

Council Meeting Agenda - 25 May 2022

Meeting will be held in the Council Chamber at Level 2, Philip Laing House
144 Rattray Street, Dunedin - Councillors
[ORC YouTube Livestream - Members of the Public](#)



Members:

Cr Andrew Noone, Chairperson	Cr Gary Kelliher
Cr Michael Laws, Deputy Chairperson	Cr Kevin Malcolm
Cr Hilary Calvert	Cr Gretchen Robertson
Cr Michael Deaker	Cr Bryan Scott
Cr Alexa Forbes	Cr Kate Wilson
Cr Carmen Hope	

Senior Officer: Nick Donnelly, Acting Chief Executive

Meeting Support: Dianne Railton, Governance Support Officer

25 May 2022 01:00 PM

Agenda Topic

Page

1. APOLOGIES

An apology was received from Cr Carmen Hope.

2. PUBLIC FORUM

Requests to speak should be made to the Governance Support team on 0800 474 082 or to governance@orc.govt.nz at least 24 hours prior to the meeting; however, this requirement may be waived by the Chairperson at the time of the meeting.

Mr Don Robertson will speak at the Public Forum regarding: Concerns for Otago's Deepwater Alpine Lakes.

3. PETITION

Cr Noone will deliver a petition submitted by Alastair Chapman relating to the Palmerston Bus Users.

4. CONFIRMATION OF AGENDA

Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

5. CONFLICT OF INTEREST

Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

6. CONFIRMATION OF MINUTES

The Council will consider minutes of previous Council Meetings as a true and accurate record, with or without changes.

6.1 [Minutes of the 23 March 2022 Council Meeting](#)

6.2 [Minutes of the 30 March 2022 Extraordinary Council Meeting](#)

5

5

14

6.3	Minutes of the 14 March 2022 Extraordinary Council Meeting	18
6.4	Minutes of the 5 May 2022 Extraordinary Council Meeting	21
7.	OPEN ACTIONS FROM RESOLUTIONS OF THE COUNCIL AT 25 MAY 2022	24
	Actions from resolutions of the Council will be reviewed.	
8.	MATTERS FOR COUNCIL CONSIDERATION	26
8.1	ELECTION OF NEW DEPUTY CHAIRPERSON FOR ORC	26
	The report was provided to advise the Council of the procedure to elect a new deputy chairperson following the resignation of Councillor Laws from the role, and to nominate and elect a new deputy chairperson.	
	8.1.1 Attachment 1: Position Description Deputy Chair Regional Council (October 2021)	29
8.2	CODE OF CONDUCT	32
	The report was provided for Council to consider revisions to the code of conduct for the Otago Regional Council.	
	8.2.1 Attachment 1: Final Memo - Otago Regional Council (19 May 2022)	35
	8.2.2 Attachment 2: Code of Conduct Workshop (11 May 2022)	75
	8.2.3 Attachment 3: Otago Regional Council Code of Conduct DRAFT - May 2022	87
8.3	ORDER OF CANDIDATE NAMES ON VOTING PAPERS	107
	The report outlines the three options available to order candidate names on voting documents for the 8 October 2022 election and any subsequent by-elections that may become necessary.	
8.4	LAND AND WATER GOVERNANCE GROUP STRUCTURE	111
	The purpose of this paper is to update the structure of the Governance Group for the Land and Water Regional Plan (LWRP) by providing a permanent seat for Ngai tahu ki Murihiku.	
8.5	PLAN CHANGE 8 RURAL PROVISIONS APPROVAL	116
	The paper is provided for Council to approve part of Plan Change 8 (PC8) Discharge Management to the Regional Plan: Water for Otago (Water Plan) as amended by the Environment Court Decision No. [2022] NZEnvC 61 and to set a date for making the plan change partially operative by incorporating the amended provisions into the operative Water Plan.	
	8.5.1 Attachment 1: Plan Change 8 to the Regional Plan Water for Otago Partially Operative 4 June 2022	122
	8.5.2 Attachment 2: Table of Minor and Consequential Amendments	212
8.6	ORC SUBMISSION ON NEW ZEALAND EMISSION TRADING SCHEME PROPOSED AMENDMENTS - MANAGING EXOTIC AFFORESTATION INCENTIVES	214
	The paper is provided to report on the staff submission lodged on the Ministry for Primary Industries' consultation: "Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme".	
	8.6.1 Attachment 1: ORC Submission on Managing Exotic Afforestation Incentives	217
	8.6.2 Attachment 2: FENZ Wildfire Investigation Report - appended to ORC submission on NZETS	221

8.6.3	Attachment 3: ECAN Submission on Managing Exotic Forestry Incentives Proposal	326
8.7	OTAGO NAVIGATIONAL SAFETY BYLAW 2020 INFRINGEMENT REGIME	331
	The report seeks approval for the proposed Navigation Safety Bylaw Infringement Offence Regime.	
8.7.1	Attachment 1: Proposed ORC Infringements	335
8.7.2	Attachment 2: Infringement Comparison Sheet	338
8.7.3	Attachment 3: Submission Summary	346
8.7.4	Attachment 4: Detailed Submission Responses	350
8.8	BRIEFING ON NATIONAL ADAPTATION PLAN CONSULTATION	353
	The report is provided to advise Councillors on the Ministry for Environment (MfE) current consultation: "Adapt and Thrive: Building a climate-resilient New Zealand; Draft National Adaptation Plan; Managed Retreat" (the consultation).	
8.8.1	Attachment 1: Proposed ORC Submission to MFE Consultation on the National Adaptation Plan	361
8.9	EMERGENCY MANAGEMENT PARTNERSHIP AGREEMENT	364
	The report is provided to seek Council approval of a written agreement describing the partnership arrangement between Otago Regional Council (ORC) and the five territorial authorities of Otago for the delivery of civil defence and emergency management (CDEM) responsibilities within the Otago CDEM Group area.	
8.9.1	Attachment 1: Otago CDEM Partnership Agreement	367
8.10	WAITAKI DESIGNATION NOTICE OF REQUIREMENTS	386
	The report is provided to obtain Council approval to request new designations from the Waitaki District Council ("WDC") as part of WDC's District Plan ("the plan") review, for land on which Otago Regional Council (ORC) flood protection works and assets are situated.	
8.10.1	Attachment 1: Full Notice of Requirements	393
8.10.2	Attachment 2: Draft Consultation Strategy	527
8.11	OTAGO CATCHMENT COMMUNITY/ORC CONTRACT	546
	The report seeks Council's permission to enter a multi-year agreement with Otago Catchment Community Inc (OCC) to support Catchment Groups across Otago to improve the environment.	
8.11.1	Attachment 1: OCC Year 1 Report	551
8.11.2	Attachment 2: ORC OCC Draft Multi Year Funding Agreement	565
9.	CHAIRPERSON'S REPORT	574
9.1	CHAIRPERSON'S REPORT	574
9.1.1	Attachment 1: Letter to Jane Taylor retiring Port Otago Limited Director	577
9.1.2	Attachment 2: Letter from the North Otago FMU Rural Stakeholder Group	578
9.1.3	Attachment 3: Letter from Sarah Davie-Nitis, Waihola to Wingatui Progress Update	581

9.1.4	Attachment 4: Letter of Support for Upper Taieri Wai Inc, approach to MfE	583
9.1.5	Attachment 5: Photo of Des Smith, Co-Chair of the Te Rauone Beach Coast Care Committee	584
9.1.6	Attachment 6: Letter from Mayor Hawkins and Mayor Boulton re Public Transport Responsibilities	585
10.	NOTICE OF MOTION	587
10.1	NOTICE OF MOTION - REVOKING DECISION FOR POLL ON STV/FPP	587
10.1.1	Attachment 1: Cr Wilson 2022.05.18	589
11.	RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS	590
11.1	Recommendations of the Strategy and Planning Committee	590
11.2	Recommendations of the Implementation Committee	593
11.3	Recommendations of the Otago and Southland Regional Transport Committees	594
12.	RESOLUTION TO EXCLUDE THE PUBLIC	596
<p>That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987), namely:</p> <ul style="list-style-type: none"> - Minutes of the 23 March 2022 public-excluded Council Meeting - Minutes of the 30 March 2022 public-excluded Extraordinary Council Meeting - Professor Skelton to discuss matters arising out of meetings with senior ORC staff following discussions with Council - Delegations Manual - s.17 Court Proceedings - Unit 3 Public Transport Tender Evaluation - Lake Wakatipu Ferry 		
12.1	Public Exclusion Table	596
13.	CLOSURE	



Minutes of an ordinary meeting of Council
held in the Council Chamber on
Wednesday 23 March 2022 at 1:00pm

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Alexa Forbes
Cr Michael Deaker
Cr Carmen Hope
Cr Gary Kelliher
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 1:03 pm. Staff present in the Chamber included Dianne Railton (Governance Support Officer) and present electronically included Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Anita Dawe (Acting GM Policy and Science), Gavin Palmer (GM Operations), Richard Saunders (GM Regulatory and Communications), Amanda Vercoe (GM Governance, Culture and Customer), Mike Roesler (Corporate Planning Manager), Rebecca Borland (Team Leader Marketing and Brand), David Cooper (Principal Advisor - Iwi Relationships and Strategic Stakeholders), (Michelle Mifflin (Manager Engineering), Alison Weaver (Team Leader - Commercial and Regulatory, Engineering), Garry Maloney (Principal Advisor - Transport Planning) and Doug Rodgers (Manager Transport). Josephine Burrows, from BECA, was in attendance for the Bylaw paper.

1. APOLOGIES

Resolution: Cr Hope Moved, Cr Calvert Seconded:

That the apology for Cr Robertson be accepted. Cr Deaker, Cr Forbes, Cr Robertson and Cr Scott attended electronically.

MOTION CARRIED

2. PUBLIC FORUM

Mr Gerrard Eckhoff spoke at the public forum regarding Governance, expressing his concerns with the loss of representation when Councillors leave a Council/Committee meeting due to possible conflicts of interest, and spoke further referring to published articles. Due to the limited time available, Cr Calvert suggested that Mr Eckhoff write to Councillors and the media to share his thoughts and ideas.

3. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

4. CONFLICT OF INTEREST

No conflicts of interest were advised.

5. CONFIRMATION OF MINUTES

Resolution: Cr Wilson Moved, Cr Calvert Seconded

That the minutes of the (public portion of the) Council meeting held on 23 February 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

6. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)

The status report on the open resolutions of the Council Meeting was reviewed.

7. MATTERS FOR CONSIDERATION

7.1. Annual Plan 2022-23

The report was provided for Council to endorse supporting material for community engagement on the proposed Annual Plan 2022-2023 (proposed AP) and direct staff to begin that engagement. Nick Donnelly (GM Corporate Services) and Mike Roesler (Corporate Planning Manager) were present to speak to the report and respond to questions.

Chair Noone read a prepared summary from staff on the Annual Plan engagement. Mike Roesler advised that staff have finalised information to support Council consulting for community feedback, and Rebecca Borland then presented the YourSay campaign. Cr Malcolm said the proposed rate increase of 18% is in line with what Council requested and what Council has been endeavouring to do over the last two or three years, and said the world has changed, and he questioned if the 18% is affordable, palatable and achievable in the current market situation. Sarah Gardner said if Council intended significant changes, it would result in a substantial amount of work for staff who would need time to prepare that work. Mrs Gardner also said that staff have not proposed a variation to the LTP as there were no significant changes, but depending on Council's decision, it would be a significant impact on the organisation.

Following further discussion, the meeting adjourned at 1.23pm to allow staff to confirm their approach, and reconvened at 2.38pm.

Mrs Gardner advised that following a discussion with Mr Donnelly during the adjournment, if Council sought a figure of less than 10%, then staff advice would be to not go out for consultation and staff would need direction to allow a week to work out how savings might be found. Mrs Gardner said if Council aren't looking at a substantial decrease, then Council could probably quite safely go out for consultation.

Following discussion, Cr Malcom moved a procedural motion:

Resolution CM22-130: Cr Malcolm Moved, Cr Calvert Seconded

That the Council:

- 1) **Lay** the report the table to be considered at a special Council meeting on or before 30 March 2022.

MOTION CARRIED

Cr Forbes voted against the motion and asked that her vote to be recorded.

7.2. Bylaw Approval to Commence Consultation

The report was provided for Council approval to commence public consultation on the proposed Flood Protection Management Bylaw 2022 ("Proposed Bylaw") in accordance with the Statement of Proposal. Gavin Palmer (GM Operations), Alison Weaver (Team Leader Commercial and Regulatory Engineering) and Michelle Mifflin (Manager Engineering) were present to speak to the report and respond to questions.

Michelle Mifflin advised it is a procedural process to review the bylaw to ensure that it is in place by 9 August 2022. Ms Mifflin said that following the bylaw being accepted and in place, there will be an active campaign undertaken on the bylaw purpose. She said that tools will be available on the engineering section of the ORC website for information and educational awareness of the bylaw, on what it protects and to ensure flood banks and structures are maintained.

There was further discussion including a policy around construction of walkways on ORC owned floodbanks.

Resolution CM22-131: Cr Hope Moved, Cr Calvert Seconded

That the Council:

- 1) **Receives** the report.
- 2) **Appoints** Cr Robertson and Cr Wilson to the hearing panel to hear from submitters, consider all submissions received, deliberate and make recommendations to Council in relation to the Proposed Bylaw.

MOTION CARRIED

Cr Wilson left the meeting due to a possible conflict of interest.

Resolution CM22-132: Cr Scott Moved, Cr Calvert Seconded

That the Council:

- 1) **Adopts** the recommendation that the Proposed Bylaw is the most appropriate form of the bylaw.
- 2) **Notes** that the Proposed Bylaw does not give rise to any implications under, nor is it inconsistent with the New Zealand Bill of Rights Act 1990.

- 3) **Approves** the proposed Statement of Proposal for the review of the Flood Protection Management Plan 2012 for public consultation in accordance with the Statement of Proposal.
- 4) **Approves** the appointment of Mr Allan Cubitt as an independent member of the hearing panel.
- 5) **Notes** that Dr Palmer (GM Operations) will develop a policy around construction of walkways on ORC owned floodbanks by 30 June 2022.

MOTION CARRIED

Cr Wilson returned to the meeting.

7.3. Bus and Ferry Fares

The paper was provided from Council to decide on whether or not to implement between April and June 2022, central government's half-priced public transport fare initiative. Gavin Palmer (GM Operations), Garry Maloney (Principal Advisor - Transport Planning) and Doug Rodgers (Manager Transport) were present to speak to the report and respond to questions.

Garry Maloney confirmed that Total Mobility has also been included in the half-priced public transport fare initiative. Communications and the ticketing system were discussed. Doug Rodgers advised that Waka Kotahi have assured that any operational changes that need to be made to meet this change will be met by them and this includes communications. Following further discussion, Cr Malcolm moved:

Resolution CM22-133: Cr Malcolm Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** reducing Total Mobility, Dunedin and Queenstown bus and Queenstown ferry public transport fares by 50% between 1 April and 30 June 2022.
- 3) **Approves** the implementation of the half fares within the constraints of the current vehicle/vessel fleets (that is, Council will not introduce extra capacity to meet excess demand).

MOTION CARRIED

7.4. National Environmental Standards Drinking Water (NESDW) Submission

The paper provided Council with a copy of the ORC submission lodged with the Ministry for the Environment (MfE) on 'Improving the protection of drinking-water sources: Proposed amendments to the Resource management (National Environmental standards for sources of Human Drinking Water) Regulation 2007: Consultation document'. Anita Dawe (Acting General Manager Policy & Science) was present to speak to the report and respond to questions.

Resolution CM22-134: Cr Wilson Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Notes** the attached submission, that was lodged with the MfE on 4 March 2022 and signed off under staff delegation.

MOTION CARRIED

The meeting adjourned for a break at 3.40pm and reconvened at 3.58pm.

7.5. Six Monthly Update to the Minister

The paper was provided for Council to adopt the fifth progress report to the Minister for the Environment, in accordance with section 27 of the Resource Management Act 1991 in relation to the recommendations made under section 24A of the Resource Management Act 1991. Anita Dawe (Acting GM Policy & Science) was present to speak to the report and respond to questions.

Chair Noone advised that Cr Robertson and Cr Wilson had circulated a letter to Councillors regarding the possibility of inviting the Minister to consider having a discussion with Council on a longer timeframe to notify the Land and Water Plan. Chair Noone advised that he had forwarded the letter to Mr Edward Ellison. Following discussion, Cr Wilson moved:

Resolution CM22-135: Cr Wilson Moved, Cr Calvert Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the fifth report to the Minister for the Environment, that reports on progress against the recommendations made in his letter of 19 November 2019; and include a covering letter from the Chair inviting the Minister to consider having a discussion with Council on a longer timeframe with Council to notify the Land and Water Plan, to allow a smoother and stronger plan framework built on an RPS that has been allowed to settle. Given that there may be potential savings in the Annual Plan if ORC was able to extend the timeframe, Council would welcome an indication before the end of May 2022.
- 3) **Notes** that the next report will be brought to Council on 28 September 2022.

MOTION CARRIED

Cr Forbes and Cr Scott voted against and requested their votes be recorded.

7.6. Local Government New Zealand Annual Conference 2022 Attendance

The paper was provided to determine ORC representation at the Local Government New Zealand 2022 Conference being held 20 July – Friday 22 July 2022, in Palmerston North.

Resolution CM22-136: Cr Noone Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Nominates** Chair Noone, Cr Forbes and Cr Wilson as Councillor representatives to attend the 2022 LGNZ Conference.

MOTION CARRIED

7.7. Documents Signed Under Council Seal

The report was provided to inform the Council of delegations which have been exercised during the period 17 November 2021 through 2 March 2022.

Resolution CM22-137: Cr Hope Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

7.8. LGFA Port Lending

The report was provided for Council approval to borrow via the LGFA and on-lend to Port Otago Limited and to approve amendments to Council's Treasury Management Policy to permit on-lending to occur. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions.

Resolution CM22-138: Cr Calvert Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the attached Treasury Management Policy which has been revised to permit on-lending to Port Otago.
- 3) **Endorses** Council providing a Shareholder Advance to Port Otago Limited subject to approval of the formal loan agreement being considered separately.
- 4) **Notes** Council will commence the process to obtain a credit rating.

MOTION CARRIED

8. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

8.1. Recommendations of the Finance Committee

Resolution CM22-139: Cr Malcolm Moved, Cr Calvert Seconded

That the Council adopts the resolutions of the 23 February 2022 Finance Committee (public).

MOTION CARRIED

8.2. Recommendations of the Implementation Committee

Resolution CM22-140: Cr Hope Moved, Cr Noone Seconded

That the Council adopts the resolutions of the 9 March 2022 Implementation Committee.

MOTION CARRIED

8.3. Recommendations of the Data and Information Committee

Resolution CM22-141: Cr Forbes Moved, Cr Hope Seconded

That the Council adopts the resolutions of the 9 March 2022 Data and Information Committee.

MOTION CARRIED

8.4. Recommendations of the Governance, Communications and Engagement Committee

Resolution CM22-142: Cr Deaker Moved, Cr Laws Seconded

That the Council adopt the resolutions of the 10 March 2022 Governance, Communications, and Engagement Committee.

MOTION CARRIED

8.5. Recommendations of the Regulatory Committee

Resolution CM22-143: Cr Kelliher Moved, Cr Noone Seconded

That the Council adopts the resolutions of the 10 March 2022 Regulatory Committee.

MOTION CARRIED

9. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

9.1. Chairperson's Report

Chair Noone noted that Cr Forbes also attended the Zone 5 & 6 zoom meeting that he and Cr Hope attended and that he will circulate the letters mentioned in his report, that weren't attached.

Resolution: Cr Noone Moved, Cr Kelliher Seconded

That the Chairperson's report be received.

MOTION CARRIED

9.2. Chief Executive's Report

Resolution: Cr Noone Moved, Cr Malcolm Seconded

That the Chief Executive's report be received.

MOTION CARRIED

10. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Wilson Seconded:

That the public be excluded from the following parts of the proceedings of this meeting, (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

- *Minutes of the public excluded meeting of Council held on 9 December 2021*
- *Minutes of the public excluded meeting of Council held on 23 February 2022*
- *3.1 On-lending Agreement*
- *3.2 Lower Waitaki River Control Scheme*

MOTION CARRIED

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1.1 <i>Minutes of the public excluded meeting of Council held on 9 December 2021</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
1.2 <i>Minutes of the public excluded meeting of Council</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution

<p><i>held on 23 February 2022</i></p>		<p>exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>
<p><i>3.1 On-lending Agreement</i></p>	<p>To maintain legal professional privilege – Section 7(2)(g) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)</p>	<p>Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>
<p><i>3.2 Lower Waitaki River Control Scheme Operation and Funding Agreement</i></p>	<p>To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)</p>	<p>Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p>

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.

11. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 5:00pm.

Chairperson

Date

DRAFT MINUTES



Minutes of an extraordinary meeting of Council held
at Regional House, Stafford Street, Dunedin,
144 Rattray Street, Dunedin
on Wednesday 30 March 2022 at 9:00am

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Michael Deaker
Cr Alexa Forbes
Cr Carmen Hope
Cr Gary Kelliher
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 9:02 am. Staff present included Amanda Vercoe (GM Governance, Culture and Customer), and staff present electronically Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Gwyneth Elsum (GM Strategy, Policy and Science), Gavin Palmer (GM Operations), Richard Saunders (GM Regulatory and Communications), Dianne Railton (Governance Support Officer - Minute-taker), Liz Spector (Governance Support Officer), Mike Roesler (Corporate Planning Manager), Sean Geary (Management Accountant), David Cooper (Principal Advisor - Iwi Relationships and Strategic Stakeholders), Jo Galer (Manager Communications and Marketing) and Rebecca Borland (Team Leader Marketing and Brand).

1. APOLOGIES

There were no apologies. Cr Deaker, Cr Forbes, Cr Robertson and Cr Scott attended the meeting electronically.

2. CONFIRMATION OF AGENDA

The agenda was confirmed as published. Chair Noone advised that the meeting would move to public excluded for any discussions on staffing and contractual arrangements.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. MATTERS FOR COUNCIL CONSIDERATION

4.1. Annual Plan 2022-23

The report was originally provided to Council at its meeting of 23 March 2022 to consider supporting material for community engagement on the proposed Annual Plan 2022-2023 (proposed AP) and direct staff to begin that engagement. At that meeting it was resolved to lay the report on the table and for it to be reconsidered at an additional Council meeting to be held on or before 30 March 2022.

Nick Donnelly (GM Corporate Services) advised that he had received an email from Councillors through the Chair following the 23 March 2022 meeting, requesting staff to find operational efficiencies to reduce the proposed rates rise with no reduction to service levels. Mr Donnelly requested Councillor guidance as to where expenditure reductions should be made. Mrs Gardner noted Council had already consulted on the proposed 18% rates increase during 2021-2031 Long Term Plan consultations.

Cr Laws asked whether expenditures could be reduced through staff vacancies. Mrs Gardner replied many of the vacancies are for roles already existing in the current structure. Mrs Gardner said any change to staffing levels should be discussed in public excluded.

Cr Malcolm asked if anything had been identified to lessen the rates burden, such as moving projects to future years. Mrs Gardner noted service requests had been added to the LTP at the last minute by Councillors, such as the Harbour Plan, the Lakes Strategic Plan, moving the Air Plan to Year 2, and additional costs added such as the Rating Scheme Review and increased transport levels of service. Mrs Gardner said while reductions could be found, it would be important to have clarity on the impact any such reductions would have on existing work plans and community expectations.

Resolution: Cr Noone Moved, Cr Hope Seconded

That the meeting moves into non-public under LGOIMA 48(1)(a), Section 7(2)(a) to allow discussions about contractual arrangements with staff and suppliers.

MOTION CARRIED

The public meeting moved into public excluded at 10.05am and resumed at 11.08am.

Mike Roesler (Manager Corporate Planning) provided a summary of the scheduled engagement for consultation with community and stakeholders. Following further discussion Cr Wilson moved:

Resolution CM22-150: Cr Wilson Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report provides supporting information for community engagement on the proposed Draft Annual Plan 2022-2023.

A division was called:

Vote

For:	Cr Calvert, Cr Deaker, Cr Forbes, Cr Hope, Cr Laws, Cr Kelliher, Cr Malcolm, Cr Noone, Cr Robertson, Cr Scott and Cr Wilson
Against:	Nil
Abstained:	Nil

MOTION CARRIED

Resolution CM22-151: Cr Wilson Moved, Cr Hope Seconded

That the Council:

- 1) **Endorses** the supporting information for community engagement on the proposed Draft Annual Plan 2022-2023 and include a comment in the Chairs message that Council encourages all ratepayers to have their say especially on matters of affordability.

A division was called:

Vote

For:	Cr Deaker, Cr Forbes, Cr Hope, Cr Malcolm, Cr Noone, Cr Robertson, Cr Scott and Cr Wilson
Against:	Cr Calvert, Cr Laws and Cr Kelliher
Abstained:	Nil

MOTION CARRIED

Resolution CM22-152: Cr Wilson Moved, Cr Hope Seconded

That the Council:

- 1) **Authorises** community engagement for the proposed Draft Annual Plan 2022-23 to begin.

A division was called:

Vote

For:	Cr Deaker, Cr Forbes, Cr Hope, Cr Malcolm, Cr Noone, Cr Robertson, Cr Scott and Cr Wilson
Against:	Cr Calvert, Cr Laws and Cr Kelliher
Abstained:	Nil

MOTION CARRIED

5. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 11:59am.

Chairperson

Date

DRAFT MINUTES



Minutes of an extraordinary meeting
of Council held in the Council Chamber
at Level 2 Philip Laing House,
144 Rattray Street, Dunedin
on Thursday 14 April 2022 at 2:00pm

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Michael Deaker
Cr Alexa Forbes
Cr Carmen Hope
Cr Gary Kelliher
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors to the meeting at 2:06pm. Staff present included Dianne Railton (Governance Support).

1. APOLOGIES

There were no apologies. Cr Michael Deaker, Cr Michael Laws and Cr Robertson attended the meeting electronically

2. CONFIRMATION OF AGENDA

There were no changes to the agenda.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the public be excluded from the following parts of the proceedings of this meeting under LGOIMA 48(1)(a), namely:

- *Governance Proposal*

MOTION CARRIED

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1.1 Governance Proposal	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.

5. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 2:07pm.

Chairperson

Date

DRAFT MINUTES



Minutes of an extraordinary meeting
of Council held in the Council Chamber
at Level 2 Philip Laing House,
144 Rattray Street, Dunedin
on Tuesday 10 May 2022 at 4:00 PM

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Michael Deaker
Cr Alexa Forbes
Cr Carmen Hope
Cr Gary Kelliher
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 4:11 pm. Staff present in the Chamber were Amanda Vercoe (GM Governance, Culture and Customer), Liz Spector (Governance Support Officer), and staff present electronically were Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services) and Dianne Railton (Governance Support Officer - minute-taker).

1. APOLOGIES

Resolution: Cr Calvert Moved, Cr Noone Seconded:

That the apologies for Cr Laws be accepted.

MOTION CARRIED

2. CONFIRMATION OF AGENDA

There were no changes to the published agenda.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Hope Seconded:

That the public be excluded from the following parts of the proceedings of this meeting under LGOIMA 48(1)(a), namely:

- *Port Otago Director Appointment*

MOTION CARRIED

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1.1 <i>Port Otago Director Appointment</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a); To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.

5. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 4.12pm.

Chairperson

Date

DRAFT MINUTES

OPEN ACTIONS FROM RESOLUTIONS OF THE COUNCIL (PUBLIC) AT 25 MAY 2022

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
23/02/2022	GOV2208 Code of Conduct Review: Update	Completed	Chief Executive to provide the legal advice from Len Andersen QC to LGNZ. Res CM22-144	Chief Executive, General Manager Governance, Culture and Customer	29/03/2022 In progress.	31/03/2022
26/08/2020	GOV1937 Electoral System for 2022 and 2025 Local Body Elections	In Progress	Work with Electoral Officer to include a poll asking for voter preference for STV/FPP alongside voting papers for the 2022 local elections.	General Manager Governance, Culture and Customer, Governance Support Officer	01/09/2020 Contacted Electoral Officer Anthony Morton of Electionz for information. He will update our file, noting the request to conduct the poll with the 2022 election. He indicated additional cost of approx \$75,000, not including additional comms that will be necessary. 14/09/2020 Public Notice in ODT on 12/9/20 to meet legislative requirements and to advise ORC intends to conduct a poll on voting systems alongside the 2022 local body elections. 02/02/2022 This work is underway and has been contracted with Electionz.com to run the poll alongside the October 2022 Local Body Elections.	30/09/2022
23/06/2021	GOV2116 Zero Carbon 2030 Alliance Memorandum of Understanding	In Progress	Staff will update Council on discussions and activities related to the Zero Carbon 2030 Alliance. Res CM21-127	General Manager Governance, Culture and Customer, Senior Advisor - Mayoral Forum	02/11/2021 No activity to report currently.	09/12/2021
29/09/2021	Chairperson's Report	In Progress	Undertake a review of the Manuherekia Governance decision making process. Res CM21-167	Chairperson	09/02/2022 Delayed until TAG complete science work. 29/03/2022 Still waiting for TAG to complete the science work.	09/12/2021
29/09/2021	Chairperson's Report	In Progress	Staff organise a Bicultural Competency workshop. Res CM21-166	General Manager Governance, Culture and Customer	20/10/2021 Staff are working with Aukaha to set up a learning opportunity for early 2022. Further information will be provided as the detail is developed. 09/02/2022 Update from Aukaha early Feb, suggesting May/June timing for this opportunity. 15/05/2022 Agreed at Mana to Mana in April 2022 to hold this training for the start of the new triennium. Scheduled to take place at Ōtākou Marae in October 2022, alongside the first partnership hui.	28/10/2022
24/11/2021	HAZ2109 South Dunedin Future Programme Update Report	In Progress	Provide an update to Council on the South Dunedin Future Programme mid-year 2022. Res CM21-193	General Manager Operations	23/02/2022 An update on the programme will be provided to the April 2022 meeting of the Strategy and Planning Committee. The programme plan report will be provided to the June 2022 Council meeting. 22/04/2022 An update on the programme was provided to the 13 April 2022 meeting of the Strategy and Planning Committee. The programme plan report will be provided to the June 2022 Council meeting.	30/06/2022

Council Meeting Agenda - 25 May 2022 - OPEN ACTIONS FROM RESOLUTIONS OF THE COUNCIL AT 25 MAY 2022

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
23/02/2022	GOV2208 Code of Conduct Review: Update	In Progress	Chief Executive to proceed with engaging Bruce Robertson to undertake a review of the ORC Code of Conduct to address the issues raised by Len Andersen QC at the November 2021 Council Meeting and report back to Council by 30 June 2022. Res CM22-113	Chief Executive, General Manager Governance, Culture and Customer	29/03/2022 In progress. 15/05/2022 Workshop held with Bruce Robertson on 11 May 2022. Paper to come to Council on 25 May 2022 for consideration of revised Code of Conduct.	22/06/2022
23/02/2022	CS2211 Annual Review of Delegations Manual	In Progress	A review of Delegations in Section 17 Court Proceedings is to be brought to the 25 May 2022 Council Meeting. Res CM22-118	General Manager Corporate Services and CFO, Legal Counsel		25/05/2022
23/03/2022	ENG2202 Bylaw Approval to Commence Consultation	In Progress	Dr Palmer (GM Operations) to develop a policy around construction of walkways on ORC owned floodbanks by 30 June 2022. Res CM22-132	General Manager Operations	22/04/2022 A policy is in preparation.	30/06/2022

8.1. Election of New Deputy Chairperson for ORC

Prepared for: Council
Report No. GOV2226
Activity: Governance Report
Author: Amanda Vercoe, General Manager Governance, Culture and Customer
Endorsed by: Cr Andrew Noone, Chairperson
Date: 25 May 2022

PURPOSE

- [1] To advise the Council of the procedure to elect a new deputy chairperson following the resignation of Councillor Laws from the role, and to nominate and elect a new deputy chairperson.

EXECUTIVE SUMMARY

- [2] Councillor Laws has signalled an intention to resign from the position of deputy chairperson of the Otago Regional Council.
- [3] Schedule 7, Clause 17 (5) of the Local Government Act (the Act) says that a deputy chairperson continues to hold office as deputy chairperson, so long as he continues to be a member of the regional council, until the election of his successor.
- [4] Schedule 7, Clause 25 of the Act requires the appointment of the deputy chairperson to be done in accordance with an agreed voting system, with two options provided for in the Act.
- [5] Once the voting system has been decided, the chair will call for nominations for, and election of the deputy chairperson. Standing orders apply.
- [6] On 9 December 2021 job descriptions were adopted for the chair and deputy chairperson. The deputy chairperson's job description is attached for background information. As gazetted by the Remuneration Authority on 17 February 2022, the remuneration for the role of deputy chairperson at the Otago Regional Council is currently \$89,798.

RECOMMENDATION

That the Council:

- 1) **Choses either**
 - a. *Voting system A (election by the majority of members) OR*
 - b. *Voting system B (election by the greatest number of votes)**For the election of a deputy chairperson.*
- 2) **Agrees that in the event of a tie under voting system A, the candidate to be excluded from the next round of voting shall be resolved by lot, as set out in paragraph 8.**

- 3) **Agrees** that in the event of a tie under voting system B, the candidate to be elected shall be resolved by lot.
- 4) **Agrees** to the process for nominating and election of a new deputy chair, outlined in paragraph 10.

BACKGROUND

Voting System

- [7] Under the Local Government Act (the Act), the Council must elect a deputy chairperson. Councillor Michael Laws was elected deputy chairperson at the Council's inaugural meeting of the 2019-2022 triennium, on 23 October 2019. Council now needs to elect a new deputy chairperson, following the advice that Councillor Laws intends to resign.
- [8] The Council must choose one of two voting systems for the election.

System A: Requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority present and voting; and,

- a. There is a first round of voting for all candidates;
- b. If no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
- c. If no candidate is successful in the second round there is a third, and if necessary subsequent, round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded;
- d. In any round of voting, if two or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.

System B: Requires that a person is elected or appointed if he or she receives more votes than any other candidate; and,

- a. There is only 1 round of voting; and
- b. If two or more candidates tie for the most votes, the tie is resolved by lot.

- [9] Both systems require a resolution by lot if two or more candidates receive an equal number of votes and no one else is elected. Consideration of the method of resolution by lot is required. It is recommended for names to be placed in a container, to be drawn out by an independent person. The name drawn out will be the person excluded from the next round (under voting system A), or declared the winner (under voting system B).

Nominations and election for deputy chair

- [10] Once the voting system has been resolved, the chairperson will call for nominations for the role of deputy chair. In line with standing orders, a proposed process is set out below:
- a. Chairperson to call for nominations
 - b. Each nomination to be moved and seconded
 - c. Each nominee to have up to 5 minutes to speak to their nomination
 - d. Each councillor will be able to ask one question of each nominee
 - e. Each mover and seconder will have a right of reply (up to 5 minutes)
 - f. The Chairperson shall then call for a vote for the deputy chairperson, in accordance with the system resolved above.

DISCUSSION

- [11] Not applicable.

OPTIONS

[12] Council must choose which voting system it would like to use, as per the information above.

[13] Council must then vote on a new deputy chairperson.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[14] Not applicable.

Financial Considerations

[15] The deputy chairperson receives additional remuneration, as set out in the Remuneration Authority Determination.

Significance and Engagement

[16] Not applicable.

Legislative and Risk Considerations

[17] The decision making outlined above is in accordance with the Local Government Act.

Climate Change Considerations

[18] Not applicable.

Communications Considerations

[19] The deputy chairperson will be elected in a public meeting, and there may be media comment sought from the councillor elected.

NEXT STEPS

[20] Once a new deputy chairperson is elected, this change will be noted in the ORC payroll system and take effect from 26 May 2022.

ATTACHMENTS

1. Position Description Deputy Chair Regional Council (October 2021) [8.1.1 - 3 pages]



JOB DESCRIPTION

Effective from: 2021

Position Title	Deputy Chairperson, Otago Regional Council
Reporting To	Council (elected at the start of the triennium under the Local Government Act. Can be removed from office by resolution of council)
Location	Otago
Salary	Set by Otago Regional Council out of annual remuneration pool, and gazetted by Remuneration Authority

ORC Organisational Values and Behaviours					
Caring <i>We take great care in all we do</i>	Collaborative <i>Great relationships enabling great outcomes</i>	Accountable <i>Deliver on our promises</i>	Trustworthy <i>We do what we say we'll do</i>	Creative <i>Seeking better ways of doing things</i>	Open & Honest <i>Encouraging openness and honesty</i>
<ul style="list-style-type: none"> Taking due care Using resources appropriately Kaitiakitanga Responsiveness 	<ul style="list-style-type: none"> Common vision Sharing knowledge and resources Partnerships with common goals Team work 	<ul style="list-style-type: none"> Having honest conversations Doing the right thing Trustworthiness Ownership 	<ul style="list-style-type: none"> Speaking with courage Acting ethically and with mana Following up Enabling great outcomes for all 	<ul style="list-style-type: none"> Challenging the 'status quo' Continuous improvement Creative problem solving Understanding the 'why' 	<ul style="list-style-type: none"> Speaking up Being approachable Speaking with integrity Inviting differing points of view

Purpose
<p>The purpose of the Deputy Chair's position is:</p> <ul style="list-style-type: none"> if the Chair is absent or incapacitated, the Deputy Chair must perform all of the responsibilities and duties, as outlined below and may exercise the powers, of the Chair to contribute to the leadership of the Council to represent ORC and provide leadership where the Chair is not resident

Results Area	Activities
<p>Support the Chair to lead the Council</p>	<p>Support councillors to work together as a team for the betterment of the region.</p> <p>Foster an inclusive, constructive Council with positive relationships between councillors. Provide feedback to councillors on team-work and chairing of committees, as necessary. Uphold the Code of Conduct.</p> <p>Work to establish common priorities for councillors, to help drive strategy and policy.</p> <p>Maintain the boundaries between governance and operations as much as possible.</p> <div style="text-align: center;"> </div>

Page 1 of 3



	<p>Be accountable to the community for ORC's performance (for both meeting the region's needs, and performing statutory duties). Use the following mechanisms to monitor performance:</p> <ul style="list-style-type: none"> - Annual Plan and Annual Report - Quarterly activity and financial reporting - Community Survey - Well-being indicator reports (under development) <p>As appropriate be the public spokesperson or voice for the Council.</p> <p>Manage risk.</p>
<p>Support the Chair in relationship building with the ORC Chief Executive and staff</p>	<p>Work with the Chief Executive and governance team on building an effective relationship between governors and ORC staff (recognising that this relies on both parties meeting their commitments to the relationship).</p>
<p>If the Chair is absent, preside at Council Meetings</p>	<p>Lead the development of a committee structure and regular review, to ensure it is effective.</p> <p>Chair all meetings of the governing body (aside from where Conflict of Interest matters arise) (Standing Order 14.1)</p> <p>Be responsible for the orderly conduct of meetings based on Standing Orders, and the Code of Conduct.</p> <p>Uphold the powers that Standing Orders gives to the Chair when chairing meetings (Standing Orders Appendix 8)</p> <p>Participate in pre-agenda meetings with the Chief Executive and other senior staff to provide the opportunity to go through the full agenda for completeness, accuracy and collective understanding. Signal likely meeting concerns from councillors, and signal when additional advice or more time to consider the issue might be required (Standing Order 9.1)</p> <p>Guide recommendations of appointments to external bodies and groups, when required.</p>
<p>Support the Chair to lead the ORC's role in the region</p>	<p>Be a leader and advocate for the region as a whole, by:</p> <ul style="list-style-type: none"> - building community trust in the Council, and making governance accessible, inclusive and effective - understanding and leading the partnership with mana whenua and ensuring the relationship is strong, enduring and understood by councillors - ensuring the needs of the region are conveyed clearly to central government, and that the ORC complies with central government rules and regulations and requests for information



	<ul style="list-style-type: none"> - co-ordinating the efforts of all the Councils in the region through participation in the Otago Mayoral Forum, Regional Sector Meetings, and other LGNZ forums - provide regional oversight to key issues and policy leadership
Training and Development	Participate in ongoing professional development opportunities for councillors.
Health & Safety	<p>Always have the wellbeing of self and others as a priority.</p> <p>Promote a safe and environmentally sound working environment and a culture of safe and responsible behaviours and attitudes.</p> <p>Report all risks identified, and contribute to their elimination or minimisation.</p> <p>Actively contribute to H&S initiatives.</p>

Relationships
<ul style="list-style-type: none"> ▪ ORC Chair ▪ Councillors ▪ Chief Executive ▪ ORC Executive Leadership Team ▪ ORC governance team ▪ Iwi partners, Rūnaka Chairs ▪ Otago Territorial Authorities Mayors ▪ Regional Council Sector Chairs ▪ Contractors and Consultants ▪ Stakeholders, constituents, community leaders

8.2. Code of Conduct

Prepared for: Council
Report No. GOV2227
Activity: Governance Report
Author: Amanda Vercoe, General Manager Governance, Culture and Customer
Endorsed by: Nick Donnelly, Acting Chief Executive
Date: 25 May 2022

PURPOSE

- [1] To consider revisions to the code of conduct for the Otago Regional Council, and if satisfactory, adopt an updated code of conduct.

EXECUTIVE SUMMARY

- [2] On 13 November 2021, Council sought a review of its current code of conduct (adopted on 13 November 2019) based on legal advice received from Mr Len Andersen QC.

Resolution CM21-199: Cr Calvert Moved, Cr Kelliher Seconded

That the Council:

- 1) *Requests the CE to get a report that considers the points raised by Mr Len Anderson QC, and recommends a change of Code with options including a possible mediation clause, as appropriate, to report back to the Council meeting in February 2022.*

MOTION CARRIED

- [3] Following an update to Council on 23 February 2022 on work being done by the Local Government Commission and Local Government New Zealand, Council directed the Chief Executive to engage a consultant to undertake the review.

Resolution CM22-113: Cr Noone Moved, Cr Malcolm Seconded

That the Council:

- 1) *Directs the Chief Executive to proceed with engaging Bruce Robertson to undertake a review of the ORC Code of Conduct to address the issues raised by Len Andersen QC at the 24 November 2021 Council Meeting and report back to Council by 30 June 2022.*

MOTION CARRIED

- [4] A workshop was held on 11 May 2022 to discuss the code of conduct and the areas that were highlighted in the legal advice from Mr Andersen. Feedback from that workshop has been considered, and attached is an accompanying explanatory note from Mr Bruce Robertson, proposed revisions to Section 12, Section 13 and Appendix C. These revisions are based on the 2017 code of conduct, adopted by the Otago Regional Council, which is also attached.
- [5] A draft 2022 code of conduct is then attached, which incorporates the updated Sections 12 and 13, and updated Appendix C, for consideration and adoption.
- [6] Under Schedule 7, Clause 15 (6) of the Local Government Act, an amendment to the code of conduct, or the adoption of a new code of conduct, requires not less than 75% support from the members present. This means 9 councillors would need to support the amendments, in order for the updated code to be successfully adopted.

RECOMMENDATION

That the Council:

- 1) **Notes** this report, attached explanatory note and revisions, and updated code of conduct.
- 2) **Notes** not less than 75% support (9 councillors) is required to adopt the updated code of conduct.
- 3) **Agrees** to incorporate the revised Section 12, Section 13 and Appendix C into the ORC Code of Conduct with, or without changes.
- 4) **Adopts** the Code of Conduct 2022 (attached), with 75% or more support.

BACKGROUND

- [7] Schedule 7, Clause 15 of the local government act requires local authorities to have a code of conduct.
- [8] The Otago Regional Council adopted its current code of conduct on 13 November 2019 unanimously.

DISCUSSION

- [9] See attached.

OPTIONS

- [10] After considering the proposed revisions, Council can choose to incorporate the revisions to the code of conduct, and adopt the code of conduct 2022. Council may also require further amendments to be made, or to be considered.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [11] Not applicable.

Financial Considerations

- [12] Not applicable.

Significance and Engagement

- [13] Not applicable.

Legislative and Risk Considerations

- [14] The code of conduct is a statutory requirement from the Local Government Act. The requirements set out in Schedule 7, Clause 15 have been considered as part of this review.

Climate Change Considerations

- [15] Not applicable.

Communications Considerations

- [16] The code of conduct is available on the ORC Website. If the updated version is adopted, it will be put on the website in place of the 2019 version.

NEXT STEPS

- [17] As above. A workshop for the new Council on the resulting code of conduct will be arranged as part of the briefings for the incoming Council.

ATTACHMENTS

1. Final Memo - Otago Regional Council (19 May 2022) [**8.2.1** - 40 pages]
2. Code of Conduct Workshop (11 May 2022) [**8.2.2** - 12 pages]
3. Otago Regional Council Code of Conduct DRAFT - May 2022 [**8.2.3** - 20 pages]



Otago Regional Council

Review of comments made by Len Andersen QC on 2019 Code of Conduct

Purpose

Mr Andersen's view were sought during a recent complaint by Chair Andrew Noone. He made a number of observations about the current 2019 Code of Conduct (Code), and I have been asked to consider his comments and, as a person who has undertaken a number of Code reviews, assess their merits in relation to the Otago Regional Council's (ORC's) Code.

My Terms of Reference (TOR) are narrow – they are to consider the merit of inclusion of Mr Andersen's comments in the investigation sections of the 2019 code – that is, section 12 and Appendix C. I am not required to comment on the overall *fit for purpose* of the Code.

Approach

The approach I have taken is, in order,

- Review ORC's 2019 Code establishing its adoption of the current LGNZ model for investigating complaints
- Review the Local Government Commission (September 2021) report to the Minister on Codes and understand the Minister's probable next steps
- Interviewed Amanda Vercoe (General Manager Governance, Culture and Customer) and Sarah Gardner (recently resigned Chief Executive)
- A 2 hour workshop with Councillors on 11 May 2022 (Attachment A – workshop slides and Attachment B – Notes on workshop outcome)
- Interview and discussion with Len Andersen QC on 13 May 2022 (Attachment C for notes)

Outcome

In short, there formed a strong consensus on reform to the Code, centred around two themes being de-politicisation of the inquiry process by independent control and seeking to resolve matters early through mediation in favour of an independent inquiry.



rb robertson

Much of this strong consensus is met in the 2017 Code¹ previously adopted by ORC for the prior triennium but rescinded by adoption of the 2019 version.

Further, Mr Andersen was uncertain of the provenance of his version of the 2016 Code he quotes in his letter² and, when he had read the 2017 Code, indicated this was a much more preferable version for conducting a complaint process, than his letter's favoured 2016 Code.

New complaints process

As a result of these interviews, reviews of the documents and my own experience, I recommend that ORC adopt a new complaint process as soon as possible with Council making a strong recommendation to the new incoming council, post the 08 October local body elections, that it retains this approach.

Key features of the recommended approach:

Objectives of the complaint process

The following principles to achieve a satisfactory review outcome should guide the complaints process. They should be referred to if there are questions in any actual review as to process. These will be included in paragraph 12 of the Code which sets out the initiation of action on a complaint:

- Independence, including political independence, in the complaints process.
- The process should be designed to provide a least cost approach
- The process should place a preference on early intervention to resolve a complaint.
- The importance of fairness to all parties – administratively, procedurally and including over costs imposed on the subject of a complaint (defending a complaint).
- The approach adopted should disincentivize the Code being 'weaponised'.

Achieving independence in the process

Key recommended features are:

- A person independent of the elected members and Chief Executive receiving the complaint and overseeing complaint process.

¹ Refer Attachment E for a full copy of ORC's 2017 Code

² Extensive searching was undertaken to identify the version he partially included in his letter to ORC. No search by ORC or Mr Andersen was successful.



rbrobertson

- The independent person or panel of people are identified by Council at the start of the triennium.
- The skills required include having a sufficient knowledge of the sector, ORC and issues.
- Council could decide that the independent panel could simply be the independent member on the Audit and Risk Committee.
- On receipt of the complaint the independent would make such adequate inquiry of the complaint to make an *initial assessment* as to the merits of the complaint.
- If it has no merit the independent can dismiss the complaint.
- If it has merit, the independent will initiate a mediation process between the complainant and respondent and other elected members/Chief Executive as required.
- If no resolution can be reached, the independent will appoint an independent investigator from a pre-existing ORC independent investigators panel.

Preference on early resolution

Key features are:

- Requiring the relevant parties enter independently facilitated mediation in an attempt to resolve the complaint.
- The mediation is confidential, other than outcome, and there would be no reporting to Council unless the complaint is sent to the independent investigator stage due the failure of mediation.
- The independent person overseeing the complaint appoints the investigator.

Reforms to the complaint process (Appendix C)

Key features of the complaint process under independent oversight are:

- The independent person undertaking an initial assessment to assess the merit of the complaint. Combined with the next step, this is seen as the most effective means to the objective of early resolution.
- The priority on externally facilitated mediation. This may increase the overall cost, if mediation is unsuccessful, but it does provide the opportunity for early resolution. Mediation also requires the complainant and subject of the complaint to get "around the table" which may favour early resolution plus it may help mitigate the risk of weaponization of the complaint process.
- The elimination of the preliminary assessment and materiality. The role of the independent investigator should be to determine if there has been a breach of the code. Any breach should be seen as that – a breach which does not need to be defined as whether it is material or not. An investigator should identify the seriousness of a breach to aid Council in its determination of any penalty.



rbrobertson

- Receipt of the investigators report is binding on Council. This differs from the general view as expressed at the workshop. Mr Andersen made an important point that if Council has an ability to, in effect, reject the investigator's report, it inserts a political decision which contravenes the depoliticisation principle identified above plus councillors will not have all the evidence that the investigator has obtained.
- The decision on (any) penalty is retained by Council.

Considerations

The recommended course for conducting a review is considered to align with the outcome of the Councillor workshop. However there are two points which Council may wish to review the recommended approach:

- The investigator not being required to undertake a preliminary assessment or assess the materiality of breach (or potential breach). Removal of this aspect of the reporting process was recommended after discussion with Mr Andersen and also based on my experience. Critical is whether there is a breach or not and its seriousness. It also leaves the investigator with a simple review objective – has there been a breach and how serious was it. It also leaves open the possibility the investigator concludes there is no breach, and the matter ends there.
- I recommend that the Council is bound by the investigator's report and cannot reject it. Again after discussion with Mr Andersen I propose this for the reasons noted above – the investigator has all the evidence, and it meets the objective of depoliticizing whether a breach has occurred or not and its seriousness. However I acknowledge that at the workshop this was not necessarily the favoured view of elected members. I recommend the members revise their preference.

Other comments outside the scope of the review

In the workshop, Councillors recognised that at the start of the triennium they did not effectively review or debate the whole Code, let alone the investigation provisions. Spending relevant time – including considering the principles and understandings as well as the approach to alleged breaches – should be timetabled into the new Council's induction.

Further Council should ensure it specifically resolves to adopt the Code with a 75% majority to ensure it can implement the Code it is prepared "to sign up to".³

³ Mr Andersen commented on that Council needed to ensure it had a valid Code. In discussing his comments in his report, he was open that Council may have actually validly



Conclusion

In the course of this review, there was a high congruence between Councillors' workshopped view on their preferred means of dealing with alleged breaches, the views of Mr Andersen and my experience in undertaking reviews.

It is recommended that Council adopt a new Code incorporating the review provisions aligned to the 2017 Code.

Appendix D contains the recommended updated section 12, 13 and Appendix.

Bruce Robertson
RBruce Robertson Ltd

17 May 2022

adopted the 2019 Code. The important lesson was the need for its deliberate consideration and proper adoption.

Attachment A ORC Workshop slide deck



Targeted review of Code of Conduct

Workshop for Otago Regional Council
11 May 2022

Full slide deck separately included.



Attachment B

Notes from ORC workshop on Code

Outcomes sought

(In no order of priority or refined)

- Want a least cost/highly effective process – achieves a satisfactory end
- Fairness to all parties – administratively, including in costs imposed on the subject of a complaint (defending a complaint)
- Independence in assessments
- Precedence to early intervention to resolve a complaint
- High cost/disincentivize the Code being 'weaponised'

Key principles/points

The following points were noted from discussion which can be taken as an expressed wish for direction of development of the code:

- An emphasis on mediation (refer the 2017 Code) – the value of getting around a table – complainant and subject, chair and possibly independent member of Audit and Risk Committee
- Use of independent member of Audit and Risk Committee if further decision making is needed
- Wish to explore "off ramps" in the process including ability for council to receive the final report from an investigator (where mediation has failed) and reject its findings
- Should there be an "initial assessment – by chair and/or independent ARC member – to reject complaint outright?
- Removal of political element from process as much as possible – to extent any complaint is managed on behalf of council by an independent member of the ARC
- Agreed with Len's comment that preliminary assessment is about the *potential* for a material breach meaning the process is streamlined and enables the investigator to reject the complaint at any stage in the process



Addendum

Comments ex discussion (12 May) with Robert Buchanan, Public Law expert and advisor to RBRL:

- A suggested outcome is the de-politicisation of the process to discourage the Code being used as a weapon (you know you will have to front up to a mediation; the process is controlled by an independent from the ARC)
- Concepts discussed and saw the merit in:
 - The role of an independent member on the ARC to oversee the complaint (rather than a politician – Chair or otherwise)
 - The (automatic) use of externally facilitated mediation “to sort out differences”, following normal mediation rules (confidentiality, other than outcome); and no reporting to council unless taken to investigator stage
 - Adopt the “Len approach” to the preliminary assessment of the “potential” for a breach
 - The ability of the investigator to stop the investigation at any stage



Attachment C

Notes - Len Andersen, 13 May

Purpose

The primary reason was to follow through on Len's initial advice to ORC Chair. Len also provided substantial advice on what he saw as the needs of a good Code

Comments

Key points noted:

- The process needs to be procedurally fair and independent of the politicians/council⁴. As noted below this is effectively from the start of a complaint process. Further council should identify that person(s) at the start of the triennium
- Independent lead could be a person with relevant experience not associated with Councilor, and he was in reasonable agreement, the independent member on the ARC. Either person needs sufficient knowledge of the sector, ORC and issues
- The independent should receive the report and undertake an "initial assessment" – essentially a reasonableness test (sniff test) to ensure it warrants proceeding with
- The independent then initiates the mediation
- Subject to the outcome of the mediation, appoints the independent investigator

We agreed on his initial view about the preliminary assessment that logically it would track the course undertaken by Ms Dhyrberg – the preliminary assessment is whether a breach would be material if found, rather than needing it is. This means that the investigator could undertake the inquiry and find no breach.

We further agreed it would be better for there to be no preliminary assessment on the basis that any breach, if established by the investigator is, by definition, material⁵ and what then follows is determination of a penalty.

We agreed that the investigator's report should be final and not subject to acceptance (or rejection) by the Council, again on the basis of risks

⁴ To avoid risk of either process or result being seen as partisan or biased

⁵ Len would go further and not have the concept of materiality. If it is a breach, then it is material, and the key is the significance or seriousness of the breach.



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associated with going against an investigator, plus importantly they have not seen all the evidence.

The investigator should not be required to make any recommendations on penalty; that is for the political decision of council; potentially comments or observations as guidance could be made.

Once he had seen the 2017 Code⁶, he agreed it overall approach was sound – with its focus on mediation.

He reinforced the importance of procedural fairness, especially as regards the treatment of the subject of the complaint.

Other minor points:

- His comment on the investigator potentially being the adjudicator is not relevant to the 2017 Code

⁶ He was uncertain how he sourced the "2016 version"



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Attachment D Suggested sections 12 and 13 of Code and Appendix defining the complaint process (based on the 2017 Code)

12. Breaches of the Code

Members must comply with the provisions of this Code (LGA 2002, schedule 5, s. 14(4)). Any member, or the chief executive, who believes that the Code has been breached by the behaviour of a member, may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following objectives and principles.

12.1 Objectives

Council has determined its objective when there is an alleged breach of the Code is:

- The complaint process will be dealt with independently, including being politically independent.
- The process should be designed to provide a least cost approach.
- The process should place a preference on early intervention to resolve a complaint.
- The importance of fairness to all parties – administratively, procedurally and including in costs imposed on the subject of a complaint (defending a complaint).
- The approach adopted should disincentivize the Code being 'weaponised'.

12.2 Principles:

The following principles will guide any processes for investigating and determining whether or not a breach under this Code has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the breach complained about;
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code. This requires, conditional on the nature of an alleged breach, that affected parties:
 - have a right to know that an investigation process is underway:
 - are given due notice and are provided with an opportunity to be heard;
 - have a right to seek appropriate advice and be represented; and
 - have their privacy respected.



12.3 Appointment of an Independent Person to oversee complaint and a panel of Independent Investigators

At the commencement of the triennium, Council⁷ will appoint an Independent Person (or a panel if it wishes to have more than one) to oversee any complaint. It will also appoint a panel of independent investigators should such an investigation be required under this Code.

The Independent Person cannot be an Independent Investigator. They will be a person Council assesses has relevant knowledge and experience of the public sector, local bodies and governance.

The Independent Person can be an independent member of Council's Audit and Risk Committee.

12.4 The Independent Person is to oversee the complaint process

Any complaint will be overseen by the Independent Person.

12.4 Who may make a complaint under the Code?

~~All complaints made under this Code must be made in writing and forwarded to the chief executive. On receipt of a complaint the chief executive must forward that complaint to the Chairperson who will, if the parties agree, undertake mediation to resolve the issue. In the event the parties do not agree to mediation or mediation cannot resolve the issue the Chairperson must forward that complaint to an independent investigator to determine whether the issue is sufficient to warrant a full investigation.²~~

~~In the event the Chairperson is a party to the complaint, the Deputy Chairperson will undertake the mediation and if both the Chairperson and Deputy Chairperson are involved the matter will be forwarded directly to an independent investigator~~

Only members and the chief executive may make a complaint under this Code.

²On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as Equip.

12.5 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix (tbc).

12.6 Materiality

~~An alleged breach under this Code is material if, in the opinion of the independent investigator,~~

⁷On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Chair, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her council or prepare a list jointly with neighbouring councils. Similarly, the Chief Executive will consult the Chair on appointment of an Independent Person. A Panel is not required unless it is considered good to establish a list of such people.

Commented [br1]: For simplicity the complaints process is totally contained within the Appendix



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it would, if proven, bring a member or the council into disrepute or, if not addressed, reflect adversely on another member of the council.

Commented [br2]: It is not intended that the classification of breach as material is needed,

13 Penalties and actions

Commented [br3]: For completeness I have updated this section

Where a complaint is upheld by the investigator and referred to the council the nature of any penalty or action will depend on the seriousness of the breach.

13.4 Material breaches

The council, or a committee with delegated authority, may require one of the following:

1. a letter of censure to the member.
2. a request (made either privately or publicly) for an apology;
3. a vote of no confidence in the member;
4. removal of certain council-funded privileges (such as attendance at conferences);
5. restricted entry to council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. limitation on any dealings with council staff so that they are confined to the chief executive only;
7. suspension from committees or other bodies; or
8. an invitation for the member to consider resigning from the council.

A council or committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- attend a relevant training course; and/or
- work with a mentor for a period of time; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- tender an apology.

Commented [br4]: This is not relevant as Council will only consider a penalty if mediation has failed and it has gone to an investigator.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

13.1 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- 13.1.1 breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under the LAMIA);
- 13.1.2 breaches which result in the council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.30 of the LGA 2002 which may result in the member having to make good the loss or damage); or
- 13.1.3 breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).



Appendix B: Process for the determination and investigation of complaints

Commented [br5]: TBC

Step 1: Chief Executive receives complaint

All complaints made under this Code must be made in writing and forwarded to the Chief Executive.

On receipt of a complaint under this Code the chief executive will refer the complaint to the Chairperson Independent Person. ~~In the event the Chairperson is a party to the complaint the chief executive will refer the complaint to the Deputy Chairperson. In the event both the Chairperson and Deputy Chairperson are involved the chief executive will refer the complaint to an investigator selected from a panel agreed at the start of the triennium.~~ The chief executive will also:

- inform the complainant that the complaint has been referred to ~~the Chairperson, Deputy Chairperson or independent investigator and the name of the investigator,~~ the Independent Person (named) and refer them to the process for dealing with complaints as set out in the Code; and
- inform the respondent that a complaint has been made against them and state name the Independent Investigator overseeing the complaint process ~~who it has been referred to including the name of the investigator (if applicable)~~ and refer them to the process for dealing with complaints as set out in the Code.

Step 2: ~~Chairperson undertakes Independent person makes an initial assessment and arranges independently facilitated mediation~~

The Independent Person will undertake an initial assessment of the merits of the complaint. If the Independent Person considers it has no merit, the complaint will be dismissed, The complainant will have no recourse or appeal.

~~If deemed to have merit, the Independent Person~~ ~~On receipt of a complaint under this Code the Chairperson (or Deputy Chairperson)~~ will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and not further action is required.

If the parties do not agree to mediation or mediation is unsuccessful in resolving the matter the ~~Chairperson~~ Independent Person will refer the complaint to an investigator selected from a panel agreed at the start of the triennium The Independent Person will also ~~inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the investigator.~~



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Step 3: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. the complaint is frivolous or without substance and should be dismissed;
2. the complaint is outside the scope of the Code and should be redirected to another agency or process;
3. the complaint is non-material; and
4. the complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine the appropriate course of action. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment the chief executive will:

1. where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision;
2. in cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

Step 4: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material the investigator will inform the chief executive and, if they choose, recommend a course of action appropriate to the breach, such as;

- * that the respondent seek guidance from the Chairperson or Mayor;
- * that the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

The chief executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the council.

Step 3 5: Investigator to inquire and conclude on the matter Actions where a breach is found to be material

If the matter subject of a complaint is found to be a breach of the Code material the investigator will inform the Independent Person chief executive, who will inform the complainant and respondent. The investigator will then prepare a report for the council on the seriousness of the breach.

In preparing that report the investigator may:

- consult with the complainant, respondent and any affected parties;
- undertake a hearing with relevant parties; and/or

Commented [br6]: A preliminary assessment is considered unnecessary as the issue is whether a breach has occurred and its seriousness

Commented [br7]: As no finding on materiality is required this step is also no longer needed.



- refer to any relevant documents or information.

The Independent Investigator's report shall include an assessment of the seriousness of the breach. The intent is for the Independent Investigator to assess the nature and effect of the breach.

At any stage in their inquiry, the Independent Investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. The Independent Investigator will inform the Independent Person that the complaint is dismissed who will inform the complainant and respondent.

On receipt of the investigator's report the Independent Person ~~chief executive~~ will prepare a report for the council ~~or committee with delegated authority~~, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Independent Person's ~~chief executive's~~ report will include the full report prepared by the investigator

Step 4 6: Process for considering the investigator's report

~~Depending upon the nature of the complaint and alleged breach~~ The the investigator's report will may be considered by the full council, excluding the complainant, respondent and any other 'interested' members, ~~or a committee established for that purpose.~~

~~In order to avoid any suggestion of bias, a Code of Conduct Committee may often be the best mechanism for considering and ruling on complaints. Committees should be established at the start of a triennium with a majority of members selected from the community through either an application process or by invitation.~~

The council ~~or committee~~ will consider the chief executive's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s.48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the council ~~or committee~~ will give the member against whom the complaint has been made an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

The form of penalty that might be applied will depend on the seriousness ~~nature~~ of the breach and may include actions set out in section 13 of 13.4 of this Code.

~~In accordance with this Code councils will agree to implement the recommendations of a Code of Conduct Committee without debate.~~

Commented [br8]: As with Step 4, no separate committee or body is recommended to receive the investigator's report. The workshop did not discuss this directly, but my sense is that it was recognised the body to receive the report is the Council. I do not recommend an alternate body.

Commented [br9]: While this is an option under the 2017 Code and variants do exist under the LGNZ Code, as noted above, it seemed clear to me that the workshop recognised that Council should be the body that receives the report.



Attachment E 2017 Code of Conduct as adopted 22 February 2022

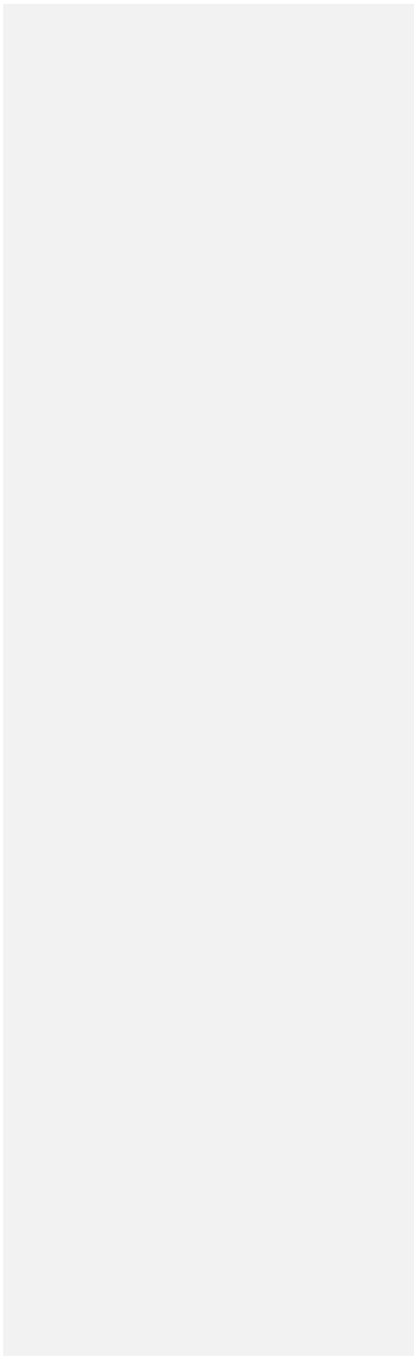
Otago
Regional
Council

Code of Conduct

Adopted on the 22nd of February 2017



A952761



This is a true and correct copy of the Otago Regional Council Code of Conduct which were approved by the resolution of the Otago Regional Council on 22 February 2017 and are deemed to be operative from that date.

The Common Seal of the Otago Regional Council Was hereto affixed pursuant to the resolution of the Council in the presence of:



Chairperson



Chief Executive



1. Introduction

This Code of Conduct (the Code) sets out the standards of behavior expected from elected members in the exercise of their duties. Its purpose is to:

- enhance the effectiveness of the local authority and the provision of good local government of the community, city, district or region;
- promote effective decision-making and community engagement;
- enhance the credibility and accountability of the local authority to its communities; and
- develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviors agreed in this Code.

2. Scope

The Code has been adopted in accordance with clause 15 of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members, including the members of any local boards as well as the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- each other;
- the chief executive and staff;
- the media; and
- the general public.

It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the local authority to give effect to its statutory responsibilities

This Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the council's Standing Orders.

3. Values

The Code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.
3. **Ethical behaviour:** members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly and will avoid the appearance of any such behaviour.
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of officials.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by this Code of Conduct, and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to ensure they fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.

These values complement, and work in conjunction with, the principles of s.14 of the LGA 2002 and the governance principles of s.39 of the LGA 2002.

4. Role and responsibilities

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the council and those responsible for advice and the implementation of council decisions. The key roles are:

4.1 Members

The role of the governing body includes:

- representing the interests of the people of the city, district or region;
- developing and adopting plans, policies and budgets;
- monitoring the performance of the council against stated goals and objectives set out in its long term plan;
- providing prudent stewardship of the council's resources;
- employing and monitoring the performance of the chief executive; and
- ensuring the council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015.

4.2 Chief executive

The role of the chief executive includes:

- implementing the decisions of the council;
- ensuring that all responsibilities delegated to the chief executive are properly performed or exercised;
- ensuring the effective and efficient management of the activities of the local authority;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- providing leadership for the staff of the council; and
- employing staff on behalf of the council (including negotiation of the terms of employment for those staff).

Under s.42 of the LGA 2002 the chief executive is the only person *directly* employed by the council itself. All concerns about the performance of an individual member of staff must, in the first instance, be referred to the chief executive.

5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public.

5.1 Relationships between members

Given the importance of relationships to the effective performance of the council, members will conduct their dealings with each other in a manner that:

- maintains public confidence;
- is open and honest;
- is courteous;
- is focused on issues rather than personalities;
- avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- avoids aggressive, offensive or abusive conduct, including the use of disrespectful or malicious language.

Any failure by members to act in the manner described in s.5.1 represents a breach of this Code.

Please note that nothing in this section of the Code is intended to limit robust debate within the council as long as it is conducted in a respectful and insightful manner.

5.2 Relationships with staff

An important element of good governance involves the relationship between the council and its chief executive. Members will respect arrangements put in place to facilitate this relationship, and:

- raise any concerns about employees, officers or contracted officials with the chief executive;
- raise any concerns about the performance or behaviour of the chief executive with the mayor/chair or the chairperson of the chief executive performance review committee (however described);
- make themselves aware of the obligations that the council and the chief executive have as employers and observe those requirements at all times, such as the duty to be a good employer;
- treat all employees with courtesy and respect and avoid publicly criticising any employee;
- observe any protocols put in place by the chief executive concerning contact between members and employees;

- avoid doing anything which might compromise, or could be seen as compromising, the impartiality of an employee.

Any failure by members to act in the manner described above represents a breach of this Code.

Please note: Elected members should be aware that failure to observe this portion of the Code may compromise the council's obligations to be a good employer and consequently expose the council to civil litigation or affect the risk assessment of council's management and governance control processes undertaken as part of the council's audit.

5.3 Relationship with the public

Given that the performance of the council requires the trust and respect of individual citizens, members will:

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of the local authority.

Any failure by members to act in the manner described above represents a breach of this Code.

6. Contact with the media

The media play an important part in the operation and efficacy of local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of council.

From time to time individual members will be approached to comment on a particular issue either on behalf of the council, or as an elected member in their own right. When responding to the media members must be mindful that operational questions should be referred to the chief executive and policy-related questions referred to the mayor or the member with the appropriate delegated authority.

When speaking to the media more generally members will abide by the following provisions:

6.1 Media contact on behalf of the council

- the mayor or chairperson is the first point of contact for an official view on any issue, unless delegations state otherwise. Where the mayor/chair is absent requests for comment will be referred to the deputy mayor/chair or relevant committee chairperson or portfolio holder;
- the mayor/chair may refer any matter to the relevant committee chairperson or to the chief executive for their comment; and
- no other member may comment *on behalf of the council* without having first obtained the approval of the mayo/chair.

6.2 Media comment on a member's own behalf

Elected members are free to express a *personal view* in the media, at any time, provided the following rules are observed:

- media comments must not state or imply that they represent the views of the council;
- media comments which are contrary to a council decision or policy must clearly state that they do not represent the views of the majority of members;
- media comments must observe the other requirements of the Code; for example, comments should not disclose confidential information, criticize, or compromise the impartiality or integrity of staff; and
- media comments must not be misleading and should be accurate within the bounds of reasonableness.

Any failure by members to meet the standards set out above represents a breach of this Code.

7. Information

Access to information is critical to the effective performance of a local authority and the level of public trust felt by the public.

7.1 Confidential information

In the course of their duties members will occasionally receive information that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

7.2 Information received in capacity as an elected member

Members will disclose to other members and, where appropriate the chief executive, any information received in their capacity as an elected member that concerns the council's ability to give effect to its responsibilities.

Members who are offered information on the condition that it remains confidential will inform the provider of the information that it is their duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Any failure by members to act in the manner described above represents a breach of this Code.

Please note: failure to observe these provisions may impede the performance of the council by inhibiting information flows and undermining public confidence. It may also expose the council to prosecution under the Privacy Act and/or civil litigation.

8. Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarize themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Members will not participate in any council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse contracts with the authority or has a pecuniary interest. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the chief executive *immediately*. Members may also contact the Office of the Auditor General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

Please note: Failure to observe the requirements of the LAMIA could potentially invalidate the decision made, or the action taken, by the council. Failure to observe these requirements could also leave the elected member open to prosecution (see Appendix A). In the event of a conviction, elected members can be ousted from office.

9. Register of Interests

Members shall annually make a declaration of interest. These declarations are recorded in a Register of Interests maintained by the council. The declaration must include information on the nature and extent of any interest, including:

- a) any employment, trade or profession carried on by the member or the members' spouse for profit or gain;
- b) any company, trust, partnership etc for which the member or their spouse is a director, partner or trustee;
- c) the address of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) the address of any land owned by the local authority in which the member or their spouse is:
 - a tenant; or
 - the land is tenanted by a firm in which the member or spouse is a partner, a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee;
- e) any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the chief executive)

Please note: Where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

10. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly members will:

- claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the council developed in accordance with that determination;
- not influence, or attempt to influence, any council employee, officer or member in order to benefit their own, or families personal or business interests;
- only use the Council resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and

- not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the chief executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the chief executive for inclusion in the publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of this Code.

10.1 Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 (LGA 2002) any member who is an "undischarged bankrupt" will notify the chief executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt. The member will also provide the chief executive with a brief explanatory statement of the circumstances surrounding the member's adjudication and the likely outcome of the bankruptcy.

11. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- Attending post-election induction programmes organised by the council for the purpose of facilitating agreement on the council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment of the Council's overall performance and operating style during the triennium.¹
- Taking all reasonable steps to ensure they possess the skills and knowledge to effectively fulfil their Declaration of Office and contribute to the good governance of the city, district or region.

¹ A self assessment template is provided in the Guidance to this Code.

12. Breaches of the Code

Members must comply with the provisions of this Code (LGA 2002, schedule 5, s. 14(4)). Any member, or the chief executive, who believes that the Code has been breached by the behaviour of a member, may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

12.1 Principles:

The following principles will guide any processes for investigating and determining whether or not a breach under this Code has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the breach complained about;
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code. This requires, conditional on the nature of an alleged breach, that affected parties:
 - o have a right to know that an investigation process is underway;
 - o are given due notice and are provided with an opportunity to be heard;
 - o have a right to seek appropriate advice and be represented; and
 - o have their privacy respected.

12.2 Complaints

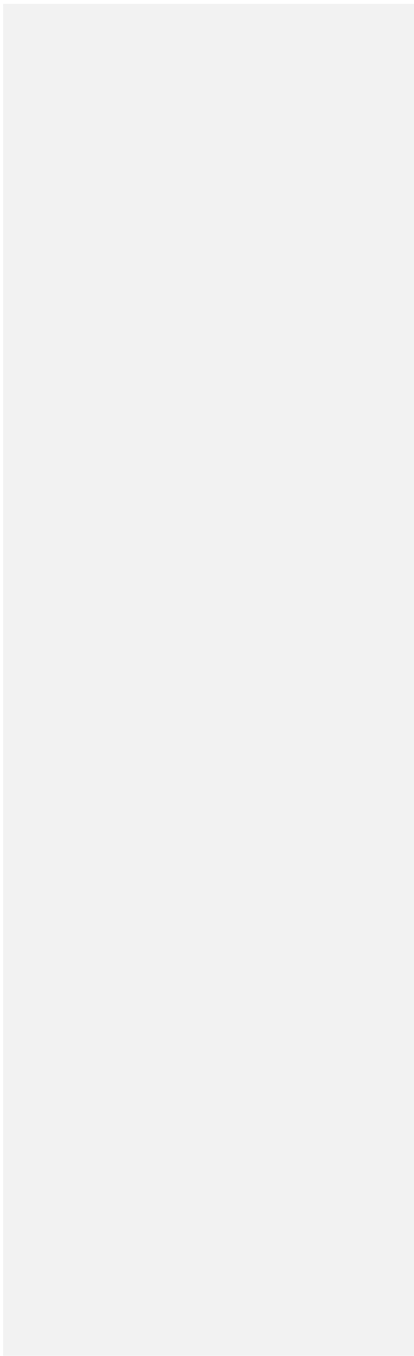
All complaints made under this Code must be made in writing and forwarded to the chief executive. On receipt of a complaint the chief executive must forward that complaint to the Chairperson who will, if the parties agree, undertake mediation to resolve the issue. In the event the parties do not agree to mediation or mediation cannot resolve the issue the Chairperson must forward that complaint to an independent investigator to determine whether the issue is sufficient to warrant a full investigation.²

In the event the Chairperson is a party to the complaint, the Deputy Chairperson will undertake the mediation and if both the Chairperson and Deputy Chairperson are involved the matter will be forwarded directly to an independent investigator

Only members and the chief executive may make a complaint under this Code.

² On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list

specifically for his or her council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as Equip.



12.3 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix B.

12.4 Materiality

An alleged breach under this Code is material if, in the opinion of the independent investigator, it would, if proven, bring a member or the council into disrepute or, if not addressed, reflect adversely on another member of the council.

13. Penalties and actions

Where a complaint is determined to be material and referred to the council the nature of any penalty or action will depend on the seriousness of the breach.

13.1 Material breaches

In the case of material breaches of this Code the council, or a committee with delegated authority, may require one of the following:

9. a letter of censure to the member;
10. a request (made either privately or publicly) for an apology;
11. a vote of no confidence in the member;
12. removal of certain council-funded privileges (such as attendance at conferences);
13. restricted entry to council offices, such as no access to staff areas (where restrictions may not previously have existed);
14. limitation on any dealings with council staff so that they are confined to the chief executive only;
15. suspension from committees or other bodies; or
16. an invitation for the member to consider resigning from the council.

A council or committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- attend a relevant training course; and/or
- work with a mentor for a period of time; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

13.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under the LAMIA);
- breaches which result in the council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.30 of the LGA 2002 which may result in the member having to make good the loss or damage); or
- breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

14. Review

Once adopted, a Code of Conduct continues in force until amended by the council. The Code can be amended at any time but cannot be revoked unless the council replaces it with another Code. Once adopted, amendments to the Code require a resolution supported by 75 per cent of the members of the council present at a council meeting where the amendment is considered.

Council may formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be considered by the council in regard to potential changes for improving the Code.

Appendix A: Legislation bearing on the role and conduct of elected members

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members. The full statutes can be found at www.legislation.govt.nz.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- a person, or spouse or partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- a person, or their spouse or partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected members' family trust and the council.

Determining whether a pecuniary interest exists

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"... whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the mayor/chair or other person to determine if they should discuss or vote on an issue but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in the council's Standing Orders.)

The contracting rule

A member is disqualified from office if he or she is "concerned or interested" in contracts with their council if the total payments made, or to be made, by or on behalf of the council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the council (or committee of the council) while disqualified.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

"Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavor) the case of a party to the issue under consideration?"

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members should focus be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- create a disturbance or a distraction while another councillor is speaking;
- be disrespectful when they refer to each other or other people; or
- use offensive language about the council, other members, any employee of the council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to council.

If convicted of any offence under this Act a person can be imprisoned for up to two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of council; and
- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of seven years or more. Elected members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places elected members in the same position as company directors whenever council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles. Provisions directly relevant to this Code include:

Personal liability of members

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s.44 LGA 2002, it is found that one of the following applies:

- a) money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) an asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) a liability has been unlawfully incurred by the local authority; or
- d) a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) without the member's knowledge;
- b) with the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) contrary to the manner in which the member voted on the issue; and
- d) in circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situations members will also be responsible for paying the costs of proceedings (s.47 LGA 2002).

Appendix B: Process for the determination and investigation of complaints

Step 1: Chief executive receives complaint

On receipt of a complaint under this Code the chief executive will refer the complaint to the Chairperson. In the event the Chairperson is a party to the complaint the chief executive will refer the complaint to the Deputy Chairperson. In the event both the Chairperson and Deputy Chairperson are involved the chief executive will refer the complaint to an investigator selected from a panel agreed at the start of the triennium. The chief executive will also:

- inform the complainant that the complaint has been referred to the Chairperson, Deputy Chairperson or independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- inform the respondent that a complaint has been made against them and state who it has been referred to including the name of the investigator (if applicable), and refer them to the process for dealing with complaints as set out in the Code.

Step 2: Chairperson undertakes mediation

On receipt of a complaint under this Code the Chairperson (or Deputy Chairperson) will contact the parties to seek their agreement to mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required. If the parties do not agree to mediation or mediation is unsuccessful in resolving the matter the Chairperson will refer the complaint to an investigator selected from a panel agreed at the start of the triennium. The Chairperson will also:

- inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the investigator.

Step 3: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

5. the complaint is frivolous or without substance and should be dismissed;
6. the complaint is outside the scope of the Code and should be redirected to another agency or process;
7. the complaint is non-material; and
8. the complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine the appropriate course of action. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment the chief executive will:

3. where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision;
4. in cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

Step 4: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material the investigator will inform the chief executive and, if they choose, recommend a course of action appropriate to the breach, such as:

- that the respondent seek guidance from the Chairperson or Mayor;
- that the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

The chief executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the council.

Step 5: Actions where a breach is found to be material

If the subject of a complaint is found to be material the investigator will inform the chief executive, who will inform the complainant and respondent. The investigator will then prepare a report for the council on the seriousness of the breach.

In preparing that report the investigator may:

- consult with the complainant, respondent and any affected parties;
- undertake a hearing with relevant parties; and/or
- refer to any relevant documents or information.

On receipt of the investigator's report the chief executive will prepare a report for the council or committee with delegated authority, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The chief executive's report will include the full report prepared by the investigator.



Step 6: Process for considering the investigator's report

Depending upon the nature of the complaint and alleged breach the investigator's report may be considered by the full council, excluding the complainant, respondent and any other 'interested' members, or a committee established for that purpose.

In order to avoid any suggestion of bias, a Code of Conduct Committee may often be the best mechanism for considering and ruling on complaints. Committees should be established at the start of a triennium with a majority of members selected from the community through either an application process or by invitation.

The council or committee will consider the chief executive's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s.48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the council or committee will give the member against whom the complaint has been made an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in section 13.1 of this Code.

In accordance with this Code councils will agree to implement the recommendations of a Code of Conduct Committee without debate.



Targeted review of Code of Conduct

Workshop for Otago Regional Council

11 May 2022

Terms of reference



Requests that the Chief Executive get a report that considers the points raised by Mr Anderson and recommends a change of Code with options including a possible mediation clause, as appropriate ...

Purpose of workshop



To consider the core concerns of Mr Anderson
To canvas your views on key matters

*The reference for this workshop is Council's current Code publicly available on
ORC' s website:*

<https://www.orc.govt.nz/media/8093/otago-regional-council-code-of-conduct-adopted-13-nov-2019.pdf>

Mr Anderson' s views



Which is the relevant operative Code?

The place of *mediation*?

The role of the Chair *vs* an independent investigator?

The preliminary assessment and ability to finally dismiss a complaint (based on the findings)?

The discretion of the Council to accept or reject any findings?

Sector context



The value in working through the values and principles of how will conduct themselves

The Code as a mechanism to deal with breaches

But...

Does the review mechanism deliver effective solutions

An investigation can be expensive and disruptive

Local Government Commission



Their September 2021 recommendations:

- Requirements around 3-yearly review and adoption
- Increased understanding of what is good governance behaviour but individualized values and principles
- Clearer explanation of freedoms of speech
- Standardization of the complaint process and a scale of penalties
- Enforcing penalties
- More detail on social media
- Definition of materiality
- “Explore” appropriateness of removal/suspension

Options for ORC' s code



Clarifying the process:

- It' s about the complaints process
- Paragraph 12 *vs* Appendix C

Options for ORC' s code



The place of *mediation*:

- Should there be an emphasis on resolution prior to any form of “investigation” ?
- Should this be the role of the Chair or an external facilitator?

Options for ORC' s code



The role of the Chair *vs* an independent investigator:

- Should there be an automatic default to an independent investigator for all complaints?
- Should a chair be able to undertake the whole investigation – preliminary assessment and full review?

Options for ORC' s code



The preliminary assessment and ability to finally dismiss a complaint (based on the findings):

- Should the complaints process enable greater flexibility to enable the process to cease if warranted?
- Specific recommendation from Mr Anderson about the test for a preliminary assessment:

The complaint is potentially material and a full assessment is required

Options for ORC' s code



The discretion of the Council to accept or reject any findings:

- Should the council have the ability to be the final arbiter on whether a finding is accepted or rejected – whether that assessment is made by the Chair or an independent investigator:
 - at completion of the preliminary assessment
 - on receipt of a full report?

Next steps



Prepare an updated Code

Circle back to Mr Anderson

Present a paper proposing adoption of a revised Code on 25 May 2022.



**Code of Conduct
2022**

Adopted by Council on

Council Meeting 2022.05.25

This is a true and correct copy of the Otago Regional Council Code of Conduct which was approved by a resolution of the Otago Regional Council on _____ and are deemed to be operative from that date.

The Common Seal of the Otago Regional Council was hereto affixed pursuant to the resolution of the Council in the presence of:

Hon Andrew Noone, Chairperson

Mr Nick Donnelly, Acting Chief Executive

Contents

1.	Introduction.....	4
2.	Scope.....	4
3.	Values.....	5
4.	Role and responsibilities.....	5
4.1	Members.....	5
4.2	Chief Executive.....	6
5.	Relationships.....	6
5.1	Relationships between members.....	6
5.2	Relationships with staff.....	7
5.3	Relationship with the public.....	7
6.	Media and social media.....	8
7.	Information.....	8
7.1	Confidential information.....	8
7.2	Information received in capacity as an elected member.....	8
8.	Conflicts of Interest.....	9
9.	Register of Interests.....	9
10.	Ethical behaviour.....	10
11.	Creating a supportive and inclusive environment.....	10
12.	Breaches of the Code.....	11
12.1	Principles.....	11
12.2	Complaints.....	11
12.3	Materiality.....	12
13.	Penalties and actions.....	12
13.1	Material breaches.....	12
13.2	Statutory breaches.....	14
14.	Review.....	14
	Appendix A: Guidelines on the personal use of social media.....	15
	Appendix B: Legislation bearing on the role and conduct of elected members.....	16
	The Local Authorities (Members' Interests) Act 1968.....	16
	Local Government Official Information and Meetings Act 1987.....	18
	Secret Commissions Act 1910.....	18
	Crimes Act 1961.....	19
	Financial Markets Conduct Act 2013.....	19
	The Local Government Act 2002.....	19
	Appendix C: Process where a complaint is referred to an independent investigator.....	20

1. Introduction

The Code of Conduct (the Code) sets out the standards of behavior expected from elected members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the local authority and the provision of good local government of the community, city, district or region;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the local authority to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviors agreed in the code.

2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members, including the members of any local boards as well as the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- Each other;
- The Chief Executive and staff;
- The media; and
- The general public.

It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the local authority to give effect to its statutory responsibilities.

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

3. Values

The Code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;
3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by the Code of Conduct and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.¹

These values complement, and work in conjunction with, the principles of s14 of the LGA 2002 and the governance principles of s39 of the LGA 2002.

4. Role and responsibilities

The Code of Conduct is designed to strengthen the good governance of your city, district or region. Good governance requires that the complementary roles of the governing body and the administration are understood and respected. These roles involve:

4.1 Members

The role of the governing body includes:

- Representing the interests of the people of the city, district or region;
- Developing and adopting plans, policies and budgets;
- Monitoring the performance of the Council against stated goals and objectives set out in its long term plan;

¹ See Code of Conduct Guide for examples.

- Providing prudent stewardship of the Council's resources;
- Employing and monitoring the performance of the Chief Executive; and
- Ensuring the Council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015.

4.2 Chief Executive

The role of the Chief Executive includes:

- Implementing the decisions of the Council;
- Ensuring that all responsibilities delegated to the Chief Executive are properly performed or exercised;
- Ensuring the effective and efficient management of the activities of the local authority;
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- Providing leadership for the staff of the Council; and
- Employing, on behalf of the Council, the staff of the local authority, (including negotiation of the terms of employment for those staff).

The Chief Executive is the only person *directly* employed by the Council itself (s.42 LGA 2002). All concerns about the performance of an individual member of staff must, in the first instance, be referred to the Chief Executive.

5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

5.1 Relationships between members

Given the importance of relationships to the effective performance of the Council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open, honest and courteous;
- Is focused on issues rather than personalities;
- Avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- Avoids aggressive, bullying or offensive conduct, including the use of disrespectful or malicious language.

Please note, nothing in this section of the Code is intended to limit robust debate.

5.2 Relationships with staff

An important element of good governance involves the relationship between a Council, its chief executive and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

- Raise any concerns about employees, officers or contracted officials with the Chief Executive;
- Raise any concerns about the performance or behaviour of the Chief Executive with the Mayor/Chair or the chairperson of the Chief Executive Performance Review Committee (however described);
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe these requirements at all times, such as the duty to be a good employer;
- Treat all employees with courtesy and respect and not publicly criticise any employee; and
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees.

Please note, elected members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council's management and governance control processes undertaken as part of the Council's annual audit.

5.3 Relationship with the public

Given the vital role that democratic local government plays in our communities it is important that Councils have the respect and trust of their citizens. To facilitate trust and respect in their Council members will:

- Ensure their interactions with citizens are fair, honest and respectful;
- Be available to listen and respond openly and honestly to citizens' concerns;
- Represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised; and
- Ensure their interactions with citizens and communities uphold the reputation of the local authority.

6. Media and social media

The media play an important role in the operation and efficacy of our local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of Council. Any failure by member to comply with the provisions of this section can represent a breach of the Code.

1. In dealing with the media elected members must clarify whether they are communicating a view endorsed by their Council, committee or community board, or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:
 - Comments shall be consistent with the Code;
 - Comments must not purposefully misrepresent the views of the Council or the views of other members;
 - Social media pages controlled by members and used for making observations relevant to their role as an elected members should be open and transparent, except where abusive or inflammatory content is being posted; and
 - Social media posts about other members, council staff or the public must be consistent with section five of this Code. (See **Appendix A** for guidelines on the personal use of social media).

7. Information

Access to information is critical to the trust in which a local authority is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

7.1 Confidential information

In the course of their duties members will receive information, whether in reports or through debate, that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

7.2 Information received in capacity as an elected member

Occasionally members will receive information from external parties which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

8. Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Members will not participate in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse/partner has a pecuniary interest, such as through a contract with the Council. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive *immediately*. Members may also contact the Office of the Auditor-General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

Please note: Failure to observe the requirements of LAMIA could potentially invalidate a decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution (see **Appendix B**). In the event of a conviction elected members can be ousted from office.

9. Register of Interests

Members shall, at least annually, make a declaration of interest. These declarations are recorded in a public Register of Interests maintained by the Council. The declaration must include information on the nature and extent of any interest, including:

- a) Any employment, trade or profession carried on by the member or the members' spouse/partner for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- c) A description of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) A description of any land owned by the local authority in which the member or their spouse/partner is:
 - A tenant; or
 - The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner is a trustee.

- e) Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive).

Please note, where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

10. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families, personal or business interests;
- Only use the Council's resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the code.

11. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment or evaluation of the Council's performance and operating style during the triennium.²
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfill their Declaration of Office (the Oath) and contribute to the good governance of the city, district or region.

² A self-assessment template is provided in the Guidance to the code.

12. Breaches of the Code

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

12.1 Objectives

Council has determined its objectives when there is an alleged breach of the Code are:

- The complaint process will be dealt with independently, including being politically independent.
- The process should be designed to provide a least cost approach.
- The process should place a preference on early intervention to resolve a complaint.
- The importance of fairness to all parties – administratively, procedurally and including in costs imposed on the subject of a complaint (defending a complaint).
- The approach adopted should disincentivise the Code being ‘weaponised’.

12.2 Principles

The following principles will guide any processes for investigating and determining whether or not a breach under the code has occurred:

- That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach;
- That the processes of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- That the concepts of natural justice and fairness will apply in the determination of any complaints made under the Code. This includes, conditional on the nature of an alleged breach, directly affected parties:
 - Have a right to know that an investigation process is underway;
 - Are given due notice and are provided with an opportunity to be heard;
 - Have confidence that any hearing will be impartial;
 - Have a right to seek appropriate advice and be represented; and
 - Have their privacy respected.

12.3 Appointment of an Independent Person to oversee complaint and a panel of Independent Investigators

At the commencement of the triennium, Council³ will appoint an Independent Person (or a panel if it wishes to have more than one) to oversee any complaint. A panel of independent investigators will also be appointed, should such an investigation be required under this Code.

The Independent Person cannot be an Independent Investigator. They will be a person Council assesses has relevant knowledge and experience of the public sector, local bodies and governance.

The Independent Person can be an independent member of Council's Audit and Risk Subcommittee.

12.4 The Independent Person is to oversee the complaint process

Any complaint will be overseen by the Independent Person.

12.5 Who may make a complaint under the code?

Please note, only members and the Chief Executive may make a complaint under this code.

12.6 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix

13. Penalties and actions

Where a complaint is upheld by the investigator and referred to the council the nature of any penalty or action will depend on the seriousness of the breach.

The Council may require one of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. Removal of certain Council-funded privileges (such as attendance at conferences);
4. Removal of responsibilities, such as committee chair, deputy committee chair or portfolio holder;
5. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. Limitation on any dealings with Council staff other than the Chief Executive or identified senior manager;
7. A vote of no confidence in the member;

³ On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Chair, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her council or prepare a list jointly with neighbouring councils. Similarly, the Chief Executive will consult the Chair on appointment of an Independent Person. A Panel is not required unless it is considered good to establish a list of such people.

8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the Council.

A Council may decide that that a penalty will not be imposed where a respondent agrees to one or more of the following:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

13.1 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

14. Review

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

Councils are encouraged to formally review their existing Code and either amend or re-adopt it as soon as practicable after the beginning of each triennium in order to ensure that all members have the opportunity to provide their views on the Code's provisions.

Appendix A: Guidelines on the personal use of social media⁴

There's a big difference in speaking "on behalf of Council" and speaking "about" the Council. While your rights to free speech are respected, please remember that citizens and colleagues have access to what you post. The following principles are designed to help you when engaging in **personal or unofficial online** communications that may also refer to your Council.

1. **Adhere to the Code of Conduct and other applicable policies.** Council policies and legislation, such as LGOIMA and the Privacy Act 1993, apply in any public setting where you may be making reference to the Council or its activities, including the disclosure of any information online.
2. **You are responsible for your actions.** Anything you post that can potentially damage the Council's image will ultimately be your responsibility. You are encouraged to participate in the social media but in so doing you must exercise sound judgment and common sense.
3. **Be an "advocate" for compliments and criticism.** Even if you are not an official online spokesperson for the Council, you are one of its most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important you are encouraged to share them with the governing body.
4. **Let the subject matter experts respond to negative posts.** Should you come across negative or critical posts about the Council or its activities you should consider referring the posts to the Council's authorised spokesperson, unless that is a role you hold, in which case consider liaising with your communications staff before responding.
5. **Take care mixing your political (Council) and personal lives.** Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum, particularly if your opinion is at odds with what Council is doing, can bring you into conflict with the Code should it not be clear that they are your personal views.
6. **Never post sensitive and confidential information** provided by the Council, such as confidential items, public excluded reports and/or commercially sensitive information. Such disclosure will contravene the requirements of the Code.
7. **Elected Members' social media pages should be open and transparent.** When commenting on matters related to the local authority no members should represent themselves falsely via aliases or differing account names or block. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.

⁴ Based on the Ruapehu District Council Code of Conduct.

Appendix B: Legislation bearing on the role and conduct of elected members

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members. The full statutes can be found at www.legislation.govt.nz.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse/partner or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests, a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- A person, or spouse/partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse/partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected members' family trust and the Council.

Determining whether a pecuniary interest exists

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors:

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?

- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor/Chair or other person, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

The contracting rule

A member is disqualified from office if he or she is "concerned or interested" in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

"Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform, then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- Create a disturbance or a distraction while another Councillor is speaking;
- Be disrespectful when they refer to each other or other people; or
- Use offensive language about the Council, other members, any employee of the Council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council; and
- Use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

Elected members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles, and details the personal liability of members.

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s44 LGA 2002, it is found that one of the following applies:

- a) Money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) A liability has been unlawfully incurred by the local authority; or
- d) A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.⁸⁹⁰

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) Without the member's knowledge;
- b) With the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) Contrary to the manner in which the member voted on the issue; and
- d) In circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situation members will also be responsible for paying the costs of proceedings (s47 LGA 2002).

Appendix C: Process for the determination and investigation of complaints

Step 1: Chief Executive receives complaint

All complaints made under this Code must be made in writing and forwarded to the Chief Executive.

On receipt of a complaint under this Code the Chief Executive will refer the complaint to the Independent Person. The Chief Executive will also:

- inform the complainant that the complaint has been referred to the Independent Person (named) and refer them to the process for dealing with complaints as set out in the code; and
- inform the respondent that a complaint has been made against them and name the Independent Investigator overseeing the complaint process and refer them to the process for dealing with complaints as set out in the Code.

Step 2: Independent person makes an initial assessment and arranges independently facilitated mediation

The Independent Person will undertake an initial assessment of the merits of the complaint.

If the Independent Person considers it has no merit, the complaint will be dismissed. The complainant will have no recourse or appeal.

If deemed to have merit, the Independent Person will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required.

If the parties do not agree to mediation or mediation is unsuccessful in resolving the matter the Independent Person will refer the complaint to an investigator selected from a panel agreed at the start of the triennium. The Independent Person will also inform the complainant and the respondent that the complaint has been referred to the investigator and the name of the investigator.

Step 3: Investigator to inquire and conclude on the matter

If the matter of a complaint is found to be a breach of the Code the investigator will inform the Independent Person, who will inform the complainant and respondent. The investigator will then prepare a report for the council on the seriousness of the breach.

In preparing that report the investigator may:

- consult with the complainant, respondent and any affected parties;
- undertake a hearing with relevant parties; and/or
- refer to any relevant documents or information.

The investigator's report shall include an assessment of the seriousness of the breach. The intent is for the investigator to assess the nature and effect of the breach.

At any stage in their inquiry, the investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. The investigator will inform the Independent Person that the complaint is dismissed who will inform the complainant and respondent.

On receipt of the investigator's report the Independent Person will prepare a paper for the council, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Independent Person's paper will include the full report prepared by the investigator.

Step 4: Process for considering the investigator's report

The investigator's report will be considered by the full council, excluding the complainant, respondent and any other 'interested' members.

The council will consider the Independent Person's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s.48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the council will give the member against whom the complaint has been made an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

The form of penalty that might be applied will depend on the seriousness of the breach and may include actions set out in section 13 of this Code.

8.3. Order of Candidate Names on Voting Documents

Prepared for:	Council
Report No.	GOV2214
Activity:	Governance Report
Author:	Liz Spector, Governance Support Officer
Endorsed by:	Amanda Vercoe, General Manager Governance, Culture and Customer
Date:	25 May 2022

PURPOSE

- [1] The purpose of this report is to outline the three options available to order candidate names on voting documents for the 8 October 2022 election and any subsequent by-elections that may become necessary.

EXECUTIVE SUMMARY

- [2] Clause 31(1) of the Local Electoral Act 2001 (LEA 2001) allows Council to decide on the order of candidate names on voting documents for elections.
- [3] Three options are discussed – random order, pseudo-random order, and alphabetical order by surname. Staff recommend that Council approve the continued use of random order on voting documents for the 2022 triennial election.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the continued use of random order for candidate names on voting documents and any by-election voting documents for the 2022 triennial election.

BACKGROUND

- [4] The Local Electoral Act 2001 (the Act) provides for councils to make certain decisions on matters relating to election processes. As provided in Clause 31(1) of the Act, a decision on the order of candidate names on voting documents is one of the options open to it.
- [5] That clause allows Council to decide whether candidate names are to be arranged on the voting documents in alphabetical order by surname, pseudo-random order, or random order.
- [6] If no specific option is formally resolved, candidate names must be listed in alphabetical order by surname as per the LEA 2001.

DISCUSSION

- [7] Regulation 31 of the Local Electoral Regulations 2001 allows the Council to decide whether the names are to be arranged on voting documents in random order by surname, pseudo-random order, or alphabetical order. In the absence of any Council
-

resolution approving another arrangement, candidate names must be arranged in alphabetical order of surname.

- [8] Under random order, the names of the candidates are shown in a different order on each voting document, utilising software which permits the names of the candidates to be printed in a different order on each paper.
- [9] Under pseudo-random order, the candidate names for each issue are drawn at random then placed on all voting documents in the order in which they are drawn.
- [10] Under alphabetical order, the names of candidates appear in alphabetical order by surname on all voting documents.
- [11] The Otago Regional Council has adopted random order for its voting documents since the October 2013 election.

