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Saxton Creek

**Saxton Creek Capacity Upgrade:
Stage 3B – 1A Hill Street to Saxton Field**



Resource Consent Application to Nelson City Council



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Date: 11.7.18
Reference: 5G2858.01
Status: Final (revised 11.7.18)



**APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF
THE RESOURCE MANAGEMENT ACT 1991**

**TO: Nelson City Council
PO Box 645
Nelson**

FROM: Nelson City Council

1. The Nelson City Council applies for:

A) Land Use Consent for:

- Removal of existing obstructions (includes vegetation and gravel) from the bed of a stream
- Realignment of the bed of Saxton Creek and filling redundant portions of bed
- Construction and ongoing maintenance of stream bed and batter protection with rock
- Land use consent for disturbance of river banks and erection of structures within Riparian Overlay
- Vegetation removal
- Earthworks to widen, realign and to fill existing creek bed, and for landscaping
- Installation and removal of temporary culverts during construction (if needed).

B) Water Permit to:

- Temporarily divert water during construction and maintenance
- Temporarily abstract water and groundwater during construction and maintenance.

C) Discharge Permit to:

- Temporarily discharge stormwater during construction and maintenance.

2. A description of the activity to which the application relates is:

The works involve, from just downstream of the access to 1A Hill St to Saxton Field:

- Deepening and widening the existing stream bed, realigning parts of the bed, rock lining the channel to 1% AEP capacity, temporary culverts during construction (if necessary), establishing a walking and cycling path, and planting and landscaping of the stream banks and riparian margin. The consent includes ongoing maintenance work on the rock protection works in the stream channel.
- Re-grading and rock lining the North Branch at the confluence, and similar at confluence of Raine Creek and Saxton Creek.

- Tie in with existing Stage 1 and Stage 3D works.
- Temporary diversion of water, and abstraction of water and groundwater during construction and maintenance.
- Temporary discharge of stormwater to Saxton Creek during construction and maintenance.
- Removal of vegetation.

3. The names of the owners and occupiers and legal description of the land to which the application relates are as follows:

Owners:

- Nelson City Council, Local Purpose Reserve, CFR 779072.
- Nelson City Council, Local Purpose Reserve, CFR 779073.
- Nelson City Council, Local Purpose Reserve, CFR 789855.
- Nelson City Council, Recreation Reserve, CFR NL90/5.

4. The location to which the application relates is:

Saxton Creek, Hill Street North to Saxton Field, Nelson.

5. The following additional resource consents are required:

No other consents are required.

6. Attached, in accordance with the Fourth Schedule of the Resource Management Act 1991, is a description of the proposed activity and an assessment of the environmental effects the proposed activity may have on the environment.

7. Attached is any information required to be included in the application by the Nelson Resource Management Plan, the Resource Management Act 1991 or any regulations made under that Act.

Annexure A:

- 1) Introduction and Background to stream upgrade
- 2) Description of site and surrounds
- 3) Assessment of Environmental Effects
- 4) Statutory Assessment
- 5) Proposed Conditions

Annexure B:

A separate volume accompanying the application containing the following appendices referenced in the application:

- 1) Design Drawings
- 2) Design Basis Report
- 3) Landscape Plans & Planting Establishment Plan
- 4) Consent Order – Plan Change 18
- 5) Assessment of environmental effects – aquatic habitat
- 6) Cultural Effect Assessment
- 7) Written Approvals
- 8) Certificates of Title



