

Jan Scott Rutherford

**Land Use Consent – Disturb Bed
of Waiau River
and Associated Discharge of
Sediment
And
Water Permit – Divert Water in
Waiau River**

**Assessment of Environmental
Effects**

November 2020



Bowden
Environmental
Resource Management Consultants

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Bowden Environmental Assessment of Environmental Effects

Land Use Consent, Discharge Consent and Water Permit
– Disturb Riverbed and Associated Discharge of
Sediment and Divert Water

1.0 INTRODUCTION

Mr JS (Scott) Rutherford irrigates several farming blocks on the north side of the Waiau River, using water from the Waiau River via a diversion scheme that diverts water into small natural channels that lead to waterholes from which pumps abstract water. The diversion scheme is maintained on a regular basis to ensure water from the Waiau River enters the diversion channel. This entails the movement of gravel to keep the diversion channel open. Resource consents are held for the works to disturb the bed and divert and take water. The s42A report in Appendix 1 provides a very good summary of the existing scheme and consents.

Mr Rutherford's diversion scheme is similar to many other schemes on the river. The upstream neighbour of Mr Rutherford also operates a diversion scheme. Because the two schemes are in close proximity, Mr Rutherford has been able to rely on the bywash discharge from his neighbour's scheme which has to date provided sufficient water for Mr Rutherford's scheme. The upstream neighbour's diversion channel is also a natural old channel in the riverbed and is reasonably stable and has to date provided secure water for both schemes. The upstream neighbour's diversion from the main Waiau River into the diversion channel is of one cumec under consent CRC180872. There is no connection between the two schemes or consents held by each farmer apart from the fact that Mr Rutherford has enjoyed the left-over water from his upstream neighbour's diversion. The location of the natural diversion channel that serves the upstream neighbour and then subsequently Mr Rutherford is shown in the sketch in Appendix 2.

Mr Rutherford has in recent seasons been short of water at his downstream diversion and intake waterholes. The one cumec diversion by the upstream neighbour has not provided sufficient "Bywash" water during low flow periods (the location of the Bywash is shown on the sketch in Appendix 2). Therefore, this application is to divert two cumecs at the point labelled "Appendix 5 Photo" in the sketch in Appendix 2, which will increase the total rate diverted into the channel from one to three cumecs.

The nature of the channel at the proposed diversion point is shown in the photographs in Appendix 3. The steep grade at the diversion point means that the scale of works to deepen the channel will be minor. There will be no change to the existing consents authorising the taking of water for irrigation. Any surplus water from the increased diversion will simply stay in the Waiau River as part of the consented bywash facilities of both the upstream neighbour and Mr Rutherford.

2.0 LEGAL AND PLANNING MATTERS

2.1 *The Resource Management Act 1991*

The disturbance of the bed of the river is controlled by s13(1)(b) and the diversion of water is controlled by s14(3)(a). The relevant regional plans are the Land and Water Regional Plan (LWRP) and the Hurunui and Waiau River Regional Plan (HWRRP). The maximum duration of any land use consent or water permit is 35 years.

2.2 *Hurunui Waiau River Regional Plan*

The HWRRP does not control land disturbance activities in the bed of the Waiau River. However, it does control the diversion of water. Rule 2.3 is the relevant rule, a restricted discretionary activity provided nine standards and terms are complied with. The nine standards and terms are as follows:

- a) The maximum rate of take, in addition to all existing resource consented takes.....does not exceed the allocation limit in the Table 1 Environmental Flow and Allocation Regime
 - Complies. The diversion of water into the natural channel will not lead to any increase in the rate of take for the applicant's irrigation which is currently fully consented in accordance with the HWRRP Regime.
- b) For the Waiau River, when water is allocated from the B permit allocation limit.....
 - Not applicable.
- c) The take complies with the minimum flow as set out in Table 1
 - Complies. The associated take consents are in accordance with the HWRRP Regime.
- d) The point of take occurs downstream of the confluence of the Hope River.....
 - Complies. The associated take is downstream.
- e) Fish shall be prevented from entering the water intake.....
 - Complies. The associated take consents require appropriate fish screens which are installed.
- f) An Infrastructure Development Plan is submitted with any application to take a maximum rate exceeding 100 l/s
 - Not applicable. The application is to divert water, not to take which is already fully consented.
- g) The annual volume applied for provides an 80% or greater application efficiency and reasonable water use in 9 out of 10 years
 - Complies. The associated take consents comply with this requirement.
- h) That are variations or renewals of existing permits.....
 - Not applicable.
- i) That are not variations or renewals of existing permits, the use of that water in combination with all other activities will not lead to an exceedance of the nutrient limits in Schedule 1 or the nitrogen toxicity limits in Policies 5.3 and 5.3A
 - Not applicable. The relevant associated use of water is already consented.

There are 11 matters restricting the exercise of the Council's discretion when considering the application. These matters and all relevant environmental effects are addressed below.

2.3 Land & Water Regional Plan

The LWRP controls land disturbance and water diversion activities in the bed of the Waiau River but only if the relevant activities are not specifically controlled by another plan. The relevant rules would be Rule 5.141B for the diversion of water including the associated discharge of sediment as a result of the disturbance of the bed, and Rule 5.6 for the disturbance of the bed. However, because the HWRRP controls the diversion of water, then Rule 5.141B does not apply for the diversion activity but may apply for the associated discharge of sediment as a result of the disturbance of the bed. It is a discretionary activity. Rule 5.6 is a catch-all discretionary activity rule for the disturbance of the bed. In either case, the overall activity of disturbance of the bed and associated discharge of sediment is a discretionary activity. All relevant environmental effects of the disturbance and discharge of sediment must be addressed (see below).

2.4 CRC Flood Protection and Drainage Bylaw 2013

The Bylaw controls the installation of defences against water that is owned or controlled by the CRC and also controls other works that may affect such defences. There are no CRC protection works in the vicinity of the applicant's proposed diversion and therefore the Bylaw does not apply.