OPTIONS

- [12] It should be noted that regardless of which option is selected, the Candidate Information Booklet containing profile statements will list candidates in alphabetical order by surname.
- [13] For 2019 elections, 56% of New Zealand territorial authorities and regional councils resolved to use random order, 35% resolved to use alphabetical order and 9% used pseudo-random. This represented a substantial increase in the use of random order compared to the 2016 election.

Option 1 - Random order (Preferred Option)

- [14] Under this arrangement, the names of the candidates are shown in a different order on every voting document, utilising software that facilitates this process.

Advantages

- No candidates are disadvantaged by the random name order effect.

Disadvantages

- In a long list of candidates, it may be more difficult for voters to locate the names of the candidates for whom they wish to vote.

Option 2 - Pseudo-random order

- [15] Under this arrangement, the order of candidates is drawn by lot, i.e., names drawn out of a hat, and then all voting documents are printed using that order of candidates.
- [16] The regulations provide that if a local authority has determined to use pseudo-random ordering on voting papers, the Electoral Officer must state in a public notice required to be given, the date, time, and place at which the names will be chosen. Any person is entitled to attend this drawing.
- [17] While this method provides an element of randomisation, the fact that candidate names would be ordered in the same order on all voting papers still leaves the opportunity of perceived advantage for those names appearing at the top of the list. Adoption of the fully randomised order would remove this perception.

Advantages

- Candidates who have names later in the alphabet may have an opportunity to draw a position higher in the list, but this may also result in a corresponding disadvantage for other candidates.

Disadvantages

- Candidates who draw a position at the top of the ballot are likely to have an advantage over those further down the list.
- It is more administratively complex due to additional steps in the process and more expensive with the required additional public notices than the other options.

Option 3 – Alphabetical Order of Surnames

[18] The names of candidates appear on all voting papers in alphabetical order by surname.

Advantages

- It may be easier for voters to locate the names of the candidates for whom they wish to vote.
- May alleviate any perception of bias by a local authority in choosing how names are ordered on voting papers.

Disadvantages

- Limited research conducted in New Zealand and other international elections has shown the name order effect provides advantages for some candidates and disadvantages for others.

Assessment of Preferred Option

[19] Having considered the three options, the following conclusions have been reached:

- (1) There is little cost difference between the name ordering options (staff time and required newspaper notices for pseudo-random).
- (2) Adoption of random ordering of candidate names generally removes any potential accusations of bias towards sitting councillors with surnames starting with letters in the first half of the alphabet.
- (3) One of the reasons given for potentially having alphabetical order of candidate names is that there is less confusion for electors in using that method given that the candidate profile booklet lists the candidate profiles in alphabetical order. Since 2013, the Otago Regional Council, the Southern District Health Board and Dunedin City Council have chosen random order for listing candidate names on their voting documents with very few (if any) reported problems.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[20] There are no Strategic Framework nor Policy considerations.

Financial Considerations

[21] There are no additional financial implications with this decision other than those related to additional costs for public notices and meetings if choosing pseudo-random order.

Significance and Engagement Considerations

[22] While not specifically a consideration of He Mahi Rau Rika, this decision does enable democratic local decision-making and action on behalf of the community.

Legislative and Risk Considerations

[23] This decision complies with actions allowed under Clause 31(1) of the Local Electoral Act 2001.

[24] There are no specific risk considerations.

Climate Change Considerations

[25] There are no climate change implications.

Communications Considerations

[26] No specific communications considerations arise from this decision.

NEXT STEPS

[27] Council's Electoral Officer will be advised of the Council resolution on this matter and will proceed with preparing 2022 voting documents accordingly.

ATTACHMENTS

Nil

8.4. Land and Water Governance Group Structure

Prepared for:	Council
Report No.	SPS2215
Activity:	Governance Report
Author:	Dolina Lee, Senior Analyst – Freshwater and Land
Endorsed by:	Anita Dawe, Acting General Manager Policy and Science
Date:	25 May 2022

PURPOSE

- [1] The purpose of this paper is to update the structure of the Governance Group for the Land and Water Regional Plan (LWRP) by providing a permanent seat for Ngāi tahu ki Murihiku.

EXECUTIVE SUMMARY

- [2] The LWRP Governance Group, a subcommittee of the Strategy and Policy Committee (S&P Committee), was set up to guide the prioritising of freshwater issues and outcomes and provide policy guidance in the development of the LWRP.
- [3] The Committee currently consists of two permanently appointed Councillors and two revolving Freshwater Management Unit (FMU) Councillors who will form part of the Governance Group when staff are consulting in the FMU they represent, along with four permanently appointed rūnaka representatives, with at least two attending each meeting.
- [4] As the development of the LWRP moved into consulting at an FMU level, it was recognised that, although staff were engaged with iwi representatives from Te Ao Marama in Southland, Ngāi Tahu ki Murihiku did not have a seat on the Governance Group.
- [5] In order to recognise Ngāi Tahu ki Murihiku as mana whenua in relationship with the lands and waters of the region and as one of our iwi partners, it is important that they be involved at the governance level as well as the staff level.
- [6] In December 2021, a letter was sent to the Chairs of Hokonui Rūnaka, Te Rūnanga o Awarua, Waihopai Rūnanga, Te Rūnanga o Ōraka Aparima and Te Ao Mārama inviting Ngāi Tahu ki Murihiku representation on the LWRP Governance Group when work occurs in areas of specific or shared interest or regions where Southland Rūnanga have an interest such as in the Catlins, Upper Lakes or Waitaki / North Otago.
- [7] A letter was received in response from Ngāi Tahu ki Murihiku proposing that a position is reserved on the Governance Group which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.

- [8] It was noted at the April 2022 meeting of the Mana-to-Mana group that a permanent position on the Governance Group might be more effective in giving Ngāi Tahu ki Murihiku the opportunity to share their views and values in a meaningful and holistic manner.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the establishment of a permanent Ngāi Tahu ki Murihiku position on the Land and Water Regional Plan Governance Group, which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.

BACKGROUND

- [9] At its meeting on 27 May 2020 the Council resolved to adopt the following governance structure for developing the new LWRP.¹

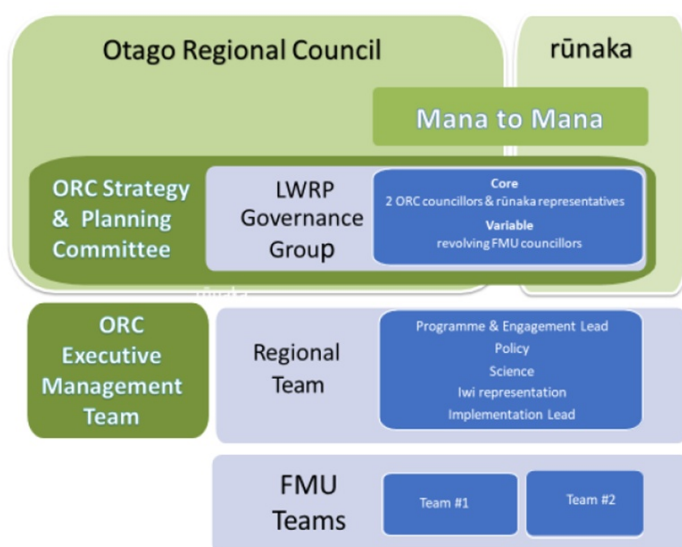


Figure 1: Overview of the Land and Water Regional Plan governance structure.

- [10] The structure included a Governance Group, which is a subcommittee of the S&P Committee. The purpose of the Governance Group is to guide the prioritising of freshwater issues and outcomes, provide policy guidance in the development of integrated responses to the key freshwater and land use management issues in the region, and to be a sounding board for solutions to resource management issues. The Governance Group then reports back to S&P Committee on the development of the LWRP on at least a quarterly basis².

- [11] It was agreed that the Governance Group would consist of:

¹ <https://www.orc.govt.nz/media/8527/council-agenda-20200527.pdf>

² Land and Water Regional Plan Governance Group Terms of Reference Section 8

- Four ORC Councillors - two permanent Councillors appointed by the S&P Committee and two revolving FMU Councillors who will form part of the Governance Group when staff are consulting in the FMU they represent, and
- Four permanently appointed rūnaka representatives, with at least two attending each meeting. In fulfilment of the duties and obligations on Council arising from the Treaty of Waitangi, the role for mana whenua on the Group is to give expression to rūnaka values, aspirations, and priorities in respect to the environment and to ensure that these are clearly expressed, and that particular regard is given to them. Mana whenua on the Governance Group will be rūnaka representatives selected by Kāi Tahu Papatipu Rūnanga ki Otago³.

[12] Additional Rūnaka representatives and any ORC Councillor can attend any meeting of the group as of right, as it facilitates succession and allows for expertise in specific areas or FMUs/Rohe to be shared with the Governance Group's members⁴.

[13] Cr Gretchen Robertson and Cr Andrew Noone were appointed as the permanent Councillors. Mr Edward Ellison and Mr Hoani Langsbury currently represent Kai Tahu Ki Otago.

[14] As the development of the LWRP moved into consulting at an FMU level, it was recognised that, although staff were engaged with iwi representatives from Te Ao Marama in Southland, Ngāi Tahu ki Murihiku did not have a seat on the Governance Group. In order to recognise Ngāi Tahu ki Murihiku as mana whenua in relationship with the lands and waters of the region, and as one of our iwi partners, it is important that they be involved at the governance level as well as the staff level.

DISCUSSION

[15] ORC treats its relationship with mana whenua with utmost importance. He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy states:
*Engagement with Māori is a requirement of legislation and a key part of engagement for the Council. We aspire to go beyond statutory responsibilities to ensure meaningful engagement with mana whenua based on the principles of partnership of the Treaty of Waitangi / Te Tiriti o Waitangi.*⁵

[16] The LWRP Governance structure is recognised in the policy as one of the methods of engaging with mana whenua at both a governance and regional working group level⁶.

[17] The policy also acknowledges that three of marae located in the Southland region, Awarua Rūnanga, Waihopai Rūnaka and Ōraka Aparima Rūnaka also share interests in South Otago, the Mata-au Clutha River, and the inland lakes and mountains.⁷

[18] On 17 December 2021, Cr Noone, in his capacity as ORC permanent Councillor on the Governance Group, sent a letter to the Chairs of Hokonui Rūnaka, Rūnanga o Awarua, Waihopai Rūnanga, Te Rūnanga o Oraka Aparima and Te Ao Marama inviting Ngāi Tahu ki Murihiku representation on the LWRP Governance Group when work occurs in areas

³ Land and Water Regional Plan Governance Group Terms of Reference section 3

⁴ Ibid

⁵ He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy page 3

⁶ Ibid page 6

⁷ Ibid page 4 and 7

of specific or shared interest or regions where Southland Rūnanga have an interest such as the Catlins, Upper Lakes or in Waitaki / North Otago.⁸

- [19] A letter was received in response from Ngāi Tahu ki Murihiku, dated 24 February 2022 proposing:
- A Ngāi Tahu ki Murihiku position is reserved on the governance group, which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.
 - Board members are able to attend meetings online.
 - Meeting invitations and accompanying papers are sent to Board members, Kaupapa Taiao Manager and Kaitohutohu Matua at Te Ao Mārama.
 - Te Ao Mārama staff are able to be present with Board members during meetings and can attend to observe when Board members are not available.
- [20] Discussion at the Mana to Mana Group at their meeting on the 12 April 2022 recognised that the regionwide provisions of the LWRP would also have effect in the FMUs that Ngāi Tahu ki Murihiku had an interest in, and that it would be more effective for the position on the Governance group to be a permanent one.
- [21] Accepting Ngāi Tahu Ki Murihiku onto the Governance Group would then result in the following membership:
- Four ORC Councillors, currently Crs Noone and Robertson and two revolving FMU Councillors who will form part of the Governance Group when staff are consulting in the FMU they represent, and
 - Two representatives from Kāi Tahu ki Otago, currently Mr Ellison and Dr Carter; and
 - One Representative from Ngāi Tahu Ki Murihiku, being any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.
 - Additional rūnaka representatives and any ORC Councillor can attend any meeting of the group.
 - Members are able to attend meetings online.
- [22] Staff only attend the LWRP Governance Group meetings when they are providing technical information or presentations, with the exception of administration support and in a non-speaking observation role. Staff have the opportunity for input at the Regional Team level.

OPTIONS

Option 1

- [23] Confirm the position of Ngāi Tahu ki Murihiku, which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka, to attend meetings when FMUs in the shared interest areas or regions where Southland Rūnanga have an interest (Catlins and Upper Lakes rohe) are being discussed.
- [24] This option reflects the original proposal; however, it does not take into account that the whole of the plan would impact on the FMUs of interest. Therefore, this option would

⁸ <https://www.orc.govt.nz/media/11809/council-agenda-20220223.pdf> page 324

not meet the intention of giving Ngāi Tahu ki Murihiku the opportunity to share their views and values in a meaningful and holistic manner.

Option 2

- [25] Confirm a permanent place on the LWRP Governance Group for Ngāi Tahu ki Murihiku which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.
- [26] This option provides for Ngāi Tahu ki Murihiku to share their views and values in a meaningful and holistic manner, and better acknowledges Ngāi Tahu ki Murihiku as mana whenua in relationship with the lands and waters of the region.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [27] Development of a new LWRP by 31 December 2023 is a significant undertaking. The role of the LWRP Governance group is a key part of keeping the project on track and meeting the deadline
- [28] To fulfil Council's obligations to iwi as a Treaty of Waitangi partner, and the terms of He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy, Ngāi Tahu ki Murihiku need to be able to inform Council of their interests and values at a governance level alongside Kai Tahu ki Otago.

Financial Considerations

- [29] Any costs will be met by existing budgets.

Significance and Engagement

- [30] In order to fulfil Council's obligations under He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy, Ngāi Tahu ki Murihiku need to be able to inform Council of their interests and values at a governance level alongside Kai Tahu ki Otago.

Legislative and Risk Considerations

- [31] There is a risk that Council's obligations to iwi as Treaty of Waitangi partner are not met if we do not recognise Ngāi Tahu ki Murihiku as mana whenua of Murihiku and engage with them to be informed of their interests and values.

Climate Change Considerations

- [32] There are no climate change considerations as a result of this paper.

Communications Considerations

- [33] There are no communications considerations as a result of this paper.

NEXT STEPS

- [34] Inviting Ngāi Tahu ki Murihiku onto to the Governance Group as per Council resolution.

ATTACHMENTS

Nil

8.5. PC8 Rural Provisions Approval

Prepared for: Council
Report No. SPS2211
Activity: Governance Report
Authors: Dolina Lee, Senior Analyst Freshwater and Land (Acting Team Leader)
Endorsed by: Anita Dawe, Acting General Manager Policy and Science
Date: 25 May 2022

PURPOSE

- [1] To approve part of Plan Change 8 (PC8) Discharge Management to the Regional Plan: Water for Otago (Water Plan) as amended by the Environment Court Decision No. [2022] NZEnvC 6¹ and to set a date for making the plan change partially operative by incorporating the amended provisions into the operative Water Plan.

EXECUTIVE SUMMARY

- [2] On 31 January 2022 the Environment Court released its decision on the provisions in PC8 which manage rural discharges (the primary sector provisions). A Further Decision to correct minor omissions was released on 21 April 2022.
- [3] The appeal period for the Environment Court's Further Decision on PC8 closed on 13 May 2022. No appeals against the Court's Decisions on PC8 were received by the High Court.
- [4] The Resource Management Act 1991 (RMA) provides for local authorities to approve part of a policy statement, or plan, if those provisions are beyond challenge.
- [5] Because no appeals were received, the primary sector provisions that form part of PC8 can be approved in accordance with Clause 17 of Schedule 1 to the RMA by affixing Council's seal to the plan and incorporating the provisions into the operative Water Plan.
- [6] It is proposed to make the plan change partially operative from 4 June 2022, and to publicly notify this date on 28 May 2022 in accordance with Clause 20 of Schedule 1 of the RMA. It is being made partially operative as we are still awaiting a decision on the urban provisions in PC8 from the Environment Court.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the provisions of Plan Change 8 (Rural Discharges) that have been amended by Environment Court Decisions [2022] NZEnvC 6 and [2022] NZEnvC 67 in accordance with Clause 17(2) of Schedule 1 of the RMA; and

¹ <https://environmentcourt.govt.nz/assets/Documents/Decisions/2022-NZEnvC-6-Otago-Regional-Council-Primary-Sector-Provisions-Rural.pdf>

- 3) **Approves** minor changes made to Proposed Plan Change 8 in accordance with clause 16(2) of Schedule 1 of the RMA.
- 4) **Affixes** Council's seal to Plan Change 8 (Rural discharges) to the Water Plan in accordance with Clause 17(3) of Schedule 1 of the RMA; and
- 5) **Resolves** to make Plan Change 8 partially operative from 4 June 2022, and publicly notify this date on 28 May 2022, in accordance with Clause 20 of Schedule 1 of the RMA.

BACKGROUND

- [7] The Council resolved to prepare Proposed PC8 to the Water Plan along with Proposed PC1 to the Regional Plan: Waste for Otago (Waste Plan), together referred to as the "Omnibus Plan Change," in August 2019. The Omnibus Plan Change was "called in" by the Minister for the Environment on 8 April 2020 and referred to the Environment Court for decision under section 142(2) of the RMA. The plan change was then notified by the Environmental Protection Authority (EPA) on 6 July 2020.
- [8] In order to manage matters efficiently, the Environment Court decided to hear PC1 and PC8 separately, and to separate PC8 into two parts – the primary sector provisions, and the urban provisions to better enable mediation and expert conferencing.
- [9] PC8 comprises eight parts, each targeting a specific topic. Those matters that are concerned with the primary sector were subject to expert conferencing and mediation and agreement through the second half of 2021, and are listed below:
 - Part A: Rural Discharges only;
 - Part B: Animal Waste Application and Storage;
 - Part C: Good Farming Practices;
 - Part D: Intensive Grazing;
 - Part E: Stock Access to Water; and
 - Part F: Sediment Traps.
- [10] Joint witness conferencing between expert witnesses for the parties took place on 8 and 9 June 2021 in relation to the Part B provisions. The Joint Witness Statement (JWS)² provided the basis for many of the changes to the Part B provisions that were agreed at mediation.
- [11] Mediation took place during June and July 2021. Agreement was reached by all parties in attendance at mediation on amendments proposed to the provisions of PC8 relating to the primary sector.³
- [12] Despite all provisions being agreed at mediation, because the plan change was called in, a substantive hearing before the Environment Court was still required. This hearing took place in November 2021. Fifteen witnesses appeared, all in support of the Plan Change, as amended and agreed by all parties during mediation.

² <https://environmentcourt.govt.nz/cases-online/orc-pcs-1-7-8/pc8/hearings-2/#joint-witness-statements>

³ Refer to Memorandum of Council on behalf of the ORC dated 20 July 2021 <https://environmentcourt.govt.nz/assets/Documents/Publications/2021-08-02-ORC-MOC-in-response-to-directions-issued-at-PHC.pdf>

- [13] In its decision, the Court recognised the collaborative approach adopted by all parties that was evident from the way in which evidence was presented, in many cases on behalf of both ORC and a submitting party and complimented the parties on working together so effectively.⁴ Apart from a few additions to improve clarity, the Court accepted the mediated provisions.
- [14] On 31 January 2022, the Environment Court released its decision on PC8. An appeal period of 15 working days from the date of receipt of decision was available to parties. No appeals to the High Court were received.
- [15] However, there was a minor error in the Decision and the Court had not included a record of its decisions on submissions as it was required to do in order to fulfil its decision-making obligations as part of the call-in process. As a result, a Further Decision was issued by the Environment Court on 21 April 2022. The appeal period for this Decision closed on 13 May 2022 and no appeals to the High Court were received.
- [16] The remainder of PC8 covering urban discharges was heard by the Environment Court in the week beginning 21 March 2022. No Decision has been released on these provisions to date.
- [17] The Environment Court has issued a Decision on Chapter 6 of PC1⁵, however it is proposed to wait until the Decision is released on Chapter 7 to make the Plan Change operative as the changes proposed to Chapter 6 are relatively minor.

DISCUSSION

Approval of Plan Change 8

- [18] The RMA provides for local authorities to approve part of a policy statement or plan, if those provisions are beyond challenge.⁶ Staff consider that approval of part of PC8 is appropriate for two reasons:
- a. The Environment Court has issued a decision on the primary sector provisions of PC8, and there is no way of knowing how long it will take for the decision on the remaining provisions to be issued.
 - b. Although the Environment Court has issued its decision, the provisions do not take full legal effect until a decision is made by the Council to make these provisions operative, and that decision is notified. Making these provisions operative now, rather than waiting until the whole of the plan change has been through the court process will provide benefits for applicants and Council as there will be only one set of rules which apply, providing greater clarity to both applicants and Council staff.
- [19] In accordance with clause 17(2) of Schedule 1 of the RMA, ORC can now approve PC8 as amended by the Environment Court. This is given effect by affixing the Council's seal to the Plan Change.
- [20] A full copy of PC8, incorporating the amendments made by the Environment Court, is included as Attachment 1.

⁴ [2022] NZEnvC 6 paragraph [9]

⁶ RMA Schedule 17(2): A local authority may approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.

Public notification of the date on which PC8 becomes operative

- [21] Clause 20 of Schedule 1 of the RMA requires the Council to set a date from which the plan change becomes operative and publicly notify the operative plan at least five working days before this date.
- [22] It is proposed to make PC8 partially operative from Saturday 4 June 2022 and to publicly notify this date on Saturday 28 May 2022.
- [23] In addition to placing a public notice, a copy of the plan change is required to be provided, free of charge, to the Minister for the Environment, all territorial authorities, and the takata whenua for the area, through iwi authorities.

Minor and consequential changes

- [24] Clause 16(2) of Schedule 1 of the RMA provides for the amendment of a proposed plan, without formality, where such an alteration is of minor effect. The table of minor and consequential changes is attached as a table in Attachment 2.
- [25] These changes are:
 - a. Amending the Chronicle of key events on page iii of the Water Plan;
 - b. Amending section 1.4 on page 1-7 of the Water Plan to include a paragraph on Plan Change 8;
 - c. Inserting a new ISBN number for Water Plan;
 - d. Changing the date on the title page of the Water Plan; and
 - e. Amending the footer on pages of the Water Plan that have changed.
 - f. Minor amendments to formatting and numbering to reflect the style of the Water Plan.
 - g. Minor grammatical amendments, such as adding “and” to lists of requirements.
 - h. Amendments to correct minor errors, such as adding the date after the title of Regulations.

OPTIONS

- [26] Section 149W of the RMA provides that the Council ‘must’ approve the plan change under clause 17 after it is amended under clause 16.
- [27] Approval under clause 17 of the First Schedule of the RMA is a procedural and mandatory step and it must be done as soon as practicable and without unreasonable delay. There is no discretion for the Council not to approve the plan change.
- [28] Failure to meet the statutory obligation to approve the plan change would result in PC8 remaining in its current proposed state, while having legal effect. This means that the proposed provisions would need to be considered against the PC8 provisions, and the operative Regional Plan: Water provisions. Council does not have the ability to withdraw the plan change.
- [29] Further potential implications of Council failing to meet this statutory obligation are as follows:
 - a. Judicial review of the decision of Council not to approve the plan change;
 - b. A ministerial investigation into ORC’s failure to adopt the plan change under s24(c) of the RMA; or

- c. The Minister for the Environment exercising his powers under s25 of the RMA.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [30] The plan change is part of a transition towards a new freshwater management framework to be set in the new LWRP, which is intended to be operative by 31 December 2025.
- [31] The plan change gives effect to Minister Parker's recommendations and was considered by the Environment Court to be consistent with the NPSFM 2020.

Financial Considerations

- [32] There are no financial considerations as a result of this paper. The cost of making the changes to the Water Plan will be met by existing budgets.

Significance and Engagement Considerations

- [33] Council's approval of PC8 will trigger He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.
- [34] Schedule 1 of the RMA requires that upon approving the plan change, ORC undertakes the following:
 - a. Publicly notifies the date on which PC8 becomes operative;
 - b. Provides a copy of the operative PC8 to the Water Plan to the Minister for the Environment, constituent territorial authorities and adjacent regional councils, and the takata whenua of the area, through iwi authorities, pursuant to clause 20(4) of Schedule 1 of the RMA; and
 - c. Provides a copy of the operative PC8 to the Water Plan to all public libraries in the region, pursuant to clause 20(5) of Schedule 1 of the RMA.
- [35] Public notification of PC8 in accordance with Clause 20 of Schedule 1 of the RMA will satisfy the consultative requirements of the He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

- [36] The legal requirements relating to the approval of PC8 and public notification of the date on which the plan change is to become operative, are set out in clauses 17 and 20 of Schedule 1 to the RMA.
- [37] Key legal requirements include:
 - a. Affixing the seal of the local authority to the proposed plan change.
 - b. Publicly notifying the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.

Climate Change Considerations

- [38] There are no climate change considerations as a result of this paper.

Communications Considerations

- [39] Key messaging around the implications of PC8 becoming operative will be released via our website, social media and as a press-release.

ATTACHMENTS

1. Plan Change 8 to the Regional Plan Water for Otago Partially Operative 4 June 2022
[8.5.1 - 93 pages]
2. Table of minor and consequential amendments [8.5.2 - 2 pages]

Regional Plan: Water for Otago

Proposed Plan Change 8 (Discharge management)

Partially Operative



4 June 2022

ISBN: 978-0-908324-78-1

This is a true and correct copy of Plan Change 8 to the Regional Plan: Water for Otago.

Plan Change 8 to the Regional Plan: Water is deemed to be partially operative on Saturday, 4 June 2022

The Common Seal of the Otago Regional Council was hereto affixed in the presence of:

Cr Andrew Noone
Chairperson

Cr Gretchen Robertson
Co-Chairperson, Strategy and Planning Committee

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

Introduction

The Otago Regional Council has prepared Proposed Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago. Proposed Plan Change 8 amends existing, and introduces new provisions for:

- Managing, through enhanced policy direction, decision-making on stormwater, wastewater and rural discharges;
- Effluent storage and application to land through new minimum standards;
- Promoting good farming practices, including better managing contaminant loss from intensive grazing and stock access to water bodies as well as incentivising the use of small in-stream sediment traps;
- Improving management of sediment loss from earthworks for residential development, and
- Clarifying provision for nationally and regionally significant infrastructure in wetlands.

This document should be read in conjunction with:

- Section 32 Evaluation Report; and
- Regional Plan: Water for Otago (operative as at 1 January 2004).

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

4

Table of Contents

Part A: Discharge policies	7
Part B: Animal waste storage and application.....	15
Part C: Good farming practices	43
Part D: Intensive grazing	51
Part E: Stock access to water.....	59
Part F: Sediment traps	65
Part G: Sediment from earthworks for residential development.....	73
Part H: Nationally or regionally important infrastructure	85
Minor and consequential changes	

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

6

Part A: Discharge policies

Relevant provisions:

Amended Policy 7.C.5	10
Amended Policy 7.C.6	11
New Policy 7.C.12	12
Amended Policy 7.D.5	12
New Policy 7.D.6.....	13

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

8

7

Water Quality



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

9

W A T E R Q U A L I T Y

- 7.1 **Introduction** *[Unchanged]*
- 7.2 **Issues in general** *[Repealed – 1 May 2014]*
- 7.3 **Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 **Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 **Objective** *[Repealed – 1 May 2014]*
- 7.A **Objectives** *[Unchanged]*
- 7.B **Policies general** *[Unchanged]*
- 7.C **Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 **Minimise the adverse environmental effects of discharges** ~~With respect to discharges from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, to require:~~ **by requiring:**
 - (a) **The separation of sewage and stormwater; and**
 - (b) **Measures to prevent contamination of the receiving environment by industrial or trade waste; and**
 - (c) **The use of techniques to trap debris, sediments and nutrients present in runoff.**

Explanation

In terms of the Plan's rules for permitted and discretionary activities for new discharges, or extensions to the catchment area of existing discharges from reticulated stormwater systems, the requirements of (a) to (c) will apply, as required.

Principal reasons for adopting

This policy is adopted to reduce the potential for contaminants to be present in new stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

Rules: 12.B.3.1

Other methods: 15.2.5.1, 15.4.2.1, 15.4.2.2.

W A T E R Q U A L I T Y

7.C.6 Reduce the adverse environmental effects from existing stormwater reticulation systems by:

- (a) Requiring the progressive upgrade of stormwater reticulation systems to minimise the volume of sewage entering the system and the frequency and volume of sewage overflows; and**
- (b) ~~To promote~~ Promoting the progressive upgrading of the quality of water discharged from existing stormwater reticulation systems, including through:**
 - (i) The separation of sewage and stormwater; and**
 - (ii) Measures to prevent contamination of the receiving environment by industrial or trade waste; and**
 - (iii) The use of techniques to trap debris, sediments and nutrients present in runoff.**

Explanation

The Otago Regional Council will ~~encourage~~ **require** the operator of any existing stormwater reticulation system to improve the quality of stormwater discharged from the system. ~~Measures that can be taken to achieve this improvement include:~~

- ~~(a) The separation of sewage and stormwater;~~
- ~~(b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and~~
- ~~(c) The use of techniques to trap debris, sediments and nutrients present in runoff.~~

Priority will be given to improving discharges to those water bodies where natural and human use values are adversely affected. Such measures may not be necessary where an existing discharge is having no more than a minor adverse effect on any natural or human use value supported by an affected water body.

Principal reasons for adopting

This policy is adopted to reduce the level of contaminants present in existing stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

Rules: 12.B.3.1

Other methods: 15.2.5.1, 15.4.2.1, 15.4.2.2.

7.C.7 – 7.C.11 [Unchanged]

W A T E R Q U A L I T Y

7.C.12 Reduce the adverse effects of discharges of human sewage from reticulated wastewater systems by:

- (a) Requiring reticulated wastewater systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and**
- (b) Requiring the implementation of measures to:**
 - (i) Progressively reduce the frequency and volume of wet weather overflows; and**
 - (ii) Minimise the likelihood of dry weather overflows occurring; and**
- (c) Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and**
- (d) Having particular regard to any adverse effects on cultural values.**

7.D Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C

7.D.1 – 7.D.4 *[Unchanged]*

7.D.5 **When considering any discharge under section 12.C, have regard to:**

- (a) The effects, including cumulative effects, of the discharge on water quality, ecosystem health and natural and human use values, including Kāi Tahu cultural and spiritual beliefs, values and uses; and**
- (b) The physical characteristics of the land and the sensitivity of the receiving water; and**
- (c) The quality and performance of the discharge management system to be used, and in particular,**
 - (i) options to be employed to reduce any adverse environmental effects of the discharge; and**
 - (ii) monitoring of the performance of the discharge management system; and**
- (d) Any staged timeframe and any environmental management plan to achieve:**
 - (i) Compliance with the permitted activity rules and Schedule 16 discharge thresholds for the duration of the consent; or**
 - (ii) The demonstrable reduction of adverse environmental effects of the discharge over the duration of the consent; and**
- (e) Trends in the quality of the receiving water relative to the Schedule 15 freshwater characteristics, limits, and targets and relative to any national bottom lines specified in Appendix 2A and 2B of the NPS-FM; and**

W A T E R Q U A L I T Y

- (f) The extent to which potentially significant, adverse effects arising from the discharge are avoided; and
- (g) The value of the existing investment in infrastructure; and
- (h) The current state of technical knowledge and the use of industry best practice for managing environmental effects; and
- (i) The extent to which co-ordinating the discharges across multiple landholdings enables water quality objectives to be more effectively met; and
- (j) The social, cultural and economic value of the use of land and water that gives rise to the discharge.

7.D.6 When considering applications for resource consent for discharges of nitrogen onto or into land in circumstances where it may enter water under Rule 12.C.3.2:

- (a) Restrict the duration of resource consents to a term of no more than 10 years; and
- (b) Have particular regard to:
 - (i) The water quality of the receiving water body; and
 - (ii) Any adverse effects on the natural or human use values of the receiving water body as set out in Schedule 1; and
 - (iii) Any adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses; and
 - (iv) Any measures proposed to reduce nitrogen discharged over the term of the resource consent, including any changes to land management practices or infrastructure; and
 - (iv) The benefits of aligning the expiry date with other resource consents for the same activity in the surrounding area or catchment.

7.D.7 – 7.D.8 *[New Part – Part B]*

7.D.9 *[New Part – Part C]*

7.D.10 *[New Part – Part G]*

7.6 Policies for the enhancement of water quality *[Repealed – 1 May 2014]*

7.7 Policies for point source discharges *[Repealed – 1 May 2014]*

7.8 Policies for non-point source discharges *[Repealed – 1 May 2014]*

7.9 Anticipated environmental results *[Repealed – 1 May 2014]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

13

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

14

Part B: Animal waste storage and application

Relevant provisions:

New Policy 7.D.7	18
New Policy 7.D.8	19
Amended Rule 12.C.0.2	22
New Rule 12.C.0.4 (discharge – prohibited)	22
New Rule 12.C.1.4A (discharge – permitted)	24
New Rule 12.C.1.4B (discharge permitted)	24
New Rule 12.C.1.4 (discharge – short term permitted)	24
New Rule 12.C.2.5 (discharge – restricted discretionary)	25
New Rule 14.7.1.1A (land use – permitted)	28
New Rule 14.7.1.1 (land use – permitted)	28
New Rule 14.7.1.2 (land use – short term permitted)	29
New Rule 14.7.2.1 (land use – controlled)	29
New Rule 14.7.3.1 (land use – discretionary)	31
New Schedule 18	34
New Schedule 19	35
New Schedule 20	37
New Schedule 21	38
New Definitions – Animal effluent storage facility, Dairy Effluent Storage Calculator, Liquid animal effluent, Solid animal effluent, Suitably Qualified Person	42
Amended Definition – animal effluent system	42

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

16

7

Water Quality



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

17

W A T E R Q U A L I T Y

- 7.1 **Introduction** *[Unchanged]*
- 7.2 **Issues in general** *[Repealed – 1 May 2014]*
- 7.3 **Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 **Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 **Objective** *[Repealed – 1 May 2014]*
- 7.A **Objectives** *[Unchanged]*
- 7.B **Policies general** *[Unchanged]*
- 7.C **Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 – 7.C.6 *[Amended - Part A]*
 - 7.C.7 – 7.C.11 *[Unchanged]*
 - 7.C.12 *[New - Part A]*
- 7.D **Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**
 - 7.D.1 – 7.D.4 *[Unchanged]*
 - 7.D.5 *[Amended - Part A]*
 - 7.D.6 *[New - Part A]*
 - 7.D.7 **Ensure the appropriate management and operation of animal effluent systems and management of the application of animal effluent to land by:**
 - (a) **Requiring animal effluent systems to be designed, constructed and located appropriately and in accordance with good management practice; and**
 - (b) **Ensuring that all animal effluent systems:**
 - (i) **Have sufficient storage capacity to ensure that the disposal of effluent to land does not occur under conditions that will result in contaminants entering into water; and**

W A T E R Q U A L I T Y

- (ii) **Include contingency measures to prevent discharges of effluent to a water body, an artificial watercourse, or the coastal marine area, either directly or indirectly; and**
- (iii) **Are operated in accordance with a management plan for the purpose of preventing the unauthorised discharge of liquid or solid effluent to water; and**
- (c) **Avoiding the discharge of liquid and solid animal effluent to:**
 - (i) **water bodies, artificial watercourses, bores and soak holes, and the coastal marine area; and**
 - (ii) **land in a manner that results in ponding or overland flow to water; and**
 - (iii) **land when the soil moisture exceeds field capacity;**
- (d) **Requiring effluent application to be in accordance with good management practice; and**
- (e) **Granting resource consents for discharges of animal effluent for a maximum duration of up to 10 years in order to facilitate an efficient and effective transition from the operative freshwater planning framework towards a new integrated regional planning framework.**

- 7.D.8 Provide for the upgrading of existing animal effluent storage facilities that do not meet the standards in Rule 14.7.1.1 by:**
- (a) **Granting resource consents only where consent applications contain a timebound action plan for upgrading the existing animal effluent storage facility so that it meets the standards in Rule 14.7.1.1 as soon as possible; and**
 - (b) **Staging implementation of performance standards based on risk in accordance with Rule 14.7.1.2 and Schedule 19.**

7.D.9 *[New Part – Part C]*

7.D.10 *[New Part – Part G]*

7.6 Policies for the enhancement of water quality *[Repealed – 1 May 2014]*

7.7 Policies for point source discharges *[Repealed – 1 May 2014]*

7.8 Policies for non-point source discharges *[Repealed – 1 May 2014]*

7.9 Anticipated environmental results *[Repealed – 1 May 2014]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

20

12

Rules: Water Take, Use and Management



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

21

RULES: LAND USE ON LAKE OR RIVER BEDS OR REGIONALLY SIGNIFICANT WETLANDS

12.0 - 12.B *[Unchanged]*

12.C Other discharges

- 12.C.A.1 Discharge rules in section 12.C apply to any discharge not provided for in sections 12.A, 12.B or 13.5.
- 12.C.A.2 Within section 12.C, prohibited activity rules prevail over any permitted, controlled, restricted discretionary and discretionary activity rules.

Note: Rules applying to plantation forestry:

- Refer to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017:
<http://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html>
- Refer to Schedule 17: Rules applying to plantation forestry in Otago.
- Rules that apply: 12.C.1.1 (d) (e) (f), excluding (iii); 12.C.2.1; 12.C.2.2; 12.C.2.4; 12.C.3.2.

Note: Resource consent may also be required under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 which contains additional restrictions in relation to activities within, or within a 100m setback of, a natural wetland.

12.C.0 Prohibited activities: No resource consent will be granted

12.C.0.1 *[Unchanged]*

- 12.C.0.2 The discharge of any contaminant from silage storage or a composting process:
- To any lake, river or Regionally Significant Wetland; or
 - To any drain or water race that goes to a lake, river, Regionally Significant Wetland or coastal marine area; or
 - To the bed of any lake, river or Regionally Significant Wetland; or
 - To any bore or soak hole; or
 - To land in a manner that results in overland flow entering any:
 - Lake, river, Regionally Significant Wetland or coastal marine area that is not permitted under Rule 12.C.1.1 or 12.C.1.1A; or
 - Drain or water race that goes to any lake, river, Regionally Significant Wetland or coastal marine area

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

22

R U L E S : L A N D U S E O N L A K E O R R I V E R B E D S O R
R E G I O N A L L Y S I G N I F I C A N T W E T L A N D S

that is not permitted under Rule 12.C.1.1 or 12.C.1.1A;
or

- (vi) To land within 50 metres of:
 - (a) Any lake, river or Regionally Significant Wetland; or
 - (b) Any bore or soak hole; or
- (vii) To saturated land; or
- (viii) That results in ponding,
is a **prohibited** activity.

12.C.0.3 *[Unchanged]*

12.C.0.4 The discharge of liquid animal effluent from an animal effluent system:

- (i) To any lake, river or Regionally Significant Wetland; or
- (ii) To any drain or water race that goes to a lake, river, Regionally Significant Wetland or coastal marine area; or
- (iii) To the bed of any lake, river or Regionally Significant Wetland; or
- (iv) To any bore or soak hole; or
- (v) To land within 50 metres of:
 - (a) Any lake, river or Regionally Significant Wetland; or
 - (b) Any bore or soak hole; or
- (vi) To land in a manner that results in ponding or overland flow to water; or
- (vii) To land when the soil moisture exceeds field capacity; or
- (viii) Where liquid animal effluent is distributed through the same infrastructure as water from a bore with no back flow prevention installed,
is a **prohibited** activity.

Note: Rules 12.C.0.4, 12.C.1.4A, 12.C.1.4 and 12.C.2.5 manage discharges of animal effluent to land. They do not regulate the land use for the construction, use and maintenance of an animal effluent system. The construction, use and maintenance of animal effluent systems is managed by Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1 and 14.7.3.1.

RULES: LAND USE ON LAKE OR RIVER BEDS OR REGIONALLY SIGNIFICANT WETLANDS

12.C.1 Permitted activities: No resource consent required

12.C.1.1 - 12.C.1.3 *[Unchanged]*

12.C.1.4A The discharge of solid animal effluent (excluding any discharge directly from an animal to land), or vegetative material containing solid or liquid animal effluent, into or onto land including in circumstances where a contaminant may enter water is a permitted activity provided:

- (a) the material does not contain any hazardous substance or hazardous waste,
- (b) the material does not include any waste from a human effluent treatment process,
- (c) the material is not discharged:
 - (i) onto the same area of land more frequently than once every two months; or
 - (ii) onto land where solid animal effluent, or vegetative material containing liquid or solid animal effluent, from a previous application is still visible on the land surface; or
 - (iii) onto land when the soil moisture exceeds field capacity; or
 - (iv) within 20 metres of the bed of a lake, river, the coastal marine area, Regionally Significant Wetland, water supply used for human consumption, bore, soak hole, or a landholding boundary.

12.C.1.4B The discharge of liquid animal effluent, or water containing liquid animal effluent, onto or into land is a permitted activity providing:

- a) The volume of the discharge is not more than 35m³ per landholding in any consecutive 12 month period; and
- b) The discharge is not prohibited under Rule 12.C.0.4; and
- c) The discharge does not occur within 20 metres of the boundary of the landholding on which the liquid animal effluent is being discharged, or beyond that boundary; and
- d) There is no discharge to land when the soil moisture exceeds field capacity.

12.C.1.4 Notwithstanding any other rule in this Plan, the discharge of liquid animal effluent, or water containing liquid animal effluent, from an animal effluent system onto or into land is a *permitted* activity providing:

RULES : LAND USE ON LAKE OR RIVER BEDS OR
REGIONALLY SIGNIFICANT WETLANDS

- (a) The animal effluent storage facility is permitted under Rule 14.7.1.2; and
- (b) The discharge is not prohibited under Rule 12.C.0.4; and
- (c) The discharge does not occur within 20 metres of the boundary of the landholding on which the liquid animal effluent is being discharged, or beyond that boundary; and
- (d) There is no discharge to land when the soil moisture exceeds field capacity.

Note: Rules 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5 manage discharges of animal effluent to land. They do not regulate the land use for the construction, use and maintenance of an animal effluent system. The construction, use and maintenance of animal effluent systems is managed by Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1, and 14.7.3.1.

12.C.2 Restricted discretionary activities: Resource consent required

12.C.2.1 – 12.C.2.4 [Unchanged]

12.C.2.5 The discharge of liquid animal effluent, or water containing liquid animal effluent, from an animal effluent system onto or into land is a **restricted discretionary** activity provided:

- (a) The discharge is not prohibited under Rule 12.C.0.4; and
- (b) The discharge is not permitted under Rule 12.C.1.4;

In considering any resource consent under this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (i) The extent to which the application depth and rate is consistent with industry agreed good management practice;
- (ii) Size and location of the disposal area, including separation distances from lakes, rivers, natural wetlands, bores, soak holes, the coastal marine area, water supply for human consumption and dwellings;
- (iii) Adverse effects on water quality, taking into account the nature and sensitivity of the receiving environment, and any measures to avoid, remedy or mitigate these adverse effects;
- (iv) Adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses, and any measures to avoid, remedy or mitigate these adverse effects;
- (v) Duration of consent and any review conditions;

RULES: LAND USE ON LAKE OR RIVER BEDS OR
REGIONALLY SIGNIFICANT WETLANDS

- (vi) Quality and content of, and compliance with, a management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water that is prepared in accordance with Schedule 21;
- (vii) Any information and monitoring requirements, and
- (viii) The value of existing investment in the animal effluent system.

Note: Rules 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5 manage discharges of animal effluent to land. They do not regulate the land use for the construction, use and maintenance of an animal effluent system. The construction, use and maintenance of animal effluent systems is managed by Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1, and 14.7.3.1.

12.C.3 Discretionary activities: Resource consent required

12.C.3.1 & 12.C.3.2 *[Unchanged]*

14

Rules: Land Use other than in Lake or River Beds



14.1 - 14.4 *[Unchanged]*

14.5 *[New – Part G]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

27

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

14.6 [New – Part D]

14.7 Animal Waste Systems

Note: Resource consent may also be required under the Resource Management (National Environmental Standards for Freshwater) Regulations which contains additional restrictions in relation to activities within, or within a 100 metre setback of, a natural wetland.

14.7.1 Permitted activities: No resource consent required

14.7.1.1A The use of land for the construction, use and maintenance of a component of an animal effluent system that is not an animal effluent storage facility is a **permitted** activity providing:

- (a) for a component with a volume of less than 35,000 litres, the component does not have any visible cracks, holes or defects that would allow effluent to leak from the component;
- (b) for a component with a volume of 35,000 litres or above, the component is certified by a Suitably Qualified Person, as defined in Schedule 20, within the last five years as having no visible cracks, holes or defects that would allow effluent to leak from the component;
- (c) the component (excluding conveyance pipes) is not located:
 - (i) within 20 metres of any lake, river, Regionally Significant Wetland, water supply used for human consumption, bore or soak hole; or
 - (ii) above subsurface drainage (excluding a leak detection system); and
- (d) where the total volume of the animal effluent system exceeds 35,000 litres, a management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.

14.7.1.1 The use of land for the use and maintenance of an animal effluent storage facility that was constructed prior to 25 March 2020 is a **permitted** activity providing:

- (a) The animal effluent storage facility is sized in accordance with the 90th percentile as calculated by the Dairy Effluent Storage Calculator, and where relevant using a conversion factor for animals other than dairy cows determined by a Suitably Qualified Person as defined in Schedule 20;
- (b) The animal effluent storage facility is certified by a Suitably Qualified Person as defined in Schedule 20, within the last five years as:

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

- (i) having no visible cracks, holes or defects that would allow effluent to leak from the animal effluent storage facility; and
- (ii) Meeting the relevant pond drop test criteria in Schedule 18 (excluding above-ground tanks, bladders, and solid animal effluent storage facilities); and
- (c) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.
- (d) Any certifications under (a) and (b) are provided to the Otago Regional Council upon written request.

Note Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1 and 14.7.3.1 do not manage discharges of liquid or solid animal effluent to land. Discharges of liquid and solid animal effluent are managed under the following rules: 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5.

14.7.1.2 The use of land for the use and maintenance of an animal effluent storage facility that was constructed prior to 25 March 2020 and does not comply with the conditions of Rule 14.7.1.1 is a *permitted* activity until the application date specified in Schedule 19.

14.7.2 Controlled activities: Resource consent required

14.7.2.1 The use of land for the construction, use and maintenance of an animal effluent storage facility constructed after 25 March 2020 is a *controlled* activity provided the following conditions are met:

- (a) The animal effluent storage facility is sized in accordance with the 90th percentile as calculated by the Dairy Effluent Storage Calculator and where relevant using a conversion factor for animals other than dairy cows determined by a Suitably Qualified Person as defined in Schedule 20; and
- (b) The animal effluent storage facility is either:
 - (i) Fully lined with an impermeable synthetic liner and has a leak detection system that underlies the animal effluent storage facility; or
 - (ii) Of concrete construction; or
 - (iii) An above-ground tank; or
 - (iv) Sealed with a clay liner; and
- (c) The design of the animal effluent storage facility, and any leak detection system has been certified by a Chartered Professional Engineer as being in accordance with the relevant

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

parts of IPENZ Practice Note 21¹ and IPENZ Practice Note 27;² and

- (d) The animal effluent storage facility is not located:
 - (i) Within 50 metres of any lake, river or Regionally Significant Wetland; or
 - (ii) Within 90 metres of any water supply used for human consumption; or
 - (iii) Within 50 metres of any bore or soak hole; or
 - (iv) Above subsurface drainage (other than a leak detection system); and
- (e) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.

In granting any resource consent under this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The design and construction of the animal effluent storage facility, including storage capacity, nature of the solid or liquid animal effluent and the anticipated life of the animal effluent storage facility; and
- (b) The height of embankments and the placement and orientation relative to flood flows and stormwater run-off; and
- (c) Methods to protect the animal effluent storage facility from damage by animals and machinery; and
- (d) Quality and content of, and implementation of, the management plan prepared in accordance with Schedule 21; and
- (e) Potential adverse effects of construction, maintenance and use on water bodies, drains, groundwater, bores, drinking water supplies, the coastal marine area, stop banks, dwellings, places of assembly and urban areas; and
- (f) Location of the animal effluent storage facility; and
- (g) Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

¹ Available from <https://www.dairynz.co.nz/publications/environment/ipenz-21-farm-dairy-effluent-pond-design-and-construction/>

² Available from <https://www.dairynz.co.nz/publications/environment/ipenz-practice-note-27-dairy-farm-infrastructure/>

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

14.7.3 Discretionary activities: Resource consent required

14.7.3.1 The use of land for the construction, upgrade, use or maintenance of an animal effluent storage facility or a component of an animal effluent system that is not an animal effluent storage facility is a *discretionary* activity provided it is not:

- (a) Permitted under Rules 14.7.1.1A, 14.7.1.1 or 14.7.1.2; or
- (b) Provided for by Rule 14.7.2.1

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

32

20

Schedules



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

33

SCHEDULES

Schedules 1 - 17 *[Unchanged]*

18. Schedule of pond drop test requirements and criteria

This schedule outlines the requirements for undertaking pond drop tests on animal effluent storage facilities that are part of an animal effluent system and the pass criteria for drop test results.

Requirements

- A minimum of 24 hours of accurate data within a single test period.
- Total test error of less than ± 1 mm.
- Continuous readings are to be taken over the entire test period at not more than 10 second intervals.
- Any change in pond fluid level over the test period needs to be accounted for.
- Ponds must be at or over 75% design depth (excluding freeboard) before a test can be undertaken.
- The level of sludge or crust on the pond during the test should be minimal so that it does not impact on test results.
- The pond surface is not frozen during any part of the testing.
- An anemometer is installed for the duration of the test and only data obtained when the wind speed does not exceed 50 kilometres per hour (14 m per second) at the test site is used in the test results.

Table 18.1 Maximum allowable pond level change

When tested in accordance with the requirements above, the animal effluent storage facility is considered to meet the pond drop test criteria if the maximum pond level change does not exceed the following:

Maximum design depth of pond (m) excluding freeboard	Maximum allowable pond level change (mm per 24 hours)
<0.5	1.2
0.5 to 1.0	1.4
1.0 to 1.5	1.6
1.5 to 2.0	1.8
>2.0	2.0

SCHEDULES

19. Schedule of progressive implementation of animal effluent storage requirements

Many animal effluent storage facilities in Otago will need to be upgraded to meet the requirements of this Plan. The intent of this Schedule is to stage implementation of the Plan’s requirements according to the environmental risk posed by existing animal effluent storage facilities. To assess this risk, Schedule 19 provides two calculations that will determine the current storage volume available on a landholding (in days) as follows:

- Schedule 19A sets out the calculations required to determine days of storage available on a landholding.
- Schedule 19B sets out the date by which a complete resource consent application must be lodged with the Otago Regional Council under Rule 14.7.3.1 (and correspondingly Rule 14.7.1.2 ceases to apply). A complete application is one that is not determined as being incomplete by the Otago Regional Council pursuant to section 88 of the Resource Management Act 1991.

For clarity, this calculation under Schedule 19A does not determine the volume of the storage facility under section 14.7, it only determines the date that applications must be received.

19A Storage calculation

Two calculations are required to determine the current minimum number of days of animal waste storage available on a landholding. These are set out below.

Step One: Daily waste volume

To calculate the daily waste volume per farm, use the following formula:

$$\text{Daily waste volume (m}^3\text{)} = \text{Maximum number of cows milked per day} \times 0.05^{\wedge} \times \text{Maximum number of times per day that cows are milked during milking season}$$

[^] being 0.05 cubic metres (50 litres per cow per day)

For example:

During milking season, Farm A milks 500 cows twice per day. Using the formula above:

$$\text{Daily waste volume (m}^3\text{)} = 500 \times 0.05 \times 2$$

SCHEDULES

$$\text{Daily waste volume (m}^3\text{)} = 50$$

Step Two:

To calculate the minimum number of days of storage available, use the following formula:

$$\text{Days of storage available} = \text{Actual storage volume (m}^3\text{)} \div \text{Daily waste volume (m}^3\text{)}$$

^ determined assuming that the storage facility is empty.

For example:

As calculated above, Farm A has a daily waste volume of 50 m³. The farm has a storage pond with a storage volume of 1000 m³. Using the formula above:

$$\text{Days of storage available} = 1000 \div 50$$

$$\text{Days of storage available} = 20$$

Using the table in Schedule 19B, Otago Regional Council must receive a complete resource consent application under Rule 14.7.3.1 from Farm A no later than two years from the date Plan Change 8 is made operative.

19B Application dates

The following table sets out the dates by which complete resource consent applications must be received under Rule 14.7.3.1 (and correspondingly Rule 14.7.1.2 ceases to apply). The “application date” is the date Plan Change 8 is made operative, plus the number of years in the “year” column below.

Days of storage available as calculated in accordance with Schedule 19B	Year
0 – 10	0.5
11 – 40	2
41+	3

SCHEDULES

20. Schedule defining Suitably Qualified Persons

A suitably qualified person for the purposes of this schedule is a person who has been certified by the Otago Regional Council as being appropriately qualified and experienced in accordance with the requirements below.

Requirements – Animal Effluent systems

For the purposes of Rules 14.7.1.1A(b), 14.7.1.1(b) and Schedule 21(j), a Suitably Qualified Person has either:

- (a) A relevant tertiary qualification in agricultural engineering, natural resources engineering or civil engineering and at least five years' professional experience in designing and constructing effluent management systems; or
- (b) A relevant equivalent qualification (for example, international qualifications) and at least five years' professional experience in designing and constructing effluent management systems; or
- (c) At least ten years' professional experience in designing and constructing effluent management systems.

Requirements – Calculations using the Dairy Effluent Storage Calculator

For the purposes of Rules 14.7.1.1(a) and Rule 14.7.2.1(a), a Suitably Qualified Person has:

- (a) For undertaking a calculation using the Dairy Effluent Storage Calculator, at least five years' relevant professional experience in designing effluent management systems, and
- (b) For determining a conversion factor for animals that are not dairy cows, a relevant scientific tertiary qualification or relevant research experience.

SCHEDULES

21. Schedule of management plan requirements

- (1) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is:
 - (a) prepared by the landholding owner or their agent and retained on the landholding, identifying the matters set out in clause 2 below;
 - (b) reviewed at least once every 12 months by the landholding owner or their agent, and the outcome of the review documented; and
 - (c) provided to the Otago Regional Council upon request, and
- (2) The management plan must contain the following:
 - (a) physical address of where the animal effluent system is located, and the land where liquid or solid animal effluent is to be applied,
 - (b) a description of the landholding ownership, and the contact details of the owner and the person in charge,
 - (c) legal description(s) of the landholding,
 - (d) a list of all the relevant resource consents held for the landholding and their expiry dates,
 - (e) a map(s) or aerial or satellite photograph(s) showing the locations of:
 - (i) the boundaries of the landholding,
 - (ii) the location of any dairy shed, animal effluent storage facilities, and any other components of an animal effluent system,
 - (iii) lakes, rivers, natural wetlands, bores, soak holes, the coastal marine area, water supply for human consumption and dwellings within the landholding,
 - (iv) the area of land where liquid or solid animal effluent is to be applied, and in relation to this area:
 - soil types and their risk profile¹,
 - any critical source areas and the locations of known subsurface drains.
 - (f) Operational procedures for using and maintaining the animal effluent system and for managing the discharge of animal effluent,
 - (g) Inspection, monitoring and reporting requirements and timeframes,
 - (h) The records of pond drop tests of the animal effluent storage facility undertaken at least every five years (excluding above-ground tanks, bladders, solid animal effluent storage facilities and an animal effluent storage facility with a leak detection system),
 - (i) Contingency measures to prevent the discharge of liquid or solid animal effluent to a water body, an artificial watercourse, or the coastal marine area, either directly or indirectly,
 - (j) Identification of measures to be taken to respond to a leak and the timeframe for response; including, for animal effluent storage facilities with a leak detection system where a leak is detected, a requirement for

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

38

SCHEDULES

an assessment by a Suitably Qualified Person to be undertaken as soon as practicable and no later than two months of the detection to determine whether the leak is within the normal operating parameters of the pond, and

- (k) Responses to any other system failures or emergencies, including timeframes for response.

Footnote 1: A digital soil map for New Zealand can be found online at <https://smap.landcareresearch.co.nz/>

SCHEDULES

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

40

21

Glossary

The table below only contains the Plan's definitions which are particularly relevant for this plan change

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

41

G L O S S A R Y

Animal effluent storage facility	A pond, tank, or structure primarily used for the containment or storage of animal effluent, but excludes any ancillary structures for the collection, conveyance or treatment of liquid or solid animal effluent, such as sumps, stone traps and weeping walls.
Animal effluent system	Means the collection, storage, or treatment, of liquid or solid animal effluent.
Dairy Effluent Storage Calculator	Means the Dairy Effluent Storage Calculator available from http://www.dairynzdesc.co.nz
Liquid animal effluent	Faeces and urine from land-based animals, including associated process water, wash-down water, contaminants and sludge but excluding solid animal effluent. For the purposes of this definition, it does not include incidental animal effluent present in livestock processing waste streams.
Solid animal effluent	Solid excreta from land-based animals that cannot be pumped and sprayed, including bedding material and manure, but does not include dead animals or animal parts.
Suitably Qualified Person	Has the meanings set out in Schedule 20.

Part C: Good farming practices

Relevant provisions:

New Policy 7.D.9.....	46
New Definition: Critical source area	50

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago 4 June 2022	43
---	----

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

44

7

Water Quality



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

45

WATER QUALITY

- 7.1 **Introduction** *[Unchanged]*
- 7.2 **Issues in general** *[Repealed – 1 May 2014]*
- 7.3 **Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 **Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 **Objective** *[Repealed – 1 May 2014]*
- 7.A **Objectives** *[Unchanged]*
- 7.B **Policies general** *[Unchanged]*
- 7.C **Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 – 7.C.6 *[Amended - Part A]*
 - 7.C.7 – 7.C.11 *[Unchanged]*
 - 7.C.12 *[New - Part A]*
- 7.D **Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**
 - 7.D.1 – 7.D.4 *[Unchanged]*
 - 7.D.5 *[Amended - Part A]*
 - 7.D.6 *[New - Part A]*
 - 7.D.7– 7.D.8 *[New - Part B]*
 - 7.D.9 **Enable farming activities while reducing their adverse environmental effects by:**
 - (a) **Promoting the implementation of good management practices (or better) to reduce sediment and contaminant loss to water bodies; and**
 - (b) **Managing the risk of sediment and contaminants in run off entering water as a result of farming activities by:**
 - (i) **Implementing setbacks from rivers, lakes, drains (excluding sub-surface drains), natural wetlands or the coastal marine area and establishing or maintaining riparian vegetation,**

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

46

WATER QUALITY

- (ii) **Limiting areas and duration of exposed soil,**
- (iii) **Managing stock access to water bodies to avoid significant adverse effects on water quality, bed and bank integrity and stability, Kai Tahu cultural and spiritual beliefs, values, and uses, and river and riparian ecosystems and habitats,**
- (iv) **Setting interim minimum standards for intensive winter grazing; and**
- (v) **Managing critical source areas.**

7.D.10 *[New Part – Part G]*

7.6 **Policies for the enhancement of water quality** *[Repealed – 1 May 2014]*

7.7 **Policies for point source discharges** *[Repealed – 1 May 2014]*

7.8 **Policies for non-point source discharges** *[Repealed – 1 May 2014]*

7.9 **Anticipated environmental results** *[Repealed – 1 May 2014]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

48

21

Glossary

The table below only contains the Plan's definitions which are particularly relevant for this plan change

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

49

G L O S S A R Y

Critical source area Means a landscape feature such as a gully, swale, or depression that accumulates runoff from adjacent flats and slopes and delivers contaminants to surface water bodies such as rivers, lakes, and artificial watercourses (excluding subsurface drains, and artificial watercourses that do not connect to natural water bodies).

Part D: Intensive grazing

Relevant provisions:

New Rule 14.6.1.1 (land use – permitted)	54
New Rule 14.6.2.1 (land use – discretionary).....	54
New Definition – Intensive grazing	58

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

51

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

52

14

Rules: Land Use other than in Lake or River Beds



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

53

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

14.1 - 14.4 [Unchanged]

14.5 [New – Part G]

14.6 Rural land uses

14.6.1 Permitted activities: No resource consent required

- 14.6.1.1 Until Regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 or equivalent regulations come into force, the use of land for intensive winter grazing is a *permitted* activity providing:
- (a) Land on the farm was used for intensive winter grazing between 1 July 2014 and 30 June 2019 (inclusive); and
 - (b) At all times, the area of the farm that is used for intensive winter grazing is no greater than the maximum area of the farm that was used for intensive winter grazing between 1 July 2014 and 30 June 2019 (inclusive); and
 - (c) A vegetated strip of at least 5 metres is maintained between the intensively grazed area and any river, lake, wetland or drain (excluding sub-surface drains), and all stock are excluded from this strip during intensive winter grazing; and
 - (d) The intensive winter grazing does not occur in a natural wetland; and
 - (e) There is no intensive winter grazing in any critical source area unless contaminants are prevented from entering a surface water body.

Advice Note: when regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 come into force, for rules applying to the use of land on a farm for intensive winter grazing refer to Subpart 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

14.6.2 Discretionary activities: Resource consent required

- 14.6.2.1 Until Regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 or equivalent regulations come into force, except as provided by Rule 14.6.1.1, the use of land for intensive winter grazing is a *discretionary* activity.

Advice Note: When regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 come into force, for rules applying to the use of land on a farm for intensive winter grazing refer to Subpart 3 of the

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

Advice Note: Resource consent may also be required under Regulation 30 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. A resource consent may only be granted under Regulation 30 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 if the consent authority is satisfied that granting the consent will not result in an increase in—

- (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020; or
- (b) concentrations of contaminants in freshwater or other receiving environments (including the coastal marine area and geothermal water), compared with the concentrations as at the close of 2 September 2020.

Any resource consent granted under Regulation 30 must be for a term that ends before 1 January 2031.

14.7 *[New – Part B]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

56

21

Glossary

The table below only contains the Plan's definitions which are particularly relevant for this plan change

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

57

Intensive winter grazing Has the same meaning as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

58

Part E: Stock access to water

Relevant provisions:

Amended Rule 13.5.1.8A.....	62
-----------------------------	----

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

59

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

60

13

Rules: Land Use on Lake or River Beds or Regionally Significant Wetlands



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

61

RULES: LAND USE ON LAKE OR RIVER BEDS OR REGIONALLY SIGNIFICANT WETLANDS

- Note: 1. Where the rules in this chapter provide for any activity in the bed of a lake or river, or in any Regionally Significant Wetland, a resource consent may also be required for activities associated with it, such as discharges to water, takes of water, damming or diversion of water, bed disturbance or structures.
2. A wetland may include open water which is part of a lake.

13.1 - 13.4 *[Unchanged]*

13.5 Alteration of the bed of a lake or river, or of a Regionally Significant Wetland

13.5.A General rules for section 13.5 *[Unchanged]*

13.5.1 Permitted activities: No resource consent required

13.5.1.1 - 13.5.1.7 *[Unchanged]*

13.5.1.8 *[Repealed – 1 May 2014]*

13.5.1.8A The disturbance of the bed of any lake or river, or any Regionally Significant Wetland by livestock, excluding intentional driving of livestock, and any resulting discharge or deposition of bed material, is a **permitted** activity, providing it does not:

- (a) Involve feeding out on that bed or wetland; or
- (b) Cause or induce noticeable slumping, pugging or erosion; or
- (c) Result in a visual change in colour or clarity of water; or
- (d) Damage fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.

Advice Note: For regulations on stock exclusion from waterways refer to the Resource Management (Stock Exclusion) Regulations 2020.

Advice Note: The proposed Land and Water Regional Plan, when notified in December 2023, may introduce provisions regulating stock exclusion in a Freshwater Management Unit, or any part of a Freshwater Management Unit in addition to Resource Management (Stock Exclusion) Regulations 2020.

13.5.1.8B *[Unchanged]*

13.5.1.9 *[Unchanged]*

13.5.1.10 *[New Part F]*

13.5.2 & 13.5.3 *[Unchanged]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

62

RULES: LAND USE ON LAKE OR RIVER BEDS OR
REGIONALLY SIGNIFICANT WETLANDS

13.6 & 13.7 *[Unchanged]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

63

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

64

Part F: Sediment traps

Relevant provisions:

New Rule .5.1.10.....	68
New Definition – Sediment trap	72

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

65

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

66

13

Rules: Land Use on Lake or River Beds or Regionally Significant Wetlands



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

67

RULES: LAND USE ON LAKE OR RIVER BEDS OR
REGIONALLY SIGNIFICANT WETLANDS

- Note: 1. Where the rules in this chapter provide for any activity in the bed of a lake or river, or in any Regionally Significant Wetland, a resource consent may also be required for activities associated with it, such as discharges to water, takes of water, damming or diversion of water, bed disturbance or structures.
2. A wetland may include open water which is part of a lake.

13.1 - 13.4 *[Unchanged]*

13.5 Alteration of the bed of a lake or river, or of a Regionally Significant Wetland

13.5.A General rules for section 13.5 *[Unchanged]*

13.5.1 Permitted activities: No resource consent required

13.5.1.1 - 13.5.1.7 *[Unchanged]*

13.5.1.8 *[Repealed – 1 May 2014]*

13.5.1.8A *[Amended – Part E]*

13.5.1.8B *[Unchanged]*

13.5.1.9 *[Unchanged]*

13.5.1.10 The disturbance of the bed of any ephemeral or intermittently flowing river for the purpose of constructing or maintaining a sediment trap and any associated deposition of bed material is a **permitted** activity providing:

- (a) The construction or maintenance of the sediment trap is undertaken solely for sediment control purposes or to maintain the capacity and effective functioning of the sediment trap; and
- (b) The construction or maintenance does not result in destabilisation of any lawfully established structure or cause increased risk of flooding or erosion; and
- (c) No works occur in flowing water; and
- (d) Any build-up of sediment and other debris (including vegetation) within the sediment trap is removed to maintain the effectiveness of the sediment trap; and
- (e) All reasonable steps are taken to minimise the release of sediment during the disturbance and there is no conspicuous change in the colour or clarity of the water body beyond a distance of 200 metres downstream of the disturbance; and
- (f) No lawful take of water is adversely affected as a result of the disturbance; and

R U L E S : L A N D U S E O N L A K E O R R I V E R B E D S O R
R E G I O N A L L Y S I G N I F I C A N T W E T L A N D S

- (g) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
- (h) There is no damage to fauna or New Zealand native flora in or on any Regionally Significant Wetland.

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

70

21

Glossary

The table below only contains the Plan's definitions which are particularly relevant for this plan change

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

71

G L O S S A R Y

Sediment trap An excavated or bunded area in the bed of an ephemeral or intermittently flowing river designed and constructed solely for the purpose of allowing sediment to drop from the water column.

Part G: Sediment from earthworks for residential development

Relevant provisions:

New Policy 7.D.10	76
New Rule 14.5.1.1 (land use and discharge – permitted)	80
New Rule 14.5.2.1 (land use and discharge – restricted discretionary).....	81
New Definition – earthworks	84

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

73

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

74

7

Water Quality



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

75

WATER QUALITY

- 7.1 **Introduction** *[Unchanged]*
- 7.2 **Issues in general** *[Repealed – 1 May 2014]*
- 7.3 **Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 **Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 **Objective** *[Repealed – 1 May 2014]*
- 7.A **Objectives** *[Unchanged]*
- 7.B **Policies general** *[Unchanged]*
- 7.C **Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 – 7.C.6 *[Amended - Part A]*
 - 7.C.7 – 7.C.11 *[Unchanged]*
 - 7.C.12 *[New - Part A]*
- 7.D **Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**
 - 7.D.1 – 7.D.4 *[Unchanged]*
 - 7.D.5 *[Amended - Part A]*
 - 7.D.6 *[New - Part A]*
 - 7.D.7– 7.D.8 *[New Part B]*
 - 7.D.9 *[New Part – Part C]*
 - 7.D.10 **The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented.**
- 7.6 **Policies for the enhancement of water quality** *[Repealed – 1 May 2014]*
- 7.7 **Policies for point source discharges** *[Repealed – 1 May 2014]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

76

W A T E R Q U A L I T Y

7.8 Policies for non-point source discharges *[Repealed – 1 May 2014]*

7.9 Anticipated environmental results *[Repealed – 1 May 2014]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

78

14

Rules: Land Use other than in Lake or River Beds



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

79

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

14.1 - 14.4 [Unchanged]

14.5 Earthworks for residential development

Note: 1. The rules in Section 14.5 do not apply to earthworks or soil disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.
 2. Discharges resulting from earthworks are addressed only through rules in section 14.5.

14.5.1 Permitted activities: No resource consent required

- 14.5.1.1 The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a *permitted* activity providing:
- (a) The area of exposed earth is no more than 2,500 m² in any 12-month period per landholding; and
 - (b) Earthworks do not occur within 10 metres of a water body, a drain, a water race, or the coastal marine area; and
 - (c) Exposed earth is stabilised upon completion of the earthworks to minimise erosion and avoid slope failure; and
 - (d) Earthworks do not occur on contaminated or potentially contaminated land; and
 - (e) Soil or debris from earthworks is not placed where it can enter a water body, a drain, a race or the coastal marine area; and
 - (f) Earthworks do not result in flooding, erosion, land instability, subsidence or property damage at or beyond the boundary of the property where the earthworks occur; and
 - (g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:
 - (i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
 - (ii) any conspicuous change in the colour or visual clarity; or
 - (iii) any emission of objectionable odour; or
 - (iv) the rendering of fresh water unsuitable for consumption by farm animals; or
 - (v) any significant adverse effects on aquatic life.

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

14.5.2 Restricted discretionary activities: Resource consent required

14.5.2.1 Except as provided by Rule 14.5.1.1, the use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a *restricted discretionary* activity.

In considering any resource consent under this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) Any erosion, land instability, sedimentation or property damage resulting from the activities; and
- (b) Effectiveness of the proposed erosion and sediment control measures in reducing discharges of sediment to water or to land where it may enter water; and
- (c) Compliance with the *Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005)*; and
- (d) Any adverse effect on water quality, including cumulative effects, and consideration of trends in the quality of the receiving water body; and
- (e) Any adverse effect on any natural or human use value, and on use of the coastal marine area for contact recreation and seafood gathering; and
- (f) Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

14.6 *[New – Part D]*

14.7 *[New – Part B]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

82

21

Glossary

The table below only contains the Plan's definitions which are particularly relevant for this plan change

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

83

G L O S S A R Y

Earthworks

Means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.

Part H: Nationally or regionally important infrastructure

Relevant provisions:

Amended Policy 10.4.2.....	88
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Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago 4 June 2022	85
---	----

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

86

10

Wetlands



Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

87

W E T L A N D S

10.1 Introduction *[Repealed – 1 October 2013]*

10.2 Issues *[Repealed – 1 October 2013]*

10.3 Objectives *[Unchanged]*

10.4 Policies

10.4.1 & 10.4.1A *[Unchanged]*

10.4.2 Avoid the adverse effects of an activity on a Regionally Significant Wetland or a regionally significant wetland value, but allow remediation or mitigation of an adverse effect only when the activity:

- (a) Is lawfully established; or
- (b) Is nationally or regionally significant ~~important~~ infrastructure, and has specific locational constraints; or
- (c) Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.

10.4.2A *[Unchanged]*

10.4.3 - 10.4.5 *[Repealed – 1 October 2013]*

10.4.6 *[Unchanged]*

10.4.7 *[Repealed – 1 October 2013]*

10.5 Anticipated Environmental Results *[Repealed – 1 October 2013]*

Partially Operative Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
4 June 2022

89

Table of minor and consequential changes

Plan Provision	Detail of proposed change								
Page numbers	Update page numbers.								
Footers	Change footer to read “Regional Plan: Water for Otago (Updated to 4 June 2022)”.								
Title page	Change the date to read “Updated to 4 June 2022”.								
ISBN number	Obtain new ISBN numbers for Regional Plan: Water for Otago.								
Chronicle of key events	<p>Add the following to the end of table:</p> <table border="1"> <thead> <tr> <th>Key event</th> <th>Date notified</th> <th>Date decisions released</th> <th>Date operative</th> </tr> </thead> <tbody> <tr> <td>Plan Change 8 (Discharge management) to the Regional Plan: Water</td> <td>6 July 2020</td> <td>31 January 2022 and 21 April 2022</td> <td>4 June 2022</td> </tr> </tbody> </table>	Key event	Date notified	Date decisions released	Date operative	Plan Change 8 (Discharge management) to the Regional Plan: Water	6 July 2020	31 January 2022 and 21 April 2022	4 June 2022
Key event	Date notified	Date decisions released	Date operative						
Plan Change 8 (Discharge management) to the Regional Plan: Water	6 July 2020	31 January 2022 and 21 April 2022	4 June 2022						
section 1.4	<p>Proposed Plan Change 8 (Discharge management) introduced a range of amendments targeting specific activities and land management practices known to be contributing to the degradation of water quality.</p> <p>Proposed Plan Change 8 was “called in” by the Minister for the Environment. The Environmental Protection Agency (EPA) notified the plan change by issuing a Notice of Direction on 6 July 2020 and submissions closed on 17 August 2020. A total of 96 submissions and 12 further submissions were received.</p> <p>Following an Environment Court Hearing, decisions were released on the primary sector provisions on 31 January 2022 and 21 April 2022. Plan Change 8 was made partially operative on 4 June 2022.”</p>								
Policy 7.D.7(c)(iii) Policy 7.D.9 Rule 12.C.1.4A (a) and (b) Rule 12.C.2.5 (i) – (vii) Rule 14.7.1.1 (a) and (c)	Add “; and” to the list items.								

Plan Provision	Detail of proposed change
Schedule 21(1)(c)	Delete “; and” from the end.
Policy 7.D.5(e)	Amend “Appendix” to “Appendices”.
Policy 7.D.5(e)	Add 2020 as the date of NPS-FM.
Policy 7.D.9(b)(i)	Insert a comma after the word “area”.
Section 14.7 Note	Add 2020 as the date of Resource Management (National Environmental Standards for Freshwater) Regulations.
Schedule 20	Amend to specify the correct rule number 21(2)(j).
	Minor style changes to improve consistency with the Regional Plan: Water for Otago.
	Ensure all rules are in their numbering sequence and their references in notes reflect numerical order.

8.6. ORC Submission on New Zealand Emission Trading Scheme Proposed Amendments – Managing Exotic Afforestation Incentives

Prepared for:	Council
Report No.	SPS2216
Activity:	Governance Report
Author:	Warren Hanley, Senior Resource Planner Liaison
Endorsed by:	Anita Dawe, Acting General Manager, Policy, and Science
Date:	25 May 2022

PURPOSE

- [1] To report on the staff submission lodged on the Ministry for Primary Industries' (the Ministry) consultation: *"Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme."* (the consultation).

EXECUTIVE SUMMARY

- [2] At the 13 April 2022 Strategy and Planning Committee, staff brought a paper that outlined the Ministry's consultation for proposed changes to the New Zealand Emissions Trading Scheme (NZETS) and detailed the likely staff submission focus areas for Councillor's information.
- [3] As the consultation timeframe did not align with ORC's Council meeting schedule, it was proposed that staff would lodge a staff submission and provide the full submission to the next Council meeting.

RECOMMENDATION

That the Council:

- 1) **Notes** this report and the submission on the Ministry for Primary Industries' consultation, *"Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme"*.

BACKGROUND

- [4] The staff report to the 13 April 2022 Strategy and Planning Committee (the Committee) highlighted that the Ministry had identified that the incentives for enabling exotic afforestation under the NZETS could result in unintended consequences, both economically and environmentally, due to a large conversion of land to afforestation.
- [5] Primarily, this was identified as being a result of the current market price for carbon offsetting far exceeding what was foreseen when the NZETS framework was implemented.
- [6] As discussed in April 2022, staff formed a view that supported the Ministry's concerns that the NZETS may unintentionally incentivise undesirable land use conversion. Staff were also aware of concerns that Councillors had raised in other forums about the

effects that exotic afforestation could have on Otago's natural and physical environment, and economy.

- [7] Staff supported the Ministry's preferred option to remove the financial incentives for exotic afforestation under the NZETS **with** a provision for exceptions – the focus being on 'the right tree in the right place'. Subject to NZETS and district plan controls, retaining the controlled use of exotics broadens and supports options for landowners to contribute to carbon reduction while managing land at risk of erosion and/or offering little to no productive utility.

DISCUSSION

- [8] The submission lodged with the Ministry focused on the issues raised in the April 2022 staff report, and provided some real-world examples, including some of the impacts associated with the Livingstone fire/Ohau fire in 2020.
- [9] While staff did not engage with other Councils, it was pleasing that there was some alignment between ORC's staff submission and those of our neighbouring regional authorities, Environment Southland¹, and Environment Canterbury. The Environment Canterbury submission is appended.

OPTIONS

- [10] There are no options available at this stage. The submission has already been lodged, in line with the closing date.

CONSIDERATIONS

Strategic Framework and Policy Considerations

Financial Considerations

- [11] There are no specific financial considerations associated with this paper. Submitting on and reporting back on national consultations is a funded activity.

Significance and Engagement

- [12] The consideration of this consultation, and any subsequent submission is consistent with ORC's Significance, Engagement and Māori Participation policy.

Legislative and Risk Considerations

- [13] The previous report to the Committee outlined the legislative and risk context for the proposal, and in ORC responding to it.
- [14] It remains important that ORC monitor the proposed changes (as well as any further changes) to the NZETS and associated environmental and economic risks.

Climate Change Considerations

- [15] ORC's staff submission was based on a balanced consideration of the importance of carbon farming to New Zealand's emissions reduction efforts compared with the need to have sufficient controls to ensure a 'right tree, right place' philosophy manages unintentional consequences on other values of importance.

¹ <https://www.odt.co.nz/rural-life/rural-life-other/%E2%80%98right-tree-right-place%E2%80%99-plan-proffered>

Communications Considerations

[16] Any submission made by ORC would be publicly available via the Ministry, as well as ORC.

NEXT STEPS

[17] ORC staff will report back to Council once the Ministry announces any decision on, or next steps for, the proposed changes to the NZETS.

ATTACHMENTS

1. ORC Submission on Managing Exotic Afforestation Incentives [**8.6.1** - 4 pages]
2. FENZ Wildfire Investigation Report - appended to ORC submission on NZETS [**8.6.2** - 105 pages]
3. ECan Submission on Managing Exotic Forestry Incentives Proposal [**8.6.3** - 5 pages]



Our ref: A1620584

22 April 2022

Ministry for Primary Industries
Wellington

mpi.forestry@mpi.govt.nz

To whom it may concern

ORC submission on the Ministry for Primary Industries' 2022 consultation 'Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme.'

Introduction

This is an Otago Regional Council (ORC) staff submission. We appreciate the opportunity to provide comment to the Ministry for Primary Industries (the Ministry) on proposed changes to the New Zealand Emissions Trading Scheme (NZ ETS).

ORC wishes to acknowledge the Ministry's leadership in identifying an issue with the current NZETS and undertaking a positive, consultative approach to determine an appropriate resolution.

ORC recognises the NZ ETS and afforestation are important as part of climate change adaptation and response efforts, both to meet international obligations, and to contribute to a more sustainable future.

However, care must be taken when pursuing these important goals, to ensure an appropriate balance is given against other values we recognise as important to meet the needs of current and future generations. Carbon farming must be balanced against the need to retain sufficient high quality, productive land and must also be balanced to ensure adverse effects are appropriately managed. In the Otago context, ORC advocates for a framework that is founded on 'the right tree in the right place'.

Therefore, ORC's staff submission advocates for the Ministry's **Option 3** – Preventing exotic forestry from registering in the permanent category in the NZ ETS **with exceptions**.

ORC Strategic Direction

ORC has a strategic direction framework setting a clear vision and direction for our work programmes and goals:

- ORC's **Vision for Otago** includes providing for "A sustainable way of life for everyone in Otago" "Communities that are resilient in the face of natural hazards, climate change and other risks" and "An environment that supports healthy people and ecosystems",
- ORC's commitments include implementing central government directions and making decisions that are evidence-based and timely.

For our future

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz



ORC's strategic direction further sets out its actions to achieve these commitments:

- *Taking Regional leadership for relevant and important issues by:*
 - *Promoting and enable best practice land management for soil conservation, water quality and using water efficiently,*
 - *Protecting our land and water from inappropriate activities*
 - *Enabling climate change mitigation and meeting New Zealand's emission targets*
 - *Supporting our communities to adapt to the effects of climate change*
 - *Collaborate and deliver on biodiversity programmes and management*

ORC's strategic directions align and support our submitted position that the proposed changes are necessary to ensure that the matters discussed further in our submission are provided for and managed appropriately.

Environmental Risks of Afforestation

Water yield

Like many regions, Otago has water-short areas where water demand is high, and water users mindful of the need for its efficient use. Forestry, if sited within a dry catchment can be a poor neighbour for other water reliant activities as it can remove significant water from ground and surface sources.

The impact of afforestation is dependent on the current land cover - any conversion from a lower water demand species to a higher demand species will impact water balance. In 2017, the ORC resource science unit reviewed a proposal for new forestry in the Waitaki district and expected that annual water yields would reduce by 25 – 50% based on a literature review, reduce peak flows by up to 50% as maturation, and reduce low flows out of the affected sub catchments.

ORC considers option 3 will enable consideration of water availability and impacts to be considered, when assessing exceptions.

Fire Risk

ORC is aware of the risks of wildfire associated with forestry, particularly for carbon farming given its permanence, and the need to ensure there are appropriate controls, such as fire breaks, regular maintenance and monitoring, and access to firefighting supplies, with any significant forestry activity. This risk also relates to wilding conifers.

A stark reminder of when wildfire strikes occurred in the damaging Lake Ōhau Alpine Village fire wildfire of 2020. Of relevance was the finding by Fire and Emergency New Zealand that wilding and plantation trees fuelled the fire such that it created a very damaging ember storm¹.

Across New Zealand, settlements face similar risk due to their proximity to existing wilding and plantation forestry, and insufficient firefighting reserves on site. Significant increases in largely unplanned forestry would only increase this risk.

The FENZ investigation report is appended to our submission for your information.

¹ Page 46 Fire and Emergency New Zealand Wildfire Investigation Report - <https://fireandemergency.nz/assets/Documents/Research-and-reports/lakeOhau/FENZ-Wildfire-investigation-Report.pdf>



Pest Management

Wilding Pines

Wilding conifers is a long-lived pest management issue in Otago, due to the impact they have on native ecosystems and biodiversity. ORC and Otago's communities have poured significant resources of time and money into managing this pest.

In 2020 ORC, with the support of the Wakatipu Wilding Conifer Trust and Central Otago Wilding Conifer Control Group, secured funding from Biosecurity New Zealand which will support a four-year programme to combat two of Otago's most pressing pest issues, wilding conifers and wallabies. A significant amount of the initial funding of \$6M will be directed at tackling wilding conifers in the Lakes and Central Otago districts.

A rapid increase in fast growing, exotic forestry in Otago could frustrate these efforts by providing additional habitat for wilding conifers to endure, along with known adverse effects.

ORC supports the proposed change 3 to the NZ ETS to strike a better framework which remove incentives that would tip the balance towards uptake of exotic afforestation over indigenous, or a mixed forestry approach.

Feral Pests

Wallabies are an emerging and significant threat to Otago, originating from Canterbury. The detection of wallaby incursions across Otago's boundary could be hampered through any significant increase in the scale of afforestation as it would provide them excellent day cover and make their nocturnal movements difficult to track.

Increased afforestation would also provide greater refuge for established feral pests such as possums and mustelids which along with wallabies, are a threat to not only pasture, crops, fencing and indigenous biodiversity, but also plantation forestry activities.

Preferred Option to resolve NZETS issue.

ORC staff consider the Ministry's preferred Option 3 – the removal of exotics from the NZETS **with flexibility for exceptions** - would reflect a better balance for Otago as there is growth potential for exotic plantation forestry in Otago. Any absolute restriction of exotic forestry could result in the loss of forestry activity that could be otherwise sited appropriately, the environmental risks managed, and contribute to New Zealand's emission reduction goals.

This option would also provide landowners with an option for utilising their marginal and/or unstable land by planting fast growing exotic trees. If that planting qualifies as permanent forestry under the CCRA and NZETS provisions, it would also let that plantation earn the landowner a financial return.

Overall, Option 3 is likely to still provide a substantial brake for an undesirable level of land use conversion to permanent exotic afforestation, while enabling Otago to support a diversity of sectors and land uses and incentivise permanent indigenous forestry. ORC support the ministry's preferred option (3A) of introducing exceptions via secondary legislation as opposed to a moratorium which only



risks delaying the development of secondary legislation and creating uncertainty for NZETS participants.

Yours sincerely

A handwritten signature in black ink, appearing to read "Anita Dawe".

Anita Dawe
Acting General Manager Policy and Planning, and Science

Fire and Emergency New Zealand Wildfire Investigation Report



WHAKARATONGA IWI



District Fire Name:	Central North Otago
Fire Name:	Lake Ōhau Fire, Lake Ōhau Road
Fire Date:	Sunday 4 October 2020
Time Reported:	03:06:59hrs
FENZ ICAD:	F3088958
Sponsor:	Graeme Still, Principal Rural Fire Officer Otago
Version:	211111

Table of Contents

1. Terminology	3
2. Fire Investigators	6
3. Fire Investigation Terms of Reference	13
4. Executive Summary	15
4.1. Incident Information	15
5. Process of Investigation	18
6. Fire Spread and Behaviour	35
6.1. Weather Factors	35
6.2. Fuel Factors	41
6.3. Topographical Factors	53
6.4. Burn and Char Patterns	53
6.5. Witness Observations	53
7. Visual and Physical Evidence	54
8. Elimination of Possible Causes	55
9. Fire Classification, Origin and Cause	62
Appendix 1: Maps of Fire Area (Topographical, Satellite, Animated)	101
Appendix 2: Statements	103
Appendix 3: Sketches of General Origin Area	104
Appendix 4: ICAD Report Cover Sheet ONLY	106

1. Terminology

Aerial Fuels	All live and dead vegetation located in the forest canopy or above the surface fuels, including tree branches and crowns, snags, moss and high brush.
Aspect	The direction a slope is facing, i.e. its exposure in relation to the sun.
Available Fuels	Those fuels which burn during a passage of a flaming front under specific burning and fuel conditions.
Burning Period	That part of each 24-hour period when fires will spread most rapidly. Typically, this is from about mid-morning to about sundown, or late afternoon.
Combustion	The rapid oxidation of combustible materials that produces heat energy.
Continuity of Fuels	The proximity of fuels to each other that governs the fire's capability to sustain itself. This applies to aerial fuels and surface fuels.
Control Line	An inclusive term for all constructed or natural fire barriers and treated fire edges used to control a fire.
Crown Fire	A crown fire is a fire that has ascended from the ground into usually forest canopy and is advancing from crown to crown in advance of the fire on the ground
Direct Attack	A method of suppression that treats the fire as a whole, or all its burning edge, by wetting, cooling, smothering or by chemically quenching it or mechanically separating it from unburned fuel.
Diurnal	Daily, especially pertaining to cyclic actions which are completed within 24 hours and which recur every 24 hours.
Duff	A mat of partially decomposed organic matter immediately above the mineral soil, consisting primarily of fallen foliage, herbaceous vegetation and decaying wood (twigs and small limbs).
Elevation	The height of the terrain above mean sea level, usually expressed in feet.
Extreme Fire Behaviour	Implies a level of wildfire behaviour characteristics that ordinarily precludes methods of direct control action. One or more of the following is usually involved: high rates of spread; prolific crowning and/or spotting; presence of fire whirls; a strong convection column. Predictability is difficult because such fires often exercise some degree of influence on their environment, behaving erratically and sometimes dangerously.
Fine Fuels	Fuels that are less than ¼ inch in diameter such as grass, leaves, draped pine needles, fern, tree moss and some kinds of slash which, when dry, ignite readily and are consumed rapidly. (Also known as Flash Fuels).
Fire Pattern Indicators	As a fire progresses, it will leave visible marks of its passage on combustible and non-combustible objects in its path. These markings are called fire pattern indicators.

Fire Perimeter	The entire outer edge or boundary of a fire.
Flanks of a Fire	The parts of a fire's perimeter that are roughly parallel to the main direction of spread.
Fuel Moisture Content.	The amount of water in a fuel, expressed as a percentage of the oven dry weight of that fuel
Ground Fire	All combustible materials lying beneath the ground surface including deep duff, roots, rotten buried logs, peat and other woody fuels.
Head of a Fire	The most rapidly spreading portion of a fire's perimeter, usually to the leeward or upslope.
Heavy Fuels	Fuels of large diameter such as snags, logs and large limb wood that ignite and are consumed much more slowly than flash fuels (also known as Coarse Fuels).
Hot Spotting	Checking the spread of fire at points of more rapid spread, or special threat. It is usually the initial step in prompt control with emphasis on first priorities.
Humidity	The measure of water vapour content in the air.
Indirect Attack	A method of suppression in which the control line is mostly located along natural firebreaks, favourable breaks in topography, or at considerable distance from the fire and all intervening fuel is backfired or burned out. The strip to be backfired is wider than in the parallel method and usually allows a choice of the time when burnout or backfiring will be done.
Ladder Fuels	Fuel that can carry a fire burning in low-growing vegetation to taller vegetation. Examples of ladder fuels include tall grasses, low-lying tree branches and shrubs and trees under the canopy of a large tree. This includes both living and dead fuels.
Long-Range Spotting	Large glowing firebrands are carried high into the convection column and then fall out downwind beyond the main fire-starting new fires. Such spotting can easily occur ¼ mile or more from the firebrands' source.
Mop Up	Extinguishing residual fire to make sure it doesn't continue to spread outside of an established containment area. Mop up includes actions like breaking apart smouldering debris, ensuring embers are completely extinguished, or moving burned debris so it cannot roll downhill and ignite previously unburned fuels.
Precipitation	The collective name for moisture in either liquid or solid form large enough to pull from the atmosphere and reach the earth's surface.
Rate of Spread	The relative activity of a fire in extending its horizontal dimensions. It is expressed as rate of increase of the total perimeter of the fire; or as rate of forward-spread of the fire front; or as rate of increase in area, depending on the intended use of the information. Usually it's (forward) rate of spread is expressed in chains or acres per hour.

Relative Humidity	The ratio of the amount of moisture in the air to the amount which the air could hold at the same temperature and pressure if it were saturated; usually expressed in percent.
Smouldering	Behaviour of a fire burning without flame and barely spreading.
Spot Fire	Fire set outside the perimeter of the main fire by flying (or rolling) sparks or embers.
Spotting	Behaviour of a fire producing sparks or embers that are carried by convection columns and/or the wind and which start new fires beyond the zone of direct ignition by the main fire.
Surface Fire	A fire that burns surface litter, debris and small vegetation.
Surface Fuels	All materials lying on, or immediately above, the ground including needles or leaves, duff, grass, small dead wood, downed logs, stumps, large limbs, low brush and reproduction.
Thermal Belt	An area of a mountainous slope that typically experiences the least variation in diurnal temperatures, has the highest average temperatures, and thus, the lowest average relative humidity.
Topography	The configuration of the earth's surface, including its relief and the position of its natural and manmade features.
Vertical Arrangement	The relative heights of fuels above the ground and their vertical continuity, which influences fire reaching various levels or strata (Surface fuels vs Aerial fuels and their relationships to one another).
Wildfire	<ol style="list-style-type: none"> 1. An unplanned wildland fire requiring suppression action, or other action according to agency policy, as contrasted with a prescribed fire burning within prepared lines enclosing a designated area, under prescribed conditions. 2. A free burning wildfire unaffected by fire suppression measures.

2. Fire Investigators

Name: John Foley - Senior Specialist Fire Investigator

Qualifications:

- NZQA: I hold NZQA unit standards in Fire and Rescue Services Vegetation Firefighting including Fire Investigation qualifications.
- NZFS: I joined the New Zealand Fire Service Blenheim Volunteer Fire Brigade in 1987 where I achieved basic and advanced certificates in structural firefighting.
- 1998: I was appointed to the position of Fire Force Controller of the Waihopai Rural Fire Force a position I held for 19 years, until moving into Blenheim.
- 1999: I was appointed Deputy Principal Rural Fire Officer (DPRFO) for the Marlborough District Council (MDC).
- 2005: I was employed full time by the Marlborough District Council as the Emergency Services Officer, and in December 2012 was appointed Emergency Services Manager.
- 2006: I attended a National Rural Fire Authority (NRFA) Origin & Cause Fire Investigation course in Christchurch.
- 2011: I attended an Arson Fire Management course in Melbourne Australia.
- 2012: The Regions of Marlborough and Kaikoura became one enlarged rural fire district under the management of the Marlborough Kaikoura Rural Fire Authority (MKRFA). My day to day role was to manage operations, response, supporting volunteer crews, and training.
- 2013: I attended an Origin and Cause Fire Investigation refresher course in Melbourne Australia.
- 2015: I was engaged to assist with reviewing the National Origin and Cause Wildfire investigation course material and delivery of both level 1 & 2 courses.
- 2015: Appointed to the position of DPRFO Operations for the MKRFA.
- 2016: Lead tutor for the national level 1 & 2 Origin and Cause Wildfire Investigation courses.
- 2017: Appointed to the position of Principal Rural Fire Officer for Fire and Emergency NZ for the Marlborough Kaikoura fire District.
- 2019: Registered Fire Investigator with the AFAC.
- 2019: Attended Bushfire Arson Investigation Course Victoria Police Academy.
- 2019: Attended NSW Fire and Rescue Australia, Motor Vehicle fire origin and cause course.
- 2021: Undertaking International Association of Arson Investigator CFI Trainer.Net modules

Fires Investigated:

Some of the more significant fires I investigated have been:

Date	Location	Event
15/12/2003	Wither Road	Grass fire, escaped burn
24/12/2003	Redwood Pass Road	Grass fire, train
21/01/2004	Tetley Brook Road	Grass fire, power line contacting fence
12/12/2004	Tyntersfield Road	Scrub fire, dumping hot ashes
2005	Waihopai Valley Road	Scrub fire, power line breaking and coming in contact with scrub
12/10/2006	Wharanui Beach Road	Scrub fire, Railways Contractor grinding operation
20/02/2007	Kenningtons Road	Excavator caught fire causing a small forestry fire
24/03/2007	Taylor Pass Road	Forest fire
1/11/2008	Douslins Gully Road	Scrub fire broken power wire
29/11/2008	Pukaka Valley Road	Forest fire
01/12/2008	Kaiuma Bay	Small forestry fire broken power line
14/01/2009	Wairau Bar Road	Scrub fire, campfire
18/03/2009	Waikawa Bay	Scrub fire, fireworks
16/03/2010	Daltons Bridge	Forest fire
Dec 2010	Hawkesbury Road	Escaped burn
04/02/2012	Tapawera, Tadmar Valley	Arson (convicted)
06/04/2012	Tapawera, Tadmar Valley	Arson (convicted)
21/12/2013	Flagg Bay	Tree through power Line
19/03/2015	Wither Hills Farm Park	Forest fire
11/02/2016	Vernon Station	Broken power line
06/06/2016	Mount Studholme	Waimate undetermined
28/11/2016	Okuri Bay	Electrical network
21/12/2016	Wharanui Fire	Undetermined
31/12/2016	Taylor Pass / Wither Hills	Multiple ignitions
10/01/2016	Taylor Dam	Incendiary
14/1/2017	Wither Hills Farm Park	Multiple suspicious fires in and around the Farm Park
2017	Hanmer SH 7 Vegetation fire	Equipment failure
4/2/2019	Waihopai Bank House fire	Harvester
24/2/2019	Moutere Highway fire	Tasman/Nelson Arson (convicted)
30/8/2020	Pukaki Downs	Gas Cooker



CERTIFICATE OF ATTENDANCE

John Foley

attended the

Wildfire Arson Investigation Management Course

on 3 - 8 April 2011

This course provides managerial level police and fire agency wildfire investigators with the skills to gather and manage intelligence, and plan investigations involving a multi-agency team, based on best practice, to achieve more successful investigations and subsequent prosecutions in Australia.

Superintendent Richard Woods
ACT Rural Fire Service
Course Coordinator



An Australian Government Initiative

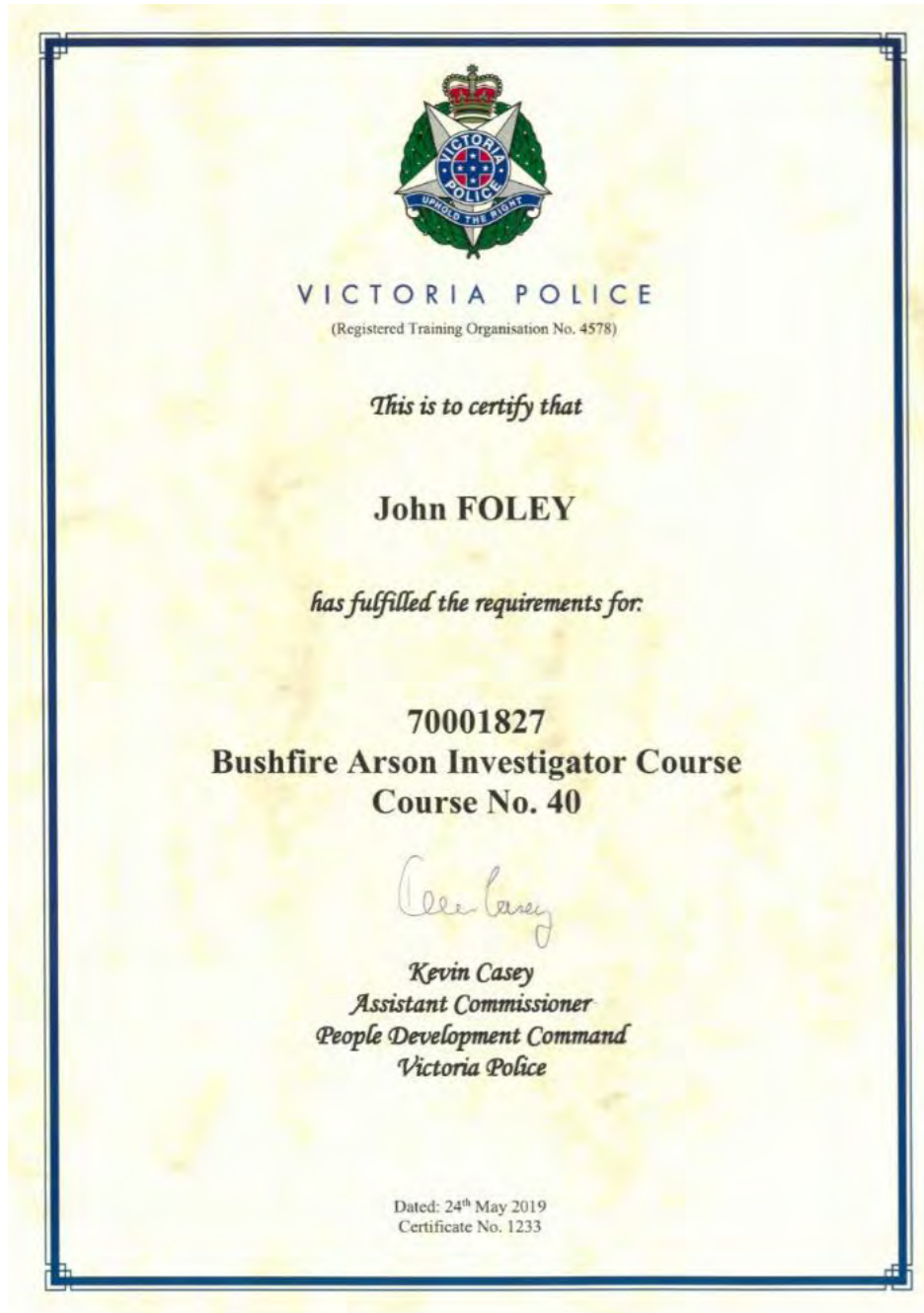
CFI trainer.Net, USA, International Association of Arson Investigators, Inc. (IAAI)

Certificates of completion have been issued in:

- Digital Photography and the Fire Investigator (2020)
- Documenting the Event (2020)
- Introduction in Youth Set Fires (2020)
- Motor Vehicles, The engine and the ignition, electrical and fuel systems (2019)
- Motor Vehicles, Transmission, Exhaust, Brake, and Accessory systems (2019)
- Investigate Motor Vehicle fires (2019)
- 3 Day Motor Vehicle Investigation course (October 2019 NSW Australia – Fire Rescue)
- Post Course theory test completed (18/4/2020)
- Electrical Arc Mapping Basics (2020)
- Fire Investigator scene safety (2020)
- Lithium-ion battery fires (2021)
- Electric & Hybrid Vehicle Fires (2021)

I am a member of the Emergency Management Professionalisation Scheme through AFAC.





