



Department of
Conservation
Te Papa Atawhai

Update to Resource Consent Officer and Submitters 14 May 2025

Amended Proposed Conditions of Consent

The applicants – Awarua Rūnaka, the Department of Conservation and Environment Southland – are grateful to submitters who were able to attend the pre-hearing meeting on 7 March 2025. The applicants found the discussion useful.

Following the Pre-Hearing Meeting the applicants have been working to identify areas where amendments to the proposed conditions of consent respond to matters raised by submitters. These amendments are attached, and summarised below:

- In Condition 4 regarding water level triggers:
 - A change to the 1 September to 30 April (summer) trigger levels from 2.5m to 2.4m for three consecutive days – for the first five years of the consent, and
 - for years 6-10 a change to trigger levels from 2.5m to 2.4m for three consecutive days.

No changes to water level triggers for years 11-20 are proposed.

- A Communications Management Plan (CMP) has been prepared in consultation with the Waituna Catchment Committee. The amended conditions require this be implemented and regularly reviewed, including a requirement to review it after the first 12 months.
- A Consent Implementation Plan has been prepared, providing more detail regarding how the Consent Holders will exercise the consent. This includes a decision tree illustrating the steps and timeframes related to decision making regarding lagoon openings to ensure clear and timely decision-making. Changes have been made to the conditions to require opening to be in accordance with the Consent Implementation Plan.
- The Consent Implementation Plan includes an undertaking the Consent Holders will apply for an Authority under the Reserves Act 1977, to facilitate the exercise of the consent within the scientific reserve, within 3 months of the grant of the consent.
- Changes have been made to Condition 5 (water quality and ecological trigger) to ensure there is the ability to open the lagoon to prevent or mitigate an emergency situation where the ecological and cultural values of the lagoon are under imminent risk of significant decline, taking account of the proposed lagoon indicators.
- A change to Condition 7 is made to require that notices of lagoon opening provide information on the opening location and methodology, having considered the purpose of the opening, forecast weather conditions, and the coastal environment.
- A change to Condition 11 regarding the Science Advisory Group (SAG):
 - to clarify what 'suitably qualified expert' means, and
 - to confirm that SAG is to include an independent Chair, and a suitably qualified expert nominated on behalf of the Waituna Catchment Community – with the actual and reasonable costs to be shared by the Consent Holders.
- An addition to Condition 14 to require that monitoring information submitted includes observations and information learned from lagoon openings.

- Additions to Condition 16 regarding the 5 yearly consent reviews – to include a review of the implementation and effectiveness of the CMP, SAG, and consent holder reporting and decision making, and whether the lagoon opening and methodology are the most appropriate to deal with adverse effects.

Appendix A contains a tracked changes version of the proposed conditions so the changes are easily identified, and **Appendix B** contains a full clear copy version of all conditions, including the Consent Implementation Plan and Communications Management Plan.

Appendix A: Tracked changes version of the proposed conditions

Draft Proposed Conditions of Consent

1. This consent authorises the opening of the Waituna Lagoon (Lagoon) to the sea through the gravel barrier in accordance with Conditions 5 to 7 at Walker's Bay between NZTM 1,262,340E 4,831,360 N and 1,261,460E 4,831,000 N or unless otherwise certified by the Consent Authority in accordance with Condition 19.
2. The level of the Lagoon will be measured at the Waghorn's Bridge gauge or if that gauge for any reason is not available an alternative gauge approved by the Consent Authority.
3. In this consent a Lagoon opening means:
 - a) use of excavators operating on the gravel bar, starting from the landward side of the Lagoon; and
 - b) formation of a channel between the Lagoon and sea, with excavated material retained alongside the channel and levelled off.

Lagoon Opening Conditions

4. Lagoon Opening – transitional regime:
 - a) for the first five years from the grant of consent (years 1-5), being to [day month year]:
 - i. summer openings (1 September to 30 April) may occur if water levels are at or above 2.45m for ~~24 consecutive hours~~ three consecutive days; and
 - ii. winter openings (1 May to 30 August) may occur if water levels are at or above 2.3m for seven consecutive days;
 - ~~b)~~ c) for the next five years of the consent (years 6-10), being from [day month year] to [day month year], openings may occur if water levels are at or above 2.4m for three consecutive days; and
 - ~~b)~~ c) for the next ~~ten~~ five years of the consent (years ~~11~~ 16-15), being from [day month year] to [day month year], openings may occur if water levels are at or above 2.5m for three consecutive days; and
 - ~~e)~~ d) for the final five years of the consent (years 16-20), being from [day month year] to [day month year] openings may occur if water levels are at or above 2.5m for seven consecutive days.
5. Lagoon Opening – to protect water quality and ecosystem health:
 - a) The Lagoon may be opened to the sea at any time of the year when the water level in the lagoon is able to facilitate an opening, provided that:

- i. One or more of the primary lagoon water quality and ecosystem health indicators in Appendix 1 have reached a Critical Indicator Level, or to prevent or mitigate an emergency situation where the ecological and cultural values of the lagoon are under imminent risk of significant decline, taking into account the indicators listed in Appendix 1 and Appendix 2; and
- ii. The Science Advisory Group has considered the Primary Indicators in Appendix 1, and any other relevant scientific information, including additional indicators of Ecosystem Health set out in Appendix 2, and recommend in writing to the consent holders that opening the lagoon to the sea is necessary to manage the risk of a significant adverse ecological effect on the lagoon; and taking into account
- iii. Any request in writing from a member of the public to the Consent Authority or to the Consent Holders that the lagoon be opened to protect water quality and ecosystem health.

