

A scenic photograph of Lake Tuakitoto. In the foreground, several large, rounded clumps of reeds stand in the shallow water. The lake's surface is a deep blue with gentle ripples. In the background, a flat landscape with patches of green and brown vegetation stretches to the horizon under a bright blue sky filled with scattered white clouds.

S127 Change of Conditions to RM25.221 & New Resource Consent Application

Lake Tuakitoto

Assessment of Environmental Effects and Statutory Analysis

16 June 2026

Prepared for:

Otago Regional Council

B&A

Urban & Environmental

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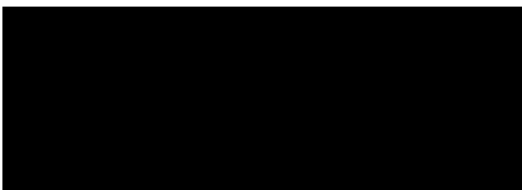
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Appendices

Appendix 1 Previous consent RM25.221

Appendix 2 Updated Drawing sets

1.0 Applicant and Property Details

To:	The Otago Regional Council
Site Address:	Lake Tuakitoto outlet, Kaitangata
Applicant Name:	The Otago Regional Council
Address for Service:	Barker & Associates Ltd PO Box 1749, Christchurch 8140 Attention: Rose Selby
Legal Description:	N/A – Water
Map Reference:	NZTM (2000) E 1355830, N 4874397
Regional Plan:	Otago Regional Plan Water: Water for Otago (ORP)
Otago Regional Plan Overlays & Controls:	Freshwater Management Units - Clutha Mata-Au Rohe – Lower Clutha Scheduled Drain 222
Locality Diagram:	Refer to Figure 1
Brief Description of Proposal:	This application seeks to provide for the relocating of the sill structure from the downstream (southern) side of the bridge to the upstream (northern) side along Drain 222. While the existing sill structure will be removed where practicable, some components fixed to the stream bed and/or attached to the bridge may remain in place.
Summary of Reasons for Consent:	Condition 2 of resource consent RM25.221.01 and Condition 1 of resource consent RM25.221.02. Resource consent pursuant to Rule 13.4.2.1 of the ORP as a restricted discretionary activity.

2.0 Introduction

This report has been prepared to address a resource consent application submitted by Otago Regional Council (hereafter referred to as the Applicant) for Changes to the Sills Structure at Lake Tuakitoto outlet, Kaitangata. This report is intended to address the relevant matters under the Resource Management Act 1991 ('RMA').

The site is located within an existing waterbody and associated drainage infrastructure and is owned by the crown; accordingly, no registered title applies.

2.1 Background

2.1.1 Approved Resource Consents

RM25.221 authorises the disturbance of the bed of Scheduled Drain 222 to undertake maintenance and upgrade works to the existing outlet sill structure/weir. The purpose of the outlet sill structure is to assist in maintaining a minimum water level within Lake Tuakitoto upstream of the structure.

The consent provides for the removal of the existing timber sill boards and their replacement with prefabricated concrete and steel stop logs. It also authorises the installation of a new lifting and winch mechanism, enabling the sill boards to be raised and lowered safely from the bridge rather than requiring manual operation within the drain. The works include the removal and replacement of existing structural struts driven into the bed of the drain. Additional works authorised under the consent include the installation of a fish passage ramp on the eastern side of the structure to improve fish migration, temporary diversion and cofferdam works within the drain during construction, and the installation of safety rails and, if required, scaffolding attached to the bridge. Limited grinding of the existing concrete sill edges may also be necessary to accommodate the replacement sill slabs, including the associated discharge of concrete grinding dust to water during those maintenance works. A copy of these is attached as **Appendix 1**.

3.0 Site Context

3.1 Site Description

The site is located in South Otago, approximately 4.2 km north of the rural settlement of Kaitangata. Lake Tuakitoto is located approximately 480 m north of the sill structure, while Scheduled Drain 222 (SD222) flows southward into the Clutha River/Mata Au approximately 5.4 km from the site. The surrounding land use is primarily rural in character. The general location of the proposed structure is shown in Figure 1 below.

The sill structure is an Otago Regional Council asset located on the SD222 bridge crossing and forms part of the wider flood management and drainage network between Lake Tuakitoto and the Clutha River/Mata Au. The structure maintains water levels within Lake Tuakitoto during periods of low summer flow while enabling drainage during higher flow events. The site is also associated with existing flood management infrastructure, including the SD222 floodbank and

[illegible]

Figure 1: Site location. Source: Google maps.

