

# Gore District Council Decisions



## NOTIFICATION UNDER s95A AND s95B AND DETERMINATION UNDER s104

*Resource Management Act 1991*

<b>Application reference</b>	LU 23058
<b>Applicant</b>	Environment Southland
<b>Proposal</b>	Application under Section 88 of the Resource Management Act 1991 (RMA) for erosion control structures on the terrace berms of the Mataura River banks and associated earthworks, including excavation to trench rock rip rap
<b>Locations</b>	A length of 750m on the true left bank of the Mataura River adjacent to Mataura Terrace and a length of 710m on the true right bank of the Mataura River adjacent to Selbourne Street
<b>Legal Descriptions</b>	Part Section 28 Block XIII Town of Mataura held in record of title SL9B/98, Lot 1 Deposited Plan 588607 held in record of title 1119710, Parcel ID 3215366, and Parcel ID 3243659
<b>Activity Status</b>	Discretionary
<b>Decision Date</b>	12 September 2023

### SUMMARY OF DECISIONS

- 1 Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**), the application will be processed on a **non-notified** basis given the findings of Section 6 of the Section 95A and 95B report. This decision is made by Katrina Ellis, on 12 September 2023 under delegated authority pursuant to Section 34A of the RMA.

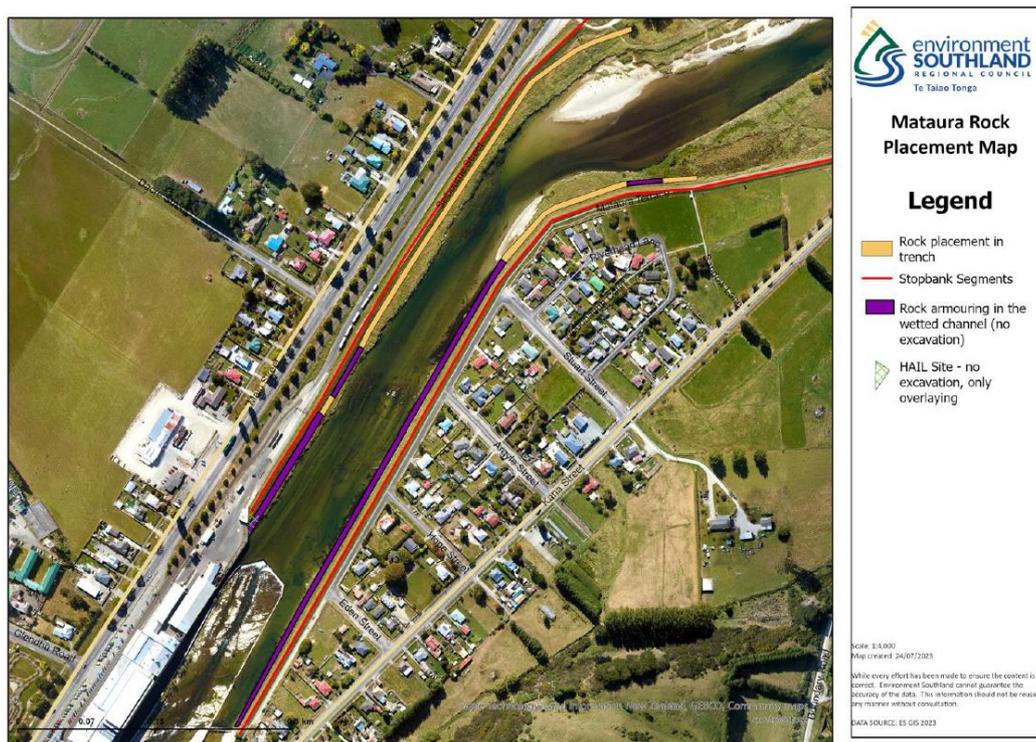
- 2 Pursuant to Section 104 and Section 104B of the RMA, land use consent is **GRANTED SUBJECT TO CONDITIONS** outlined in this report of the Section 104 decision imposed pursuant to Section 108 of the RMA. This consent can only be implemented if the conditions in this report are complied with by the consent holder. The decision to grant consent was considered by Katrina Ellis, on 12 September 2023, under delegated authority pursuant to Section 34A of the RMA.

## 1. THE PROPOSAL

The Applicant, Environment Southland (via the Catchment Operations Division), applies for resource consent to establish erosion control structures on the banks of the Mataura River and undertake associated earthworks, including excavation to trench rock rip rap. These structures will help to protect the existing stopbanks from erosion and, in turn, provide the Mataura township with greater protection from flood events from the Mataura River than what is in place at present.

The Applicant has provided a report entitled, “*Application for resource (land use) consent for erosion control structures on the terrace berms of the Mataura River banks (for a length of 750m adjacent to Mataura Terrace and a length of approximately 710m adjacent to Selbourne Street) and associated earthworks (including excavation to trench rock rip rap)*”, prepared for Environment Southland Catchment Operations Division by Southern Land & Water Planning, dated August 2023, and submitted as part of the application (hereon referred to as the ‘Applicant’s AEE’ and attached as Appendix B to this recommendation). A detailed description of the background to the proposal is provided in section 1.1.2 of the Applicant’s AEE.

The subject site comprises a length of 750m on the true left bank of the Mataura River adjacent to Mataura Terrace and a length of 710m on the true right bank of the Mataura River adjacent to Selbourne Street. The proposed works across the site are shown in Figure 1 and are summarised on the following page.



**Figure 1:** The location of the site on an aerial photo and the proposed works along both banks. (source: Extract from Figure Appendix E-1, submitted with the application).

Retrospective land use consent is sought for the erosion control structure (rip rap) that has been constructed on the terrace berm on the true left bank of the Mataura River and for the associated earthworks that have been undertaken. Approximately 25,000T (10,423T of rock and 14,294T of

rubble) has been placed on the true left bank (on the bed and terrace berms<sup>1</sup>). These works commenced on 12 January 2023 and were completed on 30 April 2023 under the authority of Section 330 of the RMA.

Retrospective land use consent is also sought for the erosion control structure (rip rap) that has been constructed in part on the terrace berm on the true right bank of the Mataura River. These works extend along a length of 200m (later confirmed as a completed length of 151m) over the land legally described as Part Section 28 Block XIII Town of Mataura, as shown in Figure 2. Approximately 5105T of rock and 1742T of rubble has been placed on the berm / in the wetted channels. These works commenced on 28 July 2023 under the authority of Section 330 of RMA and have been completed as of 31 August 2023, as observed on the site visit on this date.



**Figure 2:** The Section 330 emergency works area on the true right bank. The works area is in shown in a green outline, the access ramp is in red and the progressive direction of works is in orange. (source: Extract from Figure Appendix E-1b, submitted with the application).

Land use consent is also sought for the remainder of the erosion control structure to be established on the true right bank. This involves the proposed excavation of a trench that is 4.5m deep for a length of 510m. Excavation will be carried out where the terrace berm is at least 6m in width. The calculated trench excavation volume is 6,400m<sup>3</sup>. Bedding material and rocks will be placed (trenched) to provide erosion control for the adjoining stopbank. The construction works timeframe for the remainder of works is approximately four months with a commencement date up to April 2025 and a completion date up to June 2025.

A length of approximately 50m at the southern end of the site (on Lot 1 Deposited Plan 588607) will not be excavated. Instead, compact rubble will be placed on top and beside the land at up to 750mm high. This is to avoid soil disturbance or removal on a HAIL site.

<sup>1</sup> Separate figures for the quantity of material that has been placed on the riverbed and terrace berms are not available. Only the material placed on the terraces berms on the left bank is relevant to this application.

On the true right bank, approximately 32,606T (24,309T rock and 8,297T rubble) is proposed (on the bed and terrace berms<sup>2</sup>).

When combined, the total length of works is approximately 1,460m, and approximately 57,323T of rock armouring on the bed and on the terrace berms of the Mataura River is proposed.

The proposed erosion control structures require resource consents under the Gore District Plan, due to the location of the proposal within the Rural Zone (as a utility), and within the Mataura River margins, due to the ground coverage / area and length of the proposed structures and the length, depth and volume of the proposed earthworks.

A detailed description of the proposal is provided in Section 2.3 of the Applicant's AEE including:

- Overview as to the proposed activity (2.3.1),
- Erosion control structure and associated earthworks, true left bank (2.3.2),
- Erosion control structure and associated earthworks, true right bank (2.3.3) and
- Volunteered conditions (2.3.4).

The descriptions of the proposal in 2.3 of the Applicant's AEE are considered comprehensive and are adopted in full for the purpose of this report with the following clarifications and additions.

- The works that have taken place / that will take place will be in accordance with the standards contained within the Environmental Southland Regional Council's 'Environmental Code of Practice for River Works'. Specifically, Part 1 (Generic Standards) and Part 2, Section 14 (Rock Linings).
- The Applicant has several works supervisors who will monitor the construction works undertaken by Environment Southland approved contractors as often as practical / possible, to ensure that the contractors have complied with the Code of Practice. The works that have been completed to date on the right bank have been monitored daily.
- The refuelling of the excavator every second day takes place off-site.

Further information was requested on 1 September 2023. The information provided on 4 September 2023 forms part of the application and is included as Appendix B to this report.

The proposed plans supplied with the application are included as Appendix A.

A concurrent application for a resource consent (ref. APP-20232868) has been sought from Environment Southland for the placement, erection or reconstruction of rock rip rap in, on, under and or over the bed of the Mataura River within the Mataura River Mātaitai Reserve, as well as the ongoing use, repair and maintenance of the structures.

---

<sup>2</sup> Separate figures for the quantity of material that has been placed on the riverbed and terrace berms are not available. Only the material placed on the terraces berms on the right bank is relevant to this application.

## 2. SITE DESCRIPTION

The sites subject to this application are shown in the following table.

Site Address	Legal Description	Owner	Location
18 - 30 McQueen Avenue, Maitava	Lot 1 Deposited Plan 588607 (formerly Lot 1 Deposited Plan 12431)	Alliance Group Limited	Right bank
-	Part Section 28 Block XIII Town of Maitava	Alliance Group Limited	Right bank
-	Parcel ID 3215366	-	Right bank
-	Parcel ID 3243659	Crown Land	Left bank

The subject sites comprise the land that makes up part of the left and right banks of the Maitava River. The Applicant's AEE notes that previously, there was little to no rock work protecting the left and right stopbanks, in some places where the edge of the river is less than 10m from the stopbank.

A site visit on 31 August 2023 confirms that emergency works have taken place along the left bank, adjacent to Maitava Terrace. Meanwhile, emergency works have been completed along a 150m stretch of the right bank, adjacent to Selbourne Street.

The land on both banks are separated from the nearest residential properties by Maitava Terrace and Selbourne Street / Main Street respectively.

The subject sites are located in the Rural zone, as shown on Planning Map no. MAT 04. Hazards and Utilities Map no. MAT 04 shows that this land is subject to inundation, being "Potentially floodprone from the Maitava River in floods larger than that of 1978, or a stopbank breach in smaller floods. Flooded in 1978".

The land at Lot 1 DP 12431 is identified in Environment Southland's Selected Land Use Sites Register as a Verified HAIL site (SLUS-00000807) with a HAIL Category A2 - Chemical manufacture, formulation or bulk storage.

The land adjacent to the left bank between Maitava Terrace and Kana Street is zoned Residential A. The land adjacent to the right bank to the west of Selbourne Street and Main Street is zoned Rural or Industrial.

Section 2.4 of the Applicant's AEE includes a description of the receiving environment and this is considered to be comprehensive and is adopted in full for the purpose of this report.

### 3. ACTIVITY STATUS

#### 3.1 Gore District Plan

The proposal requires resource consent under the District Plan for the following reasons:

##### Chapter 2 Matters of National Importance

- A **discretionary** activity land use resource consent pursuant to Rules 2.4.9 (2) and (3) Margins of rivers and streams; as the proposal is located within the area, 20 metres each side of the bed of the Mataura River where land is zoned Rural, and includes:
  - the erection of any structure greater than 3 metres in height or 6 square metres in area, and
  - earthworks exceeding: (a) more than 100 linear metres along the river; or (b) 1 metre in depth in the case of excavation; or (d) 50 cubic metres in volume.

In this case, the proposal involves erecting (placing) erosion control structures (rip rap) on both banks of the Mataura River. These structures will not exceed a height of 3m above ground level but will exceed an area of 6m<sup>2</sup>, as the total length of works on both banks is approximately 1,460m.

The proposal also involves trenching at 4.5m deep on the true right bank. The trench excavation volume is 6,400m<sup>3</sup> based on a 4.5m deep by 6m wide trench for a 510m length.

##### Chapter 7 Utilities

Section 3.2.1 of the Applicant's AEE includes a detailed review of the definition of 'Utilities' from the District Plan and this is considered to be accurate. The proposed erosion control structures (comprised of rock and rubble) are considered to be a 'utility' associated with drainage (meaning drainage works comprised of stopbanks).

- A **restricted discretionary** activity land use resource consent pursuant to Rule 7.9.(8)(b) Other Utilities, as the proposed erosion control structures can be considered to be a utility that complies with "(a)(ii) All structures shall comply with Rule 4.8.1 Height" but does not comply with "(a)(iv) Within Rural Zones, no ground-mounted structure shall exceed a height of 3 metres or a ground coverage of 10 square metres".

In this case, the erosion control structures will not exceed a height of 3m where a 12m height is provided for in the Rural Zone. However, the total length of works on both banks combined is approximately 1,460m. This breaches the ground coverage of 10m<sup>2</sup> (Rule 7.9(8)(a)(iv)).

The matters over which Council shall exercise its discretion are the adverse environmental effects of the matters with which there is non-compliance.

Overall, the proposal requires consent as a **discretionary** activity.

Note: Rule 7.9(1)(b) states, "For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan". Therefore, resource consent under Rules 4A.9.1(1) and (3) for the erection of structures, and earthworks within the Mataura River Floodway is not required. Resource consent for any breaches under the provisions of Chapter 4 (Land Use Activities – Rules) is also not required.

### 3.2 National Environmental Standard for Assessing Contaminants in Soil to Protect Human Health 2011 (“NES-CS”)

Based on the Applicant’s review of Council records, the land at Lot 1 DP 12431 (Lot 1 DP 588607) is identified in Environment Southland’s Selected Land Use Sites Register as a Verified HAIL site (SLUS-00000807) with a HAIL Category A2 - Chemical manufacture, formulation or bulk storage.

There is no soil disturbance or removal proposed on this HAIL site. Compact rubble will be placed on top of and beside the land at up to 750mm high, across a length of approximately 50m on Lot 1 DP 12431 only. Therefore, no resource consent under the NES-CS is triggered.

## 4. PROCEDURAL MATTERS

The application outlines that part of the proposal has been undertaken already under the authority of Section 330 (Emergency works and power to take preventive or remedial action) of the Resource Management Act 1991 (RMA).

Irrespective of whether the works are emergency works under s330 or not, retrospective consent is applied for and is assessed under this application to authorise the full extent of the works.

## 5. NOTIFICATION ASSESSMENT

Sections 95A – 95F (inclusive) of the Resource Management Act 1991 (‘RMA’) set out the steps the Council is required to take in determining whether or not to publicly notify an application or notify on a limited basis.

### 5.1 Public notification – Section 95A

In accordance with section 95A, the following steps have been followed to determine whether to publicly notify the resource consent application:

#### Step 1 – Mandatory public notification

Mandatory public notification, is not required because:

- The applicant has not requested public notification.
- Public notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA.
- The application does not involve exchange to recreational reserve land under section 15AA of the Reserves Act 1977.

#### Step 2 – Public notification is precluded

Public notification is not precluded as follows:

- There are no rules in a plan or National Environmental Standard that preclude notification.
- The application is not:
  - a controlled activity; or

- a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

### **Step 3 – Public notification is required in certain circumstances**

- There are no rules in a plan or National Environmental Standard that require notification.
- A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor. An assessment in this respect is undertaken as follows:

The following effects must be disregarded:

- Effects on the owners or occupiers of land on which the activity will occur and on adjacent land.
- Trade competition and the effects of trade competition.
- Any persons that have provided their written approval and as such adverse effects on these parties have been disregarded.

#### *Written Approvals*

The following written approvals have been provided.

- Alliance Group Limited; the owner of Lot 1 Deposited Plan 588607 and Part Section 28 Block XIII Town of Mataura (18-30 McQueen Avenue, Mataura), dated 4 September 2023.
- Department of Conservation Te Papa Atawhai; who holds and administers Part Section 28 Block XIII Town of Mataura, for conservation purposes under the Section 62(1) of the Conservation Act 1987, SO 11180 F46/8, dated 28 August 2023.
- Fish & Game – Southland Region, dated 9 August 2023.
- Hokonui Rūnanga Incorporated, dated 31 August 2023.

Te Ao Marama Incorporated (TAMI) have provided an email dated 12 September 2023, stating that TAMI support the position of Hokonui Rūnanga and TAMI do not need to provide written approval for this application.

#### *Permitted Baseline*

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect.

In this case, any structure greater than 6m<sup>2</sup> in area and any excavations more than 100m in length, 1m in depth and 50m<sup>3</sup> in volume located within the area, 20 metres each side of the bed of the Mataura River where land is zoned Rural requires consent. Given the significant difference in the scale and nature of works proposed, there is no permitted baseline.

Furthermore, as the erection of structures, and earthworks within the Mataura River Floodway requires resource consent, there is no permitted baseline.

### *Effects of earthworks on the character of the Mataura River margins*

Section 4.1.1 of the Applicant's AEE includes an assessment of effects of earthworks on the character of the Mataura River margins. This assessment is considered to be accurate and is adopted in full, with the following additions:

- No significant trees, vegetation or habitats need to be removed. It is considered that the impacts of the proposal will be nil with respect to these features.
- Once complete, the placement of rock to establish a berm with a width of 6m on the left bank and the 6m wide trenching of rock on the right bank will form part of the stopbank network along the river margins. The presence of rock at ground level is expected to integrate into the surrounding rural / river margin landscape. Rock rip rap is a common feature adjacent to a watercourse and is considered to have less than minor adverse visual effects in this context.
- The proposed works are temporary in nature over a four month period for each of the left and right banks. The presence of construction workers and machinery on the subject land will also be temporary. The visual effects and any nuisance effects will not be experienced by people beyond the adjacent environment. Therefore, the timeframe for the proposed works is considered to be acceptable with less than minor visual amenity effects resulting on the wider environment.
- The works on the terrace berms slope down towards the wetted channel of the river. The works will be undertaken in accordance with the standards in the 'Environmental Code of Practice for River Works' to minimise the potential for sediment to enter the river. The Code of Practice also contains standards requiring clean machinery only leaving the work site. Subject to undertaking the works in accordance with the Code of Practice, and a condition of consent that requires all works to be contained within the subject land, the proposed excavations will not extend into the wider environment.
- Overall, any adverse amenity, landscape and natural character effects from the proposed earthworks and the erosion control structures adjacent to the stopbanks will be no more than minor upon the Mataura River margins and the wider environment.

### *Effects on the provision of public access to the Mataura River*

Section 4.1.2 of the Applicant's AEE includes an assessment of effects on the provision of public access to the Mataura River. This assessment is considered to be accurate and is adopted in full.

### *Effects on infrastructure*

Section 4.1.3 of the Applicant's AEE includes an assessment of effects on infrastructure. This assessment is considered to be accurate and is adopted in full.

### *Effects on historic heritage and cultural values*

Section 4.1.4 of the Applicant's AEE includes an assessment of effects on historic heritage and cultural values. This assessment is considered to be accurate and is adopted in full, with the following additions:

- There are no known heritage or archaeological features identified on the subject land. It is considered that the impacts of the proposal will be nil with respect to these features.
- The relevant rūnanga, Hokonui Rūnanga, have provided a letter in support of the proposal, dated 31 August 2023.
- The Applicant advises that Te Rūnanga o Ngāi Tahu have been provided with a copy of the application. In addition, TAMI have confirmed that they support Hokonui Rūnanga's position on the application and have no further comments.

