p> <p>Taieri Trails Trust also request the bylaw permits the construction of a hard surface trail, provided that the</p>

Topic: Public access and trails on floodbanks			
Submitter #	Name	Summary of submission	Staff Comment
			<p>work has had the design approval of Council Engineers.</p> <p>As described above, floodbanks are integral pieces of the flood management undertaken by ORC and it is of major importance that they are not compromised. The construction of hard surface trails could potentially adversely affect the integrity of floodbanks, for example by compromising the structural integrity and the overtopping of flood waters, which could lead to floodbank failure].</p> <p>We agree that any designs should be approved by Council Engineers, and the process for this is via the bylaw application assessment process. We do not consider it appropriate to allow for Council approval of designs outside of the formal bylaw approval process.</p> <p>OVERALL STAFF COMMENT: No further action required with respect to the Proposed Bylaw.</p>

Topic: Planting of vegetation and ecological effects			
Submitter #	Name	Summary of submission	Staff Comment
1	Alan Cutler	<p>Mr Cutler opposes the restrictions placed on the Albert Town Buttress (Defence Against Water) in the Proposed Bylaw.</p> <p>He considers that the recent construction works have destroyed the ecological, aesthetic and natural values of the area. He considers that the Proposed Bylaw cements a “very limited and sterile approach to the river margin and corridor” and reinforces a single engineering approach and failure to protect an Outstanding Natural Feature.</p> <p>Mr Cutler requests that the Proposed Bylaw be amended to enable and advance opportunities for ecological and aesthetic enhancement through plantings on the riverbank.</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>The primary 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.</p> <p>The Proposed Bylaw places restrictions on planting any tree, shrub, hedge or part thereof on the defence against water, within 7m of the landward side of the defence against water or between the bank of the river and the defence against water (Rule 3.2). Smaller plants that are not trees, shrubs or hedges (e.g., grasses or groundcover) can be planted without requiring a Bylaw Authority.</p> <p>The interactions between planting and flood effects are complex, and there are risks that inappropriate planting can adversely affect the integrity and operation of flood protection works, for example by increasing erosion and scour.</p> <p>As such, Council staff consider that it is appropriate that the current provisions (as outlined above) remain, enabling planting of small plants and requiring Bylaw Authority be obtained for larger plantings.</p>

Topic: Planting of vegetation and ecological effects			
Submitter #	Name	Summary of submission	Staff Comment
			<p>Council staff would then have an opportunity to assess the potential risks of planting to the integrity and operation of flood protection works on a case-by-case basis. We add that Council staff are available to provide pre-application advice with respect to appropriate plantings in different locations.</p> <p>With respect to Mr Cutler's comments on the effects of the Albert Town rock buttress works on ecological, aesthetic and natural values, we advise that these are assessed through the consenting process under the Resource Management Act 1991, not under the Proposed Bylaw, which is restricted only to assessing effects on the integrity and operation of the flood protection works.</p> <p>OVERALL STAFF COMMENT: No further action required.</p>
8	Craig Simpson, Watershed Solutions Ltd	Watershed Solutions Ltd state that many of the scheduled drains are straightened channels, full of sediment with eroding banks, where aquatic life is struggling. They request that wider holistic and catchment management approaches, including water quality and biodiversity requirements, are considered while maintaining the flood assets. To do this, they consider that	<p>Council thanks the submitter and acknowledges the submission.</p> <p>Watershed Solutions Ltd comment requesting ORC take a holistic and catchment management approach is acknowledged and ORC is working towards implementing these type of integrated management approaches through mechanisms such as its new Land and Water Plan and its Integrated Catchment Management framework. It is also noted that many</p>

Topic: Planting of vegetation and ecological effects			
Submitter #	Name	Summary of submission	Staff Comment
		<p>communications across Otago Regional Council teams and different stakeholders is required.</p> <p>With respect to the planting restrictions (sections stating you cannot plant ‘any tree, shrub, hedge, or part thereof’), Watershed Solutions Ltd consider an enabling approach should be taken, giving the community information about what they can do as well as what they cannot do, and what could be planted that will not impede flood flows.</p> <p>Watershed Solutions Ltd state that environmental enhancement projects can, and if appropriate should, occur on flood protection lands. Due to funding being tight when these projects are driven by community groups, they request that consideration should be given to waiving bylaw authority application fees.</p>	<p>of the drains are considered as rivers and subject to Resource Management Act processes.</p> <p>However, we note that 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, and at this stage this remains its primary focus. As such, any changes to the Proposed Bylaw are not considered necessary or appropriate in response to the above comment relating to holistic and catchment management.</p> <p>With respect to the planting restrictions, the Proposed Bylaw places restrictions on planting any tree, shrub, hedge or part thereof in proximity to scheduled drains and overland flow paths (Rule 3.1), defences against water and excavation sensitive areas (Rule 3.2), floodways (Rule 3.3), groynes, crossbanks and training lines (Rule 3.4) and flood protection vegetation (Rule 3.5). Smaller plants that are not trees, shrubs or hedges (e.g., grasses or groundcover) can be planted without requiring a Bylaw Authority. We note that the phrase ‘or allow to grow’ should be deleted from the Proposed Bylaw for reasons outlined in response to submissions 9, 13 and 14.</p>

Topic: Planting of vegetation and ecological effects			
Submitter #	Name	Summary of submission	Staff Comment
			<p>The interactions between planting and flood effects are complex, and there are risks that inappropriate planting can adversely affect the integrity and operation of flood protection works, for example restricting flow capacity or diverting flows, resulting in changed flow direction and increased erosion and scour.</p> <p>There are riparian planting guides available on the ORC website (https://www.orc.govt.nz/managing-our-environment/water/good-practice-information) and Council staff are available to provide advice with respect to appropriate plantings in different locations.</p> <p>With respect to the request to waive bylaw application fees by community groups, clause 5.2(b) of the Proposed Bylaw states that Council may waive the whole or any part of a fee payable under this bylaw. This would be considered on a case-by-case basis.</p> <p>OVERALL STAFF COMMENT: No further action required.</p>
21	Nicole Foote, NZ Landcare Trust	NZ Landcare Trust submission seeks to support holistic management in the Owhiro catchment and to align the Proposed Bylaw with Otago Regional Council strategies.	<p>Council thanks the submitter and acknowledges the submission.</p> <p>NZ Landcare Trust's comment requesting ORC take a holistic management approach and to align with</p>

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		<p>They consider that holistic management of the Owhiro catchment would include considerations of instream habitat, water quality, biodiversity and the requirements for flood management; and that management of this catchment should align with the objectives, visions, goals and outcomes sought from the Otago Regional Council Rural Water Quality Strategy, Urban Water Quality Strategy and Biodiversity Strategy.</p> <p>They state that the Owhiro Stream has degraded water quality, including sediment and erosion issues from eroding/undercutting banks due to lack of stream edge vegetation, and the bylaw restricts the ability to create habitat and plant vegetation which can assist with keeping the streambanks intact (time and financial constraints associated with applying for a Bylaw Authority for community environmental efforts).</p> <p>NZ Landcare Trust Requests that barriers to environmental enhancement are removed where possible. They request a list of native species within the scope of the bylaw (e.g., not shrubs or trees) that can be planted for enhancement be released. They advise that some native vegetation like native grasses and sedges have no impact on hydraulic roughness than exotic vegetation/rank grass but do come</p>	<p>other ORC strategy and policy direction is acknowledged and ORC is working towards implementing these type of integrated management approaches through mechanisms such as its new Land and Water Plan and its Integrated Catchment Management framework. It is also noted that many of the drains are considered as rivers and subject to RMA processes.</p> <p>However, we note that 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, and at this stage this remains its primary focus. As such, any changes to the Proposed Bylaw are not considered necessary or appropriate in response to the above comment relating to holistic management.</p> <p>With respect to the planting restrictions, the Proposed Bylaw places restrictions on planting any tree, shrub, hedge or part thereof in proximity to scheduled drains and overland flow paths (Rule 3.1), defences against water and excavation sensitive areas (Rule 3.2), floodways (Rule 3.3), groynes, crossbanks and training lines (Rule 3.4) and flood protection vegetation (Rule 3.5). Smaller plants that are not trees, shrubs or hedges (e.g., grasses or groundcover) can be planted without requiring a Bylaw Authority. We note that the phrase 'or allow</p>

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		<p>with additional benefits including higher biodiversity outcomes, enhanced filtering capacity and aesthetic values.</p> <p>They also request that there is an efficient application process for community and catchment enhancement projects - to enable the enhancement of ecosystem health while accounting for the 'asset' value of the waterway in a timely manner, to provide a cost-effective process where applications are required (funding for ecological enhancement projects is limited and where effects are minor applications shouldn't require expensive consultancy services), and provide a time-efficient process for communities to connect with and enhance their local waterways.</p>	<p>to grow' should be deleted from the Proposed Bylaw for reasons outlined in response to submissions 9, 13 and 14.</p> <p>The interactions between planting and flood effects are complex, and there are risks that inappropriate planting can adversely affect the integrity and operation of flood protection works, for example restrict flow capacity or diverting flows, resulting in changed flow direction and increased erosion and scour.</p> <p>There are riparian planting guides available on the ORC website (https://www.orc.govt.nz/managing-our-environment/water/good-practice-information) and Council staff are available to provide advice with respect to appropriate plantings in different locations.</p> <p>The assessment of bylaw applications follows a clear process, similar to the non-notified resource consent process. Council staff are available for pre-application advice and encourage the community to take them up on this.</p> <p>With respect to cost-effective application processes for community groups, clause 5.2(b) of the Proposed Bylaw states that Council may waive the whole or</p>

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			<p>any part of a fee payable under this bylaw. This would be considered on a case-by-case basis.</p> <p>OVERALL STAFF COMMENT: No further action required.</p>
25	Open Valley Urban Ecosanctuary	<p>Open Valley Urban Ecosanctuary (Open VUE) have submitted on a number of points, which have been combined and summarised into the points below:</p> <ol style="list-style-type: none"> 1. Request to ensure that restrictions around planting of trees, shrubs and hedges enables scope for riparian vegetation to be planted to enable high quality habitat for freshwater species. If trees are not able to be planted, they request that there is a structure in place to allow for habitat to ensure the protection of native species. 2. Request a clear definition of 'defences against water'; description of the difference between 'plantings' and 'anchored tree protection'; and to clarify definitions of anchored tree protection, cross-bank, defence against water, drain, excavation-sensitive area, floodway, groyne, overland flow path and plantings – on layperson terms if there is scope to. 	<p>Council thanks the submitter and acknowledges the submission.</p> <p>1 The primary 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.</p> <p>The Proposed Bylaw places restrictions on planting any tree, shrub, hedge or part thereof on the defence against water, within 7m of the landward side of the defence against water or between the bank of the river and the defence against water (Rule 3.2). Smaller plants that are not trees, shrubs or hedges (e.g., grasses or groundcover) can be planted without requiring a Bylaw Authority.</p> <p>The interactions between planting and flood effects are complex, and there are risks that inappropriate planting can adversely affect the integrity and operation of flood protection works, for example restricting flow capacity or diverting flows, resulting</p>

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		<p>3. Provide allowance for the removal of invasive tree species (e.g., willows, sycamores), and request the removal of invasive tree species be given priority and if removal impacts flood protection work other options be explored.</p> <p>4. Request that where structures are added or removed, provision for native species is given (e.g., considering the impact to the wider ecosystem and preference is given to soft over hard surfaces, creating habitat for freshwater species and not restricting fish passage); and consideration for impacts to freshwater and riparian habitat and impacts on freshwater and riparian species to clause 5.1(b).</p> <p>5. Support the inclusion of diagrams.</p> <p>6. Consider that the fees required to submit an application are reduced as \$300 is costly for individual landowners.</p> <p>7. The Statement of Proposal considers that a bylaw is the most appropriate way of addressing the perceived problem and offers other options which are not considered appropriate. Open VUE considers some of these alternative options should be considered in conjunction with the Proposed Bylaw.</p>	<p>in changed flow direction and increased erosion and scour.</p> <p>As such, Council staff consider that it is appropriate that the current provisions (as outlined above) remain, enabling planting of small plants and requiring Bylaw Authority be obtained for larger plantings.</p> <p>Council staff would then have an opportunity to assess the potential risks of planting to the integrity and operation of flood protection works on a case-by-case basis. We add that Council staff are available to provide pre-application advice with respect to appropriate plantings in different locations.</p> <p>2. The definitions in the Proposed Bylaw are considered sufficient for the purposes of the bylaw. The definitions refer only to the schedules, and if a structure is identified in the schedule, then it is subject to the provisions of the bylaw. ORC staff are available to discuss any flood protection works, their purpose, how they work, etc. with interested parties.</p> <p>3. The removal of trees presents a significant risk to defences against water by changing flow paths and/or resulting in holes susceptible to erosion and scour. This risk remains regardless of whether they are native species or pest plant species such as</p>

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		<p>8. Open VUE request the community are consulted by authority holders if changes are being made to existing works.</p> <p>9. Request clarity on whether the Proposed Bylaw has an impact on the Land and Water Plan and vice versa.</p>	<p>willows and sycamores. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and any mitigation measures are addressed, and for this reason we do not consider it appropriate to exclude the pest plants from this clause</p> <p>4. The primary 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. As such, the matters of consideration are restricted only to matters that may adversely affect the effective operation and integrity of the flood protection works. Effects of any works proposed will be addressed where appropriate through the resource consenting process under the Resource Management Act 1991.</p> <p>5. No response required.</p> <p>6. We clarify that the deposit costs associated with the submission of a bylaw application are \$300, and actual costs may be higher than this depending on the time spent processing the application and expert input required. Clause 5.2(b) of the Proposed Bylaw states that Council may waive the whole or any part of a fee payable under this bylaw. This would be considered on a case-by-case basis.</p>

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			<p>Generally, we do not consider it appropriate to waive costs for all residential applications. Applications cost the ORC to process, requiring planning and expert engineering inputs. It is appropriate that these costs are borne by the applicant due to the benefit they will receive, rather than be borne by the ratepayer.</p> <p>7. We agree with this point. The Bylaw is the main way to provide the level of protection required and it is the intention of ORC that other options will also be progressed.</p> <p>8. As described above, 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 and a such that is the scope for what might be included in the Proposed Bylaw. Requiring consultation does not fit within the scope of the Proposed Bylaw, however, may be required under the resource consenting process.</p> <p>9. The Proposed Bylaw and any ORC Land and Water Plan will not impact one another, but any works proposed will be subject to assessment under both. For example, if ORC wish to undertake maintenance relating to the removal of gravel from a scheduled drain that is also classified as a river under the RMA, they will require a resource consent. The resource</p>

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			<p>consent would assess the effects of the proposal on, for example, ecological values and condition any mitigation measures considered to be required to avoid, remedy or mitigate adverse effects of the proposal.</p> <p>OVERALL STAFF COMMENT: No further action required.</p>

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14	Emma Peters, Sweep Consultancy Ltd	<p>1. Ms Peters submission requests the deletion of 'or allow to grow' from clause 3.2(c), because it is contradictory with clause 3.2.d.</p> <p>2. She also requests reference to '20 metres' in clause 3.2(i)(ii) is replace with '7 metres', to provide consistency with the other permitted activity provisions referencing 7 metres (e.g., planting vegetation, structures and depositing material) and to provide for earthworks activities which have obtained resource consent from other territorial authorities.</p> <p>3. Ms Peters requests that, with respect to the objections process (clause 5.3(a)), a person has 20 working days to object to a decision or</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>1. The phrase 'allow to grow' was added to 'plant' in the Proposed Bylaw to encompass both planted and self-seeded vegetation because plants can block water flows and cause floodwaters to back up (we note this is a phrase used in other flood management bylaws in New Zealand). The Council do not want plants growing in places where they might adversely affect the integrity or operation of flood protection works, regardless of whether they have been explicitly planted or rather just 'allowed to grow'.</p> <p>However, we do see there could be instances where the phrases 'allow to grow' in the Proposed Bylaw</p>

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		<p>authority (instead of five days as in the Proposed Bylaw).</p> <p>4. Ms Peters also requests that, with respect to the revocation of an authority (clause 6.1.b(iii)(2)), a person has 20 working days to make a written submission outlining why the authority should not be revoked (instead of 14 days as in the Proposed Bylaw).</p>	<p>could cause issues for existing authorised planting areas. In these circumstances, we consider the term 'planting' is sufficient to control the risk to the integrity and operation of the flood protection works and reference to 'allow to grow' can be removed from the Proposed Bylaw.</p> <p>2. The intention of the Proposed Bylaw is to restrict earthworks within 20 metres of the landward side of a defence against water (unless the earthworks are cultivation). This is because earthworks are a greater risk to the defences against water than, for example, trees, planting and altering structures, because disturbance of the ground within this distance of flood protection works may contribute to creating adverse piping and/or erosion towards the toe of the floodbanks.</p> <p>Further, whilst resource consents for earthworks activities may have been obtained from territorial authorities under the respective district plan, resource consents are authorised under the Resource Management Act (RMA). Under the RMA, while it is possible that effects of any proposed earthworks on the operation and integrity of the flood protection works may be considered, it will not have the same focus and weighting as is provided for under the Proposed Bylaw.</p> <p>3. In response to Ms Peters request that a person have 20 working days to object to a decision or</p>

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			<p>authority, we consider that amending this timeframe to 15 working days would provide sufficient time for the provision of legal or expert advice to support any objection.</p> <p>4. In response to Ms Peters request that a person have 20 working days to present a written submission to Council setting out reasons why an authority should not be revoked, we consider that amending this timeframe to 15 working days would provide sufficient time for the provision of legal or expert advice to support any objection.</p> <p>For both above points relating to timeframes for objection/written submission, we note that Council is open to discussing reasonable extensions to these timeframes with applicants/authority holders, provided they approach Council within the periods specified in the Proposed Bylaw.</p> <p>OVERALL STAFF COMMENT:</p> <ul style="list-style-type: none"> • Reference to 'allow to grow' to be removed from the Proposed Bylaw • Clause 5.3(a) to be amended, with reference to 'five working days' change to '15 working days'. • Clause 6.1(b)(iii)(2) to be amended, with reference to '14 days' change to '15 working days'.

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15	Steve White, Thorndale Farm Ltd	Mr White's submission is identical to Ms Peters submission (submission number 14) and as such has not been repeated here.	Council thanks the submitter and acknowledges the submission. Mr White's submission is identical to Ms Peters submission (submission number 14) and Council staff's comments are the same in response to Mr White's submission as to Ms Peters submission. As such, it has not been repeated here.
16	Charlotte Young	Ms Young's submission is nearly identical to Ms Peters submission (submission 14), with some different wording but the same amendments requested and supporting reasons.	Council thanks the submitter and acknowledges the submission. Ms Young's submission is nearly identical to Ms Peters submission (submission number 14) and Council staff's comments are the same in response to Ms Young's submission as to Ms Peters submission. As such, it has not been repeated here.
17	Charlotte Farming Trust	Charlotte Farming Trust's submission is nearly identical to Ms Peters submission (submission 14), with some different wording but the same amendments requested and supporting reasons.	Council thanks the submitter and acknowledges the submission. Charlotte Farming Trust's submission is nearly identical to Ms Peters submission (submission number 14) and Council staff's comments are the same in response to Charlotte Farming Trust as to Ms Peters submission. As such, it has not been repeated here.
18	Grassyards Farm Ltd	Grassyards Farm Ltd's submission is nearly identical to Ms Peters submission (submission	Council thanks the submitter and acknowledges the submission.

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		14), with some different wording but the same amendments requested and supporting reasons.	Grassyard Farm Ltd's submission is nearly identical to Ms Peters submission (submission number 14) and Council staff's comments are the same in response to Grassyards Farm Ltd as to Ms Peters submission. As such, it has not been repeated here.
19	Jason Coutts	Mr Coutts' submission is nearly identical to Ms Peters submission (submission 14), with some different wording but the same amendments requested and supporting reasons.	Council thanks the submitter and acknowledges the submission. Mr Coutts' submission is nearly identical to Ms Peters submission (submission number 14) and Council staff's comments are the same to Mr Coutts' as in response to Ms Peters submission. As such, it has not been repeated here.
9	Kevin Wood, University of Otago	<p>1. The University of Otago oppose the inclusion of the Leith Lindsay floodbank from the St David Street footbridge to the harbour in the Second Schedule and request that this is removed. They advise that this portion of the Leith Lindsay is a concrete channel passing through a highly urbanized environment and is fundamentally different from other reaches. They add that the University has undertaken considerable beautification both within and adjacent to the flood protection works in this area.</p> <p>2. The University of Otago requests that an exception from the St David Street footbridge to</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>Our overall comment in response to this submission is that the Proposed Bylaw aims to be an easily read and interpreted document. It is not designed to exclude specific locations but rather identify proximities to flood protection works where, if the identified activities were undertaken, they could adversely affect the operation and integrity of flood protection works.</p> <p>1. With respect to the request to remove the Leith Lindsay defence against water from the St David Street footbridge to the harbour from the Second</p>

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		<p>the harbour is provided for in clause 3.2(c) (planting or allowing to grow any tree, shrub, hedge or part thereof). They advise that the campus has been ranked amongst the 16 most beautiful in the world because of the buildings and campus, and the entire University Memorial Garden is within the area subject to the bylaw restrictions.</p> <p>They ask, if the root systems of plants are a risk to the concrete channel, then will all existing plants need to be cut down or removed (including the Memorial Garden). They also ask whether it is intentional that all plant growth will trigger the need for a bylaw permit (either under rule 3.2c if the plant is retained or 3.2d if it is removed). They believe this rule will have immediate and long-term impacts on landscaping.</p> <p>3. The University of Otago requests that rule 3.2d (cut down or remove any tree) is deleted or an exception is added which excludes the length from St David Street footbridge to the harbour from being subject to the rule. They advise that the University does sometimes need to remove trees (e.g., to replace infrastructure or where a tree dies or becomes diseased).</p>	<p>Schedule (Defences Against Water and Excavation-Sensitive Areas), we advise that this area is one part of the larger scheme, and it is integral to the scheme operating effectively. Maintenance and management would be more difficult to control without the provisions of the Proposed Bylaw. The failure of this flood protection work in a flood could cause widespread damage. For these reasons we do not consider it appropriate to remove the Leith Lindsay defence against water between the St David Street footbridge to the harbour from the Second Schedule</p> <p>2. With respect to the request to exclude the area from the St David Street footbridge to the harbour from clause 3.2(c) (planting), planting can cause damage to the flood protection works. For example, in the case of concrete panels or bluestone block work, plant roots can grow into cracks and spaces and affect the integrity of the flood protection works. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and any mitigation measures are addressed, and for this reason we do not consider it appropriate to exclude the requested area from this clause.</p> <p>We note that the provisions of the Proposed Bylaw will only come into effect from the date it is comes into force (if approved by Council), and therefore</p>

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		<p>They also ask whether the term tree refers to a type or size of woody perennial plant.</p> <p>4. The University of Otago requests that an exception is made to Rule 3.2(f) (remove or alter any structure) from the St David Street footbridge to the harbour. They advise that the University has several structures that cross the Water of Leith, and from time to time they need to alter or remove components of the structure (e.g., paint, repairs) or add items to the structure (e.g., new data or electrical conduits) which they consider to be <i>de minimis</i>.</p> <p>5. The University of Otago request that an exception is made to Rule 3.2(g) (dump or deposit anything, excluding materials for maintenance of existing authorised access) from the St David Street footbridge to the harbour. They advise that landscaping and infrastructure works requires soil disturbance and consider that the wording is very broad so that adding new soil/compost to a garden, replacing a fence or repairing a concrete footpath will require a bylaw authority.</p> <p>6. The University of Otago request that Rule 3.2(i) (relating to earthworks) be amended to add an exception from the St David Street</p>	<p>while future planting may require a Bylaw Authority, the University of Otago would not be required to remove any existing trees. It is an option for the University to seek a 'global' bylaw approval, for example to undertake regular planting of trees, shrubs, hedges in the memorial garden or specified areas of the site.</p> <p>The phrase 'allow to grow' was added to 'plant' in the Proposed Bylaw to encompass both planted and self-seeded vegetation because plants can block water flows and cause floodwaters to back up (we note this is a phrase used in other flood management bylaws in New Zealand). The Council do not want plants growing in places where they might adversely affect the integrity or operation of flood protection works, regardless of whether they have been explicitly planted or rather just 'allowed to grow'.</p> <p>However, we see there could be instances where the phrases 'allow to grow' in the Proposed Bylaw could cause issues for existing authorised planting areas. In these circumstances, we consider the term 'planting' is sufficient to control the risk to the integrity and operation of the flood protection works and reference to 'allow to grow' should be removed from the Proposed Bylaw.</p>

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		<p>footbridge to the harbour. They describe that, because of the definition of earthworks in the Proposed Bylaw, all soil disturbance will trigger the need for a bylaw authority, including several <i>de minimis</i> activities such as ground maintenance, planting of memorial trees, repairs and maintenance, new signposts, light standards and artwork.</p>	<p>3. With respect to the request to either delete rule 3.2(d) (cut down or remove any tree) or to exclude the area from the St David Street footbridge to the harbour from Rule 3.2(d), we advise that the removal of trees presents a significant risk to defences against water by changing flow paths and/or resulting in holes susceptible to erosion and scour. With respect to concrete walls, tree roots can grow into the panels, and the removal of the tree can then exacerbate damage and risk to the flood protection works. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and any mitigation measures are addressed, and for this reason we do not consider it appropriate to exclude the requested area from this clause</p> <p>To respond to the point asking whether a tree refers to a type or size of woody perennial plant, we consider it is appropriate to use the ordinary dictionary definition of tree and what is commonly considered a tree, coupled with the circumstances in question (e.g., linking back to the purpose of the Proposed Bylaw, the definition allows consideration of the risk to the flood scheme, so for example, a sapling may not be an issue).</p> <p>4. With respect to the request to exclude the area from the St David Street footbridge to the harbour from Rule 3.2(f) (remove or alter any structure), we</p>

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			<p>clarify that the Proposed Bylaw intends to capture <u>structural</u> alterations to structures, as they can change flows and upstream or downstream flooding effects (e.g., adding pipes underneath a bridge can restrict flows, removing a bridge or structure can increase flows).</p> <p>It is considered appropriate that bylaw authority be obtained for any works that alter the structure, even if they do seem quite small to the applicant, due to the risks associated with compromising the flood protection works. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and any mitigation measures are addressed, and for this reason we do not consider it appropriate to exclude the requested area from this clause. A practical application of the bylaw is unlikely to require a Bylaw Authority for painting as it does not alter the physical envelope of the structure and could be considered <i>de minimis</i>.</p> <p>5. The University of Otago request to exclude the area from the St David Street footbridge to the harbour from Rule 3.2(g) (dumping and deposition of any thing).</p> <p>It is important that dumping and deposition of material does not occur within the identified because, for example, the placement of stockpiles of</p>

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			<p>soil or building supplies, can restrict flow capacity, divert flows or be carried away during flood events and result in blockages of bridges, etc. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and any mitigation measures are addressed, and for this reason we do not consider it appropriate to exclude the requested area from this clause.</p> <p>We acknowledge that the wording 'Dump or deposit any thing' is broad and consider this could be refined to somewhat to address the submitters concerns by adding an exclusion to this clause that allows dumping or depositing if it is a permitted activity under another clause in the Bylaw. We propose amending the final sentence of 3.2(g) to say: <i>'excluding materials for maintenance of existing authorised access or where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw'</i>. For consistency we consider this should also be added to clauses 3.3(e) and 3.4(f).</p> <p>This would, for example, authorise deposition activities such as the placement of compost associated with gardening, replacement of a fence and placement of fill material associated with</p>

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			<p>repairing footpaths to be an inherent part of those permitted activities.</p> <p>6. In response to the University of Otago request to exclude the area from the St David Street footbridge to the harbour from Rule 3.2(i) (earthworks), we advise that earthworks present a major risk to flood protection works as they can alter the land surface and change flow patterns (both during and after completion of earthworks activities) and can cause erosion and scour. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and any mitigation measures are addressed, and for this reason we do not consider it appropriate to exclude the requested area from this clause</p> <p>OVERALL STAFF COMMENT:</p> <ul style="list-style-type: none"> • The phrase 'allow to grow' to be removed from 3.1(c), 3.2(c), 3.3(c), 3.4(c) and 3.5(b). • The identified statement to be added to the 'dump or deposit' rules 3.2(g) 3.3(e) and 3.4(f) such that they say: <i>excluding materials for maintenance of existing authorised access and where dumping or deposition of material is an inherent part of an activity</i>

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			<i>that is permitted under any other rule in this Bylaw'.</i>
13	Oliver Hornbrook	<p>Mr Hornbrook's submission details several legal and grammatical-related points.</p> <ol style="list-style-type: none"> 1. Add '4.2 Floodways... 16' to table of contents (simple correction) 2. Add full stop to Fourth Schedule definition (simple correction) 3. Amend preamble to read: The Otago Regional Council, pursuant to the powers contained in section 149 of the Local Government Act 2002, makes the following Bylaw:" (secondary legislation should state the empowering legislation to enable reader to discern intended scope and purpose of the Bylaws and conclude whether they are <i>ultra vires</i>) 4. Replace two references to ' Otago Regional Council' (rule 1.0 and 3.0) with 'Council' (as currently drafted references to 'Otago Regional Council' as opposed to 'Council' excludes "any person duly authorised by the Council to exercise any of the powers conferred upon the Council by this Bylaw." 	<p>Council thanks the submitter and acknowledges the submission.</p> <ol style="list-style-type: none"> 1. We agree this should be added. 2. We agree this should be added. 3. We disagree with the amendment proposed by Mr Hornbrook as there are provisions other than section 149 which are relevant. 4. We agree with this amendment. 5. We disagree with the recommendation to delete Rule 1.0 in its entirety. The bylaw is made in relation to flood protection and flood control works undertaken by or on behalf of the Regional Council. Section 149(1)(c) applies. Section 149(2) does not limit subsection (1). 6. We agree with this amendment. 7. We disagree with the recommendation to delete paragraph 2 of the Purpose as it helps to explain the scope of the Proposed Bylaw. 8. We disagree with the recommendation to rephrase or delete paragraph 3 of the Purpose, because it sets out the 'mischief' which the Proposed Bylaw is intended to address. We do, however, consider that the

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		<p>5. Delete Rule 1.0 PURPOSE in its entirety and then make all further consequential numbering amendments as a result (purpose clauses in secondary legislation are fraught with risk, as the purpose can only be accurately prescribed by the empowering legislation and to express the purpose differently from sections 149(1)(c) and 149(2) of the Local Government Act invites argument that the bylaws are <i>ultra vires</i>).</p> <p>6. If keeping purpose clause, italicise several the terms (flood protection works, scheduled drains, overland flow paths, defences against water, floodways, groynes, cross-banks, training lines and flood protection vegetation)</p> <p>7. If keeping purpose clause, delete paragraph 2 beginning “Flood protection works can...” (reciting definition has no place in the purpose).</p> <p>8. If keeping purpose clause, rephrase or delete paragraph 3 stating “This Bylaw only controls activities that may affect the integrity or operation of flood protection works” (including this paragraph creates a situation whereby a</p>	<p>word ‘only’ in that paragraph may justify the potential misinterpretation highlighted here, and consider ‘only’ should be deleted.</p> <p>9. We agree with this amendment.</p> <p>10. We agree a definition of ‘authorised access’ should be added. We propose the following definition for ‘authorised access’ be added to Rule 2.0 of the Proposed Bylaw: “<i>Authorised access means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised under this Bylaw.</i>”</p> <p>11. The definition of drain used in the Proposed Bylaw has been taken from the National Planning Standards definition and it is considered appropriate to use this definition for consistency between different regulatory documents. Whilst it is a broad definition, it is used only in Rule 3.3 (floodways) and is appropriate for the purposes sought in the Proposed Bylaw. For clarity, we propose to detail within the definition that it relates to clause 3.3 (Floodways) only. Agree that reference to the ‘scheduled drain’ definition within the ‘drain’ definition can be removed for clarity and consistency.</p> <p>12. We agree to amend the definition of ‘scheduled drain’ in part as proposed by the</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>person may first assess whether their actions affect the integrity or operation of the flood protection works, and if they determine that they do not then the Bylaw does not apply and the onus of proving otherwise will be on the Council).</p> <p>9. Capitalise 'W' in 'where' in Rule 2.0 (consistency in formatting).</p> <p>10. Add definition of 'authorised access' to Rule 2.0 (defining the term will remove ambiguity where referred to in clause 3.2(g)(iii) and 3.4(f))</p> <p>11. Amend the definition of 'drain' (as the proposed definition is broad and introduces ambiguity). Remove the reference to 'scheduled drain' within the 'drain' definition.</p> <p>12. Amend the definition of 'scheduled drain' to 'means any drain or river designated as a scheduled drain in the First Schedule' (current definition covers all rivers within the maps).</p> <p>13. In rule 3.0 (activities requiring bylaw) remove the words 'Council employees or' (this confers broader powers than those envisioned by the legislation).</p>	<p>submitter to tighten the definition. The wording has been amended to avoid the use of 'designated' which suggests a 'designation' under the Resource Management Act. We propose the following definition <i>"Scheduled drain means any drain or river shown as a Scheduled drain in the First Schedule"</i>.</p> <p>13. The exemption is a policy matter and not a legal matter. We do not understand the Submitter's rationale for removing "Council employees" if the exemption is retained as notified and it is considered that the words should be retained.</p> <p>14. We agree with this amendment.</p> <p>15. The phrase 'allow to grow' was added to 'plant' in the Proposed Bylaw to encompass both planted and self-seeded vegetation because plants can block water flows and cause floodwaters to back up (we note this is a phrase used in other flood management bylaws in New Zealand). The Council do not want plants growing in places where they might adversely affect the integrity or operation of flood protection works, regardless of whether they have been explicitly planted or rather just 'allowed to grow'. However, we see there could be</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>Defined words need to be italicized in this section.</p> <p>14. Amend the word 'sections' with 'clauses' (a Bylaw is comprised of rules and clauses, not sections).</p> <p>15. Amend clause 3.1c by removing the proposed works 'or allow to grow' (this creates a retroactive offence that will be hard to enforce, creates an offence by omission impacting innocent third parties and becomes contradictory whereby the act of complying with clause 3.1(c)(i) creates an offence under clause 3.1(a)).</p> <p>16. Amend clause 3.2(c) by removing the proposed works 'or allow to grow' (for reasons specified in point 15).</p> <p>17. Italicise 'structure' in clause 3.2(e) (simple correction).</p> <p>18. Amend clause 3.3(d) by removing the proposed words 'or allow to grow' (for reasons specified in point 15).</p> <p>19. Amend clause 3.4(c) by removing the proposed works 'or allow to grow' (for reasons specified in point 15).</p> <p>20. Replace 'access authorised maintenance' in clause 3.4(f) with 'authorised access maintenance' (simple correction).</p>	<p>instances where the phrase 'allow to grow' in the Proposed Bylaw could cause issues for existing authorised planting areas. In these circumstances, we consider the term 'planting' is sufficient to control the risk to the integrity and operation of the flood protection works and reference to 'allow to grow' should be removed from the Proposed Bylaw.</p> <p>16. We agree that that phrase 'allow to grow' should be removed for the same reasons as specified in point 15 above.</p> <p>17. We agree with this amendment.</p> <p>18. We agree that that phrase 'allow to grow' should be removed for the same reasons as specified in point 15 above, however note that, in the context of the submission, Mr Hornbrook was likely referring to clause 3.3(c) rather than 3.3(d).</p> <p>19. We agree that that phrase 'allow to grow' should be removed for the same reasons as specified in point 15 above.</p> <p>20. We agree with this amendment.</p> <p>21. We agree with this amendment.</p> <p>22. We agree that that phrase 'allow to grow' should be removed for the same reasons as specified in point 15 above, however proposed to keep the wording 'plant any</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>21. Amend clause 3.4(g)(ii) by removing erroneous space at the beginning of ‘within’ (simple correction).</p> <p>22. Amend clause 3.5(b) to read ‘Add a plant, tree, shrub, hedge or part thereof within any flood protection vegetation’ (creates issues with respect to self-seeding).</p> <p>23. Remove the entire paragraph beginning ‘Note:’ in clause 3.5 (no benefit in repeating the definition, would potentially fall short of the plain language standard for drafting legislation).</p> <p>24. Amend clause 4.1 by including the words “The owner of every <i>structure</i> [impacted by clauses 3.1 to 3.4] shall keep it in good repair”.</p> <p>25. Consider the inter-relationship between the duty to keep structures in good repair under clause 4.1 and the inability to construct, remove or alter any structure under clauses 3.1(d), 3.2(e), 3.2(f), 3.3(d), 3.4(d) and 3.4(e).</p> <p>26. Replace ‘Bylaw Approval Application Form’ in clause 5.1(a) with ‘Bylaw Authority Application Form’ (simple correction)</p>	<p>tree...’ for consistency with the other clauses.</p> <p>23. We agree with this amendment.</p> <p>24. We agree with this amendment.</p> <p>25. The inter-relationship between the provisions has been considered in the drafting of the Proposed Bylaw. We are of the opinion that keeping structures in good repair means ‘to maintain’ (i.e., to keep in good condition or like-for-like replacement). We do not consider maintenance required under clause 4.1 would trigger any requirements under the ‘construct’, ‘remove’ or ‘alter’ clauses. If, for example, a fence located within 7m of a drain needs to be maintained (e.g., involving temporary removal of fenceposts and replacement in a like-for-like manner), we consider this is provided for under clause 4.1. However, if the works would alter a structure (e.g., by adding or extending the fence) then it falls under the respective ‘alter’ clause and should be addressed through a Bylaw application due to the potential for adverse effects on the integrity and operation of flood protection works.</p> <p>26. We agree with this amendment.</p> <p>27. We agree with this amendment.</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>27. Amend clause 5.3(a) by italicising 'authority' (simple correction)</p> <p>28. Amend clause 5.3(b)(i) by formatting the paragraph in a manner consistent with the other paragraphs in the Bylaw (simple correction)</p> <p>29. Amend clause 6.1(b)(iii) by italicizing 'authority'; amend clause 6.1(b)(iii)(1) by italicizing 'Council' (simple correction).</p> <p>30. Amend clause 6.1(d) by italicizing 'authority' and 'Council' (simple correction).</p> <p>31. Amend clauses 6.2(a)(i) and 6.2(a)(ii) by replacing the word 'section' with 'rule'.</p> <p>32. Amend clause 6.2 (offence) by adding an additional clause: "Every person has a defence to liability under this clause 6.2, if that person's actions relate solely to the reasonable ongoing maintenance or, if applicable, cultivation of any existing structure, tree, shrub, hedge or part thereof' (to provide a common-sense defence to people maintaining their assets such as driveways, gates and gardens that are situated within 7m of scheduled drains and defences against water – specific examples provided in submission).</p>	<p>28. We agree with this amendment.</p> <p>29. We agree with this amendment.</p> <p>30. We agree with this amendment.</p> <p>31. We agree with this amendment.</p> <p>32. We have reviewed this submission point carefully and sought legal advice. We have been advised that the wording put forward by the submitter is problematic because it appears to put the onus of proof on the defendant which may not be permissible in a bylaw without express statutory authorisation; the language merges maintenance and cultivation which is clunky; there is a high degree of uncertainty associated with the word 'reasonable'; and finally there is an overlap between what is prohibited in the Proposed Bylaw and what would be excused by this defence making it confusing if not contradictory. Overall, it would make parts of the Proposed Bylaw unworkable and unenforceable. We did look at whether specific areas should be excluded from those provisions by a defence similar to what is described by the submitter (including Orchard Grove, the example used in the submission) and concluded that the provisions of the Proposed Bylaw should apply to all</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>33. Replace the word 'section' with 'rule' in clause 6.3.</p> <p>34. Consider the mechanism developed in clause 6.3 (consider it is wider than the powers capable of being delegated to a local authority under sections 175 and 176 of the Local Government Act – while it may be a more convenient mechanism for many owners, if an owner refused to comply with Council's demands, then they may be held to be <i>ultra vires</i>).</p> <p>35. Amend Appendix Two by changing the headers on pages 30, 31 and 32 to Bylaw 'Authority' Application Form (current wording encompasses the act of approval so proposed wording is more appropriate and provides consistency with the rest of the bylaw).</p> <p>36. Amend section 3 of the Bylaw Approval Application form by replacing the word 'section(s)' with 'rule(s)'.</p>	<p>properties to ensure the adequate protection of the integrity and operation of the flood protection works.</p> <p>In response to the Orchard Grove examples, we note that the term 'allow to grow' is to be deleted from the Proposed Bylaw, planting of a garden is a permitted activity if it falls within the definition of cultivation, authority would not be required for like-for-like maintenance works (e.g. fixing potholes and replacing a mailbox) but would be required for alteration or placement of structures (e.g., installation of a heatpump). We consider this is appropriate and necessary to ensure the adequate protection of the integrity and operation of the flood protection works.</p> <p>33. We agree with this amendment.</p> <p>34. We disagree that the notice to remedy is wider than the powers capable of being delegated to a local authority, and consider that provision for a direction to comply with the obligations in the Proposed Bylaw is lawful (section 13 Bylaws Act, Section 151(1) Local Government Act)</p> <p>35. Agree with this amendment.</p> <p>36. Agree with this amendment.</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
			<p>OVERALL STAFF COMMENT:</p> <ul style="list-style-type: none"> The amendments as proposed in points 1, 2, 4, 6, 9, 10, 14, 16, 17, 18, 19, 20, 21, 23, 24, 26, 27, 28, 29, 30, 31, 32 33, 35 and 36 of Mr Hornbrook's submission should be made in full. The amendments as proposed in points 8, 11, 12, 15 and 22 of Mr Hornbrook's submission should be made in part, as described above.
24	Eleanor Linscott, The Federated Farmers of New Zealand	The Federated Farmers of New Zealand (Federated Farmers) has made a submission where they describe that the communities and farms within flood prone areas are most affected, as any floods directly affect their livelihoods and ability to continue to operate their business. Farmers on flood protection schemes pay rates to maintain and improve this flood protection and as a result it is crucial that any decisions relating to the management of these schemes involve a balancing of the likelihood of floods occurring, the potential impact of flooding and level of protection and risk management desired by affected communities. They highlight that it is important that the purpose of the Bylaw is not intended to control normal farming activities which do not	<p>Council thanks the submitter and acknowledges the submission.</p> <p>We acknowledge the context in which the submission has been made and agree that the Bylaw is only to control activities which have the potential to adversely affect the integrity or operation of flood protection works.</p> <p>To respond to the point made requesting clarity with how the Bylaw aligns with farm environment plans and riparian planting, the Bylaw is a legal mechanism and if requirements of farm environment plans or riparian planting cannot comply with the provisions of the Bylaw, authorisation under the Bylaw is required.</p> <p>8. The Statement of Proposal is a document required for consultation under the Local Government Act</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>affect the integrity or operation of flood protection works.</p> <p>They state that clarity would be helpful to understand how the Bylaw aligns with landowner requirements for farm environment plans and potentially riparian planting through catchment groups, and state that clear and early engagement with landowners is beneficial in helping provide clarity in what is required.</p> <p>The general points in the submission are numbered 8 – 28 (points 1 – 7 present a summary) and have been summarised below using that numbering for ease of reference and response.</p> <p>8. Federated Farmers advise that the Statement of Proposal does not make it clear what the actual activities captured by the Bylaw are.</p> <p>9. The definition ‘structure’ includes ‘driveway’ as a proposed change. All the other examples of structure include physical things that are fixed to land (e.g., gate, cable, culvert, pipe). Federated Farmers consider that ‘driveway’ should not be included in the definition as it does not fit with the other examples of a structure, and it is confusing as driveways are used to move stock.</p>	<p>2002 but does not form part of the actual Proposed Bylaw. The activities requiring authorisation are clearly defined in the Proposed Bylaw.</p> <p>9. ‘Driveway’ has explicitly been added to this definition. Driveways have always been included in the definition, but as Council have received numerous enquiries on this matter ‘driveway’ has been added to the definition to provide clarity. The purpose of the Proposed Bylaw is to maintain the integrity and operation of the flood protection works. We consider that the construction of driveways can adversely affect the integrity and operation of the flood protection works and should be included in the definition. An alternative would be that ‘driveway’ could be defined specifically and then referred to alongside structure (e.g., structure or driveway) in the relevant clauses, but do not consider anything would be gained by doing this.</p> <p>10. Cultivation is a type of earthworks because it involves the alteration and disturbance of land and as such do not consider it appropriate to exclude it from this definition. Cultivation has been explicitly defined in Rule 2.0 so that it is clear what type of earthworks are excluded from the rules that it is referred to in, being Rules 3.2(i)(ii) and 3.4(g)(ii).</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>10. Federated Farmers suggests that the definition of 'earthworks' includes an exclusion for cultivation, so cultivation is not inadvertently captured by the earthworks definition.</p> <p>11. They suggest that the diagrams in Appendix 1 include more detail on what is described in terms of distances.</p> <p>12. Appendix 2 refers to 'Bylaw Authority Application Form', however the template still references 'Approval' and should be changed for consistency.</p> <p>13. Rule 3.1 refers to the phrase 'plant or allowed to grow'. Federated Farmers request explanation on what 'allowed to grow' means and how this relates to indigenous vegetation where there are restrictions on clearance.</p> <p>14. Federated Farmers request clarification on the meaning of the phrase 'hedge or part thereof' and confirmation as to whether 'part thereof' is also part of shrub or tree.</p> <p>15. With respect to Rule 3.1, Federated Farmers state it would be helpful to relate that directly to what is intended in Appendix 1 and consider that the diagrams provided do not have enough detail to provide clarity to Rule 3.1. They</p>	<p>11. The diagrams have been included for illustrative purposes only as to the different terms referred to in the Proposed Bylaw (e.g., location of the top of the bank and extent of the defence against water). The reference to 7 metres is showing where the 7m exclusion zone referred to in various rules extends from. We do not consider any changes need to be made to the diagrams.</p> <p>12. We agree that the title of the application form should be changed to 'Bylaw Authority Application Form', as should the reference to this form in clause 5.1(a).</p> <p>13. The phrase 'allow to grow' was added to 'plant' in the Proposed Bylaw to encompass both planted and self-seeded vegetation because plants can block water flows and cause floodwaters to back up (we note this is a phrase used in other flood management bylaws in New Zealand). The Council do not want plants growing in places where they might adversely affect the integrity or operation of flood protection works, regardless of whether they have been explicitly planted or rather just 'allowed to grow'.</p> <p>However, we see there could be instances where the phrase 'allow to grow' in the Proposed Bylaw could cause issues for existing authorised planting areas. In these circumstances, we consider the term 'planting'</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>consider that Rule 3.1(c)(ii) is confusing, in particular “on, or within, seven metres of the top of the bank...”.</p> <p>16. The definition of authority means written approval of the Council. Federated Farmers advise that it would be helpful if authority as a term in the Bylaw is capitalised to show that it is a defined term.</p> <p>17. The submitter requests clarification on what ‘landward’ means.</p> <p>18. Federated Farmers request clarification on how clauses 3.2(c) and 3.2(d) align as they seem to be directly opposed in that (c) refers to no person being allowed to plant or allow any tree to grow, whereas (d) prohibits a person from cutting down or removing a tree.</p> <p>19. Rule 3.3(d) refers to no person being able to construct or put any structure in or on, or over a floodway. The proposed definition now includes driveways which does not fit with the current definition of structure.</p> <p>20. Federated Farmers describe that the Floodway descriptions in the Bylaw include ‘pastoral farmland when not in operation’ for the Lower Clutha Floodway and Lower Taieri</p>	<p>is sufficient to control the risk to the integrity and operation of the flood protection works and reference to ‘allow to grow’ should be removed from the Proposed Bylaw.</p> <p>14. ‘part thereof’ applies to tree, shrub and hedge. It means that the clause applies to a tree, shrub, hedge, or any part of a tree, shrub or hedge.</p> <p>15. The diagrams have been included for illustrative purposes as to the different terms referred to in the Proposed Bylaw (e.g., location of the top of the bank and extent of the defence against water). We can see where confusion may come from in clause 3.1(c)(ii) due to the placement of the comma after ‘within’. The intent is that the rule restricts activities ‘on’ and ‘within 7m’ of a scheduled drain. We propose the wording is amended to: ‘on, or within seven metres of the top of, any scheduled drain’. We propose that this amendment is made in clause 3.1(d)(ii) as well for consistency.</p> <p>16. The terms that have been defined are italicised throughout the Proposed Bylaw. We consider that this is sufficient, and the term does not require capitalisation.</p> <p>17. The term ‘landward’ is used in Rule 3.2, where it references ‘within seven metres of the landward side</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>(Upper Pond). They request that Rule 3.3 include permission for those areas to be used as pastoral farmland when not in use as is described in the schedule, to provide clarity.</p> <p>21. Rule 3.4(f) does not make sense with the addition of the word 'authorised', making it 'access authorised maintenance'.</p> <p>22. The submitter advises that it is unclear what the difference between Rules 3.5(a) and 3.5(b) are and consider that it is not clear what is flood protection vegetation and what is vegetation that they are not supposed to allow to grow.</p> <p>23. Federated Farmers submit that the associated note in Rule 3.3(c) does not provide clear guidance on what is required, and the phrasing is confusing, particularly reference to 'extent of vegetation'.</p> <p>24. With respect to Rule 4.3, Federated Farmers suggest that the fencing proposed here include only temporary fencing. (e.g., electric fencing) due to the potential costs of permanent fencing which they consider should potentially be a cost covered by ORC as it is a structure associated with maintenance. They also request clarity on</p>	<p>of any defence against water'. Landward means 'toward land'. A defence against water will have one side that is located closer to the waterbody and one side that is away from the waterbody. Landward refers to that side of the defence against water that is furthest from the waterbody (e.g., the left side of the diagram in Figure 2 of Appendix 1).</p> <p>18. Please see response to point 13, where the term 'allow to grow' is recommended to be removed.</p> <p>19. Please see response to point 9, which describes driveways have always been considered to fall within the definition of structure, and that ORC consider this is appropriate as they can adversely affect the integrity and operation of flood protection works.</p> <p>20. 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. It describes just those activities which can adversely affect the integrity and operation of flood protection works, and not those activities that can be undertaken without authority approval. Section 3.3 of the Proposed Bylaw (floodways) does not restrict the use of floodways for pastoral farmland. As such, no changes are considered necessary.</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
		<p>who would be responsible for fencing and request early engagement with landowners.</p> <p>25. With respect to Rule 5.1, consistency between terminology (Bylaw Approval Application and Bylaw Authority Application are both used) is requested.</p> <p>26. Clarification on whether the authority referred to under Rule 5.1 is the signed form by the Council or the same as the definition in the Proposed Bylaw (written approval issued by the Council under this Bylaw).</p> <p>27. Under clause 6.1(b)(iii)(2) a person has only 14 days to send a written submission to Council. Federated Farmers request whether the 14 days is based on issue of notice from the Council, whether that notice is posted or by email, and highlight that if posted by mail then it is unfair to expect a party to receive that notice and respond within 14 days.</p> <p>28. Federated Farmers consider that new rule 6.1(e) is 'orphaned' as it is not clear whether it is referring to 6.1 in its entirety or just in the context of 6.1(d).</p>	<p>21. Agree. We propose this is amended to 'authorised access maintenance'.</p> <p>22. Please see response to point 13 above where we propose that the term 'allow to grow' is removed from the Proposed Bylaw. To clarify, flood protection vegetation is a term that is defined within the Proposed Bylaw and identified in the maps in the Fourth Schedule. The rules restrict anybody from removing, altering or interfering with flood protection vegetation; and planting any new tree, shrub or hedge (or part thereof) within the area identified in the Fourth Schedule as being flood protection vegetation. We note that areas subject to Rule 3.5 are confined to only particular areas adjacent to the Waitaki River and an area adjacent to the Shotover and Kawarau Rivers.</p> <p>23. We propose to remove the full note from this section (understood to be referencing 3.5(c)) as we do not consider repeating the definition adds benefit. The same phrasing is, however, used in the definition of flood protection vegetation. The phrasing 'extent of the vegetation' simply refers the extent of vegetation that is classified as being flood protection vegetation (where there is one line on the maps being the vegetation between that line and the adjacent edge of the active channel, and where there</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
			<p>are two lines being the vegetation between those two lines).</p> <p>24. Clause 3.1(h) requires that livestock are not permitted in or through any scheduled drain. Rule 4.3 goes on to require that the Council may require every owner and occupier of land adjoining a scheduled drain to prevent livestock entering that scheduled drain at the cost of the landowner, to prevent livestock from entering the drain. The purpose of this rule is to ensure the ongoing integrity and operation of flood protection works. We note that it is the landowner/occupier's responsibility to comply with the provisions of any Bylaw, and if an electric fence would be sufficient to exclude livestock from drains and provide for the integrity and operation of flood protection works then this could be appropriate. Any fencing would be owned by, and be the responsibility of, the landowner/occupier.</p> <p>25. We proposed to amend reference to 'approval' to 'authority', to provide for consistency throughout the document.</p> <p>26. Authority in this section is the same as defined in Rule 2.0.</p> <p>27. We propose to amend the timeframe from 14 days to 15 working days. Any notice would be both</p>

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
			<p>posted and emailed (if Council holds the landowners email address). The usual rules of notice apply, and in most cases the notice will be emailed. The fifteen days applies from when the submission is first received and is considered an adequate time frame.</p> <p>28. We consider that clause 6.1(d) reads correctly, in that it is saying that if Council need to revoke an authority to obtain immediate efficacy and effectiveness of the flood protection works or in the event of pending or current flood events, clauses 6.1(a) – (c) do not apply. The reasons for this are due to the urgency that is associated with a revocation under clause 6.1(d).</p> <p>OVERALL STAFF COMMENT:</p> <ul style="list-style-type: none"> • Reference to the form in clause 5.1(a) be amended to 'Bylaw Authority Application Form'. • The phrase 'allow to grow' to be removed from 3.1(c), 3.2(c), 3.3(c), 3.4(c) and 3.5(b). • Grammatical amendments made with reference to 'within 7m of the top of, any scheduled drain' in clause 3.1(c)(ii) and 3.1(d)(ii). • Reference to 'access authorised maintenance' be amended to 'authorised access maintenance' in clause 3.4(f).

Topic: Specific provisions			
Submitter #	Name	Summary of submission	Staff Comment
			<ul style="list-style-type: none"> • Remove note in Rule 3.5(c) • Amendment of 'approval' to 'authority' in Rule 5.1. • Amendment of timeframes relating to making a writing submission in relation to a bylaw revocation from 14 days to 15 working days.

Topic: Targeted rates			
Submitter #	Name	Summary of submission	Staff Comment
2	Peter Whitlock	Mr Whitlock's submission opposes rate 1A, raises concerns with the effects of the Meridian Energy Waitaki Hydropower Dam, and the requirement for Waitaki District landowners to pay a power charge to Meridian Energy and targeted rates to Otago Regional Council (which are then passed to Environment Canterbury).	<p>Council thanks the submitter and acknowledges the submission.</p> <p>It is understood that 'rate 1A' is referencing the targeted rate for river management and flood protection works. It is unclear what a 'power charge' is.</p> <p>The purpose of the Proposed Bylaw is to manage, regulate and protect the effective operation and</p>

Topic: Targeted rates			
Submitter #	Name	Summary of submission	Staff Comment
			<p>integrity of flood protection works owned by or under the control of the Otago Regional Council.</p> <p>Targeted rates, power charges and the effects of the Meridian Energy Waitaki Hydropower Dam are not within the scope of this bylaw review.</p> <p>Rates are addressed through the Annual Plan consultation process, power charges are presumably a commercial payment, and effects of activities are addressed under the Resource Management Act 1991 (e.g., regional and district plans or resource consents).</p> <p>OVERALL STAFF COMMENT: No further action required.</p>

Topic: Support for Proposed Bylaw with no requested amendments			
Submitter #	Name	Summary of submission	Staff Comment
3	Submitter 3	Submitter 3 advises that they support adding the recently completed Albert Town Buttress Defence Against Water to the ongoing flood protection works schedule.	<p>Council thanks the submitter and acknowledges the submission.</p> <p>OVERALL STAFF COMMENT: No further action required.</p>

Topic: Support for Proposed Bylaw with no requested amendments			
Submitter #	Name	Summary of submission	Staff Comment
		They believe that proactive ongoing management is required to maintain that section of riverbank.	
20	Leigh Griffiths, Environment Canterbury	<p>Environment Canterbury submit in support of the bylaw with no amendments requested.</p> <p>They advise that the Otago Regional Council and Canterbury Regional Council co-manage the Waitaki River, and Canterbury Regional Council support any initiative that further protects the critical flood assets on this river.</p> <p>They consider that the proposed amendments increase consistency with the existing Canterbury Flood Bylaw, which should create consistent outcomes and make it easier for people with a property classified as being in both regions to understand.</p>	<p>Council thanks the submitter and acknowledges the submission.</p> <p>OVERALL STAFF COMMENT: No further action required.</p>

5. Additional amendments to the Proposed Bylaw

5.1. Schedule drain O6

ORC staff have identified that scheduled drain O6 should also have been removed from the First Schedule. Scheduled drain O6 historically ran between Hagart-Alexander Drive and Gladstone Road North in Mosgiel. During the subdivision in this location, the drain was removed in favour of a DCC reticulated stormwater network.

The Proposed Bylaw applies only to flood protection works owned by or under the control of the Otago Regional Council for the purpose of managing, regulating and protecting the effective operation and integrity of flood protection works. Given the flood protection works (scheduled drain O6) in this area has been removed, they should also be deleted from the First Schedule maps (East Taieri Scheduled Drains and Overland Flow Paths).

Whilst ideally the proposed deletion would have occurred prior to public consultation, we do not consider that it will adversely affect any party as the flood protection works no longer exist.

The scheduled drain that should be deleted is shown in Figure 1 below.

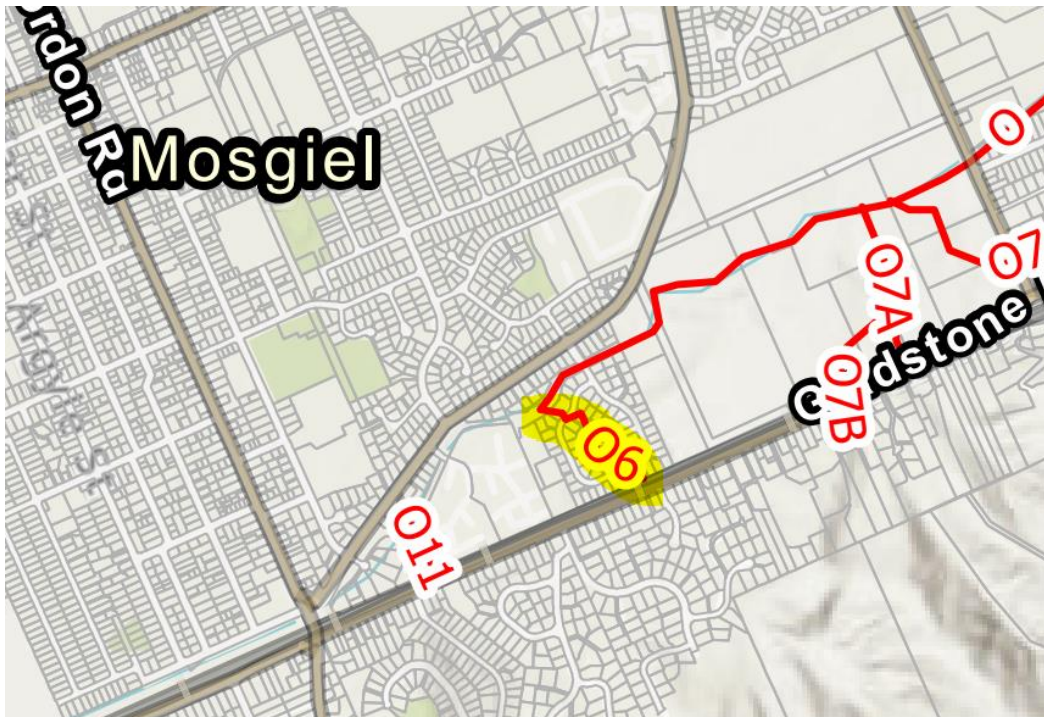


Figure 1: Scheduled drain O6 to be deleted, shown highlighted yellow

Hospital Creek floodbank

ORC staff have confirmed that the floodbank at Hospital Creek (Hospital Creek Embankment) is owned and maintained by Clutha District Council (CDC).

The Proposed Bylaw applies only to flood protection works owned by or under the control of the Otago Regional Council for the purpose of managing, regulating and protecting the effective operation and integrity of flood protection works. Given the flood protection works (floodbank) in this area is not owned or under the control of ORC, it should be deleted from the Second Schedule maps (Lower Clutha Defences Against Water).

Whilst ideally the proposed deletion would have occurred prior to public consultation, we do not consider that it will adversely affect any party. The floodbank will still be maintained by the CDC.

The floodbank that should be deleted is shown in Figure 2 below.



Figure 2: Floodbank to be deleted, shown highlighted yellow

Appendix 1: Submissions received

Submission 1, page 1



Respondent No: 3

Login: Anonymous

Email: n/a

Responded At: Mar 31, 2022 12:50:10 pm

Last Seen: Mar 31, 2022 12:50:10 pm

IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Alan Cutler
-
- Q2. **Name of your organisation (if applicable):** not answered
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Albert Town Bankworks. Oppose . Amend to enable and advance opportunities for ecological and aesthetic enhancement via river margin planting. Bylaw reinforces ORC single engineering approach and a failure to protect Outstanding Natural Feature.
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Amend document to enable and facilitate future riverbank and margin planting along Albert Town bankworks..
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
Recent bankworks destroyed ecological, aesthetic and natural values. Bylaw merely cements a very limited and sterile approach to the river margin and corridor.
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** No, I do not wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.
-

Submission 2, page 1



Respondent No: 4
Login: Anonymous
Email: n/a

Responded At: Apr 05, 2022 11:22:43 am
Last Seen: Apr 05, 2022 11:22:43 am
IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Peter Leslie WHITLOCK
-
- Q2. **Name of your organisation (if applicable):** not answered
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Rate 1a OPPOSED
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Leave the Waitaki District alone. We already pay rate 1A to ORC, which is generously donated to Environment Canterbury annually
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
The Waitaki District has the misfortune to be located in the tailrace for the Waitaki Hydro Dam. Landowners here must endure the depredations and degradations of Meridian Energy and just to add insult to injury, pay for it as well, both in our Power charge and in the ORC rate 1a
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** Yes, I wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** Yes, if others have made a similar submission, I will consider presenting jointly with them at a hearing.
-

Josie Burrows

From: [REDACTED]
Sent: Tuesday, 5 April 2022 2:09 pm
To: Flood Bylaw Review
Subject: Albert Town Rock Buttress

Hello

In response to your newsletter of 29 March and as property owners on Alison Avenue, Albert Town adjacent to the Clutha River, we fully support the ORC adding the newly completed rock buttress immediately upstream of the Clutha river bridge to your schedule for ongoing flood protection management.

We applaud the work that was done to this area a year or so ago and believe it needs proactive ongoing management to maintain the investment that has been made in protecting this section of riverbank.

regards

[REDACTED]

Submission 4, page 1



Respondent No: 5

Login: Anonymous

Email: n/a

Responded At: Apr 06, 2022 21:10:07 pm

Last Seen: Apr 06, 2022 21:10:07 pm

IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Coli Scurr
-
- Q2. **Name of your organisation (if applicable):** Taurima Farms
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** First Schedule (Schedule Drains)
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** The first schedule should include the Contour Channel on the West Taieri
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
The Contour Channel is an artificial drain that is vital for the drainage and flood protection of the West Taieri. The bylaw needs to give ORC staff the right to maintain the capacity of the channel without getting a resource consent. ORC staff have told land owners that they cannot remove gravel deposited into the channel from the side streams below water level. This results in the channel invert not being maintained. The bylaw needs to allow for the maintenance of the flow capacity of this important piece of infrastructure by the Otago Regional Council.
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** No, I do not wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.
-

Submission 5, page 1



Respondent No: 6

Login: Anonymous

Email: n/a

Responded At: Apr 14, 2022 13:11:13 pm

Last Seen: Apr 14, 2022 13:11:13 pm

IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Kirk Pritchard
-
- Q2. **Name of your organisation (if applicable):** not answered
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Amend Alexandra Defences Against Water Plan
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Remove line over 5 houses on Orchard Drive (12, 14, 16, 18 and 20 Orchard Drive) where the stopbank does not exist
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
Error made in drawing. This location is not part of the stop bank/defence
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** No, I do not wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.
-

Submission 6, page 1



Respondent No: 7

Login: Anonymous

Email: n/a

Responded At: Apr 21, 2022 21:29:23 pm

Last Seen: Apr 21, 2022 21:29:23 pm

IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Brian Peat
-
- Q2. **Name of your organisation (if applicable):** Taieri Plains Environmental Trails Group
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Access to Flood Banks of Public Use
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Allow access to the flood banks so that the public can use them for cycleways and walkways
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
The public is currently using the floodbanks of the Silverstream and Taieri River now as cycle and walking trails. The request is merely to formalise what is actually happening now in reality. Another example is the farmers who use the floodbanks to graze their stock are in many situations using vehicles along the floodbanks. There are also numerous road crossings over the floodbanks and these roads are normally gravelled. There is one situation just outside Outram where the farmers regularly has heavy trucks crossing the floodbanks. Therefore, approvals have obviously been obtained for these purposes.
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** Yes, I wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** Yes, if others have made a similar submission, I will consider presenting jointly with them at a hearing.
-

Greetings,

At a recent public meeting on Taieri flood protection at the Coronation Hall in Mosgiel, I spoke with Gary Bayne, ORC, who was in agreeance with me that the present configuration of the flood drain around our property is restricting the flow of water, which puts properties at risk of flooding rather than prevention.

The following was my observation of the March 2018 flooding around 392 Riccarton Road. I made my way home at 4pm on the 18th of March and noticed major pooling of floodwater along the North side of State Highway 87 and properties flooding on the North side of the School Road/ State Highway 87/ Riccarton Road West intersection. Flood water from the North side of State Highway 87 goes under that road, through our neighbour Harry Cuttance's, then makes a 90° turn to the right, then a 90° turn to the left, then a 90° turn to the left, then a sharp 90° turn under Riccarton Road then a straight run of some km's. The flood water on the North side of Highway 87 needs a straight flow to drain quickly.

Closer to our dwelling, the water peaked around midnight with the flood water banking up at the Riccarton Road 90° left hand turn. On this turn, the water travels three metres to a 1.200mtr diameter pipe then down to the 90° turn through a bigger 1.5 x 1.5metre culvert under Riccarton Road. This all seems an unnecessary restriction for flood water which bottle necks on the North/ West side of our property and puts our neighbours at extreme risk of copping the overflow if the water peaks over Riccarton Road it will travel directly at their dwelling. In 2018 flood water reached the centre of Riccarton when the pipe filled. Overflow went South, along the hedge line onto our lawn, around the house to the culvert under Riccarton Road. Our dwelling is 200mm higher than the top of Riccarton Road at the North /West corner.

As shown in an attached pic with this email, the flood drain should be on the South boundary of our property. We would give permission for this to be actioned under consultation because there would be a couple of small issues.

At The West end, the row of Macrocarpas is gone but one, tree stumps remain in places. If the existing tree is fallen, we do not have a problem with that if it is ringed up to manageable sized pieces. This is also the case for more smaller Birch trees on the South boundary.

My wife has recently grown native trees along the fence line and further out on that boundary and notice to us on early decisions from you guys would be appreciated and any further plantings will be evaluated.

I realise we are not in Russia and the NZ Government will make good on any workings to be done on private landowners' property, for instance making good fence lines, gateways and filling redundant ditches but I will ask that a small amount of previous ditch not be filled as drains are laid towards there.

That's about all for now.

Thanks for the opportunity to voice any concerns.

██████████

████████████████████

Google Maps



Imagery ©2022 Maxar Technologies, Planet.com, Map data ©2022 50 m



Josie Burrows

From: [REDACTED]
Sent: Sunday, 1 May 2022 11:05 pm
To: Henry Jian; Alison Weaver; Josie Burrows
Subject: Anonymous User completed Flood Bylaw Submission

Follow Up Flag: Follow up
Flag Status: Completed

Anonymous User just submitted the survey Flood Bylaw Submission with the responses below.

Please enter your full name.*

*This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.

Craig Simpson

Name of your organisation (if applicable):

Watershed Solutions Ltd

Postal address:

[REDACTED]

Address postcode:

[REDACTED]

Contact phone number:

[REDACTED]

Email address:

[REDACTED]

State what your submission relates to and if you support, oppose or want it amended.

Submission 8, page 2
e.g., amend rule 'y'.

First schedule Owhiro Stream and tributaries. Section 3.1c

State what decision you want the Otago Regional Council to make.

e.g., rule 'y' should say...

ORC should consider wider management options. Take an enabling approach

Give reasons for the decision you want made.

e.g., I want rule 'y' changed because...

Many of these drainage schemes are straightened channels, with little natural character, full of sediment, eroding banks. Aquatic life within is struggling, but is there. There are opportunities to consider not just asset requirements, but also wider environmental, water quality and biodiversity requirements, while maintaining flood assets. To do this we need to talk across ORC teams and different stakeholders. To take an enabling approach means to help give the community information about what they can do, as well as what they can't. What can we plant that will not impede flood flows?

Do you wish to be heard regarding the support of your submission?

If you wish to be heard, we will contact you using the contact details you have supplied.

Yes, I wish to be heard in support of my submission.

If other people have made a similar submission, do you wish to present jointly with them?

No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.



Respondent No: 10

Login: Anonymous

Email: n/a

Responded At: May 01, 2022 23:05:24 pm

Last Seen: May 01, 2022 23:05:24 pm

IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Craig Simpson
-
- Q2. **Name of your organisation (if applicable):** Watershed Solutions Ltd
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** First schedule Owhiro Stream and tributaries. Section 3.1c
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** ORC should consider wider management options. Take an enabling approach
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
 Many of these drainage schemes are straightened channels, with little natural character, full of sediment, eroding banks. Aquatic life within is struggling, but is there. There are opportunities to consider not just asset requirements, but also wider environmental, water quality and biodiversity requirements, while maintaining flood assets. To do this we need to talk across ORC teams and different stakeholders. To take an enabling approach means to help give the community information about what they can do, as well as what they can't. What can we plant that will not impede flood flows?
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** Yes, I wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.
-

Josie Burrows

From: [REDACTED]
Sent: Sunday, 1 May 2022 11:15 pm
To: Flood Bylaw Review
Subject: Bylaw Submission

Hi was filling out my Bylaw submission and I hit return in a section, but I wasn't finished. Please consider this as my complete submission.

The three things I wanted to address were:

1. Holistic management approach
2. Sections stating you cannot plant "any tree, shrub, hedge, or part thereof"
3. Consider including bylaw application fee waiving in environmental enhancement project funding scheme

Decision

1. ORC should consider wider catchment management options
2. Take an enabling approach rather than what we can't do, also include what is allowed
3. Waive fees involving bylaw applications for environmental enhancement projects

Reasons

1. Many of these drainage schemes are straightened channels, with little natural character, full of sediment, eroding banks. Aquatic life within is struggling, but is there. There are opportunities to consider not just asset requirements, but also wider environmental, water quality and biodiversity requirements, while maintaining flood assets. To do this we need to talk across ORC teams and different stakeholders. To take an enabling approach means to help give the community information about what they can do, as well as what they can't. What can we plant that will not impede flood flows?
2. To take an enabling approach means to help give the community information about what they can do, as well as what they can't. What can we plant that will not impede flood flows?
3. Environmental enhancement projects can, and if appropriate should occur on flood protection lands, and funding will be tight if they are driven by community groups

Thank you for your consideration.

Craig Simpson
Watershed Solutions
[REDACTED]





SUBMISSION FORM (Print clearly on both sides) Proposed Flood Protection Management Bylaw 2022

Office use only

Name of submitter: **Kevin Wood**

Name of organisation (if applicable): **University of Otago**

Postal address: [REDACTED]

Postcode: [REDACTED]

Telephone: [REDACTED]

Email: [REDACTED]

A hearing will be held on Wednesday 4 May 2022

I **wish** / ~~do not wish~~ (circle preference) to be heard in support of my submission.

If others made a similar submission, I ~~will~~ **will not** consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

Date: **28 April 2022**

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

<p>1 State what your submission relates to and if you support, oppose or want it amended</p>	<p>2 State what decision you want the Otago Regional Council to make</p>	<p>3 Give reasons for the decision you want made</p>
<p><i>e.g. amend rule 'y'</i></p>	<p><i>e.g. rule 'y' should say...</i></p>	<p><i>e.g. I want rule 'y' changed because...</i></p>
<p>Oppose the Leith Lindsay Defence Against Water map in Second Schedule</p>	<p>Delete the Leith Lindsay Floodbank from the St David Street footbridge to the harbour</p>	<p>This portion of the Leith Lindsay is a concrete channel passing through a highly urbanised environment. This area is fundamentally different from other reaches of the Leith.</p> <p>Considerable beautification of the University has been undertaken using vegetation both within and adjacent to the flood protection works.</p>
<p>Amend 3.2c, specifically the wording 'plant or allow to grow any tree, shrub, hedge or part thereof'</p>	<p>Add an exception from the St David Street footbridge to the harbour</p>	<p>The Water of Leith runs through the centre of the University's Dunedin campus. The campus has been ranked amongst the 16 most beautiful in the world because of our buildings and gardens.</p> <p>In 2018, Sarah Gardner (ORC Chief Executive) agreed to improve the surroundings to the Water of Leith and the University of Otago's future Memorial Garden. The entire University's memorial is within the Defence against Water (https://www.orc.govt.nz/news-and-events/news-and-media-releases/2018/october/special-trees-to-be-replaced-for-university-of-otago-memorial-garden).</p> <p>If the root systems of plants are a risk to the concrete channel then will all existing plants need to be cut down or removed? Will the University's memorial garden need to be removed and repositioned?</p> <p>Is it intentional that all plant growth will trigger the need for a bylaw permit (either 3.2c if the plant is retained or 3.2d if the plant is removed)?</p> <p><u>This rule will have immediate and long term impacts on landscaping.</u></p>
<p>Oppose 3.2d, specifically the wording 'Cut down or remove any tree'</p>	<p>Delete this in its entirety or add an exception from the St David Street footbridge to the harbour</p>	<p>The Water of Leith runs through the centre of the University's Dunedin campus. The operational requirements of the University does, from time to time, need to remove trees (i.e. to replace infrastructure) or a mature tree dies or becomes diseased beyond rescue.</p> <p>Does the term tree refer to the type or the size of a woody perennial plant?</p> <p><u>This rule will have immediate and long term impacts on the operation of the University.</u></p>
<p>Amend 3.2f, specifically the wording 'remove or alter any structure'.</p>	<p>Add an exception from the St David Street footbridge to the harbour</p>	<p>The University has several structures that cross the Water of Leith (i.e. St. David Street bridge, ITS building). The operational requirements of the University does from time to time need to alter or remove components of the structure (e.g. paint, repairs) or items attached to the structure (e.g. new data or electrical conduits). These activities would be De Minimis.</p>

		This rule will have immediate and long term impacts on the operation of the University.
Amend 3.2g, specifically the wording 'dump or deposit any thing'	Add an exception from the St David Street footbridge to the harbour	<p>Landscaping or infrastructure changes require soil disturbance. The wording 'deposit any thing' is very broad, so adding new soil/compost to a garden, replace a fence, or repairing a concrete footpath will require a permit under the bylaw to occur.</p> <p>This rule will have immediate and long term impacts on the operation of the University.</p>
Amend 3.2i, specifically the wording 'earthworks'	Add an exception from the St David Street footbridge to the harbour	<p>All soil disturbance, because of the definition of earthworks, will trigger the need for a permit. This rule impacts a significant number of De Minimis activities (i.e. ground maintenance, planting of memorial trees, repairs and maintenance, new sign posts, light standards, art work) within 20 metres of the Leith.</p> <p>This rule will have immediate and long term impacts on the operation of the University.</p>



**SUBMISSION FORM (Print clearly on both sides)
Proposed Flood Protection Management Bylaw 2022**



Office use only

Name of submitter: J. K. Miller

Name of organisation (if applicable):

Maungatua Dairies Ltd.

Postal address: [Redacted]

Postcode: [Redacted]

Telephone: [Redacted]

Email: [Redacted]

A hearing will be held on Wednesday 4 May 2022

I wish / do not wish (circle preference) to be heard in support of my submission.

If others made a similar submission, I will / will not consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

J. K. Miller

Date: 29th April 2022

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

<p>1 State what your submission relates to and if you support, oppose or want it amended</p>	<p>2 State what decision you want the Otago Regional Council to make</p>	<p>3 Give reasons for the decision you want made</p>
<i>e.g. amend rule 'y'</i>	<i>e.g. rule 'y' should say...</i>	<i>e.g. I want rule 'y' changed because...</i>

A submission to the Otago Regional Council from J.K.Miller on behalf of Maungatua Dairies.

This submission is to allow for the proper maintenance of the Contour Channel.

As the Council are aware the Contour Channel is not a natural waterway. It is an integral part of the Taieri Flood Protection Scheme, an important piece of infrastructure, originally constructed in the early 1900s using horse and cart construction techniques. The channel intercepts runoff from the various steep streams located on the Maungatua Range and conveys this runoff by gravity to the Waipori River. There are a number of spillways built into the flood bank to allow for controlled spill in a flood event- where the banks are in danger of breach.

Before the channel was in place, large parts of the area were unworkable at any time and regular flooding occurred. It has an undulating longitudinal profile, which promotes concentration of overtopping during flood events, potentially exposing parts of the floodbank to relatively rapid failure. The allocation of 5 million dollars to bring the Contour Channel up to a standard that can be relied upon as a flood defence is testament to its importance.

The Council has acknowledged "failure could potentially inundate 7,300 hectares of highly productive agricultural land and Dunedin International Airport". Indeed, it was failure of the stock bank on this property during the 1980 flood that compounded the flooding of the lower Plain. Most notably the Airport being underwater for 6 weeks.



The creek which runs through our property is one of the larger creeks to flow into the channel. It is fast running off the hill and especially at times of significant rainfall, will bring down varying quantities of gravel which is deposited in the slower flowing channel. Up to 150 m³ of fine gravel can be removed from the "weir" at the Channel in a season and in excess of 200 m³ from a gravel trap in the creek.

If not removed the gravel plug will cause a bottleneck or choke point. This blockage will continue to build and fill the channel downstream. When we have a significant rainfall event the bottleneck causes water to pond upstream and flow over the spillway above Miller Road rather than flowing to the Waipori.

We have had first hand experience of this. In April 2006 a heavy rainfall event flushed even more gravel into the channel (which had not been cleaned out that year) at our then Huntly Road property. The resulting bottleneck caused water to flow over Huntly Road then top the flood bank. If it was not for the vigilance and quick reactions of our neighbours there would have been a catastrophic failure of the flood bank. As it was it had to be repaired (twice) at some considerable cost to the council. No water had even looked like flowing over the spillway downstream.

If maintenance of the flood protection scheme is not completed then land in the area will be flooded unnecessarily. This will result in significant costs for land owners. Not only for those in the immediate area but perhaps even more so for those in the Henley Berwick area who would be flooded for a longer time than would otherwise be the case.

The proper maintenance of (taking of gravel deposits from) the Contour Channel will not result in any adverse outcomes but will reduce the possibility of considerable damage and costs to framers and ratepayers in the West and South Taieri area.



Looking from the Channel up the creek. The Weir circled in red should be 1m high rather than the 20cm showing.

The gravel plug at what should be the edge of the channels flow is higher than the bed of the creek.

Water flow over the plug is only 5 cm and this extends over 100m downstream.





Above: looking up stream from the plug the Channel is 5m wide and over 1m deep.

Left: 100 m downstream looking upstream from farm the bridge.





Respondent No: 8
Login: Anonymous
Email: n/a

Responded At: Apr 29, 2022 11:45:56 am
Last Seen: Apr 29, 2022 11:45:56 am
IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Daniel Walmar Lyders for P R Lyders Trust
-
- Q2. **Name of your organisation (if applicable):** P R Lyders Trust
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Error on O R C map of floodbanks claimed as assets.
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Meggatburn floodbanks adjacent to property owned by P R Lyders Trust removed from ORC map of list of floodbank assets.J
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
Judge in case of ORC v D W Lyders stated that banks could not be ORC asset as ORC had not built or ever done any work on said banks.
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** No, I do not wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.
-



Respondent No: 9
Login: Anonymous
Email: n/a

Responded At: May 01, 2022 22:29:48 pm
Last Seen: May 01, 2022 22:29:48 pm
IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Lindsay Dey
-
- Q2. **Name of your organisation (if applicable):** Dunedin Tracks Network Trust
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Tracks accessing waterways and natural attractions
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** That the Otago Regional Council take an enabling stance when it comes to the development of shared trails leading to, and running beside, waterways - including the ORC's stop bank networks
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
- Trails across our landscapes connect us... • to the land of our ancestors, to te taiao, and our unique natural world • to our stories and our heritage • to active lifestyles and health and wellbeing, and to each other • to recreational and commuter routes and connections between communities and regions • to low carbon tourism opportunities that bring economic benefits to regions and the communities they travel through • to access for hunting and gathering • to restoration projects of natural habitats and pest control • to other recreational opportunities Please also refer submission document emailed separately
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** Yes, I wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** Yes, if others have made a similar submission, I will consider presenting jointly with them at a hearing.
-



**SUBMISSION FORM (Print clearly on both sides)
Proposed Flood Protection Management Bylaw 2022**

Office use only

Name of submitter: **Oliver Hornbrook**

Name of organisation (if applicable): N/A

Postal address: N/A

Postcode: N/A

Telephone: N/A

Email: N/A

A hearing will be held on Wednesday 4 May 2022

I wish / **do not wish** (circle preference) to be heard in support of my submission.

If others made a similar submission, I will / **will not** (circle preference) consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

Oliver Hornbrook

2nd of May 2022

Date: _____

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

<p>1 State what your submission relates to and if you support, oppose or want it amended</p>	<p>2 State what decision you want the Otago Regional Council to make</p>	<p>3 Give reasons for the decision you want made</p>
<p><i>e.g. amend rule 'y'</i></p>	<p><i>e.g. rule 'y' should say...</i></p>	<p><i>e.g. I want rule 'y' changed because...</i></p>
<p>Amend Table of Contents 4.0 ACTIVITIES REQUIRED TO BE UNDERTAKEN</p>	<p>Add "4.2 Floodways.... 16"</p>	<p>Simple correction of an oversight.</p>
<p>Amend Table of Contents Fourth Schedule</p>	<p>Add back "." at the end.</p>	<p>Simple correction of an oversight.</p>
<p>Amend preamble FLOOD PROTECTION MANAGEMENT BYLAW 2022</p>	<p>Amend preamble to read "The Otago Regional Council, pursuant to the powers contained in section 149 of the Local Government Act 2002, makes the following Bylaw:"</p>	<p>Secondary legislation should specifically state the section of the empowering legislation that delegates its creation. This enables readers to discern the intended scope and purpose of the Bylaws and conclude whether they are <i>ultra vires</i>.</p>
<p>Amend two references to Otago Regional Council</p>	<p>Find and replace two instances of "Otago Regional Council" with "<i>Council</i>" (rule 1.0 and rule 3.0). Keep the term when it appears in the preamble, the definition of <i>Council</i> in rule 2.0 and also at the bottom of appendix two.</p>	<p>As currently drafted, it can be inferred that specific references to "Otago Regional Council" as opposed to subsequent references to "<i>Council</i>" excludes "any person duly authorised by the Council to exercise any of the powers conferred upon the <i>Council</i> by this Bylaw."</p>
<p>Delete rule 1.0 PURPOSE</p>	<p>Delete rule 1.0 PURPOSE in its entirety and then make all further consequential numbering amendments as a result.</p>	<p>Purpose clauses in secondary legislation are fraught with risk. The express purpose of secondary legislation can only be accurately prescribed by its associated empowering legislation. To express a purpose differently from sections 149(1)(c) and 149(2) of the Local Government Act 2002, as you have done here, merely</p>

		invites an argument that the Bylaws are <i>ultra vires</i> . Note: I also suggest amendments below if the <i>Council</i> decides to retain the purpose clause.
Amend rule 1.0 PURPOSE	Italicise the defined terms "flood protection works" [three times], "scheduled drains", "overland flow paths", "defences against water", "floodways", "groynes", "cross-banks", "training lines" and "flood protection vegetation".	Retains the internal consistency of defined terms as set out in rule 2.0 DEFINITIONS.
Amend rule 1.0 PURPOSE	Delete paragraph two beginning "Flood protection works can..."	Reciting the definition of "Flood protection works" has no place in the purpose of an enactment. Especially when the definition does not advance a purposive interpretation of the Bylaw.
Amend rule 1.0 PURPOSE	Rephrase or delete paragraph three "This Bylaw only controls activities that may affect the integrity or operation of flood protection works."	Under section 5(1) of the Interpretation Act 1999 "the meaning of an enactment must be ascertained from its text and in light of its purpose." Including paragraph three creates a situation where any person may first assess whether their actions affect the integrity or operation of flood protection works. If they conclude that their actions do not, then naturally, the Bylaw does not apply. The onus of proving otherwise will always be on the <i>Council</i> .
Amend rule 2.0 DEFINITIONS	Amend by capitalising the first note. "Note: [W]here a word is defined it is shown in the Bylaw text in <i>italics</i> ."	When using APA style the "where" forming part of a complete sentence could be either capitalised or uncapitalised. However, grammatical treatment should be consistent throughout the document. In every other instance in this Bylaw capitalisation has been used.

<p>Amend rule 2.0 DEFINITIONS</p>	<p>Amend by adding a definition for "Authorised Access".</p>	<p>The term "authorised access" is used in clauses 3.2(g)(iii) and 3.4(f). Ambiguity should be removed by clearly stating what an authorised access is and whose authority is required. It is currently ambiguous due to both rules beginning with "No person shall, <i>without the prior authority of the Council</i>".</p>
<p>Amend rule 2.0 DEFINITIONS</p>	<p>Amend the definition of "Drain" to "means any artificial watercourse [within a <i>floodway</i>] designed, constructed, or used for the drainage... or water supply purposes."</p>	<p>The proposed definition of "drain" is exceedingly broad and introduces ambiguity. As written, it literally encompasses the kitchen sink. The Bylaw's mechanisms are not limited by confining the definition of "drain" to those occurring within a <i>floodway</i>. There is also no utility in pointing readers to the definition of <i>Scheduled drain</i> from within the definition of "drain".</p>
<p>Amend rule 2.0 DEFINITIONS</p>	<p>Amend the definition of "Scheduled drain" to "means any <i>drain</i> or <i>river</i> designated as a <i>scheduled drain</i> in the First Schedule."</p>	<p>The maps in the First Schedule show many <i>rivers</i> (as that term is defined) that are clearly not intended to be <i>scheduled drains</i>. By tightening the definition of <i>scheduled drain</i> we encompass only those shown in red and specifically designated as <i>scheduled drains</i>.</p>
<p>Amend rule 3.0 ACTIVITIES REQUIRING BYLAW AUTHORITY</p>	<p>Amend by removing the words "Council employees or".</p>	<p>Providing a class exemption to "Council employees" from this Bylaw confers broader powers than those envisioned by the empowering legislation. Confining the exemption to "persons authorised by <i>Council</i> undertaking maintenance or emergency works..." is broad enough to further the intention of the Bylaw and prevent the unintended consequences mentioned in the <i>Council's</i> statement of proposal. Also, remember to italicise defined words in this</p>

		rule.
Amend rule 3.0 ACTIVITIES REQUIRING BYLAW AUTHORITY	Amend by replacing the word "sections" with "clauses".	The Bylaw is deemed secondary legislation under section 161A the Local Government Act 2002 and is therefore comprised of rules and clauses not sections.
Amend clause 3.1(c) Scheduled Drains and Overland Flow Paths	Amend by removing the proposed words "or allow to grow".	There are a multitude of legal issues created by the inclusion of this phrase. First, in combination with clause 6.2, it creates a retroactive offence that will be hard to enforce in light of section 7 of the Interpretation Act 1999. Second, clause 3.1(c)(ii) authorises any person to remove any tree, shrub, hedge etc... within seven metres of a <i>scheduled drain</i> without seeking <i>authority</i> from the <i>Council</i> . It is easy to see how individuals can "prevent the growth of trees within seven metres of <i>scheduled drains</i> " in a way that counters the intention of the Bylaw. Third, the proposed clause creates an offence by omission impacting otherwise innocent third parties. For example, a legally consented property developed fifty years ago with any form of garden or shrubbery within seven metres of a subsequently <i>scheduled drain</i> would now be committing an ongoing offence. An offence that would dictate the immediate removal of that garden. The removal of which – could severely impact the integrity of <i>flood protection works</i> thus defeating the intention of the Bylaw. Fourth, the clauses become internally contradictory. For example, if a tree or shrub is growing in a <i>scheduled drain</i> then a person shall prevent its growth by removal (clause 3.1(c)(i)) but shall not alter the <i>scheduled drain</i> (clause

		3.1(a)). The very act of complying with clause 3.1(c)(i) creates an offence under clause 3.1(a). If you were to wait to apply for <i>authority</i> to remove the tree under clause 3.1(a) then you have already committed an offence under clause 3.1(c)(i) by “allowing the tree to grow”.
Amend clause 3.2(c) Defences Against Water and Excavation-Sensitive Areas	Amend by removing the proposed words “or allow to grow”.	Remove for the same reasons specified above under my proposed amendment to clause 3.1(c). For example, if we read clauses 3.2(c) and 3.2(d) together, we get the following situation: No person shall cut down or remove any tree (3.2(d)) nor allow any tree to grow (3.2(c)) within seven metres of the landward side of any <i>defence against water</i> .
Amend clause 3.2(e) Defences Against Water and Excavation-Sensitive Areas	Amend by italicising “structure”.	Simple correction of an oversight.
Amend clause 3.3(c) Floodways	Amend by removing the proposed words “or allow to grow”.	Remove for the same reasons specified above under my proposed amendment to clauses 3.1(c) and 3.2(c).
Amend clause 3.4(c) Groynes, Cross-banks and Training Lines	Amend by removing the proposed words “or allow to grow”.	Remove for the same reasons specified above under my proposed amendment to clauses 3.1(c), 3.2(c) and 3.3(c).
Amend clause 3.4(f) Groynes, Cross-banks and Training Lines	Amend by replacing the proposed words “access authorised maintenance” with “authorised access maintenance”.	Simple correction of an oversight.

<p>Amend clause 3.4(g)(ii) Groynes, Cross-banks and Training Lines</p>	<p>Amend by removing the erroneous space at the beginning “[]within”.</p>	<p>Simple correction of an oversight.</p>
<p>Amend clause 3.5(b) Flood Protection Vegetation</p>	<p>Amend clause 3.5(b) to read “Add a plant, tree, shrub, hedge or part thereof within any <i>flood protection vegetation</i>”.</p>	<p>While the term “allow to grow” creates less issues in this clause than it does elsewhere – it still creates material issues with regards to “self-seeding”.</p>
<p>Amend clause 3.5(Note) Flood Protection Vegetation</p>	<p>Amend by removing the entire paragraph beginning “Note:”.</p>	<p>There is no utility in repeating the definition of “<i>flood protection vegetation</i>” especially given the repetition is not verbatim. This note would potentially fall short of the plain language standard for drafting legislation.</p>
<p>Amend clause 4.1 Structures</p>	<p>Amend clause 4.1 by including the words “The <i>owner</i> of every <i>structure</i> [impacted by clauses 3.1 to 3.4] shall keep it in good repair.”</p>	<p>The Bylaw’s definition of <i>structure</i> is extremely broad and unconfined by geography. The degree of affixation that constitutes being “fixed to land” was discussed in <u><i>Lockwood Buildings Ltd v Trust Bank Canterbury Ltd</i></u> [1995] 1 NZLR 22. When you take account that decision, the ambit of <i>structure</i> as defined in this Bylaw is further enlarged well beyond the power conferred by the empowering legislation. As currently written, this Bylaw gives the <i>Council</i> a mechanism to find any Otago resident with a house, garage, driveway, mailbox etc... in a state of disrepair as liable under clause 6.2. For this reason, it is important to explicitly state that clause 4.1 only covers those <i>structures</i> covered in clauses 3.1 to 3.4. This is largely <i>structures</i> in, on, over, under, through or within seven metres of a <i>scheduled drain, defence against water, floodway, groyne, cross-bank or training line</i>.</p>

<p>Consider clause 4.1 Structures</p>	<p>Consider the interrelationship between the duty to keep <i>structures</i> in good repair under clause 4.1 and inability to construct, remove or alter any <i>structure</i> under clauses 3.1(d), 3.2(e), 3.2(f), 3.3(d), 3.4(d) and 3.4(e) without the <i>authority</i> of the <i>Council</i>. Is the <i>Council</i> truly requiring an application for <i>authority</i> to be submitted for every pothole repair or damaged mailbox replaced? If not, then a maintenance threshold for <i>structures</i> and <i>cultivation</i> threshold for trees, shrubs etc needs to be incorporated into the 2022 Bylaws. I believe that the intended purpose of these Bylaws would be more efficiently and unambiguously furthered by embedding such a structure.</p>	
<p>Amend clause 5.1(a) Authority</p>	<p>Amend clause 5.1(a) by replacing "Bylaw Approval Application Form" with "Bylaw Authority Application Form".</p>	<p>Simple correction of an oversight.</p>
<p>Amend clause 5.3(a) Objections Process</p>	<p>Amend clause 5.3(a) by italicising the two unitalicised instances of <i>authority</i>.</p>	<p>Simple correction of an oversight.</p>
<p>Amend clause 5.3(b)(i) Objections Process</p>	<p>Amend clause 5.3(b)(i) by formatting the paragraph in a manner consistent with the other paragraphs in the Bylaw.</p>	<p>Simple correction of an oversight.</p>
<p>Amend clauses 6.1(b)(iii) and 6.1(b)(iii)(1)</p>	<p>Amend clause 6.1(b)(iii) by italicising "authority". Amend clause 6.1(b)(iii)(1) by italicising</p>	<p>Simple correction of an oversight.</p>

Revocation of Authority	"Council".	
Amend clause 6.1(d) Revocation of Authority	Amend clause 6.1(d) by italicising "Council" and "authority".	Simple correction of an oversight.
Amend clauses 6.2(a)(i) and 6.2(a)(ii) Offence	Amend clauses 6.2(a)(i) and 6.2(a)(ii) by replacing the word "Section" with "rule".	The Bylaw is deemed secondary legislation under section 161A the Local Government Act 2002 and is therefore comprised of rules and clauses not sections.
Amend clause 6.2 Offence	Amend by adding an additional clause 6.2(c): "Every person has a defence to liability under this clause 6.2, if that person's actions relate solely to the reasonable ongoing maintenance or, if applicable, <i>cultivation</i> of any existing <i>structure</i> , tree, shrub, hedge or part thereof."	The addition of this clause provides a common-sense defence to people maintaining their existing assets such as driveways, gates and gardens that are situated within seven metres of <i>scheduled drains</i> and <i>defences against water</i> . For example, if we look at <i>scheduled drain 4</i> (Jaffray Stream) running through the Orchard Grove development in East Taieri. <i>Scheduled drain 4</i> is situated within seven metres of numerous houses, gardens, trees, shrubs, garages, gates, roads, driveways and roundabouts. As this Bylaw is currently written: <ol style="list-style-type: none"> 1. Many of the occupants of Orchard grove and also likely the <i>Council</i> via <i>Council</i> assets are guilty of the offence stipulated by clause 3.1(c)(ii) of allowing trees, shrubs or hedges to grow; 2. <i>Authority</i> would need to be obtained to maintain their garden by say planting a pansy or sowing a small vegetable garden; 3. <i>Authority</i> would need to be obtained to maintain a driveway to ensure it's free of pot holes etc...; 4. <i>Authority</i> would need to be obtained to replace a

		<p>damaged mailbox; and given the broad definition of <i>structure</i></p> <p>5. <i>Authority</i> would need to be obtained to install a heat-pump in a house or garage within seven metres of <i>scheduled drain</i> 4.</p> <p>When you consider these realistic examples, it becomes clear that the substance of the proposed Bylaws 2022 fall outside the limits of the power delegated under section 149 of the Local Government Act 2002. In other words, provisions of the proposed Bylaws 2022 are <i>ultra vires</i> and unenforceable. A court would be required to determine the extent of any severability or even whether it is fatal to the Bylaws as a whole.</p>
Amend clause 6.3 Notice to Remedy	Amend clause 6.3 by replacing the word "Section" with "rule".	The Bylaw is deemed secondary legislation under section 161A the Local Government Act 2002 and is therefore comprised of rules and clauses not sections.
Consider clause 6.3 Notice to Remedy	Consider the mechanism developed in clause 6.3.	The mechanism developed in clause 6.3 is wider than the powers capable of being delegated to a local authority under sections 175 and 176 of the Local Government Act 2002. While it may be a more convenient mechanism for many <i>owners</i> - if an <i>owner</i> refused to comply with <i>Council's</i> demands then those demands may be held to be <i>ultra vires</i> .
Amend Appendix Two	The three headers on pages 30, 31 and 32 should be changed to Bylaw "Authority" Application Form.	The defined term "Authority" already encompasses the act of approval rendering "Bylaw Authority Application Form" more apt. The title of the form is then consistent with its

		introduction in the table of contents and the appendix two title.
Amend section 3 of the Bylaw Approval Application Form	Amend section 3 by replacing the word "Section(s)" with "Rule(s)".	The Bylaw is deemed secondary legislation under section 161A the Local Government Act 2002 and is therefore comprised of rules and clauses not sections.

Please add pages as required



Submission 14, page 1

SUBMISSION FORM (Print clearly on both sides) Proposed Flood Protection Management Bylaw 2022

Office use only

Name of submitter: Erinna Peters

Name of organisation (if applicable):

Sweep Consultancy Ltd

Postal address:



Postcode:

Telephone:



Email:



A hearing will be held on Wednesday 4 May 2022

I wish / ~~do not wish~~ (circle preference) to be heard in support of my submission.

If others made a similar submission, I will / ~~will not~~ consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

Date: 2/5/2022

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

Page 38

1 State what your submission relates to and if you support, oppose or want it amended	2 State what decision you want the Otago Regional Council to make	3 Give reasons for the decision you want made
e.g. amend rule 'y'	e.g. rule 'y' should say...	e.g. I want rule 'y' changed because...
Rule 3.2.c # d	Delete "or allow to grow" from Rule 3.2.C	These rules are contradictory.
Rule 3.2.i.ii	Delete "20 metres". & replace with "7metres"	<p>(1) Consistency is required between other permitted activities at 7metres (eg planting vegetation, structures, deposit material).</p> <p>(2) Provides for earthworks activities which have obtained resource consent from other territorial authorities.</p>
Rule 5.3.a	Delete "five working days" & insert "twenty working days"	Provide sufficient time for provision of legal/expert advice & preparation of evidence in support of objection.
Rule 6.4.b.iii.2	Delete "within 14 days" & insert "with twenty working days"	Provides for sufficient time to seek/obtain legal/expert advice & prepare submission.

Page 39

Please add pages as required



SUBMISSION FORM (Print clearly on both sides) Proposed Flood Protection Management Bylaw 2022

Office use only

Name of submitter: Steve White

Name of organisation (if applicable):
Thorndale Farm Ltd

Postal address:
[Redacted]

Postcode: [Redacted]

Telephone: [Redacted]

Email: [Redacted]

A hearing will be held on Wednesday 4 May 2022

I wish / do not wish (circle preference) to be heard in support of my submission.

If others made a similar submission, **I will /will not** consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

[Handwritten Signature]

Emma Peters, Sweep Consulting Ltd.

Date: 2/5/22

Page 40

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

1 State what your submission relates to and if you support, oppose or want it amended	2 State what decision you want the Otago Regional Council to make	3 Give reasons for the decision you want made
e.g. amend rule 'y'	e.g. rule 'y' should say...	e.g. I want rule 'y' changed because...
Rule 3.2.c # d	Delete "or allow to grow" from Rule 3.2.C	These rules are contradictory.
Rule 3.2.i.ii	Delete "20 metres". & replace with "7metres"	<p>(1) Consistency is required between other permitted activities at 7metres (eg planting vegetation, structures, deposit material).</p> <p>(2) Provides for earthworks activities which have obtained resource consent from other territorial authorities.</p>
Rule 5.3.a	Delete "five working days" & insert "twenty working days"	Provide sufficient time for provision of legal/expert advice & preparation of evidence in support of objection.
Rule 6.1.b.iii.2	Delete "within 14 days" & insert "with twenty working days"	Provides for sufficient time to seek/obtain legal/expert advice & prepare submission.

Submission 1, page 1

Page 41

Please add pages as required



**SUBMISSION FORM (Print clearly on both sides)
Proposed Flood Protection Management Bylaw 2022**

Office use only

Name of submitter: **Charlotte Young**

Name of organisation (if applicable):

Postal address:



Postcode:

Telephone:

Email:



A hearing will be held on Wednesday 4 May 2022

I **wish** / ~~do not wish~~ (circle preference) to be heard in support of my submission.

