BEFORE	Independent Commissioners appointed by Tasman District Council
IN THE MATTER	Of the Resource Management Act 1991
AND	
IN THE MATTER	Of an application by CJ Industries Ltd for land use consent RM200488 for gravel extraction and associated site rehabilitation and amenity planting, for land use consent RM200489 to establish and use vehicle access on an unformed legal road and erect associated signage, and for a discharge permit to discharge cleanfill to land RM220578

REPLY EVIDENCE OF HAYDEN CRAIG TAYLOR ON BEHALF OF CJ INDUSTRIES
PLANNING

24 April 2023

1. INTRODUCTION

1.1 My full name is Hayden Craig Taylor. I am a Resource Management Consultant at Planscapes (NZ) Ltd, a resource management and surveying consultancy based in Nelson.

1.2 The applicant has applied for resource consents authorising the extraction of gravel, stockpiling of topsoil, and reinstatement of quarried land, with associated amenity planting, signage and access formation at 134 Peach Island Road, Motueka:

(a) RM200488 land use consent for gravel extraction and associated site rehabilitation and amenity planting, and

(b) RM200489 land use consent to establish and use vehicle access on an unformed legal road and erect associated signage.

1.3 The applicant has also applied for a discharge permit authorising the discharge of contaminants to land, in circumstances where the contaminants may enter water (RM220578).

1.4 My evidence addresses planning matters in relation to the land use and discharge consents sought.

Qualifications and Experience

1.5 My qualifications and experience were set out in my primary evidence dated 15 July 2022.

Purpose and Scope of Evidence

1.6 The purpose of my rebuttal evidence is to respond to evidence concerning planning matters. In particular, I respond to:

(a) Submitter and Council evidence filed prior to the November 2022 hearing.

(b) Additional Submitter and Council evidence presented at the November 2022 hearing.

(c) Further Submitter and Council comments on revised management plans and volunteered conditions prepared by the Applicant.

Code of Conduct

1.7 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and I agree to comply with it. My evidence is within my area of expertise, however where I make statements on issues that are not in my area of expertise, I will state whose evidence I have relied upon. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

2. EXECUTIVE SUMMARY

2.1 I have reviewed all evidence filed by Submitters and their experts, heard verbal evidence given at the hearing in November 2022 and read written summaries of this evidence, reviewed joint witness statements prepared subsequent to the hearing, and have reviewed further Submitter and Council comments on amended management plans and draft

conditions. Having considered this evidence, my overall conclusions on the proposal from a planning perspective, as given in my primary evidence dated 15 July 2022 and 4 November 2022, remain unchanged.

2.2 I have had particular regard to the evidence of Te Ātiawa Manawhenua ki Te Tau Ihu Trust and Te Rūnunga o Ngāti Rārua (Te Ātiawa and Ngāti Rārua), given that aspects of my previous evidence remained unresolved until such a time as a CIA had been prepared and considered. Whilst a CIA has still not been prepared, and whilst Te Ātiawa and Ngāti Rārua still oppose the proposal, the Te Ātiawa and Ngāti Rārua evidence does identify additional measures that they confirm will avoid, remedy or mitigate adverse cultural effects. These measures have been the subject of further consultation with Te Ātiawa and Ngāti Rārua since the hearing, in terms of discussing appropriate consent conditions. Te Ātiawa, Ngāti Rārua and the Applicant have agreed wording to all but one of the conditions relevant to matters raised in the submissions of Te Ātiawa and Ngāti Rārua. The agreed conditions and differences in opinion on the remaining condition (iwi monitoring) will be discussed in more detail below. On the basis of general agreement on these matters, I am satisfied that these matters are sufficiently resolved to enable conclusions to be drawn in relation to cultural effects, and alignment with relevant statutory documents that relate to cultural values.

2.3 I have also considered the evidence of Ms Hollis in respect of planning matters. With regard to matters of land productivity, I disagree with Ms Hollis's opinion that insufficient information has been provided in respect of this matter, and that the proposal is inconsistent with, or contrary to, provisions of the TRMP and NPS HPL in respect of this issue. I also disagree with Ms Hollis regarding the appropriate noise level to apply to the proposed activities. In reaching these conclusions I have considered the expert evidence that Ms Hollis has relied on in forming her views, joint witness statements prepared by land productivity and groundwater experts prepared since the hearing, further comments from relevant experts on revised management plans and volunteered conditions, and the rebuttal evidence of the Applicant's experts on the same matters as well as the planning provisions in question.

2.4 Volunteered consent conditions have been through several revisions prior to and since the November hearing. I have taken into consideration comments from Submitters and Council on the most recent version of these circulated on 23 March 2023, and have made further changes to these where I consider appropriate, including on the further advice of

expert witnesses. I append to this evidence the updated land use and discharge conditions volunteered by the Applicant. I am of the opinion that these conditions are appropriate.

3. EVIDENCE

Submitter and Council evidence filed prior to the November 2022 hearing

The evidence of Te Ātiawa and Ngāti Rārua

3.1 The written evidence of Te Ātiawa and Ngāti Rārua confirmed that they were unable to produce a Cultural Impact Assessment in the time available before the hearing. As discussed at the hearing, I do not consider that the lack of a CIA is an impediment to drawing conclusions in relation to cultural effects. The evidence of Te Ātiawa and Ngāti Rārua can be considered in drawing such conclusions, in the absence of a CIA.

3.2 The Te Ātiawa and Ngāti Rārua evidence states that the proposal will result in adverse effects on Māori freshwater values, cultural heritage sites and other, wider effects. These effects are not elaborated on in the evidence. The evidence does, however, detail why reliance on Council and Archsite records of cultural heritage sites are not necessarily complete. The evidence also elaborates on the relationship of Te Ātiawa and Ngāti Rārua to the Motueka awa. I note and acknowledge these points.

3.3 The evidence confirms that the position of Te Ātiawa and Ngāti Rārua is still that they oppose the proposal. However, the evidence goes on to state that:

"The particular aspects of concern in relation to the activity have been outlined in our submissions. We note the measures taken to address environmental effects as outlined in revised application documents and reports. Further measures required to avoid, remedy or mitigate adverse cultural effects are included below.[1]"

3.4 These further measures are:

(a) Cultural induction for all persons working on the site, to enable haukāinga to uphold kaitiakitanga and raise Māori cultural awareness.

(b) Iwi monitoring of all land disturbance within cultural layers.

[1] Evidence of Te Ātiawa and Ngāti Rārua, paragraph 42

(c) Cultural Health Indicator (CHI) monitoring on four occasions from prior to works until 5 years post-completion.

(d) Shorter duration of consent to enable a full review of activities and methodology to be undertaken earlier.

3.5 The Applicant is generally supportive of adopting these measures. With regard to consent duration, I take from the evidence that Te Ātiawa and Ngāti Rārua support a 15-year term, rather than 17. To clarify, the term sought for the land use consents is 15 years. The term sought for the discharge consent is 17 years, however discharge to land would not be allowed for the final two years, with this period proposed only for the purposes of post-completion groundwater monitoring. The Applicant does not agree to a shorter term than this, and the reasons for this have been addressed in the evidence of Mr Corrie-Johnston. Having considered those reasons, I remain of the view that the term sought is appropriate (subject to an issue of land rehabilitation monitoring which may justify an extension to the land use consent term, discussed at paragraph 3.78 below).

3.6 The additional measures proposed are reflected in volunteered consent conditions. These are addressed below, noting that the condition references are to the revised condition set appended to this evidence:

(a) **S128 (Condition 6 (land use) and 4 (discharge)).** The Applicant accepts that a review of conditions may be initiated any time from 6 months as proposed by Te Ātiawa and Ngāti Rārua, rather than 12 months as proposed in draft conditions. However, it is considered more appropriate for this period to be 6 months from the date that the consented activities commence, rather than the date consent is granted. Te Ātiawa and Ngāti Rārua accept this.

(b) **Iwi monitoring (Condition 13 (land use)).** The Applicant volunteers the following iwi monitoring condition:

'The Consent Holder shall engage a representative of Te Rūnanga o Ngāti Rārua and, Te Ātiawa o Te Waka a Māui Trust (submitters and mana whenua iwi), to be present during any disturbance of topsoil and subsoil on site. The purpose of the monitor is to identify any cultural material and or taonga (e.g., midden, hangi or ovens,

garden soils, pit depressions, occupation evidence, burials, taonga, etc) uncovered during the disturbance of cultural layers, and to monitor the observance of tikanga. The Consent Holder shall notify the above iwi at least 10 working days prior to commencing initial land disturbance works and advise them of the planned commencement date and likely duration of the works. Where the above notification is given, and an Iwi Monitor is unable to be present for any reason, the Consent Holder may commence works regardless. For the avoidance of doubt, this condition requires only a single monitor to be engaged by the Consent Holder to be on site at any given time. The Consent Holder may consider engaging an iwi monitor representative of ngā iwi with Statutory Acknowledgements over Motueka River, Ngāti Toa Rangatira, Te Rūnanga o Ngāti Kuia and Ngāti Tama ki Te Waipounamu.'

The wording of this condition is largely agreed with Te Ātiawa and Ngāti Rārua, with two exceptions:

1. Te Ātiawa and Ngāti Rārua would like the condition to require an iwi monitor to be present on site during and disturbance of 'cultural layers' rather than during topsoil and subsoil disturbance. Te Ātiawa and Ngāti Rārua suggest an advice note advising that *'cultural layers can be within the topsoil, subsoil and may be deeper*'. The Applicant's concern with this is that this could potentially extend to all of quarrying, which would be prohibitively expensive to monitor. I note that the recent Fulton Hogan consent for Douglas Rd only required monitoring of topsoil disturbance. The Applicant has volunteered that monitoring on site extend also to subsoil to provide an additional level of confidence that monitoring will be undertaken at times when there is reasonable potential for uncovering of items of cultural relevance.

2. The volunteered condition would allow works to commence if 10 days' notice is given to Te Ātiawa and Ngāti Rārua, but no iwi monitor is available to attend the site. Te Ātiawa and Ngāti Rārua would like this provision to be removed. Provision of an iwi monitor is beyond the consent holder's control and if a monitor is not provided within the volunteered timeframe this could frustrate implementation of the consent. It is note that the Applicant has extended the volunteered notification timeframe from 5 days to 10 days to minimise the potential

for this situation to arise. Accidental discovery protocols would still be followed in the event of any relevant items being uncovered, irrespective of whether an iwi monitor were present.

(c) **Cultural audit (Condition 15 (land use))**. Te Ātiawa and Ngāti Rārua are now satisfied with the wording of this condition.

(d) **Landscape mitigation and restoration planting (Conditions 27 and 141 (land use))**. Te Ātiawa and Ngāti Rārua had requested that the planting plans include only native, eco-sourced plants. The proposed landscape planting (both for mitigation and restoration purposes) has maximised the use of native species, which will be eco-sourced. Where exotic species have been proposed, it is because they provide a specific visual screening function (due to high growth rates) that cannot be achieved through the use of native species. The Applicant has now volunteered that these exotic trees are removed following completion of quarrying and rehabilitation activities on the site, at which point they will no longer be required for screening purposes (as confirmed in the reply evidence of Ms Gavin). Te Ātiawa and Ngāti Rārua have accepted this.

(e) **Site management/ dust (Condition 56 (land use)).** Te Ātiawa and Ngāti Rārua seek that no chemicals are applied to the whenua within 50m of water bodies, and that the use of water for dust suppression be favoured over polymer or chemical stabilisation methods. The Applicant is accepting of this as an amendment to this condition. Based on the evidence of Mr Bluett, it appears very unlikely that the use of these alternative stabilisation methods would be used instead of water for dust suppression purposes in any case.

(f) **Accidental Discovery Protocol (Condition 128 (land use)).** Te Ātiawa and Ngāti Rārua seek inclusion of specific contact details in the condition. The Applicant is accepting of this change, and this has been made in the attached set.

(g) **Reporting and Monitoring** . If consent is granted, Te Ātiawa and Ngāti Rārua had requested that a condition be imposed that required that they

be immediately notified in the event of any significant issues relating to compliance with consent conditions. The Applicant is comfortable with this in principle; however, this requirement seems to me to be most appropriately and practically addressed by Council as part of their compliance function, particularly as the proposed trigger is somewhat subjective. Te Ātiawa and Ngāti Rārua accept this position, and no new condition is proposed.