Therefore, it is considered that the proposal will have less than minor cultural-related effects.

#### *Conclusion: Effects On The Environment*

On the basis of the above assessment, in terms of s95D, and subject to the volunteered conditions of consent, it is assessed that the proposal will not have adverse effects on the environment that are more than minor.

#### **Step 4 – Public Notification in Special circumstances**

- There are no special circumstances that warrant public notification.

#### **5.2 Limited notification – Section 95B**

In accordance with section 95B, the following steps have been followed to determine whether to give limited notification of the application:

##### **Step 1 – Certain affected groups or persons must be notified**

- There are no protected customary rights groups or customary marine title groups affected by the proposed.
- The proposal is adjacent to land that is the subject of a statutory acknowledgment.

The Mataura River is a Ngāi Tahu statutory acknowledgement area under Schedule 42 of the Ngāi Tahu Claims Settlement Act 1998.

The Applicant has consulted with Hokonui Rūnanga and TAMI to inform the assessment of potential cultural effects from the proposed erosion control structures and earthworks in relation to the Mataura River. Hokonui Rūnanga have provided a letter in support of the proposal, dated 31 August 2023, while TAMI have provided an email in support of the position of Hokonui Rūnanga, dated 12 September 2023. Accordingly, Hokonui Rūnanga are not considered to be an affected party.

##### **Step 2 – Limited notification precluded**

- The activity is not subject to a rule or National Environmental Standard that precludes limited notification.
- The application is not for a controlled activity (other than for a subdivision of land) under a district plan.

##### **Step 3 – Certain other affected persons must be notified**

- Under Step 3, if the proposal is a boundary activity, only the owner/occupier of the infringed boundary can be considered. The activity is not a boundary activity.
- For any other activity, a consent authority must notify an application on any person, if notification is not precluded by Step 2, and the consent authority decides, in accordance with s95E, that the proposed activity will have or is likely to have adverse effects on that person that are minor or more than minor.

An assessment in this respect is therefore undertaken as follows:

*Considerations in assessing adverse effects on persons under s95E*

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a “permitted baseline”). The relevance of the permitted baseline to this application is outlined in the above s95D assessment of environment effects.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and
- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.
- d) The consent authority **must** disregard effects on those parties who have provided written approval.

*Assessment: Effects on Persons*

Taking into account the exclusions in sections 95E, the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor.

*Neighbouring Properties*

The adjacent persons who are assessed below are all of the owners of the properties on the eastern side of Mataura Terrace and all of the owners of the properties on the western side of Selbourne Street and Main Street. These properties are shown in Figure 3.



**Figure 3:** The adjacent properties shown in yellow outline. The owners who have provided written approval are shown in red circles (source: GRIP)

### *Visual and Amenity Effects*

The proposal is located on rural zoned land but is adjacent to a combination of Rural, Industrial and Residential A zoned land and associated land uses.

The owners and occupiers of the properties on the western side of Selbourne Street and Main Street have either a distant outlook, a limited outlook or no outlook towards the right bank and the construction process. Selbourne Street and Main Street have a combined width of at least 60m (as measured to the grass berm of Selbourne Street) and Main Street has large trees adjacent to the railway line. This separation distance and the buffer provided by the trees ensures that any visual and amenity effects associated with the proposal are less than minor on these persons. The owners and occupiers of these properties will not be able to see the completed works, which will be largely trenched on the terrace berm and concealed at a lower level below the existing stopbank.

The owners and occupiers of the properties on the eastern side of Mataura Terrace have a direct outlook towards the left bank and the construction process. Mataura Terrace has a width of between 12m to 19m (as measured to the boundary of Parcel ID: 3243659). Due to the separation distance, any visual and amenity effects associated with construction process will be visible. However, the construction process is limited in duration (over a four month period) and any visual and nuisance effects would be temporary in nature and less than minor. The current outlook experienced by persons at these residential properties will not change, as they will not be able to see the completed works, which will be placed on the terrace berm and concealed at a lower level below the existing stopbank.

Overall, the visual and amenity effects experienced by the adjacent persons will be less than minor.

The existing stop banks are elevated in height, in relation to the location of the works on the terrace berms, which slope down towards the river. The position of the stop banks ensures that the works are not able to extend out of the subject land, onto the road or onto the adjacent properties. This is supported by a condition of consent that requires all works to be contained within the subject land. Therefore, the proposed excavations will have less than minor effects on the adjacent environment.

Therefore, the actual and potential adverse effects are considered to be less than minor any adjacent persons. No persons beyond those identified in Figure 3 are considered to be adversely affected by the proposal.

### *Conclusions: Effects on Persons*

In terms of section 95E of the RMA, subject to the volunteered conditions of consent and on the basis of the above assessment, no person is considered to be adversely affected.

### **Step 4 – Special Circumstances for Limited Notification**

- There are no special circumstances that warrant limited notification of the application.

## 6. DECISION PURSUANT TO S95A AND S95B OF THE RMA

For the reasons set out above, under s95A and s95B of the RMA, the application is to be processed on a non-notified basis.

## 7. SECTION 104 ASSESSMENT

### 7.1 Matters for consideration

This application must be considered in terms of Section 104 of the RMA.

Subject to Part 2 of the RMA, Section 104 sets out those matters to be considered by the consent authority when considering a resource consent application. Considerations of relevance to this application are:

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

### 7.2 Effects on the Environment

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under s108 of the RMA as required to avoid, remedy or mitigate adverse effects.

### 7.3 Relevant Provisions

#### **District Plan**

The relevant operative objectives and policies are contained within Chapter 2 – Matters of National Importance and Chapter 3 – Land Use Activities – A Framework of the District Plan.

Section 5.2 of the Applicant's AEE includes an assessment of the objectives and policies from Chapters 2 and 3 of the District Plan. This assessment is considered to be accurate and is adopted in full.

Overall, the proposal is considered to be consistent with the relevant objectives and policies of the District Plan.

## **Proposed District Plan**

The Proposed District Plan was notified for public submissions on 31 August 2023. The submission period closes on 26 October 2023. As the rules that have immediate legal effect are not relevant to this proposal, it is unnecessary to apply any weighting to the Proposed District Plan at present time.

## **Southland Regional Policy Statement 2017**

The proposal is broadly consistent with the provisions of the Southland Regional Policy Statement 2017 (SRPS). Flood and drainage infrastructure managed by the Environment Southland is identified as 'critical infrastructure' (via the definition of 'strategic facilities') and therefore is also 'regionally significant infrastructure'.

Objective INF.1 states that "Southland's regionally significant...and critical infrastructure is secure, operates efficiently, and is appropriately integrated with land use activities and the environment". Policy INF.1 directs decision makers to "recognise the benefits to be derived from, and make provision for, the development, maintenance, upgrade and ongoing operation of regionally significant...and critical infrastructure and associated activities". As the proposed erosion control structures have been designed and placed to protect and strengthen the existing stopbanks from erosion, the existing stopbanks will be less likely to be at risk of flooding and overtopping from the Mataura River.

Overall, it is considered that the proposal is aligned with the RPS.

## **Te Tangi a Taurira**

Section 5.3 of the Applicant's AEE includes an assessment of the relevant policies from Te Tangi a Taurira – The Cry of the People (Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008). This assessment is considered to be accurate and is adopted in full.

Overall, the proposal is considered to be consistent with the relevant Plans under the RMA.

## **8. PART 2 OF THE RMA**

### *Section 5 - Purpose*

The proposal is consistent with the sustainable management purpose set out in section 5 of the RMA. The excavations and construction of new erosion control structures will be undertaken in a way to avoid or mitigate adverse effects on the environment. Once completed, these features will help to strengthen and protect the existing stopbanks from erosion. This in turn, provides for the health and safety of people during flood events and provides for the ongoing wellbeing of the communities adjacent to this part of the Mataura River.

### *Section 6 - Matters of national importance*

Attention has been given to matters of national importance set out in section 6 of the RMA. The proposal will have acceptable effects on the natural character of the Mataura River. Subject to undertaking the works in accordance with the Environmental Code of Practice for River Works, the character of the margins of the watercourse are preserved.

The proposal seeks to protect the existing stopbanks from erosion and reduce the risks of flooding from the Mataura River, which poses identified natural hazard risks to the community. Therefore, the proposal along the terrace berms is necessary and appropriate.

#### *Section 7 - Other matters*

Particular regard has been given to the matters set out in section 7 of the RMA. The use of locally sourced material to construct the erosion control structures is considered an efficient use of resources. Once completed, the erosion control structures will integrate into the existing rural and river margin environment and therefore the amenity values of the area will be preserved. Subject to undertaking the works in accordance with the Environmental Code of Practice for River Works, the quality of the environment will be maintained.

#### *Section 8 - Treaty of Waitangi*

The Mataura River is a known statutory acknowledgement area. The Applicant has engaged with Hokonui Rūnanga and TAMI to ensure that their role as kaitiaki has been recognised. It is considered that the proposal is consistent with the principles of the Treaty of Waitangi.

Overall, the proposal is considered to meet the purpose and principles of the RMA.

## **9. DECISION ON RESOURCE CONSENT**

Pursuant to Section 104B of the RMA, **land use** consent is **granted** for erosion control structures on the terrace berms of the Mataura River banks and associated earthworks, including excavation to trench rock rip rap, along a length of 750m on the true left bank of the Mataura River adjacent to Mataura Terrace, and a length of 710m on the true right bank of the Mataura River adjacent to Selbourne Street, subject to the following conditions imposed pursuant to Section 108 of the RMA:

### **Consent Conditions**

#### General

1. The land use activity must be undertaken generally in accordance with the application made to Council on 16 August 2023 and the further information response received on 1 September 2023 and the following plans:
  - Figure Appendix E-1: 'Mataura Rock Placement Map', prepared by Environment Southland, dated 24 July 2023
  - Figure Appendix E-1b: 'The Section 330 emergency works area on the true right bank', prepared by Environment Southland, no date.
  - Figure Appendix E-2: 'True left bank cross-section', prepared by Environment Southland, no date.
  - Figure Appendix E-3: 'True right bank cross-section', prepared by Environment Southland, no date.

These plans are attached as Appendix A.

### Provide notice to Council

2. The consent holder shall notify the Council's Planning department on commencing works. Council's planning department can be contacted via email at [planning@goredc.govt.nz](mailto:planning@goredc.govt.nz).

### Construction works

3. The consent holder shall undertake all works in accordance with Environmental Southland Regional Council's 'Environmental Code of Practice for River Works', with specific reference to undertaking all practicable methods to minimise the release of sediment into the Mataura River (Part 1, Generic Standards and Part 2, Section 14 Rock Linings).
4. The consent holder shall ensure that no works shall extend outside of the subject land.
5. The consent holder shall keep a record of the total volume of material removed to form the trench on the true right bank, and the total volume of rock placed in the trench.
6. The consent holder shall not disturb soil or remove soil at Lot 1 Deposited Plan 588607 for a length of approximately 50m (as shown crosshatched in green in Figure Appendix E-1).
7. The consent holder shall undertake earthworks and construction works between the hours of 7am to 6pm Monday to Saturdays. No works shall occur on Sundays or public holidays.
8. The consent holder shall ensure that all plant and machinery is maintained in good operational condition.
9. The consent holder shall ensure that any refuelling of machinery does not take place on the terrace berms, or near the riverbed. A spill response plan must be in place.
10. The consent holder shall ensure that no machinery is positioned in the bed of the Mataura River at any time.
11. The consent holder shall ensure that there is no disturbance to any native birds during the construction works.
12. The consent holder shall take measures to minimise the spread of pest plants.
13. The consent holder shall ensure dust suppression through the deployment of a water cart, or other appropriate measures, as required.
14. The consent holder shall contour the river margin areas to a natural form to ensure level access.
15. The consent holder shall remove any surplus material upon completion of the works and re-grass the areas of the terrace berm upon completion.

### Discovery of artifacts

16. If kōiwi (human remains including bones), taonga (treasures), wāhi tapu (sacred sites) or other archaeological material is discovered in any area during the works, work must immediately cease, and the consent holder must follow the Ngāi Tahu ki Murihiku Accidental Discovery

Protocol. Works at the site area shall not recommence until an archaeological assessment has been made, all archaeological material has been dealt with appropriately, and statutory requirements are met.

### Administrative Matters

The costs of processing the application are currently being assessed and you will be advised under separate cover whether further costs have been incurred.

The Council will contact you in due course to arrange the required monitoring. The Monitoring Officers time will be charged to the consent holder. It is suggested that you contact the Council if you intend to delay implementation of this consent or if all conditions have been met.

This resource consent is not a building consent granted under the Building Act 2004.

This resource consent must be exercised within five years from the date of this decision subject to the provisions of section 125 of the RMA. If you have any enquiries, please contact the duty planner on phone (03) 209 0330 or email [planning@goredc.govt.nz](mailto:planning@goredc.govt.nz).

Prepared by



Penny Weng  
**Consultant Planner**

Decision made by



Katrina Ellis  
**Delegate**

### Appendices

Appendix A: Approved Drawings

Appendix B: Applicant's AEE – "Application for resource (land use) consent for erosion control structures on the terrace berms of the Mataura River banks (for a length of 750m adjacent to Mataura Terrace and a length of approximately 710m adjacent to Selbourne Street) and associated earthworks (including excavation to trench rock rip rap)", prepared for ES Catchment Operations Division by Southern Land & Water Planning, dated August 2023, and the Further Information Response, dated 1 September 2023.

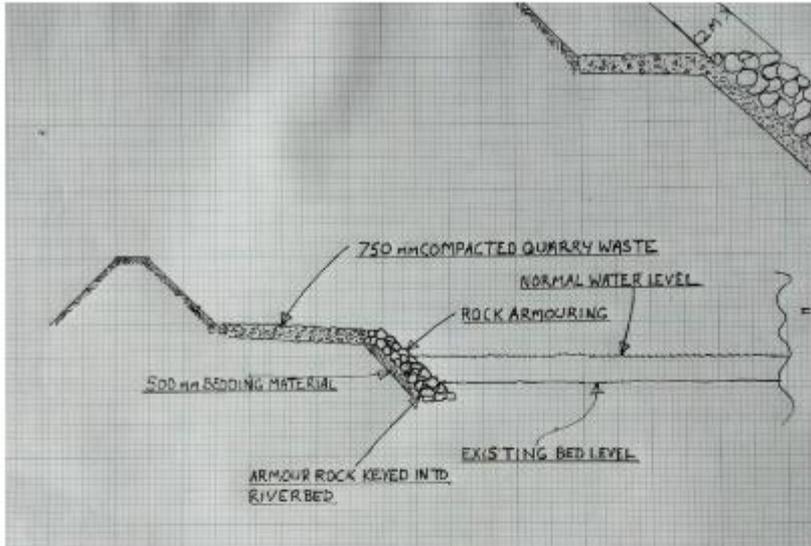
## APPENDIX A – APPROVED DRAWINGS



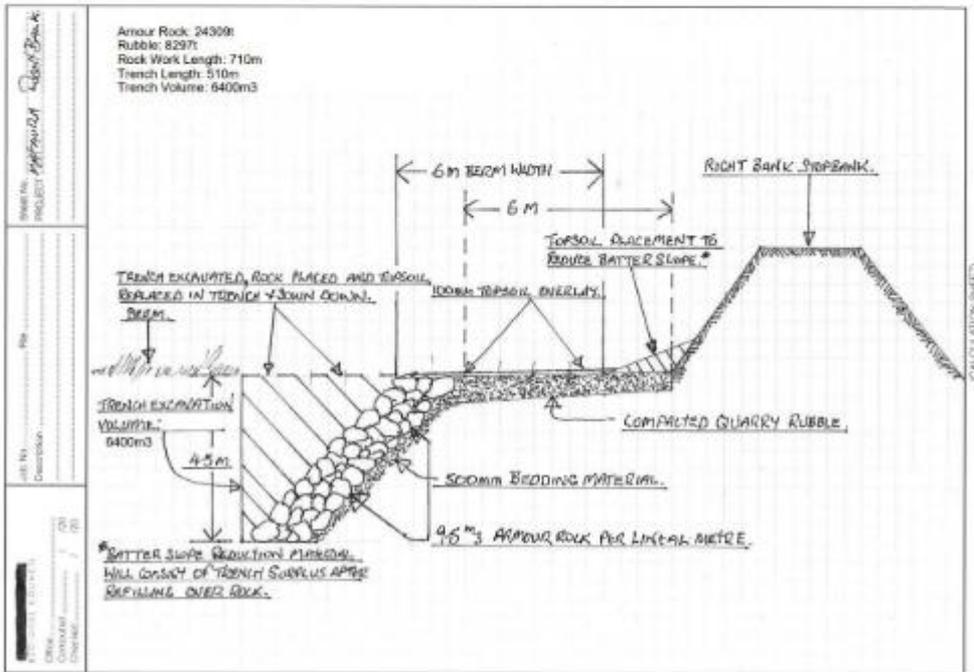
**Figure Appendix E-1:** The location of the site on an aerial view. The Figure shows the full scope of works along both banks. (Map Source: ES Catchment Operations Division, map created 24 July 2023)<sup>63</sup>.

<sup>63</sup> Imagery from 2020, so the erosion that has occurred since is not captured.





**Figure Appendix E-2:** True left bank cross-section that shows the existing riverbed level, bedding material and rock armouring, and compacted quarry material. The Figure does not show trenching of rock rip rap however (refer Figure Appendix E-1, which shows the full scope of works along both banks). In respect of this application, earthworks are proposed outside the bed (Plan source: ES Catchment Operations Division).



**Figure Appendix E-3:** True right bank cross-section that shows the proposed trench, bedding material and rock armouring, and topsoil placement (e.g., it shows that topsoil will be replaced in the trench following rock placement) (Plan source: ES Catchment Operations Division (via The Building Intelligence Group (Project Manager) on 31 July 2023)).