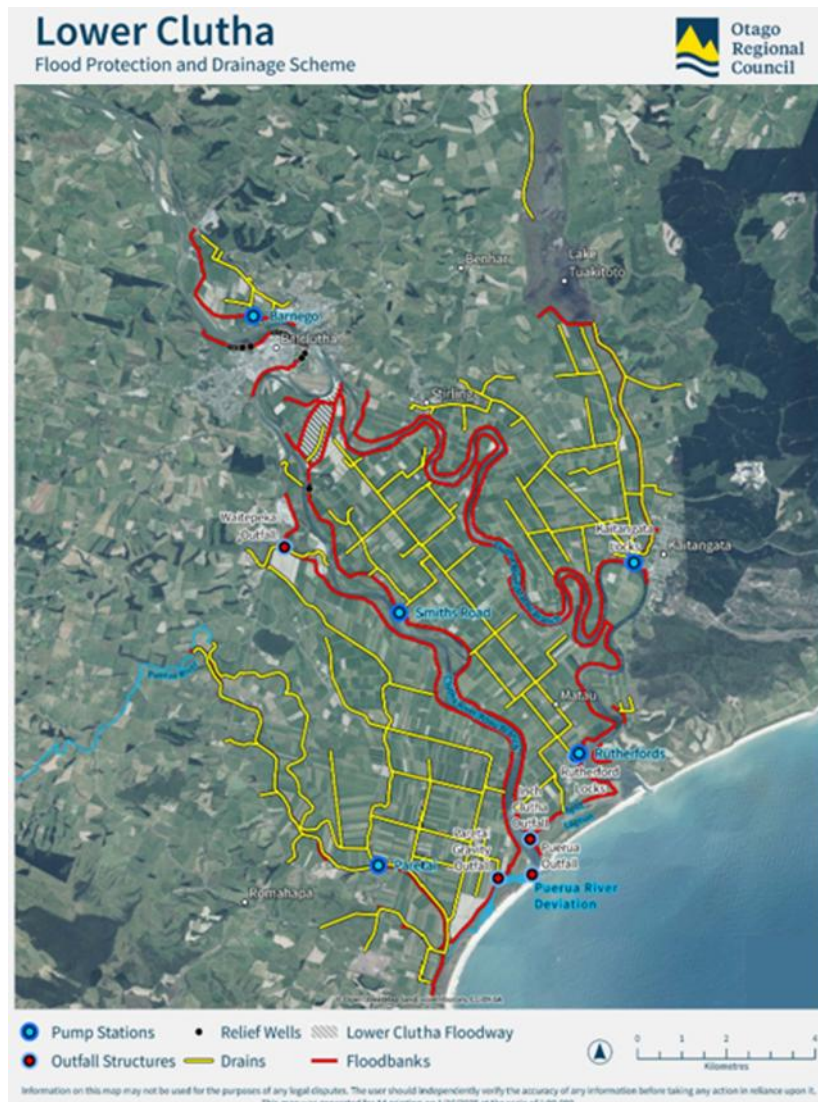


Figure 2: Lower Clutha Flood Control and Drainage Scheme. Source: ORC

Lake Tuakitoto and SD222 form part of the wider drainage and flood management network connecting the lake to the Clutha River/Mata Au. SD222 is a modified natural watercourse with a sand and silt bed, and flow conditions are influenced by tidal fluctuations, resulting in both upstream and downstream flows. While water levels within SD222 are not currently monitored, hydrological and flow modelling for the site was undertaken as part of resource consent RM25.221 using NZ River Maps data. Given the current application relates only to amendments to the approved methodology and is not anticipated to alter flow conditions, that modelling has not been repeated.

There are no consented water takes from SD222 and there are no other consented activities in the general vicinity of the works.

Freshwater Values

The Regional Plan: Water for Otago (ORP) outlines the natural and human use values of various watercourses throughout the Otago Region. SD222 is not identified in this schedule. Lake Tuakitoto is identified for the following natural and ecosystem values shown in Table 1.

Table 1: Schedule 1A Natural Values (Source: RPW Schedule 1A)

Taieri/Clutha Plains subregion		
Water body	Ecosystem Values	Significant vegetation and habitat of indigenous and significant indigenous fauna
Lake Tuakitoto	Ppass, Psilt, Psand, Pplant, Psize, Weedfree, Hspawn, Hjuve(t), Hriparian, Trout, Eel, Birddiv, Birdrare, Rarefish, Fishdiv	Significant habitat for giant kokopu. Also a breeding population of fernbird.
Lake Kaitangata (and Lake Kaitangata/Lake Tuakitoto Drainage)	Weedfree, Eel, Rarefish, Fishdiv	Significant habitat for giant kokopu.

The Schedule 1A Values include:

- Large water body supporting high numbers of particular species, or habitat variety, which can provide for diverse life cycle requirements of a particular species, or a range of species.
- Access within the main stem of the catchment through to the sea or lake unimpeded by artificial means such as weirs and culverts.
- Plant/sand/silt/ bed composition of importance to resident biota.
- Absence of aquatic pest plants identified in the Pest Plant Management Strategy for the Otago Region.
- Presence of significant fish spawning areas for trout and salmon.
- Presence of significant areas for development of juvenile trout.
- Presence of a significant range of indigenous fish species.
- Presence of riparian vegetation of significance to aquatic habitats.
- Presence of indigenous fish species threatened with extinction.
- Significant presence of trout and eel.
- Presence of indigenous waterfowl threatened with extinction.