Signed on behalf of the
Nelson City Council

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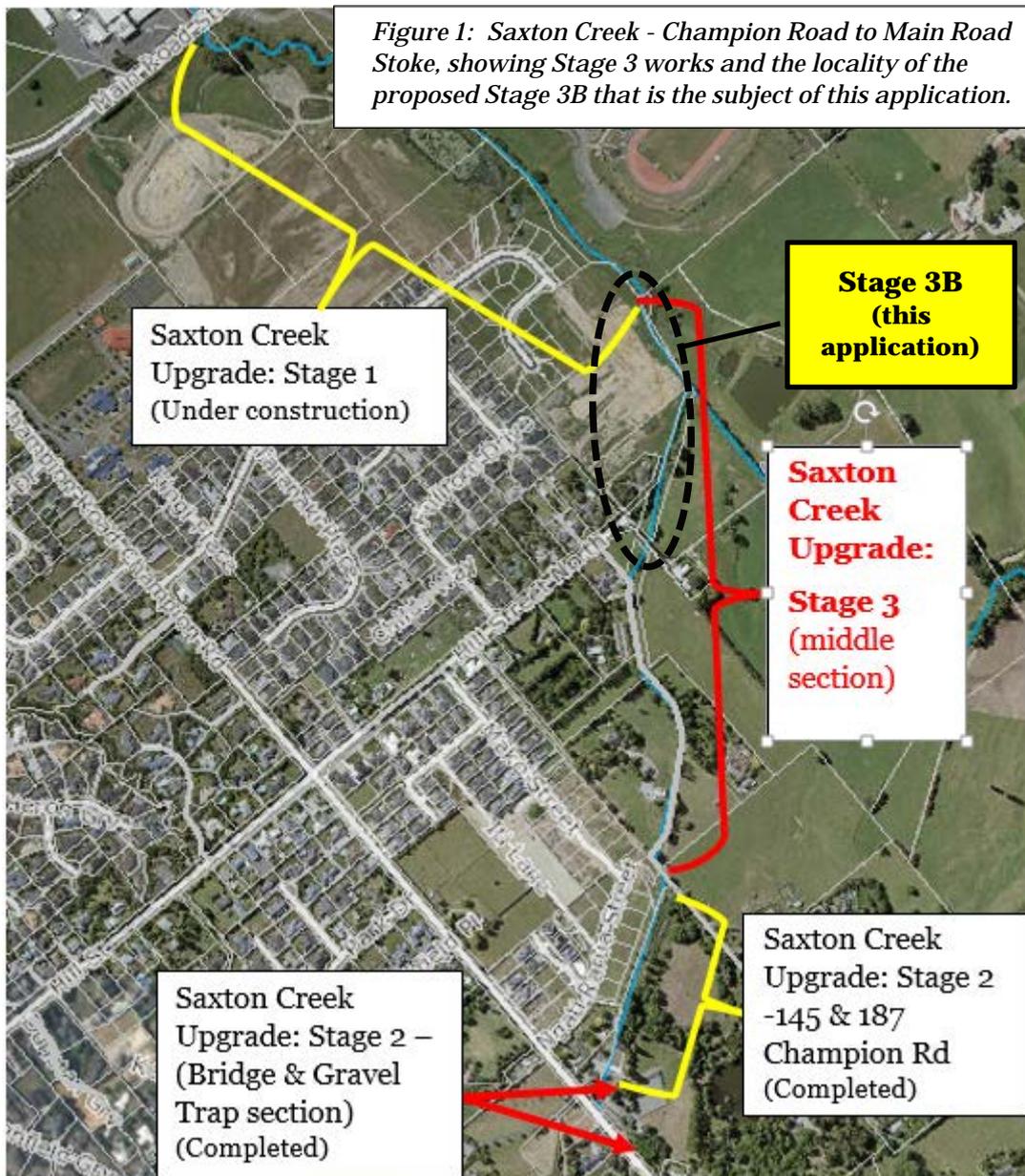
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1 Background

This is an application for Stage 3B works for the flood capacity upgrade of Saxton Creek. It is part of sub-stages of work being applied for concurrently (Stages 3A, 3B and 3C), and it forms part of a programme of flood capacity upgrade of the stream from Champion Road to the sea, including the Stage 3D works involving replacing the culvert providing access to 1A Hill Street, Raine Farms and Summerset Village, with a bridge.

The location of already consented Stage 1 and 2 upgrade works are shown below in **Figure 1**, along with the location of the Stage 3 works and Stage 3B in particular.



Annexure A to the application, sections 1 and 2, sets out more detail on:

- the flooding history of Saxton Creek;
- the reasons for the work, the phasing of Stages 3A, 3B and 3C;
- a description of the entire section of the creek affected by the Stage 3 works; and
- the interrelationship of the various sub-stages within the Stage 3 works.

This application also relies on the following in **Annexure A** – the Assessment of Effects (section 3), the statutory assessment (section 4) and proposed conditions of consent (section 6).

