Otago Regional Council

ORC SECTION 42A REPORT

ID Ref:	1836423312-42048
Application No:	RM21.668
Prepared For:	Decisions Panel
Prepared By:	Shay McDonald – Senior Consents Planner
Date:	13 May 2025
Subject:	**Section 42A Recommending Report – Application RM21.668 by Clutha District Council for various consents relating to the continued operation, expansion, and progressive rehabilitation of the Mt Cooee Landfill at Balclutha.**

1. Overview

Applicant: Clutha District Council

Applicant's Agent: Aileen Craw of WSP

Site address or location: Mt Cooee Landfill, Kaitangata Highway, approximately 700 metres southeast of the intersection of Kaitangata Highway and Ipswich Street, Balclutha

Legal description(s) of the site:

Lot 1 DP 12203 held in record of title OT4C/62 owned by Clutha District Council

Lot 2 DP 12203 held in record of title OT4C/63 owned by Clutha District Council

Part Lot 61 DP 2254 held in record of title OT4C/367 owned by Clutha District Council

HAIL Reference: HAIL.00283.01 which applies to the current landfill extent.

Map reference (NZTM2000) approximate site midpoint: E1350177 N4873812

Consent(s) sought:

- RM21.668.01: Discharge Permit to discharge waste, hazardous waste, and leachate to land, in a manner that may result in contaminants entering groundwater.
- RM21.668.02: Discharge Permit to discharge landfill gases, odour, and dust to air.
- RM21.668.03: Discharge Permit to discharge water and entrained contaminants to water.
- RM21.668.04: Water permit to take and use groundwater for the purpose of operating the leachate collection system.

Purpose: Operation of the Mt Cooee landfill

Current consents:

- Discharge permit 94508 to discharge to land an average of 105 cubic metres per day of municipal, domestic, special waste, and industrial waste.
- Discharge permit 94509 to discharge collected and dirty stormwater
- Discharge permit 94510 to discharge landfill gases, dust, and odour to air
- Water permit 94511 to divert an unnamed tributary of the Clutha River into another small unnamed tributary via a channel
- Land use consent 94543 to install a culvert upstream of the existing culvert under State Highway 91 to the existing railway culvert

- Water permit 95953.V1 to take an average of 208 cubic metres per day of groundwater containing leachate.
- Discharge permit 95954 to discharge on average 36 cubic metres per day of landfill and composting facility leachate in a manner in which this may enter water.

Information Requested:

- A s92(1) request for further information on various matters was made on 27 July 2023, and a follow up request was made on 18 July 2024.

Notification decision: The application was limited notified on 23 January 2025.

Submissions:

- Total number of submissions received by due date: two
    - In support: zero
    - In opposition: one
    - Neutral: one
    - Wishing to be heard: two
    - Late submissions: zero

Site visit: 16 March 2023 and 17 May 2023

2. Summary of Application

Clutha District Council (**CDC, the Applicant**) has applied for resource consents to authorise the ongoing operation and expansion of the Mt Cooee Landfill in Balclutha. The consents applied for are listed in Section 2 of this report. The application was lodged with Council on 23 June 2023. Key information about the proposal is set out below.

- CDC operates the Mt Cooee Landfill on the outskirts of Balclutha.
- This landfill has been operating since 1985 and is the only municipal solid waste landfill in the Clutha District.
- The Mt Cooee Landfill site is designated in the Clutha District Plan for "refuse disposal" purposes.[1] The designation does not have any conditions.
- The landfill is operated as a Class 1 Landfill as defined in the WasteMINZ Technical Guidelines for Disposal to Land 2022.
- The landfill serves a population of approximately 18,400 people and accepts approximately 9,000 tonnes of refuse annually from residential, commercial, and industrial customers.
- CDC holds multiple resource consents issued by the Otago Regional Council (**ORC** or **Council**) which authorise various activities relating to the operation of the landfill. These consents expired on 1 October 2023.
- CDC seek to replace all relevant consents to enable the continued operation of the landfill.

[1] Designation 120

- The existing landfill cells are nearing the end of their life, with capacity expected to be reached in approximately 2025. There is an ongoing need for waste disposal in the region.

- CDC gave consideration to the development of a new landfill at a different site, as well as the transport of waste to the AB Lime Landfill in Winton and the Smooth Hill Landfill in Dunedin. Ultimately, the option to extend the existing Mt Cooee Landfill was preferred.

- CDC therefore also seek to authorise the expansion of landfill activities on the site, including the construction and operation of five new landfill cells, construction and operation of a transfer station and a resource recovery and education centre, and remediation activities associated with the progressive closure and aftercare of the landfill, should closure occur within the consent terms applied for.

- The Applicant seeks a 25-year term for all consents.

Figure 1 Location of the Mt Cooee Landfill site (highlighted yellow) in relation to nearby features. Source: RM21.668 application.

3. Notification Decision

Council made a decision on 21 January 2025 that the application would be limited notified to the persons identified in Table 1. Notice was duly served upon these parties on 23 January 2025. No other persons were considered to be affected by the proposal to a minor or more than minor degree.

Table 1 *List of Affected Parties*

Affected Party	**How they are affected**
South Otago Aero Club	Bird strike risk
Aukaha and TAMI and TRONT	Adverse effects on mana whenua values
Owners of the Balclutha Golf Club	Adverse odour effects
Owners and occupiers of: • 36 Golfers Drive • 1, 5, 7, 9, 15 Arthur Terrace	Adverse odour effects Adverse visual effects
Owners and occupiers of: • 2 Arthur Terrace • 6 Arthur Terrace • 8 Arthur Terrace • 9A Arthur Terrace • 10 Arthur Terrace • 12 Arthur Terrace • 14 Arthur Terrace • 32 Golfers Drive	Adverse odour effects
Owners and occupiers of 125 Kaitangata Highway	Adverse odour effects Adverse dust effects

4. Submissions Received

Submissions were received from the following persons:

Table 2 *Summary of submissions*

Submitter	Submission Summary	To be heard (yes/no)
Craig and Jillian Dempster	**Opposing** submission. The Dempster's seek screen planting on the eastern boundary of the site to mitigate the visual impacts of the proposal, reduce noise, and prevent any reduction in the value of their property. The Dempster's are otherwise supportive of most of the proposal.	No. The Dempster's submission did indicate that they wanted to be heard, but after reviewing draft consent conditions related to screening planting, they advised that their concerns were addressed, and they no longer wanted to be heard.
Aukaha on behalf of Te Rūnanga o Ōtākou and Hokonui Rūnanga	**Neutral** submission. Kā Rūnaka accepts that there is a need for continued waste disposal at Mt Cooee Landfill and that there are long-term requirements to manage surface water runoff and leachate. Kā Rūnaka seek consent conditions that require robust monitoring and adaptive management to prevent the diffuse discharge of leachate into the Clutha River/Mata-au;	No. The submission from Aukaha did indicate that they wanted to be heard, but after reviewing the draft consent conditions Aukaha advised that their concerns were addressed, and they

	installation of a fully contained holding tank for leachate overflow; and conditions that implement the recommendations of the Cultural Impact Assessment.	no longer wanted to be heard.

5. Summary of Recommendation

I recommend that this application be approved, subject to the conditions discussed throughout this report and in resource consents RM21.668.01-RM21.668.04.

I recommend that all resource consents RM21.668.01-RM21.668.04 are granted for a term of 25 years.

6. 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.

6.1 Section 104(1)

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.

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), the Regional Plan: Water (RPW); and

(c) any other matter the Council considers relevant and reasonably necessary to determine the application.

6.2 S104(1)(a) – Actual and potential effects on the environment of allowing the activity

Section 104(1)(a) of the RMA requires the council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and the adverse effects.

6.2.1 Positive Effects

The application states that the proposal will have the following positive effects:

- Provision of a controlled disposal location for Clutha District's waste, avoiding potentially significant adverse effects associated with uncontrolled disposal of waste;
- Provision of landfill capacity to enable and support Clutha District for the next 35 years, including any population growth and development;
- Economic benefits for the surrounding community, including employment and new expenditure in the district associated with the expansion and new Resource Recovery Centre;
- Positive use of biomass in daily and intermediate cover;
- Minimisation of transportation time, costs and greenhouse gas emissions compared to transporting the waste out of the Clutha District; and
- Potential to provide recreational opportunities in the area in the future, as the cells close and aftercare is implemented.

