

Full Council

8 October 2026

Report for Agenda Item | Rīpoata moto e Rāraki take [3]

Department: Property & Infrastructure

Title | Taitara: Shotover Wastewater Treatment Plant (SWWTP) Consent Application – Request for Direct Referral to the Environment Court

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to seek approval from Queenstown Lakes District Council (QLDC) to make a request to the Otago Regional Council (ORC) that the ORC directly refer the long-term Shotover Wastewater Treatment Plant (SWWTP) resource consent applications to the Environment Court under sections 87D to 87G of the Resource Management Act 1991 (RMA). The request relates solely to the consenting pathway and does not seek any amendment to the disposal solution previously considered by Council. Direct referral is one of the three available consenting pathways and is considered the best process for the applications for the reasons set out in this report. Ultimately the decision rests with the ORC; however the legislation provides for QLDC to make a request where appropriate to do so.

Executive Summary | Whakarāpopototaka Matua

Council lodged long-term resource consent applications for the SWWTP with ORC on 29 May 2026 as required under the Environment Court Enforcement Order. The applications seek authorisation for:

- The discharge of treated wastewater to the Kawarau River;
- The discharge of odour to air;
- Disturbance of the bed of the Kawarau River and placement of an outfall structure; and
- Groundwater take associated with construction dewatering.

The applications were accepted by ORC as complete on 16 June 2026 and are currently progressing through the consent process.

This report recommends direct referral as the preferred pathway given the scale, complexity and public interest associated with the applications.

The Ministry for the Environment has published guidance about direct referrals, and it is attached to this report. In terms of what types of applications are suitable for direct referral, the guidance includes the following statements:

“The direct referral process streamlines decision-making for large scale and/or complex applications that are otherwise likely to end up in the Environment Court on appeal following the council hearing and decision. The direct referral process is intended to save time and costs for both applicants and submitters.”

“Examples of direct referral applications include projects such as: quarries (Winstone Aggregates, Road Metals Ltd, Brookby Quarries); wind farms (Mainpower NZ Ltd and Meridian Energy); large infrastructure (Mahia Beach wastewater scheme and Queenstown Airport expansion); large retail developments (Pak n Save Rodney and Jackson Street Retail Ltd); and international sports venues (Hagley Oval).”

Direct referral maintains full public participation rights while reducing the risk of duplication, delay and additional cost associated with a traditional hearing followed by Environment Court appeals. Direct referral is also consistent with the approach previously adopted by Council for the short-term SWWTP consent applications.

Staff therefore recommend that Council approve a request to ORC for direct referral of the long-term consent applications to the Environment Court.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Note** that Council lodged long-term resource consent applications with the Otago Regional Council on 29 May 2026 relating to the continued operation of the Shotover Wastewater Treatment Plant;
3. **Note** that the applications were accepted as complete by Otago Regional Council on 16 June 2026;
4. **Approve** requesting Otago Regional Council, pursuant to section 87D of the Resource Management Act 1991, to directly refer the long-term Shotover Wastewater Treatment Plant resource consent applications to the Environment Court for determination;
5. **Delegate** authority to the Chief Executive Officer to:
 - a. Submit a request for direct referral to Otago Regional Council;
 - b. Take all steps necessary to progress that request; and

- c. Lodge any subsequent application required under sections 87F and 87G of the Resource Management Act 1991 if direct referral is approved by ORC.

Prepared by:



Name: Mary Davenport

Title: Associate Counsel RMA and Regulatory
22 September 2026

Reviewed and Authorised by:



Name: Brendan Peet

Title: General Counsel
28 September 2026

Context | Horopaki

Background

1. The Shotover Wastewater Treatment Plant (SWWTP) is critical wastewater infrastructure servicing the Whakatipu Basin and wider Queenstown urban area. Following issues associated with the historic disposal system and subsequent Environment Court enforcement proceedings, Council commenced development of a long-term disposal solution for treated wastewater from the SWWTP.
2. The Environment Court Enforcement Order requires:
 - Lodgement of a resource consent application for a long-term disposal solution;
 - Completion of detailed design by 31 December 2027; and
 - Construction and implementation of the long-term solution by 31 December 2030.
3. On 29 May 2026, Council lodged resource consent applications seeking authorisation for:
 - Discharge of treated wastewater to the Kawarau River;
 - Discharge of odour to air;
 - Disturbance of the bed of the Kawarau River and placement of an outfall structure;
 - Groundwater take associated with dewatering activities.
4. The applications were accepted by Otago Regional Council (ORC) as complete on 16 June 2026 and are progressing through the section 92 process.