Fire Investigator: Craig Chambers – Specialist Fire Investigator

My full name is Craig David Chambers.

I am a Specialist Fire Investigator (Structure and Wildfire) for Fire and Emergency New Zealand (Fire and Emergency).

I have served with the New Zealand Fire Service, now Fire and Emergency, since 1992 and have been responsible for determining the origin and cause of fires since 2016.

I have completed and passed the following training courses to achieve the FENZ qualification of Specialist Fire Investigator for structures and wildfire. This qualification is recognised by the Emergency Management Professionalisation Scheme (EMPS) that has been developed and is maintained by the Australasian Fire and Emergency Service Authorities Council and as such I have been appointed as a Registered Fire Investigator for this international body.

- New Zealand Fire Service Level 2 Structure Fire Investigation Course (2016)
- Unit Standard 14556 'Apply Fire Weather Index Data' (2016)
- Unit Standard 4648 'Demonstrate Knowledge of Vegetation Fire Behaviour' (2016)
- Fire and Emergency NZ Level 2 Wildfire Investigation Course (2017)
- Fire and Emergency NZ Inspector Training and Appointment (2017)
- Australasian Association of Fire Investigators Conference (Wildfire) (2018)
- Appointed as a Registered Fire Investigator as part of the Emergency Management Professionalization Scheme
- Canberra Institute of Technology Advanced Diploma Public Safety (Fire Investigation)

I was appointed as a FENZ Inspector under section 166 of the Fire and Emergency New Zealand Act 2017 on 1 July 2017

As a specialist Fire Investigator for FENZ I am required to respond to significant fires in accordance with Operational Instructions with the principal objectives being to co-ordinate, supervise or undertake investigations into major and serious fires, including fatal fires, by determining the point of origin of a fire and from this establishing the cause of the fire. As a result, I have attended and investigated over 120 fires in the build environment.

I have read the Code of Conduct for expert witnesses, Schedule 4 of the High Court Rules 2016 and agree to abide by them.

Significant Fires Investigated (Natural Environment)

- Mt Horrible Arthurs Pass (2017)
- Waimak Bluffs Arthurs Pass (2017)
- Waimarama Rd Hastings (2017)
- Knights Rd Rolleston (2017)
- Rock and Pillar Range Otago (2018)
- McLeod's Rd Burnside Dunedin (2018)
- Pineapple Walking Track, Flagstaff, Dunedin (2019)
- Stanton Fire Burkes Pass (2020)
- Pukaki Downs – 30 August (2020)

The Authors of this report would like to acknowledge not only the loss of property suffered but also the psychological stress this incident has had on the Lake Ōhau and surrounding Communities.

Recovery from such incidents for communities can be complex and is not a one size fits all model, the medium to long term recovery will take many years.

A new normal will be forged from this disaster, as the community rebuilds both homes and social structures. This will be a journey for both the community and supporting agencies such as Fire and Emergency where we will need to engage and work closely together.

We would also like to acknowledge the support received from community members imparting their local knowledge of the area and in providing information of what they witnessed on the morning of the fire.

Their information, along with the comprehensive investigation, has assisted to formulate the final report.

We appreciate waiting for the report to be finalised has caused some stress to members of the community. Fire and Emergency has an obligation to ensure we undertake a thorough investigation to determine the most probable cause of the fire. None more so where a report may identify individuals or other parties responsible for the ignition of the fire.

This report has been written after evaluating all of the evidence identified during the physical scene examination, interviewing witness, Agency support and provided documentation, and the use of Prometheus Modelling to identify an estimated fire growth model that is based on all the most current information at the time.

If new information becomes available, Fire and Emergency New Zealand would consider this to determine whether that would have any impact on what has been identified as the most probable cause.

3. Fire Investigation Terms of Reference

1. Incident Name Lake Ohau CAD Number F308895	2. Fire District Otago Fire District	TERMS OF REFERENCE
3. Location and Summary of the Incident <ul style="list-style-type: none"> • A fire was reported as pine trees on fire behind the Ohau village. • The time of the first call was created at 03:06:59, the first responding appliance from Twizel went K1 at 03:16:33 at arrived on scene at 03:39:25. • On arrival the first responding brigade were confronted with a very dynamic and fast moving fire through the village and surrounding area. • The Ohau Village has an Evacuation/Tactical plan in place and activated their siren to alert the village residents of the approaching fire, from there they implemented the plan and managed to self-evacuate. • The responding brigades were confronted with many structures on fire and carried out defensive work on structures they could save. • The fuels around the village vary with a combination ranging from heavy to light fuels. • Many structures were lost during this event. • A National Incident Management Team has been set up to manage this significant fire which has caused considerable structure loss. • Because of the nature of this event, level 3 and support investigators have been deployed. 		
4. Names and Contact Details of Key Personnel Principal Rural Fire Officer (Acting for the Region Manager, Mike Grant) Graeme Still [REDACTED]		
5. Agreed Terms of Reference <ol style="list-style-type: none"> 1. Before entering the Fire Ground <ul style="list-style-type: none"> • report to the Incident Controller or Principal Rural Fire Officer on all aspects of the fire investigation • receive a briefing on the circumstances of the fire and any safety measures that are in place • obtain a current Incident Action Plan (IAP) • ensure that personal protective clothing is worn at all times while on the fireground. 2. Determine the Origin and Cause of the Fire including <ul style="list-style-type: none"> • tracking Fire spread to determine impact on structures • taking steps initially to secure the scene • thorough documentation and collation of evidence • record and photograph burn and char patterns • describe the path of fire travel • report on the impact of the fire on property and the environment. • fire behaviour • canvass witnesses • thoroughly document a description of the general area and point of origin of the fire 		

<ul style="list-style-type: none"> secure and document factual evidence on the cause or most likely cause of the fire 	
<p>3. Advise the PRFO when:</p> <ul style="list-style-type: none"> specialists or other experts are required i.e. electrical engineer requesting the police if arson is suspected or other criminal activity is suspected offences under the Fire and Emergency Act 2017 relating to the lighting of fires are determined a formal interview is required with a person Provide a preliminary finding by 05/11/2020 	
<p>4. Completion:</p> <ul style="list-style-type: none"> provide a comprehensive written report on all aspects of the investigation as per the Fire and Emergency NZ wildfire template by 5/12/2020.....(date etc) 	
<p>6. Specific Exclusions:</p> <p>The terms of reference do not include:</p> <ul style="list-style-type: none"> Talking or discussing the fire origin or cause with the news media or anybody not entitled to such information The carrying out of formal interviews or taking of formal statements (not to be confused with canvassing witnesses) 	
<p>7. Authorised By:</p>	
Fire District	Region Manager Te Kel
Name	Delegated by the Region Manager to Graeme Still
Agency Contact:	Graeme Still
Position	PRFO
Contact Ph:	[REDACTED]
Signature	<i>G.R. Still</i>
Time/Date	04/10/2020
<p>8. Accepted by Wildfire Investigator</p>	
Name	<i>John Foley</i>
Ph:	[REDACTED]
Signature	<i>John Foley</i>
Time/Date	<i>10/10/2020</i>

4. Executive Summary

4/10/2020

Incident Report Time: 03:06:59

Location: Lake Ōhau Road Lake Ōhau – Waitaki District

Area Burnt: 5043 hectares

GPS Co-ordinates:

- Specific Origin Area -44.256085, 169.818040 (decimal degrees DD)
- Point of Origin
- Other (Explain)

Property Owner: Area of ignition, Department of Conservation

Incident Injuries: Nil

Type: Nil **Number:** Nil

4.1. Incident Information

Investigator(s): John Foley, Craig Chambers and Electrical Engineer Tony Mitton.

Supporting/Other Agencies: Police, Department of Conservation, Network Waitaki

Classification of Fire Cause: Accidental

Ignition Source: 11kV electrical short circuit

The following ignition sources were considered during this investigation:

- Electric fences
- Campfires
- Lightning
- Smoking
- Debris burning
- Incendiary devices / accelerants
- Equipment use
- Children
- Miscellaneous
 - Power lines
 - Glass / Bottles refraction / Magnification
 - Firearms use
 - Spontaneous combustion
 - Vehicle exhaust

With the sun setting over Lake Ōhau at approximately 19:50hrs, unbeknown to the residents within the next 24 hours, 48 homes and structures would be destroyed and another six severely damaged by a major wildfire.

Emergency preparedness was well established and tested within the Lake Ōhau community - the community had a plan and like most plans you don't ever expect to use it.

The plan and the response by those staying within the community on the morning of 4 October most certainly avoided injuries and possibly loss of lives.

An area of approximately 5043ha encompassing farmland and private properties both within the Lake Ōhau Village (the Village) and surrounding area, along with Department of Conservation land would eventually be burnt.

The fire's perimeter measured 54km's in length. The fire also destroyed infrastructure such as electrical power lines, fencing, reticulated water systems and other infrastructure required to sustain a community such as the Ōhau Village.

Despite significant rainfall leading up to the fire, there was little change to the degree of curing in the grass fuels. Warm weather and frosts assist with reducing the moisture content of grass fuels.

The combination of dry weather and low moisture content within the fine to medium fuels and a continuous available fuel load, assisted in the ignition and spread of this wind-driven fire.

The availability of forest fuels was a direct result of prolonged periods of dryness which exacerbated the natural drying of the fine fuels and the medium fuel component. The larger diameter fuels were not completely consumed by the fire due to their moisture content compared to the fine to medium fuels.

Strong winds experienced on the night are typical in the spring, although the strength and intensity of them during this wind event were extreme.

On the night of the fire, Lake Ōhau was experiencing some of the strongest winds that local residents have ever recalled with some suggesting wind speeds may have reached 160km/h. On 4 October, the Mid-South Canterbury Portable (MSCP) Remote Automatic Weather Station (RAWS) at Pukaki Downs recorded a wind gust of 127km/h at 03:30hrs.

The MSCP RAWS was relocated south of the Village around midday on 5 October and was recording site data from 13:27hrs. At 15:30hrs a gust of 114.5km/h was recorded. Further, on 6 October strong wind gusts of 163.5km/h at 04:29hrs and 167.2 km/h at 05:44hrs were also recorded.

One long-time resident reported that the wind was so strong leading up to the fire that he thought his roof would lift as he lay in bed in those early hours.

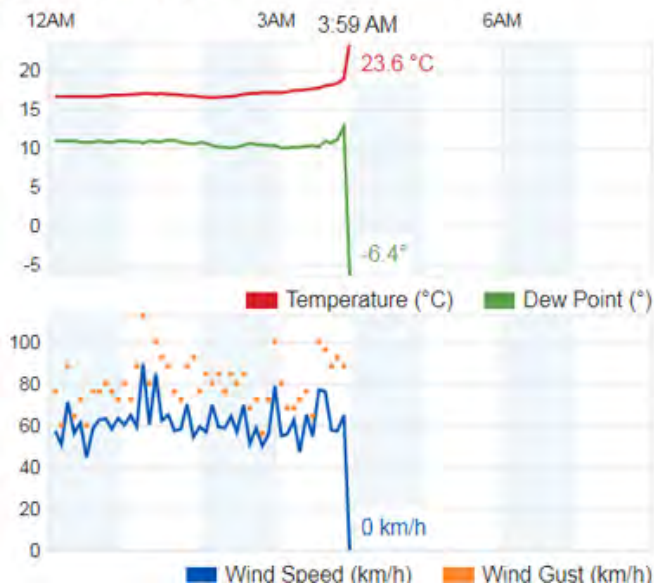
The surrounding topography of the high mountains, the lake, surrounding slopes, and several gullies acting as chimneys, all played a part in the way the wind swirled around as it was pushed in a number of variable directions.

Residents have reported experiencing a westerly wind while others have said it was northwest depending on their location.

Without any calibrated RAWS based in the immediate area, we have relied on local residents to provide their interpretation on what the weather was doing at the time.

We have been able to source local home weather station data that provides a picture of how windy it was on the night. The graph below shows recorded variable wind speeds ranging from 60-90km/h gusting 80km/h to over 100km/h. The station stopped recording when it was destroyed by fire.

October 4, 2020



The weather conditions during the night of 3 October into the morning of 4 October were:

- Wind was variable, a westerly was blowing over the top of the mountain and a northerly was also being blowing down Lake Ōhau.
- Very strong winds and extreme gusts at times.
- We have used weather data taken from the three closest RAWS to Lake Ōhau.

Pukaki Aero, which is located approximately 20 kms to the northeast of Lake Ōhau, where wind speeds were recorded, do not reflect what was occurring on the night of the fire in the Lake Ōhau area.

Data from the MSCR RAWS situated at Pukaki Downs and the Glen Tanner RAWS situated at the top of Lake Pukaki was also interrogated.

Due to its location, the Pukaki Aero indices may not provide a true reflection of what Lake Ōhau fuel moisture codes and weather observations would have been on the night. Therefore, we are unable to predict a true reflection of the fire behaviour. Variation of the indices at Lake Ōhau to Pukaki Aero would be due to topographical influences of the mountain range on general winds and rain. Lake Ōhau may also have some influence on the relative humidity (RH) percentage.

Data from Pukaki Aero, Glenn Tanner and the MSCR RAWS does provide some indication of what the fire behaviour may have looked like at Ōhau.

Although data recorded at these stations may not be totally reflective of the weather occurring at Lake Ōhau, they do provide some insight into the wind speeds being experienced in the district that morning.

The fire caused significant structural loss both in the surrounding countryside and in the Village where the greatest structural loss occurred.

Scion Research was engaged to undertake Prometheus Modelling to estimate the fire’s growth and direction of travel in the initial stages of the fire.

5. Process of Investigation

On Sunday 4 October two fire investigators were requested to undertake the investigation into the origin and cause of this fire.

A Safe Forward Point (SFP) was established 5.5kms south east of the entrance to the Village on Lake Ōhau Road.

Investigator Craig Chambers was first to arrive at the SFP at 12:35hrs. After receiving a briefing, Craig contacted the first 111 callers (witnesses 1 and 2) and arranged to meet with them. He then travelled to Twizel and completed an informal interview. During this interview the witnesses identified where they first saw the fire. Craig travelled back to the SFP and met with the Incident Controller. Craig requested the area to the west and north of the Village to have restricted access for all personnel in an attempt to preserve evidence for fire investigation purposes.



Fig. 1. Lake Ōhau map above.

The Incident Controller identified there had been work completed on the electricity infrastructure earlier in the day by lines staff from Network Waitaki who were still on site at the SFP. A conversation was had with Network Waitaki staff who advised they had made the power lines safe for fire crews and had undertaken some repair work to allow for the lines to be made live when Fire and Emergency allowed.

Repair work was carried out on pole 35693 to a cross-arm that had lost a bolt. Lines feeding the Village were also disconnected at ABS1298, while another set of lines were also dropped at LK4755.

Investigator John Foley arrived at 17:15hrs and received a briefing from Craig Chambers on the information known to date.

While there was still daylight, the investigation started southwest of the Village. Access to this location was down a gravel track at 1957 Lake Ōhau Road. The track took us 2.5kms along a maintenance track heading in a south easterly direction back towards the Village.

While travelling in, there were clear signs of the fire's direction of travel. On the right was a large area of what would have been grazing land burnt out. On the left were what appeared to be blocks of trees, some plantation and wilding pines.



Fig. 2. Looking northwest from the south side of the Village. Grass fuels to the left / forest fuels to the right.



Fig. 3. The yellow circle in the image above is the location of where the investigation was started. The red arrow indicates the approximate direction one of the fire runs has come from.



Fig. 4. Image above identifies Network Waitaki 11kV lines (solid yellow line) and the private network (dotted yellow lines). The Network Waitaki infrastructure was positioned along the maintenance track used to access the investigation start point.



Fig 5. Left identifies the starting point of the scene investigation. While travelling into our starting point there were a large number of macro burn indicators. Macro burn indicators are the larger more obvious indicators that appear on objects such as trees, fences and rocks.

On inspecting the area around our starting point, fire pattern indicators such as protection, freezing, angle of char and white ash were all visible and indicating the fire had come from a west/northwest direction.

Following the Fire patterns, we came across a fallen power pole HF2879/T5723 with a transformer attached (refer to Fig.4). The pole was situated at the end of the private line running behind a plantation of trees. A number of other poles along this line were damaged and the lines themselves were laying on the ground.

Network Waitaki had disconnected this feeder from their network at pole LK4755.

We continued to follow the fire patterns back toward Freehold Creek, however, by the time we reached Freehold Creek it was too dark to carry on the investigation.

The following morning, we organised a time to meet up with the second 111 callers (Witnesses 3 and 4) [REDACTED]. On their arrival at the SFP we travelled up to their property to view where they had first seen the fire. On arriving at their property, it was obvious how lucky this couple had been not to have lost [REDACTED]

Witness 4 described the fire as being on the east side of Freehold Creek out on the flats and moving very fast in a southeast direction (refer to Fig.6 following page).

The Witness thought the fire was going to go past their property without burning into it. Over time he could see the fire spreading in their direction.

Witness 4 described the fire as a very long elliptical shape that appeared to be burning between Parsons Creek and Freehold Creek. It had also crossed Freehold Creek out onto the grass flats [REDACTED]

The distance described measures approximately 1.5km in length. We appreciate this was viewed at night and is not exact but does place the main fire between Parsons and Freehold Creeks.

Witness 4 was then asked if they could draw a location of where they saw the fire at the time using a mapping programme provided by John Foley called Fire Mapper. They then drew the image on the following page to the best of their knowledge (refer to fig .6).

Witness 3 who made the 111 call awoke noticing a very bright glow. Thinking it was the moon they believe they went back to sleep. Waking again, Witness 3 got out of bed to see what was so bright, but the hallway didn't provide a clear view of what was creating the light. Witness 3 woke Witness 4 who walked up the drive and was confronted by a large fire burning on the flats and back towards the hills. Witness 3 made a 111 at 03:12:54hrs.

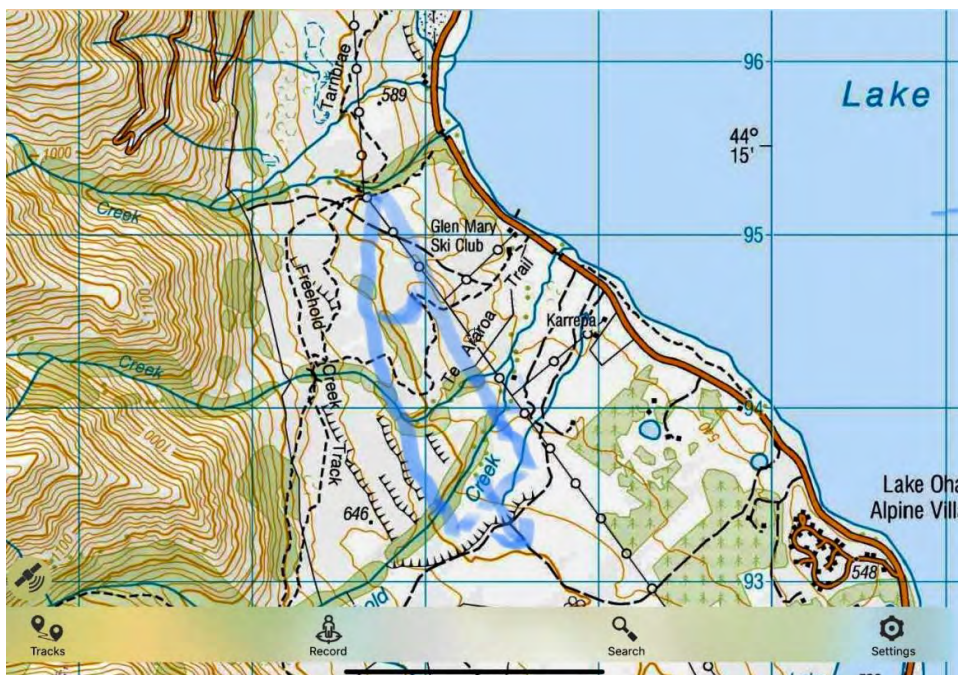


Fig. 6. Drawn by Witness 4 on the 5 October at 13:43hrs.

Craig Chambers spoke with the first 111 caller (Witness 1) who confirmed at the time of making the 111 call the fire was west of the Village in the distance.

The first 111 call was made at 03:06hrs. Witness 2, also living at the same address as Witness 1, has provided the image below (fig 7) of where they believe the direction of the fire was at the time of the 111 call. Witness 1 believes the fire was out near the end of the yellow shading, maybe on the end of the furthest trees. This places it in the general area Witness 4 indicated.



Fig. 7. Drawn by Witness 2.

An investigation team of two was initially established to undertake the investigation, with a Terms of Reference being provided and signed.

John Foley - Senior Specialist Fire Investigator (Wildfire) – Lead Investigator.

Craig Chambers - Specialist Fire Investigator (Wildfire and Structural).

An additional five investigators were brought in to undertake the structural damage inspections in the Village and surrounding area.

This report focuses on the origin and cause of the fire, not of the structural property losses that occurred within and outside the Village.

External Scene Examination:

The area burnt was approximately 5043h. Witness reports indicated the fire was northwest of the Village when reported. We decided that to confirm this we would start behind the Village in a southerly direction.

To access this location, Craig Chambers and John Foley (we) drove down a maintenance access track that took us onto the south side of the Village. While driving down to the area where we started the investigation, a number of Macro Indicators stood out indicating the direction of travel the fire had come from.

On reaching the area southeast of the Village we began to track our way across the landscape back towards the mountain range in the west. By the time we reached Freehold Creek it was dark, so we finished for the day.

On the 5 October, a number of fire investigators representing various insurers had assembled at Twizel and were keen to inspect the area. [REDACTED]. We agreed to take them into the area where we had started our investigation to allow them to have a look at the topography, fuel loadings and familiarise themselves with the area. By the time we completed this site inspection it was late in the day and we agreed to meet up in the morning to recommence the investigation.

The morning of 6 October proved to be extremely windy and delayed accessing the fire ground due to health and safety concerns with flying iron and loose debris. By the time we were given approval to enter the fire ground it was late morning and we had also been joined by [REDACTED], Fire Investigator representing [REDACTED].

Investigators entered the fire ground on the opposite side of Freehold Creek where we had completed our investigation on the evening of 4 October. As Freehold and Sawyer's Creeks were only 160m apart and all burn indicators were still indicating the fire had come from the north, everyone decided it was not necessary to climb down a very steep bank and cross the creek.

Looking down on the burnt area below, there were clear macro indicators identifying the fire had come from a northerly direction above Sawyer's Creek.



Fig.8. Left shows the short distance between Sawyer's and Freehold Creeks. This area was not walked through due to access issues.

Burn indicators in the area identified the fire had travelled from a WNW direction above Sawyer's Creek.

The red arrow identifies the direction of travel the head fire took burning across both Sawyer's and Freehold Creeks towards the Village.

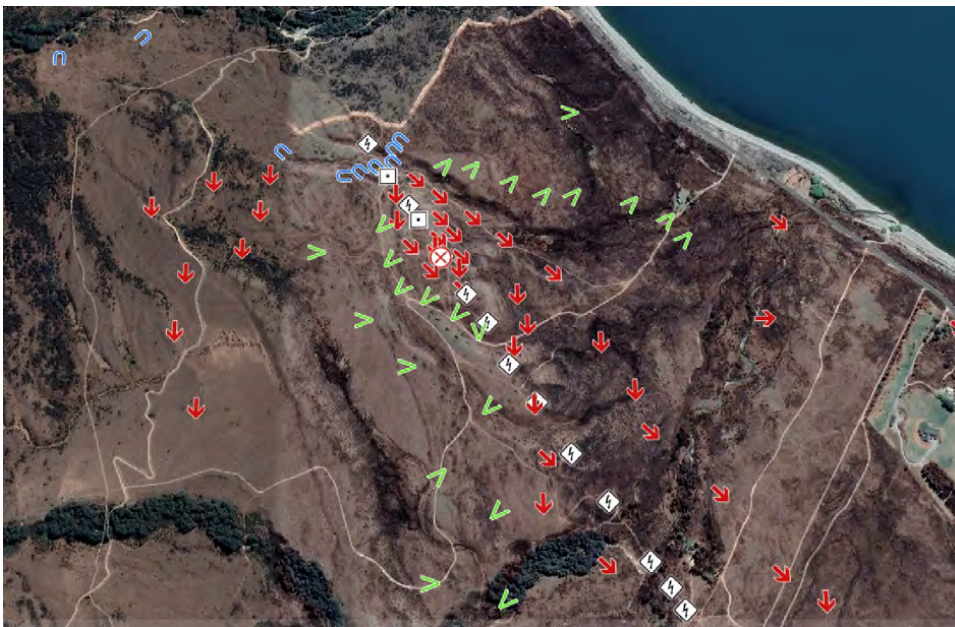


Fig. 9. Fire direction Red arrow – head fire, Green V – flanking fire (Standard colour for flanking fire is Yellow, the Fire Mapper Programme has changed these colours to green), Blue U - backing fire, White diamond power pole locations, White square area of interest, and Red circle specific origin area.

Zig zagging our way across the landscape from Sawyer's Creek in a northerly direction, we mapped head fire runs and areas where the fire has transitioned into flanking fire (refer to fig.9).

Fire pattern indicators were leading us back towards a spur which the 11kV power lines ran along.

At 1500hrs we called it a day as we had a meeting to attend at 16:30hrs.

On walking out, we came across a power pole that had no plastic identification number as it had burnt off. Inquiries identified this pole number as 17406 and was replaced at a later date with pole number 40456. The support stay had also burnt off and was lying on the ground. Near the base of the pole was a broken brown insulator, this looked freshly broken. We left the insurance investigators on site returning to Twizel for our meeting.

Later that evening, we met with the rest of our Fire and Emergency investigation team. Murray Milne-Maresca, Specialist Fire Investigator for Fire and Emergency had been tasked with completing an examination of the fire ground to determine if there were any traces of 'Volatile Organic Compounds (VOC's) present.

During this process, Murray encountered a gentleman who was wearing some form of Lines Company overalls and carrying a camera with a large lens.

He identified himself as an electrical engineer and had located what he thought may be the cause of the fire. He told Murray he had photos and showed him the photo on the back of his camera. The photo clearly showed some form of damage to an electrical conductor (refer to fig. 10). Two other Fire and Emergency specialist Investigators were also present at the time, Darren Aitkin and Grant Campbell.

Being made aware of this damage, we decided we should try and locate this before returning to our initial investigation. There had been a discussion with [REDACTED] for Network Waitaki, who had advised he wanted to have his crews enter the north area replacing lines where damage had been identified.

The Lines company had flown the 11kV network on the 5 October so had probably identified the damage on the line.

Craig Chambers and John Foley (we) drove into the general area identified by Murray Milne-Maresca, Fire and Emergency Specialist Fire Investigator, of where the unidentified electrical engineer had described taking the photos.

On arrival we looked at the fire pattern indicators on the ground identifying head fire runs, flanking and backing fire. An area was identified as low intensity burning where the fire had spread out from this location.



Fig. 10. Rear of electrical engineer's camera.

On looking at the lines overhead there was nothing obvious and certainly nothing that looked like the photograph they had been shown.

We climbed a bank to gain a better view of the lines but there was still no obvious damage. Undertaking another inspection of the ground only brought us back to the same area originally identified.

We climbed the bank again to gain a better view of the lines. By this time, the sun had become brighter allowing the lines to stand out better. On the centre conductor it became clear to view the damage that had been identified by the electrical engineer.

On returning to cell phone reception, John Foley phoned Geoff Douch, CEO of Network Waitaki, to advise there had been damage located on the centre conductor. John Foley also advised he was not saying this was the cause of the fire just an area of interest that needed to be looked at.

A discussion was had around lowering the lines for a closer inspection. John Foley sent a follow up email to Geoff Douch the next day with a photograph and GPS reference attached to identify the exact location being discussed.

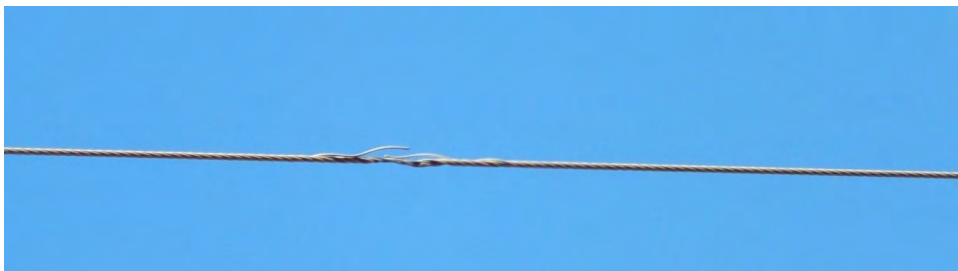


Fig. 11. Photo taken by John Foley the morning of the 7 October.



Fig. 12. Left is looking NW across the span of interest.

On returning to the fire ground the insurance investigation team continued on their own. We recommenced our investigation from where we had finished the previous day at pole number 17406.



Following the fire pattern indicators back in a northerly direction, we came across pole 35693 that appeared to have arc or heat damage on both metal stay arms. Other than the arc marks the pole appeared in good condition.

On checking the pole number 35693, this was the pole identified by Network Waitaki as being the pole they had replaced a bolt that had fallen out.

As previously identified this work was carried out on the morning of the fire.

Fig. 12a. Identifies where the investigation recommenced at pole 17406.

There were signs of low intensity burning around pole 35693 and the surrounding area. This appeared patchy with areas of grass that hadn't burnt. This burning could have occurred either by an ember landing in the dry grass causing a spot fire from the advancing fire coming from the north, or there had been some form of ignition source available on the pole to have started the fire, spreading out from this location.

As there was nothing obvious we flagged the pole as an area of interest and continued to track the fire indicators north.

On approaching pole 870452 that sits on the highest point, before spanning 175m across to pole 821215 on the far side of the gully, we noticed a number of different directional fire patterns.

There were indicators the fire had travelled from the north and flanked or back burnt up the slope to the top of the highest point where pole 870452 sits. On walking around the pole, we could see fire indicators where the fire has burnt up the slope from the north, gone around either side of the pole and burnt down valley towards Freehold Creek.

The investigation process at this point had identified a number of areas that required further investigation with the 11kV electrical network between Parson's Creek and Freehold Creek (refer to fig 13). The areas to be investigated further are noted below:

- pole 40456 (old pole No. 17406) broken insulator on the ground
- pole 35693 signs of arcing and bolt replacement
- the span and area between poles 870452 and 821215.

The length of the electrical network in question covers approximately 560m over five spans between six power poles.

Span distances are:

Pole 870461	–	Pole 17408	71m
Pole 17408	–	Pole 35693	96m
Pole 35693	–	Pole 870452	126m
Pole 870452	–	Pole 821215	175m
Pole 870461	–	Pole 40456	99m

The above measurements were recorded using a handheld Nikon Ranger Finder.



Fig. 13. Three areas of interest, span between poles 870452 and 821215, Pole 35693 and surrounding area, and pole 17406.

We continued past the span of interest in a WNW direction to identify what fire pattern indicators were present. This process would indicate the fires direction of travel such as a backing fire, flanking and any additional head fire runs.

We identified indicators that showed head fire travel in a southerly direction down valley towards Quailburn. This was due to a wind change the morning of 4 October. During this wind shift, the fire was pushed upslope on to the mountain faces. There were several head fire runs that could be seen providing a clear picture of the fires path of travel.

General Origin Area - Internal Scene Examination:

After looking externally at the head fire runs and identifying areas of transition into flanking fire, we began our internal investigation in an area we identified as the general origin area. This was situated along a spur where the 11kV electrical network ran. This covered approximately 560m in length and encompasses five spans between six power poles.

The first area we investigated was the area we had identified under and around the lines on the span between pole 870452 and 821215. It was agreed to lower the conductors to enable them to be inspected.

During this process there were a number of interested parties present. These included Network Waitaki Staff, and appointed Fire Investigator, Insurance Investigators and their Electrical Engineer, Fire and Emergency Investigators and Electrical Engineer, Department of Conservation staff and Police.

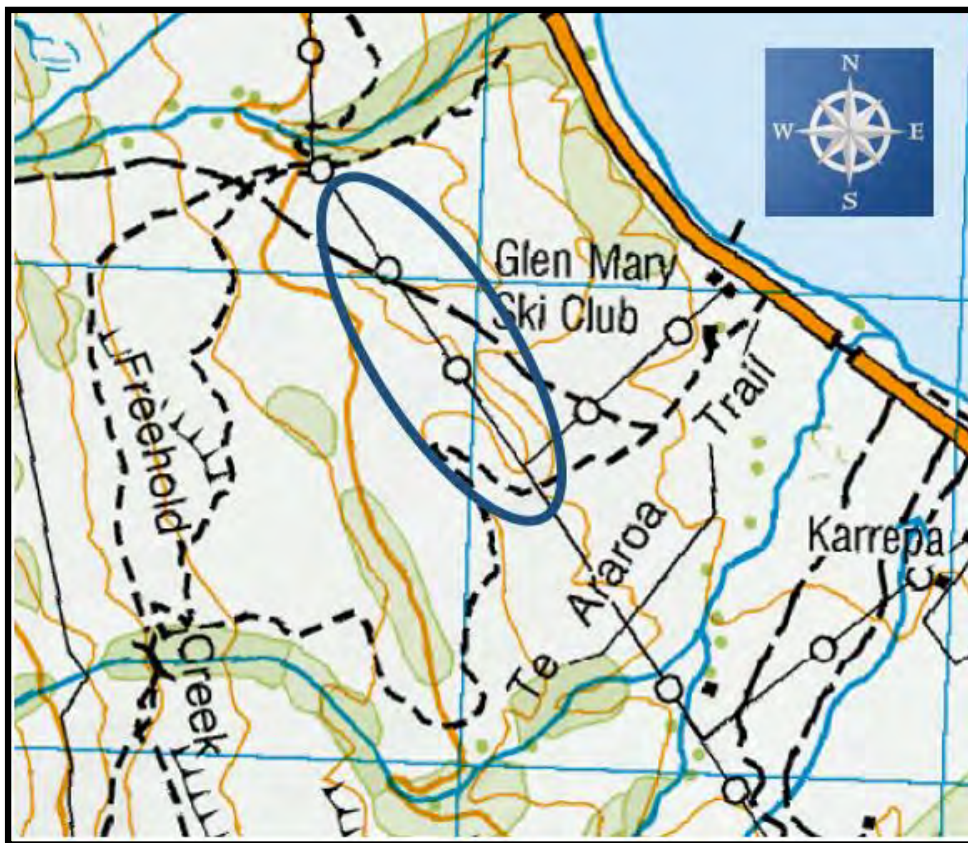


Fig. 14. Topographical map identifying General Origin Area (ellipse).

On inspecting the lines, John Foley requested through Geoff Douch CEO of Network Waitaki, that Fire and Emergency would like to secure the areas of damage on the conductors as separate exhibits along with the remaining sections of conductor. To maintain a chain of custody, it was agreed the exhibits would be held and secured by the Oamaru Police. Exhibits were secured in tubes and the coils wound up being handed to John Foley then to Police on scene. A total of approximately 500m of cable was secured (refer to Fig. 15 & 16).

Although there was damage to both the centre YELLOW phase (white tape) and minor damage to the lake side RED phase, none of this could be put down to an electrical arc until further expert opinion was sought. (Note: White tape was used to label the YELLOW phase as there was no yellow tape available.)



Fig. 15. Above exhibit cables secured in tubes.



Fig. 16. Above longer lengths of coiled conductor.

After investigating this area there were still a number of areas that required information gathering. They were:

- arcing on pole 35693 and the bolt that was replaced
- pole 17406 with the broken insulator on the ground
- what other ignition sources may have been responsible for the fire.

While the investigators remained in the Lake Ōhau area, they spoke with community members that wished to share information of what they knew of the fire on the night. While community input was greatly appreciated, the information forthcoming was mainly related to what occurred well after the fire had been reported.

One of the pieces of information gathered from community members present on the night was the appalling weather, with strong winds and severe wind gusts.

Five witnesses were identified as key to this investigation especially Witnesses 3, 4 and 5 who saw the fire on the flats east of Freehold Creek (refer Appendix 2).



Fig. 17. The map above identifies the Department of Conservation Land (PCL) in dark green.

The yellow ellipse is the approximate location of the general origin area.

Structural Property Loss:

The wildfire that occurred on the morning of the 4 October was the direct cause of loss of 48 residential structures and varying damage to numerous other buildings.

Due to the extreme fire behaviour, responding fire crews were disadvantaged by the magnitude and dangerous nature of the fire. They did, however, show exceptional operational awareness to rescue stranded residents and save any property that was saveable (refer fig. 18. below).



Fig. 18. A crew of firefighters entered this smoke-logged building, accessed the roof void by removing sections of ceiling in the lounge and kitchen and applied water into the roof space. This photo is taken in the roof space.

As identified above, there was varying damage to a variety of structures. This was (in the investigators opinion) primarily due to ember transfer travelling ahead of the main fire front that ignited plantings around buildings, flammable attachments such as decking, and fencing attached to buildings and roof spaces due to landing in guttering. All of which created enough heat transfer via radiation or conduction to ignite the structure.



Fig. 19. An example of a building that was destroyed.



Fig. 20. An example of a partially damaged building due to ember transfer.

Other structures were ignited by the radiant heat from a neighbouring structure that was already on fire, while some were directly impacted by the fire front as it passed. As identified in other sections of this report, the 'rate of spread' of the fire was exceptional due to weather and fuel conditions. The intensity and spread became more intense upon reaching the heavier fuels to the north and west of the Village and surrounding land parcels. Large areas of the forestry have become a sustained crown fire producing extreme head fire intensity, preheating the air and fuels in front of the head fire with an ember storm raining down hundreds of metres ahead of the advancing fire.



Fig. 21. Looking west/northwest toward the fire origin. Note: the ellipse identifies the heavy fuels the fire passed through at the rear of the Village that assisted in creating the extreme fire behaviour.

A team of Fire and Emergency fire investigators with both natural and built environment investigation qualifications, determined that all the damaged structures assessed as part of the wider origin and cause investigation, incurred varying degrees of damage as a direct result of this wildfire.

6. Fire Spread and Behaviour

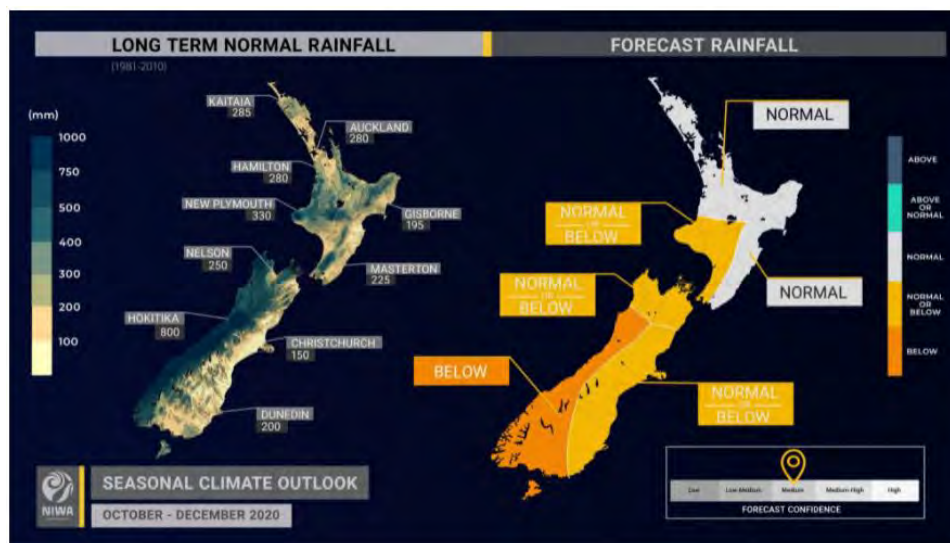
6.1. Weather Factors

Although significant rain had fallen in the Ōhau area, there had been little effect on the degree of curing of the grass fuels. Warm weather and frosts assisted in reducing the moisture content in the grass fuels. The combination of dry weather, low moisture content within the fine to medium fuels and a continuous available fuel load assisted in the ignition and spread of this wind-driven fire.

The availability of forest fuels came about through a combination of prolonged periods of dryness which exacerbated the natural drying off of the fine fuels and the medium fuel component. The larger diameter fuels were not completely consumed in the fire due to their moisture content compared to the fine to medium fuels.

The strong winds on the night are typical in the spring, although the strength and intensity of them during this wind event were extreme.

The following information was taken from the NIWA Seasonal climate outlook page for October to December 2020.



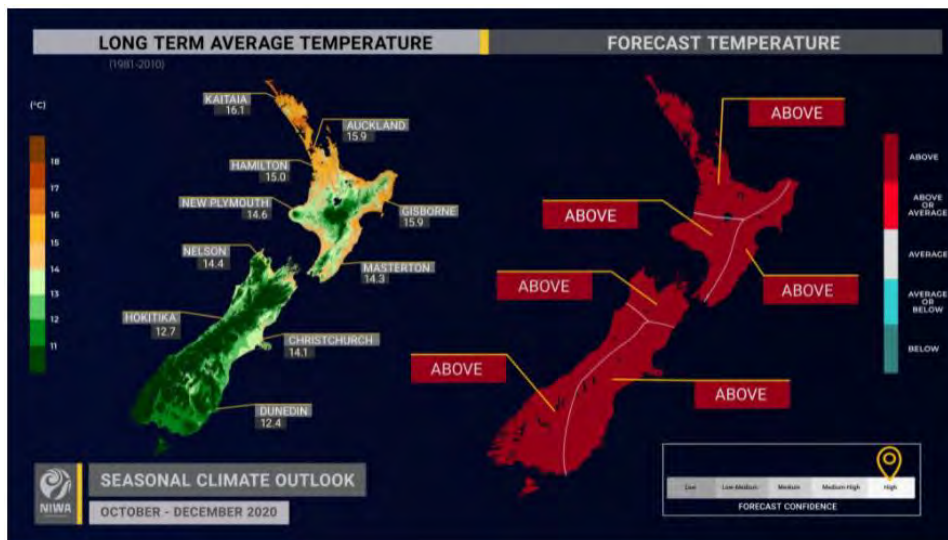
This information identifies the predicted climate outlook for the West Coast, Alps and foothills, inland Otago, and Southland.

Probabilities are assigned in three categories: above average, near average, and below average. The seasonal climate outlook shows:

- temperatures are very likely to be above average (70% chance)
- rainfall totals are most likely to be below normal (50% chance)
- soil moisture levels and river flows are equally likely to be below normal (40% chance) or near normal (35% chance).

Although predicted to be drier than normal, 344.9mm of rain was recorded for the months of July-October at Ōhau Station at the head of the lake. The rain had no apparent impact on the grass curing.

Where the rain did help, was by increasing the soil moisture level of the duff layer and of the deep compact organic layers preventing the fire from becoming deep-seated.



Fire Behaviour:

Fire behaviour is determined by the surrounding conditions, influences and modifying forces of topography, fuel and weather. Unfortunately, there were no calibrated Fire and Emergency RAWS in the Ōhau area. Wind speeds taken from three RAWS provided some idea of what was occurring on the night. As these are some distance away, they may not provide a true reflection of what was happening in the Ōhau area.

With average wind speeds of around 50km/h gusting over 100km/h, the fires Rate of Spread (ROS) once established and running at its equilibrium was extreme.

Contributing factors for the fire to spread were:

- Weather - strong winds making this a wind-driven fire.
- Time of day - fighting any fire is dangerous but fires at night create many more safety issues for responding crews. The crews that responded to this fire put themselves at great risk to save what was savable. These dangers not only came from the fire itself but from flying debris such as roofing iron.
- High available fuel load (AFL) - both in grass, scrub and forest fuels.
- Topography - steep mountains, gullies squeezing the wind and increasing its speed as it blew down across the lake.

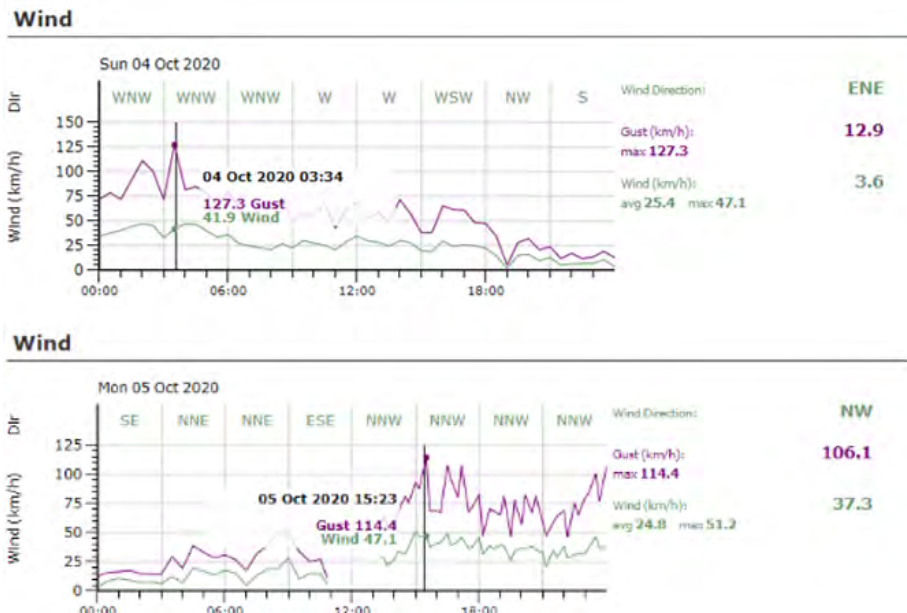
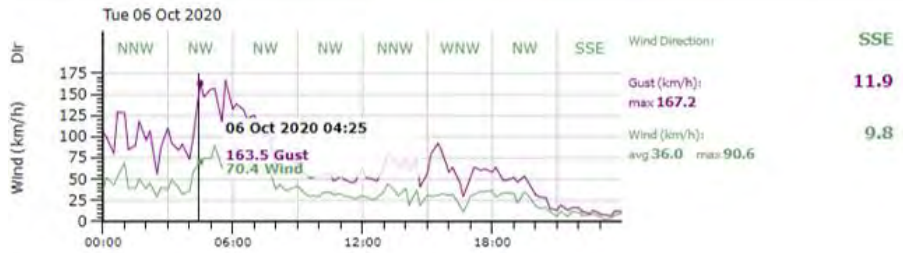


Fig. 22. Mid-South Canterbury Portable RAWS wind graphs above.

On the night of the fire the Mid-South Canterbury RAWS was located at Pukaki Downs. From Lake Ōhau the RAWS was approximately 25kms away in a northeast direction.

The RAWS was relocated on 5 October to Ōhau where it was recording data on site by 13:30hrs.

Wind



Wind

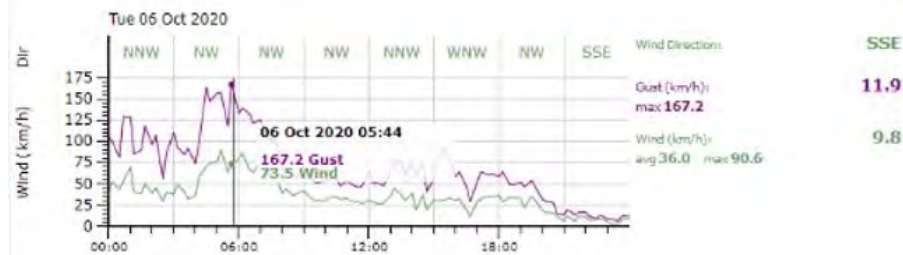


Fig. 23. Mid-South Canterbury Portable RAWs wind graphs above.

Wind

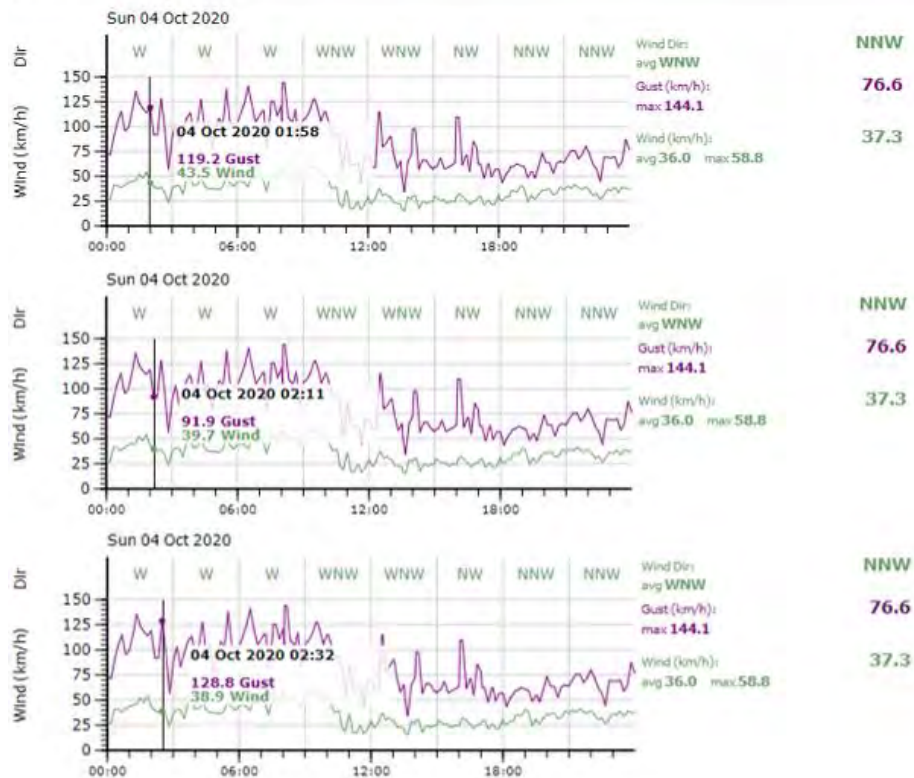


Fig. 24. Glentanner RAWs wind graph above.

Date	Time hrs	Station	Wind Gust km/h	Av Wind Km/h
4/10/2020	01:15	Glentanner	135.8	45.5
	01:19	Portable	91.6	44.5
	01:05	Pukaki Aero	85.4	41.3
Approximate time of ignition	02:11	Glentanner	91.9	39.7
	02:11	Portable	111.3	47.1
	02:10	Pukaki Aero	49.3	29.5
	02:32	Glentanner	128.8	38.9
	02:31	Portable	100.4	45.5
	02:31	Pukaki Aero	59	34.9
	03:34	Glentanner	96.9	31.9
	03:34	Portable	127.3	41.9
	03:33	Pukaki Aero	57.1	29.9
	5/10/2020	15:23	Glentanner	101.8
15:23	Portable	114.4	47	
15:22	Pukaki Aero	46.9	33.6	
6/10/2020	04:24	Glentanner	118.8	67
	04:25	Portable	163.5	70
	04:24	Pukaki Aero	48.6	26.3
	05:44	Glentanner	76.5	51.1
	05:44	Portable	167.2	91.9
	05:43	Pukaki Aero	50.3	22

Fig. 25. Above, combined wind speed data from Glentanner, Pukaki Downs and the Mid-South Canterbury RAWS. Grey shading identifies wind speeds at the approximate ignition time.

Summary
October 4, 2020

	High	Low	Average
Temperature	23.6 °C	16.4 °C	17.0 °C
Dew Point	12.7 °C	-18.7 °C	10.0 °C
Humidity	69 %	6 %	64 %

	High	Low	Average
Wind Speed	89.6 km/h	0.0 km/h	37.7 km/h
Wind Gust	<u>112.7 km/h</u>	--	49.2 km/h
Wind Direction	--	--	SE
Pressure	1,016.59 hPa	1,013.88 hPa	--

October 4, 2020

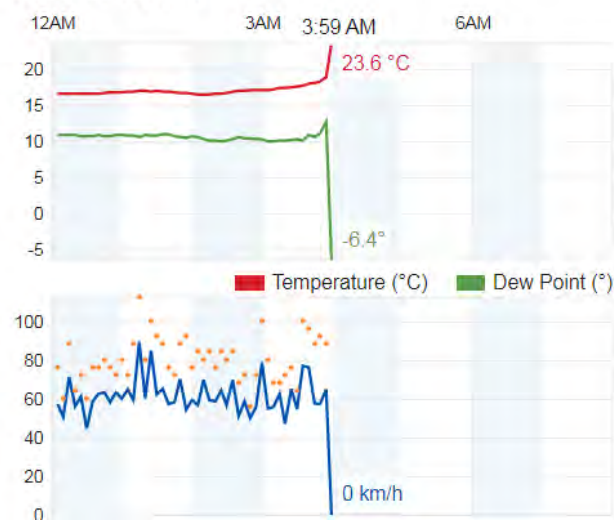


Fig. 26. IWAITAKI4 Weather Station data 4 October, stopped recording when overrun by fire.

(Private Weather Station based in Lake Ōhau)

6.2. Fuel Factors

Moisture content of fine fuels plays a major part in their availability to not only ignite but to sustain ignition. The fuels ability to increase and decrease its moisture content is influenced by the daily rise and fall of relative humidity (RH).

- Low RH in the mid-day period will lead to a low fine fuel moisture content in mid-afternoon.
- Low RH indicates an increase in the potential for ignition of fine fuels.
- RH affects the flammability of fuels because water vapour is continuously exchanging between the atmosphere and dead fine fuels. Dead fuels give up moisture to a dry atmosphere and absorb moisture from a humid atmosphere.

The available fine fuel loading was continuous in all directions from outside the specific origin area. This was predominately a mix of grass, scrub, and forestry. Forestry fuels involved were the needles and small diameter branches within the wilding pines.



Fig. 27. Average grass height outside of the burn area was approximately 300mm, with a ground cover of 80-100%.

Available Fuel loading for the grass/tussock fuels has been estimated at 4-6 t/ha.

Head Fire Intensity (HFI) in grass fuels based on flame lengths of 3m is calculated to be: 2500 – 3000 (kW/m).

Head Fire Intensity (HFI) within forest fuels is calculated to be 38500kW/m. This is based on flame lengths of 10m.

An HFI >2000-4000kW/m is too dangerous for ground crews to attack the head fire.

On site fire behaviour doesn't always follow the modelled fire behaviour, variation can and will occur when available fuel, fuel loadings and topography change.

Fire Weather Indices:

The Build Up Index (BUI) recorded at Pukaki Aero was 15. A BUI of >60 is considered as **Very High**. The BUI is a numerical rating of the total amount of fuel available for combustion that combines the Duff Moisture Code (DMC) and the Drought Code (DC). The closest Fire and Emergency RAWS to the fire site is Pukaki Aero situated approximately 30kms to the northeast of the general origin area.

Below: Pukaki Aero FWI figures observed 3-5 October 2020 12:00hrs NZST

Date	Station Name	Forest	Scrub	Grass	FFMC	DMC	DC	ISI	BUI	FWI	TEMP	RH	DIR	WSP	RN24	GC%
3 Oct 2020	Pukaki Aero	M	E	E	89.5	11	59.2	25.1	15	24.3	19	38	279	36.4	0	85
4 Oct 2020	Pukaki Aero	M	E	E	92	14.30	64.41	22.4	18.39	24.35	23.4	28	250	27.4	0	85
5 Oct 2020	Pukaki Aero	M	E	V	93.1	17.9	69.6	13.7	21.8	18.6	23.6	23	285	14.4	0	85

To provide some context around the FWI figures, temperature, relative humidity, rainfall, wind speed and direction are the only actual figures recorded at 12:00 NZST (13:00hrs daylight savings). The additional figures are modelling projections for fire behaviour later in the day.

The following indices were showing as elevated: Fine Fuel Moisture Code (FFMC), Initial Spread Index (ISI) and Fire Weather Index (FW).

The grass curing percentage set at the Pukaki Aero RAWS is an estimate of the general area not a specific location within.

Fine Fuel Moisture Code (FFMC) of 89.5: means that, if an ignition source was applied to the fine fuels they would readily ignite.

Drought Code (DC) of 59.2: the Drought Code is a numeric rating of the average moisture content of deep compact, organic layers. This code is a useful indicator of seasonal drought effects on forest fuels, and the amount of smouldering in deep duff layers and large logs that would occur during a fire.

- A DC of 128.1 would indicate (in most locations) the fire would not become deep-seated except in those areas which may contain heavier dry fuels.
- A DC of 300 indicates mop up will be difficult and prolonged.

Initial Spread Index (ISI) 25.1: an Initial Spread Index (ISI) of 8-15 indicates rapid spread of fire. An ISI of 16+ indicates an extremely fast-moving fire. The ISI is a numerical rating of the expected rate of fire spread. It combines the effects of wind and FFMC on the rate of spread without the influence of variable quantities of fuel.

An (ISI) in the 30s indicated an extremely fast spreading fire. Observing the fire pattern indicators left behind by the fire as it travelled across the landscape is exactly what has occurred - a high intensity, fast moving, and therefore very difficult fire to control also exacerbated by the many spot fires that occurred from ember transfer among the fine fuels.

Wind speed: Estimated 45-50-km/h, Gusting over 100km/h

Relative humidity (RH) reading of 38: Relative Humidity is the amount of moisture in the air compared with the amount of moisture the air is capable of holding. When the air is saturated its RH is 100%, extremely dry air can have a reading of zero percent.

Relative humidity %

- Below 60% contributes to fire development
- Below 30% contributes to rapid fire development
- Below 15% contributes to extremely rapid-fire development

Fire Weather Index (FWI) 24: this fire would have demonstrated extreme head fire intensity and crews would have had difficulty trying to control the fire. The FWI figures are recorded 12:00 NZST and modelled for fire behaviour mid-afternoon.

Using the FWI figures from Pukaki Aero may not provide a true reflection of the conditions in Lake Ōhau area at the time of the fire. Regardless of their accuracy, the fine fuel on the night was receptive not only to an ignition but was able to sustain ignition spreading out to other available fuels becoming a wind-driven fire.

There are three Fire and Emergency RAWS within 30Kms of the fireground.

1. Glentanner RAWS
2. Pukaki Aero RAWS
3. Mid-South Canterbury



Fig. 28. Map above is a screen shot taken on the 2 March 21 for the purposes of identifying the following RAWS locations:

- Mid-South Canterbury RAWS located at Ben Ōhau on the morning of the fire, orange spot
- Pukaki Aero RAWS
- Glentanner RAWS.



Fig. 29. Yellow arrows above indicate where the grass fuels were with the green arrows identifying the heavier scrub fuels. The white arrow identifies the approximate location of the Village.

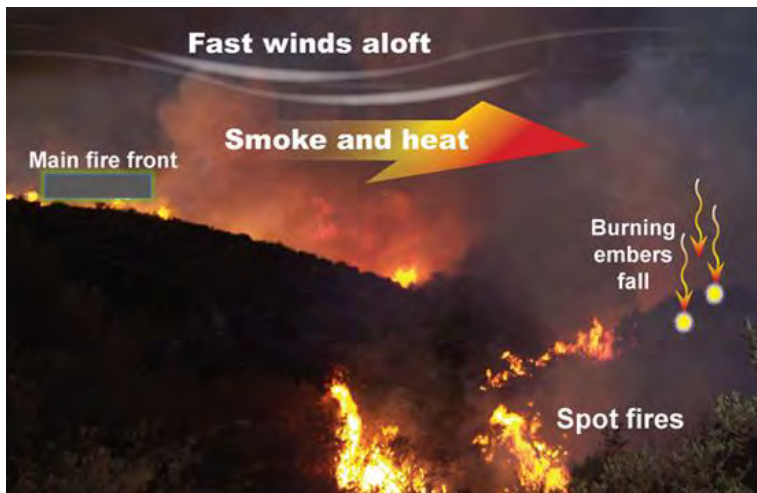
The fire started in the grass fuels along the spur below the 11kV electrical network. With the wind blowing from the north down the lake and west through the gullies above the mountain range, the fire was pushed in an east-southeast direction towards the Village.

Once it had burnt over Freehold Creek there were two predominate fuel types, grass fuels out to the east southeast and forest fuels to the east northeast. The forest fuels lay in front of the Village.



Fig. 30. Looking North West from behind the Village.

Large areas of grass and tussock spread in an east-southeast direction. This enabled the fire to spread quickly in the winds on the night. To the east northeast lay an area of planted trees along with areas of wilding pines. Once the fire burnt into the trees the fire dynamics changed creating a very intense head fire causing the fire to crown, creating an ember storm.



This ember storm was like rain falling in front of the head fire creating spot fires. Some of the hot spots would have grown into larger fires quickly creating new fires ahead of the main fire. As these fires grew, they would have become the new head fire.

Fig.31 Above demonstrates spot fire travel. **Image credit:** WA Parks and Wildlife Service.



Fig. 32. Mixed fuel types, grass, scrub, forest.



Fig. 33. General origin area predominately grass fuels.



Fig. 34. The above photograph shows the very high fuel loading within the wilding pines.

The driving factor in this environment of elevated wilding pines, was the high volume of available smaller diameter fuels (5mm±) which naturally occur as they die off in the tight confines of the trees growing space. Being so confined, the trees are forced to grow up towards the sun, with the upper section of the tree holding any green canopy. There is at least a 2m strip of vertical dead fuel available to burn from the ground upwards.

This was a fast-moving intense fire in the pines, and in most cases the fire has burnt off the smaller diameter branches leaving the heavier fuel behind. From the air you can see large areas where the fire has produced a crown fire. Fire on the forest floor has not become deep-seated, and only burning the top layer of pine needles as the fire travelled through.



Fig. 35. Above, boot mark in the duff layer, fire has only consumed the top layer of pine needles and not become deep-seated as the Drought Code was recorded at 59.2.

Prometheus Modelling

To provide a greater understanding of the predicted fire growth and ROS, Fire and Emergency engaged Scion Rural Fire Research (Scion) to undertake modelling of the fire predicted growth and spread.

Scion is a Crown research institute that specialises in research, science and technology development for forestry, wood products, wood derived materials and other biomaterial sectors.

Prometheus is a fire growth simulation modelling system based on the Canadian Forest Fire Danger Rating System (CFFDRS). Prometheus has been upgraded to use New Zealand fuel types and models and is (in the investigators opinion) the best fire behaviour tool relative to the New Zealand environment that is available today.

A thorough investigation has identified a specific location where we believe the fire started. With this location and the known position of the fire at 03:12 when the second 111 call was made, there are two waypoints that were able to be provided. The two waypoints were provided to Scion to provide land based injects into the model. As with all modelling there are variables with fuel types, topography, and wind speed.

The modelling does not initially include spot fires occurring. We believe this is a fair assumption as the initial run was through grass fuels and an area of scrub. It was not until the fire breached Freehold Creek burning across the flats into the forested area and creating a crown that fire spotting occurred.

Several fire runs were modelled using varying weather data from different RAWS; therefore, some fire directions have not burnt in the known direction. The runs that have burnt in the known direction have placed the head fire out on the flats on the east side of Freehold Creek where Witness 4 saw it.

The preferred RAWS data selected best represents the local conditions at Lake Ōhau on the night of the fire. The following is an extract from a report written for Fire and Emergency New Zealand by Scion Research.

Fire behaviour observations:

- 03:06:59 - 1st 111 caller, fire in distance west of Village
- 03:12:54 – 2nd 111 caller observes the fire's location on flats south of house
- Fire approximately in township by 0430 (TBC)
- Fire burns to end of township by 0455 (TBC).

Fire weather:

- The most representative station based on the Fire and Emergency fire weather station general areas was: Otematata.
- The closest stations (within 30km) were Pukaki Aero, Mid-South Canterbury Portable (based at Pukaki wildfire), Tara Hills, and four public weather stations.
- There are a number of Fire Weather Stations within an 80km radius from the area of ignition (maps 1 and 2 and Table 1 Refer to the full Prometheus report).
- 10m (surface level) and 500m 4km resolution gridded WRF files are available. These are weather research and forecasting models used for atmospheric research and operational forecasting applications.
- Hourly weather observations were imported from the EcoConnect FWSYS (Fire Weather System).
- Sub-hourly weather observations were imported from the Harvest website. This picked up strong wind gusts on site. Stronger than the hourly weather observations.

- **On-site Weather Observations:** Wind direction was observed by fire personnel funneling down Lake Ōhau on arrival, being more north or northwest than westerly recorded from the closest RAWS (Pukaki). The Lake Ōhau area is a narrow gully which would have (most likely) increased the wind speed as it is squeezed as it flowed down and across the lake. Residents in the Lake Ōhau area have described the wind that night as some of the strongest they had experienced, with some living there for 15-20 years plus.

Summary of the fire growth modelling on the Ōhau wildfire:

For each of the scenarios presented in the appendix or summarised in the results, the default parameters in Prometheus were calibrated to represent the actual conditions for the fireground on the day of ignition.

Scenario calibrations:

Unless otherwise stated, the following parameters and assumptions were applied:

- Actual Hourly Weather (wx) was obtained from the nearest wx stations
- **FFMC hourly calculation:** Van Wagner method was chosen as actual hourly observed weather was present
- **Duration:** 1min time step intervals, focusing specifically within the first two hours for fire investigation purposes
- Fuel type cover: LCDB4.1
- Grass curing default of 60% changed to 90%
- No fuel patches were required or applied
- Geographic features that could obstruct the progress of a fire (rivers, tracks, roads) were imported as vector fuel breaks. Addition of roads, and tracks as barriers to spread (10m, 7m, 5m, 2m, 1m, 0.5m).

Assumptions:

- Assumes no spot fires
- No suppression taken
- No diurnal wind trends i.e. up and down slope winds at night and morning. But diurnal FFMC changes are included
- The chosen weather stations and hourly weather streams reflect the onsite conditions
- Wind gusts were not included in the model
- LCDB4.1 cover map represents an accurate reflection of the fuel types present on onsite.

Limitations:

There is a note of caution with using any fire growth model, as the models tend to over predict. However, in the case of the Ōhau wildfire, it is likely to under-predict the timing of the fire impacting the town because spotting is currently not factored into the Prometheus software (a future feature). Once the head of the main fire spreads to the mature planted and wilding forests, the speed of the wind is likely to create spot fires 500 m – 1,000 km ahead of the main fire front. The weather stream supplied has a resolution of 1-hour intervals. However, this may not accurately reflect abrupt weather changes sub-hourly (i.e. 10 min observations), specifically sub-hour changes in wind direction and wind speed will not be reflected in the final fire growth. This option of temporal interpolation of weather is currently not available or validated for use in Prometheus.

Steps have been taken to reduce the chance of data, model and user errors that could impact the accuracy of fire growth simulations (Appendix 1). These include:

- Checking multiple weather stations rather than using the nearest station
- Peer review (quality checking) starting FWI codes and data downloaded
- Checking fuel types using aerial imagery match the landcover database used
- Changing the grassland curing value based on site visit and Fire Behaviour Analyst (FBAN) observations

Prometheus has been in use in New Zealand for over 10 years and over time bugs have been identified and rectified.

Option 1: Best fit for likely fire direction during early stages (first 1 hour) based on local observations. See Appendix 6 scenario 3 - 3e for an estimation on fire spread and direction for the first 3 hours.

Prometheus burn parameters:

Start date:	04/10/2020
Start time:	0210 (DST)
Fire propagation display interval:	1min
Maximum timestep during acceleration:	30 seconds
Duration:	1 hour
Terrain effects:	on
Breaching:	on
Physical barriers included:	NZ walking and driving tracks imported, 3m width

Fire Weather:

Weather station chosen:	Hawea Flat RAWs
Landscape Weather Patch:	none. (approx. 30km winds on site)
Yesterday's starting FWI daily codes:	01/10/2020 (started a few days back to ensure accurate calculation of ffmcs)
FFMC:	79
DMC:	3
DC:	4
Rainfall:	0mm
Today's hourly starting code:	
HFFMC:	80.7 RAWs
Hour:	300 (DST)
FFMC method of calculation:	Van Wagner (hourly data was present).

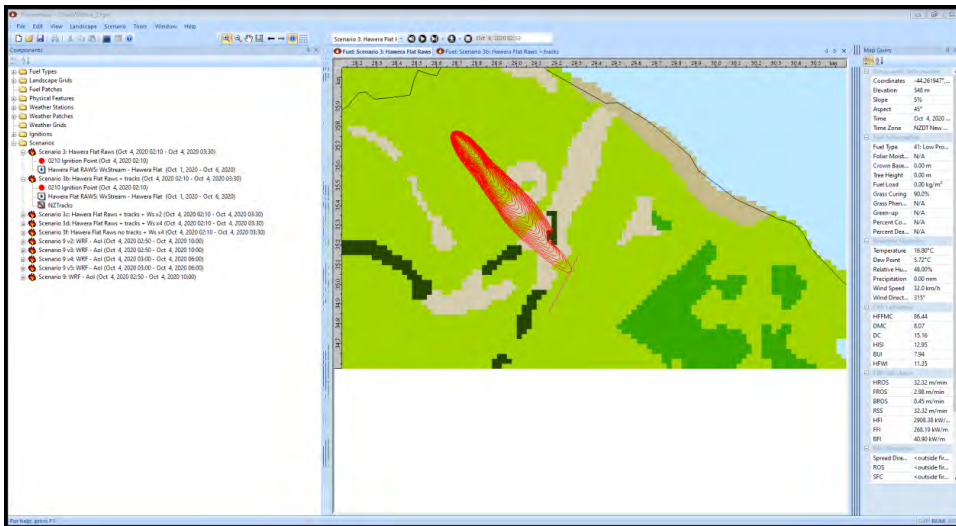
Vegetation calibrations:

Grass curing of 90% applied.

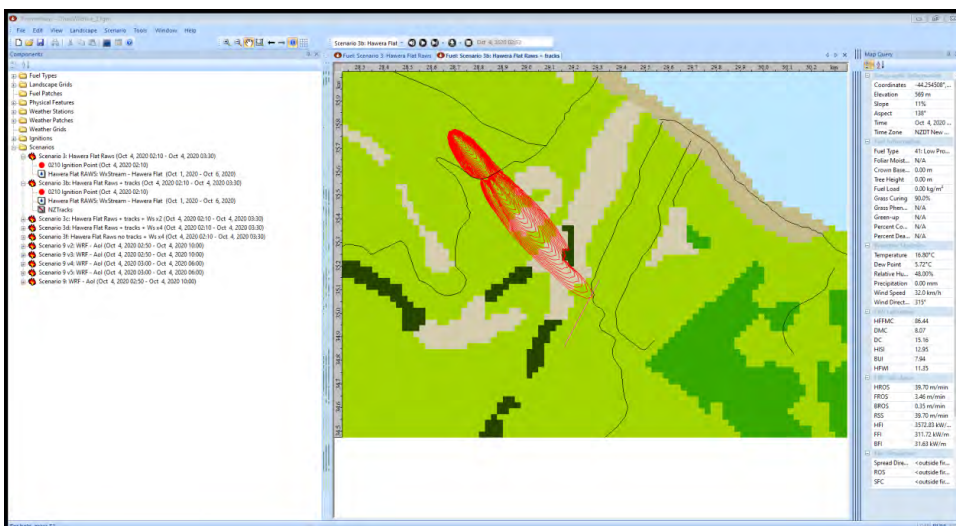
Results:

Scenario 3e was chosen as a best fit of the fire direction and timing of the 111-caller noticing the fire’s location (pink line on Image 1 and 2). This used Hawea Flat “RAWS” weather.

- Figure 1: no calibrations. Fire arrives at 2nd 111 caller observations at 0253
- Figure 2: 3m wide tracks were included to act as a physical barrier (that could be breached depending on fire intensity). Fire arrives at 111 caller observations at 0253



Prometheus Figure 1: FGM scenario 3: Hawea Flat RAWs. No calibrations used. Arrival at the fire’s location the 111-caller noticed at approx. 02:53.



Prometheus Figure 2: FGM scenario 3b: Hawea Flat RAWs. Calibrations include: 3m wide tracks included. Arrival at the fire’s location the 111-caller noticed at approx. 02:54. We provided two waypoints. (Extract ends)

6.3. Topographical Factors

Generally, wind speed will progressively increase up slope to the crest of the hill as the wind from the lower elevation is compressed by the wind above it and is forced to speed up. A sharp ridge produces significant turbulence and eddies on the lee side of the hill.

Gorges funnel wind through with increased wind speed. The daily heating and cooling of the slopes can create local wind patterns. Slope steepness affects fire behaviour in that it affects the rate of spread and intensity, i.e. fires generally burn faster up slope than down slope or on level ground.

Slope or wind driven fires have a reduced angle between the flames and unburnt fuels, increasing the rate of radiant and convective preheating of those fuels, this in turn increases the ROS and therefore the level of fire intensity.

- The rate of fire spread on a 10° slope can be up to double that on level ground.
- On a slope of 20° the ROS can be four times faster than a fire on level ground.
- On a slope of 30° the ROS can be six times faster than a fire on level ground.

The Ōhau area has high mountains to the west and steep hills to the east. Both would assist the wind to be funnelled down the lake and out across the surrounding flatter land.

Around the base of the mountains the land is undulated with gullies and terraces which would all influence how the wind behaved as it travelled down the valley. Although the land the fire crossed was predominately flat, being a wind-driven fire it produced the same characteristics as if burning up slope.

6.4. Fire and Char Patterns

The fire contained a large number of indicators that allowed us to identify direction of travel, areas of lateral and back burning. Angle of char could clearly be seen on pole type fuels (trees) and in the foliage crowns (scrub fuels).

Several rocks exhibited spalling which is generally associated with the advancing fire and appears on the side of the rock exposed to the heat. Signs of Protection were seen around rocks and fuels shielding the unexposed side of the fuel from heat damage. Staining and sooting on rocks was also visible.

Curling was also visible, this occurs when green leaves curl inward towards the heat source. Leaf freeze was also predominant which is a good indication of the direction of any breeze or wind at the time. This may not always identify the direction of travel of the fire.

No one indicator should be used in isolation to identify the fires direction of travel. Investigators used as many as possible of the available fire pattern indicators to identify the general origin area.

6.5. Witness Observations

A number of key witnesses have been identified, who have provided information as to where they saw the fire in the early hours of the morning before it had burnt through the Village.

The information provided has supported what we identified during the investigation process.

7. Visual and Physical Evidence

Five key areas of interest were identified.

Area 1: Span from Pole 870452 – Pole 821215 - 175m

- Eight (8) exhibits in total were taken from the site and secured with the Oamaru Police (refer to Fig.15/16).
- Exhibits 1-3 were cut from the conductors and stored in plastic conduit.
- Exhibits 4-8 were the remaining longer lengths of conductor which were coiled up and labelled.

Area 2: Span from Pole 35693 – Pole 870452 - 126m

- This area included all three conductors which appear to have twisted together when the wooden cross-arm attached to pole 35693 rotated over, causing the lines to arc (refer to Fig 81).
- The conductors showed signs of arcing when they were examined at Network Waitaki's yard in Oamaru. The conductors are being stored by Network Waitaki (refer to Fig's 83-90).

Area 3: Pole 35693 and surrounding area

- Pole 35693 has been removed and replaced with a new pole 874157. The removed concrete pole has been stored at the Network Waitaki yard in Oamaru where it has been made available for inspection to everyone that has requested it.
- This pole has what appears to be burn holes within the concrete caused by arcing. The metal stay arms also have what appears to be arc damage and are also stored with the wooden cross-arm at the Network Waitaki yard in Oamaru (Refer to fig's 45-46, 65-79) (Photographs only).

Area 4: Span from Pole 35693 – Pole 17408 - 96m

- This area included all three conductors which appear to have come close to twisting together when the wooden cross-arm attached to pole 35693 rotated over to cause these lines to the north to arc.
- The conductors have been inspected by Network Waitaki and left in-situ as they were operationally sound and appeared to have no damage.

Area 5: Pole 17406 (new pole number 40456)

- A broken insulator was located on the ground and appeared to be freshly broken (refer to Fig's 41 and 42). (Photographs only)

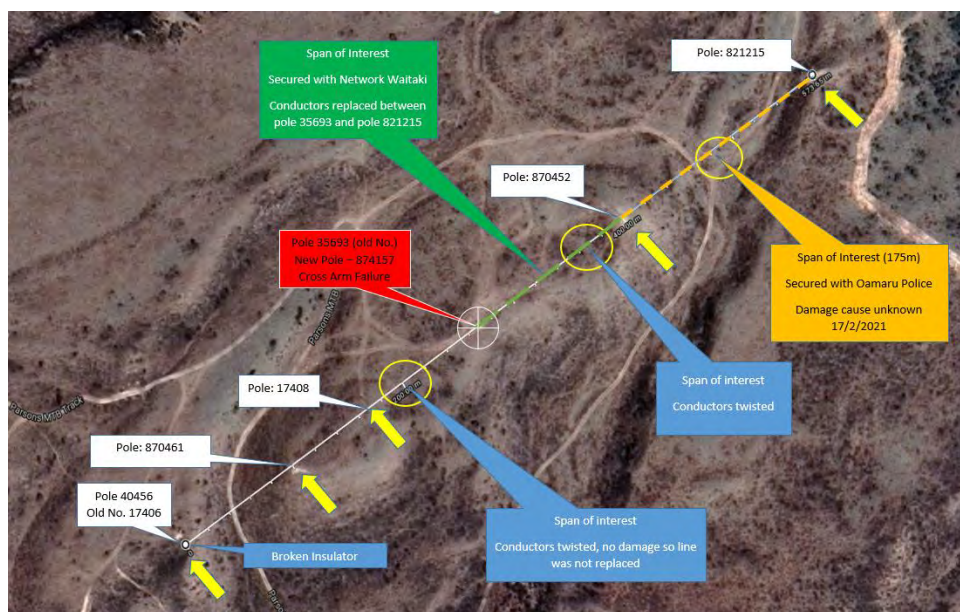


Fig.36. General Origin Area

8. Elimination of Possible Causes

Before a conclusion of causation could be established a thorough process of elimination was carried out. The following ignition sources were considered during this investigation:

- Electric Fences
- Camp fires
- Lightning
- Smoking
- Debris burning
- Incendiary devices / accelerants
- Equipment use
- Children
- Miscellaneous
 - Power lines
 - Glass / Bottles refraction / Magnification
 - Firearms use
 - Spontaneous combustion
 - Vehicle Exhaust

Cigarettes:

Research shows for a cigarette to 'likely' cause a fire the RH requires to be around 0-18%. An RH of 18-22% tends to make ignition marginal and unlikely, an RH of >22% no fire starts.

There are a number of other variables required to assist with an ignition, ash content which impacts on the exterior temperature of the tip, shrinkage of the tobacco during burning, exposure time between fuel and cigarette, fuel bed composition and dead fuel moisture content.

Fine dead fuel moisture (FDFM) of ground fuels is required to be less than 14%.

Steensland, Paul; Cigarettes as a Wildland Fire Cause

Countryman, Clive; **Ignition of Grass Fuels By Cigarettes**; Research Forester (R), USDA Forest Service, Pacific Southwest Forest and Range Experiment Station, Riverside, California.

We did not observe any discarded cigarette butts in the area.

Electric Fences:

There were no fences observed in the vicinity of the general origin area.

Firearms/tracer ammunition:

We did not observe any discarded ammunition cases in the general origin area.

Incendiary devices / accelerant:

After a thorough inspection we did not observe any signs of accelerant or any incendiary devices having been used.

Spontaneous combustion:

We have ruled out spontaneous combustion as we did not observe any piles of decaying organic matter or "bird's nests" from any logging operations to support this hypothesis.

Burning debris:

Burning debris has been ruled out. We were made aware of a burn pile that had been lit some time before the fire. This pile was inspected and determined not to be the cause of the Lake Ōhau fire.

All fire pattern indicators around this pile indicated the fire had come from the north burning towards and away from this pile.

On inspecting the ash, it was cold and fine grey powder. We believe on the night of the fire this pile was cold and held no residual heat.

Photographs provided of the main fires location on the night when reported by the second caller also eliminate this burn pile.

Deliberately Lit:

This cause was investigated with the support of the Oamaru Police and was eliminated.

Electrical Faults:

After a thorough investigation there are several issues identified that occurred on the 11kV electrical network between Parsons Creek and Freehold Creek.

The length of the electrical network in question covers approximately 560m and covers five spans between six power poles.

An electrical fault or faults cannot be eliminated. We believe we have identified a credible hypothesis that supports the probable cause of the ignition to grass fuels on 4 October 2020.

We identified five areas of interest, the following three below have been ruled out as competent ignition sources for the following reasons:

(A1) The span between poles 870452 and 821215.

- On inspection of the damage on the YELLOW and RED phases, a clash could not be ruled out. We believe this occurred before the fire causing the conductor damage. Over time the stresses of the wind have stretched the cable causing the individual strands to pull apart.
- Although there was significant conductor damage to the YELLOW phase and minor pitting on the RED phase there was no supporting data identifying a YELLOW to RED phase to phase short before the fire was reported.
- Another option for this damage is what is known as Aeolian vibration [ee-oh-lee-uh n]. Aeolian vibration is a high frequency motion that can occur when a smooth, steady crosswind blows on aerial cables.

In a tutorial by “T&D World Managing Aeolian Powerline Vibrations” in October 2017 it describes how the vibrations are produced.

When a non-turbulent “smooth” stream of air passes across a conductor or overhead shield wire (OHSW), vortices (eddies) are formed on the leeward side (back side). These vortices create alternating pressures producing movement at right angles to the direction of the air flow.

T&D World 2017, Managing Aeolian Powerline Vibrations, viewed 25 February 2021, <https://www.tdworld.com/resources/white-papers/whitepaper/20970197/managing-aeolian-powerline-vibrations-the-basics>.

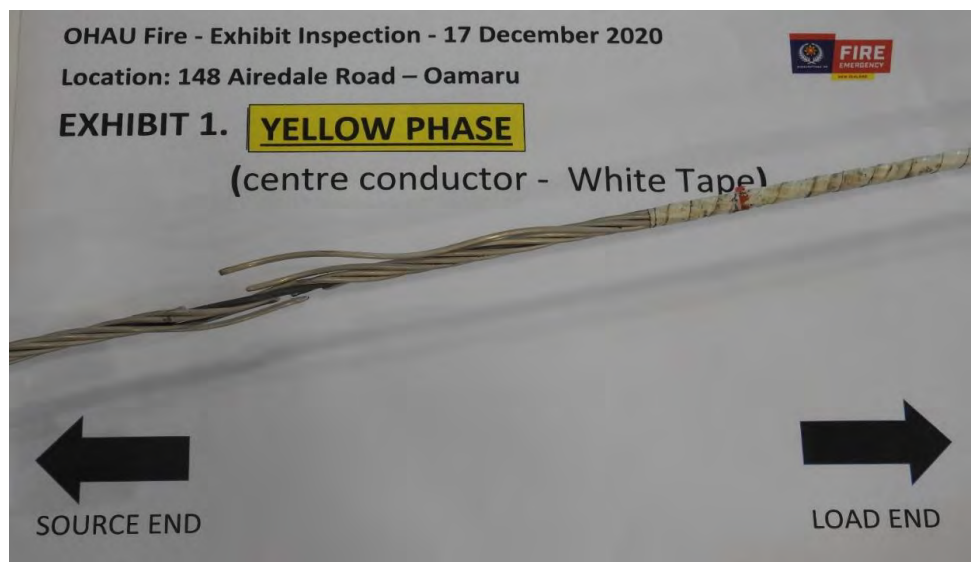


Fig. 37. Damage to Yellow Phase conductor (White tape).

The area below the damaged conductors demonstrated fire pattern indicators of advancing, flanking, and backing fire, representing a fire has started from this location.

In ruling out the damage above as a competent ignition source we considered the lack of supporting SCADA or R690 data, the height of the conductors in the span, the heat required to be sustained by falling molten aluminum globules, and lack of back burning.

The Fire pattern indicators in this area can be explained by the wind shift that occurred the morning of the fire pushing the fire to the south away from the Village.

As the fire had back burnt into the wind from the point/s of origin down into the gully to the lake side up the bank into the prevailing wind, it may have sent embers into the air dropping down onto the area below the span of interest, creating a spot fire which spread from this location.

Once the fire had started under the span of interest it has burnt up and around the point of the spur eventually burning into the backing fire from the initial or secondary fires further down the valley.



Fig. 38. Photo taken at 07:30 morning of the fire. Wind is blowing cross the span of interest.



Fig. 39. Area of interest below damaged conductors between poles 870452 and 821215
Yellow line is identifying the conductors lowered to the ground.
Yellow circle is the area of interest below the damaged conductors

(A2) The span between pole 35693 and pole 17408 where electrical conductors have twisted.

- Network Waitaki advised they had inspected the three conductors on this span reporting no damage. This span is still in place. With no damage being found and the fact that our fire pattern indicators have come from the north we have ruled this span out as a possible ignition source.
- Being the shorter span that twisted when pole 35693 cross-arm rotated, the span may not have been long enough to twist together.
- This area displays more of a head fire burning through than a fire starting under the twisting conductors.



Fig. 40. Above shows lines that had have twisted but may not have made contacted each other. These lines are attached to pole 35693 spanning down to pole 17408 in the background.

(A3) Pole 40456 (old pole number 17406) broken insulator on the ground.



Fig. 41. and Fig. 42. Above, broken insulator located near pole.

Information provided by Network Waitaki shows that the last scheduled inspection for this pole prior to the night of the fire was in April/May 2017. The records show the pole was inspected by a qualified line mechanic, who did not note any defects on the pole. All components were given a nominal remaining life of 25years.

In May 2017, the transformer pole at the Glen Mary ski lodge was replaced as a result of inspections completed following a heavy snowstorm. At the same time, as part of a planned post snowstorm maintenance work pack, the hardware was tightened on the spur line. This would most likely have included pole 17406, although this pole was not specifically noted for any maintenance actions in its records.

Network Waitaki believes the broken insulator to be old and must have been left behind from previous maintenance. Burn indicators in this area demonstrate a head fire burning through the area, rather than a fire starting here, and burning away.

We are confident nothing occurred at this pole to cause the initial fire.

We have been unable to rule out the remaining two areas of interest. The electrical short damaging pole 35693 has been identified as the most competent source of ignition causing the fire on the night.

The span between pole 35693 and pole 870452 to the north where the electrical conductors have twisted are a possible cause of a secondary ignition. A three-phase fault was recorded at 03:23hrs 17 minutes after the fire was first reported. We believe this fault corresponds with the conductors twisting together.

9. Fire Classification, Origin and Cause

The Fire Classification for this incident has be classified as:

- Accidental Fire Cause Classification**
Accidental fires involve all those for which the proven cause does not involve an intentional human act to ignite or spread fire into an area where the fire should not be. (NFPA921, 2014 page 204 Chapter 20)
- Natural Fire Cause Classification**
Natural fire causes involve fires caused without direct human intervention or action, such as fires resulting from lightning, earthquake, wind, and flood.
- Incendiary Fire Cause Classification**
An incendiary fire is a fire that is deliberately set with the intent to cause a fire to occur in an area where the fire should not be.
- Undetermined Fire Cause Classification**
Whenever the cause cannot be proven to an acceptable level of certainty, the proper classification is undetermined.

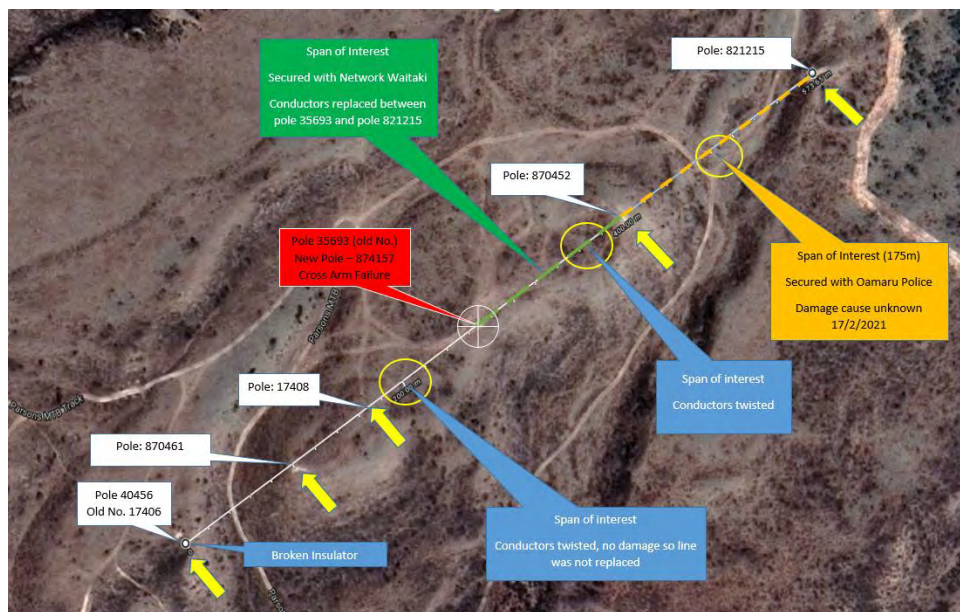


Fig. 43. Above – White circle identifies our primary specific origin area around Pole 35693 (874157).

Establishing the Origin and Cause

We have identified the origin and cause of this fire as pole 35693 where an electrical phase to earth fault has occurred at or around 02:10hrs. Location of pole is -144.256074, 169.818028.

A thorough investigation was undertaken to identify pole 35693 as the specific origin area and the faults that occurred at this pole being the most probable ignition source.

Our investigation began south west of the Village and from there we tracked our way across the landscape following the fire pattern indicators until we came across pole 35693 some 2.5kms away.



Fig. 44. Yellow arrow is the approximate area we initiated our investigation, following fire pattern indicators until we reached pole 35693 (red arrow)

A single arc mark on each of the metal stay arms attracted our attention at this location. There were also indications of low intensity burning to the fine fuels on the ground below the pole.

The stay arms were secured to the centre of the pole with a double nut and single bolt and splayed out to opposite sides of the wooden cross-arm where they were secured in place with a double nut and single bolt (refer to fig. 47).



Fig. 45. Photograph (DSCF9361) above left identifies an arc mark to the lakeside metal stay arm on the upper section close to where it is secured to the wooden cross-arm with a double nut.



Fig. 46. Photograph (DSCF9365) above right identifies an arc mark on the hillside metal stay arm on the lower section close to where it is secured to the centre of the pole with a double nut.



Fig. 47. Upper section of pole 35693 when it was located on 7 October.

Other than what appeared to be arc marks on the metal stay arms, the rest of the pole looked in good operational condition. There also appeared to be damage to the concrete pole below where the two metal stay arms are secured to the centre of the pole (yellow arrow). This appeared to be old damage.

We had been advised by Network Waitaki they had undertaken repairs to a pole the day of the fire before fire investigators arrived on scene. Network Waitaki advised they had replaced a bolt that had fallen out of a pole. On checking the pole number provided, it corresponded to pole 35693.

Fire patterns around pole 35693 were patchy with areas of unburnt grass. This may have been caused by spotting from an advancing fire coming from the north or it may indicate the fire has started in the specific area around the pole from an ignition in this area.

The head fire hadn't burnt through this area as we would have expected it to have consumed all of the available fine fuels. As there was nothing else obvious at the time of our initial investigation, we could do no more at this pole.

One hundred and twenty-six (126) metres north of pole 35693 is pole 870452 which sits on the highest point of the spur. From this location the conductors span 175m over a small gully to pole 821215 to the north.

Damage was located on the YELLOW phase between poles 870452 and 821215. This damage is still of interest but has now been ruled out as a competent ignition source.

Interest remained with pole 35693 and what had caused the arcing on the metal cross-arms.

On revisiting the fire site on 16 November 2020, it was noted that pole 35693 had been replaced with pole 874157.

This raised several questions as to why the pole would have been replaced.

Basing ourselves at the Twizel Fire Station, we worked our way through the photographs we had taken. Looking at the photos of pole 35693 we identified there was more damage than just the arc marks on the metal stay arms.

Although not obvious to us on first viewing the photographs, John Foley identified there was a hole in the concrete below and to the right of where the two metal stay arms were secured to the centre of the pole. There also appeared to be a scrape mark above and below the hole on the surface of the concrete.

It was also identified through photograph DSCF9369, that there was some form of damage to the centre bolt and washer holding the two metal stay arms to the pole, along with some form of scrape damage to the edge of the metal stay arm on the opposite side of the pole.



Fig. 48. Photograph (DSCF9365) above shows the lower arc mark on the hillside metal stay arm, a hole below the stay arm and what appears to be a scrape mark on the right-hand side of the pole below the metal stay arm.

We had now identified a number of physical damage marks on this pole that are noted below:

- Arc mark to the upper lakeside metal stay arm
- Arc mark to the lower hillside metal stay arm
- A burn hole on the north side of the pole, hillside
- A burn hole next to the centre bolt securing the metal stay arms to the pole, south side
- Damage to the centre bolt and washer securing the metal stay arms to the pole
- Damage along the edge to the Hillside metal stay arm
- A small scrape mark on the wooden cross-arm
- What appears to be damage on the lakeside conductor next to the insulator.



Fig. 49. Photograph (DSCF9369) above identifies location of damage to centre bolt, washer, and damage to edge of metal stay arm.

On closer inspection of this pole the damage appears to be caused by arcing that has burnt a hole into the concrete 25mm deep.



Fig. 50. Photograph (DSCF9362) to the left has been zoomed in and cropped, the strands appear to have a rough edge to them.



Fig. 51. Photograph above is a zoomed-out image of photograph (DSCF9362) the area within the yellow ellipse shows a rough edge that appears to be damaged.

At this point we were still unaware of what, if anything had occurred at pole 35693 except for a repair carried out to the cross-arm. The repair and the fact the pole had been replaced heightened our interest in this pole.

While at the Twizel Fire Station, we worked on a number of hypotheses as to what could have occurred at this pole.

Craig Chambers suggested maybe a catastrophic failure may have occurred creating the damage identified.

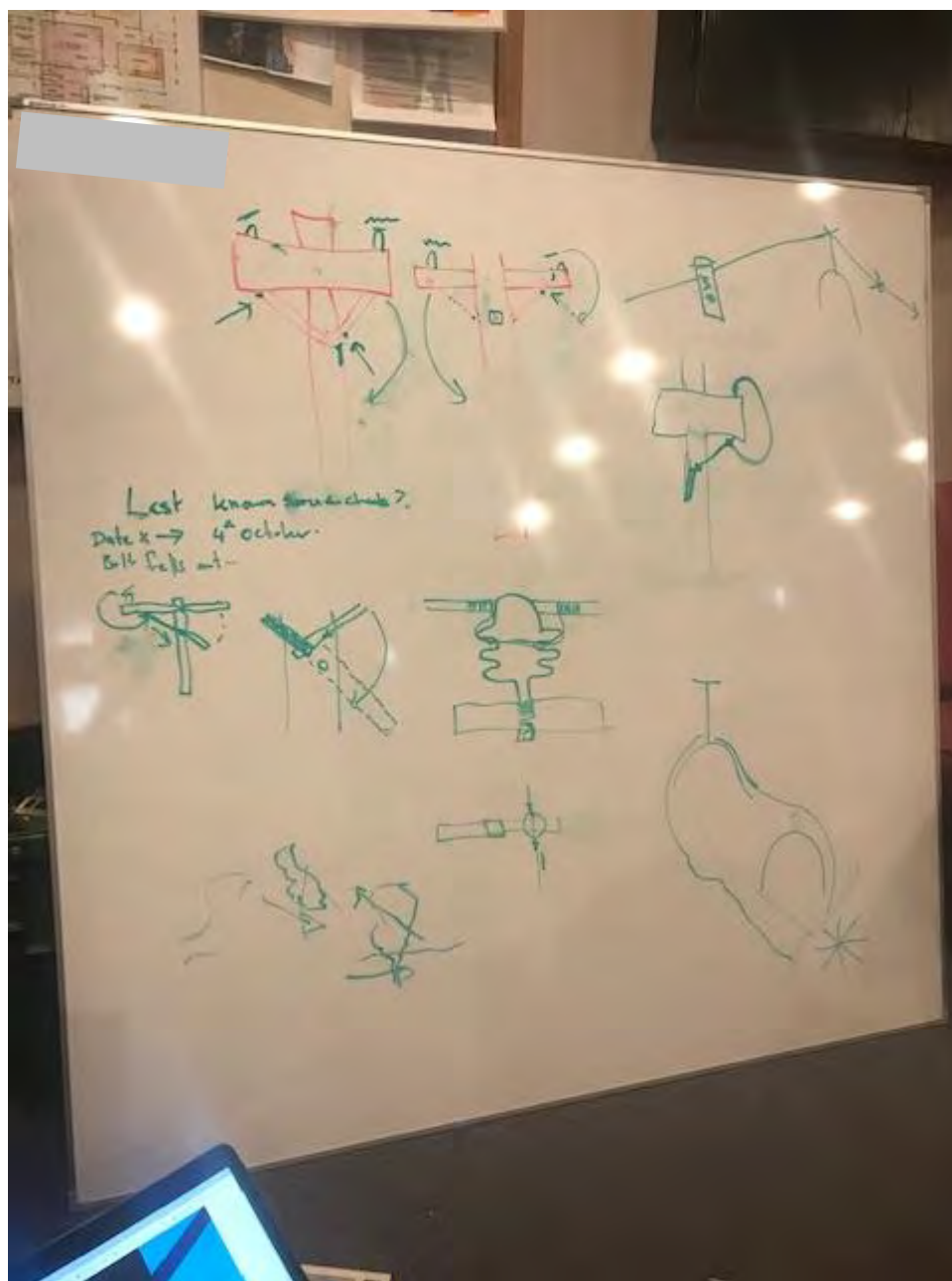


Fig. 52. Photograph taken at Twizel Fire Station on the 17 November 2020 @ 17:04hrs. (Iphone)

Figures 52 above and 53 below show drawings of our possible hypotheses on what occurred on pole 35693. Grey rectangle in Fig 52 is covering a crew members name, unrelated to this event.

Our hypotheses were based on a catastrophic failure at pole 35693. We theorised this would take one metal stay arm to lose a bolt and on the opposite side of the cross-arm the insulator binding to break,

allowing the live conductor to swing underneath the lakeside metal stay arm creating a phase to earth fault causing the upper arc mark.

The lower arc mark would be created when the metal stay arms conduct electricity that create an earth to the pole, consequently burning a hole in the concrete.

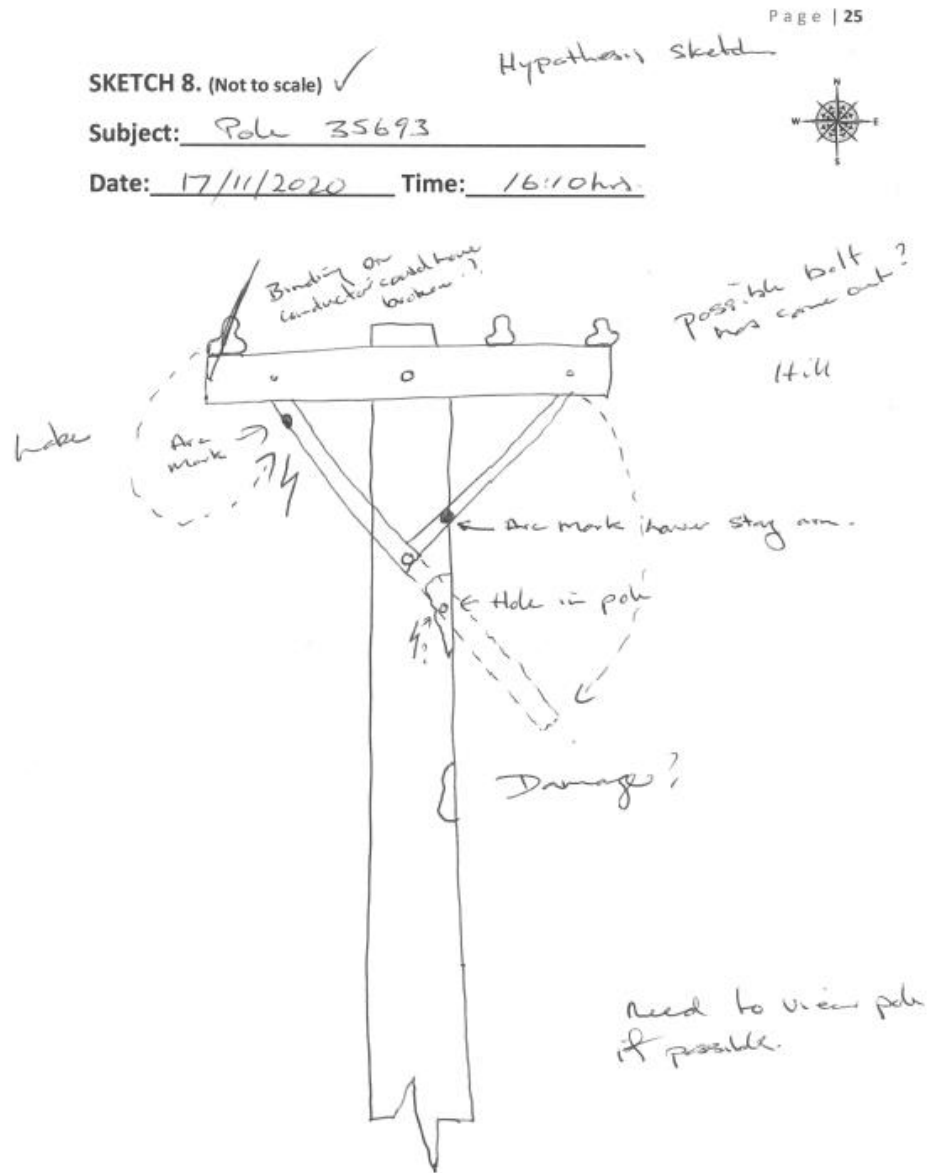


Fig. 53. John Foley drew the sketch above indicating what we thought may have occurred at pole 35693 as a result of our drawings from the white board above.