I agree that these are positive effects that will result from the proposed activities. However, the potential recreational use of the site is unlikely to occur within the consent terms that may be granted for the proposal, as the new landfill cells would provide an estimated 35 years capacity, based on current waste quantities, but the requested consent duration is 25 years. Furthermore, active management of leachate, stormwater, and landfill gas will be required beyond closure of the landfill.

6.2.2 Adverse Effects

A detailed assessment of adverse effects can be found in Section 6 of the s95 Report. This assessment is not repeated here. Rather, updates to the previous assessment, discussion of issues raised by submitters, and recommendations as to consent conditions are provided below utilising the same headers that were used in the s95 Report.

A set of draft consent conditions were provided to submitters for consideration. Both submitters indicated that they were satisfied that the conditions addressed the concerns raised in their submissions, and subsequently withdrew their request to be heard.

6.2.2.1 Landfill Design

There were four matters raised in the technical audit that contributed to residual uncertainty in the assessment. These were:

1. the lack of a design solution under the piggyback liner area to accommodate differential settlement,
2. the lack of a gas collection system in the piggyback section,
3. the absence of a geotextile or other design solution to mitigate clogging of the leachate drainage blanket, and
4. the lack of detail provided for key landfill infrastructure drainage information.

The primary risk associated with not resolving these issues is increased leachate leakage from the new landfill cells. There is also a risk that landfill gas may build up beneath the piggyback section of the liner, creating a health and safety risk to workers. The Applicant's position was that these matters could be addressed through detailed design, and that the Mt Cooee Landfill, even with the Stage 2 expansion, is a very small landfill.

Consent conditions are recommended to manage the risks identified above. These are, in summary:

- Detailed design must be in accordance with the concept designs, must be prepared by a Suitably Experienced CPEng, must be peer-reviewed by another independent CPEng, and must be provided to ORC for certification.
- The landfill must be constructed with an underdrain to allow groundwater to flow beneath the landfill, the underdrain must have a separate sump, water quality must be monitored in the underdrain, and underdrain water may only be discharged to the environment if it is not contaminated, otherwise it will be treated as leachate.
- All leachate from the Stage 2 Landfill must be piped directly to the leachate pump station, both during construction and operation.
- Preparation of gas management plans on a regular basis to ensure that if, in the opinion of a suitably qualified and experienced expert, landfill gas collection and destruction is required, this will be implemented.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects of the proposal can be managed appropriately, in terms of landfill design.

6.2.2.2 Stability Effects

There was little disagreement between the Applicant's experts and the experts engaged by ORC about the potential adverse geotechnical effects of the proposal. The following conditions are recommended to ensure that the landfill is designed and constructed appropriately with respect to potential geotechnical risk:

- All temporary and permanent engineered cut and fill slopes, toe embankment, and waste placement slopes achieve a factor of safety of at least 1.5 under static conditions.
- Requirement to inspect the site following a seismic event, prepare a report, and undertake repairs as required.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse geotechnical effects of the proposal can be managed appropriately.

6.2.2.3 Flooding Effects

There was little disagreement between the Applicant's experts and the experts engaged by ORC about the potential adverse effects that could result from flooding events. The stormwater retention ponds and the existing leachate overflow pond may become inundated to a depth of approximately 1 m during an extreme flood (a 1:200-year event). The landfill and Resource Recovery Centre are well outside the expected flood extent. Any release of stormwater or leachate from the ponds to the environment would to be insignificant in the context of the area-wide effects resulting from the flooding. Regardless, the Applicant has proposed to replace the existing leachate pond with a fully contained leachate holding tank.

The submission from Aukaha states that any discharge of leachate to water during flood events would have more than minor impacts on the mauri of the Clutha River/Mata-au and the coastal environment and is contrary to the aspirations of Kā Rūnaka to provide healthy habitat for mahika kai and taoka species. To address this, Kā Rūnaka request that the leachate overflow pond is replaced by a fully contained leachate holding tank. It is noted that this was also volunteered by the Applicant. This has been formalised into a consent condition as follows:

- Within two years of the issue of these consents, the existing leachate overflow pond must be replaced with a fully contained holding tank to prevent the discharge of leachate into the Clutha River/Mata-au during flood events. The capacity of the holding tank must be calculated by a Suitably Experienced Chartered Engineer and the design provided to the Consent Authority for certification.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects of the proposal can be managed appropriately, in terms of flooding.

6.2.2.4 Effects on Groundwater

The Stage 1 landfill is unlined, and leachate percolates through the placed waste into groundwater. Combined leachate and groundwater is dammed by the sheet pile wall, and pumped from behind the wall for offsite discharge. The possibility of leachate migrating through fractured bedrock beneath the wall or around the low permeability clay barriers at each end of the wall can't be discounted, and the presence of leachate indicators in groundwater downstream of the wall suggests this could be occurring. The groundwater is hydrologically connected to the Clutha River/Mata-au; therefore, diffuse discharges of leachate into the river are possible. There is no indication that this is having any negative impact on surface water quality, but it is acknowledged that such discharges are unacceptable to mana whenua, as is discussed in the Aukaha submission.

The Stage 2 landfill will be lined. Leachate will collect above the liner and be piped directly to the pump station for offsite removal. Some leachate leakage may occur as a result of imperfections or wrinkles in the liner, and this leachate will either track into the Stage 1 landfill, where it would be captured by the sheet pile wall, or leachate may leak beneath the liner where it would be detected in the underdrain.

The submission from Aukaha raised concerns about the diffuse discharge of leachate from groundwater into the Clutha River/Mata-au and seeks imposition of robust monitoring and adaptive management provisions.

Consent conditions are recommended to address these concerns. In particular:

- Requirement for the Stage 2 landfill design to include an underdrain, and requirement for underdrain water be directed to the leachate pump station if leachate markers are detected during monitoring.
- Baseline and operational-phase monitoring of leachate, groundwater, and underdrain water. The monitoring schedule is generally consistent with the WasteMINZ Technical Guidelines for Disposal to Land.
- Adaptive management provisions which set out steps for additional investigation and actions to rectify issues.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects of the proposal on groundwater can be managed appropriately.

6.2.2.5 Effects on Surface Water

Adverse effects on the small surface watercourses and areas of natural inland wetland will be mitigated by the release of clean underdrain water (which comprises groundwater that may otherwise have recharged these small surface watercourses) and via the

implementation of erosion and sediment controls during the construction of the Stage 2 landfill.

There will be no direct discharge of leachate into the Clutha River/Mata-au from the landfill. Any diffuse discharges of leachate that occur via hydrologically connected groundwater are not expected to result in any measurable change in water quality, due to the small quantities of leachate and the very large flows in the river.

The submission from Aukaha raised concerns about the diffuse discharge of leachate from groundwater into the Clutha River/Mata-au and seeks imposition of robust monitoring and adaptive management provisions.

Consent conditions are recommended to address these concerns and to ensure that adverse effects do not increase throughout the duration of the consent:

- Requirement for quarterly surface water monitoring.
- Adaptive management provisions which set out steps for additional investigation and actions to rectify issues.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects of the proposal on surface water can be managed appropriately.

6.2.2.6 Effects on Aquatic Ecology

No specific conditions relating to aquatic ecology are recommended because the adverse effects on aquatic ecological values in the small watercourses and wetlands and the Clutha River/Mata-au are expected to be negligible. The recommended consent conditions that are protective of water quality will also serve to prevent adverse effects on aquatic ecology.

There were no submissions relating to aquatic ecology.

Subject to the recommended consent conditions described in the other sections being adopted, I am satisfied that the adverse effects of the proposal on aquatic ecology can be managed appropriately.

6.2.2.7 Effects Relating to Birds

Potential adverse effects on the bird populations at the landfill will be mitigated by the implementation of a Bird Management Plan, which must prioritise less detrimental effects on birds over other measures such as poisoning or shooting. It is also noted that under the Wildlife Act 1953, red-billed gulls and black-bills gulls are protected throughout New Zealand, and any bird control methods must ensure that these species are not killed or injured.

