Hearing postponed - Applicant suspension 7 Mar 2022 under RMA section 91A
New hearing date Wed 17 August 2022 - venue to be confirmed

Notice is given that a Resource Consent Hearing will be held on:

Date	Wednesday 17 August 2022 Thursday 18 August 2022 Friday 19 August 2022 (reserve day - Monday 29 August 2022)	~~Monday 28 March 2022~~ ~~Tuesday 29 March 2022~~ ~~Wednesday 30 March 2022~~ ~~(reserve day – 31 March 2022)~~
Time		9.30 am (day one)
Venue	To be confirmed - details on application webpage by Monday 1 August 2022	~~Regret unable to be via Zoom~~ due to Covid-19 Omicron
Zoom		Details available on application webpage from ~~14 March 2022~~ 1 August 2022

Commissioner (Resource Consent) Hearing

AGENDA

Commissioner	Craig Welsh
Council staff	Susanne B Solly , Consultant Planner, WSP Mirka Langford, Senior Resource Scientist – Land Ari Fon, Consultant Traffic Engineer Alastair Jewell, Principal Planner (Hearing Facilitator) Phone: 03 543 8422 Email: alastair.jewell@tasman.govt.nz Website: www.tasman.govt.nz

Note: The reports contained within this agenda are for consideration and should not be construed as the decision of the Council.

Hearing postponed - Applicant suspension 7 Mar 2022 under RMA section 91A
New hearing date Wed 17 August 2022 - venue to be confirmed

[this page blank]

AGENDA

1 Opening, welcome

2 Reports

[this page blank]

ITEM 2.1

CJ Industries Limited's resource consent applications at 134 Peach Island Road, Motueka for gravel extraction with vehicle access via a right of way over 493 Motueka River West Bank Road, Crown land and unformed legal road - Council reference RM200488 and ors

DECISION REQUIRED

Report to	Commissioner (Resource Consent) Hearing
Meeting date	~~28 March 2022, 29 March 2022, 30 March 2022 (& 31 March 2022 reserve day)~~ 17 August 2022, ,18 August 2022, 19 August 2022 (& 29 August 2022 reserve day)
Report author	Alastair Jewell, Principal Planner - Resource Consents
Report number	REPC22-3-28
Attachments:	1. Section 42A report and recommendation by reporting planner 2. Key Tasman Resource Management Plan objectives and policies 3. Summary table of submissions 4. Recommended draft conditions 5. Technical review – traffic effects assessment – Ari Fon 6. Technical review – land production values – Mirka Langford 7. Aerial maps – site and surrounds; TRMP zoning, notations and areas 8. Aerial maps – submitter locations

Report and recommendation.

The Section 42A report and recommendation on the resource consent application (Attachment 1) has been prepared by Susanne B Solly as the Council's consultant reporting planner.

Expert technical comments have been provided on traffic effects by Ari Fon (consultant traffic engineer engaged by the Council – see Attachment 5) and land productivity / versatility by Mirka Langford (Senior Scientist - Land – see Attachment 6.)

This section 42A report and attachments was compiled for release by Alastair Jewell, Principal Planner.

Resource consents applied for

Land use consent RM200488

Land use consent to disturb land and rehabilitate for the purpose of gravel extraction within the Rural 1 Zone.

Land use consent RM200489

Land use consent to erect signage and establish access via an unformed legal road.

Submissions

This application was publicly notified on 8 December 2021. In total 147 submissions were received. Of these, 33 support the application, 111 oppose the application, and three are neutral. A total of 43 submitters asked to be heard, including submitters who asked under section 100A of the RMA for the matter to be heard and determined by an independent commissioner. The above include two late submissions that have been accepted by the Council's principal planner with delegated authority and under section 37 and section 37A of the RMA.

Craig Welsh was the independent hearing commissioner appointed and delegated the powers and functions (under section 34A(1) of the RMA) to conduct the hearing and decide these resource consent applications.

Purpose of report

This report is not the decision on the application.

It contains advice and recommendations from professional planners and other experts.

It has yet to be considered by the Hearings Commissioners delegated by Tasman District Council to decide this resource consent application.

The decision will be made after the Commissioners have considered the application, this report, and heard all evidence from the applicant and the submitters.

Annotations to this agenda

Alastair Jewell, Principal Planner, has made the following annotations to this agenda:

Hearing postponement - changes to date, venue etc, and
Digital notations to cross reference Council information (technical specialist emails to reporting planner) provided under Minute No 1.

[added 27 June 2022]

REPORT UNDER SECTION 42A OF THE RESOURCE MANAGEMENT ACT 1991

Resource application by	CJ Industries Limited
Application number	RM200488 and RM200489
Site address	134 Peach Island Road, Motueka
Legal description	Lot 2 DP 2357 (RT NL77/73) and Lot 2 DP 432236 (RT 524970)
Report and recommendation prepared by:	Susanne Bernsdorf Solly, Senior Consultant Planner

Note: This is not a decision.

This report sets out the advice and recommendations of the reporting planner.

The independent commissioners delegated by Tasman District Council to decide this resource consent application have not considered this report yet.

The independent hearing commissioners will only make a decision after they have considered the application and heard all evidence from the applicant, submitters and council officers.

1 Introduction

1.1 The application seeks the following resource consents:

RM200488	Land use consent to disturb land and rehabilitate for the purpose of gravel extraction within the Rural 1 Zone.
RM200489	Land use consent to erect signage and establish access via an unformed legal road.

1.2 This report has been prepared under section 42A of the Resource Management Act 1991 (RMA) to assist the hearing of the application for resource consents made by CJ Industries Limited on 15 June 2020. The application is considered under the RMA provisions as at the date the application was made.

1.3 Section 42A of the RMA allows consent authorities to require the preparation of such a report on an application for resource consents and allows the consent authority to consider the report at any hearing.

1.4 The purpose of the report is to assist the Panel in making a decision on the applications RM200488 and RM200489.

1.5 The provisions of the RMA this application is processed and determined under is the version as at the date the application was made. The application was lodged on 15 June 2020, and accordingly the RMA version is:

Resource Management Act 1991 No 69 (as at 16 May 2020),
Public Act Contents – New Zealand Legislation

Qualifications and experience

1.6 My name is Susanne Bernsdorf Solly, and I am employed by WSP in the role of Senior Planner. This is a position I have held for four years. Prior to this I worked for Nelson City Council for 10 years (five years as a Planner and five years as a Senior Planner), processing resource consent applications. My experience also includes 18 months of policy planning at Kaipara District Council.

1.7 I have a Diploma (five-year German degree, equivalent to a Master of Science) in Geography (Major) and Town, Regional & Traffic Planning (Minors) from the University of Technology, Dresden, Germany. I have completed the Making Good Decisions course with Commissioner Certification (2012) and Chair Certification (2014, 2019).

1.8 I am a Full Member of the New Zealand Planning Institute.

1.9 I prepared a resource consent application on behalf of one of the submitters, the Nelson Tasman Cycle Trust, for a Great Taste Trail extension in Tahunanui in 2018. I do not consider this to be conflict of interest.

1.10 I have visited the site and the environs on 7 February 2022.

Expert witness code of conduct

1.11 I acknowledge that this is a consent authority hearing. I have read and agree to comply with the Code of Conduct for expert witnesses as set out in the Environment Court Consolidated Practice Note 2014. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper. I confirm that the evidence on planning matters that I present is based on my qualifications and experience, and within my area of expertise. I am not aware of any material facts which might alter or detract from the opinions I express. I express my own view within this report and note where I have relied on information provided by others.

2 Summary of proposed activity

2.1 A detailed description of the proposed activity, including volunteered conditions of consent, is contained in the resource consent application lodged on 15 June 2020 and further information responses submitted on 8 and 10 June 2021.[1]

2.2 In summary, the Applicant, CJ Industries Limited, has applied to Tasman District Council for resource consents to extract gravel at 134 Peach Island Road. The proposed extraction is on the berm of the Motueka River and on the landward side of the stopbank at Peach Island.

2.3 Proposed access to the site is through 493 Motueka River West Bank Road, and then by crown land (managed by the Department of Conservation (DoC)) and unformed legal road. The ownership of the various land parcels in is shown in Figure 1, the proposed access route in Figure 2 (both below).

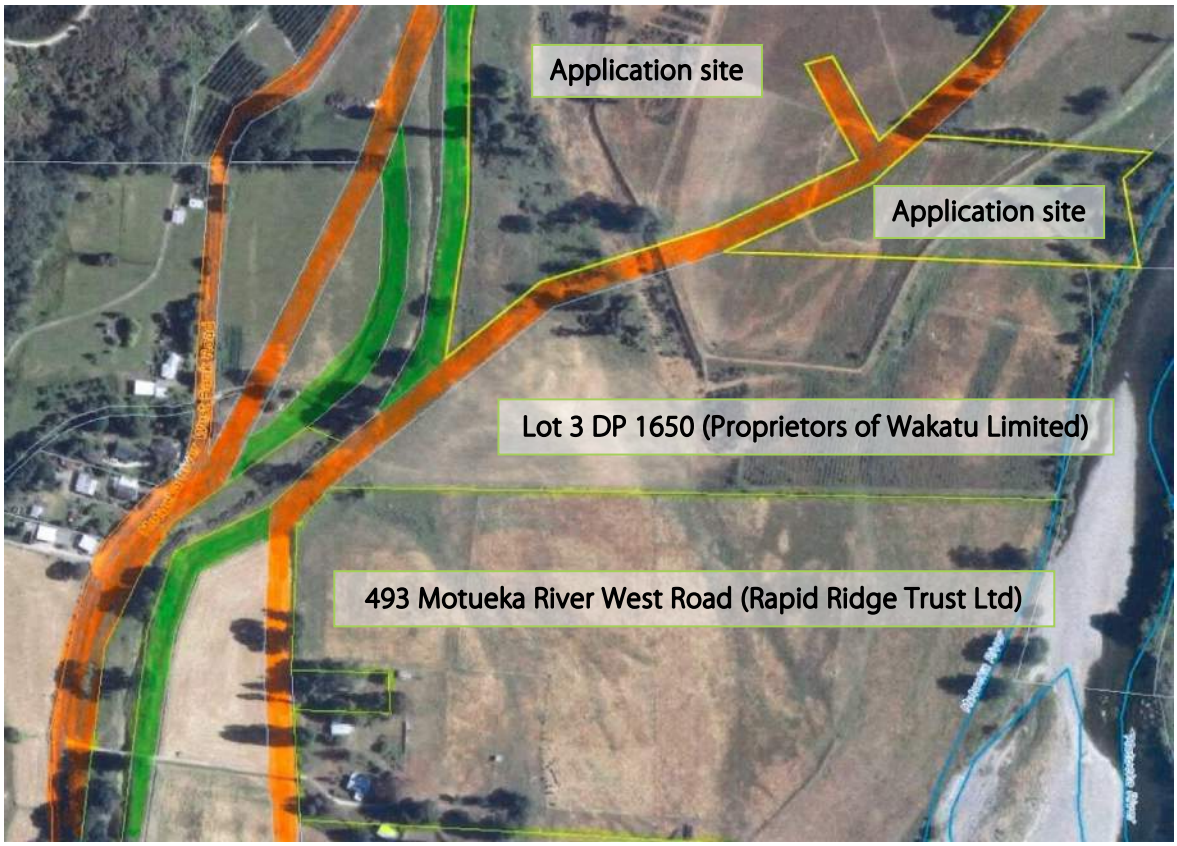
2.4 Trucks would take extracted material to the existing processing site at Hau Road, Motueka for screening and processing. The transport route runs west along Motueka River West Bank Road, over the bridge at Alexander Bluff Road and then onto Motueka Valley Highway.

2.5 The Applicant seeks a 15-year duration of consent and proposes:

a. Hours of operation: 7 am – 5 pm Monday to Friday, no weekends or public holidays
b. Maximum 15 return / 30 single truck movements per day
c. Access/ haul route to the extraction sites to be formed and sealed (4.5 m width) – Figure 2
d. Excavation no deeper than mean winter groundwater level
e. Excavation in Stages 1-3 (refer to Figure 3) and strips (30 m wide x 100 m long), aligned parallel to the general direction of flood flow
f. No more than 3,000m^2 of ground will be exposed at any one time
g. Backfill with cleanfill[2] within six months of excavation
h. 20 m setback from Motueka River and the toe of the existing stopbank
i. No screening, crushing, or processing on site
j. three-monthly monitoring, including groundwater quality monitoring

[1] Available on www.tasman.govt.nz , keyword search "Tasman Asphalt".
[2] Refer to Section 4.21 of this report for a definition and discussion of cleanfill material.

Figure 1: Ownership of land adjacent to the haul road



2.6 The areas highlighted in orange are Legal Road, including unformed legal road ("paper road").

2.7 The areas highlighted in green are subject to the provision of Marginal Strips (section 24(3) Conservation Act 1987), i.e., crown land managed by DoC.

2.8 The application site (134 Peach Island Road) is owned by TG Corrie-Johnston and K M Silcock.

2.9 493 Motueka River West Road includes parcel "A" shown in Figure 1 (i.e., the strip of land located between Motueka River West Road and the strip of crown land). It is owned by Rapid Ridge Trust Limited whose director, Des Corrie Johnston, is also one of the directors of CJ Industries Limited.

2.10 The parcels labelled "B" are owned by A E & D L Woodcock (submission 46).

2.11 The parcels labelled "C" are owned by C G, C M and G H Le Frantz (submission 37).

2.12 The land located between the application site and 493 Motueka River West Road is owned by the Proprietors of Wakatu Limited.

