

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2024] NZEnvC 105

IN THE MATTER of the Resource Management Act 1991

AND an appeal under s120 of the Act

BETWEEN CAPIL GROVE LIMITED

(ENV-2023-CHC-094)

Appellant

AND SOUTHLAND REGIONAL
COUNCIL

Respondent

Environment Judge K G Reid – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Determination: 10 May 2024

CONSENT DETERMINATION

A: Under s279(1)(b) of the RMA,¹ the Environment Court, by consent, orders that:

- (1) the following resource consents are granted subject to the conditions set out in Appendices A–D attached to and forming part of this determination:

¹ Resource Management Act 1991.



- (a) a discharge permit to discharge agricultural effluent to land from milking up to 640 cows and housing up to 840 cows in winter barns (AUTH-20222055-01);
 - (b) a water permit to take up to 85,800 litres per day of groundwater and use it for stock drinking and dairy shed use (AUTH-20222055-02);
 - (c) a land use consent to use land for two winter barns to accommodate up to 840 cows (AUTH-20222055-03); and
 - (d) a second land use consent to authorise the use of land for dairy farming (that is, the dairy farm conversion) (AUTH-20222055-04); and
- (2) the appeal is otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal against a decision refusing Capil Grove Limited's (CGL) application for resource consents to establish a new dairy farm at 444 Springhills-Tussock Creek Road, Springhills, Southland (the Property).

Application

[2] On 5 April 2022, CGL applied to the Council for resource consents to establish a new dairy farm at the Property consisting of:

- (a) a discharge permit to discharge agricultural effluent to land from milking up to 640 cows and housing up to 840 cows in winter barns (APP-20222055-01);
- (b) a water permit to take up to 85,800 litres per day of groundwater and use it for stock drinking and dairy shed use (AP-20222055-02);

- (c) a land use consent to use land for two winter barns to accommodate up to 840 cows (APP-20222055-03); and
- (d) a second land use consent to authorise the use of land for dairy farming (that is, the dairy farm conversion) (APP-20222055-04).

(together, the Application)

[3] The Property has an existing wintering barn and milking shed that was used for milking sheep. CGL proposes to utilise these with some modifications for the proposed milking cow operation, with investment in an additional wintering barn, effluent storage facilities and water supply. The proposal is to milk up to 640 cows on the property, with up to an additional 200 cows on the property over winter. The proposed additional wintering barn, combined with the existing barn, will provide capacity for 840 cows.

The Council's decision

[4] The Application was refused by Southland Regional Council (the Council) on 25 August 2023.

[5] In summary, the Council's reasons for refusing the Application were that:

- (a) it was not satisfied that the proposed dairy conversion would not result in an increase in contaminant loads and concentrations in the catchment when compared to the baseline scenario; and
- (b) accordingly, it considered the Application did not meet the requirements of Regulation 24 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-FM) or the proposed Southland Water and Land Plan (pSWLP).

Appeal

[6] CGL appealed the decision to refuse the Application on 15 September 2023. The reasons for the appeal, as set out in the notice of appeal, included that CGL considered:

- (a) any adverse effects on the environment of allowing the Application would be appropriately avoided, remedied, or mitigated by conditions and other measures proposed by CGL;
- (b) any adverse effects on the environment would be less than those that occur in the baseline environment;
- (c) the Council made factual errors which were material to its reasoning, particularly in erroneously finding that the effects of tile drains on nutrient transport were not taken into account in the OverseerFM modelling for the Application; and
- (d) the Council made findings that it could not reasonably make on the evidence before it, particularly in respect of:
 - (i) the weight that should be given to the OverseerFM modelling for the Application;
 - (ii) the nature and extent of nutrient losses that would result from the Application compared to the baseline scenario; and
 - (iii) the efficacy of the mitigation proposed by CGL.

[7] No person has given notice of an intention to become a party under s274 of the Act.

Mediation and subsequent narrowing of issues

[8] The parties attended court-facilitated mediation on 30 January 2024 and filed a Mediation Agreement with the court on 31 January 2024.

[9] The parties significantly narrowed the matters in contention and agreed to a timetable for exchanging information with the aim of narrowing and resolving

the outstanding issues.

[10] Subsequent to mediation:

- (a) CGL provided the Council with technical memoranda, respectively addressing:
 - (i) the consideration of tile drains in the OverseerFM; and
 - (ii) the risk of nutrient accumulation in soils in dry periods (and the potential for loss following high rainfall events); and
- (b) the parties engaged on condition drafting matters.

Agreement reached

[11] The parties have now resolved all outstanding issues, including in relation to condition drafting.

[12] The parties agree that the proposed conditions are now more robust, certain, and enforceable.

[13] The substantive changes to conditions (compared to the conditions proffered by CGL prior to the Council Decision) relate to:

- (a) increased specificity in respect of the average hours per month during which cows may be present on paddocks at different times of the year;²
- (b) setting out a process for developing a farm specific soil moisture trigger, which is then tied to restrictions on grazing activities;³ and
- (c) bringing forward the date by which construction of sediment traps and detention bunds must be completed.⁴

² Condition 35 to Land Use Consent AUTH-20222055.

³ Conditions 36-39 Land Use Consent AUTH-20222055.

⁴ Conditions 27 and 28 to Land Use Consent AUTH-20222055.

- [14] The parties agree that with the conditions proposed, the Application:
- (a) will not result in an increase in contaminant loads and concentrations in the catchment when compared to the baseline scenario; and
 - (b) the requirements of the relevant planning framework are met by the Application, including in respect of Regulation 24 of the NES-FM and the pSWLP.

Consideration

[15] I have read and considered the consent memorandum of the parties dated 3 May 2024 which proposes to resolve the appeal.

[16] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[17] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



K G Reid
Environment Judge



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Discharge Permit

Under Section 104B of the Resource Management Act 1991, a resource consent is granted by the Southland Regional Council to **Capil Grove Limited** of **27 Capil Road, RD 2, Invercargill 9872** from **Date Consent Granted**.

Please read this Consent carefully, and ensure that any staff or contractors carrying out activities under this Consent on your behalf are aware of all the conditions of the Consent.

Details of Permit

Purpose for which permit is granted:	To discharge agricultural effluent to land from up to 640 cows via low rate pod system and slurry tanker
Location	<ul style="list-style-type: none"> - site locality 444 Springhills Tussock Creek Road - map reference NZTM2000 1250581E 4872599N - physiographic zones Gleyed, Bedrock/Hill Country and Peat Wetlands - groundwater zone Makarewa - catchment Makarewa River - FMU Oreti
Legal description of land at the site:	Part Lot 2 DP 2005, Lot 1 DP 12811, Section 298 Forest Hill HUN, Lot 2 DP 13790, Section 517 Forest Hill HUN, Lot 3 DP 13790 and Lot 1 DP 13793
Expiry date:	30 December 2030

Schedule of Conditions

General conditions

1. This resource consent shall not be exercised until Discharge Permit AUTH-20211143-02 is surrendered or has expired.
2. This consent shall be exercised in conjunction with Land Use Consent AUTH-20222055-04 and Land Use Consent AUTH-20222554.

3. This consent authorises the discharge of dairy shed effluent, wintering barn effluent and silage pad effluent (“agricultural effluent”) onto land, via a land disposal system consisting of a stone trap, sump, weeping wall and sludge bed, winter barn weeping wall, winter barn sump 1 and sump 2 and two synthetically lined effluent storage ponds to low rate pods and slurry tanker, as described in the application (APP-20222055) for resource consent dated 5 April 2022¹, additional application dated 27 April 2022², additional AEE dated 27 April 2022³ and additional information responses dated 6 September 2022 and 17 September 2022⁴. The activity shall be limited to:
- (a) the discharge to land of agricultural effluent generated from milking of up to 640 cows up to twice per day;
 - (b) the discharge to land of agricultural effluent via a low rate pod system and a high rate slurry tanker;
 - (c) the discharge of agricultural effluent to an area of 272 hectares, as per the plan attached as Appendix 1;
 - (d) the discharge of effluent from a silage storage facility no larger than 900 m²;
 - (e) the discharge to land of winter barn effluent generated from the use of two winter barns for housing up to 840 cows.

Advice Note: Routine monitoring inspections of this consent may occur up to two times a year. This number does not include any other required inspections.

4. No cows shall be milked in accordance with this consent until the effluent storage capacity specified in condition 17 has been completed as per Land Use Consent AUTH-20222554.
5. Notwithstanding these conditions, this permit shall be exercised in accordance with the Collected Agricultural Effluent Management Plan. Where there is inconsistency between the Collected Agricultural Effluent Management Plan and the conditions of this consent, the conditions of this consent shall prevail.
6. The agricultural effluent discharge shall not exceed:
- (a) a depth of application of 25 millimetres for each individual application, and an instantaneous rate of 10 millimetres per hour via a low rate pod system on Category A land;
 - (b) a depth of application of 10 millimetres for each individual application, and an instantaneous rate of 10 millimetres per hour via a low rate pod system on Category C land;
 - (c) a depth of application of 5 millimetres for each individual application via slurry tanker on Category A land.
7. The minimum return period for the discharge of agricultural effluent to land shall be 28 days.
8. The agricultural effluent discharge shall not occur when the moisture content of the soils is at or above field capacity.
9. Nitrogen loading onto any land area as a result of the exercise of this consent shall not exceed 150 kilograms of nitrogen per hectare per year.

