

Sections 95, 95A-E

Resource Management Act 1991



Decision/Report

Report pursuant to section 42A of the Resource Management Act 1991 recommending whether or not an application for resource consent should be:

- Publicly notified, limited notified or non-notified

Decision pursuant to section 95A-E of the Resource Management Act 1991

APPLICATION NUMBER:	RC245566, 245567 and 245568
APPLICANT:	Winstone Aggregates
BRIEF DESCRIPTION OF APPLICATION:	Land use consent is sought to expand the existing Winstone Wheatsheaf quarry, together with associated extraction of aggregates, rehabilitation of the site, associated vehicle movements and supporting activities including effects mitigation, into an additional area of approximately 4 ha of land known as the Sullivan Block. The consent also requires changes to the conditions of RC145099 and RC215749 to align this consent with rehabilitation, landscaping, and other aspects of the Sullivan Block expansion.
SITE DESCRIPTION:	<p>Address: 50 Selwyn Road, Broadfield</p> <p>The land parcels which are the subject of this application are legally described as</p> <ul style="list-style-type: none">■ Lot 2 Deposited Plan 80577 (the Sullivan Block) (contained within Record of Title CB46B/185)■ Part Rural Section 6662 and Lot 2-3 Deposited Plan 463714 (616789)■ Lot 4 Deposited Plan 463714 (616790)■ Lot 2 Deposited Plan 478287 and Lot 1 Deposited Plan 467327 and Lot 1 Deposited Plan 25795 (664360)■ Lot 1 Deposited Plan 80577 (CB46B/184)■ Res 388 Block IV Leeston SD – being a gazetted piece of land understood to be owned by Selwyn District Council.
ZONING / OVERLAYS	<p>Partially Operative Selwyn District Plan (Appeals Version – released 27 November 2023)</p> <p>General Rural Zone</p>

	Plains Flood Management Overlay, Liquefaction Damage Unlikely Overlay, Rural Density SCA-RD1 Inner Plains/ Te Urumanuka ki Ana-ri.
OVERALL ACTIVITY STATUS:	Discretionary

The Application

1. This application was formally received by the Selwyn District Council on 9 July 2024.
2. The application proposes to establish and operate an aggregate quarry within a site located at the junction of Aylesbury Road and Grange Road in Burnham, which will extract aggregate alongside undertaking primary production on the land prior to quarrying and post rehabilitation.
3. As identified in the application, Winstone is proposing to extend its quarrying operations into an area of approximately 3.5 ha of rural land adjacent to its existing quarry operations at Wheatsheaf. The extraction activities proposed will follow on from quarry activities that have occurred through the most recent extension of the quarry approved in 2022 which authorised the B and C Block extraction. The main aspects of the activity, as set out in the application, are as follows:
 - Extraction activities are proposed to be undertaken in the Sullivan Block in stages, followed by progressive rehabilitation of the extraction areas. Material will be transported by dump trucks, via internal haul roads to the existing Wheatsheaf Quarry processing plant, where processing of the material will take place.
 - The application is for progressive excavation from the quarry floor 9 to 10 metres below ground-level, consistent with the same volumes that are currently processed at the existing quarry site.
 - All traffic movements between the expansion excavation area and the processing plant on the existing quarry are also below natural ground level in that the proposed haul roads are over areas which have been previously worked-out.
 - Winstone has sought to design this proposal in a way which is consistent with the quarrying methods and mitigation measures which have worked well for the operations on site to date. No changes to key aspects of the existing operation, such as rates of processing, hours of operation or traffic movements, are proposed. Many aspects of the proposal design and mitigation measures therefore reflect conditions contained in the resource consents for the existing operations.
 - Extraction will not occur in the Sullivan Block until extraction from the existing consented quarry areas is complete. Areas of the previous expansion that will serve as haul roads for this expansion, or which previously served as batters or bunding areas will now be removed and rehabilitated through the Sullivan Block extension.
4. Preparatory works at the site will generally be undertaken in the following manner, as outlined in the AEE:
 - Quarry areas will be developed in stages generally working from the west or north generally in a south and/or eastern direction. Prior to quarrying commencing in a stage, topsoil and subsoil overburden material will be removed from each stage of the expansion area.
 - Topsoil removal will be undertaken at ground level using an excavator and dump trucks, in combination with a loader.
 - Aggregate will be extracted by working from the from the existing quarry areas, enabling quarrying to begin at the level of the existing quarry floor. Once quarrying in one stage of the site is nearing completion, the next stage of topsoil removal will take place, a process that will repeat as the site develops.
 - Topsoil and overburden material removed at the first stage of site preparation will be used to form bunds along the external southern and eastern boundaries of the site, requiring up to 10,000 m³ of compacted material. Additional clean reject aggregate, aggregate wash-water silts or aggregate from within the existing quarry will also be used if there is an insufficient volume of material available.

