

POST-HEARING COMMENTS ON CONDITIONS RELATING TO CAPIL GROVE DAIRY FARM CONSENTS

Note that conditions are listed by exception. Where agreement conditions are not included.


Draft Capil Grove – 444 Dairy Conversion – Land Use AUT2022022-04							
Conditions circulated post hearing by ES 7 July 2023 (v9)	CGL changes to conditions (V10)	Comments from CGL on V10	ES comments on V10	E3 Scientific comments on v10	TAMI comments on V10	CGL response to comments	
				<p>MH: As a Science advisor for Environment Southland for the Capil Grove Consent application 20222055. I still suggest the consent application should be declined due to potential direct impacts on threatened native fish and indirect effects of increased nutrients and sediment effects on the receiving waterways.</p> <p>However, if the consent is to be granted I suggest adding/modifying these conditions as per below to help limit the adverse effects of the activity.</p> <p>AB: Given there is an increase of RSU in this proposal and a higher generation of waste, I do not think we can be confident that there will be water quality improvement from this proposal and recommend decline due to water quality impacts in a degraded catchment. If the consent is to be granted I suggest adding/modifying these conditions as per below to help reduce the adverse effects of the activity.</p>	<p>It should be noted that while we have provided comments on the conditions, we are still of the same view as at the hearing, that we do not accept the addition of more cows onto property.</p> <p>We have had positive encounters with the applicant however our comments reflect that we are looking for environmental outcomes and that any measures implemented should be about improving the mauri and giving the mana back to the water.</p>		
<p>6</p> <p>The farming activities shall be limited as follows:</p> <p>a. a maximum milking herd of no more than 640 cows; and</p> <p>b. a maximum winter milking herd of no more than 640 cows.</p> <p><b>Advice Note: Milking age cows on the land refers to mature age milking cows on pasture paddocks, however if mature age milking cows are being quarantined outside of the winter barn to prevent contagious ailments from spreading, then this would not be considered a breach of the above condition.</b></p>		CGL accepts the change.			<p>Inconsistent maximum number of cows between land use and winter barn consent.</p> <p>Land use consent</p> <p>1. The farming activities shall be limited as follows:</p> <p>(a) a maximum milking herd of no more than 640 cows; and</p> <p>(b) a maximum winter milking herd of no more than 640 cows.</p> <p>Winter barn consent</p> <p>(a) the use of land for two winter barns for up to 840 cows between 1 May and</p>	<p>The Applicant’s proposal has always been for the winter barns to accommodate the 640 cows milked at Farm 444 and an additional 200 cows from the Applicant’s other dairy farm, Capil Grove Farm.</p> <p>This is what has been assessed throughout and the Applicant does not propose to change this.</p> <p>The key here is the land use consent allows the cows to go outside (640 cows), while the barn consent provides for a maximum number of cows (840 cows) to only be in the barn. This means that there will be</p>	

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						30 September (inclusive);  It should be the lesser of the two ie 640 cows	200 cows which are not allowed on pasture.
13	<p>The Consent Holder shall:</p> <p>a. manage the application of fertiliser in accordance with: The Code of Practice for Fertiliser Nutrient Management, Fertiliser Association of New Zealand, 2023; or (ii) any subsequent updates;</p> <p>b. not apply fertiliser:</p> <p>i) to land during the period 1 June - 31 July inclusive;</p> <p>ii) within 10 m of a surface water body;</p> <p>iii) within 10 m of any wetland boundary;</p> <p>iv) within 20 m of any bore;</p> <p>v) when soil temperature is at or below six degrees Celsius;</p> <p>vi) when soil moisture capacity is exceeded; and</p> <p>vii) directly to land within a riparian strip/margin.</p> <p><del>(c) not apply a combined loading of organic material and synthetic nitrogen fertiliser at a rate of more than 210 kg/ha/year on an individual hectare basis and 190 kg/ha/yr as an average over the landholding.</del></p> <p>c. not apply a combined loading of organic material</p>	<p>c. not apply a combined loading of organic material and synthetic nitrogen fertiliser at a rate of more than 190 kg/ha/year on an individual hectare basis and as an average over the landholding.</p>	<p>There is no need for the maximum per hectare and average per landholding to refer to same number (i.e. because the maximum per hectare means that average per landholding couldn't possibly be above that number).</p>	<p>Acceptable</p>	<p>MH: To make it clear the effluent limit is applied as a per hectare basis, but no other land can receive effluent (therefore increasing the average across the landholding). Also need to confirm Appendix 1 and 2 are still up to date.</p>	<p>We propose to change to 150kg/ha/yr as consistent with best practice (refer to decision report and manaaki whenua) and the change from Environment Southland with the additions to ensure effluent is only discharged to the FDE irrigation land.</p> <p><i>[Links provided in email on behalf of TAMI:</i></p> <p><u>Hearing Decision Report 2019 05 07 South Pacific Meats APP-20181437.pdf (es.govt.nz)</u></p> <p><u>Factsheet: Soil nutrients (landcareresearch.co.nz)</u></p>	<p>The Applicant considers the permitted activity standard from the NESFM of a nitrogen cap of no more than 190 kg/ha/year is appropriate (Regulations 32, 33(2) NESFM). In the decision cited by TAMI, the Applicant proffered a rate of 150kg/ha/yr, which is not case in this application.</p> <p>For the Council, E3 proposes additional changes which are seemingly not adopted by Ms McRae. Those changes are related to the application of effluent. This is inappropriate and unnecessary for this condition as this is a matter controlled by Condition 3 of the discharge consent.</p>

