

RC200277



17 October 2020

Mana Water Sports Limited
C/- Vivian and Espie Limited
Attn: Blair Devlin
PO Box 2514
Queenstown 9348

1 Dunorling Street
PO Box 122, Alexandra 9340
New Zealand

03 440 0056

Info@codc.govt.nz
www.codc.govt.nz



Dear Sir/Madam

Application for Resource Consent: RC200277 -

In regard to the application for land use consent to place to place an inflatable water amusement device on the surface of Lake Dunstan at Lowburn and operate it on a commercial basis between mid-December and mid-March (summer months). A fixed term of 6 years is sought. The site subject to the application is the surface and bed of lake Dunstan near the Lowburn Inlet. The application has been approved by the Planning Manager, subject to the following conditions:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent, and the site plan attached as Appendix 1, and as modified by the following conditions.
2. The amusement device is permitted to operate between the period of 1 December and 31 March the following year. At all other times, the amusement device and all ancillary equipment will be completely removed from the site (with the exception of the mooring blocks which will remain on the lake bed).
3. The amusement device shall not be open to the public outside of the hours of 10:00 to 18:00 (seven days, inclusive of public holidays).
4. Outside of the hours of operation a private security guard will be employed to ensure the device is kept secure and not used by the public.
5. At all times while the device is in use by the public life guards will be present on site to ensure the safety of users.
6. The applicant will take all measures necessary to ensure the inflatable water amusement device and associated equipment is prevented from creating any obstruction or blockage in the lake or downstream river channel, and to any bridges, dams or other structures during adverse conditions, including high flows and flooding events.
7. Rubbish and recycling facilities will be provided by the consent holder at all times, during the operation of the amusement device, and will take reasonable measures necessary to ensure any litter left in the vicinity of the activity, including the public toilets and parking areas, is collected daily and disposed of appropriately to ensure it does not reach Lake Dunstan.
8. Pursuant to section 123(a) of the Resource Management Act 1991 this land use consent is granted for a period that shall expire on 31 March 2026.

9. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:
 - a) Administration, monitoring and inspection relating to this consent; and
 - b) Charges authorised by regulations.
10. Unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's expense.
11. In accordance with Section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed on and in the period within 6 (six) months upon each anniversary of the date of this consent, if, on reasonable grounds, the consent authority finds that:
 - a. There is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted;
 - b. Monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse environmental effect; or
 - c. There has been a change in the circumstances and the conditions of consent are no longer appropriate in terms of the purpose of the Act.

Advice Notes:

1. *Development contributions of \$2,864.73 + GST, are payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Council Community Plan. Payment is due prior to the commencement of this consent.*

Following consideration of the application it has been determined that any effects on the environment will be no more than minor and that granting consent will not be contrary to the objectives and policies of the relevant district plan.

I draw your attention to Section 357C of the Resource Management Act 1991 which confers a right of objection to the Council to the conditions of consent, which must be done within 15 working days of receipt of this decision.

Yours faithfully



OLI MONTHULE-MCINTOSH
SENIOR PLANNING OFFICER

APPENDIX 1 – Location Plan



Proposed Location Plan – Boundaries indicative only – Red dashed line approximately 150m x 150m

RC200277V2

12 October 2021

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Dear Sir/Madam

Application for Resource Consent: RC200277V2 - Lowburn

This is to advise that the application for Change of conditions 1 & 3, additional conditions to cover movement of pontoon and traffic management. on a property situated on Lowburn described as Sec 1-11 So 23940 - Sec 1 & 2 So 23981 - Sec 71 BI as contained in Record of Title , has been approved by the Planning Manager, subject to the following conditions:

Following consideration of the application it has been determined that any effects on the environment will be no more than minor and that granting consent will not be contrary to the objectives and policies of the relevant district plan.

I draw your attention to Section 357C of the Resource Management Act 1991 which confers a right of objection to the Council to the conditions of consent, which must be done within 15 working days of receipt of this decision.

Yours faithfully

KIRSTYN LINDSAY
PLANNING CONSULTANT

[ATTACH APPENDIX/APPENDICES](#)

RC200277



17 October 2020

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Dear Sir/Madam

Application for Resource Consent: RC200277 -

In regard to the application for land use consent to place to place an inflatable water amusement device on the surface of Lake Dunstan at Lowburn and operate it on a commercial basis between mid-December and mid-March (summer months). A fixed term of 6 years is sought. The site subject to the application is the surface and bed of lake Dunstan near the Lowburn Inlet. The application has been approved by the Planning Manager, subject to the following conditions:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent RC200277 [and any subsequent variations submitted with the application for resource consent RC 200277V2](#), and the site plan attached as Appendix 1 [dated 14/09/21](#), and as modified by the following conditions.
2. The amusement device is permitted to operate between the period of 1 December and 31 March the following year. At all other times, the amusement device and all ancillary equipment will be completely removed from the site (with the exception of the mooring blocks which will remain on the lake bed).
3. The amusement device shall not be open to the public outside of the hours of [0900 – 2000](#) ~~10:00 to 18:00~~ (seven days a week, inclusive of public holidays)
4. Outside of the hours of operation a private security guard will be employed to ensure the device is kept secure and not used by the public.
5. At all times while the device is in use by the public life guards will be present on site to ensure the safety of users.
6. The applicant will take all measures necessary to ensure the inflatable water amusement device and associated equipment is prevented from creating any obstruction or blockage in the lake or downstream river channel, and to any bridges, dams or other structures during adverse conditions, including high flows and flooding events.
7. Rubbish and recycling facilities will be provided by the consent holder at all times, during the operation of the amusement device, and will take reasonable measures necessary to ensure any litter left in the vicinity of the activity, including the public toilets and parking areas, is collected daily and disposed of appropriately to ensure it does not reach Lake Dunstan.

8. Pursuant to section 123(a) of the Resource Management Act 1991 this land use consent is granted for a period that shall expire on 31 March 2026.
9. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:
 - a) Administration, monitoring and inspection relating to this consent; and
 - b) Charges authorised by regulations.
10. Unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's expense.
11. In accordance with Section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed on and in the period within 6 (six) months upon each anniversary of the date of this consent, if, on reasonable grounds, the consent authority finds that:
 - a) There is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted;
 - b) Monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse environmental effect; or
 - c) There has been a change in the circumstances and the conditions of consent are no longer appropriate in terms of the purpose of the Act.
12. As part of the establishment of the water park, the consent holder must be responsible for the movement of the existing Lowburn swimming pontoon to the south. The amended location must be as close as practicable to the present location and at the same distance from the shoreline. The final location of the swimming pontoon must be approved by the CODC Parks and Recreation Manager.
13. The consent holder must record for each ticket sale or booking how many vehicles will be utilised to transport the customer or group of customers to the site. Records must be kept for each day of operation and must be made available to Council upon request.
14. With each booking received, and on the consent holder website, the consent holder must:
 - a) provide a map showing the northern access location to the Lowburn reserve and instruct customers to use that vehicle access.
 - b) instruct customers to park in the Lowburn Reserve and walk to the Kiwi Water Park.
 - c) advise that no access to the Kiwi Water Park is available off the State Highway, and that stopping along the state highway is prohibited.
 - d) advise that for those customers who are unable to walk the 300m to the Kiwi Water Park, a pick up and drop off service can be arranged from the Lowburn Reserve car park.
15. Prior to the commencement of the 2021/22 summer season, the consent holder must:
 - a) Submit to Waka Kotahi New Zealand Transport Agency, for their approval, details of proposed signage required to be placed along the State Highway for the purpose of providing advanced warning of the consented activity and the location of the vehicular access to the associated car parking area.

- b) Erect all signage approved by Waka Kotahi New Zealand Transport Agency as part of condition 15(a).
- c) Submit to Waka Kotahi New Zealand Transport Agency, for their approval, details of fencing required to be placed along the State Highway for the purpose of controlling vehicular access to the site and ensuring vehicles use the intended vehicle access point. Fencing shall be post and wire with a minimum height of 1.2 metres. The exact design and position of the fence shall be determined in consultation with Waka Kotahi New Zealand Transport Agency and the fence can include a gate, the use of which is limited to:
 - i) emergency services vehicles in the case of an emergency,
 - ii) once daily access by Allied Security during the operating season, and
 - iii) one consent holder vehicle for operational matters such as refuse collection.

The length of the fence shall generally align with indicative drawings submitted as part of the variation application.