- The new bunds will be approximately 3 m high and grassed following establishment, and site practices have seen these generally completed within a four-week window.
- Any existing bunding, batters and quarry walls on internal boundaries of the site adjoining the Sullivan Block will be removed as necessary enable access to the Sullivan Block from the existing quarry. This will be authorised through variations to the underlying consents.

Extraction, processing and transportation

5. Extraction of the aggregate resource will involve a continuation of the processes that have been used through the existing quarry operations. The description of the methodology below is taken from the AEE:
 - *Following site preparation within a stage, extraction of aggregate is undertaken using standard quarrying machinery typically involving a loader which loads dump trucks, although other machinery may be used from time to time to enable the efficient extraction of the aggregate resource. Extraction of the aggregate resource itself will occur by working from the existing quarry areas so quarrying can commence at the level of the existing quarry floor, minimising noise and dust effects.*
 - *Aggregate will not be stockpiled within the Sullivan Block but rather will be extracted and loaded by the loader into the truck as it arrives within the expansion. Once loaded, these trucks will exit the expansion area and travel via internal haul roads to the existing processing plant where the material will be processed, stockpiled, and sold.*
 - *Quarry operations will move generally in a south and/or east direction as the quarry develops. Considering the retention of material within the setbacks between the excavation area and external site boundaries, and the exclusion of the area which has been identified as contaminated by PDP in the PSI included in Appendix E, and accounting for material within the existing site batters, the total extraction area proposed for this consent application is approximately 3.5 ha of previously unquarried land, which equates to approximately 350,000 to 400,000 bank cubic metres (BCM) of aggregate.*
 - *This volume has been determined by assuming an average extraction depth of approximately 9 to 10 m below pre quarry ground level across the site, allowing for approximately 300 to 400 mm of topsoil and overburden to be removed, provision for some batter slopes, and at least a 1 m freeboard to be retained between the quarry pit floor and the highest groundwater level at the site.*
 - *Annual production from the quarry is expected to be in the vicinity of 100,000 - 200,000 m³, which is well within the current maximum limits for the quarry of 700,000 tonnes per annum (approximately 350,000 m³) although these volumes will be subject to Winstone's operational requirements and customer demand.*
 - *Based on these production rates it is anticipated that the quarry will be worked out within approximately 2 to 3 years with additional time provided as a buffer for extraction works, but primarily to enable the completion of cleanfilling and site rehabilitation. Extraction of aggregate will not exceed 600 tonnes per hour, up to a maximum of 4000 tonnes per day. It is noted that no hazardous substances will be stored within the expansion site, with refuelling of quarry machinery to take place at the main quarry site.*
6. Rehabilitation will occur progressively over the site once areas of extraction (in stages) have been completed. This will be undertaken pursuant to the rehabilitation requirements of the QSRP, appended to the application.
7. To enable the expansion of the site, some changes are required to existing consents for the Wheatsheaf Quarry.
8. This application seeks changes to conditions to provide the appropriate scope for changes on the existing site. These involve changes to SDC consents RC145099 and RC215749 as it is necessary to remove some existing bunding and planting along the northern and western boundaries to enable quarrying to move into these areas in the future through the removing of existing batters and quarry walls.

The Existing Environment

9. The application site and surrounding area has been detailed in the AEE and I accept the applicant's description. Key descriptors of the site and surrounding areas are summarised below:
- The existing environment at the Wheatsheaf Quarry site includes the environment as it is modified by the operation of the existing Wheatsheaf Quarry and associated authorised activities such as heavy vehicle movements.
 - The existing environment includes the following existing quarry activities which are not proposed to be changed:
 - Processing, stockpiling areas (including crushing plant) are to remain in their present location.
 - Extraction volumes and rates are provided for by existing consent conditions, and will not change.
 - Hours of operation will be consistent with the existing quarry and consent conditions (i.e 7am – 6 pm, Monday to Friday, and 7am to 1 pm on Saturday).
 - Vehicle generation as authorised by the existing consent will not change.
 - Noise conditions applying to the existing quarry will not change.
 - Existing bunding that does not require modification through this consent application will remain (with other bunding to be amended).
10. The location of the existing quarry and proposed area for expansion are shown in the figure below, with the orange hatching identifying the new area to be quarried.

