

Our Reference: A1809914

File: RM22.434

13/07/2023

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

Via email to: [darryl@terramark.co.nz](mailto: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 response (herein referred to as the s92 response) dated 19 April 2023 to the section 92(1) request for further information issued on 12 October 2022. Following review of the response and review of submissions received on the application, several further questions have arisen.

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).

**Conditions / mitigation measures and monitoring proposed as part of the application**

The application includes a suite of draft consent conditions (Appendix 1 of the application), generally reflective of those conditions on the existing resource consents RM20.087.01 - .03 for dredging between the Roxburgh Dam and Tuapeka Mouth. The Ecology Assessment dated July 2022 prepared by e3scientific also proposes some additional conditions. The s92 response goes on to remove and propose additional conditions, including:

- The s92 response stated that e3scientific Ecology Report conditions 1, 7, 10, 11, 12, 13, 14, 15, 16 and the un-numbered condition at the top of page 44 also formed part of the application (while other conditions recommended by e3scientific did not form part of the application).
- The s92 response advises that the Annual Work Programme conditions and only operating in two 1,500m sections of riverbed between 1 September and 31 January and a single 1,500m section of riverbed during sports fishing season has been removed.
- A condition requiring that the slipway will not be constructed within 100m of any nesting bird colonies was removed referencing Ms Coates assessment saying that it was not necessary, however Ms Coates assessment was referring to avoidance of birds associated with suction dredging activities rather than the construction of the slipway.
- The s92 response proposed zone of reasonable mixing conditions in response to question 13 however also proposes the method proposed in the e3scientific memo dated 19 April 2023 in response to question 16.

It is unclear which conditions form part of the application and as such the level of effect on several matters is unable to be determined. It is also unclear whether the proposal now aligns with the conclusions of the e3scientific Ecology Report which are that effects on freshwater ecology are less than minor.

1. Please provide a full list of the proposed conditions of consent.
2. Please provide evidence from e3scientific as to whether their Ecology Report dated July 2022, including conclusion that adverse effects will be less than minor, still stands based on the proposed conditions.

*Note 1: The Fish and Game submission advises that it is not appropriate for them to provide information such as spawning and redd locations to a commercial operation as the resource burden would be too great and request modification of proposed conditions 20 – 23. Fish and Game have proposed additional conditions which should be considered by the applicant.*

*Note 2: Aurora Energy Limited have proposed an additional condition which should be considered by the applicant.*

### **Hazardous substances**

Section 12.B of the Regional Plan: Water for Otago (RPW) presents rules relating to 'discharge of hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams'. There are no permitted activity rules for the discharge of contaminants such as (but not limited to) oil, bilge water or diesel.

3. Please advise whether there are any contaminants including hazardous substances or hazardous wastes that are discharged during the operation of the dredge.
4. When working with hazardous substances and hazardous wastes such as bilge water there is a risk of spills or discharges. Please advise how spills or discharges from motors, bilge water management and refuelling are avoided.

### **Anchoring**

It is understood that the dredge anchors itself in the river for normal operations, with anchors dropped into the wet bed and anchor warps crossed over for stability. Side lines are used on occasion when moored against a riverbank during a flood event or for maintenance (highlighted with marking tape and/or marker buoys). Additional stern anchors are used where necessary for additional stability.

5. For clarity of understanding, please provide diagrams, and photographs if available, showing the different anchoring methods.

*Note: The ORC Navigational Bylaw also has requirements around anchoring and requirement for vessels to be adequately secured.*

### **Lagarosiphon major**

Section 6.4.1 of the e3scientific Ecology Report describes that "no disturbance of *Lagarosiphon* beds is to occur during the dredging operation, as *Lagarosiphon* can easily establish from broken fragments". The e3scientific Ecology Report considers that by

inspecting and cleaning equipment prior to and after entering the site to avoid the introduction and spread of organisms, and that with this mitigation the residual impact is 'low'.

6. Please advise the methodology as to how *Lagarosiphon* will be identified, and who will identify *Lagarosiphon*, prior to dredging to avoid dredging within *Lagarosiphon* beds.

*Note: There is potential that Lagarosiphon beds that are apparent at low flows in summer may at times of higher flows (e.g. winter) be submerged under 1-1.5m and not easily seen.*

### **Zone of reasonable mixing**

The e3scientific memo dated 19 April 2023 states that '*All of the aforementioned suspended sediment levels are significantly higher than 1.62 (NTU) found 5 m below the dredge outfall. Therefore, e3scientific do not foresee an effect of suspended sediment on aquatic ecology other than some avoidance behaviour*'.

It is not clear what the level of effect of avoidance behaviour is, with respect to the EIANZ guidelines criteria for assigning a magnitude and level of effect.

7. Please confirm the level of effect on aquatic ecology values, as per the EIANZ guideline criteria, associated with a 200 m zone of reasonable mixing, and justify why this is an appropriate zone of reasonable mixing distance.

*Note: The recommendation in submission by Fish and Game that the zone of reasonable mixing be 100 m.*

### **Cultural effects**

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.

A Cultural Impact Assessment (CIA) prepared by Aukaha (dated 22 March 2023) formed part of the s92 response, however it identifies that there is insufficient information to assess effects on values, including inadequate information to explain how impacts on wāhi tupuna and ara tawhito values will be mitigated, they are unable to assess whether the activity provides for the mauri of the Clutha River / Mata-Au and gives effect to Te Mana o Te Wai, there is insufficient information to determine effects on instream benthic environments and therefore on taoka species and their survival, that Māori archaeology values are not addressed and the adoption of an accidental discovery protocol may not be sufficient to identify and protect sites.

This is further outlined in the submission made by Aukaha which describes that Kāi Tahu are unable to assess whether the proposed dredging provides for the mauri of the Clutha River / Mata-Au and gives effect to Te Mana o te Wai, and inadequate information has been provided to enable mana whenua to assess whether the effects on wāhi tupuna and ara tawhito, ecology and biodiversity, and archaeology.

8. Please advise whether the applicant intends to engage with mana whenua to address the information gaps required for Aukaha to determine the potential level of effect on the aforementioned values.

*Note: This is a critical matter to the over-arching proposal and the ability to assess against the provisions of the National Policy Statement for Freshwater Management, Regional Policy Statements and the RPW.*

9. The CIA considers disturbance of the bed should be avoided in the vicinity of all tributaries and not just those wider than 1m. The e3scientific memo dated 19 April 2023 considers that it would be best to map and confirm the agreed tributary exclusion zones during the consenting process. Please provide a map showing the proposed tributary exclusion zones.

As this request for further information is not the first and has been made following the consent authority's public notification the application, the application has not been placed on hold in accordance with section 88C of the Act.

Unless I hear otherwise from you, I will continue to do some minor work on the assessment of 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 (**4 July 2023**) 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.

The Act requires Council to publicly notify your application if the requested information is not provided before the due date (or an agreed alternative date), or if you refuse to provide the information. In this instance, the application has already been publicly notified at your request. It is, however, highlighted that the information requested is required to determine the level of effect of the proposal and for an informed recommendation report to be prepared for the decision makers.

If you have any further queries, please contact me on (03) 474 0827 or 0800 474 082.

Yours sincerely,



Josie Burrows  
**Consultant Planner**



Rebecca Jackson  
**Acting Team Leader Consents**