



## Recommendation and decision on notification of resource consent application(s) under sections 95-95G of the Resource Management Act 1991 (RMA)

### Summary

I recommend the application is processed on a **limited notified** basis. This is because:

- The site of the application includes an established landfill with a history of over 15 years of landfill activity, as well as a well-established limestone quarry. Under the new consents sought, the landfill footprint, overall capacity, final finished profile and overall physical area of the landfill will not change from those already authorised by existing consents; with key changes sought by the new consents being to remove the upper threshold for annual waste acceptance, and to formalise the ability to receive emergency waste.
- While a key element of the application is to remove the current maximum 100,000 tonnes per annum refuse tonnage cap under the existing discharge consent AUTH-201346-V3, I consider that the environmental effects of the activities for which the new and varied Environment Southland consents are sought will be localised to the area around the sites of the application.
- I consider there is potential for cultural effects, and accordingly I have recommended that Te Ao Marama Incorporated and Hokonui Runanga Incorporated be included in the limited notified parties.
- Although the applicant owns a significant amount of land adjacent to the site of the application, I consider that there are a number of other properties not owned by the applicant within a 2 kilometre radius of the site which may be subject to potential adverse effects such as odour.
- The relevant planning instruments contemplate activities of this nature occurring within the region, subject to suitable mitigation of adverse environmental effects.

### The application

#### Particulars

Applicant:	<b>AB Lime Limited</b>
Application reference:	<b>APP-20202200, APP-205862-01-V2</b>
Site address or location:	10-20 Kings Bend Road , Winton, being Part Section 71 Block VIII Winton Hundred, and Sections 70, 75, 76, 77 and 78 Block VIII Winton Hundred
New consent(s) for new activity(ies) (s88)	<input checked="" type="checkbox"/>
New consent(s) for existing activity(ies) (s88)	<input type="checkbox"/>
Change to conditions of existing consent(s) (s127)	<input checked="" type="checkbox"/>

## The proposal and process

The applicant company AB Lime Limited owns and operates an existing solid waste disposal facility and associated facilities at “Kings Bend”, approximately 5 kilometres east of Winton township.

A commercial limestone quarry is also operated by the same company in the same location. AB Lime processes limestone to produce lime and fertiliser blends. This aspect of the overall AB Lime operation predates the commercial landfill by many years, having commenced approximately 70 years ago.

This site was consented as a solid waste disposal facility by way of a joint resource consent process between Southland District Council and Environment Southland in 2003, and subsequently commenced the receipt of solid waste in 2004. This facility is a Class A landfill and is the key consented regional landfill for the Southland region. This facility receives wastes from all the various refuse transfer stations operated by the Southland territorial authorities, and hence I consider is an item of “critical infrastructure” as defined in the Southland Regional Policy Statement and the Proposed Southland Water and Land Plan.

There are no conditions of the existing consents which specify or limit the locations from which solid waste is received, and the application acknowledges that the site has occasionally received solid waste from outside of Southland. However, a condition of the existing discharge permit AUTH-201346-V3 provides for a **maximum discharge of up to 100,000 tonnes per annum** of solid waste to land, so there is hence a limitation in the current consent suite on the overall weight of solid waste able to be received per annum at this facility.

The application states that (quotes in italics) “*the overarching objective is to future proof the landfill so that it is well positioned to receive waste from a wide range of locations and in a majority of circumstances*”. The application also notes that “*AB Lime is not proposing to change the footprint, the final area, or the capacity of the landfill. The changes to be effective through this consent will allow the landfill to be filled at an increased rate, should there be a need to do so*”. The application further comments that this “*will align this resource consent with other Class A landfills that operate around New Zealand*”. The application indicates that the applicant seeks to become “*the premier landfill for the southern regions of the South Island and to better serve the needs of the community in unexpected or emergency situations*”.

As referred to above, another key element of this application is that the applicant seeks to formalise the ability to receive solid wastes from emergency response scenarios. In recent years, the AB Lime site has received solid waste from the response to the bonamia outbreak and from the response to mycoplasma bovis. This application seeks to make clear provision in any new consents for the receipt of a range of emergency wastes if/ as required in the future for the duration of the consents.

A further key element for which consents are sought is for changes to the existing consent air discharge consent for lime works activities in order to make provision for the use of landfill gas for powering the limestone drying kilns on the site.

In support of the new consents sought, the applicant proposes an adaptive environmental management plan framework to manage and mitigate adverse environmental effects. A draft of this environmental management plan is included in the application as Appendix P, which is also supported by other issue-specific management plans which are referred to further below.

The application (Section 8.15) considers alternatives and concludes that the social and environmental impacts of the activities for which new consents are sought will be considerably less than developing a new facility. The application also outlines (Section 3.2) the demographic drivers for the application in terms of population growth in the lower South Island and associated demand for solid waste disposal.

The application seeks **new 35 year consents**, with the rationale for this as outlined in the application in order to provide future security of waste disposal arrangements and to recognise the very significant investment required to establish, operate, manage and rehabilitate a large scale landfill operation.

The application was accepted on 3 June 2020. The time period for making a Section 95 decision was extended under Sections 37 and 37A of the Act, while Environment Southland obtained specialist technical peer review input to the following areas under Section 92(2) of the Act. As referred to above, a discussion was held with the applicant in relation to the technical review process, with the applicant signalling their agreement, including to associated cost recovery.

The following technical experts were engaged by Environment Southland to undertake this review:

- Air discharges and odour management content of the application and associated draft management plan and draft conditions – **Prue Harwood, Beca**
- Landfill engineering and leachate management content of the application and associated draft management plan and draft conditions – **Arthur Amputch, Riley Consultants**
- Geotechnical and seismic content of the application and associated draft management plan and draft conditions- **Debbie Fellows - GHD**

These peer reviews were undertaken under external contracts and with appropriate conflicts of interest declarations, with key aims of this process being:

- to establish whether any additional information was required;
- to ensure that the specialist technical information submitted with the application was technically robust to inform the subsequent decision-making, both under Section 95-95G of the Act, Section 42A reporting and the overall decision-making process itself.