¹ Environment Southland Document ID: A763106

² Environment Southland Document ID: A768436

³ Environment Southland Document ID: A768442

⁴ Environment Southland Document ID: A829931 and A833784

Exclusions

10. This consent does not authorise the discharge of:
 - (a) effluent collected by a feed pad, stand-off pad, calving pad or underpass; and
 - (b) agricultural effluent via high rate slurry tanker on Category C land (see Appendix 1).
11. No agricultural effluent discharge shall occur between 1 June and 31 August each year.
12. No agricultural effluent discharge shall occur within:
 - (a) 20 metres of any surface watercourse or wetland;
 - (b) 100 metres of any water abstraction point;
 - (c) 200 metres of any place of assembly or dwelling not on the subject property; and
 - (d) 20 metres from any property boundaries.

Where there is inconsistency between the plan attached as Appendix 1 and the conditions of this consent, the conditions of this consent shall prevail.

13. The stored or discharged agricultural effluent shall not enter any surface watercourse in any way, including:
 - (a) directly;
 - (b) indirectly;
 - (c) by overland flow;
 - (d) via entrainment by stormwater or run-off; or
 - (e) via a pipe.
14. The stored or discharged agricultural effluent shall not:
 - (a) form ponds or flow on the land surface, or
 - (b) cause contamination of water.
15. The stored or discharged agricultural effluent shall not cause any odour beyond the boundary of the site (see Appendix 1) that is offensive or objectionable in the opinion of the Council's Compliance Officer.
16. Spray drift beyond the boundary of the site shall not occur.

Effluent storage

17. The agricultural effluent discharge shall occur via agricultural effluent storage facilities with more than 18,180 cubic metres capacity.
18. The Consent Holder must maintain at least 500 mm of freeboard in the agricultural effluent storage facility at all times.

System management

19. The Consent Holder shall notify the Consent Authority the identity of the Person in Charge of the agricultural effluent disposal system:
 - (a) prior to the first exercise of this consent; and
 - (b) no more than five working days following the appointment of any new Person in Charge.

20. The Consent Holder shall install and maintain:
 - (a) an operational alarm that alerts the Person in Charge to any system failure that could cause the over-application, overflow or spilling of agricultural effluent (e.g. sudden pressure drop, irrigator stoppage); and/or
 - (b) an operational automatic switch-off system that prevents any over-application or spilling of agricultural effluent.

21. Where the agricultural effluent reticulation system is installed in such a way that effluent can be siphoned when pumping ceases, the Consent Holder shall install and maintain an anti-siphon device in the agricultural effluent pipeline.

22. In the event of the failure or mismanagement of the agricultural effluent disposal system, or any other event that may result in a discharge of agricultural effluent that may have significant adverse effect on water quality, particularly in the region of the abstraction point of a registered drinking-water supply, the Consent Holder shall notify, as soon as reasonably practicable, the following:
 - (a) the Consent Authority (ph 03 211 5115 or 03 211 5225 after hours); and
 - (b) Southland District Council (ph 0800 732 732).

Collected Agricultural Effluent Management Plan

23. Prior to the first exercise of this consent, the Consent Holder shall prepare and submit to the Consent Authority a Collected Agricultural Effluent Management Plan. The Collected Agricultural Effluent Management Plan shall:
 - (a) provide concise and clear direction to the Person in Charge and other staff on the operation of the agricultural effluent system;
 - (b) identify environmental risks of agricultural effluent discharges specific to the farm including, but not limited to, locations of drains, surface waterways, sub-surface drainage and critical source areas in the agricultural effluent disposal area;
 - (c) identify how the above environmental risks are avoided;
 - (d) describe how each component of the agricultural effluent system is maintained and have regard to the information provided in the pond storage calculations provided in the application;
 - (e) describe how agricultural effluent in storage is managed;
 - (f) describe how agricultural effluent is managed when soils are at or above field capacity and/or during adverse weather conditions; and
 - (g) describe how the stormwater diversion on the system is set up and managed.

24. Annually or more frequently, the Collected Agricultural Effluent Management Plan shall be reviewed and the outcome of the review provided to the Consent Authority within one month.
25. If amended at any time, the most recent version of the Collected Agricultural Effluent Management Plan shall be provided to the Consent Authority within one month of the amendment.

Advice note: *The Collected Agricultural Effluent Management Plan required by Condition 23 may be incorporated into the Farm Environmental Management Plan required by AUTH-20222055-04, and prepared in accordance with Appendix N, of the proposed Southland Water and Land Plan (Decisions Version) (or any updated version of the plan).*

Monitoring

26. The Consent holder shall:
 - (a) develop a surface water monitoring programme, specifying the circumstances when and where surface water samples are to be taken, and submit it to the Consent Authority. At a minimum, the programme shall require that:
 - i. the Consent Holder take surface water samples at least twice each year during periods when effluent is discharged in accordance with this consent to the areas upstream of SW d/s 1;
 - ii. The minimum two sample events shall be separated by at least thirty days.

Note: this does not prevent the consent holder from taking more samples.

- (b) water samples shall be taken at a minimum of three sites including:
 - i. SW u/s 1 – upstream at or about NZTM2000 1249720E 4872470N;
 - ii. SW u/s 2 – upstream at or about NZTM2000 1251033E 4873268N;
 - iii. SW d/s 1 – downstream at or about NZTM2000 1251356E 4872264N.

These locations are shown in Appendix 2.

27. Water samples shall be collected for analysis from the locations in condition 26 and sampled for:
 - (a) Biochemical oxygen demand;
 - (b) Total suspended solids;
 - (c) Total phosphorus;
 - (d) Dissolved reactive phosphorus;
 - (e) Total nitrogen;
 - (f) Ammoniacal nitrogen;
 - (g) *E. coli*;
 - (h) Temperature;
 - (i) Dissolved oxygen; and
 - (j) pH.
28. Sample collection, preservation and analysis shall be carried out by a suitably qualified person in accordance with the most recent edition of APHA “*Standard Methods for the Examination of Water and Wastewater*”;
29. The analyses must be carried out by a laboratory with IANZ accreditation, or equivalent, for all laboratory analyses.

(a) except that the temperature and dissolved oxygen measurements may be determined in the field using calibrated meters.

30. The result of analyses shall be recorded within the Consent Holders Farm Environmental Management Plan. The results of monitoring shall be made available to the Consent Authority on request.

Review of consent

31. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent during the period 1 February to 30 September each year, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, for the purposes of:

- (a) determining whether the conditions of this permit are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit;
- (b) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or the Environment Southland Regional Policy Statement;
- (c) amending the monitoring programme to be undertaken;
- (d) adding or adjusting compliance limits;
- (e) ensuring the Ōreti Freshwater Management Unit meets the freshwater objectives and freshwater quality limits set in an operative regional plan or National Policy Statement for Freshwater Management; and
- (f) Requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment arising as a result of the exercise of this permit.

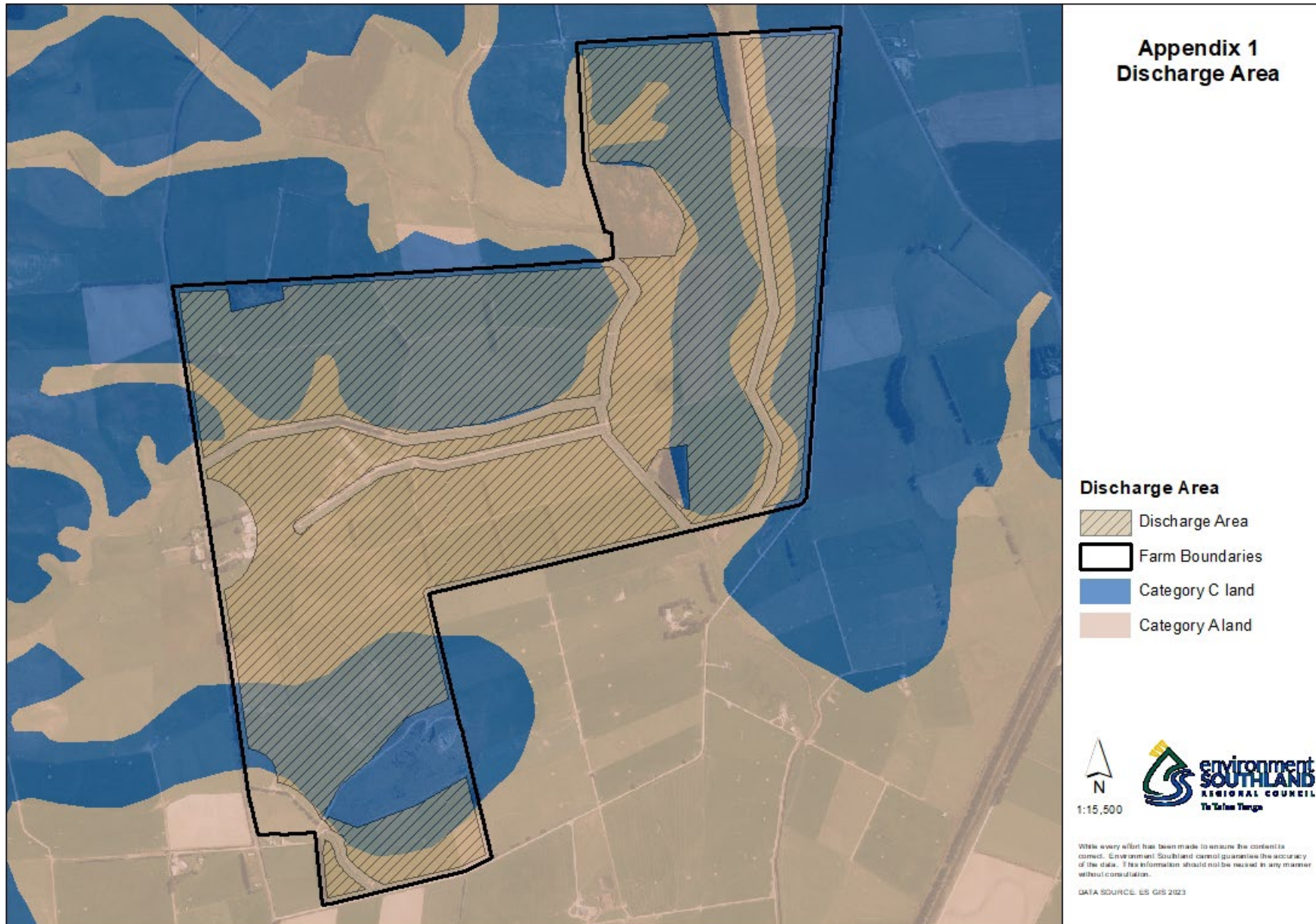
for the **Southland Regional Council**

[Signature]

