

RESOURCE MANAGEMENT ACT 1991

DECISION OF THE GORE DISTRICT COUNCIL AND SOUTHLAND REGIONAL COUNCIL

ON A RESOURCE CONSENT APPLICATION

APPLICATION REFERENCE:	LU 2020/012 & APP-20202268
APPLICANT:	Gore District Council
SITE ADDRESS:	Matāura River and River Street and River Terrace Road Reserves, Gore
LEGAL DESCRIPTION:	Matāura River margins and riverbed; River Street and River Terrace Road Reserve; Section 80 Blk XVI Town of Gore (RT SL14/120); Pt Block XXVI Town of Gore (Recreational Reserve NZGZ 1983 p 2175)
PROPOSAL:	To construct a new pedestrian and cycle bridge across the Matāura River and attach new water pipelines linking East Gore with Jacobstown Wells and Hilbre Ave reservoir, and including constructing a temporary causeway and installing temporary piles in the riverbed
ZONING:	Rural
TYPE OF ACTIVITY:	Land use consent for bridge construction under the Gore District Plan and land use consent to disturb the bed of the Matāura River, including bridge construction the placement of erosion control structures and having vehicles and machinery on a riverbed under the Regional Water Plan for Southland (2010) and the Proposed Southland Water and Land Plan (2018)
DATE OF HEARING:	16 and 17 December 2020
HEARINGS PANEL:	Commissioners Dean Chrystal (Chair), Reginald Proffit and Bonnie Mager
APPEARANCES:	<u>Applicant</u> Ms Sarah Eveleigh (legal counsel) Mr Matthew Bayliss (3 Waters Asset Manager, Gore District Council)

Mr Peter Standing (Roading Asset Manager, Gore District Council)

Mr Eli Maynard (Consultant Geotechnical and Water Resources Engineer)

Mr Daniel Crocker (Consultant Bridge Engineer and Architect)

Ms Della Bennet (Consultant Avifauna Ecologist)

Mr Michael Pentecost (Consultant Landscape Architect)

Ms Claire Perkins (Consultant Planner)

Submitters

Mr Ernest McManus

Mr Gary Weir and Mrs Wendy Weir

Mr David Gray and Mrs Lynn Gray on behalf of themselves and the Waimea Plains Natural Landscape Protection Society

Mrs Jenny Campbell

Mr Stephen Butler (Engineer)

Mr Rodney Bell

Mr Jack McIntyre

Mrs Joy Mockford

Mr Hamish Weir and Mr Maurice Broome (Hokonui Mountain Bike Club)

Council Officers

Ms Jade McRae (Senior Consents Officer, Environment Southland)

Mr Mike Moore (Landscape Architect, Gore District Council)

Mr Nigel Bryce (Consultant Planner, Gore District Council)

DECISION:

Approved

INTRODUCTION

1. We were appointed by the Gore District Council (Council) and Southland Regional Council (Environment Southland) to consider and make a decision on an application by the Gore District Council to construct a new pedestrian and cycle bridge across the Matāura River and attach new water pipelines linking East Gore with Jacobstown Wells and Hilbre Ave reservoir and including constructing a temporary causeway and installing temporary piles in the riverbed.
2. The actual site of the proposed bridge is within the Matāura River flood plain. The proposed bridge is a cable-stay design and would be 39 metres high, 90 metres long and three metres wide. The circular steel mast (32 metres high and 916 millimetres in diameter) would be positioned on a raised earthworks abutment on the western bank and would suspend high strength spiral strand cables (26.4 millimetre) to support the bridge. The cables would extend up to three quarters of the way across the bridge. The bridge would act as a support structure for the wider Gore Water Treatment Plant Upgrade project which requires the pipeline infrastructure to cross the Matāura River. It will also provide a new river crossing for pedestrians and cyclists in association with new cycle and walking paths which do not form part of this application.
3. The bridges steel mast would be anchored by a second smaller earthworks abutment. The two abutments being approximately 300m from the physical end of Surrey Street.
4. On the east side of the river the bridge would land on the stop bank adjoining Huron Street between its intersections with River Terrace and Church Street.
5. The eastern side of the river contains a number of residential properties in the vicinity of the proposed bridge. A number of these on Huron Street and Halton Streets are elevated and have outlooks towards the proposed bridge location and the Hokonui Hills beyond. On the western side of the river the nearest residential property is over 300m from the bridge structure and below the stop bank. The intervening flood plains is used for grazing purposes.
6. The Gore Water Treatment Plant Upgrade project involves centralising the treatment system at the existing east Gore treatment site on Wentworth Street which requires a pipeline across the Matāura River from the west Gore facility at Hilbre Ave.
7. The site is located within the Rural Zone of the Gore District Plan (District Plan). There was some conjecture as to the relevant provisions associated with the proposal. The application had applied for breaches of the Utilities Chapter of the District Plan on the basis that the bridge will have an attached water pipe and could therefore be considered as a support structure. However, it also sought breaches of rules within Chapter 4 – Land Use Activities. While he said it was open to interpretation as to whether the bridge fell within the definition of ‘utilities’ or not, Mr Bryce undertook his assessment on the basis that the bridge was a support structure and therefore fell

to be determined under Rule 7.9.8 (Other Utilities). He noted however that the application had been advanced on the basis that the bridge triggered rules in the District Plan for land use activities not permitted in the Rural Zone, however he noted that this did not carry through with the priority provided to the Utility Chapter and referenced a number of rules in Chapter 4 which were specifically exempted by the Utility Chapter under Rule 7.9.1. Mr Bryce stated that if we were to consider that the bridge was not a support structure then those rules of Chapter 4 would apply.

8. In her evidence, Ms Perkins said she agreed with Mr Bryce that the bridge should be considered a support structure and falls to be considered under Rule 7.9.8 with the associated relationship to other rules whereby only the rules in Chapter 2 Matters of National Importance apply. She noted, and we agree, that consideration under this rule, and the subsequent exclusion of others identified in the application, did not materially change the consideration or status of the proposal as it remained a discretionary activity. Mr Bryce subsequently recommended that we apply all relevant rules that are applicable to a Utility support structure and where the bridge may be caught by other rules in the District Plan.
9. In this context we accept that the bridge is a support structure for the attached water pipe. However, that is not now the only purpose of the bridge and it seemed to us that the opportunity to provide a shared cycleway/pedestrian link as part of the bridge project had assumed some importance. As we understood it, these aspects were not considered utilities by way of the definition. While we acknowledge Ms Eveleigh's submission in the right of reply that the District Plan does not require that the utility function of the structure be its "primary purpose" in order for the structure to fall within the definition of a utility, given the bridges dual role we consider it is prudent to consider both the Land Use Activities rules (Chapter 4) and the Utilities provisions (Chapter 7) in our assessment.
10. Given the above the following rules (including regional rules) are relevant to the proposal:

Gore District Plan

- Bridge construction is a restricted discretionary activity under Rule 4.11 and Rule 4A.9
- An activity not permitted in the Rural Zone is a discretionary activity under Rule 4.2.4
- The bridge structure is within 20m of the margins of the Matāura River and is greater than 3m in height or 6m² in area or involving earthworks is a discretionary activity under Rule 2.4.9
- The bridge breaches the daylight admission and is a restricted discretionary activity under Rule 4.7
- The bridge breaches the 6m setback from a property boundary and is a restricted discretionary activity under rule 4.7A.

- The bridge exceeds the 12m height limit and is a restricted discretionary activity under Rule 4.8(1)(b)
- The bridge exceeds standards under Rule 7.9.8 (i) height recession, (ii) height and (iv) ground coverage and height of the bridge as a utility support structure and is a restricted discretionary activity under Rule 7.9.8

Regional Water Plan for Southland (2010)

- Bridge construction is a restricted discretionary activity under Rule 26(b)
- The placement of erosion control structures is a discretionary activity under Rule 30(c)
- Vehicles and machinery on a riverbed are a restricted discretionary activity under Rule 45(b)

Proposed Southland Water and Land Plan (2018)

- Bridge construction and any associated bed disturbance is a restricted discretionary activity under Rule 57(b)
- The placement of erosion control structures is a discretionary activity under Rule 61(c)
- Vehicles and machinery on a riverbed are a restricted discretionary activity under Rule 77(b)

11. Overall, the application is a discretionary activity under the District Plan, the Regional Water Plan for Southland (2010) and the Proposed Southland Water and Land Plan (2018).
12. The application was publicly notified on the 19th of August 2020. Forty-four submissions were received by the Council with 25 being in opposition, 18 supporting, and one submission being neutral. Fourteen submissions were received by Environment Southland all in opposition.
13. The key concerns of the submitters in opposition were:
 - The visual effects of the bridge from existing residential properties.
 - The visual impacts of the bridge on the natural landscape including Outstanding Natural Features (Matāura River and its margins) and Outstanding Natural Landscapes (Hokonui Hills).
 - The design of the bridge.
 - That the bridge is out of character with the landscape.
 - Increased light and noise pollution.
 - The potential for birds to collide with the bridge structures.

- Effects on a known cultural and archaeological site downstream.
- The lack of Cultural Impact Assessment (CIA).
- The lack of consultation.
- Exacerbated flooding and erosion risks.
- No allowance for those with disabilities.
- Safety concerns in terms of access and egress.
- The bridge is in the wrong location.
- There are more direct routes for the water pipeline.
- Lack of appropriate assessment of alternatives.

14. Those supporting the applications considered the bridge:

- Would enhance the general outlook of the area and promote more use of the reserve areas.
- Would provide safer access for walkers and cyclists across the river than the existing crossing and help better connect east and west Gore.
- Had an attractive design and would become an attraction for both residents and visitors.
- Would allow more people to appreciate the beauty and uniqueness of the river.
- Would help improve Gore's water issues.
- Would enhance the cycleway and pedestrian network around Gore and provide alternative access for school students residing in East Gore to the towns Intermediate and Secondary Schools located in the west.

PRE-HEARING

Section 42A Reports

15. Reports prepared under s42A of the Resource Management Act (the Act or the RMA) had been circulated by **Mr Bryce** on behalf of the Council, supported by **Mr Moore**, and **Ms McRae** on behalf of Environment Southland. Mr Bryce's report recommended decline of the application, while Ms McRae's recommended approval. Matters of particular relevance stemming from the s42A reports are outlined in the following paragraphs.
16. In terms of the regional matters Ms McRae noted that the Water Conservation (Matāura River) Order (WCO) allows for discharges to be granted for the purpose of the construction of a bridge. She went on to say that the proposed instream works, which may disturb aquatic habitat and affect

water quality due to the release of sediments, would be localised, of short duration and will dissipate upon conclusion of the works. On this basis and given the mean flow of the river, she said that there would be no more than minor effects on water quality beyond the zone of reasonable mixing.

17. Ms McRae said that the Regional Council's Harbour Master had no navigational safety concerns with the proposed bridge design. She noted that without permanent piles in the riverbed the proposal would not impede river flows nor catch debris which might result in localised erosion, deposition and further diversion of water to adjoining land during flood periods. She informed us that the bridge had been designed to allow a 1 in 50-year (+ climate change) flood event to pass with 600 mm to spare above the flow and would allow a flow similar to the February 2020 flood (2,450 m³/s), which is the largest flow on record, to pass with 1500 mm to spare above the flow. She said that the Council's Technical Engineer had reviewed the bridge design and was confident that it would have no adverse effects on flows during future high flow events.
18. Ms McRae noted that the applicant had proposed that within 20 hours of a predicted flood event or high-water event during the construction period any temporary crane platform would be removed.
19. In terms of cultural effects Ms McRae noted that in relation to the archaeological site which had recently been discovered, that the applicant had proposed a consent condition that a suitably qualified Archaeologist be present on site during the excavation phase and that a standard Accidental Discovery Protocol was also proposed as a consent condition.
20. Ms McRae assessed the proposal against the various policies of the National Policy Statement for Freshwater Management 2020 (NPS-FM) concluding that:
 - there would be minimal long-term effects on river morphology and ecology due to the lack of structures in the bed of the river;
 - once constructed, the nature of materials used would not have any ongoing water quality effects;
 - the impact on the 'health and well-being' of the river would not be significantly altered in the long-term;
 - the proposal was consistent with Policy 15 in providing a safe alternative route for cyclists and pedestrians which links east Gore to the town centre and aided the connection of the water pipeline which will ultimately supply Gore with drinking water that will meet New Zealand Drinking Water Standards; and
 - there is a functional need for the bridge in the proposed location.