Note:

*Science Advisory Group means the group established in accordance with **Condition 8.***

Emergency Situation means an adverse effect or sudden event in accordance with s330(b)-(f) of the RMA.

6. Lagoon Opening – for the purpose of providing fish passage:

- a) The Lagoon may be opened to the sea to provide for passage for diadromous fish species, provided that:
 - i. The opening takes place between 1 April and 30 November; and
 - ii. The lagoon has not been opened in the previous 24 months, or if the lagoon was opened during the past 24 months, where the timing of the open period did not support upstream migration of threatened or at-risk fish species, and
 - iii. The Science Advisory Group, has considered the lagoon water quality and ecosystem health indicators listed in Appendix 1 and 2, and any other relevant scientific and cultural information, and has advised the Consent Holders and Consent authority that opening the lagoon to the sea is necessary to enable fish passage.

*Note: Science Advisory Group means the group established in accordance with **Condition 8.***

7. ~~Notification of~~ Lagoon Opening Process:

a) Lagoon opening must be in accordance with the Consent Implementation Plan in **Appendix 4.**

~~a) Prior to opening the Lagoon under **Conditions 4, 5, or 6**, and at least 24 hours in advance, the consent holders must:~~

~~i. Notify in writing via email:~~

- ~~• Fish & Game New Zealand;~~
- ~~• The Lake Waituna Control Association;~~
- ~~• Landowners adjacent to the lagoon;~~
- ~~• The Consent Authority.~~

~~ii. Notify the public of the opening on the Environment Southland website.~~

b) The opening notices in ~~Condition 7(a)(i) and (ii)~~ the **Consent Implementation Plan** must include:

- i. The proposed date of the opening;
- ii. The purpose of the opening in accordance with **Conditions 4, 5 or 6**;

~~iii. The current water level at the Lagoon and average daily water levels for the previous seven days; and~~

~~iv. The opening location and methodology, having considered the purpose of the opening, climate forecast weather conditions, and coastal environment; and~~

~~v. a note of the prevailing wind conditions (direction and strength), and comment whether or not there is any reason to suspect that the water level is only temporarily raised at the gauge board by strong wind conditions; and~~

~~vi. any lagoon monitoring information necessary to show compliance with the opening criteria specified in **Conditions 4, 5, or 6**. This must include:~~

- ~~• A copy of the written advice from the Science Advisory Group of the reason for opening as specified in **Condition 5** if the opening is in accordance with **Condition 5**;~~
- ~~• A copy of the written advice from the Science Advisory Group of the reason for opening as specified in **Condition 6** if the opening is in accordance with **Condition 6**.~~

Science Advisory Group

8. The consent holders shall establish a Science Advisory Group. The purpose of the Science Advisory Group is to:

- (a) Act as an advisory group to the consent holders; and
- (b) Make recommendations to the consent holders under **Conditions 5**

and 6.

9. Decisions of the Science Advisory Group must be made unanimously or if a decision cannot be made unanimously by majority.
10. All organisations represented in the Science Advisory Group will bear their own cost of their representative. The actual and reasonable costs of additional experts in (c) is to be shared by the consent holders.
11. The Science Advisory Group:

(a) must include suitably qualified expert representatives of:

- i. the Director-General of Conservation;
- ii. Awarua Rūnaka;

iii. Environment Southland; and

b) Must include a suitably qualified expert Chair, from an organisation independent of the Consent Holders and Waituna Catchment community.

Prior to the appointment of the Chair, the nomination must be submitted by the Consent Holders to the Consent Authority for certification of the Chair's independence.

c) May include:

i. A suitably qualified expert representative of the Lake Waituna Control Association Waituna Catchment cCommunity with scientific or cultural knowledge of coastal lagoon ecosystems, if one is nominated by the Waituna Catchment cCommunity within six months of the consent approval.

The consent holders must provide the Waituna Catchment community Lake Waituna Control Association an opportunity to nominate a suitably qualified technical expert as its representative of n the Science Advisory Group and accept the nominee, provided the nominee is a suitably qualified technical expert; and

i. Other suitably qualified experts technical experts with scientific or cultural knowledge of coastal lagoon ecosystems approved by the consent holders.

ii. _____

Note:

A suitably qualified expert means:

A person acting in accordance with the Environment Court Code of Conduct for Expert Witnesses, with qualifications in a scientific or related discipline

related to coastal lagoon ecosystems (such as water quality, ecology, geomorphology, or freshwater or coastal processes), or a representative of Awarua Rūnaka with cultural knowledge.

12. The Science Advisory Group must advise the consent holders in writing whether opening the lagoon to the sea is recommended to manage the risk of a significant adverse ecological effect on the lagoon. This must occur as soon as reasonably practicable but not later than ~~five~~^{ten} working days of the consent holders notifying the Science Advisory Group that monitoring in accordance with **Condition 14** demonstrates that one or more of the Primary lagoon water quality and ecosystem health indicators has reached its Critical Indicator Level.

