



Otago Regional Council

Section 42A Staff Recommending Report

Application RM22.434
Cold Gold Clutha Limited

The recommendation in the staff report represents the opinion of the writers and it is not binding on the Hearing Commissioners. The report is evidence and will be considered along with any other evidence that the Hearing Commissioners will hear.

Josie Burrows
Consultant Planner on behalf of ORC

14 September 2023

Executive Summary

Cold Gold Clutha Limited (the Applicant) has applied for resource consent for various consents (land use consent, water permit and discharge permit) associated with suction dredging activities in the Clutha River / Mata-Au between downstream of the Luggate Bridge and the confluence with Lake Dunstan (with two exclusion areas); and land use consent for the construction of two slipways. A consent duration through until 25 February 2031 (just over seven years) has been sought for all consents.

The overall activity status of the application is **discretionary**.

The application was publicly notified at the Applicant's request on 25 May 2023. In total, 41 submissions were received (2 in support, 3 neutral and 36 in opposition).

After assessing the actual and potential effects of the applications, considering submissions, and considering all of the matters in section 104 of the Resource Management Act 1991 ('the Act'), the recommendation of the consent officer is to **refuse** the application.

In summary, there is inadequate information to assess the effects of the suction dredging proposal on cultural values. The Applicant commissioned a Cultural Impact Assessment to be prepared by Aukaha. In the Cultural Impact Assessment and their submission on the application, Aukaha advised that inadequate information had been provided to mana whenua to assess whether the proposal provides for cultural values including whether the activity provides for the mauri of the water or Te Mana o te Wai, protects wāhi tūpuna and ara tawhito, ecology and biodiversity and archaeology. As such, the effects of the proposal on cultural values are unclear.

This has led on to an inability to assess whether the proposal is consistent with the provisions of several relevant statutory documents, including the National Policy Statement for Freshwater Management, the partially operative Regional Policy Statement, proposed Regional Policy Statement (non-freshwater and freshwater instrument components) and the Regional Plan: Water for Otago. There is also inadequate information to assess whether the proposal is consistent with 'other matters' including the Kāi Tahu ki Otago Natural Resource Management Plan and Ngāi Tahu Freshwater Policy Statement.

Additionally, with respect to Part 2 of the Act, there is inadequate information to assess whether the proposal meets the purpose of the Act (sustainable management of natural and physical resources) or provides for the relationship of Māori and their cultural and traditions with their ancestral lands, water, wāhi tapu and other taonga or the protection of historic heritage (Māori) from inappropriate use and development.

This assessment and recommendation is based on the information presented by the Applicant to date, and there are matters that require addressing by the Applicant before I would be satisfied that the potential adverse effects on cultural values are sufficiently understood and any potential effects on those values are addressed.

I recommend that the Applicant provide further information (as identified in bold throughout this report) prior to the hearing, in particular with respect to effects of the proposed activity on cultural values. Some other matters also require clarification including how the Applicant proposes to measure and monitor visual clarity downstream of the suction dredging activity and the methodology to identify and avoid *Lagarosiphon major* spreading prior to commencing suction dredging in a new location. However, subject to these matters being satisfactorily addressed by the Applicant I consider the water quality and aquatic ecology effects will be less than minor.

Whilst the recommendation is to refuse the application, a set of draft conditions which manage effects of the proposal on matters other than cultural values is provided in **Appendix A**.

It should be noted that the effects associated with the construction of the slipways (RM22.434.04) are considered able to be appropriately managed, however because they have been bundled in with the application for the suction dredging activity, a separate recommendation for that permit cannot be made.

This report refers frequently to the ORC Notification Recommendation Report dated 12 May 2023 (the s95 report) and should be read in conjunction with that report. The s95 report is provided in **Appendix B**.

Report Author

My name is Josie Burrows, and I am a Senior Planner at Beca Ltd. I have eight years' experience working in the resource management sector (planning and environmental science) at Beca Ltd and Greater Wellington Regional Council.

I hold the qualification of Bachelor of Science with Honours in Geography from the University of Otago. I am an Associate Member of the New Zealand Planning Institute.

I have been processing Consent Application RM22.434 on behalf of ORC since it was lodged on 19 September 2022.

I also processed Consent Application 21.266 (lodged 19 May 2021) for the same activity within a reduced extent of the Clutha River / Mata-Au through to approval of the notification recommendation report, prior to it being withdrawn by the Applicant and re-lodged as RM22.434.

I visited the suction dredge in its current location (south of the Beaumont Bridge) on 13 October 2022. The purpose of this site visit was to view the suction dredge which will undertake the proposed dredging and to understand how it works. During this site visit, I also viewed the site of the proposed temporary slipway at Rongahere Road, Beaumont from the river.

I have driven the extent of the proposed suction dredging area along State Highway (SH) 6 and SH 8A in December 2022, however, note that the Clutha River / Mata-Au is not visible at all points from the road.



Josie Burrows
Consultant Planner on behalf of ORC

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Abbreviations

Act	Resource Management Act 1991
AEE	Assessment of environmental effects
CIA	Cultural Impact Assessment
CODC	Central Otago District Council
ORC	Otago Regional Council
NES-F	National Environmental Standards for Freshwater
NES-HDW	National Environmental Standards for Human Drinking Water
NPS-FM	National Policy Statement for Freshwater Management
NPS-IB	National Policy Statement for Indigenous Biodiversity
Proposed RPS	Proposed Regional Policy Statement 2021
Partially operative RPS	Partially Operative Regional Policy Statement 2019
QLDC	Queenstown Lakes District Council
RPW	Regional Plan: Water for Otago

OTAGO REGIONAL COUNCIL SECTION 42A REPORT

ID Ref: A1829460
Application No(s): RM22.434.01, RM22.434.02, RM22.434.03, RM22.434.04
Prepared For: Hearings Panel
Prepared By: Josie Burrows, Consultant Planner
Date: 14 September 2023

Subject: Section 42A Recommending Report – Application RM22.434 by Cold Gold Clutha Limited for various consents (land use consent, water permit and discharge permit) associated with suction dredging activities in the Clutha River / Mata-Au between downstream of the Luggate Bridge and the confluence with Lake Dunstan (with two exclusion areas); and land use consent for the construction of a temporary slipway at Beaumont and permanent slipway at Queensberry.

1. Purpose

This report has been prepared under section 42A of the Resource Management Act 1991 (the Act) to assist in the hearing of the application for resource consents made by Cold Gold Clutha Limited.

Section 42A enables local authorities to require the preparation of a report on an application for resource consent and allows the consent authority to consider the report at any hearing. The purpose of the report is to assist the Hearing Panel in making a decision on the application.

This report assesses the application in accordance with sections 104 and 104B of the Resource Management Act 1991 and makes a recommendation as to whether the application should be granted.

This report contains the recommendations of the Consultant Planner and is not a decision on the application. The recommendations of the report are not binding on the Hearing Commissioners. The report is evidence and will be considered along with any other evidence that the Hearing Commissioners will hear.

This application is being heard in conjunction with applications to Central Otago District Council (CODC) and Queenstown Lakes District Council (QLDC). Ms Kirstyn Royce is the consultant processing planner for both the CODC and QLDC applications.

2. Summary of the Application

2.1 Overview

Applicant: Cold Gold Clutha Limited

Applicant's agent: Darryl Sycamore, Terramark Limited

Site address or location:

- Dredging activity – Clutha River / Mata-Au between downstream of the Luggate Bridge (upstream) and the confluence with Lake Dunstan (downstream), with two exclusion areas being:
 - From 100 m upstream of the confluence of Luggate Creek with the Clutha River / Mata-Au and for a distance of 350 m downstream, terminating at the downstream extent of the island within Devils Nook; and
 - The delta portion of the Clutha River / Mata-Au from the confluence with Lake Dunstan to the confluence with the Lindis River.
- Slipway 1 – Clutha River / Mata-Au at Beaumont
- Slipway 2 – Clutha River / Mata-Au at Queensberry

Legal description:

- Dredging activity – Section 1 SO 24921, Section 1 SO 23940, Section 1 SO 23976
- Slipway 1 – Crown Land Block I Crookston Survey District
- Slipway 2 – Part Section 1 SO 24921

Map reference(s) (NZTM 2000):

- Dredging activity – Clutha River / Mata-Au between NZTM 2000: E1305697 N5040203 (upstream) and NZTM 2000: E1307834 N5018386 (downstream), with two exclusion areas:
 - Between NZTM 2000: E1305436 N5038955 and NZTM 2000: E1305651 N5039249 (Devils Nook)
 - Between NZTM 2000: E1310744 N5024139 and NZTM 2000: E1307834 N5018386 (Delta upstream of Lake Dunstan)
- Slipway – NZTM 2000: E1329505 N4917655
- Slipway 2 – NZTM 2000: E1310061 N5035771

Consent(s) sought:

- RM22.434.01 – Land use consent to disturb the bed of the Clutha River / Mata-Au associated with suction dredging
- RM22.434.02 – Water permit to take and use surface water from the Clutha River / Mata-Au (non-consumptive) associated with suction dredging
- RM22.434.03 – Discharge permit to discharge contaminants (sediment) to surface water of the Clutha River / Mata-Au associated with suction dredging

- RM22.434.04 - Land use consent for the construction of a temporary slipway at Rongahere Road, Beaumont; and for the construction of a permanent slipway at Queensberry

Purpose: For the operation of a suction dredge and construction of two slipways for gold mining.

Information requested:

- 12 October 2022 – The first request for further information under section 92(1) (herein referred to as the ‘first s92 request’) was issued. This requested further information relating to details of the proposal; assessment against the relevant rules; effects on water quality; effects on recreation, natural character and amenity; effects on erosion, scour and flooding; effects on cultural values and details on the proposed conditions.
- 19 April 2023 – The Applicant submitted a response to the first s92 request, including a Cultural Impact Assessment (CIA) prepared by Aukaha (on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, dated 22 March 2023) and memorandum prepared by E3 Scientific (dated 19 April 2023) responding to the question raised around the zone of reasonable mixing and addressing concerns raised in the CIA.
- 13 July 2023 – The second request for further information under section 92(1) (herein referred to as the ‘second s92 request’). This requested further information relating to clarification of the mitigation measures / conditions proposed as part of the application and whether they result in ‘low’ residual effects on ecology, management of hazardous substances, clarification on anchoring methods, the management of *Lagarosiphon major* (Lagarosiphon), the zone of reasonable mixing and whether the Applicant intended to engage further with mana whenua with respect to effects on cultural values.
- 25 July 2023 – The Applicant submitted a response to the second s92 request, including letter from E3 Scientific dated 19 July 2023 to which the Applicant’s proposed conditions of consent were appended.

Notification decision:

The Applicant requested that the application be publicly notified. The record of the matters relating to notification was made on 16 May 2023 in the s95 report. The application was publicly notified on 25 May 2023.

Submissions:

41 submissions were received:

- In support: 2
- In opposition: 36
- Neutral: 3

Number of late and unofficial (not on the prescribed form): 12

Wishing to be heard: 13*

**A further 12 submissions ticked that they did not wish to be heard, but that they would consider presenting a joint case with others – whether they intend to be heard is being confirmed.*

Site visit:

I visited the suction dredge in its current location (south of the Beaumont Bridge) on 13 October 2022. The purpose of this site visit was to view the suction dredge which would undertake the proposed dredging and to understand how it works. During this site visit I also viewed the site of the proposed temporary slipway at Rongahere Road, Beaumont from the river.

I have driven the extent of the proposed suction dredging area along SH6 and SH8A in December 2022, however, note that the Clutha River / Mata-Au is not visible at all points from the road.

Key Issues:

It is my opinion that the issues that remain unresolved at this point are:

- The potential for adverse effects on cultural values. The Applicant commissioned a Cultural Impact Assessment, prepared by Aukaha. In the Cultural Impact Assessment and their submission on the application, Aukaha advised that inadequate information had been provided to mana whenua to assess whether the proposal provides for cultural values including whether the activity provides for the mauri of the water, gives effect to Te Mana o te Wai, protects wāhi tūpuna and ara tawhito, ecology and biodiversity and archaeology. As such, the effects of the proposal on cultural values are unclear.
- Whether the proposal is consistent with the provisions of the relevant legislative documents. Due to the effects of the proposal on cultural values being unclear, there has been inadequate information provided to assess whether the proposal is consistent with the provisions of the National Policy Statement for Freshwater Management, the partially operative Regional Policy Statement, the proposed Regional Policy Statement (non-freshwater and freshwater instrument components) and the Regional Plan: Water for Otago.
- Methodology for measuring and monitoring visual clarity downstream of the suction dredging activity.
- Methodology for the identification of *Lagarosiphon major* prior to commencing suction dredging in a new location, such that it can be avoided.

These matters, in particular those relating to effects on cultural values, require addressing by the Applicant before I would be satisfied that the potential adverse effects on cultural values are both well understood and any potential adverse effects on those values are addressed.

Specialist Advice:

I requested the application and responses to further information requests be audited with respect to effects on engineering and ecology.

The engineering audit was completed by Mr Colin Macdiarmid of GeoSolve Limited (dated 7 October 2022) and is provided in **Appendix C**.

The initial application documents were audited by Ms Annabelle Coates, previously of Babbage Consultants Limited (Babbage, dated 10 October 2022). Ms Coates has since left Babbage and therefore the audit of the remaining documents (response to first s92 request, E3 Scientific memorandum dated 19 April 2023, response to second s92 request, E3 Scientific letter dated 19

July 2023) was completed by Ms Treffery Barnett (dated 18 August 2023). These audits are provided in **Appendix D** of this report.

2.2 Description of Application

The proposed activities are described in section 3 of the s95 report. In the interest of efficiency and ensuring that this report is easier to read, that information is not repeated here.

I note that on 4 May 2023, the Applicant submitted a 'revised' application seeking that the downstream exclusion zone be reduced by approximately 7 km such that only the extent of the Clutha River / Mata-Au between the confluence of Bendigo Creek and Lake Dunstan be excluded. Due to the significant nature of this change, it was considered to constitute a new application. On 9 May 2023 the Applicant advised they wished to proceed with the application lodged on 19 September 2022, rather than submit a new application for assessment seeking the reduced exclusion zone. For clarity, this application is assessing the proposed suction dredging extent as described in 'site address or location' above.

The Applicant has made amendments to its proposed consent conditions since the s95 report was written. The most recent set of consent conditions proposed by the Applicant formed part of the response to second s92 request.

2.3 Application Documents

The Applicant has provided the following documentation with the application:

- Resource consent application and supporting information report signed by the Applicant and dated 14 May 2021 (lodged with ORC on 19 September 2022), including:
 - Freshwater Assessment prepared by E3 Scientific, dated July 2022
 - Cold Gold Clutha Limited Maritime Transport Operator Plan, version 7, dated June 2021
 - Noise testing report (between Etrick and Millers Flat), un-named expert, testing dated October 2013
 - Hydraulic and flow assessment of Rongahere Road slipway, Flood Sense Limited, site visit dated January 2021
- Further information response (to the first s92 request) dated 19 April 2023, including:
 - Cultural Impact Assessment: Cold Gold Clutha Suction Dredging on the Mata-au, Aukaha on behalf of Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga dated 22 March 2023
 - Ecology memo titled 'Response to Cultural Impact Assessment – Suction dredge gold mining in the Clutha River', E3 Scientific, dated 19 April 2023
- Further information response (to the second s92 request) dated 18 July 2023 (submitted on 25 July 2023), including:
 - Letter titled 'RE: Cold Gold Consent Conditions' including proposed conditions as Appendix 1, E3 Scientific, dated 19 July 2023.

2.4 Compliance with Existing Consents

The Applicant holds RM20.087.01, RM20.087.02 and RM20.087.03 which authorise suction dredging activities in the Clutha River / Mata-Au between Roxburgh and Tuapeka Mouth.

An assessment completed by the ORC Compliance Unit on 3 October 2022 on the Applicant's compliance with their existing consents is provided in section 3.1 of the s95 report. In summary, the Compliance Unit advised that the Applicant is compliant with their current consents.

3. Notification and Submissions

3.1 Notification Decision

The Applicant sought the public notification of the application. Council made the decision to process the application on a publicly notified basis under section 95A of the Act on 16 May 2023 (see ORC Notification Recommendation Report – RM22.434).

The application was publicly notified on 25 May 2023 and the submission period ran until 23 June 2023.

3.2 Submissions Received

A total of 41 submissions were received. 10 late submissions were received following the close of the submission period and 2 unofficial submissions (not on the prescribed form) were received during the submission period. All late and unofficial submissions have been accepted by ORC and the approval memorandum signed by the Acting Manager Consents on 31 August 2023 (Reference A1824668).

A detailed summary of the submissions received is attached to this report as **Appendix E**, and a high-level description of the submissions is provided in the following sections.

3.2.1 Submissions in Support

Two submissions were received in support of the application, being:

- Submission 29 (Phillip John Wilson) – Support for the proposal based on experience gold dredging in the Clutha River / Mata-Au and dredging to remove invasive weeds.
- Submission 34 (Stephen Jack) – Considers the presence of the dredge is not noticeable, that mining provides for wealth and employment and is an economically impactful and traditional activity. Also considers that the dams have the greatest impact on native species, followed by wastewater discharges.

3.2.2 Submissions in Opposition

36 submissions were received in opposition of the application. Generally, the submissions opposed the application for the following reasons:

- Effects on aquatic ecology through disturbance of habitat, river process and risk of the spread of Lagarosiphon. Concern the sampling undertaken by E3 Scientific was not representative.

- Effects on birds.
- Effects on cultural values.
- Effects on water quality from the discharge of sediment and use of the Detroit Diesel engines.
- Flow-on effect of increased sediment discharges on the delta area and associated flooding effects; and effects of dredging and the slipway construction on erosion.
- Visual and amenity effects, and consideration the dredging activity goes against the 'clean, green' experience of the river.
- Noise effects on nearby residential dwellings and properties, and other river users, including concern about the proposed hours of work.
- Adverse effects on a variety of recreational activities, including general disruption to the peaceful nature of the Clutha River / Mata-Au and concern that the dredge will present a hazard for other recreational users.
- Effects on air quality from the discharge of fumes from engines.
- Use of the river for commercial gain and that adverse effects are not considered to outweigh the benefits to the community.
- Lack of information to assess effects ("absence of evidence is not evidence of absence").
- Consideration that the historic use of the river for dredging and gold mining is no longer appropriate.
- Concern granting of consent will set a precedent for other operations.
- Concern with the operations on the dredge.
- Effects on the Bendigo Reach subdivision, noting this is south of the Lindis River and within the proposed exclusion zone.

3.2.3 Neutral Submissions

Three neutral submissions were received:

- Submission 3 – Aurora Energy Limited, relating to mitigation measures for suction dredging in proximity to their infrastructure.
- Submission 8 – Contact Energy, highlighting that Contact Energy run a native fish management programme and seeking confirmation that the proposal will not undermine the integrity and outcomes of this programme.
- Submission 41 – Land Information New Zealand (LINZ), providing their written approval for the proposal.

3.2.4 Written Approvals

LINZ provided their written approval for the proposal in their submission on the application, under section 95 of the Act.

3.2.5 Submitters wishing to be heard

13 submitters advised that they wished to be heard. 12 submitters ticked that they did not wish to be heard, but that they would present a joint case with others. The final number of submitters wishing to be heard will be confirmed by the Consents Support Coordinator prior to the hearing being held.

4. Description of the Environment

A detailed description of the site and the receiving environment is provided in section 3.2 of the s95 report. In the interest of efficiency and ensuring that this report is easier to read, that information is not repeated here.

5. Status of the Application

The following consents are required under the Regional Plan: Water for Otago (RPW).

Table 1: Resource consent triggers under the RPW

Rule	Purpose	Activity Status
13.5.3.1	Alteration of the bed of a river for the purpose of suction dredging	Discretionary
12.1.5.1	Take and use of surface water (non-consumptive)	Discretionary
12.C.3.2(i)	Discharge of contaminants (sediment-laden water) to surface water	Discretionary
13.5.3.1	Construction of two slipways in the bed of a river.	Discretionary

Overall, the application is considered to be a **discretionary** activity.

The Hearing Panel may grant or decline the application, and if granted may impose conditions of consent in accordance with Section 108 of the Act.

All other relevant permitted activity rules are complied with, unless discussed above.

6. Section 104 Evaluation

Section 104 of the Act sets out the matters to be considered when assessing an application for a resource consent. These matters are subject to Part 2 (the purpose and principles) which are set out in Sections 5 to 8 of the Act.

The remaining matters of Section 104 to be considered when assessing an application for a resource consent are:

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*

(b) any relevant provisions of a national environmental standard, other regulations, a national policy statement, a regional policy statement or proposed regional policy statement, and a plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

6.1 S104(1)(a) – Actual and potential effects on the environment of allowing the activity

Section 104(1)(a) of the Act requires the council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and the adverse effects.

A detailed assessment of the actual and potential effects of the proposal on the environment is provided in section 6 of the s95 report, comprising:

- Effects on allocation availability
- Effects on minimum flows
- Effects on water quality
- Effects on aquatic ecology
- Effects on indigenous birds
- Effects on downstream water users
- Effects on recreation values
- Effects on archaeological and heritage values
- Effects on natural character and amenity
- Effects on hazards
- Effects on cultural values

In the interest of efficiency and ensuring that this report is easier to read, this report focusses on matters that have either changed or remained unresolved since the time of writing the s95 report, and matters raised in the submissions. This section has been written assuming this report is read in conjunction with the s95 report.

In summary, it is considered that adverse effects on the matters listed above will be less than minor, except for effects on cultural values where there has been inadequate information provided to mana whenua to make an assessment on the level of effect.

A set of **draft** conditions is provided in **Appendix A**. These draft conditions comprise conditions proposed by the Applicant and conditions considered necessary to manage effects on matters, except for effects on cultural values, such that they are less than minor.

The assessment information has been audited by the following technical experts:

- Ms Annabelle Coates of Babbage Consultants Limited – ecology (review of initial application)
- Ms Treffery Barnett of Babbage Consultants Limited – ecology (review of responses to the first s92 request, E3 Scientific memorandum, second s92 request and E3 Scientific letter)

- Mr Colin Macdiarmid of GeoSolve Limited – engineering matters (review of initial application)

6.1.1 General Considerations

6.1.1.a Permitted baseline

The permitted baseline refers to the effects of permitted activities on the subject site and does not include activities authorised by a resource consent. The permitted baseline may be taken into account and the council has the discretion to disregard those effects where an activity is not fanciful.

The assessment and conclusion of the “permitted baseline” reached for the s95A adverse effects assessment (see section 6 of the s95 report) are considered applicable to s104(2). In summary:

- With respect to the permitted activity rule for suction dredge mining (Rule 13.5.1.7), the internal diameter of the suction dredge nozzle of 350 mm is 200 mm greater than that provided for by the rule; refuelling will occur in the bed without a spill tray (noting that an alternative arrangement meeting the intent of this condition is provided); and the zone of reasonable mixing sought is 200 m compared with 100 m of the rule.
- With respect to the permitted activity rule for the take and use of water (Rule 12.1.2.2), the rate of abstraction is 400 L/s which exceeds the permitted rate of 100 L/s and daily volume of 18,720,000 L/day exceeds the permitted volume of 1,000,000 L/day.
- With respect to the permitted activity rule for the discharge of water or contaminants to water (Rule 12.C.1.1), the rule requires the discharge does not result in a conspicuous change in colour or visual clarity or noticeable increase in sedimentation and a 200 m zone of reasonable mixing is sought by the Applicant.

It is those effects arising from the proposal beyond the permitted baseline that are the crucial elements for consideration.

6.1.1.b Receiving Environment Assessment

When processing a resource consent, regard must be had to what constitutes the “environment” to inform the assessment of the effects of a proposal. Section 95A(8) and section 104(1)(a) each require respectively an assessment of the adverse effects and actual and potential effects on the environment in order to make a decision on notification as well as make the substantive decision whether to grant or to refuse a consent.

The receiving environment includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any granted but unimplemented resource consents that are likely to be implemented.

A description of the receiving environment is provided in section 3.2 of the s95 report.

6.1.2 Effects on Allocation Availability

The assessment of adverse effects on allocation availability in section 6.1 of the s95 report is adopted for the purposes of s104(1)(a). In summary, it is considered that adverse effects on allocation availability will be nil.

6.1.3 Effects on Minimum Flows

The assessment of adverse effects on minimum flows in section 6.2 of the s95 report is adopted for the purposes of s104(1)(a). In summary, it is considered that adverse effects on minimum flows will be nil.

