

Application CRC182936, CRC182937 and CRC184324

By Jon Scott Rutherford

for a land use consent to excavate and to disturb the bed of a river

a water permit to divert water

a discharge permit to discharge water and sediment to water

Section 42A Officer's Report – Tegan Wadworth

Date: 21/03/2018

INTRODUCTION

1. Jon Scott Rutherford (the applicant) has applied for:
 - a. CRC182936 a land use consent to excavate and to disturb the bed of the Waiau River to facilitate the diversion of water;
 - b. CRC182937 to divert water within the bed of the Waiau River; and
 - c. CRC184324 to discharge water and sediment to water associated with works in the bed of the Waiau River.
2. The applicant proposes to undertake the activities within the location identified in Figure 1.



Figure 1

3. John Talbot of Bowden Environmental (the consultant) prepared the Assessment of Environmental Effects (AEE) on behalf of the applicant which can be view in HPRM record CRC182936, CRC182937 and CRC184324.
4. The applicant holds other active resource consents around the subject area of the proposed activity including:
 - a. CRC040548 to disturb the bed of the Waiau River to facilitate the diversion and discharge of water; and
 - b. CRC040830 to divert water within the bed of the Waiau River; and
 - c. CRC040831 to discharge water to the Waiau River.

5. The above consents authorise activities downstream of the proposed area of works and expire 26 November 2038.
6. The applicant previously stated that a maximum of 100 cubic metres of gravel would be disturbed per year. However, from further discussions with the applicant they now anticipate that a maximum of 100 cubic metres of gravel would be disturbed following a flood event with a maximum of 200 cubic metres of gravel being disturbed per year. The applicant states that they consider the assessment of effects covers this additional 100 cubic metres per year. Given the small scale of this additional amount I consider the assessment of effects sufficiently addresses the effects of 200 cubic metres of gravel being disturbed per year.
7. A site visit was not undertaken during the processing of this consent.

DESCRIPTION OF THE PROPOSED ACTIVITY

8. In summary, the applicant proposes to undertake works within the bed of the river, discharge water and sediment to water and divert water within the bed of the Waiau River between map references NZTM2000 1587801mE, 5272827mN and NZTM2000 1590617mE, 5273650mN as shown on Plan CRC182936A, Plan CRC182937 and Plan CRC184324.
9. The applicant proposes the works in the bed of the river, discharge and diversion in order to maintain water flow in the natural channel which feeds into the applicant's water scheme from which they extract water.
10. Previously the applicant was able to rely on the by-wash discharge from the upstream neighbour's diversion scheme which has to date provided sufficient water to the river channel to keep a natural channel open. However, the natural channel is subject to fluctuating channel behaviour and now requires some movement of gravel to keep it open and supply sufficient water to the applicant's main water intake. Therefore, the applicant has applied for works in the bed of a river, discharge and diversion consents to maintain the flow of water from the upstream neighbour's by-wash channel.
11. The applicant states that the works are not envisaged to occur over the whole channel reach at once, but in places where this is a build-up of gravel, particularly at the upstream start of the proposed works area. Therefore, the proposed works in the bed of the river will involve periodic maintenance of the diversion channel by moving of gravel to keep the diversion channel open.
12. As stated above from further discussions with the applicant they now anticipate that a maximum of 100 cubic metres of gravel would be disturbed following a flood event with a maximum of 200 cubic metres of gravel being disturbed per year. This additional 100 cubic metres to address the potential of gravel islands building up throughout the year from flood events. The applicant has proposed to limit a maximum of 100 cubic metres being disturbed in any 14-day period.
13. The applicant states that the works proposed will be to maintain a flow of approximately three cubic metres per second down the channel.
14. The applicant states that a channel width of approximately five metres will be maintained. The proposed depth of excavation will be a maximum of 0.5 metres.
15. Bulldozers and/or excavators will be used to move the gravel and riverbed sediment. The applicant states that an excavator will be generally used if the water is flowing so as to keep out of the water. If dry and a larger amount is required to be moved then a bulldozer will be used. If the machinery is required to be moved some distance then a truck loaded by excavator will be used.

16. The applicant states that access to the proposed area will be mostly via farm tracks and existing vehicle tracks on the riverbed area.
17. The applicant states that the channel will not be straightened or shifted.
18. The excavated material from the channel will be deposited along short sections of the banks of the channel.
19. The discharge of material will be temporary discharges of sediment and river bed material when the works in the bed are occurring.
20. The applicant has requested a duration until the 26 November 2038 to be in line with the current consents works and diversion consents held.

LEGAL AND PLANNING MATTERS

The Resource Management Act 1991 (RMA)

21. Section 13 of the RMA states that:

“(1) No person may, in relation to the bed of any lake or river,—

- (a) use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or*
- (b) excavate, drill, tunnel, or otherwise disturb the bed; or*
- (c) introduce or plant any plant or any part of any plant (whether exotic or indigenous) in, on, or under the bed; or*
- (d) deposit any substance in, on, or under the bed; or*
- (e) reclaim or drain the bed—*

unless expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.”

(2) No person may do an activity described in subsection (2A) in a manner that contravenes a national environmental standard or a regional rule unless the activity—

- (a) is expressly allowed by a resource consent; or*
- (b) is an activity allowed by section 20A.*

(2A) The activities are—

- (a) to enter onto or pass across the bed of a lake or river:*
- (b) to damage, destroy, disturb, or remove a plant or a part of a plant, whether exotic or indigenous, in, on, or under the bed of a lake or river:*
- (c) to damage, destroy, disturb, or remove the habitats of plants or parts of plants, whether exotic or indigenous, in, on, or under the bed of a lake or river:*
- (d) to damage, destroy, disturb, or remove the habitats of animals in, on, or under the bed of a lake or river.*

(3) This section does not apply to any use of land in the coastal marine area.

(4) Nothing in this section limits section 9.

22. The works in the bed of a river is not allowed by a national environmental standard or rule in a regional plan, therefore the applicant will require a resource consent to carry out the proposed activity.
23. Section 14 of the RMA states that:

“(1) No person may take, use, dam, or divert any open coastal water, or take or use any heat or energy from any open coastal water, in a manner that contravenes a national environmental standard or a regional rule unless the activity—

(a) is expressly allowed by a resource consent; or

(b) is an activity allowed by [section 20A](#).

(2) No person may take, use, dam, or divert any of the following, unless the taking, using, damming, or diverting is allowed by subsection (3):

(a) water other than open coastal water; or

(b) heat or energy from water other than open coastal water; or

(c) heat or energy from the material surrounding geothermal water.

(3) A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if—

(a) the taking, using, damming, or diverting is expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent; or

(b) in the case of fresh water, the water, heat, or energy is required to be taken or used for—

(i) an individual’s reasonable domestic needs; or

(ii) the reasonable needs of a person’s animals for drinking water,—

and the taking or use does not, or is not likely to, have an adverse effect on the environment; or

(c) in the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Maori for the communal benefit of the tangata whenua of the area and does not have an adverse effect on the environment; or

(d) in the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual’s reasonable domestic or recreational needs and the taking, use, or diversion does not, or is not likely to, have an adverse effect on the environment; or

(e) the water is required to be taken or used for emergency or training purposes in accordance with [section 48](#) of the Fire and Emergency New Zealand Act 2017.”

24. The diversion of water is not allowed by a national environmental standard or rule in a regional plan. Therefore, the applicant will require a resource consent to carry out the proposed activity.

25. Section 15 of the RMA states that:

“(1) No person may discharge any –

(a) contaminant or water into water; or

(b) contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or

(c) contaminant from any industrial or trade premises to air; or

- (d) *contaminant from any industrial premises onto into land – unless the discharge is expressly allowed by a national environmental standard or other regulations, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.*
- (2) *No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a national environmental standard unless the discharge –*
- (a) *is expressly allowed by other regulations; or*
 - (b) *is expressly allowed by a resource consent; or*
 - (c) *is an activity allowed by section 20A.*
- (3) *This section shall not apply to anything to which s15A or s15B applies.”*

26. The discharge of water and sediment to water is not allowed by a national environmental standard or regional rule, therefore resource consent is required

Regional Plans

Hurunui Waiau River Regional Plan (HWRRP)

Diversion of water

27. The proposed site falls within the area of the HWRRP, therefore the rules of this plan need to be assessed. I note the HWRRP have rules that provide for the diversion of water but not the works in the bed of the river.
28. The applicant has assessed the propose diversion of water under Rule 1.1 and Rule 1.3 of the HWRRP. The applicant states that they cannot meet the following conditions of the permitted activity rule:
- a. Rule 1.1, condition (e) – *“the diversion occurs for no more than 15 days in any 12 month period”*; and
 - b. Rule 1.3, condition (a) – *“the total take, diversion and use per property shall not exceed the following rates and volumes ...”*. The max rate for the Waiau River is 10 litre per second which the applicant states the diversion will exceed.
29. Therefore, the applicant states that the diversion of water is classified under **Rule 2.3** of the HWRRP as a **restricted discretionary** activity provided it can comply with all the conditions of Rule 2.3 (a) to (f). The applicant states that the proposal meets all of the conditions.
30. Canterbury Regional Council has restricted its discretion to the following matters:
- i. The extent to which the proposal addressed Policy 6.5;
 - 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;
 - iii. the reasonable need for the quantities of water sought, the intended use of the water, and the ability of the applicant to abstract and apply those quantities, including whether storage of water is proposed having regard to Policy 8.1;
 - iv. the availability and practicality of using alternative supplies of water;
 - v. the technical efficiency of the take and use, having regard to Policy 8.1;
 - vi. the effects the take or diversion has on any other authorised takes or diversions;

- vii. the reduction in the rate of take in times of low flow, having regard to Policies 2.3 and 2.4;
- viii. the need for and provision of any additional restrictions to prevent the flow from reducing to zero;
- ix. the collection, recording, monitoring and provision of information concerning the exercise of the resource consent having regard to Policy 8.1;
- x. Flow variability, having regard to Policy 2.5; and
- xi. Consent duration, having regard to Policies 9.1 and 9.2.