21. Ms McRae considered the proposal was consistent with the relevant policies of the Southland Regional Policy Statement (RPS) and both the Regional Water Plan for Southland (RWPS) and the Proposed Southland Water and Land Plan (PSWLP). She also assessed the Te Tangi a Tauria, Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan and said that the proposal was not inconsistent with its provisions.
22. In terms of Part 2 of the RMA Ms McRae considered that the activity would not significantly adversely affect the long-term *"life-supporting capacity of ... water"* as the effects on water quality, including the effects on habitat and ecosystems and the chemical components of water quality were minimal. She also considered that the development provided for the social and economic well-being of the local and regional community through the development of regionally important infrastructure.
23. Ms McRae considered sections 6(a), (b), (c) and (d) were relevant as the application directly concerned the use and development of the Matāura River and its margins. However, she said the function and purpose of the proposed bridge did depend on the preservation and protection of natural character and outstanding natural features being balanced against the desire to maintain and enhance public access to and along the river.
24. With regard to sections 6(e) and (g), 7(a) and (aa) and 8, Ms McRae noted that Te Ao Mārama Inc and Hokonui Rūnanga were included in the consultation for the application. She also pointed out that the river was a statutory acknowledgement area under the Ngāi Tahu Claims Settlement Act and that the WCO recognised that the river had outstanding fisheries and angling amenity features, and the proposed site was within the protected waters under the Order.
25. Ms McRae also considered sections 7(b), (c), (f), (g) and (h) were relevant and went on to say that while effects on outstanding natural features and amenity values are potentially significant at, and immediately around the bridge, the wider potential effects of the activities are considered to be temporary and no more than minor overall. Therefore, after taking a holistic assessment she considered that Part 2 was met.
26. Mr Moore considered the Align report in the application had overemphasised the adverse effects of the proposed bridge to a degree. He said that while it had rated effects across the attribute categories as adverse / moderate-low – adverse / moderate, he had assessed landscape effects overall as positive. He noted that neither he nor the Align report had arrived at a final assessment of the cultural / heritage / associative effects, given the lack of a cultural impact assessment on the tangata whenua cultural landscape values.
27. With regard to visual effects, Mr Moore's assessment of the Align viewpoints, along with two others, found that in general, the proposed bridge would be an element that will have positive visual amenity effects in the Gore landscape. Notwithstanding this, he agreed that the proposed

structure would have significant adverse visual amenity effects associated with its visual dominance, where it was in close proximity to residential dwellings.

28. Mr Moore noted that the Align report included a comparative assessment of an alternative bridge design but comes to no specific conclusion as to which is preferable as regards landscape and visual effects. He said his review found that the alternative design would not alter his assessment ratings. He also noted that the Align report did not address alternative bridge locations and said that in his view, given the finding of significant adverse visual effects from close proximity residential viewpoints, this was an important matter that needed addressing.

29. Mr Moore concluded that the proposal:

- Would have no more than minor adverse effects on natural character values.
- Does not represent inappropriate development in relation to the ONF values of the river (noting that given the absence of a cultural effects assessment, his conclusions regarding associative landscape values were provisional).
- Would not entirely maintain or enhance amenity values and would result in significant adverse amenity effects on close-by residential properties in East Gore.
- Was largely compatible with maintenance and enhancement of the quality of the environment, insofar as the landscape values are concerned.

30. Mr Moore generally agreed with the mitigation options proposed, including tree planting in some areas for screening, and care with lighting and colour. He went onto recommend that:

- Alternative bridge locations and the associated landscape and visual effects be explored, given the finding that the current proposal will result in significant adverse visual amenity effects on nearby residential properties.
- Further advice on the effects of the proposed development on tangata whenua cultural landscape values be sought and taken into account in judging the overall landscape and visual effects.
- Should the proposed development be approved:
 - (a) Require a lighting design that minimizes the visual impact on nearby residential properties.
 - (b) Require a unified colour scheme that enhances the visual 'lightness' of the bridge and which minimizes the colour contrast of the mast with the sky.
 - (c) Require a planting scheme appropriate to the scale of the bridge, the natural character of the area, and the flood protection requirements, that assists in integrating the

western embankment landform with its floodplain setting, enhancing natural character, and protecting the riverbanks.

(d) Explore mitigation planting possibilities on affected close proximity residential properties to minimize adverse visual effects.

31. Mr Bryce raised two procedural matters in his report. The first related to a lack of consultation which had been raised by submitters. Mr Bryce said that while the concerns were valid, in his opinion, there were no procedural issues linked with the consultation process advanced by the Applicant, other than to note that the Applicant has acknowledged in writing that consultation with Hokonui Rūnanga should have been undertaken sooner.
32. The second matter surrounded the issue of scope in relation to the introduction of feature lighting on the bridge as part of the section 92 response which followed the notification of the application. Mr Bryce was of the opinion that this new lighting provided for a materially different lighting response and was therefore outside the scope of the application as notified.
33. In terms of the effects of the proposal Mr Bryce in summary considered:
 - The positive effects of the potable water upgrade would be significant, and the enhanced connectivity of the bridge for pedestrian and cycle use would also provide for the social and economic wellbeing of the community.
 - The Matāura River is culturally significant, reflects the long association of Maori with the river and that this is in part demonstrated by its Statutory Acknowledgement.
 - The Applicant should provide more detail on the impact on cultural values following ongoing consultation with Hokonui Runanga.
 - The proposal would have no more than minor adverse effects on the natural character values of the Matāura River due to the level of modification of the river margin and very little indigenous vegetation remaining.
 - The proposed bridge would have positive effects on the landscape character and does not represent inappropriate development in relation to the ONF values of the river.
 - The visual effects of the bridge would vary between properties on Huron Street, however, the location and relative height of the bridge is such that it will significantly obstruct views and it is concluded that the effects of the bridge from this area would have significant adverse effects on visual amenity values.
 - In terms of lighting and vibration effects on amenity values of neighbouring properties, it is recommended that any lighting of the bridge be minimised to the extent that is possible and feature lighting should be avoided, in terms of mitigating amenity effects on adjoining residents.

- Relying on the technical responses provided by the Applicant, including the independent peer review provided by Geosolve, the proposal has been designed to avoid any increased risk of flooding and therefore has been designed to manage any significant risks from natural hazards and it is not considered to generate any adverse effects linked with natural hazards.
 - That subject to the imposition of conditions to respond to the issues raised in the Wildlands report, the effects on avifauna are less than minor.
 - That the Applicant has sought to respond to matters raised by Hokonui Rūnanga in its submission, and as a consequence it is concluded that (i) the impact on the known archaeological site, (ii) the ecological impact on flight paths of avian taonga species, and (iii) the safety of whanau and public users around Huron Street, can be appropriately responded to through conditions of consent offered by the Applicant.
34. In terms of alternative options, Mr Bryce considered, given the significant adverse visual effects raised on immediately adjoining residential properties, that the Applicant needed to provide a more detailed assessment of the alternatives considered to assist in demonstrating why the proposed site was the best practicable option.
35. Mr Bryce considered that the proposal was broadly consistent with the relevant objectives and policies of the Southland Regional Policy Statement, and was not contrary to the Gore District Plan, as a whole, although he did point to tensions with Policy 5.4(2) and 7.4(5) in relation to the significant effects on the visual amenity of adjoining residential properties. He also considered that the proposal was consistent with all the relevant Iwi Management Plan policies and was unlikely to impact upon these provisions or instream values recognised under the Matāura Water Conservation Order (WCO).
36. In terms of Part 2 of the RMA, Mr Bryce said that while the proposal had the potential to generate significant benefits to the Gore community, he was not persuaded, based on the evidence, that sustainable management of natural and physical resources would be achieved by granting consent. This, he said, was largely due to the significant adverse visual effects on adjoining residential property owners and the inability to mitigate those effects to an acceptable level.

THE HEARING

Procedural Matters

37. Mr Bryce had raised the lack of consultation in the procedural matters section in his s42A report. We agree that there is no particular procedural issue at play here in terms of the consultation process followed by the Applicant. However, we note that the consultation process with Hokonui Rūnanga was inadequate, something that the Applicant has now acknowledged.

38. In terms of the scope issue around lighting we agree with Mr Bryce that the introduction of feature lighting as part of the section 92 response was outside of the scope of the application and note that the proposal has now been amended to remove this lighting and that any proposed lighting is purely for functional purposes only.
39. A further procedural matter was identified at the opening of the hearing with Commissioner Proffit noting that he worked for WPS and that that firm had provided advise to Waka Kotahi NZ Transport Agency (Waka Kotahi) which while not part of the application did form part of Waka Kotahi's assessment of the bridge for funding. He declared that he did not have any involvement in that advise and had only recently become aware of it in reading the details of the project. Participants in the hearing were asked whether they had any concerns around this issue, to which no concerns were raised.
40. During the hearing, the Gray's raised a potential procedural issue regarding the description of the height of the bridge within the application documentation. Mr Bryce agreed that the AEE supporting the application did not make it explicit that the height of the bridge was taken from ground level, however he considered that there was sufficient information demonstrating how the Applicant had established this height in order to ensure that people would have a reasonable understanding of the proposal, as notified. We agree with Mr Bryce's conclusion.

Evidence

Applicant

41. Ms Eveleigh's legal submissions indicated that the proposed bridge and pipeline would enable Council to meet its obligations to provide safe drinking water under relevant legislation and standards. Ms Eveleigh said that the wider pedestrian and cycle network components including connecting pathways where not within the scope of the application however were presented to assist understanding of the overall concept and to show that matters raised in submissions were addressed.
42. Ms Eveleigh acknowledged a lack of early engagement with tangata whenua and referred to steps taken to address this including drawing attention to a letter tabled on behalf of Hokonui Rūnanga which confirmed improved engagement and the development of constructive relationship between Council and the Rūnanga. The process followed for wider community consultation was covered which acknowledged the imposition of Covid-19 restrictions and measures undertaken.
43. The requirements of clause 6(1)(b) of Schedule 4 of the RMA were addressed by Ms Eveleigh such that a description of possible alternatives is required where significant adverse effects are likely.

Ms Eveleigh submitted however that there is no requirement to choose the best use of resources, only to describe the alternatives¹.

44. Ms Eveleigh addressed the statutory assessment under section 104 of the RMA and matters raised in the respective Section 42A reports. She also addressed reference to Part 2 matters as part of section 104 of the RMA. Ms Eveleigh submitted that the respective planning instruments to this application were coherent and the objective and policies should be relied upon. She did note that for completeness, a Part 2 assessment had been undertaken by Ms Perkins.
45. Mr Bayliss put forward that the proposal represented a significant upgrade to the existing Council treatment plant. He said this was required in-order to meet legal obligations for the provision of reliable and safe drinking water.
46. Mr Bayliss expressed that a bridge was the preferred option as a means to convey pipes across the river as opposed to drilling of pipes under the river. Through questioning Mr Bayliss noted any potential savings made due to a more direct pipeline route, with a bridge located closer to the treatment plant, would be countered with greater costs associated with a greater bridge span needed at those locations. Mr Bayliss also commented that bridges in those locations would be unlikely to qualify for Waka Kotahi funding.
47. Mr Standring addressed the ability to use the bridge infrastructure to also provide pedestrian and cycle connection for the community and improve the disconnect between east and west Gore and added that this would align with national, regional and local policy direction. Mr Standring covered the project development process including public consultation undertaken pre and post Covid-19, the matrix of alternative sites considered and the funding criteria from Waka Kotahi.
48. Mr Standring, in response to questions, confirmed Safety in Design factors such as CPTED strategies had not been incorporated as part of bridge design and that a Denton Street option provided less direct passage.
49. Towards the end of the hearing, we recalled Mr Standring to seek further clarification on the work undertaken on the matrix of alternative sites. He indicated that no landscape or visual impact input have been sought for the alternatives.
50. Mr Crocker, who presented via video, said that the single span option avoided the need for supports within the river and floodplain. He went on to address the size and form of a cable-stayed

¹ Meridian Energy Ltd v Central Otago DC [2010] NZRMA 477 (HC)

bridge saying that it had a less solid form than alternative single-span bridge options and as such reducing visual impact.