3.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT

In addition to the description contained in the HWRRP, the Waiau catchment is approximately 3300 km², and is bounded to the north by the Clarence and Conway catchments and to the south by the Hurunui catchment. Both tectonic activity and glaciations have extensively modified landforms in the Waiau catchment. The Waiau River extends from the Main Divide to the Pacific Ocean and as a result displays a diversity of form reflecting the topography, geology and landscape. The subject property is located on the north side of the river near the twin bridges, a braided, inland basin section of the Waiau River system. This reach is characterised by alluvial plains and terraces which have been cultivated for pastoral purposes.

- **Ecological, landscape and recreational values of the Waiau River Catchment**

The ecosystem of the upper catchment is predominately indigenous, although heavily modified. The vegetation changes occurring in a downstream direction, from sub-alpine, to beech forest, grading into pasture.

The upper reaches of the Waiau River are described as having a high degree of naturalness in its upper reaches, which grades to a moderate and moderately low degree of naturalness through the middle and lower reaches. The affected environment associated with this application is located in the Emu Plains, which is part of the middle reach of the Waiau River. The Emu Plains may be described as having an uninspiring scenic value and an intermediate recreational value.

Moderately valued recreational uses in the affected area may include jet boating and angling. While there are no educational scientific or heritage values associated with the Waiau River, there are geo-preservation sites located along the riverbanks of some of the tributaries of the Waiau River.

- **Flow regime**

Long term records are available for several lengths of the Waiau River; basic hydrological statistics for these sites are presented in Table 1, below. However, observation site 64602, at Marble point is regarded as the reference point for the Waiau Catchment. At this point, the mean flow is recorded as ~100 cubic meters per second, with minimum and maximum flow of 21 cubic meters per second and of 1,650 cubic metres per second, respectively.

Location	Catchment area (Km ²)	Mean annual flow (m ³ /s)	Specific Yield (l/s/ Km ²)	Minimum recorded flow (m ³ /s)	Maximum recorded flow (m ³ /s)	Median flow (m ³ /s)
Waiau at malings Pass (64606)	74.6	6.5	87.1	1.5	136.1	4.6
Hope at Glynne Wye (64608)	696	45.1	64.8	7.7	776	33.4
Waiau at Glenhope (64604)	714	35.6	49.9	8.2	522	28.5
Waiau at Marble Point (64602)	1,980	101	51.3	21.1	1,650	78.4
Stanton at Chedder valley (64610)	41.9	0.567	13.5	0	100	0.154
Waiau at Mouth (64609)	3,297	113	34.1	18.7	1,294	87.0

Table 1-Basic hydrological statistics along the Waiau River

Annual flow regime shows a cycle of winter-time water surplus and summer-time deficit. With the highest recorded flows occurring in spring, when winter snow storage is released and the lowest mean monthly flow rates are recorded in February and March, while flood events are more frequent during June and October.

The natural hydrological regime is modified principally by the abstraction of 11 cubic meters per second for the Amuri irrigation scheme. The flow regime is not significantly affected by the abstraction takes and is only brought down to around the current minimum flow for up to 3 -4 weeks over the summer period.

- **Aquatic ecosystems**

There is a direct relationship between river flow and habitat availability, and any reduction in flow has the potential to reduce in-stream habitat, resulting in reduced invertebrate and fish populations.

The NIWA freshwater fish database was consulted to establish what species have been historically recorded in the Waiau system during historical fishing surveys. Results from these show that 15 fish species have been identified in parts of the Waiau system; Canterbury galaxiid (*Galaxias brevipinnis*), upland bully (*Gobiomorphus breviceps*), Common bully (*Gobiomorphus cotidianus*), inanga (*Galaxias maculatus*), torrentfish (*Cheimarrichthys fosteri*), shortfinned eel (*Anguilla australis*), and brown trout (*Salmo trutta*).

One effect of water abstraction is the loss of habitat diversity due to a reduction in flow velocity, and a reduction in the buffer zone between high and low flows. There are native fish species present in the Waiau River which have diadromous life cycles, and therefore it is important for these species to be able to reach the ocean. Species such as the common bully, inanga, and shortfinned eel have peak

migration months, and during this time it is critical that a minimum flow be sustained to ensure that migrating individuals can reach the ocean (when the shingle barrier bar is breached).

Water abstraction can also result in river mouth blockages, which will also affect migration of native fish species. This may be especially important for larval life stages (in the Waiau River those of the common bully and inanga), as they can rely on high flows to transport them downstream; or adult and juvenile stages (i.e. common bully, inanga and torrentfish) that require suitable flow to allow them to swim upstream without becoming stranded.

The macroinvertebrate community of the tributaries of the Waiau River have been assessed and graded as healthy with species which are typical of Canterbury Rivers, the most common species being *Deleatidium*. The macroinvertebrate characteristics of the tributaries are indicative of “clean water”, with some degradation in Dog Stream, Hope River, Mason River and Dog Brook.

There has been no sampling of algal communities in the river. It is assumed, however that the community is typical of agriculturally impacted water ways, with blooms during summer as a result of the increase in water temperature and potential for nutrient concentrations to increase.

The Waiau River as a whole is rated as having a high wildlife value as it provides habitat for wetland and terrestrial birdlife. Threatened species include the banded dotterel and black-fronted tern. These birds breed during late August to January-February and inhabit gravel bars for nesting sites, riffles, seepage channels and vegetated berms for feeding areas.

- **Water quality**

Environment Canterbury only holds fragmented water quality data collected at a number of sites along the Waiau River mainstem, therefore, extreme conditions are unlikely to have been measured. However, the water quality of the Waiau catchment is high, with the highest water quality recorded in upland areas.

Reduction in water flow has the potential to concentrate contaminants and increase water temperature, potentially resulting in degraded water quality. Riparian fencing and vegetation can mitigate the potential effects of surface water abstraction on water quality by providing shade, thereby keeping water temperatures cool. This has been demonstrated in other small waterways in New Zealand, where stream shading of 50 – 70% has been found to keep water temperatures cool enough for protection of fish and invertebrates. Riparian planting and fencing also reduces the likelihood of bank erosion from stock trampling effects which can lead to sedimentation and nutrient inputs, whilst providing habitat and cover for fish and invertebrates. Therefore, the benefits of riparian planting can potentially mitigate any minor effects caused by surface water abstractions.

