

**IN THE MATTER OF** the Resource Management Act 1991  
**AND**

**IN THE MATTER OF** a joint application by McPherson Resources Limited to Waikato Regional and District Councils under section 88 of the Resource Management Act 1991 for resource consents to operate, expand, extract and sell aggregate (including all related water, earthworks, discharge and diversion regional consents) in a Rural Zone, at 47 McPherson Road and 93 Irish Road, Mangatawhiri.

**Decision following the hearing of an application by  
McPherson Resources Limited to Waikato Regional and  
District Councils for resource consents under the  
Resource Management Act 1991.**

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**Proposal**

To expand and continue to operate the mineral extraction activities at the McPherson Quarry with associated overburden removal and placement, deposition of cleanfill and vegetation clearance of an Identified Significant Natural Area in the Rural Zone and including all related water, earthworks, discharge and diversion activities requiring regional consents, in a Rural Zone, at 47 McPherson Road and 93 Irish Road, Mangatawhiri.

Council references are as follows:

Waikato Regional Council - AUTH137612.01.01 – discharge stormwater  
AUTH137612.02.01 – take surface water  
AUTH137612.03.01 – earthworks and vegetation clearance in High Risk Erosion Areas  
AUTH137612.04.01 – discharge overburden to land  
AUTH137612.05.01 – discharge cleanfill to land  
AUTH137612.06.01 – divert water

Waikato District Council - LUC0123/19 – land use.

The applications were heard jointly at Tuakau Memorial Town Hall, George Street, Tuakau on Monday and Tuesday, 30 November and 1 December 2020.

The resource consents sought are <b><u>GRANTED</u></b> . The reasons are set out below.
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<b>Hearing Commissioners:</b>	David Hill (Chair) Nigel Mark-Brown
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	Melissa King - Howell
<b>Application numbers:</b>	As above
<b>Applicant:</b>	McPherson Resources Limited
<b>Site addresses:</b>	47 McPherson Road and 93 Irish Road, Mangatawhiri
<b>Legal descriptions:</b>	<p><u>47 McPherson Road, Mangatawhiri</u></p> <ul style="list-style-type: none"> <li>• Allotment 162 Parish of Mangatawhiri comprised in Record of Title NA2D/497.</li> <li>• Allotment 22 and Allotment 139-140 Suburban Section 1 Parish of Mangatawhiri and Allotment 161 and Allotment 163 Parish of Mangatawhiri comprised in Record of Title NA2D/412.</li> <li>• Section 164 Parish of Mangatawhiri comprised in Record of Title NA2D/961.</li> </ul> <p><u>93 Irish Road, Mangatawhiri</u></p> <ul style="list-style-type: none"> <li>• Allotment 159-160 Parish of Mangatawhiri comprised in Record of Title NA423/102.</li> <li>• Allotment 23-24, Allotment 130 and Allotment 132-133 Settlement of Pokeno comprised in Record of Title NA577/25.</li> </ul>
<b>Site area:</b>	78.89 ha
<b>Zoning:</b>	<p><u>Waikato District Plan (Franklin Section) 2000</u></p> <p>Rural Zone with Policy Areas:</p> <ul style="list-style-type: none"> <li>• Hunua Rural Management Area</li> <li>• Identified Significant Natural Feature: Mt William Walkway</li> <li>• Environmental Enhancement Overlay Area</li> <li>• Schedule 5A Area</li> <li>• Ecological Corridor</li> <li>• Waikato River Catchment.</li> </ul> <p><u>Proposed Waikato District Plan 2018</u></p> <p>Rural Zone with Policy Area:</p> <ul style="list-style-type: none"> <li>• Significant Natural Area.</li> </ul>
<b>Lodgement:</b>	<p>15 November 2016 (WRC)</p> <p>1 October 2018 (WaiDC)</p>
<b>S91 Hold (WRC)</b>	21 November 2016
<b>S92 On Hold:</b>	24 October 2018
<b>S92 information:<sup>1</sup></b>	<p>16 December 2019 (WRC)</p> <p>18 February 2020 (WaiDC)</p>

<sup>1</sup> Note: this was a replacement AEE, dated 12 December 2019, which replaced the prior application lodged in its entirety (Lonnberg-Shaw, Statement of evidence, para 2.2(b)).

<b>Notification Decision:</b>	20 March 2020
<b>Public notification:</b>	4 June 2018
<b>Submissions closed:</b>	2 July 2020
<b>Further s92 request:</b>	27 July 2020
<b>Further s92 Information:</b>	7 October 2020
<b>Hearing commenced:</b>	30 November 2020
<b>Site visit:</b>	1 December 2020
<b>Hearing closed:</b>	9 February 2021; re-opened 10 March 2021; closed 1 October 2021
<b>Appearances:</b>	<p><u>The Applicant:</u>  Michael McPherson – Applicant  Eloise Lonnberg-Shaw – Planning  Andrew Curtis – Air Quality  David Mansergh – Landscape / Visual  Nevil Hegley – Acoustics  Mark Choromanski – Ecology  Brett Sinclair - Groundwater  Kristoffer Hansson - Traffic</p> <p><u>Submitters:</u>  Matthew Vare and Dr Paul Dutton – WRC  Aaron Baker &amp; Emma West  Marilyn Thompson &amp; Nigel Cowan  Charlotte &amp; Royce McCort  Marya Spencer &amp; Jamie Mckinstry  Belinda Duggan &amp; Andrew James  David Phillips (via Skype)</p> <p><u>Councils:</u>  WRC  Jorge Rodriguez - Reporting Officer  Dr Terry Brady – Air Quality</p> <p>WaiDC  Kirsty Ridling – Legal Counsel  Victoria Majoor – Reporting Officer  Jason Wright - Team Leader  Oliver May – Landscape/ Visual  Siiri Wilkening - Acoustics  Naomi McMinn – traffic  Michiel Jonker (Ecology) – jointly for WRC</p> <p>Mr Steve Rice - Hearing Administrator</p>

## Summary Decision:

1. Pursuant to sections 104, 104B, 104C and 104D, and sections 105 and 107 with respect to the discharge permit, and Part 2 of the Resource Management Act 1991 (RMA), the discretionary activity land use consent and four regional consents sought are granted.

## Introduction

2. These decisions are made on behalf of the Waikato Regional Council (WRC) and Waikato District Council (WaiDC) (together, the Councils) by Independent Hearing Commissioners David Hill (Chair), Nigel Mark-Brown and Melissa King-Howell, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (the RMA).<sup>2</sup>
3. These decisions contain the findings from our deliberation on the applications for resource consent and has been prepared in accordance with section 113 of the RMA.
4. We note we have produced one decision text, not seeking to artificially divide the application between the two separate council consents for the purpose of the written decision. However, the conditions are provided as separate Council conditions – (WRC = Schedule 1; WaiDC = Schedule 2; Site Plan = Schedule 3).
5. The application was publicly notified concurrently by the two councils and also directly by WaiDC to 54 identified owners/occupiers of adjacent properties and by WRC to 15 potentially adversely affected parties on 4 June 2018, with submissions closing on 2 July 2018. Five submissions in opposition were received by WRC and 37 by WaiDC (18 in support, 17 in opposition, and 2 neutral). A summary is provided in section 5 of the WRC s42A report and section 5 of the WaiDC s42A report. That summary was not disputed and is adopted by us for present purposes.
6. No late submissions were received.
7. Four s104(3)(a)(ii) RMA written approvals were received as follows:
  - I McComb – 93 Irish Road, Pokeno.
  - I Glasgow – 91 Pinnacle Hill Road, Pokeno.
  - R Kuchlein & R Miller – 57A Irish Road, Pokeno.
  - P & J Murray – 67 Irish Road, Pokeno.

However, as those approvals were not re-signed following the material update of the application AEE, the adverse effects on those persons were not disregarded by the s42A authors. We agree that is appropriately conservative.

8. The s42A RMA hearing report was prepared for the Councils by Mr Jorge Rodriguez for WRC and Ms Victoria Majoor for WaiDC and made available to parties on or about 22 February 2019.

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<sup>2</sup> Commissioner Hill was appointed by both Councils and the Waikato River Authority, Commissioner Mark-Brown by WRC, and Commissioner King-Howell by the Waikato River Authority.



9. The s42A authors' overall recommendations were to grant the consents for the respective durations sought and with the conditions proposed.
10. Mr Rodriguez' report was informed by technical reviews from Lyndsey Smith and Michiel Jonker of Aecom (Ecology – on behalf of both Councils); Steve Bryant of Bryant Environmental Solutions (Erosion and Sediment Control); Cameron King (Water Allocation); and Dr Terry Brady (Air Quality).
11. Ms Majoor's report was informed by technical reviews from Naomi McMinn of Gray Matter (Traffic); Oliver May of Boffa Miskell (Visual and Landscape); Siiri Wilkening of Marshall Day Acoustics (Noise and Vibration); Inderpaul Randhawa (Land Development Engineering); and Lyndsey Smith and Michiel Jonker of Aecom (Ecology – on behalf of both Councils)
12. The matter was heard at Tuakau on 30 November and 1 December 2020 and closed on 9 February 2021 following receipt of additional information requested by the Panel and a final set of proposed conditions (largely agreed between the applicant and Council).
13. Commissioners undertook a comprehensive site visit on 1 December 2020.
14. As we discuss further below, the hearing was re-opened on 10 March 2021 for the purpose of considering a stage 1 only consent, and finally closed on 29 September 2021 following considerable further refinements, including a decision by the applicant not to lower the pit floor below the existing RL 40m for any of the 3 stages. As will become, clear, that decision materially influenced our decision.

## Site description

15. The subject site is well described in the application<sup>3</sup> as follows:

*The site has a total area of 78.89 ha and contains a mix of vegetation, with forests on the hillsides to the east and west, and pastoral land on the flat land to the south. The quarry is situated in a rural environment in the foothills of the Bombay Hills and in the south-west area of the Hunua Ranges, with Mt William Walkway to the west and Pouraureroa Stream to the east. The quarry itself and the surrounding area contain several swales, natural watercourses, overland flow paths and culverts. A number of existing man-made ponds are also present across the site. These are primarily recreation and/or animal watering ponds. The southern end of the site contains two existing sediment control/treatment ponds.*

*Areas of the site have been identified as Significant Natural Areas/Significant Natural Features, largely as a result of the area acting as habitat for the king fern and forming part of the southern limit of taraire puriri forest. The quarry is surrounded by a large amount of indigenous forestry or shrub, particularly to the west/north-west (approx. 2.2 km<sup>2</sup> of contiguous forest) and east/north-east (approx. 15.96 km<sup>2</sup> of contiguous forest) of the site.*

*In terms of existing internal stormwater management, runoff from the central pit and quarry face is directed through a culvert system with a proportion being collected in two 20,000 litre tanks. This water is then used for dust suppression across the site and the overflow from these tanks is directed into the existing settling pond on the south-east margin of the site, before discharging to a local drain system. From the drain system, the water flows approx. 540 m to a tributary of*

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<sup>3</sup> AEE, Section 2

*the Waipunga Stream, which flows to the wetland area adjoining the Mangatawhiri River approximately 3 km to the south.*

*The McPherson Road/SH2 intersection, being the access point from the nearest main road, is a priority controlled 'T' intersection with traffic movements on SH2 having priority. SH2 at this location is comprised of one-through lane in each direction. No right turn bay is provided into McPherson Road. Approaching the intersection, SH2 has a slight uphill gradient eastbound, and McPherson Road has a slight downhill gradient. The existing intersection is located on the outside of a curve on SH2. McPherson Road deviates to the left on approach to the intersection to bring the approach angle onto SH2 closer to 90 degrees.*

16. Ms Majoor's s42A report also records that paper roads run through the site and that the applicant has (separately) applied to have those roads stopped.

17. Mr Rodriguez' s42 report also notes:

*... areas of indigenous vegetation to the west and east which includes a Significant Natural Area (SNA). An unnamed tributary of the Waipunga Stream flows north-south to the south of the quarry, the unnamed waterway is classified in the Waikato Regional Plan water class maps as Waikato Region Surface Water Class and flows approximately 1.8km to an unnamed waterway classified as Indigenous Fisheries. The quarry is within the Waikato River catchment and located approximately 6.5 km from the Waikato River.*

18. The quarry has existed for over 60 years as a small-scale operation, extracting weathered greywacke using conventional techniques. Runoff is directed into two 20,000 litre tanks, used for dust suppression with any overflow directed into a settling pond / treatment system before discharging to the Waipunga Stream. Present annual extraction (production) volumes are stated to be in the order of 350,000 - 400,000 tonnes.
19. Existing use rights are claimed but that was disputed by WaiDC and is discussed further below.

## **Summary of proposal**

20. The lodged proposal is detailed in section 2.0 of the application and section 1 of WRC's and section 2 of WaiDC's 42A reports respectively. As summarised in those s42A reports:

*The proposal is for the continuation and expansion of mineral extraction activities at the McPherson Quarry with the extraction of 490,000 tonne of quarry material (weathered greywacke) annually for a period of up to 45 years over three stages (10-15 years for stages 1 and 2, and up to 30 years thence for stage 3). The staged impact footprint will be approximately 40ha.*

*Resource consent is also sought for earthworks and vegetation clearance and the importation of cleanfill.*

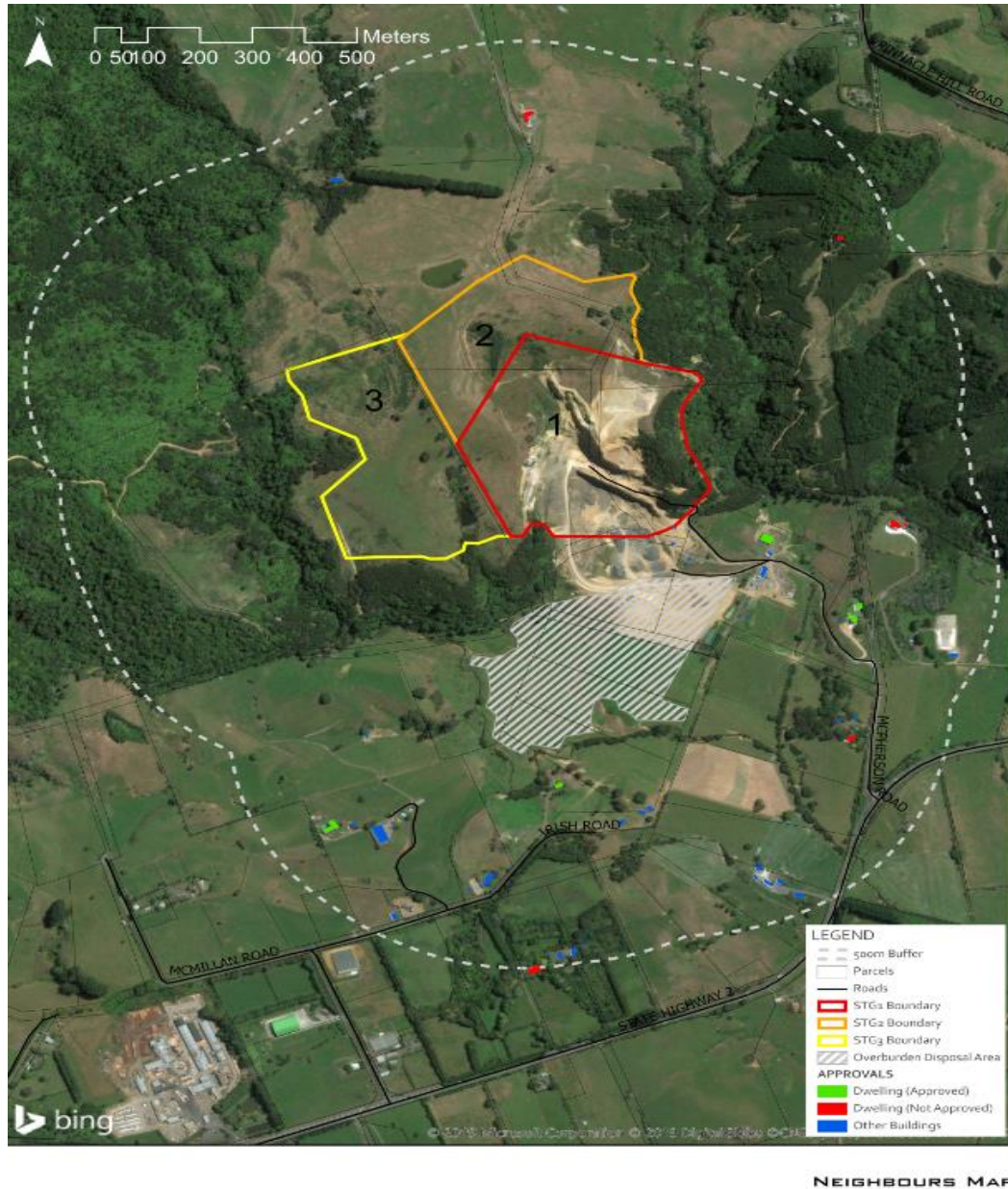
*The proposal also includes the following activities:*

- *Earthworks - including topsoil and overburden stripping and stockpiling;*
- *Importation of cleanfill up to 100,000m<sup>3</sup> annually over a period 45 years;*

- *Vegetation clearance including removal of Identified Significant Natural Feature/ Significant Natural Area*

*Stormwater from the quarry catchment is (and will be) drained into sediment retention ponds prior to discharging into an unnamed tributary of the Waikato River.*

21. The following figure from the AEE indicates the proposed site plan:



22. The approximate area of earthworks involved in each stage was indicated in the application documentation<sup>4</sup> as:
- Stage 1: 10 ha.
  - Stage 2: 9 ha.
  - Stage 3: 11.8 ha.

<sup>4</sup> The WaiDC s42A report has slightly different figures of 8.72, 8.38 and 11.66ha respectively but we do not consider that difference to be material.

23. We note that at the hearing those timeframes were re-stated by Mr Mansergh<sup>5</sup> as:
- (a) Stage 1 = Approximately 10 - 15 years.
  - (b) Stage 2 = Approximately 5 – 10 years.
  - (c) Stage 3 = Approximately 15 – 20 years.
24. The projected highest contour points for each stage were identified as:
- (a) Stage 1: 155m.
  - (b) Stage 2: 172m.
  - (c) Stage 3: 167m.
25. The key elements of the lodged proposal were described as follows:
- Mineral extraction of 490,000 tonne of weathered greywacke annually for a period of up 45 years over three stages.
  - Hours of operation - 7:00am to 7:00pm Monday to Saturday.
  - 165 daily truck movements (approx. 82 arriving to the site and approximately 82 trucks departing from the site including importation of cleanfill).
  - Earthworks with a volume of approximately 18,784,018 m<sup>3</sup> over approx. 28.77 ha (Stage 1 = 8.72 ha, Stage 2 = 8.39 ha, Stage 3 = 11.66 ha) and vertical faces with a maximum of 15m high with 7.5m wide benches.
  - Overburden disposal estimated for Stage 1 of 1,733,900m<sup>3</sup>; Stage 2 of 2,590,000 m<sup>3</sup>; Stage 3 of 1,297,100m<sup>3</sup>.
  - The deposition of cleanfill with a maximum volume of 100,000m<sup>3</sup> per annum over a period of some 45 years. Final landform limited to an 18-degree maximum overall slope
  - Removal of 2.45ha (2.08ha in Stage 1 and 0.37ha in Stage 3) of indigenous vegetation within an Identified Significant Natural Feature and Schedule 5A area (policy overlay area under the ODP).
  - Approximately 1,249,468m<sup>3</sup> of earthworks within the Significant Natural Area (PWDP notified layer) over an area of 2.08ha (within Stage 1). The remainder 0.37ha of indigenous vegetation to be removed is outside the SNA area.
  - Compensation planting to form a 4.53ha ecological corridor to the north of the quarry expansion.
  - Maximum daily water take of 430m<sup>3</sup> (including 100m<sup>3</sup> for dust suppression).
  - Two 19,000 litre/19m<sup>3</sup> water storage tanks.
  - Maintaining a minimum flow of at least 1.5l/s in the unnamed tributary of the Waipunga Stream immediately downstream of the settling pond treatment

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<sup>5</sup> Mansergh, Statement of evidence, para 31.

system.

- Sediment detention ponds and clean water diversion drain.
26. That overall description was not contested and is accepted by us as a sufficient description for present purposes.
27. As originally proposed, the 3 stages would have resulted in the pit floor being lowered from its existing c.41m RL to 0m RL<sup>6</sup>. However, we note that the later decision to not lower the pit floor below its present level of RL 40m for all stages affects some of the above volumes with reference to stages 2 and 3. However, for present purposes those as-yet uncalculated differences are not particularly material in the overall scheme of things as that decision principally affects overall aggregate yield below RL 40m and therefore the productive life of the quarry (and, of course, the overall appearance of the benches).

## Consents required and Activity Status

### Waikato Regional Council

28. The following regional consents are sought from WRC:
- AUTH137612.01.01 Water - other : To discharge stormwater.
  - AUTH137612.02.01 Surface water take: to take surface water.
  - AUTH137612.03.01 Land - disturbance : earthworks and vegetation clearance in High Risk Erosion Areas in association with the operation of McPherson Quarry.
  - AUTH137612.04.01 Land – other: to discharge overburden to land in association with the operation of McPherson Quarry.
  - AUTH137612.05.01 Land – other: to discharge cleanfill to land outside of High Risk Erosion Areas.
  - AUTH137612.06.01 Diversion: to divert water in association with the operation of McPherson Quarry.
29. Those consents are required under the following Waikato Regional Plan 2007 (reprinted 2012) (the **WRP**) rules:

Waikato Regional Plan Rule	Rule Description	Activity Status
5.2.5.5	Large Scale Cleanfill Disposal outside High Risk Locations	Controlled Activity
5.1.4.15	Soil Disturbance, Roading, Tracking, Vegetation Clearance, Riparian Vegetation Clearance in High Risk Erosion Areas	Discretionary Activity
5.2.5.3	Large Scale Overburden Disposal	Discretionary Activity
3.3.4.23	Surface Water Takes	Discretionary Activity

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<sup>6</sup> See WaiDC s42A report, Figure 5, page 15, and WGA Groundwater Technical Report, 19 November 2020, section 1.3.