Figure 2: Proposed haul route to extraction sites

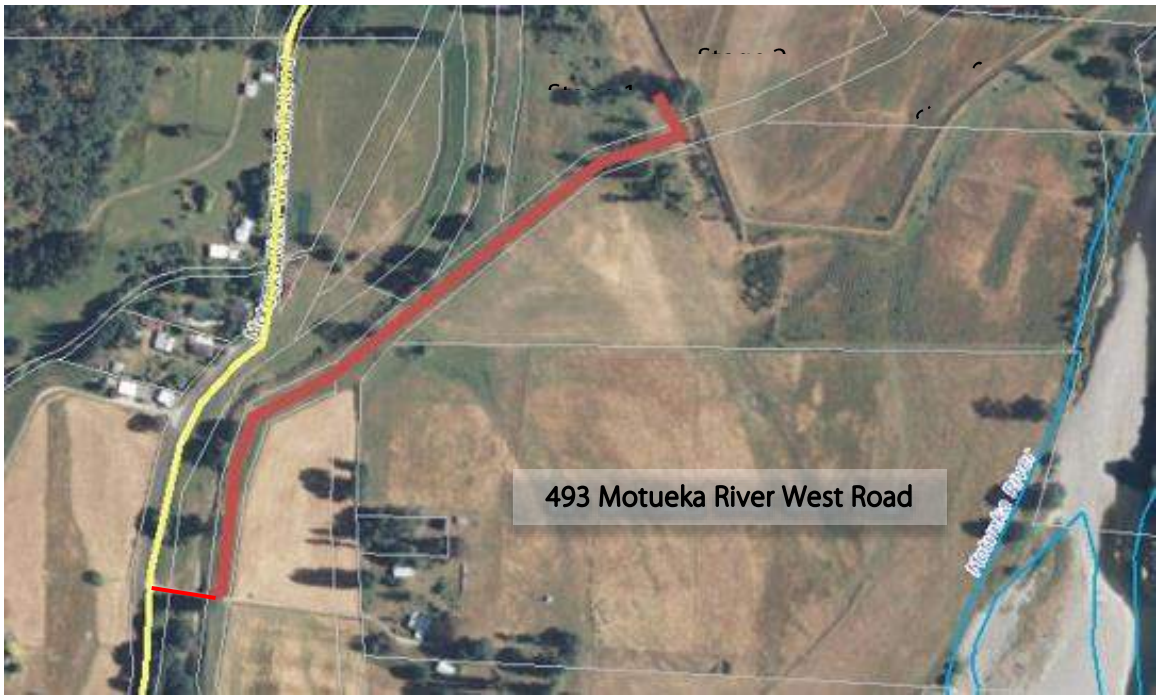
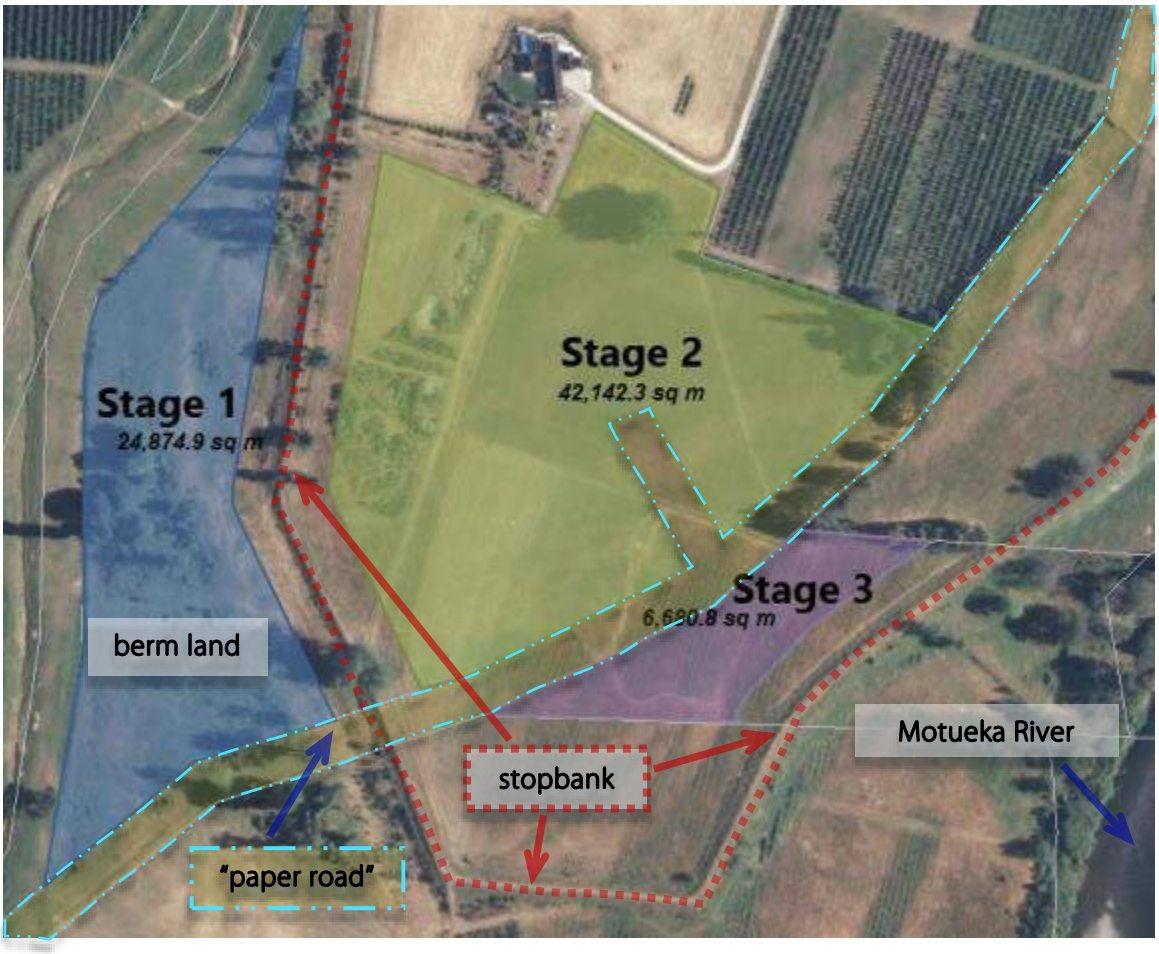


Figure 3: Proposed extraction locations, areas and staging

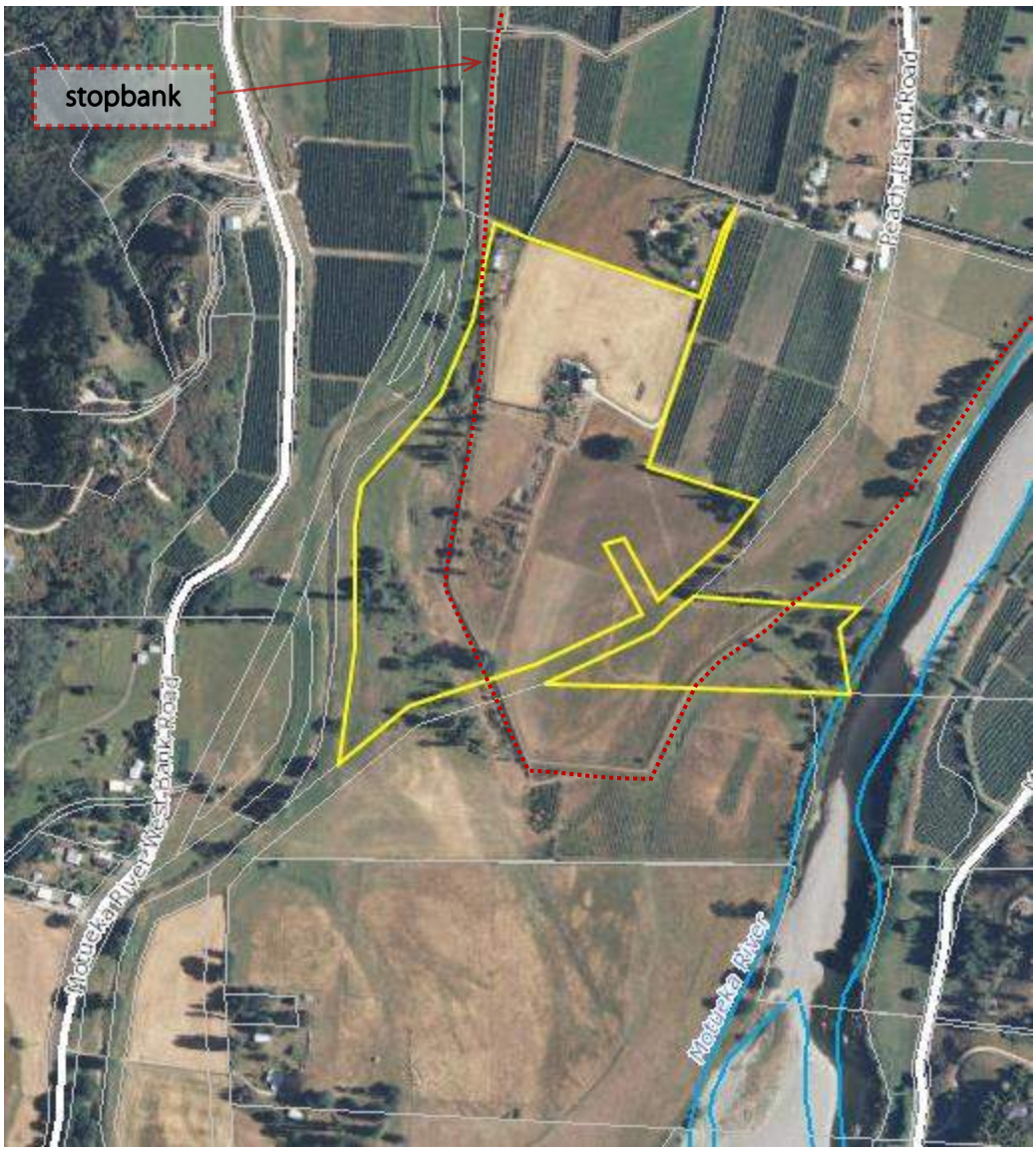


3 Site description

3.1 The application site is located at 134 Peach Island Road, legally described as Lot 2 Deposited Plan 432236 (Record of Title (RT) 524970) and Lot 2 Deposited Plan 2357 (RT NL77/73). The location of the application site is shown on Figure 4 below. The two lots are separated by unformed legal road.

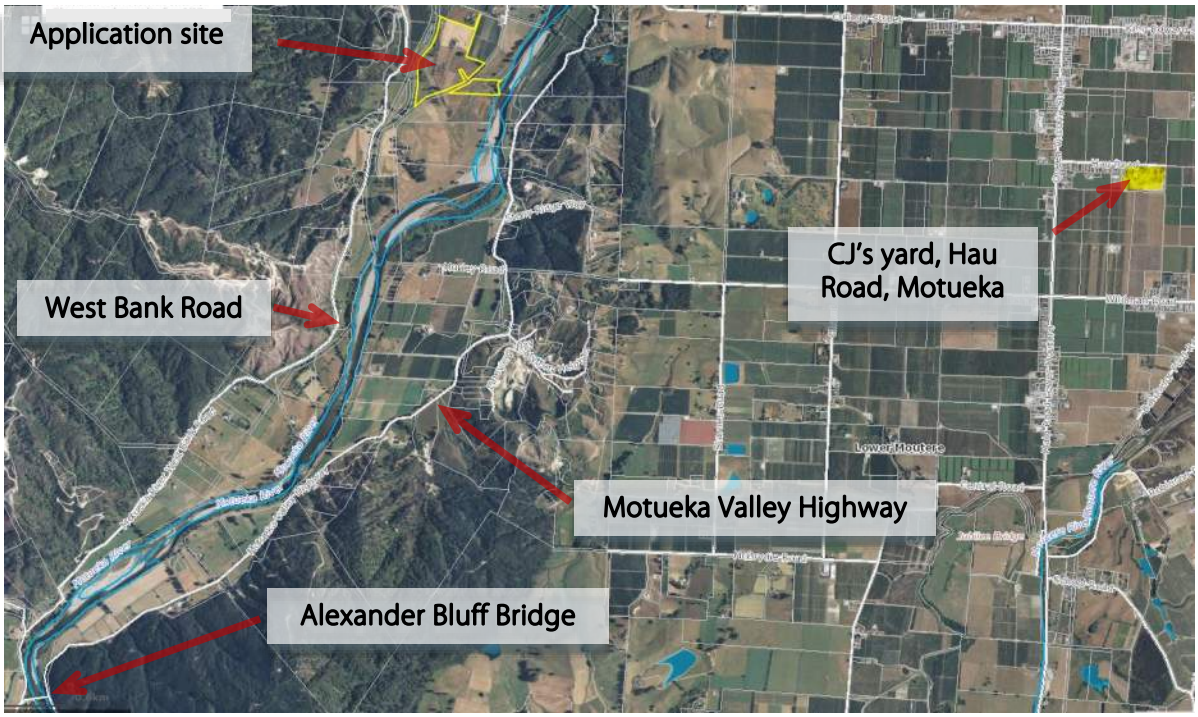
3.2 The site is accessed via a Right of Way (ROW) from Peach Island Road and contains a dwelling and shed.

Figure 4: Location of the subject site (yellow outline) with stopbank (dotted red)



3.3 The proposed site is approximately 6 kilometres to the west of Motueka (aerial distance) and approximately 4.3 kilometres north of Alexander Bluff Bridge (measured along Motueka River West Bank Road) as shown on Figure 5.

Figure 5: Location of the subject site (wider scale) and Hau Road Yard



3.4 The application site is zoned Rural 1 surrounded by land used both for rural residential living, but primarily rural productive activities, including pasture and orchards. The site is on relatively flat land within a valley and currently in pasture for grazing.

3.5 The site is located on the true left of the Motueka River and subject to a Flood Hazard. The site contains a stopbank (refer to Figures 3 & 4). Proposed Stage 1 of the gravel extraction is located outside of the stopbank, on berm land, while Stages 2 & 3 are on land within the stopbank. The application states that "*the stop bank was built in the 1950's and was designed to hold a 1-in-50-year flood with a 600mm freeboard.*"

3.6 The Motueka River runs along the site's eastern boundary and an unnamed stream along its western boundary. The unnamed stream is referred to as the "Peach Island overflow channel" or "back channel" as it is inundated during flood events.

3.7 The overflow channel is shown on the left on Figure 7 below. Figure 8 shows proposed Stage 1 of the works. Figure 9 shows Stage 2 and the proposed stockpile and service area. Figure 10 shows proposed Stages 2 and 3.

