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Recommending Report

Section 42A of the Resource Management Act 1991

Date: 28 May 2018

To: Aurora Grant
Acting Consents Manager

From: Matt Hoffman
Senior Consents Officer

IRIS ID: APP-20171589

Subject: *Section 42A Recommending Report – Resource Consent Application considered under Delegated Authority*

List of Abbreviations

Department of Conservation	DoC
Fish & Game Southland	F & G
Land Information New Zealand	LINZ
Operative Regional Water Plan for Southland	RWPS
National Policy Statement for Freshwater Management 2014	NPSFM
Proposed Southland Water and Land Plan	pSWLP
Regional Air Plan 2016	RAP
Southland District Council	SDC
Te Ao Marama Incorporated	TAMI
Te Rūnanga O Ngāi Tahu	TRONT

1. The Application

1.1 The proposed activities

Land Use Consent Details:-	
Applicant:	K J Sutherland
Activity:	To extract up to 64,000 m ³ of gravel from two sites
Site address or location:	The true left bank of the Waiau River
Legal description:	Hydro
Map Reference(s):	Area A: 1190430E 4889189N Area A1: 1190511E 4888939N
Reason: (e.g. aggregate supply)	Commercial gravel extraction operation
Annual Volume (m ³ /year)	Area A (habitat pond): 5,700 m ³ Area A1 (beach skim): 3,420 m ³ Total: 9,120 m ³ per year

Total Volume (m ³)	Area A: 40,000 m ³ Area A1: 24,000 m ³ Total: 64,000 m ³ over 7 years
Term of consent sought (years/not specified)	7 years
Method of extraction (and processing) e.g. beach skim	Area A (habitat pond): hydraulic excavator and trucks Area A1 (beach skim): elevator scraper and trucks
Expected period required for extraction? (days/weeks)	Area A: Year-round Area A1: Between 1 February and 31 July (inclusive)
Instream works?	No
Will stockpiles be present on-site?	Yes
Replacement Consents? If yes, see below*	Yes. Not lodged within 3 months of expiry date.

Description of the Activity

K J Sutherland seeks resource consent to extract up to 64,000 m³ of gravel from two sites on the true left bank of the Waiau River approximately 700 m upstream of the Orawia-Tuatapere State Highway 99 Bridge. Figure 1 shows the location and extent of the two extraction areas, named Area A and Area A1.

Area A

Gravel will be extracted from Area A by construction of a habitat pond. Area A covers an area of 84,782 m². A total of 40,000 m³ will be extracted from Area A, at a rate of approximately 5,700 m³ each year. The gravel will be extracted by means of a hydraulic excavator, which will load gravel onto trucks.

The completed habitat pond will be approximately 2 m deep, with an undulating bottom. A 1.5 m high earthen bund will be constructed in front of the working face of the gravel to prevent the public or those working on the site from driving vehicles or machinery into the excavation. The bund will be constructed of overburden stripped from Area A.

In a phone conversation with the Applicant's consultant, Ken McGraw on 18 December 2017, he stated that the pond will not be connected directly to the Waiau River. However, the habitat pond will fill with baseflow from the River that moves through the gravels adjacent to the river.

Area A1

Gravel will be extracted from Area A1 by beach skimming using an elevating scraper. Area A1 covers an area of 14,562 m². A total of 24,000 m³ will be extracted from Area A1, at a rate of approximately 3,420 m³ each year.

Excavation will commence approximately 50 m from the edge of the flowing waters of the Waiau River. Gravel will be extracted no lower than 300 mm above the median flow level of 42.14 m³/s at the Meridian Energy/Environment Southland monitoring site on the Waiau River at Sunnyside.

Stockpiling

Gravel that is not to be sold unprocessed will be stockpiled for a minimum of four weeks to prevent the spread of *Didymosphenia geminata* prior to delivery to market. Processed gravel is stored on high ground within the bed of the river before delivery to market.

Stockpiles of material smaller than 5 mm in diameter will not exceed 5,000 m³. Stockpiles of material 5 mm or larger in diameter will not exceed 10,000m³. This is within the permitted activity criteria set out in Rule 5.5.3(5)(a) of the Regional Air Plan (RAP), and therefore consent for stockpiling is not needed. Figure 2 shows the approximate location of stockpiles and processing plant.

Gravel Processing

The application states that all gravel screening and crushing activities will be within the permitted activity limits set in Rule 5.5.3 of the Regional Air Quality Plan for Southland.

Dust Suppression

During dry periods, the Applicant proposes to discharge water to land to control dust generated by vehicles working on the processing and stockpiling site by spraying water on the site. The Applicant does not consider that the use of water in this manner will give rise to a discharge of water to the waters of the Waiau, for the reasons set out in page 51 of the PDF file of the Further Information Response dated 15 December 2017 (see MORF ID A370528). I agree with the conclusions drawn by the Applicant.

Water used in this manner will be abstracted from an onsite water storage pond as a permitted activity under Rule 18 of the Regional Water Plan for Southland (RWPS).

Compliance History

The Applicant has generally demonstrated good compliance with their consent conditions. The last site inspection showed full compliance. The last non-compliance was in April 2016, and was minor. No compliance issues have been raised since then.

1.2 Description of the affected environment

The subject site is on the true left bank of the Waiau River approximately 700 m upstream of the Orawia-Tuatapere State Highway 99 Bridge. The site is located on a bend in the Waiau River, and is bounded by farmland on the landward side.

There is a gravel island separated from the main beach, and immediately adjacent to Area A1, that is the location of a black-billed gull (*Chroicocephalus bulleri*) nesting site. The black-billed gull is given the conservation status of 'Threatened – Nationally Critical.' This status is applied to species which are the most severely threatened, and which face an immediate high risk of extinction. The nesting site was formerly part of the Applicant's proposed gravel extraction area, but has since been removed.

The outer edge of the subject site is approximately 370 metres from a registered archaeological site, a cave/shelter site with rock art. It is also approximately 425 metres upstream of the Category 1 Historic Place Clifden Suspension Bridge. There is a popular campsite immediately adjacent to the Bridge.

Access to the site is off Bates Road, via a small gravel road which splits off in two directions: towards the extraction site, and a public access road which provides access to the gravel beach.

The subject site is currently consented for gravel extraction, under Land Use Consent AUTH-301651, which was granted in 2013, and expired on 14 January 2018.

The Waiau River is a braided river that flows from Lake Te Anau to Te Wae Wae Bay near Tuatapere. The Waiau's flows and consequently morphology are heavily altered as a result of the Manapouri West Arm Hydroelectric Scheme.

The Waiau River is a statutory acknowledgement area. This is due to the strong cultural, spiritual, historical and traditional associations with Ngāi Tahu.