## APPENDIX B – APPLICANT’S AEE AND FURTHER INFORMATION RESPONSE

### ES CATCHMENT OPERATIONS DIVISION

Application for resource (land use) consent for erosion control structures on the terrace berms of the Mataura River banks (for a length of 750m adjacent to Mataura Terrace and a length of approximately 710m adjacent to Selbourne Street) and associated earthworks (including excavation to trench rock rip rap)

### Resource Consent Application

August 2023

W: [www.slwp.co.nz](http://www.slwp.co.nz)  
E: [burnetta@slwp.co.nz](mailto:burnetta@slwp.co.nz)  
P: 021 180 7845



© Southern Land & Water Planning Ltd 2021

## CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>3</b>
1.1	<b>Overview/Background</b>	<b>3</b>
1.1.1	Overview as to the resource consents sought	3
1.1.2	Background to the application	5
1.1.3	Overview of the application (proposal details)	9
1.2	<b>Scope of Environmental Documentation</b>	<b>14</b>
1.3	<b>Pre-application Consultation</b>	<b>14</b>
1.3.1	Pre-application consultation with Gore District Council	14
1.3.2	Pre-application consultation with affected parties/persons	15
1.3.3	Pre-application consultation with other neighbouring landowners / occupiers	16
<b>2</b>	<b>DESCRIPTION OF THE PROPOSAL</b>	<b>16</b>
2.1	<b>Consent Background (Planning History)</b>	<b>16</b>
2.1.1	District	16
2.1.2	Regional (for context)	17
2.2	<b>Activity Location</b>	<b>17</b>
2.3	<b>Description of Proposed Activity</b>	<b>22</b>
2.3.1	Overview as to the proposed activity	22
2.3.2	Erosion control structure and associated earthworks, true left bank	24
2.3.3	Erosion control structure and associated earthworks, true right bank	25
2.3.4	Volunteered conditions	28
2.4	<b>Receiving Environment</b>	<b>29</b>
<b>3</b>	<b>CONSENT REQUIREMENTS AND ACTIVITY STATUS</b>	<b>32</b>
3.1	<b>Section 9</b>	<b>32</b>
3.2	<b>Operative plan</b>	<b>32</b>
3.2.1	Definitions	32
3.2.2	Consents required	36
<b>4</b>	<b>ASSESSMENT OF ENVIRONMENTAL EFFECTS</b>	<b>40</b>
4.1	<b>Actual or Potential Effects</b>	<b>40</b>
4.1.1	Effects of earthworks on the character of the Matarua River	40
4.1.2	Effects on the provision of public access to the Matarua River	41
4.1.3	Effects on infrastructure and adjoining properties, including effects on amenity values	42

4.1.4	Any effects on historic heritage and the spiritual and cultural values and beliefs of the tangata whenua, including the Mataura River Mātaimai Reserve	43
4.1.5	Positive effects	44
<b>4.2</b>	<b>Other Matters</b>	<b>44</b>
<b>4.3</b>	<b>Summary of Effects</b>	<b>46</b>
<b>5</b>	<b>STATUTORY CONSIDERATIONS</b>	<b>46</b>
5.1	Resource Management Act 1991 (RMA) – Part 2 (Sections 5,6, 7 and 8)	46
5.2	Gore District Plan	49
5.3	Te Tangi a Tauria	51
<b>6</b>	<b>ASSESSMENT OF ALTERNATIVES</b>	<b>55</b>
<b>7</b>	<b>SUMMARY AND CONCLUSIONS</b>	<b>55</b>

**APPENDICES:**

- A Location plan
- B Records of Title
- C Affected party approvals
- D Contaminated Sites Register (ES Beacon)
- E Drawing set

**DOCUMENT STATUS**

Version	Purpose of Document	Prepared By	Reviewer	Date
Draft	Draft – Internal (revised proposal)	BVS	SN	17 May 2023
Draft – Client	Draft to Client for comment/sign off	BVS	SG (ES)	7 July 2023
Draft Revised	Amended application – Section 330 (Emergency works and power to take preventive or remedial action)	BVS	SN	3 August 2023
Draft Revised – Client	Amended application – Draft to Client for comment/sign off	BVS	SG (ES) & SP (TBIG)	7 August 2023
Final	Resource Consent	BVS	-	7 August 2023

## **1 INTRODUCTION**

### **1.1 Overview/Background**

#### **1.1.1 Overview as to the resource consents sought**

This application has been prepared for and on behalf of Environment Southland (ES) Catchment Operations Division (the applicant) for erosion control structures on the banks of the Mataura River, the site being a length of 750m on the true left bank of the Mataura River adjacent to Mataura Terrace and a length of approximately 710m on the true right bank of the Mataura River adjacent to Selbourne Street<sup>1</sup>. As explained below and in the subsequent sections, the proposed erosion control structures adjoining the Mataura River trigger the requirement for resource consents under the Gore District Plan given the location of the proposal within the Rural Zone (as a utility) and within the Mataura River margins, due to the proposed structures' ground coverage / area, length, and the depth and volume of earthworks. The proposal is for the purpose of re-establishing robust erosion control structures on the Mataura River banks in the activity location to reduce (actual and potential) erosion of the stopbanks.

Retrospective resource (land use) consent is sought for the erosion control structure erected on the terrace berm on the true left bank of the Mataura River and the associated earthworks undertaken. Approximately (just under) 25,000T (10,423T of rock and 14,294T of rubble) has been placed on the true left bank<sup>2</sup>, under the authority of Section 330 (Emergency works and power to take preventive or remedial action) of the Resource Management Act 1991 (RMA).

Resource (land use) consent is also sought for the erosion control structure on the terrace berm on the true right bank of the Mataura River, as recently commenced under Section 330 (along approximately 200m of the true right bank, immediately north of Alliance Group Limited's property at Mataura) and as proposed following the completion of that emergency work. This includes the associated earthworks commenced under Section 330 and proposed to be undertaken later.

On the true right bank, the earthmoving activities include the proposed excavation of a trench 4.5m deep for a length of approximately 510m. Excavation will be carried out where the terrace berm is at least 6m in width. The calculated trench excavation volume is 6,400m<sup>3</sup>. Bedding material and rocks will be placed (trenched) to provide erosion control for the adjoining flood bank.

---

<sup>1</sup> For clarity, resource consents are also being sought from ES.

<sup>2</sup> NB. total tonnage on the bed and on the terrace berms.

A length of approximately 50m at the southern end of the works will not be excavated. Instead, compact rubble will be placed on top and beside the HAIL land, at up to 750mm high<sup>3</sup>. This is to avoid soil disturbance or removal on a HAIL site.

On the true right bank, approximately 32,606T (24,309T rock and 8,297T rubble) is proposed<sup>4</sup>.

When combined, the total length of works is approximately 1,460m, and approximately 57,323T of rock armouring on the bed and on the terrace berms of the Mataura River<sup>5</sup> is proposed, designed to protect the Mataura stopbanks and thus the Mataura township from flood events within Mataura River.

More particularly, resource (land use) consent is sought under the following Gore District Plan (District Plan) Rules:

- Restricted Discretionary Activity under Rule 7.9 (8)(b) Other utilities because the proposal does not comply with Permitted Activity standard (iv) referred to in paragraph 8(a) of Rule 7.9, being that *"Within Rural...Zones, no ground-mounted structure shall exceed...a ground coverage of 10 square metres"*.  
OR<sup>6</sup> (i.e., for the sake of completeness)  
If Gore District Council does not agree that the proposal can be considered a utility<sup>7</sup>, then Restricted Discretionary Activity under Rule 4A.9.1 Natural hazards within defined floodways because the proposal is within areas shown as Mataura River Floodway and not classified as riverbed and is for both *"(1) the erection or alteration of any structure"* and *"(3) ...earthworks"*.
- Discretionary Activity under 2.4 Margins of rivers and streams Rules 2.4.9 (2) and (3). This is because the proposal is *"Within the area 20 metres...of the bed of the Mataura River where land is zoned Rural"* and is for both *"(2) The erection of any structure greater than...6 square metres in area"* and *"(3) Earthworks...exceeding: (a) more than 100 linear metres along the river; or (b) 1 metre in depth in the case of excavation; or...(d) 50 cubic metres in volume."*

<sup>3</sup> Instead overlaying of the berm and armouring of the rivers immediate edge will occur, with resource consents also being sought from ES.

<sup>4</sup> NB. total tonnage on the bed and on the terrace berms.

<sup>5</sup> For clarity, the combined tonnage includes the volume proposed in the application lodged with ES in February 2023. As lodged with ES, the combined tonnage was 71,500T, but this has since been amended (reduced to 57,323T consistent with this application) (following the proposal for the true right bank having been (re)developed and Section 330 emergency works commencing on the true right bank).

<sup>6</sup> Since Rule 7.9(1)(b) states, *"For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan"*.

<sup>7</sup> Utilities "means the systems, services, structures and networks associated with: ...drainage;..." (refer Section 3.2.1.1 for commentary).

## 1.1.2 Background to the application

### 2020 flood event

Very high flows in the Mataura River in February 2020 saw Gore's stopbanks tested to near capacity with the largest volume of water to pass under the Gore and Mataura bridges in recorded history. Emergency management and council staff, alongside Southland emergency services, evacuated more than 2,500 residents close to the river for a minimum period of 24 hours.<sup>8</sup>

Following the 2020 flood event concerns were raised about the Mataura township stopbanks. Independent assessments and recommendations by Cook Costello Ltd and the Southland Technical Advisory Group (STAG) comprised of independent, qualified, and experienced River Engineers found that there was no obvious structural damage to the Mataura township stopbanks as a result of the 2020 flood event. However, the assessments identified that there was a significant risk of stopbank failure as a result of erosion. Field survey and inspections by the STAG and ES staff noted that there was little to no rock work protecting the 'berm' of both the true left and true right stopbanks, where in places the river's edge is less than 10m from the stopbank. Following further assessment, the STAG recommended that works be undertaken to protect the stopbanks, with a priority focus on the true left bank. A background report prepared by the ES Catchment Operations Division Manager and Southland Technical Advisory Group dated 19 December 2022 outlines the following:

*"stopbank failure caused by accelerated erosion can occur in relatively small flood events such as 1:5 year floods. This means that in the event of a 1:5 year flood, the stopbanks may fail. This would have significant consequences, including serious damage to property. Given the frequency of a 1:5 year flood event (and the lack of warning that may be provided before such an event occurs), and the potential consequences of failure, the STAG considers that it is imperative that the Council takes immediate action to prevent these potential adverse effects of a stopbank failure."*

As a result, it was recommended to Council that ES Catchment Operations Division urgently undertake rock protection work, with a re-established berm of no less than 6m width along an approximately 750m section of the stopbank along the true left side of the Mataura River. These works commenced under Section 330 (of the RMA).

---

<sup>8</sup> Gore flood protection upgrade - Environment Southland (es.govt.nz).

The RMA at Section 330A (Resource consents for emergency works) states the following:

- (1) *Where an activity is undertaken under section 330, the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity shall advise the appropriate consent authority, within 7 days, that the activity has been undertaken.*
- (2) *Where such an activity, but for section 330, contravenes any of sections 9, 12, 13, 14, and 15 and the adverse effects of the activity continue, then the person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity shall apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity within 20 working days of the notification under subsection (1).*
- (3) *If the application is made within the time stated in subsection (2), the activity may continue until the application for a resource consent and any appeals have been finally determined.*

In respect of Section 330A(1), the ES Consents team was advised on 15 January 2023 that physical work onsite commenced on 12 January 2023. Under Section 330A(2), this required that an application for retrospective resource consent be lodged with ES by 10 February 2023, and the applicant has applied for resource consents to place rock rip-rap as bank protection in the Mataura River at Mataura, and for maintenance of that rip-rap to meet that requirement<sup>9</sup>.

It is acknowledged that Gore District Council was not notified under Section 330A(1) and given the location of the works that there are rules that apply under the District Plan.

#### 2023 high flows – true right bank

The true right stopbank was identified as requiring similar rock lining but was less urgent than the true left stopbank so was to be carried out in accordance with standard practice and procedures (following usual funding and resource consenting processes). However, recent events have accelerated the need for works to the true right stopbank.

The applicant has been regularly monitoring the true right stopbank. As noted above, the true right stopbank was identified as requiring rock lining similar to the true left stopbank.

In June 2023, ES staff briefed the STAG and sought independent advice on various issues and at risk sites identified throughout Southland. The STAG visited the sites and provided their comments on each site in a memorandum dated 30 June 2023. In respect of the true right stopbank, the STAG memorandum recorded "Issue: Rock lining complete on left bank but yet to be started on the true right bank" with comments including, "We recommend that works proceed on the right bank as soon

---

<sup>9</sup> ES has allocated number APP-20232868 to the application.

*as is practical. This is a high vulnerability reach and the consequences of failure would be very high. We consider these works as a high priority.”*

On 4 July 2023 there was a high flow event in the Mataura River (of approximately 659 cumecs at Mataura). To put that in context, before and after the event the flow was between 50 and 100 cumecs and the return period for flood events are as follows:

Return period	Cumecs
1:5yr	859
1:10yr	1,154
1:20yr	1,513
1:70yr	2,391

Following the 4 July 2023 high flow event, ES staff investigated the true right stopbank and identified erosion of the bank of the river within about 4 metres of the stopbank (slumping and erosion of the bank near the River Street access to the Alliance processing plant).

A further site visit by ES staff was undertaken on 20 July 2023. Further erosion was identified, including significant cracking, slumping and undermining of the bank.

ES staff sought input from the STAG and the advice provided by a member of the STAG<sup>10</sup> on 20 July 2023 was “...I believe that the proposed rock protection work should be authorized for immediate implementation.”

Given the erosion caused by the 4 July 2023 high flow event, advice was sought from ES Team Leader Hydrological Response<sup>11</sup> on the likelihood and scale of high flow or flood events in the coming months. The information provided showed that additional high flow or flood events are likely to occur during the coming months. Based on 63 years of data for Gore and 38 years of data at Tuturau (downstream) there could be fourteen events in excess of 500 cumecs within the next four months.

On 21 July 2023, the STAG provided a memorandum addressing erosion issues at the true right stopbank recommending, *“Rocklining the true right bank should start as soon with urgency as per the methodologies explained in our previous memo...”*

Having identified erosion in recent high flow events and because ongoing erosion presents a risk to the Mataura River stopbank, ES determined that immediate repair and strengthening work on the existing flood bank structure on the true right bank (approximately 200m) needs to be implemented

---

<sup>10</sup> Mr John Ellis.

<sup>11</sup> Mr Chris Jenkins.

Figure 1 shows, in cross-section, the bed of the river (as per the RMA definition that applies) and terrace berm each side of the riverbed and, in respect of this application, shows that on the true right bank rock rip rap will be trenched. With regards trenching of rip rap on the terrace berm on the true left bank, refer Figure 2, which shows the full scope of works along both banks.

For clarity, the RMA defines bed as: *“the space of land which the waters of the river cover at its fullest flow without overtopping its banks”*. Where the berm is less than 6m in width, the erosion control structure (rock rip rap) has been (on the true left bank) or will be (on the true right bank) placed on the bed, and the applicant has applied to ES for resource (land use) consents for the placement, erection and reconstruction of rock rip rap in, on, under and or over the bed of the Mataura River within the Mataura River Mātaitai Reserve.

It is appropriate to note that the application to ES will be further amended, concurrent with this application to Gore District Council<sup>13</sup>.

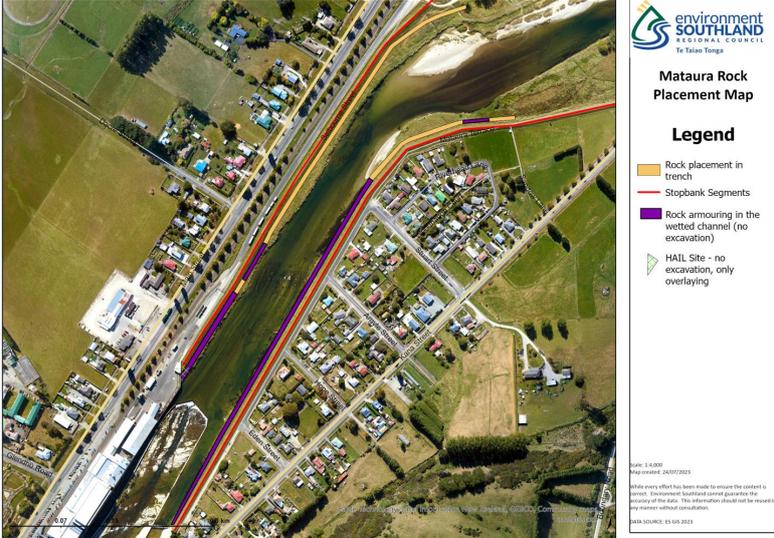
### 1.1.3 Overview of the application (proposal details)

An overview of the application (proposal details) is provided in the Table below and explained in more detail in Section 2 Description of the Proposal.

**Table 1:** Overview of the application (proposal details)

Proposal details	
Location	True left bank and true right bank of the Mataura River located between Mataura Terrace and Selbourne Street, Mataura, respectively.

<sup>13</sup> Amendments are necessary as the works that have commenced under Section 330 (Emergency works and power to take preventive or remedial action) of the RMA include works in the wetted channel (i.e., in the bed of the river as per the RMA definition that applies).

	 <p><b>Figure 2:</b> The location of the site on an aerial view. The Figure shows the full scope of works along both banks. (Map Source: ES Catchment Operations Division, map created 24 July 2023)<sup>14</sup>.</p>  <p><b>Figure 2b:</b> The Section 330 emergency works area on the true right bank. The indicative works area is in green, the indicative access ramp is in red and the progressive direction of works in orange (Map Source: ES Catchment Operations Division).</p>
<p>District Plan zoning (District Plan Planning Map MAT-04)<sup>15</sup></p>	<p><u>True left bank:</u> Rural.</p> <p><u>True right bank:</u> Rural.</p>
<p>Archaeological sites, designations, or overlays (District Plan Planning Map MAT 04 and District Plan Hazards and Utilities map MAT 04)</p>	<p><u>Both the true left and true right banks:</u> District Plan Planning Map MAT 04 shows the site as within the Matura River Floodway.</p> <p>District Plan Hazards and Utilities map MAT 04 shows the Matura River Floodway and inundation (“Potentially floodprone from the Matura River in floods larger than that of 1978, or a stopbank breach in smaller floods. Flooded in 1978”).</p>

<sup>14</sup> Imagery from 2020, so the erosion that has occurred since is not captured.

<sup>15</sup> Confirmed by pre-application advice (refer Section 1.3.1).

Consents sought (District Plan)	<p>Resource consent is sought under:</p> <ul style="list-style-type: none"> <li>• <u>Restricted Discretionary Activity under Rule 7.9 (8)(b) Other utilities</u> because the proposal can be considered a utility and complies with “(a)(ii) All structures shall comply with Rule 4.8.1 Height” (i.e., will comply with 12m in the Rural zone), but does not comply with the Permitted Activity standard (iv) referred to in paragraph 8(a) of Rule 7.9 being that “<i>Within Rural...Zones, no ground-mounted structure shall exceed a height of 3 metres or a ground coverage of 10 square metres</i>”<sup>16</sup>. Above ground, the erosion control structures will not exceed a height of 3m. On the true right bank, the maximum height above ground will be 750mm. However, when combined, the total length of works on both banks is approximately 1,460m. This means that the maximum ground coverage of 10m<sup>2</sup> is breached (Rule 7.9(8)(a)(iv)).</li> </ul> <p>OR<sup>17</sup> (i.e., for the sake of completeness)</p> <p>If Gore District Council does not agree that the proposal can be considered a utility<sup>18</sup>, then <u>Restricted Discretionary Activity under Rule 4A.9.1 Natural hazards within defined floodways</u> because the proposal is within areas shown as Mataura River Floodway and not classified as riverbed and is for both “(1) the erection or alteration of any structure” and “(3) ...earthworks”.</p> <ul style="list-style-type: none"> <li>• <u>Discretionary Activity under 2.4 Margins of rivers and streams Rule 2.4.9 (2) and (3)</u>. This is because the proposal is “<i>Within the area 20 metres...of the bed of the Mataura River where land is zoned Rural</i>” and is for both “(2) The erection of any structure greater than...6 square metres in area” and “(3) Earthworks, other than those associated with the tilling of the soil, fencing or pest plant management, exceeding: (a) more than 100 linear metres along the river; or (b) 1 metre in depth in the case of excavation; or...(d) 50 cubic metres in volume.”</li> </ul>
Map Reference (NZTM 2000)	<p><u>True left bank:</u> Northern point: 1282004 E 4877185 N Southern point: 1281605 E 4876706 N</p> <p><u>True right bank:</u> Northern point: 1281965 E 4877359 N Southern point: 1281544 E 4876789 N</p>

<sup>16</sup> “Ground Mounted Structure means any utility building, container, shelter or cabinet placed or erected on the ground. This excludes any device attached to a pole, mast or other support structure, and any road, bridge or culvert and associated road signs, directional signs or traffic lights.” (District Plan, 11. Definitions).

<sup>17</sup> Since Rule 7.9(1)(b) states, “For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan”.

<sup>18</sup> Utilities “means the systems, services, structures and networks associated with: ...drainage;...” (refer Section 3.2.1.1 for commentary).