- **Other water users**

Water resources of the Waiau Catchment are mainly composed of surface water. Groundwater not hydraulically connected to the river is not a significant factor in the total water resources of the Waiau Catchment. Bores are sited in or near streams and rivers and rely on flow through shallow gravel aquifers for recharge. Thus, water levels in bores are generally a reflection of flows in the adjacent watercourse, and rainfall in the catchment.

There are numerous consented uses of the Waiau River to take surface water and hydraulically connected groundwater. Of these consents the largest take is the Amuri Irrigation Company Ltd which diverts 11,000 litres per second. At present the total take from these users is reported in the HWRRP as being the current “A” block limit, although there have recently been some “B” block allocations.

Potential adverse effects of these takes are mitigated via minimum flow conditions, and those currently in force are listed in the HWRRP.

There is a community water supply on the south side of the Waiau River to take from bores. The Community Drinking Water Supply Protection Zone does not extend over the site of the proposed diversion works (see map in Appendix 4). The diversion site is shown coloured salmon while the protection zone is the large area coloured pink. Note that the diversion site is within the legal description Part Section 155 SQ83 Amuri which is part of title CT CB 408/106 and is owned by the applicant in freehold title.

- **Tangata Whenua values**

Tangata Whenua values of the Waiau River and its tributaries are detailed in the recently published Iwi Management Plan “Te Poha o Tohu Raumati Management Plan”. This is described further below under the assessment of effects on Tangata Whenua values. There are no statutory acknowledgement areas or silent files within the vicinity of the proposed diversion.

4.0 ASSESSMENT OF ACTUAL AND POTENTIAL EFFECTS

The two relevant rules controlling the disturbance of the bed and associated discharge of sediment, and the diversion of water, are Rule 5.6 of the LWRP, a discretionary activity, and Rule 2.3 of the HWRRP, a restricted discretionary activity, respectively. The relevant matters and effects requiring assessment for all activities are considered to be:

- The 11 matters restricting the exercise of discretion under Rule 2.3
- Effects on low flows, flood-carrying capacity, bank stability and erosion
- Effects on existing structures
- Effects on water quality
- Effects on ecosystems
- Effects on natural character
- Effects on people, communities and amenity values
- Effects on Tangata Whenua values
- Positive effects.

4.1 *Matters restricting exercise of discretion under Rule 2.3*

The 11 matters are assessed as follows:

- i) The extent to which the proposal addresses Policy 6.5
 - This application will allow more reliable irrigation under existing consents that rely on the diversion of water. This will maintain the economic output from the farm and have flow-on benefits for the community.
- ii) Any effects on water quality, including whether the activity in combination with all other activities will result in the nutrient limits in Schedule 1, or the nitrogen toxicity limits in Policies 5.3 and 5.3A being exceeded.
 - There are no load limits for the Waiau River in Schedule 1. Therefore, the nitrogen toxicity limits in Policy 5.3A parts (a) and (c) are the relevant water quality limits:
 - The 95th percentile of monthly periphyton biomass measurements in the mainstem of the Waiau River shall not exceed 120 mg/m²

-
- chlorophyll a or 20% cover of filamentous algae more than 2 centimetres long.
- The annual median and 95th percentile nitrate-nitrogen concentrations in the mainstem of the Waiau River, and in its tributaries at their confluence with the mainstem, below the Marble Point flow recorder site shall not exceed 2.3 and 3.6 mg NO₃-N/L respectively, these being the chronic nitrate-nitrogen toxicity thresholds for maintaining a 95% level of species protection.
 - The diversion of water into the channel already exists and has been relatively stable for many years. It is only the rate that is currently diverted that is, at times, insufficient for Mr Rutherford's scheme. The maintenance of the diversion by disturbing the bed will not change the current situation but will continue it. Because the sediment that will be entrained in the water from the disturbance will be natural bed material, there will be no effects on nutrient levels specified in this condition.
- iii) The reasonable need, intended use, ability to abstract, and whether storage is proposed.
- The use of water does not change from the consented situation. The diversion proposed in this application simply ensures certainty of supply to the irrigation intake.
- iv) The availability of alternative sources of water.
- There are no alternative sources of water.
- v) The technical efficiency of the take and use.
- The take and use are not changing from the consented situation. The diversion will provide more security of supply.
- vi) The effects the take or diversion has on any other authorised takes or diversions.
- The diversion already exists in a natural state and the proposal is to increase the rate diverted. The diversion is upstream of the neighbour's intake and an increased rate will likely benefit his intake. The applicant's intake relies to a large extent on the bywash from the neighbour's system. There are no other diversions that could be affected.
- vii) The reduction in the rate of take in times of low flow.
- The current take consents have minimum flow restrictive conditions, and these will continue. The diversion proposed in this application will not affect low flows as any excess water simply returns to the river via existing bywash facilities.
- viii) The need for and provision of any additional restrictions to prevent the flow from reducing to zero.
- The continuation of the diversion proposed with these applications will not change flow in the river. The take consent further downstream has appropriate minimum flow restrictions.
- ix) The collection, recording, monitoring and provision of information concerning the exercise of the consent.
- Appropriate information relating to the taking of water is already provided through the current consents.
- x) Flow variability having regard to Policy 2.4.
- The diversion sought in this application is to secure the continuation of the current natural diversion at approximately 3 cumecs. There will be no change to the flow variability as has been experienced in the past.
- xi) Consent duration.
- The current consents for the diversion to the Rutherford pond and irrigation system have an expiry date of 26 November 2038. It would be reasonable to consider the whole system of diversions at the same time. An expiry date of 26 November 2038 is sought.

4.2 *Effects on low flows, flood-carrying capacity, bank stability and erosion*

The nature of the braided river means that the flow and channels are often changing and moving. The upstream channel that the applicant utilises receives water from the upstream neighbour's bywash and natural flow in the channel. This channel is relatively stable, having been utilised for many years as a reliable supply of water. Flood flows appear to not have influenced this channel very much, although it does get inundated with flood flows at times.

However, there are periods when the one cumec diversion at the head of the reasonably long scheme diversion channel, has meant that the applicant's requirements are not met. It is expected that the proposed additional 2 cumecs sought in this application, so that 3 cumecs will flow down the channel, will provide certainty of supply. There will be no additional diversion at the applicant's intake. The net effect on low flows in the main channel is zero compared to the current regime.

