



Document Id: A1299323
To: Joanna Gilroy, Manager Consents and Mat Bell, Team Leader Consents
From: Rebecca Jackson, Consents Officer
Date: 22/01/2020
Re: Notification recommendation for RM19.387

1. Purpose

To report and make recommendations on the determination of the notification decision of Resource Consent application RM19.387 in accordance with Sections 95A-G of the Resource Management Act 1991 (the Act).

2. Background Information

Applicant: NZ Transport Agency
Activity: Various activities associated with the construction of the new Beaumont Bridge
Location: Clutha River/ Mata-Au, approximately 140 metres west of the intersection of Millers Flat-Beaumont Road and State Highway 8, Beaumont
Reason: Construction of a new Beaumont Bridge

NZ Transport Agency (the applicant) has applied to the Otago Regional Council (the Council) for various resource consents associated with the construction of a new bridge at Beaumont.

3. Summary of Recommendation

I recommend, for the reasons outlined in this report, that this application, which is for a discretionary activity, be processed on a publicly notified basis in accordance with section 95A of the Resource Management Act 1991.

Please note that this report contains the recommendations of the Consent Officer and represents the opinion of the writer. It is not a decision on the notification of an application

4. The Application

The applicant has applied for the following consents associated with the construction of a new bridge at Beaumont:

Consent type	Activity	Duration Sought
Land use consent (S9 RMA)	Disturbance of a contaminated site	10 years
Land use consent (S13 RMA)	Erection of structures and associated bed disturbance of the Clutha River/ Mata-Au	
	Removal of vegetation in the bed, including associated disturbance of the bed of the Clutha River/ Mata-Au	
Water Permit S14 RMA	Permanent diversion of the Clutha River/ Mata-Au	
	Temporary damming and diversion of the Clutha River/ Mata-Au	

The bridge at Beaumont forms part of State Highway 8 (SH8) Network between the Clutha and Central Otago Districts. The bridge is a single lane, five span, truss and was opened in 1887. The applicant intends to construct a new bridge, downstream of the current one. This is to address issues with the current bridge.

The applicant provides enough detail about the proposal in pages 15 – 23 of the application (A1290677) and this is adopted as the description of the activity for the purpose of this report.

The Assessment of Environmental Effects (AEE) was prepared by WSP Opus on behalf of the applicant. In support of the AEE were the following technical assessments that were of relevance to the Regional Council matters:

- Ecology Report prepared by Ryder Environmental Limited and Urtica Ecology;
- Preliminary Site Investigation prepared by WSP Opus;
- Hydraulic Report prepared by WSP Opus; and
- Hydrology Report prepared by WSP Opus.

In addition to this, the applicant also provided evidence of consultation that has been undertaken with the general community prior to applying.

A further information request was in accordance with Section 92(1) of the Act on 2 December 2019 (A1297342). This information was requested following an initial assessment of the application by:

- E3 Scientific Limited (E3S) who have been engaged to review the actual and potential effects of the contaminated land disturbance;
- Aquanet Consulting Limited (Aquanet) who have been engaged to review the actual and potential adverse effects on water quality and human health;
- Boffa Miskell who have been engaged to review the actual and potential effects of the visual impact of the bridge; and
- Damwatch Engineering Limited (Damwatch) who have been engaged to review the actual and potential effects of the engineering and natural hazards effects of the application.

All parties listed above raised a number of factors that required clarification. A response to this request was provided on 20 December 2019. This was not considered sufficient and the applicant was asked to address certain aspects of the further information request as well as some additional points raised by Boffa Miskell, Aquanet, Damwatch and

myself. The applicant refused to answer this Section 92 request in order to trigger public notification of the consent (A1315202). This is as well as requesting in the application that it proceed by public notification.

Site Visit

A site visit was not undertaken for this application as there was considered to be sufficient photographic evidence, plans and aerial mapping information of the site to understand the nature of the site. It is also noted that the job manager is aware of the site, having been to Beaumont on multiple occasions. A site visit will be arranged prior to a hearing.

5. Description of the Environment

The existing Beaumont Bridge over the Clutha River/ Mata-Au is located on State Highway 8 at the small Otago settlement of Beaumont, located between Lawrence and Raes Junction. Surrounding land use is a mixture of agriculture, rural residential and residential activities. A more detailed description of the environment can be found in the consent application in Section 4.