- d) Erect all fencing approved by Waka Kotahi New Zealand Transport Agency as part of condition 15(c).
 - e) Install 'share with care' signage on the existing pedestrian and cycle trail that passes the water park, alerting trail users of the presence of the kiwi water park and customers using the trail network.
 - f) All signage and fencing shall be erected at the consent holder's cost.
16. For each subsequent summer season approved under RC200277, the consent holder shall implement the approved matters in condition (15) above or as otherwise agreed by Waka Kotahi New Zealand Transport Agency.
17. At the completion of the 2021/22 summer season, and no later than the end of April 2022, the consent holder shall submit the results of the monitoring of vehicle numbers from the customer records to the Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council.
18. No later than the end of May 2022, the consent holder must submit a report to Council and Waka Kotahi New Zealand Transport Agency which details the results of monitoring undertaken as part of condition 13, an analysis of that data, and a traffic assessment which includes consideration of the data, observations of the 21/22 season and make recommendations, as to any alterations to the vehicle crossing or any other traffic control measures which are required to address any issues identified. The consent holder, Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council must meet, or otherwise confer as soon as practicable after receipt of that report, to discuss the results and recommendations of the report. The named parties above must determine whether any alterations to the vehicle access / crossing or other measures are required to address the traffic safety issues identified. If no agreement is reached as to any necessary improvements /alterations, final discretion lies with the Central Otago District Council. Any improvements /alterations required as a consequence of this process must be completed to the satisfaction of Council no later than 4 November 2022.

Note: Any determination as to the extent of traffic safety effects that are attributable to the consented activity, and the responsibility for the undertaking of any improvements or

other measures required through condition 18, is a matter to be resolved between the consent holder and Land Information New Zealand as landowner.

19. If the consent holder, Waka Kotahi New Zealand Transport Agency, Central Otago District Council or Land Information New Zealand identify significant traffic safety related concerns directly associated with the consented activity that have not been addressed by the conditions of this consent, the following process shall apply. Any identification of concerns or issues must be directed to the consent holder by the Central Otago District Council. Within 48 hours of the consent holder receiving notice from Council, the consent holder must take all mitigatory actions to address those concerns.

Advice Notes:

1. *Development contributions of \$2,864.73 + GST, are payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Council Community Plan. Payment is due prior to the commencement of this consent.*
2. *Before any physical work on the State Highway, including the formation of any vehicle crossing or fencing, there is a legal requirement to apply to Waka Kotahi for a Corridor Access Request (CAR) and for that request to be approved. Please submit any CAR to the Waka Kotahi CAR Manager via www.submitica.com or www.beforeyoudig.co.nz, a minimum of fourteen working days prior to the commencement of any works on the state highway; longer is advised for complex works.*

Following consideration of the application it has been determined that any effects on the environment will be no more than minor and that granting consent will not be contrary to the objectives and policies of the relevant district plan.

I draw your attention to Section 357C of the Resource Management Act 1991 which confers a right of objection to the Council to the conditions of consent, which must be done within 15 working days of receipt of this decision.

Yours faithfully



**OLI MONTHULE-MCINTOSH
SENIOR PLANNING OFFICER**

Condition 1- 3 and Location Plan amended and Conditions 12-19 and Advice Note 2 added as per RC200277V2 pursuant to section 127 of the Resource Management Act 1991 on 12 October 2021.

APPENDIX 1 – Location Plan as approved under RC200277V2



Proposed Kiwi Water Park Location Plan – Boundaries indicative only – Red dashed line approximately 150m x 150m

Prepared: 14 September 2021

Released under the Official Information Act 1982

02 December 2022

Mana Water Sports Limited
C/- Vivian and Espie Limited
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Via email: blair@vivianespie.co.nz



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Dear Mana Water Sports Limited

SECTION 127 APPLICATION: RC 200277V3 BEING A VARIATION OF RC200277

Your application for a variation of a resource consent, lodged pursuant to section 127 of the Resource Management Act 1991, was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. The application was considered by Planning Manager, under delegated authority, on 02 December 2022.

The Council has granted consent to the variation of the resource consent. The assessment of the application, including the reasons for the decision, is set out in the report attached to this letter. The consent certificate showing the varied conditions is attached.

The consent certificate outlines the conditions that apply to your proposal. Please ensure that you have read and understand all of the consent conditions.

You may object to this decision or any condition within 15 working days of the decision being received, by applying in writing to the Planning Manager, Central Otago District Council at:

resource.consent@codc.govt.nz

1 Dunorling Street
Alexandra, 9320

You may request that the objection be considered by an independent commissioner. The Council will then delegate its functions, powers and duties to an independent hearings commissioner to consider and decide the objection. Please note that if you request independent commissioner, you may be required to pay for the full costs of the incurred for independent hearings commissioner.

Section 120 of the Resource Management Act 1991 sets out the rights of appeal to the environment court for resource consent decisions. It is recommended that you consult a lawyer if you are considering this option.

Please feel free to contact me if you have any questions.

Yours faithfully



Adam Vincent
PLANNING OFFICER - CONSENTS

Released under the Official Information Act 1982

APPLICATION	RC 200277V3 BEING A VARIATION OF RC200277
APPLICANT	MANA WATER SPORTS LIMITED
ADDRESS	SURFACE AND MARGIN OF LAKE DUNSTAN IN THE VICINITY OF LOWBURN INLET
LEGAL DESCRIPTION	SECTION 1 SO 23940
ACTIVITY STATUS	DISCRETIONARY

BACKGROUND

RC 200277 was originally granted in October 2020 and consented the establishment of a floating inflatable amusement structure moored to the bed of Lake Dunstan with concrete block moorings, in addition to shore-based buildings and other facilities. Collectively, these will be referred to as the water park. Consent was originally granted subject to 11 conditions related to hours and times of operation, the location of the amusement device and associated facilities, site security, waste management and included a review condition. The consent conditions have been amended on one prior occasion. RC 200277V2 consented a change to the location of the facility to an area south of the Lowburn Inlet, extended the opening hours of the facility from 10:00 to 18:00 to 09:00 to 20:00 and added eight new conditions, which relate to the relocation of a swimming pontoon away from the facility and a range of traffic management conditions including fencing off one existing access from State Highway 6 and requiring a review of traffic numbers and potential risks to traffic safety based on the current formation of the access between State Highway 6 and the Lowburn Inlet carpark. The water park has operated during the 2020-2021 and 2021 to 2022 summer seasons.

DESCRIPTION OF ACTIVITY

The consent holder has proposed to change Conditions 1 and 18 to provide for a range of changes to the layout of the water park, the inclusion of additional shore-based buildings, and for amendments to the requirement to review traffic effects and upgrade the Lowburn Inlet carpark vehicle access if needed. Conditions 1 and 18 currently read as follows:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent RC200277 and any subsequent variations submitted with the application for resource consent RC 200277V2, and the site plan attached as Appendix 1 dated 14/09/21, and as modified by the following conditions.

18. No later than the end of May 2022, the consent holder must submit a report to Council and Waka Kotahi New Zealand Transport Agency which details the results of monitoring undertaken as part of condition 13, an analysis of that data, and a traffic assessment which includes consideration of the data, observations of the 21/22 season and make recommendations, as to any alterations to the vehicle crossing or any other traffic control measures which are required to address any issues identified. The consent holder, Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council must meet, or otherwise confer as soon as practicable after receipt of that report, to discuss the results and recommendations of the report. The named parties above must determine whether any alterations to the vehicle access / crossing or other measures are required to address the traffic safety issues identified. If no agreement is reached as to any necessary improvements /alterations, final discretion lies with the Central Otago District Council. Any improvements /alterations required as

a consequence of this process must be completed to the satisfaction of Council no later than 4 November 2022.

The consent holder proposes the conditions be amended to the following:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent RC200277 and any subsequent variations submitted with the application for resource consent RC ~~200277V2~~ 200277V3, and the site plan attached as Appendix 1 dated ~~14/09/21~~ 27 October 2022, and as modified by the following conditions.

18. No later than the end of May 2022, the consent holder must submit a report to Council and Waka Kotahi New Zealand Transport Agency which details the results of monitoring undertaken as part of condition 13, an analysis of that data, and a traffic assessment which includes consideration of the data, observations of the 21/22 season and make recommendations, as to any alterations to the vehicle crossing or any other traffic control measures which are required to address any issues identified. The consent holder, Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council must meet, or otherwise confer as soon as practicable after receipt of that report, to discuss the results and recommendations of the report. The named parties above must determine whether any alterations to the vehicle access / crossing or other measures are required to address the traffic safety issues identified. If no agreement is reached as to any necessary improvements /alterations, final discretion lies with the Central Otago District Council. Any improvements /alterations required as a consequence of this process must be ~~completed to the satisfaction of Council no later than 4 November 2022~~ commenced no later than 3 December 2022 (unless otherwise agreed in writing by the CODC Planning and Regulatory Services Manager) and be subject to temporary traffic management.