Communications

- ~~13.~~ The consent must be exercised in accordance with the Communications Management Plan (CMP) dated 6 May 2025:

- (a) The consent holder must review the CMP in consultation with the Waituna catchment community, 12 months from consent approval, and thereafter at 5 yearly intervals starting at year 5, and must provide the updated CMP to the consent authority for certification. ~~provide the Consent Authority with a Communication Management Plan within six months of commencement of this consent.~~
- (b) ~~The purpose of the CMP is plan~~ is to set out how:
- i. The consent holders will make matters related to the exercise of the consent publicly available and accessible, including but not limited to lagoon openings and monitoring information;
 - ii. inform interested parties are to be informed of the matters related to the Waituna lagoon exercise of the consent in (i) above; and
 - iii. interested parties can make enquiries or raise concerns to the consent holders regarding the health of the lagoon or the exercise of the consent, and how these matters will be responded to.

Monitoring and Reporting Conditions

- ~~13.~~^{14.} The consent holders must monitor and record the following information:

- a) changes in the primary and secondary indicators of lagoon water quality and ecosystem health in **Appendix 1 and Appendix 2**;
- b) when and where the lagoon is opened to the sea;
- c) the water level in the lagoon at the time it was opened;
- d) information to demonstrate compliance with the opening **Conditions 4, 5, and/or 6**;
- e) how long the lagoon is open to the sea, ~~and~~ when it closes (to the nearest week), and observations/information learned from the opening.

- ~~14.~~^{15.} Information gathered under **Condition 13-14** shall be provided in writing to

the Consent Authority:

- a) Annually on [insert date]; and
- b) on request.

~~15~~16. _____ No later than [insert date – 5 years from grant], and thereafter at 5-yearly intervals, the Consent Holders must submit a 5-year review of the effectiveness of the ~~permit~~consent (a Consent Review) in protecting lagoon health, to the Consent Authority, which as a minimum must assess:

- ~~a)~~ whether any amendments to the ~~permit~~consent are required to better protect lagoon and ecosystem health and cultural values;
- ~~b)~~ whether the opening location and methodology are the most appropriate to deal with the effects outlined (c) below;
- ~~c)~~ _____
- ~~b~~c) _____ whether the conditions of the ~~permit~~consent are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the ~~permit~~consent, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the ~~permit~~consent, including effects on fish populations, and the effects of climate change;
- ~~d)~~ the effectiveness of the monitoring programme to inform the exercise of the ~~permit~~consent;
- ~~e)~~ the implementation and effectiveness of the CMP in keeping the community engaged and informed about the exercise of the consent;
- ~~e~~f) the efficiency and effectiveness of the Consent Holder reporting to the Science Advisory Group, of Science Advisory Group recommendations regarding opening, and the Consent Holder opening the lagoon; and
- ~~d~~g) _____ whether any amendments to the lagoon water quality and ecosystem health indicators are necessary.

Accidental Discovery and Spill Response Conditions

~~16~~17. _____ In the event of the discovery, or suspected discovery, of a site of cultural importance (Wāhi Taonga/Tapu), the consent holders must immediately cease works in that location and inform Te Ao Marama Inc and the Consent Authority. Works may recommence at a time as agreed upon in writing with the Consent Authority. The discovery of Kōiwi (human skeletal remains) or Taonga or artefact material (e.g. pounamu/greenstone) would indicate a site of cultural importance. **Appendix 3** to this consent outlines the process that must be followed in the event of such a discovery. Note the consent holder is agreeable to use Environment Southlands standard condition in replacement of this condition.

~~17~~18. _____ In the event of an accidental spill of contaminants, such as fuel or oil spilt

from the digger during the lagoon opening, the consent holders shall remove the contaminants immediately from the site and notify, without undue delay, the Consent Authority (email: escompliance@es.govt.nz or phone 03 211 5115) and the Operations Manager (Murihiku) of the Department of Conservation. Note the consent holder is agreeable to use Environment Southlands standard condition in replacement of this condition.

Lagoon Opening Location

~~18.19.~~ Should the ~~c~~Consent ~~h~~Holders seek to open the lagoon at an alternative location to Walkers Bay, a risk assessment must be submitted to the Consent Authority for certification and must assess as a minimum:

- (a) The risk to ecological and cultural values of the Lagoon, including: habitat for submerged and emergent aquatic plants, habitat and migration pathways for fish species, and fringing wetlands,
- (b) The suitability of the location for managing poor water quality, and protecting the ecological and cultural values of Lagoon, and
- (c) The overall environmental benefits of the proposed location, relative to Walker's Bay, and taking into account the recommendations of the Science Advisory Group.

Consent Review

~~19.20.~~ The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holders of its intention to review the conditions of this consent on [insert date], or on receiving annual monitoring results or the 5-yearly Consent Review (required by **Condition 165**), or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent for the purposes of:

- a) Determining whether the conditions of this ~~permit-consent~~ are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the ~~permitconsent~~, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the ~~permitconsent~~, including the effects of climate change.
- b) Ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or Policy Statement.
- c) Amending the monitoring programme.

Appendix B: Clear copy version of all conditions, including the Consent Implementation Plan and Communications Management Plan

Draft Proposed Conditions of Consent

Updated 14.05.25

1. This consent authorises the opening of the Waituna Lagoon (Lagoon) to the sea through the gravel barrier in accordance with Conditions 5 to 7 at Walker's Bay between NZTM 1,262,340E 4,831,360 N and 1,261,460E 4,831,000 N or unless otherwise certified by the Consent Authority in accordance with Condition 19.
2. The level of the Lagoon will be measured at the Waghorn's Bridge gauge or if that gauge for any reason is not available an alternative gauge approved by the Consent Authority.
3. In this consent a Lagoon opening means:
 - a) use of excavators operating on the gravel bar, starting from the landward side of the Lagoon; and
 - b) formation of a channel between the Lagoon and sea, with excavated material retained alongside the channel and levelled off.

