

**BEFORE THE COMMISSIONER APPOINTED ON BEHALF OF
THE OTAGO REGIONAL COUNCIL, CENTRAL OTAGO DISTRICT
COUNCIL AND QUEENSTOWN LAKES DISTRICT COUNCIL**

Under The Resource Management Act 1991
(the **Act**)

In the Matter of an application for resource consents
for Suction Dredge Mining on the
Clutha River/ Mata Au

Between **COLD GOLD CLUTHA LIMITED**
Applicant

And **OTAGO REGIONAL COUNCIL**
(RM22.434)
QUEENSTOWN LAKES DISTRICT
COUNCIL (RM220834)
CENTRAL OTAGO DISTRICT
COUNCIL (RC220255)
Local Authorities

PLANNING EVIDENCE OF DARRYL ALLAN SYCAMORE

19 October 2023



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PLANNING EVIDENCE OF DARRYL ALLAN SYCAMORE

Introduction

1. My full name is Darryl Allan Sycamore.
2. I am a Planner for Terrmark Limited and have held the position as Planning Manager with Terramark since January 2020.
3. I hold the qualification of Bachelor of Science from the University of Otago. I am a Member of the New Zealand Planning Institute, and the current chair of the Otago Branch. I am also an accredited RMA Commissioner.
4. I am an appointed member of the Guardians of Lakes Manapouri, Monowai and Te Anau, and have been a member for over eleven years, including five years as chairman. Of relevance to this application, the Guardians make recommendations to the Minister of Conservation on matters arising from the environmental, ecological and social effects associated with hydro-electric power generation in Lakes Te Anau-Manapouri and Monowai. A key part of that work is to review and provide feedback on scientific reports that have an emphasis on freshwater and terrestrial ecology written by the likes of NIWA, Landcare Research, Ryders Consulting or Shoreline Processes & Management Limited.
5. I have 18 years experience as a resource management practitioner, covering roles with Federated Farmers of New Zealand, Dunedin City Council, Otago Regional Council, West Coast Regional Council and for Terramark Limited.
6. I am familiar with the Central Otago District Plan, the Operative Queenstown Lakes District Plan, the Proposed Queenstown Lakes District Plan, the Otago Regional Plan Water, the Partially Operative Otago Regional Policy Statement, the Proposed Otago Regional Policy Statement, the National Policy Statement for Freshwater Management and the Kai Tahu Ki Otago Natural

Resource Management Plan 2005. Having grown up in the Teviot Valley, I am also familiar with the application area and surrounding environment.

7. In preparing this evidence, I have reviewed the following:
 - (a) The s42A reports by Ms Kirstyn Royce for the CODC and QLDC,
 - (b) The s42A report by Ms Josie Burrows for the ORC,
 - (c) Evidence filed on behalf of the Applicant,
 - (d) Partially Operative Otago Regional Policy Statement (PORPS),
 - (e) Proposed Otago Regional Policy Statement (PRPS),
 - (f) National Policy Statement for Freshwater Management,
 - (g) The submissions on the consent applications.

Scope of Evidence

8. My evidence will cover the following matters:
 - Further consultation
 - S42A conclusions
 - The permitted baseline
 - Effects on cultural values
 - Monitoring turbidity
 - Managing Lagarosiphon major
 - Effects on birds
 - Natural Character and Amenity
 - Noise
 - Application of S104(D)

The site and the proposal

9. The site has been fully described in the application documentation and the two consulting planners s42A report.
10. In the interests of efficiency my evidence focuses on the further consultation carried out by the applicant since the issue of the s42A reports, and key points of contention in the section 42A reports.

11. A number of questions have been raised in terms of managing effects by both Ms Royce and Ms Burrows. This evidence seeks to respond to those matters.