3.5.4.5	Discharges - General Rule	Discretionary Activity
3.6.4.13	Water Diversion	Discretionary Activity
4.3.4.4	Bed Disturbance Activities	Discretionary Activity

30. The National Environmental Standards for Freshwater regulations (NESF) came into force on 3 September 2020. Mr Rodriguez noted that the proposed activities trigger the following Standards under the NESF and therefore the following apply:

NES FW Standard	Activity	Activity Status
Regulation 57	Reclamation of stream bed	Discretionary Activity
Regulation 54	Diversion of water from Tributary 1 at Wetland 1	Non-Complying Activity

31. Ms Lonnberg-Shaw disagreed<sup>7</sup> with respect to the activity status ascribed to Regulation 54, contending that this activity (which is regulated under the WRP) is exempt by s43B(7) RMA and remains a discretionary activity due to the time of lodgement, which pre-dated the gazettal date, which activity status is saved by s88A RMA.
32. That section states that an application's activity status is to be processed and decided as it was at the time of first lodgement if the status is *otherwise* altered (s88A(1)(b)(iii)). In Ms Lonnberg-Shaw's opinion, the NESF constitutes such a post-lodgement alteration and therefore s88A applies. There was no dispute that the NESF itself applies.
33. We were provided with a legal opinion by Mr Jim Milne, Barrister, to WRC dated 27 November 2020 in which he disagreed with Ms Lonnberg-Shaw's interpretation on three essential counts. In his opinion:
- i) The priority accorded to a resource consent over an NES by s43B(7) does not apply in this instance because an *application* is not a *resource consent* as defined by s2 and s87 RMA;
  - ii) Applications are to be determined under the instruments as they exist at the date of hearing not as at the date of lodgement; and
  - iii) The term "otherwise" in s88A(1)(b)(iii) should be interpreted according to the *ejusdem generis* principle whereby a general word following a list of specifics is limited to other instances of the same kind – i.e. limited, in this instance, to the proposed plan change process under Schedule 1 – and therefore does not apply.
34. Mr Milne's conclusion was that the activity status is to be determined under both the WRP and the NESF.
35. We note that we received no contrary legal opinion from the applicant on the matter.
36. Section 43B RMA states the relationship between an NES and rules or consents, and subsections 5 -7 state:

(5) *A land use consent or a subdivision consent granted under the district rules before the*

<sup>7</sup> Ms Lonnberg-Shaw, Statement of evidence, para 2.2(c-e).

*date on which a national environmental standard is notified in the Gazette prevails over the standard.*

(6) *The following permits and consents prevail over a national environmental standard:*

(a) *a coastal, water, or discharge permit:*

(b) *a land use consent granted in relation to a regional rule.*

(6A) *Subsection (6) applies—*

(a) *if those permits or consents are granted before the date on which a relevant national environmental standard is notified in the Gazette:*

(b) *until a review of the conditions of the permit or consent under section 128(1)(ba) results in some or all of the standard prevailing over the permit or consent.*

(7) *This subsection applies to a resource consent not covered by subsection (5) or (6). The consent prevails over a national environmental standard if the application giving rise to the consent was the subject of a decision on whether to notify it before the date on which the standard is notified in the Gazette. However, the consent does not prevail if the standard expressly provides otherwise.*

37. It is clear from subsections (5) and (6) that consents granted prior to gazettal prevail and do so, in the case of regional consents, until the conditions are reviewed.
38. Subsection (7) concerns consents not covered by either subsection (5) or (6). However, since those subsections cover the five consent types under s87 RMA, it must refer to consents that may be granted after gazettal but whose decision to notify the application was made prior to gazettal.
39. That is the situation with the present application(s). The decisions to notify the applications were made by WRC on 20 March 2020<sup>8</sup> (with actual notification on 2 June 2020), and by WaiDC on 12 March 2020<sup>9</sup> (with actual notification on 4 June 2020); the NES was gazetted on 5 August 2020 and came into force on 3 September 2020.
40. What is not clear to us is what “prevail” means in this context. That was not addressed either by the applicant or by Mr Milne. This is further confused because it isn’t the consent that prevails because at that point no consent is granted – it is the application being determined, which implies that it must be the rules in play that prevail.
41. We do not understand “prevail” to mean “not apply” - since that more common and readily understood term could otherwise have been used. We think it therefore safer to adopt that term in the sense that one yields to the other in the event of tension – but that both sets of rules should be applied if practicable.
42. As the diversion of water from Tributary 1 at Wetland 1 already requires consent under the WRP, the activity itself is mutually regulated and the evidence from both applicant and WRC was that it was consentable regardless of the difference between the two rule sets over activity status. Indeed, WRC had assessed that activity as a non-complying activity.

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<sup>8</sup> S42A Report, page 12.

<sup>9</sup> *ibid*, Appendix B, Notification Decision Report, page 154.

43. Turning to s88A RMA and the activity status. We find force in Mr Milne's argument. The type of activity, being the diversion of water from Tributary 1 at Wetland 1 is not altered through a plan change proposed or decided or related decision. Whilst a regulation has the force of a plan rule it is not the same thing.
44. We therefore consider it prudent, as a matter of safety, to adopt Mr Milne's opinion that s88A is not available as a means of saving the activity status for that activity – but that it is both a discretionary activity under the WRP and a non-complying activity under Regulation 54 (those not being in conflict).
45. The regional consents are therefore to be determined as a *combination* of controlled, discretionary and non-complying activities – but not as a bundled non-complying activity overall. In that respect we agree with Mr Rodriguez.
46. We also note that at the time of hearing, applications for renewal of the applicant's 2007 water extraction and discharge consents (AUTH16085.01.01 and AUTH16015.01.01) had been on hold since late 2017.

Waikato District Council

47. The site is zoned Rural in both the operative Waikato District Plan (Franklin Section) 2000 (**the ODP**) and the Proposed Waikato District Plan 2018 (**the PDP**), but different policy area overlays apply as follows:

ODP:

- Hunua Rural Management Area.
- Identified Significant Natural Feature: Mt William Walkway.
- Environmental Enhancement Overlay Area.
- Schedule 5A Area.
- Ecological Corridor.
- Waikato River Catchment.

PDP:

- Significant Natural Area.

48. Land use consent is required from the WaiDC under the ODP as follows:
  - (a) Rule 23A.1.4 – mineral extraction and processing activity is a discretionary activity;
  - (b) Rule 23A.1.5 - The activity regulated by Rule 23A.2.1.4 (below) is not otherwise listed as a permitted or controlled activity in the Rural zone and is, therefore, a non-complying activity.
  - (c) Rule 23A.2.1.4 - the removal of an Identified Site or Natural Feature area (Mt William Walkway) is a non-complying activity;
  - (d) Rule 15.5.2 - earthworks exceeding the standards is a restricted discretionary activity;



- (e) Rule 15.6.3.2 – clearance of 2.45ha of indigenous vegetation is a restricted discretionary activity;
  - (f) Rule 15.1.2.8 - importation of cleanfill is a discretionary activity.
49. The application's different activities under the ODP were bundled by WaiDC and considered overall as a non-complying activity. We agree that is appropriate in this case as the activity so defined is integral to the proposal and its effects are not reasonably severable.
  50. The PDP, Stage 1 of which was notified in July 2018 but no relevant decisions on submissions have yet been released, contains rules that have legal effect under s86B(3) RMA – and, of course, the proposed objectives and policies have to be taken into consideration and duly weighed.
  51. The following proposed rules have legal effect and are therefore engaged:
    - (a) Rule 22.2.3.3 – earthworks in a Significant Natural Area (SNA) is a restricted discretionary activity.
    - (b) Rule 22.2.7 – indigenous vegetation clearance outside a SNA is a discretionary activity.
  52. The application's activities under the PDP were bundled by WaiDC and considered overall as a discretionary activity.
  53. The activity statuses across the applications and between the two councils were not bundled for the purpose of processing – although we have collectively assessed and considered their effects together as per the s30 and s31 functional requirement on councils for the integrated management of resources..
  54. Except as noted above, the respective activity statuses and bundling conclusions were not contested by any party.
  55. The application was reviewed for compliance with Regulation 5(6) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES). WaiDC accepted that the NES is not applicable as the subject site is not a "piece of land" as so defined. We agree.

## **Permitted Baseline**

56. We discuss below the question as to whether the applicants can rely upon an existing use right for its present activity – and therefore some form of permitted activity.
57. As will be evident from our subsequent discussion, we find that it would neither be safe nor prudent to assume an existing use right and therefore no material permitted activity baseline is assumed.

## **Procedural and other matters**

58. Apart from the routine issuing of Minutes and Directions (of which we have issued five), the major procedural matter engaged was our decision to re-open the hearing after we had initially closed it on 9 February 2021. We decided that was the most appropriate

step to take, having sought legal advice about our ability so to do, since in our initial deliberations we had formed the view that granting the consents sought for the 3-stages proposed left unresolved questions about potential effects on groundwater and its contribution to the adjacent streams (particular to the east of the site) – and therefore a decline of consent was a real possibility.

59. We noted the following in Minute #1 of 10 March 2021:

*As a result of our initial deliberations, Commissioners have determined that one option before them is to not grant the entire application made, for reasons that would become clear should that eventuate as our final decision. However, we realise that for that option to be viable we need a set of conditions that are specific to the particular stage under consideration – i.e. stage 1 – as those cannot simply be derived from the sets of conditions provided at the end of the hearing, which covered 3 stages.*

60. We therefore directed further consultation on a bespoke set of conditions that we might consider for a stage 1 only option – that would leave the pit floor at its existing level, avoiding further groundwater effects.
61. The applicant and councils engaged fully in that direction but took some time to bring all related matters together. That Stage 1 only material, along with closing statements from the councils on conditions, took us through to August 2021.
62. It then became apparent that the applicant was prepared to forego lowering the pit floor below existing level in order to pursue all three stages. That, as will be evident in this decision, cast the 3-stage proposal in a different light (albeit well within scope of the application to make that amendment) but again required attention to the expert evidence (to ensure that we fully appreciated the effects of that change) and set of proposed conditions. We received that information on 15 September 2021 and, following a further couple of queries, closed the hearing on 1 October 2021.
63. While this has been a quite protracted process, we have concluded that it meets the s39 RMA requirement to adopt an appropriate and fair procedure – recognising that this extended process has all occurred within the timeframe of the formal hearing process.

### **Relevant statutory provisions considered**

64. In accordance with section 104 of the RMA we have had regard to the relevant statutory provisions, including the relevant sections of Part 2, sections 104, 104A-D, and sections 105 and 107 with respect to the discharge permit, and sections 108 and 108AA with respect to conditions.

### **Relevant standards, policy statements and plan provisions considered**

65. In accordance with section 104(1)(b)(i)-(vi) of the RMA, we have had regard to the relevant policy statement and plan provisions of the documents noted below – the relevant provisions of which are assessed, variously, in sections 3-5 of the application AEE, and in sections 9.0 of the WRC and WaiDC s42A reports respectively.
66. We note that, with the one exception discussed later, those provisions and their interpretation were not in dispute. Accordingly, as no party disputed these matters, in

the interest of brevity we do not specifically discuss those provisions further or repeat the details in this decision – but adopt and cross-refer to them per section 113(3) of the RMA. Those provisions are contained in the following statutory documents:

- National Policy Statement on Freshwater Management 2020;
- Resource Management (National Environmental Standards for Freshwater) Regulations 2020;
- Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011;
- Resource Management (National Environmental Standards for Air Quality) Regulations 2004;
- Waikato Regional Policy Statement 2016;
- Waikato Regional Plan 2007;
- Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments 2016;
- Waikato District Plan – Franklin Section 2000; and
- Proposed Waikato District Plan 2018.

67. The Te Ture Whaimana o Te Awa o Waikato – the Vision and Strategy for the Waikato River, the Waikato-Tainui Environmental Plan, Hauraki Iwi Environmental Plan (Whaia Te Mahere Taiao a Hauraki), and the Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010 and Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010, were referred to and have been considered. We are satisfied that the application as revised does not offend the general direction of those documents with the conditions imposed relating to wetland / streamside mitigation planting and the discharge quality required.
68. We do not consider any other matter to be relevant and reasonably necessary to determine the application in accordance with section 104(1)(c) of the RMA.

## **Summary of evidence / representations / submissions heard**

### **Councils**

69. The Councils' combined s42A RMA Hearing report was circulated prior to the hearing and taken as read. The conclusions reached and recommendations to grant the consents and durations (where appropriate) sought were confirmed.

### **McPherson quarry**

70. The applicant was not represented by legal counsel at the formal hearing but had engaged Patrick Mulligan as counsel during the following period prior to our closing the hearing. Mr Mulligan filed a formal right of reply on 20 July 2020. The following witnesses gave evidence for the applicant:

**Michael McPherson**, founding shareholder and director of McPherson Resources Limited, gave background history regarding the quarry and the family's involvement

with it since it opened in the late 1950s; discussed the relationship with the councils and the current resource consent process and costs; the regulatory environment within which quarries operate; and the economic benefit of its products.

**Eloise Lonnberg-Shaw**, is a senior planner at Kinetic Environmental Consulting Limited, and had prepared the resource consent applications. She addressed the planning and processing issues associated with the application, including matters raised in the respective s42A reports. Ms Lonnberg-Shaw had also provided a written reply at the conclusion of the initial hearing; a second statement of evidence in response to the Stage 1 only option; and a third statement responding to the Hearing Panel's request for advice on any changes to the draft proposed conditions that were required in light of the applicant's decision not to lower the pit floor below present level of 41m RL.

The Panel wishes to record its appreciation of the way in which those issues have been responded to by Ms Lonnberg-Shaw.

**David Mansergh**, registered landscape architect and director of Mansergh Graham Landscape Architects Limited, provided evidence on landscape and visual amenity effects. That evidence, along with supplementary statements are discussed further below.

**Marc Choromanski**, a senior ecologist with Ecology New Zealand Limited, gave evidence about his involvement with the project, particularly with respect to native fauna and freshwater values; noted the primary work undertaken by WSP and subsequently validated by himself; corrected certain errors in the s42A report; and generally concluded that the adverse effects with mitigation and appropriate conditions would not be significant. He provided supplementary evidence in response to the WRC submission evidence. These matters are discussed further below.

**Brett Sinclair**, spoke to his groundwater report – *Effects of McPherson Quarry Expansion on Groundwater: Technical Report, WGA / Kinetic Environmental Consulting Limited (19 November 2020)*. Mr Sinclair also provided a supplementary statement of evidence and report on the Stage 1 only option. These matters are discussed further below.

**Nevil Hegley**, acoustic consultant and principal of Hegley Acoustic Consultants Limited, gave evidence about the assessment methodology undertaken and its results; concluding that the predicted blast noise and vibration levels (worst case scenario air blast noise of 109dB<sub>L</sub> with minimal screening included and up to 2.54mm/s vibration) are well within the operative rule requirements (Rule 23A.5.2.A) and the noise limits at the closest receivers within the daytime 50db  $L_{Aeq}$  rural zone limit in the PDP. He also noted that the existing quarry noise is generally at or below the existing noise environment – albeit audible.

**Andrew Curtis**, chemical engineer and Technical Director Air Quality at Pattle Delamore Partners, gave evidence on air quality issues, concluding that there is low potential for off-site dust effects because of the distance of dwellings from any typical dust source (with the exception of 40 McPherson Road which is 200m from the access road) and negligible risk of effects associated with PM<sub>10</sub> and / or crystalline silica. Improved dust management measures were recommended as conditions of consent.

**Johan Kristoffer Hansson**, Transportation and Design Work Group Manager for WSP in Tauranga, gave evidence on transport and traffic focussed on heavy vehicle distribution splits on SH2; increased heavy traffic on Pinnacle Hill Road; and safety issues at the SH2 intersection with McPherson Road. He was in broad agreement with the recommendations made by Naomi McMinn of Grey Matter for WaiDC. He did not agree that that an on-site weighbridge was necessary contending that the written record of extracted volumes and tonnages (as was required by another proposed condition of consent) was sufficient.

### **Submitters**

71. We received representations from the following submitters, all opposed to the expansion proposed:
  - Marilyn Thompson & Nigel Cowan, 40 McPherson Road.
  - Charlotte & Royce McCort, 217 Pinnacle Hill Road.
  - Marya Spencer & Jamie McKinstry, 209 Pinnacle Hill Road.
  - Belinda Duggan & Andrew James, 233B Pinnacle Hill Road.
  - David Phillips
72. Dr Paul Dutton and Matthew Vare appeared and gave evidence for WRC as a submitter.
73. We note that the matters raised had been addressed both by the applicant<sup>10</sup> and in the councils' s42A reports<sup>11</sup>, and are generally addressed in the discussion below.
74. The conclusion that those concerns either did not reach the required threshold of material adverse effect or were adequately addressed by the conditions proposed (either by the applicant or by the respective Councils) was not challenged by any contrary expert evidence.

### **Principal issues in contention**

75. In terms of section 104(1)(a) of the RMA regarding the actual and potential effects of allowing the activity on the environment, we note that many of the identified adverse effects were accepted by the reporting officers and Councils' technical reviewers as not being so significant that they are not able to be managed through conditions of consent and/or by operational management procedures and practices.
76. In that regard the expert evidence relating to dust, noise and vibration, traffic and their management was not largely contested (albeit not necessarily accepted by lay submitters such as Ms Thompson and Mr Cowan who spoke at length about dust nuisance at their property) and appropriate conditions of consent largely agreed with the respective councils.

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<sup>10</sup> Chhima, Statement of evidence, paras 38-53

<sup>11</sup> WaiDC, s42A report, section 7.0 and WRC, s42A report, section 10

77. While traffic related matters were initially in dispute between the applicant and WaiDC, particularly over intersection (SH2 / McPherson Road), pavement and heavy vehicle impact issues, a final set of agreed conditions was produced (including with Waka Kotahi NZTA), which we accept. We therefore see little point in canvassing the earlier dispute, and are grateful to Mr Hansson and Ms McMinn for their diligence in reaching that agreement.
78. We agree with the conclusions reached that any adverse effect on those matters will either be avoided, be negligible or minor with the mitigation measures proposed.
79. We agree with the s42A report that issues such as changes in property value fall outside an RMA consideration for reasons well settled in caselaw - in short, because those are a secondary reflection, if at all, of other adverse effects that we must consider such as visual amenity.
80. As previously noted, the key matters that were raised and addressed were;
- (a) Whether McPherson Quarry can rely upon existing use rights;
  - (b) Whether the groundwater effects are now appropriately addressed and can be managed;
  - (c) Whether the landscape assessment and treatment is sufficient;
  - (d) Whether the ecological and indigenous vegetation removal effects have been appropriately assessed and managed; and
  - (e) Whether the proposed conditions are sufficient and appropriate (including the heavy vehicle impact levy proposed by WaiDC).
81. We now consider the principal issues in contention identified above.

### **Existing use rights**

82. The applicant argued that it held existing use rights for the quarry and that these ought to be taken into account. It also argued that the panel should not consider the related historic removal of vegetation as that did not form part of the application.
83. WaiDC disagreed, noting that the activities over the period since 1997 (particularly) had changed in scale and degree beyond that ordinarily permitted as a natural expansion of an existing permitted activity. Ms Ridling records<sup>12</sup> that the 1981 quarry consent permitted the extraction of 2,000 tonnes per annum. That was evident in the growth in volumes extracted from that consented base gradually to the present 200-340,000 tonnes per annum<sup>13</sup>, and was specifically important in determining the proper baseline for any entitlement to remove indigenous vegetation (and therefore any requirement for that now to be consented both retrospectively and prospectively). A corollary to that is then the question as to what baseline requirement should be set for compensatory landscape or other planting.
84. We note that Ms Ridling addressed us formally on these matters by way of written legal

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<sup>12</sup> Legal submissions, dated 11 December 2020, para 35.

<sup>13</sup> McPherson, Statement of evidence, para 4.6

submissions as requested by us at the hearing, rejecting the applicant's arguments. Ms Ridling concluded her analysis on the historic vegetation matter by noting<sup>14</sup> that:

*In order to appropriately assess the actual and potential effects of the quarry, the panel must acknowledge that the current landscape and visual outlook of the quarry are only such because of the historic removal of vegetation.*

85. Ms Ridling also records<sup>15</sup> Ms Majoor's note that the Quarry was put on notice (orally it seems) by Franklin District Council in November 1999 that existing use rights would continue to apply as long as the quarry did not grow in intensity and no further complaints were received. We note that while the quarry at that time was managed by the McRobbie family – transferring to the McPhersons in 2009 – Stephen McPherson is specifically mentioned in that communication.
86. We agree that any existing use rights were effectively surrendered in the period following 1999, and the consequence of that is that the baseline for our consideration of landscape and visual effects must be the landscape and visual environment that existed at the point where the quarry exceeded those rights and permissions were required.
87. Without being unnecessarily pedantic, Ms Majoor took the pragmatic position that the critical date was 29 June 2011, at which point the relevant part 15.6 of the, now, ODP became operative requiring consent for the removal of indigenous vegetation (which had previously been permitted). Ms Ridling agreed, submitting<sup>16</sup> that:

*Because the applicant would have been required to obtain resource consent in order to remove any indigenous vegetation after 29 June 2011, the Council submits that it is appropriate for the panel to take into account the prior conduct of the applicant when considering their application.*

adding<sup>17</sup>:

*The applicant has removed indigenous vegetation without consent when consent was required and should, therefore, not benefit from that conduct by the removal not being addressed.*

### **Finding**

88. For present purposes we find that any existing use rights with regard to the nature and scale of the quarry activities were effectively extinguished on 29 June 2011 – and that date is the efficient baseline to which the present consent assessments should reference – as Ms Majoor has done.
89. For completeness we note that we have not involved ourselves in the question of the lawfulness or otherwise of any such vegetation removal – and note that Ms Lonnberg-Shaw's reference<sup>18</sup> to removal for health and safety at work reasons, while understandable, does not void any requirement for resource consents. However, that is not within our jurisdiction.

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<sup>14</sup> Ibid, para 13.

<sup>15</sup> Ibid, para 33 – ref WaiDC s42A report, page 104

<sup>16</sup> Ibid, para 18.

<sup>17</sup> Ibid, para 21.

<sup>18</sup> Lonnberg-Shaw, op cit, para 3.16.

90. For that reason we do not need to determine with undue precision the extent and amount of vegetation removed since 29 June 2011. Indeed, for some of the reasons stated by Ms Lonnberg-Shaw<sup>19</sup>, such an exercise relies upon untested assumptions in the absence of a reliable photographic and/or survey record. It is sufficient for our purpose to acknowledge that from both a landscape and an indigenous vegetation perspective, the existing environment that we must consider is not that at the date of lodgement of this application but, at the least, June 2011. We think it too artificial to regress the timeframe further – particularly as we understand many of the closer rural residential dwellings on Pinnacle Hill Road have established within the decade since.

### **Groundwater effects**

91. Two primary concerns arose regarding potential groundwater effects from the proposed quarry expansion.
92. The first concern was that expressed in the submission from a number of parties living or located at or occupying Heartland Farm, at 219 State Highway 2, regarding the potential impact of the proposed quarrying on the quality and quantity of flow from a spring at the property.
93. This matter was addressed in a report titled “Effects of McPherson Quarry Expansion on Groundwater” prepared by WGA, dated 19 November 2020. The conclusions of this report were that the spring on 219 SH2 is a discharge point for groundwater flowing within the shallow basaltic lavas to the southwest of the quarry, with recharge of the aquifer by rainfall on surficial basalts to the west of the spring. There is no evidence for a potential direct hydraulic connection between the greywacke at and adjacent to the quarry and the basalt aquifers. There is also no indication that the groundwater within the basaltic aquifer could potentially be derived from the greywacke aquifer in the vicinity of the quarry. The overall conclusion of the report was that the proposed expansion of the McPherson quarry will have less than minor effects on groundwater flows discharging from the spring on the property at 219 SH2.
94. The second concern was the potential for groundwater drawdown of greater extent and magnitude than currently occurs under surrounding hillsides and the effect of this on baseflows in streams adjacent to the quarry. This matter was not addressed in the AEE prepared prior to the hearing but has been addressed by way of reporting by WGA subsequent to the hearing. The evidence of Brett Sinclair, an experienced hydrogeologist, addressed the effects on stream baseflows from the proposed quarry, with no lowering of the pit floor below RL 40m. His evidence was that:
- (a) baseflows in the Western Stream would remain unchanged in Stages 1 and 2, and during Stage 3 are expected to decline by up to 3% from those currently experienced.
  - (b) baseflows in the Eastern Stream would reduce by less than 10% of the current estimated baseflow for Stages 1 and 2, with Stage 3 having no effect on baseflows in the Eastern Stream.

