

Date:	4 September 2024	App Number:	LU/0077/23
Reporting Planner:	Todd Whittaker	Site Visit on:	25 May 2023

Applicant:	RS Sands Limited
Property Address:	77 Newcombe Road, Cambridge
Legal Description:	(RT 841793) - Sec 41 SO 510550 and Sec 61 SO 510550 (RT 821177) - Lot 2 DP 520523 (RT 908965) – Lot 2 DP 541191 and Lot 4 DPS 86453
Site Area:	134.5 ha
Activity Status:	Discretionary Activity
Zoning:	Rural Zone
Policy Area(s):	<ul style="list-style-type: none"> • Formed Local Road. • Cultural Landscape Area Alert. • High Voltage Electricity Transmission Lines and Structures.
Proposal:	Proposed Sand Quarry

1 INTRODUCTION

1.1 Description of site

The subject site is comprehensively described in the Applicant’s AEE and Landscape Assessment. This material has been reviewed and adopted for the purpose of this notification report and recommendation. The key site information and aerial images adopted from the application material is as follows:

The general location of the site is approximately 3km to the east of the Cambridge town centre, between the Waikato River and Karapiro Stream (refer to **Figure 1** and **Figure 2** below).



Figure 1: Site Location

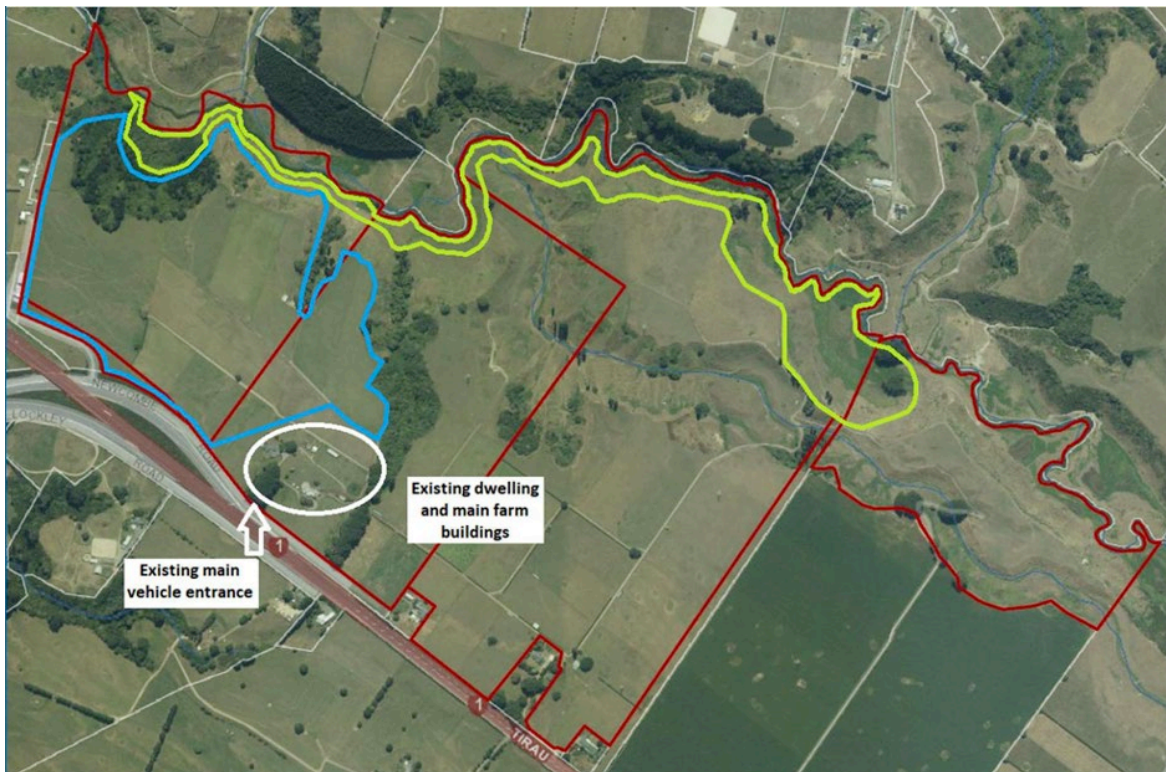


Figure 2: Proposed Site. Property Boundaries (red) and approximate quarry area in blue and ecological restoration in green).

Most of the buildings on the properties are located north of the main vehicle entrance, approximately 70-180m from Newcombe Road including a dwelling with attached garage, milking shed and several large farm buildings. The main vehicle entrance to the site is located approximately halfway along its Newcombe Road frontage, however, there are farm entrances from SH1/Tirau Road towards the south-eastern corner of the site.

The topography of the site is generally flat with areas dissected by gullies associated with the Karapiro Stream and its tributaries. The southern half of the site is at a similar level to Newcombe Road (approximately RL75), while the banks of the Karapiro Stream and its tributaries are approximately 45m lower (RL 30). While most of the site is grazed by dairy cattle, portions of the gullies and slopes down to the streams contain exotic dominated forest, scrub and forest, mixed exotic and native forest, and floodplain, gully basin and seepage wetlands.

1.2 Legal interests in the property

The AEE sets out the relevant title instruments and provides an assessment of the relevant instruments in terms of any impact on the proposed quarry. This is set out as follows:

Title Details	Relevant Interests
<p><i>Sec 41 SO 510550 and Sec 61 SO 510550</i></p> <p><i>RT 841793</i></p> <p><i>28.96ha</i></p> <p><i>Issued 27 June 2018</i></p>	<ul style="list-style-type: none"> • <i>12129517.1 Compensation Certificate pursuant to Section 19 Public Works Act 1981 by Her Majesty the Queen.</i> • <i>Appurtenant hereto is a right of way created by Easement Instrument 11167910.1.</i> • <i>H080406 Gazette Notice declaring SH1 (Awanui- Bluff) fronting the within land to be a limited access road.</i>
<p><i>Lot 2 DP 520523</i></p> <p><i>RT 821177</i></p> <p><i>33.16 ha</i></p> <p><i>Issued 4 December 2018</i></p>	<ul style="list-style-type: none"> • <i>12129517.1 Compensation Certificate pursuant to Section 19 Public Works Act 1981 by Her Majesty the Queen.</i> • <i>H080406 Gazette Notice declaring SH1 Awanui - Bluff fronting the within land to be a limited access road.</i>
<p><i>Lot 2 DP 541191 and Lot 4 DPS 86453</i></p> <p><i>RT 908965</i></p> <p><i>72.55 ha</i></p> <p><i>Issued 2 December 2019</i></p>	<ul style="list-style-type: none"> • <i>12129517.1 Compensation Certificate pursuant to Section 19 Public Works Act 1981 by Her Majesty the Queen.</i> • <i>Appurtenant to Lot 4 DPS 86453 is a right of way specified in Easement Certificate B658708.5.</i> • <i>H080406 Gazette Notice declaring SH1 (Awanui- Bluff) fronting the within land to be a limited access road.</i> • <i>B664281.4 Certificate pursuant to Section 91 Transit New Zealand Act 1989.</i> • <i>The easements specified in Easement Certificate B658708.5 are</i>

	<p><i>subject to Section 243 (a) RMA.</i></p> <ul style="list-style-type: none"> • <i>9351117.1 Bond pursuant to Section 108(2)(b).</i> • <i>8535308.1 Consent Notice pursuant to Section 221 RMA.</i>
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The above listed interests do not restrict the proposal from proceeding for the following reasons:

- *The Compensation Certificate pursuant to Section 19 of the Public Works Act 1981 relate to agreement for the payment of compensation in relation to the Cambridge Section of the Waikato Expressway (the Expressway).*
- *The site no longer gains access from SH1.*
- *Section 91 of the Transit New Zealand Act 1989 relates to authorisation of crossing places on limited access roads.*
- *Bond 9351117.1 relates to a previous 'Transferable Development Right' subdivision.*
- *Consent notice 8535308.1 relates to a previous 'Dwelling for a Person with a Long Association with a Holding' subdivision, and vegetation and building distances to Hamilton-Karapiro A, Arapuni-Hamilton A and Arapuni- Hamilton B transmission lines and support structure foundations.*

The above assessment has been reviewed and is adopted for the purpose of this notification report and recommendation.