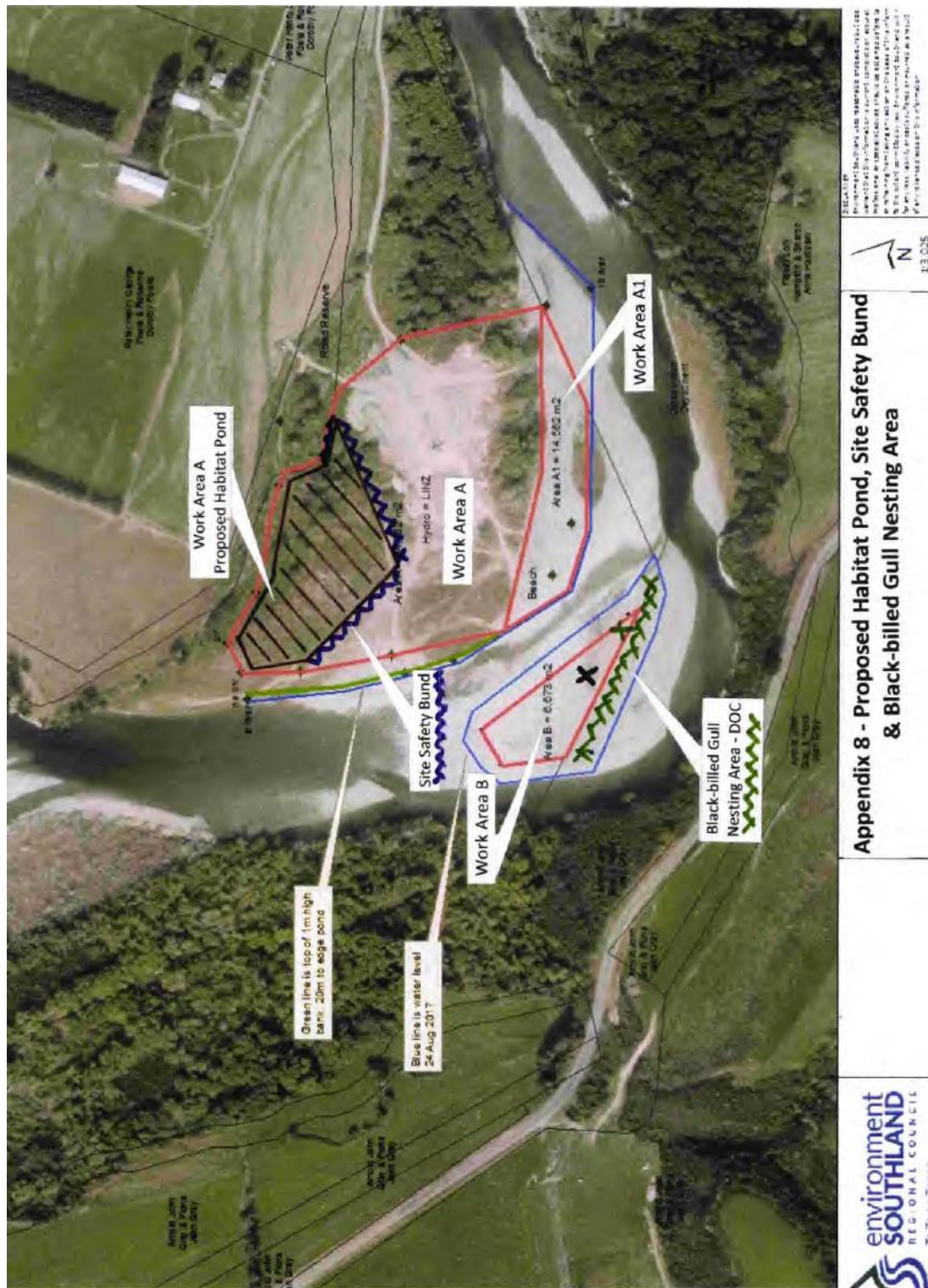


Figure 1: Location and extent of proposed extraction areas. Please note that Area B shown on the aerial photograph is no longer being applied for.

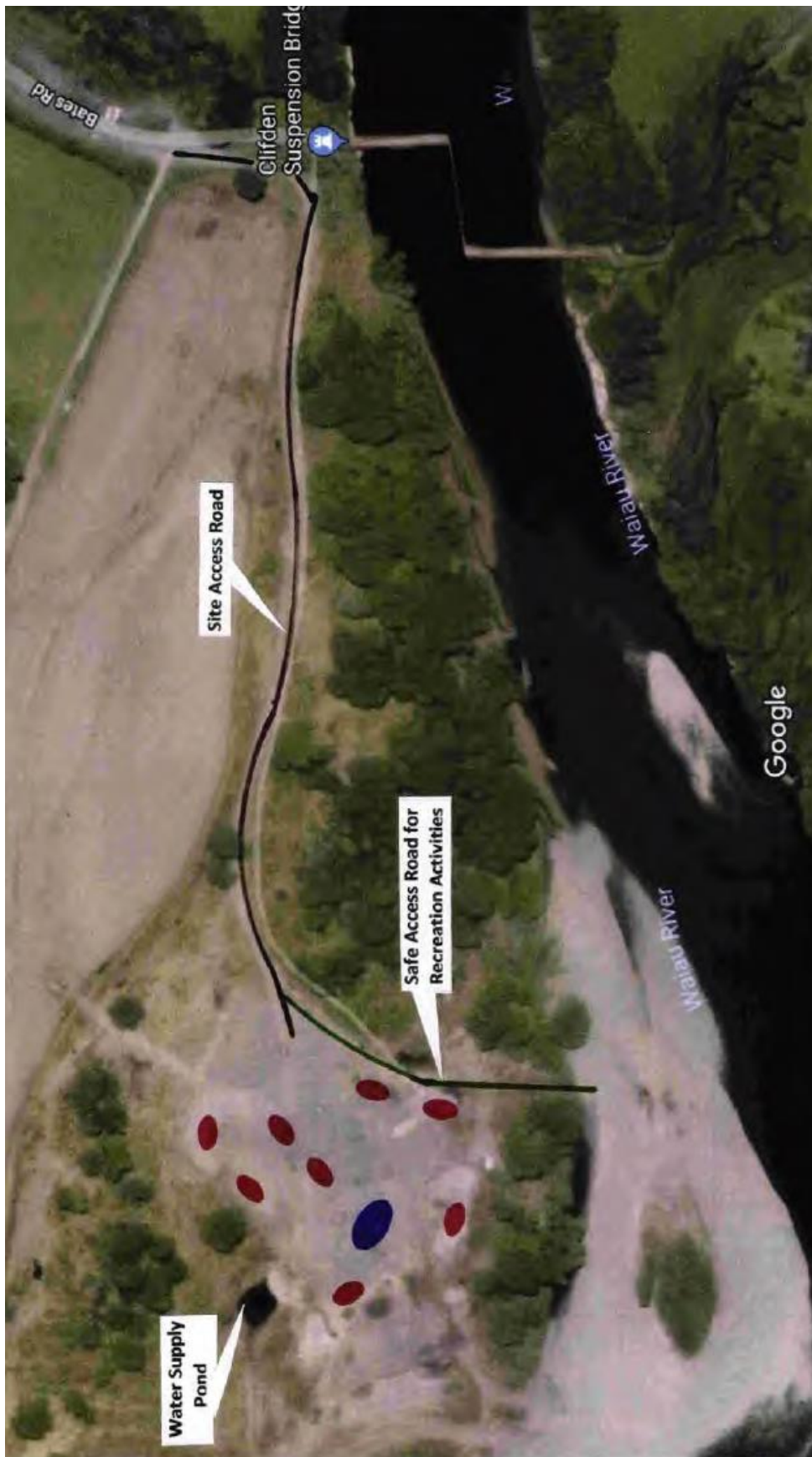


Figure 2: Location of gravel stockpiles (red markers) and screening/processing plant (blue marker).

1.3 Planning framework

Resource consents are required under the operative Regional Water Plan for Southland (RWPS) and the notified version of the proposed Southland Water and Land Plan (pSWLP).

The extraction of more than 120 m³ per year of gravel from the bed of the Waiau River is a **discretionary activity** under Rule 41(c) of the RWPS.