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<sup>19</sup> Ibid, paras 3.8 ff.



95. The above evidence of Mr Sinclair was an extension of his work on an updated assessment of the effects of Stage 1 only, with a pit floor at RL40m, on flows in the nearby streams. This was addressed in a report titled "Effects of McPherson Quarry Expansion Stage 1 on Stream Baseflows" prepared by WGA dated 3 May 2021, which found that baseflows in the Western Stream would remain unchanged and in the Eastern Stream would be reduced by up to 8%.
96. Waikato Regional Council's technical specialist Dr Sung Soo Koh advised in an email of 24 June 2021 that an 8% change in baseflows is close to the detectable limit and will be a small effect.

### **Findings**

97. We accept the WGA expert opinion and find that the proposed further stages of the quarry will not have any noticeable effect on the quality or quantity of flows in the spring on the property at 219 State Highway 2.
98. We also accept the expert opinion of Mr Sinclair and find that the effects of the proposed further stages of the quarry are likely to have a small effect on the Eastern Stream and a small but lesser effect on the Western Stream.
99. We turn now to the question of the potential for groundwater drawdown of greater extent and magnitude than currently occurs under surrounding hillsides and the effect of this on baseflows in streams adjacent to the quarry.
100. We note that condition 3 of the draft conditions proffered by the applicant for the stormwater discharge consent requires installation of and maintenance of an automated flow rate monitoring system on the Western Stream at points downstream from the areas where future stream depletion due to quarrying operations may actively occur but upstream from the quarry stormwater discharge points. The applicant's planner provided a note with that draft condition stating that as stream depletion for the Eastern Stream is small (if noticeable), monitoring of the Western Stream is sufficient to address potential effects.
101. We do not agree, and consider that as the Eastern Stream is predicted to have a larger decrease in baseflow than the Western Stream due to future quarrying, the automated flow monitoring system should be installed on the Eastern Stream, not the Western Stream. We have modified condition 3 accordingly.
102. In the final set of draft conditions proffered by the applicant for the stormwater discharge consent, the previously proposed condition 7 is deleted. This condition required that two years after the consent is activated, an assessment of base flows in the Eastern and Western Stream tributaries of the Waipunga Stream was to be undertaken, based on the stream flow data acquired since approval of the consent.
103. We do not entirely agree with deletion of this condition. There is sufficient uncertainty in the WGA assessments of depletion of baseflows in the adjoining streams that we consider it prudent to carry out an assessment of the baseflows in the Eastern stream to assess the likely extent of depletion due to future quarrying.
104. Accordingly, we have reimposed the previous draft condition 7, modified in recognition of the applicant's decision not to lower the quarry floor below existing level at 41m RL.

## Landscape and visual effects

105. Evidence about the landscape and visual effect on the existing environment was given by Mr Dave Mansergh. While he had not prepared the original effects assessment lodged with the application he had been engaged by the applicant following Mr May's review for WaiDC of the original WSP Opus 2018 report, and the detailed s92 further information request issued. Mr Mansergh also undertook an independent review of that report and found<sup>20</sup> similar deficiencies as those raised by Mr May. He agreed that Mr May's s92 request was therefore warranted and responded to that (and we note that this was for the original application which involved lowering the pit floor over the 3 stages to 0m RL).
106. Mr Mansergh identified<sup>21</sup> the key landscape and visual amenity features and attributes of the steep hill country, ridgelines and valleys associated with the south eastern extent of the Hunua Ranges (including Mt William) within which the quarry sits as:
- (a) Dominant ridgelines, spurs rolling topography and gentle foot slopes associated with the western extent of the Hunua Ranges;
  - (b) Existing SNA area, including native and exotic mature planting understorey growth;
  - (c) Clusters of forestry;
  - (d) Pastoral grazing land;
  - (e) Clusters of rural and rural residential dwellings, scattered farm utility buildings/sheds.
  - (f) Pinnacle Hill and Mt. William Summit, 2.5km gravel bush walk, including footbridges and stiles for access to the trig/summit;
  - (g) Panoramic Views over southern Auckland and Northern Waikato; and
  - (h) The existing quarry.
107. From his earlier Zone of Theoretical Visibility (ZTV) analysis and site investigation, the key findings noted in his s92 Response report<sup>22</sup> were:
- (a) *The theoretical visual catchment to the north of the application site is constrained by the location of the quarry and surrounding topography such as Mt. William;*
  - (b) *That existing vegetation surrounding the quarry, such as the SNA and vegetation surrounding roads and dwellings, plays an important role in further restricting views into the quarry;*
  - (c) *Views of the quarry will be restricted to 4km radius and available from roads such as SH2, McPherson Road, Irish Road, Baird Road, Pinnacle Hill Road, Dean Road, Hitchen Road & SH1.*
  - (d) *The proposed quarry expansion cannot be seen in its entirety from any one location;*
  - (e) *The lowest benches and working faces (views into the pit) of the various stages will be screened from many surrounding locations by existing topography;*

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<sup>20</sup> Mansergh, op cit, paras 21-22.

<sup>21</sup> Ibid, para 29.

<sup>22</sup> Ibid, Attachment A: s92 Report, para 44.

- (f) *Mt. William Summit will have the greatest proportion of the overall quarry visible at the one time.*
- (g) *Private locations immediately to the south and immediately north will have an increased visibility of the proposed expansion;*
- (h) *The expansion of stage 1 will be most visible from SH2 and Mt. William Summit;*
- (i) *The expansion of stage 2 will be most visible from SH2, Mt. William Summit and houses to the north;*
- (j) *The expansion of stage 3 will be most visible from Mt. William Summit and houses to the north.*

108. Mr Mansergh identified<sup>23</sup> the key components with the potential to affect landscape character and visual amenity as:

- (a) Removal of vegetation within the site;
- (b) Overburden stripping and removal of underlying brown rock material;
- (c) Overburden stockpiling;
- (d) Changes to the size and appearance of the benches within the quarry;
- (e) Movement of machinery within the site (including the visual intrusion from flashing safety beacons); and
- (f) Ecological restoration and mitigation planting.

109. The nature and significance of any effect would, he said, be influenced by:

- (a) The extent to which the existing topography and vegetation surrounding the site, screen the expansion from view from surrounding locations;
- (b) The sensitivity of the landscape to change;
- (c) The design and location of the pits and overburden disposal site;
- (d) Staging and the direction of quarrying; and
- (e) The proposed mitigation and restoration approach adopted

110. In summary, Mr Mansergh found that the quarry constituted part of the existing rural character and while visible from the main roads and local roads, the existing pit and lower benches were not visible from surrounding locations. Furthermore, the retention of existing vegetation (both within the SNA outside the quarry footprint and the existing pine trees along the northern boundary) would assist in screening the expansion. He noted that each stage would affect a different part of the visual catchment and that no single location would receive the effects of the entire expansion.

111. Mr Mansergh's overall conclusion<sup>24</sup> was that the changes to landscape character and visual amenity (under the original pit floor proposal) would be as follows:

- (a) Stage 1 will have a Low-Moderate adverse effect;
- (b) Stage 2 will have a Moderate adverse effect; and
- (c) Stage 3 will have a High adverse effect.

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<sup>23</sup> Ibid, paras 54-55.

<sup>24</sup> Ibid, para 113.

But, he noted, the rate of change would be gradual and that, in the round, with mitigation in place, the overall effect on the wider landscape would be in the low-moderate range and equate to a minor adverse effect overall.

112. Mr Mansergh accepted that several properties to the south and north of the site would be adversely affected and that the expansion would be “highly visible” from parts of the Mt William walkway (although expressing his opinion that over the intervening years it is likely that the vegetation within the Mt William Reserve will grow to a height that actually blocks views of the quarry from the walkway). He also acknowledged that evidence of quarrying would persist even after closure.
113. Following analysis and site visits Mr Mansergh concluded that properties from which the quarry expansion would be clearly visible included submitters 29 (Phillips) at 219 SH2, and 20 (Thompson/Cowan) at 40 McPherson Road. Others to the north and east of the quarry would experience effects caused by the lowering of ridgelines A and C<sup>25</sup>, he assessed those effects as being “just over the minor threshold”.
114. He concluded that with the originally proposed mitigation planting in place the three most affected properties would be:
  - (a) 209 Pinnacle Hill Road;
  - (b) 231 Pinnacle Hill Road; and
  - (c) 40 McPherson Road.
115. Accordingly, he recommended<sup>26</sup> an updated landscape mitigation plan to identify areas where planting is required to:
  - (a) Screen most of the working faces and stripped batter slopes above the quarry from view from dwellings located to the north and east of the application site (accessed from Pinnacle Hill Road).
  - (b) Screen the leading edge of the overburden disposal area from view from residential dwellings and SH2 to the south using fast growing exotic species;
  - (c) Ensure that overburden is shaped to integrate with the adjacent natural landform and progressively re-grassed; and
  - (d) Provide a landscaped buffer between the overburden disposal area and the stream (riparian and native planting).
116. We note that Mr May agreed<sup>27</sup> that, with one exception, Mr Mansergh’s assessment of the landscape and visual effects of the proposal, in the context of the existing environment, are accurate. The exception being a disagreement that the view west from 209 Pinnacle Hill Road could be sufficiently mitigated without altering the proposed area of extraction. Mr May also largely agreed with the conditions and mitigation proposed.

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<sup>25</sup> Mansergh, op cit, paras 82-84 (Figure 1 – Main Ridgelines).

<sup>26</sup> Ibid, para 100.

<sup>27</sup> May, Statement of evidence, para 5.8.

117. However, Mr May<sup>28</sup> criticised both the original WSP Opus report and Mr Mansergh for commencing their assessments on an incorrect baseline – i.e. on the existing quarry footprint etc. Mr May (and Ms Majoor) pointed out that the quarry’s existing use and/or consented rights were probably extinguished in the period 1994-1997 (and, as we have found, certainly in doubt by 2011). He therefore contended that the assessments should have taken into account baseline changes since that time, not since lodgement in 2018. This matter was relevant also to the question of mitigation and compensatory offsets for unauthorised historic indigenous vegetation removal.
118. In response to that criticism Mr Mansergh made a number of observations<sup>29</sup>:
- (a) retrospectively extrapolating a theoretical magnitude of change even with good information requires great care;
  - (b) there is a paucity of information relating to the landscape at the time (i.e. the late 1990s);
  - (c) digital aerials are not available for 1997; the closest found was from 2001;
  - (d) construction of the dwellings within the subdivision to the north commenced in 2012.
119. Mr Mansergh took that matter no further.
120. Following the adjournment and the applicant’s decision on the pit floor, we asked Mr Mansergh to review his evidence with respect to the landscape and visual effect of not lowering the pit floor below present level.
121. Mr Mansergh provided a second statement of evidence on 15 September 2021. In that he noted that the only location from which the change could be seen is from the Mt William Walkway, and while the retention of the pit floor would change the look of the quarry, it would not alter the overall visual effect. Furthermore, this change would only be visible during stage 3 when the intervening landform is removed. Mr Mansergh included a series of photomontages for the three stages from the Walkway illustrating the point.
122. Mr Mansergh confirmed his earlier conclusions, noting that, in his opinion<sup>30</sup>, *“the visual and landscape impacts of the proposal are acceptable and appropriate given the mitigation measures the Applicant is proposing.”*

### **Finding**

123. We find that the landscape and visual amenity effects of the expanded quarry will be noticeable but will be mitigated to a considerable degree from both private and public vantages both by strategic plantings but also by the passage of time – in that, the quarry will develop gradually, meaning that the overall effects will not be perceived as a sudden change at a single moment in time.

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<sup>28</sup> WaiDC s42A report, Appendix G – Visual and Landscape Review, 28 October 2020, section 1.1 ff; and May, op cit, paras 6.4-6.8.

<sup>29</sup> Mansergh, op cit, paras 122-126.

<sup>30</sup> Mansergh, Second Statement of evidence, para 9.

## Ecological and vegetation effects

124. Mr Choromanski conducted his ecological assessments based on EIANZ and EcIA guidelines, which were accepted as industry best practice by Dr Dutton and Mr Jonker (the councils' ecology experts).
125. Mr Choromanski noted that indigenous vegetation was localised in fragments across the proposed expansion site and would be affected in the 3 stages as follows:
- (a) Stage 1 – 2.18ha of largely mature kanuka with occasional successional trees species emerging from a thinning canopy, and with weed presence around the peripheries (within an identified Significant Natural Area).
  - (b) Stage 2 – dominated by pasture with small patches of kanuka, and miscellaneous mature totara, rimu, kahikatea, manuka and old pine trees.
  - (c) Stage 3 – primarily pasture with fragments of indigenous vegetation (manuka and silver ferns).
126. The identified overburden areas to the south of the site comprise mainly mixed pasture grasses and weeds.
127. In total the project would result in the following (without mitigation):
- The loss of 2.45 ha of kanuka dominated forest which is designated as a Significant Natural Area (SNA).
  - The loss of 311 m of permanent stream (Tributary 1).
  - The loss of three ponds (Pond 1, 2 and 3 - 0.99 ha).
  - The loss of habitat suitable for at risk bird species recorded on site – New Zealand Dabchick ('At Risk – recovering) and Black / little black shag ('At Risk – Naturally uncommon').
  - The loss of habitat suitable for long-tailed bats (Threatened -Nationally Critical).
  - The potential loss of indigenous lizard habitat (long grassland and the kanuka dominated forest).
  - Potential for indirect impacts on Waipunga Stream (Stream 1) through sediment discharge, which discharges into the Mangatawhiri River and then the Waikato River.
  - The loss of habitat supporting longfin eel ('At Risk – Declining') and the potential for indirect impacts on inanga ('At Risk – Declining) was recorded in Waipunga Stream (Stream 1).
128. With respect to relevant waterbodies and ponds affected by the proposed expansion, Mr Choromanski reported that:
- (a) the section of the Waipunga Stream at the southern extent of the site is assessed as having a high ecological function;

- (b) a second permanent stream, referred to as Tributary 1, flows out of the bush block at the south west of the site, thence via a wetland to the Waipunga Stream, and is assessed as being of low ecological value;
- (c) there are two wetlands along Tributary 1, degraded due to stock access, which are assessed as being of low ecological value;
- (d) there are three artificial ponds located within the quarry footprint all of which are assessed as being of low ecological value; and
- (e) there are two sediment treatment ponds, which are assessed as being of low ecological value.

129. Mr Choromanski also noted low utilisation of the site by bats (based on a three-week survey during a key time of year for bats); and while suitable lizard, skink and frog habitat exists, no native herpetofauna species were detected through survey or spotlighting.

130. In response the following was proposed:

- Nesting birds – avoidance through timing of vegetation clearance works or nesting bird checks prior to clearance.
- Lizards – resurvey prior to clearance of the kanuka dominated forest.
- Bat – resurvey prior to vegetation clearance and if bats are found to be present undertake appropriate preclearance checks of trees.
- Terrestrial habitat – plant a 5.895ha<sup>31</sup> indigenous ecological corridor (100m in width) between the two SNAs to the north of the quarry. Deliver pest control in this habitat.
- Freshwater habitat – creation of wetlands to compensate for the loss of open water (ponds) (1:0.5 ratio).
- Fish – salvage of fish from the ponds and Tributary 1 prior to and during dewatering.

131. The above is proposed to be further detailed and implemented by means of an approved Environmental Management Plan (incorporating Bat, Fish, and Lizard Management Plans).

132. Subject to fine tuning of conditions that was accepted by WRC's ecology peer reviewer, Lyndsey Smith, AECOM, following a number of s92 further information requests.

133. Mr Michiel Jonker, AECOM, undertook a further review for the councils<sup>32</sup> of ecological issues raised by submitters, in which further refinement of a requirement for an Ecological Management and Mitigation Plan (EMMP) are developed (also taking into account the more recently operative NPS-FM). That was largely agreed with Mr Choromanski<sup>33</sup>.

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<sup>31</sup> A 4.53ha corridor was originally proposed. The 5.895ha comprises 4.16ha in Stage 1, 0.37ha in Stage 3, and 1.365ha for historic vegetation removal.

<sup>32</sup> WRC s42A report, Appendix 1.

<sup>33</sup> Choromanski, Statement of evidence, Appendix A: Summary of Caucusing.

134. With respect to historical vegetation clearance, Mr Choromanski noted<sup>34</sup> that Ms Majoor had estimated that cumulatively across the site between 2002 and 2017 at 2.88ha as follows:
- (a) 0.56 ha of clearance 2002-2007;
  - (b) 0.32 ha of clearance 2007-2012; and
  - (c) 2.0 ha of clearance 2012-2017.
135. Ms Majoor had regressed that calculation to June 2011 concluding that this represented an area of approximately 1.95ha.
136. In response Mr Choromanski submitted that, should the Hearing Panel conclude that mitigation for such was required, it be addressed with offset planting at a ratio of 2:1, equating to approximately 0.975ha to be incorporated into the northern corridor.
137. In his evidence for WRC as a submitter, Dr Paul Dutton, a terrestrial ecologist, focused on the loss of 2.08 ha of kanuka dominated forest within the SNA and measures to mitigate/offset adverse effects on terrestrial ecology.
138. Dr Dutton disagreed with the applicant's characterisation of the SNA vegetation to be removed as "mature kanuka", determining that it was, in fact<sup>35</sup>, "advanced regenerating podocarp with kanuka" in a successional stage which, without clearance, would become "kauri, podocarp, tawa forest".
139. Dr Dutton was critical of the applicant's ecological reports for not providing robust methodology by which to assess the adequacy of the mitigation measures calculated and proposed – noting that "*biodiversity offsetting is always preferred over environmental compensation*" and questioning the sufficiency of the proposed mitigation / compensation ratio of 2:1 for removal of a 70 year old established ecosystem. He maintained that the time lag to achieve equivalent ecological functioning must be taken into account.
140. Dr Dutton also estimated<sup>36</sup> (using a compilation of aerial images 1942 – 2020 attached to his evidence) that the historical vegetation clearance since 2012 represented:
- ... approximately 2.0 ha on the eastern edge of the quarry was cleared. From 2017 until 2020 Kanuka scrub/forest (0.5ha) and mixed native/exotic shrublands have been cleared in the centre of the quarry along with recontouring of access roading in the east of the quarry causing further losses.*
141. Dr Dutton proposed amended and new conditions to tighten up the ecological compliance monitoring and adaptive management aspects.
142. Mr Matthew Vare, a senior policy advisor with WRC, gave policy evidence for WRC as submitter, on the "no net loss" policies of the RPS and the Waikato PDP, and the expectation for biodiversity offsetting<sup>37</sup>. Mr Vare questioned whether the application

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<sup>34</sup> Choromanski, op cit, para 6.3.

<sup>35</sup> Dutton, Statement of evidence, para 3.1.

<sup>36</sup> Dutton, op cit, para 5.3.

<sup>37</sup> Vare, Statement of evidence, section 3 – Indigenous Vegetation Clearance and RPS Objectives, Policies and Methods.



gave effect to the offset / mitigate/compensate hierarchy as is required. Further conditions were proposed to address the risk of kauri dieback disease – which are accepted by the applicant.

### **Finding**

143. We find that the adverse ecological effects will reduce to minor over time with the mitigation and conditions imposed.

### **Conditions**

144. The majority of the conditions for both the territorial and regional consents were agreed by the close of the hearing. Where appropriate we have ensured that conditions that are common to both councils are similarly framed to avoid any subsequent confusion or enforcement problem.
145. In that regard we note that agreement appeared to be eventually reached as to how the Heavy Vehicle Impact Fee required by WaiDC was to be calculated and the quantum now required, and that is expressed in conditions 55-57.
146. However, we note that Mr Mulligan in his 20 August 2021 reply submissions appeared to point in a contrary direction<sup>38</sup> submitting that no (or a significantly reduced) levy should be imposed because sufficient credit had not been accorded the SH2/McPherson Road upgrade and an appropriate discount given for an up-front payment.
147. We assume that by the time the final set of draft conditions was provided on 20 September 2021, Mr Mulligan's concern had been resolved in the condition proposed and that we accept.
148. The key disagreements related to:
- (a) The time within which certain management plans should be provided, including
    - (i) The Site Management Plan and its suite of sub-management plans including;
      - a. Overburden Management Plan;
      - b. Quarry Circulation and Loading Management Plan; and
      - c. Dust Management Plan.
    - (ii) The requirement to update the Conceptual Site Closure Plan (CSCP) and Site Rehabilitation Plan (SRP) every five years;
    - (iii) Whether a Community Liaison Group is required.

### **The Management Plans**

149. In dispute regarding the management plans is the time within which the plans identified above are to be produced to council post resource commencement. The applicant

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<sup>38</sup> Mulligan, Submissions of counsel, para 42(k).

sought a 6 month period within which to produce those plans; councils sought a 2 month period.

150. The Councils argued that as the quarry was already operational, drafts of those plans ought already to be in hand – this is not a situation where the activity is still to commence.
151. The applicant's response was that where draft plans are to hand the 2 month requirement has been accepted. However, drafts for the identified plans are not ready.
152. We agree with the councils' position in principle. However, there seems little point in imposing a condition that, if the applicant's statement is true, will inevitably result in non-compliance. We therefore impose the 6-month period sought but strongly urge the applicant / consent holder to work to produce those expeditiously (noting that the requirement is to produce *within* 6 months).
153. We also note a slight disagreement as to which council should certify which plans – particularly those where the function is not clearly one or other such as the EMMP (in which case Ms Majoor suggested both councils should approve the SQEP and plan because both administer different "effects". We also note that Ms Lonnberg-Shaw indicated the applicant's preference for a single set of plans covering the entire quarry operation – which we agree is sensible. As such we are confident that between the three agents an appropriate allocation of certification responsibility can be determined without the need for us to particularise the details. It is sufficient for our purpose to require certification and we have indicated that under the requisite consents.

### **Updates**

154. The applicant disagreed<sup>39</sup> with the proposed requirement to update the specified plans every 5 years, arguing that until one gets much closer to the end of the final stage, any such plans would be speculative and there is a risk of confusion as to which plan applies given that there could be up to 9 such plans over the consented life of the quarry.
155. We acknowledge the applicant's reasoning but point out that the degree of speculation will obviously reduce in each successive period of 5 years – and if nothing material has changed in that interval then the update will be minimal. Furthermore, we would expect the plans to anticipate the prospect of closure at the end of each stage as a contingent possibility. That, it seems to us, would represent prudent management.
156. We impose the requirement sought by the Councils.

### **Community Liaison Group**

157. A Community Liaison Group (CLG) was recommended by WaiDC but deleted by the applicant. The applicant argued<sup>40</sup> that this was not necessary as the quarry was a small family operation with an existing relationship with the immediate neighbours and a formal complaints mechanism was anticipated. No obvious benefit was therefore apparent.

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<sup>39</sup> Lonnberg-Shaw, op cit, para 3.28.

<sup>40</sup> Ibid, paras 3.30-3.33.