1.3 Proposal

Pursuant to Section 88 of the Resource Management Act 1991 (RMA), RS Sands Limited (the Applicant) has applied for a land use consent to establish and operate a sand quarry at 77 Newcombe Road, Cambridge. In addition, a series of regional plan and NES -freshwater consent applications have been lodged concurrently with the Waikato Regional Council.

The quarry is proposed to extract up to 400,000 tonnes (T) of sand per year (depending on demand) for approximately 25 years from the western portion of the site (the Proposal).

The quarry is made up of a 23-hectare pit area towards the western boundary and a 4-hectare plant area (for processing and stockpiling) to the east of the pit.

The pit area is estimated to contain 7,409,700 tonnes (T) and 4,116,500m³ of sand resource, comprising a mixture of pit sand and concrete sand. The quarry is proposed to extract and process up to 400,000T of sand from the pit area per year (depending on demand) for approximately 25 years, based on the following indicative stages:

Stages	Years and Areas	Overburden	Pit Sand	Concrete Sand	Total Sand
1	0 to 1.5 (2.8 ha)	38,700 T / 21,500 m ³	38,700 T / 21,500 m ³	414,000 T / 230,000 m ³	452,700 T / 251,500 m ³
2	1.5 to 6.4 (3.7 ha)	115,200 T / 64,000 m ³	115,200 T / 64,000 m ³	1,335,600 T / 742,000 m ³	1,450,800 T / 806,000 m ³
3	6.4 to 13.4 (6.8 ha)	189,900 T / 105,500 m ³	189,900 T / 105,500 m ³	1,920,600 T / 1,067,000 m ³	2,110,500 T / 1,172,500 m ³
4	13.4 to 20.2 (6.3 ha)	229,500 T / 127,500 m ³	229,500 T / 127,500 m ³	1,819,800 T / 1,011,000 m ³	2,049,300 T / 1,138,500 m ³
5	20.2 to 24.8 (3 ha)	131,400 T / 73,000 m ³	131,400 T / 73,000 m ³	1,215,000 T / 675,000 m ³	1,346,000 T / 748,000 m ³
TOTALS	24.8 Years (22.6 ha)	704,700 T / 391,500 m³	704,700 T / 391,500 m³	6,705,000 T / 3,725,000 m³	7,409,700 T / 4,116,500 m³

The proposed plant area includes a processing plant (approximately 6m high and 20m wide) located in the middle of the plant area and a water recycling pond towards the north. The plant building will use and discharge water to and from the recycling pond to grade the sand with spirals, screens, conveyors, and pumps on multiple levels. Graded sand will be stockpiled around the plant area. The southwestern portion of the plant area will contain an office and breakroom building, maintenance workshop, car parking, weighbridge, and wheel wash facility.

Access from Newcombe Road to the quarry will be provided via a new vehicle crossing approximately 150m to the west of the site's existing access and 660m from the Newcombe Road – Tirau Road intersection.

For Stages 1–4 (Years 1–20.2), a 20m wide internal road will be constructed from the new vehicle crossing to the plant area. The road will initially be positioned over Stage 5 and along the existing fence line to limit the impact on the existing dairy farm and dwelling on the Site. For Stage 5 (Years 20.2–25), the internal road will be moved south to provide access to the sand beneath Stage 5.

The proposal will result in the loss of approximately 2.08ha of exotic plantation and dominated forest, 0.98ha of exotic dominated scrub, 3,090m² of seepage wetlands, 23.72ha of long-tail bat habitat and 3.06ha of copper skink habitat. RS Sand propose to undertake ecological measures to achieve No Net Loss and Net Gain for key biodiversity values.

The application material includes an Assessment of Environmental Effects and a series of technical and expert reports detailing the scope and scale of proposed quarry. These include;

- (a) Appendix D Draft Quarry Management Plan*
- (b) Appendix E Draft Erosion and Sediment Control Plan*
- (c) Appendix F Rules Assessment*
- (d) Appendix H Landscape and Visual Assessment*
- (e) Appendix I Acoustic Assessment*
- (f) Appendix J Air Quality Assessment*
- (g) Appendix K Integrated Transportation Assessment Appendix L Ecological Assessment*
- (h) Appendix L Ecological Assessment*
- (i) Appendix M Hydrology Assessment*
- (j) Appendix N Groundwater Assessments*
- (k) Appendix O Erosion and Sediment Assessment*
- (l) Appendix P Geotechnical Assessment*
- (m) Appendix Q Cultural Impact Assessment*
- (n) Appendix R Archaeological Assessment*

In addition, the applicant has provided additional information in response by the S.92 matters raised by both the Waipā District Council (Waipā DC) and the Waikato Regional Council (WRC).

The AEE and supporting material provide several figures and to show the extent and physical characteristics of the proposed quarry activity, the following **Figures 3 and 4** have been selected from the application material to show the quarry extent for the notification report.

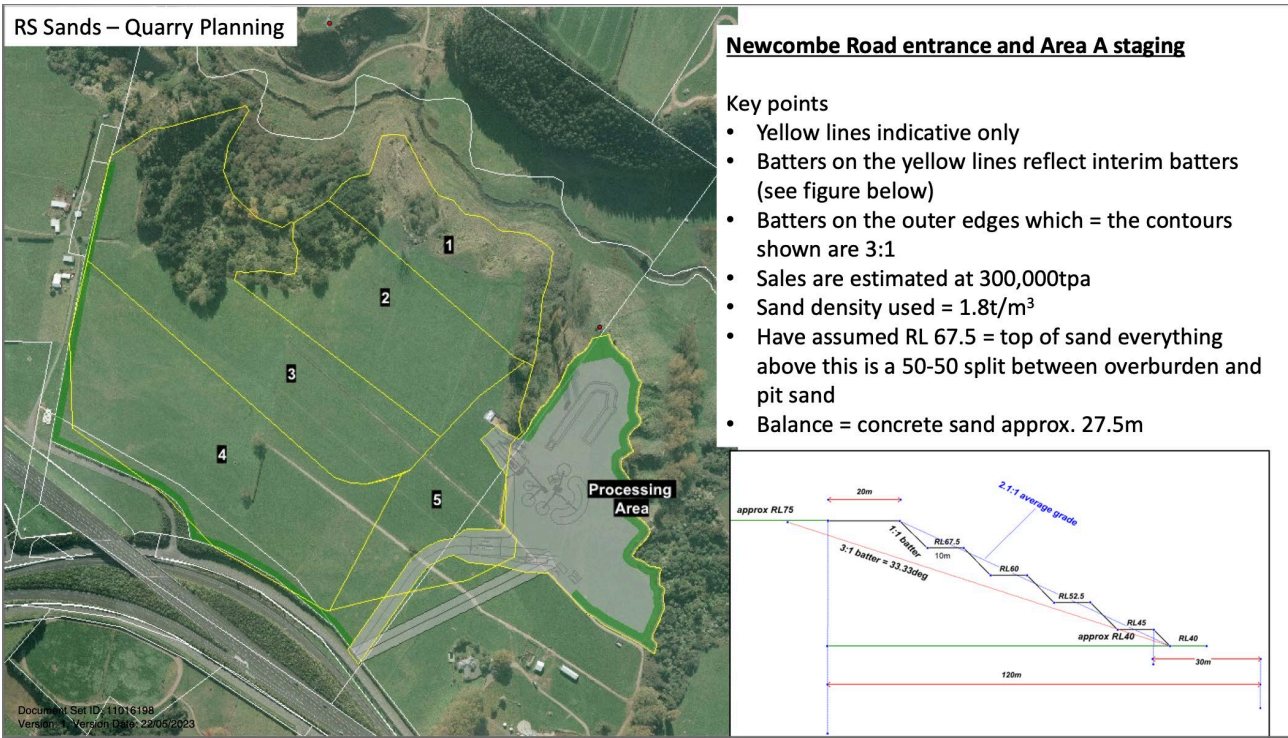
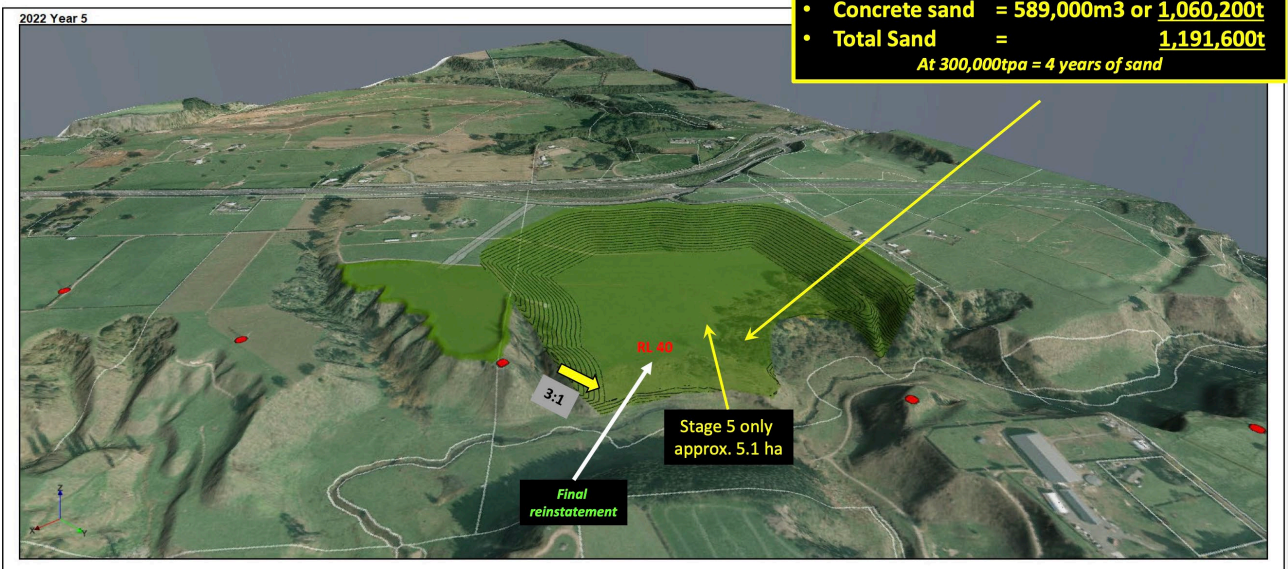


