Otago Regional Council

ORC NOTIFICATION RECOMMENDATION REPORT

File No: ResourceConsents-1836423312-42383
Application No: RM21.073.01 – 03
Prepared For: Consents Decisions Panel
Prepared By: Charles Horrell, Consultant Planner
Date: 23 June 2025

Subject: **Discharge permit, Land use consent and Water permit RM21.073.01 - 03 by Otago Regional Council to undertake river management and vegetation control works through the Otago Region**

Purpose

To report and make recommendations on the determination of the above application under the non-notified provisions (Section 95B and 95E) of the Resource Management Act 1991 (**the Act**).

Background Information

Applicant: Otago Regional Council

Activities: **Land Use Consent RM21.073.01:** To alter, deposit and disturb the bed of various rivers throughout the Otago Region
Discharge Permit RM21.073.02: To discharge contaminants, namely sediment and vegetative debris, to various locations throughout the Otago Region
Water Permit RM21.073.03: To temporarily divert flows in various rivers throughout the Otago Region

Locations: Various locations throughout the Otago Region

Reason: Global consent to undertake river management and vegetation control works through the Otago Region.

Legal description(s) of the site: Various locations throughout the Otago Region

Map reference(s): Various locations throughout the Otago Region

Current consents: Discharge permit RM10.408.16; Land use consent RM10.408.17; Water permit RM10.408.18

Section 124 timeframes:

- Application was lodged between three and six months before the expiry date and the Consent Authority considers the nature and character of effects will be the same or similar and no additional consents are required. The Consent Authority has used their discretion and section 124 applies.

Summary

I recommend the application is processed on a non-notified basis. This is because:

- The adverse effects on the environment from the proposed activity will be no more than minor; and
- Written approvals in accordance with Section 95E of the Act have been provided for all potentially affected persons.

Otago Regional Council

1. Description of Activity

Incite, on behalf of the Otago Regional Council, has provided a detailed description of the proposal on pages 4–13 of the document titled *Assessment of Environmental Effects for Otago Regional Council – Engineering Team: Global Resource Consents to Undertake River Management and Vegetation Control Work*, dated February 2021. Given the extensive and wide-ranging nature of the application, a more fulsome description is adopted for the purposes of this report to ensure clarity on the scope and scale of the proposed activities. This description is provided in the sections below.

1.1 Background

The Otago Regional Council (**ORC**) has a statutory responsibility to minimise and prevent flood and erosion damage under the Soil Conservation and Rivers Control Act 1941, and the avoidance or mitigation of natural hazards, including flooding, under section 30 of the Act. ORC currently undertakes flood and erosion control works pursuant to resource consents RM10.408.16, RM10.408.17, and RM10.408.18, which expired in June 2021.

These river and waterway management works are implemented through ORC's Engineering team and are primarily aimed at maintaining channel capacity in rivers and streams. Key activities include vegetation control (such as willow maintenance), and the removal of blockages and obstructions that could compromise flow. The intent is to maintain the conveyance capacity of channels so that floodwaters can move freely and without undue restriction. ORC also owns and maintains structural river control assets, including rock protection, buttresses, and groynes, located across the Otago Region.

This application seeks to renew and expand the scope of ORC's river management programme throughout Otago. In addition to the activities authorised under the previous consents, the application includes two new components: the extraction and removal of gravel off-site, and the placement of rip rap as a riverbank protection measure.

The overall purpose of the proposed works is to manage flood and erosion risks by ensuring rivers remain unobstructed and capable of conveying flood flows. In summary, the activities include:

- removal and maintenance of instream and riparian vegetation,
- channel reshaping and training,
- creation of flood flow diversion pathways,
- redistribution of alluvium,
- re-battering and stabilisation of banks, and
- channel clearing.

These works are essential to ORC's ongoing flood risk mitigation responsibilities and represent a continuation and expansion of its regional river management programme.

1.2 Proposal

Otago Regional Council propose to undertake river management and vegetation control works through the Otago Region. The application would allow global resource consent as provided for below:

1.2.1 Exclusions

As part of the proposal, ORC has included exclusion zones to limit the potential Adverse effects. It is proposed that works will not occur within the following locations:

- Within 100 metres of any Regionally Significant Wetlands or natural inland wetlands;

- In the Coastal Marine Area, including river mouths;
- Within 50 metres of any registered historic places listed in Schedule 1C of the Regional Plan: Water for Otago, relevant District Plan or on the New Zealand Heritage List;
- Within any waterbodies greater than 900 metres above mean sea level (areas identified as having a high degree of naturalness); and
- Diversions in Welcome Creek, in the Waitaki catchment.
- within any part of a river that is identified as an area with a high degree of naturalness in Schedule 1A of the Regional Plan: Water for Otago.

For clarity, in the event that river protection works are required in any of these locations, ORC will undertake the works in accordance with the permitted activity rules or obtain a separate resource consent.

1.2.2 Vegetation removal and maintenance

ORC undertakes vegetation clearance, particularly of willows, where trees can impede flow, or debris can result in flow restrictions.

Willow control may include trimming of branches or removal of entire trees. This work may be undertaken by hand if at the smaller scale, whilst larger scale works are generally undertaken with an excavator using grapple saw/ shears. The maximum length of any one stage area of willow removal works will be 2.5 km (including both sides of the river), where the vegetation is sparse, and up to 1 km where the vegetation is dense. The Applicant has not further elaborated on what constitutes 'sparse' vegetation in comparison to 'dense'.

Vegetation control works may include spraying of pest plants, including willows, watercress, gorse and broom. The Applicant will use agrichemicals targeted to the relevant pest species and may undertake spraying within riverbeds from land or from air. All chemicals proposed for use are approved for use in New Zealand, used in accordance with the manufacturer's instructions and applied under the supervision of accredited personnel. When spraying is to be undertaken downstream users will be advised prior to spraying and signage will be put in place if the area is publicly accessible.

1.2.3 Bank modification

Bank re-battering or stabilisation works on rivers are proposed of up to 500m in length. This may involve earthwork machinery to re-shape the bank and may include the placement of riprap and rock along the bank extent to minimise lateral erosion. Any reinstatement of riverbanks as a result of flooding or erosion will be to the original extent prior to the flooding or erosion and therefore will not result in any further encroachment into the riverbed.

1.2.4 Channel modification

Where the instream diversion of river flows is necessary to avoid bank erosion, the Applicant proposes to undertake channel reshaping or training. This will be achieved by first constructing a dry channel through the gravel bed without connecting it to the active river flow. Once the channel is formed, flow will be redirected – first by connecting the new channel at the downstream end,

followed by connection at the upstream end – effectively diverting water into the newly constructed channel. These works will be undertaken using earthmoving machinery.

The Applicant proposes that individual sections of watercourse subject to reshaping or training will be no more than 500 metres in length. However, in response to a request for further information, the Applicant clarified that multiple sites of channel reshaping may occur within a single waterway, provided that each site is separated by a minimum distance of 50 metres. Most channel reshaping works are also expected to involve redistribution of gravel to support bank protection activities.

Initially, the Applicant sought for these channel modification activities to apply to both rivers and scheduled drains, with no proposed limit on the extent or frequency of modification within scheduled drains. However, following a request for further information under section 92 of the RMA, the application was amended to exclude works within scheduled drains. The Applicant noted that such works would instead be carried out under the permitted activity rules of the Regional Plan: Water (RPW), or may otherwise fall outside the scope of the RMA. While I continue to question whether all scheduled drains fall outside the definition of a 'river' under the RMA, I acknowledge that this is ultimately a matter for compliance assessment and may necessitate separate or bespoke resource consents in some instances.

1.2.5 Diversions

Where works are required in the wetted channel of a watercourse temporary diversions may be required to avoid activities occurring in flowing water and to reduce the risk of sediment discharges.

All diversions will remain within the bed of existing river channels and will be created by using earth-working machinery to raise bunds of riverbed material to divert waterflows. The Applicant proposes to limit the length of any single diversion to 200 m and the construction of diversions will be deferred if river flows are too high.

The Applicant states that while most diversions will be temporary to enable works to occur outside of the wetted bed of the river, some diversions as a result of channel realignment or training may be permanent until a new channel is formed naturally.

1.2.6 Temporary Structures

Temporary bunds, coffer dams and sediment traps may be used as part of works for erosion or sediment management. Bunds may be used to divert flows away from areas of disturbance or to allow works to be undertaken outside flowing water, particularly in relation to channel reshaping works.

The Applicant notes that temporary 'coffer dams' may be created where new diversion channels are created. The diversion channels are excavated from the downstream end of the channel and until the final upstream section is removed it prevents water flowing into the channel. Coffer dams will be located in riverbeds but in the wetted bed of the river.

The RPW defines a dam as:

> *A structure used or to be used for the damming of any water, or water body.*

The purpose of the proposed works is not for the purpose of damming water. While flows from the existing water body are prevented from flowing into the diversion channel until it is completed this

is as a result of the existing terrain rather than any structure created for that purpose. The activity is therefore not considered to be damming of water in terms of the RPW and no consent for damming of water is sought.

Sediment traps may be used in rivers with low flow and velocity. Sediment traps may include haybales or hessian fences.

This proposal does not include any works on existing lawful structures. Although works may occur near structures any works on structures will be undertaken by the structure owners.

1.2.7 Re-distribution of alluvial material

The Applicant seeks consent to undertake redistribution of gravel from areas of deposition and place them to direct flows back towards the centre channel where bank erosion may be occurring. These works will generally be undertaken using excavators and earth moving vehicles. The proposed length of river subject to these works will not exceed 500m.

1.2.8 Gravel extractions

Gravel will only be taken for the purpose of managing flood and bank erosion hazards, through increasing flood carrying capacity and will not be taken if required in downstream sections of the river.

Gravel will only be taken from the following rivers:

- Pomahaka River
- Kauru River
- Taieri River
- Clutha/Mata-Au River
- West Taieri Contour Channel and its tributaries
- Kakanui River
- Buckler Burn near Glenorchy
- Silver Stream

The total volume of gravel extracted per year across all sites will not exceed 50,000 cubic metres. There will be no stockpiling of gravel.

Gravel extracted will initially be made available to the local community and surrounding landowners and will not be taken for commercial purposes. The Applicant clarified through a Section 92 response that where commercial operators and/or contractors are engaged to remove or relocate the gravel, the ORC will not receive payment for the material extracted. However, the commercial value of the gravel may offset the costs of removal of the gravel including any royalties that apply.

1.2.9 Extraction associated with channel clearance

The Applicant provided additional detail regarding the clearance of channels in the Section 92 response. Channel clearance involves clearing of weeds and mud, predominantly from modified channels. These channels are inspected annually and cleared as required.

The cleared material is donated to adjacent landowners if they accept it. If the material is not accepted by adjacent landowners, or the channel being cleared is next to a road, the extracted

material is transported off-site, and either utilised elsewhere or disposed of at an appropriate facility.

1.3 Frequency and limits of proposed works

The Applicant notes that the frequency of activities required will vary from year to year but will be undertaken based on an annual programme of works to identify scheduled works over the following 12 months. The scheduled works may be subject to changes to reflect environmental pressures or to respond to natural hazards.

Some sites may require more than one activity to be undertaken (for example bank stabilisation and gravel extraction). The frequency and maximum extent of works proposed per site is shown in **Table 1**.

Table 1: Frequency and extent of works proposed per activity type. Source: Draft Environmental Management Plan

Type of works	Frequency of annual notifications	Extent of works per site
Remove and maintain watercourse vegetation	25 times	2.5 km where vegetation is sparse 1 km where vegetation is dense
Channel reshaping/training*	20 times	500 m
Re-distributing alluvium	10 times	500 m
Re-battering/stabilising banks (bank shaping)	10 times	500 m
Channel clearing	15 times	500 m for channel clearing
Gravel extraction		500 m for rivers < 20 m wide 1 km for rivers > 20 m wide
Standalone diversions	Not specified, as will occur in tandem with other works.	200 m

The works are propsoed to occur in rivers throughout Otago. While works are proposed to be authorised throughout Otago, the Applicant has proposed the following exclusions to ensure works avoid sensitive and highly valued catchments/areas:

- within 100m of any Regionally Significant Wetland or natural inland wetlands;
- within the Coastal Marine Area, including river mouths;
- within 50m of any registered historic places listed in Schedule 1C of the Regional Plan: Water for Otago, relevant District Plan or on the New Zealand Heritage List;
- within any waterbodies greater than 900 metres above mean sea level (areas identified as having a high degree of naturalness);
- within Welcome Creek in the Waitaki catchment no diversions will be authorised; and

- within 50 m of any Archaeological Site registered with the New Zealand Archaeological Authority Incorporated[1]; and
- within any part of a *river* that is identified as an area with a high degree of naturalness in Schedule 1A of the Regional Plan: Water for Otago.

The application notes that if river protection works are required in the areas not authorised by these consents, then separate consents will be sought.

Table 2 sets out the geographical distribution and frequency at which works are anticipated to occur within different parts of Otago.

Table 2: Frequency of works by location. Source: Draft Environmental Management Plan.