(h) **Cultural Health Indicator ("CHI") Monitoring (conditions 16 and 138 (land use)).** Te Ātiawa and Ngāti Rārua request that CHI monitoring be undertaken prior to works, mid-way through the operation, on completion of the operation, and 5 years after that. This is for the purpose of supporting the Applicant's understanding of kaitiaki with the Motueka Awa and related ecosystems. The Applicant is accepting of this requirement and wording has been agreed with Te Ātiawa and Ngāti Rārua.

(i) **Cultural Induction (Condition 12 (land use)).** This matter was left off the list of new conditions in the Te Ātiawa and Ngāti Rārua evidence, but for completeness I can confirm that the Applicant is accepting of a condition that requires a cultural induction to be undertaken by relevant staff members who will be working on the site.

3.7 My primary evidence (for both the land use and discharge activities) left a number of matters relating to cultural matters unresolved until a CIA had been prepared. In the knowledge that no CIA will be prepared and considering the Te Ātiawa and Ngāti Rārua evidence, these matters are revisited below.

3.8 With regard to the NPS:FM, my previous evidence stated that I was unable to comment conclusively in relation to Māori freshwater values, but drew what conclusions were possible from the possible alignment of such values with the physical, chemical and biological characteristics of freshwater and the effects on the proposed activities on these. I indicated that I would revisit these conclusions in the event that further information on Māori freshwater values become available via submitter evidence or in a CIA. I note that the submissions of Te Ātiawa and Ngāti Rārua explain that it is not adequate to draw parallels between physical and cultural effects, and that a CIA is the

only appropriate means of determining effects on Māori freshwater values. A CIA has not been produced, and the evidence of Te Ātiawa and Ngāti Rārua does not specifically address Māori freshwater values, other than reiterating a statement from the s42a report that questions whether these have been adequately addressed. This being the case, I take the further measures identified by Te Ātiawa and Ngāti Rārua to avoid, remedy or mitigate adverse cultural effects as being proposed by them to address any remaining shortcomings in recognising and providing for these values. As these measures have been essentially adopted by the Applicant as detailed above, I have no reason to reach an alternative conclusion than I previously did with regard to effects on Māori freshwater values and overall alignment of the proposal with Te Mana o te Wai and the NPS:FM as a whole.

3.9 Similarly, my previous evidence did not reach a firm conclusion on cultural effects, with the expectation that a CIA would be provided with submitter evidence. My evidence on the land use consents detailed the amendments and refinements made to the proposed activities to address specific matters raised by Te Ātiawa and Ngāti Rārua in their submissions. The Te Ātiawa and Ngāti Rārua evidence acknowledges these measures taken to address environmental effects and details further measures to avoid, remedy or mitigate adverse cultural effects. Given that these measures have been largely adopted by the Applicant, I have no reason to conclude that adverse effects of the proposal on cultural values have not been adequately addressed.

3.10 For the same reason, I am satisfied that the proposal aligns with TRMP provisions relating to cultural values, as detailed in my previous evidence, Section 6(e) of the RMA.

3.11 My evidence on the discharge activity deferred comment on several matters raised in the Te Ātiawa and Ngāti Rārua submissions until a CIA was provided in submitter evidence. In the absence of the CIA I comment on these specific matters below:

(a) Matakite/ cultural audit condition – This has been addressed above, with the Applicant being satisfied with an amended version of this condition being included.

(b) Relevant provisions of Poipoia Te Ao Tūroa – These were addressed in my primary evidence, and the evidence of Te Ātiawa and Ngāti Rārua

does not appear to challenge any of the conclusions I have drawn in respect of these.

(c) Mana and role as kaitiaki – The further measures proposed by Te Ātiawa and Ngāti Rārua appear to seek to address this matter, in particular through the use of cultural induction, and implementation of iwi monitoring and CHI monitoring. These measures are adopted by the Applicant.

(d) Mauri of land and water – This matter has not been further elaborated on in evidence. With the acknowledgement of Te Ātiawa and Ngāti Rārua of the measures taken to address environmental effects as outlined in revised application documents and reports, and the further measures proposed by the submitters in evidence being adopted by the Applicant, I consider these matters to be sufficiently resolved.

<u>The planning evidence of Ms Hollis on behalf of Valley R.A.G.E.</u>

3.12 The planning evidence of Ms Hollis addresses the following, each of which will be addressed separately below:

(a) Land productivity.

(b) Noise effects.

(c) Cultural effects.

3.13 With regard to land productivity, Ms Hollis outlines a number of matters that she considers are still in contention. The first is the extent of highly productive land on the site. Ms Hollis relies on the evidence of Dr Campbell in reaching her conclusion that the entire site is 'highly productive land' under the definitions of the NPS HPL. The NPS HPL definition is quite specific in terms of what land meets the definition of 'highly productive land', and specifically excludes land with a LUC of 4 or greater. Ms Hollis refers[2] to the evidence of Dr Campbell, who consider that the LandVision report "*lacks soil science substance*" in relation to this matter. The context of this statement appears to me to be in respect of his disagreement with the conclusion of the LandVision report that

[2] Hollis evidence, paragraph 22

the productive potential of the subject land is limited, rather than whether the land is within LUC 1-3. As with the advice of Ms Langford in the s42A report, there does not appear to be any criticism in Dr Campbell's evidence of the methodology or conclusions reached in terms of the more detailed site mapping undertaken by LandVision. Rather, like Ms Langford, Dr Campbell prefers a more general approach to assessing the productive value of the site as a whole, being that the site contains Riwaka soils, and Riwaka soils have a '*moderate to high productive potential*[3]'. My views on this more general approach are detailed in my previous evidence. Whilst Dr Campbell provides some critique of the LUC system in general, this is the system that has been used in the NPS HPL for identifying highly productive land and which therefore must be used in assessing where the NPS HPL applies. Dr Hill has addressed these matters further in his reply evidence. Having visited the application site and undertaken his own verification of the LandVision information, Dr Hill remans satisfied that only a small proportion of the application site is highly productive land. As far as I am aware, Dr Campbell has not visited the site. On this basis, I am satisfied in relying on Dr Hill's advice on this matter. As a general principle and from a planning perspective, I can see no benefit in relying on more general, non-site-specific information, over more detailed information that has been verified on site.

3.14 Ms Hollis does not consider that land on the river side of the stopbank has "*permanent or long-term constraints…*" in relation to the economic viability of land-based primary production. This is based on the evidence of Dr Campbell, who considers that the productive potential of such areas is downgraded due to flood risk, but this does not preclude their use for very productive purposes. Dr Campbell acknowledges that tree crops are not suitable, but that market gardening is (the example of lettuces is used). Dr Campbell notes that the grower would need to accept the risk of intermittent wipe out of crops. This matter has been addressed in the reply evidence of Dr Kaye-Blake, who has relevant expertise in relation to the economics of such matters. I rely on Dr Kaye-Blake's advice that flood risk is a real, permanent and long-term constraint on the land's economic viability for primary production purposes. This view is shared by Dr Hill and Ms Langford.

3.15 Ms Hollis does not consider that the proposed activities are 'small-scale or temporary' in relation to the assessment of what activities are appropriate or otherwise under the NPS

[3] Evidence of Campbell (11 November 2022) para 17, pg 3.

HPL. I agree that the two examples raised by Ms Hollis from the s32 report for the NPS HPL (concerts and farmer's markets) are not similar to the proposed activities. While, these examples do not appear to be intended as an exhaustive list, I accept that quarrying is probably not intended be covered by the NPS HPL 'small-scale or temporary' clause.

3.16 Ms Hollis disagrees that clause 3.9(2)(j)(iv), which specifically provides for aggregate extraction, applies. This is firstly because she disagrees that the proposal would provide significant regional public benefit that could not otherwise be achieved using resources within New Zealand. Her basis for this is that there has not been a detailed analysis of alternative sites including a cost-benefit analysis of these. The evidence of Dr Campbell and Dr Harvey identifies alternative locations where they consider suitable aggregates could be sourced. These alternative locations have been addressed in the evidence of Mr Corrie-Johnston and Mr Scott. Additionally, Mr Saavedra has addressed the required specifications for rock used to produce concrete, and implications of using a hard rock source. I note that a cost-benefit analysis is not required to satisfy the policy, and Dr Kaye-Blake's evidence addresses why a requirement for such is onerous. The evidence of Mr Scott and Dr Kaye-Blake specifically addresses why the proposal meets this policy, and there has been no expert evidence provided to the contrary.

3.17 Secondly, Ms Hollis does not consider that there is a functional or operational need for the activity to be located on highly productive land (clause 3.9(2)(j)). Ms Hollis states at paragraph 37 of her evidence:

"Whilst aggregate deposits are location specific and therefore aggregate extraction may be limited to river plain environments, this should not be confused with a functional need for aggregate extraction to be on highly productive land. These are two different matters." (emphasis original).

3.18 I disagree with this. Ms Hollis interprets the clause as if it required an activity to have a functional need to be on highly productive land, which would generally be limited to land based primary production activities. The purpose of clause 3.9(2)(j) is to provide an exception for activities that are not land based primary production, because of their social or economic importance. The question is whether there is a functional need for the activity to be on "the highly productive land" where the activity is proposed to occur.

3.19 Functional need '*means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment*[4]'. River run aggregate extraction activities have a functional need to locate within river plain environments, and this is acknowledged by Ms Hollis. This is also apparent in the evidence of Dr Harvey, referenced by Ms Hollis, which indicates broad areas of Holocene gravels that he considers would be suitable for gravel extraction. Refer to Figure 1 below.

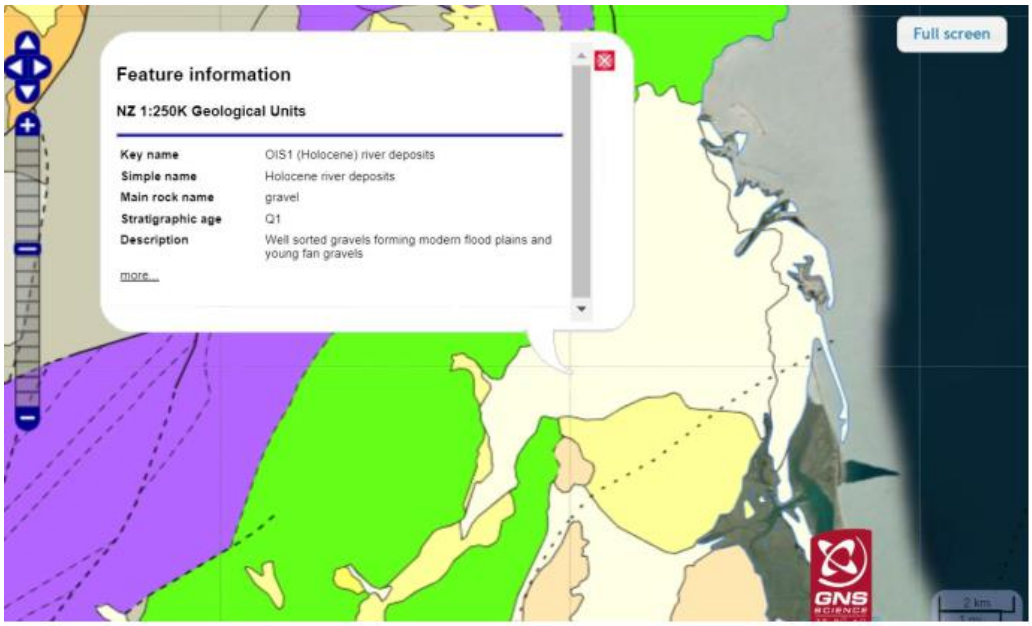

Figure 1: Extract from evidence of Dr Harvey showing Holocene river deposits in the Motueka area

3.20 There does appear to be a reasonable degree of overlap between highly productive land and river plain environments. Dr Campbell acknowledges that highly productive land in the Nelson region is confined generally to river valleys:

"*The Nelson region has the smallest area of high value versatile soils compared with all other New Zealand regions (Environment Ministry and Stats NZ Report 2021), and these soils are confined to narrow river valleys and three small valley plain areas.*[5]"

3.21 Figure 2 below shows an image from the Manaaki Whenua Landcare Research website showing LUC 1-3 land over the same area as in Figure 1. Note, this mapping of LUC units is at a broad scale, not picking up the site-specific variation demonstrated for the

[4] New Zealand Planning Standards Definitions
[5] Evidence of Campbell (11 November 2022) para 38, pg 9

Application site. It can be seen that the LUC1-3 land in Figure 2 is the same land identified in Figure 1 as containing suitable aggregate resources in the region.