In terms of adverse effects caused by birds, the risk of bird strike at the adjacent Balclutha Aerodrome will be mitigated by the implementation of the Bird Management Plan referenced above.

There were no submissions relating to effects on birds or effects from birds.

Recommended consent conditions include:

- Preparation of a Bird Management Plan by a SQEP.
- Requirement to implement the Bird Management Plan.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects of the proposal can be managed appropriately, in terms of birds.

6.2.2.8 Effects on Landscape, Natural Character, and Amenity Values

There was some disagreement between Mr Moore (landscape expert for the Applicant) and Ms McManaway (landscape expert for Council). In general, where there were differences in expert opinion I preferred the opinion of Ms McManaway. Nonetheless, adverse effects on physical landscape and natural character are expected to be minor or less. Adverse visual effects are expected to be minor or less from most viewpoints, except for the visual effects from specific locations to the north, which have the potential to be more than minor in the short to medium term.

One submission was received relating to visual effects. This submission was made by Craig and Jillian Dempster who own the adjoining property to the east. The Dempster's seek screen planting on the eastern boundary of the site to mitigate the visual impacts of the proposal, reduce noise, and prevent any reduction in the value of their property. The following conditions have been proposed by the Applicant to address the concerns raised in this submission:

- Requirement for specific screening plantings along the eastern landfill boundary.
- Requirement for vegetation planting and screening planting on other parts of the landfill, including progressive planting of the landfill cap.

Upon reviewing the draft consent conditions, the Dempster's confirmed that their concerns had been satisfactorily addressed and advised Council that they no longer wished to be heard in support of their submission.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse landscape, natural character, and amenity effects of the proposal can be managed appropriately.

6.2.2.9 Effects on Air Quality

Dust and odour are the primary contaminants of concern with respect to air quality. A series of dust and odour mitigation measures were recommended by John Iseli Principal Air Quality Consultant at SES to ensure that adverse dust and odour effects are appropriately mitigated both during construction and operation of the landfill. These were agreed by the Applicant through the s92 process and have therefore been included in the suite of recommended consent conditions.

Whether landfill gas collection and destruction are required from the outset was a matter of discussion during the s92 process. Ultimately, Mr Iseli accepted the justification from the Applicant that installation of landfill gas collection and destruction infrastructure does not need to be installed immediately because of the small size of the landfill. Mr Iseli recommended consent conditions requiring the Applicant engage a SQEP to reassess the need for landfill gas collection and destruction on a regular basis.

No submissions relating to air quality effects were received.

Consent conditions are recommended to ensure that adverse air quality effects continue to be monitored and managed appropriately. These can be found on Discharge Permit RM21.668.02.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse air quality effects of the proposal can be managed appropriately.

6.2.2.10 Effects on Mana Whenua Values

The way in which the proposal may adversely effect mana whenua values is described in the CIA and in the submission, both prepared by Aukaha on behalf of Te Rūnanga o Ōtākou and Hokonui Rūnanga. Consent conditions are recommended that give effect to the recommendations made in the CIA and to address the concerns raised in the submission. These have generally been discussed in the sections above.

A copy of draft consent conditions was provided to Aukaha by the Applicant. Aukaha advised that these conditions satisfactorily addressed their concerns and they subsequently withdrew their request to be heard. Aukaha did request inclusion of consent conditions relating to preparation of a Landfill Closure Management Plan. These conditions are recommended to recognise that landfill closure (cessation of waste disposal) may occur at or before the expiry of these consents.

Subject to the recommended consent conditions being adopted, I am satisfied that the adverse effects of the proposal on mana whenua values can be managed appropriately.

Summary – Actual and Potential Effects

Taking into account both positive and adverse effects on the environment, I consider that the actual and potential effects of the proposal are acceptable.

6.3 S104(1)(ab)

The Applicant has not proposed to offset or compensate for any adverse effects on the environment, nor do I consider that any such measures are necessary.

6.4 S104(1)(b) Relevant Planning Documents

The relevant planning documents in respect of this application are:

- National Policy Statement for Freshwater Management 2020
- National Policy Statement for Indigenous Biodiversity 2023
- Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007
- Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020
- Resource Management (National Environmental Standards for Air Quality) Regulations 2004
- Operative Otago Regional Policy Statement
- Proposed Otago Regional Policy Statement
- Regional Plan: Water for Otago
- Regional Plan: Waste for Otago
- Regional Plan: Air for Otago

The following planning documents are not considered to be relevant to this application and are not discussed any further in this report:

- New Zealand Coastal Policy Statement 2010
- National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat 2023
- National Policy Statement for Highly Productive Land 2022
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement on Electricity Transmission 2008
- National Policy Statement on Urban Development 2020
- Resource Management (National Environmental Standards for Freshwater) Regulations 2020
- Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023
- Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016
- Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
- Resource Management (National Environmental Standard for Marine Aquaculture) Regulations 2020
- Resource Management (National Environmental Standard for Storing Tyres Outdoors) Regulations 2021
- Resource Management (National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023

6.4.1 National Policy Statement for Freshwater Management 2020

The National Policy Statement for Fresh Water Management 2020 (**NPS-FM**) provides direction to local authorities and resource users regarding activities that affect the health of freshwater and sets out the national objective and policies for freshwater management under the RMA.

The NPS-FM came into force on 3 September 2020, replacing the previous NPS-FM 2014. Part 2 of the NPS-FM sets out the national objective for future freshwater management and 15 separate policies that support this objective.

Section 104 of the RMA has been amended to include section 104(2F) which provides that when considering an application and any submissions received, a consent authority must not have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020). Subsection (2F) applies despite subsection (1)(b)(iii) and any other provision of the RMA.

The amendment to section 104 applies to applications for a resource consent that is lodged with a consent authority before commencement of the amendments if the consent authority has not served notice of its decision on the application.

As a result, clause 1.3(5) and clause 2.1 (the objective) of the NPSFM 2020 has not been assessed.

The policies in the NPS-FM are relevant when considering an application for an activity which may adversely affect freshwater. The NPS-FM applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments.

Policies

Policy 1: *Freshwater is managed in a way that gives effect to Te Mana o te Wai.*

Policy 2: *Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.*

Policy 3: *Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.*

Policy 6: *There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.*

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

Policy 9: *The habitats of indigenous freshwater species are protected.*

Policy 13: *The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.*

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.*

The NPS-FM defines the concept of Te Mana o Wai as:

"Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community."

The continued operation and progressive rehabilitation of the Stage 1 landfill, and the construction and operation of the Stage 2 landfill and resource recovery facility will be managed and monitored in accordance with consent conditions to ensure that the health and mauri of freshwater is protected. In doing so, the balance between water, the wider environment, and the community will be preserved.

Mana whenua have been involved throughout the application process and prepared a CIA and a submission which set out mana whenua's position on the proposal. The Applicant has adopted the majority of the recommendations set out in the CIA and Aukaha have reviewed draft consent conditions and confirmed that these conditions satisfactorily address their concerns.

The proposal will not result in any loss of wetland or river extent. The values of the wetland areas will be protected through ensuring the landfill does not encroach within 100 m of the wetland areas, implementation of erosion and sediment controls, and through returning underdrain water to the wetland provided it is free from any leachate contamination. Adverse effects on river values will be avoided to the extent practicable, and otherwise minimised. This will ensure that the habitat of any indigenous species in the river are also protected. Insofar as Policy 13 imposes responsibilities upon applicants, the condition of groundwater and surface water will be monitored by the Applicant to ensure that any leachate impacts on freshwater can be detected and addressed.

The proposal will enable communities to provide for their social, economic, and cultural wellbeing in a way that is generally consistent with this NPS-FM.

6.4.2 National Policy Statement for Indigenous Biodiversity 2023

The National Policy Statement for Indigenous Biodiversity (**NPSIB**) came into force on 4 August 2023 and applies to Aotearoa's indigenous biodiversity in the terrestrial environment. Indigenous Biodiversity is defined in the NPSIB as the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats. The NPSIB is applicable to Significant Natural Areas (**SNA**) but it also applies outside of SNAs. The provisions in the NPSIB that relate to promoting restoration and increasing indigenous vegetation cover extend to include natural inland wetlands, and where a natural inland wetland is located within an SNA, it is treated as part of that SNA.