If others made a similar submission, I **will** / ~~will not~~ consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorized to sign on behalf of person making submission):

Date: **1.5.2022**

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

Submission 16, page 2

1 State what your submission relates to and if you support, oppose or want it amended	2 State what decision you want the Otago Regional Council to make	3 Give reasons for the decision you want made
<i>e.g. amend rule 'y'</i>	<i>e.g. rule 'y' should say...</i>	<i>e.g. I want rule 'y' changed because...</i>
3.2 c. and d.	Delete "or allowed to grow"	Contradictory between c. and d.
3.2 l. ii.	Oppose in it's entirety	I oppose to the amendment in it's entirety because it doesn't account for earthworks that have DCC earthworks consent. Earthworks that include increasing the ground level should be permitted from water 7m from the top of the bank, or 7m from a defense against , as with other permitted activities ie. trees, shrubs, hedges, structures
5.3 a	Change 5 days to 20 days	I object to the timeframe of 5 working days and request that this be extended to 20 days in order for evidence in support of objections to be produced
6.0 b. iii. 2	Change 14 days to 15 working days	I object to the timeframe of 14 days and request that this be extended to 15 working days in order for evidence in support of objections to be produced

Please add pages as required



**SUBMISSION FORM (Print clearly on both sides)
Proposed Flood Protection Management Bylaw 2022**

Office use only

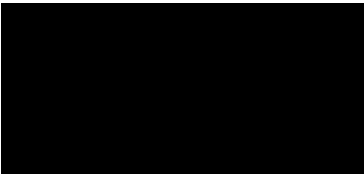
Name of submitter: **Charlotte Farming Trust**

Name of organisation (if applicable):

Postal address:



Postcode:



Telephone:

Email:

A hearing will be held on Wednesday 4 May 2022

I wish / do not wish (circle preference) to be heard in support of my submission

If others made a similar submission, **I will / will not** consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

Date: 1.5.2022

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

Submission 17, page 2

1 State what your submission relates to and if you support, oppose or want it amended	2 State what decision you want the Otago Regional Council to make	3 Give reasons for the decision you want made
<i>e.g. amend rule 'y'</i>	<i>e.g. rule 'y' should say...</i>	<i>e.g. I want rule 'y' changed because...</i>
3.2 c. and d.	Delete "or allowed to grow"	Contradictory between c. and d.
3.2 l. ii.	Oppose in it's entirety	I oppose to the amendment in it's entirety because it doesn't account for earthworks that have DCC earthworks consent. Earthworks that include increasing the ground level should be permitted from water 7m from the top of the bank, or 7m from a defense against , as with other permitted activities ie. trees, shrubs, hedges, structures
5.3 a	Change 5 days to 20 days	I object to the timeframe of 5 working days and request that this be extended to 20 days in order for evidence in support of objections to be produced
6.0 b. iii. 2	Change 14 days to 15 working days	I object to the timeframe of 14 days and request that this be extended to 15 working days in order for evidence in support of objections to be produced

Please add pages as required



**SUBMISSION FORM (Print clearly on both sides)
Proposed Flood Protection Management Bylaw 2022**

Office use only

Name of submitter: **Grassyards Farm Ltd**

Name of organisation (if applicable):

Postal address:

Postcode:

Telephone:

Email:

A hearing will be held on Wednesday 4 May 2022

I **wish** / ~~do not wish~~ (circle preference) to be heard in support of my submission.

If others made a similar submission, I **will** / ~~will not~~ consider presenting jointly with them at a hearing (circle preference)

Signature of submitter (or person authorised to sign on behalf of person making submission):

Date: 1.5.2022

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

Submission 18, page 2

1 State what your submission relates to and if you support, oppose or want it amended	2 State what decision you want the Otago Regional Council to make	3 Give reasons for the decision you want made
<i>e.g. amend rule 'y'</i>	<i>e.g. rule 'y' should say...</i>	<i>e.g. I want rule 'y' changed because...</i>
3.2 c. and d.	Delete "or allowed to grow"	Contradictory between c. and d.
3.2 l. ii.	Oppose in it's entirety	I oppose to the amendment in it's entirety because it doesn't account for earthworks that have DCC earthworks consent. Earthworks that include increasing the ground level should be permitted from water 7m from the top of the bank, or 7m from a defense against , as with other permitted activities ie. trees, shrubs, hedges, structures
5.3 a	Change 5 days to 20 days	I object to the timeframe of 5 working days and request that this be extended to 20 days in order for evidence in support of objections to be produced
6.0 b. iii. 2	Change 14 days to 15 working days	I object to the timeframe of 14 days and request that this be extended to 15 working days in order for evidence in support of objections to be produced

Please add pages as required



**SUBMISSION FORM (Print clearly on both sides)
Proposed Flood Protection Management Bylaw 2022**

Office use only

Name of submitter: Jason Coutts

Name of organisation (if applicable):

Postal address:



Postcode:

Telephone:

Email:



A hearing will be held on Wednesday 4 May 2022

I **wish** / ~~do not wish~~ (circle preference) to be heard in support of my submission.

If others made a similar submission, I **will** / ~~will not~~ consider presenting jointly with them at a hearing (circle preference).

Signature of submitter (or person authorised to sign on behalf of person making submission):

Date: 1.5.2022

Please note that all submissions are made available for public inspection.

SUBMISSIONS MUST BE RECEIVED BY 12:00 PM, MONDAY 2 MAY 2022.



Send to:
Freepost ORC 1722
Attn: Otago Bylaw Submissions
Otago Regional Council
Private Bag 1954, Dunedin 9054

Submission 19, page 2

1 State what your submission relates to and if you support, oppose or want it amended	2 State what decision you want the Otago Regional Council to make	3 Give reasons for the decision you want made
<i>e.g. amend rule 'y'</i>	<i>e.g. rule 'y' should say...</i>	<i>e.g. I want rule 'y' changed because...</i>
3.2 c. and d.	Delete "or allowed to grow"	Contradictory between c. and d.
3.2 l. ii.	Oppose in it's entirety	I oppose to the amendment in it's entirety because it doesn't account for earthworks that have DCC earthworks consent. Earthworks that include increasing the ground level should be permitted from water 7m from the top of the bank, or 7m from a defense against , as with other permitted activities ie. trees, shrubs, hedges, structures
5.3 a	Change 5 days to 20 days	I object to the timeframe of 5 working days and request that this be extended to 20 days in order for evidence in support of objections to be produced
6.0 b. iii. 2	Change 14 days to 15 working days	I object to the timeframe of 14 days and request that this be extended to 15 working days in order for evidence in support of objections to be produced

Please add pages as required



Respondent No: 11

Login: Anonymous

Email: n/a

Responded At: May 02, 2022 13:47:13 pm

Last Seen: May 02, 2022 13:47:13 pm

IP Address: n/a

Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.**

Canterbury Regional Council (Leigh Griffiths, Rivers Manager)

Q2. **Name of your organisation (if applicable):** Environment Canterbury

Q3. **Postal address:**

Q4. **Address postcode:**

Q5. **Contact phone number:**

Q6. **Email address:**

Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.**

Support review of Bylaw - no amendments requested

Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...**

Amend the Bylaw as proposed

Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**

Otago Regional Council (ORC) and Canterbury Regional Council (CRC) co-manage the Waitaki River as the regional boundary wiggles on part on the lower river. CRC supports any initiative that further protects critical flood assets on this river. The proposed amendments to the Bylaw also make it more consistent with the existing CRC Flood Bylaw which should create consistent outcomes and make them easier for the communities to understand where they have proprieties both regions.

Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.**

No, I do not wish to be heard in support of my submission.

Q11. **If other people have made a similar submission, do you wish to present jointly with them?**

No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.

Submission 21, page 1



Respondent No: 13

Login: Anonymous

Email: n/a

Responded At: May 02, 2022 21:06:27 pm

Last Seen: May 02, 2022 21:06:27 pm

IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Nicole Foote
-
- Q2. **Name of your organisation (if applicable):** NZ Landcare Trust
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** 1. First schedule: East Taieri Area, namely the Owhiro Stream and associated tributaries. 2. Activities requiring Bylaw authority 3.1c. 3. Bylaw application process.
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** 1. Support the holistic management of the Owhiro catchment and align the Bylaw with ORC strategies. 2. Enable: Explicitly list native species that can be planted for enhancement. 3. An efficient process to facilitate ecological outcomes for the catchment.
-

Submission 21, page 2

Q9. Give reasons for the decision you want made.e.g., I want rule 'y' changed because...

1. Holistic management of the Owhiro catchment should include considerations of instream habitat, water quality, biodiversity and the requirements for flood management. Streams such as the Owhiro are not just "drains" or infrastructure "assets", they have cultural, community, and ecological values. The flood bylaw should align with ORC Rural Water Quality Strategy, ORC Urban Water Quality Strategy and ORC Biodiversity Strategy. The Owhiro Stream has degraded water quality, including significant issues from sediment directly related to the management of the flood protection "assets"; • Sediment deposition from straight eroding/undercutting banks (e.g. downstream of Cemetery Rd bridge). • Sediment deposition from exposed banks due to a lack of stream edge vegetation (often sprayed with herbicide and lacking plant roots for cohesion) (e.g. stream running through East Taieri School). Experience to date has meant that efforts to enhance habitat and water quality within the Owhiro catchment have been restricted by the requirements of seeking bylaw approval. The bylaw authority approval process is financially and time dense and prevents community/environmentally good projects from progressing. The process needs to be more enabling for such groups where possible. 2. Remove barriers and enable the environmental enhancement of the catchment where possible. Some vegetation like native grasses and sedges (e.g. Carex secta) has no additional impact on the hydraulic roughness (which impacts the movement of water during a flood event) than that of exotic vegetation/rank grass, yet native vegetation has additional benefits including; • Higher biodiversity outcomes • Enhanced filtering capacity • Enhances aesthetic values. A specified list of plants (sedges and grasses) not requiring bylaw approval would enable communities to enhance the health of streams (through riparian planting) without requiring approval from the bylaw authority, a win-win for all. 3. An efficient bylaw application process; • To enable the enhancement of ecosystem health while accounting for the "asset" value of the natural waterway • A cost-effective process for when an activity does not fit within the bylaw. Funding for ecological enhancement projects is limited and where the effects are minor it shouldn't require expensive consultancy services (on the part of the applicant and Council). • Have a time-efficient process which allows communities to connect and enhance their local waterways with the least number of impediments.

Q10. Do you wish to be heard regarding the support of your submission? If you wish to be heard, we will contact you using the contact details you have supplied.

Yes, I wish to be heard in support of my submission.

Q11. If other people have made a similar submission, do you wish to present jointly with them?

No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.

Submission 21, page 3



Respondent No: 14

Login: Anonymous

Email: n/a

Responded At: May 02, 2022 11:33:38 am

Last Seen: May 02, 2022 11:33:38 am

IP Address: n/a

Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.**

Nicole Foote

Q2. **Name of your organisation (if applicable):**

Q3. **Postal address:**

Q4. **Address postcode:**

Q5. **Contact phone number:**

Q6. **Email address:**

Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.**

1. First schedule: East Taieri Area, namely the Owhiro Stream and associated tributaries. 2. Activities requiring Bylaw authority 3.1c. 3. Bylaw application process.

Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...**

1. Support the holistic management of the Owhiro catchment and align the Bylaw with ORC strategies. 2. Enable: Explicitly list native species that can be planted for enhancement. 3. An efficient process to facilitate ecological outcomes for the catchment.

Q9. Give reasons for the decision you want made.e.g., I want rule 'y' changed because...

1. Holistic management of the Owhiro catchment would include considerations of instream habitat, water quality, biodiversity and the requirements for flood management. Management of the Owhiro Catchment (including for flood protection) should align with the objectives, visions, goals and outcomes sought from the ORC Rural Water Quality Strategy, ORC Urban Water Quality Strategy and ORC Biodiversity Strategy. The Owhiro Stream has degraded water quality, including issues relating to sediment; • Sediment is deposited from straight eroding/undercutting banks • Exposed banks (and associated erosion issues) due to a lack of stream edge vegetation (often sprayed with herbicide, or no roots to assist with holding banks together). In the Owhiro catchment, the bylaw restricts the ability to create habitat and plant vegetation which can assist with keeping stream banks intact. The process of undertaking a bylaw authority application process is both financially and time constrained for community environmental efforts meaning less effort for action on the ground. 2. Remove barriers and enable the environmental enhancement of the catchment where possible. Some native vegetation like native grasses and sedges (e.g. Carex secta) has no additional impact on the hydraulic roughness (i.e. why planting is often discouraged) than that of exotic vegetation/rank grass, yet native vegetation has additional benefits; • Associated with higher biodiversity outcomes • Enhanced filtering capacity • Enhances aesthetic values. A specified list of native plants within the scope of the bylaw (e.g. not shrubs or trees) would enable communities to enhance the health of streams (through bank and riparian planting) without requiring approval from the bylaw authority. 3. An efficient bylaw application process for community and catchment enhancement projects; • To enable the enhancement of ecosystem health while accounting for the "asset" value of the natural waterway • A cost-effective process for when an activity does not fit within the bylaw. Funding for ecological enhancement projects is limited and where the effects are minor it shouldn't require expensive consultancy services (on the part of the applicant and Council) • Have a time-efficient process which allows communities to connect and enhance their local waterways with the least number of impediments.

Q10. Do you wish to be heard regarding the support of your submission? If you wish to be heard, we will contact you using the contact details you have supplied.

Yes, I wish to be heard in support of my submission.

Q11. If other people have made a similar submission, do you wish to present jointly with them?

No, if others have made a similar submission, I will not consider presenting jointly with them at a hearing.



Respondent No: 12
Login: Anonymous
Email: n/a

Responded At: May 02, 2022 13:11:41 pm
Last Seen: May 02, 2022 13:11:41 pm
IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Colin Brown
-
- Q2. **Name of your organisation (if applicable):** Taieri Trails Trust
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Access to and use of floodbanks. Amend the bylaws to allow for greater public access to the Taieri & Silverstream floodbanks, and permit changes to the floodbank top to allow construction of a hard surface cycle/walkway.
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Permit removal of the grass surface of designated floodbanks and replacement with compacted metal, PROVIDED THAT all work has had design approval of the council engineers.
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
 Our group wishes to construct a safe offroad walking and cycling network connecting the existing Clutha Gold trail with the Wingatui tunnel project, thus "completing the loop" and providing for far greater recreational access for mlocals and tourists. Using the Taieri & Silverstream floodbanks are a logical means of achieving this trail network.
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** Yes, I wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** Yes, if others have made a similar submission, I will consider presenting jointly with them at a hearing.
-



Respondent No: 15
Login: Anonymous
Email: n/a

Responded At: May 03, 2022 23:27:21 pm
Last Seen: May 03, 2022 23:27:21 pm
IP Address: n/a

- Q1. **Please enter your full name.**This consultation is a statutory process, meaning it is meeting a legal requirement. Your name/organisation name will be made public along with your submission. However, other personal information such as phone, address and email will not be made public; any personal information collected will be retained within Otago Regional Council.** Ian Bryant
-
- Q2. **Name of your organisation (if applicable):** IH & DJ Bryant
-
- Q3. **Postal address:**
-
- Q4. **Address postcode:**
-
- Q5. **Contact phone number:**
-
- Q6. **Email address:**
-
- Q7. **State what your submission relates to and if you support, oppose or want it amended.e.g., amend rule 'y'.** Excavation Sensitive Zones
-
- Q8. **State what decision you want the Otago Regional Council to make.e.g., rule 'y' should say...** Amend the boundaries as it relates to our property north of Otokia Road East
-
- Q9. **Give reasons for the decision you want made.e.g., I want rule 'y' changed because...**
- The outer border of the ESZ was drawn based on the Tomkin Taylor Report which was a desk top analysis whereas the later Golder report based on actual fieldwork showed minimal risk of piping under flood banks on our property. The fact that the border follows the legal boundary where it meets the neighbouring lifestyle block shows the border was not based on any engineering data. A more acceptable border would be a uniform 100 metre from the floodbank rather than the up to 1 km border now shown.
-
- Q10. **Do you wish to be heard regarding the support of your submission?If you wish to be heard, we will contact you using the contact details you have supplied.** Yes, I wish to be heard in support of my submission.
-
- Q11. **If other people have made a similar submission, do you wish to present jointly with them?** Yes, if others have made a similar submission, I will consider presenting jointly with them at a hearing.
-

SUBMISSION

TELEPHONE 0800 327 646 | WEBSITE WWW.FEDFARM.ORG.NZ



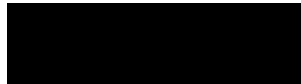
To: Otago Regional Council

Submission on: Consultation on proposed Flood Protection Management Bylaw 2022

From: Federated Farmers of New Zealand

Date: 4 May 2022

Contact: Eleanor Linscott
Senior Policy Advisor
Federated Farmers of New Zealand



Federated Farmers requests a meeting with your policy team to discuss this matter

SUBMISSION FLOOD PROTECTION BYLAW

FEDERATED FARMERS SUBMISSION

1. Federated Farmers welcomes the opportunity to make this submission to the Otago Regional Council on the flood protection management bylaw 2022.

ABOUT FEDERATED FARMERS

2. Federated Farmers of New Zealand is a primary sector organisation that represents farming and other rural businesses. Federated Farmers has a long and proud history of representing the needs and interests of farmers.
3. The Federation aims to add value to its members' farming businesses. Our key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:
 - a. Our members may operate their business in a fair and flexible commercial environment;
 - b. Our members' families and their staff have access to services essential to the needs of the rural community; and
 - c. Our members adopt responsible management and environmental practices.

SUMMARY

1. Federated Farmers submissions are made in the context of encouraging and seeking policy frameworks that provide certainty, allow flexibility, minimise transaction costs and encourage the efficient use of resources, while sustaining the natural capacity of property and therefore the natural resources of New Zealand.
2. Having clear, objective certainty within the wording of the bylaw's purpose ensures the bylaw is workable, user-friendly and can be successfully implemented.
3. Those communities and farms within flood prone areas are most affected, as any floods directly affect their livelihoods and their ability to continue to operate their business, it is important that the bylaws ensure that their lives and businesses are able to continue
4. Farmers on flood protection schemes pay thousands of dollars annually via rates to maintain and improve this flood protection. As a result, it is crucial that any decisions relating to the management of these schemes involve a balancing of the likelihood of floods occurring, the potential impact of any flooding on people, livestock and property and the desired level of protection and risk management desired by affected communities. It is important that the purpose of the Bylaw is not intended to control those normal farming activities which do not

affect the integrity or operation of flood protection works. That is, if the activities do not affect the flood protection works, they are not controlled.

5. Clarity would be helpful to understand how the Bylaw aligns with landowner requirements for farm environment plans and potentially, riparian planting through catchment groups.
6. Clear and early engagement with landowners is beneficial in helping provide clarity in what is required.

7. General points

8. The Statement of Proposal itself (on page 5) refers to 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...”. The issue of including the catch all “include, but not limited to” extends the catch all of items listed to include other things not specifically listed. This makes it very difficult for a person to apply for Authority, if it is not clear what the actual activities are.
9. We note that the definition of “Structure” includes “driveway” as a proposed change. All of the other examples of structure include physical things that are fixed to land (eg gates, cables, culverts, pipes etc). We do not think that “driveway” should be included as it does not fit with the other examples of a structure. Driveway is also confusing as driveways are also used to move stock.
10. For clarity, we would suggest that the definition of “Earthworks” includes and exclusion for cultivation – ie so cultivation is not inadvertently captured by the earthworks definition.
11. For clarity, we would also suggest that the diagrams included in Appendix 1 include more details of what is described, in terms of distance measurements.
12. Appendix two refers to Bylaw Approval Application Form, which is now being proposed to be changed to “Bylaw Authority Application Form”, however the referencing in the template form still refers to “Approval”. For clarity, the terminology should be consistent.
13. Rule 3.1 refers to the phrase “plant or allowed to grow”. We would need some explanation of what “allowed to grow” means? How does this also relate to indigenous vegetation where there are restrictions on clearance? Does allowed to grow mean that it is vegetation that is ignored or actively allowed to grow?
14. We also do not understand what the phrase “hedge or part thereof” means? Is it part thereof of a hedge or a shrub or tree? Section 3.1 is restrictive in that “no person shall”, but the requirement for “allowing to grow” is quite restrictive and confusing. Clarity in meaning would be helpful.

15. In regard to rule 3.1 it would also be helpful to relate that directly to what is intended in Appendix 1 – the diagrams provided do not have enough detail to provide clarity to rule 3.1. In particular, rule 3.1(c)(ii) “on, or within, seven metres of the top of the bank of any scheduled drain” is confusing.
16. The definition of authority means “written approval of the council”. It would be helpful then if authority as a term in the Bylaw is Capitalised to show that it is a defined term.
17. Clarification is required on what “landward” means.
18. Clarification is required on how rule 3.2(c) and 3.2(d) align as they seem directly opposed. That is, (c) refers to no person to plant or allow to grow any tree whereas the new proposed (d) prohibits any person from cutting down or removing any tree.
19. Rule 3.3(d) refers to no person construct or put any structure in or on, or over a floodway. The proposed definition now includes driveways, which as described above, does not fit with the current definition of a structure.
20. The Floodways described in the Bylaw describe areas that include “pastoral farmland when not in operation”. This includes Lower Clutha Floodway, and the Lower Taieri (Upperpond). We would suggest that for Rule 3.3 that it include permission for those areas to be used as pastoral farmland when not in use as it is described in the schedule. This would help provide clarity.
21. Rule 3.4 (f) does not make sense with the proposed addition of the word “authorised”, ie “excluding materials for the purpose of access authorised maintenance”.
22. In Rule 3.5, it is unclear what the difference is between (a) and (b) is. That is, if no person can (a) remove, alter or interfere with any flood protection vegetation; or (b) plant or allow to grow any tree, shrub, hedge or part thereof within any flood protection vegetation, it is very confusing for a landowner, in terms of what at a practical level is the flood protection vegetation and what is the vegetation that they are not supposed to allow to grow. Clarification is required to understand how this would work in practice on farm?
23. In regards to rule 3.3(c), and the associated Note, it is very unclear what is meant by the “extent of the vegetation”. The maps provided in the fourth schedule do not provide clear guidance on what is required – and the phrasing is confusing:

“Note: the extent of this vegetation is defined as the area between the ‘flood protection vegetation’ lines or where there is one ‘flood protection vegetation’ line, the area of vegetation to be maintained for flood protection will be the area between the line and the adjacent edge of the active channel as shown in the fourth schedule”
24. For rule 4.3, we would suggest that the fencing proposed here include temporary fencing (eg electric), as to push this cost onto the landowner at notice only provide by the public notification is not reasonable. Fencing is a costly undertaking – and potentially should be a

cost covered by council as it is a structure associated with maintenance. Clarity on who is responsible for what would be helpful. Early engagement with landowners is preferred.

25. For rule 5.1, clarification is required to ensure that the terminology is consistent, ie Bylaw Approval Application and Bylaw Authority Application are both used.
26. Is the Authority under rule 5.1 the signed form by the council or as under the definition “written approval issued by the council under this Bylaw”.
27. Under rule 6.1(b)(iii)(2) a person only has 14 days to send a written submission to the council to outline the reasons why an authority should not be revoked. Is the 14 days based on issue of the notice from the Council? Is that notice based on posted mail or email? If it is posted, then based on the rural delivery, it is unfair to expect a party to receive that notice and respond within 14 days.
28. Under new rule 6.1(e) *“Nothing in this clause applies to a revocation of authority under clause 6.1(d).* This clause seems to be in error as it is orphaned. That is, it is not clear if it is referring to 6.1 in its entirety, or just in context of 6.1(d).





Submission on the Flood Protection Management Bylaw 2012 Review

Prepared by [REDACTED] for the Open Valley Urban Ecosanctuary project.

Open Valley Urban Ecosanctuary

The Open Valley Urban Ecosanctuary (VUE) project is a collaborative project, bringing together the community, the Valley Project, Orokonui Ecosanctuary and the University of Otago. The Open VUE project seeks to utilise the unique spatial structure of North East Valley as a defined catchment area for Lindsay Creek (the Lindsay Creek Catchment), and as a green habitat corridor with the potential to link the Dunedin Town Belt with Orokonui Ecosanctuary.

Thank you so much for giving us the opportunity to submit on the Flood Management Bylaw 2012 review, we greatly appreciate it.

Comments on Statement of Proposal

In reference to the Otago Regional Council's Statement of proposal:

- Page 6
 - Item 4: Please ensure that with restrictions around planting of trees, shrubs and hedges, to enable scope for riparian vegetation to be planted to enable high quality habitat for freshwater species.
- Page 7
 - Item 6: We would like to see a clear definition of “defences against water”, neither the definition in 2.0 of the 2012 bylaw (page 2), nor the Second Schedule (page 17) clearly state what a “defence against water” is.
 - Allowance for removal of invasive tree species (e.g. willows, sycamores)
 - Item 7: Where structures are added or removed, ensure that provision for native freshwater species is given. i.e., the addition of structures considers the impact on the wider ecosystem and preference is given to soft (sand, boulders) over hard (concrete) surfaces.
 - Additional structures can create habitat for freshwater species, e.g. pools, or these are created otherwise.
 - Structures do not restrict native species movement (e.g. preventing migration)
 - Item 11: We would like to see clear definitions to tell the difference between “plantings” and “anchored tree protection”, as this is not so clear on either page 2 of the 2012 bylaw, “definitions” or page 43 - “fourth schedule”.
 - We would like to see that plants and vegetation used are the preferred types of species for enhancing riparian habitat.
- Page 8
 - Item 14: We agree with this, it's really good to include diagrams that reference activities that require bylaw Authority.

Submission 25, page 2

- Item 15: We would like that the fees required to submit an application form are reduced as \$300 is a lot of money for individual (e.g. residential) landowners.
- Item 17: We agree, it's great to see an update and to amend definitions. These need to be clear and easy to understand. Please clarify definitions of: Anchored tree protection, cross-bank, defence against water, drain, Excavation-sensitive area, floodway, groyne, overland flow path, plantings. This will be incredibly important to ensure that anyone wishing to submit for approval understands the rules of the bylaw. We wonder if there is scope for the use of layman's definitions.
- Pages 9-11
 - The Statement of proposal considers if a bylaw is the most appropriate way of addressing the perceived problem and offers other options which are then not considered appropriate options. We think that some of these proposed alternative options should be considered in conjunction with the bylaw. Developing strategies and agreements with landowners and education are both important strategies that can sit alongside the bylaw to ensure the integrity of flood protection management is maintained. These options can ensure that landowners and communities are aware of the bylaw, particularly in relation to riparian habitat for native species.

Comments on Flood Protection Management Bylaw 2012

In reference to the current 2012 Flood Protection Management Bylaw

- Page 2: As above, update and amend definitions to be clear and easily understood. We wonder if there is scope for the use of layman's definitions.
- Page 3: If trees are not able to be planted, are there options to ensure structures are in place that still allow for habitat to ensure protection of native species.
- Page 4: Can removal of invasive tree species be given priority and if removal of trees impacts flood protection work, other options are explored.
 - We would like to see that structures in place that still allow for natural regeneration of freshwater habitat
- Page 8: 5.1 b. Include consideration here for impacts to freshwater and riparian habitat and impacts on freshwater and riparian species.
 - 5.2 a. Ensure clarity here to enable private landowners to contact the ORC to waive fees if required, particularly when conducting habitat restoration efforts.
- Page 9: Include any notices here for Authority holders if changes are being made (e.g. alteration of previous works)
 - Consult community if any changes are being made particularly any major changes and all options are considered i.e. use of soft vs hard flood protection structures, inclusion of riparian habitat, walking tracks etc.

General comments

- Flood protection works will likely have great impacts on freshwater ecosystems, works carried out should not be at the detriment of freshwater ecosystems. Does this have an impact on the Land and Water Plan and vice versa?
- We would like to see clearer maps associated with the bylaw, particularly around definitions. The online map refers to items that are not so clearly defined in the current 2012 bylaw.

Many thanks for considering our submission, again we greatly appreciate the opportunity to submit.

Appendix 2: Amended Proposed Bylaw (tracked changes)

Proposed
Flood Protection
Management Bylaw
20122

[Date]
[ISBN]

Common Seal page

Chairperson's Foreword

This page has deliberately been left blank. The Chairperson's Foreword will be inserted at a later date.

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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.

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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~~ 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.

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2.0 DEFINITIONS

Note: ~~W~~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.~~

~~**Authorised access** means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised under this Bylaw.~~

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**, in clause 3.3 Floodways, 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 as a Scheduled drain 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~~*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-clauses~~ 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.~~ 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.~~ 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.~~ within any *excavation-sensitive area*;
- ~~f.~~ 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, where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw;

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- ~~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, ~~where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw~~, 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 ~~groyne, or cross-bank or training line or anchored tree protection~~; excluding materials for the purpose of ~~authorised~~ access ~~authorised~~-maintenance ~~or where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw~~;
- 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 impacted by clause 3.1 to 3.4 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 Authority~~ 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.
- 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~~ 15 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:

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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.

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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), before 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 145 working 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).

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6.2 Offence

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

- i. Commits a breach of any clause of ~~Rule~~Section 3 or 4 of this Bylaw;
 - ii. Causes or permits to be done anything in contravention of any clause of ~~Section-Rule~~ 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-Rule~~ 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

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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

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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.

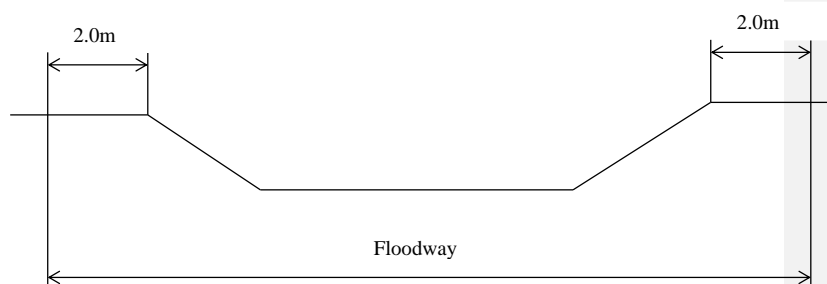
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

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.



**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

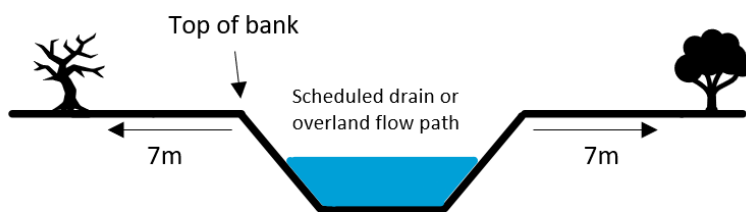


Figure 2: Defences against water - floodbank

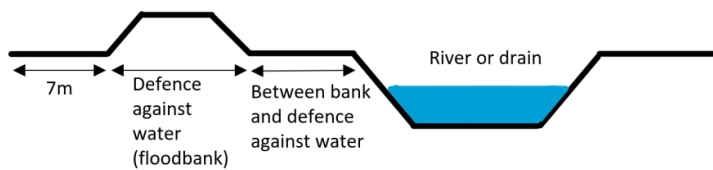
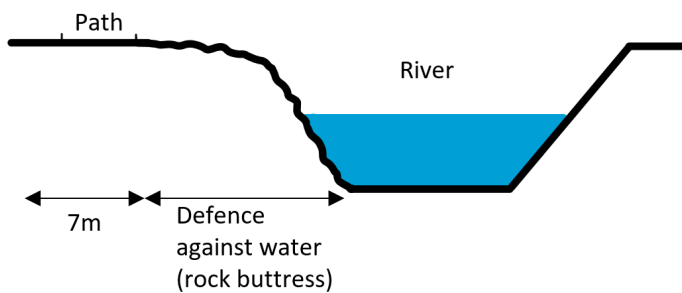


Figure 3: Defences against water – rock buttress



Appendix Two: Bylaw Approval Authority Application Form

Bylaw ~~Approval Authority~~ Application Form



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~~Rule(s) of the Bylaw to which this ~~Approval Authority~~ Relates

Bylaw ~~Approval Authority~~ Application Form



4. Diagram of Location of Proposed Works

Please provide a diagram of the property below, detailing where the works are proposed to occur and other relevant diagrams (e.g. cross-section). If possible please also provide photos of the location.

5. Description of the Proposed Works

Please describe the proposed works, the reasons for them, when and how they will be undertaken, who will be doing the works, and any other relevant information.

Bylaw ~~Approval~~ Authority Application Form



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:

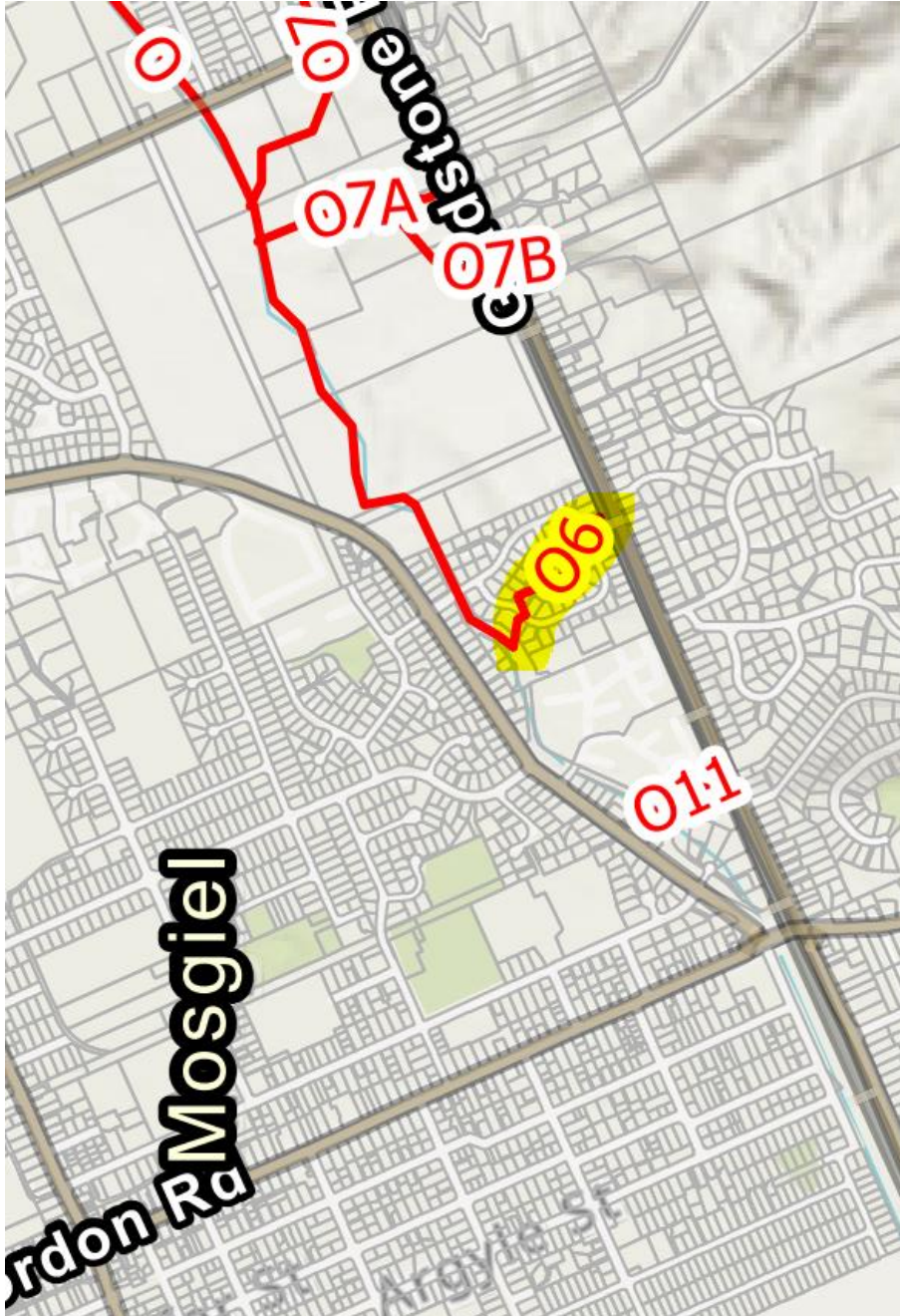
Proposed end date:

Signed _____ **Dated** _____

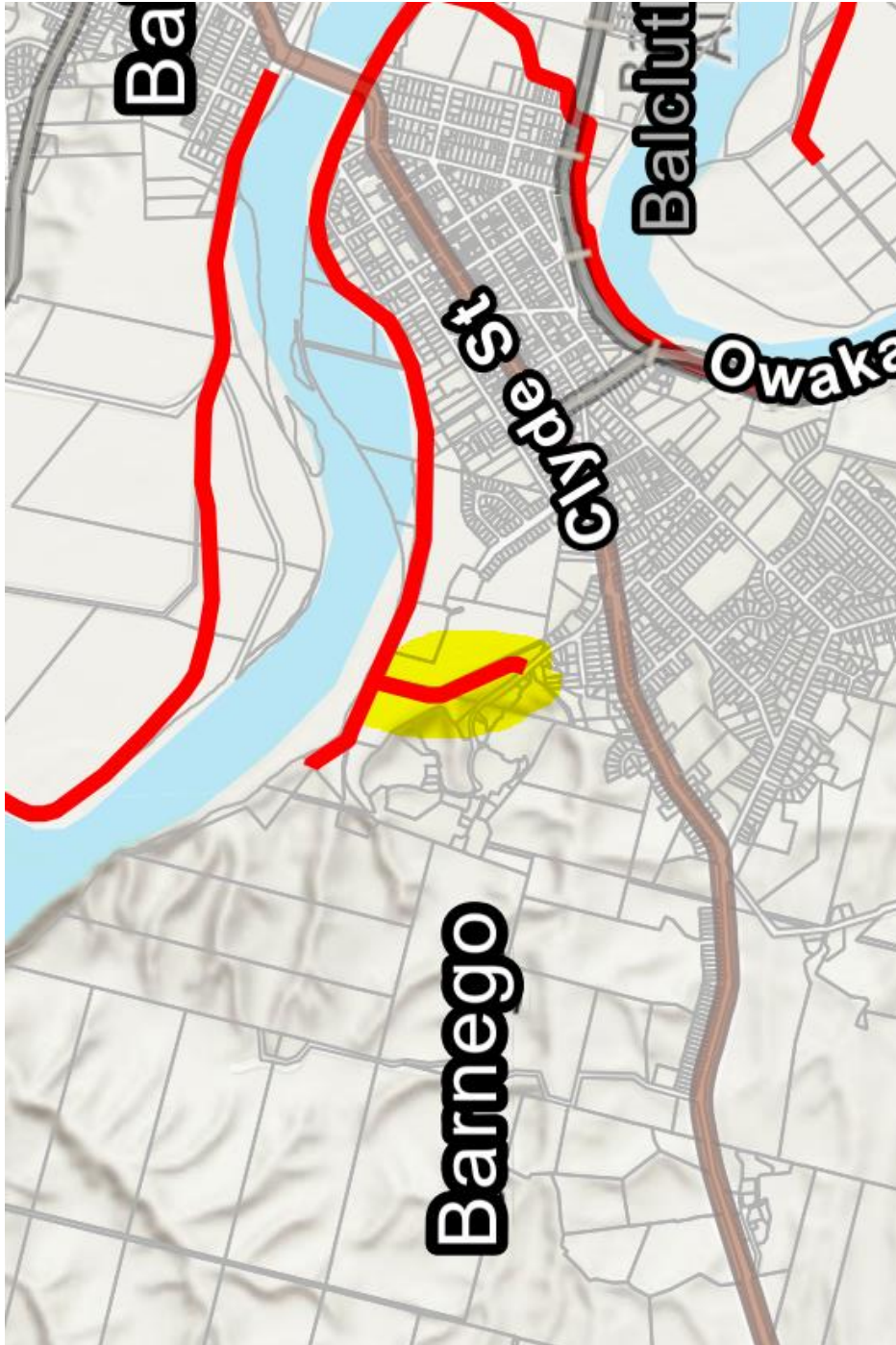
Note: It is the applicant's responsibility to ensure they have all the required permissions from Otago Regional Council and other regulatory agencies, such as District Councils, Department of Conservation, Heritage New Zealand Pouhere Taonga. Please contact these agencies to discuss your proposal.

Appendix 3: Amendments to Schedule maps

First Schedule – East Taieri Scheduled Drains and Overland Flow Paths. Area highlighted yellow to be deleted.



Second Schedule maps - Lower Clutha Defences Against Water. Area highlighted yellow to be deleted.

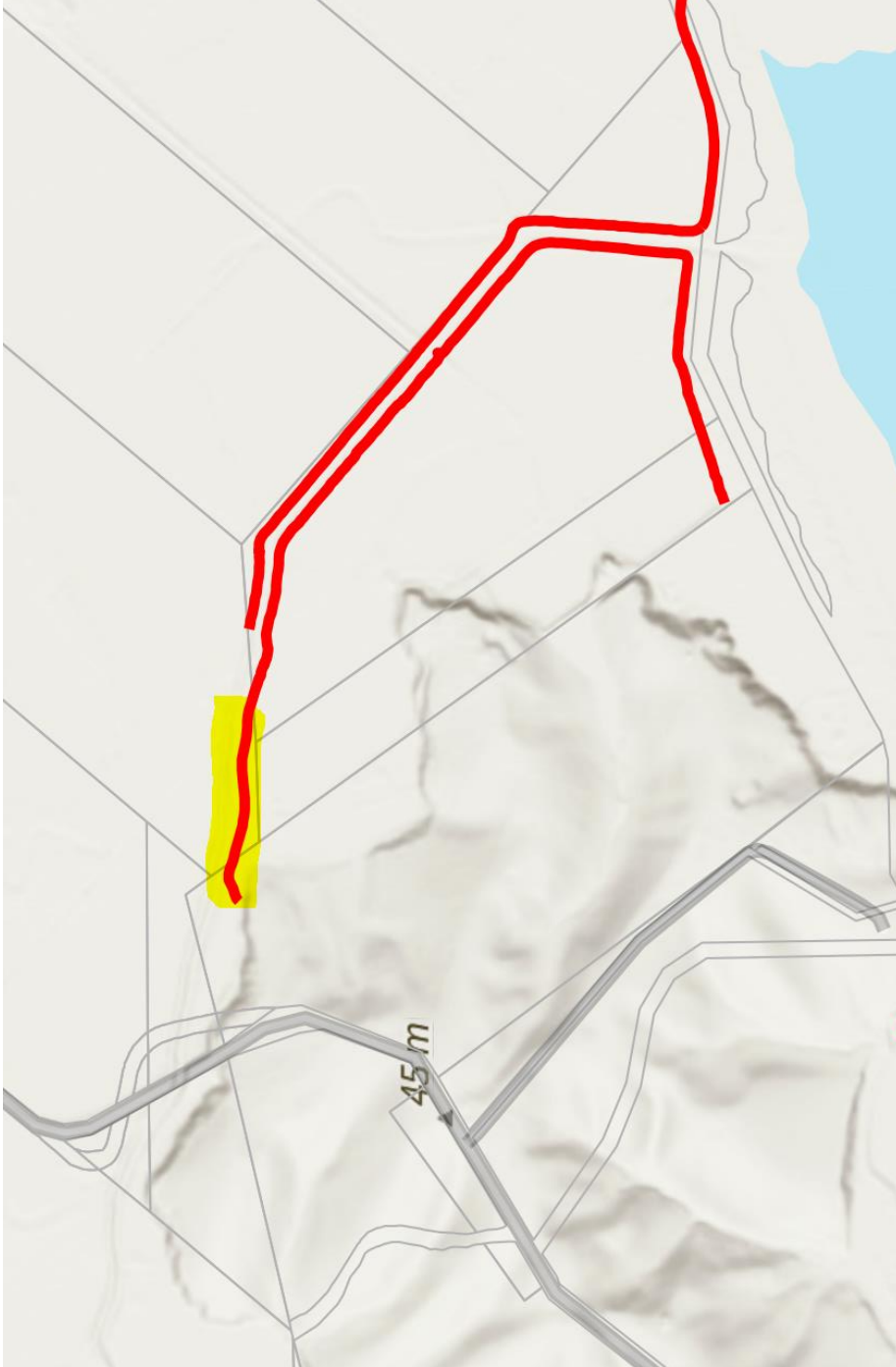


Second Schedule – Alexandra Defences Against Water. Area highlighted yellow to be deleted.



Sensitivity: General

Second Schedule – Lower Taiari Defences Against Water Sheet 5. Area highlighted yellow to be deleted.



**Otago Regional Council Proposed Flood
Protection Management Bylaw**

Staff response to Panel requests

Background

1. A public hearing in respect of the Otago Regional Council (ORC) Proposed Flood Protection Management Bylaw (Proposed Bylaw) was held in the ORC Council Chamber, Philip Laing House, Dunedin, on Friday 13 May 2022.
2. The Hearing Panel comprised Councillor Kate Wilson (Chair), Councillor Gretchen Robertson and Mr Allan Cubitt (independent commissioner).
3. The Hearing Panel has requested clarification or advice on various matters. These have been addressed below under the following titles:
 - Submission 9, University of Otago
 - Submissions 14, 16 and 19, Emma Peters – Sweep Consultancy Ltd, Charlotte Young and Jason Coutts
 - Submission 23, IH & DJ Bryant
 - Other matters
4. This report is as an addendum to the Summary of Submissions report dated 9 May 2022. An amended Appendix 2 (Proposed Flood Protection Management Bylaw) is attached to this report.

Submission 9, University of Otago

5. The Hearing Panel has requested the following information to address points raised by the University of Otago submission:
 - Provision for minor earthworks associated with repair/replacement of services (e.g., cables and pipes).
 - Provision for gardening within 20m of a defence against water.
 - Accuracy of Leith Lindsay defence against water mapping, and any implications of this.
 - Confirmation of measurement of 7m and 20m from the Leith Lindsay defence against water.

Provision for minor earthworks within 20m of a defence against water

6. Rule 3.2(i) restricts earthworks in, on, through, under, within 20m of a defence against water (unless those earthworks relate to cultivation), between the bank of a river and the defence against water, and within any excavation sensitive area.
7. The University of Otago advised that they undertake minor services works (e.g., placement, replacement or maintenance of cables and pipes) around 10-20 times a year.
8. Earthworks can present a major risk to flood protection works as they can alter the land surface and change flow patterns (both during and after the completion of earthworks activities), and it is important that there is appropriate consideration of risk and mitigation measures, even for what may appear to be relatively minor earthworks.
9. As such, we consider that it is appropriate that the University of Otago obtain Bylaw Authority for the types of works described, particularly given their relative frequency. We consider this Bylaw Authority could be in the form of a global bylaw authority which references a Works Programme required to be approved by ORC prior to works being undertaken. This would allow for flexibility as the Works Programme could be periodically updated, rather than the University of Otago having to apply for new Bylaw Authorities each time.

1.9.1 Provision for gardening within 20m of a defence against water

10. Rule 3.2(i) restricts earthworks in, on, through, under, within 20m of a defence against water, between the bank of a river and the defence against water, and within any excavation sensitive area. Rule 3.2(i)(ii) restricts earthworks within 20m of a defence against water unless those earthworks relate to cultivation.
11. Cultivation is defined in the Proposed Bylaw as:

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.
12. It is considered that cultivation is allowable within 20m of a defence against water, because by its nature (minor land disturbance and planting of small crops) it is not likely to adversely affect the integrity or operation of flood protection works. We consider that cultivation can also be extended to include planting associated with gardening which is comparable to crops, and includes grasses, ground cover, bulbs

and small flowering plants but which excludes large plants such as shrubs, hedges or trees.

13. As such, we propose that the definition of cultivation is amended as shown below, to allow for small scale gardening activities within 20m of a defence against water:

Cultivation means the alteration or disturbance of land (or any matter constituting land including soil, clay, sand and rock) to a depth of no more than 300 millimetres below the existing ground surface for the purpose of sowing, growing or harvesting of pasture, ~~or~~ crops, or domestic gardening; cultivation does not include the planting of trees, shrubs or hedges.

Accuracy of Leith Lindsay defence against water mapping, and any implications of this

14. A question was raised regarding the accuracy of the Leith Lindsay maps showing defences against water adjacent to the Leith channel, through buildings, etc., and not down the middle of the river bed.
15. We clarify that the Leith Lindsay defence against water is the concrete-lined bed and concrete walls of the river and/or earth bunds adjacent to the river and is not the line shown on the map.
16. We propose to amend the location of the Leith Lindsay defence against water lines in the Second Schedule by showing it in the location identified above. We also consider the definition of defence against water could be amended to say:

Defence against water means any defence against water shown in the Second Schedule ~~and includes the bed.~~ The beds of the Water of Leith and Lindsay Creek and associated flood protection structures are defences against water. The locations of the Water of Leith and Lindsay Creek are marked in red on the Leith Lindsay map blue in the Second Schedule.

Confirmation of measurement of 7m and 20m from the Leith Lindsay defence against water

17. Rules 3.2(c), (d), (d), (e), (f), (g) and (i) restrict activities within either 7m or 20m of the landward side of a defence against water. There was some confusion relating to from where the distances from the Leith Lindsay defence against water should be measured.
18. The relevant statement of the rules is copied below:

“within seven metres of the landward side of any defence against water”

“within 20 metres of the landward side of any defence against water”

19. In our view this rule applies to the distance measured from the landward edge of the defence against water. In the Leith Lindsay, this is considered to be from the outer edge of the top of the concrete wall or the landward toe of the earth bund.
20. We also note that the Leith Lindsay map legend incorrectly refers to the defence against water as a 'floodbank' and propose that this is amended to 'Leith Lindsay defence against water'.

Submissions 14, 16 and 19, Emma Peters – Sweep Consultancy Ltd, Charlotte Young and Jason Coutts

21. The Hearing Panel has requested the following information to address points raised in the titled three submissions:
 - Appropriate time for objections to be made, and if the objection made within this time must contain all objection material.
 - Filling restrictions between 7m and 20m from a defence against water.

Appropriate time for objections to be made, and if the objection made within this time must contain all objection material

22. The submitters stated that 15 working days was not long enough to prepare an objection (Rule 5.3(a)), given that it may require technical and expert inputs. A question was also raised whether it was expected that all information in relation to the objection is included within the stated timeframe.
23. The Local Government Act 2002 does not require an objections process or define any time period associated with an objection, but to provide more time it could be extended out to 20 working days which is consistent with the Resource Management Act 1991.
24. Clause 5.3(b)(ii) states that matters that the Council must have regard to when making its determination, including the matters presented in support of the objection. As such, we consider that all information being presented in the objection should be provided within the stated timeframe. We note that there is nothing restricting a person requesting an extension to the objection period.
25. For consistency, we consider that the period for making a written submission on the revocation of an Authority also be extended to 20 working days (Rule 6.1(b)(ii)(2)).

Filling restrictions between 7m and 20m from a defence against water

26. Submissions 14, 16 and 19 raised the matter that under the 2012 Bylaw, filling is allowed between 7 and 20metres from a defence against water, but that the Proposed Bylaw amendment has removed this allowance.
27. We note the proposed change from the use of the term 'excavation' to 'earthworks' in Rule 3.2(i) results in any filling activities within 20m of the landward side of a defence against water requiring an Authority. The submissions highlighted that this would cause them operational issues on their farm.
28. We have discussed the risks of undertaking excavation and fill works within 7 and 20 metres from a defence against water with Council Staff. We have been advised that excavation earthworks need to be restricted up to 20m from a defence against water because they contribute to increased risk of piping, erosion and floodbank failure. Earthworks involving fill, however, need only be restricted to within 7m from a defence against water for the operation or integrity of flood protection works.
29. As such, we propose that the term 'filling' be deleted from the definition of earthworks, to allow for fill earthworks more than 7m from a defence against water.

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).

30. We acknowledge that this also impacts Rules 3.3 (floodways) and 3.4 (groynes, cross-banks and training lines) and are comfortable that this is appropriate with respect to those flood protection works.

Submission 23, IH & DJ Bryant

31. IH & DJ Byrant's submission raised that their property has been identified as an Excavation Sensitive Area, but noted that various reports stated that there is minimal risk to floodbanks from excavation on their property.
32. We have sought advice from Tonkin + Taylor and concluded thatit is appropriate for the Excavation Sensitive Area on IH & DJ Bryant's property to be reduced. A map showing the extent to be deleted is attached to this addendum.

Other matters

Removal of pest tree plants (e.g., willows, sycamores)

33. Cr Wilson requested clarification on whether the removal of pest tree plants, such as willows and sycamores should be enabled.

34. The removal of trees presents a significant risk to defences against water by changing flow paths and/or resulting in holes susceptible to erosion and scour. This risk remains regardless of whether they are native species or pest plant species such as willows and sycamores. The requirement to obtain a bylaw authority means that appropriate consideration of the risk occurs, and for this reason we consider it appropriate to include the pest plants in this clause.
35. If landowners are looking to remove pest plant species from their properties, it is likely ORC staff would work with the landowner with respect to their removal and any Bylaw Authority. We note that the Proposed Bylaw states that Council may waive the whole or any part of a fee payable under this bylaw and this could be a situation where a waiver may apply. This would be considered on a case-by-case basis.

Permitted planting guidance

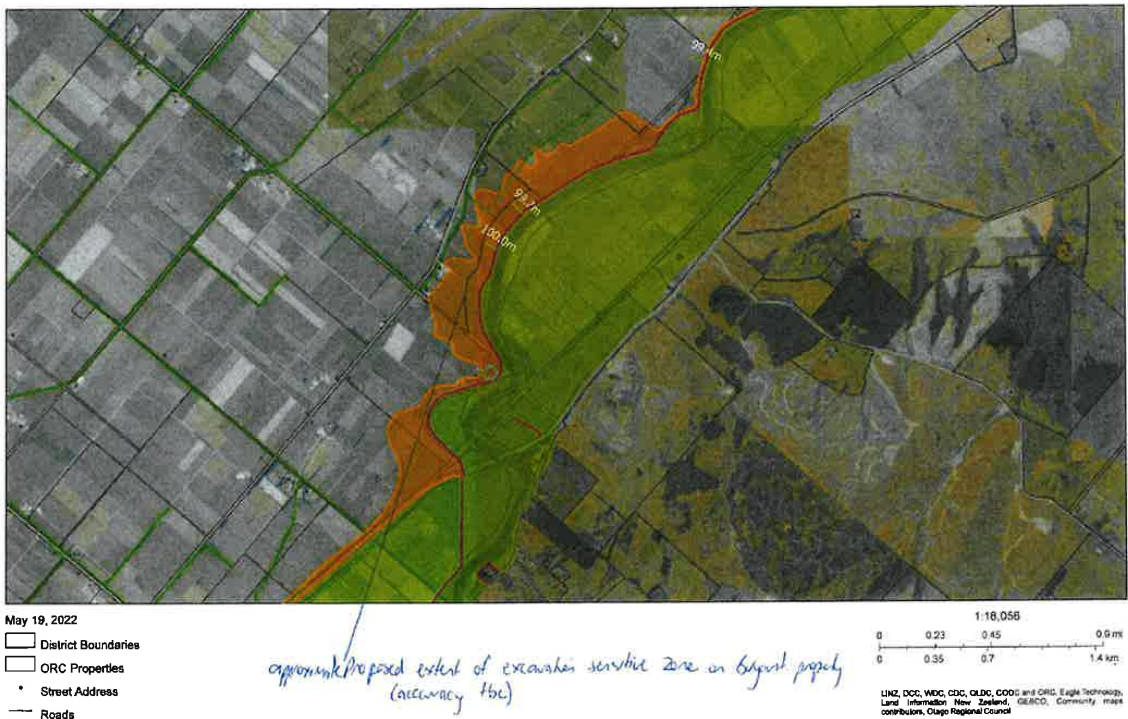
36. The Proposed Bylaw places restrictions on planting any tree, shrub, hedge or part thereof within 7m of a scheduled drain, defence against water, groyne, cross-bank or training line, or in a floodway or within flood protection vegetation. Smaller plants that are not trees, shrubs or hedges (e.g., grasses, groundcover, bulbs and small flowering plants) can be planted without requiring a Bylaw Authority (please see paragraphs 12 - 15 which recommend authorising planting associated with gardening. Cr Wilson requested more information on whether ORC can provide some guidance to assist people wishing to undertake riparian planting works that don't require Bylaw Authority.
37. There are riparian planting guides available on the ORC website (<https://www.orc.govt.nz/managing-our-environment/water/good-practice-information>), however we acknowledge that there are not many plants in these lists that can be planted without a Bylaw Authority.
38. The interactions between planting and flood effects are complex, and there are risks that inappropriate planting can adversely affect the integrity and operation of flood protection works, for example restricting flow capacity or diverting flows, resulting in changed flow direction and increased erosion and scour. The risks of plantings adversely affecting flood protection works are site-specific.
39. We have consulted with Council Staff and consider the best approach is for individual groups to approach ORC staff for site-specific guidance on plantings that would be appropriate from a flood management perspective, rather than to provide blanket recommendations which could present a risk to flood management works in some

locations. We suggest a statement inviting people to discuss could be added to the website.

Use of term authorised in Rule 3.0

- 40. Cr Wilson raised the matter that the statement following statement in Rule 3.0 uses the word 'authorised' and that it was unclear if this meant the same as the term 'authority' as defined in the Proposed Bylaw (authority means written approval issued by the Council under this Bylaw), or instead meant "permitted/allowed/approved".
- 41. In our view, the term 'authorised' means "permitted/allowed/approved", rather than requiring 'authority' as defined in the Proposed Bylaw. We consider this could be clarified by amending the wording to say:

"Nothing in this Bylaw applies to Council employees or persons contracted by Council undertaking maintenance or emergency works on flood protection works"



Proposed
Flood Protection
Management Bylaw
20122

[Date]
[ISBN]

Common Seal page

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.

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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~~ 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.

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2.0 DEFINITIONS

Note: ~~W~~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.~~

~~**Authorised access** means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised under this Bylaw.~~

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) to a depth of no more than 300 millimetres~~

below the existing ground surface for the purpose of sowing, growing or harvesting of pasture, or crops or domestic gardening; cultivation does not include the planting of trees, shrubs or hedges., 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. The beds, and includes the bed of the Water of Leith and Lindsay Creek and associated flood protection structures are defences against water. The locations of the Water of Leith and Lindsay Creek areas marked in red-blue on the Leith-Lindsay map in the Second Schedule.

Ditches means any drainage network, other than scheduled drains.

Drain, in clause 3.3 Floodways, 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 as a Scheduled drain 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~~ contracted 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~~ 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 clauses 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*;
- ~~d.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 or where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw;

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- ~~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, where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw, 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 ~~groyne, or cross-bank or training line or anchored tree protection~~; excluding materials for the purpose of ~~authorised access authorised maintenance or where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw~~;
- 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* impacted by clause 3.1 to 3.4 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 Authority~~ 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~~ 20 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:

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i. the evidence on which the decision or authority was based;

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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), before 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 2014 working 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).

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6.2 Offence

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

- i. Commits a breach of any clause of ~~RuleSection~~ 3 or 4 of this Bylaw;
 - ii. Causes or permits to be done anything in contravention of any clause of ~~Section-Rule~~ 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-Rule~~ 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

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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

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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.

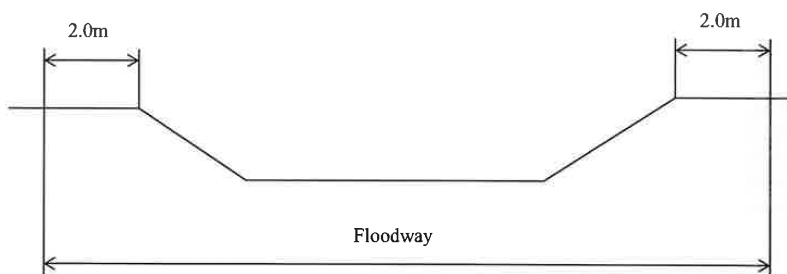
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

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.



Bylaw **Approval Authority** Application
Form



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.

Bylaw ~~Approval~~Authority Application Form



4. Diagram of Location of Proposed Works

Please provide a diagram of the property below, detailing where the works are proposed to occur and other relevant diagrams (e.g. cross-section). If possible please also provide photos of the location.

5. Description of the Proposed Works

Please describe the proposed works, the reasons for them, when and how they will be undertaken, who will be doing the works, and any other relevant information.

Bylaw ~~Approval Authority~~ Application Form



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 Rule(s) of the Bylaw to which this Approval Authority Relates

Appendix Two: Bylaw Approval Authority Application Form

**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

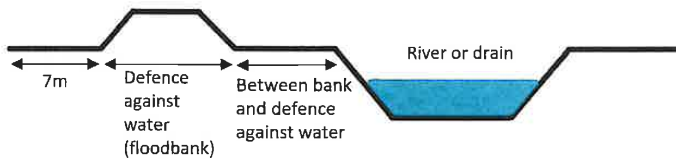
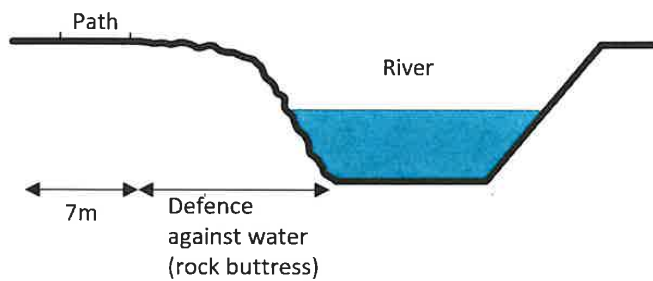


Figure 3: Defences against water – rock buttress



**Otago Regional Council Proposed Flood
Protection Management Bylaw**

**Staff response to Panel requests #2 -
deliberations**

2 June 2022

Background

1. A public hearing in respect of the Otago Regional Council (ORC) Proposed Flood Protection Management Bylaw (Proposed Bylaw) was held in the ORC Council Chamber, Philip Laing House, Dunedin, on Friday 13 May 2022. Deliberations were held in the ORC Council Chamber on Thursday 19 May 2022.
2. The Hearing Panel comprised Councillor Kate Wilson (Chair), Councillor Gretchen Robertson and Mr Allan Cubitt (independent commissioner).
3. The Hearing Panel requested clarification or advice on various matters from Council Staff at the public hearing. This response was presented in a document titled "Staff response to Panel requests" and presented at the deliberations on 19 May 2022.
4. The Hearing Panel has requested further clarification or advice from Council Staff on the following matters during deliberations. One further amendment from Council Staff is proposed and a statement on the status of the Contour Channel is also included. These have been addressed below under the following headings:
 - Use of term "authorised" in Rule 3.0
 - Definition of "owner" and use of term "rack rent"
 - Inclusion of definition of "flood protection works" in the purpose statement
 - Use of terms "rule" and "clause" throughout the Proposed Bylaw
 - Amendments to diagrams in Appendix One
 - Requirement to provide reasons for objections
 - Use of terms "groyne" and "groynes" throughout the Proposed Bylaw
 - Minor wording amendment – "respects" to "matters"
 - Removal of statement allowing dumping or deposition where it is an inherent part of a permitted activity

- Status of Contour Channel
- 5. This report is as an addendum to the Summary of Submissions report dated 9 May 2022. An amended Appendix 2 (Proposed Flood Protection Management Bylaw) is attached to this report.

Use of term “authorised”

6. Cr Wilson raised the matter that the following statement in Rule 3.0 uses the word “authorised” and it was unclear whether this meant the same as the term “authority” as defined in the Proposed Bylaw (*“Authority means written approval issued by the Council under this Bylaw”*).
7. This was initially addressed in points 40-41 of the “Staff response to Panel requests” document (presented on Thursday 19 May 2022 at Deliberations). However, during deliberations further questions were raised as to whether consequential changes should then be made to the definition of “Council” to remove the use of the term “authorise”.
8. Council Staff sought legal advice on this matter. Based on this advice, we confirm that the words from the definition of Council *“any person duly authorised by the Council to exercise any of the powers conferred upon the Council by this Bylaw”* is intended to comprehend:
 - Any transfer of functions under section 17 of the Local Government Act.
 - Delegations under Clause 32(1) Schedule 7 of the Local Government Act; under this clause a local authority may delegate to a committee, sub-committee, member or officer of the local authority.
 - Clause 32(5) Schedule 7 authorises the Council to delegate to any other local authority, organisation, or person the enforcement, inspection, licensing and administration relating to bylaws and other regulatory matters.
 - Section 179 Local Government Act expressly authorises contracting out of the administration of regulatory functions including enforcement, inspection, licensing and other administrative matters.
 - Under section 180 of the Local Government Act a Regional Council may consent to a territorial authority undertaking the enforcement and administration of a regional bylaw within a territorial authority’s jurisdiction.

9. We consider this interpretation issue has partly arisen from changing references from “approval” to “authority” throughout the Proposed Bylaw, which has led to ambiguity around the use of the term “authorise”.
10. Legal advice has recommended to revert to using the term “approval” with respect to the written approvals issued by Council under the Proposed Bylaw throughout the document rather than “authority”. This will remove the ambiguity around the term authorise and allow the word “authorised” to be retained in the definition of “Council” and in Rule 3.0. This approach is preferred (rather than changing the word “authorised” in the definition of “Council” and in Rule 3.0) because they are entirely appropriate to be used in these situations.

Definition of “owner” and use of term “rack rent”

11. The Hearing Panel has requested clarity around the use of the term “rack rent” in the definition of “owner”. Council Staff have sought legal advice which has confirmed that, whilst the definition may seem quite quaint, it is paralleled in statutes such as the Building Act 2004 and Resource Management Act 1991.
12. “Rack Rent” is a term not now commonly used in New Zealand, but in a legal setting means the full market rent for land including improvements. That may or may not be the actual rent (if any) payable under contract or by law.
13. Council Staff have been advised that this definition is comprehensive in embracing all potential owners of land, and legal advice has suggested the following addition to the definition to assist in giving a more modern perspective and readability:

“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, and includes the owner of the fee simple of the land.”

Inclusion of definition of flood protection works in the purpose statement

14. The Hearing Panel has requested further information relating to the inclusion of the definition of flood protection works in the Purpose of the Proposed Bylaw (Rule 1.0) and that the definition is not copied word-for-word (the Purpose instead says “Flood protection works can include...” while in the definition said “Flood protection works include...”).
15. Council Staff have sought legal advice on this matter. We have been advised that, whilst it is not inappropriate for the purpose to include a description of what flood protection works are, in this case it is problematic because of the word “can”. As such, the definition should be removed from the purpose statement.

Use of terms “rule” and “clause” throughout the Proposed Bylaw

- 16. Commissioner Cubitt raised the inconsistency of the use of the words “rule” and “clause” throughout the Proposed Bylaw.
- 17. We propose that only the term “clause” is used.

Amendments to diagrams in Appendix One

- 18. Cr Wilson requested the following details be added to the diagrams in Appendix One:
 - Identification of the “top of bank” on the right-hand side of the scheduled drain (Figure 1)
 - Identification of 20m exclusion zone from a defence against water (Figures 2 and 3)
- 19. The diagrams have been amended to address this request, shown below:

Figure 1: Scheduled drains and overland flow paths

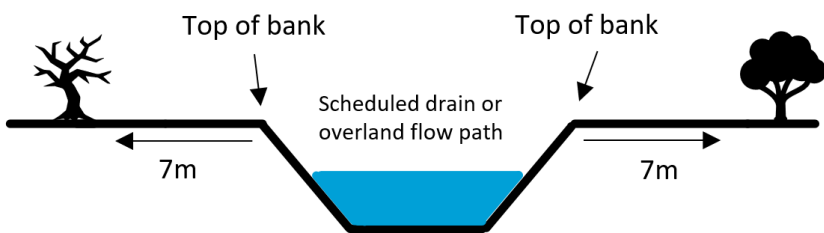


Figure 2: Defences against water - floodbank

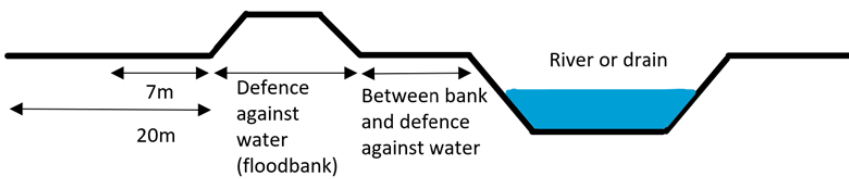
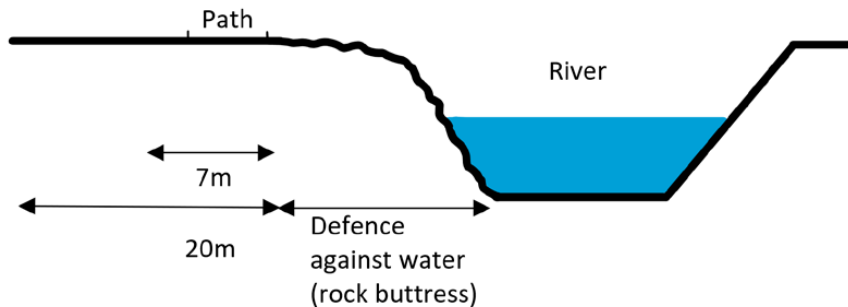


Figure 3: Defences against water – rock buttress



Requirement to provide reasons for objections

20. The Hearing Panel requested that any objection to a decision or authority under clause 5.3(a) state the reasons for the objection, similar to any objections under the Resource Management Act 1991.
21. We suggest that the wording of clause 5.3(a) be amended as follows:

“Any person who applies for approval under this Bylaw, within 20 working days of receiving any decision or approval in relation to this Bylaw, may object in writing to the Council in regard to that decision or approval. Objections to a decision or approval are limited to a refusal of the approval or the conditions placed on the approval and must state the reasons for the objection.”

Use of terms “groynes” and “groynes” throughout the Proposed Bylaw

22. Cr Wilson raised the point that the terms “groynes” and “groynes” appear to have been used interchangeably throughout the Proposed Bylaw and requested clarity on this.
23. We consider the term “groynes” (plural) should be used in the relevant rule title and schedule title, definition of flood protection works, title of clause 3.4 (Groynes, Cross-banks and Training Lines) and title of the Fourth Schedule (Groynes, Cross-banks, Training Line and Flood Protection Vegetation). The term “groynes” (singular) should be used in the body of the rule (e.g., no person shall... alter any groyne...).
24. To reflect how the terms have been used throughout the document, we consider that the use of “groynes” in the definition (Rule 2.0) should be changed to refer to “groyne” singular.

Minor wording amendment – “respects” to “matters”

25. The Hearing Panel consider the word “respects” in clause 6.1(b)(i) should be replaced with “matters” so that it reads:

“sets out the matters in which the holder has contravened or failed to comply with any condition of the approval”

26. Council Staff do not have any concerns with this amendment or consider that it results in any unintended consequences.

Removal of statement allowing dumping or deposition where it is an inherent part of a permitted activity

27. In response to the University of Otago submission (submitter 9) point 5, Council Staff stated:

“We acknowledge that the wording ‘Dump or deposit any thing’ is broad and consider this could be refined to somewhat to address the submitters concerns by adding an exclusion to this clause that allows dumping or depositing if it is a permitted activity under another clause in the Bylaw. We propose amending the final sentence of 3.2(g) to say: ‘excluding materials for maintenance of existing authorised access or where dumping or deposition of material is an inherent part of an activity that is permitted under any other rule in this Bylaw’. For consistency we consider this should also be added to clauses 3.3(e) and 3.4(f).

This would, for example, authorise deposition activities such as the placement of compost associated with gardening, replacement of a fence and placement of fill material associated with repairing footpaths to be an inherent part of those permitted activities.”

28. Council Staff have since received legal advice stating that the addition of this wording may unintentionally extend the ambit of the Bylaw and the use of the term “permitted” is confusing given that the Bylaw does not permit, but prohibits, activities. As such, it was recommended that this statement was removed.
29. It is noted that inherent activities will ordinarily be part of the activity permitted or approved.

Status of the Contour Channel

30. In the Summary of Submissions dated 9 May 2022 prepared by Council Staff in response to the submissions received during the public consultation period, Council Staff were of the understanding that the Contour Channel was a natural waterbody. Based on the information heard during the Hearing on 13 May 2022, Council Staff are investigating further the status of the channel.
31. We note that the outcome of this assessment does not impact the Proposed Bylaw, or change Council Staff’s recommendations in relation to submissions 4 and 10.

Proposed
Flood Protection
Management Bylaw
20122

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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 Approval](#)

Appendix Two

Bylaw Approval [Authority Approval](#) Application Form.

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FLOOD PROTECTION MANAGEMENT BYLAW 20422

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 20422.

Commencement

This Bylaw shall come into force on the 1st of September [date] 20422.

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~~ 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.

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2.0 DEFINITIONS

Note: ~~W~~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.~~

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

~~**Authorised access** means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised under this Bylaw.~~

~~**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) to a depth of no more than 300 millimetres below the existing ground surface for the purpose of sowing, growing or harvesting of pasture, or crops or domestic gardening. Cultivation does not include the planting of trees, shrubs or hedges, 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. ~~The beds and includes the bed~~ of the Water of Leith and Lindsay Creek and associated flood protection structures are defences against water. The locations of the Water of Leith and Lindsay Creek areas marked in ~~red-blue~~ on the Leith Lindsay map in the Second Schedule.

Ditches means any drainage network, other than scheduled drains.

Drain, in clause 3.3 Floodways, 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, and includes the owner of the fee simple of the land. |

~~**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 as a Scheduled drain 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~~APPROVAL

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~~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-clauses~~ 3.1 and 3.2.

3.1 Scheduled Drains and Overland Flow Paths

No person shall, without the prior ~~authority~~approval 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 approval~~ of the Council –

- a. Alter any *defence against water* except as provided for by ~~rule clause 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.~~ 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.~~ 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.~~ 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.~~ Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *defence against water*;

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- ~~A.1.~~ 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 approval~~ of the Council –

- a. Alter any *floodway* except as provided for by ~~rules-clauses~~ 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-clause~~ 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 approval](#) 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 ~~groyne, or~~ *cross-bank* ~~or~~ *training line* ~~or~~ *anchored tree protection*; excluding materials for the purpose of [authorised](#) 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 approval~~ 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 [impacted by clause 3.1 to 3.4](#) 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 APPROVAL

5.1 Authority Approval

- a. An application to the *Council* for authority approval 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 approval under this Bylaw may be granted on such conditions as the *Council* considers appropriate. When considering applications for authority approval, 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 approval
 - Water quality
- c. If *Council* refuses an application for authority approval, the *Council* shall give written reasons for that decision.
- d. Every person to whom an authority approval is granted shall produce that authority approval 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 approval 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 approval under this Bylaw, within ~~five~~20 working days of receiving any decision or authority approval in relation to this Bylaw, may object in writing to the *Council* in regard to that decision or authority approval. Objections to a decision or authority approval are limited to a refusal of the authority approval or the conditions placed on the authority approval and must state the reasons for the objection.

b. The Council may uphold, amend or rescind the decision or ~~authority approval~~, and in making its determination must have regard to:

i. the evidence on which the decision or ~~authority approval~~ 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.

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6.0 COMPLIANCE AND ENFORCEMENT

6.1 Revocation of ~~Authority Approval~~

- a. The Council may, in accordance with this clause, revoke any ~~authority approval~~ granted under this Bylaw, if the holder of the ~~authority approval~~ contravenes or fails to comply with any condition of the ~~authority approval~~.
- b. Subject to 6.1(d), ~~before~~ revoking any ~~authority approval~~, the Council shall give written notice to the holder of the ~~authority approval~~ that the Council may revoke the ~~authority approval~~ which:
- i. ~~written notice to the holder of the authority that the Council may revoke the authority sets out the respects~~ matters in which the holder has contravened or failed to comply with any condition of the ~~authority approval~~; 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 approval 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 2014 working days, a written submission to the Council setting out reasons why the authority approval 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 approval.~~
- d. ~~Council may revoke authority approval 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 approval under clause 6.1(d).~~

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6.2 Offence

- a. Every person commits an offence against this Bylaw who -
 - i. Commits a breach of ~~any clauses of Section 3~~ or 4 of this Bylaw;
 - ii. Causes or permits to be done anything in contravention of ~~any clauses of Section 3~~ or 4 of this Bylaw;
 - iii. Omits to do anything required by this Bylaw or the conditions of the relevant ~~authority approval~~;
 - 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 approval~~, 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 approval~~, 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

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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

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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.

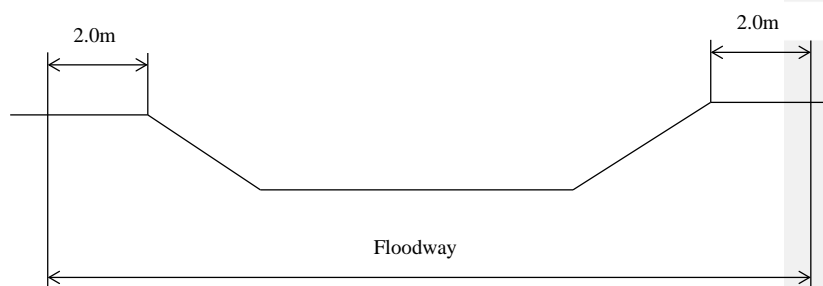
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

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.



**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 Approval

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

Figure 1: Scheduled drains and overland flow paths

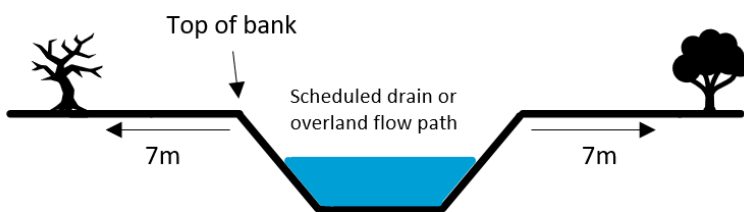


Figure 1: Scheduled drains and overland flow paths

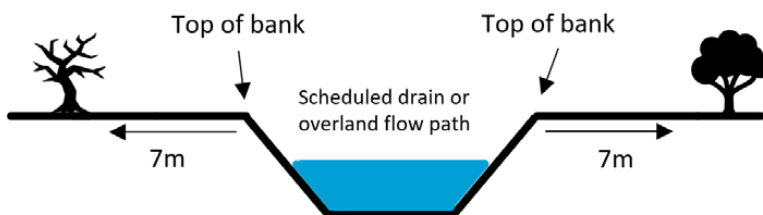


Figure 2: Defences against water - floodbank

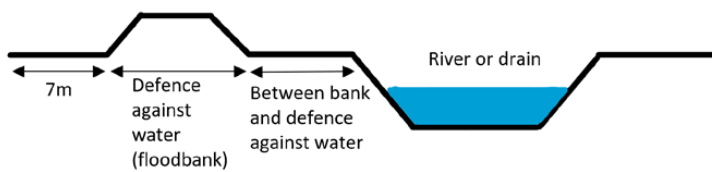


Figure 2: Defences against water - floodbank

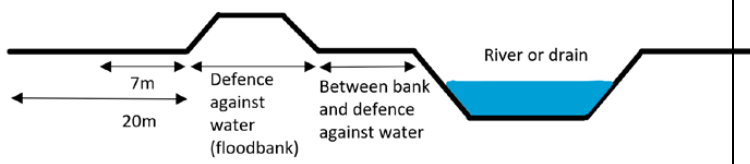


Figure 3: Defences against water – rock buttress

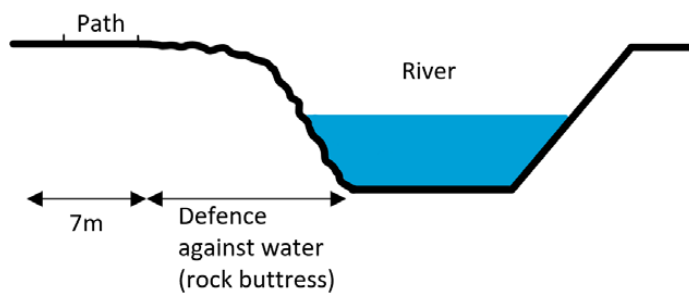
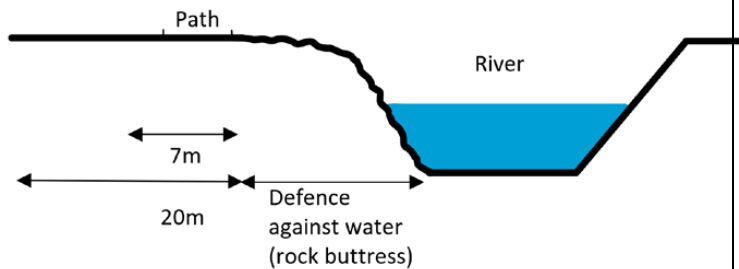


Figure 3: Defences against water – rock buttress



| **Appendix Two: Bylaw Approval Authority Approval Application Form**

Bylaw ~~Approval~~ Authority Application Form



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 ~~Approval~~ Authority Approval ~~R~~relates

Property Address _____

Legal description: _____

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

3. ~~Section~~ Clause(s) of the Bylaw to which this ~~Approval~~ Authority Approval ~~R~~relates

Bylaw ~~Approval~~ Approval Application Form



4. Diagram of Location of Proposed Works

Please provide a diagram of the property below, detailing where the works are proposed to occur and other relevant diagrams (e.g. cross-section). If possible please also provide photos of the location.

5. Description of the Proposed Works

Please describe the proposed works, the reasons for them, when and how they will be undertaken, who will be doing the works, and any other relevant information.

Bylaw ~~Approval~~ Authority Application Form



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 approval 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.

Flood Protection Management Bylaw 2022 – For approval by Council

For approval

Flood Protection Management Bylaw, 2022

1

Chairperson's Foreword

This page has deliberately been left blank. The Chairperson's Foreword will be inserted at a later date.

For approval

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First Schedule

Maps of scheduled drains and overland flow paths.

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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.

Appendix One

Flood Protection Management Bylaw, 2022

Diagrams referencing Activities requiring Bylaw Approval

Appendix Two

Bylaw Approval Application Form.

For approval

FLOOD PROTECTION MANAGEMENT BYLAW 2022

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 2022.

Commencement

This Bylaw shall come into force on the [date] 2022.

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 *Council*.

This Bylaw 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*.

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

Authorised access means legally established access that was in place prior to this Bylaw coming into effect or access that is authorised 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) to a depth of no more than 300 millimetres below the existing ground surface for the purpose of sowing, growing or harvesting of pasture, crops or domestic gardening. Cultivation does not include the planting of trees, shrubs or hedges.

Defence against water means any defence against water shown in the Second Schedule. The beds of the Water of Leith and Lindsay Creek and associated flood

protection structures are defences against water. The locations of the Water of Leith and Lindsay Creek are marked in blue in the Second Schedule.

Drain, in clause 3.3 Floodways, means any 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.

Earthworks means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring 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.

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.

Groyne 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, and includes the owner of the fee simple of the land.

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 as a Scheduled drain 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.

For approval

3.0 ACTIVITIES REQUIRING BYLAW APPROVAL

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 *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 clauses 3.1 and 3.2.

3.1 Scheduled Drains and Overland Flow Paths

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

- a. Alter any *defence against water* except as provided for by clause 3.2 (g);
- b. Remove or interfere with any machinery or equipment relating to any *defence against water*;
- c. Plant 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. 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*;
- 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. within any *excavation-sensitive area*;
- 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;

h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *defence against water*;

i. Carry out any *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* 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 *approval* of the *Council* –

- a. Alter any *floodway* except as provided for by clauses 3.3 (e) and (g);
- b. Remove or interfere with any machinery or equipment relating to any *floodway*;
- c. Plant 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 *drains* undertaken in accordance with clause 3.3 (g);
- f. Obstruct any *floodway*;
- g. Carry out any *earthworks* in any *floodway*, excluding maintenance of *drains*;
- h. Connect any pipe, channel or other conduit to the Hilderthorpe or Hendersons and Waikoura Creeks floodways.

3.4 Groynes, Cross-banks and Training Lines

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

- a. Alter any *groyne cross-bank* or *training line*
- b. Remove or interfere with any machinery or equipment relating to any *groyne cross-bank* or *training line*
- c. Plant any tree, shrub, hedge or part thereof
 - i. on any *groyne, 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, cross-bank* or *training line*, or
 - ii. within seven metres of any *groyne, cross-bank* or *training line*;
- e. Remove or alter any *structure*
 - i. in, on, over, through or under any *groyne, cross-bank* or *training line*, or
 - ii. within seven metres of any *groyne, cross-bank* or *training line*;
- f. Dump or deposit any thing on, or within fifty metres of any *groyne, cross-bank* or *training line*; excluding materials for the purpose of authorised access maintenance;
- g. Carry out any *earthworks*
 - i. in, on, through or under any *groyne, cross-bank* or *training line*, or
 - ii. within fifty metres of any *groyne, cross-bank* or *training line* unless the earthworks relate to *cultivation*, or
 - iii. between the bank of any river and associated *groyne, cross-bank* or *training line*;
- h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *groyne, cross-bank* or *training line*.

3.5 Flood Protection Vegetation

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

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

For approval

4.0 ACTIVITIES REQUIRED TO BE UNDERTAKEN

4.1 Structures

The *owner* of every *structure* impacted by clause 3.1 to 3.4 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 APPROVAL

5.1 Approval

- a. An application to the *Council* for *approval* under this Bylaw shall be made in accordance with the Bylaw Approval Application Form (Appendix Two) and be accompanied by the prescribed fee;
- b. Any *approval* under this Bylaw may be granted on such conditions as the *Council* considers appropriate. When considering applications for *approval*, 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 approval
 - Water quality
- c. If *Council* refuses an application for *approval*, the *Council* shall give written reasons for that decision.
- d. Every person to whom an *approval* is granted shall produce that *approval* 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 *approval* 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 *approval* under this Bylaw, within 20 working days of receiving any decision or *approval* in relation to this Bylaw, may object in writing to the Council in regard to that decision or *approval*. Objections to a decision or *approval* are limited to a refusal of the *approval* or the conditions placed on the *approval* and must state the reasons for the objection.
- b. The *Council* may uphold, amend or rescind the decision or *approval*, and in making its determination must have regard to:
 - i. the evidence on which the decision or *approval* 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.

For approval

6.0 COMPLIANCE AND ENFORCEMENT

6.1 Revocation of Approval

- a. The *Council* may, in accordance with this clause, revoke any *approval* granted under this Bylaw, if the holder of the *approval* contravenes or fails to comply with any condition of the *approval*.
- b. Subject to 6.1(d), before revoking any *approval*, the *Council* shall give written notice to the holder of the *approval* that the *Council* may revoke the *approval* which:
 - i. sets out the matters in which the holder has contravened or failed to comply with any condition of the *approval*; and
 - ii. 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 *approval* 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 20 working days, a written submission to the *Council* setting out reasons why the *approval* 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 *approval*.
- d. *Council* may revoke *approval* 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 *approval* under clause 6.1(d).

6.2 Offence

- a. Every person commits an offence against this Bylaw who -
 - i. Commits a breach of clauses 3 or 4 of this Bylaw;
 - ii. Causes or permits to be done anything in contravention of clauses 3 or 4 of this Bylaw;

- iii. Omits to do anything required by this Bylaw or the conditions of the relevant *approval*;
 - 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 clauses 3 or 4, or the conditions of the relevant *approval*, 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 *approval*, 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 – Scheduled 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

FOR approval

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.

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.

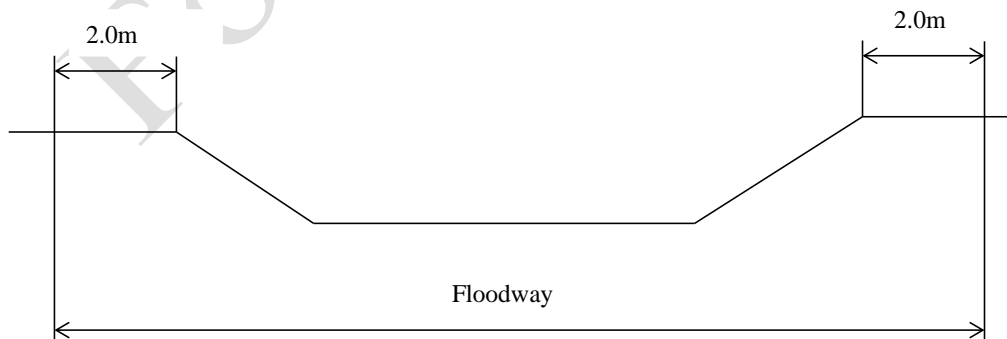
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

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.



Fourth Schedule – Groynes, Cross-Banks, Training Line and Flood Protection Vegetation

Maps of groynes, cross-banks, training line 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,
Shotover River Training Line and Flood Protection Vegetation

For approval

Appendix One: Diagrams referencing Activities requiring Bylaw Approval

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

Figure 1: Scheduled drains and overland flow paths

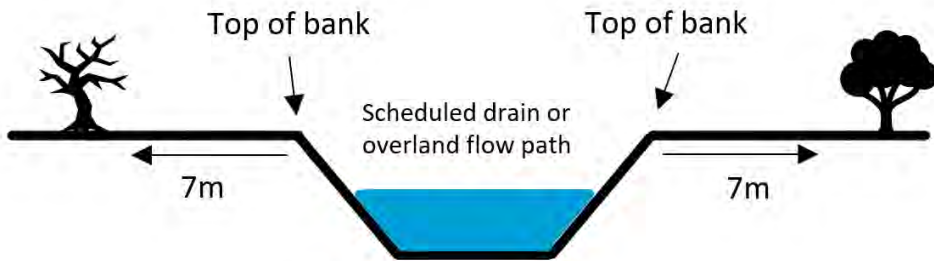


Figure 2: Defences against water - floodbank

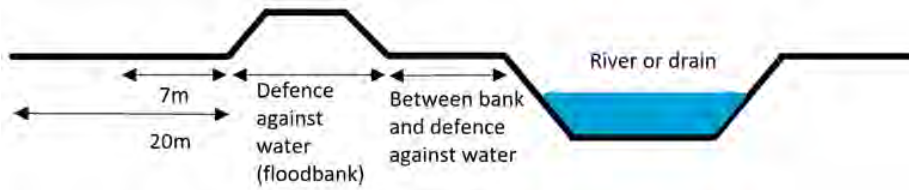
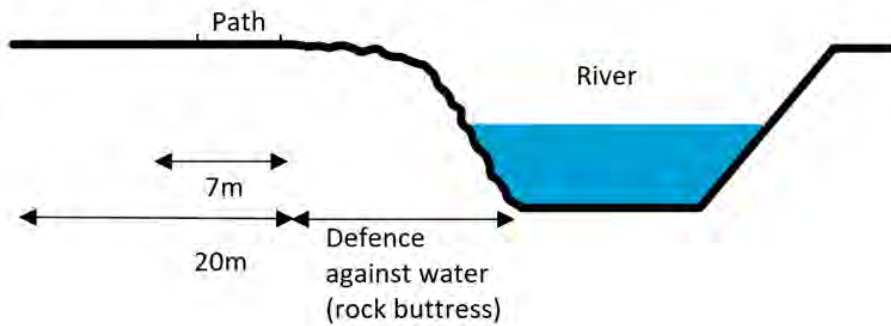


Figure 3: Defences against water – rock buttress



Appendix Two: Bylaw Approval Application Form

For approval

Bylaw Approval Application Form



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 _____

Mobile _____

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 Approval relates

Property Address _____

Legal description: _____

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

3. Clause(s) of the Bylaw to which this Approval relates

Bylaw Authority Application Form



4. Diagram of Location of Proposed Works

Please provide a diagram of the property below, detailing where the works are proposed to occur and other relevant diagrams (e.g. cross-section). If possible please also provide photos of the location.

A large empty rectangular box intended for the applicant to draw a diagram of the property and proposed works. A large, light grey watermark reading 'For Approval' is diagonally overlaid across the box.

5. Description of the Proposed Works

Please describe the proposed works, the reasons for them, when and how they will be undertaken, who will be doing the works, and any other relevant information.

Bylaw Approval Application Form



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 approval 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.