The extraction of more than 120 m³ per year of gravel from the bed of the Waiau River is a **discretionary activity** under Rule 73 of the notified version of the pSWLP. The application is still considered under the rules of this version, as this was the current version when the application was notified.

Overall, the application is considered to be a **discretionary activity**.

Under Section 104B the Council may grant or refuse consent for a discretionary activity, and if it grants the application, may impose conditions under Section 108 of the Resource Management Act 1991 (RMA).

1.4 Notification and submissions

Notification

The application was publicly notified under Section 95 on 18 January 2018. This was because I considered that the removal of gravel from Area A1 could destabilise a nearby gravel island which is a black-billed gull nesting site. Black-billed gulls are a species that is classified as having an immediate high risk of extinction. Therefore I considered that the activity was likely give rise to effects on the gulls that were more than minor.

Submissions

One submission was received from Ken Murray, on behalf of the Department of Conservation (DOC), opposing the application in part. The submission can be read in full below:



Submission -
Department of Cons

Mr Murray identified the following concerns with the application:

1. with regard to Area A1:
 - a. removal of material from Area A1 could give rise to erosion that make the gravel island on which the black-billed gulls nest more accessible to predators;
 - b. effects of possible change in flow on ability for tourists to view a nearby fossil formation;
 - c. effects of sediment release; and
 - d. not carrying out gravel extraction activities during the nesting season of braided river bed birds; and
2. with regard to Area A, that a condition be included to ensure that braided river nesting birds were not disturbed by gravel extraction activities.

If the issues identified could not be resolved through consent conditions, DoC sought that the application be declined.

Written Approvals

The applicant provided written approval from the following parties:

- Peter & Rosanne Fowle;
- Fish & Game Southland (F & G);
- Arnold & Fiona Gray;
- Fraser & Sharon Hampton;
- Land Information New Zealand (LINZ);
- Southland District Council (SDC); and
- Te Ao Marama Inc (TAMI).

1.5 Section 99 pre-hearing meeting

A pre-hearing meeting for the application was held on 18 April 2018, and was chaired by Neville Cook, Councillor for Environment Southland. No Section 99(5) report was prepared in relation to the pre-hearing, but the full minutes are available below:



Pre-Hearing
Meeting Minutes AF

At the pre-hearing meeting it was established that the following were points of agreement between the applicant, submitters and the Council:

1. Ken Murray would provide written commentary relating to his visiting the site, and how the site visit ameliorated his concerns about the proposal, particularly in respect of gravel extraction from Site A1;
2. Matt Hoffman would circulate draft conditions, which would include:
 - a. gravel extraction being excluded from Area A1 during the breeding and nesting season of braided river nesting birds;
 - b. establishing best practice procedures to avoid effects on braided river nesting birds in the event that they begin nesting within Area A and Area A1;
 - c. excluding crack willow from the prohibition on damaging trees within the waterway; and
 - d. clarifying that the pond would be excluded from the requirement to recontour the Area A at the conclusion of extraction works.

If the draft conditions were to all parties' satisfaction, and Mr Murray's written comments sufficiently addressed Council's concerns, then it was agreed that DoC's right to be heard would be withdrawn, and Council would not pursue a hearing.

Following review of Mr Murray's comments, it was determined that the application would not proceed to a hearing under Section 100 of the RMA. Mr Murray's comments are discussed in more detail in Section 1.6 of this report.

1.6 Effects on the environment

This application requires consideration of the following effects:

- effects on water quality (including effects on sources of human drinking water);
- effects on water quantity (including stream depleting effects);

- effects on instream and riparian flora and fauna;
- river form and function (including sustainability of the gravel resource);
- amenity values, natural character, public access and other known users;
- effects of dust; and
- cultural/historic values.

Water Quality

The gravel extraction will not occur in the wet bed of the river. The habitat pond at Area A will not be directly connected to the Waiau River. At Area A1, the Applicant will maintain a buffer of between 20 and 50 metres from flowing water so it is unlikely that any sediment will be released into water. Gravel will be extracted no lower than 300 mm above the median flow level measured on the Waiau River at Sunnyside.

Stockpiles of material small than 5 mm in diameter will not exceed 5,000 m³. Stockpiles of material 5 mm or larger in diameter will not exceed 10,000m³.

Instream and Riparian Flora and Fauna

Gravel extraction from the bed of a river can result in adverse effects on riparian habitats and breeding/spawning grounds. Habitat pond methods can result in habitat enhancement in the long term but only if they are adequately designed and managed.

The Applicant initially applied to extract gravel from the small island identified as 'Work Area B' in Figure 1. The small gravel island on which Area B was proposed to be situated is a known black-billed gull nesting site. Area B was removed from the application after conversations between the Applicant and the Department of Conservation (DOC).

Despite the Applicant not extracting gravel directly from the black-billed gull nesting site, Area A1 is 70 metres from the nesting site, and is separated from it by a shallow channel. The proposal was initially considered to have adverse effects on the black-billed gull nesting site, including through general disturbance of the site, and possible destabilising of the site through extraction of gravel from Area A1.

In the course of preparing his submission on behalf of DoC, Ken Murray carried out a site visit. His comments on the site are as follows:

It was thought that gravel extraction at Area A1 could result in the main flow of the Waiau River flowing down the true left bank channel allowing easier predator access from the dense grass habitat on the true right bank. However, following a site visit the site on April 14, I found that;

- *The top of the island is not flooded in flows of about 400 -500m³/sec.*
- *The true left channel morphology at a river flow of 120m³/sec was a gently sloping glide with a sharp knickpoint of about 2-3m in height in gradient about 50 metres from the main channel... during floods, the bed will erode upstream from the knickpoint. Given the distance between the knickpoint and the pool above the island is about 450 metres, this will take considerable time perhaps decades depending on gravel supply upstream and bankfull (sic) flood flow frequency.*

...

Given the length of channel and the proposed consent conditions, the taking of gravel from Area A1 in my opinion will not cause the full diversion of flow down the true left bank for a considerable time period.

Mr Murray's comments (including a discussion of his qualifications) can be read in full below:



E K Murray -
Comments on Site V

I consider that Mr Murray's qualifications and experience, which include:

- Masters-level research in the study of fluvial and estuarine geomorphology; and
- years of assessing effects of gravel extraction applications in Southland and monitoring sites after gravel extraction;

allow him to comment with some credibility on the effects of the activity in this matter.

Area A1 is approximately 70 metres from the black-billed gull nesting site, and the application states that no riverine birds have been observed nesting or inhabiting Area A1. If bird species establish nesting sites in Areas A and A1, a proposed consent condition requires the Applicant to:

- a. cease gravel extraction operations within that extraction area;
- b. mark out a 100 metre buffer zone around the nesting site;
- c. not carry out gravel extraction activities within the 100 metre buffer zone; and
- d. cease all gravel extraction activities within Area A1 if a buffer zone of 100 metres on all sides of the nesting site cannot be established.

As a result of Mr Murray's comments, and the proposed consent conditions, I consider that the effects of the proposal on the stability of the island nesting site of black-billed gulls will be minor at most.

River Form and Function (Including Sustainability of the Gravel Resource)

The excavation left as a result of the gravel extraction will be created into a habitat pond. The pond will not be open to the flowing channel of the Waiau River, but will be replenished by baseflow that naturally flows through gravels at the subject site.

The proposed habitat pond at Area A could interfere with public access, however the banks of the pond will be battered to reduce the potential hazard.