Location of works	**Frequency of annual notifications**
Queenstown Lakes District – Wakatipu • Rees River • Dart River • Shotover River • Arrow River • Mill Creek • Brewery Creek • Bush Creek • Other rivers/waterways	15 times
Queenstown Lakes District – Wanaka • Cardrona River • Matukituki River • Clutha River (Upper) • Stoney Creek • Other rivers/waterways	10 times
Central Otago District • Manuherekia River • Ida Burn • Dunstan Creek • Roxburgh Area Creeks (e.g. Reservoir, Golf Course) • Clutha River (Middle) • Taieri River (Upper) • Kyeburn • Other rivers/waterways	25 times
Clutha District • Pomahaka River • Clutha River (Lower) • Catlins Area	30 times

[1] Any site identified in ArchSite: https://archsite.eaglegis.co.nz/NZAAPublic

• Other rivers/waterways	
Dunedin City • Lindsay Creek • Kaikorai Stream • Waikouaiti River • Waitati River • Taieri River (Lower) • Middlemarch Area • Silver Stream • Water of Leith • Other rivers/waterways	20 times
Waitaki District • Awamoko • Kakanui River • Kauru River • Shag River • Waianakarua River • Waiareka • Waitaki Floodways (Waikoura and Hilderthorpe) • Other rivers/waterways	25 times

Table 3 sets out the anticipated frequency and extent of works for each activity on the basis of geographical areas.

Table 3: Overall frequency and maximum annual length of works. Source: Draft Environmental Management Plan

	Remove and maintain watercourse vegetation	Channel reshaping/training (bank shaping)	Re-distributing alluvium	Re-battering/stabilising banks	Channel clearing and gravel extraction	Standalone diversions	Total length of works
Queenstown Lakes District – Wakatipu	4km	1km	1km	1km	1km	-	8km
Queenstown Lakes District – Wānaka	4km	1km	1km	1km	1km	-	8km
Central Otago District	4km	1km	1km	1km	1km	-	8km
Clutha District	11km	1km	1km	1km	11km	-	25km

Dunedin City	20km	6km	4km	3km	12km	-	45km
Waitaki District	4km	1km	1km	1km	1km	-	8km
Total length of works	47km	11km	9km	11km	29km	-	-

The Applicant initially considered that, subject to the limits on frequency and duration outlined above, the associated effects could be appropriately managed through the measures set out in the Environmental Management Plan. Where works were proposed to exceed the thresholds in Tables 1–3, the Applicant proposed to provide a site-specific management plan that would include:

- A description of the type and location of works;
- An explanation of why the works are necessary, including why delays or alternatives are not feasible;
- A summary of works already planned or undertaken in the catchment;
- A site-specific ecological assessment, prepared by a suitably qualified freshwater ecologist, addressing both the site-specific and cumulative effects of the proposal and recommending appropriate management measures; and
- A detailed description of how the works would be managed, incorporating any recommendations from the ecologist or other relevant technical experts.

While the above approach was initially proposed by the Applicant, I note that following further correspondence, and an indication that such a condition framework would not be supported, the Applicant has agreed to remove the proposed condition that provides for exceedances and site-specific management plans.

1.4 Mitigation Measures

The Applicant has proposed conditions of consent requiring the adoption of an Environmental Management Plan (**EMP**) providing detail of the activities proposed, areas of exclusion or restriction for works, best management practise approaches to be adopted delivering works, pre-work consultation and monitoring requirements.

The Applicant has provided a draft EMP prepared in consultation with Fish and Game, Department of Conservation, the territorial local authorities, Heritage New Zealand, Waka Kotahi (New Zealand Transport Agency), Aukaha, and Te Ao Marama.

The following mitigation measures are proposed to manage the actual or potential adverse effects of the activities identified above and are incorporated in the EMP:

<u>Proposed measures to reduce the effects of discharges on water quality</u>

- Only work in the wetted bed of a watercourse where there is no other practicable alternative and minimise any time spent working within water.
- Ensure machinery is well maintained and free from oil and fuel leaks before entering a watercourse.
- Maintain a spill containment kit on site at all times and clean up all spills immediately.
- No machinery or vehicles are refuelled within the bed of watercourses.
- Use erosion and sediment control methods, such as silt fencing, to prevent sediment entering water.
- Minimise spray drift when using herbicides.
- Place debris or vegetation outside of the bed of the watercourse.

- Any off-site material used will be cleanfill, sourced from sites that are not contaminated.
- When repairing riverbanks and backfilling behind rockwork or hard structures such as concrete, use geotextile fabric between backfill and rockwork or structures to prevent fine sediment entering the bed.

Proposed measures to protect natural values

- Ensure works will be designed and completed in such a way to maintain the natural character of the watercourse.
- Avoid works within 100m of Regionally Significant Wetlands identified in Schedule 9 of the RWP, and any natural inland wetlands.
- Ensure machinery is free of plants or seeds to avoid the spread of unwanted pest species.
- Avoid undertaking works in the wet bed during relevant fish spawning season(s) unless a suitably qualified ecologist surveys the work location for redds and confirms no redds are present.
- Avoid works in any location which would adversely affect a native fish population, sensitive bird nesting or roosting site, heritage site or location with a high degree of naturalness consistent with Schedule 1A of the Regional Plan: Water for Otago.
- Minimise damage to riparian vegetation, except targeted vegetation to be removed.
- Maintain fish passage at all times when redistributing alluvium and diverting watercourses.
- When undertaking diversions, inspecting retired channels for any stranded fish and if present, immediately return to the active channel.
- Fish recovery protocol to be adopted in certain circumstances.
- Adherence to an accidental discovery protocol in the event that taonga or koiwi tangata are uncovered.

Proposed measures to protect existing structures

- Where works are required within 50m of a structure such as a bridge or private lawful take of water, works will not be undertaken unless the owner's permission is obtained.
- Works will not occur 100m upstream of any public water supply take without the owner's permission.
- Works will not occur within 50m of registered historic places.

1.5 Term of consent

A consent duration of five years is sought for these resource consents. This duration has been sought to account for 'interim' consenting while more comprehensive application package is prepared for longer term consenting. The Applicant has also signalled the following reasons for the 5-year duration:

- Acknowledges some of the uncertainties inherent in a global consent, and provides the ability for the applicant and stakeholders to work together and demonstrate how the proposed activities can occur in accordance with the Environmental Management Plan and notification of works processes;
- Will provide the applicant with some certainty about their capabilities going forward; and
- Will not undermine any future planning processes, with the consent able to be renewed or replaced in light of new planning documents within a relatively short timeframe.

1.6 Compliance with current consents

The Applicant has been authorised by existing consents summarised in the background above. The consents have been subject to several conditions which have required the following:

- Works authorised are region wide, however, there is further restrictions to waterbodies that are not listed in the consent. The 'listed' waterbodies include: Arrow River, Buckler Burn, Clutha River/Mata-Au, Dart River, Hawea River, Kakanui River, Lindis River, Makarora River, Manuherikia River, Matukituki River, Pomahaka River, Rees River, Silver Stream, Shag River, Shotover River, Taieri River, Tokomairiro River, Tuapeka River, Waianakarua River, and Waitahuna River.
- Discharges must:
    - Not cause a conspicuous change in colour or visual clarity beyond a distance of either 500 m downstream in listed waterbodies and 300 m downstream in not listed waterbodies,
    - All practicable steps must be taken to minimise the release of sediment, and
    - Avoid adverse effects to any lawful take of water.
- Chanel reshaping and river training must not exceed 500 m in length for listed waterbodies, and 300 m in length for not listed waterbodies.
- Temporary diversion must not affect more than 200 m of length of listed waterbodies and 50 m of the length of any not listed waterbodies.
- Willow clearing must not exceed a continuous 2.5 km reach of any river.
- Vegetation control must not exceed 100 continuous m in any given site.
- Works must avoid effects on lawful structures, or any lawful water take.
- Key stakeholders must be notified prior to works and provided a programme of works.
- Best management practices (as at the date the consent was issued) must be adhered to.
- An annual report must be prepared and submitted to the Council that details the works undertaken over the previous 12-month period.
- General riverbed mitigation measures.
- Accidental discovery protocol.

There were two compliance audits undertaken during the exercise of this consent in September 2013 and April 2022. Both audits concluded full compliance with consent conditions.

1.7 Application documentation

The Applicant has provided the following documentation with the application:

- Resource consent application and Assessment of Environmental Effects, prepared by Infinite on behalf of Otago Regional Council dated February 2021, including:
    - Appendix A: Proposed Conditions
    - Appendix B: Best Management Practices
    - Appendix C: Application Forms
- High level ecological assessment provided via email by Ciaran Campbell on 25 February 2025.
- Section 92 Response prepared by Incite dated 11 October 2021, including:
    - Draft S92 Response Letter prepared by Incite dated 11 October 2021;
    - Draft Environmental Management Plan (Version 1); and
    - Global Consent Annual Monitoring Report for the period June 2019 – June 2020.
- Section 92 Response prepared by Incite dated 25 March 2023, including:
    - Section 92 Response Letter prepared by Incite dated 25 March 2023;
    - Cumulative effects ecological memo prepared by Greg Ryder Consulting,

    - Draft Environmental Management Plan (Version 2); and
    - Global Consent Annual Monitoring Report for the period June 2021 – June 2022.
- Section 92 Response prepared by Incite dated 22 December 2023, including:
    - Section 92 Response Letter prepared by Incite dated 22 December 2023; and
    - Environmental Management Plan (version 3).
- Letter from Incite dated 20 March 2024 to amend the Application to remove works within Scheduled Drains.
- Ecological Assessment, prepared by Greg Ryder Consulting, dated June 2024.
- Draft Environmental Management Plan (version 4) dated 13 May 2025
- The following written approvals in accordance with Section 95E of the Act:
    - Approval letter from Toitū Te Whenua Land Information New Zealand dated 25 March 2021;
    - Approval letter from Aukaha on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, and Hokonui Rūnanga, dated 13 November 2024;
    - Approval letter from Te Ao Marama Incorporated on behalf of Ngā Rūnanga ki Murihiku dated 13 March 2025
    - Approval letter from the Director General of Conservation dated 27 March 2025
    - Approval letter from Otago Fish and Game Council dated 4 April 2025;
    - Approval letter from Central South Island Fish and Game Council dated 11 April 2025; and
    - Approval letter from Te Rūnanga o Ngāi Tahu dated 22 May 2025.

1.8 Application process

To assist the Decision Maker, a brief overview of the application process is provided below:

- The application was lodged and accepted in February 2021.
- Following an initial review, a comprehensive Section 92 request was issued on 10 March 2021. This request sought, among other matters, an ecological assessment prepared by a suitably qualified person and a draft Environmental Management Plan.
- In response, the Applicant requested additional time to address the matters raised and to engage further with key stakeholders in preparing an Ecological Management Plan. From that point until 26 May 2025, the application remained on hold under either Section 88C or 88E(3), to enable this consultation and the preparation of a full response. Although this was an extended timeframe, regular updates and proposed amendments were provided throughout. A summary of these key milestones is set out below:
    - **October 2021**: A partial response to the Section 92 request was submitted, with further time sought to continue consultation and finalise the Environmental Management Plan.
    - **5 November 2021**: A letter was issued to the Applicant clarifying outstanding matters and information still required to progress the application.
    - **February 2022**: An update was provided outlining progress on the Section 92 response and ongoing stakeholder engagement.
    - **May 2023**: An updated response was provided, including reductions to the scope of the application and the introduction of additional limits.
    - **December 2023**: A further updated response was submitted, incorporating amendments resulting from consultation, proposed consent conditions, and an assessment of the (then) recently gazetted National Policy Statement for Indigenous Biodiversity.

  - **May 2025**: A final ecological assessment was submitted, addressing the remaining ecological effects required under the Section 92 request.
  - **July 2024**: A 'without prejudice' draft set of conditions was provided by the Reporting Planner to assist stakeholder consultation.
  - **July 2024 – May 2025**: The Applicant undertook consultation and obtained written approvals from various affected parties.
- A final draft set of consent conditions was provided to the Applicant, who confirmed acceptance of all conditions on 19 June 2025.

2. Description of the Environment

A description of the site and surrounding environment is provided in the application and Section 92 response and that is adopted for the purposes of this report. The following sections present key details from the application and that have been gathered in the process of preparing this report.

Works are proposed throughout the Otago Region to various waterbodies. Due to the generalised and widescale nature of the works, a summary of each of the freshwater management units throughout the region has been provided below as a high-level overview. All of the FMUs and rohe have mahika kai values, and varying levels of recreational, amenity and natural character values.

North Otago FMU: Medium to small river catchments flow to the sea from ranges and hills parallel to, and relatively close to, the coast. The Waianakarua, Trotters and Waikouaiti catchments have undeveloped country in indigenous bush; the Waihemo / Shag and Kakanui reach into pristine subalpine tussock. These latter two rivers have naturally very low flows from November to April, with the Shag going dry in stretches (its original name being Waihemo “the river that disappears”). Water quality is variable, dependent on surrounding land uses.

Catlins FMU: The Catlins has the largest remaining area of native forest on the South Island’s east coast, and is defined by undulating parallel ranges of hills, which are separated by the valleys of the Owaka, Catlins and Tahakopa rivers, which flow in a south-easterly direction. Water quality is generally very good.

