

Submission Form 16 to the Otago Regional Council on consent applications

This is a Submission on (a) limited notified/publicly notified resource consent application/s pursuant to the Resource Management Act 1991.

Submitter Details:
(please print clearly)

Full Name/s: The Otago Fish and Game Council

Postal Address: PO Box 76, Dunedin

Post Code: 9016

Phone number: Business: 03 477 9076

Private:

Mobile:

Email address: [REDACTED]

I/ we wish to **SUPPORT** / **OPPOSE** / submit a **NEUTRAL** submission on (circle one) the application of:

Applicant's Name:

And/or Organisation: Dunedin City Council

Application Number: RM20.280

Location: Corner of Big Stone Road and McLaren Gully Road, Brighton

Purpose: Multiple activities associated with the proposed Smooth Hill landfill

The specific parts of the application/s that my submission relates to are: (Give details)

The whole application. Please see attached submission

My/Our submission is (include: whether you support or oppose the application or specific parts of it, whether you are neutral regarding the application or specific parts of it and the reasons for your views).

Please see attached submission

I/We seek the following decision from the consent authority (*give precise details, including the general nature of any conditions sought*)

Please see attached submission

I/we:

- Wish to be heard in support of our/my submission
 Not wish to be heard in support of our/my submission

If others make a similar submission, I/we will consider presenting a joint case with them at a hearing.

- Yes
 No

I, **am/am not** (choose one) a trade competitor* of the applicant (for the purposes of Section 308B of the Resource Management Act 1991).

**If trade competitor chosen, please complete the next statement, otherwise leave blank.*

I, **am/am not** (choose one) directly affected by an effect as a result of the proposed activity in the application that:

- a) adversely affects the environment; and
b) does not relate to trade competition or the effects of trade competition.

I, **do/do not** (choose one) wish to be involved in any pre-hearing meeting that may be held for this application.

I **do/do not** request* that the local authority delegates its functions, powers, and duties to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority.

I **have/have not** served a copy of my submission on the applicant.



15 November 2021

Signature/s of submitter/s
(or person authorised to sign on behalf of submitter/s)

(Date)



15 November 2021
Otago Regional Council
70 Stafford Street
Dunedin, 9016
submissions@orc.govt.nz

Submission on Application by the Dunedin City Council, RM20.280

This feedback is provided on behalf of the Otago Fish and Game Council (Fish and Game). For additional information please contact Caelan Church using the details below.

Submitter Details

Submitter: The Otago Fish and Game Council
Contact person: Caelan Church
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A handwritten signature in black ink, appearing to read 'Caelan Church', is written over a horizontal line.

15 November 2021

Executive Summary.

- [1] Fish and Game is the statutory manager of sports fish and game bird resources within Otago. It holds this authority under the Conservation Act 1987, with its functions include managing, maintaining, and enhancing the sports fish and game resources of Otago. The Dunedin City Council's (DCC's) proposed Smooth Hill Landfill sits at the top of the Ōtokia Creek Catchment. This catchment contains two regionally significant wetlands, and Ōtokia Creek which flows through Brighton.
- [2] Fish and Game has submitted in a neutral capacity, but recommends the following relief to improve constancy with relevant planning documents and legislation:
 - a. Trigger values and water quality standard for the discharge and the receiving waters.
 - b. A plan that identifies actions as to what must happen if exceeded.
 - c. An ability for the public to provide feedback.

Introduction.

Statutory managers of freshwater sports fish, game birds and their habitat

Otago Fish & Game Council

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- [3] Fish and Game is the statutory manager of sports fish and game bird resources within Otago. It holds functions and responsibilities set out in the Conservation Act 1987. The organisation's functions include managing, maintaining, and enhancing the sports fish and game resources of Otago in the recreational interests of anglers and hunters; representing the interests and aspirations of anglers and hunters in the statutory planning process; and advocating the interests of the Council, including its interests in habitats. This submission has been developed in line with these functions.
- [4] Due to the popularity of angling in New Zealand, the demographic Fish and Game represents when carrying out its statutory functions is significant; however, this is not always obvious. The 2013/2014 Active NZ Survey conducted by Sport and Recreation New Zealand reported that 19.5% of respondents had been fishing (including both marine and freshwater angling) in the past 12 months¹. The survey found fishing had a higher rate of participation than rugby, tramping, football, cricket and basketball for men; and that fishing had a higher participation rate than netball, tennis, snow sports and tramping for women. Within Otago, license sales have exceeded 18,000 licenses across all categories for many years. Participation rates estimated from the National Angling Survey² between 1994 and 2015 show that total freshwater fishing effort in the Otago Fish and Game region ranged from 180,860 to 215,430 angler-days over the fishing season.
- [5] As required by the Conservation Act 1987, Fish and Game has prepared a Sports Fish and Game Management Plan for Otago³, which has guided the development of this submission. This document describes the sports fish and game bird resources in the region and outlines issues, objectives, and policies for management over the period. The document may be useful for decision makers when considering this application.

Ōtokia Creek.