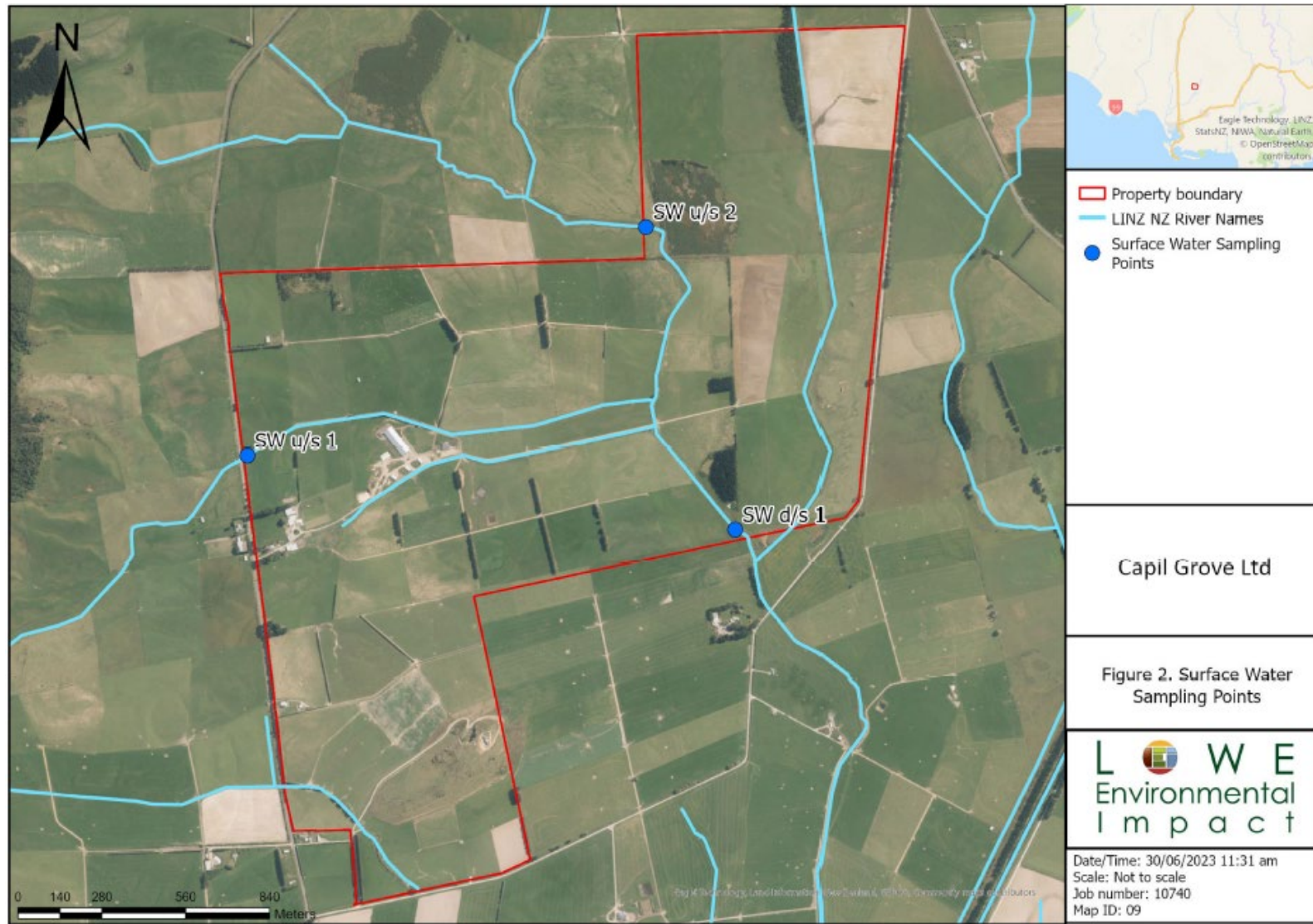
Decision maker

Notes:

1. *The Consent Holder shall pay an annual administration and monitoring charge to the Consent Authority, collected in accordance with Section 36 of the Resource Management Act, 1991, payable in advance on 1 July each year.*
2. *In accordance with Section 125(1)(a) of the Resource Management Act, this consent will lapse after a period of five years after the date of commencement unless it is given effect to or an application is made to extend the lapse period before the consent lapses.*
3. *In accordance with section 126 of the Resource Management Act, 1991, this consent may be cancelled by the Consent Authority if not exercised for a continuous period of five years or more.*
4. *The Consent Holder is reminded that they may apply at any time under Section 127 of the Act to have any condition of this consent changed except that which specifies the expiry date of this consent.*
5. *If you require a replacement permit upon the expiry date of this permit, any new application should be lodged at least six months prior to the expiry date of this permit. Applying at least six months before the expiry date may enable you to continue to exercise this permit until a decision is made, and any appeals are resolved, on the replacement application.*
6. *Dairy shed effluent should not be discharged onto any land area that has been grazed within the previous 5-10 days. Where there has been significant damage to soil during grazing, it is recommended that effluent not be applied until that damage has been repaired.*
7. *Measuring the moisture content of the soil to determine when the soils are at or above field capacity can be done by either actual monitoring on site or by reference to the appropriate Council monitoring site. The Council's soil moisture monitoring sites can be viewed at <http://maps.es.govt.nz/> and following the "Soil Moisture Map" link.*
8. *Ponding is the accumulation of effluent on the soil surface resulting from the application of effluent to saturated soils, or the application of effluent inducing saturated soil conditions.*
9. *Extreme caution should be taken when applying nitrogen fertiliser to the effluent disposal area. It is recommended that a nutrient budget is used to check that nitrogen and potassium application rates to the effluent disposal area are not excessive.*
10. *The Consent Holder should display, in a prominent place in the dairy shed, a copy of the resource consent and relevant limits about the operation of the effluent disposal system that must be complied with.*
11. *Storage systems should be operated at low levels when conditions for effluent disposal are suitable in order to maintain storage for wet weather periods. In particular, storage systems should be emptied in late summer/early autumn to ensure sufficient storage capacity for the following late winter/early spring period.*



Appendix 2: Surface Water Monitoring locations





Cnr North Road and Price Street
(Private Bag 90116
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Invercargill

Telephone (03) 211 5115
Fax No. (03) 211 5252
Southland Freephone No. 0800 76 88 45

Water Permit

Under Section 104B of the Resource Management Act 1991, a resource consent is granted by the Southland Regional Council to **Capil Grove Limited** of **27 Capil Road, RD 2, Invercargill 9872** from **Date Consent Granted**.

Please read this Consent carefully, and ensure that any staff or contractors carrying out activities under this Consent on your behalf are aware of all the conditions of the Consent.

Details of Permit

Purpose for which permit is granted: To take and use groundwater for the purpose of stock drinking and dairy shed washdown

Location - site locality 444 Springhills Tussock Creek Road
- map reference NZTM2000 1250135E 4871243N
- groundwater zone Makarewa
- catchment Makarewa River

Legal description of land at the site: Lot 2 DP 13790

Expiry date: **30 December 2030**

Schedule of Conditions

1. This permit authorises the taking of groundwater at the location specified above. The rate of abstraction shall not exceed:
 - (a) 2 litres per second;
 - (b) 85,800 litres per day; and
 - (c) 21,834,000 litres per year.

Advice Note

The Consent Holder must ensure that the bore that water abstraction occurs from can meet the following conditions:

The bore or well design and headwork's prevent:

- (i) the infiltration of contaminants; and*
- (ii) the uncontrolled discharge or leakage of water to the ground surface or between aquifers.*

Should the bore not meet the above conditions, the Consent Holder shall apply to the Consent Authority for a Resource Consent for the use and maintenance of the bore.

2. Prior to the first exercise of this consent, the Consent Holder shall install a backflow prevention device or take other appropriate measures to ensure water and/or contaminants cannot return to the water source.

3.
 - (a) Prior to the first exercise of this consent, the Consent Holder shall install a water meter to record the water take, within an error accuracy range of +/-5% over the meter's nominal flow range. The Consent Holder shall forward a copy of the installation certificate to the Consent Authority within one month of installing the water meter.

 - (b) The water meter shall be installed in a straight length of pipe, before any diversion of water occurs. The straight length of pipe shall be part of the pump outlet plumbing, easily accessible, have no fittings and obstructions in it. There shall be a straight length of pipe on either side of the water meter, on the upstream side there shall be a distance that is 10 times the diameter of the pipe and on the downstream side there shall be a distance of five times the diameter of the pipe.

 - (c) The Consent Holder shall ensure the full operation of the water meter at all times during the exercise of this consent. All malfunctions of the water meter during the exercise of this consent shall be reported to the Consent Authority within five working days of observation and appropriate repairs shall be performed within five working days. Once the malfunction has been remedied, a Water Measuring Device Verification Form completed with photographic evidence must be submitted to the Consent Authority within five working days of the completion of repairs.