Dunedin Coast FMU: Dunedin has several estuaries and lagoons, which are fed by the rivers and streams in the Dunedin coastal area. There are several urban streams, including Water of Leith, Lindsay’s Creek and the Kaikorai Stream. The Leith Stream catchment has an upper catchment covered in indigenous hardwoods, production forest, manuka/kanuka, and native grassland. In the lower catchment the bottom and side slopes of the valley are occupied to a large degree by an urban environment consisting of streets and buildings, parks and open spaces. The lower catchment of the Kaikorai Stream has similar characteristics to the Leith Stream in as much as it flows through urban and industrial areas (Kaikorai Valley) before entering the Kaikorai Estuary. Water quality is dependent on surrounding land uses.

Taieri FMU: The upper Taieri headwaters drain a relatively undeveloped area of native tussock country on the northern side of the Lammerlaw Range. The river then flows through the dry, Maniototo Plain, west of the Rock and Pillar Range. The midreaches of the Taieri River flow through the smaller Strath Taieri Plain, past Middlemarch, and through the Taieri Gorge. Many small tributaries join the main stem of the river along this sub−region. Unique native fish communities have been identified in these mid to lower catchment areas. The floodplain area is intensively farmed. The lower Taieri River is joined by the Silverstream, which provides high quality trout spawning and nursery habitats for the river fishery. The mainstem of the Taieri generally has high

nitrogen concentrations, likely due to the nutrient rich geology, as well as intensive agriculture. There are also natural factors that reduce water clarity in the catchment.

Upper lakes rohe: The Clutha-Mata Au river flows from the large lakes of Wānaka, Wakatipu, and Hāwea. The main tributaries to the lakes are the Matukituki and Makarora Rivers for Lake Wānaka, Dart and Rees for Wakatipu, and Hunter for Hāwea. Together, the lakes contribute 75% of the Clutha/Mata-au's flow at Balclutha, with the river's source at Lake Wānaka's outlet. Water in the tributaries feeding the Lakes are generally of high quality, with some degradation in the lower reaches. Some of the tributaries have a naturally high suspended sediment load, due to glacial melt.

Dunstan rohe: The Dunstan rohe covers a range of river types from snow fed rivers like the Lindis, Nevis, Arrow and Cardrona, the outlets from the glacial fed Lakes Wānaka, Hāwea and Wakatipu and increasingly urbanised catchments such as Mill Creek which flows into the iconic Lake Hayes. Water quality is variable, dependent on surrounding land uses. Some of the rivers, such as the Shotover have a naturally high suspended sediment load, due to glacial melt.

Roxburgh rohe: The Roxburgh rohe includes both the Teviot and Fraser (Earnscleugh) rivers, and parts of the Clutha River/Mata-Au. The Teviot River junctions with the Clutha River/Mata-Au at Roxburgh township, and it was the historical damming of the Upper Teviot River that produced Lake Onslow. Fraser River starts from the Old Man Range to the Fraser Dam, and then connects with the Clutha River/Mata-Au about 4km west of Alexandra township. Damming has had an effect on the life cycle of migratory fish such as eels, and despite fish passage being provided for, it is still impacted upon. The creeks on the true right of the Clutha River/Mata-Au, such as Coal Creek, Shingle Creek and Obelisk Creek provide for water abstraction. Water quality in the rohe is generally very good.

Manuherekia rohe: The Manuherekia catchment headwaters are in the Hawkdun Range, St Bathans Range and the Dunstan Mountains. The main stem flows in a south-west direction to join the Clutha Mata-Au River at Alexandra. The catchment is divided into two major sub catchments by the central Raggedy Range. On the western side, Dunstan Creek, Thompsons Creek and Chatto Creek contribute water to the main stem. The Ida Valley lies to the east of the catchment. The Ida Burn and Poolburn Creeks drain the hills and run through the Poolburn Gorge, connecting with the main stem north of Lauder. In the south of the catchment the Manorburn meets the Manuherikia River south of Galloway. Water quality in the upper reaches is good, with some decline in the lower parts of the river and tributaries. The lower reaches of Thomsons Creek are known to have some water quality issues.

Lower Clutha rohe: The Lower Clutha rohe is dominated by alluvial plains, rolling hill country and lowlands. The Pomahaka is the biggest sub-catchment, with steep tussock-dominated uplands. Instream values in the Lower Clutha are profoundly influenced by the hydro dams. The flow variability affects river margins, reducing habitat, affecting spawning, and feeding sites available for native species, including inaka and tuna, with flow-on effects for human values like mahika kai and whitebaiting. Lower parts of the catchment, such as Inch Clutha, are at increased risk of flooding. The Clutha/Mata-Au has good water quality, as do the upper tributaries. Some lower tributaries, particularly in the Pomahaka catchment have poor water quality.

While works are proposed to be undertaken throughout the Otago Region, the Applicant has identified several 'sensitive waterbodies' that are excluded from the application. These sensitive waterbodies are identified in the Environmental Management Plan (EMP) and are based on the following:

- Schedule 9 of the Regional Plan: Water for Otago (RPW), identifying Regionally Significant Wetlands and Wetland Management Areas
- Identification criteria for natural wetlands, identifying natural wetlands
- Schedule 1A of the RPW, identifying high degree naturalness areas
- Schedule 1 of the Regional Plan: Coast for Otago, identifying the CMA boundary for river mouths
- Visual inspection, aerial imagery and ORC mapping for identifying structures and private water takes
- Schedule 1B of the RPW and The Register of Drinking Water Suppliers, identifying public water supply takes
- Schedule 1C of the RPW, The New Zealand Heritage List, Archsite, and district plan schedules and appendices, identifying historic places
- Schedule 1A of the RPW, Braided river birds information from Forest and Bird and ORC mapping, identifying rivers with habitat for indigenous birds
- Schedule 1A of the RPW, New Zealand Freshwater Fish Database and Ministry for Primary Industries Fish Spawning Indicator, identifying fish spawning habitat

3. Status of the Applications

3.1 Damming and diversion of water

The proposal seeks the damming of water under the global consent. Given the scope of the application, an assessment against all rules in Chapter 12 has been undertaken. Taking into consideration the exclusions listed under Section 1.2.1, the Applicant has assessed that there is no permitted activity rule. Therefore, the damming and diversion of water (outside of the identified exclusions) is a **discretionary** activity in accordance with Rule 12.3.4.1(i) and 12.3.4.1(ii) of the RPW. I agree with this assessment.

3.2 Structures

The proposal seeks the placement of defences against water within the bed of a river under the global consent. Given the scope of the application, an assessment against all rules in Chapter 14 and 13 has been undertaken. Taking into consideration the exclusions listed under Section 1.2.1, the Applicant has determined that there is no permitted activity rule. As such, the placement of rip-rap rock work intended as a defence against water in, on, under or over the bed of any lake or river is not otherwise provided for and requires consent as a **discretionary** activity under Rule 13.2.3.1 of the RPW. I agree with this assessment.

3.3 Alteration or disturbance of the bed of a river

The proposal seeks the disturbance of the river associated with the control of aquatic pest plants under the global consent. Given the scope of the application, an assessment against all rules in Chapter 13 has been undertaken. Taking into consideration the exclusions listed under Section 1.2.1, the Applicant has determined the following:

- Rule 13.5.1.1 provides for the disturbance of the bed of a river and any resulting discharge or deposition of bed material associated with the erection, placement, extension, alteration, replacement, reconstruction, repair, maintenance, demolition or removal, of any structure that is fixed in, on, under or over the bed of a river and the clearance of debris or alluvium from within, or immediately surrounding, any structure that is fixed in on or under the bed of a river as a permitted activity, subject to clauses (a) to (k). As far as possible, the proposed works will be undertaken in a manner to comply with clauses (a)-(k) however some of the proposed works may be unable to comply with clause (f), which requires the instream works not to exceed 10 hours in duration, as it is anticipated that some works may exceed that limitation.

- Rule 13.5.1.2 provides for the disturbance of the bed of a river for the purpose of clearing any material that has accumulated as a result of a storm event, excluding alluvium, in order to maintain the flood carrying capacity of the river bed, subject to clauses (a)-(f). The proposed works may not comply with clause (c), which requires the instream works not to exceed 10 hours in duration, as it is anticipated that some works may exceed that limitation.
- No works are proposed in relation to Rule 13.5.1.3.
- Rule 13.5.1.4 permits the disturbance, reclamation or deposition of any substance in, on, or under the bed of a river for the purpose of the reinstatement of any bank of a lake or river which has been eroded by a flood event, subject to clauses (a)-(g).
- Any reinstatement of the bank as a result of flooding or erosion will be to the original extent prior to the flooding or erosion. The proposed works may not comply with the following clauses:
    - (b) which requires that works be undertaken within 12 months of the flood event;
    - (c) which requires the instream works not to exceed 10 hours in duration;
    - (f) which requires that in the case of deposition only cleanfill be used as although material in direct contact with water may be cleanfill the material backfilled behind may not be.
- Rule 13.5.1.5 permits the disturbance of the bed of a river associated with the control of aquatic pest plants and any resulting discharge or deposition of bed material subject to clauses (a)-(b). Clause (a) requires that works are undertaken under Rule 13.7.1.1 or under a resource consent. As the works are not undertaken under Rule 13.7.1.1 a resource consent is sought for this activity.

As such, the alteration of a river or lake requires consent as a **discretionary** activity under Rule 13.5.3.1 of the RPW. I agree with this assessment.

3.4 Redistribution and/or the taking of gravel

The proposal seeks the disturbance and taking of alluvium from the bed of a river under the global consent. Given the scope of the application, an assessment against all rules in Chapter 13 has been undertaken. Taking into consideration the exclusions listed under Section 1.2.1, the Applicant has determined that the disturbance of the bed of a river and the extraction of alluvium from the bed of a river that does not meet the permitted activity rules is a **restricted discretionary** activity under Rule 13.5.2.1 of the RPW. I agree with this assessment.

3.5 Discharge of contaminants

The discharge of mobilised bed material within the wetted bed of a river associated with instream works is not considered to require a separate discharge consent. However, as the proposed works may be mobilising sediment outside the wetted bed and introducing new material, such as rocks, rip-rap and back-fill material it is necessary to consider the application in terms of Section 12C of the RPW.

Rule 12.C.1.1 permits the discharge of water or any contaminant to water or onto land in circumstances which may result in a contaminant entering water subject to clauses (a)-(g). The proposed activities may result in discharges that cannot comply with Clause (d) as the discharge may result in conspicuous changes to surface water colour or visual clarity for short periods of time when works are occurring. The proposed discharge may not comply with Clause (g) which requires that from 1 April 2026 the discharge also complies with Rule 12.C.1.1A. As the proposed term of consent sought would exceed 1 April 2026 this clause is relevant. Rule 12.C.1.1A requires that from 1 April 2026 when the water flow at the relevant flow monitoring site is at or below reference flow in Schedule 16B of the RPW the discharge does not result in the exceedance of the thresholds in

Schedule 16A. The Applicant has indicated the thresholds of Schedule 16A may be exceeded at times, depending on the specific works and the waterbody.

Taking into consideration the exclusions listed under Section 1, the Applicant has determined that a duration of 5 years and any discharge is a **restricted discretionary** activity under Rule 12.C.2.1 of the RPW. I agree with this assessment.

3.6 Overall status

Based on the assessment above, coastal permits are required for the following activities:

Consent type	*Rule*	*Activity*	*Status*
Water Permit	Rule 12.3.4.1	Damming of water behind coffer dams during construction	Discretionary
	Rule 12.3.4.1	Diversion of water during construction and permanent following riverbed reconfiguration	Discretionary
Land Use Consent	Rule 13.2.3.1	Placement of temporary structures including coffer dams and sediment traps	Discretionary
	Rule 13.5.3.1	Alteration of the bed of a river for channel clearance, removal of vegetation and removal of accumulated material	Discretionary
Discharge Permit	Rule 12.C.2.1	Discharge of sediment form works occurring on the bank of a river	Restricted Discretionary

The overall status of the applications is a **discretionary** activity.

4. Assessment of Environmental Effects

An assessment of effects is provided in the application and that is adopted for the purposes of this report. Key details are outlined below as it relates to understanding the scale of effects and to inform the recommendation on notification.

Permitted baseline

Sections 95D(b) and 104(2) provide that when determining the extent of the adverse effects of an activity, a council 'may disregard an adverse effect if a rule or national environmental standard permits an activity with that effect'. This is commonly referred to as the permitted baseline. The Applicant has not proposed a permitted baseline, and I do not consider there is a relevant permitted baseline to apply in this instance.

4.1 Effects on the Hydraulic Capacity and Flow Characteristics

All instream work has the potential to affect the particular dynamics and characteristics of the hydraulic properties of waterways, including reducing flow resistance, increasing flow velocities, and transference of energy. Actual or potential effects to be generated from such changes to water dynamics include flooding, erosion, scouring and land instability.