Further Consultation

12. Both Ms Royce for the CODC and QLDC and Ms Burrows for the ORC consider there is insufficient information provided to enable an assessment of the potential effects on cultural values and that further consultation with Rūnaka may be useful.
13. They considered the cultural impacts were not adequately addressed in the application and further information was required. Additional consultation was not initially sought on the basis that Hokonui Runaka have adopted a policy of opposing all in-stream mining activities.
14. The Applicant did provide further information in response to some of the matters raised in the Cultural Impact Assessment. This information was not available prior to the filing of submissions.
15. The applicant then sought additional dialogue with Aukaha and Runaka representatives to discuss the proposal and further information. This was to assist the applicant in understanding their cultural values, and also for manawhenua to assess whether the effects of dredging on wāhi tupuna and Ara Tawhito, ecology, biodiversity and archaeology will impact their values.
16. A meeting was held on 24 October between myself, representatives of Hokonui Runaka, Aukaha senior staff and Mr Hamer. The topics discussed in that meeting are set out below, being-
 - a. Turbidity and the most suitable measurement method
 - The perceived discrepancy between the video provided in the application of the sediment plume sampling behind the operating dredge and the Hills Laboratories results. Mr Hamer considered

the results were generally reliable as suspended solids falling deeper in the water column could still be visible which may not be reflected in the sampling results. It was acknowledged the sampling may not have occurred within the centre of the plume over each sample.

- The use of the Secchi disc, black disc or turbidimeter was discussed. It was accepted the use of the turbidimeter may be the most practical option for measuring sediment. Triggers for adaptive management or ceasing operating was discussed and Mr Hamer referred to Canadian research that was considered useful in the context of the proposal that he will consider in his evidence. I interpreted that manawhenua was comfortable with this outcome.

b. Noise

- Noise from the dredge was discussed. The revised operating schedule of the dredge between 8am to 8pm unless a suitably qualified person assessed and confirmed the dredge can comply with the permitted 7am to 10pm standards prescribed in the QLDC plan. I interpreted that manawhenua was comfortable with this outcome.

c. Risk of fish or tuna entrainment

- Entrainment of fish was raised as a concern to Manawhenua. They suggested a camera or AI option to film and assess entrained fish or tuna could be a solution to understanding the frequency of entrainment. Anecdotal feedback from hobby miners on the risk of entrainment was discussed which suggested the risk of entrainment was very low. Mr Hamer referred to a paper where adverse effects on juvenile trout was low. It was my understanding manawhenua

were comfortable with the explanation and sought no additional conditions.

d. Bird nesting conditions

- The effects on nesting birds was raised as a concern by manawhenua representatives.
- The applicant indicated the intention to revert to original proposed conditions for managing effects on nest birds. Those conditions were assessed by Ms Coates for Babbage Ecology who found they would result in low effects on nesting birds.
- Manawhenua representatives held reservations with this approach. A revised method was discussed where an ornithologist would assess the potential nesting habitat over the entire permit prior to the exercise of consent. The applicant would then make a visual observation of each potential nesting area prior to relocating and should there be nesting birds, they would apply a 250m setback from the colony. I interpreted that this approach found favour with manawhenua representatives.
- Pests predated on nesting colonies was also discussed. Where there were nesting colonies in the permit area, the potential for the Applicant to engage in pest trapping as an offset was discussed as a proactive mechanism to offset the mining effects and positively contribute to the area. Manawhenua representatives supported this approach and commented there are a number of existing organisations that the Applicant could work with.
- There was no issues raised relating to, or the effects on Te Mana o te Wai, Ara Tawhito, Nōhanga, Wahi Tupuna, Wai Māori or Wairua.

A follow up email was sent confirming there were no other unresolved issues and invited further engagement if desired.

17. In light of this it remains my view that the proposal can be managed in a way that is unlikely to impinge on cultural values. Whilst I am not able to directly assess the effects, I can apply scientific conclusions of Mr Hamer, and analysis from Ms Mckenzie to issues of concern raised by mana whenua.

Overview of s42A conclusions

18. The s42A reports provide a helpful context in relation to the agreed matters and also what aspects of the activity require further clarification or analysis.