158. While there can, of course, be no guarantee that the quarry will remain in the ownership and / or operational management of the present applicants throughout its consented life – and therefore pleading of existing relationships only goes so far – the need for any such formal grouping essentially applies in the immediate years. After that any newcomer to the area does so in the clear knowledge of the quarry and its future consented activity.
159. We note that there was some support from submitters for a CLG-type group but we note that public agencies, who would be the other identified participants, do not require such a group to fulfil their respective functions.
160. In our view the immediate issues likely to arise are quite specific – related mainly to nuisance effects. Those are readily managed through standard complaints processes. The longer term issues are more likely to revolve around the various management plans, and the extent to which the neighbourhood is consulted in the development of those is a matter for both the applicant and the councils to determine. It is not an opportunity for re-litigation by opposed parties, which would be the risk if a CLG was provided with that brief.
161. We therefore accept that a CLG is not necessary at this point in time – but could, of course, be introduced by condition review in future if a need or desirability for such becomes apparent. We anticipate that the formal complaints mechanism will provide both a sufficient first line of concern and the register an efficient means through which issues can be raised and conditions can be reviewed as necessary. There is, of course, nothing to prevent either the applicant or councils consulting the immediate community of interest on relevant matters.
162. No other condition issues remained in contention between the applicant and WRC.

### **Finding**

163. We find that the conditions as recommended for adoption, and as amended by us, are appropriate and accord with sections 108 and 108AA RMA.
164. For the record, we also agree with Mr Rodriguez<sup>41</sup> that the restriction on granting a discharge consent imposed by s107 RMA is not engaged as the stated effects will not eventuate with the conditions imposed. For similar reasons s105 RMA is satisfied.

### **Section 104, 104D and Part 2 RMA**

165. We confirm that we have considered the matters required under s104 and s104D of the RMA. As discussed above we have concluded that the actual and potential effects on the environment of allowing the activity can be managed appropriately and the activity is appropriate in the rural zone.
166. We acknowledge that the removal of SNA vegetation and diversion of water from Tributary 1 at Wetland 1 (the efficient reason for the non-complying activity statuses) are adverse effects – and therefore those effects on the environment must not be more than minor or the activity not be contrary to the objectives and policies of the relevant

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<sup>41</sup> Rodriguez, op cit, page 45, section 6.5.

plans under s104D RMA. In making that determination the mitigation proposed is to be taken into account and, on that basis and in light of the weight of evidence accepted, we are satisfied that both the activity of quarrying in a rural zone is not contrary those relevant provisions and the *relevant* adverse effects are minor in context.

167. As covered in the respective s42A reports and the applicant's application documentation and evidence, the application satisfies the various statutory planning provisions in the round – and that was not in dispute.
168. No s6 RMA matters of national importance or s8 (Treaty of Waitangi principles) were identified as being directly engaged by this application.
169. We note that Ngati Tamaoho and Ngati Te Ata had both prepared comprehensive Cultural Values Assessments<sup>42</sup> noting that the site sits within a significant cultural landscape but which were generally supportive of the application subject to a number (11) of recommended conditions. We understood that the applicant accepted those recommendations<sup>43</sup> which, to the extent practicable, have been included in the respective conditions of consent; and, as noted by Mr Rodriguez<sup>44</sup>:

*In my opinion, the measures proposed by the applicant in terms of fencing and planting of riparian margins, the enhancement of wetlands and the creation of a natural corridor, the proposed activities will contribute toward the betterment of the Waikato River.*

170. Of the s7 RMA other matters to which particular regard is to be had, we consider the following relevant:
- (b) the efficient use and development of natural and physical resources;
  - (c) the maintenance and enhancement of amenity values; and
  - (f) maintenance and enhancement of the quality of the environment.
171. Those matters were rehearsed in the respective documentation, submissions and evidence and regard to them has been had in this decision.
172. Furthermore, while we accept that quarrying by its very nature will change the landscape, often dramatically, that is not, in itself, a reason for declining consent in terms of section 5 RMA.
173. When put into the wider context of the Part 2 sustainable management purpose of the RMA and the function of both regional and territorial authorities, we are satisfied that the application will promote the sustainable management purpose of the RMA and will not adversely affect the health and safety and/or wellbeing of residential neighbours and road users, as all relevant residual adverse effects can be managed and will be mitigated.

## Duration for Regional Consents

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<sup>42</sup> WaiDC s42A report, Appendix Q.

<sup>43</sup> See for example, WaiDC s42A report, para 325.

<sup>44</sup> WRC s42A report, section 6.3, page 45.

174. The applicant sought terms of 20 years for the WRC resource consents. That was supported by WRC and we see no good resource management reason not to impose those same terms.

## **Decision**

175. In exercising our jointly delegated authority under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, 104A-D, and sections 105 and 107, and Part 2 of the RMA, the application to expand and continue to operate the mineral extraction activities at the McPherson Quarry with associated overburden removal and placement, deposition of cleanfill and vegetation clearance of an Identified Significant Natural Area in the Rural Zone, and including all related water, earthworks, discharge and diversion activities requiring regional consents, at 47 McPherson Road and 93 Irish Road, Mangatawhiri, is granted for the reasons discussed in this Decision (and as summarised below) and subject to the conditions attached as Schedules 1 (WRC) and 2 (WaiDC).

## **Summary reasons for the decision**

176. After having regard to the actual and potential effects on the environment of allowing the proposed activity and taking into account the relevant statutory and statutory plan provisions, we find that consents for the proposed activity should be granted for the reasons discussed throughout this decision and, in summary, because:
- (a) The adverse landscape, visual and rural amenity effects of the proposed activity on rural residential neighbours and the general public will be noticeable from various vantage points but their severity will reduce as the treatments proposed mature. As with all projects of this nature those effects move through grades of significance but will, in the main, be predictable and range between moderate to minor.
  - (b) The entrance / access and traffic concerns have been sufficiently resolved, and are subject to additional conditions, such that we are satisfied that they can be appropriately managed.
  - (c) Quarry construction effects can be contained within the large site.
  - (d) With the mitigation imposed, and acknowledging that vegetation disturbance and a degree of sedimentation is an inevitable outcome with quarrying, there will be no significant adverse effects on any significant natural resources.
  - (e) The activity is broadly consistent with the relevant statutory planning instruments and their provisions.
  - (f) Granting consent is consistent with promoting the sustainable management purpose and principles of Part 2 of the RMA, and the relevant provisions of the statutory plans.
  - (g) Granting consent will enable a further appropriate use of the rock resource and provide economic benefit at both local and wider level.

A handwritten signature in black ink, appearing to read 'David Hill', with a large, sweeping initial 'D'.

**David Hill**

**Chair**

**Independent Hearing Panel**

**and for Commissioners Nigel Mark-Brown and Melissa King - Howell**

**Date:** 22 October 2021

**Schedule 1**  
**Waikato Regional Council**  
**Conditions of Consent**

# RESOURCE CONSENT CERTIFICATE

**Resource Consent:** AUTH137612.01.01

**File Number:** 60 04 84A

*Pursuant to the Resource Management Act 1991, the Regional Council hereby grants consent to:*

McPherson Resources Limited  
C/- Michael McPherson  
47 McPherson Road  
RD 1  
Pokeno 2471

(hereinafter referred to as the Consent Holder)

**Consent Type:** Discharge Permit

**Consent Subtype:** Water - other

**Activity authorised:** To discharge stormwater

**Location:** McPherson Rd - Pokeno

**Map reference:** NZTM 1781144 E 5879449 N

**Consent duration:** This consent will commence on the date of decision notification and expire on 31 December 2041.

**Subject to the conditions overleaf:**



## **CONDITIONS**

1. The Consent Holder shall ensure that the works and activities authorised by this resource consent are carried out in accordance with the conditions as set out in Schedule One – General Conditions.

### **Rainfall**

2. Within two months of the commencement of this consent, at a location onsite that will experience wind and rainfall patterns that are representative of the site environs, the consent holder shall install and maintain equipment that accurately monitors and records:
  - a) Wind speed and direction. The wind speed and direction sensors shall be automated have minimum stall and start speeds of 0.5 metres per second. The meteorological station shall be serviced and maintained at least annually and in accordance with the manufacturer's instructions. A log shall be maintained of the meteorological data recorded under this condition. The log shall be made available to the Waikato Regional Council on request.
  - b) Rainfall. The rainfall gauge shall be automated and shall record rainfall data on a daily basis. The consent holder shall keep accurate records of daily rainfall data.

### **Water Flow Monitoring**

3. Within two months of the commencement of this consent the consent holder shall install and maintain an automated flow rate monitoring system on the Eastern Stream at points downstream from the areas where future stream depletion due to quarrying operations may actively occur but upstream from the quarry stormwater discharge points.
4. Within two months of the commencement of this consent an automated flow rate monitoring system shall be installed on each treated stormwater discharge line from the quarry, downstream from the final sediment retention device on each discharge line. When any new treated stormwater discharge line is established, an automated flow rate monitoring system shall be installed on the discharge line, downstream from the final sediment retention device, prior to the start of discharge through this line.
5. Each water flow monitoring system provided for under Conditions 3 and 4 is to measure and record flows at 15 minutes intervals. Each flow monitoring system must have a reliable calibration to water flow and must be maintained to an accuracy of better than +/- 5%. Within three months of the grant of this consent, evidence of calibration to an accuracy of better than +/- 5 percent must be provided in writing to WRC.
6. Additional calibration of the water flow measuring system required by Condition 2 must be undertaken by the consent holder:
  - a) at the written request of WRC;
  - b) at a frequency of no less than five yearly from the date that evidence of calibration to an accuracy of +/- 5 percent has been provided to WRC pursuant to condition 4;
  - c) to the satisfaction of WRC.
  - d) Evidence documenting each respective additional calibration must be forwarded to WRC within one month of the calibration being completed.

7. The Consent Holder shall undertake an assessment of base flows in the Eastern Stream tributary the Waipunga Stream, based on the stream flow data acquired since approval of this consent. This assessment shall be carried out before the end of Stage 1 and before the start of Stage 2. It shall include an updated assessment of potential stream depletion arising from the expansion of the quarry and the consequent effects on stream base flows. A report documenting this assessment and the outcomes shall be submitted to the Waikato Regional Council. At a minimum, this report shall document:
- a) Base flows in the Eastern Stream prior to any effects from the proposed quarry expansion.
  - b) The effects of the quarry expansion on flows in the Eastern Stream flows, with the effects linked to the extent of quarry expansion since commencement of the consent; and
  - c) Appropriate mitigation measures, to ensure the base flows in the Eastern Stream and the Western Stream are not reduced by more than 10% as a result of the planned quarry development.

### **Water Quality and Sampling**

8. The Consent Holder shall measure the suspended solids concentration and turbidity at the sampling locations:
- a) At a point on the Waipunga Stream (also called the Western Stream) upstream from any quarry water discharges.
  - b) At a point on the treated quarry water discharge line prior to entering the receiving stream but after passing through the site stormwater treatment system.
  - c) At a point on the Waipunga / Western Stream no less than 30 metres downstream of the final discharge
9. Sampling required in condition 8 shall be undertaken where there is a rainfall event of greater than 15 millimetres in the preceding 24 hours. The Consent Holder shall within four hours of the rainfall reading being taken, measure the suspended solids concentration and turbidity at the discharge points specified in condition 8. Results shall be forwarded to the Waikato Regional Council on a monthly basis.
10. Within two working days of taking any samples required, the consent holder shall have those samples analysed for suspended solids and turbidity and, pH, and soluble aluminium. The results of the analysis shall be forwarded to the Waikato Regional Council within 7 days of the consent holder receiving results of the analysis.
11. The discharges to the Waipunga Stream shall be managed such that:
- a) Suspended solids concentrations in the discharge shall not exceed 150 g/m<sup>3</sup>;
  - b) The cumulative quarterly sediment load shall not exceed the background level (on a per hectare basis); and
  - c) the discharge shall not result in any conspicuous change in the clarity of the water in the receiving Waipunga Stream from upstream to downstream of the quarry stormwater discharge after reasonable mixing.
12. The Consent Holder shall ensure that:
- a) the soluble aluminium concentration of any sediment retention pond discharge shall not exceed 0.1 grams per cubic metre; and

- b) the pH of any sediment retention pond discharge shall not be less than 6.5 or greater than 8.0 pH units.
13. All earthmoving machinery, pumps, generators and ancillary equipment shall be operated in a manner, which ensures spillages of fuel, oil and similar contaminants are prevented, particularly during refuelling and machinery servicing and maintenance. Refuelling and lubrication activities shall be carried out away from any water body, ephemeral water body, or overland flow path, such that any spillage can be contained so that it does not enter surface water and in accordance with the Hazardous Substances and Spill Prevention Plan.
14. The Consent Holder shall notify the Waikato Regional Council as soon as practicable and as a minimum requirement within 24 hours, of the Consent Holder becoming aware of the limits specified in condition 11 and 12 of this resource consent being exceeded. The Consent Holder shall, within 7 days of the incident occurring, provide a written report to the Waikato Regional Council, identifying the exceedance, possible causes, steps undertaken to remedy the effects of the incident and measures that will be undertaken to ensure future compliance.

### **Flocculation**

15. Within two months of the consent being granted, the consent holder shall provide the Waikato Regional Council with an updated Flocculation Management Plan (FMP). The FMP shall be submitted to the Waikato Regional Council for approval – acting in a technical certification capacity - prior to bulk earthworks commencing. The FMP shall include as a minimum:
- a) An analysis identifying which ponds require flocculation, this analysis taking into account;
    - (i) The soil's reactivity to flocculants based on soil tests;
    - (ii) The size of the contributing catchment that the pond is treating; and,
    - (iii) The likely duration of the ponds use.
  - b) Specific design details of the flocculation system;
  - c) Monitoring (including pH and any other testing procedures), maintenance (including post-storm) and including a record system;
  - d) Details of optimum dosage (including assumptions);
  - e) Results of any initial flocculation trial; and,
  - f) Contact details of the person responsible for the operation and maintenance of the flocculation treatment system and the organisational structure to which this person shall report.
16. The consent holder shall undertake all activities authorised by this consent in accordance with the certified FMP and any certified changes.

### **Sediment Deposition Monitoring Plan**

17. Within six months of commencement of this consent, the consent holder shall provide the Waikato Regional Council with a draft **Sediment Deposition Monitoring Plan (SDMP)** for certification. The purpose of this plan is to outline the specific monitoring and mitigation measures that will be implemented throughout the duration of this consent to identify, respond to and mitigate for any potential sediment deposition effects occurring within Waipunga Stream a result of the site earthworks activities on site. The SDMP shall include at least the following:
- a) Specific surveillance and monitoring methods to be implemented during the earthworks to identify any potential areas of sediment deposition occurring as a result of the site earthworks activities (e.g post rainfall/discharge inspections);

- b) Where any sediment deposition effects are identified, methods for measuring and quantifying the depth and extent of these effects;
- c) Trigger levels for implementing further investigation and assessment of sediment deposition effects;
- d) Where identified triggers are breached, methods for investigating and assessing the effects of sediment deposition;
- e) Methods to mitigate or environmentally compensate or offset for adverse effects that cannot be avoided or remedied in accordance with Condition 17(b).
- f) Methods to compile the monitoring information including the suspended solids and/or turbidity autosampler results and calculate the quarterly cumulative sediment load from the area and activities subject to this resource consent. Timeframe for the provision of the quarterly cumulative sediment load calculations to be on no less than an annual basis. If requested in writing by the Waikato Regional Council, the measures to calculate the quarterly cumulative sediment load shall include;
  - i. The use of autosamplers which collect real time turbidity readings of the discharge at each of the final sediment retention device outlets;
  - ii. Methods to estimate a correlation between suspended solids and turbidity;
  - iii. Flow rate meters fitted to each of the final sediment retention device outlets to measure water volumes discharged.
  - iv. Methodology to estimate the discharge of sediment over each sediment retention structure emergency spillway.

The SDMP shall be prepared by a suitably qualified ecologist and approved in writing by the Waikato Regional Council acting in a technical certification capacity. The consent holder shall implement the SDMP as required over the duration of the earthworks.

18. In the event that the trigger levels in the SDMP are breached and/or the cumulative quarterly sediment load is greater than background levels (measured on a per hectare basis), the consent holder shall implement the following measures:
  - a) The consent holder shall immediately implement measures to the satisfaction of the Waikato Regional Council to repair, modify or upgrade the site erosion and sediment control measures and shall amend the E&SCP (if required) to prevent any ongoing sediment deposition effects;
  - b) The consent holder shall prepare a **Sediment Deposition Mitigation Plan** prepared by a suitably qualified ecologist outlining proposed ecological mitigation measures that will be implemented to offset any adverse sediment deposition or cumulative annual sediment discharge effects occurring as a result of the site earthworks activities. The ecological mitigation measures shall be commensurate to the identified scale of any offsite sediment discharges and sediment deposition effects occurring and shall comprise measures which contribute to the maintenance or enhancement of the ecological values of the Waipunga Stream.

The Sediment Deposition Mitigation Plan shall be submitted to the Waikato Regional Council for certification within two months of confirmation of the adverse sediment deposition effects occurring and shall be implemented in accordance with the timeframes specified within the certified Sediment Deposition Mitigation Plan.

19. The Waikato Regional Council may engage a suitably qualified and experienced person (at the cost of the consent holder) to monitor compliance with the approved SDMP and undertake a peer review of the cumulative sediment load assessment of effects and proposed mitigation measures.

*In terms of s116 of the Resource Management Act 1991, this consent commences on \_*

#### **Advice Notes - General**

- In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
- This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
- This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA). The transfer of water, including changes of location, may occur as provided for in Chapter 3.4 of the Waikato Regional Plan, subject to the requirements of those rules.
- The consent holder may apply to change the conditions of the resource consent under s.127 RMA.
- The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
- Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
- If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.

# RESOURCE CONSENT CERTIFICATE

**Resource Consent:** AUTH137612.02.01

**File Number:** 60 04 84A

*Pursuant to the Resource Management Act 1991, the Regional Council hereby grants consent to:*

McPherson Resources Limited  
C/- Michael McPherson  
47 McPherson Road  
RD 1  
Pokeno 2471

(hereinafter referred to as the Consent Holder)

**Consent Type:** Water Permit

**Consent Subtype:** Surface water take

**Activity authorised:** To take surface water

**Location:** McPhersons Rd - Pokeno

**Map reference:** NZTM 1781144 E 5879449 N

**Consent duration:** This consent will commence on the date of decision notification and expire on 31 December 2041.

**Subject to the conditions overleaf:**

## CONDITIONS

1. The Consent Holder shall ensure that the works and activities authorised by this resource consent are carried out in accordance with the conditions as set out in Schedule One – General Conditions.
2. The water taken pursuant to this consent must only be taken from the pit and used for the following purposes:
  - a) suppressing dust;
  - b) augmenting the volume of water stored in the quarry pit and/or any off-stream storage system.
3. The instantaneous take rate must not exceed 20 litres per second.
4. The daily take volume must not exceed 430 cubic metres.

### **Advice Note**

*This surface water take is categorised as a zero net take in the Waikato Regional Council ("WRC") water allocation calculator. The rationale for this categorisation is set out in a memo – identifier 15731323 – stored in the WRC document management system.*

5. A water measuring system must quantify water taken from the take location on a continuous basis. The system must have a reliable calibration to water flow and must be maintained to an accuracy of +/- 5%. Within three months of the grant of this consent, evidence of calibration to an accuracy of +/- 5 percent must be provided in writing to WRC.
6. Additional calibration of the water measuring system required by condition 5 must be undertaken by the consent holder:
  - a) at the written request of WRC;
  - b) at a frequency of no less than five yearly from the date that evidence of calibration to an accuracy of +/- 5 percent has been provided to WRC pursuant to condition 5;
  - c) to the satisfaction of WRC.
  - d) Evidence documenting each respective additional calibration must be forwarded to WRC within one month of the calibration being completed.
7. The consent holder must maintain at all times a minimum flow of at least 1.5 litres per second in the Waipunga Stream immediately downstream of the settling pond treatment system by lawfully and continuously discharging water at this location.
8. The consent holder must operate a reliable flow calibrated system for managing the exercise of this consent in accordance with condition 5.
9. The consent holder must telemeter – via a telemetry system that is compatible with WRC telemetry system standards and data protocols – continuous 15 minute values of:
  - a) take volume from the quarry pit (in units of cubic metres);
  - b) discharge volume from the settling pond treatment system into the Waipunga Stream.

### **Advice Note**

*These data must be reported once daily to WRC via the telemetry system. For data (a) and (b) there must be 96 values, respectively, per daily report. When no water is being taken from the quarry pit the data must specify the take volume as zero.*

10. Any intake must be screened with a mesh aperture size not exceeding 3 millimetres by 3 millimetres (or 3 millimetre diameter holes).
11. The velocity of water through any intake screen must not exceed 0.3 metres per second at all times. If requested by WRC, the consent holder must provide information on how this velocity requirement is achieved.
12. At any time during the period July through September, inclusive, WRC may, following service of notice on the consent holder, commence a review of the conditions of this consent pursuant to section 128(1) of the Resource Management Act 1991 for the following purposes:
  - a) to review the effectiveness of the conditions of this consent in avoiding or mitigating any adverse effects on water resources or persons from the exercise of this consent and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions;
  - b) to review the adequacy of and the necessity for monitoring undertaken by the consent holder;
  - c) to review the appropriateness of any take rate and/or volume specified in this consent and, if necessary, to address any inappropriateness of any rate and/or volume by way of reducing any rate and/or volume.
  - d) to review the appropriateness of the minimum flow rate specified in this consent and, if necessary, to address any inappropriateness of the minimum flow rate by way of increasing the minimum flow rate.

*In terms of s116 of the Resource Management Act 1991, this consent commences on \_*

#### **Advice Notes - General**

- In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
- This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
- This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA). The transfer of water, including changes of location, may occur as provided for in Chapter 3.4 of the Waikato Regional Plan, subject to the requirements of those rules.
- The consent holder may apply to change the conditions of the resource consent under s.127 RMA.



- The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
- Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
- If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.

# RESOURCE CONSENT CERTIFICATE

**Resource Consent:** AUTH137612.03.01

**File Number:** 60 04 84A

*Pursuant to the Resource Management Act 1991, the Regional Council hereby grants consent to:*

McPherson Resources Limited  
C/- Michael McPherson  
47 McPherson Road  
RD 1  
Pokeno 2471

(hereinafter referred to as the Consent Holder)

**Consent Type:** Land Use Consent

**Consent Subtype:** Land - disturbance

**Activity authorised:** Earthworks and vegetation clearance in High Risk Erosion Areas in association with the operation of McPherson Quarry

**Location:** McPhersons Rd - Pokeno

**Map reference:** NZTM 1781144 E 5879449 N

**Consent duration:** This consent will commence on the date of decision notification and expire on 31 December 2041.

**Subject to the conditions overleaf:**

## CONDITIONS

1. The Consent Holder shall ensure that the works and activities authorised by this resource consent are carried out in accordance with the conditions as set out in Schedule One – General Conditions.

