

**BEFORE THE COMMISSIONER ON BEHALF OF
THE OTAGO REGIONAL COUNCIL**

IN THE MATTER
of the Resource
Management Act 1991

AND

IN THE MATTER
of discharge permit
application RM15.364
made under the
Regional Plan: Water for
Otago, for the Waihola
Sewage Treatment
Plant

**CLUTHA DISTRICT
COUNCIL**

Applicant

**AND OTAGO
REGIONAL COUNCIL**

Consent Authority

**AND TE RŪNANGA
O ŌTĀKOU, TE
NOHOAKA O
TUKIAUUAU
(SINCLAIR
WETLANDS TRUST),
TE RŪNANGA O NGĀI
TAHU**

Submitters

**PLANNING EVIDENCE OF TIM VIAL
ON BEHALF OF THE SUBMITTERS**

14 January 2022

INTRODUCTION

1. My name is Tim Vial. I hold the qualifications of Bachelor of Arts, Bachelor of Laws and Master of Regional and Resource Planning from the University of Otago. I have 19 years' experience in resource management planning and policy development, including experience in developing freshwater management policy and in assessing the effects of proposals on freshwater resources for Kāi Tahu ki Otago.
2. I am a Full Member of the New Zealand Planning Institute and an accredited hearings commissioner under the Making Good Decisions programme.
3. I am currently employed as a Senior Planner at Aukaha, a consultancy based in Otago and owned by Te Rūnanga o Waihao, Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga. My role at Aukaha is focused on freshwater planning.
4. This planning evidence is made on behalf of three submitters, Te Rūnanga o Ōtākou, Te Nohoaka O Tukiauau (Sinclair Wetlands Trust), and Te Rūnanga O Ngāi Tahu (collectively **the Submitters**) on discharge permit application RM20.039 by Clutha District Council (**CDC** or **the Applicant**) for the Waihola Sewage Treatment Plant (**STP**).
5. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and I agree to comply with it. I confirm that the issues addressed in this statement are within my area of expertise except where I state that I am relying on information provided by another party. I have not knowingly omitted to consider material facts known to me that might alter or detract from the opinions expressed.
6. I undertook a site visit to the Waihola STP on 23 December 2021 and am familiar with the Application site and area.
7. The key documents that I have referred to in preparing my evidence include:
 - (a) Waihola Sewage Treatment Plant: Application to discharge treated sewage effluent to the Lake Waihola outlet channel, CDC (**the Application**);
 - (b) The assessment of environmental effects, Ryder Consulting

Limited for CDC, February 2014;

- (c) The addendum to the Application, Ryder Consulting Ltd, June 2018;
- (d) The section 92 request and response;
- (e) The Otago Regional Council section 42A report (**the s42A Report**) and supporting evidence of Dr Greer;
- (f) The Applicant's planning evidence prepared by Rachel Vaughan;
- (g) The statements of evidence of Edward Ellison, Stephen Bryant, Paulette Tamati-Elliffe for the Submitters.
- (h) The National Policy Statement for Freshwater Management 2020 (**NPSFM 2020**);
- (i) The Partly Operative Otago Regional Policy Statement 2019 (**RPS 2019**) and the Proposed Otago Regional Policy Statement 2021 (**PORPS 2021**);
- (j) The Otago Regional Plan: Water (**RPW**); and
- (k) The following iwi planning documents:
 - i. Te Rūnanga o Ngāi Tahu Freshwater Policy 1999 (**NTFP**);
and
 - ii. The Kāi Tahu Ki Otago Natural Resource Management Plan 2005 (**NRMP**).

SCOPE OF EVIDENCE

8. My evidence will cover the following matters:
- (a) A brief description of the application.
 - (b) A synopsis of the Applicant's engagement with mana whenua.
 - (c) A summary of the three submissions.
 - (d) A summary of the relationship of mana whenua with wai māori and specifically the Waihora/Waipōuri lakes and wetland

complex.

- (e) My response to the s42A Report and the Applicant's planning evidence with respect to:
- i. The status of the application.
 - ii. the assessment of effects on cultural values;
 - iii. the planning assessment under the NPSFM, RPS 2019, PORPS 2021, RPW, iwi planning documents and Part 2 of the Resource Management Act 1991 (**RMA**); and
 - iv. the proposed consent conditions.

THE APPLICATION

9. Application RM15.364 was originally lodged with Otago Regional Council on 23 December 2015 and received on 26 January 2016. The application sought to discharge 680m³ of treated sewage per day from the Waihola STP to the Lake Waihora¹ Outlet Channel for 35 years. The Applicant subsequently revised the term of consent sought to 6 years.
10. The existing discharge permit expired on 1 September 2017 and the Applicant has relied on provisions in Section 124 of the RMA to continue the activity under the same conditions as the expired permit until a decision is made on the new application.
11. A decision to publicly notify the application was made by the Otago Regional Council on 9 August 2019.
12. The Waihola STP and the receiving environment for the discharge are described in the Application, the notification assessment and the s42 report.²
13. The Waihola STP is located on the eastern side of Titri Road, approximately 2 km north of Waihola. The plant is elevated above Titri Road and is approximately 70m from Lake Waihora to the north-west.
14. The plant consists of a single oxidation pond and a surface flow wetland

¹ As described in the evidence of Ms Tamati-Elliffe, Waihola is the Kāi Tahu name for the lake.

² Notification Assessment, Sections 5.1 and 5.2; Section 42A report, Sections 2 and 4

with two parallel cells. The application does not specify whether the oxidation pond is lined. The applicant may wish to confirm this.

15. The application refers to a stream that skirts the site.³ There is a stream adjoining the northern boundary of the plant that discharges via a roadside swale and culverts into Lake Waihora.

ENGAGEMENT WITH MANA WHENUA

16. The applicant engaged with Te Rūnanga o Ōtākou, through Aukaha, on the application from February 2016 – October 2020. This correspondence is summarised in Appendix 1. I have been involved with the application since December 2021 and have reviewed this correspondence.
17. The early correspondence indicated that affected party approval would be given to the application subject to inclusion of specified conditions. The details of the conditions developed over the period of engagement with the applicant, but the following matters of concern were reflected in the conditions requested throughout this period:
 - (a) The duration of the consent should be limited, with an assurance that an upgrade of the system or a new facility would be implemented within the term of the consent.
 - (b) Regular monitoring of the discharge quality should be undertaken; and
 - (c) The plant should operate within the discharge quality limits required by the consent.
18. Te Rūnanga o Ōtākou, Te Nohoaka o Tukiauau (Sinclair Wetlands Trust), and Te Rūnanga o Ngāi Tahu submitted in opposition to the Application in September 2019.
19. The Applicant wrote to the Submitters on 6 October 2020 setting out proposed conditions of consent and reducing the term of consent to 7 years.
20. Aukaha wrote to the Applicant on 29 October 2020 advising that Te Rūnanga o Ōtākou supported the proposed conditions subject to viewing

³ Application, p.9: “On occasions of very high inflows, it has been necessary to pump continuously to prevent the pond or wetland overflowing into the stream skirting the site.”

the final draft suite of conditions before withdrawing their submission in opposition.