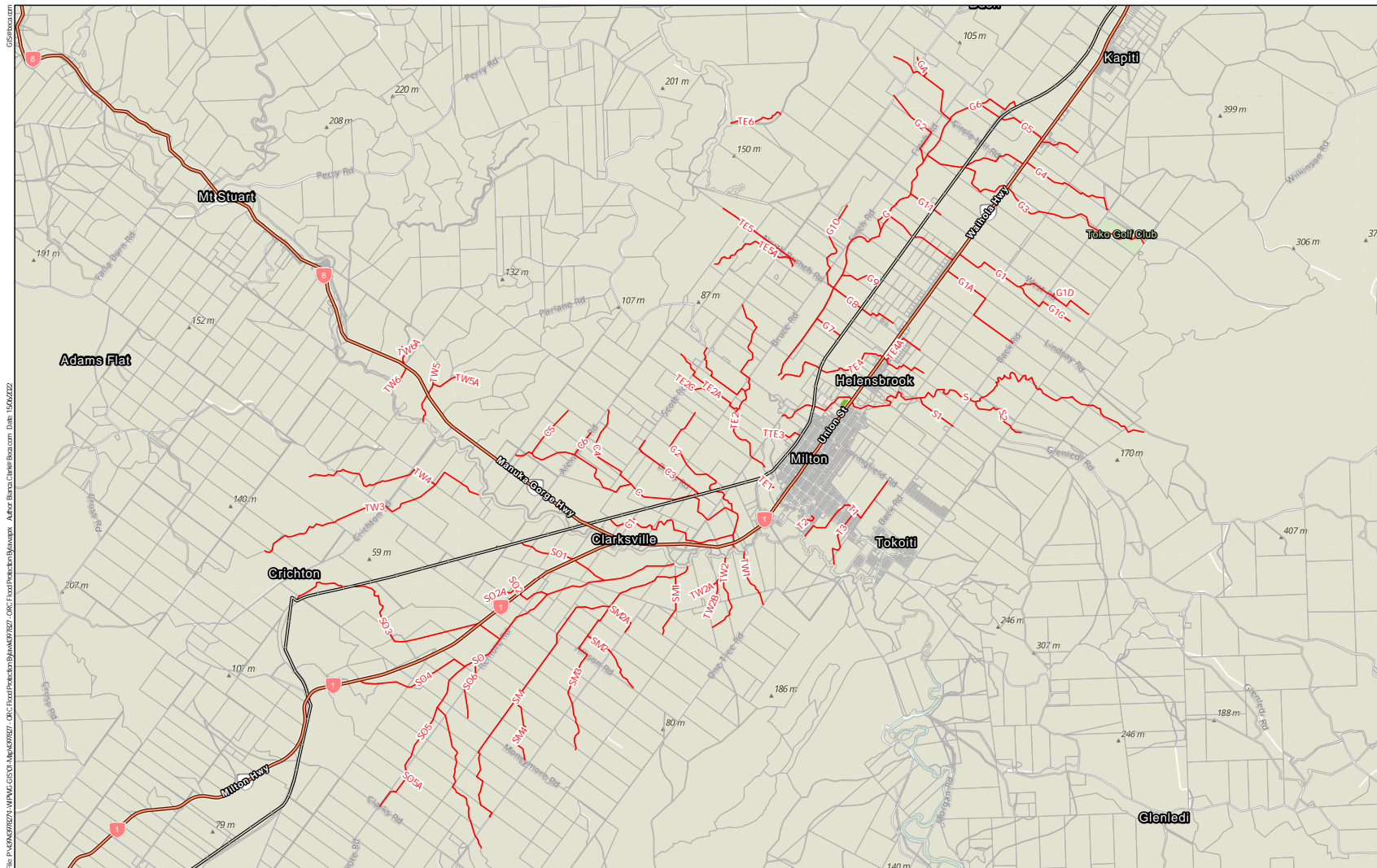


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 Kilometres

First Schedule
 Lower Clutha Scheduled Drains

Legend
 — Scheduled Drains
 □ NZ Primary Land Parcels

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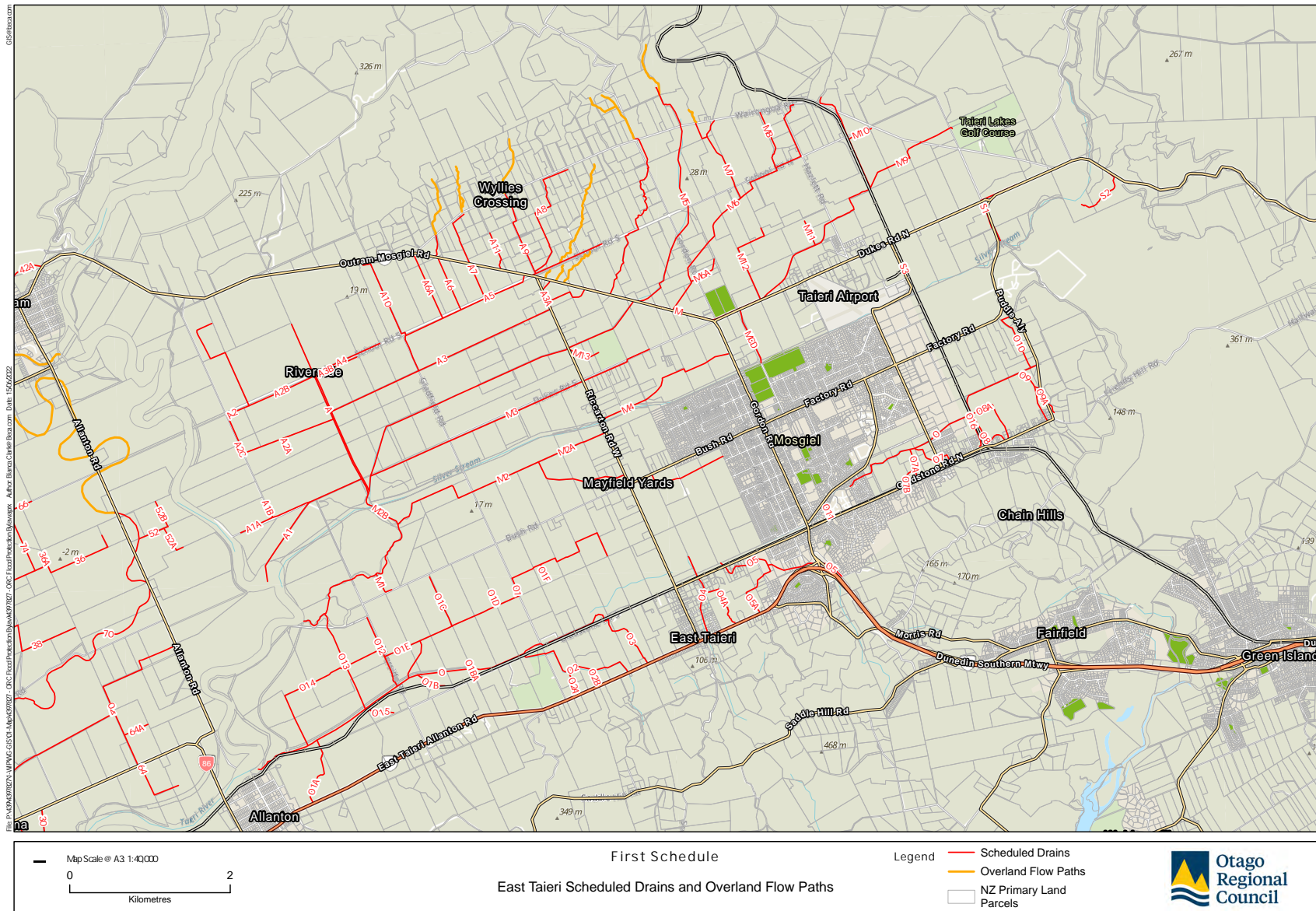


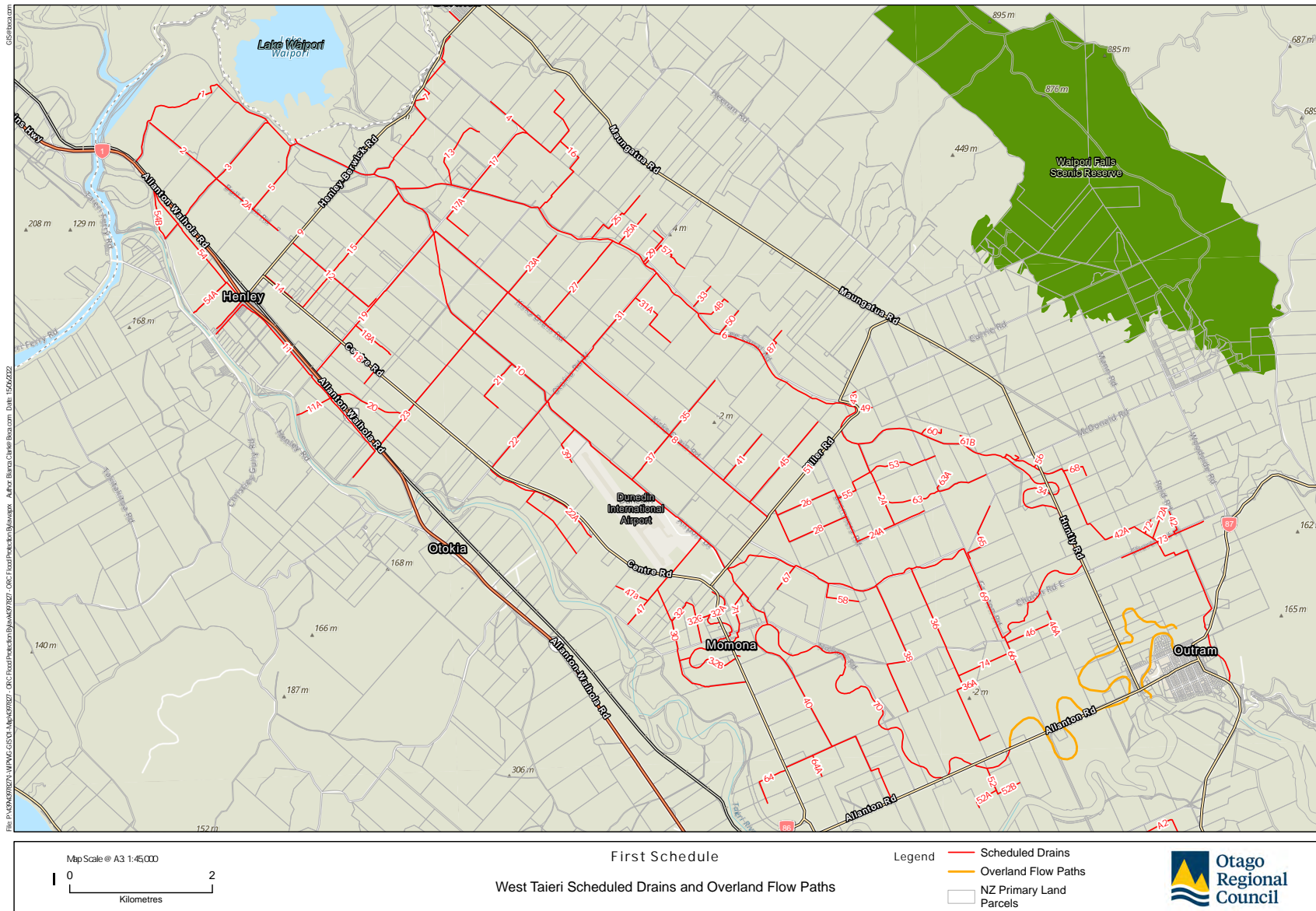
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First Schedule
 Tokomairiro Scheduled Drains

Legend
 — Scheduled Drains
 □ NZ Primary Land Parcels

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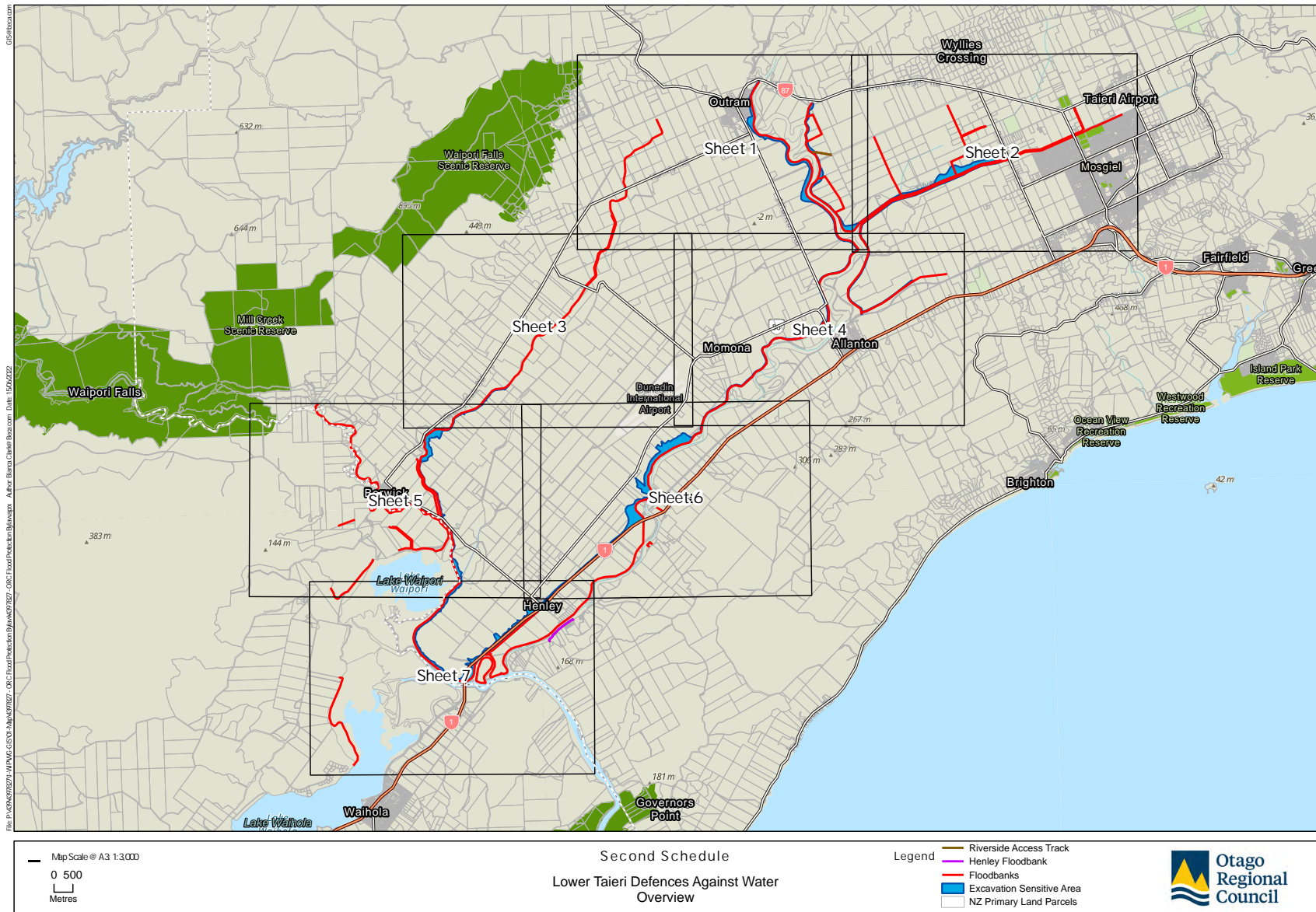


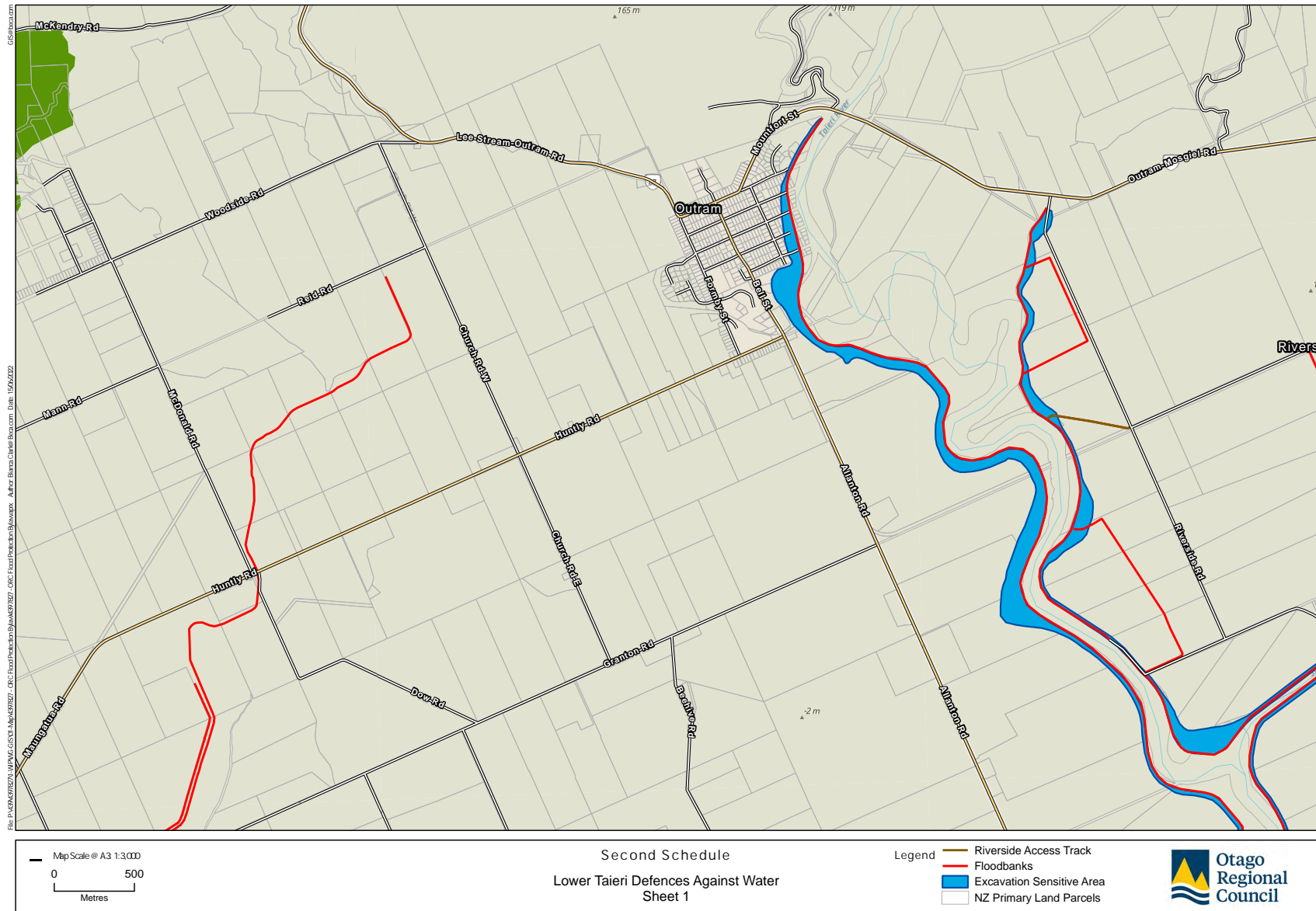
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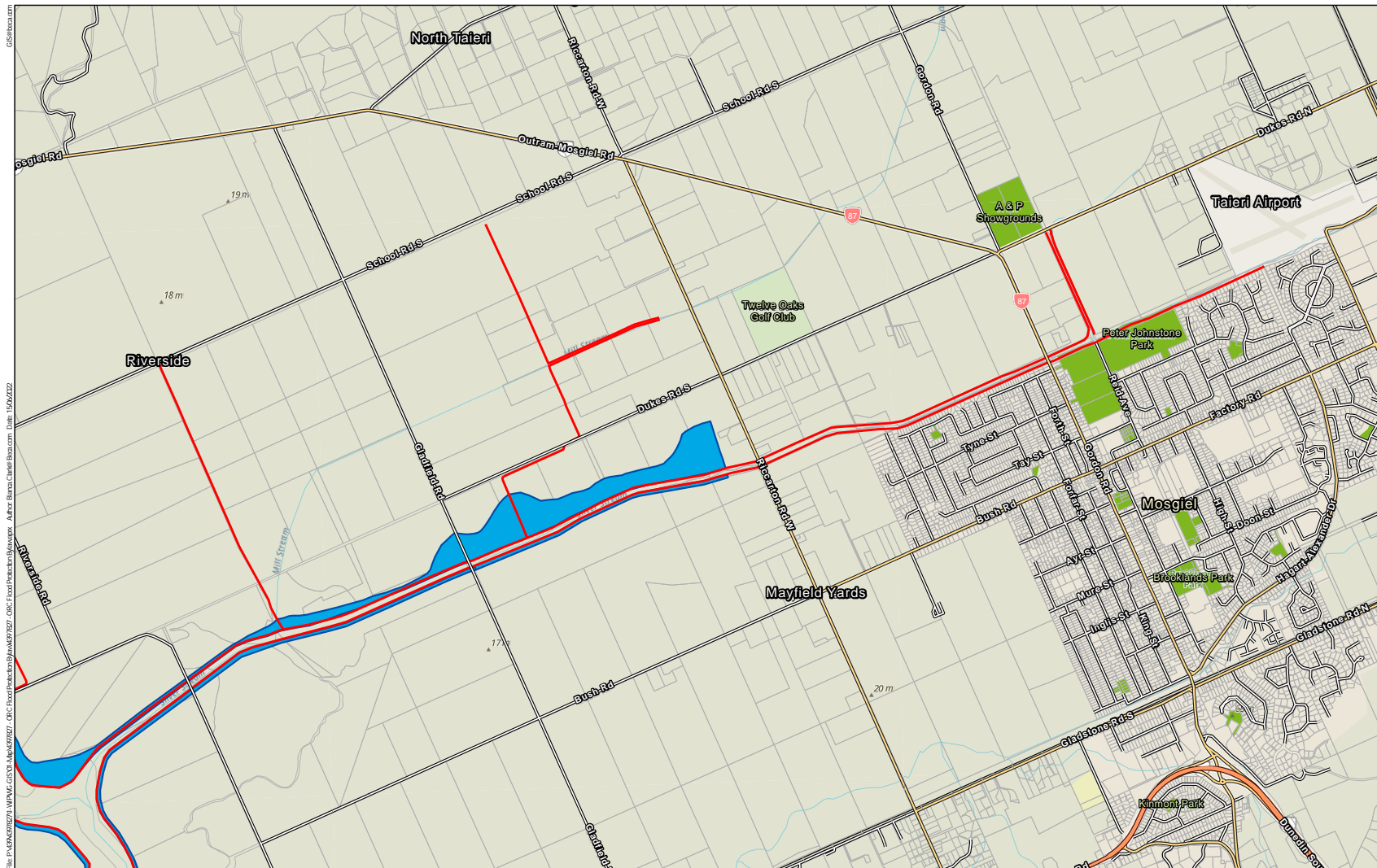
Second Schedule
 Lower Clutha Defences Against Water

Legend
 Floodbanks
 NZ Primary Land Parcels

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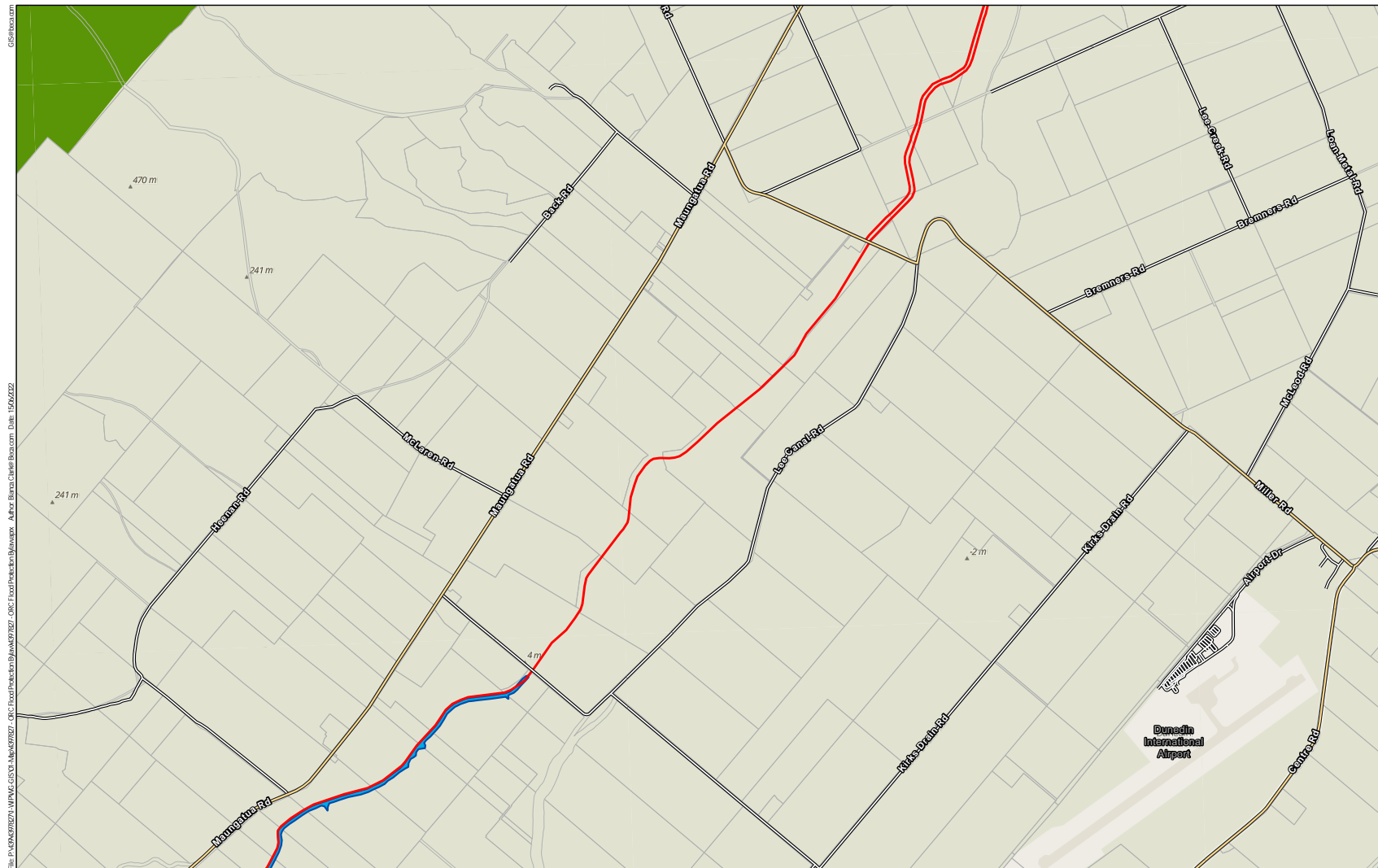
Second Schedule
Lower Taieri Defences Against Water
Sheet 2

Legend

- Floodbanks
- Excavation Sensitive Area
- NZ Primary Land Parcels



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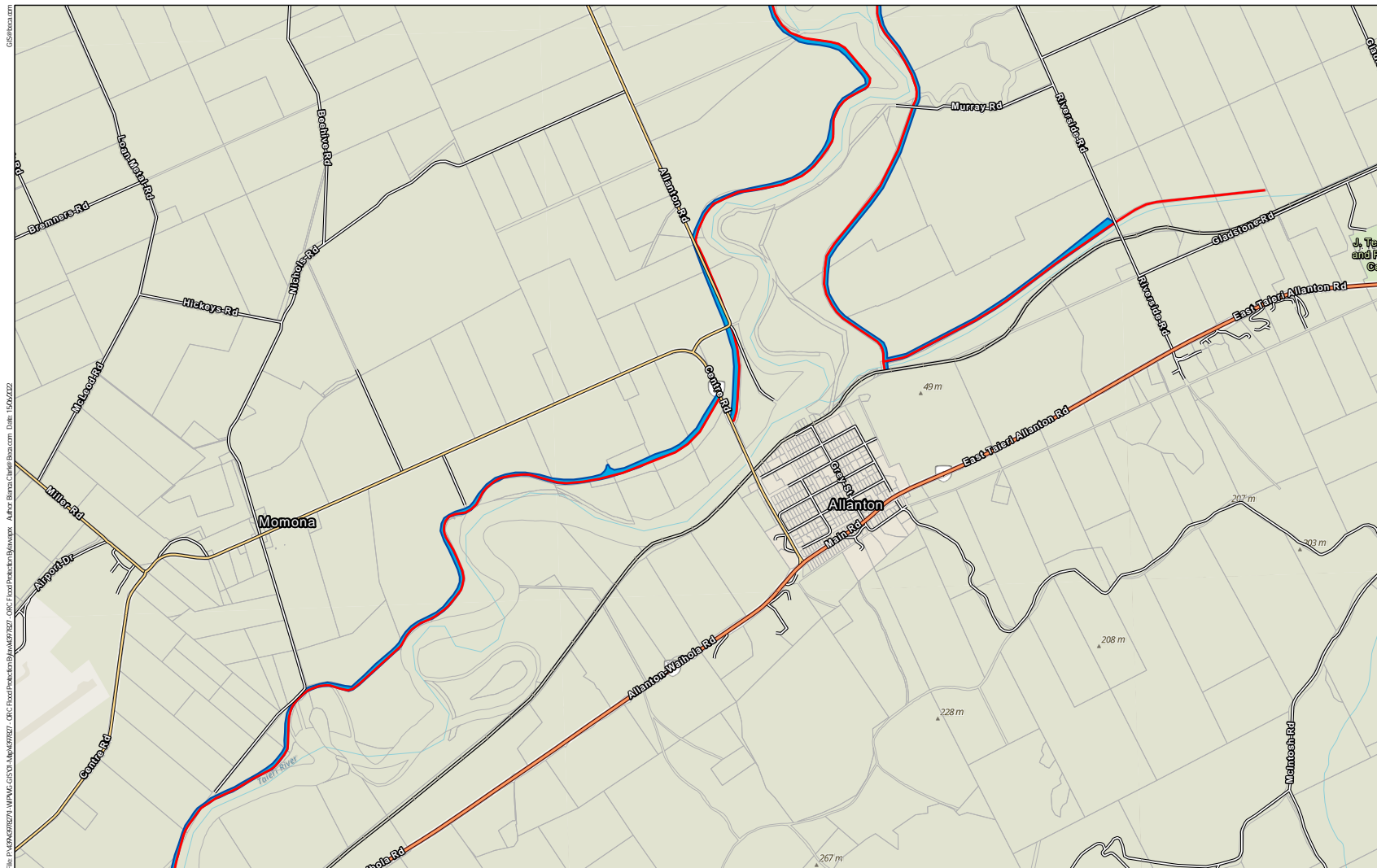
Second Schedule
Lower Taieri Defences Against Water
Sheet 3

Legend

- Floodbanks
- Excavation Sensitive Area
- NZ Primary Land Parcels



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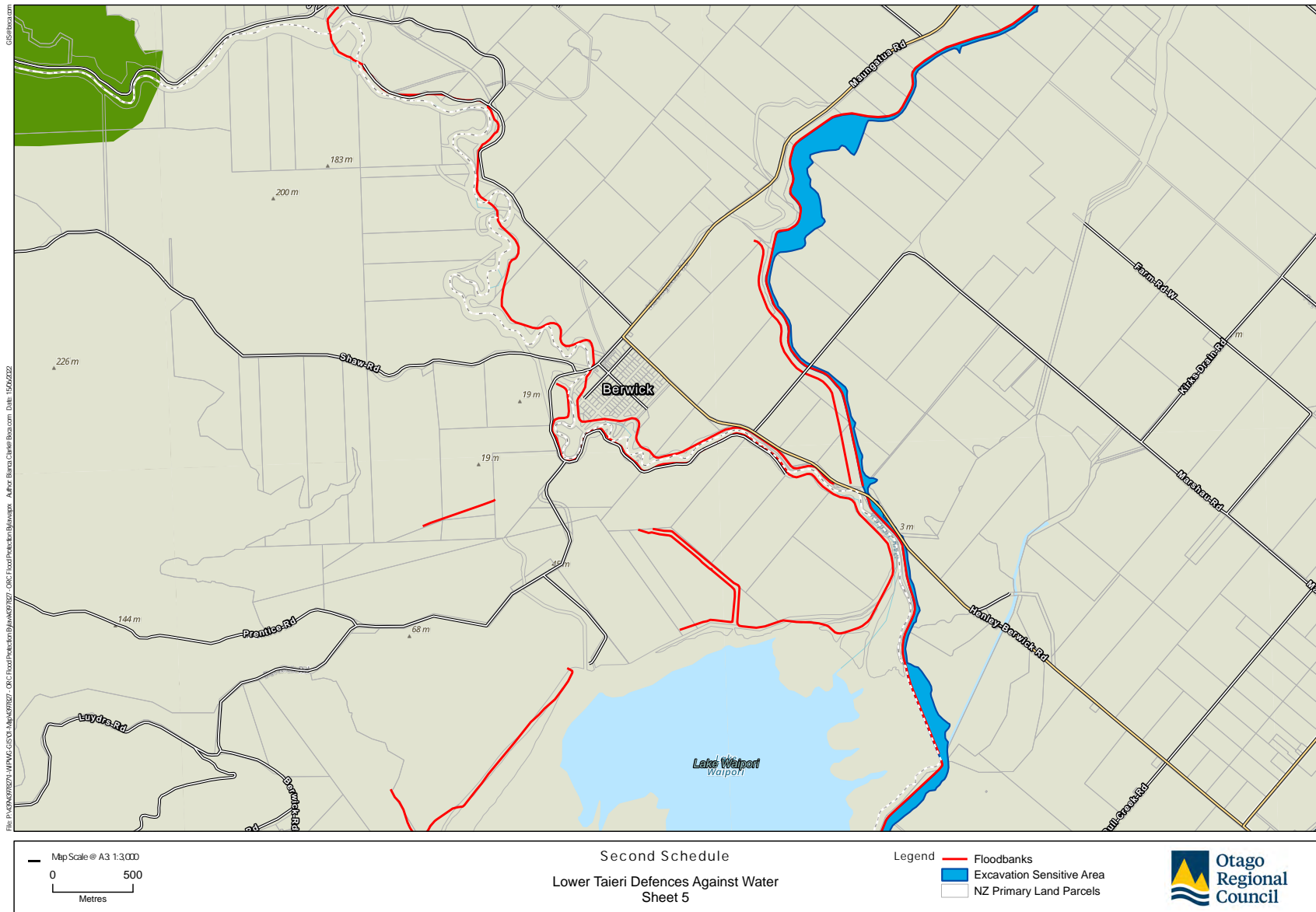


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Second Schedule
 Lower Taieri Defences Against Water
 Sheet 4

Legend
 Floodbanks
 Excavation Sensitive Area
 NZ Primary Land Parcels

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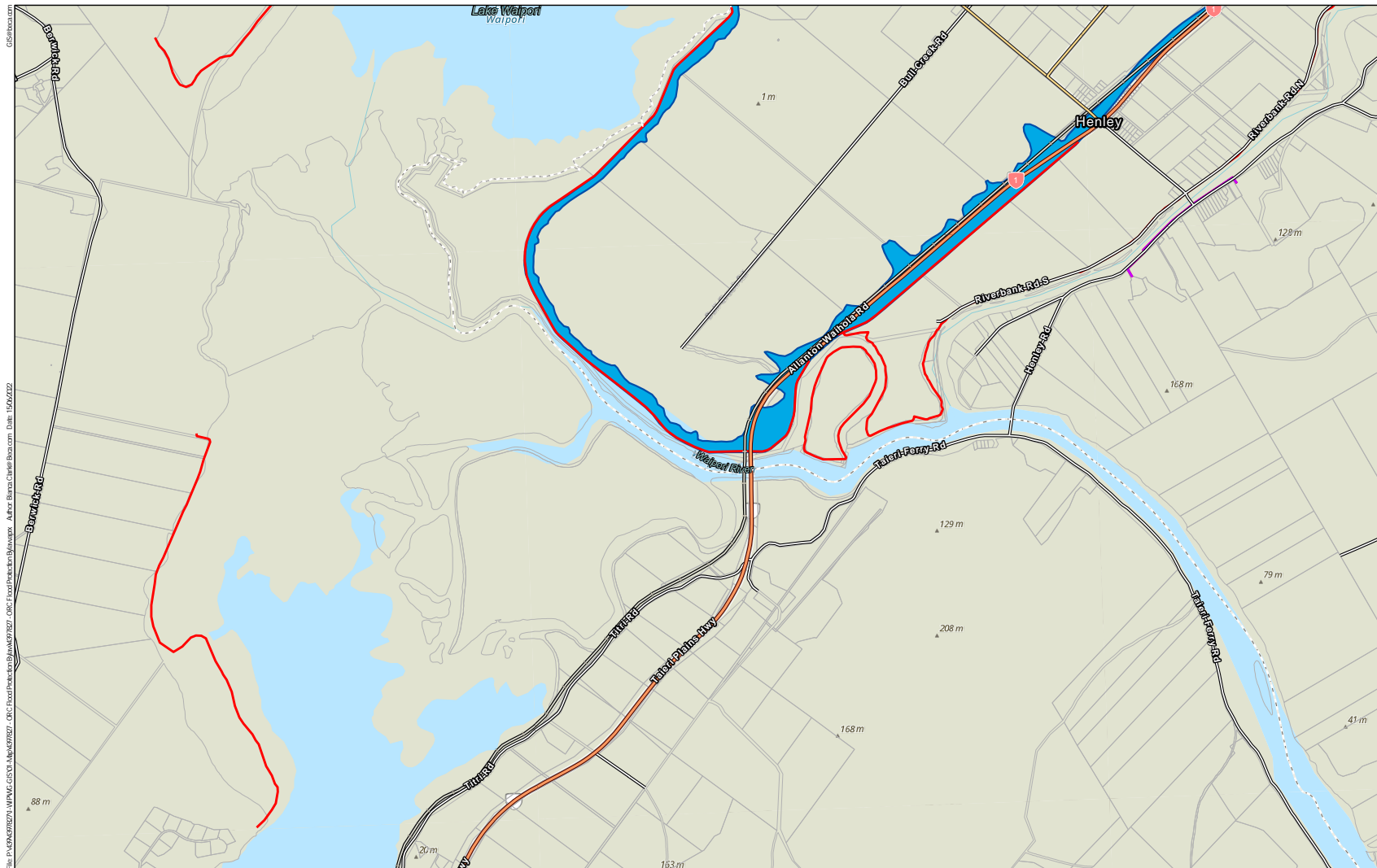


Map Scale @ A3 1:3,000
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Second Schedule
 Lower Taieri Defences Against Water
 Sheet 6

Legend
 Floodbanks
 Excavation Sensitive Area
 NZ Primary Land Parcels

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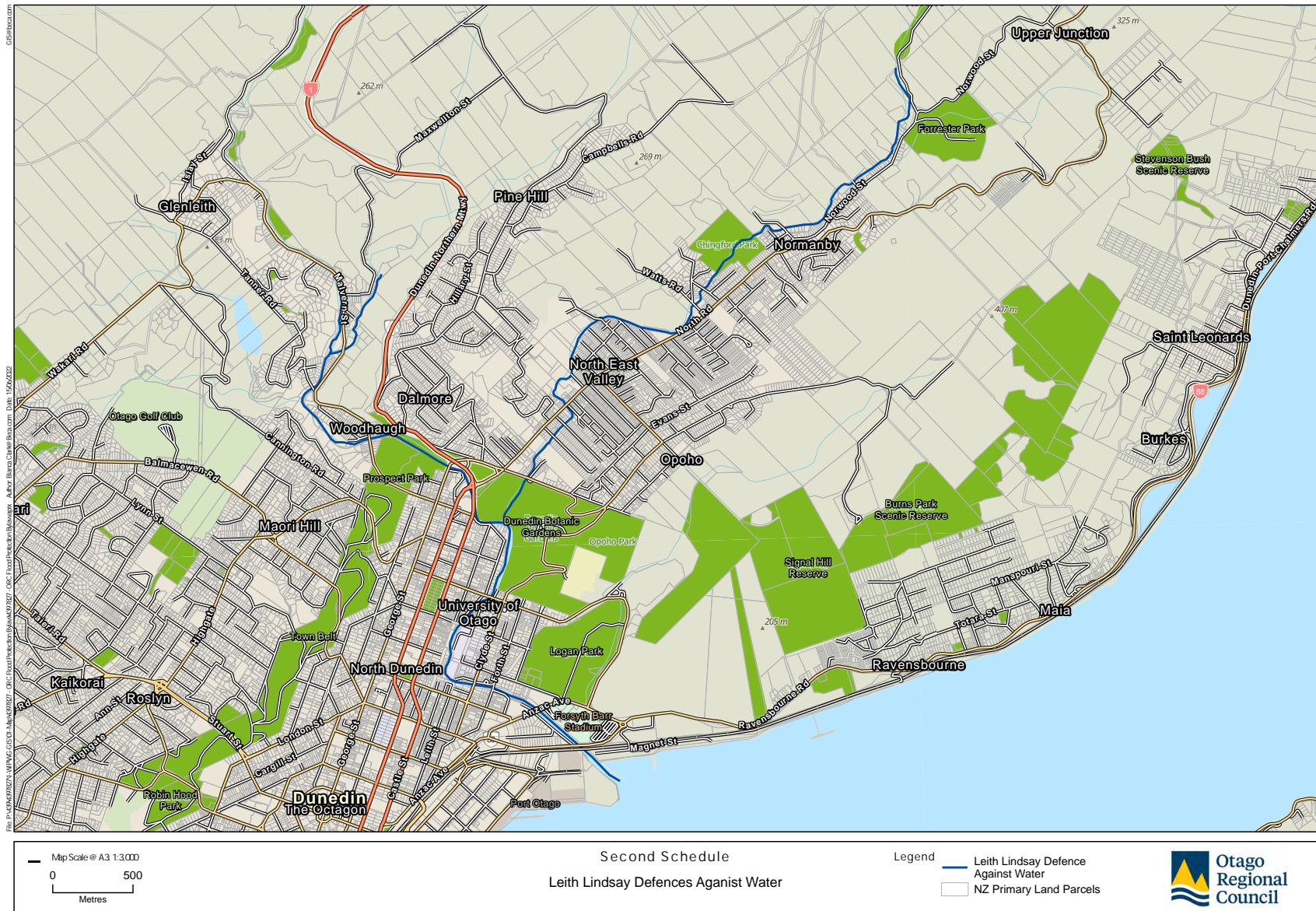
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Second Schedule
 Lower Taieri Defences Against Water
 Sheet 7

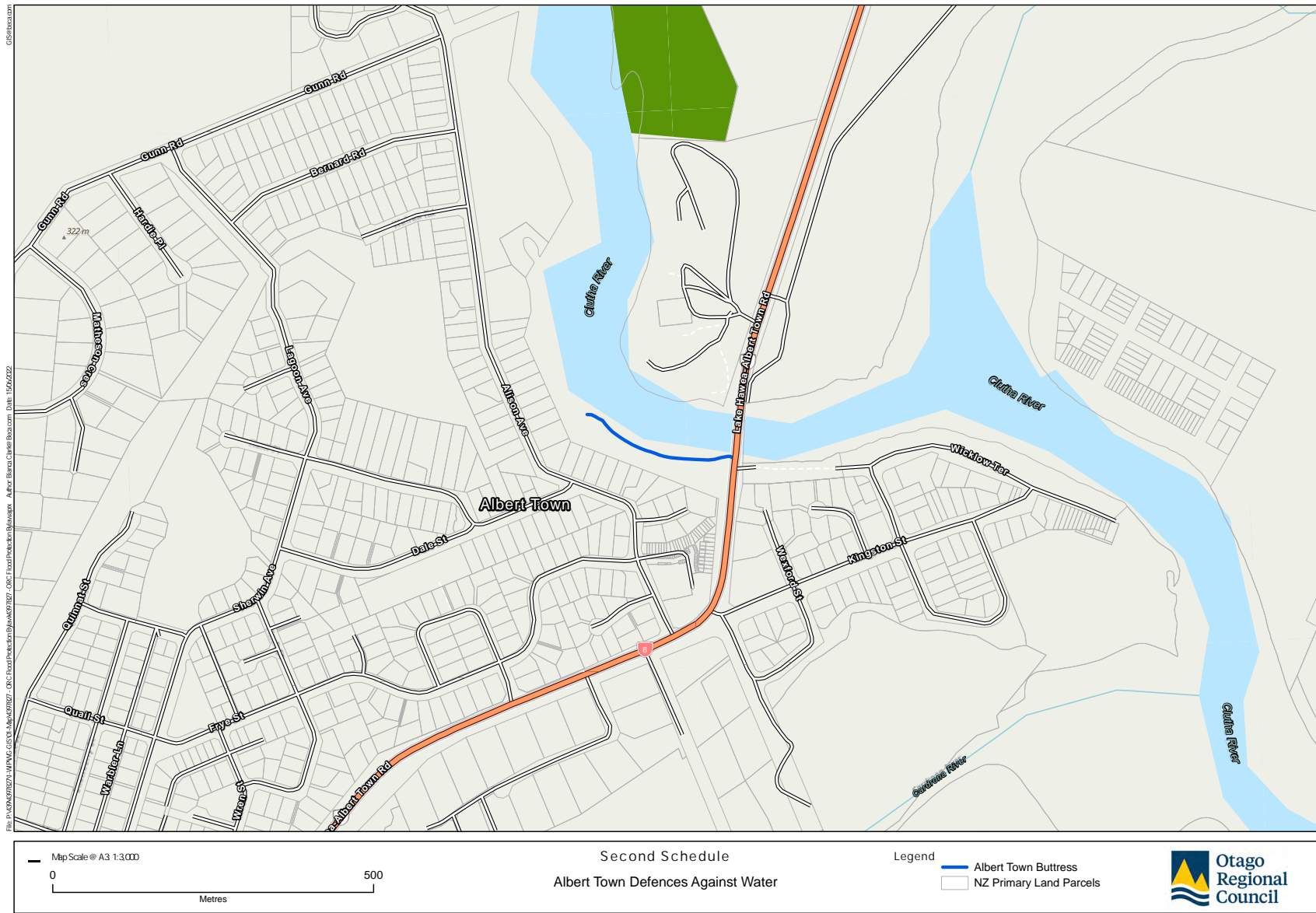
Legend

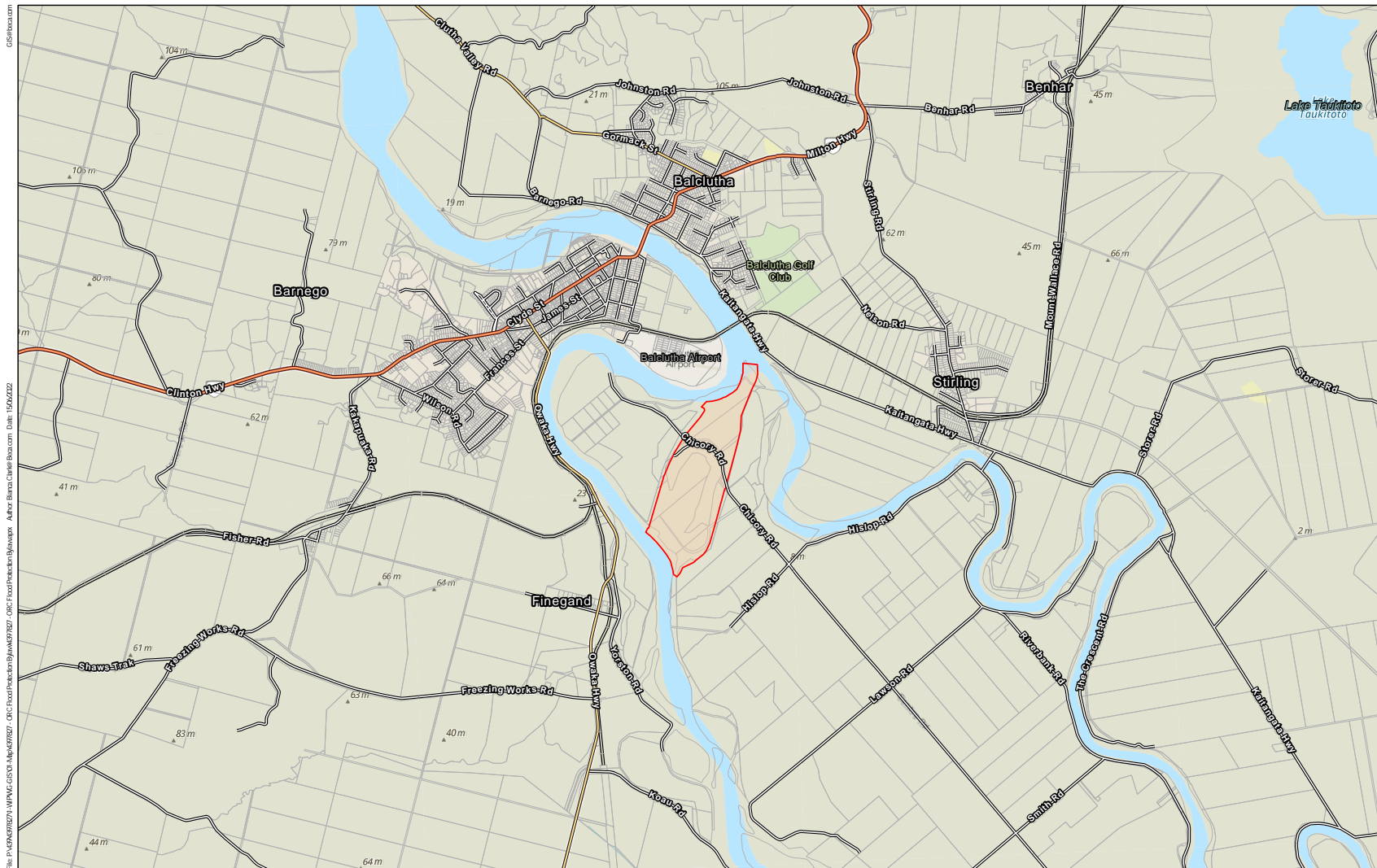
- Henley Floodbank
- Floodbanks
- Excavation Sensitive Area
- NZ Primary Land Parcels

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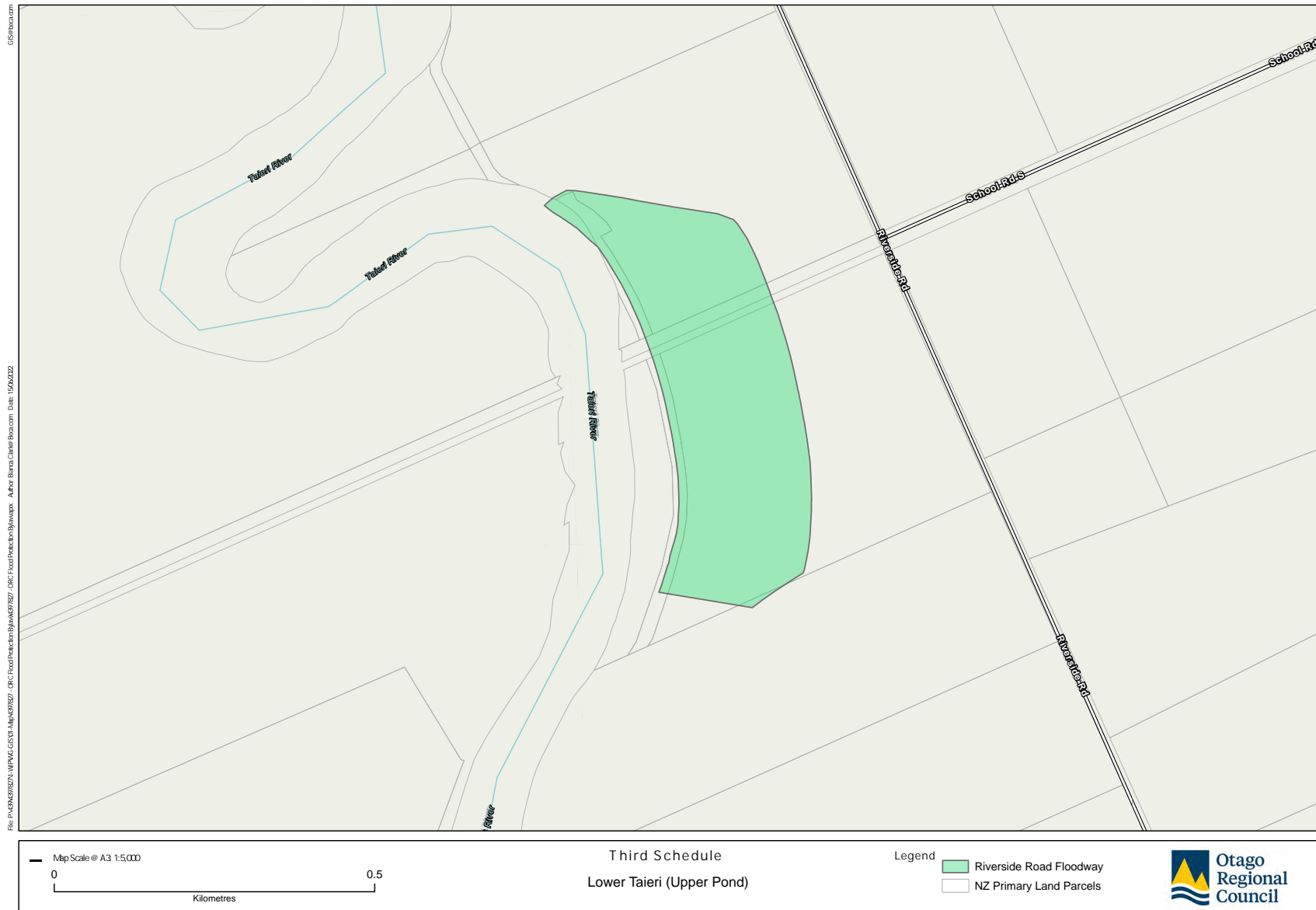
Map Scale @ A3 1:30000
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 Kilometres

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
 [Purple Box] Gordon Road Floodway
 [White Box] NZ Primary Land Parcels

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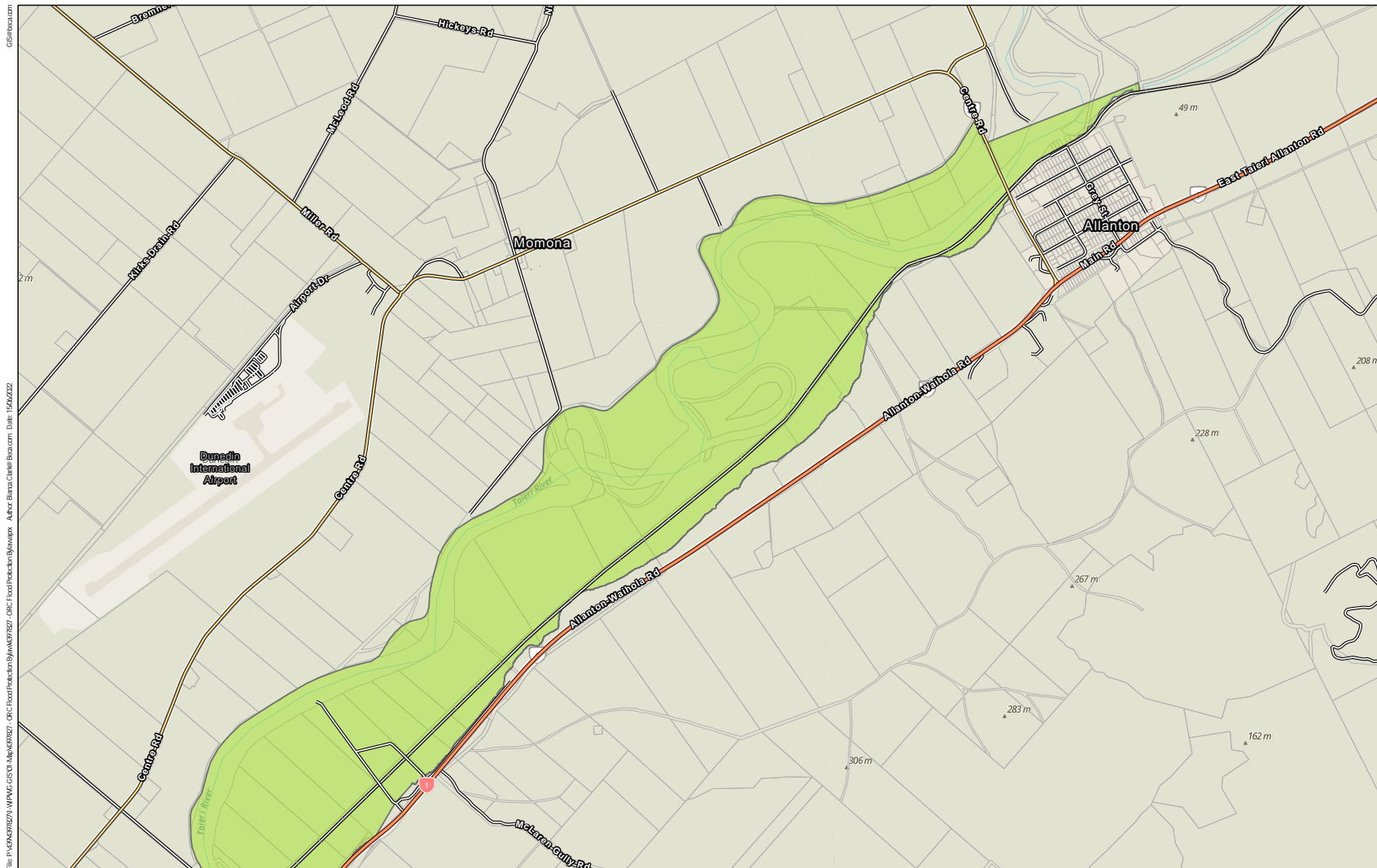
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Third Schedule
 Lower Taieri River Floodway
 Overview

- Legend
- Taieri River Floodway
 - Otokia Floodway
 - Miller Road Floodway
 - NZ Primary Land Parcels



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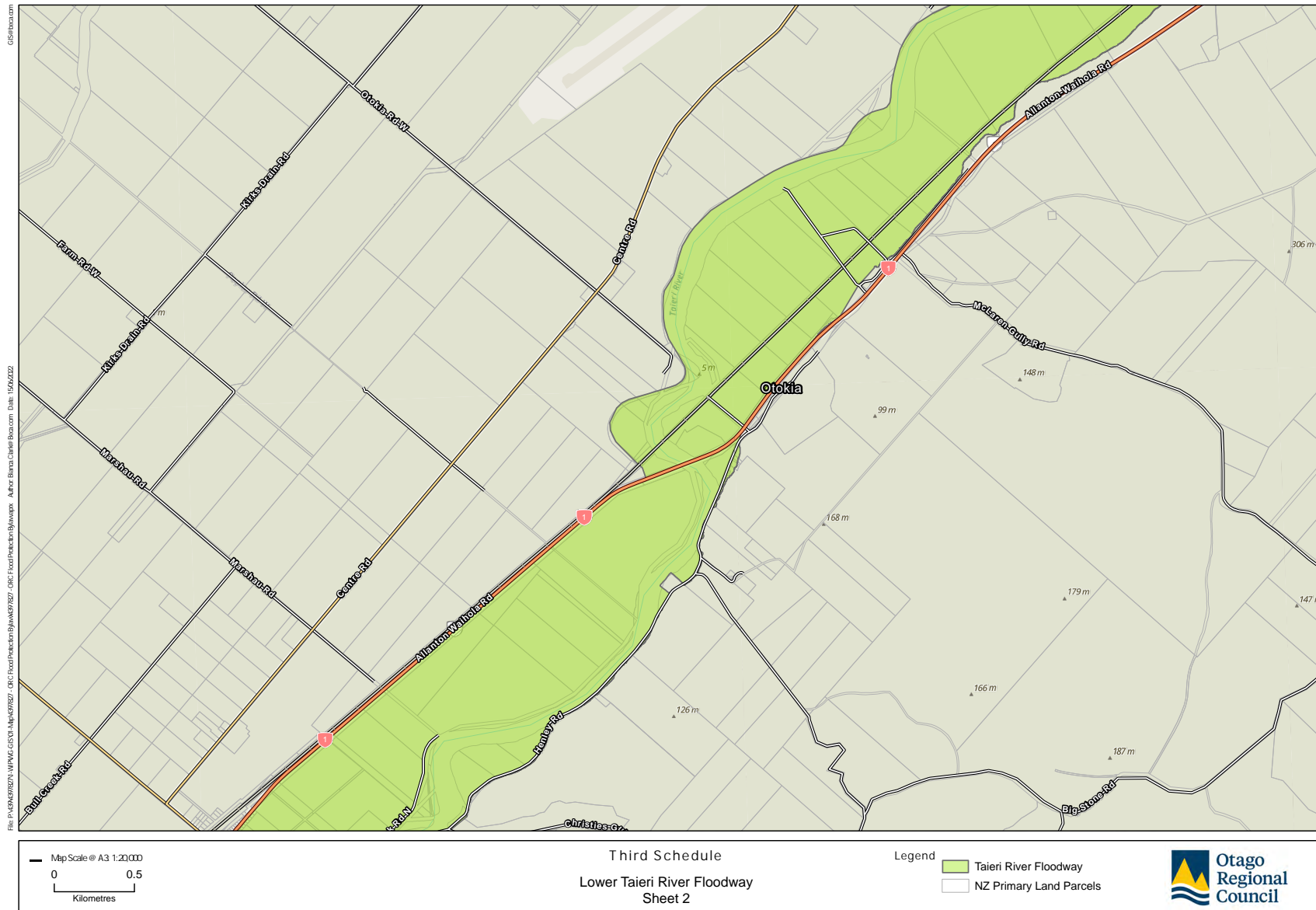


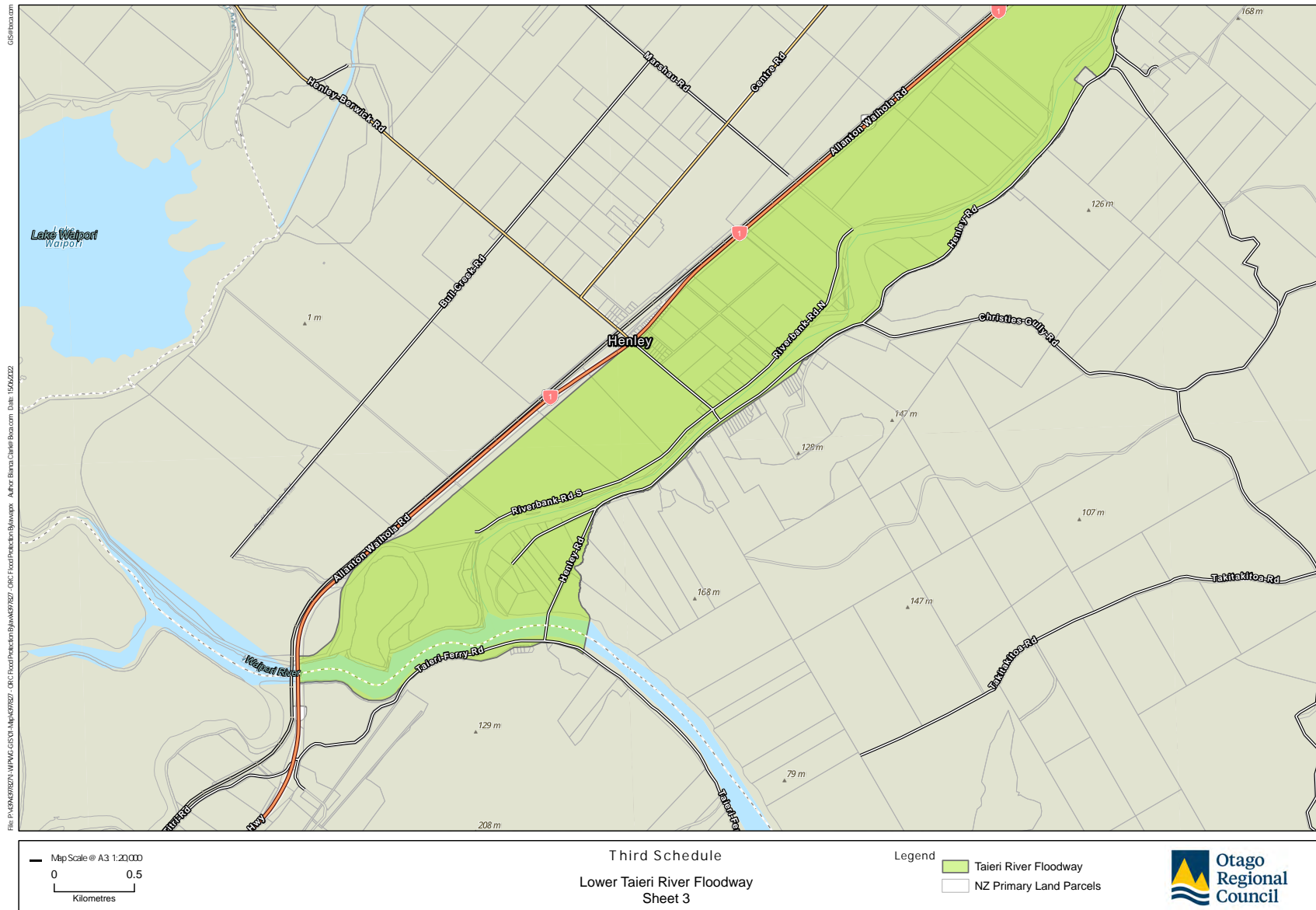
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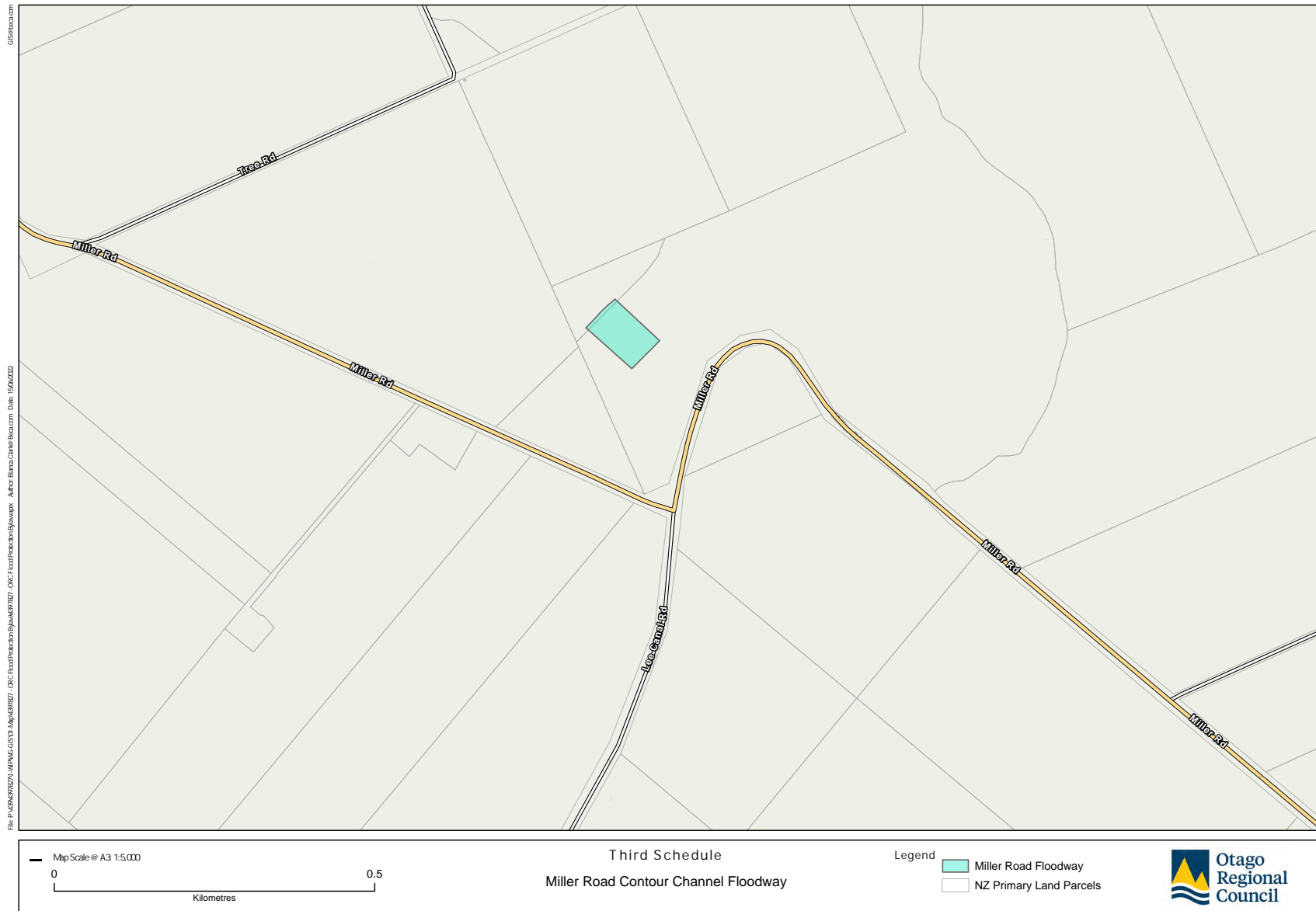
Third Schedule
 Lower Taieri River Floodway
 Sheet 1

Legend
 Taieri River Floodway
 NZ Primary Land Parcels

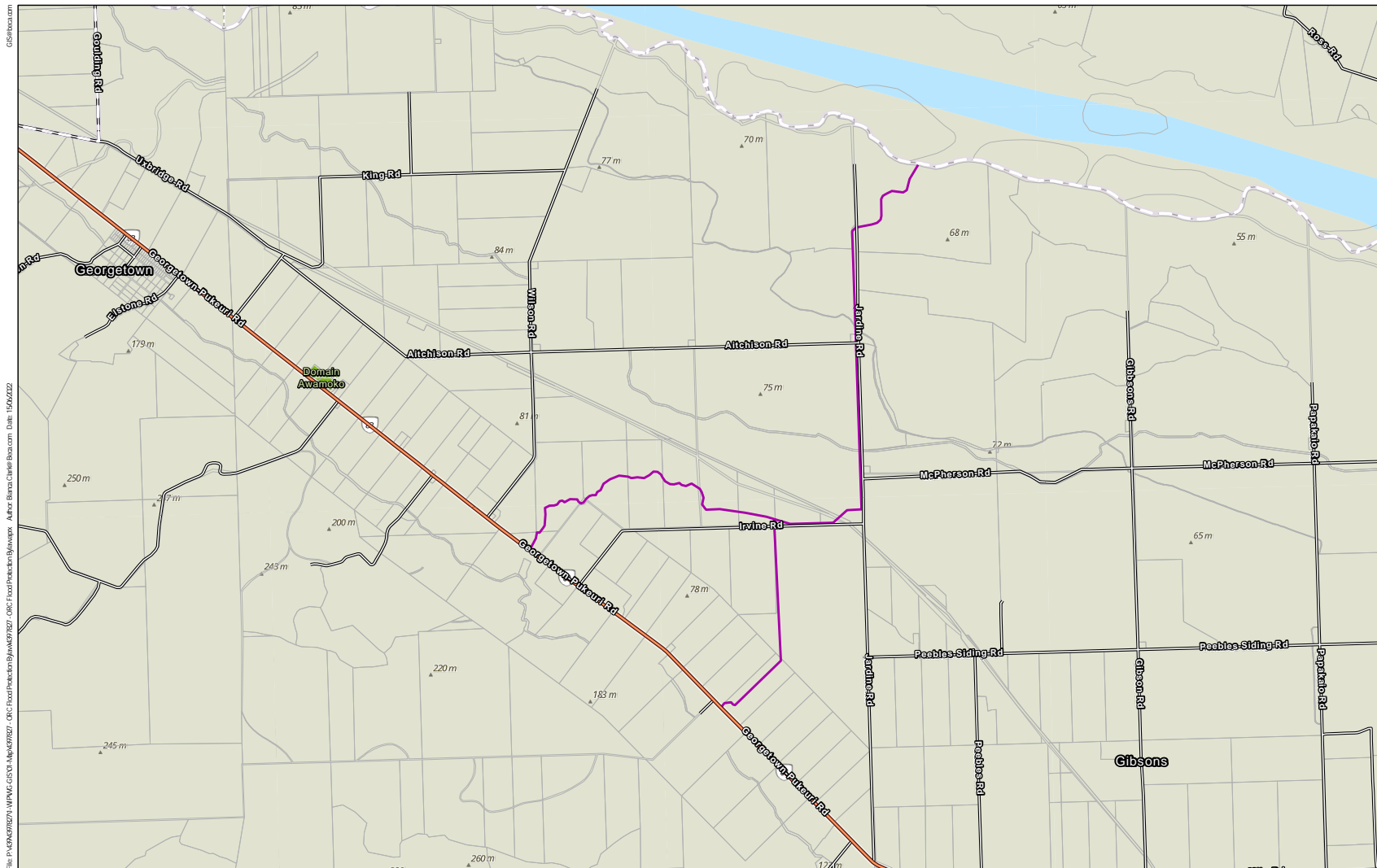
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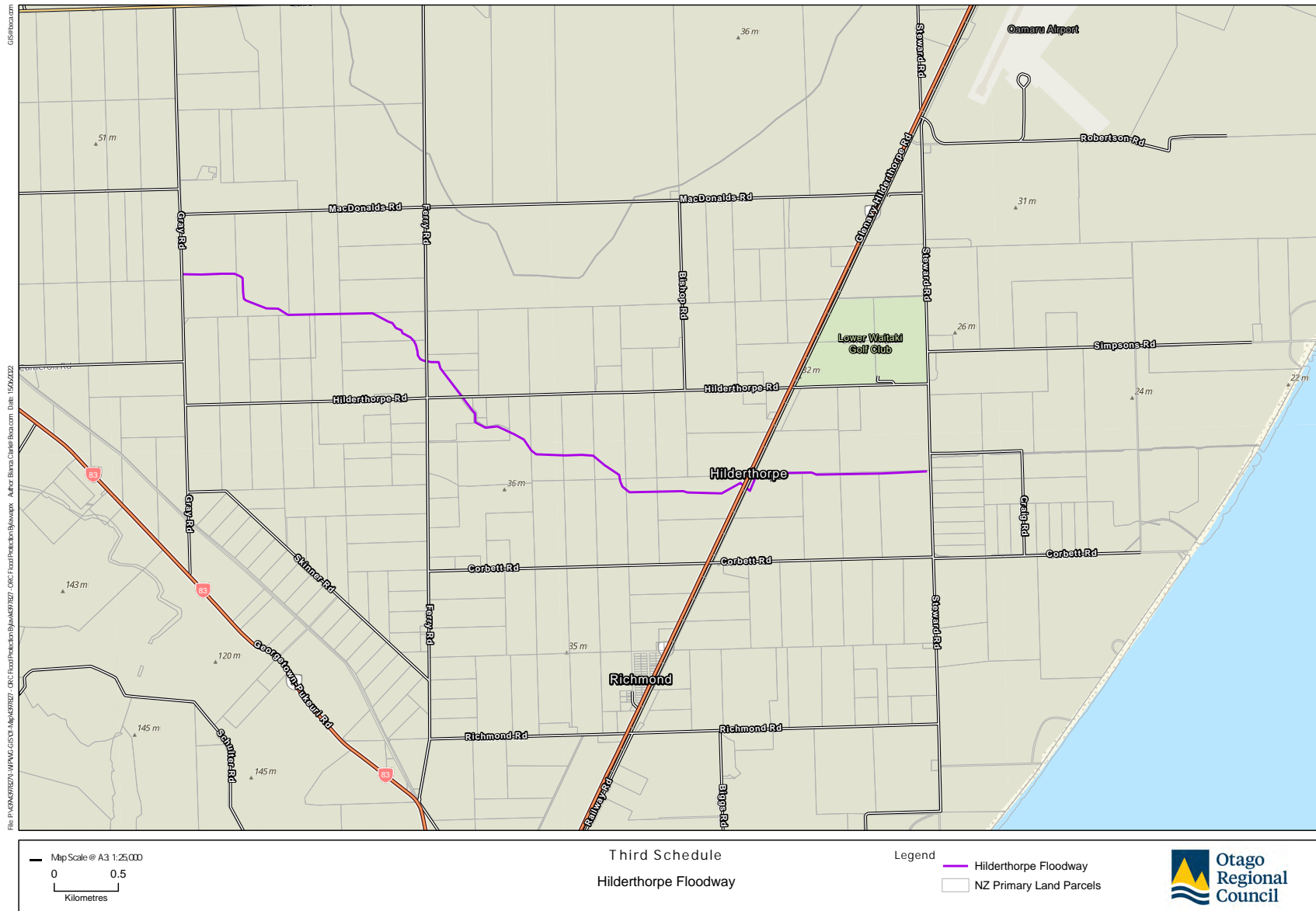


Map Scale @ A3 1:30000
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 Kilometres

Third Schedule
 Hendersons and Waikoura Creeks Floodway

Legend
 — Hendersons and Waikoura Creeks Floodway
 □ NZ Primary Land Parcels

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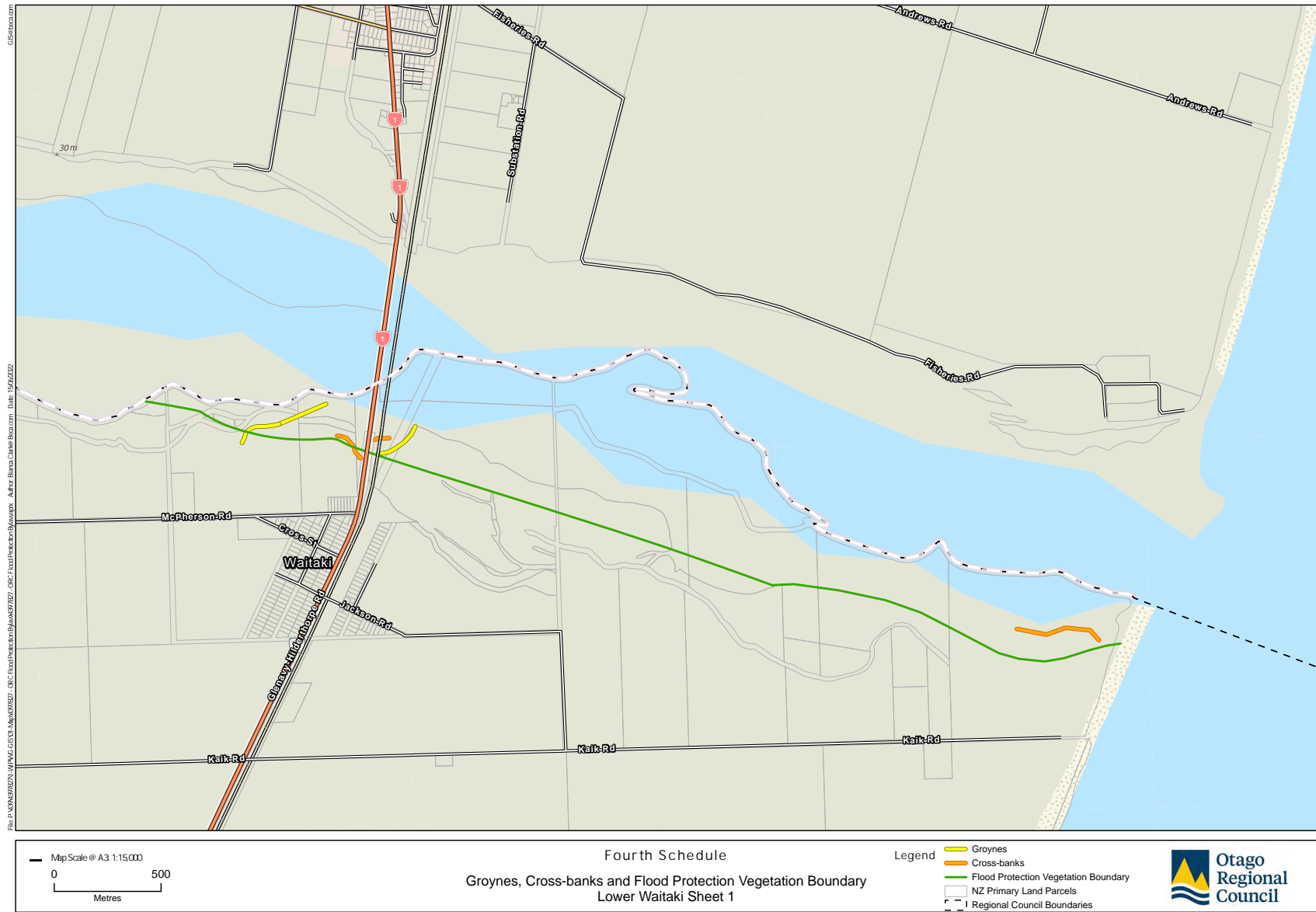
Fourth Schedule
Groynes, Cross-banks and Flood Protection Vegetation Boundary
Lower Waitaki Overview

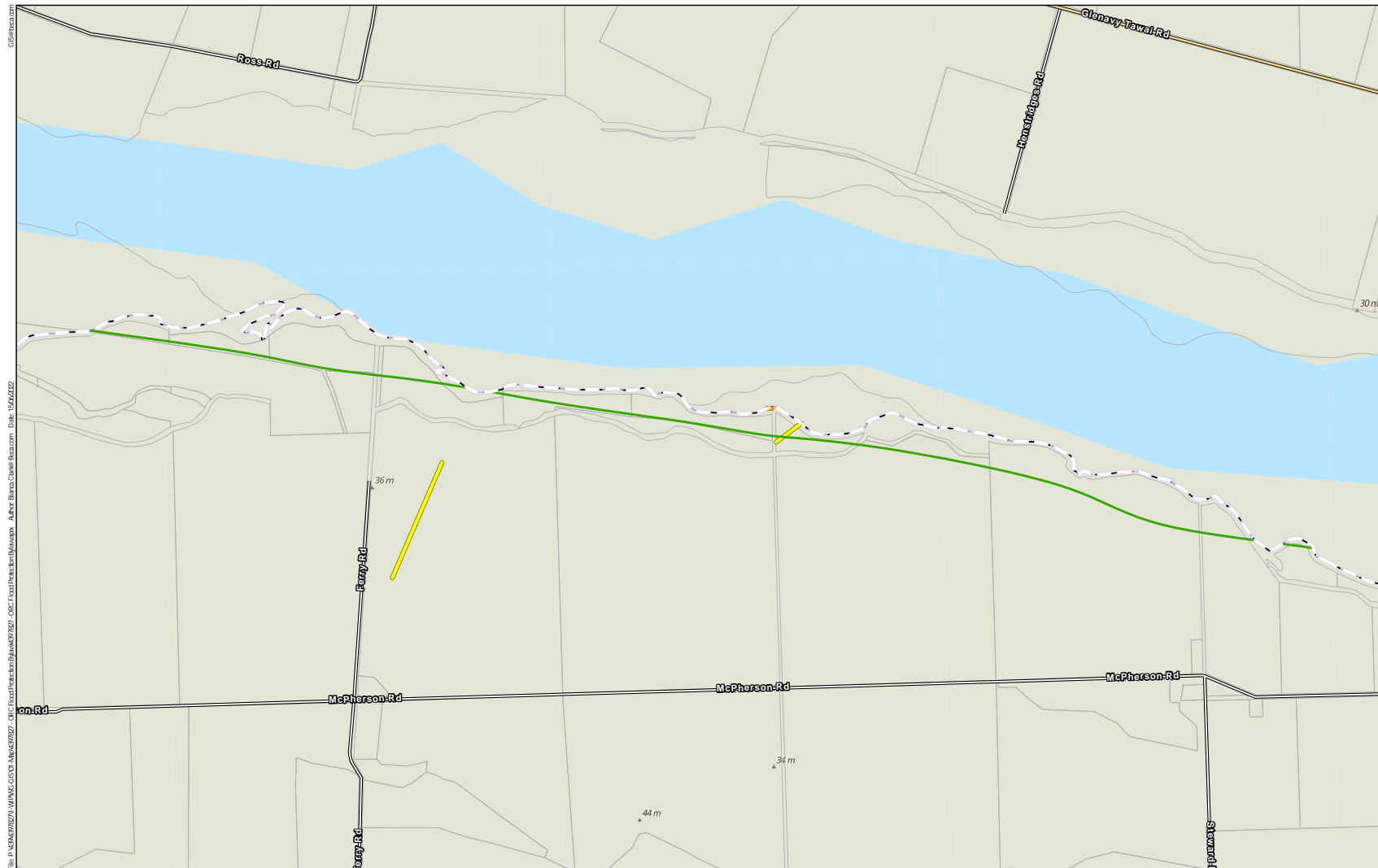
Legend

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

Otago Regional Council

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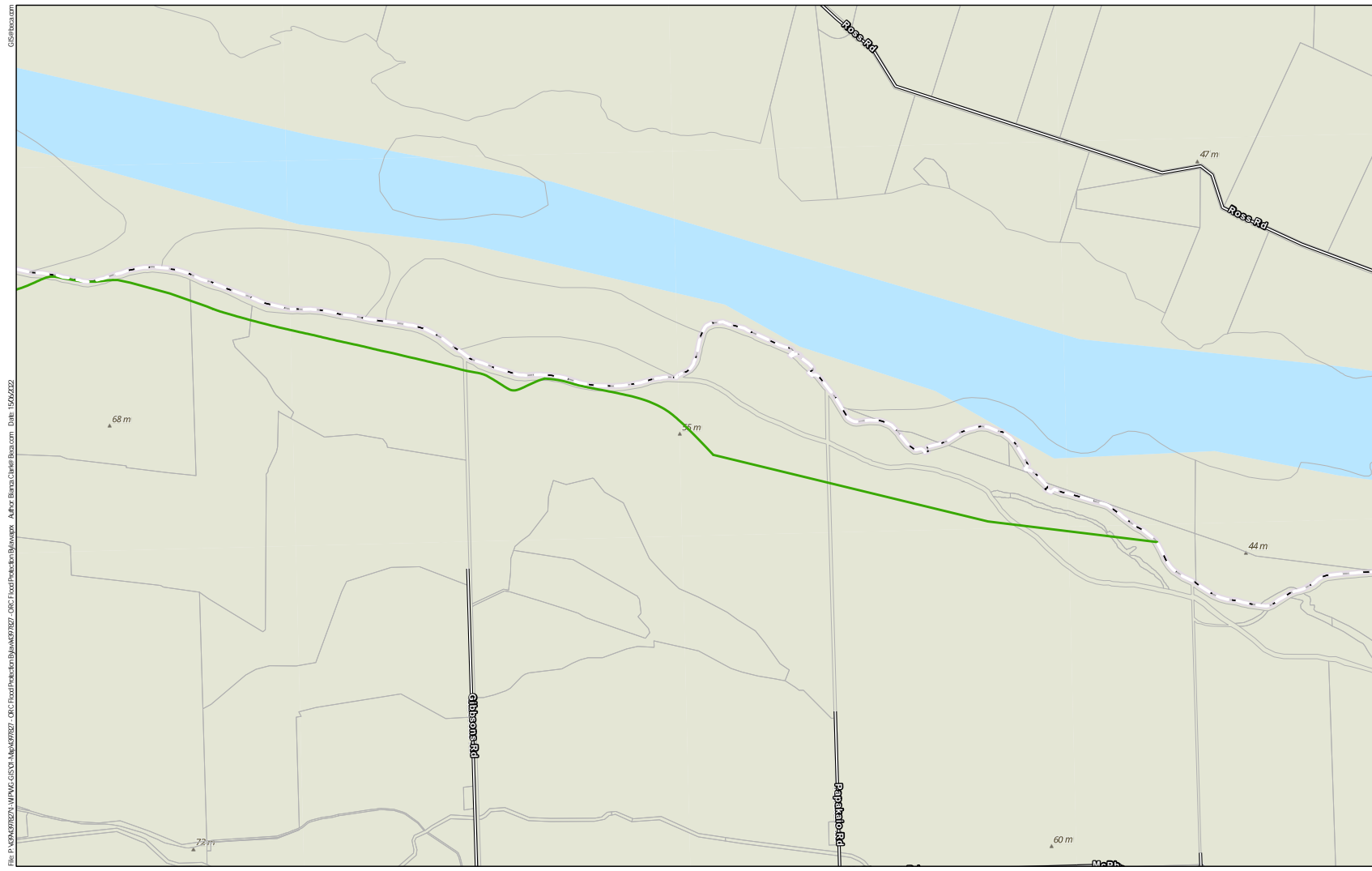
Fourth Schedule
Groynes, Cross-banks and Flood Protection Vegetation Boundary
Lower Waitaki Sheet 2

Legend

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

Otago Regional Council

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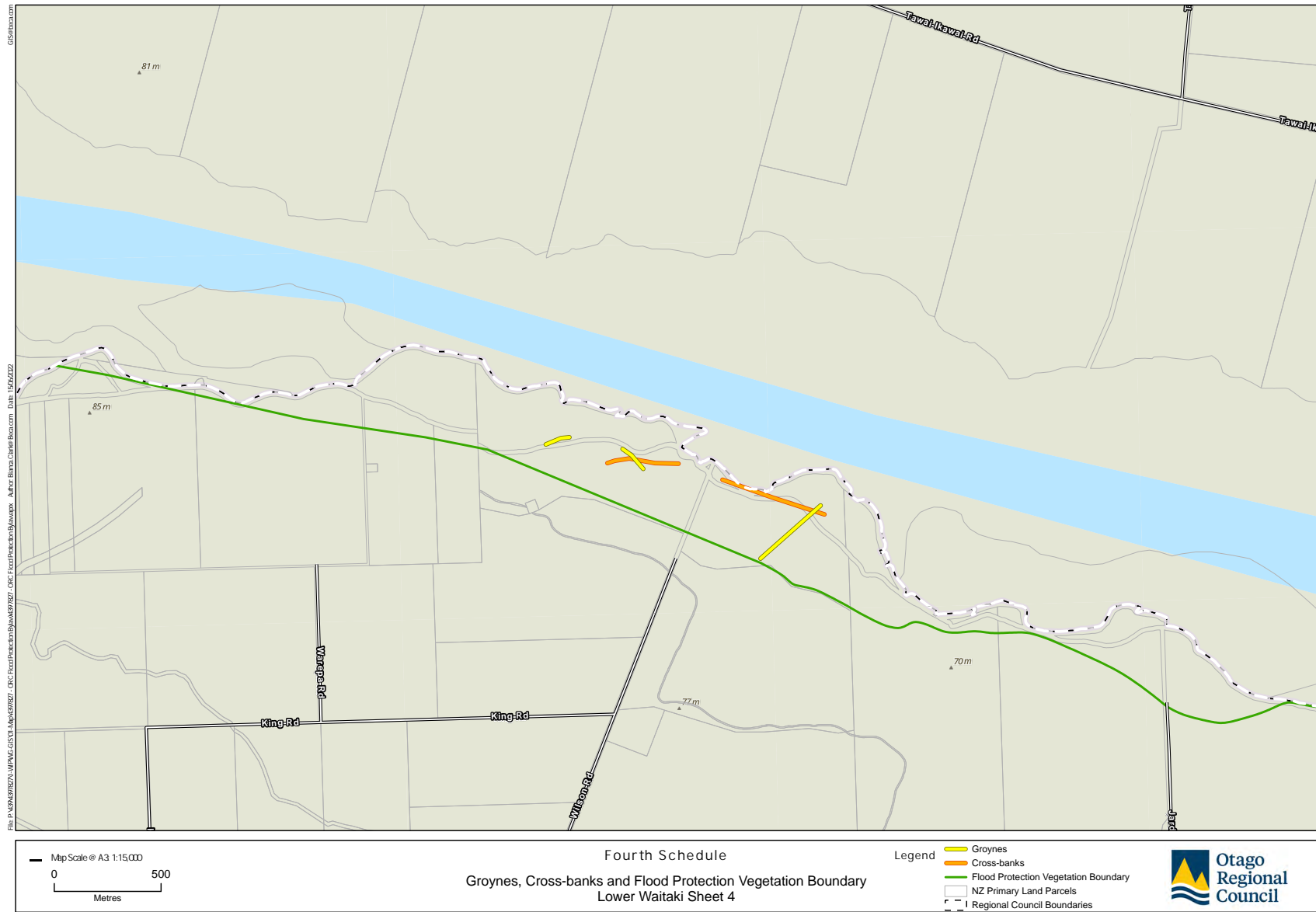


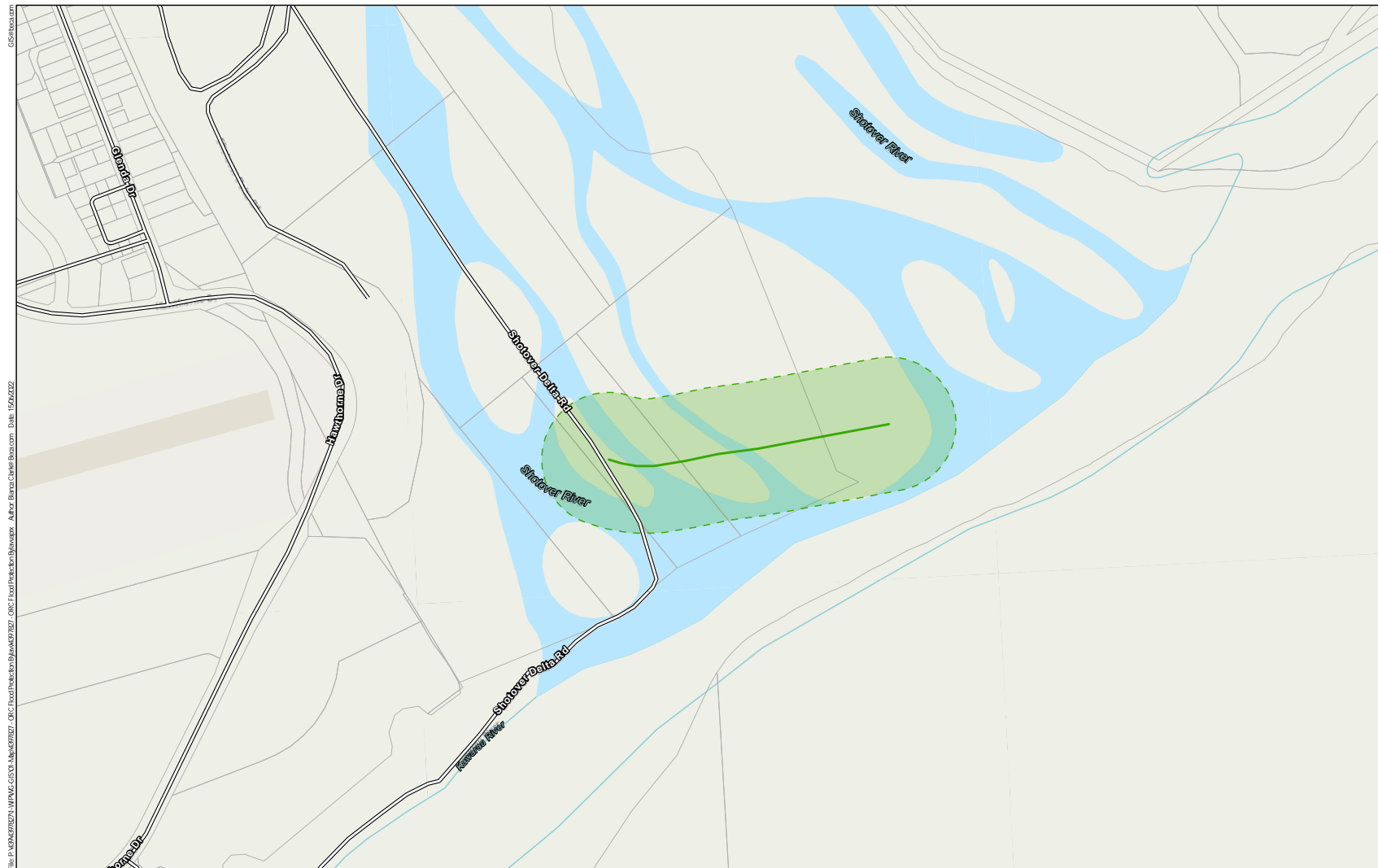
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Fourth Schedule
 Groyne, Cross-banks and Flood Protection Vegetation Boundary
 Lower Waitaki Sheet 3

Legend
 — Flood Protection Vegetation Boundary
 — NZ Primary Land Parcels
 - - - Regional Council Boundaries

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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

Otago Regional Council

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7.5. National Adaptation Plan Submission

Prepared for:	Council
Report No.	GOV2237
Activity:	Governance Report
Author:	Francisco Hernandez, Principal Advisor Climate Change
Endorsed by:	Amanda Vercoe, General Manager Governance, Culture and Customer
Date:	29 June 2022

PURPOSE

- [1] To report on the staff submission lodged on the Ministry for the Environment (MfE) consultation: **“Draft National Adaptation Plan.”** (NAP).

EXECUTIVE SUMMARY

- [2] At a workshop held on 18 May 2022, staff held a workshop that outlined the Ministry’s consultation for a Draft National Adaptation Plan and detailed the likely staff submission focus areas. Feedback from this workshop was used to inform the development of the ORC’s submission to the Draft National Adaptation Plan.
- [3] As the consultation timeframe did not align with ORC’s Council meeting schedule, it was proposed that staff would lodge a staff submission and provide the full submission to the next Council meeting.

RECOMMENDATION

That the Council:

- 1) **Notes** this report and the submission on the Ministry for the Environment’s consultation, **“Draft National Adaptation Plan”**.

BACKGROUND

- [4] The workshop with Councillors and Runaka representatives on 18 May 2022 identified several areas of feedback which were incorporated into the final submission. Staff took care to incorporate feedback which appeared to have consensus at the workshop.
- [5] At the Council Meeting on 25 May 2022, Councillors agreed to give staff delegation to write a staff submission on behalf of the ORC with the Acting CE Nick Donnelly receiving final delegation to sign off the submission.
- [6] Staff supported the Ministry’s broad direction of travel and proposed policy actions across the focus and outcome areas but suggested areas for potential improvement along lines identified by staff and Councillors.

DISCUSSION

- [7] The submission lodged with the Ministry expressed the ORC’s general agreement with the Draft National Adaptation Plan, provided feedback across the focus and outcome areas and highlighted areas of alignment with the ORC’s work programme.
-

- [8] In a spirit of beginning to collaborate with other councils on climate change issues, staff circulated the ORC's draft submission and received drafts of the submissions on the Draft National Adaptation Plan from other district councils within the Otago Region. While there was no time to work on a common submission, it was still valuable to continue to maintain the collaboration on climate change issues.

OPTIONS

- [9] There are no options available at this stage. The submission has already been lodged, in line with the closing date.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [10] ORC's submission is consistent with the organisation's commitments and direction as outlined in Strategic Directions and the proposed Regional Policy Statement 2021.

Financial Considerations

- [11] There are no specific financial considerations associated with this paper. Submitting on and reporting back on national consultations is a funded activity.

Significance and Engagement

- [12] The consideration of this consultation, and any subsequent submission is consistent with ORC's Significance, Engagement and Māori Participation policy.

Legislative and Risk Considerations

- [13] The previous report to the Committee outlined the legislative and risk context for the proposal, and in ORC responding to it.

- [14] It remains important that ORC monitor the proposed actions in the Draft National Adaptation Plan and monitor for associated environmental and economic risks.

Climate Change Considerations

- [15] ORC's staff submission was based on the need to prepare Otago's communities to adapt to the effects of climate change and drew upon the recent climate change risk assessment.

Communications Considerations

- [16] Any submission made by ORC would be publicly available via MfE, as well as ORC.

NEXT STEPS

- [17] ORC staff will report back to Council once the MfE finalizes the Draft National Adaptation Plan.

ATTACHMENTS

1. ORC Submission on Draft National Adaptation Plan Final Signed [7.5.1 - 13 pages]

Otago Regional Council Submission
to the
Ministry for the Environment
on the
2022 Draft National Adaptation Plan

This is a submission to Ministry for the Environment on its *2022 Draft National Adaptation Plan* document.

The Otago Regional Council wishes to be heard in support of this submission if the opportunity arises.

Signature of submitter (or person authorised to sign on behalf of submitter):



Nick Donnelly
Acting CE, Otago Regional Council

03 June 2022

Address for service:	Otago Regional Council Private Bag 1954 DUNEDIN 9054
Telephone:	03 474 0827
Fax:	03 479 0015
Email:	Francisco.Hernandez@orc.govt.nz
Contact person:	Francisco Hernandez, Principal Advisor – Climate Change

ORC Submission: *Draft National Adaptation Plan*

1 Climate Change and Otago

- 1.1 Thank you for providing the Otago Regional Council (ORC) the opportunity to comment on *the Ministry for the Environment's* (MfE) 2022 Draft National Adaptation Plan (NAP).
- 1.2 The ORC continues to recognise climate change as an issue requiring leadership and an effective response - not only as part of ORC's functions as a regional authority but also in contributing to a national approach.
- 1.3 ORC has considered the NAP and overall, supports the direction it sets out. **Appendix one** provides a response to the specific focus and outcome areas and some consultation questions.
- 1.4 We are pleased to see a comprehensive plan that addresses some of the urgent risks identified in the National Climate Change Risk Assessment. This will be an important resource to enable local government to plan our work in the future and setting out plans in a systemic, time-bound way is very helpful.
- 1.5 ORC considers that more meaningful engagement and feedback could have been achieved with a longer consultation period. ORC also has concerns with the lack of emphasis on partnership between central and local government. In particular, the partnership approach needs to more explicit, particularly in the area of reforming institutions where local government will be a key partner.

ORC Submission: *Draft National Adaptation Plan*

- 1.6 ORC considers the research strategy lacks detail and needs to be substantially fleshed out. As a region with many leading tertiary institutions, this is important to the Otago Regional Council.
- 1.7 The ORC suggests that MfE could usefully identify and draw attention to international best practise and see what can be applied in a New Zealand context. As it stands, there is a lack of international examples in the discussion document or draft plan.
- 1.8 The ORC is committed in taking a leadership role to assist its communities to prepare for, and adapt to, the effects of climate change. **Appendix two** highlights ORC's efforts in these areas by assessing the alignment between our long-term plan and the proposed National Adaptation Plan. While there will still be more work to do, we are confident ORC's current and proposed work programmes are a good start.
- 1.9 However, ORC notes that it is also important our communities are led by a well-informed and considered process to ensure they can continue to prosper during the period of transition. ORC is committed to taking leadership position in Otago for this transition. This is evidenced by our completion of the [Otago Climate Change Risk Assessment](#) and [Regional Greenhouse Gas Inventory](#).

ORC Submission: *Draft National Adaptation Plan*

Appendix One: ORC Response to Focus and Outcome Areas

CQ 1	How is climate change impacting you? This could be within your community and/or hapū and iwi, and/or your business, organisation and/or your region.
	<i>Climate change is forecast to substantially impact the Otago Region. The recently commissioned Otago Climate Change Risk Assessment (OCCRA) has the full details of the risks forecast for the Otago region.</i>
FA1	Focus Area One: Reforming our institutions
	<p>In general ORC supports the objectives and plans proposed in Focus Area One, but we have feedback on specific issues:</p> <p>“Partnership with Māori” needs to be promoted from a ‘supporting action’ to a critical action. This will ensure that the Government is abiding by the principles of Te Tiriti and ORC considers this is a critical component to ensuring we get the reform of institutions correct, with input from tangata whenua.</p> <p>While reforming our institutions to be ready for adaptation is critical, this also needs to be considered in the context of achieving effective emissions mitigation.</p> <p>Reforming management of water resources is critical. This is important to ensure water delivery systems are robust and efficient. As part of this, strategic water storage and reserves should also be planned for.</p> <p>The National Planning Framework needs to define what ‘tolerable risk’ is and create clear and robust consultation frameworks and support for councils to engage with communities in these difficult conversations.</p>
FA2	Focus Area Two: Provide data, information, tools and guidance to enable everyone to assess and reduce their own climate risks.
	In general ORC supports the goal of providing data, information, tools and guidance to enable everyone to assess and reduce their own climate risk. We have feedback on some specific issues:

ORC Submission: *Draft National Adaptation Plan*

	<p>There is already a plethora of tools and information available. Care must be taken to collate and review existing material to ensure recognised, practical, high standard and accessible guidance is identified and promoted to avoid duplication, overlap and wasted resources. Funding for additional tools, guidance and information is vital and central government has the resources and mandate to play a coordinating role.</p> <p>The proposed adaptation portal needs to have tailored messaging and information for difference audiences. For example, information that the general public is seeking may be different to that required by resource management professionals.</p> <p>Co-funding for flood protection is vital, but needs to be seen as one of the last stages of interventions with planning and regulation coming beforehand. For example, enabling development in a place that would need flood protection schemes should be given careful consideration and this needs to be reflected when setting rules.</p> <p>The programme of rolling targeted guidance for assessing and planning for managing climate-related risks needs to be robust and able to support planning decisions that are informed by that guidance. Guidance for preparing adaptation plans should be emphasised as a priority as a few regional councils such as the ORC have completed their regional risk assessments and are now looking for the next stage in the process. Logically this would be a regional adaptation plan or strategy, similar to the central government draft NAP which followed the risk assessment.</p> <p>It will be important to prioritise tools that support local government in multi-criteria decision making to ensure that climate risks and adaptation needs are able to be weighed up against other risks and community driven outcomes.</p>
FA3	Focus area 3: Embedding Climate Resilience
	<p>The ORC supports the signalled change in how the Climate Emergency Response Fund (CERF) can be spent. So far it has only been spent on mitigation projects, but the proposal to invest in adaptation measures is a sensible one which will boost the capacity of local governments to adapt to the impacts of climate change. We also support the proposal for ongoing regulatory stewardship to ensure plans and strategies remain fit for purpose.</p> <p>We believe it is critical that central government provide support, time and resources for local government to embed climate resilience.</p>

ORC Submission: *Draft National Adaptation Plan*

	<p>Central government should also leverage its power to direct and invest in nature-based solutions. As a large landowner there will likely be opportunities in which this land can be utilised in a more strategic way to assist climate adaptation. This provides an opportunity for government to lead by example.</p>
	<p>Managed Retreat</p>
	<p>ORC supports the proposals in this section, as well as the objectives and principles that could guide the approach to managed retreat. We have feedback on some specific issues:</p> <p>Central government needs to consider two important points for setting centralised guidance for managed retreat:</p> <ol style="list-style-type: none"> (1) identify what ‘tolerable risk’ is or a robust methodology for determining it. Whilst some sections of communities wish to determine what tolerable is to them, a framework within which to have that discussion with the community would be valuable. These conversations must also balance the needs of the wider community, which includes future generations. A robust definition will also assist with difficult questions such as when it is ‘fair’ to be required to be subject to a managed retreat program. (2) There must be clear consultation frameworks to assist councils to be consistent, effective and efficient in approaching complex and difficult conversations with communities. <p>We note that as a result of managed retreat it is likely that there will be changes to, and pressures on, the resource consenting activities of regional authorities. These changes will require increased staff resources and also require upskilling staff to manage the changes to consenting and monitoring work. The changes we foresee include:</p> <ol style="list-style-type: none"> (1) increasing protection works for coastal environments and structures (2) more demand for water storage and supplementary water takes (3) increased need for flood protection works and river maintenance (4) activities related to more, and new, sustainable energy generation.