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	and synthetic nitrogen fertiliser at a rate of more than 190 kg/ha/year on an individual hectare basis and as an average over the landholding.						
25	<p>The Consent Holder shall:</p> <p><del>install any new permanent fencing of any temporarily fenced surface waterbodies with a minimum 3-metre buffer and provide written confirmation, along with date stamped photos, of the new fencing provided to the Consent Authority (EScompliance@es.govt.nz) by 1 July 2023</del></p> <p>a. <del>re-fence any surface waterways that currently have a stock exclusion buffer of 1 metre or less between the existing fence and the bank of the surface waterway. The re-fencing of such surface waterways shall have a minimum 3 metre stock excluded buffer; and</del></p> <p>b. <del>provided written confirmation, along with date stamped photos, of the re-fenced 3 metre buffer to the Consent Authority (EScompliance@es.govt.nz) by [DATE] 2024.</del></p>	<p>The Consent Holder shall:</p> <p>install any new permanent fencing of any temporarily fenced surface waterbodies with a minimum 3-metre buffer and provide written confirmation, along with date stamped photos, of the new fencing provided to the Consent Authority (EScompliance@es.govt.nz) by 1 July 2023</p> <p><del>b. re-fence any surface waterways that currently have a stock exclusion buffer of 1 metre or less between the existing fence and the bank of the surface waterway. The re-fencing of such surface waterways shall have a minimum 3 metre stock excluded buffer; and</del></p> <p><del>e. provided written confirmation, along with date stamped photos, of the re-fenced 3 metre buffer to the Consent Authority (EScompliance@es.govt.nz) by [DATE] 2024.</del></p>	<p>CGL's proposed wording reflects ES's initial proposal - which is consistent with the NES and was supported by CGL. The current ES mark-up changes the initial proposal by ES. CGL consider there is no justification for the additional fencing requirement.</p> <p>CGL suggest keeping the initial requirement, noting that there is a further condition added re controlled grazing. This further condition is considered more pragmatic and practical and means that CGL are not having to reference for the sake of it with no environmental gain.</p>	<p>Condition should be retained. I do not consider the proposal is consistent with NES-F regulation 24(1)(b) without the adequate protection of the surface waterways present on farm. Refer to the e3 Scientific advice attached supporting this condition.</p>	<p>MH: Science relating to riparian fencing suggests a minimum of &gt;3 m is required to avoid instream impacts (Collins et al 2009). 1 m is not sufficient to avoid adverse impacts from this activity. 3 m should protect against the impacts of this activity on some slopes at some times of year.</p> <p>Suggested alt text: <i>The Consent Holder shall: Ensure a permanent stock exclusion buffer of 3 metres from the bank of all surface waterways by X date.</i></p>	<p>We support the comment from Environment Southland that the applicant shall ensure a permanent stock exclusion buffer of 3 metres from the bank of all surface waterways. Which has clear environmental gains, particularly around slope and run off. We think that 3m should be the least considered by the applicant and higher setbacks e.g. 5-10 would have better outcomes.</p>	<p>See the Applicant's earlier comments in this table. The Applicant supports the wording as initially proposed by the Council, which is more pragmatic and practical and means that the Applicant does not have to re-fence for the sake of it with no environmental gain.</p> <p>The Applicant disagrees that NESFM regulation 24 is relevant for the same reasons as outlined in the closing submissions regarding nutrient losses compared to the baseline.</p>
28	<p>During the months of May to September, should soil moisture at the Environment Southland's McKinnon Road monitoring site be at field capacity for a period of more than 48 hours, then cows shall be held in the barn(s) for a minimum of 18 hours per day.</p>	<p>The consent holder shall install and maintain telemetered soil moisture measuring equipment (Aquaflex or similar) in two locations. The location and installation details shall be agreed with the Council (Manager Compliance), prior to its installation.</p> <p>Records of the soil moisture from each location shall be kept and provided to the Council (Manager Compliance) upon request.</p> <p>During the months of May to September, should soil moisture at</p>	<p>Condition moved from #7. CGL accepts relocation of condition.</p> <p>Post hearing CGL were to check if the change in duration suggested by ES was practical and achievable at Farm 444. Analysis of the data suggested that the soil moisture characteristics between the sites were no consistent. Specifically, the McKinnon Road site suggested soils would be at continuous saturation levels</p>	<p>Acceptable if "Prior to the first exercise of this consent" is inserted at the start of the condition to ensure the soil moisture monitoring sites are installed before cows are being milked. Also refer to the e3 Scientific advice attached.</p>	<p>MH: Added in to follow the Soil water NEMS – <i>The location and installation details shall follow the Soil Water Measurement National Environmental Monitoring Standard (NEMS) best practise and be agreed with the Council (Manager Compliance), prior to its installation. https://www.nems.org.nz/documents/soil-water-measurement/</i> Replaced upon request with annually in October.</p>	<p>Support the proposed changes by Environment Southland, if soil moisture is above capacity then the barns should be able to be utilised at all times of year.</p>	<p>Ms McRae's edit is accepted.</p> <p>Being: <i>"Prior to the exercise of this consent the consent holder shall install and maintain telemetered soil moisture measuring equipment..."</i></p> <p>It is unclear if she adopts the further suggestions of E3, but the Applicant considers the suggestion by Mr Hamer of adopting a common standard is reasonable.</p>