Figure 3: Overall Site Development.

RS Sands – Quarry Planning
Stage 5 – Years 20.7 to 24.7



Viewpoint at the end of each stage – including reinstatement

Document Set ID: 11016198
Version: 1, Version Date: 22/05/2023

Figure 4: Oblique view across site at completion of Stage 5 (looking south with Karapiro Stream in foreground).

2 REASON FOR THE APPLICATION

A land use consent as described under Section 87A of the Act is required for the reasons set out below.

2.1 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES- Soil)

These regulations came into force on 1 January 2012 and apply when a person wants to do an activity described in Regulation 5(2) to 5(6) on a piece of land described in Regulation 5(7) or 5(8).

The original application material and AEE does not address the NES-Soil

The proposed quarry activities will provide for stockpiling of overburden on site and with material used for the formation of earth bunds and then for rehabilitation of the site once the quarry stages are finalised. No HAIL activities have been identified on the site and there will be no change of use such that it is considered that the NES-Soil is not applicable to the proposed quarrying activities

2.2 Waipā District Plan Rule Assessment

An assessment of the proposal's compliance with the relevant rules of the District Plan has been completed. In summary, the table below outlines the relevant rules relating to the proposed activity.

District Plan			
Rule No.	Rule Name	Activity Status	Reason
Section 4 – Rural Zone			
4.4.1.4(h)	Discretionary Activity Status Table	Discretionary	The proposal is for a mineral extraction activity (sand quarry) that is not within 500m from the lakes identified under subsection (h).
Section 16 – Transportation			
16.4.2.5	Vehicle Entrance Separation from Intersections and Other Vehicle Entrances	Discretionary	While the proposed vehicle crossing is at least 600m from any intersection, it is approximately 160m from the nearest vehicle crossing to the east.
16.4.2.15	Parking, Loading and Maneuvering Area	Discretionary	As the surface of the proposed parking, loading and maneuvering areas will be sand and metal, they will not provide a completely dust free environment.
16.4.2.23	Car Park Landscaping and Lighting	Restricted Discretionary	Given the proposed activity is a quarry, no trees are proposed in the parking area.
Section 26 – Lakes and Water Bodies			

26.4.2.1	23m Setback from Lakes and Water Bodies	Restricted Discretionary	As the northern extent of Stage 1 is 10-15m from the Karapiro Stream, earthworks and vegetation removal will be undertaken within 23m of the edge of the stream.
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As outlined in the table above, the application is deemed to be a Discretionary Activity being the highest status prescribed by the above rules.

As noted above, the applicant has also lodged a series of consent applications with the Waikato Regional Council. The details of these applications are set out in Section 6.2 of the AEE.

3 STAFF/TECHNICAL REVIEW COMMENTS

Advice and technical review comments have been received from the following personnel and have informed the notification assessment and recommendation;

- Landscape - Oliver May (Boffa Miskell)
- Transportation - Cameron Inder (BBO) and Bryan Hudson (WDC)
- Ecology - Andrew Blayney (Boffa Miskell)
- Noise - Mat Cottle (Marshall Day)
- Development Engineering - Eva Cucvarova

The comments and technical advice are discussed further in the notification assessment below.

4 ASSESSMENT FOR THE PURPOSE OF NOTIFICATION

4.1 Adequacy of information

It is my opinion that the information contained within the application (which includes the S.92 response and additional assessment) is suitable for the purpose of making a recommendation and decision on notification.

4.2 Mandatory Public Notification - Section 95A(2) & (3) – Step 1

Council must publicly notify the resource consent where:

- a) it has been requested by the Applicant; or
- b) a further information request has not been complied with or the Applicant refuses to provide the information pursuant to Section 95C; or
- c) the application has been made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977.

In this instance, none of the above situations apply, therefore public notification is not required under Section 95A(2) and 95A(3).

4.3 Public notification precluded – Section 95A(5) – Step 2

The consent is for a resource consent for one or more activities and there are no rules in a National Environmental Standard or the District Plan relevant to this proposal that preclude public notification.

The application is not for a resource consent for one or more of the following:

- a) Controlled activity;
- b) A restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;

As such, the application is not precluded from public notification.

4.4 Public notification required in certain circumstances – Section 95A(8) – Step 3

Council must publicly notify the resource consent where:

- a) The application is for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification; or
- b) The consent authority decides, pursuant to Section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

In this instance, public notification is not required by a rule or a national environmental standard. Refer to Section 4.5 and 4.6 of this report for Council's assessment of the effects.

4.5 Effects that may or must be disregarded – Section 95D(a), (b), (d) and (e)

Pursuant to Section 95D, if a rule or national environmental standard permits an activity with that effect the adverse effect of that activity may be disregarded.

4.5.1 Permitted Baseline

Pursuant to Section 95D, a Council may disregard an adverse effect of the activity on the environment if the plan or a national environmental standard permits an activity with that effect (i.e. the Council may consider the 'permitted baseline'). The permitted baseline is a concept designed to disregard effects on the environment that are permitted by a plan or have been consented to with regard to who is affected and the scale of the effects.

Quarrying activities are identified as a Discretionary Activity in the Rural Zone and given the nature of activities that form part of the quarry activity and operation, I consider that there is little merit in applying a permitted baseline assessment.