 - (d)
 - (i) If a mechanical insert water meter is installed it shall be verified for accuracy each and every year from the first exercise of this consent.
 - (ii) Any electromagnetic or ultrasonic flow meter shall be verified for accuracy every five years from the first exercise of this consent.
 - (iii) Each verification shall be undertaken by a Consent Authority approved operator and a Water Measuring Device Verification Form shall be completed and supplied to the Consent Authority with receipts of service. These shall be supplied within five working days of the verification, and at any time upon request.

 - (e) The Consent Holder shall maintain a record of the total volume of water abstracted each month. The Consent Holder shall provide this record to the Consent Authority by 31 May each year and at any other time on request.

4. Prior to the exercise of this consent, the Consent Holder shall notify the Consent Authority of the person who is in charge of the operation this consent. If the person in charge changes during the term of this consent, the Consent Holder shall notify the Consent Authority of the new operator no later than five working days after that person takes responsibility.
5. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent during the period 1 February to 30 September each year, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, or on receiving monitoring results, for the purposes of:
 - (a) adjusting the consented rate or volume of water under Condition 2, should future changes in water use indicate that the consented rate or volume is not able to be fully utilised;
 - (b) determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
 - (c) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, National Policy Statement, Water Conservation Order, relevant plans and/or any relevant Regional Policy Statement; or
 - (d) adjusting or altering the method of water take data recording and transmission.

for the **Southland Regional Council**

Signature
Decision maker

Notes:

1. *In accordance with Section 125(1)(a) of the Resource Management Act, this consent shall lapse after a period of five years after the date of commencement unless it is given effect to or an application is made to extend the lapse period before the consent lapses.*
2. *Section 126 of the Resource Management Act provides for this resource consent to be cancelled if the consent has been exercised in the past but has not been exercised during the preceding five years.*
3. *If you require a replacement permit upon the expiry date of this permit, any new application should be lodged at least six months prior to the expiry date of this permit. Applying at least six months before the expiry date may enable you to continue to exercise this permit until a decision is made, and any appeals are resolved, on the replacement application.*
4. *The Consent Holder shall pay an administration charge to the Consent Authority collected in accordance with Section 36 of the Resource Management Act, payable in advance on 1 July each year.*



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Land Use Consent

Under Section 104B of the Resource Management Act 1991, a resource consent is granted by the Southland Regional Council to **Capil Grove Limited** of **27 Capil Road, RD 2, Invercargill 9872** from **Date Consent Granted**.

Please read this Consent carefully, and ensure that any staff or contractors carrying out activities under this Consent on your behalf are aware of all the conditions of the Consent.

Details of Consent

Purpose for which permit is granted: Use of land for two winter barns

Location	- groundwater zone	Makarewa
	- FMU	Oreti
	- physiographic zone	Gleyed
	- catchment	Makarewa River

Expiry date: 30 December 2030

Schedule of Conditions

- This consent shall not be exercised until Land Use Consent AUTH-20211143-03 has been surrendered or expires.
- This resource consent authorises the use of land for two winter barns as described in the application for resource consent dated 5 April 2022¹, additional application dated 27 April 2022², additional AEE dated 27 April 2022³ and additional information response dated 6 September 2022⁴. The activity shall be limited to:
 - the use of land for two winter barns for housing up to 840 cows between 1 May and 30 September (inclusive); and

¹ Environment Southland Document ID: A763106

² Environment Southland Document ID: A768440

³ Environment Southland Document ID: A768442

⁴ Environment Southland Document ID: A829931

(b) the use of the land for two winter barns for housing up to 640 cows at times of the year outside the period in (a) for duration controlled grazing and as provided for in the conditions of AUTH-20222055-04.

3. This consent shall be exercised in conjunction with Discharge Permit AUTH-20222055-01 (or any subsequent variation versions).

4. The winter barns shall be located as described in the table below:

Legal description	Part Lot 2 DP 2005
Map Reference of existing winter barn (NZTM 2000)	1250221E 4872531N
Property address	444 Springhills Tussock Creek Road

Legal description	Part Lot 2 DP 2005
Map Reference of new winter barn (NZTM 2000)	1250289E 4872287N
Property address	444 Springhills Tussock Creek Road

5. The new winter barn shall not be located within:

- (a) 50 metres of any surface watercourse;
- (b) 100 metres of any water abstraction point;
- (c) 200 metres of any place of assembly or dwelling not on the subject property;
- (d) 20 metres of any mapped tile drains; and
- (e) 20 metres from any property boundaries.

6. The existing winter barn shall be:

- (a) constructed with a strip drain along the northern boundary to capture effluent generated in the winter barn; and
- (b) constructed with a sealed, impermeable base and nibbed edges to prevent overland flow beyond the perimeter of the winter barn.

7. The new winter barns shall be:

- (a) constructed with a strip drain along the eastern boundary to capture effluent generated in the winter barn; and
- (b) constructed with a sealed, impermeable base and nibbed edges to prevent overland flow beyond the perimeter of the winter barn.

8. Liquid effluent generated in the winter barns shall be captured and/or scraped into the strip drain, weeping wall and ancillary collection sumps which are part of the effluent system authorised by Discharge Permit AUTH-20222055-01 and Land Use Consent AUTH-20222554.

9. This consent does not authorise the discharge of any liquid effluent or animal and vegetative waste produced as a result of the activity authorised by this consent being undertaken.

Advice Note: *The Consent Holder is reminded to consider management of:*

- (a) *the winter barn sludge and associated vegetative matter in accordance with Rule 38 of the Proposed Southland Water and Land Plan (Decisions Version) or any subsequent versions; and*
- (b) *the liquid effluent generated from the winter barns in accordance with the conditions of Discharge Permit AUTH-20222055-01 (or any subsequent variation versions).*

10. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent during the period 1 February to 30 September each year, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, or on receiving monitoring results, for the purposes of:
- (a) determining whether the conditions of this permit are adequate to deal with any adverse effect on the environment, including cumulative effects, which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit;
 - (b) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or the Environment Southland Regional Policy Statement; or
 - (c) ensuring the Ōreti Freshwater Management Unit meets the freshwater objectives and freshwater quality limits set in an operative regional plan or National Policy Statement for Freshwater Management.

for the **Southland Regional Council**

Signature

Decision maker

Notes

1. *In accordance with Section 125(1)(a) of the Resource Management Act, this consent shall lapse after a period of five years after the date of commencement unless it is given effect to or an application is made to extend the lapse period before the consent lapses.*
2. *The consent holder shall pay an annual administration and monitoring charge to the Consent Authority, collected in accordance with Section 36 of the Resource Management Act, 1991. This charge may include the costs of inspecting the site up to one time each year (or otherwise as set by the Consent Authority's Annual Plan).*



Cnr North Road and Price Street
(Private Bag 90116
DX XY20175)
Invercargill

Telephone (03) 211 5115
Fax No. (03) 211 5252
Southland Freephone No. 0800 76 88 45

Land Use Consent

Under Section 104B of the Resource Management Act 1991, a resource consent is granted by the Southland Regional Council to **Capil Grove Limited** of **27 Capil Road, RD 2, Invercargill 9872** from **Date Consent Granted**.

Please read this Consent carefully, and ensure that any staff or contractors carrying out activities under this Consent on your behalf are aware of all the conditions of the Consent.

Details of Consent

Purpose for which permit is granted: Use of land on a farm as dairy farm land

Location - groundwater zone Makarewa
- FMU Oreti
- physiographic zone Gleyed, Bedrock/Hill Country, Peat Wetlands
- catchment Makarewa River

Expiry date: **30 December 2030**

Schedule of Conditions

Association with other consents and underlying documents

1. This consent shall not be exercised until Land Use Consent AUTH-20211143-01 has been surrendered or expires.
2. Except as modified by conditions of resource consent, the activities authorised by this resource consent shall be carried out in general accordance with the application for resource consent (APP-20222055) and all subsequent information provided during the application and the Farm Environmental Management Plan required by this consent.
3. For the avoidance of doubt, in the event that any inconsistency between the conditions of resource consent and the information and plans, including the Farm Environmental Management Plan (FEMP), submitted as part of the application, the conditions of resource consent shall prevail.

4. This consent shall be exercised in conjunction with Discharge Permit AUTH-20222055-01, Water Permit AUTH-20222055-02, Land Use Consent AUTH-20222055-03, and Land Use Consent AUTH-20222554, or any subsequent replacement permits.

The authorised activity

5. The use of land for farming shall occur on the landholding at 444 Springhills Tussock Creek Road, Springhills, as shown on the plan attached as Appendix 1, and comprising of Part Lot 2 DP 2005, Lot 1 DP 12811, Section 298 Forest Hill HUN, Lot 2 DP 13790, Lot 1 DP 4795, Section 517 Forest Hill HUN, Lot 3 DP 13790 and Lot 1 DP 13793, at or about map reference NZTM2000 1249823E 4872356N.

Advice Note: Routine monitoring inspections of this consent may occur up to once a year. This number does not include any other required inspections.

6. The farming activities shall be limited as follows:
 - (a) a maximum milking herd of no more than 640 cows;
 - (b) a maximum winter milking herd of no more than 640 cows; and
 - (c) a maximum of no more than 200 additional cows wintered solely in the barn and not grazed at anytime on the farm.
7. The Consent Holder shall notify the Consent Authority the identity of the Person in Charge of the dairy farming activity:
 - (a) prior to the first exercise of this consent; and
 - (b) no more than five working days following the appointment of any new Person in Charge.

Exclusions

8. The Consent Holder shall not graze any young dairy stock, defined as between 4 and 20 months old, on any part of the landholding.
9. Cultivation shall not occur on any part of the landholding over 10 degrees slope unless as part of a pasture renewal programme.
10. Intensive winter grazing shall not occur on any part of the landholding.