Table 2: Migration and spawning timing for fish species in the vicinity of Lake Tuakitoto

Species	Threat status	Direction	Life stage	Summer			Autumn			Winter			Spring		
				D	J	F	M	A	M	J	J	A	S	O	N
Common bully	Not Threatened	▼	Larvae												
		▲	Juvenile												
		-	Adult												
Giant bully	At Risk - Naturally Uncommon	▼	Larvae												
		▲	Juvenile												
		-	Adult												
Longfin eel	At Risk - Declining	▲	Glass eel												
		▲	Juvenile												
		▼	Adult												
Shortfin eel	Not Threatened	▲	Glass eel												
		▲	Juvenile												
		▼	Adult												
Common smelt	Not Threatened	▼	Larvae												
		▲	Juvenile												
		-	Adult												
Inanga	At Risk - Declining	▼	Larvae												
		▲	Juvenile												
		▼	Adult												
Lamprey	Threatened - Nationally Vulnerable	-	Larvae												
		▼	Juvenile												
		▲	Adult												
Giant kōkopu	At Risk - Declining	▼	Larvae												
		▲	Juvenile												
		-	Adult												
Brown trout	Introduced and naturalised	-	Larvae												
		▼	Juvenile												
		▲	Adult												
Perch	Introduced and naturalised	-	Adult												

Lake Tuakitoto and the associated drainage network provide important habitat for indigenous freshwater fish, including giant kōkopu, longfin eel, lamprey and inanga, all of which are identified in Schedule 1AA of the Regional Plan: Water as declining species. The area is also recognised as supporting spawning and juvenile fish habitat.

Lake Tuakitoto is identified in Schedule 1D of the Regional Plan: Water as having significant cultural values to Kāi Tahu. There are no public water supply values or registered historic places identified in Schedules 1B or 1C in close proximity to the site.

Table 3: Schedule 1D: Kai Tahu Values (Source; ORP Schedule 1D)

Taieri/Clutha Plains subregion									
Water body	MA1	MA2	MA3	MA4	MB1	MB2	MB3	MB4	MB5
Lake Tuakitoto	✓	✓		✓	✓	✓	✓	✓	

Table 4: Code for Kai Tahu beliefs, values and uses ascribed to water bodies (Source; ORP Schedule 1D)

Code	Mana Interests:
MA1	Kaitiakitanga – the exercise of guardianship by Kai Tahu in accordance with tikanga Maori* in relation to Otago’s natural and physical resources; and includes the ethic of stewardship.
MA2	Mauri – life force; for example the mauri of a river is most recognisable when there is abundance of water flow and the associated ecosystems are healthy and plentiful; a most important element in the relationship that Kai Tahu have with the water bodies of Otago.

MA4	Waahi taoka – treasured resource; values, sites and resources that are valued and reinforce the special relationship Kai Tahu have with Otago’s water resources.
Code	Access/Customary Use Interests:
MB1	Mahika kai – places where food is procured or produced. Examples in the case of waterborne mahika kai include eels, whitebait, kanakana (lamprey), kokopu (galaxiid species), koura (fresh water crayfish), fresh water mussels, indigenous waterfowl, watercress and raupo.
MB2	Kohanga – important nursery/spawning areas for native fisheries and/or breeding grounds for birds.
MB3	Trails – sites and water bodies which formed part of traditional routes, including tauraka waka (landing place for canoes).
MB4	Cultural materials – water bodies that are sources of traditional weaving materials (such as raupo and paru) and rongoa (medicines).

Regionally Significant Wetlands

Lake Tuakitoto is identified as a Regionally Significant Wetland in Schedule 9 of the ORP.

4.0 Proposal

The proposal seeks to change conditions to existing resource consent RM25.221 relating to the approved sill structure works associated with the bridge crossing at SD222 and Lake Tuakitoto.

As set out in section 2.1 above RM25.221 authorises maintenance and upgrade works to the existing outlet sill structure/weir within Scheduled Drain 222, which assists in maintaining a minimum water level in Lake Tuakitoto. The consent originally provided for the existing sill structure to be retrofitted and upgraded, including replacing the timber sill boards with prefabricated concrete and steel stop logs, installing a new lifting and winch mechanism, replacing structural struts, constructing a fish passage ramp, and undertaking associated temporary diversion, cofferdam, and safety works.

Since the grant of RM25.221, the construction methodology has been refined and simplified. The originally consented approach involved retrofitting the existing sill structure, which would have required significant in stream works and diversion of flows.

The change of conditions application therefore seeks to amend the approved design and construction methodology, rather than retrofitting the sill structure on the downstream (southern) side of the bridge (which was authorised by RM25.221), this proposal involves removing the existing sill structure and installing a new sill structure on the upstream (northern) side of the bridge. While the existing structure will be removed where practicable, some components fixed to the bed of the drain and/or attached to the bridge may remain in place where their removal would result in unnecessary disturbance to the bed and surrounding environment. Drawings of the proposed sill structure to be installed on the northern side of the bridge are attached as **Appendix 2**.