Direct Referral Process

5. Direct referral is provided for by sections 87D to 87G of the Resource Management Act 1991 (RMA).
6. The process enables an applicant to request that a notified resource consent application be determined by the Environment Court as the first-instance decision maker rather than by the consent authority. Importantly, direct referral does not remove public participation rights.
7. If granted:
 - The application remains publicly notified;
 - Submissions are received in the normal manner;

- ORC prepares a report on the application and submissions;
 - Submitters may join the Environment Court proceedings as section 274 parties;
 - The Environment Court becomes the first-instance decision-maker.
8. The process is intended to streamline decision-making for significant, complex or contentious applications that are likely to ultimately be determined by the Environment Court regardless of the initial decision-maker.
9. The consenting process is likely to be complex, highly scrutinised and potentially contentious due to:
- The significance of the Kawarau River and Kimi-ākau/Shotover River and the protections afforded to them through the Water Conservation (Kawarau) Order 1997.
 - Public interest associated with wastewater discharges in the Whakatipu Basin.
 - The high importance of the infrastructure to the future growth and development of Queenstown Lakes District in a manner that is consistent with the purpose of the RMA.
 - Mana whenua interests and concerns associated with the discharge of treated wastewater to the Kawarau River and Kimiākau/Shotover River, including the position expressed by the affected Kāi Tahu papatipu rūnaka through Te Ao Marama and Aukaha that direct discharge of human wastewater to natural water bodies is inconsistent with tikanga and that land-based treatment and disposal options are preferred.
 - The extensive technical evidence required regarding water quality, ecology, public health, hydraulic performance and cultural effects.
10. Applications of this nature are likely to progress to the Environment Court irrespective of the initial decision-maker. A standard two-stage process involving an ORC hearing followed by Environment Court appeals creates duplication, additional cost, and programme delays.
11. The direct referral process under the RMA provides an option to streamline decision-making for larger, more complex or contentious resource consent applications where an Environment Court appeal can be anticipated. Under this process, ORC continues to process submissions and prepare its recommendation report, however the final decision is made directly by the Environment Court.
12. The key advantages in seeking direct referral for the SWWTP consent applications include:
- a. Improved Certainty Around Programme Delivery: Council remains subject to the Enforcement Order requiring completion of detailed design by 31 December 2027; and

Construction and commissioning of the long-term solution by 31 December 2030. Delays arising from a two-stage consent process could materially impact Council's ability to meet these court-imposed deadlines. Direct referral minimises this risk by removing the potential duplication of an ORC hearing followed by a full Environment Court appeal process.

- b. **Robust and Independent Decision-Making:** The long-term disposal solution represents one of the most significant environmental infrastructure projects currently being undertaken within the district. The receiving environment includes the Kawarau River, which has nationally recognised recreational, ecological, scenic and cultural values protected through the Water Conservation Order. Direct referral provides for determination by an independent specialist Court supported by experienced Environment Commissioners. The process includes expert conferencing, mediation opportunities and cross-examination of evidence, enabling a more rigorous evaluation of technical matters than would ordinarily occur in a council hearing process.
- c. **Existing Court Familiarity:** The Environment Court is already familiar with the SWWTP and the wider circumstances that led to the current consent applications through its involvement in enforcement proceedings by the ORC relating to the wastewater treatment plant. The Court therefore possesses a level of background knowledge regarding the operational issues, regulatory history and management responses that would otherwise need to be established through a first-instance local authority hearing.
- d. **Public Participation:** The direct referral process does not remove or diminish public participation rights. The consent applications will still be publicly notified and interested parties will continue to have the opportunity to lodge submissions. Submitters may also formally join the Environment Court proceedings as section 274 parties and participate fully in the hearing process while ensuring technical evidence is tested under formal Court procedures.
- e. **Efficiency:** The direct referral pathway is likely to result in a more efficient overall process compared with a conventional hearing and appeal pathway. Benefits include elimination of duplicate hearings, reduced duplication of expert evidence, better opportunities for mediation and issue resolution and potential reduction in overall consenting costs despite additional Court-related expenses. Mediation is still part of the Court's procedure in a Direct Referral and is a no cost option for participants to raise and potentially narrow the issues under the guidance of the Court.

