

Our Reference: A1708985

File: RM22.434

12 October 2022

Cold Gold Clutha Limited
C/o Darryl Sycamore
Terramark
326 Moray Place
Dunedin Central, 9016

Via email to: darryl@terramark.co.nz

Dear Darryl

Request for further information under section 92(1) of the Resource Management Act 1991 (the Act) – Consent Application Number RM22.434

Thank you for your application to take and use surface water (non-consumptive), disturb the bed and discharge contaminants (sediment) to water in the Clutha River / Mata-Au between downstream of the Luggate Bridge and the confluence with Lake Dunstan (with two exclusion areas for the purpose of operating a suction dredge and construction of two slipways).

An initial assessment of your application has been made by myself, Ms Annabelle Coates (Babbage Consultants Limited) and Mr Colin Macdiarmid (GeoSolve Limited) in relation to planning, aquatic ecology and river engineering, respectively. Please see Ms Coates and Mr Macdiarmid's audit documents attached for your information.

To be able to make a full assessment of the application, I request the following information under section 92(1) of the Resource Management Act (the Act).

I am intending to complete a site visit with Mr Peter Hall, Ms Kirstyn Royce (on behalf of CODC) and Ms Jenna Sinclair (ORC) on 13 October 2022, and there is potential for more questions to arise during the site visit.

Proposed activity

1. Pages 5 and 6 of the application describe the location of the proposed suction dredging. It states that the mining will be limited to the exclusive area as specified on mining permits 60515, 60593 and 60299 "*or any subsequent consolidation or alteration to these permits*", with two exclusions.

With respect to the statement "*or any subsequent consolidation or alteration to these permits*", please advise whether the applicant intends that the extent of suction dredging in the Clutha River / Mata-Au may be greater than that shown in Figure 1 of the application, or just that the numbers of the permits may change.

2. Page 14 of the application states that resource consent is sought for abstraction at a maximum rate of 400 L/s for an average of 12 hours per day. Page 5 states that surface water will be taken at a maximum rate of 400 L/s with a daily maximum take of 18,720 m³ based on a 13-hour working day. Please confirm the maximum annual volume sought.
3. Page 19 describes that there are two water intakes – one for the intake to the pump and one for the nozzle. Please confirm whether these two intakes have a combined abstraction rate of 400 L/s. If not, please explain.
4. Please advise how long the works within the bed of the Clutha River / Mata-Au to construct the slipway, remove the dredge and re-instate the slipway at Rongahere Road are anticipated to take.
5. With respect to the Queensberry slipway:
 - a. Please provide the NZTM 2000 co-ordinates, property parcel and land ownership details of the proposed Queensberry slipway location.
 - b. To provide a more comprehensive understanding of the site of the slipway, please provide photographs of the site, in particular the area directly adjacent to and within the bed of the Clutha River.
 - c. Please advise how long the works within the bed of the Clutha River / Mata-Au to construct the slipway at Queensberry are anticipated to take.
 - d. It is understood that the proposed slipway at Queensberry is intended to remain in place for the duration of the consent, such that it can be used to remove the dredge as required for maintenance. Please confirm whether that is correct.
 - e. Page 13 proposes a condition of a 100 m exclusion/setback from any bird nesting colonies. Please explain how this condition is proposed to work in practice, e.g., if the ecologist identifies that there is a nest in the location of or within 100 m of the proposed slipway will the slipway location be moved or will works wait until the nesting season is finished. If the slipway is to be moved, please provide details on other potential slip locations including co-ordinates, property parcel, land ownership, vegetation removal required, etc.
 - f. Will there be any deposition of material (e.g., riprap) required for the construction of the slipway?
6. Please describe whether any vegetation removal is required within the bed of the Clutha River / Mata-Au associated with the construction of the Rongahere Road and Queensberry slipways. If so, please advise the species vegetation that will be removed.