The NPSIB sets out a single objective: to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date. The objective is followed by 17 policies. These generally require avoidance or management of adverse effects of new activities on SNAs and maintaining indigenous biodiversity outside SNAs. Restoration of indigenous biodiversity and increased indigenous vegetation cover is promoted.

The site is not located within any area that would be classified as an SNA. The existing landfill area contains buildings, sealed roads, gravel roads, bare earth, open tip face with disturbed waste, two stormwater retention ponds, exotic grasses and herbs, plantings, and patches of exotic trees. Most of the area proposed for expansion of the Mt Cooee landfill comprises low hillslopes covered in pasture which have been grazed by sheep. The borrow area, which is part of the existing landfill, but will be partly encompassed by the proposed expansion, largely comprises bare earth, gravel, broken concrete and bricks, and a few small patches of pasture grasses and herbs. In summary, the site contains little in the way of indigenous terrestrial vegetation or habitat. The proposal includes new screening plantings and progressive rehabilitation of the landfill cap, and these activities will result in an increase in indigenous vegetation on the site. As such, the proposal is considered consistent with the objective and relevant policies of the NPS-IB.

6.4.3 Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007

Regulations 7 and 8 of the National Environmental Standard for Sources of Human Drinking Water (**NES-DW**) need to be considered when assessing discharge permits that have the potential to affect registered drinking water supplies that provide 501 or more people with drinking water for 60 or more calendar days each year.

Regulations 11 and 12 of the NES require the Consent Authority to place an emergency notification condition on relevant consent holders if it is assessed that the activity could pose a risk to the drinking water supply in the case of an unintended event (e.g. a spill or other accident). If the Consent Authority considers that such a risk exists, a condition must be placed on the consents that requires the consent holder to notify the drinking water supplier if such an event occurs. Regulation 11 states that Regulation 12 applies to activities with the potential to affect registered drinking water supplies that supply 25 or more people with drinking water for 60 or more days of a calendar year.

The nearest such water supply is the CDC South Bruce Rural, Stirling Township water supply, which is sourced from the Clutha River/Mata-au. The population serviced by this supply is listed as 743 persons.[2]

This application involves the discharge of contaminants to land in circumstances that contaminants may enter groundwater. A potential effect of this activity is that diffuse discharges of leachate may enter the Clutha River/Mata-au, although consent conditions will ensure that this is avoided or minimised to the greatest practicable extent. Regardless, adverse effects on water quality within the Clutha River/Mata-au are not expected to be measurable. Regulation 12 also requires consideration of events, such as heavy rainfall, if they made lead to significant adverse effect on the quality of water at the abstraction point. In the context of the Mt Cooee Landfill, significant rainfall events will not cause inundation of the landfill, and recommended consent conditions require replacement of the leachate overflow pond (currently irregularly used) with a fully contained holding tank. The landfill will be designed with resilience to seismic deformations and a significant loss of containment is not anticipated. Consequently, there is no requirement to place a condition on the Discharge Permit in relation to the South Bruce Rural, Stirling Township water supply which is located more than two kilometres downstream.

6.4.4 Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020

These regulations apply to holders of water permits which allow freshwater to be taken at a rate of 5 L/s or more. Permit holders are required to, in a manner specified by the regulations, measure their water use at a specific location, verify their water measuring device, keep records, and provide records to Council. The 2020 amendments to the regulations introduced measuring and reporting requirements to be implemented in a staged fashion starting with larger water takes through to progressively smaller water takes, down to 5 L/s. The minimum requirements in the regulations apply directly to the holders of qualifying water permits, and override any less stringent consent conditions, from the date that the regulations first apply to the consent. While these regulations do not require Council to impose specific conditions on a qualifying water permit, Council is required to enforce the regulations. To ensure that the Consent Holder is clear about their water metering and reporting obligations, consent conditions that reflect the minimum requirements of these regulations are routinely applied to resource consents.

In this case, leachate from the unlined Stage 1 landfill percolates into groundwater such that they are indistinguishable. The point at which the combined groundwater and leachate is 'taken' is when it is at the pump station and is thereafter discharged from site. The Applicant

[2] https://hinekorako.taumataarowai.govt.nz/publicregister/supplies/view/?id=7e0ee70f-2d77-ec11-8d21-002248922cd4

has requested that no maximum rate or volume be applied to the permit, to ensure that leachate can be discharged from site immediately as it reaches the pump station. I agree that this is appropriate and will minimise the risk posed by leachate to the environment and will take into account the uncertainty in the leachate leakage volumes from the Stage 2 landfill, and the potential need to discharge the underdrain water (which is groundwater) to the pump station. The Regulations state that where no rate of take is imposed on the water permit, these permits are to be treated as if they specify a rate of 20 L/s (for the purpose of the regulations).

Consent conditions are recommended that give effect to these regulations. The Applicant will need to install a water meter at the leachate pump station that is fitted with an automated device (datalogger and telemetry unit) and configure this to measure the volume of leachate/groundwater in 15-minute increments. These records must be kept and be provided to the Regional Council on a daily basis. To the best of my knowledge, there is no reason why these conditions would be unable to be complied with, and the Applicant has accepted these conditions.

6.4.5 Resource Management (National Environmental Standards for Air Quality) Regulations 2004

In October 2004 the New Zealand Government introduced a set of National Environmental Standards for Ambient Air Quality (**NES-AQ**). This NES was subsequently amended in 2005 and 2011. These standards replace the previous Ambient Air Quality Guidelines (NZAAQG) for PM_{10}, SO_2, NO_2, O_2 and CO. In effect, the new standards convert the ambient air quality guidelines into standards and stipulate a maximum number of allowable exceedances of the concentration limits. For sulphur dioxide, the standards stipulate an absolute maximum concentration limit.

The proposal includes the discharge of contaminants (dust, landfill gas, and odour) to air within an airshed that is not deemed to be polluted. Any PM_{10} discharged is not likely to result in a breach the NES-AQ threshold concentration. The Mt Cooee landfill will not have a total capacity in excess of 1,000,000 tonnes and therefore regulations 26 and 27 do not apply

The granting of these resource consents is not precluded by the NES-AQ.

6.4.6 Otago Regional Policy Statements and Regional Plans

The RPSs provide an overview of the resource management issues for the Otago Region and the ways of achieving integrated management of its natural and physical resources. There are currently two regional policy statements in play in the Otago Region:

- Otago Regional Policy Statement 2019 (**ORPS 2019**) fully operative; and
- Proposed Otago Regional Policy Statement (**P-ORPS 2021**), which was first notified on the 26th of June 2021 and on 30 September 2022 for the freshwater instrument components. On 30 March 2024 the ORC notified its decisions on the submissions on P-ORPS 2021. There are several appeals that relate to the P-ORPS 2021. Freshwater planning provisions are appealed to the High Court; non-freshwater planning instruments are appealed to the Environment Court.

As of 8 January 2025, all appeals on the freshwater provisions of the P-ORPS 2021 have been resolved, except for LF–WAI–O1 – Te Mana o te Wai. Non-freshwater provisions remain under

appeal. Recognising that the P-ORPS 2021 has a different emphasis from the ORPS 2019, there are a number of provisions in the P-ORPS 2021 that have no clear equivalent in the ORPS 2019, and vice versa. However, in general I consider that:

- Significant weight should be given to the provisions of the P-ORPS 2021 that are beyond appeal (or were not appealed) over equivalent provisions in the ORPS 2019.
- Less weight should be given to the provisions of the P-ORPS 2021 that remain subject to appeal, except where they clearly align with higher order documents, such as the NPS-FM and NPS-IB, and except when there is no equivalent provision in the ORPS 2019, in which case additional weight can be placed on the P-ORPS 2021 provisions.

The relevant regional plans are the:

- Regional Plan: Water for Otago (**RPW**)
- Regional Plan: Waste for Otago (**RPWaste**)
- Regional Plan: Air for Otago (**RPA**)

The current regional plans pre-date and do not yet fully give effect to the higher order documents, being the ORPS 2019, P-ORPS 2021, NPS-FM, and NPS-IB. As such, more weight is given to equivalent provisions in the higher order documents.