21. The Applicant's planning evidence refers to this correspondence as "conditional approval".⁴ However, my understanding is that there has been no further correspondence between the Applicant and the Submitters and that Te Rūnanga o Ōtākou did not withdraw their submission in opposition.
22. On 17 December 2021 Aukaha, on behalf of Te Rūnanga o Ōtākou, wrote to the Otago Regional Council to formally withdraw its affected party approval, which predated the submission on the application, for the avoidance of doubt.
23. Throughout this correspondence Te Rūnanga Ōtākou consistently advised the Applicant that the continued discharge of wastewater into Lake Waihora was not supported and that the preference was for the discharge of treated human waste to land.

MANA WHENUA SUBMISSIONS

24. Te Rūnanga o Ōtākou, Te Nohoaka o Tukiauau (Sinclair Wetlands Trust), and Te Rūnanga o Ngāi Tahu submitted on the Application. All the Submitters stated that their preference is to avoid discharges of contaminants to wai māori and encouraged the Applicant to investigate land disposal of the treated wastewater from the Waihora STP.
25. The submission by Te Rūnanga o Ōtākou described the cultural, spiritual and historical significance of Lake Waihora and the surrounding area. The submission explained how the Application is inconsistent with the Kāi Tahu Ki Otago Natural Resource Management Plan 2005 and RPW. It articulated the aspiration of Te Rūnanga o Ōtākou for high water quality in Lake Waihora and the surrounding area.
26. Te Nohoaka O Tukiauau (Sinclair Wetlands Trust) manages a 258 hectare portion of the Lake Waihora-Waipori wetland which is owned by Te Rūnanga o Ngāi Tahu. Its submission described the existing poor water quality of Lake Waihora, the inconsistency of the Application with the RPW policies and the Trust's concerns about the reliability of the tidal discharge system preventing contamination entering Lake Waihora. The submission set out the Trust's vision for restoration of the broader wetland ecosystem.

⁴ Evidence of Ms Vaughan, para 42.

27. The Te Rūnanga o Ngāi Tahu submission discussed the relationship of mana whenua with wai māori and how the discharge occurs into an area of cultural significance for Ngāi Tahu, which is recognised by the Statutory Acknowledgement for the Waihora-Waipōuri wetlands. Similar to the other submissions, it explained the inconsistency of the Application with the NTFP, NRMP, and RPW. The submission also highlighted the insufficient consideration of alternatives as required by section 105(1) of the RMA and the lack of a Cultural Impact Assessment and consultation with mana whenua to determine the impact of the Application on Ngāi Tahu values and how they might be avoided or mitigated.
28. All three submissions sought that the Application be declined and if the Application was to be granted, then it should be for a shorter term, with provision for investigating an alternative discharge option.

MANA WHENUA RELATIONSHIP WITH WAI MĀORI AND THE WAIHORA-WAIPŌURI WETLANDS

29. The cultural evidence of Mr Ellison describes the centrality of freshwater to mana whenua identity and wellbeing. Mana whenua through whakapapa are integrally connected with wai māori and the whenua (land). This whakapapa connection carries rakatirataka rights and imposes a kaitiakitaka obligation on mana whenua to protect wai māori and all the life it supports, in accordance with customs and knowledge developed over many generations.
30. Connection to wai māori is supported and sustained through the availability and use of mahika kai. Mahika kai is more than just a source of food for mana whenua, it is how mana whenua connect with te taiao (the natural environment) and transmit mātauraka (knowledge) from one generation to the next. As set out in the evidence of Ms Tamati-Elliffe, this requires whānau to be able to access mahika kai, carry out customary practices, and that species are sufficiently plentiful and robust for long term sustainable harvest. It also requires mahika kai to be culturally fit for use or consumption.
31. In her evidence Ms Tamati-Elliffe describes the enduring significance of the Waihora / Waipōuri wetland complex, of which Te Nohoaka o Tukiauau/ Sinclair Wetlands and Tatawai are part, for Ōtākou whānau. The Waihora and Waipōuri wetlands were once one of the most significant food baskets

in the Otago region. The importance of this area to mana whenua was acknowledged as part of the Ngāi Tahu Claims Settlement Act 1998, which included a statutory acknowledgement for the Waihora-Waipōuri Wetlands,⁵ and the Crown purchase and transfer of ownership of Te Nohoaka o Tukiauau / Sinclair Wetlands to Te Rūnanga o Ngāi Tahu.

32. As discussed by Ms Tamati-Elliffe, many of the mahika kai activities associated with the Waihora-Waipōuri wetlands are no longer possible. The waterways, lakes and wetlands that once connected the Taiari and Waipōuri River systems have been modified or drained. In this context, the Submitters consider the adverse effects of wastewater discharges on the overall health and well-being of the remaining wetlands, and the Waihora-Waipōuri catchment, cannot be understated.
33. In his evidence Mr Bryant states that the discharge of treated human waste into the Waihora-Waipōuri wetland complex is contrary to tikaka and the intent of the settlement agreed with the Crown. The discharge degrades the mauri of the Waihora-Waipōuri wetlands which disregards the rakatirataka of mana whenua and frustrates the exercise of kaitiakitaka. It is also contrary to the vision of mana whenua to restore natural habitat and mahika kai resources within the Waihora and Waipōuri wetlands as set out in Ms Tamati-Elliffe's evidence.

CULTURAL CONCERNS OVER THE DISCHARGE OF HUMAN WASTE TO WAI MĀORI

34. As explained by Mr Ellison, the direct discharge of human waste to natural water, almost regardless of the extent of treatment, is considered abhorrent by mana whenua and renders mahika kai unfit for consumption.
35. Mr Ellison explains that mana whenua support the treatment of wastewater through land, an artificial sub-surface wetland, or similar, that provides a cleansing function removing contaminants and replicating the role which Papatūānuku plays in a natural system. This approach restores the mauri of the waterbody and ensures mahika kai is culturally fit for consumption or use.

⁵ Waihora/Waipōuri Wetland Statutory Acknowledgement Area, Schedule 70 of the Ngāi Tahu Claims Settlement Act 1998. The discharge also may affect Te Tai o Ārai Te Uru (Otago Coastal Marine Area) Statutory Acknowledgement Area, Schedule 103 of the Ngāi Tahu Claims Settlement Act 1998.

36. The proposed capital upgrades to the plant to improve the quality of the discharge from the Waihora STP do not address the fundamental issue for mana whenua. The discharge of wastewater into wai māori renders the receiving environment unfit for cultural use regardless of the quality of that discharge as discussed by Mr Bryant, Ms Tamati-Elliffe and Mr Ellison. To restore the mauri of the Waihora-Waipōuri wetlands, mana whenua consider it is necessary for the discharge of wastewater to be removed from the Lake Waihora outflow channel.