Rules assessment

7. Please provide an assessment against the relevant provisions of the National Environmental Standards for Freshwater (NES:F) to determine whether there are any applicable rules, in particular regulations 52, 53 and 54.
8. If any vegetation removal is required within the bed of the river, please provide an assessment against the relevant rules to determine whether resource consent is required (in particular, Rule 13.7.1.1 of the Regional Plan: Water).

Effects on water quality

9. Page 19 of the application describes that typically there will be no discolouration evident 50 m beyond the point of discharge, and any conspicuous discolouration will

be managed to ensure no visual plume occurs beyond 100 m. Page 20 then says that the majority of sediment will fall out of the water column within 25 m of the discharge point.

However, the application states that a reasonable mixing zone of 200 m is sought “as a precautionary approach should any unforeseen pulses of clays or finer sediments be released that do not drop out of the water column quickly to ensure the dredge does not fall into non-compliance”. The application describes this as an adaptive management model.

This does not appear to be an adaptive management approach, but instead a set limit of 200 m. An adaptive management approach would need to involve a ‘monitor’, ‘trigger’, ‘action’, ‘cease’ approach to ensure that the conditions don’t allow for a conspicuous discharge to 200 m at all times, given that

At this point, both E3 Scientific and Ms Coates have indicated that they support a zone of reasonable mixing of 100 m.

Ms Coates review describes that if a zone of reasonable mixing of 200 m is sought, there would need to be evidence that sediment plumes beyond 100 m were insignificant enough so as to not alter fish and invertebrate behaviour.

If the applicant is still seeking a zone of reasonable mixing of 200 m, please

- a. provide an assessment of the effects of the proposal on aquatic ecology, and
- b. provide an explanation on the adaptive management approach proposed, including potentially a set of adaptive management conditions for consideration.

Effects on recreation, natural character and amenity

10. Page 23 promotes a condition that no works shall take place within 150 m of designated camping or recreation areas between 24 December and 3 January or the Easter weekend.
 - a. Please advise the locations of these designated camping and recreation areas within the extent of the proposed dredging activities.
 - b. Please advise whether other dates or public holidays should be included in this exclusion period to mitigate effects on recreation and amenity. For example, the weekends associated with Otago Anniversary Day, Waitangi Day or ANZAC Day when there may be more holiday makers.
11. Please provide an assessment of the effects of the proposed slipways at Beaumont and Queensberry on natural character and amenity, in particular the Queensberry slipway in relation to its permanent nature.

Effects on ecology

12. Ms Coates has advised, with respect to fish entrainment, that if any At Risk or Threatened Fish are identified as having been entrained during suction dredging activities, the exclusion areas should be revisited, and potentially extended or new exclusion areas created. Please advise whether you are comfortable with this recommendation and would like it to form part of your proposal.

13. Ms Coates has recommended amendments to proposed conditions 23 (from application) and the additional condition recommended by E3 Scientific (page 44 of the E3 Scientific report), such that they say:

Condition 23:

*Should any sports fish redds be identified by the Otago Fish & Game Council in consultation with the consent holder within the 1,500 metre section of the Clutha River/ Mata-Au approved for mining **at any time between 1 May and 31 August**, the consent holder must then liaise with the Otago Fish & Game Council and determine an alternative **1,500-metre** section of the Clutha River/ Mata-Au as identified in Condition 22. **The length of the alternative section must not exceed 1500m, or 1500m less the length that has already been mined between 1 May and 31 August, whichever is smaller.** Once determined, the Consent Authority must be notified of the amended mining location within 5 working days.*

E3 Scientific consent recommendation:

*The dredge operator is to maintain a **photographic** record of any fish observed to be entrained by the suction dredge. If the species survives, **the fish should be photographed, and** the record should be entered into the NZFFD with species and location provided. If mortality is observed, **the fish should be photographed and photographs this shall be reported provided** to the consenting authority in a brief quarterly report with species and GPS location provided.*

Please advise whether you are comfortable with these changes and would like them to form part of your proposal.