51. In response to questions Mr Crocker said that effectively a cable-stay bridge and a tied arch bridge were the only options to avoid piling in the river, would have similar costs and both were technically feasible. He said that the tied arch bridge would project upwards of 15m above the deck, would have a greater visual intrusion but at a lower level and would require a greater level of piling. In terms of the alternative options, he said that the Denton and Maitland Street options would require two embankments rather than one and that the cost benefits of the proposed site were better.
52. Mr Maynard said that the hydrological and hydrological considerations of the bridge design were in accordance with New Zealand best practise. He addressed the bridge design in regard to the floodplain and potential flooding. Mr Maynard in response to questioning gave insight to the structure and structural integrity required for an embankment required within the floodplain.
53. Ms Bennet addressed potential effects on avifauna from the bridge's construction, maintenance and operation and concluded that the adverse effects on river birds had been appropriately researched and that the conditions proposed were appropriate to mitigate any effects on river bird species. She confirmed her report submitted with the application was a desktop-based study and in response to questions confirmed no surveys had been undertaken regarding roosting / nesting birds in and around the site.
54. Mr Pentecost addressed the visual effects of the bridge in its proposed location in light of properties in close proximity and its impact on wider landscape. He considered that the proposal would have moderate or moderate-high visual effects on around five to ten residential properties in the vicinity of the eastern approach to the bridge and that it was likely that these residents may perceive these visual amenity effects as adverse.
55. Mr Pentecost provided an assessment of three potential alternative locations he had considered from a landscape / visual perspective. These were Rock Street (Option A), Denton Street (Option B) and Maitland Street (Option C). He said that none of the alternative sites presented a clear advantage over the preferred site (in landscape and visual terms) and that in terms of connectivity, positioning the bridge further away from the central business district may reduce opportunities for access to a diverse range of users. He also noted that the further the structure was positioned from the built form of the residential and commercial areas, the less likely it would be readily absorbed into the rural landscape.
56. In response to questions, Mr Pentecost said that Option B was the closest to the preferred option in terms of visual and landscape effects, but that Option A was the best in this context. He also considered that a tied arch bridge would be a worse outcome.

57. Ms Perkins summarised the application, the consultation undertaken, and the relevant statutory framework that applies. She conveyed the Applicants engagement with respective tangata whenua entities, in this instance Hokonui Rūnanga, had improved with a Council wide iwi Engagement Strategy being developed.
58. Ms Perkins acknowledged that the proposed bridge would have a noticeable effect on the views of nearby residents and the perception of an open and expansive landscape but considered that all other effects could be appropriately addressed. She also considered that the proposal was broadly consistent with the relevant objectives and policies of the Regional Policy Statement, Regional Plans and the District Plan.
59. In response to the Section 42A report of Mr Bryce, Ms Perkins considered the application was consistent with the policies and recommendations of the relevant Reserve Management Plan. She also stated that Ministerial signoff is not required for recreation reserves vested in a local authority.

Submitters

60. Mr McManus was concerned about the visual impact of the proposed bridge on the area and the large impact it would have on an otherwise natural, rural landscape. He also raised concerns about the placement of obstructions within the flood plain and the impact this may have on future flood events. He suggested that two alternate possibilities were not explored enough and would have less impacts on both issues. The first was a waterpipe only bridge at the Maitland street crossing, and a second was close to the current bridge near Rock street.
61. Mr and Mrs Weir expressed concerns about the visual effects the dominating bridge structure would have on the natural rural setting and considered the pipeline should be drilled under the river. They were also disappointed at the lack of consultation with the community around the proposal, with affected residents informed of the bridge only after a decision had been made on the location and design. They also had concerns about the safety of pedestrians and cyclists on the street as they exit the bridge and the ongoing cost of maintaining paths due to flooding. In response to question the Weirs felt there was no disconnect between east and west Gore.
62. Mr and Mrs Gray expressed their concerns around the lack of community consultation. They said they were only made aware of the proposal once the location and design had been confirmed. They rejected the notion that meaningful consultation was undertaken. They felt that the location and design of the bridge would cause significant visual impacts that would be unable to be remedied or mitigated. They also expressed concern around the Council's attempts to investigate alternative placements of the bridge. In response to questions about the alternatives, the Gray's considered Mr Pentecost's Option C provided a direct route for the pipeline although it might still have a visual impact, while they felt Option B was still too close, although the impact on their privacy would be less.

63. Mrs Campbell expressed concerns about the lack of a Cultural Impact Assessment (CIA) and the inefficient consultation on the proposed bridge. She considered that other options for the bridge should have been further explored and in her view the bridge should be located further south. She felt that it was unlikely school children would change their habits and utilise the bridge in the proposed location.
64. Mr Butler, a retired engineer, provided expert evidence on behalf of Mrs Campbell in relation to light pollution. He raised concerns around adding more blue light into the natural landscape, due to its disrupting effects on the ecosystem, in particular avian species.
65. Mr Bell raised concerns around the visual impact the bridge would have on his proposed home and that it would become a focal point rather than blend in with the natural landscape. He had concerns about how the lighting associated with the bridge would affect the natural ecosystem. He also expressed concerns around the need for a cycleway due to a lack of cycle density currently in the area, and issues around safety and accessibility of potential bridge users. He said that alternatives had not been satisfactorily investigated and that his preferred option was a trench for the pipeline through the river but that he would consider an arch design in the Option C location.
66. Mr McIntyre considered underground trench had not been properly investigated as an option for the water pipeline, and he felt that this could be more effective, cost efficient and have less impact on the river and ecosystem. He provided details and diagrams as to how this could be achieved.
67. Mrs Mockford said that there were lots of trucks using Huron Street and that this would create a danger for cyclists and pedestrians at the point of connection to the bridge.
68. Mr Hamish Weir and Mr Broome said that the proposed bridge would help promote active transport in the Gore area. They considered the proposed location was best suited to local children who would be able to use the bridge to get to school safer and easier. They said they were seeing an increase in cycle demand and believed the bridge would further promote active lifestyles in the future. They also indicated that they had been a part of consultation work with Waka Kotahi to help pinpoint this area as the best location for a new cycle way. The proposed bridge they said would provide a safer alternative to the current bridge and help promote tourism in the area.
69. We also note a letter tabled by the Hokonui Runanga which indicated that since the consents were lodged, there had been ongoing discussions between the Rūnanga and the applicant in order to resolve the issues identified in the Rūnanga's submission. The Rūnanga accepted that the lack of early and ongoing consultation was an administrative oversight and noted that it was not now an appropriate process to request a CIA to be prepared after the lodgement of a consent because the CIA should inform the AEE, not respond to it.

70. The letter went on to note that a hui had since been held between the applicant, bridge designer and the Rūnanga to discuss how to address the other concerns raised in the submission. A focus of the discussions was how the cultural effects could be assessed for the purpose of the resource consent process, the effects on the nearby archaeological site, effects on taonga bird species, safety at Huron Street, and the expression of a cultural narrative in the bridge design.
71. As a result of the above, the Rūnanga has sought involvement in the design of the bridge to assist in mitigating any potential negative effects. It considered such input should result in an appropriate cultural narrative and interpretation and suggested that the following condition or similar be imposed on any consent:

That in the design of the bridge, the applicant shall consult with Hokonui Rūnanga and seek their input into a cultural narrative and interpretation to reflect mana whenua values of the Matāura River and surrounding area.

72. The Rūnanga also noted that in any design, consideration needed to be given to the location of lighting, particularly downward lighting to the river, as this can affect migratory pathways of taonga fish species, and suggest a condition is included to address this matter. It further accepted that the effects on the archaeological site and other potential sites had been addressed through proposed conditions and that its concerns around bird flight paths had been addressed.
73. The letter concluded by saying that Hokonui Rūnanga now adopted a neutral position but if consent was to be granted, requested the above matters were addressed.

Council's Response

74. In response to the question as to whether the proposed bridge was permitted by the Regional Plan rules, Ms McRae said that the application as proposed triggered Rules 57, 61 and 77. She noted however that if temporary piles were not required and vehicles were removed from the river environment to refuel then no regional consent would be required. Ms McRae went on to refer to the NPS-FM and in particular sub-clause 3.24, stating that the proposal did not in her view affect the extent of the river or lead to a loss in the qualities that people value. In her opinion, the proposal was consistent with sub-clause 3.24.
75. Ms McRae said that the alternative option of trenching pipes through the river, which she said was not permitted by the Regional Plan as some had indicated, would not be consistent with the NPS-FM and would contravene the regional policies. She also referred to the Southland Flood Control and Management Bylaw stating that authorisation, which had yet to be applied for, was required under this bylaw for the bridge and that ongoing communication between the Applicant and Environment Southland had been occurring which should make the acquiring of the authorisation

straight forward. But she noted that it was not an automatic rubber-stamping process even if the resource consent was granted.

76. Finally, Ms McRae said that the raising of the Matāura River stop banks by 500mm had been approved as a Central Government shovel-ready project. She did not consider that the raising of the stop banks would change the scope of the adverse effects associated with the proposal.
77. In response to questions, Ms McRae did not consider the bridge was going to impact of the Matāura River as an Outstanding National Feature because there were no piles proposed within the river itself. She also said that it was not unusual for this type of structure i.e., a bridge being within this type of environment. She did however express some concerns at the potential for sediment release during a flood event but considered there were sufficient mechanisms within the proposed conditions, including up-river gauges, to address potential adverse effects during a flood.
78. Ms McRae, in addressing questioning around the Policy 28 in the PSWLP, considered the word “margins” added to capture the wider flood plain, whereas Policy 32 in the RWPS did not do so. Ms McRae also considered proposed conditions 14 and 16 were trying to achieve the same thing.
79. Mr Moore in his response discussed the alternative sites identified in Mr Pentecost’s evidence as set out below:
 1. Rock Street site (Option A) – Mr Moore said the landscape was similar to the proposal site, but was less open and rural, the river was narrower and the main body of a bridge including the high mast would be in a commercial setting. He also noted that there were more trees and other existing bridge structures. He considered this site from a landscape perspective would result in less visual effects and less visual amenity effects on nearby residents and fewer people affected.
 2. Denton Street site (Option B) – Mr Moore said the site was further away from houses and similar in terms of landscape character effects in how it fitted into the landscape. He considered this site had advantages over the proposal site by having lower visual amenity effects but acknowledged that it was further away for some residents to access and there was a loss of passive observance.
 3. Maitland Street site (Option C) – Mr Moore said this was more of a rural setting and that the current design would not fit well into the character of this location, but that it would improve visual amenity for residents. In response to questions, he considered the arch or suspension bridge designs would fit better into this location than the cable-stay design.
80. Mr Moore went onto say that he considered the proposed design was elegant due to its form and the way it responds to its function and that it was an “*efficient and no more than needed structure*”.

He said the asymmetric design was interesting and it was a visually light structure and an interesting design response to the engineering problem.

81. In response to a question as to whether the proposed bridge was the best design option in the proposed location given the proximity to residential properties, Mr Moore said it was a close call and that from some viewpoints one design was better than the other, for example for those viewpoints that only see the top of the mast would have less impact from the arch bridge. From the most affected viewpoints on Huron Street, he considered the lack of structure on the eastern side of the river of the proposed design was positive.
82. In response to a question regarding the view with and without the bridge, Mr Moore said it was an attractive view and while the bridge does not block it as you can see through it, it does change that view in that the structure becomes a focal point which competes with the Hokonuis. He went onto say that if you are a resident who is affected it's very significant but that it was less significant if you were a traveller on the street or walkway.
83. Mr Moore said that the visual dominance of the structure when you are close to it was significant particularly where the deck is blocking the horizon line and also the top of the mast was a dominant feature. When asked whether the visual effects of the bridge in the proposed location on nearby residents outweighed the wider positive effects, Mr Moore said the effects were significant to a small number of viewers which was a cause for concern and that he gave that a lot of weight due to the high effect. He said that if another location could be found that reduces those effects it would be a much better outcome and that more work needed to be done on this. He did indicate that he preferred the cable-stay design to the arch design because it placed the bulk of the bridge on the western embankment.
84. Mr Moore considered more could be done to the proposal site to better integrate the western embankment in terms of planting and natural character but said that would not really impact on the visual amenity effect.
85. We asked whether Mr Moore and Mr Pentecost would be able to identify the most affected properties. We subsequently received a joint signed statement from Mr Moore and Mr Pentecost which indicated that they considered the proposed bridge would have significant adverse effects on nine properties in Halton and Huron Streets and that a further approximately nine properties would be subject to effects that were more than minor. We note here that both landscape architects did not think further visual simulations would change their view.
86. Mr Bryce in his response largely referred to his original conclusions. He did however address some matters which had arisen during the hearing. This included cultural effects where he noted that Hokonui Runanga had now submitted a revised neutral submission, which confirmed that the involvement of the Rūnanga via conditions in an amended bridge design would assist to mitigate

any potential negative effects of the proposed structure on cultural values and that this input should result in an appropriate cultural narrative and interpretation.