19. For the ORC, Ms Burrows in her s95 report concluded the following matters would result in effects that are less than minor subject to conditions, including the-

- Effects on minimum flows,
- Effects on allocation availability
- Effects on water quality
- Effects on aquatic ecology
- Effects on indigenous birds
- Effects on downstream water users
- Effects on recreation values
- Effects on archaeological and heritage values
- Effects on natural character and amenity, and
- Effects on hazards

20. For the CODC and QLDC, Ms Royce found the application would result in effects that are less than minor subject to conditions in relation to-

- CODC Natural character and landscape values
- Rural amenity
- Lightspill

- The formation of the slipway
- Fuel storage and re-fuelling
- Other water users
- Public access
- Heritage values

21. The effects assessment were predicated on a suite of consent conditions to manage effects relating to each matter above. For some matters, I propose alternative wording for some consent conditions and in my assessment, the effects will remain less than minor. These are considered further in my evidence.
22. Both the planners for the Councils concluded the potential effects on cultural values were not sufficiently addressed in the application and therefore there was inadequate information provided to manawhenua to make an assessment on the level of effect. I discuss these issues further below.

The Permitted Baseline

23. Ms Burrows sets out her position of the permitted baseline in Section 6 of her s95 report. In considering the adverse effects, the Consent Authority may disregard those effects where the plan permits an activity with that effect. Rule 13.5.1.7 of the RP:W sets out the permitted activity rule for suction dredge mining in Otago. Ms Burrows refers to three limbs of the permitted activity rule where the proposed application cannot meet the permitted activity rule, being-
- The size of the internal nozzle of the dredge being no more than 150mm in diameter,
 - That no refuelling is carried out in the wetbed without a spill tray, and
 - That there is no conspicuous change in colour or visual clarity 100m downstream of the dredge discharge.
24. Whilst these rules inform the permitted baseline it is those effects arising from the proposal beyond the permitted baseline that are

the crucial elements for consideration. I do however consider Ms Burrows has not contemplated how the permitted baseline is applied in real terms.

25. What has not been detailed in the ORC permitted baseline assessment is that the permitted activity rule enables a number of dredges to operate within the mining permit area without some of the key controls proposed by the Applicant in this case, including-
 - that they may operate at any time of the day or year including periods sensitive to spawning of indigenous and exotic fish species,
 - they can operate anywhere within the watercourse, including at the mouths of tributaries where ecology is considered to be 'more sensitive' to disturbance such as tuna elvers.
 - They could mine within the 'Devils Nook' or the Lake Dunstan delta, areas considered to be ecologically sensitive.

26. It is my opinion the effects of the permitted activity on the matters described above is relevant when assessing the potential effects of the Cold Gold proposal including the associated conditions being proposed.

27. In relation to the proposed mining activity and with regard to the permitted activity rule limbs that are not met by the Cold Gold Clutha proposal-
 - it is accepted the dredge dimension is of a scale significantly greater than that permitted. The inductor nozzle size regulates degree of bed disturbance as the smaller the intake the less bed disturbance can occur. The Cold Gold Clutha dredge does move a significant volume of alluvium each day.
 - Refuelling is carried out on the water, however robust processes in accordance with the Maritime regulations and

fail-safe devices on the dredge ensure there is no loss to water. In effect, the proposal meets the test of having a spill-tray and achieves the same outcomes despite technically not meeting this limb.

- In terms of the discharge, the ecological advice finds the effects of a plume extending to 200m is less than minor noting that the vast majority of the time the plume will not extend beyond 100m. The differences between this and the permitted activity standard are negligible.

28. The focal issue surrounding suction dredge mining relates to the effects of bed disturbance on the aquatic ecology, and that of the sediment plume potentially smothering interstitial spaces. The ecological information and evidence provided by e3 Scientific and Mr Hamer reaches a conclusion that the effects are likely to be minor or less than minor.

