

**IN THE MATTER OF**

**the Resource Management Act 1991**

**And**

**IN THE MATTER OF**

**A hearing of an application No: RC-2022-0032  
by the West Coast Regional Council for  
Stopbank Raising and Construction on the  
Waiho River**

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## **DECISION OF COMMISSIONER**

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**Summary of  
Proposal:**

West Coast Regional Council (WCRC) have applied for a land use consent to construct a new stopbank and raise existing stopbanks (Church, Helipad and Havill Wall stopbanks) on the true right (north-eastern) side of the Waiho River, as shown in Attachment 1 to this decision. The application includes the maintenance of these stopbanks over a 35-year term. They are also applying for a discharge consent for the temporary, incidental, discharge of sediment associated with the stopbank construction and maintenance activities. These works are designed to provide flood protection of Franz Josef township for a 1 in 100-year (1% AEP) flood event for the next 20 years.

On 13 June 2023, the WCRC Consents and Compliance Manager was notified by a Project Manager for the stopbank raising project that the works had commenced on 6 June as Emergency Works allowed by s330 of the RMA. Therefore, the consent application that is the subject of this decision partly relates to the retrospective authorisation of works that are currently in progress and partly to future works that will be required to complete the stopbank raising project.

**SUMMARY OF DECISION: Consent RC-2022-0032 is granted as specified in part 17 of this decision and subject to the conditions set out in Attachment 6 of this decision.**

<b>Applicant:</b>	West Coast Regional Council
<b>Property Address:</b>	Waiho Riverbed
<b>Legal Description:</b>	Legal road, Crown land administrated by Department of Conservation, Westland Properties Ltd, Westland District Council. The land is existing stopbanks and active riverbed. RS 4690 BLK XI WAIHO SD, PT RES 1804 2101 2102 BLK XI WAIHO SD, PT RES 1015 BLK VII WAIHO SD - LOCAL PUR POSE RESERVE & SEC 1 SO 11501 BLK VII IX WAIHO S D

<b>Site Area:</b>	A 2.4 km reach on the true right (north-eastern) bank of the Waiho River extending from the State Highway 6 bridge down to the oxidation ponds for Franz Josef township
<b>Regional Plan:</b>	Regional Land and Water Plan
<b>Activity Status:</b>	Discretionary
<b>District Plan Zoning:</b>	General Flood Hazard Area (Part) (Operative Westland District Plan) (Part) (Proposed Te Tai o Poutini Plan).
<b>Proposal:</b>	The construction and maintenance of a new stopbank and raising of existing stopbanks. The discharge of sediment associated with the construction and maintenance of these stopbanks.
<b>Application Timeline:</b>	<ul style="list-style-type: none"> <li>• Application lodged 24 March 2022</li> <li>• s92 Request for Further Information sent 5 April 2022, information received on 12 May 2022</li> <li>• s95 Affected Persons Approval request sent to Applicant on 18 May 2022 and Applicant then seeks to obtain approvals</li> <li>• 30 November 2022 Applicant requests limited notification to Scenic Hotel Group Ltd (Scenic), who had not provided approval</li> <li>• Notification to Scenic on 5 December 2022. Submission period closed on 20 January 2023</li> <li>• Submission received from Scenic 19 January 2023</li> <li>• A further s92 Request for Further Information was sent on 24 January 2023. Responses to this RFI were received on 3 February 2023, 8 March 2023, and 16 March 2023.</li> <li>• A hearing date was set for the 2<sup>nd</sup> of May 2023. Following directions being circulated the Submitter advised that they could not make this date due to mediation between themselves and the Applicant on a separate matter.</li> <li>• A new hearing date was set for the 16<sup>th</sup> of May 2023.</li> <li>• 21 April 2022, the Applicant requested the Commissioner suspend processing of the application pursuant to s91A due to the unavailability of a witness to meet the evidence exchange timetable.</li> <li>• 30 May 2023, the Applicant agrees to an extension of consent processing time frames in accordance with s37A(5).</li> <li>• 8 June 2023 a new hearing date was set down for 28 July 2023.</li> </ul>

**Hearing Details:**

Peter Callander was appointed on 4 May 2023 by the West Coast Regional Council to be a sole Independent Hearing Commissioner to determine this application. The Hearing was scheduled to commence on Friday 28<sup>th</sup> July 2023 at 9:30am at the Grey District Council office, although that day started with a delay, with the agreement of the parties, to allow the Applicant to consider a set of proposed conditions provided by the Submitter that morning. Therefore, the hearing proper actually commenced at 10:30am and was adjourned at 4pm on the same day after having heard submissions from counsel for both the Applicant and the Submitter and all of the evidence of the witnesses called by the Applicant (West Coast Regional Council (WCRC)), the Submitter (Scenic Hotel Group Limited) and the WCRC s42A Officer.

On 31 July 2023, the Commissioner issued a direction to the parties to provide information on the following matters:

- Task 1: Details about the management of the stopbank raising works that are currently occurring. This information was received from the Applicant on 11 August, with comments from the Submitter received on 18 August; and
- Task 2: proposed consent conditions setting out agreed conditions and alternative wordings for those conditions where there is disagreement, for consideration by the Commissioner, was received on 8 September 2023.
- Task 3: the Applicant then provided their statement in reply (closing legal submissions) on 15 September 2023.

Following the Commissioners review of that additional information, the Hearing was closed at 1pm on Monday 18<sup>th</sup> September 2023.

### **Hearing Attendance and Evidence:**

The persons who appeared at the Hearing and presented evidence are:

For the Applicant: West Coast Regional Council

- Ms Alice Balme, Solicitor for the Applicant, assisted by Ms Kate Dickson (both from Wynn Williams)
- Mr Matthew Gardner, river hydraulic modeller and Managing Director of consultancy firm Land River Sea Consulting Ltd
- Dr Dai Thomas, Senior Hydraulic Engineer and Geomorphologist from Tetra Tech
- Mr Ben Pasco, Engineering Project Manager and Design Engineer for this project from Tetra Tech Coffey
- Mr Peter Glasson, Resource Management and Environmental Planner from Davis Ogilvie and Partners Ltd
- Mr Chris Hoskins, Senior Project Manager from Inovo Projects was also present. Whilst he did not present a statement of evidence, he did provide some background information in response to questions.

For the Submitter: Scenic Hotel Group Ltd (Scenic)

- Mr Simon Johnston (Meares Williams), Solicitor for the Submitter
- Ms Lani Hagaman, Executive Chairperson of Scenic
- Mr Kim Smith, Property Manager for Scenic was also present. Whilst he did not present a statement of evidence, he did provide some background information in response to questions.

WCRC Reporting Officer

- Ms Selene Kane, Independent Planner (Tai Poutini Resources)

### **Site Visit:**

On Thursday 27<sup>th</sup> July 2023 the Commissioner visited Franz Josef and met with Mr Craig Clark, the Contracts Manager at MBD Contracting who are currently undertaking the stopbank construction work. Mr Clark has not been involved in the preparation of the consent applications for the works and he did not attend the hearing. He provided an overview of the works that are currently taking place, which at the time of the visit involved the construction of the new stopbank from its connection with

the existing Heliport stopbank to around 300 m downstream i.e. the partially formed new stopbank that had been partly constructed from around 1600 m to 1300 m, based on the distance markers along the stopbanks shown in Attachment 2 to this decision. Access to that work area was occurring from the 55 km/hr corner on SH6. The Commissioner and Mr Grant drove to view the following locations of the current and proposed work areas:

- Along the top of the stopbank on the true right side of the river from the 55 km/hr corner access from SH6, downstream to the oxidation ponds;
- from the 55 km/hr corner along the access track to the current construction area and onwards to its connection with the Heliport stopbank;
- Along the top of the stopbank on the true right side of the river from the SH6 bridge towards the downstream end of the Heliport stopbank, whilst avoiding the exclusion zone for helicopter landing and take-off; and
- Along the top of the stopbank on the true left side of the river from the SH6 bridge down as far as a location opposite the current work area on the opposite side of the Waiho River.

Mr Grant described the works that are occurring that have included gravel extraction from the riverbed, a diversion of the river (to keep the flowing water away from the construction area) and construction of the new stopbank including excavation of the embankment toe on the river-side, placement and compaction of the bulkfill from the riverbed sands and gravels and placement of the larger armouring rock on the river-side of the stopbank. This larger, “rip-rap” material is sourced from a quarry at Whataroa that is operated by MBD Contracting.

Marker points were observed that are set out along the riverbed and on the landward side to show the extent of the future stopbanks that are proposed by this consent application.

Two public access points onto the riverbed from the true right bank were viewed, one being at the 55 km/hr corner and the other being at around 2,000 m on the plan in Attachment 2 to this decision. There are also public access points on the true left bank.

This visit provided the Commissioner with a good understanding of the works that are being carried out and the riverbed setting. The assistance provided by Mr Grant is greatly appreciated.

**Procedural Matters** At the start of the hearing the Commissioner outlined the order of presentations for the day and provided an opportunity for legal counsel for the Applicant and Submitter to raise any jurisdictional issues related to the hearing process. The Commissioner reminded the parties that the Applicant had requested that time frames for the completion of the hearing be extended, in accordance with section 37A(5) of the RMA due to the unavailability of a witness and this extension was granted as it was considered to be in the best interests of reaching a well informed decision for all parties to the hearing and the community.

The Commissioner provided an update on the current status of other consent applications that are related to the stopbank raising activity but

noted that the scope of this hearing is limited only to the determination of the stopbank raising consent application.

Prior to the hearing Mr Johnston had raised a concern about a possible conflict of interest for the Applicants planning witness, Mr Glasson, and Wynn Williams for the Applicant had provided a written response to that suggestion. Mr Johnston advised that he did not want to pursue that issue.

No other procedural matters were raised by the parties regarding this hearing or the manner in which it was to be conducted.

The information presented to the hearing and the reasoning for the decision is set out in the following pages. This decision document has been prepared in accordance with section 113 of the RMA.

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## 1 Description of the Environment

- 1.1. The application documents describe the Waiho River as a highly dynamic, braided river that originates from the base of the Franz Josef Glacier. Increasing rates of snow melt, heavy rainfall events and land slips, all of which are becoming more extreme due to climate change<sup>1</sup>, contribute to flood flows and a high sediment load in the river water. As a result, the riverbed adjacent to and immediately downgradient of, Franz Josef township is gradually increasing in height. Much of the riverbed is now higher than the adjacent township. This combination of more frequent flood flows and an aggrading riverbed creates an increased flooding risk to the Franz Josef township.
- 1.2. The riverbed where the works are carried out is predominately comprised of river gravels with relatively little vegetation due to the highly mobile bed, with channel positions changing following larger floods. The river carries a high suspended sediment load and therefore has relatively low value as a recreational fishery.<sup>2</sup>
- 1.3. The stopbanks that are the subject of this application are adjacent to the township of Franz Josef on the true right bank of the river, extending from the State Highway 6 Bridge at the upstream extent to the town's oxidation ponds at the downstream extent. Farmland and forested areas occur beyond the township and on the other side of the true left bank of the river.

## 2 The Proposal

- 2.1. At the present time, Franz Josef township is protected by stopbanks on the true right bank of the Waiho River, extending from the State Highway 6 bridge down to the oxidation ponds (a distance of approximately 2.4 km). These existing stopbanks are referred to as the Church and Helipad stopbanks (since 2010 and authorised by consents RC10196 & RC96029) and the NZTA and Havill Wall stopbanks (since 2017 and authorised by resource consents RC04122, RC01277, RC-2016-0154 & RC-2017-0099, following flooding in 2016). As shown in Attachment 1 to this decision, there is a gap in the current stopbanks between the downstream end of the Church/ Helipad stopbank and the upstream end of the NZTA stopbank.
- 2.2. The West Coast Regional Council (WCRC) are applying for a consent to authorise two stopbank construction activities:
  - 2.2.1. Firstly, construct a new stopbank to provide a continuous flood protection bank between the Helipad stopbank and the Havill Wall stopbank.
  - 2.2.2. Secondly, raising the existing Church, Helipad and Havill Wall stopbanks by around 2 metres, to achieve an equivalent level of protection as the new stopbank. This requires a broadening of the stopbank footprint, primarily on the landward side of these existing stopbanks. Dr Thomas advised me that there are two locations where the raising of these existing stopbanks is slightly lower, with an increase only on the order of 1 m around chainage 200 m (due to the limitation of the available volume of gravel in the riverbed) and immediately downstream of

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<sup>1</sup> Matthew Gardners response to a question of clarification at the hearing

<sup>2</sup> Peter Glasson evidence, para 27, based on consultation with DoC and Fish & Game who have both provided affected party approval.

the SH6 bridge (where the stopbank elevation has been set to tie into the elevation of that bridge).<sup>3</sup>

2.3. The height of this new stopbank and the raised existing stopbanks has been modelled and designed to provide protection for a 2,500 cumec flow in the Waiho River for the next 20 years. This has been assessed to be a 1 in 100-year (1% Annual Exceedance Probability, AEP) flood. The time period of 20-years protection from this design storm is based on the review of riverbed profiles over recent years which show that the riverbed is aggrading at an average rate of 180mm/year.

2.4. The following Figure<sup>4</sup> demonstrates the issue that this application seeks to address. It shows a cross-section of the Waiho Riverbed at the 55km/hr bend in SH6 that coincides with the vicinity of the Submitters former Mueller Hotel site.

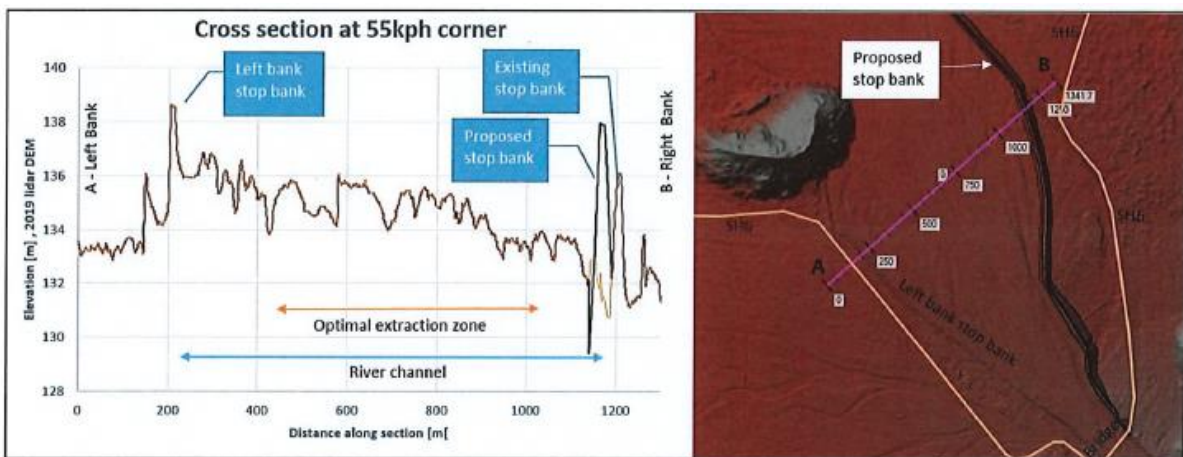


Figure 2: Cross Section at 55kph Corner

2.5. It shows how a large part of the riverbed has aggraded to a higher elevation than the land on the outside of both the left and right stopbanks, thereby creating an increased risk of floodwaters overtopping the stopbanks. The Figure also shows the difference in height that will be achieved by the proposed new stopbank on the true right bank of the river as a result of this proposal.

2.6. WCRC has been awarded a central government funding contribution towards the completion of these works.

2.7. Attachment 1 at the end of this decision shows the location of the existing and proposed stopbanks.

2.8. The application is also for works required to maintain the stopbanks for the maximum 35-year term for which a consent can be granted. A discharge consent is also sought, related to the temporary incidental discharge of sediment during the construction and maintenance activities.

2.9. Excavators and dump trucks will be used to excavate bulkfill from the riverbed over an area extending across the riverbed from the State Highway 6 bridge down to the Waiho Loop, a distance of approximately 4km. It has been estimated that there is

<sup>3</sup> These two points where the raised stopbanks have no freeboard during the design storm event are most easily identified in Figure 3 of a memo prepared by Dr Thomas dated 10/11/2021 which is appended to his statement of evidence.

<sup>4</sup> Figure 2 from a Tetra Tech Coffey memo dated 1 February 2023 provided in response to a request for further information



approximately 540,000 m<sup>3</sup>/year of gravel brought down the river into this area. The estimated volume of gravels required for the stopbanks is 250,000 m<sup>3</sup> (as reported in the further information response of 1 February 2023).

2.10. The trucks will transport the gravel to the stopbank construction locations. The gravel will be spread and compacted in layers until the design stopbank height is reached. Rock (rip rap) for armouring the riverside of the completed stopbanks will be sourced from quarries in the general area, which at the time of this decision was occurring from a quarry at Whataroa. The application notes that no waterways outside of the Waiho River are impacted by these stopbank works. Therefore, the application documents state that no culvert, flapgates, bridges or weirs are involved, and no fish passage is disrupted.<sup>5</sup>

2.11. Other consents associated with this work are:

- a land use consent (RC-2023-0016) for gravel excavation from the riverbed to provide bulk fill material for the stopbank construction that was granted non-notified<sup>6</sup> on 16 March 2023 for a term of 10 years.
- an application for a river diversion consent (RC-2023-0030) to assist in the stopbank construction works, is currently being processed.
- The evidence of Mr Peter Glasson, the Applicants planning consultant, also indicated that consents for vegetation clearance will be required from the Westland District Council. In their closing legal submissions the Applicant indicated they expect to lodge this application with WDC by 22 September 2023<sup>7</sup>.

2.12. This decision relates only to applications for a land use consent and discharge consent to construct the stopbanks. Whilst reference was made to these other consents and consent applications throughout the hearing (because all these activities are inter-related) those other activities have, or will, be determined by their own, separate, decision-making processes.

2.13. On 13 June 2023, the Applicant advised the West Coast Regional Council Consents and Compliance Manager that emergency works on the stopbank raising had commenced on 6 June 2023, as allowed for by section 330 of the RMA. Consequently, the applicants have requested that this consent application is also an application to retrospectively authorise those works that have already commenced.

### **3 Activity Status**

3.1. The activities for which consent is sought are defined by the following rules in the Regional Land and Water Plan.

3.2. The construction of the stopbanks is covered by Rule 35.

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<sup>5</sup> Application Form 10

<sup>6</sup> In accordance with Rule 33 of the Regional Land and Water Plan

<sup>7</sup> Paragraph 83 of the Applicants Closing Legal Submissions

### **Rule 35. Discretionary activity rule for activities outside of a Schedule 1 or 2 wetland**

Unless permitted by Rules in Section 18.2.1, or managed by Rules in Sections 18.2.2 or 18.2.4, in relation to the bed of any lake or river the following activities outside of a wetland identified in Schedule 1 or 2 are a **discretionary activity**:

- (a) To use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or
- (b) To excavate, drill, tunnel, or otherwise disturb the bed; or
- (c) To introduce or plant any plant or part of any plant (whether exotic or indigenous) in, on or under the bed; or
- (d) To deposit any substance in, on, or under the bed; or
- (e) To reclaim or drain the bed.