It also references **Annexure B** for design drawings, the design basis report, the landscape plan, the aquatic AEE, the cultural effects assessment, and other requirements such as written approvals and Certificates of Title.

2 Description of Proposal

2.1 The Proposed Activity

Stage 3B involves the construction of approximately 400m of channel, footpaths, and landscape planting. It involves work tying into the main stream both the North Branch of Saxton Creek, and Raine Creek.

The design drawings are in **Annexure B: Appendix 1**, the Design Basis Report (Cameron, Gibson & Wells) in **Annexure B: Appendix 2**, and the Landscape Plans & Planting Establishment Plan in **Annexure B: Appendix 3**. Refer also to the locality plan in Figure 4 below.

The cover sheet of the drawings (sheet 301) in Annexure B: Appendix 1 shows the stages 3A, 3B and 3C, as well as Stage 3D (new bridge serving 1A Hill St/Summerset Village).

Channel Works

The existing channel will be enlarged to increase its flow capacity, and where necessary, realigned to fit within the esplanade reserve boundaries with allowance for the pathway on the true left bank.

In most parts the creek will have a two-stage channel profile incorporating a smaller rock-lined channel that will accommodate a 5% AEP event (1 in 20 year flow), and beyond that a wider overflow channel capable of containing a 1% AEP event. A typical two-stage profile is shown in Sections B and C 302 on Sheet 306 [Note: all references to ‘Sheets’ relate to the design drawings in Annexure B: Appendix 1].

However, where the creek comes to tie in with the new bridge proposed under Stage 3D (1A Hills Street) the channel will narrow into a “trapezoidal” profile i.e. a single channel that can accommodate the 1% AEP flow.

The rock armouring will be a single layer of rock, overlying geotextile fabric. The use of differing size rock will be avoided as it can result in multiple layers and unfillable voids that allow sub-surface flow of water. Use of a single layer of more or less uniform size rock allows the placement of material such as river run gravel into the voids, if necessary, to maintain consistent surface flow of the stream and better habitat. A meandering low flow channel will be provided within the channel, as shown on the cross sections in Appendix 1 - e.g. sheet 306. This will be varied in width and depth, to facilitate more habitat complexity. The minimum depth will be 300mm.

The North Branch of Saxton Creek joins about 200m below the proposed new bridge, at Chainage 870. At this point Saxton Creek runs outside the esplanade reserve. The creek will be realigned to the middle of reserve, and about 25m of the North Branch channel will be reshaped to match, and rock lined.

Similar, but smaller scale treatment will occur about 140m downstream where the small creek /drain (Raine Creek) joins on the true right bank.

At the end of the channel works, within Saxton Field the temporary transition rock work at the head of the Stage 1 works will be removed, allowing the channel to tie-in with the existing works.

Pathway

A 2.5 to 3m-wide combined cycling / walking pathway will be constructed on the true left bank of the creek, with a connection to the Daelyn subdivision as shown in Annexure B: Appendix 1. On completion of the works this will provide a continuous path from Champion Road, via the Ngati Rārua St esplanade reserve, to the walking/cycling network within Saxton Field, and into the Daelyn subdivision.

In places where the topography of the adjacent residential land requires it, as shown on the design drawings, timber retaining walls will be constructed close to the boundary of the esplanade reserve with residential sites within the Daelyn subdivision. These are shown on Sheets 302 and 303, and in cross section on Sheet 322, detail 1. The height of these will vary, depending on the topography. If they exceed 1m, a chain link safety fence will be installed, unless there is existing boundary fence that would serve this purpose.

Other infrastructure

Four existing power poles will be removed as part of the works, as shown on design drawings. The pole at Chainage 760m is redundant, with the cables being removed as part of the Daelyn development (as shown in Figure 10). The other poles carry an 11kV cable from Hill St through to Saxton Field. A new underground cable will be installed in its place. To supply the Raine Farms pumphouse, a 400V cable will be installed under the new streambed to the existing pole, as shown on Sheet 302 at Chainage 840.

To maintain an electrical supply to 1A Hill St/Summerset Village, a service line will be installed across the new bridge in dedicated ducts. .