### Erosion and Sediment Control Plan

2. The consent holder shall provide an updated **Erosion and Sediment Control Plan** (E&SCP) to the Waikato Regional Council within two months of commencement of consent for review and approval – acting in a technical certification capacity. The E&SCP shall as a minimum be based upon and incorporate all the relevant principles and practices for the activity authorised by this consent and contained within the Waikato Regional Council document titled “Erosion and Sediment Control – Guidelines for Soil Disturbing Activities” (Technical Report No. 2009/02 – dated January 2009), and shall include, but not be limited to, the following;
  - a) Details of all principles, procedures and practices that will be implemented to undertake erosion and sediment control to minimise the potential for sediment discharge from the site, including flocculation if required;
  - b) The design criteria and dimensions of all key erosion and sediment control structures;
  - c) A site plan of a suitable scale to identify;
    - i. The locations of waterways;
    - ii. The extent of soil disturbance and vegetation removal;
    - iii. Any “no go” and/or buffer areas to be maintained undisturbed adjacent to watercourses;
    - iv. Areas of cut and fill;
    - v. Locations of topsoil stockpiles;
    - vi. All key erosion and sediment control structures;
    - vii. The boundaries and area of catchments contributing to all stormwater impoundment structures;
    - viii. The locations of all specific points of discharge to the environment;
    - ix. The location and details of stream stabilisation works in areas of damming, diversion or clearing; and,
    - x. Any other relevant site information.
  - d) Construction timetable for the erosion and sediment control works and the bulk earthworks proposed;
  - e) Timetable and nature of progressive site rehabilitation and re-vegetation proposed;
  - f) Maintenance, monitoring and reporting procedures;
  - g) Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures;
  - h) Procedures and timing for review and/or amendment to the erosion and sediment control measures listed in the E&SCP; and,
  - i) Identification and contact details of personnel responsible for the operation and maintenance of all key erosion and sediment control structures.

## **Erosion and Sediment Control**

3. The works authorised by this consent shall be undertaken in such a manner so as to avoid causing any new or exacerbating any existing flooding effects on adjacent land.
4. All disturbed or cut vegetation, soil or debris shall be deposited or placed in a position where it will not enter any water body or cause diversion, damming or erosion of any waterway.
5. The consent holder shall ensure that, as far as practicable, all clean water run-off from stabilised surfaces including catchment areas above the site shall be diverted away from the exposed areas via a stabilised system to prevent erosion. The consent holder shall also ensure the outfall(s) of these systems are protected against erosion.
6. The consent holder shall ensure that all erosion and sediment control structures are inspected on a weekly basis and within 24 hours of each rainstorm event that is likely to impair the function or performance of the controls. A record shall be maintained of the date and time of inspections undertaken, any maintenance requirements identified, and of maintenance undertaken to all erosion and sediment control structures. Records associated with the maintenance of all erosion and sediment control structures shall be made available to the Waikato Regional Council at all reasonable times.
7. Within two months of the commencement or within two weeks of any changes to the Erosion and Sediment Control Plan being implemented, the consent holder shall, submit to the Waikato Regional Council "As Built Certification Statements" signed by an appropriately qualified and experienced professional certifying that erosion and sediment control structures have been constructed in accordance with the certified SMP. Certified controls shall include clean water diversion channels/bunds, sediment retention ponds and decanting earth bunds. The As Built Certification Statements shall be supplied to the Waikato Regional Council within 7 working days of the completion of the construction of those controls. Information contained in the certification statement shall include at least the following:
  - a) Confirmation of contributing catchment areas;
  - b) the location, capacity and design of each structure;
  - c) position of inlets and outlets;
  - d) stability of structures;
  - e) measures to control erosion; and
  - f) any other relevant matter.

### **Advice Note**

*An example template and the information required for the As Built Certification Statement can be found on the Waikato Regional Council website [www.waikatoregion.govt.nz/earthworks](http://www.waikatoregion.govt.nz/earthworks).*

## **Winter Works**

8. Earthworks in High Risk Erosion Areas (including stripping) shall not be conducted during the period 1 May to 30 September inclusive during any year that this consent is current, apart from necessary maintenance works, unless agreed to in writing by the Waikato Regional Council.

9. Requests to undertake earthworks in High Risk Erosion Areas during the period 1 May to 30 September inclusive, for any year that this consent is current, shall be submitted in writing to the Waikato Regional Council by 1 April.

**Advice Note**

*In considering a request for the continuation of winter earthworks, the Waikato Regional Council will consider a number of factors; including:*

- *The nature of the site and the winter soil disturbance works proposed;*
- *The quality of the existing/proposed erosion and sediment controls;*
- *The compliance history of the site/operator;*
- *Seasonal/local soil and weather conditions;*
- *Sensitivity of the receiving environment; and*
- *Any other relevant factor.*

**Site Stabilisation and Removal of Controls**

10. The removal of any erosion and sediment control measure from any area where soil has been disturbed as a result of the exercise of this consent shall only occur after consultation with, and written approval has been obtained from, the Waikato Regional Council - acting in a technical certification capacity. In this respect, the Waikato Regional Council will need to be satisfied as to:
  - a) The quality of the soil stabilisation and/or covering vegetation;
  - b) The quality of the water discharged from the rehabilitated land; and,
  - c) The quality of the receiving water.
11. The consent holder shall ensure those areas of the site where earthworks have been completed are stabilised against erosion as soon as practically possible and within a period not exceeding 14 calendar days after completion of any works authorised by this consent. Stabilisation shall be undertaken by providing adequate measures (vegetative and/or structural) that will minimise sediment runoff and erosion to the satisfaction of the Waikato Regional Council - acting in a technical certification capacity.
12. Re-vegetation and/or stabilisation of all disturbed areas is to be completed in accordance with the measures detailed in the document titled "*Erosion and Sediment Control – Guidelines for Soil Disturbing Activities*" (Technical Report No. 2009/02 – dated January 2009) and the approved ESCP.

*In terms of s116 of the Resource Management Act 1991, this consent commences on \_*

## Advice Notes - General

- In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
- This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
- This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA). The transfer of water, including changes of location, may occur as provided for in Chapter 3.4 of the Waikato Regional Plan, subject to the requirements of those rules.
- The consent holder may apply to change the conditions of the resource consent under s.127 RMA.
- The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
- Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
- If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.

# RESOURCE CONSENT CERTIFICATE

**Resource Consent:** AUTH137612.04.01

**File Number:** 60 04 84A

*Pursuant to the Resource Management Act 1991, the Regional Council hereby grants consent to:*

McPherson Resources Limited  
C/- Michael McPherson  
47 McPherson Road  
RD 1  
Pokeno 2471

(hereinafter referred to as the Consent Holder)

**Consent Type:** Discharge Permit

**Consent Subtype:** Land - other

**Activity authorised:** Discharge overburden to land in association with the operation of McPherson Quarry

**Location:** McPhersons Rd - Pokeno

**Map reference:** NZTM 1781144 E 5879449 N

**Consent duration:** This consent will commence on the date of decision notification and expire on 31 December 2041.

**Subject to the conditions overleaf:**

## **CONDITIONS**

1. The Consent Holder shall ensure that the works and activities authorised by this resource consent are carried out in accordance with the conditions as set out in Schedule One – General Conditions.
2. The activities authorised by this consent shall comply at all times with the standards of resource consent AUTH137612.03.01 which authorises earthworks activities within the site.
3. The consent holder shall ensure that all stormwater runoff from the overburden disposal areas shall be directed into purpose-built stormwater settling ponds for treatment prior to discharge into any watercourse. The quality of the discharge from these treatment ponds shall be in accordance with the conditions of resource consent number AUTH137612.01.01, which permits these discharges.

### **Overburden Management Plan**

4. Within six months of commencement of this consent, the consent holder shall submit an Overburden Management Plan (OMP) to Waikato Regional Council for review and approval – acting in a technical certification capacity. The OMP shall detail the procedures that will be implemented to operate in accordance with the conditions of this resource consent; the procedures that will be put into place to control stormwater, minimise the potential for sediment runoff from the site and minimise emissions to air; and specific design details, construction and certification procedures to ensure long term stability of areas of overburden fill. The plan shall also include but not be limited to the following:
  - i. A description of the methodology for overburden stripping and disposal,
  - ii. Areas to be mined over the next 12 months;
  - iii. Plans for overburden stripping and disposal over the next 12 months;
  - iv. Details of maintenance activities undertaken in the previous 12 months, and maintenance activities proposed over the next 12 months;
  - v. The specific location of the placement area;
  - vi. The design and construction procedures;
  - vii. How sediment losses to natural water will be avoided;
  - viii. Earthworks procedures to be adopted during overburden stripping and disposal;
  - ix. Measures to avoid the over compaction of soils;
  - x. Timetable of works and re-vegetation;
  - xi. Maintenance and inspection procedures,
  - xii. Monitoring,
  - xiii. Contingency and mitigation measures;
5. This plan shall updated on a yearly basis or as otherwise agreed in writing with the Waikato Regional Council and shall be lodged with the Waikato Regional Council by 1 April each year. Any changes to the plan shall be to the satisfaction of the Waikato Regional Council, and shall be confirmed in writing by the consent holder following consultation with the Waikato Regional Council.
6. The consent holder shall undertake the placement of overburden in accordance with the approved Overburden Management Plan.



## **Erosion/Instability**

7. The consent holder shall construct the overburden disposal area in accordance with accepted civil engineering practices.
8. The consent holder shall be responsible for maintaining the re-contoured site in a stable condition and for any erosion and/or slumping that may occur within and adjacent to the site in accordance with the OMP as required by condition 4 of this consent. The consent holder shall undertake and maintain any works that become necessary to avoid, remedy or mitigate the effects of erosion and/or slumping. Works in this regard shall be to the satisfaction of the Waikato Regional Council acting in a technical certification capacity.

*In terms of s116 of the Resource Management Act 1991, this consent commences on \_*

## **Advice Notes - General**

- In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
- This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
- This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA). The transfer of water, including changes of location, may occur as provided for in Chapter 3.4 of the Waikato Regional Plan, subject to the requirements of those rules.
- The consent holder may apply to change the conditions of the resource consent under s.127 RMA.
- The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
- Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
- If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.

# RESOURCE CONSENT CERTIFICATE

**Resource Consent:** AUTH137612.05.01

**File Number:** 60 04 84A

*Pursuant to the Resource Management Act 1991, the Regional Council hereby grants consent to:*

McPherson Resources Limited  
C/- Michael McPherson  
47 McPherson Road  
RD 1  
Pokeno 2471

(hereinafter referred to as the Consent Holder)

**Consent Type:** Discharge Permit

**Consent Subtype:** Land - other

**Activity authorised:** Discharge cleanfill to land outside of High Risk Erosion Areas

**Location:** McPhersons Rd - Pokeno

**Map reference:** NZTM 1781144 E 5879449 N

**Consent duration:** This consent will commence on the date of decision notification and expire on 31 December 2041.

**Subject to the conditions overleaf:**

## **CONDITIONS**

### **General**

1. The Consent Holder shall ensure that the works and activities authorised by this resource consent are carried out in accordance with the conditions as set out in Schedule One – General Conditions.
2. Activities authorised by this resource consent shall not intercept groundwater and excavations shall be at least one metre above groundwater levels.

### **Cleanfill Management**

3. The consent holder shall record the source, measure the quantity, and identify and log incoming cleanfill. The consent holder shall provide this information to the Council annually, by 31 July, for each year that this consent is exercised.
4. All fill material deposited shall be limited to cleanfill as defined as material that when discharged to the environment will have no adverse effect on people and the environment. This includes natural materials such as clay, soil and rock, and other inert materials such as concrete and brick, or mixtures of any of the above. There shall be no organic material mixed with the fill and/or placed in a position where it may lead to land instability. Cleanfill, deposition authorised by this consent shall exclude;
  - a) material that has combustible, putrescible or degradable components
  - b) materials likely to create leachate by means of biological or chemical breakdown
  - c) any products or materials derived from hazardous waste treatment, hazardous
  - d) waste stabilisation or hazardous waste disposal practices
  - e) materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health
  - f) soils or other materials contaminated with hazardous substances or pathogens
  - g) hazardous substances.
5. The consent holder shall provide the Waikato Regional Council with a Cleanfill Management Plan which details the procedures that will be implemented to operate in accordance with the conditions of this resource consent. This plan shall be lodged with the Waikato Regional Council at least three weeks prior to the commencement of any activities authorised by this consent and shall be approved by the Waikato Regional Council acting in a technical certification capacity. This plan shall be reviewed by the consent holder and updated by 31 December 2021, and every three years thereafter. Any changes to the plan shall be confirmed in writing by the consent holder and shall be approved by the Waikato Regional Council, acting in a technical certification capacity.
6. The Cleanfill Management Plan shall include, but may not be limited to, the following:
  - i). the specific location of the cleanfill placement area;
  - ii). Acceptance criteria for cleanfill to be disposed on site

- iii). Contaminant levels shall be specified at least for the following contaminants: Arsenic, Cadmium, Cyanide, Chromium, Copper, Mercury, Nickel, Lead, Zinc, VOCs and SVOCs and PAHs.
  - iv). a description of operational procedures and monitoring that will be implemented to minimise unauthorised or contaminated material entering the site,
  - v). specific design details, construction and certification procedures to ensure long term stability of cleanfill areas;
  - vi). development of a comprehensive stormwater management system (including design specification, location and management of all structures proposed);
  - vii). measures to avoid the over compaction of soils;
  - viii). timetable of works and re-vegetation measures;
  - ix). contingency and mitigation measures;
  - x). maintenance, monitoring, and inspection procedures;
  - xi). specific dust control measures to ensure that dust emissions are kept to a practicable minimum;
  - xii). site plans showing the location of infrastructure and all other relevant information, and;
  - xiii). procedures to review the management plan.
7. For each 500 cubic metres of material received on site, a composite sample shall be analysed for the following contaminants. Each sample will consist of six sub-samples of equal volume. Results will be compared with the cleanfill acceptance thresholds in the table below.

Table 1: Acceptance Criteria

Trace elements	Acceptance criteria (mg/kg)
Arsenic	17
Boron	15
Cadmium	0.8
Chromium	56
Copper	120
Lead	78
Mercury	1
Nickel	33
Zinc	175
Organic compounds	Acceptance criteria (mg/kg)
TPH C7-C9	110
TPH C10-C14	58
Benzene	0.11
Ethylbenzene	10
Toluene	19
Total Xylene	25
Benzo[a]pyrene (equivalent)	2.8
Total DDT	1.9
Dieldrin	0.1

Unless otherwise agreed with the Waikato Regional Council in writing, the fill material shall be deemed to meet the cleanfill acceptance thresholds when the concentration of each individual constituent is less than the threshold concentration in the table above. In the event that a sample fails to meet the cleanfill acceptance thresholds for one or more analysed constituents, the consent holder shall remove the fill material from the disposal site and dispose to an authorised site.

8. Analysis of the testing shall be undertaken by an appropriately registered laboratory.
9. The consent holder shall measure the quantity, and identify the source of the material and log incoming cleanfill and provide this information to the Waikato Regional Council by 31 March (for the period 31 March to end of February), for each year that this consent is exercised.
10. The consent holder shall engage a Suitably Qualified and Experienced Practitioner to undertake 'end of life' composite sampling of each fill stage prior to capping and rehabilitation of the respective area to confirm the fill site complies with the Maximum Fill Acceptance Criteria. The samples shall be analysed by an accredited laboratory for the full suite of contaminants listed in Condition 7, the test results shall be provided to the Waikato Regional Council within five working days of becoming available.

*In terms of s116 of the Resource Management Act 1991, this consent commences on \_*

#### **Advice Notes - General**

- In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
- This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
- This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA). The transfer of water, including changes of location, may occur as provided for in Chapter 3.4 of the Waikato Regional Plan, subject to the requirements of those rules.
- The consent holder may apply to change the conditions of the resource consent under s.127 RMA.
- The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
- Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.

- If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.

# RESOURCE CONSENT CERTIFICATE

**Resource Consent:** AUTH137612.06.01

**File Number:** 60 04 84A

*Pursuant to the Resource Management Act 1991, the Regional Council hereby grants consent to:*

McPherson Resources Limited  
C/- Michael McPherson  
47 McPherson Road  
RD 1  
Pokeno 2471

(hereinafter referred to as the Consent Holder)

**Consent Type:** Water Permit

**Consent Subtype:** Diversion

**Activity authorised:** Divert Water in association with the operation of McPherson Quarry

**Location:** McPhersons Rd - Pokeno

**Map reference:** NZTM 1781144 E 5879449 N

**Consent duration:** This consent will commence on the date of decision notification and expire on 31 December 2041.

**Subject to the conditions overleaf:**

## CONDITIONS

1. The Consent Holder shall ensure that the works and activities authorised by this resource consent are carried out in accordance with the conditions as set out in Schedule One – General Conditions.
2. The activities authorised by this consent shall comply at all times with the standards of resource consent AUTH137612.01.01 which authorises the discharges from the site.
3. The consent holder shall ensure diversion of clean water shall be in accordance with the Erosion and Sediment Control Plan as required by condition 2 of resource consent AUTH137612.03.01.
4. The consent holder shall inform the Waikato Regional Council in writing at least 20 working days prior to undertaking of channel or diversion works, and shall include at least the following information;
  - i. location of proposed works or structures
  - ii. Type and description of the proposed works,
  - iii. Construction and design details,
  - iv. Construction procedures,
  - v. Measures to minimise upstream flooding,
  - vi. Measures to minimise adverse fish passage effects,
  - vii. Measures to minimise erosion,
  - viii. Measures to minimise sediment losses to natural water
  - ix. Mitigation measures
  - x. Timetable of works,
5. The consent holder shall design all structures and diversion channels for a design flow capacity of 1 in 100 years flow events. (1% AEP Annual Exceedance Probability) unless otherwise approved in writing by the Waikato Regional Council acting in a technical certification capacity.
6. The consent holder shall submit to the Waikato Regional Council 'As Built Certification statements', signed by an appropriately qualified and experienced person to certify that clean water diversions have been constructed in accordance with the certified Erosion and Sediment Control Plan. The 'As Built Certification Statement' shall include all information as specified in the 'As Built Certification Sheets' located on the Waikato Regional Council website (<http://www.waikatoregion.govt.nz/earthworks>) and supplied to the Waikato Regional Council within 5 working days of the completion of the construction of those controls.
7. Where practicable the consent holder shall control and divert stormwater which is not affected by quarrying activities away from areas disturbed by quarrying activities.
8. The consent holder shall ensure that water diversions authorised by this consent are carried out in a manner that erosion of the diversion is minimised.
9. The consent holder shall ensure that scour protection is constructed in any outlet structures



10. The consent holder shall ensure that all water diversion channels are maintained in good working order and clear of obstructions at all times.
11. The consent holder shall ensure that the diversion channels at the site are inspected on a weekly basis or within 24 hours of each rainstorm event exceeding 20 millimetres within the preceding 24 hour period. A record shall be maintained of the date, time and any maintenance undertaken in association with this condition which shall be forwarded to the Waikato Regional Council within 5 working days of completion of the works.


*In terms of s116 of the Resource Management Act 1991, this consent commences on \_*

#### **Advice Notes - General**

- In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
- This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
- This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA). The transfer of water, including changes of location, may occur as provided for in Chapter 3.4 of the Waikato Regional Plan, subject to the requirements of those rules.
- The consent holder may apply to change the conditions of the resource consent under s.127 RMA.
- The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
- Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
- If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.

## SCHEDULE ONE

**GENERAL CONDITIONS TO BE ATTACHED TO CONSENTS AUTH137612.01.01, AUTH137612.02.01, AUTH137612.03.01, AUTH137612.04.01, AUTH137612.05.01 AND AUTH137612.06.01**

### CONDITIONS

#### General

1. Except as modified by the conditions below and subject to final detailed design, the activities authorised by this consent shall be undertaken in general accordance with the information provided by the applicant in the resource consent application dated 14 November 2016 (WRC doc # 9516322), the application for additional resource consents dated 12 December 2019 (WRC doc # 13211538) and the following supporting documents;
  - a) Report titled Ecological Impact Assessment dated 16 August 2019 (WRC doc # 15596721) and Ecological Management Plan dated 16 October 2019 (WRC DOC#15595707) (including any modifications and/or later versions) both prepared by Ecology New Zealand.
  - b) Updated AEE Titled '*Resource Consent Application & Assessment of Environmental Effects*', prepared by Kinetic Environmental Limited, dated 12 December 2019, received by the WRC on 16 December 2019 (WRC doc # 13211538).

Where there may be differences or apparent conflict between the general conditions and conditions contained in either the individual consents contained within this suite, or any other consent referred to below, the conditions contained in the respective individual consents shall prevail.

2. The consent holder shall be responsible for all contracted operations relating to the exercise of this resource consent, and shall ensure contractors are made aware of the conditions of this consent and ensure compliance with those conditions.
3. A copy of this resource consent shall be kept onsite at all times that the works authorised by this consent are being undertaken, and shall be produced without unreasonable delay upon request from a servant or agent of the Waikato Regional Council.
4. The consent holder shall appoint a representative(s) prior to the exercise of this resource consent who shall be the Waikato Regional Council's principal contact person(s) in regard to matters relating to this resource consent. The consent holder shall inform the Waikato Regional Council of the representative's name and how they can be contacted, prior to this resource consent being exercised. Should that person(s) change during the term of this resource consent, the consent holder shall immediately inform the Waikato Regional Council and shall also give written notice to the Waikato Region Council of the new representatives name and how they can be contacted.

#### Site Management Plan

5. Within six months from the commencement of the consents, the consent holder shall submit a **Site Management Plan (SMP)** to the Waikato Regional Council for review and approval - acting in a technical certification capacity. The SMP shall detail the management, operation and monitoring

procedures, methodologies and contingency plans necessary to comply with the conditions of this consent and to confirm that the Pit level will not be lowered below its current level. The SMP shall also specify/include detail on the following:

- a) Quarry extraction areas including alignment, maximum quarry face length and approximate RL, and, approximate maximum depth RL and depth of the quarry pit floor at the time consent was granted and confirmation it has not been lowered below that;
  - b) Aggregate processing areas including site locations and areas;
  - c) Stockpile areas including site locations and areas;
  - d) Drainage plans for the areas identified in a) to c) above;
  - e) Erosion and Sediment Control Plan
  - f) Water quality monitoring sampling sites.
  - g) Overburden Management Plan
  - h) The Cleanfill Management Plan;
  - i) Dust Management Plan
  - j) Ecological Mitigation and Monitoring Plan
6. The consent holder shall exercise this consent in accordance with the approved Site Management Plan. The Site Management Plan shall be updated every 5 years for the time this consent is current or at least 2 months prior to the quarry is moving to Stage 2 or 3. Any subsequent changes to the Site Management Plan must only be made with the written approval of the Waikato Regional Council. In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the Site Management Plan, then the conditions of this consent shall prevail.
7. The consent holder must ensure that a copy of the approved Site Management Plan, including any approved amendments, is kept on-site at all times that activities authorised by this consent are being undertaken and the on-site copy of the Site Management Plan shall be updated within 5 working days of any amendments being approved.

### **Conceptual Site Closure Plan**

8. The consent holder shall rehabilitate all disturbed land. To this end, the consent holder shall develop a **Conceptual Site Closure Plan**. The Conceptual Site Closure Plan shall be provided to the Waikato Regional Council by within six months of the consents being granted for review and approval - acting in a technical certification capacity. The consent holder shall review and update the plan within 6 months of any decision to cease quarrying at the site. The revised Conceptual Site Closure Plan shall be forwarded for review and approval by the Waikato Regional Council, acting in a technical certification capacity. As a minimum, the Conceptual Site Closure Plan shall address the following:
- a) Future landforms following all quarrying activities at the site;
  - b) Future groundcover following all quarrying activities at the site;
  - c) Reporting procedures; and,
  - d) Review procedures.