3.3. The discharge of sediment may occur directly into water, when the deeper toe excavations expose underground water within the riverbed (Rule 71) or occurs onto the dry riverbed (Rule 91) to later be entrained with the river water when that area of the bed is next submerged by flowing water.

### **Rule 71. Discharge of any contaminant, or water to water, not complying with Rules 63 to 70**

Unless permitted by Rules 63, 64, 65, 66, 67, 68, 69 or 70 the discharge of any contaminant or water to water is a **discretionary activity**

### **Rule 91. Discharge to land discretionary activity Rule**

Unless permitted by Rules 72 to 86, or controlled by Rules 87 to 90, any discharge of contaminants into or onto land is a **discretionary activity**.

3.4. All these rules define the application as a discretionary activity.

## **4 Notification and Submission**

4.1. The application was lodged on 24 March 2022. There followed a period of time where further information was requested and the Applicant sought to obtain approval from some, but not all, affected parties.

4.2. Ten parties were identified as being affected by this application, representing land-owners adjoining the true right bank of the Waiho River where the proposed construction will occur and also to organisations with an interest in the river. The s42A report notes that the applicant obtained written approval from nine of these parties, namely:

- Te Rūnanga o Makaawhio
- Department of Conservation – Te Papa Atawhai
- West Coast Fish and Game
- Waka Kotahi New Zealand Transport Agency
- Westland District Council

- Westland District Property Limited/ Destination Westland Limited
- Franz Josef Glacier Guides Limited
- Duncan Cotterill Christchurch Trustee (2015) Limited
- Church Property Trust

The Applicant has advised that approval of occupiers of these properties was also obtained.

- 4.3. The Applicant requested that limited notification occur for the one remaining party, Scenic Hotel Group Ltd (Scenic). Notification occurred on 5 December 2022.
- 4.4. A submission was received from Scenic, who own land adjacent to the true right bank of the river at a former hotel site (the Mueller Hotel) that was badly damaged by a flood on 23 March 2016. Their submission requests that the application should be declined unless further information and safeguards are put in place to ensure that the stopbanks are constructed and maintained in a safe and secure manner.

## 5 Provisions of the RMA Relevant to this Application

- 5.1. This application is applied for under section 88 of the RMA as an application for a discretionary activity. The relevant provisions of the RMA that direct my decision-making process are set out in the following paragraphs.

### Section 104

- 5.2. When considering this application for a resource consent, and the submission received, section 104 of the RMA identifies the relevant matters I must have regard to, subject to Part 2 of the RMA.. These matters are:

- (a) *any actual and potential effects on the environment of allowing the activity; and*
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
- (b) *any relevant provisions of—*
- i. a national environmental standard:*
  - ii. other regulations:*
  - iii. a national policy statement:*
  - iv. a New Zealand coastal policy statement:*
  - v. a regional policy statement or proposed regional policy statement:*
  - vi. a plan or proposed plan; and*

(c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

5.3. When forming my opinion on the actual and potential effects on the environment I may disregard an adverse effect of the activity if a national environmental standard or the plan permits an activity with that effect s104(2) and I can disregard any effects of trade competition or any effect on a person who has given written approval to the application s104(3).

5.4. Therefore, the relevant matters for this application are:

- (a) The actual and potential effects on the environment of allowing the activity, which in this instance are the changes arising from the stopbank construction;
- (b) The relevant provisions of the following national and regional policy documents which the planning experts agreed were the only relevant policy documents:

- *The National Policy Statement for Freshwater Management 2020;*
- *The National Environmental Standards for Freshwater 2020;*
- *The National Policy Statement for Indigenous Biodiversity 2023 (which came into force on 4 August 2023 during the adjournment of this hearing);*
- *The West Coast Regional Policy Statement 2020;*
- *The Regional Land and Water Plan May 2014 (updated in July 2021);*
- *The Westland District Plan and the Proposed Te Tai o Poutini Plan;*

and

- (c) Any other relevant matters.

*Particular Matters Relevant For Discharges – Sections 105 and 107*

5.5. As a matter of completeness, this application for consent includes the incidental discharge of sediment associated with the construction of the stopbanks. This discharge could occur directly into water exposed in the toe rock excavations, or when the river water contacts the newly constructed stopbanks.

5.6. The aspects of Section 105 that are relevant to this application are:

*‘(1) If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104 (1), have regard to –*

*(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*

*(b) the applicant’s reasons for the proposed choice; and*

*(c) any possible alternative methods of discharge, including discharge into any other receiving environment.’*

5.7. Section 107 states that:

- (1) *Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing –*
- (a) *the discharge of a contaminant or water into water; or*
  - (b) *a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; ...*  
  
*if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:*
  - (c) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:*
  - (d) *any conspicuous change in the colour or visual clarity:*
  - (e) *any emission of objectionable odour:*
  - (f) *the rendering of fresh water unsuitable for consumption by farm animals:*
  - (g) *any significant adverse effects on aquatic life.*
- (2) *A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A that may allow any of the effects described in subsection (1) if it is satisfied –*
- (a) *that exceptional circumstances justify the granting of the permit; or*
  - (b) *that the discharge is of a temporary nature; or*
  - (c) *that the discharge is associated with necessary maintenance work –*  
  
*and that it is consistent with the purpose of this Act to do so.*
- (3) *In addition to any other conditions imposed under this Act, a discharge permit or coastal permit may include conditions requiring the holder of the permit to undertake such works in such stages throughout the term of the permit as will ensure that upon the expiry of the permit the holder can meet the requirements of subsection (1) and of any relevant regional rules.'*

## Part 2

- 5.8. Section 104 is subject to Part 2 of the RMA. The following aspects of Part 2 are relevant for this proposal:
- 5.9. Section 5 states that *the purpose of this Act is to promote the sustainable management of natural and physical resources.* “Sustainable management “ is defined as:
- *Managing the use, development and protection of natural and physical resources in a way, or at a rate which enables people and communities to*

*provide for their social, economic and cultural wellbeing and for their health and safety while;*

- a. sustaining the potential of natural and physical resources to meet the reasonably foreseeable future needs of future generations; and*
- b. safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c. avoiding, remedying or mitigating adverse effects on the environment.*

5.10. The following section 6 matters of national importance which I am required to recognise and provide for are of relevance to this application:

- *Section 6(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.*
- *Section 6(d): The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.*
- *Section 6(e): The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.*
- *Section 6(h): The management of significant risks from natural hazards.*

(a) The following section 7 matters to which I must have particular regard are of most relevance:

- *Kaitiakitanga (section 7 (a))*
- *The ethic of stewardship (section 7 (aa));*
- *The efficient use and development of natural and physical resources (section 7 (b));*
- *The maintenance and enhancement of amenity values (section 7 (c));*
- *The intrinsic values of ecosystems (section 7 (d));*
- *The maintenance and enhancement of the quality of the environment (section 7 (f));*
- *The effects of climate changes (section 7(i)).*

5.11. I am also required by section 8 to take into account the principles of the Treaty of Waitangi.

5.12. I discuss the relevant Part 2 matters in my Statutory Assessment later in this decision.

#### Section 104B and 108

5.13. As noted in paragraph 3.4, this is an application for a Discretionary activity. Having considered all of the relevant matters above, s104B says I can either grant or decline the application. If my decision is to grant the application, I may then impose

conditions, as set out in s108. S108AA(1) specifies that conditions for the consented activities that this hearing is considering must meet the following criteria:

*A consent authority must not include a condition in a resource consent for an activity unless—*

*(a) the applicant for the resource consent agrees to the condition; or*

*(b) the condition is directly connected to 1 or more of the following:*

*(i) an adverse effect of the activity on the environment:*

*(ii) an applicable district or regional rule, or a national environmental standard: ... or*

*(c) the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.*

## 6 Summary of Evidence Heard

6.1. A summary of the evidence presented at the hearing is set out below.

### Applicants Presentation

6.2. **Ms Alice Balme** presented written legal submissions on behalf of the Applicant. She summarised the key aspects of the application and outlined the information to be presented by her expert witnesses. She set out the legal matters related to the Applicants decision to commence work under the emergency works provisions of the RMA (s330) and noted how the retrospective decision on the consent application for those works that are already completed must consider them as a greenfields proposal to which all the same criteria must be applied as for the works that are still to take place.<sup>8</sup>

6.3. She described the other consents related to this activity (as set out earlier in paragraph 2.11 of this decision), and noted that this hearing is limited to the consideration of the land use and discharge applications for the stopbank construction and could not consider the other activities associated with these works (namely the gravel extraction consent and river diversion application). She noted that the s42A officer had suggested that the vegetation clearance activity (also described in paragraph 2.11 of this decision) might require a separate regional council consent, based on rule 16 of the RLWP. However, in her submission this activity was within the scope of the land use application for stopbank construction and could be covered by the granting of that application, without the need for a separate consent from the regional council.<sup>9</sup>

6.4. Ms Balme outlined the legal framework for consideration of the resource consent application, which matches the framework set out in Section 5 of this decision. She emphasised that the potential adverse effects were less than minor but would achieve significant positive effects for the Franz Josef community (including the Submitter) by increasing the level of flood protection. This includes protection of the critical infrastructure that is State Highway 6 and the wastewater treatment ponds for Franz Josef township. With regard to effects on the Submitters Mueller Hotel site she referred

<sup>8</sup> Paragraph 13 of Ms Balme's legal submissions.

<sup>9</sup> Paragraphs 29 – 32 of Ms Balme's legal submissions

me to pages 136 and 137 of the pdf version of Mr Gardners evidence which showed the current and future flooding impacts for the 2,500 m<sup>3</sup>/s design flood. That information demonstrates the improved protection that property will receive from the stopbank construction for which consent is sought.

- 6.5. She noted that at the time the application was originally lodged by the WCRC engineering team in March 2022, they had not sought independent legal and planning advice and in her view the original application contained a minimal amount of information. Following the submission by Scenic, the level of expert technical input to the application was significantly increased, which she felt should address the Submitters concerns. This includes consent conditions requiring certification of the stopbank construction and development of an Asset Monitoring and Inspection Plan to ensure ongoing inspection and maintenance.<sup>10</sup> Finally, she noted her general agreement with the s42A report but summarised a small number of issues in the s42A proposed consent conditions that should, in her view, be changed.
- 6.6. In response to questions following her submissions she noted that whilst there was no statement being presented to this hearing from any WCRC employees who would ultimately be responsible for exercising the consent, the senior management at WCRC were regularly updated on the progress of this application and were involved in all the decision making regarding the application (this was confirmed by Mr Hoskins who stated that the WCRC Infrastructure Manager and CEO were regularly updated on progress and involved in decisions about the stopbank construction activity and the consent application and that the WCRC consents department was updated on progress with the works in the riverbed). Ms Balme also pointed out that the decision to commence construction of the stopbanks as emergency works was a decision made solely by the WCRC management team.

#### Expert witnesses for the Applicant

- 6.7. **Mr Matthew Gardner** described the need for raising the stopbanks on the Waiho River due to the rapid riverbed aggradation which is exacerbated by the rapidly retreating Franz Josef glacier. He noted that without the stopbanks, the existing state highway, wastewater treatment ponds as well as portions of the existing town and adjacent farmland would not be able to exist.<sup>11</sup> He views this stopbank raising exercise as a short-term solution that will provide a window of time within which a more permanent solution for the township will need to be found.
- 6.8. He described the hydraulic modelling assessment he has carried out to determine the design height for the stopbanks and the impacts they will have on flood behaviour within the river and the surrounding floodplain. He acknowledged there is a lot of uncertainty in such predictions due to the uncertainty in future aggradation rates of the riverbed, however based on the best available information his model assessment indicates 20 years protection for Franz Josef township for flood events up to a 1% Annual Exceedance Probability (a 1 in 100-year event) with no significant change in other flooding risks within and adjacent to the river.
- 6.9. In response to questions, Mr Gardner described the disjointed history of the building of the existing stopbanks and how the gap between the NZTA and Heliport stopbanks allows the river to attack the right bank downstream of the Heliport stopbank during high

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<sup>10</sup> Paragraph 60 (c) of Ms Balme's legal submissions

<sup>11</sup> Paragraph 12 of Mr Gardner's evidence



flood events. That risk will be addressed by the smooth expansion of the channel created by the new stopbank.

- 6.10. Mr Gardners modelled stopbank alignment and height information was provided to **Dr Dai Thomas** who has prepared the design for the stopbank construction. His evidence described how this involved defining the side slope, crest width and the sizing of the armouring rock protection on the river side of the stopbanks which will extend to an excavated depth of 4 m below the current riverbed level. He has also calculated the volume of material that will fill the core of the stopbank, which will be sourced from within the Waiho riverbed (Consent RC-2023-0016). He stated that,

*“The average raise of 2 m for the Existing Stopbanks was selected to optimise the quantity of available rock, minimize impact on private property, and because it will provide sufficient protection at the design discharge including with the predicted 20-year aggradation.”<sup>12</sup>*

- 6.11. Dr Thomas also described how the new stopbank that will link the existing Helipad and Havill Wall stopbanks allows a smooth widening to the flood channel thereby lessening the erosion risk to the north-east that currently exists at the end of the Helipad stopbank. It is his expert opinion that the rock size and rock toe down depths that he has specified will provide the necessary stopbank protection for the design discharge flow of 2,500m<sup>3</sup>/s.<sup>13</sup>

- 6.12. He clarified that there are two locations which will have no freeboard at the design storm, which are identified in Figure 3 at the end of his evidence, where the blue “Design WSE” line touches the red “Design Stopbank Profile” line. This occurs at the upstream end of the Church stopbank (where the raising of that stopbank has been limited to coincide with the SH6 bridge level) and near the downstream end of the Havill Wall stopbank. He explained this is the optimal stopbank design based on the volume of gravel available from the river and the constraints from adjacent properties and the SH6 bridge.

- 6.13. **Mr Ben Pasco** described the construction methodology for the project. The raising of the existing stopbanks will require the stopbank construction to extend further out onto the landward (north-eastern) side of the existing stopbanks, necessitating vegetation clearance and bulk fill to increase the overall width of the bank without narrowing the existing channel. The design has sought to achieve this whilst avoiding construction encroaching onto any private property. He noted that a minor change to the stopbank alignment had been made to move the works further from the Scenic property.<sup>14</sup> He also stated that,

*“The works will be managed in accordance with a Contract Management Plan as per typical requirements for this type of construction project including worksite health and safety provisions, and stakeholder, neighbour, and traffic management.”<sup>15</sup>*

- 6.14. In response to a question Mr Pasco described how supervision of the construction works was being provided by the engineering consultancy firm WSP who are engaged by WCRC as the Engineer to the Contract. At the present time their visits to site are occurring once or twice a week. Mr Pasco also mentioned that in his role as representative of the design team he inspects the works at critical times and would be

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<sup>12</sup> Paragraph 16 of Dr Thomas’s evidence

<sup>13</sup> Paragraph 53 of Dr Thomas’s evidence

<sup>14</sup> Paragraph 41 of Mr Pasco’s evidence

<sup>15</sup> Paragraph 17 of Mr Pasco’s evidence

heading to site the following day to inspect the connection between the new stopbank and the existing Heliport stopbank. The frequency of inspections will vary depending on how the works are progressing, with more frequent visits during critical times such as the placement of the toe rock and the connection of the new stopbank to the existing stopbanks.

- 6.15. He provided an update on the current works indicating that work on the new stopbank commenced immediately downstream of the heliport on 19 June 2023, with that section being prioritised to occur during the winter 'low' season for tourist and helicopter activity. This first stage of work will involve constructing the new stopbank to match the height of the existing stopbanks. The second stage of work will then involve raising the height of both the new and existing stopbanks up to the design height. The total construction period is expected to take around 12 months to complete.
- 6.16. In response to a question about the risk created by the extraction of gravel required to construct the stopbanks (which is a matter of concern to the Submitter) Mr Pasco said this risk was avoided by a condition of the gravel extraction consent that required those excavations to be undertaken in dry conditions at a distance of more than 100 m from any stopbank, river-bank or rock protection works.<sup>16</sup>
- 6.17. In response to another question, Mr Pasco confirmed a statement he provided in a memo dated 1 February 2023 responding to a Further Information question dealing with the area of gravel extraction for this project. He noted that any gravel extraction greater than 500,000 m<sup>3</sup>/year within that area could exceed the natural supply of gravel provided by erosion from further up in the catchment. If that volume of extraction was exceeded, then an assessment should be carried out to confirm there would not be any significant impacts downstream of the assessment area. In the same memo he also notes that,
- “Any consent granted for large volume gravel extraction over an extended period should include a condition requiring survey and analysis of cross section data to assess Mean Bed Level (MBL) conditions to ensure the extraction is not causing a reduction in riverbed that might pose a risk to river banks and flood protection structures.”*
- 6.18. The memo goes on to state that whilst this project requires the extraction of up to 250,000 m<sup>3</sup> of gravel there are no other known large gravel extractions in this reach of the river, so he does not consider this over-extraction of gravel is a matter of concern. However this is a matter of concern raised by the Submitter, including unauthorised gravel extraction as discussed further in paragraphs 9.18 and 9.21 of this decision.
- 6.19. The presentation of the Applicants evidence concluded with their planning expert, **Mr Peter Glasson**. He noted that he was asked to become involved in the project on 10 February 2023 so had no involvement in the preparation of the original consent application. His evidence summarises the actual and potential effects of project, based on information from the other witnesses and then applies that to the requirements of the various planning document and the provisions of the RMA.
- 6.20. He provides comment on the s42A officers report and is in general agreement with most of its content, but notes the following points of difference;
- 6.20.1. In paragraphs 45 & 46 of his evidence he disagrees that a restriction on construction activities is needed in relation to whitebait.