13. The key disadvantages in seeking direct referral for the SWWTP consent applications include:

- a. **More formal process for submitters:** Interested parties who submit on the application and then decide to participate directly in Environment Court proceedings may be required to prepare evidence and be subject to questioning, which can be more complex and formal than a council hearing process.

- b. Reduced opportunity for a "second chance" hearing: Because the Environment Court becomes the first-instance decision-maker, there is generally no ability to appeal the substantive merits of the decision as any appeals to the High Court would be limited to questions of law. This means Council must present its strongest case at the initial hearing.
 - c. Council bears Court costs: Council is required to meet the reasonable costs of the Environment Court process and may also be responsible for certain costs incurred by ORC as part of the direct referral process. While overall costs are generally expected to be lower than a two-stage process (that is, if there is no direct referral), they can still be significant.
 - d. Potential perception issues: Direct referral may be perceived by some members of the community as limiting local input or removing decision-making from ORC, even though public notification, submissions and participation rights remain fully available. Managing community understanding of the process will therefore be important.
 - e. Less flexibility for informal resolution: The Court process is generally more structured and focused on planning and environmental outcomes. Informal arrangements or side agreements, such as to accommodate another party's specific interests, that may occasionally emerge through local hearing processes are less likely to occur and may carry less weight in the Court environment.
14. An application to the Consent Authority for direct referral may be lodged no later than five working days after the close of the submission period, provided no section 92 requests are outstanding. This date is currently expected to fall in December 2026, following Council staff's submission of responses to the four section 92 requests for information received to date and subsequent public notification.

Consideration of alternative pathways

15. The fast-track approvals process was considered but has not been identified as the preferred option. While potentially offering some efficiencies, fast-track approval has several disadvantages including significant application costs, limited public participation opportunities and uncertainty as to whether the process would provide a materially faster outcome than direct referral. One of the key concerns being that the fast-track process does not allow for wider public/community involvement, and for these reasons staff do not recommend fast-track as the preferred consenting pathway.
16. Similarly, determination by the consent authority carries a significant risk that any resulting decision would be appealed to the Environment Court, potentially extending the consenting timeframe and creating additional risk to implement the long-term solution and non-compliance with the Enforcement Order programme.

17. Determination by ORC through the standard resource consent process would be a well-established and familiar decision-making pathway, with the benefit of an initial hearing and determination by the regional consent authority. This approach tends to foster public confidence because it is a well understood process. Councillors and the wider community understand that an application has been considered through the usual statutory process.
18. However, the scale, significance and technical complexity of the SWWTP applications mean that the first instance decision would be vulnerable to further appeals to the Environment Court. These are de-novo or a full hearing of the application. This means a duplication of the process undertaken by the Consent Authority before the Court. The applications involve matters of public interest, complex technical evidence, mana whenua interests, and activities affecting highly valued receiving environments. In these circumstances, a hearing before the consent authority might represent an interim step before a final consideration by the Environment Court.
19. While an appeal pathway provides an additional opportunity for reconsideration of the issues, it introduces duplication of expert evidence which must be new evidence to address any issues put forward by objectors or other parties, leading to increased costs for all parties and inefficiencies created by extended consent timeframes. Given the importance of progressing a long-term solution within the timeframe anticipated by the Environment Court Enforcement Order, staff recommend that duplication be avoided, particularly as there is a more efficient pathway through the direct referral process.