ORC Submission: *Draft National Adaptation Plan*

	<p>The roles and responsibilities in managed retreat need to address and include the banking and insurance industries. They are a critical part of the conversation as they determine the conditions under which home and landowners can access funding and security for their investments. It is important the conditions which inform banking and insurance decisions are transparent in respect to risk assessment, so that their customers can make informed decisions and have certainty through the term of their contracts.</p> <p>Where managed retreat is determined as necessary it will be vital to develop legislation with clear, strong enforcement mechanisms, as well as mechanisms to fairly compensate property owners.</p> <p>In undertaking managed retreat, local government needs to assign an end owner for the land that is retreated from so that it not abandoned, and continues to provide some value to the community– for example ecosystem service values could be assigned to land which has been retreated from. There is currently no such system or guidance for this in New Zealand.</p> <p>While risk is identified as the central trigger for managed retreat, it is also important to consider other factors such as affordability. For example, while it may be feasible from a purely risk perspective to continue to protect an area exposed to low to medium levels of risk this may take up more resources than the broader community is prepared to pay.</p>
<p>OA1</p>	<p>Natural Environment</p>
	<p>ORC supports the broad outline of the policies and measures proposed. We have feedback on some specific issues relating to how this outcome area could be further enhanced:</p> <p>The proposed National Policy Statement on Indigenous Biodiversity should be prioritised for delivery. Protecting biodiversity is key to enhancing the resilience of our natural environment and the proposed NPS, as ORC understood it , will assist our efforts greatly.</p> <p>There is a disconnect between the risks identified to coastal ecosystems and the complete absence of any plans or strategies to deal with coastal erosion and adapt coastal ecosystems. While there are piecemeal initiatives to support specific areas of the country with marine protection initiatives, this doesn't add up to a comprehensive plan to address the need to protect coastal ecosystems. Whatever strategy is developed to manage risks to coastal ecosystems should recognise the role of mana whenua as kaitiaki and co-design a path forward.</p>

ORC Submission: *Draft National Adaptation Plan*

	In addition, regional specific databases need to be accounted for in national databases including the regional iwi perspective of values of mātauranga Māori and mātauranga indicators.
OA2	Homes, Buildings and Places
	<p>ORC supports the general direction of this outcome area and the plans and policies that it proposes. We have feedback on some specific issues:</p> <p>We suggest that the <i>Building Act 2004</i> needs to be updated to be aligned with the widely accepted minimum horizon for considering natural hazards (1:100 year events) to avoid conflict between regional and territorial councils on how to provide for managing natural hazards in district plans.</p> <p>This outcome appears ambiguous on whether ‘homes, buildings and places’ includes commercial and industrial property or just residential and cultural sites. We suggest that this needs to be clarified. It would be sensible to have a broad definition that encompasses all property as we need to get on with the work of adapting all sites, rather than just limiting it to residential and cultural sites.</p> <p>Central Government needs to prioritise support to assist local authorities to identify and plan for destinations where those that will be affected by managed retreat can be relocated to, as part of district planning.</p> <p>Regulation is needed for minimum standards for buildings which support climate resilience. This will help future proof homes for climate impacts. The Building for Climate Change Programme is the right step forward in ensuring that we strengthen climate resilience in homes.</p>
OA3	Infrastructure
	<p>The ORC supports the general direction and proposals in this outcome area.</p> <p>Infrastructure should include flood protection and drainage assets which are a key infrastructure risk in Otago. Otago has two major flood protection schemes that are highly prone to climate change impacts (Lower Clutha to shoreline retreat and sea level rise, and Lower Taieri to sea level rise.) These are being reviewed using a standard Flood Protection Assets Performance Assessment Tool and a plan for adaptation is being developed.</p>

ORC Submission: *Draft National Adaptation Plan*


	<p>There will likely be a need to reassess annual return intervals and modify them to the changed realities. For example, one 1 in 100 year events may be reassessed as being 1 in 50 or even less as the climate changes.</p> <p>We suggest that there is a need for government to avoid the temptation to prioritise infrastructure investment for the short-term over the long term. There is pressure for Government to deliver infrastructure quickly, but this must not compromise in future proofing infrastructure investments as a short-term approach could leave vulnerable infrastructure stranded which would cost more in the long run.</p> <p>ORC also considers there is a need to consider geographic constraints for rail network investment – regional integrated land transport plans should consider this in planning.</p> <p>ORC considers the Energy strategy needs to be brought forward as a priority with decentralized, community level energy generation recognised as a way to improve climate resilience.</p>
<p>OA4</p>	<p>Communities</p>
	<p>ORC supports the proposed objectives and plans in the outcome area of communities.</p> <p>The proposed climate migration strategy, in addition to preparing for the needs of newcomers also needs to build capacity within New Zealand so that communities can adequately support climate refugees and migrants. This will include support for interpreters, community integration and employment initiatives.</p> <p>Disinformation needs to be tackled as an urgent priority – particularly climate change disinformation. Climate change disinformation could affect the willingness of communities to adapt to climate risks and might even cause communities to ignore warnings for events such as flooding.</p> <p>Citizen science could be a powerful way to reduce disinformation, build trust and help build knowledge of climate change among communities. For example – the public could verify weather reports or natural hazards. This kind of programme would need to be resourced at a central government level.</p>

ORC Submission: *Draft National Adaptation Plan*

	<p>ORC considers that resources should be invested in ensuring there are suitable facilities available during emergency events. Marae are usually equipped as community hubs and can be used during emergency situations – assisting marae in engaging with communities and assisting in emergency situations is one example, and ORC considers this could be a useful supporting actions.</p>
OA5	<p>Economy and Financial System</p>
	<p>The ORC supports the objectives and measures proposed to achieve them in the outcome area in economy and financial system.</p> <p>ORC considers New Zealand should work on building regional hubs of critical resources to buffer against system shocks. This should be seen as a critical action so that regions and local areas can respond quickly and efficiently as needed. Particularly in disaster situations, mobilising local resources quickly and efficiently will be necessary for an effective response which minimises economic damage.</p> <p>There is a lack of proposed measures and plans for agriculture, an obvious gap considering the plans and strategies for the aquaculture, fisheries and tourism industries. Other than brief mentions of a Sustainable Food and Fibres Fund and the Sustainable Land Management and Climate Change research programme there does not appear to be a strategic view of how to address the risks for the agriculture sector as a whole, or address the potential opportunities which may be equally applicable in the sector.</p> <p>While we are pleased with mentions of adapting the tourism industry in the document, the Tourism Industry Transformation Plan needs to prioritise adaptation planning. The impacts of climate change on decreasing snow fall in the Otago region, and the consequences for the skiing industry for example needs to be investigated and communities supported to adapt.</p>

ORC Submission: *Draft National Adaptation Plan*

Appendix Two: Draft National Adaptation Plan (NAP) and its alignment with the Otago Regional Council’s Long-Term Plan (LTP)

NAP Focus & Outcome Areas	NAP Critical Actions	LTP Programme & Headings	Level of Service	Measure	Outcomes linkages between LTP & NAP	Within first NAP timeframe?
	<p>Synergies between proposed National Adaptation Plan and Climate Change related work programme in ORC Long Term Plan 2021-2031</p> 					
Natural Environment	<ul style="list-style-type: none"> Implement the NPS Indigenous Biodiversity Biosecurity Actions Prioritise solutions in NZ Biodiversity Strategy 2020 	Environment: Biodiversity and Biosecurity	Monitor the State of Otago’s indigenous biodiversity ecosystems and make accurate, relevant, and timely information publicly available.	Develop and implement a regional indigenous biodiversity ecosystems monitoring programme.	This will provide a better understanding of the vulnerability of Otago’s biodiversity, including to climate change, assist integrating into actions, achieving requirements and outcome of national direction.	Yes
Focus Area 2	Provide public access to latest climate projection data through an information portal	Regional Leadership: Regional Planning	Collect and make publicly available accurate, relevant, and timely information on climate change in Otago.	Information on climate change in Otago is shared with the community and stakeholders.	This is a new measure. Outcomes will be ongoing reporting of a regional greenhouse gas inventory and completing an Otago Climate Change Risk Assessment.	Yes
			Lead a regional approach to climate change in partnership with local councils and iwi.	Report on regional stakeholder engagement and collaboration on climate change.	Regional partnership priorities and approaches are defined, formalised for implementation, and ensure our iwi partners can assist imbedding matauranga Maori into regional actions.	Yes – though development and implementation will likely straddle the first two NAPs.
Communities	<ul style="list-style-type: none"> Raise public awareness of CC related hazards Develop a Health National Adaptation Plan 	Safety & Resilience: Natural Hazards and Climate Change	Provide information on natural hazards and risks, including the effects of climate change, in order for communities and stakeholders to make informed decisions.	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 to keep our communities informed.	Yes – already implemented
				Percentage of flood warnings that are issued in accordance with the ORC’s flood warning manual.	This is a new measure but is achieved 100%.	Yes

ORC Submission: *Draft National Adaptation Plan*

NAP Focus & Outcome Areas	NAP Critical Actions	LTP Programme & Headings	Level of Service	Measure	Outcomes linkages between LTP & NAP	Within first NAP timeframe?
	Synergies between proposed National Adaptation Plan and Climate Change related work programme in ORC Long Term Plan 2021-2031					
			Collaborate with communities and stakeholders to develop and deliver natural hazards adaptation strategies.	Complete regional natural hazards risks assessment (NHRA) and develop a regional approach for prioritising adaptation to inform adaptation planning and implementation.	Complete natural hazard risk assessment and define a regional approach, and develop a regional prioritisation plan for prioritising natural hazard adaptation. This is a key action to ensure we help inform our communities to adapt, prioritising areas such as Head of Lake Wakatipu and South Dunedin and Harbourside. This work will also help support the proposed Health National Adaptation Plan.	Yes - development of a prioritisation plan will straddle the first two NAPs
Infrastructure	<ul style="list-style-type: none"> Develop methodology for assessing impacts on physical assets and services Scope a voluntary resilience standard/code for infrastructure 	Flood Protection, Drainage and River Management <i>Importantly, these LTP activities form the basis of the Otago Regional Council's Infrastructure Strategy (IS). While it informs the 10-year programme of works under the LTP, the IS also looks a minimum of 30 years into the future at issues which will influence future programmes and activities for</i>	Provide the standard of flood protection and control agreed with communities.	Major flood protection and control works are maintained, repaired, and renewed to the key standards defined in relevant planning documents.	High compliance with planned maintenance is achieved and schemes function to their constructed design standards. National guidance and support on methodologies to assess impacts on scheme structure and services, as well as a resilience code will, if acceptable, support a consistent and efficient approach to asset management.	Yes
			Respond efficiently and effectively to damage from natural hazard events.	Damage identified, prioritised and a repair programme communicated with affected communities in a timely manner.	Timely communications with our communities are also in line with Focus areas 2 of the NAP and ORC's role in regional leadership.	Yes
			Maintain channel capacity and stability, while balancing environmental outcomes and recognising mana whenua values in rivers.	Percentage of identified and reported issues that have been investigated, and appropriate action determined and communicated to affected landholders within 20 working days.		

NAP Focus & Outcome Areas	NAP Critical Actions	LTP Programme & Headings	Level of Service	Measure	Outcomes linkages between LTP & NAP	Within first NAP timeframe?
	Synergies between proposed National Adaptation Plan and Climate Change related work programme in ORC Long Term Plan 2021-2031					
		<i>infrastructure management. This horizon will assist the IS to be adaptable over time, in line with the principles of the NAP.</i>		Percentage of planned maintenance actions achieved each year.	This is a new measure but is achieved 90% or greater.	Yes
Economic and Financial System	Deliver a freight and supply chain strategy	Transport: Regional Land Transport Plan (work programme)	Advocate for Otago's regional transport planning priorities and aspirations at a national level.	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).	Key work identified in the first 3 years in reviewing the RLTP will be to give effect to the central government's strategic direction of reducing the impacts of transport on climate change. The RLTP also support pan-regional transport issues and initiatives that will play a role in implementing a proposed freight and supply chain strategy.	Yes

End.

7.6. Updated Elected Member Remuneration Determination 2022/23

Prepared for: Council
Report No. GOV2238
Activity: Governance Report
Author: Amanda Vercoe, General Manager Governance, Culture and Customer
Endorsed by: Amanda Vercoe, General Manager Governance, Culture and Customer
Date: 29 June 2022

PURPOSE

[1] To note the 2022/23 Local Government Members Remuneration Determination.

EXECUTIVE SUMMARY

[2] The Remuneration Authority (the Authority) has undertaken its annual review of elected members' remuneration and allowances and issued its determination for local government elected members which applies from 1 July 2022 until 30 June 2023. The Local Government Members (2022/23) Determination is attached for information.

Remuneration

- [3] The Determination contains two remuneration schedules because this is a local election year.
- [4] Schedule 1 applies for the period beginning on 1 July 2022 and ending on the close of the day on which the official result of the 2022 election for a local authority is declared under section 86 of the Local Electoral Act 2001. This schedule shows the new remuneration for the Otago Regional Council from 1 July 2022 will be as below. This is a 1.4% increase on the 2021/22 rates.

Otago Regional Council

Office	Annual remuneration (\$)
Chairperson	149,058
Deputy Chairperson	91,055
Councillor (with no additional responsibilities) (9)	69,155
Councillor (Minimum Allowable Remuneration)	49,351

- [5] Schedule 2 applies on and from the day after the date on which the official result of the 2022 election for a local authority is declared under section 86 of the Local Electoral Act 2001. This schedule shows the remuneration for the Otago Regional Council will be as below. This represents a small increase, which is due to the new size indices being applied (following a review by the Authority earlier this year).

Otago Regional Council

Office	Annual remuneration (\$)
Chairperson	152,881
Councillor (Minimum Allowable Remuneration)	50,833

- [6] Once the new Council is in office post elections, as per the guidance from the Authority, the Council will need to decide how to allocate its remuneration pool. Guidance will be provided to help with this decision making in the new triennium.

Allowances

- [7] The 2022/23 Determination made the following changes to elected member allowances:
- Mileage increases to 83c / km (currently 79c)
 - Travel rate to increase to \$40 / hour for each hour of eligible travel time after the first hour of time travelled in a day (currently \$37.5) (last increased in 2016)
 - Hearing fees increase to Chair \$116 / hour and member \$93 /hour (currently \$100 and \$80) (last increased in 2011)
- [8] The ORC's Expenses, Reimbursements and Allowances Policy has been attached, with updates as above.
- [9] Note no changes were made in the Determination for the ICT allowances. The rates in the Policy are lower than those in the Determination though due to Council choosing not to increase the rates in 2021.

RECOMMENDATION

That the Council:

- Notes** this report.
- Notes** the Remuneration Authority's Local Government Members Determination 2022/23.
- Adopts** the update Expenses, Reimbursements and Allowances Policy 2022.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [10] Not applicable.

Financial Considerations

- [11] Elected members remuneration is budgeted for and the small increase can be accommodated within the existing budget.

Significance and Engagement

- [12] Not applicable.

Legislative and Risk Considerations

- [13] The Local Government Act 2002 provides for the Remuneration Authority to set the remuneration, allowances and expenses of regional chairs and other elected members.

Climate Change Considerations

- [14] Not applicable.

Communications Considerations

[15] Not applicable.

NEXT STEPS

[16] Payroll will be advised on the updated Determination.

ATTACHMENTS

1. 220607 Local Government Members (2022 23) Determination 2022 - signed [7.6.1 - 76 pages]
2. Expenses Reimbursement and Allowances Policy July 2022 [7.6.2 - 3 pages]

03/06/2022
PCO 24743/8.0

Local Government Members (2022/23) Determination 2022

This determination is made by the Remuneration Authority under the Remuneration Authority Act 1977 and clauses 6 and 7A of Schedule 7 of the Local Government Act 2002, after having regard to the matters specified in clause 7 of that schedule.

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**Local Government Members (2022/23) Determination
2022**

Determination

1 Title

This determination is the Local Government Members (2022/23) Determination 2022.

2 Commencement

This determination comes into force on 1 July 2022.

3 Expiry

This determination expires at the close of 30 June 2023.

Interpretation

4 Interpretation

In this determination, unless the context otherwise requires,—

board means—

- (a) a community board of a territorial authority other than the Auckland Council; or
- (b) a local board of the Auckland Council

determination term means the period from the coming into force of this determination to its expiry

hearing has the meaning given to it by clause 5

hearing time has the meaning given to it by clause 6

local authority means a regional council or a territorial authority

member means, in relation to a local authority or a board, a person who is declared to be elected to that local authority or board under the Local Electoral Act 2001 or who, as the result of further election or appointment under that Act or the Local Government Act 2002, is an office holder in relation to the local authority or board (for example, a chairperson)

on local authority business includes on the business of any board of the local authority

regional council means a regional council named in Part 1 of Schedule 2 of the Local Government Act 2002

RMA means the Resource Management Act 1991

territorial authority means a territorial authority named in Part 2 of Schedule 2 of the Local Government Act 2002.

5 Meaning of hearing

In this determination, **hearing** means—

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**Local Government Members (2022/23) Determination
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- (a) a hearing arising from a resource consent application made under section 88 of the RMA; or
- (b) a meeting for determining a resource consent application without a formal hearing; or
- (c) a hearing arising from a notice of requirement (including one initiated by the local authority); or
- (d) a pre-hearing meeting held under section 99 of the RMA in relation to a hearing referred to in paragraph (b) or (d); or
- (e) a hearing as part of the process of the preparation, change, variation, or review of a district or regional plan or regional policy statement; or
- (f) a mediation hearing in the Environment Court as part of an appeal from a decision of a local authority; or
- (g) a hearing on an objection against a charge fixed by a local authority under section 36 of the RMA.

6 Meaning of hearing time

In this determination, **hearing time** means the time spent on any of the following:

- (a) conducting a hearing;
- (b) formal deliberations to decide the outcome of a hearing;
- (c) participating in an official group site inspection related to a hearing;
- (d) determining a resource consent application where a formal hearing does not take place;
- (e) preparing for a hearing and participating in any inspection of a site for the purposes of a hearing (other than an official group site inspection under paragraph (c));
- (f) writing a decision arising from a hearing or communicating for the purpose of the written decision.

Entitlement to remuneration, allowances, and hearing fees

7 Remuneration, allowances, and hearing fees payable

Remuneration

- (1) For the period beginning on 1 July 2022 and ending on the close of the day on which the official result of the 2022 local election is declared under section 86 of the Local Electoral Act 2001 in relation to a local authority, a member of that local authority or a member of a board of that local authority is entitled to the applicable remuneration set out in Schedule 1 (adjusted under clause 9 if applicable).
- (2) On and from the day after the date on which the official result of the 2022 election is declared under section 86 of the Local Electoral Act 2001 in relation to

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a local authority, a member of that local authority or a member of a board of that local authority is entitled to the applicable remuneration set out in Schedule 2 (adjusted under clause 9 if applicable).

- (3) If a member of a territorial authority is also elected or appointed to a board, the member is entitled only to the remuneration that is payable to the member as a member of the territorial authority.

Allowances and hearing fees

- (4) A member of a local authority or a member of a board is also entitled to—
- (a) the applicable allowances payable under clauses 11 to 14;
 - (b) the applicable hearing fees payable under clause 15.

8 Acting mayor or chairperson

- (1) This clause applies to a member who acts as a mayor or chairperson during a period when, because of a vacancy or temporary absence, the local authority is not paying the remuneration or allowances that it would usually pay to the mayor or chairperson.
- (2) While the member is acting as mayor or chairperson, the local authority must pay the member the remuneration and allowances usually payable to the mayor or chairperson, instead of the member's usual remuneration, allowances, and hearing fees.

9 Motor vehicles for mayors and regional council chairpersons

- (1) A local authority may provide to the mayor or regional council chairperson of the local authority—
- (a) a motor vehicle (which may be provided for restricted private use, partial private use, or full private use); or
 - (b) a vehicle-kilometre allowance under clause 11.
- (2) If a local authority provides a motor vehicle to a mayor or regional council chairperson during the determination term, the maximum purchase price that the local authority may pay for the motor vehicle is,—
- (a) in the case of a petrol or diesel vehicle, \$55,000; and
 - (b) in the case of an electric or a hybrid vehicle, \$68,500.
- (3) If a local authority provides a motor vehicle to a mayor or regional council chairperson for restricted private use, the local authority must not make a deduction from the annual remuneration payable to the mayor or regional council chairperson under Schedule 1 or 2 (as applicable) for the provision of that motor vehicle.
- (4) If a local authority provides a motor vehicle to a mayor or regional council chairperson for partial private use or full private use,—

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- (a) the local authority must adjust the annual remuneration payable to the mayor or regional council chairperson under Schedule 1 or 2 (as applicable) in accordance with subclause (5) or (6) (as applicable); and
 - (b) the adjustment must take effect on and from—
 - (i) the date of commencement of this determination (in the case of a motor vehicle provided to the person before that date); or
 - (ii) the date of provision of the motor vehicle to the person (in the case of a motor vehicle provided during the determination term).
- (5) If a local authority provides a motor vehicle to a mayor or regional council chairperson for partial private use, the local authority must deduct the amount calculated in accordance with the following formula from the remuneration payable to that person:

$$v \times 41\% \times 10\%$$

where v means the purchase price of the vehicle.

- (6) If a local authority provides a motor vehicle to a mayor or regional council chairperson for full private use, the local authority must deduct the amount calculated in accordance with the following formula from the remuneration payable to that person:

$$v \times 41\% \times 20\%$$

where v means the purchase price of the vehicle.

- (7) In this clause,—

full private use means—

- (a) the vehicle is usually driven home and securely parked by the mayor or regional council chairperson; and
- (b) the vehicle is available for the mayor's or regional council chairperson's unrestricted private use; and
- (c) the vehicle is used by the mayor or regional council chairperson for both local authority business and private use; and
- (d) the vehicle may also be used by other local authority members or staff on local authority business, with the permission of the mayor or regional council chairperson

partial private use means—

- (a) the vehicle is usually driven home and securely parked by the mayor or regional council chairperson; and
- (b) the vehicle is used by the mayor or regional council chairperson for both local authority business and private purposes; and
- (c) the vehicle may also be used by other local authority members or staff on local authority business, with the permission of the mayor or regional council chairperson; and

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- (d) all travel in the vehicle is recorded in a logbook; and
- (e) the use of the vehicle for private purposes accounts for no more than 10% of the distance travelled in the vehicle in a year

purchase price means the amount paid for the vehicle,—

- (a) including goods and services tax and any on-road costs; and
- (b) after deducting the amount of any rebate that applies under the clean car discount scheme in respect of the purchase of the vehicle

restricted private use means—

- (a) the vehicle is usually driven home and securely parked by the mayor or regional council chairperson; and
- (b) the vehicle is otherwise generally available for use by other local authority members or staff on local authority business; and
- (c) the vehicle is used solely for local authority business; and
- (d) all travel in the vehicle is recorded in a logbook.

Allowances

10 Definition of member

For the purposes of payment of allowances under clauses 11 to 14, **member**, in relation to a territorial authority, includes a member of a board of the territorial authority.

11 Vehicle-kilometre allowance

- (1) A local authority may pay to a member a vehicle-kilometre allowance to reimburse that member for costs incurred in relation to eligible travel.
- (2) A member's travel is eligible for the allowance if—
 - (a) it occurs at a time when the member is not provided with a motor vehicle by the local authority; and
 - (b) the member is travelling—
 - (i) in a private vehicle; and
 - (ii) on local authority business; and
 - (iii) by the most direct route that is reasonable in the circumstances.
- (3) The allowance payable to a member for eligible travel is,—
 - (a) for a petrol or diesel vehicle,—
 - (i) 83 cents per kilometre for the first 14,000 kilometres of eligible travel in the determination term; and
 - (ii) 31 cents per kilometre after the first 14,000 kilometres of eligible travel in the determination term;
 - (b) for a petrol hybrid vehicle,—

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- (i) 83 cents per kilometre for the first 14,000 kilometres of eligible travel in the determination term; and
 - (ii) 18 cents per kilometre after the first 14,000 kilometres of eligible travel in the determination term:
 - (c) for an electric vehicle,—
 - (i) 83 cents per kilometre for the first 14,000 kilometres of eligible travel in the determination term; and
 - (ii) 10 cents per kilometre after the first 14,000 kilometres of eligible travel in the determination term.
 - (4) However, if a member of a local authority travels from a place where the member permanently or temporarily resides that is outside the local authority area, to the local authority area on local authority business, the member is only eligible for a vehicle-kilometre allowance for eligible travel after the member crosses the boundary of the local authority area.

12 Travel-time allowance

- (1) A local authority may pay a member (other than a mayor or a regional council chairperson) an allowance for eligible travel time.
- (2) A member's travel time is eligible for the allowance if it is time spent travelling within New Zealand—
 - (a) on local authority business; and
 - (b) by the quickest form of transport that is reasonable in the circumstances; and
 - (c) by the most direct route that is reasonable in the circumstances.
- (3) The travel-time allowance is \$40.00 for each hour of eligible travel time after the first hour of eligible travel time travelled in a day.
- (4) However, if a member of a local authority permanently or temporarily resides outside the local authority area and travels to the local authority area on local authority business, the member is only eligible for a travel-time allowance for eligible travel time—
 - (a) after the member crosses the boundary of the local authority area; and
 - (b) after the first hour of eligible travel time within the local authority area.
- (5) The maximum total amount of travel-time allowance that a member may be paid for eligible travel in a 24-hour period is 8 hours.
- (6) Despite subclause (1), the Chatham Islands Council may pay the Mayor of the Chatham Islands Council an allowance for eligible travel time.

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**Local Government Members (2022/23) Determination
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13 ICT allowances

Member uses local authority's ICT

- (1) If a local authority supplies ICT to a member for use on local authority business and allows for its personal use, the local authority may decide what portion, if any, of the local authority's costs reasonably attributable to such personal use must be paid by the member.

Member uses own equipment and consumables

- (2) If a local authority determines that a member requires particular ICT equipment to perform their functions and requests that the member use their own equipment for those purposes, the local authority may pay an allowance.
- (3) The matters for which the local authority may pay an allowance, and the amounts that the local authority may pay for the determination term, are as follows:
 - (a) for the use of a personal computer, tablet, or laptop, including any related docking station, \$400;
 - (b) for the use of a multi-functional or other printer, \$50;
 - (c) for the use of a mobile telephone, \$200;
 - (d) for the use of ICT consumables, up to \$200.

Member uses own services

- (4) If a local authority requests a member to use the member's own Internet service for the purpose of the member's work on local authority business, the member is entitled to an allowance for that use of up to \$800 for the determination term.
- (5) If a local authority requests a member to use the member's own mobile telephone service for the purpose of the member's work on local authority business, the member is entitled, at the member's option, to—
 - (a) an allowance for that use of up to \$500 for the determination term; or
 - (b) reimbursement of actual costs of telephone calls made on local authority business on production of the relevant telephone records and receipts.

Pro-rating

- (6) If the member is not a member for the whole of the determination term, subclauses (3) to (5) apply as if each reference to an amount were replaced by a reference to an amount calculated in accordance with the following formula:

$$(a \div b) \times c$$

where—

- a is the number of days that the member held office in the determination term
- b is the number of days in the determination term
- c is the relevant amount specified in subclauses (3) to (5).

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- (7) The Remuneration Authority may approve rules proposed by a local authority to meet the costs of installing and running special ICT where, because of distance or restricted access, normal communications connections are not available.
 - (8) In this clause, **ICT** means information or communication technology, including—
 - (a) ICT equipment (for example, a mobile telephone and a laptop computer); and
 - (b) ICT services (for example, a mobile telephone service and an Internet service); and
 - (c) ICT consumables (for example, printer or photocopy paper and ink cartridges).

14 Childcare allowance

- (1) A local authority may pay a childcare allowance to an eligible member as a contribution towards expenses incurred by the member for childcare provided while the member is engaged on local authority business.
- (2) A member is eligible to be paid a childcare allowance for childcare provided for a child only if—
 - (a) the member is a parent or guardian of the child or is a person who usually has responsibility for the day-to-day care of the child (other than on a temporary basis); and
 - (b) the child is under 14 years of age; and
 - (c) the childcare is provided by a person who—
 - (i) is not a parent of the child or a spouse, civil union partner, or de facto partner of the member; and
 - (ii) does not ordinarily reside with the member; and
 - (d) the member provides evidence satisfactory to the local authority of the amount paid for childcare.
- (3) A local authority must not pay childcare allowances to a member that total more than \$6,000 per annum per child.

Hearing fees

15 Fees related to hearings

- (1) A member of a local authority or member of a board who acts as the chairperson of a hearing is entitled to be paid a fee of up to \$116 per hour of hearing time related to the hearing.
- (2) A member of a local authority or member of a board who is not the chairperson of a hearing is entitled to be paid a fee of up to \$93 per hour of hearing time related to the hearing.

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- (3) For any period of hearing time that is less than 1 hour, the fee must be apportioned accordingly.
- (4) This clause does not apply to—
 - (a) a mayor or a member who acts as mayor and is paid the mayor's remuneration and allowances under clause 8(2); or
 - (b) a chairperson of a regional council or a member who acts as chairperson of a regional council and is paid the chairperson's remuneration and allowances under clause 8(2).

Revocation

16 Revocation

The Local Government Members (2021/22) Determination 2021 (LI 2021/173) is revoked.

**Local Government Members (2022/23) Determination
2022**

Schedule 1

**Schedule 1
Remuneration before 2022 election of members**

cl 7(1)

**Part 1
Remuneration of members of regional councils**

Bay of Plenty Regional Council

Office	Annual remuneration (\$)
Chairperson	148,551
Deputy Chairperson of Regional Council	80,004
Committee Chairperson (6)	70,000
Councillor with no additional responsibilities (6)	61,525
Councillor (Minimum Allowable Remuneration)	54,525

Canterbury Regional Council

Office	Annual remuneration (\$)
Chairperson	180,000
Deputy Chairperson	106,341
Councillor (with no additional responsibilities) (12)	72,601
Councillor (Minimum Allowable Remuneration)	64,460

Hawke's Bay Regional Council

Office	Annual remuneration (\$)
Chairperson	137,904
Deputy Chairperson of Regional Council	73,258
Chairperson Corporate and Strategic Committee	73,258
Chairperson Regional Transport Committee and Hearings Committee	73,258
Chairperson Finance, Audit and Risk Sub-committee	73,258
Chairperson, Clifton to Tangoio Coastal Hazards Strategy Joint Committee	73,258
Chairperson Environment and Integrated Catchments Committee	73,258
Councillor with no additional responsibilities (2)	62,868
Councillor (Minimum Allowable Remuneration)	51,083

Manawatū–Whanganui Regional Council

Office	Annual remuneration (\$)
Chairperson	145,002
Deputy Chairperson	68,603
Audit, Risk, and Investment Committee Chair and Catchment Operations Committee Deputy Chair	68,603
Audit, Risk, and Investment Committee Deputy Chair	50,818
Catchment Operations Committee Chair	73,685
Environment Committee Chair	66,062

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Schedule 1 **Local Government Members (2022/23) Determination**
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Office	Annual remuneration (\$)
Environment Committee Deputy Chair	50,818
Passenger Transport Committee Chair	66,062
Passenger Transport Committee Deputy Chair	50,818
Manawatu River Users' Advisory Group Chair	50,818
Councillor (with no additional responsibilities) (2)	50,818
Councillor (Minimum Allowable Remuneration)	46,008

Northland Regional Council

Office	Annual remuneration (\$)
Chairperson	128,271
Deputy Chairperson	79,181
Councillor (with no additional responsibilities) (7)	71,681
Councillor (Minimum Allowable Remuneration)	53,710

Otago Regional Council

Office	Annual remuneration (\$)
Chairperson	149,058
Deputy Chairperson	91,055
Councillor (with no additional responsibilities) (9)	69,155
Councillor (Minimum Allowable Remuneration)	49,351

Southland Regional Council

Office	Annual remuneration (\$)
Chairperson	124,215
Deputy Chairperson and Regional Transport Committee Chair	63,784
Chair, Strategy and Policy Committee	54,672
Chair, Organisational Performance and Audit Committee	54,672
Chair, Regulatory Committee	54,672
Chair, Regional Services Committee	54,672
Councillor (with no additional responsibilities) (6)	45,560
Councillor (Minimum Allowable Remuneration)	37,788

Taranaki Regional Council

Office	Annual remuneration (\$)
Chairperson	103,986
Deputy Chairperson of Regional Council	56,042
Chairperson Executive, Audit and Risk Committee	56,042
Chairperson Consents and Regulatory Committee	56,042
Chairperson Policy and Planning Committee	56,042
Chairperson Regional Transport Committee	45,781
Chairperson Civil Defence Group Committee	45,781
Councillor with no additional responsibilities (4)	39,466
Councillor (Minimum Allowable Remuneration)	37,493

**Local Government Members (2022/23) Determination
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Waikato Regional Council

Office	Annual remuneration (\$)
Chairperson	163,254
Deputy Chairperson	86,228
Committee Chair (8)	73,860
Councillor (with no additional responsibilities) (4)	64,160
Councillor (Minimum Allowable Remuneration)	58,640

Wellington Regional Council

Office	Annual remuneration (\$)
Chairperson	176,436
Deputy Council Chairperson (with committee chairperson responsibilities)	93,084
Chair, Environment Committee	82,712
Chair, Transport and Infrastructure Committee	82,712
Chair, Climate Committee	82,712
Chair, Chief Executive Employment Review Committee	82,712
Chair, Te Upoko Taiao—Natural Resources Plan Committee	82,712
Chair, Hutt Valley Flood Management Subcommittee and Portfolio Leader	82,712
Portfolio Leader, Sustainable Development	79,614
Councillor (with no additional responsibilities) (4)	66,346
Councillor (Minimum Allowable Remuneration)	62,378

West Coast Regional Council

Office	Annual remuneration (\$)
Chairperson	85,683
Deputy Chairperson of Regional Council and Chairperson Resource Management Committee	64,456
Councillor with no additional responsibilities (5)	52,512
Councillor (Minimum Allowable Remuneration)	36,777

Part 2

**Remuneration of members of territorial authorities and their
community or local boards**

Ashburton District Council

Office	Annual remuneration (\$)
Mayor	123,201
Deputy Mayor	59,182
Councillor (with no additional responsibilities) (8)	41,214
Councillor (Minimum Allowable Remuneration)	25,779

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<i>Methven Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	5,554
Member	2,777
<i>Auckland Council</i>	
Office	Annual remuneration (\$)
Mayor	296,000
Deputy Mayor	167,900
Chair of Committee of the Whole (4)	140,857
Chair of Regulatory Committee	140,857
Deputy Chair of Committee of the Whole (4)	127,240
Chair of other Committee (2)	124,970
Council-controlled Organisation Liaison Councillor (2)	124,970
Deputy Chair of other Committee (5)	119,297
Portfolio Lead	114,758
Councillor (Minimum Allowable Remuneration)	107,794
<i>Albert-Eden Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	93,744
Deputy Chairperson	56,247
Member	46,872
<i>Aotea/Great Barrier Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	58,559
Deputy Chairperson	35,135
Member	29,279
<i>Devonport-Takapuna Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	87,052
Deputy Chairperson	52,231
Member	43,526
<i>Franklin Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	92,021
Deputy Chairperson	55,212
Member	46,010

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Henderson–Massey Local Board

Office	Annual remuneration (\$)
Chairperson	100,944
Deputy Chairperson	60,566
Member	50,472

Hibiscus and Bays Local Board

Office	Annual remuneration (\$)
Chairperson	92,629
Deputy Chairperson	55,577
Member	46,314

Howick Local Board

Office	Annual remuneration (\$)
Chairperson	99,856
Deputy Chairperson	59,913
Member	49,928

Kaipātiki Local Board

Office	Annual remuneration (\$)
Chairperson	91,818
Deputy Chairperson	55,091
Member	45,909

Māngere–Ōtāhuhu Local Board

Office	Annual remuneration (\$)
Chairperson	101,147
Deputy Chairperson	60,688
Member	50,573

Manurewa Local Board

Office	Annual remuneration (\$)
Chairperson	100,335
Deputy Chairperson	60,201
Member	50,168

Maungakiekie–Tāmaki Local Board

Office	Annual remuneration (\$)
Chairperson	95,975
Deputy Chairperson	57,585
Member	47,988

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<i>Ōrākei Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	90,195
Deputy Chairperson	54,117
Member	45,098
<i>Ōtara–Papatoetoe Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	100,437
Deputy Chairperson	60,262
Member	50,218
<i>Papakura Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	93,846
Deputy Chairperson	56,307
Member	46,923
<i>Puketāpapa Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	91,108
Deputy Chairperson	54,665
Member	45,554
<i>Rodney Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	88,979
Deputy Chairperson	53,387
Member	44,489
<i>Upper Harbour Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	87,458
Deputy Chairperson	52,475
Member	43,729
<i>Waiheke Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	70,422
Deputy Chairperson	42,253
Member	35,211

**Local Government Members (2022/23) Determination
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Waitākere Ranges Local Board

Office	Annual remuneration (\$)
Chairperson	88,573
Deputy Chairperson	53,144
Member	44,286

Waitematā Local Board

Office	Annual remuneration (\$)
Chairperson	98,713
Deputy Chairperson	59,228
Member	49,356

Whau Local Board

Office	Annual remuneration (\$)
Chairperson	93,035
Deputy Chairperson	55,821
Member	46,517

Buller District Council

Office	Annual remuneration (\$)
Mayor	96,837
Deputy Mayor and Finance Risk and Audit Committee Chair	42,959
Regulatory and Hearings Committee Chair	29,579
Community, Environment and Services Committee Chair	29,579
Community Grants Portfolio Holder	25,463
Youth Development Portfolio Holder	25,463
Punakaiki Area Portfolio Holder	25,463
Councillor (with no additional responsibilities) (4)	23,403
Councillor (Minimum Allowable Remuneration)	19,836

Inangahua Community Board

Office	Annual remuneration (\$)
Chairperson	7,367
Member	3,684

Carterton District Council

Office	Annual remuneration (\$)
Mayor	85,683
Deputy Mayor	49,995
Councillor (with no additional responsibilities) (6)	29,462
Councillor (Minimum Allowable Remuneration)	19,374

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**Local Government Members (2022/23) Determination
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Central Hawke's Bay District Council

Office	Annual remuneration (\$)
Mayor	106,470
Deputy Mayor, Chair of Strategy and Wellbeing Committee, Lead Urban Councillor	54,968
Chair of Finance and Infrastructure Committee and Member of Risk and Assurance Committee	41,588
Lead Rural Councillor and Member of Risk and Assurance Committee	34,384
Member of Risk and Assurance Committee (2)	31,296
Councillor (with no additional responsibilities) (3)	27,179
Councillor (Minimum Allowable Remuneration)	24,639

Central Otago District Council

Office	Annual remuneration (\$)
Mayor	108,498
Deputy Mayor, Portfolio Lead and Member Cromwell Community Board	32,834
Portfolio Lead and Member Cromwell Community Board	28,456
Councillor and Chairperson Vincent Community Board	28,456
Portfolio Lead and Member Teviot Valley Community Board	26,814
Portfolio Lead and Member Maniototo Community Board	26,814
Councillor and Member Cromwell Community Board	25,173
Councillor and Member Vincent Community Board (2)	21,889
Councillor with no additional responsibilities (3)	21,889
Councillor (Minimum Allowable Remuneration)	21,354

Cromwell Community Board

Office	Annual remuneration (\$)
Chairperson	14,661
Member	7,331

Maniototo Community Board

Office	Annual remuneration (\$)
Chairperson	7,109
Member	3,554

Teviot Valley Community Board

Office	Annual remuneration (\$)
Chairperson	7,109
Member	3,554

Vincent Community Board

Office	Annual remuneration (\$)
Chairperson	15,774

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Office	Annual remuneration (\$)
Member	7,887

Chatham Islands Council

Office	Annual remuneration (\$)
Mayor	55,263
Deputy Mayor	24,277
Councillor with no additional responsibilities (7)	18,218
Councillor (Minimum Allowable Remuneration)	13,765

Christchurch City Council

Office	Annual remuneration (\$)
Mayor	197,730
Deputy Mayor	133,088
Councillor with no additional responsibilities (15)	115,728
Councillor (Minimum Allowable Remuneration)	98,642

Banks Peninsula Community Board

Office	Annual remuneration (\$)
Chairperson	20,305
Member	10,153

Coastal–Burwood Community Board

Office	Annual remuneration (\$)
Chairperson	48,376
Member	24,188

Fendalton–Waimairi–Harewood Community Board

Office	Annual remuneration (\$)
Chairperson	47,720
Member	23,860

Halswell–Hornby–Riccarton Community Board

Office	Annual remuneration (\$)
Chairperson	50,347
Member	25,173

Linwood–Central–Heathcote Community Board

Office	Annual remuneration (\$)
Chairperson	50,347
Member	25,173

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<i>Papanui–Innes Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	48,376
Member	24,188
<i>Spreydon–Cashmere Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	48,376
Member	24,188
Clutha District Council	
Office	Annual remuneration (\$)
Mayor	111,540
Deputy Mayor	31,746
Chairperson Standing Committee (3)	30,235
Member Executive Committee (4)	25,701
Member Creative Communities	24,190
Councillor with no additional responsibilities (5)	22,676
Councillor (Minimum Allowable Remuneration)	20,250
<i>Lawrence–Tuapeka Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	5,998
Member	2,999
<i>West Otago Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	7,109
Member	3,554
Dunedin City Council	
Office	Annual remuneration (\$)
Mayor	168,831
Deputy Mayor	92,521
Chairs (6)	87,422
Councillor (with no additional responsibilities) (7)	72,851
Councillor (Minimum Allowable Remuneration)	60,691
<i>Mosgiel–Taieri Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,799
Member	9,899

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Otago Peninsula Community Board

Office	Annual remuneration (\$)
Chairperson	16,718
Member	8,359

Saddle Hill Community Board

Office	Annual remuneration (\$)
Chairperson	16,939
Member	8,469

Strath Taieri Community Board

Office	Annual remuneration (\$)
Chairperson	14,889
Member	7,445

Waikouaiti Coast Community Board

Office	Annual remuneration (\$)
Chairperson	16,498
Member	8,249

West Harbour Community Board

Office	Annual remuneration (\$)
Chairperson	16,939
Member	8,469

Far North District Council

Office	Annual remuneration (\$)
Mayor	157,170
Deputy Mayor	120,397
Committee Chairperson (4)	97,464
Councillor with no additional responsibilities (4)	75,162
Councillor (Minimum Allowable Remuneration)	58,903

Bay of Islands–Whangaroa Community Board

Office	Annual remuneration (\$)
Chairperson	32,186
Member	16,093

Kaikohe–Hokianga Community Board

Office	Annual remuneration (\$)
Chairperson	27,589
Member	13,795

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<i>Te Hiku Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	28,164
Member	14,082
Gisborne District Council	
Office	Annual remuneration (\$)
Mayor	157,170
Deputy Mayor	67,607
Chairperson Operations Committee	58,593
Chairperson Regional Transport Committee and Rural Councillor	54,086
Chairperson Wastewater Management Committee	54,086
Rural Councillor (3)	47,325
Councillor with no additional responsibilities (6)	45,071
Councillor (Minimum Allowable Remuneration)	38,446
Gore District Council	
Office	Annual remuneration (\$)
Mayor	100,893
Deputy Mayor	36,463
Audit and Risk Committee Chair	30,876
Capital Works Committee Chair	30,876
Community and Strategy Committee Chair	30,876
Councillor (with no additional responsibilities) (7)	23,672
Councillor (Minimum Allowable Remuneration)	19,017
<i>Mataura Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,242
Member	2,121
Grey District Council	
Office	Annual remuneration (\$)
Mayor	103,428
Deputy Mayor also Portfolio Councillor for Three Waters	41,992
Councillor—Portfolio Transport	36,744
Councillor—Portfolio Spatial Development, Finance and Risk	36,744
Councillor (with no additional responsibilities) (5)	28,124
Councillor (Minimum Allowable Remuneration)	22,868
Hamilton City Council	
Office	Annual remuneration (\$)
Mayor	176,943
Deputy Mayor	114,642

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Office	Annual remuneration (\$)
Chair of Committee (7)	103,640
Deputy Chair of Committee (4)	94,264
Councillor (Minimum Allowable Remuneration)	75,974

Hastings District Council

Office	Annual remuneration (\$)
Mayor	155,649
Deputy Mayor	80,067
Chair: Committees of the Whole (2)	66,341
Chair: Subcommittee (5)	57,191
Deputy Committee Chair (4)	52,615
Ambassador for Hastings	52,615
Champion—Flaxmere Development	48,040
Councillor (Minimum Allowable Remuneration)	44,378

Hastings District Rural Community Board

Office	Annual remuneration (\$)
Chairperson	15,475
Member	7,738

Hauraki District Council

Office	Annual remuneration (\$)
Mayor	119,652
Deputy Mayor	42,274
Ward Committee Chairperson (3)	31,149
Emergency Management Committee Chairperson	28,924
Portfolio Leader (4)	26,699
Councillor with no additional responsibilities (4)	22,249
Councillor (Minimum Allowable Remuneration)	22,014

Horowhenua District Council

Office	Annual remuneration (\$)
Mayor	130,806
Deputy Mayor	71,013
Deputy Chair Finance, Audit and Risk Subcommittee	43,396
Chairperson, Community Funding and Recognition Committee	47,342
Chairperson, Community Wellbeing Committee	47,342
Councillor (with no additional responsibilities) (6)	39,452
Councillor (Minimum Allowable Remuneration)	28,978

Foxton Community Board

Office	Annual remuneration (\$)
Chairperson	12,884

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Office		Annual remuneration (\$)
Member		6,442
Hurunui District Council		
Office		Annual remuneration (\$)
Mayor		103,935
Deputy Mayor		34,475
Councillor (with no additional responsibilities) (9)		24,625
Councillor (Minimum Allowable Remuneration)		20,821
<i>Hanmer Springs Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		8,259
Member		4,130
Hutt City Council		
Office		Annual remuneration (\$)
Mayor		160,212
Deputy Mayor/Chair of Standing Committee		102,945
Chair of Standing Committee (3)		82,463
Deputy Chair of Standing Committee (4)		65,451
Chair Traffic Subcommittee		69,150
Councillor with no additional responsibilities (3)		55,304
Councillor (Minimum Allowable Remuneration)		54,379
<i>Eastbourne Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		13,926
Member		6,963
<i>Petone Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		16,580
Member		8,290
<i>Wainuiomata Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		17,465
Member		8,732
Invercargill City Council		
Office		Annual remuneration (\$)
Mayor		141,960
Deputy Mayor		57,040

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Office	Annual remuneration (\$)
Infrastructural Services Standing Committee Chairperson	49,538
Infrastructural Services Standing Committee Deputy Chairperson	43,800
Performance, Policy and Partnership Standing Committee Chairperson	49,538
Performance, Policy and Partnership Standing Committee Deputy Chairperson	43,800
Councillor (with additional responsibilities) (7)	39,710
Councillor (Minimum Allowable Remuneration)	35,152

Bluff Community Board

Office	Annual remuneration (\$)
Chairperson	8,842
Member	4,421

Kaikōura District Council

Office	Annual remuneration (\$)
Mayor	85,683
Deputy Mayor	40,816
Councillor with no additional responsibilities (6)	27,213
Councillor (Minimum Allowable Remuneration)	19,579

Kaipara District Council

Office	Annual remuneration (\$)
Mayor	120,666
Deputy Mayor	56,619
Councillor with no additional responsibilities (7)	44,757
Councillor (Minimum Allowable Remuneration)	30,924

Kapiti Coast District Council

Office	Annual remuneration (\$)
Mayor	140,439
Deputy Mayor	61,753
Chair, Strategy and Operations	56,607
Portfolio A Holder (4)	52,088
Portfolio B Holder (4)	46,372
Councillor (Minimum Allowable Remuneration)	36,555

Ōtaki Community Board

Office	Annual remuneration (\$)
Chairperson	15,695
Member	7,848

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Schedule 1	Local Government Members (2022/23) Determination 2022
<i>Paekākāriki Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,179
Member	4,090
<i>Paraparaumu–Raumati Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	20,559
Member	10,280
<i>Waikanae Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,802
Member	8,401
Kawerau District Council	
Office	Annual remuneration (\$)
Mayor	94,809
Deputy Mayor	36,702
Chair of Regulatory and Services Committee	32,770
Councillor (with no additional responsibilities) (6)	26,216
Councillor (Minimum Allowable Remuneration)	18,196
Mackenzie District Council	
Office	Annual remuneration (\$)
Mayor	85,683
Deputy Mayor	35,742
Engineering and Services Committee Chair	35,742
Commercial and Economic Development Committee Chair	35,742
Planning and Regulatory Committee Chair	35,742
Councillor (with no additional responsibilities) (2)	19,221
Councillor (Minimum Allowable Remuneration)	19,221
<i>Fairlie Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058
<i>Tekapo Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058

**Local Government Members (2022/23) Determination
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Twizel Community Board

Office	Annual remuneration (\$)
Chairperson	5,135
Member	2,567

Manawatu District Council

Office	Annual remuneration (\$)
Mayor	122,694
Deputy Mayor	55,556
Audit and Risk Committee Chairperson	43,652
Community Development Committee Chairperson	43,652
Hearings Committee Chairperson	43,652
Health and Safety Governance Representative	43,652
Councillor with no additional responsibilities (4)	39,683
Councillor (Minimum Allowable Remuneration)	29,154

Marlborough District Council

Office	Annual remuneration (\$)
Mayor	142,974
Deputy Mayor	58,855
Chairperson Standing Committee	52,231
Chairperson Statutory/Joint Committee (2)	47,110
Deputy Chairperson Standing Committee	44,038
Deputy Chairperson Standing Committee and Chairperson Sub-Committee (2)	46,086
Chairperson Sub-Committee (3)	43,014
Chairperson of 2 or more Sub-Committees	45,062
Councillor (with no additional responsibilities) (2)	40,966
Councillor (Minimum Allowable Remuneration)	37,566

Masterton District Council

Office	Annual remuneration (\$)
Mayor	123,708
Deputy Mayor	47,732
Chair—Infrastructure and Services Committee	47,732
Chair—Awards and Grants Committee	42,224
Chair—Hearings Committee	40,388
Councillor (with no additional responsibilities) (6)	36,717
Councillor (Minimum Allowable Remuneration)	30,053

Matamata-Piako District Council

Office	Annual remuneration (\$)
Mayor	124,722
Deputy Mayor	40,543

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Office	Annual remuneration (\$)
Chair of Corporate and Operations Committee	40,543
Councillor (with no additional responsibilities) (9)	35,255
Councillor (Minimum Allowable Remuneration)	27,857

Napier City Council

Office	Annual remuneration (\$)
Mayor	147,537
Deputy Mayor and Chair of Standing Committee	83,400
Chair of Standing Committee (3)	63,593
Deputy Chair of Standing Committee (4)	59,684
Portfolio Holder (4)	55,539
Councillor (Minimum Allowable Remuneration)	44,976

Nelson City Council

Office	Annual remuneration (\$)
Mayor	146,523
Deputy Mayor	67,332
Senior Chair (Chair of Infrastructure, Regional Transport Committee, Deputy Chair Environment and Climate Committee (Nelson Plan Lead))	58,134
Committee Chair (2)	58,134
Subcommittee Chair	49,995
Councillor (with no additional responsibilities) (7)	45,372
Councillor (Minimum Allowable Remuneration)	40,083

New Plymouth District Council

Office	Annual remuneration (\$)
Mayor	154,128
Deputy Mayor	82,308
Chairperson Strategy and Operations Committee	66,875
Chairperson Finance, Audit and Risk Committee	61,731
Chairperson Te Huinga Taumatua	61,731
Chairperson Strategy Projects Committee	61,731
Councillor with no additional responsibilities (9)	51,442
Councillor (Minimum Allowable Remuneration)	44,513

Clifton Community Board

Office	Annual remuneration (\$)
Chairperson	12,821
Member	6,410

Inglewood Community Board

Office	Annual remuneration (\$)
Chairperson	15,254
Member	7,627

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<i>Kaitake Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	13,706
Member	6,853
 <i>Waitara Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	15,254
Member	7,627
 Ōpōtiki District Council	
Office	Annual remuneration (\$)
Mayor	100,386
Deputy Mayor	53,743
Cultural Ambassador/Coast Community Board Chair	46,057
Councillor (with no additional responsibilities) (4)	29,590
Councillor (Minimum Allowable Remuneration)	22,018
 <i>Coast Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	10,269
Member	5,135
 Ōtorohanga District Council	
Office	Annual remuneration (\$)
Mayor	93,795
Deputy Mayor and Member Grants and Awards Committee	39,642
Council Representative on Ōtorohanga Community Board and Member Grants and Awards Committee	30,736
Council Representative on Ōtorohanga Community Board	28,612
Chairperson Grants and Awards Committee	24,432
Council Representative on Kawhia Community Board and Member Risk and Assurance Committee	27,552
Deputy Chairperson Risk and Assurance Committee	27,619
Member Risk and Assurance Committee	25,494
Councillor (Minimum Allowable Remuneration)	19,170
 <i>Kawhia Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058

Schedule 1 **Local Government Members (2022/23) Determination**
2022

Ōtorohanga Community Board

Office	Annual remuneration (\$)
Chairperson	14,733
Member	7,367

Palmerston North City Council

Office	Annual remuneration (\$)
Mayor	154,635
Deputy Mayor, Chair—Planning and Strategy Committee, Chair—Hearings Committee, and Chair—Chief Executive Performance Review	85,873
Chair—Finance and Audit Committee	55,440
Chair—Infrastructure Committee	55,440
Chair—Arts, Culture and Heritage Committee	52,036
Chair—Community Development	52,036
Chair—Economic Development Committee	52,036
Chair—Environmental Sustainability Committee	52,036
Chair—Play, Recreation and Sport Committee	52,036
Councillor (with no additional responsibilities) (7)	48,632
Councillor (Minimum Allowable Remuneration)	44,107

Porirua City Council

Office	Annual remuneration (\$)
Mayor	147,030
Deputy Mayor	72,662
Chair Te Puna Kōrero	69,826
Chair Chief Executive's Employment Committee	56,195
Councillor (with no additional responsibilities) (7)	51,564
Councillor (Minimum Allowable Remuneration)	39,749

Queenstown-Lakes District Council

Office	Annual remuneration (\$)
Mayor	129,792
Deputy Mayor	49,728
Chair of Standing Committee (4)	46,519
Councillor (with no additional responsibilities) (5)	40,103
Councillor (Minimum Allowable Remuneration)	33,375

Wanaka Community Board

Office	Annual remuneration (\$)
Chairperson	24,659
Member	12,329

**Local Government Members (2022/23) Determination
2022**

Schedule 1

Rangitikei District Council

Office	Annual remuneration (\$)
Mayor	108,498
Deputy Mayor and Chair of the Chief Executive Review Committee	41,487
Committee Chair (2)	29,653
Committee Deputy Chair (3)	25,537
Councillor (with no additional responsibilities) (5)	23,478
Councillor (Minimum Allowable Remuneration)	20,860

Ratana Community Board

Office	Annual remuneration (\$)
Chairperson	4,377
Member	2,189

Taihape Community Board

Office	Annual remuneration (\$)
Chairperson	8,929
Member	4,465

Rotorua District Council

Office	Annual remuneration (\$)
Mayor	154,128
Deputy Mayor, Lead—Economic Development Working Group, and Lead—Sustainable Environment Working Group	110,125
Chairperson Strategy, Policy and Finance Committee and Lead—Four Wellbeings Working Group	91,450
Chairperson Operations and Monitoring Committee, Lead—Liveable Communities Working Group, and Lead—Housing Working Group	91,450
Deputy Chairperson Strategy, Policy and Finance Committee, Lead—Economic Development (Housing Development) Working Group, and Lead—Sport and Recreation Working Group	77,914
Deputy Chairperson Operations and Monitoring Committee and Lead—Arts and Culture Working Group	77,914
Cultural Ambassador	77,914
Lead—Climate Change Working Group	77,914
Councillor with no additional responsibilities (3)	60,569
Councillor (Minimum Allowable Remuneration)	54,431

Rotorua Lakes Community Board

Office	Annual remuneration (\$)
Chairperson	17,288
Member	8,644

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Local Government Members (2022/23) Determination	
Schedule 1	2022
<i>Rotorua Rural Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,321
Member	9,661
Ruapehu District Council	
Office	Annual remuneration (\$)
Mayor	111,033
Deputy Mayor	38,896
Councillor (with no additional responsibilities) (10)	26,463
Councillor (Minimum Allowable Remuneration)	20,211
<i>National Park Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	6,028
Member	3,014
<i>Waimarino–Waiouru Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,929
Member	4,465
Selwyn District Council	
Office	Annual remuneration (\$)
Mayor	138,411
Deputy Mayor	52,842
Councillor (with no additional responsibilities) (10)	44,039
Councillor (Minimum Allowable Remuneration)	35,624
<i>Malvern Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	18,238
Member	9,119
South Taranaki District Council	
Office	Annual remuneration (\$)
Mayor	127,764
Deputy Mayor	49,631
Member Audit and Risk Committee (4)	36,397
Councillor with no additional responsibilities (7)	33,088
Councillor (Minimum Allowable Remuneration)	26,152

**Local Government Members (2022/23) Determination
2022**

Schedule 1

Eltham-Kaponga Community Board

Office	Annual remuneration (\$)
Chairperson	11,733
Member	5,866

Pātea Community Board

Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665

Taranaki Coastal Community Board

Office	Annual remuneration (\$)
Chairperson	12,850
Member	6,425

Te Hāwera Community Board

Office	Annual remuneration (\$)
Chairperson	14,440
Member	7,220

South Waikato District Council

Office	Annual remuneration (\$)
Mayor	122,187
Deputy Mayor (Chair Community and Assets Committee)	50,017
Committee Chair A Corporate and Regulatory Committee	42,444
Committee Chair B Grants	39,794
Councillor (with no additional responsibilities) (7)	35,307
Councillor (Minimum Allowable Remuneration)	27,034

Tirau Community Board

Office	Annual remuneration (\$)
Chairperson	6,886
Member	3,443

South Wairarapa District Council

Office	Annual remuneration (\$)
Mayor	94,302
Deputy Mayor	35,275
Chair of Finance, Audit, and Risk Committee	27,934
Chair of Planning and Regulatory Committee	25,959
Chair of Assets and Services Committee	25,734
District Licensing Deputy Chair	23,501
Martinborough Community Board and Waste Minimisation responsibilities	26,422

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Schedule 1	Local Government Members (2022/23) Determination 2022	
Office		Annual remuneration (\$)
Greytown Community Board and Water Management responsibilities		28,362
Martinborough Community Board		25,148
Wairarapa Policies and Road Safety Council		27,663
Councillor (Minimum Allowable Remuneration)		18,855
<i>Featherston Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		6,697
Member		3,349
<i>Greytown Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		6,697
Member		3,349
<i>Martinborough Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		6,697
Member		3,349
Southland District Council		
Office		Annual remuneration (\$)
Mayor		125,736
Deputy Mayor		44,764
Committee Chairperson (2)		38,854
Councillor (with no additional responsibilities) (9)		31,710
Councillor (Minimum Allowable Remuneration)		26,630
<i>Ardlussa Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		7,702
Member		3,851
<i>Fiordland Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		9,469
Member		4,734
<i>Northern Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		7,446
Member		3,723

**Local Government Members (2022/23) Determination
2022**

Schedule 1

Oraka Aparima Community Board

Office	Annual remuneration (\$)
Chairperson	8,319
Member	4,160

Oreti Community Board

Office	Annual remuneration (\$)
Chairperson	10,719
Member	5,360

Stewart Island/Rakiura Community Board

Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058

Tuatapere Te Waewae Community Board

Office	Annual remuneration (\$)
Chairperson	7,265
Member	3,633

Waihopai Toetoe Community Board

Office	Annual remuneration (\$)
Chairperson	10,091
Member	5,046

Wallace Takitimu Community Board

Office	Annual remuneration (\$)
Chairperson	8,845
Member	4,423

Stratford District Council

Office	Annual remuneration (\$)
Mayor	91,767
Deputy Mayor	35,477
Chairperson Stratford Sport NZ Rural Travel Fund	26,354
Chairperson Farm and Aerodrome Committee	29,143
Councillor (with no additional responsibilities) (7)	25,342
Councillor (Minimum Allowable Remuneration)	18,905

Tararua District Council

Office	Annual remuneration (\$)
Mayor	114,075
Deputy Mayor	50,528
Councillor with no additional responsibilities (7)	38,852

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Local Government Members (2022/23) Determination 2022	
Office	Annual remuneration (\$)
Councillor (Minimum Allowable Remuneration)	27,499
<i>Dannevirke Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,996
Member	5,998
<i>Eketahuna Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	7,775
Member	3,887
Tasman District Council	
Office	Annual remuneration (\$)
Mayor	156,156
Deputy Mayor	69,022
Chairperson Standing Committee (2)	55,217
Councillor with no additional responsibilities (10)	46,014
Councillor (Minimum Allowable Remuneration)	38,320
<i>Golden Bay Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	13,486
Member	6,743
<i>Motueka Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	15,033
Member	7,516
Taupo District Council	
Office	Annual remuneration (\$)
Mayor	135,876
Deputy Mayor	48,987
Chair—Emergency Management Committee	46,945
Chair—Taupo Reserves and Roading Committee	46,945
Chair—Mangakino/Pouakani Representative Group	46,945
Chair—Kinloch Representative Group	44,904
Chair—Taupo East Rural Representative Group	44,904
Councillor (with no additional responsibilities) (5)	40,823
Councillor (Minimum Allowable Remuneration)	35,762

**Local Government Members (2022/23) Determination
2022**

Schedule 1

Turangi–Tongariro Community Board

Office	Annual remuneration (\$)
Chairperson	17,328
Member	8,664

Tauranga City Council

Office	Annual remuneration (\$)
Mayor	168,831
Deputy Mayor	123,788
Chairperson of Standing Committee (3)	116,253
Deputy Chairperson of Standing Committee (4)	109,795
Councillor (with no additional responsibilities) (2)	107,642
Councillor (Minimum Allowable Remuneration)	79,538

Thames-Coromandel District Council

Office	Annual remuneration (\$)
Mayor	131,820
Deputy Mayor, Member Audit and Risk Committee, and Member Chief Executive Liaison Committee	69,518
Chairperson Emergency Management Committee, Holder Emergency Management Portfolio, Member Audit and Risk Committee, Member Chief Executive Liaison Committee, and Member Regional Civil Defence Emergency Management Group	65,255
Holder Infrastructure Portfolio, Member Audit and Risk Committee, and Member Regional Transport Committee	65,255
Member Audit and Risk Committee, Member Coromandel Catchment Liaison Committee, and Member Emergency Management Committee	58,860
Member Audit and Risk Committee and Member Emergency Management Committee	49,101
Member Audit and Risk Committee and Member Chief Executive Liaison Committee	49,101
Member Audit and Risk Committee (2)	49,101
Councillor (Minimum Allowable Remuneration)	37,544

Coromandel–Colville Community Board

Office	Annual remuneration (\$)
Chairperson	16,173
Member	8,087

Mercury Bay Community Board

Office	Annual remuneration (\$)
Chairperson	19,350
Member	9,675

Schedule 1	Local Government Members (2022/23) Determination 2022
<i>Tairua–Pauanui Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,173
Member	8,087
<i>Thames Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	20,506
Member	10,253
<i>Whangamata Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	17,617
Member	8,808
Timaru District Council	
Office	Annual remuneration (\$)
Mayor	134,355
Deputy Mayor	65,232
Chairperson Commercial and Strategy Committee	53,000
Chairperson Community Services Committee	53,000
Chairperson Environmental Services Committee	53,000
Chairperson Infrastructure Committee	53,000
Deputy Chairperson Commercial and Strategy Committee	46,885
Deputy Chairperson Community Services Committee	46,885
Deputy Chairperson Environmental Services Committee	46,885
Deputy Chairperson Infrastructure Committee	46,885
Councillor (Minimum Allowable Remuneration)	36,581
<i>Geraldine Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665
<i>Pleasant Point Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,885
Member	4,443
<i>Temuka Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,552
Member	5,776

**Local Government Members (2022/23) Determination
2022**

Schedule 1

Upper Hutt City Council

Office	Annual remuneration (\$)
Mayor	129,792
Deputy Mayor	55,464
Chair, Policy Committee	48,070
Chair, Finance and Performance Committee	48,070
Chair, City Development Committee	48,070
Chair, Risk and Assurance Committee	44,372
Chair, Hutt Valley Services Committee	44,372
Councillor (with no additional responsibilities) (4)	36,977
Councillor (Minimum Allowable Remuneration)	32,814

Waikato District Council

Office	Annual remuneration (\$)
Mayor	150,579
Deputy Mayor	81,652
Chairperson (Infrastructure Committee)	71,261
Chairperson (Strategy and Finance Committee)	71,261
Chairperson (Policy and Regulatory Committee)	71,261
Chairperson (Discretionary and Funding Committee)	56,910
Chairperson (Proposed District Plan Subcommittee)	61,239
Councillor (with no additional responsibilities) (7)	49,486
Councillor (Minimum Allowable Remuneration)	43,767

Huntly Community Board

Office	Annual remuneration (\$)
Chairperson	10,831
Member	5,416

Ngāruawāhia Community Board

Office	Annual remuneration (\$)
Chairperson	10,831
Member	5,416

Onewhero–Tuakau Community Board

Office	Annual remuneration (\$)
Chairperson	11,275
Member	5,637

Raglan Community Board

Office	Annual remuneration (\$)
Chairperson	9,064
Member	4,532

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Schedule 1	Local Government Members (2022/23) Determination 2022
<i>Taupiri Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058
Waimakariri District Council	
Office	Annual remuneration (\$)
Mayor	139,425
Deputy Mayor	59,820
Councillor (with portfolio and committee chairing responsibilities) (9)	49,210
Councillor (Minimum Allowable Remuneration)	38,156
<i>Kaipoi–Tuahiwi Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	17,991
Member	8,995
<i>Oxford–Ohoka Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,949
Member	8,475
<i>Rangiora–Ashley Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	23,206
Member	11,603
<i>Woodend–Sefton Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	14,863
Member	7,431
Waimate District Council	
Office	Annual remuneration (\$)
Mayor	88,725
Deputy Mayor	40,018
Councillor (with no additional responsibilities) (7)	26,678
Councillor (Minimum Allowable Remuneration)	19,579
Waipa District Council	
Office	Annual remuneration (\$)
Mayor	137,397
Deputy Mayor	44,601
Committee Chair (4)	41,169

Local Government Members (2022/23) Determination 2022		Schedule 1
Office		Annual remuneration (\$)
Councillor (with no additional responsibilities) (8)		34,308
Councillor (Minimum Allowable Remuneration)		32,455
<i>Cambridge Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		19,327
Member		9,663
<i>Te Awamutu Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		18,662
Member		9,331
Wairoa District Council		
Office		Annual remuneration (\$)
Mayor		102,414
Deputy Mayor		44,119
Councillor (with no additional responsibilities) (5)		40,499
Councillor (Minimum Allowable Remuneration)		26,428
Waitaki District Council		
Office		Annual remuneration (\$)
Mayor		116,103
Deputy Mayor		47,432
Main Committee Chair (2)		40,557
Other Committee Chair (2)		35,487
Deputy Chair (4)		35,487
Councillor (Minimum Allowable Remuneration)		24,830
<i>Ahuriri Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		11,979
Member		5,989
<i>Waihemo Community Board</i>		
Office		Annual remuneration (\$)
Chairperson		12,440
Member		6,220
Waitomo District Council		
Office		Annual remuneration (\$)
Mayor		99,879
Deputy Mayor		50,172

Local Government Members (2022/23) Determination	
Schedule 1	2022
Office	Annual remuneration (\$)
Councillor with no additional responsibilities (5)	33,598
Councillor (Minimum Allowable Remuneration)	24,424
Wellington City Council	
Office	Annual remuneration (\$)
Mayor	183,027
Deputy Mayor	142,017
Chair of Committee of the Whole (5)	123,256
Councillor (with no additional responsibilities) (7)	121,293
Councillor (Minimum Allowable Remuneration)	88,090
<i>Makara–Ohariu Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	9,704
Member	4,852
<i>Tawa Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,359
Member	9,680
Western Bay of Plenty District Council	
Office	Annual remuneration (\$)
Mayor	138,411
Deputy Mayor and Chairperson Annual Plan, Long Term Plan, Regulatory Hearings, and District Plan Committees	61,753
Chairperson Performance and Monitoring Committee	49,402
Chairperson Katikati—Waihi Beach Ward Forum	44,771
Chairperson Kaimai Ward Forum	44,771
Chairperson Maketu—Te Puke Ward Forum	44,771
Councillor with no additional responsibilities (6)	41,294
Councillor (Minimum Allowable Remuneration)	33,921
<i>Katikati Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665
<i>Maketu Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	5,997
Member	2,999

**Local Government Members (2022/23) Determination
2022**

Schedule 1

<i>Ōmokoroa Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,220
Member	4,110
<i>Te Puke Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665
<i>Waihi Beach Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	9,330
Member	4,665
Westland District Council	
Office	Annual remuneration (\$)
Mayor	92,781
Deputy Mayor and Chairperson Capital Projects and Tenders Committee	49,312
Chairperson Planning Committee and Community Development Committee	38,343
Councillor (with no additional responsibilities) (6)	23,185
Councillor (Minimum Allowable Remuneration)	19,272
Whakatane District Council	
Office	Annual remuneration (\$)
Mayor	135,876
Deputy Mayor	68,294
Committee Chairperson (3)	56,912
Deputy Committee Chairperson (2)	41,735
Councillor with no additional responsibilities (4)	37,941
Councillor (Minimum Allowable Remuneration)	33,842
<i>Murupara Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,220
Member	4,110
<i>Rangitāiki Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	10,663
Member	5,331

Schedule 1	Local Government Members (2022/23) Determination 2022
<i>Tāneatua Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,220
Member	4,110
<i>Whakatāne–Ōhope Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	17,827
Member	8,913
Whanganui District Council	
Office	Annual remuneration (\$)
Mayor	142,974
Deputy Mayor	51,340
Chairperson Strategy and Finance Committee	47,391
Chairperson Infrastructure, Climate Change, and Emergency Management Committee	47,391
Chairperson Property and Community Services Committee and Advisory Group Chair	49,365
Advisory Group Chair (2)	43,442
Deputy Chair (3)	43,442
Councillor (with no additional responsibilities) (3)	39,492
Councillor (Minimum Allowable Remuneration)	33,872
<i>Whanganui Rural Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,552
Member	5,776
Whangarei District Council	
Office	Annual remuneration (\$)
Mayor	158,184
Deputy Mayor	87,292
Chairperson Infrastructure Committee	76,382
Chairperson Community Development Committee	76,382
Chairperson Strategy, Planning and Development Committee	76,382
Chairperson Te Karearea Strategic Partnership Forum	76,382
Chairperson Civic Honours Committee	60,014
Councillor with no additional responsibilities (7)	54,558
Councillor (Minimum Allowable Remuneration)	50,051

**Local Government Members (2022/23) Determination
2022**

Schedule 2

**Schedule 2
Remuneration from 2022 election of members**

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**Part 1
Remuneration of members of regional councils**

Bay of Plenty Regional Council

Office	Annual remuneration (\$)
Chairperson	152,522
Councillor (Minimum Allowable Remuneration)	54,525

Canterbury Regional Council

Office	Annual remuneration (\$)
Chairperson	180,000
Councillor (Minimum Allowable Remuneration)	64,460

Hawke's Bay Regional Council

Office	Annual remuneration (\$)
Chairperson	142,761
Councillor (Minimum Allowable Remuneration)	58,224

Manawatū–Whanganui Regional Council

Office	Annual remuneration (\$)
Chairperson	147,893
Councillor (Minimum Allowable Remuneration)	49,012

Northland Regional Council

Office	Annual remuneration (\$)
Chairperson	133,892
Councillor (Minimum Allowable Remuneration)	53,710

Otago Regional Council

Office	Annual remuneration (\$)
Chairperson	152,881
Councillor (Minimum Allowable Remuneration)	50,833

Southland Regional Council

Office	Annual remuneration (\$)
Chairperson	129,434
Councillor (Minimum Allowable Remuneration)	37,788

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Schedule 2 **Local Government Members (2022/23) Determination**
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Taranaki Regional Council

Office	Annual remuneration (\$)
Chairperson	112,227
Councillor (Minimum Allowable Remuneration)	37,493

Waikato Regional Council

Office	Annual remuneration (\$)
Chairperson	163,254
Councillor (Minimum Allowable Remuneration)	58,640

Wellington Regional Council

Office	Annual remuneration (\$)
Chairperson	176,609
Councillor (Minimum Allowable Remuneration)	63,237

West Coast Regional Council

Office	Annual remuneration (\$)
Chairperson	96,662
Councillor (Minimum Allowable Remuneration)	37,112

Part 2

**Remuneration of members of territorial authorities and their
community or local boards**

Ashburton District Council

Office	Annual remuneration (\$)
Mayor	132,690
Councillor (Minimum Allowable Remuneration)	29,842

Methven Community Board

Office	Annual remuneration (\$)
Chairperson	5,554
Member	2,777

Auckland Council

Office	Annual remuneration (\$)
Mayor	296,000
Councillor (Minimum Allowable Remuneration)	107,794

Albert–Eden Local Board

Office	Annual remuneration (\$)
Chairperson	97,068

Local Government Members (2022/23) Determination 2022		Schedule 2
Office		Annual remuneration (\$)
Deputy Chairperson		58,241
Member		48,534
<i>Aotea/Great Barrier Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		60,060
Deputy Chairperson		36,036
Member		30,030
<i>Devonport–Takapuna Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		91,348
Deputy Chairperson		54,809
Member		45,674
<i>Franklin Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		95,468
Deputy Chairperson		57,281
Member		47,734
<i>Henderson–Massey Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		106,921
Deputy Chairperson		64,152
Member		53,460
<i>Hibiscus and Bays Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		97,639
Deputy Chairperson		58,584
Member		48,820
<i>Howick Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		102,244
Deputy Chairperson		61,347
Member		51,122
<i>Kaipātiki Local Board</i>		
Office		Annual remuneration (\$)
Chairperson		96,867
Deputy Chairperson		58,120

Schedule 2	Local Government Members (2022/23) Determination 2022
Office	Annual remuneration (\$)
Member	48,434
<i>Māngere–Ōtāhuhu Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	107,640
Deputy Chairperson	64,584
Member	53,820
<i>Manurewa Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	106,308
Deputy Chairperson	63,785
Member	53,154
<i>Maungakiekie–Tāmaki Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	100,863
Deputy Chairperson	60,518
Member	50,431
<i>Ōrākei Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	94,479
Deputy Chairperson	56,688
Member	47,240
<i>Ōtara–Papatoetoe Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	107,207
Deputy Chairperson	64,324
Member	53,604
<i>Papakura Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	98,116
Deputy Chairperson	58,869
Member	49,058
<i>Puketāpapa Local Board</i>	
Office	Annual remuneration (\$)
Chairperson	93,542
Deputy Chairperson	56,125
Member	46,771

**Local Government Members (2022/23) Determination
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Rodney Local Board

Office	Annual remuneration (\$)
Chairperson	93,633
Deputy Chairperson	56,180
Member	46,817

Upper Harbour Local Board

Office	Annual remuneration (\$)
Chairperson	92,413
Deputy Chairperson	55,448
Member	46,206

Waiheke Local Board

Office	Annual remuneration (\$)
Chairperson	70,710
Deputy Chairperson	42,426
Member	35,355

Waitākere Ranges Local Board

Office	Annual remuneration (\$)
Chairperson	91,497
Deputy Chairperson	54,898
Member	45,748

Waitematā Local Board

Office	Annual remuneration (\$)
Chairperson	101,708
Deputy Chairperson	61,025
Member	50,854

Whau Local Board

Office	Annual remuneration (\$)
Chairperson	99,427
Deputy Chairperson	59,656
Member	49,714

Buller District Council

Office	Annual remuneration (\$)
Mayor	115,736
Councillor (Minimum Allowable Remuneration)	23,640

Inangahua Community Board

Office	Annual remuneration (\$)
Chairperson	7,367

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Office	Annual remuneration (\$)
Member	3,684
Carterton District Council	
Office	Annual remuneration (\$)
Mayor	100,365
Councillor (Minimum Allowable Remuneration)	19,375
Central Hawke's Bay District Council	
Office	Annual remuneration (\$)
Mayor	119,272
Councillor (Minimum Allowable Remuneration)	31,401
Central Otago District Council	
Office	Annual remuneration (\$)
Mayor	120,841
Councillor (Minimum Allowable Remuneration)	27,182
<i>Cromwell Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	14,661
Member	7,331
<i>Maniototo Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	7,109
Member	3,554
<i>Teviot Valley Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	7,109
Member	3,554
<i>Vincent Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	15,774
Member	7,887
Chatham Islands Council	
Office	Annual remuneration (\$)
Mayor	57,408
Councillor (Minimum Allowable Remuneration)	13,765

**Local Government Members (2022/23) Determination
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Christchurch City Council

Office	Annual remuneration (\$)
Mayor	200,000
Councillor (Minimum Allowable Remuneration)	100,278

Te Pātaka o Rākaihautū Banks Peninsula Community Board

Office	Annual remuneration (\$)
Chairperson	20,305
Member	10,153

Waihoru Spreydon-Cashmere-Heathcote Community Board

Office	Annual remuneration (\$)
Chairperson	52,077
Member	26,039

Waimāero Fendalton-Waimairi-Harewood Community Board

Office	Annual remuneration (\$)
Chairperson	49,565
Member	24,810

Waipapa Papanui-Innes-Central Community Board

Office	Annual remuneration (\$)
Chairperson	47,380
Member	23,690

Waipuna Hornby-Halswell-Riccarton Community Board

Office	Annual remuneration (\$)
Chairperson	51,109
Member	25,572

Waitai Coastal-Burwood-Linwood Community Board

Office	Annual remuneration (\$)
Chairperson	49,755
Member	24,905

Clutha District Council

Office	Annual remuneration (\$)
Mayor	124,638
Councillor (Minimum Allowable Remuneration)	21,789

Lawrence–Tuapeka Community Board

Office	Annual remuneration (\$)
Chairperson	5,998
Member	2,999

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Schedule 2	Local Government Members (2022/23) Determination 2022
<i>West Otago Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	7,109
Member	3,554
Dunedin City Council	
Office	Annual remuneration (\$)
Mayor	172,378
Councillor (Minimum Allowable Remuneration)	64,181
<i>Mosgiel-Taieri Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,799
Member	9,899
<i>Otago Peninsula Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,718
Member	8,359
<i>Saddle Hill Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,939
Member	8,469
<i>Strath Taieri Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	14,889
Member	7,445
<i>Waikouaiti Coast Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,498
Member	8,249
<i>West Harbour Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,939
Member	8,469
Far North District Council	
Office	Annual remuneration (\$)
Mayor	162,879
Councillor (Minimum Allowable Remuneration)	64,660

**Local Government Members (2022/23) Determination
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Bay of Islands–Whangaroa Community Board

Office	Annual remuneration (\$)
Chairperson	32,186
Member	16,093

Kaikohe–Hokianga Community Board

Office	Annual remuneration (\$)
Chairperson	27,589
Member	13,795

Te Hiku Community Board

Office	Annual remuneration (\$)
Chairperson	28,164
Member	14,082

Gisborne District Council

Office	Annual remuneration (\$)
Mayor	158,068
Councillor (Minimum Allowable Remuneration)	41,610

Gore District Council

Office	Annual remuneration (\$)
Mayor	112,010
Councillor (Minimum Allowable Remuneration)	19,136

Mataura Community Board

Office	Annual remuneration (\$)
Chairperson	4,242
Member	2,121

Grey District Council

Office	Annual remuneration (\$)
Mayor	116,626
Councillor (Minimum Allowable Remuneration)	26,208

Hamilton City Council

Office	Annual remuneration (\$)
Mayor	180,335
Councillor (Minimum Allowable Remuneration)	80,293

Hastings District Council

Office	Annual remuneration (\$)
Mayor	160,955

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Office	Annual remuneration (\$)
Councillor (Minimum Allowable Remuneration)	47,747
<i>Hastings District Rural Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	15,475
Member	7,738
Hauraki District Council	
Office	Annual remuneration (\$)
Mayor	128,976
Councillor (Minimum Allowable Remuneration)	25,811
Horowhenua District Council	
Office	Annual remuneration (\$)
Mayor	141,395
Councillor (Minimum Allowable Remuneration)	33,465
<i>Te Awahou Foxton Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	12,884
Member	6,442
Hurunui District Council	
Office	Annual remuneration (\$)
Mayor	113,138
Councillor (Minimum Allowable Remuneration)	24,799
<i>Hanmer Springs Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	8,259
Member	4,130
Hutt City Council	
Office	Annual remuneration (\$)
Mayor	164,046
Councillor (Minimum Allowable Remuneration)	57,870
<i>Eastbourne Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	13,926
Member	6,963

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Petone Community Board

Office	Annual remuneration (\$)
Chairperson	16,580
Member	8,290

Wainuiomata Community Board

Office	Annual remuneration (\$)
Chairperson	17,465
Member	8,732

Invercargill City Council

Office	Annual remuneration (\$)
Mayor	149,291
Councillor (Minimum Allowable Remuneration)	38,642

Bluff Community Board

Office	Annual remuneration (\$)
Chairperson	8,842
Member	4,421

Kaikōura District Council

Office	Annual remuneration (\$)
Mayor	86,000
Councillor (Minimum Allowable Remuneration)	19,580

Kaipara District Council

Office	Annual remuneration (\$)
Mayor	133,501
Councillor (Minimum Allowable Remuneration)	34,531

Kapiti Coast District Council

Office	Annual remuneration (\$)
Mayor	145,588
Councillor (Minimum Allowable Remuneration)	38,964

Ōtaki Community Board

Office	Annual remuneration (\$)
Chairperson	14,963
Member	7,481

Paekākāriki Community Board

Office	Annual remuneration (\$)
Chairperson	7,924
Member	3,962

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Schedule 2	Local Government Members (2022/23) Determination 2022
<i>Paraparaumu Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,100
Member	9,550
<i>Raumati Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	14,554
Member	7,277
<i>Waikanae Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	17,373
Member	8,686
Kawerau District Council	
Office	Annual remuneration (\$)
Mayor	107,246
Councillor (Minimum Allowable Remuneration)	20,965
Mackenzie District Council	
Office	Annual remuneration (\$)
Mayor	88,714
Councillor (Minimum Allowable Remuneration)	21,933
<i>Fairlie Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058
<i>Tekapo Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	4,117
Member	2,058
<i>Twizel Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	5,135
Member	2,567
Manawatu District Council	
Office	Annual remuneration (\$)
Mayor	132,068
Councillor (Minimum Allowable Remuneration)	33,403

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Marlborough District Council

Office	Annual remuneration (\$)
Mayor	149,909
Councillor (Minimum Allowable Remuneration)	38,306

Masterton District Council

Office	Annual remuneration (\$)
Mayor	133,530
Councillor (Minimum Allowable Remuneration)	34,433

Matamata-Piako District Council

Office	Annual remuneration (\$)
Mayor	134,533
Councillor (Minimum Allowable Remuneration)	32,437

Napier City Council

Office	Annual remuneration (\$)
Mayor	153,888
Councillor (Minimum Allowable Remuneration)	49,073

Nelson City Council

Office	Annual remuneration (\$)
Mayor	149,909
Councillor (Minimum Allowable Remuneration)	40,083

New Plymouth District Council

Office	Annual remuneration (\$)
Mayor	160,757
Councillor (Minimum Allowable Remuneration)	48,531

Clifton Community Board

Office	Annual remuneration (\$)
Chairperson	12,604
Member	6,302

Inglewood Community Board

Office	Annual remuneration (\$)
Chairperson	17,563
Member	8,782

Kaitake Community Board

Office	Annual remuneration (\$)
Chairperson	15,212

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Schedule 2		Local Government Members (2022/23) Determination 2022	
Office		Annual remuneration (\$)	
Member			7,606
<i>Puketapu-Bell Block Community Board</i>			
Office		Annual remuneration (\$)	
Chairperson			16,928
Member			8,464
<i>Waitara Community Board</i>			
Office		Annual remuneration (\$)	
Chairperson			16,928
Member			8,464
Ōpōtiki District Council			
Office		Annual remuneration (\$)	
Mayor			114,200
Councillor (Minimum Allowable Remuneration)			31,579
<i>Coast Community Board</i>			
Office		Annual remuneration (\$)	
Chairperson			10,269
Member			5,135
Ōtorohanga District Council			
Office		Annual remuneration (\$)	
Mayor			107,465
Councillor (Minimum Allowable Remuneration)			24,693
<i>Kawhia Community Board</i>			
Office		Annual remuneration (\$)	
Chairperson			4,117
Member			2,058
<i>Ōtorohanga Community Board</i>			
Office		Annual remuneration (\$)	
Chairperson			14,733
Member			7,367
Palmerston North City Council			
Office		Annual remuneration (\$)	
Mayor			160,314
Councillor (Minimum Allowable Remuneration)			47,849

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Porirua City Council

Office	Annual remuneration (\$)
Mayor	151,954
Councillor (Minimum Allowable Remuneration)	42,136

Queenstown-Lakes District Council

Office	Annual remuneration (\$)
Mayor	143,734
Councillor (Minimum Allowable Remuneration)	40,710

Wānaka-Upper Clutha Community Board

Office	Annual remuneration (\$)
Chairperson	24,659
Member	12,329

Rangitikei District Council

Office	Annual remuneration (\$)
Mayor	114,624
Councillor (Minimum Allowable Remuneration)	23,883

Ratana Community Board

Office	Annual remuneration (\$)
Chairperson	4,377
Member	2,189

Taihape Community Board

Office	Annual remuneration (\$)
Chairperson	8,929
Member	4,465

Rotorua District Council

Office	Annual remuneration (\$)
Mayor	159,679
Councillor (Minimum Allowable Remuneration)	59,442

Rotorua Lakes Community Board

Office	Annual remuneration (\$)
Chairperson	17,288
Member	8,644

Rotorua Rural Community Board

Office	Annual remuneration (\$)
Chairperson	19,321
Member	9,661

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Schedule 2 **Local Government Members (2022/23) Determination**
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Ruapehu District Council

Office	Annual remuneration (\$)
Mayor	120,497
Councillor (Minimum Allowable Remuneration)	23,948

Ōwhango-National Park Community Board

Office	Annual remuneration (\$)
Chairperson	6,140
Member	3,070

Taumarunui-Ōhura Community Board

Office	Annual remuneration (\$)
Chairperson	13,910
Member	6,955

Waimarino-Waiouru Community Board

Office	Annual remuneration (\$)
Chairperson	13,910
Member	6,955

Selwyn District Council

Office	Annual remuneration (\$)
Mayor	146,861
Councillor (Minimum Allowable Remuneration)	40,116

Malvern Community Board

Office	Annual remuneration (\$)
Chairperson	18,238
Member	9,119

South Taranaki District Council

Office	Annual remuneration (\$)
Mayor	139,953
Councillor (Minimum Allowable Remuneration)	30,888

Eltham-Kaponga Community Board

Office	Annual remuneration (\$)
Chairperson	11,733
Member	5,866

Pātea Community Board

Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665

**Local Government Members (2022/23) Determination
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Taranaki Coastal Community Board

Office	Annual remuneration (\$)
Chairperson	12,850
Member	6,425

Te Hāwera Community Board

Office	Annual remuneration (\$)
Chairperson	14,440
Member	7,220

South Waikato District Council

Office	Annual remuneration (\$)
Mayor	133,621
Councillor (Minimum Allowable Remuneration)	30,725

Tirau Community Board

Office	Annual remuneration (\$)
Chairperson	6,886
Member	3,443

South Wairarapa District Council

Office	Annual remuneration (\$)
Mayor	105,157
Councillor (Minimum Allowable Remuneration)	18,855

Featherston Community Board

Office	Annual remuneration (\$)
Chairperson	6,697
Member	3,349

Greytown Community Board

Office	Annual remuneration (\$)
Chairperson	6,697
Member	3,349

Martinborough Community Board

Office	Annual remuneration (\$)
Chairperson	6,697
Member	3,349

Southland District Council

Office	Annual remuneration (\$)
Mayor	134,914
Councillor (Minimum Allowable Remuneration)	30,472

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	<i>Ardlussa Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		7,702
Member		3,851
	<i>Fiordland Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		9,469
Member		4,734
	<i>Northern Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		7,446
Member		3,723
	<i>Oraka Aparima Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		8,319
Member		4,160
	<i>Oreti Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		10,719
Member		5,360
	<i>Stewart Island/Rakiura Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		4,117
Member		2,058
	<i>Tuatapere Te Waewae Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		7,265
Member		3,633
	<i>Waihopai Toetoe Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		10,091
Member		5,046
	<i>Wallace Takitimu Community Board</i>	
Office		Annual remuneration (\$)
Chairperson		8,845
Member		4,423

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Stratford District Council	
Office	Annual remuneration (\$)
Mayor	107,503
Councillor (Minimum Allowable Remuneration)	18,905
Tararua District Council	
Office	Annual remuneration (\$)
Mayor	128,685
Councillor (Minimum Allowable Remuneration)	35,851
<i>Dannevirke Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,996
Member	5,998
<i>Eketahuna Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	7,775
Member	3,887
Tasman District Council	
Office	Annual remuneration (\$)
Mayor	156,156
Councillor (Minimum Allowable Remuneration)	39,936
<i>Golden Bay Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	13,486
Member	6,743
<i>Motueka Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	15,033
Member	7,516
Taupo District Council	
Office	Annual remuneration (\$)
Mayor	143,105
Councillor (Minimum Allowable Remuneration)	38,999
Tauranga City Council	
Office	Annual remuneration (\$)
Mayor	172,918

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Office	Annual remuneration (\$)
Councillor (Minimum Allowable Remuneration)	84,566
Thames-Coromandel District Council	
Office	Annual remuneration (\$)
Mayor	141,188
Councillor (Minimum Allowable Remuneration)	42,327
<i>Coromandel–Colville Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,173
Member	8,087
<i>Mercury Bay Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,350
Member	9,675
<i>Tairua–Pauanui Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,173
Member	8,087
<i>Thames Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	20,506
Member	10,253
<i>Whangamata Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	17,617
Member	8,808
Timaru District Council	
Office	Annual remuneration (\$)
Mayor	142,005
Councillor (Minimum Allowable Remuneration)	40,878
<i>Geraldine Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665

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Pleasant Point Community Board

Office	Annual remuneration (\$)
Chairperson	8,885
Member	4,443

Temuka Community Board

Office	Annual remuneration (\$)
Chairperson	11,552
Member	5,776

Upper Hutt City Council

Office	Annual remuneration (\$)
Mayor	137,871
Councillor (Minimum Allowable Remuneration)	36,751

Waikato District Council

Office	Annual remuneration (\$)
Mayor	157,039
Councillor (Minimum Allowable Remuneration)	47,967

Huntly Community Board

Office	Annual remuneration (\$)
Chairperson	11,036
Member	5,518

Ngāruawāhia Community Board

Office	Annual remuneration (\$)
Chairperson	11,154
Member	5,577

Raglan Community Board

Office	Annual remuneration (\$)
Chairperson	10,066
Member	5,033

Rural-Port Waikato Community Board

Office	Annual remuneration (\$)
Chairperson	9,510
Member	4,755

Taupiri Community Board

Office	Annual remuneration (\$)
Chairperson	4,416
Member	2,208

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Schedule 2	Local Government Members (2022/23) Determination 2022
<i>Tuakau Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	10,785
Member	5,393
Waimakariri District Council	
Office	Annual remuneration (\$)
Mayor	146,838
Councillor (Minimum Allowable Remuneration)	42,143
<i>Kaiapoi–Tuahiwi Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	17,991
Member	8,995
<i>Oxford–Ohoka Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	16,949
Member	8,475
<i>Rangiora–Ashley Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	23,206
Member	11,603
<i>Woodend–Sefton Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	14,863
Member	7,431
Waimate District Council	
Office	Annual remuneration (\$)
Mayor	104,302
Councillor (Minimum Allowable Remuneration)	20,671
Waipa District Council	
Office	Annual remuneration (\$)
Mayor	145,391
Councillor (Minimum Allowable Remuneration)	36,532
<i>Cambridge Community Board</i>	
Office	Annual remuneration (\$)
Chairperson	19,327
Member	9,663

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Te Awamutu Community Board

Office	Annual remuneration (\$)
Chairperson	18,662
Member	9,331

Wairoa District Council

Office	Annual remuneration (\$)
Mayor	116,979
Councillor (Minimum Allowable Remuneration)	29,533

Waitaki District Council

Office	Annual remuneration (\$)
Mayor	129,041
Councillor (Minimum Allowable Remuneration)	30,765

Ahuriri Community Board

Office	Annual remuneration (\$)
Chairperson	11,979
Member	5,989

Waihemo Community Board

Office	Annual remuneration (\$)
Chairperson	12,440
Member	6,220

Waitomo District Council

Office	Annual remuneration (\$)
Mayor	115,856
Councillor (Minimum Allowable Remuneration)	32,333

Wellington City Council

Office	Annual remuneration (\$)
Mayor	183,027
Councillor (Minimum Allowable Remuneration)	89,860

Makara–Ohariu Community Board

Office	Annual remuneration (\$)
Chairperson	9,704
Member	4,852

Tawa Community Board

Office	Annual remuneration (\$)
Chairperson	19,359
Member	9,680

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Schedule 2 **Local Government Members (2022/23) Determination**
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Western Bay of Plenty District Council

Office	Annual remuneration (\$)
Mayor	145,667
Councillor (Minimum Allowable Remuneration)	37,589

Katikati Community Board

Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665

Maketu Community Board

Office	Annual remuneration (\$)
Chairperson	5,997
Member	2,999

Ōmokoroa Community Board

Office	Annual remuneration (\$)
Chairperson	8,220
Member	4,110

Te Puke Community Board

Office	Annual remuneration (\$)
Chairperson	11,330
Member	5,665

Waihi Beach Community Board

Office	Annual remuneration (\$)
Chairperson	9,330
Member	4,665

Westland District Council

Office	Annual remuneration (\$)
Mayor	105,174
Councillor (Minimum Allowable Remuneration)	20,907

Whakatane District Council

Office	Annual remuneration (\$)
Mayor	142,977
Councillor (Minimum Allowable Remuneration)	37,575

Murupara Community Board

Office	Annual remuneration (\$)
Chairperson	8,220
Member	4,110

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Rangitāiki Community Board

Office	Annual remuneration (\$)
Chairperson	10,663
Member	5,331

Tāneatua Community Board

Office	Annual remuneration (\$)
Chairperson	8,220
Member	4,110

Whakatāne-Ōhope Community Board

Office	Annual remuneration (\$)
Chairperson	17,827
Member	8,913

Whanganui District Council

Office	Annual remuneration (\$)
Mayor	149,641
Councillor (Minimum Allowable Remuneration)	36,734

Whanganui Rural Community Board

Office	Annual remuneration (\$)
Chairperson	11,552
Member	5,776

Whangarei District Council

Office	Annual remuneration (\$)
Mayor	163,689
Councillor (Minimum Allowable Remuneration)	53,850

Dated at Wellington this 7 day of June 2022.

 Chairperson.
 Member.
 Member.

Explanatory
memorandumLocal Government Members (2022/23) Determination
2022

Explanatory memorandum

This memorandum is not part of the determination, but is intended to indicate its general effect.

This determination comes into force on 1 July 2022 and expires at the close of 30 June 2023.

Councils and local boards

Since 2019, when setting remuneration for local government elected members, the Remuneration Authority (the **Authority**) has used a group of size indices that it has put together covering territorial, regional, and unitary authorities and Auckland local boards. The relevant workload and responsibilities of each council are assessed using a number of criteria, and each council is placed within the relevant index. The Authority decides the remuneration of mayors, regional council chairpersons, and Auckland local board members based on this data. The size index is also used to determine a governance remuneration pool for councillors on each council and the minimum allowable remuneration that must be paid to each councillor.

The governance remuneration pool provides the total amount to be fully allocated and paid in remuneration to the councillors. Each council is required to make proposals to the Authority on how its individual pool will be allocated according to that council's priorities and circumstances. Roles to which differential remuneration can be attached, in addition to the minimum allowable remuneration, include internal roles such as deputy mayor, committee chair, or portfolio holder as well as roles representing the council on outside groups. Councils submit their proposals to the Authority for its approval and inclusion in the determination. This is not automatic, and the Authority is able to request further information or make changes to the recommendations it receives.

Because the triennial local government elections are scheduled for later this year, the Authority recently completed a full review of the above framework. All councils were regularly consulted throughout the review process. The Authority found that the current approach is working well and no changes have been made to the framework. In this case, the Authority was interested in the time allocated by elected members to their local government roles. We asked members to participate in a short survey to assess whether the time demands had increased since the last assessment. Unfortunately, the response rate was not sufficient to allow us to make a definitive judgement, although the responses we did receive tended to confirm that our previous assessment was still relatively robust.

The size indices were updated with the most recent publicly available demographic, statistical, and economic data, and the updated size indices will apply for the triennium following the local elections in October 2022.

**Local Government Members (2022/23) Determination
2022**

Explanatory
memorandum

Community boards

Determining community boards' remuneration remains problematic because of the large variations in their number of members, the populations they represent, and their respective roles and powers. The Authority's 2019 review of community board remuneration concluded that, because of those variations, a workable ranking of community boards or a robust and intuitively sensible size index could not be developed. Therefore, the fixing of individual councils' community board members' remuneration over the past 3 years was informed in part by the population of each community board and by their individual current remuneration settings.

The Authority has decided to continue with its existing practice for determining the remuneration of community board members for this determination and during the next triennium. The Authority has communicated its concerns about community boards to the Review into the Future for Local Government, to the Local Government Commission, and to Local Government New Zealand.

Elected members' remuneration

Schedule 1 of this determination sets out the remuneration of elected members for the period beginning on 1 July 2022 and ending on the close of the day on which the official result of the 2022 election is declared for each individual council.

Schedule 2 of the determination sets out the remuneration for elected members that will come into force on and from the day after the date on which the official result of the 2022 local election of members for an individual council is declared.

At the end of this explanatory memorandum are the governance remuneration pools for each council that will apply on and from 1 July 2022 (table 1) and on and from the day after the date on which an individual council's official result is declared following the 2022 local elections (table 2).

Allowances

This determination also makes changes to the level and conditions of some allowances.

The maximum purchase price (*clause 9*) that may be paid for an electric or a hybrid vehicle purchased by a local authority for its mayor or regional council chairperson has been increased to \$68,500 (including goods and services tax and on-road costs). This new rate is based on an assessment of the current motor vehicle market rates and takes into account the vehicle being fit for purpose, the safety of the driver and passengers, and fairness to ratepayers. The Authority recommends that councils use the All of Government procurement process and the Clean Car Discount (rebate) scheme to optimise the value of their purchases.

The vehicle-kilometre allowance rates (*clause 11*) have been adjusted from those shown in the previous determination to reflect the current rates prescribed by the Inland Revenue Department on 27 May 2022 for businesses, self-employed people, and employees.

Explanatory
memorandum**Local Government Members (2022/23) Determination
2022**

The vehicle-kilometre allowance has been aligned with the travel-time allowance to ensure that an elected member, when travelling from a place in which they permanently or temporarily reside that is outside their local authority boundary, may claim the vehicle-kilometre allowance only when travelling on local authority business once they enter the local authority's boundary.

The travel-time allowance (*clause 12*) has been increased from \$37.50 to \$40 for each hour of eligible travel time after the first hour of time travelled in a day. This allowance was last increased in 2016.

The fee paid to a chairperson of a hearing (*clause 15*) has been increased from \$100 to \$116 per hour, and the fee paid to a member of a hearing has been increased from \$80 per hour to \$93 per hour. Hearing fees were last reviewed in 2011.

In their submissions, councils advised that the hearing times (*clause 6*) for formal meetings have become relatively shorter in comparison with the preparation work that councillors are required to undertake. Consequently, the Authority has removed the time constraint placed on preparing for hearings.

In making this determination for the remuneration of elected members of local authorities, local boards, and community boards listed in clause 6 of Schedule 7 of the Local Government Act 2002, the Authority had regard to the mandatory criteria listed in clause 7 of that schedule and the criteria listed in sections 18 and 18A of the Remuneration Authority 1977.

Governance remuneration pools: table 1

The table below sets out the local government governance remuneration pools for the councillors of each local authority, which will apply on and after 1 July 2022 until the close of the day on which the official result of the 2022 election in relation to an individual local council is declared. This period is covered by the current (2019/22) size indices.

Part 1**Remuneration pools for councillors of regional councils**

Council	Governance remuneration pool (\$)
Bay of Plenty Regional Council	869,154
Canterbury Regional Council	977,558
Hawke's Bay Regional Council	565,288
Manawatū-Whanganui Regional Council	647,920
Northland Regional Council	580,951
Otago Regional Council	713,448
Southland Regional Council	555,828
Taranaki Regional Council	473,595
Waikato Regional Council	933,748
Wellington Regional Council	934,354
West Coast Regional Council	327,018

**Local Government Members (2022/23) Determination
2022**

Explanatory
memorandum

Part 2

Remuneration pools for councillors of territorial authorities

Territorial authority	Governance remuneration pool (\$)
Ashburton District Council	388,893
Auckland Council	2,592,269
Buller District Council	272,119
Carterton District Council	226,766
Central Hawke's Bay District Council	275,071
Central Otago District Council	284,556
Chatham Islands Council	151,796
Christchurch City Council	1,869,005
Clutha District Council	362,825
Dunedin City Council	1,127,010
Far North District Council	810,927
Gisborne District Council	646,775
Gore District Council	294,796
Grey District Council	256,100
Hamilton City Council	1,217,171
Hastings District Council	809,821
Hauraki District Council	360,438
Horowhenua District Council	445,804
Hurunui District Council	256,100
Hutt City Council	847,197
Invercargill City Council	521,686
Kaikōura District Council	204,089
Kaipara District Council	369,923
Kapiti Coast District Council	512,201
Kawerau District Council	226,766
Mackenzie District Council	181,413
Manawatu District Council	388,893
Marlborough District Council	597,552
Masterton District Council	398,378
Matamata-Piako District Council	398,378
Napier City Council	735,068
Nelson City Council	609,333
New Plymouth District Council	797,363
Ōpōtiki District Council	218,160
Ōtorohanga District Council	204,089
Palmerston North City Council	797,363
Porirua City Council	559,627
Queenstown-Lakes District Council	436,319
Rangitikei District Council	294,796
Rotorua District Council	786,353
Ruapehu District Council	303,526
Selwyn District Council	493,230

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Explanatory memorandum	Local Government Members (2022/23) Determination 2022
Territorial authority	Governance remuneration pool (\$)
South Taranaki District Council	426,834
South Waikato District Council	379,408
South Wairarapa District Council	245,998
Southland District Council	407,864
Stratford District Council	268,362
Taranua District Council	322,497
Tasman District Council	639,604
Taupo District Council	483,745
Tauranga City Council	1,127,010
Thames-Coromandel District Council	455,290
Timaru District Council	464,775
Upper Hutt City Council	436,319
Waikato District Council	759,986
Waimakariri District Council	502,716
Waimate District Council	226,766
Waipa District Council	483,745
Wairoa District Council	246,615
Waitaki District Council	341,467
Waitomo District Council	218,160
Wellington City Council	1,607,344
Western Bay of Plenty District Council	493,230
Westland District Council	226,766
Whakatane District Council	474,260
Whanganui District Council	531,171
Whangarei District Council	834,739

Governance remuneration pools: table 2

This table sets out the local government governance remuneration pools that will apply on and after the day after the date on which the official result of the 2022 local election of members for an individual council is declared. From this date, the new size indices apply for the next council triennium.