While the application as lodged is a very large document of some 1,400 pages in four volumes and contains extensive content addressing the effects of the landfill activities, the technical reviews referred to above identified a range of areas where the technical experts considered that additional information was required.

Hence, an additional information request under Section 92 of the Act was sent to the applicant on 23 July 2020 requesting additional information on a total of 114 individual items.

The applicant responded to this by supplying an extensive formal Section 92 response, and this additional information response was also referred back to the technical reviewers for further scrutiny. This second technical review resulted in the reviewers advising that most of their concerns had been resolved, but Ms Harwood and Mr Amputch retained some residual concerns. The applicant responded further to these with additional information, which was referred back to Ms Harwood and Mr Amputch for a further technical review, with the period for this concluding on 16 November 2020.

Ms Harwood and Ms Fellows have advised that all their respective Section 92 items have been addressed to their satisfaction.

Mr Amputch and associates at Riley Consultants have advised that they are satisfied that most of their Section 92 matters have now been adequately addressed, however they retain a strong concern about existing landfill gas management at the site. This concern links most specifically to three of the 7 consents and one variation outlined below as it relates to landfill gas management; these being the discharge of solid waste to land, the discharge to air where combustible refuse is flared, and the discharge of contaminants into air from refuse disposal facilities receiving greater than 100,000 cubic metres / year of uncompacted solid waste. The reviewer has flagged what they consider to be existing non-compliance with the National Air Quality Standards 2004 in relation to landfill gas management. While this concern is noted, and Environment Southland's Compliance team has been advised of it, I consider that this is a matter for the existing air discharge consent, which is not being surrendered, and associated compliance, not a matter for this new consent process. This is supported by Section 43B (6) (a) of the Act which makes it clear that certain existing discharge consents (the existing consents were issued in 2003) prevail over a more stringent subsequent national environmental standard. Environment Southland obtained legal advice from Mike Doesburg of Wynn Williams on this point, which agreed with the applicant's legal opinion. The applicant acknowledges that any NEW consents would need to comply with the National Air Quality Standards, and has volunteered conditions that will ensure that this is the case.

The applicant has been clear in the application documentation that it does **NOT** seek to surrender the existing Environment Southland and Southland District Council consents held at this time. Instead, the applicant seeks a period of 5 years to give effect to the new consents, and will not seek to surrender the existing consents until the new consents are given effect to. The existing consents expire on **24 June 2038**.

The peer reviews, and the feedback these provided, have been a very important part of the Environment Southland processing of this application and decision-making, including this Section 95-95G determination. I consider it is very important that key technical elements of the application are appropriately scrutinised by persons with sufficient expertise; in order to determine whether the relevant information covering technical matters such as landfill engineering to mitigate effects such as potential effects on groundwater and surface water and air quality, are comprehensive and robust.

This application seeks the following consents from Environment Southland, being seven new consents and one variation:

1) Discharge Permit for:

The discharge of solid waste onto or into land where the contaminants may enter water as a discretionary activity under Rule 45 of the Proposed Water and Land Plan, and Rule 56 of the Regional Water Plan, pursuant to Section 15 (1)(b) of the Resource Management Act 1991. Consent is required as a discretionary activity

2) Discharge Permit for:

The discharge of leachate onto or into land within the landfill footprint where that contaminant may enter water as a discretionary activity under Rule 45 of the Proposed Water and Land Plan and Rule 56 of the Regional Water Plan, pursuant to Section 15(1)(b) of the Resource Management Act 1991. Consent is required as a discretionary activity.

3) Discharge Permit for:

The discharge of leachate and contaminated storm water that may enter groundwater (leachate leakage) as a discretionary activity under Rule 45 of the Proposed Water and Land Plan and Rule 3 of the Regional Water Plan, pursuant to Section 15(1)(b) of the Resource Management Act 1991, Consent is required as a discretionary activity.

4) Land Use Consent for:

The use of land for the drilling and construction of any bore or well as a controlled activity under Rule 53 of the Proposed Water and Land Plan, and Rule 22 of the Regional Water Plan, pursuant to Section 9(2)(a) of the Resource Management Act 1991. Consent is required as a controlled activity.

5) Discharge Permit for:

The discharge of contaminants into air from combustion processes where combustible refuse matter is flared as a discretionary under Rule 5.5.2(2) (c) of the Regional Air Plan, pursuant to Section 15(1)(c) of the Resource Management Act 1991. Consent is required as a discretionary activity.

6) Discharge Permit for:

The discharge of contaminants into air from refuse disposal facilities receiving greater than 100,000 cubic metres / year of uncompacted solid waste as a discretionary activity under Rule 5.5.2 (18) of the Regional Air Plan, pursuant to Section 15(1)(c) of the Resource Management Act 1991. Consent is required as a discretionary activity.

7) Discharge Permit for:

The discharge of contaminants into air from the use of masking agents to disguise odour as a discretionary activity under Rule 5.5.6 of the Regional Air Plan, pursuant to Section 15 (1)(c) of the Resource Management Act 1991. Consent is required as a discretionary activity.

8) Discharge Permit for:

The variation of discharge permit AUTH-205862-01-V1 to change conditions of consent for the discharge of contaminants to air from a lime works under Section 127 of the Resource Management Act 1991. Variation to consent is required as a discretionary activity.

The key relevant rules of the operative Regional Water Plan, proposed Southland Water and Land Plan and the Regional Air Plan, which trigger consent requirements are as follows:

**Operative Regional Water Plan**

- Rule 56 – Landfills= discretionary activity.
- Rule 3 - discharge of leachate and contaminated storm water that may enter water.
- Rule 22- Bore drilling and construction --controlled activity.

**Proposed Southland Water and Land Plan:**

- Rule 45 - Landfills=discretionary activity.
- Rule 53 - Bore drilling and construction – controlled activity.