The proposed changes to Condition 1 intend to provide for a change to the location of, and temporary fencing around the toddler pool area, the installation of an additional storage container and changing rooms and the creation of a shaded picnic area. The application originally included spaces for two food trucks, but these were subsequently removed from the application. The applicant has provided an amended site plan on 25 October 2022. I note that this plan includes aerial photography showing the water park and the consented area. The consented area has been shifted on this plan to fully incorporate the lakeside components of the water park. This differs from the site plan originally lodged with the application, which show the water park being located partially outside the consented operating area. While the applicant has not explicitly requested a change to their operating area, I consider it appropriate to assess the application as including such a proposal.

For completeness, I note that this application originally included a proposal to provide for fencing of the entire shore-side components of the water park and to amend the lake-side operating area to encompass a larger area up to and including the edge of the lake. This part of the application was subsequently withdrawn after Council made a determination to publicly notify the application under Section 95A of the RMA. Given these changes have been made, the application warrants a reassessment in terms of Section 95A to F.

REASONS FOR APPLICATION

Section 127 of the Resource Management Act 1991 states:

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent subject to the following:*
 - (a) *The holder of a subdivision consent must apply under this Section for a change or cancellation of the consent before the deposit of the survey plan*

- (and must apply under Section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
- (b) No holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
- (2) Repealed.*
- (3) Sections 88 to 121 apply, with all necessary modifications, as if –*
- (a) The application were an application for a resource consent for a discretionary activity; and*
 - (b) The references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
- (a) Made a submission on the original consent application; and*
 - (b) May be affected by the change or cancellation.*

In accordance with the provisions of section 127(3)(a) of the Resource Management Act 1991, the application to vary resource consent RC 200277 is a discretionary activity. For the purposes of Section 127(4), I note that the original application and subsequent amendments were considered on a non-notified basis, with no submissions.

PLANNING ASSESSMENT

Effects on the Environment

Assessment Matters/Rules

Consideration is required of the relevant assessment matters in the District Plan, along with the matters in any relevant national environmental standard. This assessment is limited to the adverse effects of the variation itself, being those effects over and above the effects of the existing resource consent. No regard has been given to any trade competition or any effects of trade competition.

Relative to the consented baseline, I do not consider the proposed changes to the location of toddler area or the introduction of a new storage container and structures for shade and changing rooms to result in any more than minor effects on the environment. These shore-based facilities will be incorporated into the existing “footprint” of the water park and will not, in their own right, have any significant visual effects or effects on public access.

The application proposes that the toddler pool be fenced using metal waratahs with a green plastic mesh fence. The applicant notes that this is to help maintain safety and control of people using the toddler pool. This fence will enclose part of the foreshore in association with the applicant’s private commercial use. However, it will not limit public access between the surface and margin of the lake. Given this, I consider that this fencing will result in no more than minor effects on public access. The fencing is proposed to be plastic mesh, but in a recessive colour that is not anticipated to notably stand out from the surrounding environment. I consider it to have a no more than minor effect on the visual character of the area.

In terms of Condition 18, the consent holder provided a traffic assessment dated 26 May 2022 from Carriageway Consulting. This assessment determined that there was a pre-existing need for an upgrade to the access from State Highway 6 to the Lowburn Inlet carpark, and that the operation of the water park had notably exacerbated that need. It recommended a right-hand turn bay be provided for traffic coming from the south. The parties listed in the condition subsequently met to discuss the report. There was consensus about the need to provide an upgrade. However, there was not agreement about who would be responsible for financing the works and the date for the completion of any agreed works had passed before Toitū Whenua – Land Information New Zealand agreed to finance the works. A new schedule of works has

been set out, with the access being upgraded to include a right-hand turn bay between late November 2022 and late February 2023. Construction is anticipated to start prior to the time specified in the proposed amended condition. Given Council has a new timeframe set for the works and, noting that the works would be undertaken over the 2022-2023 operating season, allowing for extensive traffic management around the access, I consider the effects of the proposed changes to Condition 18 to have less than minor adverse effects on traffic safety and the operation of State Highway 6.

In terms of the location of the consented lakeside operating area, I note that the original plans lodged with this application show that the facility was located in a non-compliant location at the time the aerial photograph was taken. This means that the concrete mooring blocks are also located outside the current consented operating area. The applicant's updated site plan retains the same 150x150m shape as currently consented, but shifts the area to the north-west to fully incorporate the area where the moorings are currently located. This will move the area in which the park can operate and exercise control of the lake closer to the margin. However, it keeps the same lack of control over access between the margin and surface of the lake as its current location. Given this and, noting the likely temporary impacts on water quality and the lakebed that would result from shifting the mooring blocks, I consider the effects of this change to be minor, at most.

NOTIFICATION ASSESSMENT

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification. Each step is considered in turn below.

Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.
- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

Step 2: If not required by Step 1, public notification precluded in certain circumstances

- There are no rules or national environmental standards precluding public notification.
- The application is for a discretionary activity and public notification is not precluded under Step 2.

Step 3: If not precluded by Step 2, public notification required in certain circumstances

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor for the reasons set out above.

Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the change of conditions which makes public notification desirable.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

Step 1: Certain affected groups and affected persons must be notified

- The activity is within the Te Wairere – Lake Dunstan statutory acknowledgement area. Particular consideration must be given to whether Ngāi Tahu are adversely affected in terms of Section 95B(3)(b). This will be undertaken as part of my assessment under Step 3.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- There are no rules or national environmental standards precluding limited notification.
- The application is for a discretionary activity and limited notification is not precluded.

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- The application does not involve a boundary activity.
- The proposal falls into the 'any other activity' category. The effects of the proposal on persons are assessed below.

Affected Persons

Section 127(4)(b) of the Resource Management Act 1991 directs Council to only consider the adverse effects of the variation itself, being those effects over and above the effects of the existing resource consent, when determining affected parties.

Toitū te Whenua – Land Information New Zealand (TWLINZ) has provided their written approval in relation to the application. Any adverse effects on them must be disregarded.

Waka Kotahi – New Zealand Transport Agency (WKNZTA) and Toitū te Whenua – Land Information New Zealand (TWLINZ) both provided their written approval in relation to previous applications for consent. WKNZTA, in particular, was involved in the drafting of Condition 18. TWLINZ also has powers and obligations as the landowner on behalf of the Crown and manages the consent holder's recreational permit for the water park. The Otago Harbourmaster has also provided their written approval in relation to previous applications.

I understand that the applicant has been in regular discussions with Council, WKNZTA and TWLINZ regarding the current conditions and their proposed changes. In the context of Condition 18, the proposed changes and the timeline for upgrades to the access have been worked through extensively with both parties. Given this, I consider neither party to be affected by these changes. In the context of Condition 1, given the proposed changes will not have any notable effect on traffic generation or on the operation of State Highway 6 relative to the permitted baseline, I do not consider WKNZTA to be affected by the proposed changes.

The proposal will slightly change the consented operating area of the lake-side elements of the water park. However, it keeps them in the same general area, and I do not consider it to result in any notable changes to effects on the navigability of the lake. I do not consider the harbourmaster to be adversely affected by the proposed changes.

Lake Dunstan is subject to a statutory acknowledgement in favour of Ngāi Tahu. I note that Aukaha, as Ngāi Tahu's resource management consultancy for the Otago region, provided their written approval in the context of the initial application, but they were not considered newly affected by RC 200277V2, which moved the water park to its current location. In the context of this application, I do not consider the proposed changes to notably change the effects of the proposal on the character of the area, on water quality or quantity, or on the navigability of the lake. I do not consider Ngāi Tahu to be adversely affected by the proposed changes.

The water park is located within Contact Energy Ltd's operating easement for the Clyde Dam. Any activity in this area may be affected by Contact Energy's operations, for example by inundating areas of shoreline, and may impact on their operations in turn, for example due to debris on the lake. I note that Contact Energy Ltd provided their written approval of the original application, but they were not considered newly affected by RC 200277V2, which moved the water park to its current location. In this case, the proposal would introduce new structures within the area covered by the operating easement in the same general vicinity of the existing consented structures. Given they are located in the same area, I consider the risk of adverse effects to be similar as currently consented and I do not consider Contact Energy Ltd to be adversely affected by the proposed changes.

The other effects of the proposal are typically experienced by the wider environment and general public, and cannot be readily isolated to identifiable parties. In this context, and noting all my prior conclusions in relation to adverse effects, I do not consider any other party to be adversely affected by the proposed changes.

Section 127(4)(a) of the Resource Management Act 1991 also directs the Council to consider whether any submitters on the original application could be adversely affected by the variation. The original application was processed non-notified, and accordingly there are no submitters who could be adversely affected by the variation.

Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

OVERALL NOTIFICATION RECOMMENDATION

In accordance with the assessment outlined above notification is not required.

SUBSTANTIVE DECISION ASSESSMENT

Effects

In accordance with section 104(1)(a) of the Resource Management Act 1991, the actual and potential adverse effects associated with the proposal have been assessed and outlined above. The variation will not result in a fundamentally different activity or one having materially different adverse effects. It is considered that the adverse effects on the environment arising from the proposal are no more than minor.

Offsetting or Compensation Measures

In accordance with section 104(1)(ab) of the Resource Management Act 1991, there are no offsetting or compensation measures proposed or agreed to by the applicant that need consideration.

Objectives and Policies

The following objectives and policies are relevant to the proposal:

Objectives:

- 5.3.1 – Amenity Values, Environmental Quality and Natural Character
- 5.3.2 – Recreational Values
- 5.3.3 – Public Access
- 5.3.4 – Safe and Efficient Navigation
- 5.3.5 – Cultural Values

5.3.6 – Existing Hydro-Electric Power Stations

Policies:

5.4.1 – Water Surface and Margin Activities

5.4.4 – Existing Hydro-Electric Power Stations

5.4.5 – Recreation

5.4.6 – Public Access

5.4.7 – Other Policies

The proposed changes are considered unlikely to result in any greater change to amenity and recreational values, or on environmental quality than currently consented given the new and relocated structures are located in the same vicinity as the water park's current land-side operating area. Changes to the lake-side operating area are not considered to affect the navigability of the lake. The proposed changes are not considered to affect Ngāi Tahu's interests in, and associations with, Te Wairere – Lake Dunstan. I consider the proposal to be consistent with Objectives 5.3.1, 5.3.2, 5.3.4 and 5.3.5, and Policies 5.4.1, 5.4.5 and 5.4.7.

The proposed changes are considered to result in similar levels of adverse effects on public access to and around Lake Dunstan. In particular, public access to and around the foreshore will be maintained. Proposed fencing is limited in area and for a noted safety purpose. I consider the proposal to be consistent with Objective 5.3.3 and Policy 5.4.6.

The site is within Contact Energy Ltd's operating easement for the Clyde Dam. I have previously determined that the proposed changes will not result in any new adverse effects on the operation of, or risks to, the Clyde Dam. I consider the proposal to be consistent with Objective 5.3.6 and Policy 5.4.4.

The variation raises no new issues in terms of the objectives and policies of the District Plan or any other relevant planning documents.

Part 2

Based on the findings above, it is evident that the proposal satisfies Part 2 of the Resource Management Act 1991.

RECOMMENDATION

After having regard to the above planning assessment, I recommend that:

1. This application be processed on a non-notified basis, pursuant to sections 95A and 95B of the Resource Management Act 1991.
2. The Council grant the variation to the resource consent under delegated authority, in accordance with sections 104 and 127(1) of the Resource Management Act 1991.



Adam Vincent
Planning Officer

Date: 29 November 2022

REVIEW

I have reviewed both the notification assessment and substantive decision assessment in this report.



Olivia Stirling
PLANNING OFFICER

Date: 30 November 2022

DECISION

I have read both the notification assessment and substantive decision assessment in this report. I agree with both recommendations above.

Under delegated authority on behalf of the Central Otago District Council, I accordingly approve the granting of the variation to the resource consent:



Lee Webster
PLANNING AND REGULATORY SERVICES MANAGER

Date: 30 November 2022



Consent Type: Variation to Land Use Consent

Consent Number: RC 200277 as varied by RC's 200277V2 and 200277V3

Purpose: Land use consent to place to place an inflatable water amusement device on the surface on the surface of Lake Dunstan at Lowburn and operate it on a commercial basis between mid-December and mid-March (summer months) for a fixed term of 6 years is sought. The site subject to the application is the surface and bed of lake Dunstan near the Lowburn inlet.

Location of Activity: Surface and Margin of Lake Dunstan in the Vicinity of Lowburn Inlet

Legal Description: Section 1 SO 23940

Expiry Date: 31 March 2026

[Additions are shown underlined, including additions from RC 200277V2. Deletions are shown as struck through]

Conditions:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent RC200277 and any subsequent variations submitted with the application for resource consent RC 200277V2 and 200277V3, and the site plan attached as Appendix 1 dated 14/09/24 27 October 2022, and as modified by the following conditions.
2. The amusement device is permitted to operate between the period of 1 December and 31 March the following year. At all other times, the amusement device and all ancillary equipment will be completely removed from the site (with the exception of the mooring blocks which will remain on the lake bed).
3. The amusement device shall not be open to the public outside of the hours of 0900 – 2000 ~~10:00 to 18:00~~ (seven days a week, inclusive of public holidays)
4. Outside of the hours of operation a private security guard will be employed to ensure the device is kept secure and not used by the public.
5. At all times while the device is in use by the public life guards will be present on site to ensure the safety of users.
6. The applicant will take all measures necessary to ensure the inflatable water amusement device and associated equipment is prevented from creating any obstruction or blockage in the lake or downstream river channel, and to any bridges, dams or other structures during adverse conditions, including high flows and flooding events.

7. Rubbish and recycling facilities will be provided by the consent holder at all times, during the operation of the amusement device, and will take reasonable measures necessary to ensure any litter left in the vicinity of the activity, including the public toilets and parking areas, is collected daily and disposed of appropriately to ensure it does not reach Lake Dunstan.
8. Pursuant to section 123(a) of the Resource Management Act 1991 this land use consent is granted for a period that shall expire on 31 March 2026.
9. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:
 - a) Administration, monitoring and inspection relating to this consent; and
 - b) Charges authorised by regulations.
10. Unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's expense.
11. In accordance with Section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed on and in the period within 6 (six) months upon each anniversary of the date of this consent, if, on reasonable grounds, the consent authority finds that:
 - a) There is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted;
 - b) Monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse environmental effect; or
 - c) There has been a change in the circumstances and the conditions of consent are no longer appropriate in terms of the purpose of the Act.
12. As part of the establishment of the water park, the consent holder must be responsible for the movement of the existing Lowburn swimming pontoon to the south. The amended location must be as close as practicable to the present location and at the same distance from the shoreline. The final location of the swimming pontoon must be approved by the CODC Parks and Recreation Manager.
13. The consent holder must record for each ticket sale or booking how many vehicles will be utilised to transport the customer or group of customers to the site. Records must be kept for each day of operation and must be made available to Council upon request.
14. With each booking received, and on the consent holder website, the consent holder must:
 - a) provide a map showing the northern access location to the Lowburn reserve and instruct customers to use that vehicle access.
 - b) instruct customers to park in the Lowburn Reserve and walk to the Kiwi Water Park.
 - c) advise that no access to the Kiwi Water Park is available off the State Highway, and that stopping along the state highway is prohibited.
 - d) advise that for those customers who are unable to walk the 300m to the Kiwi Water Park, a pick up and drop off service can be arranged from the Lowburn Reserve car park.

15. Prior to the commencement of the 2021/22 summer season, the consent holder must:

- a) Submit to Waka Kotahi New Zealand Transport Agency, for their approval, details of proposed signage required to be placed along the State Highway for the purpose of providing advanced warning of the consented activity and the location of the vehicular access to the associated car parking area.
- b) Erect all signage approved by Waka Kotahi New Zealand Transport Agency as part of condition 15(a).
- c) Submit to Waka Kotahi New Zealand Transport Agency, for their approval, details of fencing required to be placed along the State Highway for the purpose of controlling vehicular access to the site and ensuring vehicles use the intended vehicle access point. Fencing shall be post and wire with a minimum height of 1.2 metres. The exact design and position of the fence shall be determined in consultation with Waka Kotahi New Zealand Transport Agency and the fence can include a gate, the use of which is limited to:
 - i) emergency services vehicles in the case of an emergency,
 - ii) once daily access by Allied Security during the operating season, and
 - iii) one consent holder vehicle for operational matters such as refuse collection.

The length of the fence shall generally align with indicative drawings submitted as part of the variation application.