6.4.6.1 Otago Regional Policy Statement 2019

Chapter 1 – Resource management in Otago is integrated.

This chapter recognises that the different parts of the natural and physical environment are interconnected. The integrated management of natural and physical resources and human values is essential to safeguard the life-supporting capacity of the environment and enable the social, cultural, and economic wellbeing of all people and communities. The following objectives and policies are considered relevant to this proposal:

- Objective 1.1 Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities.
    - Policy 1.1.1 Economic wellbeing
    - Policy 1.1.2 Social and cultural wellbeing and health and safety
- Objective 1.2 Recognise and provide for the integrated management of natural and physical resources to support the wellbeing of people and communities in Otago.
    - Policy 1.2.1 Achieve integrated management of Otago's natural and physical resources

Recognising that waste disposal is a necessary activity, the continued landfilling at the Mt Cooee Landfill is an efficient use of existing infrastructure and presents the smallest economic, social, and cultural burden upon communities in the Clutha District, considering the available alternative options. The Applicant has recognised and provided for Kāi Tahu values by adopting the recommendations made by mana whenua in the CIA and the submissions process. Community resilience and securing of resources for reasonable wellbeing needs is promoted through the continued provision of an accessible local waste disposal option, which will be co-located with recycling and waste minimisation facilities. The Applicant has recognised the interconnectedness of land, water, and air resources, and that the use of one resource may adversely affect another. The landfill activities will occur on land, but will involve discharges to water and air, as well as the abstraction of groundwater. Proposed mitigation measures and recommended consent conditions seek to manage the

potential adverse effects of the proposal in a holistic way, recognising that efforts to mitigate singular effects may have implications for the management of other effects. Monitoring conditions will ensure that actual adverse effects are understood, and methods are available to reduce or negate the risk of exceeding sustainable resource limits. In summary, the adverse effects of the continued operation will be avoided or minimised to ensure that the life-supporting capacity of soil, water, air, and ecosystems is safeguarded, and that natural and physical resources are able to meet the needs of future generations.

The proposal is consistent with these provisions.

Chapter 2 – Kāi Tahu values and interests are recognised and Kaitiakitaka is expressed.
This chapter incorporates the principles of Te Tiriti o Waitangi and sets out general considerations for the incorporation of Kāi Tahu values and interests into resource management planning, consenting, and implementation processes. Kāi Tahu themes are integrated throughout this document, and this chapter serves to tie these strands together. It reflects the Kāi Tahu philosophy of holistic resource management, ki uta ki tai – "from the mountains to the sea".

- Objective 2.1 The principles of Te Tiriti o Waitangi are taken into account in resource management processes and decisions.
    - Policy 2.1.2 Treaty principles
- Objective 2.2 Kāi Tahu values, interests and customary resources are recognised and provided for.
    - Policy 2.2.1 Kāi Tahu wellbeing
    - Policy 2.2.2 Recognising sites of cultural significance
    - Policy 2.2.3 Wāhi tūpuna and associated sites

The Clutha River/Mata-au is a wāhi tūpuna and ara tawhito, with the whole of the river part of a mahika kai trail that led inland and was used by Otago hapū. The CIA for the proposed expansion of the Mt Cooee Landfill includes recommendations to address the cultural impacts of the proposal on wāi māori, mahika kai and biodiversity values, and wāhi tūpuna values. A key recommendation of the CIA is that all practicable measures are taken to prevent discharges entering water, including preventing, where possible, leachate from entering groundwater and surface water. The potential for contaminants to leach from the landfill into the Clutha River/Mata-au is a primary concern for manawhenua, with the key issue being that such a discharge of contaminants would degrade the mauri of water, wetlands and the coastal environment and have adverse effects on Kāi Tahu cultural values and uses. The Applicant has adopted the recommendations in the CIA (with the exceptions as set out in Section 6.11 of the *s95 Notification Report*. Further, draft consent conditions were provided to Aukaha for review, who confirmed that the conditions addressed their concerns.

The proposal is consistent with these provisions.

Chapter 3 – Otago has high quality natural resources and ecosystems.
This chapter begins with the recognition and maintenance of all natural resources. The second part focuses on the identification, protection, and enhancement of natural resources that are nationally or regionally important.

- 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
  - Policy 3.1.2 Beds of rivers, lakes, wetlands, and their margins
  - Policy 3.1.3 Water allocation and use
  - Policy 3.1.6 Air quality
  - Policy 3.1.8 Soil Erosion
  - Policy 3.1.9 Ecosystems and indigenous biodiversity
- Objective 3.2 Otago's significant and highly-valued natural resources are identified and protected, or enhanced where degraded
  - Policy 3.2.6 Managing highly valued natural features, landscapes and seascapes
  - Policy 3.2.16 Managing the values of wetlands

The life-supporting capacity of freshwater will be safeguarded – good water quality and natural functioning of the Clutha River/Mata-au will be maintained. The quality and values of the smaller watercourses and areas of wetland will be protected from sediment discharges through implementation of best-practice erosion and sediment control measures during the construction phase, and robust monitoring conditions will ensure that any leachate impacted water does not enter these systems. The natural character and amenity values associated with the Clutha River/Mata-au will be temporarily adverse to a low level, but will improve over time with rehabilitation of the landfill and new screening planting. The taking of groundwater combined with leachate will not result in the over-allocation of water from the aquifer underlying the site. The take of groundwater does not exceed what is necessary for its efficient use, being the removal of leachate that has percolated into groundwater, or the removal of underdrain water if there are indicators of leachate contamination. The recommended consent conditions will ensure that air quality is maintained such that it supports human health and amenity values. In summary, the values of ecosystems and natural resources (as assessed in the relevant policies listed above) are recognised and maintained.

The proposal is consistent with these provisions.

<u>Chapter 4 – Communities in Otago are resilient, safe and healthy</u>
This chapter deals with the response and ability to be resilient to resource limitations or constraints, shock events, system disruptions, natural hazards, and climate change.

- Objective 4.1 Risks that natural hazards pose to Otago's communities are minimised.
  - Policy 4.1.3 Natural hazard consequence
  - Policy 4.1.5 Natural hazard risk
- Objective 4.6 Hazardous substances, contaminated land and waste materials do not harm human health or the quality of the environment in Otago
  - Policy 4.6.2 Use, storage and disposal of hazardous substances
  - Policy 4.6.3 Hazardous substance collection, disposal and recycling
  - Policy 4.6.5 Managing contaminated land
  - Policy 4.6.6 Waste management
  - Policy 4.6.7 Waste minimisation responses
  - Policy 4.6.8 Waste storage, recycling, recovery, treatment and disposal

Natural hazards of relevance are earthquakes and flooding. Geotechnical assessment indicates acceptable performance outcomes are achieved for long-term and temporary stability under both static and seismic cases. In terms of flooding, the landfill and the

resource recovery centre are well outside the expected flood extent during an extreme flood (a 1:200-year event) and the existing landfill face closest to the Clutha River/Mata-au is not expected to suffer any significant erosion. The berm area and sediment/leachate ponds may be inundated to a depth of approximately 1 m. In the context of the area-wide issues that would occur during such an extreme flood, this inundation is unlikely to be of concern from a water quality perspective; however, any release of leachate in such circumstances is unacceptable to mana whenua. Consent conditions require that leachate is pumped directly to the pump station and then offsite, to minimise build-up of leachate within the landfill cells. The use of the leachate pond will be minimised and eventually replaced by a fully contained leachate holding tank.

The landfill will be managed such that human health is not harmed by hazardous substances, contaminated land, or waste materials, and the adverse effects on the environment will be minimised. The resource recovery centre will provide for onsite separation of recyclable or divertible materials.

The proposal is consistent with these provisions.

Chapter 5 – People are able to use and enjoy Otago's natural and built environment.
This chapter enables the use of the natural and physical environment for enjoyment and making a living, while ensuring that resources are sustainably managed for conflicting or incompatible uses.