Canterbury Land and Water Regional Plan (LWRP)

Works in the bed of a river and associated discharge

- 31. The applicant has assessed the works in the bed of the Waiau River under the LWRP as the HWRRP does not provide for rules for the disturbance of the bed of a river.
- 32. The disturbance of the bed of a river falls under Rule 5.136 of the LWRP as a permitted activity. There is no permitted activity rule for the works of the bed of a river as part of works for a diversion of water.
- 33. The proposal does not meet the following conditions of Rule 5.136:
 - a. *Condition (4) within 30 days of the completion of the activity the bed of the lake or river is returned to its original contour; and*
 - b. *Condition (6) the works do not occur in flowing water.*
- 34. Therefore, the proposal is assessed under general rule, Rule 5.6 of the LWRP.
- 35. Rule 5.6 states that “Any activity that –
 - a. Would contravene sections 13(1), ..., or s15(1) of the RMA; and
 - b. Is not a recovery activity; and
 - c. Is not classified by this Plan as any other of the classes of activity listed in section 87A of the RMA
 - is a discretionary activity.”
- 36. The works in the bed of the river would contravene s13(1)(b) of the RMA which states “*No person may, in relation to the bed of any lake or river ... excavate, drill, tunnel, or otherwise disturb the bed*”. The works in the bed is not a recovery activity and is not classified by this Plan as any other of the classes of activity listed in section 87A of the RMA. Therefore, resource consent is required under **Rule 5.6** as a **discretionary activity**.

Discharge of water and sediment

- 37. There is no permitted activity rule for the associated discharge to the works in the bed of a river for a diversion of water. Therefore, the proposal is assessed under Rule 5.141B of the LWRP which states “*where not classified by any other Rule in this plan, the diversion or discharge of water and contaminants as a result of the excavation and disturbance of a river or lake bed, ..., is a discretionary activity*”.
- 38. Therefore, the discharge of water and sediment to water associated with the works in the bed of the river is a **discretionary activity** under **Rule 5.141B**.

Permitted activities

- 39. The removal or disturbance of existing vegetation is a permitted activity under Rule 5.163 of the LWRP. The applicant states that the proposal can meet all of the

conditions of Rule 5.163. Therefore, the removal or disturbance of vegetation associated with the proposal is a **permitted activity**.

40. The use of land of refuelling vehicles or equipment in the bed of a river is a permitted activity under Rule 5.145. The applicant states that the proposal can meet all the condition of Rule 5.145. Therefore, the refuelling of vehicles or equipment associated with the proposal is a **permitted activity**.
41. No other consents are considered to be required for this application.

ASSESSMENT OF POTENTIALLY AFFECTED PARTIES

42. The applicant consulted with Land Information New Zealand (LINZ) who owns the land. The applicant obtained written approval from LINZ and as such are no longer considered an affected party (C18C/23057).
43. The applicant did not consult with any other party. I consider that no other persons are adversely affected by this proposal.
44. Canterbury Regional Council informed the following parties of the proposal:
 - a. Kaikoura District Council;
 - b. Hurunui District Council;
 - c. Flood Bylaw;
 - d. Harbour Master;
 - e. Department of Conservation;
 - f. Canterbury District Health Board;
 - g. Fish and Game – North
 - h. Forest and Bird; and
 - i. NZ Beekeeping Inc.
45. Mr Ian Fox responded stating that there are no navigational safety issues of concern for this application (HPRM C17C/211401).
46. No other responses were received at the time of writing this report.

DESCRIPTION OF THE AFFECTED ENVIRONMENT

47. The applicant has provided a description of the affected environment in Section 3 of the AEE (Page 3) which accompanied the application.
48. In addition, I note:
 - a. The Waiau River is a braided river system.
 - b. The proposed area of the Waiau River is a Site of Special Wildlife Significance, Land of National Importance and Wetland of Representative Importance.
 - c. The Waiau River is a Native Bird Habitat.
 - d. The proposed site is within the rohe of Kaikoura Rūnanga. The site is not located within a Silent File or Statutory Acknowledgement Area.
 - e. The site is located within a Rūnanga Sensitive Site.
 - f. There is no New Zealand Archaeological Association Site or Cultural Heritage Site within the proposed site.

- g. CRC GIS database identifies the Mid Waiau River as having some recreational values. Recreational values include the following:
 - i. Moderate – Picnicking, canoeing, jet boating, rafting, salmon and trout fishing
 - ii. Low – Camping, swimming, wading, four wheeled driving
- h. There are no flood protection works within or on the same bank side as the proposed site.
- i. The nearest dwelling is located approximately 1250 metre from the proposed site.
- j. The proposed site is not located in River Rating District.
- k. There is are surface water diversions located immediately upstream (CRC130326) and downstream (CRC040830) of the proposed site. CRC040830 is held by the applicant.

ASSESSMENT OF ACTUAL AND POTENTIAL EFFECTS

- 49. Refer to Section 4 of the AEE, (Page 6), which accompanied this application for the assessment of effects that may arise from this proposal.
- 50. I have assessed the following effects:
 - a. Potential adverse effects on flood-carrying capacity, bed and bank stability and erosion;
 - b. Potential adverse effects on natural character, water quality and ecosystems;
 - c. Potential adverse effects of the diversion of water;
 - d. Potential effects on people, communities and amenity values;
 - e. Potential adverse effects on Tangata Whenua values; and
 - f. Positive effects

Potential adverse effects on flooding carrying capacity, bed and bank stability and erosion and structures

- 51. The applicant has considered the effects on erosion and stability and flooding on Page 7, Section 4 of the AEE.
- 52. The applicant states that the flood flow of the channel has not influenced this channel to a great extent, however it does get inundated with flood flows at times. The applicant states that by maintaining the channel it is expected that the estimated three cubic metres per second that currently flows down the channel will continue. The applicant states that the effect on low flows in the main channel of the Waiau River is zero.
- 53. I note that the proposed works in the bed of the river is to maintain the channel that is currently there. Therefore, I consider that the flood carrying capacity of the channel is unlikely to change and will as a result of the proposal likely to be maintained.
- 54. The applicant states that the channel of the proposed works in the bed area is stable and there is no sign of erosion on the banks of the Waiau River at any point downstream of the upmost point of the proposed works area to the end downstream proposed works area. The applicant considers that the effects on bank stability and erosion will be less than minor and that there is unlikely to be a change from the current state of the channel.

55. The applicant has proposed that a maximum of 100 cubic metres of gravel will be disturbed per year and that the gravel will be deposited along the banks of the channel. Given the small scale of material being disturbed I consider the bed and bank stability is unlikely to be adversely affected.
56. I have recommended a condition that the proposed works shall not cause erosion or scour of the bed or banks of this channel of the Waiau River. I have also recommended a condition that a maximum of 100 cubic metres of gravel shall be disturbed per year.
57. There are no structures or flood protection assets within the proposed works area and applicant will access the site via an existing farm tracks and vehicle tracks on the riverbed as indicated on Plan CRC182936B.
58. Based on the above information and provided that the recommended conditions are adhered to, I consider that any adverse effects on flood carrying capacity, bed and bank stability and structures as a result of the works in the bed of the river will likely be no more than minor.

Potential adverse effects on natural character, water quality and ecosystems

59. The applicant has considered the effects of their proposal on ecosystems on Page 8, Section 4 of the AEE provided.
60. As previously stated, the Waiau River is a Site of Special Wildlife Significance, Land of National Importance, Wetland of Representative Importance and Native Bird Habitat.