To implement the revised design, the following works are proposed:

Removal works:

- Removal of the existing wooden sill boards.
- Removal of the existing struts fixed to the bridge structure.
- Removal of those components of the existing sill structure that can be removed without disturbing the stream bed. Components fixed to the bed and/or bridge structure may remain in place where removal would result in unnecessary environmental disturbance.

Installation works:

- Installation of a safety rail along the bridge platform during construction, with a permanent safety rail remaining in place following completion of the works.
- Installation of a new fish passage ramp on the eastern side of the structure, comprising a lightweight structure pinned to the bed of the watercourse.
- Installation of the new sill structure on the upstream side of the bridge.
- Installation of a temporary working platform or scaffolding system attached to the bridge structure to facilitate access, positioning and installation of the new sill components without requiring personnel to enter the watercourse or access the bed or banks of SD222.

The proposed changes are considered to be within the scope of the original resource consents, as the activity remains fundamentally the same in nature, purpose, and scale as that previously approved. Furthermore, the revised methodology is not anticipated to result in materially different adverse effects and, in several respects, is expected to reduce the extent and duration of environmental effects relative to the consented approach.

4.1 Proposed Changes to Consent Conditions

The proposed amendments to the conditions to provide for the changes set out above are set out below (deletions shown as ~~striketrough~~ and additions as **bold underlined**):

RM25.221.01

- 1) The maintenance works must be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Consent Authority as consent number RM25.221:

- a) Application form, and assessment of environmental effects prepared by SLR Consulting, 30 April 2025 **and Barkers & Associates date [add date]**.
- b) Ecological assessment, SLR Consultants, dated 31 January 2025
- c) Plans:

709941.003-SN01, Structural, General notes 1, Calibre,

15.06.2025709941.003-SN02, Structural, General notes 2, Calibre,

~~15.06.2025709941.003-S001, Stop logs elevation and details, Calibre,~~

~~15.06.2025709941.003-S002, Stop logs hinged lock details, Calibre,~~

Lake Tuakitoto Drain 222 Sills Upgrade, Sheet 1/1 WAE Engineering, dated 10/03/2026

15.06.2025709941.003-S003, Concrete stop log and handrail details, Calibre, 15.06.2025

If there are any inconsistencies between the above information and the conditions of this consent, the conditions of this consent will prevail.

RM25.221.02

- 1) The maintenance works must be carried out in accordance with the plans and all information submitted with the application, detailed below, and all referenced by the Consent Authority as consent number RM25.221:

- a) Application form, and assessment of environmental effects prepared by SLR Consulting, 30 April 2025 and Barkers & Associates date [add date].

- b) Ecological assessment, SLR Consultants, dated 31 January 2025

- c) Plans:

709941.003-SN01, Structural, General notes 1, Calibre,

15.06.2025709941.003-SN02, Structural, General notes 2, Calibre,

~~15.06.2025709941.003-S001, Stop logs elevation and details, Calibre,~~

~~15.06.2025709941.003-S002, Stop logs hinged lock details, Calibre,~~

Lake Tuakitoto Drain 222 Sills Upgrade, Sheet 1/1 WAE Engineering, dated 10/03/2026

15.06.2025709941.003-S003, Concrete stop log and handrail details, Calibre, 15.06.2025

If there are any inconsistencies between the above information and the conditions of this consent, the conditions of this consent will prevail.

Updated plans are attached as **Appendix 2**.

5.0 Reasons for Consent

The proposal seeks amendments to Condition 2 of resource consent RM25.221.01 and Condition 1 of resource consent RM25.221.02.

In addition, resource consent is sought under Rule 13.4.2.1 for the demolition or removal of a structure, as the proposed activity does not meet the standards associated with the permitted activity rule. In particular, some residual components of the existing sill structure may remain fixed to the stream bed and/or attached to the existing bridge structure where their removal would result in unnecessary disturbance to the bed and surrounding environment. An assessment of the proposal against the permitted activity standards for the demolition or removal of a structure under Rule 13.4.1.1 is provided below.

Table 5: Rule assessment

Rule	Assessment
13.4.1.1 The demolition or removal of any structure or any part of a structure that is fixed in, on, under, or over the bed of any lake or river, or any Regionally Significant Wetland, is a permitted activity providing	

a) Where any part of the structure remains in situ, nothing remains above the level of the bed; and	Can not comply; parts of the structure may remain in place above the bed of the Drain
b) The structure is not identified as a registered historic place, a building or place identified in any district plan as being of historic value, an archaeological site or a place with interim historic place registration; and	Complies.
c) The structure is not a sacred place identified by Kāi Tahu and located in any area identified as MA3 in Schedule 1D; and	Complies.
d) There is no use of explosives; and	Will comply.
e) The Otago Regional Council is notified of the demolition or removal, at least seven working days prior to commencing the activity; and	Will comply.
f) The demolition or removal of the structure does not cause any erosion; and	Complies.
g) The site is left tidy following the demolition or removal; and	Will comply.
h) In the case of any dam structure, the dam is no more than 3 metres high, and the volume of water stored by the dam is no more than 20,000 cubic metres; and	Not relevant.
i) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and	Complies.
j) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.	Will comply.