STATUS OF THE APPLICATION

37. The status of the application is discussed in Section 5 of the s42A Report. I concur with Mr Henderson that overall, the application should be considered as a *discretionary activity*.

ASSESSMENT OF EFFECTS ON CULTURAL VALUES

38. The Section 42A Report provides an assessment of the environmental effects of the proposed activity. To avoid repetition, I have confined my evidence to matters which I wish to emphasise as pertinent to the matters raised by the Submitters, or where I disagree with the Section 42A Report.
39. Overall, I support the assessment in the Section 42A Report and, relying on the Section 42A Report and the evidence of Mr Ellison, Mr Bryant and Ms Tamati-Elliffe, I concur that:
- (a) the cumulative effects of discharges to Lake Waihora are substantial, including the effects on Ngāi Tahu cultural associations with Lake Waihora and the Waihora-Waipōuri wetlands.
 - (b) the proposed increases in nutrient concentrations on the Lake Waihora outflow channel and potential effects on ecosystem values, human health and cultural well-being may therefore be more than minor;⁶
 - (c) the effects on cultural values of the discharge of effluent to water in the Waihora-Waipōuri catchment are more than minor.⁷

⁶ Section 42A Report, page 23.

⁷ Section 42A Report, page 25.

40. As summarised above and discussed in the cultural evidence of Mr Ellison, wai māori (freshwater) is integral to mana whenua identity and wellbeing generally and the cultural significance of Lake Waihora and the surrounding wetlands is acknowledged in the Ngāi Tahu Claims Settlement Act 1998.
41. The evidence of Ms Tamati-Elliffe discusses the centrality of mahika kai to Kāi Tahu cultural identity and the importance of the Waihora-Waipōuri wetland complex as a source of mahika kai. As Ms Tamati-Elliffe's evidence sets out, many of the mahika kai activities associated with the Waihora-Waipōuri wetlands are no longer possible. Ms Tamati-Elliffe considers the negative effect of wastewater discharges on the overall health and well-being of the remaining wetlands, and the Waihora-Waipōuri catchment, cannot be overlooked, or understated.
42. Relying on that evidence, I agree with Mr Henderson that the Applicant's evaluation of adverse effects on cultural values is "relatively superficial given the significance of the receiving environment to mana whenua."⁸
43. Ms Vaughan's evidence does not discuss effects of the proposed activity on cultural values in any detail but acknowledges that "the discharge of human effluent to surface water is contrary to the values of tangata whenua and Te Mana o Te Wai".⁹ However, her evidence then appears to justify the Applicant's approach by stating that mana whenua understand that upgrades to wastewater systems must be done in a manner that is economically sustainable for the community, as well as meeting best practice and the environmental constraints of the site.¹⁰
44. As set out the submissions and in the evidence of Mr Ellison, mana whenua are concerned that the Applicant has dismissed alternative solutions to the treatment of Waihora wastewater for reasons of cost. In effect, the costs are transferred to mana whenua as discussed by Mr Bryant. Mana whenua cannot use the Waihora-Waipōuri wetlands, the Waipori River, and the Taiari River for mahika kai purposes if the mauri of these water bodies is physically and spiritually degraded. Relying on this evidence, I do not consider it is appropriate to discount the cultural effects of the discharge on

⁸ Section 42A Report, page 43.

⁹ Evidence of Ms Vaughan, para 53.

¹⁰ Evidence of Ms Vaughan, para 53.

the basis of avoiding additional financial costs to the applicant, as suggested by Ms Vaughan.

45. As a further response to consideration of mana whenua values, Ms Vaughan's evidence justifies the Applicant's approach by stating that there is no adverse effect on the water quality of the discharge as it is currently, and that CDC are committed to improvements to the treatment plant and discharge quality.¹¹ I do not agree with this statement. Relying on the information submitted with the Application and Section 42A Reports, I note the following:

- (a) Dr Greer in his evidence on behalf of ORC concludes that the cumulative adverse effects of all nutrient discharges to Lake Waihora, including the STP discharge, are substantial.¹²
- (b) The Applicant is seeking consent for discharge volumes almost six times greater than what is currently being discharged, which Dr Greer suggests has the potential to cause more than minor effects on water quality and ecology in a waterbody that is already degraded.¹³
- (c) As set out in the s42A report, there is a history of non-compliance with the conditions of the existing resource consent for the Waihora STP. Compliance audits of the existing consent since 2016 have all indicated overall non-compliance, with significant non-compliances recorded on two occasions. This is further detailed in the Section 42A Report.¹⁴
- (d) The effects of the oxidation pond and artificial wetland on water quality in the stream that skirts the site is unknown. This stream discharges directly into Lake Waihora.

RELEVANT STATUTORY DIRECTION

46. The Section 42A Report provides an assessment against the statutory planning documents. To avoid repetition, I have confined my evidence to

¹¹ Evidence of Ms Vaughan, para 53.

¹² Evidence of Dr Michael Greer, page 14.

¹³ Evidence of Dr Michael Greer, page 15.

¹⁴ Section 42A Report, pages 12 – 13.

matters which I wish to emphasise as pertinent to the matters raised by the Submitters, or where I disagree with the Section 42A Report.

47. I agree with Mr Henderson's identification and assessment, in the Section 42A Report, of the relevant provisions of the RMA, NPSFM 2020, RPS 2019, PORPS 2021, RWP and the relevant iwi management plans (Kāi Tahu ki Otago Natural Resource Management Plan 2005 and the Te Rūnanga o Ngāi Tahu Freshwater Policy Statement 1999).
48. Overall, I concur that:
- (a) the Application as lodged does not achieve the purpose of the RMA,¹⁵ and
 - (b) the Application is inconsistent with provision for Māori freshwater values as articulated in the RMA, NPSFM, RPS 2019, PORPS 2021, RPW and iwi planning documents;¹⁶

Recognition and provision for Kāi Tahu interests and values in Part 2 RMA

49. This application is subject to Part 2 of the RMA (s104) and the consent authority must have regard to the relevant planning documents listed in s104(b). As discussed by Mr Henderson, the RPW does not give effect to key higher order documents, namely the NPSFM and the PO-RPS and PORPS. I agree with the Section 42A Report that an assessment against Part 2 is appropriate.¹⁷
50. The Submitters concerns relate directly to Part 2 of the RMA, particularly to sections 6(e), 7(a) and 8.
51. The evidence of Mr Ellison describes the depth and breadth of the relationship of mana whenua with wai māori, and particularly with Lake Waihora and the surrounding wetlands, as discussed above. Council is required to recognise and provide for that relationship under section 6(e).
52. Section 7(a) requires Council to have particular regard to kaitiakitaka. Mana whenua are mandated to exercise kaitiakitaka with respect to Lake Waihora and the surrounding area.

¹⁵ Section 42A Report, page 49.

¹⁶ Section 42A Report, pages 29 - 44.