Water Quality

61. The applicant states that channel maintenance works will be undertaken in flowing water. The works will be limited in scale and some sediment from disturbing the river bed will be entrained in the flow of the channel. The applicant notes that works will occur on a small number of occasions each year and the amount of sediment that will enter the river will be minimal. The applicant has stated that the anticipated amount of gravel to be disturbed in approximately 100 cubic metres per year. I consider that the relatively small scale of disturbance will limit the amount of sediment discharged to the channel to an acceptable level. I have recommended a condition that all practicable measures be taken to minimise the discharge of sediment to the Waiau River.
62. The applicant states that no refuelling will occur within the bed of the river. I have recommended this as a condition of consent.
63. The applicant states that care will be taken to ensure that any machinery is clear of pest plants. I have recommended a condition that the applicant shall adhere to the Biosecurity New Zealand Didymo hygiene protocols as well as ensuring that machinery is free of plants and plant seeds prior to the sue in the riverbed.

Ecosystems

64. The proposed excavation period is within the bird nesting season (September to February). The applicant proposes to maintain a 100-metre setback from all nesting birds to mitigate any potential adverse effects. In addition, the applicant states that a qualified independent person will be engaged to inspect the river bed for signs of nesting birds prior to the commencement of any works and at the recommencement of any works if works cease for more than ten days.
65. Technical advice was sought from Dr Philip Grove (CRC Science Team Leader, Environmental Science and Hazards) regarding the effect on native birds and habitats in the area. Dr Grove stated that the adoption of the bird survey condition address

concerns regarding the direct impacts of the works on riverbed nesting birds (C18C/36744).

66. Dr Grove has also commented that these conditions do not address the potential wider and/or long-term potential impacts on the birds' river bed habitat and habitats of other indigenous plant and animals (C18C/36056). I consider the proposal does have the potential to adversely affect habitats of plants and species due to machinery being within the riverbed.
67. The applicant has stated that they will access the site by farm tracks and then via existing vehicle tracks on the riverbed. The applicant has also stated that the anticipated amount of gravel disturbed is anticipated to be approximately 100 cubic metres per year. Additionally, the applicant will be maintaining the channel width to maintain the current flow of the channel of approximately three cubic metres per second which corresponds to a channel width approximately five metres and a maximum excavation depth of 0.5 metres.
68. Dr Grove visited the site 12 March 2018 and observed native kanuka trees along the start of the access tracks to the proposed area and the riparian margin of the river. I note the proposed area was not completely surveyed. As the proposal can meet the permitted activity rules for the disturbance of vegetation I am not able to recommend any conditions around the potential disturbance of the native trees. I have included an advice note that states the applicant needs to comply with the permitted activity rule, Rule 5.163 of the LWRP for any vegetation removal or disturbance.
69. I recommend conditions as stated above and I consider that given these restrictions placed on the proposal the potential adverse effects on habitats within the riverbed will likely be no more than minor.
70. The applicant states that the aim of the works is to maintain an open flowing channel from the upstream by-wash through to the applicant's water intake which is itself maintained as an open flowing channel back to the main river. The applicant states this will ensure that fish do not become stranded and fish passage will be maintained throughout the entire channel. The applicant states that appropriate fish screens are already installed on the consented intakes.
71. Technical advice was sought from Mr Duncan Gray (CRC, Senior Scientist, Surface Water Science) regarding the potential effects on ecosystems from the proposed works in the bed of a river. Mr Gray states that diverting channels is likely to strand fish (C18C/36016). I note that the channel is currently flowing naturally and the applicant is proposing to maintain the channel flowing in its current direction. Therefore, I consider that as water flow will be maintained the potential adverse effects of the proposal on fish will likely be no more than minor.

Natural Character

72. The applicant has referenced the Marlborough District Council report 'The Natural Character of Selected Marlborough River and their Margins' in their assessment of effects on natural character. This report has provided three components which related to a river's natural character:
 - a. 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 modification.
 - b. Riparian edge – this includes the river banks and floodplains often containing riparian vegetation. Attributes such as extent of exotic and native vegetation

present will be considered, as will the level of human modification. Primary attributes include vegetation cover and structures and human modifications.

- c. Wider landscape context – this is 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.

- 73. The applicant states that the disturbance of the bed will not create any additional channels that don't naturally exist at present. Nor will the works disturb any vegetation. The section of the bed that is subject to this proposal is a currently natural channel. The applicant relies on this channel to deliver their water intake. The applicant concludes that overall it is considered that the proposed diversion works will not adversely affect the natural character of the river.
- 74. Technical advice was sought from Mr Gray regarding the potential impact on natural character due to the works in the bed proposal. In summary Mr Gray advised that the natural character of a braided river is defined by a state of dynamism with channels constantly shifting. These are the natural processes that define character in braided rivers. Preventing channel migration reduces natural character. Mr Gray considers the proposed activity by the applicant will result in reduction of natural character and ecological values (C18C/36016).
- 75. The applicant has provided further clarification around the proposed activity in the s92 Response. The width of the channel will be maintained, the applicant states that this is approximately five metres wide. Additionally, the applicant states that the channel will not be shifted or straightened.
- 76. Objective 3.19 of the LWRP states that "Natural character values of freshwater bodies, including braided rivers and their margins, wetland, hapua and coastal lagoons, are protected".
- 77. Policy 4.85A of the LWRP states that "Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:
 - (a) preventing further encroachment of activities onto the beds, banks and margins of lakes, braided rivers and associated wetlands and coastal lagoons; and
 - (b) limiting vegetation clearance and cultivation within the bed, banks and margins of lakes, braided rivers and associated wetlands and coastal lagoons, unless the vegetation clearance or cultivation is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance, upgrade or repair of structures or infrastructure, or maintenance of public access."
- 78. The applicant is not proposing to disturb vegetation as part of the proposal. The proposal is also not creating any additional channels. The proposal is diverting water that may flow into the main braid of the Waiau River. However, given the number of other braids surrounding the proposed area, that this channel is currently flowing in the direction desired by the applicant and the main braid is currently flowing, I do not consider the diversion will result in the main braid going dry. The proposal is for maintaining a currently channel of the Waiau river. Therefore, I consider that the proposal is generally consistent with the above objectives and policies of the LWRP. I have recommended conditions that the works in the bed shall maintain the channel in a state which is consistent with the natural character of the river bed. As the applicant

can meet the permitted activity rule for the disturbance of vegetation, conditions around this activity are not within the scope of this proposal. I have added an advice note that the applicant needs to ensure the comply with the permitted activity rule for vegetation disturbance otherwise additional consent will be required.

79. Given the channel of the proposed area of works is a relatively stable side channel of the Waiau River and the scale of works is relatively small, maximum of 100 cubic metres of gravel to be disturbed per year, and that the channel will be retaining its natural meandering braid form, I consider that the potential adverse effects on natural character from the proposed works in the bed of the river will likely be no more than minor.
80. Based on the above information and provided the recommended conditions and adhered to, I consider the potential adverse effects on natural character, water quality and ecosystems will likely be no more than minor.

Potential adverse effects of the diversion of water

81. The HWRRP under Rule 2.3 has restricted the matters of discretion when assessing the potential environmental effects of the proposed diversion. I have addressed the 11 matters of discretion below.
82. I do not consider Policy 6.5 relevant to this proposal as it relates to the use of water.
83. I do not consider the diversion of water will affect water quality or cause the nitrogen toxicity limits in Policies 5.3 and 5.3A to be exceeded. Water from the Waiau river is already flowing through this channel and the proposal is to maintain this channel at its current size and temporary sediment discharges will be only material already in the bed of the river. Therefore, I do not consider the proposed diversion will affect nitrogen limits.
84. The reasonable need, intended use, ability to abstract and apply what and whether storage is proposed is not relevant to this proposal as the proposal is a diversion of water to facilitate an already consented take of water.
85. The availability and practicality of using alternative supplies of water is not relevant to the proposal for a diversion.
86. The technical efficiency of the take and use does not apply to the proposal for a diversion of water.
87. The effects the diversion has on any other authorised takes is a relevant matter of discretion to this proposal. The proposed diversion is upstream of the applicant's farm. The applicant's farm continues over six kilometres downstream of the proposed diversion and there are no other water takes other than the applicants along the same bank of the river. Additionally, the diversion is unlikely to result in the main braid going dry that may affect water takes further downstream. Therefore, I consider the effects on any authorised take is likely to be less than minor.
88. The reduction in the rate of take in times of low flow is not relevant to this proposal as the proposal is for a diversion of water. The rate of take is covered by the applicant's already consented water take consents.
89. The need for provision of any additional restrictions to prevent the flow from reducing to zero. The proposed diversion is to maintain the flow in the channel to the applicant's water intake and the applicant has proposed to maintain the flow of the channel, which the applicant states is approximately three cubic metres per second. As the channel relating to this proposal is currently flowing, water flow is proposed to be maintained and additional water is not being diverted to the channel. I recommend a condition

stating the channel is not to change in width and the applicant will excavate to a maximum of 0.5 metres below the current bed level. Therefore, I consider the potential adverse effects of the diversion on the flow of the of the channel and the Waiau river reducing to zero is likely to be no more than minor.