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	<p>either of the farm's soil moisture monitoring sites be at saturation the Environment Southland's McKinnon Road monitoring site be at field capacity for a period of more than 48-72 hours, then cows shall be held in the barn(s) for a minimum of 18 hours per day.</p>	<p>for 170 days annually. This is not the case at Farm 444, and while there may be debate around the correlation between the sites, the easiest remedy is to have farm specific monitoring.</p> <p>Two soil moisture devices are suggested, primarily to ensure there is a continuous recording should one go offline or fail.</p> <p>CGL note that farm specific monitoring is what TAMI had initially requested.</p>		<p>If the soil moisture sensors are telemetered as stated then within 48 hours should be achievable.</p> <p>AB: During the hearing the applicant stated they would move the stock into the wintering barns whenever it was wet for an extended period of time, not just between May and September. Given that rainfall events can happen all throughout the year, and field capacity is often exceeded between October -April, the consent holder should be prepared to move the cows at any time of the year.</p> <p>Alt text:  <u>During the months of May to September</u> Should soil moisture at either of the farm's soil moisture monitoring sites be at <u>saturation</u> field capacity for a period of more than <del>72</del>48 hours, then cows shall be held in the barn(s) for a minimum of 18 hours per day.</p>		<p>The location and installation details shall <u>follow the Soil Water Measurement National Environmental Monitoring Standard (NEMS) best practice</u> and be agreed with the Council (Manager Compliance), prior to its installation.</p> <p>However, the Application doesn't support the providing of the information in October necessary as it is unlikely that an appropriate repository will be available at Council. Such a requirement imposes additional cost with limited benefit.</p> <p>The Applicant accepts that the timing of wet weather could be at any time of the year and is happy the duration component of the condition is removed.</p> <p>Critical soil moisture levels are saturation, not field capacity. Saturation leads to runoff, and it are those conditions when stock should be removed from the paddocks. The Trigger Point should remain at 72 hrs at saturation.</p> <p><del>During the months of May to September, s</del>Should soil moisture at either of the farm's soil moisture monitoring sites be at saturation the Environment Southland's McKinnon Road monitoring site be at field capacity for a period of more than 48-72 hours, then cows shall be held in the barn(s) for a minimum of 18 hours per day.</p>	
31	<p>The Riparian Planting Plan required by Condition 30 shall include, but not be limited to planting in the areas below:</p> <p>a. at or about NZTM2000 1251311E 4872533N as per Appendix 3;</p>		CGL accepts change.	Refer to the e3 Scientific advice attached.	MH: The previously proposed riparian planting is not sufficient to protect the threatened gollum galaxias and longfin eel present. The Northern side of the two West/East flowing waterways should be planted. The three North/south running waterways should be	<p>We support the changes by Environment Southland. Native planting has various benefits.</p> <p>See the Applicant's position on riparian planting in the closing submissions. Mr Hamer's proposal relating to native fish does not relate to effects of the proposal, but waterway management in general.</p>	

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	<p>b. at or about NZTM2000 1251127E 4873123N as per Appendix 3;</p> <p>c. at or about NZTM2000 1250830E 4872648N as per Appendix 3; and</p> <p>d. at or about NZTM2000 1250402E 4872564N as per Appendix 3.</p>				<p>planted on both banks (to improve habitat for gollum galaxias and longfin eel). Grasses and tussocks are fine for sediment and nutrient attenuation however this site requires larger shrubs and trees for waterway shading for threatened native fish values.</p> <p>AB: Waterway shading is important for maintaining low temperatures and oxygen saturation within the waterways. Steep bare banks as viewed at the site visit, are prone to erosion and will not provide sediment and nutrient attenuation.</p>		
		<p>The Consent Holder shall establish the necessary infrastructure to enable a controlled grazing buffer to be developed, including:</p> <p>a. having fencing to achieve a minimum of a 3 m grazing setback along side 3,000 m of farm drains; and</p> <p>b. allow grazing within the fencing established with (a) to within 1 m of the farm drain when:</p> <p>a. soil moisture conditions at either of the farm's soil moisture monitoring sites is below saturation,</p> <p>b. There has been less than 25 mm of rain in the last 24 hours;</p> <p>c. There is less than 25 mm forecast in the next 48 hours.</p> <p>c. Consistency with information provided in Appendix 4;</p> <p>Advice note: The minimum setback can be achieved though riparian planting, races, and other farm infrastructure such as building.</p>	<p>CGL proposes including additional detail to provide for certainty of grazing setback, particularly during wet weather. A Controlled Grazing Buffer approach has been developed.</p> <p>The principle of the Controlled Grazing Buffers is to provide a parallel fence to the existing fence that typically excludes stock. However, when appropriate conditions exist, a gate can be opened to allow this buffer strip to be grazed in a controlled manner. This essentially allows the same area to be used, but have stock excluded so the area that can be used to filter overland flow so that grass can assist to capture sediment (and phosphorus) when runoff conditions are likely. Suitable conditions for grazing will be during dry conditions when rain is not forecast.</p>	<p>As per condition 25 above and refer to the e3 Scientific advice attached.</p>	<p>MH: See suggested condition 25. To minimise effects on threatened native fish a permanent 3 m buffer is required. 1 m buffers from waterways have not been sufficient to stop the decline in water quality and ecological health in New Zealand waterways. A condition similar to this could be acceptable if there was no grazing within 3m of the waterway bank but allowed for grass removal for silage production to within 1 m of the bank. Lastly, if this new condition was to be included, I suggest adding "75%" saturation to point b.a. and replace 24 hrs with "7 days" for point b.b.</p> <p>AB: The NES (Stock Exclusion) Regulation 8 requires 3 m exclusion and does not allow for controlled grazing. Note that these are modified watercourses - not farm drains. Be wary RMA states "river means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)" - if the consent says drain they are removing the need to exclude stock.</p>	<p>If native planting was implemented across the farm there would be no need for controlled grazing. We support the condition to be removed.</p>	<p>The Applicant understands that the Council position is to delete the Applicant's proposed controlled grazing buffer condition, which represents additional mitigation proffered by the Applicant.</p> <p>The Applicant is proposing conditions at a minimum that are consistent with the NES stock exclusion regulations, Being all existing fencing being at least 1 m from waterways. There is no new fencing required on this property as all waterways are fenced, therefore the 3 m NES requirement does not apply.</p> <p>The Applicant also notes that Rule 70 (Stock exclusion from water bodies) of the Proposed Southland Water and Land Plan (Decisions Version, 1 March 2021) does not require any specified distance of separation from the waterbody to the fence.</p> <p>If the Panel is minded to prefer the position of the Council, then this condition should be deleted and the Council's version of Condition 25 included.</p>