Work is proposed to occur on the following land:

Legal Description	Land owner
Crown Land	Commissioner of Crown Lands administered by Land Information New Zealand
Road Reserve	NZ Transport Agency (the applicant)
Section 4 SO Plan 23609	Alexander Trevor Peters, Karen Ann Peters, Fairfield Trustees No 3 Limited
Section 2 and 4 SO Plan 23610	Dale Clifford Mitchell, Jennifer Anne Mitchell
Section 1-6 and Section 13 Block XIII Town of Dunkeld	Alexander Trevor Peters, Karen Anne Peters and Fairfield Trustees No 3 Limited
Section 1 Block XX TN of Dunkeld	Michael Brian Healy

Schedule 1A of the Regional Plan: Water for Otago (RPW) outlines the natural and human use values of Otago's surface water bodies. The Clutha River/ Mata-Au between Alexandra and Island Block is identified as having the following values:

- Large water body supporting high numbers of particular species, or habitat variety, which can provide for diverse life cycle requirements of a particular species, or a range of species.
- Sand, gravel and rock bed composition of importance to resident biota.
- Presence of significant fish spawning areas for salmon below Roxburgh Dam.
- Presence of significant areas for development of juvenile eel, trout and salmon.
- Presence of indigenous waterfowl.
- Presence of significant indigenous aquatic vegetation below Roxburgh Dam.

Schedule 1B of the RPW identifies water takes used for public supply purposes (current at the time the RPW was notified in 1998), while Schedule 1C identifies registered historic places which occur in, on, under or over the beds or margins of lakes and rivers. There are no Schedule 1B and 1C values in the RPW listed in close proximity to the proposed activity

Schedule 1D of the RPW identifies the spiritual and cultural beliefs, values and uses associated with water bodies of significance to Kai Tahu. *Clutha River/ Mata-Au between Alexandra and Island Block* is identified as having the following values:

- **Kaitiakitanga:** the exercise of guardianship by Kai Tahu, including the ethic of stewardship.
- **Mauri:** life force.
- **Waahi tapu and/or Waiwhakaheke:** sacred places; sites, areas and values of spiritual values of importance to Kai Tahu.
- **Waahi taoka:** treasured resource; values, sites and resources that are valued.
- **Mahika kai:** places where food is procured or produced.
- **Kohanga:** important nursery/spawning areas for native fisheries and/or breeding grounds for birds.
- **Trails:** sites and water bodies which formed part of traditional routes, including tauraka waka (landing place for canoes).

Cultural materials: water bodies that are sources of traditional weaving materials (such as raupo and paru) and rongoa (medicines).

6. Regional Planning Context

6.1 Activity status

The project involves several activities which trigger the rules in the Regional Plan Water and the Regional Plan Waste. Some of these activities can be bundled together as consents. Therefore, the consents required are:

- **RM19.387.01:** Land Use Consent – To disturb a contaminated site
- **RM19.387.02:** Land Use Consent – To disturb the bed, undertake instream works and place various structures in the bed of the Clutha River/ Mata-Au
- **RM19.387.03:** Water Permit to temporarily dam and divert and permanently divert the Clutha River/ Mata-Au

Full details of the individual activities and their activity status are shown below:

Consent Type	Activity	Permitted rule	Rule and Plan	Activity status
Land Use Consent	Disturbance of land at a contaminated site	N/A	Regional Plan: Waste Rule 5.6.1	Discretionary
	Erection of structures (temporary working platform(s), new bridge, the placement of rip rap (rock armouring), deposition of material, and the associated disturbance to the bed of the Clutha River/ Mata-Au.	13.2.1.1 and 13.5.1.1 cannot be met	Regional Plan: Water Rule 13.2.1.1	Discretionary
	Removal of vegetation in the bed, including associated disturbance of the beds.	N/A	Regional Plan: Water Rule 13.5.1.1	Discretionary

	Use of structures and maintenance including associated disturbance.	13.3.1.1	Regional Plan: Water	Permitted
	Removal of structure – temporary working platform.	13.4.1.1	Regional Plan: Water	Permitted
Water Permit	Diversion of watercourse (both temporary and permanent) Temporary damming of watercourse	12.3.2.1 cannot be met	Regional Plan: Water rule 12.3.4.1(i)	Discretionary
	Taking of ground water – dewatering (non-consumptive take).	12.2.2.2	Regional Plan: Water	Permitted
Discharge permit	Discharge contaminants to air	16.3.13.1.2	Regional Plan: Air	Permitted
	Discharge of stormwater from a road	13.B.1.9	Regional Plan: Water	Permitted
	Discharge of contaminants to water	12.C.1.1	Regional Plan: Water	Permitted

The overall status for the application is a **discretionary** activity. Council may grant or decline the application in accordance with Section 104 and 104B and if granted may be subject to conditions of consent in accordance with Section 108 of the Act.