<p>Details of works (e.g., length and volumes)</p>	<p><u>True left bank:</u> Terrace berm. Length of 750m. Volume (NB. total tonnage (rock and rubble) along the true left bank) 24,717T. With regards trenching of rock rip rap on the terrace berm on the true left bank, refer Figure 2, which shows the full scope of works along both banks.</p> <p><u>True right bank:</u> Terrace berm. Length of approximately 710m. Section 330 emergency works along approximately 200m of the 710m length. Trench 4.5m deep for a length of approximately 510m, where the terrace berm is at least 6m in width (i.e., to allow for the (up to) 6m wide trench of rock). A length of approximately 50m at the southern end of the works will not be excavated to avoid soil disturbance or removal on a HAIL site. Instead overlaying of the berm is proposed under this application. Trench excavation volume calculated as 6,400m<sup>3</sup>. Volume (NB. total tonnage (rock and rubble) along the true right bank) approximately 32,606T.</p> <p>When combined, the total length of works on both banks is approximately 1,460m, and approximately (up to) 57,323T of rock armouring on the bed and the banks (terrace berms) of the Mataura River is proposed.</p>
<p>Hours of work</p>	<p>7.00am to 6.00pm Monday to Saturday.</p>
<p>Method of placement</p>	<p>All work will occur from the river berm with excavators placing rock. These rocks will be delivered in approximately 10T loads via trucks. For the Section 330 emergency works portion of works, work will commence at the (upper) northern point of the approximately 200m length and continue downstream towards Alliance Group Limited's property at Mataura. An access ramp is being constructed at the mid-point of the bank to allow access to this area (Figure 2b).</p>
<p>Construction works timeframe</p>	<p><u>True left bank:</u> 12 January 2023 to 30 April 2023.</p> <p><u>True right bank:</u> Section 330 emergency works that will extend for a length of approximately 200m have commenced.</p> <p>The construction works timeframe for the remainder of works is up to April 2025 (subject to relevant approvals and contracts needed).</p> <p>Approximately 4 months (total). Completion up to June 2025 (subject to commencement).</p>

Closest waterway	<p>Mataura River</p> <p>The Mataura River itself is a Statutory Acknowledgement Area under the Ngai Tahu Claims Settlement Act 1998, the Statutory Acknowledgment providing for the special association of Ngai Tahu with the River.</p> <p>There is a Water Conservation Order – the Water Conservation (Mataura River) Order 1997 and this identifies features and values of the River that are considered outstanding.</p> <p>The Mataura River is also an outstanding landscape feature (District Plan, Chapter 2 Matters of national importance at 2.2 Outstanding natural features and landscapes).</p>
Mātaaitai area	Mataura River Mātaaitai Reserve – the Mātaaitai Reserve Area encompasses waters of the Mataura River.
Flood plain	<p>Mataura River Floodway and inundation (“Potentially floodprone from the Mataura River in floods larger than that of 1978, or a stopbank breach in smaller floods. Flooded in 1978”) (District Plan).</p> <p>Significant Flood plain (Mataura) (ES Beacon).</p>
Contaminated land site	<p>There is HAIL land at the southern end of the works on the true right bank, address 18-30 McQueen Avenue, Mataura having legal description Lot 1 DP 1243. The Reference ID for the HAIL site is SLUS-00000807 and the HAIL Category is A2. Chemical manufacture, formulation or bulk storage (refer <b>Appendix D</b>).</p> <p>A length of approximately 50m at the southern end of the works will not be excavated. Instead, compact rubble will be placed on top and beside the HAIL land. This is to avoid soil disturbance or removal on the contaminated land site. The maximum height of this will be 750mm.</p>

The photograph below, sourced from the Southland Times<sup>19</sup>, shows the method of placement.



**Photo 1:** Photograph from the Southland Times (publication date 19 January 2023) showing the river and its banks and work occurring from the river berm.

<sup>19</sup> Stakeholders check out work on Mataura stop bank | Stuff.co.nz (publication date 19 January 2023).

## 1.2 Scope of Environmental Documentation

This application for resource consent has been prepared in accordance with Section 88 of the Resource Management Act 1991 (RMA). This document provides an Assessment of Environmental Effects (AEE) for the proposal. The document describes the following:

- **Section 1:** Provides an overview/background of the proposed activity, sets out the scope of environmental documentation and lists the affected parties/persons with whom there has been pre-application consultation.
- **Section 2:** Provides an outline of the activity location and presents a detailed discussion on the proposed activity.
- **Section 3:** Provides a description of the regulatory framework, setting out the consent requirements and activity status.
- **Section 4:** Provides an assessment of the actual or potential environmental effects of the proposed activity and proposed measures to avoid, remedy or mitigate those effects, as required by the Fourth Schedule of the RMA and provides an assessment of the proposed activity against other matters.
- **Section 5:** Provides an assessment of the proposed activity against statutory planning considerations.
- **Section 6:** Considers alternative locations or methods and is part of the assessment of the activity's effects on the environment.
- **Section 7:** Provides a summary and conclusions.

## 1.3 Pre-application Consultation

### 1.3.1 Pre-application consultation with Gore District Council

Pre-application consultation with Gore District Council has been to:

- clarify the applicability of Rule 4A.9.1(3) at a high-level – with advice received that the rule applies to any earthworks and that *“The Mataura River is also considered a significant natural feature under the plan and therefore Chapter 2 is relevant as well as Chapter 4 and 4a”*;
- request the planning history for the location (i.e., for or associated with erosion control structures in this location)<sup>20</sup> – with correspondence dating from 2005, providing pre-application zoning and hazard information with regards the true left bank (9999 Mataura Terrace), received;
- (re)confirm the zoning as Rural – with confirmation received that the zoning for the areas of ‘Rock Placement’ is Rural; and

---

<sup>20</sup> For the areas of ‘Rock Placement’ shown in peach in Figure 2 above.

- clarify the applicability of Rule 4.2.2 Use of reserve land – with advice received that Rule 4.2.2 relates for reserves within the Gore District that are gazetted and that this does not extend to the Mataura River banks.

On 24 July 2023 Gore District Council was provided notice of intention to implement urgent river protection works on the west (true right bank) of the Mataura River under Section 330 of the RMA<sup>21</sup>. The notification stated that this work is to commence imminently, with enabling works commencing on 28 July 2023.

### **1.3.2 Pre-application consultation with affected parties/persons**

Pre-application consultation has been undertaken about the proposal for erosion control structures on the Mataura River banks, adjacent to Mataura Terrace and Selbourne Street, Mataura, respectively.

In respect of the resource consent application lodged with ES in February 2023, at the time of lodging it, pre-application consultation had been undertaken with the Department of Conservation (DOC) | Te Papa Atawhai, Fish & Game – Southland Region, Hokonui Rūnanga Incorporated, and Te Rūnanga o Ngāi Tahu – iwi authority. In addition, these parties were contacted prior to the emergency works commencing on the true left bank.

For the sake of completeness, conversations (e.g., meetings) have since been held with Alliance Group Limited and DOC, and with Hokonui Rūnanga Incorporated, respectively, about the true right bank. The most recent on-site meeting with Hokonui Rūnanga Incorporated was on 26 July 2023 at which Hokonui Rūnanga Incorporated identified areas within the emergency works wet bed that had the potential for juvenile kanakana habitat. Hokonui Rūnanga Incorporated has since (on 1 August 2023) carried out a presence/absence survey of an area, with another area to be surveyed when the river flows come down.

In respect of this resource consent application, at the time of preparing this document, pre-application consultation with affected parties/persons for the purposes of Section 95E of the RMA has been in the form of providing them consultation material about the proposed activity<sup>22</sup> under covering letter dated 7 August 2023. Responses have been received as summarised in Table 2 overpage and are attached as **Appendix C** and in accordance with Section 104(3)(a)(ii) of the RMA, any effect on them must be disregarded. Responses obtained after this application has been submitted will be provided as received.

---

<sup>21</sup> Under the authority of the Soil Conservation and Rivers Control Act 1941 and Section 330 of the RMA.

<sup>22</sup> ‘Supporting information for written approval consideration’.

**Table 2:** Parties (listed alphabetically) with whom pre-application consultation about the proposed activity has been undertaken and responses (including any affected party approvals and/or views) (if any) received at time of preparing this document

Affected party	Pre-application consultation response (affected party approval and/or views)
Alliance Group Limited	Response awaited.
Department of Conservation (DOC)   Te Papa Atawhai	Response awaited.
Fish & Game – Southland Region – Access	Response awaited.
Hokonui Rūnanga Incorporated	Response awaited.
Te Rūnanga o Ngāi Tahu – Iwi authority.	Copy of information about the proposal has been sent for noting, given that the Maitara River is a Statutory Acknowledgement Area.

The applicant in this instance is ES Catchment Operations Division, who manage the flood network. For this reason, no consultation has been undertaken with ES.

### 1.3.3 Pre-application consultation with other neighbouring landowners / occupiers

Pre-application consultation with other neighbouring landowners / occupiers has been in the form of providing householders communication material about the proposed activity<sup>23</sup>. At the time of preparing this document, no written approvals have been sought from neighbouring landowners / occupiers other than as set out in Table 2 above (e.g., noting the nature of this application).

## 2 DESCRIPTION OF THE PROPOSAL

In this section, the consent background is summarised, an outline of the activity location including receiving environment provided, and a detailed discussion on the proposed activity presented.

### 2.1 Consent Background (Planning History)

#### 2.1.1 District

No resource consents for or associated with erosion control structures in this location<sup>24</sup>.

<sup>23</sup> Environment Southland - Maitara flood protection - December 2022. Information about the works on the true right bank as recently commenced under Section 330 of the RMA has also been publicly communicated (e.g., Work to begin on Maitara floodbank, but contractors stop further downstream at Wyndham | Stuff.co.nz).

<sup>24</sup> As per pre-application advice received from Gore District Council 14 March 2023.

### **2.1.2 Regional (for context)**

In February 2023, ES Catchment Operations Division lodged a resource (land use) consent application with ES for erosion control structures within a mātaimai area, being for erosion control structures on the true left bank and true right bank of the Mataura River, adjacent to Mataura Terrace and Selbourne Street, Mataura respectively. ES has allocated number APP-20232868 to the application under which ES Catchment Operations Division seeks the placement, erection or reconstruction of rock rip rap in, on, under and or over the bed of the Mataura River within the Mataura River Mātaimai Reserve as a Discretionary Activity<sup>25</sup>. APP-20232868 also seeks approval for the ongoing use, repair and maintenance of the structures within the scope and consent term sought. At the time of preparing this document, ES had not made a decision whether or not to grant the application resource (land use) consent. It is noted that, as lodged with ES, the combined tonnage was 71,500T. This has since been amended (reduced to 57,323T consistent with this application) (following the proposal for the true right bank having been (re)developed and Section 330 emergency works commencing on the true right bank).

It is appropriate to note that the application to ES will be further amended, concurrent with this application to Gore District Council. Amendments are necessary given the works that have commenced under Section 330 (Emergency works and power to take preventive or remedial action) of the RMA include works in the wetted channel (i.e., in the bed of the river as per the RMA definition that applies).

## **2.2 Activity Location**

The site subject to this application is located within the Mataura township and is a length of 750m on the true left bank of the Mataura River, adjacent to Mataura Terrace, and a length of approximately 710m on the true right bank of the Mataura River, adjacent to Selbourne Street. Figure 2 (reproduced overpage) shows them each side of the riverbed. The Figure shows the full scope of works along both banks.

The approximate map reference (NZTM 2000) for the true left bank works is between the (lower) southern point: 1281605 E 4876706 N and the (upper) northern point: 1282004 E 4877185 N. The approximate map reference (NZTM 2000) for the true right bank works is between the (lower) southern point: 1281544 E 4876789 N and the (upper) northern point: 1281965 E 4877359 N.

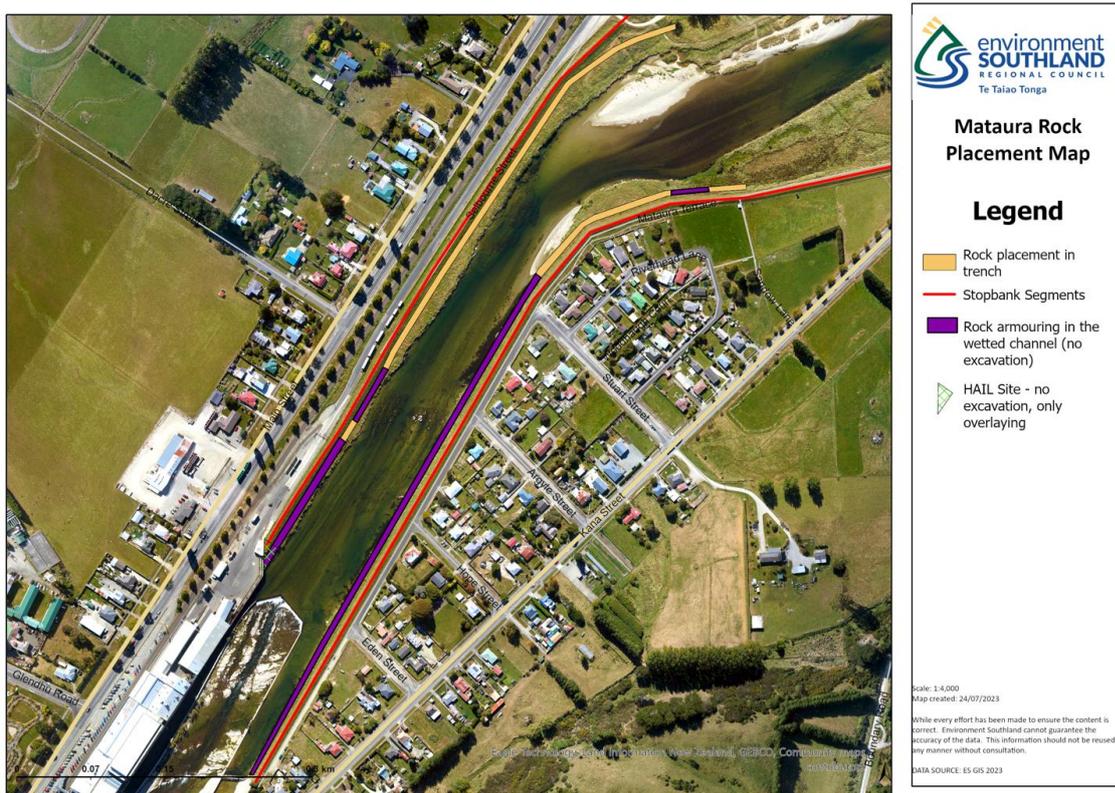
At the southern end of the works on the true right bank, Figure 2 shows a length of approximately 50m where rocks will be placed on top and beside HAIL land. The legend of the Figure reads “HAIL

---

<sup>25</sup> Under proposed Southland Water and Land Plan (pSWLP) Rule 61 – Erosion Control Structures.

Site - no excavation only, only overlaying". As on the Selected Land Use Sites (SLUS) Register, the 'Verified – HAIL' contaminated land site has the Reference ID SLUS-00000807. The address is 18-30 McQueen Avenue, Matura and the HAIL Category is A2. Chemical manufacture, formulation or bulk storage.

Figure 2b (reproduced overpage) shows the Section 330 emergency works area on the true right bank. The indicative works area is in green, the indicative access ramp is in red and the progressive direction of works in orange.



**Figure 2:** The location of the site on an aerial view. The Figure shows the full scope of works along both banks. (Map Source: ES Catchment Operations Division, map created 24 July 2023)<sup>26</sup>.

<sup>26</sup> Imagery from 2020, so the erosion that has occurred since is not captured.



**Figure 2b:** The Section 330 emergency works area on the true right bank. The indicative works area is in green, the indicative access ramp is in red and the progressive direction of works in orange (Map Source: ES Catchment Operations Division).

A location plan is also attached as **Appendix A**.

The legal descriptions for the parcels that comprise the site are as follows, with the Records of Title provided in **Appendix B**:

- Part Section 28 Block XIII Town of Matura held in Record of Title SL9B/98, with LINZ – Alliance Group Limited currently utilises part of this land parcel and has previously held a lease over this parcel of land; and
- Lot 1-2 DP 12431 held in Record of Title SL9C/848 – Alliance Group Limited being the Registered Owners.

LINZ advise that there is no record of title for either the parcel ID 3215366 or the parcel ID 3243659. Having assessed the cadastral database the opinion of LINZ<sup>27</sup> is that both parcels are part of the river.

Photo 2 overpage shows the area of the true left bank of the Matura River, as viewed from the true right bank, where works commenced, with the existing stopbanks visible behind the works. Photo 3 shows the true right bank. It is appropriate to note that both Photos were taken prior the 4 July 2023 high flow event.

<sup>27</sup> Mr Milton Smith.



**Photo 2:** View looking towards true left bank (photo supplied by ES Catchment Operations Division).



**Photo 3:** View looking towards true right bank (photo supplied by ES Catchment Operations Division).

The site is in the Mataura Urban Environment<sup>28</sup> and in the Rural zone. Figure 3 overpage, an excerpt of District Plan Planning Map MAT 04, shows this zoning (also refer Section 1.3.1 Pre-application consultation with Gore District Council) and that there are no area(s) of significant vegetation and significant habitats of indigenous vegetation, no designation(s), no scheduled heritage structure(s), no scheduled archaeological structure(s), and no significant tree(s) in respect of the site (i.e., on the banks each side of the riverbed where works have been undertaken and are proposed).

Figure 2 (the location of the site on an aerial view) is reproduced alongside Figure 3, for ease of reference.

---

<sup>28</sup> As Planning Map MAT 04 is in Part 3: Urban Planning and Hazard Maps of the District Plan.

Figure 3 also shows that the Matura River Floodway applies in areas, with District Plan Hazards and Utilities Map No. MAT 04 (Figure 4) showing the remainder areas subject to inundation, being “Potentially floodprone from the Matura River in floods larger than that of 1978, or a stopbank breach in smaller floods. Flooded in 1978.”

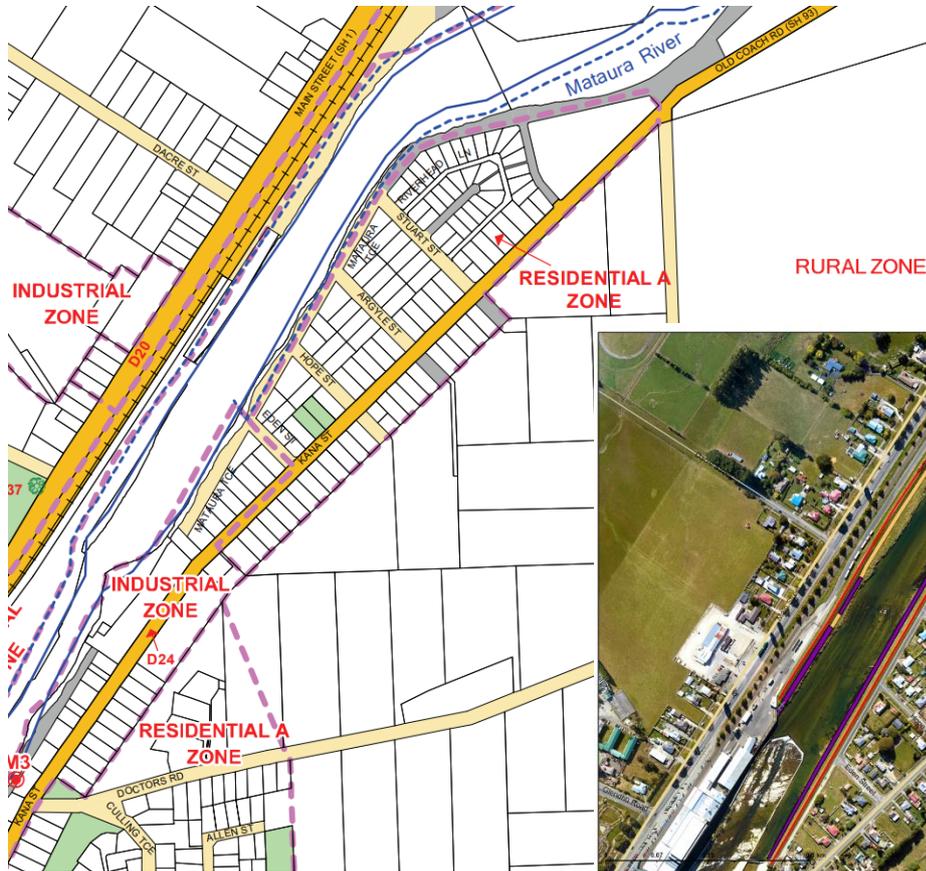


Figure 3: Excerpt of District Plan Planning Map MAT 04.