87. Mr Bryce also said there could be a danger in only considering the utilities chapter and a decision could become open to challenge if this was done.
88. In terms of alternatives, Mr Bryce noted that Mr Moore had considered the alternative options presented by Mr Pentecost. Based on his photographs and site visit (which was focussed on the current site) Mr Moore had considered overall, from a landscape / visual effects perspective, that Options A and B offered advantages over the current option and that Option C was too far removed from the urban context for the bridge to integrate well with its setting. Mr Bryce noted that Mr Moore considered that Option B may provide the best solution overall, in terms of connectivity, integration with landscape character and acceptable visual amenity effects on residential viewpoints.
89. Mr Bryce noted that while there were a range of other factors that would also need to be weighed in this mix when considering alternatives (including issues of cost, whether from a transport perspective there will be sufficient pedestrian engagement and matters relevant to placement of additional embankments in the flood plain), it was evident that alternatives did exist to mitigate the visual effects of the proposal through a bridge option that was located further away from residential properties. However, he went onto say that there was no scope for us to grant consent to an alternative location.
90. Mr Bryce considered the evidence presented by the Applicant on alternatives had provided greater clarification as to the options that had been considered, however, he considered that it would also be helpful for the Applicant to clearly identify, where Options B and C sit within the 20 sites considered as part of the multi criteria analysis undertaken as part of the Business Case to support the current proposal.
91. In response to Ms Perkins evidence, Mr Bryce did not agree that the significant benefits to the Gore community and the assessment of alternatives demonstrated that the proposal broadly achieved the purpose of the RMA. Mr Bryce concluded by saying that he maintained his recommendation that the application be declined. He went on however to address conditions should we be of a mind to grant consent.
92. In response to questions, Mr Bryce said that it was the view residents had against the enhanced backdrop of the Hokonui Hills which was of issue and that it would be different if that view was of an industrial area.

Site Visit

93. We undertook two site visits of the application site and the surrounding environment. The first was prior to the hearing beginning on the 15th of December 2020 where we viewed the application site from both sides of the river and looked at the surrounding area. On the second site visit we visited the properties of three submitters and looked at three of the alternative locations considered by the applicant to locate the bridge.

Post Hearing Minute

94. We adjourned the hearing on the 17th of December 2020 to enable the planners involved in the process to confer on conditions and then enable the applicant to provide a right of reply. We issued a minute to that effect on the 21st of December 2020.

Right of Reply and Response

95. The Applicants right of reply was received on 29th of January 2021 and contained three pieces of additional evidence along with a right of reply. The evidence received was from Mr Bayliss, Mr Standring and Mr Crocker and addressed the issue of alternative locations, primarily options A, B and C, for the proposed bridge.
96. As a result, and in fairness to the reporting officers and submitters we issued a further minute enabling submitters and the Council to comment on the three new briefs of evidence. We made it clear in the minute that comments were to be limited to the matters covered by the new evidence.
97. Mr Bayliss's supplementary evidence identified the length of pipeline associated with each option and a cost breakdown for the pipeline and bridge for each option. The costs showed that the preferred option was the least expensive without any Waka Kotahi funding. He also noted that the option of direct drilling had been ruled out because of the risks associated with costs which could not be fixed due in particular to unknown soil types.
98. Mr Standring's evidence was that pedestrian and cycle connectivity would be strong at Option A and the preferred option, although he noted that Option A would have accessibility issues connecting with Rock Street. He considered Option B represented an indirect route and with Option C it was unlikely there would be any cycling or walking demand. Mr Standring pointed out that the approach areas to Options B and C were amongst the first areas to be inundated when there is any flooding, meaning there would be several times each year when the bridge's approaches would be blocked.
99. In addressing the costs identified by Mr Bayliss, Mr Standring considered Option A alongside the preferred option would be considered favourably for Waka Kotahi funding, but that Option B and

C would unlikely attract such funding. Taking this into account, he indicated that the total estimated costs would be:

- (a) Rock St - \$6,002,550 with funding;
- (b) Preferred location - \$4,165,000 with funding;
- (c) Denton St – with funding \$4,214,000, without funding \$6,799,110; and
- (d) Maitland St – without funding \$6,332,630

100. Mr Crocker indicated that in terms of Option A, the bridge would need to span River Terrace road to prevent closure of this road and that a single span of 160m was an order of magnitude more complex than a 90m span. He said it would likely require an intermediate pier in order to meet wind and pedestrian vibration best practice which created a barrier for water passage in flood events. He also said that due to differing height levels on each side there were complexities in achieving an accessible pathway gradient and that overall, these various complexities would add in order of \$1.8 million to the current capital cost.
101. Mr Crocker said that Option B would require a 10m wider bridge span and that the requirement for an eastern embankment would add approximately \$1 million to the current project cost. He also considered that from east-west cycleway connectivity perspective this option would appear to be less desirable when compared with the preferred option. He did note that from a technical perspective, Option B was the most consistent with the proposed design.
102. In terms of Option C, Mr Crocker said a 20m wider bridge span would be required and the requirement for an eastern embankment would add approximately \$1.3 million to the current project cost, but that from a hydrological perspective this option was preferable to Option A and B. He said that from an east-west cycleway connectivity perspective this option would appear to be very poor when compared with the preferred location.

Legal Response

103. Ms Eveleigh addressed a number of matters in her right of reply including those summarised in the following paragraphs.

Consideration of Alternatives

104. Ms Eveleigh submitted that the evidence on the consideration of alternatives had established that a bridge was preferred over laying a pipeline within the bed of the river or drilling a pipeline under the bed; that a single span design was preferred, for a range of flood management, ecological, water navigation and cultural reasons; that a cable-stay bridge was the most visually permeable and in most locations, readily absorbed into the existing landscape and; that a bridge which supported water pipelines only would be a similar structure to that required for the dual purpose

of pipelines and pedestrian/cycle connection, but would not provide the corresponding benefits of the dual purpose structure.

105. Ms Eveleigh went on to say that the only issue regarding alternatives that remained for consideration was the location of the bridge which had now been addressed in evidence. She then referred to the *Meridian Energy Limited v Central Otago District Council* case as providing guidance on how this evidence should be considered.
106. Ms Eveleigh said that the evidence was that the alternative locations considered would likely result in lesser adverse visual effects on immediate residents than the current proposal. However, these alternatives resulted in a diminution in the range of benefits of the proposal along with some additional challenges. She said we should be mindful of the High Court's direction that consideration of alternative sites should not be "*pushed too far*", noting that the assessment of alternatives undertaken is an initial desktop exercise only.

Primary purpose of the proposal and application of the Utilities chapter

107. Ms Eveleigh submitted that both planners agreed that the bridge was a structure associated with water supply, and therefore falls within the definition of a utility and should be assessed as directed by the Chapter 7 rules. She noted that the District Plan did not require that the utility function of the structure be its "primary purpose" in order for the structure to fall within the definition of a utility. She submitted that the relevance of the additional function of the bridge (pedestrian and cycle movement) goes to the s104 assessment of the application, and the consideration of alternatives and that a water supply bridge with no pedestrian or cycle linkage is another alternative we may consider. However, she said the dual function of the bridge does not alter the application of the Chapter 7 rules.

Is a Part 2 assessment required

108. Ms Eveleigh submitted that due to the proposed Southland Water and Land Plan, including provisions relevant to the assessment of this application, remained subject to appeal, adherence to Part 2 was yet to be confirmed by the Court and therefore a Part 2 assessment should be undertaken for completeness, but that it should be focussed on the applications to Environment Southland only.

Timeframes for water supply upgrades

109. Ms Eveleigh noted that the Health Act 1956 requires that every drinking water supplier complies with the drinking-water standards and prepares a water safety plan in relation to the water supply which is approved by a drinking-water assessor. She indicated that the Gore Water Safety Plan approved by the drinking-water assessor in September 2018, listed an intended completion date

of June 2020 for the Gore Water Treatment Plant upgrade. She submitted therefore that the upgrades to achieve compliance with the drinking-water standards are required as soon as can practically be achieved.

Conditions

110. Ms Eveleigh supplied a revised set of conditions as part of the right of reply which incorporated a number of changes and noted that they had been provided to Mr Bryce and Ms McRae, who had confirmed they had no further changes to the drafting.

Response from Council and Submitters

111. There were five responses from submitters and one from Mr Bryce to our minute enabling the Council and submitters to comments of the new evidence.
112. Mr Bryce having read the new evidence said that he continued to recommend the application be declined.
113. Mr Bell raised concerns about the costs supplied in the evidence and questioned why not all options had been priced with NZTA funding added. He felt that the carrying of water was the main use of this bridge and because of this the proposed location and design was not the best fit.
114. Mr McIntyre also questioned the bridge costs supplied and provided his own analysis of what the bridge costings would be.
115. Mr Kemp reinforced his opinion that drilling pipes under the river was the only option that should be considered for the water pipes.
116. Mr and Mrs Gray, on behalf of themselves and the Waimea Plains Landscape Preservation Society Inc, initially objected to the allowance of the new evidence suggesting that there was no ability for us to consider other bridge locations other than that set out in the application. They submitted that the three pieces of evidence should be struck from the record.
117. We consider it is appropriate to clarify this matter at this point. Firstly, an applicant may call evidence on a particular issue arising during the course of the hearing which has not been previously covered. At the point of the right of reply the hearing is not closed. However, what we did need to ensure was a process of fairness to all those involved by providing an opportunity for both submitters and the Council to comment on that evidence, which we have done.
118. Secondly, the consideration of alternatives, as discussed in detail below, is a legitimate part of this process where the effects are considered to be significant and is required by Cl 6(1)(a) of the Fourth

Schedule of the RMA. However, while we can consider the alternatives as part of our assessment and take those into account, in our decision we are not able to consent a different option.

119. Notwithstanding the above, the Gray's raised concerns that the additional evidence did not show any research into the underground pipeline option, or the option of a pipeline only bridge. They also raised concerns around the pricing provided by Mr Standing and its accuracy.

Hearing Closure

120. We issued a minute closing the hearing on the 15th of March 2021.

DISCUSSION

121. In considering this application, we are mindful that we have to consider the matters set out in sections 104, having regard to Part 2 and 104B of the Act in making our decision, and may impose conditions under section 108. As a discretionary activity there are no restrictions, and we are able to consider all aspects of the proposal.
122. We may also disregard any adverse effect of the activity on the environment if the District Plan or Regional Plans permit an activity with that effect in accordance with s104(2) of the Act (known as the 'permitted baseline'). In terms of the permitted baseline, we agree with Mr Bryce that the permitted baseline is of limited relevance.
123. Section 104(3) of the Act provides that a consent authority may not have regard to any effect on a person or body who has given written approval to the application. In this context we have not considered any effects associated with Fish and Game New Zealand or the Department of Conservation.
124. In terms of the *Davidson decision*² the Court of Appeal decision found that the High Court erred when it determined the Environment Court was "*not able or required to consider Part 2 of the Resource Management Act 1991*" when undertaking its decision-making role in accordance with section 104 of the RMA. The decision means that when considering resource consent applications, decision-makers "*must have regard to the provision of Part 2 when it is appropriate to do so*".
125. In respect to the Davidson decision, we sought advice from Ms Eveleigh on whether the fact that there were two regional plans in place in Southland and that a key policy in the PSWLP (Policy 28) remained under appeal mean a broader assessment under Part 2 was necessary. Ms Eveleigh advised that as provisions of the PSWLP relevant to assessment of this application remain subject to appeal, adherence to Part 2 is yet to be confirmed by the Court. Accordingly, in her submission

² R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316

a Part 2 assessment should be undertaken for completeness, but that it should be focussed on the applications to Environment Southland, as it was only the Southland Plan which has not been confirmed as giving effect to Part 2.

126. We accept that in terms of s6 (RMA) there are matters of national importance in play and that s8 (RMA) Treaty of Waitangi matters associated with the proposal need to be considered.
127. We also record that we have read all submissions and have taken them into account in the following assessment.