6.1.4 Effects on Water Quality

6.1.4.a Suspended sediment

The proposed suction dredging operation will result in the discharge of sediment-laden water to the Clutha River / Mata-Au. If not assessed or managed appropriately, this could have adverse effects on the water quality of the Clutha River / Mata-Au.

Note – this assessment is on the quality of water only, rather than flow-on effects on other values such as aquatic ecology, recreation, amenity, etc., which are addressed in the following sections.

Several submissions raised concern about the discharge of sediment to water. Submission 4 made by Bendigo Management Limited also noted that the river gradient of the lower Clutha River / Mata-Au (where the previous testing was completed) has a lower gradient than the upper Clutha River / Mata-Au and as such water velocity can be expected to be greater within the proposed works area.

An assessment of the effects of sediment discharges on water quality was presented in section 6.3 of the s95 report. Since that report was written, the Applicant has advised in response to the second s92 request that the following conditions are proposed in relation to the discharge permit:

1. *“Prior to commencing mining for the day, the dredge operator shall make a visual clarity assessment using a weighted Secchi disc to determine the baseline visual clarity following the method and standards outlined in the National Environmental Monitoring Standards (NEMS) 2019. Once the suction dredge is operating Secchi disc readings shall be made at 200m downstream from the point of discharge once in the morning and afternoon mining period. The difference between these readings shall not exceed 10%.*
2. *Should there be a $\geq 10\%$ difference in the Secchi readings 200m from the point of discharge, the consent holder shall:*
 - a. *Immediately cease operating,*
 - b. *Make a record in a logbook of the breach specifying date and time, and a GPS location,*
 - c. *Assess whether there have been any events or failures that could have resulted in the greater discharge plume and record the findings in the logbook,*
 - d. *Assess the nature of the sediments and bed substrate,*
 - e. *Make alterations to the engine speed or hydraulic nozzle to minimise the discharge, and*
 - f. *Carry out an assessment as described in condition 1 to obtain a baseline reading prior to recommencing operation.”*

In her audit of the application on behalf of ORC, Ms Barnett advised that the use of a Secchi disc is not appropriate in a river with strong flows (such as the Clutha River / Mata-Au) as it relies on observing the disc as it descends vertically through the water column. She advised that they tend

to be used in coastal waters or lakes with little or no horizontal movement and are only referred to in Part 3 (Lake Water) and Part 4 (Coastal Water) in the National Environmental Monitoring Standards 2019.

Overall, and subject to the below regarding monitoring, my conclusion remains unchanged from that in the s95 report in that I consider that the adverse effects on water quality of a zone of reasonable mixing of 200 m (i.e. the extent in which the identified effect is allowed to occur) will be less than minor for the following reasons:

- The plume is typically constrained to a narrow channel and there is no 'new' material coming into the system, with the discharge being of existing bed sediments.
- The size of the Clutha River / Mata-Au at the location of the proposed works is significant, with the wetted bed being approximately 75-80 m wide.
- Schedule 15 of the RPW sets a limit of 5 NTU to be reached by 31 March 2025 in the Clutha River / Mata-Au and the E3 Scientific Report (Freshwater Assessment dated July 2022) has advised that sediment levels during sampling from the sediment plume varied from 1.62 NTU at 5 m behind the dredge to near 1.13 NTU at 50 m behind the dredge.
- Effects on other water users can be appropriately managed (see section 6.1.7 below)

For clarity, I note that a 'conspicuous change in visual clarity' is defined in the RPW as "*a visual change in water clarity of more than 40%*".

My conclusion above as to the level of effects is predicated on a suitable measuring and monitoring condition relating to the water quality being developed. The details of how the water quality at the 200m downstream will be measured and monitored still needs to be addressed. **It is recommended that the Applicant provides details as to how they propose visual clarity be measured and monitored for assessment, prior to the hearing.**

6.1.4.b Other contaminants

Some submitters raised concerns with the use of Detroit diesel two stroke engines with wet exhausts. They described that these engines are no longer manufactured or certified to operate in parts of Europe or North America due to environmental effects. Submitter 40 (Oliver Moon) raised several concerns with the way in which the dredge is operated, including leaks to the river from the motor and hydraulics, discharging bilge water to the river and pumping diesel to the river.

I sought further information from the Applicant in the second s92 request in relation to whether there are any hazardous substances discharged from the operation of the dredge. They advised "*there will be no contaminants (except for the remobilisation of instream sediments) discharged to water*".

Further I note that the Maritime Transport Operator Plan (MTOP), provided as an appendix to the application, outlines the refuelling procedures and spill response procedures.

The assessment of adverse effects on water quality from the discharge of 'other contaminants' (e.g. fuel, oil, grease) in section 6.3 of the s95 report is adopted for the purposes of s104(1)(a). In summary, it is considered that adverse effects of 'other contaminants' on water quality will be less than minor.

6.1.5 Effects on Aquatic Ecology

The assessment of adverse effects on aquatic ecology values presented in section 6.4 of the s95 report was split into effects of suspended sediment, habitat disturbance, fish spawning and migration, entrainment of fish, macrophyte disturbance and slipway construction.

The assessment of adverse effects of habitat disturbance, entrainment of fish and slipway construction in section 6.4 of the s95 report is adopted for the purposes of s104(1)(a). The remaining matters (suspended sediment, fish spawning and macrophyte disturbance) are assessed below, as well as specific responses to concerns raised by submitters.

The Applicant has provided additional detail on the potential effects of the proposal on aquatic ecology in response to the second s92 request (dated 18 July, including E3 Scientific memorandum and proposed consent conditions dated 19 July 2023) since the drafting of the s95 report. This information, as well as the response to the first s92 request dated 19 April 2023 and the E3 Scientific memorandum responding to ecological components of Cultural Impact Assessment dated 19 April 2023, has been audited by Ms Barnett on behalf of ORC.

I note that the application was directly notified (in addition to the wider public notification) to the Department of Conservation, Forest and Bird, South Island Eel Management Committee, Otago Conservation Board and Otago Fish and Game Council. A submission was received only from Otago Fish and Game.

6.1.5.a Suspended sediment

An increase in suspended sediment within the water column can adversely affect aquatic ecology, through reducing visual feeding abilities, reducing favourable water quality parameters for fish survival and increasing rates of sediment deposition which can smother macroinvertebrates or reduce habitat quality.

The assessment of effects of suspended sediment on aquatic ecology in the s95 report concluded that the adverse effects of a zone of reasonable mixing of 100 m would be less than minor, however further assessment was required to support a zone of reasonable mixing of 200 m.

For clarity, I note that the distance of the zone of reasonable mixing allows the identified effects to occur within that extent of the waterbody. A 'conspicuous change in visual clarity' is defined in the RPW as "*a visual change in water clarity of more than 40%*".

The second s92 request sought assessment from the Applicant as to the level of effect a 200 m zone of reasonable mixing would have on aquatic ecology values, per the EIANZ guideline criteria. The Applicant, in the E3 Scientific letter dated 19 July 2023, advised they considered a zone of reasonable mixing of 200 m will have a 'low' residual impact on aquatic ecology.

They considered that most of the time the sediment plume will be less than 100 m and fish will be able to swim away and avoid the plume. The sampled plume has a maximum turbidity level of 1.62 NTU, which is 0.5 NTU higher than the upstream control sample. The memorandum references research which recommends that an increase above measured background should not be more than 8 NTU and average less than 2 NTU to protect aquatic life, and 20 NTU is known to influence salmonid foraging efficiencies. They consider that the proposed discharge will be well below those figures, with the sediment plume generally not discernible by 50 m and further reduced by 200 m.

This assessment was reviewed by Ms Barnett who advised that she agreed that the residual impact between 100 m and 200 m downstream would be 'low' and that there would not be adverse effects on aquatic life at 200 m downstream.

Ms Barnett recommended the following condition be included on the discharge permit (which aligns with the description in the application, rather than the revised conditions proposed by the applicant):

- a) *There must be no conspicuous change in colour or visual clarity of the Clutha River / Mata-Au beyond a distance of 200 m downstream of the point of discharge at any time.*
- b) *If there is a conspicuous change in colour or visual clarity of the Clutha River / Mata-Au beyond a distance of 100 m downstream from the point, the activity must cease until there is no conspicuous change in colour or visual clarity beyond 100 m.*
- c) *In the event that a noticeable sediment plume beyond a distance of 200 metres downstream from the point of discharge, all dredging must cease and the Consent Holder must immediately notify the Consent Authority.*

In the draft conditions, I have amended the wording of this condition for enforceability and compliance monitoring purposes.

As described above, the zone of reasonable mixing is the extent of the waterbody in which the identified effects are allowed to occur. I note that a 200 m zone of reasonable mixing would mean that the Applicant could have a discharge that consistently resulting in a conspicuous change in colour or visual clarity at 200 m.

The E3 Scientific letter states that "*the majority of the time the sediment plume will be less than 100 m...*" and "*the EIANZ assessment still stands as having low residual impact between 100 m and 200 m downstream*".

Given that it appears that the Applicant's assessment is based on a conspicuous change in colour or visual clarity between 100 m and 200 m being the minority of the time, it is considered that the condition proposed by Ms Barnett is appropriate for the following reasons:

- There is a cease trigger if there is a conspicuous change in colour or visual clarity at 100 m. This is a 'trigger' for action (being to cease works until there is no conspicuous change in colour or visual clarity at 100 m), rather than a compliance 'limit' that the Applicant would be required to meet. I note that compliance action could be taken if the works resulted in a conspicuous change in colour or visual clarity beyond 100 m and the Applicant did not cease works.
- There is a clear 'limit' – "*there must be no conspicuous change in colour or visual clarity beyond 200 m downstream*". Any exceedance of this limit would constitute a non-compliance, to which ORC could take enforcement action against.
- If the 200 m limit is exceeded, works must cease and the Applicant would be required to notify the ORC.

As identified in section 6.1.4 above, the details of how the water quality at the 200m downstream will be measured and monitored still needs to be addressed (and my assessment is subject to a suitable measurement and monitoring condition being able to be developed). **It is recommended**

that the Applicant provides details as to how they propose visual clarity be measured and monitored for assessment, prior to the hearing.

Subject to compliance with the conditions identified in Appendix A (including details on how visual clarity will be measured and monitored), I consider that adverse effects of the sediment discharge on aquatic ecology will be less than minor.

6.1.5.b Fish spawning

The applicant proposes to undertake dredging seven days a week. As such, the dredge will be operating during fish spawning and migration periods identified for the species present in this location. Table 2 below replicates data from the E3 Scientific Freshwater Assessment (dated July 2022) which describes the spawning periods of the species present in this location of the river.

Table 2: Fish spawning periods (information replicated from Table 9 of the E3 Scientific Freshwater Assessment dated July 2022)

Species	Spawning period
Clutha flathead galaxias	1 August to 15 November
Kōaro	1 April to 30 May
Longfin eel	Do not spawn within rivers
Upland bully	1 October to 31 December
Common bully	1 August to 28 February
Brown trout	1 May to 30 June
Rainbow trout	1 June to 30 August

The s95 report provided an assessment of the potential adverse effects on fish spawning and migration of the species present in the location of the proposed suction dredging.

a) Brown trout and rainbow trout

Brown trout and rainbow trout are likely to spawn within the proposed disturbance area of the Clutha River / Mata-Au.

The assessment in the s95 report concluded that the adverse effects on brown trout and rainbow trout were 'low' with the inclusion of conditions proposed by the Applicant relating to working only in a single 1,500 m section of the riverbed during trout spawning season, preparing an Annual Work Programme in consultation with Otago Fish and Game, and liaising with Otago Fish and Game to find a new mining location if sports fish redds¹ are identified.

Fish and Game in their submission (submitter 27) advised that the upper Clutha River / Mata-Au contains areas of significant habitat and spawning areas for sports fish. They consider that more could be done by the Applicant to mitigate effects on the environment, particularly relating to

¹ A redd is 'where a fish has turned onto its side and used its tail to clear a spot in the gravel bottom to spawn. They are usually round or oval in shape and lighter in color than the surrounding bottom.' - <https://www.troutfitters.com/blog/post/where-and-how-to-spot-reddsfrom-spawning-fish-by-john-mcpherson>

impact on trout spawning and habitat. They consider that it is not appropriate for Fish and Game to provide information such as spawning and redd locations for a commercial operation as the resource burden would be too great. Fish and Game sought those conditions 20-23 (of the original application) be modified to remove the burden of resourcing from Fish and Game, and that the following conditions be included:

- 1) During spawning (1 April – 31 October), dredging should only occur at depths greater than 1m to prevent the disturbance of spawning trout.
- 2) There be no visually conspicuous plume beyond 100m downstream of the discharge.

In response to recommendation 1, the Applicant has proposed a condition that no dredging should occur in water less than 1 m deep during sports fish spawning season (being 1 May to 31 August). Those dates align with those presented by E3 Scientific in the Freshwater Assessment dated July 2022, however, differ to those within the Fish and Game submission which are 1 April – 31 October. To be conservative, and because the difference between the dredge draft and the depth sought by Fish and Game is just 0.2 m, I consider this condition should be restricted to the dates sought by Fish and Game unless further evidence is provided by the Applicant.

In response to recommendation 2, the Applicant stated that “*F&G [Fish and Game] promoted an alternative suite of conditions which are now included in the current iteration of proposed conditions. Further consultation with F&G confirms they are satisfied with this approach*”. The Applicant, however, is still seeking a 200 m zone of reasonable mixing in the conditions proposed for the discharge permit component of the application and it is unclear what aspects Fish and Game have confirmed they are satisfied with in this further consultation. Regardless, based on the assessment of effects of suspended sediment on aquatic ecology presented in section 6.1.5.a above, I am comfortable that adverse effects of the sediment discharge in line with the condition recommended by Ms Barnett will be less than minor.

Further to this, the Applicant has proposed a condition that suction dredging does not take place within 50 m upstream or downstream of any watercourse with a width greater than 1 m (measured 1 m beyond the confluence with the Clutha River / Mata-Au) and the identified permanently flowing tributaries of the Clutha River / Mata-Au (being the Lindis River, Schoolhouse Creek, Albert Burn, un-named watercourse 2,800 m downstream of Poison Creek confluence, Poison Burn, un-named watercourse 2,360 m upstream of Poison Creek confluence, Sheepskin Creek and Trig Burn). It is noted that suction dredging in proximity to Luggate Creek and Dead Horse Creek are already excluded due to their location within the Luggate exclusion at Devils Nook. In their submission, Fish and Game commended the exclusion around the confluence of tributaries greater than 1 m in width.

Ms Barnett has advised that she considers that the avoidance of sensitive stream mouths and restricting dredging from occurring in water less than 1 m deep during sports fish spawning season will mitigate potential adverse effects on trout spawning.

The submission by Fish and Game also refers to the Sports Fish and Game Management Plan for Otago, which has been prepared by Fish and Game under the Conservation Act 1987. It describes the sports fish and game bird resources in the region and outlines issues, objectives and policies for management of the period. This has been addressed as an ‘other matter’ in section 6.4.4, and overall it is considered that the application is consistent with the Sports Fish and Game Management Plan for Otago.

As such, I am comfortable that, subject to the conditions identified in Appendix A, adverse effects on trout spawning will be less than minor.

b) Kanakana/lamprey, upland bully, common bully, tuna/longfin eels, kōaro and Clutha flathead galaxias

Section 6.4 of the s95 report provides a description of the spawning habitat for kanakana/lamprey, upland bully, common bully, tuna/longfin eels, kōaro and Clutha flathead galaxias. The Applicant initially put forward a condition requiring that between 1 September and 31 January they will only operate in two of the 1,500 m sections of the riverbed identified in the current work programme prepared in consultation with the Department of Conservation. The Applicant removed the proposal of this condition in their response to the first s92 request (question 16), and it is not included in the revised set of proposed conditions provided in response to the second s92 request.

Due to the confusion relating to which conditions were proposed as part of the application and whether the Applicant's ecologist considered they appropriately mitigated effects, clarification was sought in second s92 request as to the full set of conditions proposed and confirmation as to whether the Applicant's ecologist considered that, with those conditions, the adverse effects on aquatic ecology would still be 'low'.

The Applicant provided their full set of proposed conditions in response to the second s92 request (including E3 Scientific letter dated 19 July 2023), in which they advised that they considered residual aquatic ecological impacts would be 'low' with the proposed consent conditions. The revised proposed conditions include the exclusion of dredging from within 50 m of the identified tributaries and any tributaries greater than 1 m width (as described above).

I note that the revised conditions proposed by the Applicant no longer include that works will only occur within the two 1,500 m sections of the Clutha River / Mata-Au in the work programme and that the work programme is to be prepared in consultation with the Department of Conservation, as was proposed as part of the original application. The Department of Conservation did not submit on this application, so it is unclear whether they were supportive (or not) of the condition requiring dredging occur only within two 1,500 m sections between those dates or that they were to be consulted with relating to the preparation of the work programme. This could raise a potential scope issue in that the Department of Conservation may not have submitted on the application on the basis that this restriction was included.

Ms Barnett has reviewed the conditions and E3 Scientific assessment on behalf of ORC. She advised that she considers the proposed conditions will mitigate potential adverse effects.

Based on Ms Barnett's review I am comfortable that, subject to the conditions identified in Appendix A, adverse effects on the spawning habitat for kanakana/lamprey, upland bully, common bully, tuna/longfin eel, kōaro and Clutha flathead galaxias will be less than minor.

I consider that it is appropriate to remove reference to consulting with the Department of Conservation relating to the preparation of the work programme, because they did not submit on the application (in support or opposition), it is by Ms Barnett's assessment that adverse effects will be 'low' provided the conditions proposed are complied with, and also it is not appropriate to confer responsibilities in consent conditions to another party.

6.1.5.c Macrophyte disturbance

In the s95 report, I concluded that the adverse effects on aquatic ecology from macrophytes, such as *Didymosphenia geminata* (Didymo) and *Lagarosiphon major* (Lagarosiphon), would be less than minor with adherence to the proposed measures which comprised:

- Minimising the spread of pest plants and aquatic weeds through water blasting and cleaning machinery with appropriate chemicals before being brought to site,
- Avoiding working in areas of Lagarosiphon,
- Avoiding the spread of Didymo by ensuring appropriate cleaning of the dredge if it has been used in an area where Didymo is known to be present, and
- The removal of any vegetation caught on machinery and appropriate cleaning of machinery before leaving the site.

Several submissions raised concerns about the risk of spreading Lagarosiphon throughout the river.

The second s92 request sought the Applicant's methodology for how Lagarosiphon beds are to be identified (so that they can be avoided). The Applicant advised that new sites for mining are identified and then assessed, which involves observing the watercourse from the riverbank and the tender. The Applicant considered that any beds of Lagarosiphon would be easily observed during these scouting trips.

In her audit of the application on behalf of ORC, Ms Barnett advised that not all macrophyte beds present will be Lagarosiphon, and this approach assumes that the bottom of the river will be clearly visible on the scouting trips. She considers the Applicant should refer to their ecologist for a suitable methodology.

It is recommended that the Applicant provides details as to how Lagarosiphon will be identified (with reference to how it is to be distinguished from other macrophytes and how it will be identified during low visibility) and avoided for assessment, prior to the hearing.

Subject to the Applicant presenting an appropriate methodology for the identification and avoidance of Lagarosiphon, I consider that adverse effects on aquatic ecology from macrophytes will be less than minor.

6.1.5.d Submitter concerns

Several submissions identified concerns with matters 1, 2, 3, 7 and 8 in the E3 Scientific memorandum dated 19 April 2023, which had been prepared in response to concerns raised in the CIA. In summary, these related to whether the macroinvertebrate sampling was representative across the extent of the proposed works (both location and depth), agreement to map and agree the tributary exclusion zones, proposal for an ecological management plan and lack of information in relation to kanakana/lamprey. These responses are outlined in detail in section 6.1.12.c of this report.

Ms Barnett has reviewed the E3 Scientific memo and advised that the response is robust, however considers the conclusion to Matter 2 is correct but for a different reasons, being that stream and river benthic macroinvertebrates are dominated by the larval stage of terrestrial insects (stoneflies, dobsonflies, damselflies, dragonflies, mayflies, caddisflies, diptera, etc.) which

deposit eggs on the edges and shallows of rivers (wadable depth) and provide a clear indication of what macroinvertebrates are in the wider environment.

Several submitters highlighted general concerns with the potential effects of the proposal on aquatic life including fish and insects. Based on the assessment as presented above, I am comfortable that adverse effects on aquatic ecology will be less than minor.

Submitter 8 (Contact Energy) highlighted that they run a native fish management programme aimed at facilitating native fish passage, habitat enhancement and population monitoring, including a trap and transfer programme for eel across the Roxburgh Dam barrier. They also have a kanakana/lamprey passage programme which is currently in its early stages. Contact Energy sought to ensure that the proposal will not undermine the integrity and outcomes of their programme. Based on the assessment above concluding that it is very unlikely that kanakana/lamprey will be present in the proposed works area, I consider that the proposal will not adversely affect the Contact Energy fish management programme.

6.1.6 Effects on Indigenous Birds

The Applicant initially proposed conditions relating to not using heavy machinery within 50 m of nesting and roosting areas of black fronted tern, black billed gull and banded dotterel between 1 September and 31 January; and that suction dredging or bed disturbance must not occur within the roosting and nesting areas of black fronted tern, black billed gull and banded dotterel at any time. They also advised in the proposal section of the application that a 100 m exclusion zone from bird nesting colonies during the construction of the Queensberry slipway.

In her audit of the application on behalf of ORC, Ms Coates concluded that (based on the conditions proposed at the time of her review, as described above), she agreed with the Applicant's assessment that the proposal would "introduce few if any adverse effects on indigenous waterfowl".

In the response to the second s92 request, the Applicant removed the two conditions proposed and presented a revised condition specifying a 250 m setback from any bird nesting colonies during the nesting season – "*no mining is permitted within 250m of any bird nesting colonies between 1 September and 31 January*". While the mitigation measure relating to a 100 m exclusion zone from indigenous bird nesting colonies during the construction of the Queensberry slipway is not specifically listed in the Applicant's proposed conditions, it still forms part of the proposal and I consider a condition to this effect would be appropriate.

In Ms Barnett's review on behalf of ORC of the further information provided by the Applicant, she advised that she did not consider the proposed condition provides sufficient protection to bird species. In particular:

- Potential adverse effects on native birds will not be restricted to 'bird nesting colonies between 1 September and 31 January'.
- The 'at risk' birds identified (black fronted tern, black billed gull and banded dotterel) all have vulnerable young prior to fledging and some prior to independence outside of September to January.
- The breeding season rather than nesting season is the minimum standard protection of avifauna. The breeding season for these three species is variable (e.g. black fronted terns

are October to January, black billed gulls are August to March and banded dotterel are July to January).

- 250 m is an arbitrary distance and to reduce potential adverse effects on these species a more detailed assessment needs to be provided, including whether there is habitat for those species at that location of the Clutha River / Mata-Au, and if so, could a reduced distance be sufficient.
- The condition refers to 'bird nesting colonies' which would cover all birds (not just indigenous birds) and does not cover birds that do not nest in colonies.

Mr Chris Wedding of Babbage Consulting Limited, in Ms Barnett's absence while on leave, provided the following condition which he advised would manage effects on indigenous birds such that they were 'low'.

1. Within 24 hours prior to any works on the Clutha River between 1 July and 31 March, a suitably qualified and experienced ecologist must undertake a survey for native nesting birds, from 250 m upstream to 250 m downstream of the proposed works area. The report must identify and map:
 - a. All potential river bank and braid bars (river islands) that may be used for breeding by native birds
 - b. Any river banks and braid bars that support nesting native birds
 - c. Where repeat surveys may be required to coincide with timing or staging of works along the river
2. Following the breeding native bird survey(s), a suitably qualified and experienced ecologist must report that either:
 - a. no breeding native birds are identified from the survey and works may proceed; or
 - b. breeding native birds are identified, and therefore a 250 m works exclusion zone shall apply, within which no works are to occur until such time that a suitably qualified and experienced ecologist has confirmed that any nests have failed, or chicks have naturally fledged the natal site.

In the draft conditions, I have amended the wording of this condition for enforceability and compliance monitoring purposes.

With the requirement for ecological assessment and reporting, and further restrictions triggered if there are nesting birds present, I am comfortable that the adverse effects on indigenous birds will be less than minor.