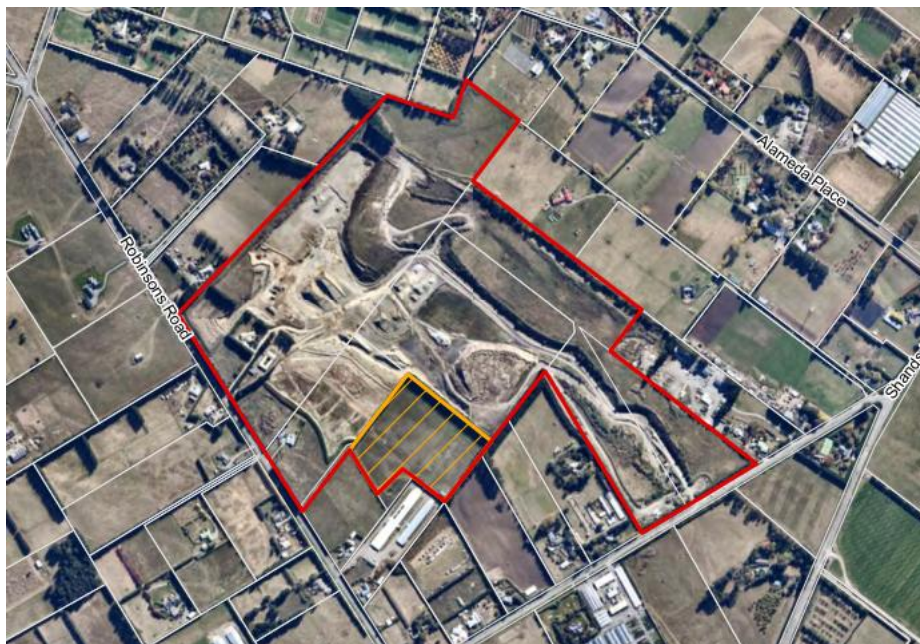


Figure 1: Site Location and Surrounding Land Use (Source: Applicant)

Activity Status

Statutory Requirements

11. Section 127 of the Resource Management Act states:
- 127. Change or cancellation of consent condition on application by consent holder –*

(1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent)

...

(3) Sections 88 to 121 apply, with all necessary modifications, as if –

(a) the application were an application for a resource consent for a discretionary activity; and

(b) the references to a resource consent and to the activity were references only to the change or cancellation of

a condition and the effects of the change or cancellation respectively.

(4) For the purposes of determining who is adversely affected by the change or cancellation, the local authority must

consider, in particular, every person who –

(a) made a submission on the original application; and

(b) may be affected by the change or cancellation.”.

12. Given the above, the applications to vary and cancel the conditions of RC145099 and RC215749 are a discretionary activity under section 127 of the RMA.

Operative Selwyn District Plan (2016), Rural Volume ("the Operative Plan")

13. The application site is zoned Inner Plains. The site is not subject to any overlays, controls or designations.
14. The Council released the Appeals Version of the Partially Operative Selwyn District Plan on 27 November 2023. Many provisions are beyond challenge and are operative/treated as operative (pursuant to cl 103 of Schedule 1 and s 86F of the Act), and the corresponding provisions in the Operative Plan are treated as inoperative.
15. All rules that would apply to this proposal are now treated as inoperative and the proposal is a permitted activity under the Operative Plan.

Partially Operative Selwyn District Plan (Appeals Version – released 27 November 2023) ("the Partially Operative Plan")

16. The application site is zoned General Rural Zone. The site is also subject to the Plains Flood Management Overlay, Liquefaction Damage Unlikely Overlay and Rural Density SCA-RD1 Inner Plains/ Te Urumanuka ki Ana-ri.
17. The Council released the Appeals Version of the Partially Operative Plan on 27 November 2023. Many provisions are beyond challenge and are operative/treated as operative (pursuant to cl 103 of Schedule 1 and s 86F of the Act). Those subject to appeal continue to have legal effect pursuant to s 86B.
18. None of the relevant rules relating to this application are subject to any appeals.
19. The rules of the Partially Operative Plan that this proposal does not meet are as follows.