Advice note: Intensive winter grazing is defined as the grazing of stock between May and September (inclusive) on forage crops (including brassica, beet and root vegetable crops), excluding pasture and cereal crops.

Nutrient Management

11. The Consent Holder shall implement a soil testing regime to determine the soil fertility status over the landholding and to develop fertiliser recommendations based on the soil testing results.
12. The Consent Holder shall maintain a record of their soil testing regime, soil testing results and fertiliser recommendations required by Condition 11 within the Farm Environmental Management Plan.
13. The Consent Holder shall:

- (a) manage the application of fertiliser in accordance with:
 - (i) The Code of Practice for Fertiliser Nutrient Management, Fertiliser Association of New Zealand, 2023; or
 - (ii) any subsequent updates;
- (b) not apply fertiliser:
 - (i) to land during the period 1 June - 31 July inclusive;
 - (ii) within 10 m of a surface water body;
 - (iii) within 10 m of any wetland boundary;
 - (iv) within 20 m of any bore;
 - (v) when soil temperature is at or below six degrees Celsius;
 - (vi) when soil moisture capacity is exceeded; and
 - (vii) directly to land within a riparian strip/margin.
- (c) not apply a combined loading of organic material and synthetic nitrogen fertiliser at a rate of more than 190 kg/ha/year on an individual hectare basis over the landholding.

14. The Consent Holder shall:

- (a) take representative soil samples at least once every two years and have those samples analysed for Olsen P by a laboratory with IANZ accreditation;
- (b) if Olsen P levels exceed a range of 24 - 30 the Consent Holder must reduce the amount of P fertiliser being applied to the landholding to ensure the risk of P loss is reduced; and
- (c) record the Olsen P results required by Condition 14(a) and any fertiliser reduction required by Condition 14(b) in their Farm Environmental Management Plan.

Nutrient Modelling

15. The Consent Holder must ensure that nitrogen and phosphorus losses to water from farming activities undertaken on the land are maintained at, or below the baseline contaminant loss rates of:

- (a) 28 kilograms per hectare per year nitrogen;
 - (i) as estimated by the four-year rolling average loss rates using OVERSEER FM[®] version 6.5.1 undertaken in accordance with the generally accepted best practice modelling including the applicable Best Practice Data Input Standards/Overseer FM User Guide.
- (b) 1.9 kilogram per hectare per year phosphorus;
 - (i) as estimated by the four-year rolling average loss rates using OVERSEERFM[®] version 6.5.1, undertaken in accordance with the generally accepted best practice modelling including the applicable Best Practice Data Input Standards/Overseer FM User Guide; and
 - (ii) information from published New Zealand and Overseas research to estimate the additional phosphorus loss mitigation, beyond that modelled in Overseer, that is likely to occur as a result of the mitigation being implemented in accordance with the FEMP required under this resource consent.

For the purposes of this resource consent, the four-year rolling average is defined as the average of the most recent four consecutive years' results starting from 1 July 2024.

16. Each and every year for the duration of this consent, using the current version of OverseerFM and in accordance with the generally accepted best practice modelling and the current Best Practice Data Input Standards, the Consent Holder shall:
 - (a) model the nitrogen and phosphorus loss rates for the previous year from 1 July to 30 June inclusive;
 - (b) calculate the four-year rolling average of nitrogen and phosphorus loss rates; and
 - (c) re-model the baseline contaminant loss rates specified in Condition 15 in the current version of Overseer.
17. The re-modelled baseline contaminant loss rates, modelled in accordance with Condition 16(c) shall supersede and replace the baseline contaminant loss rates specified in Condition 15.
18. A report must be provided to the Consent Authority by 30 September each year summarising the results of Overseer nitrogen and phosphorus loss modelling required by Condition 16. The report must include:
 - (a) a review of the Overseer input data to ensure that the annual nutrient budget reflects the farming system;
 - (b) an explanation of any differences between that nutrient budget and the annual nutrient budget of all previous years of farming undertaken under this consent;
 - (c) a comparison of the four-year rolling average nitrogen and phosphorus losses with the applicable baseline contaminant loss rates; and
 - (d) the names and summaries of the relevant qualifications and experience of the person(s) who prepared and (if relevant) reviewed the nutrient budget.
19. All nutrient loss modelling required by this consent must be undertaken by a person who is a Certified Nutrient Management Advisor (CNMA) under the Nutrient Management Advisor Certification Programme (NMACP).
20. The Consent Holder may use an alternative model that has been demonstrated to be equivalent to Overseer provided:
 - (a) the evidence to demonstrate equivalence is provided to the Consent Authority at least six months prior to submitting the relevant annual report as required by Condition 18; and
 - (b) the use of the alternative model is approved by the Chief Executive of the Consent Authority.

Mitigation Measures

➤ Waterways

21. Within 6 months from commencement of consent, the Consent Holder shall:
 - (a) Upgrade, and thereafter maintain, the existing dairy lanes to ensure they are contoured to direct any run-off onto vegetated areas so that lane run-off will not directly enter any surface water body; and
 - (b) Except for crossings of surface waterways, not construct any new dairy lanes that direct runoff towards or have a point of laneway runoff within 10 metres of a surface waterbody.
22. The Consent Holder must manage animal excreta to ensure it does not:
 - (a) accumulate on laneways;

- (b) accumulate in gateways;
- (c) accumulate in paddocks; or
- (d) result in the ponding, pooling, overland or lateral flow of any effluent or sludge beyond the dairy lane.

Management of critical source areas, including laneways and gateways shall be identified and described in the Farm Environmental Management Plan required by Condition 42

Advice note: *It is acknowledged that there will be excreta on laneways and around gates, and the consent holder must ensure there is no direct runoff to waterways.*

23. Prior to the exercise of this consent, and then every 12 months, the Consent Holder shall:
- (a) Inspect all bridges and culverts; and
 - (b) Based on inspections, and where necessary, the consent holder shall undertake improvements to the structures to ensure that there is no animal excreta runoff passing directly to surface water; and
 - (c) Records of the inspections shall be kept and made available to the Council upon request; and
 - (d) The methodology for inspections and record keeping shall be set out in the Farm Environmental Management Plan required by Condition 42.
24. The Consent Holder shall:
- (a) Replace any temporary fencing along surface water bodies with permanent fencing, protecting a buffer or riparian margin from the waterway of at least 3 metres, and shall provide written confirmation, along with date stamped photos, of the new fencing to the Consent Authority (EScompliance@es.govt.nz) by 1 July 2025.
 - (b) Establish the necessary infrastructure, including culverts and gateways, to achieve a minimum of a 3 m grazing setback alongside 3,000 m of farm drains at the locations described in Appendix 4.
25. The Consent holder shall prepare and implement a Riparian Planting Plan for the farm that is consistent with the details set out in Appendix 4.
- (a) The Riparian Planting Plan shall include the use of native plants, the size of the plants used and planting methodology used. Where possible, plants shall be eco-sourced.
 - (b) This plan shall be prepared within six months, and begin being implemented within 12 months, of the consent being granted and be incorporated into the Consent Holder's Farm Environmental Management Plan required by Condition 42.
 - (c) The Riparian Planting Plan shall be fully implemented within 24 months from commencement of consent.
 - (d) The plan required by this condition shall be provided to Te Ao Marama Inc. (office@tami.maori.nz).
26. The Riparian Planting Plan required by Condition 25 shall include, but not be limited to planting in the areas below:
- (a) at or about NZTM2000 1251311E 4872533N as per Appendix 3;
 - (b) at or about NZTM2000 1251127E 4873123N as per Appendix 3;
 - (c) at or about NZTM2000 1250830E 4872648N as per Appendix 3; and
 - (d) at or about NZTM2000 1250402E 4872564N as per Appendix 3.

➤ **Sediment controls**

27. The Consent Holder shall:
- (a) design and install sediment detention bunds that are consistent with the locations shown in Appendix 3 and the details set out in Appendix 4;
 - (b) construct at least one sediment detention bund within in the first summer season following the commencement of this consent;
 - (c) construct the remaining sediment detention bunds in the second summer season following the commencement of this consent; and
 - (d) manage and maintain the sediment detention bunds to ensure they operate as intended for the life of this consent as detailed in the Farm Environmental Management Plan required by Condition 42.
28. The Consent Holder shall:
- (a) design and install sediment traps that are consistent with the locations shown in Appendix 3 and the details set out in Appendix 4;
 - (b) construct at least one sediment trap in the first summer season following the commencement of this consent;
 - (c) construct a second and third sediment trap within in the second summer season following the commencement of this consent; and
 - (d) manage and maintain the sediment traps to ensure they operate as intended for the life of this consent as detailed in the Farm Environmental Management Plan required by Condition 42.
29. The Consent Holder shall provide written confirmation, along with date stamped photos, of the fully operational sediment control structure to the Consent Authority (EScompliance@es.govt.nz) by the first or second summer from commencement of consent.

Possible wetland area

30. No earthworks, drainage, or effluent discharge shall occur on the 'gorse block' at NZTM2000 1251190E 4873343N unless:
- (a) it has been confirmed in writing, by a suitably qualified wetland ecologist, in accordance with the Pasture Exclusion Assessment Methodology under the National Policy Statement for Freshwater Management 2020, that no part of the 'gorse block' is a 'natural inland wetland'; or
 - (b) the Consent Holder obtains necessary resource consents to undertake earthworks, drainage or effluent discharge activities within or in proximity to any area identified as 'natural inland wetland'.

A copy of the confirmation, with a description of the investigation and detail of the findings, and a map to confirm the relevant areas, is to be provided to the Consent Authority prior to commencement of any earthworks, drainage, or effluent discharge to, or within the relevant setbacks from, the 'gorse block'.