Assessment of Effects on the Environment

128. We consider the primary matters to consider in this case are the consideration of alternatives, effects on visual amenity, landscape and natural character including section 6 matters, privacy, ecological impacts, hydrological effects, noise and lighting, cultural effects, construction effects and positive effects. These are considered in turn below.

Consideration of Alternatives

129. Consideration of alternative options is mandated in the Fourth Schedule Cl 6(1)(a) of the RMA where an activity may result in significant adverse effects on the environment as is the case here³. The Assessment of Environmental Effects has to include a description of any possible alternative locations and methods for undertaking the activity.
130. In the High Court case *Meridian v Central Otago DC* [2010] NZRMA 477 (HC) referred to us by Ms Eveleigh the Court stated that:

(c) Meridian is not obliged to go beyond a description of any possible alternative locations for undertaking the proposed wind farm (in terms of cl 1(b) of Schedule 4). As indicated in [93] these locations will need to be within the CODC district. Given the size of the Meridian proposal and its potential impact on the environment, we anticipate that a reasonably detailed description of alternative sites would be provided by Meridian.

(d) Any further evidence concerning alternative locations will form part of the Court's s 104 analysis of the Meridian proposal (not part of the s 7(b) assessment). The inquiry will be whether, if the same or a similar wind farm could be placed on any identified alternative site/s, it would generate less adverse effects on the environment. That consideration will, however, need to be weighed against any diminution in the benefits of the project (e.g. poorer quality

³ Both landscape architects agreed that there were significant adverse effects on nine residential properties

of mean wind velocity, distance from the grid etc), and any other relevant considerations such as the availability of the alternative site/s to Meridian.

(e) As the Environment Court acknowledged, and our analysis of the other wind farm cases demonstrates, consideration of alternative sites is relatively unusual. While it will be for the Environment Court to undertake any further analysis of the evidence before it, we emphasise that consideration of alternative sites should not be pushed too far. We have rejected the proposition that Meridian must demonstrate that the Hayes site is “the best”. Rather than being a search for “the best” site, consideration of alternative sites is only part of the evaluation of the merits of the application in the context of s 104 and the focus needs to be on the merits of Meridian’s proposal.

131. For the purposes of this assessment, we have adopted the approach in Meridian and have considered the matter of alternatives and as part of our s104 analysis.
132. In our view, the AEE accompanying the application seems to have originally assumed that the activity did not result in significant adverse effects on the environment and the assessment of alternatives only appears to have been undertaken “*in order to satisfy the concerns raised by nearby residents regarding the proposal*”⁴. This is despite the Landscape and Visual Impact Assessment prepared by Align rating the adverse landscape and visual effects from viewpoint 3 as high⁵. While this perhaps highlights one of the problems encountered between the landscape point scale system and the RMA terminology, we consider a rating of high for adverse landscape and visual effects would equate to significant adverse effects, something later confirmed by both Mr Pentecost and Mr Moore at the hearing.
133. In our view, this lack of recognition in the AEE of significant adverse effects led to the assessment of alternatives failing to consider the key visual effect issue. While this was then partially addressed in the subsequent evidence of Mr Pentecost, the alternatives considered by him are somewhat different from those in the AEE.
134. In addition to the above, the original assessment of options contained in the Multi-Criteria Analysis (MCA) matrix presented by Mr Standring at the hearing and detailed in the Longford Shared Path – Single Stage Business Case report prepared by Stantec⁶ does not appear to have considered potential landscape and visual effects, something confirmed by Mr Standring when we recalled him. This is despite the fact that the Stantec report was already indicating for both the Rock Street

⁴ Page 36 of application

⁵ Page 25 of Landscape and Visual Impact Assessment

⁶ Appendix F of the application document

and Surry Street options that *“to avoid an exceptionally deep and ‘heavy’ looking structure, it is likely that a complex structural engineering solution, in the form of an arch, stressed ribbon or double pylon cable stayed bridge would be required to support this length of clear span”*⁷. In other words, the type of bridge structure likely to be necessary was known at that time. [emphasis added]

135. We consider Mr Bryce and Mr Moore were correct in concluding that due to the potentially significant adverse effects on immediate residents that this warranted further consideration of alternative sites. The requirement in clause 6(1)(a) of the Fourth Schedule is that the assessment of the activity’s effects on the environment must include a description of any possible alternative locations or methods for undertaking the activity where the activity will result in any significant adverse effect on the environment. [emphasis added] In our view it is simply common sense that any such description would include consideration of the significant adverse effect on the environment concerned.
136. While we acknowledge the point made by Ms Eveleigh that there is no requirement to choose the best use of resources, only to describe the alternatives, we do not agree that a robust assessment of alternatives was initially undertaken. For the reasons outlined above, we consider the application itself failed to properly address the issue of alternatives required by cl 6(1)(a) of the Fourth Schedule of the RMA. This, in our view, was because the MCA failed to include landscape and visual amenity as a criterion and was therefore somewhat flawed. The closest it got were criterion for consentability and urban design. In this context we acknowledge that the brief urban design assessment in paragraph 17.10 of the Business Case report makes some limited reference to visibility and would seem to clearly favour the Rock Street option (Option 14 in the MCA) in particular due to better surveillance and location within the urban environment and the opportunity for greater use this option offered. It was therefore somewhat surprising to us to see both this and the preferred option scoring the same under this category within the MCA. The discussion on resource consenting in paragraph 17.5 however made no reference to the potential landscape and visual amenity issues any application might face.
137. The applicant’s witnesses at the hearing initially sought to address the issue of alternatives further in their evidence and this is summarised by Ms Perkins. As referred to, Mr Pentecost in particular identified three alternative options he had considered from a landscape / visual perspective, which became known as Option A (Rock Street), Option B (Denton Street) and Option C (Maitland Street). In his view, none of these presented a clear advantage over the preferred site in landscape and visual terms.

⁷ Paragraph 17.2 of Appendix F of the application document

138. Mr Standring, when we recalled him, said that the Denton Street option (Option B) in Mr Pentecost's evidence) was No 18 on the matrix. However, when we drilled into the matrix No 18 was actually a combination of the preferred option and a revamp of the existing bridge. The reality was that the matrix simply identified a bridge in Option 15 in the general area of both the preferred option and the Denton Street option as indicated on Figure 14.1 of the Stantec report. The report then simply confirms the location as being opposite Church Street. There is no analysis of this option compared with Denton Street.
139. Subsequently, the Applicant provided as part of the right of reply evidence more details on the question of alternatives. We acknowledge that this has been particularly helpful in addressing our concerns regarding the requirements of the fourth schedule Cl 6(1)(a) of the RMA. In short, the three alternative options A, B and C referred to above have now been assessed against the preferred option along with other alternatives such as direct drilling.
140. In terms of the options, we acknowledge the difficulties and uncertainties relating to the direct drilling option. We also consider the trenching option would have difficulties in terms of consenting based on Ms McRae's comments that it would not be consistent with the NPS-FM and would contravene the regional policies. Similarly, a piled bridge would also appear to present similar problems.
141. The evidence from the landscape architects was that both a cable-stayed bridge and a tied arch bridge (the other alternative design) would both have significant visual effects. We have not therefore considered design in terms of alternatives further. That therefore just leaves location.
142. With regard to the locations, we acknowledge the significant design problems associated with the Rock Street site (Option A) referred to by Mr Crocker. We also accept that the Maitland Street site (Option C) has a number of problems and given its location is unlikely to receive any funding from Waka Kotahi.
143. That then leaves Denton Street (Option B) which attracted some discussion at the hearing. We accept that this option would require an eastern embankment which the preferred location does not thus adding a cost, and that there may be additional times where access to a bridge would be prevented by flooding in the Woolwich Street area. Mr Standring also said this site would be outside of the Waka Kotahi funding criteria⁸ which we took to be because it was further away and would provide less connectivity. We did however wonder whether the connectivity was all that worse than the preferred option and whether account had been taken of potential future development of the large area of residentially zoned but undeveloped land to the north-east in the Talbot Street area. In terms of the landscape and visual effects, we preferred Mr Moore's

⁸ Para 12(c) of PK Standring right of reply evidence.

conclusions on this option which were that it was further away from houses and similar in terms of landscape character effects in how it fitted into the landscape and that it would have lower visual amenity effects.

144. In terms of the consideration of alternatives we have concluded that Denton Street (Option B) would have less adverse effects than the preferred option in terms of visual amenity, although we accept they would still likely to be at least more than minor, and that it would require a shorter water pipe network, but that there would be some diminishing of the benefits from a useability for walking and cycling and that there would overall be an increase in costs due to the second embankment and potentially a loss of Waka Kotahi funding.

Visual Effects

145. In the broader context we accept that the proposed bridge will have positive visual amenity effects on the wider Gore landscape. The proposal is an elegant structure that would in our opinion create a 'landmark' structure and a sense of place, although we acknowledge it will attract different reactions by viewing audiences – both positive and negative. Overall, however, we agree that the design of the bridges structure would contribute as a feature to the identity of Gore Township, rather than solely responding to a utilitarian requirement.
146. Notwithstanding the above, we acknowledge the landscape evidence from both landscape architects and the concerns of submitters that the proposed bridge would have significant adverse visual amenity effects associated with its visual dominance, where it is in close proximity to residential dwellings in the Huron Street area. We also accept that an alternative design such as a tied arch bridge would not have particularly altered this conclusion.
147. The primary dominance is driven in our view by the 32m high mast positioned on the western bank and its associated spiral strand cables rather than simply the bridge structure itself although this too does have a major impact. Also of importance in this context is the currently unimpeded view of the Hokonui Hills and up the Matāura River valley within which the proposed bridge will sit for some of those affected properties. Both the Hokonui Hills and the Matāura River are considered outstanding landscape features within the District Plan.
148. While views of the hills and the river valley would not be totally blocked by the bridge structure and could be seen beyond it, it would clearly act as a dominating feature in the foreground which impacts on those views and becomes a focal point which competes with them. Given this and the dominance of the bridge structure itself in close proximity to these residential properties we accept that the proposal would have significant visual effects on around nine properties, some more so than others, and more than minor effects on around a further nine properties. We also acknowledge that there is effectively no mitigation which can be provided to address this and that

a bridge which only supported water pipelines would be a similar structure to that required for the dual purpose of pipelines and pedestrian/cycle connection.

Landscape and Natural Character Effects

149. Having reviewed the evidence and visited the site and surrounding environment we agree that the natural character (s6(a) of the RMA) of this part of the Matāura River is already modified to a high degree. Having a bridge of this nature and design in this general part of the river in our view adds to the landscape character of this area rather than detracting from it. We therefore agree with Mr Moore that the proposed bridge will have no more than minor adverse effects on natural character (bio-physical and experiential) values, and generally positive or neutral effects on sensory and associative landscape values.
150. Furthermore, in terms of the s6(b) (of the RMA) we consider that the protection of the outstanding natural feature of the Matāura River and the broader landscape would be maintained by the proposed bridge. In short, we agree with Mr Moore that that the landscape effects are generally positive.

Privacy

151. Some submitters expressed concerns with regards to the impact upon their privacy the bridge would have, with people walking and cycling across it. Having considered this matter we were not convinced that any impact upon privacy would be at a level to create adverse effects of any significance. The area already incorporates the ability to walk along the riverbank and the stop bank and we did not consider effects on privacy from a bridge would be any worse than the current situation.

Ecological Impacts

152. The potential ecological impacts on avifauna were addressed by Ms Bennet and we were satisfied that any risks posed to avifauna during, and post construction are able to be addressed through conditions and that mitigation responses have been provided with regards to effects on bird flight paths to the point where the proposal would have a less than minor effect on avian species.
153. We also note that a condition has been proposed to ensure that fish passage is not impeded as a result of the construction activity.

Hydrological Effects

154. As identified the bridge and its associated supports, would be located within the Matāura River Floodway. While submitter concerns were expressed about the increased flood risk the bridge would create, the flood modelling indicated that its construction would cause an insignificant

increase (<1%) in water levels during flood events and that long-term impacts on flood risk to nearby properties due to the bridges' geometry were expected to be less than minor. We therefore consider the management of the natural hazards under s6(h) of the RMA is appropriately addressed.