Lagoon Opening Conditions

4. Lagoon Opening – transitional regime:
 - a) for the first five years from the grant of consent (years 1-5), being to [day month year]:
 - i. summer openings (1 September to 30 April) may occur if water levels are at or above 2.4m for three consecutive days; and
 - ii. winter openings (1 May to 30 August) may occur if water levels are at or above 2.3m for seven consecutive days;
 - b) for the next five years of the consent (years 6-10), being from [day month year] to [day month year], openings may occur if water levels are at or above 2.4m for three consecutive days; and
 - c) for the next five years of the consent (years 11-15), being from [day month year] to [day month year], openings may occur if water levels are at or above 2.5m for three consecutive days; and
 - d) for the final five years of the consent (years 16-20), being from [day month year] to [day month year] openings may occur if water levels are at or above 2.5m for seven consecutive days.
5. Lagoon Opening – to protect water quality and ecosystem health:

- a) The Lagoon may be opened to the sea at any time of the year when the water level in the lagoon is able to facilitate an opening, provided that:
- i. One or more of the primary lagoon water quality and ecosystem health indicators in Appendix 1 have reached a Critical Indicator Level, or to prevent or mitigate an emergency situation where the ecological and cultural values of the lagoon are under imminent risk of significant decline, taking into account the indicators listed in Appendix 1 and Appendix 2; and
 - ii. The Science Advisory Group has considered the Primary Indicators in Appendix 1, and any other relevant scientific information, including additional indicators of Ecosystem Health set out in Appendix 2, and recommend in writing to the consent holders that opening the lagoon to the sea is necessary to manage the risk of a significant adverse ecological effect on the lagoon; and taking into account
 - iii. Any request in writing from a member of the public to the Consent Authority or to the Consent Holders that the lagoon be opened to protect water quality and ecosystem health.

Note:

*Science Advisory Group means the group established in accordance with **Condition 8**.*

Emergency Situation means an adverse effect or sudden event in accordance with s330(b)-(f) of the RMA.

6. Lagoon Opening – for the purpose of providing fish passage:

- a) The Lagoon may be opened to the sea to provide for passage for diadromous fish species, provided that:
- i. The opening takes place between 1 April and 30 November; and
 - ii. The lagoon has not been opened in the previous 24 months, or if the lagoon was opened during the past 24 months, where the timing of the open period did not support upstream migration of threatened or at-risk fish species, and
 - iii. The Science Advisory Group, has considered the lagoon water quality and ecosystem health indicators listed in Appendix 1 and 2, and any other relevant scientific and cultural information, and has advised the Consent Holders and Consent authority that opening the lagoon to the sea is necessary to enable fish passage.

*Note: Science Advisory Group means the group established in accordance with **Condition 8**.*

7. Lagoon Opening Process:

- a) Lagoon opening must be in accordance with the Consent Implementation Plan in **Appendix 4**.
- b) The opening notice in the **Consent Implementation Plan** must include:
- i. The proposed date of the opening;
 - ii. The purpose of the opening in accordance with **Conditions 4,5 or 6**;
 - iii. The current water level at the Lagoon and average daily water levels for the previous seven days;
 - iv. The opening location and methodology, having considered the purpose of the opening, forecast weather conditions, and coastal environment; and
 - v. a note of the prevailing wind conditions (direction and strength), and comment whether or not there is any reason to suspect that the water level is only temporarily raised at the gauge board by strong wind conditions; and
 - vi. any lagoon monitoring information necessary to show compliance with the opening criteria specified in **Conditions 4, 5, or 6**. This must include:
 - A copy of the written advice from the Science Advisory Group of the reason for opening as specified in **Condition 5** if the opening is in accordance with **Condition 5**;
 - A copy of the written advice from the Science Advisory Group of the reason for opening as specified in **Condition 6** if the opening is in accordance with **Condition 6**.

Science Advisory Group

8. The consent holders shall establish a Science Advisory Group. The purpose of the Science Advisory Group is to:
- (a) Act as an advisory group to the consent holders; and
 - (b) Make recommendations to the consent holders under **Conditions 5 and 6**.
9. Decisions of the Science Advisory Group must be made unanimously or if a decision cannot be made unanimously by majority.
10. All organisations represented in the Science Advisory Group will bear their own cost of their representative. The actual and reasonable costs of additional experts in (c) is to be shared by the consent holders.
11. The Science Advisory Group:

- (a) must include suitably qualified expert representatives of:
 - i. the Director-General of Conservation;
 - ii. Awarua Rūnaka;
 - iii. Environment Southland; and
- b) Must include a suitably qualified expert Chair, from an organisation independent of the Consent Holders and Waituna Catchment community.

Prior to the appointment of the Chair, the nomination must be submitted by the Consent Holders to the Consent Authority for certification of the Chair's independence.

- c) May include:
 - i. A suitably qualified expert representative of the Waituna Catchment community with scientific knowledge of coastal lagoon ecosystems, if one is nominated by the Waituna Catchment community.

The consent holders must provide the Waituna Catchment community an opportunity to nominate a representative on the Science Advisory Group and accept the nominee, provided the nominee is a suitably qualified expert; and
 - ii. Other suitably qualified experts with scientific or cultural knowledge of coastal lagoon ecosystems approved by the consent holders.