The public will not be permitted to enter the immediate location of the beach skimming activities at Area A1, or gravel cartage tracks, but otherwise access to the beach at Area A1 is unimpeded.

The application states that the proposed extraction will not alter the meander or shape of the Waiau River, other than height.

The Council's Catchment Management Division has reviewed the application and has not identified any concerns with this application.

The Deputy Harbourmaster has reviewed the application and not raised any concerns and Maritime NZ declined to provide any comment or report on navigational safety for this application.

Amenity Values, Natural Character, Public Access and Other Known Users

The immediate area in which the proposed gravel extraction is located is surrounded by modified farmland, though the Waiau River generally maintains a distinctive character. Despite this, the flows and hence the behaviour and character of the river has been modified by damming, diversion and abstraction activities associated with the West Arm Hydroelectric Scheme.

In terms of effects on nearby residents and recreational users, the activity is partially screened below a low terrace and by mature crack willows surrounding the downstream boundary of the proposed activity.

The area of works will be kept tidy and maintained in sympathy with the natural contours of the beach.

The works will have a localised effect on public access during the periods of active excavation of gravel. As the work area will be reasonably obvious at such times, public access will still be possible around the excavation area. The Applicant maintains a public access road around the gravel processing/stockpile site which provides access to the gravel beach.

Dust

An air discharge permit is not required as the application complies with the permitted activity criteria set out in the Regional Air Quality Plan.

Stockpiles of material small than 5 mm in diameter will not exceed 5,000 m³. Stockpiles of material 5 mm or larger in diameter will not exceed 10,000m³. Figure 2 shows the approximate location of stockpiles.

Cultural and Historical Values

Any land disturbance activity has the potential to disturb or uncover an artefact of cultural, spiritual or historical importance. This possibility is addressed in the conditions by requiring cessation of excavation at the site until the discovery can be protected and/or removed.

TAMI has provided written approval to the application.

Monitoring

Recommended conditions of consent require the consent holder to maintain a daily record of the volume of gravel extracted and submit this record to the Consent Authority monthly.

Adverse Effects that have Been Disregarded

Effects on Peter & Rosanne Fowle, Arnold & Fiona Gray, Fraser & Sharon Hampton, Fish & Game Southland (F & G), Land Information New Zealand (LINZ), Southland District Council (SDC), TAMI were disregarded as they have all provided unconditional written approval to this application.

2. Statutory Considerations

Section 104 of the Act sets out the matters to be considered when assessing an application for a resource consent. Section 104(1) of the Resource Management Act, 1991, states:

- (1) *When considering an application for a resource consent and any submission received, the consent authority must, subject to Part 2, have regard to:*
 - (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (b) *any relevant provisions of –*
 - (i) *a national environmental standard:*

- (ii) *other regulations:*
- (iii) *a national policy statement:*
- (v) *a regional or proposed regional policy statement:*
- (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

Those matters which relevant for this application are discussed in the following sections.

2.1 Part 2 of the Resource Management Act 1991

This application is consistent with the purpose and the principles of the Act, as set out in Section 5. The proposed activity will have no more than minor adverse effects on the ability of the receiving environment to meet the reasonably foreseeable needs of future generations, or on the life-supporting capacity of the land or any ecosystem associated with it. Proposed consent conditions will ensure that any potential adverse effects of the activity will be avoided, remedied or mitigated.

There are no matters of national importance, as outlined in Section 6 of the Act, that may be affected by the proposed activity. The application is also consistent with Section 7 of the Act, with particular regard given to the maintenance and enhancement of the quality of the environment. With regard to Section 8 of the Act, the proposed activity is not inconsistent with the principles of the Treaty of Waitangi.

2.2 Actual and potential effects (Section 104(1)(a))

The actual and potential effects of the proposed activity were considered earlier of this report. Recommended conditions of consent will ensure that any adverse effects are avoided, remedied or mitigated.

2.3 Relevant provisions of National Environmental Standards and other regulations (Section 104(1)(b)(i) and (ii))

National Environmental Standard for Sources of Human Drinking Water Regulations 2007

This NES is relevant to any application for a discharge permit. These regulations aim to reduce the risk of drinking water sources being contaminated. Regulations 7 and 8 only apply to an activity that has the potential to affect a registered drinking-water supply that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year.

The activity is not directly upstream of a registered drinking-water supply that provides water to more than 501 people. However, the Southland District takes water from Kowhai Creek, a tributary to the Waiau River at for >501 people. This is 16 km downstream from the proposed works.

Any potential effects on the water supply are likely to be negligible. No works are directly proposed in the stream, and the maintenance of buffer zones, along with notification of the Southland District Council in the event of an oil or chemical spill, will be required by consent conditions.

Provided the conditions are adhered to, then the discharge is not likely to introduce or increase the concentrations of determinands at the drinking water abstraction point that would cause a breach of the standards.

2.4 Relevant provisions of national policy statements (Section 104(1)(b)(iii))

National Policy Statement for Freshwater Management (NPSFM) 2017

The NPSFM supports improved freshwater management in New Zealand. It does this by directing regional councils to establish objectives and set limits for fresh water in their regional plans. The application is not inconsistent with the relevant objectives of the NPSFM. The relevant policies of the NPSFM are:

Water Quality

Objective A1

To safeguard:

- a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems, of fresh water; and*
- b) the health of people and communities, as affected by contact with fresh water; in sustainably managing the use and development of land, and of discharges of contaminants.*

Objective A4

To enable communities to provide for their economic well-being, including productive economic opportunities, in sustainably managing freshwater quality, within limits.

Policy A4

- 1. When considering any application for a discharge the consent authority must have regard to the following matters:*
 - a. the extent to which the discharge would avoid contamination that will have an adverse effect on the life-supporting capacity of fresh water including on any ecosystem associated with fresh water and*
 - b. the extent to which it is feasible and dependable that any more than minor adverse effect on fresh water, and on any ecosystem associated with fresh water, resulting from the discharge would be avoided.*
- 2. When considering any application for a discharge the consent authority must have regard to the following matters:*
 - a. the extent to which the discharge would avoid contamination that will have an adverse effect on the health of people and communities as affected by their contact with fresh water; and*
 - b. the extent to which it is feasible and dependable that any more than minor adverse effect on the health of people and communities as affected by their contact with fresh water resulting from the discharge would be avoided.*

Comment

No direct discharges to water are sought as part of this application. Further, the gravel extraction will not occur in the wet bed of the river, the habitat pond will not be directly connected to the flow of the Waiau River, buffer distances from the water's edge will be maintained, and gravel will be extracted to a height of no lower than 300 mm above the median flow level measured on the Waiau River at Sunnyside.

I consider the application to be consistent with the objectives and policy above.

Integrated management

Objective C1 *To improve integrated management of fresh water and the use and development of land in whole catchments, including the interactions between fresh water, land, associated ecosystems and the coastal environment.*

Policy C1 *By every regional council:*

- a) recognising the interactions, ki uta ki tai (from the mountains to the sea) between fresh water, land, associated ecosystems and the coastal environment; and*
- b) managing fresh water and land use and development in catchments in an integrated and sustainable way to avoid, remedy or mitigate adverse effects, including cumulative effects.*

Comment

Integrated management is difficult to achieve through the consent. However, the adverse effects that will occur as a result of this specific activity will be minor at most.

On balance, I consider the application to be consistent with the objective and policy above.