Effects on erosion, scour and flooding

14. Mr Macdiarmid has recommended the following conditions of consent:

- The Applicant shall consult the Engineering section of the Otago Regional Council (ORC Engineering) prior to slipway work commencing, and all works including reinstatement shall be undertaken as directed by and to the satisfaction of ORC Engineering.
- Slipway reinstatement shall include suitable compaction and revegetation to match adjacent ground conditions, contour and cover.
- The applicant shall inspect and photograph the slipway sites annually and following significant flood events during their establishment and for two years after reinstatement, with brief reports and photographs to be submitted to the Consent Authority. Any damage shall be remediated promptly if necessary.
- Slipway gradients should be no steeper than 2.5V:1H.
- If erodible soils, such as silts, are encountered in the Queensberry slipway, temporary erosion protection should be provided to prevent erosion during flooding.

Please advise whether you are comfortable with these conditions forming part of your application.

Effects on cultural values

15. The Clutha River / Mata-Au at the location of the proposed suction dredging is identified in Schedule 1D of the RPW as having a wide range of values to Kāi Tahu

and is the subject of a statutory acknowledgement under the Ngāi Tahu Claims Settlement Act 1998.

The Clutha River / Mata-Au is within areas for which the rūnaka represented by both Aukaha and Te Ao Marama Inc.

Please provide an assessment of cultural effects of the proposal, whether that be a Cultural Impact Assessment, Cultural Values Assessment or other documentation as determined appropriate by Aukaha, Te Ao Marama Incorporated and Te Rūnanga o Ngāi Tahu.

Proposed conditions

16. The E3 Scientific report puts forward some additional conditions (pages 40 – 44). Please confirm whether all conditions presented in the E3 Scientific report form part of the application.
17. Proposed conditions 19 – 23 relating to the submission of an Annual Work Programme require preparation of the document in consultation with Otago Fish and Game and the Alexandra office for the Department of Conservation, as well as further consultation with Otago Fish and Game with respect to dredging during sports fishing season and identification of sports fish redds.

Consent conditions cannot confer responsibilities to any person except the consent holder, so consent conditions which include requirements of other persons can be risky if the other parties are not fully on board.

Please advise whether these conditions have been discussed with Otago Fish and Game and the Alexandra office for the Department of Conservation and advise whether they are comfortable with the proposed conditions.

18. Proposed condition 6 states “*No beaches above the normal upper flow level must be disturbed or mined. For the purpose of this consent the level is defined as 400 cubic metres per second*”.
 - a. Please explain why this condition has been proposed and what effects it is to mitigate (e.g., erosion / scour or ecology effects).
 - b. Please explain why an ‘upper’ flow level is appropriate rather than a ‘lower’ flow level, why 400 m³/sec flow level is proposed and where this flow measurement is to be measured.

Your application will be placed on hold under section 88C of the Act until the requested information has been received. Unless I hear otherwise from you, I will continue to do some minor work on your application so that we can progress it once the application comes ‘off hold’.

In accordance with section 92A of the Act, please respond within 15 working days from the date of this letter (**3 November 2022**) with one of the following:

1. The information requested above; or
2. Written advice that you agree to provide the information, and the date by which you intend to provide it; or
3. Written advice that you refuse to provide the requested information.

If the information you provide raises more questions, your application will remain on hold until sufficient information has been provided to enable processing to continue.

Once the processing of the application restarts, Council will proceed to public notification as requested. This is to be a joint hearing with the Otago Regional Council as lead agency. To this end, it is appropriate that the time frames for both Councils remain aligned and time extensions, pursuant to section 37A of the RMA, will need to be applied where necessary.

If you have any further queries, please contact me on (03) 466 3219 or at josie.burrows@beca.com.

Information on the current processing costs for your application is included in the email relating to this letter.

Yours sincerely,



Josie Burrows
Consultant Planner



Jenna Sinclair
Senior Consents Officer