Cultivation

31. The Consent Holder shall utilise pasture species and available technologies that assist to reduce nutrient losses to water. Analysis of the suitability of available technologies shall be detailed in the Farm Environmental Management Plan required by Condition 42.

32. The Consent Holder shall cultivate:
- (a) with the contour of the land being used for cultivation and shall not cultivate up and down the slope; and
 - (b) no closer than 5 metres from the outer edge of any surface water body or natural wetland unless for the purpose of renewing or establishing pasture in accordance with Rule 25(b) of the Proposed Southland Water and Land Plan (Decisions Version), or any subsequent replacement versions.

Winter barns

33. The Consent Holder shall:
- (a) construct a new winter barn, as detailed in the application, at or about NZTM2000 1250289E 4872287N; and
 - (b) provide written confirmation, along with date stamped photos, of the fully operational winter barn to the Consent Authority (EScompliance@esgovt.nz) before accommodating any cows in the fully operational barn.
 - (c) Operation of the winter barn shall be in accordance with AUTH-20222055-03.
34. The Consent Holder shall not allow more than 330 milking cows on the property until the second winter barn is built, as detailed in condition 33 above.
35. The farm must be operated such that:
- (a) during the month of May the cows are not to be present on paddocks, including for the purpose of grazing, for more than an average of 8 hours per day;
 - (b) during the months of June and July the cows are not to be present on paddocks, including for the purpose of grazing, for more than an average of 6 hours per day over the months of June and July;
 - (c) during the month of August the cows are not to be present on paddocks, including for the purpose of grazing, for more than an average of 8 hours per day;
 - (d) these restrictions do not apply to cows being moved to and from the milking shed or cows that are required to be quarantined away from the winter barn to prevent contagious ailments from spreading.
36. Prior to the exercise of this consent the Consent Holder shall install and maintain telemetered soil moisture measuring equipment (Aquaflex or similar) in two locations. The location and installation details shall follow the Soil Water Measurement National Environmental Monitoring Standard (NEMS) best practice and be agreed with the Consent Authority (Manager Compliance), prior to its installation.
37. The soil moisture monitoring equipment (required by Condition 36) shall be calibrated in accordance with the manufacturers/installer's recommendations, and regularly maintained to ensure that it operates correctly. Records of both calibration and maintenance shall be kept and provided to the Consent Authority (Manager Compliance) upon request.
38. Within six months from the date of exercise of this consent, the Consent Holder shall provide a report from a Suitably Qualified Person which proposes a farm specific soil moisture trigger for the purposes of Condition 39. The farm specific soil moisture trigger shall be set at the soil moisture level at which grazing cows may result in increased soil structural damage and/or an increased risk of leaching and/or runoff from activities associated with grazing activities. The farm specific soil moisture trigger must be identified prior to the first winter after the milking of

cows commences on the property. This proposed trigger value along with the report shall be provided to the Consent Authority (Manager Compliance) for certification. The Consent Holder may review the trigger value (based on additional data gathered since the first report) and provide a further report to the Consent Authority for recertification and (if necessary) amendment of the trigger.

39. Should soil moisture at either of the farm's soil moisture monitoring sites be at or above the approved trigger identified in Condition 38 for a period of:
 - (a) more than 48 hours during the months of June and July, then the cows shall be held in the barn(s) for a minimum of 24 hours per day until soil moisture falls below the nominated trigger.
 - (b) more than 72 hours during the months of August to May, then the cows shall be held in the barn(s) for a minimum of 18 hours per day until soil moisture falls below the nominated trigger.
40. Records of the soil moisture from each location shall be kept and provided to the Council (Manager Compliance) upon request.
41. Daily use of the winter barn must be monitored by recording the number of cows and the number of hours spent in the barn. The records of winter barn use must be maintained and supplied to the Consent Authority upon request.

Farm Environmental Management Plan

42. The Consent Holder shall have and maintain a Farm Environmental Management Plan (FEMP) for the landholding. The FEMP shall, in accordance with Appendix N of (Decisions Version) the Southland Water and Land Plan (or any replacement Appendix in an updated version of the plan), demonstrate how the following outcomes are to be achieved:
 - (a) nutrients are used efficiently and nutrient loss to water is minimised;
 - (b) contaminant losses from critical source areas are reduced;
 - (c) cultivation is undertaken in a manner that minimises the movement of sediment and phosphorus to waterways;
 - (d) agricultural effluent and other discharges, including excreta, are managed in a way that first avoids the loss of contaminants to water and otherwise minimises loss of contaminants to water in situations where losses cannot be entirely avoided.
43. The FEMP required by Condition 42 shall also include, but not be limited to:
 - (a) A purpose statement detailing the intent of the FEMP and an overarching farm specific statement of intent as to how the environment shall be managed;
 - (b) a site map showing the location of critical source areas; physiographic zones; permanent or intermittent rivers, streams, lake, drains, ponds or wetlands; where known the location and depth of any subsurface drainage systems including outlets, riparian vegetation and fences adjacent to waterways and stock access points across waterways;
 - (c) identification of soil moisture monitoring devices and how they are used to influence farm management, including the need for cows to be housed in the barn and restricted from grazing close to waterways and to ensure that grazing only occurs during soil conditions that are unlikely to cause pugging and significant deformation that may reduce soil drainage and give rise to overland flow of contaminants..
 - (d) the use of duration-controlled grazing in the Autumn to reduce the animal urine input of nitrogen to the soil so that it matches plant growth to uptake and utilise the nitrogen.
 - (e) identification of the location, design and management of mitigation devices, including:
 - i) riparian planting, required by Conditions 25 & 26;

- ii) sediment detention bunds, required by Condition 27;
 - iii) sediment traps, required by Condition 28.
- (f) A copy of the Riparian Planting Plan, required by Condition 25, providing the location and management of riparian planting. Details on pest weed and animal controls and infill planting shall be included;
- (g) If a natural inland wetland is identified in accordance with Condition 30, then the details of that wetland and management shall be outlined in the FEMP, including stock exclusion, avoidance of effluent application and fencing proposed;
- (h) A methodology for identification of any tile drains on the property, and actions to:
 - i) avoid contaminants entering tile drains e.g. not applying wastewater over drains or grazing hard when wet;
 - ii) stop and capture discharges from tile drains should obvious signs of contamination develop e.g. plug the drain and pump out and return to a suitable discharge location such as the effluent ponds.
- (i) details of the implementation, inspections and maintenance of mitigation measures required by the conditions of this consent, including but not limited to the devices listed above, managing runoff around critical source areas such as races, gateways, bridges, culverts, water troughs and shelter planting;
- (j) the identification of cropping and planting regimes that have the potential to assist with reducing nutrient leaching and runoff. This should include the use of plant species such as plantain;
- (k) details of the implementation and maintenance of Good Management Practices, including adoption of changing industry good management practices. This includes where the implementation of these is to avoid, remedy or mitigate any farm specific environmental risks to water quality shown through any monitoring undertaken on the property voluntarily or as required by the conditions of this consent;
- (l) opportunities to enhance the monthly-based mitigation strategies used in OverseerFM with day to day decision making; and
- (m) a review of the data obtained from the monitoring undertaken in accordance with the Farm Environmental Management Plan and any changes made, or to be made, as a consequence of that monitoring.

Advice Note: *Should the use of a Freshwater Farm Plan be required or available, on the basis that it is certified under Section 217G of the Resource Management Act 1991 (as amended from time to time in accordance with Section 217E(2) or (3)) and available for use, the Consent Holder may elect to use such plan.*

44. The FEMP shall be reviewed at least once each milking season and can be modified at any time by the Consent Holder; and either:
- (a) an updated version shall be provided to the Consent Authority by 31 May each year; **or**
 - (b) the Consent Holder must notify the Consent Authority in writing that no changes have been made by 30 September each year.

Advice Note: *The results from the review of the FEMP will be assessed by the Consent Authority to ensure that the FEMP will still achieve the objectives specified in the FEMP and the FEMP has been prepared in accordance with Appendix N of the Southland Water and Land Plan (Decisions Version) (or any updated version of the plan).*

45. The Consent Holder shall operate in accordance with the FEMP at all times. Where there is inconsistency between the FEMP and the conditions of the consent, the conditions of this consent shall prevail.

Auditing

46. The Consent Authority may require the Consent Holder to have the farming activity, as authorised by this consent, independently audited, in accordance with Appendix 2, by a person who is a Certified Nutrient Management Advisor or Farm Environmental Plan Auditor or a Suitably Qualified Person who has demonstrated an equivalent level of expertise.