- d) Erect all fencing approved by Waka Kotahi New Zealand Transport Agency as part of condition 15(c).
 - e) Install 'share with care' signage on the existing pedestrian and cycle trail that passes the water park, alerting trail users of the presence of the kiwi water park and customers using the trail network.
 - f) All signage and fencing shall be erected at the consent holder's cost.
16. For each subsequent summer season approved under RC200277, the consent holder shall implement the approved matters in condition (15) above or as otherwise agreed by Waka Kotahi New Zealand Transport Agency.
17. At the completion of the 2021/22 summer season, and no later than the end of April 2022, the consent holder shall submit the results of the monitoring of vehicle numbers from the customer records to the Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council.
18. No later than the end of May 2022, the consent holder must submit a report to Council and Waka Kotahi New Zealand Transport Agency which details the results of monitoring undertaken as part of condition 13, an analysis of that data, and a traffic assessment which includes consideration of the data, observations of the 21/22 season and make recommendations, as to any alterations to the vehicle crossing or any other traffic control measures which are required to address any issues identified. The consent holder,

Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council must meet, or otherwise confer as soon as practicable after receipt of that report, to discuss the results and recommendations of the report. The named parties above must determine whether any alterations to the vehicle access / crossing or other measures are required to address the traffic safety issues identified. If no agreement is reached as to any necessary improvements /alterations, final discretion lies with the Central Otago District Council. Any improvements /alterations required as a consequence of this process must be completed to the satisfaction of Council no later than 4 November 2022 commenced no later than 3 December 2022 (unless otherwise agreed in writing by the CODC Planning and Regulatory Services Manager) and be subject to temporary traffic management.

Note: Any determination as to the extent of traffic safety effects that are attributable to the consented activity, and the responsibility for the undertaking of any improvements or other measures required through condition 18, is a matter to be resolved between the consent holder and Land Information New Zealand as landowner.

19. If the consent holder, Waka Kotahi New Zealand Transport Agency, Central Otago District Council or Land Information New Zealand identify significant traffic safety related concerns directly associated with the consented activity that have not been addressed by the conditions of this consent, the following process shall apply. Any identification of concerns or issues must be directed to the consent holder by the Central Otago District Council. Within 48 hours of the consent holder receiving notice from Council, the consent holder must take all mitigatory actions to address those concerns.

Advice Notes:

1. *Development contributions of \$2,864.73 + GST, are payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Council Community Plan. Payment is due prior to the commencement of this consent.*
2. *Before any physical work on the State Highway, including the formation of any vehicle crossing or fencing, there is a legal requirement to apply to Waka Kotahi for a Corridor Access Request (CAR) and for that request to be approved. Please submit any CAR to the Waka Kotahi CAR Manager via www.submitica.com or www.beforeyoudig.co.nz, a minimum of fourteen working days prior to the commencement of any works on the state highway; longer is advised for complex works.*

Issued at Central Otago on 17 October 2020

Reissued at Central Otago on 02 December 2022 pursuant to Section 127(1) of the Resource Management Act 1991


Adam Vincent
PLANNING OFFICER

Appendix One: Approved Plans for RC 200277V2 (scanned images, not to scale)

Attachment [B] – Location Plan

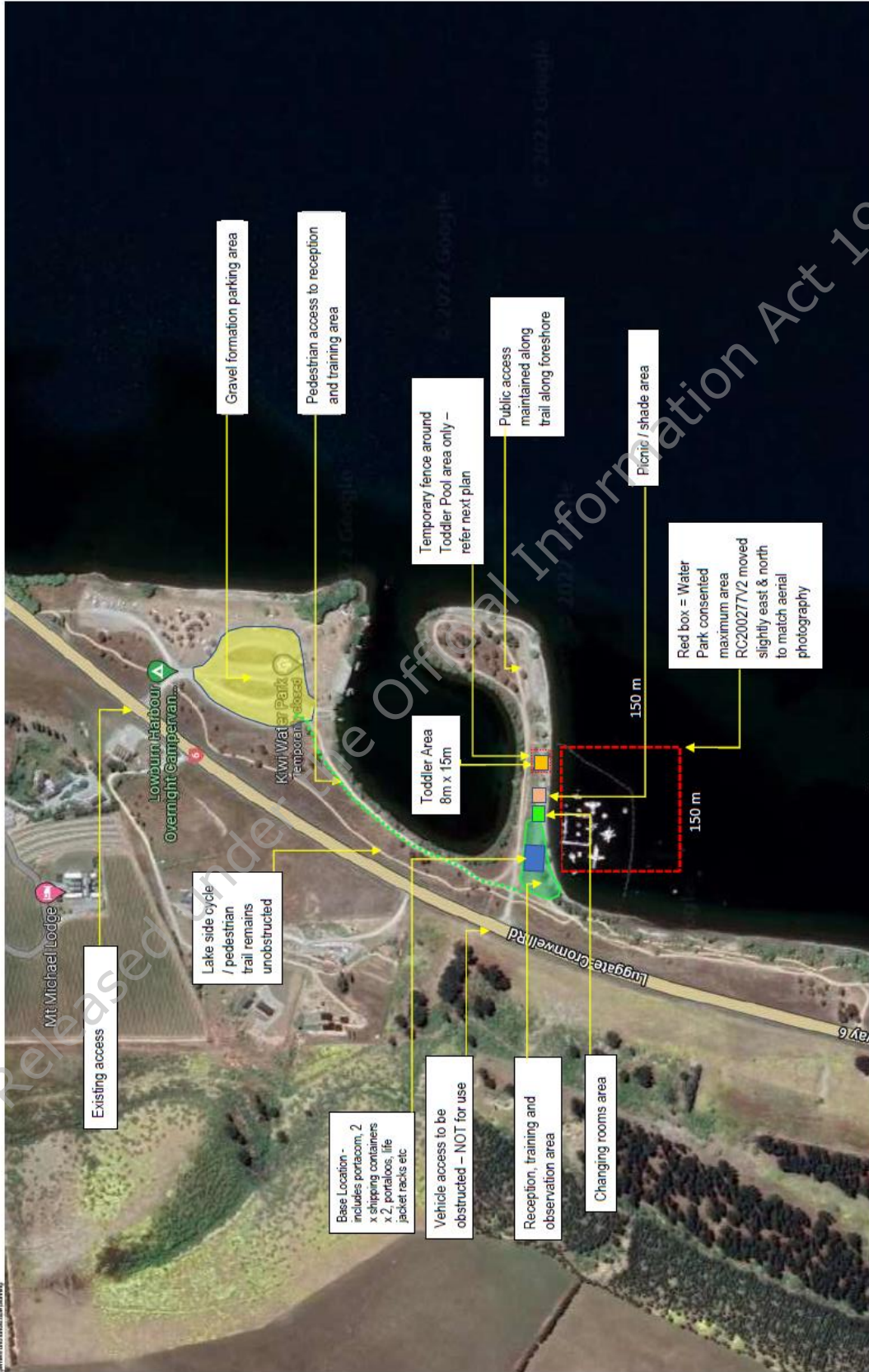


Figure 1 – Proposed Kiwi Water Park Location Plan – Boundaries indicative only – Red dashed line approximately 150m x 150m

Prepared: 16 July 2022 27 October 2022 30 November 2022



Figure 2 - Location of Toddler Play area fence – Approximate only – to be placed around existing vegetation

02 December 2022

Mana Water Sports Limited
C/- Vivian and Espie Limited
Attn: Blair Devlin
PO Box 2514
Queenstown 9348

Via email: blair@vivianespie.co.nz



1 Dunorling Street
PO Box 122, Alexandra 9340
New Zealand

03 440 0056

Info@codc.govt.nz
www.codc.govt.nz



Dear Mana Water Sports Limited

SECTION 127 APPLICATION: RC 200277V4 BEING A VARIATION OF RC200277

Your application for a variation of a resource consent, lodged pursuant to section 127 of the Resource Management Act 1991, was processed on a non-notified basis in accordance with sections 95A to 95G of the Resource Management Act 1991. The application was considered by Planning Manager, under delegated authority, on 02 December 2022.

The Council has granted consent to the variation of the resource consent. The assessment of the application, including the reasons for the decision, is set out in the report attached to this letter. The consent certificate showing the varied conditions is attached.

The consent certificate outlines the conditions that apply to your proposal. Please ensure that you have read and understand all of the consent conditions.

You may object to this decision or any condition within 15 working days of the decision being received, by applying in writing to the Planning Manager, Central Otago District Council at:

resource.consent@codc.govt.nz

1 Dunorling Street
Alexandra, 9320

You may request that the objection be considered by an independent commissioner. The Council will then delegate its functions, powers and duties to an independent hearings commissioner to consider and decide the objection. Please note that if you request independent commissioner, you may be required to pay for the full costs of the incurred for independent hearings commissioner.

Section 120 of the Resource Management Act 1991 sets out the rights of appeal to the environment court for resource consent decisions. It is recommended that you consult a lawyer if you are considering this option.

Please feel free to contact me if you have any questions.