Figure 6: Looking north along the proposed access/ haul road on Crown land

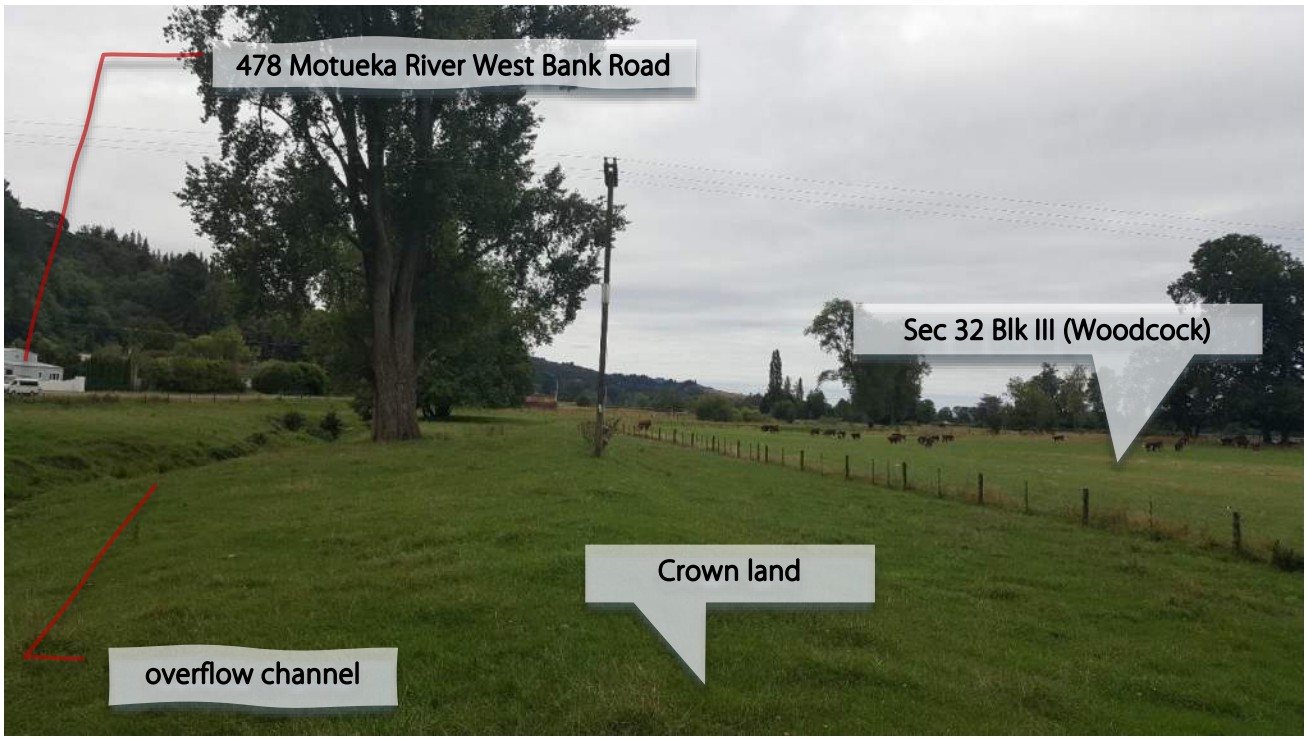


Figure 7: Looking north from the unformed legal road towards Stage 1

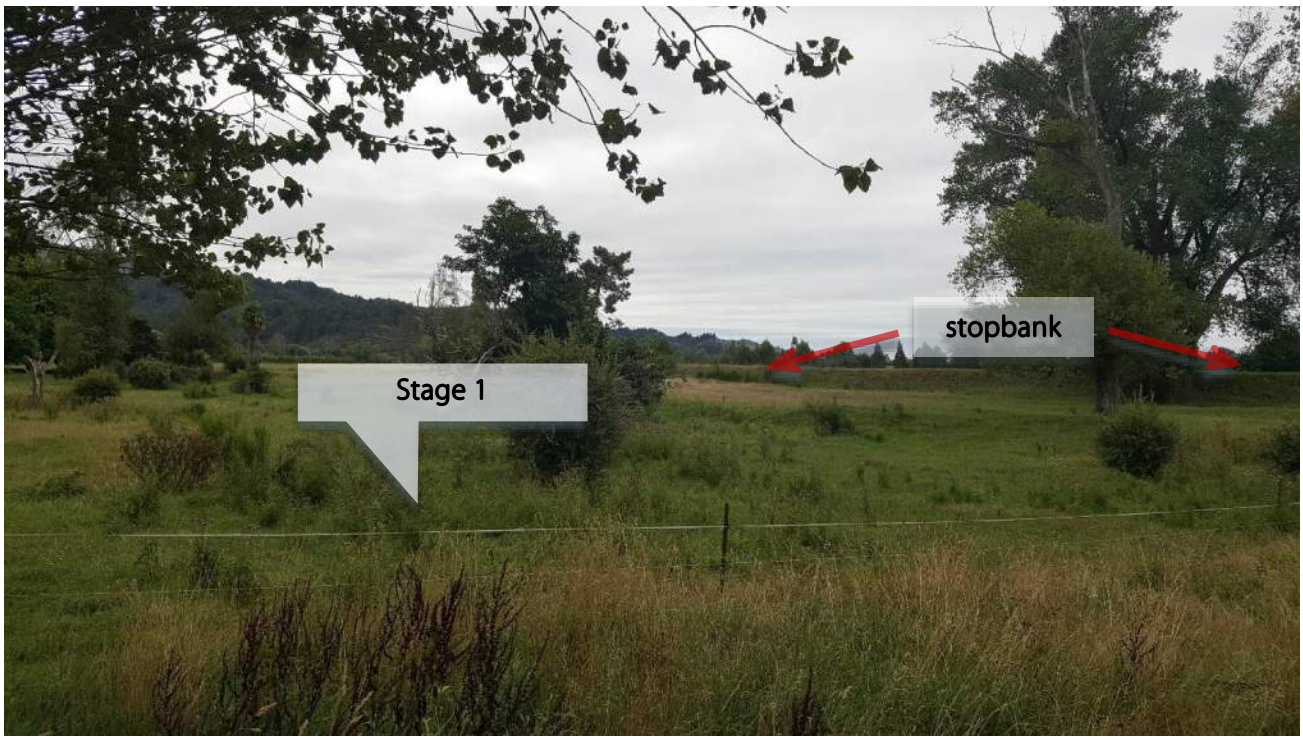


Figure 8: Looking north from the stopbank to proposed stockpile area

Figure 9: Looking east from the western side of the stopbank towards Stage 2 and Stage 3

4 Status of application

4.1 The applications RM200488 and RM200489 were lodged with the Tasman District Council on 15 June 2020.

4.2 The Tasman Resource Management Plan (TRMP) zoning and overlay areas are:

TRMP Zoning:	Rural 1 Zone
TRMP Areas:	Land Disturbance Area 1
Other notations:	Flood Hazard

4.3 Aerial maps of the site and surrounds, including the TRMP zones, areas and notations are attached as Attachment 7.

4.4 The TRMP permitted activity rules contravened by the proposed activities and the resulting activity statuses are listed in the table below.

Activity	Applicable rules	Status
RM200488 Land use consent to disturb land and rehabilitate for the purpose of gravel extraction within the Rural 1 Zone.		
Flood Hazards (amenity planting & stockpiling)	The stockpiling of material and amenity planting on the berm of the Motueka River back channel cannot comply with permitted activity rules 16.10.2.1(d) and (e) because the proposed amenity planting is woody and >0.5 m in height, and stockpiling may exceed an area of 20 m^2 and be deposited for more than 10 days.	Restricted discretionary under rule 16.10.2.2
Rural 1 Land (gravel extraction)	The proposed gravel extraction is not permitted by rule 17.5.2.1(a) as the volume of land to be disturbed will be greater than 50 m^3 within a 12-month period.	Discretionary under rule 17.5.2.9
Land Disturbance Area 1 (gravel extraction)	The proposed gravel extraction is not permitted by rule 18.5.2.1(o) as the volume of land disturbed will be greater than 50 m^3 within a 12-month period and is within the flood plain. The proposed gravel extraction cannot comply with restricted discretionary rule 18.5.2.4 because not all of the proposed quarrying area is located within the berm land of the Motueka River.	Discretionary under section 87B of the RMA

Activity	Applicable rules	Status
RM200489 Land use consent to erect signage and establish access via an unformed legal road		
Outdoor Signs	The erection of on-site outdoor signs is not permitted in accordance with rule 16.1.5.1 as there will be more than one sign. The erection of outdoor signs can comply with rule 16.1.5.3 and is therefore a controlled activity.	Controlled
Access	The activity cannot comply with permitted activity rule 16.2.2.2 as access is via an unformed legal road. Access to the site via an unformed legal road is therefore a restricted discretionary activity pursuant to rule 16.2.2.6.	Restricted discretionary

4.5 Since the lodgement of the application under sections 55(2) and 55(2A) the provisions of the TRMP have been amended without any First Schedule notification process. This is to implement the NPS-FM (2020) direction under clauses 3.22 (Natural inland wetlands), 3.24 (Rivers) and 3.26 (Fish passage). The relevant NPS-FM provisions are detailed in Sections 6.18 to 6.20 and Sections 12.1 to 12.9.

4.6 There are no other Plan Changes that are relevant to the proposal.

Overall activity status

4.7 All the above resource consents are necessary for the proposed activity, and to consider all the relevant effects of the proposal in accordance with the principle of integrated resource management, the application is bundled, and the most restrictive activity status is applied. The application is considered overall as a **discretionary** activity.

Permitted activities

4.8 Traffic signs will be erected with the approval of the Council pursuant to rule 16.1.2.1 as a permitted activity.

4.9 Site access will be upgraded to meet the standards required by the NTLDM 2020 and is therefore a permitted activity pursuant to rule 16.2.2.1.

4.10 If the bridge over the Motueka River back channel requires upgrading this will be undertaken in accordance with permitted activity rule 28.1.5.1. An upgraded or replacement bridge can also be permitted under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ('the NES-F'), however it is noted that the NES-F contains conditions for the placement of culverts (NES-F, regulation 70).

4.11 Erosion, sediment, and stormwater control practices will be maintained throughout the duration of the works to ensure any sediment discharge complies with permitted activity rule 36.2.2.3.

4.12 The site is not listed as a HAIL[3] site or pre-1970s orchard land on the Council's planning map. A review of aerial photos shows that the site was potentially used for growing tobacco in the 1940s, for pasture in the 1980s, and for horticulture (blackcurrants) from approximately 2000-2013. I agree with the applicant that it is unlikely that the site contains contaminated soil and therefore, the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ('the NES-CS') does not apply to this proposal.

Existing resource consents

4.13 Resource consents to take groundwater for irrigation have been granted for the site (e.g., in 1994, 2000, 2004, 2017 and 2018), however these consents are not relevant for the current application. Nor is the resource consent to construct a dwelling at the site, which was granted on 23 November 2010 (RM100610).

Relevant definitions

4.14 The following TRMP definitions are relevant to the application:

4.15 Berm land

> **Berm land** – means land located between the bank of a river and a stopbank on the same side of the river, and includes the land between the western Peach Island stopbank and West Bank Road.

4.16 High productive value

> **High productive value** – in relation to land, means land which has a combination of at least two of the following features, one of which must be (a):
>
> (a) a climate with sufficient sunshine that supports sufficient soil temperature;
>
> (b) a slope of up to 15 degrees;
>
> (c) imperfectly-drained to well-drained soils;
>
> (d) soil with a potential rooting depth of more than 0.8 metres and adequate available moisture;
>
> (e) soil with no major fertility requirements that could not be practicably remedied;
>
> (f) water available for irrigation;
>
> where that combination is to such a degree that it makes the land capable of producing crops at a high rate or across a wide range.
>
> NOTE: This meaning is adapted from "Classification System for Productive Land in the Tasman District", Agriculture New Zealand, December 1994 and is equivalent to land under classes A, B, and C.

[3] Hazardous Activities and Industries List (HAIL) | Ministry for the Environment

4.17 Industrial Activity

> **Industrial activity** – means the use of land and buildings for the primary purpose of manufacturing, fabricating, processing, packing, storage, maintenance, or repair of goods, but does not include home occupations.

4.18 Quarrying

> **Quarrying** – means any land disturbance required for the extraction of any mineral including any rock, gravel or sand, and includes any on-site storage or processing of any mineral extracted on the site and any ancillary building including caretaker's accommodation, but does not include:
>
> (a) prospecting or exploration as defined in the Crown Minerals Act 1991 where no earthworks using machinery are carried out; or
>
> (b) construction or alteration of a bore.

4.19 Rural Character – means the character of the land as shown by the predominance of rural productive activities and includes:

> (a) a high ratio of open space to built features;
>
> (b) large areas of pasture, crops, forestry and land used for a productive end;
>
> (c) built structures usually associated with productive rural land uses, including artificial shelter and crop support structures;
>
> (d) low population density;
>
> (e) residential activity usually directly associated with a productive land use;
>
> (f) social and economic activity associated with productive land use;
>
> (g) noises, smells and other effects associated with the use of rural land for a wide range of agricultural, horticultural and forestry purposes.

4.20 Rural Industrial Activity

> **Rural industrial activity** - means the use of land and buildings for an industrial activity that depends on produce harvested from plant and animal production, or the sea, or any other land-derived product, including any sawmill, timber treatment plant, abattoir, stockyard, packhouse, cold storage, rural contractor's depot, and the processing of minerals and quarry products.

4.21 The TRMP does not contain a definition of "cleanfill". I have therefore adopted the definition contained in the most recent WasteMINZ guidelines[4], which replace the Ministry for the Environment's[5] cleanfill guidelines and define clean fill material as follows:

[4] Waste Management Institute New Zealand (WasteMINZ) (2018): Technical Guidelines for Disposal to Land
[5] Ministry for the Environment (2002): A Guide to the Management of Cleanfills.

Clean Fill Material	Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of: • combustible, putrescible, degradable or leachable components; • hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown; • products or materials derived from hazardous waste treatment, stabilisation or disposal practices; • materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health if excavated; • contaminated soil and other contaminated materials; and • liquid waste. When discharged to the environment, clean fill material will not have a detectable effect relative to the background.

4.22 In accordance with the above definitions, I agree with the applicant that the proposal is for quarrying. As no processing will occur on site, the proposal is not an Industrial or Rural Industrial Activity. The land to be quarried during Stage 1 (refer to Figure 3) is defined as berm land and no extraction will occur within the bed of any river.

4.23 The applicant states that material to be used for backfilling may contain up to 10% of organic material. As organic material is degradable, the proposed backfill does not meet the above definition of cleanfill material.

4.24 Council's soil scientists, Ms Mirka Langford and Dr Anne Wecking have confirmed that the application site meets the definition for high productive value in the TRMP.

5 Notifications and submissions

5.1 The following is a summary of key steps in the timeline for the application:

Date	Process detail
15 June 2020	Application lodged
3 July 2020	Further information requested
8 and 10 June 2021	Further information received
8 December 2021	Application publicly notified
8 February 2022	Submission period closed
28 – 30 March 2022	Hearing scheduled

Written approvals

5.2 No written approvals were provided. The applicant submitted a "Proof of Consultation" from Ngāti Kuia with the application. This document serves as proof the applicant has consulted with Ngāti Kuia but is not to be considered as an affected party approval.

Notification

5.3 When the application was publicly notified, notice was also served on the following:

Name (person, organisation)	Affected interest
Ngāti Toa Rangatira	Motueka River Statutory Acknowledgement
Ngāti Rārua,	Motueka River Statutory Acknowledgement
Te Ātiawa o Te Waka-a-Māui	Motueka River Statutory Acknowledgement
Ngāti Kuia	Motueka River Statutory Acknowledgement
Ngāti Tama ki Te Tau Ihu	Motueka River Statutory Acknowledgement
Department of Conservation	DoC land in the vicinity and used for access.
Fish and Game	Motueka Water Conservation Order
Nelson Marlborough District Health Board	Potential water quality effects
Ian Barnes & Margaret Swainson	Amenity
Cemetery Trust	Amenity
Andrew Claringbold & Anthea Garmey	Amenity
Andrew & Julie Drummond	Amenity
Jeffrey Foote & Maree Ahearn	Amenity
Ronald Frater & Charlotte Rundgren	Amenity
Proprietors of Wakatū Incorporated	Amenity
Roderick & Dierdre Fry	Amenity
Philip Grooby	Amenity
Ashley Hodder	Amenity
Andrew Hutton	Amenity
David & Susan Kellogg	Amenity
Mark & Katherine Kelly	Amenity
Nataliya & Oliver Langridge	Amenity
Graeme & Coralie Le Frantz	Amenity
Ingrid Losch & Ross Huff	Amenity
Graham Peacock	Amenity
Justin Powell & Erena Powell	Amenity
Rapid Ridge Trust Limited	Amenity
Shaggery Holdings Limited	Amenity

Bernd Sterzenbach	Amenity
Darin Sundbye & Helen Webster	Amenity
Eric & Amanda Taylor	Amenity
Mark & Catherine Thomas	Amenity
Justin & Vicki Walker	Amenity
Karleen Ward & Timothy Stevenson	Amenity
Craig Wassell	Amenity
Arthur & Derek Woodcock	Amenity

Submissions

5.4 A total of 147 submissions were received. Of these 110 submissions expressed opposition, 33 submissions supported it, and three were neutral, with 43 submitters asking to be heard.

5.5 The above include two late submissions that have been accepted by the Council under section 37 after taking into account matters of section 37A (interests of parties, interests of community in adequate assessment of proposal, and duty to avoid unreasonable delay.

5.6 Some submissions did ask that the Council delegate it's functions to one or more hearings commissioners who are not members of the local authority to hear and decide the application (see section 100A of the RMA).

5.7 A summary of submissions is attached to this report (Attachment 3).

Comments on submissions

5.8 The submissions have raised the following issues:

Issue
Amenity effects – noise, dust and visual effects
Traffic effects • Safety – conflict of heavy vehicle movements with cyclists, pedestrians and other road users • Efficiency and capacity of Motueka Valley Highway, West Bank Road and Alexander Bluff Bridge • Intersection of the proposed access with West Bank Road
Effects on land productivity/ loss of productive land
Effects on flood plain and flood barriers/ stopbank
Effects on surface water
Effects on ground water, in particular from potentially contaminated backfill
Effects on cultural values
Positive effects

Issue
• economic well-being, employment • improved supply of aggregate for roading and concrete manufacture
Other • duration of consent • precedent effect • effects on property values • effects on Hau Road residents • poor compliance history • should have to comply with permitted standards • effects on native wildlife (flora and fauna) • effects on tourism/ recreation

6 Statutory considerations - Resource Management Act 1991

Section 104

6.1 A decision on these applications must be made under sections 104 and 104B. When considering an application and any submissions received, the matters a consent authority must have regard to under section 104 are subject to Part 2 (purpose and principles) of the RMA.

Effects – Section 104(1)(a)

6.2 The consent authority must have regard to any actual and potential effects of the environment of allowing the activity [6]. In considering any actual and potential effects:

a. any adverse effects that may arise from permitted activities in a national environmental standard (NES) or a plan may be disregarded [7] (the "permitted baseline"),

b. any effect on a person who has given written approval to the application must be disregarded [8].