The channel is stable and there is no sign of erosion of the banks of the Waiau River at any point downstream of the opening from the point in Appendix 3.

Therefore, it is considered that the effects on low flows, flood-carrying capacity, bank stability and erosion will be less than minor and are likely to be no change to the current situation.

4.3 *Effects on existing structures*

There are no structures in the vicinity of the proposed diversion works.

4.4 *Effects on water quality*

The proposed channel diversion works will be undertaken in flowing water but limited in scale and some natural sediment will be entrained in the flow during the bed disturbance process. However, the necessity for the works will be limited to a small number of occasions each year and most sediment will likely flow down the diversion channel rather than the natural main channel. In any event, the amount of sediment that may enter the river will be minimal. The period of works will also be short, i.e. within a few hours. It appears that the LWRP Rule 5.141 anticipates this type of temporary sediment discharge for other similar activities and is a permitted activity. However, while this rule does not apply, it is considered that water quality and clarity will not be significantly affected. It is more likely that a small natural fresh in the river will cause much more and prolonged sediment to be entrained.

The process will involve machinery (e.g. digger). Spills of fuel during re-fuelling will not occur as re-fuelling will not occur in the riverbed. Care will be taken to ensure that any machinery is clear of pest plants.

With some straightforward mitigation, the effects on water quality will be less than minor. This is also important for the Community Drinking Water Bores on the opposite side of the river (Appendix 4). While the proposed activities (disturbance and sediment discharge) are not within the Zone, it is considered that there will be no effect on the quality of water abstracted from those bores. The only possible effect could be sedimentation of water. However, due to the bores being distant from the river on the opposite side, any sedimentation caused by the proposed activities will not migrate across the main flowing channel of the River and there is also significant protection via filtering due to any water having to travel through gravels to the bores.

4.5 Effects on ecology and ecosystems

The river aquatic ecosystems will likely be maintained due to the activity actually keeping the channel open and flowing. Fish passage will be maintained throughout the entire diversion channel. However, no salmon or inanga spawning habitat occur in the vicinity of the works. Appropriate fish screens are already installed on the consented intakes.

Birds may inhabit the area. The bird-nesting season is generally October – February. However, while the works will likely need to be undertaken during this period, the duration of the gravel excavation will be short (a few hours) and will be very limited in area, i.e. over a length of no more than 50 metres to deepen the diversion channel. The steep grade of the diversion channel means that deepening to 1 metre over this short distance will provide the additional 2 cumecs that is sought. The channel will not be widened. The gravel excavation is also located in the existing channel and not over the dry riverbed area. However, care will be taken not to disturb any nesting birds if they are present.

4.6 Effects on natural character

Case law indicates that natural character has three main components: natural processes, natural elements and natural patterns. Natural processes include the action of rivers, waves, tides, wind and rain as well as the movement of animals and the natural succession of plant species. Natural elements include water, landforms, and vegetation cover. The distribution of these natural elements over an area forms natural patterns. A fourth important component is the human experiences of these natural processes, elements and patterns and values. The degree of natural character generally reflects:

- the absence of buildings and other human influences
- the presence of original landforms and vegetation cover (particularly indigenous vegetation) together with other ecological patterns
- water bodies and natural movement of water and sediment
- experiential attributes, including smells, noise, views and sense of remoteness.

The Environment Court has held that “natural” does not mean “endemic to New Zealand” or “pristine”. Natural connotes a range of qualities and features which are created by nature as distinct from human-made constructions. Natural may include things such as pasture and exotic trees and wildlife, both wild and domestic. It does not include human-made structures, roads or machinery. This means that areas where indigenous vegetation has been replaced with pasture may still have high natural character so long as built structures do not dominate the environment.

In a report for the Marlborough District Council titled “The Natural Character of Selected Marlborough Rivers and their Margins (2014)” the authors provided a summary of natural character descriptions. They also noted that it is a cultural construct and varies with the beholder and even between different “experts”. They suggested natural character occurs on a modification continuum and its degree can change over time. They provided three components which relate to a river’s natural character:

- River channel – this includes the wetted surface and exposed gravel bars within the active channel, which is regularly covered by freshes and floods. Primary attributes include channel shape, degree of modification of flow regime, water quality, exotic aquatic flora and fauna, and structures and human modifications.
- Riparian edge – this includes the riverbanks and floodplains often containing riparian vegetation. Attributes such as extent of exotic and native vegetation present will be considered, as will level of human modification. Primary attributes include vegetation cover, and structures and human modifications.

- Wider landscape context – this considered the river in its wider landscape setting and looked at land use and broader geomorphic qualities that contribute to the river's natural character. It is acknowledged that the wider landscape, particularly its land use may be influential to a river's degree of natural character. Primary attributes include landscape character modifications.
- Each attribute may be scored on a scale from heavily modified to overwhelmingly natural.

The above notes from various sources shows that the term “natural character” is subjective, changes over time, and it is very difficult to assess effects of activities.

The disturbance of the bed and diversion works will not create any additional channels that don't naturally exist at present (and are currently consented for use). Nor will the works disturb any vegetation (the deepening over a length of 50 metres, and no widening, will be undertaken wholly within the current diversion channel). The section of bed that will be disturbed already maintains a diversion into the natural channel that the applicant relies on to deliver water to his intake. It is not likely that the channel will disappear because the upstream neighbour's diversion will continue. This means that the braid plain of the active riverbed will not be restricted or changed in any way. Overall, it is considered that the proposed diversion works will not adversely affect the natural character of the river.

4.7 *Effects on people, communities, and amenity values*

Access to the river from public access points such as roads is not available and there is no view of the works area.

Jet-boating is likely to generate the most recreational usage of the river near the site of the works. However, the small channel is not of a jet-boating standard, with any boating occurring in the main river channel. The works will be completed in a short timeframe (a few hours) and will not cause any prolonged visual annoyance for the limited number of people who might venture past the site. Overall, it is considered that the adverse effects on people, communities and amenity values will be less than minor.