There remained some unanswered questions:

- How realistic would it be to have a catastrophic failure on a pole?
- Why were there new bindings on all three insulators on pole 35693?
- What caused such a heavy scrape mark on the right-hand side of the pole?
- What caused the scrape mark on the wooden cross-arm?
- What caused damage to the lakeside conductor next to the insulator?
- What caused the hole lower down to the right of the pole?
- What was the damage to the washer where the metal stay arms are secured to the centre of the pole?

We were aware that Network Waitaki had taken photos of pole 35693 when they were repairing the cross-arm. A request was made for information in relation to SCADA and R690 data for a 24hr period 3-4 October and the photographs in relation to pole 35693 from Network Waitaki.

On receiving the photographs, it became clear as to what occurred at pole 35693. We were on track with the catastrophic failure hypothesis with a metal stay arm coming free but wrong with the broken insulator binding.

What occurred at pole 35693:

Network Waitaki must be commended for their cooperation providing key technical data enabling investigators to determine our probable cause. The following information has been provided from SCADA, R690 data and photographs supplied by Network Waitaki.



Fig. 54. Photograph (IMG_0997.JPG) identifies pole 35693.

Photograph supplied by Network Waitaki.



Fig. 55. Photograph (IMG_1711.JPG) above shows the cross-arm rotated over.
Photograph supplied by Network Waitaki.



Fig. 56. Photograph (IMG_1712.JPG) above shows the lakeside metal stay arm hanging in the centre of the pole and the centre bolt that secured the wooden cross-arm to the pole has moved backwards but remains in the pole (note bolts have a single nut).

Photograph supplied by Network Waitaki.

Now we have an accurate picture of what occurred at pole 35693, we have been able to develop a number of hypotheses relating to this event.

What we know to date:

Two bolts have come out of the wooden crossarm by each losing a single nut (double nutted only after repairs carried out), and they were:

- The lakeside bolt holding the metal stay arm to the wooden cross-arm. The nut was on the opposite side to the metal stay arm. The bolt had to vibrate backwards the thickness of the cross-arm allowing it to fall out.
- The centre bolt attaching the wooden crossarm to the concrete pole has also lost its nut allowing the bolt to vibrate backwards enabling the wooden crossarm to come free with the bolt remaining in the top of the pole (Fig. 56 photograph (IMG_1712.JPG) page 73).

We have no indication of when either the nuts or bolts have fallen out, the following scenarios have been considered.

1. Both nuts have fallen off before the night of the fire.
2. Both bolts have vibrated backwards at a date unknown. The lake side metal stay has remained in position being held by the tension of the lower centre bolt. The wooden crossarm has dropped down and come to rest on the centre bolt holding the metal stay arms. This may have occurred on the morning of or sometime before 4 October 2020.
3. With the metal stay arm nut gone, the crossarm was secured in place by the centre bolt and the remaining stay arm. The centre cross-arm bolt has moved backward the morning of the fire allowing the cross-arm to swing over.
4. The centre bolt has fallen out before 4 October 2020 and was being held in place by the two metal stay arms balancing in place.
5. Both bolts have come out on the morning of the fire in high winds.

Any of the above are plausible and it is the investigators belief that the nuts became loose over time.

The most likely cause of this would be from Aeolian vibration.

Most Probable Cause of Ignition:

Two bolts have vibrated backwards on pole 35693 at a date unknown. The lake side metal stay has remained in position being held by the tension of the lower centre bolt. The wooden crossarm has dropped down and come to rest on the centre bolt holding the metal stay arms. This may have occurred on the morning of or sometime before 4 October 2020 (refer fig's 57 & 58).

1. At some point the lakeside metal stay arm that was fastened to the wooden cross-arm has lost the nut and over time, the bolt has vibrated backwards and eventually dropped out.

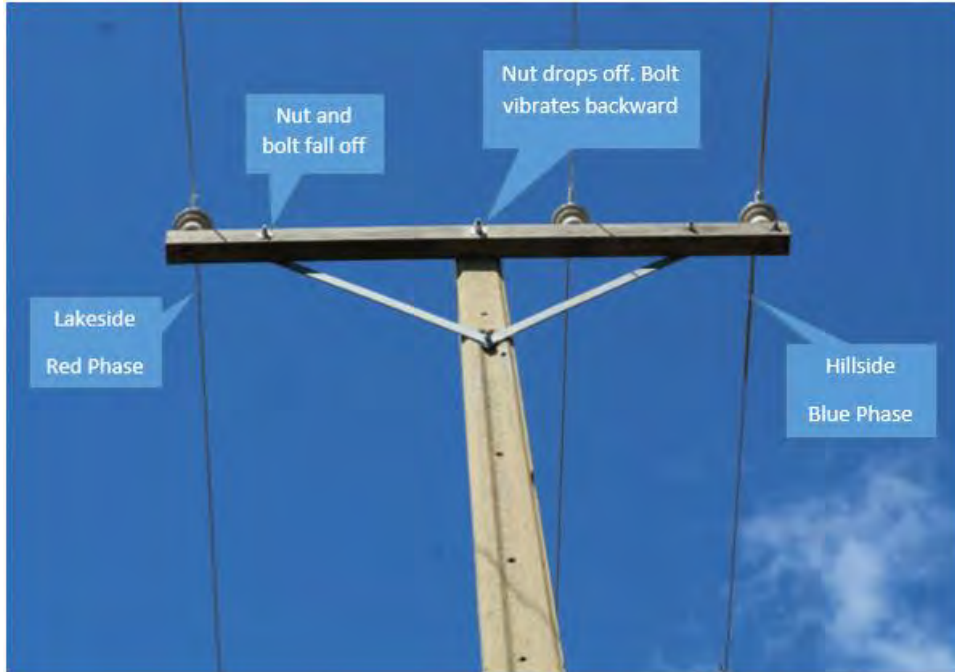


Fig. 57. Identifies Phases, and nuts and bolts that have moved.

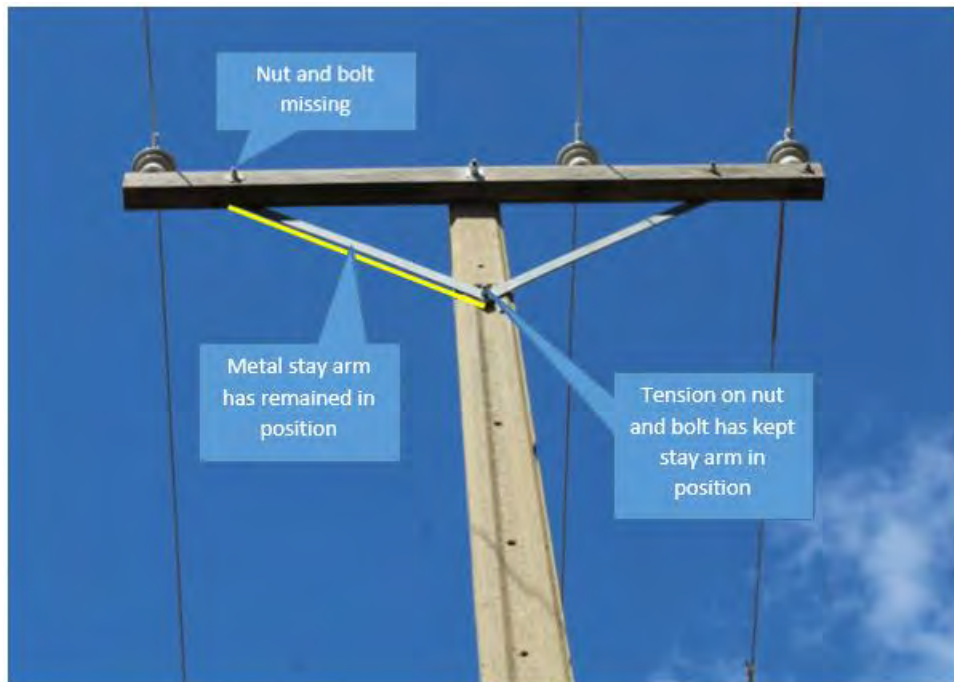


Fig. 58. Yellow line indicates the position the metal stay arm remained in once the bolt had fallen out.



Fig. 59. Above, balancing position of wooden cross-arm after centre bolt vibrated backwards. Note: crossarm has displaced towards the hill side (right of pole) by approximately 250mm off centre.

2. With the nut and bolt now gone, the metal stay arm has remained at its 45° angle.
3. At an unknown time/date the centre bolt holding the wooden cross-arm has vibrated backwards allowing the arm to drop down and come to rest on the lower centre bolt holding the metal stay arms (Fig. 60).
4. When the wooden cross-arm has moved downward coming to rest on the centre bolt the cross-arm has moved approximately 250mm towards the hillside (Fig. 59 off centre). This has placed the RED phase below and within reach of the lakeside metal stay arm.
5. It is unknown how long the cross-arm would have been in this position. It is possible it may have been weeks, days or it occurred on the night of the fire.



Fig. 60. Close up of cross-arm resting on bolt.



Fig. 61. Note fresh indentation in wooden cross-arm above bolt.



Fig.62. Above, position of metal lakeside stay arm above the RED phase. Held by tension on centre bolt.

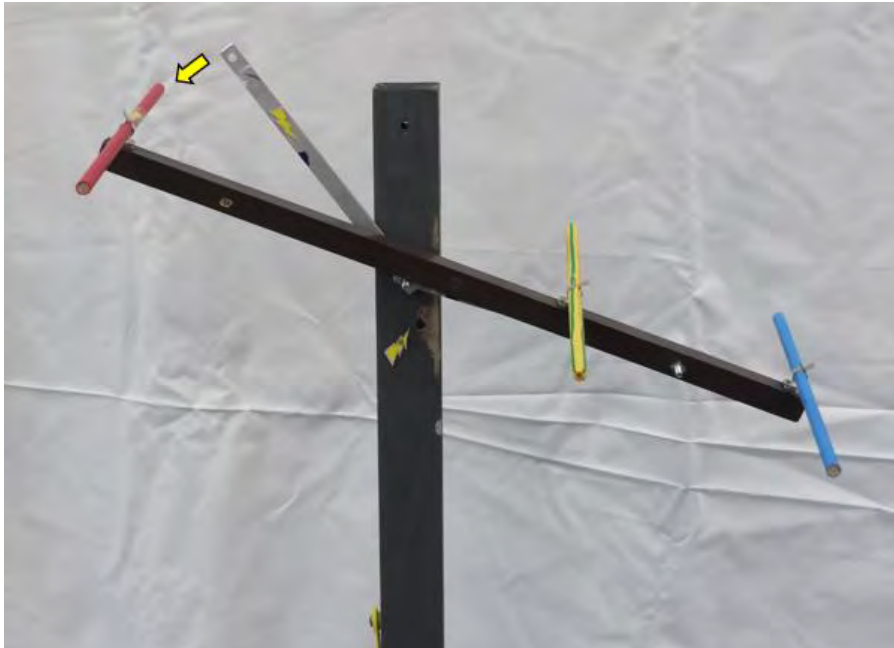


Fig.63. Not to Scale. Model represents how we believe the metal cross-arm has contacted the RED phase.

6. With the storm now impacting the Ōhau area, wind pressure on the conductors has begun to move the cross-arm resting on the centre bolt. As the cross-arm has rotated upwards the RED phase has contacted the underside of the lakeside metal stay arm. (Fig.63. Yellow arrow) eventually contacting the RED phase.



Fig.64. Arc mark of contact point on underside of Lakeside stay arm.

7. This contact has livened the metal stay arms causing a phase to earth fault and creating three burn holes in the concrete pole.
8. One hole on either side of the pole and one inside the centre bolt hole of the pole.
9. The two external burn holes are approximately 16mm in diameter with one 20mm deep and the other 27mm deep. The internal burn hole could not be measured.
10. R690 data provided by Network Waitaki shows a phase to earth fault was recorded at 02:10:03hrs and again at 02:11:15hrs. These may be two separate faults or one continuous fault. Scada also recorded an Earth fault at 02:13:00

Date	24hr Time	Fault	Amps	Phase	Location	Action	Comment
4-Oct-20	02:10:03	Earth	7		R690		
4-Oct-20	02:10:04				R690	Load supply off	
4 Oct-20	02:10:09				R690	Load Supply on	
4-Oct-20	02:10:09				R690	Automatic recloses	
4 Oct-20	02:11:51	Earth	7		R690		
4 Oct-20	02:11:52				R690	Load supply Off	
4 Oct-20	02:11:57					Load supply on	Auto Reclose
Scada Data							
4- Oct-20	02:13:00	Phase to Earth	3		R690		Freehold Creek

11. The heat energy required to turn sand contained in the concrete to molten liquid is around 1700°C. This material may reach over 2000°C while being heated as arcing was taking place.
12. Some of this material may have evaporated during the arcing process while some has been expelled onto the ground.
13. Grass fuels would have been receptive to heat energy for ignition of around 300°C.
14. It is not simply a matter of placing two temperature values alongside one another and concluding that molten liquid would be at a higher temperature, higher than that which vegetation ignites therefore the molten liquid would ignite vegetation.
15. Other factors such as fuel moisture content, available fuel load and weather all play a part in the ignition process.
16. The fuels around the pole were receptive to heat energy not only to ignite but to sustain ignition spreading to other available fuels. This was obvious with the rate of spread (ROS) the fire ran and the time it took to reach the village.
17. It is also highly likely the contact between the stay arm and RED phase would have caused arcing on the insulator binder wire or conductor. This could have sent molten aluminium to the ground.
18. Another major factor in the ignition and spread of the fire was the wind. Wind blowing at 50km/h is covering 13.88 m/s. The draft at ground level created by the wind has enabled the heat energy from the molten liquid/sparks to ignite and sustain flaming combustion thus spreading out to other available fuels such as grass and scrub fuels.

Scion undertook research into Ignition Thresholds in Grass Fuels and Management Applications for Public Conservation Land in Canterbury in 2010. (Scion Fire Technology Transfer Note No. 39, 2010 page 1-11).

Research undertaken examined:

- ignition thresholds in grass fuels using several different ignition sources
- hot metal contact
- metal sparks
- hot carbon emissions
- organic embers
- open flame.

Some of the Key findings were:

No difference was observed between the ignition behaviour of tussock and exotic grasses. Moisture Content was one of the key factors that determined the ignition and behaviour of grass samples.

Ignition thresholds for management applications (Probability of ignition = 70%)	
FFMC	MC (%)
77	26

Ignition thresholds for grasses exposed to contact from **metal spark** ignition sources. Ignition is dependent on grass moisture content (MC%) or Fine Fuel Moisture Content (FFMC).

Scenario	Ignition thresholds for management applications (Probability of ignition = 70%)	
	FFMC	MC (%)
No wind	78	25
Wind = 1 m/s	59	53

Not knowing how the molten material would react when exposed to the air as it fell, it may have begun to flame. The table to the left identifies ignition thresholds for grasses exposed to contact from open flame. Using an FFMC of 82 and above with no wind and wind of 1 m/s places the likelihood of ignition highly probable.

Fine Fuel Moisture Code FFMC

This is a numerical rating of the moisture content of surface litter and other cured fine fuels. It shows the relative ease of ignition and flammability of fine fuels.

The moisture content of fine fuels is very sensitive to the weather. Even a day of rain, or of fine and windy weather, will significantly affect the FFMC rating. The system uses a time lag of two-thirds of a day to accurately measure the moisture content in fine fuels.

The FFMC rating is on a scale of 0 to 99. Any figure above 70 is high, and above 90 is extreme.

Date	Station Name	Forest	Scrub	Grass	FFMC	DMC	DC	ISI	BUI	FWI	TEMP	RH	DIR	WSP	RN24	GC%
3 Oct 2020	Pukaki Aero	M	E	E	89.5	11	59.2	25.1	15	24.3	19	38	279	36.4	0	85
4 Oct 2020	Pukaki Aero	M	E	E	92	14.30	64.41	22.4	18.39	24.35	23.4	28	250	27.4	0	85
5 Oct 2020	Pukaki Aero	M	E	V	93.1	17.9	69.6	13.7	21.8	18.6	23.6	23	285	14.4	0	85

Fire and Emergency engaged the services of an investigative electrical engineer, Mitton Electrical Investigations. Using the services of a subject matter expert would provide investigators the expert knowledge required regarding the electrical network.

The electrical engineer arrived on site at Lake Ōhau on 9 October 2020. A visit to Network Waitaki’s premises was undertaken on 17 December 2020. This enabled a more detailed examination of the conductors and failed cross-arm and pole.

Another inspection was undertaken of the exhibits held by the Oamaru Police and Network Waitaki on 16 June 2021, this included inspecting the conductor and pole as well as some other conductor that had not been closely inspected previously.

The following is an extract from a report written for Fire and Emergency New Zealand by Mitton Electrical Investigations.

"The most likely cause of the fire was hot particles of metal and/or concrete emitted caused by the failure of the cross-arm on pole 35693. This pole is part of the 11 kV line in the valley and is located in the vicinity of the fire origin.

The cross-arm and stay bolts and nuts dislodged causing the cross-arm to partially detach from the pole and then rotate. This caused the 11 kV line conductor red phase to make contact with a cross-arm metal stay, resulting in an electrical fault event.

The electrical event occurred at approximately 02.10 on 4 October and resulted in an arc or repeated arcs between the conductor, metal stays, bolts and the pole. Particles of molten aluminium, steel or concrete most likely fell to the ground causing ignition of the vegetation below.

A second electrical fault event occurred, due to the twisting of the conductors, due to the failed cross-arm, in the span north of pole 35693. This occurred at 03:23, approximately 1 hr 13 mins after the failure of the cross-arm. This may have resulted in another point of fire ignition.

The damage on the yellow phase conductor between poles 870452 and 821215 did not appear to have occurred on the morning of the fire and is most likely due to conductor fatigue and/or a previous conductor clashing incident". (Extract ends)

The conclusion of Mitton Electrical Investigations supports the findings of the Fire and Emergency fire investigators.

The most probable cause of the initial fire was hot particles of metal and/or concrete emitted caused by the failure of the cross-arm on pole 35693.

It is the opinion of the investigators that when the span between pole 35693 and pole 870452 to the north where the electrical conductors have twisted has caused a secondary ignition. A three phase fault was recorded at 03:23hrs 17 minutes after the fire was first reported. We believe this fault corresponds with the conductors twisting together.

We have not been able to eliminate the area as having created a secondary ignition. Fire patterns in this area also support low intensity burning an indication of a fire spreading out from this location.

(See - Second Area of Interest 2 - Span between Pole 35693 and Pole 870452, page 93)

Damage identified at Pole 35693



Fig. 65. Close up of the burn hole below the centre bolt holding the metal stay arms to the pole.

83

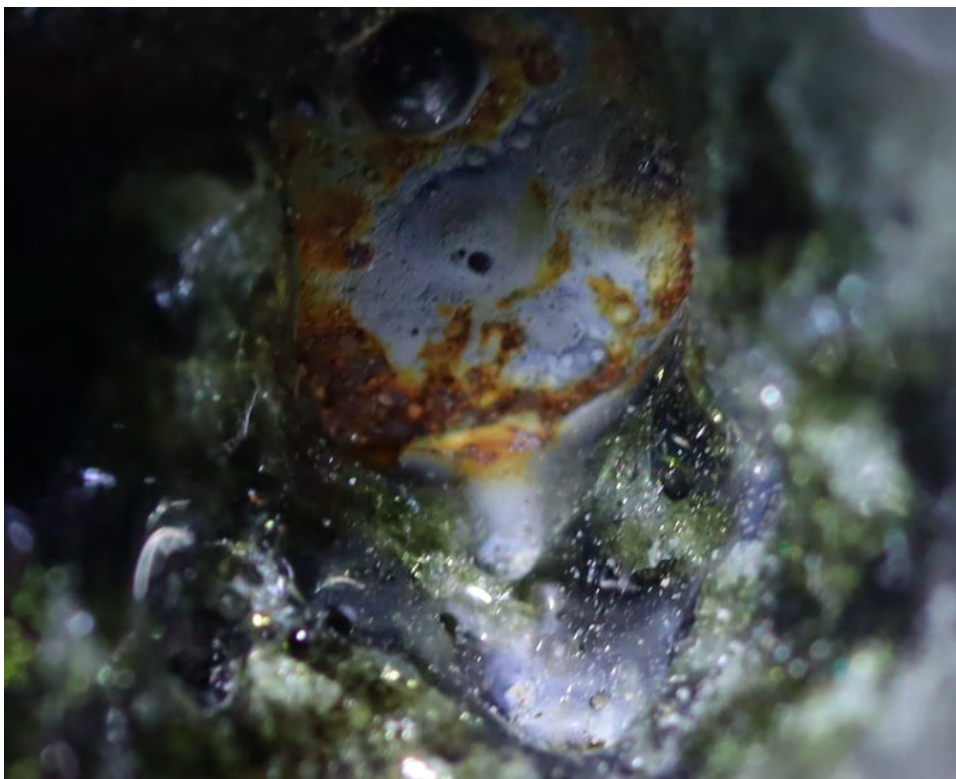


Fig. 66. IMG 1479JPG – cropped looking into burn hole, sand has melted like glass.



Fig. 67. Cropped IMG 1459JPG – hole left of centre. **Fig. 68.** IMG 1411JPG – 2nd hole below metal stay arms, opposite side of pole from Fig.67.

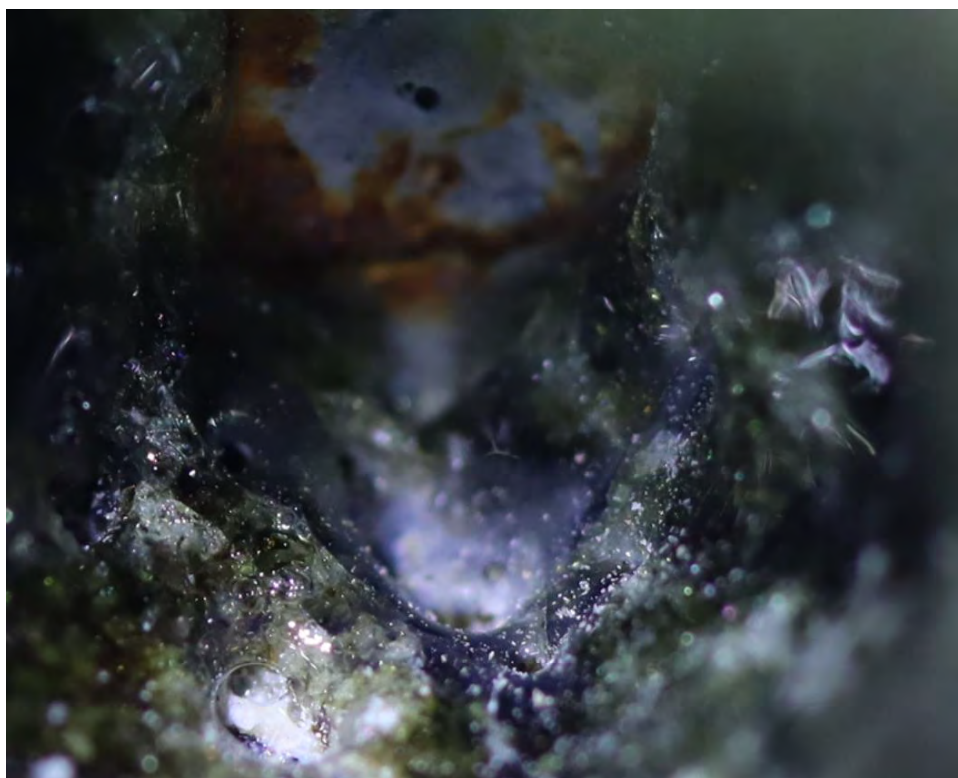


Fig. 69. Cropped IMG 1475 – Looking into burn hole.



Fig. 70. Cropped IMG 1449JPG – edge of hole has melted like glass.



Fig. 71. IMG_1449.JPG edge of hole and surface of pole has been exposed to intense heat.



Fig. 72. Burn hole washer side of pole IMG_1452.



Fig. 73. Cropped photograph of IMG_1452JPG.

88



Fig. 74. Edge of hole and surface have appearance of melted glass.



Fig. 75. Looking into burn hole IMG_1481.JPG.



Fig. 76. Arc damage on bolt and washer – bolt holds both metal stay arms to centre of the pole.
IMG_1444.JPG.



Fig. 77. Bolt from the centre of pole that held the metal stay arms with signs of heat damage.
IMG_1440.JPG.



Fig. 78. Old damage on side of pole that lines up with the cross-arm when twisted over. IMG_1415.JPG.



Fig. 79. Looking into old damage appears to display old heat damage. IMG_1485.JPG.

Second Area of Interest 2 - Span between Pole 35693 and Pole 870452

The second area of interest that we have not been able to eliminate is the area north of pole 35693 and south of pole 870452 where the electrical conductors have twisted.

- These conductors have been inspected and have arc damage where the cables have twisted together.

With the information at hand, we believe the conductors within this span have twisted together and have started a secondary ignition. This has occurred after the initial fire was started at around 02:10 hrs. Fire patterns in this area also support low intensity burning an indication of a fire spreading out from this location.

There was a phase to phase fault recorded at 03:23:09 causing the R690 to activate attempting to auto reset locking out at 03:23:27.

We believe the phase to phase fault occurred in the span between pole 35693 and pole 870452 where the electrical conductors have twisted together.



Fig. 80. Pole 35693 Blue Phase touching pole. (Photo supplied by Network Waitaki)



Fig. 81. Photograph (IMG_1715.JPG) Although not clear it does show the twist in the lines.

(Photo supplied by Network Waitaki)

Date	24hr Time	Fault	Amps	Phase	Location	Action	Comment
4-Oct-20	2:10:03	Earth	7		R690		
4-Oct-20	2:10:04				R690	load supply off	
4-Oct-20	2:10:09				R690	load supply on	
4-Oct-20	2:10:09				R690	automatic reclose	
4-Oct-20	2:11:51	Earth	7		R690		
4-Oct-20	2:11:52				R690	load supply off	
4-Oct-20	2:11:57				R690	load supply on	
4-Oct-20	2:11:57				R690	automatic reclose	
4-Oct-20	2:13:00	Earth	3		R690	SCADA	Freehold Creek
4-Oct-20	3:23:09	Earth	44		R690		
4-Oct-20	3:23:09	W max	304	Blue Phase = 304 Amp	R690		
4-Oct-20	3:23:09	V max	306	Yellow Phase = 306 Amp	R690		
4-Oct-20	3:23:09	U max	291	Red Phase = 291 Amp	R690		03:23:09 Line Supply OFF
4-Oct-20	3:23:10				R690	automatic reclose	03:23:10 Line Supply ON
4-Oct-20	3:23:15	Earth	35		R690		
4-Oct-20	3:23:15	W max	310	Blue Phase = 304 Amp	R690		
4-Oct-20	3:23:15	V max	307	Yellow Phase = 306 Amp	R690		
4-Oct-20	3:23:15	U max	291	Red Phase = 291 Amp	R690		03:23:15 Line Supply OFF
4-Oct-20	3:23:16				R690	automatic reclose	03:23:15 Line Supply ON
4-Oct-20	3:23:21	Earth	38		R690		
4-Oct-20	3:23:21	W max	303	Blue Phase = 304 Amp	R690		
4-Oct-20	3:23:21	V max	306	Yellow Phase = 306 Amp	R690		
4-Oct-20	3:23:21	U max	294	Red Phase = 291 Amp	R690		
4-Oct-20	3:23:21				R690	Line Supply off	
4-Oct-20	3:23:26	W max	312	Blue Phase = 312 Amp	R690		
4-Oct-20	3:23:26	V max	307	Yellow Phase = 307 Amp	R690		
4-Oct-20	3:23:26	U max	291	Red Phase = 291 Amp	R690		
4-Oct-20	3:23:26				R690	Line Supply off	automatic reclose
4-Oct-20	3:23:26				R690	automatic reclose	
4-Oct-20	3:23:27				R690	Lock Out	

Fig.82. R690 Data provided by Network Waitaki. The table has been populated by our investigators. The fault recorded at 03:23:09 to 03:23:26 is one fault which has active the automatic reclose system. With the fault remaining the system locked out at 03:23:27.

The twisting of the lines and subsequent arcing that occurred have possibly started a secondary fire. A fire starting by the twisted conductors would explain the fire pattern indicators that have come from north of pole 35693.



Fig. 83. Close up of arcing on twisted conductors IMG_1568.



Fig. 84. Close up of arcing on twisted conductors IMG_1578.



Fig. 85. Microscope image – 21031010123374.

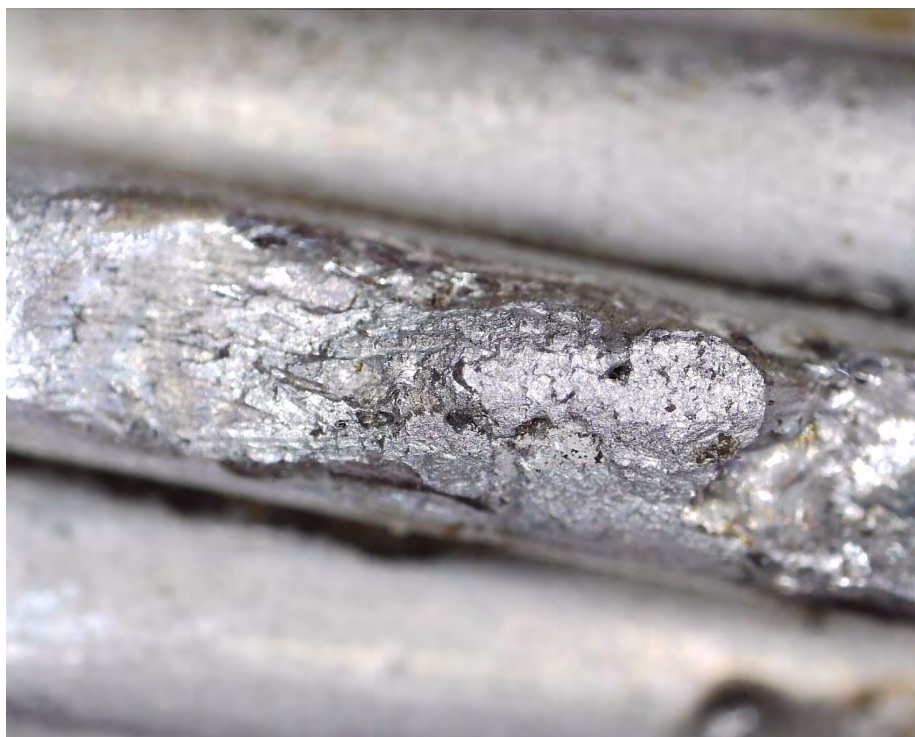


Fig. 86 Microscope image – 210310103810354.

97



Fig. 87. Microscope image – 210310104357176.



Fig. 88. Microscope image – 210310104817272.

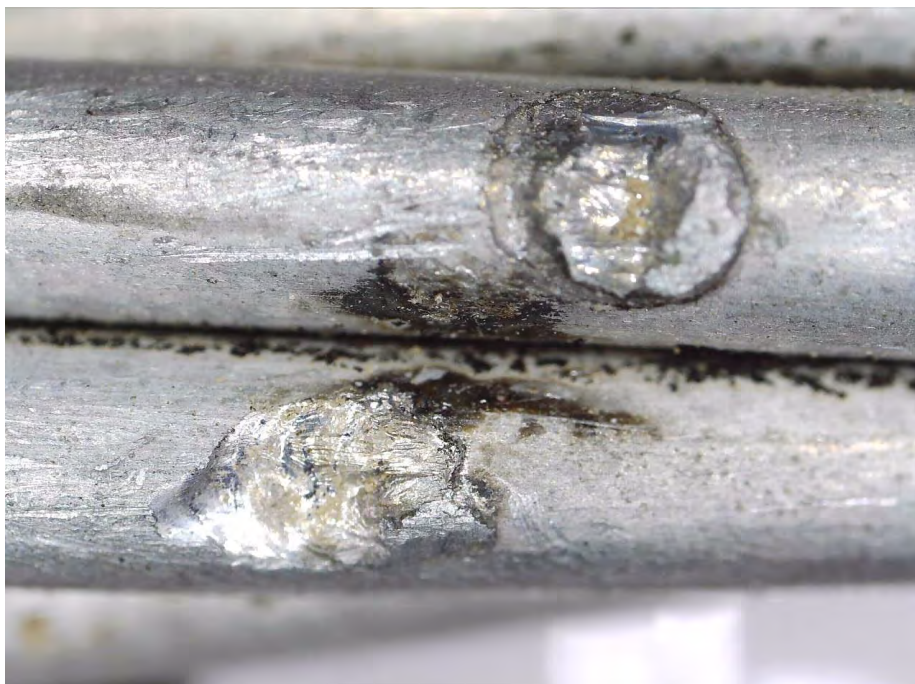


Fig. 89. Microscope image – 210310102531888.



Fig. 90. Microscope image – 21031010382.

Report completed by:

Fire Investigators:

Signature:

John Foley

A handwritten signature in black ink that reads "John Foley". The signature is written in a cursive style with a large initial 'J' and a distinct 'F'.

Craig Chambers

A handwritten signature in black ink that appears to be "CC" or a similar stylized initial, followed by a horizontal line.

Appendix 1: Maps of Fire Area (Topographical, Satellite, Animated)



Above map identifies Public Conservation Land (PCL) darker shade of green. Yellow ellipse is the general origin area.

Appendix 2: Statements

Witness statements have been provided by the following. [REDACTED]

[REDACTED]

[REDACTED]

Witness Reference	Witness Name	Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Appendix 3: Sketches of General Origin Area



Sketch 1. Fire spread from Specific Origin Area.

Red X identifies two specific origin areas.

- ⊗
- Pole 35693
- Twisted cables between pole 35693 and 870452

➡ Red arrows identify initial head fire run towards Freehold Creek to the South East

➡ Yellow identifies flanking fire off the main head fire run

➡ Yellow arrow identifies where the fire has burnt out towards Lake Ōhau Rd where it became ahead fire running down the side of the road

□ White square identifies an area of interest with the damaged conductors

➡ Red arrow with yellow boarder identifies fire run when the weather changed pushing the fire south.



Sketch 2. Fire Runs down towards village.

Appendix 4: ICAD Report Cover Sheet ONLY

Full report available on request.

**Fire and Emergency New Zealand
Incident Report**

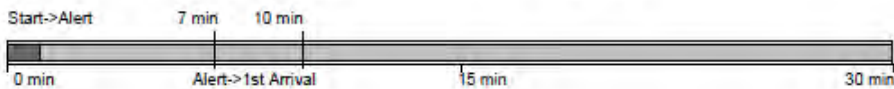
CADNumber F3088958 Start Date Time 04 October 2020 03:06:59

Incident Details

Type: STRU 1st Caller: [REDACTED]
 Method: 111
 PFA:
 Result: 1100: STRUCTURE FIRE (STRU)
 Location: LAKE OHAU RD, LAKE OHAU, WAITAKI DISTRICT NZTM: E 1348769
 N 5092886
 Common Name:
 Zone: 375690 Station: 3590 TWIZEL
 Incident Info: PINE TREES ON FIRE BEHIND THE VILLAGE - TX 3RD ALARM

Incident History

Created: 03:06:59 04 Oct 2020 Elapsed Time (hh:mm:ss)
 Confirmed: 03:07:50 04 Oct 2020 00:00:51
 Alerted: 03:08:07 04 Oct 2020 00:01:08
 1st Response: 03:15:18 04 Oct 2020 00:08:19
 1st Arrival: 03:39:25 04 Oct 2020 00:32:26
 2nd Arrival: 03:53:47 04 Oct 2020 00:46:48
 3rd Arrival: 03:54:49 04 Oct 2020 00:47:50
 Stop:
 Closed: 00:26:51 29 Oct 2020 59:19:52



Responses

Alarm Level	Call Sign	Dispatched		Response Time	Arrival Time	Departed	
		Day	Time			Day	Time
3	TWIZ9011	04	03:08:07	03:16:33	03:39:25	10	18:37:50
3	OMAR567	04	03:08:10	03:15:18	03:53:47	06	08:08:55
3	TWIZ907	04	03:25:06	03:28:51	03:54:49	05	08:52:26
3	TWIZ9026	04	03:34:54	04:11:42	04:11:43	04	17:54:22
3	OTEM571	04	03:25:20	04:12:33	04:12:34	04	14:16:53
3	LAKE837	04	03:33:10	04:33:28	04:33:29	04	12:33:57
3	LAKE8326	04	04:29:13	04:40:35	04:40:36	04	13:14:52

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14 April 2022

Managing Exotic Afforestation Consultation
Climate Change Policy
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Customer Services
P. 03 353 9007 or 0800 324 636
200 Tuam Street
PO Box 345
Christchurch 8140
www.ecan.govt.nz/contact

Tēnā koutou,

Canterbury Regional Council submission on the *Managing exotic afforestation incentives: Proposals to change forestry settings in the NZ Emissions Trading Scheme* discussion document

The Canterbury Regional Council (Environment Canterbury) welcomes the opportunity to provide feedback on the discussion document - *Managing exotic afforestation incentives: Proposals to change forestry settings in the NZ Emissions Trading Scheme*. Please find attached Environment Canterbury's submission.

As a regional council, we have an important role in delivering our region's freshwater management, integrated farm planning, building flood resilience, fire management, improving air quality, managing our own forestry and the impact on soil erosion, supporting biodiversity through habitat enhancement, and biosecurity functions. This submission reflects our experience in these areas.

Environment Canterbury looks forward to ongoing involvement as the Ministry for Primary Industries continues their work.

For all enquiries please contact:

Alina Toppler
Strategy Advisor – Strategic Programmes
Email: alina.toppler@ecan.govt.nz

Yours sincerely

A handwritten signature in cursive script that reads "Jenny Hughey".

Jenny Hughey

Chair

Encl: Environment Canterbury Submission on the *Managing exotic afforestation incentives: Proposals to change forestry settings in the NZ Emissions Trading Scheme* discussion document



Submission to the Ministry for Primary Industries on *Managing exotic afforestation incentives by changing the forestry settings on the NZ Emissions Trading Scheme*

Canterbury Regional Council and the role of forestry

1. Canterbury Regional Council (Environment Canterbury, the Council) welcomes the opportunity to comment on the Discussion Document on proposals affecting forestry and the New Zealand Emissions Trading Scheme (NZ ETS).
2. The Canterbury Regional Council has a range of responsibilities and interests that intersect with the topics in this Discussion Document including the impact of afforestation on soil erosion, water quality, water availability, wilding pines, the role of sequestration in climate change mitigation, biosecurity, fire management, and biodiversity.
3. As outlined in our Long-Term Plan 2021-2031 Te Pai Tawhiti 2021-2031, we are creating a shared regional approach to biodiversity – enabling, leading, and supporting partnerships that will protect and restore Canterbury’s indigenous biodiversity, economic production, and mahinga kai.
4. We manage our forests to provide flood protection and soil conservation. Forests also provide an additional source of income, recreational opportunities for the community, and offset our carbon footprint through the NZ ETS.
5. Environment Canterbury is the Regional Council for the largest geographical region and second most populous region in New Zealand. Our region boasts a diverse range of habitats and ecosystems that support a remarkable array of plant and animal life, which contributes to a wide range of community needs and expectations. Environment Canterbury acknowledges the importance of Canterbury’s biodiversity and our role in sustaining it.
6. Environment Canterbury, as the first council in New Zealand to declare a climate emergency, understands and acknowledges the importance of and urgent need to address climate change for the benefit of current and future generations. Our vision and purpose are:

Taking action together to shape a thriving and resilient Canterbury, now and for future generations. Toitū te marae o Tāne, toitū te marae o Tangaroa, toitū te iwi.
7. Increasingly the sense of urgency in our purpose has only grown and we acknowledge that carbon sequestration plays a crucial role in abating the climate emergency.
8. While noting the focus of this Discussion Document is on managing exotic afforestation, we re-encourage actively addressing gross emissions rather than using offsetting and trading through forestry as a primary tool to meet our 2050 emissions reduction targets.



Objectives and assessment criteria

9. The Canterbury Regional Council agrees that unconstrained permanent exotic afforestation within the NZ ETS risks perverse outcomes that could impact the reduction of gross emissions in the long term.
10. It is acknowledged that well-managed indigenous forests can have better environmental and biodiversity outcomes over time than comparable exotic forests.
11. There can be negative environmental impacts associated with unmanaged exotic forestry. The Canterbury Region is a good example of the adverse impacts of wilding conifers on conservation lands and pastoral land uses.
12. However, these impacts need to be balanced against the role exotics can play in flood protection, soil stabilisation, and reducing sediment and debris flow into waterways. Exotic forests can, and often do, host significant levels of indigenous biodiversity under their canopy and can assist the functioning of biodiversity corridors.
13. When considering the appropriateness of exotic compared to native forests, it is worth noting that the former can reduce the habitat for native species. However, afforestation, especially for NZ ETS purposes, is mostly on farmland which has generally significantly less biodiversity values.
14. Permanent exotic carbon forests in Canterbury are often planted in regenerating non-forest ecosystems, such as tussock grasslands and shrublands. These ecosystems are usually seen as marginal land rather than as productive farmland which results in the loss of these ecosystems and the services they provide.
15. Permanent exotic afforestation can mean forgoing opportunities for natural regeneration of native ecosystems including native vegetation communities, wetlands, and tussock grasslands which have multiple benefits. These benefits include carbon sequestration (usually slower, but longer term than sequestration from exotics), increases in biodiversity and ecosystem services, while concurrently reducing fire risk and weed spread.
16. Despite indigenous forests growing more slowly than exotic forests, they permanently lock away carbon in the soils as well as in the trees. This currently is not accounted for under the NZ ETS.
17. Any assessment of the environmental impact of widespread exotic afforestation needs to consider impacts on water quality and quantity and landscape and natural character values, as well as the potential loss of in situ indigenous vegetation prior to planting. There also needs to be recognition of the impact of erosion and sedimentation during both site preparation and harvesting.



Options to manage permanent exotic forestry in the NZ ETS

18. The Discussion Document's criteria for managing permanent exotic forest are supported, and the option of preventing exotic forestry from registering in the permanent category in the NZ ETS with exceptions is favoured. Any criteria should also recognise that new indigenous planting may need to be locally appropriate and species diverse to achieve the outcome of supporting indigenous biodiversity.
19. Exceptions could be relevant for erosion control or on marginal land. Caution needs to be exercised in using the transition from exotic to indigenous forests as an exception. Exceptions will need to be subject to a high bar and a clear transitioning pathway needs to be provided to ensure adverse effects are mitigated and clear benefits can be demonstrated. However, in setting exceptions criteria, it will be important to ensure the bar isn't set so high that it acts as a disincentive to transitioning forests.
20. Some environmental benefits of exceptions include the need to account for soil conservation, managing edge effects of pine plantations to suppress wilding risk, and the need to protect marginal land from continual burning and spraying practices.
21. Additional conditions could include the need for a permanent forest management plan with short, medium, and long-term commitments and alignment with the assessment criteria. Incentives could be offered such as for every hectare of exotic planting, equal amounts of hectares in indigenous planting are required.
22. Introducing the removal of permanent exotic afforestation by 1 January 2023 is supported.

Implementing changes to the permanent forestry category

23. Defining indigenous forests should not be difficult, particularly given most districts have undertaken a comprehensive process of identifying Significant Natural Areas (SNA). If indeed SNA identification processes under RMA requirements have declared areas to be (a) Significant and (b) Natural, then defining indigenous forests would appear to have been done already.
24. We note that the proposed Strategic Planning- and Climate Adaptation Acts also need to align with the spatial placement of forestry to avoid inappropriate activity in our most significant landscapes.
25. It is important that definitions in the NZ ETS and the NES for Plantation Forestry are aligned, and the aims of the Discussion Document are supported by integrated planning and other legislation to avoid regulatory gaps and unintended consequences.
26. The level of exotic vegetation communities present in a forest that would be enough to fail a threshold classification of that forest being considered indigenous should be minimal. In most instances the invasion of exotic vegetation into an indigenous forest would likely be a biosecurity wilding issue and therefore may have implications from a Regional Pest Management Plan perspective.



27. Environment Canterbury supports the current, significant penalties within the NZ ETS if exotic forests are removed from the permanent category

Averaging accounting for remote and marginal land

28. Creating a long rotation category under averaging accounting for *Pinus radiata* forests which are not profitable to harvest at age 28 makes sense. The look-up tables for commercial pine in Canterbury are the lowest in the country and it would be more economic for landholders to have a longer rotation option on some Canterbury land types.

Biodiverse permanent indigenous forests

29. Harvest management regimes that do not involve clear felling could be favoured, which include staged or staggered methods of harvest as used commonly in Europe. This method could incentivise natural regeneration and provide an easier NZ ETS pathway to establish and provide a regime to monitor and maintain indigenous regeneration.
30. The revision of the look-up table for indigenous vegetation is required so that the rationale for the sequestration value of mature podocarp forests is revisited. A revision of the look-up tables should also revisit the sequestration value of indigenous vegetation that will not grow above 5 metres.
31. Environment Canterbury recognises that incentives could be provided where new forestry development (exotic and native) is required to control pest browsing animals that destroy our native understory ecosystems. This could be included as a pest management contribution to the NZ ETS fund.
32. We note that while it is necessary to have robust rules for exotic afforestation, these should be coupled with greater incentivisation for indigenous afforestation, including funding.
33. In order to deliver long term resilience, the NZ ETS should recognise, alongside tree planting, other biodiverse landforms such as natural wetlands. This would incentivise landholders to view marginal farmlands and scrublands not so much as unproductive land uses, but as a revenue creating asset to be further nurtured for wider biodiversity outcomes and carbon sequestration benefits.

8.7. Otago Navigational Safety Bylaw 2020 Infringement Regime

Prepared for: Council
Report No. REG2202
Activity: Governance Report
Author: Steve Rushbrook, Harbourmaster
Endorsed by: Richard Saunders, General Manager Regulatory and Communications
Date: 25 May 2022

PURPOSE

- [1] This report seeks approval for the proposed Navigation Safety Bylaw Infringement Offence Regime.

EXECUTIVE SUMMARY

- [2] This paper seeks Council endorsement to commence the process of creating infringement regulations (infringement offences and fees) for breaches of the Otago Regional Council's Navigation Safety Bylaw 2020.
- [3] A proposed infringement regime was consulted on with the public in 2021. These submissions and staff responses are included in this report and will form part of the request to the Ministry of Transport.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Acknowledges** the submissions received on the proposed infringement offence fee regime and staff response to those submissions.
- 3) **Endorses** the proposed infringement offences and fees for the Otago Regional Council's Navigation Safety Bylaw 2020.
- 4) **Authorises** the Chief Executive to make a formal request to the Ministry of Transport to make new infringement regulations for the Otago Regional Council's Navigation Safety Bylaw 2020.
- 5) **Notes** that the Parliamentary Counsel Office or the Ministry of Transport may require amendments to the proposed infringement offences and fees.

BACKGROUND

- [4] On 14 September 2020, the Otago Regional Council's Navigation Safety Bylaw 2020 ("Bylaw") came into force.
- [5] Under the Maritime Transport Act 1994, the Governor-General may, by Order in Council, make regulations:
- a. *specifying which breaches of navigation bylaws are infringement offences;*

- b. *prescribing an infringement fee, not exceeding \$1,000, for any infringement offence specified under paragraph (a);*
- c. *prescribing the form of infringement notices for infringement offences.*

- [6] Staff have consulted with the Ministry of Transport (“MoT”) on the process to create infringement regulations. The general process is as follows:
- a. Council makes a formal request to MoT to make new infringement regulations for the Bylaw;
 - b. Council provides MoT a copy of the Bylaw along with Council’s proposed infringement fees;
 - c. MoT requests the Minister’s permission to instruct the Parliamentary Counsel Office – so that they can draft the infringement regulations;
 - d. MoT consults with the Council on the draft infringement fees then undertakes a consultation process with other government departments, before the Minister takes the regulations to Cabinet for approval.
- [7] ORC has completed a public consultation process on the proposed infringements and fees and the results of this consultation will form part of the formal request to MoT.

DISCUSSION

- [8] The adoption of an infringement offence regime has previously been signalled to Council. This regime would support the enforcement of the Bylaw by the Harbourmaster team as one of the tools available to staff.
- [9] It is expected that the majority of engagements with members of the public will continue to be education based. However, in order to have an appropriate deterrent for poor on-water behaviour it is considered appropriate for ORC to adopt an infringement offence regime.
- [10] Infringement Regulations must be in place before Council harbourmasters or enforcement officers can issue infringement notices for breaches of the Bylaw.
- [11] The Council’s Harbourmaster, in consultation with Navigatus Consulting Limited have identified various rules within the Bylaw and assigned proposed infringement grades (and infringement fees). In assigning these infringement grades and fees consideration was given to infringement fees for similar offences in other regions. Attachment 1 shows the proposed infringement grades and fees for ORC. Attachment 2 shows the proposed grades and fees alongside similar offences in southern regions.
- [12] The proposed infringement fees relate to the infringement grading proposed by the harbourmaster and Navigatus. The proposed infringement grades and fees for the Bylaw are:

Infringement grade	Low	Medium	High
Infringement Fee	\$150	\$300	\$500

- [13] Attachment 1 shows the proposed infringement grades and fees for ORC. Attachment 2 shows the proposed grades and fees alongside similar offences in other regions.

- [14] The highest proposed infringement fee for the Bylaw is \$500. This sum reflects the maximum penalty specified in section 33N of the Maritime Transport Act 1994 for breaches of a navigation bylaw.
- [15] ORC undertook consultation on a proposed infringement regime between the 28 May 2021 and 18 June 2021. A total of 13 submissions were received. A summary of the submission points along with a staff response is included as Attachment 3.
- [16] The infringement regime as proposed can be considered comparable to the regimes administered by Environment Southland, Queenstown Lakes District Council and Environment Canterbury. The introduction of the regime will bring ORC in line with other Harbourmaster functions across New Zealand.
- [17] If endorsed by Council, the proposed infringement offences/fees will be submitted and reviewed by MoT's legal team and the Parliamentary Counsel Office. The proposed infringement fees may require amendments based on feedback from the Parliamentary Counsel Office.

OPTIONS

- [18] Option 1: Recommended Option

Council endorses the proposed infringement regime and authorises the Chief Executive to make a formal request to the Ministry of Transport to make new infringement regulations.

Advantages

- *ORC implements an infringement regime which is one of the tools available to support the Navigation Safety Bylaw.*
- *The introduction of an infringement regime will bring ORC in line with other harbourmaster functions around the country*

Disadvantages

- *There are no disadvantages identified with this option*

- [19] Option 2

Council endorses the proposed infringement regime with changes.

The advantages and disadvantages of this option are considered to be the same as option one provided the changes to the regime are not significant.

- [20] Option 3

Council does not endorse the proposed infringement regime.

Advantages

- *There are no advantages identified with this option*

Disadvantages

- *ORC will not have an infringement tool available as part of its enforcement toolbox for the Navigation Safety Bylaw.*
- *ORC will remain inconsistent with other Harbourmaster functions around the country.*

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [21] The proposed infringement regime is consistent with the ORC strategic framework as it assists in promoting safe maritime transport.

Financial Considerations

- [22] There are no financial considerations associated with this report. Fines are used as a last resort and therefore will not have a material impact on the proposed annual plan budgets.

Significance and Engagement

- [23] Consultation has occurred on the proposed infringement regime. The approval of this regime is not considered significant when considered against He Mahi Rau Rika.

Legislative and Risk Considerations

- [24] There are risks considerations associated with this report. The approval of an infringement regime will provide an additional tool to ensure the Bylaw is appropriately enforced. Not undertaking this duty appropriately is a risk to the ORC.

Climate Change Considerations

- [25] There are no climate change considerations associated with this report.

Communications Considerations

- [26] The introduction of an infringement regime will be communicated as part of the seasonal communications plan developed by the Harbourmaster in consultation with Communications and Marketing staff.

NEXT STEPS

- [27] If the proposed infringement regime is approved staff will seek to complete the formal statutory process with the Minister of Transport.

ATTACHMENTS

1. Proposed ORC Infringements [8.7.1 - 3 pages]
2. Infringement Comparison Sheet [8.7.2 - 8 pages]
3. Submission Summary [8.7.3 - 4 pages]
4. Detailed Submission Responses [8.7.4 - 3 pages]

ORC Navigational Bylaw	ORC Bylaw Detail	Proposed ORC infringement Fee (\$)
5 (1)	1) The person owning or having responsibility for, or in charge of, or having conduct of any vessel, Port Company property, other maritime facility, structure or object that: a) has been involved in any accident, incident, or mishap involving a vessel; or b) in any manner gives rise to a navigational hazard; Shall, as well as complying with any accident reporting requirements of Maritime Rules and the Act, immediately report the occurrence to the Harbourmaster.	300
5 (2)	2)For accidents incidents or mishaps in Otago Harbour the Harbourmaster shall be notified by a VHF radio call to Harbour Control immediately, where VHF communication is available after the incident.	300
5 (3)	3) For other accidents incidents or mishaps the Harbourmaster shall be contacted within 24 hours of the incident by phone call or by email.	300
6(2)	No vessel owner shall permit the vessel to leave the shore or any anchorage or mooring unless a person in charge of the vessel has been nominated.	150
6(3)	Any person in charge of a vessel fitted with a kill cord must ensure that the kill cord is fitted correctly at all times whilst underway.	300
7(1)	A person in charge of a pleasure craft must not operate it unless there are sufficient personal flotation devices for each person on board at all times that the vessel is underway.	500
7(2)(a)	Personal flotation devices must be: (a) in a readily accessible location on board the vessel.	150
7(2)(b)	Personal flotation devices must be: (b) of an appropriate size for each person on board.	300
7(2)(c)	Personal flotation devices must be: (C) an appropriate type for the activity being undertaken.	150
7(2)(d)	Personal flotation devices must be: (d) in good operative condition.	150
8(1)(e)(i)	(i) a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the vessel and the vessel and support vessel in combination carry personal flotation devices or buoyancy aids of an appropriate type and size for every person on board in the event of any danger to the health and safety of occupants of the vessel;	500
9(1)	Every person on board vessels 6 metres or less length overall must wear a properly secured personal flotation device of an appropriate size for that person at all times.	300
9(5)(a)	All persons must wear a properly secured personal flotation device of an appropriate size for that person when: (a) in circumstances where tides, river flows, visibility, rough seas, adverse weather, when crossing a bar, in emergencies, or other situations that may cause danger or a risk to the safety of persons on board.	300
9(5)(b)	All persons must wear a properly secured personal flotation device of an appropriate size for that person when: (b) being towed by a vessel.	150
10(1)	No person under the age of 15 years shall be in charge of, or navigate, a power-driven vessel that is capable of a speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 years who is in the immediate reach of the controls.	500
10(2)	The person in charge of a power-driven vessel that is capable of a speed exceeding 10 knots must not allow any person who is under the age of 15 years to navigate that vessel in contravention of subclause (1).	500
11(1)(a)	A person in charge of a vessel on a river must: (a) Ensure that the vessel keeps to the starboard side of the navigable channel where safe and practicable.	500
11(1)(b)	(b) When going upstream, give way to any vessel coming downstream.	500
11(1)(c)	(c) Not navigate the vessel unless it is safe to do so and weather conditions are considered to permit safe navigation of the vessel.	300
11(1)(d)	(d) Not exceed a speed of 5 knots on any river unless in an area designated as a SSZ, or a Reserved Area or an Access Lane.	300
12(1)(a)	No person shall fish, jump, dive or swim: (a) From, or within 50 metres from, a landing place in a manner that interferes with the berthing or departure of any vessel;	150
12(1)(b)	No person shall fish, jump, dive or swim: (b) In Commercial Port Areas without the permission of the owner and shall comply with all conditions of that permission.	150
13(1)	No person may place an obstruction, including any fishing apparatus, in any waters that is likely to (c) restrict navigation; or (d) cause injury or death to any person; or (e) cause damage to any vessel or any property.	500
14(1)	No person shall navigate any vessel in circumstances where the vessel is unseaworthy, except to remove the vessel from the water or to move it to a safe area.	300
14(2)	No person shall operate any vessel in circumstances where persons on board have been advised by the Harbourmaster or an enforcement officer that the vessel is unseaworthy, except to comply with the directions of the Harbourmaster or enforcement officer to proceed to a safe area.	500
15 (1)	(1) No person shall navigate a vessel unless it displays an identifying name or number displayed above the waterline on each side of the vessel. Refer to bylaw.	150
16	No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigational aid or warning, without the prior written approval from the Harbourmaster.	150

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

17(1)(a)	No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (a) within 50 metres of any other vessel, raft, or person in the water;	500
17(1)(b)	No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (b) within 200 metres of the shore or of any structure;	300
17(1)(c)	No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (c) within 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (divers flag).	500
17(2)	No person may propel or navigate a powered vessel at a speed exceeding 5 knots while any person has any portion of his or her body extending over the fore part, bow, or side of that vessel.	150
17(3)	No person may cause himself or herself to be towed by a vessel (whether or not on a water ski, aquaplane, or other similar object) at a speed exceeding 5 knots in any circumstances specified in subclause (1).	500
17(7)	No person is permitted by any provision of this bylaw or any maritime rule to navigate a vessel in a manner that is likely to endanger any person or vessel.	500
17(8)	No person may operate a power-driven vessel at a speed or in a manner that any wake or draw-off endangers persons or property.	300
18	Refer to Bylaw page 22.	300
19(4)(5)	(4) No person may operate a vessel in a reserved area other than in accordance with any condition imposed by the Harbourmaster for the reserved area. (5) No person may enter a reserved area for any other purpose than that specified by the Harbourmaster.	300
19(6)	(6) While a reserved area is in use for the purpose specified by the Harbourmaster, no person may obstruct that use, or be in the specified area for any other purpose without prior approval of the Harbourmaster.	300
20(1)(a)	No person, (whether or not on a water ski, aqua plane, or similar object), shall cause or allow themselves to be towed by a vessel at a proper speed exceeding 5 knots and any circumstances specified in clause 17.1 (a) and (c)	150
20 (2) (a)	No person in charge of a vessel may permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that water ski or similar object, unless the person has taken measures adequate to ensure that the dropped ski or similar object is clearly visible to other water users.	150
20(3)	Lookouts required on vessels used for water skiing and towing. (a) (b) Refer to Bylaw page 24	300
20(4)	Water Skiing at Night. Refer to bylaw Page 24.	150
23(1)(a)	In the vicinity of marine mammals, the person in charge of each vessel shall: (a) travel no faster than idle or 'no wake' speed within 300m of any marine mammal.	150
23(1)(b)	In the vicinity of marine mammals, the person in charge of each vessel shall: (b) approach whales and dolphins from behind and to the side.	150
23(1)(c)	In the vicinity of marine mammals, the person in charge of each vessel shall: (c) not circle them, obstruct their path or cut through any group.	150
23(1)(d)	In the vicinity of marine mammals, the person in charge of each vessel shall: (d) keep at least 50m from whales (or 200m from any large whale mother and calf or calves).	150
23(1)(e)	In the vicinity of marine mammals, the person in charge of each vessel shall: (e) idle slowly away. Speeds may be gradually increased to out-distance dolphins and should not exceed 10 knots within 300m of any dolphin.	150
24(1)	No small or medium vessel shall anchor in a Navigational Channel without approval from the Harbourmaster. A large vessel may anchor in a Navigational Channel at the direction of the Pilot.	500
24(2)	No vessel shall remain anchored in a manner that obstructs moorings or moored vessels.	150
24(3)	No vessel shall remain anchored within the same or proximate location for longer than 14 days in any six month period without the prior approval of the Harbourmaster.	150
24(4)	An anchored vessel may not be left unattended for more than 24 hours without the owner, or their representative checking that the vessel remains secure.	150
25(1)	The person in charge of a vessel must ensure that it is securely anchored or moored, and secured while left unattended.	300
25(2)	In securing the vessel, the person in charge of the vessel must only use rope, chain or other means of anchoring or mooring a vessel that is fit for purpose.	300
25(3)	No person shall secure a vessel to any post, wharf, ring, fender, buoy or any other structure not fit for that purpose.	300
25(4)	No person shall leave any vessel or other property in a place where it may create a navigation hazard or nuisance where it may interfere with the normal use of the waters by other persons.	300
25(5)	No person shall set a vessel adrift or interfere with her moorings or fastening.	500
26(1)	No person shall lay, or move, a mooring unless: (a) that person holds a coastal permit for that mooring from Council; or (b) the mooring is a permitted activity in the Regional Coastal Plan.	150
26(2)	No person shall secure a vessel to a mooring that exceeds the length, displacement, or draught specified in the coastal permit or in licensing arrangements with the coastal permit owner.	150
27(1)	All vessels over 6m length shall carry an operational marine VHF radio and maintain a radio watch on Channel 14 whilst navigating along the Otago Harbour Shipping Channel.	150
27(2)	Between sunset and sunrise, or in conditions of restricted visibility, all vessels shall contact Harbour Control before entering or transiting along the Otago Harbour Shipping Channel.	150
27(3)	The person in charge of all Medium Vessels and Large Vessels must contact Harbour Control before navigating along the Otago Harbour Shipping Channel.	500
28(1)	No person shall navigate a vessel so as to be within an MPZ without the approval of the Harbourmaster.	300
29(2)(3)(4)	2)A master must not cause any vessel to manoeuvre within 200 metres of a berthed tanker flying Flag B unless required to by the operation of the tanker. 3)No vessel may berth or come alongside within 100 metres of a berthed tanker flying Flag B. 4)No vessel shall approach or manoeuvre within 25 metres of a large vessel without the prior permission of the large vessel or the Harbourmaster.	150

29(3)	No vessel may berth or come alongside within 100 metres of a berthed tanker flying flag B.	150
29(4)	No vessel shall approach or manoeuvre within 25 metres of a large vessel without the prior permission of the large vessel or the Harbourmaster.	150

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

ORC Clause	Keyword(s)	ORC Bylaw	Offence				Proposed/draft Infringement description	Infringement Fees										
			SRF Offence	EC Offence	QLDC Offence	CODC Offence		SRF Infringement Fee (\$)	SRF Infringement Grade (H/L)	EC Infringement Fee (\$)	EC Infringement Grade (H/M/L)	QLDC Infringement Fee (\$)	QLDC Infringement Grade (H/L)	CODC Infringement Fee (\$)	CODC Infringement Grade (H/L)	Proposed Infringement Grade (H/M/L)	Proposed ORC Fee (\$)	
6(2)	Nominated Individual	No vessel owner shall permit the vessel to leave the shore or any anchorage or mooring unless a person in charge of the vessel has been nominated.					Failing to nominate Master of vessel before leaving anchorage.										L	150
6(3)	Kill cord	Any person in charge of a vessel fitted with a kill cord must ensure that the kill cord is fitted correctly at all times whilst underway.					Failing to ensure kill cord fitted correctly.										M	300
7(1)	Sufficient flotation devices	A person in charge of a pleasure craft must not operate it unless there are sufficient personal flotation devices for each person on board at all times that the vessel is underway.	Failing to carry personal flotation devices on recreational craft as required. (2.1.1)	Failing to carry required lifejackets on recreational craft. (2.1.1)	Failing to carry accessible and sufficient lifejackets of appropriate size for each person on board vessel. (18.1)	Failing to carry personal flotation devices on pleasure craft as required. (2.1(1))	Failing to carry sufficient personal flotation devices for each person on board at all times whilst vessel underway.	\$100.00	L	\$300.00	M	\$300.00	L	\$300.00	L	H	500	
7(2)(a)	Personal flotation device requirements	Personal flotation devices must be: (a) in a readily accessible location on board the vessel.	Failing to carry personal flotation devices on recreational craft as required. (2.1.1)	Failing to carry required lifejackets on recreational craft. (2.1.1)	Failing to carry accessible and sufficient lifejackets of appropriate size for each person on board vessel. (18.1)	Failing to carry personal flotation devices on pleasure craft as required. (2.1(1))	Failing to ensure personal flotation devices readily accessible on board vessel.	\$100.00	L	\$300.00	M	\$300.00	L	\$300.00	L	L	150	
7(2)(b)	Personal flotation device requirements	Personal flotation devices must be: (b) of an appropriate size for each person on board.	Failing to carry personal flotation devices on recreational craft as required. (2.1.1)	Failing to carry required lifejackets on recreational craft. (2.1.1)	Failing to carry accessible and sufficient lifejackets of appropriate size for each person on board vessel. (18.1)	Failing to carry personal flotation devices on pleasure craft as required. (2.1(1))	Failing to ensure personal flotation devices are of appropriate size for each person on board.	\$100.00	L	\$300.00	M	\$300.00	L	\$300.00	L	M	300	
7(2)(c)	Personal flotation device requirements	Personal flotation devices must be: (C) an appropriate type for the activity being undertaken.					Failing to ensure personal flotation devices are of appropriate type for activity being undertaken.									L	150	
7(2)(d)	Personal flotation device requirements	Personal flotation devices must be: (d) in good operative condition.	Failing to carry personal flotation devices on recreational craft as required. (2.1.1)				Failing to carry personal flotation devices of good operative condition.	\$100.00	L							L	150	
8(1)(e)(i)	Support vessel requirements	(i) a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the vessel and the vessel and support vessel in combination carry personal flotation devices or buoyancy aids of an appropriate type and size for every person on board in the event of any danger to the health and safety of occupants of the vessel;		Support vessel failing to carry lifejackets or buoyancy aids. (2.1.7)			Failing to ensure vessel and support vessel carry, in combination, personal flotation devices or buoyancy aids of an appropriate type and size for each person on board.			\$300.00	M					H	500	

Infringement Grade (H/M/L)	Infringement Fee (\$)
L	150
M	300
H	500

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

9(1)	<6m vessels	Every person on board vessels 6 metres or less length overall must wear a properly secured personal flotation device of an appropriate size for that person at all times.		Falling to wear lifejacket on recreational craft of less than 6 metres. (2.1.3) Falling to wear lifejacket on manually powered craft of less than 6 metres. (2.1.4)	Falling to ensure persons on a recreational vessel 6 metres or less wear proper lifejacket when vessel is making way. (19.2)	Falling to ensure persons aboard pleasure craft wear flotation device when required. (2.2(1), (2), (3))			\$150.00	L	\$300.00	L	\$300.00	L	M	300	
9(5)(a)	Weather/situations of increased risk	All persons must wear a properly secured personal flotation device of an appropriate size for that person when: (a) in circumstances where tides, river flows, visibility, rough seas, adverse weather, when crossing a bar, in emergencies, or other situations that may cause danger or a risk to the safety of persons on board.			Falling to ensure persons on recreational vessel wear proper lifejacket in situations of danger or risk. (20.1)						\$300.00	L			M	300	
9(5)(b)	Flotation devices: towing	All persons must wear a properly secured personal flotation device of an appropriate size for that person when: (b) being towed by a vessel.	Falling to ensure a person being towed is wearing a personal flotation device. (2.1.7)	Towing a person who is not wearing a lifejacket/being towed without wearing a lifejacket. (2.1.5)	Towing person who is not wearing properly secured lifejacket of appropriate size from vessel at speed exceeding 5 knots, or being towed by a vessel at speed exceeding 5 knots when not wearing properly secured lifejacket of appropriate size. (21.1)	Towing person by pleasure craft unless wearing personal flotation device. (2.2(6))		\$100.00	L	\$150.00	L	\$500.00	H	\$300.00	L	L	150
10(1)	Underage Navigation	No person under the age of 15 years shall be in charge of, or navigate, a power-driven vessel that is capable of a speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 years who is in the immediate reach of the controls.			An unsupervised underage person operating powered vessel capable of exceeding 10 knots. (8.1)						\$500.00	H			H	500	
10(2)	Underage Navigation	The person in charge of a power-driven vessel that is capable of a speed exceeding 10 knots must not allow any person who is under the age of 15 years to navigate that vessel in contravention of subclause (1).	Allowing a person under the age of 15 years to operate unsupervised vessel capable of exceeding 10 knots. (8.1.2)	Allowing a person under 15 years to navigate powered vessel without supervision. (2.3.2)	Allowing an unsupervised underage person to operate powered vessel capable of exceeding 10 knots. (8.2)	Allowing person under 15 years old to propel or navigate powered vessel unless supervised. (2.3(2))	Allowing person under 15 years old to navigate power-driven vessel capable of exceeding 10 knots.	\$200.00	H	\$150.00	L	\$500.00	H	\$500.00	H	H	500
11(1)(a)	Keep Starboard	A person in charge of a vessel on a river must: (a) Ensure that the vessel keeps to the starboard side of the navigable channel where safe and practicable.	Falling to keep to starboard (right) side of a river channel. (5.1.1(a))	Falling to keep to starboard (right) side of river. (11A(a))	Falling to ensure vessel keeps to starboard side of river channel. (32.1(a))			\$100.00	L	\$150.00	L	\$500.00	H		H	500	

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

11(1)(b)	Give way	(b) When going upstream, give way to any vessel coming downstream.	Failing, if going upstream on river, to give way to a vessel coming downstream. (5.1.1(b))	Failing to give way to vessel coming downstream in river when going upstream. (11A(b))	Failing to give way to vessel coming downstream when going upstream. (32.1(b))		Failing to give way to vessel coming downstream in river when going upstream.	\$100.00	L	\$150.00	L	\$500.00	H		H	500	
11(1)(c)	River Weather	(c) Not navigate the vessel unless it is safe to do so and weather conditions are considered to permit safe navigation of the vessel.	Operating a vessel on river when weather conditions make it unsafe to do so. (5.1.1(c))	Operating vessel in dangerous conditions. (11A(c))	Operating vessel in conditions that do not permit safe operation. (32.1(c))		Operating a vessel on river when weather conditions make it unsafe to do so.	\$100.00	L	\$150.00	L	\$500.00	H		M	300	
11(1)(d)	River Speed Limit	(d) Not exceed a speed of 5 knots on any river unless in an area designated as a SSZ, or a Reserved Area or an Access Lane.	Exceeding 5 knots in certain conditions. (3.2.1)	Exceeding 5 knots in specified river areas. (11A(d))	Clutha River: exceeding 5-knot speed limit in specified area. (35.1)	Exceeding speed limit in certain circumstances. (2.4(1))	Exceeding 5 knots on river that is not a designated SSZ, Reserved Area, or an Access Lane.	\$200.00	H	\$150.00	L	\$300.00	L	\$300.00	L	M	300
12(1)(a)	Fish/Jump/dive/swim	No person shall fish, jump, dive or swim: (a) From, or within 50 metres from, a landing place in a manner that interferes with the berthing or departure of any vessel;	Swimming, diving, or jumping around or off wharves, jetties, or other areas designated by the Harbourmaster. (2.3.1)	Diving or swimming from wharf or ramp when vessel manoeuvring. (2.2.1)	Swimming, diving, jumping, or related activities from or within 50 metres of jetty or wharf with "no swimming" signage. (28.1(a))	Placing in waterway obstruction liable to restrict navigation or cause injury. (2.10(3))	Fishing, swimming, jumping, or diving from, or within 50 metres from, a landing place interfering with vessel or Commercial Port Area without permission of owner.	\$100.00	L	\$150.00	L	\$300.00	L	\$300.00	L	L	150
12(1)(b)	Fish/Jump/dive/swim	No person shall fish, jump, dive or swim: (b) in Commercial Port Areas without the permission of the owner and shall comply with all conditions of that permission.					Fishing, swimming, jumping, or diving in Commercial Port Area without permission of the owner.								L	150	
13(1)	Obstructions	No person may place an obstruction, including any fishing apparatus, in any waters that is likely to (c) restrict navigation; or (d) cause injury or death to any person; or (e) cause damage to any vessel or any property.	Placing an obstruction in a waterway that is liable to restrict navigation, cause or have the potential to cause loss of life or injury, or cause damage. (2.9.2)	Obstructing waterways or access to waterways. (2.10)	Placing obstruction in waters likely to restrict navigation, or cause injury, death, or damage. (13.3)	Placing in waterway obstruction liable to restrict navigation or cause injury. (2.10(3))	Placing in a waterway an obstruction, including any fishing apparatus, that is likely to restrict navigation, cause injury or death to any person, or cause damage to any vessel or property.	\$200.00	H	\$150.00	L	\$500.00	H	\$300.00	L	H	500
25(1)	Securely anchored/moored	The person in charge of a vessel must ensure that it is securely anchored or moored, and secured while left unattended.	Failing to adequately anchor, moor, or secure a vessel. (2.7.1)	Failing to ensure vessel is adequately moored or secured. (5.1.1, 5.1.2, 5.1.3)	Failing to moor vessel in secure manner or without adequate or safe means of accessing vessel. (13.2)	Improper securing of vessel. (5.2(3))	Failing to secure vessel is securely anchored or moored while left unattended.	\$100.00	L	\$150.00	L	\$300.00	L	\$300.00	L	M	300
25(2)	Securing Vessel	In securing the vessel, the person in charge of the vessel must only use rope, chain or other means of anchoring or mooring a vessel that is fit for purpose.					Failing to secure vessel with rope, chain or other means of securing vessel that is fit for purpose.								M	300	
25(3)	Illegal mooring	No person shall secure a vessel to any post, wharf, ring, fender, buoy or any other structure not fit for that purpose.	Failing to adequately anchor, moor, or secure a vessel. (2.7.1)	Failing to ensure vessel is adequately moored or secured. (5.1.1, 5.1.2, 5.1.3)	Tying vessel to navigation aid without permission. (15.1)	Damaging, removing, defacing, or interfering with buoy, beacon, or other navigational device. (2.11(2))	Securing a vessel to a structure not fit for purpose.	\$100.00	L	\$150.00	L	\$300.00	L	\$300.00	L	M	300

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

25(4)	Interference by Mooring	No person shall leave any vessel or other property in a place where it may create a navigation hazard or nuisance where it may interfere with the normal use of the waters by other persons.	Failing to adequately anchor, moor, or secure a vessel. (2.7.1)	Failing to ensure vessel is adequately moored or secured. (5.1.1, 5.1.2, 5.1.3)	Anchoring vessel in manner that obstructs passage of vessels or obstructs approach to wharf, pier, or jetty, or creates hazard to vessels at anchor. (13.1)	Anchoring or mooring so as to create a hazard or risk of collision with another vessel. (2.10(2))	Leaving vessel or property in a place that may create a navigational hazard or nuisance, or interfere with the normal use of waters by other persons.	\$100.00	L	\$150.00	L	\$300.00	L	\$300.00	L	M	300
25(5)	Mooring interference	No person shall set a vessel adrift or interfere with her moorings or fastenings.	Cutting, breaking, or destroying moorings or fastenings of a vessel. (2.7.2)	Cutting, breaking, or destroying mooring or fastening. (5.1.4)		Damaging mooring or fastening that secures any vessel. (5.2(5))	Cutting, breaking, or destroying mooring or fastening.	\$100.00	L	\$150.00	L		\$300.00	L	H		500
14(1)	Vessels to be Seaworthy	No person shall navigate any vessel in circumstances where the vessel is unseaworthy, except to remove the vessel from the water or to move it to a safe area.	Operating an unseaworthy vessel. (2.5.3)		Failing to keep vessel in seaworthy condition or leaving vessel sunk, stranded, or abandoned. (14.1)	Operating unseaworthy vessel. (2.9(1))	Operating an unseaworthy vessel.	\$200.00	H			\$300.00	L	\$300.00	L	M	300
14(2)	Vessels to be Seaworthy	No person shall operate any vessel in circumstances where persons on board have been advised by the Harbourmaster or an enforcement officer that the vessel is unseaworthy, except to comply with the directions of the Harbourmaster or enforcement officer to proceed to a safe area.					Operating an unseaworthy vessel.									H	500
15 (1)	Name/Number	(1) No person shall navigate a vessel unless it displays an identifying name or number displayed above the waterline on each side of the vessel. Refer to bylaw.	Failing to identify a vessel with appropriate markings. (2.14.1)				Navigating a vessel of 6 metres or greater length without an identifying name or number displayed appropriately.	\$100.00	L							L	150
16	Navigational Aids	No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigational aid or warning, without the prior written approval from the Harbourmaster. No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (a) within 50 metres of any other vessel, raft, or person in the water;	Erecting, maintaining, or displaying any beacon, buoy, or other device that may be used as, or mistaken for, a navigational aid without prior permission. (2.11.4)	Erecting, maintaining, or displaying any device that may be used as, or mistaken for navigation aid without permission of Harbourmaster. (2.11.3)			Erecting, maintaining, or displaying any device that may be used or mistaken for a navigational aid without prior approval of the Harbourmaster.	\$100.00	L	\$150.00	L					L	150
17(1)(a)	Speeding	No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (a) within 50 metres of any other vessel, raft, or person in the water;	Exceeding 5 knots in certain conditions. (3.2.1)	Exceeding 5 knots within specified distances from shore, person, vessel, or structure. (2.4.1)	Exceeding 5-knot speed restriction within 50 metres of vessel, floating structure, or person. (9.1(a))	2.4(1) and 3.1(1)	Exceeding 5-knot speed restriction within 50 metres of vessel, floating structure, or person.	\$200.00	H	\$150.00	L	\$500.00	H	\$300.00	L	H	500

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

17(1)(b)	Speeding	No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (b) within 200 metres of the shore or of any structure;	Exceeding 5 knots in certain conditions. (3.2.1)	Exceeding 5 knots within specified distances from shore, person, vessel, or structure. (2.4.1)	Exceeding 5-knot speed restriction within 200 metres of shore or structure. (9.1(b))	2.4(1) and 3.1(1)	Exceeding 5-knot speed restriction within 200 metres of shore or structure.	\$200.00	H	\$150.00	L	\$300.00	L	\$300.00	L	M	300
17(1)(c)	Speeding	No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding 5 knots: (c) within 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (divers flag).	Exceeding 5 knots in certain conditions. (3.2.1)	Exceeding 5 knots within specified distances from shore, person, vessel, or structure. (2.4.1)	Exceeding 5-knot speed restriction within 200 metres of vessel flying Flag A of International Code of Signals. (9.1(c))	2.4(1) and 3.1(1)	Exceeding 5-knot speed restriction within 200 metres of vessel flying Flag A of International Code of Signals.	\$200.00	H	\$150.00	L	\$300.00	L	\$300.00	L	H	500
17(2)	Speeding	No person may propel or navigate a powered vessel at a speed exceeding 5 knots while any person has any portion of his or her body extending over the fore part, bow, or side of that vessel.	Exceeding 5 knots while any part of a person is extended over the fore part, bow, or side of a vessel. (3.2.2)	Exceeding 5 knots while part of a person is extended over the edge of vessel. (2.6.1, 2.6.2)	Exceeding 5 knot speed restriction while person has part of body extending from powered vessel. (9.4)	2.4(1) and 3.1(1)	Exceeding 5 knots while any part of a person is extended over the fore part, bow, or side of the vessel.	\$100.00	L	\$150.00	L	\$300.00	L			L	150
17(3)	Speeding (towing)	No person may cause himself or herself to be towed by a vessel (whether or not on a water ski, aquaplane, or other similar object) at a speed exceeding 5 knots in any circumstances specified in subclause (1).	Exceeding 5 knots while being towed in specified areas. (3.2.3)	Being towed at speed exceeding 5 knots in specified circumstances. (3.1)	Being towed at speed of more than 5 knots in restricted-speed locations. (9.5)	Towing person, or allowing oneself to be towed, at speed exceeding 5 knots in certain circumstances. (3.1(1))	Exceeding 5 knots while being towed in certain circumstances.	\$200.00	H	\$150.00	L	\$300.00	L	\$300.00	L	H	500
20 (2) (a)	Towing	No person in charge of a vessel may permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that water ski or similar object, unless the person has taken measures adequate to ensure that the dropped ski or similar object is clearly visible to other water users.	Failing to recover water ski or similar object from the water. (3.2.4)	Permitting vessel to continue onwards after water ski or similar object dropped by person being towed. (9.6)	Person in charge of vessel failing to recover dropped water skis or similar object. (3.2(1))	Person in charge of vessel failing to recover dropped water ski or similar object.	Person in charge of vessel failing to recover dropped water ski or similar object.	\$100.00	L			\$300.00	L	\$300.00	L	L	150
17(7)	Endanger others	No person is permitted by any provision of this bylaw or any maritime rule to navigate a vessel in a manner that is likely to endanger any person or vessel.		Navigating vessel causing danger or undue annoyance to persons in vicinity. (2.4.3)	Navigating vessel without due care and caution or at speed or in manner so as to endanger any person. (7.1(b))		Navigating vessel in a manner that is likely to endanger any person or vessel.			\$150.00	L	\$500.00	H			H	500

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

17(8)	Wake	No person may operate a power-driven vessel at a speed or in a manner that any wake or draw-off endangers persons or property.			Creating wake that endangers other vessels, structures, or persons. (2.5.1)	Failing to ensure wake does not prevent people from safely using waterway, or does not cause danger or risk of harm. (11.1)	Propelling or navigating sailing or pleasure craft so that wake causes unnecessary damage or risk of damage to other vessels or structures or unnecessary danger or risk of harm to other persons. (2.5)	Operating a power driven vessel in a manner that creates wake or draw-off endangering any persons or property.		\$150.00	L	\$300.00	L	\$300.00	L	M	300	
18	Special Speed Zones (SSZ)	Refer to Bylaw page 22.	Cl 8, 11.	12.13.1, 12.32.1	33.1, 34.1	Failure to comply with stated speed limits. (9.3)	Failure to comply with stated speed limits.		\$100.00	L	\$150.00	L	\$300.00	L	\$300.00	L	M	300
19(4)(5)	Reserved Areas	(4) No person may operate a vessel in a reserved area other than in accordance with any condition imposed by the Harbourmaster for the reserved area. (5) No person may enter a reserved area for any other purpose than that specified by the Harbourmaster.	Multiple specified areas.	Multiple specified areas.	Kawarau River: powered craft in prohibited area. (36.4)	Using, entering, or remaining in reserved area in manner likely to endanger or unduly annoy any person using area. (4.6(2)(3))	Using, entering, or remaining in reserved area for a purpose other than that specified by Harbourmaster.		\$100.00	L	\$150.00	L	\$500.00	H	\$300.00	L	M	300
19(6)	Reserved Area Obstruction	(6) While a reserved area is in use for the purpose specified by the Harbourmaster, no person may obstruct that use, or be in the specified area for any other purpose without prior approval of the Harbourmaster.	Obstructing a person while the person is using a reserved area for the purpose for which it was reserved. (3.10.1)	Obstructing person using reserved area for its reserved purpose. (4.6.2)	Obstructing person using reserved area for reserved purpose. (43.6)	Obstructing person using reserved area. (4.6(1))	Obstructing person using reserved area for reserved purpose.		\$100.00	L	\$150.00	L	\$500.00	H	\$300.00	L	M	300
20(1)(a)	Water Skiing	No person, (whether or not on a water ski, aqua plane, or similar object), shall cause or allow themselves to be towed by a vessel at a proper speed exceeding 5 knots and any circumstances specified in clause 17.1 (a) and (c)														L	150	
20(3)	Water Skiing	Lookouts required on vessels used for water skiing and towing. (a) (b) Refer to Bylaw page 24										\$300.00		M			M	300
20(4)	Water Skiing	Water Skiing at Night. Refer to bylaw Page 24.														L	150	
23(1)(a)	Marine Mammals	In the vicinity of marine mammals, the person in charge of each vessel shall: (a) travel no faster than idle or 'no wake' speed within 300m of any marine mammal.						Exceeding speed so as to create wake within 300m of marine mammal.								L	150	
23(1)(b)	Marine Mammals	In the vicinity of marine mammals, the person in charge of each vessel shall: (b) approach whales and dolphins from behind and to the side.						Failing to approach whales or dolphins from behind and to the side.								L	150	
23(1)(c)	Marine Mammals	In the vicinity of marine mammals, the person in charge of each vessel shall: (c) not circle them, obstruct their path or cut through any group.						Circling, obstructing, or cutting through path of marine mammals.								L	150	

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

27(2)	Communication	Between sunset and sunrise, or in conditions of restricted visibility, all vessels shall contact Harbour Control before entering or transiting along the Otago Harbour Shipping Channel.		Failing to notify, or obtain permission for, movement of large vessel. (9.1)			Failing to contact Harbour Control when entering or transiting along the Otago Harbour Shipping Channel between sunset and sunrise.	\$500.00	H							L	150
27(3)	Communication	The person in charge of all Medium Vessels and Large Vessels must contact Harbour Control before navigating along the Otago Harbour Shipping Channel.					Person in charge of Medium or Large Vessel failing to contact Harbour Control before navigating along Otago Harbour Shipping Channel.									H	500
28(1)	MPZ	No person shall navigate a vessel so as to be within an MPZ without the approval of the Harbourmaster.	Navigating or stopping a vessel within the moving prohibited zone of any other vessel. (3.14.2)	Navigating vessel within moving prohibited zone without permission of Regional Harbourmaster. (9.7.2)			Navigating vessel within a MPZ without approval of the Harbourmaster.	\$200.00	H	\$150.00	L					M	300
29(1)(2)	Proximity to Ships	Refer to Bylaws page 30.	Failing to remain 200m or more from a vessel carrying or loading explosives as cargo. (4.2.2)		Failure by master to keep a 200 metre distance from vessel showing flag B or red all round light. (2.15)		Failing to remain 200m or more from a vessel showing Flag B unless unable or required to do so.	\$200.00	H				\$300.00	L	L	L	150
29(3)	Proximity at Berth	No vessel may berth or come alongside within 100 metres of a berthed tanker flying flag B.					Failing to ensure vessel does not berth or come alongside within 100 metres of a berthed vessel flying Flag B.									L	150
29(4)	Proximal Manoeuvring	No vessel shall approach or manoeuvre within 25 metres of a large vessel without the prior permission of the large vessel or the Harbourmaster.					Manoeuvring within 25 metres of a large vessel without prior permission from the large vessel or the Harbourmaster.									L	150
5 (1)(2)(3)	Notification of Accidents	Refer to Bylaws page 13.	Failing to notify a collision or accident to the Harbourmaster. (2.10.1)	Failing to notify Harbourmaster of incident. (2.7)	Failing to report specified incident to harbourmaster. (9.1, 9.2)		Failing to notify Harbourmaster of incident.	\$100.00	L	\$300.00	M	\$500.00	H			M	300

Attachment 3: Summary of Consultation Feedback with Staff Comments

Submitter feedback	Staff comments
Yes, charge them. I support your fees.	No response required
<p>Your speed limits are confusing, for example, when crossing a bar speed is a very important factor in a safe crossing, ie. you may be close to the shore but need to exceed 5kts every crossing.</p> <p>Another vessel I worked from a bar port for 35 years and at all time crossed as fast as safely possible both day and night.</p> <p>Your 5kt speed is wrong when steerage in adverse wind is a factor close to shore or fixed structure.</p>	Bylaw 17(9) covers this and allows for safe speeds to be used when crossing bars.
Why not try and educate people first or maybe a license, do not go straight in with fines this will not work.	Staff support this submission. Education first will be the policy applied. The infringement regime is one tool but would not be the first used.
<p>There seems to be no specifics related to paddleboarding, kite boarding, wind surfing or wing foiling and PFDs plus in the case of paddleboards a leash connecting one to the board. A leash is critical to paddleboarding so 100% must be specified in there if not people will drown. Wind sports such as windsurfing, kite boarding and wing foiling have not worn PFDs. I see no need for them as there are no statistics around drowning etc in these sports. They can also be obstructive as many wear harnesses to secure them to their board.</p>	This submission relates to the bylaw rather than the infringement regime. It would be considered in any future review of the bylaw.

<p>I do not support these changes. Due to the fact most people will be unaware of them by the time they get their boats ready for summer.</p>	<p>The infringement regime will be communicated clearly should it be approved by Council and the minister. The bylaw has been the subject of significant communication and should be well understood. An education first policy will be adopted to anyone who is infringing the Bylaw.</p>
<p>Why are ORC proposing fees for a lot of clauses when other TA's don't have any? Also, there could be a lot more education done for those who are new to boating rather than just issuing fines. Like being visible at boat ramps with the harbour master boat, showing people how to cross a bar safely etc.</p>	<p>See previous comments on education first approach. Other Council's with maritime responsibilities do set infringement fees to support enforcement of Bylaws. Staff currently undertake activities both on water and at boat ramps to provide education to boat users.</p>
<p>I'm against the fines. I think it should be easier to access training. I bought myself a boat and have no idea where to learn all the rules.</p>	<p>The rules are simple to find online and are supported by communications from ORC. The Harbourmaster team can be approached at any time for advice and support.</p>
<p>This is the first time I have seen this and have a few questions. The document say's Otago Navigation Safety Bylaw, then say's "Too now include lake Dunstan". Clarification please, is it ALL Otago water, some Otago water, Otago Harbour and some fresh waterways??? So, for a waterway that's narrow e.g Lake Roxburgh, how can you waterski, wakeboard, biscuit etc when you can't be closer than 200mtr to the shore e.g if the lake is 399mtr wide, no activities, and at no greater than 5 knots? I will also be looking these fines/rules more closely, I guess a lot of people must be sitting around with buggie all to do to come up with all this, or there have been funding cuts, and to help justify their exitance. So when will ORC and DOC be fined for having old man's beard, rabbits etc on land they are responsible for?</p>	<p>The majority of this submission relates to rules within the bylaw. Contact will be made directly with the submitter to clarify the rules being referred to.</p>

<p>I do not support this proposal at all, over the history of the Otago Regional Council you have shown us that you cannot not do any task you have set out to do correctly e.g controlling weeds and pests on your own river banks and land. I think it would be a great idea to start looking at the current jobs you have and doing them properly before taking on new ones and wasting everyone's money and time.</p>	<p>No response required</p>
<p>I find it interesting that no requirements for flares or epirb on vessels going out to sea are mentioned, I know that for some strange reason it's not law but it should be. Also no mention of fatigue or using vessels under influence of alcohol or drugs, these are the main cause of a lot of incidents yet not covered under the by-law</p>	<p>This submission relates to the bylaw rather than the infringement regime. It would be considered in any future review of the bylaw.</p>
<p>I would like to see all boats have a Reg No. and WOF. All boaties to have Day skippers Cert and vhf certificates. Man there are some idiots out there.</p>	<p>This submission relates to the bylaw rather than the infringement regime. It would be considered in any future review of the bylaw.</p>
<p>Public Notice 12 June (ODT) Submissions close 18 June That's only 6 days. Nowhere near adequate time for an individual, let alone a group (eg a club), to formulate a submission.</p>	<p>Harbourmaster spoke to the submitter and informed him that the date ran from 31st May. We can also accept late submissions for those who need additional time. He was accepting and required no further response.</p>

I agree with much of the proposed schedule of Infringement fees, BUT not completely. I have attached a document (RTF file, 2 pages) with some specific details I wish to address. The clauses I address are Rules 7, 9, 13, 14, and 17.

Please see the separate attachment for responses to the points raised in this submission.

Harbourmaster Comments on Detailed Infringement Regime Consultation.

To:
Otago Regional Council

Regarding
Proposed Infringement Fees for the ORC Navigational Safety Bylaw

Opening

I would like to say that I found the short time-frame for submissions difficult. Three weeks from public notification until close of submission period is very tight for ordinary people. (In my case not helped by my being unaware of the notification until after the first week.)

However, I should also say that the documents prepared for consultation were, in the main, well presented and useful.

My submission

Firstly, a general remark – I approve the intention for the ORC and its Harbourmaster to have penalties available for bad or dangerous behaviour on the water, and it is good that the Proposed Infringement Fees are (mainly) cater for behaviour which endangers others than for behaviour which only endangers the perpetrator, or causes a nuisance.

Some of the proposed fines (fees) appear to be somewhat steeper than is warranted, especially when comparing them with the corresponding fees in nearby territories,

Details I wish to address

7(1) & 7(2) (a) – (d) Personal flotation devices

I broadly agree with the general thrust of this group of infringement fees.

However Council might reasonably consider the \$500 fine for **7(1)** would be better to be set at \$300, which would align it with QLDC equivalent.

Staff response:

A strong deterrent is favoured for this infringement as it is a critical part of ensuring on-water safety. An education first approach will ensure that people are given an opportunity to be compliant before infringements are issued.

9(1) Wearing of PFDs in vessels under 6m

Assuming the proposed infringement description is intended to become a reference text, it will need to be changed to reflect the fact that Rule 9(1) is modified by

subsequent sub-clauses 9(2) to 9(4). Just a technicality, but it should be done. Deleting the words “at all times” would suffice.

Staff response:

This matter will be considered at the time of the next bylaw review.

13(1) Obstructions

Reduction to \$300 fine would be appropriate. (compare CODC).

Staff response:

This fee is consistent with QLDC and considered appropriate.

14(1) Seaworthiness

I think this would work better if firstly the fine for 14(1) were reduced to \$200, and then another fine introduced for infringement of **14(2) – Operating a vessel after being advised by the Harbourmaster that it is not seaworthy**. The fine for the latter could reasonably be \$500.

Staff response:

Staff agree with this point and the proposed fees have been adjusted to reflect this.

17(1)(a) Speeding within 50m of vessel, raft, or person

This is problematic, because the rule clusters these three offences together, but speeding within 50m of a raft or vessel is a much lesser offence than within 50m of a person in the water. The fine for speeding near a person in the water could reasonably be at \$500, but for the other two offences less (say \$250). However this cannot be done with the rule as it is structured, I suggest the fine could be “up to” \$500, which would allow for variability in application.

Staff response:

A change to the rule structure could be considered at the time of the next Bylaw review. The fee is considered appropriate for the current bylaw and no changes are proposed.

17(1)(b) Speeding within 200m of shore or structure

\$500 is excessive for this offence; \$300 would be more appropriate.

Staff response:

Staff agree with this submission and the proposed fee has been updated accordingly

17(1)(c) Speeding within 200m of Flag A (Divers' Flag)

I agree. The proposed \$500 is appropriate.

Staff response:

Support noted.

17(3) Being towed in circumstances described by 7(1)

Obviously if the fines for 7(1) become changed from the draft, then those for 7(3) should also change accordingly.

Staff response:

Staff agree with this submission.

8.8. Briefing on National Adaptation Plan Consultation

Prepared for:	Council
Report No.	SPS2217
Activity:	Governance Report
Author:	Francisco Hernandez, Principal Advisor Climate Change; Warren Hanley, Senior Resource Planner Liaison; Anne Duncan, Manager, Strategy
Endorsed by:	Anita Dawe, General Manager Policy and Science; Amanda Vercoe, General Manager, Governance, Culture and Customer
Date:	25 May 2022

PURPOSE

- [1] To advise Councillors on the Ministry for Environment (MfE) current consultation: ***“Adapt and Thrive: Building a climate-resilient New Zealand; Draft National Adaptation Plan; Managed Retreat”*** (the consultation).

EXECUTIVE SUMMARY

- [2] The Draft National Adaptation Plan (NAP) is a critical framework for New Zealand’s response to adapting our communities and environment to climate change.
- [3] New Zealand’s adaptation framework and responses is defined under the *Climate Change Response Act 2002* which states that a National Climate Change Risk Assessment (NCCRA) must be undertaken to assess New Zealand’s climate risks and that a National Adaptation Plan be prepared to address these risks.
- [4] The Draft National Adaptation Plan was prepared to address the risks identified in the completed National Climate Change Risk Assessment with a particular priority in addressing the top 10 most significant and urgent risks. It identifies 3 focus areas which have high level, cross-cutting options outlined:
- (1) Reform institutions to be fit for a changing climate,
 - (2) Provide data, information, and tools to enable everyone to address and reduce their climate risk and
 - (3) Embed climate resilience across government strategies and policies.

These focus areas sit above 5 outcome areas of Natural Environment, Homes, Buildings and Places, Infrastructure, Communities, and Economic and Financial Systems.

- [5] Each focus and outcome area contains a rationale for why the actions are being undertaken, the objectives, and a series of ongoing or proposed actions which are divided into critical, supporting and proposed future actions.

- [6] While managed retreat is nested under focus area 1, it has been highlighted by MfE as they have developed some further questions around the objectives, processes, roles and responsibilities. They intend to introduce legislation later this year and want specific feedback to assist in the development of the policy framework.
- [7] As the Draft National Adaptation Plan will affect the framework of climate change adaptation around New Zealand, ORC's responsibilities and ability to deliver on our commitments and plans to help our communities adapt to the impacts of climate change in the Otago region will be affected.
- [8] Therefore, staff consider it is important to lodge a submission that provides feedback on the proposed plan from a regional perspective informed by the Otago Climate Change Risk Assessment and ORC's LTP (Long Term Plan) work programme.

RECOMMENDATION

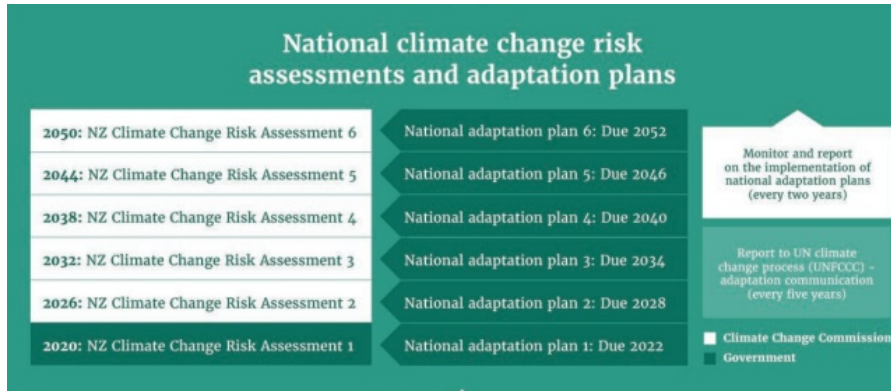
That the Council:

- 1) **Notes** this report.
- 2) **Approves a staff submission to be lodged, under the delegated authority of the Chief Executive, on the Ministry for the Environment's consultation: "Draft National Adaptation Plan."**
- 3) **Notes** that staff hosted a workshop on the Draft National Adaptation Plan on 18 May 2022 to provide an opportunity for Councillors' input to the submission.
- 4) **Notes** that a copy of the final submission will be provided in a report back to a full Council meeting in June 2022.

BACKGROUND

- [9] Despite the efforts that have been made to mitigate and reduce emissions from climate change, some degree of additional average global temperature increases is inevitable. Human activity has already increased average global temperature to 1 degree above the baseline. According to the latest Intergovernmental Panel on Climate Change (IPCC) report, at least 0.5 degrees of additional warming is 'baked in' from historic activity and 1.5 degrees of additional warming is locked in under all scenarios except the lowest emissions one.
- [10] The lowest emission scenario (SSP1 – 1.9) would still see warming of around 1.48 degrees by the end of the century, requires all carbon emissions to cease within the next 30 years, and for the climate sensitivity to warming to be on the lower end of the modelled ranges. For this reason, it is an unlikely scenario, with average global temperatures more likely to increase between 1.5 to 2.5 degrees.
- [11] This recognition means that along with working to mitigate emissions, countries must increasingly prepare their communities, environments, and economies to adapt to the reality of a world with a changed, and changing, climate.
- [12] The *Climate Change Response Act 2002* (CCRA) outlines a framework for New Zealand's response to climate change, not only in mitigating emissions but in adaptation as well. It

mandates the preparation of a National Climate Change Risk Assessment with the objective of assessing the risks of climate change to New Zealand across the social, economic, and environmental domains. It also states that a National Adaptation Plan must be prepared in response to the NCCRA which sets out how the government will address the risks.