6.3 The proposed activity does not include any measures to offset or compensate for any adverse effects on the environment for the purpose of ensuring positive effects on the environment (subsection (1)(ab)).

6.4 "Effect" is defined under section 3 of the RMA.

---

[6] Section 104(1)(a) RMA
[7] Section 104(2) RMA
[8] Section 104(3) RMA, noting that there are no issues of potential trade competition effects engaged in respect of this application

Permitted baseline

6.5 When considering the actual and potential effects of an activity on the environment, the Council may disregard an adverse effect of the activity if a NES or the plan permits an activity with that effect[9] (emphasis added). This is often referred to as the "permitted baseline" and provides a comparison of the activity with the effects of permitted activities.

6.6 It needs to be noted that the permitted baseline is not a compulsory comparison, and it is up to the decision-maker to decide whether or not it is appropriate to have regard to the permitted baseline.

6.7 In this case, the TRMP permits quarrying in the Rural 1 Zone where the volume of land disturbed is no greater than 50 m^3 in any 12-month period. The applicant seeks to extract approximately 221,000 m^3 over 15 years[10], which averages approximately 15,000 m^3 per year, i.e., about 300 times the permitted baseline. Clearly, the proposal is of a scale that well exceeds the permitted extraction volume and I therefore consider the permitted baseline does not form a realistic comparison for this.

6.8 The permitted noise levels in the Rural 1 Zone are detailed under TRMP rule 17.5.2.1(c), which states that "this condition does not apply to all noise from any intermittent or temporary rural plant and animal production activity, including noise from mobile horticultural and agricultural equipment, forest and tree harvesting activities, bird scarers and hail cannons" – however, it does apply to frost protection devices.

6.9 The above description, along with the definition of Rural Character (refer to Section 4.19) indicates the range of anticipated noises, i.e., noises *"associated with the use of rural land for a wide range of agricultural, horticultural and forestry purposes."* The proposed activity itself is neither permitted nor anticipated in the Rural 1 Zone. I consider that the noises associated with a gravel extraction would be different in character, intensity and duration from 'typical rural noises' including intermittent and temporary plant activity (emphasis added).

6.10 The applicant has not provided an estimate of peak truck movements per hour. The proposed number of truck movements averages three trucks leaving or arriving per hour (30 movements per day over ten hours). In addition, there will be internal truck movements (carting to stockpile) and noise associated with excavators, which would be constant while an extraction is being undertaken. Given this, I do not consider that the "permitted baseline" should be applied with regards to noise.

9 Section 104(2) RMA
10 Refer to Section 14 of this report for a discussion of extraction volumes and times

Statutory documents – Section 104(1)(b)

6.11 Under section 104(1)(b) of the RMA the Council must have regard to any relevant provisions of statutory documents, including national environmental standards, other regulations, national policy statements, the New Zealand coastal policy statement, regional policy statement, and plan or proposed plans. The specific relevant statutory documents are identified below.

National environmental standards

6.12 The Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007) ('the NES-DW') is the national environmental standard considered relevant.

6.13 The purpose of the National Environmental Standard for Sources of Human Drinking Water (NES) is to reduce the risk of human drinking water sources becoming contaminated. It came into effect on 20 June 2008.

6.14 For the purpose of this NES, a human drinking water source is a natural water body such as a lake, river or groundwater, used to supply a community with drinking water. The standard applies to source water before it is treated and only sources used to supply human drinking water (i.e., not stock or other animals).

6.15 The NES-DW provisions only apply to an activity that has the potential to affect a registered drinking water supply that provides no fewer than 25 people with drinking water for not less than 60 days each calendar year (emphasis added). The drinking-water register for New Zealand was prepared annually by ESR for the Ministry of Health until 1 November 2021. It is now maintained and published by Taumata Arowai.

6.16 Whilst I understand that a number of submitters have groundwater takes in proximity to the application site, it appears that there are no registered drinking water supplies published by Taumata Arowai in the vicinity of the site and thus, the NES-DW is not applicable. The nearest community drinking water supplies (Kaiteriteri, Parker Street, Motueka and Motueka Recreation Centre are >4km from the site). However, effects on groundwater quality are assessed under the Key Issues Section 12.

National policy statements (NPS)

6.17 The purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the Act. The National Policy Statement for Freshwater Management 2020 ('the NPS-FM') is the only NPS considered relevant to the proposal.[11]

[11] While the Government is proposing a National Policy Statement for Highly Productive Land to improve the way highly productive land is managed, this is currently in draft format, with decisions expected this year, and thus cannot be considered under s 104(1)(b)(iii).

6.18 The NPS-FM applies to all freshwater, including groundwater, and is therefore relevant to this proposal. It was updated in August 2020 and replaces the National Policy Statement for Freshwater Management 2014. The 2020 NPS-FM came into force on 3 September 2020.

6.19 While the application predates the 2020 amendments to the NPS-FM, the Council still needs to have regard needs to the latest provisions of the NPS-FM.

6.20 The RMA requires local authorities to amend their resource management plans to give effect to the provisions of the NPS-FW. This involves engaging with communities and will take some years to complete. However, some specific requirements are mandatory for immediate insertion into resource management plans, i.e., they effectively apply now. Of relevance to this project is clause 3.24 (1) Rivers. TDC has inserted this provision into the TRMP (refer to policy 27.1.3.1A, Attachment 2).

6.21 The objectives and policies relevant to the proposed activity are included in the assessment in the Key Issues sections.

Tasman Regional Policy Statement

6.22 The objectives and policies in the Tasman Regional Policy Statement (TRPS) relevant to the proposed activity are reflected in the provisions of the Tasman Resource Management Plan (TRMP).

Tasman Resource Management Plan

6.23 The Tasman Resource Management Plan is a unitary plan and is the relevant operative plan.

6.24 The plan provisions relevant to the proposed activity are included in the assessment in the Key Issues sections.

6.25 The TRMP is subject to Proposed Changes 71 (Coastal Occupation Charges), 72 (Moorings and Coastal Structures), 73 (Omnibus 2 Amendments) and 74 (Rezoning of Special Housing Areas). None of these proposed changes are relevant to the proposal.

Other matters – Section 104(1)(c)

6.26 The consent authority may consider any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Statutory Acknowledgement Areas

6.27 Statutory Acknowledgement Areas have been established by the Te Tau Ihu Claims Settlement Act 2014. These acknowledgements recognise the special associations or particular relationships that the eight iwi making up Te Tau Ihu have with areas and resources, including with the coastal marine area or freshwater bodies in the region. They came into effect from 1 February 2015.

6.28 In this instance the application site is within the Motueka River Statutory Acknowledgement. The statutory acknowledgement recognises the particular relationship that Ngāti Toa Rangatira, Ngāti Rārua, Te Ātiawa o Te Waka-a-Maui, Ngāti Kuia and Ngāti Tama ki Te Tau Ihu have with the Motueka River.

6.29 It is noted that if any part of the Statutory Acknowledgement applies to a river or stream (including a tributary), that part of the acknowledgement:

a. applies only to:
   (i) the continuously or intermittently flowing body of fresh water, including a modified watercourse, that comprises the river or stream; and
   (ii) the bed of the river or stream, meaning the land that the waters of the river or stream cover at its fullest flow without flowing over its banks; but
b. does not apply to:
   (i) a part of the bed of the river or stream that is not owned by the crown; or
   (ii) an artificial watercourse.

6.30 A consent authority must have regard to the Statutory Acknowledgement relating to the "statutory area" in deciding, under section 95E of the RMA, whether the relevant trustees are affected persons in relation to an activity within, adjacent to, or directly affecting the "statutory area" and for which an application for a resource consent has been made. In this case, notices of the application were served on all of the five iwi with Statutory Acknowledgements when the public notification occurred in December 2021.

6.31 The applicant submitted a "Proof of Consultation" from Ngāti Kuia with the application. Te Ātiawa and Ngāti Rārua have each lodged a submission in opposition.

Iwi Management Plans

6.32 Iwi Management Plans are the planning documents that are recognised by each iwi authority and lodged with the local authority under the Resource Management Act 1991. They are relevant consideration to have regard to under section 104(1)(c) of the RMA. The following Iwi Management Plans have been lodged with Council:

- Ngāti Kōata Trust Iwi Management Plan 2002
- Ngāti Rārua Environmental Plan 2021
- Ngāti Tama Environmental Management Plan 2018
- Pakohe Management Plan 2015 Ngāti Kuia

6.33 Te Ātiawa's submission also refers to the Iwi Environmental Management Plan (IEMP) of Te Ātiawa, however the IEMP does not appear to have been lodged with Council.

Precedent

6.34 Some submitters have raised concerns that the approval of this application would set a precedent. The applicant has already indicated that an application for gravel extraction for 493 Motueka River West Bank Road may be lodged in the future. I consider that the issue of precedent in a general sense relevant for consideration is that relating to gravel extractions on land zoned Rural 1, in

particular extraction outside berm land. Whilst it's noted that under the RMA each application is to be treated on its merits, I consider it is therefore legitimate to consider in this instance the precedent effect of granting this application. That is, the extent to which it is likely that if consent is granted, other similar applications will be made with the expectation that consent will be granted as a matter of consistent application of the TRMP.

6.35 As it relates to the outcome of possible future applications, the precedent effect is not an environmental effect per se, but a relevant other matter considered under section 104(1)(c) of the RMA.

Other considerations under section 104

6.36 In regard to other considerations under other subsections,[12] the proposed activity

a. is not affected by section 124,
b. does not engage the section 104 considerations under the Marine and Coastal Area (Takatu Moana) Act 2011,
c. does not involve a discharge permit (section 107).

6.37 Section 104G of the RMA (consideration of activities affecting drinking water supply source water) was inserted into the RMA on 15 November 2021, i.e., after the application was lodged. As noted under Section 6.16 of this report, there are no registered drinking water supplies in the vicinity of the site, however, effects on groundwater quality are assessed under the Key Issues Section 12.

Motueka River Water Conservation Order (WCO)

6.38 Under section 104(1)(3)(c)(i) A consent authority must not grant a resource consent contrary to section 217.

6.39 The Motueka River is protected by the Water Conservation (Motueka River) Order 2004, which lists the river as having outstanding recreational, fisheries, wildlife habitat, scientific, wild and scenic values.

6.40 Section 217(2) of the RMA states that where a water conservation order is operative, there are restrictions for the granting of water permits, coastal permits or discharge permits under certain circumstances. However, the proposed activity requires land use consents under section 9 of the RMA and no water, coastal or discharge permits have been sought. Thus, section 217 does not apply to the proposal. In short, the WCO does not explicitly exclude the issuing of the consents applied for, nor is it directly relevant to the proposal.

[12] Under section 104G of the RMA (consideration of activities affecting drinking water supply source water) was inserted into the RMA on 15 November 2021, ie., after the application was lodged, and so does not form part of the RMA framework. The effects on drinking water supply source water is therefore considered under effects on groundwater quality are assessed under the Key Issues Section 12, noting (see Section 6.16 of this report), there are no registered drinking water supplies in the vicinity of the site.

Section 108 – Conditions of consent

6.41 Section 108(2)(e) of the RMA allows consent authorities to impose condition(s) of consent that require the best practicable option (BPO) to control any adverse effects caused by a discharge. In addition, section 16 of the RMA (Duty to avoid unreasonable noise) requires every occupier of land to "*adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level*".

6.42 The BPO for the discharge of contaminants or an emission of noise, is defined in section 2 of the RMA as:

> *Best practicable option, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to:*
>
> *(a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and*
>
> *(b) the financial implications, and the effects on the environment, of that option when compared with other options; and*
>
> *(c) the current state of technical knowledge and the likelihood that the option can be successfully applied.*

6.43 The emission of noise is discussed in the Key Issues Section 8 of this report.

7 Key issues

7.1 I have structured my assessment of effects focussing on key issues raised by the submitters, which are considered in detail below. These sections identify the issues of contention, including an assessment of the actual and potential effects, the submissions, the relevant provisions of the statutory documents, relevant sections of the Act, and the appropriateness of any recommended conditions of consent.

7.2 The key issues are:

- Section 8: Key issue - Traffic Effects (noise, dust, visual effects)
- Section 9: Key issue – Traffic Effects
- Section 10: Key issue – Loss of productive land
- Section 11: Key issue – Effects on the flood plain and stopbank
- Section 12: Key issue – Effects on water quality (surface and groundwater)
- Section 13: Key issue – Effects on cultural values
- Section 14: Key issue - Duration of consent

- Section 12: Key issue - Precedent

8 Key issue - Potential amenity effects (noise, dust, visual effects)

8.1 The term "amenity values" is defined in section 2 of the RMA, as those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

8.2 The three potential amenity effects that are, noise, dust and visual effects.

Noise

8.3 The applicant provided a noise report (Hegley, 2019) with the application. This report models the predicted noise levels for the activity and concludes that the predicted noise levels at the surrounding properties, "*which represent the uppermost noise expected from the proposal, comfortably comply with the 55dBA Leq limit in the TRMP*" (Hegley, 2019).

8.4 The noise levels for a permitted activity in the Rural 1 Zone (as detailed under TRMP rule 17.5.2.1(c)), when measured at or within the notional boundary of a dwelling, are:

	Day	Night
L_{eq}	55 dBA	40 dBA
L_{max}		70 dBA

N.B. Day = 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays).
Night = All other times, plus public holidays.

8.5 As the proposed activity itself is not a permitted activity and the permitted noise levels are not directly applicable, it is still necessary to assess the effects of the noise that is produced. The test is not whether the above noise levels can be met, but whether the potential adverse effects of the noise associated with the proposed activity are going to detract from the rural amenity of the area, and whether the noise will be reasonable.

8.6 Notwithstanding this, the applicant states that the proposal will comply with the above levels and volunteers a consent condition to this effect. In addition, a Noise Management Plan (NMP, Hegley, 2021) has been provided as part of the applicant's response to Council's request for further information.

8.7 With regards to the noise report, J & V Walker (submission 16) 130 Peach Island Road, and GH & CM Le Frantz (submission 37) 131 Peach Island Road, note that the dwelling at 131 Peach Island Road, owned by Le Frantz, has been omitted from the report. The dwelling and associated groundwater bore was recently constructed (building consent was granted in late 2019) and is not yet shown on the Top of the South Maps aerial. Figure 10 shows the location of the dwelling, which is situated

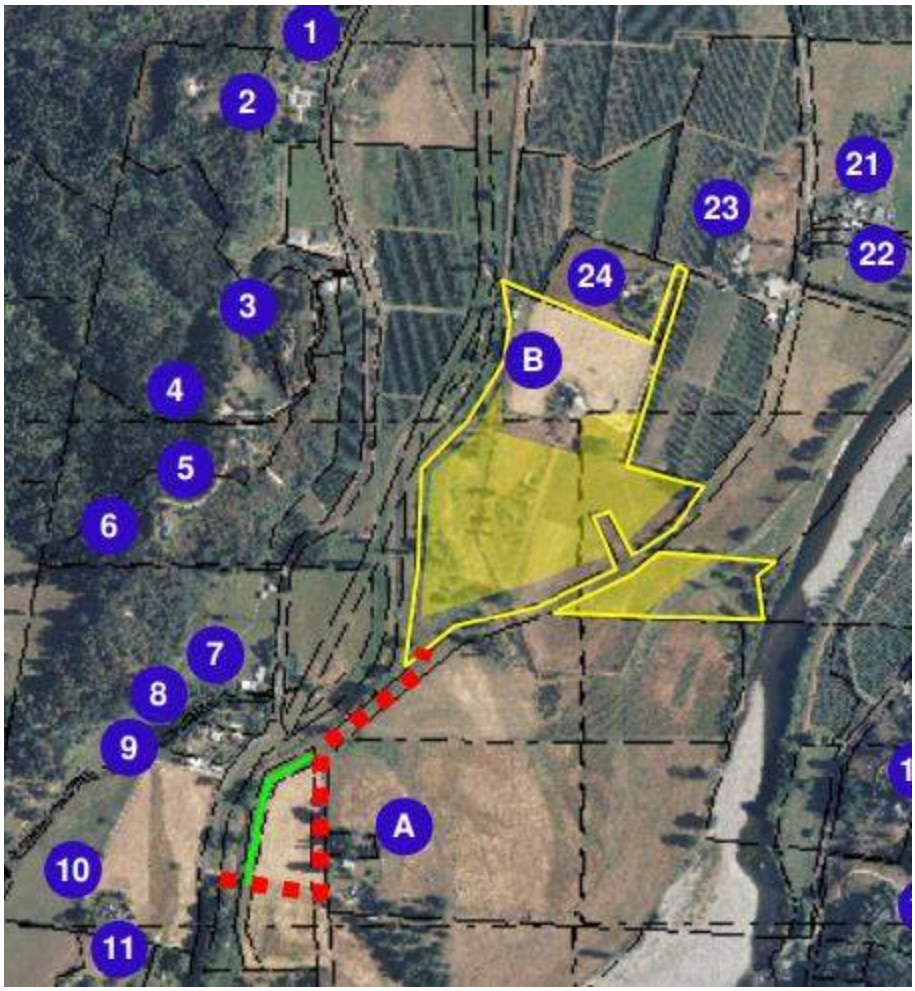
approximately 110 m northeast of the Stage 2 extraction area. Note that number 134 is the dwelling on the applicant's property.