Land Use

20. The proposed land use activity does not meet the following rules:

Operative/treated as operative:

RULE	TOPIC	COMPLIANCE	STATUS
GRUZ-R21.1.a(i)	Mineral Extraction	The excavation of aggregate will not be setback 200m from the notional boundaries of lawfully established residential activities.	Discretionary (Rule GRUZ-R21.3)
GRUZ-R21.1.a(ii)	Mineral Extraction	Processing or aggregate recovery activity will not be set back 500m from the notional boundary of lawfully established residential activities.	Discretionary (Rule GRUZ-R21.3)

21. Therefore, the land use proposal is a Discretionary activity under the Partially Operative Plan.

National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS)

22. The NES-CS manages activities which involve the disturbance of land which may be contaminated. This is determined by whether activities listed in the Hazardous Activities and Industries List (HAIL) have or are likely to have occurred on the site.
23. As identified in the application, there is a potential presence of Hazardous Activities and Industries List (HAIL) sites within parts of the existing quarry. A small portion of the site in the south eastern corner has a HAIL activity status of G3 Landfill associated with historical clean filling. However, as no extraction is proposed within areas which have been used for filling on the existing site, consent is not required under the NES:CS as there is no disturbance of the piece of land that is subject to the HAIL classification.

Bundled Activity Status

24. In accordance with the above consent triggers and section 127 of the RMA, the bundled application requires consent as a discretionary activity.

Written Approvals (Sections 95D(e), 95E(3)(a) and 104(3)(a)(ii))

25. The provision of written approvals is relevant to the notification and substantive assessments of the effects of a proposal under sections 95D, 95E(3)(a) and 104(3)(a)(ii). Where written approval has been provided, the consent authority must not have regard to any effect on that person. In addition, that person is not to be considered an affected person for the purposes of limited notification.
26. The applicant has provided written approvals from the following parties:
 - B & S Sullivan, 668 Robinsons Road
27. No other parties have provided approval.

Notification Assessment

Assessment of Adverse Environmental Effects (Sections 95A, 95B, 95D and 95E)

Permitted Baseline

28. Sections 95D(b) and 95E(2)(a) allow that a consent authority “may disregard an adverse effect” if a rule or a national environmental standard permits an activity with that effect, a concept known as ‘the permitted baseline’. The application of the permitted baseline is discretionary, as denoted by the use of the word “may”. It is understood that its intention is to identify and exclude those adverse effects that would be permitted by the Plan from consideration.
29. The Partially Operative Plan permits earthworks and vehicle movements at rural sites subject to controls. It also provides for new structures, shelterbelt planting and imposes noise limits. Mineral extraction is not a permitted activity in the General Rural Zone.
30. Based on the above, I do not consider that there is a relevant permitted baseline that can be applied to the following adverse effects assessment other than that associated with noise and shelterbelt planting.

Assessment

31. The receiving environment for this proposal includes the existing environment and the future environment as it could be, i.e. as modified by non-fanciful permitted activities and unimplemented resource consents. In this case, the receiving environment is discussed earlier in this report, and in the application.
32. The status of the activity is Discretionary. As such, the Council’s discretion is unrestricted and all adverse effects must be considered. The adverse effects relevant to this proposal are noise, transport, rural production, ecology, cultural values, landscape and visual amenity, and rural amenity.
33. It is noted that the AEE also provides an assessment of effects on water resources and air quality. In my view, these effects are largely related to regional planning matters, as opposed to the matters requiring land use consent under the Partially Operative Plan. Consequently, the following assessment will refer to these matters only where they relate more specifically to district land use matters.