- Objective 5.4 Adverse effects of using and enjoying Otago's natural and physical resources are minimised.
    - Policy 5.4.1 Offensive or objectionable discharges
    - Policy 5.4.2 Adaptive management approach
    - Policy 5.4.5 Pest plants and animals

The proposal involves discharges to land, water, and air. Waste will be discharged to land within an area designated as the Mt Cooee landfill. Leachate will continue to infiltrate groundwater beneath the Stage 1 landfill, but the Stage 2 landfill will be lined and prevent this from occurring. Diffuse discharges of leachate from groundwater into surface water are possible, and this is generally considered cultural offensive. Monitoring conditions will ensure that any leachate leakage is detected and can be rectified, including utilising principles of adaptive management where necessary. Vermin populations will be controlled in accordance with a pest management plan. In summary, the recommended consent conditions will ensure that the adverse effects of the proposal are minimised to the extent practicable.

The proposal is consistent with these provisions.

Conclusion
The proposal is consistent with the relevant objectives and policies of the ORPS 2019.

6.4.6.2 Proposed Otago Regional Policy Statement (P-ORPS 2021)

Part 1: Introduction and General Provisions

- **Chapter: Mana Whenua**

This part recognises that Kāi Tahu are takata whenua of the Otago Region and provides for the environmental management and perspectives of Kāi Tahu, the relationship between mana whenua and local authorities, and the involvement and participation of mana whenua. The following objectives and policies are considered relevant to this application:

- MW-O1 – Principles of Te Tiriti o Waitangi
    - MW-P3 – Supporting Kāi Tahu wellbeing

The Applicant undertook engagement with Kāi Tahu and has adopted the conditions and recommendations put forth by Te Rūnanga o Ōtākou and Hokonui Rūnanga in their CIA. In doing so, the Applicant is giving effect to the principles of Te Tiriti o Waitangi, ensuring that what is valued by mana whenua is actively protected in the region, and supporting Kāi Tahu hauora. Further, draft consent conditions were provided to Aukaha for review, who confirmed that the conditions addressed their concerns.

The proposal is consistent with these provisions.

Part 2: Resource Management Overview

- **Chapter: Integrated management**

The following objectives and policies are considered relevant to this application:

- IM-O1 – Long term vision
- IM-O2 – Ki uta ki tai
- IM-O3 – Environmentally sustainable impact
    - IM-P1 – Integrated approach
    - IM–P3 – Providing for mana whenua cultural values in achieving integrated management
    - IM–P5 – Managing environmental interconnections
    - IM–P6 – Managing uncertainties
    - IM-P13 – Managing cumulative effects

The proposal will ensure that the natural environment, and the ecosystem services that it offers, are healthy, resilient, and safeguarded, and the wellbeing of present and future generations supported, through the implementation of best practicable mitigation measures for discharges, as well as ongoing monitoring and adaptive management to ensure that ongoing effects are understood and responded to. The Applicant has recognised the interconnectedness of land, water, and air resources, and that the use of one resource may adversely affect another. The landfill activities will occur on land, but will involve discharges to water and air, as well as the abstraction of groundwater. Proposed mitigation measures and recommended consent conditions seek to manage the potential adverse effects of the proposal in a holistic way, recognising the connections and relationships between land and water resources, and recognising that efforts to mitigate singular effects may have implications for the management of other effects. The Applicant undertook engagement with Kāi Tahu and has adopted the conditions and recommendations put forth by Te Rūnanga o Ōtākou and Hokonui Rūnanga in their CIA. The contribution of the landfill to cumulative effects within the freshwater receiving environment will be minimised through avoidance of direct leachate discharges into water, minimisation of sediment discharges into the Clutha River/Mata-au via use of sediment retention ponds.

The proposal is consistent with these provisions.

Part 3: Domains and Topics

- **Domain: Air**
- **Domain: Land and freshwater**
- **Topic: Hazards and Risks**

The following objectives and policies are considered relevant to this application:

- AIR-O1 – Ambient air quality
- AIR-O2 – Discharges to air
    - AIR-P1 – Maintain good ambient air quality
    - AIR-P3 – Providing for discharges to air
    - AIR-P4 – Managing certain discharges
    - AIR-P5 – Managing certain discharges
    - AIR-P6 – Impacts on mana whenua values

Ambient air quality will continue to provide for the health and wellbeing needs of people, and the life-supporting capacity of ecosystems. Amenity values may be adversely impacted by odour effects to a small degree on a local scale. Where the NES-AQ sets limits for PM_{10}, these are not likely to be exceeded. There are no relevant limits to consider for odour. Adverse odour effects will be remedied or mitigated to the extent practicable, noting that it is not possible to completely eliminate all odours at a landfill. Odours are not likely to be noxious, dangerous, offensive, or objectionable beyond the site boundary.

The proposal is consistent with these provisions.

- LF–WAI–O1 – Te Mana o te Wai
    - LF–WAI–P1 – Prioritisation
    - LF – WAI – P2 – Mana whakahaere
    - LF – WAI – P3 – Integrated management/ki uta ki tai
    - LF-WAI-P4 – Giving effect to Te Mana o te Wai
- LF-FW-O1A – Visions set for each FMU and rohe
- LF–VM–O5 – Dunedin & Coast FMU vision
- LF-VM-O2 – Clutha Mata-au FMU vision
- LF–FW–O8 – Fresh water
- LF–FW–O9 – Wetlands
    - LF–FW–P7 – Fresh water
    - LF-FW-P10A – Managing wetlands
    - LF – FW – P13 – Preserving natural character and instream values
    - LF–FW–P15 – Stormwater discharges
    - LF–LS–P18 – Soil erosion
    - LF–LS–P21 – Land use and fresh water
- HAZ-NH-O1 – Natural hazards
- HAZ-NH-O2 – Adaptation
    - HAZ-NH-P1 – Identifying areas subject to natural hazards
    - HAZ-NH-P2 – Risk assessments
- HAZ-CL-O3 – Contaminated land
    - HAZ-CL-P13 – Identifying contaminated land

- HAZ-CL-P14 – Managing contaminated land
- HAZ-CL-P15 – New contaminated land
- HAZ-CL-P16 – Waste minimisation responses
- HAZ-CL-P17 – Disposal of waste materials
- HAZ-CL-P18 – Waste facilities and services

The goal of the landfill's effects management process and the recommended mitigation measures is to protect the health and wellbeing of freshwater. In doing so, the health needs of people are also prioritised, noting that there are no abstractive uses of groundwater in this area, nor any nearby drinking water sourced from the Clutha River/Mata-au. Landfilling is an activity that generally provides for the economic and social wellbeing of the community, in that it enables the controlled disposal of waste that is produced by people. The Applicant has recognised that in protecting the health of freshwater, and the health needs of people, ultimately the social, cultural, and economic wellbeing of people will be enhanced. The Applicant undertook engagement with Kāi Tahu and has adopted the conditions and recommendations put forth by Te Rūnanga o Ōtākou and Hokonui Rūnanga in their CIA. The landfill activities are not likely to impede the vision for the FMU being achieved. Soil erosion will be minimised during construction, and any sediment that is entrained within stormwater will be settled out in the sediment retention ponds.

Note: Section 104(2F) of the RMA only directs that consent authorities must not have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020). However, it does not otherwise direct that consent authorities must not have regard to provisions of other planning documents, such as regional policy statements, that similarly relate to the hierarchy of obligations. For completeness, LF-WAI-P1 has been given regard to for the purposes of this proposal, but in any case consideration of this policy, or not, does not have any substantial impact on its own on the recommendation in respect of the proposal.

Natural hazards of relevance are earthquakes and flooding. Geotechnical assessment indicates acceptable performance outcomes are achieved for long-term and temporary stability under both static and seismic cases. In terms of flooding, the landfill and the resource recovery centre are well outside the expected flood extent during an extreme flood (a 1:200-year event) and the existing landfill face (closest to the Clutha River/Mata-au) is not expected to suffer any significant erosion. The berm area and sediment/leachate ponds may be inundated to a depth of approximately 1 m. In the context of the area-wide issues that would occur during such an extreme flood, this inundation is unlikely to be of concern from a water quality perspective; however, any release of leachate in such circumstances is unacceptable to mana whenua. Consent conditions require that leachate is pumped directly to the pump station and then offsite, to minimise build-up of leachate within the landfill cells. The use of the leachate pond will be minimised and eventually replaced by a fully contained leachate holding tank.