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<sup>16</sup> Conditions 8 & 12 of the gravel extraction resource consent RC-2023-0016 presented in Attachment 3

- 6.20.2. In paragraph 48 he disagrees with a proposed requirement to survey all property boundaries adjoining the proposed works. At the hearing he explained that this requirement should only apply to the Scenic property, in recognition of the concerns raised by their submission, whereas all other property owners had provided written approval to the consent application.
- 6.20.3. In paragraph 49 he acknowledges the need to monitor the construction works but proposes some changes to what the s42A officer is recommending, to ensure the monitoring is effective, but not overly burdensome.
- 6.21. These points of disagreement about consent conditions are addressed in section 16 of this decision.
- 6.22. Appendix 2 of Mr Glassons evidence included an assessment of the proposal against the provisions of the NPS-FM. I asked if his comments on Te Mana o Te Wai were informed by any discussions with iwi. He said he had been in contact with a representative of Te Rūnanga o Makaawhio who said they had no concerns with the project and did not want to hold it up. He received no further comment from iwi so made his own judgement that the project is consistent with the objectives and policies of the NPS-FM. He noted that the only iwi management plan in this area was one related to the extraction and use of pounamu<sup>17</sup>.
- 6.23. Mr Glasson's assessment has also identified that a consent for clearance of indigenous vegetation is required from the Westland District Council based on the rules in the Proposed Te Tai o Poutini Plan.<sup>18</sup> At the hearing, Mr Glasson provided a map showing the areas of vegetation clearance and his interpretation of how they compared with the definition of riparian margin in the RLWP, which might trigger a need for a Regional Council consent. In his opinion the vegetation clearance falls within the scope of the application that is the subject of this decision and no new application is required. This matter is discussed later in paragraphs 9.27 - 9.31 of this decision.
- 6.24. In response to a question about a proposed restriction on bird nesting in the s42A report Mr Glasson said that issue had not been raised in his discussion with the Department of Conservation, so he assumed any such restriction should not be required.

### Submitters Presentation

- 6.25. **Mr Simon Johnston** is legal counsel for the Submitter (Scenic). At the start of the day, he presented a proposed set of consent conditions for the Applicant to consider. Following the presentation of the Applicants evidence, he presented a verbal submission stating that Scenic support the stopbank raising work and there is much common ground with the Applicants proposed consent conditions. Their main concern is to ensure that all works in the riverbed are properly managed. In that regard they have two key points regarding this stopbank raising consent application:
- 6.25.1. That all works related to the application are supervised by an independent and suitably experienced professional river engineer. He is concerned that WCRC should not be in a position of managing their own works.

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<sup>17</sup> Te Runanga o Makaawhio Pounamu Management Plan (2009), which deals with the sustainable management, control, extraction, protection and use of pounamu.

<sup>18</sup> Paragraphs 62 – 67 of Mr Glassons statement of evidence.

- 6.25.2. That the conditions that are determined through the decision on this application cannot be subsequently varied without Scenic being informed of such a change before any decision on the change is made.
- 6.26. Mr Johnston stated that all three consent applications related to the stopbank construction (namely, gravel extraction, river diversion and stopbank construction) should have been dealt with in an equivalent manner and all come before this hearing. He disagreed with Ms Balmes submission that the decision on this consent application could not impose conditions related to the gravel extraction and river diversion because those activities were all described in the information presented for this stopbank construction activity application.
- 6.27. **Ms Lani Hagaman**, has for many years had a significant ownership and governance role with Scenic. She presented a written submission and noted that whilst Scenic are the submitter in this hearing, she was also making her comments in the interests of the Franz Josef community who want to ensure that flood protection works and riverbed management are carried out in the best way possible to protect the community from the risk of future flooding.
- 6.28. She described the devastating effects of the 23 March 2016 flood which washed out a section of stopbank just downstream of the river access track at the 55 km/h corner, directly adjacent to the Scenic Mueller Hotel which was significantly damaged and has been abandoned. Scenic wants to rebuild the Mueller Hotel on that same property, but on higher ground, at an estimated cost of \$50 - \$60 million. That plan relies on properly constructed stopbanks that are well maintained. Therefore, she supports the new proposed stopbanks at a higher elevation, but the consenting of that activity must be accompanied by appropriate conditions to ensure they are well constructed and properly maintained in the years ahead. She described examples of excavation activities in the riverbed and its stopbanks that were not consented and felt there was no integrated plan or management by WCRC to adequately control these activities which therefore undermined the effectiveness of the river protection works. She also expressed frustration at the lack of open communication coming from WCRC regarding these matters.

#### S42A Officer

- 6.29. **Ms Selene Kane's** Officers report had been circulated in advance of all other evidence and provided a comprehensive assessment of the application details and her assessment against the requirements of s104, including the various planning documents which are discussed later in sections 13.2 - 13.4 of this decision. Her report provided a framework for the other experts to comment on and they were in general agreement with her conclusions. Points of disagreement and the Applicants planning witness Mr Glasson have been noted in this decision and are discussed later.
- 6.30. At the hearing Ms Kane presented an Addendum to her s42A report to address issues that had arisen since her original report had been prepared. This included the possible need for a regional council consent related to the vegetation clearance (based on Mr Glasson's evidence regarding the need for a consent from Westland District Council), the need to consider the application against the provisions of the National Policy Statement for Indigenous Biodiversity (which was to come into effect on 4 August 2023) and some further comments regarding consent conditions. These matters are discussed later in this decision.

- 6.31. Ms Kane clarified that the suggestion of restrictions to the stopbank construction works around whitebait spawning, whitebaiting and bird nesting were not required based on the information presented to the hearing.
- 6.32. At the end of the presentation of evidence, three sets of conditions had been presented. An original version in Appendix 5 of Ms Kanes s42A report, modifications to that presented in Appendix 1 of Mr Glassons evidence and further modifications to that version presented by Mr Johnston on the day of the hearing. All parties expressed a willingness to work together to collate a single set of conditions for me to consider and that task was completed on 8 September 2023. My consideration of the consent conditions is presented in section 16 of this decision.

## 7 Ancillary Issues

- 7.1. Before I describe my assessment of the application, I will discuss two matters related to the stopbank building activity that were raised at the hearing. These are:
- The use of the emergency works provisions of the RMA to commence these works in advance of a decision being made on the consent application.
  - The notification decisions that have been made on the gravel extraction and river diversion consent applications.
- 7.2. At the hearing I indicated I would provide my view on these issues, although as emphasised by the Applicants legal counsel, these comments and the issues they related to do not affect my decision on this consent application. The comments are provided to explain my wider view on how decisions on works in the riverbed have been, or should be, made.

### *The decision to commence works in advance of the consent decision*

- 7.3. On 13 June 2023, the WCRC Consents and Compliance Manager was notified by a Project Manager for the stopbank raising project that the works had commenced on 6 June as Emergency Works allowed by s330 of the RMA. At the hearing I was told this was a decision made by the WCRC because of the need to address the future emergency of flooding risk to the Franz Josef township and there also seemed to be an advantage in completing the construction of the new stopbank adjacent to the Helipad before the busy season for helicopter flights commenced on 1 September.
- 7.4. I was surprised about this justification for starting the works before consent had been granted, as in my experience s330 is only used to authorise activities when there is an emergency situation in progress or immediately imminent. Nobody at the hearing was able to indicate that those circumstances were present when the works commenced in June, or why it was considered to warrant an emergency response at that time, but not any earlier when the Applicant seemed to be progressing the application quite slowly from when it was first lodged in March 2022. Furthermore, the only other examples that any of the hearing participants could provide as to when a similar use of s330 had occurred was by the WCRC for the building of the Havill Wall stopbank and the Hokitika flood wall. Based on this information it appears that this is an unusual use of s330 that is a unique interpretation by WCRC.
- 7.5. It is outside the scope of this determination to make a judgement on the applicability of using s330 for this particular activity, but as a general comment it seems to me that s330

should not be seen as a means to regularly commence activities in advance of obtaining consents. Rather, consent applications should be managed and progressed in a timely manner within the time frame of the overall project that allows the works to be undertaken after the consent has been granted. That will avoid situations where the works are carried out in the absence of a properly considered framework of consent conditions, which is a situation that should only occur when a genuine emergency is imminent.

- 7.6. Having said that I recognise that this was a decision that WCRC have made in the interests of providing an improved level of flood protection to Franz Josef. I do not want to suggest that work should have been further delayed, rather that the consent application should have been progressed with more urgency so that a decision could have been made before the start of the works on 6 June. That should have been readily achievable for an application lodged in March 2022.

Notification decisions on the gravel extraction and river diversion consent applications

- 7.7. In response to the request for further information that was sent out after the submission period the Applicant lodged a consent application for extraction of gravel from the Waiho riverbed on 13 February 2023. This is the gravel that will be used for bulk filling of the new and raised stopbanks. On 3 March 2023 the Applicant lodged a further consent application for diversion of the river so as to ensure that the stopbank excavation works can occur away from flowing water.
- 7.8. Scenic expressed concern that they were not notified about these applications and therefore did not have the opportunity to lodge a submission and have their views taken into account during the decision-making process for those applications.
- 7.9. I agree with Scenic that it would have been preferable for all the applications related to the stopbank raising activity to have been lodged at the same time, but that is not how these applications have occurred and therefore the decisions on notification were made separately, as specified by the time frame requirements set out in s95 of the RMA. The criteria to determine if notification is required are set out in s95A RMA (for full public notification) and s95B RMA (for limited notification).
- 7.10. The notification report for the gravel extraction consent application (RC-2023-0016) was prepared by the s42A officer Ms Selene Kane and her recommendation for non-notification was signed off by an Independent Hearing Commissioner, Ms Justine Bray. This occurred prior to my appointment to this hearing, although I have been provided with the notification decision. It notes that:

*The works are considered to have a less than minor effect. Extracted gravel will only be used by the applicant and their contractors for stopbank construction, upgrading and maintenance. The works will be undertaken within the dry riverbed, with no discharges to the Waiho River. Natural river processes will not be altered by the extraction works.*

- 7.11. Furthermore, the application is made under Rule 33 of the Regional Land and Water Regional Plan. That rule states:

*An application for resource consent under this Rule does not need to be notified and does not need to be served on persons who may be adversely affected by the activity unless either the applicant requests public notification or the Council considers that because of special circumstances the application should be publicly notified.*

- 7.12. Therefore, both in terms of the scale of effects and the provisions of Rule 33 of the RLWP, it is appropriate that the gravel extraction consent was processed non-notified. Furthermore, as noted earlier in paragraph 6.16 of this decision the consent includes conditions that require excavations to be undertaken in dry conditions at a distance of more than 100 m from any stopbank, river-bank or rock protection works.<sup>19</sup> This restriction provides an adequate control to address the concern that has been raised by Scenic.
- 7.13. The notification decision for the river diversion consent application (RC-2023-0030) was also prepared by the s42A officer Ms Selene Kane and her recommendation for limited notification signed off by myself. The application is to divert the river flow so that the stopbank construction works can occur within a dry section of the riverbed. Such an alteration of flow channels is not dissimilar to the natural river processes that cause flow to occur in different channels within the riverbed. In this case the diversion process will be managed to direct flow away from the true right bank. Therefore, it was determined that the only parties who need to be notified are those with interests regarding the in-river environment.
- 7.14. In their submission to the stopbank raising consent application, Scenic noted the need for a river diversion consent application and requested that they be notified when the application was lodged. Their concern largely relates to their assertion about works in the riverbed which could have contributed to the erosion of the section of stopbank adjacent to their Mueller Hotel in March 2016. However, there is now a more robust stopbank adjacent to their property (the Havill Wall and NZTA stopbanks) and there is no suggestion that the river diversion works will cause any increase in risk to those stopbanks. To the contrary, it will be an activity imposed to aid in achieving a greater level of stopbank protection for the adjacent properties.
- 7.15. On that basis, the criteria in s95A and 95B of the RMA determine that Scenic do not meet the notification criteria, because they are a property owner outside of the riverbed and have no particular responsibilities within the riverbed environment, which sets them apart from the entities from whom the Applicant is currently seeking Affected Party Approvals.

## 8 Principal Issues in Contention

- 8.1. There is general agreement across all participants at the hearing that the township of Franz Josef needs improved protection from flooding, particularly due to the aggrading riverbed that will increase the risk of flooding if stopbanks are not raised to a higher elevation. The main concern raised by the Submitter was a desire to ensure that a high standard of flood protection is achieved, and maintained, as well as good management, monitoring and coordination of all gravel extraction and stopbank building activities in the riverbed, so as to protect their current and future hotel plans and the well-being of the township in general.
- 8.2. More specifically, the Submitter has raised the following key points:
- A. That a river engineer who is independent of the WCRC needs to approve all works that occur in the riverbed, including gravel extraction, river diversion and stopbank construction and maintenance. That proper records are kept and there is ongoing monitoring of the riverbed and independent reporting that is made available to the public.

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<sup>19</sup> Conditions 8 & 12 of the gravel extraction resource consent RC-2023-0016

- B. That conditions be imposed through this consent application to control the Applicants gravel extraction and river diversion activities.
- C. That the conditions on the consent that is granted through this hearing process cannot be subsequently varied without Scenic being informed of such a change.
- D. That general activities for gravel extraction within the riverbed require a much higher standard of management than what has occurred in the past. This includes the cumulative effects of gravel extraction from the riverbed and how these are being monitored and managed.

8.3. In addition, to those points raised by the Submitter, the following issues arose during the hearing:

- E. The original consent application submitted by the WCRC engineering team volunteered a restriction on stopbank construction works stating that they would only occur “outside of the whitebaiting season” and “outside of the whitebait spawning period”.<sup>20</sup> Affected party approval was given by groups with an interest in whitebait, such as the Department of Conservation, West Coast Fish & Game and Te Rūnanga o Mākaawhio, based on the information in the application that included this volunteered restriction. The Applicant now sought to remove that restriction on their activity.
- F. Whether the clearance of vegetation as part of the stopbank works is within the scope of this consent application or whether a separate regional council consent application will need to be lodged based on Rule 16 of the Regional Land and Water Plan.

## 9 Main Findings on the Principal Issues in Contention

### A. Independent Engineering Approval of all Riverbed Activities Associated with this application for Stopbank Construction

9.1. During the adjournment of the hearing, the Applicant was asked to provide a document clarifying how the current stopbank construction works are being managed, inspected and approved and how the documentation of that management and approval process is being recorded.<sup>21</sup> The Applicants response provided excerpts from the following documents that are controlling the works that have already been undertaken and will continue to apply for the remaining duration of the construction works:

- NZS3910:2013 is a New Zealand Standard that provides general conditions of contract for incorporation into construction contract documents. Amongst other things it includes requirements for design work, supervision, the roles and responsibilities of the Engineer and the Engineers representative, the programme of work, the requirements of a Quality Plan for the works, the production of “As-built” drawings and an operation and maintenance manual, requirements for inspection, recording, measuring and testing throughout the works and the certification process at the end of the construction works.

<sup>20</sup> Form 10 of the consent application

<sup>21</sup> Task 1 in Direction 5 from the Commissioner, 31/07/2023



- The Contract Specification for these particular works include information related to the compaction testing for the newly constructed or raised stopbanks, the programme of work, the Quality Management System and the preparation of a Quality Management Plan and a Contract Management Plan. Specifications for the placement and compaction of the fill for the stopbanks, the quality control for this fill compaction testing and inspection requirements are also described.
- The Contract Management plan, referred to in the bullet point above is also noted. It describes the responsibility of the Contractor for ensuring the quality of the work.

9.2. This information was provided to the Submitter for comment. Scenic noted that the measures outlined did not address their specific concerns which are that a suitably qualified Independent River Engineer needs to approve and supervise the works in the riverbed and to inspect and report on completed stages of work.

9.3. Both the Applicant and the Submitter agree that the conditions for management of the works in and adjacent to the riverbed are the standard approach for this type of activity. As noted in Mr Pasco's evidence, WSP, who are an experienced professional engineering firm, have been appointed as engineer to the contract. They therefore provide an independent role to supervise and ensure that works are carried out to an appropriate standard. In particular, I note that item 6.2.1 of NZS 3910:2013 defines the role of the engineer to the contract is to be an, "*expert adviser to and representative of the Principal, giving directions to the Contractor on behalf of the Principal*" and, "*Independently of either contracting party, to fairly and impartially make the decisions entrusted to him or her under the Contract, to value the work, and to issue certificates.*"

9.4. Given that the Engineer to the Contract is from a professional consulting firm (WSP) and not an employee of WCRC, this provides the independence that Scenic are seeking. In my experience the individuals who are appointed as Engineer to the Contract take this responsibility very seriously and there is a significant potential liability for them as individuals and for their firm if they fail in their duty to ensure a high standard of works is achieved.

### **Finding**

9.5. The management and supervision of the stopbank construction activities is controlled by NZS 3910:2013, the Contract Specification and the contract Management Plan. The Engineer to the Contract for these stopbank construction works is an Engineer from WSP. They are an experienced professional engineering firm who are independent from WCRC. On that basis I am satisfied that there is adequate independent supervision of the construction activities in a way that should address the concerns raised by the Submitter.

### **B. *Imposition of conditions on the stopbank raising consent related to gravel extraction and river diversion.***

9.6. The gravel extraction and river diversion are authorised by separate consents which have, or will have, their own set of conditions related to those activities. Scenic are of the view that because these consents all relate to the same activity, I can impose conditions related to gravel extraction and the river diversion in this decision. In her legal submissions, Ms Balme for the Applicant said that I cannot impose conditions related to gravel extraction due to that being authorised by a separate consent that has already been determined. The river diversion consent is currently being processed and has yet to reach the decision-making stage.

9.7. The gravel extraction consent has already been granted (RC-2023-0016) and is attached to this decision in Attachment 3 for easy reference. Condition 5 restricts the volume of gravel that can be extracted in accordance with the information specified in the stopbank raising consent application and condition 6 has a further limitation that,

*“...in the event that the available gravel resource becomes depleted in the opinion of the Consent Authority, the Consent Holder shall cease or reduce its gravel extraction at the site upon written notification from the Consent Authority to do so.”*

9.8. Condition 11 requires that the extraction volumes are reported annually. As noted in paragraph 7.12 of this decision, there are also restrictions in the conditions as to where extraction can occur so as to avoid damage to any stopbanks or other structures.

9.9. This set of conditions should adequately manage the effects of gravel extraction, provided that the activity is properly supervised and monitored, which is one of the concerns raised in the Scenic submission. In that regard I again refer to the information provided by the Applicant that is described in paragraph 9.1 which indicates a proper set of contractual controls are being applied to the gravel extraction works.

9.10. In terms of the river diversion consent application, the same set of contractual engineering controls will apply and consent conditions can be implemented on that consent to adequately manage potential adverse effects.

### **Finding**

9.11. The decision-making process for the separate gravel extraction and river diversion consents are the correct place for imposing conditions on those activities. This consent application for building a new stopbank and raising existing stopbanks is limited to conditions related to that activity.

### **C. Notification of Scenic if any future change of consent conditions is to occur**

9.12. Any future change of consent conditions would need to be implemented through either s 127 RMA (a change initiated by the consent holder) or s128 RMA (a change initiated through a review by the consent authority).

9.13. S127 RMA allows the holder of a resource consent to apply to a consent authority for a change or cancellation of a condition of the consent. This is the scenario of concern to the Submitter. Whether or not Scenic are notified of an application to change the consent conditions would depend on whether they are deemed to be adversely affected by the change or cancellation of conditions that the consent holder is seeking. S127(4) RMA has the following requirement regarding who is notified of such an application:

*For the purposes of determining who is adversely affected by the change or cancellation, the consent authority must consider, in particular, every person who—*

- (a) made a submission on the original application; and*
- (c) may be affected by the change or cancellation.*

9.14. A s128 review of consent conditions for a stopbank raising consent would be undertaken,

*“to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage”<sup>22</sup>*

As far as I am aware, there is no requirement to notify a submitter to the original hearing for a s128 review of consent conditions. I would expect that a review under s128 would likely be aligned with addressing some of the concerns held by the Submitter. However, even in such a situation it is understandable that Scenic would want to be made aware of the review that is being undertaken.