### **Site Rehabilitation Plan**

9. The consent holder shall develop a **Site Rehabilitation Plan**. The Site Rehabilitation Plan shall be provided to the Waikato Regional Council within six months of the consents being granted for review and approval - acting in a technical certification capacity. The Site Rehabilitation Plan shall

detail rehabilitation objectives, goals and success criteria to be followed in order to achieve the future landforms and groundcovers detailed within the Conceptual Site Closure Plan. The consent holder shall review and update this plan within 6 months of any decision to cease quarrying at the site. The revised plan shall be forwarded for review and approval by the Waikato Regional Council, acting in a technical certification capacity. As a minimum, the Site Rehabilitation Plan shall include the following:

- a) Procedures for progressive rehabilitation;
- b) Any specific measures to control erosion;
- c) Procedures for pest control;
- d) Procedures for noxious weed control;
- e) Land and vegetation maintenance procedures;
- f) Post closure maintenance methods and after care plans;
- g) Approximate timeframes for landscape and rehabilitation events;
- h) Approximate costs associated with the implementation of this plan to the stage of conceptual site closure;
- i) Monitoring procedures; and,
- j) Reporting and review procedures.

10. The rehabilitation of the Quarry shall be undertaken such that:

- a) Where appropriate, and where subsoils and topsoils are available, these shall be used for rehabilitation and the land shall be managed to actively develop stable topsoil mantles generally consistent with topsoils on adjacent areas of land unaffected by quarrying.
- b) Where practical the rehabilitated land cover is generally consistent with that on adjacent land unaffected by quarrying.
- c) The quality of the water discharging from the rehabilitated land is consistent with that discharging from adjacent catchments unaffected by quarrying.

11. The rehabilitation of the quarry shall be undertaken in accordance with the Site Rehabilitation Plan required pursuant to condition 9 of this consent and shall be implemented under the supervision of persons with appropriate restoration or rehabilitation experience.

12. The discharge of untreated surface runoff from rehabilitated land and into surface waters shall only occur after written approval has been obtained from the Waikato Regional Council acting in a technical certification capacity. In this respect the main issues which will be considered by the Waikato Regional Council include:

- a) The quality of runoff from the rehabilitated land;
- b) the quality of runoff from surrounding land under a similar landuse;
- c) the quality of the receiving water;
- d) the potential effects of increased flow within the receiving water course;
- e) intended on-going land management practices; and,
- f) the provision of any ongoing monitoring programme.

#### **Dust**

13. The consent holder shall operate quarrying and associated processes and other operations in such a manner that the emission of dust, smoke and odours are reduced to a practicable minimum, in accordance with at least the following measures.

- a) The use of water carts or sprays to suppress dust from aggregate extraction and handling, topsoil and overburden removal, handling and storage, and from site access roads, haul roads and other frequently trafficked areas, on an as required basis;
- b) The revegetation of disturbed land which is currently not being worked;
- c) The regrassing of topsoil stockpiles;
- d) Surface remediation of any disturbed areas to promote vegetation cover as soon as possible after working areas are completed (insofar as it is practicable)
- e) Where practical, locating topsoil stockpiles where they provide wind protection for exposed/excavated areas;
- f) Restricting vehicle speeds on dry days and during periods of strong wind
- g) Construction and maintenance of a sealed section of road between the site access road and the public road; and
- h) Covering or dampening of loads on vehicles leaving the quarry which could create a dust nuisance.
- i) Use of fixed sprinkler systems for dust control on the site access road.

14. The consent holder shall ensure that no particulate matter resulting from activities authorised by this resource consent causes an objectionable or offensive effect beyond the boundary of the site being that land described as: CT NA2D/412: Allot 22 PSH of Mangatawhiri, Allot 139 and 140 PSH "Allot 161 and 163 PSH"; CT NA2D/497: Allot 162 PSH; CT NA2D/961 Allot 164 PSH; CT NA423/102 Allot 159 and 160 PSH of Mangatawhiri; CT NA577/25 Allot 23, 24, 26, 130, 132, 133 Sbrn Sec 1 PSH of Mangatawhiri.

*Note: For the purpose of this resource condition, the Waikato Regional Council will consider an effect that is objectionable or offensive to have occurred if any appropriately experienced officer of the Waikato Regional Council deems it so after having regard to:*

- a) The frequency, intensity, duration, amount, effect and location of the suspended or particulate matter; and/or*
- b) receipt of complaints from neighbours or the public; or*
- c) relevant written advice or a report from an Environmental Health Officer of a territorial authority or health authority.*

15. Should an emission of particulate matter occur that has an objectionable or offensive effect, the consent holder shall inform the Waikato Regional Council within 24 hours of the incident and provide a written report to the Waikato Regional Council within five days of being notified of the incident. The report shall specify:

- a) the cause or likely cause of the event and any factors that influenced its severity;
- b) the nature and timing of any measures implemented by the consent holder to avoid, remedy or mitigate any adverse effects; and
- c) the steps to be taken in future to prevent recurrence of similar events.

16. The discharge shall not significantly impair visibility beyond the boundary of the land described in condition 14 above.

### **Dust Management Plan**

17. The consent holder shall provide the Waikato Regional Council with a Dust Management Plan within six months of the commencement of the consents. This Plan shall be submitted to the Waikato Regional Council for its approval to ensure compliance with conditions of this consent.

The aim of the Plan shall be to minimise any potential dust nuisance effects beyond the boundary of the property and shall address, but not necessarily be limited to, the following matters:

- a) Procedures for undertaking a daily site inspection, including summarising the outcome of the inspection in a daily environment diary. This could also include but is not limited to:
  - i. Operation of watercart;
  - ii. Any dust mitigation implemented; and
  - iii. Any exceedance of dust monitoring alert levels and the result of any investigations in to the causes of the exceedance.
- b) Procedures that will be adopted to ensure that fugitive dust emissions are minimised from the roadways, working areas and stockpiles, including wind speed triggers that shall initiate specific mitigation measures;
- c) Details of the dust mitigation measures to be used on the site, including both fixed and temporary systems;
- d) Identification of roles and positions of responsibility, including responsibility for ensuring the effective application of dust control measures identified in b) and c) above;
- e) Provision and maintenance of 20 kph speed limit signs on all unsealed access roads;
- f) Total Suspended Particulates (“TSP”) particulate monitoring locations, alert levels and trigger levels and actions;
- g) Details of how the nett TSP concentrations will be calculated.
- h) Dust deposition gauge monitoring
- i) Maintenance procedures for the monitoring equipment and weather station;
- j) Reporting procedures;
- k) Dust Management Plan review procedures;
- l) Complaint receipt and response procedures.

18. The Dust Management Plan required by condition 17 shall be certified in writing by the Waikato Regional Council acting in a technical certification capacity prior to any works authorised by this consent commencing.

19. The consent holder shall undertake all works within the site in accordance with the certified Dust Management Plan. Any subsequent changes to the Dust Management Plan shall only be made with the written approval of the Waikato Regional Council, acting in a technical certification capacity and prior to the implementation of any changes proposed.

20. The consent holder shall ensure that a copy of the certified Dust Management Plan, including any approved amendments, is kept onsite and this copy is updated within 5 working days of any amendments being approved. The Dust Management Plan shall be produced without unreasonable delay upon request from a servant or agent of the Waikato Regional Council.

### **Monitoring and Reporting**

21. Within six months of commencement of this consent, the consent holder shall install, operate, and maintain continuous dust monitoring equipment for Total Suspended Particulates (TSP) or particulate. The methodology, number location and of the monitors shall be agreed with the Waikato Regional Council acting in a technical certification capacity and in accordance with the approved Dust Management Plan pursuant to condition 17 of this consent. Monitoring shall be carried out for a minimum period of two years at each location, after which time the methodology, frequency and location may be reviewed by the Waikato Regional Council.

22. The ambient TSP monitoring shall be carried out for 5 minute averages (or less) and the monitoring equipment shall be fitted with an alarm system linked to a site office, with the alarm set at a

‘trigger level’ approved in writing by the Waikato Regional Council requiring immediate action to be taken as necessary to reduce site dust emissions from the site.

23. Within six months of the commencement of this consent, the consent holder shall install and maintain equipment onsite that accurately monitors and records wind speed and direction at a location that will record wind patterns that are representative of the site environs.. The wind speed and direction sensors shall have minimum stall and start speeds of 0.5 metres per second. The meteorological station shall be serviced and maintained at least annually and in accordance with the manufacturer's instructions. A log shall be maintained of the meteorological data recorded under this condition. The log shall be made available to the Waikato Regional Council on request.
24. Within six months of the commencement of this consent, the consent holder shall install and maintain a rain gauge onsite and shall record rainfall data on a daily basis. The consent holder shall keep accurate records of daily rainfall data.
25. The consent holder shall record the following in a daily log
  - a) Any dust control equipment malfunctions and any remedial action(s) taken;
  - b) Any visible emission of dust and the source;
  - c) The frequency of watercart use and the volume of water applied;
  - d) The volume of water used for dust suppression other than watercart usage; and
  - e) The date and signature of the person entering the information.
26. A summary of all the information recorded shall be submitted to the Waikato Regional Council in the Annual Monitoring Report as required by condition 47 of this Schedule 1 General Conditions. Records shall be made available to the Waikato Regional Council within 10 working days upon request.

#### **Targeted Dust Management Measures**

27. The consent holder shall cease excavation and overburden placement activities within 400 metres of dwelling locations immediately north of the mine quarry in dry weather conditions when the wind is blowing from the south and the wind speeds exceed 10 metres per second, as verified by the site’s weather monitoring station
28. The consent holder must ensure that overburden placement and rehabilitation activities within 400 metres of dwelling locations west and southwest, east and northeast of the quarry towards those properties and wind speeds exceed 10 metres per second during dry conditions, as verified by the site’s weather monitoring station.
29. The consent holder shall maintain 20 kph maximum speed signs along the access roads and ensure that these vehicle speed restrictions are complied with at all times.
30. Rehabilitation and re-vegetation of the site shall be conducted as soon as practicable, to minimise dust emissions.

#### **Other Measures**

31. The consent holder shall be solely responsible for maintaining on-site vehicles in good mechanical order so as to minimise nuisance exhaust emissions.

32. If so required by the Waikato Regional Council, the consent holder shall carry out immediate sealing of any problematic dust generating surfaces within the site using hydro-seed/hydro-mulch, polymer soil stabilisers or a similar dust control product to provide instant remediation of dust effects to the satisfaction of the Waikato Regional Council.
33. The consent holder shall ensure that an adequate supply of water for dust control and an effective means for applying that quantity of water, is available at all times during construction, and until such time as the site is fully stabilised unless otherwise agreed in writing with the Waikato Regional Council

### **Ecological Management Plan**

34. The consent holder shall develop a fully detailed **Ecological Management and Mitigation Plan** (EMMP) to remedy, mitigate and environmentally compensate or offset for all ecological effects of the quarrying and associated activities with the intent of achieving net improvement and betterment of the existing environment. The EMMP objectives, among other matters, are to
- a) Minimise wildlife disturbance and water contamination arising from the operation of the quarry and associated activities;
  - b) Provide for the restoration, revegetation, enhancement and/or protection of indigenous forest, wetland and stream habitat to remedy, mitigate and environmentally compensate or offset for the habitat removed or adversely affected resulting from the quarry activities.
35. The ecological mitigation measures addressed in the EMMP shall be prepared by a suitably qualified and experienced ecologist(s) and shall be based on the remediation, mitigation, and environmental compensation or offset measures documented in the application and further technical reviews.
36. Without limiting the above, the ecological remediation, mitigation, and environmental compensation or offset measures, in addition to details of any fencing requirements, shall specifically include the following:
- a) Restoration and enhancement of a minimum (indigenous re-vegetation equivalent):
    - i. Planting of native species to form the 5.895ha ecological corridor, made up of mitigation required for the proposed Significant Natural Area vegetation removal in Stages 1 and 3 as well as the agreed mitigation to address the historical indigenous vegetation removal post 2011.
    - ii. The Consent Holder shall, at least two (2) years prior to diverting Tributary 1, complete riparian planting with native species on 10 m either side of the Waipunga Stream insofar as it is situated within the Project Site;
    - iii. The Stream 1 riparian plantings shall cover at least 930 linear metres of the stream;
    - iv. Additional buffer planting around wetlands of at least 5 metres to those stipulated in the Ecological Management Plan submitted with the application.

***Advice Note:*** Prior to riparian planting being undertaken, a joint site visit will be undertaken by the project ecologist and the WRC/WDC ecologist to agree on areas where stream reprofiling shall be undertaken. Reprofiling will be undertaken to ensure the long-term success of riparian planting.



- b) The wetland enhancement plan which shall include details on how the existing and proposed new wetlands will be enhanced, particularly in relation to hydrological maintenance.
- c) Bat management, which shall include specifications on bioacoustics surveys for native bats prior to the commencement of tree felling at each stage of works. Details shall be provided on vegetation removal protocol should bats be detected during these surveys.
- d) Lizard management, which will consist of additional survey effort to be undertaken (being no less than two (2) additional nights spotlighting and three (3) checks of artificial cover objects and manual searches) by a suitably qualified ecologist. If lizards are detected during the surveys, the consent holder shall prepare a Lizard Management Plan which will outline methodologies to search for and relocate lizards into retained habitat of equal or greater value on-site.
- e) Bird management, which shall aim to avoid vegetation clearance between September to February and, where this is not achievable, shall involve expert advice from a suitably qualified person who is to develop a bird management strategy/plan. This strategy/plan shall include surveys prior to any tree clearance. If indigenous birds are observed, measures to minimise adverse effects on those populations shall be identified and carried out.
- f) Details of fencing to be undertaken around the ecological corridor and at the two wetlands to be upgraded, in addition to details of any pest plant control which shall be undertaken in these two areas for no less than 5 years from commencement of consent.
- g) Fish Management Plan which shall include details of the measures to be used to avoid and minimise adverse effects on aquatic habitats and biota but not limited to:
  - i. Measures to minimise disturbance and sedimentation in habitats known to support “Threatened” and “At Risk” freshwater fauna,
  - ii. Measures to capture and relocate indigenous fish from Tributary prior to and during diversion (if it is to be diverted);
  - iii. Measures to minimise potential for indigenous fish to re-enter the Tributary to be diverted (i.e. requirements for fish barriers/exclusions).
  - iv. Measures to salvage and translocate fish in the stream to be diverted

**Advice note**

*If lizards are detected, a Wildlife Act authorisation/permit from the Department of Conservation may be required to undertake lizard management.*

37. The ecological mitigation measures identified in the certified EMMP shall be implemented:

- a) For the ecological corridor:
  - i. Within the first planting season after the commencement of this consent, the Consent Holder shall start planting the ecological corridor in accordance with the recommendations of the EMMP. The planting of this corridor cannot take more than three consecutive planting seasons.
- b) For all other planting areas:
  - i. As soon as practicable within any area of ecological habitat values within the site unless otherwise specified in these conditions; or
  - ii. As soon as areas practicable during the first planting season after the consent is granted unless otherwise specified in these conditions; or
  - iii. Generally in accordance with the recommendations in the report Ecological Review - McPherson Quarry Ecological Impact Assessment (EcIA) and Ecological

### **Habitat Monitoring**

38. The Consent Holder shall provide specifications for monitoring requirements within an updated EMMP to determine if physical habitat values that develop in new or restored channels, wetland and planting areas are greater in ecological value and diversity than baseline conditions (Year 0 – restored channels and wetlands) or of equivalence to the SNA impact site (ecological corridor and other terrestrial habitat planted areas). In the event the Consent Holder chooses to divert Tributary 1 in accordance with condition 36(a)(ii), the habitat monitoring required by this condition shall include the two wetlands located within the Project Site.
39. The updated EMMP shall detail:
- a) Identification of suitable sampling sites and sampling regimes.
  - b) Methods for pre and post works monitoring of aquatic stream for a minimum of 6 years, undertaken in Year 0 (Pre-riparian planting), 2, 4, and 6. These should provide enough detail to measure variation in habitat value from baseline conditions. For wetlands, this should include accurate reference to wetland extent (determined through vegetation, soil and hydrology indicators) and condition (including: flow modification, water quality, erosion, sedimentation and biota), subject to the qualification noted in condition 37 above.
  - c) Methods for pre and post works monitoring of ecological corridor terrestrial habitat continue until ecological equivalence is determined by a suitably qualified and experienced practitioner or for maximum of 15 years, undertaken every two years to demonstrate recruitment/utilisation of the corridor. Key ecological outcomes to determine corridor establishment will be used as a proxy for corridor functionality and will include, but not be limited to: canopy closure, flora and fauna abundances and diversity, evidence of natural regeneration/emergence of understory species.
  - d) Details on how the proposed wetland mitigation measures will be implemented, including specific reference to the maintenance and improvement of wetland form and function should be included within the EMMP.
40. Within three (3) months of commencement of this consent the Consent Holder shall invite representatives of Ngāti Tamaoho and Ngāti Te Ata to develop a Matarauanga Māori Monitoring Framework (Framework) and protocols to ensure the Framework is maintained with respect to the habitat monitoring stipulated by condition 38. The Framework may include references to Cultural Health Indicators and methodologies for monitoring and/or sampling aquatic and/or terrestrial habitat and shall, upon completion, be provided to the Consent Holder for their records.
41. Provided a Framework has been completed and shared with the Consent Holder pursuant to condition 39A, at least three (3) working days prior to any planned monitoring stipulated by condition 39 and/or the EMMP, the Consent Holder shall invite iwi representatives to attend the visit and provide a report on the results to the Consent Holder within one (1) of the same for inclusion in the annual report stipulated by condition 47.

42. The Consent Holder shall include details of the monitoring stipulated by condition 39 and 39A (insofar as it exists) in the annual report stipulated by condition 47, outlining the details of any ecological mitigation and associated monitoring works required under the EMMP which have been undertaken within the preceding 12 month period. The matters to cover shall include, but will not be limited to:
- a) Details of any planting or plant maintenance works including the outcomes of any maintenance inspections of established plantings;
  - b) Details and outcomes of any terrestrial, aquatic and wetland monitoring required by condition 38;
  - c) Details and outcomes of any plant or animal pest control works including any follow up monitoring of pest
  - d) Where key ecological outcomes (recruitment/utilisation/wetland, stream and terrestrial habitat value) required by condition 39 are not met (as identified through monitoring – Condition 39a-39c), the consent holder should outline the extent to which and the main reasons why these outcomes are not met. If it is determined that the intended ecological outcomes will not be achieved a revised EMMP shall be developed and submitted to Council for approval in a technical certification capacity. The EMMP should identify how the effects authorised by this consent will be mitigated, offset or compensated.
43. If Kauri is identified within 50 metres, of the future overburden stripping area, a vehicle and equipment hygiene procedure shall be adopted including the following:
- a) Define the individual kauri contamination zones comprising either individual kauri trees or kauri management stands that will be affected by the land disturbance,
  - b) Divert overland flows away from the contamination zone,
  - c) Establish entry and exit routes from each kauri contamination zone,
  - d) Establish the on the ground infrastructure necessary to ensure that all vehicles and equipment are cleaned to be free of soil and organic material, or changed for clean gear before moving into, out of, or between kauri contamination zones,
  - e) Use inspection and cleaning checklists for each kauri contamination zone and for all equipment and personnel, and retain these records on-site for Council inspection, and
  - f) Soil and organic material retrieved from cleaned vehicles and equipment must be either retained within the kauri contamination zone from which it originated, or else retained within the Quarry site.

**Advice Note:** *A kauri management stand is a group of kauri where the kauri contamination zones overlap and is treated as one kauri contamination zone.*

44. Soil and organic material stripped from kauri contamination zones must be either retained within the kauri contamination zone from which it originated, or else retained within the quarry site.

### **Machinery**

45. The consent holder shall ensure that all machinery used in the exercising of this consent is cleaned prior to being transported to the site to ensure that all seed and/or plant matter has being removed and documented in accordance with the National Pest Control Agencies A series, best practice (Code A16) guidelines, available to download from <https://waikatoregion.govt.nz/assets/WRC/Services/plant-and-animal-pests/Keepitclean.pdf>.

### **Accidental Discovery**

46. In the event of any archaeological site or koiwi being uncovered during the exercise of this consent, activities in the vicinity of the discovery shall cease and the Waikato Regional Council and Heritage New Zealand shall be notified as soon as practicable and within 48 hours of a discovery. The consent holder shall consult with the relevant iwi/hapū and Heritage New Zealand, and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand approvals or other approvals to damage, destroy or modify such sites have been obtained where necessary. Works may recommence with the written approval of the Waikato Regional Council. Such approval shall only be given after the Council has considered:

- a) Tāngata Whenua interests and values;
- b) Protocols agreed upon by Tāngata Whenua and the consent holder;
- c) The consent holders interests;
- d) Any Heritage New Zealand authorisations; and,
- e) Any archaeological or scientific evidence.

#### **Annual Report**

47. The consent holder shall provide to the Resource Use Group of the Waikato Regional Council a report by 31 July each year that any of the consents listed at the top of this Schedule are current. As a minimum this report shall include the following:

- a) Ecological Monitoring results as required by conditions 39 and 39A or any updates to the Ecological Mitigation and Management Plan (EMMP);
- b) overburden stripping undertaken during the preceding 12 months and overburden stripping proposed to be carried out during the following 12 months;
- c) any water quality data collected in relation to resource consent AUTH139828.05.01;
- d) all daily rainfall records;
- e) all daily and annual water take volumes;
- f) the cleanfill volumes and sampling results collected
- g) a compliance audit of all consent conditions;
- h) any reasons for non-compliance or difficulties in achieving compliance with all consent conditions;
- i) recommendations on alterations to monitoring required by consent conditions; and,
- j) any other issues considered important by the consent holder.

#### **Bond**

48. Within 12 months of the commencement of this consent the Consent Holder shall provide and maintain, or shall have a third party provide and maintain, a bond in favour of the Consent Authority to enable:

- a) Rehabilitation (including contouring, drainage, revegetation,) of the quarry site and overburden areas to a standard such that the activities and works authorised by this consent no longer require resource consent;
- b) Operation and maintenance of treatment systems on the site to ensure that discharges meet the resource consent requirements while rehabilitation on the site is being completed; and,
- c) Compliance with all the conditions of this consent related to site rehabilitation and site closure.