**Operative Regional Air Plan**

- Rule 5.5.2.2(c) – Discharge of contaminants into the air from combustion processes where refuse material is flared = discretionary activity.
- Rule 5.5.2(18) – Discharge of contaminants to air from refuse disposal facilities receiving greater than 100,000 cubic metres/year of uncompacted solid waste.
- Rule 5.5.2.5 - Discharge contaminants to air from a lime works.
- Rule 5.5.6 - use of masking agents to disguise odour = discretionary activity.

The applicant has not sought any additional resource consents under the NES Freshwater Regulations 2020 since their enactment.

The applicant has also sought concurrent land use consents from the Southland District Council in terms of Section 9 of the Resource Management Act 1991:

- Land Use consent for the operation of as solid waste disposal facility and associated operations as discretionary activities under Rule RURAL.4 of the Operative Southland District Plan 2018, pursuant to section 9(3)(a) of the Resource Management Act 1991. Consent is required as a discretionary activity
- Land Use consent for recontouring and earthworks associated with solid waste disposal activities as discretionary activities under Rule RURAL.4 of the Operative Southland District Plan 2018, pursuant to Section 9(3)(a) of the Resource Management Act 1991 Consent is required as a discretionary activity.

I have been in regular liaison with Southland District Council on this matter. At the time of writing this report, Southland District Council has advised that it will be processing this application on a non-notified basis subject to obtaining written approval from Te Ao Marama Incorporated and Waka Kotahi/ the New Zealand Transport Agency.

Overall both the applicant’s consultant and myself assess the application is to be assessed as a **discretionary activity**.

I note that the application does NOT seek unbundling of the various new consents sought.

**Public notification consideration**

**1. Is notification mandatory?**

<b>1.1</b>	<b>Has the applicant requested that the application be publicly notified? (s95(3)(a))</b>	<input type="checkbox"/> Yes	Application must be publicly notified. Go to 10.2
		<input checked="" type="checkbox"/> No	Go to 1.2
<b>1.2</b>	<b>Was further information, or commissioning of a report, requested under s92?</b>	<input checked="" type="checkbox"/> Yes	Go to 1.3
		<input type="checkbox"/> No	Go to step 2.1
<b>1.3</b>	<b>If yes, was the request refused, or did the applicant fail to respond or fail to provide the information by the deadline?</b>	<input type="checkbox"/> Yes	Public notification is required by s95C. Go to 10.2
		<input checked="" type="checkbox"/> No	Go to step 2.1

**2. Is notification precluded?**

<b>2.1</b>	<b>Is each activity subject to a rule or NES that</b>	<input type="checkbox"/> Yes	Rule(s): <b>enter rule</b>
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	<b>precludes public notification?</b>	<input checked="" type="checkbox"/> No	Go to 4.1 Go to step 2.2
<b>2.2</b>	<b>Is each activity a controlled activity?</b>	<input type="checkbox"/> Yes	Application must not be publically notified unless there are special circumstances. Go to 4.1
		<input checked="" type="checkbox"/> No	Go to 2.3
<b>2.3</b>	<b>Is each activity a residential activity <u>and</u> a discretionary activity or a restricted discretionary activity?</b>	<input type="checkbox"/> Yes	Application must not be publically notified unless there are special circumstances. Go to 4.1
		<input checked="" type="checkbox"/> No	Got to 3.1

### **3. Is notification required?**

<b>3.1</b>	<b>Are any of the activities subject to a rule or NES that requires notification?</b>	<input type="checkbox"/> Yes	Application must be publicly notified. Go to 10.2
		<input checked="" type="checkbox"/> No	Go to 3.2
<b>3.2</b>	<b>Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? (see Note)</b>	<input type="checkbox"/> Yes	Application must be publicly notified. Complete 3.3 and go to 10.2
		<input checked="" type="checkbox"/> No	Complete 3.3 and go to 4.1.

**Note:** In forming this opinion (a) to (e) apply:

- (a) we must disregard any effects on persons who own or occupy the land on which the activity will occur or any land adjacent to that land (section 95D (a));
- (b) we may disregard an adverse effect of the activity if a rule or NES permits an activity with that effect (subject to Policy 36 of the pSWLP) (95D(b));
- (c) in the case of a restricted discretionary activity, we must disregard any adverse effects that do not relate to the matters over which the rule or NES restricts discretion (95D(c));
- (d) we must disregard trade competition and the effects of trade competition - 95D(d); and
- (e) we must disregard any effect on a person who has given written approval - 95D(e)

### **3.3 Reasons adverse effects on the environment are minor:**

#### ***The existing environment***

The AB Lime site is located approximately 5 kilometres east of Winton township, at 10-20 Bend Road, Kings Bend. The surrounding environment is illustrated on the Google aerial photograph below. I consider that the surrounding locality could be generally described as rural in nature, with some rural dwellings within a 2 kilometre radius of the site, particularly to the west and south of the site of the application. The site generally rises in a north-easterly direction, with landfill activities occurring on the south-western part of the site.

As referred to above the applicant holds a number of existing live consents for the landfill and quarrying operations on the site. As referred to above, these consents are not proposed to be surrendered at this time and do not expire until 2038. The case of *QLDC v Hawthorn Estates* established that the existing environment includes existing activities lawfully carried out under existing resource consents. Hence, I consider that activities currently lawfully occurring under live resource consents form part of the existing environment.



As outlined above, prior to solid waste disposal activities commencing in 2004, the company operated, and continues to operate, a limestone quarry and associated processing plant, to produce lime and fertiliser blends. The site rises generally from the south-west to the north-east. Landfilling originally commenced in the south-western part of the site and is moving generally north east, towards existing terraces that have been established by the limestone quarrying activity.