4.8 *Effects on Tangata Whenua values*

Chapter 2 of the Council's Regional Policy Statement 2013 outlines the issues and concerns of significance to the Ngai Tahu, while Chapter 4 outlines provisions for the relationships that Ngai Tahu has with resources in Canterbury. These chapters seek to:

1. Identify who are the relevant organisations representing Tangata Whenua in the Canterbury region.
2. Set out natural resource issues of significance to Ngai Tahu and provide a culture context for those issues.
3. Set out the relevant matters recognised in part 12 of the Ngai Tahu Claims settlement Act 1998, including fulfilling the Canterbury Regional Councils obligations to note the existence of statutory acknowledgements of statutory areas.
4. Recognise and provide for the relationship between Ngai Tahu and natural and physical resources.

The applicant's property lies within the rohe of Te Rununga o Kaikoura. Therefore, the relevant Iwi management plans are the Ngāi Tahu Freshwater Policy Statement and the Te Poha o Tohu Raumatī Management Plan.

The proposed activity has been assessed against and is not considered to be contrary to the relevant policies as assessed below.

Ngāi Tahu Freshwater Policy Statement

Wahi Tapu - Policies 1 and 2: No areas of Wahi Tapu have been identified within the area of effects for this application.

Mauri - Policies 1, 2, 3, and 4: The works will be undertaken in the existing channel to maintain flow. While the maintenance of the diversion is not natural, the actual diversion channel is a natural feature. The diversion already exists and there will be no change to this situation.

Mahinga kai - Policies 1, 2, 3, and 4: No areas of critical mahinga kai habitats have been identified in the area of effects. The activity will not adversely affect water quality or quantity of water bodies within the area of effects.

Te Poha o Tohu Raumati Management Plan

The property is located in the area of Okarahia ki te Hurunui and the relevant policies are:

Section 3.5.8 – Water abstractions – Surface water

The take is already included in the A allocation block and metered (Policy 11) thus complying with relevant policies in this section by ensuring no more than the consented rate of take and annual volume is taken. Therefore, I consider the proposed activity will not be contrary to the policies of section 3.5.8.

Section 3.5.9 – Flow Management

Appropriate flow regimes are already imposed on the consented take. The requirement for channels to maintain flow to support fish passage is also imposed. The proposed diversion works will in fact ensure that the channels maintain sufficient flows.

Section 3.5.10 – Minimum flows

Policies 1-13 refer to the setting of minimum flows in order to protect the river health, appearance, quality and cultural values of the river. The take consent is included in the A allocation block for the Waiau River and the minimum flows will ensure these policies are complied with.

Section 3.5.11 – Water Quality

Water quality concerns have been addressed as part of the current take and use consents. The maintenance of the diversion channel will not affect water quality of the main river. There may be a very small amount of natural sediment being entrained in the diversion channel as a result of the works. However, this will be temporary (not lasting longer than a few hours) and of a minor nature (less than would be experienced during a fresh in the river).

Section 3.5.13 – Waiau River

Policies seek to ensure that activities in the catchment do not adversely impact the wahi tapu and wahi taonga values associated with the river. An appropriate flow regime is central to this requirement.

Section 3.5.15 – Activities in the Beds and Margins of Rivers

The disturbance of the bed of a river is to be considered in terms of the cultural significance of the site. Impacts on nesting birds should be avoided. The maintenance of the diversion channel is not considered to affect any sites of significance and impacts on nesting birds will be mitigated via a specific condition.

The Rūnanga was not advised of this application as the effects of maintaining the diversion channel were assessed as being less than minor. Additionally, the activity is not within one kilometre of a silent file or statutory acknowledgement area.

4.9 Positive effects

The proposed works will result in a significant positive benefit for the applicant through a more secure supply of water to the irrigation intake. It is also likely to benefit the upstream neighbour's security of supply.

5.0 PROPOSED CONSENT CONDITIONS

The above assessment of effects is considered to show that any adverse effects will be no more than minor if the following conditions are applied to a land use consent to disturb the bed of the Waiau River, and to a discharge consent to discharge sediment associated with the land use consent to disturb the bed, and to a water permit to divert water within the bed of the Waiau River.

To disturb the bed of the Waiau River to facilitate the diversion of water:

- The disturbance of the bed shall be carried out within the area shown on Plan XXXXXX at or about map reference NZTM 1586460-5272950.
- The disturbance shall be limited to altering the depth dimension of the entrance to the diversion channel to divert 2 cumecs.
- The width dimension of the existing channel shall not be enlarged. The depth dimension of the existing channel shall be no deeper than 1 metre. The length over which the enlargement of the diversion channel shall occur is 50 metres from the entrance from the main braid of the river.
- Diversion bunds shall be uncompacted and constructed from gravels won from the bed of the channel in the immediate vicinity of the channel and shall be no greater than 1 metre in height above the natural bed level, and no longer than 10 metres in length from the entrance to the diversion channel.
- The works shall not cause erosion of the banks of the Waiau River.
- There shall be no storage of fuel or re-fuelling of machinery within 20 metres of the bed of the river.
- Machinery shall be free of plants and plant seeds prior to use in the riverbed and shall not spread didymo.
- Machinery shall not operate within 100 metres of nesting birds (nesting and breeding season typically between end of September to February).
- The diversion works shall not prevent the passage of fish, and particular regard shall be given to avoiding the stranding of fish in pools or channels.
- In the event of any discovery of archaeological material:
 - a) The consent holder shall immediately:

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- i. Cease earthmoving operations in the affected area and mark off the affected area; and
 - ii. Advise the Canterbury Regional Council of the disturbance; and
 - iii. Advise Heritage New Zealand Pouhere Taonga of the disturbance.
 - b) If the archaeological material is determined to be Kōiwi Tangata (human bones) or taonga (treasured artefacts) by Heritage New Zealand Pouhere Taonga, the consent holder shall immediately advise the office of the appropriate rūnanga (office contact information can be obtained from the Canterbury Regional Council) of the discovery.
 - c) If the archaeological material is determined to be Kōiwi Tangata (human bones) by Heritage New Zealand Pouhere Taonga, the consent holder shall immediately advise the New Zealand Police of the disturbance.
 - d) Work may recommence if Heritage New Zealand Pouhere Taonga Trust (following consultation with rūnanga if the site is of Māori origin) provides a statement in writing to the Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager that appropriate action has been undertaken in relation to the archaeological material discovered. The Canterbury Regional Council shall advise the consent holder on written receipt from Heritage New Zealand Pouhere Taonga that work can recommence.