Note:

A suitably qualified expert means:

A person acting in accordance with the Environment Court Code of Conduct for Expert Witnesses, with qualifications in a scientific or related discipline related to coastal lagoon ecosystems (such as water quality, ecology, geomorphology, or freshwater or coastal processes), or a representative of Awarua Rūnaka with cultural knowledge.

- 12. The Science Advisory Group must advise the consent holders in writing whether opening the lagoon to the sea is recommended to manage the risk of a significant adverse ecological effect on the lagoon. This must occur as soon as reasonably practicable but not later than five working days of the consent holders notifying the Science Advisory Group that monitoring in accordance with **Condition 14** demonstrates that one or more of the Primary lagoon water quality and ecosystem health indicators has reached its Critical Indicator Level.

Communications

- 13. The consent must be exercised in accordance with the Communications Management Plan (CMP) dated 6 May 2025:
 - (a) The consent holder must review the CMP in consultation with the Waituna catchment community, 12 months from consent approval, and

thereafter at 5 yearly intervals starting at year 5, and must provide the updated CMP to the consent authority for certification.

- (b) The purpose of the CMP is to set out how:
 - i. The consent holders will make matters related to the exercise of the consent publicly available and accessible, including but not limited to lagoon openings and monitoring information;
 - ii. interested parties are to be informed of the matters related to the exercise of the consent in (i) above; and
 - iii. interested parties can make enquiries or raise concerns to the consent holders regarding the health of the lagoon or the exercise of the consent, and how these matters will be responded to.

Monitoring and Reporting Conditions

14. The consent holders must monitor and record the following information:

- a) changes in the primary and secondary indicators of lagoon water quality and ecosystem health in **Appendix 1 and Appendix 2**;
- b) when and where the lagoon is opened to the sea;
- c) the water level in the lagoon at the time it was opened;
- d) information to demonstrate compliance with the opening **Conditions 4, 5, and/or 6**;
- e) how long the lagoon is open to the sea, when it closes (to the nearest week), and observations/information learned from the opening.

15. Information gathered under **Condition 14** shall be provided in writing to the Consent Authority:

- a) Annually on [insert date]; and
- b) on request.

16. No later than [insert date – 5 years from grant], and thereafter at 5-yearly intervals, the Consent Holders must submit a 5-year review of the effectiveness of the consent (a Consent Review) in protecting lagoon health, to the Consent Authority, which as a minimum must assess:

- a) whether any amendments to the consent are required to better protect lagoon and ecosystem health and cultural values;
- b) whether the opening location and methodology are the most appropriate to deal with the effects outlined (c) below;
- c) whether the conditions of the consent are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the consent, and which it is appropriate to deal with at a later stage, or which become evident after the date of

commencement of the consent, including effects on fish populations, and the effects of climate change;

- d) the effectiveness of the monitoring programme to inform the exercise of the consent;
- e) the implementation and effectiveness of the CMP in keeping the community engaged and informed about the exercise of the consent;
- f) the efficiency and effectiveness of the Consent Holder reporting to the Science Advisory Group, of Science Advisory Group recommendations regarding opening, and the Consent Holder opening the lagoon; and
- g) whether any amendments to the lagoon water quality and ecosystem health indicators are necessary.

Accidental Discovery and Spill Response Conditions

17. In the event of the discovery, or suspected discovery, of a site of cultural importance (Wāhi Taonga/Tapu), the consent holders must immediately cease works in that location and inform Te Ao Marama Inc and the Consent Authority. Works may recommence at a time as agreed upon in writing with the Consent Authority. The discovery of Kōiwi (human skeletal remains) or Taonga or artefact material (e.g. pounamu/greenstone) would indicate a site of cultural importance. **Appendix 3** to this consent outlines the process that must be followed in the event of such a discovery. Note the consent holder is agreeable to use Environment Southlands standard condition in replacement of this condition.

18. In the event of an accidental spill of contaminants, such as fuel or oil spilt from the digger during the lagoon opening, the consent holders shall remove the contaminants immediately from the site and notify, without undue delay, the Consent Authority (email: escompliance@es.govt.nz or phone 03 211 5115) and the Operations Manager (Murihiku) of the Department of Conservation. Note the consent holder is agreeable to use Environment Southlands standard condition in replacement of this condition.

Lagoon Opening Location

19. Should the consent holders seek to open the lagoon at an alternative location to Walkers Bay, a risk assessment must be submitted to the Consent Authority for certification and must assess as a minimum:
- (a) The risk to ecological and cultural values of the Lagoon, including: habitat for submerged and emergent aquatic plants, habitat and migration pathways for fish species, and fringing wetlands,
 - (b) The suitability of the location for managing poor water quality, and protecting the ecological and cultural values of Lagoon, and
 - (c) The overall environmental benefits of the proposed location, relative to Walker's Bay, and taking into account the recommendations of the Science Advisory Group.

Consent Review

20. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holders of its intention to review the conditions of this consent on [insert date], or on receiving annual monitoring results or the 5-yearly Consent Review (required by **Condition 16**), or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent for the purposes of:

- a) Determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the consent, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the consent, including the effects of climate change.
- b) Ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or Policy Statement.
- c) Amending the monitoring programme.