- [13] In the 2020 national risk assessment, 48 risks were identified with 10 being highlighted as the most significant ones based on urgency, defined by MfE as the *'degree to which further action is recommended in the next six years'*. These ten risks were spread across 5 different value domains: Natural Environment, Human, Economy, Built Environment and Governance.

Table 1: New Zealand's 10 most significant climate change risks, based on urgency

Domain	Risk	Rating	
		Consequence	Urgency (44–94)
Natural environment	Risks to coastal ecosystems, including the intertidal zone, estuaries, dunes, coastal lakes and wetlands, due to ongoing sea-level rise and extreme weather events.	Major	78
	Risks to indigenous ecosystems and species from the enhanced spread, survival and establishment of invasive species due to climate change.	Major	73
Human	Risks to social cohesion and community wellbeing from displacement of individuals, families and communities due to climate change impacts.	Extreme	88
	Risks of exacerbating existing inequities and creating new and additional inequities due to differential distribution of climate change impacts.	Extreme	85
Economy	Risks to governments from economic costs associated with lost productivity, disaster relief expenditure and unfunded contingent liabilities due to extreme events and ongoing, gradual changes.	Extreme	90
	Risks to the financial system from instability due to extreme weather events and ongoing, gradual changes.	Major	83
Built environment	Risk to potable water supplies (availability and quality) due to changes in rainfall, temperature, drought, extreme weather events and ongoing sea-level rise.	Extreme	93
	Risks to buildings due to extreme weather events, drought, increased fire weather and ongoing sea-level rise.	Extreme	90
Governance	Risk of maladaptation ¹ across all domains due to practices, processes and tools that do not account for uncertainty and change over long timeframes.	Extreme	83
	Risk that climate change impacts across all domains will be exacerbated because current institutional arrangements are not fit for adaptation. Institutional arrangements include legislative and decision-making frameworks, coordination within and across levels of government, and funding mechanisms.	Extreme	80

- [14] The Ministry for the Environment also published guidance on how communities could undertake their own climate change risk assessments. The Council directed ORC staff to prepare a Climate Change Risk Assessment for the Otago Region. Council staff, working with Tonkin and Taylor delivered the first ever Otago Climate Change Risk Assessment (OCCRA) late last year.
- [15] OCCRA took a regional lens to the national level risks identified in the guidance and in the NCCRA to identify risks across the wider Otago region. Rather than presenting a shortlist of top 10 risks, it identified 24 key risks across the 5 domains from a wider longlist of risks. The 24 key regional risks are consistent with the national level risks, with the regional risks providing a more detailed risk picture as would be expected at the regional scale.
- [16] Community and business response on the Draft National Adaptation Plan (NAP) has been muted so far, which is in contrast to the Climate Change Commission's draft report and the subsequent draft emissions reduction plan which saw a plethora of media releases, submission guides and actions from various NGOs and lobby groups.
- [17] ORC staff have reviewed the consultation document, draft NAP and attended a local government focussed workshop held by MfE on 10 May 2022. Given the critical nature of this consultation to the preparation of the framework for adaptation responses, we consider a submission to provide feedback on the report warranted.

DISCUSSION

- [18] The discussion will work through (a) the three key focus areas of the draft NAP and (b) the outcome areas and outline the proposed actions for each.

Focus Area One: Reform institutions to be fit for a changing climate

- [19] This section proposes reforms to address the governance risks which could lead to maladaptation.
- [20] **Critical current** actions mentioned include RMA reform, legislation to support managed retreat, 3 waters reform, modernising the emergency management system and the future for local government review.
- [21] **Supporting actions** include establishment of a foundation to work with Māori, setting direction on natural hazard risk assessment through the National Planning Framework, implementing the national disaster resilience strategy, building capacity of the emergency management workforce, and establishing central government oversight for Draft NAP implementation.

Focus Area Two: Provide data, information, tools and guidance to enable everyone to assess and reduce their own climate risks

- [22] **Critical current** actions in this section are: Provide access to latest climate projection data, design and develop an adaptation information portal, complete case studies to explore co-investment for flood protection, develop a rolling program of targeted guidance.

- [23] **Future** work programmes include further new tools to support adaptation monitoring and evaluation and integration of mātauranga Māori.

Focus Area Three: Embed climate resilience across government strategies and policies

- [24] **Critical current** actions in this section are public investment in climate change initiatives and ongoing regulatory stewardship by the government as a whole.

Natural Environment

- [25] This section highlights the need to take action to protect the natural environment from the impacts of climate change. The most pressing risks currently are the pressure that climate change puts on the coastal ecosystems – including the dangers of flooding and coastal erosion and the increasing threats from pests and diseases.
- [26] **Critical current** actions in this section are: Implement the DOC Climate Change Adaptation Action Plan, implement the proposed National Policy Statement (NPS) on indigenous biodiversity, implement the Water Availability Program, and deliver biosecurity actions.
- [27] **Supporting** actions included initiatives such as implementing the NPS Freshwater Management, implementing a sustainable land management hill country erosion program, and a forestry planning and advisor service.
- [28] **Future work** programmes include prioritising nature-based solutions in *Te mana o te Taiao* (the Aotearoa New Zealand Biodiversity Strategy 2020), developing mātauranga Māori indicators for climate impacts, and establishing an integrated climate, biodiversity and environment work programme.

Homes, Buildings and Places

- [29] This section highlights the need to take action to protect the places that people value including homes and cultural heritage sites and places of importance to mana whenua. It is noteworthy that this section identifies that about 675,000 New Zealanders live in areas prone to flooding which *“amounts to nearly \$100 billion worth of residential buildings.”*
- [30] **Critical current** actions underway in this section are: Programmes to build property resilience, establishment of an initiative to make public housing resilient, embed adaptation and funding models for housing and urban development, Māori housing, support kaitiaki communities to adapt, and conserve taonga/cultural assets.
- [31] **Supporting** actions include initiatives such as the National Policy Statement for Urban Development and Building for Climate Change work programme.
- [32] **Future** work programmes include initiatives such as ensuring minimum regulatory requirements consider climate data and working with community housing providers to enable effective climate hazard responses.

Infrastructure

- [33] This section highlights the need to make infrastructure more resilient in the face of the changing climate and to make sure that infrastructure continues to provide wellbeing services in the face of all the challenges that climate change poses.
- [34] **Critical current** actions in this section are to develop a methodology for assessing impacts on physical assets and the services they provide, scope a resilience standard or code for infrastructure, integrate adaptation into treasury decisions on infrastructure and develop and implement the Waka Kotahi Climate Change Adaptation Action Plan.
- [35] **Supporting** actions included initiatives such as the New Zealand Battery Project, the rail network investment program, and investments in landfill remediation.
- [36] **Future** work programmes include the National Energy Strategy.

Communities

- [37] This section highlights the need to take action to prepare communities for the impacts of climate change. This means communities are enabled to adapt, that vulnerable people are supported and that the health and social support system can support people.
- [38] **Critical current** actions in this section are raise awareness of climate-related hazards, and how to prepare and develop a Health National Adaptation Plan (HNAP).
- [39] **Supporting** actions include developing the Climate Migration Action Plan, strengthening teaching, and learning related to climate change and building community resilience through social cohesion.
- [40] **Future** work programmes include initiatives such as expanding community resilience programmes and assessing healthcare services resilience.

Economic and Financial System

- [41] This section highlights that climate change is already affecting New Zealand's economy and will continue to do so as climate impacts worsen. The key risks besides the economic damage caused by climate-exacerbated natural disasters are climate vulnerable export industries (which would have a disproportionate impact on Māori) and local economies, disrupted supply chains, increasing un-insurability of assets, and reduced financial stability.
- [42] **Critical current** actions in this section are to deliver the freight and supply chain strategy, deliver the fisheries system reform, deliver the Aquaculture Strategy, support high-quality implementation of climate-related disclosures and explore expansion, RBNZ continuing to support the stability of the financial system, and developing options for home flood insurance issues by Treasury.

- [43] **Supporting** actions include considering climate risk in economic and fiscal monitoring and forecasting, leveraging government procurement for climate outcomes, and delivering the sustainable food and fibre futures fund.
- [44] **Future work programmes** include initiatives such as identifying the impact of climate change on regional economies and delivering the Māori agribusiness extension.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [45] Our Strategic Directions require that we take leadership on issues of significance and importance to our Otago communities and respond to national direction. This includes actions to give effective leadership including leading a regional approach to climate change to support Otago communities to adapt to the effects of climate change.
- [46] Staff consider submitting on the current consultation as consistent with the strategic directions. It further aligns with the programme commitments as indicated in the ORC LTP.
- [47] The commentary in this submission is also consistent with the direction identified in the proposed Regional Policy Statement 2021.

Financial Considerations

- [48] There are no specific financial considerations associated with this paper. Submitting on national consultations is a funded activity.

Significance and Engagement Considerations

- [49] The consideration of this consultation, and any subsequent submission is consistent with ORC's Significance, Engagement and Māori Participation policy.

Legislative and Risk Considerations

- [50] There are no risks with the plan at this stage but there may future risks associated with specific proposed programmes in the plan for ORC. These may include legal and insurance risks associated with development of the managed retreat system, as well as resourcing risks associated with implications of central government legislation and programmes for ORC. The short time frame available for consultation has not allowed comprehensive consideration of these risks.

Climate Change Considerations

- [51] Adaptation is a critical component in responding to a changing climate so submitting on this is vital.

Communications Considerations

- [52] Any submission made by ORC would be publicly available via the Ministry, as well as ORC.
- [53] ORC's communications team can consider if there is merit in making the submission more widely available, to communicate ORC's position to a wider audience.

NEXT STEPS


[54] ORC staff will draft and lodge a submission, and bring the submission to Council for noting, at the June 2022 meeting.

ATTACHMENTS

1. Proposed ORC Submission to MFE Consultation on the National Adaptation Plan [8.8.1 - 3 pages]

Appendix

Table 2: Draft National Adaptation Plan (NAP) and its alignment with the Otago Regional Council’s Long-Term Plan (LTP)

NAP Focus & Outcome Areas	NAP Critical Actions	LTP Programme & Headings	Level of Service	Measure	Outcomes linkages between LTP & NAP	Within first NAP timeframe?
Synergies between proposed National Adaptation Plan and Climate Change related work programme in ORC Long Term Plan 2021-2031 						
Natural Environment	<ul style="list-style-type: none"> Implement the NPS Indigenous Biodiversity Biosecurity Actions Prioritise solutions in NZ Biodiversity Strategy 2020 	Environment: Biodiversity and Biosecurity	Monitor the State of Otago’s indigenous biodiversity ecosystems and make accurate, relevant, and timely information publicly available.	Develop and implement a regional indigenous biodiversity ecosystems monitoring programme.	This will provide a better understanding of the vulnerability of Otago’s biodiversity, including to climate change, assist integrating into actions, achieving requirements and outcome of national direction.	Yes
Focus Area 2	Provide public access to latest climate projection data through an information portal	Regional Leadership: Regional Planning	Collect and make publicly available accurate, relevant, and timely information on climate change in Otago.	Information on climate change in Otago is shared with the community and stakeholders.	This is a new measure. Outcomes will be ongoing reporting of a regional greenhouse gas inventory and completing an Otago Climate Change Risk Assessment.	Yes
			Lead a regional approach to climate change in partnership with local councils and iwi.	Report on regional stakeholder engagement and collaboration on climate change.	This will assist Otago communities to have access to Otago climate change information, as well as national resources, to enable them to make informed decisions for adapting locally.	Yes – though development and implementation will likely straddle the first two NAPs.
Communities	<ul style="list-style-type: none"> Raise public awareness of CC related hazards Develop a Health National Adaptation Plan 	Safety & Resilience: Natural Hazards and Climate Change	Provide information on natural hazards and risks, including the effects of climate change, in order for communities and stakeholders to make informed decisions.	Relevant and up to date natural hazards information is available via the web-based Otago Natural Hazards Database.	Database information is checked and updated monthly to keep our communities informed.	Yes – already implemented
				Percentage of flood warnings that are issued in accordance with the ORC’s flood warning manual.	This is a new measure but is achieved 100%.	Yes

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

NAP Focus & Outcome Areas	NAP Critical Actions	LTP Programme & Headings	Level of Service	Measure	Outcomes linkages between LTP & NAP	Within first NAP timeframe?
	Synergies between proposed National Adaptation Plan and Climate Change related work programme in ORC Long Term Plan 2021-2031					
			Collaborate with communities and stakeholders to develop and deliver natural hazards adaptation strategies.	Complete regional natural hazards risks assessment (NHRA) and develop a regional approach for prioritising adaptation to inform adaptation planning and implementation.	Complete natural hazard risk assessment and define a regional approach, and develop a regional prioritisation plan for prioritising natural hazard adaptation. This is a key action to ensure we help inform our communities to adapt, prioritising areas such as Head of Lake Wakatipu and South Dunedin and Harbourside. This work will also help support the proposed Health National Adaptation Plan.	Yes - development of a prioritisation plan will straddle the first two NAPs
Infrastructure	<ul style="list-style-type: none"> Develop methodology for assessing impacts on physical assets and services Scope a voluntary resilience standard/code for infrastructure 	Flood Protection, Drainage and River Management <i>Importantly, these LTP activities form the basis of the Otago Regional Council's Infrastructure Strategy (IS). While it informs the 10-year programme of works under the LTP, the IS also looks a minimum of 30 years into the future at issues which will influence future programmes and activities for</i>	Provide the standard of flood protection and control agreed with communities.	Major flood protection and control works are maintained, repaired, and renewed to the key standards defined in relevant planning documents.	High compliance with planned maintenance is achieved and schemes function to their constructed design standards. National guidance and support on methodologies to assess impacts on scheme structure and services, as well as a resilience code will, if acceptable, support a consistent and efficient approach to asset management.	Yes
			Respond efficiently and effectively to damage from natural hazard events.	Damage identified, prioritised and a repair programme communicated with affected communities in a timely manner.	Timely communications with our communities are also in line with Focus areas 2 of the NAP and ORC's role in regional leadership.	Yes
			Maintain channel capacity and stability, while balancing environmental outcomes and recognising mana whenua values in rivers.	Percentage of identified and reported issues that have been investigated, and appropriate action determined and communicated to affected landholders within 20 working days.		

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

NAP Focus & Outcome Areas	NAP Critical Actions	LTP Programme & Headings	Level of Service	Measure	Outcomes linkages between LTP & NAP	Within first NAP timeframe?
	Synergies between proposed National Adaptation Plan and Climate Change related work programme in ORC Long Term Plan 2021-2031					
		<i>infrastructure management. This horizon will assist the IS to be adaptable over time, in line with the principles of the NAP.</i>		Percentage of planned maintenance actions achieved each year.	This is a new measure but is achieved 90% or greater.	Yes
Economic and Financial System	Deliver a freight and supply chain strategy	Transport: Regional Land Transport Plan (work programme)	Advocate for Otago's regional transport planning priorities and aspirations at a national level.	The Regional Land Transport Plan (RLTP) is reviewed and submitted in line with the Land Transport Management Act 2003 and any guidance issued by the New Zealand Transport Agency (NZTA).	Key work identified in the first 3 years in reviewing the RLTP will be to give effect to the central government's strategic direction of reducing the impacts of transport on climate change. The RLTP also support pan-regional transport issues and initiatives that will play a role in implementing a proposed freight and supply chain strategy.	Yes

8.9. Emergency Management Otago Partnership Agreement

Prepared for: Council
Report No. OPS2104
Activity: Safety & Hazards: Emergency Management
Author: Gavin Palmer, General Manager Operations
Endorsed by: Gavin Palmer, General Manager Operations
Date: 25 May 2022

PURPOSE

- [1] To seek Council approval of a written agreement describing the partnership arrangement between Otago Regional Council (ORC) and the five territorial authorities of Otago for the delivery of civil defence and emergency management (CDEM) responsibilities within the Otago CDEM Group area.

EXECUTIVE SUMMARY

- [2] ORC and the five Otago territorial authorities have responsibilities under the Civil Defence and Emergency Management Act 2002 within the Otago CDEM Group area. Whilst the Act prescribes governance and oversight arrangements for the CDEM functions undertaken by local authorities, it is silent on the operational arrangements and how they should be structured. This gives the Groups discretion on how they choose to deliver the responsibilities and the associated delivery structure. For the Otago CDEM Group those responsibilities are delivered through Emergency Management Otago with support from each local authority.
- [3] Although the formation of Emergency Management Otago in 2016 was supported at the time by a resolution of the Joint Committee, this was not followed up with the signing of a written agreement. There have been occasions over the past six years where a written agreement would have assisted with clarifying the roles and responsibilities of parties.
- [4] A proposed partnership agreement has been drafted by ORC in consultation with the territorial authorities. It has been endorsed by Coordinating Executive Group (CEG) and discussed by the Joint Committee.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
 - 2) **Endorses** the proposed Otago Civil Defence and Emergency Management Partnership Agreement.
 - 3) **Notes** that the proposed Partnership Agreement has been endorsed by the Otago Civil Defence and Emergency Management Coordinating Executive Group and discussed by the Joint Committee.
 - 4) **Authorises** the Council Chairperson and Chief Executive to sign the Otago Civil Defence and Emergency Management Partnership Agreement on behalf of Council.
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BACKGROUND

- [5] ORC and the five Otago territorial authorities have responsibilities under the Civil Defence and Emergency Management Act 2002 within the Otago CDEM Group area. Whilst the Act prescribes governance and oversight arrangements for the CDEM functions undertaken by local authorities, it is silent on the operational arrangements and how they should be structured. This gives the Groups discretion on how they choose to deliver the responsibilities and the associated delivery structure. For the Otago CDEM Group those responsibilities are delivered through Emergency Management Otago with support from each local authority.
- [6] Emergency Management Otago as it exists in its current form was created in 2016 following a review in 2015 by Cornwall Strategic. The purpose of this review was to assess CDEM arrangements and to investigate options for ensuring appropriate readiness and the delivery of an effective response in the Otago region. As a consequence of that review, changes were made to CDEM arrangements including the formation of Emergency Management Otago.
- [7] Although the formation of Emergency Management Otago was supported at the time by a resolution of the Joint Committee, this was not followed up with the signing of a written agreement. There have been occasions over the past six years where a written agreement would have assisted with clarifying the roles and responsibilities of parties.
- [8] In 2019 the Coordinating Executive Group (CEG) again sought an independent review of CDEM arrangements in Otago. Bruce Robertson was engaged and reported to CEG in January 2020. The review made recommendations that included *“that CEG; notes the current structural arrangements are fit for purpose; however, those arrangements would be enhanced by developing a detailed description of roles of EMO, ORC as the administering authority, ORC as an authority in its right and in terms of its regional responsibilities and the constituent territorial authorities”*.
- [9] A proposed partnership agreement has been drafted by ORC in consultation with the territorial authorities. It has been endorsed by CEG and discussed by the Joint Committee¹. The proposed agreement is attached as Attachment 1.

DISCUSSION

- [10] The National Emergency Management Agency (NEMA) are actively consulting on sector reform (TRIFECTA). This reform is in response to a National Technical Advisory Group's (TAG) review into CDEM arrangements in New Zealand in 2017. The joint approach to CDEM activities in Otago is seen as an exemplar².
- [11] As noted above, the agreement has been prepared in consultation with the territorial authorities. A draft was supplied to the CEG Liaison Committee, comprising senior staff of the territorial authorities and ORC, in November 2021 and the Committee met in March 2022 to discuss feedback. The draft agreement was updated to incorporate this feedback and then provided to CEG for endorsement and the Joint Committee for discussion.

¹ The Joint Committee comprises the mayor or chairperson of each local authority or an elected person from each local authority who has delegated authority to act for the mayor or chairperson.

² *Ministerial Review, Better Responses to Natural Disasters and Other Emergencies*, 17 November 2017

- [12] The proposed agreement records roles and responsibilities as they currently exist. It is not envisaged that any of the material will add additional burden to parties in excess of activity that should have been occurring to date.

OPTIONS

- [13] Council has two options as follows.
- [14] Option 1 – Status quo. Continue to deliver CDEM functions in the absence of a formal written agreement.
- [15] Option 2 – Endorse the proposed partnership agreement.
- [16] Option 2 is recommended as an agreement is good practice and reduces risk for all parties by ensuring responsibilities are clear.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [17] The partnership is aligned with Council's Strategic Directions where our vision states: communities that are resilient in the face of natural hazards, climate change and other risks.

Financial Considerations

- [18] The funding responsibilities and the decision-making process for funding of Emergency Management Otago are described in the proposed agreement.

Significance and Engagement

- [19] This matter does not trigger ORC's Significance and Engagement Policy.

Legislative and Risk Considerations

- [20] There is no legislative requirement to have a written agreement however an agreement is good practice and reduces risk for all parties by ensuring responsibilities are clear.

Climate Change Considerations

- [21] Robust and effective CDEM arrangements assist ORC in delivering its climate change adaptation programme of work.

Communications Considerations

- [22] The proposed agreement helps ensure the distinction between the roles of ORC and the roles of Emergency Management Otago are clear.

NEXT STEPS

- [23] To sign the agreement on behalf of Council with other partners.

ATTACHMENTS

1. Otago CDEM Partnership Agreement [8.9.1 - 19 pages]



OTAGO CIVIL DEFENCE AND EMERGENCY MANAGEMENT

AGREEMENT

AGREEMENT dated this @@ day of @@@@

Otago Regional Council ("ORC")

Central Otago District Council ("CODC")

Clutha District Council ("CDC")

Queenstown Lakes District Council ("QLDC")

Dunedin City Council ("DCC")

Waitaki District Council ("WDC")

1. DEFINITIONS

Terms used in this Agreement (including Schedules) which are defined in the CDEM Act have the same meaning.

- 1.1 **Administering authority** means the Otago Regional Council¹.
- 1.2 **Agreement** means this Otago CDEM Agreement signed by all Parties; and includes Schedules A, B and C that may be amended from time to time.
- 1.3 **CDEM** means Civil Defence Emergency Management
- 1.4 **CDEM Act** means the Civil Defence Emergency Management Act 2002.
- 1.5 **Otago Civil Defence Emergency Management Group region** means the area covered by Otago CDEM Group. This is based on the boundaries of the territorial authority members of the Otago CDEM Group.
- 1.6 **Otago Civil Defence Emergency Management Group ('Group')** means the joint standing committee² of representatives of local authorities within the Otago CDEM Group.
- 1.7 **CEG** means the Civil Defence Coordinating Executive Group established in accordance with the CDEM Act.³
- 1.8 **EMO or Emergency Management Otago** are CDEM career professionals employed by the ORC, responsible for delivering a range of services on behalf of the Group that enables the Group to fulfil its role.
- 1.9 **Local Authority** means both regional council and territorial authorities that are members of the Group, hereafter also referred to as **Parties**.
- 1.10 **ORC** means the Otago Regional Council
- 1.11 **ORC Executive Manager** means the direct supervisor to the Manager Emergency Management Otago.
- 1.12 **TA or Territorial Authority** means a city council or a district council.
- 1.13 **Lead** means to be accountable for, organise, direct deliver and fund CDEM activity.
- 1.14 **Support** means to give direct or indirect assistance in the development and delivery of CDEM activity.
- 1.15 **Coordinate** means to bring different elements (resources, activities or organisation) together, for development of efficient and effective delivery of CDEM activity.

¹ Civil Defence Emergency Management Act, Section 23

² Local Government Act 2002, Schedule 7, Clause 30 (1) (b)

³ CDEM Act, Section 20 (1)

2. BACKGROUND

- 2.1. On the 31st May 2003 the Local Authorities established the Otago Civil Defence Emergency Management Group ('Group') as a joint standing committee of the Local Authorities as required by the CDEM Act'.⁴
- 2.2. The Local Authorities and the Group have functions, powers and duties under the CDEM Act.
- 2.3. Following a comprehensive review of CDEM in the Otago region in 2016, the Group resolved that it's operational responsibilities for CDEM under the CDEM Act be combined and delivered through one team to be known as EMO, with the intention that each Council is to be an active equal participant in the establishment, development and control of EMO.
- 2.4. This new Agreement signed by all Parties, supersedes all previous agreements associated with Group arrangements for the delivery of joint CDEM services.

3. PURPOSE OF CIVIL DEFENCE EMERGENCY MANAGEMENT

The purpose of CDEM is to:

- Improve and promote the sustainable management of hazards in a way that contributes to the social, economic, cultural and environmental well-being and safety of the public and also to the protection of property.
- Encourage and enable communities to achieve acceptable levels of risk including, without limitation, identifying, assessing, and managing risks; consulting and communicating about risks; identifying and implementing cost-effective risk reduction; and monitoring and reviewing the process.
- Provide for planning and preparation for emergencies and for response and recovery in the event of an emergency.
- Coordinate through regional groups, planning, programmes and activities related to CDEM across the areas of reduction, readiness, response and recovery and encourage co-operation and joint action within those regional groups.
- Provide a basis for the integration of national and local CDEM planning and activity through the alignment of local planning, with a national strategy and national plan.
- Encourage the coordination of emergency management, planning, and activities related to CDEM across the wide range of agencies and organisations preventing or managing emergencies.

⁴ CDEM Act 2002, Section 12

4. PURPOSE

- 4.1. The purpose of this Agreement is to define the roles and responsibilities between the Group, CEG, the ORC and TA's to deliver CDEM for the Group's area under the CDEM Act.
- 4.2. ORC is the Administering Authority for the Civil Defence Emergency Management Group and employs EMO personnel). This agreement sets out the lines of command and control for EMO in respect of the relationship between Group, CEG and ORC.

5. VISION AND PRINCIPLES

Otago CDEM Vision:

Otago is a stronger, more connected, and adaptable region

- 5.1 This Agreement is intended to reflect and give effect to the guiding principles in the Group Plan.

6. FUNCTION, GOVERNANCE, AND OBLIGATIONS

Governance

- 6.1. The Group oversees the delivery of the functions, duties and power of the Group, under the CDEM Act.
- 6.2. The CEG is established under the CDEM Act to provide management oversight to Otago CDEM.
- 6.3. The CEG is statutorily responsible for providing advice to the Group and implementing as appropriate, the decisions of the Group.
- 6.4. The CEG is statutorily responsible for overseeing the implementation, development, maintenance, monitoring and evaluation of the Otago CDEM Group Plan.

Otago Regional Council's Role In relation to CDEM

- 6.5. There are three roles of ORC in respect to CDEM. The first is the statutory role as the administering authority for the Group as required by the CDEM Act. The second is the role as employer of the Emergency Management Otago staff. The third is a member of the Group and CEG (The role of ORC on the CEG and Group is as for all members).
- 6.6. In its role as the Administering Authority, the ORC is responsible for the provision of administrative and related services that may from time to time be required by the Group..
- 6.7. In its role as the employer and facilitator of Emergency Management Otago, the ORC shall provide the following services in support of the entire Group:
 - The administration of Group finances and budgets, entering into contracts with service providers and procurement on behalf of the Group.

- Staff management of EMO staff, including oversight of Emergency Management Otago's work programme, performance management, health and safety policy and systems, equipment and fleet vehicles.
 - For the avoidance of any doubt, all ORC policies including but not limited to staff conduct, performance, health and safety, procurement, financial management and ORC delegations apply to all EMO staff and Group activities at all times.
- 6.8. In its role as a member of the Group and CEG, the ORC shall provide the following services in support of the entire Group:
- a) An area adequate for the Group Emergency Coordination Centre (building to meet appropriate standard – IL4), and to a scale to meet its role in a major regional level response⁵. This facility must have capacity, workspace and adequate trained staffing to support 24-hour extended operations where required.
 - b) Expertise in hazard knowledge in the region.

Recruitment

- 6.9. In terms of the position of Manager Emergency Management Otago, the interview panel must include a member of CEG independent of the ORC.

Parties Specific Obligations

- 6.10. The functions, roles and responsibilities for Parties and EMO are set out in full in Schedule A to this Agreement. The mandate for these roles and responsibilities are in line with the CDEM Act or as agreed by all Parties.
- 6.11. Schedule B to this Agreement sets out the roles and responsibilities with reference to CDEM revenue and finances.
- 6.12. The Group commits to the prudent management of its annual operating budget (i.e. within a variance of no more than 5% at year-end). This commitment is subject to resource demands from civil defence emergencies. For the avoidance of doubt the Group budget process is via the Otago Regional Council Long Term or Annual Planning Process and ORC policies for sensitive expenditure, contract management, procurement, travel and all other relevant policies apply.
- 6.13. All Parties must use their best endeavours to implement and perform the duties outlined in Schedules to this Agreement.

General Obligations

- 6.14. Each Party must act in accordance with the purpose and principles of this Agreement.
- 6.15. Each Party must do all things necessary to give effect to this Agreement.
- 6.16. Each Party must make all necessary delegations to enable this Agreement to be implemented in full.

⁵ Major regional level response as per CIMS 3rd edition

Indemnity

- 6.17. Each party must, on demand, fully indemnify the other parties for any liability or loss whatsoever which they incur as a result of any act or omission of the first party.

CDEM Staff Management

- 6.18. Emergency Management Otago staff are CDEM career staff. All EMO staff are the employees of ORC. Otago TAs under this agreement, will not employ any career CDEM staff outside of this Agreement.
- 6.19. The ORC Executive Manager will liaise with the CEG chair when conducting an annual and half year performance review of the Manager Emergency Management Otago so that the operational performance can be fairly assessed and reported on.

7. FINANCE MATTERS

- 7.1. From the date of signing of this Agreement, the methodology for funding for the Otago CDEM service to deliver CDEM functions outlined in this Agreement, specifically Schedule A, will be through:
- Group CDEM service delivery: CDEM Regional Targeted Rate⁶.
 - TA CDEM service delivery: Respective Territorial Authority budget.
- 7.2. A revenue and financial statement is detailed in Schedule B of this Agreement.
- 7.3. A review of the financial methodology for funding CDEM services in the Otago should be undertaken consistent with the duration and review under section 9 of this Agreement.

8. DURATION AND REVIEW OF AGREEMENT

The duration of the Agreement is 10 years from @@@@ (expiration date), provided that the provisions of this Agreement shall continue to apply if the Parties agree that it shall continue for a specified period. This Agreement shall bind successors.

- 8.2. Any of the Parties may terminate their partnership in this Agreement at the first specified expiration date of this Agreement, by sending to all other Parties, one year's notice of termination in writing. At the date of the coming into effect of the notice that Local Authorities right to participate in this Agreement and the negotiations for the renewal or extension of this Agreement shall cease, but without prejudice to any liabilities and responsibilities up to the date of the coming into effect of the notice.

⁶ CDEM Regional Targeted Rate means the annual rate set by Otago Regional Council under the Local Government (Rating) Act 2002 to fund the budget approved by the Group for CDEM services.

- 8.3. Review of this Agreement shall commence eighteen months prior to the expiration date, or as agreed otherwise by the Parties; the Group shall meet in good faith to negotiate the renewal or extension with or without amendments.
- 8.4. Review and amendments to the Schedules in this Agreement are to occur on changes to legislation impacting CDEM, or further policy guidance and procedures stemming from the National Emergency Management Systems Reform, CDEM Reviews, emergency event reviews or as a result of all Parties agreeing amendments for enhanced CDEM service delivery.
- 8.5. The Parties acknowledge review and amendment to the Schedules in this Agreement will be instigated, considered and recommended by CEG. Amendments to the Agreement can only be authorised by the Parties in writing.

9. DISPUTES

The primary object of this section is to ensure that any dispute between Parties will be resolved as quickly and as informally as possible. Particular regard is to be had to that primary object in the interpretation or implementation of this section.

- 9.1 The purpose and principles of this Agreement must be applied by all Parties to try and resolve disputes.
- 9.2 Parties to any dispute must try in good faith to resolve that dispute by direct negotiation.
- 9.3 One Party must give written notice of a dispute on the other Parties(s).
- 9.4 If the dispute is not resolved within 10 working days of receipt of the notice of dispute, or such longer time as the Parties may agree, then the dispute must be referred to the Chairperson of CEG.
- 9.5 The Chairperson of the CEG will attempt to facilitate agreement. If no agreement is reached within a further 10 working days, then the dispute must be referred to mediation.
- 9.6 If referred to mediation, then such mediation will be conducted by a mediator jointly appointed by the Parties. If the Parties fail to agree on a mediator within 10 working days of the expiry of the date in clause 10.7, then the mediator shall be appointed by the President of the New Zealand Law Society or his or her nominee.
- 9.7 The costs of mediation must be paid equally by the Parties to the mediation.
- 9.8 Nothing in this section precludes any party seeking interim relief from any Court or initiating legal proceedings. However, Parties must utilise the dispute procedures in clauses 10.1 to 10.9 before taking legal action(s).

10. DISSOLUTION

In the event that EMO is dissolved for any purpose other than as a result of a Local Government reorganisation then:

10.1 Any lease or arrangement between the Parties for the purpose of EMO shall be deemed to be at an end as at the date of dissolution.

11. NOTICES

Any notice under this Agreement is to be in writing and may be made by email, personal delivery or post to the address of each Local Authority.

11.2. No communication shall be effective until received. A communication shall be deemed to be received by the addressee, unless the contrary is proved:

- In the case of a transmission by email on receipt of confirmation of receipt by the sender of the email,
- In the case of personal delivery, when delivered, and
- In the case of post on the third working day following posting.

12. COUNTERPARTS

This Agreement may be signed in any number of identical counterpart copies and transmitted in hard copy or electronically, all of which taken together shall make up one agreement.

Agreement signed by...



Andrew Noone
Chair
Otago Regional Council

Signature

Date



Aaron Hawkins
Mayor
Dunedin City Council

Signature

Date



Tim Cadogan
Mayor
Central Otago District Council

Signature

Date



Bryan Cadogan
Mayor
Clutha District Council

Signature

Date



Gary Kircher
Mayor
Waitaki District Council

Signature

Date



Jim Boulton
Mayor
Queenstown Lakes District Council

Signature

Date

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Schedule A Otago CDEM Roles and Responsibilities

The functions, roles and responsibilities by function for Otago CDEM Group member Councils and Emergency Management Otago (EMO) are set out in full in this Schedule. The mandate for these roles and responsibilities are in line with the CDEM Act and supporting statutory requirements or as agreed by all Parties (Councils and EMO).

This Schedule details the following functions and respective roles and responsibilities for each of these functions:

Emergency Management Otago	Otago Regional Council	Territorial Authorities
<p>Business Continuity Management</p> <p>Disruptions are an expected part of business, so it's important to be prepared for when they occur. Disruptions can be internal events that impact on organisation alone (eg: IT system failure), or external events that could impact across several organisations and locations (e.g., earthquake).</p>		
<ul style="list-style-type: none"> Undertake business continuity planning for Emergency Management Otago to be capable of delivering essential services and a functioning GECC during a crisis / emergency event and through the recovery. 	<ul style="list-style-type: none"> Undertake business continuity planning for Otago Regional Council to be capable of delivering essential services and a functioning GECC during a crisis / emergency event and through the recovery 	<ul style="list-style-type: none"> Undertake business continuity planning for the territorial authority to be capable of delivering essential services and a functioning EOC during a crisis / emergency event and through the recovery
<p>Capability Development, Training and Exercises</p> <p>Training and exercising progressively enhances individuals, local authorities and the Otago CDEM Group's capability to prepare for and manage emergencies and resources, using lessons learnt. The CDEM Group and each member of the Group are to take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or to otherwise make available suitably trained and competent personnel, including volunteers, and an appropriate organisational structure for those personnel, for effective civil defence emergency management.</p>		
<ul style="list-style-type: none"> Develop, deliver and report on training and exercise programmes for all local authority staff with a CDEM role. Coordinate professional development of all CDEM career staff. 	<ul style="list-style-type: none"> Agree sufficient access to all ORC staff identified in CDEM roles with supervisors to ensure they're available for, attend and complete all competencies associated with training and exercises in accordance with the agreed training schedule. 	<ul style="list-style-type: none"> Make all staff identified in CDEM roles available for, attend and complete all competencies associated with training and exercises in accordance with the agreed training schedule. Support community training and exercises
<p>Community Resilience and Partnership</p> <p>Community resilience in the Civil Defence and Emergency Management context, can best be described as the community's ability to cope with, bounce back and learn from adversity encountered during and after disasters. There are activities to support in building community resilience. These activities are community engagement, community planning, public education, monitoring and evaluation to measure community resilience. The integration and inclusion of iwi in community resilience activities cements the Otago CDEM principles of Māori partnership.</p>		
<p>Community Resilience</p> <ul style="list-style-type: none"> Development and implementation of community planning guidance documents and templates to support local CDEM Community Resilience activities and planning processes. Support regional and local level Community Resilience activities and planning. Support the development of Community Response Plans for local communities with relevant Territorial Authority as required. Ensure that the CDEM component of iwi and hapū management plans are coordinated at Group and local level (as required). <p>Public Education</p>	<p>Community Resilience</p> <ul style="list-style-type: none"> Support EMO and local level Community Resilience activities by commitment of staff resources and technical information to assist in local Community Resilience activities (hazard specific) as required. Ensure whole-of-council approach to Regional Council Community Resilience activities. 	<p>Community Resilience</p> <ul style="list-style-type: none"> Partner with EMO planning for all Community Resilience activities at the local level. Commitment of local council staff / resources to conduct Community Resilience activities. Support CDEM engagement with local communities. Support the development of Community Response Plans. Ensure whole-of-council approach to local level Community Resilience activities. Consider the CDEM component of iwi and hapū management plans and coordination at local level (as required).

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
<ul style="list-style-type: none"> Lead the planning for and coordination of Public Education activities at the Group level. Support local level Public Education activities. Fund and maintain Group resources for Public Education. Develop and maintain an Otago CDEM Group website and social media presence. 		<p>Public Education</p> <ul style="list-style-type: none"> Support Public Education activities at the local level. Fund and maintain local resources for Public Education.
<p>Equipment Includes all equipment to support readiness, response and recovery activities.</p>		
<ul style="list-style-type: none"> Provide and implement guidance and set policy on minimum specifications and standards, and functionality of CDEM equipment required for EOCs/ GECC across the region. Ensure procurement and maintenance of equipment, software and Information Communications and Technology (ICT) systems owned by Otago Regional Council in accordance with Otago Regional Council policies. Coordinate all CDEM Group responsibilities for effective interoperability with National CDEM systems 	<ul style="list-style-type: none"> Fit out and provide associated Information Technology (IT) equipment and infrastructure for EMO staff and GECC facilities (and alternate sites). Implement minimum equipment standards required for GECC in line with CDEM Group policy. Own equipment and associated infrastructure, to cover costs to maintain it to an operational standard and to manage and conduct maintenance programme. Provide EMO with furniture and equipment for staff located at Otago Regional Council offices. Undertake fleet management of all Emergency Management Otago vehicles. Procure any priority equipment required by the activated GECC to ensure effective operational capability of the GECC. <p>For the avoidance of doubt equipment and fleet will be managed under the relevant policies of the Otago Regional Council, including procurement, replacement and asset management.</p>	<ul style="list-style-type: none"> Fit out and provide associated Information Technology (IT) equipment and infrastructure for EOC facilities (and alternate sites). Implement minimum equipment standards required for EOC, ICPs and CDCs as required in line with CDEM Group policy. Own equipment and associated infrastructure, to cover costs to maintain it to an operational standard and to manage and conduct maintenance programme. Provide EMO with furniture and equipment for Emergency Management Officer staff embedded within districts. Provide ICT and property support, procure any priority equipment required to the EOC or Recovery Office in activation to ensure effective operational capability of the EOC equipment.
<p>Facilities Includes any facility to support readiness, response and recovery activities.</p>		
<ul style="list-style-type: none"> Serve as custodians of the GECC to ensure operational readiness, in consultation with ORC Support Services who are responsible for building management, maintenance, changes to building layout or function and cleaning of the GECC. Provide guidance on functionality and safety of EOC and GECC facilities. Activation of GECC facility as required for response. 	<ul style="list-style-type: none"> Provide and maintain GECC facilities (and alternate facilities) for operational response. Provide EMO with fit for purpose office space. Support the activation of the GECC facility if required for response if requested by the Group Controller. 	<ul style="list-style-type: none"> Provide council-based EMO staff with fit for purpose office space. Provide and maintain EOC (and alternate) facilities for operational response. Provide facilities or enter into agreements for the provision of facilities to serve as Civil Defence Centres (CDCs). Activation of EOC facility as required for response. Activation of CDCs as required in response.

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
<p>Financial Management</p>		
<p>The CDEM Group is to ensure allocation of financial budget to ensure effective delivery of the of CDEM services as outlined in the Group Plan.</p>		
<p>Emergency Management Budgets</p> <ul style="list-style-type: none"> Lead, develop, manage and administer CDEM Group budgets, including Capital Expenditure (CAPEX) and operational expenditure (OPEX), for the endorsement of CEG and approval by Joint Committee. However, the decision regarding the budget rated for annually ultimately sits with the Otago Regional Council. Manage costs in line with budget. Manage and administer specific contractual arrangements for services delivered by EMO. Coordinate and provide reporting on the CDEM Group budget and resourcing. 	<p>Emergency Management Budgets</p> <ul style="list-style-type: none"> Provide financial management and accounting services for CDEM Group budget. Manage, administer and submit reporting to the CDEM Group of Regional Council budgets for regional CDEM delivery Provide staff time and travel and accommodation costs associated with attendance at training and exercises. 	<p>Emergency Management Budgets</p> <ul style="list-style-type: none"> Manage, administer and submit reporting to the CDEM Group of Territorial Authority CDEM budgets. Fund any operating costs for Territorial Authority EOCs (including catering, stationery and contractors). Provide staff time and travel and accommodation costs associated with attendance at training and exercises. Fund community training and exercises. Submit reporting to the CDEM Group on Territorial Authority CDEM budget and resourcing.
<p>Governance and Management</p>		
<p>Joint Committee</p> <ul style="list-style-type: none"> Implements the CDEM Group Plan on behalf of the Joint Committee. Coordination, management and preparation of all agendas, reports, supporting papers and presentations on Group matters to the Joint Committee. <p>Coordinating Executive Group (CEG)</p> <ul style="list-style-type: none"> Supports the CEG in carrying out its directions from the Joint Committee and its obligations under the CDEM Act. Coordination, management and preparation of all agendas, reports, supporting papers and presentations to CEG. <p>CEG Operations Sub-committee</p> <ul style="list-style-type: none"> Coordinates those activities arising from the CEG Sub-Committees and reports to them on a regular basis. Coordination, management and preparation of all agendas, reports, supporting papers and presentations to CEG Operations Sub-committee. 	<p>Joint Committee</p> <ul style="list-style-type: none"> Active participation through appointed designates. As Administrating Authority provide governance and secretarial support to the Joint Committee. Provide reports and recommendations on Regional Council matters to the Joint Committee. Provide reports, decisions and recommendations back to Regional Council on CDEM Group matters <p>Coordinating Executive Group (CEG)</p> <ul style="list-style-type: none"> Active participation through appointed designates and provide support as agreed to lead delivery of the regional CDEM work programme. Develop and implement specific Regional Council Annual Plan tasking in a Regional Council CDEM work programme with alignment to CDEM Group Annual Plan. <p>CEG Operations Sub-committee</p> <ul style="list-style-type: none"> Active participation through appointed designates and support the CEG Sub-committees. 	<p>Joint Committee</p> <ul style="list-style-type: none"> Active participation through appointed designates. Provide reports and recommendations on Territorial Authority matters to the Joint Committee. Provide reports, decisions and recommendations back to Territorial Authorities on CDEM Group matters. <p>Coordinating Executive Group (CEG)</p> <ul style="list-style-type: none"> Active participation through appointed designates and provide support as agreed to lead delivery of local CDEM work programme. Develop and implement specific Territorial Authority Annual Plan tasking in a local level CDEM work programme with alignment to CDEM Group Annual Plan. <p>CEG Operations Sub-committee</p> <ul style="list-style-type: none"> Active participation appointed designates and support the CEG Sub-committees. Ensure the alignment of CDEM Group Annual Plan and local CDEM work programmes.

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
	<ul style="list-style-type: none"> Ensure the alignment of CDEM Group Annual Plan and Regional CDEM work programmes. 	
<p>Hazard and Risk Management</p>		
<p>In relation to relevant hazards and risks: identify, assess, and manage those hazards and risks; consult and communicate about risks; identify and implement cost-effective risk reduction. Identification of the hazards and risks in a Group area that may result in an emergency that requires national-level support and co-ordination.</p>		
<ul style="list-style-type: none"> Ensure effective planning and response to all hazards and risks in line with legislated responsibilities. Develop and monitor the hazard profile for the Otago CDEM Group as per the hazardscape detailed in the Otago CDEM Group Plan. Lead effective planning for response through collaboration on hazard risk management for hazards with cross regional and national impacts. This activity is undertaken in concert with the expertise of the ORC Natural Hazards Team. 	<ul style="list-style-type: none"> Lead identification of hazards (as required) in accordance with the hazard scape outlined in the CDEM Group Plan at the regional level. Own and manage the hazards (as required) and risk within the appropriate area of responsibility as mandated through the Regional Policy Statement in alignment with the hazardscape detailed in the Otago CDEM Group Plan. Fund and manage hazard investigation within the appropriate area of responsibility as mandated through the Regional Policy Statement in alignment with the hazardscape detailed in the Otago CDEM Group Plan Support effective planning for response through collaboration on hazard risk management for hazards with cross regional and national impacts. 	<ul style="list-style-type: none"> Own and manage the hazards and risk (as required) within the appropriate area of responsibility as mandated through the Regional Policy Statement in alignment with the hazardscape detailed in the Otago CDEM Group Plan. Fund and manage hazard research within the appropriate area of responsibility as mandated through the Regional Policy Statement in alignment with the hazardscape detailed in the Otago CDEM Group Plan Support communicating hazards and risks to respective communities.
<p>Lifeline Utilities</p>		
<p>Lifeline’s failures can disrupt and endanger the wellbeing of local and regional communities. Effective relationships, priority of response protocols and lead agency role definition can reduce the risk such failures may pose. Lifeline utility means an entity named or described in the CDEM Act 2002 in Part A of Schedule 1, or that carries on a business described in the CDEM Act, Part B of Schedule 1</p>		
<ul style="list-style-type: none"> Support Lifelines Utilities in the hazard risk assessment and planning for hazard risk reduction activities on lifelines utilities infrastructure in alignment with the hazardscape detailed in the Otago CDEM Group Plan. Provide administrative and project management support, networking, development opportunities and exercising for to the Otago Lifelines Group. Represent the Otago Lifelines Group and Otago CDEM Group at National forums. 	<ul style="list-style-type: none"> Lead hazard risk assessment and planning for hazard risk reduction and response activities on key Regional Council services and infrastructure. Support lifelines projects and activities. 	<ul style="list-style-type: none"> Lead hazard risk assessment and planning for hazard risk reduction and response activities on key Territorial Authority services and infrastructure defined as Lifeline Utilities under Schedule 1 of the CDEM Act. Support lifelines projects and activities through appointing a lifelines representative to the Otago Lifelines Group and active participation of its key lifelines managers. Provide LUCs for services defined under the CDEM Act. Activate staff to lead, coordinate and support the delivery of Lifeline Utilities (Territorial Authority) functions in response and recovery at the local level.
<p>Planning</p>		

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
<p>Fundamental to any successful undertaking is attention to planning and preparation. Whilst we pay attention to the plans that are produced, the process of planning is important to ensure that the plans developed meet the needs of the people affected.</p> <p>CDEM Groups and agencies are expected to routinely incorporate CDEM arrangements into their business planning and risk management processes, and to regularly monitor and report on their progress as appropriate. This is an important role to play in making progress towards the vision of a 'Resilient New Zealand'.</p>		
<p>Otago CDEM Group Plan</p> <ul style="list-style-type: none"> Lead the development, implementation, maintenance, monitoring and evaluation of the Otago CDEM Group Plan using approved processes. <p>Otago CDEM Business Plan</p> <ul style="list-style-type: none"> Lead the development, implementation, maintenance, monitoring and evaluation of the Otago CDEM Business Plan. Provide advice and guidance on the development of regional and local level CDEM work programmes in alignment to the Otago CDEM Business Plan. <p>Pre-event response action planning</p> <ul style="list-style-type: none"> Lead CDEM Group response planning. Support the development, implementation, maintenance of regional and local level response plans. <p>Standard Operating Procedures</p> <ul style="list-style-type: none"> Lead the development, implementation, maintenance of CDEM Group Standard Operating Procedures as required. <p>Recovery planning</p> <ul style="list-style-type: none"> Lead the development, implementation, maintenance of the Otago CDEM Group Recovery Plan. Provide advice and guidance on the development of the Local Recovery Plan. <p>Financial planning</p> <ul style="list-style-type: none"> Lead the development, implementation, maintenance of a CDEM Group policy on the management of response and recovery claims. 	<p>Otago CDEM Group Plan</p> <ul style="list-style-type: none"> Support, the development, implementation, maintenance, monitoring and evaluation of the Otago CDEM Group Plan. Ensure alignment between the Otago CDEM Group Plan and Regional Council Long Term Plans. <p>Pre-event response action planning</p> <ul style="list-style-type: none"> Support development, implementation, maintenance of CDEM response planning for Regional Council. <p>Standard Operating Procedures</p> <ul style="list-style-type: none"> Support the development, implementation, maintenance of CDEM Standard Operating Procedures as required <p>Recovery planning</p> <ul style="list-style-type: none"> Support the development, implementation, maintenance of Regional Council Recovery Plan for key council infrastructure and assets. <p>Financial planning</p> <ul style="list-style-type: none"> Support the development, implementation, maintenance of CDEM Group policy on the management of response and recovery claims. 	<p>Otago CDEM Group Plan</p> <ul style="list-style-type: none"> Support, the development, implementation, maintenance, monitoring and evaluation of the Otago CDEM Group Plan. Ensure alignment between the Otago CDEM Group Plan and Territorial Authority Long Term Plans. <p>Pre-event response action planning</p> <ul style="list-style-type: none"> Support development, implementation, maintenance of CDEM response planning for Territorial Authorities. <p>Standard Operating Procedures</p> <ul style="list-style-type: none"> Support the development, implementation, maintenance of CDEM Standard Operating Procedures as required. <p>Recovery planning</p> <ul style="list-style-type: none"> Support the development, implementation, maintenance of Local Recovery Plan with alignment to Group Recovery Plan. <p>Financial planning</p> <ul style="list-style-type: none"> Support the development, implementation, maintenance of CDEM Group policy on the management of response and recovery claims.
<p>Public Information Management</p> <p>Public information management (PIM) enables people affected by an emergency to understand what is happening and take the appropriate actions to protect themselves. This is achieved by making sure that timely, accurate, and clear information is shared with the public in an emergency.¹⁵ Strategic communications¹⁶ is a core component of Public Information Management activities.</p>		

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
<p>Public Information Management (PIM) staff</p> <ul style="list-style-type: none"> Group Public Information Manager provided by EMO. Coordinate the provision of a 24/7 duty Group PIM function. <p>Public Information Management planning</p> <ul style="list-style-type: none"> Lead and manage all Group level PIM activities. Develop and implement consistent messages in line with national messaging and where required develop SOPs for the Group and provide coordination and advice for Group and Local PIMs. Administer and maintain Group level PIM forums and meetings. Conduct PIM for CDEM Group and support local PIMs (if established) during response and recovery. 	<p>Public Information Management staff</p> <ul style="list-style-type: none"> Alternate Group Public Information Managers provided by Regional Council. Provide staff to support a 24/7 duty Group PIM function. Provide communications/ media staff to receive training and support the Group and local PIM functions, including strategic communications. <p>Public Information Management planning</p> <ul style="list-style-type: none"> Support all CDEM Communications and Social Media activities at the Group and local level as required. Support consistent CDEM messaging across all Regional Council social media platforms and websites. Provide communications/ media staff to support the Group and Local PIM function during response and recovery if required. 	<p>Public Information Management staff</p> <ul style="list-style-type: none"> Local Public Information Manager and alternates provided by Territorial Authorities. Provide the agreed number of PIM staff to receive training and assist with the dissemination of CDEM information via any platform as required. <p>Public Information Management planning</p> <ul style="list-style-type: none"> Lead and manage all local level PIM activities. Support all CDEM Communications and Social Media activities at the Group and local level as required. Support consistent CDEM messaging across all Territorial Authority social media platforms and websites. Ensure effective delivery of PIM in response and recovery at the local level.
<p>Reporting, Monitoring and Evaluation</p> <p>All members of the CDEM Group must provide reports that may be required by the Group. Monitoring and evaluation provide a method for learning from experience, analysing capability, planning and allocating resources, and demonstrating results as part of accountability to stakeholders.</p>		
<p>Reporting</p> <ul style="list-style-type: none"> Facilitate agreed reporting to Joint Committee, CEG and CEG Operations Subcommittee. Coordinate and publish annual report against the Otago CDEM Group Annual Plan and the Otago CDEM Group Plan to CEG, Joint Committee and ORC Council Provide reporting to Territorial Authorities and Regional Council on staff training registration, attendance and completion of competencies associated with training. <p>Monitoring and Evaluation</p> <ul style="list-style-type: none"> Lead and implement Monitoring and Evaluation process for CDEM Group. Monitor progress against the goals, objectives and outcomes of the CDEM Group Plan on behalf of the Joint Committee. Develop and implement a framework for conducting post-event reviews and corrective action plans for the CDEM Group. 	<p>Reporting</p> <ul style="list-style-type: none"> Ensure Elected Officials and Leadership Team are informed of Joint Committee and CEG resolutions, directions and decisions. Provide reporting to Joint Committee, CEG and CEG Sub-Committee on specific Regional Council Annual Plan tasks related to CDEM. <p>Monitoring and Evaluation</p> <ul style="list-style-type: none"> Support, contribute and implement a lessons learned/ knowledge management process for CDEM Group. Support Monitoring and Evaluation process for CDEM Group. 	<p>Reporting</p> <ul style="list-style-type: none"> Ensure Elected Officials and Leadership Team are informed of Joint Committee and CEG resolutions, directions and decisions. Provide reporting to Joint Committee, CEG and CEG Sub-Committee on specific territorial authority Annual Plan tasks related to CDEM. <p>Monitoring and Evaluation</p> <ul style="list-style-type: none"> Support, contribute and implement a lessons learned/ knowledge management process for CDEM Group. Support Monitoring and Evaluation process for CDEM Group.

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
<p>Staff</p>		
<p>All staff with CDEM responsibilities including CDEM career staff, CDEM appointed staff, Regional Council and Territorial Authority staff fulfilling CIMS functions as part of an Emergency Coordination Centre (ECC) or Emergency Operations Centre (EOC) and any CDEM volunteers providing support to any CDEM function.</p>		
<p>The CDEM Group and each member of the Group are to take all steps necessary on an ongoing basis to maintain and provide, or to arrange the provision of, or to otherwise make available suitably trained and competent personnel, including volunteers, and an appropriate organisational structure for those personnel, for effective civil defence emergency management.</p>		
<p>CDEM career staff</p> <ul style="list-style-type: none"> • Manager EMO to appoint CDEM career staff to deliver CDEM outlined in the CDEM Group Plan and this Agreement. <p>24/7 Duty staff</p> <ul style="list-style-type: none"> • Provide adequate 24/7 staff cover for duty roster for the Otago CDEM Group. • Ensure support to 24/7 Local Duty Controller capability. <p>CDEM Forums</p> <ul style="list-style-type: none"> • Appoint staff to represent the Otago CDEM Group at national, regional and local CDEM forums as required. <p>Staff for CIMS functions</p> <ul style="list-style-type: none"> • Lead the development and implementation of the competency, capability and capacity criteria for EOC/GECC staff in CIMS functions. • Make recommendations on staff to fulfil GECC CIMS functions. • Provide CDEM career staff to support Group and Local Controllers. • Management and coordination of a database of all CDEM personnel at the Group and local level. <p>Activation in response / recovery</p> <ul style="list-style-type: none"> • Activate CDEM career staff to support delivery of response. • Activate GECC staff for delivery of response as required. 	<p>CEG Operations Sub-committee</p> <ul style="list-style-type: none"> • Appoint a Senior Manager as CDEM designate to represent Regional Council. <p>CDEM career staff</p> <ul style="list-style-type: none"> • The Otago Regional Council is the employer of CDEM career staff (EMO) to deliver CDEM outlined in the CDEM Group Plan and this Agreement. <p>24/7 Duty staff</p> <ul style="list-style-type: none"> • Provide staff to support a 24/7 duty Group Controller capability. <p>Staff for CIMS functions</p> <ul style="list-style-type: none"> • Group Emergency Coordination Centre Incident Management Team and alternates provided by Regional Council. • Provide staff to CIMS functions within the GECC. • Consult with EMO on appointments of staff to CIMS functions for the GECC. • Ensure all CDEM GECC staff have respective CDEM role included in Job Description, KPI in annual performance plan, required training and exercising in annual professional development plan and be allocated the time for active participation. <p>Activation in response / recovery</p> <ul style="list-style-type: none"> • Ensure availability and prioritisation of staff to conduct GECC operations and deliver 24/7 response. • Support the provision and deployments of surge regional council CDEM staffing to support Group and Local level response and recovery within the Otago or across New Zealand. 	<p>CEG Operations Sub-committee</p> <ul style="list-style-type: none"> • Appoint a Senior Manager as CDEM designate to represent Territorial Authority. <p>24/7 Duty staff</p> <ul style="list-style-type: none"> • Provide a 24/7 Duty Local Controller capability. <p>Staff for CIMS functions</p> <ul style="list-style-type: none"> • Local Incident Management Team and alternates provided by Territorial Authorities. • Provide staff to all CIMS functions within the EOC. Consult with EMO on key appointments to their EOCs. • Ensure all CDEM EOC staff have respective CDEM role included in Job Description, KPI in annual performance plan, required training and exercising in annual professional development plan and be allocated the time for active participation. <p>Activation in response / recovery</p> <ul style="list-style-type: none"> • Ensure availability and prioritisation of staff to conduct EOC operations and deliver 24/7 response. • Support the provision and deployments of surge territorial authority CDEM staffing to support Group and Local level response and recovery within the Otago or across New Zealand
<p>Warning Systems</p>		

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

Emergency Management Otago	Otago Regional Council	Territorial Authorities
When there is an imminent threat to life, health or property from hazard events the issue of official warnings is the responsibility of CDEM agencies.		
<ul style="list-style-type: none"> • Develop, implement and maintain CDEM Group warning systems and protocols. • Procure, maintain, promote, test and activate CDEM Group public alerting systems. • Ensure the functioning of an effective GECC/ EOC staff activation system. • Monitor and respond to emergencies 24/7 on behalf of the CDEM Group including the dissemination of warnings and coordinating response in accordance with CDEM Group warning systems and protocols. 	<ul style="list-style-type: none"> • Ensure an effective flood event monitoring and information system. • Promote the flood warning system to partners, emergency services and communities. • Support the dissemination of warnings from the CDEM Group to communities. 	<ul style="list-style-type: none"> • Support Otago CDEM Group in promoting the public alerting systems. • Maintain, test and activate local public alerting systems. • Support the dissemination of warnings from the CDEM Group to communities.
<p>Welfare Management</p> <p>Management of welfare across all welfare services and clusters: Registration, Needs Assessment, Inquiry, Care and protection services for children and young people, Psychosocial support, Household goods and services, Shelter and accommodation, Financial Assistance and Animal welfare.</p> <p>The objective of the welfare services function is to carry out activities across the 4Rs to provide for the needs of people affected by an emergency and to minimise the consequences of the emergency for individuals, families and whānau, and communities.</p>		
<ul style="list-style-type: none"> • Lead planning for the delivery of welfare services for the Otago CDEM Group, in accordance with Director's Guidelines. • Appoint Group Welfare Manager to deliver and coordinate Group welfare functions across the '4Rs'. • Lead the development, implementation, maintenance of an Otago CDEM Group Welfare Plan. • Support local welfare planning. • Provide relevant reporting and recommendations at Group level on Welfare to CEG and Joint Committee. 	<ul style="list-style-type: none"> • Support Group (GECC) and local (EOC) welfare activities in response. 	<ul style="list-style-type: none"> • Lead planning and delivery of local welfare arrangements in accordance with Director's Guidelines. • Appoint Local Welfare Managers (Primary and Alternates) to deliver and coordinate welfare functions to local communities across the '4Rs'. • Support, contribute and implement the Otago CDEM Group Welfare Plan. • Ensure coordination for the delivery of welfare at the local level in accordance with the National CDEM Plan Order and Group Welfare Plan. • Ensure coordination and delivery of welfare at the local level in response and recovery.

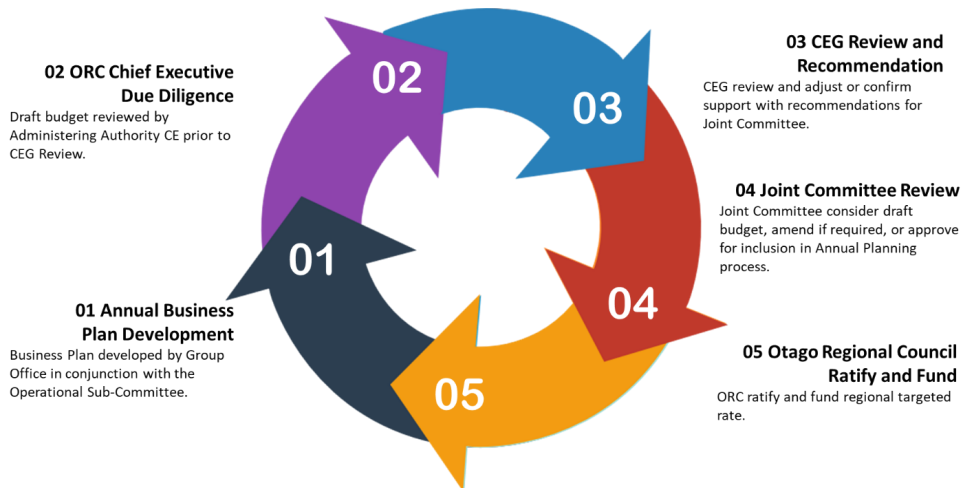
Schedule B
Otago CDEM Financial Arrangements

The financial revenue and management of CDEM budgets for the Otago CDEM Group and the members is provided for as stated below:

ENTITY	Otago CDEM Group	Otago Regional Council	Territorial Authorities
Revenue	CDEM Regional Targeted Rate. ¹	To be determined during the Annual Plan or Long-Term Plan process by Regional Council.	To be determined during the Annual Plan and Long-Term Plan process by City and District Councils.
Budget Development	Emergency Management Otago	Regional Council.	City and District Councils
Budget Approval	Otago CDEM Group	Regional Council.	City and District Councils.
Operating Variance	Transferred to Otago CDEM Group Reserve Account. Note: Surplus funds from previous years (in the form of reserves) may be used to fund expenditure.	At discretion of Otago Regional Council.	At discretion of City and District Councils.

Budgeting process for CDEM Regional Targeted Rate

Emergency Management Otago Group Budget Development Process



¹
A targeted rate may be set on a uniform or differential basis in accordance with Sections 16,17 and 18 of the Local Government (Rating) Act 2002.

8.10. Waitaki Designation Notice of Requirements

Prepared for:	Council
Report No.	OPS2202
Activity:	Flood Protection & Control Works
Author:	Michelle Mifflin, Manager Engineering Alison Weaver, Commercial and Regulatory Lead (Engineering)
Endorsed by:	Gavin Palmer, General Manager Operations
Date:	25 May 2022

PURPOSE

- [1] To obtain Council approval to request new designations from the Waitaki District Council (“WDC”) as part of WDC’s District Plan (“the plan”) review, for land on which Otago Regional Council (ORC) flood protection works and assets are situated.

EXECUTIVE SUMMARY

- [2] Approval is sought from Council to request new designations from the Waitaki District Council for land on which ORC flood protection works and assets are located, in the Waitaki district. The proposed designations affect the Hilderthorpe Floodway, the Hendersons and Waikoura Creek Floodways and groynes and cross banks adjacent to the Waitaki River that are part of the Lower Waitaki River Control Scheme.
- [3] A draft Notice of Requirement (Attachment 1) sets out the proposed designations.
- [4] A Consultation Strategy (Attachment 2) sets out the plan for consultation with the community.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the recommendation to request new designations from Waitaki District Council for:
 - a. Hilderthorpe Floodway.
 - b. Hendersons and Waikoura Creek Floodways.
 - c. Groynes adjacent to the Waitaki River riverbed (Lower Waitaki River Control Scheme).
 - d. Cross banks adjacent to the Waitaki River riverbed (Lower Waitaki River Control Scheme).
- 3) **Approves** the proposed Notice of Requirement (attachment 1) for public consultation.
- 4) **Approves** proceeding with public consultation on the proposed Notice of Requirement.

BACKGROUND

- [5] As part of its district plan review the WDC has, as required under the Resource Management Act 1991 (“RMA”), invited ORC to formally confirm if it wishes to make any modifications to designations listed in the current district plan.

- [6] Under the RMA, ORC is defined as a Requiring Authority as it has responsibilities for public works and assets, such as flood protection works and assets it owns or controls within the Waitaki District. These works and assets provide flood protection and control for the local community and for the lifeline utilities that pass through the area, including State Highways 1 and 83, the South Island Main Railway line and power supply. Some of the works and assets are part of the Lower Waitaki River Control Scheme. At present none of ORC’s works and assets in Waitaki District have designations.
- [7] Designations act like ‘spot zoning’, authorising the Requiring Authority to undertake any defined works in accordance with the designation without being subject to the usual zone provisions of the district plan for that site. A designation also places restrictions on what anyone other than the Requiring Authority can do on the designated land without first getting the Requiring Authority’s permission.
- [8] Council staff recommend seeking new designations for works and assets that are owned and managed by ORC within the Waitaki District. This is provided for in the 2021/31 Long Term Plan. The Infrastructure Strategy 2021-2051 provides for the maintenance of existing and fit-for-purpose infrastructure.

DISCUSSION

Designation Process

- [9] Designations are sought by ‘notice of requirement’ or NOR to the relevant territorial authority. The NOR can be dealt with on its own or as part of a district plan review process. The advantage of taking the option of bundling the NOR with the district plan review process is that it is likely to be more efficient in terms of cost, although the timing of the designation outcome is determined by the local authority’s review process.
- [10] ORC designated flood protection works and assets within the Dunedin City area during the review of the Dunedin City Council’s district plan (2GP), and these designations are now included in that plan. A similar process is now underway for the review of the Waitaki District Plan. It is proposed to take advantage of this opportunity.
- [11] Council staff do not identify an immediate time pressure to seek designations in the Waitaki District through a process that is separate to WDC’s District Plan review process. The cost benefit of seeking designations through the local authority plan review outweighs the timeliness of the approach.
- [12] The proposed Notice of Requirement is attached as attachment 1.

Proposed designations

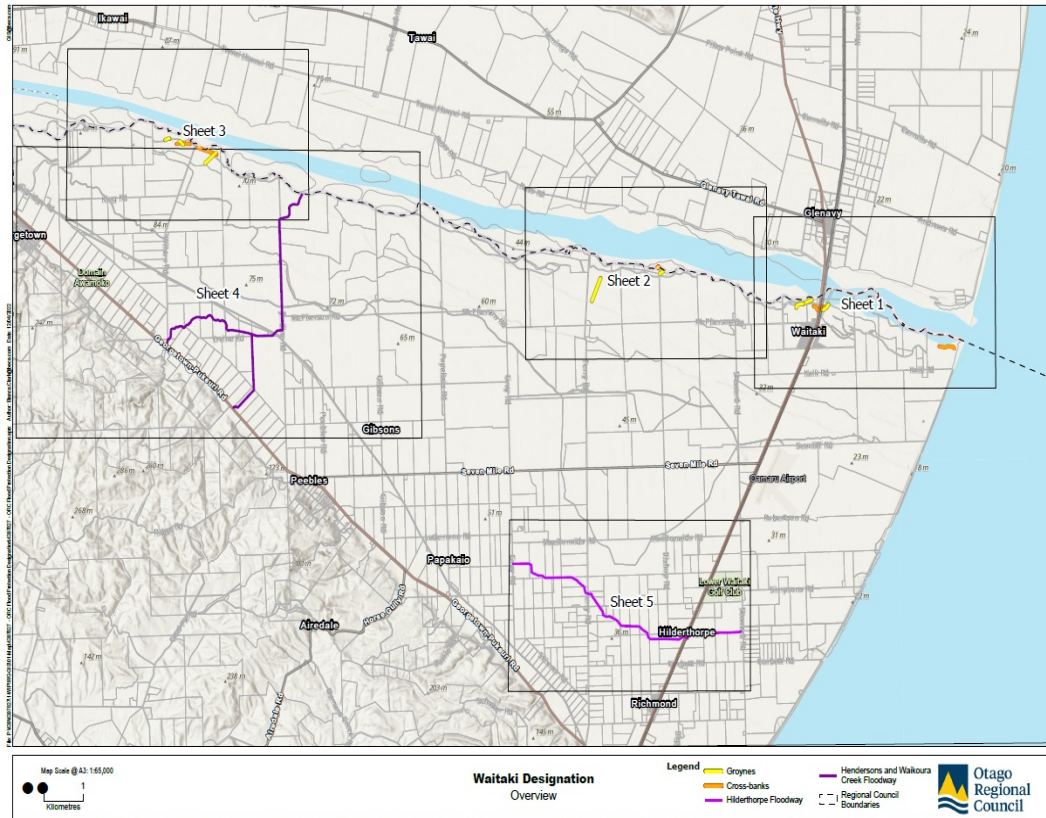
- [13] The proposed designations which are recommended are set out in Table 1. It is noted that ORC’s ongoing asset management programme may identify other ORC flood protection assets in Waitaki District that should also be designated in the future.

Table 1: Summary of Proposed Designations

Site/Asset	Specific Asset
Hilderthorpe Floodway	Channels conveying flood water from surrounding farmland and tributaries of the Waitaki River. As shown on page 106 of Attachment 1.
Hendersons and Waikoura	Channels conveying flood water from surrounding

Creek Floodways	farmland and tributaries of the Waitaki River. As shown on page 81 of Attachment 1.
Groynes adjacent to the Waitaki River riverbed	Embankments built out from a riverbank to help control erosion. As shown on pages 125-128 of Attachment 1. These are part of the Lower Waitaki River Control Scheme.
Cross banks adjacent to the Waitaki River riverbed	Banks which have built to guide water away from entering low lying land. As shown on pages 125-128 of Attachment 1. These are part of the Lower Waitaki River Control Scheme.

Figure 1: Map overview of Proposed Designations (detailed maps are contained in attachment 1)



Benefits of obtaining designations

- [14] Managing the integrity of the ORC’s operational flood protection works and assets for the Lower Waitaki River Control Scheme and the Hilderthorpe, Hendersons and Waikoura floodways are vital to ensure they operate effectively.
- [15] While the Flood Protection Management Bylaw 2012 (currently under review) controls activities which may affect the operational integrity of the flood protection works and assets, a designation will increase the profile and general awareness of the location and awareness of these works and assets. For example, the existence of the designations will be communicated through Land Information Memoranda processes. It will also afford the assets a further degree of legal recognition and protection.

- [16] In the Waitaki District, ORC has strategic infrastructural and operational works and assets. It is important that Council ensures that their on-going use is authorised and efficient, as well as the works and assets being robustly protected from third party activities which could negate their function or reduce their effectiveness.
- [17] The recommended designations will complement other regulatory mechanisms already in effect and assist with promoting a greater understanding between WDC, ORC and the public as to ORC's interests in matters related to these works and assets.
- [18] The designation also means that ORC may seek assistance from WDC where breaches of the designation occur. In addition, ORC work in the designated area in accordance with the designation purpose will be authorised without resource consent.
- [19] ORC has the option of seeking additional designations from WDC outside the plan review process.

Consultation

- [20] For the proposed designations, the WDC will require details of what consultation has been undertaken. Despite there being no statutory obligation to consult, consultation enhances community understanding of the proposal, reveals possible issues or information ORC is not aware of, enhances relations and provides a greater understanding of the values of Treaty partners. The prescribed form for a NOR requires ORC to describe the consultation, if any, undertaken. Consultation enables ORC to anticipate and respond to concerns in the way it frames up the proposed designation in the NOR. Done properly, this can reduce or eliminate the number of opposing submissions, or the issues raised in any submissions. NORs which are adapted to feedback are more likely to be supported by the processing council and decision-makers (including the Environment Court). By consulting, ORC is acting as a responsible part of the community.
- [21] In the case of the works and assets, ORC will need to consult directly with the private landowners whose interests are affected. Key stakeholders are Treaty partners, WDC, existing requiring authorities, other statutory authorities or interest groups, and members of the wider public where ORC are aware of parties who may have an interest in the NOR.
- [22] A consultation strategy has been prepared by consultant Mitchell Daysh for ORC and is attached as Attachment 2. Mitchell Daysh have been supporting ORC throughout the designation process.
- [23] Consultation shall occur in a way that allows stakeholders to convey their views in a way that works best for them. The methods of consultation proposed are:
 - a. Face to face feedback via drop-in sessions, telephone calls, meetings or one or one (where sought).
 - b. Written feedback via forms attached to information sheets sent to landowners and occupiers.
 - c. An email address for feedback.
 - d. Web based feedback using ORC's existing web-based tools.
 - e. Drop-in sessions where landowners and occupiers can make an appointment to discuss specific concerns with ORC staff.

- f. Should a landowner oppose the designation, they may make a submission on the notified district plan and will have appeal rights should they not be satisfied with the decision.

[24] Consultation has recently occurred for the review of the Flood Protection Management Bylaw 2012. The consultation timetables did not align due to the timeframe in which the bylaw review must occur. The Bylaw consultation covered the Otago region whereas consultation on the designation will be more limited including stakeholders such as landowners/occupiers, Treaty partners and local/territorial authorities in the Waitaki District.

Effect of COVID-19

[25] A consultation strategy has been prepared which allows for meetings to occur online or in person depending on the state of Government advice and ORC's own Covid 19 Protection Framework.

OPTIONS

[26] **Option 1** - Do nothing/Status quo. The assets will retain the protections they have under the Bylaw but will not have the additional benefits provided by the designation in the WDC plan. At present, the shape of the District Plan requirements that would apply to these assets are unknown. Alternative mechanisms would provide greater certainty to ORC as to its ability to maintain these assets.

[27] **Option 2** - Proceed with Notice of Requirement. Critical operational assets will obtain additional protection. ORC will be able to undertake specified work on the assets without obtaining resource consent. Individuals must obtain ORC consent before undertaking certain activities within the designated area. Greater awareness of the importance of the assets is obtained due to their status in the WDC plan as designated assets.

[28] The recommended option is, Option 2, to proceed with seeking designations from WDC in accordance with the proposed Notice of Requirement attached and by undertaking consultation in accordance with the Consultation Strategy attached to provide the assets with additional benefit and awareness, and to enable the ORC to undertake any works on the assets as required.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[29] The effective delivery of flood protection and land drainage infrastructure contributes to community resilience to natural hazards, which is a key component to ORC's vision for Otago. The application of designations will uphold ORC's strategic commitments of:

- a. Protecting strategic infrastructure,
- b. Evidence-based and timely decision making,
- c. Effective community engagement (through consultation), and
- d. Partnering with mana whenua and making Mātauranga Kāi Tahu an integral part of decision-making.

[30] The designation process aligns with the Infrastructure Strategy, which was approved by Council on 1 March 2021, in that it provides protection of the integrity and operation of

flood protection and land drainage infrastructure which provides certainty for actions contemplated by the Strategy.

- [31] With the designation in place, Council can be confident that strategies such as the approach to asset renewal or improved environmental performance can occur with certainty.
- [32] Seeking designation is consistent with prior decisions regarding flood protection and land drainage infrastructure. The approach taken for hard structures is consistent with the policy direction in the Partially Operative Regional Policy Statement (2019) and the Notified Proposed Regional Policy Statement (2021). Council staff have been engaging with WDC staff in preparation of the Waitaki District Plan to ensure consistency with the Regional Policy Statement.

Financial Considerations

- [33] Persons wishing to undertake activity on land subject to a designation may need to seek approval from ORC. In most cases bylaw authority is already required for areas where designations are proposed. Designation applications are processed alongside bylaw authority applications and a fee is payable by the applicant. One assessment is completed and one fee is payable for bylaw authority and designation approval.
- [34] There are no other additional financial considerations associated with receiving this report. The costs of consultation and application for a notice of requirement are provided for in the 2021-31 Long Term Plan.
- [35] If Council recommend further consideration of one or more options outlined in this report, there will be a financial consideration, and this would need to be considered under separate Council approval.

Significance and Engagement

- [36] The Consultation Strategy (Attachment 2) sets out the approach to engagement and incorporates considerations from the ORC Significance, Engagement and Māori Participation Policy.
- [37] The assets subject to the proposed designation are existing infrastructure assets. No acquisition or disposal is occurring.

Legislative and Risk Considerations

- [38] Designations can pose a risk to a requiring authority that relates to a designation restricting an existing use of land and/or eroding the land's value below its market value. In such scenarios the Environment Court may order the requiring authority (in this case ORC) to purchase the land.
- [39] The assets that are sought to be designated provide a current beneficial effect for the landowner. This matter will be further explored during consultation.
- [40] The works and assets are already subject to regulation under the Flood Protection Management Bylaw. The Hilderthorpe floodway has been subject to the Bylaw since 1999 and the other works and assets were brought under the Bylaw in 2012. A different compensation path to that for designations is available for landowners affected by a

bylaw. No landowner has made a claim for compensation as a result of the bylaw in this time.

[41] In the event that the designation is seen as restricting an existing use of land or eroding the land's value, compensation may be payable, or the Environment Court could order ORC to purchase the land. This is an unbudgeted cost risk for ORC. The assets in question provide beneficial effect to the landowners or/and are already subject to the Bylaw. The risk is considered as minor.

[42] If ORC found that the designation process was likely to lead to an order for acquisition, ORC could choose not to include that asset in the designation.

Climate Change Considerations

[43] The assets that are the subject of the proposed designations assist in adaptation to the effects of future climate change.

Communications Considerations

[44] Communications engagement is required to support consultation as stated above and recorded in the Consultation Strategy.

NEXT STEPS

[45] Upon Council approval of this process, engagement with stakeholders and property owners and occupiers that are affected by the Notice of Requirement will occur. Council approval will be sought for amendments to the Notice of Requirement following consultation. The Notice of Requirement will then be finalised and submitted to the Waitaki District Council for notification alongside its District Plan in early 2023.

ATTACHMENTS

1. Full Notice of Requirements [8.10.1 - 134 pages]
2. Draft Consultation Strategy [8.10.2 - 19 pages]



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OTAGO REGIONAL COUNCIL

NOTICES OF REQUIREMENT

Waitaki District Plan

2 May 2022

TABLE OF CONTENTS

Notices of Requirement

Annexure A: Statutory Acknowledgment and Assessment of Environmental Effects.

Statutory Assessment	1
Part 2 of the RMA	1
National Policy Statements	4
Regional Policy Statement or Proposed Regional Policy Statement	10
Plans or Proposed Plans	20
Flood Protection Management Bylaw 2012	31
Kāi Tahu ki Otago Natural Resource Management Plan 2005	32
Assessment of Environmental Effects	34
Existing Environment and Structures	34
Positive Effects	36
Landscape and Visual Effects	39
Hydrology	52
Cultural	52
Noise	53
Traffic Effects	53
Effects on Other Infrastructure	54
Summary	54

LIST OF FIGURES

Figure 1: Location of the coastal marine area boundary at the Waitaki River mouth.....	22
Figure 2: Showing approximate location of Waikoura and Henderson Creeks Floodway (in dark blue) in relation to areas of high class soils that are mapped within the District Plan	27
Figure 3: Showing approximate location of Hilderthorpe Floodway (in dark blue) in relation to areas of high class soils that are mapped within the District Plan	28
Figure 4: Hilderthorpe Floodway; view west from State highway 1 bridge	40
Figure 5: Hilderthorpe Floodway; view east from State highway 1 bridge.	40
Figure 6: Hilderthorpe Floodway; view east from Gray Road crossing	41
Figure 7: Western view of the Hilderthorpe Floodway Gray Road crossing	41
Figure 8: Eastern view of the Hilderthorpe Floodway Gray Road crossing.....	42



Figure 9: Henderson Creek Floodway, viewed from State highway 83 looking towards the north. 44

Figure 10: Waikoura Creek Floodway, viewed from State highway 83 towards the north east. 45

Figure 11: Henderson and Waikoura Creeks Floodway, viewed from near the intersection of Irvine and Jardine Roads, looking towards the northwest. Note: the water visible at the left side of the image is within the irrigation race, not within the Floodway itself.....47

Figure 12: Henderson and Waikoura Creeks Floodway; viewed from opposite 550 Jardine Road, looking towards the south.47

Figure 13: Henderson and Waikoura Creeks Floodway; viewed from opposite 550 Jardine Road, looking towards the north..... 48

LIST OF TABLES

Table 1: Other existing designations in the vicinity of the NoR30

Table 2: Activities requiring Council's approval under the Bylaw 31

Table 3: Residential activities in proximity to Hilderthorpe Floodway..... 42

Table 4: Residential activities in proximity to Henderson Creek Floodway..... 45

Table 5: Residential activities in proximity to Waikoura Creek Floodway 46

Table 6: Residential activities in proximity to Henderson and Waikoura Creeks Floodway 48

Table 7: Nohoanga sites, Lower Waitaki Plains 52

LIST OF APPENDICES

- Appendix A: Henderson/Waikoura Creeks Floodway
- Appendix B: Hilderthorpe Floodway
- Appendix C: Flood Protection Assets (Cross banks and groynes)
- Appendix D: Conditions



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ANNEXURE A

Assessment of Relevant Statutory
Plans and Assessment of
Environmental Effects

FORM 18

NOTICE OF REQUIREMENT BY REQUIRING AUTHORITY FOR DESIGNATION

Sections 145, 168(1), (2), 168A, and 181, and clause 4 of Schedule 1, Resource Management Act 1991

To Waitaki District Council

1. The **Otago Regional Council** (“**ORC**”) gives notice of a requirement for a designation for a public work where a restriction is necessary for the safe and efficient functioning and operation of that public work. The purpose of the designation is:

Lower Waitaki Flood Protection which includes all groynes, cross banks and floodways and those works, structures, facilities, devices and appliances associated with the assets and all activities relating to the assets, including construction, operation, maintenance, repair, reconstruction, extension, modification, replacement and improvement.

The ORC is a requiring authority pursuant to section 166 of the Resource Management Act 1991 (“**the RMA**” or “**the Act**”).

2. The sites to which the requirement applies are described as flood protection assets in the Lower Waitaki, as shown in the Appendices. Legal descriptions of the sites are set out in **Appendices A - C**.

The notice of requirement includes land that is located within the Rural Scenic and Rural General Zones. Copies of plans and photographs of the works are included in the Appendices.

3. The nature of the work is:

The Otago Regional Council’s existing flood protection assets on the Lower Waitaki Plain. In general, this includes

- Henderson and Waikoura Creeks Floodway
- Hilderthorpe Floodway
- Flood protection assets

The flood protection assets that are the subject of this Notice of Requirement include:

- **Groynes** – embankments built out from a riverbank to help control erosion.



- **Cross-banks** – banks that have been built to guide water away from entering low lying land.
- **Floodways** – channels that convey flood water; in respect of the Lower Waitaki Floodways these convey water from surrounding farmland and tributaries of the Waitaki, rather than the river itself.

The existing infrastructure at these sites will continue to operate within the terms of the designations. The work includes the operation, erection, installation, maintenance, replacement, alteration, upgrading, improvement and removal of the works, structures, facilities and devices.

Plans and photographs are attached within **Appendices A - C**.

This Notice of Requirement is for designations for the ongoing use of the sites for flood protection purposes. The designations also provide for the ongoing operation, maintenance and upgrading of these facilities. Any changes to the established infrastructure will be subject to the Outline Plan procedures as set out in Section 176A of the RMA, and the conditions of the designation as set out in **Appendix D** attached.

4. The nature of the proposed conditions that would apply are:

The designation purpose sought for these sites is:

- Henderson and Waikoura Creeks Floodway
- Hilderthorpe Floodway
- Flood protection asset

The nature of the work is defined in Section 3 above. This will allow for existing works and facilities on the site, as well as any future upgrades.

This Notice seeks to establish conditions on the new designations which have been designed to:

- Provide a level of consistency for the operational requirements of the assets;
- Balance managing potential environmental effects with the operational requirements of flood protection assets; and
- Reflect the predominant character of the area in which they are located.

The conditions cover the following:

- The bulk and location of structures;
- Accidental discovery protocols; and
- Construction and maintenance noise.



An advice note detailing when an Outline Plan of Works is required is also proposed.

These conditions are proposed to ensure that any potential environmental effects are avoided, remedied, or mitigated where necessary and to an appropriate level.

Please refer to **Appendix D** for the proposed designation conditions to apply to the respective designations.

5. The effects that the work will have on the environment, and the ways in which any adverse effects will be mitigated, are:

Annexure A sets out the full assessment of environmental effects and details of the ways in which any adverse effects will be mitigated, along with a statutory assessment.

The Notice of Requirement enables the continued reliance on the existing flood protection assets and any further works consistent with the purpose of the designation, subject to compliance with the designation's conditions. Detail of any new works to be undertaken will be provided and managed in accordance with the Outline Plan process (section 176A of the Act) and the conditions of the designation.

6. Alternative sites, routes and methods have been considered to the following extent:

In considering the effects on the environment of allowing the requirement, section 171 (1) of the RMA requires the Council to have particular regard to whether adequate consideration has been given to alternative sites, routes, methods of undertaking the work, only if:

- a) The Requiring Authority does not have an interest in the land sufficient for undertaking the work; or
- b) It is likely that the work will have significant adverse effects on the environment.

In the case of the ORC's flood protection assets, consideration of alternative sites and locations is not required, and has not occurred. Flood protection assets already exist on the sites and have been in place for several years. While many of the specific assets are on Crown land, immediately adjoining property owners are direct beneficiaries of this infrastructure. Similarly, the land occupied by the floodways continues to be available for general rural activities when not in use.

Some of the assets cross legal road reserve that is administered by Waitaki District Council and/or Waka Kotahi NZ Transport Agency, railway land which is administered by KiwiRail, or the high voltage line corridor, administered by Transpower New Zealand Limited.

There will be no significant adverse effects on the environment resulting from the works (refer Section 5 above, and the attached assessment of environmental effects). On this basis, no consideration of alternative sites is required.

Alternative Planning Methods:

Alternative planning methods have been considered and partially implemented. It is considered that the designation process is appropriate in terms of providing for this infrastructure. Designating the land provides certainty for the ORC that the land can be used for flood protection purposes. It also provides the ORC with flexibility to manage its assets in a manner that ensures its effectiveness while enabling the continued use of the land by its owners. In addition, the designation process allows for the flood protection assets to be clearly defined for each site and the specific boundaries of the activity to be identified in the Waitaki District Plan.

In addition to the protection offered by the designation, the Council has an established bylaw in place (the Flood Protection Management Bylaw 2012), which also manages activities in proximity to these assets. The designation offers a complementary approach, highlighting the importance of these assets at a local level.

A designation therefore provides certainty to both the requiring authority and the community in terms of what can be expected to occur on the site into the future.

7. The work and designation are reasonably necessary for achieving the objectives of the requiring authority because:

The objectives of the Requiring Authority are as follows:

- To protect the ongoing integrity and effectiveness of the ORC's flood protection assets within the Lower Waitaki area from inappropriate development.
- To enable ongoing reliance on the existing flood protection assets across the Lower Waitaki.
- To provide positive outcomes that provide for the health and safety of the local community.
- To enable the control of activities that can impact on the efficiency and effectiveness of the ORC's assets.

These sites sought to be designated are currently, and will continue to be, used to accommodate floodways, stop banks and river groynes associated with the ORC's flood protection assets in the Lower Waitaki.

The existing assets on the sites sought to be designated are an integral and important part of what are now the ORC's flood protection assets within this geographic area. The assets were first established in the 1950's with groynes being established as part of the 1977 Lower Waitaki Catchment Control Scheme. Active berm management commenced as part of the 1984 Scheme review. As a whole, these assets service both the local communities and wider public with flood protection.

The continued operation, maintenance and improvement of the ORC's flood protection assets is vital and it is important that the assets are correctly designated under the RMA to ensure that the range of necessary activities and suitable land uses are appropriately provided for in the District Plan.

It is important to ensure that the Waitaki District Council recognises these needs and gives a clear indication to the public of the location and use of the sites through their designation in the District Plan.

Consideration has also been given to the use of the designation procedure. Designating the land provides certainty for the ORC that the land can be used for flood protection purposes. Designating the land will enable the subject land to be used for its intended purpose, while accurately specifying the boundaries of the land to which these activities will occur. The Notice of Requirement also states that the designation of the subject land will provide the flexibility for the Requiring Authority to upgrade the site in the future to reflect demand and changing technology.

Maintenance and upgrades are an essential function of the ORC's flood management functions and can occur on both a planned and unplanned basis. Upgrades are anticipated to take the form of raising the heights of cross banks and groynes, and deepening floodways. The outline plan procedure under section 176A of the Act provides the requiring authority with a degree of certainty that it can conduct essential maintenance when needed in the future. It also provides the requiring authority and territorial authority with an effective and efficient means for communicating and regulating activities for ensuring compliance with the RMA, and the site's neighbours with reasonable expectations as to the nature of activities that may occur within the designation.

8. The following consultation has been undertaken with the parties that are likely to be affected:

As the flood protection assets that are the subject of this notice of requirement are existing, the effects of the works are known. Consultation will occur in the second half of 2022, and this section will be updated once consultation has occurred.

9. The Otago Regional Council attaches the following information required to be included:

The following is attached to this Notice of Requirement:

- **Annexure A** - Assessment of Relevant Statutory Plans and Assessment of Environmental Effects
- **Appendix A** – Henderson/Waikoura Creeks Floodway
 - Legal description and ownership detail
 - Record of Title



- Photographs
- Plan
- **Appendix B** – Hilderthorpe Floodway:
 - Legal description and ownership detail
 - Record of Title
 - Photographs
 - Plan
- **Appendix C** – Flood Protection Assets (cross banks and groynes):
 - Legal description and ownership detail
 - Record of Title
 - Photographs
 - Plan
- **Appendix D** – Conditions

The Operative District Plan identifies the following specific information requirements for notices of requirement, and the table below identifies where each matter is discussed within this notice of requirement.

Details of the Order in Council or empowering legislation which allows the applicant to be a requiring authority, including any specified terms or conditions attached to the Order in Council.	Form 18, paragraph 1
A statement of how the requirement meets Part 2 of the Act.	Annexure A
A statement of the objectives the project or work is aiming to achieve.	Form 18, paragraph 7
The degree to which the requirement meets the objectives and policies of the Plan.	Annexure A
The relationship of the work to, or effect on, any relevant provisions of national or regional policy statements and regional plans.	Annexure A
Details of land ownership, acquisition and site clearance.	Form 18, paragraph 2, and appendices
The proposed sequence and timing of the work, clearly identifying any part which may not be commenced or completed within 5 years time.	NA – existing assets
Proposals for the use and maintenance of those parts of the land which will not be developed for 5 years or more, in particular, identification of those buildings and structures which could continue to be used and maintained in the meantime.	NA – existing assets

Identification of any other designation or heritage order applying to the site, whether it has been given effect to, and the effect the requirement may have on the existing designation or heritage order.	Annexure A
---	------------

Signature:

Otago Regional Council

General Manager Operations – Dr Gavin Palmer

Dated at Dunedin this _____ day of _____ 2022

Address for Service: Mitchell Daysh Limited
 PO Box 489
 Dunedin

Telephone: 03 477 7884

Email: kirsten.tebbutt@mitchelldaysh.co.nz

Contact person: Kirsten Tebbutt

Note to person giving notice

If the notice relates to a requirement for a designation, or an alteration to a designation, under section 168A of the Resource Management Act 1991, you must use—

- this form if the requirement is lodged with the Environmental Protection Authority; or
- form 20 if the requirement is not lodged with the Environmental Protection Authority.

If the requirement is lodged with the Environmental Protection Authority, you must also lodge a form in form 16A at the same time.

You must pay any charge payable to the territorial authority for the requirement or alteration to the requirement under the Resource Management Act 1991.

If this notice is to the Environmental Protection Authority, you may be required to pay actual and reasonable costs incurred in dealing with this matter (see section 149ZD of the Resource Management Act 1991).

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ANNEXURE A

Assessment of Relevant Statutory
Plans and Assessment of
Environmental Effects

STATUTORY ASSESSMENT

Section 171(1) of the Resource Management Act 1991 (“**RMA**” or “**the Act**”) outlines the matters that a territorial authority must have particular regard to when considering a Notice of Requirement (“**NoR**”). Subject to Part 2,¹ the territorial authority must consider the effects on the environment of allowing the NoR, having particular regard to any relevant provisions of a policy statement or plan.

Aside from the Resource Management Act 1991, the relevant policy statements and plans include:

- National Policy Statement for Freshwater Management 2020
- New Zealand Coastal Policy Statement 2010
- National Policy Statement for Electricity Transmission 2008
- Partially Operative Otago Regional Policy Statement 2015
- Proposed Otago Regional Policy Statement
- Regional Plan: Water for Otago
- Regional Plan: Coast for Otago
- Waitaki District Plan
- Kai Tahu ki Otago Natural Resource Management Plan 2005
- Flood Protection Management Bylaw 2012

PART 2 OF THE RMA

Section 5

The flood protection assets that the Otago Regional Council (“**ORC**”) is responsible for are a physical resource of significant regional importance to the Lower Waitaki community.

The provision of reliable and effective flood protection is critical for the social and economic wellbeing of the local community and for its health and safety. The assets play a vital role in managing natural hazards and their potential impacts on the local community, ensuring that current and future growth in this region will be provided for. The designations are therefore consistent with section 5(a) of the RMA.

¹ It is understood that the Court of Appeal decision in R J Davidson Family Trust v Marlborough District Council means that there is no need to resort to Part 2 unless doing so would add something beneficial to the process. This is not the case here because the relevant planning documents are valid documents that give complete coverage over the proposed activity and potential effects. However, should the Council be assisted by such an assessment in this case, consideration of Part 2 is provided.



The nature of the proposed designation is such that it will not have any particular effect on the life supporting capacity of air, water, soil or ecosystems, and is therefore not contrary to section 5(b) of the RMA.

The effects of the flood protection assets are assessed below. In particular, the effects in relation to landscape and visual amenity, hydrology, risk, and noise and traffic have all been considered. It is concluded that the designation of the infrastructure in the District Plan with appropriate conditions will ensure that potential adverse environmental effects are adequately avoided, remedied, or mitigated. Accordingly, this NoR is consistent with section 5(c) of the RMA.

Section 6

Section 6 identifies matters of national importance that all persons exercising functions and powers under the RMA must recognise and provide for. Two of the eight matters listed are of relevance to this NoR, as below:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (h) the management of significant risks from natural hazards.*

The effects of the proposed designation on the preservation of the natural character of the coast, wetlands, lakes and rivers and their margins are assessed below. That section also contains a similar assessment in respect of the protections of these areas from inappropriate subdivision, use and development. The section concludes that the NoR will have no impact in respect of these areas, because the assets that are subject to this NoR are existing. Conditions on the designation and the requirement to submit outline plans of works for any works proposed will also ensure that future works can be appropriately managed. On this basis, the NoR is considered to be consistent with section 6(a) of the Act.

The NoR also seeks to support the ORC's existing approach to the management of flood risk in this area of the Lower Waitaki Plain. As such, the NoR is considered to appropriately recognise and provide for the management of significant risks from natural hazards as required by section 6(h) of the Act.

Section 7

Section 7 of the RMA identifies additional matters that consent authorities shall "have particular regard to" when exercising their functions and powers under the Act. With respect to this NoR, the following matters are considered to be relevant:

- (b) the efficient use and development of natural and physical resources:*

- (c) the maintenance and enhancement of amenity values:*
- (f) maintenance and enhancement of the quality of the environment:*
- (g) any finite characteristics of natural and physical resources:*
- (h) the protection of the habitat of trout and salmon; and,*
- (i) the effects of climate change.*

This flood protection infrastructure is by necessity located within the communities that it serves. Protecting and maintaining this infrastructure will continue to ensure that the local community benefits from the Council's assets during flood events and high flows. Similarly, the designation will provide the Council with the ability to actively manage land use activities to ensure that the effectiveness of the assets can be protected. On this basis, the NoR is considered to promote the efficient use of resources, and to accord with section 7(b) of the Act.

The proposed NoR will not impact on amenity values within the context of the receiving environment as set out below. The Council's designated assets will commonly be available for activities typically found within the area, and thus will have no impact in respect of amenity values. Exclusions from those will typically only be during high flows or infrequent maintenance activities. As a result, it is considered that the amenity values of the area will be maintained and enhanced. Accordingly, the NoR is considered to be consistent with section 7(c) of the RMA. Similarly, the NoR is considered to maintain or enhance the quality of the environment, given that the designation of the existing assets will not result in any changes to the character of the receiving environment, and it is thus considered that the NoR is consistent with section 7(f) of the Act.

The NoR does not result in any changes to the finite characteristics of natural and physical resources. The designated areas will continue to be available for activities undertaken in accordance with the requirements of the District Plan, provided they meet the Council's operational requirements for the assets. As such the NoR will not result in any change to the finite characteristics of the physical land resource, and this aspect of the NoR meets the requirements of section 7(g) of the RMA.

The designation of the Council's flood protection assets in the Lower Waitaki will not impact on the habitat of trout and salmon. The designations are primarily located on land, however where the proposed requirement also impacts on the beds of waterways, habitat available (and fish passage) will be unaltered. On this basis the NoR accords with section 7(h) of the RMA.

The NoR specifically provides an opportunity for the Council to respond to the effects of climate change. As set out below, the Council is seeking to provide a more coherent response to the increasing frequency of storm events, by ensuring that land use activities within and adjacent to the Lower Waitaki Flood Protection assets are managed

appropriately via a suite of mechanisms. As such, the NoR is considered a suitable response to the effects of climate change, as set out in section 7(i) of the RMA.

On this basis, the designation of the Council's assets is well aligned with section 7 of the Act.

Section 8

Section 8 of the RMA sets out that all persons exercising functions and powers under the RMA, in relation to managing the use, development and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The assessment of actual and potential cultural effects below provides an overview of sites of cultural significance to Māori, and will be further informed by the consultation and engagement that is undertaken in respect of the NoR. Of note, the area includes the following recorded features of interest to Māori:

- Statutory Acknowledgement for the Waitaki River under the Ngai Tahu Claims Settlement Act 1998.
- Statutory Acknowledgement for Te Tai o Arai Te Uru (the Otago Coastal Marine Area) under the Ngai Tahu Claims Settlement Act 1998.
- Nohoanga sites at Ferry Road and the Waitaki River Mouth.

None of these sites are impacted by the proposed designation.

NATIONAL POLICY STATEMENTS

National Policy Statement for Freshwater Management 2020

The National Policy Statement for Freshwater Management 2020 (“the NPSFM”) builds on previous National Policy Statements for Freshwater Management (dated 2014 and 2017). It provides a policy framework for the management of freshwater resources throughout New Zealand. The NPSFM includes a single overarching objective that is to:

... ensure that the 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 wellbeing, now and in the future.*

This objective embodies the principle of Te Mana o te Wai. Policy 1 seeks to ensure that freshwater management is undertaken to give effect to Te Mana o te Wai. Part 1.3 of the NPSFM provides additional detail as to the fundamental concept that is Te Mana o te Wai,

and notes that it encompasses six principles relating to the roles of both tangata whenua and other New Zealanders, being mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship and care and respect. Similarly, Policy 2 seeks to ensure that tangata whenua are actively involved in freshwater management, and that Māori freshwater values are identified and provided for.

