

OTAGO REGIONAL COUNCIL

RESOURCE MANAGEMENT ACT 1991

SECTION 87BB DEEMED PERMITTED ACTIVITY

Applicant:	Otago Regional Council Engineering
Address:	180 High Street, Dunedin
Reference Number:	RMDPA26.001
Site:	Riverbank Road Floodbank Realignment, Inch Clutha
Location:	True right bank of the Matau Branch of the Clutha River
Grid Reference (NZTM2000):	E1353967 N4868761
Legal Description:	PT FARM 2 3 DP 1361 PT LOTS 1-2 DP 3806 LOT 1 PT LOT 2 DP 10145 LOT 1 DP 8117 SEC 13

Introduction

The Applicant seeks a Deemed Permitted Activity under section 87BB of the Resource Management Act 1991 (RMA) for the realignment and reconstruction of approximately 350 metres of an existing floodbank located on the true right bank of the Mat Au Branch of the Clutha River.

The proposal involves removing approximately 350 metres of the existing floodbank and reconstructing it approximately 20 metres to the west of its current alignment (Figure 1). The works are required to address active riverbank erosion that has resulted in instability immediately adjacent to the existing floodbank. Continued erosion presents an increasing risk to the integrity of the flood protection scheme servicing the Inch Clutha area.

The reconstructed floodbank will maintain the existing crest level, cross-sectional dimensions, and flood protection function of the current structure. Existing floodbank material will be reused where practicable. The works will also include relocation of the adjacent gravel road, fencing, erosion and sediment controls, revegetation, and site restoration measures. No works are proposed within the bed of the Mat Au Branch.

A set of engineering plans showing the proposed alignment and associated works has been provided by the Applicant.

For completeness, this assessment considers only whether the proposed activity qualifies as a deemed permitted activity under section 87BB of the Resource Management Act 1991. No assessment has been undertaken regarding land ownership, legal access arrangements, easements, property acquisition, compensation matters or rights of occupation associated with the proposed works. Any such matters are separate to this process and remain the responsibility of the Applicant to address as required.

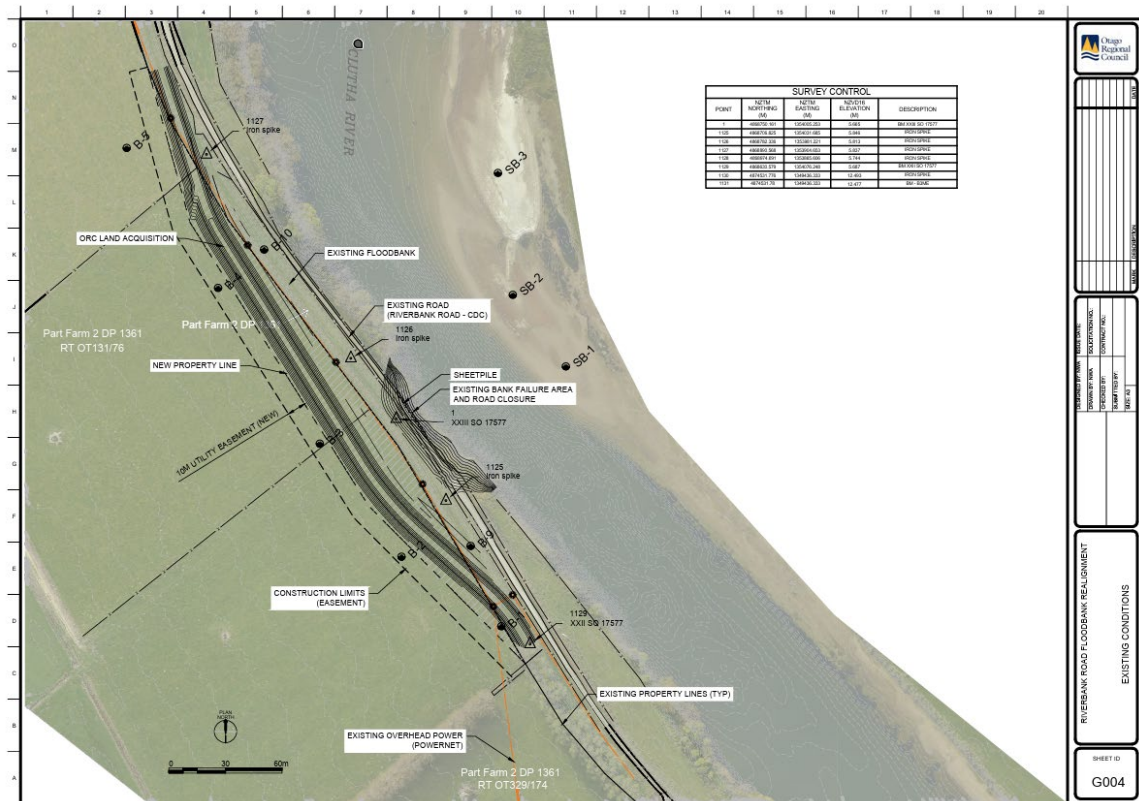


Figure 1: Map showing location of the existing floodbank and proposed alteration on the Clutha River/ Mata-Au (Source: Application)