- [6] The Ōtokia Creek catchment lies to the west of Brighton and holds two regionally significant wetlands, Ōtokia Swamp, and the Lower Ōtokia Creek Marsh.^{4,5} The upper reaches of Ōtokia Creek are ephemeral, with water only flowing during specific periods of the year.
- [7] Fish and Game understands that no *salmonids* have been found in the Freshwater Ecology Report.⁶ However, there have been possible sightings over the years by Brighton locals.⁷

¹ Sport and Recreation New Zealand. 2015. *Sport and Active Recreation in the Lives of New Zealand Adults: 2013/14 Active New Zealand Survey Results*. Wellington: Sport New Zealand.

² Unwin, M. J. 2016. *Angler Usage of New Zealand Lake and River Fisheries*. Christchurch: National Institute of Water and Atmospheric Research.

³ Otago Fish and Game Council. 2015. *Sports Fish and Game Management Plan for Otago Fish and Game Region 2015 - 2025*. Dunedin: Otago Fish and Game Council.

⁴ Otago Regional Council. 2020. online: Ōtokia Swamp <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries/dunedin-district/otokia-swamp>

⁵ Otago Regional Council. 2020. online: Lower Ōtokia Creek Marsh <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries/dunedin-district/lower-otokia-creek-marsh>

⁶ Application – Appendix 11 - Ecological Impact Assessment Report.

⁷ Otago Daily Times. 2018. online: <https://www.odt.co.nz/news/dunedin/residents-urged-air-landfill-concerns>

- [8] Indigenous species such as Short and Longfin Eels have also been recorded in the catchment's waterways.⁸ These species play a significant part in freshwater ecology and can be considered as part of a healthy water body.
- [9] It is within this context that the Dunedin City Council (DCC) proposes to construct a Landfill at the top of this catchment.
- [10] In making this submission Fish and Game acknowledges that Ōtokia Creek is not a significant sports fishery, nor does it contribute to a significant sports fishery. However, the fact a development such as this is occurring within this catchment, means that Te Mana o Te Wai needs to be well supported.

Te Mana o te Wai.

- [11] New Zealand's National Policy Statement for Freshwater Management (NPSFM) was created under Part 2 of the RMA. The single objective of the NPSFM is to ensure that...

*"...natural and physical resources are managed in a way that prioritises:
(a) first, the health and well-being of water bodies and freshwater ecosystems*

(b) second, the health needs of people (such as drinking water)

*(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future."*⁹

- [12] Underpinning the NPSFM is the concept of Te Mana o te Wai. This concept recognises the fundamental importance of protecting the mauri (essence) of the water. As shown above, while there are other aspects to consider in this statement, such as the health needs of people, and social, economic, and cultural wellbeing. It is important to recognise that These are to be considered in a hierarchy, with the health and wellbeing of water bodies and freshwater ecosystems being the top priority.

- [13] This position was emphasised in *Aratiatia Livestock Limited v Southland District Council* [2019] NZEnc 208 where it was stated that...

*"This plan redirects the usual RMA focus on the scale and significance of effects of resource use onto the mauri or lifeforce of water and the enquiry becomes how do users of resources protect the waters mauri and health. ... this requires all people to work on the causes of degradation."*¹⁰ (emphasis added).

- [14] Developments such as this landfill can clash with such concepts and the potential impacts that can occur from such developments can impact on the mauri of the water, and as a result, proper measures need to be put in place to ensure that the health and wellbeing of the waterbody remains a priority.

⁸ Application – Appendix 11 - Ecological Impact Assessment Report.

⁹ NPS-FM 2020. Clause 2.2.

¹⁰ *Aratiatia Livestock Limited vs Southland regional Council* [2019] NZEnc 208, at [7].

Issue.

- [15] The DCC seeks a resource consent to discharge contaminants to Ōtokia Creek.
- [16] Monitoring is proposed to be carried out at select sites throughout the catchment. These will be based off a trigger system, where contaminants will be discharged to the waterbody. If a certain limit is breached, then discharge will stop.
- [17] However, no limit has been provided in the consent as this is to be decided later in the draft landfill management plan. This will occur once this submission process has been carried out and the consent has been granted.
- [18] This presents a problem. The trigger values set in condition B. 18 provide a limit or standard for adverse effects on the environment. By granting consent before such trigger values have been fully established, would a problem for decision makers and the public who are being asked to agree to adverse effects on the environment that have not yet been established.
- [19] Te Mana o te Wai states that the health and wellbeing of the waterbody should be prioritised. By agreeing to certain environmental standards before they are known it could be argued that the decision makers are unable to priorities the health and wellbeing of the waterway and are therefore unable to have regard to the NPSFM 2020.

Relief Sought.

- [20] Fish and Game has submitted with a neutral position and recommend that the Landfill Management Plan be developed prior to a hearing decision being made. This must at a minimum include:
- a. Trigger values and water quality standard for the discharge and the receiving waters.
 - b. A plan that identifies actions as to what must happen if exceeded.
 - c. An ability for the public to provide feedback.
- [21] If this relief were provided fish and game expects the application would be more consistent with relevant planning documents and legislation.