Rural character and Amenity

34. Rural character and amenity effects are addressed in detail in section 6.2 of the AEE. Key points raised by the Applicant include:
- Quarrying is defined as a primary production activity by the National Planning Standards and the POSDP, a rural activity by the Canterbury Regional Policy Statement (CRPS) and is anticipated within the rural area by the POSDP, subject to appropriate management of effects.
 - The surrounding environment includes primary production and other rural activities with a low density of residential dwellings.
 - Amenity values associated with an area generally relate to an area's landscape and visual amenity values, the noise environment and air quality values. The POSDP places a focus on the need to avoid, remedy or mitigate adverse effects on amenity values, with the General Rural zone objectives and policies seeking to maintain or enhance rural character and amenity values of rural areas, including through enabling primary production while managing adverse effects of intensive primary production and mineral extractive industries.
35. I agree with the applicant that the potential effects on amenity values typically associated with quarry operations include dust, noise, visual and landscape, and traffic effects and these are addressed generally in this assessment.
36. In terms of effects on rural character, I note that much of the surrounding land is taken up by the existing quarry operation. The proposal will expand the quarrying activity onto an adjacent, small block of land. Given the larger development surrounding the site, although its use for quarrying activities will alter the character of this additional area, overall, I do not consider it to be a more than minor effect.
37. Quarrying activity is anticipated in the General Rural zone, subject to performance with the specified standards. The proposal does not satisfy the requirements that excavation be more than 200m from the notional boundary of a residential activity or that processing be at least 500m from the notional boundary of a residential activity.
38. The assessment of noise effects has not raised any issues and considers that the proposal will comply with the relevant noise rules, so I conclude on that basis that the effects of the processing of aggregate within 500m of a notional boundary are less than minor.
39. Although from a noise perspective the proposal will not give rise to adverse effects, I consider that there will be minor effects on rural character and amenity potentially experienced by the properties adjacent to or in the immediate vicinity of the site. These properties are concentrated around Selwyn Road and Robinsons Road, as properties further to the rest of the site are separated by land owned by the applicant, and are a sufficient distance from the site.
40. Given that the access to the site from Robinsons Road is only for staff vehicles and not heavy vehicles, I do not consider it necessary to require written approvals from properties past the entrance to site, given the separation afforded by the existing quarry operation and established vegetation.
41. Although the change in rural character and amenity may be apparent to adjoining property owners, the mitigation proposed will enable the effects to be largely contained within the site, and I consider overall that any effects will be limited to the sites immediately adjacent to the expanded quarry.

Effects on landscape character and values

42. I agree with the Applicant that the expansion site is not within an outstanding natural landscape area or any areas of historical, spiritual or cultural significance.
43. The proposed quarry expansion will result in modifications to the topography of the site below natural ground level. I agree overall with the applicant that the operation and implementation of the proposed quarry expansion is unlikely to disrupt the perception of the natural features, landcover and land uses which consolidates to create the existing landscape character. This is largely because any modifications will be concealed given the flat terrain of the surrounding area and through the use of the bunds surrounding the quarry area.
44. Owing to the location next to existing quarry operations, and the relatively small size of the expansion area, I agree with the applicant that the proposed expansion will not adversely affect the sensory qualities or existing rural landscape character of the wider receiving environment or compromise any sensitive views from a landscape perspective.
45. The quarry expansion will not adversely affect any existing vegetation patterns except for removing existing internal shelterbelts along the western and northern boundary of the expansion area.
46. The applicant's landscape and visual assessment considered that overall, effects on landscape character would be less than minor. The landscape peer review undertaken by Beca Ltd for the Council largely concurs with this assessment. Overall, I agree with the applicant's assessment that there will be a change in the openness

of the rural landscape but not one that is considered adverse in terms of amenity, with the exception of the properties identified above.

Effects on visual amenity

47. Given the scale and location of the proposed quarry expansion, the views for road users will be limited to sections along Selwyn and Robinsons roads. At these points, views will be partial, and only limited to the proposed earth bunding and screened by existing and proposed vegetation (which will slightly alter views) with no significant disruptions expected, resulting in less than minor visual effects.
48. I agree that the proposed quarry expansion is anticipated to have minor direct impacts on surrounding residents, and I agree with the applicant's summary that
- Existing screening measures, such as dense vegetation, including shelterbelts, and fencing, already provide visual mitigation. The introduction of extended earth bunding (3m high) may partially alter some views, but the overall effect is expected to be low and temporary until the bund is removed. Additionally, Winstone proposes to maintain and enhance vegetation on adjoining boundaries if the neighbours wish and will plant a row of native trees along the Sullivan Block boundary adjacent to properties on Selwyn Road*
49. The visual effects assessment undertaken by the applicant was peer reviewed for the SDC by Beca Ltd. While the peer review initially identified gaps in the methodology of the landscape assessing, ultimately the peer review determined that the conclusions reached were appropriate.
50. Overall, I consider that there will be minor effects on the immediate surrounding neighbouring properties.