29. It is notable that the following parties, who were notified of the application have chosen not to submit:

- a. Department of Conservation,
- b. Forest and Bird,
- c. South Island Eel Management Committee and
- d. the Otago Conservation Board.

30. Ms Burrows also concludes that effects on ecology matters are minor.

Effects on Cultural Values

31. The Clutha River / Mata-Au is a Statutory Acknowledgement Area.

32. Te Mana o te Wai requires that priority is given to the care of waterbodies, to protect their mauri, in order that they can then support a range of relationships and uses. I understand that the concept of mauri is central to Te Mana o te Wai.

33. It is my opinion that the proposal is consistent with Te Mana o te Wai. The reasons for that were set out in the Reply to Additional

s92(1) Request dated 18 July 2023. Whilst Mauri is central to Te Mana o te Wai it is protected when the health and wellbeing of the water is protected. Based on the evidence of Mr Hamer I consider that is achieved by the proposal.

34. In that response I noted that Environment Southland was the first regional council in the country to adopt Te Mana o te Wai in the planning architecture. As part of that process, Ngai Tahu ki Murihiku led nationally in developing scientific and expert reports on and developing manawhenua expression of Te Mana o te Wai. The concepts developed by Ngai Tahu ki Murihiku of mauri, te uta ki tai and indicators of health. The plans and expert evidence of Ngai Tahu ki Murihiku provide some guidance in understanding how an activity may affect cultural values.
35. The Te Rūnanga o Ngāi Tahu ki Murihiku report ‘Wai’¹ provides some context to the definition of mauri and notes-
- “that scientifically Mauri can mean:
- Meeting the basic health and safety needs of humans, specifically the provision of freshwater for drinking water.
 - Continuity of flow from the mountain source of a river to the sea.
 - Life-supporting capacity and ecosystem robustness.
 - Protecting traditional cultural values and uses.
 - Protecting biodiversity.
 - Aesthetic qualities e.g. clarity, natural character, depth and velocity of flow, and
 - Providing for economic activities.”
36. Having considered each of the aspects in the definition, I consider that the proposal is unlikely to deleteriously affect Mauri. To illustrate-
- the operation of the dredge will be carried out in a manner where water quality for drinking is not degraded. Sufficient setbacks from consented and permitted water takes from

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<https://contentapi.datacomsphere.com.au/v1/h%3Aes/repository/libraries/id:26gi9ayo517q9stt81sd/hierarchy/document-library/reports/Values%20and%20Objectives%20reports%20-%20People%2C%20Water%20and%20Land/Report%20-%20Wai%20-%20Ngai%20Tahu%20ki%20Murihiku.pdf>

the river will be managed by way of conditions of consent to ensure the quality of water at the point of take is not degraded.

- The operation of the dredge is non-consumptive and all water is returned directly to the waterbody immediately after use. The dredge will not affect the continuity of flow from the mountain to the sea.
- In terms of the life-supporting capacity and ecosystem robustness measure, Ms Burrows for the ORC concluded the effects are less than minor in terms of
 - suspended sediment,
 - habitat disturbance,
 - entrainment of fish,
 - macrophyte disturbance,
 - the effects of the slipway construction,
 - indigenous birds,
 - downstream water users,
 - recreational users

At the time the matter of fish spawning and migration were unresolved. I consider these matters have been addressed in the evidence of Mr Hamer such that they too can be considered less than minor.

- With regard to protecting traditional cultural values and uses, the applicant is conscious of the cultural values of the Clutha/ Mata-Au to Runaka. They have carefully considered the CIA prepared by Aukaha and will ensure it forms part of any staff induction.
- With respect to historic routes I note that the activity will not hinder others from travelling up and down the river. Further, the dredge operates in a short section of the Mata Au at any particular point in time meaning that other water users will only encounter it briefly as the travel up or down river.
- In light of the proposed exclusion zones there are now no nōhanga within the area that will be occupied by the dredge.