As some components of the existing sill structure may remain fixed to the stream bed and/or attached to the bridge structure, resource consent is required pursuant to Rule 13.4.2.1 of the Regional Plan: Water as a **restricted discretionary activity**. In addition, as the proposal seeks changes to conditions of existing resource consents RM25.221.01 and RM25.221.02 consent under s127 of the RMA 1991, as a **discretionary activity** is required.

5.1 Summary

Overall, resource consent is required as a **discretionary activity**.

6.0 Public Notification Assessment (Sections 95A, 95C and 95D)

6.1 Assessment of Steps 1 to 4 (Sections 95A)

Section 95A specifies the steps the Council is to follow to determine whether an application is to be publicly notified. These are addressed in statutory order below.

6.1.1 Step 1: Mandatory public notification is required in certain circumstances

Step 1 requires public notification where this is requested by the applicant; or the application is made jointly with an application to exchange of recreation reserved land under section 15AA of the Reserves Act 1977.

The above does not apply to the proposal.

6.1.2 Step 2: If not required by step 1, public notification precluded in certain circumstances.

Step 2 describes that public notification is precluded where all applicable rules and national environmental standards preclude public notification; or where the application is for a controlled activity; or a restricted discretionary, discretionary or non-complying boundary activity.

In this case, the applicable rules do not preclude public notification, and the proposal is not a controlled activity or boundary activity. Therefore, public notification is not precluded.

6.1.3 Step 3: If not required by step 2, public notification required in certain circumstances.

Step 3 describes that where public notification is not precluded by step 2, it is required if the applicable rules or national environmental standards require public notification, or if the activity is likely to have adverse effects on the environment that are more than minor.

As noted under step 2 above, public notification . Notification is not precluded, and an assessment in accordance with section 95A is therefore required, which is set out in the sections below. As described below, it is considered that any adverse effects associated with the proposed changes to Conditions RM25.221.01 and RM25.221.02, and the non-compliance with Rule 13.4.2.1 of the Regional Plan: Water, will be less than minor.

6.1.4 Step 4: Public notification in special circumstances

If an application is not required to be publicly notified as a result of any of the previous steps, then the Council is required to determine whether special circumstances exist that warrant it being publicly notified.

Special circumstances are those that are:

- Exceptional or unusual, but something less than extraordinary; or
- Outside of the common run of applications of this nature; or

- Circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

The modifications proposed are considered to be within the scope of the original application. The proposed amendments to the conditions will not materially alter the approved development.

It is considered that there is nothing noteworthy about the proposal. It is therefore considered that the application cannot be described as being out of the ordinary or giving rise to special circumstances.

6.2 Section 95D Statutory Matters

In determining whether to publicly notify an application, section 95D specifies a council must decide whether an activity will have, or is likely to have, adverse effects on the environment that are more than minor.

In determining whether adverse effects are more than minor:

- Adverse effects on persons who own or occupy the land within which the activity will occur, or any land adjacent to that land, must be disregarded.

There is no land to be excluded from the assessment.

- Adverse effects permitted by a rule in a plan or national environmental standard (the 'permitted baseline') may be disregarded.

It is considered that there is no permitted baseline that can be usefully applied in this case. However, the approved weir structures referred to in Section 2.1.1 above are part of the existing environment against which any adverse effects from this proposal must be assessed.

- Trade competition must be disregarded.

This is not considered to be a relevant matter in this case.

- The adverse effects on those persons who have provided their written approval must be disregarded.

No persons have provided their written approval for this proposal.

The sections below set out an assessment in accordance with section 95D, including identification of adjacent properties, and an assessment of adverse effects.

6.3 Land Excluded from the Assessment

No land is excluded from this assessment.

6.4 Assessment of Effects on the Wider Environment

In regard to the assessment of effects on the wider environment, the following assessment is made.

The proposed change of conditions and new resource consent sought relate to the approved sill structure associated with the bridge crossing at SD222 and Lake Tuakitoto. The change of conditions seeks to amend the previously approved methodology for upgrading the existing sill structure. Rather than retrofitting the sill structure on the downstream (southern) side of the bridge, the proposal involves removing the existing sill structure and installing a new sill structure on the upstream (northern) side of the bridge.

The existing sill structure will still be removed to the extent practicable. However, some components of the structure that are fixed to the stream bed and/or attached to the existing bridge structure may remain in place where their removal would require substantial disturbance to the bed and surrounding environment. As a result, resource consent pursuant to Rule 13.4.2.1 is also sought for the continued presence of these residual structural elements.

The revised methodology has been developed in response to constructability and environmental considerations and results in a significant reduction in the extent and duration of in stream works required to undertake the activity. In particular, the updated approach removes the need for dewatering and eliminates the requirement to grind or modify the existing sill structure. As a result, water diversion is no longer required.