Appendix 1

Primary Indicators Levels for Waituna Lagoon

	Water quality, biosecurity or ecosystem health indicator	Warning indicator level	Critical indicator level
PRIMARY indicators	Chlorophyll-a (a sustained visible algal bloom* over a period of 14 days or longer)	0.012 - 0.06 mg/L	≥ 0.06 mg/L
	Cyanobacteria	Biovolume great than 5mm ³ /L (and more than 50% of phytoplankton biovolume present as toxic or potentially toxic cyanobacteria)	Biovolume greater than 10mm ³ /L (and more than 80% of phytoplankton biovolume present as toxic or potentially toxic cyanobacteria)
	Bottom water dissolved oxygen concentration	< 2 and ≥ 0.5 mg/L	< 0.5 mg/L
	Incursion of a new non-native species that is a significant biosecurity risk	Incursion of worrisome species but low risk of proliferation	High risk species incursion (eDNA or positive sighting or capture of new non-native species)
Interpretation	* A "visible algal bloom" shall be identified by: (i) A chlorophyll-a concentration and/or (ii) An observations by an appropriately qualified and experienced person. These observations shall include the location and approximate extent and intensity of the visible algal bloom on each day of observation.		

Appendix 2

Secondary Indicators Levels for Waituna Lagoon

	Water quality or ecosystem health indicator	Warning indicator level	Critical indicator level
SECONDARY indicators	Total phosphorus concentration	≥ 0.05 and < 0.1 mg/L	≥ 0.1 mg/L
	Total nitrogen concentration	≥ 0.75 and < 1.5 mg/L	≥ 1.5 mg/L
	Water clarity (Secchi disc depth)	≥ 0.5 m and < 1 m	< 0.5 m
	Nuisance epiphytes or benthic algae**	>10% cover	>30% cover
	Macrophytes**	<30% lagoon wide cover abundance	<20% lagoon wide cover abundance
	Ruppia megacarpa**	Present at <20% of lagoon monitoring sites	Present at <10% of lagoon monitoring sites
	Diadromous fish (īnanga, lamprey/kanakana, eel/tuna) density (Waituna Creek)	Declines in diadromous fish populations (density and/or biomass)	Substantial declines in diadromous fish populations (density and/or biomass)
	Toxins/pathogens	Cyanotoxin producing genes in cyanobacteria present, but no cyanotoxins detected. Prolonged level of E. coli >260 cfu/100ml and not human source	Cyanotoxins detected across lagoon E. coli prolonged level above 1200 cfu/100ml

** Based on the results from annual surveys undertaken in late summer.

Appendix 3

Protocol in the event of a discovery, or suspected discovery, of a site of cultural importance (Waahi Taonga/Tapu)

1. Kōiwi tangata accidental discovery

If Kōiwi tangata (human skeletal remains) are discovered, then work shall stop immediately and the New Zealand Police, Heritage New Zealand (details below) and Te Ao Marama Inc (Ngai Tahu (Murihiku) Resource Management Consultants) shall be advised. Contact details for Te Ao Marama Inc are as follows:

Te Ao Marama Inc

98 Yarrow Street, Invercargill, 9810

Phone: (03) 931 1242

Te Ao Marama Inc will arrange a site inspection by the appropriate Tangata Whenua and their advisers, including statutory agencies, who will determine how the situation will need to be managed in accordance with tikanga māori.

2. Archaeological Sites

Archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act (2014), and approval is required from Heritage New Zealand before archaeological sites can be modified, damaged or destroyed.

Not all archaeological sites are known or recorded precisely. Where an archaeological site is inadvertently disturbed or discovered, further disturbance must cease until approval to continue is obtained from Heritage New Zealand. As stated above, the New Zealand Police and Te Ao Marama Inc also need to be advised if the discovery includes kōiwi tangata /human remains.

Heritage New Zealand c/o Regional Archaeologist Otago/Southland

PO Box 5467, Dunedin

Phone: (03) 477 9871 Mobile 027 240 8715 infodeepsouth@heritage.org.nz

3. Taonga or artefact accidental discovery

If taonga or artefact material (e.g. pounamu/greenstone artefacts) other than kōiwi tangata is discovered, disturbance of the site shall cease immediately and Southland Museum and Te Ao Marama Inc. shall be notified of the discovery by the finder or site archaeologist in accordance with the Protected Objects Act 1975. All taonga tuturu are important for their cultural, historical and technical value and are the property of the Crown until ownership is resolved.

4. *In-situ (natural state) pounamu/greenstone accidental discovery*

Pursuant to the Ngāi Tahu (Pounamu Vesting) Act 1997, all natural state pounamu/greenstone in the Ngāi Tahu tribal area is owned by Te Rūnanga o Ngāi Tahu. Ngāi Tahu Pounamu Management Plans provide for the following measures:

- any *in-situ* (natural state) pounamu/greenstone accidentally discovered should be reported to Te Rūnanga o Ngāi Tahu staff as soon as is reasonably practicable. Te Rūnanga o Ngāi Tahu staff will in turn contact the appropriate Kaitiaki Papatipu Rūnanga;
- in the event that the finder considers the pounamu is at immediate risk of loss such as erosion, animal damage to the site or theft, the pounamu/greenstone should be carefully covered over and/or relocated to the nearest safe ground.