Review

47. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent during the period 1 February to 30 September each year, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, or on receiving monitoring results, for the purposes of:
- (a) determining whether the conditions of this permit are adequate to deal with any adverse effect on the environment, including cultural effects on the tangata whenua and/or cumulative effects, which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit; or
 - (b) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or the Environment Southland Regional Policy Statement;
 - (c) amending the auditing/monitoring/recording/reporting/modelling programme to be undertaken;
 - (d) adding or adjusting compliance limits;
 - (e) ensuring the Ōreti Freshwater Management Unit meets the freshwater objectives and freshwater quality limits set in an operative regional plan or National Policy Statement for Freshwater Management; and
 - (f) requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment as a result of the exercise of this permit.

for the **Southland Regional Council**

Signature
Decision maker

Notes:

1. *Reporting to Council is required by conditions of your consent. The key dates for you to meet are listed in the Table below.*

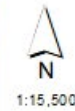
Due date	Condition number	Requirement
<i>Prior to exercise</i>	<i>7</i>	<i>Notify Council of Person in Charge of dairy farming activity</i>
<i>30 Sept each year</i>	<i>18</i>	<i>Report summarising results of Overseer modelling</i>
<i>1 June July 20254</i>	<i>24</i>	<i>Confirm re-fenced surface waterways with 3 metre buffer</i>
<i>When complete</i>	<i>25</i>	<i>Provide Riparian Planting Plan to Te Ao Marama Inc.</i>
<i>First summer season; Second summer season</i>	<i>29</i>	<i>Confirm installation of sediment control structures</i>
<i>If needed</i>	<i>30</i>	<i>Provide of wetland assessment</i>
<i>When complete</i>	<i>33</i>	<i>Confirm winter barn construction complete</i>
<i>Prior to exercise</i>	<i>36</i>	<i>Location and details of soil moisture monitoring.</i>
<i>6 mth after exercise</i>	<i>38</i>	<i>Soil moisture monitoring trigger</i>
<i>31 May each year</i>	<i>44(a)</i>	<i>Provide updated version of FEMP if changes were made due to review</i>
<i>30 Sept each year</i>	<i>44(b)</i>	<i>Confirm no changes were made to FEMP</i>

2. *In accordance with Section 125(1)(a) of the Resource Management Act, this consent shall lapse after a period of five years after the date of commencement unless it is given effect to or an application is made to extend the lapse period before the consent lapses.*
3. *In accordance with Section 138 of the Resource Management Act, this consent may be surrendered by providing written notice to the Consent Authority.*
4. *The Consent Holder shall pay an annual administration and monitoring charge to the Consent Authority, collected in accordance with Section 36 of the Resource Management Act, 1991, payable in advance on 1 July each year. This charge may include the costs of inspecting the site up to two times each year (or otherwise as set by the Consent Authority's Annual Plan).*
5. *The FEMP, supporting evidence and on-site practices may be audited by the Consent Authority at any time for compliance and enforcement purposes.*



Appendix 1

 Landholding Boundaries



1:15,500



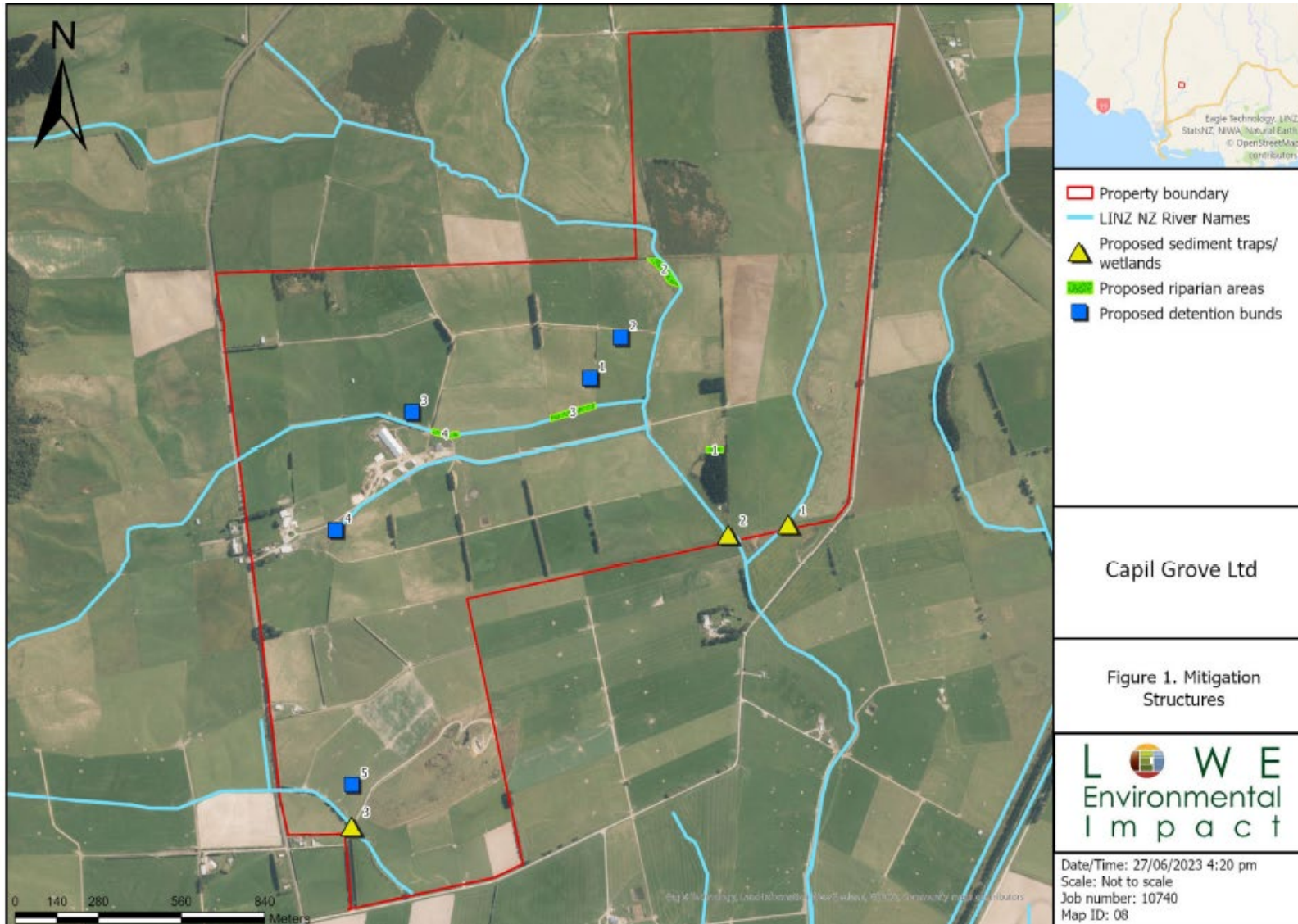
While every effort has been made to ensure the content is correct, Environment Southland cannot guarantee the accuracy of the data. If no information should not be used in any manner without consultation.

DATA SOURCE: ES GIS 2023

Appendix 2: Auditing criteria

1. The audit shall assess the performance of the farming activity occurring on the property against:
 - (a) the objectives and good management practices specified in the FEMP;
 - (b) any additional mitigation measures implemented on the property either voluntarily or as required by the conditions of this consent; and
 - (c) the baseline contaminant loss rates specified in Conditions 15 and 17.
2. The audit must determine the level of confidence of achieving each objective set out in the FEMP. This level of confidence shall be categorised into the following:
 - **High** - the objective is probably being achieved
 - **Medium** - the objective is possibly being achieved
 - **Low** - it is unlikely that the objective is being achieved.
3. The audit shall record the justification for each level of confidence assessment, including noting the evidence, or lack of, used to make the determination.
4. Where an objective has received a Medium or Low level of confidence, the audit shall include the actions required for the farm to meet the objective and a timeframe whereby these actions need to be undertaken.
5. Where an objective has received a Medium level of confidence (and the farm has received no Lows), the audit shall also determine whether or not the farm is on-track to achieve the objectives.
6. The audit report shall be provided to the Consent Authority within three months of the date of the Consent Authority issuing a requirement to undertake the audit.
7. The frequency of audit requirements may be annually except where, for two consecutive years, an audit report has concluded that all objectives are probably being achieved (received a high level of confidence). In that situation no further audit will be required for at least three years.
8. Where the audit identifies actions required to be undertaken for the farm to meet the objective the Consent Holder must implement these actions within the timeframes stated in the audit.
9. Upon completion of any changes made and/or mitigations implemented as required by the audit, the Consent Holder shall confirm in writing, including photographs (date and time stamped) to the Consent Authority that these actions have been completed and implemented.
10. Upon completion of all the changes made and/or mitigations implemented as identified in the audit, the Consent Holder must ensure the measures are properly maintained, continue to function and are not removed or altered for the duration of this consent (and any subsequent variation versions).

Appendix 3: Sediment control structure locations



Appendix 4: *Sediment control structures details (as provided by LEI 30 June 2023, and updated 11 March 2024)*

WATER QUALITY MITIGATIONS FOR FARM 444

General

This document sets out design requirements for Capil Grove Limited (CGL) to use proven mitigation methods and science to mitigate farm runoff, in particular phosphorus (P) losses on Farm 444. It is to accompany the consent conditions, with specific conditions referencing the intent and design requirements where relevant.

Specifically the mitigation methods are:

- Detention structures;
- Riparian plantings; and
- Sediment traps.

Mitigation methods and how they are to be implemented at Farm 444 are described below. Specific design will be completed for each structure.

Detainment Bund

Five sediment detention structures will be installed. Figure 1 identifies the location of these structures along with the catchment areas up gradient of the structure.