Noise effects

51. Noise generation will originate from the operation of quarry machinery (during site preparation, extraction, and rehabilitation activities), operation of the processing plant, and heavy vehicle movements as well as other activities occurring on the quarry site.
52. An assessment of the potential noise effects associated with the proposed quarry expansion was undertaken by Marshall Day Acoustics (MDA) and appended to the application.
53. The MDA assessment considered the noise emissions arising from activities in the expansion area and in the existing quarry site against the existing consent conditions and POSDP noise provisions, and concluded that noise from excavation, aggregate extraction, clean filling and rehabilitation activities in the quarry expansion area will comply with the District Plan noise levels at the notional boundary of any nearby dwelling. It also noted that cumulative noise from the expansion activity, plus other plant within the main quarry will not exceed 50 dB LAeq (complying with the POSDP and existing consent condition noise limits).
54. Noise levels arising from construction (initial topsoil removal and establishment of the boundary earth bunds) were also modelled to comply with the construction noise limits in NZS 6803:1999.
55. Subject to the establishment of the mitigation measures proposed, the MDA report concluded that noise effects from the proposed activity, including any arising from construction noise (such as bund building), will be acceptable in the context of the local environment, and will be consistent with current operations.
56. The MDA report was peer reviewed for the Council by Powell Fenwick Ltd. The peer review confirmed that the modelled scenarios accurately reflected the worst case operation and the typical equipment expected in the proposed quarry expansion. They noted that the existing consent limits are equivalent to or more restrictive than the PODP rules, and overall considered that provided the existing noise related conditions applying to the operation of the quarry are carried over to the expansion, there will be no adverse noise effects.

Transportation effects

57. The Application identified that adverse effects of heavy vehicle movements such as noise, vibration, and spillage of material on roads can be a source of nuisance to nearby residents. Transportation effects can arise through vehicle movements and design and use of access, parking and loading. The applicant's assessment has identified that:
- vehicles on the site will be well maintained and will minimise noise and exhaust emissions. The applicant's internal training procedures are robust and staff are trained and experienced in how to load road truck and trailers to avoid spillage.
 - All laden heavy vehicles leaving the quarry are visually inspected to reduce the risk of quarry products being spilled on public roads and clean up measures will be implemented if required.
 - Heavy Vehicles will continue to use the existing established site access onto Selwyn Road which is appropriately design for heavy vehicle access and has been used successfully over the life of the quarry. No heavy vehicle swill enter or exit the site through the Robinsons Road access point.

- Vehicle movements associated with the quarry expansion do not constitute a high trip generator. Vehicle movements associated with the quarry expansion will not increase in their intensity from what presently occurs, including the limits authorised under the RC145099. Continuation of these vehicle movements will have no change in effects to what currently exists and for which any effects have been appropriately mitigated by the existing well-constructed heavy vehicle access. Heavy vehicle movements can be accommodated by the arterial road that the vehicles use for access.
- There is sufficient space on site for carparking, and ample metalled areas to accommodate additional carparking demands as needed. The parking and circulation aisles are of sufficient dimensions to enable all vehicles to manoeuvre internally and to enter and exit the quarry in a forward manner.

58. Overall, the Applicant's assessment considered that the transportation effects would be negligible, and that the effects associated with the proposed activity on the transportation network would be indiscernible from the current vehicle movements from the site.
59. The transportation aspects of the proposal were considered by Mr Walter Smith, the Council's Development Engineer, who confirmed that no matters of concern had been identified. I therefore rely upon the applicant's transport assessment and consider that any transport related effects will be less than minor.

Ecological Effects

60. The application notes that the terrestrial vegetation on the site predominantly consists of exotic species, being shelter belts and pasture, none of which are protected under the relevant planning documents. I agree with this assessment, and overall I agree with the application that therefore, any effects on terrestrial ecology values from quarrying within the extension area will be negligible.

Cultural Effects

61. The application has been reviewed by Mahaanui on-behalf of Te Ngāi Tūāhuriri Rūnanga and Te Taumutu Rūnanga. Mahaanui have provided a Cultural Advice Report (CAR) that is based on consultation with Kaitiaki representatives and informed by the Mahaanui Iwi Management Plan 2013 (the IMP). The CAR details that the following cultural matters were considered:

- Ranginui – discharges to air;
- Wai Māori – impacts on water;
- Papatūānuku – soils, earthworks, contaminated land and mining;
- Tāne Mahuta - indigenous biodiversity; and
- Ngā Tūtohu Whenua - wāhi tapu or wāhi taonga.