- The conclusions of the ecological evidence indicate that the proposal will not compromise Mahika kai.
- Cold Gold will ensure each staff member is familiar with the content of the CIA as part of the induction process.
- Cold Gold value relationships. It has endeavoured to be respectful and responsive when issues have been raised with it during its existing operation lower on the Clutha River/ Mata Au. As a result of this positive relationships have been forged with stakeholders.

It is my opinion, traditional cultural values and uses of the awa will not be affected by this application.

- In terms of protecting biodiversity as a measure for the Mauri, it is my interpretation the ecologists for the applicant and the Council consider the proposal will have a less than minor effect on biodiversity. I agree.
- In terms of aesthetic qualities, it is acknowledged the presence of the dredge, the human activity, the noise, the exhaust and the sediment plume will have an effect on the aesthetic qualities of a highly valued environment. Those effects will be localised and temporary. Ms Lindsay finds the nature of the proposed activity, hours of operation, variable location along the river, the avoidance of margins and tributaries that the effects on rural amenity, other water users, public access and navigation will be acceptable subject to conditions of consent. Additional consideration of light spill and noise were at the time of writing unresolved. To reiterate the applicant is of the view the dredge complies with the noise standards for both the CODC and QLDC districts; and this will be discussed further below.
- The final measure for Mauri is the provision of economic benefits. The operation of the dredge will provide immediate economic benefit to the employees, the rural communities they reside within. Contractors and service providers will be engaged for work as required. The proposal will provide direct economic benefits.

37. Having considered each aspect of the definition, it is my opinion the application is consistent with the scientific components of Mauri as describes in the Te Rūnanga o Ngāi Tahu ki Murihiku report 'Wai'. I acknowledge there may be metaphysical elements that incorporate wairua or whakapapa relationships with the land which support Mauri, however these are outside my scope of expertise. It remains my opinion that based on the scientific measures, the proposed dredging activity will not adversely affect the Mauri of the river.
38. The ORC PORPS includes a definition of Mauri, which is defined as "life supporting capacity". It is recognised in the PORPS definition that whilst life support capacity does not replicate the term 'Mauri', it achieves the essence of the concept. There is no definition in the PORPS for Mauri, although I note there are submissions seeking to provide a greater context to the term.
39. Ms Royce for the CODC and QLDC in her s42A report considered the Ngai Tahu indicators of health provided in the Reply to Additional s92(1) Request dated 18 July 2023. In that, she considered there would be some benefit in the applicant assessing each of the 70 indicators of health identified rather than forming a judgement against them based on the s42A conclusions. Mr Hamer has provided an analysis of the ecologically focussed indicators and I rely on that assessment. Having reviewed the balance of the indicators I consider that many of them are not directly relevant or are matters over which the Applicant in this case has no influence.
40. Having read the assessments by both the Council's and applicants ecologists, it is my opinion the Mauri of the river is not adversely affected by the proposal. When applying the definition of the PORPS for Mauri, this is supported by the conclusions that the activity will not affect the life supporting capacity of the river.

Monitoring Turbidity

41. The proposed suction dredging operation will result in the discharge of sediment-laden water to the Clutha River. There has been a number of discussions regarding what method is most suitable to measure the extent of any sediment plume beyond the dredge.

42. Managing turbidity is a requirement under permitted activity rule 13.5.1.7 (j) which requires miners to manage the discharge of sediment and states-

There is no conspicuous change in the colour or visual clarity of the water body beyond a distance of 100 metres downstream of the point of discharge of the dredge.

There is no defined mechanism for measuring the sediment plume under this rule.