- 9.15. Consequently, there is no automatic requirement in the RMA for Scenic to be notified of a future change of consent conditions under the RMA. Accordingly, I cannot provide that status to them for any future change or cancellation of consent conditions. Any such status will depend on a judgement at the time as to whether or not they are a party who is affected by the proposed change to the conditions.
- 9.16. Having said that, Scenic clearly have a keen interest in the consent conditions related to the stopbanks that are designed to protect their property. They have also expressed concern about a lack of communications from WCRC and some critical comments directed towards Scenic in the past, although that was likely influenced by the legal action between the parties driven by insurance matters from the 2016 flooding incident. That matter has now been settled and will hopefully lead to more open and constructive dialogue between WCRC and Scenic, as has occurred during the presentation of evidence for the part of the hearing process held at the Grey District Council.

### **Finding**

- 9.17. There is no obvious justification for imposing a consent condition to require Scenic to be informed of any future application to change the conditions of the consent that is the subject of this hearing. However, as a general principle, it is considered beneficial for WCRC to keep stakeholders informed of the actions they are taking in relation to effects on the environment. Given the Submitters keen interest in the conditions related to the stopbank conditions I propose to include an Advice Note with the conditions, recommending that Scenic are advised of any application to change the conditions of consent and to inform them of whether they are considered to be a party who is affected by that change. Such a requirement does not automatically give Scenic a right to lodge a submission on the change but is simply for the purpose of making them aware of the change that is proposed. Communications such as this, to interested parties, is something I consider is a good practice for WCRC to adopt.

### **D. Overall management of gravel extraction within the riverbed**

- 9.18. Ms Hagaman described past examples of unauthorised gravel excavation from the riverbed that undermined the integrity of the stopbank protection and, as noted in paragraph 6.17 of this decision, the Applicants witness Mr Ben Pasco has also pointed out that if cumulative gravel extraction exceeded 500,000 m<sup>3</sup>/year that a riverbed survey should be undertaken to assess the effects of extraction exceeding the supply of gravel from further up the catchment. This application is for the use of up to 250,000 m<sup>3</sup> of gravel sourced from the riverbed as authorised by consent RC-2023-0016 and is expected to be excavated over a 12-month period. It is therefore a significant contributor towards a limit of 500,000 m<sup>3</sup>/year.
- 9.19. I have reviewed the application that was made for the gravel extraction consent RC-2023-0016 and as far as I am aware, no mention was made about Mr Pasco’s proposed

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<sup>22</sup> RMA s128(1)(a)(i)

limitation on cumulative effects exceeding 500,000 m<sup>3</sup>/year and Scenic were not a submitter to this consent. So it is expected that this cumulative effects issue was not considered when that consent was granted.

- 9.20. No information was presented by the Applicant about the overall management of gravel extraction from the riverbed, but it is an activity that the WCRC need to manage in accordance with the requirements of the RMA and the planning framework that applies in the West Coast region.

### **Finding**

- 9.21. It is outside the scope of this decision to impose requirements on the WCRC as a consent holder related to the cumulative management of other consent holders, or anyone else who is extracting gravel from the riverbed. That is a manner to be addressed by the WCRC resource management and monitoring sections. However, in my view WCRC (in their role as regional council as opposed to consent holder) should manage the cumulative effects of gravel extraction by monitoring all extraction activities authorised by consents and by actively responding to complaints about unauthorised abstractions. If the cumulative abstraction effects exceed 500,000 m<sup>3</sup> in any 12-month period in the riverbed area where extraction is authorised by consent RC-2023-0016 (extending from the SH6 bridge down to the Waiho Loop (i.e. the terminal moraine deposit)) then WCRC need to assess the effects of that extraction on the riverbed processes. Reports of unauthorised gravel extraction should be actively investigated and controlled. Signage at the points of river access should be considered as a means of discouraging unauthorised extraction. WCRC should also report annually to the community on this gravel extraction monitoring work.

### **E. Whitebaiting Restriction**

- 9.22. I was concerned that the original consent application volunteered restrictions on the stopbank construction activity during the whitebaiting season and the whitebait spawning season. Groups with an interest in whitebait (DoC, Fish & Game and iwi) had provided written approval to this application on the basis of that information. However, the Applicant now seeks to avoid such a restriction, as it would significantly limit the times when construction works could occur for no environmental benefit as whitebaiting and whitebait spawning does not occur in the reach of the Waiho River where these stopbank works are occurring.
- 9.23. All parties to the hearing assured me that whitebaiting is not an activity that occurs in this part of the river and I was provided with a letter from an Ecologist (Richard Nichol) that such restrictions were not necessary, although I note that the information in this letter is very brief and of a preliminary nature. Ms Kanes addendum to her s42A report notes that the restriction related to whitebait was a standard condition placed on many consents, but for this application it is not necessary.
- 9.24. I note that no restriction related to whitebait has been placed on the gravel extraction consent (RC-2023-0016). Furthermore, no such restriction has been proposed in the consent application for the river diversion consent application (RC02023-0030) and written approval to that application has been provided by DoC, Fish & Game and iwi. Given those approvals, it is hard to see how a consent to build the stopbanks on a dry section of the riverbed could adversely affect the whitebait activity. Therefore, I agree with the parties that no restriction on undertaking stopbank construction to protect whitebait issues is required.

9.25. That leads to an issue that the standard opening condition proposed for this consent is that the activity “shall be carried out in general accordance with the details contained in the consent application submitted to the Consent Authority, except where inconsistent with these conditions”. The updated consent conditions provided by the Applicant during the adjournment of the hearing includes an agreed condition that allows stopbank construction to occur during periods of whitebait activity.

### **Finding**

9.26. There is no need for a restriction on stopbank construction during times of whitebaiting or whitebait spawning. A specific condition allowing this to occur has been prepared.

#### **F. Is a separate regional council consent required for vegetation clearance?**

9.27. In paragraph 9(e) of Mr Glassons evidence, he identifies the need for a consent from Westland District Council for the clearance of indigenous vegetation. In her Addendum to the s42A report (dated 27 July 2023), Ms Kane raises the issue of whether a regional council consent is also required for this vegetation clearance. She identifies the relevant permitted activity rules in the RLWP as Rule 2 (earthworks in riparian margins, which has volume and area limits) and rule 8 (Vegetation clearance in riparian margins, which relies on the work being undertaken in conjunction with Rule 2). Mr Glasson produced a map showing the areas of indigenous vegetation clearance (Attachment 4) and agreed with Ms Kane that in some instances there will be some exceedance of the area limits and in those circumstances both Ms Kane and Mr Glasson agree that Rule 16 applies which makes the vegetation disturbance a discretionary activity.

9.28. At the hearing Mr Glasson explained that it is not simply a matter of comparing the areas in the plan with the limits in the permitted activity rules as they only apply to riparian margins. He referred to the definition of riparian margins in section 17.3 of the RLWP:

- Section 17.3.3 defines the riparian margin as being the “*dominant slope angle is the angle between the fullest flow/highest level of the bed of the lake or river ... and a point 20 metres upslope*”. He pointed out that the fullest flow in the Waiho River will be partway up the existing stopbank. Therefore, my understanding of this definition is that the area upslope from that point will end at the top of the stopbank.
- Section 17.3.4 provides another definition of riparian margin. For indigenous vegetation matters in rivers greater than 3 metres wide it is the land within a distance of 10m of the river.

9.29. Assuming the riparian margin starts partway up the riverside of the stopbank, this would mean that the area of indigenous vegetation clearance within the riparian margin is within the areas identified in the original consent application and maps for stopbank construction. They can therefore be considered as within the scope of the land use activity that is the subject of this consent application. As Ms Balme noted in her legal submissions, a resource consent authorises an activity, rather than the contravention of any particular rule in a plan.<sup>23</sup>

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<sup>23</sup> Paragraph 29 of Ms Balme’s legal submissions

9.30. The furthest downstream area marked on the plan in Attachment 4 is beyond the end of the Helipad stopbank but is an area that is more likely to be classified as riverbed, rather than riparian margin. There is potentially some vegetation clearance beyond the riparian margin, as defined in the RLWP, although this is of a minor scale similar to what is defined as a Permitted Activity by Rules 3 and 10 of the RLWP.

### **Finding**

9.31. The Applicant has produced the map in Attachment 4 to this decision identifying areas of vegetation that are to be removed as part of this stopbank raising activity. In my opinion that activity falls within the scope of this application, or if any of the vegetation clearance areas extend beyond the areas indicated by the application, that small additional area would be of a minor scale. Consequently, no additional consent is required for clearance in those identified areas.

## **10 Actual and Potential Effects on the Environment**

10.1. The s42A report includes a useful summary of the actual and potential environmental effects of this consent application, covering the effects of flooding, construction works, discharges, ecosystem values, effects to the Franz Josef community, riverbed access, monitoring and maintenance and positive effects. It describes the positive effect of improved flood protection, but also raises the potential issue of stopbank failure and concludes that the appropriate design and construction of the stopbanks provides the best means of minimising that risk.

10.2. The s42A report also notes the disruptive effects of construction, but they are a temporary effect that is necessary to achieve the positive long-term outcome of improved flood protection. Most other effects are of a minor and/or temporary nature and can be adequately controlled by consent conditions. The importance of monitoring and maintenance is emphasised, which is a key issue raised by the Submitter. The s42A officer agrees and notes that if the consent is to be granted, the information on monitoring and maintenance that the Applicant has been provided should be used to inform strong consent conditions.<sup>24</sup>

10.3. Mr Glassons evidence described a range of effects, covering off the topics set out in part 19.3.2 of the RLWP which sets out the specific information requirements for consent applications involving structures or bed disturbance. He notes how the stopbank orientation has been specifically designed to avoid interfering with adjoining private property, whilst achieving a significant benefit through improved flood protection. He relies on the evidence of Dr Thomas and Mr Gardner to conclude that effects on the riverbed and its flow carrying capacity are insignificant. He also notes that, based on the advice from the West Coast Fish & Game and the Department of Conservation, the Waiho River contained no significant aquatic values and no significant aquatic recreational values. Because the stopbank construction works will only be undertaken away from flowing river water there is no need to restrict the time of year when those works can occur. He notes that consent conditions are required for cleaning of construction machinery prior to it entering the riverbed and a restriction to ensure that any refuelling occurs outside the riverbed.

10.4. Mr Glasson also considers effects on public access and recreational values. He notes that the stopbanks are used by the public for walking and driving access, other than a section adjacent to the Heliport where access is restricted for safety related to the helicopter flights. Whilst there will be a temporary restriction on access to the areas

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<sup>24</sup> Paragraph 70 of the s42A report

where construction is occurring, following completion of the stopbanks and the addition of a new stopbank that public access will be improved including improved views of the Waiho River and the southern Alps from a higher elevation.

- 10.5. It is clear to me that the creation of a new stopbank and the raising of existing stopbanks reduces the risk of flooding for Franz Josef township. Whilst construction activity will be disruptive to the river environment, it is a temporary disruption. The stopbanks are used by the public for river access for recreational purposes and during construction there will be sections of the stopbanks where public access is temporarily prohibited. However, access to the river will still be achievable at other locations. Overall, the proposed activity will achieve a benefit to Franz Josef township by reducing the flooding risk.
- 10.6. The potential effects, raised by the Submitter, that are in contention relate to the management and monitoring of construction and excavation activities in the riverbed and their potential effects on the structural integrity of the stopbanks. However, this decision is limited to the scope of activities associated with the construction and monitoring of the stopbanks that are the subject of this application. These concerns have been discussed in paragraphs 9.1 - 9.5 of this decision and are addressed in the consent conditions (section 16 of this decision). The wider issue of management of other riverbed excavation activities is an issue for WCRC to address and is outside the scope of conditions that can be imposed on an individual consent.
- 10.7. Based on the evidence I have heard and the imposition of appropriate consent conditions, I find the actual and potential effects of the proposal to be acceptable given the improved flood protection that will be achieved in a reach of the river where stopbanks are already in existence.

## 11 Cultural Issues

- 11.1. Mr Glasson stated that he had contacted Te Rūnanga o Makaawhio seeking their approval of the stopbank raising consent application and they advised him that they had no issues with the proposed work and did not wish to hold up the project<sup>25</sup>. They have signed an affected party approval form. On that basis, I am satisfied that the cultural effects of this application are acceptable.

## 12 Mitigation

- 12.1. The information provided in the evidence of Mr Gardner, Dr Thomas and Mr Pasco demonstrates that the stopbank construction works have been appropriately designed and that the works, including those that have already been completed, are well managed and supervised. For the current works this is achieved by the use of NZS3910: 2013, the Contract Specification that includes the preparation of a Quality Management Plan and the Contractors Construction Management Plan. This approach to the works provides significant mitigation of potential adverse effects that could otherwise arise from a poorly managed construction activity.
- 12.2. The consent conditions, which are described in section 16 of this decision, provide for the regulatory consenting section of WCRC to ensure works are carried out correctly and that the suitable inspections and certifications are provided to them. These are

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<sup>25</sup> Paragraph 111 of Mr Glassons evidence

records that all interested parties can have access to. They provide further mitigation of potential adverse effects by ensuring the work is completed to a high standard.

- 12.3. Similar specifications are set out for the ongoing maintenance of the stopbanks, which is an important aspect of this consent.
- 12.4. These measures should ensure that the stopbank construction works and their future maintenance can be undertaken in a manner that achieves their purpose of providing an improved level of flood protection to Franz Josef township whilst minimising and mitigating the disruption caused by the construction works.

## 13 Statutory Assessment

### 13.1. Section 104

13.1.1. Section 104 requires me to assess the actual and potential effects of the activity, which I have described in section 10 of this decision. In addition, I must consider the provisions of the relevant national and regional policy documents, as noted in paragraph 5.4 of this decision. The planning witnesses were in agreement about the relevant national and regional policy documents and my consideration of those documents is summarised below.

### 13.2. National Planning Documents

#### **The National Policy Statement for Freshwater Management 2020 (NPS-FW);**

13.2.1. Both the planning witnesses (Mr Glasson for the Applicant and Ms Kane, the s42A Officer) briefly mentioned the NPSFM. Stopbanks are part of the existing environment in this reach of the Waiho River and the construction works will occur away from the flowing river water. Te Rūnanga o Makaawhio have provided their written approval. As such, the activity covered by this consent application is not expected to have any significant impact on the matters covered in the NPSFM. In fact the increased protection from flooding risk for Franz Josef township that will be achieved by raising the existing stopbanks, and the creation of the new stopbank, will directly contribute to the implementation of NPSFM Policy 15:

*Communities are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this National Policy Statement.*

13.2.2. I therefore find the activity can be carried out in a manner that is consistent with the NPSFM.

#### **The National Environmental Standards for Freshwater 2020 (NES-FW);**

13.2.3. None of the planning witnesses provided any detail regarding the NES Freshwater, which regulates activities that pose risks to the health of freshwater and freshwater ecosystems. Given that the discharge of sediment related to the stopbank construction is of a very minor scale compared to the naturally high sediment load in the Waiho River I agree that the NES-FW is not a critical document for my decision making, particularly as there are no wetlands identified in the area of the proposed works. But for completeness I note that I have



considered the NES-FW 2020 and the 2022 amendments. I note that Regulation 45 applies to discretionary activities for the “Construction of specified infrastructure”. The Waiho River stopbanks meet the definition of “specified infrastructure” as they are public flood protection works carried out by or on behalf of a local authority<sup>26</sup>. None of the stopbank works occur in the vicinity of a natural inland wetland, therefore this activity does not fall within the scope of Regulation 45. Even if it did, clause (6) states as follows:

*(6) A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—*

*(a) satisfied itself that the specified infrastructure will provide significant national or regional benefits; and*

*(b) satisfied itself that there is a functional need for the specified infrastructure in that location; and*

*(c) applied the effects management hierarchy.*

13.2.4. As noted previously, the evidence from all parties highlights the significance of these stopbank improvements to protect Franz Josef township and on that basis clauses (a) and (b) are satisfied. The “Effects management hierarchy” is specified in section 3.21 of the NPSFM 2020. It specifies an approach to managing the adverse effects of an activity on the extent or values of a wetland or river. The first step in the hierarchy is that adverse effects are avoided where practicable. The second step is that where adverse effects cannot be avoided, they are minimised where practicable.

13.2.5. The sediment generated by the construction of the stopbanks will not directly enter flowing river water. Sediment from the stopbanks and the construction area will become entrained in the river water when flows cover those areas at a later date, but it will be no different in composition to the sediment load from other parts of the riverbed. This is a minor effect that falls within the range of these first two steps of the “effects management hierarchy”. The effect is of such a small scale relative to the natural Waiho River environment I am satisfied that the requirements of the NESFW are met.

#### **The National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB);**

13.2.6. The NPS-IB came into effect on 4 August 2023, which was during the adjournment of this hearing. It provides direction to councils to protect, maintain and restore indigenous biodiversity. It requires, as a minimum, no further reduction in indigenous biodiversity at a nation-wide scale.

13.2.7. The Applicant provided comment on the NPS-IB in its closing legal submissions, noting that the construction of the stopbanks requires some clearance vegetation, although much of this had already occurred prior to the commencement of the NPS-IB on 4 August.

13.2.8. I note that the objective of the NPS-IB is to maintain indigenous biodiversity at a national scale by having no overall loss in indigenous biodiversity across Aotearoa New Zealand after the commencement date on 4 August. Therefore, this objective takes a holistic approach, rather than requiring indigenous biodiversity to be maintained for individual sites or construction projects.

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<sup>26</sup> Section 3.21 Definitions relating to wetlands and rivers in NPSFM2020

13.2.9. The NPS-IB sets out the following points as to how this objective will be achieved:

- (i) *through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*
- (ii) *by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and*
- (iii) *by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*
- (iv) *while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

13.2.10. With regard to item (i) I note that local iwi have given their written approval for the stopbank construction works and with regard to item (iv) the stopbank raising is of significant importance to provide for the current and future protection of the Franz Josef community.

13.2.11. My understanding is that the extent of vegetation removal after 4 August 2023 is of a very minor, almost insignificant scale. Based on that information I am of the view that the scale of effect of this activity on indigenous biodiversity is less than minor and the activity can occur without contravening the NPS-IB.

### 13.3. Regional Planning Documents

#### **West Coast Regional Policy Statement (2020)**

13.3.1. Ms Kane notes how the RPS identifies the significant resource management issues on the West Coast and sets the overall direction for the management of natural and physical resources and the environment. Mr Glasson specifically referred to the following chapters being of relevance to this application: Chapter 3 – Resource Management Issues of Significance to Poutini Ngāi Tahu, Chapter 7 – Ecosystems and Indigenous Biological Diversity, and Chapter 7A Natural Character, Chapter 8 Land and Water and Chapter 11 Natural Hazards.