Figure 2: The location of the site on an aerial view. The Figure shows the full scope of works along both banks. (Map Source: ES Catchment Operations Division, map created 24 July 2023).



Figure 4: Excerpt of District Plan Hazards and Utilities map MAT 04.

There is no entry on the New Zealand Heritage List/Rārangī Kōrero at either of the two sites that form the application site (i.e., on the banks each side of the riverbed where works have been/are being undertaken and are proposed).

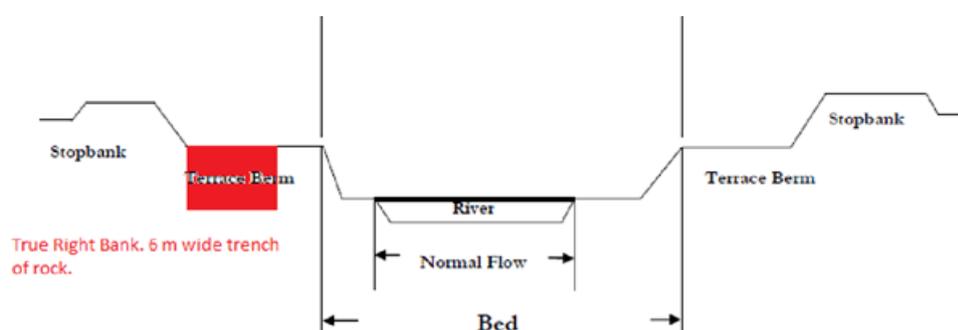
An outline of the receiving environment is provided in Section 2.4.

## 2.3 Description of Proposed Activity

### 2.3.1 Overview as to the proposed activity

This application is for erosion control structures on the banks of the Mataura River, the site being a length of 750m on the true left bank of the Mataura River adjacent to Mataura Terrace and a length of approximately 710m on the true right bank of the Mataura River adjacent to Selbourne Street<sup>29</sup>. The proposal is for the purpose of re-establishing robust erosion control structures on the Mataura River banks in the activity location to reduce (actual and potential) erosion of the stopbanks. It concerns rock and bedding material, quarry material/rubble and topsoil that has been (on the true left bank) or is to be (on the true right bank) placed on the terrace berm each side of the riverbed and the associated earthworks undertaken or to be undertaken. As explained below, resource consents are triggered under the Gore District Plan given the location of the proposal within the Rural Zone (as a utility) and within the Mataura River margins, due to the proposed structure's ground coverage / area, length, and the depth and volume of earthworks.

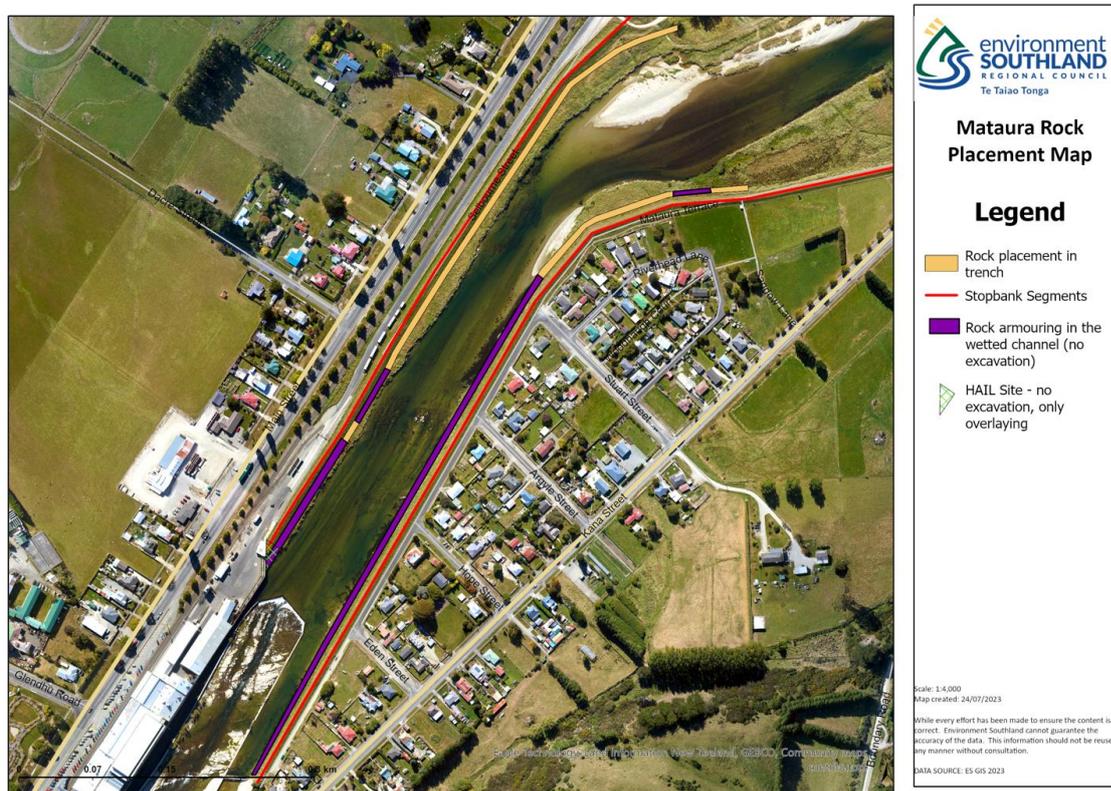
Figure 1, reproduced below for context, shows the bed of the river (as per the RMA definition that applies) and terrace berm each side of the riverbed. It also shows that earthworks to be undertaken include excavation, as discussed further below.



**Figure 1:** High level detail – an example cross-section showing the bed of the river under the RMA and the terrace berm each side of the riverbed. It also shows trenching of rock rip rap. The Figure shows the area where rock rip rap will be placed in a trench on the terrace berm on the true right bank, from toe of stopbank. With regards trenching of rip rap on the terrace berm on the true left bank, refer Figure 2, which shows the full scope of works along both banks. (Figure source: Base map from the Regional Water Plan, with trench details provided by ES Catchment Operations Division).

<sup>29</sup> For clarity, resource consents are also being sought from ES (refer Section 2.1 Consent Background (Planning History)).

Figure 2 (reproduced below) shows the areas for the erosion control structures and associated earthworks. The Figure shows the location of the stopbank segments (red colour), of the trenching of rock rip rap (peach colour) and of rock armouring in the wetted channel (no excavation) (purple colour). It also shows the approximately 50m length on the true right bank along which no excavation work is proposed (crosshatched in green).



**Figure 2:** The location of the site on an aerial view. The Figure shows the full scope of works along both banks. (Map Source: ES Catchment Operations Division, map created 24 July 2023)<sup>30</sup>.

When combined, the total length of works on both banks is approximately 1,460m, and approximately 57,323T of rock armouring on the bed and on the terrace berms of the Matura River<sup>31</sup> is proposed, designed to protect the Matura stopbanks and thus the Matura township from flood events within Matura River.

Resource (land use) consent is sought because the area to be covered by the erosion control structures is greater than permitted by rules in the District Plan. When combined, the total length of works on both banks is approximately 1,460m. This means that the maximum<sup>32</sup> ground coverage of 10m<sup>2</sup> is

<sup>30</sup> Imagery from 2020, so the erosion that has occurred since is not captured.

<sup>31</sup> For clarity, the approximately 57,323T of rock includes the volume proposed in the application lodged with ES in February 2023, as amended.

<sup>32</sup> Permitted Activity standard.

breached (Rule 7.9(8)(a)(iv)), as is the maximum area of 6m<sup>2</sup> that applies within the area 20m of the bed of the Mataura River where land is zoned Rural (Rule 2.4.9 (2)).

Resource consent is also sought because earthworks are not permitted by Rule 2.4.9, exceeding 100m along the river (Rule 2.4.9 (3)(a)), 1m depth in the case of excavation (Rule 2.4.9 (3)(b)) and 50m<sup>3</sup> in volume (Rule 2.4.9(3)(d)).

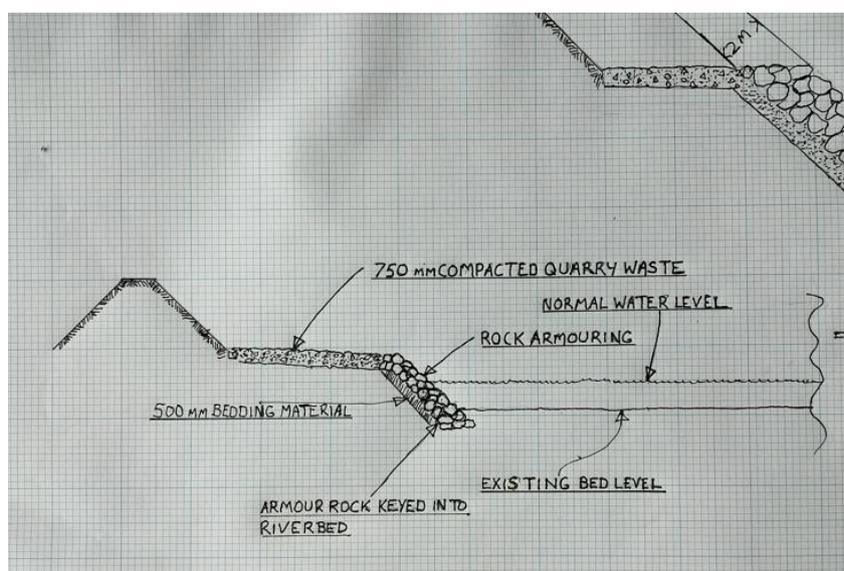
A drawing set is attached as **Appendix E**.

The applicant does not request that the application be publicly notified (section 95(3)(a) of the RMA).

### 2.3.2 Erosion control structure and associated earthworks, true left bank

Retrospective resource (land use) consent is sought for the erosion control structure erected on the terrace berm on the true left bank of the Mataura River, adjacent to Mataura Terrace and the associated earthworks undertaken. Approximately (just under) 25,000T (10,423T of rock and 14,294T of rubble) has been placed on the true left bank along a length of 750m.

Figure 5 shows these works in cross-section albeit does not show trenching of rock rip rap. With regards trenching of rip rap on the terrace berm on the true left bank, refer Figure 2, which shows the full scope of works along both banks. For clarity, the application lodged with ES<sup>33</sup> covers works extending into the bed of the river.



**Figure 5:** True left bank cross-section that shows the existing riverbed level, bedding material and rock armouring, and compacted quarry material. The Figure does not show trenching of rock rip rap however (refer Figure 2, which shows the full scope of works along both banks). In respect of this application, earthworks are proposed outside the bed (Plan source: ES Catchment Operations Division).

<sup>33</sup> Application APP-20232868 lodged with ES (refer Section 2.1 Consent Background (Planning History)).

The applicant advises that the material was sourced from existing quarries in Gore District.

### **2.3.3 Erosion control structure and associated earthworks, true right bank**

Resource (land use) consent is also sought for the erosion control structure proposed on the terrace berm on the true right bank of the Maitara River, adjacent to Selbourne Street – for the proposed erosion control structure along a length of approximately 710m and the associated earthworks to be undertaken. This true right bank work has commenced in part, under Section 330 of the RMA.

Earthmoving activities include the proposed excavation of a trench 4.5m deep for a length of approximately 510m thus requiring the removal of dirt/material. Excavation will be carried out where the terrace berm is at least 6m in width. Figure 1 above shows this and that the trench will be dug from the toe of the stopbank moving back (southeast) towards the riverbed. For clarity, where the berm is less than 6m in width, the erosion control structure (rock rip rap) will be placed on the bed, and the applicant has applied to ES for resource (land use) consents for the placement, erection and reconstruction of rock rip rap in, on, under and or over the bed of the Maitara River within the Maitara River Mātaihai Reserve<sup>34</sup>. Figure 2b shows the Section 330 emergency works, showing the indicative works area (approximately 200m of the true right bank, immediately north of Alliance Group Limited's property at Maitara) in green. The Figure shows the indicative access ramp in red and the progressive direction of works in orange, showing emergency works will start at the northern most point and progress downstream, towards Alliance Group Limited's property at Maitara.

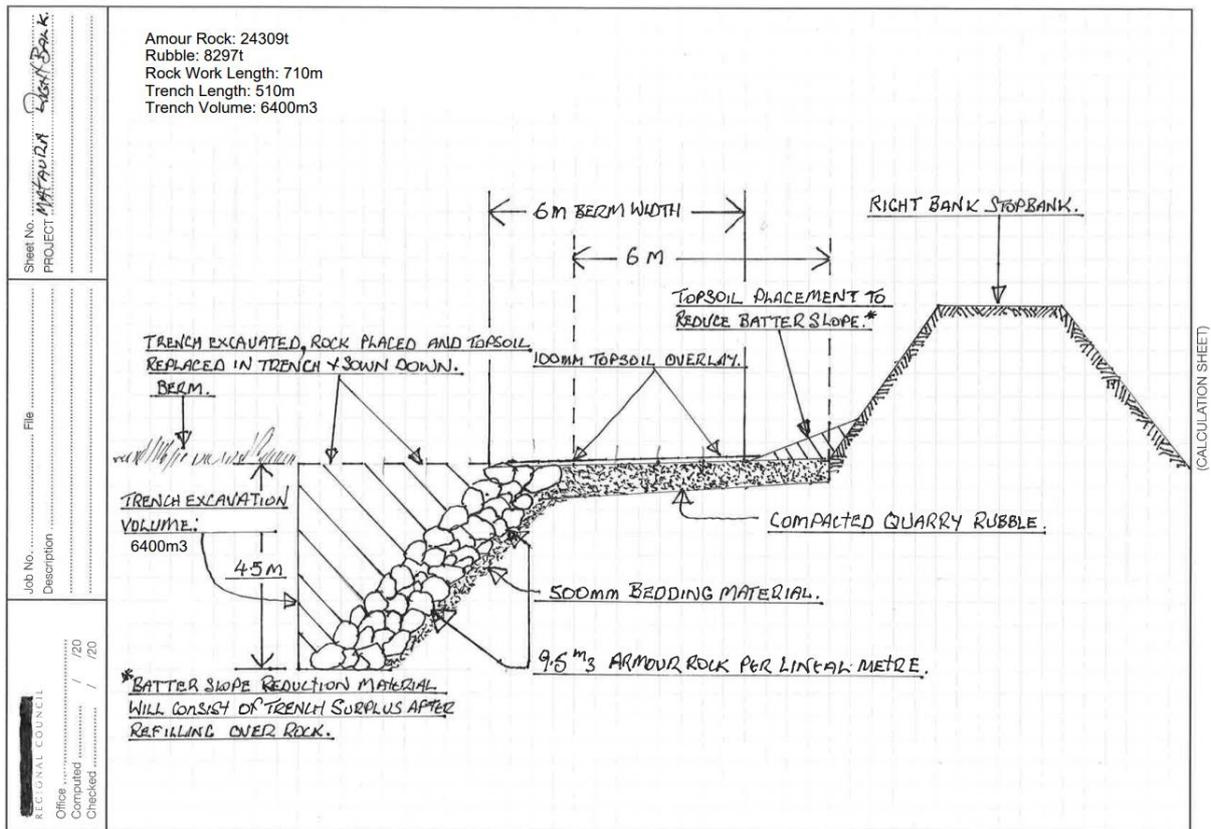
Figure 6 overpage provides further detail of the proposed erosion control structure and the associated earthworks with respect to the true right bank. It details the trench excavation volume (6,400m<sup>3</sup>, assuming a 4.5m deep by 6m wide trench for 510m length).

Topsoil will be replaced in the trench following rock placement and sown down and/or used for stopbank rebuilding, to upgrade the stopbanks that protect the town of Maitara under the Resilient River Communities project<sup>35</sup>. Figure 6 shows this (shows earthworks as including topsoil placement to reduce batter slope of the right bank stopbank).

---

<sup>34</sup> Refer Section 2.1 Consent Background (Planning History).

<sup>35</sup> Maitara flood protection upgrade - Environment Southland (es.govt.nz).



**Figure 6:** True right bank cross-section that shows the proposed trench, bedding material and rock armouring, and topsoil placement (e.g., it shows that topsoil will be replaced in the trench following rock placement) (Plan source: ES Catchment Operations Division (via The Building Intelligence Group (Project Manager) on 31 July 2023)).

A length of approximately 50m at the southern end of the works will not be excavated. Instead, compact rubble will be placed on top and beside the HAIL land, at up to 750mm high. This is to avoid soil disturbance or removal on a HAIL site. Figure 2 shows the length of approximately 50m that is not to be excavated.

On the true right bank, as calculated, 24,309T rock and 8,297T rubble is proposed. Due to this, the total tonnage proposed on the true right bank is approximately 32,606T.

A photo to show the riverbed, the adjoining terrace berm and stopbank to the rear (i.e., to show the true right bank) is provided overpage, for context. Photo 4 was taken prior the 4 July 2023 high flow event.



**Photo 4:** View looking upstream towards true right bank (i.e., true right bank is to left of photo) (Source: photo supplied by ES Catchment Operations Division).

The photos below are more recent. Photo 5 was taken on 18 July 2023 and shows slumping and erosion of the bank near the River Street access to the Alliance Group Limited Freezing Works. Photo 6 was taken on 20 July 2023.



**Photo 5:** Slumping and erosion of the true right bank. Photo taken on 18 July 2023. (Source: supplied by ES Catchment Operations Division).



**Photo 6:** Further erosion was identified on 20 July 2023. (Source: supplied by ES Catchment Operations Division).

No rock crushing is proposed on site as all material will continue to be sourced via existing local quarries in Gore District. Hours of operation will be from 7.00am to 6.00pm Monday to Saturday. No machinery will be positioned in the river, with all works occurring from the river berm adjacent to Selbourne Street.

Trucks with the quarry material will access the true right bank site via Selbourne Street and work in a north-south direction. Refer Figure 2b, which shows how this applies to the Section 330 emergency works. The approximate load of rocks per truck is 10T. The applicant will undertake dust suppression measures on an as required basis through the deployment of a water cart as required.

A timeframe for commencement up to April 2025 is sought as the works are subject to gaining the required approvals (e.g., with the existing quarries seeking temporary increases). It is acknowledged that works recently commenced under Section 330 of the RMA. Consequently, the timeframe for commencement up to April 2025 is largely for the remainder of the erosion control structure proposed on the terrace berm on the true right bank (to commence after the Section 330 emergency works). A similar timeframe for construction as for the true left bank is proposed, being approximately 4 months (total). Completion is proposed up to June 2025.

#### **2.3.4 Volunteered conditions**

The applicant accepts conditions as to the following:

- not excavating a length of approximately 50m at the southern end of the works (as crosshatched in green on Figure 2);
- works being undertaken in accordance with ES Catchment Operations Division 'Environmental Code of Practice for River Works' with specific reference to undertaking all practicable methods to minimise the release of sediment into the Mataura River (Section 14 of the Code);
- hours of operation from 7.00am to 6.00pm Monday to Saturday;
- keeping a record of the total volume of material removed to form the trench on the true right bank, the total volume of rock etc. placed in the trench;
- what to do in the event of a discovery, or suspected discovery, of a site of cultural importance (i.e. Ngāi Tahu ki Murihiku Accidental Discovery Protocol);
- no machinery being positioned in the river (not within the wet bed);
- there being no disturbance of the black fronted tern, black billed gull, and banded and black fronted dotterel, or the feeding areas of the banded and black fronted dotterel, during works;
- all plant and machinery being maintained in good operational condition;
- minimising the spread of pest plants;
- not refuelling near the riverbed and having a spill response in place;
- dust suppression through the deployment of a water cart as required; and
- removing any surplus material from site upon completion of the works and re-grassing any areas of the terrace berm on upon completion.