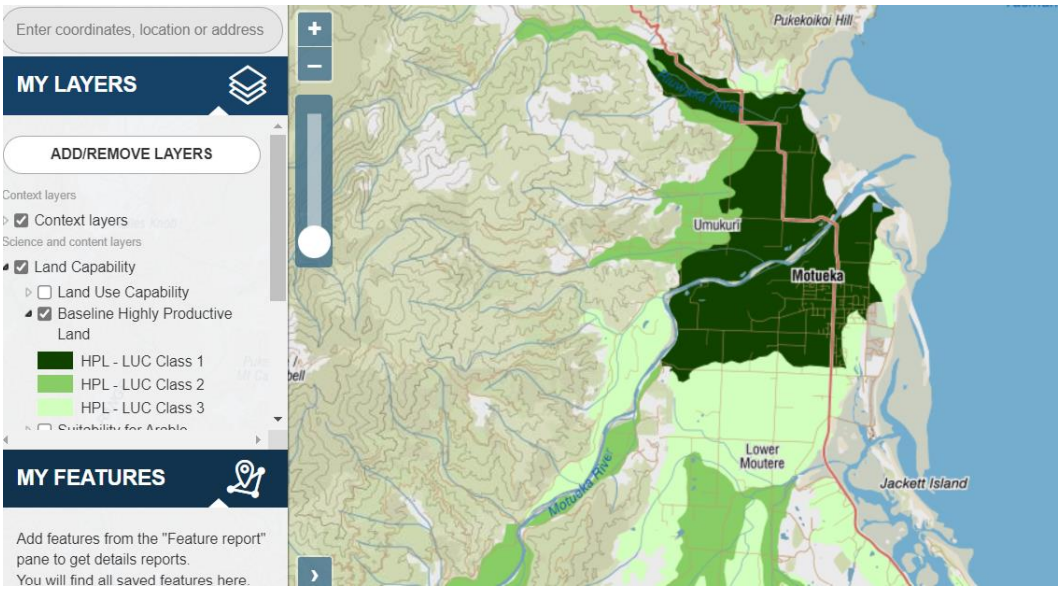

Figure 2: Image from the Manaaki Whenua Landcare Research website showing LUC 1-3 land in the Motueka area.

3.22 Whilst there is not a functional need for aggregate extraction to occur on highly productive land, there is a functional need for it to occur on land that, in this region, happens to also be highly productive land (at least in the sense that this applies to the broad LUC1-3 mapping as shown in the Manaaki Whenua mapping above). If alternatives sites are to be considered in relation to effects on productive land values, this would only be of benefit if alternatives sites were available other than on LUC1-3 land. Given that both productive land and sources of aggregates appear to be largely confined to the same locations, the potential for identifying suitable alternative locations that avoid this overlap would seem to be extremely limited.

3.23 What can be seen in Figure 2, and as addressed in detail in the evidence of Dr Hill, is that the application site is on land of lower productive potential than much of the land shown in Figures 1 and 2, being land of LUC 3 or lower. In other words, it is certainly not land of the highest productivity within the region, or even within the immediate locality.

3.24 Ms Hollis also does not consider that there is an operational need to locate on highly productive land. Firstly, the NPS HPL only requires that an operational or functional need exist, not both. The functional need has been demonstrated, therefore operational need does not need to also be established to meet the requirements of the NPS HPL.

Notwithstanding this, I do consider the fact that the Applicant has legal and physical access to the land and that it is located close to the processing location and end users to be relevant considerations in relation to operational need. The importance of proximity to end use, in particular, has been addressed in the evidence of Mr Corrie-Johnstone, Mr Scott and Dr Kaye-Blake.

3.25 Ms Hollis's suggestion includes consideration of increased gravel extraction from rivers under Council's global consent. This exercise alone would be complex with inherent uncertainties around the likely success of such a proposal, and it is unreasonable given that there is a demonstrable functional and operational need as addressed above.

3.26 At paragraphs 42 to 44 of Ms Hollis's evidence, she argues that productive land within the site will not be 'available' for up to 18 years, and that this contradicts Objective 2.1 of the NPS HPL. Whilst the assumption regarding availability of land over this period is not correct, given that land that is yet to be quarried and that which has been rehabilitated could be available for grazing purposes (given the staged nature of works over this period), I consider this to be a moot point. Objective 2.1 does not obligate landowners to use their land for land-based primary production, either now, or in the future. If this were the intent of the objective, I would expect such an obligation to be reflected in the supporting policies, which it isn't. The closest that the policies come to this is Policy 4 which require that the use of highly productive land for land-based primary production is *prioritised* and *supported*. The proposal is not contrary to this. The proposed activities are an appropriate activity on highly productive land in relation to the criteria for determining this at 3.9(2) of the NPS HPL, and these provisions clearly envisage that there will be non-land based production activities that occur on highly productive land, at least temporarily.

3.27 Ms Hollis raises Dr Campbell's concerns regarding the likely efficacy of soil management and rehabilitation works on site. These concerns are addressed in the reply evidence of Dr Hill, following expert caucusing on the matter. Having considered the evidence of Dr Campbell, the Joint Witness Statement from land productivity experts, and the reply evidence of Dr Hill, alongside Mr Corrie-Johnston's evidence from an operational perspective, I am comfortable in relying on Dr Hill's evidence that implementation of SMP is practical and will enable the productive value and capacity of the site to be maintained or enhanced. In particular, Dr Hill has specifically considered the examples raised by Dr Campbell where soil rehabilitation has been less successful and is confident

that the conditions and practices that led to the suboptimal outcome at those sites are able to be avoided through adherence to the SMP. ~~Dr Hill's views on this are further reinforced by his recent observations of rehabilitation activities at the Appleby Farms site~~. It is also noted that the SMP has been further refined following the hearing and expert caucusing to attempt to further alleviate concerns of Ms Langford and Dr Campbell. This will be discussed further below in relation to Council comments on updated conditions and management plans.

3.28 At paragraphs 47-59 Ms Hollis explains why she considers the proposal to be contrary to Policies 1, 4 and 8 of the NPS HPL. Her reasons for this relate to the matters discussed above. For the reasons detailed above I disagree with Ms Hollis's conclusions on these matters, and do not agree that the proposed activities are contrary to the objective or policies of the NPS HPL.

3.29 I also disagree with Ms Hollis's assessment of the proposal in respect of TRMP provisions, including Objectives 7.1.2.1 and 7.1.2.2. I have addressed these provisions in my evidence of 15 July 2022 (Paragraph 3.72) and my opinion on these has not changed.

3.30 Ms Hollis addresses noise effects at paragraphs 64-69 of her evidence. Ms Hollis does not consider that a permitted baseline should be applied to the assessment of noise effects, on the basis that noise effects associated with the activities will be dissimilar in character, intensity and duration to noise from permitted activities such as those associated with agricultural or horticultural activities. I have not suggested in my evidence that noise effects should be entirely disregarded, and I think it is reasonable to assess any differences in character, intensity and duration of noise effects to those that might be generated by permitted activities. This assessment has been undertaken by Mr Hegley. Mr Hegley has described what reasonable expectations of noise would be in this environment as informed by the existing environment and provisions of the TRMP. I consider this to be a reasonable approach, and Ms Hollis acknowledges that the Rural zones are a working environment that is not expected to be 'quiet'.

3.31 Ms Hollis considers that it is appropriate to set noise limits (by way of condition) to be lower than the permitted noise levels specified in the TRMP, to ensure that they are compatible with the ambient and background noise levels of the receiving environment. I disagree with this. Mr Hegley has addressed this issue in his reply evidence, and I agree with his views on the matter. Further, I consider that the TRMP noise limits are

specifically intended to manage the type of noise effects that will result from the proposed activities. The explanation and reasons for rules in the Rural 1 zone, in relation to noise (Section 17.5.20), state:

'The rural environment is a working environment where noise is generated as part of many rural activities. Rules limit noise problems arising from continuous sources and from residential sources within the zone, but greater freedom is given to the types of noise that arise in normal day-to-day rural activities. For these types of noise, methods other than rules such as codes of practice or the best practicable option approach, will be applied as appropriate.'

3.32 This makes it clear that the noise limits exist to manage noise from a range of rural activities, including continuous noise sources, but excluding noise associated with most rural production activities, which are not bound by them. These limits have the effect of providing certainty both to receivers of noise (such as residents) and persons looking to establish activities in the zone. I consider 55dB to be the appropriate noise limit to restrict activities to via conditions of consent rather than an arbitrary lower limit.

3.33 Ms Hollis notes that a number of technical matters are raised in the noise evidence of Mr Lang, including with regard to special audible characteristics. These matters are addressed in the reply evidence of Mr Hegley. I note that at the hearing Valley RAGE Inc indicated support for Mr Winter's evidence on noise and stated that joint witness conferencing on matters of disagreement between Mr Hegley and Mr Lang would therefore not be required. I take from this that Valley RAGE agrees that where Mr Winter and Mr Hegley are in agreement, their evidence should be preferred to Mr Lang's.

3.34 Ms Hollis considers that matters relating to cultural effects have been insufficiently addressed in the application. I have addressed cultural effects in light of the evidence of Te Ātiawa and Ngāti Rārua above, and consider that these matters have now been adequately addressed.

3.35 Ms Hollis considers that a future growth area identified near to the application site in the Nelson Tasman Future Development Strategy 2022 (NTFDS) is a relevant other matter in the sense that it may result in a material change to the receiving environment over the duration of the consent. I should point out that this potential growth area is identified for rural-residential, rather than residential development. The likelihood of this growth area coming to fruition, and the timing of this if it were to happen, are uncertain. Even if

development in this area were progressed within the duration of consent sought, I do not consider this would materially change the receiving environment as this receiving environment already contains rural-residential activities at similar distances from the application site. I do not consider this to be a material consideration in determining an appropriate duration for the consent.

Evidence presented at the November 2022 hearing

3.36 The following addresses matters raised in evidence presented by Submitters and Council during the November 2022 hearing, which warrants further comment from a planning perspective.

The evidence of Natalya and Ollie Langridge

3.37 The evidence of Ollie and Natalya Langridge, presented at the hearing, detailed their resource consent (RM211153) for a commercial yoga retreat activity at their property at 520 Motueka River West Bank Road, for up to three days per week. Council's reporting planner stated that this activity forms part of the lawfully established existing environment (Ms Solly memorandum, 28 November 2022). I concur with this and agree that it should form part of the existing environment for the purpose of assessing the effects of the proposed activities.

3.38 The Langridge's are concerned that the proposed quarrying activity will create noise which will adversely impact the amenity values of their property, particularly as it relates to their proposed retreats. I note that the evidence of Mr Hegley is that quarry noise received at the Langridge property would be only 25-27dBL_{Aeq} during excavation activities and 20dBL_{Aeq}, when only truck loading is taking place. This is significantly lower than could be expected at this property as a result of permitted activities on adjoining land, and also significantly lower than the existing ambient noise levels from vehicles on the adjacent road network.

3.39 The Langridge's note the following in their further comments submitted 4 April 2023:

> "By definition [the meditation and yoga retreat activities] are activities that take place in quiet and tranquil environments, in order to benefit the clientele who are looking for exactly these qualities in a venue".

3.40 As detailed in my primary evidence and above, these are not qualities that are inherent to the Rural 1 (subject site) and Rural 2 (Langridge's site) zones in the District. Rather, these zones are principally working, rural production environments. In granting consent to establish a commercial activity (such as a yoga retreat) in this environment, Council are required (under the relevant provisions of the TRMP) to consider whether establishing such an activity would adversely impact on the primary purpose of the zone, being land-based production (otherwise known as reverse sensitivity effects). Council did consider this in granting consent to the yoga retreat activity, determining that '*The activity will not give rise to any reverse sensitivity effects on the wider environment*'[6] and that reverse sensitivity effects in relation to the neighbouring commercial plantation forestry activity would be less than minor. This being the case, I consider that operation of the proposed quarrying activities on the application site, where noise at the yoga retreat will be well below permitted noise levels for the Rural 1 zone, will result in less than minor effects on the amenity values at the Langridge property, and on their commercial retreat activities. Whether noise generated within the zone is generated by quarrying activities or other rural activities, this noise can be reasonably anticipated. To expect a level of 'quiet and tranquillity' greater than this is, in my opinion, unreasonable.

3.41 Finally, I note that the Council decision on RM211153 records that: *'In general, the retreats will occur on weekends however flexibility is sought to undertake them on any 3 consecutive days of the week.*' If undertaken principally on weekends, there will be very little overlap with the proposed quarrying activities, which will involve excavation only intermittently (estimated one week per month on average), and with no work carried out on weekends.