90. The collection, recording, monitoring and provision of information concerning the exercise of the resource consent having regard to Policy 8.1 is a matter of discretion under Rule 2.3 of the HWRRP. Policy 8.1 relates to maximising the efficiency in taking and use of water in the Waiau river catchment. As the proposal is for a diversion of water I do not consider that this policy is relevant to the proposal.
91. Flow variability having regard to Policy 2.5 is a matter of discretion in relation to the proposed diversion. Policy 2.5 relates to ensuring that any diversion of water provides for flow variability above the minimum flow. As above I have recommended conditions around maintaining the channel in its current state in relation to the works in the bed of the river. The applicant is not proposing to change the flow of the channel therefore I consider the proposal is consistent with Policy 2.5.
92. The applicant has proposed a condition that the diversion of water shall not prevent the passage of fish over the entire length of the channel. I have recommended this as a condition of consent.
93. Having considered the above and taking into account recommended conditions, I consider the potential adverse effects of the diversion on the matters outlined above will likely to less than minor.

Potential adverse effects on amenity values, people, and communities

94. The applicant has provided an assessment of the effects of their proposal on amenity values, people, and communities on Page 10, Section 4 of the AEE. The Waiau River recreational values as described in the 'Description of the Affected Environment' section of this report and therefore there is the potential that the proposed activity will impact on these values.
95. The applicant states that access to the river via public roads is not available and there is no view of the works area from public areas. The applicant notes that jet-boating is likely to generate the most recreational usage of the river near the site of the works. The applicant states the small channels is not of a jet-boating standard within any boating occurring in the main river channel to the south. The applicant concludes that the adverse effects on people, communities and amenity values will be less than minor.
96. I note the nearest domestic dwelling is approximately 1250 metres from the proposed site. Given this separation distance I do not consider that neighbouring landowners will be adversely affected by the proposal.
97. The downstream area is riverbed and there are no other consents immediately downstream apart from those held by the applicant.
98. Based on the above, I consider that the effects of this proposal on amenity values, people, and communities will likely be no more than minor.

Potential adverse effects on Tangata Whenua values

99. The applicant has provided an assessment of effects of their proposal on Tangata Whenua values on Page 10 of the AEE.
100. The proposed site is located within the rohe of Te Rūnanga o Kaikoura and is located within a Rūnanga Sensitive Area.

101. The proposed site is not located within a Statutory Acknowledgement Area, Silent File Area, New Zealand Archaeological Association Site or Cultural Heritage Site.
102. The applicant has also agreed to an accidental discovery clause in the event that koiwi tangata (human bones) or taonga (treasured artefacts) are uncovered during the proposed works.
103. Advice was sought from Mahaanui Kurataio Limited (MKT) on potential effects on Tangata Whenua values.
104. Ms Jackie Eden of MKT provided advice and assessed the proposal against the iwi management plan for Kaikoura, Te Pōhā o Raumati Management Plan (C18C/36014). In summary:
- a. Policy 3.4.12.4 – the proposal includes works in the river bed and disturbance of gravel. Birds may inhabit the area and the works will likely be undertaken during the bird nesting season. It may be appropriate for an ecologist to assess the site prior to works occurring to ensure than no nests are present;
 - b. Policy 3.4.12.21 – the proposal is consistent this policy as there is no proposed vegetation clearance as the works are to be undertaken within the existing channel and not over the dry riverbed.
 - c. Policy 3.5.12.2 – the proposal is consistent with this policy. The works are for the maintenance of an existing channel however, these works must be undertaken in a way that does not adversely affect water quality or the mauri of the river.
 - d. Policy 3.5.15.4 – the proposal is consistent with this policy. The proposed works in the river bed of the Waiau River is unlikely to impact on mahinga kai providing fish passage is maintained and sedimentation is minimised.
 - e. Policy 3.5.15.8 – the proposal is consistent with this policy. There is no proposed removal of any vegetation.
105. I note that the applicant has proposed that the site will be surveyed for river nesting birds prior to works occurring which I have recommended as a condition of consent.
106. Ms Eden recommends a duration of 15 years as it gives the future generation of manawhenua an opportunity to exercise their kaitiakitanga. In this case, as it is a disturbance to the Waiau River, a shorter duration that 15 years may be preferred by the rūnanga.
107. Based on the above and the recommended conditions, I consider that the effects of this proposal on Tangata Whenua values will likely be less than minor.

Potential positive effects

108. The applicant states that the proposed works will result in a significant positive benefit for the applicant through a more secure supply of water to the irrigation intake.

COMPLIANCE HISTORY

109. The applicant has held a number of resource consents associated with their farm. Compliance and monitoring reports for resource consents held by the applicant show that the applicant has a history of compliance and non-compliance with consent conditions. Non-compliance history includes but is not limited to:
- a. Not recording water usage data for water takes;
 - b. Not completing a backflow test on dairy discharge; and

- c. Significant ponding of dairy effluent discharge;
- 110. The applicant is under investigation for unauthorised works in the bed of the river.
- 111. The applicant's compliance history does not preclude my recommendation.

OBJECTIVES AND POLICIES

- 112. The relevant objectives and policies are identified in the attached 's42A Addendum'.

Recommendation for Notification – (Section 95A and 95B)

- 113. Section 95A of the RMA 1991 specifies the steps the Council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below in accordance with s95A RMA 1991 in the attached 's42A Addendum', Appendix Two:
 - i. Step One: Mandatory public notification is not required (s95A(2) RMA 1991);
 - ii. Step Two: Public notification is not precluded (s95A(4) RMA 1991);
 - iii. Step Three: Public notification is not required in certain circumstances (s95A(7) RMA 1991); and
 - iv. Step Four: Special circumstances do not exist which require the application to be publicly notified (s95A(9) RMA 1991).
- 114. I have assessed the public notification requirements above in the order given and consider that public notification of these applications is not required.
- 115. If the application is not publicly notified under section 95A RMA 1991, the Council must follow the steps set out in section 95B to determine whether to limited notify the application. These steps are addressed below in statutory order in accordance with s95B RMA 1991 in the attached 's42A Addendum':
 - a. Step One: There are no protected customary rights groups or customary marine title groups affected by the proposed activity (s95B(2) RMA 1991). The proposed activity is not on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11 (s95B(3) RMA 1991);
 - b. Step Two: Limited notification is not precluded (s95B(5) RMA 1991);
 - c. Step Three: There are no affected persons in accordance with s95B(7) and (8) of the RMA 1991;
 - d. Step Four: Special circumstances do not exist which require the application to be limited notified (section 95B(10) RMA 1991).
- 116. I have assessed the limited notification requirements in the order given and consider that limited notification of this application is not required.
- 117. In conclusion, I recommend that these applications be decided on a non-notified basis.

Consideration of Application (Section 104(1)(a) –(c))

118. The assessment of adverse effects undertaken for the purpose of notification determination concluded that adverse effects were no more than minor. I consider that this assessment is also relevant to the assessment required under s104(1)(a).
119. In summary, in accordance with Section 5 of the RMA I consider that any adverse effects will be acceptable and are able to be avoided, remedied or mitigated subject to an appropriate set of conditions.
120. In accordance with section 104(1)(b) of the RMA, I have had regard to all relevant objectives and policies for this application. The relevant objectives and policies are identified in the attached 's42A Addendum'. I consider this application is generally consistent with the objectives and policies of the relevant planning provisions.
121. In accordance with section 104(1)(c) I have had regard to any other matters relevant to this application including:
 - a. Canterbury Water Management Strategy

The proposal is located within the area managed by the Hurunui Waiau Zone Committee. The committee have generated a Zone Implementation Programme (ZIPs) for this zone. ZIPs are non-statutory documents that are being completed by each of the Zone Committees within the Canterbury region. ZIPs contain zone-specific recommendations for water management to achieve the CWMS targets.

The Hurunui Waiau ZIP identifies water quality and natural character of braided rivers a priority outcome. Based on the assessment above I consider the proposal is consistent with the ZIP.
 - b. Te Pōhā o Raumati Management Plan.

Determination of applications for restricted discretionary activities (Section 104C)

1. When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which— c. a discretion is restricted in national environmental standards or other regulations:

d. it has restricted the exercise of its discretion in its plan or proposed plan.

2. The consent authority may grant or refuse the application.

3. However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which— a. a discretion is restricted in national environmental standards or other regulations:

b. it has restricted the exercise of its discretion in its plan or proposed plan.

122. The matters for discretion have been restricted in Rule 2.3 of the HWRRP. These are outlined in the 'Legal and Planning' section of this report.