The landfill will be managed such that human health is not harmed by hazardous substances, contaminated land, or waste materials, and the adverse effects on the environment will be minimised. The area of waste placement will increase with the Stage 2 landfill but will remain within the area already designated for this purpose. The resource recovery centre will provide for onsite separation of recyclable or divertible materials.

The proposal is consistent with these provisions.

Conclusion
The proposal is consistent with the relevant objectives and policies of the P-ORPS 2021.

6.4.6.3 Regional Plan: Water for Otago (RPW)
The RPW sets out objectives, policies, and rules for the management of water within Otago.

Chapter 5 (Natural and Human Use Values)
The following objectives and policies are considered relevant to this application:

- Objective 5.3.2 Kāi Tahu
- Objective 5.3.3 Natural character of lakes, rivers, and their margins
    - Policy 5.3.5 Public access
    - Policy 5.4.2 Activities on the bed or margin of lakes and rivers
    - Policy 5.4.2A River extent and values
    - Policy 5.4.4 Recognise Kāi Tahu interests

The Clutha River/Mata-au is identified in Schedule 1A of the RPW as supporting various natural values, in Schedule 1B for water supply values including the Bruce water supply downstream of the landfill, and in Schedule 1D as supporting various Kāi Tahu values. The Mt Cooee Landfill is located on the margins of the Clutha River/Mata-au. Adverse effects on the values supported by this river will be avoided where possible, and otherwise minimised.

The proposal is consistent with these provisions.

Chapter 6 (Water Quantity)
- Objective 6.3.1 Retain flows in river
- Objective 6.3.2 Maintain long term groundwater levels
    - Policy 6.4.0 Recognise the hydrological characteristics
    - Policy 6.4.0A Quantity of groundwater take
    - Policy 6.4.1A Allocation of groundwater takes
    - Policy 6.4.10A5 Avoid contamination of water when taking groundwater
    - Policy 6.4.16 Require water use be measured in manner satisfactory to Council

This objective and associated policies are concerned with retaining sufficient flows in rivers to maintain their life-supporting capacity for aquatic ecosystems and for natural character, while providing for the water needs of Otago's people and communities. There will be no abstraction of water from the Clutha River/Mata-au. The abstraction of groundwater as combined groundwater/leachate is necessary to ensure that leachate does not build up on site and to prevent direct discharge of leachate into the Clutha River/Mata-au. The groundwater is allocated entirely as groundwater under part (d) of Policy 6.4.1A. The taking of groundwater will not cause contamination of ground or surface water or permanent aquifer allocation, although it is noted that groundwater beneath the site is contaminated by leachate. Recommended consent conditions direct that water abstraction is measured and reported on in accordance with the Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020.

The proposal is consistent with these provisions.

Chapter 7 (Water Quality)

- Objective 7.A.1 Maintain water quality in lakes, river, wetlands, and groundwater
- Objective 7.A.2 Discharge of contaminants
- Objective 7.A.3 Individuals to manage their discharges
    - Policy 7.B.1 Manage quality
    - Policy 7.B.2 Avoid objectionable discharges
    - Policy 7.B.3 Allow certain discharges
    - Policy 7.B.4 Consideration of discharges
    - Policy 7.B.7 Land management practices
    - Policy 7.B.8 Adaptive management
    - Policy 7.C.1 Discharges to water
    - Policy 7.C.2 Sensitivity to discharges
    - Policy 7.C.3 Relevant standards and guidelines
    - Policy 7.C.4 Duration

Objectives and policies in this chapter provide for discharges of water or contaminants in a way that maintains water quality and supports natural and human use values. Individuals and communities should manage discharges to reduce adverse effects on water quality, including cumulative adverse effects. Schedule 15 sets out characteristics indicative of good quality water as well as numerical targets for achieving good quality water within specific waterbodies. The proposal will not cause the Clutha River/Mata-au to 'fail' in any of the qualitative characteristics for good quality water, nor any numerical thresholds downstream of the site. The adverse effects on water quality will be managed and monitored through management practices and monitoring, with adaptive management provisions provided for in consent conditions. The Applicant has applied for 25-year consent terms, which is consistent with policy 7.C.4.

The proposal is consistent with these provisions.

Chapter 9 (Groundwater)

- Objective 9.3.1 To sustain the recognised uses of Otago's groundwater.
- Objective 9.3.3 Maintain quality of Otago's groundwater
    - Policy 9.4.1 Managing groundwater takes
    - Policy 9.4.21 Management of land use activities

There are no recognised uses of groundwater at this location. Groundwater quality will be maintained. Codes of practice, such as the WasteMINZ guidelines, are observed and utilised where possible, particularly for the Stage 2 landfill. The proposal is consistent with these provisions.

Chapter 10 (Wetlands)

- Objective 10.3.1 Maintain wetland values and uses
    - Policy 10.4.8 avoid loss of natural inland wetlands and their values

The natural inland wetlands on the site have low values. However, the construction of the Stage 2 landfill will be managed to avoid or minimise effects on these wetlands, and to prevent sedimentation. The underdrain beneath the Stage 2 landfill cells will convey upgradient groundwater that may have otherwise recharged the wetland areas. The underdrain water will be discharged in the direction of the wetlands if the water quality testing indicates that it is free from leachate contamination. Hence, there will be no loss of wetlands and their values will be protected. The proposal is consistent with these provisions.

Chapter 10A (Replacement of water take and use permits)
This chapter deals with the take and use of freshwater, the replacement of deemed permits, and the replacement of water permits for takes and uses of freshwater where those water permits expire prior to 31 December 2025.

- Objective 10A.1.1 Transition to new integrated regional framework

The proposed taking and use of groundwater was previously authorised by resource consent which expired before 1 December 2025. However, this is a take of groundwater, and as such, it is not captured by the duration policies in Chapter 10A. This is because these only deal with water permits for the take and use of surface water (including groundwater allocated as surface water under policy 6.4.1(a)-(c)) and permits to take and use freshwater where that activity was not previously authorised by resource consent. Hence, the take and use of groundwater which was previously authorised by resource consent is not captured by these policies.

The proposal is consistent with these provisions and hence consistent with the RPW.

6.4.6.4 Regional Plan: Waste for Otago (RPWaste)
The RPWaste deals with waste management issues in Otago.

- Objective 3.3.1 Quality of Otago's natural and physical resources
- Objective 3.3.2 Mauri
- Objective 3.3.4 Holistic approach to waste management
- Objective 4.3.1 Minimise waste generation
- Objective 4.3.2 Maximise reuse, recycling, recovery
    - Policy 4.4.1 Kāi Tahu relationship with resources
- Objective 5.3.1 Effects of contaminated sites
- Objective 5.3.2 Avoid further site contamination
    - Policy 5.4.1 Kāi Tahu relationship with resources
    - Policy 5.4.3 Contain and rehabilitate contaminated sites
- Objective 7.3.1 Environmental effects of contaminant discharges at landfills
- Objective 7.3.2 Eliminate certain landfills
    - Policy 7.4.3 Siting of landfill discharges
    - Policy 7.4.5 Identify and quantify waste inputs
    - Policy 7.4.6 Management and closure procedures
    - Policy 7.4.7 Upgrade or close landfills causing adverse effects
    - Policy 7.4.11 Avoid significant adverse effects

Kāi Tahu cultural concepts are incorporated into the application, through adoption of the CIA recommendations and the submission process. The construction of the Resource Recovery Centre alongside the Stage 2 landfill will provide recycling and diversion services to reduce the amount of waste being landfilled. While the landfill extent will be increasing, the Stage 2 landfill cells will be designed in accordance with modern best practice guidelines, and no new contamination of land will occur beyond the designated Mt Cooee Landfill site. Adverse effects of the landfill will be avoided, mitigated, and remedied to the extent practicable, and the landfill will be operated in accordance with a landfill management plan. The landfill will be progressively rehabilitated throughout the life of the consents.

The proposal is consistent with these provisions and hence consistent with the RPWaste.

6.4.6.5 Regional Plan: Air for Otago (RPA)

The RPA contains provisions which specifically address the management of air quality, including the discharge of contaminants to air from industrial and trade premises. The relevant provisions are found in Part 3.