43. A condition was offered in the application which read-

1. *“Prior to commencing mining for the day, the dredge operator shall make a visual clarity assessment using a weighted Secchi disc to determine the baseline visual clarity following the method and standards outlined in the National Environmental Monitoring Standards (NEMS) 2019. Once the suction dredge is operating Secchi disc readings shall be made at 200m downstream from the point of discharge once in the morning and afternoon mining period. The difference between these readings shall not exceed 10%, and*
2. *Should there be a $\geq 10\%$ difference in the Secchi readings 200m from the point of discharge, the consent holder shall:*
 - a. *Immediately cease operating,*
 - b. *Make a record in a logbook of the breach specifying date and time, and a GPS location,*
 - c. *Assess whether there have been any events or failures that could have resulted in the greater discharge plume and record the findings in the logbook,*
 - d. *Assess the nature of the sediments and bed substrate,*
 - e. *Make alterations to the engine speed or hydraulic nozzle to minimise the discharge, and*
 - f. *Carry out an assessment as described in condition 1 to obtain a baseline reading prior to recommencing operation.”*

44. The logbook of any recorded breaches beyond the 200m setback would then be provided to the Consent Authority as part of the annual compliance monitoring.
45. This approach did not find favour with the ORC's ecologist, Ms Barnett on the basis that she felt it was not appropriate in a river with such strong flows.
46. The proposed approach was also not supported by Manawhenua representatives. As part of the further consultation they expressed a preference for the use of a turbidimeter and a clear set of triggers for managing the sediment plume. Mr Hamer has provided evidence on a framework for achieving this which can be incorporated into proposed conditions. We are currently preparing detailed drafting of conditions to implement this proposed approach.
47. It is my view this approach gives effect to the ecological input of Mr Hamer and responds to the concerns raised by mana whenua.

Disturbance of Macrophytes

48. Ms Burrows in her report found the effects on *Lagarosiphon major* would be less than minor subject to an acceptable protocol, such as
 - Minimising the spread of pest plants and aquatic weeds through water blasting and cleaning machinery with appropriate chemicals before being brought to site,
 - Avoiding working in areas of Lagarosiphon,
 - Avoiding the spread of Didymo by ensuring appropriate cleaning of the dredge if it has been used in an area where Didymo is known to be present, and
 - The removal of any vegetation caught on machinery and appropriate cleaning of machinery before leaving the site.

49. She noted several submissions raised concerns about the risk of spreading Lagarosiphon throughout the river. Cold Gold advised that new sites for mining are identified and then assessed, which involves observing the watercourse from the riverbank and then from the tender traversing the river assessing flows and bed profiles. This approach was not accepted as sufficient and Council's ecologist considered this should be addressed by the applicant's ecologist for a suitably robust methodology.
50. There is also a camera on the end of the suction pipe which enables the applicant to confirm whether Lagarosiphon is in the area to be dredged.
51. Mr Hamer, ecologist for the applicant in his evidence provided his opinion on the likelihood of increasing spread. He advised Lagarosiphon has been found confined to river margins and eddies, and the lee of bends where river flows are low. He notes that flow velocity is the limiting factor to habitat.
52. On the basis that Lagarosiphon is relatively confined, the consent holder can easily observe it from the rivers edge, the tender and prior to dredging commencing using the camera equipment I consider the approach advanced in the application is adequate to address the issue. Conditions are proposed to reflect this.

Effects on Birds

53. Proposed conditions addressing the effects on nesting birds have evolved throughout the process. The initial application promoted the following conditions-
 - *That heavy machinery must not be used within 50 metres of nesting and roosting areas of Black Fronted Tern, Black Billed Gull and Banded Dotterel between the dates of September 1 to January 31 (inclusive) each year, and*
 - *Dredging or bed disturbance must not occur within the roosting and nesting areas of Black Fronted Tern, Black Billed Gull and Banded Dotterel at any time.*