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		<p>Advice note: 3,000 m refers to the drain and the criteria is to be applied either side of that drain.</p> <p>Advice note: the 3 m buffer fencing can be temporary (e.g. electric wire) so as to allow its removal for harvesting of grass for silage.</p>					
32	<p>The Consent Holder shall:</p> <p>d. design and install sediment detention bunds that are consistent with the locations shown in Appendix-B 3 and the details set out in Appendix 4;</p> <p>b. construct at least one sediment detention bund within 12 months of the granting of this consent;</p> <p>c. construct a second sediment detention bund within 24 months of the granting of this consent;</p> <p>d. construct the remaining two sediment detention bunds within 36 months of the granting of this consent.</p> <p>Advice note: Potential locations for sediment traps are shown on Figure 1 attached as Appendix A and include:</p> <p>(a) in paddock X at or about NZTM 1250884E 4872761N;</p> <p>(b) in paddock X at or about NZTM 1250985E 4872899N;</p> <p>(c) in paddock X at or about NZTM 1250287E 4872635N;</p> <p>(d) in paddock X at or about NZTM 1250040E 4872236N.</p>	<p>The Consent Holder shall:</p> <p>a. design and install sediment detention bunds that are consistent with the locations shown in Appendix-B 3 and the details set out in Appendix 4;</p> <p>b. construct at least one sediment detention bund within 12 months of the granting of this consent;</p> <p>c. construct a second sediment detention bund within 24 months of the granting of this consent;</p> <p>d. construct the remaining two three sediment detention bunds within 36 months of the granting of this consent.</p> <p>Advice note: Potential locations for sediment traps are shown on Figure 1 attached as Appendix A and include:</p> <p>(e) in paddock X at or about NZTM 1250884E 4872761N;</p> <p>(f) in paddock X at or about NZTM 1250985E 4872899N;</p> <p>(g) in paddock X at or about NZTM 1250287E 4872635N;</p> <p>(h) in paddock X at or about NZTM 1250040E 4872236N.</p>	<p>CGL agrees with the suggested changes by ES.</p> <p>For consistency with the mitigations offered during the hearing process there is a fifth structure which is incorporated into (d).</p>	<p>Acceptable but also refer to the e3 Scientific advice attached.</p>	<p>MH: Sediment bunds need to be extended to the entire farm catchment rather than the approx. 63 ha currently planned to limit the adverse effects of sediment on the waterways. A map of critical source areas and elevations to enable the best sediment bund design and locations is required for this condition to be effective. See below for an example of where another sediment bund should be placed.</p>  <p>Alternate text: The Consent Holder shall: a. design and install sediment detention bunds on all sub catchments as per map/image X</p>	<p>We support the mapping of critical source areas before identifying sediment detention bund locations. Locate tile drains to intercept their point source discharges.</p>	<p>E3 suggests extending the sediment detention bunds to the entire farm catchment. As set out in the supplementary evidence of Mr Lowe provided at the hearing, the sediment bunds as proposed will be effective at reducing nutrient loss (particularly phosphorus) below the losses from the current farming system i.e. what is proposed will have a significant reduction which will assist with meeting catchment requirements to enhance water quality.</p> <p>A further undefined requirement to apply to the 'entire farm catchment' is unclear and unnecessary.</p> <p>As illustrated in the reports prepared for the hearing and attached to the proposed conditions, critical source areas and catchments have been mapped with Lidar information. The most effective and largest catchments have been included.</p>

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					equating to x sediment detention bunds. At least 2 within 12 months of the granting of the consent, and 5 within 2 years of the granting of the consent. With the remainder x within 3 years of the granting of the consent.		
33	<p>The Consent Holder shall:</p> <p>a. design and install sediment traps that are consistent with the locations shown in Appendix 3 and the details set out in Appendix 4;</p> <p>b. construct at least one sediment trap within 12 months of the granting of this consent;</p> <p>c. construct a second sediment trap within 24 months of the granting of this consent;</p> <p>d. construct a third sediment trap within 36 months of the granting of this consent.</p> <p>Advice note: Potential locations for sediment traps are shown on Figure 1 attached as Appendix A and include:</p> <p>(a) at or about NZTM 1251564E 4872297N;</p> <p>(b) at or about NZTM 1251363E 4872258N;</p> <p>(c) at or about NZTM 1250117E 4871258N.</p>		CGL accepts the changes.				
				New condition proposed by E3	<p>MH: This condition is required to avoid direct adverse effects on Gollum galaxias and longfin eel populations. The fish present at the waterways sediment trap excavation reach should be captured and released upstream.</p> <p>33.5 (NEW Condition) – The Consent holder shall: ensure suitably qualified freshwater ecologists undertake a fish salvage operation immediately prior to installing each sediment trap outlined in condition 33.</p>	We support that fish should be salvaged during any earthworks on farm within waterways.	A condition for fish salvage is considered unnecessary and overly onerous. The Applicant notes that the Proposed Southland Water and Land Plan (Decisions Version, 1 March 2021) [ Rule 59A – On-farm sediment traps] provides for clearing of drains and construction of sediment traps as permitted activities.
34	<p>The Consent Holder shall:</p> <p>a. record the design and management of the sediment control structures required by conditions 32</p>		CGL accepts the change.	Refer to the e3 Scientific advice attached.	<p>MH: This should be included and supplied to the consenting authority too.</p> <p>Additional text:</p>		As above.