<u>The evidence of Paul Dixon-Didier</u>

3.42 Mr Dixon-Didier discussed the TDC Walking and Cycling Strategy 2022. This strategy was adopted by Council in May 2022. This document seeks to achieve a safe and accessible urban environment and has very little relevance to rural areas. There are currently no policies in the strategy that apply to rural environments. It is noted that the document identifies that it will be updated to address rural cycleways in the short to medium term (2027). This document has very little relevance, currently, to the application site or its surrounds and is, in my opinion, not a material consideration.

[6] Council decision on RM211153, dated 17 October 2022.

Further evidence of Council's reporting planner, presented at the hearing

3.43 Council's reporting planner provided further verbal evidence at the November 2022 hearing, summarised in a written memo circulated after the hearing was adjourned, on 28 November 2022. This addressed some preliminary matters, additional comments on key issues, updated recommendation, and draft conditions. With regard to the preliminary matters:

(a) Submissions.

I agree with the reporting planner that the matters raised in submissions by Ms Powis, Ms Harris and Ms Tucker were not unique, and have been adequately addressed in evidence.

(b) RM211153 Yoga restreat – Langridge.

This has been addressed above.

(c) Potential alternative route for carting backfill via Brooklyn.

This matter has been clarified in the supplementary evidence of Mr Clark, which confirms that backfill material will be transported to Peach Island by way of designated heavy vehicle routes on Motueka Valley Highway and Motueka River West Bank Road. Council's traffic expert and reporting planner have recommended a condition for a Truck Routes Plan to address this, which is addressed below.

(d) Replacement page in s42a report.

This is an administrative matter. No further comment necessary.

(e) Other Peach Island quarrying consents.

Ms Solly correctly states other Peach Island Quarrying consents, consistent with my primary evidence.

(f) Section 104G RMA.

I disagree that s 104G applies. There are no registered water supplies in the vicinity of the application site. Even if it did apply, sufficient evidence has been provided to ensure that these supplies are adequately protected.

(g) Bores not shown in Figure 7.

Volunteered conditions of consent include requirements to identify any additional bores that are not on Council records, for the purpose of monitoring (subject to landowner/bore owner approval).

3.44 With regard to the key issues discussed in this memo, the overall recommendation, and comments on draft consent conditions, these matters are also addressed in Council's further comments on management plans and volunteered conditions (dated 14 April 2023), which will be discussed further below.

Submitter comments on revised management plans and volunteered conditions

3.45 Submitters Ollie and Natalya Langridge, David and Susan Kellogg, Webster, Sundbye and Le Frantz, Hannah Mae, Valley RAGE, Pete Taia, Max Clark and Lyn Rombouts have provided further comments on the revised management plans and volunteered conditions filed by the Applicant in March 2023. The matters raised in these comments that are relevant to my area of expertise are summarised and commented on in the table below:

Submitter comment	Response
Ollie and Natalya Langridge	
Applicant now wants to achieve the 25,000m2 stage 1 area in 3 tranches, means a 8,300m2 worked area instead of 1,600 m2 pit	The submitter has misunderstood the proposal to quarry Stage 1 in 3 tranches. The 3-tranche limitation is additional to the 20 x 80 m pit size, not instead of.
I cant see Planscapes involvement in this material, there is nothing about these changes in the Soil Management Plan	The recommendation to undertake the Stage 1 works in 3 tranches was a mitigation measure that arose from caucusing between flooding experts, not on the advice of planning or land productivity experts (including Dr Hill, who prepared the draft SMP). However, from a planning perspective I consider that this mitigation measure is appropriately addressed through volunteered consent conditions.

Webster, Sundbye, Le Frantz	
NMP 4 a - a 3 m bund is proposed to screen the nearest dwelling at 131 Peach Island Road. Residents of 131 and 132 PI Rd are against this measure Bund contradicts Soil Management Plan	Mr Hegley has noted in his reply evidence that the bund could be omitted if desired by the neighbouring property owners, and that this would result in noise levels of 52dB L_{Aeq} at this property. The construction of the bund does not contradict the SMP, as it is not required to be constructed entirely of topsoil, and topsoil used for grass growth on top of the bund can be sourced from elsewhere if necessary.
NMP 8 Complaints – should go to Council and the company	The manner in which complaints will be managed by the Consent Holder are addressed under Section 8 of the NMP, and conditions of consent. This in no way restricts the ability of any person to complain to Council if they wish.
NMP 9 Contingency Plan – if noise exceeds council recommended level there should be no recourse for a dispensation	The application does not seek consent to breach TRMP noise standards. The dispensation referred to at Section 9 of the NMP would be way of a variation to the consent for quarrying activities, or a new resource consent. Such an application would be assessed by Council under s95 of the RMA to determine whether there was a need for public or affected party involvement in the consent process.
Hannah Mae	
Conditions - Vehicle count radar and speed surveillance of truck movements is absent	Vehicles are required by conditions to be fitted with GPS tracking devices. This will enable vehicle counts to be determined in addition to vehicle speeds.
Reporting of extraction volumes to Council-compliance and monitoring is based on a "trust us" mentality, when evidence proves the applicant is not adequately reporting at other consented and expired consent gravel extraction locations (Douglas Road).	The Applicant does not accept the allegations of non-compliance, however reporting of extraction volumes is not critical to managing the effects of the activity. It is not clear what alternative mechanism the Submitter considers would be more appropriate, and there is no apparent practical alternative to this.
Complaints resolution and reporting of complaints to Council from different plans (noise, dust, groundwater quality) differs in detail, remains in some plans untimely, and is overall confusing.	The general complaints procedure is detailed in volunteered conditions (132-135 (land use) and 36 (discharge)) of attached condition set). The specific complaints procedures in each of the management plans are unique to the nature of effects

	that these plans address and, in particular, the appropriate responses to complaints relating to these effects. For clarity, I have recommended a minor amendment to Condition 132, clause (f), which requires the complaints register to be updated to detail the actions taken in response to a complaint, with particular reference to the any relevant procedures detailed in any management plan.
Change to 3 tranches in Stage 1 is not accompanied by expert review of effects of increasing working pit	Refer to comments above, tranches are additional to, not instead of, pit size restrictions.
Bank trimming recommended by Gary Clark is not in conditions. Has been understood wrong – there is no bank on eastern side	This requirement is addressed in Condition 32 of the attached condition set. It is acknowledged that this did contain an error, as the bank requiring trimming is located on the western side of the road, whilst the tree removals will be on the eastern side of the road. This error has been corrected.
Applicants have failed to incorporate recommendations from Council input at hearing. Applicants' new condition set displays nothing but what they have done at Douglas Road. It is clear they have no intention of implementing gravel extraction and backfilling any differently at Peach Island.	The condition changes that Council Officers recommended at the hearing, and which the Applicant is in agreement with, were incorporated in the revised condition set circulated in March. Some additional changes have been made to the attached volunteered plan set on the basis of the most recent Council comments on the revised condition set. There are significant differences between the proposed conditions and the Peach Island conditions, however this is not considered relevant to determination of this application from a planning perspective so I do not address it further.
A permit that grants discharge of contaminants to land within the industrial or the rural 1 zones is required [at Hau Road].	I do not consider that a permit is required for the temporary storage of material at Hau Road.
The two 'larger' trucks that can carry more gravel or fill will not reduce their number of trips per day due to a slightly heavier load. If this consent relies on evidence that less truck movements to and from Hau Road will occur, then the two new 'larger' trucks should be conditioned as the only heavy vehicles used for the Peach Island gravel/fill transfer with Hau Road	The size of the trucks does not need to be conditioned. The number of daily traffic movements associated with the quarrying activities, including those travelling between Peach Island and Hau Road, are controlled by condition. The size of the trucks is immaterial to this, but clearly larger trucks will be used by the Consent Holder to ensure these truck movements

	efficiently move material to and from the application site.
MacNeil suggests that this new condition [for 3 tranches] will provide additional measures to reduce the potential for sediment loss, as a result of flooding of active pits from stage 1. I do not understand how a worked pit that is up to 5 times the size of what has previously assessed, can reduce erosion and sediment loss. MacNeil doesn't appear to recognize the erosional issues of the pit backfill or headward erosion of the pit walls.	Refer to comments above.
RM220578 Proposed conditions discharge permit-tracked	
Conditions Table 1. Materials sourced offsite: Who impartially does the representative composite sampling? What are the regional soil Background concentration limits? Do these limits apply to the Peach Island site specifically? How will reliable and representative sampling of cleanfill materials be implemented now that the applicant is proposing clean fill to be coming from a number of 'CJs yards around the district? I find it very hard to believe the recommended Waste MINZ guidelines and effective sampling will occur in practice when sites all over the district will be supplying fill to Peach Island. Impossible to keep track of how much fill has come from here, there, or anywhere. Impossible to provide confidence that representative sampling will occur 100% of the time.	Sampling will be undertaken by a Suitably qualified and experienced person (SQEP). Regional background concentration limits have been clarified in conditions. These limits apply to the entire region. Council Officers' comments regarding the potential for these to change are noted. Provision has been made in the volunteered review condition for these to be updated through a s128 process, if necessary. The procedures detailed in the GCMP and appended SOP, and consent conditions are detailed and provide a robust framework for ensuring compliance with cleanfill requirements.
Cond 16: Groundwater quality monitoring: This section states all about collection of samples but fails to state testing and analysis. Testing and analysis should be written in conditions for specificity. For example (refer 16 (c).) 'At least two samples will be collected prior to the commencement of clean filling activities and sampling will continue…" Will these be tested and analysed? It should say so	This is detailed in condition 24 (discharge) and Table 2
Cond 19: Sampling: 'Groundwater samples shall also be collected annually from all water supply bores located within 500 m downgradient of the clean fill…' <u>And tested</u> should be written in conditions.	As above
Cond 19: Bores within 500 m of the site: How many are within 500 m and how would you know where they all are as TDC map as seen at the Hearing is out of date.	The map shows information obtained from Council. It is not out of date, but the Applicant and Mr Nicol acknowledge that there are bores that are either not shown or are shown in the wrong place. As detailed in Mr Nicol's reply evidence and the revised condition set, all bores within

	500m downgradient of the cleanfill activity will be included, subject to agreement of the land/ bore owner.
Cond 20: Bore condition survey: Needs to be done by an independent professional with relevant experience. Needs to be completed prior to clean filling activity under the discharge permit.	This will be done by a SQEP, as detailed in Mr Nicol's reply evidence.
Cond 22: Results of testing at 19: In this day and age results should be provided to the bore owner as well as Council directly from the laboratory (CC'D) or applicants should forward within 48 hours of receiving the results from the laboratory. I month delay is inappropriately and unnecessarily long, let alone unsafe for drinking water users considering another complaint (such as Noise) will be notified to Council within 1 working day.	As detailed in amended conditions and in Mr Nicol's reply evidence, the Applicant is willing to provide the results to bore owners if they wish to receive it. It is noted that conditions require notification to bore owners a soon as practicable in the event that an exceedance in trigger levels is confirmed.
Cond 22 Results from bore 21033 (supplying the 134 Peach Island property), which also supplies many residences on the west side of Motueka River Westbank Road should be provided to all users of that bore within 48 hours of receipt of those results.	Condition wording has been amended to ensure any users of the bore water (where not the land or bore owner) be notified in the event of a confirmed exceedance.
Cond 24 Groundwater trends assessment: Is this to be done by an impartial (independent) expert? This should be stated in conditions	This will be undertaken by a SQEP.
Cond 25 (b) ii Additional testing of clean-fill placed within an excavation: What does this entail to be effective in contribution to an investigation, or for enforcement? This needs to be considered and stated in the conditions. Representative sampling for soil testing of all filled areas should be performed within 1 month of reinstatement of each stage by an independent and impartial service provider	This additional testing is triggered by a trend analysis showing a significant trend in the direction of a trigger level breach, and will be directed by an investigation and recommendations from a SQEP. The testing of cleanfill placed within an excavation could be expected to focus on the contaminants of concern in the trend analysis. I do not consider this needs to be stated in the condition. There is no expert evidence or government guidance (e.g. WasteMINZ) to support the proposition that representative sampling of all filled areas is required in the absence of any indication in groundwater testing results that this is necessary.
Cond 25 (b) iii Additional groundwater monitoring beyond the routine sampling:	This will be recommended by the SQEP that produces the investigation and recommendations