## 2.4 Receiving Environment

The receiving environment is characterised by the urban area of Mataura Township, adjacent to Mataura Terrace on one side and Selbourne Street on the other. In respect of the true right bank, the site is adjacent to and upstream of the Alliance Group Limited Freezing Works and in respect of the true left bank, the site is upstream of the Old Mataura Paper Mill.

The proposal is also upstream of the waterfall area known as Te Au Nui (Mataura Falls), an area of great significance to Māori as a traditional food-gathering place, traditionally renowned for its abundance of kanakana (lampreys)<sup>36</sup>. Figure 3 above shows it on the true left bank as scheduled archaeological feature M3 and Table 2.6.1 Scheduled Archaeological Sites of Significance to Mana Whenua of the District Plan details scheduled archaeological feature M3 as follows: No. M3, Site number: F46/12, Site description: Traditional lamprey collecting area, Metric Grid ref.: E911 N382, Location: Mataura Falls. On the true right bank side, is the railway and State Highway that provides access to Mataura.

The Mataura River Floodway applies in areas, with the remainder areas shown on the District Plan as *“Potentially floodprone from the Mataura River in floods larger than that of 1978, or a stopbank breach in smaller floods. Flooded in 1978”*. ES Beacon similarly shows the site as part of the Significant Flood plains of the Mataura River. The site is thus subject to flooding, with it noted that the Mataura Town Stopbank forms part of the ES Flood Protection Network.

The Mataura River itself is a Statutory Acknowledgement Area under the Ngai Tahu Claims Settlement Act 1998, the Statutory Acknowledgment providing for the special association of Ngai Tahu with the River. The Mataura is important for mahinga kai and noted for indigenous fishery<sup>37</sup>.

There is a Water Conservation Order – the Water Conservation (Mataura River) Order 1997 and this identifies features and values of the River that are considered outstanding.

The Mataura River is also an outstanding landscape feature (District Plan, Chapter 2 Matters of national importance). Chapter 2.2 Outstanding natural features and landscapes states, *“The Mataura River is a significant waterway, of cultural and recreational importance. Most notably, it provides the habitat for the brown trout fishery for which the District is well known. Not only does it divide the District, but it also provides a reliable and consistent water supply. Periodically it is also subject to major floods.”* At 2.2.2 Issues it is noted that the Mataura River is an active waterway, and that it is able, and does, alter its bed on a regular basis in the rural areas, after which it is stated that *“It is the*

---

<sup>36</sup> Sourced from: [www.ngaitahu.iwi.nz/our\\_stories/whenua-te-au-nui-mataura-falls/](http://www.ngaitahu.iwi.nz/our_stories/whenua-te-au-nui-mataura-falls/)

<sup>37</sup> Sourced from: Proposed Southland Water and Land Plan (Appeals Version, 1 March 2021), Appendix B: Ngai Tahu Statutory Acknowledgement Areas, Statutory Acknowledgement for Mataura River.

*natural values of the waterway that is of greatest importance. However, in order to avoid duplication of responsibilities and consent processes between the Gore District Council and Environment Southland, it is considered that any regulatory regime relating to the river should be retained solely by Environment Southland.”* The significant resource management issues relating to the River are set out as follows: *“The Mataura River is a significant natural feature, however, that is best protected through the provisions of a regional plan. A non-regulatory role can be adopted by the Gore District Council in order to ensure that people are aware of its significance and the positive actions they can take to protect the values of the river.”* At 2.6 Principal reasons, the importance of the River is reiterated as follows: *“While both Environment Southland and the Gore District Council have responsibility for the management of activities within the Mataura River, it is more effective and efficient for one body to manage use and development within the river. The Mataura River is important however, as it is subject to the Mataura River Water Conservation Order and the Ngāi Tahu Claims Settlement Act 1998 defines the Mataura River as a statutory acknowledgment area.”*

Chapter 2.4 Margins of rivers and streams continues that *“...only the Mataura River is of such value as to warrant its margins being protected”*, the issues including *“The Mataura River is a significant natural feature and some management of activities taking place on its margins is appropriate.”* The stated Objectives are to preserve the natural character of the margins of the Mataura River and to provide public access along the margins of the River where this is practical and can be safely undertaken without adversely affecting the use of the adjoining land.

The bed of the Mataura River sits within the Mataura Catchment and Mataura Freshwater Management Unit (it is the second largest FMU in terms of area) (ES Beacon). The Mataura River ends up in the coastal environ of Toetoes Harbour, noting that its headwaters are in the Eyre Mountains.

The Mataura River is used for a range of recreation including, but not limited to, fishing, camping, and swimming, and for whitebaiting.

New Zealand’s first freshwater mātaimai, the Mataura River Mātaimai Reserve, was opened on the Mataura River in 2006, identifying it as an important area for the customary gathering of food, and it is being located within the Mataura River Mātaimai Reserve that triggered the requirement for a resource consent application to ES (refer Section 2.1 Consent Background (Planning History)).

As per Appendix G of the proposed Southland Water and Land Plan (pSWLP), the Mataura River Mataura Bridge is classed as a Popular Bathing Site. In the location of the site, water quality is mostly Mataura 3, with an area at the (upper) northern part ‘Quality: Mataura 2’ (ES Beacon). The Water Management Zone<sup>38</sup> is Lower Mataura (ES Beacon). There is an ES SOE Water Quality monitoring site

---

<sup>38</sup> Groundwater Management Zone and Surface Water Management Zone.

approximately 1.4 kilometres to south, below (downstream of) the Mataura Bridge. Upstream of the site is Drinking Water site Mataura MAT002 for a population of >501, which is sourced from the Mataura River.

ES Beacon also shows a number of current ES consents to the south of the site, including resource consents granted to the Alliance Group Limited for operation<sup>39</sup>, a land use permit in respect of an existing weir (AUTH-20191339-05), and a discharge permit in respect of discharges of stormwater from Mataura township to water (AUTH-206304).

The New Zealand Freshwater Fish Database shows that species known to be living in the Mataura River and its tributaries include Galaxias “southern”, brown trout, short jaw kokopu, longfin eel, common bully, and upland bully.

In terms of a description of the receiving environment for birds, Appendix M of the pSWLP lists tara (terns), karoro (black-backed gull) and stilts as examples; it doesn’t include banded dotterels but rather, within the description for river and lake beds, describes the Southland braided riverbeds as being a national stronghold for the threatened black billed gull and important for the threatened black fronted tern and banded dotterel.

The New Zealand Heritage List<sup>40</sup> shows no known items at the site (i.e., at either the true left bank or true right bank). There are three listed sites, being the Mataura Railway Station (Former), Bank of New Zealand (Former) and Clematis Cottage, downstream. The New Zealand Archaeological Association Arch Site<sup>41</sup> shows known archaeological sites near Bridge Street (downstream of the site), namely F46/34, F46/35, F46/37. As discussed above, District Plan Table 2.6.1 details that F46/12 (Traditional lamprey collecting area at Mataura Falls) is an Archaeological Site of Significance to Mana Whenua. This site is also listed within the iwi management plan Te Tangi a Taurira – The Cry of the People (Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008) (Te Tangi a Taurira) and is shown on Map 12<sup>42</sup>. Further, in Te Tangi a Taurira, the Appendix Nohoanga shows/lists the Mataura River.

From a search of ES Beacon’s Contaminated Sites Register (Selected Land Use Sites (SULS) Register), there is contaminated land at and adjacent the site (refer **Appendix D**). As on the Selected Land Use Sites (SLUS) Register, the ‘Verified – HAIL’ contaminated land site within and adjacent the area of

---

<sup>39</sup> For example, for surface water take both consumptive (AUTH-20191339-02) and non-consumptive (AUTH-20191339-04), and to discharge cooling water from their meat processing plant into a water race which discharges to the Mataura River (AUTH-20191339-03).

<sup>40</sup> New Zealand Heritage List sourced at: [www.heritage.org.nz/the-list](http://www.heritage.org.nz/the-list)

<sup>41</sup> Archaeological site recording scheme, <https://archsite.eaglegis.co.nz/NZAAPublic>

<sup>42</sup> New Zealand Archaeological Association Site Record Maps.

works on the true right bank has the Reference ID SLUS-00000807. The address is 18-30 McQueen Avenue, Mataura and the HAIL Category is A2. Chemical manufacture, formulation or bulk storage.

### 3 CONSENT REQUIREMENTS AND ACTIVITY STATUS

#### 3.1 Section 9

The proposed activity is covered under Section 9 (Restrictions on use of land) of the RMA. Section 9(3) sets out that no person may use land in a manner that contravenes a district plan rule unless the use is expressly allowed by a resource consent, is allowed by section 10 (Certain existing uses in relation to land protected) or is an activity allowed by section 10A (Certain existing activities allowed).

#### 3.2 Operative plan

The Gore District Plan (District Plan) is the operative plan with respect to this application and an assessment under the District Plan has been made and is summarised below.

##### 3.2.1 Definitions

The following definitions were used to assist with determining the consent(s) required, and further commentary is provided below them:

- Utilities and structure
- Earthworks.

###### 3.2.1.1 Utilities and structure

###### Definitions

The **District Plan** (Chapter 11) defines **utilities** as (with emphases added):

*“means the systems, services, structures and networks associated with:*

- *the supply and distribution of electricity;*
- *water supply;*
- *drainage;*
- *street lighting and lighting of public land;*
- *the receiving and sending of communications;*
- *navigation aids;*
- *data recording and monitoring systems, including but not restricted to meteorological facilities;*
- *roading and street furniture within legal roads;*
- *sewage collection, treatment and disposal.”*

The **RMA** (Section 2) defines **structure** as:

*“...any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.”*

The **District Plan** (Chapter 11) does not provide a narrower definition, however the definition of **floodway** does reference “flood protection structure”:

*“Floodway means that area bounded by the landward toe of a flood protection structure, or work, to the landward toe of the flood protection structure, or work, on the opposite side of the river or stream.”*

### Commentary

It is considered that the proposal falls under the definition of utilities with regards the systems, services, structures and networks associated with drainage in that:

- The purpose of ES’s **Southland Flood Control and Drainage Management Bylaw 2020**<sup>43</sup> is “to manage, regulate and protect the effective operation and integrity of flood control works owned by, or under the control of the Southland Regional Council”.
- ES’s **Southland Flood Control and Drainage Management Bylaw 2020** “only controls activities that may affect the integrity or operation of the flood control works”.
- ES’s **Southland Flood Control and Drainage Management Bylaw 2020** defines **flood control works** as means (with emphasis added, including to highlight the purpose):
  - (a) any dam, weir, bank, spillway, groyne, reservoir;
  - (b) any structure or appliance of any kind;
  - (c) any drain, excavation, floodway;
  - (d) any vegetation planting and/or vegetation management;that is managed by or on behalf of the Council and that has or is intended to have the effect of stopping, diverting, controlling or restricting or otherwise regulating the flow or spread of flood water in or out of a body of water or the flow or spread of flood water including surface flood water. ...”
- ES’s **Infrastructure Strategy 2018-2048 Protecting our Communities**<sup>44</sup> details:

*“The primary infrastructure maintained by Environment Southland is the network of flood protection infrastructure comprising stopbanks, dams, bridges, culverts and tidegate structures that have been designed to reduce the impact of significant flooding events along the tributaries of the Aparima, Oreti, Makarewa, Waihopai, Mataura Rivers and Otepunui Stream, as well as other smaller waterways”.*

Moreover, the **Land Drainage Act 1908**<sup>45</sup> defines drainage works as follows (with emphases added):

*“drainage works means drainage works of any sort, including the making of drains for receiving water in its natural flow on or from any hills or other sloping lands, and diverting the*

---

<sup>43</sup> Southland Flood Control and Drainage Management Bylaw 2020 - Web.pdf (es.govt.nz).

<sup>44</sup> Infrastructure Strategy 2018-2048 - Volume 2.pdf.

<sup>45</sup> Land Drainage Act 1908 No 96 (as at 28 October 2021), Public Act 2 Interpretation – New Zealand Legislation.

same to prevent its overflow on to any other lands on a lower level, as well as drains for carrying off water from any lands”.

It also explicitly provides for works to any existing bank or defence against water, and for erecting any new defence against water. For example, Section 17 To construct and maintain drains and watercourses includes the following (with emphases added):

- (a) *cleanse, repair, or otherwise maintain in a due state of efficiency any existing watercourse or outfall for water, either within or beyond the district, or any existing bank or defence against water:*
- (b) *deepen, widen, straighten, divert, or otherwise improve any existing watercourse or outfall for water, either within or beyond the district, or remove obstructions to watercourses or outfalls for water, or raise, widen, or otherwise alter any existing defence against water:*
- (c) *make any new watercourse or new outfall for water, or erect any new defence against water, or erect any machinery, or do any other act required for the drainage of the district:”*

Furthermore, it is noted that there is a broad use of the term utilities in the District Plan, with the **Introduction to Chapter 7 Utilities** beginning (with emphasis added):

*“Within the Gore District utilities are an important physical resource essential to the functioning and well-being of the community... This includes: ...Facilities of public benefit including meteorological facilities, lighting in public places, data recording and monitoring systems. ...”*

With regards 7.1 Introduction, the proposal is for erosion control structures, so for facilities of public benefit akin to (if not greater than) those listed (e.g., lighting in public places). This public benefit is evidenced in the following:

- **ES’s Infrastructure Strategy 2018-2048<sup>46</sup>**, which details that *“The flood protection and control schemes maintained by Environment Southland protect property, lives and livelihoods.”* The Infrastructure Strategy also details that reducing the flood risk along the major tributaries within Southland’s four major river catchments (i.e., Mataura, Oreti, Aparima and Waiau) is the “primary function” of ES’s flood protection infrastructure, with 113 km of stopbanks along the Mataura River protecting the regional centre of Gore as well as the smaller towns of Mataura and Wyndham.
- **ES’s Long-term Plan 2021-2031 - Tō tātou haerenga – Our Journey<sup>47</sup>**, which details that:
  - *“The majority of the Murihiku Southland community resides and works within an environment at risk from flooding, alongside the rivers of the region. [and] That risk is managed in many instances (and by varying degrees) by the Council’s key infrastructure responsibility of stopbank flood protection schemes.”*
  - *“The primary objective of the Council is to provide goods or services for the community for social benefit rather than making a financial return. The Council has designated itself as a public benefit entity for financial reporting purposes.”*

---

<sup>46</sup> Infrastructure Strategy 2018-2048 - Volume 2.pdf.

<sup>47</sup> Foreword (es.govt.nz).

More generally, we note that the RMA (Section 166) definition of eligible infrastructure includes environmental resilience infrastructure, which the Infrastructure Funding and Financing Act 2020 defines as infrastructure for “(a) managing risks from natural hazards, including by avoiding or mitigating those hazards and reducing those risks; and (b) environmental restoration generally”.

Due to the above, it is considered that the proposal can be considered as a utility under the District Plan (both Chapter 11 and Introduction to Chapter 7).

### 3.2.1.2 Earthworks

The **District Plan** (Chapter 11) defines **earthworks** as:

*“Earthworks means earthmoving activities and includes:*

- *Contouring or recontouring of any land;*
- *Disturbance of land surfaces by moving, removing, placing or replacing soil or by excavation cutting or filling operations or tunnelling;*
- *Any heap, pile, or storage of materials that results from earthworks;*
- *but does not include soil cultivation.”*

**Soil**, which is used in the definition of earthworks, is defined in the **District Plan** (Chapter 11) as:

*“Soil means the heterogeneous aggregation of particles comprising either peat, clays, silts, sands, gravels, crushed and reoriented rock fragments, or a mixture of any of the above. The term excludes rock that is intact rock masses whether highly jointed or not.”*

The **District Plan** (Chapter 11) defines **construction work** as (with emphases added):

*“Construction work means the undertaking of earthworks and site works in association with land development and the erection of buildings or other structures on the land. For the purpose of this Plan, construction work is deemed part of the activity for which work is being undertaken.”*

The proposal is for erosion control structures that have or will disturb the terrace berm each side of the riverbed and alter it, so falls under the District Plan (Chapter 11) definition of earthworks. For the avoidance of doubt, this resource consent application concerns rock rip rap that has been or is to be placed where the berm is at least 6m in width and earthworks on the terrace berm each side of the riverbed, including to trench rock rip rap. Refer Section 2.3 Description of Proposed Activity.

### 3.2.2 Consents required

#### 3.2.2.1 Gore District Plan

Consequently, under the District Plan, the following consents are required:

- **Restricted Discretionary Activity under Rule 7.9(8)(b) Other utilities** because the proposal can be considered a utility (refer Section 3.2.1.1 Utilities and structure) and complies with “(a)(ii) All structures shall comply with Rule 4.8.1 Height” (i.e., will comply with 12m in the Rural zone), but does not comply with “(a)(iv) Within Rural...Zones, no ground-mounted structure shall exceed a height of 3 metres or a ground coverage of 10 square metres”.

The erosion control structures will have a 4.5m trench excavation depth that, given the District Plan definition of height<sup>48</sup>, complies with the height limits. Above ground, the erosion control structures will not exceed a height of 3m. However, when combined, the total length of works on both banks is approximately 1,460m. This breaches the ground coverage of 10m<sup>2</sup> (Rule 7.9(8)(a)(iv)). Consequently, the proposal falls to be a Restricted Discretionary Activity under Rule 7.9(8)(b).

The matters over which Council shall exercise its discretion are “the adverse environmental effects of the matters with which there is non-compliance.”

It is noted that Rule 7.9(1)(b) states “For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan”. Due to this, it is considered resource consent is not required under Rule 4A.9.1 Natural hazards within defined floodways.

However, if Gore District Council does not agree that the proposal can be considered a utility, then Restricted Discretionary Activity is sought under Rule 4A.9.1 Natural hazards within defined floodways because the proposal is within areas shown as Mataura River Floodway and not classified as riverbed and is for both “(1) the erection or alteration of any structure”, being for rock rip rap and “(3) ...earthworks”.

The matters over which Council shall exercise its discretion are “the adverse effects of natural hazards on or by the proposed activity.”

---

<sup>48</sup> Height in relation to a structure, or any part of a structure, means the vertical distance measured from ground level to the highest point of the structure immediately above, excluding:  
Chimneys, ornamental towers, turrets, or any other such projections that are no more than 1m<sup>2</sup> in area;  
Radio and television aerials and other telecommunication antennas that are no more than 1m<sup>2</sup> in area on any side or 200mm in diameter;  
provided that such structures do not project more than 1.5 metres above the maximum allowable height permitted by zone rules.

- **Discretionary Activity under 2.4 Margins of rivers and streams Rule 2.4.9 (2) and (3)** because the proposal is “*Within the area 20 metres...of the bed of the Mataura River where land is zoned Rural*” and is for both “(2) *The erection of any structure greater than 3 metres in height or 6 square metres in area*” and “(3) *Earthworks, other than those associated with the tilling of the soil, fencing or pest plant management, exceeding: (a) more than 100 linear metres along the river; or (b) 1 metre in depth in the case of excavation; or (d) 50 cubic metres in volume.*”

The proposal complies with the height limit (i.e., above ground, the erosion control structures will not exceed a height of 3m) but breaches the maximum area of 6m<sup>2</sup> (Rule 2.4.9 (2)) and when combined, the total length of works on both banks is approximately 1,460m triggering the requirement for resource consent under Rule 2.4.9 (3)(a). Trenching, at 4.5m deep, triggers the requirement for resource consent under Rule 2.4.9 (3)(b) and on the true right bank the trench excavation volume, calculated as 6,400m<sup>3</sup> (assuming a 4.5m deep by 6m wide trench for 510m length), by itself (i.e., without considering the true left bank’s), triggers the requirement for resource consent under Rule 2.4.9 (3)(d).