¹⁷ Section 42A Report, page 47.

53. Section 8 of the RMA requires Council to take into account the principles of Te Tiriti o Waitangi when exercising its functions and powers under the RMA. It has been held that taking into account the principles of the Treaty of Waitangi requires the following:¹⁸
- (a) The active participation by tangata whenua in resource management decision-making;
 - (b) Engagement with tangata whenua in good faith;
 - (c) Seeking of reciprocity and mutual benefit;
 - (d) Protection of resources of importance to tangata whenua from adverse effects; and
 - (e) Positive action to protect tangata whenua interests.
54. In my view, it is evident that giving effect to sections 6(e), 7(a) and (8) of the RMA requires active protection of the relationship of mana whenua with Lake Waihora and the surrounding wetlands. I consider that the Application fails to do this. In particular:
- (a) It inappropriately discounts the effects on interests and values of mana whenua against the financial costs of upgrading or changing the current STP. In my opinion this fails to provide appropriately for the relationship of mana whenua with the Waihora-Waipōuri wetlands in accordance with section 6(e) and section 8;
 - (b) It does not provide for any engagement with, or participation of, mana whenua in decision-making about future management of the wastewater discharge. In my opinion, this does not appropriately have regard to kaitiakitaka, as required by section 7(a), or take into account the principles of the Treaty of Waitangi.

National Policy Statement for Freshwater Management 2020

55. Te Mana o te Wai is a fundamental concept in the NPSFM 2020 and 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.*”¹⁹

¹⁸ Aratiatia Livestock Limited and Ors v Southland Regional Council [2019] NZEnvC 191 at [6]

¹⁹ National Policy Statement for Freshwater Management 2020, Part 1.3.

56. The objective of the NPSFM 2020 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.
57. I agree with Mr Henderson that the proposed activity fits most appropriately within the third tier of Objective 2.1²⁰ and as such ought only to occur if the health and well-being of waterbodies and freshwater ecosystems and the health needs of people are met.
58. Ms Vaughan's evidence also appears to consider that the STP serves the health and wellbeing of the Waihola community and therefore fits within the third tier.²¹
59. Policy 1 of the NPSFM 2020 requires that Te Mana o te Wai is given effect to in freshwater management. I agree with Mr Henderson that based on the assessment of effects on water quality and ecological values the proposed activity will not give effect to Te Mana o te Wai.²²
60. Policy 2 of the NPSFM 2020 requires that tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for. I agree with Mr Henderson that the Application is inconsistent with this policy. The discharge of treated or untreated effluent to water is fundamentally contrary to Kai Tahu freshwater values, and the Application makes no provision for active involvement of mana whenua in future management of the discharge.
61. Ms Vaughan's evidence implies that the Application will give effect to Te Mana o Te Wai through planned upgrades to the Waihola STP to improve the discharge and through the consideration of alternatives to surface water

²⁰ Section 42A Report, page 28.

²¹ Evidence of Ms Vaughan, para 49.

²² Section 42A Report, page 28.

discharges.²³ As aforementioned, Kāi Tahu consider the discharge of treated or untreated effluent to water does not protect the mauri of the wai. To that end, an alternative land-based treatment system may better give effect to Te Mana o te Wai. However, the Application does not propose any alternative treatment system, despite this consent application first being lodged in 2015, and there is no commitment within from CDC to develop a *land-based* treatment system. The proposed capital costs for upgrading the system as set out in Ms Vaughan's evidence are also significantly less than those proposed by CDC in its Application.²⁴ There is also no clear process in the proposed conditions of consent which commits the Applicant to transition to an alternative discharge solution. In short, there is no certainty that the exact circumstances of this case will not be repeated in another six years. In my opinion, that is not an approach that gives effect to Te Mana o te Wai.

Partially Operative Regional Policy Statement 2019 (RPS 2019)

62. Otago Regional Council made parts of the proposed Regional Policy Statement operative in January 2019. Most of the remaining provisions, excluding provisions relating to port operations, were added to the RPS 2019 on March 15, 2021. As a result, the Regional Policy Statement for Otago 1998 is now revoked.
63. The relevant provisions of the RPS 2019 are set out in the Section 42A Report and I agree with Mr Henderson's assessment. I wish to highlight the particular objectives and policies relevant to the Submitters, which include:
 - (a) **Objective 2.2** Kāi Tahu values, interests and customary resources are recognised and provided for.
 - (b) **Policy 2.2.1** Manage the natural environment to support Kāi Tahu wellbeing.
 - (c) **Policy 2.2.2** Recognise sites of cultural significance.
 - (d) **Policy 2.2.3** Enable Kāi Tahu relationships with wāhi tūpuna and associated sites.
 - (e) **Objective 3.1 and Policy 3.1.1** The values (including intrinsic

²³ Evidence of Ms Vaughan, para 52.

²⁴ Evidence of Ms Vaughan, para 35.

values) of ecosystems and natural resources are recognised and maintained or enhanced where degraded.

- (f) **Policy 3.2.15 and Policy 3.2.16** Identify and protect the significant values of wetlands.
- (g) **Policy 5.4.3** Apply a precautionary approach to activities where adverse effects may be uncertain, not able to be determined, or poorly understood but are potentially significant or irreversible.²⁵

64. In my view, the proposed activity is inconsistent with these provisions. Ms Vaughan's evidence also identifies that the Application is only "partly consistent" with the objectives and policies but provides no further explanation.²⁶ The evidence of Mr Ellison sets out the importance of wai māori, and the evidence of Ms Tamati-Elliffe explains the significance of Lake Waihora and surrounding area to Kāi Tahu. Mr Bryant states that the discharge of treated human waste into the Waihora-Waipōuri wetland complex is contrary to tikaka and limits the ability of mana whenua to gather mahika kai from the Waihora-Waipōuri wetlands.

65. In my opinion, the proposed activity is inconsistent with the objectives and policies of the Otago RPS that seek to manage impacts of activities on cultural wellbeing and with Policy 5.4.3 which requires a precautionary approach to activities where the adverse effects may be uncertain. In my opinion, the adverse effects are uncertain given the cumulative effects of the volume of discharge proposed, the sensitive and currently degraded state of Lake Waihora, and the history of Waihora STP's non-compliances with discharge quality limits.

Proposed Otago Regional Policy Statement 2021

66. The PORPS 2021 was notified on 26 June 2021. I agree with Mr Henderson that this planning document gives effect to the direction of the NPSFM 2020.²⁷ Therefore, relying on advice from legal counsel, I believe a reasonable degree of weight should be given to it. I agree with Mr Henderson's assessment of the Application against the PORPS 2021

²⁵ I note that this is incorrectly referred to as Policy 4.4.3 in the Section 42A Report, page 31.

²⁶ Evidence of Ms Vaughan, list of objectives and policies above para 55.

²⁷ Section 42A Report, page 30.

objectives and policies. Ms Vaughan's evidence does not assess the Application against the PORPS 2021.