Advice Note:

This may be in addition to any agreements that are in place between the consent holder and the Papatipu Rūnanga. (Cultural Site Accidental Discovery Protocol).

Advice Note:

Under the Heritage New Zealand Pouhere Taonga Act 2014 an archaeological site is defined as any place associated with pre-1900 human activity, where there is material evidence relating to the history of New Zealand. For sites solely of Māori origin, this evidence may be in the form of accumulations of shell, bone, charcoal, burnt stones, etc. In later sites, artefacts such as bottles or broken glass, ceramics, metals, etc., may be found or evidence of old foundations, wells, drains, tailings, races or other structures. Human remains/kōiwi may date to any historic period.

It is unlawful for any person to destroy, damage, or modify the whole or any part of an archaeological site without the prior authority of the Heritage New Zealand Pouhere Taonga. This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The Historic Places Act provides for substantial penalties for unauthorised damage or destruction.

To discharge sediment associated with the disturbance of the bed:

- The discharge of sediment authorised under this consent shall only consist of the ancillary discharge of sediment associated with works authorised by land use consent CRCxxxxxx within the area shown on Plan XXXXXX at or about map reference NZTM 1586460-5272950.

To divert water within the bed of the Waiau River:

- The diversion of an additional 2 cumecs of water shall be within the area shown on Plan XXXXXX at or about map reference NZTM 1586460-5272950.
- The diversion of water shall not prevent the passage of fish over the entire length of the channel, and particular regard shall be given to avoiding the stranding of fish in pools or channels.

The duration of the consents is sought to be to the expiry date of the existing consents for diverting water into the applicant's pond intake system, i.e. 26 November 2038. This will allow the entire scheme to be re-considered at the same time.

6.0 ASSESSMENT AGAINST OBJECTIVES AND POLICIES

The relevant plans are the HWRRP and the LWRP and Plan Change 7. The CRPS, CWMS, Hurunui-Waiau ZIP, NPS/NES for Freshwater Management, and NES for Sources of Drinking Water also require assessment. Iwi Management Plans have been assessed above. The overall RMA sustainable management assessment completes these policy assessments.

6.1 *Hurunui Waiau River Regional Plan*

The HWRRP is relevant for the diversion of water:

- Objective 2 and Policies 2.3, 2.5, and 2.6, require flows to be managed sustainably to avoid significant adverse effects such as effects on mauri, instream aquatic life, passage of fish, nesting birds, recreational values. The appropriate flow regime is already implemented on the applicant's associated take consents. Flow variability will remain the same as current with the additional channel works. Maintenance of the channel flow will provide for aquatic life and fish passage. Mitigation for nesting birds is provided as a condition of the consent to disturb the bed.
- Objective 3 and Policy 3.2 require the flow regime to be implemented, protecting mauri, flow variability, water temperature, fish passage, reliability of supply of existing irrigators, jet-boating, and natural character. These aspects have been addressed in the assessment of effects.

6.2 *Land and Water Regional Plan and Plan Change 7*

The LWRP contains 24 Objectives and 98 Policies. Those most relevant to the application are:

- Objectives 3.1 and 3.2 relate to Tangata Whenua matters. These have been addressed above.
- Objective 3.8 relates to water quality and quantity, ecosystems, habitats, and water-based species. The maintenance of the diversion will not negate achievement of this Objective.
- Objective 3.16 relates to river geomorphic processes such as flushing and sediment transport. The maintenance of the diversion will not interfere with these processes.
- Objective 3.17 relates to significant indigenous biodiversity values. The diversion will not affect these values.
- Objective 3.19 relates to natural character values. The above assessment is considered to show that these values are protected.
- Policy 4.3 relates to functions of waterbodies. The maintenance of the diversion will not affect these matters.
- Policy 4.18 relates to discharge of sediment from works in riverbeds. While there may be some minor discharge of sediment during the installation period, it is of natural material in very small concentration.
- Policy 4.44 specifically relates to rivers and their values, such as fish passage, flood water conveyance, etc. These matters have been addressed.
- Policy 4.47 supports small-scale diversions for infrastructure. The operative Policy 4.47 has a proposed amendment which does not alter the intent of the Policy. The amendment in PC7

simply provides a list of matters to address. These have been addressed in the AEE. Further, the Policy does not appear to apply much at all to the proposed activity, other than supporting such diversions.

- Policies 4.85 to 4.92 relates to activities in riverbeds and maintenance of channel characteristics, protection of significant indigenous biodiversity and Ngai Tahu values, no material effect on flood flows, access to the river, etc. These matters have been addressed above.

6.3 Canterbury Regional Policy Statement

Chapters 2 and 4 relate to Tangata Whenua involvement and outcomes. These have been addressed in section 4.8 above.

Chapter 7 relates to freshwater. Objectives 7.2.1 and 7.2.3 relate to water quality, ecosystems, and natural character of rivers. The relevant policies are:

- Policy 7.3.1 requires various degrees of protection of the natural character of waterbodies. Natural character has been addressed above.
- Policy 7.3.2 requires the maintenance of the natural character of braided rivers which has been addressed above.

Chapter 10 relates to beds of rivers. Objective 10.2.2 relates to flood-carrying capacity. The relevant policies are:

- Policy 10.3.1 requires adverse effects from works to be mitigated or remedied. The diversion works proposed in this application will have no more than minor effects and the conditions proposed will address any of those effects.
- Policy 10.3.2 requires natural character to be preserved. Natural character has been addressed above and is considered to show that this policy will be met.
- Policy 10.3.3 requires management of activities to protect riverbanks from erosion. This application does not affect the banks.

6.4 Canterbury Water Management Strategy

The CWMS is a high-level strategy that summarises the overall approach and the delivery models for the sustainable management and development of the region's water resources. For braided rivers, a key outcome is to protect their natural character. This includes prohibiting dams on their mainstems and maintaining the extent of active floodplains, flow variability and sediment flow processes when undertaking river works, land-use change or deliberate vegetation stabilisation. Natural character is given effect to in the CRPS and LWRP, which are addressed above.

6.5 Hurunui Waiau Zone Implementation Plan

The Hurunui/Waiau ZIP is part of the implementation of the CWMS in the Hurunui Waiau Zone, and recommends actions and approaches for collaborative and integrated water management. While not a statutory plan under the RMA, it is seen as a community statement which was considered in the development of the HWRRP.