The designation of the ORC's flood protection assets on the Lower Waitaki is aligned with the principle of Te Mana o te Wai. The designation seeks to enable the effective and efficient management of high flows and flood management. The designation of these assets will not impact on the health and wellbeing of the waterbodies affected, nor on the health needs of people, but will enable the community to provide for its social, economic and cultural wellbeing, both now and into the future.

The requiring authority recognises the principles of mana whakahaere, kaitiakitanga and manaakitanga, and power, authority and obligations of tangata whenua in relation to freshwater. The other principles of stewardship, and care and respect, that seek for all New Zealanders to care for freshwater and to manage freshwater in a way that sustains present and future generations, are to be upheld. While engagement with mana whenua has not yet occurred, it will commence in early 2022, and the outcomes of that engagement will be incorporated into the NoR when it is lodged with the Waitaki District Council.

Policy 3 of the NPSFM seeks to ensure that 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. The NoR embodies this principle, as it proposes the management of floodwaters and high flows in an integrated manner. The designation is proposed in addition to the ORC's existing Flood Protection and Management Bylaw 2012, providing for the integrated management of the assets whilst enabling the continued use of the land by property owners and protecting the lower Waitaki area from high flows.

Policy 4 of the NPSFM directs that freshwater is managed as part of New Zealand's integrated response to climate change. Climate change is resulting in heightened intensities and frequencies of storm events, which results in a greater need for protection from the adverse effects of these events. The proposed designation provides a suitable response to these events, whilst enabling the protection of the community from natural hazards.

Policy 6 seeks to avoid further loss of extent of natural inland wetlands. The proposed designation will not result in any loss of natural wetlands, and thus is consistent with this policy outcome. Similarly, Policy 7 seeks to avoid the loss of river extent. The proposed designation will not impact on the extent of the river, and will serve to ensure that river extent is maintained.

Policies 8-10 relate to the protection of significant values of outstanding water bodies, habitats of indigenous freshwater species and the habitat of trout and salmon respectively. The proposed works will not impact on any of these features; the works are existing, and the lower reaches of the Waitaki River are not classed as outstanding. For similar reasons, no habitat of freshwater species will be impacted. Accordingly, the proposal fits well with these policies.

Policy 15 seeks that communities are enabled to provide for their social, economic and cultural wellbeing, consistent with the NPSFM. The proposed designation of the ORC's flood protection assets on the Lower Waitaki is appropriate within this context, as it provides for the wellbeing of the community.

Overall, it is considered that the proposal will be consistent with and not contrary to the objective and policies of the NPSFM.

New Zealand Coastal Policy Statement

The New Zealand Coastal Policy Statement 2010 ("**NZCPS**") is also relevant to the consideration of this NoR as it relates to the cross banks located at the mouth of the Waitaki River, as these fall within the coastal marine area (see Figure 1 for clarity as to the extent of the coastal marine area within the mouth of the Waitaki River).

The NZCPS contains two objectives of specific relevance to this NoR:

Objective 5

To ensure that coastal hazard risks taking account of climate change, are managed by: ...

- *protecting or restoring natural defences to coastal hazards.*

Objective 6

To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:

- *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;...*

These objectives reflect the need for the flood protection assets to be maintained, thereby ensuring the continued wellbeing of the community in close proximity to the existing assets, noting in particular the small settlement located at the mouth of the Waitaki River on Kaik Road.

Policies 25 and 26 of the NZCPS are particularly relevant to coastal hazards, and relevantly provide as follows:



Policy 25: Subdivision, use, and development in areas of coastal hazard risk

In areas potentially affected by coastal hazards over at least the next 100 years:

- a. *avoid increasing the risk of social, environmental and economic harm from coastal hazards;...*
- e. *discourage hard protection structures and promote the use of alternatives to them, including natural defences; and...*

Policy 26: Natural defences against coastal hazards

1. *Provide where appropriate for the protection, restoration or enhancement of natural defences that protect coastal land uses, or sites of significant biodiversity, cultural or historic heritage or geological value, from coastal hazards.*
2. *Recognise that such natural defences include beaches, estuaries, wetlands, intertidal areas, coastal vegetation, dunes and barrier islands.*

The works are not, on balance, entirely consistent with these policies. The NZCPS encourages the relocation of sensitive activities away from areas potentially affected by coastal hazards, and the true right back of the Waitaki River Mouth is occupied by predominantly rural activities. Notwithstanding this, a small settlement is located approximately 600 metres south/southwest of the area of the Waitaki River mouth that falls within the coastal marine area. The existing interventions in this location provide an ability to manage both the integrity of the Waitaki River mouth, and the natural processes associated with a braided river. Further, these interventions are existing. The proposed designation of these assets is to enable greater protection to ensure their continued efficacy; aside from ongoing maintenance, no further works are planned for these areas at this time, and should they be proposed at a later date, outline plan consideration will be necessary. As such, while the works are not entirely congruent with the coastal hazard provisions in the NZCPS, their proposed designation does not offend the outcomes it promotes.

Policies 13 and 15 relate to the preservation of natural character and the protection of natural features respectively.

Policy 13: Preservation of Natural Character

1. *To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:...*
 - b. *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; including by:...*
2. *Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:*
 - a. *natural elements, processes and patterns;*
 - b. *biophysical, ecological, geological and geomorphological aspects;*

- c. *natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;*
- d. *the natural movement of water and sediment;*
- e. *the natural darkness of the night sky;*
- f. *places or areas that are wild or scenic;*
- g. *a range of natural character from pristine to modified; and*
- h. *experiential attributes, including the sounds and smell of the sea; and their context or setting.*

Policy 15: Natural features and natural landscapes

To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development...

- b. *avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; including by...*

The area of the coastal marine area where the Council's flood protection assets are located is not identified as an area of significant or outstanding natural character. The existing assets are well integrated within the landform and are appropriately vegetated, thus ensuring they fit well with the receiving environment.

While the assets provide an opportunity to manage the natural processes associated with the mouth of the River, they are passive, and do not result in any adverse environmental effects that alter the character of the area. Accordingly, the NoR fits comfortably within the outcomes promoted by Policies 13 and 15

Finally, Policy 4 deals with the integration of the relevant planning documents and mechanisms with respect to the coastal marine area.

Policy 4: Integration

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- a. *co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:*
 - i. *the local authority boundary between the coastal marine area and land;*
 - ii. *local authority boundaries within the coastal environment, both within the coastal marine area and on land; and...*
- b. *working collaboratively with other bodies and agencies with responsibilities and functions relevant to resource management, such as where land or waters are held or managed for conservation purposes; and*
- c. *particular consideration of situations where:*



- i. *subdivision, use, or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs; or*
- ii. *public use and enjoyment of public space in the coastal environment is affected, or is likely to be affected; or*
- iii. *development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change; or...*

The proposed designation is appropriate within the context of this policy. The designation provides a mechanism whereby the management of effects on the Council's flood protection assets located at the mouth of the Waitaki River is provided for via the District Plan, in addition to the existing Bylaw protection of the assets. As such, the NoR is considered consistent with this policy.

On balance, the proposed designation is appropriate within the context of the NZCPS.

National Policy Statement for Electricity Transmission

The National Policy Statement for Electricity Transmission ("**NPSET**") sets out an objective and associated policies to enable the management of the effects of the electricity transmission network under the RMA. It is relevant to this notice of requirement due to the proximity of high voltage power lines to the Council's flood protection assets on the eastern side of the Waitaki Bridge.

The objective contained in the NPSET seeks:

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- *managing the adverse environmental effects of the network; and*
- *managing the adverse effects of other activities on the network.*

Policy 2 complements this objective.

The existing groyne and cross bank on the eastern side of the Waitaki bridge do not impact on the electricity transmission network, as they do not affect the operation, maintenance or upgrading of the existing network. Further, these flood protection assets also provide some protection to Transpower's infrastructure in this location.

Policy 10 of the NPSET requires the management of activities to avoid reverse sensitivity effects on the electricity transmission network. The groyne and cross bank located beneath the high voltage line at Waitaki Bridge will not result in any reverse sensitivity



effects for the electricity transmission network, as it does not introduce any sensitive land use activities into the area.

On this basis, the proposed designation of the Council's flood protection assets is considered appropriate within the context of the planning framework provided by the NPSET.

REGIONAL POLICY STATEMENT OR PROPOSED REGIONAL POLICY STATEMENT

The Partially Operative Otago Regional Policy Statement 2019

The Otago Regional Policy Statement ("**partially operative RPS**") became partially operative on 14 January 2019. The proposed designations are considered in light of the relevant provisions of the partially operative RPS below.

The sites sought to be designated are located within the Otago Region, none of the proposed designations lie beyond the Otago Regional boundary. Of note, Policy 4.3.2 defines nationally and regionally significant infrastructure, and this definition does not extend to include flood protection schemes such as that included in this Notice of Requirement. Accordingly, the NoR has not been assessed against the objectives and policies that relate to regionally and nationally significant infrastructure within the partially operative RPS.

The following relevant provisions from the partially operative RPS are relevant to the NoR:

Policy 3.1.1 Fresh water

Safeguard the life-supporting capacity of fresh water and manage fresh water to: ...

- d) *Maintain or enhance, as far as practicable:*
 - i. *Natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers;*
 - ii. *Coastal values supported by fresh water;*
 - iii. *The habitat of trout and salmon unless detrimental to indigenous biological diversity; and*
 - iv. *Amenity and landscape values of rivers, lakes, and wetlands; ...*
- f) *Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion; and, ...*

Policy 3.1.2 Beds of rivers, lakes, wetlands, and their margins

Manage the beds of rivers, lakes, wetlands, their margins, and riparian vegetation to:

- a) *Safeguard the life supporting capacity of fresh water; ...*
- c) *Maintain or enhance bank stability; ...*
- e) *Maintain or enhance, as far as practicable:*

- i. Their natural functioning and character; and*
- ii. Amenity values; ...*
- g) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion.*

As set out in the assessment of effects below, the proposed NoR does not impact on the life supporting capacity of freshwater. The flood protection structures and mechanisms that are the subject of this NoR seek to enable the management of natural hazard events, and provide protection for both regionally and nationally significant infrastructure (such as the road and rail network), and for the Lower Waitaki community. The flood protection assets maintain coastal, amenity and landscape values, and do not impact on the habitat of trout and salmon. The interventions do not diminish the natural functioning of rivers lakes and wetlands, rather seek to manage these within the confines of their natural courses.

Chapter 4.1 of the partially operative RPS deals with natural hazards.

Objective 4.1 *Risks that natural hazards pose to Otago's communities are minimised.*

The proposed designation of the existing flood protection assets will enable greater protection for those assets, in turn resulting in greater surety of their efficacy when they are required. Accordingly, the NoR will support the minimisation of the risk posed to the community by natural hazards.

Policy 4.1.3 Natural hazard consequence

Assess the consequences of natural hazard events, by considering all of the following:

- a) The nature of activities in the area;*
- b) Individual and community vulnerability;*
- c) Impacts on individual and community health and safety;*
- d) Impacts on social, cultural and economic wellbeing;*
- e) Impacts on infrastructure and property, including access and services;*
- f) Risk reduction and hazard mitigation measures;*
- g) Lifeline utilities, essential and emergency services, and their co-dependence;*
- h) Implications for civil defence agencies and emergency services;*
- i) Cumulative effects;*
- j) Factors that may exacerbate a hazard event.*

Policy 4.1.5 Natural hazard risk

Manage natural hazard risk to people, property and communities, with particular regard to all of the following:



- a) *The risk posed, considering the likelihood and consequences of natural hazard events;*
- b) *The implications of residual risk;*
- c) *The community's tolerance of that risk, now and in the future, including the community's ability and willingness to prepare for and adapt to that risk, and respond to an event;*
- d) *Sensitivity of activities to risk;*
- e) *The need to encourage system resilience;*
- f) *The social costs of recovery.*

The Council has considered the consequences of flooding in the Lower Waitaki area, and notes the potential impacts of land use activities on the Council's existing flood protection infrastructure in this area. The nature of the affected area includes primarily rural activities with associated fencing, yards, farm buildings and dwellings. In addition, the area includes State highways 1 and 83, a high voltage power line, and the South Island main south railway line, thus providing an important link between South Canterbury and Otago/Southland. Less typical activities within the wider area include a large commercial quarry, a restaurant with associated shops, visitors' accommodation and a hotel, Oamaru airport, a freezing works, Waitaki Bridge village, and a number of other small named settlements, which typically include only a hall or a school.

The nature of these activities, combined with the topographical nature of the area is such that it is an area susceptible to natural hazards (floods). Any significant floods that occur in this area can result in lifeline utilities being affected, which in turn has significant potential impacts on civil defence agencies and emergency services, both locally and more regionally. The use of a designation to ensure an additional layer of protection for the existing flood management assets provides a suitable remediation of this potential effect.

Policy 4.1.6 Minimising increase in natural hazard risk

Minimise natural hazard risk to people, communities, property and other aspects of the environment by:

- a) *Avoiding activities that result in significant risk from natural hazard;*
- b) *Enabling activities that result in no or low residual risk from natural hazard; ...*

Policy 4.1.7 Reducing existing natural hazard risk

Reduce existing natural hazard risk to people and communities, including by all of the following:

- a) *Encouraging activities that:*
 - i. *Reduce risk; or*
 - ii. *Reduce community vulnerability;*
- b) *Discouraging activities that:*

- i. Increase risk; or*
- ii. Increase community vulnerability; ...*
- e) Relocating lifeline utilities, and facilities for essential and emergency service, to areas of reduced risk, where appropriate and practicable;*
- f) Enabling development, upgrade, maintenance and operation of lifeline utilities and facilities for essential and emergency services;*
- g) Reassessing natural hazard risk to people and communities, and community tolerance of that risk, following significant natural hazard events.*

As set out above, the NoR provides an additional layer of protection to ensure that the efficacy of the Council's existing flood hazard assets is maintained. Presently, these assets are protected only via the Flood Protection Management Bylaw 2012 (which is scheduled for review in 2022). The proposed designation will thus enable the ORC to avoid activities that are susceptible to flooding within the designated areas, while continuing to enable low impact activities alongside the Council's existing assets.

Policy 4.1.9 Protecting features and systems that provide hazard mitigation

Avoid, remedy or mitigate adverse effects on natural or modified features and systems, that contribute to mitigating the effects of both natural hazards and climate change

The proposed approach and NoR enables the avoidance, remediation or mitigation of flooding effects on the Council's flood protection assets, which contribute to the management of flood risk on the Lower Waitaki Plain.

Policy 4.1.13 Hazard mitigation measures, lifeline utilities, and essential and emergency services

Protect the functional needs of hazard mitigation measures, lifeline utilities, and essential or emergency services, including by all of the following:

- a) Restricting the establishment of other activities that may result in reverse sensitivity effects on those measures, utilities or services;*
- b) Avoiding significant adverse effects on those measures, utilities or services;*
- c) Avoiding, remedying or mitigating other adverse effects on those measures, utilities or services;*
- d) Maintaining access to those measures, utilities or services for maintenance and operational purposes;*
- e) Managing other activities in a way that does not restrict the ability of those mitigation measures, utilities or services to continue functioning.*

The NoR provides protection for the functional needs of the flood hazard mitigation assets located across the Lower Waitaki plain. The designation of these assets will provide the ORC with greater visibility of any activities that could impact on the effectiveness of these assets, and provide an opportunity for the Council to avoid, remedy or mitigate the

adverse effects of activities, whilst enabling the continuation of activities that do not adversely affect the efficacy of the assets.

On the basis of the assessment above, the NoR is considered to fit comfortably with the objectives and policies relating to natural hazards from the partially operative RPS.

The objective and policies of section 4.3 of the partially operative RPS relate to the management and development of infrastructure. Although not considered regionally significant infrastructure, the flood protection assets are considered to fall within the more general infrastructure definition, and accordingly the objectives and policies are relevant to the consideration of the NoR.

Objective 4.3

Infrastructure is managed and developed in a sustainable way.

Policy 4.3.1 Managing infrastructure activities

Recognise and provide for infrastructure by all of the following:

- a) Protecting and providing for the functional needs of lifeline utilities and essential or emergency services;*
- b) Increasing the ability of communities to respond and adapt to emergencies, and disruptive or natural hazard events;*
- c) Improving efficiency of natural and physical resource use;*
- d) Minimising adverse effects on existing land uses, and natural and physical resources;*
- e) Managing other activities to ensure the functional needs of infrastructure are not compromised.*

This notice of requirement will allow for the sustainable management and development of the ORC's flood protection assets and infrastructure in a manner that complements both the existing planning framework, and the existing activities already undertaken in the vicinity of the Council's assets. Overall, as this approach enables control over land use activities undertaken within the designation while enabling complementary activities to occur, it is consistent with Objective 4.3 and Policy 4.3.1.

The designation of the Council's flood protection assets in the Lower Waitaki will provide an appropriate planning framework to ensure that they continue to provide the flood mitigation required for the locality, including lifeline utilities. The designation of the assets make it clear to neighbours, property owners, and the Council what activity can be expected to occur within that area; and will also assist with protecting the existing assets from future incompatible development.

On this basis, the NoR is considered to be consistent with the relevant provisions of the partially operative RPS.

The Proposed Otago Regional Policy Statement 2021

The Proposed Otago Regional Policy Statement 2021 (“**PORPS21**”) was notified on 26 June 2021. At the time of preparation, submissions and further submissions have been invited, however hearings have not yet been held. The following PORPS21 provisions in italics are considered relevant to this NOR and are assessed below in plain text.

In contrast to the partially operative RPS, the PORPS21 identifies flood protection infrastructure as regionally significant infrastructure, as follows:

Regionally significant infrastructure means...

(12) Otago Regional Council's hazard mitigation works including flood protection infrastructure and drainage schemes.

The assessment of the relevant objectives and policies of the PORPS21 below is on the basis that the flood protection assets located on the Lower Waitaki are therefore deemed regionally significant infrastructure.

The Energy, Infrastructure and Transport section of the PORPS21 includes the objectives and policies of greatest relevance to the NoR.

Objectives

EIT-INF-04 – Provision of infrastructure

Effective, efficient and resilient infrastructure enables the people and communities of Otago to provide for their social and cultural well-being, their health and safety, and supports sustainable economic development and growth within the region within environmental limits.

EIT-INF-05 – Integration

Development of nationally and regionally significant infrastructure, as well as land use change, occurs in a co-ordinated manner to minimise adverse effects on the environment and increase efficiency in the delivery, operation and use of the infrastructure.

The Council's existing flood protection assets on the Lower Waitaki provide an effective and efficient means to manage natural hazards, which in turn provides for the social and cultural well-being, and for the health and safety of the community. The NoR offers a coordinated solution to ensure the continued efficiency of the Council's flood protection assets, and to enable the continued use of land in the vicinity of the Council's assets in a manner that does not impact on the effectiveness of those assets. The proposed NoR fits comfortably within this policy framework.

Policies

EIT-INF-P10 – Recognising resource requirements

Decision making on the allocation or use of natural and physical resources must take into account the needs of nationally and regionally significant infrastructure.

The proposed NoR is consistent with this policy. The designation of the ORC's flood protection assets on the Lower Waitaki clearly identifies these assets to property owners and the wider community. It will in turn specifically identify those areas where particular care is required in undertaking land uses, and will thus serve to take into account the regionally significant infrastructure that is the Council's flood protection assets.

EIT-INF-P11 – Operation and maintenance

... allow for the operation and maintenance of existing nationally and regionally significant infrastructure while:

- (1) avoiding, as the first priority, significant adverse effects on the environment, and*
- (2) if avoidance is not practicable, and for other adverse effects, minimising adverse effects.*

As indicated in respect of EIT-INF-P10 above, the proposed approach enables the active management and avoidance of significant adverse effects of land use activities on this regionally significant infrastructure.

EIT-INF-P12 – Upgrades and development

Provide for upgrades to, and development of, nationally or regionally significant infrastructure while ensuring that:

- (1) infrastructure is designed and located, as far as practicable, to maintain functionality during and after natural hazard events,*
- (2) it is, as far as practicable, co-ordinated with long-term land use planning, and*
- (3) increases efficiency in the delivery, operation or use of the infrastructure.*

The NoR does not seek provision for any specific upgrading or development of the existing regionally significant infrastructure, aside from regular maintenance activities. Notwithstanding this, the designation of the infrastructure at this time provides better opportunities for long term planning associated with the land use activities in proximity to the flood protection assets on the Lower Waitaki. In turn, this provides for greater reliance on the ability of the Council's assets to effectively mitigate the effects of flood events. Accordingly, the proposed designation of these works is consistent with this policy.

EIT-INF-P13 – Locating and managing effects of infrastructure

When providing for new infrastructure outside the coastal environment:

- (1) avoid, as the first priority, locating infrastructure in all of the following:*
 - (a) significant natural areas,*
 - (b) outstanding natural features and landscapes,*
 - (c) natural wetlands,*
 - (d) outstanding water bodies,*

- (e) areas of high or outstanding natural character,*
- (f) areas or places of significant or outstanding historic heritage,*
- (g) wāhi tapu, wāhi taoka, and areas with protected customary rights, and*
- (h) areas of high recreational and high amenity value...*

The existing infrastructure and flood protection assets are not located within any of the areas identified in EIT–INF–P13 (1). While the Waitaki River is a statutory acknowledgment under the Ngai Tahu Claims Settlement Act 1998, this matter is not identified as being of any specific relevance in respect of this policy. Some of the Council's existing assets along the Waitaki River are located within the Rural Scenic Zone in the operative Waitaki District Plan, however the zone alone does not confer any outstanding status on this landscape. The defined regionally significant wetland at Te Hua Taki wetland (located at the north western end of Gibson Road) is not included in the proposed designation.

EIT–INF–P15 – Protecting nationally or regionally significant infrastructure

Seek to avoid the establishment of activities that may result in reverse sensitivity effects on nationally or regionally significant infrastructure, and/or where they may compromise the functional or operational needs of nationally or regionally significant infrastructure.

This policy is at the heart of the Council's NoR for this infrastructure. By designating its flood protection assets, the Council is seeking to ensure that the establishment of activities that may result in reverse sensitivity effects are avoided, and that the integrity of the Council's flood protection assets is maintained. The proposal directly accords with this outcome.

Objective

HAZ–NH–O1 – Natural hazards

Levels of risk to people, communities and property from natural hazards within Otago do not exceed a tolerable level.

HAZ–NH–O2 – Adaption

Otago's people, property and communities are prepared for and able to adapt to the effects of natural hazards, including climate change.

These objectives and their associated policies provide support for the proposed designation of the Council's flood protection assets within the Lower Waitaki. The assets are required to ensure that risk is appropriately managed, and to support resilience to climate change events.

HAZ–NH–P4 – Existing activities

Reduce existing natural hazard risk by:

- (1) encouraging activities that reduce risk, or reduce community vulnerability,*

- (2) *restricting activities that increase risk, or increase community vulnerability,*
- (3) *managing existing land uses within areas of significant risk to people and communities,*
- (4) *encouraging design that facilitates:*
 - (a) *recovery from natural hazard events, or*
 - (b) *relocation to areas of acceptable risk, or*
 - (c) *reduction of risk,*
- (5) *relocating lifeline utilities, and facilities for essential and emergency services, away from areas of significant risk, where appropriate and practicable, and*
- (6) *enabling development, upgrade, maintenance and operation of lifeline utilities and facilities for essential and emergency services.*

Similarly, the proposed designation is well aligned with Policy HAZ-NH-P4. The flood protection assets reduce risk posed by natural hazards, and their designation will enable better management of activities that have reduced risk and vulnerability to flooding, and enable the requiring authority's management of land uses to better manage risk. Further, the assets provide protection for the lifeline utilities that are located on the Lower Waitaki Plain.

HAZ-NH-P6 – Protecting features and systems that provide hazard mitigation

Protect natural or modified features and systems that contribute to mitigating the effects of natural hazards and climate change.

The NoR will protect the ORC's existing flood protection assets with a designation. This approach is consistent with the outcomes advanced by Policy HAZ-NH-P6 of the PRPS.

HAZ-NH-P9 – Protection of hazard mitigation measures

Protect the functional needs of hazard mitigation measures, lifeline utilities, and essential or emergency services, including by:

- (1) *avoiding significant adverse effects on those measures, utilities or services,*
- (2) *avoiding, and only where avoidance is not practicable, remedying or mitigating other adverse effects on those measures, utilities or services,*
- (3) *maintaining access to those measures, utilities or services for maintenance and operational purposes, and*
- (4) *restricting the establishment of other activities that may result in reverse sensitivity effects on those measures, utilities or services.*

As set out above, the assets to which this NoR relates provide protection for lifeline utilities, and controls those activities that may occur in proximity to the assets themselves. The designation will serve to restrict the establishment of activities that do not complement the flood protection assets, whilst enabling the continued use of the land in accordance with the designation conditions.

HAZ–NH–P11 – Kaitiaki decision making

Recognise and provide for the role of Kāi Tahu as kaitiaki over wāhi tupuna, Māori reserves and freehold land that is susceptible to natural hazards by involving mana whenua in decision making and management processes.

The ORC recognises Kāi Tahu as kaitiaki over the Otago area. While engagement with mana whenua has not yet occurred, it will commence in early 2022. The NoR will be updated to reflect the outcomes of that engagement prior to its lodgement. On the basis of the detail available at the time of preparation of this NoR, the requirement does not extend over any wāhi tupuna, or Māori reserves and freehold land, however this is yet to be confirmed by engagement with mana whenua.

In addition to this, objectives HCV-WT-O1 – P2 and policies HCV-WT-P1 – P2 seek to ensure the protection of Kāi Tahu cultural landscapes, the recognition of rakatirataka of mana whenua over wāhi tupuna, and the ability of mana whenua to exercise kaitiakitaka within those areas. On the basis of publicly available information, the proposed designation does not include these areas, and thus will not adversely affect wāhi tupuna and their cultural values, nor the rakatirataka and kaitiakitaka of mana whenua. This will be confirmed via the consultation that occurs. On the basis of the currently available information, it is considered that the proposal fits comfortably within the policy framework applicable to heritage and cultural values.

Objective LF–WAI–O1 – 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.*

As set out above, the proposal is considered to sit comfortably within the principle of Te Mana o te Wai. The relationship of Kāi Tahu with the water is recognised in that consultation and engagement with mana whenua will occur, and accordingly they will be able to exercise their functions in accordance with (5).

Policy LF-WAI-P1 – Prioritisation

In all management of fresh water in Otago, prioritise:

- (1) first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these,*
- (2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and*
- (3) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.*

This NoR is consistent with this Objective for the same reasons as outlined above for Objective 1 of the NPSFM 2020.

On the basis of this assessment, the NoR is considered to be consistent with the relevant provisions of the PORPS21.

PLANS OR PROPOSED PLANS

Regional Plans

The provisions of the Otago Regional Plans provide a part of the statutory framework applicable to this Notice of Requirement. In this instance, the provisions of the Regional Plan: Water for Otago, and the Regional Plan: Coast for Otago contain provisions that are directly relevant.

Regional Plan: Water for Otago

The Regional Plan: Water for Otago (the RPW or the Water Plan) is relevant to the NoR as it provides the policy framework for the Regional Council's approach to water management.

Under the RPW, the true right bank of the lower reaches of the Waitaki River is subject to the following scheduled and mapped areas:

- The Lower Waitaki Plains Aquifer is valued for human consumption without treatment and stock drinking water supply and farm dairy water (Schedule 3A)
- Group 2 for receiving water numerical limits and targets for achieving good quality water (Schedule 15)
- Discharge Threshold Area 2 Catchments – Permitted activity thresholds for water quality by discharge threshold area (Schedule 16A)

These values are not of direct relevance to the proposed designation of the ORC's flood protection assets on the Lower Waitaki Plains.

Most relevantly, Objective 5.3.8, from Chapter 5 of the RPW (relating to Natural and Human Use Values of Lakes and Rivers), seeks to avoid the exacerbation of any natural hazard or the creation of a hazard associated with Otago's rivers. The NoR will enable the effective management of an existing hazard associated with the Lower Waitaki Plains area. The proposed designation sits comfortably within this policy outcome.

The following objectives and associated policies also from Chapter 5 of the Water Plan are relevant to the consideration of the NoR:

- Objective 5.3.3 seeks to protect the natural character of Otago's rivers and their margins from inappropriate subdivision, use and development.
- Objective 5.3.4 seeks to maintain or enhance the amenity values associated with Otago's rivers and their margins.
- Objective 5.3.5 seeks to maintain or enhance public access to and along the margins of Otago's rivers.
- Objective 5.3.6 provides for the sustainable use and development of Otago's water bodies, and the beds and margins of Otago's rivers.

The proposed designation of the Council's assets across the Lower Waitaki will not result in adverse effects on natural character, and will maintain amenity values along the Lower Waitaki River. Public access to and along the margins of the river will be unchanged. The implementation of this NoR will continue to provide for the protection of the existing rural land use activities in the area from inappropriate activities, and thus provides directly for the sustainable use and development of the existing rural area. Accordingly, the proposal is consistent with the objectives and policies contained in Chapter 5 of the Water Plan.

Chapter 8 of the Water Plan relates to the beds and margins of lakes and rivers. This section of the Water Plan contains two objectives (and associated policies) that are particularly pertinent to the NoR.

Objective 8.3.1 seeks to maintain the stability of the bed and bank of any river, and the flood and sediment carrying capacity of any river. The existing flood protection assets have been designed specifically to ensure that bank stability and flood carrying capacity is available, while mitigating the effects of flood water and high flows. On this basis, the proposed designation is considered to be consistent with the outcomes promoted by this objective and the associated policies.

Objective 8.3.3 (and the relevant associated policies) seeks to maintain the integrity of existing defences against water. The proposed designation of the existing flood protection assets along the Lower Waitaki River accords with this approach. The designation will provide an additional layer of protection for the existing assets, and will thus maintain their integrity. No additional works are proposed, and thus any disturbance will be avoided.

Chapter 10 of the RPW relates to wetlands, and objective 10.3.2 seeks to recognise and sustain the values and uses of Otago’s Regionally Significant Wetlands, along with the wetlands themselves. Despite the Te-Hua-Taki wetland (a Regionally Significant Wetland) being located in close proximity to the Waitaki River, none of the assets included in this NoR adjoin the Wetland. Accordingly, the setback achieved between the Council’s assets and the wetland is such that no impacts will result, and the proposal is thus considered acceptable within the context of this section of the Water Plan.

Overall, the proposed designation of the Council’s flood protection assets on the Lower Waitaki Plain is consistent with and supported by the policy framework contained in the RPW.

Regional Plan: Coast for Otago

The Regional Plan: Coast for Otago (the RPC or the Coastal Plan) is relevant to the designation of the works located at the mouth of the Waitaki River. Schedule 1-1 of the Coastal Plan contains maps that delineate where the boundary of the coastal marine area lies with respect of river mouths, and figure 1 below demonstrates the location of the boundary at the Waitaki River Mouth. As a result of this definition, a cross bank is located within the coastal marine area, to which the RPC applies.

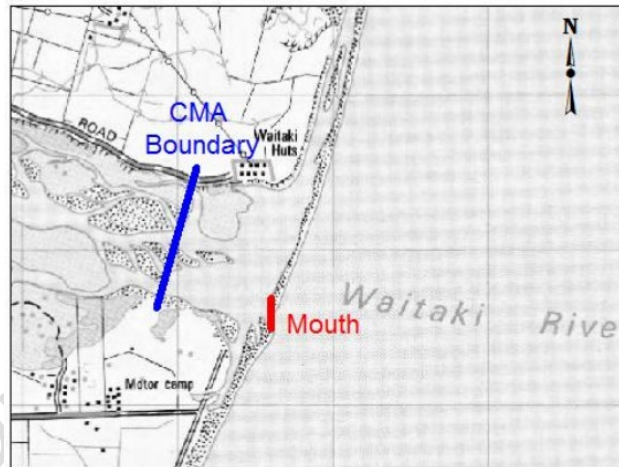


Figure 1: Location of the coastal marine area boundary at the Waitaki River mouth.

Objective 5.3.1 of the RPC seeks to provide for the use and development of the coastal marine area while maintaining its natural character, outstanding natural features and landscapes, and its ecosystem, amenity and historical values. The cross bank has been long established, and is therefore imperceptible within this coastal environment. The braided nature of the Waitaki River is such that the cross bank is not readily identifiable,



and accordingly it will not impact on the character, amenity, landscape ecosystem or historical values. As such it is considered that the cross bank is appropriate within the context of this objective and its associated policies.

Objective 6.3.1 and its associated policies are focussed on avoiding, remedying or mitigating the adverse effects of activities crossing the boundary line of mean high water springs. The proposed designation will not impact on the key considerations of natural coastal processes, landscapes and landforms and coastal ecosystems. As such it is considered that the NoR is consistent with the outcomes sought in this section of the Coastal Plan.

It is relevant to note that Policy 6.4.4 provides as follows:

To recognise the following coastal hazard areas, as identified in Schedule 3.3:

CHA 1 Waitaki River – Oamaru...

While this policy does not specify an outcome, it does clearly indicate that the natural hazard characteristics within this area have been recognised by the RPC.

Policy 6.4.6 provides as follows:

To recognise the action of natural physical coastal processes within the coastal marine area which could have the potential for adverse effects on adjacent land.

The NoR is consistent with this policy, as it provides mitigation for the natural processes that occur within the coastal marine area and protects the ORC's existing interventions within this area. The Council's assets will in turn protect the adjacent land from adverse effects associated with flooding. Accordingly, the NoR is considered to be consistent with this policy outcome.

The objectives and policies found in sections 7.3 and 7.4 of the Coastal Plan seek to address continued public access to and along the coastal marine area, while recognising that some activities require occupation of this area. The existing works provide for continued safe access to and along the coastal marine area located at the mouth of the Waitaki River. The designation of these works will have no impact on the ability to access the coastal marine area in this location. The NoR is considered to be consistent with the outcomes sought by this chapter of the Coastal Plan.

Chapter 9 of the Coastal Plan deals with alteration of the foreshore and seabed in the coastal marine area. The objectives and policies of that section are directed towards the preservation of the natural character of the coastal marine area, while taking natural processes that alter the foreshore and seabed into account. They also seek to restrict the disturbance of the foreshore and seabed to those activities that require coastal location. The cross bank is appropriate within the context of these policies, as it is necessary within the coastal marine area to enable its functionality. Additionally, as identified above, and

further discussed below, the Council's assets fit appropriately within the context of the environment, and thus do not adversely impact upon natural character. On this basis, the NoR is considered to be consistent with the objectives and policies of this section.

The objectives and policies of the Coastal Plan as it relates to the taking, use, damming or diversion of coastal water are also relevant to the NoR. The Coastal Plan contains a single objective, which enables these activities while protecting values associated with estuaries, inlets, harbours and embayments. In this instance, any diversion that results from the cross bank does not impact on estuaries, inlets, harbours or embayments, and as such the proposed designation is considered to be consistent with the objective and policies contained within this section of the Coastal Plan.

Objective 14.3.1 requires that the potential adverse effects of natural hazards within and adjacent to the Otago coastal marine area are taken into account in considering the use, development or protection of the area. This NoR seeks to designate existing hazard mitigation assets located within the coastal marine area to provide protection to adjoining land. The proposed designation is therefore considered to accord with the requirements of Chapter 14 of the Coastal Plan.

The proposal to designate the cross bank that is located within the Waitaki River mouth is considered to fit appropriately within the provisions of the Coastal Plan. As such, the proposal is considered consistent with the outcomes promoted by that Plan.

Waitaki District Plan

The Waitaki District Plan ("**District Plan**") was made operative on 31 May 2010.

This section includes district wide objectives and policies, which apply to all components of the NoR, and zone-specific objectives and policies, which apply to the Rural General and Rural Scenic zones respectively. In broad terms, the provisions of the Rural General Zone apply to the existing floodways, and the Rural Scenic provisions relate to the flood protection assets along the Waitaki River. Some additional annotations are also relevant to this NoR, including Appendix C(1) which identifies the Lower Waitaki River as an area of conservation merit (but which also notes that such areas do not have any formal legal protection under the District Plan). The description for this annotation is as follows:

Lower Waitaki River Important braided river and back-water habitat for a large range of native bird species. Also contains smaller stony river terrace areas of native flora and high entomological values. Rivermouth wetlands, including saltmarsh vegetation are important as feeding and breeding sites for both native fish and birds.

Part II Chapter 1 of the District Plan deals with tangata whenua issues. Objective B of the chapter (and its associated policies) seeks to protect and enhance wāhi tapu, wāhi taoka, cultural property and mahinga kai. This NoR is consistent with this outcome, as it

recognises Kāi Tahu as kaitiaki over the Otago area. Engagement with mana whenua will commence in early 2022, and the outcomes of that engagement will be incorporated into the NoR that is lodged. On the basis of the detail available at the time of preparation of this NoR, the requirement does not appear to extend over any wāhi tupuna, wāhi taoka, cultural property or mahinga kai areas. This will be confirmed via engagement with mana whenua.

Part II Chapter 4 of the District Plan deals with natural hazards. Objective 4.2.1 seeks to:

Avoid loss of life, and avoid or mitigate damage to assets, infrastructure, natural and physical resources, or disruption to the District's community, from natural hazards.

The proposed NoR accords with this objective, as it provides a further layer of protection to the ORC's flood protection assets. In turn, the integrity of these assets will be maintained, enabling them to function as designed in high flow and flood events. As a result, it is anticipated that lifelines such as the transport network and power supply through the Lower Waitaki will be protected, and any flood damage minimised.

The relevant policies associated with this objective include:

- Informing the community of the potential risk of natural hazards (Policy 4.2.2.1)
- Ensuring that development is carried out in a manner that avoid or mitigates the adverse effects of natural hazards (Policy 4.2.2.3)
- Recognise that existing protection works may require continuing maintenance to protect existing assets (Policy 4.2.2.6)

The ORC will undertake consultation with the directly affected community in conjunction with this NoR, thus providing information as to the risk of natural hazards in the Lower Waitaki. The implementation of the NoR will ensure that development that occurs within the designated area will be carried out in a manner that avoids or mitigates the effects of natural hazards, given that the approval of the ORC will be required for any works that could prevent or hinder the flood protection assets, in addition to the existing bylaw controls. Further, the NoR will enable the ORC to undertake maintenance of its flood protection assets on the Lower Waitaki plain. As such, the proposed designation is considered complementary to the objectives and policies of the Natural Hazards section of the District Plan.

Part II Chapter 10 of the District Plan relates to Utilities. The ORC's flood protection assets fit within the definition of Utilities that is included in the District Plan:

h) structures, facilities, plant, equipment and associated works for the protection of the community from natural hazards;

Designations are a planning tool available for utility operators as they provide an essential service. The designation of the ORC's flood protection assets appropriately recognises

that they provide an essential service, and by designating this activity, the requiring authority is able to continue to provide this service in the most efficient and effective manner.

Objective 10.2.2.1 and its associated policies seek to avoid remedy or mitigate adverse effects on amenity values and the surrounding environment from the construction, installation, operation and maintenance of utilities. The ORC's existing flood protection assets do not impact on amenity values and the surrounding environment. As set out in the Assessment of Effects below, the existing assets sit comfortably within the existing environment. The floodways appear either as a creek bed or depression in the land, and are accordingly appropriate within the rural environment. The groynes and cross banks are largely within the Waitaki River bed, and cannot be readily discerned from natural landform and plantings. Should any maintenance or repair work be required to these assets, it is anticipated that conditions will control the visual and amenity outcomes of the works. The details of any works to be undertaken will be subject to the outline plan process which requires that any methods necessary to avoid, remedy or mitigate adverse effects on the environment are considered, where appropriate. On this basis, it is considered that the flood protection assets do not and will not result in adverse visual or amenity effects, and are accordingly consistent with this objective and the associated policies.

Objective 10.3.2.2 provides for the efficient and equitable establishment use and maintenance of utilities necessary for the well-being of the community. As set out above, the ORC's flood protection assets provide significant benefit to the community in periods of high and flood flows. Accordingly, they are considered necessary for the wellbeing of the community.

Part II Chapter 16 sets out the objectives and policies relating to the Rural General and Rural Scenic Zones. In large part, the floodways that are included in this NoR are within the Rural General Zone, and the other flood protection assets along the Waitaki River are within the Rural Scenic Zone.

Objective 16.2.2.1 seeks to retain the productive potential of the high class soils located within the Plains area. The District Plan maps provide guidance as to where these areas are located, and some of the ORC's flood protection assets are located within areas where high class soils are found, as shown in Figures 2 and 3 below.



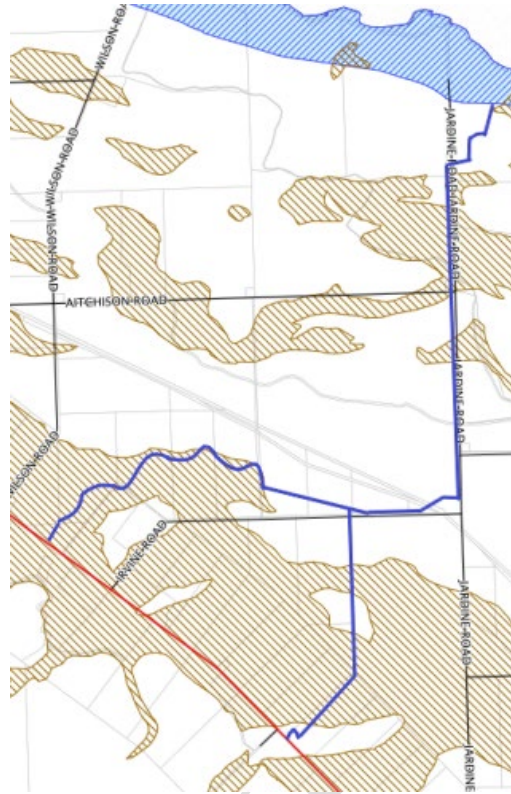


Figure 2: Showing approximate location of Waikoura and Henderson Creeks Floodway (in dark blue) in relation to areas of high class soils that are mapped within the District Plan



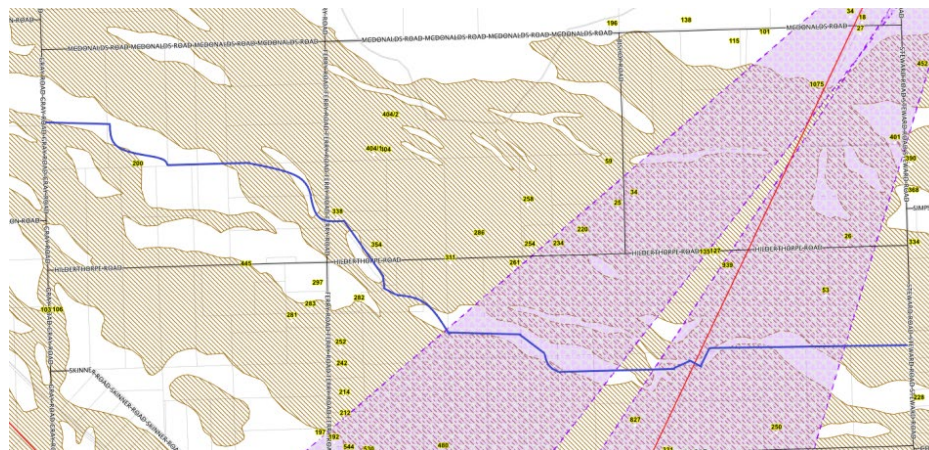


Figure 3: Showing approximate location of Hilderthorpe Floodway (in dark blue) in relation to areas of high class soils that are mapped within the District Plan

While these floodways cross portions of the high class soils on the Lower Waitaki plains, because they are existing, the proposed designation will not decrease the availability of these soils for productive activities. Much of the Henderson and Waikoura Creeks Floodway is creek bed, and is thus not available for productive farming activities. Along with the portions of that floodway that are not within creek bed, the Hilderthorpe floodway is available for farming activities when not required for high or flood flows. Additionally, the presence of the floodway and the proposed designation will restrict the ability to subdivide these properties for intensive residential purposes, and limit the potential for the establishment of hard surfaces within the floodway. On this basis it is considered that the NoR is consistent with the outcomes sought with regard to high class soils.

Objective 16.5.1.4 promotes a level of rural amenity that is consistent with the range of activities anticipated in the rural areas, but which does not create unacceptably unpleasant living or working conditions, nor a significant deterioration of the quality of the rural environment. Policy 16.5.2.4 applies specifically to the Rural General Zone, and seeks to encourage a wide range of rural land use and land management practices in the zone, without increasing the potential for conflict or the loss of rural amenity. The passive works that comprise the ORC's flood protection assets will not result in any challenge to the existing high level of rural amenity in the area. As set out above, the works are visually unobtrusive and are not readily discernible within this environment. In particular, the groyne and cross banks within the Rural Scenic Zone fit comfortably within its environment, as identified in the assessment of environmental effects below. Within the Rural General Zone, the floodways are visible, however do not result in any adverse visual or amenity effects, instead resembling a creek bed or depression in the topography across

the Plains. On this basis, the NoR is considered to fit comfortably within the applicable objectives and policies of the Plan.

The Rural section of the Plan also sets out specific objectives and policies that relate to landscape. The overarching objective provides for the management of development so that areas of landscape significance are protected, and that the overall landscape qualities of the Rural Scenic Zone are retained. None of the sites upon which the Council's flood protection assets are located are identified as outstanding or significant, and accordingly the NoR must be considered in light of whether the designation will prevent the retention of the overall landscape qualities of the zone.

As set out above, and within the Assessment of Environmental Effects, the visual effects of the groynes and cross banks within the Rural Scenic Zone will be less than minor. The existing works are not readily discernible within the receiving environment. Those assets that are within the coastal marine area at the mouth of the Waitaki River are similarly difficult to distinguish, within a highly active river bed. Should any maintenance or repair work be required to these assets, it is anticipated that conditions will control the landscape outcomes of the works, and the details of any works to be undertaken will be subject to the outline plan process which requires that any methods necessary to avoid, remedy or mitigate adverse effects on the environment are considered, where appropriate.

On this basis, it is considered that the existing flood protection assets do not result in adverse landscape effects, and any future works will be appropriately managed via the outline plan of works process. Accordingly consistent with this objective and the associated policies.

Policy 16.8.3.6 also requires that a number of sub-policies are considered in determining development applications. Those relevant to the Council's flood protection assets include:

- f) *Earthworks are encouraged to be located away from visually sensitive areas, and where practicable towards the edges of the landform and vegetation patterns;*
- g) *Earthworks should not compromise any rare or distinctive geological outcrops or any other values associated with an identified outstanding or significant natural feature;*
- h) *Earthworks, where possible, should be restored and finished to a contour sympathetic to the surrounding physiography and should also, where possible, be revegetated with a cover appropriate to the site and setting;*

The earthworks associated with the establishment of the Council's assets are complete, and the resulting landform has been vegetated in a manner consistent with its surrounding environment. As the works are not located within any outstanding or significant landscape or feature, they do not compromise any landscape values. Similarly, where revegetation has occurred, trees selected have not had wilding potential. Should further works be



proposed in the future, they will require consideration through the outline plan process, whereby their effects on the environment will be considered, and the Council would anticipate a condition regarding the finish of any earthworks to be imposed. On this basis, the proposed designation of the existing works is considered to be consistent with the outcomes advanced by these sub-policies.

In addition to the above considerations, the NoR will not impact on biodiversity on the Lower Waitaki Plains. The assets are not located in areas that are identified as having significant indigenous flora or significant habitats of indigenous fauna, and will not impact on wetland areas. The areas covered by the NoR do not include wetlands, alpine areas or any other areas with known conservation values. The work undertaken to date, which is now the subject of this NoR, maintains and enhances the quality of the coastal environment and the margins of the Waitaki River. It is therefore considered that the proposal is consistent with Objectives 16.9.2.1-2 and the associated policies of the District Plan.

Other designations

For completeness, it is appropriate to also record other existing designations in the vicinity of the NoR.

Table 1: Other existing designations in the vicinity of the NoR

District Plan Ref	Requiring Authority	Purpose	Impact on this NoR
None	Transit New Zealand, now Waka Kotahi NZ Transport Agency	State highway 1	None
None		State highway 83	None
None	New Zealand Railways Corporation	Main South Railway	None
62	Telecom NZ Limited	Hilderthorpe Exchange, telecommunication and radiocommunication and ancillary purposes	None

While the District Plan Maps identify the high voltage power lines that run to the east of Waitaki Bridge, they are not formally designated.



FLOOD PROTECTION MANAGEMENT BYLAW 2012

The Flood Protection Management Bylaw 2012 (“the Bylaw”) seeks to manage, regulate and protect flood protection works belonging to, or controlled by the Otago Regional Council. Flood protection works are defined in the Bylaw as including drains, overland flow paths, defences against water, floodways, groynes and cross-banks as mapped in the Bylaw. The Bylaw includes all assets that are subject to this NoR.

All Council assets that are within the control of the Bylaw are mapped, and property owners are required to keep every fence and gate within floodways debris-free.

Under the Bylaw, the following activities undertaken in proximity to the scheduled Council assets require the Council’s approval, as outlined in the following table:

Table 2: Activities requiring Council’s approval under the Bylaw

	Groyne, cross bank or anchored tree protection	Floodway	Hilderthorpe, Henderson Creek or Waikoura Creek floodways
Alteration of	✓	✓	
Removal or interfere with machinery or equipment relating to	✓	✓	
Plant any tree in or on any	✓ ^a	✓	
Construct or put any structure in, over, through, or under	✓ ^a	✓	
Dump or deposit anything in or on any	✓ ^{b-c}	✓ ^b	
Obstruct any	✓		
Drive, take or operate any vehicle, machinery or equipment in or through any	✓		
Connect any pipe, channel or conduit to			✓
Remove or alter any structure in on over through or under	✓ ^a		
Carry out any excavation in on through or under	✓ ^d	✓	
Remove, alter, interfere with or add to any plantings in the Lower Waitaki			

^a including within 7 metres of the top of a bank or asset.

^b excluding materials for the maintenance of existing access or as a result of ditch maintenance.

^c including within 50 metres of these.

^d including within 50 metres of the landward side if it lowers the existing ground level by more than 300 millimetres, or between the bank of any river and associated groyne, cross-bank or anchored tree protection.

Providing an additional layer of protection for the ORC's assets on the Lower Waitaki will accord with the objectives of the Bylaw. For clarity, it is not proposed that the NoR will include the setbacks required by the Bylaw.

KĀI TAHU KI OTAGO NATURAL RESOURCE MANAGEMENT PLAN 2005

The Kāi Tahu Ki Otago Natural Resource Management Plan (the Kāi Tahu Plan) was developed in 2005, and uses Otago's geographic boundaries, thus consistent with the Waitaki District Council's boundary along the Lower Waitaki River.

It is relevant to note that the works are not considered to result in any impacts on known wāhi tapu, mahika kai, nohoaka, or tōpuni sites.

Part 3 of the Kāi Tahu Plan sets out the objectives and policies for the Otago Region. Those considered directly relevant to the NoR include:

5.3.3 Wai Māori General Objectives

i. The spiritual and cultural significance of water to Kāi Tahu ki Otago is recognised in all water management.

5.3.4 Wai Māori General Policies

4. To protect and restore the mauri of all water.

54. To promote land use that suits the type of land and climatic conditions.

58. To promote integrated riparian management throughout entire catchments.

5.8.3 Taku Tai Moana Me Wai Māori Objectives

i. The spiritual and cultural significance of taku tai moana me te wai māori is recognised in all management of the coastal environment.

ii. Te Tai o Arai Te Uru is healthy and supports Kāi Tahu ki Otago customs.

5.8.4 Taku Tai Moana Me Wai Māori Policies

2. To require Kāi Tahu ki Otago input into any artificial openings or works in river mouths, estuary or lagoon systems.

5. To discourage any further reclamation within the coastal environment.

None of these objectives or policies explicitly recognise the need to manage natural hazards, however they do raise other matters for consideration. These matters will be further informed by the outputs of consultation with mana whenua, in particular in respect of the spiritual and cultural significance of water and the coastal environment, and mauri. Notwithstanding this, the designation of the existing works will accord with policies related



to land use suitability and riparian management, and the health of the coastal marine environment.

In addition, Chapter 6 sets out policies that are directly applicable to the Waitaki catchment; those considered to be of relevance to the proposed designation include:

6.2.3 Wai Māori Policies for the Waitaki Catchments

12. *To encourage the recognition of the defined river channel.*
13. *To encourage the use of buffer zones to protect the side braids and riparian wetlands.*

The existing works specifically seek to maintain the defined river channel and to protect the side braids. No riparian wetlands are impacted by the works. As such, the proposed designation of the flood protection assets in this location is considered to be consistent with the outcomes advanced by the Kāi Tahu Plan.



ASSESSMENT OF ENVIRONMENTAL EFFECTS

This section of the Notice of Requirement assesses the potential effects of the designations, including positive effects. The potential effects are considered with regards to the relevant provisions of national and regional policy statements and regional and district plans, including the district plan rules. While these rules do not apply to activities undertaken in accordance with designations, they are useful for providing a baseline for the type of activities and level of effects that can be expected and that are permitted within the respective land use zones.

The hard protection structures that are located across the Lower Waitaki Plain include:

- Hilderthorpe Floodway;
- Henderson and Waikoura Creek Floodway;
- Groynes adjacent to the Waitaki River bed; and
- Cross-banks adjacent to the Waitaki River bed.

EXISTING ENVIRONMENT AND STRUCTURES

Waitaki River Catchment Description

The Waitaki River catchment has an area of 11,860 km². The Southern Alps form the north western boundary of the catchment. Several natural and man-made lakes feed the river system.

The Lower Waitaki extends from the Waitaki Dam, upstream of Kurow to the Pacific Ocean. The Lower Waitaki has a diverse topography with mountain ranges in the north west, hill country and extensive rolling downlands in the east and the gentle slopes of the plains near the mouth of the incised river.

Flows in the lower reaches of the Waitaki river are heavily influenced by the operation of the reservoirs located in the upstream parts of the catchment.

Part of the Lower Waitaki River catchment lies within the Otago Region. This section of the catchment is bounded by the right bank of the Waitaki River, downstream of Goulding Road and extends across the plains towards Pukeuri in the south. The area is characterised by a gently graded floodplain that falls about 90 metres between Georgetown and the coast. Major tributaries flowing through this area are Awamoko Stream, Waikoura Creek and Henderson Creek.

Irrigation schemes are a feature the Lower Waitaki plains. Irrigation development commenced in the 1930s. The Lower Waitaki Irrigation Scheme now serves about 14,500 ha.

Where the Waitaki River meets the Otago Region boundary, the river is incised and flows within braided channels. The Waitaki River floodplain within the Otago Region is narrow, being defined by low cliffs. Direct flooding affects only small areas of marginal land.

Bank erosion is active on this section of the Waitaki River. ORC and Environment Canterbury (Ecan) manage bank protection work (groynes, cross-bank and anchored tree protection) on the lower Waitaki River floodplain.

The land use is mainly agricultural with limited residential properties. There are some holiday houses situated at Waitaki Bridge on State Highway 1 and immediately to the north of McPherson Road.

Lower Waitaki Plains Floodplain Description

The lower Waitaki floodplain generally slopes towards the coast and away from the Waitaki River. Problems with surface water not draining away are reasonably common on the floodplain. Flooding is typically associated with overland flow paths: runoff from paddocks is intercepted and conveyed by swales or remnant channels that crosses the plain.

Because of the relatively gentle topography of the floodplain and the lack of well-defined channels, local features, such as small-scale earthworks, bunds, fences, shelterbelts roads, driveways and buildings can influence the flow direction and the depth and extent of flooding. Those features can impede natural-downslope drainage and locally divert water on the floodplain, modifying the flood hazard.

Construction of the Lower Waitaki Irrigation Scheme began in 1974 and was completed in 1978. Irrigation channels now serve about 14,500 hectares of farmland on the south bank of the Waitaki River. The scheme introduced new races that provided new routes – and obstructions – for floodwaters.

Outside of irrigation channels and floodways, medium velocities (generally less than 1m/s) and depth of inundation of generally up to 1m are likely. This combination of depth and velocity is sufficient to result in potential risks to safety (e.g. wading becomes unsafe). In the irrigation channels and floodways deeper water can be expected.

Flooding can make some sections of SH 1 impassable during heavy rainfall events.

Waikoura Creek and Henderson Creek drain small catchments upstream of State Highway 83, of areas approximately 18km² and 6km² respectively. The catchments lie parallel to and east of the Awamoko Stream catchment. Historically, the creeks flowed in a north-easterly direction across the Waitaki plains to discharge directly to the Pacific Ocean.

A scheme to reduce flood damage was completed in 1981/82 by the Waitaki Catchment Commission. The scheme involved the construction of a trapezoidal channel to collect flood flows on the north-eastern side of Georgetown-Pukeuri Road (SH83) and to convey



the combined flows of Waikoura and Henderson Creeks directly to the Waitaki River, rather than have them meander across the plains to the coast south of Hilderthorpe. The diversion generally runs parallel to Jardine Road and discharges into the Waitaki River some 7 km north of Peebles.

The Hilderthorpe Floodway is another flood alleviation channel, combining natural and artificially constructed sections and designed to convey overland flow from Gray Road to the Hilderthorpe Race alongside Steward Road during significant rainfall events. The natural sections of the channel follow the course of a paleochannel.

Both the Waikoura and Henderson Creeks floodway and the Hilderthorpe floodway are managed by ORC and are protected by the ORC Flood Protection Management Bylaw (2012).

POSITIVE EFFECTS

In combination, the existing floodways, groynes and cross banks provide a comprehensive network of flood protection mechanisms for the Lower Waitaki area. In turn, this provides positive outcomes for the social, economic and cultural wellbeing of both the immediately affected community. Further, the ability to rely on the continued efficacy of the existing flood protection assets enables lifeline utilities within this area to operate with a degree of confidence.

In 2017, an economic assessment of the Lower Waitaki River Control Scheme was undertaken on behalf of the ORC². While the scope of that report related to an assessment of the benefit split between those within and outside of the control scheme zone and a review of the allocation of costs between Canterbury and Otago, this report also provides useful commentary as to the benefits provided by the existing scheme.

This assessment combines the benefits from preventing flooding and erosion and assesses them together, using a baseline where existing infrastructure is not in place to demonstrate the effectiveness of the works.

Type of Impact	Lower Waitaki River Scheme
Loss of life	<p><i>Net impact assessment: Low</i></p> <ul style="list-style-type: none"> ➤ <i>The risk to lives is low in the event of a small flood.</i> ➤ <i>The risk to lives is higher in the event of a large flood...</i>

² Economic Assessment of the Lower Waitaki River Control Scheme, Report to the Otago Regional Council, February 2017, Castalie Advisors Limited (<https://www.orc.govt.nz/media/3291/castalia-report-2017.pdf>)



Type of Impact	Lower Waitaki River Scheme
	<ul style="list-style-type: none"> ➤ While the cost of losing lives is high, its low probability means the overall impact is low.
Impaired health	<p>Net impact assessment: Low</p> <ul style="list-style-type: none"> ➤ Injuries and illness from flooding events are likely to affect several people in the scheme, which will increase the longer the flooding persists.
Damage to non-commercial property	<p>Net impact assessment: High</p> <ul style="list-style-type: none"> ➤ May suffer aesthetic damage ➤ Given the extent of the property (residential and farms) in the area, damage to this property is likely to be widespread (and severe in a large event). ➤ River course change will destroy property on affected land.
Loss of amenity	<p>Net impact assessment: Negligible</p> <ul style="list-style-type: none"> ➤ Less recreational users in a flooding event (This includes campers, trampers, people fishing etc) ➤ Little or no effect on recreational users from erosion as they would move with the river bed.
Loss of land or output on farms or businesses	<p>Net impact assessment: High</p> <ul style="list-style-type: none"> ➤ Damage due to stock and ability to support them for several weeks (possibly longer, if the recovery time after the event is considered). ➤ Lot business to those reliant on expenditure by farms. Significant impact given multiple service towns in schemes.
The cost of emergency response and repairs	<p>Net impact assessment: Moderate</p> <ul style="list-style-type: none"> ➤ A large flooding event would be more damaging than without the scheme because water would breach the river banks earlier. This would lead to higher cost of response and subsequent reparation works. ➤ Direct costs would be moderate in low level events as they require relatively little response (partly due to the ability to give some warning about the likelihood of flooding) and some reparation costs ➤ Cost to evacuate, house and provide welfare for residents in major event would be higher than with the scheme.
Loss of road access	<p>Net impact assessment: Moderate</p>



Type of Impact	Lower Waitaki River Scheme
	<ul style="list-style-type: none"> ➤ The areas of State highway 1... that receive greater protection from the scheme fill face higher delays and greater loss of access in large events without the scheme. ➤ Residents and businesses (in and out-of-scheme) using road infrastructure in scheme would face greater delays and costs from taking alternative routes. ➤ There would be increased road maintenance costs from greater erosion.
Loss of rail access	<p>Net impact assessment: Moderate</p> <ul style="list-style-type: none"> ➤ Businesses using rail infrastructure in the scheme (Main South Trunk Line) would face delays and costs from lost business in the event of a flood. ➤ There would be higher cost in repairing or maintaining the rail line with higher levels of erosion. ➤ Given the unique characteristics of rail freight, businesses are more likely to bear cost of delays then use more expensive alternatives, such as road freight.
Transport transmission line damages	<p>Net impact assessment: Moderate</p> <ul style="list-style-type: none"> ➤ Flood impact likely to be low. Line redundancies allow the line to deal with some malfunctions from flooding and continue to operate. A more severe flood impact, such as the loss of line towers, would lead to power outages for up to three days in Oamaru, Studholme and Timaru, and for two large irrigation schemes. However, the 1995 Waitaki river flood event (a 1 in a 100 year event) did not lead to power outages in these regions, showing the line's towers remained intact in severe floods. ➤ Impact from river course change would be high. River course change without the scheme is expected to lead to land loss that would require Transpower to move the lines, incurring significant expense.
Irrigation intakes	<p>Net impact assessment: Moderate</p> <ul style="list-style-type: none"> ➤ The irrigation companies taking water from the river will have increased costs of infrastructure.

The designation of these assets offers an enhanced protection for the existing flood protection utilities. While these are presently protected by an Otago Regional Council Bylaw, the inclusion of the NoR within the Waitaki District Plan provides greater clarity for land owners and occupiers within the vicinity of the works regarding other works that may impact on the integrity and efficacy of these assets.

The designation of these sites recognises that the assets are an essential utility. The designations will provide an efficient and appropriately enabling planning framework for the continuation of the existing use and any changes to the established assets that may be required in the future.

The Council seeks to minimise any potential adverse effects on the environment resulting from the operation and maintenance of these flood protection assets, and the NoR includes conditions and advice notes to appropriately manage actual and potential environmental effects arising from these activities. Outline plan requirements will also apply to the existing assets, providing the Waitaki District Council with oversight of the environmental effects that result from any continuing works on these assets.

On this basis, the NoR is considered to have potentially positive effects on the community, and in respect of environmental outcomes.

LANDSCAPE AND VISUAL EFFECTS

The landscape and visual effects of the Council's assets differ based on the nature of the asset to be designated, as reflected in the assessment below. The Floodways are located across the Lower Plains, however the other assets to which this NoR relates are located on the lower reaches of the river terrace, which is sparsely populated.

Both Floodways are located within the Rural General Zone. Aside from a groyne located near the northern end of Ferry Road, all cross banks and groynes that are the subject of this NoR are located within the Rural Scenic Zone. The assessment below notes and reflects this key difference.

Floodways

The three floodways that are the subject of this NoR are located on the Waitaki Plains, within the Rural General Zone.

During dry periods, the **Hilderthorpe Floodway** appears as a grassed depression running through the landscape. Where the Hilderthorpe floodway crosses roads, crossings are typically low profile, relying on culverts beneath the road. There are no bridges along the alignment of the Hilderthorpe floodway.





Figure 4: Hilderthorpe Floodway; view west from State highway 1 bridge



Figure 5: Hilderthorpe Floodway; view east from State highway 1 bridge.





Figure 6: Hilderthorpe Floodway; view east from Gray Road crossing



Figure 7: Western view of the Hilderthorpe Floodway Gray Road crossing





Figure 8: Eastern view of the Hilderthorpe Floodway Gray Road crossing

Due to the very flat topography across the Waitaki Plains and the lack of planting along the margins of the floodway, visually the floodway is well integrated with, and almost indistinguishable from, the existing topography in the area. The only locations where it is visible is where it crosses roads and the railway line. Where visible, it appears very similar to the irrigation races that are located in the area, albeit largely dry.

The table below identifies residential activities in close proximity to the existing Hilderthorpe Floodway and provides a summary of the visual effect of the Floodway on these activities.

Table 3: Residential activities in proximity to Hilderthorpe Floodway

Property address	Mitigation
200 Gray Road	Established plantings provide visual separation from the Floodway, which is located approximately 60 metres from the dwelling.
354 Hilderthorpe Road	Established planting located both upon the site of the dwelling and along the edge of the Floodway provides screening. Floodway is located approximately 60 metres from the dwelling.



Property address	Mitigation
282 Ferry Road	Established planting surrounds the existing dwelling, which is set back from the Floodway by approximately 180 metres. The separation distance is occupied by a paddock.
311 Hilderthorpe Road	Some shelterbelts are located between the dwelling and the Floodway. The Floodway is located 280 metres from the dwelling, with paddocks lying between.
827 Hilderthorpe Pukeuri Road (SH1)	The farm sheds associated with this property are located between the dwelling and the Floodway, which is approximately 310 metres to the north. A shelterbelt also screens the Floodway from view.
250 Corbett Road	There is approximately 500 metres between this dwelling and the Floodway. Planting has been undertaken around the existing dwelling, however the distance between it and the Floodway appropriately mitigates the Floodway’s visual effects.
53 Hilderthorpe Road	This dwelling lies approximately 340 metres to the north of the Floodway. Planting has been undertaken around the existing dwelling, and the setback from the floodway mitigates visual effects.
Steward Road	This dwelling is situated approximately 110 metres from the eastern end of the Floodway, across Steward Road. Hedging and an irrigation race are located between the dwelling and the Floodway.

The existing floodway results in visual and landscape effects that are less than minor in respect of these dwellings; it is not dominant within the existing landscape of the area.

As set out above, the Henderson and Waikoura Creek Floodways are complementary, and while visually separate at their commencement at their respective State highway 83 crossings, they converge at Irvine Road, continuing to the Waitaki River.

The **Henderson Creek Floodway** appears as a typical rural stream at its commencement at State highway 83. Slightly incised, it meanders naturally towards the north, with grassed banks, and occasional trees along it’s margins.





Figure 9: Henderson Creek Floodway, viewed from State highway 83 looking towards the north.

Once Henderson Creek is out of sight from State highway 83, it becomes more controlled, following comparatively direct lines towards its convergence with the Waikoura Creek Floodway, on the northern side of Irvine Road. State highway 83 is slightly elevated above the plains, however the fall towards the north is gradual, thereby offering no real views of the more confined alignment of the Floodway beyond the immediate visual catchment of the State highway. The views of the Floodway from Irvine Road are also relatively confined due to the topography of the area. On this basis, there is not considered to be anything present within the landscape that differentiates the Floodway from any other watercourse within this rural environment.

The table below identifies the single residential activity occurring in close proximity to the existing Henderson Creek Floodway and summarises the Floodway's effect on this dwelling.



Table 4: Residential activities in proximity to Henderson Creek Floodway

Property address	Mitigation
1357 Georgetown Pukeuri Road	This dwelling is located across SH83 from the commencement of the Floodway, with approximately 80 metres separation distance. This dwelling is oriented towards the north, and the State highway visually separates the Floodway from the dwelling. Established plantings also provide screening.

The existing floodway results in visual and landscape effects that are less than minor in respect of this dwelling.

Like Henderson Creek, at its commencement the **Waikoura Creek Floodway** appears much like any farm stream, noting that it is a more modified environment than Henderson Creek. The terrain in this area is also very similar, providing no views of the stream beyond approximately 200 metres from State highway 83.



Figure 10: Waikoura Creek Floodway, viewed from State highway 83 towards the north east.



As seen in Figure 10 above, the Creek carries very low flows (aside from during flood events), and the bed of the floodway is grassed. A concrete ford provides stock crossing in this location. Notably, on the true right bank of the floodway, an irrigation race is present. This Floodway takes a more natural route to its convergence with the Henderson Creek Floodway on the northern side of Irvine Road.

Like the Henderson Creek Floodway, there are not considered to be any landscape characteristics that differentiate the Floodway from other watercourses within this rural environment.

The table below identifies residential activity in close proximity to the existing Waikoura Creek Floodway, and provides a summary of the visual effect of the Floodway on that dwelling.

Table 5: Residential activities in proximity to Waikoura Creek Floodway

Property address	Mitigation
1571 Georgetown Pukeuri Road	This dwelling is located in an elevated position 220 metres from the end of the commencement of the Floodway. State highway 83 lies between the residential activity and the Floodway.

The existing floodway results in visual and landscape effects that are less than minor in respect of this dwelling.

From the convergence of the Henderson and Waikoura Creeks, the combined **Henderson and Waikoura Creeks Floodway** exhibits a more modified character, flowing towards the east, where it meets Jardine Road. The combined floodway then runs along the western side of Jardine Road before deviating from this alignment towards the river.





Figure 11: Henderson and Waikoura Creeks Floodway, viewed from near the intersection of Irvine and Jardine Roads, looking towards the northwest.
Note: the water visible at the left side of the image is within the irrigation race, not within the Floodway itself.

The length of the floodway that runs along Irvine Road (shown in the centre of the image above) results in no adverse visual effects. This area is significantly modified, and the Floodway runs partially adjacent to an irrigation ditch. Existing pasture and cropping in the area also restrict views into the waterway. As such, this portion of the Floodway is considered to have adverse visual effects that are de minimis.



Figure 12: Henderson and Waikoura Creeks Floodway; viewed from opposite 550 Jardine Road, looking towards the south.





Figure 13: Henderson and Waikoura Creeks Floodway; viewed from opposite 550 Jardine Road, looking towards the north.

The length of the Floodway that extends along Jardine Road is similarly considered to have effects that are de minimis. While the Floodway is visible, its presence is not an adverse effect, and its location alongside the road alignment ensures that infrastructure is co-located as far as practicable. The banks of the Floodway are grassed, and the floodway itself is also fenced.

The final portion of the Floodway meanders from Jardine Road and the Waitaki River. Its course is more typical of a natural rural watercourse, and is thus visually suitable within this receiving environment. It does not result in any adverse visual effects.

The table below identifies residential activities in close proximity to the existing Floodway and provides a summary of the visual effect of the Floodway on these activities.

Table 6: Residential activities in proximity to Henderson and Waikoura Creeks Floodway

Property address	Mitigation
1/367 Jardine Road	The dwelling is located approximately 90 metres from the Floodway. Some planting surrounding the house may provide some visual screening, and the low banks along either side of the floodway will obscure it from view.



Property address	Mitigation
2/367 Jardine Road	The dwelling is located approximately 40 metres from the Floodway. Low banks along either side of the floodway will obscure it from view.
460 Jardine Road	The dwelling is located approximately 80 metres from the Floodway, with planting providing screening of the Floodway from view from the dwelling. Jardine Road also reduces any visual prominence of the Floodway.
464 Jardine Road	While the dwelling is located 40 metres from the floodway, the banks running alongside the Floodway make it less visually dominant. Jardine Road also reduces any visual prominence of the Floodway.
550 Jardine Road	This dwelling is located behind a substantial shelterbelt that prevents the visibility of the Floodway. The house is set back 110 metres from the Floodway. The Floodway lies to both the west and north of this dwelling, due to the alignment of the watercourse. A second dwelling on the property benefits from similar screening achieved by plantings and shelterbelts.

Overall, no change in visual effects is anticipated to result from the designation of the existing Floodways for flood protection purposes. Beyond occasional maintenance activities, no works are proposed, however should works be undertaken at a future stage they will be subject to the Waitaki District Council’s consideration via the outline plan process. Accordingly, the proposed designation of the existing Floodways is not considered to result in any adverse visual effects that are greater than minor.

Cross Banks

The locations of the cross banks proposed to be designated via this NoR are shown in **Appendix C**, however include the following general areas:

- Mouth of the Waitaki River
- Two areas at the Waitaki Bridge, either side of State highway 1, including a small portion beneath the highway and the railway line
- A small portion of cross bank beyond the Welcome Creek groyne
- Two areas beyond the northern termination of Wilson Road.

The cross bank that is located at the **mouth of the Waitaki River** runs along the true right bank, for approximately 500 metres. The cross bank is vegetated in a manner that is



consistent with the surrounding area. The cross bank is virtually indistinguishable from the surrounding environment, and thus results in adverse visual effects that are de minimis. The closest residential activities are located at the Motor Camp, approximately 580 metres to the south west. The cross bank in this location is not visible from this distance. No works to this cross bank are proposed in conjunction with this NoR. On this basis, the existing cross bank is considered to have visual effects that are less than minor.

The two cross banks located on either side of State highway 1 at Waitaki Bridge are similarly indistinguishable. The cross bank which lies **beneath the railway line** is accessible via a formed vehicle track, and the railway abutment forms the cross bank (approximately 100 metres in length). The area is vegetated with trees and shrubs, and while visible for users of the access road, it is not easily visible from State highway 1 or from any residential activities.

On the **western side of State highway 1**, the longer cross bank is located in a heavily vegetated area, predominantly of willows. Accordingly, it is not visible from State highway 1, or from the nearest residential activity, located at the Waitaki Bridge village. This cross bank is approximately 200 metres in length.

Due to the inability to readily identify these cross banks, they are considered to have no adverse visual effects. Two groynes are also located in this area, and these are discussed further below.

The short length of cross bank **beyond the Welcome Creek groyne** (discussed below) is approximately 40 metres in length. Due to the extensive planting along the true right bank of the Waitaki River in this location, the cross bank is indistinguishable and therefore has no visual impact.

There are also two cross banks located beyond the northern termination of Wilson Road. The longer of the two cross banks is located to the **east of the northern end of Wilson Road** and is approximately 550 metres in length. Its location is not readily accessible, and the area is heavily vegetated, resulting in the cross bank not being visible in this area. As such, it is considered to have no visual effects.

Similarly, the cross bank located on the **western side of Wilson Road** is approximately 375 metres in length and is not visible from adjoining areas. It is also heavily vegetated, and thus has no adverse visual effects.

The cross banks near Wilson Road are supported by three groynes, the visual effects of which are considered below.

None of the existing cross banks located along the true right bank of the Waitaki River result in adverse visual effects. No specific works are proposed for these cross banks under this NoR; should works be contemplated they will be subject to consideration through the outline plan process prescribed by the RMA.

Groynes

The locations of the groynes proposed to be designated via this NoR are shown in **Appendix C**, and includes the following areas:

- Waitaki Bridge (either side of State highway 1 – one of 250 metres and one of 480 metres)
- Between Welcome Creek and the Waitaki River (approximately 160 metres in length)
- East of the northern most extent of Ferry Road (600 metres in length)
- Three groynes of varying lengths are located beyond the northern termination of Wilson Road.

The visual assessment relating to the cross banks located at **Waitaki Bridge** is also applicable to the groynes located within this area. No additional adverse visual effects result from these existing assets.

The groyne located **between Welcome Creek and the River** is partially located within the Waimate District and the Canterbury Region. Only the portion that is located within the Waitaki District and Otago Region is proposed to be included in this designation. The groyne is grassed and in pastoral use. It results in no adverse visual effects, and is not visible from any nearby residential activity (the closest dwelling is more than a kilometre to the south west of the groyne). Accordingly, it is considered that the existing groyne has no visual effects.

The groyne at the **northern end of Ferry Road** is grassed and in pastoral use, and is located below the edge of the terrace. It results in no adverse visual effects, and is not visible from any nearby residential activity (the closest dwelling is more than a kilometre to the south west of the groyne). Accordingly, it is considered that the existing groyne has no visual effects.

There are three groynes broadly described as being at the **northern end of Wilson Road**. Two of these groynes intersect with the cross banks described above (the eastern groyne is 400 metres in length, with the central groyne being approximately 150 metres in length), and the same visual assessment applies. On this basis, the visual effects of the two easternmost groynes are considered to be less than minor. The westernmost groyne in this location (approximately 140 metres in length) is also grassed and planted. It is not overlooked by any residential activities, and is appropriate within the landscape. As such, it will not result in any adverse visual effects.

As for the other Council assets included within this NoR, there are no works proposed to the existing groynes at this time, and any such works will of course be subject to consideration in accordance with the outline plan requirements set out in the RMA. The existing groynes do not result in any adverse visual effects.

HYDROLOGY

The works that are subject to this Notice of Requirement were established by Environment Canterbury’s predecessors in the early 1980s. Little data is available in respect of the works associated with the establishment of the scheme. The works are clear of the main stem of the Waitaki River and thus have no impact on the hydrological functioning of the river at normal flows.

Given that the existing works are not within the main stem of the Waitaki River, they similarly do not impact on the life supporting capacity of freshwater in this location.

CULTURAL

The designation of the existing flood protection assets is considered unlikely to result in any effects that are of concern to mana whenua within this area. The NoR does not impact on any areas identified as holding particular cultural significance in the operative Waitaki District Plan, the Regional Plan: Water for Otago, or the Regional Plan: Coast for Otago. Notwithstanding this, the area does include the following features that are relevant from a cultural perspective:

- Statutory Acknowledgement for the Waitaki River under the Ngai Tahu Claims Settlement Act 1998
- Statutory Acknowledgement for Te Tai o Arai Te Uru (the Otago Coastal Marine Area) under the Ngai Tahu Claims Settlement Act 1998
- Nohoanga sites at Ferry Road and the Waitaki River Mouth, as described in Table 7 below.

Table 7: Nohoanga sites, Lower Waitaki Plains

Site No	Waterway	Site	Legal Description/ Allocation Plan
43	Waitaki River	Ferry Road	6000 square metres, approximately, being Part Waitaki Riverbed, Block VII, Papakaio Survey District. Subject to survey, as shown on Allocation Plan MN 527 (SO24800).
44	Waitaki River	Waitaki River Mouth	1 hectare, approximately, being part Section 53, Block VIII, Papakaio Survey.

Further engagement with mana whenua will inform a more detailed assessment of cultural effects resulting from the designation of these assets.



To address potential archaeological discoveries that result from any future works (including maintenance works), an accidental discovery protocol is volunteered as a condition for this requirement.

NOISE

The flood protection assets are existing, and no specific construction work is proposed. Once in place, no noise will be generated by these assets. Accordingly, the only potential noise effect that could occur as a result of this NoR is related to maintenance works. Such works could include:

- Earthworks and re-grading
- Bridge and culvert replacements
- Weed spraying
- Clearing drains
- Raising bank heights

Should these works be required, they will be of a short duration, and will be undertaken in conjunction with the relevant standard for construction noise. On this basis, it is considered that any noise associated with these works would be consistent with noise resulting from any other construction activities. While less common in the rural environment, as the separation distance between any sensitive receivers and the works is significant noise will be attenuated.

To provide assurance that construction activities will be undertaken in accordance with the relevant New Zealand Standard, the requiring authority volunteers a condition for this NoR requiring adherence to NZS 6803:1999 Acoustics – Construction Noise. Compliance with this standard will ensure that adverse noise effects associated with construction works are no more than minor.

TRAFFIC EFFECTS

The assets proposed to be designated are largely passive, which means that it is not necessary to regularly visit them to undertake work. General maintenance of these assets may be required however any increase in traffic during any future construction can be readily accommodated by the existing road network.

Access to the Floodways is available via defined crossings and gates. Access to the cross banks and groynes is largely via formed and unformed roads.

Effects will be temporary and of short duration and will accordingly be less than minor.



EFFECTS ON OTHER INFRASTRUCTURE

The existing assets have positive effects on other infrastructure in the general vicinity, and the flood protection they afford provides for lifeline utility activities in particular.

Consultation will occur with the providers of this infrastructure, and this assessment will be updated by the resultant outputs.

SUMMARY

Based on the assessment set out above, it is considered that there will be no more than minor adverse effects on the environment as a result of these designations and any works that would be provided for by the designations. For any future works, details of work to be undertaken within the designations will be provided via the outline plan process and section 176A of the RMA. At that stage, any additional measures required to be undertaken to avoid, remedy or mitigate effects on the environment will be undertaken.

Draft for Council Approval



Draft for Council Approval



APPENDIX A

Henderson/Waikoura Creeks
Floodway

HENDERSON/WAIKOURA CREEK FLOODWAY

LEGAL DESCRIPTIONS AND OWNERSHIP DETAILS

Records of title will be attached to final version.

Street address	Title Reference	Legal Description	Ratepayer	Ratepayer Address
1531 Georgetown- Pukeuri Road	OT9A/648 OT2D/1078	Lot 1 DP 20381 Pt Lot B P 2358 Sec 62 Pt Sec 63 Blk I Secs 78-79 Blk IV Awamoko SD	Trevor Alan Lee, HGW Trustees Ltd, BCO Trustees (2011) Ltd	c/- 1531 Georgetown- Pukeuri Road RD 14K Oamaru 9494
Irvine Road Awamoko	126073	Secs 60-61 Pt Sec 59 Blk I Secs 10-11 Pt Secs 7-8 Blk VI Awamoko SD Lot 2 DP 25798	John Ross & Maree Robyn Skinner	100 McPhee Road RD 15 K Oamaru 9494
Jardine Road Peebles	724529 OT5A/909 OT257/112	Secs 80-81 Blk I Pt Secs 57-58 84- 85 Blk I Secs 55- 56 Blk I Awamoko SD	Lynley Joy & Lucien Bernhardt Verkerk & GCA Legal Trustee 2016 Ltd	179 Jardine Road RD 3K Oamaru 9494
1276 Georgetown- Pukeuri Road	OT190/136	Secs 19-21 24-26 Pt 23 Blk IV Awamoko SD Sec 25 Pukenui Settlement	Strachan Farms Ltd	1276 Georgetown- Pukeuri Road RD 15K Oamaru 9494
179 Jardine Road Peebles	OT8C/443	Lot 1 DP 25796 Lots 1-2 DP 17195	Skinner Farms Ltd	179 Jardine Road RD 3K Oamaru 9494
195 Aitchison Road Awamoko	272206 603662	Lot 1 DP 25797 Lot 1 DP 25798 Lot 1 DP 316736 Secs 12 SO 360321 Sec 18A Steward	Cornelis & Donna Maree Smit, Sharp Tudhope Trustee Services No 3 Ltd, Corona Trust	Otakiri Road RD 2 Whakatane 3192

Settlement Blk I Awamoko SD				
195 Aitchison Road Awamoko	OT16B/1004 OT13C/646	Lots 1 2 DP 24473 Lots 2 3 418232 Secs 14A19A Steward Settlement	Smit Dairies Ltd	74 Aitchison Road RD 3K Oamaru 9494
1 Jardine Road Peebles	OT10C/1198	Lot 1 DP 324337 Lot 1 DP 19347	Isa Holdings Ltd	c/- Grant & Rebecca Isbister 36 Homestead Road RD 1D Oamaru 9492
Waitaki District Council Roding				

PHOTOGRAPHS



Figure 1: Henderson Creek at State highway 83



Figure 2: Henderson Creek from State highway 83 (downstream)



Figure 3: Henderson Creek from State highway 83 (downstream)



Figure 4: Waikoura Creek at State highway 83



Figure 5: Waikoura Creek at State highway 83



Figure 6: Waikoura Creek at State highway 83 (downstream)



Figure 7: Waikoura Creek at State highway 83 (downstream)



Figure 8: Waikoura Creek at State highway 83 (downstream)



Figure 9: Waikoura Creek at State highway 83 (downstream). Note irrigation channel to the right of image



Figure 10: Henderson/Waikoura Floodway from Irvine Road (upstream)



Figure 11: Henderson/Waikoura Floodway from Irvine Road (downstream)



Figure 12: Henderson/Waikoura Floodway from intersection of Irvine and Jardine Road. Note irrigation canal to left of image



Figure 13: Henderson/Waikoura Floodway from Jardine Road (upstream)

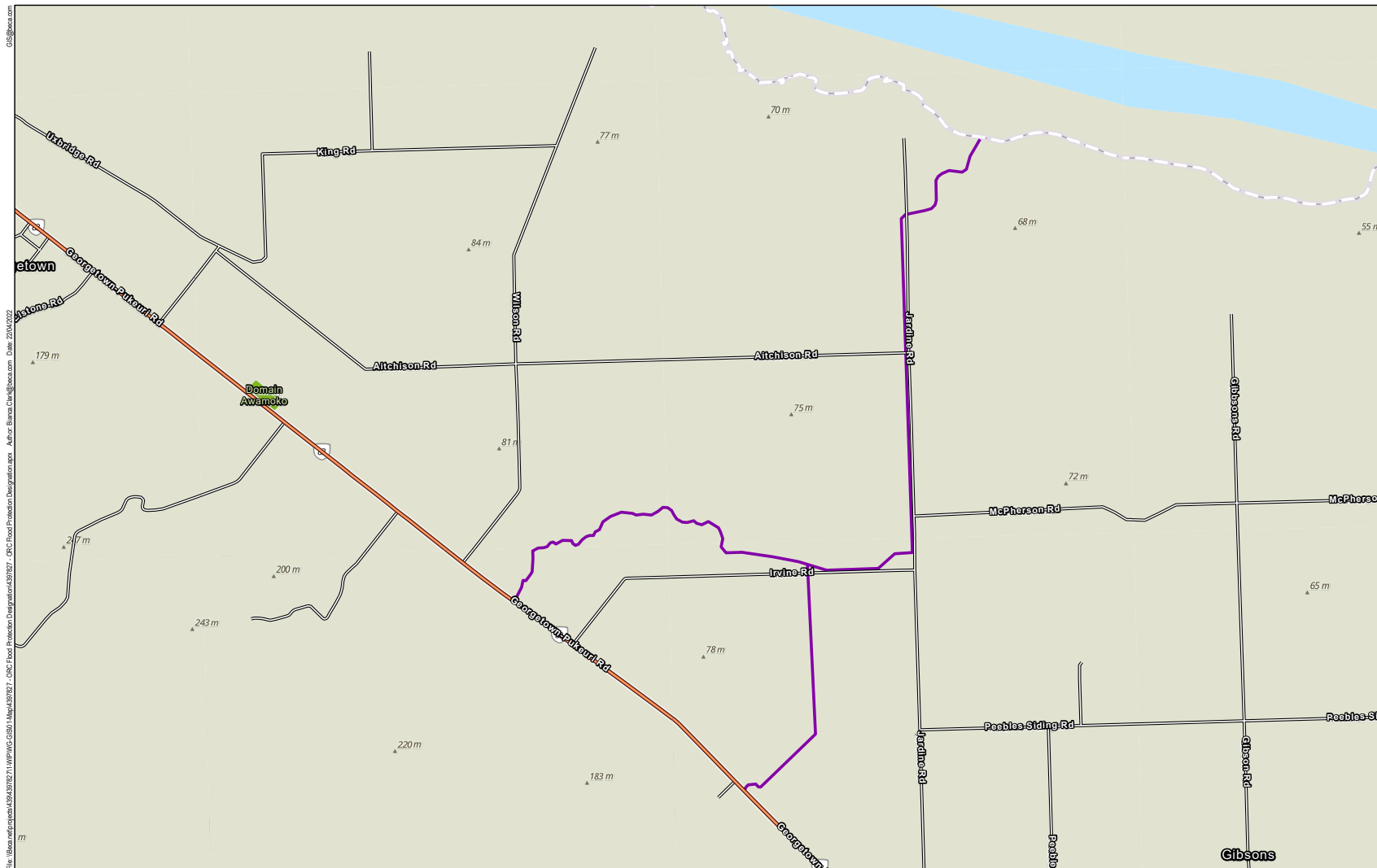


Figure 14: Henderson/Waikoura Floodway from Jardine Road (downstream)



Figure 15: Henderson/Waikoura Floodway from Jardine Road(upstream). Note depth of channel.