Analysis and Advice | Tatāritaka me kā Tohutohu

20. This report identifies and assesses the following reasonably practicable options for addressing the matter as required by section 77 of the Local Government Act 2002.
21. Option 1 (Recommended): Direct referral to the Environment Court
22. This option includes:
 - a. Consent lodged with Council (complete 29 May 2026);
 - b. Application requests direct referral after notification/submissions have been received;
 - c. Hearing at Environment Court with all s274 parties (submitters who have decided to join the proceeding); and
 - d. Opportunity to appeal on matters of law only.

Advantages

- Reduces the risk of duplication in the consenting processes.

- Because the Court's interrogation of the application is robust, this provides fewer incentives for appeal. As such, it would most likely achieve a decision that enables the construction and implementation timeframe of 31 December 2030.
- Full community and stakeholder participation still provided for through this process.
- Intended to streamline decision-making for contentious, larger scale and/or complex applications that are likely to end up in the Environment Court on appeal following a Council hearing anyway, substantially increasing consenting timeframes.

Disadvantages

- Conditions may be issued that are not favourable with no ability to appeal except on points of law.

23. Option 2: Determination by the Consent Authority (ORC and QLDC) through a standard 'two-stage process:

24. This option includes:

- a. Consent lodged with Council (complete 29 May 2026);
- b. Council makes notification decision (public, limited, non-notified);
- c. Likely public notification and a hearing will be held;
- d. Submitters can appeal on any matter to Environment Court;
- e. Hearing at Environment Court;
- f. Opportunity for further appeals (High Court, Court of Appeal, Supreme Court) on matters of law only.

Advantages

- Enables greater ORC interaction in addressing key project risks and conditions.
- Maintains collaborative approach to refining key aspects of the design with iwi partners, stakeholders and local community.
- Statutory timeframes dictate the processing period for resource consents (but this is contingent on many factors).
- Some limited prospect of this process being quicker than the "one stop shop" options (described below), provided the decision is not appealed to the Environment Court.

- Maintains the “second-shot” appeal process at achieving outcomes if a negative decision or conditions (resource consent) are received.
- A perception of a less formal environment, that is more accommodating.

Disadvantages

- Decision has a high chance of being appealed to the Environment Court, impacting programme timeframes (up to 18 months from lodgement) and delaying the project, increasing costs to the ratepayers significantly – both in terms of achieving consent, and the costs to fund a two stage process.
- Any appeal delays may risk the ability to construct and implement a new disposal system by the date required in the Enforcement Order of 31 December 2030. This is significant risk for the project with this pathway.

25. Option 3: Determination through the Fast Track Consenting Process

26. This option includes:

- a. Seek referral of application to Fast-track;
- b. If accepted for referral, submit substantive application;
- c. Panel convenors appointed and seek comment from certain parties;
- d. A hearing may or may not be held before a decision is issued;
- e. Opportunity for appeal on matters of law only.

Advantages

- The process involves applying for referral to use the Fast-track process, followed by a substantive application for the approvals needed. May reduce the risk of investing in solutions that are ultimately not required.
- Panels can hold hearings, prepare or commission reports, request advice and identify the appropriate people to invite comments from. The Act does not allow panels to give full public notification or limited notification for comments.
- A panel’s decision to grant or decline an approval may be appealed to the High Court. Appeals can be against the whole or a part of the decision, but only a on question of law. Only people specified in the RMA can appeal.

Disadvantages

- The process does not allow for wider public/community involvement in the process.
- Conditions may be issued that are not favourable with no ability to appeal.
- Not necessarily significantly faster than direct referral process from observation of other projects using this pathway to date.
- Fast track is a very expensive process with substantive application fees in realm of \$450,000 (incl. GST), not including application preparation or legal costs.