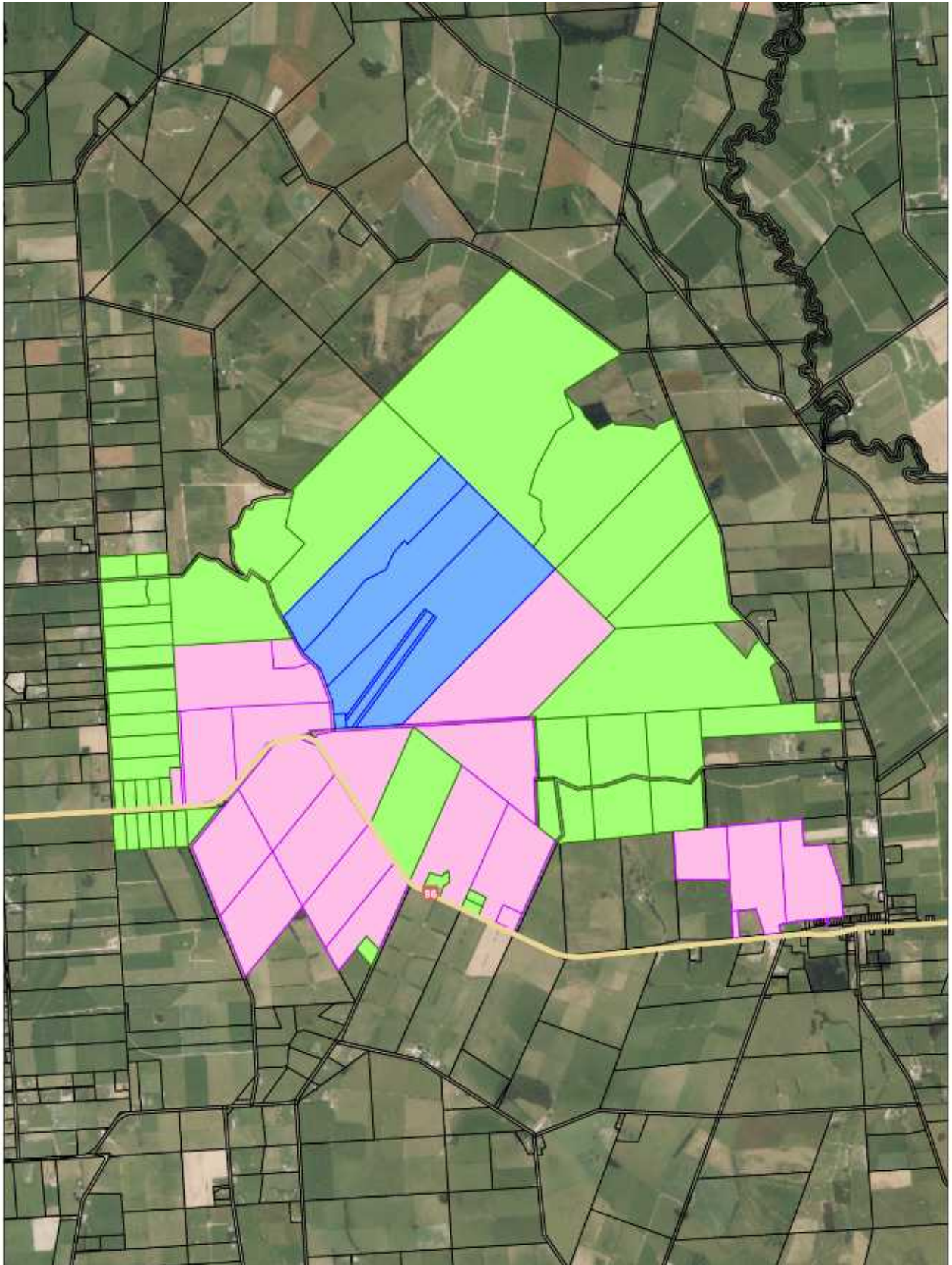
State Highway 96, runs in a general east-west direction to the south of the site, between Winton township and its intersection with State Highway 1 south of Matura.

The Oreti River, which is subject to a statutory acknowledgement under Schedule 50 of the Ngai Tahu Claims Settlement Act 1998. The Oreti River is located approximately 6 kilometres west of the site.

Since the granting of the original consents for solid waste disposal in 2003, AB Lime has purchased several of the adjacent properties to the landfill site itself. The AB Lime land ownership in the area has been factored into my recommendations regarding affected parties in Section 8.2 of this report below. The land shown in blue is the site of the application, the land shown in pink is other land in the area owned by AB



Lime and the land shown in green is land owned by parties I have identified as potentially affected in Section 8.2 below.



## ***Adverse effects of the proposed activities on the environment***

The application includes an extensive Assessment of Environmental Effects in Section 8 of the application document, supported by other appendices. I consider that the applicant has appropriately identified the range of adverse effects which could occur from the consents sought.

This identifies the following potential effects which fall within Environment Southland's jurisdiction under the Resource Management Act 1991:

- *Cultural effects*

Having regard to Te Mana o te Wai and the relevant provisions of the relevant planning instruments referred to above, cultural effects are a key consideration with respect to this application. The application acknowledges this in Section 8.13 and indicates that consultation with the tangata whenua is ongoing. I refer to this in Section 8 of this report below and have recommended Te Ao Marama and Hokonui Runanga be considered affected parties. As referred to in Section 8 below, the applicant has advised on 30 November 2020 that they have been undertaking ongoing consultation with Te Ao Marama and Hokonui and are awaiting feedback.

I am not qualified to assess the potential for cultural effects and this is a very important consideration. Hence I have recommended that Te Ao Marama and Hokonui Runanga be identified as potentially affected parties.

- *Effects on Groundwater*

The site of the application is located in the Oreti Freshwater Management Unit and the lower Oreti Groundwater Management Zone, and is categorised as "*lowland soft bed*".

A large scale solid waste disposal facility has the potential to have significant effects on groundwater quality if not appropriately engineered and managed, and hence I consider effects on groundwater require very close scrutiny as part of this consent process, and the technical review referred to above is an important part of this scrutiny.

The application addresses groundwater effects in Section 8.6 of the application and supporting information, particularly Appendix L which is a Groundwater Quality Technical Memorandum. The application outlines in detail the landfill engineering design and leachate and stormwater management arrangements current and proposed to mitigate potential for effects on groundwater

This site has been subject to groundwater monitoring for over 15 years, and the applicant asserts that this information indicates that the landfill, is having minimal if any groundwater quality effects.