4.5.2 Land excluded from the assessment of effects on the environment.

For the purpose of assessing an application to establish whether public notification is required, effects on owners and occupiers of the subject site and adjacent sites, and persons who have given written approval **must** be disregarded.

The Application has identified the following properties as adjacent properties.



Figure 5: Application – Identification of Affected parties (Section 7.4 of AEE)

The nature and scale of adverse effects and what properties may be deemed adjacent to the site are interconnected. Given it is difficult to access vantage points across the site from the northern side of the Karapiro Stream (as there are no public roads or access points to this area), it is appropriate to take a conservative assessment of interface and adjacent properties catchment.

I have reviewed the assessment of adjacent parties and endorse this assessment noting the following;

- a) The assessment of adjacent parties is focused on the primary activities associated with the quarry extract and quarry pit/processing area and not the area of ecological compensation planting,
- b) The topography and landform and areas of vegetation and planting affect the extent of views into and across the site from the properties to the north,
- c) It is difficult to view the subject site from the north as there was no public vantage points available,
- d) All landowners along Newcombe Road (other than the applicant) are considered to be adjacent to the site given the substantial level of traffic generation proposed,
- e) It may be arguable whether the properties to the south of SH1 are adjacent given the intervening road corridor, and
- f) It is noted that there are some land parcel severances associated with the SH1 bypass. It is recommended that the NZ Transport Agency/Waka Kotahi is notified in any case given the roading issues associated with the proposed quarry.

4.6 Mandatory limited notification – Section 95B(2 & 3) – Step 1.

The application site and proposed quarry activities do not affect customary rights groups or a customary marine title group.

The site is adjacent to the Karapiro Stream, and three iwi have confirmed rights and interests within the broader area. Following the 1995 Waikato Rauputu Claims Settlement Act, a tribal authority on behalf of Waikato-Tainui was established. A Cultural Impact Assessment (CIA) on behalf of Waikato Tainui and the identified mana whenua for this area Ngaati Korokii-Kahukura Trust and Ngaati Hauaa Iwi Settlement Trust has been prepared which affirms a neutral position to the application subject to conditions. This is further discussed in **Section 4.9.6** below.

Based on the CIA, I am satisfied that appropriate consideration and engagement has been undertaken with mana whenua and that there are no substantive issues raised with regards to cultural values and sites. However, as the CIA is not a written approval and is qualified by reference to conditions, it is appropriate to recognise Waikato Tainui, Ngaati Korokii-Kahukura Trust, Ngaati Hauaa Iwi Settlement Trust and Raukawa Charitable Trust as potentially affected parties.

4.7 Limited notification precluded – Section 95B(5 & 6) – Step 2.

The application is a Discretionary Activity land use application and is not precluded from limited notification.

4.8 Affected parties – Section 95B(8) – Step 3.

An assessment of the scale and nature of effects on adjacent properties is required. This is discussed below.

4.9 Assessment of Environmental Effects and Affected Parties – Section 95D and 95E.

Part 2 of the Act explains the purpose is to “*promote the sustainable management of natural and physical resources*”. In addition, it is noted the meaning of ‘effect’ is defined under the Act as:

*In this Act, unless the context otherwise requires, the term **effect** includes—*

- (a) any positive or adverse effect; and*
- (b) any temporary or permanent effect; and*
- (c) any past, present, or future effect; and*
- (d) any cumulative effect which arises over time or in combination with other effects — regardless of the scale, intensity, duration, or frequency of the effect, and also includes—*
- (e) any potential effect of high probability; and*
- (f) any potential effect of low probability which has a high potential impact.*

The following assessment has taken into account the AEE and technical appendices submitted by the Applicant and the advice and technical reviews undertaken on behalf of Waipā District Council. This assessment discusses the adverse effects on the environment and the assessment of effects on adjacent properties using ten topics.

4.9.1 Compensation Measures and ability to take these into account for the notification effects assessment

A legal matter has arisen through the processing of the application regarding whether or not the compensation measures set out in the application can be taken into account as part of the adverse effects assessment at the notification stage.

The applicant has presented a legal opinion¹ on this matter and this has also been independently reviewed through a second opinion² commissioned by both Waikato Regional Council and Waipā District Council. These opinions have been taken into account and have helped to frame the assessment of effects set out in this notification report and recommendation.

¹ Bal Matheson, opinion dated 28 May 2024.

² Gordon and Pilditch, opinion dated 10 July 2024.

The compensation/offsetting issue arises in relation to the provisions of 95A(2)(a) and 95A(8)(b) and whether any compensation/offsetting measures can be taken into account as part of the adverse effects assessment. These provisions are distinct from the S.104(1)(ab) provision which specifically state that offsetting and compensation should be taken into account. These provisions are subject to guidance material³ and earlier case law⁴ which established a principle that compensation and offsetting measures must be excluded from the notification assessment following the 2017 amendments. The guidance material includes the following commentary⁵;

The RMA recognises this distinction and differentiates between mitigation of adverse effects caused by the activity for which resource consent is being sought, and positive effects offered by the applicant as an offset to adverse effects caused by the proposed activity.

While it is common for a resource consent application to include a bundle of mitigation, compensation, and offset actions, they are not the same things. It is critical to the decision-making process that it is transparent what is being offset, what is being mitigated, and what is only being compensated.

- with the following specific guidance on the notification assessment⁶;

Mitigation and a biodiversity offset are not the same thing. To 'mitigate' means to alleviate, or moderate the severity of something. Offsets do not do that. This is because offsets do not simply reduce adverse effects, but rather they seek to achieve biodiversity gains that are equivalent to the residual biodiversity losses (or greater, to achieve a net-gain offset). As such, biodiversity offsets should only be only considered after all reasonable possibilities to avoid, remedy, or mitigate are exhausted. Therefore, biodiversity offsets must be distinguished from mitigation, and this is increasingly reflected in case law and resource management plans.

The consent authority assessing whether an application requires public notification under section 95A(2)(a) can only consider whether the adverse effects of the activity are more than minor, and any positive effects anticipated to be bought about due to a proposed offset cannot be taken into account when evaluating whether effects are more than minor as the offset occurring cannot be ensured.

Significantly, the application material and assessment identify more than minor adverse effects on the environment in terms of ecological values and is reliant on the proposed compensation measures to reach a conclusion that the effects are no more than minor⁷.

³ Biodiversity Offsetting under the Resource Management Act – Biodiversity Working Group - September 2018 (BWG Report)

⁴ Royal Forest and Bird Protection Society of New Zealand v Buller District Council and West Coast Regional Council and others, [2013] NZHC 1346, Fogarty J.

⁵ BWG Report, Section 1.2.3 (Text Box).

⁶ BWG Report, Section 1.2.3.

⁷ Refer Application AEE, Section 8.6.4 to 8.6.8.

While there are some differences in the legal analysis provided between the two legal opinions, there is consensus that more recent case law has clarified that compensation and offsetting measures can be considered as part of the notification assessment, depending on the merits of the particular proposal. The Gordon and Pilditch opinion states;

We do agree with Mr Matheson that this is a question of factual context. In Norman, the Court of Appeal made clear that a decision maker can have regard to the ameliorating effect of an application in making its decision under s95A(8) and s95D. The relevant question is one of fact and degree as to whether there is a direct and sufficient linkage between an adverse effect and the proposed countervailing factor, such that the adverse effect will be minor or less than minor. That assessment will be highly fact specific⁸.

It is my opinion, that the compensation measures set out in the application, and which provide for replacement planting and habitat within the riparian corridor adjacent to the proposed quarry pit can and should be considered as part of the assessment of effects for notification. The merits of the compensation planting/habitat, including the time lag and potential risk of how effective the compensation planting/habitat mitigation may be, are addressed further below.