6.1.7 Effects on Downstream Water Users

The assessment of adverse effects on downstream water users in section 6.6 of the s95 report is adopted for the purposes of s104(1)(a). In summary, it is considered that adverse effects on downstream water users will be less than minor.

6.1.8 Effects on Recreation Values and Public Access

The assessment of adverse effects on recreation values and public access in section 6.7 of the s95 report is adopted for the purposes of s104(1)(a), with further assessment in response to submitters' concerns presented below.

Several submitters highlighted the range of recreational activities undertaken on the Clutha River / Mata-Au, including walking, fishing, hunting, dog walking, cycling, running, rafting, boating, kayaking, swimming, camping, picnicking and enjoying the peace, quiet and beauty of the river. Submissions also highlighted some recreational-related commercial activities operating in the area, including kayaking, paddle boarding, boating experiences; angling tours; and teaching students raft guiding, white-water kayaking, and white-water rescue skills.

Submitters raised concerns about the adverse effects of the proposed dredging operation on recreational values. The concerns of the submitters with respect to effects on recreational values are acknowledged.

The extent of the riverbed in which consent is sought for suction dredging is approximately 22.7 km (excluding the exclusion zones). The dredge is mobile, and the mining activity is self-limiting in the sense that once the area has been mined of gold the dredge moves on to the next location. Areas are not re-worked because there will be minimal gold within them, meaning that any effects at different locations will be temporary. Recreation activities described are generally also mobile (e.g. walking, cycling, kayaking), in that they will only encounter the dredge for a short duration before passing by. Those recreation activities that are not mobile will have visibility of the dredge before commencing the recreation activity (e.g. fishing, camping, picnicking).

With respect to reducing adverse effects on anglers, in the revised proposed conditions the Applicant has proposed that dredging is not to occur within 150 m of an angler if the dredge is relocating and an angler is actively fishing at the proposed mining location. I consider this is appropriate.

Submitter 33 raised concerns around safety of the dredge with respect to activities such as teaching students raft guiding, white-water kayaking and white-water rescue skills. Submitter 40 also raised concern that the anchoring of the boat is dangerous, sometimes blocking the river with steel cables.

Further information on the anchoring methods was sought in the second s92 request. The Applicant provided more detail on the anchoring methods employed, advising that the crossed warps are typically 0.5 – 1.0 m deep within 5 m of the dredge, and continue to sag towards the riverbed thereafter. The warps are up to 250 m long and to ensure they do not lose grip further backing wire may be used. Side wires are sometimes used for increased stability. The Applicant has advised they typically submerge well under the water within metres and do not impede waterway access to other vessels. If side lines have the potential to pose a risk to other craft, they are marked with a red buoy. The anchor configuration provided by the Applicant is shown in Figure 1 below. Any anchoring under this consent (if granted) will need to be in accordance with those diagrams and compliant with any other relevant legislation including the ORC Navigation Safety Bylaw.

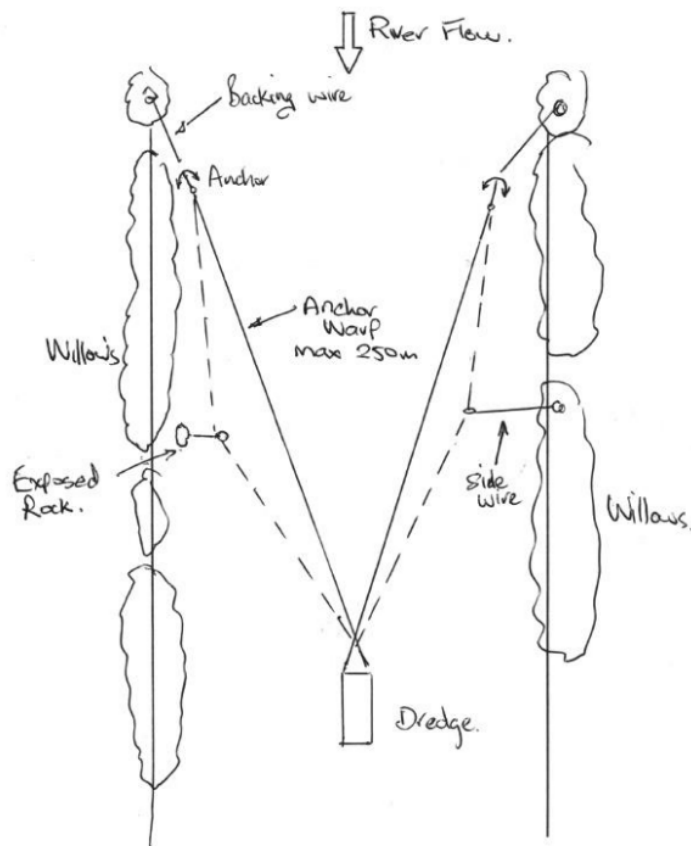


Figure 1: Anchor configuration (source: Terramark response to second s92 request, dated 18 July 2023)

The ORC Harbour Master and Maritime Safety Inspector were directly notified of the public notification of this application. No submission was received from either party, however comments from the ORC Harbour Master had been received prior to the drafting of the s95 report. As highlighted in the s95 report, if consent is granted, conditions to address the request of the ORC Harbour Master are recommended:

- Placement of an advertisement in the local paper to inform people of the area of the suction dredging operation.
- Notification to the ORC Harbour Master of the location of the fuel tank at least 10 days prior to installation.
- The ORC Pollution Hotline phone number (0800 800 033) is to be included in any emergency management plans.

As described in the s95 report, public access to the Clutha River / Mata-Au will not be restricted by the proposal. There may be a short disruption to public access in a localised area associated with the construction of the slipways and slipping of the dredge (for health and safety reasons) however this will be only for a few hours.

I consider that, subject to the conditions identified in Appendix A, adverse effects on recreation values and public access will be less than minor.

6.1.9 Effects on Archaeological and Heritage Values

The assessment of adverse effects on archaeological and heritage values (excluding Māori values, assessed in section 6.1.12 below) in section 6.8 of the s95 report is adopted for the purposes of s104(1)(a).

I note that Heritage New Zealand Pouhere Taonga were directly notified of the public notification of the application and no submission from them was received.

6.1.10 Effects on Natural Character and Amenity

An initial assessment of effects on natural character and amenity was completed in section 6.9 of the s95 report. The following sections build on that assessment.

The presence of large structures in waterbodies can adversely affect the natural character and amenity values of the area.

6.1.10.a Natural character

The natural character of the extent of the Clutha River / Mata-Au subject to this application is described in section 3.2 of the s95 report, sourced from the 'Natural Character, Riverscape and Visual Amenity Assessments' report² prepared by Boffa Miskell in October 2018 for ORC to support the Water Quantity Plan Change. This assessment concluded that the natural character between Lake Wanaka and Lake Dunstan was 'very high' for the active bed and 'high' for the margin, context and experiential values.

Policy 5.4.8 of the RPW lists matters to which particular regard should be had when considering adverse effects on natural character of rivers, being:

- a) The topography, including the setting and bed form of the lake or river;
- b) The natural flow characteristics of the river;
- c) The natural water level of the lake and its fluctuation;
- d) The natural water colour and clarity in the lake or river;
- e) The ecology of the lake or river and its margins; and
- f) The extent of use or development within the catchment, including the extent to which that use and development has influenced matters (a) to (e) above.

With respect to topography, the original application had a condition stating that upon completion of mining each 1,500 m section of riverbed, the riverbed is remediated as near as is practicable to its natural bed form, consistent with the adjacent areas.

The proposal involves the non-consumptive take of water and will not alter the natural flow characteristics or water levels of the river. With respect to the discharge of potentially sediment-

² Natural Character, Riverscape and Visual Amenity Assessments report - https://www.orc.govt.nz/media/6329/c18056_clutha-riverlandscape_natural-character-study-final_20181015.pdf

laden water, adverse effects on the natural water colour and clarity are considered to be less than minor with the application of a zone of reasonable mixing of 200 m (as discussed above).

The effects of the proposal on aquatic ecology and indigenous birds have been considered and, subject to the conditions identified in Appendix A, it is considered that adverse effects will be less than minor.

The extent of use or development within the catchment is noted in the 2018 Boffa Miskell report and contributed to their values assessment. There is currently some use and development within the catchment, and the Applicant has advised that only one suction dredge will operate within the proposed extent at any one time.

Subject to the conditions identified in Appendix A, I consider that the adverse effects of the proposal on natural character values will be less than minor.

6.1.10.b Amenity

Amenity values are defined in both the RPW as *“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes”*.

The suction dredge may be visible from SH 6 and SH 8A or any other road or properties adjacent to the river, as well as by other users on the water. The Applicant has proposed that works are carried out between the hours of 7 am and 10 pm and that no dredging is to occur on public holidays.

It is noted that while the effects will be generated within the bed of the river, some will be ‘felt’ or ‘received’ outside of the riverbed. Where this occurs, the assessment of effects falls within the jurisdiction of the relevant district council and Ms Royce’s assessment. This section assesses the effects on amenity as they will be ‘felt’ or ‘received’ within the riverbed.

Several submissions raised concerns with the visual impact on river users, and with the length of the proposed working hours, with one submission seeking these be brought in line with the standard hours of construction work (7.30 am – 6 pm).

The Applicant advised that the suction dredge is painted green to blend in with the river and adjacent surrounds. As described earlier, the extent of the riverbed in which consent is sought for suction dredging is approximately 22.7 km (excluding the exclusion zones). The dredge is mobile, and the mining activity is self-limiting in that once the area has been mined of gold the dredge moves on to the next location. Areas are not re-worked because there will be minimal gold within them, meaning that any effects at different locations will be temporary. As such, the effects at any one location will be temporary.

The proposed work hours mean that at times of the year the Applicant may be operating during hours of darkness. At those times, deck flood lights are used for crew safety and the requisite navigational lights are used. The application describes that *“whilst light spill is minimal, operating lights may or may not be visible from adjacent roadways or properties but are generally shrouded by riverbank foliage and river terraces”*. Due to the mobile nature of the operation, and that any other water users likely to encounter the dredge during darkness would also have safety lighting. As such, the effects are considered to be less than minor.

Several submissions raised concerns about noise emissions from the operation of the suction dredge. The application stated that there had been no noise complaints received, however the

Applicant has since advised that there was one noise complaint to CODC in relation to the current operation. The location of the complaint was at Ettrick and when assessed by the Council was found there to be no breach of the relevant noise standard. I note that the Applicant has not sought consent to breach the relevant noise standards of the district councils, and that noise effects outside of the riverbed will be addressed through Ms Royce's assessment.

Overall, I consider that the adverse effects of the proposal on amenity values within the bed of the Clutha River / Mata-Au will be less than minor.

6.1.11 Effects on Hazards

The assessment of adverse effects on hazards in section 6.10 of the s95 report is adopted for the purposes of s104(1)(a).

Aurora Energy Limited (submitter 3) submitted on the application supporting the inclusion of the proposed conditions 14 – 16 (of the original application) relating to suction dredging in proximity to Aurora infrastructure to ensure electricity lines are not compromised by the proposal. They also proposed an additional condition relating to holding an Aurora overhead close approach permit where required. The Applicant has included the new condition in their revised proposed condition set.

Two submissions raised concern about risk of erosion from the disturbance of the bed during the suction dredging operation and the construction of the slipways. I acknowledge the submitters' concerns. This risk has been assessed by Mr Macdiarmid in section 6.10 of the s95 report and I consider that the potential adverse effects of the activities on erosion and scour will be less than minor.

I note that 'hazards' with respect to the operation and anchoring of the dredging operation are addressed in section 6.1.8 (recreation) above.

In summary, it is considered that adverse effects as a result of hazards will be less than minor.

6.1.12 Effects on Cultural Values

The assessment of adverse effects on cultural values remains largely unchanged to that in section 6.11 of the s95 report, however, as it remains the most significant matter where there has been insufficient information received in which to draw conclusions on the level of effects, it is repeated here with additional context and assessment provided.

The Clutha River / Mata-Au at this location 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 application was directly notified to Ngāi Tahu Group Management Ltd, Aukaha, Te Ao Marama Inc, South Otago Ngāi Tahu Runanga Inc and Hokonui Rūnaka.

A submission was received from Aukaha (submission 2) stating that Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga oppose the application. In summary, the submission by Aukaha states:

“Kāi Tahu is unable to assess whether the proposed dredging activity provides for the mauri of the Mata-au and gives effect to Te Mana o te Wai. The application is focused on the economic benefits of gold dredging and does not address the effects of this activity on the health and wellbeing of the Mata-au. Further, inadequate information has been

provided to enable mana whenua to assess whether the effects of dredging on wāhi tūpuna and ara tawhito, ecology and biodiversity, and archaeology will be addressed. Overall, Kāi Tahu are concerned that the current dredging proposal perpetuates existing inequities in environmental outcomes.”

A Cultural Impact Assessment (CIA, dated 22 March 2023) was provided in response to the first s92 request. The Applicant provided further information to Aukaha relating to the ecological matters raised in the CIA (E3 Scientific memo dated 19 April 2023). Several submissions supported the CIA prepared by Aukaha.

In response to the second s92 request, the Applicant advised that they had in good faith consulted with Rūnaka and commissioned the CIA, and that as only Hokonui Rūnaka (who have a philosophical opposition to suction dredging) opposed the application there was little benefit in further discussion when one party is not prepared to negotiate. **I note that in the submission from Aukaha, all four rūnaka oppose the application, not just Hokonui Rūnaka.**

The Applicant also advised in the response to the second s92 request that they considered there is sufficient information for me to make an assessment of the potential effects on river and cultural values with respect to the National Policy Statement for Freshwater Management and the Regional Policy Statements. The Applicant has provided an assessment on Te Mana o te Wai and ki uta ki tai, with reference to a Te Rūnanga o Ngāi Tahu ki Murihiku Report and the Ngāi Tahu Indicators of Health.

While this is potentially sound with respect to the physical aspects of Te Mana o te Wai, I consider that mana whenua are the experts who should make an assessment on those matters relating to mana whakahaere, kaitiakitanga and manaakitanga (see full assessment in section 6.1.12.b below). Given their involvement in the assessment of the application and the statement in the CIA that “*mana whenua are unable to assess whether the proposed dredging activity provides for the mauri of the Mata-au and gives effect to Te Mana o te Wai due to the paucity of the information provided in the application*”, I consider it would be inappropriate for any other party to do so.

The Applicant highlighted that the statements made in the CIA are unable to be countered by another expert, and the inability to contest the views of an expert in a consenting process is complicated as there is no counter-argument to test a statement against. While I understand where the Applicant is coming from, the ‘expert vs expert’ approach is not appropriate in this instance due to the values of mana whenua being inherent to the location. In addition, where this evidence is provided, it is open to the decision-maker to test and assess the credibility and reliability of this evidence.³

This approach is consistent with case law in this area, in that “*persons who hold mana whenua are best placed to identify impacts of any proposal on the physical and cultural environment valued by them, and making submissions about provisions of the Act and findings in relevant case law on these matters.*”⁴ In this case, as Aukaha has expressed a willingness to complete a CIA if the relevant information is provided, I consider that I am unable to form a view as to the adverse cultural effects in the absence of Aukaha’s assessment.

The following section comprises an assessment against the specific values identified in the CIA, being wāhi tūpuna and ara tawhito values, wai Māori values, ecological and biodiversity values,

³*Tauranga Environmental Protection Society Incorporated v Tauranga City Council* [2021] NZHC 1201, at [65].

⁴*SKP Incorporated v Auckland Council* [2018] NZEnvC 81, at [157], also cited in *Tauranga Environmental Protection Society Incorporated v Tauranga City Council* [2021] NZHC 1201, at [66].

archaeological values and equity of environmental outcomes. Definitions of terms used are provided in Appendix 1 of the CIA.

6.1.12.a Wāhi Tūpuna and Ara Tawhito Values

Mana whenua aspirations and intentions for the Clutha River / Mata-Au include recognition of wāhi tūpuna and ara tawhito (and values associated with them), reconnecting whanau to the awa and enabling access to, and the use of, wāhi tūpuna and nohoaka sites.

The CIA states that there is not adequate information available to mana whenua to explain how impacts on wāhi tūpuna and ara tawhito values will be mitigated. It describes that the Clutha River / Mata-Au has been significantly modified and degraded by mining and dredging in the past and further modification is not supported by mana whenua.

In this situation and given the scale of the activity, I consider that mana whenua are the best experts able to assess the effects of the proposal on Wāhi Tūpuna and Ara Tawhito values, and as they have advised they do not sufficient information to inform this assessment, I have inadequate information to assess this matter.

As described earlier, the Applicant has indicated in response to the second s92 request that they do not intend to engage further with Aukaha with respect to effects on cultural values. However, as there is inadequate information to assess the level of effect, I consider that the environmental effects on cultural values are unclear and therefore my recommendation is to decline the application in its current form. **I recommend that the Applicant further engages with Aukaha on this matter prior to any hearing of this application being held.**

6.1.12.b Wai Māori Values

The CIA describes that the trends shown in the Clutha River / Mata-Au for clarity and turbidity are of concern to mana whenua, given the nature of the proposed dredging activity. They describe that the application concludes that there will be no discernible adverse effects on water quality beyond the zone of reasonable mixing, with no supporting evidence and no monitoring proposed to manage effects on water quality. As such, they describe that mana whenua 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.

For reference, the NPS-FM describes that “*Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community. Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.*” It states that Te Mana o te Wai encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater (mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, care and respect).

I refer to the assessment of the discharge of sediment on water quality (section 6.1.4.a of this report) and aquatic ecology values (section 6.1.5.a), where it is considered that adverse effects on those values from the discharge will be less than minor. Clarification from the Applicant as to how visual clarity at the zone of reasonable mixing is to be measured and monitored is still required. I acknowledge that those assessments relate to water quality and aquatic ecology and

I cannot infer whether the proposed limitations provide for the mauri of the water or are consistent with to Te Mana o te Wai.

In the second s92 request, I advised the Applicant that there is insufficient information to assess the effects of the proposal on various cultural values, including effects on mauri of the water and whether the proposal gives effect to Te Mana o te Wai, referring to the statement in the CIA prepared by Aukaha (page 26 of the CIA).

The Applicant advised that they disagreed with this statement and advised that they considered it had been set out in some detail within the application at a level of assessment far greater than any other dredging consent application within the Clutha River / Mata-Au catchment. The Applicant provided reference to several consents which have been assessed with respect to Te Mana o te Wai and granted by independent hearing commissioners.

I have completed a high-level review of the assessment of those applications referred to by the Applicant and present this information in Table 3 below.

Table 3: High-level assessment of consent decisions referred to in the Applicants response to the second s92 request

Consent details	Assessment
<ul style="list-style-type: none"> • Consent number - RM21.235 • Mining permit 60566 • Applicant 45 South Mining Limited • Report date – 8 August 2021 • Location – Kye Burn (Schedules 1A, 1AA, 1D, 7) 	<ul style="list-style-type: none"> • Application is of a different scale – 6 inch dredge to operate 30 days per year only between 15 November and 1 April, maximum daily gravel disturbance of 5 m³. • Aukaha were served notice as an affected party but did not make a submission. • Consents Planner provided an assessment on Te Mana o Te Wai concluding that appropriate measures will limit potential effects, but not explicitly stating that the proposal (except for the non-consumptive water take component) gives effect to Te Mana o te Wai.
<ul style="list-style-type: none"> • Consent number - RM21.243 • Mining permit - 50371 • Applicant Jens Shumann • Report date – 22 November 2021 • Location – Pomahaka River (Schedules 1A, 1AA, 1B, 1D, 7) 	<ul style="list-style-type: none"> • Application is of a different scale – 6 inch dredge to operate between 2 December and 31 March only, maximum daily gravel disturbance of 5 m³. • Aukaha were notified of the application and Hokonui submitted in opposition. • Consents Planner referenced effects on taoka species and mauri being addressed by the ecology assessment. • Consents Planner provided an assessment on Te Mana o Te Wai

	concluding that appropriate measures will limit potential effects, but not explicitly stating that the proposal (except for the non-consumptive water take component) gives effect to Te Mana o te Wai.
<ul style="list-style-type: none"> • Consent number - RM21.431 • Mining permit 41447 • Applicant - The Big Nugget Company Limited • Report date – 22 November 2021 • Location – Pomahaka River (Schedules 1A, 1AA, 1B, 1D, 7) 	<ul style="list-style-type: none"> • Application is of a different scale – 6 inch dredge to operate between 2 December and 31 March only, with no more than four consecutive days before a two-day exclusion period, maximum daily gravel disturbance of 3 m³. • Aukaha were notified of the application and Hokonui submitted in opposition. • Hokonui concerns raised related to effects on benthic environments, which Consents Planner advised were addressed through ecology assessment. • Consents Planner provided an assessment on Te Mana o Te Wai concluding that appropriate measures will limit potential effects, but not explicitly stating that the proposal (except for the non-consumptive water take component) gives effect to Te Mana o te Wai.
<ul style="list-style-type: none"> • Consent number - RM20.087 • Mining permit – 53215 • Applicant – Cold Gold Clutha Limited • Report date – 10 July 2020 • Location – Clutha River / Mata-Au (Schedules 1A, 1AA, 1B, 1C, 1D, statutory acknowledgement) 	<ul style="list-style-type: none"> • This is for the same dredge. • Aukaha and TAMI were considered affected parties. • Aukaha and TAMI provided written approval. • This recommendation report was written prior to the NPSFM amendments which came into force on 3 September 2020

I note that all except one (RM20.087, which is for the operation of the dredge which is subject to this application in its current location), of the applications are of a significantly smaller scale both in the size of the dredge (6-inch / 152 mm compared to 13.7 inch / 350 mm) and the number of operating days each year (30 days and four months compared to continuous except for public holidays).

In summary:

- In one instance (RM21.235), the application was notified to Aukaha and no submission was received.

- In two instances (RM21.243 and RM21.431), submissions were received from Hokonui and it is understood their concerns related primarily to effects on aquatic ecology, which was addressed through the planner's assessment of effects. For these applications, the Planner provided an assessment on Te Mana o Te Wai concluding that appropriate measures will limit potential effects, but not explicitly stating that the proposal (except for the non-consumptive water take component) gives effect to Te Mana o te Wai.
- One consent (RM20.087) was for the operation of the dredge subject to this application in its current location) was processed prior to the revised NSPFM and also with the written approval of both Aukaha and Te Ao Marama Inc.

I was unable to find the documentation relating to mining permit 41851 referenced in the response to the second s92 request. However, the Applicant advised that it was considered prior to the introduction of the NPSFM and as such I do not consider that referencing it would be beneficial in the current planning environment.

Overall, I do not consider that the processes followed in the assessment of these applications are of direct relevance to this assessment process, in particular because Aukaha in their submission have specifically raised concerns with potential adverse effects on the mauri of the water and whether the proposal gives effect to Te Mana o te Wai.

As described above, Te Mana o te Wai encompasses six principles. With respect to the principles of mana whakahaere, kaitiakitanga and manaakitanga (at least), it is appropriate that mana whenua be the experts to make those assessments, particularly given that Aukaha are involved in the consenting process and have raised specific concerns with this matter. As they have advised they have not been provided with sufficient information to inform this assessment, I have inadequate information to make an assessment on this matter – hence my recommendation of decline.

As described earlier, the Applicant has indicated in response to second s92 request that they do not intend to engage further with Aukaha with respect to effects on cultural values. However, as there is inadequate information to assess the level of effect, I consider that the environmental effects on cultural values are unclear and therefore my recommendation is to decline the application in its current form. **I recommend that the Applicant further engages with Aukaha on this matter prior to any hearing of this application being held.**

6.1.12.c Ecological and Biodiversity Values

The CIA advises that modification of the awa, as well as changes in land use practices and introduction of exotic species, has contributed to the disconnection between whanau and the awa. Consequently, the restoration of habitats for mahika kai species and the reinvigoration of indigenous biodiversity is a significant aspiration for Kā Rūnaka.

The CIA highlighted key areas where Aukaha did not consider there to be sufficient information to address potential effects. The E3 Scientific memo dated 19 April 2023 sought to provide a response to those matters, which they have referred to as Matters 1 – 8.

Ms Barnett reviewed the E3 Scientific memo on behalf of ORC and considered the responses were robust. She agreed with the conclusion of the response to Matter 2 (macroinvertebrate samples were taken at wadeable depths only), however for different reasons (see description in section 6.1.5.d).