Determination of applications for discretionary or non-complying activities (Section 104B)

123. After considering an application for a resource consent for a **discretionary activity**, a consent authority:
 - a. *May grant or refuse the application; and*
 - b. *If it grants the application, may impose conditions under section 108 of the RMA.*

124. I have considered s104B of the RMA and have outlined in the section titled "Grant or Refuse" that this application be granted subject to recommended conditions under s108 of the RMA.

Matters relevant to certain applications (Section 105(1))

125. In accordance with section 105, I have had regard to:
- a. the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - b. the applicant's reasons for the proposed choice; and
 - c. any possible alternative methods of discharge including discharge into any other environment. No alternatives have been proposed by the applicant.
126. I have had regard to the matters outlined in section 105 and consider that the proposed discharge of water and sediment to water is suitable for the receiving environment and that adverse effects resulting from the discharge are likely to be no more than minor.

Restrictions on grant of certain discharge permits (Section 107(1))

127. Under Section 107(1) of the RMA a consent authority may not grant a consent for the discharge of a contaminant into water, or onto or into land, if after reasonable mixing the discharge is likely to give rise in the receiving waters, to:
- "(c) The production of conspicuous oil or grease films, scums, foams, floatable or suspended material:*
- (d) Any conspicuous change in the colour or visual clarity:*
 - (e) Any emission of objectionable odour:*
 - (f) The rendering of fresh water unsuitable for consumption by farm animals:*
 - (g) Any significant adverse effects on aquatic life."*
128. Based on the assessment above, I do not consider that any of the above will occur as a result of the discharge and therefore consider that this proposal meets section 107(1).

Part 2 Matters (Purpose and Principles of the RMA)

129. Under section 104(1) of the RMA, the consent authority must consider applications "subject to Part 2" of the Resource Management Act 1991 (RMA), specifically sections 5, 6, 7 and 8.
130. The Purpose of the RMA (Section 5) is to:
- "promote the sustainable management of natural and physical resources."*
131. The purpose is achieved by the guidance provided by the Principles of the RMA (i.e. s.6, s.7, and s.8).
132. In the attached s42A Addendum (Appendix Two), I have considered Part 2 of the RMA.
133. Given this, I consider that this activity will achieve the purpose of the RMA.

Conditions of resource consent (Section 108)

134. I recommend including the conditions attached (Appendix One), which have been adopted by the applicant as mitigation measures for their proposal (Records Manager reference C18C/64816).

Duration (Section 123)

135. The applicant has sought a consent duration until 26 November 2038 to align with the other consents held downstream for works in the bed, diversion and discharge.
136. In considering the requested duration I have had regard to the following matters:
- a) the nature and sensitivity of the affected environment, including
 - i) the degree to which the sensitivity of the affected environment may become more sensitive over time; and
 - ii) the probability of future adverse effects arising from the consented activity; and
 - iii) the level of knowledge about the affected environment; and
 - b) the nature of the activity.
137. I have also had regard to Policies 9.1 and 9.2 of the HWRRP as this is stated to be a matter of discretion in relation to the diversion of water. Policies 9.1 is relevant to this proposal and states to generally limited the duration of any new consents to take, use or divert surface water within the Waiau catchment to ten years and to an initial common catchment expiry date of 1 January 2025.
138. Taking into account the above it is appropriate for the proposed diversion of water to have a consent duration until 1 January 2025. So that the proposal can be assessed together I have also recommended that the proposed duration for the works in the bed of the river and the discharge associated with the works to have a consent duration until 1 January 2025.
139. I have taken into consideration these matters, and I am satisfied a duration until 1 January 2025 is appropriate.

Decision

140. Having considered all relevant matters under sections 104, 104B, 104C, 105 and 107, I recommend granting resource consent CRC182936, CRC182937 and CRC184324 subject to the conditions attached (Appendix One) and a duration of until 1 January 2025.

Signed:



Date:

04/04/2018

Name:

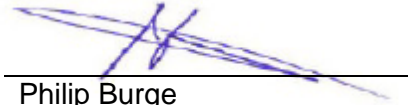
Tegan Wadworth

Consents Planner II

Reviewer's comments:

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Signed:



Date:

05/04/2018

Name:

Philip Burge

Principal Consents Advisor

Appendix One: Recommended conditions

Recommended Conditions: CRC182936

Proposed activity: s13 to excavate/disturb the bed of the Waiau River for the purpose of facilitating a diversion

Proposed Duration: 1 January 2025

	Limits
1	<p>The activities authorised under this consent shall only consist of excavation and disturbance of the bed of the Waiau River for the purposes of facilitating the continued flow of water, within the area bound by the map references below and the area labelled 'Site Location', as shown on the attached Plan CRC182936A which forms part of this consent:</p> <ul style="list-style-type: none">a. Point A: NZTM2000 1587801mE, 5272827mN; andb. Point B: NZTM2000 1590617mE, 5273650mN. <p>Advice note: <i>The cross-hatched area is the indicative area of works, and may vary due to natural movement of the braid.</i></p>
2	<p>The quantity of gravel, sand and other natural material disturbed from the area specified in condition (1) shall not exceed:</p> <ul style="list-style-type: none">a. 200 cubic metres in any period of 12 consecutive months;b. 100 cubic metres in any period of 14 consecutive days.
	Prior to Works
3	<p>The Canterbury Regional Council Attention: Regional Leader - Monitoring and Compliance shall be notified two working days:</p> <ul style="list-style-type: none">a. prior to commencement of works authorised by this consent or,b. prior to the re-commencement of works, where works have been discontinued for more than eight days. <p>Notification shall include:</p> <ul style="list-style-type: none">a. the proposed start and end dates of the period of work; andb. where consent is to be exercised by a person other than the consent holder, the name, address and contact telephone number of the person(s) exercising the consent. <p>Advice note: Notification may be via, telephone or emailing ecinfo@ecan.govt.nz</p>
4	<p>Prior to commencing works, the consent holder shall provide a copy of this resource consent to all persons undertaking activities authorised by this consent, and explain to those persons how to comply with the consent conditions.</p>

5	<p>Prior to any works authorised by this consent being carried out in the period 1 September to 1 February, the consent holder shall ensure that:</p> <ul style="list-style-type: none"> a. a suitably qualified and independent person inspects the proposed area of works, no earlier than eight days prior to any works being carried out, and locates any bird breeding sites of birds listed in Appendix A, which forms part of this consent; b. the person carrying out the inspection prepares a written report that identifies all the located bird breeding or nesting sites and provides copies of that report to the consent holder and the Canterbury Regional Council, attention Regional Leader - Monitoring and Compliance; c. if the person carrying out the inspection deems that any part of this excavation activity may be undertaken at a distance other than 100m to any nesting birds, this must be clearly detailed on the report; d. the name and qualifications of the person carrying out the inspection are provided to the Canterbury Regional Council with the report; e. any person carrying out works authorised by this consent are informed of any bird breeding or nesting sites located; and f. where work ceases for more than eight days, the site will be re-inspected for bird breeding and nesting sites in accordance with parts (a) to (d) of this condition.
	During Works
6	<p>Access to the site shall only be via the existing access routes and tracks within the riverbed, the approximate location of these tracks is shown on Plan CRC182936B.</p> <p>Advice Note: <i>This consent does not grant access to the excavation area. Site access and management of the tracks should be arranged with the land owner. This consent does not authorise any vegetation clearance for access tracks or stockpiling sites.</i></p>
7	Depth of excavation shall not exceed 0.5 metres below the natural riverbed prior to excavation.
8	<p>Works undertaken in accordance with condition (1) shall be undertaken in a way that minimises the discharge of sediment to the Waiau River. This shall include, but is not limited to undertaking works outside of water where possible.</p> <p>Advice Note: <i>where works must occur in water (e.g. to re-open the channel) excavators shall work from the banks outside of the water</i></p>
9	<p>Activities authorised under Condition (1) shall not:</p> <ul style="list-style-type: none"> a. materially alter the natural character of the channel in the Waiau River; b. cause erosion or scour of the bed and banks of the Waiau River.