13.3.2. As noted above, stopbanks are part of the existing environment in this reach of the Waiho River and both planning witnesses agree that the existing stopbanks were lawfully established. It is particularly noteworthy that this application will directly contribute to managing the flooding hazard, which is the objective of Chapter 11 of the RPS:

*The risks and impacts of natural hazard events on people, communities, property, infrastructure and our regional economy are avoided or minimised.*

13.3.3. Therefore, I agree with both the planning witnesses that this activity is in accordance with the relevant objectives and policies of the Regional Policy Statement.

#### **West Coast Regional Land and Water Plan (2014, amended 2021)**

13.3.4. Ms Kane notes that the RLWP provides a framework for the integrated and sustainable management of the West Coast's natural and physical resources as they apply in the context of land and water.

13.3.5. The planning witnesses have referred me to the following chapters of the RLWP as being most relevant to this application: Chapter 3 – Natural and Human Use Values, Chapter 5 – Lake and Riverbed Management and Chapter 7 – Surface Water Quantity.

13.3.6. I agree with their assessment that the effects of the activity are either de minimus or are directly aligned with the RLWP by providing protection to Franz Josef township and the significant infrastructure of SH6 and the towns oxidation ponds. As noted by Dr Thomas and Mr Gardner, the new stopbank will provide a smooth widening of the river channel rather than the sharp change that currently occurs at the end of the Helipad stopbank.

13.3.7. Consequently, I find that, with the appropriate consent conditions, the activity can be undertaken in a manner that is in accordance with the RLWP.

#### 13.4. District Planning Documents

##### **Westland District Plan**

13.4.1. Mr Glasson has considered the proposed activity against the requirements of the Operative Westland District Plan, and the Proposed Te Tai o Poutini Plan (“the TTPP”). The TTPP was publicly notified on 14 July 2022. He notes that the stopbanks will have the positive effect of protecting the Franz Josef township and its significant infrastructure and will cause no permanent reduction in public access to the riverbed. His assessment did indicate the need for a new consent from WDC for vegetation clearance and that is currently the subject of a separate application to WDC.

13.4.2. There is nothing in the district plans that cuts across the decision I need to make regarding this consent application.

#### 13.5. Alternatives (Section 105)

13.5.1. For the discharge permit application, section 105 requires me to have regard to:

- (a) *The nature of the discharge and the sensitivity of the receiving environment to adverse effects;*
- (b) *The applicant’s reasons for the proposed choice; and*
- (c) *Any possible alternative methods of discharge, including discharge into any other receiving environment.*

13.5.2. The discharge is the incidental release of sediment related to the construction of the stopbanks. It is a small intermittent effect which is of a minor scale compared to the natural sediment load carried by the Waiho River. The Applicants proposed construction methods involve undertaking the construction away from flowing river water, which will be an effective means of minimising the effects of the discharge. There is no practical alternative to the discharge, other than not constructing the stopbanks, which would result in Franz Josef township experiencing a greater risk of flooding.

13.5.3. Therefore, I am satisfied that the activity meets the requirements of s105.

### 13.6. Section 107

13.6.1. Regarding the discharge of sediment associated with the stopbanks, section 107 of the RMA requires that after reasonable mixing, the discharge of sediment (either by itself or in combination with the same, similar, or other contaminants or water), must not be likely to give rise to all or any of the following effects in the receiving waters:

- i. *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:*
  - ii. *any conspicuous change in the colour or visual clarity:*
  - iii. *any emission of objectionable odour:*
  - iv. *the rendering of fresh water unsuitable for consumption by farm animals:*
  - v. *any significant adverse effects on aquatic life.*

13.6.2. Given the high energy and sediment load of the Waiho River it is not expected that any of these effects will arise from the stopbank construction. Furthermore, any such discharge is likely to be of a temporary nature and/or will be associated with necessary maintenance work, as allowed for in s105(2)(b) and (c).

### 13.7. Part 2

13.7.1. My final consideration of the application relates to whether it achieves the purpose and principles of the RMA, as set out in Part 2 of that Act. There should be no need for a detailed evaluation, because I have already determined that the application is in accordance with the RPS and the RLWP, which were prepared to achieve Part 2. However, for the sake of completeness, I provide the following comments regarding Part 2.

#### Section 5: Purpose and principles

13.7.2. Section 5 specifies the purpose of the Act is to promote the sustainable management of natural and physical resources. The township of Franz Josef is a key focal point of the social, economic, and cultural well-being for the local area and for the many tourists who visit the area. The increased stopbank protection to reduce the flooding risk to Franz Josef township, and to protect the significant infrastructure of SH6, and the towns oxidation ponds is, in my opinion, an important implementation of sustainable management.

13.7.3. Sustainable management must also ensure that activities are carried out in a way that safeguards the life-supporting capacity of air, water, soil, and ecosystems, whilst avoiding, remedying or mitigating adverse effects on the environment. Consent conditions are proposed to ensure no more than minor adverse effects on the river environment occur, recognising that the Waiho River is a naturally high energy environment.

#### Section 6: Matters of National Importance

13.7.4. Section 6 requires me to recognise and provide for seven matters of national importance. Based on the information presented to me, I consider three of these

matters are directly relevant to this application as noted below (recognising the Waiho riverbed has not been identified as an area of significant indigenous vegetation or habitat<sup>27</sup>):

- (a) *the preservation of the natural character of ... rivers and their margins ....from inappropriate ....use and development.*
- (d) *the maintenance and enhancement of public access to and along ... rivers;*
- (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 the significant risks from natural hazards.*

13.7.5. The Waiho River is around 140 m wide at the SH6 bridge, 400 m wide at the downstream end of the Helipad stopbank and 1km wide in the vicinity of the the 55km/h corner on SH6. Its natural character is dominated by a vast gravel riverbed and the existing environment includes the stopbanks that constrain the river flow. This vast gravel riverbed will still be the dominant natural characteristic of the Waiho River environment during and after stopbank construction (s6(a)).

13.7.6. There are two public access points to the river on the reach of the true right bank where the stopbank construction and raising works will occur. A consent condition has been included to ensure that disruption to these access points will be minimised during the construction period. Furthermore, there are additional access points on the true left bank that will be unaffected by the construction activities. There will obviously be some restriction on access to those parts of the riverbed where construction activities are occurring but, with that exception, access will be maintained to the wider riverbed area during and following construction (s6(d)).

13.7.7. As previously noted in this decision, Te Rūnanga o Makaawhio have had discussions with the Applicant and provided affected party approval (s6(e)).

13.7.8. The risk of flooding from the Waiho River is a significant natural hazard faced by the Franz Josef community. The increase in height and extent of the stopbanks helps to reduce the flooding risk to Franz Josef township (s6(h)).

13.7.9. Based on all these considerations, I am satisfied, that with the proposed wording of the consent conditions set out in Attachment 6 of this decision, that the Section 6 criteria have been given appropriate recognition.

### Section 7: Other Matters

13.7.10. Section 7 sets out a series of other matters that I must have particular regard to. The evidence indicates that the Section 7 matters of relevance to this application are:

- (a) *Kaitiakitanga;*
- (aa) *the ethic of stewardship;*
- (b) *the efficient use and development of natural and physical resources;*
- (c) *the maintenance and enhancement of amenity values;*
- (d) *intrinsic values of ecosystems;*
- (f) *maintenance and enhancement of the quality of the environment;*

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<sup>27</sup> Paragraph 6 on page 13 of Ms Kanes s42A report

(i) *the effects of climate change.*

13.7.11. Kaitiakitanga and the ethic of stewardship relate to managing the river environment, which includes interaction between the river environment and people. Stopbanks are a well established way of enabling human activity in the vicinity of powerful rivers such as the Waiho. Clauses (b), (c), (d) and (f) are related to the physical characteristics of the river environment and the adjoining land. The disruption to the riverbed environment during construction is temporary and potential environmental effects can be minimised through consent conditions and the good construction management practices that are already in place. Mr Gardner advised me that climate change is contributing to increased severity of storms and the increased erosive load of the Waiho River. The raising of the stopbanks is a direct response to those future changes posed by climate change on the Waiho River environment (s7(i)).

13.7.12. Therefore, the application and the proposed consent conditions have been prepared with due regard to the section 7 matters.

Section 8: Treaty of Waitangi (Te Tiriti o Waitangi)

13.7.13. Section 8 requires that the principles of the Treaty of Waitangi are taken into account in achieving the purpose of the RMA.

13.7.14. The applicant has liaised with Te Rūnanga o Makaawhio and obtained their written approval as an affected party. Mr Glasson advised me that they recognised the need of the stopbank construction and raising to occur and wanted the work to proceed. Based on the approval that has been obtained and the importance of the stopbanks in protecting tangata whenua, I consider that this application is in accordance with the Treaty of Waitangi.

## 14 Consent Duration

14.1. The application seeks a consent duration of 35 years.

### **Findings: Consent Duration**

14.2. The construction of the stopbanks is estimated to take around 12 months and following that ongoing inspections and maintenance will be required. The maximum term for such a consent is 35 years.

14.3. It will be appropriate for this consent to be granted for the maximum term allowed by the RMA and therefore I have decided that these activities be consented until 5 June 2058, which is 35 years after the reported start of the construction activity.

## 15 Overall Judgment and Reasons

15.1. I am satisfied that this decision (with the attached conditions) will serve the sustainable management purpose of the RMA better than would declining the application. My reasons for this conclusion are presented in the foregoing sections of this decision and I summarise those here in the following way:

- (a) The proposal will provide increased protection to Franz Josef township from the risk of flooding, thereby providing for their social, economic wellbeing and for their health and safety;
- (b) The contract specifications for the works that already underway in addition to the consent conditions for the future work provide for an appropriate level of control and supervision of the works;
- (c) Whilst all construction works create a degree of disruption to the local environment that is a relatively small scale and short-term disruption within a vast riverbed. Such minor disruption is necessary to achieve the overall benefit of the project.
- (d) The proposal is consistent with the objectives and policies of the relevant regional and national planning documents.

The concerns raised by the Submitter and the s42A officer have been taken into account through the responses provided by the Applicant and the conditions of the consent, as far as that can be achieved within the scope of the application and the requirements of the RMA.

## 16 Conditions

- 16.1. Ms Kane and Mr Glasson were the only experts providing independent planning evidence to the hearing and they helpfully prepared a combined set of draft conditions. Both the Submitter and the Applicants legal counsel have added their comments to the proposed conditions, indicating the agreed conditions and highlighting their points of disagreement. I have used that as a basis for my decision on the consent conditions, which includes various wording changes that I describe below. In Attachment 5 I have marked up the changes I have made to the Applicants final condition wording and Attachment 6 presents a clean version of my final consent conditions. In the following paragraphs I set out my reasoning for this final set of conditions.
- 16.2. Firstly, I note changes I have made to the conditions that are agreed between the parties:
- 16.2.1. In **Condition 3** I have added in a reference to the plan that was presented at the hearing showing the vegetation areas to be removed, so as to be clear about the locations where vegetation clearance is authorised by this consent.
  - 16.2.2. I have added extra detail to **Condition 5** to make it clear that the plans are to be provided to the Consent Authority.
  - 16.2.3. Condition 7 requires that the boundary of the Scenic property is surveyed, but not any other properties. Condition 8 specifies that none of the work authorised by this consent can occur on that Scenic property. The Applicant advised that the reason for this difference between Scenic and other property owners is because all other adjacent property owners have provided their approval for the consent application. Despite this distinction, in the interests of consistency, I have added some extra words to **Condition 8**. That condition specifies that no works can occur across the boundary of the Scenic property. For completeness and consistency I have added the words “,or on any other property without the owners permission”. I realise this point is also made in the Advice Note at the

end of the conditions and that note can remain. But I think it is more robust to also add the clause to condition 8.

16.2.4. **Condition 10** has a second sentence stating that,

*“Any sediment discharges associated with disturbance of the riverbed shall not give rise to any conspicuous change in the colour or visual clarity of the waters in the river, beyond the timeframe of works taking place in the active watercourse, after reasonable mixing.”*

My understanding of the words, *“beyond the timeframe of works taking place in the active watercourse”* would mean that this phrase allows conspicuous changes of colour or visual clarity to occur in the river water at any time during the construction period, that is estimated to be on the order of 12 months. That scale of effect was not described in the application and should not arise from the stopbank construction as it is intended to occur away from flowing river water (recognising that this is only the consent for stopbank construction, as opposed to river diversion). Consequently, I have amended the words to better match what the application described and to clarify that this refers to the surface flow in the river, as opposed to any subsurface water exposed by an excavation for the placement of the toe rock.

16.2.5. In **Condition 11** I have added some words to ensure that the works are carried out in a manner that avoids unnecessary disruption of public access to the riverbed. This is specifically in regard to my consideration of the RMA s6(d) matters, as noted in paragraph 13.7.6 of this decision.

16.2.6. Some of the conditions specify requirements for reviews, certifications and reports by the Independent River Engineer. However, consent conditions should not impose a requirement on someone who is not the Consent Holder. Therefore, in the **definition** of the Independent River Engineer at the end of the consent conditions I have added in words to specify that it is the Consent Holder who is responsible for ensuring that the Independent River Engineer completes the tasks that are required of them in the conditions.

16.2.7. Several of the consent conditions require the Consent Holder to provide information to, or obtain decisions from, the *“Consent Authority”*, specifically **Conditions 3, 4, 6, 7, 9, 15, 18, 19 and 20**. In the interests of ensuring there is a separation from the consent decision making and monitoring role of the WCRC, as distinct from the WCRC as Consent Holder, I have added a **definition** at the end of the conditions to specify that *“Consent Authority” means the regulatory consent processing and monitoring section of the West Coast Regional Council, as distinct from the West Coast Regional Council as Consent Holder*”.

16.2.8. In the final **Advice Note** at the end of the conditions I have added in the word “river” as this seems a more appropriate term for the Waiho River rather than solely referring to a “creek”.

16.3. I also note that I agree with the proposed wording of condition 17 that addresses the inconsistency that existed from the information in the original consent application related to whitebait activity. I appreciate the extra detail the Applicants team have provided to specify the criteria in Condition 19 that will trigger an assessment and possible inspection of the stopbanks following a storm event. I am also pleased to see that the parties reached agreement on the Definition of the Independent River Engineer. I agree



with that approach and it is helpful that the Engineer to the Contract is not excluded from that definition.

16.4. I now turn to the following points of disagreement that fall into two categories:

- the procedure for certification of the works; and
- any requirement to provide information to Scenic.

**Certification of the works (Condition 6 and Condition 18)**

16.5. The Applicants proposed version of **Condition 6** requires written certification that the works have been constructed in general accordance with the design plans to be provided to the Consent Authority within 1 month of the completion of the works. Scenic have proposed alternative wording that requires certification after each stage of the works as well as at final completion and that these certifications are prepared by the Independent River Engineer. The Applicant considers that Scenic's amendments unnecessarily complicate what is otherwise a relatively standard condition, and that involvement of the Independent River Engineer is not justified in this circumstance. In their closing legal submissions they clarified that this certification is to be provided by the design engineer.

16.6. In my view the Applicants wording is not specific as to who certifies the works. The extra information provided in their closing legal submissions helpfully clarifies this situation<sup>28</sup> and I have added extra words to Condition 6 to reflect that information. This will ensure the certification is provided by an engineer who is not a WCRC employee, which should address the Submitters concern.

16.7. I note that Condition 9 allows the Consent Holder to specify the stages of work. The Applicant has indicated that at the present time they do not anticipate the works being split into stages<sup>29</sup>. As noted below, the Applicant has pointed out that the Condition 6 certificates are a precursor to the Practical Completion Certificate in Condition 18. The Applicants wording for Condition 18 is that the Practical completion Certificate is issued "*Upon completion of the works, or each stage of the works (if the works are staged)*". It therefore seems to me that Condition 6 should be framed in a similar way and I have amended its wording accordingly. As far as I am aware, none of my proposed changes are inconsistent with the information provided by the Applicant and they achieve the independent certification that Scenic want to achieve.

16.8. **Condition 18** relates to the issuing of a Practical Completion Certificate upon completion of the works, or each stage of the works (if the works are staged). Scenic has proposed alternative wording that has the practical completion certificate as a precursor to the certification required by Condition 6. The Applicant points out that the practical completion certificate is a separate process to that envisaged by condition 6. It is the condition 6 certificates that allow the practical completion certificate to be issued by the engineer to the contract.

16.9. I agree with the Applicant that when it comes to the Practical Completion Certificate (which is a requirement of the Construction Contract), the conditions of consent should not require a different process, other than a requirement to provide the Practical Completion Certificate to the Consents and Compliance Manager of the WCRC. The issuing of the Practical Completion Certificate signals the start of the post construction

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<sup>28</sup> Paragraph 38 of the Applicants Closing Legal Submissions

<sup>29</sup> Paragraph 41 of the Applicants Closing Legal Submissions

conditions and monitoring regime, which is why Condition 18 is at the start of that section of the conditions.

**Requirement to provide information to Scenic (Conditions 19, 21 and 22)**

16.10. Scenic has requested that the consent conditions require that they are provided with the following information:

- The inspection report on the stopbanks following a significant rainfall and/or river flow event (**Condition 19**)
- The post-construction inspection reports of the stopbanks required by the Asset Monitoring and Inspection Plan (**Condition 21**)
- Any application to change the conditions of the consents, before it is lodged with WCRC (**Condition 22**)

16.11. The Applicants reasons for opposing Scenic's suggested changes to these conditions are noted below, along with my view of the points they raise.

16.11.1. Some of Scenic's wording is opposed because they state that the Consent Authority must provide the report to Scenic. The Applicant correctly points out that it would be unlawful for a resource consent condition to impose an obligation on the consent authority.

Commissioners Response: I agree with the point raised by the Applicant, but that issue can easily be addressed by changing the wording so that it requires the Consent Holder (rather than the Consent Authority) to arrange that the reports are provided to Scenic.

16.11.2. The Applicant notes that providing inspection reports to Scenic serves no purpose and is not directly connected to the adverse effects of the activity, as if there is an inspection carried out it will have been done by a suitably qualified and independent person who can then recommend the necessary remedial actions. Forwarding reports to Scenic serves no valid resource management purpose. Scenic is entitled to request the reports from the Council under the LGOIMA if it considers this necessary.

Commissioners Response: Scenic was notified of this application because they have a property immediately adjacent to the new and raised stopbanks that are the subject of this application. They have a keen interest in the state of these stopbanks based on the significant adverse effects suffered from the breach of a stopbank in 2016. In her evidence to the hearing, Ms Hagaman described past events of excavations on the riverbed that weakened stopbanks and Scenic are sceptical of WCRC's ability to properly manage and maintain the stopbanks. Those experiences give them a very real interest in this information as a potentially affected party, which in my view corresponds to a valid resource management purpose to be informed about the implementation of these consent conditions. An amendment to the Applicants proposed condition 19 and 21 requiring Scenic to be provided with reports on the inspection of the stopbanks, in my opinion, meets the threshold of a condition that is directly connected to an adverse effect of the activity

on the environment<sup>30</sup> (such as the 2016 stopbank breach). From the information provided to me, I can see no valid reason why WCRC should not be open to sharing this information with them.