Tāngata whenua roles and interests

Objective D1 *To provide for the involvement of iwi and hapū, and to ensure that tangata whenua values and interests are identified and reflected in the management of fresh water including associated ecosystems, and decision-making regarding freshwater planning, including on how all other objectives of this national policy statement are given effect to.*

Policy D1 *Local authorities shall take reasonable steps to:*

- a) involve iwi and hapū in the management of fresh water and freshwater ecosystems in the region;*
- b) work with iwi and hapū to identify tangata whenua values and interests in fresh water and freshwater ecosystems in the region; and*
- c) reflect tangata whenua values and interests in the management of, and decision-making regarding, fresh water and freshwater ecosystems in the region.*

Comment

The Applicant has obtained the written approval of TAMI in the course of this application. Te Rūnanga O Ngāi Tahu (TRONT) were notified of the application via statutory acknowledgement, and did not seek to comment on the application. Therefore, I consider that the application has been processed in a manner that is consistent with this policy.

2.5 Relevant provisions of the New Zealand Coastal Policy Statement (Section 104(1)(b)(iv))

Not applicable to this application.

2.6 Relevant provisions of the Southland Regional Policy Statement 2017 (Section 104(1)(b)(v))

Decisions on the Proposed Regional Policy Statement were notified on the 6 June 2015. Appeals on 81 provisions have been lodged with the Environment Court. The provisions listed below are not subject to an appeal, so are considered to be operative. The following policies in the Proposed Regional Policy Statement are of particular relevance to this application:

Tangata Whenua

- Objective TW.1* *The principles of the Treaty of Waitangi/Te Tiriti o Waitangi are taken into account in a systematic way through effective partnerships between tangata whenua and local authorities, which provide the capacity for tangata whenua to be fully involved in council decision-making processes.*
- Objective TW.2* *All local authority resource management processes and decisions take into account iwi management plans.*
- Objective TW.3* *Mauri and wairua are sustained or improved where degraded, and mahinga kai and customary resources are healthy, abundant and accessible to tangata whenua.*
- Objective TW.4* *Wāhi tapu, wāhi taonga and sites of significance are appropriately managed and protected.*
- Policy TW.1* *Consult with, and enhance tangata whenua involvement in local authority resource management decision-making processes, in a manner that is consistent with the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.*
- Policy TW.3* *Take iwi management plans into account within local authority resource management decision making processes.*
- Policy TW.4* *When making resource management decisions, ensure that local authority functions and powers are exercised in a manner that:*
- (a) recognises and provides for:*
 - (i) traditional Māori uses and practices relating to natural resources (e.g. mātaihai, kaitiakitanga, manaakitanga, matauranga, rāhui, wāhi tapu, taonga raranga);*
 - (ii) the ahi kā (manawhenua) relationship of tangata whenua with and their role as kaitiaki of natural resources;*
 - (iii) mahinga kai and access to areas of natural resources used for customary purposes;*
 - (iv) mauri and wairua of natural resources;*
 - (v) places, sites and areas with significant spiritual or cultural historic heritage value to tangata whenua;*
 - (vi) Māori environmental health and cultural wellbeing.*
 - (b) recognises that only tangata whenua can identify their relationship and that of their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.*

Policy TW.5

Assist and enable the use and development of Māori land and resources, in a manner that is sustainable.

Comment

The Applicant has obtained the written approval of TAMI in the course of this application. TRONT were notified of the application via statutory acknowledgement, and did not seek to comment on the application. Therefore, I consider that the application has been processed in a manner that is consistent with these objectives and policies.

Water Quality

Objective WQUAL.1

Water quality in the region:

- (a) safeguards the life-supporting capacity of water and related ecosystems;*
- (b) safeguards the health of people and communities;*
- (c) is maintained, or improved in accordance with freshwater objectives formulated under the National Policy Statement for Freshwater Management 2014;*
- (d) is managed to meet the reasonably foreseeable social, economic and cultural needs of future generations.*

Objective WQUAL.3

Maintain the quality of water where it is in its natural state.

Policy WQUAL.1

- (a) Identify values of surface water, groundwater, and water in coastal lakes, lagoons, tidal estuaries, salt marshes and coastal wetlands, and formulate freshwater objectives in accordance with the National Policy Statement for Freshwater Management 2014; and*
- (b) Manage discharges and land use activities to maintain or improve water quality to ensure freshwater objectives in freshwater management units are met.*

Policy WQUAL.2

Maintain or improve water quality, having particular regard to the following contaminants:

- (a) nitrogen;*
- (b) phosphorus;*
- (c) sediment;*
- (d) microbiological contaminants.*

Policy WQUAL.3

Identify and protect the significant values of wetlands and outstanding freshwater bodies.

Policy WQUAL.5

Improve water quality by:

- (a) identifying water bodies that are not meeting freshwater objectives, including identifying priority freshwater management units;*
- (b) specifying targets to improve water quality within those water bodies within defined timeframes;*
- (c) implementing management frameworks to meet the targets taking into account:
 - (i) the values supported by the water body/ies;*
 - (ii) national or legislative standards and requirements;**

- (iii) *the benefits and costs associated with achieving improvement in water quality.*

<i>Policy WQUAL.6</i>	<i>To manage discharges and land use activities to maintain the quality of water and the associated values where it is in its natural state.</i>
<i>Policy WQUAL.7</i>	<i>Recognise the social, economic and cultural benefits that may be derived from the use, development or protection of water resources.</i>
<i>Policy WQUAL.11</i>	<i>Avoid, as far as practicable, remedy or mitigate the risks that the adverse effects of land use activities and discharges of contaminants have on the sources of community water supplies.</i>

Comment

No direct discharges to water are sought as part of this application. Further, the gravel extraction will not occur in the wet bed of the river, the habitat pond will not be directly connected to the flow of the Waiau River, buffer distances from the water's edge will be maintained, and gravel will be extracted to a height of no lower than 300 mm above the median flow level measured on the Waiau River at Sunnyside.

I consider the application to be consistent with the objectives and policies listed above.

Beds of Lakes and Rivers

<i>Objective BRL.1</i>	<i>All significant values of lakes and rivers are maintained and enhanced.</i>
<i>Objective BRL.2</i>	<i>Public access to, along and across lakes and rivers is maintained, and enhanced where necessary, in a strategic and co-ordinated manner, to ensure a level of public access appropriate to the values of the area.</i>
<i>Policy BRL.1</i>	<i>Regional plans shall include policies and methods that:</i> <ul style="list-style-type: none">(a) <i>while recognising the need for some structures to be located within the beds of rivers and lakes, avoid as far as practicable, and only where avoidance is not practicable, remedy or mitigate adverse effects of activities in the beds of lakes and rivers on:</i><ul style="list-style-type: none">(i) <i>natural character;</i>(ii) <i>instream ecological values, including bird habitat;</i>(iii) <i>historic heritage and cultural values, particularly tangata whenua cultural values, and spiritual values;</i>(iv) <i>amenity values;</i>(v) <i>recreational values;</i>(vi) <i>the performance and operation of critical infrastructure;</i>(b) <i>manage adverse effects of activities in the beds of lakes and rivers on:</i><ul style="list-style-type: none">(i) <i>erosion and deposition processes;</i>(ii) <i>flooding risk, bank stability and drainage capacity;</i>(iii) <i>the social, economic, cultural and environmental wellbeing of the community;</i>(c) <i>...</i>
<i>Policy BRL.2</i>	<i>Lawfully established structures and activities in the beds of lakes and rivers will be recognised, including the need for maintenance, enhancement and upgrading, while avoiding wherever practicable, mitigating or remedying, any adverse effects. Where the use, maintenance, enhancement and upgrading of such structures will</i>

have no more than minor adverse effects on the environment, these activities will be specifically provided for.