27. Having considered the advantages and disadvantages of each option, staff recommend **Option 1 – Direct Referral**, as the SWWTP applications concern regionally significant infrastructure, discharges to a highly valued receiving environment, significant public interest, and potentially complex technical and cultural evidence. Direct referral provides an efficient and robust decision-making process that retains public participation while reducing duplication and consenting risk, within the timeframes established by the enforcement order.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi i kā Whakaaro Hiraka

28. This matter has been assessed against Council's Significance and Engagement Policy 2024. The broader Shotover Wastewater Treatment Plant long-term disposal project is considered a matter of high significance.
29. Council's decision in March 2026 to proceed with a long-term disposal solution involving discharge to the Kawarau River was made following extensive investigation, options assessment, stakeholder engagement and public communication. The disposal project itself was identified within Council's Long Term Plan and has been the subject of significant public discussion and elected members consideration.
30. The decisions sought through this report do not revisit the previously approved strategic direction. While important, the recommendations are considered project delivery and consenting decisions within an established strategic framework. They do not alter the approved disposal pathway, introduce a new wastewater disposal methodology, or fundamentally change the nature or purpose of the long-term resource consent applications currently before Otago Regional Council.

Māori Consultation | Iwi Rūnaka

31. The recommendation within this report relates to whether Council should support an application for direct referral of the long-term wastewater discharge resource consent applications to the Environment Court under the Resource Management Act 1991. While recognising the interest

that Kāi Tahu have in this matter, no specific engagement has been undertaken with Kā Rūnaka on the direct referral request itself. Council will provide a copy of this report to Kāi Tahu in advance of the upcoming Council meeting.

32. Kāi Tahu have been engaged throughout the development of the long-term wastewater disposal consent application and will continue to be engaged as the applications progress. Ongoing engagement is being undertaken with Te Ao Marama Inc and Aukaha on behalf of mana whenua in relation to the proposed disposal solution and associated consent applications.
33. The long-term resource consent applications will be publicly notified in accordance with the Resource Management Act 1991, providing Iwi, the wider community, and other interested parties with the opportunity to make submissions and participate in the statutory decision-making process. Should direct referral be approved, these participation rights remain unchanged, with submitters having the ability to participate in the Environment Court proceedings in the same manner as they would through a Council hearing process, and as they have through the short term consent application to date.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

34. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK10029 Ineffective compliance management practices within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.
35. The approval of the recommendations set out in this report, will allow Council to implement additional controls for this risk. This will be achieved by mitigating potential delays through the consenting pathway for the long-term consent as far as reasonably practicable, to ensure compliance with the enforcement order programme.

Financial Implications | Kā Riteka ā-Pūtea

36. The existing project budget within the Long Term Plan is considered sufficient to support the recommendations outlined.
37. Whilst cost for direct referral of the long-term discharge resource consent application are significant, they are expected to be considerably less than undertaking the standard two stage determination by ORC through the standard resource consent process, or the Fast-Track Approvals Act process.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

38. The following Council policies, strategies and bylaws were considered, and the recommendations are consistent with the principles set out in these plans and frameworks:
- QLDC's Strategic Framework

- 30 Year Infrastructure Strategy
- Three Waters Services Asset and Activity Management Plan 2024-2034
- Climate and Biodiversity Plan 2025-28
- Long Term Plan 2024-34
- Queenstown Lakes Spatial Plan
- Queenstown Lakes District Plan
- Te Pūtahi Ladies Mile Structure Plan
- Te Tapuae Southern Corridor Structure Plan

39. This matter is included in the Long Term Plan as part of the 3 Waters capital investment programme (specifically as the *Shotover Disposal Field* project) and highlighted as a key planned activity of “Investment in the Shotover Disposal Field arrangements in the context of current challenges, to ensure ongoing performance and compliance”.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

40. The legal considerations and statutory responsibilities are set out in the body of this report. The direct referral process is an established and well understood legal process.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

41. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. The Shotover Disposal project ensures adequate infrastructure is established in Queenstown to contribute to the social, economic and environmental wellbeing of the community. As such, the recommendation in this report is appropriate and within the scope of Section 10 of the Act.

42. The recommended option:

- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

Attachments | Kā Tāpirihaka

A	Ministry for the Environment Direct Referral Process: information for applicants
---	--