Furthermore, in my experience it is quite common for monitoring reports related to consented activities to be provided to interested and concerned Submitters. It is not an onerous requirement on the Consent Holder and in the case of the consent holder being the WCRC, such openness in their activities should be encouraged. As a general observation, Regional Councils should be open and forthcoming with information and engagement with interested parties on all resource management issues within their range of responsibilities, whilst allowing for the practical constraints of budgets and staff resources. In this case communication between WCRC and Scenic may have understandably been constrained due to the legal action that was in place over the last few years, however that has now been settled. That change should allow for more open and constructive dialogue between the parties to this hearing and all other interested parties.

- 16.11.3. With regard to Scenic being informed of any application to change consent conditions, the Applicant is concerned that the condition proposed by Scenic would require the Council to prepare a full application, provide it to Scenic (regardless of whether the change affects Scenic or not) and then wait a month before lodging the application to change the condition. This would be entirely out of proportion to the potential effects of the activity on Scenic and impose an unreasonable burden on the Council as consent holder (given that as part of any application to change conditions of a resource consent, there must be consideration of whether any person is affected by the proposed change such that they should be notified). The regime established under the RMA that enables consent holders to apply to vary their consents and for the consent authority to process those consents, including consideration of notification, should not be altered through consent conditions. If the Applicant engages in this process and obtains a variation to its consent, it has offered to provide a copy of the varied consent to Scenic. At that time, Scenic still has available to it legal remedies to intervene if it considers the application should not have been granted.

Commissioners Response: I agree with the Applicants position that the consent conditions cannot interfere with the RMA requirements for the lodging and processing of an application to vary the conditions of the consent that is granted through this hearing process. At the hearing Scenic clarified that they are not seeking formal notification of a s127 application as an affected party, they simply want to be made aware that such an application is being lodged. As noted in my response to the preceding point, I would like to encourage WCRC to adopt a more open approach to communications on these matters. In an ideal situation that would include advising a party such as Scenic in advance of any such application being lodged. However, I also do not want to impose more onerous requirements on WCRC than would be required by the RMA. In that regard, Scenic's request to be informed of a variation application one month before it is lodged with the Consent Authority is not acceptable. I find the Applicants proposed wording more reasonable. However, I have added an Advice Note to the condition to encourage the Consent Holder to engage with Scenic before lodging any application to vary the conditions of this consent. In my view that would be a reasonable course of action in the interests of open communication with interested parties, which all Councils should seek to adopt.

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<sup>30</sup> As referred to in RMA s 108AA(1)(b)(i) and discussed in paragraphs 25 – 32 of the Applicants Closing Legal Submissions.

## 17 Grant of Consent

17.1. In accordance with the authority delegated to me by the West Coast Regional Council and pursuant to sections 104, 104B, 105(1), 107 and 108 of the Resource Management Act 1991, subject to the conditions set out in Attachment 6, I **grant the following consents for a period that expires on 5 June 2058:**

- **A Land Use Consent for the upgrade of the stopbanks and the construction of a new stopbank on the Waiho River**
- **An associated Discharge Consent for the temporary incidental discharge of sediment associated with the construction and maintenance of the stopbanks.**

This decision applies to both the already completed works (which are approved retrospectively) and to the future works, as described in this application.

17.2. My reasons for granting the consents for the duration requested are summarised in Section 15 of this decision.



Peter Callander  
(Independent Hearing Commissioner)

Dated 25<sup>th</sup> September 2023

### **Acknowledgement.**

I would like to acknowledge all participants at the hearing for the constructive way in which they approached the hearing and the assistance of West Coast Regional Council consenting staff (Rachel Clark, Acting Consents and Compliance Manager and Rasela Barrow, Business Support Officer and Hearing Administrator) for their role in the establishment and running of this hearing process.

# **ATTACHMENT 1: Location Plan of Stopbanks**

(Appendix 2 of s42A Officers report)

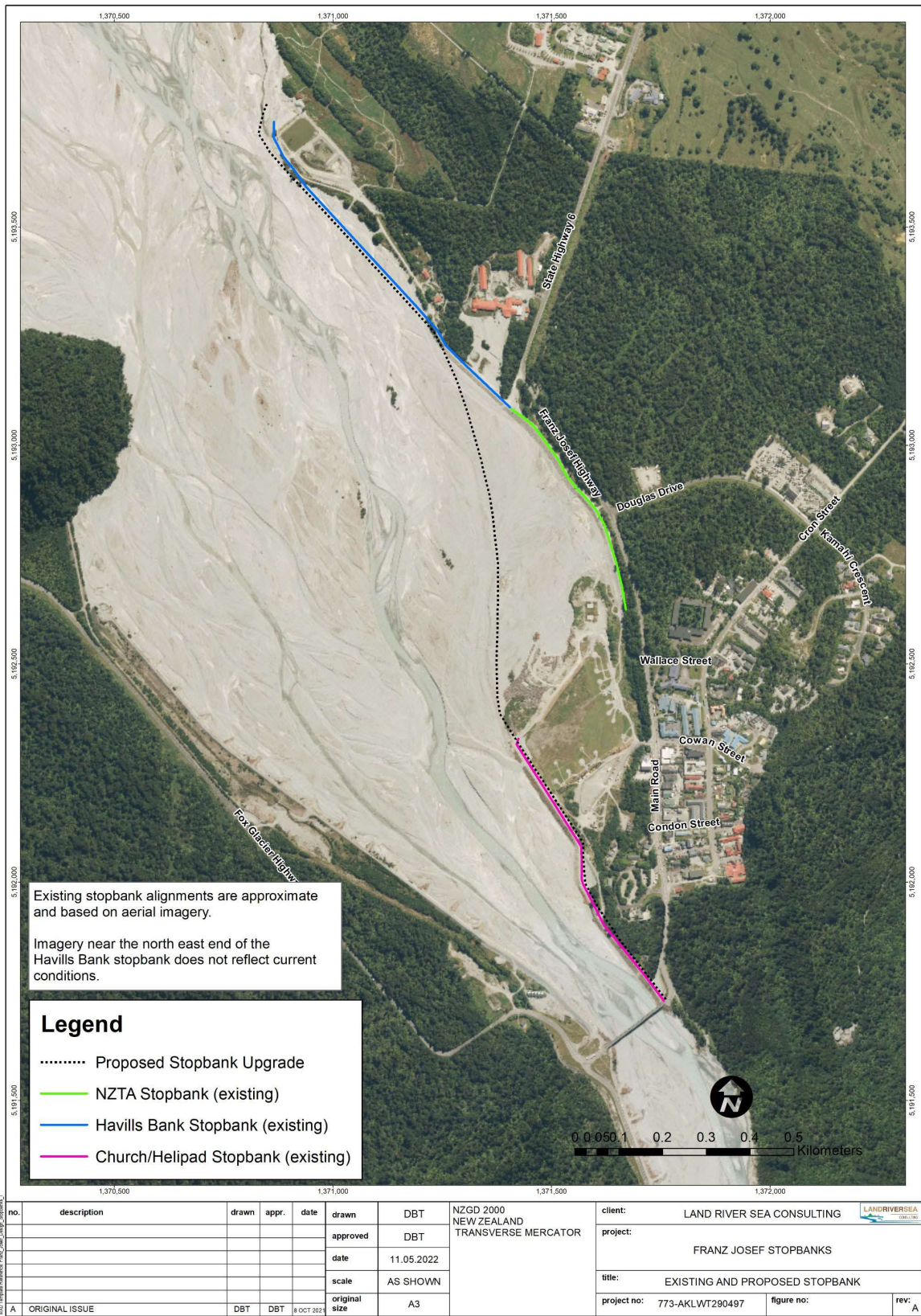
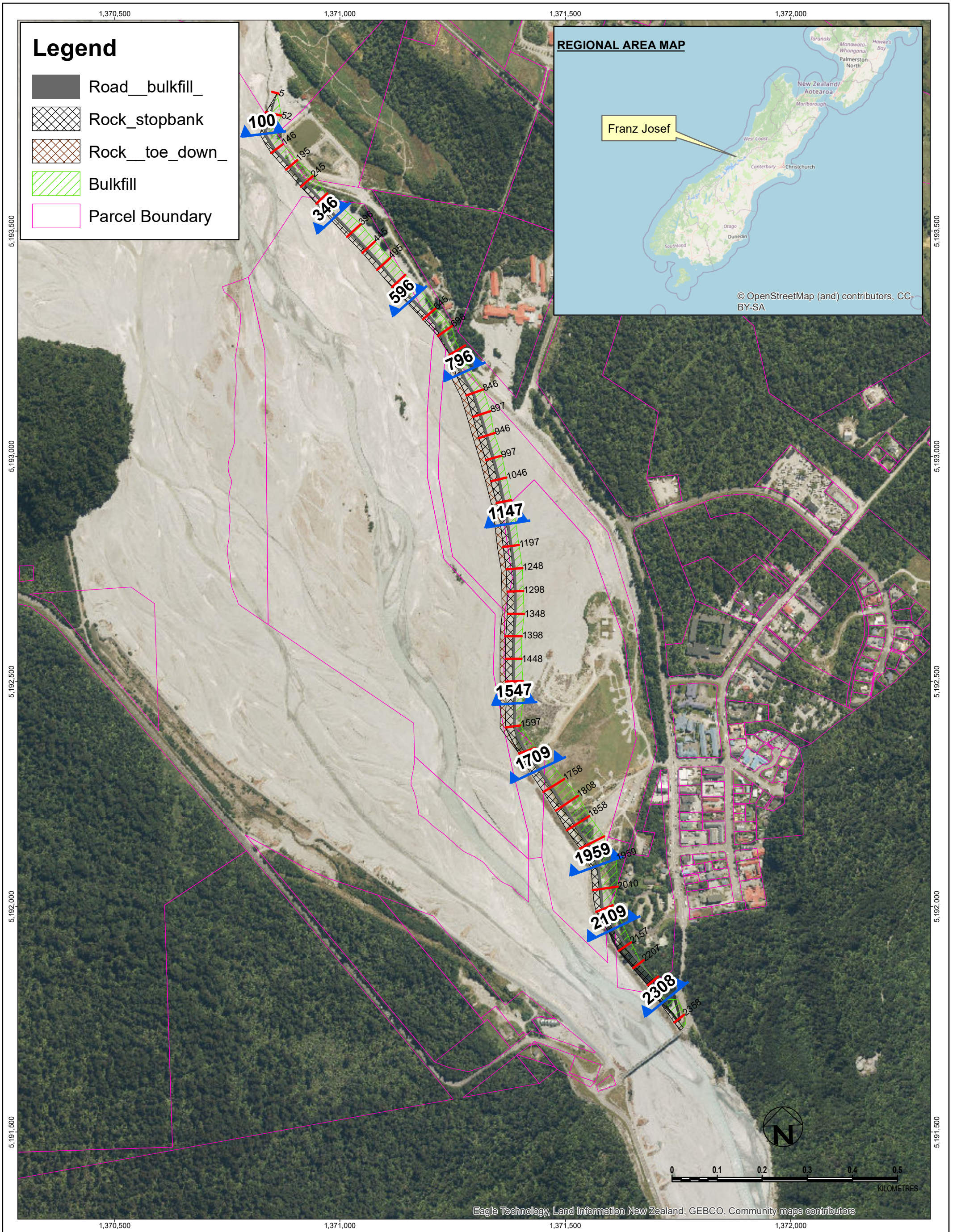


Figure 3 Comparison of the Existing and Design stopbank alignments.

# **ATTACHMENT 2: Distance Measurements along combined stopbanks**

(Appendix 4 of s42A Officers report)





no.	description	drawn	appr.	date	drawn	DBT	NZGD 2000 NEW ZEALAND TRANSVERSE MERCATOR	client:	LAND RIVER SEA CONSULTING			
					approved	DBT		project:	FRANZ JOSEF STOPBANKS			
					date	25.05.2023		title:	SITE LOCATION MAP			
					scale	AS SHOWN		project no:	773-AKLWT290497	figure no:	A.1	rev:
B	Alignment change at CH700 for access road	RZ	BP	25/05/23	original	A3						
A	ORIGINAL ISSUE	DBT	DBT	8 OCT 2021	size							

M:\0\_Templates\Reference\_Franz\_Josef\_Design\_Fig1\_1

Eagle Technology, Land Information New Zealand, GEBCO, Community maps contributors

© OpenStreetMap (and) contributors, CC-BY-SA



# **ATTACHMENT 3: Gravel Extraction Consent RC-2023-0016**



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The West Coast, New Zealand  
Telephone (03) 768 0466  
Toll free 0508 800 118  
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Email info@wrc.govt.nz  
www.wrc.govt.nz

15 March 2023

West Coast Regional Council – Engineering  
Department  
PO Box 66  
Greymouth 7804  
Attn: Chris Hoskins

Enquiries to: Selene Kane  
Our Reference: RC-2023-0016

Dear Mr Hoskins

**West Coast Regional Council  
RESOURCE CONSENT FILE NUMBER RC-2023-0016  
LAND USE CONSENT RC-2016-0016-01**

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By delegated authority of Council you are advised that the above application for resource consent has been granted.

Please note that this letter is not the actual resource consent document (refer to Objection and Costs Sections at end of the letter).

**DECISION**

Pursuant to Sections 104 and 104C of the Resource Management Act 1991, a Land Use Consent has been granted to West Coast Regional Council for a period of 10 years for the purpose as described below and subject to the following conditions.

**PURPOSE OF RESOURCE CONSENT**

<b>Consent No</b>	<b>Consent Type</b>	<b>Activity / Location</b>
RC-2023-0016	Land Use Consent	To extract gravel and disturb the dry bed of the Waiho River, Franz Josef Glacier for the purpose of removing gravel.

**LOCATION**

Waiho River

**MAP REFERENCE**

At or about NZTM East End 1371727E, 5191727N to West End 1368756E, 5194341N

**CONSENT CONDITIONS**

Pursuant to Section 108 of the Resource Management Act 1991, the Resource Consent includes the following conditions:

1. The gravel extraction shall be carried out in general accordance with the details contained in the consent application submitted to the Consent Authority, except where inconsistent with these conditions.
2. The Consent Holder shall supply any agent or contractor working under this consent with a copy of the consent.

3. Any person working under this consent shall have a copy of the consent on site and present it to an officer of the Consent Authority upon request.
4. The Consent Holder shall only undertake gravel extraction from within the area outlined in red and shaded green shown on the attached aerial photograph titled "**RC-2022-0038, Waiho River Gravel Extraction Sites**".
5. The Consent Holder shall not remove more than **330,000m<sup>3</sup>** of gravel within the course of exercising this consent. This shall be undertaken in the following sequence:
  - a) **250,000m<sup>3</sup>** of gravel in each twelve-month period over two-years and
  - b) **10,000m<sup>3</sup>** in each twelve-month period over eight-years
6. Notwithstanding Condition 9, in the event that the available gravel resource becomes depleted in the opinion of the Consent Authority, the Consent Holder shall cease or reduce its gravel extraction at the site upon written notification from the Consent Authority to do so.
7. The Consent Holder shall notify a Compliance Officer of the Consent Authority at least one working day prior to any extraction of the following:
  - a) The proposed volume of gravel to be extracted;
  - b) The period of time required for the gravel extraction;
  - c) The name of the agent(s) or contractor(s) undertaking the extraction and whether or not the equipment they propose to use has been used previously in water bodies containing *Didymosphenia geminata* (Didymo).
8. Extraction shall be undertaken:
  - a) Only in the dry bed of the river when the bed is not submerged by high river flows;
  - b) At least 100 metres from any stopbank or riverbank;
  - c) At least 100 metres from the oxidation ponds and associated infiltration gallery;
  - d) By excavating in strips that are parallel to the flow of the river and not by excavating holes;
  - e) To a depth no greater than existing water level at the time of extraction; and
  - f) By working back, as close as practicable, but no closer than 1 metre, from the edge of the water towards the banks of the river.
9. Notwithstanding Condition 8, the Consent Holder shall not stockpile gravel on the riverbed and the site shall be left tidy with all machinery removed from the riverbed at the completion of each day's activities.
10. An Environmental Management Plan (EMP) shall be developed in consultation with a suitably qualified freshwater ecologist and supplied to the Consent Authority for approval prior to any works commencing. The EMP shall contain as a minimum, details of the timing of works, identification of gravel extraction areas on an aerial photograph, volumes of gravel to be extracted, river access location(s) and location and type any erosion and sediment control devices.
11. The Consent Holder shall provide to the Consent Authority records of gravel extraction volumes annually. Each annual record shall be entered onto a "Gravel Extraction Record Form", and be provided to the Consent Authority on or before:
  - a) 13 March 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, and 2033.

**Advice note:** "Gravel Extraction Record Forms" are enclosed. More forms can be requested from a Regional Council Compliance Officer, or downloaded from [www.wcrc.govt.nz](http://www.wcrc.govt.nz).

12. While exercising this consent the Consent Holder shall ensure that:
  - a) No gravel extraction occurs within 100 metres of any bridge in the riverbed;

- b) No gravel extraction occurs within 100 metres of any other structure, including rock protection works;
  - g) No gravel extraction occurs within 100 metres from the oxidation ponds and associated infiltration gallery;
  - c) No works are undertaken within flowing water.
13. The buffer zones to the riverbanks and the flowing water identified in Condition 13 a & b shall be clearly marked prior to each period of gravel extraction commencing.
14. The Consent Holder shall ensure that the site is restored on completion of the gravel extraction operation as follows:
- a) The banks and riparian margins are left in a stable condition.
  - b) All earthworks' sites are rehabilitated;
  - c) Stripping areas shall be left with battered slopes of a gentle contour;
  - d) All gravel heaped up during the process of removal shall be spread out;
  - e) All rubbish, left over materials and debris are removed from site and disposed of in a legal manner;
  - f) All equipment and signs associated with the operation are removed;
  - g) Removing all equipment and signs associated with the operation;
15. Notwithstanding Condition 14, the Consent Holder may stockpile gravel on the adjacent privately owned land not on the river bed, and the site shall be left tidy with all machinery removed from the riverbed at the completion of each day's activities.
- advice note:** condition 15 does not confer right of access over private property. Consent holder shall ensure legal access is provided if stock piling is to occur
16. The Consent Holder shall ensure that the exercise of this consent does not result in:
- a) The initiation of riverbank erosion; or
  - b) The exacerbation of any riverbank erosion currently occurring; or
  - c) The diversion of any water from its existing channel(s).
17. The Consent Holder shall use existing access routes as far as is practicable while undertaking these works.
18. The Consent Holder shall ensure all machinery is cleaned prior to its transport to the site to ensure that any weeds and seed sources have been removed.
19. To avoid the spread of Didymo, no equipment shall be used in the exercise of these consents that has been used previously to undertake activities in any water body known to contain Didymo, unless that equipment has been thoroughly cleaned in accordance with the attached Biosecurity New Zealand document titled "Don't Spread Didymo".
20. All equipment refuelling, lubrication and any mechanical repairs shall be undertaken in an area that provides sufficient mitigation measures to ensure that no spillages onto the land surface or into water occur.
21. Notwithstanding Condition 20, no refuelling, lubrication, or mechanical repairs shall be undertaken on the bed of the river.
22. The Consent Holder shall use existing access routes as far as is practicable while undertaking these works.
23. The Consent Holder shall avoid damage to riverbanks and riverbank vegetation.
24. In the event of any disturbance of Koiwi Tangata (human bones) or Taonga (artefacts including pounamu), the Consent Holder shall:
- a) Cease any further excavation for a period of at least 24 hours;
  - b) Immediately advise Consent Authority of the disturbance;

- c) Immediately advise the Upoko of the Papatipu Runanga, or the representative, of the disturbance; and
- d) Immediately advise the Regional Archaeologist of Heritage New Zealand except in relation to disturbance of unworked pounamu.