62. Mahaanui advise that if the requested consent conditions are provided for, the Rūnanga will not consider themselves to be an adversely affected party, the requested conditions being:

1. *The quarrying land use consent must not exceed 15 years in duration as a temporary activity.*
2. *The water permit must expire on or before 31 January 2035.*
3. *A minimum separation of at least one metre between the highest groundwater level and the bottom of the quarry floor must be maintained.*
4. *All fill used on site must be class 5 cleanfill.*
5. *An accidental discovery protocol for contaminated soils must be implemented on site.*
 - a. *Contaminated materials must not be re-used on site.*
 - b. *Contaminated materials must be removed from site and disposed of at an appropriate facility.*
6. *Indigenous planting is required to mitigate the impacts of quarrying, enhance the cultural landscape, increase indigenous habitat, filter sediment and sequester carbon.*
 - a. *All permanent bunds on site must be vegetated with indigenous species.*
7. *The site must be rehabilitated and naturalised with indigenous species upon completion, and landscaping for the quarry rehabilitation must use exclusively indigenous species to establish a natural cultural landscape.*
8. *An Accidental Discovery Protocol (ADP) must be in place during all earthworks and extraction activities to deal with archaeological finds and protect the interests of mana whenua. This condition does not constitute a response under the Heritage New Zealand Pouhere Taonga Act (HNZPT 2014).*

9. *Dust produced from all quarrying activities must not cause nuisance outside of the property boundary. If anyone outside of the property boundary becomes adversely effected by dust produced, then all work must cease immediately until appropriate mitigation methods are implemented.*
10. *A stringent erosion and sediment control plan must be adhered to during all earthworks. This plan must be inspected and maintained in accordance with Environment Canterbury's Erosion and Sediment Control Toolbox.*
- a. All contractors working on site must be made aware of these measures and strictly adhere to them.
- b. Where measures prove to be inadequate, works must cease until appropriate and effective measures are in place.

63. The Applicant has advised that in general they support the conditions requested by the Rūnanga, but note that that:

- Conditions 1 and 4 are inconsistent with what consent is sought for;
- Condition 7 is contrary to what can be provided for as a permitted activity; and
- Condition 10 is not relevant in the current context.

64. The Applicant has generally agreed with the conditions requested by mana whenua, but is not in total agreement with some, and these directly relate to cultural effects identified in the CAR. Given this, and given that mana whenua have indicated that they consider themselves to be affected parties if not all of the conditions are accepted I consider that the proposal has the potential for minor cultural effects and that the Rūnanga are therefore affected parties.

Contamination Effects

65. As identified earlier, no excavation activity is to be undertaken on the part of the site that has been identified as a HAIL site, and the NES:CS is not relevant.

Soil Productivity

66. As identified in the AEE, the area to be quarried has a land use capability classification of LUC3 which is considered highly productive land in the context of the National Policy Statement for Highly Productive land (NPS-HPL). Accordingly, the application included an Agricultural Productivity Assessment (APA) by Agri Intel to assess the current and potential productive capability of the land, considering relevant NPS-HPL factors from a productivity perspective, in accordance with clause 3.10 of the NPS-HPL.

67. Clause 3.10 of the NPS-HPL sets out exemptions for highly productive land subject to permanent or long-term constraints, allowing highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9.

68. The applicant's APA outlines that the three tests of Clause 3.10(1) on the NPS-HPL are satisfied by this proposal, and confirms that in accordance with Clause 3.10(1)(a) there are permanent or long-term constraints on the land that means the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years.

69. Rural Consulting Limited was engaged by Selwyn District Council (SDC) to undertake a peer review of the Applicant's agricultural productivity assessment. This review confirmed that overall, the Agricultural Productivity Assessment provides a "well-structured and largely convincing argument that the site is subject to permanent or long-term constraints that preclude economically viable land-based primary production. In my professional opinion the assessment demonstrates that the consent application RC245566 meets the requirements of Clause 3.10(a) of the NPS-HPL".

70. On this basis, I conclude that there will be less than minor effects on soil productivity.

Cumulative effects

71. I agree with the applicant that the proposed extraction rates and vehicle movements will not increase beyond those that presently exist, and accordingly the scale and intensity of the quarry will generally remain the same throughout its life despite progressing through the expansion area. I therefore agree that the various mitigation measures proposed will ensure that any cumulative effects of the proposal will be less minor.

Positive Effects

72. Positive effects are not relevant to the consideration of notification.

Public Notification (Section 95A)

73. Section 95A states that a consent authority must follow the steps in the order given to determine whether to publicly notify an application for resource consent.

Step 1: mandatory public notification in certain circumstances (sections 95A(2) and 95A(3))	Y	N
Has the applicant requested that the application be publicly notified?	<input type="checkbox"/>	✓
Is public notification required under section 95C (no response or refusal to provide information or agree to the commissioning of a report under section 92)?	<input type="checkbox"/>	✓
Has the application has been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	<input type="checkbox"/>	✓

If the answer to any of the above criteria is yes, the application must be **publicly notified**, and no further Steps are necessary.

If the answer is no, continue to **Step 2**.