Yours faithfully



Adam Vincent
PLANNING OFFICER - CONSENTS

Released under the Official Information Act 1982

APPLICATION	RC 200277V4 BEING A VARIATION OF RC200277
APPLICANT	MANA WATER SPORTS LIMITED
ADDRESS	SURFACE AND MARGIN OF LAKE DUNSTAN IN THE VICINITY OF LOWBURN INLET
LEGAL DESCRIPTION	SECTION 1 SO 23940
ACTIVITY STATUS	DISCRETIONARY

BACKGROUND

RC 200277 was originally granted in October 2020 and consented the establishment of a floating inflatable amusement structure moored to the bed of Lake Dunstan with concrete block moorings, in addition to shore-based buildings and other facilities. Collectively, these will be referred to as the water park. Consent was originally granted subject to 11 conditions related to hours and times of operation, the location of the amusement device and associated facilities, site security, waste management and included a review condition. The consent conditions have been amended on one prior occasion. RC 200277V2 consented a change to the location of the facility to an area south of the Lowburn Inlet, extended the opening hours of the facility from 10:00 to 18:00 to 09:00 to 20:00 and added eight new conditions, which relate to the relocation of a swimming pontoon away from the facility and a range of traffic management conditions including fencing off one existing access from State Highway 6 and requiring a review of traffic numbers and potential risks to traffic safety based on the current formation of the access between State Highway 6 and the Lowburn Inlet carpark. The consent holder has a further application, RC 200277V3, which proposes the addition of two buildings and a shade area, a relocation of the toddler area, and a shift of the lake-side operating area. At the time of writing this report, no decisions have been made by Council in relation to that application. The water park has operated during the 2020-2021 and 2021 to 2022 summer seasons.

DESCRIPTION OF ACTIVITY

The consent holder proposes to amend Conditions 1 and 2 of RC 200277 to allow for a two-week set-up and take down period at each end of the park's consented operating season. Currently Condition 2 provides for the water park to be located and operational on the site between 1 December and 31 March the following year. At all other times the facility must be completely removed from the site. Condition 2 currently reads as follows:

2. The amusement device is permitted to operate between the period of 1 December and 31 March the following year. At all other times, the amusement device and all ancillary equipment will be completely removed from the site (with the exception of the mooring blocks which will remain on the lake bed).

The condition was imposed to require the consent holder fully remove all surface and shore-based aspects of the water park from the site outside of specific operating parameters in order to minimise the impacts of the activity on the visual character of the area and effects on the public use of the lake, other than when the facility is consented to operate.

The consent holder proposes the conditions be amended as follows:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent RC200277 and any subsequent variations submitted with the application for resource consent RC 200277V2, and any subsequent variations submitted with the application for

resource consent RC 200277V4 and the site plan attached as Appendix 1 dated 14/09/21, and as modified by the following conditions.

2. The amusement device is permitted to operate between the period of 1 December and 31 March the following year. At all other times, the amusement device and all ancillary equipment will be completely removed from the site ~~(with the exception of the mooring blocks which will remain on the lake bed)~~ with the following exceptions:
 - a. A two-week set up period prior to 1 December each season during which time construction and establishment activities to set up the water park and train staff may be undertaken; and
 - b. A two-week pack down period after 31 March each season during which time de-construction and pack down activities may be undertaken, and
 - c. The mooring blocks, which will remain on the lake bed)

REASONS FOR APPLICATION

Section 127 of the Resource Management Act 1991 states:

- (1) *The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent subject to the following:*
 - (a) *The holder of a subdivision consent must apply under this Section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under Section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and*
 - (b) *No holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.*
- (2) *Repealed.*
- (3) *Sections 88 to 121 apply, with all necessary modifications, as if –*
 - (a) *The application were an application for a resource consent for a discretionary activity; and*
 - (b) *The references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*
- (4) *For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-*
 - (a) *Made a submission on the original consent application; and*
 - (b) *May be affected by the change or cancellation.*

In accordance with the provisions of section 127(3)(a) of the Resource Management Act 1991, the application to vary resource consent RC 200277 is a discretionary activity.

PLANNING ASSESSMENT

Effects on the Environment

Assessment Matters/Rules

Consideration is required of the relevant assessment matters in the District Plan, along with the matters in any relevant national environmental standard. This assessment is limited to the adverse effects of the variation itself, being those effects over and above the effects of the existing resource consent. No regard has been given to any trade competition or any effects of trade competition.

The effects of the proposed variation are primarily related to effects on public access during the set-up and take down period, and the additional effects on the character of the area due to the facility being present on the site for an additional four weeks each year.

I do not agree with the applicant that the definition of a temporary activity, as argued in Paragraph 7.2 of their application, is particularly useful here as a permitted baseline. The consent currently precludes any presence of the activity on the site outside the specified dates, including any set-up or take-down works and any structure requires resource consent under Rule 5.7.4A, without provision for temporary activities.

The proposed changes will increase the length of time that any impacts on public access and the character of Lake Dunstan will occur. However, they will not change the anticipated scale or intensity of those effects while they are occurring. For completeness, I note that effects related to set-up and take down, such as the presence of people, noise, and shore and lake-based vehicles, would occur regardless of whether the park was set up within their current operation parameters or not. Commercial operation of the park would still be within December 1 to March 31 regardless of the proposed changes. In this context, I consider the proposed variation to result in no more than minor effects in its own right and I do not consider it likely to significantly change the character, scale or intensity of the existing consented effects of the activity.

NOTIFICATION ASSESSMENT

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification. Each step is considered in turn below.

Step 1: Mandatory public notification in certain circumstances

- Public notification has not been requested.
- There has been no failure or refusal to provide further information.
- There has been no failure to respond or refusal to a report commissioning request.
- The application does not involve the exchange of recreation reserve land.

Step 2: If not required by Step 1, public notification precluded in certain circumstances

- There are no rules or national environmental standards precluding public notification.
- The application is for a discretionary activity and public notification is not precluded under Step 2.

Step 3: If not precluded by Step 2, public notification required in certain circumstances

- There are no rules or national environmental standards requiring public notification.
- The activity will not have, or be likely to have, adverse effects on the environment that are more than minor for the reasons set out above.

Step 4: Public notification in special circumstances

- There are no special circumstances that warrant the application being publicly notified. There is nothing exceptional or unusual about the change of conditions which makes public notification desirable.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. Each step is considered in turn below.

Step 1: Certain affected groups and affected persons must be notified

- The activity is within the Te Wairere – Lake Dunstan statutory acknowledgement area. Particular consideration must be given to whether Ngāi Tahu are adversely

affected in terms of Section 95B(3)(b). This will be undertaken as part of my assessment under Step 3.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- There are no rules or national environmental standards precluding limited notification.
- The application is for a discretionary activity and limited notification is not precluded.

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- The application does not involve a boundary activity.
- The proposal falls into the 'any other activity' category. The effects of the proposal on persons are assessed below.

Affected Persons

Section 127(4)(b) of the Resource Management Act 1991 directs Council to only consider the adverse effects of the variation itself, being those effects over and above the effects of the existing resource consent, when determining affected parties.

Waka Kotahi – New Zealand Transport Agency (WKNZTA) and Toitū te Whenua – Land Information New Zealand (TWLINZ) both provided their written approval in relation to previous applications for consent. TWLINZ also has powers and obligations as the landowner on behalf of the Crown and manages the consent holder's recreational permit for the water park. The Otago Harbourmaster has also provided their written approval in relation to previous applications.

The proposed changes would result in similar levels of traffic being generated from the site onto State Highway 6. Given this, I do not consider WKNZTA to be adversely affected by the proposed changes.

I note that TWLINZ acts as the landowner and is also responsible for the issuing of permits for the commercial occupation of the site. In a meeting involving representatives from Council, TWLINZ, WKNZTA and the applicant, TWLINZ confirmed that they did not have any issues with allowing a two week set-up and take down period. I consider this to be strong evidence that TWLINZ do not consider themselves to be adversely affected by the proposed changes in an RMA sense, noting that they retain control over their permitting processes. Given these comments, I do not consider TWLINZ to be adversely affected by the proposed changes.

The proposal will increase the length of time the water park will be present on the site. However, it would keep the activities in the same general area, and I do not consider it to result in any notable changes to effects on the navigability of the lake. I do not consider the harbourmaster to be adversely affected by the proposed changes.

Lake Dunstan is subject to a statutory acknowledgement in favour of Ngāi Tahu. I note that Aukaha, as Ngāi Tahu's resource management consultancy for the Otago region, provided their written approval in the context of the initial application, but they were not considered newly affected by RC 200277V2, which moved the water park to its current location. In the context of this application, I do not consider the proposed changes to notably change the effects of the proposal on the character of the area, on water quality or quantity, or on the navigability of the lake. I do not consider Ngāi Tahu to be adversely affected by the proposed changes.