25. If the Consent Holder identifies any archaeological remains or potential areas or sites of historic value, the Consent Holder shall immediately notify the Consent Authority and the Regional Archaeologist of Heritage New Zealand.

26. Pursuant to Section 128 of the Resource Management Act 1991, the Consent Authority may review the conditions of this consent by serving notice in within a period of one month commencing each anniversary of the commencement of the consent for any of the following purposes:

- a) To deal with any adverse effect on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later stage.
- b) To require the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment.

## TERM

The term of this consent is for 10 years from the expiry of RC-2023-0016.

## NOTE TO THE CONSENT

The Consent Holder is advised that **the consent does not confer a right of access** and the Consent Holder should be aware the permission of the legal owner or administering body of the bed of the river may also be required.

## REASON FOR DECISION PURSUANT TO SECTION 113, RESOURCE MANAGEMENT ACT 1991

In making this decision to grant the resource consent the purposes and principles of the Resource Management Act 1991 as set out in Part II of the Act have been achieved along with consideration of Section 104 which requires an assessment of the effects of the proposed activity.

The applicant has requested to extract a total of 330,00 cubic meters over a 10 year term. The gravel extracted will be used only for river protection works along the north banks of the Waiho River. The nature of river deposits means ample resource is available within the river bed. Disturbance of flora and fauna will be avoided where possible, flora disturbed will not be indigenous in nature.

The nature of works authorised under this decision are consistent with the Council's Regional Policy Statement. Specific objectives and policies in respect of Soils and Rivers are contained within Chapter 7 of the Regional Policy Statement.

The nature of the works is also consistent with the Council's Proposed Regional Policy Statement. Specific objectives and policies in respect of Use & Development of Resources and Land & Water are contained within Chapters 5 & 8 of the Proposed Regional Policy Statement.

The gravel extraction under this consent is a restricted discretionary activity under Rule 33 of the Regional Land and Water Plan. The proposal is consistent with the relevant objectives and policies of those plans, and will have no more than minor effects (see Table 1 below). The conditions imposed are suitable to avoid, remedy, or mitigate any adverse effects that may arise within the term of the consent.

**Table 1**

Plan/Policy Statement	Objectives/Policies	Rules
Regional Policy Statement		
Resource Management Issues of Significance to Poutini Ngāi Tahu	O3.1, O3.2, P3.1, 3.2 , 3.3	
Resilient & Sustainable Communities	O4.1, O4.3, P4.1	
Use & Development of Resources	O5.1, P5.1	

Ecosystems and Indigenous Biological Diversity	O7.1, O7.4, P7.2, P7.8, P7.9	
Natural Character	O7A.1, 7A.2; P7A.1, P7A.2, P7A.3, P7A.4	
Natural features and landscapes	O7B.1, O7B.2, P7B.1, P7B.3, P7B.4	
Land & Water	O8.1, O8.2, O8.4, P8.1, P8.8	
Natural Hazards	O11.1; P11.1, P11.3, P11.4	
Regional Land & Water Plan		
Land management	O3.2.3, O5.2.1; P5.3.1, 5.3.2,	
Gravel extraction		29, 33

## **OBJECTION TO THE CONSENT AUTHORITY**

You are advised that you have a right of objection to the Consent Authority in respect of this decision, pursuant to Section 357A of the Resource Management Act 1991. Any objection is to be in writing and must set out the reasons for the objection. Any objection must be made within 15 working days of receipt of this decision. The Consent Authority will then consider the objection and give its decision in writing. Any person who made an objection may appeal to the Environment Court against the Consent Authority's decision on the objection, pursuant to Section 358.

Alternatively, pursuant to Section 120 of the Resource Management Act 1991 you have the right of appeal directly to the Environment Court against the whole or any part of this decision. Notice of the appeal shall be in the prescribed form and must be lodged with the Environment Court and served on the council within 15 working days of the receipt of the Council's decision.

## **COSTS**

An invoice will follow shortly, if the deposit lodged was insufficient to cover the costs associated with processing this application.

The final consent document will be issued if no objection/appeal has been received after the 15 work day objection period has passed. Alternatively, the Council will issue a final document if you advise the Council in writing that you will not be lodging any objection/appeal.

If you have any queries regarding this matter, please contact the Council.

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Justine Bray  
15 March 2023

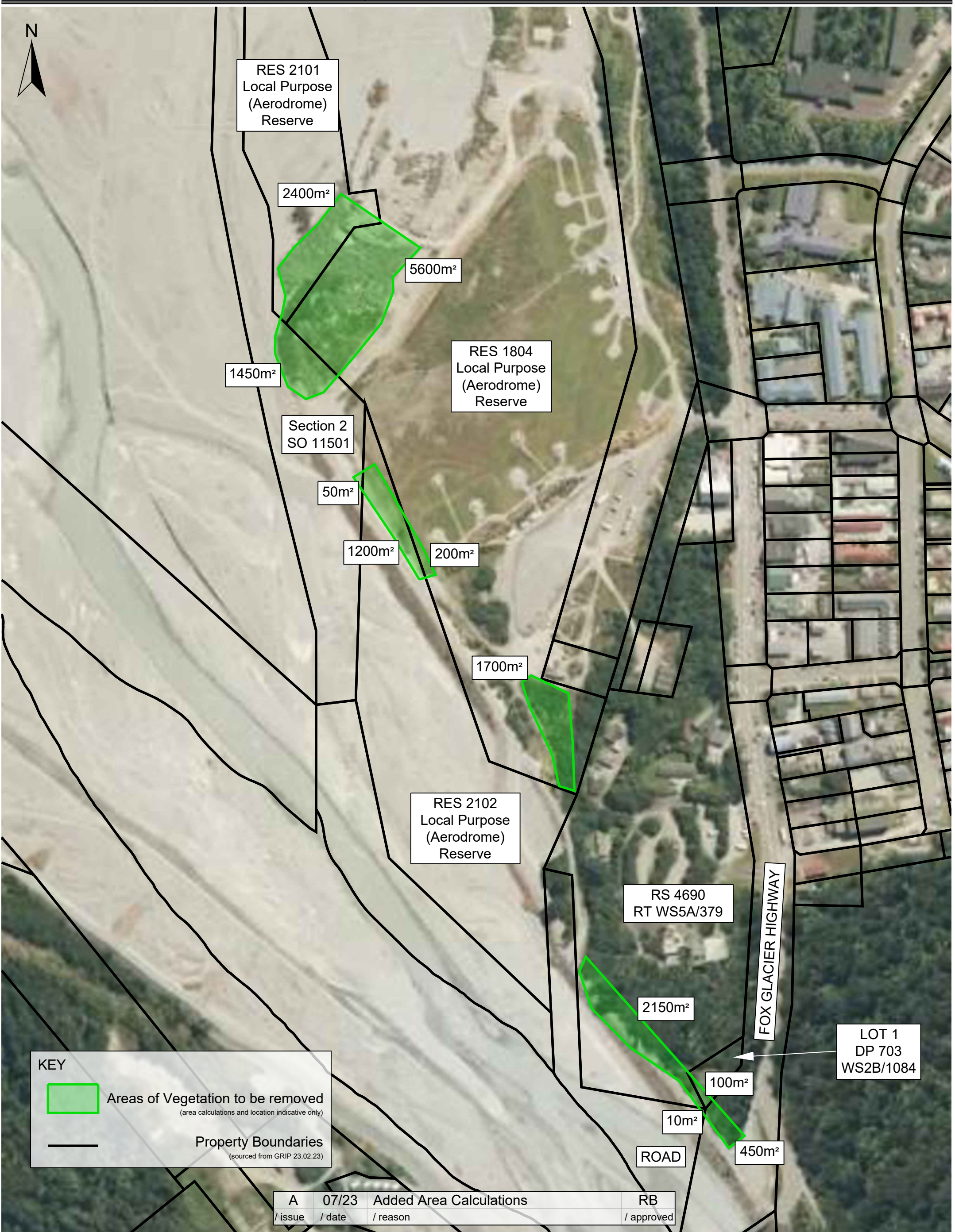


**RC-2022-0038, Waiho River Gravel Extraction Site(s)**



# **ATTACHMENT 4: Vegetation Areas to be Removed**





CAD ref: 43597.waihoriver.vegetationdwg

# **ATTACHMENT 5: Wording of CONSENT CONDITIONS (showing tracked changes from Applicants final proposed version)**



## RC-2022-0032 CONSENT CONDITIONS

Pursuant to Section 108 of the Resource Management Act 1991, the Resource Consents include the following conditions:

### General Conditions:

1. Works and activities shall be carried out in general accordance with the details contained in the consent application submitted to the Consent Authority, except where inconsistent with these conditions.
2. The Consent Holder shall supply any agent or contractor carrying out the works the subject of this resource consent with a copy of the consent conditions, which shall be held on site and presented to an Officer of the Consent Authority or the Independent River Engineer on request.
3. The Consent Holder shall construct the river protection at the location indicated on the attached plans labelled "**RC-2022-0032, Stopbank Location & Preliminary Design - Waiho River Stopbanks**" and "**Stopbank Alignment - Waiho River Stopbanks**", including vegetation clearance in the areas shown in plan "RC-2022-0032, Vegetation Areas to be Removed", subject to any minor changes approved by the Independent River Engineer and approved by the Consent Authority.
4. The Consent Holder shall construct the river protection in accordance with the design plan attached "**RC-2022-0032, Stopbank Location & Preliminary Design - Waiho River Stopbanks**", subject to any minor changes approved by the Independent River Engineer and approved by the Consent Authority.
5. Within 20 working days of the consent being granted the Consent Holder shall provide Engineering design plans designed by a suitably qualified engineer to the Consent Authority. The Plans shall be reviewed and certified by an Independent River Engineer prior to them being provided to the Consent Authority. Any amendments made to the Plans shall be certified by an Independent River Engineer and certification provided to Council as soon as practical.
6. The Consent Holder shall ensure that a suitably qualified engineer, who has been involved with the stopbank design, shall provide written certification that the works, or each stage of the works (if the works are staged), have been constructed in general accordance with the Plans described in Condition 4. This certification shall be provided to the Consent Authority no less than one (1) month after the works, or each stage of the works (if the works are staged), have been completed.
7. Within 20 working days of the consent being granted the Consent Holder shall engage a suitably qualified surveyor to survey the boundary of the private property immediately adjoining the area of works, as listed below. The surveyor shall peg the boundary of the following appellations. The Consent Holder shall ensure that the pegs are visible at all times. The Consent Holder shall provide the Consent Authority with survey plans and certification from the surveyor that the boundaries have been defined.
  - SEC 1 SO 11504 BLK VII WAIHO SD (WS5D/46)
  - LOT 1 DP 1474 BLK VII WAIHO SD (WS1A/454)
8. No works are to occur across the boundary of Lot 1 Deposited Plan 1474 and Section 1 Survey Office Plan 11504 identified by the surveyor under condition 7 above, or on any other property without the owners permission.

### Construction Management Conditions:

9. Within 20 working days of the consent being granted the Consent Holder shall provide a construction schedule to the Consent Authority. The schedule shall include as a minimum:

- the commencement and end date of the works;
  - A requirement for the Consent Holder to engage an Independent River Engineer to conduct monthly inspections throughout construction with a focus on Critical Works stages (provided that work has occurred in the month since the last inspection) and to report any non-compliances with the consent conditions to the Consents and Compliance Manager of the West Coast Regional Council as soon as practicable following the inspection.
  - if the construction is to be undertaken in stages, the breakdown of the stages and how the conditions of the resource consent will be given effect to;
  - A requirement to update the construction schedule on a monthly basis and for the updated schedule to be provided to the ~~e~~Consent ~~a~~Authority.
10. All practical measures shall be taken to avoid sediment discharge arising from the works where possible. Any sediment discharges associated with disturbance of the riverbed shall not give rise to any conspicuous change in the colour or visual clarity of the surface flowwaters in the river, ~~beyond the timeframe of works taking place in the active watercourse,~~ after reasonable mixing.
  11. The Consent Holder shall use existing access routes as far as is practicable while undertaking these works and shall carry out their work in a manner that avoids unnecessary disruption of public access to the riverbed.
  12. The Consent Holder shall ensure all machinery is cleaned prior to its transport to the site to ensure that any weeds and seed sources have been removed.
  13. All equipment refuelling, lubrication and mechanical repairs shall be undertaken in an area that provides sufficient mitigation measures to ensure that no spillages onto the land surface or into water occur. No refuelling, lubrication or mechanical repairs shall be undertaken on the bed of the river or creek.
  14. The Consent Holder shall avoid damage to riverbanks and riverbank vegetation wherever practicable, except where expressly authorised by this resource consent.
  15. In the event of any disturbance of Koiwi Tangata (human bones), Taonga (artefacts including pounamu), potential area or sites of historic value the Consent Holder shall:
    - a) Cease any further excavation for a period of at least 24 hours;
    - b) Immediately advise the Consent Authority of the disturbance;
    - c) Immediately advise the Upoko of the Papatipu Runanga, or the representative, of the disturbance; and
    - d) Immediately advise the Regional Archaeologist of Heritage New Zealand except in relation to disturbance of unworked pounamu.
  16. The Consent Holder shall ensure that the site is restored on completion of the works as follows:
    - a) The banks are left in a stable condition and revegetated (if vegetation was present before the works commenced) as soon as practicable.
    - b) All rubbish, left over materials and debris are removed from site and disposed of in a legal manner.
    - c) All equipment and signs associated with the operation are removed.
  17. For the avoidance of doubt, works may proceed throughout the whitebait spawning and fishing seasons.

#### **Post Construction Management Conditions:**

18. Upon completion of works or each stage of works (if the works are staged) a Practical Completion Certificate shall be issued by a suitably qualified engineer. The Certificate shall be provided to the

Consent Authority within one (1) week of issue.

19. The Consent Holder will advise the Independent River Engineer if two of the following triggers occur:
- any rainfall event exceeding the ARI level shown in the following table at the rainfall gauge at the Waiho River at SH6 bridge location;

<b>Waiho River at SH6, Calculations (in mm) based on the period 1-Jul-2009 to 30-Jun-2023</b>											
<b>ARI</b>	<b>AEP</b>	<b>10 min</b>	<b>20 min</b>	<b>30 min</b>	<b>1 hour</b>	<b>2 hour</b>	<b>6 hour</b>	<b>12 hour</b>	<b>1 day</b>	<b>2 day</b>	<b>3 day</b>
2.33	43%	12	18	22	34	57	124	191	267	347	377

- MetService has issued an orange or red rain warning for that part of the West Coast south of Hokitika;
- the second stage alarm at the Waiho River State Highway bridge is reached;

The Independent River Engineer shall carry out the following actions:

- a) will assess the river conditions and determine the need for an inspection of the Waiho River and the flood protection works authorised by this resource consent, and any emergency works or remedial actions required.
- b) ~~The Independent River Engineer will~~ advise the Consents and Compliance Manager of the West Coast Regional Council in writing when two of the trigger events occur, regarding whether an inspection has taken place or why it is not necessary.
- c) If an inspection has taken place, the Independent River Engineer shall provide a copy of his/her written report to:
  - i. the Consent Authority within one (1) week of the inspection; and-
  - ii. Scenic Hotel Group Limited within two (2) weeks of the inspection.

20. Within one (1) month of the practical completion certificate for the works being provided to the Consent Authority (or if the works are staged, the practical completion certificate for each stage of works being provided) an Asset Monitoring and Inspection Plan (AMIP) shall be developed for the Stopbanks. The purpose of the AMIP is to specify the monitoring, inspections and maintenance work that will be carried out post construction of the Stopbanks. The AMIP shall be provided to the Consent Authority for certification. The AMIP shall include as a minimum:

- A requirement for the Consent Holder to engage a suitably qualified ~~i~~Independent ~~r~~River ~~e~~Engineer to undertake inspections of the Stopbanks in accordance with table 1 below

Table 1

<b>Stage of activity</b>	<b>Frequency</b>
For two (2) Years from issue of Practical Completion Certificate	Four-monthly
After two (2) years	Annually

- A requirement for the engineer undertaking the inspections set out in Table 1 to prepare an inspection and condition report and provide that report to the Consent Authority within one (1) month of the inspections dates. The inspection and condition report shall include the following:
  - Site photos
  - Details of river condition at time of inspection
  - Location of the active river channels within the riverbed

- Overall condition of the stopbanks
  - Key issues, risk areas or critical faults identified
  - Maintenance identified and work recommended following an inspection for the following 12 months
- An outline of the maintenance plan for the Stopbanks including details of routine maintenance that will be required and any vegetation management required.

21. The Consent Holder shall forward copies of the reports produced in accordance with condition 20 from the Independent River Engineer to the West Coast Regional Council, attention: Consents and Compliance Manager, promptly following receipt of each report from the Independent River Engineer, and copies of all certificates of practical completion relating to the works (or each section or stage of the works) within 10 working days of each Certificate of Practical Completion being issued. The Consent Holder shall also forward copies of these reports and certificates to Scenic Hotel Group Limited within one (1) week of providing them to the Consents and Compliance Manager of the West Coast Regional Council.

22. In the event that any change to these consent conditions is granted by the West Coast Regional Council, the Consent Holder must provide Scenic Hotel Group Limited with a copy of the updated resource consent conditions. This must be accompanied by the application for the change of conditions, any relevant plans / reports, and the Council's decision.

Advice Note regarding Condition 22. It is recommended that the Consent Holder should engage with Scenic Hotel Group Limited prior to lodging any application to change the conditions of this consent. The purpose of this engagement is to ensure that Scenic Hotel Group Limited are aware of the proposed changes to the consent conditions and the reasons for those changes.