Figure 10: Location of dwelling on 131 Peach Island Road (source: Google maps)

8.8 This matter has been brought to the applicant's attention. It is understood that this will be addressed in the noise and groundwater assessments, which will be submitted as part of the applicant's evidence at least 10 working days prior to the hearings (section 103B(3), RMA).

8.9 It is also noted that the predicted noise levels in the Hegley report are based on a different haul road location and not the route currently proposed in the application. While the haul road in the acoustic report follows the "paper road" south to the driveway to 493 Motueka River West Bank Road (see red dotted line in Figure 11) and then turns west onto the ROW, the haul route proposed in the application runs along the strip of crown land to the northwest and west of Sec 32 Blk III, owned by Woodcock (see green line in Figure 11 below). Again, this has been brought to the attention of the applicant.

Figure 11: Location of haul road and noise assessment sites



8.10 The proposed route is closer to the dwellings at 458, 470, 472 and 478 Motueka River West Bank Road (i.e., sites 7-10 in the noise report) and the predicted noise levels therefore have the potential to be higher. It is understood that the applicant is preparing an updated noise assessment/ addendum to the report, based on the proposed haul route.

8.11 For the reasons outlined in Sections 6.7 to 6.10, I do not consider that the "permitted baseline" should be applied with regards to noise, because the intensity and duration of the proposed noise will be different to that of the existing environment and from what is likely to be experienced from a permitted rural activity.

8.12 In order to ascertain the magnitude of noise effects, a representative background noise level needs to be established. The Council's Team Leader – Environmental Health, Daniel Winter, notes that no ambient or background noise level measurements have been provided.

8.13 The Council's previous Team Leader – Environmental Health, Graham Caradus, obtained a background noise measurement of 39dB LAeq. This was obtained on 30 June 2020 at 121 Peach Island Road. However, this measurement may not be representative as it was a single 20-minute noise measurement and does not readily capture road noise from Motueka River West Bank Road, which would be particularly relevant to sites 1-11 in the noise report. The applicant may wish to

provide a representative background noise measurement, which should be based, as a minimum, on a 1-hour measurement in the morning and afternoon.

8.14 The proposed noise mitigation measures are detailed in the NMP (Hegley, 2021) and include:

- Operating hours limited to 7am – 5pm Monday to Friday, excluding weekends and public holidays
- Creation of a bund comprising of topsoil between the excavation and nearest neighbour
- Location of the stockpile and loading area behind the stopbank
- Fitting all trucks exporting material from the site with plastic deck liners
- Replacing tonal warning/ reversing alarms on plant with broad band alarms
- Considering the use of HPMV Trucks/ trailers (require less visits to the site)

8.15 The volunteered measures have been included in the suite of recommended conditions (Attachment 4). I discuss some of these measures (operating hours, tonal alarms) in more detail below. The creation of a topsoil noise bund between the excavation site and nearest neighbour may have potential effects on the flood plain (Stage 1). This is discussed under Key issue 11. If the applicant is considering the use of High Productivity Motor Vehicles (HPMV) trucks, this needs to be reflected in the access and traffic assessments (refer to Key Issue 9).

8.16 I note that the proposed operating hours exclude night times, weekends and public holidays. This avoids noise effects during the most sensitive hours. Several submitters have asked for shorter hours, in particular, later starts, e.g., A E Woodcock (submission 46) requests a starting time of 7.30am, J F Lucas (submission 49) requests that works do not commence until 8am, T Shuttleworth & J Shay (submission 91) request hours of operation from 9.30am to 2.30pm, and J R Davies (submission 101) requests that operations are limited to 8 hours a day (8am to 4pm or 9am to 5pm). I invite the applicant to comment on the possibility to amend/ reduce the proposed operating hours.

8.17 Hegley (2019) states that sounds with special audible characteristics (SAC) such as tonal reversing alarms can be particularly annoying and will therefore be replaced with broad band alarms. Mr Winter agrees with Hegley in respect to SAC and considers it unlikely that the noise from a quarry or from carting trucks would require a SAC adjustment.

8.18 The application states (on page 35) that the proposal will have "*less than minor effects on persons*". I disagree with this assessment and note that a large number of submitters raised concerns regarding noise effects. I concur with the Council's Team Leader – Environmental Health that the noise associated with the proposed activity will be noticeable, but it may not necessarily be unreasonable.

8.19 However, a conclusion on the level of noise effects can only be provided once the applicant has provided the additional information i.e., the addendum for the proposed haul route, background noise measurements and predicted noise levels for the closest dwelling at 131 Peach Island Road. In response to the submitters' concerns, the applicant should also confirm that the noise modelling software has taken into account the topography of the Motueka Valley and elevation of the noise assessment sites in the Hegley 2019 report. With this information I expect that Mr Winter and I will be able to respond, and provide a recommendation, at the hearing.

Relevant TRMP objectives and policies

8.20 Chapter 5: Site Amenity Effects recognises that the health and safety of people, communities and property is a significant part of site amenity. Contaminants such as noise, can affect amenity values.

8.21 A summary of the objectives and policies that are most relevant to the application is contained in Attachment 2. The following objective and policies are relevant with regards to noise: objective 5.1.2, policy 5.1.3.9 and policy 5.2.3.8.

8.22 I note that rule 17.5.3.2 (Construction of Buildings in the Rural 1 Zone) requires new dwellings to be back at least 500 metres from any boundary of a quarry site that has or is likely to create noise, vibration and dust effects. This setback seeks to ensure that potential adverse noise (and dust and vibration) effects are avoided. A number of surrounding dwellings is located within this 500m setback., which highlights the potential effects of the proposed quarry.

8.23 As noted above, an assessment of the noise effects and thus, the associated objective and polices can only be finalised once the outstanding information has been provided.

Dust

8.24 Nuisance dust effects can arise from exposure of bare soil to wind. The sources of dust associated with this application are:

- Excavation (in particular removal of topsoil and overburden)
- Transport of material within the site and off the site
- Storage of material (stockpiling)
- Replacement of soil and bare soil areas (until the site is permanently stabilised/ revegetated)

8.25 The applicant proposes to mitigate dust effects by sealing the accessway, reducing vehicles speeds within the site to 30km/h, and watering of traffic movement areas, roadways and stockpiles as may be required.

8.26 A large number of submitters have raised concerns regarding dust, including H P Wester (submission 105) who lives at 132 Peach Island Road, which adjoins the application site. G H & C M Le Frantz (submission 37) own the site adjacent to proposed Stage 2 (131 Peach Island Road), which is a pip fruit orchard and submit: *"with one block of apples […] just a few metres away dust would be a critical concern to us."*

8.27 P H Taia (submission 86) notes that the application site is bordered on two sides with commercial apples and kiwifruit orchards that are very sensitive to dust effects. He submits: *"Once dust has settled into the stalk end it is impossible to remove resulting in crop rejection by exporters."* He notes the windy conditions in Motueka Valley and that *"dust created here will cover very large areas exposing crops and properties to significant contamination."*

8.28 The applicant has provided a Draft Soil Management Plan, prepared by Dr Reece Hill. The draft report was provided on 17 February 2022 to assist the Council in its own assessment for the purpose of preparing this s42A report. It is understood that the final version of this report will be provided as part of the applicant's evidence prior to the hearing. The report contains a number of recommended procedures for minimising the creation of dust and concludes that, provided these procedures are implemented, the risk of dust is minimal. I recommend that these procedures should be included as conditions, if the Commissioner was minded granting consent.

8.29 I agree that the proposed sealing of the haul road, along with the recommended measures for soil transport will adequately mitigate against dust creation during transport off the site. I note that truck and machinery movements will also occur within the site and therefore dust in those areas is not mitigated by the sealing itself.

8.30 The recommended procedures for the removal of topsoil include avoiding windy conditions and not removing soil when excessively dry. I invite Dr Hill to specify an appropriate wind speed in his final report that could be included into a measurable condition of consent, e.g., no works shall be carried out during periods of high wind (-- km/ per hour).

8.31 I also note that other sections of the report recommend handling soil in dry conditions to mitigate the adverse effects on soil properties and thus, soil productivity. It may be challenging to balance "dry" versus "excessively dry" conditions on site and completely avoid dust effects on sensitive neighbours.

8.32 Whilst I consider that good site management practices and a robust dust, sediment and erosion control plan can adequately control the effects of dust on the wider environment, I am concerned with the close proximity of the proposed extraction to very dust sensitive receptors (orchards, dwellings), in particular the proximity of Stage 2 to 131 Peach Island Road (refer to Figure 10). I invite the applicant to consider additional measures to address this.

8.33 Policy 5.1.3.1 seeks to avoid, remedy or mitigate effects of (b) dust beyond the boundaries of the site generating the effect. policy 7.4.3.4 seeks to exclude from rural areas, uses or activities which would have adverse effects on rural activities, health and amenity values where those effects cannot be avoided, remedied or mitigated.

8.34 At this point, I am not satisfied that the applicant has adequately demonstrated how to prevent dust effects beyond the site, on adjoining rural activities and thus, the proposal may be contrary to the abovementioned policies.

Visual effects

8.35 Given that the application site is surrounded by elevated residential activities on the valley's hills, the proposed activity will be noticeable. The applicant is proposing to reduce the visual effects of the proposal by:

- Limiting excavation to a 3000 m^2 area at any one time with progressive reinstatement and rehabilitation of land
- Locating the stockpile & service area behind the stockbank

- Proposing amenity planting (Canopy Landscape Mitigation Plan)

8.36 While effects on visual amenity have been raised in a number of submissions, I concur with the applicant that the visual effects are remedied by the above measures and the separation distances, with most dwellings in the surrounding area elevated well above the site and set back more than 200m from the proposed area of works.

8.37 The closest dwellings to the extraction site are located on 131 Peach Island Road (approximately 110 m northeast of Stage 2), 132 Peach Island Road (approximately 175m north of Stage 2) and 458 Motueka River West Bank Road (approximately 190 m west of Stage 1). All of these properties are located on the valley floor.

8.38 The submissions from 131 Peach Island Road and 132 Peach Island Road oppose the application, but do not specifically raise concerns regarding visual effects. Their dwelling is screened from the application site by existing vegetation surrounding the dwelling (no. 131), and respectively the orchard and a row of trees along the southern boundary of no. 132. 458 Motueka River West Bank Road would be screened from Stage 1 by the proposed planting.

8.39 Given this, I consider the adverse visual effects as minor and consistent with policies 5.2.3.1 and 5.2.3.4.

Amenity effects conclusion

8.40 Summing up, a conclusion on the level of noise effects can only be provided once the applicant has provided the additional information detailed above. With regards to dust, more robust mitigation measures are required to ensure that dust would not adversely affect the neighbouring sensitive receptors beyond an acceptable level. The adverse visual amenity effects are considered minor.

9 Key issue - Traffic Effects

9.1 The main issues regarding traffic can be categorised as follows:

- Access
- Road capacity
- Traffic safety.

9.2 I address each of these in turn.

Access

9.3 The applicant proposes to utilise the existing vehicle crossing to 493 Motueka River West Bank Road as detailed in Section 2.3 and Figure 2. As shown in Figure 1: Ownership of land adjacent to the haul road, the access from the legal road corridor initially crosses a strip of land (Section 1 Survey Office Plan 15112) which forms part of 493 Motueka River West Bank Road and contains an existing bridge crossing the overflow channel. The proposed access then turns north and follow a strip of crown land before intersecting the “paper road”.

9.4 As noted earlier in this report, the crown land is administered by DoC. DoC has not made a submission on the application, and it is understood that a concession/ lease may be required from DoC to use the strip of land for access. Wakatu Incorporation (submission 15) "*objects to the proposed route over any land held by the crown as a result of any potential claim made as a result of the Supreme Court decision SC13/2015[2017] NZSC17.*" This is for the applicant's lawyer to address, but not necessarily a resource consent issue.

9.5 The existing vehicle crossing also provides access to Lot 1 DP 10395 and Sec 32 Blk III, owned by Woodcock.

9.6 The applicant provided an Access Assessment Report prepared by Gary Clark, Traffic Concepts. This report concludes that *"the available sight distances at the existing access are sufficient for vehicles to exit and enter the site safely."* Mr Clark also recommends improving sight lines by removing two willow trees and carrying out some bank trimming. The applicant has volunteered these measures as conditions of consent.

9.7 I note that the two willow trees and part of the bank trimming area are located on unformed legal road and the Council's Transportation Manager, Jamie McPherson, has confirmed that the Council would be agreeable to these works being undertaken. The remainder of the bank trimming works would occur on 493 Motueka River West Bank Road.

9.8 The Council's Consultant Traffic Engineer, Ari Fon, has reviewed the Access Report and agrees with the measures recommended by Mr Clark. He concludes that the resulting sight distances would comply with the Nelson Tasman Land Development Manual (NTLDM) standard for a private access is set out in Table 4-14 *Minimum Sight Distance from Private Vehicle Access Points* (refer to Attachment 5).

9.9 With regards to the vehicle entrance, Mr Fon recommends that this is upgraded to the Diagram 2 standard of Drawing SD409 in the NTLDM, including seal widening and sealing of the access to a distance of 10 m from the edge of the existing seal within the property and tapering to 6m width. I have included a recommended condition to this effect.

9.10 Given that truck and trailer units have a wide swept path, Mr Fon also recommends that the "6m width should be continued up to the bridge to allow for two trucks, or other vehicles, to pass by each other within the access if necessary and avoid any undesirable queuing on West Bank Road." I concur with this assessment and have included conditions in Attachment 4.

Bridge

9.11 With regards to the existing bridge crossing the overflow channel, the application states (on page 12): "The appropriateness of this bridge will be assessed by a suitably qualified engineer and any necessary upgrades will be undertaken prior to access establishment or use under this proposal. Any upgrade can be completed as a permitted activity."

9.12 Mr Fon advises that the bridge will need to carry, as a minimum, Class 1 loads and potentially higher loads if the applicant intends to use HPMV trucks. *"In addition, the bridge width should match that proposed for the access, namely 4.5 m width. It is currently approximately 3m wide."* I

adopt Mr Fon's assessment and have included Mr Fon's recommendations as conditions of consent.