Policy BRL.3 *The region's fluvial gravel resources shall be managed sustainably and in such a way as to:*

- (a) manage adverse effects of removal of gravel on the ecological, recreational, amenity and cultural values, natural character and physical processes of lakes and rivers;*
- (b) avoid or remedy the adverse effects of rivers on adjacent land; and*
- (c) provide for the social, economic and cultural wellbeing of people and communities*

Policy BRL.4 *Public access to, along and across lakes and rivers will be maintained and enhanced by:*

- (a) identifying surface water bodies or locations that are a priority for access;*
- (b) providing direction about where and when additional access should be established;*
- (c) ensuring structures and bed disturbance activities in the beds of lakes and rivers do not impede public access, unless it is necessary to do so for safety reasons; and*
- (d) consulting with territorial authorities, tangata whenua, stakeholders and local landowners to develop non-regulatory methods to encourage retention or establishment of public access*

Policy BRL.5 *Recognise the social, economic and cultural benefits that may be derived from the use, development or protection of river and lake beds*

Comment

The effects of the application on the matters listed in Policies BRL.1 and BRL.3 are discussed in Section 1.6 of this report. Part (c) of Policy BRL.1 is not relevant to this application, as no Water Conservation Order applies to the Waiau River.

Consent conditions will ensure that the effects of the activity are mitigated as far as possible, in line with Policy BRL.2.

In terms of public access under Policy BRL.4, there will be some impingement of public access while gravel extraction activities are occurring, for public safety reasons. However, this effect is mitigated, as the Applicant maintains a public access road around the gravel processing/stockpile site which provides access to the gravel beach.

I consider the application to be consistent with the objectives and policies listed above.

Natural Hazards

Objective NH.1 *The risks to people, communities, their businesses, property and infrastructure from the effects of natural hazards are understood and avoided, remedied or mitigated, resulting in communities becoming more resilient.*

Policy NH.4 *In managing natural hazards, the following implementation priorities are to be adopted:*

- 1. avoid exposure to areas at significant risk from natural hazards where practicable by adopting a precautionary approach;*

2. *mitigate the effects of natural hazards by managing land use in areas known to be susceptible to the effects of natural hazards;*
3. *undertake physical works needed to reduce the potential for the natural hazard to affect people and infrastructure.*

Comment

The application will have an effect on river form and function that is minor at most. Therefore, I do not consider that the proposal will contribute to natural hazards in the immediate vicinity.

I consider the application to be consistent with the objective and policy listed above.

Natural Features and Landscapes

Objective LNF.2 Southland’s locally distinctive and valued natural features and landscapes are identified, and managed so that subdivision, use and development is consistent with their values.

Policy LNF.2 To identify and assess Southland’s locally distinctive and valued natural features and landscapes, and manage adverse effects, in particular significant adverse effects, from subdivision, use and development in a manner consistent with the values identified.

Policy LNF.3 To identify, assess and manage natural features and landscapes of cultural significance to tangata whenua as either outstanding natural features and landscapes or locally distinctive and valued natural features and landscapes, depending on the values associated with them.

Comment

Consent conditions will address effects on natural features and landscapes by ensuring that the area of works is kept tidy and maintained in sympathy with the natural contours of the beach.

The activity is partially screened below a low terrace and by mature crack willows surrounding the downstream boundary of the proposed activity.

I consider the application to be consistent with the objective and policies listed above.

2.8 Relevant provisions of the relevant regional plan policies and rules (Section 104(1)(b)(v))

Regional Water Plan for Southland 2010

The application is not inconsistent with the relevant objectives of the Regional Water Plan. The policies of the RWPS that are relevant to this application have been grouped according to topic:

Water Quality

Objective 1 To maintain the quality of water where it is in its natural state.

- Policy 1*
- (a) *Recognise the different characteristics of the following surface water body classes when managing discharges:*
 - (i) *Natural State Waters*
 - (ii) *Lowland (hard bed)*
 - (iii) *Lowland (soft bed)*
 - (iv) *Hill*

- (v) Mountain
 - (vi) Lake-fed
 - (vii) Spring-fed
 - (viii) Mataura 1
 - (ix) Mataura 2
 - (x) Mataura 3
 - (xi) Lowland/coastal lakes and wetlands
 - (xii) Hill lakes and wetlands
 - (xiii) Mountain lakes and wetlands
- (b) ...

Policy 2 Provide for discharges to Natural State Waters only where there will be no measurable adverse effects on existing water quality beyond the zone of reasonable mixing, unless it is consistent with the sustainable management of natural and physical resources as set out in Part 2 of the Resource Management Act 1991.

Policy 3 Notwithstanding any other policy or objective in this plan, allow no discharges to surface water bodies that will result in a reduction of water quality beyond the zone of reasonable mixing, unless it is consistent with the promotion of the sustainable management of natural and physical resources, as set out in Part 2 of the Resource Management Act 1991, to do so.

Policy 6 Use non-regulatory methods, to maintain and enhance surface water and groundwater quality, and to avoid, remedy or mitigate adverse effects on soil quality.

Policy 25 To avoid, remedy or mitigate the adverse effects arising from point source and non-point source discharges so that there is no deterioration in groundwater quality after reasonable mixing, unless it is consistent with the promotion of the sustainable management of natural and physical resources.

Comment

No direct discharges to water are sought as part of this application. Further, the gravel extraction will not occur in the wet bed of the river, the habitat pond will not be directly connected to the flow of the Waiau River, buffer distances from the water's edge will be maintained, and gravel will be extracted to a height of no lower than 300 mm above the median flow level measured on the Waiau River at Sunnyside.

I consider the application to be consistent with the objective and policies listed above.

River Bed (including beds of streams and modified watercourses) and Lake Bed Use and Development

Objective 10 To maintain or enhance the diversity and integrity of aquatic and riverine habitats and ecosystems.

Objective 11 To protect significant historic heritage values from the adverse effects of activities in the beds of rivers and lakes.

Objective 12 To maintain and enhance public access to river beds (including beds of streams and modified watercourses) and lake beds except in circumstances where public health and safety are at risk.

- Objective 13* *To protect natural character and outstanding natural features of rivers and lakes from inappropriate use and development.*
- Policy 1A* *Any assessment of an activity covered by this plan must take into account any relevant Iwi Management Plan.*
- Policy 32* *Manage structures and bed disturbance activities in beds of rivers and lakes, to avoid, remedy or mitigate adverse effects on:*
- (a) water quality and quantity;*
 - (b) habitats, ecosystems and fish passage;*
 - (c) indigenous biological diversity;*
 - (d) historic heritage, spiritual and cultural beliefs;*
 - (e) public access and amenity values;*
 - (f) natural character and outstanding natural features;*
 - (g) river morphology and dynamics, including erosion and sedimentation;*
 - (h) flood risk;*
 - (i) infrastructural assets;*
 - (j) navigational safety.*
- Policy 33* *Provide for the extraction of gravel to meet the needs of the community, in a way that avoids, remedies or mitigates adverse effects on the riverine environment; and*
- (a) maintains or enhances aquatic and riparian habitat; or*
 - (b) equates to no net loss of habitat in the river channel and flood plain; or*
 - (c) maintains or enhances flood protection, erosion control or the integrity of the physical resource*

Comment

Te Tangi a Taurira, the Iwi Management Plan for Murihiku, is considered in Section 2.9 of this report.