### **Definitions**

For the purposes of this resource consent:

A. "Independent River Engineer" means a suitably qualified and experienced independent river engineer. The engineer must not be an employee of the Consent Holder, must be a chartered professional engineer or a suitably experienced engineer and independent of the Consent Holder. For the avoidance of doubt, provided the Engineer to the Contract satisfies the other requirements, he/she may be the Independent River Engineer. The Consent Holder is responsible for ensuring that the Independent River Engineer fulfills the requirements specified for them in these conditions.

B. "Critical Works" means the points at which construction of the new Stopbank is tying into the existing Stopbanks, and the placement of toe rock for the new Stopbank.

C. "Consent Authority" means the regulatory consent processing and monitoring section of the West Coast Regional Council, as distinct from the West Coast Regional Council as Consent Holder.

### **ADVICE NOTES**

The Consent Holder is advised that **the consents do not confer a right of access** and the Consent Holder should be aware the permission of the legal owner or administering body of the bed of the river or creek may also be required.

# **ATTACHMENT 6: Wording of CONSENT CONDITIONS (clean copy)**

## **RC-2022-0032 CONSENT CONDITIONS**

Pursuant to Section 108 of the Resource Management Act 1991, the Resource Consents include the following conditions:

### **General Conditions:**

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2. The Consent Holder shall supply any agent or contractor carrying out the works the subject of this resource consent with a copy of the consent conditions, which shall be held on site and presented to an Officer of the Consent Authority or the Independent River Engineer on request.
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### **Construction Management Conditions:**

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B. "Critical Works" means the points at which construction of the new Stopbank is tying into the existing Stopbanks, and the placement of toe rock for the new Stopbank.

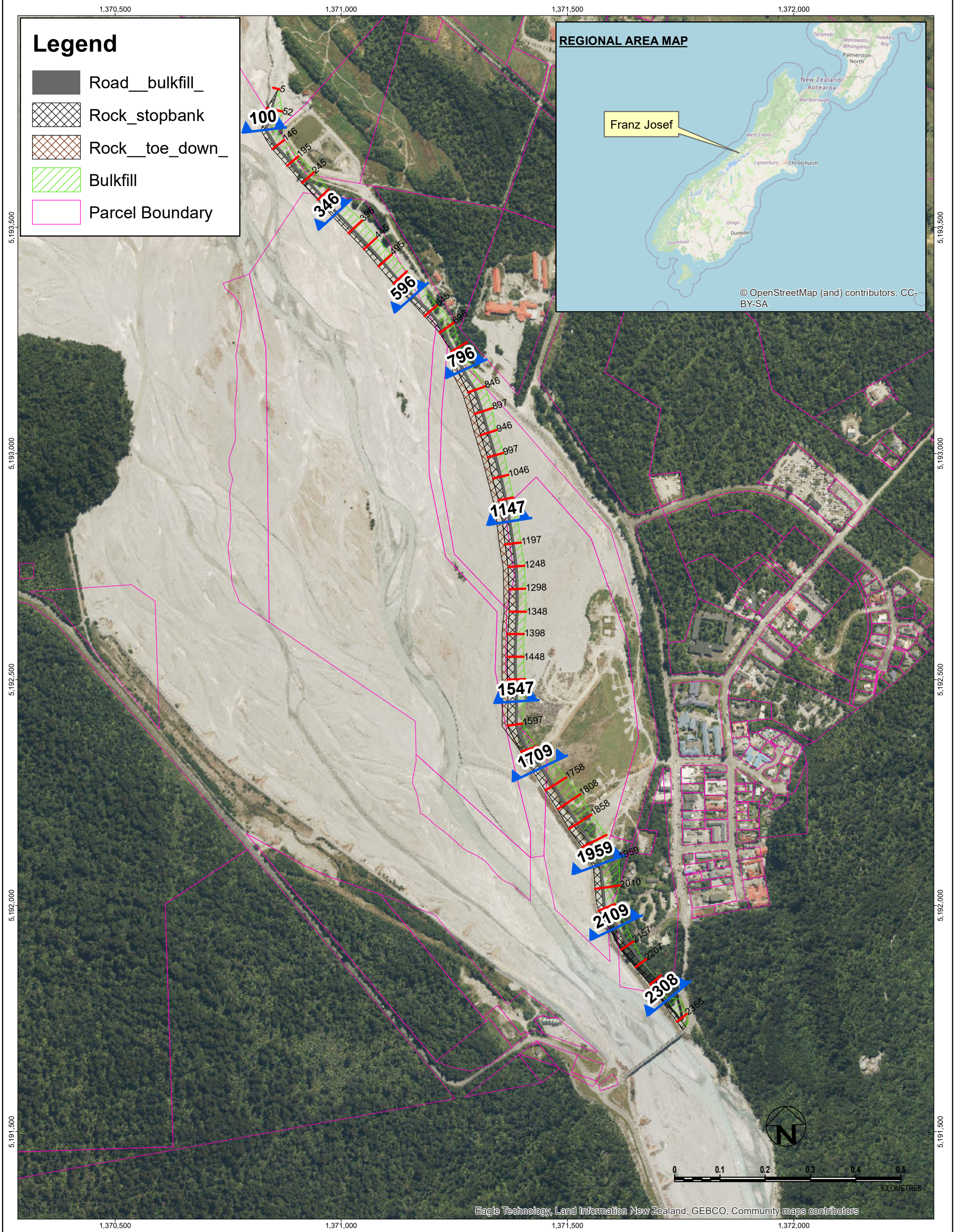
C. "Consent Authority" means the regulatory consent processing and monitoring section of the West Coast Regional Council, as distinct from the West Coast Regional Council as Consent Holder.

### **ADVICE NOTES**

The Consent Holder is advised that **the consents do not confer a right of access** and the Consent Holder should be aware the permission of the legal owner or administering body of the bed of the river or creek may also be required.



# RC-2022-0032- Stopbank Location and Preliminary Design - Waiho River Stopbanks

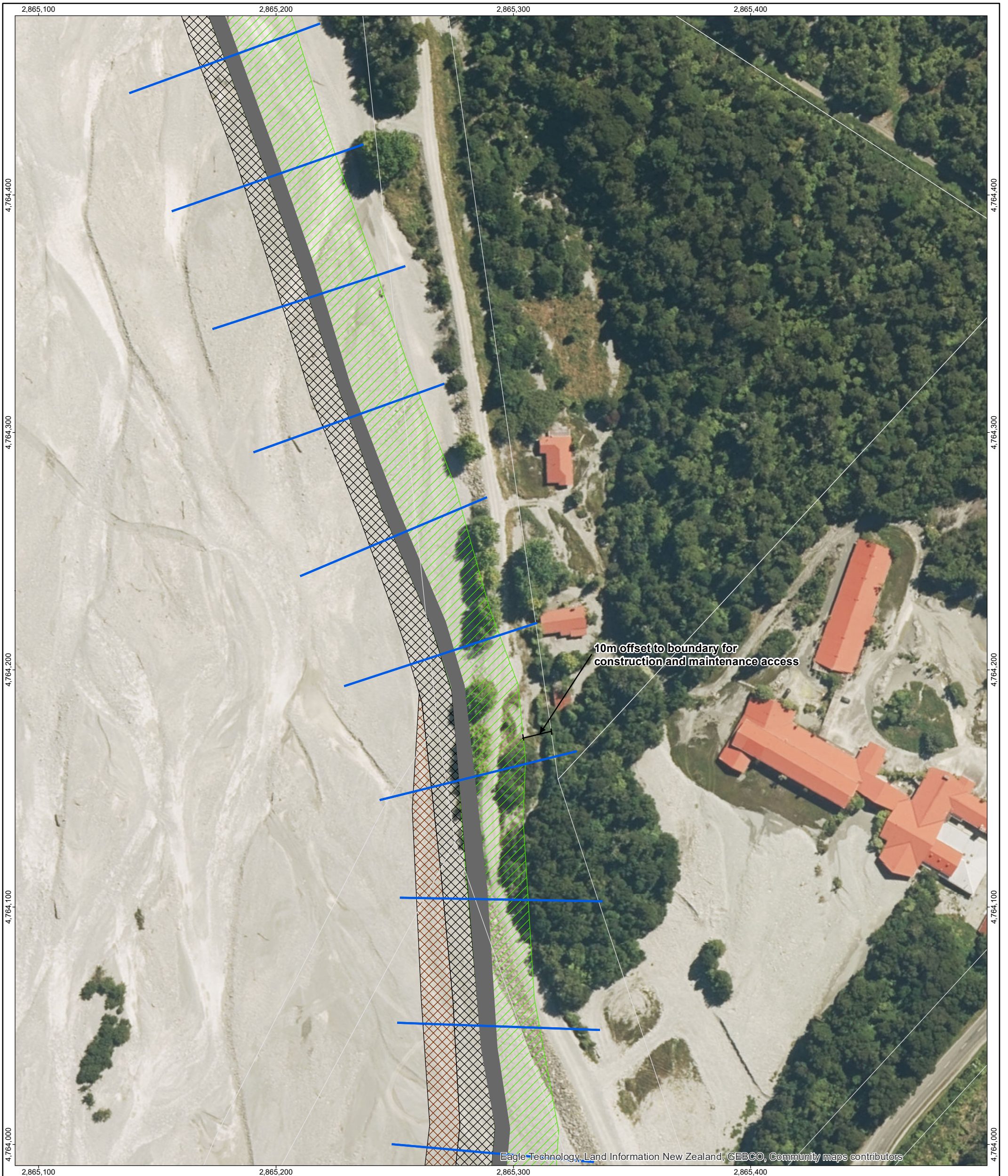


Eagle Technology, Land Information New Zealand, GEBCO, Community maps contributors

no.	description	drawn	appr.	date	drawn	DBT	NZGD 2000 NEW ZEALAND TRANSVERSE MERCATOR	client:	LAND RIVER SEA CONSULTING				
					approved	DBT		project:	FRANZ JOSEF STOPBANKS				
					date	25.05.2023		title:	SITE LOCATION MAP				
					scale	AS SHOWN		project no:	773-AKLWT290497	figure no:	A.1	rev:	B
B	Alignment change at CH700 for access road	RZ	BP	25/05/23	original	A3							
A	ORIGINAL ISSUE	DBT	DBT	8 OCT 2021	size								

M:\0\_Templates\Reference\_Franz\_Josef\_Design\_Fig1\_1





no.	description	drawn	approved	date
A	Issue A, Alignment change at CH700 for access road	RZ	BP	26.05.23

**LEGEND**

- Parcel Boundary
- Rock\_stopbank
- Bulkfill
- Road\_bulkfill
- Rock\_toe\_down

Source & Notes:  
 Aerial imagery flown 2017 and location map supplied by LINZ  
 Data licenced for re-use under the Creative Commons  
 Attribution 4.0 New Zealand licence.

0 25 50 75 100  
SCALE 1:1,500 (A3) METRES  
Projection: GDA 1994 MGA Zone 54

drawn	RZ
approved	BP
date	26.05.2023
scale	AS SHOWN
original size	A3

**client:** WEST COAST REGIONAL COUNCIL

**project:** FRANZ JOSEF STOPBANKS

**title:** SITE LAYOUT PLAN

**project no:** 773-CHCPR307779    **figure no:** B01    **rev:** A



# RC-2022-0032 - Stopbank Alignment - Waiho River Stopbanks

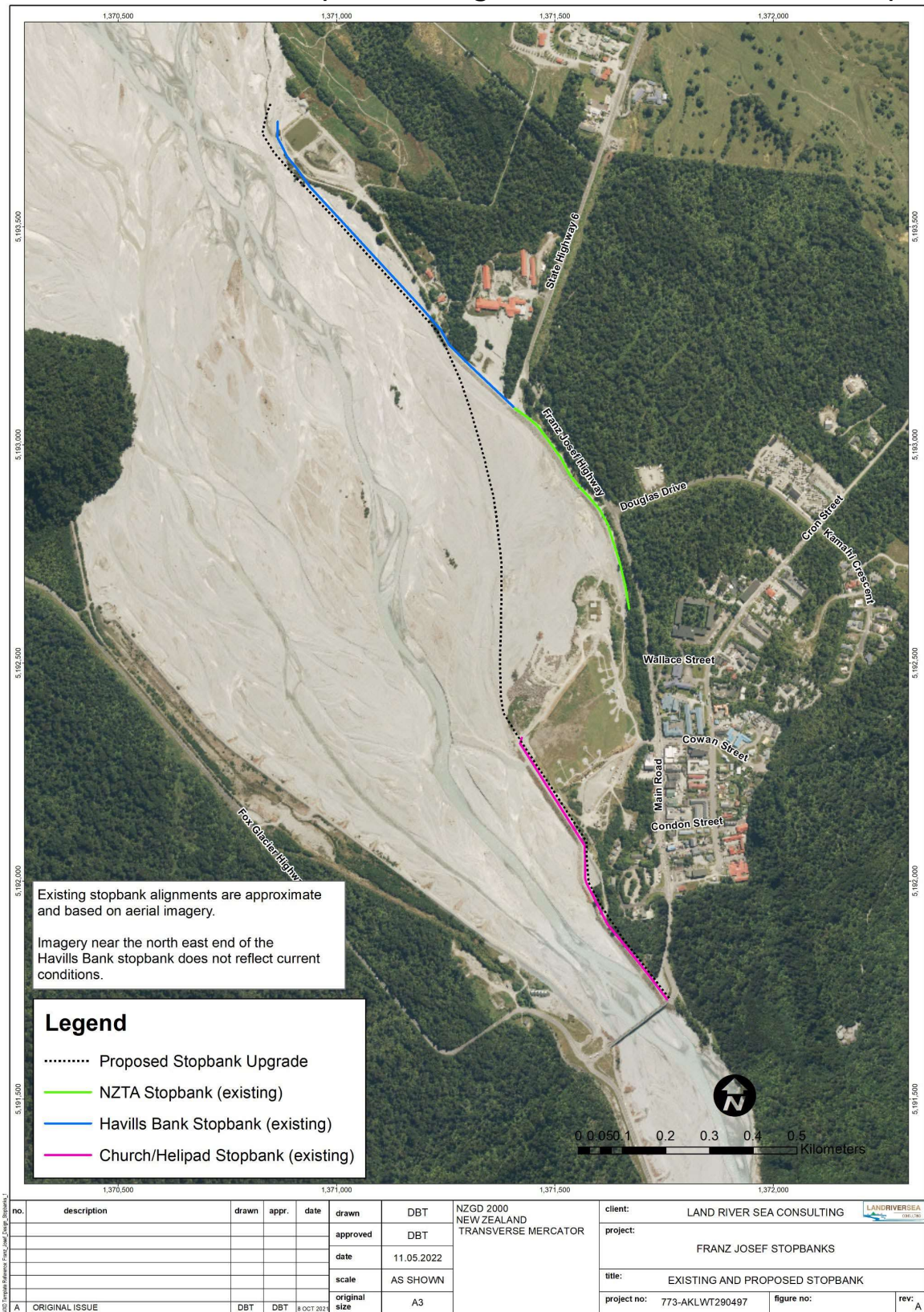
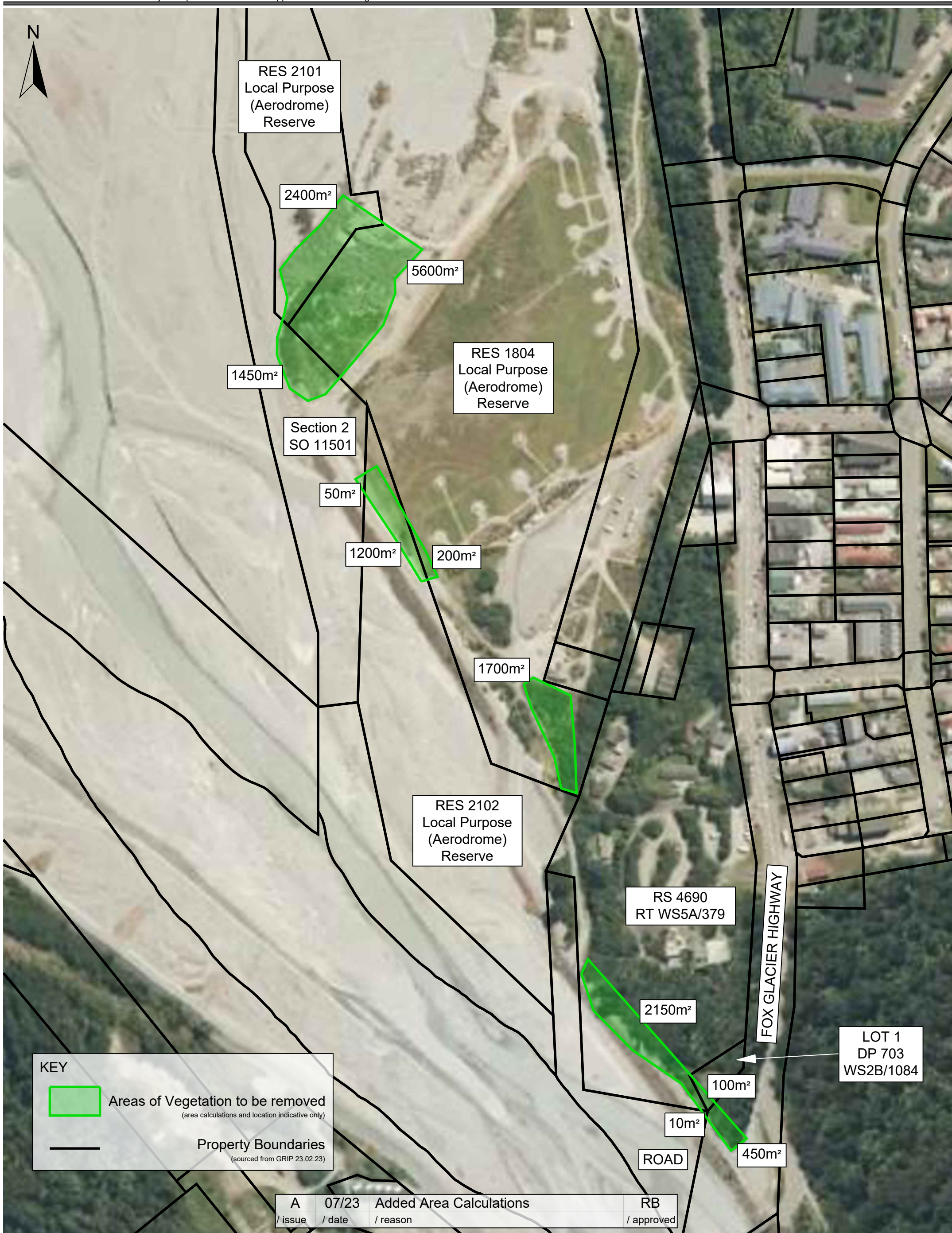


Figure 3 Comparison of the Existing and Design stopbank alignments.



# RC-2022-0032 - Vegetation Areas to be Removed

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CAD ref: 43597.waihoriver.vegetationdwg