As assessment with regards Section 4 Land Use Activities – Rules is provided below for completeness; however, no resource consents are required under Section 4 of the District Plan:

- **Rule 4.2.2 Use of reserve land** is noted in that it states, “*All land use activities in areas administered under the Reserves Act 1977 are permitted where they comply with a Management Plan that has been approved by the Minister under that Act.*” This is because LINZ has advised that the land described as part Section 28 Block XIII Town of Mataura, that was comprised in the Lease recorded in SL9B/98, is now considered to be held and administered by the Department of Conservation. However, Rule 4.2.2 concerns reserves within the Gore District that are gazetted and this does not extend to the Mataura River banks (refer Section 1.3.1 Pre-application consultation with Gore District Council). No application for resource consent is required.

- **Rule 4.5.1(1) Noise limits in rural and residential zones** is noted given the Rural zoning of the site, and sets out the following standards:

Unless otherwise stated, all activities shall comply with the following standards:

**(1) Noise limits in rural and residential zones**

On any day:	7.00 a.m. to 10.00 p.m.	55 dBA Leq
	10.00 p.m. to 7.00 a.m.	40 dBA Leq
	10.00 p.m. to 7.00 a.m.	75dBA Lmax

**Measured:**

**Rural zones** at any point in the notional boundary of any noise sensitive activity.

**Residential zones** at any point in any other site.

None of the exemptions listed at (2) of Rule 4.5.1 apply. Notwithstanding, the proposal is not subject to Rule 4.5.1(1) because Rule 7.9(1)(b) states (with emphasis added), *“For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan”*.

- Considered as two separate work events (i.e., true left bank and true right bank) earthworks will not exceed twelve months, in compliance with **Rule 4.13.1**. Considered as one event, earthworks will not exceed twelve months if works on the true right bank that have not already commenced as Section 330 emergency works start by circa mid-October 2023 (i.e., allowing approximately 2 of the 4 months construction works timeframe to complete the remainder of the erosion control structure). However, with commencement after the Section 330 emergency works up to April 2025 (subject to relevant approvals and contracts needed), compliance with Rule 4.13.1 is not assured. Notwithstanding, the proposal is not subject to Rule 4.13.1 because Rule 7.9(1)(b) states (with emphasis added), *“For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan”*. No application for resource consent is required.
- **Rule 4.7A.1(2)(e)** prescribes that in the Rural zone buildings<sup>49</sup> shall be set back 6m from any waterway more than 2m in width. The proposal is for erosion control structures that will breach the 6m set back. Notwithstanding, the proposal is not subject to Rule 4.7A.1(2)(e) because Rule 7.9(1)(b) states (with emphasis added), *“For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan”*. No application for resource consent is required.
- **Rule 4.9.1(a)** sets out site coverage standards for structures located on any site in the Rural zone as follows: *“(i) Structures on any site of 2 hectares or less do not cover more than 40% of the site area or 500 square metres, whichever is the lesser. (ii) On any property with an area of more than 2 ha, structures used for the sheltering of animals, or for purposes other than agriculture, shall not exceed 1,500 square metres in area.”* When combined, the total length of works on both banks is approximately 1,460m. As Figure 1 shows, on the true right bank a 6m wide trench of rock is proposed (where the terrace berm is at least 6m in width). Figure 2 shows the location of trenching of rock rip rap on the true left bank. Due to this, the proposal breaches the 1,500m<sup>2</sup> site coverage standard. Notwithstanding, the proposal is not subject to Rule 4.5.1(1) because Rule 7.9(1)(b) states (with emphasis added), *“For the avoidance of doubt, except as provided for by Rule 7.9(1)(a) or otherwise stated, the provisions of Rule 7.9 are not subject to any other rule in this Plan”*. No application for resource consent is required.

---

<sup>49</sup> Building Act 2004 No 72 (as at 07 September 2022), Public Act Meaning of building – New Zealand Legislation.

In summary, under the District Plan, the following consents are required:

- Restricted Discretionary Activity under Rule 7.9 (8)(b) Other utilities OR if Gore District Council does not agree that the proposal can be considered a utility, then Restricted Discretionary activity under Rule 4A.9.1 Natural hazards within defined floodways); and
- Discretionary Activity under 2.4 Margins of rivers and streams Rule 2.4.9 (2) and (3).

Under the District Plan, the proposed activity is considered a **Discretionary Activity**.

### *3.2.2.2 National Environmental Standard (NES-CS)*

Five activities are controlled by the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) if they are undertaken on specified 'at-risk' land, meaning land in use, or used, or more likely than not to have been used, for a specified hazardous activity or industry listed on the Hazardous Activities and Industries List (HAIL). One such activity is disturbing soil.

From a search of ES Beacon's Contaminated Sites Register (SULS Register), there is contaminated land at the southern end of the works on the true right bank, address 18-30 McQueen Avenue, Maitavaia having legal description Lot 1 DP 1243. The Reference ID for the HAIL site is SLUS-00000807 and the HAIL Category is A2. Chemical manufacture, formulation or bulk storage (refer **Appendix D**).

As has been discussed (refer Section 2.3 Description of Proposed Activity), a length of approximately 50m at the southern end of the works on the true right bank will not be excavated. Instead, compact rubble will be placed on top and beside the HAIL land, at up to 750mm high. Due to this, no application is sought under the NES-CS.

### *3.2.2.3 Overall activity status*

The proposed activity is a Discretionary Activity under the District Plan and, with no other consents sought or required, is to be considered as a **Discretionary Activity**.

## 4 ASSESSMENT OF ENVIRONMENTAL EFFECTS

Section 88 and Schedule 4 of the RMA require an assessment of any actual or potential effects **in such detail as corresponds with the scale and significance of the effects** that the proposed activity may have on the environment, and the ways in which any adverse effects may be avoided, remedied or mitigated. This assessment is proposed below in relation to the proposed activity.

The following environmental effects are considered relevant to this application:

- Effects of earthworks on the character of the Mataura River margin areas;
- Effects on the provision of public access to the Mataura River;
- Effects on infrastructure and adjoining properties, including effects on amenity values;
- Any effects on historic heritage and the spiritual and cultural values and beliefs of the tangata whenua, including the Mataura River Mātaitai Reserve; and
- Positive effects.

These effects are discussed in detail below. Other matters (schedule 4 of the RMA) are then discussed before a summary of effects.

### 4.1 Actual or Potential Effects

#### 4.1.1 Effects of earthworks on the character of the Mataura River margin areas

The principle of erosion control structures in this location (in respect of this application, on the terrace berm of both banks) is considered acceptable for reason the placement, erection or reconstruction of erosion control structures within areas subject to erosion is an existing use within Gore District, with stopbanks in this area many years. In this respect, the concept of flood protection is not new, and does form part of the current receiving environment; however, as knowledge has grown around flood events and river engineering options, a proactive approach using quarry material sourced from existing quarries in Gore District is sought to meet current understanding of erosion and flood risk in high flows in the Mataura River.

The placement of rock protection has not had (on the true left bank) nor will it have (on the true right bank) an adverse effect on the visual appearance of the Mataura River's margins. The work on the true left bank<sup>50</sup> has re-established a berm of no less than 6m wide along the toe of the stopbank using quarry material sourced from existing quarries in Gore District and most of the work on the true right bank will be trenched. Material for the true right bank will be sourced locally. With regards the compact rubble proposed on top and beside the HAIL land, the maximum height of this will be 750mm.

---

<sup>50</sup> For clarity, resource consents are also being sought from ES (refer Section 2.1 Consent Background (Planning History)).

Due to this and with the compact rubble proposed in the vicinity of an existing structure, it will not have an adverse effect, individually or cumulatively (i.e., with the remainder of the proposed works), on the character of the Mataura River margin areas. In addition, work on the true left bank was, and work on the true right bank is expected to be, short term in nature.

Work will be undertaken with large machinery, with all machinery working from the berm of the river, and the applicant has volunteered works being undertaken in accordance with ES Catchment Operations Division 'Environmental Code of Practice for River Works' with specific reference to undertaking all practicable methods to minimise the release of sediment into the Mataura River (refer Section 2.3 Description of Proposed Activity), although it is acknowledged that water clarity from sediment release largely falls within the Environment Southland functions. There may be some sediment released (associated with trenching, when dug), however effects on water quality will be no more than minor, and there will be no effects on water quantity as water for the dust suppression tanks (if required) will be sought via already existing infrastructure<sup>51</sup>.

Once the works are completed, it is expected that a stable river margin form will be maintained. The use of Section 330 of RMA has been discussed in Section 1.12 Background to the application and recent photographs of the true right bank near the River Street access to the Alliance Group Limited Freezing Works included (refer Photos 5 and 6).

Overall, effects of earthworks on the character of the Mataura River margin areas are expected to be no more than minor.

#### **4.1.2 Effects on the provision of public access to the Mataura River**

As per other works of this nature (e.g., where there is large machinery), public access to river margin areas was (on the true left bank) and will be (on the true right bank) temporarily restricted during works, to ensure people's health and safety<sup>52</sup>.

During the term of the consent sought, works may occur (on the true right bank) during parts of the recreational fishing season (November to May). However, during this time, public access could, for example, be upstream of the area where works are being carried out, and it is further noted that written approval has been sought from DOC, Fish & Game and Hokonui Rūnanga Incorporated, respectively (refer Section 1.3.2).

---

<sup>51</sup> There will be no diversion of water, and no water take is sought as part of Environment Southland resource consent application APP-20232868 (refer Section 2.1 Consent Background (Planning History)).

<sup>52</sup> Or where site security would be compromised.

Access to large parts of the Mataura River (both upstream and downstream of the site) will still be possible during works, but people will need to follow safety information.

To mitigate any adverse effects on public access, the applicant accepts a condition about contouring the river margin areas to a natural form, largely to ensure level access post the rock placement. Level access will not be able to be provide along a length of approximately 50m at the southern end of the works (where compact rubble will be placed on top and beside the HAIL land, at up to 750mm high). However, with thoughtful placement a natural form will be achieved.

There will be short term effects on public access to the Mataura River (i.e., for the enjoyment of the recreational, cultural and/or landscape values) along the combined 1,460m section of works (during the term of the consent sought, on the true right bank); however, following completion of the works, public access to and along the Mataura River will be re-established, and with a re-established berm of no less than 6m width.

Due to the above, effects on the provision of public access to the Mataura River and its margins are no more than minor.

#### **4.1.3 Effects on infrastructure and adjoining properties, including effects on amenity values**

There is no physical infrastructure for transport, energy, or network utilities<sup>53</sup> at the site other than the stopbanks themselves (noting that the works are proposed to stabilise erosion that has been identified, to ensure flood network integrity under flood conditions, with the intention of this work to protect the town of Mataura (population 1500+)), although there is an existing power pole that stretches across the river, but this will not be impacted by the proposal. Downstream is the Mataura Bridge, but it will not be impacted by the proposal due to separation distance.

Within the surrounding area there are established industrial sites (for example, the Alliance Group Limited Freezing Works on the true right bank) and on the true left bank there are many dwellings positioned to the east of Mataura River. In respect of the true right bank, written approval has been sought from Alliance Group Limited .

There will have been and will be some noise and disturbance during works, however the nature of the works is temporary and with hours of operation restricted (from 7.00am to 6.00pm) to avoid, remedy or mitigate effects on amenity values (including noise). In addition, there has not been and nor will there be on-site processing of rock size, as this occurs at the quarries where rock is sourced from and

---

<sup>53</sup> For example, electricity transmission and distribution infrastructure, telecommunications infrastructure, and infrastructure for water, sewage treatment and stormwater.

trucked in at approximately 10T/truck. The works have been and will be undertaken via excavator/loader and dust suppression measures have been and will be in the form of water trucks to dampen down any dust that occurs.

The works, once completed, will provide protection against erosion, and thus mitigate the risk of further lateral erosion of the stopbanks. This erosion generally occurs during high flows, and the intent of the proposal (primarily, the rock rip rap) is to assist with preventing flooding of the township within these two specific sections of the Mataura River.

Overall, effects on infrastructure and adjoining properties, including effects on amenity values are expected to be no more than minor.

#### **4.1.4 Any effects on historic heritage and the spiritual and cultural values and beliefs of the tangata whenua, including the Mataura River Mātaitai Reserve**

There are no known heritage or archaeological sites at or immediately adjacent to the site, however it is noted that there are sites within the wider Mataura area and downstream at the Mataura Falls is Site Number: F46/12, a Scheduled Archaeological Site of Significance to Mana Whenua<sup>54</sup>. The physical works will not disturb this traditional lamprey (kanakana) collecting area at Mataura Falls, as the two sites that form the application site are upstream of it. However, there may be some sediment released (e.g., associated with trenching, when dug). To mitigate effects of sediment release, the applicant has undertaken and will undertake works in accordance with the ES Catchment Operations Division 'Environmental Code of Practice for River Works'. This Code of Practice sets out Good Practice Standards which the applicant adopts for this activity, which assists to mitigate adverse effects on the surrounding environment. The applicant also volunteers that during construction the Ngāi Tahu ki Murihiku Accidental Discovery Protocol is followed.

In respect of the Mataura River Mātaitai Reserve, the applicant is not seeking to carry out any activities which may impact on the rates of flow in the Mataura River or to dam or affect fish passage in the main stem of the Mataura. The intention of the works is to enhance flood protection for the Mataura township, and effects on fishing and gathering of fish within the Mātaitai will be less than minor.

Taonga species within the Mataura River (as listed within Appendix M of the pSWLP) include Kanakana (Lamprey) and Tuna (Longfin and Shortfin eel), and the riverbanks are known for breeding habitat for birds including (Terns), and Karoro (Black-backed gull). Furthermore, the Mataura River is a Statutory Acknowledgement Area under the Ngāi Tahu Claims Settlement Act.

---

<sup>54</sup> Refer Section 2.4 Receiving Environment.

As per Section 2.3.4 Volunteered Conditions above, no machinery will be positioned in the river and the area will be checked for nesting and roosting areas of native birds prior to the works being carried out. The applicant also volunteers a condition to take precautions to minimise the spread of pest plants. Furthermore, written approval is being sought from Hokonui Rūnanga Incorporated, and a copy of the application has been sent to Ngāi Tahu to note. As per details provided via Hokonui Rūnanga<sup>55</sup>, *“The Mataura river remains an important mahinga kai for Ngai Tahu Whanui because of its use as an access route for the gathering of pounamu. The Mataura was particularly noted for the gathering of kanakana (in particular the falls at Tuturau and Te Au-nui (great current) – the falls at Mataura.”* It is appropriate to note that the applicant is in discussions with Hokonui Rūnanga Incorporated about kanakana (refer Section 1.3.2).

Subject to conditions, effects on historic values, spiritual and cultural values and taonga species are expected to be less than minor (noting, as per above, that written approval is being sought from Hokonui Rūnanga Incorporated).

#### **4.1.5 Positive effects**

The proposal is for the purpose of re-establishing robust erosion control structures on the Mataura River banks in the activity location to reduce (actual and potential) erosion of the stopbanks. The purpose is thus flood protection work to protect the town of Mataura from flood events, which is a positive effect. The undertaking of works under Section 330 of the RMA has been discussed above. There has also been a public benefit with regards to public access to and along the Mataura River in the re-establishment of a berm of no less than 6m width along a 750m section of the stopbank along the true left side and it is noted that, when combined, the total length of works on both banks is approximately 1,460m. The proposal will also provide social employment opportunities and flow-on effects from local spending, including through using quarry material sourced from existing quarries in Gore District.

#### **4.2 Other Matters**

Pursuant to schedule 4 of the RMA, there are several other matters that must be addressed by an Assessment of Environmental Effects as set out below:

- a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:***

This assessment has been completed in Section 4.1 Actual or Potential Effects, and an assessment of the proposed activity against the provisions of Te Tangi a Tauria (Section 5.3 below) has found that it

---

<sup>55</sup> Source: [www.hokonuirunanga.org.nz/kaupapa-taiao/mataura-mataitai/](http://www.hokonuirunanga.org.nz/kaupapa-taiao/mataura-mataitai/)

is consistent with the policies of the iwi management plan. Overall, any effects on those in the neighbourhood and the wider community will be less than minor (noting, as per above, that written approval is being sought from Hokonui Rūnanga Incorporated).

***b) any physical effect on the locality, including any landscape and visual effects:***

This assessment has been completed in Section 4.1 Actual or Potential Effects. Overall, any physical effect on the locality, including any landscape and visual effects, will be less than minor.

***c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:***

No effect on ecosystems is expected. Refer Section 2.2 Activity Location and Section 2.4 Receiving Environment and the assessment completed in Section 4.1 Actual or Potential Effects.

***d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:***

Refer Section 2.2 Activity Location and Section 2.4 Receiving Environment and the assessment completed in Section 4.1 Actual or Potential Effects. Overall, any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations is expected to be less than minor (noting as per above, that written approval is being sought from Hokonui Rūnanga Incorporated).

***e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:***

At the southern end of the works on the true right bank, a length of approximately 50m will not be excavated, to avoid soil disturbance or removal on a HAIL site. Sediment control measures, pest plant management and hours of operation are proposed, and no refuelling will occur neat to the Mataura River to prevent the risk of a spill. The dirt/material excavated will be replaced (trenched) and/or used for stopbank rebuilding, to upgrade the stopbanks that protect the town of Mataura under the Resilient River Communities project<sup>56</sup>.

***f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations:***

The purpose of the works is to protect the Mataura township against flooding due to the risk of erosion of the stopbanks. Works commenced on the true left bank on 12 January 2023 (completed) and emergency works along approximately 200m of the true right bank, immediately north of Alliance

---

<sup>56</sup> Mataura flood protection upgrade - Environment Southland (es.govt.nz).

Group Limited's property at Matura, have commenced (underway), with the remainder of the erosion control structure proposed on the terrace berm on the true right bank to commence after the work that is being implemented with urgency (proposed), and given the nature of the working environment (i.e., the banks of the Matura River), there is the ongoing risk of flooding. Should flooding occur during works, people and machinery working on the site (true right bank) will need to halt and/or move equipment to higher ground.

A length of approximately 50m at the southern end of the works on the true right bank will not be excavated. Instead, rocks will be placed on top and beside the HAIL land. This is to avoid soil disturbance or removal on a HAIL site.

Due to the above, there are no additional risks to the neighbourhood, the wider community, or the environment than what currently exists, so the effects through natural hazards or the use of hazardous substances are less than minor. As above, the purpose of the works is to protect the Matura township against flooding due to the risk of erosion of the stopbanks.

#### **4.3 Summary of Effects**

The proposed activity is considered to be appropriate in this location. Overall, and subject to the volunteered conditions, it is considered that the proposal will have no more than minor effects on the environment.

## **5 STATUTORY CONSIDERATIONS**

### **5.1 Resource Management Act 1991 (RMA) – Part 2 (Sections 5, 6, 7 and 8)**

Part 2 includes the purpose and principles of the Act. As provided in Section 5, the purpose of the Act is "...to promote the sustainable management of natural and physical resources." The Act defines the term sustainable management as follows:

*...means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

This resource consent application is for erosion control structures on the Mataura River banks. It concerns rock rip rap that has been or is to be placed where the berm is at least 6m in width and associated earthworks on the terrace berm each side of the riverbed<sup>57</sup>. The proposal is for the purpose of re-establishing robust erosion control structures on the Mataura River banks in the activity location to reduce (actual and potential) erosion of the stopbanks. The purpose is thus flood protection work to protect the town of Mataura from flood events, and effects will be no more than minor (refer Section 4.1 Actual or Potential Effects). The proposal is considered to be consistent with RMA Section 5.

Sections 6, 7 and 8 list a number of matters to which decision makers under the Act must pay special attention. Matters of national importance must be provided for (Section 6), other matters must have particular regard paid to them (Section 7) and the principles of the Treaty of Waitangi must be taken into account (Section 8).