Of relevance to this application, the ZIP identifies the natural character of braided rivers as being "unstable" which gives the river its essential braided characteristic. Stabilisation of flows and the bed may threaten this characteristic. The ZIP issues are addressed above.

6.6 National Environmental Standards for Drinking Water (2008) - Sources of Human Drinking Water

The National Environmental Standard for Sources of Human Drinking Water came into effect on the 20 June 2008 and is a regulation made under the Resource Management Act (1991) that sets requirements for protecting sources of human drinking water from becoming contaminated. It requires regional councils to ensure that effects on drinking water sources are considered in decisions on resource consents and regional plans. Specifically, councils are required to:

- decline discharge or water permits that are likely to result in community drinking water becoming unsafe for human consumption following existing treatment
- be satisfied that permitted activities in regional plans will not result in community drinking water supplies being unsafe for human consumption following existing treatment
- place conditions on relevant resource consents requiring notification of drinking water suppliers if significant unintended events occur (e.g. spills) that may adversely affect sources of human drinking water.

There are no NES registered drinking water supplies in the vicinity of the applicant's proposed discharge of sediment and diversion of water. The community supply bores on the opposite side of the river will not be affected by any sediment entrainment in the channel, nor will there be any effect on rate of take from the bores, i.e. recharge of the groundwater by the river will not be affected due to the diversion not being consumptive.

6.7 National Policy Statement for Freshwater Management 2020

The National Policy Statement for Freshwater Management 2020 (NPSFM) is a national policy statement which applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments. The NPSFM provides a National Objectives Framework and defines the fundamental concept of Te Mana o te Wai as it exists today. Te Mana o te Wai refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai and is about restoring and preserving the balance between water, the wider environment, and the community. Within the framework of Te Mana o te Wai there are 6 encompassing principles (Mana whakahaere, Kaitiakitanga, Manaakitanga, Governance, Stewardship, and Care and respect) which inform the National policy statement and its implementation.

Te Mana o te Wai then outlines a hierarchy of obligations that prioritises:

- a. first, the health and well-being of water bodies and freshwater ecosystems
- b. second, the health needs of people (such as drinking water)
- c. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

While the NPSFM sets a hierarchy of obligations, it does not remove all weight from the second and third order priorities, nor does it make such activities relating to second and third order priorities of lesser validity. This is further emphasised in Policy 15 (*Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.*) and in Appendix 1b – Other values that must be considered.

Under Section 104(1)(b)(iii) of the RMA, the consent authority shall have regard to the relevant provisions of a National Policy Statement. The NPSFM came into effect on the 3 September 2020 and the timeframe for implementing the NPSFM is outlined in the Freshwater Planning Process (FPP).

The FPP is a new planning process introduced by the Resource Management Amendment Act 2020 that must be used for proposed regional policy statements or regional plans or plan changes that give effect to the NPSFM or that otherwise relate to freshwater. The intent of the FPP is to streamline and speed up decisions on freshwater plans. This is delivered by:

- requiring regional councils to notify plans or plan changes that give effect to the NPSFM by 31 December 2024 and require final decision to be made within two years of notification; and
- using independent freshwater hearing panels with enhanced powers; and
- limiting submitter appeal rights to the high court on points of law only and providing the submitter appeal rights to Environment Court only in certain circumstances.

In summary, the regional councils are required to follow the FPP to give effect to the NPSFM and they have been given until 31 December 2024 to notify any such plans or plan changes. Prior to the notification of these, the Regional Council can **have regard to** the NPSFM as “every local authority must give effect to this NPS as soon as reasonably practicable”. This is a **crucial distinction** for consent applications up until the future notification date. An assessment of the NPSFM is provided for below and, where applicable, cross references the objectives and policies of the relevant existing regional plans within the Canterbury Region which already give effect in part, or in full, to the policies of the NPSFM.

The objective of the NPSFM is to ensure that natural and physical resources are managed in a way that prioritises:

- a. first, the health and well-being of water bodies and freshwater ecosystems
- b. second, the health needs of people (such as drinking water)
- c. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

There are 15 policies within the NPSFM:

Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.

Policy 2: Tangata whenua are actively involved in freshwater management (including decision making processes), and Māori freshwater values are identified and provided for.

Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.

Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.

Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.

Policy 7: The loss of river extent and values is avoided to the extent practicable.

Policy 8: The significant values of outstanding water bodies are protected.

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.

Policy 13: The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.

Policy 14: Information (including monitoring data) about the state of water bodies and freshwater ecosystems, and the challenges to their health and well-being, is regularly reported on and published.

Policy 15: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.

The NPSFM outlines (in section 3.2-3.5) that the implementation is undertaken by “every regional council” or “every local authority”; it does not put the onus of giving effect to the NPSFM on individual consent applicants or existing consent holders.

Policy 1 is relevant as the application relates to freshwater. However, the implementation of Policy 1 to give effect to Te Mana o te Wai is a high-level requirement which in the future the planning framework will deliver via objectives, policies, and rules (taking into account the subparts 1-3 of the NPSFM). However, the existing plans give some effect to Te Mana o te Wai in the respect that the existing Canterbury Regional Policy Statement (CRPS) and the subsequent Regional Plans developed to implement the CRPS has followed the RMA Schedule 1 planning process and meets the purpose and principles listed in Part 2 of the RMA. However, the CRPS has under policy 7.3.12 adopted a precautionary approach for freshwater management which priorities the health and well-being of the water body.

In implementing or complying with Policy 1 it is important to recall that while Te Mana o te Wai sets out a hierarchy of obligations the explanation of the concept of Te Mana o te Wai includes restoring and preserving the balance between the water, the wider environment and the community. The concept does not prevent activities from being undertaken nor does it prevent the community requirements from being met. Also until the FPP process has been undertaken, how Te Mana o te Wai applies in respect to the Canterbury Region is not yet well-defined as under section 3.2 the approaches to implementing the NPSFM states “*that every regional council must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region*”. Weight should not be redacted from the existing Canterbury Regional Plans, especially those with specific sub-regional chapters that have been written on the basis of a Zone Implementation Programme (ZIP), a document formulated following a highly collaborative process involving the specific communities and Tangata Whenua for those relevant areas Canterbury. These ZIPs and subsequent sub-regional chapters provide the clearest starting

point for clarifying how Te Mana o te Wai applies to water bodies and freshwater ecosystems. Therefore, by meeting the requirements in accordance with the specific rules of the existing relevant LWRP and HWRRP, the application has given regard to Policy 1 as much as currently possible without having to pre-empt an unknown future definition of how it will apply.