Part 1

Remuneration pools for councillors of regional councils

Council	Governance remuneration pool (\$)
Bay of Plenty Regional Council	869,154
Canterbury Regional Council	977,558
Hawke's Bay Regional Council	644,302
Manawatū-Whanganui Regional Council	690,226
Northland Regional Council	580,951
Otago Regional Council	734,869
Southland Regional Council	555,828
Taranaki Regional Council	473,595
Waikato Regional Council	933,748

Local Government Members (2022/23) Determination 2022	Explanatory memorandum
Council	Governance remuneration pool (\$)
Wellington Regional Council	947,216
West Coast Regional Council	330,000

Part 2**Remuneration pools for councillors of territorial authorities**

Territorial authority	Governance remuneration pool (\$)
Ashburton District Council	450,195
Auckland Council	2,592,269
Buller District Council	324,306
Carterton District Council	226,766
Central Hawke's Bay District Council	350,559
Central Otago District Council	362,213
Chatham Islands Council	151,796
Christchurch City Council	1,900,000
Clutha District Council	390,404
Dunedin City Council	1,191,826
Far North District Council	890,157
Gisborne District Council	700,000
Gore District Council	296,638
Grey District Council	293,506
Hamilton City Council	1,286,366
Hastings District Council	871,295
Hauraki District Council	422,618
Horowhenua District Council	514,833
Hurunui District Council	305,015
Hutt City Council	901,594
Invercargill City Council	573,463
Kaikōura District Council	204,089
Kaipara District Council	413,071
Kapiti Coast District Council	545,969
Kawerau District Council	261,262
Mackenzie District Council	207,000
Manawatu District Council	445,578
Marlborough District Council	609,333
Masterton District Council	456,435
Matamata-Piako District Council	463,877
Napier City Council	802,034
Nelson City Council	609,333
New Plymouth District Council	869,359
Ōpōtiki District Council	312,896
Ōtorohanga District Council	262,886
Palmerston North City Council	865,016
Porirua City Council	593,234
Queenstown-Lakes District Council	532,201

Explanatory memorandum	Local Government Members (2022/23) Determination 2022
Territorial authority	Governance remuneration pool (\$)
Rangitikei District Council	337,511
Rotorua District Council	858,787
Ruapehu District Council	359,652
Selwyn District Council	555,420
South Taranaki District Council	504,125
South Waikato District Council	431,208
South Wairarapa District Council	245,998
Southland District Council	466,709
Stratford District Council	268,362
Tararua District Council	420,455
Tasman District Council	666,580
Taupo District Council	527,532
Tauranga City Council	1,198,246
Thames-Coromandel District Council	513,295
Timaru District Council	519,365
Upper Hutt City Council	488,666
Waikato District Council	832,914
Waimakariri District Council	555,247
Waimate District Council	239,400
Waipa District Council	544,506
Wairoa District Council	275,588
Waitaki District Council	423,096
Waitomo District Council	288,802
Wellington City Council	1,639,633
Western Bay of Plenty District Council	546,556
Westland District Council	246,000
Whakatane District Council	526,578
Whanganui District Council	576,061
Whangarei District Council	898,097

Note: The above remuneration pools do not apply to mayors, regional council chairpersons, Auckland local board members, or community board members.

However, if a council has delegated significant powers and functions to a community board and as a consequence proposes an increase to the remuneration of community board members, the additional funds will come out of the council's governance remuneration pool.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*:



Expenses, Reimbursements and Allowances Policy July 2022

The following is the expenses regime for elected members of the Otago Regional Council.

Principles

- Reimbursement of expenses incurred is available where required by virtue of membership for Council and Committee meetings, workshops, consent hearings, Council approved representation and Council organised events, and Chair-approved constituency activity including invitations from constituency groups, or general Council invitations.
- Claims are to be made by Councillors in the GO Expense claim system (GO). Expense claims will not be automatically generated by staff. Claims will be approved by the General Manager Corporate Services.
- When an expense claim is submitted in GO the Councillor certifies that the expenses are incurred on legitimate Council business in accordance with Council policy, that the amounts were incurred and paid for by the Councillor and no claim for reimbursement of any sum will be made from another source for these costs.
- Travel shall be shared where practicable. Where by virtue of private arrangements a Councillor chooses not to utilise Council provided or shared travel, expenses shall not be reimbursed.
- Accommodation and travel arrangements to be made through the Governance Support Officers or Executive Assistant Governance, Culture and Customer.
- Basis of reimbursement is actual and reasonable.
- Claims are to be supported by itemised GST invoices / receipts.
- No alcohol can be claimed, with the exception being a Councillor required to do so as a hosting requirement and the expenditure is pre-approved by the Chairperson.
- Costs of spouse/partner accompaniment to be met privately.
- Where Council provided transport is available and not used, mileage allowance is not claimable.
- Claims for travel to be based on distance from normal residences, or such shorter distance as may be involved.
- Mileage is for travel in a private motor vehicle and by the most direct route that is reasonable in the circumstances.
- Travel time is to be by the quickest form of transport and most direct route that is reasonable in the circumstances.
- Claims should be made as soon as is practicable following the meeting or activity claimed for.



Specific Considerations

Hearing Fees

The amount payable to a Councillor who acts as Chair of a hearing panel is \$116 per hour. The amount payable to a Councillor who is a member of a hearing panel, but not the Chair, is \$93 per hour. Other conditions that apply to these payments including the hearings that apply and time that may be claimed are as determined by the Remuneration Authority.

Motor Vehicle Mileage Allowance

The maximum motor vehicle mileage allowance authorised by the Remuneration Authority will be paid for qualifying travel.

Travel Time Allowance

A travel time allowance as authorised by the Remuneration Authority will be paid for qualifying travel.

Communications

- iPads (or a similar device of Council's choice) will be supplied to each Councillor, with an appropriate data connection. Ownership is retained by the Council.
- An appropriate printer will be supplied on request for the use of each Councillor. Ownership is retained by Council. Cost of reasonable consumables for Council use to be met by the Council.
- Where a Councillor prefers to utilise their own equipment, allowances are available as per the Remuneration Authority's 2022/23 Determination. This equipment and internet connection must be of a standard acceptable to Council.
- A communication allowance of \$550 per annum will be paid as per the Remuneration Authority's 2022/23 Determination. This covers:
 - use of personal mobile phone equipment \$150,
 - use of a member's own mobile phone service (call and data costs) \$400.
- The communications allowance will be paid 6-monthly in arrears (in April and October).

Childcare allowance

A childcare allowance as authorised by the Remuneration Authority will be paid when a member is engaged on qualifying Council business. Claims are to be on an actual reimbursement basis and supported by itemised GST invoices / receipts.

Incidental Costs

Incidental costs such as accommodation, meals, parking, fares and other such costs incurred on Council business are recoverable on an actual and reasonable basis. Such claims are to be supported by itemised GST invoices / receipts and approved by the Chief Executive or General Manager Corporate Services. As stated in the Principles, it is Council's preference that accommodation and travel arrangements are booked by Council through the Governance Support Officers or Executive Assistant Governance, Culture and Customer.



Where a Councillor chooses to stay privately when otherwise Council provided accommodation would be provided, an allowance of \$65 per night is payable.

Unforeseen Expenses and Costs

Any unforeseen expenses or costs of any Councillor related to Council activities (except for constituency work which must be approved by the Chairperson) may be reimbursed at the discretion of the Chief Executive or General Manager Corporate Services.

Chairperson

In recognition of the Chairperson's wider Council role, the following additional entitlements are available:

- Provision of a Council vehicle in accordance with the Remuneration Authority's use formula.
- Provision of a cell phone including call and data costs (if this is taken up, the communications allowance outlined above is not applicable).
- Membership of Air New Zealand Koru Club.

7.7. PC1 Dust Suppressants and Landfills Approval

Prepared for: Council
Report No. SPS2220
Activity: Governance Report
Author: Dolina Lee, Senior Analyst Freshwater and Land
Endorsed by: Anita Dawe, General Manager Policy and Science
Date: 29 June 2022

PURPOSE

- [1] To approve Plan Change 1 (PC1) (Dust suppressants and Landfills) to the Regional Plan: Waste for Otago (Waste Plan) as amended by Environment Court Decisions [2021] NZEnvC 185¹, [2022] NZEnvC 26², and [2022] NZEnvC 91³, and to set a date for making the plan change operative by incorporating the amended provisions into the operative Waste Plan.

EXECUTIVE SUMMARY

- [2] On 30 November 2021 the Environment Court released its decision on the proposed changes under PC1 to the provisions of Chapter 6 of the Waste Plan prohibiting the use of waste oil as a dust suppressant. A Further Decision to correct the omission of the table of decisions on submissions was released on 4 March 2022. No appeals against the Court's decisions on PC1 Chapter 6 were received by the High Court.
- [3] On 30 May 2022 the Environment Court released its decision on the proposed changes under PC1 to the provisions of Chapter 7 of the Waste Plan improving the policy direction for establishing and managing certain classes of landfills.
- [4] The appeal period for the Environment Court's Decision on Chapter 7 closed on 22 June 2022. At the time of writing (20 June) no appeals against the Court's Decision on PC1 (Landfills) had been received by the High Court.
- [5] Subject to no appeals, the Otago Regional Council (ORC or Council) can now approve PC1 in accordance with Clause 17 of Schedule 1 to the RMA by affixing Council's seal to the plan and incorporating the provisions into the operative Waste Plan.
- [6] It is proposed to make the plan change operative from 9 July 2022, and to publicly notify this date on 2 July 2022 in accordance with Clause 20 of Schedule 1 of the RMA.

¹ <https://environmentcourt.govt.nz/assets/Documents/Decisions/2021-11-30-ORC-PC1-2021-NZEnvC-185-Final-Decision-on-Dust-Suppressants.pdf>

² <https://environmentcourt.govt.nz/assets/Documents/Decisions/2022-NZEnvC-26-Otago-Regional-Council-further-decision-on-Chapter-6-Dust-Suppressants.pdf>

³ <https://environmentcourt.govt.nz/assets/Documents/Decisions/2022-NZEnvC-91-Otago-Regional-Council-Chapter-7-Landfills.pdf>

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** minor changes made to Proposed Plan Change 1 (Dust suppressants and Landfills) in accordance with clause 16(2) of Schedule 1 of the RMA.
- 3) **Approves** Plan Change 1 (Dust suppressants and Landfills) and incorporates these provisions into the Operative Waste Plan in accordance with clause 17(2) of Schedule 1 of the RMA.
- 4) **Affixes** Council's seal to Plan Change 1 (Dust suppressants and Landfills) to the Waste Plan in accordance with Clause 17(3) of Schedule 1 of the RMA.
- 5) **Resolves** to make Plan Change 1 (Dust suppressants and Landfills) operative from 9 July 2022, and publicly notify this date on 2 July 2022, in accordance with Clause 20 of Schedule 1 of the RMA.

BACKGROUND

- [7] The Council resolved to prepare proposed PC1 to the Waste Plan along with proposed Plan Change 8 (PC8) to the Regional Plan: Water for Otago (Water Plan), together referred to as the "Omnibus Plan Change," in August 2019. The Omnibus Plan Change was "called in" by the Minister for the Environment on 8 April 2020 and referred to the Environment Court for decision under section 142(2) of the RMA. The plan change was then notified by the Environmental Protection Authority (EPA) on 6 July 2020.
- [8] In order to manage matters efficiently, the Environment Court decided to hear PC1 and PC8 separately.
- [9] Mediation on PC1 took place in September 2021. Agreement was reached by all parties in attendance at mediation on amendments proposed to the provisions of PC1 relating to the Chapter 6 (Dust suppressants) of the Waste Plan⁴. The Court concluded that a formal hearing was not necessary, and the matter could be dealt with by "on the papers", that is through written evidence only. No party objected to this process and an affidavit providing evidence in support of the provisions agreed at mediation to Chapter 6 of PC1 was lodged with the Court on 5 November 2021⁵.
- [10] Only eight of the nine parties who attended mediation on the proposed changes to Chapter 7 (Landfills) signed the mediation agreement. One party considered the changes were not sufficient however after consideration, the Court determined that the other party's submission was out of scope and struck it out⁶, and again, decided that it could issue a decision "on the papers". A further affidavit, giving evidence in support of the provisions agreed at mediation to Chapter 7 of PC1 was lodged with the Court on 11 February 2022⁷.

⁴ Refer to Memorandum of Council on behalf of the ORC dated 09 September 2021 <https://environmentcourt.govt.nz/assets/Documents/Publications/2021-09-20-ORC-MOC-re-chapter-6.pdf>

⁵ <https://environmentcourt.govt.nz/assets/Documents/Publications/2021-11-05-ORC-EIC-Dolina-Lee-5-November-2021.pdf>

⁶ [2022] NZEnvC 91 paragraph [6]

⁷ <https://environmentcourt.govt.nz/assets/Documents/Publications/2022-02-11-Affidavit-of-Dolina-Lily-Lee-dated-11-February-2022-in-support-of-provisions-as-agreed-at-mediaton.pdf>

- [11] On 30 May 2022, the Environment Court released its decision on the provisions of PC1 relating to Chapter 7 (Landfills) of the Waste Plan. An appeal period of 15 working days from the date of receipt of decision was available to parties. At the time of writing (20 June), no appeals to the High Court had been received.

DISCUSSION

Approval of Plan Change 1

- [12] In accordance with clause 17(2) of Schedule 1 of the RMA, ORC can now approve PC1 as amended by the Environment Court. This is given effect by affixing the Council's seal to the Plan Change.
- [13] A full copy of PC1, incorporating the amendments made by the Environment Court, is included as Attachment 1.

Public notification of the date on which PC1 becomes operative

- [14] Clause 20 of Schedule 1 of the RMA requires the Council to set a date from which the plan change becomes operative and publicly notify the operative plan at least five working days before this date.
- [15] It is proposed to make PC1 operative from Saturday 9 July 2022 and to publicly notify this date on Saturday 2 July 2022.
- [16] In addition to placing a public notice, a copy of the plan change is required to be provided, free of charge, to the Minister for the Environment, all territorial authorities, and the takata whenua for the area, through iwi authorities.

Minor and consequential changes

- [17] Clause 16(2) of Schedule 1 of the RMA provides for the amendment of a proposed plan, without formality, where such an alteration is of minor effect.
- [18] The minor and consequential changes to PC1 are:
- a. Adding a Chronicle of key events table to the beginning of the Waste Plan;
 - b. Inserting a new ISBN number for Waste Plan;
 - c. Changing the date on the title page of the Waste Plan;
 - d. Amending the footer on pages of the Waste Plan that have changed;
 - e. Minor amendments to formatting and numbering to reflect the style of the Waste Plan.

OPTIONS

- [19] Section 149W of the RMA provides that the Council 'must' approve the plan change under clause 17 after it is amended under clause 16.
- [20] Approval under clause 17 of the First Schedule of the RMA is a procedural and mandatory step and it must be done as soon as practicable and without unreasonable delay. There is no discretion for the Council not to approve the plan change.
- [21] Failure to meet the statutory obligation to approve the plan change would result in PC1 remaining in its current proposed state, while having legal effect. This means that the proposed provisions would need to be considered against the PC1 provisions, and the

operative Waste Plan provisions. Council does not have the ability to withdraw the plan change.

- [22] Further potential implications of Council failing to meet this statutory obligation are as follows:
- a. Judicial review of the decision of Council not to approve the plan change;
 - b. A ministerial investigation into ORC's failure to adopt the plan change under s24(c) of the RMA; or
 - c. The Minister for the Environment exercising his powers under s25 of the RMA.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [23] The plan change is part of a transition towards a new freshwater management framework to be set in the new Land and Water Regional Plan (LWRP), which is intended to be operative by 31 December 2025.
- [24] The plan change gives effect to Minister Parker's recommendations and was considered by the Environment Court to be consistent with the National Policy Statement for Freshwater Management 2020.

Financial Considerations

- [25] There are no financial considerations as a result of this paper. The cost of making the changes to the Waste Plan will be met by existing budgets.

Significance and Engagement

- [26] Council's approval of PC1 will trigger He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.
- [27] Schedule 1 of the RMA requires that upon approving the plan change, ORC undertakes the following:
- a. Publicly notifies the date on which PC1 becomes operative;
 - b. Provides a copy of the operative PC1 to the Waste Plan to the Minister for the Environment, constituent territorial authorities and adjacent regional councils, and the takata whenua of the area, through iwi authorities, pursuant to clause 20(4) of Schedule 1 of the RMA; and
 - c. Provides a copy of the operative PC1 to the Waste Plan to all public libraries in the region, pursuant to clause 20(5) of Schedule 1 of the RMA.
- [28] Public notification of PC1 in accordance with Clause 20 of Schedule 1 of the RMA will satisfy the consultative requirements of the He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

- [29] The legal requirements relating to the approval of PC1 and public notification of the date on which the plan change is to become operative, are set out in clauses 17 and 20 of Schedule 1 to the RMA.
- [30] Key legal requirements include:
- a. Affixing the seal of the local authority to the proposed plan change.
 - b. Publicly notifying the date on which the plan becomes operative at least 5 working days before the date on which it becomes operative.

Climate Change Considerations

[31] There are no climate change considerations as a result of this paper.

Communications Considerations

[32] Key messaging around the implications of PC1 becoming operative will be released via our website, social media and as a press-release

ATTACHMENTS

1. Operative Plan Change 1 to the Regional Plan: Waste for Otago [7.7.1 - 31 pages]

Regional Plan: Waste for Otago

Proposed Plan Change 1 (Dust suppressants and landfills)

Operative



9 July 2022

ISBN: 978-0-908324-79-8

This is a true and correct copy of Plan Change 1 to the Regional Plan: Waste for Otago.

Plan Change 1 to the Regional Plan: Waste for Otago is deemed to be operative on Saturday, 9 July 2022

The Common Seal of the Otago Regional Council was hereto affixed in the presence of:

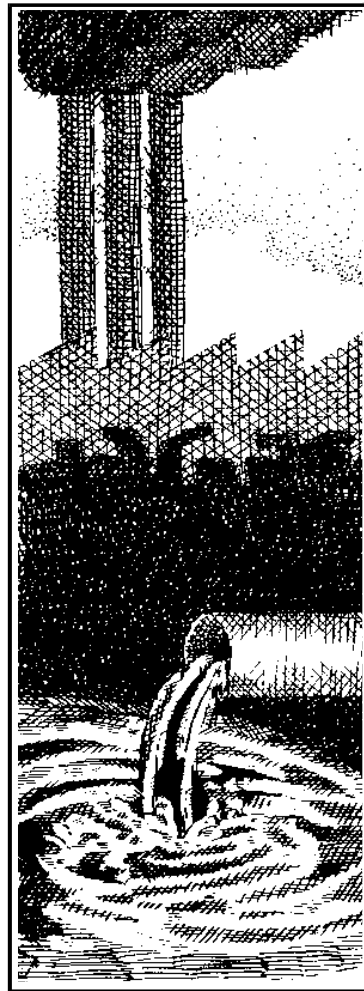
Cr Andrew Noone
Chairperson

Cr Gretchen Robertson
Co-Chairperson, Strategy and Planning Committee

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Hazardous Substances and Hazardous Wastes



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6.1 Introduction [Unchanged]

6.1.1 [Unchanged]

6.1.2 Types of hazardous wastes

Typical types of hazardous waste identified in the Otago region include:

6.1.2.1 [Unchanged]

6.1.2.2 Waste oil

Waste oil accounts for possibly the largest quantity of low toxicity waste generated. All motor vehicle users generate waste oil and it is also produced wherever machinery is used. Oil has adverse environmental effects on any receiving waters or land. The toxicity of oil derives from heavy metal additives or combustion products.

The Waste Lubricating Oil Survey of Otago (Otago Regional Council 1991) estimated that 700,000 litres of waste oil are generated in Otago annually. Of this, 250,000 litres are re-refined for fuel, and a further 200,000 litres are re-refined for lube use. Due to the availability of cheaper overseas oil the volume re-refined for lube use in Otago has significantly decreased over recent years. There are also problems in the refining process, as disposal of acid tar is required.

Over 200,000 litres of waste oil per year is disposed of by inappropriate or unknown methods, or is being stored prior to treatment or disposal. Waste oil has been disposed of into the ground, burnt, or spread over roads as a dust suppressant.

Re-refining waste oil for use as a fuel for industrial use can potentially use much of the waste oil produced in the South Island.

6.1.2.3 - 6.1.2.5 [Unchanged]

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6.1.3 *[Unchanged]*

6.2 Hazardous substances and hazardous waste issues

6.2.1 – 6.2.4 *[Unchanged]*

6.2.5 Hazardous substances and hazardous wastes have an adverse effect on the environment.

Explanation

Adverse environmental effects, such as the contamination of water or soils, can result from spills, unsuitable storage, inappropriate usage and disposal. This includes agricultural chemicals and the spreading of waste oil on roads.

Objectives 6.3.1, 6.3.2

Policies 6.4.1 - 6.4.12

6.2.6 *[Unchanged]*

6.3 Hazardous substances and hazardous waste objectives

6.3.1 To avoid, remedy and mitigate the risk to the environment and human health from hazardous substances and hazardous wastes.

Explanation

Otago's environment, including its communities, must be protected from the adverse effects of hazardous substances and hazardous wastes, associated with legitimate activities, or which arise by way of accidents.

Policies 6.4.1 - 6.4.12

Methods 6.5.1 - 6.5.25

Rules 6.6.1 - 6.6.4

6.3.2 *[Unchanged]*

Principal reasons for adopting hazardous substances and hazardous wastes objectives *[Unchanged]*

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6.4 Hazardous substances and hazardous waste policies

6.4.1 - 6.4.9 *[Unchanged]*

6.4.10 To prevent waste oil being used as a dust suppressant and provide for the use of safer alternatives.

Explanation

In parts of Otago, waste oil has historically been used as a dust suppressant on roads. This practice can give rise to environmental contamination as a consequence of heavy metals and other noxious elements within the oil entering the ground in the areas treated, and water bodies where runoff occurs. Wind or traffic derived dust can spread the contamination and, depending on the nature of the substances, these can be a hazard to public health. Present technologies identify lead concentrations to be of greatest concern. With safer alternatives now more readily available, waste oil must not be applied as a dust suppressant.

Methods 6.5.3, 6.5.22, 6.5.25

6.4.11 - 6.4.12 *[Unchanged]*

6.5 Hazardous substances and hazardous waste methods

In meeting the objectives and in carrying out the policies relating to hazardous substances and hazardous wastes the Otago Regional Council will:

6.5.1 - 6.5.5 *[Unchanged]*

6.5.6 Advocate to central government to promote the recycling and reuse of waste oil by the removal of positive disincentives (duty and tax) and the adoption of policies to promote reuse, on the basis of environmental damage resulting from dumping of this hazardous waste;

6.5.7 - 6.5.22 *[Unchanged]*

6.5.23 Include a rule in this Plan which controls the discharge of dust suppressants;

6.5.24 - 6.5.25 *[Unchanged]*

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6.6 Hazardous substances and hazardous waste rules

6.6.1 *[Unchanged]*

6.6.2 Discharge of dust suppressants (permitted activity)

The discharge of a dust suppressant onto or into land is a permitted activity, provided that:

- (a) The dust suppressant is not a hazardous substance; or**
- (b) The dust suppressant is approved under the Hazardous Substances and New Organisms Act 1996 and the use and discharge of dust suppressant is undertaken in accordance with all conditions of the approval; and**
- (c) The discharge does not produce an objectionable odour, or a conspicuous oil or grease film, scum or foam in any:
 - (i) Lake, river or natural wetland; or**
 - (ii) Drain or water race that flows to a lake, river, natural wetland or coastal marine area; or**
 - (iii) Bore or soak hole; and****
- (d) The discharge is not undertaken in a manner that results in ponding or overland flow that enters any:
 - (i) Lake, river, natural wetland or coastal marine area; or**
 - (ii) Drain or water race that goes to any lake, river, natural wetland or coastal marine area.****

6.6.3 Discharge of dust suppressants (discretionary activity)

The discharge of a dust suppressant onto or into land is a discretionary activity where:

- (a) The discharge is not permitted by Rule 6.6.2; and**
- (b) The dust suppressant is not waste oil.**

6.6.3.1 Assessment matters

In considering any application under this rule, in addition to the matters listed in Section 104 of the Resource Management Act, the Otago Regional Council will have regard to, but not be restricted by, the following matters:

- (a) to (d) [Unchanged]*

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- (e) Means by which the above matters will be monitored, including land adjoining areas being sprayed, any water body, including the frequency and locations of monitoring.

6.6.4 Discharge of waste oil

Except as provided for by Rules 6.6.1, 7.6.1 or 7.6.2, the discharge of waste oil onto or into land or into water is a prohibited activity.

Principal reasons for adopting hazardous substances and hazardous wastes rules

The discharge of hazardous wastes into or onto land, and into water and air, can have a significant adverse effect on Otago's natural and physical resources. Because of the potential for significant adverse effects to occur, the discharge of such hazardous wastes requires control.

6.7 Anticipated environmental results

6.7.1 - 6.7.5 *[Unchanged]*

6.7.6 The use of waste oil as a dust suppressant is avoided, and the adverse effects of the use of other dust suppressants are avoided, remedied or mitigated.

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Landfills



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7.1 Introduction [Unchanged]

7.2 Landfill issues

7.2.1 [Unchanged]

7.2.2 There are inappropriately sited landfills in Otago.

Explanation

Landfills, have been located in inappropriate places, such as close to water bodies, above groundwater supplies, adjacent to incompatible activities or in areas where there is a considerable adverse effect on the amenities of the area. Discharges from landfills are potential sources of contamination. In many cases there is a lack of knowledge of what has been placed into these landfills and as a consequence there may be a need to monitor some sites.

Objectives 7.3.1, 7.3.2

Policies 7.4.3, 7.4.7, 7.4.11, 7.4.11A

7.2.3 Some landfills in Otago are not managed to appropriate standards.

Explanation

Management of Otago's landfills must ensure the avoidance, remedy and mitigation of adverse environmental effects that could occur from unwise management. These include discharges to land, water and air. While this Plan seeks to manage all discharges arising from landfills, the complex nature of discharges to air, and the need for a consistent approach across activities, means that detailed standards relating to such discharges will be subject to the provisions of the Regional Plan: Air for Otago.

In part some of the inappropriate management practices undertaken at existing landfills arise because there is insufficient awareness and implementation of landfill management guidelines. Improved landfill management procedures have been developed, for example by the Ministry for the Environment, to minimise the adverse environmental effects of landfills. If the adverse environmental effects are to be avoided, remedied or mitigated then the adoption and use of appropriate management practices as set out in guidelines will be required. Particular attention needs to focus on hazardous wastes, such as medical wastes, and methods used to pre-treat them, and either store them or dispose of them. In some

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instances, however, landfill managers are not familiar with appropriate methods of landfill management.

Objectives 7.3.1, 7.3.2

Policies 7.4.3, 7.4.4, 7.4.6, 7.4.7, 7.4.11, 7.4.11A

7.2.4 - 7.2.8 [Unchanged]

7.3 Landfill objectives

7.3.1 To avoid, remedy or mitigate the adverse environmental effects arising from the discharge of contaminants at and from landfills.

Explanation

Adverse environmental effects may occur through toxic leachate or gases which originate from landfills. Such leachate can move into surface or groundwater supplies as well as onto adjacent land or into the air, rendering these resources unsuitable for other uses, or unsafe. The adverse environmental effects of landfills can be avoided by adopting methods for disposal other than landfills. The adverse effects can be remedied or mitigated by siting landfills appropriately, and implementing sound management practices. Some material such as offal is inappropriate to dispose of into landfills other than offal pits, and alternative means are required to deal with this issue.

Policies 7.4.1 - 7.4.11A

Methods 7.5.1 - 7.5.16

Rules 7.6.1 - 7.6.11

7.3.2 To eliminate illegal, uncontrolled, unmanaged, poorly managed and poorly located landfill sites.

Explanation

The illegal dumping of waste is an offence against the Resource Management Act. As with uncontrolled and unmanaged landfills, illegal dumping can give rise to adverse effects, such as discharges and visual unsightliness. Sites that are poorly located or poorly managed can also give rise to adverse effects. Where action cannot be taken to improve the operation of such landfills in the future, it is appropriate to seek their closure and the construction of more environmentally acceptable facilities.

Policies 7.4.2, 7.4.3, 7.4.6 - 7.4.9, 7.4.11, 7.4.11A

Methods 7.5.1 - 7.5.3, 7.5.10, 7.5.11, 7.5.14, 7.5.16

Rules 7.6.1 - 7.6.11

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7.3.3 [Unchanged]

Principal reasons for adopting landfill objectives [Unchanged]

7.4 Landfill policies

7.4.1 – 7.4.10 [Unchanged]

7.4.11 To avoid significant adverse effects of discharges and otherwise minimise the adverse effects of discharges from new and operating landfills on the environment outside a landfill footprint (as indicated in Figure 5-1 of the Waste Management Institute New Zealand’s *Technical Guidelines for Disposal to Land* August 2018), by requiring that:

- (a) the siting, design, construction, operation and management of new landfills, and operating and closed landfills to the extent that the Guidelines are applicable, is in accordance with the Waste Management Institute New Zealand’s *Technical Guidelines for Disposal to Land* (August 2018); and**
- (b) a site-specific management plan is prepared and implemented in accordance with the Waste Management Institute New Zealand’s *Technical Guidelines for Disposal to Land* (August 2018) that includes (but is not limited to):**
 - (i) methods for leachate management, collection, treatment and disposal;**
 - (ii) methods for stormwater capture and control from both off-site and on-site sources; and**
 - (iii) methods to minimise contamination of the receiving environment; and**
 - (iv) controls to manage hazardous waste and avoid any discharge of hazardous wastes or the leaching of contaminants from hazardous wastes.**

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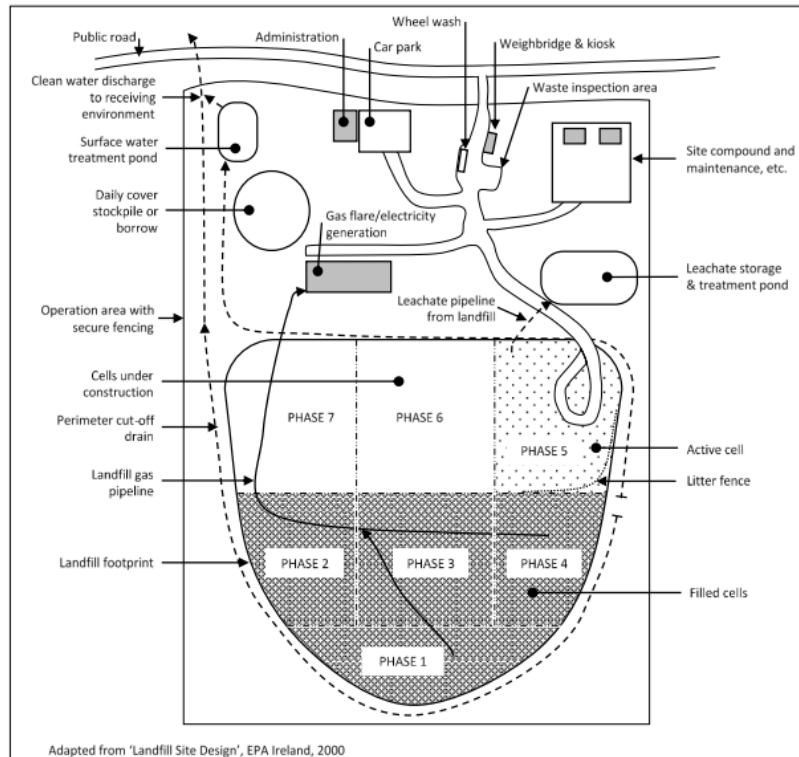


Figure 4: Operational Plan for a Landfill Site
 (Adapted from the Waste Management Institute New Zealand's *Technical Guidelines for Disposal to Land* August 2018, Figure 5-1)

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7.4.11A The discharges at and from new and operating landfills within 13km of airports defined as Nationally Significant Infrastructure are to be assessed with regard to:

- (a) siting;**
- (b) classes of landfills;**
- (c) preparation and implementation of management plans;**

in order to prevent the landfill increasing the existing risk of bird strike.

Advice note: For the purpose of Policy 7.4.11A, the reference to “airports defined as Nationally Significant Infrastructure” includes any airport (but not its ancillary commercial activities) used for regular air transport services by aeroplanes capable of carrying more than 30 passengers.

Principal reasons for adopting landfill policies [Unchanged]

7.5 Landfill methods

In meeting the objectives and in carrying out the policies relating to landfills, silage production and composting the Otago Regional Council will:

7.5.1 - 7.5.6 [Unchanged]

7.5.7 Require management plans for all landfills (excluding cleanfill landfills, offal pits on production land, farm landfills and greenwaste landfills) and for offal pits on industrial or trade premises, excluding factory farms, describing the methods to be taken to avoid, remedy or mitigate any adverse environmental effects;

7.5.8 - 7.5.16 [Unchanged]

Principal reasons for landfill methods [Unchanged]

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7.6 Landfill rules

Discharges of waste onto or into land except as permitted by or under this Plan, a resource consent, or regulation, are non-complying activities.

7.6.1 New or operating landfills [excluding cleanfill landfills, offal pits, farm landfills and greenwaste landfills] (discretionary activities)

- 1 The discharge of any contaminant into or onto land; or
- 2 The discharge of any contaminant or water into water; or
- 3 The discharge of any contaminant into air,

as a result of the operation of any landfill (except for a cleanfill landfill, offal pit, farm landfill, or greenwaste landfill covered by Rules 7.6.3 to 7.6.11) are discretionary activities, provided that no burning of waste is undertaken.

7.6.1.1 Information requirements

In addition to the information required by Section 88 of the Resource Management Act, the following information is required to be submitted with an application for resource consent under this rule:

- (a) If the landfill is to close by 1 October 1997 a landfill closure plan in the form prescribed by Appendix 3; or
- (b) Otherwise a site-specific management plan prepared in accordance with the Waste Management Institute New Zealand's *Technical Guidelines for Disposal to Land* (August 2018).

7.6.1.2 Assessment matters

In considering any application under this rule, in addition to the matters listed in Section 104 of the Resource Management Act, the Otago Regional Council will have regard to, but not be restricted by, the following matters:

- (a) Odour control;
- (b) Potential contamination of soil or water;
- (c) Means to monitor the above;
- (d) The extent to which the landfill proposal reflects the industry standard for landfills, as represented in the Waste Management

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Institute New Zealand's *Technical Guidelines for Disposal to Land* (August 2018);

- (e) The location of the landfill relative to any water body, areas prone to erosion, inundation or subsidence, and areas of cultural, conservation or historic significance;
- (f) The characteristics, composition and volume of substances being discharged and of any likely by-products occurring from the degradation of these substances;
- (g) The characteristics of the receiving environment including the current and likely future uses of that environment including residential activities;
- (h) The mitigation measures, safeguards, and contingency plans to be undertaken to prevent or reduce the actual and potential adverse environmental effects including on residential activities;
- (i) Provisions for the handling of any noxious waste, including medical waste, and the degree of pre treatment that will be required prior to accepting such wastes; and
- (j) The landfill management plan or landfill closure plan prepared for the site.

7.6.2 - 7.6.5 [Unchanged]

7.6.6 Offal pits on industrial or trade premises, excluding factory farms (controlled activity)

- 1 The discharge of any contaminant into or onto land;**
- 2 The discharge of any contaminant or water into water; or**
- 3 The discharge of any contaminant to air,**

when occurring as the result of an offal pit on industrial or trade premises (excluding factory farms) is a controlled activity, provided that:

- (a) It is dug in a manner so as to avoid groundwater seepage into the pit;**
- (b) It is not constructed within 100 metres, horizontally, of a well used to provide water for domestic purposes or drinking water for livestock;**
- (c) Leachate from the offal pit does not enter any water body;**
- (d) It is not constructed within 50 metres, horizontally, of any river, lake, stream, pond, wetland or mean high water springs;**
- (e) The offal pit shall not be used for the disposal of hazardous wastes or any other toxic matter, sewage, or animal effluent;**

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- (f) Only offal generated on the property is to be disposed of into the pit;**
- (g) It is not dug within 50 metres, horizontally, of a property boundary; or**
- (h) The offal pit does not cause a nuisance and is not noxious, dangerous, offensive, or objectionable beyond the boundaries of the property.**

7.6.6.1 Information requirements

In addition to the information required by Section 88 of the Resource Management Act, the following information is required to be submitted with an application for resource consent under this rule:

- (a) If the offal pit is to close by 1 October 1997 a landfill closure plan in the form prescribed by Appendix 3;
- (b) Otherwise a management plan in the form prescribed in Appendix 2.

7.6.6.2 Assessment Matters

In considering an application under this rule the Otago Regional Council will exercise its control over the following matters:

- (a) The adverse effects on land, water and air arising from any discharges;
- (b) The location of the offal pit relative to any water body, areas prone to erosion, inundation or subsidence, and areas of cultural, conservation or historic significance;
- (c) The action that is to be taken to avoid, remedy or mitigate any adverse effects of any discharges;
- (d) The monitoring programme to be implemented; and
- (e) The means to advise prospective purchasers of the property about the landfill operation.

7.6.7 Control of offal pits not in accordance with Rules 7.6.5 or 7.6.6 (discretionary activity)

- 1 The discharge of any contaminant into or onto land;**
- 2 The discharge of any contaminant or water into water; or**
- 3 The discharge of any contaminant to air,**

when occurring as the result of an offal pit operated other than in accordance with Rule 7.6.5 or Rule 7.6.6 is a discretionary activity.

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7.6.7.1 Information requirements

For industrial and trade premises, excluding factory farms, in addition to the information required by section 88 of the Resource Management Act, the following information is required to be submitted with an application for a resource consent under this rule:

- (a) If the offal pit is to close by 1 October 1997 a landfill closure plan in the form prescribed by Appendix 3;
- (b) Otherwise a management plan in the form prescribed in Appendix 2.

7.6.7.2 Assessment Matters

In considering any application under this rule, in addition to the matters listed in Section 104 of the Resource Management Act, the Otago Regional Council will have regard to, but not be restricted by, the following matters:

- (a) The adverse effects on land, water and air arising from any discharges;
- (b) The location of the offal pit relative to any water body, areas prone to erosion, inundation or subsidence, and areas of cultural, conservation or historic significance;
- (c) The action that is to be taken to avoid, remedy or mitigate any adverse effects of any discharges; and
- (d) The monitoring programme to be implemented.

7.6.8 - 7.6.15 *[Unchanged]*

Principal reasons for adopting landfill rules *[Unchanged]*

7.7 Anticipated environmental results *[Unchanged]*

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Glossary

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Terms marked with a ϕ are terms defined in the Resource Management Act 1991

The Act	Unless expressly stated otherwise, means the Resource Management Act 1991 (including any amendments thereto).
Amenity valuesϕ	Means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.
ANZECC	Australia and New Zealand Environment and Conservation Council, comprising ministers for the environment of Australian states, New Zealand and Papua New Guinea.
BOD	Biochemical Oxygen Demand. Used as a measure of organic pollution. The measured amount of oxygen required by acclimatised micro-organisms to biologically degrade the organic matter in wastewater.
Cleanfill	Generally a natural material such as clay, soil, and rock, and such other materials as concrete, brick or demolition products that are free of combustible or organic materials and are therefore not subject to biological or chemical breakdown.
Cleanfill landfill	A landfill used solely for the disposal of cleanfill.
Cleaner production	The conceptual and procedural approach to production that demands that all phases of the lifecycle of a product or of a process should be addressed with the objective of prevention or minimisation of short and long-term risks to humans and to the environment.
Closed landfill	A landfill which is no longer receiving waste.
COD	Chemical Oxygen Demand.
Co-disposal	The disposal of appropriate hazardous wastes by mixing them, in an informed and pre-determined manner, with municipal refuse, so as to use the attenuation and biochemical processes operating within the landfill to reduce the environmental impact from the mixed waste to an insignificant level.

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Co-disposal landfill	A landfill used for the disposal of special hazardous wastes in combination with community wastes. Leachate and gaseous emissions from a co-disposal landfill should not be materially different from those generated from an operating landfill managed by a territorial authority.
Composting	The biological reduction of organic waste to a relatively stable product.
Contaminant^ϕ	Includes any substance (including gases, liquids, solids and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy or heat: <ul style="list-style-type: none"> (a) When discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or (b) When discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged.
Contaminated site	A contaminated site is a site at which hazardous substances occur at concentrations above background levels and where assessment indicates it poses, or is likely to pose an immediate or long term hazard to human health or the environment.
Controlled activity^ϕ	An activity which - <ul style="list-style-type: none"> (a) Is provided for, as a controlled activity, by a rule in a plan or proposed plan; and (b) Complies with standards and terms specified in a plan or proposed plan for such activities; and (c) Is assessed according to matters the consent authority has reserved control over in the plan or proposed plan; and (d) Is allowed only if a resource consent is obtained in respect of that activity.
Discharge^ϕ	Includes emit, deposit and allow to escape.
Discharge permit	A consent to do something (other than in the coastal marine area) that otherwise would contravene Section 15 [of the Resource Management Act 1991].

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- Discretionary activity^ϕ** Any activity -
- (a) Which is provided for, as a discretionary activity, by a rule in a plan or proposed plan; and
 - (b) Which is allowed only if a resource consent is obtained in respect of that activity; and
 - (c) Which may have standards and terms specified in a plan or proposed plan; and
 - (d) In respect of which the consent authority may restrict the exercise of its discretion to those matters specified in the plan or proposed plan for that activity.
- Ecosystem** A dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.
- Effect^ϕ** Unless the context otherwise requires, the term “effect” includes:
- (a) Any positive or adverse effect; and
 - (b) Any temporary or permanent effect; and
 - (c) Any past, present, or future effect; and
 - (d) Any cumulative effect which arises over time or in combination with other effects -
regardless of the scale, intensity, duration, or frequency of the effect, and also includes -
 - (e) Any potential effect of high probability; and
 - (f) Any potential effect of low probability which has a high potential impact.
- Environment^ϕ** Includes:
- (a) Ecosystems and their constituent parts, including people and communities; and
 - (b) All natural and physical resources; and
 - (c) Amenity values, and
 - (d) The social, economic, aesthetic and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.
- Eutrophication** Process by which water (usually freshwater) becomes rich in nutrients, causing excessive plant growth which

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kills animal life by deprivation of oxygen.

Farm landfill

A landfill situated on production land in which the disposal of waste generated from that land takes place, not including any dead animal material or any waste generated from any industrial or trade process on that production land.

Greenwaste

Vegetative material. The material may include soil that is attached to plant roots and shall be free of hazardous substances and wastes.

Groundwater

Water that occupies or moves through pores, cavities, cracks, and other spaces in crustal rocks.

Hazardous substance

Any substance:

- (a) With one or more of the following intrinsic properties:
 - (i) Explosiveness;
 - (ii) Flammability;
 - (iii) A capacity to oxidise;
 - (iv) Corrosiveness;
 - (v) Toxicity, (both acute and chronic);
 - (vi) Ecotoxicity, with or without bioaccumulation; or
- (b) Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified in paragraph (a) of this definition.

Hazardous waste

Includes:

- (a) A hazardous substance which has not been used and requires disposal; or
- (b) The residue of a hazardous substance which has been used and requires disposal; or
- (c) Waste material containing a hazardous substance.

Highly hazardous substance or waste

Any substance or waste belonging to any of the categories described in Appendix 4 of this Plan, unless such wastes or substances do not possess any of the

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	hazardous characteristics listed in Appendix 5 of this Plan.
Industrial or trade premises^ϕ	<p>Means:</p> <ul style="list-style-type: none"> (a) Any premises used for any industrial or trade purposes; or (b) Any premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste management purposes, or used for composting organic materials; or (c) Any other premises from which a contaminant is discharged in connection with any industrial or trade process - <p>and includes any factory farm; but does not include any production land.</p>
Intractable waste	Any hazardous waste that does not degrade naturally into non-hazardous residues over time when released into the environment, and for which there is no present environmentally acceptable method of treatment or disposal currently available in New Zealand. It should be noted that not all hazardous wastes are intractable wastes.
Kai Tahu	Descendants of Tahu, the tribe.
Kaitiakitanga^ϕ	The exercise of guardianship and, in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself.
Landfill	A site used for the deposit of solid wastes onto or into land.
Leachate	A liquid contaminant resulting from the liquid being exuded from or percolated through some more-or-less solid matter.
Local authority	A regional council or territorial authority.
Manawhenua	Those with rangatiratanga for a particular area of land or district.
Method	The practical action by which a policy is implemented.
Mitigate	To make or become less severe or harsh. To moderate.
New landfill	A site to be used as a landfill.

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Non-complying activity	An activity (not being a prohibited activity) which: (a) Contravenes a rule in a plan or proposed plan; and (b) Is allowed only if a resource consent is obtained in respect of that activity.
Non-point source discharge	Runoff or leachate from land, onto or into land, air, a water body or the sea.
Objective	The desired result, end state, situation or condition that is aimed for.
Offal	Waste comprised of dead animal matter.
Offal pit	A disposal hole excavated for the purpose of disposing of offal.
Operating landfill	Any landfill that is currently accepting solid waste for disposal.
PCB	Polychlorinated biphenyl.
PCP	Pentachlorophenol.
Permitted activity^ϕ	Any activity that is allowed by a plan without a resource consent if it complies in all respects with any conditions (including any conditions in relation to any matter described in Section 108 or Section 220 [of the Resource Management Act]) specified in the plan.
Point source discharge	A discharge from a specific and identifiable source, onto or into land, air, a water body or the sea.
Policy	The course of action to achieve the objective.
Production land^ϕ	(a) Means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products) (b) Does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals or used for factory farming, - and “Production” has a corresponding meaning.
Recycling	The return of discarded waste materials to the production system for utilisation in the manufacture of goods, with a view to the conservation as far as

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	practicable of non-renewable and scarce resources.
Resource consent^o	<p>Means:</p> <ul style="list-style-type: none">(a) A consent to do something that otherwise would contravene Section 9 or Section 13 (in [the Resource Management] Act called a “land use consent”);(b) A consent to do something that otherwise would contravene Section 11 (in [the Resource Management] Act called a “subdivision consent”);(c) A consent to do something in a coastal marine area that otherwise would contravene any of Sections 12, 14 and 15 (in the [Resource Management] Act called a “coastal permit”);(d) A consent to do something (other than in a coastal marine area) that otherwise would contravene Section 14 (in the [Resource Management] Act called a “water permit”);(e) A consent to do something (other than in a coastal marine area) that otherwise would contravene section 15 (in the [Resource Management] Act called a “discharge permit”); <p>And includes all conditions to which the consent is subject.</p>
Solid waste	The combination of domestic, industrial and commercial waste including non-hazardous special wastes, also known as community waste.
Takaroa	Guardian of the waterways.
Territorial authority	A city or district council.
Waste	Any contaminant, whether liquid, solid, gaseous, or radioactive, which is: discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an adverse effect on the environment and which includes all unwanted and economically unusable by-products at any given place and time, and any other matter which may be discharged, accidentally or otherwise, to the environment.
Waste analysis protocol	A system developed by the Ministry for the Environment to provide a database/knowledge on New

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	Zealand's waste stream.
Waste oil	Any oil that has been refined from crude oil, or any synthetic hydrocarbon oil, that has been used, and as a result of such use, has become unsuitable for its original purpose due to the presence of impurities or contaminants or the loss of original properties.
Waste management	The transportation, resource recovery, recycling, storage, treatment and disposal of wastes, including management systems to ensure that environmental effects are avoided, remedied or mitigated. Waste management also encompasses measures to avoid waste generation.
Waste minimisation	The modification of existing processes or behaviour to reduce waste production to a minimum.
Water body^ϕ	Means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

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Appendices

A P P E N D I C E S

Appendix 1 *[Unchanged]*

Appendix 2

Matters to be included in Management Plan

- 1 General description of the site, including topography, natural water sources, and geotechnical investigations.
- 2 Works to be undertaken to establish the offal pit.
- 3 Description of the waste collection, treatment, and disposal system.
- 4 Projected life of the offal pit.
- 5 Reinstatement and possible end use of the site.
- 6 Closure and after-care including ongoing monitoring of leachate discharges and management of surface runoff, stormwater control, and site remediation.
- 7 Assessment of environmental effects including assessment of alternatives to the disposal of waste at the offal pit.
- 8 Any implications of site management and operation of offal pit for Iwi.
- 9 For hazardous wastes, a description of wastes which are acceptable and unacceptable, and wastes which can only be accepted under special (specified) conditions.
- 10 For hazardous wastes, an outline of a manifest system identifying types and quantities received including the source, and where within the site any hazardous wastes are to be placed.
- 11 Identification of discharges and environmental effects and the safeguards in place to avoid or reduce the environmental effects.
- 12 Sensitivity of the receiving environment.
- 13 A description of how litter, vermin and birds will be controlled.
- 14 Water control including stormwater and leachate.
- 15 Description of procedures for monitoring (including detection of leakage of contaminants in contravention of resource consent) and controlling adverse effects of spillages and leachate on groundwater and any water body, as well as monitoring and control of odours.

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- 16 Outline proposals for audit and reporting to the Otago Regional Council regarding environmental compliance.
- 17 Identification of corporate environmental performance standards, national or industry group codes of practice, or other recognised environmental safety standards with which the operation of the facility will comply, and a description of the means for auditing compliance.
- 18 Identification of management responsibilities for compliance with resource consents and environmental regulatory requirements.
- 19 Outline of emergency response procedures and contingency plans including:
 - Power failure;
 - Fire; and
 - Emergency contacts.
- 20 Outline of contingency plans to restore or remedy any potential adverse environmental effects caused by the operation of the offal pit, including effects that may arise after waste disposal operations have ceased and details of proposed environmental trigger/action levels for implementation of the preferred contingency options.

Appendices:

- Aerial photograph or drawing showing the site layout
- Staged management plans
- Final landform plan

Appendices 3 – 5 [Unchanged]

7.8. Proposed amendments to National Policy Statement for Freshwater Management and National Environmental Standards to incorporate changes to wetland provisions and make technical amendments

Prepared for: Council
Report No. SPS2224
Activity: Governance Report
Author: Tom de Pelsemaeker, Acting Manager Policy
Warren Hanley, Senior Resource Planner
Endorsed by: Anita Dawe, General Manager Policy and Science
Date: 29 June 2022

PURPOSE

- [1] The purpose of this report is to:
- Provide the Otago Regional Council (Council) with an overview of key elements of the amendments to the intensive winter grazing (IWG) regulations in the National Environmental Standard for Freshwater 2020 (NES-F) gazetted in April 2022;
 - Provide Council with an overview of the exposure drafts of proposed changes to the National Policy Statement for Freshwater Management (NPS-FM) and the NES-F that were released on 31 May 2022; and
 - Seek Council's endorsement for lodging a staff submission on the exposure drafts; and
 - Provide Council with an overview of key messages likely to be included in a staff submission.

EXECUTIVE SUMMARY

- [2] The New Zealand Government (Government) has now amended the IWG regulations in the NES-F. The updated regulations will come into effect from 1 November 2022.
- [3] In addition, the Ministry for the Environment (Ministry) has released exposure drafts of further proposed changes to the NPS-FM and NES-F (including the provisions for identifying wetlands and regulations for managing activities in or near wetlands). The Ministry has invited submissions on these exposure drafts. The closing date for submissions is 10 July 2022.
- [4] Due to the timing of the release of these submissions and current workloads, staff had not had time to prepare a draft submission for Council approval. However, it is proposed that ORC lodges a staff submission under delegation and reports back to Council at its August meeting with the full submission lodged.

RECOMMENDATION

That the Council:

- 1) **Notes this report.**
-

- 2) **Approves** the lodgement of a staff submission, signed by the Chief Executive under authorised delegation; on the Ministry for the Environment 2022 proposed amendments to the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standard for Freshwater (NES-F).
- 3) **Notes** that a copy of the submission will report back to a full Council meeting in August 2022.

BACKGROUND

- [5] As part of the Essential Freshwater package, the Government introduced in August 2020 a new regulatory reform package to improve the framework for managing New Zealand's freshwater resources, protect them from further loss and degradation, reverse past damage and bring freshwater and its ecosystems back to a healthy state, within a generation.
- [6] The reform package included:
 - A new National Policy Statement for Freshwater Management 2020 (NPS-FM),
 - National Environmental Standards for Freshwater (NES-F),
 - New stock exclusion regulations under section 360 of the Resource Management Act 1991 (RMA); and
 - An amendment to the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010.
- [7] Regional authorities acknowledged the new national direction and regulations as setting clear nationwide goals and supporting necessary changes at a regional planning level.
- [8] However, implementation of the new regulations and feedback from stakeholders since the reform package came into force has identified some challenges that the Ministry is working to resolve. In response to these issues, the Ministry consulted in 2021 on:
 - Proposed amendments to the IWG regulations in the NES-F; and
 - An exposure draft for guidance for the wetland definitions in the NPS-FM; and
 - Proposed amendments to wetland provisions in the NPS-FM and the NES-F.
- [9] ORC lodged submissions on both the wetland definitions guidance and the NPS-FM wetland regulations review.
- [10] Key points from ORC's May 2021 submission on Wetland definitions (appended to this report as Attachment 1) were:
 - Defining wetlands can be complex, and any definitions for the purpose of delineating wetlands need to be carefully crafted.
 - Delineation protocols should put the onus on applicants/landowners to provide the information required to determine the status of a wetland under the national regulations.
 - Exclusion provisions for whether a wetland is subject to the NPS-FM/NES-F provisions should be clear and not conflict with other wetland definitions. Where there is ambiguity, the NPS-FM/NES-F provisions should prevail.

- Defining a wetland by vegetative cover can be complex and needs careful consideration to avoid exposing wetlands to loss that would otherwise be protected by national regulations.
- [11] ORC's submission on the proposed amendments to the wetland provisions in the NPS-FM and NES-F (appended to this report as Attachment 2) emphasised:
- The importance of wetlands in ORC's planning framework, particularly those classified as Regionally Significant Wetlands (RSW).
 - Many of Otago's wetlands have important values, but not all of these wetlands are natural, and some are (partially) artificially constructed or induced. Examples include the wetlands around the Lower Clutha/Mata-Au, the Logan Burn reservoir and Lake Onslow.
 - The Taieri River Scroll plains are internationally recognised and home to the Upper Taieri Wetlands Complex, where wetlands are dominated by exotic grasses.
- [12] Another issue raised in ORC's submissions was that Otago has wetlands located or extending within the Coastal Marine Area (CMA) boundaries. This is of relevance as the High Court has now ruled¹ the NES-F apply to natural wetlands within the CMA. Many of Otago's coastal wetlands straddle the CMA boundary and are influenced by both coastal and freshwater inflows and require a management approach that is more complex than what is needed for inland wetlands. The Ministry has acknowledged this issue and plans to work with the Department on appropriate guidance.
- [13] Having considered known issues with the direction in the NPS-FM and regulations in the NES-F (including with respect to IWG and the identification and management of wetlands), and having completed a period of consultation, the Government has now:
- Amended the IWG regulations; and
 - Released exposure drafts of further proposed changes to the NPS-FM and NES-F (including the provisions for identifying wetlands and regulations for managing activities in or near wetlands).
- [14] The Ministry's May 2022 report *Managing our wetlands: Proposed changes to the wetland regulations, recommendations and summary of submissions in support of the proposed amendments in the exposure drafts* is appended to this report as Attachment 3. A copy of the consultation questions asked by the Ministry is attached as Attachment 4, and will be used to form an ORC staff submission.

SUMMARY OF KEY ASPECTS OF AMENDMENTS AND PROPOSED AMENDMENTS TO THE NES-F AND NPSFM

Amendments to the intensive winter grazing regulations in the NES-F

- [15] Key changes to the IWG regulations as a result of the amendments are:

¹ [2021] NZHC 3113 Department of Conservation and Royal Forest and Bird v Mangawhai Harbour Restoration Society; Northland Regional Council as an interested party.
The HC quashed the EC declarations and made the following (among others);
The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 apply to natural wetlands in the coastal marine area.

- Land with a maximum slope of less than 10 degrees may be used for IWG, as a permitted activity.²
- Default conditions around pugging have been replaced with a stand-alone duty to take all reasonably practicable steps to minimise the effects of pugging. This means that pugging is no longer a matter that would lead to someone needing a consent.
- The definition of drains has been amended to exclude subsurface drains in relation to IWG.³
- Default conditions around resowing have been replaced with a stand-alone duty to establish vegetation as ground cover as soon as practicable after grazing.
- A new default condition has been added around critical source areas requiring anyone undertaking IWG activities to protect critical source areas (CSA).⁴

[16] The regulations relating to IWG now come into effect from 1 November 2022 and do not impact the 2022 winter season. However, they will apply next winter. There are three pathways for compliance with the regulations:

- Permitted activity by meeting the relevant criteria; or
- Applying for a consent; or
- Having a certified freshwater farm plan (this option is not yet available).

Draft amendments to the wetland provisions in the NES-F

[17] Key proposed changes to the wetland provisions in the NES-F and NPS-FM relevant to Otago include:

- A new definition in the NPS-FM of '*natural wetland*' in the NPS-FM to:
 - i. Reduce the complexity of identifying natural wetlands; and
 - ii. Reduce the ambiguity created by wording included in the current definition (e.g. reference to '*improved pasture*', '*temporary rain-derived water pooling*')⁵; and
 - iii. Include any wetlands that are known to contain threatened species.
- A new consent pathway for the following activities in or near natural inland wetlands:
 - i. Quarrying (restricted discretionary activity); and
 - ii. Mining (discretionary activity);⁶ and
 - iii. Constructing and operating a landfill or cleanfill area (discretionary activity);
 - iv. Activities necessary for urban development (restricted discretionary activity);
 - v. Constructing water storage (discretionary activity) by including water storage in the definition of '*specified infrastructure*'.
- Applying a '*national and/or regional benefit*' test for quarries, cleanfills and landfills and mining.

² Intensive winter grazing on land with a slope of more than 10 degrees will need either a resource consent or certified freshwater farm plan.

³ This means requirement to keep stock at least 5m away from waterways does not apply to subsurface drains.

⁴ Under the permitted activity condition, a CSA must be left ungrazed, have vegetation as ground cover, and they must not be cultivated in annual forage crop.

⁵ It is proposed to support the interpretation of the new definition by the inclusion of a list of exotic pasture species to be incorporated in the NPS-FM and the development of guidance materials (setting out a methodology for assessing the pasture exclusion provisions)

⁶ For coal mining (but not for thermal or coking coal mining) this consenting pathway will only be available until 2030.

- Applying a '*no practicable alternative location*' test for landfills, cleanfills and urban development.
- Applying a '*functional need*' test for mining and quarrying, recognising these activities are locationally constrained.
- Including principles of aquatic offsetting and compensation in the NPS-FM.
- Amending the wetland restoration provisions and removing constraints on wetland maintenance and biosecurity activities (including by removing some of the constraints on vegetation clearance and pest and weed control).
- Amending the provisions for discharges in or near wetlands and clarifying these only regulate discharges with adverse effects on the hydrological functioning, habitat or biodiversity values of a natural wetland.
- Allowing for an increase in the size of a structure if this increase is for the purpose of providing for fish passage.
- Removing some restrictions on flood control activities and drainage works within wetlands.
- Making better provision for sphagnum moss harvesting and refuelling within a natural wetland.
- Controlling the ability to charge for notifications of the intended permitted activity work for wetland restoration and maintenance and biodiversity management.

Draft amendments to the NPS-FM to improve the clarity of the provisions and correct technical errors

[18] Key proposed changes to the wetland provisions in the NES-F and NPS-FM are:

- Amendments to the NPS-FM to clarify that the requirement for councils to use 'best available information' in the absence of complete and scientifically robust data should apply to all direction under the NPSFM, rather than to specific parts.
- Amendments to the provisions that clarify how councils record and publish the matters considered and reasons for decisions reached relating to tangata whenua involvement and the development of action plans.
- Amendments to the provisions that direct how regional councils derive instream concentrations or loads and exceedance criteria for Dissolved Inorganic Nitrogen (DIN) and Dissolved Reactive Phosphorus (DRP) needed to achieve target attribute states and outcomes for downstream receiving water bodies.
- Amendments to clarify that regional councils cannot rely on action plans and must rely on limits on resource use, such as controls on land use, inputs (e.g. amount of fertiliser applied) or outputs (e.g. discharge rate), to ensure desired outcomes for nitrogen and DRP are achieved.
- Removing words suggesting that where a Freshwater Management Unit (FMU) supports conspicuous periphyton growth, regional councils do not need to derive instream concentrations or loads and exceedance criteria for DIN and DRP.

DISCUSSION

Amendments to the intensive winter grazing regulations in the NES-F

[19] When the regulations relating to IWG commence on 1 November 2022 the IWG rule in the Regional Plan: Water for Otago (RPW) introduced by Plan Change 8 will 'drop away'. This approach is intentional and was supported by the Court. Under this streamlined approach consents will only be needed under the NES-F and not under the RPW.

Draft amendments to the wetland provisions in the NES-F and the NPS-FM

[20] An initial review of the proposed amendments to wetland provisions in the NES-F and the NPS-FM points towards the following preliminary conclusions:

- The proposed amendments to the '*natural wetland*' definition in the NPS-FM, the provision of a list exotic pasture species and additional guidance that is being developed by the Ministry is likely to remove some ambiguity associated with the current definition. However, even with the proposed amendments the definition remains difficult to read and unclear in places. Further improvements to the clarity of this definition could be achieved by:
 - i. Avoiding the intermittent use of negative and positive phrasing and use of double negatives; and
 - ii. Defining newly introduced concepts, such as the term '*deliberately constructed wetland*'; and
 - iii. Providing more clarity around the status of existing wetlands whose extent, type and character has been modified by the construction of a deliberately constructed water body; and
 - iv. Providing more certainty or better guidance around the time (period) that should be considered when establishing an accurate baseline with appropriate vegetation, hydrology and soils data against which to measure any changes. Determination of this time (period) should also recognise that wetlands are often dynamic in terms of extent, vegetation cover and hydrological characteristics.
- The proposed new 'natural wetland' definition is likely to increase the level of protection for threatened species. However, it does not set clear standards in terms of the quality or the type of information that needs to be provided to demonstrate the presence of these species.
- The current NPS-FM definition of 'natural wetland' excludes artificial wetlands (other than wetlands constructed to offset impacts on, or restore, an existing former natural wetland) from the protection offered by the NPS-FM and regulations in the NES-F. As discussed earlier in this report, Otago has several artificially created or induced wetlands with important values. The proposed amendments to the 'natural wetland' definition improve the protection of artificial wetlands known to contain threatened species. However, the changes proposed in the exposure drafts provide no direction in terms of the management of other ecological or biodiversity values or the ecosystem services associated with other artificial wetlands.
- The proposed amendments to the wetland provisions do not recognise the need for a holistic management approach where natural wetlands are partially located within or extending beyond CMA boundaries.
- The proposed consent pathways for quarrying, mining (including coking and coal mining), landfills and clean fill areas, urban development and water storage in natural inland wetlands are likely to result in the loss of wetland values and put the NES-F at odds with key policies in the NPS-FM.⁷ A more nuanced approach that

⁷ Key NPS-FM policies include Policy 3 (Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments); Policy 4 (Freshwater is managed as part of New Zealand's integrated response to climate change) and Policy 6 (There is no loss in the extent of natural inland wetlands, their values are protected, and their restoration is promoted).

further constrains these pathways is likely to give greater effect to these NPS-FM policies.⁸

- Under the proposed amendments ORC can charge for monitoring of permitted activity restoration plans, but not for receiving or reviewing the plans.
- A generic consent pathway should be provided to modify wetlands, beyond the existing provisions (for wetland maintenance, scientific research, construction, and maintenance of utility structures) and the proposed provisions (for quarrying, landfill and clean fills, mining and urban development). This is to better provide for unanticipated activities with positive impacts on wetland values.
- Ongoing wetland maintenance and enhancement under a certified Freshwater Farm Plan should be provided as a permitted activity.

Draft amendments to the NPS-FM to improve the clarity of the provisions and correct technical errors

[21] An initial review of these proposed amendments to the NPS-FM suggests that, in general, these amendments are likely to:

- Provide clearer direction on how councils should proceed in the absence of complete and scientifically robust data and will assist with the implementation of the NPS-FM without further delay.
- Contribute to the transparency of decision-making processes relating to tangata whenua involvement and the development of action plans.
- Improve the clarity and reduce the complexity of the process that regional councils need to follow for managing nutrients.

OPTIONS

[22] There is no action to be taken with the IWG updates as these will be in effect from 1 November 2022. The proposed changes address the issues that had been identified with implementation.

[23] The Ministry has invited submissions on the exposure drafts with proposed amendments to the NES-F and the NPS-FM, which are due by 10 July 2022.

[24] Due to the timing of the release of these exposure drafts, staff have not had time to prepare a draft submission for council approval. Therefore, the options are:

- Option 1: ORC does not submit on the exposure drafts; or
- Option 2: ORC lodges a staff submission under delegation and reports back to Council with the full submission at its August meeting.

[25] Option 2 is the recommended option for the following reasons:

- ORC should utilise any available opportunity through the submission process to contribute to optimising the workability and clarity of the provisions in the NPS-FM (and supporting guidance materials) that direct and guide the wetland identification and delineation process. This is likely to provide more certainty to both technical staff of the ORC and landholders involved in wetland identification and delineation

⁸ Such an approach could include limiting the consenting pathway for coking and coal mining only to existing operations and ensuring that any water storage development within natural inland wetlands does not impact on the values, hydrology, or connections with other water bodies.

processes, and reduce the complexity and cost of these processes for all parties involved.

- Given the historic loss of natural inland wetlands in Otago, care must be taken in avoiding any further loss of wetland extent and wetland values, as wetlands play a key role in the protection and creation of well-functioning natural, cultural, social and built environments through the diverse values (e.g. biodiversity, recreational and mahika kai values) and the ecosystem services they provide (e.g. flood control, water yield, climate change resilience).
- Where proposed amendments are considered to have a positive impact on Otago's wetland values, it is important to express support in a submission. This will reduce the likelihood of these positive amendments being "watered down" or reversed as a result of the submission process.

[26] ORC 's staff submission will be based on the following principles:

- Alignment with either existing council policies and strategies; and
- Alignment with the matters raised in ORC's earlier submissions (see attachments 1 and 2) that have not been (sufficiently) addressed by the proposed changes in the exposure drafts; and
- Inclusion of any of the preliminary conclusions included in paragraphs 20 and 21 of this report.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[27] ORC's strategic directions commit Council to taking leadership on issues of significance and importance to Otago communities and national direction. These strategic directions include actions to give effective leadership including

- *Promoting and enabling best practice land management for soil conservation, water quality and using water efficiently.*
- *Protecting our land and water from inappropriate activities.*
- *Collaborate and deliver on biodiversity programmes and management.*

[28] Staff consider submitting on the current consultation is consistent with the strategic directions.

[29] Regional Council is responsible for implementing the new regulations and notifying new or updated regional policy statements and plans that set out how the region will implement the new NPS-FM. ORC has committed to a work programme with the Minister for the Environment which includes notifying a new LWRP by December 2023.

Financial Considerations

[30] A number of landholders will need consents for their IWG activity or will need to adjust their farming operation so that they meet the permitted criteria. This will mean an increased workload for the Consents Team in terms of enquiries and consent applications, however the introduction of rules in Plan Change 8 and the existing IWG rules in the NES-F mean the consents team has planned for this workload. The changes to the regulations relating to the removal of pugging and the re-sow dates provides clarity and simplifies the rule requirements.

[31] The Compliance Team will continue to undertake monitoring in line with their Compliance Monitoring Plan. Further updates in the Regulatory Group activities relating to IWG will be provided to the Regulatory Committee.

[32] Submitting on national consultations is a funded activity.

Significance and Engagement

[33] The consideration of the IWG updates and NPS-FM and NES-F consultation, and any subsequent submission is consistent with He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

[34] The IWG updates to the NES-F will come into effect on 1 November 2022. No timeframe has been set for gazetting any updates to the wetland provisions in the NES-F or NPS-FM or any other updates that are the subject of these exposure drafts. Once national direction in the NPS-FM or the regulations in the NES-F become law, ORC will be required to give effect to them.

[35] ORC's previous submissions have highlighted risks in terms of further loss or wetland values, particularly where 'artificially constructed' or modified wetlands are known or are likely to have regional significance and or high natural values. While these wetlands can be managed through regional planning level provisions, staff are concerned that if excluded from the NPS-FM 'natural wetland' definition but having clearly demonstrable values, that the *Essential Freshwater* programme originally sought to protect, that these wetlands and their values could become subject to lesser protection.

Climate Change Considerations

[36] Wetlands play a vital role in the provision of ecological systems services and biodiversity and contribute positively to tackling the effects of climate change.

Communications Considerations

[37] Council teams have been working to develop resources to support farmers in relation to the IWG regulations and have been attending meetings on the topic.

[38] Any ORC staff submission would be publicly available via the Ministry, as well as the ORC.

[39] ORC's communications team can consider if there is merit in making the submission more widely available, to communicate ORC's position to a wider audience.

NEXT STEPS

[40] ORC staff will continue working through the review of the consultation material, draft, and lodge a staff submission, and bring the submission to Council for noting, at the 24 August 2022 Council meeting.

ATTACHMENTS

1. ORC Feedback [7.8.1 - 7 pages]
2. ORC Submission [7.8.2 - 5 pages]

3. Essential Freshwater Amendments Report recommendations and summary of submissions [**7.8.3** - 84 pages]
4. Consultation Questions [**7.8.4** - 10 pages]



Our Reference: A1471726

3 May 2021

Ministry for the Environment
PO Box 2134
Wellington
Freshwater@mfe.govt.nz

Dear Sir/Madam

Wetlands Definitions Guidance Feedback – ORC Feedback

Otago Regional Council (ORC) thanks the Ministry for the Environment (MfE) for the opportunity to provide feedback on the exposure draft for wetland definitions.

Otago has a richness of wetlands, some of which are recognised and provided for in the ORC's Regional Plan: Water (RPW) as 'regionally significant wetlands' due to their recognised values and characteristics. This status has provided these mapped wetlands¹ a greater level of protection since 2004 when the RPW became operative and now which is also provided for in the wetland provisions of the National Policy Statement for Freshwater 2020 (NPSFM 2020), and the National Environmental standards Freshwater management (NESFM) for all natural inland wetlands.

ORC welcomes and supports the clear intent to protect all wetlands, irrespective of size, type or condition. To be effective, it is critical the provisions in the regulations are clear and certain in meaning.

ORC general comment on wetland management

ORC is aware that across New Zealand, and indeed within Otago not all wetlands are naturally formed. However irrespective of how or why they were formed, many of them have values and serve functions that are significant and worthy of protection.

While the definitions seek to provide exclusion provisions for some subsets of wetlands to not create perverse outcomes, ORC's experience is that in practice this is a complex exercise, and the draft definitions as currently written will create uncertainty, risking the potential loss of wetlands that otherwise should be protected.

The exclusion provisions the definitions promote do not perhaps fully appreciate the complexity many wetlands can present when attempting to understand their form, function and origin. This could lead to incorrectly applying regulatory requirements leading to an inappropriate loss of wetlands – contrary to the NPSFM 2020 and NESFM.

ORC has a planned review of its existing Significant Regional Wetland inventory which aims to be completed by 2023. This is an important project as these wetlands, and any new ones to be added, require protection more stringent than the NESFM. The directions and provisions of the NPSFM and NESFM will assist with the review process.

¹ <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries>



In the following comments on the draft wetland definitions, ORC has provided examples of Otago wetlands that illustrate the complexity of wetland categorisation.

1. Topic: Wetland delineation protocols

The draft definitions do not clarify where the burden of proof will fall to confirm if a wetland will be subject to the wetland provisions of the NESFM or not. Throughout Otago (and no doubt New Zealand) there will be a significant number of wetlands that may need to be assessed against the NPSFM 2020 and NESFW, because they either have not been identified and mapped, or because they are less than 500m² in size. If the costs fall solely on the local government sector, it will be a significant burden, and add costs at a time when national regulation is increasingly being applied.

ORC requests that given the limited resources of councils to identify all wetlands within their jurisdiction, the definitions should clearly require that the onus ultimately falls to an applicant/land owner to ensure any activities that may affect any wetland complies with the NESFM. This onus should provide for councils being able to comment on the application of the protocols (for wetlands not previously identified) to ensure they follow an acceptable standardised and consistent approach.

2. Topic: Exclusion for Artificially Constructed wetlands

The definitions view wetlands that are artificially constructed wetlands to be different from those that are inadvertently created ('induced') as a side effect of another activity.

ORC considers that in practice, defining a wetland as either constructed or induced will be a complex task. Many Otago examples could be argued as meeting the criteria of either or both definition.

Otago Examples

Lower Clutha² - ORC's interpretation of excluding constructed wetlands is to include capturing any wetland that is formed in behind a dam where it was created such as for hydroelectrical power generation.

ORC is concerned that in practice this approach neglects to provide for wetlands that are downstream of hydro dams and influenced by the ramping of water levels that occurs during power generation. Figure 1 shows a map of two lower Clutha wetlands. These examples, along with several others in the lower Clutha catchment below Roxburgh are known to be influenced by ramping of water levels due to power generation activity.

ORC staff would consider these wetlands to fit the definition of an 'induced' wetland as they existed prior to the damming of the Clutha River/Matau-au for hydroelectric power generation but have responded to the river's modified flow regime.

² <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries/clutha-district>



The Clutha Matau wetland for example is recognised as regionally significant due to it having a habitat for the threatened Banded Dotterel, featuring a high degree of wetland naturalness and its form is regionally scarce.



Figure 1 Clutha Matau and River Mouth Lagoon wetlands

Logan Burn³ (also known as Great Moss swamp) is an irrigation dam which has inundated historic wetlands as it was filled. The residual pockets of wetlands that remain are referred to as remnants (natural wetlands or newly formed wetlands due to the damming)

In the case of the Logan Burn (Figure 2) the reservoir was filled in 1983, this drowned the existing wetlands. It is uncertain whether all the wetland parcels that remain are enduring remnants of a historic wetland or have been created ('constructed') in association with the raising of the water levels.

The values at Logan Burn are regionally significant, featuring the presence for threatened plant species tufted hair-grass and a high degree of wetland naturalness. While the NESFM enables greater protection of the wetland as regionally significant under the RPW, ORC is concerned the wetland could still be determined as both constructed and induced under the NESFM, which is an undesirable contradiction.

³ <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries/dunedin-district/great-moss-swamp>

Lake Onslow, another large, constructed Otago dam, has a similar scenario.



Figure 2 Logan Burn

These examples if applied to the definitions as drafted illustrate that they would create uncertainty. They can be viewed as meeting both the definitions of both constructed or induced wetlands.

ORC is very concerned that this uncertainty could lead to looping arguments as to whether any wetland, whether it has more stringent protections than the NESFM, or not, should be subject to any wetland protection provisions.

ORC requests MfE seek further advice to refine any exclusion provisions for constructed wetlands. Any exclusion provisions should not conflict with any other wetland definitions and, where there is any uncertainty, a cautionary process should be specified to protect against unintentional wetland loss.

3. Topic: Exclusion of Geothermal Wetlands

While Otago has no identified geothermal wetlands, **ORC requests** MfE ensure that appropriate regulations are in place to ensure the protection of people from any change in land use where a geothermal wetland is present.

4. Topic: Exclusion of Improved Pasture

Another significant potential for uncertainty is the definition for improved pasture. ORC questions how applying an assessment of 'more than 50% of exotic pasture species' will work in practice.



ORC's experience is that it can be very difficult to determine where a wetland's extent begins and ends, particularly if only assessing by visible coverage. To illustrate this blow in figures 3 to 5, are examples from Otago's Taieri River Scroll Plain which is home to a wetland Named the *Upper Taieri Wetlands Complex*. It consists of three sub-areas, the Styx (Paerau) Basin Wetlands, the Maniototo Basin Wetlands and Taieri Lake Wetlands.

In these examples, native grasses have all but been smothered by exotics grasses. The result is many areas that are either actively managed pasture or wetland are dominated by exotic pasture. This makes it challenging to know where managed pasture ends, and wetlands begin.



Figure 3 Wetland on Taieri Scroll Plain. To the left of centre wire fence is pasture, to the right it is a regionally significant wetland)



Figure 4 Taieri Scroll Plain wetland. To left of fence line in the oxbow is a Regionally Significant Wetland, to the right it is pasture



Figure 5 Taieri Scroll Plain. To left of fence line (middle of photo) is pasture, to right is a Regionally Significant Wetland

Furthermore, the definition wording refers to pasture ‘being manged’ whereas the exposure draft discusses on page 7 ‘*active management*’. This provision should be clarified and defined carefully including what active management means in practice.

ORC requests MfE give further consideration to the criteria for identifying and excluding areas of ‘improved pasture’, and the opportunity for parties giving feedback to provide additional feedback on any improvements to the definition as suggested by the technical working group which workshopped this matter over April 2021.



Closing comments

ORC agrees that preventing any further decline of New Zealand's wetland stock is a priority, and the wetland provisions of the NPSFM 2020 and the NESFM are a critical step towards this.

It is important councils and landowners can rely on robust, clear direction, policies and rules in the NESFM and NPSFM 2020 to enable and encourage good wetland management practices, collaboration opportunities and consenting and compliance guidance. As a last resort it is also important the regulations provide a robust framework for council enforcement options, if necessary.

ORC staff would welcome any further questions from the MfE and we would be happy to provide more information on the examples provided in this feedback, and others from Otago, if that would be of assistance.

Your sincerely

A handwritten signature in blue ink, appearing to read "Anita Dawe".

Anita Dawe

Manager Policy



Our reference: A1549820

27 October 2021

Ministry for the Environment
Wellington

WetlandsTeam@mfe.govt.nz

Dear Sir/Madam

Otago Regional Council (ORC) submission on *Managing our wetlands: A Discussion document on proposed changes to the wetland regulations*

1. Introduction

ORC submitted on the initial feedback to *Wetlands definitions guidance* in May 2021. Our submission is appended to this submission for reference. The important highlights of ORC's initial submission remain:

- ORC recognises the importance of wetlands in its planning framework, particularly those it has classified as Regionally Significant Wetlands (RSW)
- Numerous Otago wetlands have important values, but not all are formed naturally – some having started are artificially constructed or induced. Examples within Otago include those in or around:
 - Lower Clutha/Mata-Au
 - Logan Burn
 - Lake Onslow
- The Taieri River Scroll plains are home to the Upper Taieri Wetlands Complex, where wetlands are dominated by exotic grasses

ORC remains committed to working to prevent the further decline of New Zealand's wetland stock and recognises the wetland provisions of the National Policy Statement for Freshwater Management (NPSFM 2020) and the National Environmental Standards (NES-F) are a critical step towards enabling this.

It is still ORC's staff position that it is important councils and landowners can rely on robust, clear direction, policies and rules in the NESFM and NPSFM 2020 to enable and encourage good wetland management practices, collaboration opportunities and consenting and compliance guidance. This informs ORC's following feedback response to this latest consultation on wetland regulations (the Ministry's questions in bold italics).

For our future

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz



Definition of 'natural wetland'

1. Do you agree with the proposed changes to the definition of 'natural wetland'? Why/why not?

2. Should anything else be included or excluded from the definition of 'natural wetland'?

'natural' definition

'Natural wetland' definition change ([Page 6-7](#)) risks reducing the extent of 'natural wetland' defined by this policy, particularly the changes proposed for part (c) of the definition where a 'natural wetland' is a wetland defined by the Act that is not: (c) any area of pasture that has more than 50 percent ground cover comprising exotic pasture species or exotic species associated with pasture.

The term "natural" is ambiguous; it may imply condition rather than origin. The term indigenous is preferred, having the meaning "originating or produced naturally in a country".

Ground cover definition

Use of the term "ground cover" requires definition. In plant ecological assessments the measure "cover" refers to the birds'- eye view of the vegetation, i.e., the foliage area facing the sky. However, cover can also be assessed according to tiers of vegetation, e.g., canopy, subcanopy, and ground. Hence the term ground cover could be specifically applied solely to the ground tier, whereas use of simply the term "cover" would avoid ambiguity.

Pasture definition

The proposed definition requires clarification regarding pasture species as many exotic plants have established around and in wetlands, depending on wetland type and adjacent land use. We suggest adding a qualifier "developed pasture species" to capture those species deliberately established to enable pastoral agriculture rather than self-introduced grasses and herbs largely found incidentally in farmland and now common in modified wetlands. For example, reed sweet grass (*Glyceria maxima*), an exotic grass widespread in wetlands, is not a pasture species, and therefore should not be used to indicate developed pasture.

Also, the 50% cover threshold for exotic pasture is a low bar given that many modified wetlands may have key structural indigenous elements that have less than 50% cover, for example scrub/tree species or red tussock, with high ecological values. Further, the recent Ministry for the Environment wetland delineation hydrology tool and the recommended Manaaki Whenua Landcare Research hydric soils – field identification guide could become redundant despite these tools confirming characteristics of wetlands.

Overall, from an ecological perspective, Otago has extensive and significant wetland areas, such as those in the Upper Taieri Wetlands Complex, which will be excluded from this revised policy definition of a 'natural wetland'.

This would clearly be inconsistent with Policy 6 of the National Policy Statement for Freshwater Management 2020:



“There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted”

The proposed change to provision (c) of the NPSFM natural wetland definition will continue to lose ecologically defined wetlands, as the change focuses on policy defined wetlands – specifically around their extent and condition. ORC would welcome more dialogue with the Ministry in respect to this proposed provision.

With respect to questions 1 and 2, ORC’s consents staff advocate that, regardless of any changes, it is important the definitions be easy for the landowner/occupier to understand. This will assist them to both make informed decisions, as well as better understand the need for, and comply with, any regional planning framework.

The matter of how natural inland wetlands which cross over into the coastal marine area are managed under the NPSFM 2020 and NES-F does raise some uncertainties for ORC.

ORC understand that currently these national documents do not have effect within the CMA. In reviewing ORC’s Coast Plan, there are wetlands sited below CMA boundaries which are directly connected to a main stem river which then connects to an estuary.

These examples are influenced by coastal waters but also will have freshwater inputs. It may be that these examples signal that these estuary areas are more complex and require more CMA boundaries to be identified. ORC would welcome more dialogue with the Ministry in respect to these. An example is appended to this submission.

3.Should maintenance be included in the regulations alongside restoration? Why/why not?

ORC staff agree that maintenance should be included. Most wetlands are heavily modified in lowland and montane landscapes and therefore weed and pest control are necessary to sustain and restore ecological and ecosystem service values. This may typically include willow control, predator control, and indigenous planting.

4.Should the regulations relating to restoration and maintenance activities be refined, so any removal of exotic species is permitted, regardless of the size of the area treated, provided the conditions in regulation 55 of the NES-F are met? Why/why not?

ORC staff agree there is a need to provide for, with appropriate activity classifications, a wide range of maintenance and restoration activities. Permitted activity status may be too enabling, with controls better managed within the regional planning framework.

5.Should activities be allowed that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes? Why/why not?



ORC staff agree these activities should be allowed, with appropriate controls (either as permitted activity provisions, or consent conditions) as the aim is to enhance wetland values and services. Whether permitted activity status, or a more stringent activity classification is appropriate will vary depending on the scope and scale of wetland in question.

6. Should restoration and maintenance of a 'natural wetland' be made a permitted activity, if it is undertaken in accordance with a council-approved wetland management strategy? Why/why not?

Yes, given above proviso in our response to Question 5.

7. Should weed clearance using hand-held tools be a permitted activity? Why/why not?

Consenting pathway for quarrying

Due to the small scale of impact, this activity should be allowable without requiring resource consent so long as all permitted activity conditions are complied with.

8. Should a consenting pathway be provided for quarries? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)

9. Should resource consents for quarrying be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?

In respect to questions 8 and 9 ORC consents staff agree that activities that will have a positive effect on a wetland, should be encouraged by being able to be undertaken without the requirement for a resource consent. However, given the importance of wetlands, there should be a set of conditions, including extensive reporting conditions, to ensure adverse effects are avoided.

Consenting pathway for landfills, clean fills and managed fills

10. Should a consenting pathway be created for landfills, clean fills and managed fills? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)

11. Should resource consents for landfills, cleanfills and managed fills be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?

Consenting pathway for mining (minerals)

12. Should a consenting pathway be provided for mineral mining? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)



13. Should the regulations specify which minerals are able to be mined subject to are source consent? Why/why not?

14. Should resource consents for mining be subject to any conditions beyond those set out in the 'gateway test'? Why/Why not?

Regarding questions 10 to 14 in respect to filling and mining, ORC consents staff consider there should be a consented pathway as these activities can vary widely in their management, scale and location with regard to wetlands. Given the values associated with wetlands and their importance, as identified in the NPSFM 2020, a non-complying status may be more appropriate than a discretionary status.

Yours sincerely

A handwritten signature in black ink, appearing to read "Gwyneth Elsum".

Gwyneth Elsum
General Manager Strategy, Policy, and Science



Essential Freshwater amendments

Report, recommendations and summary of submissions

Managing our wetlands: Proposed changes to the wetland regulations



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Glossary of abbreviations

Abbreviation	Definition
CMA	Coastal Marine Area
DINZ	Deer Industry New Zealand
DOC	Department of Conservation
ECAN	Environment Canterbury
EDS	Environmental Defence Society
ELI	Environmental Law Institute
GDC	Gisborne District Council
GWRC	Greater Wellington Regional Council
HBRC	Hawkes Bay Regional Council
LAWA	Land, Air, Water Aotearoa
NES-F	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
NES-PF	Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 2020
NRC	Northland Regional Council
NZDF	New Zealand Defence Force
NZDFA	New Zealand Deer Farmers Association
NZFSS	NZ Freshwater Sciences Society
PCE	Parliamentary Commissioner for the Environment
RMA	Resource Management Act 1991
RMLA	Resource Management Law Association
SAANZ	Ski Areas Association of New Zealand
TCC	Tauranga City Council
TDC	Tasman District Council
TEEF	Tāmaki Estuary Environmental Forum
TMotW	Te Mana o te Wai
WCC	Wellington City Council
WRC	Waikato Regional Council

Introduction

Introduction to the wetland regulations

In 2020, the Government introduced the *Essential Freshwater* regulatory package to help protect wetlands from loss and degradation. The National Policy Statement for Freshwater Management 2020 (NPS-FM) seeks to embed long-term change through regional plans with policies to restore and map wetlands. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) sets out the consent pathways for certain activities in and around wetlands.

Following gazettal of the regulations,¹ issues were raised by councils and sector groups which guidance alone could not resolve. The Government agreed to consult on amendments to the regulations in August 2021, and public consultation occurred from 1 September-27 October 2021. The proposed amendments were set out in [Managing our wetlands: A discussion document on proposed changes to the wetland regulations](#) (the Discussion Document).

The proposals consulted on were:

- clarifications to the definition of a 'natural wetland'
- consent pathways for additional sectors (quarries, cleanfills, managed fills, landfills, mining, urban development)
- refinements to the restoration policies, recognition of maintenance and biosecurity activities.

A total of 262 individual submissions, and approximately 5,860 form submissions from Forest and Bird, were received on the proposals.

Overview of Forest and Bird campaign

Forest and Bird launched a campaign entitled 'Save our wetlands.' The submission reads as follows:

To Environment Minister David Parker,

Since human settlement, Aotearoa has lost around 90 percent of all its wetlands – precious areas that stored carbon, were home to endangered plants, and hosted millions of migrating birds. Last year, your Government passed crucial laws to protect our remaining few wetlands. But now you're proposing to back down and allow industry to keep destroying these precious areas.

We ask that you instead:

- **Protect fresh water:** Stop the continued destruction, and encourage the restoration, of wetlands – which provide unique habitat for threatened plants, birds, and fish, improve water quality, and reduce flood risk.
- **Maintain meaningful laws:** Reject special 'consenting pathways' for industry, which would strip wetlands of all meaningful protection.

¹ As in the Discussion Document, the NES-F and NPS-FM are referred to throughout this document as 'the regulations'.

⁶ Essential Freshwater Amendments: Report recommendations and summary of submissions

- **Prevent soil carbon loss:** Listen to the Climate Change Commission's advice and keep carbon in the ground by stopping wetland destruction.
- **Keep our climate safe:** Do not give coal mining special access to destroy wetlands during a climate emergency.
- **Include important wetlands:** Improve the definition of a natural wetland – the current proposal would exclude many significant wetlands from protection through the flawed way in which 'improved pasture' is used.

The Forest and Bird submission was signed by 5,860 individuals. Of these individuals, 3,903 made additional comments to the submission. Forest and Bird submitters were generally opposed to the proposals outlined in the Discussion Document.

Those comments identified several key concerns.

- **Wellbeing of future generations:** 364 submitters made additional comments out of concern that the proposed changes may result in the destruction of wetlands, which would impact the environment for future New Zealanders. Many of these submitters noted their concern that the proposed changes would leave lasting impacts on the environment that future generations will inherit.
- **Increased scope for coal mining:** 250 submitters made additional comments concerned that the proposed changes may allow increased coal mining.
- **Importance of wetlands as an ecosystem:** 410 submitters made additional comments emphasising the importance of wetlands and the fragility of wider environmental ecosystems.
- **Irreversible damage to wetlands:** 162 submitters made additional comments relating to concerns that the proposed changes may result in the destruction of New Zealand's wetlands. Submitters were also concerned that the proposed changes generally may impact native flora and fauna.

We note that on World Wetlands Day (2 February 2022), Forest and Bird launched a petition calling on the Government to, among other things, "ensure existing regulations preventing the destruction of wetlands by agriculture, urban development, mining, quarrying, and landfills are not watered down – and are properly enforced."

Overview of other submissions

In general, the views were mixed. Those seeking a consent pathway were supportive of the proposals, but many others viewed the changes as a weakening of the regulations. The National Wetland Trust stated:

it is perhaps unrealistic to expect that such major changes to our approach to wetland identification and management would not create some 'teething problems'. It may simply be too early to make a major change in direction, and what is actually required is guidance and support.

We agree that there is inevitably a bedding-in period with any strong regulatory change. The Ministry for the Environment (the Ministry) has provided guidance and support to assist implementation of the NPS-FM and NES-F. However, issues have been identified that cannot be effectively resolved through guidance and would therefore benefit from amendment.

Detailed summaries of submission points on each proposal are set out by topic below.

Process for amending a national policy statement

The Resource Management Act 1991 (RMA) sets out the statutory process (s46A) for amending national direction.² The process must include:

- public consultation
- written submissions
- a report and recommendations to the Minister for the Environment on the written submissions and subject matter of the consultation (this Report).

The Minister for the Environment is required to consider the Report and may then make any changes as the Minister sees fit, or withdraw all, or part, of the proposed amendments.

This Report fulfils the requirement set out in section 46A and 51(1)(c) of the RMA.

The decisions made on the basis of this Report are in-principle decisions to allow drafting changes to be made. Before making final decisions on the regulations and deciding whether or not to recommend these under section 52, the Minister for the Environment will be provided with, and have particular regard to, an evaluation under section 32 of the RMA.

² Section 46A addresses both National Policy Statement and National Environmental Standards in a single process.

8 Essential Freshwater Amendments: Report recommendations and summary of submissions

Part 1: Changes to part (c) of the definition of a ‘natural wetland’

Proposal

The wetland regulations use a definition of a wetland that is a subset of the RMA definition.³ The wetland regulations are concerned with the protection of ‘natural wetlands’.

The definition of a natural wetland excludes some wetlands, such as constructed wetlands (eg, ponds and stormwater treatment wetlands) that have been constructed for purposes other than:

- offsetting (part (a) of the definition)
- geothermal wetlands (part (b) of the definition)
- wetland seeps and ephemeral wetlands in pasture, that are dominated by pasture species (part (c) of the definition).

After the regulations came into effect, the Government received feedback that part (c) of the definition of natural wetland is problematic to apply and as a result captures some modified, exotic pasture-dominated wetlands even though part (c) seeks to exclude these areas. The outcome is that the regulations are having a bigger impact than intended.

Changes were proposed to part (c) of the definition to simplify and clarify the intent as set out below.

Amend part (c) of the definition of a natural wetland from:

natural wetland means a wetland (as defined in the Act [RMA]) that is not:

- (a) a wetland constructed by artificial means (unless it was constructed to offset impacts on, or restore, an existing or former ‘natural wetland’); or
- (b) a geothermal wetland; or
- (c) any area of improved pasture that, at the commencement date, is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling.

To:

- (c) any area of pasture that has more than 50 percent ground cover comprising exotic pasture species or exotic species associated with pasture.

Summary of submissions

We received 195 submissions on the proposal to amend part (c) of the definition. There is support for simplifying the definition. There are also wide-ranging views on how this should be done. Where the proposed changes are not supported, this is primarily on the basis that it is perceived as weakening the protections, particularly for ephemeral wetlands.

³ Wetland includes permanently or intermittently wet areas, shallow water and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

Two themes commonly raised on the general definition are discussed here. The four proposed changes to part (c) of the definition follow below.

Theme: Size/value or other threshold for wetland protection

The Templeton Group is one of several submitters that “accepts and supports the protection of prime wetlands of high value” but considers the regulations lead to perverse outcomes by protecting all wetlands, regardless of size or quality. Tauranga City Council (TCC) noted that without a minimum size, very small patches with little ecological significance may be scattered among pasture which, coupled with the 100-metre setback for water take and use, can cumulatively lead to large areas being subject to the rules. TCC seek a size, as well as a maximum slope threshold to avoid steep areas being captured (eg, ephemeral wetlands, which they consider are covered by other provisions).

Several submitters commented that due to the lack of a size criteria for defining a natural wetland, councils are defaulting to the 2 by 2 metre survey grid required by the Wetland Delineation Protocols.

Analysis and recommendation

It is the policy intent that all natural wetlands (those that meet the definition in the NPS-FM), regardless of size, value or location, are provided strong protection by the regulations; and where consented activities may impact the extent or values of these wetlands then this is offset so that there is no further loss of extent. The 2020 regulatory response was intentionally strong, to address the reasons why wetland loss continued despite previous policies requiring the protection of the significant values of wetlands (misinterpreted as ‘significant wetlands’ only).

Past perceptions that small or degraded wetlands were of lesser value, and therefore able to be developed and lost, led to a steady decline of wetland extent. The intent of the NPS-FM is to protect all wetlands regardless of condition, not only those wetlands that retain biodiversity values.

We have explored whether a size threshold would be appropriate to apply to the definition. For the following reasons it is not considered viable.

- There is no ecological basis on which to set a size threshold.
- Exceptions would be required for naturally small wetlands such as kettle hole wetlands, and those that contain rare and/or threatened species, meaning an ecological assessment of each wetland under the size threshold would still be required, creating cost considerations.
- A size threshold would be widely contested (either too big or not quite big enough).
- A size or value threshold overlooks that all wetlands can be restored and importantly, degraded wetlands (even a collection of smaller wetlands) contribute towards wetland extent.

Theme: Relying on vegetation to identify areas excluded under part (c)

Submitters, including Gisborne District Council (GDC), Manaaki Whenua Landcare Research, Resource Management Law Association (RMLA) and Wellington City Council (WCC) raised concern about relying solely on vegetation composition to assess the pasture exclusion (rather than also assessing whether the area has hydric soils or wetland hydrology).

The RMLA commented that the proposal “assigns more weight to vegetation than the RMA definition of ‘wetland’ which includes specific fauna. It does not therefore provide consideration or protection of threatened fauna” and by extension ecologically significant wetlands.

Analysis and recommendation

The intent is to exclude areas of pasture that meet the definition, regardless of whether they are technically wetlands (eg, exhibit hydric soils/hydrology). The proposed changes clarify that where a wetland is within an area of pasture and has greater than 50 percent ground cover of pasture species and pasture-associated exotic species then the wetland is excluded from the regulations, regardless of whether there are wetland soils and hydrology present. We note that the current exclusion in part (c) of the definition also relies on vegetation for the exclusion, so the change is only a clarification of the original intent.

Where wetlands that contain greater than 50 percent pasture species are also identified to contain threatened species (under the New Zealand threat classification system), it is proposed that they will not qualify for an exemption and be considered natural wetlands under part (c) of the definition (refer to [Significant biodiversity and threatened species protection](#)).

We further note that the regulations apply to a subset of RMA-defined wetlands. The RMA definition still applies to wetlands excluded under part (c) and the NPS-FM permits rules in regional plans to be more stringent than the NPS-FM, so there is the opportunity to provide additional protection.

Part 1A: Replacement of ‘improved pasture’ with ‘pasture’

Proposal

When the regulations were gazetted, the term ‘improved pasture’ raised questions from councils and practitioners alike as to what constituted ‘improved’. The NPS-FM defines improved pasture as:

an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.

The definition was being interpreted as a certain level of intensive farming being necessary (eg, a fertiliser application rate or stocking density). The proposal to remove the phrase ‘improved’ was to better capture the policy intent, which is just to capture pasture (as defined by per cent species coverage).

Summary of submissions

Support

Those that supported the change to 'pasture' considered that it will significantly assist with simplifying the tests that landowners need to undertake to determine if a wet area is natural wetland or not.⁴ Further, that it will prevent future disputes that the current assessment of improved pasture has caused between applicants, councils and interested parties.

The Parliamentary Commissioner for the Environment (PCE) considered the proposal to delete 'improved' (and 'temporary rain-derived water pooling') should remove some ambiguity and improve the definition. Similarly, Auckland Council noted that proving that pasture is improved has been a contested process that can require detailed environmental and farm management information.

Irrigation NZ agreed with the change and understood the reference to the wording of improved pasture was used in alignment with the Resource Management (Stock Exclusion) Regulations 2020. Federated Farmers of NZ, the New Zealand Deer Farmers Association Inc (NZDFA) and Deer Industry New Zealand (DINZ) supported it, but cautioned that without a functioning definition of pasture, reinterpretations similar to what happened with improved pasture are possible. They recommended adopting the Oxford English Dictionary definition of pasture⁵ in the amendment to clarify.

The Environmental Defence Society (EDS) suggested that the following definition of 'exotic pasture species' should be included in the NPS-FM: "being that they are deliberately sown and/or maintained for the purpose of pasture production" and that a national list of exotic pasture species should also be included to clarify remaining ambiguities. A list was also supported by Forest and Bird as being a more "certain and ecologically appropriate approach", but that it would need to account for regional differences.

Opposed – Protection of wetlands within pasture areas

There was desire from submitters to retain improved pasture to protect areas that retain wetland characteristics within pasture areas. For example, the National Wetland Trust, Manaaki Whenua Landcare Research and Gisborne District Council (GDC) considered that improved pasture successfully excludes areas of degraded rank pasture growth that still retain wetland character (and hence wetland values) and are usually not suitable for grazing apart from during short periods of drought.

Environment Canterbury (ECAN) acknowledged that debate over correct interpretation of improved pasture has hindered implementation of the natural wetland definition but considered that the proposal could result in ecologically significant wetlands being excluded if the list of species is broad.

⁴ Other submitters in support include Taranaki Regional Council, Chatham Islands Council, Upper Hutt City Council, Auckland Airport, Delegat Limited and Wine Marlborough Limited, Templeton Group, The Planning Collective, Calder Stewart.

⁵ Land covered with grass that is suitable for feeding animals on.

Opposed – Colonisation of pasture species into wetlands outside pasture areas

Submitters were also concerned that pasture species commonly self-establish in areas of degraded wetland outside managed pasture, and the removal of 'improved pasture' means there are fewer grounds to distinguish between the two. Greater Wellington Regional Council (GWRC) stated that the improved pasture definition assists with the distinction between areas actively managed for livestock production versus natural wetlands that have been invaded by exotic plants.

List of improved pasture species to reduce ambiguity and scope

Some submitters opposed the deletion of 'improved' as they considered it would broaden the areas captured by the exclusion.⁶ Conversely, some submitters recommended that 'pasture' be broadened out to include other land uses beyond pasture farming such as urban, semi urban and forestry land.⁷ The New Zealand Defence Force (NZDF) stated "grassed open spaces with non-rural uses including as part of the Defence estate may potentially not be captured by the 'pasture' exclusion in the definition." They requested that the term 'managed grass' be included alongside pasture.

It is clear from submissions (both supporting and opposing) that there are wide-ranging views as to what should be considered pasture. GWRC did not agree that there are issues with defining improved pasture, as they have developed and tested an improved pasture plant species list as part of their technical guidance for the determination of natural wetlands. Some submitters recommended retaining 'improved pasture' and clarifying the definition as well as incorporating a national list of intended species to reduce ambiguities.

Analysis and recommendation

On balance we recommend proceeding as proposed and deleting the term 'improved'.

Colonisation of pasture species into wetlands outside pasture areas and protection of areas with wetland characteristics within pasture areas

We acknowledge that the exclusion under part (c) is not based on an ecological assessment of the value of wetlands in pasture areas, and that many of these pasture-dominated wetlands may retain hydrological functioning and provide important ecosystem services. We also acknowledge the issue raised by submitters that there is often little or no ecological distinction between pasture-dominated wetlands in areas for grazing, and pasture-dominated degraded wetlands elsewhere. Both equally warrant protection.

The intent, however, is to enable existing pastoral land use to continue and not be compromised by the strong protection of the NES-F regulations.

Wetlands outside of pasture areas, which have been colonised by 'exotic species associated with pasture' would not meet the exclusion from the definition of natural wetland under part (c). This is because for part (c) to apply, a wetland must explicitly be within an area of pasture.

⁶ Forest and Bird, Environmental Law Institute.

⁷ Bioresearches, NZ Forestry Institute, Auckland Council.

We note the concern that as the proposed new definition does not reference *improved* pasture, this could lead to more wetlands being excluded from the regulations than might otherwise occur under some councils' interpretation of the current definition. However, this change better reflects the intent to capture pasture as such and reduces opportunity for interpretations that vary in both directions. For example, wetlands in pasture being captured by the regulations, as the pasture in question was not considered sufficiently improved, despite the wetland being dominated by pasture species. Further we consider there is likely to be a distinction between fallow and managed pasture based on the species present, and this risk can be mitigated by incorporating (by reference) a list of exotic pasture species into the NPS-FM (see below).

List of exotic pasture species to reduce ambiguity

It is not the intent to open the definition to any and all exotic species associated with pasture. We agree that a national list of exotic pasture species and exotic species associated with pasture is essential to remove any ambiguity.