Road capacity

9.13 According to the application (page 20), "the road's classification as a collector road indicates that the road is likely to carry traffic volumes in the 1,000 to 3,000 vehicles per day range." The proposal is expected to generate approximately 40 vehicle movements per day (vpd), i.e., 30 truck movement and 10 vpd associated with staff (e.g., excavator driver arrival). The applicants considers that the proposal will have less than minor effects on the road network.

9.14 However, the Council's Transport Manager advised that current traffic volumes on West Bank Road are relatively low with approximately 300vpd, 9% of which are heavy vehicles (i.e., approximately 24 heavy vehicles per day). Mr McPherson advised that the northern section of West Bank Road up to Shaggery Road is an approved full HPMV route, while the section between Shaggery Road and Rocky River Road (i.e., the section proposed to be used by the applicant) is approved to 48 tonnes axle weight flexibility (AWF).

9.15 Given the current volumes of approximately 300vpd, the proportion of generated truck movements will be much higher than predicted by the application and in the order of 10% of the total traffic, with a doubling of the number of heavy vehicle movement. Mr Fon states: "*This aspect should be addressed in the more detailed traffic assessment to be prepared and submitted as part of the Applicants evidence prior to the hearing.*"

Traffic safety

9.16 The Access Assessment Report from Mr Clark submitted with the application is limited to access matter. No detailed traffic impact assessment with regards to the effects on road safety and efficiency has been provided.

9.17 The applicant advised that a more detailed traffic assessment will be submitted as part of the applicant's evidence prior to the hearing. Mr Fon notes that, as the Tasman Great Taste Trail also runs on road along the Motueka River West Bank Road, any potential effects on cyclists should also be addressed in the traffic assessment.

9.18 Without a detailed traffic assessment, I cannot reach a conclusion regarding the potential adverse effects of the proposal on traffic safety, or a conclusion regarding the proposal's consistency or otherwise with the relevant objectives and policies, in particular objective 11.1.2 and associated policy 11.1.3.2(a). I note that the issue of traffic safety has been raised in numerous submissions.

Submissions

9.19 A large number of submitters voice concerns with increased traffic and heavy trucks affecting residents and cyclists. J-L Azzis (submission 8) states: *"the proposed activity will generate a lot of heavy traffic on a very narrow and already dangerous road."* The submitters mention the two one-way bridges on the proposed trucking route (Alexander Bluff and Rocky River Road) and the

winding character of West Bank Road, which is "*used by 2 school buses and a van collecting pre-school children*" (J & V Walker, submission 16). A lot of the submitters also refer to the Great Taste Trail.

9.20 T Shuttleworth & J Shay (submission 91) also raise concerns regarding road safety and refer to a number of road accidents. I trust that the applicant's traffic assessment will comment on this. The conditions sought by the submitters include trucks displaying identifying tags for tracking, the construction of a roadside shoulder for cyclists and pedestrians and that the applicant pays for regular road maintenance and inspections due to the additional truck movements.

9.21 G Wratt, Chair of the of the Nelson Tasman Trails Trust (submission 32) states that the impact of heavy vehicles "*will be significant for users of Tasman's Great Taste Trail (GTT).*" Ms Wratt seeks that consent is granted subject to the applicant funding an off-road cycle trail on the section of Motueka River West Bank Road that will be used by their trucks.

9.22 On 24 February 2022 Ms Wratt emailed the Council and advised: "Since lodging our submission, CJ Industries contacted me to discuss the submission, and a meeting took place on Friday the 18th of February. CJ Industries have agreed to work with the Trust to build a cycle track from 493 Motueka River West Bank Road to the Alexandra Bridge. I am comfortable that in this way, any effects of vehicles travelling to and from the quarry on cyclists riding the West Bank Rd section of the Great Taste Trail can largely be avoided, remedied or mitigated."

9.23 I expect the applicant will provide further details on the above with their evidence. In principle, I agree that the construction of an off-road cycle track on the section of Motueka River West Bank Road to be used by the applicant would mitigate adverse effect on cyclist and pedestrians, provided the track is built prior to extraction commencing.

Traffic effects conclusion

9.24 The effects of the proposed access, including vehicle entrance and bridge across the overflow channel can be appropriately managed by conditions of consent. This is consistent with policies 11.1.3.2(b) and 11.1.3.6.

9.25 However, the submitters have mainly raised concerns regarding traffic safety and conflict of users on Motueka Valley West Bank Road. This needs to be addressed by the applicant in a detailed traffic assessment that also considers the effects of the proposed traffic generation on the existing environment/ traffic volumes.

9.26 A conclusion on the level of traffic effects and consistency or otherwise with the relevant objectives and policies can only be provided once the applicant has provided the additional information, including details regarding the cycle track construction referred to by Ms Wratt. With this information I expect that Mr Fon and I will be able to respond, and provide a recommendation, at the hearing.

10 Key issue – Effects on land productivity

10.1 Prior to lodging the application, the applicant consulted with the Council's former Resource Scientist – Land, the late Dr Bernard Simmons. Dr Simmons advised that: *"there is no way of reinstating land following gravel extraction that would retain the same levels of versatility and productive potential as previously held."* He concludes: *"I do not believe gravel extraction could take place without significant adverse effects at these sites (even with the controls you have proposed)."* Dr Simmons comments were attached to the application (Appendix I) and are also referred to in a number of the submissions.

10.2 The controls proposed by the applicant include:

- Incremental topsoil removal and gravel excavation
- Retention of topsoil for re-use on site
- No storage of topsoil for more than six months
- Placement, spreading, levelling and cultivation of topsoil in a manner that minimises compaction
- Reinstated areas will be sown down with a standard rye grass/white clover seed mix
- Initial application of fertiliser to facilitate establishment

10.3 On 10 June 2021 the applicant also submitted a Land Use Capability (LUC) and soil survey prepared by Land Vision Ltd. The report classifies the land subject to the application using the LUC classification system. The Land Vision survey mapped a total area of 9.98 ha. I note that the combined area of Stages 1-3 is 7.37 ha and the mapped area includes the "paper road" and the part of Lot 3 DP 1650 (owned by the Proprietors of Wakatu Limited) that is located within the stopbank.

Stage 1

10.4 The Land Vision survey notes that 2.5 ha (Stage 1) is located outside the stopbank and states: "The area outside the stopbank has the potential for occasional flooding and this limits the landuse opportunities."

10.5 The Council's Senior Resource Soil Scientist – Land & Soil, Mirka Langford advised that there is general agreement that this part of the land has limited productive use due to flooding risk.

Stages 2 & 3

10.6 The Council's soil scientists, Ms Mirka Langford and Dr Anne Wecking have confirmed that the remainder of the application site (Stage 2 & 3) meet the definition for high productive value in the TRMP. Following a review of the Land Vision survey report and a site visit they advised on 18 October 2021 (refer to Attachment F):

10.7 "The consent application does not provide enough detail on how land productivity is intended to be reinstalled and concerns exist that the suggested measured would not be sufficient enough to

retain the existing productivity or versatility of land and soil, or even mitigate the risk of contaminants associated with the back-fill to leach into the groundwater."

10.8 "Because of the sensitivity of the soils on Peach Island to be damaged from disturbance, and the high productive values they presently offer, it is not advised that gravel extraction can take place without significant adverse effects at these sites" [even with the controls proposed by the applicant].

10.9 Following the close of submissions, the applicant has provided a Draft Soil Management Plan and Assessment of Effects, prepared by Dr Reece Hill. The draft report includes a Soil Management Plan (SMP) with measures aimed to minimise the adverse effects on versatility and land productivity. The measures detailed related to:

- soil removal and placement
- soil storage
- transport
- preparation of the receiving surface
- backfilling (including fill, subsoil and topsoil properties)
- revegetation
- monitoring

10.10 It is understood that the applicant would adopt the measures detailed in the SMP, i.e., works would be carried out in accordance with the SMP. I note that some of the suggested measures would need to be further refined to be more objective and measurable (e.g., specification of an appropriate soil moisture content range and wind speed for soil removal).

10.11 The draft report from Dr Hill also includes an assessment of effects, which concludes that reduced site productivity following the gravel extraction is anticipated but the extent of this reduction can be minimised by the proposed mitigation measures. However, the draft report does not specify the anticipated scale of residual effects.

10.12 Dr Hill concludes that the effects are expected to be short term only, but it is unclear how long this 'short term' period is. While the draft report notes that, generally, the restored soil is suitable for horticulture after three years, it also notes that soil quality changes are expected to occur over ten years. Furthermore, Dr Hill recommends two-yearly soil monitoring following the annual monitoring recommended for the first three years.

10.13 It would be helpful if the applicant could provide clarification on both the magnitude and expected duration of the short-term effects as well as the scale of anticipated residual effects following implementation of the proposed mitigation measures.

10.14 The Council's soil scientists have reviewed the draft report from Dr Hill and comment that the various measures would have to be followed very carefully for successful reinstatement of the soil. Ms Langford highlighted areas of contraction and notes that the wording of some of the mitigation measures is uncertain and open to interpretation (refer to Attachment 6). This *"reduces confidence that the soil can be reinstated, and its production potential protected."* I agree with Ms Langford's assessment.

Submissions

10.15 A number of submitters have raised concerns that the proposal will adversely affect productive land/ fertile soils and that the proposed restoration will not lead to recovery (e.g., J Hobday, submission 2; J & V Walker, submission 16; P W Hartley, submission 61; O Langridge, submission 109; and R Bier, submission 115).

10.16 Many submitters have also commented on the activity not being compatible with the zoning. D Hamann (submission 20) states: *"The land is Rural 1 Zone, which is food productive land."* This is reflected by others, e.g., G H & C M Le Frantz (submission 37), H L Mae (submission 84), R Frater (submission 85) etc. Mr Frater specifically refers to the relevant TRMP provisions, which are considered in the following Section of this report.

Relevant TRMP objectives and policies

10.17 Chapter 7 of the TRMP relates to Rural Environment Effects. The following excerpts are considered relevant to the proposal:

10.18 The Rural 1 Zone comprises the most inherently productive land in the district and includes about five percent of the total land area (Section 7.1.30, TRMP). The TRMP seeks to protect land with high productive value as this land is a finite resource and its loss through fragmentation is effectively irreversible (Section 7.0, TRMP). The TRMP prioritises activities involving food and animal production in land with high productive value. This is reflected in the objectives and policies, which provide strong direction.

10.19 Objectives 7.1.2.1 and 7.1.2.2 seek to avoid the loss of potential productive value to meet the needs of future generations, particularly land of high productive value (emphasis added). Based on the information provided to date, I consider that the proposed extraction (Stages 2 & 3) is contrary to the relevant objectives and policies contained in Attachment 2 (refer to Section 10: Key issues – Loss of productive land).

Land productivity conclusion

10.20 There is agreement that the productivity values of the land outside of the stopbank (Stage 1) are limited and thus, the effects of the proposed gravel extraction on Stage 1, in terms of loss of productivity, are considered acceptable.

10.21 Stage 2 and 3 are considered to have high production potential, which is only limited by rooting depth. There is disagreement "whether the rooting depth limitation is major enough to reduce the productive potential of the soil to a degree that might make it acceptable for gravel extraction" (Ms Langford, Attachment 6), and whether the measures proposed by Dr Hill can minimise the anticipated loss of site productivity to an acceptable level in practice.

10.22 Without an assessment of the magnitude and expected duration of the short-term effects on land productivity, and information regarding the scale of anticipated residual effects following implementation of the proposed mitigation measures, I cannot reach a conclusion on land

productivity effects. I expect that Ms Langford and I will be able to respond to the final version of Dr Hill's report and provide a recommendation at the hearing.

11 Key issue – Effects on the flood plain and stopbank

11.1 The applicant has assessed the flood hazard on pages 21 to 26 of the application and proposes that excavation will occur in strips (30m wide x 100m long) which are aligned parallel to the general direction of flood flow to reduce erosion in a flood and reduce the likelihood of water being channelled in an unintended direction.

11.2 The Council's River and Coastal Engineer, Giles Griffith, initially raised concerns regarding:

- impacts of the proposal on the stopbank (from the excavations and vehicles crossing)
- scour on the berm/ into the stopbank
- increased likelihood of a breach of the stopbank (resulting from the excavations)

11.3 In addition to the above, the Council's request for further information (dated 3 July 2020) also queried whether the proposed activity will cause changes to flow patterns, water levels or potential land erosion when the river is in flood, and an assessment of any potential localised change in water levels in flood conditions.

11.4 The applicant provided a report from Tonkin & Taylor (dated 16 December 2020) with their further information response (received 8 June 2021). Mr Griffith reviewed the report and confirmed that he agrees with the Tonkin & Taylor assessment that the extraction works *"are not expected to affect the stability/ function of the existing stopbank".* This is subject to extractions being setback a horizontal distance of 20m from the toe of the stopbank (emphasis added).

11.5 A number of submitters raised concerns regarding impacts on the stopbank, including R Huff and I Losch (submission 39), A Croft (submission 62) and Wakatu Incorporation (submission 15). The latter queries whether the 20m setback is from the toe or crest of the stopbank and applies to each side of the stopbank. Concerns about the ramp over the stopbank are detailed in paragraph 31 of the Wakatu submission: *"the submitter is concerned about what effect the amount of traffic proposed will have on the stopbank and what consideration has been given to ensure the integrity of the stopbank at this crossing point."*

11.6 I note that the effects on stopbank stability/ integrity from trucks repeatedly crossing the stopbank have not been specifically assessed by Tonkin & Taylor.

11.7 As noted in paragraph 11.4 above, the required setback would be from the toe of the stopbank. I have included a recommended condition to this effect in Attachment 4, which applies to both the internal and external side of the stopbank, and I have also recommended that the location of the toe of the stopbank is confirmed/ marked on site by a suitably qualified engineer / surveyor so as to avoid any doubt and misunderstanding as to what constitutes the stopbank's toe.

11.8 It is accepted that the applicants volunteered condition to form and maintain a ramp over the stopbank and in particular, to maintain the crest of the ramp at the same level as the adjacent

stopbank, mitigates adverse effects on the stopbank's integrity. However, I invite the applicant to confirm if Tonkin & Taylor support this position.

11.9 It is noted that the Tonkin & Taylor flood hazard assessment only considers Stage 1 of the proposal and Mr Griffith agreed that there will not be any changes/ effects from Stages 2 and 3 of the extraction as these stages are within the stopbank area. I accept this but note that M D Harvey (submission 95) considers it likely that a 100-year ARI[13] event would exceed the stopbank, given that is has a 50-year ARI plus 600mm free board design standard. Mr Harvey points out that a 100-yr ARI event has a 15% chance occurring over the life of a 15-year consent period – *"therefore the risk of stopbank failure is not insignificant."* I invite the applicant to respond to this.

11.10 Tonkin & Taylor (section 3.1.3, page 5 of their report) conclude that the proposed activity will not worsen existing flood risk, impact natural drainage patterns, or negatively impact the flood plain storage capacity. Mr Griffith confirmed that there is unlikely to be an adverse effect on river control and flood protection aspects, however, he raised concerns with the proposed amenity planting (as per Landscape Mitigation Plan prepared by Canopy, dated 10 August 2020 and submitted on 8 June 2021).