While a limited extent of in stream works will still occur, the amended methodology substantially reduces the duration of disturbance within the waterbody and correspondingly reduces potential adverse effects on the hydraulic capacity and flow characteristics of SD222 and Lake Tuakitoto, water quality, aquatic habitat, and associated ecological and freshwater values. The proposed works will continue to be undertaken during the low flow or dry season between October and April, consistent with the findings of the catchment analysis. Works will also avoid rainfall events where practicable to minimise sediment mobilisation and downstream effects.

Although some disturbance of the stream bed may still occur during installation activities, sediment discharges will be appropriately managed and minimised through the implementation of sediment control measures upstream and downstream of the sill structure. Given the reduced scale and duration of in stream works, together with the removal of dewatering and diversion requirements, the proposed change of conditions is anticipated to result in reduced environmental effects relative to the consented design and methodology.

Having regard to the matters over which discretion is restricted under Rule 13.4.2.1, the proposal is anticipated to result in less minor adverse effects on the natural and human use values, natural character, amenity values, or heritage values of the waterbody. The proposal will not adversely affect any Regionally Significant Wetland or associated wetland values and will maintain the function of the sill structure in supporting water levels within the Lake Tuakitoto system. The revised methodology reduces potential effects on flow and sediment processes and will not adversely affect any defence against water.

No restrictions on public access is proposed for the duration of works. The proposed approach to removal of the existing sill structure represents the most practicable method of demolition, avoiding unnecessary disturbance to the stream bed and surrounding environment. The proposal will not adversely affect any existing lawful activity associated with the waterbody, and no specific bond or financial contribution is considered necessary. Appropriate consent conditions can address monitoring requirements and provide for review should unforeseen adverse effects arise.

Overall, the proposed change of conditions and new proposal to remove the existing sill is anticipated to result in reduced environmental effects compared to the consented activity and is considered to be consistent with the matters of discretion under Rule 13.4.2.1.

6.5 Summary of Effects

Overall, it is considered that any adverse effects on the environment relating to this new proposal involving changes of conditions of the original consent and a new consent to enable the removal of the existing structure will be less than minor.

6.6 Public Notification Conclusion

Having undertaken the section 95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory;
- Under step 2, public notification is not precluded;
- Under step 3, public notification is not required as it is considered that the activity will result in less than minor adverse effects; and
- Under step 4, there are no special circumstances.

Therefore, based on the conclusions reached under steps 3 and 4, it is recommended that this application be processed without public notification.

7.0 Limited Notification Assessment (Sections 95B, 95E to 95G)

7.1 Assessment of Steps 1 to 4 (Sections 95B)

If the application is not publicly notified under section 95A, the council must follow the steps set out in section 95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

7.1.1 Step 1: Certain affected protected customary rights groups must be notified

Step 1 requires limited notification where there are any affected protected customary rights groups or customary marine title groups; or affected persons under a statutory acknowledgement affecting the land.

The above does not apply to this proposal.

7.1.2 Step 2: If not required by step 1, limited notification precluded in certain circumstances

Step 2 describes that limited notification is precluded where all applicable rules and national environmental standards preclude limited notification; or the application is for a controlled activity (other than the subdivision of land).

In this case, the applicable rules do not preclude limited notification and the proposal is not a controlled activity. Therefore, limited notification is not precluded.

7.1.3 Step 3: If not precluded by step 2, certain other affected persons must be notified

Step 3 requires that, where limited notification is not precluded under step 2 above, a determination must be made as to whether any of the following persons are affected persons:

- In the case of a boundary activity, an owner of an allotment with an infringed boundary;
- In the case of any other activity, a person affected in accordance with s95E.

The application is not for a boundary activity, and therefore an assessment in accordance with section 95E is required and is set out below.

Overall, it is considered that any adverse effects on persons will be less than minor, and accordingly, that no persons are adversely affected.

7.1.4 Step 4: Further notification in special circumstances

In addition to the findings of the previous steps, the Council is also required to determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined as eligible for limited notification.

In this instance, having regard to the assessment in section 6.1.4 above, it is considered that special circumstances do not apply.

7.2 Section 95E Statutory Matters

If the application is not publicly notified, a council must decide if there are any affected persons and give limited notification to those persons. A person is affected if the effects of the activity on that person are minor or more than minor (but not less than minor).

In deciding who is an affected person under section 95E:

- Adverse effects permitted by a rule in a plan or national environmental standard (the 'permitted baseline') may be disregarded;
- Only those effects that relate to a matter of control or discretion can be considered (in the case of controlled or restricted discretionary activities); and
- The adverse effects on those persons who have provided their written approval must be disregarded.

These matters were addressed in section 6.2 above.

Having regard to the above provisions, an assessment is provided below.