- Objective 6.1.2 Avoid adverse localised effects
- Objective 6.1.3 Allow sustainable use of air resource
    - Policy 7.1.1 Kāi Tahu relationship
    - Policy 8.1.1 Regard to Otago Goal Levels
    - Policy 8.2.3 Particular regard to avoiding adverse effects
    - Policy 8.2.4 Duration
    - Policy 8.2.5 Review condition
    - Policy 8.2.8 Avoid noxious, dangerous, offensive or objectionable discharges
    - Policy 10.1.1 Land management practices
    - Policy 11.1.1 Human health effects and amenity effects from odour
    - Policy 15.1.1 Central government initiatives for greenhouse gases

It is not clear to me how Objective 6.1.2, when considered in isolation, would enable any discharge to air activity in Otago to have any adverse effects. The note under this objective in the RPA states that *"this objective is implemented by all the policies in this plan."* However, policies written to give effect to this objective do not require that all adverse effects be avoided. Complete avoidance of adverse effects is a very high bar, and even with best practice measures it is not possible to eliminate odours at any landfill. Adverse effects from discharges to air will be avoided where possible and otherwise minimised such that effects on human health, cultural and amenity values, ecosystems, and the life-supporting capacity of air are as low as possible. The discharges are not expected to be noxious, dangerous, offensive, or objectionable beyond the site boundary. Relevant limits for PM_{10} are not likely to be breached. On balance, the air quality effects of the proposal are considered to be acceptable and will be well managed in accordance with consent conditions, including a review condition. Consent conditions also provide for regular review of the Consent Holder's obligations with respect to landfill gas and greenhouse gases. Kāi Tahu perspectives on the proposal have been taken into account via the CIA and the submissions process, noting that no concerns were raised in regard to air quality.

The proposal is consistent with these provisions and hence consistent with the RPA.

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

Kāi Tahu ki Otago Natural Resource Management Plan 2005

The Kāi Tahu ki Otago Natural Resource Management Plan 2005 (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. As set out in the submission on this application by Kāti Huirapa Rūnaka ki Puketeraki, the following provisions are considered to be of most relevance to this application. These relate to the holistic management of natural resources from the perspective of local iwi.

The CIA sets out the objectives and policies of relevance to this proposal. These are not replicated here. However, consideration of these objectives and policies by Kā Rūnaka resulted in a suite of recommendations being put to the Applicant via the CIA. These have generally been adopted by the Applicant, with the limited exceptions explained in the *s95 Notification Report*. Further, Kā Rūnaka have reviewed draft consent conditions and indicated that these conditions satisfactorily address their concerns.
On this basis, I consider that the proposal is consistent with this NRMP.

There are no other matters of concern that the Council considers relevant to this application.

7. Section 104(2A) Value of Investment

When considering an application affected by Section 124 of the Act, the Council must have regard to the value of the investment of the existing Consent Holder. The Applicant has not provided details on the value of their investment in relation to the proposal, but it is expected that this would be significant.

8. Section 104(6)

Section 104(6) provides discretion for the consent authority to decline an application on the grounds that there is inadequate information to determine the application.

(6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.
(7) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.

I consider that there is sufficient information available to be able to determine the application and the application does not need to be declined under s104(6).

9. Section 124B Applications by Existing Holders of Resource Consents

The following criteria must be considered when a person who holds an existing resource consent makes an application to use a natural resource and that is affected by Section 124, and the consent authority receives one or more other applications to use some or all of the natural resource to which the existing consent relates, and that could not be exercised until the expiry of the existing consent. The application affected by s124 is entitled to priority over any other application and the consent authority must determine that application before any other applications.

There are no such competing applications.

10. Sections 105 and 107 Evaluation of Discharges

Section 105(1) states that for a discharge permit that the Consent Authority shall have regard to:

a) the nature of the discharge, the sensitivity of the receiving environment, and
b) the applicant's reasons for the proposed choice; and

c) any possible alternative methods of discharge including discharge into any other receiving environment.

The nature of the discharge and sensitivity of the receiving environment were discussed in the application, in the *s95 Notification Report*, and in this report. Consideration of possible alternative methods of discharge and the possibility of discharging into any other receiving environment have been discussed in the application. There are no practicable alternative methods of discharge, and no alternative receiving environments.

Section 107(1) of the Act states that a discharge permit shall not be granted if, after reasonable mixing, the contaminant or water discharged is likely to give rise to all or any of the following effects in the receiving waters, either by itself or in combination with the same, similar, or other contaminants or water:

c) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended material; or
d) Any conspicuous change in the colour or visual clarity; or
e) Any emission of objectionable odour; or
f) The rendering of fresh water unsuitable for consumption by farm animals; or
g) Any significant adverse effects on aquatic life.

The continued operation, expansion, and progressive rehabilitation of the Mt Cooee Landfill is not expected to result in any or all of these effects in receiving waters.

Regard has been had to s105 and the application does not need to be declined under s107.

11. 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.

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

Sections 6, 7 and 8 outline the principles of the Act. Section 6 sets out a number of matters of national importance which need to be recognised and provided for, section 7 identifies a number of “other matters” to be given particular regard by the council, and section 8 requires the council to take into account the principles of the Treaty of Waitangi.

The Court of Appeal has 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 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. In this case, it is clear from the planning documents that consents should be granted. Therefore, I have not undertaken a specific assessment against Part 2.

12. Section 108 and 108AA of the Act

The attached conditions are recommended in accordance with Sections 108 and 108AA of the Act. In general, these conditions have been recommended because:

- They will ensure that that any actual or potential adverse effects of the proposed activities will be appropriately mitigated.
- They will ensure that the Consent Holder appropriately monitors the consent parameters and reports to Council.
- They will require that the Consent Holder adhere to appropriate management plans and review these at appropriate frequencies.
- They will provide for adaptive management in relation to effects on freshwater and for ongoing assessment of Consent Holder obligations to capture and destroy landfill gas.

13. Recommendation

Subject to the terms and conditions set out in the attached consents, I recommend that the Council grants Clutha District Council the following resource consents for the terms specified in Section 13.1:

- RM21.668.01: Discharge Permit to discharge waste, hazardous waste, and leachate to land, in a manner that may result in contaminants entering groundwater.
- RM21.668.02: Discharge Permit to discharge landfill gases, odour, and dust to air.
- RM21.668.03: Discharge Permit to discharge water and entrained contaminants to water.
- RM21.668.04: Water permit to take and use groundwater for the purpose of operating the leachate collection system.

13.1 Term of Consent

The application seeks a term of 25 years for all consents. I recommend a term of 25-years for all consents for the following reasons:

- The construction of the Stage 2 Landfill is a significant expense and has been designed to have sufficient capacity to receive waste for 25 years or more.
- Leachate will continue to be generated and emanate from the waste in the Stage 1 landfill onto land and into groundwater for a period exceeding 25 years.
- Leachate will continue to be generated within the Stage 2 landfill cells and require collection and disposal for a period exceeding 25 years.

- Landfill gas and odour will continue to be generated and require management for a period exceeding 25 years.
- Stormwater will continue to be generated and require management for a period exceeding 25 years.
- Consent conditions require implementation of all reasonably practicable mitigation measures to manage the effects of these activities.
- There are no practicable alternatives to continued landfilling at the Mt Cooee Landfill, which is the only municipal solid waste landfill in the Clutha District.
- A review condition will enable adoption of the best practicable option, in the event that new technology or methods become available.

In reaching the above recommendations, the following relevant factors as distilled from case law were also considered.

- The duration of a resource consent should be decided in a manner which meets the RMA's purpose of sustainable management;
- 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.

Shay McDonald
Senior Consents Planner
13 May 2025

Otago Regional Council

DECISION ON RESOURCE CONSENT APPLICATION

Section 113 of the Resource Management Act 1991

Date:	16 May 2025
Application No:	RM21.668
Subject:	Decision on limited-notified resource consent application under delegated authority

Notification

The application was approved to be processed on a limited-notified basis under delegated authority on 16 May 2024.

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 limited-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 Senior Consents Planner, Shay McDonald 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).

Conditions (section 108)

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

Decision under delegated authority

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

Peter Christophers
Team Leader Consents