In summary,

- Matters 1 and 2 relate to concerns about the E3 Scientific sampling of macroinvertebrates occurring only within the Central Otago district and at wadeable depths. Advice from ecologists confirm sampling this is appropriate.
- Matter 3 relates to the identification of tributaries greater than 1 m and consideration that all tributaries should be avoided. The E3 Scientific response agrees it would be best to map and confirm the tributary exclusion zones. The map was provided in the E3 Scientific letter dated 19 July 2023. Ms Barnett considered this to be appropriate from an ecological perspective.
- Matter 4 relates to concern there is insufficient evidence on the effects of suction dredging on instream benthic environments and therefore taoka species and their survival, in particular sediment dwelling species such as ammocoetes (kanakana/lamprey larvae), bully, galaxiid species, juvenile kōura and tuna/longfin eel. E3 Scientific consider that it is very unlikely that kanakana/lamprey will be present in this section of the stream and that they prefer a different habitat type. Spawning is only identified in this part of the Clutha River / Mata-Au for brown trout and rainbow trout, and kōaro which spawn outside of the area potentially affected by suction dredging. Ms Barnett concurred with this assessment.
- Matter 5 relates to the conclusion drawn that any elvers or mature eel drawn through the dredge would survive unharmed and the effects on the tuna/longfin eel population would be inconsequential, without any supporting evidence. E3 Scientific clarified that the statement was that migration pathway of eels is unlikely to be affected and adult eels would avoid the suction dredge and are very unlikely to be entrained by the suction dredge. Ms Barnett agreed with this assessment.
- Matter 6 related to the Hokonui Rūnanga stance on opposing suction dredging based on unknown effects on benthic species including ammocoetes, kākahi, eggs of multiple fish species and migrating elver. E3 Scientific provided a response summarising that those species are not likely to be found or spawning within the suction dredging extent. Ms Barnett agreed with this assessment.
- Matter 7 relates to the request for an ecological management plan that should be prepared. E3 Scientific agree that an ecological management plan could be prepared as a condition of consent. Due to the assessment of effects on aquatic ecology concluding that adverse effects would be less than minor, I am not sure that a separate ecological management plan would provide significant benefit with respect to managing effects on ecology values, however, consider that ecological aspects could be addressed through the Annual Work Plan.
- Matter 8 relates to the statement that the presence of kanakana/lamprey cannot be ruled out due to lack of surveying and more recent research indicating that kanakana/lamprey have also been identified nesting under boulders. E3 Scientific advised that the Contact Energy kanakana/lamprey relocation programme has not relocated any kanakana/lamprey into the proposed works area and as such their presence is very unlikely. Ms Barnett agreed with this assessment.

As assessed earlier, I consider that subject to the conditions identified in Appendix A, the adverse effects on aquatic ecology values will be less than minor.

6.1.12.c Archaeological Values

The CIA states that the application has not addressed Māori archaeology values and the adoption of an accidental discovery protocol may not be sufficient to identify and protect Māori archaeological sites. The CIA does not provide any further advice as to how potential effects on Māori archaeological sites could be managed.

I consider that mana whenua are the experts who should make an assessment of the effects of the proposal on Māori archaeological values, and as they have advised they have not been provided with sufficient information to inform this assessment, I have inadequate information to draw a conclusion on this matter.

As described earlier, the Applicant has indicated in response to the second s92 request that they do not wish to engage further with Aukaha with respect to effects on cultural values. However, as there is inadequate information to assess the level of effect, I consider that the environmental effects on cultural values are unclear and therefore my recommendation is to decline the application in its current form. **I recommend that the Applicant further engages with Aukaha on this matter prior to any hearing of this application being held.**

6.1.12.d Equity of Environmental Outcomes

The CIA describes that there has been significant loss of mahika kai and taoka species and modification of wāhi tūpuna with consequential impacts on Kāi Tahu communities, and that the proposal perpetuates a pattern of extractive use of the Clutha River / Mata-Au. They describe that the application does not propose environmental mitigation to offset the effects of the proposal and that it is focused on economic use to the detriment of environmental outcomes.

6.1.12.e Summary of assessment on cultural values

The Applicant commissioned Aukaha to prepare a CIA. The CIA stated that there was insufficient information provided to assess the level of effect on several matters. A submission was received from Aukaha (submission 2) stating that Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga oppose the application.

The Applicant has provided a detailed assessment of effects on cultural values and considers that there is sufficient information for an assessment of effects on cultural values, including effects on the mauri of the water and Te Mana o te Wai.

Given the scale of this application, I consider that mana whenua are the only experts able to make an assessment of effects on cultural values. Given their involvement in the assessment of the application and statements throughout the CIA and in their submission that there is insufficient information to assess the effects, on cultural values, I consider that it would be inappropriate to draw any conclusions on these matters.

I consider that these matters require addressing by the Applicant before I would be satisfied that the potential adverse effects on cultural values are sufficiently understood and any potential effects on those values are addressed.

I recommend that the Applicant further engages with Aukaha on the potential adverse effects of the proposal on cultural values, prior to any hearing of this application being held. Unless further information comes to light from further engagement my recommendation is that the application be declined, solely on the basis of cultural effects.

6.1.13 Positive Effects

The Applicant has not provided an assessment of the positive effects of the proposal, however, has made reference in the application to the activity providing for the economic and social wellbeing of the community, and the cultural well-being in that it is a continuation of the historical gold dredging that occurred on the Clutha River / Mata-Au.

6.1.14 Summary – Actual and Potential Effects

The above section presents an assessment of effects. In summary, it is considered that adverse effects will be less than minor (subject to conditions being resolved on two outstanding issues), except for effects on cultural values where mana whenua has advised they have not been provided with sufficient information to make an assessment of the level of effect. **I recommend that the Applicant further engages with Aukaha such that they are able to make an assessment on effects of the proposal on cultural values, prior to any hearing of this application being held.**

6.2 S104(1)(ab)

The Applicant has not proposed any measures for the purpose of ensuring positive effects on the environment to offset or compensate for any residual adverse effects that will or may result from allowing the activity.

6.3 S104(1)(b) Relevant Planning Documents

The relevant planning documents in respect of this application are:

- The National Environmental Standard for Sources of Human Drinking Water
- Resource Management (National Environmental Standards for Freshwater) Regulations 2020
- Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020
- The National Policy Statement for Freshwater Management 2020
- The National Policy Statement for Indigenous Biodiversity 2023
- The Partially Operative Regional Policy Statement and Proposed Regional Policy Statement
- The Regional Plan: Water for Otago

6.3.1 National Environmental Standard for Sources of Human Drinking Water (NES-HDW)

As described in section 3.2 of the s95 report, there are no water takes used for public supply purposes as identified in Schedule 1B of the RPW (noting that this was current at the time the RPW was notified in 1998). A review of the consented water takes within the proposed suction dredging extent found two water takes described as being for communal domestic supply. Those water takes were:

- 2009.205.V4 – Ardgour Pipeline Limited, located at the confluence of the Lindis River, for irrigation, communal domestic, stock water, firefighting, frost fighting and light industrial supply. The maximum demand sought was for up to 100 dwellings to be provided with 3,000 L/day. It is not clear how many actually receive water from this take. The take does not appear to be registered on the Taumata Arowai Public Register of Drinking Water Supplies.
- RM20.169.01 – Peter William Jolly being Trustee of the Jolly Family Trust and Lindis Peak Farming Limited, for irrigation, community supply, firefighting, frost fighting, stock water and dairy shed supply. The recommendation report (dated 29 October 2020) describes that there is the potential for dairy shed supply or communal supply in the future, but it was not used for communal supply at the time of application. The take does not appear to be registered on the Taumata Arowai Public Register of Drinking Water Supplies.

Regulations 7 and 8 of the NES-HDW need to be considered when assessing an activity that has the potential to affect a registered drinking water supply that provide no fewer than 501 people with drinking water for not less than 60 days each calendar year.

It is considered unlikely that this regulation applies to the application, given the take was sought for up to 100 dwellings and it is unlikely that a dwelling would average 5+ people. Regardless, the proposed discharge will not introduce or increase the concentration of any contaminants in drinking water such that it exceeds the identified criteria and values.

Regulations 11 and 12 of the NES-HDW need to be considered when assessing an activity that has the potential to affect a registered drinking-water supply that provides no fewer than 25 people with drinking water for not less than 60 days each calendar year.

Again, while this regulation may not be applicable, for completeness it is considered that the proposal will not lead to an event occurring (e.g. spillage of chemicals) that may have a significant adverse effect on the quality of water at any abstraction point or as the consequence of an event (e.g. heavy rainfall) have a significant adverse effect on the quality of water at any abstraction point. As such, no conditions relating to notification of the supplier are required.

6.3.2 Resource Management (National Environmental Standards for Freshwater) Regulation 2020

The regulations in the National Environmental Standards for Freshwater (NES-F) have been given consideration in section 4.2 of the s95 report. No resource consents are required under the NES-F for the proposed activities.

6.3.3 Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 and Amendment Regulations 2020

Regulation 4 of the Measurement and Reporting of Water Takes Regulations describes that these regulations do not apply to a water permit if the taking of water under the permit is non-consumptive in that:

- a) The same amount of water is returned to the same water body at or near the location from which it was taken; and
- b) There is no significant delay between the taking and returning of water.

The proposed water take meets the definition of a non-consumptive take, and as such the Measurement and Reporting of Water Takes Regulations are not applicable to this proposal.

6.3.4 National Policy Statement Freshwater Management 2020

The National Policy Statement for Freshwater Management 2020 (NPS-FM) came into force on 3 September 2020, when it replaced the previous NPSFM (2014, amended 2017). It provides regional councils with updated direction on how they should manage freshwater under the Act, including a strengthened focus on Te Mana o te Wai, and:

- Sets out a framework of objectives and policies to manage activities affecting freshwater in a way that prioritises first, the health and well-being of water bodies and freshwater ecosystems, second, the health needs of people, and third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- Requires regional councils to develop long-term visions for freshwater in their region and include those long-term visions as objectives in their regional policy statement.
- Requires every local authority to actively involve tangata whenua in freshwater management.
- Sets out a more expansive National Objectives Framework, and Freshwater Management Unit, environmental flows and levels setting, and take limit setting processes. This includes 13 new attribute states for ecosystem health, including national bottom lines and national targets.
- Specific requirements to protect streams and wetlands and to provide for fish passage – including new policies which must be included in all regional plans.

The NPS-FM describes that *“Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community. Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.”*

It states that Te Mana o te Wai encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater (mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship, care and respect).

Part 2 of the NPS-FM sets out the national objective for future freshwater management and 15 separate policies that support this objective. An assessment against the objective and relevant policies is presented in in Table 4 below. In summary:

- There is inadequate information to assess consistency of the application with the objective, Policy 1, Policy 2, Policy 5 and Policy 15. The Applicant commissioned a CIA be prepared by Aukaha, which states that they have not been provided with sufficient information to assess the effects of the proposal on cultural values including mauri and Te Mana o te Wai.

I recommend that the Applicant further engages with Aukaha with respect to the potential effects of the proposal on the health and well-being of water and whether the proposal gives effect to Te Mana o te Wai, prior to any hearing of this application being held.

Table 4: Assessment against the provisions of the National Policy Statement for Freshwater Management

Provision	Assessment
Objective	
<p>(1) The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:</p> <p>(a) first, the health and well-being of water bodies and freshwater ecosystems</p> <p>(b) second, the health needs of people (such as drinking water)</p> <p>(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p>	<p>Inadequate information to assess whether the proposal meets this provision – The proposal aligns with the third priority and as such must meet priorities (a) and (b) to be consistent with this objective.</p> <p>A detailed assessment as to whether the proposal provides for the health and well-being of the waterbody and freshwater ecosystems of the Clutha River / Mata-Au is provided in response to Policy 5 below. In summary, it is considered that the proposal provides for the physical aspects and there is insufficient information to assess whether it provides for the metaphysical aspects (such as mauri).</p> <p>The proposal will provide for the second priority, being the health needs of people.</p>
Policies	
<p>Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.</p>	<p>Inadequate information to assess whether the proposal meets this provision -</p> <p>The submission made by Aukaha states that <i>“Kāi Tahu is unable to assess whether the proposed dredging activity provides for the mauri of the Mata-au and gives effect to Te Mana o te Wai”</i>.</p> <p>As described earlier in this report, Te Mana o te Wai encompasses six principles. Whilst I am able to make an assessment on some parts, mana whenua input is required with regard to mana whakahaere, kaitiakitanga and manaakitanga (at least).</p> <p>As they have advised they have not been provided with sufficient information to inform this assessment, I have inadequate information to assess whether the proposal meets this provision.</p>
<p>Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for</p>	<p>Inadequate information to assess whether the proposal meets this provision – The application has been publicly notified, enabling tangata whenua to be actively involved in the assessment of the application</p>

	<p>with respect to freshwater management. The Applicant has commissioned a CIA and Māori freshwater values have been identified. However, the CIA and submission by tangata whenua state that there is insufficient information to assess the effects of the proposal on various cultural values and therefore there is inadequate information to assess whether Māori freshwater values have been provided for.</p>
<p>Policy 3: 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.</p>	<p>Consistent – I consider that the application considers the management of freshwater in an integrated way. The assessment of effects is based on an understanding of the existing environment (e.g. water quality), which is informed by effects of the use and development of land within the catchment.</p>
<p>Policy 5: Freshwater is managed (including through a National Objectives Framework) to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.</p>	<p>Inadequate information to assess whether the proposal meets this provision – The National Objectives Framework process is outlined in subpart 2, which has not yet occurred for the Clutha / Mata-Au Freshwater Management Unit.</p> <p>The Ministry for the Environment ‘Guidance on the National Objectives Framework of the NPS-FM’⁵ describes that the ‘health and well-being’ of waterbodies includes metaphysical aspects and its physical being. Providing for this will overlap with providing for a healthy ecosystem but providing for the mauri of a water body may mean going beyond the concept of ecosystems and may encompass wider considerations of the intrinsic value of the river.</p> <p>With respect to the physical aspects, based on the water quality data sourced from LAWA and presented in section 3.2 of the s95 report it appears unlikely that the Clutha River / Mata-Au would meet the definition of a ‘degraded’ waterbody under the NPSFM and therefore the proposal should ‘maintain’ rather than be required to ‘improve’ the health and well-being of the river.</p> <p>The proposal involves the discharge of sediment-laden water only and does not introduce any ‘new’ sediment into the river</p>

⁵ Ministry for the Environment ‘Guidance on the National Objectives Framework of the NPS-FM’ updated 2023 - <https://environment.govt.nz/assets/publications/NOF-Guidance-ME1753-Final-April2023.pdf>

	<p>system. The Clutha River / Mata-Au is classified as being in the best 25% of all sites and 'state A' for clarity. An assessment of the effects of this discharge on water quality and aquatic ecology has concluded that adverse effects will be less than minor and the water quality will be maintained. An assessment of effects of the proposal on aquatic ecology concludes that the values will be maintained. The water take component is non-consumptive and therefore river flows will be maintained.</p> <p>With regard to the 'metaphysical' aspects (such as mauri), Aukaha have advised that they do not have sufficient information to inform this assessment.</p> <p>As such, I cannot assess whether the proposal provides for the maintenance of the health and well-being of the Clutha River and I have inadequate information to assess whether the proposal is consistent with this provision.</p>
<p>Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.</p>	<p>Consistent – The application seeks to avoid the loss of extent of natural inland wetlands and provides for the protection of their values through avoidance of disturbance of the Bendigo Wetland Regionally Significant Wetland.</p>
<p>Policy 8: The significant values of outstanding water bodies are protected.</p>	<p>Not applicable - The NPSFM defines an outstanding water body as <i>“a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values”</i>.</p> <p>The RPW does not identify outstanding waterbodies in the region, however in Schedule 1A does identify those waterbodies that have outstanding natural features or landscapes or areas with a high degree of naturalness (of which the Clutha River / Mata-Au between Alexandra and Lake Wanaka is not identified).</p> <p>Policy 3.2.13 of the partially operative RPS identifies how outstanding water bodies in Otago are to be identified, to be implemented through the regional plans (however do not specifically identify those waterbodies). This activity will be completed as part of the drafting of the proposed Land and Water Regional Plan. As such, the Clutha River / Mata-Au is</p>

	<p>not identified in a regional policy statement, a regional plan or water conservation order as having one or more outstanding values.</p> <p>The definition in the NPSFM refers only to 'a regional policy statement' and not a proposed regional policy statement. Therefore the proposed RPS is not considered to be relevant to this provision.</p> <p>For these reasons, I do not consider this policy is applicable to the assessment.</p>
Policy 9: The habitats of indigenous freshwater species are protected.	<p>Consistent – An assessment of effects of the proposal on aquatic ecology has been completed which concludes that the habitats of indigenous freshwater species, trout and salmon will be protected.</p>
Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.	
Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.	<p>Consistent – There are no allocation limits for the Clutha River / Mata-Au and as such over-allocation is avoided. The take is non-consumptive with water returned immediately and is therefore an efficient use of water.</p>
Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.	<p>Consistent - Appendix 3 presents the national targets for primary contact, with the categories based on <i>E. coli</i> and <i>cyanobacteria</i>. The proposal involves the discharge of sediment only, and as such will not reduce the ability for the national targets to be achieved.</p>
Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.	<p>Inadequate information to assess whether the proposal meets this provision – The Applicant has advised that the proposal will enable the Applicant, and therefore the community, to provide for its economic and social well-being. As described above, it is not considered that the proposal is consistent with this National Policy Statement (in particular the Objective and Policy 2) and there is inadequate information to assess consistency with Policy 1.</p>

6.3.5 National Policy Statement Indigenous Biodiversity

The National Policy Statement for Indigenous Biodiversity (NPS-IB) (2023) came into force on 4 August 2023. It provides direction to councils to protect, maintain and restore indigenous biodiversity, requiring at least no further reduction nationally.

The NPS-IB is limited to indigenous biodiversity in the terrestrial environment, however, includes geothermal ecosystems, specified highly mobile fauna whether or not they use areas outside of the terrestrial environment for part of their lifecycle, and some aspects of natural inland wetlands.

The black fronted tern and banded dotterel are specified highly mobile fauna in Appendix 2 of the NPS-IB. While it is not particularly clear how this policy document applies to riverbeds, it is

noted that clause 1.3 provides that specified highly mobile fauna are covered whether or not they use areas outside of the terrestrial environment for part of their life cycle. Given the limited effects on these species as set out above, it is considered appropriate to assess against the relevant Policy 15.

Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.

An assessment has been completed on effects on indigenous bird species in section 6.1.6 of this report. The assessment concludes that, subject to the condition relating to surveying and mapping breeding and nesting bird habitat and avoiding works in any identified areas, adverse effects will be less than minor.

As such, it is considered that the area supporting highly mobile fauna has been identified and the proposal will maintain populations across their natural range. As such, it is considered the proposal is consistent with the provisions of the NPS-IB.

6.3.6 Partially Operative Regional Policy Statement

The partially operative Regional Policy Statement (partially operative RPS) was made partially operative on the 14th of January 2019 and through various court orders. Since then, there have been a number of appeals resolved through the Environment Court. On 15 March 2021, the Council approved and provided notice for these further provisions to be added to the partially operative RPS. The provisions that are the subject of court proceedings and are not made operative is now limited to Policy 4.3.7 (significant infrastructure) and specific methods of Chapter 3. As such, it is considered that significant weight can be given to the partially operative RPS.

An assessment against the relevant provisions of the partially operative RPS has been completed in Table 5 below. In summary:

- There is inadequate information to assess whether the proposal meets Objective 1.1 and Policy 1.1.2 (relating to ensuring Otago's resources are used sustainably).
- There is inadequate information to assess whether the proposal meets Policy 2.2.1, 2.2.2 and 2.2.3 (relating to Kāi Tahu wellbeing, recognising and protecting sites of cultural significance) and Objective 5.2 and Policy 5.2.1 relating to recognising sites of historic heritage (including Māori cultural and historic heritage values).
- There is inadequate information to assess whether the proposal meets Objective 5.4 (adverse effects are minimised) and Policy 5.4.1 (offensive and objectionable discharges).

I recommend that the Applicant further engages with Aukaha with respect to the potential effects of the proposal on cultural values, prior to any hearing of this application being held.

Table 5: Assessment against the provisions of the partially operative Regional Policy Statement

Provision	Assessment
Chapter 1 – Resource management in Otago is integrated	

Objective 1.1 Otago's resources are used sustainably to promote economic, social, and cultural wellbeing for its people and communities	Inadequate information to assess whether the proposal meets these provisions – The proposal seeks to provide for the economic wellbeing of the community.
Policy 1.1.1 Economic wellbeing Provide for the economic wellbeing of Otago's people and communities by enabling the resilient and sustainable use and development of natural and physical resources.	Kāi Tahu values as described in the Aukaha CIA have been recognised. The CIA describes that inadequate information has been provided to enable mana whenua to assess the level of effect on various cultural values.
Policy 1.1.2 Social and cultural wellbeing and health and safety Provide for the social and cultural wellbeing and health and safety of Otago's people and communities when undertaking the subdivision, use, development and protection of natural and physical resources by all of the following: a) Recognising and providing for Kāi Tahu values; b) Taking into account the values of other cultures; c) Taking into account the diverse needs of Otago's people and communities; d) Avoiding significant adverse effects of activities on human health; e) Promoting community resilience and the need to secure resources for the reasonable needs for human wellbeing; f) Promoting good quality and accessible infrastructure and public services.	As such, I cannot conclude whether the proposal provides for those values. The values and needs of the community have been taken into account, including as raised through submissions. The proposal will avoid significant adverse effects on human health.
Chapter 2 – Kāi Tahu values and interests are recognised and kaitiakitanga is expressed	
Objective 2.1 The principles of Te Tiriti o Waitangi are taken into account in resource management processes and decisions	Consistent - a) The status of Kāi Tahu as treaty partner has been recognised.
Policy 2.1.2 Treaty principles Ensure that local authorities exercise their functions and powers, by: a) Recognising Kāi Tahu's status as a Treaty partner; and b) Involving Kāi Tahu in resource management processes implementation; c) Taking into account Kāi Tahu values in resource management decision-making processes and implementation; d) Recognising and providing for the relationship of Kāi Tahu's culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka; e) Ensuring Kāi Tahu have the ability to:	b) The application has been publicly notified, enabling tangata whenua to be actively involved in the assessment of the application. The Applicant has commissioned the preparation of a CIA. c) Kāi Tahu values have been taken into account in decision making, in line with the strong direction provided in higher order planning documents including the NPSFM. d and e) The Kāi Tahu values and relationship with the lands, water, sites, wāhi taoka as identified in Schedule 1D and the CIA have been recognised. f) Particular regard has been had to the exercise of kaitiakitanga, in line with the strong

<p>i. Identify their relationship with their ancestral lands, water, sites, wāhi tapu, and other taoka;</p> <p>ii. Determine how best to express that relationship;</p> <p>f) Having particular regard to the exercise of kaitiakitaka;</p> <p>g) Ensuring that district and regional plans:</p> <p>i. Give effect to the Ngāi Tahu Claims Settlement Act 1998;</p> <p>ii. Recognise and provide for statutory acknowledgement areas in Schedule 2;</p> <p>iii. Provide for other areas in Otago that are recognised as significant to Kāi Tahu;</p> <p>h) Taking into account iwi management plans.</p>	<p>direction provided in higher order planning documents including the NPSFM.</p> <p>g) This policy relates to direction to district and regional plans. Regardless, the statutory acknowledgement on the Clutha River / Mata-Au has been recognised and provided for in the assessment of this application.</p> <p>h) The relevant iwi management plans have been taken into account (see assessment in section 6.4 below).</p>
<p>Policy 2.2.1 Kāi Tahu wellbeing Manage the natural environment to support Kāi Tahu wellbeing by all of the following:</p> <p>a) Recognising and providing for their customary uses and cultural values in Schedules 1A and B; and,</p> <p>b) Safeguarding the life-supporting capacity of natural resources.</p>	<p>Inadequate information to assess whether the proposal meets this provision – The customary uses and cultural values in Schedules 1A and B, and wāhi tūpuna, as described in the Aukaha CIA have been recognised.</p> <p>The CIA describes that inadequate information has been provided to enable mana whenua to assess the level of effect on various cultural values. As such, I cannot conclude whether the proposal provides for those identified uses or safeguards the life-supporting capacity of natural resources.</p>
<p>Policy 2.2.2 Recognising sites of cultural significance Recognise and provide for the protection of wāhi tūpuna, by all of the following:</p> <p>a) Avoiding significant adverse effects on those values that contribute to the identified wāhi tūpuna being significant;</p> <p>b) Avoiding, remedying, or mitigating other adverse effects on the identified wāhi tūpuna;</p> <p>c) Managing the identified wāhi tūpuna sites in a culturally appropriate manner.</p>	
<p>Policy 2.2.3 Wāhi tūpuna and associated sites Enable Kāi Tahu relationships with wāhi tūpuna by all of the following:</p> <p>a) Recognising that relationships between sites of cultural significance are an important element of wāhi tūpuna;</p> <p>b) Recognising and using traditional place names.</p>	
<p>Chapter 3 – Otago has high quality natural resources and ecosystems</p>	
<p>Objective 3.1 The values (including intrinsic values) of ecosystems and natural resources are recognised and maintained, or enhanced where degraded</p>	<p>Consistent – The values of ecosystems and natural resources (as assessed in the relevant policies 3.1.1, 3.1.2, 3.1.3 and 3.1.9) will be maintained.</p>
<p>Policy 3.1.1 Fresh water Safeguard the life-supporting capacity of fresh water and manage fresh water to:</p>	<p>Consistent (subject to further information on Lagarosiphon) –</p>