7.3 Assessment of Effects on Persons

No persons are considered to be adversely affected by the proposal. The proposed amendments are limited to the approved location and construction methodology. While the revised approach may result in some minor differences in effects, including the retention of portions of the existing sills, these effects are expected to be negligible and do not alter the overall conclusions reached under resource consents RM25.221.01 and RM25.221.02. In reaching this conclusion, the following comments are noted:

- Fish & Game: The effects on sports fish and game values will remain less than minor. Fish & Game provided affected party approval for resource consents RM25.221.01 and RM25.221.02, and while the revised methodology may result in minor differences in the works undertaken, these are not considered significant enough to alter the previous assessment or require further affected party approval.
- Aukaha (on behalf of Mana Whenua): The effects of the proposed maintenance works will be limited in extent and duration and are unlikely to adversely affect the values of Lake Tuakitoto identified in Schedule 1D of the Regional Plan: Water. Aukaha provided affected party approval on behalf of Te Rūnanga o Ōtākou for resource consents RM25.221.01 and RM25.221.02, and while the revised methodology may result in minor differences in the works undertaken, these are not considered significant enough to alter the previous assessment or require further affected party approval.
- Department of Conservation (DOC): The effects of the proposal on areas of the DOC statutory interest are considered to be less than minor. DOC provided affected party approval for resource consents RM25.221.01 and RM25.221.02, while the revised methodology may result in minor differences in the works undertaken, these are not considered significant enough to alter the previous assessment or require further affected party approval.

7.4 Limited Notification Conclusion

Having undertaken the section 95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory;
- Under step 2, limited notification is not precluded;
- Under step 3, limited notification is not required as it is considered that the activity will not result in any adversely affected persons; and
- Under step 4, there are no special circumstances.

Therefore, it is recommended that this application be processed without limited notification.

8.0 Consideration of Applications (Section 104)

8.1 Statutory Matters

Subject to Part 2 of the Act, when considering an application for resource consent and any submissions received, a council must, in accordance with section 104(1) of the Act have regard to:

- Any actual and potential effects on the environment of allowing the activity;
- Any relevant provisions of a national environmental standard, other regulations, national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement; a plan or proposed plan; and
- Any other matter a council considers relevant and reasonably necessary to determine the application.

As a discretionary activity, section 104B of the Act states that a council:

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

9.0 Effects on the Environment (Section 104(1)(A))

Having regard to the actual and potential effects on the environment of the activity resulting from the proposal, it was concluded in the assessment above that any wider adverse effects relating to the proposal will be less than minor and that no persons would be adversely affected by the proposal.

Further, it is considered that the proposal will also result in positive effects including:

- The maintenance will enable continued operation of the sill structure to protect the ecological values of Lake Tuakitoto and the associated wetland that are dependent upon water levels being maintained; and
- The proposed maintenance will reduce the health and safety risks associated with operating the existing sill structure.
- Changes to the proposed methodology will limit disturbance to the stream bed during construction activities, reducing potential adverse effects on the stream environment while enabling the required maintenance works to be undertaken.

Overall, it is considered that the proposal will have positive effects, and any actual and potential adverse effects on the environment of allowing the activity are appropriate.

10.0 District Plan and Statutory Documents (Section 104(1)(B))

10.1 National Environmental Standard for Sources of Human Drinking Water

There are no registered drinking water supplies that may be affected by the proposal. Accordingly, the proposal is not subject to the requirements of the National Environmental Standard for Sources of Human Drinking Water.

10.1.1 National Policy Statement for Freshwater Management 2020

The proposal has been assessed against the relevant provisions of the National Policy Statement for Freshwater Management 2020. The existing sill structure assists in the management of water levels within the Lake Tuakitoto system and contributes to the protection of surrounding wetland and freshwater values. The proposed maintenance works will ensure the continued operation of

the structure while also improving fish passage and limiting disturbance to the stream bed through the revised construction methodology. Affected party approvals were obtained from the relevant rūnaka as part of resource consent RM25.221. The proposed change of conditions relates solely to amendments to the approved design and construction methodology. The revised approach does not alter the purpose or function of the sill structure and is not anticipated to result in any change to the nature, scale, or extent of adverse effects previously assessed under RM25.221. Similarly, the additional resource consent sought for activities associated with the revised design does not give rise to any new or materially different adverse effects beyond those already considered as part of RM25.221. Accordingly, the effects of both the proposed change of conditions and the associated resource consent application are considered to be no greater than those previously assessed and approved under RM25.221, the proposal is considered to be consistent with the relevant policies of the NPS-FM 2020.

10.1.2 National Environmental Standards for Freshwater 2020

The proposal has been assessed against the relevant provisions of the National Policy Statement for Freshwater Management 2020. As set out in this assessment, the existing sill structure plays an important role in managing water levels within the Lake Tuakitoto system and protecting surrounding wetland and freshwater values. The proposed maintenance works will ensure the continued operation of the structure, while the inclusion of a fish passage ramp will improve fish passage and provide ecological benefits.

The current application relates to amendments to the approved design and construction methodology and does not alter the purpose or function of the sill structure. While the revised approach changes the methodology associated with the required upgrade of the structure, any change in effects is expected to be negligible and does not alter the overall conclusions reached under RM25.221. Accordingly, the proposal is considered to be consistent with the intent of the NPS-FM 2020.