We recommend incorporating by reference a list of exotic pasture and associated exotic species into the NPS-FM. This list will be based on the list of improved pasture species currently used by GWRC (note we intend to test this list to ensure it is applicable at the national level). This is discussed in [Part 1C: Clarification of 50% exotic pasture species](#) below.

The scope of 'pasture'

We disagree with the submissions that suggested 'pasture' be broadened to include other grassed areas, such as playing fields. The intent of the exclusion is only to provide for existing pastoral land use to continue. No other type of land use is covered under the exclusion.

We agree with submitter feedback that providing a definition for pasture is likely to create similar issues as did the definition for improved pasture. For this reason, we consider that the regulations should not define pasture and that the common usage of the word should be relied upon. We consider that incorporating the list of relevant species (as above) is the best approach to ensure national consistency in the way the regulations are interpreted and applied by councils.

We recommend proceeding with the deletion of improved pasture as proposed and replacing this with the term pasture. We also recommend incorporating by reference into the NPS-FM (under section 46B), a list of exotic pasture species and associated exotic species (see [recommendation 5](#)). We consider this will reduce ambiguity and variable interpretations by councils (discussed in detail in [Part 1C: Clarification of 50% exotic pasture species](#)).

Together, these changes will better achieve the original intent of part (c) which is to enable existing pastoral land use to continue and not be subject to the strong rules (and cumulative effect of the setbacks) in the NES-F. This original intent was progressed with the knowledge that it would inevitably exclude a portion of ephemeral wetlands in pasture areas.

We also note there will need to be corresponding amendments to the Stock Exclusion regulations to remove the improved pasture definition. This will have no impact on those regulations as this is employed in reference only to fencing requirements for wetlands greater than 500 square metres (see [recommendation 11](#)).

Recommendation 1

Recommendation

1. **Proceed as proposed** and delete the term 'improved pasture' from the NPS-FM definition of a 'natural wetland' and replace with 'pasture'; remove the definition of 'improved pasture' from the NPS-FM

agree/disagree

Note we do not recommend defining pasture as this will be achieved by incorporating by reference a list of pasture species into the NPS-FM (see [recommendation 5](#))

Part 1B: Removal of 'at the commencement date'

Proposal

The proposal to delete 'at the commencement date' from part (c) is intended to remove the need for back-casting by councils, as this is likely to be increasingly contentious over time and may unnecessarily exclude areas of pasture.

Summary of submissions

Support – reduces unnecessary back-casting and reliance on old aerial imagery

Many submitters agreed that removing this criterion would reduce unnecessary back-casting, noting that due to the inclusion of the commencement date under part (c) of the definition, some ecologists are currently relying on low resolution aerial imagery to determine the extent of areas of pasture to be excluded, when better evidence may be available on site. Submitters considered that back-casting will become more problematic over time and therefore supported the removal of 'at the commencement date'.

Support removal if an alternate baseline is given

National Wetland Trust supported removal of 'at the commencement date' as long as another appropriate baseline is used. Their rationale was that it may be very difficult in future years to have an accurate baseline as at 3 September 2020, with appropriate vegetation data (and hydrology and soils) against which to measure any changes. If illegal modification of natural wetlands has occurred *after* the commencement date (eg, drainage or vegetation clearance), then the baseline should be the period immediately prior to the unauthorised modification. Photographs, aerial imagery, reports, local knowledge etc., could be used to provide information at a time before modification had occurred.

Manaaki Whenua Landcare Research noted a risk that wetlands could be cleared of native vegetation that existed at 3 September 2020 and then assessed, but acknowledged it would be harder to establish an accurate baseline at a fixed date over time. They also noted that there are other methods of establishing a baseline (a fixed date is not necessary) and suggested alternative wording: "at the commencement date or before any unauthorised modification post commencement date."

Opposed – reduced ability to take compliance action against wetland loss

ECAN and the Environmental Law Institute (ELI) considered that the phrase ‘at the commencement date’ is particularly helpful where non-compliance is suspected (eg, where wetlands have been illegally modified through draining or earthworks) and where the previous existence of a wetland can no longer be observed.

Other submitters, including GWRC and GDC, opposed the change on the basis that without a cut-off date, compliance, monitoring and enforcement would become more difficult. Ngāti Whātua Ōrākei also considered that “removing ‘at the commencement date’ weakens future ability to identify naturally occurring wetland areas that may undergo damage through transformation to pastureland, thus decreasing chance for future restoration and net gain of wetlands.”

Opposed – incentivises deliberate wetland degradation

PCE agreed that while the phrase ‘at the commencement date’ in the current definition creates some issues and complexity around back-casting, especially for intermittently wet wetlands, deleting it from the definition would create perverse incentives. People might abandon wetland management to allow a wetland to be overrun by exotic species including weeds, given that there is no longer a date baseline for the wetland assessments. GWRC considered removal of the commencement date risked deliberate reintroduction of pasture species into areas not currently excluded from the natural wetland definition and would lead to incremental loss.

Opposed – Enables use of old evidence to define historic wetlands as present-day wetlands

Some submitters considered it could also enable old evidence (from any time period including prior to commencement date) to be used to define a wetland, thus capturing historic wetland extent as natural wetland.

Analysis and recommendation

Reduces unnecessary back-casting and reliance on old aerial imagery

We agree with submitters that proposed changes will decrease unnecessary back-casting and simplify processes when making wetland assessments. We recommend proceeding as proposed.

Support removal if an alternate baseline is given

We agree with the National Wetland Trust that there will always be some form of baseline data on which to make the assessment, and that this can and should be at any time prior to the activity, based on any relevant evidence (eg, photographs, evidence of recent earthworks/vegetation clearance, presence of hydric soils). We do not recommend defining this to allow councils to apply their own discretion and tools to assess previous wetland state on a case-by-case basis.

Reduced ability to take compliance action against wetland loss

We note that the absence of a commencement date does not prevent regional councils from using best available information to prove illegal activity has taken place to destroy or damage a wetland. In the absence of a commencement date, all sources of information can be used (as above). The Wetland Delineation Protocols can be used to establish the spatial extent of a wetland area when vegetation is no longer visible via the soil and/or hydrology tools.

Incentivises deliberate wetland degradation

We note that the majority of concerns raised were that without a date stamp, wetlands would be allowed to become overrun with pasture and associated exotic species, and therefore be excluded.

In our view the current regulations around vegetation clearance, as well as earthworks and water use, now make it very difficult for wetland degradation to occur. Vegetation clearance, for example, is a permitted activity for very few purposes: regulations 38 (Restoration), 40 (Scientific research), 43 (Maintenance of wetland utility structures), 46 (Maintenance of specified infrastructure), and 50 (Arable and horticultural). For any other purposes, vegetation clearance is a non-complying activity in, or within 10 metres of, a natural wetland.

There may of course still be cases of illegal natural wetland disturbance and loss, but this will occur despite what the regulations state. In these cases, we consider it will still be possible based on soil type (presence/absence of hydric soils), or evidence of recent earthworks and/or new planting, for illegal activity to be identified.

Enables use of old evidence to define historic wetlands as present-day wetlands

We note this concern but consider the likelihood of this happening to be small, as councils should use best available information (ie, considering data across all time periods necessary) to define present-day natural wetlands.

Recommendation 2

Recommendation

2. **Proceed as proposed** and delete 'at the commencement date' from part (c) of the definition of 'natural wetland' in the NPS-FM.

agree/disagree

Part 1C: Clarification of 50% exotic pasture species

Proposal

The proposal is as follows:

- (c) any area of improved pasture that, ~~at the commencement date, is dominated by (that is more than 50% of)~~ has more than 50% ground cover comprising exotic pasture species or exotic species associated with pasture and is subject to temporary rain derived water pooling.

Removing the word 'dominated' recognises that the term is subsequently defined by the 'more than 50%' qualifier and is therefore redundant. Adding the words 'ground cover' clarifies and directs how the assessment of species is to be made. Including the additional words 'exotic species associated with pasture' acknowledges that some exotic species, while not considered pasture species, commonly grow in damp grazed areas and are considered to be 'facultative' species of wetlands (ie, sometimes occur in wetlands). It is the policy intent to exclude these areas – even though they may have been, or still are, wetlands.

Summary of submissions

Support – Proposal better reflects reality of wetland species within modified pasture environments

Submitters⁸ expressed support for the intent and wording of the proposed amendment. The Planning Collective supported removal of 'dominated', and "clarifying that it also excludes species that can be associated with pasture but are not strictly pasture species themselves, is a better reflection of the reality of what grows within different environments where pooling water may be present in different seasons."

Many of the supporting submitters expressed the need for an agreed methodology for assessment of 50 percent pasture species coverage, and an agreed list of exotic pasture species and exotic species associated with pasture. Some submitters requested that 'exotic species associated with pasture' should be replaced with 'exotic species'; for example, to include exotic tree species and capture woodlots/plantation forests in the exclusion.⁹

Envivo Ltd noted the proposed use of 'or' is ambiguous as it implies that assessment is either exotic pasture species or exotic species associated with pasture.

Support for 'ground cover': questions around the 50 percent threshold

Hutt City Council supported the addition of the term 'ground cover' as it is helpful in situations where exotic tree species form a canopy above a wetland. Manaaki Whenua Landcare Research supported the change to 'has more than 50% ground cover', provided it is supported by guidance or a definition of ground cover. A need for clarification of ground cover and how this applies to multiple tiers of vegetation was raised by several submitters.

Federated Farmers, NZDFA and DINZ, regarded the 50 percent threshold as too low in some farms (eg, low stocked high country), as they may use native plants as part of their pasture. Whangairoa Harbour Care recommended raising the 50 percent cover threshold to address the potentially broader capture of the new exclusion.

⁸ Chatham Islands Council, Upper Hutt City Council, Fonterra, Fletcher Residential, Hugh Green Ltd, Nick Taylor Ltd, Federated Farmers of NZ, the New Zealand Deer Farmers Association Inc, Waka Kotahi, The Planning Collective, Irrigation NZ, the Templeton Group, some individual submitters.

⁹ Waka Kotahi, NZ Institute of Forestry, Beef and Lamb NZ.

Opposed – Assessment open to manipulation/inconsistent interpretation

PCE noted that the primary problem of defining the margins of wetlands remain, with ‘any area of pasture that has more than 50% ground cover’ providing an incentive to make this area as small or as large as possible depending on whether you want it to be a natural wetland or not. They considered the threshold of 50 percent pasture (and pasture-related species) to be a low bar, as the remaining 50 percent will be natural wetland species that could be destroyed without any consent, and this could be a large area. Tonkin and Taylor stated that the reference to 50 percent is still not clearly aligned with a scale and can be easily manipulated to exclude areas that should be considered natural wetlands.

Opposed – Capture of ecologically significant wetlands, ephemeral wetlands and degraded wetlands outside managed pasture areas

Several regional councils¹⁰ and other submitters¹¹ opposed the expansion of ‘exotic pasture species’ to include ‘exotic species associated with pasture’ as it was considered this would capture more wetlands.

A common rationale for opposition was that by referencing ‘percentage ground cover’ and including ‘exotic species associated with pasture’, many wetlands outside of pasture which have more than 50 percent coverage of ‘exotic pasture’ or ‘exotic species associated with pasture’ were liable to be captured, which broadens the intended scope of the exclusion. GWRC stated that the majority (90 percent) of the 180 wetlands they have delineated to date only contain small proportions of indigenous vegetation and many would no longer be classified as a natural wetland under the new addition to the exclusion.

Two regional councils¹² suggested that the changes would expose ecologically significant wetlands,¹³ which have been colonised by exotic pasture species / exotic species associated with pasture, to development. Concern was raised about the status of ephemeral wetlands under the new addition, as they can fluctuate in cover from being dominated by exotic species in the dry season, to shallow wetlands with native vegetation cover in winter/spring. Ephemeral wetlands support indigenous and migratory wetland fauna.

Submitters emphasised that the definition of exotic species associated with pasture was open to interpretation and may unintentionally capture a wide range of wetland weed species, for example, gorse and broom.¹⁴ TDC was also concerned that wetlands could degrade through invasion or deliberate sowing of pasture species / pasture weeds to the point where they were no longer classified as natural wetlands, particularly when combined with the removal of the commencement date backstop. Auckland Council and GWRC were concerned that the

¹⁰ Gisborne District Council, Greater Wellington Regional Council, Northland Regional Council, Environment Canterbury, Auckland Council.

¹¹ The National Wetland Trust, the New Zealand Society for Freshwater Sciences, Manaaki Whenua Landcare Research.

¹² Environment Canterbury (ECAN), Greater Wellington Regional Council.

¹³ ECAN provides extensive examples of ecologically significant wetlands that may no longer be classified as natural wetlands with the addition of exotic species associated with pasture, for example, moraine landforms containing ephemeral tarn wetland surrounded by pastoral farming uses in the Mackenzie Basin.

¹⁴ Environmental Law Institute, Gisborne District Council, Environment Southland, Auckland Council, Tasman District Council, Environment Southland.

new exclusion generates a perverse incentive for landowners to deliberately degrade their wetlands to facilitate their loss through development. EDS noted that rather than allowing (or encouraging) further degradation, these wetlands should be restored.

There was some concern around the validity of the premise that exotic species associated with pasture are found in pasture wetlands. GWRC gave the example that “In general, exotic species maintained as pasture tend not to be found in wetlands, and exotic species that are (ie, swamp buttercup) are highly indicative of a natural wetland.”

The RMLA cautioned that under the new exclusion, in highly modified areas an area may meet the definition of a wetland under the RMA but may now be excluded under part (c). They considered that the proposal will “further reduce the number of wetlands captured in the ‘natural wetland’ definition. This means the wetlands captured in the definition are more likely to be ‘worthy’ of protection (ie, have an ecological value of moderate or higher). If the policy intent is to select higher value wetlands for protection, this should be followed through.”

Finally, submitters¹⁵ also emphasised that the presence of exotic species in a wetland does not alter its hydrological function, or its ability to provide valuable habitat and ecosystem services or to support indigenous biodiversity values.

Opposed – Proposed exclusion is subjective and difficult to implement – a national list would be required

Numerous submitters¹⁶ opposed the changes on the basis that ‘exotic species associated with pasture’ is vague, subjective and could include numerous exotic species that are not an indicator of managed pasture or that are facultative species (ie, those that are associated with both pasture and wetland habitat).

Manaaki Whenua Landcare Research also stated that the majority of practitioners may not be able to reliably distinguish between native and exotic *Juncus* species, which would be required to distinguish exotic species associated with pasture.

Analysis and recommendation

Proposal better reflects reality of species within wet pasture environments

We agree with supporting submitters that the proposal will assist with successfully capturing the actual species present in wet areas in drained and modified pasture areas.

If this exclusion is not progressed, many of the same issues with the previous definition will remain, with numerous areas of wetland in modified and drained pasture areas captured as natural wetlands. The greater than 50 percent exotic pasture species requirement alone will not capture many of the areas that are intended to be excluded from the definition of natural wetland as they are often a mix of pasture and a small range of exotic species associated with wetlands.

¹⁵ GWRC, Auckland Council, Gisborne District Council, New Zealand Freshwater Sciences Society, Forest and Bird.

¹⁶ ECAN, GDC, Tasman District Council, National Wetland Trust, Manaaki Whenua Landcare Research, Wellington City Council, Northland Regional Council, Forest and Bird.

Incorporate by reference a list of pasture species to clarify the scope of the exclusion

Most submitters who opposed the proposal base did so out of concerns that it will increase the scope of the exclusion. We consider this is because ‘exotic species associated with pasture’ has been interpreted broadly by submitters as encompassing all exotic species that may establish in wetland areas, and therefore capturing all exotic-dominated wetlands.

This is not the intent of the amendment. The intent is to restrict the exotic species associated with pasture to a small subset of species that are common within pasture areas. We consider that the concerns raised by GWRC and others can be addressed by specifying both the exotic pasture species and exotic species associated with pasture within the regulations. We recommend using section 46B of the RMA to incorporate by reference into the NPS-FM the list of relevant species to remove any ambiguity as to what is included and what is not.

A list of pasture species is the pragmatic approach GWRC currently takes to identify exclusions under part (c) of the wetland definition. They use the NZ Grassland Association’s¹⁷ published list of exotic pasture species. Included with this are seven facultative species associated with pasture (ie, found equally in a wetland as pasture) which are common in the Wellington region (see table 1). The full list comprises 47 pasture species. We propose to test this list with all councils to ensure that it is appropriate for all regions, then to test this list more widely alongside the exposure draft of the amended regulations. We consider incorporating the list into the NPS-FM will resolve concerns about the broad capture of ‘exotic species’ and provide a simplified definition of pasture.

Table 1: List of facultative wetland species commonly associated with pasture in the Wellington Region

Name of spp found in plots	Common name	Rating	Pasture species	Bio status
<i>Holcus lanatus</i>	Yorkshire fog	FAC	Yes	Exotic
<i>Lolium arundinaceum subsp. Arundinaceum</i>	Tall fescue	FAC	Yes	Exotic
<i>Lotus uliginosus syn. L. pedunculatus</i>	Lotus	FAC	Yes	Exotic
<i>Phalaris aquatica</i>	Phalaris	FAC	Yes	Exotic
<i>Lolium multiflorum</i>	Italian ryegrass	FAC	Yes	Exotic
<i>Secale cereale</i>	Ryecorn	FAC	Yes	Exotic
<i>Trifolium balansae</i>	Balansa clover	FAC	Yes	Exotic

Many remaining wetlands are in poor condition with large populations of exotic species. Often these exotic species are widespread generalists that are also commonly found in pastures. They are mostly unpalatable to livestock and some even toxic. These ‘weeds’ are not promoted in pasture management as they reduce the presence of high-quality forage for livestock. As such, their presence is undesirable in both pastures and natural wetlands.

The proposal in the discussion document to include ‘exotic species associated with pasture’ bundles up the productive and non-productive exotic species, supporting neither the objectives of ongoing pasture use nor the conservation of wetlands. It is therefore important to clarify which pasture species are currently used for livestock production so that we can maintain pasture as pasture while not overlooking opportunities to restore natural wetlands.

¹⁷ NZ Grassland Association and Pasture species and cultivars used in New Zealand – a list (grassland.org.nz).

If the recommendation to incorporate by reference a list of pasture species progresses, then the use of the term 'exotic species associated with pasture' is unnecessary. This is because the proposed list includes the common facultative species associated with pasture species. We can remove any complexity/ambiguity that this term may have introduced by removing it from the definition and still achieve the outcome sought. This is reflected in the recommendations below.

We note that buttercup is not in the list employed by GWRC. Buttercup was named in the Discussion Document as an example of an exotic species associated with pasture. It is worth noting that Buttercup (*Ranunculus*), has several species, including swamp buttercup which is an obligate wetland species (OBL), and two facultative species (creeping buttercup (FAC), meadow buttercup (FAC)), none of which are considered pasture species. Buttercup is often targeted for removal (by spraying) from pasture. It is therefore not captured as a species associated with pasture.

Capture of ecologically significant wetlands, ephemeral wetlands and degraded wetlands outside managed pasture areas

Submitters who opposed the amendment expressed concerns that some ecologically significant but degraded wetlands outside of pasture areas would be captured if they contained greater than 50 percent exotic species associated with pasture. This will not be the case unless the wetlands in question are in pasture areas.

We also note that for those cases where ecologically significant wetlands exist, clause 3.23 of the NPS-FM requires these to be mapped. These can then be protected through more stringent rules in regional plans.

Several submitters raised concerns that ephemeral wetlands would now no longer be classed as natural wetlands as many of them are intermittently dominated by exotic pasture species and exotic species associated with pasture. We note that this has been a point of contention with the current wording of part (c) as well. We acknowledge that the proposed amendment to part (c) will exclude a portion of ephemeral wetland from consideration. This is unavoidable in the context of continuing use of pasture for grazing.

Concerns that the inclusion of wetland weed species in the list of exotic species associated with pasture would mean degraded wetlands outside of managed pasture areas are excluded can be addressed through consultation on the proposed list of species incorporated by reference. This will ensure the species agreed are those mostly associated with modified pasture and not those common to degraded wetlands more widely.

We acknowledge submitters' concerns that wetlands may change in condition (eg, by being colonised by exotic pasture species or allowed to degrade) but consider this is much less likely under the current regulations of the NES-F than it has been to date.

Similarly, some submitters were concerned that the addition of exotic species associated with wetlands would cause a perverse incentive to either allow wetlands to degrade, or actively sow exotic species in them to promote their recategorization as something other than natural wetlands. We consider this will be addressed through incorporating by reference the list of pasture species and through non-regulatory measures to incentivise wetland restoration. We further consider that the best approach to ensuring landowners and farmers are willing to participate in restoring degraded wetlands in pasture areas is to clarify the definition as proposed and ensure the regulatory/consent processes are clear and pragmatic.

Proposed exclusion is subjective and will be difficult to implement

We acknowledge that differentiating exotic species associated with pasture from native species may be problematic for some species but that can be addressed through incorporating by reference the list of species into the NPS-FM. We are also collaborating with Manaaki Whenua Landcare Research on a methodology to assess 50 percent exotic pasture species coverage which will be extended to assessing exotic species associated with pasture. This will address scale concerns and how to assess ground cover.

Recommendations 3–5

Recommendations

3. **Proceed as proposed** and delete 'is dominated by (that is, more than 50% of) exotic pasture species' from part (c) the definition of 'natural wetland' in the NPS-FM
agree/disagree
4. Replace with 'that has 50% or more ground cover comprising exotic pasture species, or words to that effect'
agree/disagree
5. Incorporate by reference into the NPS-FM, under section 46B of the RMA, a national list of exotic pasture species that will define what is included and meant by the phrase 'exotic pasture species'
agree/disagree

Note that we will test the list currently employed by Greater Wellington Regional Council with all other regional councils to ensure its relevance nationwide

Note you have agreed to release an exposure draft of the amendments and the list of species can be publicly consulted on at the same time [BRF-664 refers]

Part 1D: Removal of 'is subject to temporary rain-derived water pooling'

Proposal

The phrase 'is subject to temporary rain-derived water pooling' was originally included as a place holder to address the lack of a hydrology tool in the *Wetland delineation protocols* (the protocols) used for identifying wetland extent. The protocols are incorporated by reference into the NPS-FM and contain three tools: hydrology, soil and vegetation.

Summary of submissions

Support

Several submitters, including GWRC and GDC, supported the removal of the phrase, 'and is subject to temporary rain-derived water pooling' as this is difficult for consent authorities to prove and is not necessary to distinguish between wet pasture and a natural wetland.

Fish and Game and PCE also supported its removal as they considered it would provide greater certainty for implementation by removing ambiguity from the definition. Fish and Game noted that the source of wetland hydrology does not have a direct correlation to the value of that wetland and therefore this requirement appears arbitrary.

Opposed – Clarity required on the intent

Tasman District Council (TDC) and others submitted that the inclusion of temporary rain-derived water pooling excluded areas which have temporary pooling that is not frequent or persistent enough to constitute wetland hydrology and that the proposal is a fundamental change to the definition. They sought clarity on whether this change was intended and clarification on how to apply the protocols.

NZ Freshwater Sciences Society (NZFSS) submitted that any changes made to the definition of a natural wetland must be evidence-based, supported by science, and where possible use the protocols.

Manaaki Whenua Landcare Research and the Māori Trustee suggested inclusion of the hydrological tool for wetland delineation into the definition (as a replacement for reference to temporary rain-derived water pooling). Other submitters stated that some transition time may be needed before the hydrology tool is universally and effectively applied, in which case it may be useful to keep in this qualifier for the time being.

Analysis and recommendation

The submissions highlight the issue well, in that they reveal conflicting views about whether wetland hydrology (as opposed to temporary rain-derived water pooling) should be a deciding factor for the exclusion under part (c).

We note the Ministry wetland interpretation guidance flowchart directs councils to assess temporary rain-derived water pooling by applying the Wetland Delineation Hydrology Tool. If this test is failed, pooling is considered temporary. However, it has become clear that this interpretation does not meet the original policy intent to exclude pasture-dominated wetlands in pasture areas. This has contributed to more areas than intended being captured by the regulations. If all three of the delineation tools are applied prior to application of the greater than 50 percent pasture exclusion, and hydrology overrides the greater than 50 percent pasture criterion, there will continue to be many more areas captured by the regulations than intended.

The original policy intent was to capture wetlands as per the RMA definition, with exceptions such as wet pasture, to ensure the regulations do not capture places where wetlands may have been in the past but are now productive land.

This intent was and remains a pragmatic policy choice to ensure that the very strong regulations in the NES-F, such as those around vegetation clearance, earthworks and the 100-metre buffer for water takes, can remain in the NES-F and be applied to all other situations. Because there is no size/value threshold for natural wetlands it is simply not practical to apply prohibited activity status (and other regulations with their buffers) to pasture with multiple seeps and/or ephemeral wetlands. These areas of pasture need to be able to continue to be used as such, and despite the extensive wetland loss that has occurred, these wetland types are common in farmland topography (however degraded).

We recommend proceeding with the change as proposed, to clarify the original policy intent. Officials will issue guidance on gazettal of the regulations to clarify this, and how the protocols should be applied.

Recommendations 6–7

Recommendations

6. **Proceed as proposed** and delete ‘and is subject to temporary rain-derived water pooling’ from part (c) of the definition of ‘natural wetland’ in the NPS-FM
agree/disagree
7. Do not replace with an alternative measure of wetland hydrology within the exclusion for pasture-dominated wetlands in part (c) of the definition of ‘natural wetland’
agree/disagree

Part 1E: Requests for other amendments to definitions/policy

Summary of submissions

Submitters had wide-ranging comments on further additions and/or removals to the definition of natural wetlands. Some key suggestions and our responses are listed below.

Clarify part (a) of the definition

Some submitters¹⁸ recommend defining within the regulations (rather than just guidance) what is meant by ‘a wetland constructed by artificial means’. They consider this will support clarity around part (a). Some suggested that we use the definition set out in the current guidance.

Clarify the status of induced wetlands

Submitters also requested clarification on induced wetlands. Submitters recommended inserting a direct reference to induced wetlands into part (a) to clarify their status.¹⁹

Conversely some submitters²⁰ requested that induced wetlands be explicitly excluded from the natural wetland definition. Beef and Lamb noted that “defining induced wetlands as natural wetlands may provide a disincentive to protect waterways with a culvert or built water treatment structures ie, detention bund (which will often create an induced wetland but are designed to be temporary).” The Pukekohe Vegetable Growers recommended that a restricted discretionary or discretionary pathway for induced wetlands would be a more suitable approach. Bioresarches commented that including induced wetlands as natural wetlands may be contradictory to the usual meaning of ‘natural’ and include wetlands that would not be captured under the RMA.

¹⁸ Mercury NZ, NZ Wind Energy Assn.

¹⁹ Environmental Law Institute, Auckland Council, individual submitters.

²⁰ EIANZ, Beef and Lamb NZ, NZ Steel, Hamilton City Council, Kapiti Coast District Council, Wellington City Council, Boffa Miskell, Pukehohe Vegetable Growers Assn, Hira Bhana (Hort enterprise), Oyster Capital, WasteMINZ, NZDF.

Clarify how wetlands constructed on the site of former natural wetlands should be treated

Te Arawa Lakes Trust recommended that the Ministry clarify the status of constructed wetlands built on the site of former natural wetland areas, to ensure that “wetlands artificially created to restore the overall extent of wetlands within a rohe or region” (as opposed to wetlands specifically constructed to offset the adverse effects of an activity on existing or former wetlands) are not captured as natural wetlands. They recommended altering part (a) to delete the word ‘restore’.

NIWA commented that many locations where natural wetlands currently occur, especially remnant and degraded wetlands, are locations where a constructed wetland would be best placed and there may be instances where a constructed wetland could replace a degraded natural wetland and provide a wider range of benefits to the landowner and wider community.

Dairy NZ recommended that wetlands constructed to offset impacts on, or restore an existing or former natural wetland, should be exempt under part (a). They cited the difficulty of determining the extent of former natural wetland, and that if the constructed wetland is an existing natural wetland at the time of the proposed works, the checks and balances protecting wetlands in the NES-F will apply and ensure values of that wetland are protected. Then once the wetland is constructed it should remain exempt from the definition of a ‘natural wetland’, with appropriate protection provided through consent conditions to ensure good management. Transpower agreed that wetlands constructed for biodiversity offsetting should be excluded under part (a).

Clarify wetlands within the Coastal Marine Area

Auckland Council, Otago Regional Council, Waikato Regional Council (WRC) and Northland Regional Council (NRC) requested that the definition clarify how a natural wetland applies within the Coastal Marine Area (CMA). WRC considered that the New Zealand Coastal Policy Statement already provides clear guidance on how to manage coastal biodiversity, and the application of the NES-F across this has the potential to lead to perverse outcomes, especially as the effects management hierarchy is inconsistent with applying the decision in *Environmental Defence Society v New Zealand King Salmon*.

Auckland Council noted that there have been unintended consequences of applying the NES-F to the CMA and that any activity in the CMA or within the setback distance from a natural wetland within a connected area (the area of CMA upstream of the river mouth), requires resource consent under regional plans in addition to those under the NES-F. The wetland delineation guidance that has been developed does not apply well in the CMA and there is no way of consistently determining the spatial extent of CMA wetlands that are subject to the NES-F.

Significant biodiversity and threatened species protection

Forest and Bird considered the proposed definition will exclude wetlands that contain significant flora and fauna and, more narrowly, ‘at risk’ or ‘threatened’ flora/fauna as listed in NZ’s Threat Classification System.²¹ They considered that part (c) should have an exclusion to

²¹ The New Zealand Threat Classification System (NZTCS) is used to assess the threat status of our taxa (species, subspecies, varieties and forma) and is overseen by DOC.

ensure wetlands that require protection under RMA s 6(c)²² are not excluded – even where they are dominated by pasture. They noted that there is already provision for threatened species in the NPS-FM (3.23 Mapping) but considered that threatened species are a small subset of significant biodiversity required to be protected under s 6(c) and do not support such a narrow approach.

Analysis and recommendation

Amend part (a) of the definition to clarify wetlands created by artificial means / induced wetlands

We do not agree that induced wetlands should be excluded from the regulations. Many now valuable wetlands originated as an unintended consequence of human activities. We do agree however, that the status of induced wetlands should be included and defined in the regulations (as opposed to just guidance as is currently the case). Similarly, we recommend clarifying the term ‘wetland created by artificial means’ in part (a) of the definition to reduce the need to rely on external interpretation guidance as far as possible.

We recommend defining ‘wetlands constructed by artificial means’ using the definition currently in guidance, with examples:

‘Wetlands constructed by artificial means’ includes wetlands and waterbodies that have been deliberately constructed for a specific purpose (eg, stock drinking) and that may require maintenance over time (for example, vegetation or silt removal) to continue to fulfil that purpose. This includes areas of wetland habitat that have formed in or around any deliberately constructed waterbody.

We recommend defining ‘induced wetlands’ in the NPS-FM to support interpretation of part (a), and using the definition currently in the guidance:

‘Induced wetlands’ are wetlands that have resulted from any human activity, except the deliberate construction of a wetland or waterbody by artificial means.

Clarify how wetlands constructed on the site of former natural wetlands should be treated

The key consideration when assessing a wetland constructed by artificial means is the purpose and intent of creating the wetland. If a constructed wetland was built on the site of a former natural wetland, but not to offset or restore that wetland, it is not considered a natural wetland. This would be verified by the regional council on a case-by-case basis. We recommend this be addressed through guidance.

Clarify wetlands within the Coastal Marine Area

The recent High Court judgment²³ declared that the NES-F applies to all wetlands within the CMA, although the decision also commented that the regulations cannot be intended to

²² S 6(c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

²³ *Minister of Conservation and Royal Forest and Bird Protection Society of New Zealand Incorporated v Mangawhai Harbour Restoration Society Incorporated* [2021] NZHC 3113.

capture the entirety of the CMA. We agree that what constitutes a natural wetland in the CMA is ambiguous at present.

A clear definition of what does constitute a natural wetland in the CMA is required and a delineation protocol similar to that used for inland wetlands may be required for wetlands within the CMA. The Ministry will work with DOC to establish a working definition of 'natural coastal wetland' for the purposes of the regulations.

Activities in the CMA being inadvertently captured as non-complying will be addressed, in part, through changes proposed here to the non-complying regulations (set out in [Part 4B: Drainage – prohibited \(r53\) and non-complying activities \(r52\)](#)) and guidance. Further work is needed to scope the implications emerging for consent, compliance, operations and planning functions for DOC and local government entities.

Significant biodiversity and threatened species protection

We agree with Forest and Bird that the NPS-FM already acknowledges and has provision for threatened species. This is via both the National Objectives Framework threatened species compulsory value as well as clause 3.23(1)(b) which requires councils to map and monitor naturally small wetlands that are known to contain threatened species (see also the Stock Exclusion Regulations which require that stock be excluded from a natural wetland that supports a threatened species).

We recommend amending the definition of natural wetland so that the exclusion under part (c) will not apply to any wetland that contains threatened species (under clause 3.23 of the NPS-FM).

This will align the existing policy requirements and protect wetlands in pasture that provide for the presence of threatened species. We acknowledge that this may result in uncertainty for landholders, require assessment by qualified ecologists (council or otherwise) and therefore incur costs. However, assessment will already be required in considering a consent application, and in many cases councils and DOC already have knowledge of the presence and habitats of threatened species.

We recommend explicitly noting threatened species in the definition of a natural wetland to ensure that the obligation to protect and manage threatened species under the NPS-FM is met.

A good example of where this would provide warranted additional protection is in the kettle hole wetlands of the McKenzie Basin. As raised by ECAN in their submission, there are eight threatened species of kettle hole flora currently identified by DOC that exist in this area that warrant protection.

Replace definition of natural wetland in the Stock Exclusion Regulations

It will be necessary to make a consequential amendment to the definition of natural wetland within the Resource Management (Stock Exclusion) Regulations 2020. It should align with the amended definition of natural wetland in the NPS-FM, to ensure consistency across national policy interpretation (see [recommendation 11](#)).

Recommendations 8–11

Recommendations

8. **(New)** Amend part (a) of the definition of ‘natural wetland’ in the NPS-FM to specify that a natural wetland includes induced wetlands
agree/disagree

9. Include definitions in the NPS-FM for:
 - a. **Wetlands constructed by artificial means** – being wetlands and waterbodies that have been deliberately constructed, including areas of wetland habitat that have formed in or around any deliberately constructed waterbody, or words to that effect
agree/disagree

 - b. **Induced wetlands** – being wetlands that have resulted from any human activity except the deliberate construction of a wetland or waterbody by artificial means, or words to that effect
agree/disagree

10. **(New)** Amend the definition of ‘natural wetland’ in the NPS-FM to specify that where a wetland is identified as having threatened species, then it is a ‘natural wetland’ and the exclusion under part (c) of the definition (in relation to pasture) does not apply
agree/disagree

11. Make a consequential amendment to the Resource Management (Stock Exclusion) Regulations 2020, to align the definition of ‘natural wetland’ with the amended definition in the NPS-FM
agree/disagree

Part 2: Proposed consent pathways

The regulations provide consent pathways to undertake activities such as vegetation clearance, earthworks or water takes (etc), within or near a natural wetland. Without a consent pathway for a select purpose, such activities revert to either prohibited or non-complying under the regulations.

Following feedback on the implementation of the regulations, the Government recognised that additional activities may require a specific consent pathway due to their national and/or regional significance and the necessity for them to occur in a particular location.

The NES-F currently provides a consent pathway for the following purposes:

- wetland restoration
- construction and maintenance of wetland utility structures
- construction maintenance and operation of 'specified infrastructure'
- sphagnum moss harvesting
- arable and horticultural land use
- natural hazard works.

The NPS-FM currently contains an exemption to Policy 6 'no further loss of natural inland wetland extent', set out at 3.22(1), which enables activities for these purposes to be consented, provided that the council is satisfied that the gateway tests are met and that the effects management hierarchy has been applied. The Policy and clause 3.22 should be read together.

The proposed consent pathways would be regulated by the NES-F which also applies to wetlands occurring in the coastal marine area (CMA). Coastal wetlands, however, are not subject to the NPS-FM exemption for specific purposes at clause 3.22 which refers specifically to natural inland wetlands. With regard to coastal wetlands, the New Zealand Coastal Policy Statement would apply (eg, Policy 11 to protect indigenous biological diversity in the coastal environment, including by avoiding adverse effects on areas of predominantly indigenous vegetation in the coastal environment)

For clarity, this section on consent pathways applies in relation to natural inland wetlands.

Proposal

Consent pathways were proposed for quarrying; clean, managed, and landfills; mining; and 'plan-enabled' urban development. Submitters were asked whether a discretionary activity status²⁴ was appropriate. It was proposed that these new activities be subject to the existing gateway tests already provided for specified infrastructure in the NPS-FM, which include the following requirements:

²⁴ For discretionary activities, consent authorities may decline or grant the consent depending on their assessment of effects of the proposal on the environment. If granted, the activity must comply with the conditions set out in the NES-F and any additional conditions imposed by the council.

- (a) the activity must be of significant national or regional benefit
- (b) there must be a functional need for that activity in that location
- (c) adverse effects must be managed through the effects management hierarchy, which requires initial consideration of how to avoid adverse effects where practicable, then how to minimise, remedy, offset and compensate, in that order.

Applications for a resource consent would have to demonstrate to the council how each sequential step of the effects management hierarchy (set out in the NPS-FM) would be applied, before the consent could be granted, with requisite offsetting under the effects management hierarchy to ensure no further loss of natural inland wetland extent or values.

Summary of submissions

Proposed pathways – general

The majority of submitters in favour of the proposed consent pathways provided specific rationale for each of the sectors identified in the Discussion Document. A significant number of submissions opposed the proposed consent pathways in general, including the 5,860 form submissions from Forest and Bird which read, “maintain meaningful laws: reject special ‘consenting pathways’ for industry, which would strip wetlands of all meaningful protection.”

The majority of individual submitters (unaffiliated with a particular industry or organisation), opposed the proposed consent pathways, in general, for the following reasons:

- perceived inconsistency between the proposed consent pathways and the obligation to prioritise the health of water under Te Mana o te Wai (TMotW)
- the importance of wetlands in regulating the adverse effects of the activities for which additional consent pathways were proposed
- belief that offsetting and compensation cannot sufficiently compensate for the ecological and cultural qualities lost in natural wetlands
- a perception that the environment in general should be prioritised over commercial enterprise.

GWRC expressed concern that the proposed consent pathways constituted an inconsistent approach, where restrictions would not be tied to the severity of negative effects of an activity on a natural inland wetland. Some submitters also felt that providing consent pathways for the proposed activities would put additional pressure on councils and would make them susceptible to lobbying from industry, even where the case for those activities in a natural inland wetland area was not well founded.

Gateway test – Functional need

From the sectors for whom a consent pathway is proposed there is general concern that the functional need test is too strict and that many applications for consent would not be able to demonstrate functional need, as currently defined in the National Planning Standards 2019. This view was also fairly consistent among councils, who indicated that fill activities and urban development were highly unlikely to meet their interpretation of the National Planning Standards’ functional need definition.²⁵ This is illustrated in the following from TCC:

²⁵ Hamilton City Council, Environment Canterbury, Auckland City Council, Kapiti Coast District Council, Gisborne District Council and Greater Wellington Regional Council.

TCC's concern, supported by legal advice, is that urban development would generally not be considered to have a 'functional need' to occur in a specific wetland or river location –hence this key policy test would not be met.

Of the councils that raised concern about the interpretation of functional need, all but GWRC asked that the application of functional need to fill sites and urban development be clarified. GWRC remained of the opinion that consent should not be granted to activities for which there was not a strict functional need (as defined in the National Planning Standards).

Some industry submitters considered that functional need should be replaced with operational need or removed all together.²⁶ This was also supported by a small number of councils.²⁷

Gateway test – Regional and/or national significance

As with functional need, submitters in favour of the proposals expressed concern that the test for regional and/or national significance would be too difficult to meet. Submitters requested that this requirement be defined in the context of the proposed activities, to enable consistent application across councils. Submitters on the proposal to provide a consent pathway for plan-enabled development emphasised the necessity for this test to also consider district significance in order to provide for development listed in a district plan.

Offsetting and compensation requirements

Across all consent pathways, submissions in support and opposed highlighted that there is a need for comprehensive guidance on aquatic offsetting and aquatic compensation requirements. Many submitters considered that it was too easy for consent applicants to avoid the offsetting stage of the effects management hierarchy and jump straight to the less desirable aquatic compensation requirement.

Many submitters expressed concern that offsetting was not being undertaken on a like-for-like basis, and that offset wetlands did not constitute an ecological or values-based replacement for those natural inland wetlands that they sought to replace. Forest and Bird in particular was concerned that there is a lack of both policy direction and guidance as to what constitutes acceptable offsetting.

Conversely, some submitters in favour of a consent pathway considered that offsetting was too onerous a requirement where the wetlands concerned were of low ecological value.

Analysis and recommendation

Proposed consent pathways – general

The concern expressed by a significant number of submitters about further loss of natural inland wetland extent and value is acknowledged. However, we are aware that non-complying and prohibited activity status is hindering the activities of some sectors to the extent that the regulations are not workable in practice. We consider that the provision of consent pathways for the proposed activities and the protection of natural inland wetlands from further loss need not be mutually exclusive.

²⁶ Counties Energy Ltd, NZ Steel, Boffa Miskell.

²⁷ Waipa District Council, Waikato Regional Council, Tauranga City Council, Porirua City Council.

The gateway tests, the effects management hierarchy and the ability of councils to exercise additional discretion through the conditions in consents strike a balance between protecting natural inland wetlands and enabling activities that will be of significant benefit to New Zealanders in natural inland wetland areas.

Functional need gateway test

Anecdotal evidence from councils reveals that the functional need gateway test is having the desired effect. Councils report consent applications for specified infrastructure have subsequently been modified to specifically avoid natural inland wetlands, whereas prior to this they would have been overlooked and/or in-filled.

The functional need test is a critical aspect of balancing land use activity with the protection of natural inland wetlands. Without the test, we consider that the policy may no longer be consistent with section 5 or 6 of the RMA.²⁸ Requiring an activity to be undertaken elsewhere, if it can be done so, is consistent with the RMA definition of sustainable management and ensures that natural inland wetlands are only disturbed where an activity must locate or operate in a natural inland wetland area.

The National Planning Standards definition of functional need as currently applied as a gateway test for specified infrastructure is:

Functional need means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

We consider that there is a clear need for specified infrastructure, quarries and mines to locate and operate in particular environments. We therefore do not agree with submitters who proposed that the test be altered, or removed, for all consent pathways and consider that the functional need test should be retained for specified infrastructure and applied to quarrying and mining (see [recommendations 14 and 28](#)).

However, the test is more complicated as it applies to the proposed consent pathways for landfills, cleanfills and managed fills, and plan-enabled urban development, because these activities need not be located in particular environments in order to retain their function (ie, they will always be able to be located elsewhere). We consider that it is implicit in the provision of a consent pathway for certain activities within the regulations that, where appropriate, the definition of functional need can be met and the activity consented. However, we are aware that this interpretation is an untested application of the definition in the National Planning Standards.

The many submissions requesting clarity on the intent and application of functional need in this context, including those of local government, makes it clear that the definition to date has been applied strictly by councils. We tested several options in relation to application of the functional need test to ensure that the policy intent is achieved.

Option 1: Apply 'functional need' as a gateway test to all proposed consent pathways

We consider it appropriate that the definition of functional need continues to align with the National Planning Standards to ensure consistency across national direction instruments. As

²⁸ Purpose, principles and matters of national importance.

set out above, we have anecdotal evidence from councils that the application of the functional need test is having the desired effect of encouraging the design of consent applications to avoid natural inland wetlands.

However, it would not be effective to provide a consent pathway for activities which would consistently be unable to pass the gateway test. We have concerns that the definition is untested and unsuitable in respect of the proposed consent pathways for plan-enabled urban development, landfills, cleanfills and managed fills. We are aware that in practice, the interpretation of functional need requires an assessment by councils of whether the activity can only occur in that environment. Current guidance issued by councils²⁹ states that these assessments have been based on analysis of whether the location in which the specified infrastructure is proposed is necessary to its function, or whether that infrastructure could be located elsewhere and retain its function. Broader rationales for the activity to occur in the location (eg, financial considerations, private ownership), are considered to constitute operational need.

Plan-enabled urban development and landfills, cleanfills and managed fills, will always be able to be located elsewhere while retaining their function, but may be required to be located in a natural inland wetland area for reasons beyond the current scope of functional need (eg, requirements under the NPS-UD or for fills in close proximity to a development, quarry or mine). We consider that functional need in the context of these proposed consent pathways could require an extrajudicial application of the current definition, which could have broader consequences for the interpretation of functional need in other contexts. Conversely, should the definition be applied strictly, then these activities would be unable to pass the gateway test of functional need.

Option 2: Make the test ‘operational need’, for landfills, cleanfills and managed fills, and urban development

Many industry submitters proposed that the interpretation issues associated with the requirement for functional need would be solved by changing the requirement to operational need, currently defined in the National Planning Standards as:

Operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

In our view, operational need is a considerably broader test than functional need. While making the test operational need would provide a solution to the interpretation issues with functional need, it would also significantly weaken the test. We consider that technical and operational characteristics can be interpreted too broadly and may compromise the policy intent by enabling an activity due to financial considerations or convenience, rather than providing for the activity only as absolutely required.

²⁹ See Otago Regional Council [technical-advice-note-nps-for-freshwater-management-2020-what-is-a-functional-need.pdf \(orc.govt.nz\)](#) and ECAN [NPSFMFunctionalvsOperationNeedTechnicalAdviceNoteMay2021.PDF](#).

³⁴ Essential Freshwater Amendments: Report recommendations and summary of submissions

Option 3: Make the test ‘best practicable location’, for landfills, cleanfills and managed fills and urban development, retain ‘functional need’ for specified infrastructure, quarries and mining

TCC proposed that introducing a new test for plan-enabled urban development would enable the regulations to retain the functional need test for the current consent pathways, and the proposed pathways for quarrying and mining, while introducing a fit-for-purpose test for urban development which does not require the activity to be locationally constrained. We agree with TCC that the National Planning Standards definition of functional need is problematic in the urban development context because urban development will always be able to locate elsewhere. We consider that this also applies to the proposed consent pathway for landfill, cleanfill and managed fill activities.

A new gateway test for these activities would ensure that the proposed pathways are viable, while still providing a high threshold gateway test to retain the policy intent: to allow activities to occur only where necessary.

We propose that the council must be satisfied that the location is the ‘best practicable location’ for the plan-enabled urban development, landfill, cleanfill or managed fill to occur in. Best practicable location would be defined in the NPS-FM as:

Best practicable location means the best location for an activity to be undertaken in, having regard, among other things to—

- a) in relation to ‘plan-enabled’ development and landfill, cleanfill and managed fill activities
 - i. the scope and design of the activity so that adverse effects are avoided to the extent possible, and
 - ii. the effects on the natural inland wetland of that activity compared to the effects on the environment in other locations, and
- b) in relation to ‘plan-enabled’ urban development, the extent to which development is required to meet development capacity under the NPS-UD.

We consider that this option retains the policy intent by tying the test to the outcomes that the policy is aiming to achieve. In the case of fill sites, the best practicable location test coupled with the national/regional significance test, will ensure that these activities are only consented where they are of national and regional significance and where there are not practicable alternative sites which avoid natural wetland areas. In the case of plan-enabled urban development, development will only be able to be consented in natural wetland areas where there are not practicable alternative sites, with the additional safeguard on runaway development through the requirement for council to consider the extent to which development is required in that region or district under the NPS-UD.

We recommend Option 3. While we consider that the functional need test is fit for purpose for specified infrastructure and for the proposed consent pathways for quarrying and mining, we do not consider that either a functional need test or an operational need test are fit for purpose for landfill, cleanfill, managed fill and urban development activities. Applying an untested interpretation of functional need as the gateway test for these activities is likely to result in implementation issues ranging from inconsistent interpretation to an unviable consent pathway. Conversely, an operational need test would be too broad and would likely result in widespread loss of natural inland wetland extent. We consider that the best practicable location test will capture the policy intent to provide a consent pathway for

landfill, cleanfill, managed fill and plan-enabled urban development activities to occur in natural wetland areas where there are no other viable options for the activity's location. The three options discussed here are set out in the relevant recommendations for fills and urban development.

Regional and/or National significance requirement

We consider that the requirement for an activity to be of national and/or regional significance is an important control on land use activity in and around natural inland wetlands and reflects the definition of sustainable management in the RMA. We also consider that the requirement for regional significance will be specific to each region. Any attempt to define national and/or regional significance in the regulations will unintentionally constrain what should be an informed assessment, made by councils, of the benefits that the proposed activity will have for the region/nation. However, it is appropriate to also provide for district significance with respect to urban development to align with the requirements of the NPS-UD (see [recommendation 42](#)).

Offsetting and compensation requirements – principles included in the NPS-FM

We do not accept the view expressed by some individual submitters that offsetting and compensation should not be required. The effects management hierarchy is a core component of meeting Policy 6 of the NPS-FM and TMotW. We also note the effects management hierarchy must be applied sequentially so that compensation is not, as some have stated, acceptable in place of offsetting but is required to address any 'more than minor residual effects' remaining after offsetting.

However, we agree with Forest and Bird that there is a need for offsetting principles to be included within the NPS-FM (rather than in guidance). We recommend including, in an appendix to the NPS-FM, principles for both offsets and compensation and linking these to the effects management hierarchy.

The proposed principles are set out in [Appendix 1](#) of this report. We have consulted with DOC on developing these. They are based on those in the proposed National Policy Statement for Indigenous Biodiversity (NPSIB). This ensures alignment between the NPSIB and NPS-FM. The principles are a mandatory set of best practices specific to aquatic offsets and therefore include biodiversity but also hydrological functioning etc. The principles would apply to offsetting for both rivers and wetlands.

There is an opportunity to further test the principles with councils and practitioners as part of an exposure draft prior to making final decisions on the content. There is additional support that can be provided to ensure offsetting is effective and that values are protected (see [Part 4A: Alignment with the RMA, Te Mana o te Wai and Policy 6](#)).

Recommendation 12

Recommendation

12. Include principles for offsetting and compensation in an appendix of the NPS-FM as set out in [Appendix 1](#) of this Summary Report and link the application of these principles to the effects management hierarchy

agree/disagree

Part 2A: Quarries

Context

Resources from quarries, such as aggregates and sand, are used in the construction and maintenance of housing, roading and other infrastructure. The Government received feedback that the wetland regulations were preventing access to resources for the construction of specified infrastructure (as defined in the NPS-FM). Because the regulations already provide a consent pathway for the construction of specified infrastructure, the Government proposed that a consent pathway also be provided for the resources necessary for the construction and maintenance of that infrastructure.

Proposal

The proposal was to provide a discretionary consent pathway for the expansion of current quarrying activities, and the development of new quarries within, or within 100 metres of, a natural wetland. Submitters were asked if they agreed with the proposal, whether discretionary was the right activity status, and whether quarrying activities should be subject to any additional conditions above those set out in the gateway test.

Summary of submissions

This proposal was opposed by the majority of environmental non-government organisation (ENGO) submitters³⁰ and unanimously supported by industry. Many other submitters conveyed reluctance about the provision of a consent pathway for quarrying activities but did not oppose it outright. Only one local council was outright opposed and of the eight councils that submitted in favour of a consent pathway for quarries, there was an even split between those favouring non-complying, and those who considered that restricted discretionary would be a more appropriate activity status.

Industry submitters highlighted that the aggregate industry is a fundamental contributor to the provision of specified infrastructure and that if it remained a prohibited activity within, or within 100 metres of, a natural inland wetland, there would be substantial additional costs incurred by quarries and their customers, which would flow through to increased costs for aggregate and in turn housing and infrastructure.³¹ They also emphasised the necessity for quarries to be near infrastructure and urban development sites to reduce cost and greenhouse gas output from transportation. Industry submitters expressed a preference for restricted discretionary activity status to provide certainty for consent applications. Many of these submitters felt that the functional need test should be replaced with operational need for similar reasons.

Individual submitters and some councils expressed reservations about the provision of a consent pathway but recognised that quarrying may be necessary to support the implementation of the NPS-UD. Of these submitters, most were in favour of quarrying activities remaining non-complying, to send a clear message that the activity would not be consented if the circumstances were not exceptional and if the effects of the activity were more than minor.

³⁰ EDS supported the provision of a consent pathway for quarrying.

³¹ Winstone Aggregates, Fulton Hogan, Kaipara Limited and J Swap.

Some submitters were unconvinced of the functional need for quarrying to occur in natural inland wetland areas and felt that ample aggregate resources were available elsewhere in the country. Several submitters expressed concern that quarrying activities, by their very nature, would cause more than minor damage to natural inland wetlands and that “no amount of minimisation, remediation or offsetting will restore the mana or mauri of a natural wetland after such an activity has occurred.”³²

Definition of quarrying and scope of consent pathway

All the substantive submissions received on a consent pathway for quarrying highlighted the necessity for quarrying to be defined, as it was currently unclear which activities would be provided with a consent pathway (eg, whether ancillary activities such as car parks and office buildings would be considered quarrying activities). Many extraction industry submitters suggested that the definition already provided in the National Planning Standards should be adopted:

Quarrying activities means the extraction; processing (crushing, screening, washing and blending); transport; storage; sale and recycling of aggregates (clay, silt, rock and sand); the deposition of overburden material; rehabilitation; landscaping and cleanfilling of the quarry; use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry.

Many submitters, including those from other industries, councils and individuals, agreed that a consent pathway ought to be provided for quarrying activities, but that this should be strictly limited to locationally bound activities such as the extraction of rock and should not include ancillary activities (roads, buildings etc).

Small-scale quarrying activities

Also related to the definition of quarrying activities were a small number of submissions received on whether the consent pathway would apply to small-scale, farm-based quarries. Agricultural industry submitters and land holders submitted that these operations were a common way of sourcing gravel and limestone for the construction of animal movement and standing areas. Irrigation New Zealand proposed that this could be a permitted activity controlled by freshwater farm plans.

Analysis and recommendation

Providing a consent pathway for quarries

We agree with industry submitters that quarrying activities require a consent pathway as subsidiary activities that support the construction and maintenance of specified infrastructure. The primary rationale for including a consent pathway for quarrying is the locational constraint of aggregate materials.

We consider that discretionary activity status is appropriate for quarrying activities. The application of the gateway tests of functional need and regional and/or national significance are sufficient to ensure that only appropriate activities are consented. The ability of councils to exercise discretion in deciding whether to grant a resource consent will mean that they can consider other aspects of the viability of the activity in that area (eg, significance of the natural

³² Ngāi Tahu – Ngāti Waoa Rūnanga Trust.

inland wetland, impacts on surrounding land use). This will be an additional check and balance on quarrying activities being consented in a natural inland wetland area.

Definition of quarrying and scope of consent pathway

We agree with submitters that quarrying activities should be defined in the regulations. The definition will determine the scope of activities that are provided for under the regulations. Submissions clearly illustrate the two options for defining quarrying and the scope of a consent pathway, set out below.

Option 1: Apply the National Planning Standards definition of quarrying and activities

Adopt the National Planning Standards definition of quarrying activities as follows.

- **Quarry** means a location or area used for the permanent removal and extraction of aggregates (clay, silt, rock or sand). It includes the area of aggregate resource and surrounding land associated with the operation of a quarry and which is used for quarrying activities.
- **Quarrying activities** means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock, sand), the deposition of overburden material, rehabilitation, landscaping and cleanfilling of the quarry, and the use of land and accessory buildings for offices, workshops and car parking areas associated with the operation of the quarry.

This would include the resource itself and all 'quarrying activities' that are ancillary to the action of quarrying (eg, placement of overburden, but also roads and buildings) some of which may be able to be located elsewhere. The location of these would be addressed as part of the consent process (ie, the gateway test would ensure ancillary quarry activities avoid natural inland wetland areas).

Option 2: Define and provide for quarrying of the resource only (recommended)

Adopt a subset of the National Planning Standards definition, which would distinguish between the extraction of the resource and ancillary activities:

Quarrying applies only to the area of resource, and to the activities necessary for extraction of aggregate.

Under this option, extraction of aggregate would be a discretionary activity in order to reflect the clear functional need for this to occur within a natural inland wetland area and their centrality to providing aggregate materials for significant infrastructure and development projects. Ancillary quarrying activities would remain non-complying/prohibited in natural wetlands and would only be consented where they resulted in a no more than minor effect on the environment and/or contravened a regional plan or policy.

We note that subsequent recommendations for consent cleanfills would address the requirements for disposal of overburden and that it is common practice for councils to consider an application for consent as a whole, regardless of whether different consent pathways are applied, meaning that there would be no additional consent burden on the applicant.

We recommend Option 2. We do not consider it appropriate for the ancillary activities such as roads and buildings of quarries to be consented in natural inland wetland areas. Providing a

consent pathway for ancillary activities would significantly broaden the scope of the pathway beyond the policy intent, due to the broad range of ancillary activities captured under the term ‘quarrying activities’. Option 2 provides a clear signal of the policy intent and certainty for councils and industry as to what is in scope.

Small-scale quarrying activities

Consent applications for small-scale quarrying activities will not meet the gateway test of national and/or regional significance. While it may be common practice for small-scale farms and operations to extract aggregate resources from their own properties, we consider that there are other, more appropriate ways to obtain aggregate that do not disturb a natural inland wetland (eg, purchasing, or sourcing aggregate from outside natural inland wetland areas).

Activities should be consented only where they are nationally and/or regionally significant to strike a balance between the protection of New Zealand’s remaining wetlands and the importance of certain activities to the country and/or region. While small-scale extraction of aggregate may be cost-effective and convenient for small-scale operators, undertaking the activity in a natural inland wetland area is not consistent with the requirement for sustainable management under the RMA.

Recommendations 13–17

Recommendations

13. **Proceed as proposed** and include quarries in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM
agree/disagree

14. Apply the same provisions to quarries as in the NPS-FM at 3.22(1)(b)(i), including the gateway tests of: significant national or regional benefit in 3.22(1)(b)(ii), and functional need in (iii); and the effects management hierarchy as per 3.22(b)(iv)
agree/disagree

15. Amend the NES-F to provide for quarrying activities as a discretionary activity and subject to the same provisions already in place for the construction of specified infrastructure
agree/disagree

Defining quarrying and scope of the consent pathway

16. **Option 1:** Include the definition for **quarry** and **quarrying activities** as set out in the National Planning Standards 2019 which also includes ancillary activities associated with quarrying
agree/disagree

OR

17. **Option 2:** Include a definition of **quarrying** that applies only to the extraction of aggregate at site and not to ancillary activities (**recommended**)
agree/disagree

Note the proposed consent pathway for cleanfill activities will provide for the disposal of overburden

Part 2B: Cleanfills, managed fills and landfills

Context

Feedback from waste management operators has been that most fill sites in New Zealand are situated within valleys or gullies for functional reasons and are often damp areas of pasture or gully heads where natural inland wetlands may occur. The regulations in the NES-F mean that applications for new/expanding fill sites are non-complying or prohibited. While these sorts of operations do not have to be situated where a natural resource occurs, fills are necessary for construction and maintenance of infrastructure and if they are not situated close to development sites, they can constrain the ability to appropriately dispose of waste and overburden.

Proposal

The Government proposed to provide a discretionary consent pathway for activities associated with the operation of landfills, cleanfills and managed fills within, or within 100 metres of, a natural wetland.

Submitters were asked whether they agreed with the proposal, whether discretionary was the right activity status and whether fill activities should be subject to any additional conditions above those set out in the gateway test.

Summary of submissions

This proposal was broadly supported by quarrying and development industry submitters and universally opposed by ENGOs. Of the councils that submitted on the proposal, six opposed the provision of a consent pathway for fills. Of the seven that supported the provision of a consent pathway, two considered that non-complying would be a more appropriate consent pathway and one submitted that restricted discretionary would be a more appropriate activity status. The rationale behind these submissions is provided below.

Submitters in support of the proposal emphasised that fills are essential infrastructure for the maintenance and growth of healthy communities and will remain critical aspects of the waste management system.³³ Although not constrained locationally, submitters observed that fills commonly occur in valleys, gullies and depressions, and in proximity to development to avoid substantial cost implications and higher carbon emissions from transportation.

Many submitters who supported the proposed consent pathway for fill sites noted that the lack of locational constraints (unlike quarries) would mean that consent applications would be unable to meet the functional need test, as fills would always be able to be located elsewhere and would therefore not meet the National Planning Standards definition of functional need.

The majority of submitters in support agreed that discretionary was the right activity status and would provide regulatory authorities with the ability to review and assess consent applications on a site-specific basis. However, a significant number of those in support believed that restricted discretionary status was necessary for applicants to have greater confidence in the success of their application, subject to meeting conditions.

³³ WasteMINZ Disposal to Land Sector Group.

Functional need as applied to landfill, cleanfill and managed fill activities

A substantial number of submitters who opposed this proposal noted that there was no functional need for fills to occur within, or within 100 metres of, a natural inland wetland and that they should therefore remain non-complying or prohibited. Many saw the proposal as being at odds with moves to minimise waste and submitted that the provision of a consent pathway for fill activities was contrary to TMotW and New Zealand's broader environmental and Government goals. Unease was also conveyed about the leeching effects of fills on freshwater and about the adverse ecological effects that this may have not only on natural inland wetlands, but also on downstream freshwater environments.

Activity status tied to type or size of fill

Some submitters suggested that the activity consent status should be tied to the type of fill and that cleanfills and managed fills were more important and less ecologically harmful than landfills and should be provided with either restricted discretionary or discretionary pathways, while landfills should remain non-complying.

There was an even split among a small minority of submitters who believed that a consent pathway should be provided only to large fills, or only to small fills. The rationale for small fills being that they are often a component of development sites and/or land use activities, but being small, have less severe ecological impacts. The rationale for large sites was aptly captured by one individual submitter as the prevention of "death by a thousand cuts."

Analysis and recommendation

Providing a consent pathway for cleanfills, landfills and managed fills

We accept that fills are commonly located within valleys, where natural inland wetlands are often situated. We also accept that there is an ongoing requirement for fill activities, both as ancillary activities to key industries and features of growing urban environments.

Defining 'fills' for the purposes of the regulations

Landfills and cleanfills are already defined in the National Planning Standards.

- **Landfill** means an area used for, or previously used for, the disposal of solid waste. It excludes cleanfill areas [and for the purposes of the regulations also excludes managed fill areas].
- **Cleanfill area** means an area used exclusively for the disposal of cleanfill material.³⁴

We recommend that these definitions be adopted in order to ensure continuity across Government policy. Managed fills are not currently defined within the National Planning Standards. We propose the following definition for the purposes of this policy.

- **Managed fill** means an area used for the disposal of material with low-grade contamination, such as demolition material, received from existing infrastructure.

³⁴ 'Cleanfill material' is also subsequently defined in the National Planning Standards.

Discussion on activity status for differing types of fill

A considerable number of submitters highlighted the need to distinguish between the ecological impacts and significance of the three proposed fill activities.

We accept the submissions from the quarrying and development industry that clean and managed fills are required ancillary services to their activities. In some circumstances it may be appropriate for clean and managed fills to be consented in natural inland wetland areas, where they support activities that are provided with a consent pathway under the regulations (ie, construction, maintenance and operation of specified infrastructure). We consider that discretionary activity status is appropriate and will enable councils to exercise discretion in granting these consents.

Many submitters opposed the provision of a consent pathway for landfills based on the perception that it would be inconsistent with New Zealand's waste minimisation ambitions. The purpose of the Waste Minimisation Act 2008, is:

to encourage waste minimisation and a decrease in waste disposal in order to:

- (a) protect the environment from harm; and
- (b) provide environmental, social, economic, and cultural benefits.³⁵

However, we accept that landfill operations continue to be an important feature of urban environments (in the near term at least). We considered two approaches for the activity status of landfill activities.

Non-complying status: This would largely retain the status quo but would remove the prohibited status in respect of any effect that would drain a natural inland wetland. Landfill activities would be unable to be consented where their impacts on natural inland wetlands were more than minor, or where they contravened a regional policy or plan. This would better align with the purpose of the Waste Minimisation Act and further encourage reduced waste to landfill.

Discretionary status (recommended): Consents for landfill activities will be subject to the gateway tests and the discretion of councils. This would provide an appropriate balance between the necessity for activities to occur and the protection of natural inland wetlands.

We recommend applying a discretionary status to landfills because while we consider it important that this policy supports the purpose of the Waste Minimisation Act, we must also consider the near-term need for landfill for urban and developing areas. We consider that a discretionary activity status is appropriate and that where viable alternatives to landfills are available, landfill activities would not pass the requirement for 'best practicable location'. Councils could also consider waste minimisation goals and alternative waste management solutions as part of the discretion applied to the consent process.

Functional need as applied to landfill, cleanfill and managed fill activities

We agree with submitters that the gateway test of functional need is not fit-for-purpose for landfills, cleanfills and managed fills as fills will always be able to locate elsewhere while retaining their function but may be required in natural wetland areas due to other

³⁵ Waste Minimisation Act 2008, Part 1, Section 3.

considerations (eg, proximity to an urban area). We therefore consider that for fill sites to be consented where appropriate, the gateway test should be best practicable location (see [recommendation 23](#)).

Activity status tied to size of fill

We consider that consents for fill activities should be determined based on their necessity to occur in that location and national and/or regional significance rather than on their size. This will ensure a balance between the necessity to provide a consent pathway for fills and the policy intent to protect natural inland wetlands. We do not recommend provision of a consent pathway on the basis of size.

Recommendations 18–25

Recommendations

18. **Proceed as proposed** and include cleanfills, managed fills and landfills in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM
agree/disagree

19. Apply the same provisions to cleanfills, managed fills and landfills as in the NPS-FM at 3.22(1)(b)(i), including the significant national or regional benefit gateway test at 3.22(1)(b)(ii) and the effects management hierarchy as per 3.22(1)(b)(iv)
agree/disagree

20. **Option 1:** Apply the current definition of ‘functional need’ as set out in the National Planning Standards as a gateway test to landfills, cleanfills and managed fills
agree/disagree

- OR**
21. **Option 2:** Apply the current definition of ‘operational need’ as set out in the National Planning Standards as a gateway test to landfills, cleanfills and managed fills
agree/disagree

- OR**
22. **Option 3:** Make the gateway test in the NPS-FM ‘best practicable location’ for landfills, cleanfills and managed fills (**recommended**)

- AND**
23. Include the following definition, or words to that effect in the NPS-FM
Best practicable location: means the best location for an activity to be undertaken in, having regard, among other things to–
 - a) in relation to ‘plan-enabled’ development, and landfill, cleanfill and managed fill activities
 - i. the scope and design of the activity, so that adverse effects are avoided to the extent possible, and
 - ii. the effects on the natural inland wetland of that activity compared to effects on the environment in other locations, and
 - b) in relation to ‘plan-enabled’ urban development, the extent to which development is required to meet development capacity under the NPS-UD
agree/disagree

AND

24. Amend the NES-F to make landfill, cleanfill and managed fill activities a discretionary activity subject to the same provisions already in place for the construction of 'specified infrastructure'

agree/disagree

25. Provide for the following definitions in the NPS-FM and NES-F:

Landfill has the meaning given by the National Planning Standards 2019.

Cleanfill has the meaning given by the National Planning Standards 2019

Managed fill means an area used for the disposal of material with low-grade contamination, such as demolition material, received from existing infrastructure, or words to that effect

agree/disagree

Part 2C: Mining

Context

Like quarries, mines can only be situated where the resource is located. The Government received feedback that the wetland regulations were preventing access to mineral deposits. In New Zealand, minerals such as gold, platinum group metals, nickel, copper and tungsten are present, and some may contribute to clean technologies as part of the transition to a low-emissions economy.

Proposal

The Government proposed a discretionary consent pathway for the activities and operation of mines within, or within 100 metres of, a natural wetland.

Submitters were asked whether they agreed with the proposal, whether discretionary was the right activity status and whether mining activities should be subject to any additional conditions above those set out in the gateway test (eg, providing a consent pathway only for the mining of minerals that are required for projects of national significance and are not fossil fuels, or requiring additional conditions around offsetting).

Summary of submissions

Mining activities were the most contentious of the activities proposed for additional consent pathways, with a near equal number of submitters in favour and opposed. However, of the ten councils that submitted, seven were in support of a consent pathway for mining activities. Of these seven:

- one considered that restricted discretionary was a more appropriate activity status
- one submitted that non-complying was a more appropriate activity status
- two submitted that the pathway should explicitly exclude coal
- three were broadly opposed to the provision of a consent pathway for mining activities.

Those in favour noted that minerals were locationally constrained and therefore mining had a functional need to occur in natural inland wetland areas where mineral deposits also occurred.

Submitters in favour also emphasised the ongoing importance of mined minerals (especially coal) for heating, building and maintenance of essential infrastructure and future technologies of environmental benefit.

Those opposed were primarily individuals and ENGOs. As with the proposals for quarrying, submitters considered that the nature of mining activities would lead to the complete and irreparable destruction of natural inland wetlands. Concern was commonly expressed that the proposal was indicative of a value judgement that placed economic benefit above environmental protection.

A small number of submitters also expressed concerns related to the effects of the removal of minerals on wetland ecology, from both a mātauranga Māori and ecological perspective. The theme of these concerns is well captured by the following submission from the National Wetland Trust:

Minerals are as much a part of the whakapapa of a wetland as the hydrology, plant life and fauna. Take paru (muds) as an example- they provide important clues into the functionality and health of the wetland in terms of the parts we can't see. They can be made up of the minerals that these companies seek to extract and/or their geochemistry can be severely impacted due to extraction of minerals.

The same submitters were concerned about the effects of the leeching of heavy metal pollutants to natural inland wetland areas as a consequence of mining activities.

Requests for the same consent pathway for quarrying and mining

Consistent with the broader submissions on additional consent pathways, the majority of industry submitters considered that the focus of the policy should be the effects of activities on natural inland wetlands, rather than the perceived benefits of the activity. On this basis, submitters from the extractive industry (quarrying and mining) considered that there was little merit in distinguishing between mining and quarrying, both being extractive industries that would result in similar ecological effects on natural inland wetland areas.³⁶

Definition of mining and scope of consent pathway

As with the proposals for quarrying activities, submitters both in support and opposition to the proposals highlighted a need for mining activities to be defined in the NES-F for the scope of the proposals to be clear (eg, does mining activities also include prospecting?). Extractive industry submitters expressed a clear preference for the definition included in the Crown Minerals Act 1991.³⁷

Controls on minerals to be mined

Several industry submitters strongly opposed the option in the Discussion Document for controls on the type of mineral mined, particularly coal. They submitted that coal remains a resource in demand in New Zealand and that restricting the mining of coal through the NPS-FM and NES-F would be poor policy-making.³⁸

³⁶ Beca Group, Straterra.

³⁷ Bathurst Resources LTD and BT Mining LTD.

³⁸ Business Z, Bathurst Resources LTD, BT Mining LTD, Straterra.

⁴⁶ Essential Freshwater Amendments: Report recommendations and summary of submissions

Analysis and recommendation

Requests for the same consent pathway for quarrying and mining

We agree with extraction industry submitters that mining is similar in its effects to quarrying. We also agree that there is a clear functional need for mining to occur in particular environments. However, we also that consider analysis is required of the benefits of the output compared to its potential detrimental effects, and alignment with other Government objectives (including consideration of additional conditions on an activity to mitigate these effects or align it with national direction). For this reason, we analyse the case for a consent pathway for mining separately from quarrying. Options for a consent pathway for mining are as follows.

Providing a consent pathway for mining

Option 1: Do not provide a consent pathway for mining – status remains non-complying (or prohibited within a natural wetland)

This option recognises the considerable opposition to providing for mining in natural inland wetlands expressed by submitters. Under this option, mining and ancillary activities would remain non-complying and/or prohibited (where they resulted in drainage of a natural inland wetland).

Option 2: Provide a discretionary consent pathway for mining (recommended)

We consider that there is a functional need for mining activities to occur where the mineral is located, and in some situations, this may be within a natural inland wetland. We consider that the test for national and/or regional significance is sufficient to ensure that only necessary mining activities can occur in a natural inland wetland and that this will mitigate concern that consents for mining would be issued for purely economic reasons.

Defining mining and the scope of the consent pathway

We agree with submitters that if mining is provided with a consent pathway in the NES-F it should be defined in the regulations. To ensure alignment across legislation we agree with submitters that it would be appropriate to use the definitions currently prescribed in the Crown Minerals Act. As with quarrying there are two options for how mining could be defined, which will determine the scope of the proposed consent pathway.

The Crown Minerals Act currently differentiates between mining and mining operations as follows.

Mining–

- (a) means to take, win, or extract, by whatever means—
 - (i) a mineral existing in its natural state in land; or
 - (ii) a chemical substance from a mineral existing in its natural state in land; and
- (b) includes—
 - (i) the injection of petroleum into an underground gas storage facility; and
 - (ii) the extraction of petroleum from an underground gas storage facility; but
- (c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a).

Mining operations—

- (a) means operations in connection with mining, exploring, or prospecting for any Crown owned mineral; and
- (b) includes, when carried out at or near the site where the mining, exploration, or prospecting is undertaken—
 - (i) the extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral; and
 - (ii) the construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and
 - (iii) the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and
 - (iv) the deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on the operations; and
 - (v) the doing of all lawful acts incidental or conducive to the operations; and
- (c) includes any activities relating to the injection into and extraction of petroleum from an underground gas storage facility.

Option 1: Provide for 'mining' (defined above) as a discretionary activity, but not 'mining operations' (recommended)

Under this option, the split between mining and mining operations (as defined in the Crown Minerals Act), would be retained. Only the extractive activities of mining would be defined in the NPS-FM/NES-F and provided with a discretionary consent pathway on the basis that the mineral resource itself is locationally constrained but operations are not. Mining operations would be subject to non-complying/prohibited regulations as relevant.

We recommend this option because in cases where mineral deposits are situated in a natural inland wetland there is a clear functional need for extractive mining activities to be undertaken there. We consider however, that some mining operations (as defined in the Crown Minerals Act) are beyond the scope of the activities provided for under the NES-F consent pathway (ie, vegetation clearance, earthworks and land disturbance, taking, use damming and diversion of water). As such we do not consider the definition of mining operations should be incorporated into the NPS-FM/NES-F.

As with quarrying, we consider that the related activity of disposal of overburden would be subject to the clean and managed fill consent pathway, and therefore able to be consented.

Option 2: Include both 'mining' and 'mining operations' and provide discretionary activity status for both

Under this option, both mining and mining operations (as defined in the Crown Minerals Act), would be considered mining activities in the NPS-FM/NES-F. A discretionary consent pathway would be provided not only for the extractive activities of mining, for which there is a clear functional need, but also to mining operations (eg, transport and processing), which may be able to be located elsewhere. If this option is progressed, consideration of these activities would be subject to the gateway tests and offsetting requirements.

The definition of mining operations includes “the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral” (under (b)(iii)). However, we consider that this would be captured under the proposal for a clean/managed fill consent pathway.

Additional controls on minerals to be mined

One of the primary concerns of submitters was that the proposals for a consent pathway for mining activities may include the mining of fossil fuels (in particular, coal). Other submitters considered that it would be inappropriate for the policy to specifically exclude coal from the definition of mining when there are ongoing requirements for the provision of coal in New Zealand. We consider that coal requires further consideration, especially in respect of the Government's aspiration to transition to 100 per cent renewable electricity generation by 2030, and other commitments made under the Paris Agreement. The options are as follows.

Option 1: Enable all minerals, including coal, to be mined under the proposed consent pathway

Several submitters do not think that the NPS-FM and NES-F are appropriate mechanisms through which to place controls on types of minerals to be mined. We accept submissions from industry that there is an ongoing need for coal in New Zealand and these submitters are correct in the assertion that the purpose of this policy and regulations is not to manage New Zealand's transition to a zero-carbon economy, nor to regulate activities in accordance with this.

Option 2: Exclude coal from minerals able to be mined under the proposed consent pathway

This option addresses concerns raised by submitters that natural inland wetlands were being sacrificed for activities that would result in further lasting damage to the environment, contrary to the requirement for sustainable management under RMA. It is also consistent with New Zealand's ambitions expressed in the Climate Change Response (Zero Carbon) Amendment Act 2019, for net accounting emissions of greenhouse gases to be zero from 1 January 2050.³⁹ Under this option, coal would be excluded from the consent pathway for mining.

Option 3: Apply conditions to the ability to mine coal under the proposed consent pathway (recommended)

A key function of the regulations is to balance sustainable development with natural inland wetland protection and at the same time align with other Government policies and legislation where they have identified an activity is not sustainable.

We therefore recommend that coal mining should be included under the proposed consent pathway, but with two conditions placed on the ability to mine coal.

Condition (a): Thermal coal mining provided for only until 2030

We accept the many submissions received on the need to cease thermal coal mining operations in order for New Zealand to lower its carbon emissions and meet its commitments under the Paris Agreement. However, New Zealand is currently reliant on thermal coal for electricity generation during winter and in dry years. The Government is

³⁹ Climate Change Response (Zero Carbon) Amendment Act 2019, Part 1B, Subpart1 – 2050 target, 5Q(1)(a).

seeking to address this through the New Zealand Battery Project,⁴⁰ but in the interim thermal coal is still an essential resource in ensuring reliable electricity provision.

A viable option to accommodate the current need for thermal coal, but to meet the aims of the Climate Change Response (Zero Carbon) Amendment Act to reduce net emissions of all greenhouse gases by 2050, is to allow the proposed consent pathway to apply to the mining of thermal coal for a set period. We consider that a deadline or sunset clause of 2030 would be consistent with the Government aspiration of 100 percent renewable electricity generation by 2030.

Condition (b) – Allow the mining of coking coal past 2030

Coking coal refers to coal with a quality that allows the production of a coke suitable to support a blast furnace charge. It is used in the production of iron and steel.⁴¹ We consider that there will be an ongoing need for coking coal beyond 2030 to support development and infrastructure projects.

We therefore propose that the mining of coking coal be allowed to continue past 2030. As for other minerals given provision under this proposed consent pathway, discretionary activity status will provide the appropriate balance between the necessity to protect natural inland wetlands and support necessary development and infrastructure. Coking coal would only be able to be mined subject to the gateway tests for functional need and national/and or regional significance, which will ensure that natural inland wetlands are not disturbed where there are viable alternative sites for its extraction.

Recommendations 26–34

Recommendations

Providing a consent pathway for mining

26. **Option 1:** Do not progress a consent pathway for mining or associated activities in the NES-F

agree/disagree

OR

27. **Option 2:** (recommended)

Provide a consent pathway for mining by including mining in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM

AND

28. Apply the same provisions to mineral mining as in the NPS-FM at 3.22(b)(i), including the gateway test of national or regional benefit in 3.22(b)(ii) and functional need in (iii); and the effects management hierarchy as per 3.22(b)(iv)

AND

29. Provide for mineral mining as a discretionary activity in the NES-F and subject to the same provisions already in place for the construction of specified infrastructure.

agree/disagree

⁴⁰ Ministry of Business, Innovation & Employment. NZ Battery Project. Retrieved from <https://www.mbie.govt.nz/building-and-energy/energy-and-natural-resources/low-emissions-economy/nz-battery/> (accessed 19 May 2022).

⁴¹ New Zealand Steel is the country's sole producer of flat rolled steel products for the building (eg, Coloursteel), construction, manufacturing and agricultural industries.

⁵⁰ Essential Freshwater Amendments: Report recommendations and summary of submissions

Defining 'mining' and the scope of the consent pathway

30. **Option 1:** Apply the Crown Minerals Act 1991 definition of 'mining' in the NPS-FM and NES-F but do not include 'mining operations' (**recommended**) *agree/disagree*

OR

31. **Option 2:** Apply the Crown Minerals Act 1991 definition for both 'mining' and 'mining operations' in the NPS-FM and NES-F *agree/disagree*

Note the proposed consent pathway for cleanfill and managed fill activities will provide for the disposal of overburden

Additional controls on types of minerals mined

32. **Option 1:** Do not place any controls on minerals able to be mined under the proposed consent pathway in the NES-F *agree/disagree*

OR

33. **Option 2:** Exclude coal from minerals able to be mined under the proposed consent pathway in the NES-F *agree/disagree*

OR

34. **Option 3:** Apply the following conditions to the ability to mine coal under the proposed consent pathway in the NES-F (**recommended**)

Condition (a) – Include a sunset clause for mining that makes thermal coal mining a non-complying activity after 1 March 2030, but;

Condition (b) – Allow the mining of coking coal past 2030

agree/disagree

Part 2D: Urban development

Context

Last year the Government introduced changes through the NPS-UD to deliver “stable and enduring policy for urban development.”⁴² The wetland regulations currently provide a consent pathway for urban development where it is listed in a regional plan under the definition of specified infrastructure, but there is no equivalent for urban development listed in a district plan. As important developments occur both at the regional and district level the regulations need to reflect this, while striking a balance between the protection of natural inland wetlands.

⁴² Beehive press release. 2021. Red tape cut to boost housing supply. Retrieved from <https://www.beehive.govt.nz/release/red-tape-cut-boost-housing-supply> (accessed 19 May 2022).

Proposal

The proposal was to use the term 'plan-enabled' from the NPS-UD to provide a discretionary consent pathway for housing and business areas within, or within 100 metres of a natural wetland.

Submitters were asked whether they agreed with the proposal, whether discretionary was the right activity status, whether urban development activities should be subject to any additional conditions above those set out in the gateway test and if offsetting requirements were appropriate for all types of urban infrastructure (eg, public amenities such as schools and medical centres).

Summary of submissions

Just under two-thirds of submitters were in favour of the provision of a consent pathway for plan-enabled urban development activities. However, the mixed submissions received from councils are indicative of the complexity of this issue. Of the eleven councils that submitted, ten supported the provision of a consent pathway for plan-enabled urban development activities but provided further proposals on how this may be best accommodated. Of these ten:

- one council considered that permitted activity status was the most appropriate
- three considered that restricted discretionary status was the most appropriate
- five considered that non-complying status was the most appropriate.

Only one council was opposed in principle to the provision of a consent pathway for plan-enabled urban development. Additional material subsequently received from TCC is referred to in the cover briefing.

The majority of submitters who opposed the proposed consent pathway for plan-enabled development were individuals and ENGOs. As with the other consent pathways, this was largely due to a perception that natural inland wetlands were being deprioritised and sacrificed for land use and development. However, several other reasons specific to the proposals for urban development were also raised.

- Many submitters felt that natural inland wetland areas could be avoided by developers if more care was taken in the planning stages to avoid them.
- Some individual submitters expressed concern that the NPS-UD provisions, coupled with a consent pathway for urban development would lead to a significant further loss of natural inland wetland extent and values.
- Concern was expressed by a number of submitters that district plans did not undertake substantial environmental assessments when zoning or re-zoning for urban development.
- Several submitters felt that natural inland wetlands were important features of urban environments, providing water filtering and habitat support that would be threatened, should the proposals to be adopted.

A significant number of submitters that opposed the provision of a consent pathway for urban development emphasised the unsuitability of using natural inland wetlands for development due to their susceptibility to flooding and unstable foundations when in-filled. Several individual submitters pointed to the disproportionate impacts of the 2011 Christchurch earthquake on developments located on reclaimed or in-filled land.

More than for any other consent pathway, both those in support and opposed to the proposals emphasised the necessity for development proposals to be considered on a case-by-case basis, including assessment of the suitability of the land for development and the presence of significant natural inland wetlands.

Activity status

Several submitters in support of the proposals highlighted that discretionary activity status for plan-enabled development was inconsistent with the conditions set out in the NPS-UD for plan-enabled development in the short term, which require that the development activity be subject to restricted discretionary, controlled or permitted activity status in order to be defined as plan-enabled. For this reason, and to provide certainty to consent applicants, submitters in support of the proposal preferred restricted discretionary status to discretionary.

Gateway tests – national and/or regional significance and functional need

Several submitters considered that the national and/or regional significance gateway test for urban development should be amended to also apply to activities of district significance, to ensure that the pathway is implementable. TCC emphasised in their submission that “while strategic growth areas will meet the test of regional benefit, not all ‘plan-enabled’ growth will be at a scale that meets this.”

Nearly all submitters both in support and opposed did not consider that functional need applies to urban development. Those who opposed the proposed consent pathway frequently referred to the lack of a functional need for plan-enabled development to occur in natural inland wetlands as part of their rationale. Those in favour of the proposed consent pathway requested that the test be changed or removed to ensure that the consent pathway was implementable.

Use of the term ‘plan-enabled’

The proposal to use the term ‘plan-enabled’ received mixed feedback, particularly from council submitters. Northland Regional Council (NRC) supported the provision of a consent pathway for urban development but considered that ‘plan-enabled’ as defined in the NPS-UD was too broad. They proposed the following:

Provide for plan-enabled urban development defined as: land that is zoned for urban housing or for business use (as applicable) in an operative district plan including any existing designations within those zoned areas and associated infrastructure provision.

TCC considered that ‘plan-enabled’ as defined in the NPS-UD was too constrained, and therefore not appropriate. They proposed that:

Urban development areas should be more broadly defined to include an area identified in a future development strategy or relevant plan or strategy, including Smartgrowth and Urban Form and Transport Initiative plans supported by a Long-Term plan or 30-year Infrastructure Strategy, as well as RMA planning documents (ie, Regional Policy Statements and District Plans including those zoned as future urban).

GWRC submitted that plan-enabled development should remain a non-complying activity. Their submission expressed that the current regulations are having the desired effect within the Wellington region and are leading to practice changes in urban development to avoid natural inland wetlands. They considered that:

Pushing it all down to resource consent decisions, rather than proper oversight and consideration at the region-wide level, does not give effect to the National Policy Statement on Urban Development nor the NPS-FM.

Property developers were broadly in support of the use of the term 'plan-enabled' due to its alignment with the NPS-UD and its potential to enable of councils to consent to development in growing urban areas, including for development listed in a district plan. A small number of submitters expressed concerns that any consent requirements for urban developments around natural inland wetlands would create tension between the NPS-FM and the NPS-UD, and that plan-enabled development should be a permitted activity.

TCC highlighted in their submission that the use of 'plan-enabled' to provide a consent pathway would not help them to achieve their Tier 1 requirements under the NPS-UD. This is because their current development projects are listed in statutorily recognised documents not classified as 'plan-enabled' under the NPS-UD definition because they are not in the 'short term' (defined as being within the next 3 years). Consequently, these development projects would not be able to be consented under the proposed consent pathway.

Offsetting requirements for public amenity development

A large majority of submitters felt that offsetting requirements should continue to apply to public amenity development such as schools and medical centres. This was due to a perception that allowing some activities to bypass the offsetting conditions would be contrary to Policy 6 in the NPS-FM and the effects management hierarchy.

Analysis and recommendation

Proving a consent pathway for plan-enabled urban development

There is a need for the NES-F to accommodate requirements under the NPS-UD. The submissions received indicate that there is substantial support for this.

We consider that the concerns raised by submitters that are opposed can be mitigated through the effects management hierarchy and the gateway tests.

Use of the term 'plan-enabled'

The term 'plan-enabled' was proposed for consistency with the NPS-UD and many council submitters support the use of this term. We are aware however, that for TCC, the use of 'plan-enabled' will not help in the immediate future as it would first require a plan change. The council does not expect that this will be notified until mid-2022, then likely appealed, making an operative plan some way off.

Plan-enabled is defined in the NPS-UD as follows.

Development capacity is plan-enabled for housing or for business land if:

- (a) in relation to the short term, it is on land that is zoned for housing or for business use (as applicable) in an operative district plan

- (b) in relation to the medium term, either paragraph (a) applies, or it is on land that is zoned for housing or for business use (as applicable) in a proposed district plan
- (c) in relation to the long term, either paragraph (b) applies, or it is on land identified by the local authority for future urban use or urban intensification in an FDS or, if the local authority is not required to have an FDS, any other relevant plan or strategy.

TCC has highlighted that the use of the term 'plan-enabled' in the context of the NES-F will not enable key developments to acquire resource consents in the immediate term, due to first requiring a plan change. This is primarily due to the narrow definition of 'plan-enabled' in the short term.

Several submitters in support of a consent pathway for urban development expressed concern that tying the consent pathway to the policy intent of the NPS-UD may create further tensions between the two pieces of national direction. However, we consider that there are viable ways to address the issues raised and that national direction should remain aligned as much as possible.

Opening up the consent pathway to all urban development (without the requirement for it to be listed in a plan) may create additional issues. It would be more difficult to meet the gateway tests where land is not zoned in planning documents at the district, regional or national level, and would likely place a large resourcing burden on councils, who would have to consider every application on its merits. Additionally, it would remove important constraints on development that are in place at the planning stages to ensure that appropriate testing has been undertaken before development can occur.

Option 1: Use the NPS-UD definition of plan-enabled development

We remain of the opinion that the use of the term 'plan-enabled' is an appropriate way of providing a consent pathway for urban development and is consistent with the national direction set out in the NPS-UD. The use of the term was highlighted as problematic only by a small number of councils.

Once TCC go through a plan change process, current and future development listed in their plan would be consistent with the definition of plan-enabled set out in the NPS-UD. However, we are aware that the plan change process can be long and that this may result in key timeframes not being met. In Tauranga, at least two major developments relied upon to meet the requirements of the NPS-UD will be unable to go ahead in the immediate term if the NPS-UD definition of plan-enabled is adopted.

Option 2: Add a condition to the NPS-UD definition of plan-enabled for the purposes of the NES-F

Under the NPS-UD definition of plan-enabled development, urban development is only plan-enabled in the short term, on land that is zoned for housing or business use (as applicable) in an operative district plan. The NPS-UD defines 'short term' as in the next 3 years. We consider that in the context of the NES-F it may be appropriate that plan-enabled in the short term applies to a broader range of proposed development than currently set out in the NPS-UD. We therefore recommend the following definition.

Plan-enabled has the meaning given by the NPS-UD except, that for the purposes of these regulations, plan-enabled in the short term means land zoned for housing or business use (as applicable) in an operative district plan and/or land identified for development in any relevant statutorily recognised document (eg, Smartgrowth plan).

We recommend Option 2. We acknowledge that the NPS-UD definition of plan-enabled urban development requires some minor additions for it to be workable for TCC, in the context of the NES-F. However, we consider that removing the requirement for development to be listed in planning documents altogether would not only further complicate the consent process, but that it would remove important constraints on development and may result in unnecessary negative impacts on natural inland wetlands.

Activity Status

We agree with submitters that for the regulations to align with the definition of plan-enabled in the NPS-UD, plan-enabled urban development must be a restricted discretionary activity.

There is already a list of matters to which discretion is restricted set out at Part 3, Subpart 1, regulation 56 of the NES-F. We consider this is fit for purpose with one additional matter. In addition, this should require the consideration and identification of who will be responsible for the ongoing maintenance of the aquatic offsets once development is completed. This will ensure that natural inland wetlands constructed as aquatic offsets continue to be maintained and managed. We expect in many cases this will fall to the relevant council.

Gateway tests – national and/or regional significance and functional need

The policy intent of providing a consent pathway for plan-enabled development is to also provide for urban development listed in a district plan. However, as submitters have identified, urban development at the district level may not meet the gateway test of national and/or regional significance. To ensure that the consent pathway works as intended, we recommend that the gateway test for plan-enabled urban development should be district, regional and/or national significance.

We agree with submitters that the functional need test is not fit for purpose for plan-enabled urban development. To ensure that the proposed consent pathway for plan-enabled urban development is implementable we recommend that the gateway test be best practicable location (see [recommendation 40](#)).

Offsetting requirements for public amenities

We agree with the majority of submissions, who emphasised that in order to achieve the policy intent of no further loss of natural inland wetland extent or values, the offsetting requirements must apply to all consented activities that have a more than minor effect on a natural inland wetland. Therefore, the question set out in the Discussion Document as to whether there are some types of urban development (eg, medical centres, schools) which need not be subject to offsetting it is not viable under the NPS-FM.

Recommendations 35–46

Recommendations

35. Provide a consent pathway for 'plan-enabled' urban development in the NES-F and include 'plan-enabled' urban development in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM

agree/disagree

AND

36. Apply the same provision to ‘plan-enabled’ urban development as in the NPS-FM at 3.22(1)(b)(i), and the effects management hierarchy as per 3.22(1)(b)(iv)
agree/disagree

AND

37. Include a gateway test similar to that at 3.22(1)(b)(ii) which requires the plan-enabled urban development to provide significant national, regional or district benefits
agree/disagree

AND

38. Option 1: Apply the current definition of ‘functional need’ as set out in the National Planning Standards as a gateway test to ‘plan-enabled’ urban development
agree/disagree

OR

39. Option 2: Apply the current definition of ‘operational need’ as set out in the National Planning Standards as a gateway test to ‘plan-enabled’ urban development
agree/disagree

OR

40. Option 3: Make the gateway test in the NPS-FM ‘best practicable location’ for ‘plan-enabled’ urban development (**recommended**)
agree/disagree

AND

41. Include the following definition, or words to that effect in the NPS-FM

Best practicable location: means the best location for an activity to be undertaken in, having regard, among other things to–

- a) in relation to ‘plan-enabled’ development, and landfill, cleanfill and managed fill activities
 - i. the scope and design of the activity, so that adverse effects are avoided to the extent possible, and
 - ii. the effects on the natural inland wetland of that activity compared to effects on the environment in other locations, and
- b) in relation to ‘plan-enabled’ urban development, the extent to which development is required to meet development capacity under the NPS-UD

agree/disagree

42. Include a gateway test similar to that at 3.22(1)(b)(ii) which requires the plan-enabled urban development to provide significant national, regional or **district** benefits
agree/disagree

AND

43. Provide for ‘plan-enabled’ development as a restricted discretionary activity in the NES-F subject to with the matters to which discretion is restricted, being those set out in existing regulation 56 of the NES-F
agree/disagree

Defining ‘plan-enabled’ urban development

44. **Option 1:** Utilise the definition of ‘plan-enabled’ urban development for the proposed urban development consent pathway in the NPS-FM and NES-F as set out in the NPS-UD
agree/disagree

OR

45. **Option 2: (recommended)** Add a qualifier to the definition of 'plan-enabled' for the purposes of the NES-F which clarifies that: 'plan-enabled' has the meaning given by the NPS-UD, except that for the purposes of the NPS-FM and NES-F:

- (a) plan-enabled in the short term means land zoned for housing or business use (as applicable) in an operative district plan;
- (b) or land identified for development in any relevant statutorily recognised document (eg, Smartgrowth plan)

agree/disagree

46. Require the consent authority to be satisfied for a 'plan-enabled' development that there is clear provision, including who is responsible, for the ongoing maintenance and management of aquatic offsets, once the development phase is completed

agree/disagree

Part 2E: Additional consent pathways proposed by submitters

Context

In addition to submissions on the proposed consent pathways, we received submissions requesting additional consent pathways.

The activities that have a consent pathway listed in the NPS-FM are intentionally narrow to meet Policy 6 – no further loss of natural inland wetland extent and values of said wetlands are protected. The NES-F rule structure to support Policy 6 is very strong. Earthworks, or the take, use, damming, diversion, or discharge of water within a natural wetland is a prohibited activity where this would result in drainage of the natural wetland (unless that particular purpose has another status under the regulations). The same activities outside of, but within 100 metres of, a natural wetland are non-complying if this would drain the natural wetland. All other activities (ie, for any purpose not listed in the NPS-FM) are non-complying for vegetation clearance and earthworks (both with a 10-metre setback).

These regulations were established to protect wetlands, however, because the NES-F applies to all natural wetland types irrespective of size or value, the cumulative effect off the setbacks when applied to areas that commonly exhibit natural wetlands (eg, seeps in gullies) creates a sizable zone where undertaking earthworks and other activities is difficult. This has had significant impacts on some sectors.

Summary of submissions

Water storage

Six submitters requested that an additional consent pathway be provided for water storage. Councils and landowners consider that water storage facilities will be a growing requirement due to climate change and water allocation issues. Like fills, submitters identified that water storage facilities are often located in valleys, where natural inland wetlands commonly occur. It was further submitted that water storage facilities were required to support specified infrastructure, similar to the other activities for which new consent pathways were proposed in the Discussion Document.

Ski industry

The Ski Areas Association of New Zealand (SAANZ) and Real Journeys Ltd requested that a consent pathway be provided for activities associated with the construction and maintenance of ski area infrastructure. These submitters consider that ski areas are key for the social and economic wellbeing of communities and important for domestic and international tourism. Due to the presence of streams, tarns and wetlands in the alpine area, industry submitters emphasised that a consent pathway was necessary for construction and maintenance activities.

Real Journeys commented that they were mainly concerned about their ability to install and maintain linear or longitudinal infrastructure including water pipes and power/IT cables for the likes of wastewater management, snow-making and the running of other services at a distance from the base buildings.

The industry submitted that in most cases disturbance to natural inland wetlands would be minor and that the activities for which consent pathways are already in place have far greater potential for adverse effects on natural inland wetlands. Real Journeys proposed that ski fields and amenities could be deemed infrastructure of significant national or regional benefit.

Papakāinga and marae development activities

One council submitted that it seemed unlikely that papakāinga or marae development would meet the definition of plan-enabled development or specified infrastructure, despite not posing a materially different risk of potential adverse effects on natural inland wetlands than development, for which consent pathways are currently provided or proposed.

Horticulture activities

Two submitters requested an additional consent pathway for new or expanding horticultural activity. These submitters considered that commercial vegetable production is an activity of national and regional significance that can only occur on highly productive land. They acknowledged that arable and horticultural land use is permitted under regulation 50 of the NES-F in areas used for this purpose between 1 January 2010 and 2 September 2020. They considered however, that there needs to be a pathway for vegetation clearance and earthworks to occur in relation to newly developed horticultural land in and around a natural inland wetland, without reverting to the non-complying consent activity in regulation 54.

Analysis and recommendation

The proposed amendments will address some of the impacts that the strong rule structure and setbacks have created but, in our view, there could also be provision for additional activities.

Water storage

We consider that it would be appropriate for the NPS-FM and NES-F to explicitly provide for water storage facilities.

We recommend expanding the current definition of specified infrastructure to include water storage. This will be subject to the gateway tests of functional need and national or regional significance as well as the requirement to apply the effects management hierarchy. This will ensure that the construction for water storage only occurs in a natural inland wetland when it cannot be avoided and there will be no further loss of wetland extent.

Recommendation 47

Recommendation

47. Provide for the construction and maintenance of water storage within the current definition of 'specified infrastructure' in the NPS-FM (**recommended**)

agree/disagree

Ski areas

We acknowledge the multiple values the ski industry provides, in particular to the regions of Otago, Canterbury and Manawatū-Whanganui, where they are situated, but also to New Zealand generally.

In considering a consent pathway for this sector, there are several matters which need to be taken into account. First, we note that there is an existing consent pathway available for this sector under the provision for regionally significant infrastructure listed in a regional plan. A recent ski field expansion has been granted consent on the basis that it was regionally significant. That this sector meets the test of regional significance for one of the three relevant councils is a persuasive factor for a council when considering applications from this sector. We also note that Real Journeys proposed implementing something very similar within the regulations.

Second, we have some concern about the ability of this sector to adequately offset in accordance with the effects management hierarchy. The offsetting requirement is for no net loss. In the majority of cases, we consider this would likely require restoration/creation of natural inland wetlands away from the site of disturbance – anything else is remediation and not offsetting. Ski areas are often situated in relatively undisturbed alpine areas. The opportunities for offsetting so that there is no net loss and preferably a net gain (as required under NPS-FM 3.21), in our view, would likely be outside the ski area at lower elevations. In further discussions with SAANZ regarding offsetting they stated “measures to offset the loss would always be undertaken within the ski area boundary or basin. Offsetting outside the ski area where the works are being undertaken is extremely unlikely and would be an absolute last resort”.

On balance, we consider that the ski industry will be able to manage effects on natural inland wetlands by modifying locations of infrastructure to avoid natural inland wetlands where possible, and then mitigating residual effects through application of the effects management hierarchy. We are encouraged by the steps taken by the industry in recent works to avoid natural inland wetlands in the first instance, followed by mitigation of minor effects (eg, trenches for linear infrastructure with vegetation transfer). Our remaining concern is that larger scale activities (eg, earthworks to create flat learner zones) would create effects that would be far more difficult to mitigate. However, we consider that the application of the gateway tests and the requirement to apply the effects management hierarchy will ensure that these activities are only consented where appropriate and where their effects on natural inland wetlands are able to be effectively mitigated, offset or compensated.

There are several viable options for providing the ski industry with a consent pathway. Under all options, the gateway tests of regional/national significance and functional need with the effects management hierarchy would apply.

Option 1: Rely on the existing pathway under 'specified infrastructure' (recommended)

The definition of 'specified infrastructure' provides for regionally significant infrastructure identified as such in a regional policy statement or plan. Ski areas can seek to be listed as regionally significant infrastructure within the regional planning documents of the three regions in which ski fields are located. We recommend this option as it uses current provisions in the regulations intended for that purpose.

We also note that maintenance and operation of existing ski area infrastructure in place at the time the regulations were gazetted is permitted under the NPS-FM at 3.22 (vi) (as it would meet the definition of other infrastructure). Where maintenance and operation might not meet the permitted conditions set out in the NES-F regulation 46, then regulation 47 provides a restricted discretionary consent pathway for maintenance and operational purposes of any future ski field infrastructure.