Noise and Lighting

155. The potential for noise effects associated with wind whistling through the cables was addressed in the evidence of Mr Crocker who worked with an international expert in aerodynamics to develop a model for assessing noise generated by the bridge. The evidence from that modelling indicates that the estimated peak noise level measured at the nearest properties is 28.2dB(A) which we acknowledge is still well below the District Plan limit of 40dB(A).
156. We also note that the issue of construction noise is proposed to be addressed within a condition requiring a Construction Management Plan.
157. Lighting was also discussed at length during the hearing and the lighting now proposed has been significantly scaled back. A proposed condition requires that a lighting plan be prepared by a suitably qualified lighting design professional, in consultation with an avifauna specialist, and be submitted to the Council for certification. The condition specifically requires, amongst other things, that there be no feature lighting of the bridge and for safety reasons a CPTED lighting response be provided.
158. Based on the evidence provided and the mitigation measures proposed we are satisfied that potential noise and lighting impacts have been effectively addressed.

Cultural Effects

159. While there were clearly some issues around consultation with the local Hokonui Rūnanga we accept that the potential cultural effects have now been addressed to their satisfaction as indicated in their letter. This includes:
 - the involvement via condition in the development of a cultural narrative and interpretation to reflect mana whenua values of the Matāura River and surrounding area;
 - conditions associated with construction activities and the lighting of the bridge to protect avian taonga; and
 - conditions around the discovery, or suspected discovery, of any site of cultural importance (Waahi Taonga/Tapu) during construction including a protocol to be followed in the event of such discovery.

160. We also accept that the proposal does not represent inappropriate development in relation to the outstanding natural feature values of the river or impact on the purpose of the Water Conservation Order associated with the river.
161. Overall, therefore we consider the cultural effects to now be less than minor and now appropriately reflect s6(e) and s8 of the RMA.

Construction Effects

162. As with any development of this nature there will be effects associated with construction activity albeit they are of a temporary nature. Having reviewed the various conditions proposed to address construction effects, including any impacts on water quality, we are satisfied that they are able to be appropriately addressed.

Positive effects

163. We accept that there are significant positive effects associated with this proposal. These include the upgrade of the potable water supply which we acknowledge will be a significant step forward for Gore, and the improved connectivity provided by the bridge for pedestrian and cycle use which will also provide for the social and economic wellbeing of the community as a whole, which was well articulated by members of the Hokonui Mountain Bike Club.
164. Mr Bayliss's evidence set out that Council has a legal obligation under the Health Act 1956 to improve, promote, and protect public health within the District and that the Health (Drinking Water) Amendment Act 2007 placed a further obligation on the Council to comply with the Drinking Water Standards for New Zealand. He went on to note that to achieve this, a significant upgrade to the Council's existing water treatment plants was required and that the preferred strategy, after investigations, was to centralise water treatment at the existing East Gore Water Treatment Plant site, which would help, amongst other things, in diluting nitrate levels and optimising the use of raw water sources.
165. Ms Eveleigh also advised us that the Gore Water Safety Plan approved by the drinking-water assessor in September 2018, listed an intended completion date of June 2020 for the Gore Water Treatment Plant upgrade and that therefore upgrades to achieve compliance with the drinking-water standards are required as soon as can practically be achieved. She noted that the anticipated reforms to legislation and standards for drinking water supply, which are currently being prepared, may impose more stringent timeframes for compliance with the drinking-water standards.
166. The above obligations are in our view an important factor in considering Part 2 of the RMA's sustainable management purpose which enables people and communities to provide for their health and safety. In this context we accept that the upgrade will enable the provision of a safe

and reliable drinking water supply to urban residents in Gore and ensure that the Council is meeting the New Zealand Drinking Water Standards.

167. In addition to addressing potable water supply we agree that the bridge would improve pedestrian and cycle access between east and west Gore thus providing for improved linkage between these two urban areas.
168. We therefore accept that the proposal would provide for significant positive effects which would enable the community to provide for in particular its social well-being and its health and safety through greater recreational opportunities and enhanced connectivity and an improved and more resilient water supply.

Objectives and Policies

169. Mr Bryce and Ms McRae detailed the objectives and policies of the District Plan and Regional Plans and other documents they considered of relevance in their s42A reports, while Ms Perkins also provided an assessment. In terms of weight to be applied to the relevant objectives and policies in the District Plan and given our determination on the relevant rules, we agree with Mr Bryce that we would simply apply all relevant objectives and policies applicable to the proposal, rather than providing greater primacy to the Utilities Chapter over those relevant objectives and policies under Chapter 3.

Southland Regional Policy Statement

170. The Southland Regional Policy Statement (RPS) became operative on 9 October 2017 and as such pre-dates the NPSFM 2020. Ms McRae provided an assessment of relevant policies of the RPS and found that the proposed activity was consistent with its provisions.
171. Ms McRae canvassed provisions in relation to Tangata Whenua, Water Quality, Beds of Lakes and Rivers, Natural Hazards, Natural Features and Landscapes and Infrastructure chapters. She considered, and we agree, that the proposal is generally consistent with these above provisions.
172. Mr Bryce's assessment found the application lacked consideration of cultural perspectives in that a lack on consultation limited the extent to which the application was consistent with the tangata whenua policies of the RPS. We found this matter resolved itself as a result of ongoing engagement between the Applicant and Hokonui Rūnanga leading up to the hearing.

Regional Water Plan and Proposed Southland Water and Land Plan

173. The Regional Water Plan for Southland and proposed Southland Water and Land Plan are in-effect in this case. The Regional Water Plan is operative, while the proposed Southland Water and Land

Plan is before the Environment Court progressing through the appeals on the decision version. Both planning documents pre-date the NPSFM 2020.

174. Ms McRae's assessment of the various provisions of Regional Water Plan generally found consistency with those provisions. She did discuss potential inconsistency with one part of Policy 32, specifically the high visual impact in the immediate vicinity as a result of the inability to avoid, remedy or mitigate effects associated with the design and location of the bridge. This was not disputed by the Applicant. Ms Perkins considers reasonable effort had been endeavoured to avoid adverse effects on amenity values through the design considerations and accepted the visual amenity values of the closest residential properties on the eastern bank to the bridge would not be maintained or enhanced. Ms McRae stated however that the presence of bridge structures along the river corridor demonstrated that they were not unusual in these locations. We accept the position of Ms McRae with regards the Regional Water Plan.
175. Ms McRae considered the key provisions of the Proposed Southland Water and Land Plan directed consideration to maintaining and improving water quality and as such the proposal was generally consistent with the provisions canvassed. We agree with Ms McRae's conclusion.

Gore District Plan

176. Mr Bryce provided an assessment of the objectives and policies within the District Plan noting the Matāura River was identified as an outstanding feature and that the proposed location of the bridge was within a section of river which has been significantly modified. Mr Bryce agreed with Mr Moore's assessment that adverse natural character effects will be relatively low in nature. As referred to above we agree with this assessment.
177. Read as a whole, Mr Bryce considered that the proposal was not contrary to the District Plan but noted a significant tension existed when applying Policy 7.4.5 which seeks:
- 'To encourage a design and location of utilities that minimises adverse visual effects, where this can be achieved without compromising operation or efficiency'*
178. Mr Bryce said the tension was on the basis of the significant effects on visual amenity of adjoining residential properties. While we acknowledge Mr Bryce's comment, we note that the policy is couched with the proviso "*where this can be achieved without compromising operation or efficiency*". As we heard from Mr Bayliss, a bridge was the preferred option relative to directional drilling under the river and Mr Crocker's evidence was that the design of a single span, cable-stayed bridge had less solid form than alternative single span bridge options. Putting aside the issue of location, other options might well be seen as compromising operation or efficiency.
179. With regards to location, significant attention was given to potential alternative locations as discussed above. Ms Eveleigh submitted that a detailed assessment of alternatives had been

undertaken and that there was no preferable alternative to that proposed. Both Mr Bryce and Ms Perkins accept that the proposal “is not entirely” consistent with this policy in that there are likely to be adverse effects on visual amenity values for those immediate nearby residents. Ms Eveleigh’s position was that this is not unexpected where high visual effects are identified but that the proposal is not at odds with the policy direction for effects on visual amenity.

180. Having considered this closely we accept that there may be an element of tension with the above provision and part of associated Objective 7.3, however we do not agree that it is a significant tension in the context of the way these provisions are framed.
181. Overall, we accept the position presented by Mr Bryce in concluding that the proposal is not contrary to the District Plan objectives and policies when read as a whole.

Water Conservation (Matāura River) Order 1997

182. Ms McRae assessed the proposed activity in light of the Water Conservation (Matāura River) Order 1997 and noted that while the construction activities would temporarily affect the river habitat from bed disturbance and sediment release, in the long-term the bridge would become a stable part of the riverbed habitat and would have a no more than minor effect on it. She also said there would be a short-term impact on angling activities whilst overall public access would be enhanced.
183. Based on Ms McRae’s analysis we accept that the proposed activity falls within the scope of, and is consistent with, the direction detailed within the Water Conservation (Mataura River) Order 1997.

Te Tangi a Tauira (Iwi Management Plan)

184. Ms McRae referred to Te Tangi a Tauira - Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (Te Tangi a Tauira), as being relevant under s104(1)(c) of the RMA due to its reference within Policy 1A of the Regional Water Plan and Policy 2 of the proposed Southland Water and Land Plan.
185. Ms McRae’s assessment was that the short-term effects associated with sediment release and the use of steel encased in timber would not adversely affect the water quality after reasonable mixing; the proposed bridge design provided for the high flow and flood events without impediment to the river; notice of the application had been served on Iwi; and fish passage would not be impeded as a result of the proposal. She also said the impact on the ‘life supporting capacity’ of the river would not be significantly altered in the long-term.
186. We agree with Ms McRae that short-term construction and establishment effects were not inconsistent with or contradict the long-term goals of Te Tangi a Tauira in sustaining the water resource.

Overall Conclusion

187. Overall, therefore we consider the proposal is not inconsistent with the objectives and policies of the relevant statutory plans.

Other Matters

188. Given that the proposal is for a discretionary activity, we have given consideration as to whether matters of precedent and plan integrity could arise. In short, we do not consider these matters would arise from a grant of consent in this instance given the unusual nature of the application which we consider is unlikely to be replicated.

Part 2 and Conclusion

189. We have already addressed a number of Part 2 matters as part of our discussion above. Ms Eveleigh's submission was that a full Part 2 assessment is only required when there is doubt as to whether the provisions of the applicable planning document have been competently prepared having regard to Part 2. She said that as the proposed Southland Water and Land Plan, including provisions relevant to assessment of this application, remain subject to appeal, adherence to Part 2 is yet to be confirmed by the Court. Accordingly, a Part 2 assessment should be undertaken for completeness, however it should be focussed on the applications to Environment Southland.
190. Having considered the matters associated with the Environment Southland component of the application which we acknowledge are relatively limited, we agree with Ms Perkin and Ms McRae that the proposal achieves the purpose and principles of the RMA as set out in Part 2. We do not consider we need to go any further than that.
191. Turning to our conclusions, we have found that the actual and potential effects on the environment associated with the proposal will for the most part be less than minor, however in terms of visual amenity for properties in the Huron Street area they will be more than minor and indeed in some cases significant. Having gone on to consider the relevant objectives and policies of the District Plan and the Regional Plans we have found that overall, the proposal is not contrary to or inconsistent with them.
192. While a range of alternatives to the preferred option have now been considered there is no clear better alternative in our view. The Denton Street location (Option B) we consider is the best of the alternatives considered as it would reduce somewhat the adverse visual effects on residents in the Huron Street area. However, we acknowledge that that option does have some disadvantages and, in all likelihood would be more costly than the preferred option. While it clearly remains open to the Council as Applicant to further consider this option, we make the point that that would ultimately require a fresh consent.

193. We have found this a very difficult application upon which to reach a decision. On the one hand there are clearly some significant visual effects associated with the bridge on a small number of properties in the Huron Street area which are simply unable to be mitigated. On the other hand, there are significant benefits to the broader Gore community in terms of an improved and upgraded water supply and an enhanced walkway and cycleway network which improves connectivity and provides opportunities for non-car related trips. In the end we have reached a conclusion that the wider benefits outweigh the effects on those residential properties concerned, however it is a close call.
194. As maybe apparent from our discussion, we consider the initial assessment of alternatives was not done particularly well and a more thorough assessment may have resulted in a different outcome. At the end of the day, we cannot direct a different option be pursued and can only approve or decline what is in front of us. On that basis we consider the environment overall would be better served by a granting of consent and in this context, we consider it meets the requirements of Part 2 of the Act.