The Applicant has assessed that the proposed activities have the potential to result in the following adverse effects to hydraulic capacity and flow characteristics:

- Removal of material from the bed of a river can lead to degradation of bed levels and consequently lateral erosion of banks;
- If large quantities of alluvium are removed from the bed, it can lead to "holes" which can then lead to scouring migrating up and downstream of the original excavation site;
- Stockpiling of material in a channel may reduce the capacity of the bed and deflect flows;
- Depositing material, such as excavated alluvium in locations or in a manner which reduces the cross-sectional area of the channel;
- Placing removed vegetation in locations where it may enter water and this material creating a "raft" and blocking the watercourse; and
- Temporary diversions deflecting flows into banks.

The Applicant notes that the works are designed to improve carrying capacity or erosion, associated adverse effects are likely to be temporary and no more than minor. In addition, the Applicant has proposed to undertake various measures within the EMP to minimise the effects, including ongoing monitoring to ensure that works undertaken have been successful.

The works will be undertaken by the Environmental Engineering and Natural Hazards Unit of the ORC and are for the purpose of improving hydraulic capacity and flow characteristics. Due to the nature of the works, I am satisfied that any adverse effects to hydraulic capacity and flow characteristics are likely to be short in duration and minor. I note that recommended conditions of consent ensure adverse effects are appropriately minimised.

4.2 Effects on Aquatic Ecosystems

The Applicant has considered the adverse effects on aquatic ecosystems in the Assessment of Environmental Effects lodged with the application. This assessment considers the following actual and potential effects:

- Loss of benthic habitat through riverbed modification,
- Loss of aquatic fauna and their habitat (including spawning habitat) through physical removal, sediment mobilisation and associated discharges,
- Loss of riverine avifauna habitat through modification of dry riverbed and banks,
- Degradation in water quality through sediment releases, and
- Loss of fish passage during construction works and because of channel reshaping.

Initially, the assessment relied fully upon the EMP in managing actual and potential adverse effects to aquatic ecosystems. The overarching effects management principle of the EMP embeds the effects management hierarchy in managing effects on aquatic values with the intent to avoid, minimise and remedy any adverse effects. This EMP implies that no residual more than minor adverse effects will be generated and therefore no offsetting or compensation are necessary. The EMP seeks to achieve this through several controls and mitigation measures (as summarised in **Section 1.4**). Following a further information request, the Applicant provided a further detailed ecological assessment prepared by Dr Greg Ryder. This assessment considered the scale and nature

of the works, including the proposed exclusions and limitations, and concluded that the adverse effects will be no more than minor. This is based on Dr Ryder's review of available data which shows that the scale and duration of works are relatively small - typically affecting less than 5% of total river length over several years - with most effects being short-term and minor in nature. Impacts such as sediment disturbance or habitat disruption are often temporary, with natural recolonisation occurring within weeks to months. While some activities, like bank protection, may lead to permanent habitat loss, these are managed through environmental controls in the EMP to ensure overall effects remain less than minor at both regional and catchment scales.

Dr Michael Greer of Torlesse Consulting Limited reviewed the application on behalf of the Council's Resource Science Unit (**RSU**). In his initial assessment, Dr Greer considered that the scale of the proposed activity – particularly the channel clearance – was likely to result in more than minor adverse effects. These effects included the release of sediment, destruction of aquatic fauna and their habitat, and the physical removal of benthic environments.

However, following several iterations of the proposed EMP, amendments to the scope of the application, and receipt of a full ecological assessment, Dr Greer revised his position. He subsequently agreed with the Applicant's conclusion that the adverse effects would be no more than minor. This updated assessment was particularly influenced by the significant reduction in the scale of the higher-risk activity. Specifically, the Applicant amended the proposal to reduce the annual extent of channel clearance by between 50% and 88%, limiting activity to a total of 29 kilometres per year, with no more than 500 metres to be cleared at any one site.

Taking into account the mitigation measures outlined in the EMP, Dr Greer concluded that the proposed level of channel clearance is unlikely to result in more than minor adverse effects over the five-year term of the consent.

I agree with the Applicant and Dr Greer's conclusion and am satisfied that adverse effects on aquatic ecosystems will be no more than minor, subject to the proposed consent limitation and mitigation measures.

4.3 Effects on Natural Character

The works have the potential to degrade natural character associated within the rivers affected and their and riparian zones. Removal of vegetation and bed material poses the greatest risk to natural character. The associated adverse effects are depending on the existing natural character associated with the waterbodies. While it is likely that the majority of significant works (stream clearance) will occur in highly modified receiving that contain little natural character, given the global nature of the application, there is potential for waterbodies containing high natural character to be affected.

The Applicant has assessed the effects on natural character and has proposed the following measures to avoid, minimise and remedy those effects:

- Avoid all waterbodies listed as "high natural character" in Schedule 1A of the RPW,
- Minimise vegetation clearance to the minimum required to undertake works,
- Where possible retain natural meanders and run, riffle and pool habitat, and
- Require stabilisation and replanting of vegetation removed within the week following the completion of works.

The Applicant has assessed that subject to those measures, adverse effects will be no more than minor. While I do consider there will be loss to natural character, I am satisfied that subject to the measures proposed by the Applicant, those effects will be short in duration and minor.

4.4 Effects on Amenity Values

The proposed activities have the potential to adversely affect amenity values associated with the rivers in which works may occur. These amenity values vary across waterbodies and may include recreational uses such as fishing, boating, and swimming, as well as the aesthetic and visual qualities of the rivers. The extent to which amenity values are affected is generally related to the level of river modification. In most cases, works are proposed within highly modified environments; however, given the global nature of the consent, there remains the potential for activities to occur in more naturalised waterbodies or those with high amenity value.

Based on the nature of the proposed activities, the following potential adverse effects on amenity values have been identified:

- **Temporary loss of public access** along river margins during the construction phase;
- **Reduction in recreational values** as a result of bed modification, which may include:
    - Loss of large pools (potential swimming areas);
    - Loss of sports fish habitat;
    - Removal of dry banks or bed areas accessible to anglers;
- **Visual effects** arising from:
    - Increased turbidity and changes in water clarity;
    - Loss of riparian and in-channel vegetation;
    - Presence of construction equipment and machinery.

While the works are also likely to result in some positive amenity outcomes (e.g., improved flood capacity and resilience to natural hazards), under Section 95D of the RMA, only adverse effects are considered at this stage. These positive effects will be relevant when making the final decision on the application.

The Applicant has assessed the actual and potential effects on amenity values and proposed the following mitigation measures:

- Avoiding recreational fish spawning seasons where practicable;
- Installing public signage to inform recreational users during works;
- Avoiding 'sensitive waterbodies' identified as highly natural or possessing significant amenity value;
- Limiting visible sediment discharge to within defined mixing zones;
- Stabilising and re-vegetating affected banks and riparian margins post-works;
- Minimising the spatial extent of individual works to reduce impact.

Subject to these proposed measures, the Applicant has assessed the potential adverse effects on amenity values as no more than minor. I agree with this conclusion and consider that the proposed works, as managed, will not result in more than minor adverse effects on amenity values.

4.5 Effects on Kai Tahu Values

The proposed works have the potential to adversely affect Kāi Tahu values. Under the Ngāi Tahu Claims Settlement Act 1998, a number of waterbodies—including the Clutha River/Mata-Au and many of its major tributaries—are identified as subject to Statutory Acknowledgement. Schedule 1D of the Regional Plan: Water for Otago (**RPW**) also identifies cultural and spiritual values associated

with lakes and rivers throughout the region, noting that most named lakes and rivers in Otago are recognised as having customary or mana interests.

In addition, two iwi management plans provide further context on how activities may affect Kāi Tahu values:

- *Kāi Tahu ki Otago Natural Resource Management Plan 2005*, and
- *Te Tangi a Tauira – The Cry of the People*.

These plans, along with the RPW, direct the need to:

- Recognise and provide for mana interests, including kaitiakitanga, mauri, wāhi tapu or waiwhakaheke, and wāhi taoka;
- Recognise and protect customary interests, such as mahika kai, kōhanga, trails, cultural materials, and waipuna;
- Protect the mauri of awa, including through maintaining healthy flows, supporting instream values, and upholding life-supporting capacity;
- Engage tangata whenua and recognise Kāi Tahu interests.

The Applicant has assessed potential effects on Kāi Tahu values and proposed the following mitigation measures:

- Water quality protection through spill prevention plans, erosion and sediment controls, and limiting in-stream machinery use;
- Protection of instream values by providing for fish passage, avoiding works during spawning seasons, following biosecurity protocols, and minimising bed disturbance;
- Visual amenity protection by minimising the visibility of works;
- Engagement and planning through a programmed works approach, including notification to rūnaka.

The Applicant has stated that the works are intended to be managed in accordance with the direction of the iwi management plans, with a focus on avoiding, minimising, or remedying adverse effects on waterbodies.

Since the initial assessment, the Applicant has engaged directly with mana whenua through the development of the Environmental Management Plan. Te Ao Marama Incorporated and Aukaha, on behalf of the affected rūnaka, have been consulted and have subsequently provided their written approval for the application. In addition, Te Rūnanga o Ngāi Tahu on behalf of the iwi have provided written approval.

Given this engagement and written approval from mana whenua, along with the proposed mitigation measures, I am satisfied that the adverse effects on Kāi Tahu values will be no more than minor.

4.6 Effects on Historic Heritage and Archaeological Values

The proposed works have the potential to adversely affect historic places and associated heritage values. Schedule 1C of the RPW identifies a number of historic places and values within waterbodies across the Otago region, some of which are likely to be within areas subject to this application. In addition, there may be other unlisted historic places or archaeological sites in proximity to where works are proposed.

To avoid adverse effects on known historic places, the Applicant proposes a 50-metre exclusion buffer around any site listed in Schedule 1C. Should works be required within this buffer, the

Applicant has committed to either applying for a separate resource consent or ensuring the activity meets permitted activity standards.

In addition, the Applicant proposes to implement an accidental discovery protocol in the event that koiwi tangata (human remains) or taonga (cultural artefacts) are uncovered. This includes immediately ceasing works in the vicinity, notifying Otago Regional Council, Heritage New Zealand Pouhere Taonga, and tangata whenua, and allowing time for a site inspection and determination of whether further investigation is necessary.

Subject to these measures, the Applicant considers that adverse effects on historic places and values will be no more than minor. I agree with this assessment and am satisfied that the proposed approach is sufficient to ensure any adverse effects on historic heritage are no more than minor.

4.7 Effects on other water users

Other water users not previously assessed include:

- Potable drinking water users, including community water supplies; and
- Lawfully established consented or permitted activities, including structures and water abstractions.

Given the nature and geographic extent of the proposed works, there are multiple water users who may be affected across the river systems involved. The works have the potential to adversely affect these users in several ways, including:

- Physical disturbance or alteration of existing structures;
- Increased erosion or scouring around structures due to changes in flow characteristics; and
- Increased sedimentation affecting water quality, particularly at points of abstraction, potentially rendering water temporarily unsuitable for use.

The Applicant has identified these potential effects and proposed the following measures to avoid or minimise them:

- No works will occur within 50 metres upstream of any private surface water take, or within 200 metres upstream of any public water supply take, unless the permission of the infrastructure owner is obtained;
- Sediment mobilisation will be managed and restricted to within designated mixing zones;
- No physical alteration of any existing structure will occur unless expressly authorised by the asset owner.

Subject to these measures, the Applicant considers that any adverse effects on other water users will be no more than minor. I generally agree with this conclusion. While I consider that additional consent conditions are necessary ensure adequate avoidance and minimisation of effects, I am satisfied that, overall, adverse effects on other water users are no more than minor.

4.8 Cumulative effects

In accordance with Section 3 of the RMA, the definition of 'effect' includes any cumulative effect that arises over time or in combination with other effects. Importantly, cumulative effects are considered *actual* effects, rather than potential.

To assess cumulative effects associated with the proposed global river works, the Applicant engaged Dr Greg Ryder, who prepared a technical memo dated 7 May 2022. This memo provided a

descriptive assessment of cumulative effects based on historic operations and typical activity types. Dr Ryder subsequently provided an updated ecological assessment in June 2024, which further considered cumulative effects in light of the revised proposal.

Dr Michael Greer has reviewed both assessments and generally agrees with the conclusions reached. He notes, however, that the assessments do not quantify the scale or magnitude of cumulative effects—an acknowledged limitation given the lack of detailed information on the type, location, frequency, and duration of future works.

Dr Greer initially considered that cumulative effects on aquatic ecosystems were likely to be more than minor, primarily due to the previously proposed extent and frequency of channel clearance. However, following amendments to the application—including a reduced scope of channel clearance, a defined term for the consent, and strengthened mitigation measures within the EMP – Dr Greer has revised his conclusion and considers that cumulative effects can now be managed to remain no more than minor.

I agree with this conclusion and am satisfied that, subject to the proposed measures, cumulative effects will be no more than minor.

5. Notification and Written Approvals

5.1 Section 95A Public Notification

Step 1: Is public notification mandatory as per questions (a) – (c) below?