What additional tests will be performed in this instance, or is it just around frequency of same tests? This needs to be specific to be SMART	
Cond 29 (a).: Council notified of sampling results: First sampling will take up to a week to provide results, then 72 hrs to notify Council (may be a weekend delay). Again the second sample will require another week to gain a result. It could be 3 weeks or more before the Council and other groundwater users are notified of a drinking water quality exceedance. This is not safe or considering of other groundwater users. Investigation process following an exceedance in trigger levels still needs defining. For example how long is spent to work out what is at fault, while levels are exceeded. It matters less that response process is based on another approved consent's conditions, and matters more that it is fit for purpose at this site, and takes into account the sensitive downstream receptors considering backfill is within the groundwater fluctuation zone.	As detailed in Mr Nicol's reply evidence, these timeframes are intended to encompass the expected maximum timeframe for obtaining result. Condition wording has been amended to require that the notification occurs as soon as practicable, and within 72 hours.
Cond 29 Unclear text: I find this condition confusing and think it needs work to differentiate between the first exceedance and the second test.	The wording of this condition has been amended for clarity.
Cond 29 (b).) Notification of exceedance: This may be 3-3 ½ weeks after noticing the exceedance before sampling up to 500 m from the site. This is far too long to provide a response for a concerning deterioration to ground/drinking water quality.	This is incorrect. The condition requires that sampling of additional bores within 500m downgradient occurs within 72 hours of confirmation (by way of second groundwater sample) of an exceedance.
Cond 30: unclear text: Again, this condition is too hard to follow, and should be written more clearly	The wording of this condition has been amended for clarity.
RM200488 Proposed conditions land use-tracked	
Cond 3 Quarrying commencement after planting established: Is 80% survival required for 6 years duration? Is this understood to mean that if some plants do not survive or are lost by flood (say if 30% needed to be replanted) and where replanting is required to achieve 80% survival, then 6 years establishment time is required from the season when the replants are replanted? If more than 20% plants are replanted at any time the clock should start again at that time for the 6 years establishment criteria to be met, in order for the mitigation planting to be effective. This needs to be more specific in condition, otherwise it may as well say 6 years full stop, and not specify survival rate or establishment criteria.	As detailed, revised wording of this condition has been volunteered which provides for confirmation from a SQEP that the mitigation planting has achieved 80% canopy closure and 5m average height prior to Stage 1 works commencing.

Cond 4 (a).) Process of review of consent by Council: If an adverse effect on the environment does occur which is assumed to be a serious effect and consent is reviewed, does the land use activity and discharge activity stop during that review process? This should be stated.	Until the review is complete, the consent holder can rely on the existing consent and conditions. However, Council also has enforcement powers at it's disposal if necessary.
Cond 21 GCMP condition number is incorrect. Should be 15 (e).	Cross-references now finalised
Cond 21 First bullet Exposed groundwater: Condition number wrong, is it 109 or 110	Cross-references now finalised
Cond 22 (a).) GCMP shall address KPI: This should also include the Discharge consent conditions.	Correct. This amendment has been made to be consistent with the discharge conditions.
Cond 23 Impartial certification of established plantings: Who certifies that 80% of the plants have established for a minimum of 6 years? This needs to be stated to include an independent, suitably qualified service provider. It should be noted that a paid expert will say what the applicant is paying them to say which will be meaningless. I propose the Council would be required to tick this condition off and it should be specifically written in conditions.	This condition has been amended to generally reflect the recommendations of Council Officers in the sense that compliance will be certified by a SQEP. However, a more objective measure has been proposed in relation to the point at which the planting provides sufficient screening to allow Stage 1 works to commence. Rather than 80% survival rate and 6 years of growth, Ms Gavin has proposed that the mitigation planting relied upon for screening purposes (being the exotic poplar and eucalypt species) be certified to have bene established to the point of 80% canopy cover and average 5m height. I consider this to be a preferable approach as it addresses the effects mitigation aspect of the planting, and is more easily confirmed in an objective manner.
Cond 28 Upgrade of entrance and site access: Bank trimming recommended by Traffic report writer Gary Clark on the west side of Motueka River Westbank Road is not in conditions, but it should be clarified. This has continued to be understood wrong from what was reported in the 7 June 2020 Traffic Concepts report which accompanied the original land use application. Clark states (page 5 Recommended measures) : 'With regard to the SSD (Figure 3) to the South, the sight line is restricted by a willow tree and a bank within road reserve on the western side of the road. It is recommended that the willow tree to be removed and some trimming of the bank to be carried out.' All references including in the original s42A of this bank	As detailed above, this error has now been corrected.

have been wrong and should be corrected, otherwise the safe sight distance will be reduced for other traffic as heavy vehicles exit the site out onto MRWBR. The western bank is across the road as one exits the site access and is someone else's land. There is no bank on the eastern side. This is a very dangerous situation for road users from both directions of the site access and needs attention	
Dust effects on orcharding activities: No quarrying and soil stockpiles within 100 m of orchard activities between Jan-May inclusive. This may reduce dust effects on maturing fruit as it is close to harvest, but does not reduce damage to crops during flowering, pollination and fruit set which is equally at risk from dust effects. No quarrying has previously been suggested from October.	The timing of the 100m setback from orcharding activities applies relates to the time of year when dust risk is greatest, not when orcharding activities are most vulnerable to effects.
Cond 51: No quarrying within 100 m of orchard activity Jan-May: The orchard to the west of stage 1 should also be included for protection of fruit in this area. This has not been stated in conditions.	This is the Applicant's intention, and additional wording suggested by Council to clarify this matter has been included in the revised condition set.
Cond 51 Dust on fruit. This no quarrying condition should include backfilling and remediation of land surface post extraction when dust would be damaging to fruit set. It should be stated as such.	This is the intent of the condition. Additional wording has been added to clarify this.
Cond 50 Sensitive receptors are classed within 250m in a downwind direction. Is 100 metres enough to protect sensitive crops. Coralie Le Frantz has submitted on this point.	The evidence of Mr Bluett confirms that this is sufficient.
Cond 56(c) Restored soils shall achieve: This condition is so vague, there's really no point in suggesting it. I understand that given the soil will be completely changed, disturbed due to the activity, and it will not be known as to what it contains. Dr Iain Campbell requires the replaced soils to be well drained. Dr Campbell states 'It will not be possible to determine the soil drainage state at the time of soil reinstatement as drainage problems will only be apparent sometime after a new soil moisture regime has been established. Continued subsurface consolidation of fill materials and the presence of clayey fill material will play an important part in the final soil drainage condition which cannot be predicted.' (email correspondence March 2023).	Dr Hill has addressed this matter in his replay evidence, including why he does not consider it appropriate to require restored soils to be 'well drained'. However, Dr Hill has now agreed that requiring restored soils in the Stage 2 and 3 area to be at least 'moderately drained' is appropriate. Dr Hill considers that the consent conditions volunteered are appropriate.
Cond 57-61 The Noise monitoring condition recommended by Mr Winter in November 2022 has not been added to the condition set.	This alternative condition wording has now been adopted, with the exception of the trigger limit for requiring testing. I

Mr Winter recommends an assessment of noise when activity is at 80% operation level or by a certain timeframe. 80% needs to be defined in this context. It must be thoughtful and specific to ensure assessment is not avoided by operating 'less than 80%'. Implementing a measure of operational level is required otherwise applicants will subjectively avoid assessment. It could be by way of vehicle movement count which should be recommended to enable surveillance of compliance to conditions in light of the proposed limit on number of truck movements each day of consent period.	agree that this trigger level may be difficult to determine in terms of activity on the site. I have recommended a small change that removes the 80% trigger, but requires that the monitoring be undertaken when all relevant noise generating activities are being undertaken on site.
Cond 60 Noise level of 55 dBA Leq (day): Ms B Solly for Council has recommended a more stringent noise limit than 55dBA be applied to maintain an appropriate level of amenity. Mr Winter recommends the lower noise limit of 51	Both Mr Hegley and myself have been clear in our evidence to date as to why we consider that a noise level lower than that permitted in the Rural 1 zone to be inappropriate. Mr Hegley's reply says that if a noise limit based on predicted noise is to be applied, if the noise bund is not to be implemented then then 52 dBA is the maximum predicted noise (not 51 dBA).
Cond 62: Hours of work: No operations between 20 December and 10 January the following year. It needs to be stated if this is inclusive of the 20 Dec and 10 Jan, or to state No operations from 20 December to 10 January inclusive. If it is not written and clear, they will operate on those days, as they have done at Douglas Road	This is the intent of the condition. Additional wording has been added to clarify this.
Cond 64 Traffic movements: This condition is pointless if it is not measured and surveyed. A Vehicle movement counter should be required and a condition of this consent and data should be inspected by Council-monitoring on a regular basis. Filling in a book at the gate is not acceptable where the applicant cannot be trusted to keep to their word and to comply with this condition	Refer to earlier comments regarding GPS tracking.
Cond 85(c).) Backfilling excavations when groundwater levels measured display an increasing trend: I understand this is to protect from groundwater contamination but really, how realistic is it to expect this condition to be met, considering an increasing trend is equally expected as a decreasing trend. A river level that goes down has to come up again at some point and this will always be likely. How will this condition on paper make the applicants perform any differently than at Douglas Road?	I consider that this is realistic, given short duration of excavations prior to backfilling and because there will be sufficient clean fill material on site to enable it to happen. If not practical, the provision would not be utilised.
Cond 86 Global positioning and elevation systems:	These are designed for use for such applications, and are routinely used in

Not accurate below ground, and in any case it should be considered an operational tool, not a protection for groundwater. It is one thing to be equipped with gadgets, it's another to actually use them for the right reasons.	earthworks operations. They are accurate below ground. This is addressed in the reply evidence of Mr Corrie-Johnston.
Cond 87 Temporary excavation down to 1m below the working level: I do not believe that this practice is to ensure the protection of the groundwater, but that it is to secure maximum outputs. How many temporary excavations will be performed on the excavation day? Will the gravel attained be harvested and removed from that temporary excavation and the hole refilled with the unwanted material? As the pit moves over the site I am concerned (and would suspect) that many temporary excavations will be said to be required to ascertain the uncertain ground water levels as this is unknown. This proposed condition smacks of an attempt to authorise the digging into the groundwater layer to extract gravel. A condition on this will enable the practice of test pitting all over the site and essentially provides authorisation for unlimited excavation from groundwater.	The condition requires that such excavations are immediately backfilled with the material that was taken out of them, so there is no potential for this provision to be misused.
Cond 89 "If any uncontrolled exposure of ground water occurs..": Why would uncontrolled exposure of groundwater occur? This is not authorised. Placement of cleanfill material to fill in exposed groundwater. The new Soil management plan says that pits that have been backfilled because of rising groundwater levels would be extracted again when levels lower. This is different from what was stated to the Commissioner at the Hearing. They are going back on their word. Would subsequent removal of previously backfilled pits be authorised and risk the groundwater fluctuating zone exposure to contaminants? Or not	This is a contingency for an unexpected occurrence. The Applicant accepts that, if backfill is undertaken to avoid exposure of rising groundwater levels, this will not be re-excavated. The condition has been amended to reflect this.
Cond 90 Notification of exposed groundwater to consent compliance monitoring officer at TDC: This will be an everyday occurrence, and what will be done with that information. A ridiculous condition.	This notification is not intended to apply to test pitting to expose groundwater. Condition wording has been amended to ensure that this is clear.
Cond 91(b) Soil stockpiles for no more than 6 months before use: How is this specific and measurable? Who is going to check on age of a stockpile? A pointless condition.	This condition is not particularly relevant given that soil will only be stockpiled for a much shorter duration, for ongoing use in backfilling and rehabilitation. It does, however, provide a backstop requirement recommended by Dr Hill. Additional wording added to condition on Council