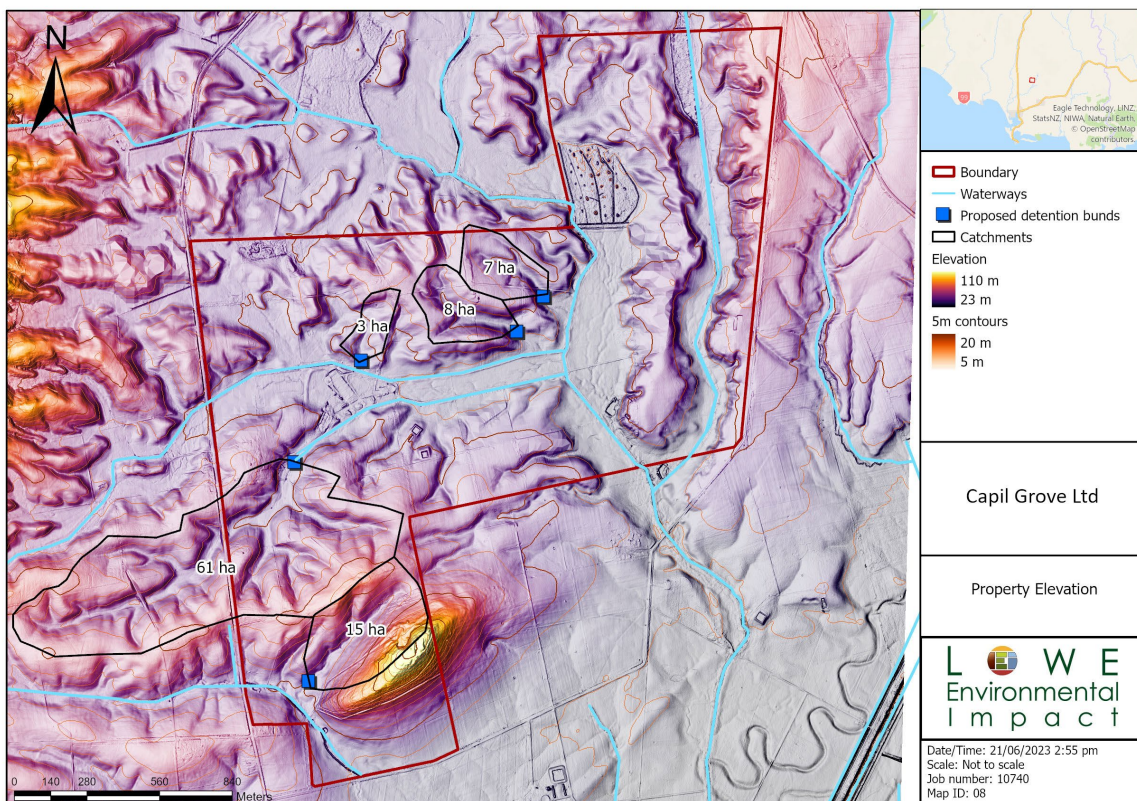


Figure 1: Proposed Detainment Bund Installation and Catchment Area

The specific details of the structures are yet to be developed, but they will be a low earth bund that allows temporary ponding of water (for several hours to no more than 4 days, depending on the rain event). The ponded water will gradually be released through the bund wall, but at a rate that provides for sediment settling within the ponded water.

Sediment Traps

Sediment traps are to be used at the locations are shown in Figure 2. Additional detailing of the stream characteristics will be required before installation.

Generic sizing of sediment traps is provided in Harding and Meijer (2021)¹. This table guides the creation of a sediment trap that has the ability to retain approximately 50% of fine silt, until the trap is half-filled and will be used in the sizing of the to be installed traps. In general, they should have a rectangular shape, with a width 1.5 times that of the channel. Depth will be from 0.5 to 2 m depending on water volume and sediment quantity (Environment Southland, 2020).

To prevent erosion of the trap banks (especially if diggers need to clean them out), the design may include bank protection with rock. This is because erosion of the stream bank would result in the trap becoming filled with eroded material and not the intended sediment from streamflow. Additionally, planting vegetation along the stream's edges adjacent to the sediment trap may be incorporated in the design to further stabilize the stream's banks (Hudson, 2005).

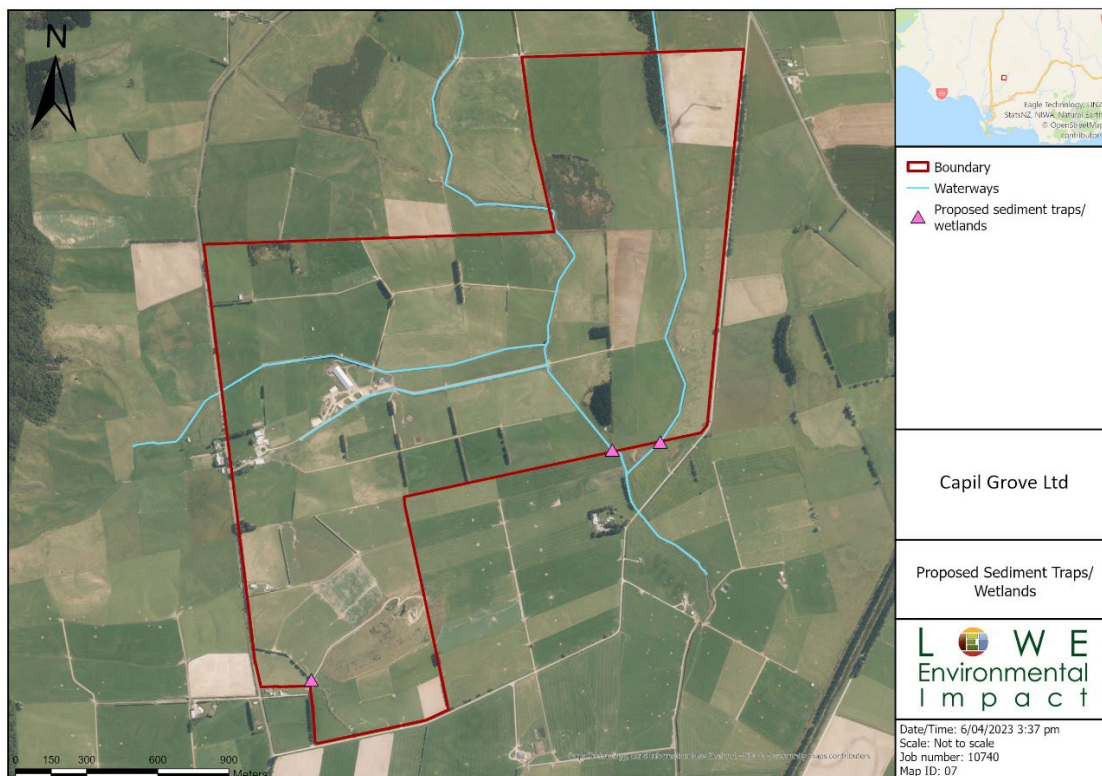


Figure 2: Proposed Sediment Trap Locations

¹ J Harding & C Meijer, (2021), "CAREX science contribution to Living Water in the LII/Ararira River from 2018–2020", University of Canterbury, Christchurch
<https://www.livingwater.net.nz/assets/sm/upload/vs/cf/2f/8o/UC%20CAREX%20Report%20to%20Living%20Water%202021.pdf?k=ca93f7502b>

Riparian Planting and Buffer Strips

Farm 444 are to have isolated areas for more elaborate plantings with a wide buffer strip and larger permanent plantings. The locations of these areas are shown in Figure 3. Environment Southland (2016) *Facts Sheets* shall be used as a guide for planting.

In sizing and developing the width of planting in the nominated areas, further guidance will be sought from *Getting Riparian Planting Right in Southland* (DairyNZ, 2014).

Riparian areas are outlined in Figure 3 below.

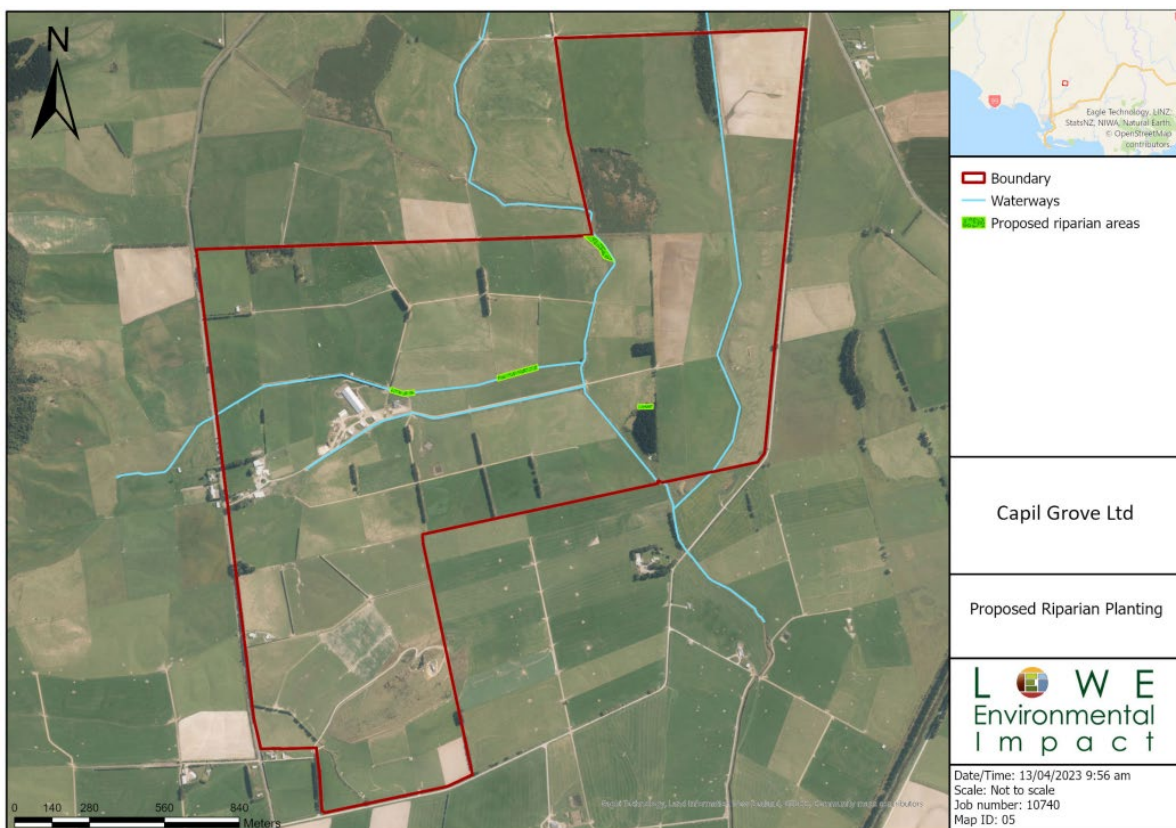


Figure 3: Proposed Riparian Areas