(a) Has the applicant requested that the application be publicly notified? **No**

(b) Is public notification required by Section 95C? **No**

(i) Has further information been requested and not provided within the deadline set by Council? **No**

(ii) Has the applicant refused to provide further information? **No**

(iii) Has the Council notified the applicant that it wants to commission a report but the applicant does not respond before the deadline to Council's request? **No**

(iv) Has the applicant refused to agree to the Council commissioning a report? **No**

(c) Has the application been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977? **No**

Step 2: Is public notification precluded as per questions (a) – (b) below?

(a) Is public notification precluded by a rule in the plan or a NES? **No**

(b) Is the application for one or more of the following activities but no other activities**:**

(i) A controlled activity? **No**

(ii) A restricted discretionary, or discretionary activity, but only if the activity is a subdivision of land or a residential activity? / **No**

(iia) A restricted discretionary, discretionary or non-complying activity but only if the activity is a boundary activity? **No**

(iii) A prescribed activity (see section 360G(1)(a)(i)? **No**

Step 3: Does the application meet either of the criteria in (a) or (b) below?

(a) Is the application for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification? **No**

(b) Will the activity have or be likely to have adverse effects on the environment that are more than minor in accordance with Section 95D? **No**

The adverse environmental effects on the environment from the proposal are discussed in elsewhere of this report. Based on this review, I consider that there will not be more than minor adverse effects on the environment (discounting the site and adjacent sites).

Step 4: Do special circumstances exist in relation to the application that warrant the application being publicly notified? No

5.2 Section 95B Limited Notification

Step 1

Section 95B(2) Are there any affected groups or persons identified under Section 95B(2):

(a) Protected customary rights groups? **No**

(b) Customary marine title groups? **No**

Section 95B(3)(a) Is the proposed activity on or adjacent to, or may it affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11? **Yes**

Section 95B(3)(b) Is a person to whom a statutory acknowledgement is made an affected person under Section 95E?

Pursuant to the Ngāi Tahu Claims Settlement Act 1998, Te Rūnanga o Ngāi Tahu (**TRONT**) was advised of the application. No response was received by TRONT within the specified period. Despite not responding, due to the scale and nature of the proposal, TRONT would be consider an affected party in accordance with Section 95E of the Act. The Applicant has since engaged with TRONT who have provided their written approval.

Step 2

Is Limited Notification precluded under Section 95B(6)?

(a) Is the application for a resource consent for one or more activities, and each activity is subject to a rule or national environmental standard that preclude limited notification? **No**

(i) Is the proposal a Controlled Activity that requires consent under the District Plan (other than a subdivision of land)? **No**

(ii) Is it a prescribed activity under Section 360G(1)(a)(ii)? **No**

Step 3

Having regard to Section 95E of the Resource Management Act, identify persons who would be adversely affected by the proposed activity by effects that are minor or more than minor, but not less than minor and give reasons why affected parties were identified.

The following parties have been identified to be affected parties due to effects on them that are minor or more than minor for the reasons stated below.

Affected Party	How they are affected	Why effect is minor or more than minor
Te Rūnanga o Ngāi Tahu	Kai tahu and cultural values.	Potential effects to kai tahu values associated with river works. In
Aukaha on behalf of Te Rūnanga o Moeraki, Kāti		

Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, and Hokonui Rūnanga Te Ao Marama on behalf of Ngāi Tahu ki Murihiku		particular, works that impact mana interests and customary values identified in Schedule 1D of the RPW.
Department of Conservation	Conservation values, in particular indigenous biodiversity.	Waterbodies support various indigenous fauna and habitat, including at-risk and threatened species. Works are likely to result in at least minor effects to those values.
Central South Island Fish and Game Otago Fish and Game	Sports fish values.	Waterbodies contain sport fish values that are likely to incur at least minor effects.

For completeness, I have also indicated 'interested' parties to the application below – being parties who may have an interest but would not incur adverse effects to a degree to make them affected in accordance with Section 95E.

Interested Party	**Interest**	**Comment**
Royal Forest and Bird	Biodiversity values, in particular terrestrial habitats (wetlands).	Based on the mitigation proposed and exclusion areas, any adverse effects to their interests are likely to be less than minor.
Heritage New Zealand Pouhere Taonga	Historic heritage and archaeological sites.	I am satisfied that conditions and the EMP can suitably avoid and minimise adverse effects.
Waka Kotahi New Zealand Transport Agency	Safe and efficient operation of the state highways.	I am satisfied that the procedures in the EMP can appropriately manage effects to Waka Kotahi assets and traffic management.
Toitū Te Whenua Land Information New Zealand	Works occurring over crown owned land	Land access is not guaranteed by the consent, and I am satisfied that other adverse effects can be appropriately managed by the procedures in the EMP.

Otago Regional Harbour Master	Impacts to navigable rivers.	I am satisfied that the procedures in the EMP can appropriately manage effects to navigation.
South Island Eel Industry Association	Impacts to eels and commercial eel fishing.	I am satisfied that the EMP and the engagement imbedded into this can appropriately manage effects on their interests
Clutha District Council	Council assets, including the community drinking water supply.	I am satisfied that the conditions and the EMP can suitably avoid and minimise adverse effects.
Central Otago District Council		
Queenstown Lakes District Council		
Dunedin City Council		
Waitaki District Council		
Landowners	Works occurring over their land.	Land access is not guaranteed by the consent, and I am satisfied that other adverse effects can be appropriately managed by the procedures in the EMP.
Consent holders	Impact to ability to exercise their consent.	I am satisfied that conditions and the EMP can suitably avoid and minimise adverse effects.

Have all persons identified as affected under Step 3 provided their written approvals?

Yes – The Applicant has provided the written approval of all affected persons as detailed in Section 1.7 of this Report. I note that the Applicant has also provided the written approval of Toitū Te Whenua Land Information New Zealand.

Step 4 Further notification in special circumstances

Do special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under Section 95E as not being affected persons)? **No**

If notification or limited notification is required, then has the applicant paid the additional notification fee? Not applicable

5.3 Other Notifications

As the work is proposed to occur in a Statutory Acknowledgement Area, pursuant to the Ngai Tahu Claims Settlement Act 1998, TRONT was advised of the application. TRONT did not respond in the

specified timeframe, but as noted above were subsequentially engaged by the Applicant and provided their written approval.

Maritime New Zealand (**MNZ**) was sent a copy of the application as the proposed activity fell within the criteria outlined in Section 89A of the Act. MNZ responded to confirm they did not have any comments or concerns.

6. NOTIFICATION RECOMMENDATION:

In accordance with the notification steps set out above, it is recommended that the application proceed on a non-notified basis.

Charles Horrell
Consultant Planner
23 June 2025

Otago Regional Council

DECISION ON NOTIFICATION

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

Date: 26 June 2025

Application No: RM21.073

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

Decision under Delegated Authority

The Otago Regional Council decides that this resource consent application is to be processed on a **non-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 Recommendation Report above in relation to this application. I have considered the information provided, reasons and recommendations in the above report. I agree with those reasons and adopt them.

This decision is made under delegated authority by:

Allan Cubitt
Independent Decision Maker for Otago Regional Council

Otago Regional Council

ORC SECTION 42A REPORT

1. Summary of Recommendation

I recommend that this application be approved, subject to the conditions discussed at the end of this report.

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 application.

There are no principal issues in contention with the applicant and no evidence was heard as it relates to the application as it is being processed non-notified without a hearing.

2. Section 104 Evaluation

Section 104 of the Act sets out the matters to be considered when assessing an application for a resource consent. These matters are subject to Part 2, the purpose and principles, which are set out in Sections 5 to 8 of the Act.

As this application is for a discretionary activity, the Council may grant or refuse the application. If granting consent, the Council may impose conditions under section 108 of the Act.

2.1 Section 104(1)

The remaining matters of Section 104 to be considered when assessing an application for a resource consent are:

a) the actual and potential effects on the environment of allowing the activity;
ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity
b) any relevant provisions of a national environmental standard, other regulations, a national policy statement, the Regional Policy Statement (RPS), RPW; and
c) any other matter the Council considers relevant and reasonably necessary to determine the application.

2.2 Actual and potential effects on the environment of allowing the activity

The actual and potential adverse environmental effects of the proposed activity were considered in the notification recommendation report.

In addition to these adverse effects, it is considered that the proposal will have the following positive effects:

- **Improved flood management and reduced flood risk** to communities, infrastructure, and productive land.
- **Increased public safety** through proactive river management, especially during high-flow events.

- **Enhanced resilience to climate change** by allowing adaptive and region-wide responses to increased frequency and intensity of extreme weather events.
- **Operational efficiency** from a single global consent, enabling timely and coordinated works across multiple catchments without needing individual consents.
- **Cost savings** through reduced administrative burden and improved resource planning over time.
- **Greater environmental oversight** through the development and implementation of an EMP that standardises mitigation and monitoring measures.
- **Opportunities for habitat restoration** and riparian planting as part of integrated river management works.
- **Facilitated collaboration with mana whenua and stakeholders**, allowing for integrated cultural and ecological considerations across the region.

2.3 S104(1)(ab)

The applicant has not proposed or agreed to any measures to offset or compensate for adverse effects that will or may result from allowing the activity. I consider this is appropriate as the potential adverse effects are expected no more than minor.

2.4 S104(1)(b) Relevant Planning Documents

The relevant planning documents in respect of this application are:

- The National Policy Statement for Freshwater Management
- The National Policy Statement for Indigenous Biodiversity
- The Proposed Regional Policy Statement and Partially Operative Regional Policy Statement
- The Regional Plan: Water for Otago

2.4.1 National Policy Statement for Freshwater Management

The National Policy Statement for Freshwater Management (**NPS-FM**) provides a national objectives framework to assist regional councils and communities to more consistently and transparently plan for and achieve freshwater objectives. Te Mana o te Wai – the integrated and holistic well-being of a freshwater body – is an integral part of the framework. Upholding Te Mana o te Wai requires acknowledging and protecting the mauri of water. This requires that Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tangata (the health of the people) be provided for when using water.

Through a recent Resource Management Amendment Act, Section 104(2F) has been inserted which requires decision makers to not have regard to the hierarchy of prioritisation set out in the concept of Te Mana o Te Wai and the Objective of the NPS-FM. While those matters must not be considered, there remain relevant directions in the NPS-FM for this application. Consideration of those relevant matters is provided below.

Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

Otago Regional Council are yet to identify target attribute states for their freshwater management units. It is anticipated that this will be provided through the future Land and Water Plan. Regardless,

it is anticipated that the works will be undertaken in a way that meets the target attribute states for the waterbodies affected by the application. Specifically, measures in the EMP ensure that any sediment discharges are contained to be localised and short in duration.

Policy 7: The loss of river extent and values is avoided to the extent practicable.

The Application includes activities that will directly impact both the physical extent of rivers and the associated river values. Clause 3.24 of the NPS-FM provides further direction when giving effect to Policy 7. The clause implies that where an activity affects river extent and/or values, the Council must be satisfied that the following tests would be met:

(a) there is a functional need for the activity in that location; and
(b) the effects of the activity are managed by applying the effects management hierarchy.

I note that the above is conjunctive, meaning both tests must be met. Regarding the first test, 'functional need' is defined in the NPS-FM as *"the need for a proposal or activity to be located in the particular environment because the activity can only occur in that environment."* Based on the proposed works being necessary for flood protection, I am satisfied that there is a functional need for the activity to occur within rivers.

With respect to the second test, I note that the effects management hierarchy is applied through the Applicant's proposed EMP, which includes measures to avoid effects where practicable, minimise effects where avoidance is not possible, and remedy any residual effects. The EMP states that no residential more than minor adverse effects will be anticipated and therefore offsetting and compensation are not necessary. I am therefore satisfied that the effects management hierarchy has been appropriately applied, and both limbs of Clause 3.24 are met.

Policy 9: The habitats of indigenous freshwater species are protected.
Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy

The adverse effects of the application on aquatic habitats, including freshwater species and trout, has been considered in Section 4.3 of the Notification Report. Subject to the mitigation measures, including the proposed consent limits and adherence to the EMP, works will be undertaken in a way that protects the habitats of both indigenous freshwater species and trout in accordance with the above policy direction.

Policy 15: Communities are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this National Policy Statement.

Based on the assessment of the application against the policies above, it is considered that the application enables communities to provide for their social, economic, and cultural wellbeing in a way that is consistent with the NPSFM.

2.4.2 National Policy Statement for Indigenous Biodiversity

The NPS-IB seeks to maintain and restore indigenous biodiversity in a way that recognises the rights and interests of landowners, tangata whenua and the wider community. It includes specific directions to protect Significant Natural Areas (SNAs), maintain connectivity and buffer zones, and adopt an effects management hierarchy where biodiversity may be adversely affected. The NPS-IB also embeds Te Rito o te Harakeke, a framework that places people as part of nature, not separate from it, and seeks to maintain the mauri of indigenous biodiversity.

Although the NPS-IB is yet to be fully implemented through regional and district planning instruments, it provides relevant national direction under section 104(1)(b) of the RMA for the consideration of resource consent applications. The relevant provisions are assessed below.

***Objective 2.1**: The objective of this National Policy Statement is:*

(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

(b) to achieve this:

(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and

(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and

(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and

(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

The proposed works have the potential to affect indigenous biodiversity, particularly through disturbance to in-stream and riparian habitats. While Objective 2.1 is broad and anticipated to be implemented primarily through regional and district plans, Clause 3.16 of the NPS-IB indicates that maintaining indigenous biodiversity requires the management of significant adverse effects through application of the effects management hierarchy.