The water park is located within Contact Energy Ltd's operating easement for the Clyde Dam. Any activity in this area may be affected by Contact Energy's operations, for example by inundating areas of shoreline, and may impact on their operations in turn, for example due to debris on the lake. I note that Contact Energy Ltd provided their written approval of the original

application, but they were not considered newly affected by RC 200277V2, which moved the water park to its current location. In this case, the proposal would increase the length of time the activity is allowed to be present on the site. Given they are located in the same area, I consider the risk of adverse effects to be similar as currently consented and I do not consider Contact Energy Ltd to be adversely affected by the proposed changes.

The other effects of the proposal are typically experienced by the wider environment and general public, and cannot be readily isolated to identifiable parties. In this context, noting all my prior conclusions in relation to adverse effects, I do not consider any other party to be adversely affected by the proposed changes.

Section 127(4)(a) of the Resource Management Act 1991 also directs the Council to consider whether any submitters on the original application could be adversely affected by the variation. The original application was processed non-notified, and accordingly there are no submitters who could be adversely affected by the variation.

Step 4: Further notification in special circumstances

- There are no special circumstances that warrant the application being limited notified. There is nothing exceptional or unusual about the application that makes limited notification to any other persons desirable.

OVERALL NOTIFICATION RECOMMENDATION

In accordance with the assessment outlined above notification is not required.

SUBSTANTIVE DECISION ASSESSMENT

Effects

In accordance with section 104(1)(a) of the Resource Management Act 1991, the actual and potential adverse effects associated with the proposal have been assessed and outlined above. The variation will not result in a fundamentally different activity or one having materially different adverse effects. It is considered that the adverse effects on the environment arising from the proposal are no more than minor.

Offsetting or Compensation Measures

In accordance with section 104(1)(ab) of the Resource Management Act 1991, there are no offsetting or compensation measures proposed or agreed to by the applicant that need consideration.

Objectives and Policies

The following objectives and policies are relevant to the proposal:

Objectives:

- 5.3.1 – Amenity Values, Environmental Quality and Natural Character
- 5.3.2 – Recreational Values
- 5.3.3 – Public Access
- 5.3.4 – Safe and Efficient Navigation
- 5.3.5 – Cultural Values
- 5.3.6 – Existing Hydro-Electric Power Stations

Policies:

- 5.4.1 – Water Surface and Margin Activities
- 5.4.4 – Existing Hydro-Electric Power Stations
- 5.4.5 – Recreation

5.4.6 – Public Access
5.4.7 – Other Policies

The proposed changes are considered unlikely to result in any greater change to amenity and recreational values, or on environmental quality than currently consented. The proposed changes are not considered to affect Ngāi Tahu's interests in, and associations with, Te Wairere – Lake Dunstan. I consider the proposal to be consistent with Objectives 5.3.1, 5.3.2, 5.3.4 and 5.3.5, and Policies 5.4.1, 5.4.5 and 5.4.7.

The proposed changes are considered to result in similar levels of adverse effects on public access to and around Lake Dunstan. In particular, public access to and around the foreshore will be maintained. I consider the proposal to be consistent with Objective 5.3.3 and Policy 5.4.6.

The site is within Contact Energy Ltd's operating easement for the Clyde Dam. I have previously determined that the proposed changes will not result in any new adverse effects on the operation of, or risks to, the Clyde Dam. I consider the proposal to be consistent with Objective 5.3.6 and Policy 5.4.4.

The variation raises no new issues in terms of the objectives and policies of the District Plan or any other relevant planning documents.

Part 2

Based on the findings above, I consider that the proposal satisfies Part 2 of the Resource Management Act 1991.

RECOMMENDATION

After having regard to the above planning assessment, I recommend that:


1. This application be processed on a non-notified basis, pursuant to sections 95A and 95B of the Resource Management Act 1991.
2. The Council grant the variation to the resource consent under delegated authority, in accordance with sections 104 and 127(1) of the Resource Management Act 1991.

Adam Vincent
Planning Officer

Date: 30 November 2022

REVIEW

I have reviewed both the notification assessment and substantive decision assessment in this report.



Olivia Stirling
PLANNING OFFICER

Date: 30 November 2022

DECISION

I have read both the notification assessment and substantive decision assessment in this report. I agree with both recommendations above.

Under delegated authority on behalf of the Central Otago District Council, I accordingly approve the granting of the variation to the resource consent:



Lee Webster
PLANNING AND REGULATORY SERVICES MANAGER

Date: 30 November 2022



Consent Type: Variation to Land Use Consent

Consent Number: RC 200277 as varied by RC's 200277V2, 200277V3 and 200277V4

Purpose: Land use consent to place to place an inflatable water amusement device on the surface on the surface of Lake Dunstan at Lowburn and operate it on a commercial basis between mid-December and mid-March (summer months) for a fixed term of 6 years is sought. The site subject to the application is the surface and bed of lake Dunstan near the Lowburn inlet.

Location of Activity: Surface and Margin of Lake Dunstan in the Vicinity of Lowburn Inlet

Legal Description: Section 1 SO 23940

Expiry Date: 31 March 2026

[Additions are shown underlined and deletions shown as struck through]

Conditions:

1. The inflatable water amusement device shall be sited and operated in general accordance with the details submitted with the application for resource consent RC200277 and any subsequent variations submitted with the application for resource consent RC 200277V2, 200277V3 and 220277V4, and the site plan attached as Appendix 1 dated 44/09/24 27 October 2022, and as modified by the following conditions.
2. The amusement device is permitted to operate between the period of 1 December and 31 March the following year. At all other times, the amusement device and all ancillary equipment will be completely removed from the site ~~(with the exception of the mooring blocks which will remain on the lake bed)~~ with the following exceptions:
 - a. A two-week set up period prior to 1 December each season during which time construction and establishment activities to set up the water park and train staff may be undertaken; and
 - b. A two-week pack down period after 31 March each season during which time de-construction and pack down activities may be undertaken, and
 - c. The mooring blocks, which will remain on the lake bed)
3. The amusement device shall not be open to the public outside of the hours of 0900 – 2000 ~~10:00 to 18:00~~ (seven days a week, inclusive of public holidays)
4. Outside of the hours of operation a private security guard will be employed to ensure the device is kept secure and not used by the public.
5. At all times while the device is in use by the public life guards will be present on site to ensure the safety of users.

6. The applicant will take all measures necessary to ensure the inflatable water amusement device and associated equipment is prevented from creating any obstruction or blockage in the lake or downstream river channel, and to any bridges, dams or other structures during adverse conditions, including high flows and flooding events.
7. Rubbish and recycling facilities will be provided by the consent holder at all times, during the operation of the amusement device, and will take reasonable measures necessary to ensure any litter left in the vicinity of the activity, including the public toilets and parking areas, is collected daily and disposed of appropriately to ensure it does not reach Lake Dunstan.
8. Pursuant to section 123(a) of the Resource Management Act 1991 this land use consent is granted for a period that shall expire on 31 March 2026.
9. The consent holder shall pay to the Council all required administration charges fixed by the Council pursuant to section 36 of the Act in relation to:
 - a) Administration, monitoring and inspection relating to this consent; and
 - b) Charges authorised by regulations.
10. Unless it is otherwise specified in the conditions of this consent, compliance with any monitoring requirement imposed by this consent shall be at the consent holder's expense.
11. In accordance with Section 128 of the Resource Management Act 1991, the conditions of this consent may be reviewed on and in the period within 6 (six) months upon each anniversary of the date of this consent, if, on reasonable grounds, the consent authority finds that:
 - a) There is or is likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted;
 - b) Monitoring of the exercise of the consent has revealed that there is or is likely to be an adverse environmental effect; or
 - c) There has been a change in the circumstances and the conditions of consent are no longer appropriate in terms of the purpose of the Act.
12. As part of the establishment of the water park, the consent holder must be responsible for the movement of the existing Lowburn swimming pontoon to the south. The amended location must be as close as practicable to the present location and at the same distance from the shoreline. The final location of the swimming pontoon must be approved by the CODC Parks and Recreation Manager.
13. The consent holder must record for each ticket sale or booking how many vehicles will be utilised to transport the customer or group of customers to the site. Records must be kept for each day of operation and must be made available to Council upon request.
14. With each booking received, and on the consent holder website, the consent holder must:
 - a) provide a map showing the northern access location to the Lowburn reserve and instruct customers to use that vehicle access.

- b) instruct customers to park in the Lowburn Reserve and walk to the Kiwi Water Park.
- c) advise that no access to the Kiwi Water Park is available off the State Highway, and that stopping along the state highway is prohibited.
- d) advise that for those customers who are unable to walk the 300m to the Kiwi Water Park, a pick up and drop off service can be arranged from the Lowburn Reserve car park.