<p>a) Maintain good quality water and enhance water quality where it is degraded, including for:</p> <ul style="list-style-type: none"> i. Important recreation values, including contact recreation; and, ii. Existing drinking and stock water supplies; <p>b) Maintain or enhance aquatic:</p> <ul style="list-style-type: none"> i. Ecosystem health; ii. Indigenous habitats; and, iii. Indigenous species and their migratory patterns. <p>c) Avoid aquifer compaction and seawater intrusion;</p> <p>d) Maintain or enhance, as far as practicable:</p> <ul style="list-style-type: none"> 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; <p>e) Control the adverse effects of pest species, prevent their introduction and reduce their spread;</p> <p>f) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion; and,</p> <p>g) Avoid, remedy or mitigate adverse effects on existing infrastructure that is reliant on fresh water.</p>	<p>a) An assessment of effects on water quality has been completed and it is considered that recreation values (including contact recreation) and the quality of drinking water and stock water supplies will be maintained.</p> <p>b) An assessment of effects on aquatic ecology (including indigenous habitats, indigenous species and their migratory patterns) has been completed which concluded that adverse effects will be less than minor. As such, I consider that the proposal will maintain those values.</p> <p>c) The proposal will avoid aquifer compaction and seawater intrusion.</p> <p>d) The proposal will maintain the natural functioning of the river, coastal values supported by freshwater, the habitat of trout and salmon and amenity values of the river.</p> <p>e) Measures have been proposed (details yet to be finalised with respect to Lagarosiphon) to prevent the introduction and reduce the spread of pest plant species.</p> <p>f) An assessment of effects of natural hazards has been completed, which concludes that adverse effects of natural hazards will be avoided.</p> <p>g) The proposal will avoid adverse effects on existing infrastructure that is reliant on freshwater.</p>
<p>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:</p> <ul style="list-style-type: none"> a) Safeguard the life supporting capacity of fresh water; b) Maintain good quality water, or enhance it where it has been degraded; c) Maintain or enhance bank stability; d) Maintain or enhance ecosystem health and indigenous biological diversity; e) Maintain or enhance, as far as practicable: <ul style="list-style-type: none"> i. Their natural functioning and character; and ii. Amenity values; f) Control the adverse effects of pest species, prevent their introduction and reduce their spread; and, 	<p>Consistent (subject to further information on Lagarosiphon) -</p> <ul style="list-style-type: none"> a) The life supporting capacity of fresh water will be safeguarded. b) An assessment of effects on water quality has been completed and it is considered that water quality will be maintained. c) The proposal will not adversely affect bank stability. d) An assessment of effects on aquatic ecology has been completed which concludes adverse effects will be less than minor and as such ecosystem health and biodiversity will be maintained. e) The natural functioning and character, and amenity values, will be maintained. f) Measures have been proposed (details yet to be finalised with respect to Lagarosiphon)

<p>g) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion.</p>	<p>to prevent the introduction and reduce the spread of pest plant species. g) Adverse effects of natural hazards will be avoided.</p>
<p>Policy 3.1.3 Water allocation and use Manage the allocation and use of fresh water by undertaking all of the following:</p> <p>a) Recognising and providing for the social and economic benefits of sustainable water use;</p> <p>b) Avoiding over-allocation, and phasing out existing over-allocation, resulting from takes and discharges;</p> <p>c) Ensuring the efficient allocation and use of water by:</p> <p>i. Requiring that the water allocated does not exceed what is necessary for its efficient use;</p> <p>ii. Encouraging the development or upgrade of infrastructure that increases efficiency;</p> <p>iii. Providing for temporary dewatering activities necessary for construction or maintenance.</p>	<p>Consistent– The social and economic benefits of sustainable water use are recognised. There are no allocation limits for the Clutha River / Mata-Au and as such over-allocation is avoided. The take is non-consumptive with water returned immediately and is therefore an efficient use of water.</p>
<p>Policy 3.1.9 Ecosystems and indigenous biological diversity Manage ecosystems and indigenous biological diversity in terrestrial, freshwater and marine environments to:</p> <p>a) Maintain or enhance:</p> <p>i. Ecosystem health and indigenous biological diversity including habitats of indigenous fauna;</p> <p>ii. Biological diversity where the presence of exotic flora and fauna supports indigenous biological diversity;</p> <p>b) Maintain or enhance as far as practicable:</p> <p>i. Areas of predominantly indigenous vegetation;</p> <p>ii. Habitats of trout and salmon unless detrimental to indigenous biological diversity;</p> <p>iii. Areas buffering or linking ecosystems;</p> <p>c) Recognise and provide for:</p> <p>i. Hydrological services, including the services provided by tall tussock grassland;</p> <p>ii. Natural resources and processes that support indigenous biological diversity;</p> <p>d) Control the adverse effects of pest species, prevent their introduction and reduce their spread.</p>	<p>Consistent (subject to further information on Lagarosiphon) – An assessment of the proposal with respect to aquatic ecology and indigenous birds (see sections 6.1.5 and 6.1.6 of this report). It is considered that the adverse effects of the proposal on those values will be less than minor, and as such I consider that the proposal will maintain the values identified in (a) and (b) of this policy. The hydrological services and natural resources and processes that support indigenous biodiversity have been recognised (c) and measures have been proposed (details yet to be finalised with respect to Lagarosiphon) to prevent the introduction and reduce the spread of pest plant species.</p>

Objective 3.2 Otago's significant and highly-valued natural resources are identified and protected, or enhanced where degraded	<p>Consistent (subject to further information on Lagarosiphon) - This policy is to be implemented through the methods identified, being Method 3.1.8 (Regional Plans will set objectives, policies and methods to implement policies in the RPS – specifically policies 3.2.13 – 3.2.16 by protecting values of wetlands and outstanding waterbodies). As such, the significant values of wetlands will be identified through the preparation of the proposed Land and Water Regional Plan. In the interim, the Applicant provided a Freshwater Assessment which did not identify the presence of any wetland within the proposed suction dredging extent. The Applicant has proposed an exclusion zone from the confluence of Lindis Creek to Lake Dunstan, which contains the Bendigo Wetland Regionally Significant Wetland, thus avoiding the wetland. As such, it is considered that the proposal will protect the function and values of wetlands by avoiding adverse effects and the significant values of the wetland will be maintained. Further, measures have been proposed (details yet to be finalised with respect to Lagarosiphon) to prevent the introduction and reduce the spread of pest plant species.</p>
<p>Policy 3.2.16 Managing the values of wetlands Protect the function and values of wetlands by all of the following:</p> <ul style="list-style-type: none"> a) Maintaining the significant values of wetlands; b) Avoiding, remedying or mitigating other adverse effects; c) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread; d) Encouraging enhancement that contributes to the values of the wetland; e) Encouraging the rehabilitation of degraded wetlands. 	
Chapter 4 – Communities in Otago are resilient, safe and healthy	
Objective 4.1 Risks that natural hazards pose to Otago's communities are minimised	<p>Consistent - An assessment of the effects of the proposal with respect to natural hazards has been completed in section 6.1.11. It is considered that risks that natural hazards pose to Otago's communities will be minimised and the activity will result in no or low residual risk.</p>
<p>Policy 4.1.4 Assessing activities for natural hazard risk Assess activities for natural hazard risk to people, property and communities, by considering all of the following:</p> <ul style="list-style-type: none"> a) The natural hazard risk identified, including residual risk; b) Any measures to avoid, remedy or mitigate those risks, including relocation and recovery methods; c) The long-term viability and affordability of those measures; d) Flow-on effects of the risk to other activities, individuals and communities; e) The availability of, and ability to provide, lifeline utilities, and essential and emergency services, during and after a natural hazard event. 	

<p>Policy 4.1.6 Minimising increase in natural hazard risk</p> <p>Minimise natural hazard risk to people, communities, property and other aspects of the environment by:</p> <p>a) Avoiding activities that result in significant risk from natural hazard;</p> <p>b) Enabling activities that result in no or low residual risk from natural hazard;</p> <p>c) Avoiding activities that increase risk in areas potentially affected by coastal hazards over at least the next 100 years;</p> <p>d) Encouraging the location of infrastructure away from areas of hazard risk where practicable;</p> <p>e) Minimising any other risk from natural hazard.</p>	
<p>Objective 4.6 Hazardous substances, contaminated land and waste materials do not harm human health or the quality of the environment in Otago</p>	<p>Consistent – The Applicant has proposed several measures in their application to mitigate risks associated with activities such as the use of machinery and in situ fuelling (see section 6.3 of the s95 report). Further, the MTOP outlines the refuelling procedures and spill response procedures.</p>
<p>Policy 4.6.2 Use, storage and disposal of hazardous substances Manage the use, storage and disposal of hazardous substances, by all of the following:</p> <p>a) Providing secure containment for the storage of hazardous substances;</p> <p>b) Minimising risk associated with natural hazard events;</p> <p>c) Ensuring the health and safety of people;</p> <p>d) Avoiding, remedying or mitigating adverse effects on the environment;</p> <p>e) Providing for the development of facilities to safely store, transfer, process, handle and dispose of hazardous substances;</p> <p>f) Ensuring hazardous substances are treated or disposed of in accordance with the relevant regulatory requirements;</p> <p>g) Restricting the location and intensification of activities that may result in reverse sensitivity effects near authorised facilities for hazardous substance bulk storage, treatment or disposal;</p> <p>h) Encouraging the use of best management practices.</p>	
<p>Chapter 5 – People are able to use and enjoy Otago’s natural and built environment</p>	
<p>Objective 5.1 Public access to areas of value to the community is maintained or enhanced</p>	<p>Consistent – The suction dredging activity will maintain public access to the Clutha River / Mata-Au. There may be a short disruption to</p>
<p>Policy 5.1.1 Public access</p>	

<p>Maintain or enhance public access to the natural environment, including to the coast, lakes, rivers and their margins and where possible areas of cultural or historic significance, unless restricting access is necessary for one or more of the following:</p> <ul style="list-style-type: none"> a) Protecting public health and safety; b) Protecting the natural heritage and ecosystem values of sensitive natural areas or habitats; c) Protecting identified sites and values associated with historic heritage or cultural significance to Kāi Tahu; d) Ensuring a level of security consistent with the operational requirements of a lawfully established activity. 	<p>public access in a localised area associated with the construction of the slipways and slipping of the dredge (for health and safety reasons) however this will be only for a few hours and overall public access to the river will be maintained.</p>
<p>Objective 5.2 Historic heritage resources are recognised and contribute to the region's character and sense of identity</p>	<p>Inadequate information to assess whether the proposal meets this provision – Within the bed of the Clutha River / Mata-Au, no historic heritage elements under (a) or (c) – (i) of Policy 5.2.1 have been identified (based on a review of the RPW and ArchSite). With respect to (b), the CIA states that <i>“changes to the awa through damming and other modification may mean that these sites [Māori archaeological sites] are not restricted to the land surrounding the awa, but may also be present in the river itself, either on the bed or banks”</i>. The CIA states that the application has not addressed Māori archaeology values and the adoption of an accidental discovery protocol may not be sufficient to identify and protect Māori archaeological sites. It concludes that inadequate information has been provided for mana whenua to assess whether effects on archaeology will be addressed. As such, the identification of potential Māori historic heritage and protection of that historic heritage in line with policy 5.2.3 cannot be assessed.</p>
<p>Policy 5.2.1 Recognising historic heritage Recognise all the following elements as characteristic or important to Otago's historic heritage:</p> <ul style="list-style-type: none"> a) Residential and commercial buildings; b) Māori cultural and historic heritage values; c) 19th and early 20th century pastoral sites; d) Early surveying, communications and transport, including roads, bridges and routes; e) Early industrial historic heritage, including mills and brickworks; f) Gold and other mining systems and settlements; g) Dredge and ship wrecks; h) Coastal historic heritage, particularly Kāi Tahu occupation sites and those associated with early European activity such as whaling; i) Memorials; j) Trees and vegetation. 	
<p>Policy 5.2.2 Identifying historic heritage Identify historic heritage places and areas of regional or national significance, using the attributes in Schedule 5.</p>	
<p>Policy 5.2.3 Managing historic heritage Protect and enhance places and areas of historic heritage, by all of the following:</p> <ul style="list-style-type: none"> a) Recognising that some places or areas are known or may contain archaeological sites, wāhi tapu or wāhi taoka which could be of significant historic or cultural value; 	

<p>b) Applying these provisions immediately upon discovery of such previously unidentified archaeological sites or areas, wāhi tapu or wāhi taoka;</p> <p>c) Avoiding adverse effects on those values that contribute to the area or place being of regional or national significance;</p> <p>d) Minimising significant adverse effects on other values of areas and places of historic heritage;</p> <p>e) Remedying when adverse effects on other values cannot be avoided;</p> <p>f) Mitigating when adverse effects on other values cannot be avoided or remedied;</p> <p>g) Encouraging the integration of historic heritage values into new activities;</p> <p>h) Enabling adaptive reuse or upgrade of historic heritage places and areas where historic heritage values can be maintained.</p>	
<p>Objective 5.4 Adverse effects of using and enjoying Otago's natural and physical resources are minimised</p>	<p>Inadequate information to assess whether the proposal meets this provision – As described throughout this report, Aukaha have advised that there is inadequate information to assess the effects of the proposal on cultural values.</p>
<p>Policy 5.4.1 Offensive or objectionable discharges Manage offensive or objectionable discharges to land, water and air by:</p> <p>a) Avoiding significant adverse effects of those discharges;</p> <p>b) Avoiding significant adverse effects of discharges of human or animal waste directly, or in close proximity, to water or mahika kai sites;</p> <p>c) Avoiding, remedying or mitigating other adverse effects of those discharges.</p>	<p>Inadequate information to assess whether the proposal meets this provision - As described throughout this report, Aukaha have advised that there is inadequate information to assess the effects of the proposal on cultural values and as such it is not known whether significant adverse effects will be avoided. I consider that significant adverse effects on other matters assessed will be avoided (a). The proposal does not involve the discharge of human or animal waste (b). There is inadequate information to assess whether the proposal will avoid, remedy or mitigate adverse effects on cultural values. I consider that adverse effects on other matters assessed will be avoided, remediated or mitigated (c).</p>
<p>Policy 5.4.2 Adaptive management approach Apply an adaptive management approach, to avoid, remedy or mitigate actual and potential adverse effects that might arise and that can be remedied before they become irreversible, by both:</p>	<p>Consistent – Whilst the details of the measurement and monitoring of visual clarity are yet to be closed out, the proposed discharge conditions are a form of adaptive management in that there is the 200 m limit for a change in colour or visual clarity, with</p>

<p>a) Setting appropriate indicators for effective monitoring of those adverse effects; and b) Setting thresholds to trigger remedial action before the effects result in irreversible damage.</p>	<p>triggers for action if those effects occur at 100 m.</p>
<p>Policy 5.4.5 Pest plants and animals Control the adverse effects of pest species, prevent their introduction, reduce their spread and enable the removal and destruction of material for biosecurity purposes, to safeguard all of the following:</p> <p>a) The viability of indigenous species and habitats for indigenous species; b) Ecosystem services that support economic activities; c) Water quality and water quantity; d) Soil quality; e) Human and animal health; f) Recreation values; g) Landscapes, seascapes and natural character; h) Primary production.</p>	<p>Consistent (subject to further information on Lagarosiphon) - Measures have been proposed (details yet to be finalised with respect to Lagarosiphon) to prevent the introduction and reduce the spread of pest plant species.</p>
<p>Policy 5.4.8 Adverse effects from mineral and petroleum exploration, extraction and processing Manage adverse effects from the exploration, extraction and processing of minerals and petroleum, by:</p> <p>a) Giving preference to avoiding their location in all of the following:</p> <p>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment; ii. Outstanding natural character in the coastal environment; iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment; iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment; v. Outstanding natural character in areas beyond the coastal environment; vi. Outstanding natural features and landscapes beyond the coastal environment; vii. Outstanding water bodies or wetlands; viii. Places or areas containing historic heritage of regional or national significance;</p>	<p>Consistent -</p> <p>a) The site is identified as being within an area of significant habitat of indigenous fauna beyond the coastal environment (iv) or an outstanding water body (vii). The extent of the associated mining permit does extend into the Bendigo Wetland, and the Applicant has excluded this area (from Lindis River to Lake Dunstan) from the proposed dredging extent. The site is not identified as containing places or areas of historic heritage of regional or national significance (viii). The proposal is not within an area subject to significant natural hazard risk (a)(ix). The other locations identified in (a) are not applicable to the site. b) The extent of the site does include the Bendigo Wetland, however the Applicant has proposed an exclusion area from the Lindis River down to the top of Lake Dunstan and as such the wetland will be avoided. c) The proposal will avoid adverse effects on the health and safety of the community. d) The matter of effects on natural features, landscapes and seascapes falls to the relevant district council. e) Biodiversity offsetting or compensation could be considered for the management of</p>

<p>ix. Areas subject to significant natural hazard risk;</p> <p>b) Where it is not practicable to avoid locating in the areas listed in a) above because of the functional needs of that activity:</p> <p>i. Avoid adverse effects on the values that contribute to the significant or outstanding nature of a) i-iii;</p> <p>ii. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature of a)iv-viii;</p> <p>iii. Consider first biological diversity offsetting, and then biological diversity compensation, if adverse effects described in b)ii. on indigenous biological diversity cannot be practicably remedied or mitigated;</p> <p>iv. Minimise any increase in natural hazard risk through mitigation measures;</p> <p>v. Consider environmental compensation if adverse effects described in b) ii, other than on indigenous biological diversity, cannot practically be avoided, remedied or mitigated;</p> <p>ba) Avoid significant adverse effects on natural character in all other areas of the coastal environment;-</p> <p>c) Avoiding adverse effects on the health and safety of the community;</p> <p>d) Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</p> <p>e) Considering biological diversity offsetting or compensating for residual adverse effects on other values;</p> <p>f) Reducing unavoidable adverse effects by:</p> <p>i. Staging development for longer term activities; and</p> <p>ii. Progressively rehabilitating the site, where possible;</p> <p>g) Applying a precautionary approach (including adaptive management where appropriate) to assessing the effects of the activity, where there is scientific uncertainty, and potentially significant or irreversible adverse effects.</p> <p>Where there is a conflict, Policy 5.4.8 prevails over policies under Objective 3.2, (except for policy 3.2.12) Policy 4.3.1 and Policy 5.2.3.</p>	<p>residual adverse effects on cultural values, once effects on cultural values are assessed and if this is considered appropriate by Aukaha.</p> <p>f) There is not considered to be 'unavoidable adverse effects' because adverse effects can either be managed through avoidance, remedy or mitigation, or consent could be declined.</p> <p>g) There is not scientific uncertainty as to the potential effects of the proposal.</p>
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6.3.7 Proposed Otago Regional Policy Statement – Non-Freshwater Instrument Components

On 26 June 2021 Council notified the proposed Otago Regional Policy Statement (proposed RPS). On 30 September 2022 Council notified the freshwater instrument components of the proposed Otago Regional Policy Statement. This section assesses the provisions that are not a freshwater planning instrument, while section 6.3.8 below assesses the freshwater planning instrument provisions.

An assessment against the relevant provisions of the proposed RPS (non-freshwater planning instrument components) has been completed in Table 6 below. In summary:

- There is inadequate information to assess whether the proposal is consistent with MW-P3 (supporting Kāi Tahu well-being), LF-WAI-P4 (giving effect to Te Mana o te Wai), HCV-WT-O2, HCV-WT-O2 and HCV-WT-P1 (protection of wāhi tūpuna), HCV-HH-O3, HCV-HH-P3, HCV-HH-P4, HCV-HH-P5 (identification and protection of historic heritage – Māori cultural and historic heritage values)

Table 6: Assessment against the provisions of the proposed Regional Policy Statement – Non-Freshwater Instrument Components

Provision	Assessment
MW – Mana whenua	
MW–O1 – Principles of Te Tiriti o Waitangi The principles of Te Tiriti o Waitangi are given effect in resource management processes and decisions, utilising a partnership approach between councils and Papatipu Rūnaka to ensure that what is valued by mana whenua is actively protected in the region.	Consistent - 1) The status of Kāi Tahu as treaty partner has been recognised. 2) The application has been publicly notified, enabling tangata whenua to be actively involved in the assessment of the application. The Applicant has commissioned the preparation of a CIA. 3) Kāi Tahu values have been recognised and provided for, in line with the strong direction provided in higher order planning documents including the NPSFM. 4) The Kāi Tahu values and relationship with the lands, water, sites, wāhi taoka as identified in Schedule 1D and the CIA have been recognised. 5) This policy relates to direction to the regional and district plans. 6) Particular regard has been had to the exercise of kaitiakitanga, in line with the strong direction provided in higher order planning documents including the NPSFM. 7) This policy relates to direction to the regional and district plans. 8) The relevant iwi management plans have been taken into account (see assessment in section 6.4 below).
MW–P2 – Treaty principles Local authorities exercise their functions and powers in accordance with Treaty principles, by: (1) recognising the status of Kāi Tahu and facilitating Kāi Tahu involvement in decision-making as a Treaty partner, (2) including Kāi Tahu in resource management processes and implementation to the extent desired by mana whenua, (3) recognising and providing for Kāi Tahu values and resource management issues, as identified by mana whenua, in resource management decision-making processes and plan implementation, (4) recognising and providing for the relationship of Kāi Tahu culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taoka by ensuring that Kāi Tahu have the ability to identify these	