The effects of the activity are considered in full in Section 1.6 of this report. The adverse effects of the activity, other than the effects of the proposal on the nesting habitat of black-billed gulls, were initially considered to be minor.

The application was publicly notified as the effects on the nesting habitat of black-billed gulls were considered likely to be more than minor. In particular, it was considered that removal of gravel from Area A1 would be likely to destabilise the gravel island on which the gulls nest. However, the nearest likely erosion point is located some 450 metres from the island, and as a result the thalweg (that is, the principal direction of flow) of the Waiau is unlikely to change location for a significant period of time.

I consider the application to be consistent with the policies listed above.

Term and Granting of Consent:

- Policy 14A* *To determine the term of a water permit consideration will be given, but not limited, to:*
- (a) the degree of certainty regarding the nature, scale, duration and frequency of adverse effects from the activity;*
 - (b) the level of knowledge of the resource;*
 - (c) relevant tangata whenua values*
 - (d) the allocation sought, particularly the proportion of the resource sought;*
 - (e) the duration sought by the applicant, plus material to support the duration sought;*

- (f) *the permanence and economic life of the activity;*
- (g) *capital investment in the activity;*
- (h) *monitoring and review requirement in permit conditions;*
- (i) *the desirability of applying a common expiry date for water permits that allocate water from the same resource; and*
- (j) *the applicant's compliance with the conditions of the previous permit (where a new water permit is sought for a previously authorised activity).*

Comment

Term of consent is discussed below in section 3.2

Proposed Southland Water and Land Plan – Decisions Version

The application is not inconsistent with the relevant objectives of the pSWLP. The policies of the pSWLP that are relevant to this application have been grouped according to topic:

The decisions version of the pSWLP was released on 4 April 2018. The activity has been considered under the rules of the notified version of the pSWLP, but the objectives and policies of the decisions version of the pSWLP have been considered here.

The relevant policies to this application have been grouped according to topic.

Ngai Tahu Policies

Objective 4

Tangata whenua values and interests are identified and reflected in the management of freshwater and associated ecosystems.

Policy 1

Enable papatipu rūnanga to effectively undertake their kaitiaki (guardian/steward) responsibilities in freshwater and land management through the Southland Regional Council:

- 1. providing copies of all applications that may affect a Statutory Acknowledgement area, tōpuni (landscape features of special importance or value), nohoanga, mātaítai or taiāpure to Te Rūnanga o Ngāi Tahu and the relevant papatipu rūnanga;*
- 2. identifying Ngāi Tahu interests in freshwater and associated ecosystems in Murihiku (includes the Southland Region); and*
- 3. reflecting Ngāi Tahu values and interests in the management of and decision-making on freshwater and freshwater ecosystems in Murihiku (includes the Southland Region), consistent with the Charter of Understanding.*

Policy 2

Any assessment of an activity covered by this Plan must:

- 1. take into account any relevant iwi management plan; and*
- 2. assess water quality and quantity, taking into account Ngāi Tahu indicators of health.*

Policy 3

To manage activities that adversely affect Taonga species, identified in Appendix M.

Comment

Te Tangi a Tauira, and the views of Te Runanga o Ngai Tahu and Te Ao Marama Inc have been taken into account in assessing the application. Te Ao Marama Inc has not been involved in the application, but has been involved in the pSWLP consultation phase and the development of similar consent conditions to what has been added to this application.

I consider the application to be consistent with the objective and policies listed above.

Water Quality

Objective 6

There is no reduction in the overall quality of freshwater, and water in estuaries and coastal lagoons, by:

- (a) maintaining the quality of water in waterbodies, estuaries and coastal lagoons, where the water quality is not degraded; and*
- (b) ...*

Policy 15A

Where existing water quality meets the Appendix E Water Quality Standards or bed sediments meet the Appendix C ANZECC sediment guidelines, maintain water quality including by:

- 1. ...*
- 2. requiring any application for replacement of an expiring discharge permit to demonstrate how the adverse effects of the discharge are avoided, remedied or mitigated, so that beyond the zone of reasonable mixing those standards or sediment guidelines will continue to be met.*

Comment

No direct discharges to water are sought as part of this application, and the proposed conditions of consent do not authorise the discharge of contaminants to water. Further, the gravel extraction will not occur in the wet bed of the river, the habitat pond will not be directly connected to the flow of the Waiau River, buffer distances from the water's edge will be maintained, and gravel will be extracted to a height of no lower than 300 mm above the median flow level measured on the Waiau River at Sunnyside.

I consider the application to be consistent with the objective and policy listed above.

River Management

Objective 14

The range and diversity of indigenous ecosystem types and habitats within rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained or enhanced.

Objective 15

Taonga species, as set out in Appendix M, and related habitats, are recognised and provided for.

Objective 16

Public access to, and along, river (excluding ephemeral rivers) and lake beds is maintained and enhanced, except in circumstances where public health and safety or significant indigenous biodiversity values are at risk.

Objective 17

The natural character values of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonably variable flows and natural habitats, are protected from inappropriate use and development.

Policy 28

Manage structures, bed disturbance activities and associated discharges in the beds and margins of lakes, rivers and modified watercourses, to avoid, remedy or mitigate adverse effects on:

- 1. water quality and quantity;*
- 2. habitats, ecosystems and fish passage;*
- 3. indigenous biological diversity;*
- 5. the spiritual and cultural values and beliefs of the tangata whenua;*
- 6. mātaítai and taiāpure;*
- 7. public access (except in circumstances where public health and safety are at risk) and amenity values;*
- 8. natural character values and outstanding natural features;*
- 9. river morphology and dynamics, including erosion and sedimentation;*
- 10. flood risk;*
- 11. infrastructural assets;*
- 12. navigational safety; and*
- 13. landscape values.*

Policy 29

Recognise the value of gravel and provide for its extraction to meet the social, economic and cultural needs of the community in a way that avoids, remedies or mitigates adverse effects on land, groundwater quality, rivers and their margins; and:

- 1. for river based extractions, requires the restoration of aquatic and riparian habitat once the gravel extraction activity has ceased; and*
- 2. results in no long-term net loss of habitat in the river channel, bed or floodplain; and*
- 2a. ensures that the rate and volume of gravel extraction is sustainable; and*
- 3. ensures no degradation of flood protection and erosion control infrastructure and the integrity of physical resources; and*
- 4. does not adversely affect the Ngāi Tahu cultural values and interests associated with the land or river, including taonga species habitat, mahinga kai, mātaítai and taiāpure; and*
- 5. results in no long-term adverse effects on recreational values; and*
- 6. maintains public access (except in circumstances where public health and safety are at risk).*

Policy 32

Protect significant indigenous vegetation and significant habitats of indigenous fauna associated with natural wetlands, lakes and rivers and their margins.

Comment

The matters listed in Policy 28 have been addressed in Section 1.5 of this report.

The proposed consent conditions include specific actions the Applicant must take with regard to braided river nesting birds. These include only extracting gravel from Area A1 outside the breeding season, avoiding existing nesting sites, maintaining buffers around newly-established nesting sites, and ceasing gravel extraction entirely if these buffers cannot be maintained.

In addition, the proposed conditions more broadly require that there shall be no disturbance of the roosting and nesting areas of the black fronted tern, black billed gull, and banded and black fronted dotterel, or the feeding areas of the banded and black fronted dotterel.

Recommended conditions of consent require that fish passage is not impeded as a result of the proposed works

I consider the application to be consistent with the objectives and policies listed above.