49. The quantum of the bond shall be sufficient to cover:

- a) The estimated costs (including any contingency necessary) of the activities outlined in condition 48; and,
  - b) Any further sum which the Consent Authority consider necessary for monitoring any adverse effect on the environment that may arise from the site including monitoring anything which is done to avoid, remedy, or mitigate an adverse effect.
50. The bond shall be in a form approved by the Consent Authority and shall, subject to these conditions, be on the terms and conditions required by the Consent Authority.
51. Unless the bond is a cash bond, the performance of all the conditions of the bond shall be guaranteed by a guarantor acceptable to the Consent Authority. The guarantor shall bind itself to pay for the carrying out and completion of any condition of the bond in the event of any default of the consent holder, or any occurrence of any adverse environmental effect requiring remedy.
52. The amount of the bond shall be fixed within 12 months of commencement of this consent and every third anniversary thereafter by the Consent Authority. The amount of the bond shall be advised in writing to the consent holder at least one month prior to the review date.
53. Should the Consent Holder not agree with the amount of the bond fixed by the Consent Authority then the matter shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1996. Arbitration shall be commenced by written notice by the consent holder to the Consent Authority advising that the amount of the bond is disputed, such notice to be given by the Consent Holder within two weeks of notification of the amount of the bond. If the parties cannot agree upon an arbitrator within a week of receiving the notice from the consent holder, then an arbitrator shall be appointed by the Chief Executive Officer of the Institute of Professional Engineers of New Zealand. Such arbitrator shall give an award in writing within 30 days after his or her appointment, unless the consent holder and the Consent Authority agree that time shall be extended. The parties shall bear their own costs in connection with the arbitration. In all other respects, the provisions of the Arbitration Act 1996 shall apply. Pending the outcome of that arbitration, the existing bond shall continue in force. That sum shall be adjusted in accordance with the arbitration determination.
54. If the amount of the bond to be provided by the Consent Holder is greater than the sum secured by the current bond, then within one month of the consent holder being given written notice of the new amount to be secured by the bond, the Consent Holder and the guarantor shall execute and lodge with the Consent Authority a variation of the existing bond or a new bond for the amount fixed on review by the Consent Authority. Activities authorised by the consent shall not be undertaken if the variation of the existing bond or new bond is not provided in accordance with this condition.
55. The bond may be varied, cancelled, or renewed at any time by agreement between the Consent Holder and the Consent Authority.
56. The bond shall be released on completion of Closure of the site.

**Advice Note:** *Completion of Closure means when resource consents for the site are no longer required. The Consent Holder shall pay all costs relating to the bond.*

## **Administration**

57. The consent holder shall pay to the Waikato Regional Council any administrative charge fixed in accordance with section 36 of the Resource Management Act 1991, or any charge prescribed in accordance with regulations made under section 360 of the Resource Management Act.

#### **Review**

58. At any time during 2023, and during every third year thereafter for the term of the consent, the Waikato Regional Council may, following service of notice on the consent holder, commence a review of the conditions of this resource consent pursuant to section 128(1) of the Resource Management Act 1991 for the following purposes:

- a) To review the effectiveness of the conditions of this resource consent in avoiding or mitigating any adverse effects on the environment from the exercise of this resource consent and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions; or,
- b) To review the adequacy of and the necessity for monitoring undertaken by the Consent Holder and specifically to review the method and frequency of record collection for the purposes of determining the most appropriate method and frequency; or,
- c) If necessary and appropriate, to require the holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the environment.

**Schedule 2**  
**Waikato District Council**  
**Conditions of Consent**  
**Resource Consent No: LUC0123/19**

**Waikato District Council**  
**LUC0123/19**  
**Consent Conditions**

**General**

1. The quarrying and filling activities at the site shall be undertaken in general accordance with the information and plans submitted by the Consent Holder in support of application number LUC0123/19 and officially received on the 1<sup>st</sup> October 2018 and further information provided on 12<sup>th</sup> October 2018, 18<sup>th</sup> February 2019 and 7<sup>th</sup> October 2020 (and any later versions of these documents), except as amended by the conditions below. Copies of the approved plans are attached. In the case of inconsistency between the application and the conditions of this consent, the conditions of this consent shall prevail.

2. The following definitions are applicable to this consent:

Quarrying activities means the extraction, blasting, processing, storage and distribution of rock from the site and includes ancillary activities such as overburden removal and the treatment of stormwater together with ancillary buildings and structures.

Cleanfill means materials such as clay, soil and inert materials such as concrete, brick or demolition materials, which are free of combustible materials and are not subject to biological and chemical breakdown.

Filling activities means the deposition of cleanfill and overburden on the site.

Commencement of this consent has the same meaning as section 116 of the Resource Management Act 1991.

**Extraction and Pit Floor Level**

3. The quarry shall operate with the following limitations:
  - a) The total volume of aggregate extracted shall not exceed 490,000 tonne per annum and the total volume of cleanfill material deposited shall not exceed 100,000m<sup>3</sup> per annum; and
  - b) The quarry pit floor shall remain at the elevation of 40m RL (above mean sea level).

**Indigenous Vegetation Removal**

4. The total area of Indigenous Vegetation Removal shall not exceed 2.45ha (2.08 ha SNA in Stage 1 and 0.37 ha indigenous vegetation in Stage 3).
5. Earthworks within the SNA shall not exceed 1,300,000m<sup>3</sup>.

**Administration**

6. Pursuant to Section 36 of the Resource Management Act 1991 the consent holder shall pay the actual and reasonable costs incurred by the Waikato District Council when monitoring the conditions of this consent.



### **Management Plans**

7. A copy of this consent and the approved Management Plans shall be kept on site at all times the activities are being undertaken and shall be produced without unreasonable delay upon request from any authorised officer of the Waikato District Council.

### **Developers Representative**

8. Prior to commencing any engineering designs or construction works, the Consent Holder shall appoint an appropriately qualified and competent Developer's Representative(s), acceptable to the Waikato District Council.
9. The Consent Holder's representative/s shall be responsible for:
  - (a) project management of the quarrying and filling activities during the planning, construction and operational phases of the development;
  - (b) arranging design, and obtaining necessary geotechnical investigation and reports for the quarrying and filling activities, including the preparation of engineering documents and obtaining any necessary approvals from Waikato District Council;
  - (c) supervision of the works;
  - (d) arranging the necessary testing and inspections;
  - (e) identifying any non-compliant work and arranging for correction; and
  - (f) certification upon completion that the works have been carried out in accordance with the approved documents and sound engineering practice.

### **Prior to Giving Effect to the Consent**

10. The Consent Holder shall notify the Waikato District Council Monitoring Team Leader at least 10 days prior to the commencement of any activities associated with this consent. Such notification shall include the following details:
  - (a) names and telephone number/s of the consent holder's representative/s;
  - (b) site address to which the consent relates;
  - (c) the Waikato District Council land use consent reference number;
  - (d) works to be undertaken; and
  - (e) expected duration of the entrance upgrade works.

### **Site Management Plan**

11. Within six (6) months of the commencement of this consent, the Consent Holder shall submit to Waikato District Council's Monitoring Team Leader, a Site Management Plan (SMP).

The objective of the SMP is to set out practices and procedures to be undertaken during the quarrying and filling activities in order to avoid, remedy or mitigate adverse effects of the extraction activities and to comply with the conditions of this consent.

The SMP shall include, but not be limited to, the following matters:

- (a) Quarry extraction areas including alignment, maximum quarry face length and approximate RL, and, approximate maximum depth RL;
- (b) Measures to maintain safe and stable batter slopes;
- (c) Aggregate processing areas including site locations and areas;
- (d) Stockpile areas including site locations and areas;

- (e) Drainage plans for the areas identified in a) to c) above;
  - (f) Erosion and Sediment Control Plan (ESCP);
  - (g) Overburden Management Plan (OMP);
  - (h) Cleanfill Management Plan (CMP);
  - (i) Dust Management Plan (DMP);
  - (j) Quarry Circulation and Loading Management Plan (QCLMP)
  - (k) Ecological Mitigation and Monitoring Plan (EMMP); and
  - (l) Landscape Mitigation and Management Plan (LMMP).
12. The Site Management Plan and all sub-management plans listed in Condition 11 shall be approved by suitably qualified and experienced person(s) (SQEP) on behalf of Waikato District Council.
- Advice Note: For the purposes of complying with this condition, the SQEP is able to be appointed by Waikato Regional Council in consultation with Waikato District Councils Monitoring Team Leader insofar as it relates to the plans referred to in Condition 11(e), (f), (h), (i) and (k).
13. The Consent Holder shall exercise this consent in accordance with the Site Management Plan certified in Condition 11. Any subsequent changes to the Site Management Plan must only be made with the written approval of Waikato District Council's Monitoring Team Leader based on the recommendations of the SQEP appointed pursuant to Condition 12. In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the Site Management Plan, then the conditions of this consent shall prevail.

### **Erosion and Sediment Control Plan**

14. Within two (2) months of the commencement of this consent the Consent Holder shall submit to the Waikato District Council's Monitoring Team Leader an Erosion and Sediment Control Plan (E&SCP) for Stage 1 of the expansion. Approval of the E&SCP will take place in accordance with the process set out in Condition 12 of these conditions.

The E&SCP shall as a minimum be based upon and incorporate all the relevant principles and practices for the activity authorised by this consent and contained within the Waikato Regional Council document titled "Erosion and Sediment Control – Guidelines for Soil Disturbing Activities" (Technical Report No. 2009/02 – dated January 2009), and shall include, but not be limited to, the following;

- (a) Details of all principles, procedures and practices that will be implemented to undertake erosion and sediment control to minimise the potential for sediment discharge from the site, including flocculation if required;
- (b) The design criteria and dimensions of all key erosion and sediment control structures;
- (c) A site plan of a suitable scale to identify;
  - i. The locations of waterways;
  - ii. The extent of soil disturbance and vegetation removal;
  - iii. Any "no go" and/or buffer areas to be maintained undisturbed adjacent to watercourses;
  - iv. Areas of cut and fill;

- v. Locations of topsoil stockpiles;
  - vi. All key erosion and sediment control structures;
  - vii. The boundaries and area of catchments contributing to all stormwater impoundment structures;
  - viii. The locations of all specific points of discharge to the environment;
  - ix. The location and details of stream stabilisation works in areas of damming, diversion or clearing; and,
  - x. Any other relevant site information.
- (d) Construction timetable for the erosion and sediment control works and the bulk earthworks proposed;
  - (e) Timetable and nature of progressive site rehabilitation and re-vegetation proposed;
  - (f) Maintenance, monitoring and reporting procedures;
  - (g) Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures;
  - (h) Procedures and timing for review and/or amendment to the erosion and sediment control measures listed in the E&SCP; and,
  - (i) Identification and contact details of personnel responsible for the operation and maintenance of all key erosion and sediment control structures.
15. The Consent Holder shall ensure that the E&SCP is implemented on site in accordance with the methods and timeframes outlined for the various components within the E&SCP certified in Condition 14 to the satisfaction of Waikato District Councils Monitoring Team Leader. Any changes to the E&SCP must only be made with the written approval of Waikato District Councils Monitoring Team Leader and be based on the recommendations of the SQEP appointed pursuant to Condition 12.

### **Overburden Management Plan**

16. Within six (6) months of commencement of this consent, the Consent Holder shall submit to Waikato District Council's Monitoring Team Leader for certification, an Overburden Management Plan (OMP).

The objective of the OMP is to set out the detail and procedures that will be implemented to manage overburden removal and placement; specific design details, construction and certification procedures to ensure long term stability of areas of overburden fill; and to comply with the conditions of this consent.

The OMP shall include, but not be limited to the following matters:

- (a) A description of the methodology for overburden stripping and disposal;
- (b) Areas to be quarried over the next 12 months;
- (c) Plans for overburden stripping and disposal over the next 12 months;
- (d) Details of maintenance activities undertaken in the previous 12 months, and maintenance activities proposed over the next 12 months;
- (e) The specific location of the placement area;
- (f) The design and construction procedures;
- (g) How sediment losses to natural water will be avoided;
- (h) Earthworks procedures to be adopted during overburden stripping and disposal;

- (i) Measures to avoid the over compaction of soils;
  - (j) Timetable of works and re-vegetation;
  - (k) Maintenance and inspection procedures;
  - (l) Monitoring; and
  - (m) Contingency and mitigation measures.
17. The OMP plan shall be updated on the 1 April each year or as otherwise agreed in writing with Waikato District Councils Monitoring Team Leader. Any changes to the OMP shall be to the satisfaction of Waikato District Council's Monitoring Team Leader.
18. The Consent Holder shall undertake the placement of overburden in accordance with the OMP certified in Condition 16.

### **Cleanfill Management Plan**

19. Within two (2) months of the commencement of this consent, the Consent Holder shall submit to Waikato District Council's Monitoring Team Leader, a Cleanfill Management Plan (CMP). Approval of the CMP will take place in accordance with the process set out in Condition 12 of these conditions.

The objective of the CMP is to set out practices and procedures to be undertaken to manage the receipt and disposal of cleanfill at the site and to comply with the conditions of this consent.

The CMP shall include, but not be limited to the following matters:

- (a) procedures to record the name and address of contractors dumping cleanfill at the site;
  - (b) the specific location of the cleanfill placement areas;
  - (c) cleanfill Acceptance Criteria for cleanfill to be disposed on site;
  - (d) a description of operational procedures and monitoring that will be implemented to prevent unauthorised material from entering the site;
  - (e) quarantine area and contingency measures for addressing unacceptable fill;
  - (f) specific design details, construction and certification procedures to ensure long term stability of cleanfill areas;
  - (g) description of the stormwater management system (including design specification, location and management of all structures; and
  - (h) procedures for improving and/or reviewing the CMP.
20. The Consent Holder shall operate the site in accordance with the CMP certified in Condition 19. Any changes to the CMP must only be made with the written approval of Waikato District Council's Monitoring Team Leader and be based on the recommendations of the SQEP appointed pursuant to Condition 12.

### **Quarry Circulation and Loading Management Plan**

21. Within six (6) months of the commencement of this consent, the Consent Holder shall prepare and submit a Quarry Circulation and Loading Management Plan (QCLMP) to Waikato District Council's Senior Land Development Engineer for certification.

The objective of the QCLMP is to demonstrate that the internal vehicle circulation avoids any impacts on McPherson Road such as queuing or parking within the shoulders/berm. The QCLMP shall include but not be limited to the following:

- (a) swept paths to demonstrate two-way movements through the gate;
- (b) loading areas and arrangements;
- (c) internal circulation roads including any passing bays; and
- (d) internal parking arrangements for staff and visitors.

22. The Consent Holder shall operate the site in accordance with the QCLMP certified in Condition 21. Any changes to the QCLMP must only be made with the written approval of Waikato District Council's Senior Land Development Engineer.

### **Dust Management Plan**

23. Within six (6) months of the commencement of this consent, the Consent Holder shall submit a Dust Management Plan (DMP) to the Waikato District Councils Monitoring Team Leader. Approval of the DMP will take place in accordance with the process set out in Condition 12.

The objective of the DMP is to set out the methods and procedures to minimise any potential dust nuisance effects beyond the boundary of the site and comply with conditions of this consent.

The DMP shall include, but not be limited to, the following matters:

- (a) Procedures for undertaking a daily site inspection, including summarising the outcome of the inspection in a daily environment diary. This could also include but is not limited to:
  - i. Operation of watercart;
  - ii. Any dust mitigation implemented; and
  - iii. Any exceedance of dust monitoring alert levels and the result of any investigations in to the causes of the exceedance.
- (b) Procedures that will be adopted to ensure that fugitive dust emissions are minimised from the roadways, working areas and stockpiles, including wind speed triggers that shall initiate specific mitigation measures;
- (c) Details of the dust mitigation measures to be used on the site, including both fixed and temporary systems;
- (d) Identification of roles and positions of responsibility, including responsibility for ensuring the effective application of dust control measures identified in b) and c) above;
- (e) Provision and maintenance of 20 kph speed limit signs on all unsealed access roads;
- (f) Total Suspended Particulates ("TSP") or PM<sub>10</sub> particulate monitoring locations, alert levels and trigger levels and actions;
- (g) Details of how the nett TSP concentrations will be calculated.
- (h) Maintenance procedures for the monitoring equipment and weather station;
- (i) Reporting procedures;
- (j) Dust Management Plan review procedures;
- (k) Complaint receipt and response procedures.

24. The Consent Holder shall undertake all works within the site in accordance with the DMP certified in Condition 23. Any subsequent changes to the Dust Management Plan

shall only be made with the written approval of Waikato District Council's Monitoring Team Leader and be based on the recommendations of the SQEP appointed pursuant to Condition 12.

### **Ecological Management and Mitigation Plan**

25. Within two (2) months of the commencement of this consent and prior to any vegetation clearance, the Consent Holder shall submit an Ecological Management and Mitigation Plan (EMMP) prepared by a suitably qualified and experienced ecologist to the Waikato District Councils Monitoring Team Leader. Approval of the EMMP will take place in accordance with the process set out in Condition 12.

The objective of the EMMP is to set out the methods and procedures to remedy, mitigate and environmentally compensate or offset all ecological effects of the quarrying and associated activities with the intent of achieving net improvement and betterment of the existing environment. The EMMP objectives, among other matters, are to:

- (a) Minimise wildlife disturbance arising from the operation of the quarry and associated activities;
  - (b) Provide for the restoration, revegetation, enhancement and/or protection of indigenous forest and wetland habitat to remedy, mitigate and environmentally compensate or offset for the habitat removed or adversely affected resulting from the quarry activities.
26. The ecological mitigation measures addressed in the EMMP shall be based on the remediation, mitigation, and environmental compensation or offset measures documented in the application and further technical reviews of the proposal. Without limiting the above, the ecological remediation, mitigation, and environmental compensation or offset measures shall specifically include the following:
- (a) Restoration and enhancement of a minimum (indigenous re-vegetation equivalent):
    - i. Planting of native species to form the 5.895ha ecological corridor;
    - ii. The Consent Holder shall, at least three (3) years prior to diverting Tributary I, complete riparian planting with native species on 10 m either side of the tributary to Waipunga Stream insofar as it is situated within the Project Site;
    - iii. The Stream I riparian plantings shall cover at least 930 linear metres of the stream;
    - iv. Additional buffer planting around wetlands of at least 5 metres to those stipulated in the Ecological Management Plan submitted with the application.
  - (b) The wetland enhancement plan which shall include details on how the existing and proposed new wetlands will be enhanced, particularly in relation to hydrological maintenance.
  - (c) Bat management, which shall include specifications on bioacoustics surveys for native bats prior to the commencement of tree felling ~~at each stage of works~~. Details shall be provided on vegetation removal protocol should bats be detected during these surveys.
  - (d) Lizard Management, which will consist of additional survey effort to be undertaken (being no less than two (2) additional nights spotlighting and three (3) checks of artificial cover objects and manual searches) by a suitably qualified ecologist. If lizards are detected during the surveys, the consent holder shall prepare a Lizard

Management Plan which will outline methodologies to search for and relocate lizards into retained habitat of equal or greater value on-site.

- (e) Bird management, which shall aim to avoid vegetation clearance between September to February and, where this is not achievable, shall involve expert advice from a suitably qualified person who is to develop a bird management strategy/plan. This strategy/plan shall include surveys prior to any tree clearance (regardless of the timing of clearance). If indigenous birds are observed, measures to minimise adverse effects on those populations shall be identified and carried out.
  - (f) Details of fencing to be undertaken around the ecological corridor and at the two wetlands to be upgraded, in addition to details of any pest plant control which shall be undertaken in these two areas for no less than 5 years from commencement of consent.
  - (g) Fish Management Plan which shall include details of the measures to be used to avoid and minimise adverse effects on aquatic habitats and biota but not limited to:
    - a. Measures to minimise disturbance and sedimentation in habitats known to support “Threatened” and “At Risk” freshwater fauna,
    - b. Measures to capture and relocate indigenous fish from stream Tributary prior to and during diversion (if it is to be diverted);
    - c. Measures to minimise potential for indigenous fish to re-enter the Tributary to be diverted (i.e. requirements for fish barriers/exclusions).
    - d. Measures to salvage and translocate fish in the stream to be diverted.
  - (h) Planting Management Plan, including as a minimum:
    - i. Site plantings including species to be planted, size of plants, and where they are to be planted, density of planting, sourcing of plants and fertilising;
    - ii. Site preparation for planting including weed and pest control;
    - iii. Timeline for planting;
    - iv. Ongoing weed and pest control;
    - v. Supplementary/replacement planting plans specifications; and
    - vi. Timing of monitoring maintenance inspections; and
    - vii. Methods to ensure that the plantings are protected and maintained in perpetuity.
27. The Consent Holder shall ensure that the EMMP is implemented on site in accordance with the methods and timeframes outlined for the various components within the EMMP certified in Condition 26 to the satisfaction of Waikato District Councils Monitoring Team Leader. Any changes to the EMMP must only be made with the written approval of Waikato District Councils Monitoring Team Leader and be based on the recommendations of the SQEP appointed pursuant to Condition 12.
28. Within the first planting season after the commencement of this consent, the Consent Holder shall undertake planting of the ecological corridor in accordance with the recommendations of the LMMP and EMMP. The planting of the corridor (5.895ha) cannot take more than three consecutive planting seasons.
29. The Consent Holder shall provide an updated EMMP to determine if physical habitat values that develop in new or restored channels, wetland and-planting areas are greater in ecological value and diversity than baseline conditions (Year 0 – restored channels and wetlands) or of equivalence to the SNA impact site (ecological corridor and other terrestrial habitat planted areas). The updated plan shall detail:

- (a) Mitigation measures for the effects on the upper reach of Tributary 1.
  - (b) Identification of suitable sampling sites and sampling regimes.
  - (c) Methods for pre and post works monitoring of aquatic stream and wetland habitat for a minimum of 6 years, undertaken on Year 0 (Pre-riparian planting), 2, 4, and 6. These should provide enough detail to measure variation in habitat value from baseline conditions. For wetlands, this should include accurate reference to wetland extent (determined through vegetation, soil and hydrology indicators) and condition (including but not limited to: flow modification, water quality, erosion, sedimentation and biota).
  - (d) Methods for pre and post works monitoring of ecological corridor terrestrial habitat continue until ecological equivalence is determined by a suitably qualified and experienced practitioner or for a maximum of 15 years, undertaken every two years to demonstrate recruitment/utilisation of the corridor. Key ecological outcomes to determine corridor establishment be used as a proxy for corridor functionality will include, but not be limited to: canopy closure, flora and fauna abundances and diversity, evidence of natural regeneration/emergence of understory species, etc.
  - (e) Details on how the proposed wetland mitigation measures will be implemented, including specific reference to the maintenance and improvement of wetland form and function should be included within the EMMP.
30. Within three (3) months of commencement of this consent the Consent Holder shall invite representatives of Ngāti Tamaoho and Ngāti Te Ata to develop a Mātaraunga Māori Monitoring Framework (Framework) and protocols to ensure the Framework is maintained with respect to the habitat monitoring stipulated by condition 29. The Framework may include references to Cultural Health Indicators and methodologies for monitoring and/or terrestrial habitat and shall, upon completion, be provided to the Consent Holder for their record
31. Provided a Framework has been completed and shared with the Consent Holder pursuant to condition 30, at least three (3) working days prior to any planned monitoring stipulated by condition 29 and/or the EMMP, the Consent Holder shall invite iwi representatives to attend the visit and provide a report on the results to the Consent Holder within one (1) of the same for inclusion in the annual report stipulated by condition 78.
32. The Consent Holder shall include details of the monitoring stipulated by condition 29 and 30 (insofar as it exists) in the annual report stipulated by condition 78 outlining the details of any ecological mitigation and associated monitoring works required under the EMMP which have been undertaken within the preceding 12 month period. The matters to cover shall include, but will not be limited to:
- (a) Details of any planting or plant maintenance works including the outcomes of any maintenance inspections of established plantings;
  - (b) Details and outcomes of any terrestrial and aquatic monitoring required by condition 29(c);
  - (c) Details and outcomes of any plant or animal pest control works including any follow up monitoring of pests.



- (d) Where key ecological outcomes (recruitment/utilisation) required by condition 29 are not met (as identified through monitoring – Condition 29(a)-29(c)), further plans and implementation protocols need to be developed and enacted.