67. As directed by the NPSFM 2020, the PORPS 2021 recognises and provides for Te Mana o Te Wai. As set out in the evidence of Mr Ellison, mana whenua have worked with Otago Regional Council, alongside input from the wider community, to develop long-term visions for Otago's water bodies that will give effect to Te Mana o te Wai. The mana whenua definition of Te Mana o te Wai is now a freshwater objective in the Proposed Otago Regional Policy Statement 2021, namely:

LF-WAI-01 – Te Mana o te Wai

The mauri of Otago's water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that:

- 1. water is the foundation and source of all life - na te wai ko te hauora o ngā mea katoa,*
 - 2. there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,*
 - 3. each water body has a unique whakapapa and characteristics,*
 - 4. water and land have a connectedness that supports and perpetuates life, and*
 - 5. Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports.*
68. As discussed previously, the continued discharge of wastewater to the Waihora/Waipōuri wetlands is contrary to this objective.
69. Policies LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding Te Mana o te Wai and must be given effect to when making decisions affecting fresh water.²⁸

²⁸ Proposed Otago Regional Policy Statement 2021, LF-WAI-P4

70. LF-WAI-P3 requires that the use of freshwater and land is managed in accordance with tikaka and kawa, using an integrated approach. The key elements of integrated management include:
- (a) Recognising and sustaining the connections and interactions between surface and groundwater, permanently flowing and intermittent reaches of water bodies (LF-WAI-P3(1));
 - (b) Sustaining and wherever possible restoring the connections and interactions between land and water, from the mountains to the sea (LF-WAI-P3(2));
 - (c) Sustaining and wherever possible restoring the habitats of mahika kai and indigenous species, including taoka species associated with the water body (LF-WAI-P3(3));
 - (d) Managing the effects of the use and development of land to maintain or enhance the health and well-being of freshwater (LF-WAI-P3(4)); and
 - (e) Having regard to cumulative effects and the need to apply a precautionary approach where there is limited information or uncertainty about potential adverse effects LF-WAI-P3(2)).
71. I have discussed these matters above, and for the reasons discussed, I consider the application is inconsistent with Policy LF-WAI-P3.
72. Mr Ellison has discussed the close whakapapa connection between mana whenua and wai māori, the condition of water as an indicator of cultural health, and the interconnectedness between all parts of the natural world. These concepts are reflected in the LF-WAI objective and policies.
73. In order to provide for Te Mana o te Wai, Policy LF-FW-P15 specifically requires the adverse effects of direct and indirect discharges of wastewater to be minimised by preferring discharges to land over discharges to water. The continued discharge of treated human wastewater to Lake Waihora does not protect the mauri and the health and wellbeing of this waterbody and is contrary to Policy LF-FW-P15.
74. The PORPS 2021 also includes a suite of policies requiring resource management processes to give effect to the principles of Te Tiriti o Waitangi

and to manage the natural environment to support Kāi Tahu wellbeing (including MW-O1, MW-P1-3 and IM-O2). As discussed above, the Kāi Tahu values and mana whenua relationship to Lake Waihora are adversely affected by the proposed activity.

75. Of particular relevance to this Application is Policy EIT-INF-P14 relating to the development or upgrade of infrastructure. The Policy requires the consideration of alternative sites, methods and designs if adverse effects are potentially significant or irreversible. While the original Application considered one alternative method of discharge in 2015, the Applicant has not taken any further investigations to explore the full range of options in the last six years. The Applicant's proposed consent condition regarding the consideration of alternative discharge methods is also, in my view, inadequate to ensure a proposer investigation is undertaken. In my view, it is a requirement of s105 of the RMA that alternative options for a discharge are considered at the time the application is being assessed not retrospectively as a condition of consent.

Regional Plan: Water for Otago

76. I agree with Mr Henderson's assessment of the relevant provisions of the RPW set out in the s42A Report.²⁹ Ms Vaughan's evidence also considers that the Application is only partly consistent with a number of the objectives and policies.³⁰
77. In particular:
- (a) **Policy 5.4.2** In the management of any activity involving freshwater bodies, to give priority to avoiding (in preference to remedying or mitigating) adverse effects on a number of matters, including the spiritual and cultural beliefs, values and uses of significance to Kāi Tahu identified in Schedule 1D. This Schedule lists cultural and spiritual values associated with lakes and rivers throughout Otago. The Schedule identifies all of the beliefs, values and uses ascribed to water bodies (kaitiakitaka, mauri, wāhi tapu and/or waiwhakaheke, and wāhi taoka) and access/customary use interests (mahika kai, kōhanga, trails, cultural materials and waipuna) as being applicable to Lakes Waihora and Waipori, and

²⁹ Section 42A Report, pages 37 – 42.

³⁰ Evidence of Ms Vaughan, para 56.

the Sinclair Wetlands.³¹ Waipori River is also listed in Schedule 1D with respect to wāhi taoka and mahika kai. I agree with Mr Henderson's observation that the Schedule 1D values are closely correlated to ecological health. The policy clearly provides for a preference to avoid adverse effects. The Application provides for the potential to increase discharge volumes from those currently discharged which may increase adverse effects.

- (b) **Policy 7.B.1** Manage the quality of water in Otago lakes, rivers, wetlands and groundwater through a number of measures, including setting limits and targets for good quality water (Schedule 15), enhancing water quality where it does not meet those limits by the dates specified in Schedule 15, and promoting the discharge of contaminants to land in preference to water. Proposed Condition 6 is based on the Schedule 15 limits and I support this approach. The preference of discharge to land has been discussed above and in the submissions.
- (c) **Policy 7.B.5** Avoid objectionable discharges of water or contaminants to maintain Kāi Tahu values (among other matters). I note that Ms Vaughan's evidence states the Application is consistent with this policy and Kāi Tahu values have been **considered**. My reading is that Policy 7.B.5 does not direct that Kāi Tahu values be considered but rather that they are **maintained** (emphasis added). Therefore, I do not agree with Ms Vaughan's assessment that the proposed activity is consistent with this policy.

Iwi Planning Documents

78. The Kāi Tahu ki Otago Natural Resource Management Plan 2005 and the Te Rūnanga of Ngāi Tahu Freshwater Policy 1999 (**NTFP**) are other matters which are relevant in considering this application under s104(1)(c) of the RMA. I agree with Mr Henderson's assessment and conclusions on these matters.³² Ms Vaughan's evidence does not address either iwi planning document.

³¹ These values and uses are further described in the evidence of Ms Tamati-Elliffe.

³² Section 42A Report, page 44.