The find should then be notified immediately to the Group Head – Strategy and Environment, at Te Rūnanga o Ngāi Tahu. Their details are as follows:

Te Rūnanga o Ngāi Tahu, c/o Group Head – Strategy and Environment

Te Whare o Te Wai Pounamu

15 Show Place, P O Box 13-046, Ōtautahi/Christchurch 8021

Phone: (03) 366 4344 Web: www.ngaitahu.iwi.nz

Appendix 4 – Consent Implementation Plan

Consent Holders

1. The Consent Holders will implement the consent in accordance with the following principles:
 - a. Collaboration: The Consent Holders are committed to working together in good faith toward a shared outcome that improves the environment and mana of the Waituna Lagoon. Each party's expertise is valued and utilised, and Te Rūnaka o Awarua interests will form a critical part of the collective aspiration.
 - b. Trust: Trust will be built through demonstrating integrity by communicating openly and honestly, early and often; and by operating transparently.
 - c. Collective integrated decision making: the Consent Holders will take a collaborative approach to decision-making while acknowledging their distinct roles and recognising each party may have different views from the others. Decision making and implementation will involve integrated approaches to enable complex social, natural and political processes to be navigated effectively.
2. The Consent holders will establish a Steering Group. The Steering Group will comprise representatives of the Consent holder organisations being Southland Regional Council, the Director-General of Conservation and Te Rūnaka o Awarua, and each of the three organisations will appoint a Relationship Manager for decision making on their behalf.
3. The Steering Group of the Consent Holders will meet at 6 monthly intervals at a minimum to oversee the exercise of the consent.
4. The Steering Group of the Consent Holders will meet more frequently if required where lagoon opening triggers are met or are anticipated to be met in accordance with the Decision Tree attached.

Decision Making

5. Decision making of the Consent Holders regarding lagoon openings will be in accordance with the Decision Tree attached as Schedule 1.
6. Decision making by the Consent Holders will be by consensus, or if consensus cannot be reached, by majority, in accordance with the principles above.

Lagoon Opening Location and Methodology

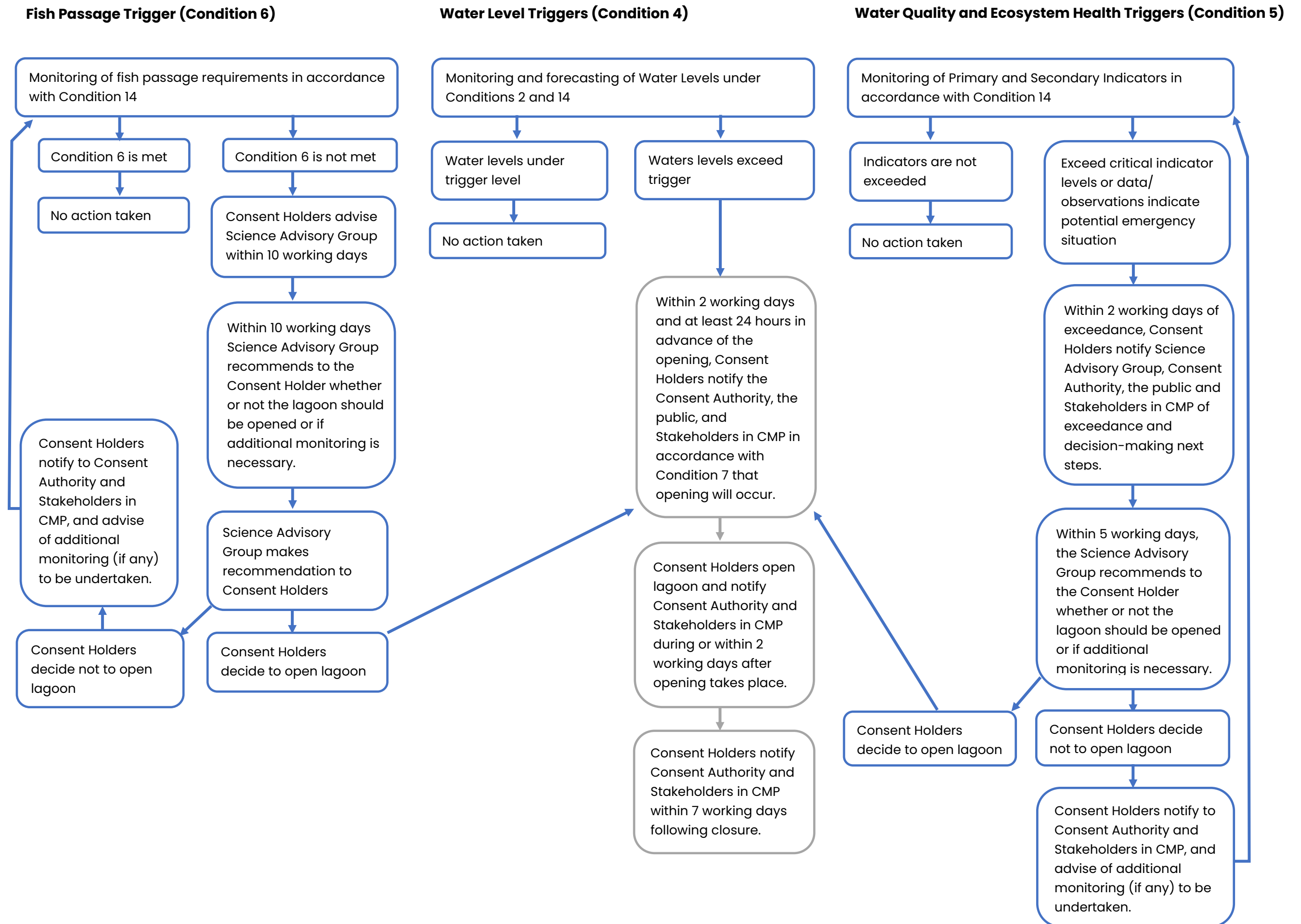
7. Decisions made regarding the lagoon opening location and methodology will take into account advice of the Science Advisory Group, and will be in accordance with the requirements of Conditions 19 (regarding opening location) and Condition 7 (regarding opening methodology).