	recommendation, to require grassing if in situ for over 1 month.
Cond 92 Prohibited machinery movement over stockpiled soil, other than in construction of noise bund: Is the noise bund removed after the activity (given the soil structure will be degraded) and will it be discarded off-site? Construction, machinery movement to compress it will have damaged the soil profile. It has been said in a management plan that topsoil may be used to construct the Noise bund. This should not be allowed given statements of machinery movement over stock piles being prohibited.	The noise bund will not be formed only of topsoil, although topsoil will be used to provide a growth medium for grass stabilisation. There is no requirement proposed for its removal.
Cond 97 This condition is pointless. How is this different to two pits are allowed. If so much cleanfill is required on site to fill pits up to 1 m below ground level, and not stored for longer than 6 months - would you not complete 1 pit entirely before opening another. These statements show how inconsistent the applicants are between the multiple plans and conditions, so talk about all over the place, how can anyone follow it all. Of note, condition 99 requires an established vegetated cover before the next is started.	This provision does not override the requirement for to more than 1600m2 of pt to be open at one time. Condition 99 (now 103 – land use) requires a tranche to be completed and stabilised before another tranche is started, not for stabilisation to occur between excavations within a tranche.
Cond 97 Stage 1 is 25,000m2 therefore according to the new SMP the new 'tranch' will be significantly larger than the previous proposed 1,600m2 pit. If one third of stage 1 is worked at a time, the hole will now be around 8,300m2, or about 5 times the size. Has this been assessed for pit erosion effects on the downstream land, Motueka River and Tasman Bay? This increased open pit size from 1,600 to 8,300 has not being assessed in terms of the environmental effects, landscape effects and impacts on amenity for the surrounding community	Refer to earlier comments – 3-tranche requirement is additional to the pit size limit.
Cond 100. Stage 1 work during October – March: What about the orchard on next property. Apple and pear crops flowering, pollinating, fruit-set and growing to harvest fruit will be damaged through that time.	Mr Bluett's reply evidence confirms that he considers the Tier 1 dust control measures as detailed in Table 2, Sources of Dust and Tiered Controls to be Employed of the Draft DMMP will provide adequate mitigation June to December (inclusive) and there would be no benefit in implementing a year-round 100 m buffer to reduce the impact on the flowering, pollination and fruit set processes.
Cond 103 Batter angles adjacent to property boundaries: A private agreement needs to be written and provided to the monitoring officer of Council so that the applicant's	This relates to a private agreement between landowners, not with Council. However, for the avoidance of doubt, wording has

word is not mis-used. This should be written in conditions for clarity	been amended to require that any such agreement be in writing.
Cond 94 Bermland excavation in strips: How can excavation in the floodplain occur in strips no wider than 20m if tranches are worked 1/3 of stage 1 at a time? It can't be both	Refer to earlier comments.
Cond 111 How can this be 100% measurable or trusted. The applicant uses unmarked trucks at times and other contractor' trucks at times. This could be anyone bringing backfill conveniently from offsite other than from a CJs yard elsewhere. I have no trust in that CJs will keep to this condition. Surveillance by camera 24/7 at the site access should be required for this condition to be meaningful and SMART.	I consider that the testing, reporting and monitoring requirements volunteered are appropriately detailed, robust, and enforceable. However, I note that the evidence of Mr Corrie-Johnstone confirms that video surveillance will be utilised on site.
Cond 112 Re-excavating from previously back filled (virgin material from the site) pits because of rising groundwater levels is proposed to be appropriate: So, if 1/3 of stage 1, which could be up to 8,300m2 , is worked and backfilled when ground water levels rise, then can they have another crack at it later on once the levels drop again! This is a ridiculous suggestion, a back-step from what Tim Corrie-Johnston agreed at the Hearing and should not be considered. Given, the importance of contamination risk to the fluctuating ground water, how can it be assured that virgin material (from Peach Island) is the only back fill that would be used. This practice of digging up back filled areas should not be authorised. I note here of the possible twisting of terminology of virgin material and foreign material in the Soil Management plan which I explain further on.	Refer to earlier comments. Backfilled material will not be re-excavated.
Cond 117 Revegetation of reinstated areas in one month: Is one month a realistic period of time to allow sufficient settlement before seeding of new cover takes place? Note the lowered profile at Douglas Road since reinstatement.	Yes, this is realistic. Any settlement that occurs would likely occur over a longer timeframe, and this should not mean that the reinstated areas are not stabilised through grassing as soon as practicable. If settlement occurs, soil will ned to be topped up and re-grassed.
Cond 126 Nominee in complaint's register: A contact number of the nominee should be provided and updated as required to all residences, not just neighbouring, who may be affected by transport, noise, dust and groundwater change.	Accepted that this condition should require contact number to be provided to a wider range of properties. Wording has been amended to require this to be all residences within 500m of the subject site.
Cond 129 Topographic survey of final levels within 3 months of completion of all recontouring on site: Does this allow enough time for settling? Perhaps it needs to be more realistic for a completely back filled site.	Dr Hill has clarified that settlement may occur for up to 5 years following completion of filling activities. The

	updated condition set reflects this, including the timing of the survey.
• Dr Iain Campbell offers the following: "It should be a requirement to maintain the site under high producing pasture for a minimum of 30 years in order to establish a stable A horizon soil structure. (This may mean irrigation and intensive stocking)." • The Frew Quarry consent condition document (Jan 2016) offers a similar condition: 'The application site shall be rehabilitated in accordance with the conditions of this resource consent. Once all extraction and rehabilitation activities are complete, the land shall not be used for the following activities: A. Intensive pastoral farming (stock rates of more than 10 stock per hectare); B. Intensive animal farming, such as cattle feedlots, pig farms, poultry farms or any other farming operation where animals are housed and their collected effluent disposed of on site; or C. Any activity involving the use or storage of hazardous chemicals, including petroleum products, in quantities greater than normal on rural-residential property.'	Dr Hill has addressed in his reply evidence why rehabilitation of soils is not required over such long time periods to ensure productive value of the site is maintained or improved.
Soil Management Plan	
r pg 5, top point: All excavation in strips 20m wide parallel to flood flow: This is not possible in stage 1 where 1/3 is worked across the stage 1 area of up to 8,300m2	Refer to earlier comments.
Pg 11, para 3: Some topsoil may be used for construction of a noise bund if required. This will compress, compact and be there a long time. It will do precisely what is recommended to not do, that is, compacting and degrading the structure of the soil. The following line states soil stockpiles must be protected from compaction, degradation and soil loss. Next it is stated no machinery is permitted on the soil stockpiles, so how will the topsoil be constructed to form the noise bund on the northern boundary?	Refer to earlier comments.
Pg 21: Annual soil quality and soil condition monitoring for rehabilitated soil areas for first 3 years is inadequate and will not be a responsible measure following this significant land disturbance of the Peach Island site. Representative soil sampling should be required from the entire backfilled site to be undertaken to determine compliance to the conditions. Repair of the site	Dr Hill has addressed this matter in his reply evidence, and considers that the proposed soil monitoring requirements in the SMP are adequate to ensure compliance with conditions is demonstrated.

undertaken if sampling demonstrates non-compliance should be in conditions.	
Proposed Groundwater and Cleanfill Management Plan	
Pg 3, point 5: Temporary test pits: How many of these are allowed and how close together? How does this, with no control on frequency, differ from extraction from groundwater, especially when the conditions specify test excavations are allowed to 1 m below the working level.	Refer to earlier comments.
Pg 3, point 5: Temporary test pits: The dimensions of the test pit/excavation has been removed from conditions and/or management plan. How close can these test pit/excavations be to each other? What fill is returned to that pit, virgin or foreign and how is that defined? The conditions say virgin, however this SMP is not clear in distinguishing between virgin (on site) and foreign (off site). I explain further on this point below.	Refer to earlier comments.
Pg 5, point 6.0, 4: Spill: Groundwater testing after a spill accident refers to conditions, but it is not stated as a condition. It should be specific and stated in both documents when a spill exceeds 20L or not.	The more stringent and specific requirements of the GCMP in relation to spill management have now been reflected in the attached condition set.
Pg 7, point 8.0, 2: Water quality complaints: Complaints should be notified to the Council (compliance) within the same timeframe as other complaints for example noise complaints notified within 1 day.	Refer to earlier comments on this matter.
Proposed Dust management and monitoring plan- Version 2.	
Pg 12 para 3.: Four validated dust complaints within 12-month period to initiate DMMP review and real time dust monitoring: What remedial action will be undertaken on validation of complaints to persons affected by dust effects? This needs to be considered and stated in the conditions of consent for the activity.	Mr Bluett addresses this matter in his reply evidence. I concur with Mr Bluett, and consider that the responses to validated complaints as detailed in the DMMP and conditions of consent adequately address this matter.
Pg 16, 10.2.: Response procedure: Council should be notified of any complaint received in a timely fashion like for noise complaints or groundwater quality complaints.	This is required by Condition 133 of the land use conditions.
Pg 17, 12.0) Annual report: Should be provided to the Council by the end of September of each year as for other annual reporting.	This is accepted and addressed in amended condition set.

Needs to be consistent.	
Proposed Noise management plan	
Pg 8, 4. b) 1.: Mitigation bund: Construction of bund of topsoil requires compacting for any mitigation of noise effects. This is not authorised due to the degradation of soil structure. This should be prohibited.	This bund will not be constructed of subsoil or topsoil sourced on site, as addressed in amended conditions. As such, the end use of this bund material, if removed, is not of concern in terms of soil productivity on the site. It is noted that only a topsoil layer will be used for this bund in any case, it will not be constructed entirely of topsoil.
Pg 11, 8.: Complaints: All complaints should go to Council in the first instance, as Council should be monitoring and enforcing the conditions of the Consent. Escalation of an unresolved complaint should go to the Council and pointless to go to the Directors of CJI.	As noted earlier, the complaints procedures detailed in consent conditions do not restrict the ability of any person to complain to Council.
Valley Rage Memorandum of Counsel	
10 - 11. Applicant now proposes to quarry Stage 1 in 3 tranches "with a maximum of one third of the Stage 1 area to be actively quarried or being remediated at any time" (see conditions 99 – 100). It is not clear how large each pit will be…(also 16: Valley Rage requests that new modelling of erosion potential and impacts is carried out based on the new tranche proposal and that this information is provided to submitters before the conclusion of the hearing with an opportunity to comment.	Refer to earlier comments on this matter. Also refer to evidence of Mr Aiken.
12. The conditions should be clearer as to when activities will be restricted. Condition 51 states that no quarrying activities will take place within 100m of orcharding activities on neighbouring properties between the months of January and May (inclusive). Therefore, when read together, conditions 51 and 100 state that quarrying and placement of cleanfill, subsoil and soil can only take place between October, November and December within 100m of orcharding activities. To avoid confusion and aid compliance and enforcement, this should be expressly stated in the conditions. The orchard west of the Stage 1 area is approximately some 67m away from the boundary fenceline.	Correct, conditions require that works within the Stage 1 area and also within 100m of orchard activities, can only be carried out between October and December (inclusive). It is noted that this restriction would apply to only a very small area of the site. An amendment to condition 104 of the attached land use condition set, for the avoidance of any potential confusion over this matter.
24. …process in Mr Nicol's flowchart (Figure 3 of his Third Supplementary Evidence statement) involves considerable steps and time before contaminating activities are ceased and material removed. Monthly monitoring may still allow contaminants to "get through without detection" (Dr Rutter, JWS page 8). Again,	The consent conditions detail the process to be followed in the event that a trigger level is exceeded.

Valley Rage considers it inappropriate and inconsistent with the NPS-FM and Te Mana o te Wai… the overall response to an exceedance should be faster and more proactive than what Mr Nicol has proposed (JWS, page 9). Dr Rutter notes that the provision of an alternative supply in this circumstance only occurs when samples from the private wells fail to comply with half MAV and that the alternative supply should be instead be "prepared for as soon as possible… rather than waiting until after an investigation" (JWS, page 9). Valley Rage again fails to understand why these risks and the costs of having a safe water supply should fall to the residents in this situation. Valley Rage also notes that the flowchart and the steps to be followed in the event a trigger level is exceeded, do not appear to be included in either the consent conditions or the GCMP.	
35. The MfE Guide states that a SQEP must be independent. This is critical and should be stated as an express requirement in the GCMP or consent conditions to ensure the requirement for a SQEP to be independent of the Applicant is not interpreted as 'mere guidance'.	Any SQEP will be an independent professional – ie not an employee of the consent holder. This should not be construed to mean that the SQEP cannot be engaged by the consent holder, as this clearly needs to happen.
44. Driving on stockpiles	This is acknowledged, and has been considered. Conditions preclude driving on stockpiles, if necessary to make these higher than as dumped from trucks (unlikely) then can be pushed up with a machine.
46 Stage 1 Tranche proposal	Dr Hill confirms that application of irrigation water will be at rate and duration (similar to light rainfall) that is not likely to degrade the soil physical condition, nor result in surface erosion of soil by overland flow processes.
48-52 A, B, C soil horizons. Only refer to fill as fill not subsoil	There is no conflict here with how terms are expressed by specialists. Topsoil is A horizon, subsoil is B and C. This is addressed in the reply evidence of Dr Hill. Dr Hill has revised some referenced to fill in the SMP to refer to clean fill, for the avoidance of any confusion.
53 Conditions and SMP not supported (see specific comments). 54 If consent is granted, Valley Rage seeks soil management and rehabilitation/restoration conditions similar to those applied in the Ranzau case and Staplegrove Farm consent (lists specifics)	Dr Hill has specifically addressed these matters, explaining why rehabilitation requirements for the application site differ from the requirements for these sites.