The Application includes mitigation measures via the EMP that reflect the effects management hierarchy, including limiting bank disturbance and vegetation removal, and requiring restoration planting where indigenous vegetation is removed.

Given the limited spatial and temporal scale of disturbance at any one location, and the implementation of the above measures, I am satisfied that the application aligns with the objective of the NPS-IB and achieves the outcome of at least no overall loss in indigenous biodiversity.

***Policy 2**: Tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:*

(a) managing indigenous biodiversity on their land; and

(b) identifying and protecting indigenous species, populations and ecosystems that are taonga; and

(c) actively participating in other decision-making about indigenous biodiversity.

The Applicant has engaged mana whenua (via Aukaha and Te Ao Marama Inc.) in the development of the EMP and secured their written approval to the application. This engagement reflects the requirement to actively involve tangata whenua in decision-making regarding indigenous biodiversity and aligns with the principles of Te Rito o te Harakeke and kaitiakitanga. I consider that the application is consistent with this policy.

***Policy 10**: Activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in this National Policy Statement.*

The proposed flood protection works align with this policy by reducing flood risk (supporting social and economic wellbeing), incorporating cultural engagement with mana whenua, and including mitigation to manage environmental effects.

2.4.3 Partially Operative and Proposed Otago Regional Policy Statement

There are currently two regional policy statements in play in the Otago Region:

- Partially Operative Regional Policy Statement 2019, amended 2021 (**PORPS**)
- Proposed Otago Regional Policy Statement which was notified on the 26 June 2021 (**PRPS**). The decision on the PRPS was released on 30 March 2024, which remains under appeal.

For completeness, the relevant operative policies PORPS 2021 have been included below, alongside the relevant proposed policies in the PRPS 2021.

Partially Operative Regional Policy Statement 2019 (amended 2021)

Objective 1.1 Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities

Policy 1.1.2 Social and cultural wellbeing and health and safety - Provide for the social and cultural wellbeing and health and safety of Otago's people and communities when undertaking the subdivision, use, development and protection of natural and physical resources by all of the following:
a) Recognising and providing for Kāi Tahu values;
b) Taking into account the values of other cultures;
c) Taking into account the diverse needs of Otago's people and communities;
d) Avoiding significant adverse effects of activities on human health;
e) Promoting community resilience and the need to secure resources for the reasonable needs for human wellbeing;
f) Promoting good quality and accessible infrastructure and public services

The proposed flood protection works align with Objective 1.1 and Policy 1.1.2 by enabling the sustainable use of resources to protect communities and support wellbeing. Specifically, the works:

- Recognise Kāi Tahu values through engagement in the EMP's development,
- Promote health and safety by reducing flood risk,
- Support community resilience and infrastructure protection,
- Avoid significant adverse effects on human health, and
- Reflect the diverse needs of Otago's communities by protecting both urban and rural areas.

Objective 2.2 Kāi Tahu values, interests and customary resources are recognised and provided for.

Policy 2.2.1 Kāi Tahu wellbeing - Manage the natural environment to support Kāi Tahu wellbeing by all of the following:
a) Recognising and providing for their customary uses and cultural values in Schedules 1A and B; and,
b) Safeguarding the life-supporting capacity of natural resources.

The application aligns with Objective 2.2 and Policy 2.2.1 by actively recognising and providing for Kāi Tahu values through engagement in the development of the EMP and obtaining written approval. The EMP includes measures that safeguard the life-supporting capacity of natural resources, such as limiting in-stream disturbance and managing water quality, supporting Kāi Tahu wellbeing and cultural values.

Objective 3.1 The values (including intrinsic values) of ecosystems and natural resources are recognised and maintained, or enhanced where degraded.
Policy 3.1.1 Fresh water - Safeguard the life-supporting capacity of fresh water and manage fresh water to:
a) Maintain good quality water and enhance water quality where it is degraded, including for:
i. Important recreation values, including contact recreation; and,
ii. Existing drinking and stock water supplies;
b) Maintain or enhance aquatic:
i. Ecosystem health;
ii. Indigenous habitats; and,
iii. Indigenous species and their migratory patterns.
c) Avoid aquifer compaction and seawater intrusion;
d) Maintain or enhance, as far as practicable:
i. Natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers;
ii. Coastal values supported by fresh water;
iii. The habitat of trout and salmon unless detrimental to indigenous biological diversity; and
iv. Amenity and landscape values of rivers, lakes, and wetlands;
e) Control the adverse effects of pest species, prevent their introduction and reduce their spread;
f) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion; and,
g) Avoid, remedy or mitigate adverse effects on existing infrastructure that is reliant on fresh water.

Policy 3.1.2 Beds of rivers, lakes, wetlands, and their margins - Manage the beds of rivers, lakes, wetlands, their margins, and riparian vegetation to:
a) Safeguard the life supporting capacity of fresh water;
b) Maintain good quality water, or enhance it where it has been degraded;
c) Maintain or enhance bank stability;
d) Maintain or enhance ecosystem health and indigenous biological diversity;
e) Maintain or enhance, as far as practicable:
i. Their natural functioning and character; and
ii. Amenity values;
f) Control the adverse effects of pest species, prevent their introduction and reduce their spread; and,
g) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion.

Policy 3.1.9 Ecosystems and indigenous biological diversity - Manage ecosystems and indigenous biological diversity in terrestrial, freshwater and marine environments to:
a) Maintain or enhance:
i. Ecosystem health and indigenous biological diversity including habitats of indigenous fauna;
ii. Biological diversity where the presence of exotic flora and fauna supports indigenous biological diversity;
b) Maintain or enhance as far as practicable:
i. Areas of predominantly indigenous vegetation;
ii. Habitats of trout and salmon unless detrimental to indigenous biological diversity;
iii. Areas buffering or linking ecosystems;
c) Recognise and provide for:
i. Hydrological services, including the services provided by tall tussock grassland;
ii. Natural resources and processes that support indigenous biological diversity;
d) Control the adverse effects of pest species, prevent their introduction and reduce their spread.

The application is consistent with Objective 3.1 and relevant policies by maintaining ecosystem values and indigenous biodiversity through mitigation measures outlined in the EMP and avoiding sensitive and high-value catchments through proposed exclusions. In accordance with Policy 3.1.1, the application safeguards the life-supporting capacity of fresh water by maintaining water quality and aquatic habitats through EMP sediment management and exclusion zones, while also addressing natural hazard risks by managing flood and erosion effects within the consent duration and conditions. Consistent with Policy 3.1.2, bank stability, ecosystem health, and the natural character of riverbeds and riparian margins are maintained through EMP provisions controlling machinery use, limiting bank disturbance, and requiring restoration planting where indigenous vegetation is removed. Under Policy 3.1.9, the works are managed to maintain ecosystem health and indigenous fauna habitats through restrictions on vegetation clearance, seasonal timing of works, and post-works restoration. The EMP also includes provisions for sediment control and avoiding in-stream work during sensitive periods, supporting freshwater and riparian ecosystems.

Objective 3.2 Otago's significant and highly-valued natural resources are identified and protected, or enhanced where degraded.

Policy 3.2.16 Managing the values of wetlands - Protect the function and values of wetlands by all of the following:
a) Maintaining the significant values of wetlands;
b) Avoiding, remedying or mitigating other adverse effects;
c) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;
d) Encouraging enhancement that contributes to the values of the wetland;
e) Encouraging the rehabilitation of degraded wetlands.

The application is consistent with Objective 3.2 and Policy 3.2.16 as the proposed exclusions specifically avoid wetlands and other sensitive/high value catchments.

Overall, subject to the recommended conditions of consent, I consider that the application is consistent with the relevant objectives and policies of the Partially Operative Regional Policy Statement.

Proposed Otago Regional Policy Statement (PRPS 2021)

MW–O1 – Principles of Te Tiriti o Waitangi *The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka to ensure that what is valued by mana whenua is actively protected in the region.*

MW–P1 – Treaty obligations *Promote awareness and understanding of the obligations of local authorities in regard to the principles of Te Tiriti o Waitangi, tikaka Māori and kaupapa Māori.*

MW–P2 – Treaty principles *Local authorities exercise their functions and powers in accordance with Treaty principles, by:*

1. *recognising the status of Kāi Tahu and facilitating Kāi Tahu involvement in decision-making as a Treaty partner,*

2. *including Kāi Tahu in resource management processes and implementation to the extent desired by mana whenua,*
3. *recognising and providing for Kāi Tahu values and resource management issues, as identified by mana whenua, in resource management decision-making processes and plan implementation,*
4. *recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka by ensuring that Kāi Tahu have the ability to identify these relationships and determine how best to express them,*
5. *ensuring that regional and district plans recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, tōpuni, nohoaka and customary fisheries identified in the NTCSA 1998, including by actively protecting the mauri of these areas,*
6. *having particular regard to the ability of Kāi Tahu to exercise kaitiakitaka,*
7. *actively pursuing opportunities for:*
   i. delegation or transfer of functions to Kāi Tahu, and
   ii. partnership or joint management arrangements, and
8. *taking into account iwi management plans when making resource management decisions.*

MW–P3 – Supporting Kāi Tahu well-being *The natural environment is managed to support Kāi Tahu well-being by:*

1. *protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,*
2. *safeguarding the mauri and life-supporting capacity of natural resources, and*
3. *working with Kāi Tahu to incorporate mātauraka in resource management.*

CE–O4 – Kāi Tahu associations with Otago's coastal environment *The enduring cultural association of Kāi Tahu with Otago's coastal environment is recognised and provided for, and mana whenua are able to exercise their kaitiaki role within the coastal environment.*

The principles of Te Tiriti o Waitangi have been given effect to throughout the processing of this consent application and particular consideration has been given to Kāi Tahu values. Specifically, mana whenua has been identified as affected to the application and engaged by the Applicant in development of the EMP. Aukaha, TAMI and TRONT have subsequently provided written approval.

IM–P2 – Decision priorities *Unless expressly stated otherwise, all decision making under this RPS shall:*

1. *first, secure the long-term life-supporting capacity and mauri of the natural environment,*
2. *secondly, promote the health needs of people, and*
3. *thirdly, safeguard the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

LF–WAI–P1 – Prioritisation *In all management of fresh water in Otago, prioritise:*

1. *first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these,*
2. *second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and*
3. *third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.*

Priority has been given to maintaining the life-supporting capacity and mauri of the natural environment, particularly through mitigation measures in the EMP that prioritise the avoidance of adverse effects. The proposal supports the health needs of people by enabling essential flood protection works. Additionally, the EMP and activity limits ensure that health and safety are promoted throughout the duration of the works. The application also supports people and communities in providing for their social, economic, and cultural wellbeing by facilitating the continuation of these important flood protection activities.

EIT-INF-O4 – Provision of infrastructure *Effective, efficient, safe and resilient infrastructure, nationally significant infrastructure and regionally significant infrastructure enables the people and communities to provide for their social and cultural wellbeing, their health and safety, and supports sustainable economic development and growth in the region.*

EIT-INF-P13 – Locating and managing effects of infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment *When providing for new infrastructure, nationally significant infrastructure and regionally significant infrastructure outside the coastal environment:*

1. *avoid, as the first priority, locating infrastructure in all of the following:*
    a. *significant natural areas,*
    b. *outstanding natural features and landscapes,*
    c. *wetlands,*
    d. *outstanding water bodies,*
    e. *areas or places of significant or outstanding historic heritage, and*
    f. *wāhi tupuna, and*
2. *if it is not reasonably practicable to avoid locating in the areas listed in (1) above because of the functional needs or operational needs of the infrastructure, nationally significant infrastructure and regionally significant infrastructure manage adverse effects as follows:*
    a. *for nationally or regionally significant infrastructure:*
        i. *in significant natural areas, in accordance with ECO-P4,and ECO-P6,*
        ii. *in wetlands, in accordance with the relevant provisions in the NESF,*
        iii. *in outstanding water bodies, in accordance with LF–FW-P12,*
        iv. *in relation to wāhi tūpuna, in accordance with HCV-WT-P2,*
        v. *in other areas listed in EIT-INF-P13 (1) above, the adverse effects of the infrastructure on the values that contribute to the area's importance shall be:*
            (I) remedied or mitigated to the extent practicable, and
            (II) where they cannot be practicably remedied or mitigated, regard shall be had to offsetting and/or compensation of more than minor residual adverse effects.

The definition of 'regionally significant infrastructure' includes "*Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes*" – therefore the application relates to providing for regionally significant infrastructure. The economic, social and cultural benefits of the proposal have been recognised. With relation to EIT-INF-P13, the Applicant has proposed exclusions to all areas identified in EIT-INF-P13(1) and have adopted best practice measures to otherwise avoid, minimise and remedy adverse effects on other ecosystems and catchments.