	For the purposes of this condition, “natural character” is defined as the general meandering nature of the channel, and variable width and depth
10	<p>All gravel, sand and other natural material excavated from the Waiau River shall:</p> <ul style="list-style-type: none"> a. be positioned alongside the channel from which the gravel, sand and other natural material is excavated from in a state consistent with the surrounding natural river bed prior to the activities under Condition (1) occurring; b. be positioned and aligned so as to not deflect the flow of the river onto adjoining land, river banks, stopbanks, flood protection works or structures; c. be uncompacted; and d. be no greater than one metre above the natural bed level.
11	<p>To prevent the spread of pest species, including but not limited to Didymo, the consent holder shall ensure that activities authorised by this consent are undertaken in accordance with the Biosecurity New Zealand’s hygiene procedures and that machinery shall be free of plants and plant seeds prior to use in the riverbed.</p> <p>Advice Note: You can access the most current version of these procedures from the Biosecurity New Zealand website http://www.biosecurity.govt.nz</p>
12	<p>Vehicles and/or machinery shall not operate within 100 metres of birds which are nesting or rearing their young in the bed of the river, except as identified by the inspection undertaken in accordance with condition (5) and detailed in the report.</p> <p>For the purposes of this condition birds are defined as those bird species listed in Appendix A, which forms part of this consent.</p>
13	<p>There shall be no storage of fuel or refuelling of vehicles and machinery within 20 metres of the bed of a river.</p> <p>Advice Note: In addition to this consent, the consent holder will also need to ensure that the activity complies with LWRP Rule 5.145 (Refuelling in Lake and Riverbeds). If the activity does not comply with Rule 5.175 of the LWRP, an additional consent will be required pursuant to section 15 of the Resource Management Act 1991.</p>
14	If further excavation and disturbance at the site is not to occur within eight days following the last working at the site, then the area of works and disturbance and the channel shall be reshaped and formed to a state consistent with the surrounding natural river bed prior to the activities under Condition (1) occurring.
15	<p>Activities authorised under Condition (1) shall not:</p> <ul style="list-style-type: none"> a. prevent the passage of fish; and b. cause the stranding of fish.
	Tangata Whenua

16	<p>In the event of any discovery of archaeological material:</p> <ul style="list-style-type: none"> a. the consent holder shall immediately: <ul style="list-style-type: none"> 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 Koiwi Tangata (human bones) or taonga (treasured artefacts) by Heritage New Zealand Pouhere Taonga, the consent holder shall immediately advise the office of the appropriate runanga (office contact information can be obtained from the Canterbury Regional Council) of the discovery. c. If the archaeological material is determined to be Koiwi 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 runanga if the site is of Maori origin) provides a statement in writing to the Canterbury Regional Council, Attention: Regional Leader - Monitoring and Compliance 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. <p>Advice Note: <i>This may be in addition to any agreements that are in place between the consent holder and the Papatipu Runanga. (Cultural Site Accidental Discovery Protocol).</i></p> <p>Advice Note: <i>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 Maori 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/koiwi may date to any historic period.</i></p> <p><i>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 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 Heritage New Zealand Pouhere Taonga Act 2014 provides for substantial penalties for unauthorised damage or destruction.</i></p>

	Administration
17	The Canterbury Regional Council may, once per year, on any of the last five working days of February or July, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage.
18	<p>If this consent is not exercised before 31 March 2023 then it shall lapse in accordance with Section 125 of the Resource Management Act 1991.</p> <p>Advice note: 'Exercised' is defined as implementing any requirements to operate this consent and undertaking the activity as described in these conditions and/or application documents.</p>
19	<p>Advice Note: Vegetation Clearance</p> <p>In addition to this consent the consent holder will also need to ensure that the activity complies with Rule 5.163 (removal and disturbance of existing vegetation in the bed of a river) of the Canterbury Land and Water Regional Plan. If the activity does not comply with Rule 5.163, an additional consent to removal and disturb vegetation will be required pursuant to section 13 of the Resource Management Act 1991.</p>
20	<p>Appendix A - list of bird species referred to in bird nesting conditions (5) & (12)</p> <p>South Island Pied oystercatcher Black stilt Pied stilt Wrybill Banded dotterel Black-fronted dotterel Blue duck Paradise shelduck Grey duck NZ shoveler Grey teal NZ scaup Black-billed gull Red-billed gull Caspian tern White-fronted tern Black-fronted tern White-winged Black tern Australasian bittern Marsh crake Spotless crake Cormorant/shag colonies Royal spoonbill Crested grebe</p>

Plan CRC182936A - Site Location

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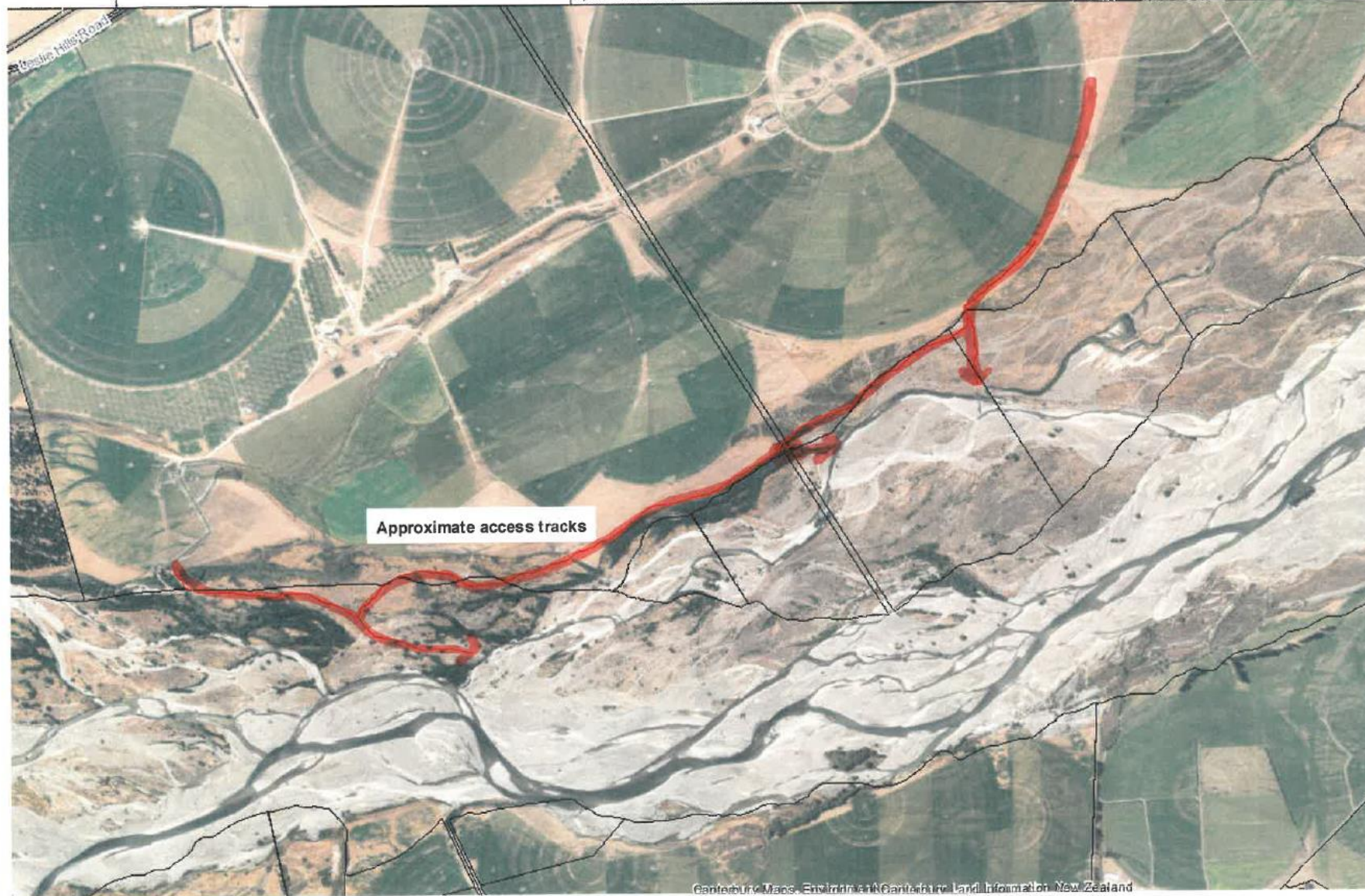


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Recommended Conditions: CRC182937**Proposed activity: s14 to divert water within the bed of the Waiau River****Proposed Duration: 1 January 2025**

	Limits
1	<p>The activity authorised under this consent shall only consist of the diversion of water, as a result of the works undertaken under CRC182936 and any variation to that consent, within the area bound by the map references below and the area labelled 'Site Location', as shown on the attached Plan CRC182937 which forms part of this consent:</p> <p>a. Point A: NZTM2000 1587801mE, 5272827mN; and b. Point B: NZTM2000 1590617mE, 5273650mN.</p>
2	<p>The diversion of water shall not prevent the passage of fish within the area shown on Plan CRC182937.</p>
	Prior to Works
3	<p>Prior to commencing works, the consent holder shall provide a copy of this resource consent and a copy of CRC182936 and CRC184324 or any variation to all persons undertaking activities authorised by this consent, and explain to those persons how to comply with the consent conditions.</p>
	Administration
4	<p>The Canterbury Regional Council may, once per year, on any of the last five working days of February or July, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage.</p>
5	<p>If this consent is not exercised before 31 March 2023 then it shall lapse in accordance with Section 125 of the Resource Management Act 1991.</p> <p>Advice note: 'Exercised' is defined as implementing any requirements to operate this consent and undertaking the activity as described in these conditions and/or application documents.</p>