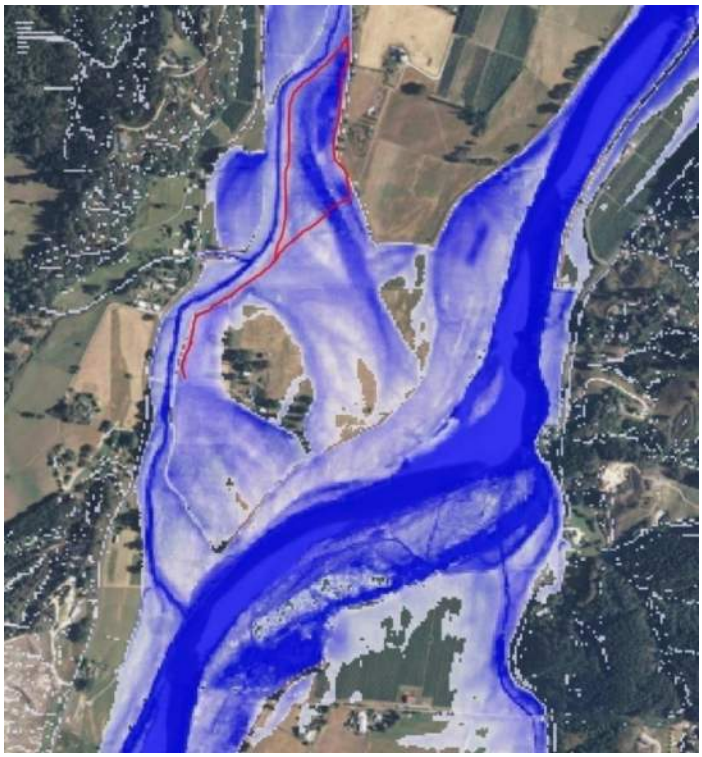
11.11 The Landscape Mitigation Plan includes shelterbelt type planting to go right across the overflow channel that accepts flood flows. While there are already high levels of woody vegetation in this overflow channel in places, Mr Griffith notes that the proposed planting *"would be right across and close to the head of this channel."*

11.12 The red line in Figure 12 below shows the proposed planting lines overlaid on a Q_{10} event (i.e., a 10-year ARI event). The flood flow direction is from south (bottom) to north (top).

[13] ARI = Annual Recurrence Interval, i.e., a 100-year flood event occurs - on average - once every 100 years. In other words, it has a 1% change of occurring in any one year.

11.13 Mr Griffith is not concerned with the planting lines running parallel with river flow (as long as a 5m setback from the stopbank is maintained) but would prefer no plantings (or fencing) to cross the channel. Mr Griffith notes that flexible 'laydown' plantings such as toe toe, carex species or scattered single trunked trees (no more than one per 10m) would be acceptable, however, this may not achieve the desired visual screening the applicant is seeking.

Figure 12: Proposed planting (red lines) overlaid on 10-year ARI event.



11.14 I also note that P Taia (submission 86) considers that the proposed planting is not viable due to regular flooding of the overflow channel.

11.15 H L Mae (submission 84) states that "no soil noise reducing berms, topsoil stockpiles or backfill stockpiles were evaluated in the Tonkin and Taylor Ltd hydraulic model." While the application states that no material will be stored on the river side of the stopbank, this excludes temporarily stored material waiting to be placed. Furthermore, the noise management plan proposes the creation of a bund comprising of topsoil between the excavation and nearest neighbour.

11.16 I have asked the applicant to provide details regarding the proposed location of stockpiles/ noise bunds and dimensions and an assessment of their effects on flood flows.

11.17 The applicant has provided a Draft Soil Management Plan, prepared by Dr Reece Hill. This report states that stockpiles should not exceed 3m in height. Based on this height, Mr Griffith advised that provided the bunds are not within 20m of the stopbank and parallel to the flow, *"then [their] effects would be minor as they would not be directing flow towards our stopbanks or increasing the water velocity past them. Their footprint in relation to the floodway would be insignificant as far as increasing top water levels also."* I accept this assessment and invite the applicant to confirm that the stockpiles/ noise bunds would meet these parameters (i.e., maximum height of 3m, parallel to the flow and setback 20m from the toe of the stopbank).

Effects on the flood plain and stop bank conclusion

11.18 With the exception of the above matters relating to the proposed planting and noise bunds/ temporary stockpiles, which are yet to be addressed, I am satisfied that the effects of the proposal on the flood plain and stop bank can be appropriately mitigated by the conditions discussed above. The applicant's and the Council's technical experts agree that the proposed activity will not

worsen existing flood risk and is unlikely to result in damage to flood control structures. I adopt their advice.

11.19 Given the above, I consider that the proposal is consistent with the relevant objectives and policies detailed in Attachment 2 (refer to Section 11: Key issues – Effects on flood plain and stop bank), in particular objective 13.1.2.1 and associated Policies 13.1.3.9 and 13.1.3.14.

12 Key issue – Effects on water quality (surface and groundwater)

Relevant NPS-FM objectives, policies and provisions

12.1 Given the strong policy direction provided by the NPS-FM, I have detailed the most relevant objectives and policies at the start of this key issue section, as they provide an important context to the application. The NPS-FM provisions "frame or colour" the assessment below and can aid the Commissioner in reaching a decision about the nature and scale of adverse effects and how the relevant effects should be quantified and/or assessed.

12.2 The TRMP needs to give effect to the NPS-FM and the relevant TRMP objectives and policies are summarised in Attachment 2.

12.3 The objective of the NPS-FW is "to ensure that natural and physical resources are managed in a way that prioritises:

(a) first, the health and well-being of water bodies and freshwater ecosystems

(b) second, the health needs of people (such as drinking water)

(c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future."

12.4 This objective is derived directly from the concept of Te Māna o te Wai which refers to the fundamental importance of water and the hierarchy of obligations that priorities the health of the water and ecosystem first, then the health of the people (e.g., taking groundwater for drinking water purposes), and then people's cultural, social and economic wellbeing.

12.5 The policies of particular relevance to the proposal are:

- **Policy 1**: Freshwater is managed in a way that gives effect to Te Māna o te Wai.
- **Policy 2**: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.
- **Policy 3**: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

- **Policy 7**: The loss of river extent and values is avoided to the extent practicable.
- **Policy 8**: The significant values of outstanding water bodies are protected.
- **Policy 15**: Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.

12.6 As detailed earlier in this report, clause 3.24 Rivers is also relevant and every regional council must include the following policy, or words to the same effect, into its regional plan[14]:

"The loss of river extent and values is avoided, unless the council is satisfied:

(a) That there is a functional need for the activity in that location[15]; and

(b) The effects of the activity are managed by applying the effects management hierarchy."

12.7 I do not consider there to be a functional need and thus, according to the NPS-FM, the loss of river values must be avoided (no loss of river extent is proposed). Loss of value means the river is less able to provide for the following existing or potential values:

- Ecosystem health
- Indigenous biodiversity
- Hydrological functioning
- Māori freshwater values and
- Amenity.

12.8 Ecosystem health consists of the components water quality, water quantity, habitat, aquatic life and ecological processes)[16]:

12.9 For this application, Māori freshwater values and water quality are most relevant. The cultural effects, including effects on Māori freshwater values, are discussed under Key issue 13. The following sections consider the potential effects of the proposal on surface and groundwater quality.

Surface Water Quality

12.10 Stage 1 (berm land) is setback >380m from the Motueka River. Stage 2 and 3 works are within the stopbank and setback >110m from the Motueka River (including the proposed 20 m setback from the toe of the landward side of the stopbank).

[14] Refer to policy 27.1.3.1A, Attachment 2

[15] Functional need is defined in the NPS-FM (and the National Planning Standards 2019) as "*the need for a proposal or activity to traverse, locate or operate in a particular environment, because the activity can only occur in that environment.*" It is considered that this proposal does not have a functional need to locate in this particular river environment. Whilst the proposed extraction is bound by the availability of the gravel resource, this does not mean that the proposed activity can only occur on the application site.

[16] Refer to Appendix 1A – Compulsory Values, NPS-FW

12.11 Given the above separation distances, I am satisfied that the proposal will have no direct effects on the surface water quality of the Motueka River. No discharge of contaminants is proposed, and I consider that the effects of dust, sediment and erosion can be appropriately managed with conditions of consent so as not to adversely affect surface water quality.

12.12 I agree with the applicant that during large flood events that could inundate the sites (with Stage 1 being more at risk of this occurring due to its location outside of the stopbank), any effects resulting from sediment entering the Motueka would hardly be discernible. There is, however, the potential for indirect effects on surface water quality, through groundwater and surface water interaction. The potential effects on ground water quality are discussed in the next Section.

Ground Water Quality

12.13 Potential adverse effects on ground water quality associated with the proposal could arise from accidental spills, potentially contaminated backfill material, and excavations below ground water level.

12.14 A number of submitters have raised concerns regarding the potential effects of the proposal on water quality. Ngāti Rārua (submission 144) are concerned *"that the use of backfill material as proposed may have adverse effects on groundwater quality and the water quality of the Motueka River."*

12.15 This concern is mirrored by others, for example, J P Peacock (submission 3) and G H Peacock (submission 4) raise the risk of groundwater contamination, as does J-L Azzis (submission 8) and S D Doncker (submission 17). A Hodder (submission 24) is concerned about water quality and disputes the results and conclusions of the Envirolink Ltd (2021) report submitted in response to the Council's request for further information. The applicant may wish to comment on this.

12.16 The Envirolink Ltd (2021) report states: "Based on the characteristics of the proposed fill (cleanfill and 10% organics) and the groundwater monitoring to date, the results were compared with the relevant drinking water standards [Drinking Water Standards New Zealand 2018 (DWSNZ)]. The results show that concentrations of potential contaminants are all below the relevant DWSNZ." The report concludes that "the proposed activity poses a low risk to groundwater and surface water quality."

12.17 J A Webster (submission 105) is very concerned that his groundwater supply would be compromised by the proposed activity. He states that his and his neighbour's bore (at 132 and 131 Peach Island Road respectively, i.e., the two closest bores to the extraction site) are omitted from the Groundwater Assessment/ Hydrology Report (Envirolink, 2019) submitted as Appendix E of the application. This has also been raised by G H & C M Le Frantz (submission 37), who submit: "*water quality to our home from our bore is of real concern should it become contaminated.*" Their bore at 131 Peach Island Road is located approximately 100m north of the proposed Stage 2 extraction site. Similarly, D Bisley (submission 44) states that his bore has been omitted. The application should update their assessments accordingly.

12.18 A number of submitters refer to compliance issues at the applicant's Douglas Road extraction site, in particular contaminated backfill material, e.g., A Knight (submission 103) who lives adjacent to

the Douglas Road site. P J Taia (submission 86) says: *"all the nearby residents of Douglas Rd have contaminated water supplies that they now have to UV treat."*

12.19 T Shuttleworth & J Shay (submission 91) state that groundwater quality is a concern for them and request more regular and stringent testing. K Chamberlain (submission 102) also seeks three-montly water quality monitoring/ testing.

12.20 There appears to be a large disconnect between the *"low risk to groundwater and surface water quality"* referred to in the application documents and the concerns and experiences of the submitters, which needs to be addressed by the applicant before the Council experts and I can make any final recommendation.

Appropriate conditions of consent

12.21 The application notes that spill response kits and procedures will be in place in case of an accidental contaminant discharge. "*All spills will be immediately contained and controlled by an approved product and will be removed from the site for appropriate disposal.*" I agree that the risk of groundwater contamination from any accidental spills can be appropriately mitigated by conditions of consent and have included conditions to this effect in Attachment 4 (refer to Site Management / Refuelling).

12.22 The applicant has volunteered conditions to minimise adverse effects on water quality, namely:

a. Conditions regarding backfill material (refer to Appendix F of the application), including using clean and substantially inorganic material only, limiting the organic material to 10% and mixing it thoroughly with the ordinary fill

b. *"There will be no extraction of material from below the water table and an appropriate free board will be maintained to ensure that the potential effects on groundwater are minimised"* (page 26 of the application)

c. Quarterly monitoring of a bore upstream and downstream of the quarrying activities for dissolved copper, lead and zinc (Envirolink, 2021)

12.23 Clearly, the quality of the backfill material is crucial to avoiding adverse effects on water quality. I M Barnes (submission 100) states: "*it is impossible to monitor the quality of fill.*" I invite the applicant to detail how they intend to ensure that the backfill material does not contain any contaminated material.

12.24 The applicant should also detail how the thorough mixing is to occur and clarify whether there is potential for chemical reactions between the organic material and concrete and/or the creation of leachate. I note that the draft SMP prepared by Dr Reece states that concrete fill should be 'minimised' due to its alkaline nature. The final SMP should contain specific advice on the amount of concrete acceptable – if any.

12.25 With regards to limiting the depth of the excavation, the applicant advised in their response for further information (8 June 2021) "*conditions of consent will require excavations to be regularly*

surveyed to ensure that they do not extend below the mean winter ground levels." I have asked the applicant to provide details on the proposed implementation, i.e., how will they ensure that excavations do not extend below this level and what is the proposed surveying frequency? In addition, I invite the applicant to clarify what they consider "an appropriate freeboard" level.

12.26 My recommended condition (refer to Attachment 4) suggests limiting the maximum depth of excavation to mean winter ground level or actual ground water level, whichever is shallower, to take into account the fluctuating ground water levels (in particular following flood events). However, clarification from the applicant on the proposed implementation/ monitoring of this recondition is still required.

12.27 In terms of monitoring groundwater quality, the Council's Senior Resource Scientist, Joseph Thomas, advises that monitoring should be carried out at one dedicated bore upstream and one downstream, to be installed by the applicant prior to commencement of any work. A minimum of three samples (at least two weeks apart) need to be taken prior to commencement of any works to establish background levels. During works, Mr Thomas stipulates 3-monthly sampling and testing for pH, electrical conductivity, e-coli, iron and the parameters recommended by Envirolink, 2021, and comparison of the results against the established background levels. He notes that monitoring should continue for one year, following completion – I concur this should be undertaken if the Commissioner was of a mind to grant these consents.

12.28 Mr Thomas advises that should monitoring show any changes (>20%) of the background levels, all works would need to cease, and investigations undertaken to ascertain the cause of these changes. Works could only recommence once it has been established that the operation is not causing the changes/ a decrease in water quality. I adopt Mr Thomas' advice and have included respective conditions in Attachment 4.

12.29 Obviously, monitoring is a 'backstop' that would capture changes/ effects after they arise, and Mr Thomas emphasises the importance of clean backfill material for the integrity of groundwater quality.

Conclusion

12.30 In my opinion, the applicant has not clearly demonstrated that the proposed works give effect to Te Māna o te Wai (policy 1, NPS-FW). While the Envirolink Ltd (2021) report states that "*concentrations of metals and other parameters [are] well within drinking water standards*" it also notes that monitored copper and zinc concentrations already exceed the ANZ guidelines[17] for freshwater under certain conditions. I note that implementing the principles of Te Māna o te Wai covers a wider scope than simply the management of potential contaminants "up to" a standard, guideline, or environmental bottom line (e.g., compliance with the DWSNZ).

[17] https://www.waterquality.gov.au/anz-guidelines/
95% level of species protection, recommended for application for slightly to moderately disturbed ecosystems

12.31 In conclusion, the proposal could only be considered consistent with the NPS-FW if the applicant can clearly demonstrate that the works can be managed in a way that gives effect to Te Māna o te Wai (policy 1), ensures that people's drinking water supplies are not adversely affected (objective 1) and avoids effects on groundwater quality in line with policy 7 and clause 3.24 of the NPS-FW.

12.32 Consideration of Māori freshwater values and policy 2 of the NPS-FW is provided in the following Key issue section.

13 Key issue – Cultural effects

13.1 Water is central to Māori life. It is a taonga left by the ancestors to provide and sustain life, akin to the blood of Papatuanuuku (Earth mother) who supports all people, plants and wildlife. Māori assert their tribal identity in relation to rivers and particular waterways have a role in tribal creation stories. Rivers are valued as a source of mahinga kai, hāngi stones and cultural materials, as access routes and a means of travel, and for their proximity to important wāhi tapu, settlements or other historic sites. Indicators of the health of a river system (such as uncontaminated water and species gathered for food, continuity of flow from mountain source to the sea) can provide a tangible representation of its mauri.

13.2 The application contains a section on Cultural Heritage (page 8) and notes that there are no known cultural heritage sites within the application site (page 35). No cultural impact assessment has been provided with the application.