PLANS



Map Scale @ A3: 1:25,000

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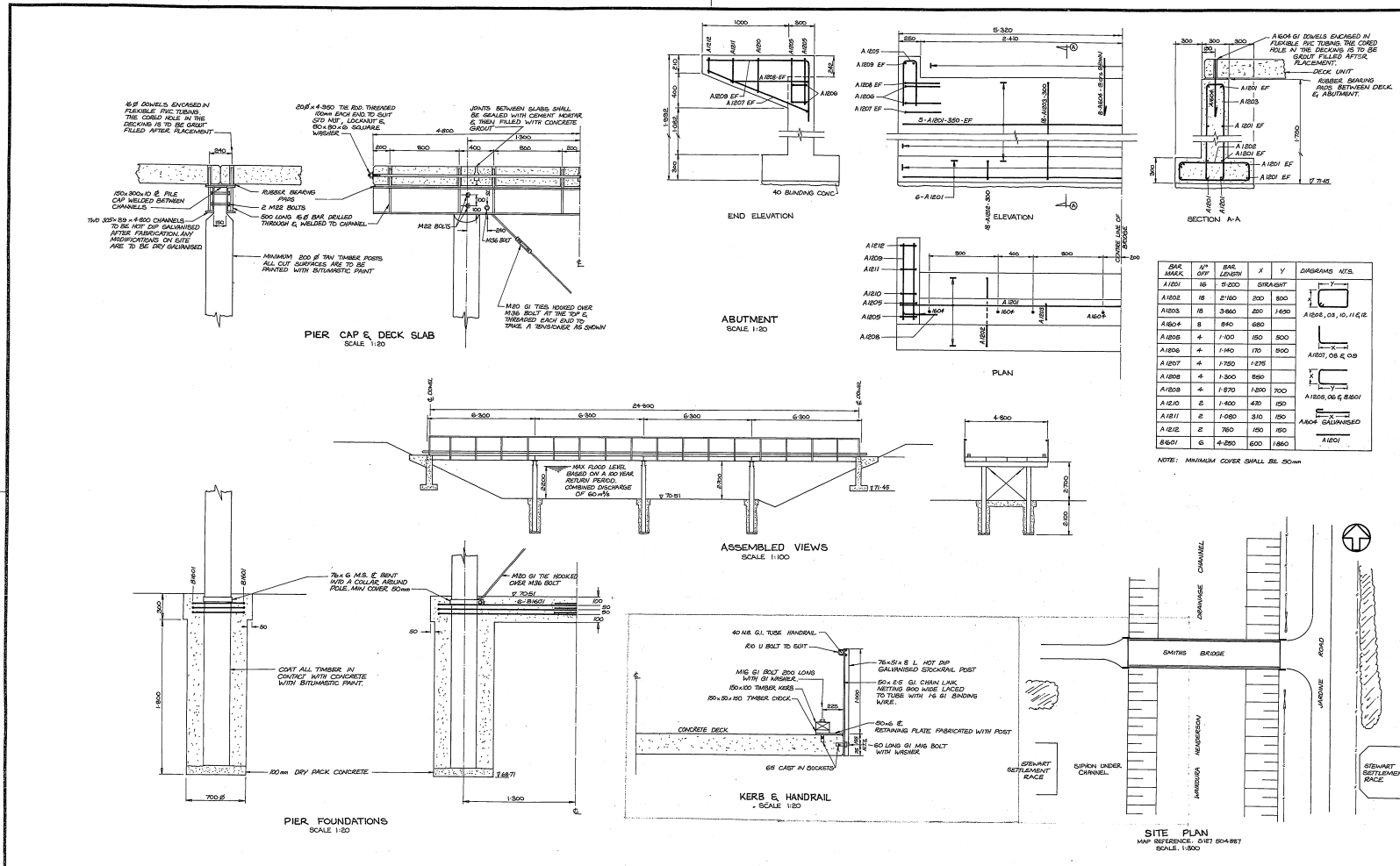
Waitaki Designation
Hendersons and Waikoura Creek Floodways

Legend


- Hendersons and Waikoura Creek Floodway
- Regional Council
- Boundaries

Otago Regional Council

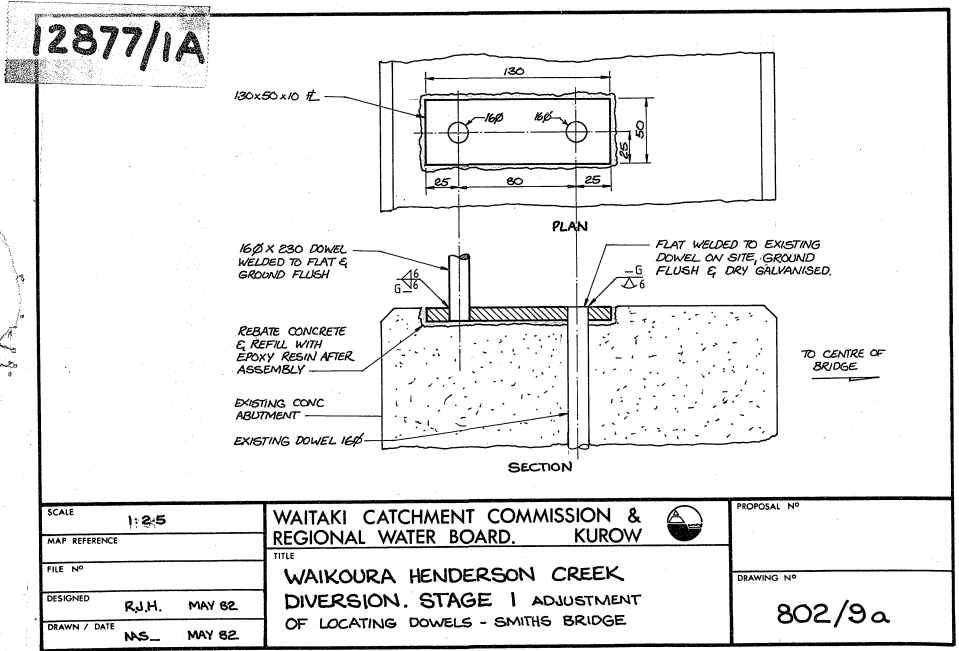
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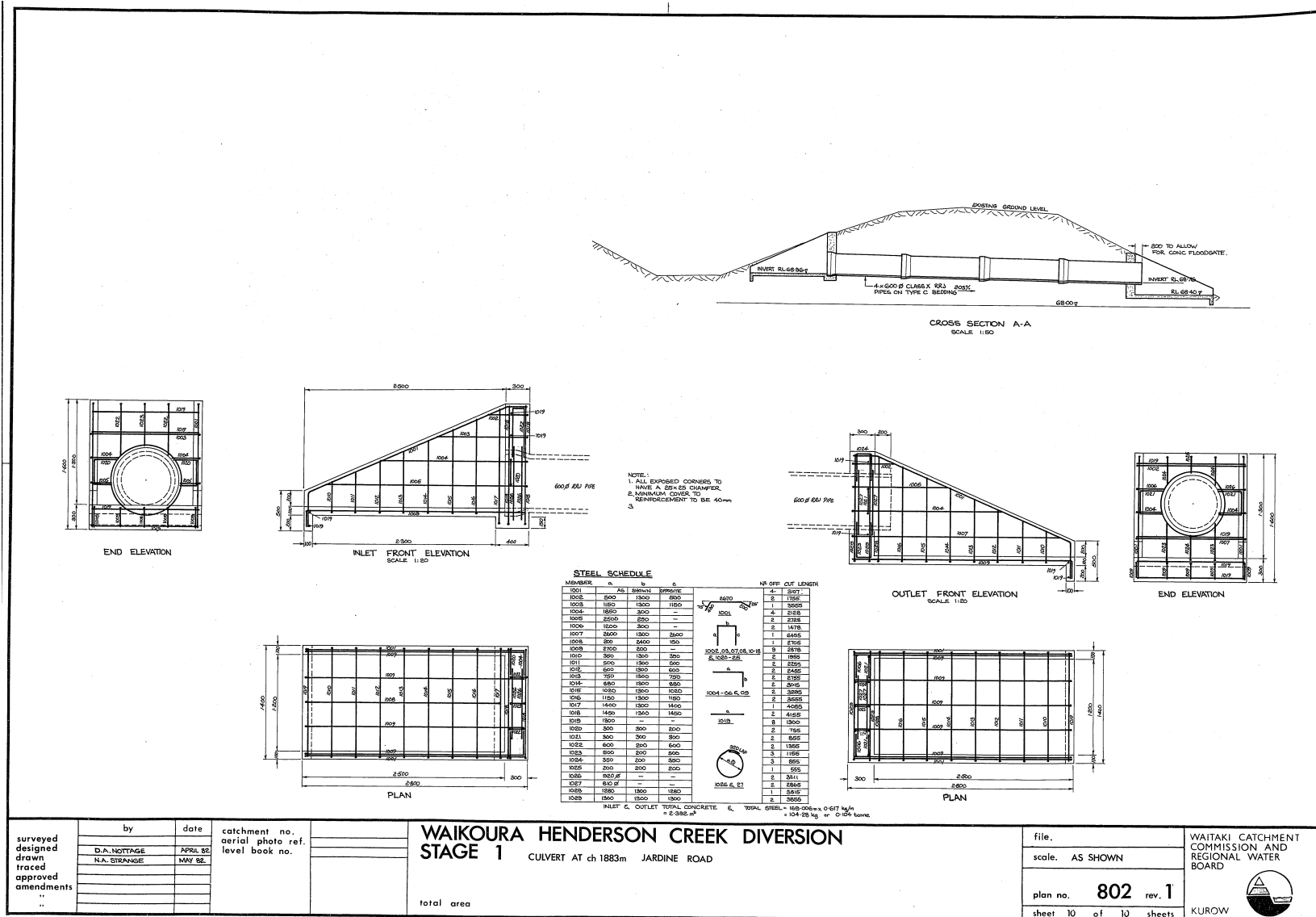


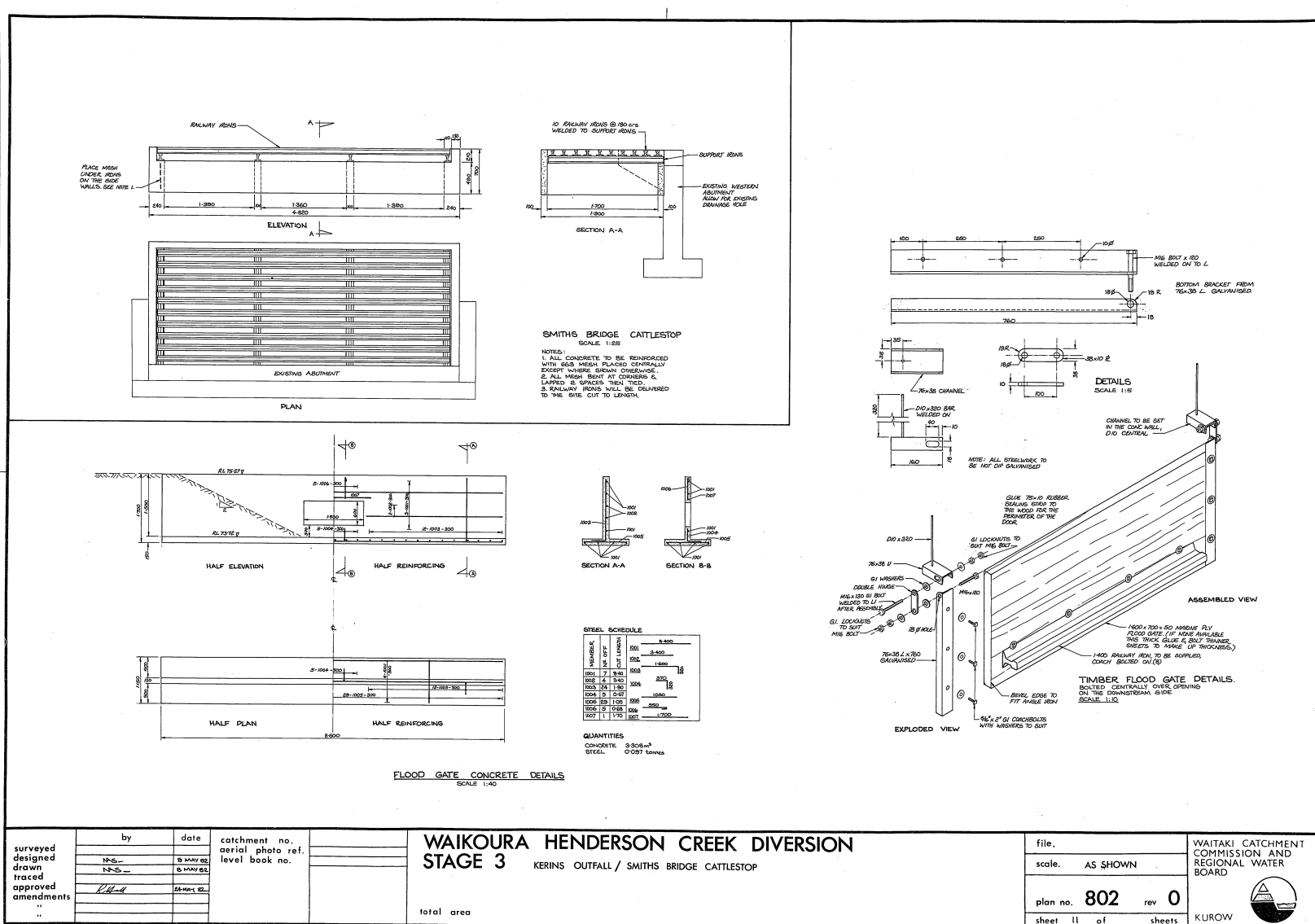
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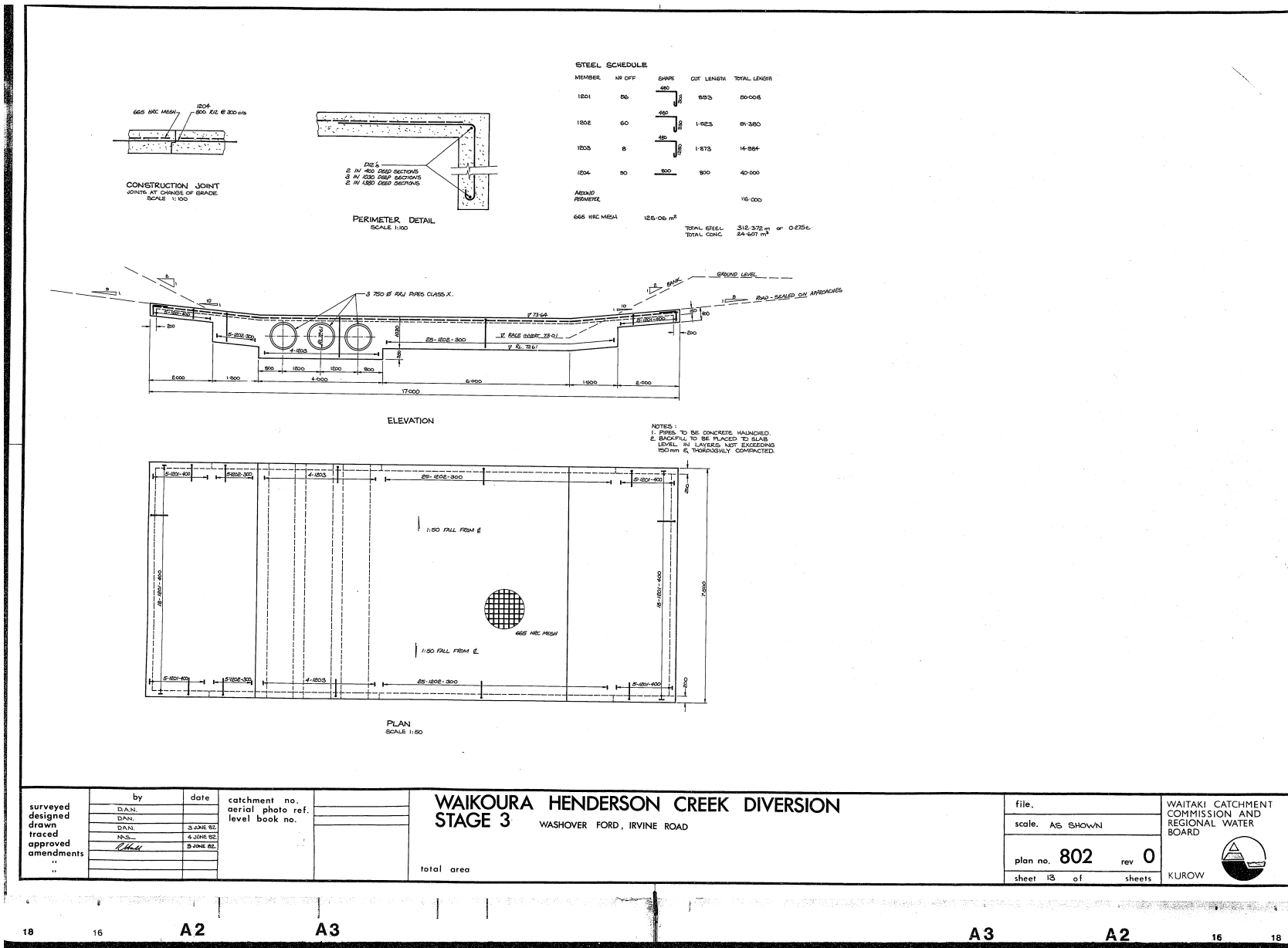
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STAGE 3 KERINS OUTFALL / SMITHS BRIDGE CATTLESTOP

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STAGE 3**
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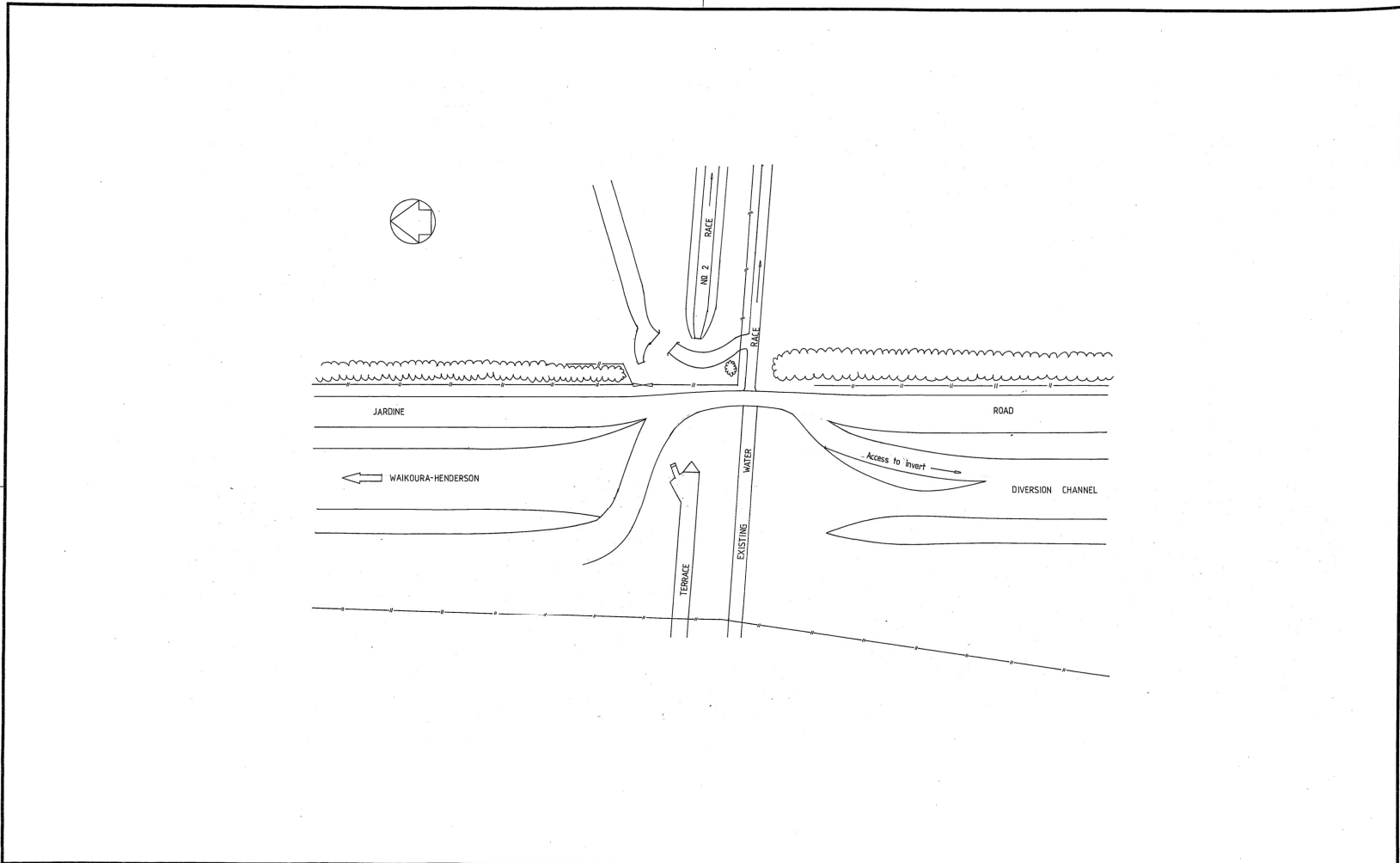
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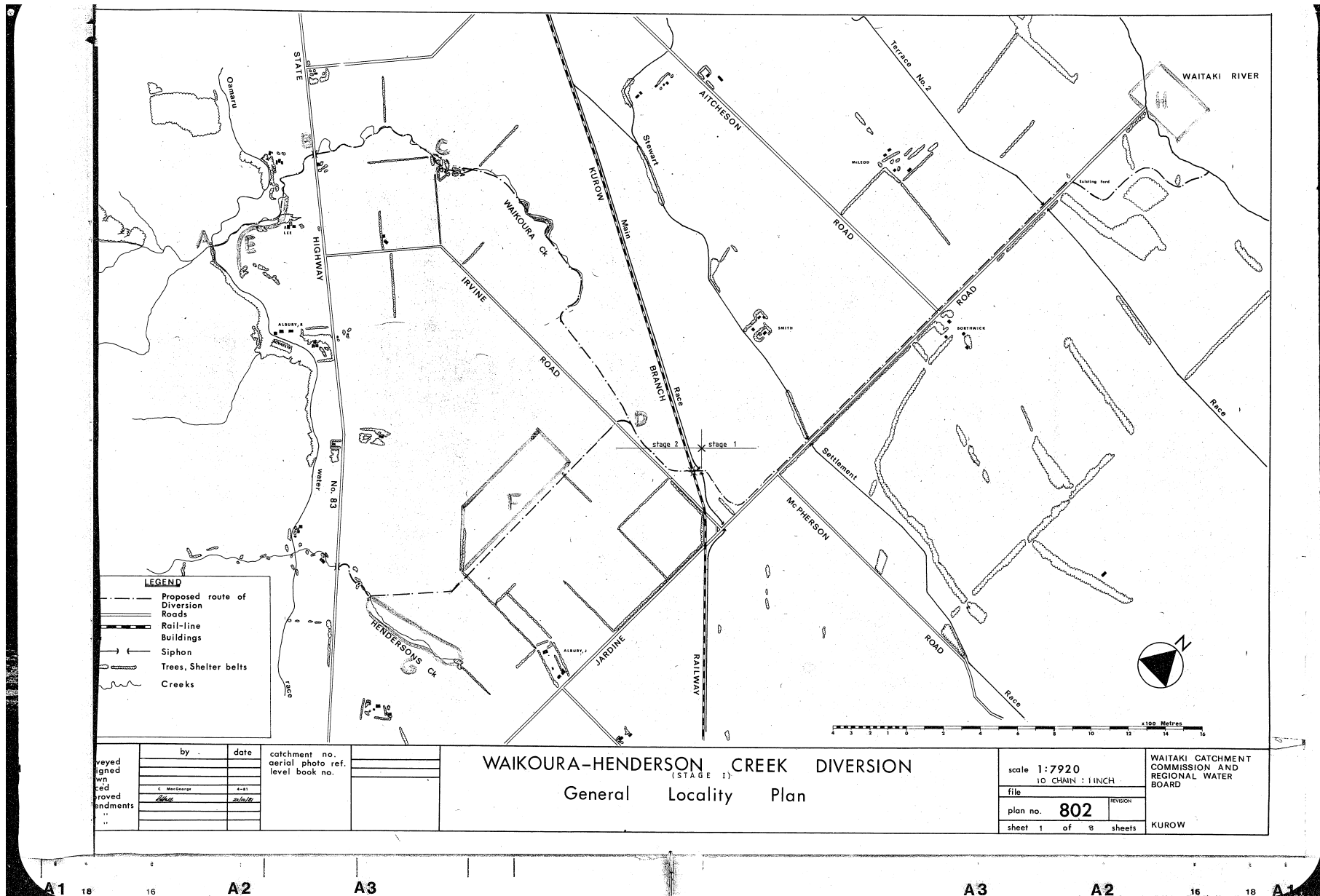
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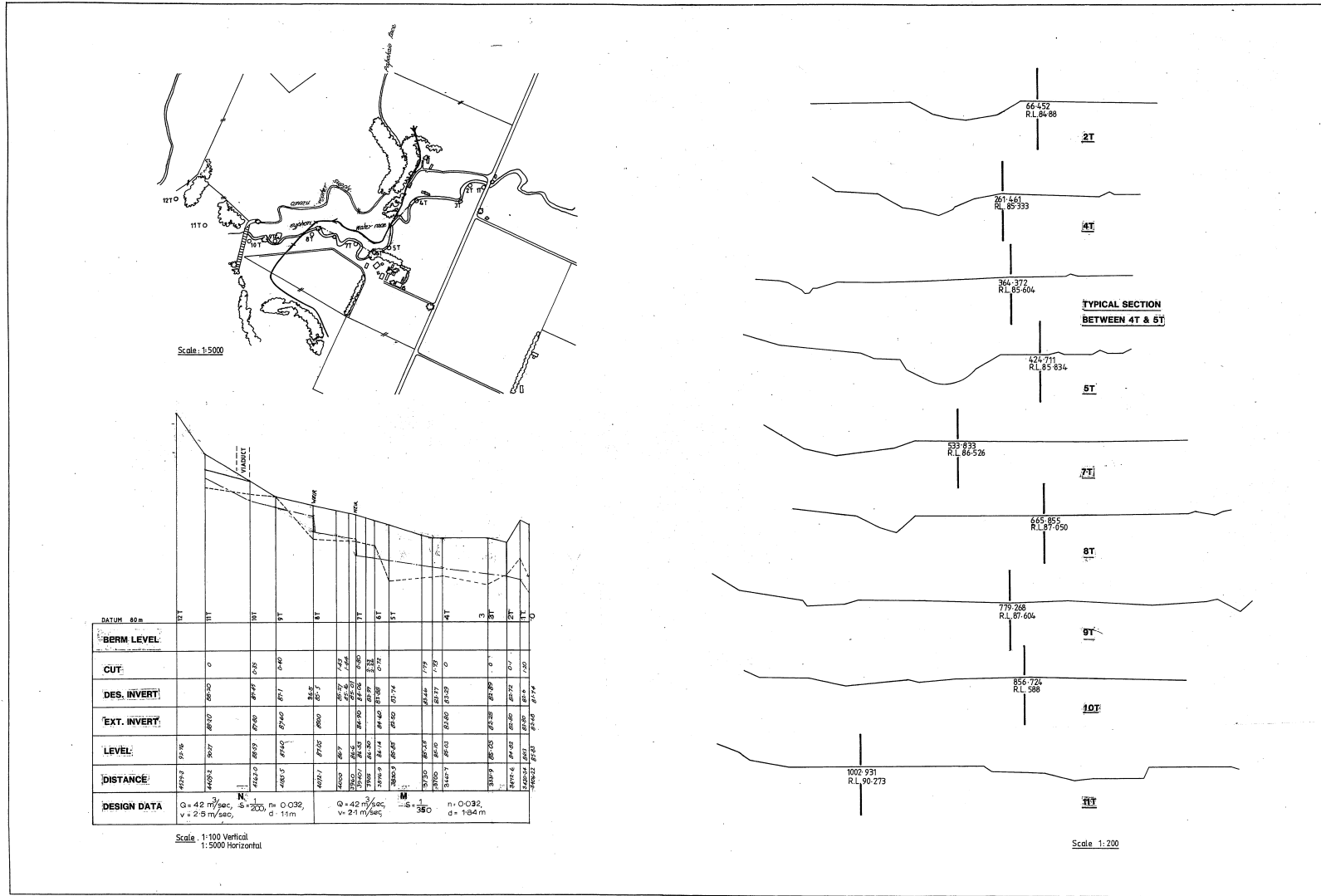
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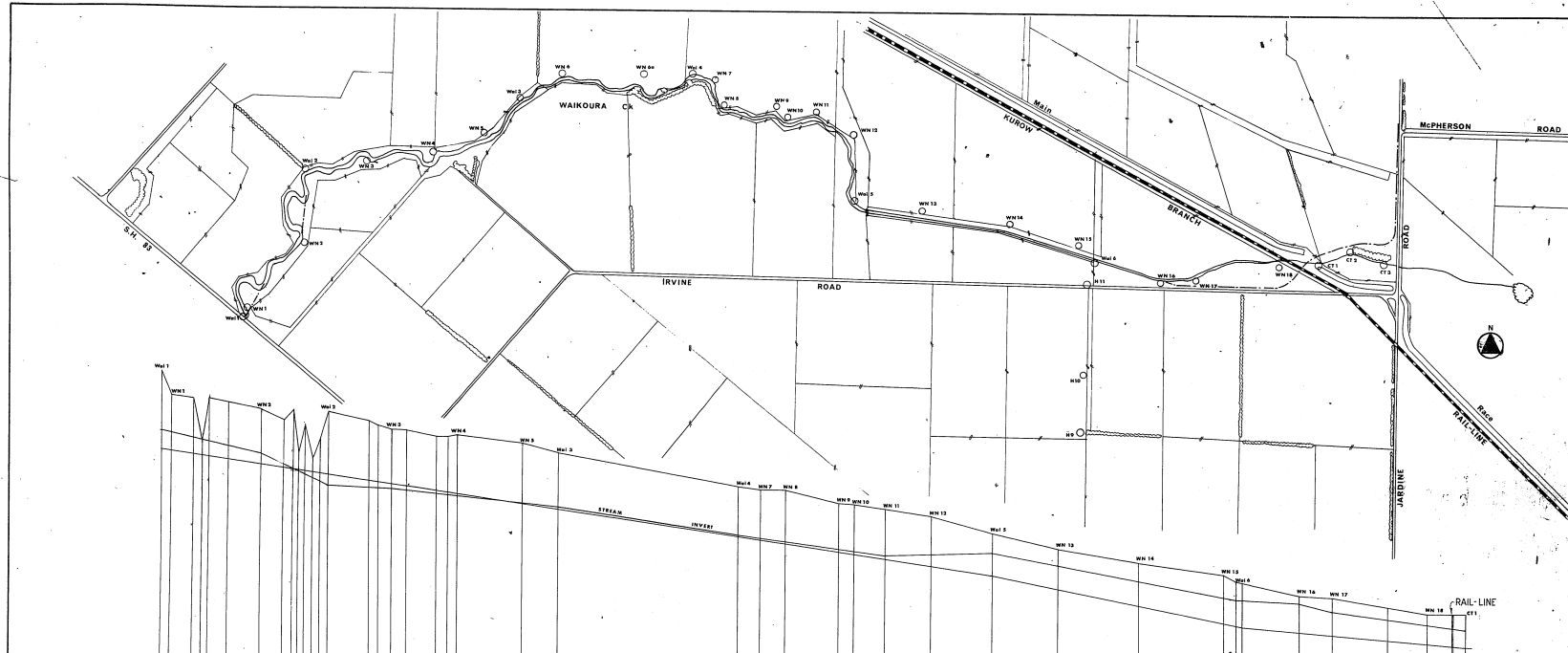
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WAIKOURA - HENDERSON CREEK DIVERSION

Upper-Waikoura Traverse

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WAIKOURA-HENDERSON CREEK DIVERSION

Waikoura Traverse

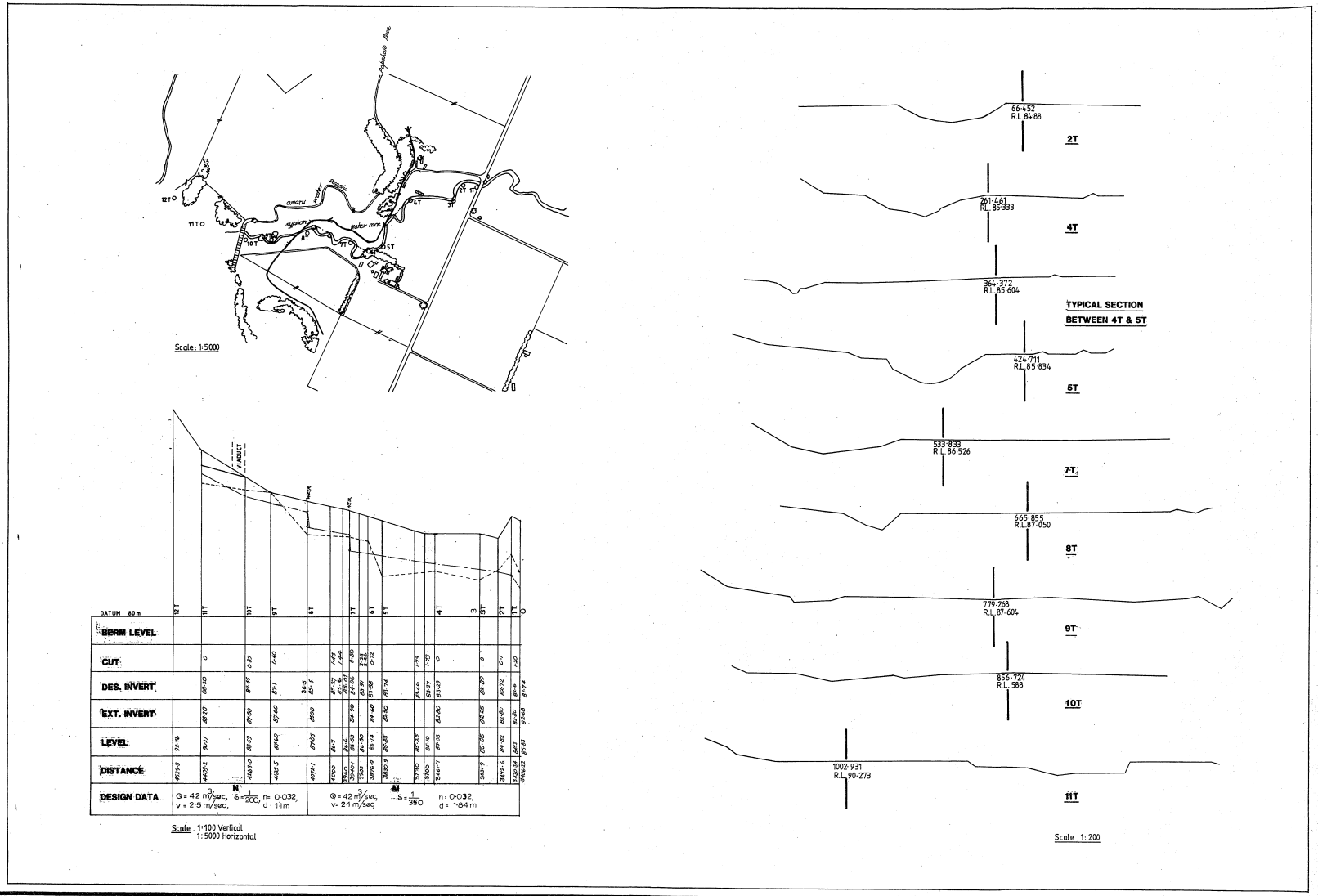
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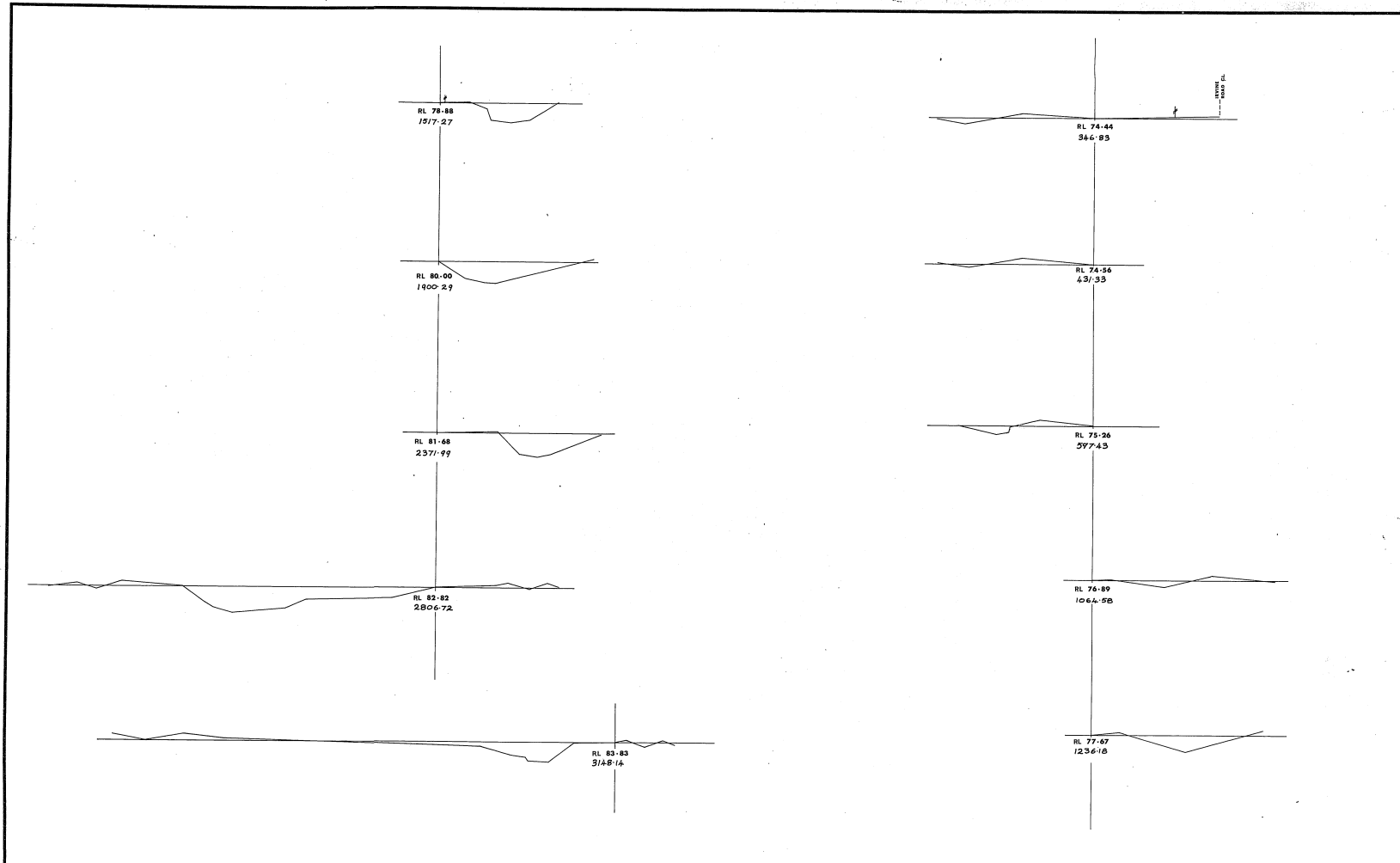



WAIKOURA - HENDERSON CREEK DIVERSION

Upper-Waikoura Traverse

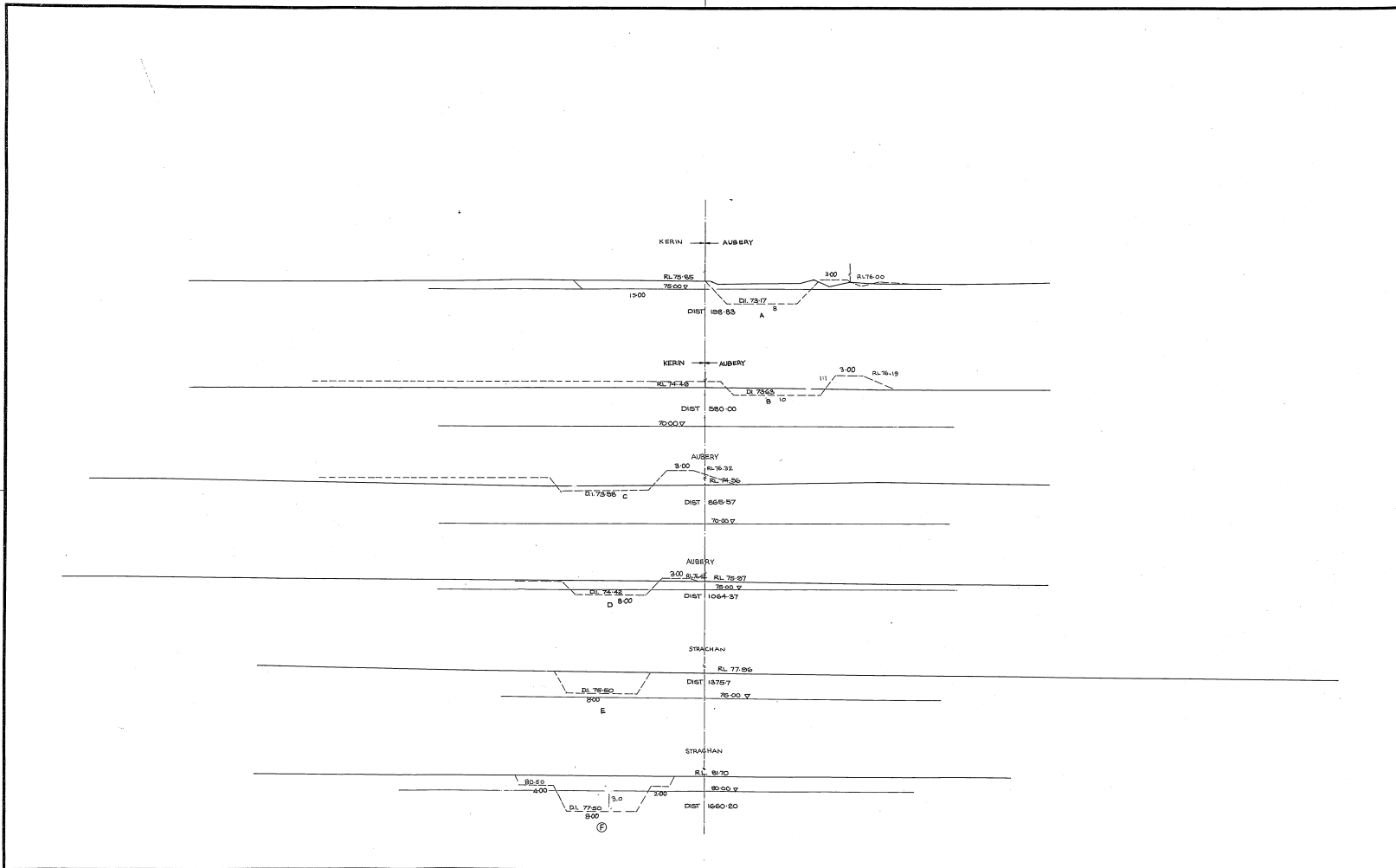
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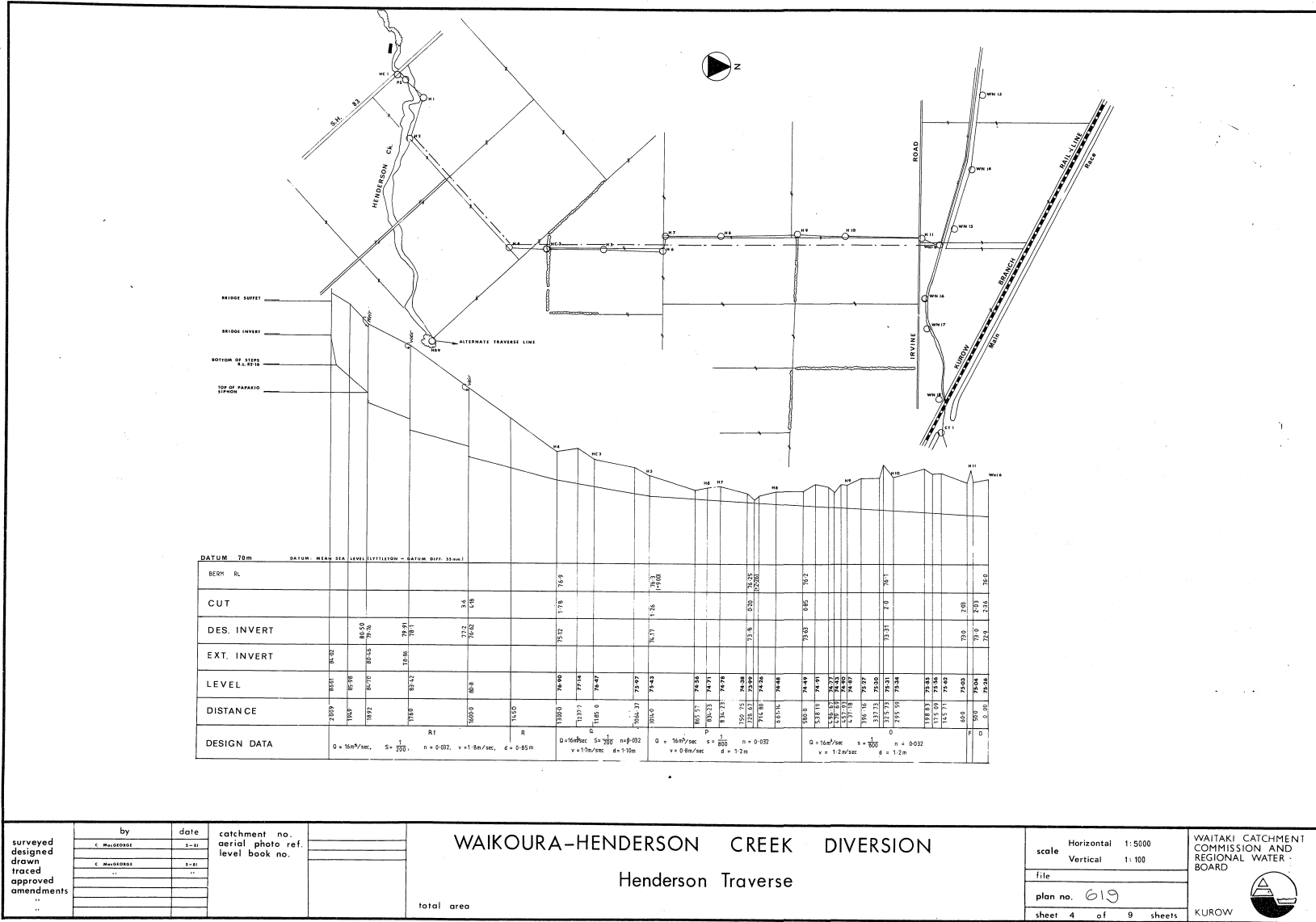
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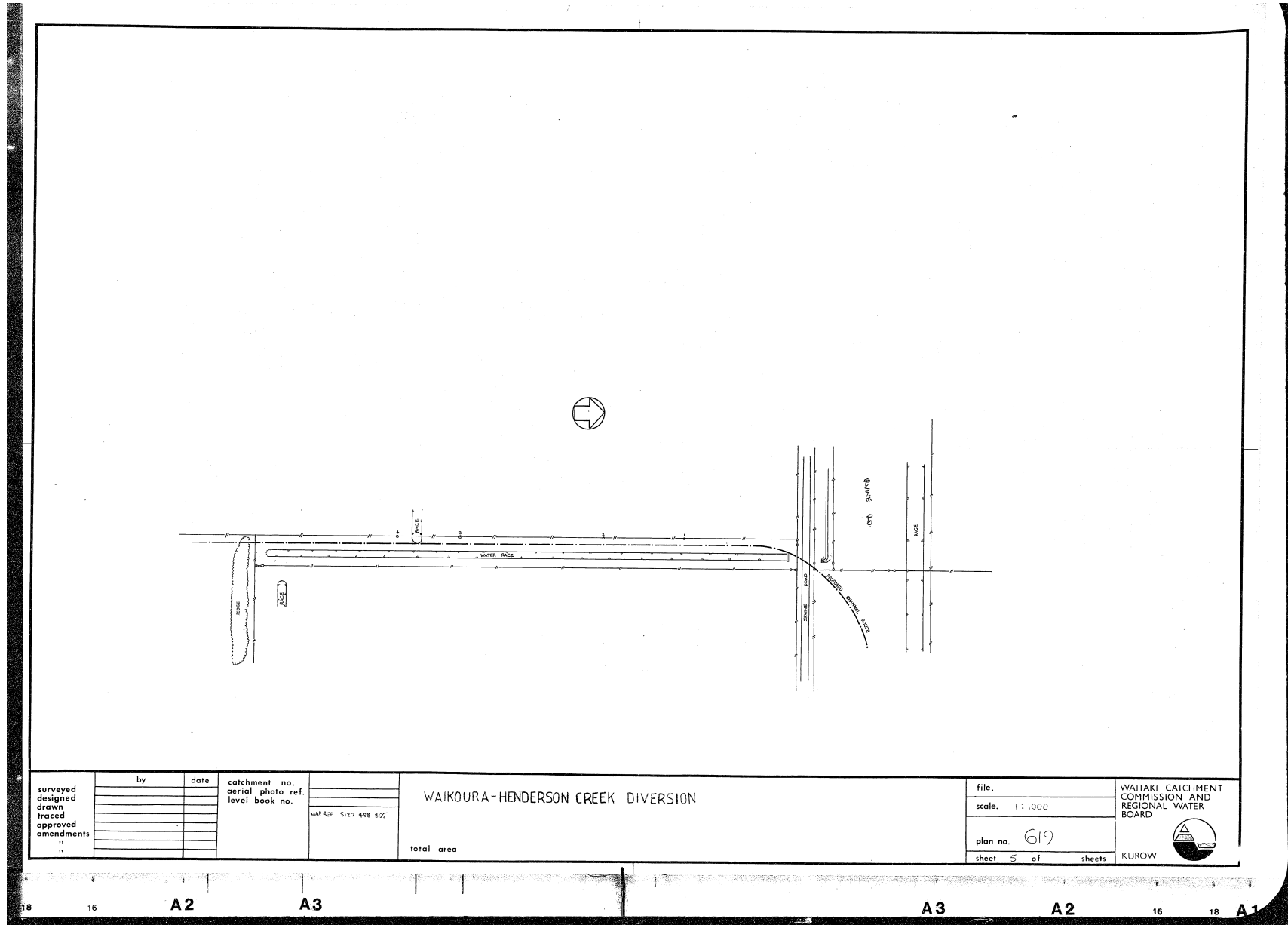
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	C. MARGORSE	3-81	
	C. MARGORSE	3-81	

WAIKOURA-HENDERSON CREEK DIVERSION
Henderson Traverse

total area

scale	Horizontal 1:5000	WAITAKI CATCHMENT COMMISSION AND REGIONAL WATER BOARD
	Vertical 1:100	
file		 KUROW
plan no.	619	
sheet	4 of 9 sheets	

A1 18 16 A2 A3 A3 A2 16 18 A1



surveyed designed drawn traced approved amendments "	by	date	catchment no. aerial photo ref. level book no.	WAIKOURA-HENDERSON CREEK DIVERSION		file.	WAITAKI CATCHMENT COMMISSION AND REGIONAL WATER BOARD 
				total area	scale. 1 : 1000		
					plan no. 619		
					sheet 5 of sheets		
					KUROW		

18

16

A2

A3

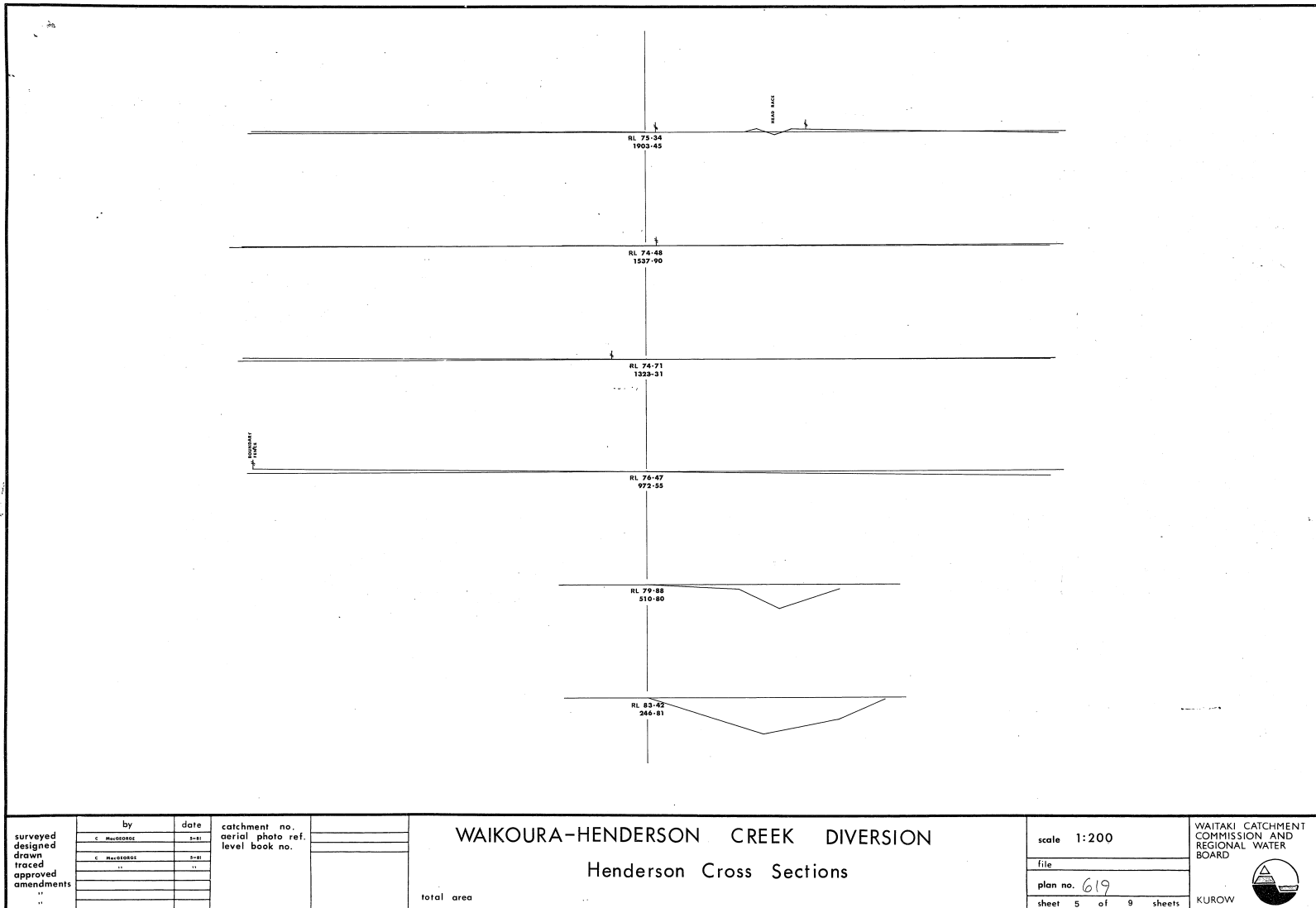
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A2

16

18

A1



surveyed designed drawn traced approved amendments " " " "	by	date	catchment no. aerial photo ref. level book no.	total area	WAIKOURA-HENDERSON CREEK DIVERSION Henderson Cross Sections	scale 1:200	WAITAKI CATCHMENT COMMISSION AND REGIONAL WATER BOARD KUROW
	C. MacGibbon	3-81				file	
	C. MacGibbon	3-81				plan no. 619	
	" "	" "				sheet 5 of 9 sheets	
	" "	" "					

A1 18 16

A2

A3

A3

A2

16

18

A1



Draft for Council Approval

B

APPENDIX B

Hilderthorpe Floodway

HILDERTHORPE FLOODWAY

LEGAL DESCRIPTIONS AND OWNERSHIP DETAILS

Records of title will be attached to final version.

Street address	Title Reference	Legal Description	Ratepayer	Ratepayer address
53 Hilderthorpe Road	OT237/88	Secs 98-100 143-144 Lot 2 DP 301558 Blk IV Papakaio SD	Corbett Road Farms Ltd	C/O Leonardo Bensegues 337 Morris Road RD 10 Waimate 7980
Hilderthorpe Road	OT233/195	Sec 94 Pt 95 Blk IV Papakaio SD	Neil Lyndon & Dorothy Nance Smith	1431 Glenavy-Hilderthorpe Road RD 5H Oamaru 9493
Corbett Road	OT358/123	Secs 101-102 Blk IV Papakaio SD	Corbett Road Farms Ltd	c/- I M Willans 125 Ben Loch Lane Road RD 2 Te Anau 9672
25 Bishop Road	OT233/220	Lot 1 DP 16402 Secs 90-93 103-105 Pt Sec 92 Blk IV Papakaio SD	Banarach Farm Ltd	c/- R A Plunket 77 Boundary Creek Road RD 1H Oamaru 9493
261 Hilderthorpe Road	OT10D/1132 161599 379566	Lot 2 DP 8942 Lot 1 DP 302081 Lot 2 DP 320416 Lot 2 DP 333749 Lots 1 2 DP393307 Secs 87-89 106-108 Blk IV Papakaio SD	Hilderlands Farms Ltd	23 Anderson Street RD 14O Oamaru 9495

Hilderthorpe Road	379567	Lot 1 DP 320416 Lot 3 DP 393307	Jane Rosemary & Erin Margaret Malcolm & Joshua Marc Soper	282 Ferry Road RD 1K Oamaru 9494
338 Ferry Road Richmond-Tawai	891753	Lot 1 DP 536044	Amber Marie Everett & Victoria Maree Littlejohn	338 Ferry Road RD 1K Oamaru 9494
445 Hilderthorpe Road	OT216/14	Lot 1 DP 21611 Lot 1 DP 25367 Secs 68-69 74 Pt Secs 70-73 75 Blk IV Papakaio SD on DP 3141	Inveraray Dairy Ltd	46 Flaxmill Road RD 1 Balclutha 9271
200 Gray Road	OT216/15	Secs 36-37 39-41 Pt Secs 38 71-73 75 Blk IV Papakaio SD	Dalziel Ag Ltd	C/- MJ and JJ Dalziel 200 Gray Road RD 15K Oamaru 9494
Kiwirail				
Waka Kotahi NZ Transport Agency				
Waitaki District Council Rooding				

PHOTOGRAPHS



Figure 1: Hilderthorpe Floodway at State highway 1 (source: Google Streetview)



Figure 2: Hilderthorpe Floodway at Ferry Road (downstream). (Source: Google Streetview)



Figure 3: Hilderthorpe Floodway at Ferry Road (downstream). (Source: Google Streetview)



Figure 4: Hilderthorpe Floodway at Gray Road (downstream)

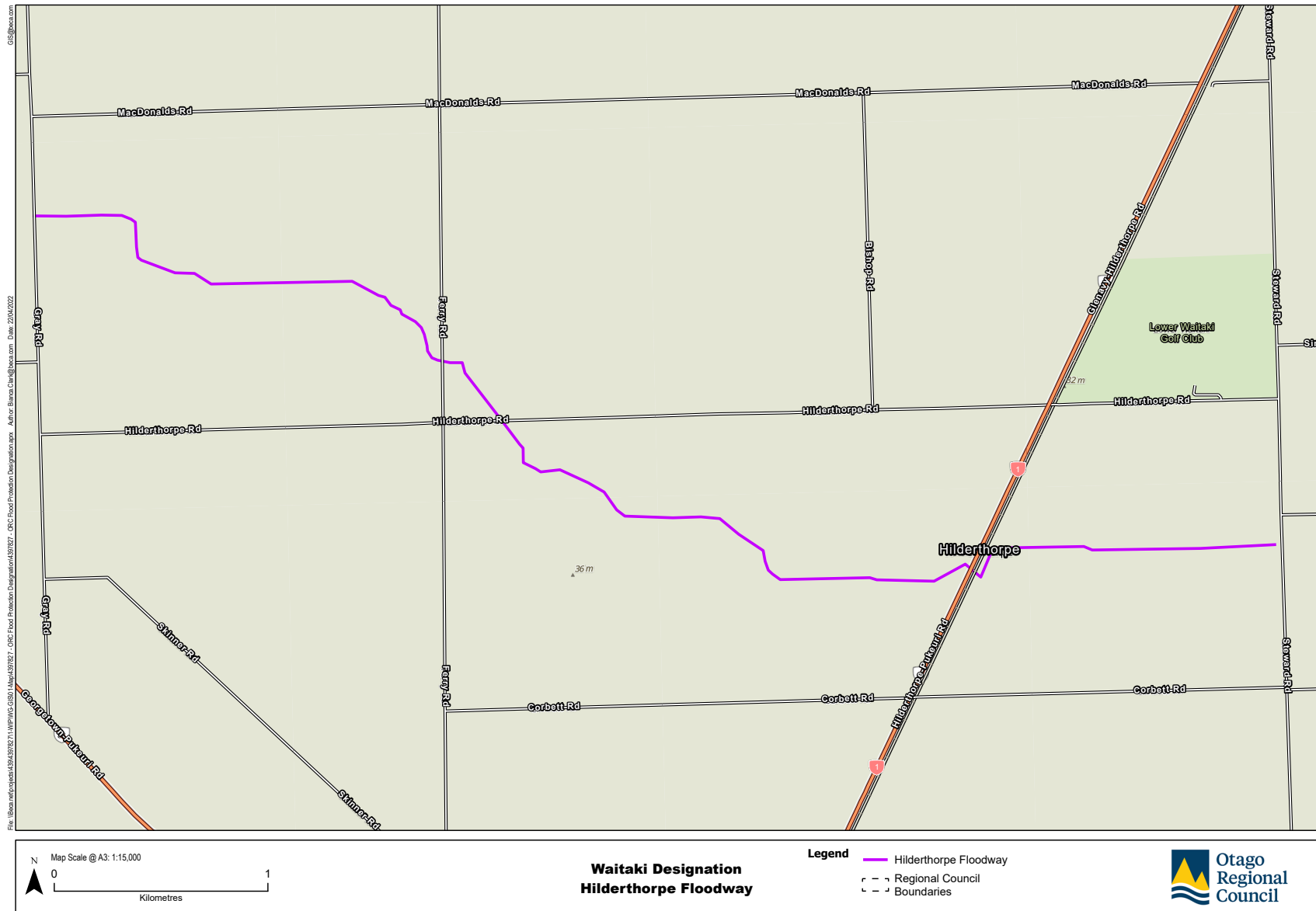


Figure 5: Hilderthorpe Floodway Culvert at Gray Road (downstream side)



Figure 6: Hilderthorpe Floodway Culvert at Gray Road (upstream side)

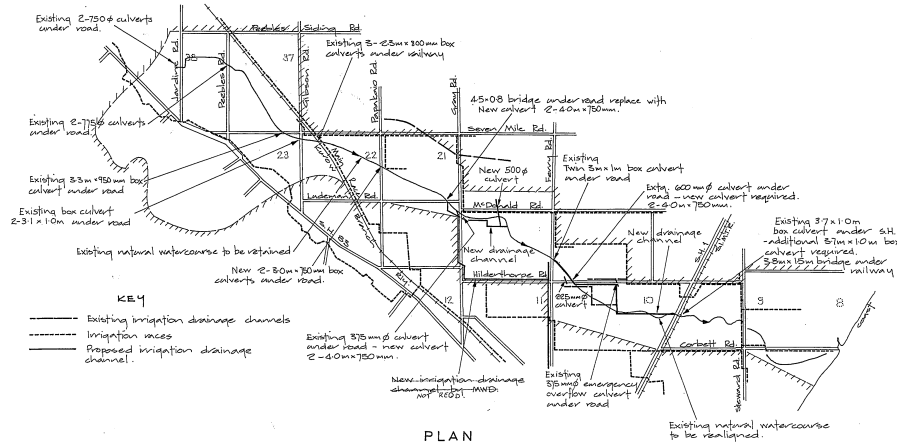
PLAN



LOCATION	CULVERTS			STORAGE (ha-m)		DRAINAGE CHANNELS														
	EXISTING	REQUIRED	MODIFIED	1 ha-m - 10,000 m ³		UPSTREAM				DOWNSTREAM				MODIFICATION or COMMENTS						
	Dim ²	Dim ²	or NEW	INTG	REQUIRED	MODIFIED	EXISTING	REQUIRED	EXISTING	REQUIRED	UP-STM	DN-STM								
	mm	mm	mm		PEAK FLOW		AREA	Q	AREA	Q	AREA	Q	AREA	Q						
STATE HIGHWAY 83	2.4 0.4	2.82	2.82	NR	'A'	'A'		2.82	2.12	2.82	2.12									
JARDINE RD.	2 750	2.45	2 750	2.45	NR	'A'	'A'	0.9	1.0	0.2	2.45	3.4	0.2	2.45	2.45	2.45	—	Improve channel		
PEEBLES RD. (110)	2 775	2.9	3.500 750	2.9	New culvert	'A'	'A'	5.0	0.2	2.9	5.0	0.2	2.9	—	—	—	—			
SEVEN MILE RD.	3.500 750	3.1	3.6	NR	'A'	'A'	Improve	5.0	—	3.6	2.4	—	3.6	—	3.6	3.6	—	Improve channel		
GIBSON RD.	3.100 1000	3.4	3.100 1000	3.4	NR	'A'	'A'	2.4	—	3.4	4.0	—	3.4	3.4	3.4	—	—	Channel needs cleaning out to increase capacity		
KUROW RAILWAY LINE	3 800	5.5	4.2	NR	'A'	'A'		9.0	—	—	9.0	—	—	—	—	—	—	Railway to be removed		
PAPAKAIO RD. (110)	—	4.1	3.500 750	5.7	New culvert	'A'	'A'	11.0	—	5.7	5.0	—	5.7	—	5.7	5.7	—	Improve channel		
LUDEMAN RD. (110)	4.500 800	4.5	4.500 150	7.6	New culvert	'A'	'A'	8.0	—	7.6	1.0	—	7.6	—	7.6	7.6	—	New channel		
GRAY RD. (110)	3.75	0.8	2.82	0.2	New culvert	'A'	'A'	Not well defined	0.2	Not well defined	0.2	0.2	0.2	0.2	0.2	0.2	0.2	—	New channel	
FERRY RD.	2 1000	0.2	0.2	NR	'A'	'A'		Not well defined	0.2	1.5	1.2	—	0.2	0.2	0.2	0.2	0.2	—	New channel	
HILBERTHORPE RD. (110)	6.00	0.6	4.500 750	0.2	New culvert	'A'	'A'	1.5	1.2	—	0.2	1.5	1.2	—	0.2	0.2	0.2	0.2	—	New channel
STATE HIGHWAY 1 (110)	3.700 1000	5.0	4.500 1000	0.2	Additional box culvert	'A'	'A'	Not well defined	—	0.2	1.0	1.0	—	0.2	0.2	0.2	—	—	New channel	
NZ RAILWAYS (110)	3.800 1500	0.2	0.2	Reserve bed.	'A'	'A'		1.0	1.0	—	0.2	1.0	1.0	—	0.2	—	—	—		

NOTE: 'A' - only sufficient storage is required to ensure the necessary head over culvert is obtained to give design flow.

SCHEDULE OF CULVERTS, STORAGE AREAS & CHANNELS



LOWER WAITAKI PLAINS DRAINAGE

HILBERTHORPE HENDERSON CATCHMENT AREA

CONTENTS

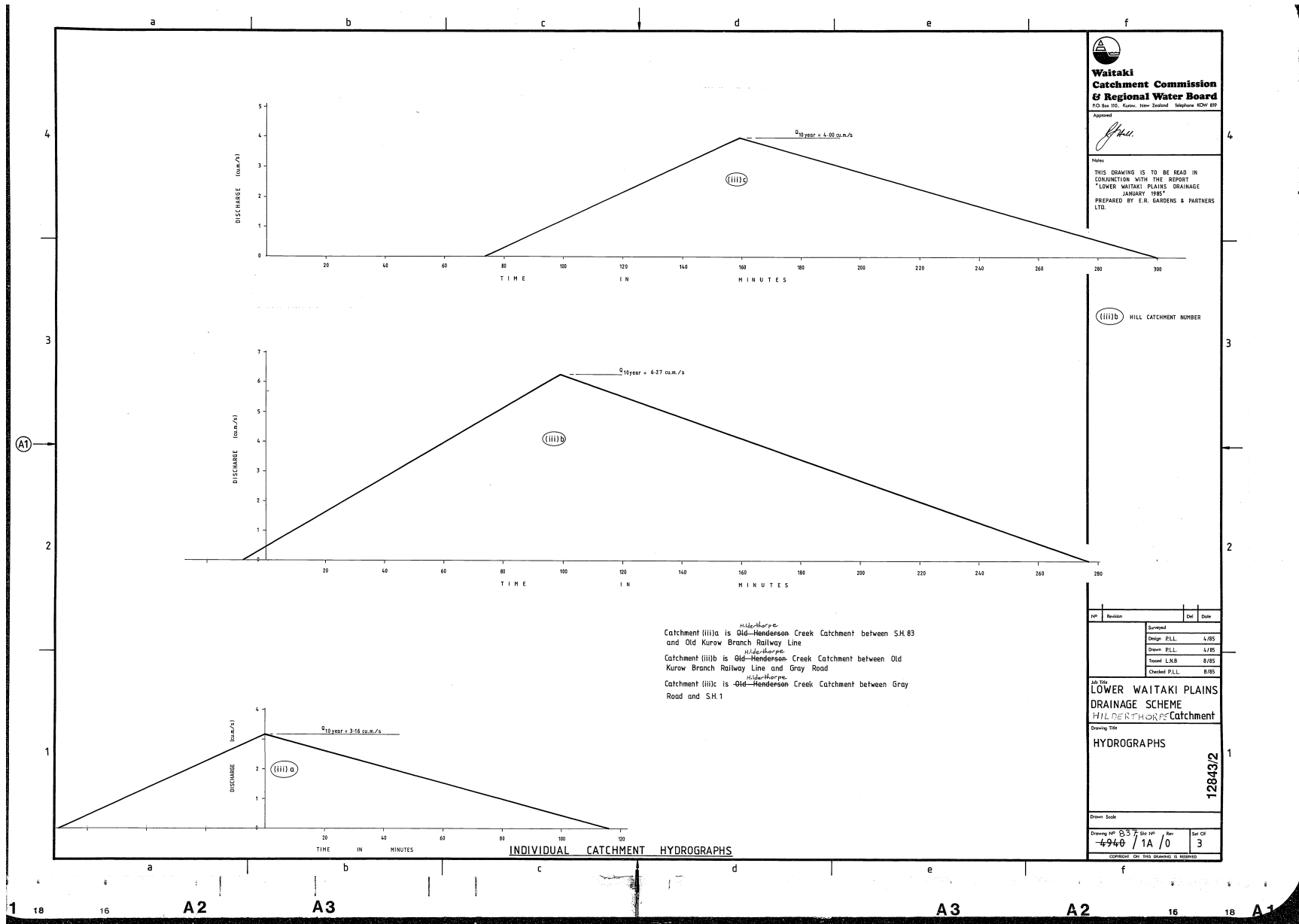
Culvert Details
Aerial transparencies Shs. 8-12
20-23
37-38

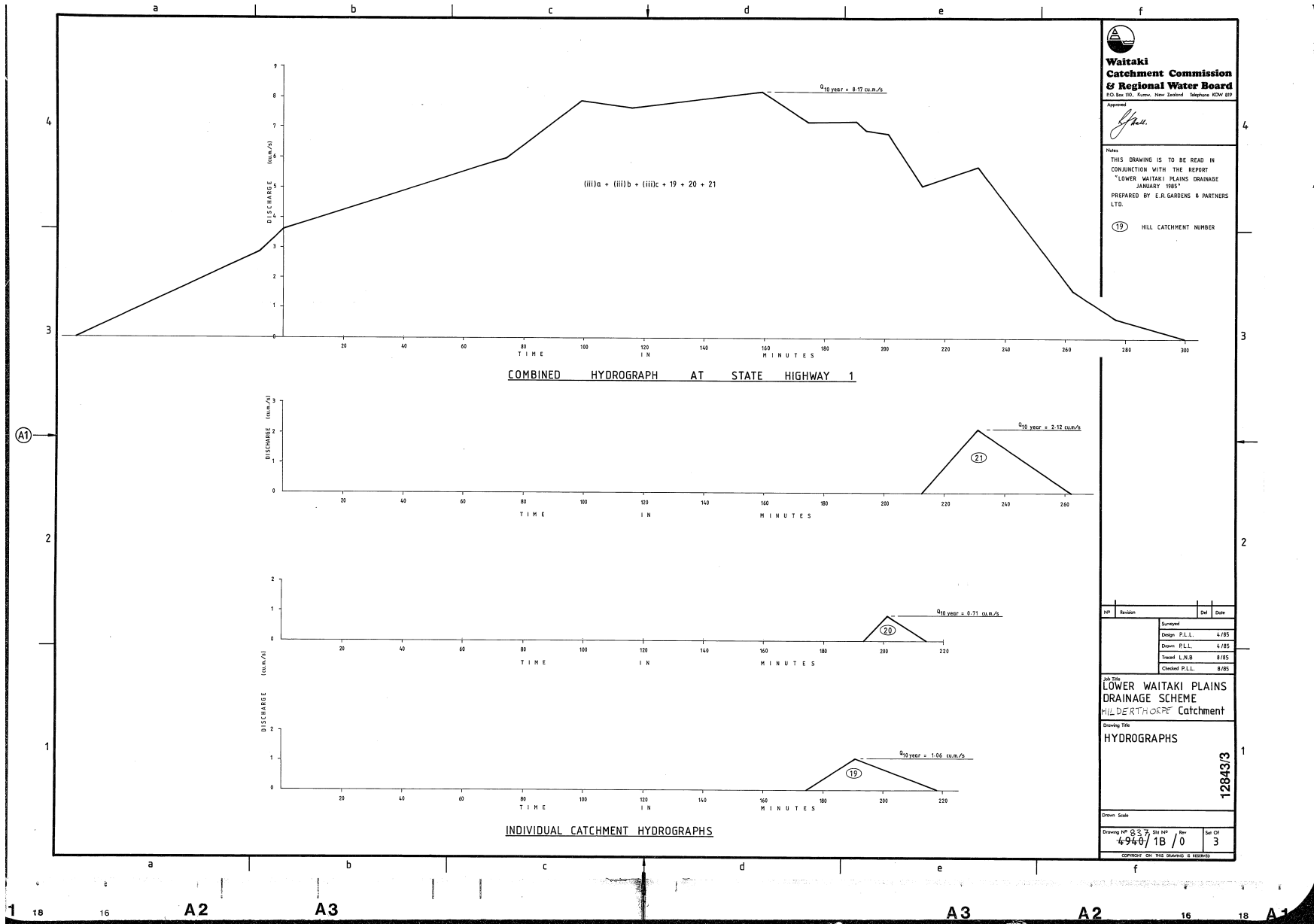
WAITAKI CATCHMENT COMMISSION & REGIONAL WATER BOARD

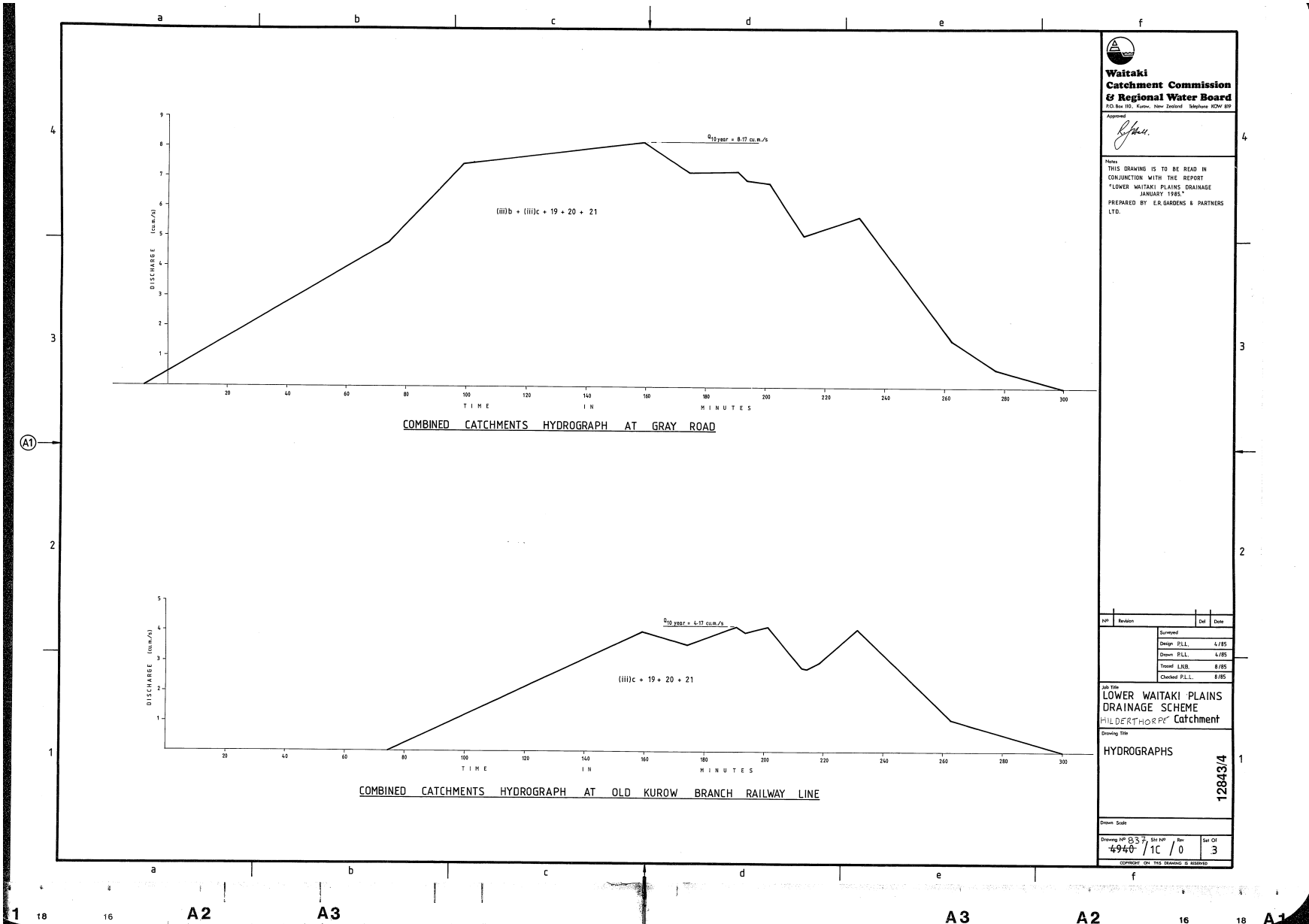
E.R.GARDEN & PARTNERS LTD
CONSULTING ENGINEERS
OMARU DUNEDIN INVERCARGILL

DR 837 SHT 1

12843/1







Waitaki Catchment Commission & Regional Water Board
 P.O. Box 110, Kaiti, New Zealand Telephone 0309 819

Approved: *[Signature]*

Notes
 THIS DRAWING IS TO BE READ IN CONJUNCTION WITH THE REPORT "LOWER WAITAKI PLAINS DRAINAGE JANUARY 1985." PREPARED BY E.R. GARDENS & PARTNERS LTD.

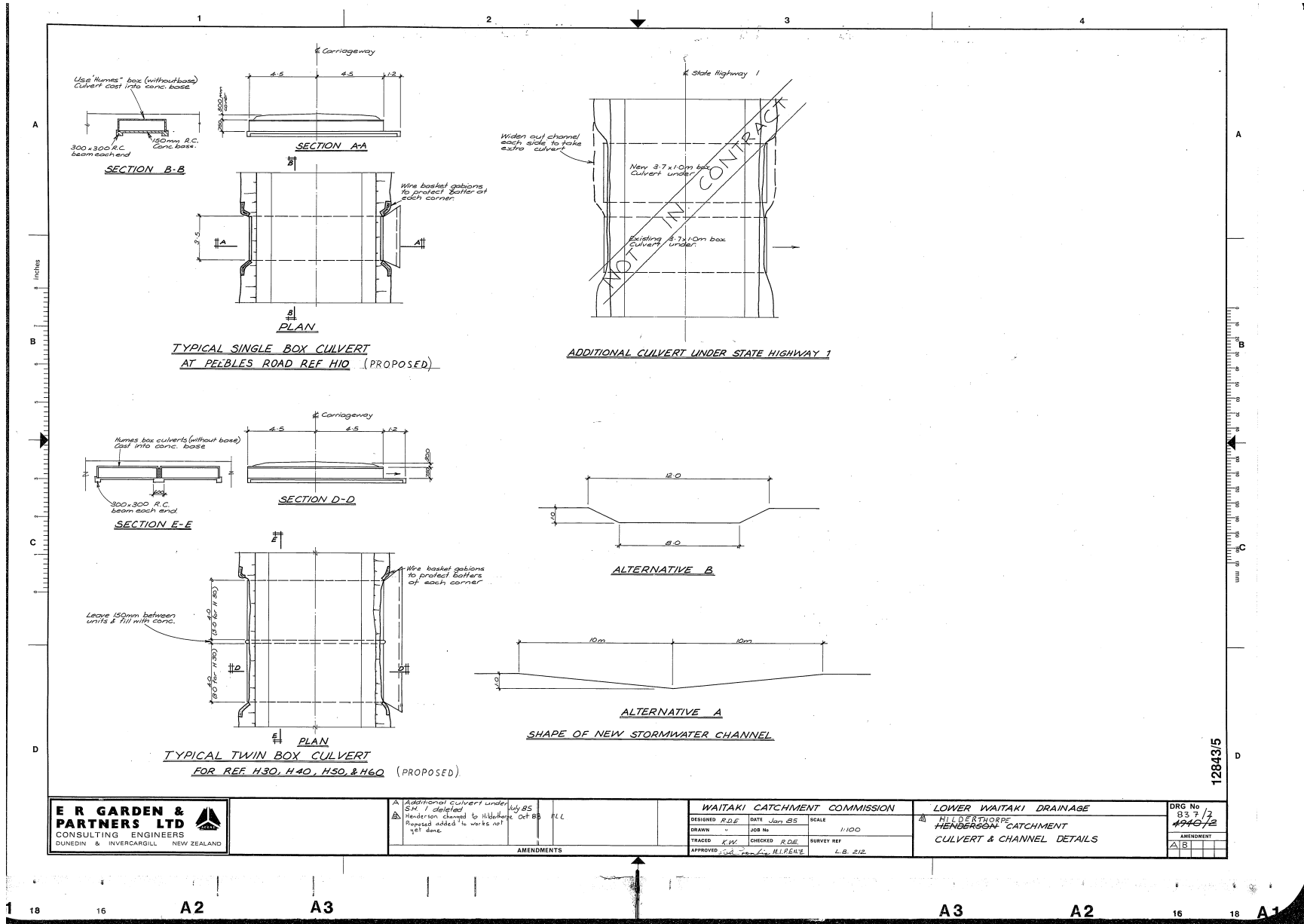
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	Surveyed		
	Design P.L.L.	4/85	
	Drawn P.L.L.	4/85	
	Traced L.M.B.	8/85	
	Checked P.L.L.	8/85	

Job Title: LOWER WAITAKI PLAINS DRAINAGE SCHEME HILDETHORPE Catchment
 Drawing Title: HYDROGRAPHS

12843/4

Drawn Scale: Drawing No. B37, SH No. 4940 / 1C / 0 Rev. 3 Set Of 3

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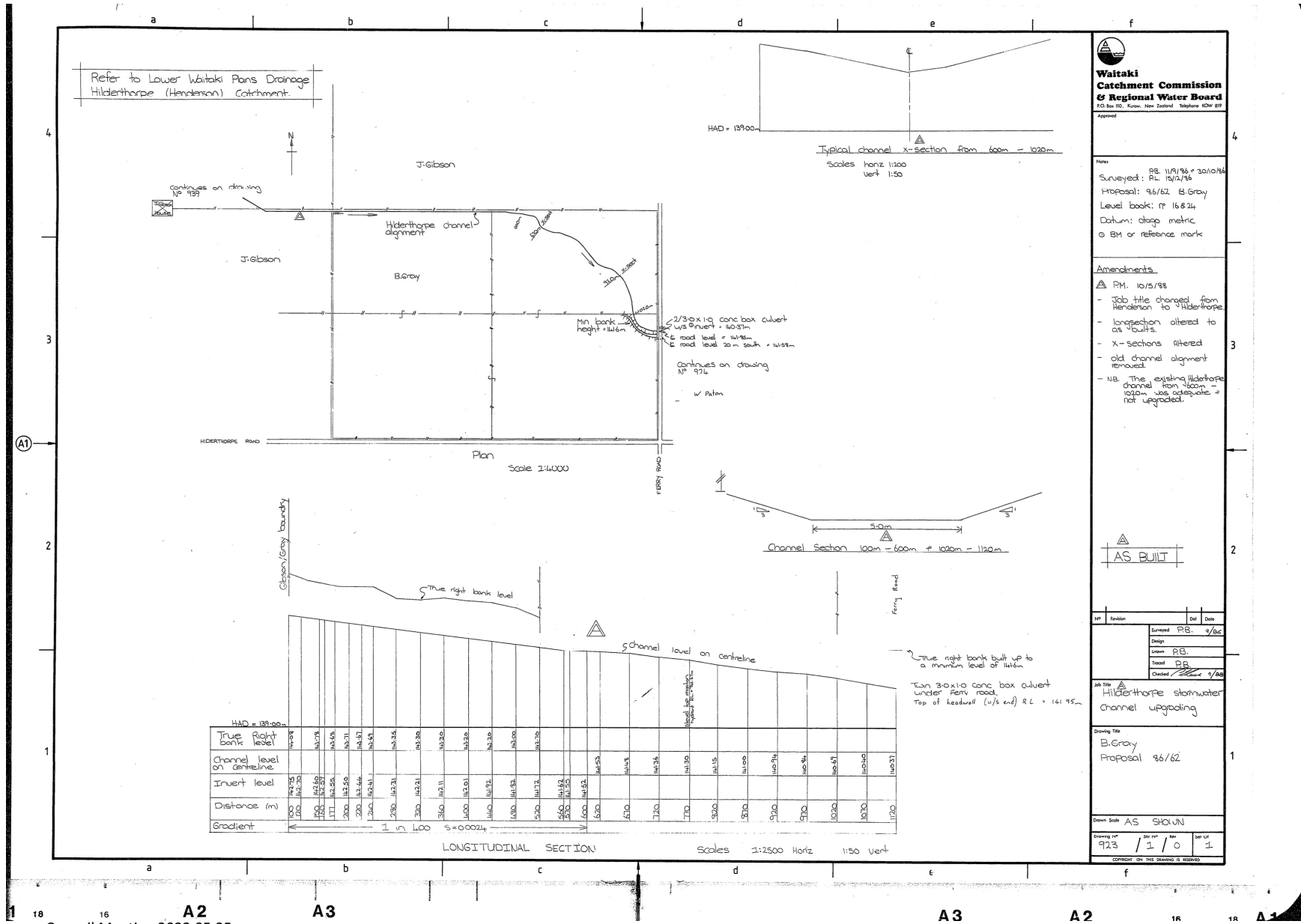
E R GARDEN & PARTNERS LTD
CONSULTING ENGINEERS
DUNEDIN & INVERCARGILL NEW ZEALAND

AMENDMENTS
A Additional culvert under SH 1 detailed July 85
B Revision changed to Hildershorpe Oct 88 RLL
C Proposed added to works not yet done.

WAITAKI CATCHMENT COMMISSION			
DESIGNED R.D.E.	DATE Jan 85	SCALE	
DRAWN "	JOB No.	1:100	
TRACED K.P.V.	CHECKED R.D.E.	SURVEY REF	
APPROVED J.C. Taylor, M.P.R.E.L.E.		L.B. 212	

LOWER WAITAKI DRAINAGE
HILDERSHORPE
HENBERGSON CATCHMENT
CULVERT & CHANNEL DETAILS

DRG No	837/2
	4940/2
AMENDMENT	
Δ	1



Waitaki Catchment Commission & Regional Water Board
P.O. Box 100, Kowhai, New Zealand Telephone 0274 837 837

Approved

Notes
 Surveyed: PB 11/1/96 & 30/10/96
 Surveyed: RL 15/12/96
 Proposal: 96/62 B.Gray
 Level book: TP 16824
 Datum: ortho metric
 o BM or reference mark

Amendments
 PM. 10/5/98
 - Job title changed from Henderson to Hilderthorpe
 - long section altered to as built.
 - X-sections altered
 - old channel alignment removed
 - NB. The existing Hilderthorpe channel from 60m - 1020m was adequate & not upgraded.

AS BUILT

NO	Revision	By	Date
	Surveyed	PB	4/02
	Design	PB	
	Layout	PB	
	Traced	PB	
	Checked	10/02	4/02

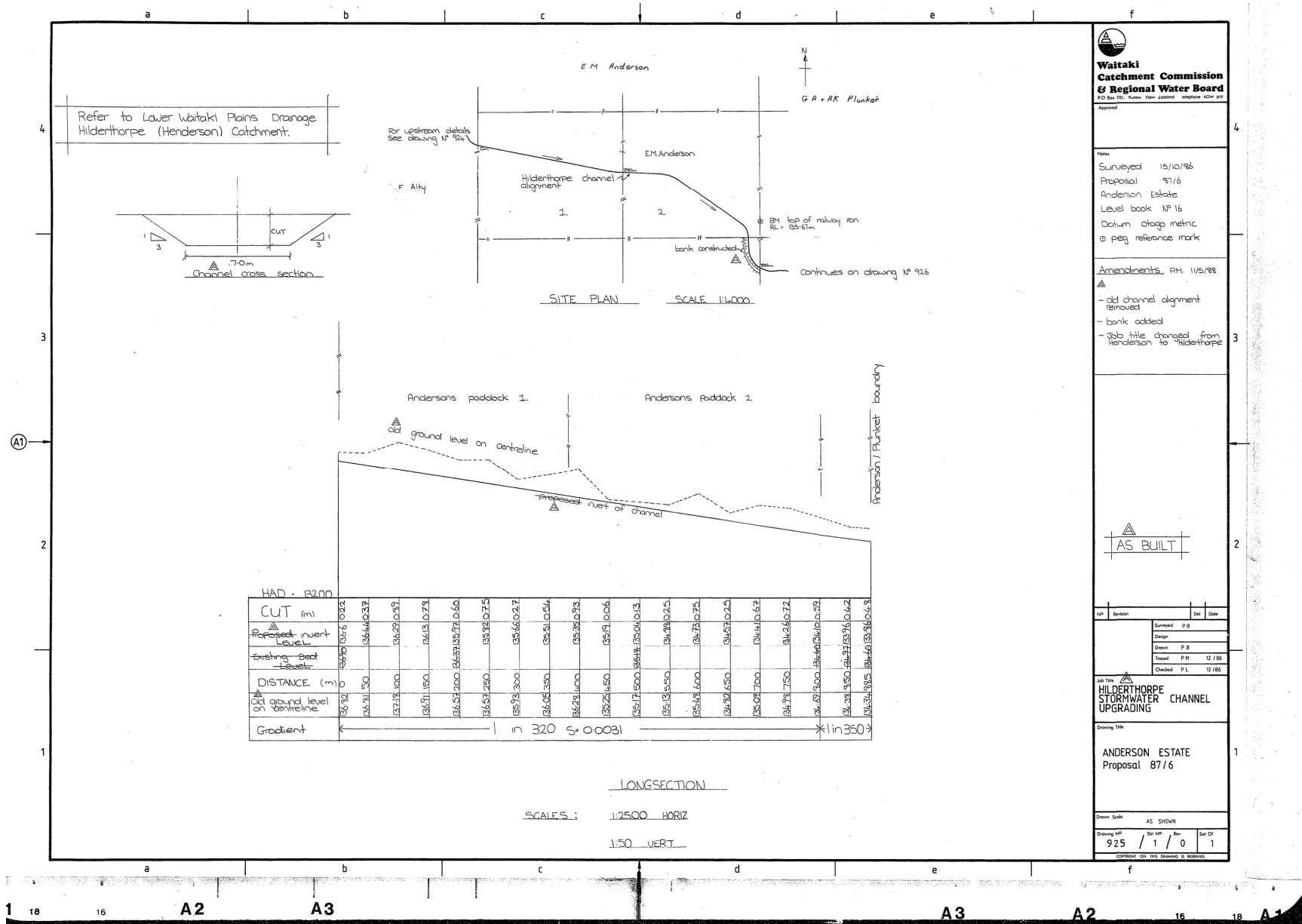
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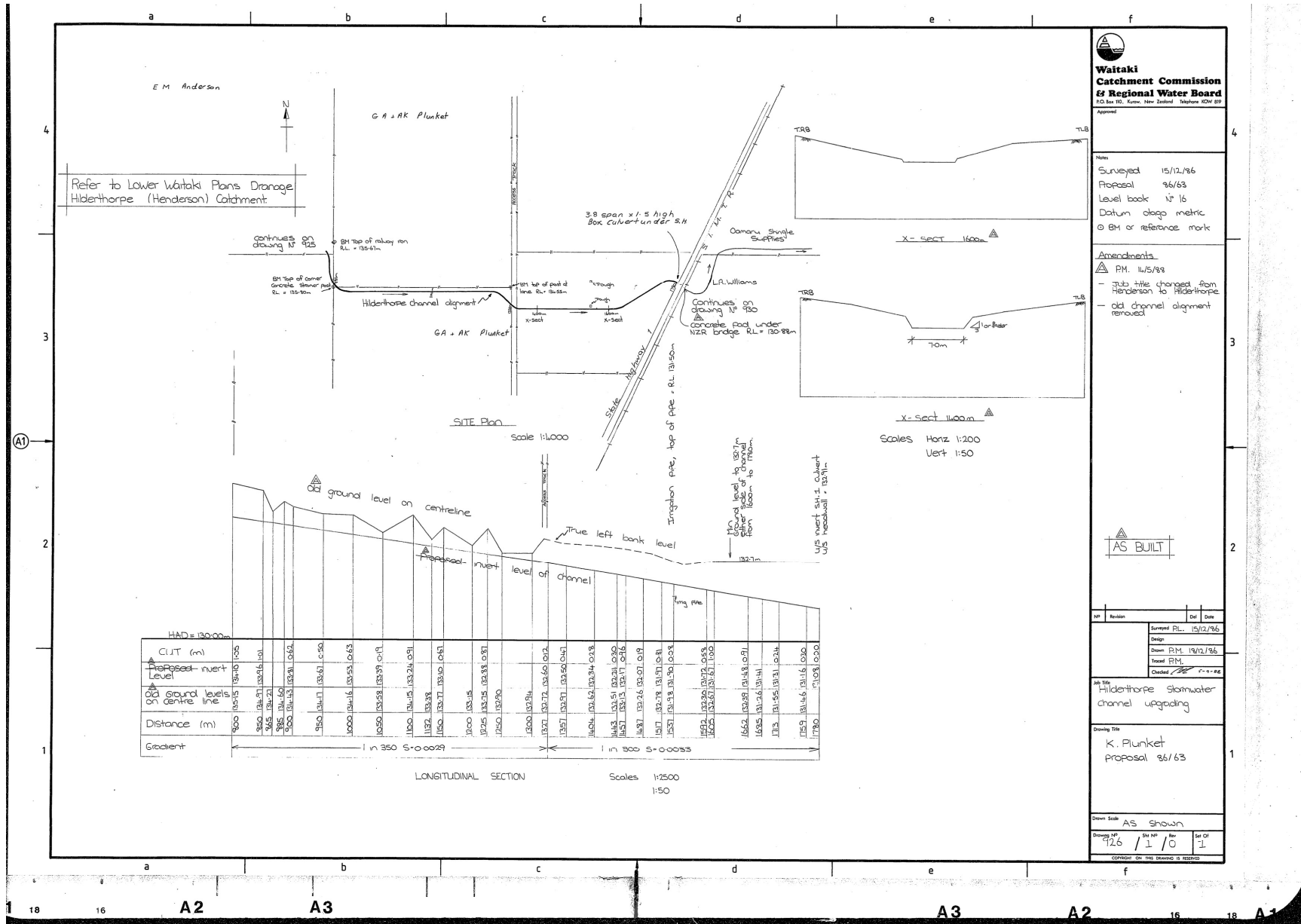
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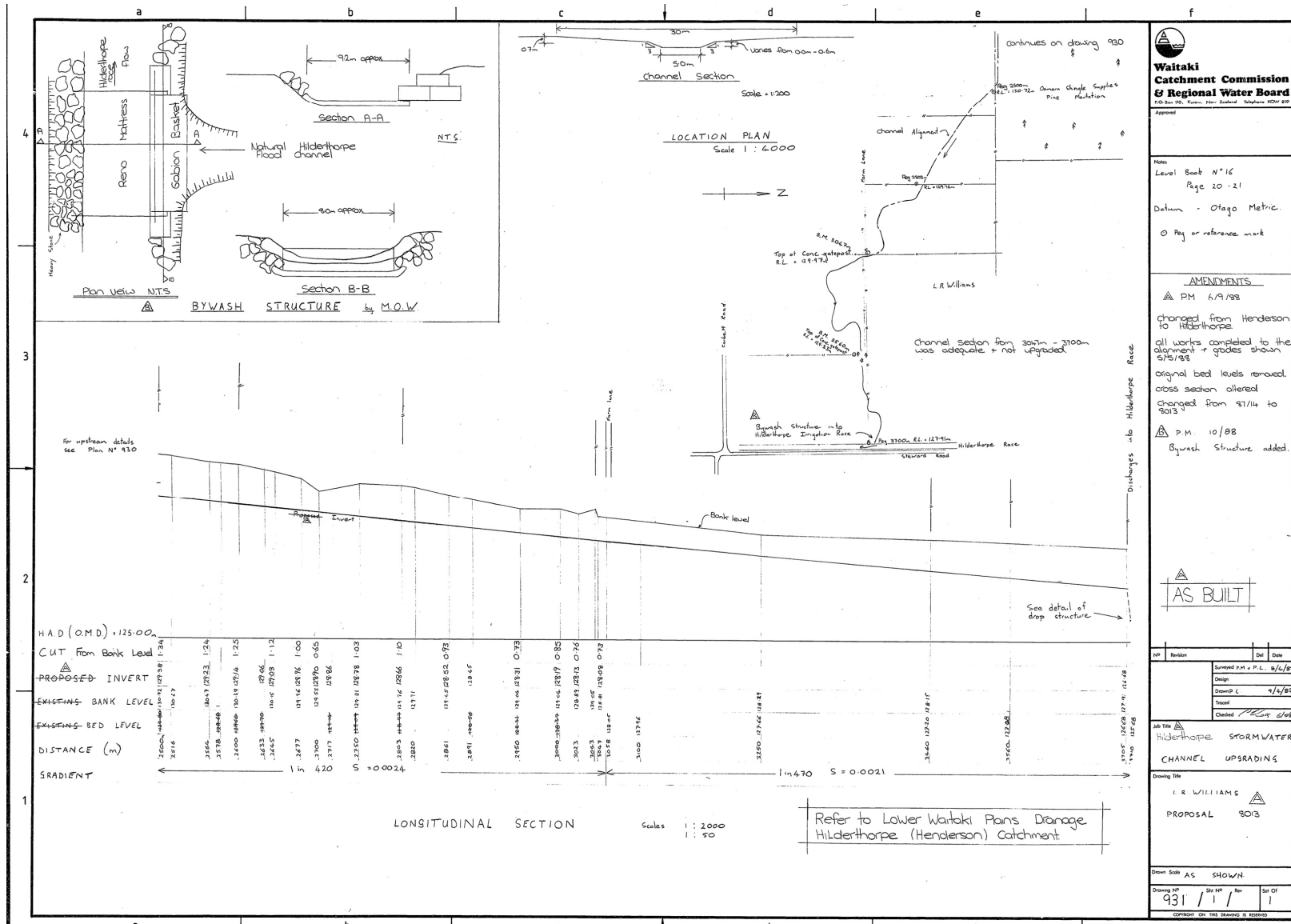
Drawn Scale: AS SHOWN

Drawing No: 923 / 1 / 0
 Date: 10/02

Checked by: 10/02







Waitaki Catchment Commission & Regional Water Board
 Approved: _____
 Date: _____
 Level Book N° 16
 Page 20 - 21
 Datum - Otago Metric
 O Peg or reference mark

AMENDMENTS

- PM 6/9/88
- changed from Henderson to Hilderthorpe
- all works completed to the alignment + grades shown 8/5/88
- original bed levels removed, cross section altered
- changed from 97/14 to 90/3
- P.M. 10/88
- Bywash Structure added.

AS BUILT

Rev	Revision	Date
1	Surveyed P.M. + P.L.	8/4/88
2	Design	9/4/88
3	Drawn P.L.	9/4/88
4	Final	
5	Checked	

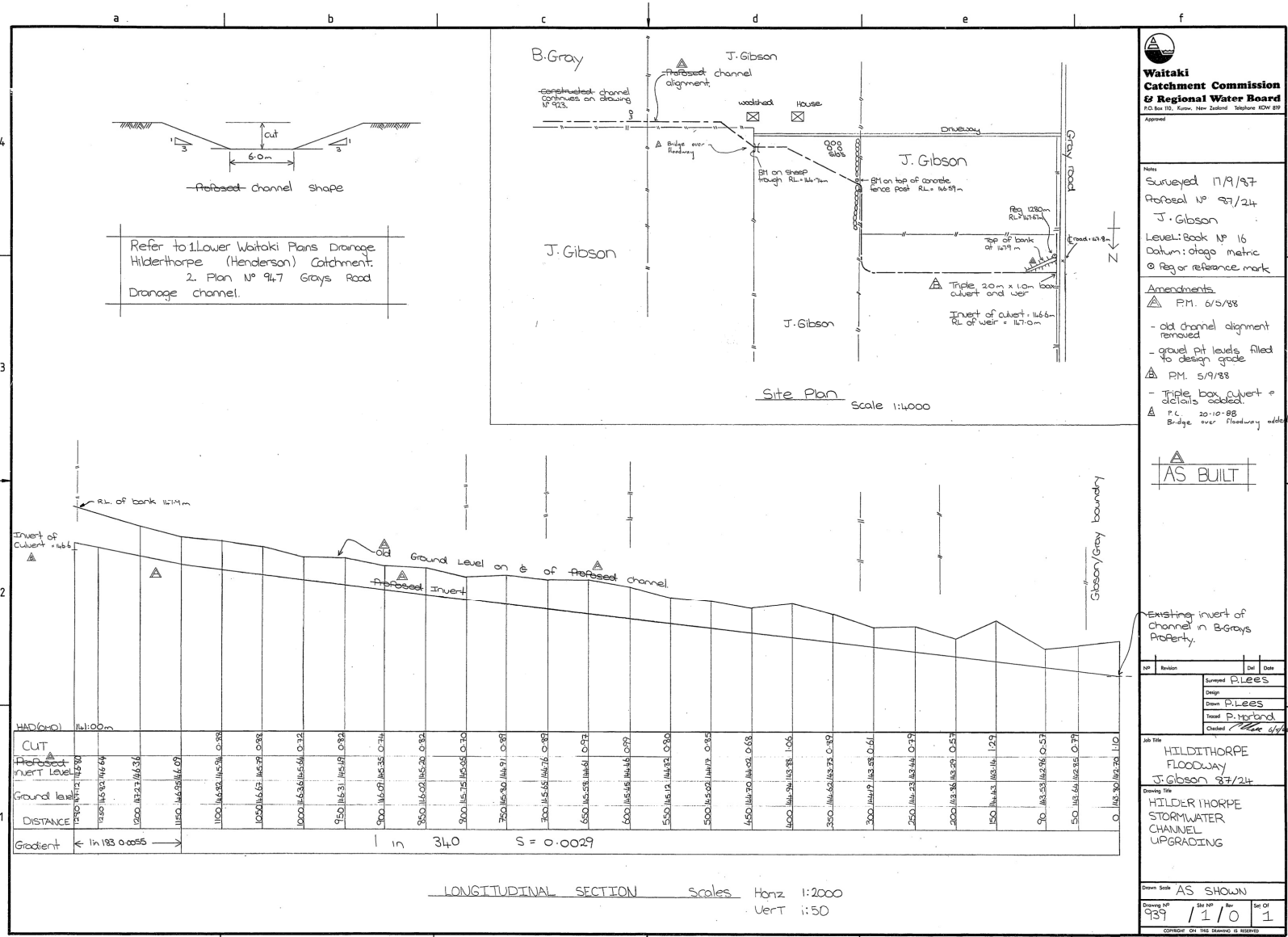
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Drawing Title: **I.R. WILLIAMS PROPOSAL 90/3**

Drawn Scale: **AS SHOWN**

Drawing No: **931 / 1 / 1** Rev: **1** Set Of: **1**

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Waitaki Catchment Commission & Regional Water Board
 P.O. Box 110, Kaitiaki, New Zealand Telephone 06 357 8777

Approved

Notes
 Surveyed 17/9/87
 Proposed N° 87/24
 J. Gibson
 Level: Book N° 16
 Datum: Otago metric
 @ Peg or reference mark

Amendments
 P.M. 6/5/88
 - old channel alignment removed
 - gravel pit levels filled to design grade
 P.M. 5/9/88
 - triple box culvert & details added.
 P.M. 20/10/88
 - Bridge over Standway added

AS BUILT

Existing invert of channel in B Grays Property.

Rev	Revision	Date
1	Approved PLEES	
2	Drawn P. LEES	
3	Issued P. Holland	
4	Checked P. LEES	

Job Title
HILDITHORPE FLOODWAY J. Gibson 87/24

Drawing Title
HILDITHORPE STORMWATER CHANNEL UPGRADING

Drawn Scale AS SHOWN

Drawing N°	Site N°	Rev	Set Of
939	110	1	1

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C

APPENDIX C

Flood Protection Assets

Cross Banks and Groynes

FLOOD PROTECTION ASSETS (GROYNES AND CROSS BANKS)

LEGAL DESCRIPTIONS AND OWNERSHIP DETAILS

Records of title will be attached to final version.

Groynes

Street address	Title Reference	Legal Description	Ratepayer	Ratepayer Address
	Conservation Purposes Section 62(1), Conservation Act 1987 SO 22263 J41/27	Part Section 5 & 6 Block VIII Papakaio SD	Department of Conservation	PO Box 5244 Dunedin 9054
McPherson Road		LS 105 Pt Secs 65 43A Steward Sett Pt Bed of Waitaki River adj to Pt Sec 65 Blk VII Papakaio SD Pt Bed of Waitaki River	Department of Conservation	PO Box 5244 Dunedin 9054
498 McPherson Road	OT13A/827	Sec 66 Blk VII Papakaio SD	Andrew J & Barbara Joan Richardson, LW Nominees Ltd	Minus One Trust 498 McPherson Road RD 2K Oamaru 9494
Wilson Road	Protective Works New Zealand Gazette 1917 p 15 [Referenced] Conservation purposes Section 62(1), Conservation Act	Part Section 2A Steward Sett LGR 9 Pt Sec 2A Steward Settlement Blk I Awamoko SD	Department of Conservation	PO Box 5244 Dunedin 9054

1987 SO 22263 J41/11				
Wilson Road	Protective Works New Zealand Gazette 1917 p 15 [Referenced] Conservation purposes Section 62(1), Conservation Act 1987 SO 22263 J41/11	Part Section 1A Steward Sett LGR 4 Pt Secs 6 79 Blk I Pt Sec 1A Steward Settlement Awamoko SD	Invernia Holdings Ltd, Department of Conservation	c/- RGM and CJ Hurst 140 King Road RD 4K Oamaru 9494
Jackson Road	OT15C/485	Sec 1-3 SO 24138	Searle's Dairy Ltd	c/- MR and PL Searle 131 Jackson Road RD 5H Oamaru 9493
McPherson Road	OT304/37	Secs 8, 65, 66, Blk VII Waitaki Bridge Town, Papakaio SD	Houtimata Farm Ltd	72 McPherson Road, RD 6H Oamaru 9493
Waka Kotahi NZ Transport Agency				
Kiwirail				
Waitaki District Council Rooding				

Cross banks

Street address	Title Reference	Legal Description	Ratepayer	Ratepayer Address
303 Kaik Road	9901	Lot 2 DP 414112 Lots 1-2 DP 302602 Sec 12 Blk VIII Papakaio SD Secs 58A 96A Stewards Settlement Sec 4 SO 24138	Willowview Pastures Ltd	C/- GNS & KJ Taylor 304 Kaik Road RD 5H Oamaru 9493
	Conservation Purposes Section 62(1), Conservation Act 1987 SO 22263 J41/27	Part Section 6 Block VIII Papakaio SD	Department of Conservation	PO Box 5244 Dunedin 9054
		Part Section 7 Block VIII Tn of Waitaki Bridge	Department of Conservation	PO Box 5244 Dunedin 9054
Wilson Road	Protective Works New Zealand Gazette 1917 p 15 [Referenced] Conservation purposes Section 62(1), Conservation Act 1987 SO 22263 J41/11	Part Section 2A Steward Sett LGR 9 Pt Sec 2A Steward Settlement Blk I Awamoko SD	Department of Conservation	PO Box 5244 Dunedin 9054
Wilson Road	Protective Works New Zealand Gazette 1917 p 15 [Referenced] Conservation purposes Section	Part Section 1A Steward SETT LGR 4 Pt Secs 6 79 Blk I Pt Sec 1A Steward	Invernia Holdings Ltd, Department of Conservation	c/- RGM and CJ Hurst 140 King Road RD 4K Oamaru 9494

	62(1), Conservation Act 1987 SO 22263 J41/11	Settlement Awamoko SD		
McPherson Road	OT304/37	Secs 8, 65, 66, Blk VII Waitaki Bridge Town, Papakaio SD	Houtimata Farm Ltd	72 McPherson Road, RD 6H Oamaru 9493
Waka Kotahi NZ Transport Agency				
Kiwirail				

PLAN



Waitaki Designation Groynes and Cross-banks Overview

Map Scale @ A3: 1:65,000

0 1 Kilometres

Legend

- █ Groynes
- █ Cross-banks
- Regional Council
- Boundaries

Otago Regional Council

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Kilometres

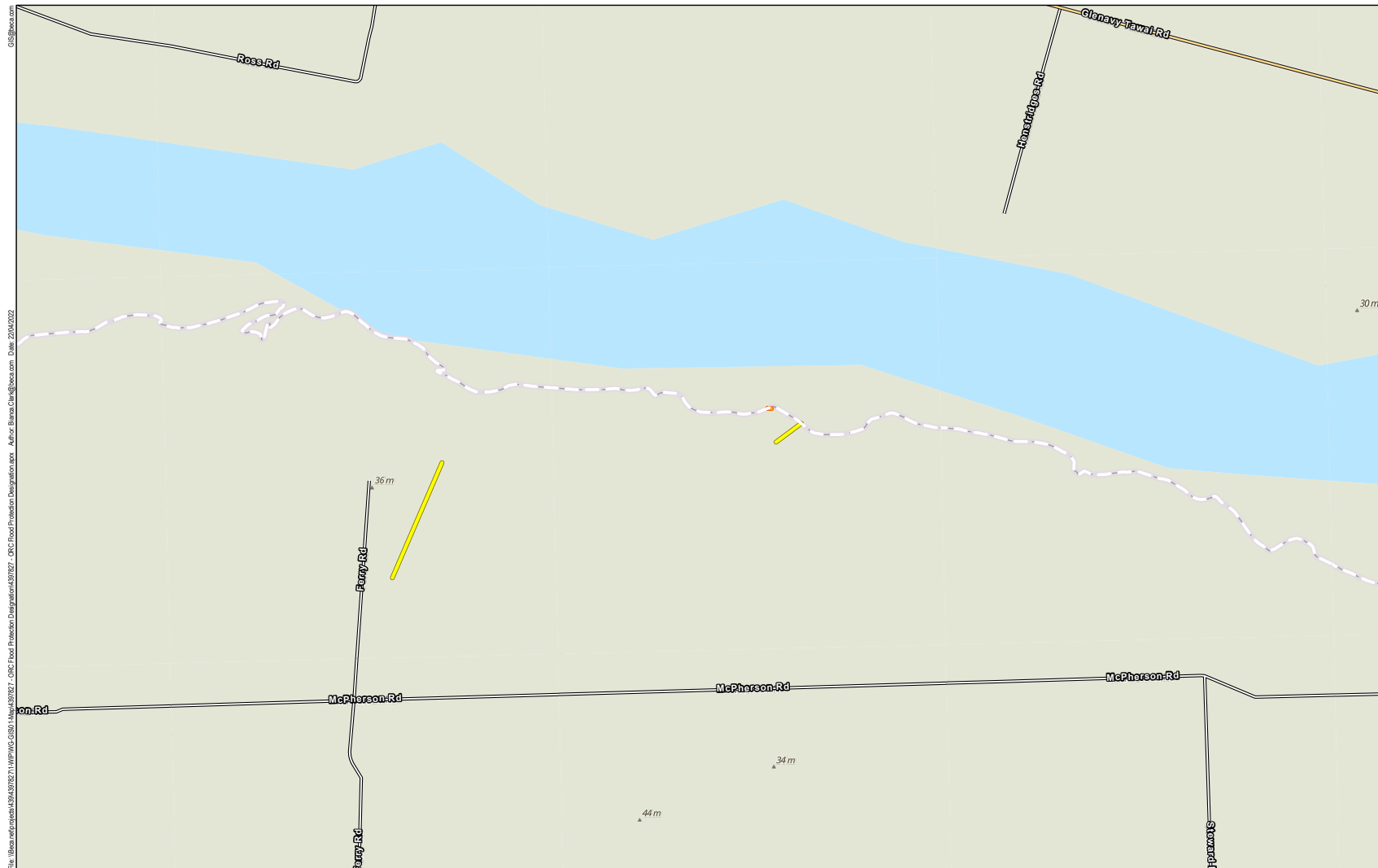
**Waitaki Designation
Groynes and Cross-banks
Sheet 1**

Legend

- Groynes
- Cross-banks
- - - Regional Council
- - - Boundaries

Otago Regional Council

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Kilometres

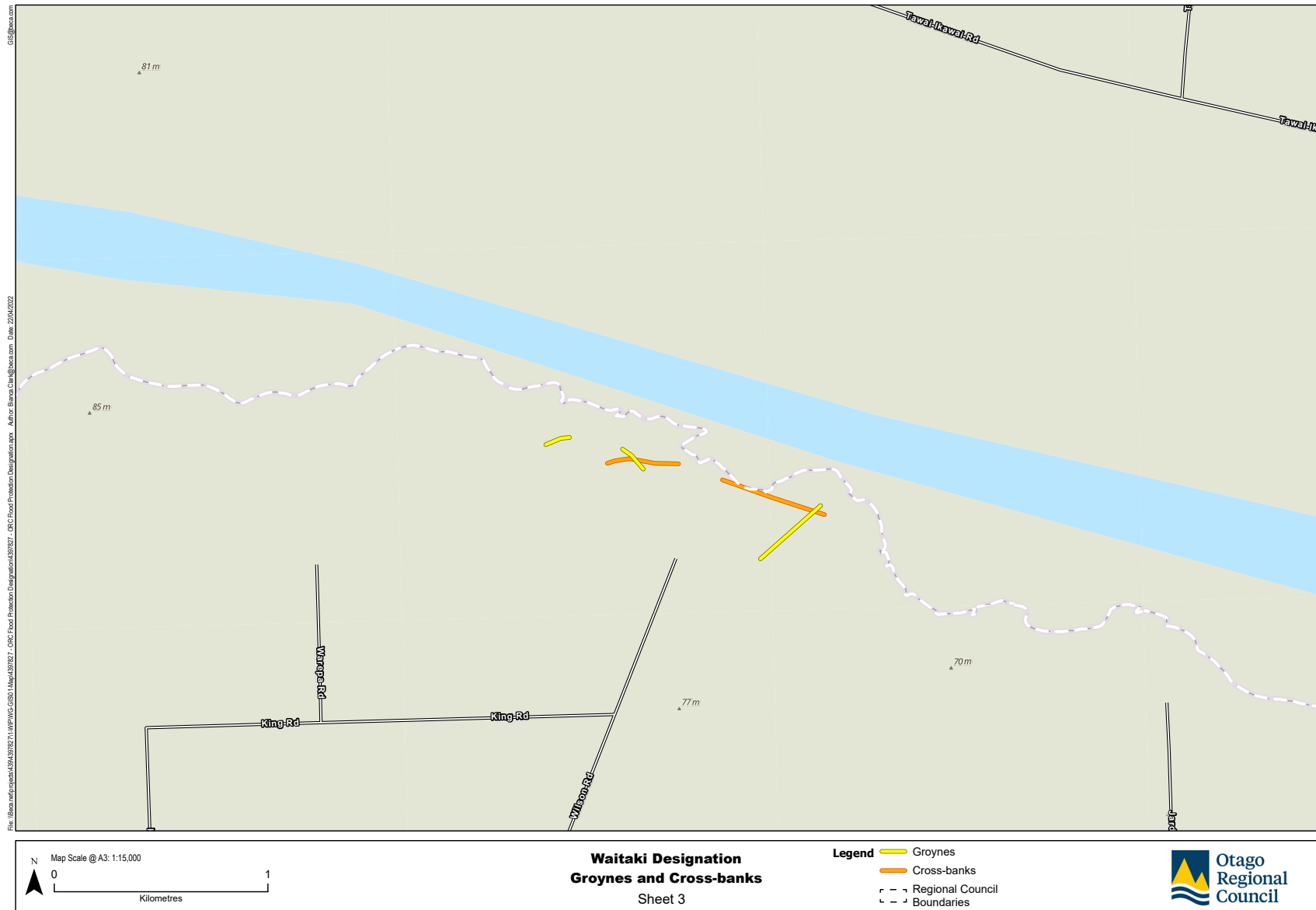
**Waitaki Designation
Groynes and Cross-banks
Sheet 2**

Legend

- Groynes
- Cross-banks
- - - Regional Council
- - - Boundaries

Otago Regional Council

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APPENDIX D

Conditions

PROPOSED CONDITIONS

CROSSBANKS

General

For the purpose of this designation, normal working hours are between 7.30am and 7pm, Monday to Friday, and 8am and 6pm Saturday, with the operation of noisy machinery restricted to 8am until 6pm Monday to Saturday. No work shall be undertaken on-site on Sundays or public holidays. Where in the opinion of the requiring authority there is an imminent or immediate risk to people or property, the requiring authority may undertake works at any time.