4.9.2 Landscape and Visual Effects

The proposed quarry seeks consent for the extraction of sand from the southern upper terrace of the Karapiro Stream gully and the State Highway 1 road corridor. The existing site will be modified over time with the sand quarry pit extending into the site from the northern terrace to an approximate depth of 35m from the existing property level. The quarry activities will require the removal of 3.4ha of terrestrial and wetland vegetation and 23ha of pasture. An on-site processing area will also be formed along with internal access roads.

The Applicant has provided a Landscape and Visual Assessment Report from Mansergh Graham Landscape Architects (the MGLA Report). The MGLA report discusses the landscape context of the site, the sequence of quarry works and staging and development of mitigation methods and conditions. A detailed assessment of the visual catchment is provided including an assessment of viewing locations around the site. A landscape model has been prepared to establish a visibility analysis of the quarry activities.

The MGLA provides a series of assessment on the landscape and visual effects based on the viewing audience and the ability of the site to absorb the identified landscape effects. The conclusion of the MGLA report is set out as follows:

*During its initial stages of development, the proposed sand quarry will have a **more than minor** adverse effect on the existing landscape and rural character of the application site and its immediate surroundings (including temporary effects while the quarry becomes established) As the quarry develops, effect levels will drop **less than minor** with post-extraction contouring, and the re-establishment of planting on the gully slopes. While the proposed sand quarry will change the*

⁸ Gordon and Pilditch, opinion dated 10 July 2024, para. 5b.

appearance of the site and alter the natural river terrace landform associated with the site, it will not do so to the extent that it affects the wider rural landscape surrounding the site. Successfully mitigated and rehabilitated, the application site will integrate back into the landscape post-closure.

*From surrounding areas accessible to the public, the effects of the proposed sand quarry will be **less than minor** or **minor**. Effects on private view locations to the north (during the early operational stages of the quarry (Stages 1, 2 and 3) and the private dwelling adjacent to VL4 will be **more than minor**. As quarrying proceeds south, and the eastern walls and floor of these stages are rehabilitated, effects on landscape and visual amenity will decrease on private view locations to the north to **minor** for Stages 4 and 5 (until Stage 5 is rehabilitated). Following completion, the effect will be **less than minor**⁹.*

Waipā DC has engaged Boffa Miskell to provide a peer review of the MGLA report. The peer review process has included a request for additional information on landscape effects with the final peer review report providing the following independent assessment.

I consider that the information provided by Mansergh Graham Landscape Architects in this S92 Response in conjunction with the original Landscape and Visual Assessment provides sufficient information to support the landscape and visual effects assessment and its conclusions. However, as detailed above, in my opinion the mitigation planting proposal should be provided with a greater level of detail as a condition of consent, to ensure that the proposed landscape outcomes are met. The preparation of the proposed detailed plans should be undertaken in collaboration and engagement with iwi (Waikato-Tainui, Ngaati Korokii-Kahukura and Ngaati Hauaa).

Boffa Miskell supports the methodology, effects ratings and conclusions of the report and consider them to be a reliable assessment of the proposal and anticipated effects. However, as indicated above, it is recognised that the cultural aspects of the landscape have not been considered within the assessment¹⁰.

I note that earth bunds with planting are proposed around the site boundaries to provide visual and noise mitigation. It occurs to me that this mitigation may have adverse effects in itself in terms of the adjacent owner at 41 Newcombe Road given the proximity of the bound to the common boundary.

The site has landscape values associated with the natural river terrace with the proposed quarry pit extending into the southern terrace.

I note that the applicant has provided a Cultural Impact Assessment CIA which is discussed in Section 4.9.6 below and that this describes the context of the site and surrounding landform from a cultural perspective.

⁹ MGLA Report – page 32.

¹⁰ Boffa Miskell (Oliver May) memorandum dated 22 April 2024, section 4.

Taking into account the MGLA Report prepared in support of the application, the independent peer review, site visits to the site and surrounding area I am satisfied that the adverse effects on the broader environment are minor. The proposed quarry activities and change in landform will have visual effects and an interface with several adjacent property owners. The loss of natural landform and 25-year quarry life before full remediation is achieved in my opinion results in these adverse effects being more than minor.

Overall Assessment (Landscape and Visual Effects)	
Effects on Environment	Minor
Effects on Adjacent Landowners/occupiers	More than minor

4.9.3 Transportation

The proposed quarry will generate traffic movements through both the construction/set-up phase and throughout the full life of the quarry with up to 400,000 tonnes of sand extracted and transported off-site each year. It is acknowledged through the application material that it is not possible to accurately project the number or destination of truck movements as this will evolve and change over time depending on industry and market demand and also the location of any significant infrastructure projects which have a significant demand for sand.

The applicant has provided an Integrated Transport Assessment – CKL Report dated 16 May 2023 (ITA) and has also provided additional information and assessment in relation to a series of S.92 requests for additional information and analysis.

The ITA sets out the nature of the quarry activities and then provides a trip distribution analysis based on key assumptions regarding the destination/user of the sand aggregate and the type of trucks that will be utilised to serve the demand.

One key assumption is how demand to the north of Cambridge will be served and whether trucks would seek to access State Highway 1 through Cambridge or alternatively by heading south on SH1 to the recently formed truck turnaround at Hydro Road. It is noted that discussions have been held with the NZ Transport Agency/Waka Kotahi on the possibility of a new on-ramp from Newcombe Road. This has not been supported by NZ Transport Agency/Waka Kotahi.

The ITA has assessed the impacts on the Newcombe Road which is the local road serving the site, the design of the quarry access, road safety effects and on-site parking and internal roading.

The ITA provides an overall assessment of average and maximum traffic generation as follows¹¹:

- Up to 200 trucks could access the site per day (400 vehicles per day (vpd)),
- Average truck movements - 8 trucks per hour (16vpd),
- Peak truck movements - 20 trucks per hour (40vpd)

¹¹ ITA, para 6.2.3 and 6.2.4.

The conclusion set out in Section 14 of the ITA is as follows:

Overall, there are no traffic or transportation reasons to preclude approval of the proposed sand quarry subject to consent conditions being applied requiring maintenance of Newcombe Road between the site access and Tirau Road and full reconstruction of this pavement once failure occurs.

Waipā DC has engaged Bloxam Burnett & Oliver (BBO) (Transportation Engineer, Cameron Inder) to provide an independent peer review of the ITA. The original TIA Review Assessment is dated 14 June 2023 which raised several matters for additional clarification around the traffic generational and modelling. Following further analysis provided by the Applicant CKL letter dated 16 August 2023), a further and updated Review Assessment was issued on 17 November 2023. This retained reservations regarding the traffic generation and modelling assumptions and further discussions, and exchange of modelling data was exchanged between the traffic experts.

BBO has reviewed the information and traffic modelling required and provided final comments dated 6 May 2024.

Key conclusions from this review include:

I confirm our discussion on 23 February 2024, that I consider this latest received information and our discussions with the applicant during the online meeting satisfactorily address the following matters raised in the second RFI.

- *Evidence of the methodology used for the estimated trip distribution figures in the assessment, given that the trip distribution directly influences the calculated volume of truck trips passing through Cambridge township. The volume of trucks affects the potential for adverse safety effects on vulnerable road users (pedestrians and cyclists) in the urban environment, along with the pavement impact fee calculation.*
- *Information proposing how the applicant would incentivise or require the use of the SH1 / Hydro Road turnaround facility for truck trips north of the site, over the route through Cambridge township via Tirau road, Albert Street, Queen Street and Victoria Street. Also, what the consent holder can do in the event a customer fails to comply with the required use of the turnaround facility to avoid adding trucks trips through Cambridge township.*
- *Pavement and surface strengthening work at the Tirau Road / Newcombe Road 'T' intersection before the quarry commences trading to mitigate premature pavement deterioration. The applicant agrees to this requirement being a condition of consent.*
- *The potential for adding a northbound on-ramp and southbound off-ramp from/to Newcombe Road at the Cambridge Southern Interchange. Discussions between the applicant and Waka Kotahi, and WDC and Waka Kotahi on this matter have concluded that the Transport Agency will not approve the addition of two new ramps at the interchange.*

Matters that I consider have not been satisfactorily addressed in the response or assessment to date remain:

- *An assessment of the potential safety effects for cyclists, pedestrians, and other road users within the urban environs of Cambridge from the increased volume of truck and trailer movements.*

CKL states in their response “We would expect that the Hydro Rd [turnaround] option would become more favourable if there are additional raised tables, ped crossings etc added within the Cambridge urban area.”