54. In the ecological audit of the application on behalf of ORC, Ms Coates an ecologist for Babbage Consultants concluded that she agreed that the proposed conditions above in paragraph 51 would “introduce few if any adverse effects on indigenous waterfowl”. Following concerns raised by revised phrasing of these conditions by two other ecologists for Babbage, the Applicant intended to revert to the conditions above which were considered acceptable to Council’s ecologist.
55. As part of the further consultation with Manawhenua representatives an alternative method to ensure potential effects on native nesting birds are suitability mitigated was discussed. The following conditions were proposed.
- That prior to commencing any mining, the Applicant shall engage a suitably qualified and experienced person to carry out a survey identifying potential bird colony nesting habitat (nesting habitat) within the entire mining permit area.
 - Prior to relocating the dredge to a new area and between the dates of 1 September to 31 January, the Applicant shall make an assessment of the nesting habitat to determine whether any nesting colonies are established.
 - The dredge shall not be used within 250m of any bird nests within the nesting habitat, with the exception of passage through the area.
56. Mr Hamer has considered the issue further in his evidence and has identified the locations within the application area that are likely nesting habitat and recommended a process to identify whether these areas are being utilised prior to any dredging commencing during the breeding season. This will be incorporated into conditions proposed on behalf of the applicant. Having considered the initial opinion of Ms Coates, the evidence of Mr Hamer and the view of Manawhenua representatives, I consider the effects on indigenous avifauna will be less than minor subject to conditions that give effect to Mr Hamer’s approach. Detailed drafting of conditions to achieve this is currently being undertaken. .

Natural Character, Amenity Effects and Rural Values

57. The Clutha River contains significant natural character and visual amenity values. A Landscape Assessment has been commissioned and I rely on the conclusion of Miss Mckenzie in relation to landscape and visual amenity matters.
58. The QLDC PDP identifies that the Clutha River/Mata Au at the subject location is an Outstanding Natural Feature (ONF), whereas the CODC does not apportion any additional landscape protections. Miss Mckenzie identifies that the Clutha River / Mata Au within CODC possess the same type of character and vales as it does within the QLDC portion of the application area.
59. The QLDC PDP anticipates that activities will occur on the river within the ONF, providing the relevant values are protected and enhanced or maintained. The CODP also anticipates commercial activities occurring on the river.
60. Ms Royce notes in her s42A report, that
“in the context of the policy framework, and recognising the mobile nature of the dredge, the exclusion zones, and the minimal disturbance to the form of the river, I consider that the proposal appears to sit comfortably within the policy framework in respect of natural character and landscape values. Furthermore, the storage of the buildings will also have minimal adverse effects assuming compliance with the permitted activity standards 4.7.6A and 4.7.6D. of the CODP. However, I recognise the Panel may gain more comfort from an expert landscape assessment, given the matters raised by submitter”.
I agree with this assessment by Ms Royce. These conclusions are also supported by the evidence of Miss Mckenzie.
61. With respect to rural amenity values it is accepted the rural environment can at times be a dynamic and potentially noisy environment. Activities which impact rural amenity can be

concentrated at times that can affect the quality of the amenity for residents, such as the use of frost-fans and helicopters to protect vineyards from frost damage on fruit at or before dawn, during periods which crops are vulnerable to frost.

62. Given the nature of the proposed activity, hours of operation, localised and temporary effects I consider that the effect of the proposal on rural amenity will result in effects that are less than minor.
63. It is my opinion based on the information available that the effects of the dredging activity will be minor and the proposal consistent with the objectives and policies for both the CODC and QLDC.

Noise

64. The dredge has operated for the previous ten years on the Clutha River within the CODC district. In that time I am aware of a single complaint in relation to noise. That complaint was investigated and the activity was found to meet the CODC noise standards.
65. The nature of the dredge activity is not specifically captured in the CODC rules as it is not considered a motor craft nor a fixed structure. The CODC rules provide for a standard noise limit within the Rural Resource Area while QLDC PDP rules also provide for a standard noise limit for the Rural zone but provide for a greater noise level for commercial motorised watercraft.
66. Ms Royce considers in her s42A report that “the noise generated will not be restricted to watercraft as provided for by QLDC Rule 36.5.14 and will include the noise of the dredging activity. In this regard I consider that the general noise standards for the QLDC Rural zone are applicable to the dredging activity”. I agree this is the most suitable approach.
67. It remains the view of Cold Gold Clutha that the permitted noise standards for both jurisdictions can be met. The noise standards

are shown below. Both the QLDC PDP and CODC DP apply the same notional boundary being a line 20 metres from part of any living accommodation or the legal boundary where this is closer to the living accommodation.