Section 6 of the Act – Matters of National Importance states:

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognize and provide for the following matters of national importance:*

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) the protection of recognised customary activities:*
- (h) the management of significant risks from natural hazards.*

The proposed activity is appropriate and, as assessed in Section 4.1 Actual or Potential Effects, not inconsistent with RMA Sections 6(a) and 6(b) with regards the preservation of the natural character of the River and its margins and the protection of the River as an outstanding landscape feature. There are no known areas of significant indigenous vegetation and/or significant habitats of indigenous fauna (RMA Section 6(c)). Overall, and subject to conditions, effects on the provision of public access to the Mataura River are no more than minor (RMA Section 6(d)). The proposal is not inconsistent with RMA Section 6(e) matters including RMA Section 6(g) (refer Section 4.1.4 Any effects on historic

---

<sup>57</sup> For clarity, resource consents are also being sought from ES (refer Section 2.1 Consent Background (Planning History)).

heritage and the spiritual and cultural values and beliefs of the tangata whenua, including the Mataura River Mātaitai Reserve), and is not inappropriate (RMA Section 6(f)), with no known historic heritage and a condition volunteered in relation to earthworks in the event of an “accidental discovery” of archaeological deposits or features or suspected archaeological deposits or features (Accidental Discovery Protocol). With regards RMA Section 6(h), the purpose of the proposed activity is flood protection work. Overall, the proposal is considered to be consistent with RMA Section 6 (noting as per above, that written approval is being sought from Hokonui Rūnanga Incorporated).

Section 7 – Other Matters prescribes other matters to which persons shall “have particular regard”, and of relevance to the proposal are the following:

- (a) *kaitiakitanga:*
- (aa) *the ethic of stewardship:*
- (b) *the efficient use and development of natural and physical resources:*
  
- (c) *the maintenance and enhancement of amenity values:*
- (d) *intrinsic values of ecosystems:*
  
- (f) *the maintenance and enhancement of the quality of the environment:*
- (g) *any finite characteristics of natural and physical resources:*

The principle of the proposed activity is accepted, and the proposal has taken into account the efficient use and development of natural and physical resources, the intrinsic values of ecosystems, and maintenance and enhancement of the quality of the environment, including the maintenance and enhancement of amenity values. Section 4 provides an assessment of effects, including effects on amenity values (RMA Section 7(c)). Overall, and subject to conditions, the proposal is considered to be consistent with RMA Section 7 (noting as per above, that written approval is being sought from Hokonui Rūnanga Incorporated).

Section 8 – Treaty of Waitangi relates to the Treaty and states:

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

The proposal is not considered inconsistent with RMA Section 8 (noting as per above, that written approval is being sought from Hokonui Rūnanga Incorporated). Refer the assessment in relation to RMA Section 6(e). The iwi management plan, Te Tangi a Tauira, is further considered below.

Overall, and subject to conditions, the proposal is not considered inconsistent with the provisions relevant to the proposal as outlined below (Section 5.3 Te Tangi a Tauira).

The works are required to protect existing flood protection assets maintained by the applicant. Overall, the proposal is considered to be consistent with Part 2 of the Act.

## **5.2 Gore District Plan**

The District Plan contains the following provisions that are relevant to this application:

### **2. Matters of National Importance**

#### **2.2 Outstanding natural features and landscapes**

##### **2.2.3 Objective**

(1) *To protect the District's outstanding natural features and landscapes.*

##### **2.2.4 Policies**

(5) *Liaise with Environment Southland on all RMA processes to ensure that the natural values of the Mataura River are protected.*

(6) *Adopt non-regulatory methods to educate users of the Mataura River and adjoining land as to actions they can take to protect and enhance the values of the river.*

#### **2.4 Margins of rivers and streams**

##### **2.4.3 Objectives**

(1) *To preserve the natural character of the margins of the Mataura River.*

(2) *To provide public access along the margins of the Mataura River where this is practical and can be safely undertaken without adversely affecting the use of adjoining land.*

##### **2.4.4 Policies**

(1) *Control the adverse effects of land use activities on the margins of the Mataura River.*

(2) *Maintain and enhance public access to and along the Mataura River except where this will affect public health or safety, or where site security would be compromised.*

#### Comment:

The proposed activity is consistent with the above-listed provisions of the District Plan. The applicant acknowledges that the Mataura River is a significant natural feature (outstanding landscape feature) and has undertaken pre-application consultation (refer Section 1.3), including with ES (Policy 2.2.4(5)) and householders (Policy 2.2.4(6)). The placement, erection or reconstruction of erosion control structures within areas subject to erosion is an existing use within Gore District with stopbanks in this area for the last (approximately) 30 years and the proposal has been developed to avoid, mitigate, or remedy any adverse effects (Objectives 2.2.3(1), 2.4.3(1) and 2.4.3(2) and Policies 2.4.4(1) and 2.4.4(2)). The proposed activity is for flood protection purposes, to protect Mataura township, and except in circumstances where public health and safety are at risk, or where site security would be compromised, public access will be maintained (Policy 2.4.4(2)).

## **2. Matters of National Importance**

### **2.6 Mana Whenua**

#### **2.6.4 Policies**

- (1) *Control the adverse effects of land use activities on waahi tapu, waahi taonga and other taonga.*
- (2) *Protect urupa sites and when koiwi o nga tupuna (skeletal remains) are discovered, notification of Te Rūnanga o Ngā i Tahu be required.*
- (3) *Facilitate access to mahinga kai sites.*

#### Comment:

The Mataura River is a Statutory Acknowledgement Area under the Ngāi Tahu Claims Settlement Act 1998. The Mataura River Mātaitai Reserve encompasses waters of the Mataura River. Mātaitai reserves are a fisheries management tool – they only apply to waterbodies and only affect the use and management of fisheries resource<sup>58</sup>.

The proposed works do not seek to alter the area of the Mataura River Mātaitai Reserve, nor take or possess Lamprey, Shortfin or Longfin eel within the Mātaitai Reserve or to set a fyke net (i.e., being associated bylaws<sup>59</sup>), however it is acknowledged that there will be restricted access in the immediate area where works are occurring during works, primarily for safety reasons. No works will occur near the Tukurau and Te Au-nui (great current) – the falls at Mataura.

Written approval is being sought from Hokonui Rūnanga Incorporated, and a copy of the application has been sent to Te Rūnanga o Ngāi Tahu for noting.

As outlined above in Section 2.3 Description of Proposed Activity and the assessment of environmental effects, the applicant volunteers several conditions to avoid, mitigate and remedy adverse effects, including that during construction the Ngāi Tahu ki Murihiku Accidental Discovery Protocol is followed.

Te Tangi a Tauria is considered below (Section 5.3).

## **4A. Natural Hazards**

### **4A.3 Objectives**

- (2) *Minimise the risk to people and property from inundation.*

#### Comment

The proposed activity is consistent with Objective 4A.3(2) as the purpose of the work is flood protection (i.e., to protect the Mataura township against flooding due to the risk of erosion of the stopbanks).

---

<sup>58</sup> Managing customary fisheries | NZ Government (mpi.govt.nz).

<sup>59</sup> Fisheries (Mataura River Mātaitai Reserve Bylaws) Notice 2009 (No. F485) (mpi.govt.nz).

### 3. Land Use Activities – A Framework

#### 3.4 Policies

- (2) *Control the adverse effects of land use activities on the environment.*
- (10) *Recognise that earthworks and disturbance of the ground is a necessary part of undertaking many activities.*
- (11) *Ensure that the effects of earthworks and other land disturbance are avoided, remedied or mitigated.*

#### Comment:

The proposed activity is consistent with the above-listed policies in Chapter 3 of the District Plan as it seeks to avoid and mitigate flooding hazard to the community through managing erosion potential of the stopbanks, primarily by placing rock rip rap in areas specifically managed by ES Catchment Operations Division on behalf of Southland (in this case, a total tonnage (rock and rubble) of 24,717T along a length of 750m on the true left bank of the Mataura River adjacent to Mataura Terrace and a total tonnage (rock and rubble) of approximately 32,606T along a length of approximately 710m on the true right bank of the Mataura River adjacent to Selbourne Street). Earthworks, including excavation to trench (i.e., into which the rock rip rap will be placed), is a necessary part of that work. Refer to Section 2.3 Description of Proposed Activity and the assessment of environmental effects. As set out in Section 4, overall, adverse environmental effects will be no more than minor.

### 5.3 Te Tangi a Tauira

Te Tangi a Tauira – The Cry of the People (Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008) is a natural resource framework developed by and for Ngāi Tahu and has been identified and advocated as a key tool in assisting Ngāi Tahu achieve more meaningful rangatiratanga and kaitiakitanga in natural resource management.

In relation to the proposed activity, it is considered that the following are the most applicable policies of Te Tangi a Tauira:

#### Section 3.5 Te Rā a Takitimu Southland Plains:

##### Section 3.5.8 Earthworks:

- Policy 1. Consent applicants who are undertaking earthworks may be required to enter into Accidental Discovery Protocol and monitoring agreements with Ngāi Tahu ki Murihiku, stating that any earthworks, fencing, landscaping or other such activity has the potential to uncover archaeological sites. Procedures and processes associated with such an occurrence should also be outlined.*
- Policy 9. Any earthworks or roadworks near rivers must have appropriate measures in place to avoid contaminants (including dust, sediment run-off from stockpiles or any hazardous substance) from entering waterways that may cause contamination, discolouration, or siltation in such waterways.*

## Comment

With regards Policy 1. of Section 3.5.8 Earthworks, the applicant has volunteered a consent condition to follow the Ngāi Tahu ki Murihiku Accidental Discovery Protocol. With regards Policy 2, the applicant has volunteered works being undertaken in accordance with ES Catchment Operations Division 'Environmental Code of Practice for River Works'. This Code of Practice sets out Good Practice Standards which the applicant adopts for this activity and includes undertaking all practicable methods to minimise the release of sediment into the Maitai River. The applicant will undertake dust suppression measures on an as required basis through the deployment of a water cart as required. Subject to suitable conditions, including the inclusion of the Ngāi Tahu ki Murihiku Accidental Discovery Protocol, the proposal is consistent with the provisions as outlined above.

## **Section 3.5 Te Rā a Takitimu Southland Plains:**

### **Section 3.5.10 (General Water Policy)**

**Policy 3** *Protect and enhance the mauri, or life supporting capacity, of freshwater resources throughout Murihiku.*

**Policy 5** *Promote the management of freshwater according to the principle of ki uta ki tai, and thus the flow of water from source to sea.*

### **Section 3.5.11 (Rivers)**

**Policy 2** *Promote river management that adopts the priorities established in the Te Rūnanga o Ngāi Tahu Freshwater Policy 1997. The priorities are:*

- Priority 1: Sustain the mauri of the waterbodies within the catchment.*
- Priority 2: Meet the basic health and safety needs of humans (drinking water).*
- Priority 3: Protect cultural values and uses.*
- Priority 4: Protect other instream values (indigenous flora and fauna).*
- Priority 5: Meet the health and safety needs of humans (sanitation).*
- Priority 6: Provide water for stock.*
- Priority 7: Provide for economic activities including abstractive uses.*
- Priority 8: Provide for other uses.*

**Policy 4** *Management of rivers must take into account that each waterway has its own mauri, guarded by separate spiritual guardians, its own mana, and its own set of associated values and uses.*

### **Section 3.5.13 (Water Quality)**

**Policy 1** *The role of Ngai Tahu ki Murihiku as tangata whenua and kaitiaki of water must be recognised and provided for in all water quality management.*

### **Section 3.5.15 (Activities in the beds and margins of rivers)**

**Policy 2** *Land use consents to carry out activities in the beds and margins of rivers should include information about ecological, cultural, natural and community values*

*associated with the surrounding areas (e.g. adjacent wetlands, bird nesting sites, instream life, community use of the area; inanga/whitebait habitat).*

**Policy 3** *Require that a Ngai Tahu ki Murihiku Accidental Discovery Protocol...is a condition on resource consents.*

### **Culverts and flood works**

**Policy 11** *Require that placement of culverts and other flood works activities in the beds or margins of waterways is such that the passage of native fish and other stream life is not impeded.*

**Policy 13** *Require that the placement of culverts and other flood works activities in the beds or margins of waterways occurs in a manner that minimises disturbance to the streambed.*

**Policy 15** *Require that that placement of culverts and other flood works activities in the beds or margins of waterways occur at times of low or no flow.*

**Policy 16** *Require that short term effects on water quality and appearance are mitigated during culvert or flood works construction, and for a settling period following. For example, straw bales may be used to minimise turbidity, and contain discolouration and sedimentation.*

### **Comment**

As outlined above in Section 2.3 Description of Proposed Activity and the assessment of environmental effects, the applicant volunteers several conditions to avoid, mitigate and remedy adverse effects. Volunteered conditions include: the volume and length of rock placement on the terrace berm on the true right bank of the Mataura River, including, with regards the HAIL land, the maximum height of this; works being undertaken in accordance with ES Catchment Operations Division 'Environmental Code of Practice for River Works', which sets out Good Practice Standards; and following the Ngāi Tahu ki Murihiku Accidental Discovery Protocol. Refer Section 2.3.4 Volunteered Conditions.

The passage of native fish and other stream life will not be impeded in that no machinery will be positioned in the river. There may be some sediment released (e.g., associated with trenching, when dug), however effects on water quality will be no more than minor, and there will be no effects on water quantity as water for the dust suppression tanks will be sought via already existing infrastructure<sup>60</sup>.

Written approval is being sought from Hokonui Rūnanga Incorporated and a copy of the application has been sent to Ngāi Tahu.

Due to the above, the proposal is consistent with the provisions as outlined above.

---

<sup>60</sup> There will be no diversion of water, and no water take is sought as part of the Environment Southland resource consent application APP-20232868 (refer Section 2.1 Consent Background (Planning History)).

### **Section 3.5.16 (Mahinga Kai)**

**Policy 4**      *Consider the actual and potential effects of proposed activities on mahinga kai places, species and activities when assessing applications for resource consent.*

### **Section 3.6:**

### **Section 3.6.10 (Management Areas)**

**Policy 1**      *Recognise and provide for the relationship of Ngāi Tahu ki Murihiku within...Mātaitai...areas, and provide for the exercise of customary fishing rights under the South Island Customary Fishing fishing regulations.*

**Policy 4**      *Prevent further degradation of the mauri of...Mātaitai... and areas of significance.*

**Policy 6**      *Ensure that areas that are gazetted as...Mātaitai...are protected from biosecurity risks...*

**Policy 13**     *Avoid oil and chemical spills within...Mātaitai...areas and set in place contingency measures with lead agencies should such an event occur.*

### **Comment**

It is acknowledged that there will be restricted access in the immediate area where works are occurring during the works (refer Section 4.1.2); however, overall, and subject to conditions, effects on the provision of public access to the Mataura River are no more than minor. The assessment in Section 4.1.4 sets out that the applicant is not seeking under this application to carry out any activities which may impact on the rates of flow in the River, or to dam or affect fish passage in the main stem of the Mataura. There will be no structures in or across the River that would impede fish passage. The intention of the works is to enhance flood protection for the Mataura township, and effects on fishing and gathering of fish within the Mātaitai will be less than minor (noting written approval is being sought from Hokonui Rūnanga Incorporated). The applicant volunteers a condition to take precautions to minimise the spread of pest plants and about not refuelling near the riverbed and having a spill response in place.

As per above, written approval is being sought from Hokonui Rūnanga Incorporated and a copy of the application has been sent to Ngāi Tahu.

Due to the above, the proposed activity is not inconsistent with the provisions as outlined above.

## **6 ASSESSMENT OF ALTERNATIVES**

Where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity is required (Schedule 4 clause 6 (1)(a)), and where an activity includes the discharge of any contaminant, a description of any possible alternative methods of discharge including discharge into any other receiving environment is required (Schedule 4 clause 6 (1)(d)(ii)). The proposed activity is not expected to result in any significant adverse effect on the environment however, therefore no description of alternative locations is considered. Nor are alternative methods considered given the nature of the activities that must, due to their nature, occur within the margins of the river for flood risk protection.

## **7 SUMMARY AND CONCLUSIONS**

ES Catchment Operations Division seeks resource (land use) consent for erosion control structures on the terrace berms of the Mataura River banks, adjacent to Mataura Terrace and Selbourne Street, Mataura, respectively. Applications are made for the works on both the true left and true right banks jointly. The proposal is for the purpose of re-establishing robust erosion control structures on the Mataura River banks in the activity location to reduce (actual and potential) erosion of the stopbanks. It concerns rock and bedding material, quarry material/rubble and topsoil that has been (on the true left bank) or is being and is to be (on the true right bank) placed on the terrace berm each side of the riverbed and the associated earthworks undertaken or to be undertaken. When combined, the total length of works on both banks is approximately 1,460m, and approximately (up to) 57,323T of rock armouring on the bed<sup>61</sup> and the banks (terrace berms) of the Mataura River is proposed, designed to protect the Mataura stopbanks and thus the Mataura township from flood events within Mataura River.

Resource consents are triggered under the Gore District Plan given the location of the proposal within the Rural Zone (as a utility) and within the Mataura River margins, due to the proposed structure's ground coverage / area, length, and the depth and volume of earthworks. The proposed activity is a Discretionary Activity, and the application includes an assessment of the likely effects of the proposal on the environment. Overall, it is considered that these effects will be no more than minor.

The proposal is consistent with the purpose and principles of the RMA and the relevant provisions of the District Plan. It is therefore considered appropriate that the proposal is granted.

---

<sup>61</sup> For clarity, resource consents are also being sought from ES (refer Section 2.1 Consent Background (Planning History)).

**From:** Burnetta Van Stipiraan <burnetta@slwp.co.nz>  
**Sent:** Friday, September 1, 2023 5:44 PM  
**To:** Penny Weng <pweng@propertygroup.co.nz>  
**Subject:** RE: S92 Letter - LU23058

Kia ora Penny,

I write to provide a response to your Section 92 request for further information, being as follows:

- 1. Quantity of rock and rubble on the terrace berms only** – The true left bank (TLB) quantities total 10,423 T of rock and 14,202 T of rubble. This hasn't been split for the terrace berm. The true right bank (TRB) quantities total 24,309 T of rock and 8297 T of rubble. The first stage now complete is 151m which has been predominantly in the wetted channel. Therefore approx. 5105 T of rock has been placed in stage 1 (emergency works) and there is approx. 19,204 T remaining along the Terrace Berm in stage 2. Similarly, with the same apportionment for the rubble, there is 1742 T of rubble in stage 1 and 6555 T in stage 2 along the terrace berm.
- 2. Copy of 'Section 14 of the Code' of the ES Catchment Operations Division 'Environmental Code of Practice for River Works'** – Please find the Environmental Code of Practice for River Works attached.
- 3. Confirmation whether there is a construction environmental management plan (or similar) for the works** – The Environment Southland Catchment Operations Team have several works supervisors who supervise Environment Southland approved contractors as often as practical / possible to ensure the relevant consent conditions or permitted activity rules in the proposed Southland Water and Land Plan (such as Rules 55a and 61) are being met. Supervision includes monitoring construction works in accordance with the requirements of the Environmental Code of Practice for River Works (attached). The Environment Southland Catchment Operations Work supervisor (Clint Cartwright, who accompanied your colleague Mishka Banhidi on her site visit) has been onsite daily during the works and has ensured that K2 have complied with the Code of Practice in the undertaking of the rock placement along the TRB.
- 4. Refuelling of machinery and equipment and volumes of hazardous substances** – The excavator is filled offsite approximately every second day and it is confirmed that the volumes of hazardous substances (flammable liquids) meet the permitted activity standards (Rural) under Chapter 6 – Hazardous Substances of the District Plan (i.e., as listed in Table 6.2 Permitted quantities of hazardous substances).

With regards written approvals, I can advise of having this morning followed up with whether Alliance Group Limited is now able to provide written approval for the GDC application. I await a response. With regards Te Rūnanga o Ngāi Tahu, information was sent to for noting rather than seeking affected party approval (as detailed in the application at Table 2, section 4.1.4, section 5.2 and section 5.3). We have confirmation from Te Rūnanga o Ngāi Tahu of their having received our email notification and are happy to provide this should you wish to have the same.

I hope to provide Alliance Group Limited's written approval at the start of next week.

With thanks and wishing you a lovely weekend.

Kind regards,  
Burnetta