Recommended Conditions: CRC184324**Proposed activity: s15 to discharge water and sediment to the Waiau River****Proposed Duration: 1 January 2025**

	Limits
1	<p>The activity authorised under this consent shall only consist of the ancillary discharge of water and sediment associated with works authorised by resource consent CRC182936 or any variation, within the area bound by the map references below and the area labelled 'Site Location', as shown on the attached Plan CRC184324 which forms part of this consent:</p> <p>a. Point A: NZTM2000 1587801mE, 5272827mN; and b. Point B: NZTM2000 1590617mE, 5273650mN.</p>
	Prior to commencement of the discharge
	<p>Prior to commencing works, the consent holder shall provide a copy of this resource consent and a copy of CRC182936 and CRC182937 or any variation to all persons undertaking activities authorised by this consent, and explain to those persons how to comply with the consent conditions.</p>
	During the discharge
2	<p>All practicable measures shall be undertaken to minimise:</p> <p>a. erosion of the bed and banks of the Waiau River; and b. the discharge of sediment to the Waiau River.</p>
	Administration
4	<p>The Canterbury Regional Council may, once per year, on any of the last five working days of February or July, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage.</p>
5	<p>If this consent is not exercised before 31 March 2023 then it shall lapse in accordance with Section 125 of the Resource Management Act 1991.</p> <p>Advice note: 'Exercised' is defined as implementing any requirements to operate this consent and undertaking the activity as described in these conditions and/or application documents.</p>



APPENDIX TWO: S42A ADDENDUM

POLICIES AND OBJECTIVES

The following policies and objectives are relevant to this proposal, and were not considered to be compromised by the activity:

CANTERBURY REGIONAL POLICY STATEMENT 2013

Chapter 4: Provision for Ngai Tahu and their Relationship with Resources

- ☒ Policy 4.3.15 (Include provisions for the relationship between Ngai Tahu, their culture and traditions, and their ancestral lands, water, sites, wahi tapu and other taonga within their district.)
- ☒ Policy 4.3.18 (In the processing of resource consents, the protection of Ngai Tahu ancestral lands, water sites wahi tapu and other taonga)

Tangata whenua values taken into account within discretion

Chapter 7: Fresh water

- ☒ Objective 7.2.1 (Sustainable management of freshwater) - *The life supporting capacity of the ecosystem will not be adversely affected*
- ☒ Objective 7.2.3 (Protection of intrinsic value of water bodies and their riparian zones) - *Overall water quality will not be adversely affected.*
- ☐ Objective 7.2.4 (Integrated management of fresh water resources)
- ☒ Policy 7.3.1 (Adverse effects of activities on the natural character of fresh water)
- ☒ Policy 7.3.2 (Natural character of braided rivers and lakes) – *given the recommended conditions to limit the extent of the works on the channel of the Waiau River the channel will remain a similar scale and character as the channel that currently exists.*
- ☐ Policy 7.3.3 (Enhancing fresh water environments and biodiversity)
- ☒ Policy 7.3.6 (Fresh water quality) – *water quality will not be adversely affected.*

Chapter 9 – Ecosystems and Indigenous Biodiversity

- ☒ Objective 9.2.2 (Restoration or enhancement of ecosystems and indigenous biodiversity) - *Overall ecosystems will not be adversely affected*
- ☒ Objective 9.2.3 (Protection of significant indigenous vegetation and habitats) – *recommended conditions protect river nesting birds.*

☒ Policy 9.3.1 (Protecting significant natural areas) – *as above the assessment on ecological effects and natural character of the channel of the Wauia River that encompasses ecological values concludes that effects are likely to be no more than minor.*

☐ Policy 9.3.4 (Promote ecological enhancement and restoration)

☐ Policy 9.3.5 (Wetland protection and enhancement)

Chapter 10 – Beds of Rivers and Lakes and their Riparian Zones

☐ Objective 10.2.1 (Provision for activities in beds and riparian zones and protection and enhancement of bed and riparian zone values) - *Protection as best as practicable, access is via existing tracks and the recommended conditions restrict the extent of the works within the bed of the river.*

☒ Objective 10.2.2 (Maintenance of flood carrying capacity of rivers) – *proposal unlikely to affect the flood carrying capacity of the river.*

☐ Objective 10.2.3 (Protection of essential structures)

☐ Objective 10.2.4 (Access to and along rivers)

☒ Policy 10.3.1 (Activities in river and lake beds and their riparian zones) – *bed and banks values maintained.*

☐ Policy 10.3.2 (Protection and enhancement of areas of river and lake beds and their riparian zones)

☐ Policy 10.3.3 (Management for flood control and protecting essential structures)

☐ Policy 10.3.4 (Removal of vegetation and bed material from river beds)

☐ Policy 10.3.5 (Maintenance and enhancement of public and Ngai Tahu access)

LAND AND WATER PLAN REGIONAL PLAN

Objectives

☒ Objective 3.1 (Land and water are managed as integrated natural resources to recognise and enable Ngāi Tahu culture, traditions, customary uses and relationships with land and water)

☐ Objective 3.2 (Water management applies the ethic of ki uta ki tai- recognising the connectivity between waters, land and the coast)

☐ Objective 3.3 (Nationally and regionally significant infrastructure is enabled and is resilient and positively contributes to economic, cultural and social wellbeing through its efficient and effective operation...)

- ☐ Objective 3.5 (Land uses develop and change in response to socio-economic and community demands)
- ☒ Objective 3.6 (Intrinsic Values of water)
- ☐ Objective 3.7 (Fresh water is managed as a shared resource)
- ☒ Objective 3.8 (Safeguarding the life-supporting capacity of ecosystems and ecosystem processes, including ensuring sufficient flow and quality of water...)
- ☐ Objective 3.8A (High quality fresh water is available to meet actual and reasonably foreseeable needs for community drinking water supplies)
- ☐ Objective 3.12 (When setting and managing within limits, regard is had to community outcomes for water quality and quantity)
- ☐ Objective 3.14 (Outstanding fresh water bodies and hāpua and their margins are maintained in a healthy state or are improved where degraded)
- ☐ Objective 3.15 (Valued parts of rivers and lakes are suitable for contact recreation)
- ☐ Objective 3.16 (Maintain and enhance health of lakes, rivers, hāpua and wetlands.)
- ☒ Objective 3.17 (Protect indigenous biodiversity values, of rivers, wetlands and hāpua)
- ☐ Objective 3.18 (Wetlands that contribute to cultural and community values, biodiversity, water quality, mahinga kai, water cleansing and flood mitigation are maintained)
- ☒ Objective 3.19 (Natural character values of freshwater bodies, including braided rivers, and their margins, wetlands, hāpua and coastal lagoons, are protected)
- ☐ Objective 3.20 (Gravel in riverbeds is extracted to maintain floodway capacity and to provide resource for building and construction and maintenance...)

Strategic Policies

- ☐ Policy 4.1 (Water bodies meet regional freshwater outcomes)
- ☐ Policy 4.2 (Cumulative effects of land uses, discharges and abstractions)
- ☒ Policy 4.3 (Surface water bodies are managed so that...)
- ☐ Policy 4.4 (Groundwater is managed so that...)
- ☐ Policy 4.5 (Water is managed through the setting of limits to safeguard the life-supporting capacity of ecosystems, support customary uses, and provide for group or community drinking water supplies)
- ☐ Policy 4.6 (High naturalness water bodies, damming, diverting or taking of water is limited...)

☐ Policy 4.7 (Regional allocation limits – quality and quantity)

Activity and Resource Policies

☒ Policy 4.13 (Effects of discharges of contaminants to surface water or groundwater are minimised)

☒ Policy 4.18 (The discharge of sediment and other contaminants to surface water from earthworks, including roading, works in the bed...)

☒ Policy 4.85A (Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved)

☒ Policy 4.86 (Minimise effects of earthworks and structures)

☐ Policy 4.87 (Pest plant species)

☒ Policy 4.88 (Earthworks, structures and planting in flowing or standing water)

☒ Policy 4.89 (Effects of land use activities on flooding and erosion)

Comment: *as discussed above the potential adverse effects of the works in the bed of the river and associated discharge to facilitate a diversion will likely to be no more than minor. The recommended conditions restrict the amount of disturbance of the bed and will be maintaining the natural state of the channel. The discharge associated with the works will be of small scale and temporary and unlikely to have adverse effects on water quality and aquatic habitats. Along with the proposed mitigation measures from the applicant and the recommended conditions I consider that the proposal is consistent with the objectives and policies of the LWRP.*

Hurunui Waiau River Regional Plan

☐ Policy 2.5 (take, dam or diversion of water provides for flow variability above the minimum flow) – *the proposal is for maintaining the current flow of a channel of the Waiau River and is unlikely to affect water quality and ecosystems within the channel and downstream.*

☐ Policy 2.6 (any new take, dam, diversion or discharge of water protects the mauri of the Hurunui and Waiau rivers and their tributaries) – *mauri of the water will be maintained as the proposal is unlikely to effects water quality.*

NATIONAL ENVIRONMENTAL STANDARDS and NATIONAL POLICY STATEMENTS

The following NES and NPS have been considered as relevant to this application for the reasons described below:

☐ NPS (Electricity Transmission) -

☒ NPS (Freshwater Management)- *water quality not adversely effected.*

☒ NES (Drinking Water) – *not near a drinking water supply protection zone*

- ☐ Resource Management (Measurement and Reporting of Water Takes) Regulations 2010
 - ☐ Proposed NES (Ecological flows and water levels) -
-

RESOURCE MANAGEMENT ACT

PART 2 – Purpose and Principles

Section 5 Purpose

“(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

*(2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

☒ I consider these applications meet the purpose of the RMA.