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	and 33 in the Farm Environmental Management Plan required by Condition 38; and b. provide written confirmation, along with date stamped photos, of the fully operational sediment control structure to the Consent Authority ( <a href="mailto:EScompliance@es.govt.nz">EScompliance@es.govt.nz</a> ) by the [DATE] 2024, [DATE] 2025 and [DATE] 2026.				The Consent Holder shall: a. record the design and management (including sediment removal regime and associated fish salvage prior to sediment removal) of the sediment		
35	<b>The Consent Holder shall:</b> a. prior to the exercise of this consent, contract a suitably qualified and/or experienced wetland ecologist to prepare a Wetland Restoration Plan that includes the use of native wetland plants. The plan must demonstrate that the wetland will be restored in accordance with the guidelines described in Manaaki Whenua's 'Wetland Restoration: a handbook for New Zealand freshwater systems' and Schedule 2 'Restoration plans for natural wetlands' in the National Environmental Standards for Freshwater 2020 and be submitted to Council; b. restore the existing wetland area, in accordance with the Wetland Restoration Plan, and Manaaki Whenua's 'Wetland Restoration: a handbook for New Zealand freshwater systems', and Schedule 2 'Restoration plans for natural wetlands' in the National Environmental Standards for Freshwater 2020, as referred to in the application as the gorse block, at or about NZTM2000 1251190E 4873343N. Any earthworks associated with the wetland reconstruction shall be completed by [DATE] 2024. All further works shall be completed by [DATE] 2025; and c. contract a suitably qualified and/or experience person to provide written confirmation, along with date stamped photos, of the completed wetland restoration	<del>The Consent Holder shall:</del> <del>b. prior to the exercise of this consent, contract a suitably qualified and/or experienced wetland ecologist to prepare a Wetland Restoration Plan that includes the use of native wetland plants. The plan must demonstrate that the wetland will be restored in accordance with the guidelines described in Manaaki Whenua's 'Wetland Restoration: a handbook for New Zealand freshwater systems' and Schedule 2 'Restoration plans for natural wetlands' in the National Environmental Standards for Freshwater 2020 and be submitted to Council;</del> <del>e. restore the existing wetland area, in accordance with the Wetland Restoration Plan, and Manaaki Whenua's 'Wetland Restoration: a handbook for New Zealand freshwater systems', and Schedule 2 'Restoration plans for natural wetlands' in the National Environmental Standards for Freshwater 2020, as referred to in the application as the gorse block, at or about NZTM2000 1251190E 4873343N. Any earthworks associated with the wetland reconstruction shall be completed by [DATE] 2024. All further works shall be completed by [DATE] 2025;</del> <del>d. contract a suitably qualified and/or experience person to provide written confirmation,</del>	CGL consider the new addition by ES excessive. It represents a requirement to provide a betterment which is not supported by evidence or linked to any environmental effect.  CGL suggest the ES added condition be deleted and replaced with a condition consistent with the NES Part 3, Subpart 1 – Natural wetlands.  To assist with certainty, a map reference of the area of concern (Gorse Block) is included.	I consider this condition needs to be retained as the replacement condition proffered essentially already exists as regulation instead of going above and beyond and restoring the wetland area. I do not consider the proposal is consistent with pSWLP policy 11 without the restoration of this area. Refer to the e3 Scientific advice attached supporting this condition.  Refer to the e3 Scientific advice attached.	MH: E3s recommend retaining the conditions proposed by ES 7/7/2023  As stated above E3s recommend retaining the condition 35. However, if 35.5 was to be used e3 suggest the wetland assessment against the Pasture Exclusion Methodology of the NPSFM 2020 should be undertaken prior to any consent being granted. The inclusion or exclusion of this land area will affect the Overseer calculations this consent is assessed against.  AB: E3s recommend retaining the conditions proposed by ES 7/7/2023, given Policy 6 of the NES-F.  As stated above E3s recommend retaining the condition 35. However, if 35.5 was to be used e3 suggest the wetland assessment against the Pasture Exclusion Methodology of the NPSFM 2020 should be undertaken <b>prior</b> to any consent being granted. The inclusion or exclusion of this land area will affect the Overseer calculations this consent is assessed against. Note that the assessment is required to incorporate a full delineation (soils and hydrology) due to the disturbance that has occurred.	We support the inclusion of this condition, proposed originally by ES. The replacement condition by Capil Grove does not provide for any environmental gain, just to manage as is. Assessing and then restoring provides a clear tangible environmental gain.	The Applicant's case as to the potential inland wetland is as set out in the closing submissions. As Ms McRae's comments make explicit, she seeks a requirement going 'above and beyond and restoring the wetland area'. Such a requirement is not related to the effects of the proposal. A diligent process is needed to define if a wetland is present and, if so, the extent of the wetland, and then apply the appropriate management.  Despite Ms McRae's comments, a requirement to provide a betterment is not related to policy 11 of the Proposed Southland Water and Land Plan (2018) (set out in Appendix A to the Opening Submission for the Applicant).  The E3 proposal is not workable as a condition and is not justifiable (noting also that the issue raised as to Overseer relating to a potential wetland exclusion is an entirely new matter which has not been mentioned earlier).  Even if the entire gorse block was excluded as an effluent application area, this would not affect the Overseer calculations because there is sufficient other areas for the material to be applied.  The E3 proposal to require that the assessment be undertaken