- *I agree with that statement. However, there is no assessment of any potential safety ‘hot-spots’ in the urban area that could become much less safe with more heavy truck and trailer movements, nor any mitigation to improve vulnerable road user safety and reduce the attractiveness for quarry related truck movements through Cambridge township.*
- *The high potential for variability regarding the estimated trip distribution and the impact of that on the assessed volume of 4 additional truck trips per hour using Albrt Street, Queen Street and Victoria Street through Cambridge. I consider the potential for variability in the assessed volume of truck movements through Cambridge to be high because:*
 - *Haulage companies asked by the applicant responded that the route through Cambridge is likely to be preferred over the SH1/Hydro Road turnaround facility due to the lower operating cost and distance.*
 - *The quarry operator can only influence the routing of truck movements associated with hauling high-quality sand from the site as this is supplied under contract with specific concrete manufacturers. The applicant predicts that high-quality sand will account for about 46% of the quarries yield, leaving approximately 54% of sand sold on an informal basis to customers with no contract with the quarry that travel routes can be defined and enforced through.*

There are inherent difficulties for the applicant in attempting to provide reliable assumptions regarding traffic generation and the future preferred route for truck movements. Many factors will influence the actual traffic generation levels at any one-time including resource demand, location and timing of significant infrastructure projects and economic conditions. In addition, the ability of the applicant to control and manage traffic routes is to some extent limited as third-party trucking firms will be used for cartage and delivery of the sand aggregate.

In my opinion, it is also reasonable to assume that Cambridge residents will generally value the lack of truck movements through the urban area since the SH1 bypass opened in 2015. While traffic movements will have organic growth, a significant activity with potential to create regular and large numbers of heavy truck movements through the urban area can have potential effects in terms of traffic safety and concerns over amenity effects.

In my opinion, it is difficult to determine the scale of effects of truck movements across the roading network and in particular the number and intensity of additional movements through the Cambridge urban area. While measures such as signage, a Traffic Management Plan, haulage contractor agreements have been discussed and proposed by the Applicant to reduce truck movements through Cambridge, it must also be recognised that these measures have limitations in terms of their effectiveness.

Other factors to consider include;

- the road controlling authority will have a responsibility to ensure that the roading network is able to safely accommodate the function and type of all traffic on the network including making provision for cycle and pedestrian users,
- It is difficult to impose conditions on a single applicant for mitigation of effects on the wider roading network when their proportion of the total overall traffic movements may be very minor, and
- If future site development within the Cambridge area requires sand for construction, then this will generate additional truck movements regardless of whether the sand is sourced from the Newcombe Road site or another supplier/sand quarry.

Overall, there will be potential and actual effects of additional traffic generation including additional truck movements through the Cambridge urban area. Any quantification of the scale and intensity of truck generation and traffic routes is informed and reliant on various assumptions including the veracity of any traffic management plans and driver behaviour/preference over the life of the quarry.

In my opinion, it is appropriate to characterise the scale of effects on the environment as minor with potential for more than minor effects.

I also consider that there are special circumstances that require discussion, and I have addressed this in Section 4.10.

Overall Assessment (Transportation effects)	
Effects on Environment	Minor/Potentially more than minor
Effects on Adjacent Landowners/occupiers	Potentially More than Minor (in relation to Newcombe Road residents)

4.9.4 Ecology

The applicant has provided an Ecology Report – Alliance Ecology Ltd dated September 2022 (Ecology Report), a Baseline Long Tailed Bat Survey – Bluewattle Ecology dated 22/01/2012 (Bat Survey) and a Qualitative Biodiversity Modelling Report (Modelling Report) has also provided additional assessment and information in response to S.92 further information requests.

The Ecology report discusses the ecological values of the site and the potential effects on both terrestrial and wetland ecological values and is part of the technical reporting presented in support of the both the district and regional council consents. For the purpose of the district council application, only the effects of terrestrial ecology have been assessed.

The Ecology Report includes the following conclusions;

None of the terrestrial vegetation or wetland habitats on the site are classified as Significant Natural Areas (SNAs). However, the Waipā District Significant Natural Area (SNA) assessment¹ has ranked two significant natural areas (SNAs) in close proximity. Moreover, the terrestrial vegetation types and wetland and freshwater habitat types with the highest ecological values are located outside the proposed project footprint. Nevertheless, the project is expected to have effects on a range of terrestrial and wetland ecological values, most importantly on long-tailed bats, the collective native forest fauna assemblage, and gully seepage wetlands.

Effects on these and other ecological values will be further avoided, remedied and mitigated through a range of measures. These measures centre on minimising the project footprint; undertaking vegetation clearance and earthworks outside of bird breeding season; adopting a bat roost tree felling protocol; salvaging and relocation operations for lizards and invertebrates; and providing bunding or native mitigation plantings.

Residual adverse effects that cannot be avoided, remedied or mitigated include the loss of 24.43 ha of variable quality habitat for long-tailed bats (most of which is low quality improved pasture), 3.06 ha of variable quality habitat for native terrestrial fauna and approximately 0.309 ha of gully seepage wetland habitat assessed as having 'Moderate' ecological value. The type and quantum of habitat loss corresponds to a 'High' level of residual effects for long-tailed bats, and a 'Moderate' level of residual effects for both native forest fauna and wetland habitat. Effects on all other terrestrial and wetland values were assessed as either 'Low' or Very Low'.

Measures proposed to offset or compensate for residual effects on bats, wetlands and indigenous forest fauna include approximately 12.5 ha of habitat restoration and enhancement within terrestrial floodplain and gully habitat. Proposed revegetation will:

- *Create additional habitat and ecological connectivity for bats and other native forest fauna along approximately 2 km of riparian margin, linking up two Significant Natural Areas; and*
- *Provide buffering and ecological connectivity for approximately 3.73 ha of floodplain and gully seepage wetlands through the native revegetation of associated wetland margins.*

Waipā DC has engaged Boffa Miskell to peer review the Ecology Report and Bat Survey in relation to the impacts on terrestrial habitat and ecological values. This review has included a request for additional information and clarification (Boffa Miskell – Andrew Blayney - memorandum dated 16-06-23) and engagement between the ecological experts.

The peer review identified several concerns and reservations about the methodology undertaken to identify the ecological and habitat values of the site and in particular how the compensation planting/bat habitat was modelled and presented as a mitigation method.