Option 2: Rely on the existing pathway under 'specified infrastructure' but remove the requirement to be listed in a plan

If the requirement to have prior listing in a plan is viewed as too burdensome, this option proposes to remove that requirement and instead allow the council to make the decision on application of consent (ie, that the proposal is of regional significance). In order to reduce complexity within the regulations, we suggest this should apply to all proposals seeking a consent pathway on this basis, not just ski areas. We have reservations about removing the check and balance that prior listing in a regional plan would provide, but consider this is still preferable to option 3 below.

Option 3: Include infrastructure associated with ski areas within the definition of specified infrastructure

This option would add to the list of infrastructure defined as 'specified infrastructure' for the purposes of the wetland regulations. The proposal is to employ relevant aspects of the RMA definition of infrastructure and use the current pathway for construction of specified infrastructure (regulation 45 as a discretionary activity). This would include but not be limited to: transport mechanisms such as lifts, roads, and tracks (for any purpose within a ski area); associated facilities for the loading or unloading of passengers; sewerage system; water; and electricity supply as it relates to providing necessary ski area infrastructure.

We have significant concerns about increasing the scope of specified infrastructure in this way, as this term was intended to be a discrete subset of infrastructure as defined in the RMA, to ensure wetland loss did not continue. We consider, however, that this is preferable to providing ski areas with a unique and specific rule structure within the NES-F. Such an approach is not considered viable as there is no reasonable policy rationale on which to do so given the existing pathways.

Recommendations 48–50

Recommendations

48. **Option 1:** Do not provide a specific consent pathway for the construction and maintenance of infrastructure associated with ski areas on the basis that the existing consent pathway for 'regionally significant infrastructure identified as such in a regional policy statement or regional plan' is appropriate and would be available for this activity **(recommended)**

Note that the recommendation to provide for water storage will also address ski area needs for snowmaking and water treatment/supply

agree/disagree

49. **Option 2:** Amend the consent pathway for 'regionally significant infrastructure identified as such in a regional policy statement or regional plan' to remove the requirement for the infrastructure to have prior listing in a regional policy statement or regional plan

Note that this would apply generally, not just to ski areas and would allow the consent authority to make the determination of regional significance as part of their decision-making on a consent application

agree/disagree

50. **Option 3:** Include infrastructure associated with, and for ski areas within the definition of 'specified infrastructure' including but not limited to, transport mechanisms such as lifts, roads, and tracks (for any purpose), associated facilities for the loading or unloading of passengers, sewerage system, water and electricity supply

agree/disagree

Papakāinga and marae development activities

We consider the proposed changes to the definition of plan-enabled urban development (see [recommendation 45](#)), as well as the wider range of specified infrastructure (in relation to water storage), will address many of these concerns.

Horticulture activities

We note that in the 2020 NPS-FM, an exception to national bottom lines was provided for horticulture activities to accommodate the impact of current land use practice in Pukekohe and Horowhenua. Officials are now working with councils, iwi and horticulturalists to find a way to mitigate the impact of this activity, and significant investment has been made by the Crown to offset existing effects in Lake Horowhenua.

Under the current NES-F, new areas of horticulture expansion are subject to the regulations that restrict earthworks or vegetation clearance within 10 metres of a natural wetland, and water take use and similar activities within 100 metres. We consider that the case of Lake Horowhenua (as discussed above) is a clear indication that the regulations restricting earthworks and vegetation clearance for horticultural expansion should remain as they are. In respect of water take use, we consider that the proposed amendments to regulation 54, to clarify the impact that this is seeking to address (discharges of water where this will result in a negative impact to the natural wetland), will address the concerns raised (see [Part 4C: Discharges and the 100m setback \(r 54\)](#)).

Part 3: Amendments to the restoration provisions

Context

The NES-F regulates restoration (either permitted or restricted discretionary) in natural wetland areas. As is the case for consent pathways, an exemption to policy 6 is provided at s 3.2.2(1) of the NPS-FM to enable restoration activities to be consented where they may result in negative effects on natural inland wetlands, subject to meeting the gateway tests and applying the effects management hierarchy. Where coastal wetlands occur in the CMA, these activities are subject to Policy 11 of the New Zealand Coastal Policy Statement but unlike the proposals for consent pathways, Policy 11 does not block the ability to undertake restoration activities in the CMA. Therefore, for clarity, this section refers to natural wetlands throughout, except where it is referring to specific provisions in the NPS-FM.

The wetland regulations sought to permit low impact activities to remove barriers to restoration, but control activities that can have short-term negative effects on natural wetlands. For example, weed clearance may result in bare land that erodes, sending sediment into the water. Feedback received from councils, DOC and restoration groups, indicated that the current restoration regulations in the NES-F are onerous and consequently, some desirable restoration work is not being carried out. Some activities that used to be permitted in plans now need consents. That is not the intent or outcome sought, which was to encourage restoration of natural wetland areas and to ensure that restoration activities did not inadvertently have negative impacts on these areas.

Additionally, the NPS-FM does not address maintenance and biosecurity within the definition of restoration, and there are no associated regulatory provisions for these activities. The NES-F needs to specifically provide for biosecurity work (eg, the eradication of a weed that is not yet widespread), or maintenance of current state, so that these do not default to being non-complying activities.

Proposal

The proposals in the Discussion Document were intentionally broad, to provide wide scope for policy options following feedback. The proposals were:

- include maintenance within the regulations relating to restoration
- amend the regulations relating to restoration and maintenance activities, so removal of exotic species is permitted, regardless of the size of the area treated, provided the general conditions listed in regulation 55 of the NES-F are met.⁴³ The intent is to ensure that weed control does not result in effects such as discharge of sediment from extensive newly bare ground, rather than to restrict the size of a weed control programme

⁴³ Regulation 55 sets out the general conditions that all permitted activities must meet to comply with the regulations, including conditions for prior notice of activity, water quality and movement, earth stability and drainage, vegetation and bird and fish habitats, historic heritage, machinery, vehicle equipment and construction materials.

- allow activities that are necessary to implement a regional or national pest management plan, or are undertaken by a biosecurity agency (which includes DOC, the Ministry for Primary Industries and regional councils) for biosecurity purposes, but with restrictions similar to those that apply to restoration activities, for example regulation 55
- make the restoration and maintenance of a natural wetland a permitted activity if it is undertaken in accordance with a council-approved wetland management strategy⁴⁴
- make weed clearance using handheld tools a permitted activity.

Summary of submissions

All submissions supported the intent to make restoration and maintenance of natural wetlands easier.

However, there were a wide range of views on whether the proposed changes would achieve the policy intent. Some submitters questioned whether limits on activities and oversight by councils was necessary for restoration and biosecurity activities. For example, Better Living Landscapes submitted that “wetland restoration does not require the costly interference of councils.”

In contrast, several submissions discussed the need for a balance between providing for maintenance and restoration work while ensuring that natural wetland values are not inadvertently lost. Submitters, including ECAN, provided examples of the damage that can be caused by activities undertaken for restoration. Other submitters were concerned that the proposals would restrict activities such as changes to hydrology that are an essential part of restoration and maintenance.

Some submissions were concerned that natural recovery of a natural wetland to a stream due to reforestation of the catchment would be restricted by the restoration provisions in the NES-F (ie, controls on vegetation). Other submitters were concerned that the provisions would be used to undertake work that sought to maintain a particular characteristic of a natural wetland (eg, ponds suitable for ducks) rather than to restore natural state.

Defining ‘restoration’, ‘maintenance’ and ‘biosecurity’ and application to the CMA

Many submissions commented on how restoration and maintenance should be defined. The RMLA noted that the definition of restoration currently provided in the NPS-FM only applies to natural inland wetlands (ie, it excludes natural wetlands in the CMA). They suggested including a definition of restoration in the NES-F because at present, the definition does not apply to natural wetlands in the CMA.

Council-approved restoration plans

The proposal to allow activities included in council-approved wetland management strategies (from now on referred to as restoration plans) attracted a range of views. Some interpreted the proposal as meaning that the council would develop and approve a wetland management strategy (that would then be provided to the wetland manager). They were concerned that

⁴⁴ Under the NPS-FM councils must make, or change, their regional plan(s) to include objectives, policies and methods that promote the restoration of natural inland wetlands within their region.

councils would not be able to provide strategies and therefore work would not proceed. Others considered that plans approved by other bodies, such as DOC, should also be accepted. One submitter suggested that instead of council approval there be oversight by an organisation dedicated to the preservation of wetlands.

A range of plan types that should be accepted were mentioned in submissions, including farm management plans, management plans for covenants, conservation management strategies, and plans under the Conservation Act 1987 and subdivision plans. Some submissions questioned whether council approval simply replaced the consent process with an equally onerous process. RMLA suggested that the sort of consent pathway provided for in the GWRC Proposed Natural Resources Plan⁴⁵ was an alternative approach. Some raised concerns about the costs of getting clarity on what activities are permitted, particularly if consultants needed to be used. Fish and Game considered that a restoration activity such as blocking a drain should be able to proceed if a qualified person recommended it as a restoration activity, without needing a full restoration plan for the natural wetland.

Biosecurity and weed control (maintenance)

The proposal to allow biosecurity and weed control activities also generated a range of views. While there was support for weed control, many submissions identified issues that could arise from weed control work (eg, the loss of ecosystem services provided by exotic plants and the risk of damage to natural wetland values from weed control work). Some, such as GDC, suggested that this be limited to species listed in regional pest management plans. Others considered that would be too limiting. The National Wetlands Trust opposed allowing any removal of exotic plants as a permitted activity because of the potential negative effects. Many commented on use of chemicals. Te Rūnanga o Ngāi Tahu asked that existing council rules around chemical use continue to apply. NRC considered that spraying should not be a permitted activity.

Some submissions sought additional conditions for biosecurity work to protect natural wetland values. Others considered that any biosecurity work should be a permitted activity because the long-term effects were likely to be positive. Most considered that handheld methods of weed control should be permitted, but there were differing views on what should be considered handheld methods and whether this was a practical method for some important weed control work. Fish and Game also considered that the requirement in regulation 55(2) to notify the council in advance of doing work should not apply to removal of exotic vegetation.

Some submissions sought to make biosecurity work for other purposes permitted activities, for example, WRC in relation to land drainage, and Hort NZ in relation to agriculture. ECAN and Hawke's Bay Regional Council (HBRC) wished to see the provisions broadened to allow for works in natural wetlands that contribute to freshwater outcomes at the catchment scale (eg, works to create a constructed wetland in a natural wetland for the purpose of treating contaminants).

⁴⁵ Greater Wellington Regional Council. 2019. Proposed Natural Resources Plan (Appeals version), R106, 5.5.3.

Barrytown JV Ltd sought inclusion of 'rehabilitation' as part of mining operations. Brookby Quarries argued that:

The creation of artificial wetlands to manage water run-off and biodiversity offsetting and compensation are common requirements for modern quarrying. While such activities may have short-term negative effects on natural wetlands, the net result of the activities is positive in the longer term.

Other submissions opposed these types of activities being provided for as restoration.

Size constraints set out in regulation 38 (permitted activities for restoration purposes)

Some submitters considered that the current limit on the extent of clearance (500 square metres or 10 per cent of the natural wetland extent) in regulation 38(4)(b) meant that people weren't undertaking necessary restoration or maintenance activity due to the costly resource consent required. EDS recommended that the restrictions on the size of area to be treated should not apply to biosecurity work, and that this could be achieved by amending regulation 38(5) by adding reference to weed control.

Controls on removing or planting exotic species

Two councils submitted on the necessity to control exotic species. One council submitted that a bespoke consent pathway should be included for the removal of exotic species from natural wetlands, so that the activity would not remain subject to the vegetation clearance regulations for natural wetland restoration. Another council submitted that planting exotic species within a natural wetland area should be a prohibited activity, to prevent the spread of exotic plants and the creation of loopholes in the definition of natural wetland (specifically the 50 percent exotic species associated with pasture exclusion).

Customary harvest and management

Te Rūnanga o Ngāi Tahu and others, sought specific inclusion of "management, maintenance and restoration of natural wetlands for mahinga kai or other cultural purposes." The submission from Te Rūnanga emphasised that although customary harvest is exempted from the regulations, the broader management of a natural wetland to enable this activity to occur, or to enable use of the natural wetland for other cultural purposes, is not. They submitted that this should be a permitted activity.

Waikato Tainui sought inclusion of provisions to ensure that any natural wetland restoration and biosecurity work were consistent with the arrangements in place for the river, and suggested reference to Te Ture Whaimana in regulation 55.

Commentary on the general conditions in regulation 55

Some submitters (eg, Tonkin and Taylor, Beef and Lamb, Auckland Council) considered that few weed control and restoration activities would be able to comply with the conditions set out in regulation 55. Other submissions supported the general conditions, to ensure that restoration and weed control work did not result in poor outcomes. There was uncertainty as to whether some of the areas in the regulation applied to the entire area over which weed control was being undertaken, or just to the area in which control was applied (eg, the area affected by cutting and stump treating trees).

Te Rūnanga o Ngāi Tahu raised concern that regulation 55 is currently contradictory, as it applies to sediment management. Clause 3(a) of regulation 55 allows the discharge of contaminants to water, provided that after mixing it does not cause one or more of the five negative impacts listed. The RMA definition of contaminant includes sediment, however clause 3(e) of the regulation states that debris and sediment must not be placed within a setback of 10 metres of a natural wetland, nor be enabled to enter a natural wetland. Te Rūnanga submitted that in practice, this contradiction would make any maintenance or weed control in a natural wetland area nearly impossible due to the inevitable entering of sediment into a natural wetland because of these activities. They suggested that regulation 55(3)(e) be reworded for clarity to:

Debris and sediment must not be placed—

- (i) within a setback of 10 m from any natural wetland; or
- (ii) in a position where it may enter any natural wetland.

Charging for prior notice of activity required by regulation 55

The RMLA submission noted that some councils are charging fees for receipt of notices of activity under regulation 55(2) and that there is a potential issue with monitoring fees. Some of their members considered that there should be no fees charged for natural wetland restoration processes. Fish and Game sought an amendment to regulation 55 to prevent councils charging for monitoring of restoration work.

Utility structures

The Māori Trustee (Te Tumu Paeroa), requested that “the construction of utility structures (boardwalks, signs and jetties) for restoration and education purposes should also be classed as a permitted activity under the NES-F.” Fish and Game sought addition of a new permitted activity status for utility structures associated with duck hunting (eg, mai mai) but also signage of access ways.

Analysis and recommendation

General submissions on the proposed changes

The intent behind the proposed changes is to make it easier for a broader range of restoration activities (including maintenance and biosecurity) to occur in a natural wetland area, while continuing to ensure that there are checks and balances on activities that may lead to a more than minor adverse effect on a natural wetland.

We accept that the requirement to seek a resource consent for some restoration and maintenance activities may continue to be onerous for groups who are seeking to carry out beneficial work in a natural wetland area. However, we consider that this is necessary to ensure that natural wetlands do not suffer negative effects due to these activities – inadvertently or otherwise.

Defining restoration, maintenance and biosecurity and application to the CMA

The Discussion Document sought feedback on whether the definition of restoration in the NPS-FM and NES-F should be amended to include maintenance, as it is currently missing from the definition. It is clear from submissions received that there is broad support for this

proposal. We therefore recommend the following definition of 'maintenance' in the NPS-FM and NES-F to better enable activities that include the maintenance of current state:

Maintenance means managing threats such as weeds to prevent deterioration of wetland condition.

Likewise, we consider that it is necessary to provide a definition of 'biosecurity' in the NES-F and that this will help address the concerns raised by submitters regarding the scope of biosecurity activities. We recommend the following definition:

Biosecurity means activities to eliminate or manage a pest or an unwanted organism.

We consider that the issue raised by RMLA about the application of the NES-F to coastal wetlands also needs to be addressed, especially considering the High Court's recent ruling that the NES-F also applies to natural coastal wetlands. We consider that this can be achieved by including the NPS-FM definition of restoration in the NES-F but removing 'in relation to a natural inland wetland'. This would capture the policy intent that the NES-F also applies to coastal wetlands, while retaining the separate jurisdictions of the NPS-FM over natural inland wetlands and the New Zealand Coastal Policy Statement over coastal wetlands existing in the CMA (see [recommendation 52](#)).

Weed control for maintenance purposes and biosecurity

We agree with submitters that weed control for maintenance purposes and biosecurity should be enabled over a greater area than the lesser of 500 square metres or 10 percent of the size of the natural wetland. We also agree it is important to have controls on those activities. However, we do not consider that the same exemption from the area thresholds should apply to other activities, such as earthworks, because when these activities are undertaken on a broad scale they are more likely to have adverse effects on a natural wetland.

We recommend that permitted activity status for weed control for maintenance purposes beyond the area threshold be confined to the removal of weeds using handheld machinery. If the proposal was to undertake vegetation clearance for weed control for maintenance purposes with non-handheld machinery over an area greater than 500 square metres or 10 percent of the natural wetland, then a restoration plan would be required (see [Restoration plans – scope and approval](#)). Otherwise, the activity would default to restricted discretionary status under regulation 39. We consider that this is an appropriate protection against any inadvertent effects of large scale weed control activities where large machinery is used, including land disturbance from vehicle use.

We consider that biosecurity should be a permitted activity beyond the 500 square metres or 10 per cent area threshold regardless of what machinery is used. This is because the proposed definition of biosecurity limits the scope of biosecurity activities to plants listed in a pest management plan, or unwanted organisms listed in the Biosecurity Act. This will mitigate concerns raised by submitters about the scope of these activities because the activities are tied to defined biosecurity objectives. We consider that biosecurity applies to exotic vegetation clearance and any indigenous vegetation clearance demonstrably necessary to carry out the biosecurity operation.

Both maintenance (weed control) and biosecurity activities would still need to comply with the general conditions in regulation 55 (which includes requirement to notify the relevant regional council(s)). The general conditions will be an important check and balance on any unintended consequences of vegetation removal for both activities. Council notification will also ensure

that the activities do not conflict with any other consented activities within the natural wetland (eg, the planting of exotic species to strengthen or re-enforce a bank to reduce sedimentation).

Biosecurity and weed control activities that do not meet the requirements in regulation 55 could still be a permitted activity under the proposal for a restoration plan set out below. Otherwise, they will default to restricted discretionary status under regulation 39.

Restoration plans – scope and approval

The wide range of views in the submissions demonstrate the difficulty of defining in regulations which activities will benefit a wetland in the long term and which will have unacceptable negative effects. Submitters also had a broad range of views on the restoration plan process – both what was meant by the proposals and what settings they would like to see.

We consider that the ability to undertake weed control for maintenance and biosecurity purposes over an area greater than 500 square metres or 10 percent of a natural wetland area as a permitted activity (as discussed in the section above) should apply to restoration as well as weed control for maintenance purposes and biosecurity. We propose that an effective way to enable this, while ensuring that controls remain where appropriate, is to use restoration plans. We propose that vegetation clearance over an area greater than 500 square metres or 10 percent of the natural wetland be a permitted activity where a restoration plan, addressing the relevant matters in the existing schedule 2 to the NES-F, is in place, and provided that the activity is assessed against the relevant parts of the existing general conditions in regulation 55.

Some submitters requested that the scope of restoration plans should also enable activities intended for other purposes such as land drainage, catchment management, horticulture or recreational use. Inclusion of those types of activities was not consulted on, and the content of some submissions suggested that they would have opposed it if it had been consulted on. We do not recommend extending restoration plans to cover these things. For similar reasons, we do not consider that it would be appropriate to remove the area constraints currently set out in the NES-F for earthworks or the damming, diversion or discharge of water for restoration purposes. The effects of these activities on a broad area of natural wetland are far more likely to result in a negative effect than vegetation clearance; it is therefore appropriate that they remain restricted discretionary.

Size constraints set out in regulation 38 (permitted activities for restoration purposes)

We anticipate that permitting restoration, maintenance and biosecurity activities with the checks and balances discussed above will, in part, address issues raised by submitters on the size constraints on permitted restoration activities (set out in regulation 38 of the NES-F). However, we remain of the opinion that where activities do not meet the requirements set out above, the size constraints set out in regulation 38 should continue to apply. This will ensure that there are no adverse effects to natural wetland areas through permitted activities that are undertaken without a degree of scrutiny from a relevant authority. For example, sediment plumes caused by the removal of exotic species from more than 500 square metres or 10 percent of a natural wetland area.

It is important, however, that drafting ensures that it is only the area that is altered by the proposed activity that is counted, not the entire area over which the activity would occur. For example, a weed control programme may cover a large area, but remove only a few scattered

trees. It would be only the area occupied by those trees that would be considered under regulation 38, not the entire area. This will resolve some of the concerns raised in submissions over the size constraints on restoration activities.

Controls on removing/planting exotic species

We consider that the above proposals address the issues around removing exotic species. In relation to planting exotic species in a wetland, we consider that an amendment to require that any planting be for restoration purposes would be appropriate. We consider that the same amendment should be made to the permitted activities in regulation 40 (scientific research), regulation 43 (maintaining wetland utility structures) and regulation 46 (maintaining specified and other infrastructure). See [recommendation 58](#).

A note on agrichemical usage for vegetation clearance

Agrichemicals are often used to manage pest plants. The Environmental Protection Authority controls use of agrichemicals, including specific controls for the use of some agrichemicals into and over water, based on an assessment of the associated risks. These controls may prohibit the use of some agrichemicals where they may affect aquatic organisms. Where agrichemicals intentionally enter water or might enter water due to runoff, they are regulated in regional plans as a discharge of contaminants. The restoration provisions in the NES-F do not regulate these discharges in any detail, but instead regulate the vegetation clearance that results. A general condition in regulation 55(3) relating to water quality does not specify certain water quality effects that must not occur after reasonable mixing.

This is because some regional plans have carefully considered permitted activity rules for discharge of agrichemicals for the purpose of controlling pest plants. Others take a uniformly stringent approach to discharge of contaminants to water. Many of these rules factor in technical requirements relating to qualifications of agrichemical applicators and compliance with the New Zealand Standard for the Management of Agrichemicals (NZS 8409: 2021) which was developed by government, regional council and industry groups.

In some situations, mechanical or aerial application of agrichemicals in a wetland may have less impact on a natural wetland than handheld applicators.

We consider the various rules in regional plans relating to agrichemicals are adequate and should remain (ie, not be overtaken by rules in the NES-F). As such, the recommendations here and existing rules on vegetation clearance do not distinguish between chemical and non-chemical methods.

Customary harvest and management

We consider that the ability to harvest mahinga kai and other resources from natural wetlands is already provided for in the NES-F at Part 3, Subpart 1, regulation 37, which reads:

This subpart does not apply to the customary harvest of food or resources undertaken in accordance with tikanga Māori.

We accept the submission of Te Rūnanga o Ngāi Tahu that this exemption does not extend to the management, maintenance and restoration of a natural wetland to support these cultural practices. However, the intent of the NPS-FM in general and more specifically, of the restoration and maintenance provisions in the NES-F, is to ensure that activities in natural wetlands (including restoration and maintenance activities) are undertaken in a way that preserves the natural wetland and its resources for future generations to enjoy.

We consider that the permitted activity provisions already included in the NES-F and the proposed addition of weed removal using handheld tools strikes the correct balance between enabling these activities to occur in a natural wetland and ensuring that no harm unintentionally occurs to them as a result of more intensive operations. Furthermore, as set out in the above section on restoration plans, more intensive restoration activities could be undertaken in a natural wetland (including for activities undertaken in accordance with tikanga) if they are set out in a restoration plan.

The amendments sought by Waikato Tainui through their submission are already provided for in the Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010. Part 2, section 13(1)(a) of that Act sets out that where the vision and strategy is inconsistent with a national policy statement made under section 52 of the RMA, the vision and strategy will prevail. Likewise, a rule made in a regional or district plan to give effect to the vision and strategy of the Authority prevails over a national environmental standard made under section 43 of the RMA, if it is more stringent than the standard.

Waikato Tainui also expressed concern that restoration and maintenance works needed to be conducted and planned for in a manner that best meets Te Ture Whaimana o te Awa Waikato. We consider that the proposed restoration plan process (as set out above) enables this, because the management objectives of a plan can give expression to cultural values and Te Ture Whaimana o Te Awa Waikato.

Recommended amendment to regulation 55(3)(e)

We agree with the submission from Te Rūnanga o Ngāi Tahu that regulation 55(3) is currently contradictory, as it applies to the discharge of sediment. We agree with the recommended wording change proposed by Te Rūnanga and suggest that regulation 55(3)(e)(ii) be amended as follows:

debris and sediment must not be placed:

- (ii) within a setback of 10 m from any natural wetland; or
- (iii) in a position where it may enter any natural wetland.

This amendment is sensible and allows minor discharges of sediment consequent of permitted activities, provided the effects on the natural wetland are no more than minor, but prevents more than minor discharges which would occur from placement of debris and sediment in a place where it might enter a natural wetland (see [recommendation 59](#)).

Recommended amendment to regulation 55 to charging for prior notice of activity

It was not the intent that providing advance notice of permitted restoration works to the council should result in a charge to the operators. To encourage restoration, we consider that councils should be precluded from charging to receive advance notice of restoration, maintenance and biosecurity works, and from charging to review restoration plans (see [recommendation 60](#)).

Utility structures

Submissions requested that the construction of wetland utility structures (boardwalks, signs and jetties) for restoration and education purposes should be classed as a permitted activity under the NES-F. Construction of wetland utility structures (defined in the NES-F) is currently a restricted discretionary activity (regulation 42), maintenance of these is permitted

(regulation 43). We consider that the activity of constructing and maintaining structures gives rise to different effects than restoration, maintenance and biosecurity. As this matter was not consulted on, we do not currently propose any change.

Recommendations 51–60

Recommendations

51. **(New)** Include definitions for ‘maintenance’ and ‘biosecurity’ in the NPS-FM and NES-F. The definitions would be, or words to similar effect:

Maintenance means managing threats such as weeds to prevent deterioration of wetland condition

Biosecurity means activities to eliminate or manage a pest, invasive or an unwanted organism

agree/disagree

52. Amend the existing definition of ‘restoration’ in the NPS-FM to remove the phrase ‘natural inland wetlands’ and include the amended definition in the NES-F

agree/disagree

Maintenance (weed control) and biosecurity

53. Wherever ‘is for the purpose of natural wetland restoration’ appears in regulations 38 and 39, change to ‘is for the purpose of natural wetland restoration, maintenance or biosecurity’ or words to that effect

agree/disagree

54. Amend regulation 38(4)(b) to read that if an activity is vegetation clearance, earthworks or land disturbance, the activity must not affect more than 500m² or 10% of the area of the natural wetland, whichever is smaller

agree/disagree

55. Amend 38(5) by adding exceptions to the area limit in subclause 4(b) for the following activities:

- i. non-indigenous vegetation clearance for biosecurity purposes and indigenous vegetation clearance demonstrably necessary for the biosecurity activity
- ii. non-indigenous vegetation clearance using handheld tools for restoration and maintenance

agree/disagree

Restoration Plans

56. Amend 38(5) by adding exceptions to the area limit in subclause 4(b) for non-indigenous vegetation clearance for restoration or maintenance in accordance with a restoration plan, provided to the council at least 10 working days prior to the activity commencing. A restoration plan must:

- i. assess the restoration and/or maintenance activities against relevant general conditions in regulation 55; and
- ii. address the matters in Schedule 2 of the NES-F relevant to the activity proposed- restoration plans for natural wetlands

agree/disagree

Controls on removing/planting exotic species

57. In relation to planting exotic species, amend regulation 38(5) to clarify that it only applies to planting for restoration purposes

agree/disagree

58. Make a consequential amendment to the permitted activities in regulation 40(5) (scientific research), regulation 43(5) (maintaining wetland utility structures) and regulation 46(5) (maintaining specified and other infrastructure) so that the exception relates to planting for restoration purposes

agree/disagree

Amendments to regulation 55

59. Amend regulation 55(3)(e) in the NES-F to provide that debris and sediment (excluding the consented disposal of overburden) must not be placed –

- i. within a setback of 10 m from any natural wetland; or
- ii. in a position where it may enter any natural wetland

agree/disagree

Charges for notification of activity

60. Amend regulation 75 so that councils cannot charge to receive and review notifications of intended permitted activity work (including restoration plans where required) for wetland restoration, maintenance and biosecurity

agree/disagree

Part 4: Additional matters

Many submitters commented on matters that were not proposed in the Discussion Document. The more significant of these are set out below by topic, beginning with matters which we consider could be resolved through this amendment process, followed by matters that can be addressed through guidance and/or are not supported for amendment.

Part 4A: Alignment with the RMA, Te Mana o te Wai and Policy 6

Several submitters raised concerns that the proposals are inconsistent with Part 2 and the effects management approach of the RMA. They consider that by providing consent pathways for certain industries, the controls are not tied to the severity of impacts that an activity may have on a natural inland wetland. We remain of the opinion that the proposed consent pathways are not contrary to the RMA, provided that the gateway test and effects management hierarchy are applied effectively. Subject to these, the provision of the consent pathways remains consistent with the requirements of Part 2, as the preservation of the character of natural inland wetlands is consistently emphasised and inappropriate subdivision, use and development is regulated against. The obligation to apply the effects management hierarchy to any more than minor negative effects is consistent with the RMA's direction to avoid, remedy or mitigate any adverse effects of activities on the environment.

Submitters also commented on the apparent inconsistency and conflict between the policy drivers of the wetland regulations (TMotW and Policy 6) with the proposed (and current) consent pathways. TMotW requires that resources are managed in a way that prioritises first, the health and well-being of water bodies, second the health needs of people and third, the ability to provide for social, economic and cultural wellbeing. Policy 6 states "there is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted."

NZFSS noted that:

enabling additional consenting pathways for activities is not well-aligned with the first priority for freshwater management under TMotW for the health and wellbeing of waterbodies and freshwater ecosystems. Nor does it align with Policy 6 requiring no further loss of wetlands and protection of their values. There is no evidence that these proposed changes will not, over time, result in the further loss of wetland extent or values nationally.

RMLA stated:

The proposed amendments significantly broaden the category of activities that have a consenting pathway to result in complete or partial drainage of wetlands and consequently, the loss of values and extent of natural wetlands. Some loss of values and extent may be addressed on a 'net' basis but even this outcome is not secured. In summary, the changes proposed will increase the inconsistency between the NPSFM 2020 policy direction for no loss of wetland values and extent, and the outcomes that the Regulations allow to occur.

TCC noted that in order for a consent pathway to be created for activities within or adjacent to natural inland wetlands, Policy 6 would need to be amended to 'no net loss' instead of 'no further loss'.

Others, such as Tāmaki Estuary Environmental Forum (TEEF) want to retain protection consistent with TMotW and did not support consent pathways at all.

Analysis and recommendation

We acknowledge RMLA's point that a net outcome from offsetting cannot be guaranteed. There has been little research on the efficacy of biodiversity offsetting in general – including for restored and constructed wetlands in New Zealand. Further, we know from the *National Wetland Trust Report of 2020* that not all offsetting required by consents has been undertaken in the past. This can however be improved with support. We consider compliance with offsetting will be improved in the future by the following requirements in the NPS-FM.

- Councils must require monitoring of wetland offsets by the consent holder, as a condition of any consent issued to undertake activities in and around wetlands [3.22(3)(b)].
- Map wetlands that are the subject of a consent application (eg, offsetting wetlands), or greater than 500 square metres, naturally smaller types, and any identified in a farm environment plan [3.23].

Offsetting requirements will be aided by the recommendation to include a set of principles for offsets and compensation in the NPS-FM appendices which align with those in the proposed National Policy Statement for Indigenous Biodiversity, as recommended by Forest and Bird (see [Appendix 1](#)).

We are also considering combining map layers with the monitoring data collected within a national wetland portal in a similar way that Land, Air, Water Aotearoa (LAWA) operates. This would create a dataset to report on changes to wetland extent at a national level over time and assist with compliance monitoring for offsetting purposes. This would be a longer term project but one that would support the policy, assist with compliance, provide data on the success or not of offsets and assist with national level reporting over time.

We note that TMotW has three priorities and while the first priority is to put the needs of the waterbody first, we note that offsetting, if done well, can produce a net gain and an improvement in the ecology of a wetland. We therefore consider that because the proposals for additional pathways are still relatively constrained, and that the effects management hierarchy can address loss of extent and values, the first priority can still be said to be upheld, while providing for the third priority.

We agree with the submission from TCC and others, that currently the requirement for 'no further loss' of natural inland wetland extent at Policy 6 appears to contradict the provision of consent pathways. However, we consider that 'no net loss' is too broad and has potential implications for other activities (not provided with a consent pathway) which may lead to unintended loss of wetland extent. We consider that the appropriate means of addressing the issue raised by TCC is to acknowledge the provision for activities with a consent pathway (currently set out at 3.22(1)(a) and the NES-F), in the wording of Policy 6 (see [recommendation 62](#)).

Recommendations 61–62

Recommendations

61. Include a requirement at 3.22(3) of the NPS-FM that council must be satisfied that where aquatic offsetting or aquatic compensation is being pursued, the applicant has given regard to the aquatic offsetting and compensation principles which will be appended to the NPS-FM

agree/disagree

62. Amend Policy 6 in the NPS-FM so that it clarifies that there is to be no further loss of natural inland wetland extent, their values are protected, and their restoration is promoted, except where loss is a consequence of consented activities, to which the effects management hierarchy has been applied

agree/disagree

Part 4B: Drainage – prohibited (r 53) and non-complying activities (r 52)

Prohibited (regulation 53) and non-complying (regulation 52) status address activities that could result in the drainage of natural wetlands (earthworks and water take and use, damming, diversion, or discharges). Non-complying activity status (regulation 54) is the catch-all, dealing with all other activities and includes vegetation clearance, earthworks and water take and use (etc).

Summary of submissions

A number of submitters considered that prohibited activity status is “too blunt an instrument”⁴⁶ and that this is the main reason “carve-outs” are needed.⁴⁷ NZ Steel noted:

an application cannot be made for a prohibited activity, nor can a plan change application be made. This precludes proposals being assessed on their merits and ignores the complex and varied nature of wetlands - creating a perverse outcome where wetlands of very little value are protected at the expense of projects that have net social, economic and/or environmental benefit.

NRC noted that it is unclear how a “discharge of water” could drain a natural wetland and that if prohibited activity status (regulation 53) is retained, the Ministry should clarify what “drainage” of a natural wetland is supposed to capture. For example, is it also intended to capture flooding a natural wetland for the creation of a dam?

Analysis and recommendation

We remain of the view that the prohibited activity status, with specific consent pathways, is the best way to provide the level of protection to wetlands that the *Essential Freshwater* package seeks to achieve. If it were possible for a full range of activities to occur within and around natural wetlands, with attendant offsetting requirements, the outcome would

⁴⁶ NZ Steel, Oyster Capital Ltd, NZDF.

⁴⁷ Northland Regional Council.

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ultimately be a lack of suitable areas and wetlands in which to locate offsets. Development would inevitably be proposed to occur in natural wetlands that previously had been constructed as offsets and overall wetland extent would be reduced. In addition, many submitters noted that it is not guaranteed that offsets will be effective (managed over the longer term) or even undertaken, despite being part of a consent condition.⁴⁸ It is our view that the opportunities for activities within natural wetlands that will result in degradation or loss (despite being balanced with offsets) should continue to be constrained.

The criticism that the prohibited activity status applies irrespective of natural wetland value overlooks the potential of all natural wetlands to be restored, their values improved, and ecosystem services such as nutrient attenuation to be used. Without also protecting degraded natural wetlands there will be few left to use for offsetting purposes.

We acknowledge however, that the current drafting of regulation 52 (non-complying activities) and regulation 53 (prohibited activities), could be clarified. These two regulations address drainage arising from earthworks, as well as the take, use, damming, diversion or discharge of water. They apply generally to all activities, unless the activity has another status under the regulations. NRC's point that a discharge of water is unlikely to drain a natural wetland is valid. We recommend deleting this term from regulations 52 and 53.

Discharges would still be adequately covered in regulation 54 (non-complying activities), covering vegetation clearance, earthworks and water takes, including discharges, for all other activities (unless they have a specific status eg, specified infrastructure).

Recommendation 63

Recommendation

63. In the NES-F remove the words 'or discharge' from the chapeau in regulation 52(2) and regulation 53(2)

agree/disagree

Part 4C: Discharges and the 100-metre setback (r 54)

The NES-F was developed to protect wetlands from the three main activities that contribute to their loss and degradation, these being: vegetation clearance, earthworks and changes to water levels that result in their loss and/or impact biodiversity and habitat (see Action for Healthy Waterways Section 32 Analysis, section 8.3.1).⁴⁹ For example, regulation 54 states it is non-complying to take, use, dam, divert or discharge water within, or within a 100-metre setback from, a natural wetland.

⁴⁸ National Wetlands Trust, Forest and Bird.

⁴⁹ Ministry for the Environment. 2020. *Action for healthy waterways: Section 32 Evaluation*. Prepared for the Ministry for the Environment by Harrison Grierson. Wellington: Ministry for the Environment. Retrieved from <https://environment.govt.nz/assets/Publications/Files/action-for-healthy-waterways-section-32-evaluation-report.pdf> (accessed 19 May 2022).

Summary of submissions

Many submitters provided examples where this regulation was being applied to the discharge of contaminants. This included stormwater discharges, septic tank overflows for rural-residential dwelling developments with tertiary treated wastewater systems, or overflows from drinking water tanks.⁵⁰ In another case a non-complying activity consent is now required for the creation of any impervious surface on a residentially zoned site located within 100 metres of a natural wetland.⁵¹

A third example of the application of regulation 54 by a council requires a consent for the discharge of sediment and water from any earthworks (which have a 10-metre setback) within 100 metres of a natural wetland, where sediment controls and/or storm water diversion are being employed (regardless of the presence of controls). In these cases, all earthworks within 100 metres of a natural wetland require a non-complying consent (unless otherwise provided for in the NES-F), because permitted earthworks rules (and resource consents for earthworks) require diversion and the discharge of water to control sediment runoff and erosion (eg, for sediment ponds, bunds and discharge structures). In effect, the earthworks setback is extended out to 100 metres due to the interpretation that the phrase 'discharge of water' in regulation 54 relates to the discharge of contaminants.

In addition, because the regulation is silent on the effect it is seeking to address, the 100 metres is being applied irrespective of whether there is a hydrological connection between the discharge and the natural wetland.⁵²

The National Wetland Trust noted that regulation 54 is causing the majority of complaints they hear. The Trust states, "this is creating lots of additional and unnecessary applications for consent where there is often little or no chance of damage to the wetland eg, for a wastewater field that is 80 m away and in an adjacent catchment (over a hill)". The Trust provided draft wording to clarify the intent, and the effects to be managed.

Analysis and recommendation

We are aware that there is a wide range of interpretations of this regulation by councils. In June 2021, regulation 54 was the subject of a complaint to the Regulations Review Committee, which the Committee investigated under Standing Order 327(2)(i). A response was sought from the Ministry, and evidence presented to the committee on 1 September 2021.

The Ministry's response to the Committee stated that the regulation was unintentionally capturing discharges of contaminants and that these issues would be considered as part of the current consultation on amendments to the wetland provisions in the NES-F.

It was not the intention that the NES-F should apply another layer of regulation to the discharge of contaminants to natural wetlands from stormwater or wastewater. Our review of planning provisions in regional plans showed these are adequately addressed by existing rules and permitted activity requirements. As set out above, the phrase 'discharge of water' is intended to control fluctuations or changes in water level that would impact biodiversity, habitat and/or the ecological function of the natural wetland – contaminants discharges are addressed via other regulatory requirements.

⁵⁰ Federated Farmers, NZ Deer Farmers Association, Deer industry NZ.

⁵¹ Planning Central.

⁵² Boffa Miskell.

We have issued guidance on this matter, but we also agree with the National Wetland Trust that the regulation could be clarified by including the effect that it is seeking to address and ensuring that the 100-metre setback only applies where there is a hydrological connection between the activity and the natural wetland. We recommend progressing an amendment to that effect.

Recommendation 64

Recommendation

64. Amend every reference to ‘discharges of water’ in Part 3 – Subpart 1 of the NES-F to specify that they are only regulated if the activity has, or is likely to have, adverse effects on the hydrological regime or biodiversity values of a natural wetland

agree/disagree

Part 4D: Fish passage

One submitter, Bioresearches, noted there is a disconnect in the regulations between fish passage and effects on wetlands. Culverts throughout NZ have been identified as complete or partial barriers to native fish passage. Bioresearches’ view is that these will not be able to be addressed under the current wetland regulations because replacing small undersized culverts that have induced boggy ground upstream or downstream of a culvert is prohibited.

Analysis and recommendation

We agree that the wetland regulations should not create an impediment to addressing barriers to fish passage. Maintenance of a culvert would be permitted under regulation 46 (being existing infrastructure or for the purposes of flood control etc). However, we note the existing condition that the maintenance must not increase the size of the infrastructure and agree this could impede replacing too-small culverts in order to remove a barrier for fish. We recommend the following amendment to specifically provide for this.

Recommendation 65

Recommendation

65. In the NES-F provide an exception to regulation 46(4)(b) (Maintenance of infrastructure) so that the activity may increase the size of a structure if it is for the purpose of providing for fish passage and complies with the regulations set out in NES-F Part 3, Subpart 3 – Passage of fish affected by structures.

agree/disagree

Part 4E: Alignment and clarification for specified infrastructure

Some submitters note that under the permitted activity regulation for the maintenance of specified infrastructure (regulation 46), hydroelectric infrastructure is exempt from some general conditions in regulation 55 (exempt from 55(2), (3)(b)–(d) and (5)). They seek the same for flood and drainage management infrastructure.

Auckland Airport considers the regulation providing for the construction of specified infrastructure does not make it clear whether works which may result in the complete or partial drainage of natural wetlands are enabled under the NES-F.

Analysis and recommendation

We agree that there are some general conditions in regulation 55 which are not suitable to be applied to the maintenance and operation of flood control infrastructure and recommend the amendments set out below. Similarly, we agree that regulation 45 controlling the construction of specified infrastructure could be clarified as to the effect it is seeking to address and recommend regulation 45(4), which regulates the take, use, damming, diversion or discharge be clarified in the same way as it is proposed for regulation 54.

Recommendations 66–67

Recommendations

66. In regulation 46 of the NES-F (Maintenance and operation of infrastructure – permitted activities) disapply the following general conditions in regulation 55 (General Conditions):
- regulation 55(2) (the requirement to notify the regional council 10 working days before commencing the activity)
 - regulation 55(3)(b) (c) and (d)
 - regulation 55 (5)

agree/disagree

67. Amend regulation 47 (Maintenance and operation of infrastructure – restricted discretionary activities) to provide an exception to the general mandatory condition in regulation 47(5)(c) (that the bed and hydrological condition of a wetland must be restored within 30 days of the start of the activity) if the maintenance and operation of the infrastructure necessitates the ongoing taking, use, damming, diversion, or discharge of water

agree/disagree

Part 4F: Additional matters not recommended

The following table covers additional matters that we do not agree should be progressed and the rationale for this.

Table 2: Additional matters and rationale for not progressing

Issue	Rationale
<p>The Forest Owners Association seek certainty that if the National Environmental Standards for Plantation Forestry (NES-PF) is reviewed (for example through the bringing together of national direction to the National Planning Framework), then additional exemptions, currently set out in the NES-PF around earthworks and harvesting close to a natural wetland should be retained in the NES-F now.</p>	<p>We do not recommend proceeding with this request. We note that consultation on the National Planning Framework would provide the opportunity to make this change, should it be needed, but it would be redundant at the present time as the NES-F is subject to the NES-PF as set out in regulation 7 of the NES-F.</p>
<p>The Pukekohe Vegetable Growers Association seek a change to the requirements that apply to them in regulation 55 (general conditions), that after vegetation clearance the earth must not remain bare for longer than 3 months. They note that erosion and sediment controls are an integral part of all vegetable growing and land often sits fallow during wetter winter months.</p>	<p>We do not recommend making an exception for vegetable growing adjacent to a natural wetland on this basis. We note that a time-bound exception to the National Objectives Framework in 2020 was necessary for vegetable growers due to high levels of sediment/nutrient run-off. This policy will incentivise use of 'cover crops' to both fix nitrogen and reduce sediment/nutrient runoff adjacent to wetlands.</p>
<p>One council identified that there was no provision for managing coastal erosion (which is likely to be an increasing problem as sea levels rise) and that it would be logical for this to be included in the definition of 'specified infrastructure' in the NPS-FM under the subheading of natural hazard works in the NES-F.</p>	<p>We note that public flood control and flood protection is provided for under the definition of 'specified infrastructure', albeit not specifically for managing erosion in the CMA. We consider the wetland provisions in the NES-F are not the correct mechanism although we agree there would be value in providing additional direction on this.</p>
<p>NZDF submitted that defence facilities and activities, which are locationally confined, may need to be undertaken in proximity to a natural wetland and should be included within the definition of 'specified infrastructure'.</p>	<p>We consider that defence facilities should be located outside of natural wetlands, and further that the offsetting requirements of a consent pathway, which are necessary, would be problematic. It would not be appropriate to include defence activities as specified infrastructure.</p>
<p>Other industries sought amendments to regulate the activity status (eg, restricted discretionary) of those activities currently identified in the definition of 'specified infrastructure'. One industry provider emphasised that for the ongoing provision of electricity to be provided to New Zealanders, consents should only be required for new national grid infrastructure and not for the maintenance of current infrastructure, to reduce consenting burden.</p>	<p>We do not agree. A global consent may be sought that would provide for on-going maintenance of existing infrastructure as necessary.</p>

Appendix 1: Principles for offsetting and compensation

Principles for aquatic offsetting

The following sets out a framework of principles for the use of aquatic offsets. These principles represent a standard for aquatic offsetting and must be complied with for an action to qualify as an aquatic offset under the effects management hierarchy as set out in the NPS-FM.

1. **Adherence to effects management hierarchy:** An aquatic offset is a commitment to redress any more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise and remedy adverse effects are demonstrated to have been sequentially exhausted.
2. **Aquatic offsets are not appropriate** in situations where the loss of value or extent cannot be offset to achieve a 'no net loss' outcome. This principle reflects a standard of acceptability for demonstrating, and then achieving, offsetting of aquatic values. Examples of where an offset would be inappropriate include where:
 - (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the river or wetland (including the species) affected
 - (b) effects on value and extent are uncertain, unknown or little understood, but potential effects are significantly adverse
 - (c) there are no proven technical or feasible options by which to demonstrate a 'no net loss' outcome within an acceptable timeframe.
3. Aquatic offsetting results in a measurable 'no net loss': The values to be lost through the activity to which the offset applies are counterbalanced and exceeded by the proposed offsetting activity, so that the result is a net gain in extent and value. Net gain is achieved when the values at the offset site exceed those being lost at the impact site. It is demonstrated by a like-for-like quantitative loss/gain calculation of the following:
 - (a) indigenous biodiversity, including the condition of habitat for that biodiversity
 - (b) spatial extent
 - (c) hydrological and ecological function.
4. **Additionality:** The aquatic offset achieves conservation outcomes beyond what would have occurred in the absence of the offset. This means gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.
5. **Leakage:** Offset design and implementation avoids displacing harm to other locations (eg, harm to existing biodiversity at the offset site).
6. **Landscape context:** Offset actions are undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district and consider the landscape context of both the impact site and the offset site, taking into account interactions between species; habitats and ecosystems; spatial and hydrological connections; and ecosystem function.

7. **Long-term outcomes:** Offsets are managed over the long term to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity, including funding, location, management and monitoring. The consent period reflects the time required to manage the offset and who will be responsible for managing the offset.
8. **Time lags:** The delay between loss of extent or value at the impact site and net gain at the offset site is minimised so that the calculated gains are achieved within the consent period.
9. **Science and mātauranga Māori:** The design and implementation of an aquatic offset is a documented process informed by best practice, science and mātauranga Māori where available.
10. **Stakeholder participation:** Opportunity for the effective and early participation of stakeholders is demonstrated when planning offsets, including their evaluation, selection, design, implementation and monitoring.
11. **Transparency:** The design and implementation of an offset and communication of its results to the public, is undertaken in a transparent and timely manner.

Principles for aquatic compensation

The following sets out a framework of principles for the use of aquatic compensation for wetlands and rivers. These principles represent a standard for aquatic compensation and must be complied with for an action to qualify as aquatic compensation under the effects management hierarchy in the NPS-FM.

12. **Adherence to effects management hierarchy:** aquatic compensation is a commitment to redress more than minor residual adverse impacts, and should be contemplated only after steps to avoid, minimise, remedy and offset adverse effects are demonstrated to have been sequentially exhausted.
13. **Aquatic compensation is not appropriate where:**
 - (a) the aquatic system affected is irreplaceable, or vulnerable
 - (b) effects on the wetland/river are uncertain, unknown or little understood, but potential effects are significantly adverse.
14. **Scale of aquatic compensation:** The values to be lost through the activity to which the compensation applies are addressed by positive effects that outweigh the adverse effects (ie, a net gain).
15. **Additionality:** Aquatic compensation achieves gains that are above and beyond gains that would have occurred in the absence of the compensation (ie, gains that are additional to any offsetting undertaken in relation to the adverse effects of the activity).
16. **Landscape context:** Aquatic compensation actions are undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The actions consider the context of both the impact site and the compensation site, taking into account interactions between species; habitats and ecosystems; spatial connections; and ecosystem function.
17. **Long-term outcomes:** Aquatic compensation is managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity.

18. **Trading up:** When trading up forms part of aquatic compensation, the proposal demonstrates that the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal also shows the values lost are not to threatened or at risk species or to species considered vulnerable or irreplaceable.
19. **Financial contributions:** Financial contributions are only considered when there is no effective option available for achieving gains in value or extent on the ground. Any contributions to address more than minor residual adverse effects must be directly linked to an aquatic gain or benefit.
20. **Science and mātauranga Māori:** The design, implementation and use of aquatic compensation is a documented process informed by science, and includes mātauranga Māori, where available.
21. **Stakeholder participation:** Opportunity for the effective and early participation of stakeholders is demonstrated when planning for aquatic compensation, including its evaluation, selection, design, implementation and monitoring.
22. **Transparency:** The design, implementation and use of aquatic compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.

#	Consultation Question	Agree/Disagree	
1	Proceed as proposed and delete the term 'improved pasture' from the NPS-FM definition of a 'natural wetland' and replace with 'pasture'; remove the definition of 'improved pasture' from the NPS-FM		
2	Proceed as proposed and delete 'at the commencement date' from part (c) of the definition of 'natural wetland' in the NPS-FM.		
3	Proceed as proposed and delete 'is dominated by (that is, more than 50% of) exotic pasture species' from part (c) the definition of 'natural wetland' in the NPS-FM		
4	Replace with 'that has 50% or more ground cover comprising exotic pasture species, or words to that effect		
5	Incorporate by reference into the NPS-FM, under section 46B of the RMA, a national list of exotic pasture species that will define what is included and meant by the phrase 'exotic pasture species'		
6	Proceed as proposed and delete 'and is subject to temporary rain-derived water pooling' from part (c) of the definition of 'natural wetland' in the NPS-FM		
7	Do not replace with an alternative measure of wetland hydrology within the exclusion for pasture-dominated wetlands in part (c) of the definition of 'natural wetland'		
8	(New) Amend part (a) of the definition of 'natural wetland' in the NPS-FM to specify that a natural wetland includes induced wetlands		
9a	Include definitions in the NPS-FM for: a. Wetlands constructed by artificial means – being wetlands and waterbodies that have been deliberately constructed, including areas of wetland habitat that have formed in or around any deliberately constructed waterbody, or words to that effect		
9b	Include definitions in the NPS-FM for: b. Induced wetlands – being wetlands that have resulted from any human activity except the deliberate construction of a wetland or waterbody by artificial means, or words to that effect		
10	(New) Amend the definition of 'natural wetland' in the NPS-FM to specify that where a wetland is identified as having threatened species, then it is a		

#	Consultation Question	Agree/Disagree	
	'natural wetland' and the exclusion under part (c) of the definition (in relation to pasture) does not apply		
11	Make a consequential amendment to the Resource Management (Stock Exclusion) Regulations 2020, to align the definition of 'natural wetland' with the amended definition in the NPS-FM		
	Part 2 proposed consent pathways		
12	Include principles for offsetting and compensation in an appendix of the NPS-FM as set out in Appendix 1 of this Summary Report and link the application of these principles to the effects management hierarchy		
13	Proceed as proposed and include quarries in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM		
14	Apply the same provisions to quarries as in the NPS-FM at 3.22(1)(b)(i), including the gateway tests of: significant national or regional benefit in 3.22(1)(b)(ii), and functional need in (iii); and the effects management hierarchy as per 3.22(b)(iv)		
15	Amend the NES-F to provide for quarrying activities as a discretionary activity and subject to the same provisions already in place for the construction of specified infrastructure		
	Defining quarrying and scope of the consent pathway		
16	Option 1: Include the definition for quarry and quarrying activities as set out in the National Planning Standards 2019 which also includes ancillary activities associated with quarrying		
17	Option 2: Include a definition of quarrying that applies only to the extraction of aggregate at site and not to ancillary activities (recommended)		
	Part 2B: Cleanfills, managed fills and landfills		
18	Proceed as proposed and include cleanfills, managed fills and landfills in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM		
19	Apply the same provisions to cleanfills, managed fills and landfills as in the NPS-FM at 3.22(1)(b)(i), including the significant national or regional benefit		

#	Consultation Question	Agree/Disagree	
	gateway test at 3.22(1)(b)(ii) and the effects management hierarchy as per 3.22(1)(b)(iv)		
20	Option 1: Apply the current definition of ‘functional need’ as set out in the National Planning Standards as a gateway test to landfills, cleanfills and managed fills OR		
21	Option 2: Apply the current definition of ‘operational need’ as set out in the National Planning Standards as a gateway test to landfills, cleanfills and managed fills OR		
22	Option 3: Make the gateway test in the NPS-FM ‘best practicable location’ for landfills, cleanfills and managed fills (recommended)		
23	Include the following definition, or words to that effect in the NPS-FM Best practicable location: means the best location for an activity to be undertaken in, having regard, among other things to– a) in relation to ‘plan-enabled’ development, and landfill, cleanfill and managed fill activities i. the scope and design of the activity, so that adverse effects are avoided to the extent possible, and ii. the effects on the natural inland wetland of that activity compared to effects on the environment in other locations, and b) in relation to ‘plan-enabled’ urban development, the extent to which development is required to meet development capacity under the NPS-UD AND		
24	Amend the NES-F to make landfill, cleanfill and managed fill activities a discretionary activity subject to the same provisions already in place for the construction of ‘specified infrastructure’		
25	Provide for the following definitions in the NPS-FM and NES-F: Landfill has the meaning given by the National Planning Standards 2019. Cleanfill has the meaning given by the National Planning Standards 2019 Managed fill means an area used for the disposal of material with low-grade		

#	Consultation Question	Agree/Disagree	
	contamination, such as demolition material, received from existing infrastructure, or words to that effect		
	Part 2C: Mining		
	<i>Providing a consent pathway for mining</i>		
26	Option 1: Do not progress a consent pathway for mining or associated activities in the NES-F OR		
27	Option 2: (recommended) Provide a consent pathway for mining by including mining in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM AND		
28	Apply the same provisions to mineral mining as in the NPS-FM at 3.22(b)(i), including the gateway test of national or regional benefit in 3.22(b)(ii) and functional need in (iii); and the effects management hierarchy as per 3.22(b)(iv) AND		
29	Provide for mineral mining as a discretionary activity in the NES-F and subject to the same provisions already in place for the construction of specified infrastructure. Defining 'mining' and the scope of the consent pathway		
30	Option 1: Apply the Crown Minerals Act 1991 definition of 'mining' in the NPS-FM and NES-F but do not include 'mining operations' (recommended) OR		
31	Option 2: Apply the Crown Minerals Act 1991 definition for both 'mining' and 'mining operations' in the NPS-FM and NES-F <i>Additional controls on types of minerals mined</i>		
32	Option 1: Do not place any controls on minerals able to be mined under the proposed consent pathway in the NES-F		

#	Consultation Question	Agree/Disagree	
	OR		
33	Option 2: Exclude coal from minerals able to be mined under the proposed consent pathway in the NES-F OR		
34	Option 3: Apply the following conditions to the ability to mine coal under the proposed consent pathway in the NES-F (recommended) Condition (a) – Include a sunset clause for mining that makes thermal coal mining a noncomplying activity after 1 March 2030, but; Condition (b) – Allow the mining of coking coal past 2030		
	Part 2D: Urban development		
35	Provide a consent pathway for ‘plan-enabled’ urban development in the NES-F and include ‘plan-enabled’ urban development in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM AND		
36	Apply the same provision to ‘plan-enabled’ urban development as in the NPS-FM at 3.22(1)(b)(i), and the effects management hierarchy as per 3.22(1)(b)(iv) AND		
37	Include a gateway test similar to that at 3.22(1)(b)(ii) which requires the plan-enabled urban development to provide significant national, regional or district benefits AND		
38	Option 1: Apply the current definition of ‘functional need’ as set out in the National Planning Standards as a gateway test to ‘plan-enabled’ urban development OR		

#	Consultation Question	Agree/Disagree	
39	Option 2: Apply the current definition of 'operational need' as set out in the National Planning Standards as a gateway test to 'plan-enabled' urban development OR		
40	Option 3: Make the gateway test in the NPS-FM 'best practicable location' for 'plan enabled' urban development (recommended) AND		
41	Include the following definition, or words to that effect in the NPS-FM Best practicable location: means the best location for an activity to be undertaken in, having regard, among other things to– a) in relation to 'plan-enabled' development, and landfill, cleanfill and managed fill activities i. the scope and design of the activity, so that adverse effects are avoided to the extent possible, and ii. the effects on the natural inland wetland of that activity compared to effects on the environment in other locations, and b) in relation to 'plan-enabled' urban development, the extent to which development is required to meet development capacity under the NPS-UD		
42	Include a gateway test similar to that at 3.22(1)(b)(ii) which requires the plan-enabled urban development to provide significant national, regional or district benefits AND		
43	Provide for 'plan-enabled' development as a restricted discretionary activity in the NES-F subject to with the matters to which discretion is restricted, being those set out in existing regulation 56 of the NES-F <i>Defining 'plan-enabled' urban development</i>		
44	Option 1: Utilise the definition of 'plan-enabled' urban development for the proposed urban development consent pathway in the NPS-FM and NES-F as set out in the NPS-UD OR		

#	Consultation Question	Agree/Disagree	
45	<p>Option 2: (recommended) Add a qualifier to the definition of ‘plan-enabled’ for the purposes of the NES-F which clarifies that: ‘plan-enabled’ has the meaning given by the NPS-UD, except that for the purposes of the NPS-FM and NES-F:</p> <p>(a) plan-enabled in the short term means land zoned for housing or business use (as applicable) in an operative district plan;</p> <p>(b) or land identified for development in any relevant statutorily recognised document (eg, Smartgrowth plan)</p>		
46	Require the consent authority to be satisfied for a ‘plan-enabled’ development that there is clear provision, including who is responsible, for the ongoing maintenance and management of aquatic offsets, once the development phase is completed		
	Part 2E: Additional consent pathways proposed by submitters		
47	Provide for the construction and maintenance of water storage within the current definition of ‘specified infrastructure’ in the NPS-FM (recommended)		
	Ski areas		
48	<p>Option 1: Do not provide a specific consent pathway for the construction and maintenance of infrastructure associated with ski areas on the basis that the existing consent pathway for ‘regionally significant infrastructure identified as such in a regional policy statement or regional plan’ is appropriate and would be available for this activity</p> <p>(recommended)</p> <p>Note that the recommendation to provide for water storage will also address ski area needs for snowmaking and water treatment/supply</p>		
49	<p>Option 2: Amend the consent pathway for ‘regionally significant infrastructure identified as such in a regional policy statement or regional plan’ to remove the requirement for the infrastructure to have prior listing in a regional policy statement or regional plan</p> <p>Note that this would apply generally, not just to ski areas and would allow the consent authority to make the determination of regional significance as part of their decision making on a consent application</p>		
50	<p>Option 3: Include infrastructure associated with, and for ski areas within the definition of ‘specified infrastructure’ including but not limited to, transport mechanisms such as lifts, roads, and tracks (for any purpose), associated</p>		

#	Consultation Question	Agree/Disagree	
	facilities for the loading or unloading of passengers, sewerage system, water and electricity supply		
	Part 3: Amendments to the restoration provisions		
51	(New) Include definitions for 'maintenance' and 'biosecurity' in the NPS-FM and NES-F. The definitions would be, or words to similar effect: Maintenance means managing threats such as weeds to prevent deterioration of wetland condition Biosecurity means activities to eliminate or manage a pest, invasive or an unwanted organism		
52	Amend the existing definition of 'restoration' in the NPS-FM to remove the phrase 'natural inland wetlands' and include the amended definition in the NES-F <i>Maintenance (weed control) and biosecurity</i>		
53	Wherever 'is for the purpose of natural wetland restoration' appears in regulations 38 and 39, change to 'is for the purpose of natural wetland restoration, maintenance or biosecurity' or words to that effect		
54	Amend regulation 38(4)(b) to read that if an activity is vegetation clearance, earthworks or land disturbance, the activity must not affect more than 500m ² or 10% of the area of the natural wetland, whichever is smaller		
55	Amend 38(5) by adding exceptions to the area limit in subclause 4(b) for the following activities: i. non-indigenous vegetation clearance for biosecurity purposes and indigenous vegetation clearance demonstrably necessary for the biosecurity activity ii. non-indigenous vegetation clearance using handheld tools for restoration and maintenance		
	Restoration Plans		
56	Amend 38(5) by adding exceptions to the area limit in subclause 4(b) for non-indigenous vegetation clearance for restoration or maintenance in accordance with a restoration plan, provided to the council at least 10 working days prior to the activity commencing. A restoration plan must: i. assess the restoration and/or maintenance activities against relevant general conditions in regulation 55; and		

#	Consultation Question	Agree/Disagree	
	ii. address the matters in Schedule 2 of the NES-F relevant to the activity proposed restoration plans for natural wetlands		
	Controls on removing/planting exotic species		
57	In relation to planting exotic species, amend regulation 38(5) to clarify that it only applies to planting for restoration purposes		
58	Make a consequential amendment to the permitted activities in regulation 40(5) (scientific research), regulation 43(5) (maintaining wetland utility structures) and regulation 46(5) (maintaining specified and other infrastructure) so that the exception relates to planting for restoration purposes		
	Amendments to regulation 55		
59	Amend regulation 55(3)(e) in the NES-F to provide that debris and sediment (excluding the consented disposal of overburden) must not be placed – i. within a setback of 10 m from any natural wetland; or ii. in a position where it may enter any natural wetland		
	Charges for notification of activity		
60	Amend regulation 75 so that councils cannot charge to receive and review notifications of intended permitted activity work (including restoration plans where required) for wetland restoration, maintenance and biosecurity		
	Part 4: Additional matters		
61	Include a requirement at 3.22(3) of the NPS-FM that council must be satisfied that where aquatic offsetting or aquatic compensation is being pursued, the applicant has given regard to the aquatic offsetting and compensation principles which will be appended to the NPS-FM		
62	Amend Policy 6 in the NPS-FM so that it clarifies that there is to be no further loss of natural inland wetland extent, their values are protected, and their restoration is promoted, except where loss is a consequence of consented activities, to which the effects management hierarchy has been applied		
	Part 4B: Drainage – prohibited (r 53) and non-complying activities (r 52)		
63	In the NES-F remove the words ‘or discharge’ from the chapeau in regulation 52(2) and regulation 53(2)		
	Part 4C: Discharges and the 100-metre setback (r 54)		

#	Consultation Question	Agree/Disagree	
64	Amend every reference to 'discharges of water' in Part 3 – Subpart 1 of the NES-F to specify that they are only regulated if the activity has, or is likely to have, adverse effects on the hydrological regime or biodiversity values of a natural wetland		
	Part 4D: Fish passage		
65	In the NES-F provide an exception to regulation 46(4)(b) (Maintenance of infrastructure) so that the activity may increase the size of a structure if it is for the purpose of providing for fish passage and complies with the regulations set out in NES-F Part 3, Subpart 3 – Passage of fish affected by structures.		
	Part 4E: Alignment and clarification for specified infrastructure		
66	In regulation 46 of the NES-F (Maintenance and operation of infrastructure – permitted activities) disapply the following general conditions in regulation 55 (General Conditions): – regulation 55(2) (the requirement to notify the regional council 10 working days before commencing the activity) – regulation 55(3)(b) (c) and (d) – regulation 55 (5)		
67	Amend regulation 47 (Maintenance and operation of infrastructure – restricted discretionary activities) to provide an exception to the general mandatory condition in regulation 47(5)(c) (that the bed and hydrological condition of a wetland must be restored within 30 days of the start of the activity) if the maintenance and operation of the infrastructure necessitates the ongoing taking, use, damming, diversion, or discharge of water		

7.9. 2022-2023 Regional Pest Management Plan Biosecurity Operational Plan

Prepared for: Council
Report No. BIO2201
Activity: Environmental: Land
Author: Andrea Howard, Manager Environmental Implementation
Murray Boardman, Performance and Delivery Specialist
Endorsed by: Gavin Palmer, General Manager Operations
Date: 29 June 2022

PURPOSE

- [1] To seek Council's approval to adopt the Otago Regional Council's Regional Pest Management Plan – 2022-2023 Operational Plan.

EXECUTIVE SUMMARY

- [2] In accordance with the Biosecurity Act 1993, the Council's Otago Pest Management Plan 2019-2029 (RPMP) was adopted in November 2019. The RPMP details the plants and animals that are declared pests in the Otago region, explains why they are pests, and outlines how each pest will be managed over a ten-year period.
- [3] An Operational Plan is required under Section 100B of the Act to detail the nature and scope of activities the Council intends to undertake in the annual implementation of the RPMP. For reasons of operational efficiency, the Operational Plan aligns with Council's financial year (1 July to 30 June). The Operational Plan details the range of activities that will be undertaken by Council on the implementation of pest control across the five management programmes. The proposed Operational Plan continues the commitment of the biosecurity work as approved in the ORC 2021-31 Long Term Plan¹.
- [4] The 2022-23 Operational Plan builds on the 2021-22 Operational Plan, identifying and strengthening new areas, including:
- a. Continue property inspections checking for compliance with feral rabbit rules on private land and land owned by territorial authorities and crown entities;
 - b. Continue to actively implement ORC's Biosecurity Compliance and Enforcement Policy²;
 - c. Increased focus on describing the effectiveness of pest management actions through data analysis and trend monitoring, including spatial analysis using GIS;
 - d. Greater focus on the creation and dissemination of information about biosecurity threats and management solutions to Otago's communities;
 - e. Continue with the five regional priorities – providing a heightened focus, which is supported through greater resourcing and management oversight;

¹ <https://www.orc.govt.nz/plans-policies-reports/corporate-plans-and-reports/long-term-plan-ltp>

² *Biosecurity Compliance Policy*, prepared for 9 June 2021 meeting of the Implementation Committee, Report No. BIO2110, 9 June 2021.

- f. Extend ecosystems and habitat mapping data, to strengthen a biodiversity prioritisation model to achieve greater biosecurity and biodiversity outcomes, and;
 - g. Implement business improvement initiatives to ensure delivery of the 2022-23 Operational Plan.
- [5] The proposed Biosecurity Operational Plan for 2022-2023 is **attached**. In addition, a comparison document is also included to highlight the changes with the current 2021-2022 Biosecurity Operational Plan.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the Otago Regional Council's Regional Pest Management Plan Biosecurity Operational Plan 2022-2023.
- 3) **Agrees** to proactively provide a copy of the Otago Regional Council's Regional Pest Management Plan Biosecurity Operational Plan 2022-2023 to the Minister for Biosecurity.
- 4) **Notes** that staff will report back to Council any response from the Minister for Biosecurity.

DISCUSSION

- [6] Biosecurity is important for the sustainable wellbeing of the Otago region and its communities and is one of the Council's top four strategic priority areas.
- [7] Under the Biosecurity Act 1993 (the Act), regional councils are mandated to provide:
- "...leadership in activities that prevent, reduce, or eliminate adverse effects from harmful organisms that are present in New Zealand (pest management) in their region".*
- [8] The Act provides a framework to allow activities such as:
- promoting the alignment of pest management;
 - facilitating the development and alignment of regional pest management plans;
 - promoting public support for pest management; and
 - facilitating communication and co-operation among those involved in pest management to enhance effectiveness, efficiency, and equity of programmes (section 12B(2) of the Act).

Regional Pest Management Plan

- [9] Between 2017 and 2019, the Otago Regional Council developed, consulted on and ultimately adopted the Otago Regional Pest Management Plan 2019-2029 (RPMP).
- [10] The RPMP details the range of regulatory and non-regulatory mechanisms the Council will utilise for effective biosecurity leadership in Otago over the next 10 years. It contains pest control programmes, objectives and rules to manage pests that cause harm to the wellbeing of Otago's people, economy and environment.

Regional Pest Management Plan – Operational Plan

- [11] In order to deliver on the objectives of the RPMP, the Act (Section 100B), requires that an Operational Plan be prepared. The Operational Plan outlines the nature and scope of activities the Council intends to undertake in the implementation of the RPMP. For reasons of operational simplicity and efficiency, the Operational Plan has been developed to align with Council's financial year (1 July to 30 June).
- [12] The Operational Plan must be consistent with the current RPMP in that it cannot introduce any new objectives, rules or regulatory tools. Due to this, there is no statutory requirement to consult with the community on the details of the Operational Plan.
- [13] The Operational Plan needs to be accessible to the public, reviewed annually and be made available to the Minister for Biosecurity.
- [14] The Minister acknowledged receipt of the 2021-22 Biosecurity Operational Plan (as **attached**). The Minister noted the significant increase in resources for pest management and was pleased with the Council's commitment to the national wilding conifer and wallaby programmes and working with Kāi Tahu on biosecurity.
- [15] Within 5 months from the end of each financial year, the Council is required to evaluate progress against the deliverables and key indicators outlined in the Operational Plan as required by the Biosecurity Act 1993.
- [16] A review of performance against the current 2021-2022 Biosecurity Operational Plan will be provided to Council by the end of September 2022. Performance throughout the year has been reported through the Annual Plan Quarterly Reporting to Finance Committee and the Environmental Implementation Quarterly Reporting to Implementation Committee.

Operational Focus Areas

- [17] The Operational Plan focuses on pest control implementation across five management programmes used to manage plant and animal pests in Otago:
- Exclusion;
 - Eradication;
 - Progressive Containment;
 - Sustained Control; and
 - Site-led.
- [18] The five management programmes are supported by shared field and administrative approaches. This shared approach simplifies deliverables yet provides flexibility to report on different pest species.
- [19] The Operational Plan provides an additional layer of detail explaining how the objectives in the RPMP will be met through specific deliverables (actions), performance measures and targets.
- [20] The 2021-2031 Long-term Plan provided a large increase in funding for Council's biosecurity function. Due to this, biosecurity staffing levels have increased and

opportunities to better meet our obligations under the Biosecurity Act 1993 and to support others to comply with the RPMP rules and wider biodiversity goals.

- [21] The 2021-2022 Operational Plan was reviewed by staff and lessons learnt have been adopted in the proposed 2022-2023 Operational Plan. Lessons included:
- a. Ensuring KPIs were better aligned to implementation of the RPMP;
 - b. Increased emphasis to describe effectiveness of implementation;
 - c. Improved procedures to ensure implementation is fit for purpose.
- [22] The focus on the 2022-2023 Operational Plan include:
- a. Continue property inspections checking for compliance with feral rabbit rules on private land and land owned by territorial authorities and crown entities;
 - b. Continue to actively implement ORC's Biosecurity Compliance and Enforcement Policy;
 - c. Increased focus on describing the effectiveness of pest management actions through data analysis and trend monitoring, including spatial analysis using GIS;
 - d. Greater focus on the creation and dissemination of information about biosecurity threats and management solutions to Otago's communities;
 - e. Continue with the five regional priorities – providing a heightened focus, which is supported through greater resourcing and management oversight;
 - f. Extend ecosystems and habitat mapping data, to strengthen a biodiversity prioritisation model to achieve greater biosecurity and biodiversity outcomes, and;
 - g. Implement business improvement initiatives to ensure delivery of the 2022-23 Operational Plan.
- [23] The proposed Biosecurity Operational Plan for 2022-2023 is **attached**. In addition, a comparison document is also included to highlight the changes with the current 2021-2022 Biosecurity Operational Plan.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [24] The Operational Plan does not set policies or objectives as those have already been set in the RPMP that has been adopted by Council. The Operational Plan must be entirely consistent with the RPMP in that it cannot introduce any new objectives, rules or regulatory tools. The Minister is not required to approve the Plan but may disallow all or part of it if they believe that it is inconsistent with the RPMP.

Financial Considerations

- [25] The 2022-2023 Operational Plan is based on the 2021/2031 Long Term Plan programme and budget.

Significance and Engagement

- [26] There is no statutory requirement to consult with the community on the details of the Operational Plan.

Legislative and Risk Considerations

- [27] The Otago Regional Council's Regional Pest Management Plan – 2022-2023 Operational Plan has been prepared in accordance with the Biosecurity Act 1993. The 2022-2023 Operational Plan is a legislative requirement of the Biosecurity Act 1993.

Climate Change Considerations

[28] Climate change is widely regarded as one of the greatest challenges facing ecological systems in the coming century.³ Climate change therefore poses risks to biosecurity through factors such as the establishment of new pests, changes in the status of current pests and shifts in introduction pathways.

Communications Considerations

[29] Council will disseminate biosecurity priorities, strategics and actions via the usual communications channels and will undertake more active community education and advocacy on the RPMP and then 2022-2023 Operational Plan work programme through a series of public information sessions.

NEXT STEPS

[30] The next step is to provide a copy of the Operational Plan to the Minister for Biosecurity. As noted above, the Minister is not required to approve the Plan but may disallow all or part of the operational plan if they believe that it is inconsistent with the RPMP.

[31] Once approved by Council, the full Operational Plan and details of key actions for the forthcoming financial year will be disseminated to the public and other key stakeholders.

ATTACHMENTS

1. Reply from the Minister Biosecurity Operational Plan 2021-22 [7.9.1 - 1 page]
2. Biosecurity Operational Plan 2022 23 Final [7.9.2 - 23 pages]
3. Compare Biosecurity Operational Plan 2022 23 with 2021 22 (2) [7.9.3 - 37 pages]

³ IPCC. (2022). Summary for Policymakers In: Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press.

https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

Hon Damien O'Connor

MP for West Coast-Tasman

Minister of Agriculture

Minister for Biosecurity

Minister for Land Information

Minister for Rural Communities

Minister for Trade and Export Growth



14 February 2022

Cr Andrew Noone
Chairperson,
Otago Regional Council
Via email: Andrew.Noone@orc.govt.nz

Dear Andrew

Thank you for forwarding the copy of the Otago Regional Council Operational Plan 2021-22 for the Otago Regional Pest Management Plan. Councils are not required by the Biosecurity Act 1993 to send a copy of their operational plans to myself as the responsible Minister, however it provided valuable insight into the regional biosecurity system.

I am pleased to see that Otago Regional Council is committing significantly increased resources to pest management within the Otago Region. I am especially pleased to see Otago Regional Council's increased commitment to the national wilding conifer and wallaby programmes. I also commend the commitment to working in partnership with Kāi Tahu on biosecurity issues.

Thank you again for sending the operational plan through and I look forward to seeing the outcome of this year's pest management activities.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Damien O'Connor'.

Hon Damien O'Connor
Minister for Biosecurity



Biosecurity Operational Plan 2022-2023



*Implementing the Otago Regional Pest Management Plan
2019-2029*

Executive Summary

Under the Biosecurity Act (1993), the Otago Regional Council (ORC) is the regional management agency responsible for biosecurity and pest control. To achieve this regulatory function, the ORC has developed the *Otago Regional Pest Management Plan 2019-2029* (RPMP) which sets rules for land occupiers to control pests to set levels. This Biosecurity Operational Plan annualises the objectives of the RPMP for the 2022-2023 financial year.

The ORC engages with occupiers and landowners who are ultimately responsible for pest management. To achieve practicable biosecurity outcomes, the ORC undertakes inspections (to ensure compliance with rules), monitoring (to determine the effectiveness of control) and surveillance (identifying new issues and trends). Furthermore, the ORC takes a lead role in advocacy and education around pest threats, pathways of pest spread and the provision of advice.

This work is supported by close engagement with allied organisations involved in implementing and funding biosecurity across the region, including the Ministry for Primary Industries (MPI), Land Information New Zealand (LINZ), the Department of Conservation (DoC), Kāi Tahu, other councils and community groups.

Under the RPMP, pest management is classified into five programmes.

1. **Exclusion pest programme:** the intermediate outcome is to prevent the establishment of six high threat pest plants in the region.
2. **Eradication pest programme:** the intermediate outcome is to proactively eradicate spiny broom, Bennett's wallaby and rooks from the region.
3. **Progressive containment pest programme:** the intermediate outcome is to contain or reduce the geographic distribution of 11 pest plants (or groups of plants) across the region.
4. **Sustained control pest programme:** the intermediate outcome is to enforce ongoing control of rabbits and five widespread pest plants to reduce their impact.
5. **Site-led pest programmes:** the intermediate outcome is that the listed pests are managed as deemed appropriate for the values of the stated location.

Priority Pests

The 2022-2023 Biosecurity Operational Plan retains the priority pests from the previous Operational Plan, covering one programme and four pests:

- Exclusion pest programme
- Feral rabbits
- Bennett's wallaby
- Wilding conifers
- Lagarosiphon

The exclusion programme and four pests are of concern to local communities and have heightened adverse effects (current or future) on environmental, economic and social grounds. Consequently, they require a significant investment in resources to either control or prevent their spread.

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Version Control

Version #	Date	Event/Changes made
1	29 June 2022	Council submission

1. Introduction

1.1 Background

Under the Biosecurity Act 1993, the Otago Regional Council (ORC) developed the *Regional Pest Management Plan 2019-2029* ('the RPMP'). The RPMP is a statutory document that lists specific pests which have the greatest adverse effect on the environment and economy within Otago. In order to control, or eliminate, such adverse effects, the RPMP establishes rules that are legally enforceable. This provides a framework for the effective management of declared pests in the Otago region over the next decade. The RPMP sits alongside the non-statutory ORC Biosecurity Strategy which focuses on the wider biosecurity issues including the collaboration with stakeholders to manage pests.

The key purpose of the RPMP is to outline how the identified pests will be managed to reduce or remove their threat to the environmental (e.g. ecosystem or species), economic (e.g. farming/forestry) and cultural/social (e.g. Māori and human health) values of the region. The RPMP allows the council to use relevant advice, service delivery, regulatory enforcement and funding provisions as provided by the Biosecurity Act.

The RPMP identifies 30 plants (or groups of plants) and 11 animals (or groups of animals) as pests. Except for designated pests, where the ORC may coordinate and undertake direct control, the responsibility for pest control rests with occupiers and landowners.

The responsibility of the ORC focuses on advocacy and education, supported by inspections, monitoring and surveillance. As the designated Management Agency under the Biosecurity Act, the ORC enforces the RPMP rules to ensure occupiers and landowners are aware of and meet their obligations for pest management on their properties by adhering to RPMP rules.

1.2 Operational plan purpose, duration and linkages

Under the Biosecurity Act, the ORC is required to prepare an annual Operational Plan that implements the RPMP. The Operational Plan is a publicly available document and is reported on each year to Council.

This document (*the Biosecurity Operational Plan 2022-2023*) outlines the nature, scope and priority activities that ORC intends to undertake for pest management across the Otago region for the financial year 1st July 2022 through to 30th June 2023.

The key purpose of this Operational Plan is to identify what will be delivered during the 2022-2023 financial year in terms of prioritisation and the associated actions to implement the RPMP. For context, it is essential that this Operational Plan is read in conjunction with the RPMP, as well as the supporting context of the Biosecurity Strategy.

An important linkage with this Operational Plan is the increasing integration with biodiversity outcomes and wider catchment management planning.

2. Summary of Regional Pest Management Plan

2.1 Pest management programmes

The RPMP is implemented through five pest management programmes¹, as summarised below. The pests listed under each programme are given in Table 1.

1. **Exclusion:** The objective is to ensure specific pests that are present in New Zealand do not become established in Otago. Under Section 100V of the Biosecurity Act, there is provision to implement emergency controls for any incursion of a new pest that are not listed in the RPMP.
2. **Eradication:** The objective is to eradicate identified pests from the areas where they occur in the region. Eradication involves reducing the infestation of the pest to zero density.
3. **Progressive Containment:** The objective is to contain and reduce the geographic spread of the listed pests to specific areas. Containment arises where the pest is at high densities in specific parts of the Otago region, but in low densities or limited range in other parts. While eradication is not feasible, it is realistic to contain the pest from spreading to other 'clear' parts of the region.
4. **Sustained Control:** The objective is for ongoing control of the listed pests to reduce their impacts and spread to other properties. The focus is to manage the densities of the pests to ensure they do not reach a level where they cause significant environmental impact. Sustained control is a strategy for pests with a wide geographical spread that they cannot feasibly be eradicated.
5. **Site-led:** The objective is to exclude, or eradicate, from identified locations or to contain, reduce or control within those places.

2.2 Methods of Action – how pest management will be carried out

The ORC achieves practicable pest management outcomes through the following methods and provision of resources. Table 1 outlines which pest and programmes are related to each method.

1. **Advocacy and education:** ORC will provide education, advice and information to landowners and/or occupiers and the public about the impacts of pests and pathways (vectors) of pest spread and appropriate methods of control. The ORC will ensure land occupiers are informed of their responsibilities under the RPMP. This activity also includes contributing to research and cost-sharing with other agencies and developing/promoting 'good practice' around control methods aimed at pest management contractors and occupiers who are required to act.
2. **Inspection, monitoring and surveillance:** Regular property inspections ensure that RPMP rules are being adhered to. The focus is to achieve voluntary compliance first before enforcement action is initiated. Monitoring is carried out to determine effectiveness of control and to understand trends of infestations. Surveillance activities focus on protecting the region from the incursion of new pests.

¹ As prescribed by the National Policy Direction for Pest Management 2015.

3. **Collaboration with others:** ORC works with landowner/occupier groups and central and local government agencies to develop consistent approaches for the effective management of pests.
4. **Requirement to Act (regulation):** RPMP rules are the ‘backbone’ of the pest management. These rules require identified pests to be controlled to specified standards or levels. Failure to comply with RPMP rules can lead to enforcement action by ORC.
5. **Service delivery:** In some cases, where special expertise is required, or coordinated control gives benefits to a specific area, direct control (service delivery) may be undertaken by the ORC. Service delivery includes providing appropriate control tools (e.g. traps, chemicals) and the approved release of biological control agents.

Table 1: Pests listed in RPMP and associated Methods of Action

Pest	Advocacy and education	Inspections, monitoring & surveillance	Collaboration with others	Requirement to Act	Service delivery
Exclusion					
African feather grass	✓	✓	✓		
Chilean needle grass	✓	✓	✓		
Egeria	✓	✓	✓		
False tamarisk	✓	✓	✓		
Hornwort	✓	✓	✓		
Moth plant	✓	✓	✓		
Eradication					
Bennett’s wallaby	✓	✓	✓	✓	✓ ¹
Rooks	✓	✓	✓	✓	✓ ¹
Spiny broom	✓	✓	✓	✓	✓ ¹
Progressive containment					
African love grass	✓	✓	✓	✓	✓ ¹
Nassella tussock	✓	✓	✓	✓	
Old man’s beard	✓	✓	✓	✓	
Spartina	✓	✓	✓	✓	✓ ²
Six containment plants ⁴	✓	✓	✓	✓	✓ ²
Wilding conifers	✓	✓	✓	✓	✓ ³
Sustained control					
Gorse and broom	✓	✓	✓	✓	
Nodding thistle & ragwort	✓	✓	✓	✓	
Russell lupin	✓	✓	✓	✓	
Feral rabbits	✓	✓	✓	✓	
Site-Led					
Pests contextual to Identified Locations	For site-led programmes, pests are contextual to the geographical areas. Pests of concern are identified in the RPMP and listed in the site-led annual project plans. Site-led project plans are formally part of this Operational Plan.				
<p>[1] ORC will facilitate direct control where agreed with occupiers.</p> <p>[2] ORC will facilitate direct control, only where access, spraying or safety issues require expert involvement.</p> <p>[3] ORC will facilitate or undertake direct control as required, and alongside established groups.</p> <p>[4] The six containment plants are: Bomarea, Boneseed, Bur daisy, Cape Ivy, Perennial nettle, White-edged nightshade</p>					

2.3 Progress of the RPMP

The RPMP is a 10-year plan. The biosecurity space is dynamic, with changes occurring within the 10 years due to environmental and ecological conditions and as a result of the actions undertaken to implement the RPMP and Biosecurity Strategy. In addition, significant increase in funding has been afforded to biosecurity activities under the 2021-31 Long Term Plan. This has reshaped the capacity to deliver programmes.

This Operational Plan builds on the lessons from the previous year, with the following emphasis:

- Stronger integration with catchment management and biodiversity outcomes to guide biosecurity programmes more strategically.
- A greater emphasis on the analysis and assessment to evaluate the progress and effectiveness of biosecurity programmes.
- Continuation of engagement and co-ordination with occupiers and landowners around feral rabbits, especially in peri-urban areas and lifestyle blocks.
- Exploring other potential pests (e.g. marine)
- Implementing updated operating procedures to ensure compliance as provided through the Biosecurity Act.
- Strengthening compliance administration for all pests, especially rabbits.
- Increase wilding conifer engagement, inspections, compliance, and monitoring.
- Increase wallaby surveillance and liaison with neighbouring councils.
- Continue the adoption of new technology and approaches to improve data collection and analysis of activities in real time.

2.4 Regional Prioritisation of Pest Control

The continuing lessons of pest management across the region have identified one programme and four pests that will be prioritised in the 2022-2023 delivery period. These priority pests are the same as the previous year to enable a greater embedding of outcomes. These pests, and the reasons for prioritisation, are identified in Table 2. Prioritisation of these pests provides a heightened focus, which is supported through greater resourcing and management oversight.

Table 2: List of priority pests for 2022-2023

Pest	Programme	Reason to Prioritise
Exclusion Pests	Exclusion	Exclusion of pests not established in Otago is a critical responsibility of the RPMP. To ensure new pests are excluded there is a need to develop and implement a proactive surveillance approach. This will identify pathways of potential spread (e.g. product movement).
Feral rabbits	Sustained Control	Feral rabbits, arguably, generate the most significant ecosystem damage to the environment and production systems within Otago. Feral rabbits terraform a landscape. The Ministry of Primary Industries estimate production-related losses exceed \$50 million per year, on top of control expenses of \$25 million. Other losses include

		destruction of habitat for indigenous flora and fauna, changes to landscape value and impacts on social activities.
Bennett's wallaby	Eradication	Wallabies are an ever-present threat due to their high numbers in neighbouring South Canterbury. As wallabies present a significant environmental to the ecosystem and a production risk to the economy, it is imperative that they are prevented from establishing a foothold in Otago.
Wilding conifers	Progressive containment	Wilding conifers interfere with ecosystems where they can shade out native species. This has consequential effects on the wider environment, especially water availability. From a social perspective, they interrupt Otago's iconic landscape and present a fire risk to farmlands and communities. If not controlled, they will significantly change the landscape, hydrological cycle and conservation values, especially high country and tussock grasslands.
Lagarosiphon	Site-led programme	Lagarosiphon is an aquatic plant pest that threatens the aquatic environment. It is fast growing, displacing and shading out aquatic native plants. Thick areas of lagarosiphon disturb water flows and cause localised deoxygenation of water changing the aquatic ecosystem for animals. Lagarosiphon blocks water bodies, resulting in negative visual effects, reduces recreational activities and chokes water supply intakes. If lagarosiphon is left uncontrolled, large beds can form and wash ashore, leaving an unpleasant heap to decay.

2.5 Operational Plan Reporting

Pest management activities are undertaken through a mix of council staff, other agencies, contractors and volunteers. As the lead management agency, ORC is responsible for reporting on activities and progress during the year. ORC audits information received from various sources and reports that information and progress against the targets set out in this Operational Plan through an RPMP Annual Report, as required by Section 100B of the Biosecurity Act 1993. ORC also reports to Council implementation performance, including the instances staff have used the powers in the RPMP to enforce rules or act on default.

For some pests within the RPMP, management is led by an external another agency. For example, LINZ is the lead agency for lagarosiphon management and national pest programmes cover wilding conifer and wallabies. In these instances, reporting to funders on progress is a joint responsibility.

The implementation and monitoring of this Operational Plan will be collated each month with targets tracked cumulatively (year-to-date). Reporting will be aggregated quarterly and annually for Council reports, which may include recommendation of changes for future management of identified, and/or potential, pests.

3. Pest Management Activities to Enact the RPMP

3.1 Exclusion pest programme

Regional Priority

The exclusion pest programme is to prevent the establishment of a specified pest that is present in New Zealand but not yet in the Otago region which could have prevent adverse effects on economic well-being and environmental values. While the RPMP lists six exclusion pests, under Section 100V of the Biosecurity Act, there is provision to implement emergency controls for any incursion of a new pest that are not listed in the RPMP.

Objective

To prevent the establishment of non-established pests in the Otago region, with a specific focus on six pests (all plants): African feather grass, Chilean needle grass, Egeria, False tamarisk, Hornwort and Moth plant.

Deliverable	KPI	Target
Engage with neighbouring regional councils on pest threats	# of meetings with neighbouring regional councils on pest threats	6
Develop and implement exclusion pest response plan	Exclusion pest response plan approved by Council by 30 th March 2023	1

3.2 Eradication pest programmes

The eradication programme is restricted to three contrasting pest species in the region. They belong in this programme as their infestation levels are considered low enough for eradication to be feasible in the long-term. The pests include one marsupial (Bennett’s wallaby), a bird (rook) and a plant (spiny broom). Implementation of management programmes for each pest is described separately in the following subsections due to the different approaches taken.

3.2.1 Bennett’s wallaby

Regional Priority

Objective

Reduce all infestations of Bennett’s wallaby to zero density, and prevent further spread, within the Otago region to prevent adverse effects on economic well-being and the environment.

Deliverable	KPI	Target
Prompt response to all reported sightings of wallabies	% of sightings inspected within 3 working days of receiving the sighting report	90%
	% of sightings inspected within 10 working days of receiving the sighting report	100%
Surveillance plan for wallabies implemented	Quarterly reporting to relevant Council committee showing progress against the surveillance plan	4
Collaborate with and participate in the national wallaby programme	% of Operational Advisory Group meetings attended	100%
	Fulfil requirements of MPI funding agreement	100%
Analyse wallaby surveillance data and make recommendations for future management	Report to Council by 31 st December 2022	1

3.2.2 Rooks

Objective

Reduce all infestations of rooks to zero density within the Otago region to prevent adverse effects on economic well-being and the environment.

Deliverable	KPI	Target
Inspect known rookery locations, including the immediate surrounding areas	# of known rookery locations inspected	50
	If rooks are sighted, control action completed within 3 working days of the inspection.	100%

3.2.3 Spiny broom

Objective

Reduce all infestations of spiny broom to zero density within the Otago region to prevent adverse effects on the environment and economy, focusing on the Waihola, Chain Hills and Brighton areas.

Deliverable	KPI	Target
Undertake inspections for spiny broom at known locations and surveillance at potential locations.	# of known and potential locations inspected/surveyed for spiny broom	20
	If spiny broom is sighted, control action is completed within 10 working days of the inspection	100%

3.3 Progressive containment pest programmes

The 11 pest plants (or groupings of plants) in this programme are reasonably well established in the region. While eradication is unlikely, it is an aim of the RPMP that pest densities can be progressively reduced.

3.3.1 Wilding conifers

Regional Priority

Objective

Progressively contain and reduce the geographic extent of wilding conifers within the Otago Region to minimise adverse effects on the environment and economy.

Deliverable	KPI	Target
Support landowners to identify wilding conifers	# of landowners provided with wilding conifer identification guides	100
Develop a regional strategy on wilding conifers including communications plan	Strategy adopted by Council by 1 st March 2023	1
Collaborate with and participate in the national wilding conifer programme	% of Operational Advisory Group meetings attended	100%
	Fulfil requirements of MPI funding agreement	100%
Support regional partnerships through funding Whakatipu Wilding Conifer Control Group and Central Otago Wilding Conifer Control Group	Funding disbursed as per agreement	100%

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.3.2 African love grass

Objective

Progressively contain and reduce the geographic distribution of African love grass at known sites (around Earnscliffe, Clyde, Omakau, Queensbury and Pisa Moorings) within the Otago region to minimise or prevent adverse effects on the environment and economy.

Deliverable	KPI	Target
Undertake inspections for African love grass at known infestation locations and surveillance at potential locations	# of known and potential locations inspected/surveyed for African love grass	20
	If African love grass is sighted, control action is commenced within 10 working days of the inspection	100%

3.3.3 Nassella tussock

Objective

Progressively contain nassella tussock at known locations² within the Otago region and reduce the geographic distribution to minimise or prevent adverse effects on the environment and economy.

Deliverable	KPI	Target
Inspect known locations for nassella tussock, including the use of remote sensing where applicable	# of known locations inspected for nassella tussock	38
	% of locations re-inspected for nassella tussock that are free of the pest	50%

Note: Further compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.3.4 Old Man's Beard

Objective

Progressively contain and reduce the geographic distribution of old man's beard within the Otago region to minimise or prevent adverse effects on the environment and economy.

Deliverable	KPI	Target
Undertake re-inspections for Old Man's Beard	% of properties re-inspected for Old Man's Beard that are free of the pest	50%

Note: Further compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.3.5 Spartina and six containment pest plants

Objective

Progressively contain and reduce the geographic distribution of bomarea, boneseed, bur daisy, cape ivy, perennial nettle, spartina³ and white-edged nightshade within the Otago region to minimise or prevent adverse effects on the environment and economy.

Deliverable	KPI	Target
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² Roxburgh/Alexandra (Galloway and Knobby Range areas – approx. 32,000 ha); lower Cardrona Valley (Deep Creek to Riverbank Road – approx. 4,500 ha); Lower Waitaki Valley (Georgetown and Tussocky/Ridge Roads – approx. 4,100 ha)

³ Spartina containment focuses on Waikouaiti, Karitane and Te Hākapupu/Pleasant River Estuaries.

Undertake re-inspections for spartina and the six containment plants to ascertain compliance	% of properties re-inspected for spartina or anyone of the six containment plants that are free of the pest(s)	50%
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Note: Further compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.4 Sustained control pest programmes

This programme covers well-established legacy pests that are present across Otago and many regions of New Zealand. Although eradication isn't viable, opportunities exist to prevent spread from infested areas to clear areas and to reduce 'externality impacts' on adjoining occupiers' values where those adjoining occupiers are motivated to undertake control.

Non-compliance for nodding thistle, ragwort and Russell Lupin will be analyzed and managed under the 3.6.2 Shared Pest Programme and 4.1 Compliance and Enforcement Actions.

3.4.1 Feral rabbits

Regional Priority

Objective

Implement sustained control of feral rabbits to ensure population levels do not exceed Level 3 on the Modified McLean Scale in order to minimise adverse effects on production and environmental values within the Otago region.

Deliverable	KPI	Target
Prioritise properties for rabbit inspections	List of properties to be prioritised for rabbit inspections	1
Undertake rabbit inspections ⁴ to determine and expect compliance	# of rural rabbit inspections	>250
	% of non-compliant properties that are re-inspected within set timeframes ⁵	100%
Monitor trends in rabbit densities	# of rabbit night counts completed	16
Revisit community rabbit programmes areas ⁶ to assess continued compliance	# of community rabbit programme properties re-inspected	>250
Maintain engagement with community-led rabbit programmes	# of community-led rabbit programmes where feedback has been provided	8

⁴ These inspections relate to inspections that are undertaken outside a defined community rabbit programme area.

⁵ Timeframes for occupier/owners to achieve compliance from an inspection is six months between May-Dec and three months between Jan-Apr. The re-inspection is to be undertaken within three weeks of this timeframe being expired.

⁶ Hidden Hills, Albert Town, Lake Hayes, Gibbston, Queensberry, Moeraki, Otago Peninsula and Clyde.

Support community initiatives through Sustainable Rabbit Management Funding	Funding round is oversubscribed with eligible applications	Yes/No
Analyse rabbit inspection and monitoring data ⁷ and make recommendations for future management	Report to Council by 30 th June 2023	1

Note: Any compliance actions are covered under 4.1 Compliance and Enforcement Actions.

3.4.2 Gorse and broom

Objective

Implement sustained control of broom and gorse to ensure land that is free of, or being cleared of, broom and gorse does not become infested (primarily in Central Otago and Queenstown Lakes districts) in order to prevent adverse effects on production values and economic well-being.

Deliverable	KPI	Target
Inspect gorse and broom free areas for gorse and broom infestation, including the use of remote sensing.	% of properties re-inspected for gorse and/or broom are free of the pest(s)	75%
Advocate with occupiers and landowners on new gorse and broom free areas that come into effect in 2024	# of community meetings delivered on new gorse and broom free areas	4

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.4.3 Russell Lupin

Objective

Implement sustained control of Russell lupin within specified distances from waterways and property boundaries to preclude further establishment and to prevent adverse effects on environmental values.

Deliverable	KPI	Target
Develop a regional strategy on Russell lupin including communications plan	Russell lupin strategy finalised by 1 st March 2023	1

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.5 Site-led pest programmes

⁷ Dependent on the outcome of a current review, this analysis may also include trends in rabbit virology resistance.

The RPMP site-led programme is about protecting the environmental values at several named sites from the ravages of multiple pests. As a result, the management programme focuses on specific threats to each site and provides for the control of many pests, often those that are not managed elsewhere in the region (e.g. possums, rats).

The RPMP Includes four site-led programmes. For the Operational Plan three of them, Otago Peninsula, West Harbour-Mount Cargill and Quarantine and Goat islands (all within Dunedin City) are grouped, as the same six pest plant species and 15 pest animal species are managed generically across all three places. The fourth site-led programme concerns the LINZ-led management of lagarosiphon (oxygen weed), where different controls are implemented in different lakes. New site-led programmes will be considered via the RPMP in the future.

3.5.1 Otago Peninsula, West Harbour – Mount Cargill and Quarantine and Goat Islands

Objective

Support community groups and other agencies to protect the ecological integrity of the Otago Peninsula (9,000 ha), West Harbour-Mt Cargill (12,500 ha) and Quarantine and Goat islands as defined in the project plan.

Deliverable	KPI	Target
Confirm site-led programmes around Otago Harbour surrounds	ORC Action Plan for each site-led programme, including timeframes, confirmed by 30 th September 2022	3
ORC Action Plans for site-led programmes implemented	% of actions implemented within defined timeframes	90%
Support provided (financial and/or non-financial) to site led programmes to protect indigenous biodiversity	# of success stories highlighting improvement of indigenous biodiversity at site-led programmes	6

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.5.2 Lagarosiphon

Regional Priority

Objective

To support LINZ in controlling lagarosiphon in the region’s rivers and lakes by:

- Preventing its establishment in Lake Wakatipu and other regional water bodies
- Progressively reducing its spread in Lake Wanaka and the Kawarau River
- Undertaking sustained control in Lake Dunstan

Deliverable	KPI	Target
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Joint planning with LINZ and other stakeholders	# of meetings attended with LINZ and other stakeholders	4
Support LINZ in the management and control of lagarosiphon	Funding disbursed as per agreement	100%
Undertake summer monitoring of water users at designated sites ⁸ (<i>subject to continued funding from MPI</i>)	# of interactions in the 'Check, clean, dry' programme	650
Undertake bi-annual monitoring of lagarosiphon at designated water bodies ⁹ that are not the responsibility of LINZ	# of lagarosiphon monitoring visits at designated water bodies	18
Analyse lagarosiphon monitoring data and make recommendations for future management	Report to Council by 30 th June 2023	1

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.6 Integrated programmes

While the RPMP has five defined programmes, aspects of these programmes are interconnected especially through linkages to biodiversity outcomes and associated common analysis. For this Operational Plan, the integration between programmes is an important consideration.

3.6.1 Biodiversity Integration

A principal outcome of pest management is to enhance indigenous biodiversity, which informs the prioritisation of biosecurity activities. This is achieved by focusing on highly representative biodiversity areas, and their surrounds, that should be safeguarded.¹⁰ (Note: The deliverables in this sub-section cover non-rabbit pests. For rabbit management, refer to Section 3.4.1).

Deliverable	KPI	Target
Identify highly representative biodiversity areas on which to prioritise pest inspections.	A set of biodiversity layers of GIS analysis	1 set of GIS layers

⁸ Lakes Dunstan, Wanaka or Roxburgh, and the Clutha/Mata-Au and Kawarau Rivers.

⁹ Moke Lake; Manorburn, Poolburn, Butchers, Conroys, Falls, Fraser Dams, Albert Town stormwater detention ponds and Bullock Creek sites.