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	to the Consent Authority (EScompliance@es.govt.nz) by 31 December 2025.	<p>along with date stamped photos, of the completed wetland restoration to the Consent Authority (EScompliance@es.govt.nz) by 31 December 2025.</p> <p>Prior to commencing any discharge of FDE under permit AUTH-20222055-01 in the area referred to in the application as the 'gorse block' at NZTM2000 1251190E 4873343N, the Consent Holder must engage a suitably qualified expert to assess the 'gorse block' area in accordance with the <i>Pasture Exclusion Assessment Methodology</i> under the National Policy Statement for Freshwater Management 2020 (NPS-FM). If, having undertaken that assessment, any part of the 'gorse block' is determined by the expert to be 'natural inland wetland' under the NPS-FM, the Consent Holder must:</p> <p>a) not discharge FDE within 100 m of any identified area of natural inland wetland, unless the necessary resource consents have been granted; and</p> <p>b) cease grazing of any identified area of natural inland wetland, unless the necessary resource consents have been granted.</p>			<p>Amended text: a suitably qualified <del>expert</del> Wetland ecologist</p> <p>Amended text: b) cease grazing of any identified area of natural inland wetland, <del>unless the necessary resource consents have been granted.</del></p>		<p>by a 'suitably qualified wetland ecologist' rather than a 'suitably qualified expert' is accepted.</p> <p>The E3 proposal to delete 'unless the necessary resource consents have been granted' is not accepted, as it would seek to bind and predetermine any future consent application.</p>
39	The FEMP required by Condition 38 shall also include, but not be limited to:	The FEMP required by Condition 38 shall also include, but not be limited to:	ES wetland requirements have been modified. There is a need to identify <u>if and the extent of any wetland area</u> first, and then the applicable	Adding clause c and g is acceptable, changing clause f is not supported as per condition 35 above. Refer to the e3 Scientific advice attached.	MH: Good to include soil moisture and tile drains here. As above we suggest retaining the wetland restoration condition 39. However, again we note it would be good to	Refer to comment above.	<p>In terms of E3's proposed amendments:</p> <p>b) The suggested addition to include "critical source areas" is</p>

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	<p>a. A purpose statement detailing the intent of the FEMP and an overarching farm specific statement of intent as to how the environment shall be managed;</p> <p>b. a site map showing the location of critical source areas; physiographic zones; permanent or intermittent rivers, streams, lake, drains, ponds or wetlands; where known the location and depth of any subsurface drainage systems including outlets, riparian vegetation and fences adjacent to waterways and stock access points across waterways;</p> <p>c. identification of the location, design and management of mitigation devices, including:</p> <ul style="list-style-type: none"> <li>i.riparian planting;</li> <li>ii.sediment detention bunds, required by condition 32;</li> <li>iii.sediment traps, required by condition 33.</li> </ul> <p>d. A copy of the Riparian Planting Plan, required by condition 30, providing the location and management of riparian planting. Details on pest weed and animal controls and infill planting shall be included;</p> <p>e. A copy of the Wetland Restoration Plan required by condition 35. Details on restoring the hydrology of the wetland by filling in the drains, restoring native vegetation coverage, improving water quality by increasing the residence time of water within the wetland, removing and/or controlling invasive species within the wetland and protecting the wetland from grazing by fencing shall be included;</p> <p>f. details of the implementation, inspections and maintenance of mitigation measures required by the conditions of this consent, including but not limited to the devices listed above, managing runoff around critical source areas such as races, gateways, bridges,</p>	<p>a. A purpose statement detailing the intent of the FEMP and an overarching farm specific statement of intent as to how the environment shall be managed;</p> <p>b. a site map showing the location of critical source areas; physiographic zones; permanent or intermittent rivers, streams, lake, drains, ponds or wetlands; where known the location and depth of any subsurface drainage systems including outlets, riparian vegetation and fences adjacent to waterways and stock access points across waterways;</p> <p>c. identification of soil moisture monitoring devices and how they are used to influence farm management, including the need for cows to be housed in the barn and restricted from grazing close to waterways;</p> <p>d. identification of the location, design and management of mitigation devices, including:</p> <ul style="list-style-type: none"> <li>ii.riparian planting;</li> <li>iii.sediment detention bunds, required by condition 32;</li> <li>iv.sediment traps, required by condition 33.</li> </ul> <p>e. A copy of the Riparian Planting Plan, required by condition 30, providing the location and management of riparian planting. Details on pest weed and animal controls and infill planting shall be included;</p> <p>f. A copy of the Wetland Restoration Plan required by condition 35. Details on restoring the hydrology of the wetland by filling in the drains, restoring native vegetation coverage, improving water quality by increasing the residence time of water within the wetland, removing and/or controlling invasive species within the wetland and protecting the wetland from</p>	<p>management including ceasing discharges, grazing and fencing.</p> <p>To respond to the panel questions, a tile drainage condition is proposed.</p> <p>With the inclusion of soil moisture monitoring, a new provision has been added to detail how collected data will be used for on farm decision making.</p>		<p>undertake the confirmation of the wetlands status against the NPS prior to the granting of any consent.</p> <p>AB: Note that the NES-F definition of a critical source area is as follows: <b>critical source area</b> means a landscape feature such as a gully, swale, or depression that—</p> <ul style="list-style-type: none"> <li>(a) accumulates runoff from adjacent land; and</li> <li>(b) delivers, or has the potential to deliver, 1 or more contaminants to 1 or more rivers, lakes, wetlands, or drains, or their beds (regardless of whether there is any water in them at the time)</li> </ul> <p>Amendments to text:</p> <ul style="list-style-type: none"> <li>b. a site map showing the location of <b>critical source areas</b>; physiographic zones;</li> </ul> <p>ii. riparian planting, <b>required by condition 31</b>;</p> <p>f. A copy of the Wetland Restoration Plan required by condition 35. Details on restoring the hydrology of the wetland by filling in the drains, restoring native vegetation coverage, improving water quality by increasing the residence time of water within the wetland, removing and/or controlling invasive species within the wetland and protecting the wetland from grazing by fencing shall be included.</p> <p><del>if a natural inland wetland is identified in accordance with condition, then the details of that wetland and management shall be provided, including stock exclusion, avoidance of effluent application and fencing proposed;</del></p> <p>g. details of the implementation, inspections and maintenance of mitigation measures required by the conditions of this consent, including but not limited to the</p>		<p>already provided for, so no addition is necessary.</p> <p>ii) linkage to <b>condition 31</b> is acceptable.</p> <p>f) changes to f) are not accepted. For the reasons above, the Applicant does not agree with the wetland condition proposed by the Council.</p> <p>g) changes suggested regarding “critical source areas such as races, gateways, bridges, culverts, water troughs and shelter planting;” are already provided for. No change is needed.</p>