79. I consider that the following direction in the iwi management plans, both in general objectives and policies and in those specifically relating to freshwater and mahika kai objectives and policies, are particularly relevant:
- (a) Recognition and support for the rakatirataka and kaitiakitaka of Kāi Tahu ki Otago, upholding their mana through management of resources, and effective participation in resource management activities.³³
 - (b) Ki uta ki tai management of resources, and management for future generations.³⁴
 - (c) Recognition, in all water management, of the spiritual and cultural significance of water to Kāi Tahu ki Otago.³⁵
 - (d) Healthy waters that support Kāi Tahu customs,³⁶ and
 - (e) Protection and restoration of mauri, and recognition that each waterway has its own mauri, mana, values and uses.³⁷
80. One of the strategies set out in the NTFP to restore, maintain and protect the mauri of freshwater is that councils should prohibit direct discharge of contaminants, particularly human effluent, to waterways. Discharges to land should be encouraged.³⁸
81. These matters are discussed in the evidence of Mr Ellison, Ms Tamati-Elliffe and Mr Bryant. In my opinion, this application is inconsistent with the relevant objectives and policies of the Iwi Management Plans.

Summary of the Statutory Assessment

82. In summary, I do not agree that the effects of the proposed activity will be minor, that the activity is consistent with the relevant planning documents, or in its current form achieves the purpose of the Act.
83. Rather, I support the recommendation of the Section 42A Report to grant a discharge permit for the current discharge at its current volume, rather than

³³ NRMP 5.2.1, 5.2.3 and 5.2.4; NTFP 6.4.

³⁴ NRMP 5.2.2.

³⁵ NRMP 5.3.3.1, 5.3.3.5, 5.3.4.2.2, 5.3.4.2.7; NTFP 6.1.

³⁶ NRMP 5.3.3.2; NTFP 6.3.

³⁷ NRMP 5.3.4.2.4; NTFP 6.2.

³⁸ NTFP

the volume applied for, and to limit the consent duration to a maximum duration of 6 years. I also agree with the recommended conditions of consent in the Section 42A Report.

84. In reaching this conclusion, I am not disregarding the significant cultural effects of a discharge of effluent to water which have been articulated in the evidence of Mr Ellison, Mr Bryant and Ms Tamati-Elliffe, or the inconsistency of the proposed activity with the higher order planning documents identified in both the Section 42A Report and in my evidence above. However, there is currently no alternative waste treatment and disposal option available for this community.
85. However, I consider that further improvements could be made to the proposed conditions to better achieve the purpose of the Act and to provide the Submitters and the community with certainty that this current practice of discharging effluent to water is being rapidly phased out. In particular, to achieve the purpose the Act, I believe it is necessary to avoid a pattern of the Applicant and the community relying on continual granting of short-term discharge permits as each permit comes up for expiry; continuing to rely on the current argument that there is no alternative option.
86. Rather in my view two significant amendments need to be made to the application:
- (a) firstly, the amendments recommended in the Section 42A Report; and
 - (b) secondly, the Applicant needs to offer a lawfully binding commitment to have an alternative land-based treatment and disposal system consented and operational by the expiration of this consent.

PROPOSED CONSENT CONDITIONS

87. Overall, I support the recommended conditions of consent set out in the Section 42A Report, particularly in relation to the short-term duration of 6 years, a reduction in discharge volume, the improvements in discharge quality, and more rigorous monitoring. However, this is on the proviso that the discharge permit is issued as a short-term measure alongside a commitment from the applicant to move to an alternative treatment and disposal system. As well as that commitment from the applicant, I consider

that further improvements could be made to the conditions on the discharge permit.

88. I have found statements in Ms Vaughan's evidence on the consent conditions confusing, particularly in relation to the proposed volume of wastewater to be discharged:

(a) At paragraph 22 Ms Vaughan states that CDC is prepared to amend the Application to reduce the volume of discharge sought to levels currently being discharged.

(b) At paragraph 28 Ms Vaughan states that CDC has agreed to proposed amendments to the Application to mitigate concerns of submitters and adverse effects, including the term of consent, the reduction of the volume of the discharge to reflect current usage, as well as other changes.

(c) At paragraph 75 Ms Vaughan states CDC agrees with the conditions outlined in Mr Henderson's report, except for conditions 1 and 2, but then goes on to request changes to conditions 1, 2, 3(a), 5 and 8 in Table 1 as follows:

i. Condition 1 – CDC is still requesting a discharge volume of 680m³ per day rather than 192m³ as recommended in the s42A Report.

ii. Condition 2 – CDC is seeking a review condition rather than specific circumstances where the volume in Condition 1 may be exceeded.

iii. Condition 3(a) – CDC is seeking a condition that requires a reduction in the period that effluent is discharged to minimise or eliminate backflow into Lake Waihora, rather than retaining the condition which limits the discharge to the latter half of the incoming tide, and/or the initial half of the outgoing tide as per the expired consent.

iv. Condition 5 – CDC appears to be seeking to provide a representative sample of the discharge at different points only where practicable. The evidence also states that

measuring flow rate will not be practical and a depth measuring gauge will need to be installed.

- v. Condition 8 – This condition requires the monitoring of the receiving water from the outflow channel against water quality standards. CDC seeks a revised condition that requires no net increase in the identified water quality parameters.

- (d) The Engineering Assessment of Conditions at Appendix 3 of Ms Vaughan’s evidence states that CDC cannot agree to the s42A Report’s recommended conditions 1, 2, 3(a), 6 and 15. With respect to Condition 6 she states that the existing infrastructure is unable to meet the proposed requirements and will require a substantial capital upgrade which is unlikely to be completed until July 2023. In relation to Condition 15, Ms Vaughan states that CDC has concerns with how the proposed timings for an Activity Management Plan will work with the CDC Long-Term Planning Cycle and associated budgeting.

Term of Consent

89. The Application has been amended to seek a term of 6 years. In my opinion this is an appropriate term given:
- (a) the Waihola community needs a functional wastewater treatment system in the interim.
 - (b) it provides the Applicant with adequate time to investigate, design and obtain a consent for an alternative system.
 - (c) assuming the discharge permit is granted subject to the conditions recommended in the Section 42A Report, adverse effects are not likely to increase during the consent term; and
 - (d) there is a proposed review condition.

Discharge Volumes (Proposed Conditions 1 and 2)

90. I support a reduction of the proposed discharge volume, as recommended in the s42A Report, to 192m³ per day, with an exception provided for a 1 in 10-year rainfall event or greater. This is appropriate given:

- (a) the current average discharge under normal flow is approximately 102m³ with a maximum of 192m³.
- (b) the proposed discharge of 680m³ was originally sought to address demand at the end of a 35-year consent, accordingly the volume should be reduced to correspond to the 6-year term now sought. In my view, authorising a discharge volume from the current wastewater system to allow for a substantial amount of growth in the Waihola community is totally inappropriate. Any new development in this area should be serviced by a wastewater treatment and disposal system that involves land-based treatment or filtering.
- (c) even if the discharge quality is improved an increase in volume may result in an increase of contaminants entering the environment. In addition, an improvement in the quality of the discharge cannot negate the fundamental issue that discharging wastewater into water is fundamentally at odds with mana whenua values and as such is contrary to the provisions of relevant planning documents and fails the duties set out in s6(e), 7(a) and 8 of the RMA.