Conditions

195. A number of proposed conditions have been provided with Ms Eveleigh's right of reply and we understand that Mr Bryce and Ms McRae have reviewed these and confirmed they have no further changes. We therefore accept the conditions as proposed in the right of reply.

DECISION

196. For the foregoing reasons, land use consents LU 2020/012 & APP-20202268 to construct a new pedestrian and cycle bridge across the Matāura River and attach new water pipelines linking east Gore with Jacobstown Wells and Hilbre Ave reservoir and including constructing a temporary causeway and installing temporary piles in the riverbed in Gore are **approved** pursuant to sections 104, 104B and 108 of the Act subject to the conditions set out in **Appendix 1** and **Appendix 2** below.

Dated this 29th day of April 2021



Dean Chrystal
Commissioner



Reginald Proffit
Commissioner



Bonnie Mager
Commissioner

Appendix 1

Conditions Applying to Gore District Council Land Use Consent LU 2020/012

Location - site locality	Near the intersection between Church and Huron Streets, on the east bank and Surrey Street on the west bank
- map reference	NZTM2000 1287103E 4887653N
- catchment	Matāura River
Legal description of land at the site:	Section 80 Blk XVI, HYDRO and Road Reserve

1. This consent authorises the erection of a new cable-stay bridge, with attached water pipelines, over the bed of the Matāura River, at the location specified above, as described in the application for resource consents dated 8 July 2020 and further information dated 23 July 2020 and 6 November 2020. The works authorised by this resource consent include:
 - a) Construction, and later removal, of a causeway in the true right riverbed;
 - b) Disturbance of the riverbed by machinery and/or vehicles;
 - c) Disturbance of the riverbed to drill holes for temporary piles;
 - d) Construction of a new bridge structure over the riverbed; and
 - e) Placement of rock riprap to protect the abutments of the new bridge.
2. The total dimensions of the bridge shall not exceed:
 - a) 39 metre high mast;
 - b) 916mm diameter mast;
 - c) 90 metres long;
 - d) 3 metres wide;
3. Prior to preparation of the Construction Management Plan (Condition 21), the Consent Holder and appointed Contractor shall engage with Hokonui Rūnanga, to identify a suitable location for the yard and crane platforms, so as not to interfere with any identified site of cultural significance.
4. The consent holder shall notify the public through local papers one week prior to the commencement of any works and erect onsite signage in order to ensure safe navigation under and past the bridge during construction.
5. The consent holder shall notify the Consent Authority in writing no less than three working days prior to the commencement of construction works.
6. Construction shall be completed within the timeframe of 10 months from site establishment.
7. Any areas temporarily disturbed during the construction phase shall be reinstated to their previous condition.
8. The consent holder shall submit a final lighting plan to Gore District Council, General Manager Regulatory and Community Services for certification prior to works beginning on site. The final lighting plan shall be prepared by suitably qualified lighting design professional, in consultation with an avifauna specialist and shall provide for the following key design outcomes:
 - a) To reduce the potential for bird strikes and bird attraction to the bridge structure, all lighting should be downward-facing with minimal horizontal spill.
 - b) Other than required provided by (a) above, all external lighting shall be for functional purposes only and shall avoid the use of lights to accentuate or highlight the bridge structure when viewed from beyond the site.

- c) To respond to CPTED lighting response.
 - d) There shall be no feature lighting of the bridge.
 - e) All lighting shall comply with standards set out in Rule 4.6.1(1)(a) of the Gore District Plan and AS/NZS4282 (A3 Medium District Brightness).
9. Prior to commencing works, the consent holder shall submit an Avifauna Management Plan to Gore District Council, General Manager Regulatory and Community Services for certification. The Plan shall be prepared by a suitably qualified ecologist and provide for the following matters:
- a) Process to be adopted to survey and record injury or mortality of any Threatened or At-Risk species associated with avifauna flying into the bridge and support cables within the first 12 months following construction;
 - b) Methods of mitigation of any potential avifauna injury or mortality recorded in (a) above, including establishment of low impact lighting on the spiral strand cables to ensure that the cables are made more visible to birds flying by the use of UV lights, luminous tape, or aerial markers;
 - c) Timeframes for the implementation of survey and mitigation outcomes in (a) and (b) above; and
 - d) Any proposed ongoing monitoring that may be required to ensure effects on avifauna are appropriately managed within the first 3 years following construction. Upon completion of this period, an assessment should be made to establish any further ongoing requirements.
10. At least three months prior to commencing works, the consent holder shall submit a Construction Avifauna Management Plan to Gore District Council, General Manager Regulatory and Community Services for certification. The Plan shall be prepared by a suitably qualified ecologist and include the following matters:
- a) Details of proposed surveys of the area of works to be undertaken prior to commencing works. The surveys shall be to:
 - i. determine whether there are any ground-nesting bird nests within the construction footprint and advise on nest avoidance if required; and
 - ii. identify any roosting and feeding areas within the construction footprint for the avifauna species identified in Condition 11.
 - b) The timing of surveys, based on confirmed construction dates and any avifauna breeding seasons which are in progress on those dates. Where a breeding season is in progress, a minimum requirement will be a survey no more than 5 days prior to works commencing.
 - c) Methods of nest, roosting and feeding area avoidance that may be used if required, e.g. specified protection zones.
 - d) Methods that can be used to dissuade birds from nesting in the area of works both prior to and during construction if required, e.g. the use of mylar tape, and identification of any approvals required under the Wildlife Act 1953.
 - e) Survey results shall be submitted to the Gore District Council, General Manager Regulatory and Community Services accompanied by photos (date and time stamped) prior to commencing works.
11. 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, as a result of the exercise of this consent.
12. The consent holder shall submit final details of the proposed colour treatment to Gore District Council, General Manager Regulatory and Community Services for certification prior to works beginning on site. The final colour treatment of the mast shall be off-white or light grey in colour and be a low reflective finish (matt or low sheen).
13. The detailed bridge design shall incorporate cultural narrative and interpretation to reflect mana whenua values of the Matāura River and surrounding area, developed in consultation with Hokonui

Rūnanga. The consent holder shall submit the final detailed bridge design to Gore District Council, General Manager Regulatory and Community Services prior to works beginning on site. As part of this condition, the applicant shall submit evidence of consultation undertaken with Hokonui Rūnanga.

14. The consent holder shall submit a final planting plan prepared by a suitably qualified landscape architect, in consultation with a flooding expert and Environment Southland for the approval of the Gore District Council, General Manager Regulatory and Community Services at least 10 days prior to construction commencing. The objectives of this plan shall be to:
 - a) maximise the visual integration of the new western embankment landform with its setting.
 - b) to enhance the natural character of the bridge environs, to the extent compatible with flood protection requirements.
 - c) the plan shall include detail regarding plant species, locations, spacing's and grades, and a timeframe for implementation; and shall include a management plan and specifications to ensure successful establishment and appropriate on-going management.
 - d) All planting shall be designed to CPTED principles.
15. The consent holder shall ensure that:
 - a) contaminants, other than sediment, but including cement and oil are prevented from entering the waterway during the construction works;
 - b) all reasonable steps shall be taken to minimise the release of sediment to water;
 - c) no discharge of sediment shall be visible beyond the zone of reasonable mixing (200m);
 - d) fish passage is not impeded as a result of the construction works;
 - e) all construction equipment, machinery, plant, and debris are removed from the site on completion of the works;
 - f) silt disturbance and instream works are kept to a minimum;
 - g) no washing of equipment occurs in the stream/river; and
 - h) any stream banks disturbed or eroded during the construction works are to be restored and re-sown with pasture and/or native species upon completion of the works.
16. In the event of any contamination of the watercourse the consent holder shall remove the contaminants immediately from the site and notify, without undue delay, the Gore District Council, General Manager Regulatory and Community Services.
17. If an event (such as contamination to water from a fuel or sediment discharge incident) occurs that may have significant adverse effect on water quality, particularly at the abstraction point of a registered drinking-water supply, the consent holder shall notify, as soon as reasonably practicable, the following:
 - a) Environment Southland (ph 03 211 5115 or 03 211 5225 after hours); and
 - b) Alliance Matāura Plant (ph 03 203 6500);
 - c) Hokonui Runanga; and
 - d) Te Ao Marama Inc.
18. A suitably qualified archaeologist shall be present onsite during the earthworks phase and supervise earthworks to ensure no existing or newly discovered site of cultural importance is disturbed.
19. In the event of a discovery, or suspected discovery, of a site of cultural importance (Waahi Taonga/Tapu) during the construction, the consent holder shall immediately cease operations in that location and inform the local iwi authority (Hokonui Rūnanga, phone 03 208 7954 and Te Ao Marama Inc, phone 03 931 1242). Operations may recommence at a time as agreed upon in writing with the Consent Authority. The discovery of Kōiwi (human skeletal remains) or Taonga or artefact material (e.g. pounamu/greenstone) would indicate a site of cultural importance. Appendix A to this consent outlines the process that is to be followed in the event of such a discovery.

20. The Consent Holder shall submit a Construction Management Plan to Gore District Council, General Manager Regulatory and Community Services for approval at least 10 working days prior to commencement of works. This shall include, but is not limited to:
- a) provide concise and clear direction to the Person in Charge and other staff on the construction plan;
 - b) identify environmental risks of the bridge construction specific to the construction site including, but not limited to, erosion and sediment control, dust mitigation, noise and vibration control;
 - c) identify how the above environmental risks are avoided;
 - d) describe any safeguards that have been implemented and how these will be maintained;
 - e) describe any protocols for flood warnings;
 - f) identify communication with neighbouring residents prior to works and provision of contact details of site foreman;
 - g) identify locations of site fencing, storage compounds, and public access restrictions;
 - h) describe any signage that will be implemented;
 - i) establish a complaints register; and
 - j) describe any protocols for incident management responses.
21. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within three months of each anniversary of the commencement of this resource consent, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, or on receiving monitoring results, for the purposes of:
- a) determining whether the conditions of this permit are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit;
 - b) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or Policy Statement;
 - c) amending the monitoring programme to be undertaken; or
 - d) adding or adjusting compliance limits.

Appendix A: Protocol in the event of a discovery, or suspected discovery, of a site of cultural importance (Waahi Taonga/Tapu)

1. Kōiwi tangata accidental discovery

If Kōiwi tangata (human skeletal remains) are discovered, then work shall stop immediately and the New Zealand Police, Heritage New Zealand (details below), Hokonui Runanga and Te Ao Marama Inc (Ngai Tahu (Murihiku) Resource Management Consultants) shall be advised. Contact details for Hokonui Runanga and Te Ao Marama Inc are as follows:

Hokonui Runanga
140 Charlton Road
PO Box 114, Gore 9740
Phone: (03) 208 7954

Hokonui.office@ngaitahu.iwi.nz

Te Ao Marama Inc
Murihiku Marae, 408 Tramway Road, Invercargill
P O Box 7078, South Invercargill 9844
Phone: (03) 931 1242

Hokonui Runanga and Te Ao Marama Inc will arrange a site inspection by the appropriate Tangata Whenua and their advisers, including statutory agencies, who will determine how the situation will need to be managed in accordance with tikanga māori.

2. Archaeological Sites

Archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act (2014), and approval is required from Heritage New Zealand before archaeological sites can be modified, damaged or destroyed.

Not all archaeological sites are known or recorded precisely. Where an archaeological site is inadvertently disturbed or discovered, further disturbance must cease until approval to continue is obtained from Heritage New Zealand. As stated above, the New Zealand Police, Hokonui Runanga and Te Ao Marama Inc also need to be advised if the discovery includes kōiwi tangata/human remains.

Heritage New Zealand
C/- Dr M Schmidt, Regional Archaeologist Otago/Southland
PO Box 5467, Dunedin 9058
Phone: (03) 470 2364 Mobile 027 240 8715

mschmidt@heritage.org.nz

3. Taonga or artefact accidental discovery

If taonga or artefact material (e.g. pounamu/greenstone artefacts) other than kōiwi tangata is discovered, disturbance of the site shall cease immediately and Southland Museum, Hokonui Runanga and Te Ao Marama Inc shall be notified of the discovery by the finder or site archaeologist in accordance with the Protected Objects Act 1975. All taonga tuturu are important for their cultural, historical and technical value and are the property of the Crown until ownership is resolved.