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	<p>culverts, water troughs and shelter planting;</p> <p>g. the identification of cropping and planting regimes that have the potential to assist with reducing nutrient leaching and runoff. This should include the use of plant species such as plantain;</p> <p>h. details of the implementation and maintenance of Good Management Practices, including adoption of changing industry good management practices. This includes where the implementation of these is to avoid, remedy or mitigate any farm specific environmental risks to water quality shown through any monitoring undertaken on the property voluntarily or as required by the conditions of this consent;</p> <p>i. a review of the data obtained from the monitoring undertaken in accordance with the Farm Environmental Management Plan and any changes made, or to be made, as a consequence of that monitoring.</p> <p><i>Advice Note: Should the use of a Freshwater Farm Plan be required or available, on the basis that it is certified under Section 217G of the Resource Management Act 1991 (as amended from time to time in accordance with Section 217E(2) or (3)) and available for use, the Consent Holder may elect to use such plan.</i></p>	<p><del>grazing by fencing shall be included</del> if a natural inland wetland is identified in accordance with condition , then the details of that wetland and management shall be provided, including stock exclusion, avoidance of effluent application and fencing proposed;</p> <p>g. A methodology for identification of any tile drains on the property, and actions to:</p> <p>a) avoid contaminants entering tile drains e.g. not applying wastewater over drains or grazing hard when wet;</p> <p>b) stop and capture discharges from tile drains should obvious signs of contamination develop e.g. plug the drain and pump out and return to a suitable discharge location such as the effluent ponds.</p> <p>g. details of the implementation, inspections and maintenance of mitigation measures required by the conditions of this consent, including but not limited to the devices listed above, managing runoff around critical source areas such as races, gateways, bridges, culverts, water troughs and shelter planting;</p> <p>h. the identification of cropping and planting regimes that have the potential to assist with reducing nutrient leaching and runoff. This should include the use of plant species such as plantain;</p> <p>i. details of the implementation and maintenance of Good Management Practices, including adoption of changing industry good management practices. This includes where the implementation of these is to avoid, remedy or mitigate any farm specific</p>			<p>devices listed above, managing runoff around critical source areas such as races, gateways, bridges, culverts, water troughs and shelter planting;</p>		

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	<p>environmental risks to water quality shown through any monitoring undertaken on the property voluntarily or as required by the conditions of this consent;</p> <p>j. a review of the data obtained from the monitoring undertaken in accordance with the Farm Environmental Management Plan and any changes made, or to be made, as a consequence of that monitoring.</p> <p><b>Advice Note:</b> <i>Should the use of a Freshwater Farm Plan be required or available, on the basis that it is certified under Section 217G of the Resource Management Act 1991 (as amended from time to time in accordance with Section 217E(2) or (3)) and available for use, the Consent Holder may elect to use such plan.</i></p>						
42	<p>The Consent Authority may require the Consent Holder to have the farming activity as authorised by this consent independently audited, in accordance with <a href="#">Appendix 2</a>, by a person who is a Certified Nutrient Management Advisor or Farm Environmental Plan Auditor or a Suitably Qualified Person who has demonstrated an equivalent level of expertise.</p>		CGL accepts the change.				

		Draft Capil Grove – Dairy Conversion – Discharge AUT2022022-01					
	Conditions circulated post hearing by ES 7 July 2023 (V9)	CGL changes to conditions (V10)	Comments from CGL on V10	ES	E3	TAMI	CGL
3	<p>...the activity shall be limited to:</p> <p>...</p> <p>d. the discharge of effluent from a silage storage facility no larger than XXXX m<sup>2</sup>;</p>	<p>the activity shall be limited to:</p> <p>...</p> <p>the discharge of effluent from a silage storage facility no larger than 900 m<sup>2</sup> XXXX m<sup>2</sup>;</p>	<p>Have added allowance for the two planned silage stacks.</p>	<p>ALL Changes Acceptable</p>	<p>MH: Confirming the plan attached below is still correct. Also, I think it would be good to make it clearer that a slurry tanker can only be used on flat (&lt;7 degree) Category A land during periods when field capacity has not been reached as outlined in condition 10.</p> <p>Alt text: This consent authorises the discharge of dairy shed effluent, wintering barn effluent and silage pad effluent (“agricultural effluent”) onto land, via a land disposal system consisting of a stone trap, sump, weeping wall and sludge bed, winter barn weeping wall, winter barn sump 1 and sump 2 and two synthetically lined effluent storage ponds to low rate pods <del>and slurry tanker,.....</del></p> <p>AB: The area of land available for irrigation will need to be revised based on the wetland, and tile drain locations.</p> <p>Alt text .....(c) the discharge of agricultural effluent to an area of XXX hectares, as per the plan attached as Appendix 1.....</p> <p>The winter barns are to be used during other periods of excess soil moisture.</p> <p>Alt text: (e) the discharge to land of winter barn effluent generated from the use of two winter barns <b>between 1 May and 30 September</b> (inclusive).</p>		<p>It is not clear if the changes proposed by E3 are adopted by Ms McRae.</p> <p>In response: -the exclusion of using the slurry tanker on Category C soils is accepted. However, in this condition the discussion is about the systems that can be used. The restriction on what land Category the method is used is provided in condition 6.</p> <p>-(c) the area of area to which effluent is applied is approximately 272 ha. If a wetland is identified, as per a previous condition, then the area will be reduced. There is no need to restrict application over tile drains as the volume applied will not be sufficient to induce drainage.</p> <p>-(e) the time in the barns should not be restricted as there is a need to use the barns in summer if soil conditions mean there will be a risk for paddock grazing.</p>
6	<p>The agricultural effluent discharge shall not exceed: (a) a depth of application of 25 millimetres for each individual application, and an</p>				<p>MH: It is my understanding that the slurry tanker isn't to be used on steeper category C land.</p> <p><b>Deletion:</b></p>		<p>The Applicant accepts the proposed change.</p>