LF–FW–O10 – Natural character *The natural character of wetlands, lakes and rivers and their margins is preserved and protected from inappropriate subdivision, use and development.*

LF–FW–P13 – Preserving natural character *Preserve the natural character of lakes and rivers and their beds and margins by:*

1. *avoiding the loss of values or extent of a river, unless:*
   a. *there is a functional need for the activity in that location, and*
   b. *the effects of the activity are managed by applying:*
      ii. *for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and*
      iii. *for other effects, the effects management hierarchy,*
2. *not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that:*
   a. *the application demonstrates how each step of the effects management hierarchies in (1)(b) will be applied to the loss of values or extent of the river, and (b) any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b),*
3. *establishing environmental flow and level regimes and water quality standards that support the health and well-being of the water body,*
4. *wherever possible, sustaining the form and function of a water body that reflects its natural behaviours,*
5. *recognising and implementing the restrictions in Water Conservation Orders,*
6. *preventing the impounding or control of the level of Lake Wanaka,*
7. *preventing modification that would reduce the braided character of a river, and*
8. *controlling the use of water and land that would adversely affect the natural character of the water body.*

As assessed in **Section 4.3** of the Notification Report, natural character where works proposed is generally modified and proposed exclusions will avoid works being undertaken in highly naturalised or highly valued catchments. Adverse effects to natural character are anticipated to be minor with necessary minimisation and remediation measures provided for through the EMP.

ECO–O1 – Indigenous biodiversity *Otago's indigenous biodiversity is healthy and thriving and any decline in quality, quantity and diversity is halted.*

ECO–P6 – Maintaining indigenous biodiversity *Maintain Otago's indigenous biodiversity (excluding the coastal environment and areas managed under ECO–P3) by applying the following biodiversity effects management hierarchy in decision-making on applications for resource consent and notices of requirement:*

1. *avoid adverse effects as the first priority,*
2. *where adverse effects demonstrably cannot be completely avoided, they are remedied,*
3. *where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,*
4. *where there are residual adverse effects after avoidance, remediation, and mitigation, then the residual adverse effects are offset in accordance with APP3, and*
5. *if biodiversity offsetting of residual adverse effects is not possible, then:*
6. *the residual adverse effects are compensated for in accordance with APP4, and*
7. *if the residual adverse effects cannot be compensated for in accordance with APP4, the activity is avoided.*

The proposed works have the potential to affect indigenous biodiversity, particularly through disturbance to in-stream and riparian habitats. The Application includes mitigation measures via

the EMP that reflect the effects management hierarchy, including limiting bank disturbance and vegetation removal, and requiring restoration planting where indigenous vegetation is removed.

Overall, subject to the recommended conditions of consent, it is considered that the application is consistent with the relevant objectives and policies of the PO-RPS and PRPS.

2.4.4 Regional Plan: Water for Otago

Relevant objectives and policies of the RPW are found in Chapter 5 (Natural and Human Use Values of Lakes and Rivers), Chapter 6 (Water Quantity), Chapter 8 (The Beds and Margins of Lakes and Rivers) and Chapter 10 (Wetlands).

Objective 5.3.1 To maintain or enhance the natural and human use values, identified in Schedules 1A, 1B and 1C, that are supported by Otago's lakes and rivers.

5.3.2 To maintain or enhance the spiritual and cultural beliefs, values and uses of significance to Kai Tahu, identified in Schedule 1D, as these relate to Otago's lakes and rivers.

5.4.2 In the management of any activity involving surface water, groundwater or the bed or margin of any lake or river, to give priority to avoiding, in preference to remedying or mitigating:
(1) Adverse effects on:
(a) Natural values identified in Schedule 1A;
(b) Water supply values identified in Schedule 1B;
(c) Registered historic places identified in Schedule 1C, or archaeological sites in, on, under or over the bed or margin of a lake or river;
(d) Spiritual and cultural beliefs, values and uses of significance to Kai Tahu identified in Schedule 1D;
(e) The natural character of any lake or river, or its margins;
(f) Amenity values supported by any water body; and
(2) Causing or exacerbating flooding, erosion, land instability, sedimentation or property damage.

The Applicant has proposed that works be undertaken in a way that maintains the values identified in Schedules 1A – 1D and avoids adverse effects on the values identified in Policy 5.4.2. Proposed exclusions avoid sensitive and high ecological value catchments. All other works are to be undertaken in accordance with an EMP, which among other things, includes measures to manage adverse effects during works. The EMP includes limitation on when works are undertaken to avoid sensitive periods, including spawning seasons. Mana whenua (Aukaha and Te Ao Marama Inc) have provided their written approval for the works. As assessed in **Section 4.3** of the Notification Report, any effects on natural character will be short in duration with any adverse effects remediated.

5.4.4 To recognise Kai Tahu's interests in Otago's lakes and rivers by promoting opportunities for their involvement in resource consent processing.

Kāi Tahu interests have been recognised and provided for. Specifically, mana whenua has been identified as affected to the application and engaged by the Applicant in development of the EMP. Aukaha, TAMI and TRONT have subsequently provided written approval.

5.3.3 To protect the natural character of Otago's lakes and rivers and their margins from inappropriate subdivision, use or development.

5.4.8 To have particular regard to the following features of lakes and rivers, and their margins, when considering adverse effects on their natural character:
(a) The topography, including the setting and bed form of the lake or river;
(b) The natural flow characteristics of the river;
(c) The natural water level of the lake and its fluctuation;
(d) The natural water colour and clarity in the lake or river;
(e) The ecology of the lake or river and its margins; and
(f) The extent of use or development within the catchment, including the extent to which that use and development has influenced matters (a) to (e) above.

As assessed in **Section 4.3** of the Notification Report, natural character where works proposed is generally modified and proposed exclusions will avoid works being undertaken in highly naturalised or highly valued catchments. Adverse effects to natural character are anticipated to be minor with necessary minimisation and remediation measures provided for through the EMP.

5.3.4 To maintain or enhance the amenity values associated with Otago's lakes and rivers and their margins.

5.4.9 To have particular regard to the following qualities or characteristics of lakes and rivers, and their margins, when considering adverse effects on amenity values:
(a) Aesthetic values associated with the lake or river; and
(b) Recreational opportunities provided by the lake or river, or its margins.

5.3.5 To maintain or enhance public access to and along the margins of Otago's lakes and rivers.

As assessed in **Section 4.4** of the Notification Report, amenity effects are anticipated to be short in duration. While there is anticipated to be short term adverse effects, those effects are considered localised and will be appropriately managed through measures identified in the EMP.

5.4.2A The loss of river extent and values is avoided, unless the council is satisfied:
(a) That there is a functional need for the activity in that location; and
(b) The effects of the activity are managed by applying the effects management hierarchy

An assessment of this direction has been given in consideration of Policy 6 of the NPS-FM – see **Section 2.4.1** of this Report.

5.4.3 In the management of any activity involving surface water, groundwater or the bed or margin of any lake or river, to give priority to avoiding adverse effects on:
(a) Existing lawful uses; and
(b) Existing lawful priorities for the use, of lakes and rivers and their margins.

An assessment of other water users has been provided in **Section 4.7** of the Notification Decision. Measures set out in the EMP appropriately avoid and minimise any adverse effects on other water users.

8.3.2 To minimise reduction in water clarity caused by bed disturbance.

8.6.1 In managing the disturbance of the bed or margin of any lake or river, to have regard to any adverse effect on:
(a) The spawning requirements of indigenous fauna, and trout or salmon;

(b) Bed and bank stability;
(c) Water quality;
(d) Amenity values caused by any reduction in water clarity; and
(e) Downstream users.

8.6.2 To promote best management practices for activities that occur within or adjacent to the bed of lakes and rivers in order to avoid, remedy or mitigate any adverse effect.

The proposal is consistent with the above policies. Measures in the EMP minimise water clarity reduction by managing sediment discharge, scheduling works outside key spawning periods, and avoiding in-stream works during sensitive times. Controls on machinery use, erosion, and sediment control methods help maintain bed and bank stability, protect water quality, and reduce impacts on amenity values and downstream users.

Overall, subject to the recommended conditions of consent, it is considered that the application is consistent with the relevant objectives and policies of the RPW.

2.5 Section 104(1)(c) Any other matters

2.5.1 Kai Tahu ki Otago Natural Resource Management Plan 2005 (NRMP)

The NRMP is considered to be a relevant other matter for the consideration of this application. This is because the RPW is yet to be amended to take into account this Plan and this Plan expresses the attitudes and values of the four Papatipu Rūnaka: Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga.

The following objectives and policies are of most relevance to this application:

- *The rakātirataka and kaitiakitaka of Kāi Tahu ki Otago is recognised and supported.*
- *Ki Uta Ki Tai management of natural resources is adopted within the Otago region. I*
- *The mana of Kāi Tahu ki Otago is upheld through the management of natural, physical and historic resources in the Otago Region.*
- *Kāi Tahu ki Otago have effective participation in all resource management activities within the Otago Region.*
- *The spiritual and cultural significance of water to Kāi Tahu ki Otago is recognised in all water management.*
- *The waters of the Otago Catchment are healthy and support Kāi Tahu ki Otago customs*
- *To require an assessment of instream values for all activities affecting water*
- *To protect and restore the mauri of all water*
- *To require that fish passage is provided for at all times, both upstream and downstream.*
- *To require that any visual impacts at the site of the activity are minimal.*
- *To require that wet concrete does not enter the active flow channels.*
- *To require that any works be undertaken either before or after spawning season of potentially affected species as identified by the affected Papatipu Runaka.*
- *To require that all practical measures are taken to minimise sedimentation or discharge of sedimentation.*
- *To require that all practical measures are undertaken to minimise the risk of contamination to the waterway.*
- *To require that work is done when the water level is naturally low or dry.*
- *To require that machinery enters the dry bed of the waterway only to the extent necessary, to carry out as much of the work as possible, using one corridor for entering and exiting.*

- *To discourage machinery operating in flowing water.*
- *To require that all machinery is clean and well maintained before entering the work site; refuelling is to be done away from the waterway.*

Overall, subject to the recommended conditions of consent, it is considered that the application is consistent with the above policies of the NRMP. Further, Aukaha and Te Rūnanga o Ngāi Tahu provided written approval and did not raise concerns.

3.1 Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008

The Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 - The Cry of the People, Te Tangi a Tauira is considered to be a relevant other matter for the consideration of this application. This is because the RPW is yet to be amended to take into account this Plan and this Plan expresses the attitudes and values of the four Rūnanga Papatipu o Murihiku – Awarua, Hokonui, Ōraka/Aparima and Waihōpai.

The following objectives and policies are of most relevance to this application:

- *The role of Ngāi Tahu ki Murihiku as kaitiaki of freshwater must be given effect to in freshwater policy, planning and management.*
- *Protect and enhance the mauri, or life supporting capacity, of freshwater resources throughout Murihiku.*
- *Manage our freshwater resources wisely, mō tātou, ā, mō ngā uri ā muri ake nei, for all of us and the generations that follow.*
- *Promote the management of freshwater according to the principle of ki uta ki tai, and thus the flow of water from source to sea.*
- *Promote river management that adopts the priorities established in the Te Rūnanga o Ngāi Tahu Freshwater Policy 1997.*
- *Management of our rivers must take into account that each waterway has its own mauri, guarded by separate spiritual guardians, its own mana, and its own set of associated values and uses.*
- *Ensure that all native fish species have uninhibited passage from the river to the sea at all times, through ensuring continuity of flow ki uta ki tai.*
- *The role of Ngāi Tahu ki Murihiku as tangata whenua and kaitiaki of water must be recognised and provided for in all water quality management.*
- *Strive for the highest possible standard of water quality that is characteristic of a particular place/waterway, recognising principles of achievability*
- *Land use consents to carry out activities in the beds and margins of rivers should include information about ecological, cultural, natural and community values associated with the surrounding areas (e.g. adjacent wetlands, bird nesting sites, instream life, community use of the area; inanga/whitebait habitat).*
- *Require that a Ngāi Tahu ki Murihiku Accidental Discovery Protocol (see Appendix 6) is a condition on resource consents.*
- *Require that placement of culverts and other flood works activities in the beds or margins of waterways is such that the passage of native fish and other stream life is not impeded.*
- *Require that short term effects on water quality and appearance are mitigated during culvert or flood works construction, and for a settling period following.*

Overall, subject to the recommended conditions of consent, it is considered that the application is consistent with the above policies of the NRMP. Further, Te Ao Marama Inc and Te Rūnanga o Ngāi Tahu provided written approval and did not raise concerns.

2.5.2 Crown Minerals Act 1991

The Crown Minerals Act 1991 regulates the allocation and management of rights to Crown-owned minerals. Where gravel is extracted from riverbeds and used for commercial purposes, a Tier 2 permit may be required under the Act, and royalties must be paid to the Crown.

For this application, it is noted that the applicant proposes to extract gravel, and in some cases, that gravel may be used for commercial purposes (for example, where a contractor is engaged to extract and retain the gravel). In such circumstances, a Tier 2 permit may be necessary. This matter sits outside the Resource Management Act and resource consent process, but for completeness, an advice note has been included on the consent to alert the consent holder to these potential obligations.

3. Part 2 of the Act

Under Section 104(1) of the RMA, a consent authority must consider resource consent applications "subject to Part 2" of the RMA, specifically, sections 5, 6, 7 and 8.