I consider that potential that groundwater effects will be minor and existing monitoring supports this. However, groundwater effects are a key matter which will require close scrutiny at Section 104 decision making stage.

- *Effects on Surface Water/ Effects of Stormwater discharges*

While there are no specific surface water bodies traversing this site, potential effects on surface water are a matter requiring close scrutiny, particularly having regard to the NPS and Te Mana o te Wai.

Section 8.5 of the application addresses surface water effects and this is supported by a Stormwater Management Technical Memorandum. Also relevant is Appendix S which is a draft Landfill Leachate Management Plan, which includes, amongst other matters, content on how leachate will be managed to mitigate potential for effects on surface water and groundwater

As referred to above, the existing consents for stormwater discharge, damming and diversion of water, and surface water take are not being surrendered and no new surface water permits sought by way of the current application.

Existing monitoring of the site has not identified any significant adverse effects on surface water.

I consider that potential adverse effects on surface water quality and quantity will be minor.

- *Effects of Leachate*

Leachate is produced in landfills through either decomposition of the solid waste and/or from water entering the landfill and then collecting on top of the impermeable base liner.

There is currently no indication from monitoring that the existing leachate arrangements for the site are generating adverse effects. Leachate drains into a storage pond to the south-west of the current landfill footprint, before it is disposed of to an approved Invercargill City Council facility. This arrangement is proposed to continue in the future.

The application addresses leachate management in Section 8.7 and the associated Landfill Leachate Technical Memorandum included in Appendix H.

As part of this application, the applicant proposes a range of measures to mitigate leachate production from the receipt of the additional volumes of solid waste, in particular:

- a restriction of the open working face of the landfill to an area of no more than 1,000 m<sup>2</sup>;
- restrictions on daily cover area;
- capping of current faces of the landfill area which are overly steep to minimise the potential for stormwater runoff.

I consider that the management regime as outlined in the application in relation to leachate and the fact that leachate is collected and disposed of off-site to an approved facility means that the effects of leachate will be minor.

- *Effects of Landfill Gas*

Landfills generate landfill gases including methane, carbon monoxide and hydrogen sulphide, as the solid waste within the landfill decomposes. If this is not adequately managed it can give rise to adverse environmental effects, including the potential for combustion and adverse health effects.

Section 8.8 of the application addresses landfill gas management and is supported by a Landfill Gas Technical Memorandum in Appendix J, and by a Landfill Gas Management Plan, in Appendix R. The purpose of this plan is to manage the effects of landfill gas and includes information on the proposed management and monitoring regime to ensure that consent requirements are met, gas emissions are managed at the interface of land not owned by AB Lime and any defects in the landfill gas management system are rapidly detected and remedial action taken

The applicant currently flares landfill gas on the site, which is captured and reticulated to an enclosed principal flare which was installed in 2009. This activity is proposed to continue under the

proposed new consent suite. However, it is also proposed to reticulate landfill gas to the limestone drying kilns on the site, in order to utilise this energy source.

This is an area/ effect where the Riley Consultants technical review requested a range of technical information, to which the applicant has responded.

This is the key area where the ES technical reviewer does not consider that the Section 92 matters they have raised have been adequately addressed. However, as discussed on Page 4 above, I consider that if there is existing non-compliance with the existing air discharge consent, this is a matter to be addressed via that consent. As referred to above, the applicant has acknowledged that the requirement to comply with the National Environmental Standards for Air Quality would be factored into any new consents and has proposed conditions designed to ensure such compliance.

Noting the review comments received, I consider that landfill gas management will require close consideration at the decision-making stage. I consider that the effects will be minor subject to the measures as outlined in the application, including compliance with associated national air quality standard content.

- *Effects on Air Quality*

Landfills have the potential to generate adverse effects on air quality, such as significant odours which can be detrimental to human and ecosystem health and to amenity.

The application addresses odour management in Section 8.9 and associated Landfill Air Quality Technical Memorandum in Appendix K, and the draft Air Quality Management Plan which is included as Appendix U.

I consider this is an issue requiring close scrutiny, particularly noting the proposal to formalise the ability to receive emergency wastes as part of this application. As referred to above, this site has received emergency waste in the recent past. This has been to the benefit of the region as it has “had to go somewhere” quickly, and there are no other suitable sites in the region for the disposal of such wastes. However, this has given rise to some odour concerns from nearby residents, and hence it is important that if the consents sought are granted then appropriate odour management arrangements are in place both for management and mitigation of odours from normal solid waste/refuse and also for emergency wastes which could potentially take the form of biological and other odour-generating materials.

The application also seeks an air discharge consent for the discharge of odour masking agents under Rule 5.5.6 of the Operative Regional Air Plan, as referred to above.

In her technical review of the Air Quality information submitted with the application, Prue Harwood identified a number of Section 92 items, these have subsequently been addressed to her satisfaction

As referred to above, the National Environmental Standards for Air Quality 2004 are relevant to Environment Southland’s assessment of the air quality aspects of this application. The applicant acknowledges the requirement to comply with these standards for any new consents granted, and has reflected this in their proposed consent conditions.

Noting the technical review feedback and the applicant’s proposed conditions, I consider that the effects on air quality will be minor.

### *Ecological effects*

Section 8.11 of the application and the draft Landfill Operations Management Plan (Appendix Q) and Draft Landfill Concept Landscape Rehabilitation and Aftercare Plan (Appendix T) include content in relation to ecological effects. It is noted that the final rehabilitation regime includes use of indigenous species for landscaping.

The applicant highlights that they are not seeking to change the existing ecological environment, and that their management regime will include measures (such as limiting the exposed face) to mitigate the potential for vermin which could have adverse impacts on indigenous species and ecology, including in forest remnants in the area, if these vermin were to reach uncontrolled levels.

While the ecological aspects traverse Environment Southland and Southland District Council responsibilities, I consider that the ecological matters which fall within Environment Southland jurisdiction are closely linked to effects on groundwater and surface water, as referred to above, and ensuring that these are not adversely affected.