Earthworks

Any exposed earth shall be stabilised as soon as practicable.

Dust and Fumes

The requiring authority must avoid, as far as practicable, discharging dust and fumes beyond the boundaries of the designation.

Transportation of Material

The requiring authority must implement suitable measures to avoid deposition of any debris on surrounding roads by vehicles moving to and from the site. If any material is deposited on any roads, the requiring authority shall take immediate action, at its expense, to clean the roads.

Spraying

Any use of agrichemicals shall be carried out in accordance with the conditions and standards of NZS8409:2004 Management of Agrichemicals or any replacement standard.

The requiring authority must ensure that any contractor undertaking spraying of pest plants shall either hold current Growsafe certification or shall be directly supervised by an individual with a current Growsafe certification.

A register of organic farms must be included in the Operation and Maintenance manuals for the works.

Construction and Maintenance Noise

All construction work shall be designed, managed and conducted to ensure that construction and maintenance noise from the site does not exceed the limits in NZS6803:1999 Acoustics– Construction Noise.

Cultural

If any urupā, traditional sites, taonga (significant artefacts), or kōiwi (human remains) are exposed during site works, then the following procedures shall apply:

- a. Works in the immediate vicinity of the site that has been exposed shall cease;
- b. The site supervisor shall immediately secure the area in a way that ensures that any remains or artefacts are untouched;
- c. The site supervisor shall notify representatives of relevant tangata whenua, the Heritage New Zealand Pouhere Taonga, and, in the case of human remains, the New Zealand Police; and
- d. The notification in (c) above shall allow such persons being given a reasonable time to record and recover archaeological features discovered before work may recommence on the exposed site.

Advice Note

Any new works or equipment means those works which were not existing prior to the notification of the Proposed Waitaki District Plan.

No outline plan shall be required for the maintenance of the crossbanks, provided there is no overall increase in their height.

GROYNES

General

For the purpose of this designation, normal working hours are between 7.30am and 7pm, Monday to Friday, and 8am and 6pm Saturday, with the operation of noisy machinery restricted to 8am until 6pm Monday to Saturday. No work shall be undertaken on-site on Sundays or public holidays.

Where in the opinion of the requiring authority there is an imminent or immediate risk to people or property, the requiring authority may undertake works at any time.

Earthworks

Any exposed earth shall be stabilised as soon as practicable.

Dust and Fumes

The requiring authority must avoid, as far as practicable, discharging dust and fumes beyond the boundaries of the designation.

Transportation of Material

The requiring authority must implement suitable measures to avoid deposition of any debris on surrounding roads by vehicles moving to and from the site. If any material is deposited on any roads, the requiring authority shall take immediate action, at its expense, to clean the roads.

Spraying

All use of agrichemicals shall be carried out in accordance with the conditions and standards of NZS8409:2004 Management of Agrichemicals or any replacement standard.

The requiring authority must ensure that any contractor undertaking spraying of pest plants shall either hold current Growsafe certification or shall be directly supervised by an individual with a current Growsafe certification.

A register of organic farms must be included in the Operation and Maintenance manuals for the works.

Construction and Maintenance Noise

All construction work shall be designed, managed and conducted to ensure that construction and maintenance noise from the site does not exceed the limits in NZS6803:1999 Acoustics– Construction Noise.

Cultural

If any urupā, traditional sites, taonga (significant artefacts), or kōiwi (human remains) are exposed during site works, then the following procedures shall apply:

- a. Works in the immediate vicinity of the site that has been exposed shall cease;
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Advice Note

Any new works or equipment means those works which were not existing prior to the notification of the Proposed Waitaki District Plan.

No outline plan shall be required for the maintenance of the groynes, provided there is no overall increase in its height.



FLOODWAYS

General

For the purpose of this designation, normal working hours are between 7.30am and 7pm, Monday to Friday, and 8am and 6pm Saturday, with the operation of noisy machinery restricted to 8am until 6pm Monday to Saturday. No work shall be undertaken on-site on Sundays or public holidays. Where in the opinion of the requiring authority there is an imminent or immediate risk to people or property, the requiring authority may undertake works at any time.

Earthworks

Any exposed earth shall be stabilised as soon as practicable.

Dust and Fumes

The requiring authority must avoid, as far as practicable, discharging dust and fumes beyond the boundaries of the designation.

Transportation of Material

The requiring authority must implement suitable measures to avoid deposition of any debris on surrounding roads by vehicles moving to and from the site. If any material is deposited on any roads, the requiring authority shall take immediate action, at its expense, to clean the roads.

Spraying

All use of agrichemicals shall be carried out in accordance with the conditions and standards of NZS8409:2004 Management of Agrichemicals or any replacement standard.

The requiring authority must ensure that any contractor undertaking spraying of pest plants shall either hold current Growsafe certification or shall be directly supervised by an individual with a current Growsafe certification.

A register of organic farms must be included in the Operation and Maintenance manuals for the works.

Construction and Maintenance Noise

All construction work shall be designed, managed and conducted to ensure that construction and maintenance noise from the site does not exceed the limits in NZS6803:1999 Acoustics– Construction Noise.

Cultural

If any urupā, traditional sites, taonga (significant artefacts), or kōiwi (human remains) are exposed during site works, then the following procedures shall apply:

- a. Works in the immediate vicinity of the site that has been exposed shall cease;
- b. The site supervisor shall immediately secure the area in a way that ensures that any remains or artefacts are untouched;
- c. The site supervisor shall notify representatives of relevant tangata whenua, the Heritage New Zealand Pouhere Taonga, and, in the case of human remains, the New Zealand Police; and
- d. The notification in (c) above shall allow such persons being given a reasonable time to record and recover archaeological features discovered before work may recommence on the exposed site.

Advice Note

Any new works or equipment means those works which were not existing prior to the notification of the Proposed Waitaki District Plan.

No outline plan shall be required for the maintenance of the floodways, provided that bank height is not increased.



MITCHELL
DAYSH

Otago Regional Council

**NOTICE OF REQUIREMENT
FOR FLOOD PROTECTION IN
THE WAITAKI DISTRICT PLAN**

Consultation Strategy

2 May 2022

CONTENTS

1.	Introduction	1
2.	Statutory Consultation Requirements	1
3.	Good Practice	2
4.	Key Stakeholders	2
4.1	Treaty Partners	3
4.2	Waitaki District Council	3
4.3	Environment Canterbury	3
4.4	Existing Requiring Authorities	3
4.5	Other Statutory Authorities or Interest Groups	4
4.6	Landowners and Occupiers	4
4.7	Wider Public	4
5.	Consultation Methodology	4
6.	Summary of Consultation Required	5
7.	Covid-19 Alert Levels	5
7.1	Red Traffic Light Setting	6
7.2	Orange Traffic Light Setting	6
7.3	Green Traffic Light Setting	7
8.	Approach and Timing of Consultation	7
9.	Consultation Plan	9
9.1	February 2022 – Consultation Strategy	9
9.2	March 2022 – Consultation Commencement	9
9.3	April 2022 – Virtual Hui, Group Meetings and Drop-in Session	9
9.4	May 2022 – Complete Consultation and Lodgement of NOR	10



REPORT INFORMATION

Report Status	Draft for Council Approval
Our Reference	MDL001656
File Location	ORC / MDL001656 Waitaki Designations / 02 Project Management / Consultation Strategy
Author	Kirsten Tebbutt
Review By	Meg Justice
Date	2 May 2022

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1. INTRODUCTION

This Consultation Strategy will guide the approach to consulting with Treaty partners, stakeholders and other interested parties in respect of the Otago Regional Council's ('**ORC**' or '**the Council**') proposed Notice of Requirement ('**NOR**') to designate existing flood protection infrastructure through the upcoming Waitaki District Plan Review ('**the proposed Plan**').

This strategy:

- provides an overview of the statutory requirements for consultation as set out in the Resource Management Act 1991 (the '**RMA**' or '**the Act**');
- sets out the benefits of effective consultation;
- highlights good practice principles that result from established case law;
- identifies the Treaty partners and key stakeholders that should be consulted with as part of the proposal;
- recommends a suggested consultation approach for this proposal so that relevant RMA and good practice obligations are met while taking all practicable steps to ensure health and safety of all participants;
- summarises how consultation will inform and be incorporated into the proposal documentation;
- provides an overall recommended timeline for consultation; and
- provides ongoing opportunities for review to enable consultation on the proposed designation and the review of the Flood Protection Management Bylaw 2012 as required.

2. STATUTORY CONSULTATION REQUIREMENTS

Form 18 of the Resource Management (Forms, Fees and Procedures) Regulations 2003 requires that the NOR is accompanied by a statement of what consultation has occurred, if any.¹ Schedule 1 Clause 3(1) of the Act sets out the minimum statutory requirements for consultation regarding plan changes, however the Act does not identify specific consultation requirements for NORs.

Despite there being no statutory obligation to consult with key stakeholders or the community, there are a number of benefits to be gained by doing so:

- consultation can enhance understanding of a proposal;
- consultation can reveal issues or information that the ORC may not be aware of or may not have considered;
- consultation can reduce concern, doubt or confusion about the proposal;
- consultation can aid in developing new relationships with stakeholders and provide a platform for future collaboration;

¹ If no consultation has been undertaken, the reasons for this must also be set out.

- consultation with Treaty partners will provide an understanding of their values and interests in the environment. Manawhenua participation also fosters *kaitiakitanga* (the exercise of guardianship expressed in part through an ethic of stewardship); and,
- well executed consultation is generally viewed favourably by decision makers.

Consultation is considered good practice and is recommended as part of the ORC designation process, as discussed further below.

3. GOOD PRACTICE

This strategy follows current best practice, examples, guidance, and case law under the RMA and the Local Government Act 2002. From this guidance, the following key principles assist to define what might be considered best practice when consulting:

Early - consultation should occur as soon as possible when the details of the proposal have more flexibility to change in response to issues raised by interested and affected parties.

Transparent - the ORC needs to be open about what they want to achieve, what scope they have to change the proposal and what elements cannot be altered.

Open mind - the ORC needs to keep its views open regarding people's responses and to the benefits that might arise from consultation.

Two-way process - consultation is intended as an exchange of information and requires both the ORC and those consulted to put forward their points of view, and to listen to and consider other perspectives.

Not a means to an end - while consultation is not an open-ended, never-ending process, it should not be seen merely as an item on a list of things to do that should be crossed off as soon as possible.

Ongoing - it may be that consultation, or at least ongoing communication, will continue after a proposal has been notified or even after a decision has been made.

Agreement not necessary - consultation does not mean that all parties have to agree to a proposal, although it is expected that all parties will make a genuine effort. While agreement may not be reached on all issues, points of difference will likely become clearer or more specific.

4. KEY STAKEHOLDERS

For this NOR, the key stakeholders generally fall into the following overarching categories:

- Treaty partners;
- Waitaki District Council;
- Existing requiring authorities;
- Other statutory authorities or interest groups;
- Landowners and occupiers; and

- Wider public.

A description of each stakeholder group is provided in the following sections.

It is anticipated that consultation with many of these parties will also be required for the Council's review of the Flood Protection Management Bylaw 2012 that is now underway. Wherever possible, it is appropriate to run these two rounds of consultation jointly to ensure that parties are fully aware of the Council's workstreams in this regard, and are therefore provided opportunities to engage with the two processes.

4.1 TREATY PARTNERS

The nature and location of flood protection structures and works mean that this infrastructure is often located within or adjacent to rivers or streams that are of historic and cultural significance to mana whenua, and many are Statutory Acknowledgement Areas (such as the Waitaki River). At this stage, the relevant Ngai Tahu Rūnanga groups are understood to be Te Rūnanga o Arowhenua, Te Rūnanga o Moeraki and Te Rūnanga o Waihao.

Mitchell Daysh has already briefly discussed this project with representatives of Aukaha Limited, who will provide inputs to the process on behalf of Te Rūnanga o Moeraki.

4.2 WAITAKI DISTRICT COUNCIL

The Waitaki District Council (the 'WDC') has confirmed that for the NOR to be considered with the Waitaki District Plan review, it must be lodged with WDC by October 2022. Due to the nature of the process dictated by the Act, the NOR will be notified with the Waitaki District Plan, and submissions may be lodged in respect of the proposal. The matter will be heard alongside the District Plan itself. Early engagement with WDC will be needed to ensure that the format and content of the NOR and associated maps will align with WDC's framework for designations in the Plan review.

4.3 ENVIRONMENT CANTERBURY

Due to the location of the Lower Waitaki assets on the regional boundary, consultation with Environment Canterbury ("ECan") is recommended. Given that ECan own and control assets within the bed of the Waitaki River, this consultation will occur early in the consultative process.

4.4 EXISTING REQUIRING AUTHORITIES

When there is more than one designation on a site, the requiring authority responsible for the later designation must first obtain the written consent of the requiring authority responsible for the earlier designation before undertaking a project or work.

This is most likely to occur where the State highway or railway network crosses a floodway or defence against water. When there is more than one designation on a site, the ORC (as the requiring authority responsible for the later designation) must first obtain the written consent of the requiring authority responsible for the earlier designation. Consent may only be withheld if the proposed activity would prevent or hinder the work to which the earlier designation relates. To de-risk this potential issue, early engagement with the following parties should occur:

- WDC Planning and Roading staff;
- Waka Kotahi NZ Transport Agency; and
- KiwiRail.

4.5 OTHER STATUTORY AUTHORITIES OR INTEREST GROUPS

Other statutory authorities or interest groups who are likely to have an interest in the NOR include:

- Department of Conservation;
- Fish and Game;
- Lower Waitaki River Liaison Group;
- Lower Waitaki Irrigation Company; and
- Any other relevant catchment or interest group.

4.6 LANDOWNERS AND OCCUPIERS

The Act prescribes that the content of a NOR must include the provision of information regarding the extent of consultation undertaken with parties likely to be affected by the designation, including the reasons why, if no consultation is undertaken. In addition to the other groups described above, the owners and occupiers of land within and immediately adjacent to the areas of land to be designated are likely to be considered affected parties.

This is likely to include Land Information New Zealand as the landowner of Crown land, private landowners and lessees, and Environment Canterbury as occupier of any necessary flood protection infrastructure and regulator of the riverbed on the other side of the Waitaki River statutory boundary.

4.7 WIDER PUBLIC

Due to the nature of the process dictated by the RMA, the NOR will be publicly notified with the Waitaki District Plan, which may attract submissions from other interested parties. Therefore, conducting wide public consultation is not considered to be necessary.

However, where the ORC is aware of other parties who are likely to have an interest in the NOR (such as those outlined above), it will be proactive to consult with these parties prior to lodgement.

5. CONSULTATION METHODOLOGY

At every stage of the consultation process, an opportunity should be provided for stakeholders to convey their views on the proposal in a way that works best for them. Consultation will be iterative and will be tailored to provide differed channels for engagement:

- **Verbal feedback:** Face-to-face feedback should be encouraged both during the drop-in session, key stakeholder meetings, or one-on-one (if these are sought). In addition, telephone contact details should be provided on the information sheet and on the Feedback Forms.

- **Written feedback:** Feedback forms should be attached to any information sheets sent to landowners and occupiers. A free-post reply envelope to ORC should also be included. The feedback form should not be overly prescriptive. Instead, it should provide for an open response to be provided on the proposed NOR.
- **E-mail feedback:** An e-mail address for feedback should be provided on the information sheet.
- **Web-based feedback:** The Council's existing web-based tools (Bang the Table) should be used for consultation wherever possible.
- **Drop-in session:** A session where landowners and occupiers can make an appointment to discuss any specific concerns with Council staff to clarify the proposal itself.

It is important that all correspondence, whether it is of a supportive or opposing nature, or where further information is sought, is managed in a consistent manner. All correspondence should be referred to a single point of contact in the first instance who will need to ensure that it is recorded, and if required, responded to in an appropriate manner.

6. SUMMARY OF CONSULTATION REQUIRED

The table below summarises the recommended consultation method.

Method	Treaty Partners	Waitaki DC	Requiring Authorities	Other Groups	Owners / Occupiers	Wider Public
Letter	✓	✓	✓	✓	✓	
Drop-in	As required			✓	✓	
Hui/ Group Meeting	✓	✓	✓	✓	✓	
One on one Meeting	As required					
Online survey					✓	✓

Any face-to-face meetings can readily be undertaken using an on-line format as required. In doing so, it is key to ensure that meeting sizes can be carefully managed to enable the effective participation of all attendees.

7. COVID-19 ALERT LEVELS

In considering the most effective approach to this consultation, it is also necessary to consider the impact of the Covid 19 Protection Framework on how consultation is

undertaken effectively and meaningfully. People that are unwell should be asked to stay home.

A brief summary of the foreseeable limitations for consultation under the various traffic light settings is provided below.

At the time of preparing this strategy, New Zealand had recently re- entered the Orange setting, and thus the strategy focusses on undertaking consultation in that setting, noting that it is possible that by the time consultation commences, controls may be further relaxed within the Orange setting, or the region may move to the Green setting. Ongoing review opportunities are provided to enable a change to consultation approach, should that be possible.

7.1 RED TRAFFIC LIGHT SETTING

At the Red setting, the Government advice states that action is being taken to protect New Zealand’s vulnerable community and restrictions are in place to slow the spread of Covid 19.

In relation to face-to-face meetings, the Covid 19 Protection Framework requirements at the Red setting discuss what is required for ‘public and private gatherings’. These are defined in the guidance as faith-based gatherings, along with club functions and gatherings at marae, and these activities are the closest in nature to the consultation meetings that will be required for the NOR. In such circumstances gatherings may be held for a maximum of up to 200 people.

7.2 ORANGE TRAFFIC LIGHT SETTING

The Government advice states that at the Orange setting, there will be community transmission of Covid 19, with increasing risks to vulnerable communities. There are no limits to the number of people that may attend a gathering. The wearing of face masks is encouraged, however the Council may stipulate its own requirements in this regard.

The ORC’s current policies under the Covid 19 Protection Framework relevantly include:

<i>Attending off-site meetings</i>	<i>Heed COVID-19 risk control requirements of other businesses where required.</i>
<i>ORC-led Community engagement</i>	<i>Community engagement events can be held in person or online.</i> <i>Consideration to be given to the risk vs benefits of holding an in-person community engagement event.</i> <i>Heed COVID-19 risk control requirements of other businesses where required.</i>
<i>Work-Related Travel</i>	<i>Consider need to travel vs. risks of going (also providing staff are happy to travel, and subject to usual travel policy).</i> <i>Heed COVID-19 risk control requirements of other businesses where required.</i>

Travel to area in Red is by GM approval.

In combination, these policies presently provide an opportunity for the project team to undertake face to face consultation in support of the NOR. Care should be taken in scheduling any consultation sessions to ensure continued adherence to Government guidelines.

7.3 GREEN TRAFFIC LIGHT SETTING

Under the Green setting, there is limited community transmission of Covid 19 and there are no restrictions.

8. APPROACH AND TIMING OF CONSULTATION

Given the present uncertainty resulting from Covid-19 requirements and the necessary timing for carrying out consultation on the NOR, some consideration of the consultation that the ORC will carry out is required. The recommended approach set out below recognises this uncertainty and provides an opportunity to engage with the community at this time.

The Engagement and consultation undertaken will need to be reported in a consultation summary report. This will summarise the consultation undertaken, and the feedback received, and then describe the Council's response to this feedback – particularly where changes are made to the NOR, if any, or where these confirm the approach taken to the NOR.

Council Meeting Agenda - 25 May 2022 - MATTERS FOR COUNCIL CONSIDERATION

	February	March	April	May	June	July	August	September	October
Map assets to be included in designation									
Brief WDC on approach to designation and consultation; confirm schedule.									
Identify potentially affected parties (with subsequent review after assets confirmed)									
Update and finalise NOR and Consultation Strategy for Council approval									
Council approval of NoR and Consultation Strategy (25 May)									
Arrange and meet with Environment Canterbury *									
Meet with Lower Waitaki River Liaison Group*									
Hold briefing meetings with WDC roading team, Department of Conservation, Waka Kotahi, KiwiRail, Transpower, Fish and Game, Lower Waitaki Irrigation Company and any other appropriate groups*									
Confirm assets to be included in the NoR (resulting from Bylaw consultation)									
Prepare and send out consultation detail (letters, media release if required)									
Hold drop-in session with property owners, suggest afternoon/evening*									
Commence dialogue with Aukaha and any other mana whenua groups as required*									
One on one meetings as required*									
Final meetings with WDC roading team, Department of Conservation, Waka Kotahi, KiwiRail, Fish and Game, Lower Waitaki Irrigation Company and any other appropriate groups*									
Attend hui with Treaty partners*									
Receive and review feedback, prepare consultation report to identify key feedback themes and how the NoR can respond to any issues raised*									
Provide consultation update to WDC regarding consultation outcomes									
Submit consultation report to ORC for review and approval									
Update and submit NoR to ORC for review and approval									
Finalise and lodge NoR for notification alongside the proposed Plan by end of October									

* All meetings can be held in person or on-line as required

Preparation
Date for completion/ delivery

9. CONSULTATION PLAN

More detail of the proposed consultation process is provided below.

9.1 APRIL 2022 – PREPARE SUPPORTING DOCUMENTATION

- Finalise maps for use in NOR
- Identify all parties for consultation purposes, including contact details for all owners and occupiers.
- Prepare consultation letters and web page (attached as Appendix A).
- Continue dialogue with WDC regarding NOR format and process.
- Ongoing review of consultation protocols and options to run engagement sessions in the relevant setting of the Covid 19 Protection Framework in light of the ORC's Health and Safety Policy, alongside the Council's Continuity Management Team.

9.2 MAY 2022 – COUNCIL APPROVAL

- Obtain Council approval for commencing consultation on the NOR, in accordance with this Consultation Strategy.
- Confirm consultation methodology.
- Commence dialogue with Aukaha regarding mana whenua engagement and feedback, and with other mana whenua groups as required.
- Arrange briefing meetings with WDC Roading team, Department of Conservation, Waka Kotahi, Kiwirail, Transpower, Fish and Game, Lower Waitaki River Liaison Group, ECan engineering staff
- Receive and review any preliminary feedback.
- Ongoing review of consultation protocols and options to run engagement sessions in the relevant setting of the Covid 19 Protection Framework in light of the ORC's Health and Safety Policy, alongside the Council's Continuity Management Team.

9.3 JUNE 2022 – CONSULTATION COMMENCEMENT

- Confirm assets to be included with Bylaw development team.
- Confirm parties to be consulted.
- Confirm availability for times for drop-in sessions and stakeholder meetings.²

² Attendees for all drop-in sessions and meetings should include Kirsten Tebbutt and two ORC representatives. Where consultation occurs alongside the consultation required for the review of the Bylaw, representatives for that project will also be in attendance

- Hold briefing meetings with WDC Roading team, Department of Conservation, Waka Kotahi, Kiwirail, Transpower, Fish and Game, Lower Waitaki River Liaison Group, ECan engineering staff
- Arrange drop in session.
- Prepare and send out letters, finalise web page etc.
- Continue dialogue with mana whenua group(s).
- Commence preparation of consultation report to identify key feedback themes and how the NOR can respond to any issues raised.
- Ongoing review of consultation protocols and options to run engagement sessions in the relevant setting of the Covid 19 Protection Framework in light of the ORC's Health and Safety Policy, alongside the Council's Continuity Management Team.

9.4 JULY 2022 – DROP IN SESSION AND CONTINUING MEETINGS AS REQUIRED

- Continue dialogue with mana whenua group(s).
- Hold drop in session.
- One on one meetings as required.
- Continue preparation of consultation report.
- Ongoing review of consultation protocols and options to run engagement sessions in the relevant setting of the Covid 19 Protection Framework in light of the ORC's Health and Safety Policy, alongside the Council's Continuity Management Team.

9.5 AUGUST 2022 – COMPLETE CONSULTATION

- Conclude dialogue with mana whenua group(s); attend hui as required.
- Conclude any one on one meetings required.
- Conclude meetings with all stakeholder groups.
- Continue preparation of consultation report.

9.6 SEPTEMBER 2022 – COMPLETE CONSULTATION

- Complete and submit consultation report to ORC for approval.
- Amend and update NOR as required by consultation outcomes.
- Provide update to WDC in respect of consultation outcomes.

9.7 OCTOBER 2022 – FINALISE AND LODGE NOR

- Finalise NOR for ORC approval.
- Lodge NOR with WDC by the end of October.

Draft for Council Approval

APPENDIX A – CONSULTATION MATERIALS

EXAMPLE EMAIL/LETTER TO STAKEHOLDERS

Kia ora,

As you may be aware, the Otago Regional Council (ORC) is presently reviewing how its flood protection assets are protected and has been undertaking a review of the Flood Protection Management Bylaw 2012. Within the Lower Waitaki area this has coincided with the Waitaki District Council getting underway with its review of the Waitaki District Plan. Consequently, we're emailing to let you know that ORC is preparing a Notice of Requirement for designation for inclusion in the District Plan review. The District Plan will be publicly notified in early 2023.

A Notice of Requirement is a special planning tool that can be used to protect infrastructure such as the cross banks, groynes and floodways on the Lower Waitaki Plain. The designation will only include assets that are included in the current Flood Protection Management Bylaw. Working together, the Bylaw and the Notice of Requirement will protect the integrity and operation of regionally significant flood protection infrastructure and assets that help protect people, property, and livelihoods from the full effect of flood events.

The Notice of Requirement will control works that occur within the designated areas, and will mean that people need to talk to the ORC if they intend to undertake any activity that impacts on the functionality of the included cross banks, groynes or floodways.

Following consultation, the ORC will update the Notice of Requirement and lodge it with the Waitaki District Council for inclusion in its District plan. A formal submission and hearing process will then commence.

A copy of the Draft Notice of Requirement can be found on the ORC's website, along with an online survey; we would welcome your feedback. Alternatively, the ORC is holding a drop in session on [xx] July 2022, and you would be welcome to attend; details are on the Council's website. [insert project page address]

In the meantime, I encourage to get in touch if you have further questions or have information you think can assist the ORC in this work.

For further enquiries please email [project inbox details] or contact me on 03 474 0827

Ngā mihi,

Alison Weaver

Otago Regional Council Commercial and Regulatory Lead

WEBPAGE

DESIGNATION OF LOWER WAITAKI FLOOD PROTECTION ASSETS

Otago Regional Council (ORC) manages various flood protection assets across the Lower Waitaki Plain. To ensure continued protection for these assets, the ORC is proposing a Notice of Requirement for designation that will be included in the Waitaki District Council's District Plan, which will be formally notified in early 2023.

Details of consultation undertaken will form a part of the final Notice of Requirement that is lodged with the Waitaki District Council.

The Notice of Requirement:

- identifies flood protection assets owned or controlled by the ORC on the Lower Waitaki Plain
- includes groyne, cross banks, floodways and anchored tree protection
- will mean that the ORC's approval is required for any activities that impact on the integrity of these assets
- will also include a number of conditions that will impact on what works the ORC can undertake within the designated areas.

Please refer to the draft Notice of Requirement for further details. It can be viewed at:

[\[insert web page\]](#)

About the Notice of Requirement

The Notice of Requirement applies to flood protection assets owned or controlled by Otago Regional Council on both public and private land. These include:

- Floodways; and
- Erosion protection such as groyne and cross-banks.

These structures help protect people, property, and livelihoods from experiencing the full effect of flood events.

Find out more about our flood protection measures [\[link to Flood protection ORC website\]](#).

What will the designation mean for me?

Anyone who wants to carry out work that could impact on the integrity of flood protection assets within the designation area will be required to obtain the Otago Regional Council's approval before any work is started.

The designation isn't proposed to stop people from doing any work on their land, but instead ensures any work carried out does not inadvertently affect the integrity of a flood protection asset, which helps to keep us all safe in flood events.

Why are you designating the land in addition to the existing bylaw?

The designation will ensure that any works that potentially impact on the integrity of these assets will be approved by the ORC prior to works commencing. The Bylaw is a standalone document under the Local Government Act 2002, and the designation enables the recognition of the ORC's assets within the District Plan, under the Resource Management Act 1991.

How can I have a say?

Fill in our online survey [here](#).

We are working towards having a drop in session for the owners and occupiers of properties that will be subject to the Notice of Requirement.

We'll be keeping a close eye on the COVID-19 situation and will decide if we can hold in person community drop-in events, or whether these need to be taken on line.

Drop in session

Details will be made available here in advance of the drop in session.

Contact us

For further enquiries please email [project inbox](#) or contact Alison Weaver on:

Freephone - 0800 474 082

Phone - 03 474 0827

Timeline

Prepare Notice of Requirement

A Notice of Requirement has been prepared and approved by the Council for consultation.

➤ **Open for Feedback**

We'll confirm consultation dates in late March.

➤ **District Plan Process**

The Notice of Requirement will be included within the Proposed Waitaki District Plan when it is notified in early 2023. Hearings will determine any submissions made in

respect of the designation in accordance with the Waitaki District Council's obligations under the Resource Management Act 1991.

FAQ's

What is a Notice of Requirement or designation?

A notice of requirement is a proposal for a designation, and protects the land for the designated purpose until the designation is confirmed and included in an operative district plan. A confirmed designation overrides the provisions of the district plan so the works may be undertaken in accordance with the designation and any conditions attached to it. The designation is like a long-term 'approval' of the work.

When the notice of requirement is considered by the Waitaki District Council, it will be able to make a recommendation to the ORC as to whether the designation should be confirmed, modified or withdrawn. The ORC will make the final decision on the inclusion of the designation in the District Plan.

What area does the designation cover?

Any areas of land that are proposed to be included in the designation are shown on the Notice of Requirement. The underlying plan provisions continue to apply if the land is used for a purpose other than the designated purpose.

How is this different from the Bylaw review undertaken earlier this year?

The Bylaw manages all flood protection assets owned or controlled by the ORC throughout Otago. The Notice of Requirement includes only those groynes, cross banks and floodways that it owns within the Lower Waitaki Plain.

The designation ensures that any works that may prevent or hinder the effectiveness of the included groynes, cross banks and floodways would require the ORC's advance approval.

Why is the ORC only designating the flood protection assets in the Waitaki District?

Designations are most commonly included in a District Plan review. As the Waitaki District Plan is presently under review, the ORC is seeking the inclusion of the assets in the Lower Waitaki Plain area at this time.

The ORC's flood protection assets in Dunedin City were included in the Dunedin City Council's Second Generation District Plan in 2015. When other Districts within Otago review their District Plans, the ORC may seek to include designations for flood protection assets in those plans too.

Will the ORC buy my land if it contains a flood protection asset that will be designated?

The proposed designation of the land will not introduce any practical requirements that are more limiting than those included in the Bylaw. As such, the designation will not introduce any additional controls on how you use your land, and the ORC is therefore not proposing any land acquisition as a result of this process.

I provided feedback to the Bylaw review; will the Council take that feedback into account for the designation too?

The Bylaw Review and Notice of Requirement, while complementary, are separate processes with different legal requirements. If your feedback on the Bylaw is relevant to the Notice of Requirement, you should resubmit it.

How can I find out if the Notice of Requirement applies to my property?

You can [\[link to Council website/maps\]](#) check if your property is within the designation area.



8.11. Otago Catchment Community/ORC Contract

Prepared for: Council
Report No. ENV2203
Activity: Environmental - Dunedin Rivers & Waterway Management
Author: Andrea Howard, Manager Environmental Implementation
Endorsed by: Gavin Palmer, General Manager Operations
Date: 25 May 2022

PURPOSE

- [1] This report seeks Council's permission to enter a multi-year agreement with Otago Catchment Community Inc (OCC) to support Catchment Groups across Otago to improve the environment.

EXECUTIVE SUMMARY

- [2] OCC is an Incorporated Society, established informally in 2018, and exists to *"to create and support an Otago wide network of catchment groups that are addressing environmental issues now and for generations to come"*.
- [3] OCC works by coordinating and facilitating community catchment groups to achieve their vision. OCC provides a legal structure and coordination function, whilst the individual catchment groups focus on issues of importance to them. There are currently 21 catchment groups established in the Otago region and others looking to develop. Many groups are well underway with water testing, promotion of good management practices and ecosystem enhancement works while others are at the beginning of their journey. OCC aspirations are for an extensive programme that will support catchment groups and farmers to drive environmental change in areas that are important to their local community.
- [4] The aspirations of OCC are closely aligned with strategic outcomes and objectives of ORC for urban and rural freshwater management. Accordingly, Council allocated \$200,000 to support the establishment of OCC in 2020/2021 and a further \$225,000 was provided in 2021/2022. The 2021/31 Long Term Plan provides funding to support catchment groups (such as OCC) in each year to 2031, totalling \$3.98M over the 10 years.
- [5] In order to provide a greater level of funding certainty to OCC and to reduce administrative effort, a multi-year funding agreement is proposed.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the staff recommendation to enter into a three-year funding agreement with Otago Catchment Community Inc starting in 2022/2023, with funding in each year subject to funds being allocated in Council's Annual Plans.

- 3) **Notes** that funding totals \$1.175M (excluding GST) over the three-year period.
- 4) **Authorises** the Chief Executive to sign the agreement on behalf of Otago Regional Council.

BACKGROUND

- [6] In late January 2020¹, Council considered a paper outlining options to support community-based, water quality focused, Catchment Groups. Council resolved to “develop a series of increased support options for consideration during the Long-Term Plan process”. To support further thinking, Council made the decision to allocate seed funding of \$200,000 in the 2020/2021 year to support Catchment Groups.
- [7] Following the January 2020 meeting, a Catchment Support Advisory Group was established by Council, with advice and direction from local catchment groups. This Group focused on developing a more detailed plan to support Catchment Groups, allocation of the seed funding and considered how to support the longer-term sustainability of community driven groups.
- [8] Drawing on existing conceptual thinking undertaken for a central government funding bid, the Advisory Group determined that \$200,000 allocated by the ORC will be used to establish an umbrella organisation to support groups across Otago. Specifically, the umbrella entity would:
 - a. Provide organisational support for catchment groups and volunteers.
 - b. Assist individual groups with identifying funding sources and writing applications.
 - c. Provide administration support to help create and run groups.
 - d. Provide communication support to help design, write & distribute information.
 - e. Facilitate access to experts, information & technology.
 - f. Establish enduring funding pipelines to support changing needs.
 - g. Act as a conduit between government, regional authorities, and stakeholders.
- [9] The umbrella organisation, now known as Otago Catchment Community Inc (OCC), would ensure the survival of existing groups and proactively establish new groups where there was a need and community support existed to create a group.
- [10] Staff reported the findings of the Advisory Group at the 14 October 2020² Implementation Committee and minutes show that Council agreed the following:
 - a. **Receives** this report.
 - b. **Notes** the previously approved allocation of \$200,000 in the 2020/2021 financial year to fund the development of an umbrella entity and to support co-ordination and administrative roles that facilitate ‘on the ground’ action to improve water quality in the region’s water bodies.
 - c. **Notes**, with thanks, that the Catchment Support Advisory Group has completed its work and has now disbanded.
 - d. **Notes** that Council will be asked to nominate representatives for the new Otago Catchment Communities governance board.
 - e. **Endorses** establishing a Memorandum of Understanding between the Otago Regional Council and the umbrella entity, once formed, detailing ongoing partnership and collaboration roles and responsibilities.

¹ <https://www.orc.govt.nz/media/8165/council-meeting-agenda-20200129.pdf>

² <https://www.orc.govt.nz/media/9217/agenda-implementation-committee-20201014.pdf>

- f. **Notes** that, once formed, a funding agreement will be established with the umbrella entity detailing payments, deliverables and reporting requirements.
 - g. **Notes** that a longer-term budget for supporting the region's Catchment Groups will be presented as part of the forthcoming Long-Term Plan 2021-2031 development process.
- [11] Funding to support catchment groups (through mechanisms such as Otago Catchment Community Inc) was sought and subsequently approved in Council's 2021/2031 Long-Term Plan as follows:
- i. Y1 \$225,000
 - ii. Y2 \$315,000
 - iii. Y3 \$430,000
 - iv. Y4 \$430,000
 - v. Y5-10 \$430,000
- [12] This funding totals \$3.98M over the 10-year period of the 2021/31 Long Term Plan.

DISCUSSION

- [13] To provide a greater level of certainty to OCC, it is proposed that Council establishes a multi-year agreement. This will allow OCC to provide a greater level of certainty to their contract staff, to create medium term plans and to allocate funding to directly to support catchment groups to achieve their objectives.
- [14] Final confirmation of funding for each Funding Year would be subject to Annual Plan approval, and changes may occur if priorities or funding levels change.
- [15] The draft agreement (Appendix A) has been prepared in consultation with OCC. OCC has advised that it is satisfied with the terms and conditions of the draft agreement and is supportive of a three-year term.
- [16] The draft agreement requires OCC to work collaboratively with ORC and to demonstrate its impact through outcomes and deliverables, these include:
- a. Allowing ORC the opportunity to provide input into its work programme and detailed budget, outlining how the ORC grant will be allocated, KPIs, outcomes sought and the rationale for the allocation;
 - b. Submitting an annual report to Council outlining achievements, project data, any funding and operational issues, any future opportunities or directions and an assessment of contribution to improving water quality and/or improvement in environmental domains.
 - c. Providing formal membership to ORC on OCC committee.
 - d. Assisting ORC by providing local knowledge and expertise to create community connections.
 - e. Actively identifying to ORC capability and knowledge gaps within the Catchment Group sector, so that these can be considered and supported as part of the Environmental Implementation Team's regional support.
 - f. Promoting expertise and assistance available from ORC to support Catchment Groups.
- [17] Council's 2021/31 Long-Term Plan requires that a report is presented to Council on deliverables and targets achieved by 30 June.

- [18] Appendix B provides an overview of deliverables achieved by OCC in the 2020/2021 year. This report covers the first funding year, and a more recent report will be presented to Council by 30 September 2022 to allow time for all activities within this financial year to be documented. It is proposed that in future contracts, OCC's end of year reporting aligns with Council's Annual Plan reporting dates.

OPTIONS

- [19] Council has the following options:

Option 1: Do not continue the funding beyond 30 June 2022.

Advantages:

- Budget savings.
- Avoided management of the funding arrangement enabling staff resources to be deployed elsewhere.

Disadvantages:

- Would significantly impact the ability of OCC to support catchment groups (new and emerging) in the region, and to further their environmental improvement goals.
- Would cause a high level of dissatisfaction amongst catchment groups.
- Would impact on achievement of ORC's strategic outcomes and objectives to do with urban and rural freshwater management.

Option 2: Enter into a one-year funding agreement for 2022/2023, subject to funding being provided in the 2022/2023 Annual Plan and with any funding of future years to be considered by Council in 2023.

Advantages:

- Would allow Council to better understand impact of investment relative to environmental improvement.
- Would enable Council to redirect funds if it determined there were alternative investment opportunities.

Disadvantages:

- Does not provide medium term certainty for OCC.
- Creates additional contract management administration for both parties.

Option 3: enter into a three-year funding agreement starting 2022/2023, with funding in each year subject to funding being provided in Annual Plans.

Advantages:

- Provides OCC with medium-term certainty, but still allows Council annual consideration to ensure outcomes and deliverables are being met.

Disadvantages:

- Annual confirmation requirement still provides a level of uncertainty to OCC.

Recommended Option

[20] Option 3 is recommended as the most efficient and effective way to support OCC achieve its outcomes. It appropriately balances certainty for OCC with flexibility for ORC.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[21] The activities of OCC help achieve strategic outcomes and objectives for ORC in relation to urban and rural freshwater management. Those activities need to be funded.

Financial Considerations

[22] Funding to support catchment groups was approved in the 2021/2031 Long-Term Plan and this proposal aligns with the objectives within the 2021/2031 Long-Term Plan.

Significance and Engagement Considerations

[23] Not applicable.

Legislative and Risk Considerations

[24] Not applicable.

Climate Change Considerations

[25] Not applicable.

Communications Considerations

[26] Not applicable.

NEXT STEPS

[27] If approved, Council would enter into a multi-year funding contract comprising (2022/2023) \$315,000, (2023/2024) \$430,000, and (2024/2025) \$430,000, (exclusive of Goods and Services Tax).

ATTACHMENTS

1. OCC Year 1 Report [8.11.1 - 14 pages]
2. ORC OCC Draft Multi Year Funding Agreement [8.11.2 - 9 pages]



OTAGO CATCHMENT
COMMUNITY INC

Project Data Report

16 July 2021

MILESTONE 4, PROJECT DATA REPORT
SAM DIXON PREPARED FOR OTAGO REGIONAL COUNCIL

OTAGO CATCHMENT COMMUNITY INC. | 3945 Wānaka-Mount Aspiring Rd, Wānaka 9382



Table of Contents

Introduction..... 2

ORC Milestone reporting – 4. Project Data 3

Project Data, 4

1. Number of Members.....4

Table1. Otago Catchment Community Inc. Members4

2. Number of groups supported 5

3. List of Location with GPS location of activities..... 6

Table 3. GPS Locations of CG Activity6

4. Evidence of Contractors delivering on OCC objectives and Values 7

5. Projects and Activities undertaken 7

 Otago Dairy Leaders Forum7

 Otago Catchment Group Leaders Forum7

 MPI Application7

 Workshops Facilitated by OCC7

Appendices 8

 Appendix 1. Evidence of Contractors work8

 Appendix 2. Photo of Lindis Catchment Group workshop9

 Appendix 3. Photo of East Otago Catchment Group Workshop10

 Appendix 4. Photo of Waitahuna Wintering Field Day10

 Appendix 5. Photo of Glenorchy Intensive Winter Grazing Field-day and workshop.....11

 Appendix 6. Burford Seeder with Upper Taieri Wai and the Tiaki Maniototo Project team11

 Appendix 7. ToPs Facilitation Course 12

 Appendix 8. Photos of CG leaders Forum and OCC AGM 12





OTAGO CATCHMENT COMMUNITY INC, PROJECT DATA REPORT 16 JULY 2021

Introduction

As activity increases it is important that we monitor our key performance measures and fulfill the requirements of our funding milestones. Otago Catchment Community contracted Sam Dixon and Anna Robinson into the roles of Otago Regional Coordinator and OCC Coordinator respectively, who started mid-March 2021.

Anna and Sam have made good progress introducing themselves to the Otago Catchment groups, attending meetings and delivering workshops to enable Catchment Groups to cement their purpose and long-term vision and allow them to focus on action.

The Steering committee have established OCC Inc. as an incorporated society and are applying for not-for-profit status. The coordinators are working to increase OCC membership numbers and organise the AGM and Otago Catchment Group Leaders Forum on the 13th of July 2021.

OCC Coordinators have created a Facebook page to start the social media presence, which can be found by searching the name 'OCC- Otago Catchment Community Inc' or by using this link;

<https://www.facebook.com/search/top?q=occ%20-%20otago%20catchment%20community%20inc>

The coordinators are also creating an OCC website. This will be a foundation to maintain the network of connected Catchment Groups who are working to achieve water quality goals. The web address for this site will be www.otagocatchments.co.nz. This will house our calendar of events, be a space for admin tools to be stored for Catchment Groups and be a platform to reduce time spending organising events for volunteers. It is anticipated the website will be live by mid-July.



ORC Milestone reporting – 4. Project Data

Performance Deliverable	Measure	Data/Reference
1. Number of Memberships in the Otago Catchment Community	#Of Members #Of new Members since previous annual report	11 11 Pg.4
2. Number of catchment Groups actively supported (financially or with resourcing)	#Of groups #Of new groups since previous annual report #Of group meetings or events held	22 22 77 (approx.) Pg.5
3. Locations of group operations	List of catchments (with GPS location where activities were undertaken)	Please refer to point 3 in this report. Pg.6
4. Evidence of staff and contractors delivering on OCC objectives and values.	Stories, photos and other evidence showing activities carried out. Evidence should be linked to a specific group/catchment.	Please refer to point 4 in this report and the appendix for evidence. Pg.7
5. Outline of activities and projects undertaken whose main aim is to improve water quality in Otago.		Please refer to point 5 in this report. Pg.8



Project Data,

1. Number of Members

Membership of the Otago Catchment Community Inc. has grown since the draw-down of initial funding. At the date of draw-down the number of Catchment Groups that are members of OCC Inc. was Zero. Currently we have 11 Group memberships supporting 26 groups and expect this number to grow with our coordinators helping emerging Catchment Groups that do not yet meet the criteria to become a member. The known amount of these groups yet to meet the criteria is 10.

The following table shows current members of OCC Inc and the groups they represent.

Table1. Otago Catchment Community Inc. Members

Otago Catchment Community Inc. Members, July 2021			
#	Member Name	Umbrella Org Represented	# Group Members
1	Otago South River Care	Lake Tuakitoto Lower Clutha Owaka Tokomairiro Waitahuna Waiwera	80
2	Pomahaka CG		160
3	East Otago CG		90
4	NOSLAM	Awamoko Kakanui Waiareka Friston Battersby	192
5	Upper Taieri Wai		60
6	WAI Wānaka	Luggate Lake Hawea Manungawera Valley Cardrona	40
7	Lindis CG		40
8	Thomson's Creek CG		28
9	Poolburn CG		18
10	Manuherekia CG		600+
11	Wānaka CG		14
Totals			
	OCC Members	Represented Groups	Group Members
	11	15	1352



2. Number of groups supported

Currently, OCC Inc. does not have large scale funding to financially support Catchment Groups independently. Coordinator time and resourcing is how OCC is currently supporting 18 of Otago's 22 known Catchment Groups and Water Care Groups. This number is larger than the OCC members due to the number of non-member groups that the coordinators are working with to establish these Groups. In the appendices, *Appendix 1. (Evidence of Contractors Work)* describes the work our Coordinators have been doing with Otago's Catchment Groups and the outcomes from this work.

Table 2. (Group Meetings Table) depicts the number of recorded meetings from the groups and since March 2021 the Group meetings and events the OCC Coordinators have attended and supported. The number of Group events held by Otago's Catchment and Water Care Groups is depicted in the following table. This table is approximate as recording events hasn't been a priority for most groups as the focus has been on gaining traction and implementing action.

Table 2. Group Meetings table

Group Meetings Table			
#	Catchment group name	Number of Group Meetings	Group meetings supported by OCC
1	Coal Creek	2	0
2	East Otago	10	2
3	NOSLAM	12	1
4	Lake Hayes	NA	0
5	Wānaka	4	1
6	Lindis	4	2
7	Otago South	10	2
8	Pomahaka	10	2
9	Thomsons Creek	2	2
10	Upper Taieri	8	2
11	Poolburn	NA	1
12	WAI Wanaka	NA	2
13	Otago Peninsula	2	1
14	Lake Wakatipu	NA	0
15	Teviot Valley	3	2
16	Lower Taieri	1	1
17	Cardrona	4	1
18	Glenorchy	4	1
19	Manuherekia	NA	1
20	Ida Valley	NA	2
21	Maungawera	NA	0
22	Tomahawk	1	1
Total		77	27



3. List of Location with GPS location of activities.

The following table 3. (GPS Locations of CG Activity) is a list of all the know Groups in Otago with their GPS locations adjacent to their group name. When OCC gains access to a Geospatial Information System that can create and store group boundaries this section will be supported with a map depicting the groups of Otago.

Table 3. GPS Locations of CG Activity

GPS Locations of CG Activity		
#	Catchment group name	GPS Location of Activities
1	Coal Creek	-45.502809, 169.288480
2	East Otago	-45.595788, 170.668667
3	NOSLAM	-45.093084, 170.973477
4	Lake Hayes	-44.967872, 168.814270
5	Wanaka	-44.606337, 168.985549
6	Lindis	-44.749113, 169.511333
7	Otago South	-46.238053, 169.748882
8	Pomahaka	-45.943581, 169.259180
9	Thomsons Creek	-45.110942, 169.557458
10	Upper Taieri	-45.114727, 170.090215
11	Poolburn	-45.115773, 169.734007
12	WAI Wanaka	-44.700414, 169.147059
13	Otago Peninsula	-45.854092, 170.630832
14	Lake Wakitipu	-45.118485, 168.463931
15	Teviot Valley	-45.570555, 169.395217
16	Lower Taieri	-45.871026, 170.276999
17	Cardrona	-44.888469, 169.005533
18	Glenorchy	-44.843206, 168.394416
19	Manuherekia	-45.210390, 169.441550
20	Ida Valley	-45.045760, 169.860269
21	Maungawera	-44.654649, 169.219536
22	Tomahawk	-45.898001, 170.544704





4. Evidence of Contractors delivering on OCC's objectives and Values

OCC Contractors have been busy in the initial set up phase of OCC, introducing themselves, establishing relationships with the current known groups and finding out who the establishing groups are. For a detailed list and evidence of the contractors delivering work with groups please see appendix 1 (Evidence of Contractors Work). This section describes the activities and projects the OCC Coordinators have been involved in whose main aim is to improve water quality in Otago. Following on from appendix 1 is Appendices 2-8 which are photo evidence of OCC Contractors delivering on OCC's objectives and values.

5. Projects and Activities undertaken

Otago Dairy Leaders Forum

Regional Coordinator Sam Dixon recently presented to the Otago Dairy Leaders Forum on OCC Inc and Catchment Groups. In conjunction with Dairy NZ, this day is to support the Environmental Dairy Leaders of Otago help improve the sector's Environmental Impact, focusing on water quality and learning their greenhouse gas numbers.

Otago Catchment Group Leaders Forum

The Coordinators and Steering Committee have been organising the Otago Catchment Group Leaders Forum, whose main aim is to connect the leaders of Catchment Groups to inspire new ideas and learnings from other groups whose main purpose is water quality. The theme for the day is about connecting groups with each other, industry and stakeholders so informed and quality decisions can be made when working on their individual actions.

MPI Application

This is to support the funding received from ORC and increase the amount of support and assistance OCC can offer Catchment Groups. Groups that are well supported and receive appropriate assistance from OCC coordinators can spend more time achieving their goals.

Workshops Facilitated by OCC

After receiving training from Beef and Lamb NZ's TOP's Facilitation training, the OCC Coordinators have been workshopping Vision statements and goals with Otago's Catchment Groups. The following have been completed to date;

- Lindis Catchment Group
 - Vision – Enhancing our river for everyone.
- East Otago Catchment Group
 - Vision - Water and biodiversity that reflects a protective empowered and connected community.



Appendices

Appendix 1. Evidence of Contractors work

Group	Description of Work	Outcomes
Teviot WCG	Meeting with committee to help plan for and to add-on to winter grazing workshop, map for area, comms for membership	-Established Relationship -Created Map -Membership -Introduce OCC
South Otago RCG	Attended South Otago RCG's Women's Evening to introduce OCC.	-Establish relationship -Introduce OCC
Pomahaka WCG	Met with Pomahaka WCG committee to update both PWCG and OCC of each-others activities	-Establish Relationship
East Otago CG	Meeting with EOCG Chair Steph Scott and Katie Barnes to establish a connection.	-Establish Relationship -Booked in workshop
East Otago CG	Workshopped committee to establish 25-year vision and goals.	-Vision: Water and biodiversity that reflects a protective empowered and connected community.
Wai Wānaka	Met with Manager, Julie Perry to discuss Wai Wānaka's and OCC's activities.	-Established relationship -Helped on MPI application -Helped on database software and NFP status
NOSLAM	Meeting with Committee members and Rob and Bridgette NOSLAM's team to update on OCC and NOSLAM's activities.	-Established relationship
South Otago RCG	Attended Tuapeka/Waitahuna riparian and wintering advice field day.	-Established relationship -RDNA test done on site -OCC introductions
Upper Taieri	Meeting with Tim Whittaker (Burford Seeder) and Morgan Trotter, Project lead of Tiaki Maniototo.	-Established relationship -Established connection with Burford Seeder for other CG's projects Introduced OCC
Upper Taieri	Meeting with Committee of Upper Taieri to introduce OCC and discuss possibilities of workshops to create vision and purpose for the group.	-Established relationship -Booked Workshop on Vision and Goals
Teviot CG	Meeting to discuss membership and winter grazing day 8 June	-Organised winter grazing day -Established membership
Ida Valley CG's	Meeting with Sam Stevens to discuss the possibility of setting up two new CG's in the Ida Valley catchment.	-Established relationship -Establishing 2 CG's -Set date for vision and goal workshop
Lindis CG	Meeting with Tim, project lead and Bruce, Chair, then with committee to set an AGM and vision and goals workshop.	-Established relationship -Booked Workshop on Vision and Goals
Wānaka CG	Attended Winter Grazing workshop, in support and with attendance of Wai Wānaka	-Attended Workshop - Introduced OCC
Glenorchy CG	Winter Grazing workshop and meeting with Tilly Hasselman,	-Established relationship





	facilitator. Follow up with info on possible planting funding, supporting costs for expert speakers (Canterbury biodiversity person) for FEP workshop in July	-FEP workshop connection made - Introduced OCC
Lindis CG	Workshop to develop Vision and set goals.	-Vision, enhancing our river for everyone
Tokomairiro CG	Working to establish science summary to encourage more action	-Connecting with ORC Science team to see if possible
CG Leaders Forum	Otago CG leaders forum held, for all Otago groups, stakeholders and industry	-Held Forum Future forums requested by attendees.

Appendix 2. Photo of Lindis Catchment Group workshop

OCC Coordinator Anna Robinson delivered a workshop to Lindis Catchment Group to develop their goals and long-term vision of ‘Enhancing our river for everyone.’ Here is a photo of the group discussion their goals.





Appendix 5. Photo of Glenorchy Intensive Winter Grazing Field-day and workshop

OCC Coordinator Anna Robinson attended and helped to organise the Glenorchy Group Intensive Winter Grazing field day and workshop in the field. Here is a picture of two group members looking at their receiving environment.



Appendix 6. Burford Seeder with Upper Taieri Wai and the Tiaki Maniototo Project team

OCC Coordinator Anna Robinson attended the Burford Seeder demonstration with Upper Taieri Wai and the Tiaki Maniototo project team.





Appendix 7. ToPs Facilitation Course

OCC Coordinator Anna Robinson and Regional Coordinator attended and received a certificate of participation for Beef and Lamb NZ's ToPs facilitation course.



Appendix 8. Photos of CG leaders Forum and OCC AGM

OCC Coordinator Anna Robinson and Regional Coordinator in conjunction with Craig Simpson from NZ Landcare Trust and OCC committee held the Otago CG Leaders Forum and OCC AGM on the 13th of July 2021.

ORC Environmental Implementation Manager Andrea Howard presented on the day her new look Environmental Implementation Team and ORC's Ecofund.

Below are a few photos of the event.





OTAGO REGIONAL COUNCIL - FUNDING AGREEMENT

BETWEEN OTAGO REGIONAL COUNCIL a body corporate under the Local Government Act 2002 ("Funder" and "Council")

AND OTAGO CATCHMENT COMMUNITY INCORPORATED [an incorporated Society under the Incorporated Societies Act 1908] ("Recipient")

Collectively referred to as the "Parties"

BACKGROUND

- A. The Recipient has applied for a grant of (2022/2023) \$315,000, (2023/2024) \$430,000, and (2024/2025) \$430,000, (exclusive of Goods and Services Tax) for: Otago Regional Councils contribution towards connecting and supporting catchment groups within Otago to support improved environmental outcomes including by providing the outcomes and deliverables in schedule 1. ("Grant Purpose")
- B. In consideration of the Recipient agreeing to comply with the terms of this Agreement, the Funder has agreed to make a grant of:
 - (a) \$315,000 for the 2022/2023 Funding Year;
 - (b) \$430,000 for the 2023/2024 Funding Year; and
 - (c) \$430,000 for the 2024/2025 Funding Year(exclusive of Goods and Services Tax) to the Recipient.
- C. The Recipient accepts the Grant on the terms and conditions in this Agreement.

IT IS THEREFORE AGREED

Interpretation

1. "Agreement" means this Grant Agreement including any schedules or attachments.
"Funding Year" means the period from 1 July to 30 June of the following year.
"Grant" means (2022/2023) \$315,000, (2023/2024) \$430,000, and (2024/2025) \$430,000, (exclusive of Goods and Services Tax).
"Reports" means the report(s) set out in clause 4.3.
"Working Day" means any day on which banks are generally open for business (other than a Saturday or public holiday in Otago).

Term

2. This Agreement commences on 1st July 2022 and terminates on 31th July 2025 unless terminated earlier or extended in accordance with this Agreement.
3. Final confirmation of funding for each Funding Year is subject to Annual Plan approval, changes may occur if priorities or funding levels change. The Funder will advise the Recipient of the Council's decision.

Use of the Funding

4. The Recipient shall:
 - 4.1 Use the Grant solely for the Grant Purpose(s), subject to any variation under clause 11;
 - 4.2 Spend the Grant within the Term, subject to any variation under clauses 11 and 12.

4.3 Keep and maintain records of account in accordance with generally accepted accounting practice, as required by law and as necessary to provide a complete and detailed record and explanation of the expenditure of the grant.

4.4 Notify Council immediately if it applies for or receives duplicate funding for the Grant Purpose from any other source. If the Recipient receives such funding the Recipient acknowledges that the Council may act reasonably to either reduce the amount of the Grant received or claim such amount back from the Recipient

4.5 Return any unspent Grant money to the Council within 20 Working Days of the termination of this Agreement or within 20 Working Days of the completion of the Grant Purpose or expiry of the term of this agreement, whichever is the sooner.

4.6 Repay the Grant or part of the Grant as required by Council if the Agreement is terminated under clauses 14 or 16 or if the Grant or parts of the Grant is misspent or misappropriated or not used for the Grant Purpose.

Recipient's Responsibilities

5. The Recipient must:

5.1 Ensure that the Grant Purpose are achieved with all due care, skill and diligence and industry standards.

5.2 Notify the Council of any breach of the Agreement and/or any relevant matter that might affect the Recipient's ability to meet its obligations under the Agreement as soon as practicable of becoming aware of the matter.

5.3 Comply with all practicable laws and cooperate with Council in the Council's compliance with applicable laws including but not limited to the Local Government Official Information and Meetings Act 1987 and Privacy Act 2020.

5.4 Provide all Report(s) as required by the Council. The due date(s) and requirements for the Reports are set out in Schedule 1. The format for the Reports will be as specified by the Funder.

Conflicts of Interest

6. The Recipient shall promptly disclose to the Council full particulars of, and take appropriate steps to manage, any actual, perceived or potential conflict which may arise between the Recipient (or its personnel) and the duties owed to the Funder under this Agreement.

Payment of Grant

7. Provided and to the extent that funding for that Funding Year has been approved under clause 3, the Council will pay the grant for each Funding Year to the Recipient once the Recipient:

7.1 Provides a satisfactory tax invoice; and

7.2 Meets all criteria or conditions specified by the Council as prerequisites to payment of the Grant; and

7.3 Meets any terms of this Agreement which must be complied before the Grant is paid and continues to comply with the terms of this Agreement during the term of the Grant.

Publication

8. The Recipient agrees to acknowledge the Grant and the Funder in its publications or any media release relating to use of the Grant.

9. The Recipient shall obtain the prior written approval of the Council before publishing any publication or formal media release which refers to the Grant or the Funder.
10. The Recipient agrees that the Council may publish the Recipient's name and Grant Purpose in any public statement or on its website.

Variation of Grant

11. The Recipient must apply in writing to vary the Term of Grant, Grant Purpose or any Grant condition.
12. The Recipient acknowledges that it is at the sole discretion of Council whether to approve any variation.

Recovery of Grant

13. The Council may reduce, suspend or withhold the Grant or require all or part of the Grant not spent or spent outside the Terms of the Agreement to be repaid by the Recipient if:
 - 13.1 It reasonably considers the Recipient's delivery of the Grant Purpose(s) to be unsatisfactory; or
 - 13.2 The Recipient fails to comply with any obligation under this Agreement; or
 - 13.3 The Recipient has not provided a Report to the Council's reasonable satisfaction; or
 - 13.4 Any other circumstances or events arise that in the reasonable opinion of the Council are likely to adversely affect the Recipient's ability to fulfil the Grant Purpose(s) in accordance with terms of the Grant conditions.

Termination

14. Either party may terminate this Agreement by giving 90 Working Days' written notice to the other party.
15. The Council will provide the Recipient with 20 Working Days' written notice to remedy any breach of this Agreement.
16. The Council may terminate this Agreement by giving 20 Working Days' written notice if the Recipient:
 - 16.1 Breaches this Agreement and fails to remedy the breach within 20 Working Days' of receiving written notice of the breach; or
 - 16.2 Has provided any information which is false or incorrect; or
 - 16.3 Commits a breach of this Agreement which is not capable of being remedied; or
 - 16.4 Provides a report that does not sufficiently detail the requirements contained in Schedule 1 to the Funder's satisfaction or fails to include any additional requirements specified by the Funder; or
 - 16.5 Brings the Council into disrepute by its actions; or
 - 16.6 Ceases to conduct any substantial part of its business in a normal manner or threatens to do so; is or is unable to pay its debts as they fall due; becomes insolvent for the benefit of its creditors; has any of its assets subject to any form of seizure; goes into voluntary or compulsory liquidation; has a receiver, administrator or any similar officer appointed; is wound up; or suffers from an analogous event.

Effects of Termination

17. The expiry or termination of the Agreement will:
 - 17.1 Not limit or remove the rights of the parties that existed up to and including the date of the expiry or termination of the Agreement; and

- 17.2 Not affect any clauses that are intended to have continuing effect.

Liability and Indemnity

18. The Council will not be liable (in contract or tort, including negligence or otherwise) to the Recipient or any other person for any direct or indirect damage, loss, or costs whatsoever in relation to the Grant or this Agreement, or for any works or activities undertaken by using this Grant.
19. If the Recipient suffers loss or damage while using the Grant to achieve the Grant Purpose, the Council is not liable, and the Recipient will carry full liability for its own actions.
20. The Recipient must indemnify the Council against any claims against the Council arising out of this Agreement.

Dispute Resolution

21. The parties shall attempt in good faith to settle any dispute by negotiation and/or mediation before litigation.

No Assignment or Subcontracting

22. The Recipient may not assign, transfer or sub-contract any of its rights or obligations under this Agreement without the prior written consent of the Council.

Notices

23. Any written notice to be given by one party to the other for the purposes of this Agreement may be given by personal delivery, tracked courier mail or email.
24. Any Notice or communication is to be treated as given at the following time:
- 24.1 If it is delivered, when it is left at the relevant address;
- 24.2 If it is sent by tracked courier mail, 5 working days after it is posted;
- 24.3 If it is sent by email, as soon as the sender receives a successful receipt notification to the correct email address.
- 24.4 However, any notice or communication is given on a day that is not a Working Day or after 5.00pm on a Working Day, the notice or communication is deemed to have been given at the beginning of the next Working Day.
- 24.5 Each party's appointed representative is set out in Schedule 2 along with the address for service.

Variation

25. This Agreement may be varied by agreement in writing between the parties.

Waiver

26. Any waiver of any breach under this Agreement will not be deemed to be a waiver of any other breach of this Agreement.
27. The failure of either party to enforce any provision of the Agreement at any time will not be a waiver of such provision.

Governing Law

28. This Agreement is governed by the laws of New Zealand.

Execution

Signed on behalf of the **OTAGO REGIONAL COUNCIL**

Signed: _____

Name: _____

Date: _____

Signed for the **OTAGO CATCHMENT COMMUNITY INCORPORATED** by:

Name: _____

Position: _____

I confirm that I have authority to sign for the Recipient:

Signed: _____

Date: _____

Schedule 1

Outcomes and Deliverables

#	Outcome	Performance Measure	Deliverable	Timeframe
1	Agreed work programmes delivered.	For input and approval, provide ORC with a work plan and detailed budget, outlining how the ORC grant will be allocated, KPIs, outcomes sought and the rationale for the allocation.	Final Work Plan submitted for approval by ORC.	30 June preceding each Funding Year.
2	Accountability and Governance achieved.	Provide annual report to Council. The report is to highlight:	One Annual Report per funding year	31 July of each Funding Year.

#	Outcome	Performance Measure	Deliverable	Timeframe
		a) the work undertaken as described in the work plan b) the project data as outlined in [4] below c) any funding and operational issues d) any future opportunities or directions e) assessment of contribution to improving water quality and/or improvement in environmental domains.		
		Formal membership on Otago Catchment Community committee.	ORC staff and governance representative invited to attend all committee meetings and participate in decision-making processes (governance rep only).	Ongoing
3	Community connections made.	Assist ORC by providing local knowledge and expertise to create community connections.	Quarterly meetings with Team Leader Environmental Implementation to discuss connections/issues/opportunities and to identify and pursue aligned tasks and actions.	Quarterly
	Building Catchment Group Capabilities	Actively identify to ORC capability and knowledge gaps within the Catchment Group sector, so that these can be considered and supported as part of the Environmental Implementation Team's regional support.	A record of gaps and opportunities as outlined by OCC during the meeting is documented at the Quarterly meetings with the Team Leader Environmental Implementation.	Quarterly
4	Project data reported.	Number of memberships in the Otago Catchment Community <ul style="list-style-type: none"> # of members by Freshwater 	Data report submitted. When available, output reporting to be uploaded into ORC GIS spatial database (with assistance from ORC).	30 September following each Funding Year.

#	Outcome	Performance Measure	Deliverable	Timeframe
		<p>Management Unit (FMU)/Rohe</p> <ul style="list-style-type: none"> • # of new members since previous annual report. <p>Pursue opportunities with communities to support ORC's water, biodiversity, biosecurity and land management work.</p> <p>Number of catchment groups actively supported (financially or with resourcing)</p> <ul style="list-style-type: none"> • # of groups by FMU/Rohe • # of new groups since previous annual report # of group meetings or events held. <p>Locations of group operations</p> <ul style="list-style-type: none"> • List of catchments and corresponding FMU/Rohe. <p>Evidence of OCC staff and contractors delivering on OCC objectives and values as outlined in the work programme.</p> <ul style="list-style-type: none"> • Stories, photos and other evidence showing activities carried out. Evidence should be linked to a specific group/catchment. <p>Outline of activities and projects</p>	<p>List referrals made from OCC to Catchment Groups and ORC regarding water, biodiversity, biosecurity and land management work as outlined by the Team Leader Environmental Implementation.</p>	

#	Outcome	Performance Measure	Deliverable	Timeframe
		undertaken whose main aim is to improve water quality in Otago. <ul style="list-style-type: none"> • Brief overview of project, objectives, outputs (e.g., area of planting, length of fencing etc) and outcomes. Summary of joint initiatives with ORC. <ul style="list-style-type: none"> • Initiatives or projects identified and implemented. 		
5	Maintain and enhance collaborative partnership with Otago Regional Council.	Promote expertise and assistance available from ORC to support Catchment Groups. Where appropriate, Invite staff to capability initiatives or professional development opportunities offered to catchment groups	Initiatives and opportunities promoted, and these are reported through annual report. Where appropriate, ORC staff attend capability initiatives and/or professional development led by OCC.	Annually As occurs

Schedule 2

Contacts

Otago Regional Council Contact:

Name: Andrea Howard

Position: Manager Environmental Implementation

Address: 144 Rattray, Dunedin 9054

Email: andrea.howard@orc.govt.nz

Phone: 03 474 0827

Recipients Contact:

Name: [REDACTED]

Position: [REDACTED]

Registered Office: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

9.1. Chairperson's Report

Prepared for: Council
Activity: Governance Report
Author: Cr Andrew Noone, Chairperson
Date: 25 May 2022

MEETINGS ATTENDED

- A joint ORC/DCC meeting was held on 25 March 2022 to discuss working more collaboratively at the Governance level on public transport issues, ideas and improvements. Cr Alexa Forbes chaired the session (did an excellent job) in the absence of the Mayor. The meeting was well attended by Councillors from both Councils. The discussion focused on constraints and barriers, customer needs, improving patronage, and improvements already implemented. It was agreed that further forums for discussion would be appreciated by elected members from both Councils.
- A South Island Freight Summit was held on 28 March 2022, hosted by the South Island Regional Transport Committee Chairs Group; Cr Alexa Forbes, Cr Kate Wilson and I attended. The purpose of the Summit was to *"provide a high level briefing to attendees, and develop a shared understanding of South Island freight issues and opportunities"*. Guest attendees and presenters included CE's from Lyttelton Port and Pacifica Shipping, Chair of KiwiRail, COO Ngai Tahu Holdings, and Road Transport industry reps. The main topics discussed were:
 1. Freight Resilience-future threats natural/man-made for supply chains.
 2. Productivity innovation and new technologies.
 3. Getting goods to customers dependant on external shipping lines.
 4. The importance of coastal shipping and rail for internal distribution networks.
 5. The role of Regional Transport Committees, setting the regional direction and prioritising projects. Noting that Government investment into rail and coastal shipping are both included (for the first time) as an activity class in the 2021-2024 Government Policy Statement on Land Transport.
- I attended as a member of the Otago Civil Defence Emergency Group Joint Committee/-Emergency Management Otago, a Zoom meeting with National Emergency Management Agency (NEMA). The purpose of the meeting was to engage with partner agencies (Councils) to help clarify their functions and roles and responsibilities. This conversation is part of the engagement process as the Government look at changes to the CDEM Act 2002 as a review post Kaikoura earthquake and the Port Hills fire.
- Items discussed at the last Mayoral Forum were:
 - Regional Climate Change collaboration, a new ORC appointment being Francisco Hernandez as Principal Advisor Climate Change with a regional partnership role. Francisco's work will include reporting to the Mayoral Forum on Otago Councils climate change activities and collaboration.
 - Discussion on a possible expansion of the Enviroschools programme. TA's spoke positively about the current programme and any possible expansion to the

programme. It was agreed that TAs needed more information to understand the financial implications for each Council. The ORC's report to our Finance Committee 23/02/22 was to be circulated to TAs for their information. It was also agreed that the item was best raised during the 23/24 DAP process.

- There was a presentation from the Regional Skills Leadership Group, who are identifying and supporting better ways of meeting future skills and workforce needs in our region. This is a Ministry of Business Innovation and Employment initiative in collaboration with local stakeholders and partners.
 - Another presentation was from Brian Boyle (Astrophysicist) about the Otago Dark Skies Project. The aim of the project is to recognise, promote and protect Otago's unique dark sky resource.
 - Following up on the outcome of the Regional Waste analysis (completed by environmental consultant Eunomia), the Mayoral Forum resolved to:
 1. Instruct Eunomia to prepare an outline business case for organic's, construction and demolition waste.
 2. Instruct Eunomia to prepare an outline business case for a formal partnership between Councils of Otago (and possibly Southland) to manage waste and deliver waste infrastructure over the medium/long term.
 3. Agreed to make enquires with relevant parties in support of a soft plastics processing facility in the lower South Island.
 - Business cases to be provided to the forum at the next meeting on 1 July 2022.
- The Port Liaison Working Group met with Port Otago Directors and Executives to discuss a number of items including:
 1. Business trading update.
 2. Director appointment (completed).
 3. Te Rauone update.
 - A community meeting was held in Glenavy to discuss Project KEA/Waste to Energy Incinerator. Cr Kevin Malcolm asked me to attend to better understand what's being proposed, and what issues the community are concerned about. The proposal is just north of the Waitaki River, however, landowners on the South side of the river raised concerns about air quality. The applicant, South Island Resource Recovery Ltd, hadn't (at the time of the meeting) submitted a resource consent application to build and operate a plant.
 - I have attended several Cosy Homes Trust meetings during the last couple of months. The Trust is working through some changes to their Strategic Purpose. I will keep you posted as the changes crystallise.
 - I have had several meetings with Sir Graham Panckhurst providing updates on progress with the Clutha Inquiry process.
 - Items discussed at the Mana to Mana meeting held on 12 April 2022, that Council and Iwi are working in partnership on, include:
 1. Land and Water Regional Plan.
 2. Draft Annual Plan and Long-term Plan levels of service.
 3. Whare Rūnaka.
 4. Councillors' bicultural competency commitment.
 5. Joint project funding bid MfE for an Undergraduate and Graduate programme.

- I attended the Anzac Day Dawn Service in Dunedin and laid a wreath on behalf of the ORC.
- Cr Alexa Forbes and Cr Kate Wilson, with Dr Gavin Palmer, Doug Rodgers and Garry Maloney, attended the Queenstown Lakes Transport Governance Group meeting. Attendees were updated on the Way 2 Go projects, and ORC staff provided an update for the 21/22 third quarter on matters relating to public transport. It was suggested that QLDC should encourage ski field operators to promote the use of passenger transport.
- The Lindis Catchment Group will host Councillors and staff at 1.00pm on 10 June 2022 in Tarras. The Lindis Catchment Group would like us to visit recent river management of willow clearing and native plantings. I need to confirm numbers of attendees closer to the time.
- A joint Council Workshop on the South Dunedin Future Programme was held, co-Chaired by Cr Gretchen Robertson and Cr David Benson-Pope. The workshop was well supported by councillors and staff. It was great to see this sort of collaboration on such an important part of our region. Once participants were connected, the electronic feedback process seemed to work well. Many thanks to Gretchen for her co-Chairing and leadership role.
- In early May 2022, I attended Zoom meetings for the Regional Sector Group, and Zone 5/6. RSG – presentation from Minister Mahuta re 3 waters; Zone 5/6 – LGNZ and South Island Economic update.
- I visited Des Smith, co-Chair of the Te Rauone Beach Coast Care Committee. Des showed me the three rock groynes Port Otago had built in partnership with the local community who fund raised a significant amount of money to help pay for the groynes. Port Otago will also carry out the sand renourishment. The next part of the project is a partnership between the community and the DCC to develop a recreational space adjacent to the groynes for all to enjoy. Photo of Des is attached.
- Sarah Gardner and I received a letter from the North Otago FMU Rural Stakeholder group who are promoting an alternative for the next engagement process for the Land and Water Regional Plan, to try and achieve greater alignment, jointly develop solutions/provisions for the FMU, and in turn develop more robust planning and environmental outcomes. Letter attached.

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

ATTACHMENTS

1. Letter to Jane Taylor retiring Port Otago Limited Director [9.1.1 - 1 page]
2. Letter from the North Otago FMU Rural Stakeholder Group [9.1.2 - 4 pages]
3. Letter from Sarah Davie-Nitis, Waiholā to Wingatui Progress Update [9.1.3 - 2 pages]
4. Letter of Support for Upper Taieri Wai Inc, approach to MfE [9.1.4 - 1 page]
5. Photo of Des Smith, Co-Chair of the Te Rauone Beach Coast Care Committee [9.1.5 - 1 page]
6. Letter from Mayor Hawkins and Mayor Boulton re Public Transport Responsibilities [9.1.6 - 2 pages]



From the Office of the Chairperson

Our Ref: A1637538

11 May 2022

Jane Taylor
PO Box 662
Queenstown

Email: janetaylor@petra.co.nz

Dear Jane,

Retirement from the Board of Port Otago Limited

At the Council meeting on 10 May 2022, the Council in considering the appointment of a replacement Director, noted your retirement as Director of Port Otago Limited.

The Council formally recorded a resolution of thanks to you for service to the Board of Port Otago and wished this to be passed on to you. I would also like to add my personal thanks for the significant contribution you have made to the success of the Board.

We wish you all the best for a long and happy retirement.

Yours sincerely,

A handwritten signature in black ink that reads "Andrew Noone".

Andrew Noone
Chairperson

Cc: Paul Rea, Chairman, Port Otago Ltd
Kevin Winders, Chief Executive, Port Otago Limited
Sarah Gardner, Chief Executive, Otago Regional Council
Kevin Malcolm, Chair of Port Liaison, Otago Regional Council

For our future

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11 April 2022

Andrew Noone
Chair
Otago Regional Council
Private Bag 1954
Dunedin 9054

By way of email: andrew.noone@orc.govt.nz
CC: sarah.gardner@orc.govt.nz

Dear Andrew,

Freshwater Management Unit engagement process

On Tuesday 15 March 2022, an online consultation meeting was convened by the Otago Regional Council (ORC) in relation to the engagement process for the development of the proposed Land and Water Regional Plan (LWRP).

At that meeting, stakeholders were advised that they should participate in an online survey to provide feedback on the values which people consider important for their local waterways and that this information would feed into draft LWRP provisions for their Freshwater Management Unit (FMU).

In response to this, a group of rural stakeholders in North Otago, representing a range of land uses and farm system types, including representatives across the geographic spread of the FMU, met in Oamaru on 5 April. Councillor Kevin Malcolm attended and provided some further information about the development process for the LWRP.

We consider there is a real opportunity for ORC's engagement for the development of the LWRP to be done in a more effective way through an alternative engagement process.

This alternative method would bring together a range of stakeholders and ORC representatives to jointly develop solutions for the FMU, which we consider will result in more robust planning and environmental outcomes through collaborative planning. More so than can be achieved through traditional consultation and then defending the draft through a hearing process.

We propose the alternative engagement process include the following:

1. ORC bring together a defined Stakeholder Group with representatives from across the community, including rūnaka, environmental NGOs, the rural sector, and others.
2. The Stakeholder Group collectively consider the values, objectives, limits, rules and actions appropriate for their respective FMU.
3. The Stakeholder Group meetings are facilitated by the ORC, or independently facilitated by a person appointed for that purpose.
4. The meetings are attended by appropriate ORC staff who are able to either translate directly the work of the Stakeholder Group into draft plan provisions, or provide guidance to those planning staff completing the drafting.
5. A feedback loop is instigated so that the Stakeholder Group is able to provide input on draft plan provisions as they are developed.
6. The Stakeholder Group sessions are attended by an elected Council representative or senior leader to ensure alignment with the overarching planning approach adopted by the Council, including the requirements of the National Policy Statement for Freshwater Management and other high order planning instruments. Any discussions and agreements around limits must address such alignment prior to reaching the draft planning stage. In this respect, the skills of the facilitator or council representative attending these meetings is key.

As a group of rural stakeholders, we are committed to engaging effectively in such a process, through a giving and gaining approach with other stakeholders

We appreciate that time is of the essence as the Council's planning timeline is already in train.

However, we strongly believe that the importance of this work is such that community representatives in our FMU will participate in a process as outlined above. By adopting the proposed process the completion of an acceptable LWRP will be expedited, any hearing process time if required may be minimised and there will be greater acceptance and ownership

of the resulting plan.

Therefore we urge the Council to consider implementing such a process in the North Otago FMU (if not in all FMUs across the region) as soon as possible.

We would be happy to discuss this proposal with you in person in Dunedin or Oamaru, or at some other location that is convenient to you.

We look forward to hearing from you in the near future.

Yours sincerely,

North Otago FMU rural stakeholder group:

Lyndon Strang - Kakanui Water Allocation Committee
James McNally - Kakanui Water Allocation Committee
Katie Barns - East Otago Catchment Group
Jackie Dalziel - Director Lower Waitaki Irrigation Co Ltd
Emily Anderson - Environmental Manager, Lower Waitaki Irrigation Co Ltd
Hannah Stalker – Sheep and beef farmer, Waianakarua/Moeraki
Fraser McKenzie - Waitaki Irrigators Collective Ltd
Elizabeth Soal – Independent consultant
Matt Ross - North Otago Irrigation Co Ltd
Andrew Rodwell - North Otago Irrigation Co Ltd
Jared Ross - Federated Farmers
Jo Hay – Sheep and Beef farmer Maheno/Moeraki
Kate Faulks - Dairy Support farmer, Lower Waitaki
Callum Kingan – Dairy farmer, Waiareka
Nicky Hand – North Otago Sustainable Land Management (NOSLaM)
Peter Mitchell – Arable/cropping farmer, Weston

2

From: Sarah Davie-Nitis sarah.nitis@gmail.com
Subject: RE: Letter of Support- ORC - Waihola to Wingatui
Shared Path
Date: 17/03/2022 at 11:35:41 PM

Attention Councillor Noone (Chairperson)

Hi Andrew
Hope you are well?

I just wanted to write you a quick note to update you on progress in relation to the Waihola to Wingatui Trail concept, following your letter of support late last year.

As you are aware, there are a number of local taieri representatives keen to investigate an off-road cycle/trail route across the taieri... a very different trail to the on-road version NZTA has recently undertaken to signpost.

Key progress points to date....

1. A Taieri Trails Group has formed - Colin Brown is the Chair, I've cc'd him in this email by way of introduction
2. The Taieri Trails Group, with support of the Dunedin Tracks Network Trust, has applied to the Lotteries Commission for funds to undertake a feasibility study.
3. The study will investigate options for constructing a shared-use trail that link Wingatui, Mosgiel, Outram, Allanton, Berwick, Henley and Waihola. In addition to connecting these communities, the trail could link the Dunedin Tunnels Trail at Wingatui with the Clutha Gold Trail at Waihola, opening an opportunity to travel on to the trails of Central Otago via Waihola, Milton and Lawrence. The potential to link key trails from both the north and south to the Dunedin International Airport will also be considered.
4. Reasoning behind undertaking the feasibility study include:
 - There is no existing, safe, off-road trail across the Taieri for

residents, commuters or visitors

- This problem is exacerbated by the near completion of the Clutha Gold Trail at Waihola where trail users have no way of completing their journey in to Dunedin other than using shared traffic routes.

- Further, the approval of the development of the Dunedin Tunnels Trail will land cyclists in Wingatui, again, with no safe off-road option to continue their journey into Mosgiel or beyond. There are also no public transport routes linking these communities.

5. We gratefully accepted your letter of support and added it, along with others, to the application for funding.

In summary, thank you very much for your letter of support - we've put it to good use, and we'll be back in touch when we hear the outcome of the application :)

Warm regards

Sarah

Sarah Davie-Nitis

Trustee, Dunedin Tracks Network Trust

Ph [0275 433 903](tel:0275433903)

----- Forwarded message -----

From: **Rachel Elder** <rachel4council@gmail.com>

Date: Thu, Dec 2, 2021 at 2:34 PM

Subject: Letter from Andrew Noone and ORC

To: Craig Bates <craig.bates@pggwrightson.co.nz>, Sarah Davie-

Nitis <Sarah.nitis@gmail.com>, Lindsay Dey

<Lindsay.Dey@impactconsulting.co.nz>, Rhys Millar



11th April 2022

Upper Taieri Wai Inc.

C/- Emma Crutchley

Project Executive - Tiaki Maniototo

Dear Emma

The Otago Regional Council wishes to support Upper Taieri Wai Incorporated approach to the Minister for the Environment, David Parker to help clarify the wetland delineation approach.

We are mindful of the need to have regard to the Wetland Delineation Protocols, we are also mindful of the need to aim for the best possible outcomes in relation to hydrology, ecology and water quality, whilst developing an enduring partnership between all stakeholders.

The ORC believes in using a collaborative approach for finding the best environmental outcomes. The limitation of the 'one size fits all' approach in this unique natural feature, make a look at an alternative pragmatic site-specific approach worth consideration.

We remain committed to working with Upper Taieri Wai Incorporated to ensure a positive outcome for the environment, the community and for future generations.

Kind regards

A handwritten signature in black ink that reads "Andrew Noone".

Cr Andrew Noone

Chairperson

For our future

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13 May 2022

Andrew Noone
Otago Regional Council
70 Stafford Street
Private Bag 1954
Dunedin 9054

Dear Andrew

Transfer of public transport responsibilities

In the last few years the Otago Regional Council has delivered important service improvements for public transport our region, including the introduction of the Bee Card and flat fares in Queenstown and Dunedin.

In Queenstown these changes led to a significant lift in patronage, though this has more recently been impacted by COVID, while in Dunedin the changes have resulted in stable patronage through the Covid pandemic (a contrast with experience elsewhere in New Zealand).

We believe this has highlighted the latent demand for public transport in our two districts.

The Shaping Future Dunedin Transport and Wakatipu Way To Go programmes rely on significant mode shift, making the need for public transport to be fully integrated with the wider transport network increasingly urgent.

The ORC is a partner in these programmes with projects for service improvements and has performed well given the competing priorities it faces.

We think it is timely, as we see both fuel prices and temperatures rising, to consider if there are different models of governance and/or ownership that would deliver better outcomes for our communities.

In areas of significant urban growth (both Queenstown and Wanaka) the need to proactively design and deliver public transport services, ahead of planned development, is crucial to reduce car-based dependency for these new communities.

Similarly, there is a need for rapid actions that significantly reduce transport emissions, with public transport playing a key role in realising the degree of mode shift that is required. As such, we need to have greater integration between management of the road network and public transport now.

50 The Octagon | PO Box 5045 | Dunedin 9054, New Zealand | T 03 477 4000 | E dcc@dcc.govt.nz | www.dunedin.govt.nz

DunedinCityCouncil @DnCityCouncil

We do not believe that the current arrangement of split transport responsibilities can deliver the scale or speed of change that is needed. The time is right to consider how full integration would be best achieved.

While there have been previous unsuccessful conversations about the transfer of responsibilities, some of the barriers that prevented this previously are no longer a concern. The legal position on transfer was clarified by the 2019 amendments to the Land Transport Management Act, and there is now improved data about patronage and fare revenue to enable due diligence on the potential liability to be assessed.

We do not have a predetermined outcome about what a fully integrated solution might look like except that it needs to be different than what currently operates in both the Dunedin City Council and Queenstown Lakes District Council areas.

On that basis, we would like to meet as soon as possible to discuss alternative models for delivery of public transport in our respective areas.

Yours sincerely



Aaron Hawkins
MAYOR
Dunedin City Council



Jim Boulton ONZM
MAYOR
Queenstown Lakes District Council

10.10. Notice of Motion - Revoking Decision for Poll on STV/FPP

Prepared for: Council
Report No. Notice of Motion
Activity: Governance
Author: Dianne Railton, Governance Support Officer
Endorsed by: Amanda Vercoe, General Manager Governance, Culture and Customer
Date: 25 May 2022

EXECUTIVE SUMMARY

[1] In accordance with Standing Orders Section 24.3, the following valid Notice of Motion has been received from Cr Kate Wilson for inclusion on the agenda for the meeting being held on Wednesday 25 May 2022.

RECOMMENDATION

That the Council:

- 1) **Considers** the Notice of Motion.

ATTACHMENTS

1. Notice of Motion – Cr Wilson 2022.05.18

Motion:

That Council notes that on 26 August 2020, the Council resolved, among other things that it:

- "2. **Agrees** to retain FPP [First Past the Post] for the 2022 election.*
- 3. **Agrees** to signal an intention to hold a poll with the 2022 election to consider the voting method for the 2025 election, noting there will be an additional expense to conduct this poll.*
- 4. **Notes** a public notice will be made prior to 19 September 2020 advising of the right of electors to demand a poll on the electoral system for the 2022 and 2025 elections"*

That given the Future for Local Government review that is being undertaken at present it seems likely that a voting system will be directed in any new legislation and as such the purpose of the poll in the 2nd part of original motion is now moot, and does not justify the expense.

That therefore Council revokes its decision to hold a poll as part of the 2022 elections.



Cr Kate Wilson
18 May 2022



Cr Hilary Calvert



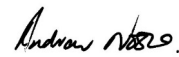
Cr Kevin Malcolm



Cr Gary Kelliher



Cr Carmen Hope



Cr Andrew Noone

Motion:

That Council notes that on 26 August 2020, the Council resolved, among other things that it:

- "2. **Agrees** to retain FPP [First Past the Post] for the 2022 election.*
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That therefore Council revokes its decision to hold a poll as part of the 2022 elections.



Cr Kate Wilson
18 May 2022



Cr Hilary Calvert



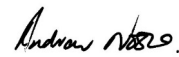
Cr Kevin Malcolm



Cr Gary Kelliher



Cr Carmen Hope



Cr Andrew Noone

11.1. Recommendations of the Strategy and Planning Committee

Resolution

That the Council adopts the resolutions of the 13 April 2022 Strategy and Planning Committee.

Report	Resolution	Resolution #	Mover/Seconder
Update on the South Dunedin Future Programme	<ol style="list-style-type: none"> 1. Notes the South Dunedin Future – Interim Update report. 2. Notes that Councillors will have an opportunity to discuss development of the South Dunedin Future programme plan during a workshop in May 2022. 3. Notes that a further update report, and draft South Dunedin Future programme plan, will be submitted to Councils for consideration and approval in June 2022. 	SP22-103	Cr Noone / Cr Hope
Otago Active Faults: Planning Options	<ol style="list-style-type: none"> 1. Notes this report. 2. Endorses the tiered approach to fault zone management in Otago – with Fault Avoidance Zones (FAZ) and Fault Awareness Areas (FAA) – as described in this report. 3. Notes the collaborative work being undertaken with the Otago territorial authorities. 4. Directs that a report be provided to the relevant Council Committee by January 2023 on a recommended option and implementation plan, developed in collaboration with Territorial Authorities, for incorporating the tiered approach into planning frameworks across Otago. 	SP22-104	Cr Wilson / Cr Hope

Shaping Future Dunedin Transport Fares and Frequency Business Case	1. Notes this report.	SP22-105	Cr Hope / Cr Forbes
Shaping Future Dunedin Transport Fares and Frequency Business Case	1. Approves the scope of the Shaping Future Dunedin Transport Fares and Frequency Single Stage Business Case as described in the appended Shaping Future Dunedin Transport Fares and Frequency Single Stage Business Case Scoping Report.	SP22-106	Cr Forbes / Cr Hope
Shaping Future Dunedin Transport Fares and Frequency Business Case	1. Notes that the business case will not consider a real time service as such a system became operative in April 2021 in Dunedin and Queenstown.	SP22-107	Cr Hope / Cr Noone
Shaping Future Dunedin Transport Fares and Frequency Business Case	1. Requests that Cr Forbes, Cr Noone and Cr Deaker present the report to the members of Connecting Dunedin at the earliest opportunity and to discuss it at the next meeting.	SP22-108	Cr Wilson / Cr Calvert
Manuherekia Interim Work Programme	<ol style="list-style-type: none"> 1. Notes this report. 2. Approves that a more detailed strategic and work programme will be developed with mana whenua, stakeholders and the community as a part of catchment action planning for the Manuherekia, either through the ORC Integrated Catchment Management (ICM) process and with connection to the Ministry for the Environment's Manuherekia Exemplar Catchment Programme. 3. Approves the interim work programme which outlines which actions can be 	SP22-109	Cr Wilson / Cr Noone

	<p>delivered through business-as-usual work.</p> <p>4. Notes that further discussion with the community and stakeholders in the Manuherekia rohe will occur to inform a specific action plan for potential riparian/critical source area works, and provision for access.</p> <p>5. Nominate Cr Malcolm (Cr Laws alternate) as representative for the Ministry for the Environment’s Manuherekia Exemplar Catchment Programme Governance Group.</p>		
<p>Summary of key points from Environment Court Decision No. [2022] NZEnvC 25 and implications for identifying wetlands under the NPSFM 2020</p>	<p>1. Notes this report.</p>	<p>SP22-110</p>	<p>Cr Calvert / Cr Malcolm</p>
<p>Proposed ORC submission to MPI consultation on changes to the NZ ETS for managing exotic forestry incentives</p>	<p>1. Notes this report.</p> <p>2. Notes that staff will be lodging a submission on the Ministry for Primary Industries consultation document: “Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme.</p> <p>3. Notes that a copy of the submission will report back to a full Council meeting in May 2022</p>	<p>SP22-111</p>	<p>Cr Malcolm / Cr Calvert</p>

11.2. Recommendations of the Implementation Committee

Resolution

That the Council adopts the resolutions of the 14 April 2022 Implementation Committee.

Report	Resolution	Res#	Mover/ Seconder
Central Government Co-investment in Flood Protection Schemes	<ol style="list-style-type: none"> 1. Notes this report. 2. Notes the regional council sector work seeking to obtain ongoing central government co-investment in flood protection and river management schemes. 	IMP22-106	Cr Calvert / Cr Robertson
Lake Tuakitoto and Tomahawk Lagoon Restoration/Enhancement Management Plans	<ol style="list-style-type: none"> 1. Notes this report. 2. Approves the initial management plan and ongoing development of management plans for Tomahawk Lagoon and Lake Tuakitoto catchments with their communities. 3. Approves commencement of project implementation. 4. Notes that project implementation will proceed this financial year, slightly accelerated for Tomahawk Lagoon, and as planned for Lake Tuakitoto. 5. Notes implementation in future years is dependent on Annual Plan decisions of Council and will be guided by the ecological assessments and priorities that arise through these. 	IMP22-107	Cr Calvert / Cr Wilson

11.3. Recommendations of the Otago and Southland Regional Transport Committees

Resolution

That the Council adopts the resolutions of the 8 April 2022 Otago and Southland Transport Committees.

Report	Resolution	Res#	Mover/ Seconder
Regional Land Transport Plan 2021-2024 – Project Status Report	1. Note the report and provide direction on any actions they require, based on the information provided.		Cr Forbes / Cr Wilson
South Island Freight Summit	1. Note the report and provide direction on any actions they require, based on the information provided. 2. Directs staff to report back to the next meeting on options broadly encompassing our own data sets including freight, journeys including ports, rail and airports, and understanding how these fit in to the South Island and New Zealand now and into the future.		Cr Forbes / Cr O’Malley
Waka Kotahi NZ Transport Agency Update	1. Note the report and provided feedback to the Waka Kotahi NZ Transport Agency on the topics included in the presentation.		Cr Baird / Cr O’Malley
Proposed Setting of Speed Limits Rule Change Update	1. Note the report.		Cr O’Malley / Cr Smith
Road User Charges Consultation Report	1. Note the report; 2. Confirm the RTC will make a submission; 3. Confirm the TAG team will be used to make a submission which will be approved and signed by both RTC Chairs.		

Extraordinary Business: Report back on emissions reduction plan	1. Request staff to report back on the emissions reduction plan giving consideration to the concerns of the Committees around the pace of action towards transformation of the transport systems.		Cr Forbes / Cr O'Malley
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That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>Minutes of the public excluded Council Meeting 23 March 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a); To maintain legal professional privilege – Section 7(2)(g); To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h); To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>Minutes of the Extraordinary public excluded Council Meeting 30 March 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.1 Professor Skelton to discuss matters arising out of meetings with senior ORC staff following the discussions with Council</i>	To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied – Section 7(2)(c)(i)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely

		to result in the disclosure of information for which good reason for withholding would exist.
<i>3.2 Delegations Manual – s.17 Court Proceedings</i>	To maintain legal professional privilege – Section 7(2)(g).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.2 Unit 3 Public Transport Tender Evaluation</i>	To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h); To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.3 Lake Wakatipu Ferry</i>	To protect information where the making available of the information— would disclose a trade secret – Section 7(2)(b)(i); To protect information where the making available of the information— would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information – Section 7(2)(b)(ii); To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good

	activities – Section 7(2)(h).	reason for withholding would exist.
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This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.