54 Maintain the site under high producing pasture for a minimum of 30 years in order to establish a stable A horizon soil structure (this may mean irrigation and intensive stocking)	Refer to earlier comment on this point.
Discharge and Land Use volunteered conditions with comments from Valley Rage	Please refer to comments in marked up set at Appendix A.
Max Clark and Lyn Rombouts	
Make clear that the return journey of fill vehicles will be by Motueka Valley Highway also	The revised conditions now made clearer (condition 68) that both inward and outward truck movements must be via Motueka River West Bank Road to the south of the site (not to the north).
Pete Taia	
Re Stage 1: Five times the pit size proposed now can only mean five times the risk	Refer to earlier comments on this matter.

Council comments on revised management plans and volunteered conditions

3.46 Council's reporting planner, Ms Solly, has provided a memorandum dated 14 April 2023 that provides further comment on additional information, updated management plans and revised conditions, and submitter comments on these. Ms Solly's memorandum is structured to address each key issue, followed by comments on further Submitter comments, and finally her conclusion and recommendation. My comments on these are provided below under the same structure.

Key issue: Visual amenity effects, including Landscape Mitigation Plan and Stage 1 Terrace Restoration Plan

3.47 Ms Solly notes that no new issues have been raised by Council staff in relation to these effects. Ms Solly recommends that conditions requiring no plantings within 5m of stopbanks be clarified to ensure this is not misconstrued to include grass. I have made this change in the amended condition set. Ms Solly also correctly identifies the misunderstanding of the Stage 1 tranche proposal by submitters Langridge and Valley RAGE, and suggests that amendments be made to conditions to clarify this. These changes, too, have been made to the attached condition set. Ms Solly has recommended a change to the condition requiring certification of the mitigation planting prior to the Stage 1 works commencing. This is accepted, with amendments, as detailed above.

Key issue: Dust effects

3.48 Ms Solly confirms that the Council and Applicant's dust specialists are in agreement regarding dust effects and that the DMMP is in line with best practice. Ms Solly suggests a change to conditions to include a definition of 'orcharding activities', which I am supportive of, as is Mr Bluett. I note that Mr Corrie Johnstone has confirmed that the meteorological monitoring system can be configured to automatically turn on sprinkler systems in the event of high wind speeds occurring during out-of-hours times.

Key issue: Noise effects, including NMP

3.49 Ms Solly identifies the few outstanding matters of contention between the Council and Applicants noise specialists. The key matter is the conditioned noise limit. Council remain of the view that conditions should reflect the maximum predicted noise limit for the proposed activities, not the (higher) permitted noise limit specified in the TRMP. Both Mr Hegley and myself have made our views on this clear in previous evidence. We remain of the view that there is no justification to apply a more stringent limit that that which the plan permits. Ms Solly considers that the lower limit ' *is warranted to ensure noise is reasonable and maintains an appropriate level of amenity'*. I consider that the lower limit is arbitrary, and that the 'appropriate and reasonable' limit is clearly detailed in the TRMP provisions. I note also that the upper limit of estimated noise levels at 131 Peach Island Road would increase from 51dB to 52dB if the noise bund is removed.

3.50 Ms Solly recommends a condition requiring maintenance of plastic tray liners in trucks operating on site. Ms Solly also recommends that Council's alternative noise monitoring condition be applied rather than the volunteered monitoring condition. Mr Hegley is not opposed to these changes, and I also have no objection to them, other than the 80% activity threshold proposed to trigger the monitoring. As detailed in relation to submitter comments above, I agree that this trigger level may be difficult to determine in terms of activity on the site. I have recommended a small change that removes the 80% trigger, but requires that the monitoring be undertaken when all relevant noise generating activities are being undertaken on site. These changes are reflected in the attached condition set. I have also included a condition amendment to require the final NMP to reflect noise conditions from the final consent decision, as suggested by Ms Solly.

Key issue: Traffic effects

3.51 Ms Solly confirms that the Council and Applicant's traffic experts are in agreement regarding traffic effects of the activity.

3.52 With regard to alternative traffic routes, Ms Solly is of the opinion that trucks travelling directly to the Peach Island site from quarries on the western side of the Motueka River (such as Riwaka) would be outside of the scope of the application as notified. I agree with this. Ms Solly supports Mr Fon's (Council's traffic expert) suggestion of a condition requiring a Truck Routes Plan to manage this. Mr Clark explains in his reply evidence why he does not consider such a condition to be the best way to manage this issue. I agree with Mr Clark's view on this. The key matter that Mr Fon and Ms Solly are seeking to control with this condition is that trucks approach and leave the site via Motueka River West Bank Road south of the site, rather than north of the site via Brooklyn township. This is most clearly and transparently addressed through a condition of consent requiring this. As addressed by Mr Clark, any variation in route beyond this point to include trips to and from Hau Road or other sources of cleanfill are inconsequential from a traffic effects perspective (or outside the parameters of this activity and already authorised). A new land use condition is proposed to address this matter (Condition 68). Ms Solly has some reservations regarding the ability to monitor and enforce traffic routes. I consider that this would be straightforward given the volunteered GPS tracking of all vehicles that travel to and from the site, as confirmed in Mr Clark's reply evidence.

<u>Key issue: Loss of productive land</u>

3.53 Ms Solly clarifies that Ms Langford agrees that NPS-HPL clause 3.10(1) does apply to the Stage 1 area, in that she acknowledges that flood hazards are a long-term constraint on productive use of this land. This is consistent with the advice of the Applicant's expert, Dr Hill.

3.54 Ms Solly confirms that the updated Soil Management Plan (SMP) and revised volunteered conditions have been reviewed by Ms Langford. Ms Langford is satisfied that these have gone some way to addressing outstanding concerns. However, she is not satisfied that the proposed soil drainage characteristics required post-rehabilitation (in the conditions and SMP) are appropriate as they would allow degradation of existing drainage characteristics. Ms Langford's overall position on the proposal from a land

productivity perspective has not changed since the November 2022 hearing. In particular:

- The application site is highly productive land under both the TRMP and NPS-HPL, with the exemption of Stage 1 due long-term constraints from flooding (HPS-HPL, clause 3.10(1)(a)).
- As detailed by Ms Langford in the JWS, the Landvision mapping should not be adopted.
- There are still concerns and uncertainty regarding the successful implementation of the SMP.
- The volunteered conditions continue to allow for a degradation/ loss of soil productivity by allowing for degradation of the drainage characteristics from pre to post restoration.

3.55 Dr Hill has specifically addressed these outstanding matters of contention in his reply evidence. In summary, he considers that:

(a) The site contains two areas of LUC 3 land, one within and one outside the stop banks. His opinion that the LUC mapping in the LandVision report is appropriate was reinforced by his site visit to the application site in February 2023.

(b) The land area outside the stop bank is not suitable for agricultural land development due to limitations of an inherent seasonally high water table, flood risk, and variable or shallow soil depth. In Dr Hill's opinion, it has "permanent or long-term constraints" in terms of clause 3.10(1)(a) of the NPS-HPL.

(c) The LUC 3 land inside the stop bank has soil limitations that restrict production and the range of land uses that it is suitable for over the long term. Adherence to the Soil Management Plan will ensure that the removal, management and placement of soil avoids or minimises impacts on the soil properties prior and following placement, and that the re-established soil can over the long term, retain or exceed the soil versatility

of the original soil on the site. Dr Hill has recommended an amended requirement that the restored soils within the Stage 2 and 3 areas on site be required to be at least 'moderately well drained', addressing Council and Submitter concerns that eh SMP would allow degradation of soil drainage characteristics. This change is reflected in amended consent conditions.

(d) The site is not of high productive value in terms of the TRMP definition, but regardless its productive value will be retained or enhanced over the long-term.

(e) The measures in the SMP are robust and will be effective. Dr Hill is fortified in his opinion having inspected the Appleby site.

3.56 Taking into account Dr Hill's evidence on this matter, I also remain satisfied that the proposal, including the refined GCMP and associated conditions of consent, will ensure that the productive value, and productive capacity of the site will be, at least, maintained. In particular, I consider that Council and Submitter views on the ability of such values to be maintained have relied heavily on historic, less successful examples of site rehabilitation in the region. The fact that these examples can be demonstrably shown to have not been undertaken in accordance with methodologies now proposed (and also not in accordance with consent conditions at the time) and ~~that amore recent/ current example (Appleby Farm) has been shown to be much more successful~~, further reinforces my confidence in this.

Key issue: Effects on flood plain, stopbank and pit erosion

3.57 Ms Solly confirms that no outstanding matters of contention exist between the Council and Applicant experts on these matters, following expert caucusing and provision of additional mitigation measures within the Stage 1 area ('tranches').

Key issue: Surface water quality

3.58 Ms Solly confirms that no outstanding matters of contention exist between the Council and Applicant experts on this matter, following expert caucusing and provision of additional mitigation measures within the Stage 1 area ('tranches'). Ms Solly notes the

misunderstanding of this concept in the further comments of submitters Langridge and Valley RAGE.

Key issue: Effects on Groundwater

3.59 Ms Solly details the outstanding matters of concern of Council's groundwater expert, Ms Rutter. These can be summarised as:

(a) There are still concerns and uncertainty regarding the successful implementation of the GCMP, in particular regarding groundwater levels and the exposure of groundwater during excavations.

(b) Fill quality remains the greatest risk and there is concern that 100% compliance without operational/ human errors over 15 years may not be achievable in practice.

(c) The volunteered conditions/ trigger values allow for a degradation of existing water quality

3.60 These matters are specifically addressed in the reply evidence of Mr Nicol. In summary, Mr Nicol considers that:

(a) The revised GCMP (March 2023) and the relevant groundwater conditions have been updated to incorporate suggestions by the Commissioner as well as to address issues raised by submitters and Council Officers in a manner that remains achievable for the consent holder should consent be granted.

(b) The proposed clean fill acceptance criteria in the revised GCMP (March 2023) and associated standard operating procedure (SOP) for the procurement and management of clean fill material from offsite sources are more restrictive than those recommended for Class 5 fill (clean fill) in the WasteMINZ (2022) Guidelines. This provides a high level of scrutiny before any material sourced offsite can be accepted as clean fill and transferred to Peach Island..

(c) The proposed exceedance criteria and water chemistry trigger limits allow changes in groundwater chemistry to a degree that does not result in

adverse effects on downgradient water users and the environment. Such localised effects on groundwater quality are also allowed to occur through permitted (and potentially also consented) activities that occur in the rural area for wastewater and stormwater discharges. Therefore, I disagree with the view expressed by the Council Officers who consider any change in groundwater chemistry outside of "current state" to be inconsistent with the NPS-FM (2020) and the concept of Te Mana o te Wai. I consider the proposed exceedance criteria and trigger limits set at the dedicated monitoring bores on the downgradient margin of the quarry area to be conservative, and adequate to identify unanticipated groundwater chemistry changes and avoid adverse effects.

3.61 I agree with Mr Nicol with regard to consistency with the principle of Te Mana o te Wai. I also agree that there are activities permitted by the TRMP that contribute contaminants to groundwater which are not going to be prohibited now that NPSFM 2020 is in place. These matters are addressed in more detail below.

3.62 With regard to submitter comments on groundwater matters:

(a) Dr Rutter agrees with H Mae's comments in Paragraph 62 regarding the lack of a limit as to numbers and size of temporary test pits.

I have addressed this matter above in response to Ms Mae's comments. The testpitting cannot be used as a means to extract aggregate, as the test pits must immediately be backfilled with the material that was excavated from the pit.

(b) Dr Rutter agrees with H Mae's comments in Paragraph 96 regarding the need for ground water testing/ monitoring following a spill. Dr Rutter also recommends that a lower spill limit (<20 litres) should be considered by the applicant (in the GCMP, section 6, point 4) where a spill occurs close to the water table/ groundwater.

As detailed in Mr Nicol's reply evidence, there is very little chance of spills occurring in excavation pits as vehicles will not operate from within them. However, Mr Nicol acknowledges that if a spill were to occur in a pit this should be reported to Council, irrespective of the size of the spill.

This change, in addition to Council's suggested requirement for additional groundwater testing in the event of spills, are addressed in the amended wording of land use condition 83.