There are no specific known sites of ecological significance identified within, or adjacent to, the sites of the application. I consider that ecological effects will be minor.

- *Vermin, litter and bird management*

These matters all have the potential to generate adverse environmental effects if not appropriately managed, such as excessive bird populations, rat infestations, feral cats, and windblown materials leaving the site and depositing on adjacent properties and/ or in waterbodies or roadside water tables.

The application acknowledges this potential in Sections 8.3 and 8.4 and advises that they already have existing processes in place to manage these effects. The draft Landfill Operations Management Plan in Appendix Q includes content to address these potential effects, and includes management measures such as:

- limiting the size of the open face;
- pest management regime;
- covering of all trucks transporting material to the site to minimise windblown material potential.

Noting the extensive content included on these matters in the Operations Management Plan and that the applicant has established management regimes for the existing facility, I consider that the effects of vermin, litter and birds from the new consents sought will be minor.

- *Hazardous substances*

There is potential for landfills to receive hazardous waste, and if not appropriately managed this can potentially lead to significant adverse environmental effects. It is noted in this regard that this is not currently, nor is it intended to be, a public landfill which the public can randomly access and potentially deposit hazardous waste not known to the operator. The waste reception at the site is closely managed and is undertaken only by approved contractors so “fly dumping” of hazardous waste from vehicles is not a possibility.

The draft Landfill Operations Management Plan outlines the waste acceptance criteria (Section 4) of this draft and what types of materials will and will not be received at the site. The draft Landfill

Operations Management Plan Section 4.4.3 specifically covers hazardous waste and outlines that other than asbestos waste, medical waste and aluminium dross waste, no hazardous materials will be accepted at the site. (The applicant does note however that small quantities of hazardous waste discarded by householders can make its way into the municipal waste stream and then end up on the site buried in a larger volume of containerised material).

The draft Landfill Operations Management Plan (Sections 5 and 6) outlines the protocols for receiving special waste and crisis/emergency response waste, and how these will be managed to mitigate effects such as have been experienced with the recent receipt of emergency wastes referred to above.

Managing any hazardous substances/ waste is an important consideration for any large scale landfill. I consider that the application includes appropriate content to demonstrate that the adverse effects will be managed so that they will be minor.

### ***Adverse effects that have been disregarded***

For the purposes of making this recommendation, I have disregarded the following effects in terms of Section 95D of the Act:

- the effects on land owned by AB Lime, being both the site to which this application relates and also adjacent land owned or occupied by AB Lime. As outlined above, AB Lime owns much of the land adjoining the sites which are the subject of this application. This land is not used for the landfill/ limestone quarry, but does form a distance buffer in those locations between the operational landfill and limestone quarry and land not owned by AB Lime;
- the effects of trade competition e.g. any potential commercial effects on operators of other commercial landfill facilities and any commercial effects on parties holding contracts with AB Lime.

Aspects such as visual effect/visual amenity and associated landscaping, noise management, and traffic safety/management fall outside of the scope of the ES consents process and will be considered under the applications to the Southland District Council, as referred to above. These effects are addressed in the joint application document to Environment Southland and Southland District Council but have not been considered for the purposes of this report, being out of scope for Environment Southland considerations.

### ***Planning provisions (policies and objectives) relevant to adverse effects***

#### **National Policy Statement for Freshwater Management 2020**

The lodgement of this application predated the enactment of the National Policy Statement for Freshwater Management 2020 and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. However, I consider these instruments are relevant to this notification decision as obviously for landfills the potential for groundwater and surface water contamination are key effects requiring close scrutiny.

I consider that the technical review, as referred to above, was very important in terms of technically assessing the robustness of information submitted in relation to matters such as engineering of the landfill liner, leachate management and geotechnical engineering which, if not undertaken to the appropriate standard, could significantly increase risks of adverse effects to groundwater and surface water.

With regard to Te Mana o te Wai and the NPS, I consider this is a very important consideration in relation to this application. If any regionally significant landfill facility was to fail significantly, it could potentially

have very serious adverse effects on both groundwater and surface water quality. A fundamental component of the NPS FM 2020 is Te Mana o te Wai.

Te Mana o te Wai requires that decision-making under the Resource Management Act takes into account the 6 principles and the hierarchy of obligations as follows:

The 6 principles:

- a) *Mana whakahaere*: the power, authority and obligations of tangata whenua to make decisions that maintain, protect and sustain the health and wellbeing of, and their relationship with, freshwater
- b) *Kaitiakitanga*: the obligation of tangata whenua to preserve, restore, enhance and sustainably use freshwater for the benefit of present and future generations
- c) *Manaakitanga*: the process by which tangata whenua show respect, generosity and care for freshwater and for others
- d) *Governance*: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and wellbeing of freshwater now and in the future
- e) *Stewardship*: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations
- f) *Care and Respect*: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation

The hierarchy of obligations:

- a) First, the health and wellbeing of water bodies and freshwater ecosystems
- b) Second, the health needs of people (such as drinking water)
- c) Third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.

This emphasises that the health of waterbodies and freshwater ecosystems should be at the forefront of decision-making and this is highly relevant to this application noting the importance of appropriate landfill engineering and management to ensuring that such health and wellbeing is maintained as a minimum. The application seeks three water-related discharge consents to:

- discharge solid waste to land where the contaminant may enter water;
- discharge leachate to land within the landfill footprint where the contaminant may enter water;
- discharge leachate and contaminated storm water that may enter groundwater (leachate leakage).

It is noted that the applicant holds existing Water Permits 201348, 201349 and 201350 for taking of up to 40 cubic metres per day of groundwater, damming and diverting surface water, and taking up to 500 cubic metres of surface water. The application does not seek to surrender any of these existing water permits which, as outlined above, expire in June 2038.

Section 3.2 of the NPS FM requires every regional council to give effect to Te Mana o te Wai, and as part of this process factor the hierarchy of obligations into decision-making.