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	Draft Capil Grove – Dairy Conversion – Discharge AUT2022022-01						
	Conditions circulated post hearing by ES 7 July 2023 (V9)	CGL changes to conditions (V10)	Comments from CGL on V10	ES	E3	TAMI	CGL
	instantaneous rate of 10 millimetres per hour via a low rate pod system on Category A land; (b) a depth of application of 10 millimetres for each individual application, and an instantaneous rate of 10 millimetres per hour via a low rate pod system on Category C land; (c) a depth of application of 5 millimetres for each individual application via slurry tanker on Category A and C land.				(c) a depth of application of 5 millimetres for each individual application via slurry tanker on Category A <del>and C</del> land.		
12					<b>Deletion:</b> e) within 100 m of any natural inland wetland <del>unless the necessary resource consents have been granted.</del>		The Applicant is noting that discharges can occur within 100 m of a wetland if an appropriate consent is secured. This linkage to other consents should remain.
27	Water samples shall be collected for analysis from the locations in condition 26 twice annually in February and August and sampled for: a. Biochemical oxygen demand b. Total suspended solids c. Total phosphorus d. Dissolved reactive phosphorus e. Total nitrogen f. Ammoniacal nitrogen g. <i>E. coli</i> ; and h. Temperature		Agree with change/splitting of condition.		AB: Soil moisture capacity begins to be exceeded in late May and June, therefore sampling should target this period of high nutrient flushing from the soils.  Alt text: annually in February and <del>August</del> June	We support the inclusion of monitoring however, there needs to be a requirement to change something if the monitoring identifies an issue e.g. if the monitoring identifies a high result from tile drains – that can identify where your potential sediment bunds/traps should be installed.  Monitoring should be targeted to flushing flows from early May/June and higher intensity in the first year while identifying the location of mitigation measures.  Sites should be chosen that reflect all waterways to ensure results for each are identified and then activities adapted to ensure a positive change is made due to monitoring.  We don't support monitoring for the sake of monitoring.	It is not clear if the changes proposed by E3 are adopted by Ms McRae.  As discussed at the hearing, the idea of the monitoring is to get an idea of trends on the farm. This would assist in any future re-consenting process.  Attaching specific standards or triggers would be problematic, particularly given that there are upstream activities beyond the control of the Applicant.  Regarding the dates, they are specifically targeted to identify the two at risk periods, being the dry and wet conditions. Sampling in June is not appropriate.
30	The result of analyses shall be recorded within the Consent Holders Farm Environmental Management Plan, and reported to the Consent Authority (EScompliance@es.govt.nz) within 20 working days of receipt by the Consent Holder.	The result of analyses shall be recorded within the Consent Holders Farm Environmental Management Plan, and reported to the Consent Authority (EScompliance@es.govt.nz) within 20 working days of receipt by the Consent Holder. The results of monitoring shall be made available to the Consent Authority on request.	CGL support the recording and being used to update the FEMP, but don't support the providing of the information with every monitoring event. It creates another compliance and complexity for data that is intended for guidance and not compliance.		AB: If water quality is not being improved by the land use change, the consent holder should be obliged to make changes to their practices.  <i>Should the results of sampling indicate no improvement in water quality has occurred due to the change of land use on the property, the Consent Holder</i>		The whole project is about making improvements in land use by changing practices.  It will be difficult to assess change as there is limited monitoring information. The farm system in recent years (and currently) is transitional and would likely show a lower

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					<i>will provide and implement additional water quality mitigations within the next Farm Environmental Management Plan. Sampling frequency is to be increased to quarterly until water quality improvement is confirmed.</i>		contaminant load than the baseline years of 3 years ago. The monitoring is for informative purposes only and not compliance.

		Draft Capil Grove - Dairy Conversion – Winter Barns 20222055-03					
	Conditions circulated post hearing by ES 7 July 2023 (V9)	CGL changes to conditions (V10)	Comments from CGL on V10	ES	E3	TAMI	CGL
5				ALL Changes Acceptable	No comments provided	<p>The winter barns shall not be located within:</p> <ul style="list-style-type: none"> <li>(a) 50 metres of any surface watercourse;</li> <li>(b) 100 metres of any water abstraction point;</li> <li>(c) 200 metres of any place of assembly or dwelling not on the subject property;</li> <li>(d) 20 metres of any mapped tile drains; and</li> <li>(e) 20 metres from any property boundaries.</li> </ul> <p>The applicant will need to locate all tile drains and then comply with this condition</p>	<p>It is difficult to know where all tiles are. Only when the tiles are mapped can buffers be put in place. The Applicant does not support the change.</p>