<p>relationships and determine how best to express them,</p> <p>(5) ensuring that regional and district plans recognise and provide for Kāi Tahu relationships with Statutory Acknowledgement Areas, tōpuni, nohoaka and customary fisheries identified in the NTCSA 1998, including by actively protecting the mauri of these areas,</p> <p>(6) having particular regard to the ability of Kāi Tahu to exercise kaitiakitaka,</p> <p>(7) actively pursuing opportunities for:</p> <p>(a) delegation or transfer of functions to Kāi Tahu, and</p> <p>(b) partnership or joint management arrangements, and</p> <p>(8) taking into account iwi management plans when making resource management decisions</p>	
<p>MW-P3 – Supporting Kāi Tahu well-being</p> <p>The natural environment is managed to support Kāi Tahu well-being by:</p> <p>(1) protecting customary uses, Kāi Tahu values and relationships of Kāi Tahu to resources and areas of significance, and restoring these uses and values where they have been degraded by human activities,</p> <p>(2) safeguarding the mauri and life-supporting capacity of natural resources, and</p> <p>(3) working with Kāi Tahu to incorporate mātauraka in resource management.</p>	<p>Inadequate information to assess whether the proposal meets this provision – The customary uses, Kāi Tahu values and relationships to resources and areas of significance have been recognised. The CIA describes that inadequate information has been provided to enable mana whenua to assess the level of effect on various cultural values, including effects on the mauri of the water. As such, I cannot conclude whether the proposal provides for those identified uses or safeguards the mauri and life-supporting capacity of natural resources.</p>
<p>LF-WAI-P4 – Giving effect to Te Mana o te Wai</p> <p>All persons exercising functions and powers under this RPS and all persons who use, develop or protect resources to which this RPS applies must recognise that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding Te Mana o te Wai, and must be given effect to when making decisions affecting fresh water, including when interpreting and applying the provisions of the LF chapter.</p>	<p>Inadequate information to assess whether the proposal meets this provision -</p> <p>The submission made by Aukaha states that <i>“Kāi Tahu unable to assess whether the proposed dredging activity provides for the mauri of the Mata-au and gives effect to Te Mana o te Wai”</i>.</p> <p>As described earlier in this report, Te Mana o te Wai encompasses six principles. Whilst I am able to make an assessment on some parts, mana whenua input is required with regard to mana whakahaere, kaitiakitanga and manaakitanga (at least).</p> <p>As they have advised they have not been provided with sufficient information to inform this assessment, I have inadequate</p>

	information to assess whether the proposal is consistent with this provision.
<p>LF-FW-O10 – Natural character The natural character of wetlands, lakes and rivers and their margins is preserved and protected from inappropriate subdivision, use and development.</p>	<p>Consistent – An assessment of effects of the proposal on natural character has been completed which concludes adverse effects on natural character will be less than minor (see section 6.1.10.a of this report).</p> <p>The proposal will not result in the loss of values or extent of river, alter the flows, form or function of the river or reduce any braiding character of the river.</p> <p>As such, I consider that the natural character of the Clutha River / Mata-Au and its margins will be protected from inappropriate use or development.</p>
<p>LF-FW-P13 – Preserving natural character Preserve the natural character of lakes and rivers and their beds and margins by:</p> <ol style="list-style-type: none"> (1) avoiding the loss of values or extent of a river, unless: <ol style="list-style-type: none"> (a) there is a functional need for the activity in that location, and (b) the effects of the activity are managed by applying: <ol style="list-style-type: none"> (i) for effects on indigenous biodiversity, either ECO-P3 or ECO-P6 (whichever is applicable), and (ii) for other effects, the effects management hierarchy, (2) not granting resource consent for activities in (1) unless Otago Regional Council is satisfied that: <ol style="list-style-type: none"> (a) the application demonstrates how each step of the effects management hierarchies in (1)(b) will be applied to the loss of values or extent of the river, and (b) any consent is granted subject to conditions that apply the effects management hierarchies in (1)(b), (3) establishing environmental flow and level regimes and water quality standards that support the health and well-being of the water body, (4) wherever possible, sustaining the form and function of a water body that reflects its natural behaviours, (5) recognising and implementing the restrictions in Water Conservation Orders, (6) preventing the impounding or control of the level of Lake Wanaka, (7) preventing modification that would reduce the braided character of a river, and (8) controlling the use of water and land that would adversely affect the natural character of the water body. 	
ECO – Ecosystems and indigenous biodiversity	
ECO-O1 – Indigenous biodiversity	

<p>Otago's indigenous biodiversity is healthy and thriving and any decline in quality, quantity and diversity is halted.</p>	<p>Consistent – An assessment of effects on aquatic ecology and indigenous birds has been completed, which concludes that adverse effects will be less than minor. As such, I consider that the proposal will maintain indigenous biodiversity values and adverse effects will be avoided.</p>
<p>ECO-P6 – Maintaining indigenous biodiversity</p> <p>Maintain Otago's indigenous biodiversity (excluding the coastal environment and areas managed under ECO-P3) by applying the following biodiversity effects management hierarchy in decision-making on applications for resource consent and notices of requirement:</p> <p>(1) avoid adverse effects as the first priority,</p> <p>(2) where adverse effects demonstrably cannot be completely avoided, they are remedied,</p> <p>(3) where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated,</p> <p>(4) where there are residual adverse effects after avoidance, remediation, and mitigation, then the residual adverse effects are offset in accordance with APP3, and</p> <p>(5) if biodiversity offsetting of residual adverse effects is not possible, then:</p> <p>(a) the residual adverse effects are compensated for in accordance with APP4, and</p> <p>(b) if the residual adverse effects cannot be compensated for in accordance with APP4, the activity is avoided.</p>	
<p>ECO-O3 – Kaitiakiaka and stewardship</p> <p>Mana whenua are recognised as kaitiaki of Otago's indigenous biodiversity, and Otago's communities are recognised as stewards, who are responsible for:</p> <p>(1) te hauora o te koiora (the health of indigenous biodiversity), te hauora o te taoka (the health of species and ecosystems that are taoka), and te hauora o te taiao (the health of the wider environment), while</p> <p>(2) providing for te hauora o te takata (the health of the people).</p>	
<p>ECO-P1 – Kaitiakitaka</p> <p>Recognise the role of Kāi Tahu as kaitiaki of Otago's indigenous biodiversity by:</p> <p>(1) involving Kāi Tahu in the management of indigenous biodiversity and the identification</p>	<p>Consistent – The role of mana whenua as kaitiaki and Otago's communities as stewards has been recognised. The Applicant has commissioned a CIA be prepared which outlines the position of mana whenua.</p>

<p>of indigenous species and ecosystems that are taoka,</p> <p>(2) incorporating the use of mātauraka Māori in the management and monitoring of indigenous biodiversity, and</p> <p>(3) providing for access to and use of indigenous biodiversity by Kāi Tahu, including mahika kai, according to tikaka.</p>	
<p>HAZ – Hazards and risks</p>	
<p>HAZ–NH–O1 – Natural hazards Levels of risk to people, communities and property from natural hazards within Otago do not exceed a tolerable level.</p>	<p>Consistent - An assessment of the effects of the proposal with respect to natural hazards has been completed in section 6.1.11. It is considered that risks that natural hazards pose to Otago’s communities ‘does not exceed a tolerable level’ and the proposal will not increase risks from natural hazards.</p>
<p>HAZ–NH–P2 – Risk assessments Assess the level of natural hazard risk by determining a range of natural hazard event scenarios and their potential consequences in accordance with the criteria set out within APP6.</p>	
<p>HAZ–NH–P3 – New activities Once the level of natural hazard risk associated with an activity has been determined in accordance with HAZ–NH–P2, manage new activities to achieve the following outcomes:</p> <p>(1) when the natural hazard risk is significant, the activity is avoided,</p> <p>(2) when the natural hazard risk is tolerable, manage the level of risk so that it does not become significant, and</p> <p>(3) when the natural hazard risk is acceptable, maintain the level of risk.</p>	
<p>HCV – Historical and cultural values</p>	
<p>HCV–WT–O1 – Kāi Tahu cultural landscapes Wāhi tūpuna and their associated cultural values are identified and protected.</p>	<p>Inadequate information to assess whether the proposal meets this provision – The CIA describes that the Clutha River / Mata-Au is a significant component of an integrated cultural landscape. It describes that the resource consent application does not provide adequate information to explain how the impacts on wāhi tupuna and ara tawhito values will be mitigated. As such, the protection of wāhi tūpuna cannot be assessed.</p>
<p>HCV–WT–O2 – Rakatirataka The rakatirataka of mana whenua over wāhi tūpuna is recognised, and mana whenua are able to exercise kaitiakitaka within these areas.</p>	
<p>HCV–WT–P1 – Recognise and identify wāhi tūpuna Kāi Tahu relationships with wāhi tūpuna are sustained, including by:</p> <p>(1) identifying as wāhi tūpuna any sites and areas of significance to mana whenua, along</p>	

<p>with the cultural values that contribute to each wāhi tūpuna being significant,</p> <p>(2) recognising the rakatirataka of mana whenua over wāhi tūpuna and providing for their ability to exercise kaitiakitaka within these areas,</p> <p>(3) recognising and providing for connections and associations between different wāhi tūpuna, and</p> <p>(4) recognising and using traditional place names.</p>	
<p>HCV-WT-P2 – Management of wāhi tūpuna</p> <p>Wāhi tūpuna are protected by:</p> <p>(1) avoiding significant adverse effects on the cultural values associated with identified wāhi tūpuna,</p> <p>(2) where adverse effects demonstrably cannot be completely avoided, remedying or mitigating adverse effects in a manner that maintains the values of the wāhi tūpuna,</p> <p>(3) managing identified wāhi tūpuna in accordance with tikaka Māori,</p> <p>(4) avoiding any activities that may be considered inappropriate in wāhi tūpuna as identified by Kāi Tahu, and</p> <p>(5) encouraging the enhancement of access to wāhi tūpuna to the extent compatible with the particular wāhi tūpuna.</p>	
HCV-HH Historic heritage	
<p>HCV-HH-O3 – Historic heritage resources</p> <p>Otago’s unique historic heritage contributes to the region’s character, sense of identity, and social, cultural and economic well-being, and is preserved for future generations.</p>	<p>Inadequate information to assess whether the proposal meets this provision – Within the bed of the Clutha River / Mata-Au, no historic heritage elements under (2) - (12) of Policy 5.2.1 have been identified (based on a review of the RPW and ArchSite).</p>
<p>HCV-HH-P3 – Recognising historic heritage</p> <p>Recognise that Otago’s historic heritage includes:</p> <p>(1) Māori cultural and historic heritage values,</p> <p>(2) archaeological sites,</p> <p>(3) residential and commercial buildings,</p> <p>(4) pastoral sites,</p> <p>(5) surveying equipment, communications and transport, including roads, bridges and routes,</p> <p>(6) industrial historic heritage, including mills and brickworks,</p> <p>(7) gold and other mining systems and settlements,</p> <p>(8) dredge and ship wrecks,</p> <p>(9) ruins,</p>	<p>With respect to (1), the CIA states that <i>“changes to the awa through damming and other modification may mean that these sites [Māori archaeological sites] are not restricted to the land surrounding the awa, but may also be present in the river itself, either on the bed or banks”</i>.</p> <p>The CIA states that the application has not addressed Māori archaeology values and the adoption of an accidental discovery protocol may not be sufficient to identify and protect Māori archaeological sites. It concludes that inadequate information has been provided for</p>

<p>(10) coastal historic heritage, particularly Kāi Tahu occupation sites and those associated with early European activities such as whaling, (11) memorials, and (12) trees and vegetation.</p>	<p>mana whenua to assess whether effects on archaeology will be addressed. As such, the identification of potential Māori historic heritage and protection of that historic heritage in line with policy HCV-HH-cannot be assessed.</p>
<p>HCV-HH-P4 – Identifying historic heritage Identify the places and areas of historic heritage in Otago in accordance with APP8 and categorise them as: (1) places and areas with special or outstanding historic heritage values or qualities, or (2) places and areas with historic heritage values or qualities.</p>	
<p>HCV-HH-P5 – Managing historic heritage Protect historic heritage by: (1) requiring the use of accidental discovery protocols, (2) avoiding adverse effects on areas or places with special or outstanding historic heritage values or qualities, (3) avoiding significant adverse effects on areas or places with historic heritage values or qualities, (4) avoiding, as the first priority, other adverse effects on areas or places with historic heritage values or qualities, (5) where adverse effects demonstrably cannot be completely avoided, remedying or mitigating them, and (6) recognising that for infrastructure, EIT-INF-P13 applies instead of HCV-HH-P5(1) to (5).</p>	

6.3.8 Proposed Otago Regional Policy Statement – Freshwater Instrument Components 2021

On 30 September 2022 Council notified the freshwater instrument components of the proposed Otago Regional Policy Statement that was originally notified in June 2021.

These freshwater related provisions are assessed below.

An assessment against the relevant provisions of the proposed RPS has been completed in Table 7 below. In summary:

- There is inadequate information to assess whether the proposal meets Objective LF-WAI-O1, Policy LF-WAI-P1, Objective LF-VM-O2 and Objective LF-FW-O8. These provisions relate to, or require input relating to, assessing effects on cultural values and Aukaha have advised they have been provided with inadequate information to assess the effects on those values.

I recommend that the Applicant further engages with Aukaha with respect to the potential effects of the proposal on the cultural values and whether the proposal protects the mauri and health and wellbeing of the water, prior to any hearing of this application being held.

Table 7: Assessment against the provisions of the proposed Regional Policy Statement – Freshwater Instrument Components

Provision	Assessment
LF – Land and freshwater	
<p>LF–WAI–O1 – Te Mana o te Wai</p> <p>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:</p> <p>(1) water is the foundation and source of all life – na te wai ko te hauora o ngā mea katoa,</p> <p>(2) there is an integral kinship relationship between water and Kāi Tahu whānui, and this relationship endures through time, connecting past, present and future,</p> <p>(3) each water body has a unique whakapapa and characteristics,</p> <p>(4) water and land have a connectedness that supports and perpetuates life, and</p> <p>(5) Kāi Tahu exercise rakatirataka, manaakitaka and their kaitiakitaka duty of care and attention over wai and all the life it supports.</p>	<p>Inadequate information to assess whether the proposal meets this provision – A detailed assessment of the effects of the proposal on cultural values including mauri is provided in section 6.1.12.b above.</p> <p>In summary, the CIA states that that mana whenua are unable to assess whether the activity provides for the mauri of the Clutha River / Mata-Au due to the lack of information provided in the application. Further, the submission made by Aukaha states that “<i>Kāi Tahu unable to assess whether the proposed dredging activity provides for the mauri of the Mata-au and gives effect to Te Mana o te Wai</i>”.</p> <p>As such, I have inadequate information to assess whether the proposal meets this provision.</p>
<p>LF–WAI–P1 – Prioritisation</p> <p>In all management of fresh water in Otago, prioritise:</p> <p>(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,⁴⁷</p> <p>(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</p> <p>(3) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.</p> <p>⁴⁷ In matters of mana, the associated spiritual and cultural responsibilities connect natural resources and mana whenua in a kinship relationship that is reciprocal and stems from the time of creation.</p>	<p>Inadequate information to assess whether the proposal meets this provision – The proposal aligns with the third priority and as such must meet priorities (1) and (2) to be consistent with this policy.</p> <p>A detailed assessment as to whether the proposal provides for the health and well-being of the waterbody and freshwater ecosystems of the Clutha River / Mata-Au is provided in response to Policy 5 of the NPS-FM (see section 6.3.4 of this report).</p> <p>In summary, it is considered that the proposal provides for the physical aspects and there is insufficient information to assess whether it provides for the metaphysical aspects (such as mauri).</p> <p>The proposal will provide for the second priority, being the health needs of people.</p>

LF-VM Visions and management	
<p>LF-VM-O2 – Clutha Mata-au FMU vision</p> <p>In the Clutha Mata-au FMU:</p> <p>(1) management of the FMU recognises that:</p> <p>(a) the Clutha Mata-au is a single connected system ki uta ki tai, and</p> <p>(b) the source of the wai is pure, coming directly from Tawhirimatea to the top of the mauka and into the awa,</p> <p>(2) fresh water is managed in accordance with the LF-WAI objectives and policies,</p> <p>(3) the ongoing relationship of Kāi Tahu with wāhi tūpuna is sustained,</p> <p>(4) water bodies support thriving mahika kai and Kāi Tahu whānui have access to mahika kai,</p> <p>(5) indigenous species migrate easily and as naturally as possible along and within the river system,</p> <p>(6) the national significance of the Clutha hydro-electricity generation scheme is recognised,</p> <p>(7) in addition to (1) to (6) above:</p> <p>(a) in the Upper Lakes rohe ...</p> <p>(b) in the Dunstan, Manuherekia and Roxburgh rohe:</p> <p>(i) flows in water bodies sustain and, wherever possible, restore the natural form and function of main stems and tributaries to support Kāi Tahu values and practices, and</p> <p>(ii) innovative and sustainable land and water management practices support food production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact, and</p> <p>(iii) sustainable abstraction occurs from main stems or groundwater in preference to tributaries,</p> <p>(c) in the Lower Clutha rohe ...</p> <p>(8) the outcomes sought in (7) are to be achieved within the following timeframes:</p> <p>(a) by 2030 in the Upper Lakes rohe,</p> <p>(b) by 2045 in the Dunstan, Roxburgh and Lower Clutha rohe, and</p> <p>(c) by 2050 in the Manuherekia rohe</p>	<p>Inadequate information to assess whether the proposal meets this provision – in particular, (2), (3) and (4).</p> <p>1) the source of the water and the single connected system of the Clutha River / Mata-Au has been recognised.</p> <p>2) An assessment of the LF-WAI objectives and policies is provided above, which concludes there is inadequate information to assess consistency with provisions.</p> <p>3) The CIA describes that inadequate information has been provided to enable mana whenua to assess whether the effects of dredging on wāhi tūpuna, as such it cannot be assessed whether the ongoing relationship of Kāi Tahu with wāhi tūpuna will be sustained.</p> <p>4) An assessment of effects on ecology has been completed which concludes that adverse effects will be less than minor. Mana whenua have not advised whether the proposal will support mahika kai values.</p> <p>5) The proposal will not adversely affect the migration of indigenous species.</p> <p>6) The national significance of the Clutha hydro-electricity scheme is recognised.</p> <p>(7) The proposal will not adversely affect the flows in the waterbody (non-consumptive take), the proposal does not relate to food production, and the take is considered to be sustainable.</p> <p>8) The proposal will not affect the ability for the 2030 timeframe to be met.</p>
LF-VM-P5 – Freshwater Management Units (FMUs) and rohe	Consistent – The proposal is within the Upper Lakes rohe of the Clutha Mata-au FMU, and

<p>Otago's fresh water resources are managed through the following freshwater management units or rohe which are shown on MAP1:</p> <p><i>Table 3 – Freshwater Management Units and rohe</i></p> <table border="1" data-bbox="315 390 721 640"> <thead> <tr> <th>Freshwater Management Unit</th> <th>Rohe</th> </tr> </thead> <tbody> <tr> <td>Clutha Mata-au</td> <td>Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha</td> </tr> <tr> <td>Taieri</td> <td>n/a</td> </tr> <tr> <td>North Otago</td> <td>n/a</td> </tr> <tr> <td>Dunedin & Coast</td> <td>n/a</td> </tr> <tr> <td>Catlins</td> <td>n/a</td> </tr> </tbody> </table>	Freshwater Management Unit	Rohe	Clutha Mata-au	Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha	Taieri	n/a	North Otago	n/a	Dunedin & Coast	n/a	Catlins	n/a	<p>freshwater management is being assessed in accordance with this.</p>
Freshwater Management Unit	Rohe												
Clutha Mata-au	Upper Lakes Dunstan Manuherekia Roxburgh Lower Clutha												
Taieri	n/a												
North Otago	n/a												
Dunedin & Coast	n/a												
Catlins	n/a												
<p>LF-FW – Fresh water</p>													
<p>LF-FW-O8 – Fresh water</p> <p>In Otago's water bodies and their catchments:</p> <ol style="list-style-type: none"> (1) the health of the wai supports the health of the people and thriving mahika kai, (2) water flow is continuous throughout the whole system, (3) the interconnection of fresh water (including groundwater) and coastal waters is recognised, (4) native fish can migrate easily and as naturally as possible and taoka species and their habitats are protected, and (5) the significant and outstanding values of Otago's outstanding water bodies are identified and protected. 	<p>Inadequate information to assess whether the proposal meets this provision – As described above, there is inadequate information to assess whether the health of the wai will be provided for.</p> <p>Water flow is continuous throughout the system and the interconnection of freshwater and coastal waters is recognised. The proposal will not adversely affect fish passage or the habitats of taoka species. Otago's outstanding water bodies are to be identified through the preparation of the Land and Water Regional Plan.</p>												
<p>LF-FW-O9 – Natural wetlands</p> <p>Otago's natural wetlands are protected or restored so that:</p> <ol style="list-style-type: none"> (1) mahika kai and other mana whenua values are sustained and enhanced now and for future generations, (2) there is no decrease in the range and diversity of indigenous ecosystem types and habitats in natural wetlands, (3) there is no reduction in their ecosystem health, hydrological functioning, amenity values, extent or water quality, and if degraded they are improved, and (4) their flood attenuation capacity is maintained. 	<p>Consistent - The Applicant has proposed an exclusion zone from the confluence of Lindis Creek to Lake Dunstan, which contains the Bendigo Wetland Regionally Significant Wetland, thus avoiding the wetland. No other natural wetlands have been identified within the extent of the proposed suction dredging activity.</p> <p>Through the avoidance of the Bendigo Wetland, it is considered that the proposal will protect the identified values.</p>												
<p>LF-FW-P9 – Protecting natural wetlands</p> <p>Protect natural wetlands by:</p> <ol style="list-style-type: none"> (1) avoiding a reduction in their values or extent unless: <p>...</p>													

(2) not granting resource consents for activities under (1)(b) unless the Regional Council is satisfied that: ...	
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6.3.9 Regional Plan: Water for Otago (RPW)

As described in section 5 of this report, the proposal is a discretionary activity under the RPW. An assessment against the relevant provisions of the RPW has been completed in Table 8 below. In summary:

- There is inadequate information to assess whether the proposal meets Objective 5.3.2, Policy 5.4.2, Objective 7.A.2, Policy 7.B.2, Policy 7.B.6 These provisions relate to, or require input relating to, assessing effects on cultural values and Aukaha have advised they have been provided with inadequate information to assess the effects on those values.

I recommend that the Applicant further engages with Aukaha with respect to the potential effects of the proposal on the cultural values identified in Schedule 1D and Kāi Tahu values, prior to any hearing of this application being held.

Table 8: Assessment against the provisions of the Regional Plan: Water for Otago

Provision	Assessment
Chapter 5 – Natural and Human Use Values of Lakes and Rivers	
Objective 5.3.1 To maintain or enhance the natural and human use values, identified in Schedules 1A, 1B and 1C, that are supported by Otago's lakes and rivers.	Consistent - As described in section 3.2 of the s95 report, the stretch of the Clutha River / Mata-Au subject to this application is identified in Schedule 1A (schedule of natural values, at this location comprising ecosystem values, and areas of significant habitat for flathead galaxiid (tributaries only). An assessment of effects on ecology (aquatic and birds) has been completed which concludes that adverse effects will be less than minor. As such, I consider that the proposal will maintain the Schedule 1A values.
Objective 5.3.2 To maintain or enhance the spiritual and cultural beliefs, values and uses of significance to Kai Tahu, identified in Schedule 1D, as these relate to Otago's lakes and rivers.	Inadequate information to assess whether the proposal meets this provision - As described in section 3.2 of the s95 report, the stretch of the Clutha River / Mata-Au subject to this application is identified in Schedule 1D (kaitiakitanga, mauri, wāhi tapu and/or waiwhakaheke, wāhi taoka, mahika kai, kohanga, trails and cultural materials). As described throughout this report, Aukaha prepared a CIA which concluded that there was inadequate information to assess effects of the proposal on various cultural values including wāhi tūpuna and ara tawhito, wai Māori values and Māori archaeological values.