Term and Consideration of Consent

Policy 39A When considering the cumulative effects of land use and discharge activities within whole catchments, consider:

1. the integrated management of freshwater and the use and development of land including the interactions between freshwater, land and associated ecosystems (including estuaries); and
2. ...

Policy 40 When determining the term of a resource consent consideration will be given, but not limited, to:

1. granting a shorter duration than that sought by the applicant when there is uncertainty regarding the nature, scale, duration and frequency of adverse effects from the activity or the capacity of the resource;
2. relevant tangata whenua values and Ngāi Tahu indicators of health;
3. the duration sought by the applicant and reasons for the duration sought;
4. the permanence and economic life of any capital investment;
5. the desirability of applying a common expiry date for water permits that allocate water from the same resource or land use and discharges that may affect the quality of the same resource;
6. the applicant's compliance with the conditions of any previous resource consent, and the applicant's adoption, particularly voluntarily, of good management practices; and
7. the timing of development of FMU sections of this Plan, and whether granting a shorter or longer duration will better enable implementation of the revised frameworks established in those sections.

Policy 41 Consider the risk of adverse environmental effects occurring and their likely magnitude when determining requirements for auditing and supply of monitoring information on resource consents.

Comment

There are significant interactions between freshwater, land and associated ecosystems as part of this application. However, integrated management is difficult to achieve through the consent process.

Proposed consent conditions require the Applicant to regularly submit records of the volume of gravel extracted.

It is a proposed condition of consent that if birds establish nesting sites within the proposed gravel extraction areas, this must be reported to Council. This consent condition is additional to those discussed in the pre-hearing meeting.

Term of consent is discussed below in Section 3.2.

2.9 Any other matters considered relevant and reasonably necessary to determine the application (Section 104(1)(c))
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Te Tangi a Tauria

Te Tangi a Tauria is the Iwi Management Plan for Southland. The application is not inconsistent with the relevant objectives of Te Tangi a Tauria. The policies relevant to this application are:

Earthworks (Section 3.5.8)

Policy 1 Consent applicants who are undertaking earthworks may be required to enter into Accidental Discovery Protocol and monitoring agreements with Ngai Tahu ki Murihiku.

Policy 6 Oppose any earthworks activity application whereby the adverse effects on cultural values are considered too significant.

Policy 9 Any earthworks or roadworks near rivers must have appropriate measures in place to avoid contaminants (including dust, sediment run-off or any hazardous substances) from entering waterways that may cause contamination, discolouration, or siltation in such waterways.

Rivers (Section 3.5.11)

Policy 7 The cultural importance of particular rivers (e.g. statutory acknowledgement) must be reflected in the weighting of Ngai Tahu responses and submissions on consents associated with these rivers.

Policy 10 Ensure that all native fish species have uninhibited passage from the river to the sea at all times, through ensuring continuity of flow.

Policy 11 Promote where appropriate, the use of Freshwater Mataitai, Water Conservation Orders, rahui, and similar tools to protect the rivers of Murihiku, where those rivers are under threat from competing water uses, and/or then there are outstanding cultural, amenity or intrinsic values that require protection.

Water Quality (Section 3.5.13)

Policy 1 1 The role of Ngai Tahu ki Murihiku as tangata whenua and kaitiaki of water must be recognised and provided for in all water quality management

Activities in the Beds and Margins of Rivers (Section 3.5.15)

Policy 1 Assess applications for gravel extraction in terms of the following considerations:

- (a)* Cultural values associated with the river
- (b)* Amount of material extracted
- (c)* Design of extraction operations
- (d)* Times of year that extraction will occur
- (e)* Number of existing consents associated with the location
- (f)* How any adverse effects are being mitigated
- (g)* monitoring provisions
- (h)* Cumulative effects assessment

Policy 3 Require that a Ngai Tahu ki Murihiku Accidental Discovery Protocol is a condition on resource consents.

Policy 5 Discourage gravel extraction via beach skimming, except where it is demonstrated that beach areas are aggrading and lateral erosion is a concern.

Policy 7 Advocate for the creation of habitat ponds to facilitate gravel extraction activities, whereby such activities incorporate restoration of riverine habitat.

Policy 8 Require that the design, construction and maintenance of habitat ponds are such that habitat is created, and not just 'holes' on a floodplain or in riverbeds.

Comment

TRONT were notified of the application via statutory acknowledgement, and did not respond by the advised date. TAMI provided their written approval to the application.

The activity will be outside of the wetted channel, minimising risks to water quality. The Accidental Discovery Protocol is included in the draft consent conditions

There will be no vehicles in the flowing channel of the river and the gravel extraction is not from the flowing channel. Therefore, it unlikely the activity will cause sedimentation or discolouration of the river.

The application has been assessed in line with, and consent conditions drafted around, the matters listed in Policy 3.5.15(1).

Gravel extraction will be by beach skimming from Area A1, so the application is not consistent with Policy 3.5.15(5). However, consent conditions will address the effects of beach skimming on braided river nesting birds and channel morphology.

Consent conditions will mitigate or avoid adverse effects on the surrounding environment.

I consider the application to be consistent with the policies listed, other than Policy 3.5.15(5).

2.10 Value of investment of the existing consent holder if an application affected by Section 124 (Section 104(2A))

The application is for the replacement of a land use consent for a gravel extraction and processing operation.

This operation has significant value to the Applicant, as it is a commercial gravel operation. I believe the consent duration and consent conditions are a suitable balance for the level of investment for the operation.

2.11 Section 105 matters relevant to discharge or coastal permits

Not applicable to this application.

2.12 Section 107 restriction on grant of certain discharge permits

Not applicable to this application.

3. Recommendations

3.1 Whether to grant

Under Section 104B the Council may grant or refuse consent for a **discretionary activity**, and if it grants the application, may impose conditions under Section 108 of the RMA.

The application is generally consistent with the Resource Management Act, and the objectives and policies of the relevant Regional Policy Statements and Plans.

I consider that the effects of the proposed gravel extraction on fish passage, riverine habitat and river morphology and dynamics will not be more than minor. In particular, a series of consent conditions address the effects of the proposed activity on the habitat of braided river nesting birds, which include buffer zones from existing nesting sites, and procedures for when birds establish new nesting sites within the proposed extraction areas. An additional consent condition is proposed requiring the Applicant to report to Council the establishment of any new nests within the proposed gravel extraction areas.

The other potential effects will largely be temporary and will be further mitigated and avoided through recommended consent conditions.

Council's Catchment Management division have reviewed the application and confirmed that erosion and flood risk will not be exacerbated by the proposed extraction.

Overall I recommend that, for the above reasons, the application be granted pursuant to Sections 104B and 108 of the Resource Management Act 1991, subject to the conditions attached.

3.2 Term of consent

The applicant has requested a consent term of 7 years. A consent term of 7 years is hereby recommended for the following reasons:

- there is sufficient certainty regarding the nature, scale, duration and frequency of adverse effects from the activity,
- there is sufficient certainty regarding the availability of the resource;
- relevant tangata whenua values have been considered as part of the assessment of this application; and
- the duration sought by the applicant is appropriate.

There is some, though not necessarily a high, degree of certainty in relation to the effects of the proposed activity, particularly due to the conditions around braided river nesting birds. Because of this, I consider the relatively short term of 7 years proposed by the Applicant to be appropriate.



28/05/2018

Matt Hoffman
Senior Consents Officer

Attached: Land Use Consent AUTH-20171589