Activity Management Plan (Proposed Condition 15)

- 91. Proposed Condition 15 requires the preparation of an Activity Management Plan with the objective of ensuring improvement in the discharge quality throughout the duration of consent and ensure the discharge will meet current and future water quality standards past 2027. The Activity Management Plan must include consideration of alternative discharge methods, the timing of any upgrades, budget required and analysis of how the upgrades will meet the objectives of the Activity Management Plan.
- 92. The Section 42A Report acknowledges that “reconsenting the discharge in this location will become increasingly difficult”³⁹ and that “the Applicant will need to more rigorously assess the viability of land based disposal or other options to provide for medium to long term discharge volumes”.⁴⁰

³⁹ Section 42A Report, page 37.

⁴⁰ Section 42A, page 43.

93. In my opinion, condition 15 as currently proposed does not provide certainty of a transition to land-based treatment. Rather, the reference to water quality standards post 2027 could be interpreted as signalling that an on-going discharge to water will be permissible provided these standards are met.
94. The Activity Management Plan should, as a minimum, specify:
- (a) That the objective is the removal of the Waihola wastewater discharge from the Waihora outflow channel.
 - (b) Key outcomes for and milestones towards adoption of an alternative solution for wastewater treatment and disposal before the term of the consent ends.
 - (c) The process the Consent Holder will follow to:
 - i. Consult with mana whenua (and the wider community) on alternative solutions for the disposal of Waihola wastewater.
 - ii. Assess alternative treatment and disposal options; and
 - iii. Identify the preferred treatment and disposal option.
 - (d) The timeframes to implement the preferred treatment and disposal option.
95. I recommend the following amendments to Condition 15:

Condition 15

- (a) Within the first year of the exercise of this consent, the Consent Holder must prepare an Activity Management Plan. The Activity Management Plan must be prepared by a suitably qualified individual and have the following objectives:
 - (i) To ensure improvement in the ~~discharge-water~~ quality of the discharge throughout the duration of the consent; and
 - (ii) To ensure the discharge will meet current and future water quality standards that may apply throughout the duration of the consent past 2027; and

- ~~(iii) To establish a plan for the discharge to be removed from the Lake Waihola outflow channel by the expiry of this consent.~~
- (b) The Activity Management Plan must include, but is not limited to:
 - (i) Proposed upgrades to the current wastewater treatment plant throughout the duration of the consent;
 - (ii) An assessment Consideration of alternative discharge methods, that remove the discharge from the Waihola outflow channel;
 - (iii) Timing and budgeting for any proposed upgrades;
 - (iv) The timing, budgeting and other steps required to identify and develop an alternative discharge method to discharging to the Waihola outflow channel; ~~to fund proposed upgrades both in the short term and long term; and~~
 - (v) Analysis of how upgrades under both b(i) and b(iv) above will ensure the objectives of the Activity Management Plan will be met.;
 - ~~(vi) A process for engaging with mana whenua and the wider community on alternative discharge methods; and~~
 - ~~(vii) A process for confirming, funding and consenting the preferred discharge method by the expiration of this consent.~~
- (c) The Consent Holder must provide the Activity Management Plan to the Consent Authority within 5 (five) working days of its completion for certification that the objectives have been met as specified in Condition 15(a).
- (d) The Consent Holder must adhere to the Activity Management Plan that has been certified by the Consent Authority in accordance with Condition 15(c).

CONCLUSION

96. As discussed in the cultural evidence of Mr Ellison, Mr Bryant and Ms Tamati-Elliffe, the discharge of treated human waste into the Waihola-Waipōuri wetland complex degrades the mauri of the Waihola-Waipōuri wetlands which frustrates the exercise of kaitiakitaka and disregards the rakatirataka of mana whenua. This discharge is contrary to tikaka and the intent of the Treaty settlement agreed with the Crown, and will significantly hinder the ability of mana whenua to achieve their vision to restore natural

habitat and mahika kai resources within the Waihola and Waipōuri wetlands.

97. I consider that, to give effect to the NPSFM 2020 and to give effect to sections 6(e), 7(a) and 8 of the RMA, any consent for the continued discharge of treated wastewater to the Lake Waihora outflow channel should only be granted for the time required to allow the Applicant to put in place an appropriate alternative land-based discharge system. In addition to a short duration, conditions of the consent should set out clear steps and timeframes towards development and consenting of the future alternative system and should include a clear role for mana whenua in this process.

Tim Vial

14 January 2022

APPENDIX 1: ENGAGEMENT WITH THE APPLICANT

| Date | Engagement with the Applicant |
|------------|---|
| 22/02/2016 | <p>Te Rūnanga o Ōtākou provided affected party approval to the application subject to the following conditions.</p> <ol style="list-style-type: none"> 1. That regular monitoring of the wastewater discharge quality is undertaken. 2. That the term of consent be 25 years. 3. That as stated in the application provided, the Clutha District Council is to further treat the Waihola wastewater discharge with proposed consent limits for which the new facility is to achieve. |
| 22/11/2018 | <p>Aukaha wrote to the Applicant on behalf of Te Rūnanga o Ōtākou:</p> <p>“Please be advised that Te Rūnanga o Ōtākou has a preference that treated human effluent is disposed of to land. Te Rūnanga o Ōtākou wish to make it clear that they <i>do not support</i> the continued discharge of wastewater into Lake Waihola, but will not <i>oppose</i> the resource consent, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. That as proposed, an upgrade of the existing wastewater disposal system is undertaken within 4 years of this consent being granted. 2. That the Waihola Wastewater Treatment Plant effluent discharge quality limits are met. 3. That the monitoring regime as specified in the application provided, are adhered to. 4. That the parameters for monitoring as specified in the application provided, are adhered to. 5. That the term of consent be no more than 10 years. <p>Te Rūnanga o Ōtākou encourage continued investigation for land disposal of treated human effluent, as technology advances.”</p> |
| 19/12/2018 | <p>Aukaha wrote to the Applicant on behalf of Te Rūnanga o Ōtākou:</p> <p>“Thank you for your email received on 6 December 2018 requesting reconsideration of Condition 5 stated in our letter dated 22 November 2018 (that the term of consent be 10 years) along with the suggested review condition: At no earlier than 20 years and not later than 24 years 6 months, from the date of commencement of this resource consent, the consent holder shall:</p> <ol style="list-style-type: none"> a. Undertake a review and compile a report as a result of this review, detailing the effects of the water taken under this resource consent, with respect to environmental, cultural and spiritual values for Lake Waihola, and in particular those values identified within relevant Iwi Management Plans and the Regional Plan: Water for Otago. b. Consult with local Iwi for review of the report, and |