The Court of Appeal has recently clarified how to approach the assessment of “subject to Part 2” in section 104(1). In *R J Davidson* the Court of Appeal found that (in summary):[2]

- Decision makers must consider Part 2 when making decisions on resource consent applications, where it is appropriate to do so. The extent to which Part 2 of the RMA should be referred to depends on the nature and content of the planning documents being considered.
- Where the relevant planning documents have been prepared having regard to Part 2 of the RMA, and with a coherent set of policies designed to achieve clear environmental outcomes, consideration of Part 2 is not ultimately required. In this situation, the policies of these planning documents should be implemented by the consent authority. The consideration of Part 2 "would not add anything to the evaluative exercise" as "genuine consideration and application of relevant plan considerations may leave little room for Part 2 to influence the outcome". However, the consideration of Part 2 is not prevented, but Part 2 cannot be used to subvert a clearly relevant restriction or directive policy in a planning document.
- Where it is unclear from the planning documents whether consent should be granted or refused, and the consent authority has to exercise a judgment, Part 2 should be considered.
- If it appears that the relevant planning documents have not been prepared in a manner that reflects the provisions of Part 2, the consent authority is required to consider Part 2.

In this case, there is no ambiguity, and the planning documents do not conflict, therefore it is not necessary to consider Part 2. However, for completeness, an assessment has been given below.

The application is consistent with the purpose and principles of the RMA, as set out in sections 5 to 8. The proposed activity enables the use and development of natural and physical resources while safeguarding the life-supporting capacity of the ecosystem. Recommended conditions will ensure that any adverse effects are avoided, remedied, or mitigated.

[2] *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316.

With respect to section 6, the proposal preserves the natural character of wetlands and protects significant indigenous vegetation and habitats of indigenous fauna, including kōaro and crested grebe. It also recognises the relationship of Māori and their culture and traditions with water, with Aukaha and Te Ao Marama Inc having provided written approval for the works.

In accordance with section 7, particular regard has been given to kaitiakitanga, the ethic of stewardship, the efficient use of resources, intrinsic ecosystem values, water quality, and the protection of trout and salmon habitat.

Section 8 is satisfied as the principles of Te Tiriti o Waitangi have been taken into account, and the application has followed Council's iwi consultation protocols. Mana whenua were identified as affected parties and have been engaged accordingly.

4. Sections 105 and 107 of the Act

4.1 Matters relevant to discharge permits – s105

Under Section 105 of the Act, the Council must have regard to additional matters for any application for a discharge permit that would contravene Section 15 of the Act. A discharge permit is propsoed for the associated discharges of sediment from any works authorised. The proposal is considered to satisfy the matters set out in Section 105 for the following reasons:

- Particular regard has been given to the nature of the discharge and sensitivity of the receiving environments. Specifically, conditions have been given to potential sediment discharges from channel works and the resultant effects on instream values and water quality.
- Particular regard has been given to the Applicant's proposed choice of discharge – being any resultant sediment discharges from channel works. The discharges are necessary given the nature of the works and measures have been proposed to other avoid or minimise adverse effects.
- Alternative methods have been considered and it is determined that the proposed methods are the best available. Specifically, the proposed EMP adopts best practice measures to minimise sediment discharges.

4.2 Restrictions on the grant of certain discharge permits – s107

Section 107 of the Act sets out restrictions that the Council must consider when determining whether to grant a discharge permit. Subsection (1) states that the Council must not grant consent should the discharge result in one or more of the following effects after reasonable mixing:

- the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
- any conspicuous change in the colour or visual clarity:
- any emission of objectionable odour:
- the rendering of fresh water unsuitable for consumption by farm animals:
- any significant adverse effects on aquatic life

Subsection (2) outlines circumstances where consent may still be granted, despite the presence of effects listed in subsection (1), provided it remains consistent with the purpose of the Act. These include:

- exceptional circumstances that justify granting the permit
- the discharge being of a temporary nature
- the discharge being associated with necessary maintenance work

Based on the nature of the proposal, and advice from Dr Greer, it is likely that the activity may result in a conspicuous change in colour or visual clarity after reasonable mixing. This is due to the nature of the proposed channel works, even with reasonable measures in place to minimise sediment discharge. While the proposal may give rise to an effect listed under subsection (1), the applicant has demonstrated that subsection (2) applies: specifically, that the discharges will be temporary in nature and the overall effects remain consistent with the purpose of the Act. Based on this, I am satisfied that the application is consistent with Section 107 of the Act and consent may otherwise be granted.

5. Section 108 and 108AA of the Act

The Applicant provided a full set of proposed conditions of consent[3]. Those conditions largely centred around the implementation of the proposed EMP. I generally agree with the Applicant's propsoed conditions but have recommended various additions and changes to ensure the conditions are robust, *intra vires*, enforceable and reflect the proposed scope. Those conditions were provided to the Applicant for their review ahead of finalising this recommendation and the Applicant confirmed their agreement.

To assist the decision maker, I have provided commentary on the recommended conditions set and any deviations from the Applicant's proposed set below.

Structure of the consents

The general structure of the conditions follows Otago Regional Council's standard procedure of issuing separate consents with bespoke conditions for each of the activities. Rather than duplicating those conditions in the other two consents, I have included a condition in each of the consents that requires that they are exercised in conjunction with one another[4].

Each consent includes a glossary of terms to clarify any potentially ambiguous language. The glossary includes the Applicant's proposed definitions, with the exception of 'emergency works'. While I agree with the Applicant's definition, I have not recommended a condition referencing 'emergency works' and note that the Applicant does not object to this.

Scope of the consents

I have recommended conditions to clearly articulate the scope of activities authorised under the consents. Conditions 4–6 of RM21.073.01 expand on the Applicant's proposed conditions by specifying and defining the nature of authorised works and identifying activities that fall outside the scope of the consent. The onus will be on the Consent Holder to demonstrate that proposed works fall within scope as part of the required pre-works notification[5].

Conditions 7–11 of RM21.073.01 set out the maximum extent and frequency of works, consistent with what was proposed by the Applicant, but expanded for clarity. While these limits are also referenced in the EMP, I consider it necessary to embed them directly in the consent conditions. Cross-references have been included in the annual reporting condition and in the event that works exceed those thresholds.

Site specific management plan

[3] Condition set prepared by Incite dated 29 August 2024.
[4] Condition 3 of RM21.073.01, RM21.073.02 and RM21.073.03.
[5] Condition 18 of RM21.073.01

The Applicant had proposed conditions enabling a site-specific management plan (**SSMP**)[6] to apply where works would exceed the defined extent or frequency. I have rejected this approach as it poses a high risk of extending the scope of authorised activities and generating additional unassessed adverse effects—particularly with respect to cumulative impacts over the life of the consent. In such instances, a separate resource consent would be required. The Applicant accepted this position and does not object to its removal.

Engagement with partners and stakeholders

Given the collaborative development of the EMP and the significance of ongoing engagement, I have recommended a condition requiring the formation of a stakeholder 'steering group' facilitated by the Consent Holder, to meet annually. This has been accepted and supported by the Applicant.

Environmental Management Plan

A condition has been recommended requiring the EMP to be submitted for certification, provided it remains consistent with the current version. A further condition requires the certified EMP to be adhered to at all times. This ensures that agreed best-practice protocols are implemented consistently.

Unlike the Applicant's proposed condition (which lists the required contents of the EMP), my recommendation cross-references the current draft EMP directly. This provides greater certainty for all parties and ensures transparency around its contents.

I note that the condition differs from what the Applicant has suggested, with their condition stipulating all of the necessary matters that need to be provided. While this form of condition is typically 'standard' for a management plan, given there is a draft EMP that is generally agreed upon by all parties, I consider that it would be more effective to directly cross reference the existing version. This also provides greater certainty to all parties on the contents and management procedures.

I have recommended a condition that will require the EMP to be submitted for certification but required that it remains consistent with the current version. There is a further condition that the certified EMP must be adhered to at all times. This will ensure that all best management practices and protocols will be adhered to.

Reporting

I have recommended reporting requirements consistent with the EMP and the Applicant's Proposed Condition 6 of 'Conditions that apply to all consents'. Those reporting requirements include:

- An annual programme of works to be provided for the proceeding year (Condition 18 of RM21.073.01),
- Pre-works notification before each exercise of the consent (Condition 19 of RM21.073.01),
- Completion report following the completion of any works that have been authorised by the consent (Condition 21 of RM21.073.01), and
- An annual plan that is provided to the Consents Authority that details work undertaken over the previous 12-month period, any compliance matters, and any outcomes/minutes of the Steering Group meeting (Condition 22 of RM21.073.01).

[6] Condition 7 and 8 of 'Conditions that apply to all consents'.

In addition, I have included Condition 17 to allow for works to occur between consent granting and submission of the first annual programme, in response to the Applicant's request.

CONDITIONS THAT HAVE BEEN EXCLUDED

The Applicant's proposed Conditions 10 and 11 sought to include best-practice measures from the EMP directly in the consent. I consider this unnecessary and potentially unenforceable, as these practices are already required via adherence to the EMP (Condition 14, RM21.073.01).

GENERAL CONDITIONS THAT HAVE BEEN INCLUDED

I have also included several general conditions (primarily under RM21.073.01), including:

- Requiring fish recovery protocols to align with the EMP, and ensuring this requirement is visible and unmodifiable through EMP updates (Condition 25).
- Conditions in both the land use and discharge consents to address effects listed in Section 107 of the Act. These conditions were revised after Applicant feedback to acknowledge that some sediment-related effects may not always be avoidable.
- An archaeological discovery protocol condition has been included for visibility and to prevent alteration via EMP updates.
- A condition requiring that extracted gravel is not used for commercial gain and is reused in the same catchment where practicable. An associated advice note (Advice Note 7) clarifies the intent of this requirement.

6. Recommendation

That the Council grants to Otago Regional Council, Land Use Consent RM21.073.01, Discharge Permit RM21.073.02 and Water Permit RM21.073.03, subject to the terms and conditions set out in the attached consent.

6.1 Reasons for the Recommendation

(a) The effects of the activity are expected to be no more minor.
(b) The activity is consistent with the relevant statutory requirements.
(c) The activity is consistent with Part 2 of the Act.
(d) The discharge meets the requirements of Sections 105 and 107 of the Act.

6.2 Duration of Consent

Case law has distilled the following factors that will be relevant to the Council's determination of the duration of a resource consent:

- The duration of a resource consent should be decided in a manner which meets the RMA's purpose of sustainable management;
- Whether adverse effects would be likely to increase or vary during the term of the consent;
- Whether there is an expectation that new information regarding mitigation would become available during the term of the consent;
- Whether the impact of the duration could hinder implementation of an integrated management plan (including a new plan);
- That conditions may be imposed requiring adoption of the best practicable option, requiring supply of information relating to the exercise of the consent, and requiring observance of minimum standards of quality in the receiving environment;
- Whether review conditions are able to control adverse effects;
- Whether the relevant plan addresses the question of the duration of a consent;
- The life expectancy of the asset for which consents are sought;
- Whether there was significant capital investment in the activity/asset; and

- Whether a particular period of duration would better achieve administrative efficiency.

The Applicant has sought a duration of five years. This duration has been sought to account for 'interim' consenting while more comprehensive application package is prepared for longer term consenting. The Applicant has also signalled the following reasons for the 5-year duration:

- Acknowledges some of the uncertainties inherent in a global consent, and provides the ability for the applicant and stakeholders to work together and demonstrate how the proposed activities can occur in accordance with the Environmental Management Plan and notification of works processes;
- Will provide the applicant with some certainty about their capabilities going forward; and
- Will not undermine any future planning processes, with the consent able to be renewed or replaced in light of new planning documents within a relatively short timeframe.

I consider that this duration is appropriate. I note that the duration will continue to allow for flood protection works to be undertaken while ensuring environmental effects are appropriately managed. The duration will ensure that consideration of the longer term activity can be considered in light of the observed effectiveness of the EMP and against the most up-to-date planning documents (which is anticipated to include a new Land and Water Plan).

Charles Horrell
Consultant Planner
23 June 2025

Otago Regional Council

DECISION ON RESOURCE CONSENT APPLICATION

Section 113 of the Resource Management Act 1991

Date: 26 June 2025

Application No: RM24.073

Subject: ***Decision on non-notified resource consent application under delegated authority***

1. Notification

The application was approved to be processed non-notified and under delegated authority on 26 June 2025.

2. Decision and Reasons for Decision

I have considered the information provided, reasons and recommendation in the above report.

No principal issues were in contention and no evidence was heard as this was a non-notified consent that did not require a hearing. There are no main findings as it relates to any principal issues in contention.

I agree with the reasons and recommendations provided by Charles Horrell, Consultant Planner, in the above report and adopt them as the reasons for decision under Section 113(1) to (3). This decision, report and any accompanying letter are the written decision under Section 113(4).

3. Conditions (section 108)

Pursuant to sections 108 and 108AA of the RMA, this consent is issued subject to the appended conditions.

4. Decision under delegated authority

Under delegated authority, this resource consent application is granted by the Otago Regional Council by:

This decision is made under delegated authority by:

Allan Cubitt
Independent Decision Maker for Otago Regional Council