8. Statutory Considerations

8.1 Public Notification (Section 95A)

Section 95A(1) requires the consent authority to follow the various steps set out in section 95A in order to determine whether to publicly notify an application.

Step 1

Step 1 is addressed in section 95A(2)-(3).

Under Section 95A(3)(a) the applicant has requested the application be publicly notified, so the application **must** be notified.

Has any further information been requested, or report been commissioned? (Section 95C)

Under 95A(3)(b) public notification is required as a request for further information was made under section 92(1). The applicant refused to provide the information. Therefore, the application **must** be publicly notified in accordance with section 95C of the RMA.

The answer to step 1 is yes. As a result, public notification is mandatory.

Step 2

The answer to step 1 was yes, so step 2 is not required and has not been discussed.

Step 3

The application **must** be notified because the answers in step one was yes. In order to be able to determine every person who is an affected person under s95B and satisfy the requirements of Regulation 10 of the Resource Management (Forms, Fees and Procedures) Regulations 2003 Step 3 is still outlined and discussed below. Step 3 sets

out two circumstances where the Council must publicly notify an application in terms of section 95A(8):

- (a) *the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification:*

There are no applicable rules or national environmental standard that requires public notification.

- (b) *the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

The Council, in deciding whether an activity will have or is likely to have adverse effects on the environment that are more than minor, for the purposes of public notification, must disregard:

- *any effects on persons who own or occupy the land in, on, or over which the activity will occur, or any land adjacent to that land;*
- *trade competition and the effects of trade competition; and*
- *any effect on a person who has given written approval to the application.*

The Council may disregard an adverse effect of the activity for the purposes of deciding whether an activity has adverse effects on the environment that are more than minor for the purposes of public notification, if a rule or national environmental standard permits an activity with that effect.

As a discretionary activity, the Council's assessment is unrestricted and all actual and potential effects of this application must be considered.

Having regard to the planning framework as set out above, I consider that the adverse effects of the activity on the environment relate to:

- Ecological effects;
 - Fish spawning;
 - Aquatic fauna; and
 - Water quality;
- Visual effects;
 - Landscape;
 - Natural character; and
 - Visual amenity;
- Engineering and Natural Hazards effects;
 - Cumulative effects from existing bridge;
 - Flood hazards;
 - Effects on river morphology; and
 - Effects during construction;
- Contaminated site effects;
- Cultural effects; and
- Effects on downstream water users.

Effects on the Environment

I consider whether or not the adverse effects on the environment that I have identified will be or are likely to be more than minor, for the purposes of public notification, below.

Cultural effects

As discussed in Section 5, the Clutha River/ Mata-Au contains a number of Kai Tahu values and interests. With the exception of the bridge structure, a majority of the proposed works are temporary in nature. One of the primary concerns with from Aukaha was on the need for management and mitigation measures to be implemented to contain sediment runoff during construction works and reduce adverse effects on adjoining waterways. This can effect the Schedule 1D values including the Mauri of the Clutha River/ Mata-Au. It is likely that effects on cultural values are no more than minor with the mitigation proposed by the applicant.

Effects on downstream water users

There are no community water supplies downstream of the site which will be affected by this application. The closest consented water take is RM14.194.01 which is approximately 1.4 kilometres downstream of the proposed bridge. Given the permitted activity rule related to abstracting surface water from the main stem of the Clutha River/ Mata-Au, it is possible that there are permitted takes in close proximity to the site. Council do not hold a record of these. Given the distance from the proposed works site and the fact that only part of the watercourse will be diverted during works, still remaining in the bed of the river, effects on water takes is considered to be no more than minor and temporary.

The Clutha River/ Mata-Au is a navigable watercourse therefore it may be used recreationally be boaters and fisherman. It is noted that the works will take place within the watercourse. The applicant has proposed signage to manager river users which will alert them of river restrictions and where necessary demarcate any temporary platform/ working area in the river.