Reserves Act Authority

8. The Consent holders will apply for an Authority under the Reserves Act 1977 to facilitate the exercise of the consent within the scientific reserve, within 3 months of the grant of the consent¹.

¹ Note: An approval under the Reserves Act cannot be a condition of consent.

Appendix 4: Consent Implementation Plan – Schedule 1: Decision Tree



Communications Management Plan – Opening the Waituna Lagoon

6 May 2025

1. Purpose

The purpose of this Communications Management Plan is to outline the approach to engage with the Waituna community and stakeholders about the exercise of the resource consent, and inform them of openings of the Waituna Lagoon, as per the conditions of **RMXXX**.

2. Communications Management Plan Objectives

- Communicate actively with the Waituna landowners, stakeholders, interested parties, and other key audiences about decisions to open the lagoon;
- Where appropriate, provide opportunities for engagement ahead of decisions that impact the lagoon;
- Ensure audiences are aware of the science and other information that impact decisions to open the lagoon and can access this information easily; and
- Build and maintain credibility with the Waituna community and stakeholders through regular communication activities.

3. Stakeholders

This is a preliminary list, that will be updated as necessary so that those with an interest are included in all communications regarding the exercise of consent:

- Waituna Catchment Committee;
- Te Rūnanga o Ngai Tahu;
- Waituna community;
- Whakamana te Waituna Trust;
- Recreational users and interest groups;
- Wider Southland community and all those with interest in the area;
- Southland District Council;
- Royal Forest and Bird Protection Society – Otago/ Southland Branch;
- Southland Fish and Game Council;
- National Wetland Trust;
- Te Wai Parera Trust;
- Southland Conservation Board;
- Waituna Recreational Users Group;
- Southland Recreational Whitebaiters Association;
- Federated Farmers – Southland Branch;
- Rural Support Trust;
- Fonterra;
- Open Country;
- DairyNZ;
- Beef + Lamb NZ; and
- MPI – On-farm support team.

4. Communication Actions

Consent Holder Actions	When	Via	Who the Stakeholders Are
E-bulletin update on: • Update on science state, relevant links to monitoring information; • Opening status if the lagoon is to be or has been opened; and • Any other relevant consent holder updates relating to the lagoon.	Quarterly (TBC), ahead of Waituna Catchment Committee meetings	Email	Waituna Catchment Committee, other stakeholders listed above, subscribers Input on the content of the E-bulletin

			update will be sought from the Waituna Catchment Committee Chair
Website page for all information related to the exercise of the consent, including: - Subscriber signup option so anyone can subscribe to update email list; - Single point of contact details - all enquiries and concerns go through one channel in accordance with Condition 13; - Consent documents; - Quarterly E-bulletin updates; - Media releases; - Levels, data, monitoring results; - Monitoring annual report in accordance with Conditions 14 and 15; - Communications on opening decisions in accordance with Condition 7; and - Presentations and minutes of community update meetings. Content managed by Consent Holders	Establish within 3 months of consent decision. Update on an as needed basis, and at least quarterly. Responses to queries to the single point of contact will be responded to within 5 working days.	Website	Waituna Catchment Committee, other stakeholders listed above, subscribers, general public
Liaison with Waituna Catchment Committee: If requested by Committee, representative of the Consent Holders will attend Committee meeting to present update from the E-bulletin and answer questions. Consent holders to assign a single point of contact for communications and to coordinate attendance	Quarterly - Waituna Catchment Committee	Video call or face to face	Waituna Catchment Committee
Media releases, including but not limited to: Notifications and updates of opening decisions in accordance with Condition 7. Content created by consent holders' communications teams	As needed	Email	Media, general public
Social Media: - Post link to quarterly E-bulletins; - Post link to annual monitoring results (LAWA); and - Post links to communications regarding openings.	Quarterly and as needed	Community Facebook pages (eg. Waituna for all)	Waituna community
Stakeholder email: - Quarterly E-bulletin; - Annual monitoring report; and - Notification of opening decisions	As needed	Email	Waituna Catchment Committee, other stakeholders listed above, subscribers

in accordance with Condition 7. Managed by consent holders, with content shared to relevant pages by Environment Southland or DOC communications team			
Community liaison meetings, including but not limited to: • Update on science state; • Performance of Consent Holders in exercise of the consent; • Status of the lagoon including updates on recent or potential upcoming openings; • Q&A and feedback from the community on the exercise of the consent; and • Any other relevant consent holder updates relating to the lagoon.	6 monthly or annually depending on community feedback	In- person	Waituna Catchment Committee, other stakeholders listed above, subscribers Input to the agenda will be sought from the groups listed above

5. Review

The Communication Management Plan must be reviewed after 12 months, and every five years. The review must assess the implementation of the Communication Management Plan and its effectiveness in achieving the Objectives in Section 2.

In accordance with Condition 16, if the review identifies changes are required, the consent holder shall update the Communication Management Plan and submit the updated plan to the Consent Authority for recertification in accordance with Condition 13. The updated Communication Management Plan shall then be implemented.