10.1.3 Operative Otago Regional Policy Statement 2019 and Proposed Otago Regional Policy Statement 2021

Resource consent RM25.221 has been assessed against the relevant objectives and policies of the Operative Otago Regional Policy Statement 2019 and Proposed Otago Regional Policy Statement 2021. The existing sill structure plays an important role in managing water levels within the Lake Tuakitoto system, supporting ecological, cultural, recreational and natural hazard management outcomes across the wider catchment. The proposal will enable the continued operation of this infrastructure while maintaining the ecological and cultural values associated with the lake, wetlands and connected waterways. Affected party approval was obtained from the relevant rūnaka as part of RM25.221, and the proposed amendments are not anticipated to result in any change to the nature or extent of effects previously assessed.

The revised methodology will further reduce disturbance to the stream bed, resulting in positive ecological outcomes. Accordingly, having regard to the nature and scale of the proposed amendments, the proposal continues to be consistent with the relevant objectives and policies of the ORPS 2019 and P-ORPS 2021.

10.1.4 Otago Regional Plan Water for Otago

Resource consent RM25.221 has been assessed against the relevant objectives and policies of the Regional Plan: Water (ORP). The continuance of the sill structure is necessary to ensure it can continue to manage water levels within Lake Tuakitoto and the associated wetland areas. The assessment of effects undertaken as part of RM25.221 concluded that adverse effects on freshwater values, water quality, natural character, ecology and habitat would be less than minor. Affected party approval was obtained from mana whenua as part of RM25.221, and the proposed amendments, and additional consent requirements are not anticipated to result in any change to the nature or extent of effects previously assessed.

The revised construction methodology will further reduce disturbance to the stream bed, while the proposed fish passage ramp will improve fish passage through the structure. Accordingly, having regard to the nature and scale of the proposed amendments, the proposal continues to be consistent with the relevant objectives and policies of the Regional Plan: Water.

11.0 Part 2 Matters

While it is not necessary to take recourse to Part 2 given that it has already been incorporated into the ORP, we do so for completeness.

Section 5 of Part 2 identifies the purpose of the RMA as being the sustainable management of natural and physical resources. This means managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being and health and safety while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Section 6 of the Act sets out a number of matters of national importance including (but not limited to) the protection of outstanding natural features and landscapes and historic heritage from inappropriate subdivision, use and development. Section 6(h) of the Act identifies the management of significant risks from natural hazards as a matter of national importance. The proposal relates to the maintenance and upgrade of an existing sill structure that assists in regulating water levels within Lake Tuakitoto. By ensuring the continued operation and effectiveness of this structure, the proposal supports the ongoing management of water level related hazards and does not introduce or increase any natural hazard risks. Accordingly, the proposal is considered consistent with the intent of Section 6(h) of the Act.

Section 7 identifies a number of “other matters” to be given particular regard by Council and includes (but is not limited to) Kaitiakitanga, the efficient use of natural and physical resources, the maintenance and enhancement of amenity values, and maintenance and enhancement of the quality of the environment.

Section 8 requires Council to take into account the principles of the Treaty of Waitangi.

Overall, as the effects of the proposal are considered to be appropriate, and the proposal accords with the relevant ORP objectives and policies, it is considered that the proposal will not offend against the general resource management principles set out in Part 2 of the Act.

12.0 Other Matters (Section 104(1)(C))

12.1 Non-Statutory Documents

12.1.1 The Kai Tahu ki Otago Natural Resource Management Plan 2005

Resource consent RM25.221 has been assessed against the relevant provisions of the Kai Tahu ki Otago Natural Resource Management Plan 2005 (NRMP). The maintenance works are proposed to occur during periods of low water levels and outside fish spawning seasons where practicable. The assessment undertaken as part of RM25.221 concluded that adverse effects on water quality, aquatic habitat, cultural values and the wider stream environment would be less than minor. Affected party approval was obtained from Aukaha on behalf of the relevant rūnaka as part of RM25.221, and the proposed amendments are not anticipated to result in any change to the nature or extent of effects previously assessed. Accordingly, having regard to the nature and scale of both the proposed change of conditions and the associated resource consent application, the proposal continues to be consistent with the relevant objectives and policies of the NRMP.

The revised construction methodology will further reduce disturbance to the stream bed and avoid the need for machinery to operate within flowing water, while the proposed fish passage ramp will improve fish passage through the structure. Accordingly, having regard to the nature and scale of the proposed amendments, the proposal continues to be consistent with the relevant objectives and policies of the NRMP.

13.0 Conclusion

The proposal involves This application seeks to provide for the relocating the sill structure from the downstream (southern) side of the bridge to the upstream (northern) side along Drain 222. While the existing sill structure will be removed where practicable, some components fixed to the stream bed and/or attached to the bridge may remain in place at Drain 222, along the Lake Tuakitoto outlet, Kaitangata.

Based on the above report it is considered that:

- Public notification is not required as adverse effects are considered to be less than minor. There are also positive effects including reduce bed disturbance of Drain 222;
- Limited notification is not required;
- The proposal is considered to be consistent with Part 2 of the Act.

It is therefore concluded that the proposal satisfies all matters the consent authority is required to assess, and that it can be granted on a non-notified basis.