13.3 Submissions have been raised concerning the cultural effects of the application, specifically from two iwi, Te Ātiawa (submission 143), Ngāti Rārua (submission 144) and Wakatu Incorporation (submission 15). They have identified the following concerns in their submissions, particularly:

a. Effects on the Motueka Awa/ water quality effects
b. Lack of adequate engagement with iwi
c. Inadequate assessment of cultural effects
d. Flooding effects & integrity of the land
e. Duration of consent (refer to Key issue 13 below)
f. Public access
g. The lack of a Cultural Impact Assessment (CIA) to gauge the cultural significance of the area and appropriateness of any back fill material

13.4 The application states that an accidental discovery protocol (ADP) will be in place both at the application site and the screening yard[18] and "*it is considered that this will sufficiently mitigate any risks to cultural heritage […] Te Tau Ihu Iwi are not considered to be adversely affected by this proposal.*" I disagree with this assessment.

[18] I invite the applicant's lawyer to address whether a condition of consent can be imposed that relates to the applicant's yard as opposed to the application site.

13.5 The proof of consultation from Ngāti Kuia relates to a prior application, which was returned under section 88, RMA. Ngāti Rārua notes that the current application ignores advice provided by Ngāti Kuia that there is a strong possibility of unrecorded artefacts on site, which may be disturbed by the proposed extraction. While an ADP may mitigate the risk of any accidental finds, only iwi can gauge the cultural importance of the area and determine the level of cultural effects.

13.6 Wakatu Incorporation (submission 15) submits that there is no evidence of consultation with mana whenua iwi and recommends that a formal CIA is undertaken by mana whenua iwi and that the applicant engages a Matakite to walk over the site, to gauge the cultural effects.

13.7 Given the above, it appears that only very limited consultation with iwi has been undertaken. Thus, Māori freshwater values have not been clearly identified and provided for. This is inconsistent with policy 2 and the overriding objective of the NPS-FW. Similarly, there are inconsistencies with the relevant policies in the TRMP, in particular objective 10.2.2 and policy 10.2.3.2 (refer to Attachment 2).

14 Key issue - Duration of consent

14.1 The applicant applied for a 15-year term for the consent.

14.2 Several submissions have asked for a shorter duration of consent e.g., T Shuttleworth & J Shay (submission 91) seeks a duration of 2 years. Wakatu Incorporation (submission 15) and Ngāti Rārua (submission 144) object to 15-year duration and A Massey (submission 116) seeks a shorter duration of consent.

14.3 While the RMA provides for a maximum term of 35 years for regional consents, it is silent on the specific considerations a consent authority must or may turn to when deciding on the duration of consents. For notified consents these decisions must be included in the decision report and must outline the reasons for deciding on a shorter term than that requested in the application or set in legislation (section 113(1)(b)).

14.4 The application states that each 3000m^2 extraction strip would yield up to 15,000m^3 gravel as *"up to **5m** of gravel was encountered before reaching groundwater."* Based on this, the 73,700m^2 extraction area would result in a yield of up to 368,500m^3.

14.5 It appears that the application overestimates the expected gravel yield for the reasons detailed in Sections 14.6 to 14.8. This has also been raised by several submitters and I therefore invite the applicant to revisit the anticipated gravel volumes and extraction period required.

14.6 On 8 June 2021 the applicant submitted a plan prepared by Kelly Norris of Mappazzo showing ground levels across the site (averaging approximately 18.5m to 19m) and mean winter groundwater level, which falls from 16m (southern end) to 15m (northern end). The applicant volunteers that the proposed excavations will not extend below the established mean winter ground levels.

14.7 The application states (on page 10) that *"on average the gravel surface is between 0.5m to 1m below ground surface."* In line with the approach of M D Harvey (submission 95), I have calculated the approximately gravel yield based on:

- an average ground level of 19m
- minus a topsoil depth of 0.5m
- minus average winter ground water level of 15.5m

14.8 This results in a gravel depth of approximately **3m** (given that the topsoil/ overburden is at times >0.5m and the average ground level is below 19m, this is likely to be an overestimate). Based on this, I have calculated the associated gravel volume per stage and estimated an approximate extraction time.

Stage	Volume[19] (in m^3)	Volume in t[20]	Time required[21]
Stage 1 25,000m^2	75,000	120,000	285 working days Approx. 15 months
Stage 2 42,000m^2	126,000	201,600	480 working days Approx. 24 months
Stage 3 6,700m^2	20,1000	32,160	77 working days Approx. 4 months
Total	**221,100**	**353,760**	**Approx. 43 months**

The above calculations indicate that the expected gravel yield could be extracted in less than four years. Even if up to 5 m of gravel could be extracted before reaching groundwater (as initially anticipated in the application, prior to the Mappazzo survey being undertaken), the resulting 589,600 tonnes of gravel could be extracted in less than six years.

14.9 I do acknowledge that I am not an expert in assessing volumes of material available for extraction and therefore repeat my invitation to the applicant to provide confirmation.

14.10 I also note that my estimated timeframes exclude the time required to strip the topsoil and the applicant may not wish to extract all the gravel at the maximum possible rate (limited by the 15 truck and trailers units carting up to 420 t of gravel per day), but rather as demand arises. The fluctuating ground water levels, which may at times be shallower than the mean winter ground water level and thus, impede extraction, would also result in a longer duration. Furthermore, the proposed backfill and restoration may require longer to complete. I invite the applicant to comment on this and present a realistic extraction time frame and volume.

14.11 The submitters may also prefer a "part-time quarry activity" over a longer period of time to an "all day every day" operation for four years.

---

[19] Based on gravel depth of 3m
[20] Based on a conversion rate of $1m^3 = 1.6t$
[21] Based on 15 truck and trailer movements x 28t = 420t per day (Note: this is based on the extraction/ carting away of material only)

14.12 Nevertheless, based on the calculations above, a duration of 15 year appears excessive. If the Commissioner is minded to grant consent for all three stages, a five to ten year duration would be more appropriate in my opinion.

15 Key issue - Precedent

15.1 As detailed under Sections 6.34 and 6.35 above, precedent is a matter that can be considered under section 104(1)(c) and is relevant to this application.

15.2 Submitters J & V Walker (submission 16), A Hodder (submission 24), R Huff & I Losch (submission 39) and H L Mae (submission 84) have specifically mentioned precedent effects, while others have raised concerns that the approval of this application would give rise to similar applications in the future.

15.3 Indeed, the application mentions that comparable berm land gravel extraction consents were granted downstream of the application site (e.g., RM180813, RM150901). More recently, RM200392 was granted to Fulton Hogan to quarry up to 60,000m^3 within the Motueka River berm land, with associated construction of a wetland (instead of backfill). RM200392 notes that *"the Council views the extraction of gravel on the berms as an appropriate use."* This is consistent with TRMP section 18.5.20, which states, under gravel extraction: "*There are potential sources of high quality aggregate from areas of less versatility and productivity where gravel extraction could be targeted. These areas include river berms […]*"

15.4 I am therefore comfortable that the proposed works on berm land (i.e., Stage 1) are anticipated by the TRMP and in principle, appropriate.

15.5 In terms of Stage 2 and 3 the application states: "comparable (protected by stop banks) gravel extraction consents (e.g.: RM070949, RM031206) downstream of the application site where horticultural production was already in place prior to extraction, were granted despite the risk to the soils that the activities posed." However, I note that both consents have since expired. RM210739, the "renewal" consent for RM031206 specifically states that it authorises the completion of a historic gravel extraction only and the effects are existing.

15.6 In any case, every application is required to be assessed on its merits on a case-by-case basis, including site specific details and features. Given that a site-specific soil survey and flood assessment has been undertaken, this enables the application site to be distinguished from other sites and I therefore consider the probably of precedent effects occurring as low.

16 Other matters raised in submissions

Hau Road

16.1 Some of the submitters that live in proximity to the applicant's yard in Hau Road have raised concerns with effects such as noise and vibration from additional truck movements and activities on that site (e.g., P Blackham, submission 14, C D Woollett, submission 30, W Wallator, submission 125).

16.2 It is considered that the effects of this cannot be considered as part of this application. Traffic to and from the Hau Road site, as well as activities on that site, could result from various extraction sites throughout the district and other activities that are unrelated to this proposal. The yard at Hau Road is required to comply with the permitted activity conditions relevant to that site/ zone, or the conditions for any consent granted for that site. Should this not be the case then approvals will be required separately for that site.

Effects on property values

16.3 While many submitters have raised the issue of a potential decline in property values as a result of the proposed activities, this is not an effect of the proposal that can be considered directly. This is supported by multiple Environment Court decisions, namely *Giles v Christchurch City Council* (A92/00) and *Land Air Water Association v Waikato Regional Council* (A110/01).

16.4 The latter decision relates to the establishment and operation of a landfill and states: "valuation is not a matter directly relevant to the question of assessment of effects" and that "it is preferable for the Court to rely on the evidence of experts in determining the adverse effects that will be generated by a proposal."

16.5 It is true that the definition of "effect" (in section 3 of the RMA) includes any effect on the environment, which in turn includes economic considerations. In *Land Air Water Association v Waikato Regional Council* (A110/01), it was agreed that the property market could *"react to a proposal"* and have "*an effect on value*". However, it was concluded that a) there are difficulties in determining market trends and values, and b) initial market retreats resulting from a proposal eventually return over time. Based on the evidence, it was determined that "*while property prices may well fall for a short while, this will not be sustained and that such a fall will be of a temporary nature only*".

17 Part 2

17.1 The consent authority "*must have regard to the provisions of Part 2 when it is appropriate to do so*".[22] The Court of Appeal decision referred to in the footnote found "that there may be situations where it would be *"appropriate and necessary" to refer to Part 2 when considering consent applications, including where there is doubt that a plan has been "competently prepared" under the RMA"*. [23] In other words, where a district or regional plan has been prepared having regard to Part 2 and contains clear, prescriptive and qualified policies and objectives, there is no need to have recourse to Part 2 as this would add little value. However, where a plan does not appropriately consider Part 2, and / or contains conflicting objectives and policies, Part 2 can be considered.

[22] *R J Davidson Family Trust V Marlborough District Council* [2018] NZCA 316 [21 August 2018]
[23] Simpson Grierson (2018) Court of Appeal decision confirms relevance of Part 2 to consent decision-making, published 21 August 2018

17.2 In short, recourse to Part 2 is appropriate in certain circumstances, including:

17.3 If the relevant higher order policies of the NPS are equivocal and it is unclear from them whether consent should be granted or refused, or

17.4 If the TRMP as the relevant plan has not been competently prepared in accordance with Part 2, or if there is some doubt about that.

17.5 In this instance:

a. While the TRMP predates the 2020 NPS-FM, the provisions of the TRMP have been amended to implement the specific NPS-FM (2020) requirements for immediate insertion. I consider that the relevant higher order policies of the NPS-FM are clear.

b. The TRMP is a first-generation plan, which was prepared prior to the NPS-FM and New Zealand Coastal Policy Statement, and the caselaw quoted above. The TRMP was prepared in the 1990s and has not yet undergone a comprehensive review.

17.6 Given the above, and that the proposal is not consistent with all relevant NPS-FM and TRMP objectives and policies, I have included a brief assessment against Part 2.

Purpose and principles

17.7 The purpose of the Resource Management Act (The Act or RMA) is the sustainable management of natural and physical resources. It sets a national framework, guiding regional and district statutory provisions to manage the actual and potential effects of the use of natural and physical resources. The following Part 2 matters are considered relevant to this application.

17.8 Section 6 of the RMA identifies matters of national importance that the consent authority is required to recognise and provide for. The following are considered relevant in this instance:

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

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

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

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

17.9 Section 7 identifies other matters that any person exercising functions and powers in relation to managing the use, development, and protection of natural and physical resources under it must have particular regard to. The following are relevant to the consideration of this application:

(a) kaitiakitanga:

(b) the efficient use and development of natural and physical resources:

(c) the maintenance and enhancement of amenity values:

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

17.10 In achieving the purpose of this Act, under section 8 all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

17.11 The Key Issues assessments (in particular Sections 8 to 13 of this report) identify any aspects of the development which are considered potentially inconsistent with the principles of Part 2 of the Act, including through the lens of the relevant statutory documents prepared to achieve the purpose of the RMA. Based on the information provided to date, potential inconsistencies relate to:

a. The maintenance and enhancement of amenity values, in particular the effects of noise and dust on amenity values.

b. The efficient use and finite characteristics of natural and physical resources with regards to the effects on land productivity.

c. The maintenance and enhancement of the quality of the environment, in particular with regards to groundwater quality.

d. Consideration of Māori freshwater values, Te Māna o te Wai and effective consultation with iwi (sections 6(e), 7a and 8 of the RMA).

18 Summary of key issues and recommendations

18.1 The application for land use consent is a discretionary activity under the TRMP so the consent authority must consider the application in accordance with sections 104 and 104B of the Resource Management Act 1991.

Stage 1

18.2 It is considered in principle that it is open to the Commissioners, after hearing the evidence from all parties, to grant resource consent for **Stage 1** subject to appropriate conditions of consent. This opinion is based on the information provided to date and in particular the following reasons:

a. There is agreement that this part of the land has limited productive use due to flooding risk.

b. Stage 1 is set back further, and screened by the stopbank, from the sensitive receptors/ orchard at 131 Peach Island Road, so that noise and dust should not give rise to undue effects. The proposed landscape planting would mitigate amenity effects on the properties to the west.

c. There is agreement that the proposed activity will not worsen existing flood risk and is unlikely to result in damage to flood control structures.

d. Traffic effects for extraction from Stage 1 only would be limited (as would be the duration of consent) subject to conditions regarding vehicle entrance upgrades, access formation and signage as recommended by the Council's Consultant Traffic Engineer.

Stages 2 & 3

18.3 At this point in time, I am unable to conclude that it's appropriate to support a grant of resource consent for Stages 2 & 3. This opinion is based on the application and information provided to date, and I retain an open mind to subsequent evidence. My particular concerns relate to the following matters.

a. Lack of background noise measurements and predicted noise levels for the closest dwelling at 131 Peach Island Road.

b. Dust effects on the neighbouring sensitive receptors.

c. No detailed traffic assessment has been provided and thus the effects on traffic safety cannot be ascertained.

d. The areas of land under stages 2 and 3 are considered to have high production potential and it is unclear whether the measures proposed by Dr Hill can, in practice, minimise the anticipated loss of site productivity to an acceptable level. Further, without an assessment of the magnitude and expected duration of the short-term effects on land productivity, and information regarding the scale of anticipated residual effects following implementation of the proposed mitigation measures, I cannot reach a conclusion on land productivity effects.

e. There is a disconnect between the "*low risk to groundwater and surface water quality*" referred to in the application documents and the concerns and experiences of the submitters, which needs to be addressed by the applicant. I note the close proximity of the bore at 131 Peach Island Road, which was omitted from the applicant's assessment.

18.4 In addition, I note the relevance of the NPS-FM, which provides strong policy direction. In my view resource consent can only be granted if the Commissioner is satisfied that the proposal is consistent with the provisions of the NPS-FM.

18.5 In my opinion, the applicant has not adequately demonstrated to date that the works can be managed in a way that gives effect to Te Māna o te Wai (policy 1), ensures that people's drinking water supplies are not adversely affected (objective 1) and avoids effects on groundwater quality in line with policy 7 and clause 3.24 of the NPS-FW.

18.6 Furthermore, it appears that only very limited consultation with iwi has been undertaken. Thus, Māori freshwater values have not been clearly identified and provided for. This is inconsistent with policy 2 and the overriding objective of the NPS-FW.

18.7 Notwithstanding the above, draft recommended conditions for the proposed land use consents are contained in Attachment 4. These are intended as a starting point for the Commissioner's consideration in determining the appropriateness and adequacy of potential conditions of consent, should the Commissioner be minded to grant consent after reading and hearing all the evidence from all the parties. For the avoidance of doubt, the conditions apply to all three extraction stages.

[this page blank]