(c) Regarding the changes sought by Valley Rage for Condition 27 of the Discharge Permit (trend analysis), Dr Rutter considers that these would not be needed as the purpose for doing a trend analysis is to flag if there is an increasing trend that might approach half MAV.

Mr Nicol agrees with Dr Rutter on this matter. The minor changes suggested by Council to this condition (in relation to the nature of the trend analysis required) are accepted by Mr Nicol.

(d) Regarding Valley Rage's comment on volunteered Condition 30 of the Discharge Permit, it is noted that Council previously recommended a condition to this effect (refer to recommended Condition 34 of the Discharge Permit in Appendix 3). Dr Rutter states that if there is an investigation and works are halted whilst it is carried out, then it makes sense that work does not re-commence until Council is satisfied that the activity is not causing the decline in water quality.

The inclusion of this condition is accepted by Mr Nicol and the Applicant. I am also satisfied with its inclusion (condition 35 of the discharge conditions), however I consider it more appropriate for the condition to require that a report demonstrating that the activity is not causing the changes/decrease in water quality be prepared by a SQEP and be provided to Council prior to works commencing. Volunteered conditions reflect this small amendment.

3.63 I concur with Mr Nicol's views on these matters of outstanding contention with Council Officers and Submitters. I consider that the revised GCMP and updated consent conditions adequately address these matters and will enable effects on groundwater quality to be effectively managed. It is relevant to emphasise that the primary mechanism for managing these effects is through adherence to the volunteered clean fill criteria, and I consider that a robust framework has been developed and volunteered to achieve this. As noted by Mr Nicol, this framework goes above and beyond the

requirements of WasteMINZ requirements for cleanfill activities. I also consider that the framework for monitoring of any changes in groundwater chemistry, and providing appropriate responses to these changes, is also appropriately detailed, robust, and enforceable.

3.64 I consider that matters relating to groundwater effects are adequately addressed in the proposal as it now stands.

Key issue: Cultural effects

3.65 Ms Solly confirms that no further comments from iwi have been received, and has no further comments on this issue.

Submitter comments: Material taken to a CJI site for testing

3.66 Ms Solly comments on this matter raised by Submitter Mae. Ms Solly correctly identifies that it is not proposed, under Scenario C of the SOP attached to the GCMP, to take material from land covered under the NES-CS (Regulation 7), to Hau Road. Additional wording has been added to the Scenario C section of the SOP (which is at Appendix 1 of the GCMP)_to make sure that this is clear. This involves replicating relevant steps from Scenario B to ensure checks are made to identify that the source site is not, or cannot be reasonably assumed to be, a HAIL site.

Submitter comments: Number and complexity of conditions and management plans

3.67 Ms Solly agrees with concerns raised by Submitter Mae with regard to the number and complexity of the suite of management plans and conditions, and associated concerns regarding Council's ability to monitor and enforce these. Ms Solly does appear to acknowledge that this is out of necessity in order to ensure effective management of a wide range of effects. The number and complexity of management plans and conditions is a reflection of the range and level of detail of issues that Council and submitters have raised, all of which have required a response from the Applicant as part of the consent process. This level of detail has not been required of Applicants for other similar activities in the surrounding area in the past. The Applicant had sought to incorporate some matters of detail in management plans rather than in the consent conditions. Moving these matters of detail into the consent conditions is accepted, but does come at the expense of brevity. The Applicant has also volunteered conditions that require a

significant level of information to be provided to Council to demonstrate compliance with conditions, reducing Council's proactive monitoring burden.

Submitter comments: Other comments.

3.68 Ms Solly notes that there are additional conditions proposed by Valley RAGE that she has not incorporated, but which the Commissioner may wish to consider imposing. I have comments above (and in Appendix A attached) on the conditions recommended by Valley RAGE.

Conclusion and recommendation

3.69 Ms Solly is now unable to support the grant of consent, even in part. This is primarily due to effects on productive land and on groundwater quality. In particular, as these effects relate to the NPS-FM/ Te Mana o te Wai, and the NPS-HPL. I disagree with Ms Solly's conclusions on those matters. I have commented on these matters in my primary and supplementary evidence, and above, and my views on these matters remain unchanged. I summarise the matters of outstanding contention below.

3.70 With regard to the NPS-FM and Te Mana o te Wai, the concern raised by Ms Rutter and Ms Solly is that they consider that:

'..the volunteered conditions/ trigger values allow for a degradation of existing water quality. This is inconsistent with the NPS-FM and Te Mana o te Wai, which covers a wider scope than compliance with Drinking Water Standards or the management of potential contaminants "up to" a trigger level.[7]'

3.71 The Applicant's expert evidence has been consistently clear that the proposed trigger levels are not a target to 'manage contaminants up to'. The application seeks to deposit strictly controlled clean fill to avoid this. However, conditions require that trigger levels be set somewhere to provide certainty to all parties that groundwater chemistry changes are managed to ensure adverse effects do not occur. These limits have been set conservatively, and additional measures have now been proposed to require assessment of trends so that appropriate actions to be taken in the unlikely event that these limits are approached. The expert evidence of Mr Nicol confirms that variation of water quality characteristics within these levels are not adverse effects, noting that these qualities vary

[7] Ms Solly memo 14 April 2023, Conclusion and Recommendation

naturally over various time periods, even in the same location. The Applicant has agreed to a full year of groundwater monitoring before quarrying begins to enable a clearer picture of these natural variations to be obtained, to inform the trigger levels moving forward. To provide an additional level of comfort to Council and Submitters on this matter, the Applicant has agreed to amend the GCMP and conditions in relation to trigger values between upgradient and downgradient bores. The change is that the 20% differential trigger value (as recommended by Mr Nicol) be changed to 10% (as recommended by Dr Rutter) (Condition 27 of discharge conditions).

3.72 Ms Rutter appears to take the view that any change in groundwater characteristics is contrary to the principle of Te Mana o te Wai. This appears to be a very restrictive perspective, and such a view would call into question whether a wide range of permitted activities in a rural environment are, too, contrary to Te Mana o te Wai. These might include permitted earthworks, domestic effluent disposal, stormwater disposal, livestock effluent, sediment from cultivation and application of fertiliser.

3.73 In my opinion the proposal is not contrary to the principle of Te Mana o te Wai, or with the NPS-FM in general.

3.74 I have commented on matters relevant to the NPS-HPL above in relation to Dr Hill's evidence, and also in relation to the evidence of Ms Hollis for Valley RAGE. To summarise:

(a) The NPS HPL is applicable, however it should only be applied to those parts of the site that is LUC 3, not the entire site.

(b) Exemptions for highly productive land subject to permanent or long-term constraints apply to the Stage 1 area of the site that is subject to flood hazards.

(c) The proposal is an appropriate use of highly productive land, as it satisfies Clause 3.9(2)(j) in that it is associated with aggregate extraction that provides significant regional benefit that could not otherwise be achieved using resources within New Zealand, and there is both a functional and operational need for it to be located on highly productive land (or on land that is also highly productive land).

(d) The proposal minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district, and will not create reverse sensitivity effects. The Applicant now proposes that restored soils within the Stage 2 and 3 area of the site will be required to be at least 'moderately well drained', which addressed Council and Submitters concerns regarding degradation of soil drainage characteristics. As such, consent can be granted to the activity (Clause 3.9(3).

(e) Having considered Submitter and Council evidence, and reply evidence from the Applicant's experts, I remain satisfied with my earlier conclusions regarding consistency of the proposal with the objective and policies of the NPS HPL. For ease of reference, these are:

- The small area of 'highly productive land' within the site that is not subject to long term constraints on production will be protected for use in land-based primary production, both now and for future generations (Objective 2.1).

- The proposal recognises, and will not diminish, the finite characteristics and long- term values for land-based primary production within the site and region as a whole (Section 2.2, Policy 1).

- The proposed activities, when carried out in accordance with the SMP, will not be an 'inappropriate use' for the reasons detailed above and given that productive values will not be diminished (Section 2.2, Policy 8).

- The proposal does not involve subdivision, urban rezoning, residential/ rural lifestyle development, or any other activities that would impact on the long-term productive potential of the land (Section 2.2 Policies 5, 6, and 7). This will enable the long-term use of the land for land-based primary production to be prioritised (Section 2.2, Policy 4).

- The proposed activities will not result in any adverse reverse sensitivity effects in relation to surrounding primary production activities (Section 2.2, Policy 9).

Conditions

3.75 I provided draft condition sets for the land use and discharge consents with my evidence dated 4 November 2022 and a further, revised set, dated 23 March 2023. Having considered further comments on these provided by Submitters and Council, I am supportive of some further changes. The changes sought by submitters, including the detailed comments by Ms Mae and Valley RAGE, and my responses to these have been detailed above and in the condition set at Appendix A. Some changes have been made to the revised condition sets at Appendix B (land use) and Appendix C (discharge).

3.76 As detailed above, the Applicant is supportive of the changes and new conditions proposed by Te Ātiawa and Ngāti Rārua, and these have largely been agreed, with the few remaining areas of disagreement discussed above.

3.77 The Applicant has continued to liaise with the Tasman Great Taste Trail Trust. A new volunteered land use condition (Condition 5) has been added to reflect their current arrangement to provide reasonable assistance to the trust in establishing an off-road trail between the application site and Alexander Bluff Bridge. This condition does not require the establishment of the trail as such, as this relies upon agreement of a variety of private landowners.

3.78 Ms Solly's most recent comments on draft conditions contain a number of useful suggestions, and many of these have been incorporated into the plan set at Appendices B and C. I note Ms Solly's comments that the SMP includes recommendations for monitoring of soils and land settlement for 3-5 years after site rehabilitation has taken place, and that if this extends beyond the term of the consent then this may not be enforceable. This matter has been addressed in the amended condition set, which specifies that the consent term does not extend to the monitoring (and any soil top-up) requirements recommended by Dr Hill. I also note that gravel extraction will first occur in the Stage 2 and Stage 3 areas, followed by the Stage 1 area. It is likely that only monitoring for the Stage 1 area would extend beyond 15 years, if at all. I note any

activities occurring after the initial 15 years would not, themselves, require resource consent.

3.79 The key changes suggested by Ms Solly that the Applicant is not in agreement with are summarised below. Note, minor wording changes are not listed here, and have been addressed elsewhere in reply evidence.

Land use conditions:

(a) Condition 4 (now 6) - Council alternative review timing wording is acceptable, however the Applicant has already agreed this wording with iwi, and would prefer to keep it as volunteered.

(b) Condition 7 (now 9) – Applicant does not agree with the increased bond amount suggested by Council. This amount appears to have been imposed because a Submitter suggested it, without any technical basis.

(c) Condition 20 (now 25 (land use) and also 26 (discharge)) – Council consider that under no circumstances should groundwater quality exceeding 50% 0f MAV. The Applicant considers this should be 'managed to not exceed 50% of MAV, and under no circumstances exceed MAV).

(d) Condition 24 (now 29) – Council would like the earth bund to be constructed prior to any physical works on site. This wording conflicts with the construction of the bund itself, and also any plantings.

(e) Condition 55(a) (now 119(a)) – Council do not want soil imported to the site. This has been addressed in Dr Hill's reply, and this change is not supported.

(f) Condition 70 (now 68)– Council have requested a Truck Routes Plan. As explained in Mr Clark's reply and above, a condition is favoured controlling the key part of the truck route instead.

(g) Condition 62 – Council request 51dB noise limit. This has been addressed in Mr Hegley's replay and above. Applicant does not agree to this.

(h) Condition 99 – Council request 20x80m pit dimensions strictly controlled. Applicant disagrees, the dimensions are not critical, rather the overall areas is important. The shape may need to amend slightly iin corners of stage areas, etc.

Discharge conditions:

(i) Condition 13 (now 14) – The Applicant disagrees with the need for monthly monitoring for 12 months prior to commencement. This has been addressed in Mr Nicol's reply and above.

(j) Condition 18(b) (now 19(b)) - The Applicant disagrees with the need for monthly monitoring for all monitoring bores. This has been addressed in Mr Nicol's reply and above monthly monitoring.

(k) Condition 23 (now 24) – As detailed in Mr Nicol's reply evidence, Dr Rutter's suggestions regarding amended Table 2 values are not agreed.

(l) Condition 25 (now 22) - As detailed in Mr Nicol's reply evidence, monitoring of bores between 500m and 1km downgradient is not necessary.

Conclusion

3.80 My overall conclusion remains that I am satisfied that adverse effects on the environment associated with the proposed activities will be no more than minor. I am also satisfied that the proposal is consistent with all relevant statutory documents and with Part 2 of the RMA.

Hayden Taylor
24 April 2023