The applicant has responded to the matters raised in the peer review in a table received on 7 December 2023 and a response and further evaluation was provided by Boffa Miskell on 21 February 2024. While a number of technical queries have been resolved, there remains an overriding concern that insufficient justification has been provided to provide confidence the proposed replanting area along the stream gully will actually provide replacement habitat for the long-tailed bat. Key comments from the final ecological peer review memo dated 14 May 2024 include;

To summarise the comments, my final review and position in terms of the ecological assessment for this application is that I agree with the effects assessment provided in terms of the potential impact on ecological values identified and sufficient detail has been provided to understand and assess this. In terms of the proposed effects management strategies to manage these effects I have residual concerns about the conclusions derived from the modelling provided. These concerns stem from several matters, primarily related to the modelling inputs in terms of long-tail bat compensation:

- Benchmarking of suitable long-tailed bat habitat that appears vegetation centric rather than functional bat habitat features centric. The stated benchmark results in habitats that may otherwise be important and functional for long-tailed bats but have modified vegetation cover, to be scored low in ecological value in the modelling.*
- A lack of baseline data collected or established for the proposed compensation sites. Primarily in terms of what the value of the proposed compensation site has for long-tailed bats already. Particularly a concern where the proposed compensation site contains many physical attributes such as a waterway, wetlands, and an incised gully form that are preferred and utilised by long-tailed bats but that lack of native or complex vegetative cover has been used as a justification for low scoring.*
- Value score after compensation; assessment relies heavily on the establishment of vegetation to be a proxy for the improvement of the habitat's value for long-tailed bats. This is problematic both in terms of that identified above in the lack of baseline data and the assumption that the change in vegetation cover directly relates to an improvement of bat habitat values of 40% relative to the benchmark.*
- Confidence of the success of the compensation; the model is based on a high confidence of success in the proposed compensation achieving the 40% long-tail bat habitat value improvement relative to the benchmark. I consider this is appropriate for the confidence in whether the planting would be successful in establishing. However, I consider this level of confidence is inappropriate in assessing whether this compensation approach would be successful in improving bat habitat values by 40% relative to the benchmark. I consider there is considerable uncertainty that this approach will improve long-tailed bat habitat to the extent predicted within this timeframe.*
- Uncertainty regarding the temporary loss of pasture. While I consider this is a minor matter, there is uncertainty within the reporting on how the temporary loss of pasture is managed, or whether it is being managed.*

Improved [target objectives for compensation planting/habitat] but I still think the BCM model hangs on the assumption of vegetation enhancement being a proxy for long-tailed bat value too strongly and this is a weakness of the assessment.

LT bat report talks about pest animal control, but this is restricted to browser control in subsequent EMP provided. Animal pest control not mentioned in BCM modelling.

I consider there is residual risk here as the focus of the compensation for long-tailed bats is still to occur within an incised gully feature with unknown current bat usage levels. It is also modelled as a high confidence of success which I believe is too high when considering its likelihood of providing additional bat habitat value rather than success of planting.

More detail has been provided in the ecological assessment which provided context for the input value scores for the impacted extents. However, there is still a very low level of detail or analysis provided for the before and after scores provided for the compensation area. I think this a weakness of the assessment.

I also note that Waipā DC has received a letter from Forest and Bird (undated but received June 2023) raising concerns with the removal of the long-tailed bat habitat.

As discussed above, I consider that it is appropriate to take into account the compensation measures outlined in the application in determining the level of environmental effects. Given the residual concerns and lack of certainty on the effectiveness of the compensation measures, and also that there will be a substantive duration from the removal of the existing habitat to any confirmation of a successful replacement habitat for the long-tailed bats, I consider that the potential adverse effects are likely to be more than minor.

Overall Assessment (Ecology Effects)	
Effects on Environment	Potentially more than minor
Effects on Adjacent Landowners/occupiers	Not Applicable.

4.9.5 Noise

An assessment of noise effects has been provided from Hegley Acoustics - Report 20205 dated 24 May 2022 (Noise Report) in support of the proposed quarry application.

The noise report discusses the design criteria for noise emissions as set out in the District Plan, and construction noise standards which would apply to the initial construction of a noise control and visual bund. The noise report then discusses the proposed quarry activities and excavation and heavy machinery as well as fixed plant (screening and processing plants) which will be employed as part of the quarry operation including the initial stripping of overburden. A noise bund is proposed as a mitigation method for the rural dwellings immediately to the west of the site at 41 Newcombe Road.

A noise model has been used to predict the noise emissions from the site with a conservative assumptions that all maximum plant is operating at the same time and at the closest location to the adjacent neighbours. The receiving rural dwellings have been identified and noise levels are presented in Table 1 of the Noise Report for each receiver for both construction noise and operational noise. The noise levels are predicted to reduce as the quarry pit is excavated below the existing ground level. In all cases, the predicted noise levels are predicted to comply with the requisite standards from the District Plan and the NZS 6803:1999 Construction Noise Standards.

The conclusions of the noise report are as follows:

Noise from the proposed sand quarry has been predicted based on plant operating at the most exposed locations plus once the sand pit is at half the excavation depth. For the dwellings to the north across the Karapiro Stream the noise will be well within the expectations of the Waipā District Plan for a permitted activity.

For the dwellings to the south and east of the site noise from the sand plant will also be well within the requirements of the Waipā District Plan. Plant noise at these locations will be masked by traffic noise from the adjacent Waikato Expressway (State Highway 1).

For the two dwellings adjacent to the western site boundary, it is proposed to control the noise from plant operating at its closest point to these dwellings by constructing a minimum of a 2.5m high bund. This bund will ensure the noise is controlled to well within the requirements of the Waipā District Plan.

For most of the time, there will be less equipment operating in the quarry than has been assumed in the analysis and the plant will be further from the closer dwellings than modelled, hence noise levels to the neighbours will be lower than predicted.

When considering the above, the noise effects of the proposed sand plant will be less than minor in terms of the requirements of the Resource Management Act.

Waipā DC has engaged an independent review of the noise report which included a request of additional information. The independent review from Marshall Day Acoustics dated 13 November 2023 provides the following independent assessment and conclusion.

We consider the predicted noise levels from modelling undertaken by Mr Hegley as reported in his assessment² generally align with the levels we would expect for the activity based on the provided noise source information.

Mr Hegley concludes that the proposed sand quarry can be designed and operated to comply with Waipā District Plan Rule 4.4.2.15. He concludes that project noise received by dwellings to the south and east of the site will be masked by noise from the adjacent Waikato Expressway. We generally agree with these statements.

Mr Hegley's modelling includes 2.5m high earth bunding as shown in Figure 4 of the noise assessment. We consider that the requirement for bunding should form a condition of consent. As the applicant has not proffered any noise conditions, we have proposed the draft set in Attachment 1.

We are of the opinion that operational noise effects from the proposed sand quarry will be less than minor where the activity is designed and operated to comply with the proposed noise conditions of consent.

Based on the technical assessment of noise effects provided by the applicant and the independent review, I am satisfied that any adverse effects will be less than minor on the environment. The dependency on a noise bund which may have some amenity effects in itself and the 25-year term of consent is such that I consider the effects on the adjacent properties, particularly 41 Newcombe Road are minor.

Overall Assessment (Noise Effects)	
Effects on Environment	Less than minor
Effects on Adjacent Landowners/occupiers	Minor

4.9.6 Cultural Values and Sites

The AEE discusses the engagement and consultation process which has been undertaken with mana whenua and to the Cultural Impact Assessment (CIA) which has been prepared to support the assessment of cultural values and sites.

The CIA has been prepared by Te Hira Consultant Limited (Document undated – PDF version dated November 2023 and received on 8 February 2024) on behalf of mana whenua being the Ngaati Korokii-Kahukura Trust and Ngaati Hauaa Iwi Settlement Trust of Waikato-Tainui. The CIA has been lodged to support of the land use and regional plan applications which are being processed concurrently.

The CIA sets of the project background and operational characteristics of the proposed quarry and also the proposed ecological mitigation and compensation. An overview of the ancestral connections to the land and awa is presented with a discussion on the heritage and cultural values surrounding the site.

The CIA notes that archaeological findings may be uncovered as part of the quarry activities and that accidental discovery protocols are needed to form part of any consent conditions. I also note that the application has been referred to Heritage NZ with a response dated 26 May 2023 advising that they had no comment to make at that stage.

The CIA provides the following advice and assessment to support the assessment of the quarry application;

This Cultural Impact Assessment Report was developed to inform the Applicant and decision makers under the Resource Management Act 1991 and the Heritage New Zealand Pouhere Taonga Act 2014, capturing the following:

- *The interests of taangata whenua in the consent application area;*
- *Significant cultural, economic, social and environmental matters that support iwi considerations for the resource consent application;*
- *Evidence of genuine engagement with taangata whenua;*
- *Recommendations and conditions to restore and protect the impacts of the consented activities and associated water bodies;*
- *Overall decision to support or decline the application from taangata whenua.*

Te Whakakitenga o Waikato-Tainui endorses the recommendations and position of Ngaati Korokii-Kahukura and Ngaati Hauaa Iwi Trust, as taangata whenua of the area where the proposed activities are situated.