4. In-situ (natural state) pounamu/greenstone accidental discovery

Pursuant to the Ngai Tahu (Pounamu Vesting) Act 1997, all natural state pounamu/greenstone in the Ngai Tahu tribal area is owned by Te Runanga o Ngai Tahu. Ngai Tahu Pounamu Management Plans provide for the following measures:

- any in-situ (natural state) pounamu/greenstone accidentally discovered should be reported to Te Runanga o Ngai Tahu staff as soon as is reasonably practicable. Te Runanga o Ngai Tahu staff will in turn contact the appropriate Kaitiaki Papatipu Runanga;
- in the event that the finder considers the pounamu is at immediate risk of loss such as erosion, animal damage to the site or theft, the pounamu/greenstone should be carefully covered over and/or relocated to the nearest safe ground.

The find should then be notified immediately to the Programme Leader – Ohanga, at Te Rūnanga o Ngāi Tahu. Their details are as follows:

Te Rūnanga o Ngāi Tahu
C/- Programme Leader - Ohanga
Te Whare o Te Wai Pounamu
15 Show Place, P O Box 13-046, Otautahi/Christchurch 8021
Phone: (03) 366 4344 Web: www.ngaitahu.iwi.nz

Appendix 2

Conditions Applying to Environment Southland Land Use Consent APP-20202268

Details of Permit

Purpose for which permit is granted:	To disturb the bed of a river and erect a bridge structure over the bed of a river.
Location - site locality	Near the intersection between Church and Huron Streets, on the east bank and Surrey Street on the west bank
- map reference	NZTM2000 1287103E 4887653N
- catchment	Matāura River
Legal description of land at the site:	Section 80 Blk XVI, HYDRO and Road Reserve
Expiry date:	Date: 29 April 2025

Schedule of Conditions

1. This consent authorises the erection of a new cable-stay bridge, with attached water pipelines, over the bed of the Matāura River, at the location specified above, as described in the application for resource consents dated 8 July 2020 and further information dated 23 July 2020. The works authorised by this resource consent include:
 - a) Construction, and later removal, of a causeway in the true right riverbed;
 - b) Disturbance of the riverbed by machinery and/or vehicles;
 - c) Disturbance of the riverbed to drill holes for temporary piles;
 - d) Construction of a new bridge structure over the riverbed; and
 - e) Placement of rock riprap to protect the abutments of the new bridge.
2. The total dimensions of the bridge shall not exceed:
 - a) 39 metres high mast;
 - b) 916mm diameter mast;
 - c) 90 metres long;
 - d) 3 metres wide;
3. The consent holder shall ensure that:
 - a) contaminants, other than sediment, but including cement and oil are prevented from entering the waterway during the construction works;
 - b) all reasonable steps shall be taken to minimise the release of sediment to water;
 - c) no discharge of sediment shall be visible beyond the zone of reasonable mixing (200m);
 - d) fish passage is not impeded as a result of the construction works;
 - e) all construction equipment, machinery, plant, and debris are removed from the site on completion of the works;
 - f) silt disturbance and instream works are kept to a minimum;
 - g) no washing of equipment occurs in the river; and
 - h) any river banks disturbed or eroded during the construction works are to be restored and resown with pasture and/or native species upon completion of the works.

4. Any temporary bridge support piles shall be removed entirely from the river bed, so as to not create a navigation safety hazard, upon completion of the works.
5. The consent holder shall notify the public through local papers one week prior to the commencement of any works and erect onsite signage in order to ensure safe navigation under and past the bridge during construction.
6. The consent holder shall notify the Consent Authority in writing no less than three working days prior to the commencement of construction works.
7. Prior to commencing works, the consent holder shall submit an Avifauna Management Plan to the Consent Authority for certification. The Plan shall be prepared by a suitably qualified ecologist and provide for the following matters:
 - a) Process to be adopted to survey and record injury or mortality of any Threatened or At-Risk species associated with avifauna flying into the bridge and support cables within the first 12 months following construction;
 - b) Methods of mitigation of any potential avifauna injury or mortality recorded in (a) above, including establishment of low impact lighting on the spiral strand cables to ensure that the cables are made more visible to birds flying by the use of UV lights, luminous tape, or aerial markers;
 - c) Timeframes for the implementation of survey and mitigation outcomes in (a) and (b) above; and
 - d) Any proposed ongoing monitoring that may be required to ensure effects on avifauna are appropriately managed within the first 3 years following construction. Upon completion of this period, an assessment should be made to establish any further ongoing requirements.
8. At least three months prior to commencing works, the consent holder shall submit a Construction Avifauna Management Plan to the Consent Authority for certification. The Plan shall be prepared by a suitably qualified ecologist and include the following matters:
 - a) Details of proposed surveys of the area of works to be undertaken prior to commencing works. The surveys shall be to:
 - i) determine whether there are any ground-nesting bird nests within the construction footprint and advise on nest avoidance if required; and
 - ii) identify any roosting and feeding areas within the construction footprint for the avifauna species identified in Condition 9.
 - b) The timing of surveys, based on confirmed construction dates and any avifauna breeding seasons which are in progress on those dates. Where a breeding season is in progress, a minimum requirement will be a survey no more than 5 days prior to works commencing.
 - c) Methods of nest, roosting and feeding area avoidance that may be used if required, e.g. specified protection zones.
 - d) Methods that can be used to dissuade birds from nesting in the area of works both prior to and during construction if required, e.g. the use of mylar tape, and identification of any approvals required under the Wildlife Act 1953.
 - e) Survey results shall be submitted to the Consent Authority accompanied by photos (date and time stamped) prior to commencing works.
9. There shall be no disturbance of the roosting and nesting areas of the black-fronted tern, blackbilled gull, and banded and black-fronted dotterel, or the feeding areas of the banded and blackfronted dotterel, as a result of the exercise of this consent.
10. The consent holder shall take all reasonable precautions to minimise the spread of pest plants and aquatic weeds. In particular, the consent holder shall:
 - a) remove any vegetation caught on the machinery;

- b) avoid working in areas where aquatic weeds such as *Lagarosiphon major* are known to be present (for information, contact Environment Southland); and
 - c) to avoid the spread of the *Didymosphenia geminata* or any other pest plant, do not use machinery in the berm or bed of the river that has been used in any area where the pest plant(s) are known to be present in the previous 20 working days, unless it has been thoroughly cleansed.
11. The Consent Holder shall submit a Construction Management Plan to the Consent Authority (EScompliance@es.govt.nz) for approval at least 10 working days prior to the first exercise of this consent. The Construction Management Plan shall include, but is not limited to:
- a) provide concise and clear direction to the Person in Charge and other staff on the construction plan;
 - b) identify environmental risks of the bridge construction specific to the construction site including, but not limited to, erosion and sediment control;
 - c) identify how the above environmental risks are avoided;
 - d) describe any safeguards that have been implemented and how these will be maintained;
 - e) describe any protocols for flood warnings;
 - f) identify public access restrictions;
 - g) describe any signage that will be erected and implemented; and
 - h) describe any protocols for incident management responses.
12. If an event, such as contamination to water from the incidental discharge of fuel or sediment, occurs that may have significant adverse effect on water quality, particularly at the abstraction point of a registered drinking-water supply, the consent holder shall remove the contaminants immediately from the site and notify the following:
- a) Environment Southland (ph 03 211 5115 or 03 211 5225 after hours);
 - b) Alliance Matāura Plant (ph 03 203 6500);
 - c) Hokonui Runanga (03 208 7954); and
 - d) Te Ao Marama Inc.
13. Prior to preparation of the Construction Management Plan (Condition 11), the Consent Holder and appointed Contractor shall engage with Hokonui Rūnanga, to identify a suitable location for the yard and crane platforms, so as not to interfere with any identified site of cultural significance.
14. A suitably qualified archaeologist shall be present onsite during the earthworks phase and supervise earthworks to ensure no existing or newly discovered site of cultural importance is disturbed.
15. In the event of a discovery, or suspected discovery, of a site of cultural importance (Waahi Taonga/Tapu) during the construction, the consent holder shall immediately cease operations in that location and inform the local iwi authority (Hokonui Runanga, phone 03 208 7954 and Te Ao Marama Inc, phone 03 931 1242). Operations may recommence at a time as agreed upon in writing with the Consent Authority. The discovery of Kōiwi (human skeletal remains) or Taonga or artefact material (e.g. pounamu/greenstone) would indicate a site of cultural importance. Appendix A to this consent outlines the process that is to be followed in the event of such a discovery.
16. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent during the period 1 February to 30 September each year, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, or on receiving monitoring results, for the purposes of:
- a) determining whether the conditions of this permit are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit;

- b) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or Policy Statement;
- c) amending the monitoring programme to be undertaken; or
- d) adding or adjusting compliance limits.

Notes:

1. Avoid spreading Didymo – Environment Southland strongly recommends that the consent holder, and any person or contractor engaged by the consent holder to carry out the works authorised by this consent, use the “check, clean, dry” management approach as set out in the Biosecurity Management Guidelines (available at www.biosecurity.govt.nz or from Environment Southland) when entering and leaving the river environs.

Appendix A: Protocol in the event of a discovery, or suspected discovery, of a site of cultural importance (Waahi Taonga/Tapu)

1. Kōiwi tangata accidental discovery

If Kōiwi tangata (human skeletal remains) are discovered, then work shall stop immediately and the New Zealand Police, Heritage New Zealand (details below), Hokonui Runanga and Te Ao Marama Inc (Ngai Tahu (Murihiku) Resource Management Consultants) shall be advised. Contact details for Hokonui Runanga and Te Ao Marama Inc are as follows:

Hokonui Runanga
140 Charlton Road
PO Box 114, Gore 9740
Phone: (03) 208 7954

Hokonui.office@ngaitahu.iwi.nz

Te Ao Marama Inc
Murihiku Marae, 408 Tramway Road, Invercargill
P O Box 7078, South Invercargill 9844
Phone: (03) 931 1242

Hokonui Runanga and Te Ao Marama Inc will arrange a site inspection by the appropriate Tangata Whenua and their advisers, including statutory agencies, who will determine how the situation will need to be managed in accordance with tikanga māori.

2. Archaeological Sites

Archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act (2014), and approval is required from Heritage New Zealand before archaeological sites can be modified, damaged or destroyed.

Not all archaeological sites are known or recorded precisely. Where an archaeological site is inadvertently disturbed or discovered, further disturbance must cease until approval to continue is obtained from Heritage New Zealand. As stated above, the New Zealand Police, Hokonui Runanga and Te Ao Marama Inc also need to be advised if the discovery includes kōiwi tangata/human remains.

Heritage New Zealand
C/- Dr M Schmidt, Regional Archaeologist Otago/Southland
PO Box 5467, Dunedin 9058
Phone: (03) 470 2364 Mobile 027 240 8715

mschmidt@heritage.org.nz

3. Taonga or artefact accidental discovery

If taonga or artefact material (e.g. pounamu/greenstone artefacts) other than kōiwi tangata is discovered, disturbance of the site shall cease immediately and Southland Museum, Hokonui Runanga and Te Ao Marama Inc shall be notified of the discovery by the finder or site archaeologist in accordance with the Protected Objects Act 1975. All taonga tuturu are important for their cultural, historical and technical value and are the property of the Crown until ownership is resolved.

4. In-situ (natural state) pounamu/greenstone accidental discovery

Pursuant to the Ngai Tahu (Pounamu Vesting) Act 1997, all natural state pounamu/greenstone in the Ngai Tahu tribal area is owned by Te Runanga o Ngai Tahu. Ngai Tahu Pounamu Management Plans provide for the following measures:

- any in-situ (natural state) pounamu/greenstone accidentally discovered should be reported to Te Runanga o Ngai Tahu staff as soon as is reasonably practicable. Te Runanga o Ngai Tahu staff will in turn contact the appropriate Kaitiaki Papatipu Runanga;

- in the event that the finder considers the pounamu is at immediate risk of loss such as erosion, animal damage to the site or theft, the pounamu/greenstone should be carefully covered over and/or relocated to the nearest safe ground.

The find should then be notified immediately to the Programme Leader – Ohanga, at Te Rūnanga o Ngāi Tahu. Their details are as follows:

Te Rūnanga o Ngāi Tahu
C/- Programme Leader - Ohanga
Te Whare o Te Wai Pounamu
15 Show Place, P O Box 13-046, Otautahi/Christchurch 8021
Phone: (03) 366 4344 Web: www.ngaitahu.iwi.nz