Relevant Rule

This activity triggers the below relevant permitted activity rule 14.3.1.1, this rule states the following:

The alteration or reconstruction of any defence against water, other than on the bed of any lake or river, is a permitted activity providing:

(a) *There is no permanent change to the scale, nature or function of the defence against water.*

Why the activity is a 'marginal' or 'temporary' non-compliance

The proposed activity would otherwise comply with Rule 14.3.1.1. The reconstructed floodbank:

- Maintains the existing flood protection function;
- Retains substantially the same crest level and cross-sectional dimensions;
- Forms part of the same flood protection scheme;
- Does not increase flood risk or alter hydraulic performance; and
- Does not involve construction of a new flood defence system.

The key issue is whether reconstructing approximately 350 metres of floodbank by approximately 20 metres constitutes a change that falls outside the scope of "alteration" under Rule 14.3.1.1. The proposed realignment moves the floodbank approximately 20 metres landward of its current position but does not increase its scale, alter its flood protection function, or change the nature of the existing flood defence system. The relocation is necessary to address an active erosion hazard threatening the existing floodbank and is limited in nature and extent. The proposal does not change the purpose, capacity, or performance of the defence against water.

In assessing whether the non-compliance is marginal, particular weight has been given to the fact that the proposed works do not alter the scale, operational function, hydraulic performance or flood protection purpose of the existing defence against water. The potential non-compliance is limited to the relocation of a section of the existing floodbank to address an identified erosion hazard. The physical shift in alignment does not give rise to a corresponding change in environmental effects, flood protection outcomes or effects on persons.

Accordingly, any non-compliance is considered marginal for the purposes of section 87BB of the RMA.

Adverse effects

The potential non-compliance does not result in adverse effects that are different in character, intensity, or scale from those anticipated by Rule 14.3.1.1.

The proposal has been designed to maintain the existing flood protection function. Alternative options involving riverbank stabilisation works and riverbed disturbance were considered by the Applicant but not progressed due to greater environmental impacts.

No works are proposed within the bed of the Matau Branch, and the proposal will:

- Reuse existing floodbank material where practicable;
- Implement erosion and sediment controls during construction;
- Regrade and stabilise disturbed areas; and
- Undertake riparian planting and site restoration.

Importantly, the proposed realignment relocates the floodbank further away from the river and marginally increases the available flood conveyance area at the site. The proposal does not constrain flood flows or reduce the capacity of the flood channel. Rather, the revised alignment provides additional separation from the area of active riverbank erosion while maintaining the existing level of flood protection.

The Applicant has provided a hydraulic assessment which concludes that the revised alignment will not result in adverse changes to flood levels, flood flows or flood risk elsewhere. No information has been provided that would lead Council to reach a different conclusion.

The relocation of the floodbank away from the erosion hazard also reduces the likelihood of future floodbank instability and avoids the need for engineering works within the riverbed. As a result, the proposed activity represents a less environmentally intrusive solution than options involving direct intervention within the river environment.

The effects of the proposal are therefore no different in character, intensity, or scale as a consequence of the potential non-compliance.

Effects on a person

The adverse effects on any person are considered less than minor.

The proposal is intended to maintain the integrity of the existing flood protection system and reduce the risk of floodbank failure resulting from ongoing riverbank erosion.

Failure of the existing floodbank could adversely affect property, infrastructure, productive land, transport access, and the wider Inch Clutha community. The realignment reduces this risk while maintaining the existing level of flood protection.

The Applicant's hydraulic assessment concludes that there will be no increase in flood risk to neighbouring properties or downstream landowners and no information has been provided that indicates otherwise.

The proposal is therefore not expected to result in adverse effects on any person that are more than minor.

This assessment is limited to the effects arising from the activity for the purposes of section 87BB of the RMA. It does not consider land access arrangements, property rights, easements, compensation matters, or any other private legal arrangements that may be required to enable the works. These matters sit outside the scope of this assessment and any approvals or agreements required remain the responsibility of the Applicant.

Decision

It is certified that, with regard to the activity(s) and location specified above this activity is a deemed permitted activity under Section 87BB of the RMA.

This decision is made under delegated authority by:



Allan Cubitt
Independent Decision Maker for Otago Regional Council