15 Prior to the commencement of the 2021/22 summer season, the consent holder must:

- a) Submit to Waka Kotahi New Zealand Transport Agency, for their approval, details of proposed signage required to be placed along the State Highway for the purpose of providing advanced warning of the consented activity and the location of the vehicular access to the associated car parking area.
- b) Erect all signage approved by Waka Kotahi New Zealand Transport Agency as part of condition 15(a).
- c) Submit to Waka Kotahi New Zealand Transport Agency, for their approval, details of fencing required to be placed along the State Highway for the purpose of controlling vehicular access to the site and ensuring vehicles use the intended vehicle access point. Fencing shall be post and wire with a minimum height of 1.2 metres. The exact design and position of the fence shall be determined in consultation with Waka Kotahi New Zealand Transport Agency and the fence can include a gate, the use of which is limited to:
 - i) emergency services vehicles in the case of an emergency,
 - ii) once daily access by Allied Security during the operating season, and
 - iii) one consent holder vehicle for operational matters such as refuse collection.

The length of the fence shall generally align with indicative drawings submitted as part of the variation application.

- d) Erect all fencing approved by Waka Kotahi New Zealand Transport Agency as part of condition 15(c).
- e) Install 'share with care' signage on the existing pedestrian and cycle trail that passes the water park, alerting trail users of the presence of the kiwi water park and customers using the trail network.
- f) All signage and fencing shall be erected at the consent holder's cost.

16. For each subsequent summer season approved under RC200277, the consent holder shall implement the approved matters in condition (15) above or as otherwise agreed by Waka Kotahi New Zealand Transport Agency.

17. At the completion of the 2021/22 summer season, and no later than the end of April 2022, the consent holder shall submit the results of the monitoring of vehicle numbers from the customer records to the Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council.

18. No later than the end of May 2022, the consent holder must submit a report to Council and Waka Kotahi New Zealand Transport Agency which details the results of monitoring undertaken as part of condition 13, an analysis of that data, and a traffic assessment which includes consideration of the data, observations of the 21/22 season and make recommendations, as to any alterations to the vehicle crossing or any other traffic control measures which are required to address any issues identified. The consent holder, Waka Kotahi New Zealand Transport Agency, Land Information New Zealand and Central Otago District Council must meet, or otherwise confer as soon as practicable after receipt of that report, to discuss the results and recommendations of the report. The named parties above must determine whether any alterations to the vehicle access / crossing or other measures are required to address the traffic safety issues identified. If no agreement is reached as to any necessary improvements /alterations, final discretion lies with the Central Otago District Council. Any improvements /alterations required as a consequence of this process must be completed to the satisfaction of Council no later than 4 November 2022 commenced no later than 3 December 2022 (unless otherwise agreed in writing by the CODC Planning and Regulatory Services Manager) and be subject to temporary traffic management.

Note: Any determination as to the extent of traffic safety effects that are attributable to the consented activity, and the responsibility for the undertaking of any improvements or other measures required through condition 18, is a matter to be resolved between the consent holder and Land Information New Zealand as landowner.

19. If the consent holder, Waka Kotahi New Zealand Transport Agency, Central Otago District Council or Land Information New Zealand identify significant traffic safety related concerns directly associated with the consented activity that have not been addressed by the conditions of this consent, the following process shall apply. Any identification of concerns or issues must be directed to the consent holder by the Central Otago District Council. Within 48 hours of the consent holder receiving notice from Council, the consent holder must take all mitigatory actions to address those concerns.

Advice Notes:

1. *Development contributions of \$2,864.73 + GST, are payable for roading pursuant to the Council's Policy on Development and Financial Contributions contained in the Long Term Council Community Plan. Payment is due prior to the commencement of this consent.*
2. *Before any physical work on the State Highway, including the formation of any vehicle crossing or fencing, there is a legal requirement to apply to Waka Kotahi for a Corridor Access Request (CAR) and for that request to be approved. Please submit any CAR to the Waka Kotahi CAR Manager via www.submitica.com or www.beforeyoudig.co.nz , a minimum of fourteen working days prior to the commencement of any works on the state highway; longer is advised for complex works.*

Issued at Central Otago on 17 October 2020

Reissued at Central Otago on 02 December 2022 pursuant to Section 127(1) of the Resource Management Act 1991



Adam Vincent
PLANNING OFFICER

Released under the Official Information Act 1982

Appendix One: Approved Plan/s for RC 200277V4 (scanned image(s), not to scale)

Attachment [B] – Location Plan

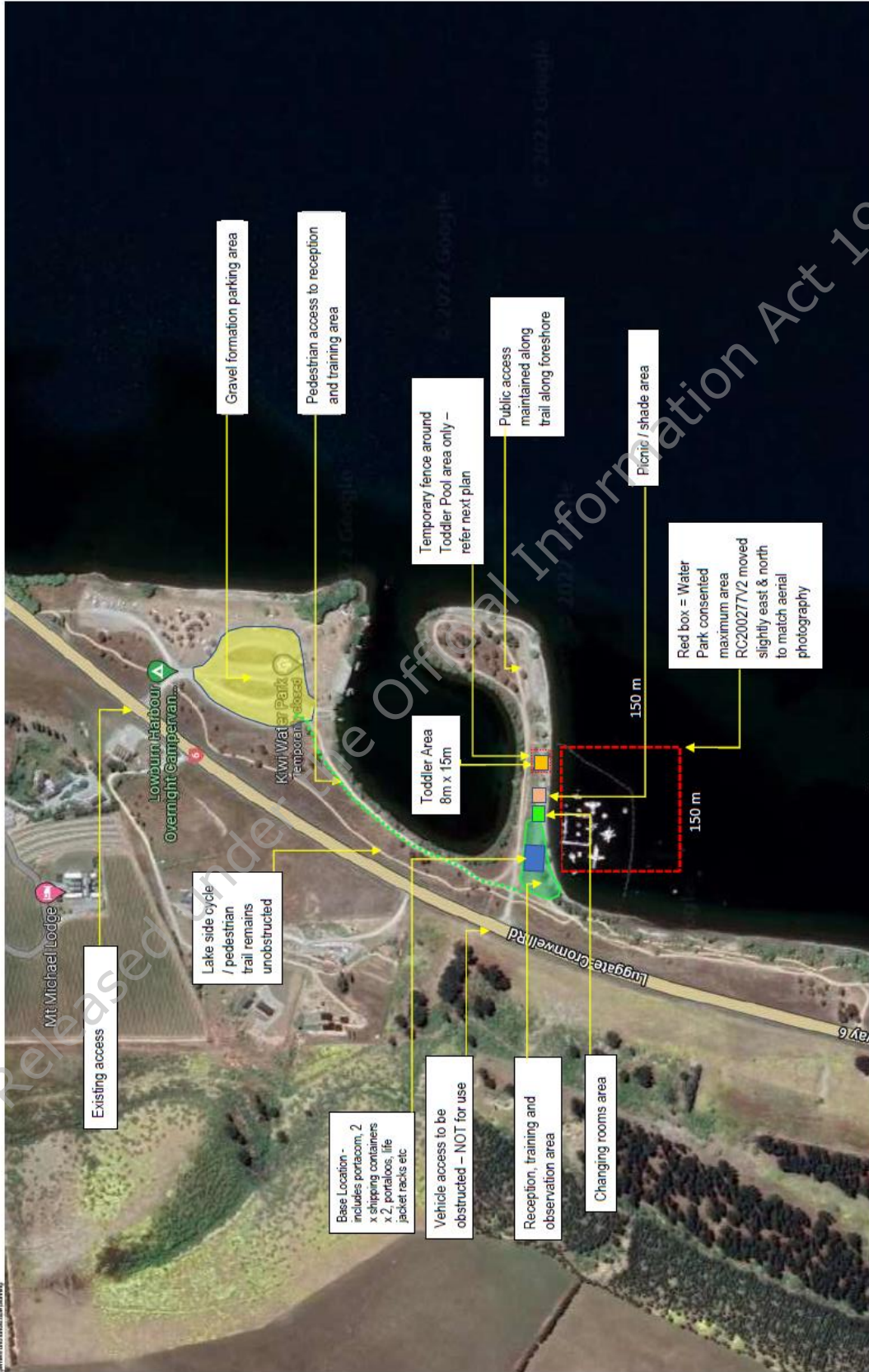


Figure 1 – Proposed Kiwi Water Park Location Plan – Boundaries indicative only – Red dashed line approximately 150m x 150m

Prepared: 16 July 2022 27 October 2022 30 November 2022



Figure 2 - Location of Toddler Play area fence – Approximate only – to be placed around existing vegetation