	This is further supported by the submission made by Aukaha which concludes that Kāi Tahu are concerned that the proposal perpetuates existing inequities in environmental outcomes.
<p>Policy 5.4.1 To identify the following natural and human use values supported by Otago's lakes and rivers, as expressed in Schedule 1:</p> <ul style="list-style-type: none"> (a) Outstanding natural features and landscapes; (b) Areas with a high degree of naturalness; (c) Areas of significant indigenous vegetation, significant habitats of indigenous fauna, and significant habitats of trout and salmon; (d) Ecosystem values; (e) Water supply values; (f) Registered historic places; and (g) Spiritual and cultural beliefs, values and uses of significance to Kai Tahu. 	<p>Consistent – The Schedule 1 values of the Clutha River / Mata-Au have been identified. As described above, they include (c) areas of significant habitat for flathead galaxiid (tributaries only), (d) ecosystem values, and (g) significant spiritual and cultural beliefs, values and uses to Kāi Tahu.</p>
<p>Policy 5.4.2 In the management of any activity involving surface water, groundwater or the bed or margin of any lake or river, to give priority to avoiding, in preference to remedying or mitigating:</p> <p>(1) Adverse effects on:</p> <ul style="list-style-type: none"> (a) Natural values identified in Schedule 1A; (b) Water supply values identified in Schedule 1B; (c) Registered historic places identified in Schedule 1C, or archaeological sites in, on, under or over the bed or margin of a lake or river; (d) Spiritual and cultural beliefs, values and uses of significance to Kai Tahu identified in Schedule 1D; (e) The natural character of any lake or river, or its margins; (f) Amenity values supported by any water body; and <p>(2) Causing or exacerbating flooding, erosion, land instability, sedimentation or property damage.</p>	<p>Inadequate information to assess whether the proposal meets this this provision - This assessment makes reference to the conclusions drawn in the assessment of effects in section 6 of this report.</p> <p>(1a) – consistent, adverse effects on natural values identified in Schedule 1A will be avoided.</p> <p>(1b) – consistent, there are no water supply values identified in Schedule 1B within the extent of proposed dredging.</p> <p>(1c) – consistent, there are no registered historic places identified in Schedule 1C within the extent of proposed dredging.</p> <p>(1d) – inadequate information to assess consistency with this provision. Aukaha prepared a CIA which concluded that there was inadequate information to assess effects of the proposal on various cultural values. This is further supported by the submission made by Aukaha which concludes that Kāi Tahu are concerned that the proposal perpetuates existing inequities in environmental outcomes.</p> <p>(1e) – consistent, adverse effects on natural character will be avoided.</p> <p>(1f) – consistent, adverse effects on amenity values will be avoided.</p> <p>(2) – consistent, the proposal will not cause or exacerbate flooding, erosion, land instability, sedimentation or property damage.</p>

	The explanation to this policy states “ <i>where adverse effects are considered to be unavoidable, a resource consent may be declined or, if granted, may be subject to conditions requiring unavoidable adverse effects to be remedied or mitigated...</i> ”
Objective 5.3.3 To protect the natural character of Otago’s lakes and rivers and their margins from inappropriate subdivision, use or development.	Consistent – An assessment of effects of the proposal on natural character has been completed (see section 6.1.10.a of this report), including having particular regard to the features listed in policy 5.4.8. Overall, the assessment concludes that adverse effects will be less than minor. As such, I consider that the natural character of the Clutha River / Mata-Au and its margins will be protected from inappropriate use or development.
Policy 5.4.8 To have particular regard to the following features of lakes and rivers, and their margins, when considering adverse effects on their natural character: (a) The topography, including the setting and bed form of the lake or river; (b) The natural flow characteristics of the river; (c) The natural water level of the lake and its fluctuation; (d) The natural water colour and clarity in the lake or river; (e) The ecology of the lake or river and its margins; and (f) The extent of use or development within the catchment, including the extent to which that use and development has influenced matters (a) to (e) above.	
Objective 5.3.4 To maintain or enhance the amenity values associated with Otago’s lakes and rivers and their margins	Consistent – An assessment of effects of the proposal on amenity values has been completed (see section 6.1.10.b of this report), including consideration of aesthetic values. An assessment of effects on recreation is presented in section 6.1.8 of this report. Overall, the assessment concludes that adverse effects on amenity and recreation values will be less than minor. As such, I consider that the amenity values of the Clutha River / Mata-Au and its margins will be maintained.
Policy 5.4.9 To have particular regard to the following qualities or characteristics of lakes and rivers, and their margins, when considering adverse effects on amenity values: (a) Aesthetic values associated with the lake or river; and (b) Recreational opportunities provided by the lake or river, or its margins.	
Objective 5.3.5 To maintain or enhance public access to and along the margins of Otago’s lakes and rivers.	Consistent – The suction dredging activity will maintain public access to the Clutha River / Mata-Au. There may be a short disruption to public access in a localised area associated with the construction of the slipways and slipping of the dredge (for health and safety reasons) however this will be only for a few hours and overall public access to the river will be maintained.

Objective 5.3.6 To provide for the sustainable use and development of Otago's water bodies, and the beds and margins of Otago's lakes and rivers.	Consistent - Objective 5.3.6 is given effect to through policies 5.4.3 and policies 5.4.11 – 5.4.13. Of relevance to this proposal is only policy 5.4.3.
Policy 5.4.3 In the management of any activity involving surface water, groundwater or the bed or margin of any lake or river, to give priority to avoiding adverse effects on: (a) Existing lawful uses; and (b) Existing lawful priorities for the use, of lakes and rivers and their margins.	An assessment of effects on downstream water users has been completed, which concludes that adverse effects on existing lawful uses and existing lawful priorities for use will be avoided.
Objective 5.3.8 To avoid the exacerbation of any natural hazard or the creation of a hazard associated with Otago's lakes and rivers.	Consistent – An assessment of the effects of the proposal with respect to natural hazards has been completed in section 6.1.11 and recreational hazards in section 6.1.8. It is considered that the proposal will avoid the exacerbation of any natural hazard or the creation of a hazard within the Clutha River / Mata-Au.
Policy 5.4.4 To recognise Kai Tahu's interests in Otago's lakes and rivers by promoting opportunities for their involvement in resource consent processing.	Consistent - The application has been publicly notified, enabling tangata whenua to be actively involved in the assessment of the application with respect to freshwater management. The Applicant has commissioned a CIA and Māori freshwater values have been identified. However, the CIA and submission by tangata whenua state that there is insufficient to assess the effects of the proposal on various cultural values and therefore I do not consider that Māori freshwater values have been provided for in this application.
Chapter 6 – Water Quantity	
Objective 6.3.1 To retain flows in rivers sufficient to maintain their life-supporting capacity for aquatic ecosystems, and their natural character.	Consistent – The proposed take is non-consumptive and as such flows in the Clutha River / Mata-Au will not be affected.
Objective 6.3.2 To provide for the water needs of Otago's primary and secondary industries, and community domestic water supplies.	Consistent – The proposal provides for the water needs of Otago's industry and does not adversely affect any community domestic water supply.
Policy 6.4.0 To recognise the hydrological characteristics of Otago's water resources, including behaviour and trends in: (a) The levels and flows of surface water bodies; and (b) The levels and volumes of groundwater; and	Consistent – The hydrological characteristics of the Clutha River / Mata-Au have been recognised, however it is noted that the proposed take is non-consumptive and as such flows in the Clutha River / Mata-Au will not be affected.

<p>(c) Any interrelationships between adjoining bodies of water, when managing the taking of water.</p>	
<p>Policy 6.4.0A To ensure that the quantity of water granted to take is no more than that required for the purpose of use taking into account:</p> <p>(a) How local climate, soil, crop or pasture type and water availability affect the quantity of water required; and</p> <p>(b) The efficiency of the proposed water transport, storage and application system.</p>	<p>Consistent – The proposed take volume is required for the operation of the suction dredge. There is sufficient water available (there is no allocation limit for the Clutha River / Mata-Au) and given that the take is non-consumptive it is considered to be an efficient use of water.</p>
<p>Policy 6.4.1 To enable the taking of surface water, by:</p> <p>(a) Defined allocation quantities; and</p> <p>(b) Provision for water body levels and flows, except when:</p> <p>(i) The taking is from Lakes Dunstan, Hawea, Roxburgh, Wanaka or Wakatipu, or the main stem of the Clutha River/Mata-Au or Kawarau Rivers.</p> <p>(ii) All of the surface water or connected groundwater taken is immediately returned to the source water body.</p> <p>(iii) Water is being taken which has been delivered to the source water body for the purpose of that subsequent take.</p>	<p>Consistent – There is no allocation limit for the Clutha River / Mata-Au. The proposed take is from the main stem of the Clutha River / Mata-Au and all water is immediately returned (non-consumptive take).</p>
<p>Policy 6.4.4 ... For new takes in a catchment outside Schedule 2A, until the minimum flow has been set by a plan change, the minimum flow conditions of any primary allocation consents will provide for the maintenance of aquatic ecosystems and the natural character of the source water body.</p>	<p>Consistent – The proposed take is a new take in a catchment outside Schedule 2A. There is no primary allocation for the Clutha River / Mata-Au and as such no minimum flow requirement.</p>
<p>Policy 6.4.7 The need to maintain a residual flow at the point of take will be considered with respect to any take of water, in order to provide for the aquatic ecosystem and natural character of the source water body.</p>	<p>Consistent – Consideration has been given to the need to maintain a residual flow at the point of take. The take is non-consumptive with water returned immediately to the Clutha River / Mata-Au. As such, the proposal will not alter flows and the application of a residual flow requirement is not appropriate.</p>
<p>Policy 6.4.16 In granting resource consents to take water, or in any review of the conditions of a resource consent to take water, to require the volume and rate of take to be measured in a manner satisfactory to the Council unless it is impractical or unnecessary to do so.</p>	<p>Consistent – Consideration has been given to the requirement to measure the rate and volume of the water taken. The Applicant has advised that it is not practical to install a water meter for this type of activity. Further, the take is non-consumptive and the Measurement and Reporting of Water Takes Regulations do not require measurement of non-consumptive</p>

	takes. As such, it is not considered that the requirement to measure the volume and rate of the take would provide any benefit in this instance.
Policy 6.4.19 When setting the duration of a resource consent to take and use water, to consider: ...	Note - This policy has been superseded by policy 10A.2.2 - see assessment below.
Chapter 7 – Water Quality	
Objective 7.A.1 To maintain water quality in Otago lakes, rivers, wetlands, and groundwater, but enhance water quality where it is degraded.	Consistent – The proposal involves the discharge of sediment-laden water only and the Clutha River / Mata-Au is classified as being in the best 25% of all sites and ‘state A’ for clarity. As such, the water quality is not considered to be ‘degraded’ and water quality should be maintained. An assessment of the effects of the proposed discharge is provided in section 6.1.4.a of this report, which concludes that adverse effects will be less than minor. I consider that the proposal will maintain water quality.
Objective 7.A.2 To enable the discharge of water or contaminants to water or land, in a way that maintains water quality and supports natural and human use values, including Kāi Tahu values.	Inadequate information to assess whether the proposal meets this this provision - As described above, the proposed discharge is identified in Schedule 1A (schedule of natural values, at this location comprising ecosystem values, and areas of significant habitat for flathead galaxiid (tributaries only) and Schedule 1D (for values including kaitiakitanga, mauri, wāhi tapu and/or waiwhakaheke, wāhi taoka, mahika kai, kohanga, trails and cultural materials). I consider that the proposal will maintain water quality such that it supports the values in Schedule 1A, however as described throughout this report, Aukaha have advised that there is inadequate information to assess whether the proposal will maintain Kāi Tahu values.
Objective 7.A.3 To have individuals and communities manage their discharges to reduce adverse effects, including cumulative effects, on water quality.	Consistent – An assessment of the effects on water quality has been completed (see section 6.1.4.a). It is considered that, with the implementation of the recommended conditions of consent, adverse effects on water quality will be reduced.
Policy 7.B.1 Manage the quality of water in Otago lakes, rivers, wetlands and groundwater by:	Consistent - (a) – (b) refer to Schedule 15 of the RPW, which has been reviewed and considered in the assessment of this application. With respect to (c), the Clutha

<p>(a) Describing, in Table 15.1 of Schedule 15, characteristics indicative of Good Quality Water; and</p> <p>(b) Setting, in Table 15.2 of Schedule 15, receiving water numerical limits and targets for achieving Good Quality Water; and</p> <p>(c) Maintaining, from the dates specified in Schedule 15, Good Quality Water; and</p> <p>(d) Enhancing water quality where it does not meet Schedule 15 limits, to meet those limits by the date specified in the Schedule; and</p> <p>(e) Recognising the differences in the effects and management of point and non-point source discharges; and</p> <p>(f) Recognising discharge effects on groundwater; and</p> <p>(g) Promoting the discharge of contaminants to land in preference to water.</p>	<p>River / Mata-Au sets a limit of 5 NTU to be reached by 31 March 2025, and it is considered that the proposal will maintain water to this quality. (d) is not applicable as the date in (c) is 2025. With respect to (e), the differences in the effects and management of the proposed point source discharge (vs a non-point source discharge) have been recognised. The proposal does not involve a discharge to groundwater (f), and that promotion of discharging contaminants to land is acknowledged but not feasible in this instance (g).</p>
<p>Policy 7.B.2 Avoid objectionable discharges of water or contaminants to maintain the natural and human use values, including Kāi Tahu values, of Otago lakes, rivers, wetlands, groundwater and open drains and water races that join them.</p>	<p>Inadequate information to assess whether the proposal meets this this provision - As described above, the proposed discharge is identified in Schedule 1A and Schedule 1D. I consider that the proposal will maintain water quality such that it supports the values in Schedule 1A, however as described throughout this report, Aukaha have advised that there is inadequate information to assess whether the proposal will maintain Kāi Tahu values.</p>
<p>Policy 7.B.6 When assessing any consent to discharge contaminants to water, consider the need for and the extent of any zone for physical mixing, within which water will not meet the characteristics and limits described in Schedule 15, by taking account of:</p> <p>(a) The sensitivity of the receiving environment; and</p> <p>(b) The natural and human use values, including Kāi Tahu values; and</p> <p>(c) The natural character of the water body; and</p> <p>(d) The amenity values supported by the water body; and</p> <p>(e) The physical processes acting on the area of discharge; and</p> <p>(f) The particular discharge, including contaminant type, concentration and volume; and</p>	<p>Inadequate information to assess whether the proposal meets this this provision - A 200 m zone of reasonable mixing (in line with the recommended conditions of consent) is considered appropriate with respect to managing effects on water quality, natural character (c), amenity values (d) and physical processes (e). However, Aukaha have advised there is inadequate information to assess effects on cultural values (b). The discharge is sediment-laden water and the Good Water Quality guidelines in Schedule 15 have been taken into account.</p>

<p>(g) The provision of cost-effective community infrastructure; and (h) Good Quality Water as described in Schedule 15.</p>	
<p>Policy 7.C.1 When considering applications for resource consents to discharge contaminants to water, to have regard to opportunities to enhance the existing water quality of the receiving water body at any location for which the existing water quality can be considered degraded in terms of its capacity to support its natural and human use values.</p>	<p>Consistent – As described earlier, the proposal involves the discharge of sediment-laden water only and the Clutha River / Mata-Au is classified as being in the best 25% of all sites and ‘state A’ for clarity. As such, the water quality is not considered to be ‘degraded’. It is considered that the proposal will maintain water quality.</p>
<p>Policy 7.C.2 When considering applications for resource consents to discharge contaminants to water, or onto or into land in circumstances which may result in any contaminant entering water, to have regard to:</p> <p>(a) The nature of the discharge and the sensitivity of the receiving environment to adverse effects;</p> <p>(b) The financial implications, and the effects on the environment of the proposed method of discharge when compared with alternative means; and</p> <p>(c) The current state of technical knowledge and the likelihood that the proposed method of discharge can be successfully applied.</p>	<p>Consistent – Regard has been had to the nature of the discharge and sensitivity of the receiving environment (see assessment of s105 in section 8 of this report); due to the nature of the proposal being suction dredging located within the river, alternative methods of discharge are considered unrealistic; and it is considered that the proposed method of discharge can be successfully applied.</p>
<p>7.C.3 When considering any resource consent to discharge a contaminant to water, to have regard to any relevant standards and guidelines in imposing conditions on the discharge consent.</p>	<p>Consistent – Regard has been had to the relevant limits for turbidity in Schedule 15 of the RPW.</p>
<p>Policy 7.C.7 To require that all practical alternative locations for the storage of hazardous substances have been considered before such storage occurs in close proximity to any lake or river or to mean high water springs; and, if it is not practical to locate elsewhere, to require that appropriate risk management contingencies are put in place.</p>	<p>Consistent – The Applicant has proposed several measures in their application to mitigate risks associated with activities such as the use of machinery and in situ fuelling (see section 6.3 of the s95 report). Further, the MTOP outlines the refuelling procedures and spill response procedures.</p>
<p>Policy 7.C.8 To promote the use of contingency plans for the prevention, containment and recovery of the accidental spill of any hazardous substance which may adversely affect water quality.</p>	
<p>Chapter 8 – The Beds and Margins of Lakes and Rivers</p>	
<p>Objective 8.3.1 To maintain:</p>	

<p>(a) The stability and function of existing structures located in, on, under or over the bed or margin of any lake or river;</p> <p>(b) The stability of the bed and bank of any lake or river; and</p> <p>(c) The flood and sediment carrying capacity of any lake or river.</p>	<p>Consistent – The proposal will avoid changes in the nature of the flow and sediment processes of the Clutha River / Mata-Au. It will maintain the stability or function of existing structures, the bed and bank of the river and flood carrying capacity. It will not result in erosion and sedimentation.</p>
<p>Policy 8.4.1 When managing activities in, on, under or over the bed or margin of any lake or river, to give priority to avoiding changes in the nature of flow and sediment processes in those water bodies, where those changes will cause adverse effects:</p> <p>(a) On the stability and function of existing structures located in, on, under or over the bed or margin of any lake or river;</p> <p>(b) Arising from associated erosion or sedimentation of the bed or margin of any lake or river, or land instability; or</p> <p>(c) Arising from any reduction in the flood carrying capacity of any lake or river.</p>	
<p>Policy 8.6.1 In managing the disturbance of the bed or margin of any lake or river, to have regard to any adverse effect on:</p> <p>(a) The spawning requirements of indigenous fauna, and trout or salmon;</p> <p>(b) Bed and bank stability;</p> <p>(c) Water quality;</p> <p>(d) Amenity values caused by any reduction in water clarity; and</p> <p>(e) Downstream users.</p>	<p>Consistent – An assessment of effects on the matters listed has been completed. Overall, it is considered that adverse effects on spawning of indigenous fauna, trout and salmon; bed and bank stability; water quality; amenity values (relating to water clarity); and downstream water users will be avoided.</p>
<p>Chapter 10 - Wetlands</p>	
<p>Objective 10.3.1 Otago's wetlands and their individual and collective values and uses will be maintained or enhanced for present and future generations.</p>	<p>Consistent – The values and uses of the Bendigo Wetland Regionally Significant Wetland, located within the mining permits, have been recognised and the Applicant has proposed to avoid working in those areas. As such, the application seeks to protect and maintain the values and uses of the Bendigo Wetland Regionally Significant Wetland and adverse effects and loss of the wetland will be avoided.</p>
<p>Objective 10.3.2 Otago's Regionally Significant Wetlands and their values and uses are recognised and sustained.</p>	
<p>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:</p> <p>(a) Is lawfully established; or</p> <p>(b) Is nationally or regionally significant infrastructure, and has specific locational constraints; or</p>	

(c) Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.	
10.4.8 The loss of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where: ...	
Chapter 10A – Replacement Water Take and Use Permits	
Objective 10A.1.1 Facilitate an efficient and effective transition from the operative freshwater planning framework toward a new integrated regional planning framework, by managing: (a) The take and use of freshwater; and (b) The replacement of Deemed Permits, and (c) The replacement of water permits for takes and uses of freshwater where those water permits expire prior to 31 December 2025.	Consistent – The Applicant seeks a consent term of longer than six years (just over 7 years, with an expiry on 25 February 2031 to align with the expiry of the mining permit). The wording of Policy 10A.2.2 is very directive in that consents are to only be granted for a duration of no more than six years. If consent is granted, it is considered the duration should not exceed six years.
Policy 10A.2.2 Irrespective of any other policies in this Plan concerning consent duration, only grant resource consents for takes and uses of freshwater, where this activity was not previously authorised by a Deemed Permit or by a water permit expiring prior to 31 December 2025, for a duration of no more than six years.	

6.4 Section 104(1)(c) - Any other matters

6.4.1 The Kai Tahu ki Otago Natural Resource Management Plan 2005

The Kāi Tahu ki Otago Natural Resource Management Plan 2005 (NRMP) is considered to be a relevant other matter for the consideration of this application. The RPW is yet to be amended to take into account the NRMP and this Plan expresses the attitudes and values of the four Papatipu Rūnaka: Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga.

The Clutha River / Mata-Au is located within the 'Clutha/Mata-au Catchment' of the NRMP.

The application was publicly notified and directly notified to Aukaha. A submission was received from Aukaha, which advised that Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga (Kāi Tahu) **oppose** the application. Aukaha have not provided an assessment against the provisions of the NRMP at this stage.

Overall, based on the assessment provided in the CIA, I consider that there is inadequate information to assess whether the proposal is consistent with the provisions of this Plan.

I recommend that the Applicant further engages with Aukaha with respect to the potential effects of the proposal on the cultural values and whether the proposal protects the mauri of the water, prior to any hearing of this application being held.

I consider that the following objectives and policies of the NRMP are of most relevance to this application:

Otago Region – Overall Objectives

- The rakātirataka and kaitiakitaka of Kāi Tahu ki Otago is recognised and supported.
- Ki Uta Ki Tai management of natural resources is adopted within the Otago region.
- The mana of Kāi Tahu ki Otago is upheld through the management of natural, physical and historic resources in the Otago Region.
- Kāi Tahu ki Otago have effective participation in all resource management activities within the Otago Region.

The application was publicly notified and the rakātiratanga and kaitiakitanga of Kāi Tahu ki Otago is recognised and supported, and there is participation in this resource management activity. The Applicant commissioned a CIA which states that inadequate information has been provided for mana whenua to assess whether effects on cultural values will be addressed. As such, it is not known whether the mana of Kāi Tahu ki Otago would be upheld by the proposal.

Otago Region – Wai Māori

- The spiritual and cultural significance of water to Kāi Tahu ki Otago is recognised in all water management.
- The waters of the Otago Catchment are healthy and support Kāi Tahu ki Otago customs.
- Contaminants being discharged directly or indirectly to water are reduced.
- Flow regimes and water quality standards are consistent with the cultural values of Kāi Tahu ki Otago and are implemented throughout the Otago Region and lower Waitaki Catchment.
- To require an assessment of instream values for all activities affecting water.
- To promote the cultural importance of water to Kāi Tahu ki Otago in all water management within the Otago Region and Lower Waitaki Catchment.
- To protect and restore the mauri of all water.

The spiritual and cultural significance of water to Kāi Tahu ki Otago has been recognised. The proposal will not alter flow regimes and an assessment of instream values with respect to aquatic ecology has been completed. The Applicant commissioned a CIA which states that inadequate information has been provided for mana whenua to assess whether effects on cultural values will be addressed, and they were unable to assess whether the proposal would protect the mauri of the water.

Otago Region - Discharges

- To require monitoring of all discharges be undertaken on a regular basis and all information, including an independent analysis of monitoring results, be made available to Kāi Tahu ki Otago.

- To encourage Management Plans for all discharge activities that detail the procedure for containing spills and including plans for extraordinary events.

Monitoring of the effects of the discharge on visual clarity is proposed, although the details of how this is to occur (measurement and monitoring) is yet to be closed out. The Applicant has a management plan (MTO) addressing various procedures including responding to any spills of contaminants to the environment.

Otago Region – Water Extraction

- To require that resource consent applicants seek only the amount of water actually required for the purpose specified in the application.
- To require that all water takes are metered and reported on, and information be made available upon request to Kāi Tahu ki Otago.
- To oppose the granting of water take consents for 35 years. Consistent with a precautionary approach, either a review clause or a reduced term may be sought.

The application comprises a non-consumptive take and the Applicant has advised that it is not practical to install a water meter for this type of activity. The consent duration sought is approximately 7 years.

Otago Region - River and Instream Works

- To require that any visual impacts at the site of the activity are minimal.
- To require that any works be undertaken either before or after spawning season of potentially affected species as identified by the affected Papatipu Rūnaka.
- To require that all practical measures are taken to minimise sedimentation or discharge of sedimentation.
- To require that all practical measures are undertaken to minimise the risk of contamination to the waterway.
- To require that all machinery is clean and well maintained before entering the work site; refuelling is to be done away from the waterway.

An assessment of the effects of the proposal on amenity has been completed (see section 6.1.10) which concludes that adverse effects will be less than minor and as such the visual impacts of the activity are considered to be minimal. The assessment of effects on aquatic ecology (see section 6.1.5) confirms that adverse effects on spawning of freshwater species will be avoided, and conditions relating to the discharges of sediment are proposed to manage effects on water quality. The Applicant has a management plan (MTO) addressing various procedures including undertaking refuelling in a way to minimise risk of contamination of the waterway. The Applicant has proposed that all machinery will be clean and well-maintained before entering the waterway.

Otago Region - Wāhi Tapu

- All wāhi tapu are protected from inappropriate activities.
- Kāi Tahu ki Otago have access to wāhi tapu.

- Wāhi tapu throughout the Otago region are protected in a culturally appropriate manner.
- To require consultation with Kāi Tahu ki Otago for activities that have the potential to affect wāhi tapu.
- To discourage all discharges near wāhi tapu.

The CIA states that the application has not addressed Māori archaeology values and the adoption of an accidental discovery protocol may not be sufficient to identify and protect Māori archaeological sites.

Otago Region - Mahika kai and Biodiversity

- Habitats and the wider needs of mahika kai, taoka species and other species of importance to Kāi Tahu ki Otago are protected.
- Mahika kai resources are healthy and abundant within the Otago Region.
- Mahika kai is protected and managed in accordance with Kāi Tahu ki Otago tikaka.
- To identify mahika kai sites and species of importance to Kāi Tahu ki Otago.
- To protect and enhance physical access for Kāi Tahu ki Otago to mahika kai sites.
- To require that hazardous operations and the use, transportation and storage of hazardous substances are not to impact mahika kai and other cultural values.
- To require that fish screens be fitted to all pumps and race intakes.