¹⁰ As informed by Leathwick J.R. (2020). Indigenous biodiversity rankings for the Otago region. Report prepared for the ORC.

Undertake pest inspections to progress biodiversity outcomes	# of pest inspections undertaken ¹¹	1,500
Pest inspections focus on highly representative biodiversity areas and their surrounds	% of pest inspections undertaken in highly representative biodiversity areas and their surrounds	60%

¹¹ This excludes rabbit inspections which are listed under Section 3.4.1.

3.6.2 Shared Pest Programmes

Aspects of biosecurity have common approaches that apply across the five RPMP programmes. These deliverables focus on the monitoring and analysis of pests. (Note: The deliverables in this sub-section cover non-rabbit pests. For rabbit management, refer to Section 3.4.1).

Deliverable	KPI	Target
Re-inspect all non-compliant properties within set timeframes	% of non-compliant inspections re-inspected within set timeframes ¹²	100%
Undertake density monitoring of specific plant species ¹³	# of density monitoring visits undertaken	20
Undertake monitoring of bio-control vectors ¹⁴	# of monitoring visits to bio-control sites	20
Integrate historic plant inspection data in current pest maps of spiny broom, nassella tussock, gorse and broom and spartina	Current pest map includes historic data (as layers) for spiny broom, nassella tussock, gorse and broom and spartina.	1
Analyse and assess trends from pest inspections, density monitoring and bio-control data and make recommendations for future management	Report to Council by 30 th June 2023	1

3.6.3 Pest Programme Engagement

The management of pests is wider than the ORC. Due to this, it is essential to engage with partners and stakeholders to promote and action biosecurity outcomes.

Deliverable	KPI	Target
Engage with interagency organisations ¹⁵	# of communication engagements with listed agencies at least once annually	10
Support and educate occupiers, landowners and community groups to undertake best practice pest control	# of events attended to support best practice pest control	12
Collaborate with neighbouring regional councils	# of collaborations with neighbouring regional councils	4

¹² Timeframes for occupier/owner to achieve compliance for plant pests is three months from inspection with the exception of Old Man's Beard which is six weeks between Oct-Feb. The re-inspection is to be undertaken within three weeks of this timeframe being expired.

¹³ Namely, African Love Grass, Old Man's Beard, Nassella Tussock, Spartina, Russell Lupin

¹⁴ Namely for various bio-controls for Ragwort, Gorse, Broom, Old Man's Beard, Nodding thistle

¹⁵ Namely MPI, DoC, LINZ, KiwiRail, Waka Kotahi, Territorial Authorities [WDC, DCC, CDC, CODC, QLDC]

Engage with Kāi Tahu on biosecurity issues and support them to be involved in biosecurity initiatives	# of meetings with Kāi Tahu on biosecurity issues	2
Support enviro schools programme with key messages, information and tools relating to biosecurity	# of enviro-school programmes attended	16

4. RPMP Administration

4.1 Compliance and Enforcement Actions

As the RPMP is a rules-based approach to pest management, there is need to ensure actions are taken to ensure compliance. The specific approach to compliance and enforcement is covered in the ORC Biosecurity Compliance and Enforcement Policy. To achieve this, the following actions will be delivered.

Deliverables	KPI	Target
Effective administration of compliance and enforcement		
Provide occupiers and landowners with the declared pest status following an inspection	% of occupier/landowner advised of inspection status within three weeks of the inspection	75%
	% of occupier/landowner advised of inspection status within six weeks of the inspection	100%
Continued non-compliance, as confirmed by enforcement criteria, is addressed through issuing a Notice of Direction	% of eligible non-compliant properties issued with a Notice of Direction within 20 working days after re-inspection	100%
Analyse the effectiveness of compliance and enforcement actions and make recommendations for continual improvement	Report to Council by 30 th June 2023	1

4.2 Biosecurity Operational Plan Administration

For the administration of this operational plan, two key deliverables are listed.

Deliverables	KPI	Target
Revise the Biosecurity Operational Plan		
Review and, if needed, revise the Biosecurity Operational Plan annually as required by the BSA	Biosecurity Operational Plan for 2023-24 approved by Council by June 2023.	1 approved plan
Responsiveness to Pest Enquires¹⁶		

¹⁶ Enquiries are defined as either 'reports, sightings, notifications and complaints'

Pest enquires are responded to in a timely manner as appropriate to the risk of the pest	% of exclusion and eradication pest enquiries responded to within 24 hours and three working days, respectively	100%
	% of all pest enquiries responded to within 10 working days	100%

5. Glossary

For this operational plan the following definitions are provided. A fuller glossary is given in the RPMP.

Compliant: refers to when a rule in the RPMP is adhered to.

Default Action: means work undertaken by the management agency to carry out pest control when a 'Notice of Direction' or 'Compliance Order' has not been complied with by an occupier, under section 128 of the BSA. The management agency can then recover costs and expenses reasonably incurred under section 129 of the BSA.

Inspection: means work undertaken to determine compliance to RPM rules.

Landowner: has the same meaning as occupier in the Biosecurity Act 1993.

Management agency: has the same meaning as in the Biosecurity Act 1993: "means the body specified as the management agency in a pest management plan or a pathway management plan". For the purposes of the RPMP and Operational Plan, Otago Regional Council is the management agency for pests to be controlled in the Otago region.

Modified McLean Scale: this scale assesses rabbit population levels (see RPMP, Appendix 2)

Monitoring: means work undertaken to determine the trend in the prevalence of a pest.

Notice of Direction (NOD): means the actions required and notice issued pursuant to section 122 of the Biosecurity Act 1993. A NOD can require a person to take action to address pest plant or animal problems or to comply with a rule in an RPMP.

Occupier: see landowner.

Non-compliance¹⁷: refers to any breach in a RPMP rule. Non-compliance is liable for enforceable under the provisions of the BSA. For clarification, a breach of a RPMP rule does not have to be widespread across a property and may relate to a single location (or a defined area) within a property. Due to the potential of spread, the whole property is deemed non-compliant even if the infestation is localised.

Operational plan: means a plan prepared by the Management Agency under Section 100B of the Act.

Pest: has the same meaning as in the Biosecurity Act 1993: "an organism specified as a pest in a pest management plan."

Surveillance: means survey work undertaken to determine the status (presence) of pest species.

Water body: means fresh water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

Wilding conifer: wilding conifers are any introduced conifer tree, including (but not limited to) any of the species listed in Table 3 of the RPMP.

Zero level/zero density: where the pest is not detectable in an area, however the pest may continue to appear afterwards due to plant seed sources or animal migration from an unmanaged area.

¹⁷ Note: this definition is not listed in the RPMP rather it is defined in the ORC Biosecurity Compliance and Enforcement Policy.



Biosecurity Operational Plan

~~2021-2022~~-2023



*Implementing the Otago Regional Pest Management Plan
2019-2029*

Executive Summary

Under the Biosecurity Act (1993), the Otago Regional Council (ORC) is the regional management agency responsible for biosecurity and pest control. To achieve this regulatory function, the ORC has developed the *Otago Regional Pest Management Plan 2019-2029* (RPMP) which sets rules for land occupiers to control pests to set levels. This Biosecurity Operational Plan annualises the objectives of the RPMP for the 2021-2022-2023 financial year. ~~For context, this Operational Plan should be read in conjunction with the ORC Biosecurity Strategy Implementation Plan that focuses on wider pest management issues, collaborations and partnerships.~~

The ORC engages with occupiers and landowners who are ultimately responsible for pest management. To achieve practicable biosecurity outcomes, the ORC undertakes through setting rules that require land occupiers to control pests to established standards; undertaking inspections (to ensure compliance with rules), monitoring (to determine the effectiveness of control) and surveillance (identifying new issues and trends). Furthermore, the ORC takes a lead role in advocacy and education around pest threats, pathways of pest spread and the provision of advice.

This work is supported by close engagement with allied organisations involved in implementing and funding biosecurity across the region, including the Ministry for Primary Industries (MPI), Land Information New Zealand (LINZ), the Department of Conservation (DoC), Kāi Tahu, other councils and community groups.

~~ORC focus its biosecurity work on occupiers and landowners who are ultimately responsible for pest management. This is supported by working closely with other organisations involved in implementing and funding biosecurity across the region, including the Ministry for Primary Industries (MPI), Land Information New Zealand (LINZ), the Department of Conservation (DoC), Kāi Tahu, neighbouring local government councils and community groups.~~

Under the RPMP, pest management is classified into five programmes.

1. **Exclusion pest programme:** the intermediate outcome is to ORC will prevent the establishment of six high threat pest plants ~~from establishing~~ in the region ~~throughout the region~~.
2. **Eradication pest programme:** the intermediate outcome is ORC aims to proactively eradicate eliminate spiny broom, and eradicate Bennett's wallaby and rooks from the region.
3. **Progressive containment pest programme:** the intermediate outcome is ORC aims to contain or reduce the geographic distribution extent of 11 pest plants (or groups of plants) across the region.
4. **Sustained control pest programme:** the intermediate outcome is to ORC will enforce ongoing rules to ensure control of rabbits and five widespread pest plants to reduce their impact impacts and spread.
5. **Site-led pest programmes:** the intermediate outcome is that the listed pests are managed ORC will support community and agency control as deemed appropriate for the values of the stated location outlined in their management plans.

Priority Pests

The In terms of the 2021-2022-2023 work programme, one priority programme and four priority pests have been identified as a focus for the Biosecurity Operational Plan retains the priority pests from the previous Operational Plan, covering one programme and four pests:

- Exclusion pest programme
- Feral rabbits
- Bennett's wallaby
- Wilding conifers

- Lagarosiphon

The exclusion programme and four ~~priority~~ pests are of concern to ~~local~~ communities and have heightened adverse effects (current or future) on environmental, economic and social grounds. Consequently, they, and require a significant investment in resources to either control or prevent their spread.

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Version Control

<u>Version #</u>	<u>Date</u>	<u>Event/Changes made</u>
<u>1</u>	<u>29 June 2022</u>	<u>Council submission</u>

1. Introduction

1.1 Background

Under the Biosecurity Act 1993, the Otago Regional Council (ORC) developed the *Regional Pest Management Plan 2019-2029* ('the RPMP'). The RPMP is a statutory document that lists specific pests which have the greatest adverse effect on the environment and economy within Otago. In order to control, or eliminate, such adverse effects, the RPMP establishes rules that are legally enforceable. This provides a framework for the effective management ~~or eradication~~ of declared pests in the Otago region over the next decade. The RPMP sits alongside the non-statutory ORC Biosecurity Strategy which focuses on the wider biosecurity issues including the collaboration with stakeholders to manage pests.

The key purpose of the RPMP is to outline how the identified pests will be managed to reduce or remove their threat to the environmental (e.g. ecosystem or species), economic (e.g. farming/forestry) and cultural/social (e.g. Māori and human health) values of the region. The RPMP allows the council to use relevant advice, service delivery, regulatory enforcement and funding provisions as provided by the Biosecurity Act.

The RPMP identifies 30 plants (or groups of plants) and 11 animals (or groups of animals) as pests. ~~Except The responsibility for designated pests, where the ORC may coordinate and undertake direct control, the responsibility for most of the pest control~~ ~~rests work lies~~ with occupiers and landowners.

~~The responsibility of the ORC focuses on advocacy and education, supported by inspections, monitoring and surveillance. As Being~~ the designated Management Agency under the Biosecurity Act, ~~the~~ ORC enforces the RPMP ~~rules~~ to ensure ~~that~~ occupiers ~~and landowners~~ are aware of and meet their obligations for pest management on their properties by adhering to RPMP rules.

~~ORC responsibilities focus on advocacy, inspections, monitoring and surveillance to ensure compliance to the RPMP rules. As required, the ORC has the provision to legally enforce these rules. In some specific cases, the ORC may coordinate and undertake direct control of some pests.~~

1.2 Operational plan purpose, duration and linkages

~~Under~~ ~~As required under~~ the Biosecurity Act, the ORC is ~~required~~ ~~expected~~ to prepare an annual Operational Plan that implements the RPMP. ~~The Operational Plan is reported on each year and submitted to the Minister.~~ The Operational Plan is a publicly available document ~~and is reported on each year to Council.~~

This document (~~the Biosecurity Operational Plan 2021-2022-2023~~) outlines the nature, scope and priority activities that ORC intends to undertake for pest management across the Otago region for the financial year 1st July ~~2022~~ ~~2021~~ through to 30th June ~~2023~~ ~~2022~~.

The key purpose of this Operational Plan is to identify what will be delivered during the ~~2021-2022-~~ ~~2023~~ financial year in terms of ~~pest~~ prioritisation and the associated actions to implement the RPMP. For context, it is essential that this Operational Plan is read in conjunction with the RPMP, as well as the supporting context of the Biosecurity Strategy ~~and its related implementation plan.~~

An important linkage with this Operational Plan is the increasing integration with biodiversity outcomes and wider catchment management planning.

2. Summary of Regional Pest Management Plan

2.1 Pest management programmes

The RPMP is implemented through five pest management programmes¹, as summarised below. The pests listed under each programme are given in Table 1.

1. **Exclusion:** The objective is to ~~ensure research for~~ specific pests that are present in New Zealand ~~do yet~~ not ~~become~~ established in Otago, ~~and to prevent their establishment~~. Under Section 100V of the Biosecurity Act, there is provision to ~~implement start~~ emergency ~~controls for any incursion control~~ of ~~a~~ new pest ~~incursions~~ that are not listed in the RPMP.
2. **Eradication:** The objective is to eradicate identified pests from the areas where they occur in the region. Eradication involves reducing the infestation ~~density~~ of the pest to zero ~~density~~.
3. **Progressive Containment:** The objective is to contain and reduce the geographic spread of the listed pests to specific areas. Containment ~~usually~~ arises where the pest is at high densities in ~~specific parts~~ ~~part(s)~~ of the Otago region, but in low densities or limited range in other parts. While eradication is not feasible, it is realistic to ~~contain prevent~~ the pest from spreading to other 'clear' parts of the region.
4. **Sustained Control:** The objective is for ongoing control of the listed pests to reduce their impacts and spread to other properties. The focus is to manage the densities of the pests ~~to~~ ~~and~~ ensure they do not reach a level where they cause significant environmental impact. Sustained control is a strategy for pests ~~of low to moderate densities but~~ with a wide geographical spread that they cannot feasibly be eradicated.
5. **Site-led:** The ~~intermediate~~ objective is to exclude, or eradicate, from ~~identified locations~~ ~~places (or sites)~~; or to contain, reduce or control within ~~those places~~ ~~that place or site~~.

2.2 Methods ~~of Action and resources~~ – how pest ~~management control~~ will be carried out

The ORC achieves practicable pest management outcomes through the following methods and provision of resources. Table 1 outlines which pest and programmes are related to each method.

1. **Advocacy and education:** ORC will provide education, advice and information to landowners and/or occupiers and the public about the impacts of pests and pathways (vectors) of pest spread and appropriate methods of control. The ORC will ensure land occupiers are informed of their responsibilities under the RPMP. This activity also includes contributing to research and cost-sharing with other agencies and developing/promoting 'good practice' around control methods aimed at pest management contractors and occupiers who are required to act.
2. **Inspection inspections, monitoring and surveillance:** Regular property inspections ensure that RPMP rules are being adhered to. The focus is to achieve voluntary compliance first before

¹ As prescribed by the National Policy Direction for Pest Management 2015.

enforcement action is initiated. Monitoring is carried out to determine effectiveness of control and to understand trends of infestations. Surveillance activities focus on protecting the region from the incursion of identify new pest issues and ensure that current problem pests and sites are not getting worse.

3. **Collaboration with others:** ORC works with landowner/occupier groups and central and local government agencies to develop consistent approaches for the effective management of pests.
4. **Requirement to Act (regulation):** RPMP rules are the ‘backbone’ of the pest management. These rules require identified pests to be controlled to specified standards or levels. Failure to comply with RPMP rules can lead to enforcement action by ORC.
5. **Service delivery:** In some specific cases, where special expertise is required, or coordinated control gives benefits to a specific area or the region as a whole, direct control (service delivery) may be undertaken by the ORC. Service delivery includes providing appropriate control tools (e.g. traps, chemicals) and the approved release of releasing biological control agents.

Table 1: Summary – Programmes, Pests listed in RPMP and associated Methods of Action Principle Measures

Pest	Advocacy and education	Inspections, monitoring & surveillance	Collaboration with others	Requirement to Act	Service delivery
Exclusion					
African feather grass	✓	✓	✓		
Chilean needle grass	✓	✓	✓		
Egeria	✓	✓	✓		
False tamarisk	✓	✓	✓		
Hornwort	✓	✓	✓		
Moth plant	✓	✓	✓		
Eradication					
Bennett’s wallaby	✓	✓	✓	✓	✓ ¹
Rooks	✓	✓	✓	✓	✓ ¹
Spiny broom	✓	✓	✓	✓	✓ ¹
Progressive containment					
African love grass	✓	✓	✓	✓	✓ ¹
Nassella tussock	✓	✓	✓	✓	
Old man’s beard	✓	✓	✓	✓	
Spartina	✓	✓	✓	✓	✓ ²
Six containment plants ¹ grouped plants	✓	✓	✓	✓	✓ ²
Wilding conifers	✓	✓	✓	✓	✓ ³
Sustained control					
Gorse and broom	✓	✓	✓	✓	
Nodding thistle & ragwort	✓	✓	✓	✓	
Russell lupin	✓	✓	✓	✓	
Feral rabbits	✓	✓	✓	✓	
Site-Led					

Pests contextual to Identified Locations Contextual to Site	For site-led programmes, pests pest infestations are contextual to the geographical areas. Pests Hence, the pests of concern are will be identified in the RPMP and listed in the each site-led annual project plans. Site plan. The site- led project plans are formally part of this Operational Plan.
[1] ORC will facilitate undertake direct control where agreed with occupiers. [2] ORC will facilitate direct control, only where access, spraying or safety issues require expert involvement. [3] ORC will facilitate or undertake direct control as required, and alongside established groups. [4] The six containment plants are: Bomarea, Boneseed, Bur daisy, Cape Ivy, Perennial nettle, White-edged nightshade	

2.3 Progress of the RPMP

The RPMP is a 10-year plan. The biosecurity space is dynamic, with changes occurring within the 10 years due to environmental and ecological conditions and as a result of the actions undertaken to implement the RPMP and Biosecurity Strategy. In addition, significant increase in funding has been afforded to biosecurity activities under the 2021-31 Long Term Plan. This has reshaped the capacity to deliver programmes.

~~This~~ ~~Due to this, there are specific changes to the~~ Operational Plan ~~builds on the lessons~~ from the previous year, ~~with the.~~ The following ~~emphasis~~ ~~points highlight areas of new work that are anticipated this year:~~

- ~~Stronger integration with catchment management and biodiversity outcomes to guide biosecurity programmes more strategically.~~
- ~~A greater emphasis on the analysis and assessment to evaluate the progress and effectiveness of biosecurity programmes.~~
- ~~Continuation of~~ ~~Stepped up~~ engagement and co-ordination with occupiers ~~and landowners around~~ ~~over~~ feral rabbits, especially in peri-urban areas and lifestyle blocks.
- ~~Exploring other potential pests (e.g. marine)~~
- ~~Implementing updated operating procedures to ensure~~ ~~increased~~ compliance ~~as provided through the Biosecurity Act.~~
- ~~Strengthening compliance administration~~ ~~activities~~ for ~~all pests, especially~~ ~~rural properties regarding~~ rabbits.
- ~~Increase~~ ~~increased~~ wilding conifer engagement, inspections, ~~compliance,~~ and monitoring.
- ~~Increase~~ ~~increasing~~ wallaby surveillance and ~~compliance,~~ ~~and~~ liaison with neighbouring councils.
- ~~Continue the adoption~~ ~~improved alignment of~~ ~~new technology and approaches~~ ~~practice~~ to improve ~~data collection and analysis~~ ~~the performance~~ of activities in real time.
- ~~Development of a meaningful partnership with Kāi Tahu in order to connect regularly on biosecurity issues, to identify areas of importance to Kāi Tahu and actively promote collaborative action.~~
- ~~Prioritisation of effort to better maximise biodiversity gains~~
- ~~Greater spread of activities across the region based on freshwater management units (FMUs)~~
- ~~Streamlining operating procedures that allow for better use of Biosecurity Act powers.~~

2.4 Regional Prioritisation of Pest Control

The continuing lessons of pest management across the region have identified one programme and four pests that will be prioritised in the ~~2021-2022-~~2023 ~~delivery period. These priority pests are the same as the previous year to enable a greater embedding of outcomes.~~ ~~delivery period.~~ These pests, and the

reasons for prioritisation, are identified in Table 2. Prioritisation of these pests provides a heightened focus, which is supported through greater resourcing and management oversight.

Table 2: List of priority pests for ~~2022-2023~~2021-2012

Pest	Programme	Reason to Prioritise
Exclusion Pests	Exclusion	Exclusion of pests not established in Otago is a critical responsibility of the RPMP. To ensure new pests are excluded there is a need to develop and implement a proactive surveillance approach. This will identify pathways of potential spread (e.g. product movement).
Feral rabbits	Sustained Control	Feral rabbits, arguably, generate the most significant ecosystem damage to the environment and production systems within Otago. Feral rabbits terraform a landscape. The Ministry of Primary Industries estimate production-related losses exceed \$50 million per year, on top of control expenses of \$25 million. Other losses include destruction of habitat for indigenous flora and fauna, changes to landscape value and impacts on social activities.
Bennett's wallaby	Eradication	Wallabies are an ever-present threat due to their high numbers in neighbouring South Canterbury. As wallabies present a significant environmental to the ecosystem and a production risk to the economy, it is imperative that they are prevented from establishing a foothold in Otago.
Wilding conifers	Progressive containment	Wilding conifers interfere with ecosystems where they can shade out native species. This has consequential effects on the wider environment, especially water availability. From a social perspective, they interrupt Otago's iconic landscape and present a fire risk to farmlands and communities. If not controlled, they will significantly change the landscape, hydrological cycle and conservation values, especially high country and tussock grasslands.
Lagarosiphon	Site-led programme	Lagarosiphon is an aquatic plant pest that threatens the aquatic environment. It is fast growing, displacing and shading out aquatic native plants. Thick areas of lagarosiphon disturb water flows and cause localised deoxygenation of water changing the aquatic ecosystem for animals. Lagarosiphon blocks water bodies, resulting in negative visual effects, reduces recreational activities and chokes water supply intakes. If lagarosiphon is left uncontrolled, large beds can form and wash ashore, leaving an unpleasant heap to decay.

2.5 Operational Plan Reporting

Pest management activities are undertaken through a mix of council staff, other agencies, contractors and volunteers. As the lead management agency ~~lead~~, ORC is responsible for reporting on activities and progress during the year. ORC audits information received from various sources and reports that information and progress against the targets set out in this Operational Plan through an RPMP Annual

Report, as required by Section 100B of the Biosecurity Act 1993. ORC also ~~reports~~ report to Council implementation performance, including the instances staff have used the powers in the RPMP to enforce rules or act on default.

For some pests within the RPMP, management is led by an external another agency. For example, LINZ is the lead agency for lagarosiphon management and national pest programmes cover wilding conifer and wallabies. In these instances, reporting to funders on progress is a joint responsibility.

~~The~~ It is a requirement that the implementation and monitoring of this Operational Plan ~~will~~ is to be ~~collated~~ reported on each month with targets tracked ~~respect to the following details:~~

- ~~• A brief narrative on the actions undertaken for each deliverable~~
- ~~• The KPIs are measured at the end of each month (cumulatively (-year-to-date).)~~
- ~~• Where targets have not been met, a satisfactory explanation is provided~~

Reporting will be aggregated quarterly and annually for Council reports, which may and Ministerial submission. ~~Quarterly and annual reports are to~~ include recommendation of changes for future management of identified, and/or potential, pests.

~~A strong focus on reporting for this Operational Plan will be the progressive adoption of GIS systems to allow for spatial analysis and trend analysis of changes in pest densities. To this extent, all data collected will be timestamped and georeferenced to a point, polyline or polygon.~~

3. Pest Management Activities to Enact the RPMP

3.1 Exclusion pest programme

Regional Priority

The exclusion pest programme is to prevent the establishment of a specified pest that is present in New Zealand but not yet in the Otago region which could have prevent adverse effects on economic well-being and environmental values. While the RPMP lists six exclusion pests, under Section 100V of the Biosecurity Act, there is provision to implement emergency controls for any incursion of a new pest that are not listed in the RPMP.

Objective

To prevent the establishment of non-established pests in the Otago region, with a specific focus on six pests (all plants): African feather grass, Chilean needle grass, Egeria, False tamarisk, Hornwort and Moth plant.

- African feather grass
- Chilean needle grass
- Egeria
- False tamarisk
- Hornwort (Ceratophyllum)

Moth plant

Deliverable	KPI	Target
Appropriate actions taken in the event of a confirmed discovery with response implemented as soon as practical	% of risk assessments completed in 48 hours	100%
	% of control/response plan defined within 5 working days	100%
Prompt response to all reports and sightings	% of reported sightings investigated within 24 hours of ORC becoming aware of a report	100%
Engage Undertake regular liaison and work closely with neighbouring regional councils on pest threats	# of meetings with neighbouring regional councils on pest threats Regular operational level meetings focused on exclusion strategies held with biosecurity counterparts in Canterbury and Southland	64
Develop and implement exclusion pest response plan	Exclusion pest response plan approved by Council by 30 th March 2023	1

3.2 Eradication pest programmes

The eradication programme is restricted to three contrasting pest species in the region. They belong in this programme as their infestation levels are considered low enough for eradication to be feasible in the long-term. The pests include one marsupial (Bennett’s wallaby), a bird (rook) and a plant (spiny broom). Implementation of management programmes for each pest is described separately in the following subsections due to the different approaches taken.

3.2.1 Bennett’s wallaby

Regional Priority

Objectives/Objective

- Reduce all infestations of Bennett’s known wallaby populations to zero density, in an attempt to eradicate them, and prevent their further expansion in the region;
- Prevent further spread, within the -of wallaby into North Otago region to prevent adverse effects on economic well-being from Canterbury, and

Inform the environment Otago community on the wallaby threat and encourage vigilance and reporting to council.

Deliverable	KPI	Target
Prompt response to all <u>reported reports and confirmed sightings of wallabies</u>	% of sightings <u>inspected, notifications and complaints responded to</u> within 3 working days <u>of receiving the sighting report</u>	<u>90</u> 100%
	<u>%# of sightings known hotspots and areas of previous control inspected within 10 working days of receiving the sighting report</u>	<u>100</u> 20%
<u>Surveillance plan for wallabies implemented Follow-up and monitor past locations of wallaby sightings</u>	<u>Quarterly reporting to relevant Council committee showing progress against the surveillance plan % of property owners where wallabies have been located in past year are spoken to at least twice a year and provide an update on the current status</u>	<u>100</u> 4%
<u>Ensure MPI contract outputs are met</u>	<u>% of outputs as listed in MPI contracts are met</u>	90%
<u>Collaborate and coordinate with ECan on Wallaby Management</u>	<u>Implement joint Memorandum of Understanding</u>	Met
<u>Collaborate with and participate in the national wallaby programme Partnerships maintained with the interregional team (comprising ORC, Ecan and MPI)</u>	<u>%# of Operational Advisory Group national wallaby meetings attended as per MPI contact</u>	<u>100</u> All

	<u>Fulfil requirements of MPI funding agreement</u>	<u>100%</u>
<u>Analyse wallaby surveillance data and make recommendations for future management</u>	<u>Report to Council by 31st December 2022# of regional coordination group of wallaby management attended as per Terms of Reference.</u>	<u>14</u>

3.2.2 Rooks

Objective

Reduce all infestations of rooks~~rook populations~~ to zero density within the Otago region to prevent adverse effects on economic well-being and the environment~~maintain this status until eradication is attained.~~

Deliverable	KPI	Target
<u>Inspect known rookery locations, including the immediate surrounding areas</u> <u>Prompt response to all reports and sightings</u>	<u># of known rookery locations inspected</u> % of reports, notifications and complaints responded to no later than 3 working days.	100% <u>50</u>
	<u>If rooks are sighted, control action completed within 3 working days of the inspection.</u> <u># of known rookeries inspected annually</u>	<u>100%</u> <u>40</u>

3.2.3 Spiny broom

Objective

Reduce all infestations of spiny broom populations to zero density within the Otago region to prevent adverse effects on the environment and economy, focusing on the Waiholo, Chain Hills and Brighton areas, and maintain this status until eradication is attained.

Deliverable	KPI	Target
Prompt response to all reports and sightings	% of reports, notifications and complaints responded to within 5 working days	100%
Engage specialists to assess likely high-risk sites at least annually	Report of high-risk sites submitted	1
Undertake inspections for spiny broom at known locations and surveillance at potential locations. Undertake twice-yearly inspection programme	# of inspections undertake at known and potential locations inspected/surveyed for spiny broom infestations sites	20±0
	If spiny broom is sighted, control action is completed within 10 working days of the inspection. Report of current level of infestation prepared identifying any implications	Met 100%

3.3 Progressive containment pest programmes

The 11 pest plants (or groupings of plants) in this programme are reasonably well established in the region. While eradication is unlikely, it is an aim of the RPMP that pest densities can be progressively reduced over the duration of the RPMP. Operational programmes for these plants are divided into six sub-sections below:

- ~~• Wilding conifers – occupier control, with several conifer specific rules.~~
- ~~• African love grass – managed by ORC due to identification difficulty;~~
- ~~• Nassella tussock – occupier control, distinct inspection regimes;~~
- ~~• Old man’s beard – occupier control, large budget and several distinctive KPIs;~~
- ~~• Spartina – occupier control, an aquatic/estuarine species;~~
- ~~• Six grouped plants – all managed by occupiers to the same requirements; and~~

3.3.1 Wilding conifers

Regional Priority

~~Wilding conifers are any introduced conifer tree, particularly contorta, Corsican, Scots, mountain and dwarf pine and European larch, as outlined in the RPMP. Wildings are established through natural~~

means and do not relate to plantation forests and windbreaks/shelterbelts under 1 ha that existed before March 2019.

Objective

Progressively contain and reduce the geographic extent of wilding conifers within the Otago Region to minimise adverse effects on the environment (in accordance with national strategy and programme aims), reduce infestation densities where practicable and economy, prevent their spread to new locations.

Deliverable	KPI	Target
Support landowners to identify wilding conifers	# of landowners provided with wilding conifer identification guides	100
Develop a regional strategy on wilding conifers including communications plan	Strategy adopted by Council by 1 st March 2023	1
Collaborate with and participate in the national wilding conifer programme	% of Operational Advisory Group meetings attended	100%
	Fulfil requirements of MPI funding agreement	100%
Support Collaborate with regional partnerships through funding Whakatipu attending the Wakatipu Wilding Conifer Control Group (WWCCG) and Central Otago Wilding Conifer Control Group (COWCCG)	Funding disbursed as per agreement# of meetings attended	All 100%
Demonstrate regional leadership through leading the Regional Coordination Group for Wilding Conifers management	# of meetings held	4
Collaborate with national partnerships through attending national focused Operations Advisory Group (OAG)	# of meetings attended	All
Ensure MPI contract outputs are met	% of outputs as listed in MPI contracts are met	90%
Undertake proactive monitoring by remote sensing ² in Queenstown Lakes and Central Otago districts	# of hours of remote sensing analysis of Wilding conifers carried out	50
Advocate to landowners including identification guides for species and increased liaison with forestry companies	# of face-to-face visits to properties on wilding conifer actions	>200

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

² Remote sensing can include aerial inspections, aerial photography and satellite data.

3.3.2 African love grass

Objective

~~Progressively contain and reduce the geographic distribution of~~ Contain African love grass ~~at to its 20~~ known sites (around Earnsclough, Clyde, Omakau, Queensbury and Pisa Moorings) within the Otago region ~~to minimise or, reduce its densities at these sites and~~ prevent adverse effects on the environment and economy ~~spread to new sites.~~

Deliverable	KPI	Target
Engage contractors to undertake direct control operations as required to 'best practice' standards.	# of direct control operations carried out	20
Establish monitoring sites to compare change in densities over RPMP period.	# of suitable monitoring sites identified	5
	# of density calculations at monitoring sites (at least two per year per site).	10
Undertake <u>Bi-annual inspections for African love grass at known infestation locations and surveillance at potential locations</u> sites undertaken	# of known <u>and potential locations</u> sites inspected/ <u>surveyed for African love grass at least once a year</u>	<u>2040</u>
	<u>If African love grass is sighted, control action is commenced within 10 working days of the inspection</u>	100%

3.3.3 Nassella tussock

Objective

~~Progressively contain~~ **Contain** ~~nassella tussock at~~ **known locations**³~~areas~~ within the **Otago** region – around Roxburgh/Alexandra (Galloway and Knobby Range areas – approx. 32,000 ha.), lower Cardrona Valley (Deep Creek to Riverbank Road – approx. 4,500 ha.) and the lower Waitaki Valley (Georgetown and Tussocky/Ridge Roads – approx. 4,100 ha.), ~~reduce the geographic distribution to minimise or~~ **densities at these sites and prevent adverse effects on the environment and economy**~~spread to new sites.~~

Deliverable	KPI	Target
Undertake at least bi-annual inspections at known sites between March and October (prior to seeding)	% of know sites inspected twice a year	90%
	List of known sites maintained and is up-to-date	1
Establish monitoring sites to compare change in densities over RPMP period	# of suitable monitoring sites identified	5
	# of density calculations at monitoring sites (at least two per year per site)	10
Inspect known locations for nassella tussock, including the use of remote sensing where applicable Undertake proactive monitoring by remote sensing outside of traditional and known areas, focusing on likely high-risk habitats currently free of Nassella tussock	# of known locations inspected for nassella hours of remote sensing analysis of Nassella tussock carried out	3850
	% of locations re-inspected for nassella tussock that are free of the pest # of hectares covered in remote sensing and ground operations	50% 40,000
	Report on findings from remote sensing monitoring completed	1

Note: Further compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.3.4 Old ~~Man's Beard~~ **man's beard**

Objectives~~Objective~~

- ~~1. Progressively contain~~ **Contain** and reduce **the geographic distribution of old man's beard to known areas within the Otago region to minimise or**
To prevent adverse effects on the environment and economy~~spread to new locations.~~

³ Roxburgh/Alexandra (Galloway and Knobby Range areas – approx. 32,000 ha); lower Cardrona Valley (Deep Creek to Riverbank Road – approx. 4,500 ha); Lower Waitaki Valley (Georgetown and Tussocky/Ridge Roads – approx. 4,100 ha)

Deliverable	KPI	Target
Undertake re-inspectionsIdentify properties to be inspected for Old Man's Beard as prioritised by an appropriate biodiversity assessment	%A list of properties re-inspectedidentified and prioritised for Old Man's Beard that a free of the pestinspections	50%±
Undertake inspections for Old Man's Beard as prioritised by biodiversity assessment	# of properties inspected for Old Man's Beard	500
	% of properties inspected for Old Man's Beard within high biodiversity areas	50%
Re-inspect all non-compliant properties to ensure as prioritised by biodiversity mapping	% of non-compliant properties that have been re-inspected within set timeframes	80%
Establish monitoring sites to compare change in densities over RPMP period	# of suitable monitoring sites identified	10
	# of density calculations at monitoring sites (at least two per year per site).	20

Note: Further compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.3.5 Spartina and six containment pest plants

ObjectiveObjectives

Progressively contain and reduce the geographic distribution of bomarea, boneseed, bur daisy, cape ivy, perennial nettle, spartina⁴ and white-edged nightshade within the Otago region to minimise or prevent adverse effects on the environment and economy.

1. Contain spartina to known areas within the region, such as in and around Waikouaiti Estuary, Karitane Estuary and in Te Hikapupu/Pleasant River Estuary, reduce its densities at the above sites
2. Prevent spread to new locations.

Deliverable	KPI	Target
Undertake re-inspections for spartina and the six containment plants to ascertain complianceRegularly inspect known sites of Spartina	% of properties re-inspected for spartina or anyone of the six containment plants that are free of the pest(s)# of bi-annual inspections at current sites	50%6
Collaborate with DOC, LINZ and KiwiRail at Karitane and Te Hikapupu/Pleasant River sites	# of meetings held with DOC, LINZ and KiwiRail	1

⁴ Spartina containment focuses on Waikouaiti, Karitane and Te Hikapupu/Pleasant River Estuaries.

Establish monitoring sites to compare change in densities over RPMP period	# of suitable monitoring sites identified	2
	# of density calculations at monitoring sites (at least two per year per site)	4
Undertake surveillance at historic sites (Harwood [Otago Peninsula], Blueskin Bay, Taieri Mouth and Catlins Lake)	# of new infestations found at historic sites	0
Facilitate service delivery of direct control using contractors	# of contractor days providing direct control	20

3.3.6 Six containment pest plants

Six pest plants have been grouped for ease of reporting, although they all occur in different parts of the region they are all required to be managed by occupiers to the same RPMP requirements, being elimination wherever they occur on properties.

- Bomarea Dunedin City, Otago Peninsula, Waldronville and West harbour — 650 active sites/properties
- Boneseed Dunedin (Portsmouth Drive, Forbury, Port Chalmers and Aramoana); Taieri Mouth and Moeraki
- Bur daisy Georgetown, Waitaki Valley
- Cape Ivy Dunedin City and Otago Peninsula — 65 sites/properties
- Perennial nettle South Otago (Balclutha, Lawrence, Clydevale — along the Clutha / Mata Au River)
- White-edged nightshade One site at Hampden — historical sites on Otago Peninsula islands

Objective

Contain the six pest plants listed above within the region for the duration of the RPMP, reduce their densities at known sites and prevent spread to new sites.

Deliverable	KPI	Target
Undertake inspections of the six plants at all known sites	# of inspections at current and historic sites completed	250
Collaborate with ECan over bur daisy control either side of the regional boundary	# of meetings with ECan	2

3.4 Sustained control pest programmes

This programme covers ~~The six pests in this category are~~ well-established legacy pests ~~that are present across Otago and many in most~~ regions of New Zealand. Although eradication isn't viable, opportunities exist to prevent spread from infested areas to clear areas and to reduce 'externality impacts' on adjoining occupiers' values where those adjoining occupiers are motivated to undertake control.

Non-compliance for nodding thistle, ragwort and Russell Lupin will be analyzed and managed under the 3.6.2 Shared Pest Programme and 4.1 Compliance and Enforcement Actions.

- ~~Feral rabbits~~
- ~~Gorse and broom~~
- ~~Nodding thistle and ragwort~~
- ~~Russell lupin~~

3.4.1 Feral rabbits

Regional Priority

Objective

Implement sustained control of feral rabbits to ensure population levels do not exceed Level 3 on the Modified McLean's Scale in order to manage their spread and to minimise adverse effects and impacts on production and environmental values within the Otago region the economic wellbeing of occupiers.

Deliverable	KPI	Target
Prioritise and prioritise properties to be inspected for rabbits based their proneness of rabbit infestations	List of properties to be prioritised generated based on rabbit inspections proneness	1 Met
Undertake rabbit inspections ⁵ to determine and expect compliance of properties focusing on rabbit prone areas	# of rural rabbit property inspections carried out	>250
	% of properties inspected that are on high or extreme proneness to rabbits	>60%
	% of non-compliant properties that are have been re-inspected within set timeframes ⁶	100% 80%
Undertake night count monitoring along pre-set transects/routes and blood sampling at identified locations	# of night count monitoring locations completed	14
	Report on rabbit sampling for RHD virus completed	Met
	Results disseminated to relevant parties to ensure feral rabbits are appropriately controlled	Met
Monitor Undertake analysis of rabbit prevalence to assess the trends in rabbit densities and spatial movement	# of Report to Council on rabbit night counts analysis completed by staff	16 Met
Revisit community rabbit programme areas ⁷ to assess continued compliance Prompt response to all rabbit complaints	# of community rabbit programme properties re-inspected	100% >250
	% of complaints responded to within 5 working days	100%
	% of complaints that are inspected within 15 working days	100%

⁵ These inspections relate to inspections that are undertaken outside a defined community rabbit programme area.

⁶ Timeframes for occupier/owners to achieve compliance from an inspection is six months between May-Dec and three months between Jan-Apr. The re-inspection is to be undertaken within three weeks of this timeframe being expired.

⁷ Hidden Hills, Albert Town, Lake Hayes, Gibbston, Queensberry, Moeraki, Otago Peninsula and Clyde.

Maintain engagement with and lead community-led responses to reduce rabbit populations in areas of high need⁸ across Otago	Facilitate and provide control groups established and supported	# of community and owner-led rabbit programmes where feedback has been provided	>8
Support community initiatives through Sustainable Rabbit Management Funding	Funding round is oversubscribed with eligible applications		Yes/No
Analyse rabbit inspection and monitoring data⁹ and make recommendations for future management	Report to Council by 30th June 2023		1

Note: Any compliance actions are covered under 4.1 Compliance and Enforcement Actions.

3.4.2 Gorse and broom

Objective

~~Implement sustained~~ Ensure continuing control of ~~broom and gorse~~ to ensure ~~and broom~~, that prevents land ~~that is free of, or being cleared of, broom and gorse does not become~~ these pests from becoming infested (primarily in Central Otago and Queenstown Lakes districts) ~~in order to prevent and reduces~~ adverse effects on ~~production values and the economic well-being (and environmental) wellbeing of occupiers~~ nationwide.

Deliverable	KPI	Target
Undertake inspections in three management blocks (Central Otago, Earnscleugh and Lindis)	# of properties inspected and assessed for compliance	90¹⁰
Inspect gorse and broom free areas for gorse and broom infestation, including the use of remote sensing. Undertake proactive monitoring by remote sensing in the Queenstown Lakes management block (November/December)¹¹	% of properties re-inspected for gorse and/or broom are free of the pest(s) # of hours of remote sensing analysis of Gorse and Broom	75%⁵⁰

⁸Such as Lake Hayes, Gibbston Valley, Hidden Hills, Albert Town, Pisa Moorings, Queensbury, Moeraki and Otago Peninsula.

⁹ Dependent on the outcome of a current review, this analysis may also include trends in rabbit virology resistance.

¹⁰Earnscleugh – 25 properties; Central Otago – 50 properties; Lindis – 15 properties.

¹¹In conjunction with the wilding conifer remote sensing work.

	Report on findings from remote sensing completed and non-compliance is followed up.	Met
Advocate with occupiers and landowners on new <u>gorse and broom free areas</u> control rules that come into effect in 2024 regarding extensions to the current gorse and broom free areas ¹²	# of <u>community meetings delivered on new gorse with occupiers and broom free areas</u> landowners	4

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

Note: Remote sensing of management blocks rotate through the four blocks over four years (one block each year)

3.4.3 Russell Lupin ~~Nodding thistle and ragwort~~

Objective

Implement sustained ~~Ensure continuing boundary~~ control of Russell lupin within specified distances from waterways and property boundaries to preclude further establishment ~~nodding thistle and ragwort~~ to prevent ~~reduce~~ adverse effects on environmental values ~~the economic wellbeing of rural land occupiers~~ regionwide.

Deliverable	KPI	Target
<u>Develop a regional strategy on Russell lupin including communications plan</u> Undertake inspections as initiated by ORC receiving a valid complaint from adjoining occupiers who are undertaking effective control work	<u>Russell lupin strategy finalised by 1st March 2023</u> of inspections undertaken following a complaint responded to within 10 working days.	<u>100%</u>

¹² For example, the gorse and broom free extension in the Cardrona Valley covers approx. 500 ha of land, where currently the 10m boundary clearance rule (on complaint) applies, until October 2024.

3.4.4 Russell lupin

Objective

Instigate boundary controls of Russell lupin (clearance distances differ depending on the infestation situations) to prevent spread (e.g. the planting and subsequent seeding) of wild lupin plants, and to reduce adverse effects in rural zoned land.

Deliverable	KPI	Target
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Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

Undertake inspections based on risk and available resources	# of inspection of high-risk areas where Russell lupin is planted as production crop to ensure there is no spread (e.g. tussock country and braided riverbeds).	20
Collaborate with landowners in high-risk areas for Russell lupins on management and control	# of lupin management plans approved within 25 working days of being received from occupiers	20
Establish relationships with commercial suppliers and advise them about the rules and obligations	# of commercial suppliers of Russell lupins that have an on-going relationship	10
Establish monitoring sites to compare change in densities over RPMP period	# of suitable monitoring sites identified	2
	# of density calculations at monitoring sites (at least two per year per site)	4

3.5 Site-led pest programmes

The RPMP site-led programme is about protecting the environmental values at several named sites from the ravages of multiple pests. As a result, the management programme focuses on specific threats to each site and provides for the control of many pests, often those that are not managed elsewhere in the region (e.g. possums, rats).

The RPMP includes four site-led programmes. For the Operational Plan three of them, Otago Peninsula, West Harbour-Mount Cargill and Quarantine and Goat islands (all within Dunedin City) are grouped, as the same six pest plant species and 15 pest animal species are managed generically across all three places. The fourth site-led programme concerns the LINZ-led management of lagarosiphon (oxygen weed), where different controls are implemented in different lakes. New site-led programmes will be considered via the RPMP in the future.

3.5.1 Otago Peninsula, West Harbour – Mount Cargill and Quarantine and Goat Islands

Objective

Support community groups and other agencies to protect the ecological integrity of the Otago Peninsula (9,000 ha), West Harbour-Mt Cargill (12,500 ha) and Quarantine and Goat islands as defined in the project plan.

Deliverable	KPI	Target
Confirm current and identify new site-led programmes <u>around Otago Harbour surrounds</u>	ORC Action Plan for each site-led programme, <u>including timeframes, programmes</u> confirmed by 30 th September 2022 2021	3 Met
ORC Action Plans Support is provided where needed for site-led programmes <u>implemented</u>	<u>% of actions implemented within defined timeframes</u> A plan for all site-led programmes is created	90% All
<u>Support provided (financial and/or non-financial) to</u> Celebrate the success of site- led programmes <u>to protect indigenous biodiversity</u>	# of success stories <u>highlighting improvement of indigenous biodiversity</u> at provided by site-led programmes	6 10

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.5.2 Lagarosiphon

Regional Priority

Objective

To support LINZ in controlling ~~and eradicating~~ lagarosiphon in the region’s rivers and lakes by:

- ~~Preventing~~Prevent its establishment in Lake Wakatipu and other regional water bodies
- Progressively ~~reducing~~reduce its spread in Lake Wanaka and the Kawarau River
- ~~Undertaking~~Undertake sustained control in Lake Dunstan

Deliverable	KPI	Target
Survey priority water bodies ¹³ twice a year that are not the responsibility of LINZ	# of surveys at nine priority ‘non-LINZ’ managed sites.	18
	% of sites where lagarosiphon was not found	100%
Ensure monitoring is carried out at Wanaka,	# of days identified sites monitored	10

¹³ Moke Lake, Manorburn, Poolburn, Butchers, Conroys, Falls, Fraser Dams, Albert Town stormwater detention ponds and Bullock Creek sites.

Dunstan and Wakatipu/Kawarau sites	# of monitoring events where lagarosiphon was not found in Lake Wakatipu	100%
Monitor water users, before leaving lakes Dunstan, Wanaka or Roxburgh, and the Clutha/Mata-Au and Kawarau rivers for lagarosiphon fragments from boats and equipment and safely dispose of them	# of interactions in the 'Check, clean, dry' programme	650
Joint planning and meetings with LINZ, DOC and other stakeholders	# of meetings attended with LINZ, DOC and other stakeholders	4
Support LINZ in the management and control of lagarosiphon. Attended annually with three groups – Wakatipu/Kawarau River Group, and Lake Dunstan and Wanaka community groups	Funding disbursed as per agreement# of meetings attended with the identified community groups	100% 6
Undertake summer monitoring of water users at designated sites ¹⁴ (subject to continued funding from MPI)	# of interactions in the 'Check, clean, dry' programme	650
Undertake bi-annual monitoring of lagarosiphon at designated water bodies ¹⁵ that are not the responsibility of LINZ. Actively understand and report on lagarosiphon trends and advocate strongly for solutions to be implemented	# of lagarosiphon monitoring visits at designated water bodies. Report on findings completed	18 Met
Analyse lagarosiphon monitoring data and make recommendations for future management	Report to Council by 30 th June 2023. Results disseminated to relevant parties to ensure lagarosiphon is controlled	1 Met

Note: Any compliance actions are covered under 3.6 Integrated Programmes and 4.1 Compliance and Enforcement Actions.

3.6 Integrated programmes

While the RPMP has five defined programmes, aspects of these programmes are interconnected especially through linkages to biodiversity outcomes and associated common analysis. For this Operational Plan, the integration between programmes is an important consideration.

3.6.1 Biodiversity Integration

¹⁴ Lakes Dunstan, Wanaka or Roxburgh, and the Clutha/Mata-Au and Kawarau Rivers.

¹⁵ Moke Lake; Manorburn, Poolburn, Butchers, Conroys, Falls, Fraser Dams, Albert Town stormwater detention ponds and Bullock Creek sites.

A principal outcome of pest management is to enhance indigenous biodiversity, which informs the prioritisation of biosecurity activities. This is achieved by focusing on highly representative biodiversity areas, and their surrounds, that should be safeguarded.¹⁶ (Note: The deliverables in this sub-section cover non-rabbit pests. For rabbit management, refer to Section 3.4.1).

Deliverable	KPI	Target
<u>Identify highly representative biodiversity areas on which to prioritise pest inspections.</u>	<u>A set of biodiversity layers of GIS analysis</u>	<u>1 set of GIS layers</u>
<u>Undertake pest inspections to progress biodiversity outcomes</u>	<u># of pest inspections undertaken¹⁷</u>	<u>1,500</u>
<u>Pest inspections focus on highly representative biodiversity areas and their surrounds</u>	<u>% of pest inspections undertaken in highly representative biodiversity areas and their surrounds</u>	<u>60%</u>

¹⁶ As informed by Leathwick J.R. (2020). Indigenous biodiversity rankings for the Otago region. Report prepared for the ORC.

¹⁷ This excludes rabbit inspections which are listed under Section 3.4.1.

3.6.2 Shared Pest Programmes

Aspects of biosecurity have common approaches that apply across the five RPMP programmes. These deliverables focus on the monitoring and analysis of pests. (Note: The deliverables in this sub-section cover non-rabbit pests. For rabbit management, refer to Section 3.4.1).

Deliverable	KPI	Target
<u>Re-inspect all non-compliant properties within set timeframes</u>	<u>% of non-compliant inspections re-inspected within set timeframes¹⁸</u>	<u>100%</u>
<u>Undertake density monitoring of specific plant species¹⁹</u>	<u># of density monitoring visits undertaken</u>	<u>20</u>
<u>Undertake monitoring of bio-control vectors²⁰</u>	<u># of monitoring visits to bio-control sites</u>	<u>20</u>
<u>Integrate historic plant inspection data in current pest maps of spiny broom, nassella tussock, gorse and broom and spartina</u>	<u>Current pest map includes historic data (as layers) for spiny broom, nassella tussock, gorse and broom and spartina.</u>	<u>1</u>
<u>Analyse and assess trends from pest inspections, density monitoring and bio-control data and make recommendations for future management</u>	<u>Report to Council by 30th June 2023</u>	<u>1</u>

3.6.3 Pest Programme Engagement

The management of pests is wider than the ORC. Due to this, it is essential to engage with partners and stakeholders to promote and action biosecurity outcomes.

Deliverable	KPI	Target
<u>Engage with interagency organisations²¹</u>	<u># of communication engagements with listed agencies at least once annually</u>	<u>10</u>
<u>Support and educate occupiers, landowners and community groups to undertake best practice pest control</u>	<u># of events attended to support best practice pest control</u>	<u>12</u>
<u>Collaborate with neighbouring regional councils</u>	<u># of collaborations with neighbouring regional councils</u>	<u>4</u>

¹⁸ Timeframes for occupier/owner to achieve compliance for plant pests is three months from inspection with the exception of Old Man's Beard which is six weeks between Oct-Feb. The re-inspection is to be undertaken within three weeks of this timeframe being expired.

¹⁹ Namely, African Love Grass, Old Man's Beard, Nassella Tussock, Spartina, Russell Lupin

²⁰ Namely for various bio-controls for Ragwort, Gorse, Broom, Old Man's Beard, Nodding thistle

²¹ Namely MPI, DoC, LINZ, KiwiRail, Waka Kotahi, Territorial Authorities [WDC, DCC, CDC, CODC, QLDC]

<u>Engage with Kāi Tahu on biosecurity issues and support them to be involved in biosecurity initiatives</u>	<u># of meetings with Kāi Tahu on biosecurity issues</u>	<u>2</u>
<u>Support enviro schools programme with key messages, information and tools relating to biosecurity</u>	<u># of enviro-school programmes attended</u>	<u>16</u>

4. RPMP Administration

4.1 Compliance and Enforcement Actions

As the RPMP is a rules-based approach to pest management, there is need to ensure actions are taken to ensure compliance. The specific approach to compliance and enforcement is covered in the ORC Biosecurity Compliance and Enforcement Policy. To achieve this, the following actions will be delivered.

Deliverables	KPI	Target
Effective administration of compliance and enforcement		
Provide occupiers and landowners with the declared pest status following an inspection	% of occupier/landowner advised of inspection status within three four weeks of the inspection	75 100%
	% of occupier/landowner advised Notices of inspection status within six weeks Direction (NOD) assessed as compliant at the expiry of the inspection stated NOD period	100%
Continued non-compliance, as confirmed by enforcement criteria, is addressed through issuing a Notice of Direction Undertake default action where required by the BSA to 'best practice' standards and in accordance with animal welfare legislation	% of eligible non-compliant properties issued with a Notice of Direction within 20 working days after re-inspection % of properties deemed to be compliant following default actions	100%
Analyse the effectiveness of compliance and enforcement actions and make recommendations for continual improvement	Report to Council by 30 th June 2023 % of properties paying default action charges	100 1

4.2 Biosecurity Operational Plan Administration

For the administration of this operational plan, two key deliverables are listed.

Deliverables	KPI	Target
Revise the Biosecurity Operational Plan		
Review and, if needed, revise the Biosecurity Operational Plan annually as required by the BSA.	Biosecurity Operational Plan for 2023-24 2022/23 approved by Council by June 2023.	1 approved plan Approved

Responsiveness to Pest Enquires ²² Inquires		
Pest enquires are responded to in a timely manner as appropriate to the risk of the pest. The prompt response to all pest enquires ²³ as listed: <ul style="list-style-type: none"> • Wallabies and rooks: 3 days • Rabbits: 5 days Plants: 10 days (unless varied for specific plants in Section 3). 	% of exclusion and eradication pest enquiries ^{inquires} responded to within 24 hours and three working days, respectively ^{expected} timeframes.	100/95%
	% of all pest enquiries responded to within 10 working days	100%

4.3 Biosecurity Communication Plan

The communication of biosecurity information is a key approach to achieving the RPMP. For this year, the focus relates to the following deliverables.

Deliverables	KPI	Target
Prepare a Biosecurity Communication Plan		
Prepare a Biosecurity Communication Plan	A Biosecurity Communication Plan is implemented by 30 th September 2021	Met
Biosecurity Advocacy and Education		
Provide pest specific advocacy and education, focusing on: <ul style="list-style-type: none"> • Regional Priority Pests, including peri-urban rabbits • Eradication Pests • Gorse and Broom • Nassella Tussock • Old Man's Beard 	An advocacy and education programme developed by 1 October 2021 and implemented from 1 December 2021	Met
	# of community events attended (e.g. field days, A&P shows)	20

²² Enquiries are defined as either 'reports, sightings, notifications and complaints'

²³ Inquiries are defined as either 'reports, notifications and complaints'

5. Glossary

For this operational plan the following definitions are provided. A fuller glossary is given in the RPMP.

Adjacent: ~~means a property that is next to, or adjoining, another property.~~

Compliant: refers to when a rule in the RPMP is adhered to.

Default Action: means work undertaken by the management agency to carry out pest control when a 'Notice of Direction' or 'Compliance Order' has not been complied with by an occupier, under section 128 of the BSA. The management agency can then recover costs and expenses reasonably incurred under section 129 of the BSA.

Inspection: ~~means work undertaken to determine compliance to RPM rules.~~

Landowner: has the same meaning as occupier in the Biosecurity Act 1993.

Management agency: has the same meaning as in the Biosecurity Act 1993: "means the body specified as the management agency in a pest management plan or a pathway management plan". For the purposes of the RPMP and Operational Plan, Otago Regional Council is the management agency ~~(MA)~~ for pests to be controlled in the Otago region.

Modified McLean Scale: this scale assesses rabbit population levels ~~(see RPMP, refer to Appendix 2).~~

Monitoring: ~~means work undertaken to determine the trend in the prevalence of a pest.~~

Notice of Direction (NOD): means the actions required and notice issued pursuant to section 122 of the Biosecurity Act 1993. A NOD can require a person to take action to address pest plant or animal problems or to comply with a rule in an RPMP.

Occupier: see landowner.

Non-compliance²⁴: refers to any breach in a RPMP rule. Non-compliance is liable for enforceable under the provisions of the BSA. For clarification, a breach of a RPMP rule does not have to be widespread across a property and may relate to a single location (or a defined area) within a property. ~~Due to the potential of spread, the whole property is deemed non-compliant even if the infestation is localised.~~

Operational plan: means a plan prepared by the ~~Management Agency~~MA under Section 100B of the Act.

Pest: has the same meaning as in the Biosecurity Act 1993: "an organism specified as a pest in a pest management plan."

Surveillance: means survey work undertaken to determine the status ~~(presence)~~ of pest species.

Water body: means fresh water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

Wilding conifer: wilding conifers are any introduced conifer tree, including (but not limited to) any of the species listed in Table 3 of the RPMP, ~~established by natural means, unless it is located within a forest plantation, and does not create any greater risk of wilding conifer spread to adjacent or nearby land than the forest plantation that it is a part of. For the purposes of this definition, a forest plantation~~

²⁴ Note: this definition is not listed in the RPMP rather it is defined in the ORC Biosecurity Compliance and Enforcement Policy.

is an area of 1 hectare or more of predominantly planted trees. This also excludes existing planted conifers of less than 1ha, such as windbreaks and shelterbelts at March 2019.

Zero level/zero density: where the pest is ~~destroyed from an area and is not~~ detectable in an area, ~~however, but biosecurity managers accept that~~ the pest may continue to appear ~~in the area~~ afterwards due to plant seed sources or animal migration from an unmanaged area.

7.10. Galloway Depot and Oat Processing Equipment

Prepared for: Council
Report No. OPS2222
Activity: Governance Report
Author: Nick Donnelly, General Manager Corporate Services
Endorsed by: Nick Donnelly, General Manager Corporate Services
Date: 29 June 2022

PURPOSE

- [1] This report provides further information on the Galloway depot and oat processing equipment and seeks a final decision on the future of these assets.

EXECUTIVE SUMMARY

- [2] A paper recommending the disposal of Council's remaining rabbit control assets was taken to the Implementation Committee meeting on 8 December 2021.
- [3] At that meeting it was resolved to:
"Approve the staff recommendation to dispose of all remaining Council-owned rabbit control assets with the exception of the Galloway depot and oat processing equipment and report back before the end of the financial year 2021/22 with options for the Galloway depot and oat processing equipment including the value of the property, buildings and equipment"
- [4] Further information on the Galloway depot and oat processing equipment is provided in this paper together with options in relation to these assets including:
Option 1. Retain: Council retains ownership and leases the site.
Option 1a. Retain: Council retains ownership and control of the site.
Option 2. Dispose: Sale of the property including land, buildings and oat processing equipment.
Option 2a. Dispose: Sale of the property for a nominal value with use conditions and buy back option included.
Option 2b. Dispose: Sale of equipment for removal and relocation followed by sale of property including land and buildings.
- [5] This paper recommends sale of the oat processing equipment followed by sale of the land and buildings (option 2b).

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

- 2) **Approves** the staff recommendation to dispose of the oat processing equipment by offering it for sale and removal and following that sale of the Galloway depot land and buildings.

BACKGROUND

- [6] The Implementation Committee meeting on 8 December 2021 meeting considered a paper "Decision on Future of Rabbit Control Assets".

- [7] Resolution IMP21-119: Cr Calvert Moved, Cr Kelliher Seconded in relation to that paper was.

That the Committee:

- 1) **Notes** this report.
 - 2) **Notes** the outcome of the initiative to supply poisoned carrot bait to landholders on a trial basis over Winter 2021, based in Central Otago, for the purposes of rabbit control and promoting this opportunity to landholders.
 - 3) **Approves** the extension of this arrangement for the Winter 2022 control season.
 - 4) **Notes** the results of the contractor survey on the future use of Council owned rabbit control assets.
 - 5) **Notes** the results of the safety assessment of Council owned rabbit control assets by an independent Senior Safety & Compliance Engineer.
 - 6) **Approves** the staff recommendation to dispose of all remaining Council-owned rabbit control assets with the exception of the Galloway depot and oat processing equipment and report back before the end of the financial year 2021/22 with options for the Galloway depot and oat processing equipment including the value of the property, buildings and equipment.
 - 7) **Notes** the environmental incentive contestable funding package for 2021/2022 to support better rabbit management by communities (within existing LTP budgets).
- [8] The paper outlined the history and use of the rabbit control assets and provided contractor feedback on these assets. The paper also noted a specialist mechanical engineering company had been engaged to complete a machinery safety assessment of the equipment including the oat processing plant and details of that assessment were provided.
 - [9] The December 2021 paper noted:

[48] Motovated also assessed the oat processing plant at the Council owned facility near Alexandra (Galloway). Although some machinery is present and requires safety attention, Motovated noted broader safety and compliance issues that would be likely to impact any recommissioning of the facility. While noting that the condition of the facility was reasonable and functional, given the length of time from decommission, the consultant noted issues with the current installation that would need remediation, from both a production and a safety point of view. There is no technical reason why the facility could not be recommissioned but Motovated listed 11 areas requiring attention.

[49] At present we have been unable to source a high-level cost estimate to restore the equipment to support a hiring system. Suitable parties contacted were concerned about health and safety liability of retrofitting the equipment with guards or did not have capacity. The cost of refurbishment would not include the cost of outsourcing this to a third party, insurance, the development of health and safety materials, consideration of legal liabilities and ORC's contract management of the third-party provider.

[10] The paper proposed 2 options for rabbit control assets:

Option 1: Retain: Lease the rabbit control assets to private contractors via a third-party provider.

Option 2: Dispose: Sell rabbit control assets to enable private contractors to respond to market need.

[11] Option 1 was not preferred, and the following rationale was noted in the paper:

[58] For ORC to lease equipment it would need to be fit for purpose. This would include the ability to safely operate the equipment for its intended purpose. ORC would retain residual Health and Safety related liabilities for any machinery that was unsafe. However, it would have no effective control over the way that the machinery was used. This could place the ORC's Chief Executive, as the person in charge of the business, in an untenable situation. For this reason alone, the lease of the rabbit control assets is not recommended.

[66] Option 1 poses significantly more risk to Council compared to Option 2.

[67] A risk assessment of key risk areas noted extreme risks (health and safety, resource, and reputation) and high risks (procurement and financial risk).

[68] As an asset-owner, ORC retains responsibility under the Health and Safety at Work Act 2015 (HSWA) as the 'person conducting a business or undertaking' (PCBU) to ensure primary duty of care. Under the HSWA Subpart 2 Section 36 (1)(b), a PCBU must look after the health and safety of any workers it influences or directs.

[69] Leasing of assets is outside of ORC's core responsibilities. Therefore, an additional outsourced resource will be required to: ensure equipment is fit for purpose and safe to use, complete ongoing asset checks, prepare operating manuals, deliver training, undertake health and safety audits, provide legal input, and manage financials. This would add a layer of cost and complexity to the use of the equipment for rabbit control purposes. This cost would need to be passed onto those entering into lease agreements.

[70] Operating rabbit control equipment requires skill and expertise and therefore introduces risk when used inappropriately. WorkSafe can prosecute ORC if a third party is injured as a result of operating the equipment.

- [12] The December 2021 paper recommended:

[73] Staff recommend selling the rabbit management assets (Option 2) to ensure that the assets avoid further deterioration, are used to support rabbit control and provide additional capacity to local contractors. ORC's role as a regulator, educator and facilitator would continue and the profits from the sale of assets could potentially be used to further support community initiatives to reduce rabbit populations and boost local capabilities to support sustainable, long-term approaches to rabbit management.

DISCUSSION

- [13] Further information about the Galloway depot and oat processing equipment was requested at the December 2021 meeting and is provided below.
- [14] Council owns the Galloway depot which has historically been used to produce bait for rabbit control. The site located at 366 Fisher Lane in Galloway just outside of Alexandra, buildings and associated assets at the site were last regularly used in 2015, after which the Regional Services commercial arm of Council was disestablished. The site is 8.45 acres (3.42ha) in total in a triangle like shaped property hugging Fisher Lane which is an unsealed road.

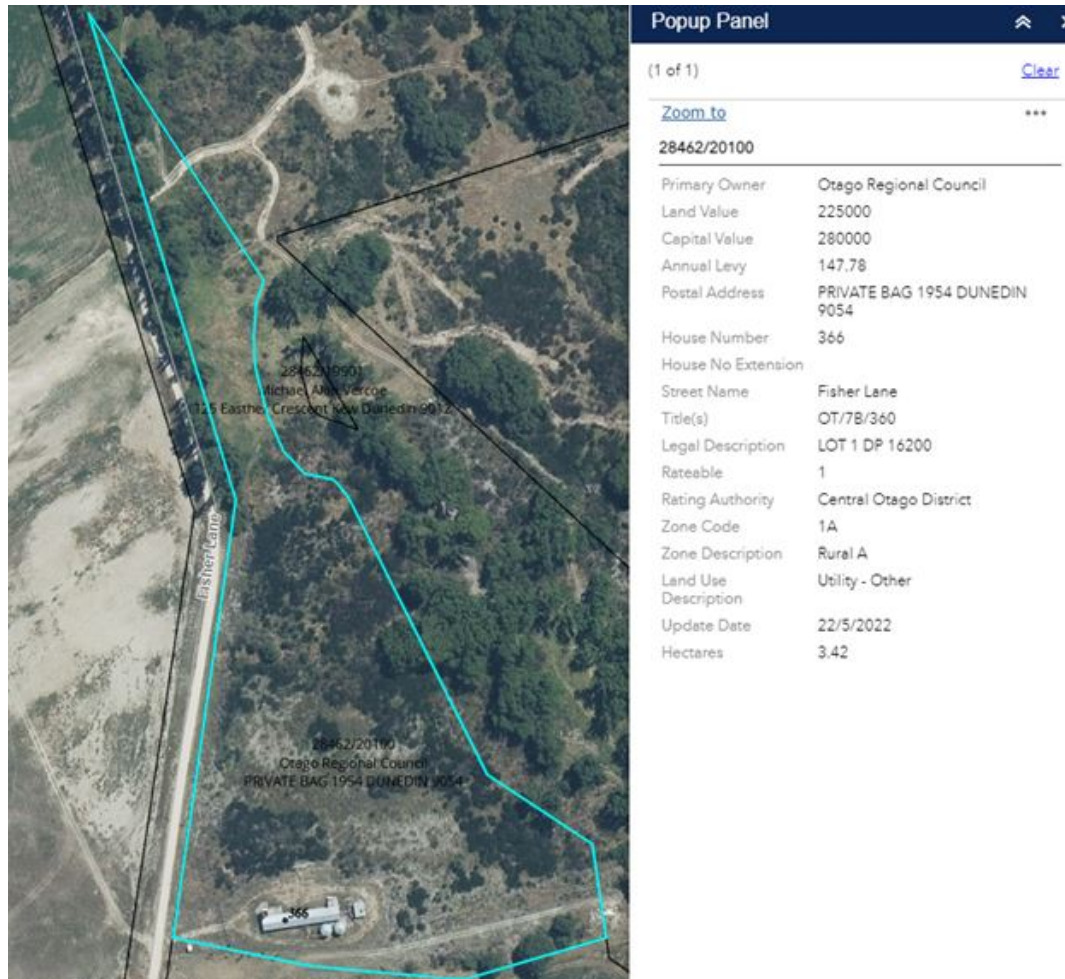


Figure 1: Rating information and map (ORC ratings map)

- [15] The property is partially fenced with standard wire fencing, additional fencing has been constructed around approximately 1 acre of the oat processing complex making this area secure. The secure area has a tall 6-foot fence surrounding the complex with a padlocked gate.
- [16] Within the secure area there are two structures. One large open shed with attached half garage with roller door. This holds the hoist, oat drying rack, fixed oat cooker, removable concrete chemical storage and various other smaller items. The second is a smaller building with a derelict shower, toilet, tearoom and roller half garage which stores water pumps and various other smaller items. In addition, there are two large silo's that are concreted or fixed into position on the Galloway site behind the larger structure.



Figure 2: Oat processing facility

- [17] The oat cooker is not a single piece of machinery, instead it is more of a processing plant where a number of items and types of equipment are used in sequence to cook oats and then dry them. Once dried they are stored so they can be dosed with poison and used in pest control efforts. The site only holds equipment related to this work including but not limited to a fixed oat cooker, silo's, drying rack, conveyor, holding and transfer bins as well as various pumps to support machinery and water supply.
- [18] At present the site and equipment has numerous hazards and risks that would need to be resolved prior to reinstatement and operation. In 2021 council's H&S team engaged a consultant to provide advice on the equipment and plant. The report noted broader safety and compliance issues that would be likely to impact any recommissioning of the facility. The facility was reasonable and functional, given the length of time from decommission, the consultant noted issues with the current installation that would need remediation, from both a production and a safety point of view. They stated that there is no technical reason why the facility could not be recommissioned but listed 11 areas requiring attention.
- [19] As noted in figure 1 the current ratings valuation of the property is \$280,000. This comprises \$225,000 for land and \$55,000 for improvements.
- [20] The assets are recorded in Council's financial statements at a book value of \$80,000 for the land and \$33,000 for the oat cooking facility (this includes the buildings and all associated plant and equipment).
- [21] The facility was last used in 2019 when Council resolved to offer oat bait to the market. The facility took some time and cost to return to an operational state and in the end less than half a tonne of bait was sold. The intermittent (once every five years) use of the facility is expensive and inefficient. Additionally, Council no long has any staff trained in the use of the equipment.

OPTIONS

- [22] The previous paper considered two options for rabbit control assets. These were to retain (and lease) or dispose of the assets outright:
- Option 1:** Retain: Lease the rabbit control assets to private contractors via a third-party provider.
- Option 2:** Dispose: Sell rabbit control assets to enable private contractors to respond to market need.

- [23] The following additional options have been considered for Galloway depot and oat processing equipment. These expand on the two options considered previously but still fall under the two broad retain or sell options.

Option 1a: Retain: ORC retains ownership and control of the depot and oat processing equipment (status quo).

Option 2a: Dispose: Sell the depot (including the oat processing equipment) to a contractor or community group at nominal value with use conditions and nominal buy back option included.

Option 2b: Dispose: Sell the oat cooking equipment for removal and relocation and following this sell the depot land and buildings.

- [24] Staff met with Cr Kelliher to understand his concerns around selling the site and oat processing equipment. The additional options above have been added to address those concerns and ensure the assets can be retained in the region and remain in use or available for use if needed.

Analysis of options – retain

- [25] Retention of the asset is not preferred for the reasons outlined in the previous paper. That paper only considered retaining and leasing but the option of holding for Council's own use is largely the same.
- [26] Under both options 1 and 1a Council retains significant risks in relation to health and safety, financial, resourcing and reputation. Both options require Council to continue to fund the cost of holding the asset and it is unknown if or when there may be demand for the use of the assets.
- [27] The value of the asset is largely in the land. Under the retain options this value is locked up on the assumption either Council or a leasee will use the equipment at some point.
- [28] The benefit of these options is that the equipment is retained in the region and in theory can be recommissioned if required. In practice for that to occur it will take time and cost to do so and as shown in 2019 this is an expensive and inefficient process.

Analysis of options – dispose

- [29] Sale of the assets remains the preferred option. Two alternative ways of undertaking this have been considered.
- [30] An outright sale (option 2) is the lowest risk, simplest and quickest option however Council will have little ability to control whether the oat processing equipment remains in use and supports rabbit control work in the region.
- [31] A sale to a local contractor or community group for a nominal value with various conditions around use asset use and a buy back option (option 2a) would meet the requirement to ensure ongoing availability of the oat processing equipment.
- [32] This option would require additional administrative time and cost to set up and ongoing Council oversight to ensure compliance with any conditions. There is a risk that any non-

compliance with the conditions would result in Council regaining control of the assets and reverting to the same or worse position it is currently in.

- [33] Sale of the equipment for removal and relocation (option 2b) offers the same benefit as option 2a without that residual risk of Council potentially regaining ownership. A tender process would allow Council to consider all proposals and make a sale decision on more than just price including the intended location and use of the assets. Assuming the oat processing equipment sale is successful then the remaining land and buildings can be sold.
- [34] This results in a better financial outcome than options 1, 1a and 2a which would effectively lock up the value of the land which is an inefficient use of that capital and Council resources.
- [35] The recent sale of the other rabbit control assets was successful and as a result Council has a contact list of parties who may be interesting in tendering for the oat processing equipment. If there isn't interest or the market determines it isn't feasible to relocate the equipment, then Council can reconsider how to proceed.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [36] The disposal of the poison assets would be consistent with the Council's current policy and approach to pest management. Indeed, it is the logical extension of the Council's previous decision to wind up Regional Services and get out of the business of the commercial provision of pest control services.

Financial Considerations

- [37] There are no significant financial considerations in pursuing either the sale or lease of the poison assets.
- [38] The sale of the assets would provide the opportunity for the Council to reuse the resulting revenue for other purposes.
- [39] The lease of the assets would provide some income to council but has other financial and litigation risks arising from the residual liability that the Council would have in relation to the assets and the process of hiring them out. In particular, the Council would not be able to contract out of its Health and Safety obligations in a lease arrangement. It would retain potential liability in relation to whether or not the machinery, and indeed the depot, were fit for purpose.
- [40] ORC retaining ownership and control of the assets will incur cost and if the assets are not maintained they may deteriorate to the point where the equipment has no value to anyone.

Significance and Engagement

- [41] The Council's poison assets are not significant assets, the disposal of the assets would not trigger any need to consult or engage with the public in terms of the Council's significance policy. The disposal of the assets would be in keeping with the approach to pest management that the Council has consulted on through the development of the Long-Term Plan and the proposed Regional Pest Management Plan.

Legislative and Risk Considerations

- [42] There are no legislative considerations other than the need to comply with the relevant provisions of the Local Government Act 2002, the Biosecurity Act 1993, the Health and Safety in Work Act 2015 and the Hazardous Substances and New Organisms Act 1996.
- [43] The Biosecurity Act 1993 (BSA, or the Act), and national and regional pest management plans promulgated under the Act, are the principal means by which pest management is undertaken at both national and regional scales.
- [44] Under Section 12B (2) of the Act, ORC is required to demonstrate biosecurity leadership in the region and develop policies (e.g., via the RPMP) that reflects regional community aspirations. Regarding rabbits, the prime role of council is ensuring that communities understand the importance of rabbit control and develop responses to support the adverse effects associated with rabbits as pests. The Council can help various stakeholders, who directly undertake pest control, to work cooperatively and has powers to monitor and regulate progress made in managing rabbit populations.
- [45] As per Section 13 of the BSA, ORC has the authority to exclude, manage or eradicate pests in accordance with its RPMP. The Council's direct or indirect actions (e.g., acting as a management agency; assessing, managing, or eradicating pests; or taking other, specified steps to implement the plan) must not go beyond the responsibilities set out in the RPMP.
- [46] Regarding compliance, as per sections 122 and 128/129 of the Biosecurity Act, Council can serve a notice of direction and, if a landowner/occupier defaults on the notice, Council has the means to act on that default (i.e., undertake the work directly) and recover costs.
- [47] The main risk of disposal is that the processing equipment will not be retained in operational use to benefit the region. However, the oat processing facility is currently not in use and if that occurs the market is no worse off than today. The proposed option 2b mitigates this risk by allowing Council to consider proposals for intended use.
- [48] There is a risk that if the Council does nothing the current assets deteriorate to the point that they are not serviceable and are of no value to anyone.

Climate Change Considerations

- [49] There are no climate change considerations directly linked to this paper. However, climate change is likely to create changing environmental conditions across the region with both positive and negative impacts on rabbits.

Communications Considerations

- [50] A communications plan will be prepared reflecting the outcome of the meeting.

NEXT STEPS

- [51] Staff would undertake a tender process to sell the oat processing equipment. If an acceptable outcome is achieved the remaining land and buildings would be marketed for sale.

- [52] In the event the sale of the oat processing equipment is unsuccessful, staff will report back to Council and request a decision on how to proceed.

ATTACHMENTS

Nil

7.11. Kuriwao Sales

Prepared for: Council
Report No. CS2239
Activity: Environmental: Land
Author: Peter Kelliher, Legal Counsel
Endorsed by: Nick Donnelly, General Manager Corporate Services
Date: 29 June 2022

PURPOSE

- [1] The Lessees for Kuriwao leases S417 and S223 have requested Council sell the land currently leased to them under the Otago Regional Council (Kuriwao Endowment Lands) Act 1994.
- [2] This report seeks Council's endorsement of the sale of the freehold lands subject to entering into satisfactory terms and conditions of sale.

EXECUTIVE SUMMARY

- [3] The Lessees for Kuriwao leases S417 and S223 have requested Council sell the land currently leased to the Lessees under the Otago Regional Council (Kuriwao Endowment Lands) Act 1994.
- [4] The Lessees have a right of acquisition of the freehold interest in the land. Council cannot refuse to sell to the Lessees the freehold interests in the leased land.
- [5] Consistent with Council's administrative procedure for Kuriwao sales, Council endorsement is sought subject to an agreement on satisfactory terms and conditions.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Endorses** the sale of the land to the lessees for the properties contained within records of title 2540 and OT18C/598 subject to agreement of satisfactory terms and conditions of sale.
- 3) **Subject to 2) above:**
 - a. **Authorises** the Chief Executive or the General Manager Corporate Services to execute Sale and Purchase Agreements.
 - b. **Authorises** the Chief Executive and General Manager Corporate Services to sign an authority and instruction form for the sale of the lands.

BACKGROUND

- [6] The Otago Regional Council (Kuriwao Endowment Lands) Act 1994 ("the Act") was enacted to:
-

- a. Confirm the vesting of land^[1] in the Otago Regional Council; and
 - b. Redefine the purposes for which the land is held by the Council; and
 - c. Recognise existing leases of the land; and
 - d. Transfer the lessor's interest in leases of the land to the Council; and
 - e. Empower the Council to dispose of the land; and
 - f. Define the purposes for which any of the proceeds from the sale of the land may be used.
- [7] Under the Act, responsibility for administering the land was passed from the Crown to the Otago Regional Council.
- [8] The Act includes a mechanism for Council to sell the freehold interest in the leased land (or any part of that land) to the current lessee. The sale is under the Land Act 1948 and a contract to sell the freehold interest is formed when the lessee gives notice of the intention to purchase. The Land Act contains the mechanism for determining the price for the freehold interest. Other terms and conditions can be agreed by the Council and the lessee.
- [9] In 1994, there were 18 Kuriwao Endowment Leases. 14 (77%) of these have since been sold to the respective lessees. Kuriwao Endowment Leases are renewable leases, renewable in perpetuity.
- [10] The Council, at its March 1995 meeting, passed a resolution endorsing a nine-step administrative procedure for responding to requests for selling any part of the Kuriwao Endowment Lands. The administrative procedure for freeholding any part of the Kuriwao Endowment Lands as follows:
- a. The Council receives a formal written request to freehold and agrees to initiate the administrative process.
 - b. Council staff establish contact with the Lessee and view the property.
 - c. Council staff make a preliminary identification of matters that warrant particular consideration.
 - d. Council staff confer with the relevant Fish and Game Council and Department of Conservation, seeking advice on the values for which they have statutory involvement.
 - e. Council staff confer with the Lessee about any conservation or other matters identified that in the Council's opinion warrant particular consideration and review with the Lessee ways in which such matters might be handled. Likely survey and valuation requirements reviewed with the Lessee.
 - f. Negotiations be undertaken between the Lessee and the Council to obtain draft terms and conditions of sale.
 - g. Draft terms and conditions be approved by Council.
 - h. Agreement and freeholding concluded.
 - i. If the procedure falters at any stage, then the Council must be informed of the reasons and decide where and how to continue the process.
- [11] In 1998, the Council arranged for each leased area to be surveyed and new freehold and leasehold titles were created.
- [12] The Lessees of the following leases have requested to freehold the land in accordance with the Act:

Lease number	Lessees	Address	Hectares	Record of Title
S417	TM Morris and CM Morris	972 Slopedown Road, Clinton	660.00	2540
S223	Wisp Hill 2021 Limited	235 Farquhar Road, Owaka	289.7119	OT18C/598

- [13] A map showing the leased areas for S417 and S223 is attached.

Consultation

- [14] For Lease S417, an ecological assessment was undertaken by Ahika Consulting Limited. Part of the Cairn Road Bog is situated on the leased property. Cairn Road Bog is identified in Schedule 9 of the Regional Plan: Water for Otago as a Regionally Significant Wetland. As recommended by Ahika, the Lessee has proposed fencing to protect the wetland on the subject property.
- [15] For Lease S223, an ecological assessment was undertaken by Ahika Consulting Limited. Two areas of the property were considered to have high ecological value sufficient that extra protection is warranted. The Lessee has proposed fencing to make the Southern Native Forrest stockproof and retiring a paddock (and part of another paddock) from livestock farming.
- [16] Both Lessees have offered a voluntary covenant over the land to record the above proposals.
- [17] There is no obligation on a lessee to grant such a covenant and we are grateful for both Lessee's willingness to do so.
- [18] Otago Fish & Game Council and the Department of Conservation were both provided with a copy of the ecological assessments and as part of their recommendations supported the use of covenants to protect areas of ecological value.

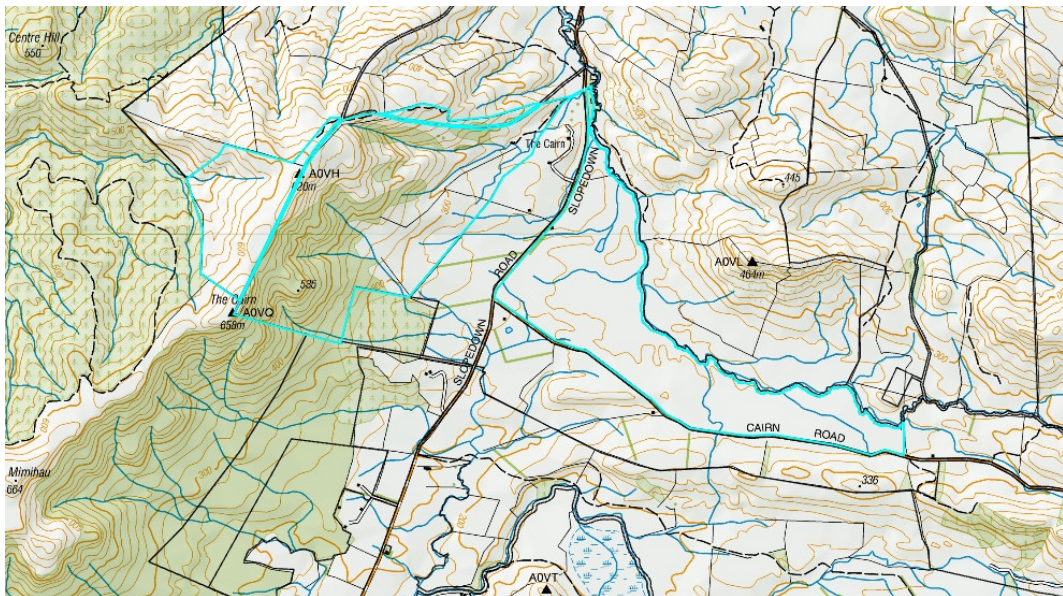
Freehold Valuation

- [19] The sale price of the freehold interest in the land is required to be set by a registered valuer in accordance with the Land Act.
- [20] The freehold interest is subject to the leasehold interest in the renewable lease and the value of the freehold is therefore much less than if the land were sold unencumbered by the lease.
- [21] Council's valuers have assessed the sale value of the land as follows:
- a. Lease S417 - \$385,425.26 plus GST (if any); and
 - b. Lease S223 - \$318,801.46 plus GST (if any).
- [22] The Lessees have accepted the valuations.

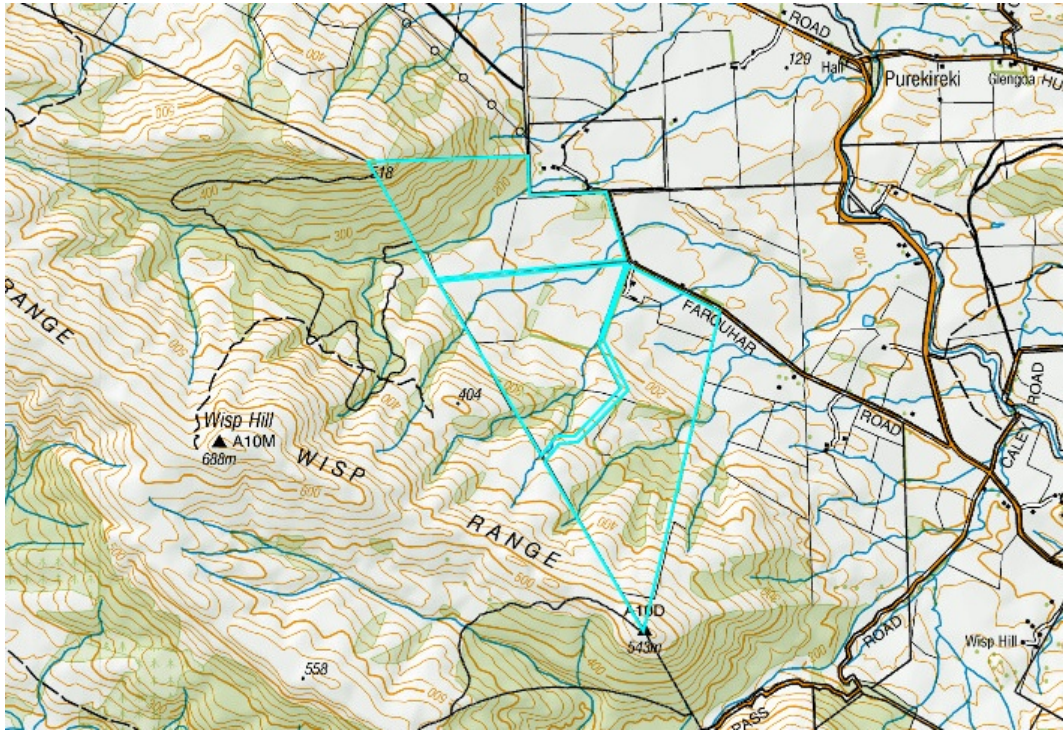
Proceeds of Sale

- [23] The Act defines the purposes for which any of the income (including the proceeds from the sale of land) may be used.

- [24] Such proceeds are held upon trust:
- a. To pay firstly the costs, charges, and expenses reasonably incurred by the Council in administering the land, any leases of the land, or any funds obtained by the sale.
 - b. To use the balance for, as the Council, in its absolute discretion, thinks fit:
 - i. Works for the benefit of the Lower Clutha District^[2].
 - ii. Servicing any loans raised for works for the benefit of the Lower Clutha Special Rating District.
 - iii. Carrying out the functions, performing the duties, and exercising the powers of the Council under section 5 of the Act for the benefit of the Lower Clutha District, including the Council's general administration expenses incurred in respect of the Lower Clutha District.



Map – Lease S417



Map – Lease S223

[1] 16,718 hectares within 18 leases.

[2] The Lower Clutha District is defined in the Act under five subdivisions – Balclutha, Kaitangata, Inch-Clutha, Matau and Otanomomo.

OPTIONS

[25] Council cannot refuse to sell to the Lessees the freehold interests in the leased land.

NEXT STEPS

[26] Proposed Terms and Conditions will be considered in a public excluded session of the Council.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[27] Since 2010, Council has actively promoted selling the Kuriwao Endowment leased land to lessees.

Financial Considerations

[28] Once the land is sold, Council will no longer receive the annual rental from the leases.

[29] The Act defines the purposes for which any of the income (including the proceeds from the sale of land) may be used.

Significance and Engagement

[30] The Lessees have a right to freehold the land. The Significance and Engagement policy is not triggered.

Legislative and Risk Considerations

- [31] The freeholding and sale procedure is regulated by the Otago Regional Council (Kuriwao Endowment Lands) Act 1994 and the Land Act 1948.
- [32] Nothing in the Local Government Act 2002 alters this procedure.
- [33] The Lessees have a right of acquisition of the freehold interest in the land. The delivery of notice of the intention to purchase constituted a contract between the Council and the Lessees.

Climate Change Considerations

- [34] This paper does not trigger climate change considerations

Communications Considerations

- [35] This paper does not trigger communication considerations

ATTACHMENTS

Nil

7.12. Documents Signed Under Council Seal

Prepared for: Council
Report No. GOV2236
Activity: Governance Report
Author: Dianne Railton, Governance Support Officer
Endorsed by: Amanda Vercoe, General Manager Governance, Culture and Customer
Date: 29 June 2022

PURPOSE

[1] To inform the Council of delegations which have been exercised during the period 23 March 2022 through 29 June 2022.

Date of application of seal	Description
23/03/2022	A&D Cameron Family Trust – registration of transfer of the land in Record of Title 124789 from Margaret Dale Cameron and HGW Trustees Limited to Margaret Dale Cameron, Marie Dawne, Wood and Richard Allan Cameron
13/04/2022	Partially Operative Otago Regional Policy Statement 2019 – Last Update: <i>Amendment 1: Inclusion of Housing Bottom Lines in Schedule 6: Housing Capacity</i> was made on 13 April 2022 under delegated authority, to give effect to Clause 3.6(2) of the National Policy Statement on Urban Development Capacity 2020, without using Schedule 1.
26/04/2022	Deed of Agreement for private development: Douglas Wayne Hall (developer), Dunedin City Council, Otago Regional Council. Lot 2 Deposited Plan 305589 (Record of Title 22323) and Part Lot 2 Deposited Plan 21174 (Record of Title OT15B/562).
26/05/2022	Plan Change 8 to the Regional Plan: Water for Otago – Partially Operative Plan Change 8 (Discharge management) to the Regional Plan
26/05/2022	ORC Code of Conduct
01/06/2022	Regional Plan: Water for Otago

RECOMMENDATION

That the Council:

1) **Notes this report.**

8.1. Chairperson's Report

Prepared for: Council
Activity: Governance Report
Author: Cr Andrew Noone, Chairperson
Date: 29 June 2022

INTERIM CHIEF EXECUTIVE

On the 7 June 2022, the Otago Regional Council welcomed Dr Pim Borren as our interim CEO. Pim has spent the last three weeks meetings lots of people (internally and externally) listening, learning and asking plenty of questions as he brings himself up to speed on a wide range of issues and work streams the Council is focused on. *(Photo attached: Edward Ellison, Andrew Noone, Matapura Ellison, Justin Tipa and Katharina Ruskstuhl after the signing of the Mana to Mana Terms of Reference at Puketeraki Marae).*

MANA TO MANA MEETING AT PUKETERAKI MARAE, TUESDAY 7 JUNE 2022

We were welcomed (pōwhiri) onto the beautiful Puketeraki Marae at 9am, always a special time being able to experience such a visit. We enjoyed the waiata from our hosts and as customary, we reciprocated with Te taukaea aroha, this waiata celebrates the importance of connections and kinship. Many thanks to both James Adam's for leading and supporting our delivery of Te taukaea aroha and Cr Deaker who spoke on our behalf (whaikorero).

Topics discussed at Mana to Mana included an update on the Te Hākapupu (Pleasant River Catchment) Restoration Project, Jobs for Nature funding, Whare Runaka and how ORC is tracking toward achieving a fit for purpose planning framework. The meeting concluded with the signing of the Terms of Reference, the ToR renews the party's commitment to actively develop and implement initiatives that strengthen the relationship of the two parties, Kai Tahu and ORC.

Through the Mana to Mana forum, the vital roles that both Kai Tahu and the Otago Regional Council have for effective kaitiakitaka/stewardship of the Otago environment can be realised for the benefit of current and future generations. We were invited for lunch as well which was unexpected, but much appreciated.

CONNECTING DUNEDIN

General update from both Waka Kotahi and the Dunedin City Council about various roading projects each entity was leading. Waka Kotahi are undertaking independent assessments to further quantify assumptions re one-way vs two-way. Waka Kotahi we also working through a business case tender process in relation to upgrading the State Highway 1 connection with State Highway 88.

ORC Transport Manager Doug Rodgers and Principal Advisor Garry Maloney presented the items in scope for the Fares and Frequency Business Case (back in April 2022, Strategy and Planning resolved to ensure DCC Councillors were well informed/no surprises, hence the presentation) before the business case tender process was triggered. The presentation was well received and there wasn't any push back from DCC Councillors.

Waka Kotahi have initiated a review of the governance arrangements associated with Connecting Dunedin, the review includes a survey of relevant stakeholders and is focused on effectiveness of governance arrangement.

CROMWELL/CENTRAL OTAGO VISIT, 9-10 JUNE 2022

We enjoyed heading to Central for our Data and Information/Implementation Committee meetings held in Cromwell, then the following morning catching up with Duncan Falconer - Chair Guardians of Lake Dunstan. The afternoon was spent with members of the Lindis Catchment Group who showed us several sights of recent river management by way of willow clearing and native plantings. We were hosted by Matt and Jo McCaughan, Georgie Hill Station for afternoon tea and a chat. It was good to have Mayor Cadogan spend the afternoon with us as well.

WAI WĀNAKA – COMMUNITY OF PRACTICE WORKSHOP

WAI Wānaka are promoting a more efficient way to share information and knowledge with other groups and in turn learn from other groups. This sort of activity all takes time from both groups involved to arrange, facilitate and follow up.

WAI Wānaka have been made aware this is an issue nationwide, and that duplication of effort, clarification of specific issues, groups not having access to knowledge and expertise, and lag time for programme set-up were all affecting delivery of projects.

Purpose

The purpose of this pilot is to understand the needs of community organisations in the region and propose a Community of Practice (COP) model that could:

- Support individual community organisations to thrive, endure and deliver on their project outcomes.
- Operate effectively and sustainably across the region to increase coordination between groups.
- Be scaled from local to regional to national to create broader value and deeper connection from government investment to environmental impact.

A Community of Practice is different from other current groupings and offers a way of transitioning with support post Jobs for Nature programmes. ORC have an opportunity to be part of a pilot.

MATARIKI

On the 24 June 2022 the country celebrated Matariki for the first time. Matariki is the Māori name for a star cluster, traditionally for Māori the sighting of the cluster of stars heralds the start of the new year.

CORRESPONDENCE

1. A draft concept for Otago Alpine Lakes Assessment Working Group Proposal for the Upper Lakes Rohe from Don Robertson is attached. This follows Don Robertson speaking at the Council Meeting Public Forum on 25 May 2022 and meeting with Councillors in Cromwell on 9 June 2022.
2. Letter to DCC Mayor Hawkins and QLDC Mayor Boulton, dated 30 May 2022, acknowledging their letter, dated 13 May 2022, regarding model of governance for delivery of public transport in our region. (The letter from Mayor Hawkins and Mayor Boulton was included in the 25 May 2022 Chairperson's Report).

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

ATTACHMENTS

1. Photo: Mana to Mana at Puketeraki Marae - 7 June 2022 [**8.1.1** - 1 page]
2. Draft concept for an Otago Alpine Lakes Assessment Working Group proposal for the Upper Lakes Rohe - Don Robertson [**8.1.2** - 1 page]
3. Letter to DCC Mayor Hawkins and QLDC Mayor Boulton re their request to discuss delivery of public transport in our region - 30 May 2022 [**8.1.3** - 1 page]



Council Meeting 2022.06.29

Draft concept for an Otago Alpine Lakes Assessment Working Group proposal for the Upper Lakes Rohe. (Notes prepared by Don Robertson, Guardians of Lake Wānaka).

We urgently need a way of meshing regional council land and water plans with assessments of lakes health in order to expand monitoring, research and modelling to ensure that Otago's deepwater alpine lakes are supported by evidence-based management decisions and to ensure that they do not degrade any further.

An Alpine Lakes Assessment Working Group could operate under the following conditions that would:

- Give effect to the principles, targets and goals of the ORC Land and Water Plan;
- Engage with Kai Tahu, observing tikanga Māori;
- Comprise Working Group members selected on the basis of their experience and knowledge and not representation of a particular group. Members will contribute knowledge and perspective but not promote the views or positions of any particular interest or stakeholder group;
- Give consideration to, and balance the interests of water stakeholders and communities in the lake's catchments, in debate, research planning and recommendations for evidence-based decision-making;
- Objectively assess existing knowledge of lakes health, ecosystem function and information needed to meet requirements of the National Policy for Freshwater Management and National Policy for Indigenous Biodiversity;
- Work in a collaborative and co-operative manner using best practise to agree on research necessary to reach evidence-based solutions to enhance lake's ecosystem health and health of user communities;
- Provide recommendations for research and modelling required to address key questions to support lakes evidence-based management;
- Encourage a community education approach on catchment and lakes' water management;
- Seek consensus by Working Group Members in decision-making where possible. Where unanimous agreement is not able to be reached, a recommendation may be taken if in the view of the significant majority (say 75% or more of members) it represents the best approach to serve effective lakes' management;
- Call and operate meetings of the Alpine Lakes Assessment Working Group in accordance with the requirements of the Local Government Official Information and Meetings Act 1987;
- Provide formal recommendations to statutory bodies responsible for ensuring on-going lakes' high water quality, ecosystem health, indigenous biodiversity and health of community lake users;
- Be funded by MfE, MPI, LINZ, DOC, MBIE, MOT, ORC and QLDC.



30 May 2022

Aaron Hawkins

Mayor, Dunedin City Council

Jim Boulton

Mayor, Queenstown Lakes District Council

Dear Aaron and Jim,

Thank you for your letter of May 13. We acknowledge your concerns and your request for a discussion that considers the best possible model of governance for the delivery of public transport in our region.

We also acknowledge your statements that the Shaping Future Dunedin Transport and Way to Go programmes, along with the need to drastically reduce carbon emissions, all rely on substantial mode shift and the integration of public transport into the wider transport network.

These issues and pathways forward are covered in detail in our Regional Public Transport Plan. However that document doesn't cover governance models which would be subject to any future discussions. As a first step towards a meeting, ORC will need to agree as a Council on a way forward.

As part of our working together on this, it would be important to establish what is expected of the system, how it might integrate across the region with other systems, such as land use, and how it might be funded.

We suggest that ORC has this discussion and comes back to you with some proposed meeting dates.

Yours sincerely

A handwritten signature in black ink, appearing to read "Andrew Noone".

Cr Andrew Noone

Chairperson

For our future

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz

8.2. Chief Executive's Report

Prepared for: Council
Activity: Governance Report
Author: Pim Borren, Interim Chief Executive
Date: 29 June 2022

Chief Executive "Top of Head" update from the Office of Chief Executive

I have had two weeks in the role. It has been busy coming up to speed on the wide range of activities which ORC is involved in. The areas/projects I have focused on so far are understanding the background to the two inquiries being carried out by Sir Graham Panckhurst and Sir Peter Skelton, and minimising risks to ORC as a result. A basic understanding of the ORC oversight and relationship with the Port of Otago. Getting up to speed on the ORC office upgrade project (i.e., new offices). And a range of other transport and environment related project areas.

I have also spent a lot of time meeting people both internally and externally. These have included local iwi, counterparts from local authorities across our region, counterparts from other regional councils, council members, our staff across our range of offices across our region. Public transport issues and contracts. Environmental issues and work programmes. Emergency management. I have spent a considerable amount of time on our financial reports leading up to year end. So far I have been made to feel welcome. Staff have been professional. Staff culture appears positive and constructive. I have appreciated the time from both councillors and staff in terms of meetings and briefings. One of the most important aspects of this role will be improving the trust and respect shown between governance and management/staff. This is a two way focus and given the responsibility for any Chief Executive to act as a bridge between the two, I see this as a primary responsibility for me.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.

ATTACHMENTS

Nil

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

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>Minutes of the 11 May 2022 public excluded Extraordinary Council Meeting</i>	Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons.	
<i>Minutes of the 18 May 2022 public excluded Extraordinary Council Meeting</i>	Section 7(2)(c)(i) To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.	
<i>Minutes of the 25 May 2022 public excluded Council Meeting</i>	<p>Section 7(2)(b)(i) To protect information where the making available of the information would disclose a trade secret.</p> <p>Section 7(2)(b)(ii) To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.</p> <p>Section 7(2)(c)(i) To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.</p> <p>Section 7(2)(g) To maintain legal professional Privilege.</p> <p>Section 7(2)(h) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.</p> <p>Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and</p>	

	industrial negotiations).	
<i>Minutes of the 26 May 2022 public excluded Emergency Council Meeting</i>	Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons.	
<i>Minutes of the 1 June 2022 public excluded Emergency Council Meeting</i>	Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons.	
<i>Kuriwao Sales</i>	Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	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>ORC Clutha Inquiry – Panckhurst Report</i>	Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons.	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.