Section 6 (Matters of National Importance)

- recognise and provide for the following:

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

☐ (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.

☒ (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

☐ (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.

☒ (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.

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

☐ (g) the protection of recognised customary activities.

- ☐ (h) the management of significant risks from natural hazards.

Section 7 (Other Matters)

- have particular regard to the following:

- ☒ (a) kaitiakitanga.
- ☐ (aa) the ethic of stewardship.
- ☐ (b) the efficient use and development of natural and physical resources.
- ☐ (ba) the efficiency of the end use of energy.
- ☒ (c) the maintenance and enhancement of amenity values.
- ☒ (d) intrinsic values of ecosystems.
- ☒ (f) maintenance and enhancement of the quality of the environment.
- ☐ (g) any finite characteristics of natural and physical resources.
- ☐ (h) the protection of the habitat of trout and salmon.
- ☐ (i) the effects of climate change.
- ☐ (j) the benefits to be derived from the use and development of renewable energy.

☒ Section 8 (Treaty of Waitangi)

- take into account the principles of the Treaty of Waitangi

<p>95A Public notification of consent applications</p> <p><i>(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.</i></p>	<p>Determination of whether to publicly notify an application for resource consent.</p>
<p><i>Step 1: mandatory public notification in certain circumstances</i></p> <p><i>(2) Determine whether the application meets any of the criteria set out in subsection (3) and,—</i></p> <p><i>(a) if the answer is yes, publicly notify the application; and</i></p> <p><i>(b) if the answer is no, go to step 2.</i></p>	<p>Is public notification mandatory?</p> <p><input type="checkbox"/> Yes, publicly notify the application</p> <p><input checked="" type="checkbox"/> No, got to step 2</p>

<p>(3) <i>The criteria for step 1 are as follows:</i></p> <p>(a) <i>the applicant has requested that the application be publicly notified:</i></p> <p>(b) <i>public notification is required under section 95C:</i></p> <p>(c) <i>the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.</i></p>	
<p><i>Step 2: if not required by step 1, public notification precluded in certain circumstances</i></p> <p>(4) <i>Determine whether the application meets either of the criteria set out in subsection (5) and,—</i></p> <p>(a) <i>if the answer is yes, go to step 4 (step 3 does not apply); and</i></p> <p>(b) <i>if the answer is no, go to step 3.</i></p> <p>(5) <i>The criteria for step 2 are as follows:</i></p> <p>(a) <i>the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:</i></p> <p>(b) <i>the application is for a resource consent for 1 or more of the following, but no other, activities:</i></p> <p>(i) <i>a controlled activity:</i></p> <p>(ii) <i>a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity:</i></p> <p>(iii) <i>a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:</i></p> <p>(iv) <i>a prescribed activity (see section 360H(1)(a)(i)).</i></p> <p>(6) <i>In subsection (5), residential activity means an activity that requires resource consent under a regional or district plan and that is associated with the construction, alteration, or use of 1 or more dwellinghouses on land that, under a district plan, is intended to be used solely or principally for residential purposes.</i></p>	<p>Is the activity a residential activity?</p> <p>1. Activity requires consent under a regional or district plan and is associated with the construction, alteration, or use of dwellinghouse/s:</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>2. Activity is within land intended to be used for residential purposes:</p> <p><input type="checkbox"/> Yes (Residential, Rural Residential)</p> <p><input checked="" type="checkbox"/> No (Business, Conservation, Cultural, Open Space, Rural, Special Purpose)</p> <p>3. Activity is a residential activity.</p> <p><input type="checkbox"/> Yes (Answers to 1 and 2 above are yes.)</p> <p><input checked="" type="checkbox"/> No (Answers to one or both above was no.)</p> <p>Is public notification precluded?</p> <p><input type="checkbox"/> Yes, go to step 4 (step 3 does not apply)</p> <p><input checked="" type="checkbox"/> No, go to step 3</p>

<p><i>Step 3: if not precluded by step 2, public notification required in certain circumstances</i></p> <p><i>(7) Determine whether the application meets either of the criteria set out in subsection (8) and,—</i></p> <p style="padding-left: 40px;"><i>(a) if the answer is yes, publicly notify the application; and</i></p> <p style="padding-left: 40px;"><i>(b) if the answer is no, go to step 4.</i></p> <p><i>(8) The criteria for step 3 are as follows:</i></p> <p style="padding-left: 40px;"><i>(a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification:</i></p> <p style="padding-left: 40px;"><i>(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.</i></p>	<p>Is public notification required in certain circumstances?</p> <p><input type="checkbox"/> Yes, publicly notify the application</p> <p><input checked="" type="checkbox"/> No, go to step 4</p>
<p><i>Step 4: public notification in special circumstances</i></p> <p><i>(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—</i></p> <p style="padding-left: 40px;"><i>(a) if the answer is yes, publicly notify the application; and</i></p> <p style="padding-left: 40px;"><i>(b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.</i></p>	<p>Do special circumstances exist that warrant the application being publicly notified?</p> <p><input type="checkbox"/> Yes, publicly notify the application</p> <p><input checked="" type="checkbox"/> No, do not publicly notify the application but determine whether to give limited notification of the application under section 95B RMA 1991</p>
<p>95B Limited notification of consent applications</p> <p><i>(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.</i></p>	<p>Determination of whether to limited notify an application for resource consent.</p>
<p><i>Step 1: certain affected groups and affected persons must be notified</i></p> <p><i>(2) Determine whether there are any—</i></p>	<p>Are there certain affected groups and affected persons that must be notified?</p> <p><input type="checkbox"/> Yes, notify each affected group and each affected person</p> <p><input checked="" type="checkbox"/> No</p>

<p>(a) affected protected customary rights groups; or</p> <p>(b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).</p> <p>(3) Determine—</p> <p>(a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and</p> <p>(b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.</p> <p>(4) Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).</p>	
<p>Step 2: if not required by step 1, limited notification precluded in certain circumstances</p> <p>(5) Determine whether the application meets either of the criteria set out in subsection (6) and,—</p> <p>(a) if the answer is yes, go to step 4 (step 3 does not apply); and</p> <p>(b) if the answer is no, go to step 3.</p> <p>(6) The criteria for step 2 are as follows:</p> <p>(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification:</p> <p>(b) the application is for a resource consent for either or both of the following, but no other, activities:</p> <p>(i) a controlled activity that requires consent under a district plan (other than a subdivision of land);</p> <p>(ii) a prescribed activity (see section 360H(1)(a)(ii)).</p>	<p>Is limited notification precluded in certain circumstances?</p> <p><input type="checkbox"/> Yes, go to step 4 (step 3 does not apply)</p> <p><input checked="" type="checkbox"/> No, go to step 3</p>
<p>Step 3: if not precluded by step 2, certain other affected persons must be notified</p>	<p>Are there certain other affected persons that must be notified?</p> <p><input type="checkbox"/> Yes, notify each affected person identified under subsections (7) and (8)</p>

<p>(7) Determine whether, in accordance with section 95E, the following persons are affected persons:</p> <p>(a) in the case of a boundary activity, an owner of an allotment with an infringed boundary; and</p> <p>(b) in the case of any activity prescribed under section 360H(1)(b), a prescribed person in respect of the proposed activity.</p> <p>(8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.</p> <p>(9) Notify each affected person identified under subsections (7) and (8) of the application.</p>	<input checked="" type="checkbox"/> No
<p>Step 4: further notification in special circumstances</p> <p>(10) Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification under this section (excluding persons assessed under section 95E as not being affected persons), and,—</p> <p>(a) if the answer is yes, notify those persons; and</p> <p>(b) if the answer is no, do not notify anyone else.</p>	<p>Do special circumstances exist that warrant the application being limited notified to any other persons not already determined to be eligible for limited notification under this section?</p> <p><input type="checkbox"/> Yes, notify those persons</p> <p><input checked="" type="checkbox"/> No, do not notify anyone else</p>