Ngaati Korokii-Kahukura provide a neutral position the application for resource consents based on the acceptance of conditions and recommendations by the applicant.

Ngaati Hauaa Iwi Trust provide a neutral position the application for resource consents based on the acceptance of conditions and recommendations by the applicant¹².

The CIA includes a series matters to help inform the decision making on the quarry application and also recommended conditions. The overall position of taangata whenua is that they are *neutral* in terms of the quarry proposal with the CIA confirming that there are no significant issues associated with cultural values or sites which would prevent consent being granted.

It is also noted that following queries raised by Waikato Regional Council as to whether Raukawa iwi may have an interest in the site and any cultural values associated with the proposed quarry, the notification recommendation and decision was also placed on hold to enable the applicant to consult with Raukawa. A letter was received from the Raukawa Charitable Trust dated 19 August 2024 noting that while Raukawa have overlapping interest and associations with the site, that they were satisfied that Ngāti Hauā and Ngāti Koroki Kahukura have ‘... represented mana whenua interests for this site and will continue to be actively engaged in the implementation of the cultural assessment.’

Given the above engagement and assessment of cultural values and sites, I consider that the adverse effects in terms of cultural values are minor.

Overall Assessment (Cultural Values and Sites)	
Effects on Environment	Minor – see Section 4.6 for discussion on affected party assessment
Effects on Adjacent Landowners/occupiers	Not applicable

¹² CIA, Executive Summary - pg3.

4.9.7 Regional Council matters

As discussed above, a series of applications have been made to the WRC and are being processed concurrently alongside the land use consent. These include vegetation clearance and earthworks within 100m of a wetland, groundwater takes and discharges, soil disturbance and large-scale overburden disposal.

It is appropriate to acknowledge and that there is a necessary separation of functions under the RMA and that the regional council will exercise its statutory assessment and decision making on these applications. At the same time, I also note that there is some overlap between the matters which are subject to the respective applications to the district and regional councils.

For example, the compensation and planting for habitat has relevance to both terrestrial; and aquatic ecology, earthworks can give rise to potential issues associated with dust nuisance which may affect rural amenity and the works to excavate the quarry pit are a major factor in the landscape assessment.

In preparing this recommendation and assessment, I have had ongoing discussions with the WRC and their lead planner in terms of the matters under their statutory jurisdictions. At the time of completing this report, I have received advice the regional council applications are recommended for public notification.

4.9.8 Highly Productive Land

The National Policy Statement on Highly Productive Land (NPS-HPL) has established a very clear national policy direction to avoid development and use that may diminish of the highly productive land resource.

The application material refers to 23ha of the existing pastoral farming land holding being utilised to form the quarry pit and processing area. Once the sand aggregate has been exhausted, remediation works will be completed with the quarry pit bottom proposed to be topsoiled and returned to pasture. Limited details regarding the details of this process and the ability to return the site to effective pasture production have been provided however the AEE material includes conditions for this rehabilitation to form part of the consent conditions.

The NPS-HPL includes a specific clause on the exceptions that exist to the overlay policy objective to avoid the inappropriate use of highly productive land.

3.9 Protecting highly productive land from inappropriate use and development

- (1) Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.*
- (2) A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:*

(j) *it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:*

(iv) *aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.*

The NPS-HPL will necessarily inform the S.104 assessment however it is also relevant in terms of determining the nature and scale of effects for the notification assessment¹³. In my opinion, the provisions of sub-clause 3.9(2)(j)(iv) is problematic in terms of how this should be implemented. Taken literally, it would essentially mean that any quarry activity would only satisfy the exemption criteria if the same aggregate material could not otherwise be supplied from around New Zealand. This would appear to be a fanciful proposition which fails to take into account any economic, logistical and market factors involved with the supply and transportation of sand or other aggregate.

The applicant has provided additional information on the demand for sand aggregate in the regional context and the site selection process which led to the application for the quarry at Newcombe Road. This includes the potential location of other sites containing a sand resource in relation to highly productive land.

In my opinion, the threshold set out in the NPS-HPL for determining the appropriateness of an activity on highly productive land is exceptionally high and I question whether this threshold is actually achievable if the above sub-clause 3.9(2)(j)(iv) is applied literally. However, I am obliged apply the framework of the NPS-HPL to my assessment of effects and in so doing I have formed the opinion that the adverse effects are potentially more than minor taking into account the *avoid* policy directive of the NPS-HPL.

Overall Assessment (Loss of Productive Land)	
Effects on Environment	Potentially more than minor
Effects on Adjacent Landowners/occupiers	Not applicable

¹³ I note that a Commissioner Decision for Selwyn District Council (Kea X Limited RC225180) determined that a proposed solar farm activity on highly productive land has more than minor effects on the environment after applying Clause 3.9 of the NPS-HPL. (para 8.92). The Commissioner then issued a decision to decline the application as this finding contravened the earlier decision to process the application on a limited notification basis. Under s104(3)(d) of the RMA, an application must not be granted if the application should have been notified and it was not. While this decision is not binding, I note that the Commissioner is a KC and there were substantive legal submissions in relation the NPS-HPL and notification decision. The decision was made on its merits and the site included 258ha of land for the solar farm. However, it does speak to the significance of the NPS-HPL in determining adverse effects on the environment and the repercussions for any notification decision.

4.9.9 Other matters

I note that the Applicant has engaged with Transpower as the HAM-KPA-A 110kv transmission lines traverses diagonally across the norther portion of the site. Transpower have provided correspondence setting out conditions which are required to ensure that the works to not affect or compromise the transmission corridor or infrastructure. The Applicant has agreed to these conditions.

4.9.10 Summary of Effects

The applicant has provided an overall assessment of the application that the effects on the environment are minor and that limited notification is appropriate in terms of the potential effects on 41 Newcombe Road and 42 French Pass Road.

I have reached a different opinion. My assessment is that there are potential effects in relation to ecological effects, transportation and the loss of highly productive land that are more than minor/potentially more than minor and, on this basis, I recommend that the application is **publicly notified**.

4.10 Special Circumstances – Section 95A(9) and 95B(10)

Section 95A(9) and 95B(10) makes provision for Council to determine that public notification is required, notwithstanding any decisions regarding the other notification tests.

It is my recommendation that the application is notified on the basis that the adverse effects are more than minor/potentially more than minor in relation to ecological effects, transporttion and the loss of productive land as set out in the discussion above.

If this recommendation is accepted, then a decision is not necessarily required on special circumstances as the notification assessment must be followed in sequential steps with the adverse effects decision (Step 3 of S95A) coming before the special circumstance decision (Step 4 of S95A).

As discussed in Section 4.9.3 above it is difficult to accurately quantity the level of traffic generation over any given period and whether heavy truck will use the route through Cambridge for delivery of aggregate to sites north of the proposed quarry.

Often communities are sensitive to heavy trucks using roading networks through urban areas particularly where a bypass has effectively removed all through heavy traffic movements.

In my opinion, this would qualify as a special circumstance and provides a further reason for public notification.

4.11 Summary of Notification Assessment

Pursuant to Section 95A and 95B, the application has been assessed to determine if public notification or limited notification is required. For the reasons outlined above, I consider that the proposal warrants public notification.

5 SECTION 95 NOTIFICATION RECOMMENDATION AND DECISION UNDER DELEGATED AUTHORITY

Pursuant to section 95A & 95D application LU/0077/23 for a sand quarry at 77 Newcombe Road shall proceed on a **Publicly Notified** basis.

Reporting Planner:



Todd Whittaker
Consultant Planner
Dated: 04/09/2024

Approved By:



Quentin Budd
Consents Team Leader
Dated: 4 September 2024

In accordance with Regulation 10, the parties to be served notice of the application are the landowners set out in **Schedule A** and the statutory and stakeholder parties set out in **Schedule B**.