### **Landscape Mitigation and Management Plan**

- 33. Within two (2) months of the commencement of this consent, the Consent Holder shall submit to Waikato District Council's Monitoring Team Leader for certification, a Landscape Mitigation and Management Plan (LMMP) prepared by a suitably qualified landscape architect.

The objective of the LMMP is to identify those landscape features and attributes of the site which are to be maintained, and the finished form of the site to manage the visual and landscape effects of the quarrying and filling activities to an acceptable level.

- 34. The LMMP shall include, but not be limited to the following matters:
  - (a) An annotated planting plan(s) which outlines the proposed location and extent of all areas of planting, including any revegetation, reinstatement planting, mitigation planting and natural revegetation. Location of planting shall be in general accordance with the mitigation plan prepared by Mansergh Graham Landscape Architects and the updated ecological corridor planting plan dated 21 September 2020.
  - (b) A plant schedule based on the submitted planting plan(s) which details specific plant species, plant sourcing, the number of plants, height and/or grade (litre) / Pb size at time of planting, and estimated height / canopy spread at maturity.
  - (c) Details of draft specification documentation for any specific drainage, soil preparation, tree pits, staking, irrigation and mulching requirements.
  - (d) An annotated pavement plan and related specifications, detailing proposed site levels and the materiality and colour of all proposed hard surfacing.
  - (e) A landscape maintenance plan (report) and related drawings and specifications for all aspects of the finalised landscape design, including in relation to the following requirements:
    - (i) Irrigation;
    - (ii) Weed and pest control;
    - (iii) Plant replacement;
    - (iv) Inspection timeframes; and
    - (v) Contractor responsibilities.
  - (f) A detailed staging maintenance plan prepared by a landscape architect or suitably qualified person. The staged maintenance plan should outline performance targets for proposed screening planting and should include but not be limited to:
    - (i) Minimum heights of trees;
    - (ii) Planting density; and
    - (iii) Screening requirements.
- 35. The Consent Holder shall ensure that the LMMP is implemented on site in accordance with the methods and timeframes outlined for the various components within the LMMP certified in Condition 33 to the satisfaction of Waikato District Councils Monitoring Team Leader. Any changes to the LMMP must only be made with the written approval of Waikato District Councils Monitoring Team Leader.

### **Conceptual Site Closure Plan**

36. Within six (6) months of the commencement of this consent, the Consent Holder shall submit to the Waikato District Council's Monitoring Team Leader a Conceptual Site Closure Plan (CSCP). Approval of the CSCP will take place in accordance with the process set out in Condition 12.

As a minimum, the Conceptual Site Closure Plan shall address the following:

- (a) Future landforms following all quarrying activities at the site;
  - (b) Future groundcover following all quarrying activities at the site;
  - (c) Reporting procedures; and,
  - (d) Review procedures.
37. The Consent Holder shall review and update the CSCP within six months of any decision to cease quarrying at the site. The Consent Holder shall submit any revised CSCP to the Waikato District Council's Monitoring Team Leader for certification.

### **Site Rehabilitation Plan**

38. Within six (6) months of the commencement of this consent, the Consent Holder shall submit to the Waikato District Council's Monitoring Team Leader a Site Rehabilitation Plan (SRP). Approval of the SRP will take place in accordance with the process set out in Condition 12.

The Site Rehabilitation Plan shall detail rehabilitation objectives, goals and success criteria to be followed in order to achieve the future landforms and groundcovers detailed within the Conceptual Site Closure Plan. As a minimum, the SRP shall include the following:

- (a) Procedures for progressive rehabilitation;
  - (b) Any specific measures to control erosion;
  - (c) Procedures for pest control;
  - (d) Procedures for noxious weed control;
  - (e) Land and vegetation maintenance procedures;
  - (f) Post closure maintenance methods and after care plans;
  - (g) Approximate timeframes for landscape and rehabilitation events;
  - (h) Approximate costs associated with the implementation of this plan to the stage of conceptual site closure;
  - (i) Monitoring procedures; and,
  - (j) Reporting and review procedures.
39. The Consent Holder shall review and update the SRP within six months of any decision to cease quarrying at the site. The Consent Holder shall submit any revised SRP to the Waikato District Council's Monitoring Team Leader for certification.
40. The rehabilitation of the Quarry shall be undertaken such that:
- (a) Where appropriate, and where subsoils and topsoils are available, these shall be used for rehabilitation and the land shall be managed to actively develop stable topsoil mantles generally consistent with topsoils on adjacent areas of land unaffected by quarrying.

- (b) Where practical the rehabilitated land cover is generally consistent with that on adjacent land unaffected by quarrying.
41. The rehabilitation of the quarry shall be undertaken in accordance with the Site Rehabilitation Plan required by Condition 38 of this consent and shall be implemented under the supervision of persons with appropriate restoration or rehabilitation experience.

### **Fencing of Indigenous Vegetation**

42. The consent holder shall ensure that fencing is undertaken in accordance with the fencing required by Condition 26(f). The consent holder's attention is drawn to the following minimum standards for stock proof fencing:

Number of wires	7
Posts	5 metres apart maximum
Battens	5 between posts minimum

43. The fence is to be otherwise in accordance with Clause 7 of the Second Schedule to the Fencing Act 1978.

### **Conservation Covenant**

44. The Consent Holder shall agree to a Covenant in perpetuity under the Reserves Act 1977 or Queen Elizabeth II National Trust 1977 being registered on Allotment 163 Parish of Maungatawhiri (RT NA2D/412) and Section 164 Parish of Mangatawhiri (RT NA2D/961) or any new allotments or RT's created covering the relevant areas to the effect that the ecological corridor referred to in this consent is fenced with a stock proof fence in accordance with conditions of this consent and is to be protected in perpetuity.
- a. The Conservation Covenant is required to refer to the Ecological Impact Assessment prepared by Ecology NZ and dated October 2019 and the Ecological Mitigation and Management Plan certified in Condition 25.
- b. The Conservation Covenant will be prepared by Waikato District Council's Solicitor at the consent holder's expense.

Advice Note: for the avoidance of doubt this condition shall be satisfied once planting is complete (within the first three planting seasons).

### **Hours of Operation**

45. The hours of operation, for all truck movements and for activities associated with the quarrying and filling activities shall be as follows:

Hours of Work:	Monday to Friday	0700 – 1900
	Saturday	0700 – 1900

The site shall not operate on a Sunday or on any public holidays.

46. The entrance to the site shall be securely locked outside of the above hours of operation.

## **SH2/McPherson Road Intersection**

47. The Consent Holder shall provide evidence of a Traffic Management Plan and Consent to Work on the Highway being submitted and approved by the New Zealand Transport Agency at least seven working days prior to the commencement of any works on the state highway.

Advice Note: NZTA require prior approval for works undertaken within State Highway 2 pursuant to Section 51 of the GRPA.

48. The Consent Holder shall ensure that any works undertaken within the state highway are undertaken in accordance with the Traffic Management Plan approved in condition 47.
49. The Consent Holder shall submit detailed engineering design plans for the SH2/McPherson Road intersection to the New Zealand Transport Agency for approval prior to any works being undertaken on SH2. Detailed design shall be in general accordance with Opus drawing 3-39019.00\_SK001 and shall include, but not be limited to the following:
- (a) Superelevation and drainage for surface water on the pavement as per Austroads guidelines;
  - (b) Heavy vehicle turning paths;
  - (c) Cross-sectional drawings to indicate batter slopes, drainage lane width and property boundaries;
  - (d) Traffic movement at the intersection for calculation of right turn bay length;
  - (e) Re-alignment of guardrail;
  - (f) An advance warning sign for heavy vehicle crossing as per MOTSAM (sign to be located to the west of the SH2/McPherson Road intersection).

50. An independent safety audit must be conducted during detailed design of the intersection with State Highway 2 and post construction. Each audit shall be carried out by an appropriately qualified auditor experienced with intersection design and appointed in consultation with the New Zealand Transport Agency. Any recommendations made by the auditor that require changes to design and construction shall be approved by the New Zealand Transport Agency.

51. The Consent Holder shall ensure that the required sight lines of 151 metres are achieved in perpetuity.

Advice Note: Batter slopes and vegetation removal may be required on part Allotment 200A Parish of Mangatawhiri to achieve the required sight lines of 151 metres in perpetuity. Written notice of any works on part Allotment 200A Parish of Mangatawhiri shall be provided to Waikato District Council's Parks and Facilities Team.

52. Within 12 months of the commencement of this consent, the Consent Holder shall upgrade the SH2/McPherson Road intersection in accordance with the design plans for the SH2/McPherson Road intersection approved in Condition 49.

53. The Consent Holder shall provide to Waikato District Council's Senior Land Development Engineer written approval from Waka Kotahi (NZTA) that the

SH2/McPherson Road intersection has been upgraded to their satisfaction and to meet the requirements of conditions 47-52.

54. Until condition 53 has been satisfied, the Consent Holder shall ensure that the heavy vehicle movements to and from the site do not exceed:
- (a) Daily maximum of 150 trucks/day; and
  - (b) Daily average of 112 trucks/day (calculated over a three month period).

### **Site Entrance**

55. At least 20 working days prior to construction, the Consent Holder shall submit engineering plans detailing the vehicle crossing and proposed haul road to Waikato District Councils Senior Land Development Engineer for approval in a technical certification capacity in advance of any construction works being undertaken. The design of the vehicle crossing should be in general accordance with the RITS diagram D3.3.4 and accommodate left turn in and right turn out movements by heavy vehicles, including:
- (a) Tracking for the design vehicle.
  - (b) Relocating the gates to be set back at least 22m from the edge of the McPherson Road carriageway.
  - (c) Sealing the vehicle crossing (grade 3/5 chip) and the driveway for a minimum of 40m within the site.
  - (d) Removal of vegetation to improve sight distance at the vehicle crossing.

Advice Note: Prior to undertaking any works within the Council road reserve, a Corridor Access Request (CAR), including traffic management plan, for the works to be carried out in the road reserve, and submitted to the Waikato District Council for approval not less than fifteen (15) working days before starting these works.

56. Within three (3) months of the commencement of this consent, Consent Holder shall upgrade the site entrance in accordance with the design plans certified in Condition 55.

### **Traffic Movements and Vehicle Register**

57. The Consent Holder shall ensure that heavy vehicle movements to and from the site occur only within the site's hours of operation and do not exceed the following levels:
- (a) Daily maximum of 210 HCV movements/day; and
  - (b) Daily average of 165 HCV movements/day (calculated over a three-month period).
58. The Consent Holder must keep a register of total daily truck movements, daily aggregate quantity leaving the site and daily cleanfill quantity entering the site. The register shall contain the following:
- (a) registration number of vehicle;
  - (b) time of arrival and time of departure;
  - (c) approximate size of the cleanfill load deposited;
  - (d) source and type of cleanfill material to be deposited;
  - (e) comments on whether the cleanfill material is accepted or not; and
  - (f) weight of aggregate extracted.

59. The daily incoming and outgoing logs shall be retained on site at all times and be made available for Waikato District Council inspection during working hours. A copy of the logged information shall be forwarded to the Waikato District Council's Monitoring Team Leader on a six (6) monthly basis from the commencement of this consent.

### **Heavy Vehicle Impact Fee**

60. The Consent Holder shall pay the Waikato District Council a pavement impact fee of \$63,704.54 plus GST. The pavement impact fee shall be completely paid within 6 years of commencement of this consent.
61. The pavement impact fee shall be re-assessed by a suitably qualified person upon exceeding a cumulative total of 14,400,000 tonnes of material being extracted from the quarry.
62. The Consent Holder shall, within ten (10) working days of payment, provide Waikato District Council's Monitoring Team Leader with written notice of the date on which the payment of the pavement impact fee is paid to Council, the amount that was paid, and how the amount was calculated.

Advice Note: The Consent Holder is advised that should a period of 13 or more months pass between payments the Council may start enforcement proceedings against the consent holder, which may include, but is not limited to debt collection.

### **Noise Management and Compliance Monitoring**

63. The Consent Holder shall ensure that all activities on the site, measure at or within the notional boundary of any other site in the Rural Zone, shall not exceed the following noise limits:
- (a) 50 dBL<sub>Aeq</sub> 0700 to 1900 all days
  - (b) 45 dBL<sub>Aeq</sub> 1900 to 2200 all days
  - (c) 40 dBL<sub>Aeq</sub> and 65 dB<sub>AFmax</sub> 2200 to 0700 all days

Advice Note: Notional boundary means a line 20 metres from any side of a dwelling, or the legal boundary where this is closer to the dwelling.

64. Noise shall be measured in accordance with New Zealand Standard NZS 6801:2008 *Acoustics – Measurement of Environmental Sound* and assessed in accordance with NZS 6802:2008 *Acoustics – Environmental noise*.
65. Within three (3) months of giving effect to this consent, and at any other time when requested by Waikato District Council, the Consent Holder shall engage a suitably qualified acoustic engineer to undertake noise level monitoring from all activities on the site to confirm compliance with Condition 63. The results of this monitoring shall be reported to the Waikato District Council Monitoring Team Leader within 10 working days of the completion of the monitoring.
66. Where the monitoring of noise levels required by Condition 64 demonstrates a non-compliance with Condition 63, the Consent Holder shall take action within five (5) working days to ensure that compliance is achieved and shall report to the Waikato District Council's Monitoring Team Leader, the mitigation actions to be implemented.

Following implementation of such mitigation measures a further noise level survey shall be undertaken confirming that compliance with the relevant noise criteria has been achieved, and those results forwarded to the Waikato District Council's Monitoring Team Leader within ten (10) working days of the completion of the monitoring.

### **Vibration and Blasting for Quarry Activities**

67. All blasting and resultant vibration occurring on the site shall comply with the following:
- (a) The noise created by the use of explosives for any blasting activity within the quarry measured at or within the notional boundary of any other site shall not exceed a peak sound pressure of 128dB<sub>Zpeak</sub>; and
  - (b) All blasting shall be restricted to between 1000 and 1600 hours Monday to Saturday, except where blasting is required for safety reasons; and
  - (c) Blasting shall be confined to two occasions per day, except where necessary for safety reasons; and
  - (d) The vibration created by the use of explosives for any blasting activity within the quarry shall not exceed 5mm/s PPV at any building not on the same site; and
  - (e) Each blast shall be notified [to relevant parties via siren/text message] 30 minutes and again 1 minute prior to the blast occurring; and
  - (f) Records and monitoring results of two (2) blasts, over the calendar year, shall be submitted to Waikato District Council Monitoring Team Leader within the Annual Report to confirm compliance with Condition 73.

### **Dust and Debris Mitigation**

68. The Consent Holder shall ensure that no particulate matter resulting from activities authorised by this resource consent causes an objectionable or offensive effect beyond the boundary of the site being that land described as: RT NA2D/412: Allot 22 PSH of Mangatawhiri, Allot 139 and 140 PSH, Allot 161 and 163 PSH, RT NA2D/497, Allot 162 PSH, RT NA2D/961 Allot 164 PSH, RT NA423/102 Allot 159 and 160 PSH of Mangatawhiri, RT NA577/25 Allot 23, 24, 26, 130, 132, 133 Sbrn Sec 1 PSH of Mangatawhiri.

Advice Note: For the purpose of this resource condition, the Waikato District Council will consider an effect that is objectionable or offensive to have occurred if any appropriately experienced officer of the Waikato District Council deems it so after having regard to:

- (a) The frequency, intensity, duration, amount, effect and location of the suspended or particulate matter; and/or
  - (b) receipt of complaints from neighbours or the public; or
  - (c) relevant written advice or a report from an Environmental Health Officer of a territorial authority or health authority.
69. Should an emission of particulate matter occur that has an objectionable or offensive effect, the consent holder shall inform the Waikato District Council within 24 hours of the incident and provide a written report to the Waikato District Council within five days of being notified of the incident. The report shall specify:
- (a) the cause or likely cause of the event and any factors that influenced its severity;

- (b) the nature and timing of any measures implemented by the consent holder to avoid, remedy or mitigate any adverse effects; and
  - (c) the steps to be taken in future to prevent recurrence of similar events.
70. The Consent Holder must ensure that any debris tracking/spillage onto any McPherson Road as a result of the exercise of this consent shall be removed as soon as practical, and with a maximum of 24 hours after the occurrence, or as otherwise directed by a Waikato District Council's staff member, to the satisfaction of the Waikato District Council's Team Leader Monitoring. The cost of the cleanup of the roadway and associated drainage facilities, together with all temporary traffic control, shall be the responsibility of the consent holder.
71. The consent holder, upon becoming aware of the need to clean up the roadway, shall advise Waikato District Council's Monitoring Team Leader of the need for the road to be cleaned up, and what actions are being taken to do so.

### **Additional Engineering Requirements**

72. All works forming part of the consent which require engineering design, supervision, and testing shall be certified by the Certifying Engineer and/or a Geo-professional (who is one of the consent holder's representatives) who shall be a Chartered Professional Engineer. Once appointed, the Certifying Engineer shall not be changed without the approval of the Waikato District Council's Senior Land Development Engineer.
73. Geotechnical investigations, completion and site stability/suitability reports with respect to the cleanfill/overburden filling area shall be prepared and signed by a Geo-professional (as defined in NZS4404:2010), who shall provide evidence of suitable professional indemnity insurance cover for the works being investigated, supervised and certified.
74. Where subsoil drainage measures or toe bunds are recommended by a Geo-professional, these are to be installed and inspected, recorded and verified by the Geo-professional prior to burial. The Consent Holder shall provide evidence of this certification to Council in the Annual Report required by Condition 73.
75. The Consent Holder shall ensure that, as soon as possible, and within a maximum of 12 months, the areas where filling activities have been undertaken are covered with topsoil and revegetated (or by other approved means) to achieve a minimum 80% coverage. This work shall be undertaken to the satisfaction of the Waikato District Council's Team Leader-Monitoring.

### **Complaints register**

76. The Consent Holder shall maintain and keep a complaints register for substantiated complaints about the activity received by them. The register shall record:
- (a) the date, time and duration stated by the complainant as to when the event/incident (if possible, specify nature of incident e.g. dust nuisance) was detected;
  - (b) the possible cause of the event/incident;
  - (c) the weather conditions and wind direction at the site when the event/incident allegedly occurred;



- (d) any corrective action undertaken by the consent holder in response to the complaint; and
- (e) any other relevant information.

The consent holder shall ensure that the appropriate contact details of the site manager and/or staff member of equivalent position shall be supplied to all people who could be affected by this activity.

77. The complaints register shall be made available to the Waikato District Council at all reasonable times. Complaints received by the consent holder or sub-contractor shall be forwarded to the Waikato District Council, Monitoring Team Leader as soon as practicable and within at most 24 hours of the complaint being received.

### **Annual Report**

78. The Consent Holder shall submit to the satisfaction of Waikato District Council's Team Leader Monitoring, an Annual Performance Report for each year that the consent is exercised. The Annual Performance Report shall include details of the following:
- (a) Ecological Monitoring results as required by conditions 30 and 31 or any updates to the Ecological Mitigation and Management Plan (EMMP);
  - (b) daily and monthly truck movements;
  - (c) monthly volumes of rock extracted and cleanfill accepted;
  - (d) pavement impact fees paid;
  - (e) geotechnical monitoring undertaken;
  - (f) general compliance with the conditions of this consent
79. The first Annual Report shall be submitted twelve (12) months after the consent holder has given effect to this consent, and all further reports shall be submitted by 31 July for each following year.

### **Archaeological Discovery**

80. In the event of any archaeological site or waahi tapu being discovered or disturbed while undertaking works to give effect to the conditions of this consent, the works in the area of the discovery shall cease immediately, and Iwi (Ngati Te Ata and Ngati Tamaoho) and the Waikato District Council shall be notified within 48 hours. Works may recommence with the written approval of the Waikato District Council. Such approval shall be given after the Waikato District Council has considered:
- (a) Tangata Whenua interests and values;
  - (b) the consent holder's interests; and
  - (c) any archaeological or scientific evidence.

### **Review Condition**

81. The Waikato District Council may, by giving notice to the consent holder of its intention to do so under section 128 of the Resource Management Act 1991, review the conditions of this consent 12 months after the date of the commencement of the consent and at the expiry of every 12 months thereafter for the following purposes:

- (a) to review the effectiveness of the conditions of this consent in avoiding, remedying or mitigating any adverse effect on the environment that may arise from the exercise of this consent and, if necessary, avoid, remedy or mitigate such effects by way of further or amended conditions. In particular, adverse effects in relation to:
  - i) noise arising from quarrying and filling activities;
  - ii) dust arising from quarrying and filling activities and/or vehicle movements;
  - iii) traffic effects and pavement effects on McPherson Road;
  - iv) the value of the pavement impact fee; and
  - v) the performance and success of any rehabilitation and the site's geotechnical stability.
- (b) to address any adverse effects on the environment which have arisen as a result of the exercise of this consent that were not anticipated at the time of granting this consent, including addressing any issues arising out of complaints;
- (c) to review the adequacy of, and necessity for, any monitoring programmes or Management Plans that are part of the conditions of this consent;
- (d) to require the Consent Holder, if necessary and where appropriate, to adopt the best practicable option(s) to avoid, remedy or mitigate any adverse effects on the surrounding environment.

The Council will undertake the review in consultation with the consent holder and the consent holder shall pay the actual and reasonable costs of the review pursuant to section 36 of the Resource Management Act 1991.

### **Advisory Notes**

#### **I      Lapse Date**

This Resource Consent for land use lapses five years after the commencement of the consent, unless:

- I. the Consent is given effect to prior to that date.
- or
- b. an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension after taking into account
  - (i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and
  - (ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
  - (iii) the effect of the extension on the policies and objectives of any plan or proposed plan.

#### **II.      Other consents/permits may be required**

To avoid doubt; except as otherwise allowed by this resource consent, all land uses must comply all remaining standards and terms of the relevant Waikato District Plan. The proposal must also comply with the Building Act 2004, Regional Infrastructure Technical Specifications and Waikato Regional Plans. All necessary consents and permits shall be obtained prior to development.

### Cultural Monitoring

III. The Consent Holder is advised of the recommendations which are set out in the Cultural Values Assessment prepared by Ngati Te Ata and Ngati Tamaoho in the which are generally as follows:

- That where the ponds/wetlands are requested the second pond is to be a wetland with raupo to give a final polish (cleanse) and remove any fine sediments found in overburden and clean fill.
- That a third pond/wetland is established for a final polish prior to discharge to the tributary of the Waiponga stream, and ultimately the Waikato River.
- That at a minimum there is a two pond/wetland system for the proposed overburden site regarding Stages 2 and 3, especially above the flat land. That the mitigation native ecological corridor is to be provided for as discussed at the onsite up the back behind the large farm wetland.
- That the native ecological corridor is to be fenced which will exclude stock from gaining access and doing irretrievable damage.
- That Iwi (Ngati Tamaoho and Ngati Te Ata) are to receive a copy of the planting proposal and associated management plan once available.
- That Iwi are engaged directly with the applicant, their agents and the site manager regarding any further required consultation requirements, are informed of the results of all monitoring and consent related assessments relating to the proposed quarry development and expansion.

### IV. Enforcement Action

Failure to comply with the conditions of consent may result in Council taking legal action under the provisions of Part XII of the Resource Management Act (1991).

**Schedule 3**  
**Site Plan**  
**For Consent Conditions**

SITE PLAN FOR CONSENT CONDITIONS