Due to the small scale of the diversion and the fact that there will be no additional take above that already consented, there will be no over-allocation of the Waiau River, and fish passage will likely be more secure with the additional rate of diversion in the channel.. I consider the proposed activity is not contrary to the objective and will prioritise on the well-being of the water body.

The health needs of people are not adversely affected as there are no drinking water takes from the Waiau River or from groundwater that has a protection zone over the diversion channel. I consider the proposed activity is not contrary to the objective of the NPSFM.

Due to the scale of the diversion, there is no over-allocation and the activity will allow the applicant to meet their economic needs by higher security of supply for irrigating land to graze livestock, which will allow the applicant to remain as an active part of their community. I consider the proposed activity is not contrary to the objectives of the NPSFM.

Policy 2 is relevant, and it is considered that the existing Canterbury Regional Policy Statement (CRPS) already includes provisions for Ngai Tahu and their relationship with resources under Chapter 4 (of the CRPS) which states that Tangata Whenua should be recognised as guardians of all water bodies, and encourages consultation and sets out processes for sustaining working relationships with the local Rūnanga in terms of resource management issues. Furthermore, the consent process allows for the Runanga to be provided with an opportunity to comment on the application.

Policy 3 is relevant as the application relates to freshwater. It is considered that the existing Canterbury Regional Plans, especially for those areas with sub-regional chapters that have undergone plan changes, already manage freshwater in an integrated way. As such the applications will meet the requirements of Policy 3, due to the activity being undertaken in accordance with the specific rules relating to water quality and quantity and land use under the HWRRP and LWRP.

Policy 4 is relevant as the application relates to freshwater. However, the implication of managing Freshwater as part of New Zealand's integrated response to climate change is not relevant to this consent application.

Policy 5 is relevant as the application relates to freshwater. However, the implementation of a National Objectives Framework is a high-level requirement which in the future the planning framework will deliver through the Regional and Local Authorities via objectives, policies, and rules taking into account the subparts 1-3 of the NPSFM. However, regard has been given to Policy 5 already as the existing Canterbury Regional Policy Statement (CRPS) under Objectives 7.2.1 and 7.2.4 require the region's fresh water resources to be managed sustainably and Policies 7.3.6 and 7.3.7 require water quality standards to be adhered to. These provide for, in part, the health and well-being of water bodies and freshwater ecosystems to be maintained. As such the application will meet these requirements, in part, due to it being in accordance with the specific rules relating to water quality and quantity.

Policy 6 is not relevant as the activity does not affect any natural inland wetlands.

Policy 7 is not relevant to the activity as it does not result in a loss of the river or decrease river values.

Policy 8 is not relevant to the activity as it does not affect significant values of outstanding water bodies.

Policy 9 is relevant to the activity as it may affect the habitats of indigenous freshwater species. However, the activity will not adversely affect the habitats of indigenous freshwater species when operated under the mitigation measures proposed. In some respects, the additional 2 cumecs may benefit freshwater species due to more secure water flowing in the channel.

Policy 10 may be relevant as the activity may affect the habitat of trout. However, the activity will not adversely affect the habitat of trout due to more secure flow in the diversion channel for fish passage. This will also meet the requirement in sub-part 3.46 for fish passage in that passage is likely to be improved.

Policy 11 is probably not relevant to the activity due to no water being allocated via the activity applied for.

Policy 12 is not relevant to this application as there are no listed primary contact areas within the vicinity or within the immediate receiving environment.

Policy 13 is not relevant as the activity does not involve water quality degradation.

Policy 14 is a function of the regional and local authorities.

Policy 15 is relevant in that proposal is required to ensure that the existing authorised farming operation can continue to operate in a financially viable way providing for social, economic wellbeing of individuals and the wider Canterbury community.

Overall, I consider that the applications will meet the objective and policies of the NPSFM.

6.8 *Resource Management (National Environmental Standards for Freshwater) Regulations 2020*

The National Environmental Standards for Freshwater (NESF) sets out to regulate activities that pose risks to the health of freshwater and freshwater ecosystems. Parts of the NESF became operative on 3 September 2020. There are no parts relevant to the activities applied for. A related matter is the passage of fish (Subpart 3), but it is only when there are structures such as culverts that engage this subpart. In any event, the passage of fish through the diversion channel will be more secure with the additional flow being diverted.

6.9 *Resource Management Act – Part 2*

Purpose of the Act – Section 5

The purpose of the Act is to “promote the sustainable management of natural and physical resources”. Based on the information available, it is considered that the proposed activity is consistent with the purpose of the Act.

Matters of National Importance – Section 6

Section 6 outlines matters of national importance that are to be recognised and provided for in achieving the purpose of the Act. These matters include, but are not restricted to, the preservation of the natural character of rivers and their margins. The relationship of Maori, their culture and traditions

to the environment must also be recognised and provided for. It is considered that the activity can be carried out in a manner that will not adversely affect any matter set out in Section 6.

Other Matters – Section 7

Section 7 of the Act sets out those matters that have particular regard attributed to them in achieving the purpose of the Act. With the mitigation measures proposed, it is considered that this activity will not compromise any of the matters included in Section 7.

Treaty of Waitangi – Section 8

The Act states that:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The Court of Appeal has identified four principles, which form the basis of developing a relationship of partnership and communication. These are the Essential Bargain, Tribal Self-Regulation, The Treaty Relationship, and Active Protection. The third principle, the Treaty Relationship, accords Maori with special status as a Treaty Partner, distinct and separate from status as an 'affected party'. The Runanga was not contacted regarding this application as they were not considered to be a potentially adversely affected party. A specific assessment against Tangata Whenua values has been carried out, and it is considered that the activity will not compromise any matters in Section 8. However, it is acknowledged that Environment Canterbury will provide a copy of this application to the relevant Runanga for comment.