District	Daytime Hours	Noise Limit	Nighttime Hours	Noise Limit
CODC DP Rule 4.7.6E Any point within the notional boundary of a residential unit.	7.00am to 10.00pm	55 dBA L10	10.00pm to 7.00am	40 dBA L10 70 dBA Lmax
QLDC PDP Rule 36.5.1 Any point within the notional boundary of a residential unit.	0800h to 2000hr	50 dB LAeq(15 min)	2000hr to 800ha	40 dB LAeq(15 min) 75 dB LAFmax

68. The QLDC adopts daytime period commencing at 0800 and the original application proposes operating the hours of 7.00am to 10.pm which would require noise limit of 40 dB LAeq (15 min) between 7am-8am and 8.00pm and 10.00pm within the QLDC jurisdiction

69. The applicant has advised that it wishes to reduce the operational hours from 10pm to 8pm. This reflects what has occurred in practice. It is my understanding that in the morning actual dredging does not commence at 7am. The team arrive at the site, get organised motor to the dredge location etc. It is my conclusion that a 7am start is acceptable.

Application of s104(D)

70. Section 104D specifies that resource consent for a non-complying activity must not be granted unless the proposal can meet at least one of two limbs.

71. The application to QLDC is assessed as a non-complying activity due to the mining rules which were in effect at the time the

application was lodged. Rule 21.11.1.2 (Table 8) has now been revoked by way of Environment Court Consent Order and therefore the trigger for the non-complying activity status is no longer relevant as the rule in question is no longer operative. .

72. The limbs of section 104D require that the adverse effects on the environment will be no more than minor, or that the proposal will not be contrary to the objectives and policies of the QLDC Proposed District Plan.
73. Ms Royce considered that whilst the activity status has been changed from non-complying to discretionary, the Panel must still assess the application as a non-complying activity. I am advised by Legal Counsel that there is Environment Court jurisprudence that indicates this is not correct and that the application should fall to be assessed as a discretionary activity. This issue will be traversed in detail by Legal Counsel in opening submissions.
74. In the event that the Commission do consider that activity status remains non-complying it is my opinion that the proposal passes through both section 104D gateways on the basis that:
 - a. Evidence associated with effects confirms that they will be no more than minor; and
 - b. The proposal is not contrary to the provisions of the relevant plans.
75. These conclusions are supported by:
 - a. Evidence of Ms Mckenzie with respect to landscape and amenity matters;
 - b. Evidence of Mr Hamer with respect to ecological matters and the related cultural health indicators.
 - c. The fact that consent is not being sought to breach the noise levels in the district plans therefore policy direction associated with this is achieved.

- d. I confirm my conclusions in relation to the policies detailed in the AEE remain sound from my perspective.

Conclusion

- 76. The detailed information provided in the evidence of Mr Hamer and Miss Mckenzie supports the earlier conclusions reached regarding effects of the proposed activity. As a result I confirm my view that the various resource consents can be granted subject to conditions that will ensure effects are no more than minor.

- 77. Whilst a direct assessment of cultural effects cannot be undertaken by me, the evidence available leads to me conclude that the effects on the biophysical environment are acceptable and therefore unlikely to give rise to adverse effects on cultural values. Evidence of Mr Hamer in particular provides a response to the key issues of concern raised in the Cultural Impact Assessment. Further refinement of the applicant's approach has occurred following discussions with Runuka representatives. Detailed conditions to implement Mr Hamer's suggested approach will be promoted at the hearing.



Darryl Sycamore

27 October 2023