Once the bridge is in place there will still be sufficient area available for boats to use this section of the river in between the piers of the new bridge.

Contaminated site effects:

The applicant provided a site plan showing areas of potential soil contamination within the project area and confirmed that controls within a proposed Construction Environment Management Plan (CEMP) will address how potentially contaminated sites will be managed. The applicant is not proposing to conduct any soil sampling or analysis.

The preliminary assessment (A1295876) and full assessment (A1313221) prepared by E3S provide details on the HAIL activities on site and potential adverse effects. It was noted that the risks associated with the railway yard, orchard and sheep dip were initially considered low on the basis that all soil disturbance work was to occur outside of the marked areas. The applicant provided evidence in their Section 92 response that this was not the case. Therefore, the potential risk associated with the sites is somewhat higher.

Due to limitations of the preliminary site investigation, it is not known whether contaminants are present in soil at concentrations which could pose a hazard to human health or the environment. Therefore, the site is classed as a 'potentially contaminated site'. In the absence of soil quality data, precautionary controls could be implemented to mitigate potential effects (e.g. managing soil as if it was contaminated in absence of evidence to contrary). It is recommended that a specific Contaminated Soils Management Plan (CSMP) is prepared in conjunction with the CEMP. E3S stated that managing soil disturbance via a CSMP is a typical approach to controlling potential adverse effects and will ensure adverse effects are less than minor.

Visual effects, Engineering and Natural Hazard effects and Ecological effects:

As the applicant has refused to answer the Section 92 request, I am unable to make a determination regarding the adverse effects. Therefore, it is possible that some of the adverse effects on the environment could be more than minor.

Step 4

The answer to step 1 was yes, so step 4 is not required and has not been discussed.

Potentially affected parties

I consider that the following parties may have been considered affected if the application was limited-notified or non-notified.

Party	Why Affected
Aukaha on behalf of Te Runanga Otakou Inc and Hokonui Runanga Inc Soc	The Clutha River holds Kai Tahu values and interests. There are therefore potential cultural effects associated with the activity
Ngai Tahu Group Management Ltd	
Te Ao Marama Department of Conservation (Otago Conservancy)	There are a number of fish species identified as being present or likely to be present in the immediate vicinity of the works (torrentfish, smelt, lamprey, eel, upland bully and koaro). Given the proposed activities, there are potential conservation values associated.
Otago Fish & Game Council	Salmon and Trout have been recorded as being present in the immediate vicinity of the works. Given the proposed activities, there are potential sports fish values associated.
Land Information New Zealand (LINZ)	The Clutha River/ Mata- Au is Crown Land administered for LINZ. This party is potentially affected to the application being the administer of the site.
Maritime Safety Inspector	The Clutha River/ Mata-Au is a navigable waterway. As the river will be temporarily and permanently diverted and a structure will be placed in the watercourse, Maritime may be affected to the application.
Landowners	There are a number of private landowners where works are proposed (discussed in Section 3). These parties may be potentially affected to the application given works will occur on their land.

It is also noted that there may be interested parties to this application including parties such as Royal Forest and Bird Protection Society of NZ. These parties will be informed that the application is notified, but they are not considered to be affected parties.

9. Notification Recommendation

As outlined in Sections 4.1, the applicant has request that the application be publicly notified. It is recommended that application RM19.387.01-04 is publicly notified in accordance with Sections 95A(3)(a) of the Act.

Decision on notification

Sections 95A to 95G of the Resource Management Act 1991

Date: 23/01/2020

Application No: RM19.387

Subject: *Decision on notification of resource consent application under delegated authority*

Summary of Decision

The Otago Regional Council decides that the application is to be processed on a **publicly notified** basis in accordance with sections 95A to 95G of the Resource Management Act 1991.

The above decision adopts the recommendations and reasons outlined in the Notification Report prepared by Rebecca Jackson on 22 January 2020 in relation to this application.

We have considered the information provided, reasons and recommendations in the above report. We agree with those reasons and adopt them.

Decision under delegated authority

The Otago Regional Council decides that this resource consent application is to be processed on a **publicly notified** basis in accordance with sections 95A to 95G of the Resource Management Act 1991. This decision is made under delegated authority by:



Joanna Gilroy
Manager Consents
22 January 2020



Mat Bell
Team Leader Consents
11 January 2020