Step 2: public notification precluded in certain circumstances (sections 95A(4) and 95A(5))	Y	N
Are all activities in the application subject to one or more rules or national environmental standards that preclude public notification?	<input type="checkbox"/>	✓
Is the application for one or more of the following, but no other types of activities:		
• A controlled activity?	<input type="checkbox"/>	✓
• A boundary activity only (as per the definition of "boundary activity" in s 87AAB of the Act)?	<input type="checkbox"/>	✓

If the answer to any of the above criteria is yes, continue to **Step 4**.

If the answer is no, continue to **Step 3**.

Step 3: public notification required in certain circumstances (sections 95A(7) and 95A(8))	Y	N
Is the activity subject to a rule or national environmental standard that requires public notification?	<input type="checkbox"/>	✓
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor?	<input type="checkbox"/>	✓

If the answer to any of the above criteria is yes, the application must be **publicly notified**, and no further Steps are necessary.

If the answer is no, continue to **Step 4**.

Step 4: public notification in special circumstances (section 95A(9))	Y	N
Do special circumstances exist in relation to the application that warrant public notification?	<input type="checkbox"/>	✓

If the answer is yes, the application must be **publicly notified**.

If the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application.

74. In conclusion, in accordance with the provisions of section 95A, the application must not be publicly notified and a determination on limited notification must be made, as follows.

Limited Notification (Section 95B)

75. Section 95B states that a consent authority must follow the steps in the order given to determine whether to give limited notification of an application for resource consent, if it is not publicly notified under section 95A.

Step 1: certain affected groups and affected persons must be notified (sections 95B(1)-(4))	Y	N
Are there any affected protected customary rights groups, as defined in s 95F?	<input type="checkbox"/>	✓
Are there any affected customary marine title groups, as defined in s 95G (in the case of an application for a resource consent for an accommodated activity (as defined in the Act))?	<input type="checkbox"/>	✓
Is the proposed activity on or adjacent to, or may it affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and is the person to whom that statutory acknowledgement is made an affected person under s 95E?	<input type="checkbox"/>	✓

If the answer is yes, **notify the application to each affected group/person** and continue to Step 2.

If the answer is no, continue to **Step 2**.

Step 2: limited notification precluded in certain circumstances (sections 95B(5) and 95B(6))	Y	N
Are all activities in the application subject to one or more rules or national environmental standards that preclude limited notification?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the application for a controlled activity only and not a subdivision of land?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If the answer is yes, continue to **Step 4**.

If the answer is no, continue to **Step 3**.

Step 3: certain other affected persons must be notified (sections 95B(7)-(9))	Y	N
In the case of a "boundary activity", is an owner of an allotment with an infringed boundary an affected person?	<input type="checkbox"/>	<input type="checkbox"/>
For any other activity, are there any affected persons in accordance with section 95E of the Act (as assessed in the Assessment of Adverse Environmental Effects above)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is yes, **notify the application to each affected person** and continue to **Step 4**.

If the answer is no, continue to **Step 4**.

Step 4 – Limited notification in special circumstances	Y	N
Do any special circumstances exist in relation to the application that warrant notification to any other persons not already determined to be eligible for limited notification (excludes persons assessed under section 95E as not being affected)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If the answer is yes, **notify the application to those persons**.


If the answer is no, do not notify anyone else.

76. In conclusion, in accordance with the provisions of section 95B, the application must be limited notified. As concluded above in the Assessment of Effects on the Environment the following are affected persons; therefore, they must be served notice (in no particular order):

58 Selwyn Road	Lot 1 DP DP52445
74 Selwyn Road	Lot 2 DP DP52445
90 Selwyn Road	Lot 3 DP20781
104 Selwyn Road	Lot 2 DP 20781
108 Selwyn Road	Lot 1 DP20781
660 Robinsons Road	Lot 1 DP 24369
663 Robinsons Road	Lot 2 DP 72127
679 Robinsons Road	Lot 1 DP72378
Te Ngāi Tuahuriri Rūnanga and Te Taumutu Rūnanga (via Mahaanui Kurataiao Ltd).	

Notification Recommendation

77. I recommend that the applications RC245566, RC245567 and RC245568 is processed on a **limited notified** basis to the parties identified above, in accordance with sections 95A-E of the Resource Management Act 1991.

Report by:  Andrew Henderson, Consultant Planner	Date: 5 December 2024
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Notification Decision

78. For the reasons set out in the report above, the Notification Recommendation is adopted under delegated authority.

 Commissioner O'Connell	Date: 10 December 2024
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