I have considered the potential adverse effects on groundwater and surface water in light of the NPS FM and Te Mana o te Wai.

**Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011**

These standards seek to ensure that land affected by contaminants in soils is appropriately identified and assessed before it is developed and create a set of nationally consistent planning controls and soil contaminant values to consider activities against. The application acknowledges these regulations, and advises that there is no change of land use under Regulation 5(Application) which would trigger the requirement for a resource consent under any of Regulations 9,10 or 11. The applicant hence does not seek any additional resource consents under these regulations.

### **Resource Management (National Environmental Standards for Air Quality) Regulations 2004**

This national air quality instrument is highly relevant to this application and is referred to and assessed in Section 7.2 of the application documentation. The application acknowledges the requirements of these regulations and the need to comply with them and these have been reflected in the applicant's suggested conditions.

As referred to above, the technical review has highlighted non-compliance with these standards in terms of the existing air discharge consent, but that is a matter for consideration in relation to the existing consent.

### **Relevant Regional Planning Instruments**

This is a large application seeking a range of approvals from Environment Southland as outlined above. Hence, there are a significant number of objectives and policies of relevance in the respective planning instruments. These objectives and policies provide context when assessing the scale of the effects of the proposal.

The applicant has in my opinion comprehensively assessed the policy framework in Section 10 of the application document (Pages 198-223) with respect to the objectives and policies framework, and I hence adopt that policy assessment for the purposes of informing this report and recommendation of this report rather than repeat them fully at length.

However, I highlight some key Objectives and Policies of particular importance to this application in my opinion as follows:

#### **Southland Regional Policy Statement**

- Objective WQUAL.1 - *Water Quality Goals*
- Objective AQ .1 - *discharge of contaminants*
- Objective WASTE.2 - *avoid, mitigate or where appropriate remedy adverse effects*
- Objective HAZ.1 – *Protection of the Environment*
- Policy WQUAL.1 - *Overall Management of Water Quality*
- Policy WQUAL.10 - *Siting and Operation*
- Policy AQ.1 - *Adverse effects of discharges*
- Policy WASTE.1 - *Adverse environmental effects*
- Policy WASTE.7 – *Appropriate minimum standards*
- Policy HAZ.4 - *Disposal of hazardous substances*

#### **Operative Regional Water Plan**

- Objective 2 - *Maintain Water Quality*
- Policy 1A - *Take into account iwi management plans*
- Policy 31C – *Manage discharge of contaminants onto or into land*



- Policy 46 – *Discharge waste and clean fill appropriately*
- Policy 48 - *Manage land contamination*

**Proposed Southland Water and Land Plan** (noting recent Environment Court Interim Decision 6/11/2020):

- Objective 2 - *The mauri of water provides for te hauora o te taiao (health and mauri of the environment), te hauora o te wai (health and mauri of the waterbody) and te hauora o te tangata (health and mauri of the people).*
- Objective 9B – *The importance of Southland’s regionally and nationally significant infrastructure is recognised and its sustainable and effective development, operation, maintenance and upgrading enabled.*
- Objective 13B - *The discharge of contaminants to land or water that have significant or cumulative adverse effects on human health are avoided*
- Policy 35 - *Ensure that sites used for the discharge of contaminants as waste or clean fill are appropriate.*
- Policy 36 - *Manage contaminated land.*

**Operative Regional Air Plan**

- Objective 2.4 - *Localised Air Quality- to avoid remedy or mitigate any adverse effects upon the localised air quality environment (including health and amenity effects) from the discharge of contaminants into air.*
- Policy 3.9 Odour - *Any discharge of odour which is likely to have an offensive or objectionable effect beyond the boundary shall be managed such that the effect is suitably avoided, remedied or mitigated.*
- Policy 3.12 - *General adverse effects on the environment – require any discharges of contaminants to air to avoid, remedy or mitigate adverse effects on:*
  - *the receiving environment;*
  - *human health and wellbeing;*
  - *cultural, spiritual and traditional values;*
  - *water quality;*
  - *navigable airspace.*

Policy 3.13 - *Localised air quality – require applications that seek to discharge contaminants to air to comply with the NESAQ and have regard to appropriate air quality guidelines.*

**Te Tangi a Taura (Ngai Tahu Murihiku Resource Management Plan)**

Te Tangi contains a specific Section 3.5.3 on solid waste management. In particular, Section 3.5.31 reads as follows:

*“Use Resource Management Act planning processes, including input to statutory plans, best practice guidelines, hearing panels, and resource consent conditions, to ensure that solid waste disposal does not adversely affect tangata whenua values”.*

### **Conclusion: significance of adverse effects on the environment**

In summary I consider that, having regard to the application documentation and extensive supporting information and also having regard to the feedback received from the peer reviews undertaken by the relevant technical experts for Environment Southland, that the adverse effects on the environment from the activities proposed by way of this application will be minor.

The relevant planning instruments make provision for landfills subject to suitable engineering and suitable mitigation of adverse effects.

#### **4. Special circumstances and public notification**

<b>4.1 Do special circumstances exist in relation to the application that warrant the application being publicly notified?</b>	<input type="checkbox"/> Yes	Application must be publicly notified. Explain reasons in 4.2 and go to 10.2
	<input checked="" type="checkbox"/> No	Explain reasons in 4.2. If each activity is a controlled activity go to 10.1. Otherwise go to 5.1

#### **4.2 Reasons why special circumstances do or do not exist**

I do not consider that special circumstances exist which warrant full public notification of the application in accordance with Section 95A (9) of the Act. The case law around special circumstances makes reference to activities which are exceptional, abnormal or unusual. Noting the existing landfill activities currently authorised on the site and that the planning instruments contemplate landfill activities as a discretionary activity, I consider there are no special circumstances.

I consider that the fact that the proposal is for a large landfill and that it will facilitate larger volumes of waste, including emergency waste, does not amount to special circumstances.