An assessment of effects on aquatic ecology has been completed which concludes that adverse effects will be less than minor, however it is acknowledged that this may not directly relate to the protection of mahika kai resources. The application states that there will be a screen on the pump which draws water into the venturi, however the intake at the nozzle will not have a screen as rocks, gravels and gold need to be drawn in. An assessment of potential fish entrainment is provided in section 6.4 of the s95 report.

Otago Region - Cultural landscapes

- The relationship that Kāi Tahu ki Otago have with land is recognised in all resource management activities and decisions.
- The protection of significant cultural landscapes from inappropriate use and development.
- The cultural landscape that reflects the long association of Kāi Tahu ki Otago resource use within the Otago region is maintained and enhanced.
- To identify and protect the full range of landscape features of significance to Kāi Tahu ki Otago.
- To discourage mining and quarrying activities within landscapes of cultural significance or highly visible landscapes.
- To require all applications for mining or quarrying to include: i. site rehabilitation plans that include the planting of indigenous species and address long term concerns; and ii. requirement for screening off of the work site; and iii. prevention or reduction of vibration,

dust, noise, soil and water contamination; and iv. restriction of the hours during which explosives may be used; and v. provision for the containment of all waste discharges from mining operation.

The relationship of Kāi Tahu ki Otago with the land has been recognised. The Applicant commissioned a CIA from Aukaha, which states that there is not adequate information available to mana whenua to explain how impacts on wāhi tūpuna and ara tawhito values will be mitigated. It describes that the Clutha River / Mata-Au has been significantly modified and degraded by mining and dredging in the past and further modification is not supported by mana whenua. I consider that the provision specific to mining and quarrying appears to be more relevant to a land-based activity rather than suction dredging within the riverbed.

Clutha / Mata-Au Catchment – all relevant provisions

- To discourage activities that increases the silt loading in waterways or reaches of waterways.
- To require that wāhi tapu sites are protected from further loss or destruction.
- To require accidental discovery protocols for any earth disturbance activities.
- To encourage environmental and educational efforts to halt the spread of Lagarosiphon and other pest species.

The proposal will not increase the silt loading as there is no 'new' material coming into the system. The accidental discovery protocol is included in the conditions in Appendix A, however it is noted that the CIA states that an accidental discovery protocol may not be sufficient to identify and protect Māori archaeological sites in this instance. Measures have been proposed (details yet to be finalised with respect to Lagarosiphon) to prevent the introduction and reduce the spread of pest plant species.

6.4.2 The Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008

The Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 - The Cry of the People, Te Tangi a Taura is considered to be a relevant other matter for the consideration of this application. The RPW is yet to be amended to take into account this Plan and this Plan expresses the attitudes and values of the four Rūnanga Papatipu o Murihiku – Awarua, Hokonui, Ōraka/Aparima and Waihōpai.

The Clutha River / Mata-Au is located at the northern extent of the area covered by this Plan and is located within the 'Takitimu Me Ona Uri – High Country and Foothills' Area of Interest.

The application was publicly notified and directly notified to Te Ao Marama Inc. No submission from them was received.

I have prepared an assessment against the provisions of this Plan, however, acknowledge that this has not been informed by information from mana whenua due to no submission having been received. Overall, I consider the proposal is generally consistent with the provisions of this Plan.

I consider that the following objectives and policies are of most relevance to this application:

General Water Policy and Rivers

- The role of Ngāi Tahu ki Murihiku as kaitiaki of freshwater must be given effect to in freshwater policy, planning and management.
- Protect and enhance the mauri, or life supporting capacity, of freshwater resources throughout Murihiku.
- Protect and enhance the customary relationship of Ngāi Tahu ki Murihiku with freshwater resources.
- Promote catchment management planning (ki uta ki tai), as a means to recognise and provide for the relationship between land and water.
- Promote river management that adopts the priorities established in the Te Rūnanga o Ngāi Tahu Freshwater Policy 1997.
- Management of our rivers must take into account that each waterway has its own mauri, guarded by separate spiritual guardians, its own mana, and its own set of associated values and uses.
- Require that rivers recognised as Statutory Acknowledgements be recognised for their special associations to Ngāi Tahu beyond the expiry date of 20 years...
- Avoid the use of rivers as a receiving environment for the discharge of contaminants (e.g. industrial, residential, recreational or agricultural sources).
- Ensure that activities in upper catchments have no adverse effect on mahinga kai, water quality and water quantity in lower catchments.
- Oppose any activity that may result in the spread of any exotic alga from contaminated rivers to uncontaminated rivers, for example *Didymosphenia geminata* (didymo).

The application was publicly notified and as such the role of Ngāi Tahu ki Murihiku as kaitiaki of freshwater has been given effect to. An assessment of effects on the priorities outlined in Te Rūnanga o Ngāi Tahu Freshwater Policy 1997 have been assessed and it is considered that adverse effects will be less than minor, except for the protection of cultural values and uses where there is inadequate information to assess effects. It is acknowledged that the preference is discharge to land over water, however due to the nature of the activity being located on surface water, this is not understood to be practicable. Methods for the management of pest plant species have been addressed.

Discharge to Water and Water Quality

- Avoid the use of water as a receiving environment for the direct, or point source, discharge of contaminants.
- Assess discharge to water proposals on a case by case basis, with a focus on local circumstances and finding local solutions.
- Consider any proposed discharge activity in terms of the nature of the discharge, and the sensitivity of the receiving environment.
- Any discharge activity must include a robust monitoring programme that includes regular monitoring of the discharge and the potential effects on the receiving environment.

- Ngāi Tahu ki Murihiku consider activities involving the discharge of contaminants to water a community issue. For this reason, ngā rūnanga may, where seen as appropriate, recommend that a consent application be notified.
- The role of Ngāi Tahu ki Murihiku as tangata whenua and kaitiaki of water must be recognised and provided for in all water quality management.
- Strive for the highest possible standard of water quality that is characteristic of a particular place/waterway, recognising principles of achievability...
- Require cumulative effects assessments for any activity that may have adverse effects of water quality.
- Avoid the use of water as a receiving environment for the direct, or point source, discharge of contaminants. Generally, all discharge must first be to land.
- Require robust monitoring of discharge permits, to detect non-compliance with consent conditions. Noncompliance must result in appropriate enforcement action to discourage further non-compliance.

The application was publicly notified and as such the role of Ngāi Tahu ki Murihiku as tangata whenua and kaitiaki of water has been recognised and there has been an opportunity for involvement in the consent assessment process. No submission was received from Ngāi Tahu ki Murihiku. It is acknowledged that the preference is discharge to land over water, however due to the nature of the activity being located on surface water, this is not understood to be practicable. The nature of the discharge and sensitivity of the receiving environment have been considered in the assessment of this application.

Water Quantity – Abstractions

- Adopt the precautionary principle when making decisions on water abstraction resource consent applications, with respect to the nature and extent of knowledge and understanding of the resource.
- Encourage water users to be proactive and use water wisely.
- Avoid compromising fisheries and biodiversity values associated with spring fed creeks and rivers for the purposes of water abstractions.
- Consideration of consent applications for water abstractions should have particular regard to questions of: a. how well do we understand the nature and extent of the water resource; b. how well can we monitor the amount of water abstracted; c. whether land capability (e.g. soil type, vulnerability of underlying groundwater resources) matches the land use enabled by irrigation; d. what might happen in the future (e.g. rainfall and recharge of aquifers, climate change).
- Encourage the installation of appropriate measuring devices (e.g. water meters) on all existing and future water abstractions, to accurately measure, report, and monitor volumes of water being abstracted, and enable better management of water resources
- Advocate for durations not exceeding 25 years on resource consents related to water abstractions.

- Avoid adverse effects on the base flow of any waterway, and thus on the mauri of that waterway and on mahinga kai or taonga species.

The proposed water take is a non-consumptive take, with water being discharged straight back to the source water body. As such, adverse effects on the base flow will be avoided. The applicant seeks a consent duration of approximately 7 years, less than the 25 year maximum sought in this Plan. The water use is efficient as it is non-consumptive and there will be no loss of water from the system.

Mahinga Kai and Biodiversity

- Consider the actual and potential effects of proposed activities on mahinga kai places, species and activities when assessing applications for resource consent.

An assessment of effects on aquatic ecology has been completed which concludes that adverse effects will be less than minor.

Repo - Wetlands

- Avoid the direct or indirect drainage or modification of any existing wetland area.

The application seeks to avoid the modification of wetlands through avoidance of disturbance of the Bendigo Wetland Regionally Significant Wetland.

6.4.3 Te Rūnanga o Ngāi Tahu Freshwater Policy Statement 1999

The Ngāi Tahu Freshwater Policy Statement 1999 (NTFP) is considered to be a relevant other matter for the consideration of this application. The RPW is yet to be amended to take into account the NTFP. The NTFP expresses the attitudes and values of Te Rūnanga o Ngāi Tahu.

It is considered that, overall, there is inadequate information to assess whether the proposal meets the objectives and policies of the NTFP.

The following objectives and policies are of most relevance to this application:

- Objective - Mauri: To restore, maintain and protect the mauri of freshwater resources
 - Afford priority to ensuring the availability of sufficient quantities of water of appropriate water quality to restore, maintain and protect the mauri of a waterbody, in particular priority is to be accorded when developing water allocation regimes.
 - Protect the opportunities for Ngāi Tahu's uses of freshwater resources in the future

The Applicant commissioned a CIA which states that inadequate information has been provided for mana whenua to assess whether the proposal would protect the mauri of the water. The proposal will not alter the quantity of water or flows in the Clutha River / Mata-Au, and an assessment of effects on water quality concludes that adverse effects on water quality will be less than minor. It is unclear whether the proposal will protect freshwater resources for future opportunities for Ngāi Tahu.

- Objective – Kaitiakitanga: To promote collaborative management initiatives that enable the active participation of Ngai Tahu in freshwater management.

- Ensure that Ngāi Tahu has access to information about the status of resources and the activities of resource users so that it is able to anticipate the effects of activities on customary values and uses.
- Improve the integration of western science and traditional local knowledge in order to develop a better understanding of all water use planning related matters.
- An assessment of effects on aquatic ecology has been completed which concludes that adverse effects will be less than minor, however it is acknowledged that this may not directly relate to the protection of mahika kai resources. Objective – Kaitiakitanga: To promote collaborative management initiatives that enable the active participation of Ngai Tahu in freshwater management.
 - Ensure that Ngāi Tahu has access to information about the status of resources and the activities of resource users so that it is able to anticipate the effects of activities on customary values and uses.
 - Improve the integration of western science and traditional local knowledge in order to develop a better understanding of all water use planning related matters.

The role of Ngāi Tahu as kaitiaki has been recognised. The Applicant commissioned a CIA by Aukaha in which they stated that they had not been provided with sufficient information to assess the effects of the proposal on cultural values.

6.4.4 Sports Fish and Game Management Plan for Otago Fish and Game Region 2015 – 2025

The Sports Fish and Game Management Plan for Otago Fish and Game Region 2015 – 2025 provides a framework for the management of Otago's sports fish and game bird resources. It has a 10-year horizon and is both strategic (outlining issues and providing long-term organisational outcomes) and operational (outlining management objectives and policies).

I consider that the following objectives and policies from the 'Habitat Protection and Management' chapter are of most relevance to this application:

- Objective 6.3.1 To protect, maintain and enhance the quality and extent of fish and game habitats in Otago as a priority, with advocacy as the primary tool.
- Policy 6.4.1 Priority is to be given to achieving outcomes through RMA planning processes and focussing in the first instance on habitat areas identified as nationally or regionally significant in section 5.6 and 5.7 of this plan or those at risk from a specific threat.
- Policy 6.4.2 Promote the protection, maintenance and enhancement of habitats through either public processes and public advocacy including: a) resource consent application processes b) regional and district policy and plan development c) pastoral lease tenure reviews d) legislation and policy development under other Acts. e) Department of Conservation conservation planning processes f) Department of Conservation concession application processes.
- Policy 6.4.17 Protect fish and game habitats and amenity values of rivers, streams and lakes in Otago by way of: a) involvement in consent and permission processes b) involvement in the development of RMA policies and plan changes. c) applications for water conservation orders d) involvement in collaborative community based processes.

- Policy 6.4.18 To ensure that water quality standards and flow regimes reflect the requirements of healthy and productive sports fish and game populations and the different stages in their life cycles.

I consider that the proposal is consistent with the Sports Fish and Game Management Plan. An assessment of effects of the proposal on the quality and extent of fish and game habitats within the extent of the Clutha River / Mata-Au that is subject of the application has been completed. Overall, it is considered that adverse effects on those values will be less than minor and, subject to the conditions identified in Appendix A, I consider that the habitats will be protected.

7. Section 104(6)

Section 104(6) provides discretion for the consent authority to decline an application on the grounds that it has inadequate information to determine the application.

As described throughout this report with a specific assessment in section 6.1.12, there is inadequate information to assess the effects of the proposal on cultural values, including wāhi tūpuna and ara tawhito values, wai Māori values, archaeological values and equity of environmental outcomes. As such, the effects of the proposal on cultural values are unclear.

This has led to an inability to assess consistency with several provisions of the relevant statutory documents, including the NPS-FM (in particular whether the proposal gives effect to Te Mana o te Wai), partially operative RPS, proposed RPS (both non-freshwater and freshwater instrument components), RPW, the NRMP and NTFP.

Based on the effects of the proposal on cultural values being unclear and a flow-on inability to assess consistency with the provisions of several of the relevant documents, I consider that there is inadequate information to make a determination on the application.

Based on the information provided to date, I consider that the application should be **declined** using the discretion provided for in section 104(6) on the basis of having inadequate information to determine the application.

I recommend that the Applicant further engages with Aukaha such that they are able to make an assessment of the effects of the proposal on cultural values, and in turn provide for the completion of an assessment of the consistency with the provisions of the relevant documents, prior to any hearing of this application being held.

8. Section 105

Section 105 of the Act states that if an application is for a discharge permit, the consent authority must, in addition to the matters in section 104(1), have regard to:

- a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
- b) the applicant's reasons for the proposed choice; and
- c) any possible alternative methods of discharge, including discharge into any other receiving environment.

The nature of the discharge is potentially sediment-laden water. The receiving environment is described in section 3.2 of the s95 report and assessed for its sensitivity to the proposed discharge in sections 6.1.4.a (water quality) and 6.1.5.a (aquatic ecology) of this report.

The application does not include a description of the Applicant's reason for the proposed discharge to surface water or an assessment of alternatives to the discharge. However, due to the nature of the proposal being suction dredging located within the river, it is considered that surface water is the only realistic receiving environment for the discharge.

9. Section 107

Section 107(1) of the Act states, except as provided in subsection (2) (relating to exceptions), a discharge permit shall not be granted if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar or other contaminants in water) is likely to give rise to all or any of the following effects in the receiving waters:

- c) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended material;
- d) Any conspicuous change in the colour or visual clarity;
- e) Any emission of objectionable odour;
- f) The rendering of fresh water unsuitable for consumption by farm animals;
- g) Any significant adverse effects on aquatic life.

These matters were considered in the notification report above.

The proposal involves the discharge of potentially sediment-laden water to surface water. An assessment of effects with respect to a conspicuous change in colour or visual clarity (e) has been completed in section 6.1.4(a), and with respect to adverse effects on aquatic life (g) in section 6.1.5(a) of this report. It is considered that the proposal will not give rise to those effects at the zone of reasonable mixing of 200 m, in accordance with the condition put forward in section 6.1.5(a) and copied here:

- a) *There must be no conspicuous change in colour or visual clarity of the Clutha River / Mata-Au beyond a distance of 200 m downstream of the point of discharge at any time.*
- b) *If there is a conspicuous change in colour or visual clarity of the Clutha River / Mata-Au beyond a distance of 100 m downstream from the point, the activity must cease until there is no conspicuous change in colour or visual clarity beyond 100 m.*
- c) *In the event that a noticeable sediment plume beyond a distance of 200 metres downstream from the point of discharge, all dredging must cease and the Consent Holder must immediately notify the Consent Authority.*

The Applicant has advised that there will be no discharge of any contaminants other than the remobilisation of in-river sediments. As such, I do not consider it likely that the proposal will result in any conspicuous oil or grease films, scums or foams, or floatable or suspended material (c), nor the emission of objectionable odour (e) or rendering of freshwater unsuitable for consumption by farm animals.

In summary, but for the lack of information identified above, consent could be granted with respect to 107(1) of the Act.

10. Part 2 of the Act

Section 104(1) of the Act, a consent authority must consider resource consent applications and any submissions received "*subject to Part 2*" of the Act.

The Court of Appeal has clarified how to approach the assessment of "*subject to Part 2*" in section 104(1). In *R J Davidson*, the Court of Appeal found that decision makers must consider Part 2 when making decisions on resource consent applications, where it is appropriate to do so. The extent to which Part 2 of the Act should be referred to depends on the nature and content of the planning documents being considered.

Where the relevant planning documents have been prepared having regard to Part 2 of the Act, and with a coherent set of policies designed to achieve clear environmental outcomes, consideration of Part 2 is not ultimately required. In this situation, the policies of these planning documents should be implemented by the consent authority. The consideration of Part 2 "*would not add anything to the evaluative exercise*" as "*genuine consideration and application of relevant plan considerations may leave little room for Part 2 to influence the outcome*". However, the consideration of Part 2 is not prevented, but Part 2 cannot be used to subvert a clearly relevant restriction or directive policy in a planning document.

In the following sections I assess the application against Part 2 so as to assist the decision maker (and noting that several planning documents have not yet been reviewed to give effect to the NPS-FM 2020).

10.1 Section 5

Section 5 identifies the purpose of the Act as to promote the sustainable management of natural and physical resources. This is defined as meaning:

"managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

As described throughout this report, there is inadequate information to assess the effects of the proposal on cultural values.

The assessment of effects on other matters (such as water quality, ecology values, recreation, downstream water users, natural character and amenity, etc.) concludes that adverse effects will be less than minor and can therefore sustain those values to meet the needs of future generations, safeguard the life-supporting capacity of water and ecosystems, and avoid adverse effects on the environment.

An assessment cannot be completed for the assessment of adverse effects on cultural values, whether the proposal will sustain the potential of natural and physical resources to meet the need of future generations and whether the life-supporting capacity of water and ecosystems are safeguarded from the cultural effects perspective.

10.2 Section 6

Section 6 sets out a number of matters of national importance which need to be recognised and provided for. The following matters of national importance are of relevance to this proposal:

(a) the preservation of the natural character of wetlands, and lakes and rivers and their margins., and the protection of them from inappropriate subdivision, use, and development.

An assessment of effects of the proposal on natural character has been completed (see section 6.1.10.a of this report), concluding that adverse effects will be less than minor. The proposal avoids suction dredging in the Bendigo Wetland due to the ecological sensitivity of the location. As such, I consider that the natural character of the Clutha River / Mata-Au and its margins, and the Bendigo Wetland, will be protected from inappropriate use or development.

(d) The maintenance and enhancement of public access to and along rivers.

The suction dredging activity will maintain public access to the Clutha River / Mata-Au. There may be a short disruption to public access in a localised area associated with the construction of the slipways and slipping of the dredge (for health and safety reasons) however this will be only for a few hours and overall public access to the river will be maintained.

(e) The relationship of Māori and their cultural and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.

(f) the protection of historic heritage from inappropriate subdivision, use and development

An assessment of effects on cultural values has been completed with the information available, which concludes that there is inadequate information to make an assessment of effects on cultural values (including historic heritage of Māori origin). As such, the relationship of Māori and their cultural values and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga has been recognised but it is unclear whether the proposal provides for them. The CIA states that the application has not addresses Māori archaeology values and the adoption of an accidental discovery protocol may not be sufficient to identify and protect Māori archaeological sites.

(h) the management of significant risks from natural hazards

An assessment of the effects of the proposal on natural hazards has been completed (see section 6.1.11 of this report), which concludes that adverse effects on hazards will be less than minor. It is considered that significant risks from natural hazards will be managed.

10.3 Section 7

Section 7 identifies a number of “other matters” to be given particular regard by the Council. Of relevance to this proposal are:

(a) kaitiakitanga

(aa) the ethic of stewardship

Particular regard has been given to kaitiakitanga and the ethic of stewardship throughout the assessment of this application. The Applicant commissioned a CIA from Aukaha which stated that inadequate information has been provided to mana whenua to assess the effects of the proposal on various cultural values; and there is concern that the proposal perpetuates existing inequities in environmental outcomes. The Applicant requested the application be publicly notified, which has provided an opportunity for the general public to exercise stewardship.

(b) the efficient use and development of natural and physical resources

The proposal involves the non-consumptive take of water, which is an efficient use of the water resource. The effects of the discharge of potentially sediment-laden water have been assessed as being less than minor, subject to the conditions in Appendix A.

(c) the maintenance of amenity values

An assessment of the effects of the proposal on amenity values has been completed in section 6.1.10.b of this report. It concludes that adverse effects will be less than minor, and as such I consider that amenity values will be maintained.

(d) intrinsic values of ecosystems

Particular regard has been given to the intrinsic values of ecosystems. An assessment of effects on aquatic ecology and indigenous birds has been completed as part of this assessment.

(f) maintenance and enhancement of the quality of the environment

Particular regard has been had to the effects of the proposal on the quality of the environment. The assessment of effects concludes that adverse effects on matters excluding cultural values (where there is inadequate information to complete an assessment) will be maintained.

(h) the protection of the habitat of trout and salmon

An assessment of effects on aquatic ecology, including spawning habitat of trout, has been completed which concludes that adverse effects on trout spawning will be avoided.

10.4 Section 8

Section 8 requires the council to take into account the principles of the Treaty of Waitangi when exercising functions and powers under the Act in relation to managing the use, development and protection of natural and physical resources.

The status of Kāi Tahu as treaty partner has been recognised. The Applicant commissioned a CIA and requested the application be publicly notified, enabling mana whenua to be actively involved in the assessment of the application.

Kāi Tahu values have been recognised and provided for in line with the planning policy direction and direction in the relevant iwi management plans.

However, there is inadequate information to assess effects of the proposal on cultural values, which has led to the recommendation that this application be declined on the basis of inadequate information to determine the application.

12. Recommendation

Under section 104B, it is recommended that this consent application is **refused** for the following reasons:

- In accordance with the assessment under section 104(1)(a) and 104(1)(ab), the actual and potential effects on the environment of allowing the activity are unable to be assessed. In particular, the Applicant commissioned a CIA be prepared by Aukaha, who advised in the CIA and their submission on the application that they had not been provided with sufficient information to make an assessment on the effects of the proposal on cultural values. The adverse effects on the other relevant matters are able to be managed through conditions such that they are less than minor.
- With respect to section 104(1)(ab), the Applicant has not proposed any offsetting or compensation measures.
- In relation to section 104(1)(b), there is inadequate information to assess whether the proposal is consistent with the provisions of several relevant statutory documents, including the NPSFM, partially operative RPS, proposed RPS (non-freshwater and freshwater instrument components) and the RPW. In particular, there is inadequate information to assess whether the proposal meets the objectives and policies, including (but not limited to) whether the proposal gives effect to Te Mana o te Wai, provides for the mauri of the water, provides for the health and well-being of the waterbody, identifies or protects Māori cultural and historic heritage values, wāhi tūpuna values and Kāi Tahu values generally.
- With respect to the assessment of other matters under section 104(1)(c), there is inadequate information to assess whether the proposal meets the provisions of the Kāi Tahu ki Otago Natural Resource Management Plan and Ngāi Tahu Freshwater Policy Statement. As with the above matters, this relates to the CIA stating that there was inadequate information provided to inform an assessment of effects of the proposal on cultural effects.
- The proposal is not contrary to section 107 of the Act.
- An assessment has been completed under Part 2. In summary, there is inadequate information to assess whether the proposal meets the purpose of the Act (sustainable management of natural and physical resources) or provides for the relationship of Māori and their cultural and traditions with their ancestral lands, water, wāhi tapu and other taonga or the protection of historic heritage (Māori) from inappropriate use and development.

Overall, there is inadequate information to make an assessment on the application with respect to effects of the proposal on cultural values and consistency with the provisions of the relevant statutory documents. In its current form and with the information provided by the Applicant to date, I recommend the application be **declined**, as provided for by section 104(6) of the Act.

I recommend that the Applicant further engages with Aukaha such that they are able to make an assessment on effects of the proposal on cultural values, prior to any hearing of this application being held.

Appendix A: Draft Conditions of Consent

Appendix B: Section 95 notification report

Appendix C: Technical review by GeoSolve Limited - engineering

Appendix D: Technical review by Babbage Consultants Limited - ecology

Appendix E: Summary of Submissions