| | |
|------------|--|
| | <p>c. Present the report, including iwi review, to the consent authority within 3 months of completion, and at a date not later than 25 years from the date of authorisation of this resource consent.</p> <p>d. if the report and/or Iwi review includes an adverse effect that requires a change to consent conditions, the consent holder shall initiate a change of conditions.</p> <p>Please be advised that Te Rūnanga o Ōtākou has a preference that treated human effluent is disposed of to land. Te Rūnanga o Ōtākou wish to make it clear that they <i>do not support</i> the continued discharge of wastewater into Lake Waihola. However, Rūnanga representatives have been consulted and wish to revise their original position to:</p> <p><i>That the term of consent be 35 years.</i></p> <p>Those conditions as per our original letter date 22 November 2018 should also be included.”</p> |
| 07/02/2019 | <p>Aukaha wrote to the Applicant on behalf of Te Rūnanga o Ōtākou:</p> <p>“Thank you for your email received on 4 February 2019 requesting further reconsideration of Condition 5 stated in our letter dated 19 December 2018 (that the term of consent be 10 years) along with the suggested review condition:</p> <p>At no earlier than 20 years and not later than 24 years 6 months, from the date of commencement of this resource consent, the consent holder shall:</p> <p>a. Undertake a review and compile a report as a result of this review, detailing the effects of the discharge under this resource consent, with respect to environmental, cultural and spiritual values for Lake Waihola and the lower Taieri River, and in particular those values identified within relevant Iwi Management Plans and the Regional Plan: Water for Otago;</p> <p>b. Consult with the Department of Conservation (DOC) and local Iwi for review of the report, and</p> <p>c. Present the report, including feedback or comment received from the DOC and/or iwi review, to the consent authority within one month of receiving the last of the DOC or iwi reviews and at a date no later than 25 years from the date of authorisation of this resource consent.</p> <p>d. If the report and/or DOC or Iwi review includes an adverse effect on the values identified within relevant Iwi Management Plans and the Regional Plan: Water for Otago that requires a change to consent conditions, the consent holder shall initiate a change of conditions.</p> <p>Please be advised that Te Rūnanga o Ōtākou has a preference that treated human effluent is disposed of to land. Te Rūnanga o Ōtākou wish to make it clear that they <i>do not support</i> the continued discharge of wastewater into Lake</p> |

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| | <p>Waihola. However, Rūnanga representatives have been consulted and wish to revise their original position to:</p> <p><i>That the term of consent be 35 years.</i></p> <p>Those conditions as per our original letter date 22 November 2018 should also be included.”</p> |
| 03/04/2019 | <p>Aukaha wrote to the Applicant on behalf of Te Rūnanga o Ōtākou:</p> <p>“Please be advised that Te Rūnanga o Ōtākou has a preference that treated human effluent is disposed of to land. Te Rūnanga o Ōtākou wish to make it clear that they <i>do not support</i> the continued discharge of wastewater into Lake Waihola. However, Rūnanga representatives have been consulted and support the following proposed consent condition:</p> <p>At no earlier than 20 years and not later than 24 years 6 months, from the date of commencement of this resource consent, the consent holder shall:</p> <ol style="list-style-type: none"> a. Undertake a review and compile a report as a result of this review, detailing the effects of the discharge under this resource consent, with respect to environmental, cultural and spiritual values for Lake Waihola and the lower Taieri River, and in particular those values identified within relevant Iwi Management Plans and the Regional Plan: Water for Otago; b. Consult with the Department of Conservation (DOC), Otago Fish and Game Council, and local Iwi for review of the report, and c. Present the report, including feedback or comment received from the DOC and/or Iwi and/or Otago Fish and Game Council review to the consent authority within one month of receiving the last of the DOC or Iwi reviews and at a date no later than 25 years from the date of authorisation of this resource consent. d. If the report and/or DOC, Otago Fish and Game Council or Iwi review includes an adverse effect on the values identified within relevant Iwi Management Plans and the Regional Plan: Water for Otago that requires a change to consent conditions, the consent holder shall initiate a change of conditions. <p>The following conditions should also be included from past Aukaha letters for this proposal:</p> <ul style="list-style-type: none"> • That as proposed, an upgrade of the existing wastewater disposal system is undertaken within 4 years of this consent being granted. • That the Waihola Wastewater Treatment Plant effluent discharge quality limits are met. • That the monitoring regime as specified in the application provided, are adhered to. |

| | |
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| | <ul style="list-style-type: none"> • That the parameters for monitoring as specified in the application provided, are adhered to. • That the term of consent be 35 years.” |
| 09/09/2019 | <p>Email from Te Rūnanga o Ōtākou to Aukaha:</p> <p>“I believe a submission should be made, agree 35 years too long, seems inappropriate to be granting or creating subdivisions when the sewage is not sorted and as for discharge to Waihola, counter to our values and the reason we obtained Sinclair wetlands.”</p> |
| 12/09/2019 | Te Rūnanga o Ōtākou submitted in opposition to the application. |
| 16/09/2020 | The Applicant emailed Te Rūnanga o Ngāi Tahu proposing changes to the proposed conditions, including a requirement for an Activity Management Plan to ensure the improvement of the discharge quality, and a seven-year duration. |
| 06/10/2020 | The Applicant wrote to Aukaha on behalf of Te Rūnanga o Ōtākou and Te Rūnanga o Ngāi Tahu setting out proposed conditions of consent and reducing the term of consent to 7 years. |
| 23/10/2020 | The Applicant called Aukaha to discuss options for address the concerns of Te Rūnanga o Ōtākou. |
| 29/10/2020 | <p>Aukaha wrote to the Applicant on behalf of Te Rūnanga o Ōtākou:</p> <p>“Te Rūnanga o Ōtākou support the proposed suite of conditions as provided by the Clutha District Council in the letter dated 6 October 2020, for the continued operation of the Waihola Wastewater Treatment Plant on the understanding that:</p> <ul style="list-style-type: none"> • Te Rūnanga o Ōtākou view the final draft suite of conditions before withdrawing their submission in opposition. • The term of consent will be 7 years • That the final suite of conditions as agreed, will be adhered to • That further upgrades of the Waihola Wastewater Treatment Plant over the next 3 years will be made which include but not limited to:- <ul style="list-style-type: none"> ○ Screen installed at the entry of the Wastewater Treatment Plant. ○ Aerators installed in the ‘settling ponds’ ○ More detailed monitoring records kept ○ Monitoring/level sensors/auto control valves installed to read oxygen levels with more time dependent/controlled discharge to be on the outgoing tide. • Te Rūnanga o Ōtākou do not think benthic algal sampling would be required due to the muddy bottomed receiving channel.” |
| 20/12/2021 | <p>Aukaha wrote to the Otago Regional Council on behalf of Te Rūnanga o Ōtākou:</p> <p>“Te Rūnanga o Ōtākou provided affected party approval for this application on 3 April 2019. In that approval letter Te Rūnanga o Ōtākou advised that their</p> |

preference is for the disposal of treated human effluent to land and made it clear that they do not support the continued discharge of wastewater into Lake Waihola.

For the avoidance of doubt, Te Rūnanga o Ōtākou withdraws this affected party approval.”