### **Affected Parties and Limited Notification**

#### **5. Protected Customary Rights Group or Customary Marine Title group**

<b>5.1 Is the activity in the coastal environment, within an area where it may adversely affect a protected customary rights group(s) or a customary marine title group(s) (see s95G)?</b>	<input type="checkbox"/> Yes	Go to 5.2
	<input checked="" type="checkbox"/> No	Go to 6.1
<b>5.2 May the activity have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011?</b>	<input type="checkbox"/> Yes	The customary rights group(s) is an affected customary rights group(s). Application must be limited notified on them. Record in 5.3 and go to 6.1
	<input checked="" type="checkbox"/> No	Go to 6.1

#### **5.3 Adversely affect a protected customary rights group(s) or a customary marine title group(s):**

## 6. Statutory Acknowledgement Areas

6.1	Is the activity on or adjacent to, or may it affect, a statutory acknowledgement area?	<input type="checkbox"/> Yes	Go to 6.2
		<input checked="" type="checkbox"/> No	Go to 7.1
6.2	Are the adverse effects on Te Rūnanga o Ngāi Tahu minor or more than minor?	<input checked="" type="checkbox"/> Yes	Include TRONT in 8.2 and go to 6.3
		<input type="checkbox"/> No	Go to 6.3

### 6.3 Reasons why adverse effects on Te Rūnanga o Ngāi Tahu are less than minor, minor or more than minor

The application does not include a cultural impact assessment but the application document advises that AB Lime will be liaising directly with Te Ao Marama, with the ability to do so being somewhat restricted during the COVID-19 lockdown period. The application also suggests that Te Ao Marama should be considered a potentially affected party for notification purposes, which I concur with.

I touched base with the applicant's consultant on 30 November 2020 in order to ascertain the current status of consultant with tangata whenua. The applicant's consultant advised on 30 November that Te Ao Marama and Hokonui Runanga have each been consulted and provided with access to the application documents, and have advised they will be providing feedback in due course.

As referred to above, cultural effects are an important consideration. I note that the application proposes accidental discovery protocol conditions. While the application does not identify adverse cultural effects which would be minor than minor, I am not qualified to assess that and have hence suggested that Te Runanga o Ngai Tahu through Te Ao Marama and Hokonui Runanga be considered as potentially affected parties in Section 8.2 below.


## 7. Is limited notification precluded?

7.1	Is each activity subject to a rule, NES or regulation that precludes limited notification?	<input type="checkbox"/> Yes	Go to 9.1
		<input checked="" type="checkbox"/> No	Go to 8.1

## 8. Are any people adversely affected?

8.1	Are the adverse effects on a person minor or more than minor (but not less than minor)?	<input checked="" type="checkbox"/> Yes	Go to 8.2
		<input type="checkbox"/> No	Go to 8.3

### 8.2 Person(s) considered to be adversely affected (complete and go to 8.3)

Person	Effect on person (see Note)	Reasons why effect is minor or more than minor	Has written approval been provided?
	Potential cultural effects	Potential cultural effects, Te Mana o te Wai	No

Person	Effect on person (see Note)	Reasons why effect is minor or more than minor	Has written approval been provided?
[REDACTED]	Potential cultural effects	Potential cultural effects, Te Mana o te Wai	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No

Person	Effect on person (see Note)	Reasons why effect is minor or more than minor	Has written approval been provided?
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No

Person	Effect on person (see Note)	Reasons why effect is minor or more than minor	Has written approval been provided?
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No
[REDACTED]	Nearby property owners	Potential effects on property owners	No

**8.3 Reasons why no other person is considered to be adversely affected**

I consider that the effects of the proposed activities for which Environment Southland consents are sought will be localised to the area surrounding the landfill site. Various adjacent properties are owned by the applicant, with a number of these having been purchased since the original consents were granted. I have identified as potentially affected those other parties within a 2 kilometre radius of the application site not already owned by the applicant.

The applicant has provided their own assessment of who they consider should be identified as potentially affected, based on sensitive receptors such as dwellings and previous complaint history which has mainly been “down valley “(the site rises generally to the north –east).

However, I consider that this should be expanded to include some other adjacent properties where there may not currently be dwellings within this radius, but where there could still be the potential for adverse effects on these owners during the lawful use of their properties, from effects such as odour. This is hence reflected on my suggested 19 affected parties outlined above.

**9. Special Circumstances – Limited Notification**

<b>9.1 Are there special circumstances that warrant limited notification of any other persons?</b>	<input type="checkbox"/> Yes	Application must be limited notified to those persons and any other affected persons. Go to 9.2
	<input checked="" type="checkbox"/> No	Go to 10

**9.2 Reasons special circumstances exist and persons to be notified**

As referred to in Section 4.2I do not consider that special circumstances exist, and I do not consider that there is any reason to notify other parties beyond those identified in Section 8.2 above

**Recommendation and decision**

**10. Officer’s recommendation**

<b>10.1 The application be processed non-notified</b>	<input type="checkbox"/>
<b>10.2 Public notification is required/recommended</b>	<input type="checkbox"/>
<b>10.3 The application be placed on hold while the applicant tries to obtain written approvals from the affected persons</b>	<input type="checkbox"/>
<b>10.4 Limited notification is required. Persons to be served notice are those listed in 8.2</b>	<input checked="" type="checkbox"/>



**Bruce Halligan**  
**Principal Consents Officer**  
**Date: 15 December 2020**

***Decision under Delegated Authority***

<b>11.1</b>	<b>I agree with the recommendation</b>	<input checked="" type="checkbox"/>
<b>11.2</b>	<b>The application will be processed non-notified</b>	<input type="checkbox"/>
<b>11.3</b>	<b>The application will be publicly notified</b>	<input type="checkbox"/>
<b>11.4</b>	<b>The application shall be placed on hold while the applicant tries to obtain written approvals from the affected persons</b>	<input type="checkbox"/>
<b>11.5</b>	<b>The application will be limited notified. The parties to be served notice are those listed in section 8.2</b>	<input checked="" type="checkbox"/>

This decision is made under delegated authority by:



Aurora Grant  
**Consents Manager**

**Date: 16 December 2020**