Removal of existing fencing and replacement fencing on the edge of the new esplanade reserve and on the changed accessway to 1A Hill St will be as in Sheets 324 & 325.

A small drain in the esplanade adjoining 2 Hill St will be filled in, and a new 825mm diameter stormwater pipe will be constructed, running from existing manhole SWMH-1 to flow into Saxton Creek at Chainage 1030. The discharge from the pipe is allowed under RM075499, being Nelson City Council's global consent to discharge stormwater to freshwater. This is discussed further in section 3.1.

Planting

The area will be landscaped and planted as shown in **Annexure B: Appendix 3**, serving both amenity and practical functions, such as shading and fish habitat enhancement. A snapshot of the part of the Stage 3B section, upstream of where the North Branch joins, is shown below in Figure 2. A larger version is in Annexure B: Appendix 3.

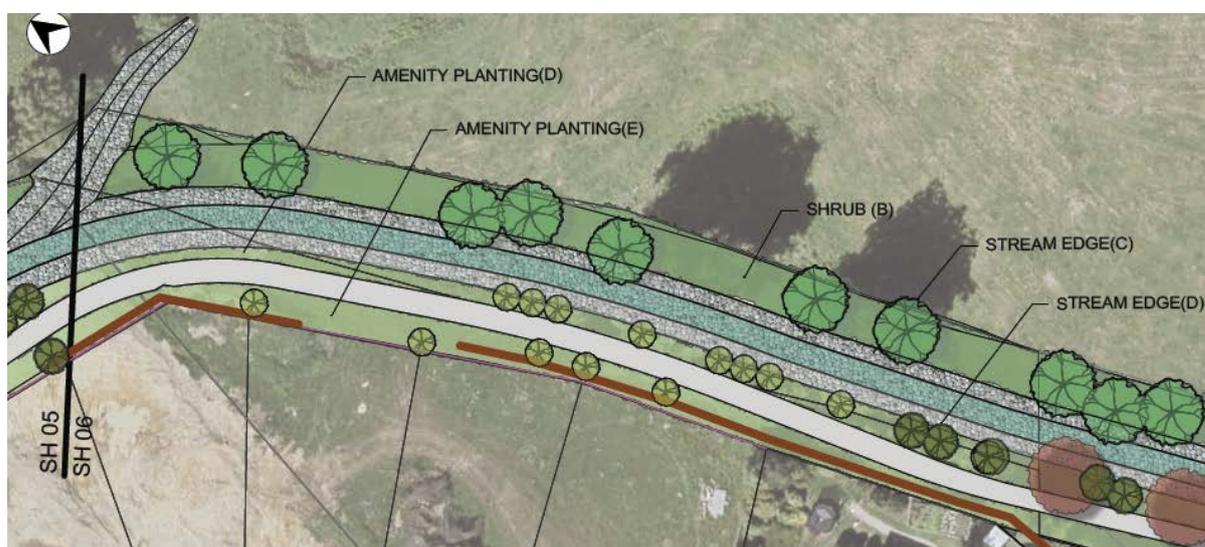


Figure 2: Extract from Landscape Plan – portion of Stage 3B section (see Annexure B: Appendix 3 for detail)

The extent of the excavation needed for the channel work means that the existing vegetation near the creek will have to be removed.

As part of the project, the riparian area will be extensively planted. The proposed planting palette is based on the NCC Living Heritage Guidelines - Coastal Flats, Alluvial Terraces and Freshwater Streams plant lists and the Nelson Streamside Planting Guide. It also takes account of the recommendations in the Cultural Effects Assessment accompanying this application (Annexure B: Appendix 6).

Native plants have been selected to be hardy and provide berries, nectar and attract insects for birds. There is also a selection of plants that can be used for Rongoā, traditional Māori medicine. These are; harakeke, kowhāi, totara, ti kouka, hohere, kānuka, mānuka, karamu, kohuhu, koromiko and puka.

Where applicable all plant species will be eco-sourced from plant material within the same ecological district.

The landscape concept for the creek as a whole follows the following basic principles, as illustrated in conceptually in Figure 3 below:

- Eastern side of Saxton Creek, a mix of taller indigenous tree and shrub planting (5-30m) is recommended to provide morning/midday shade to the creek, with a diverse palette of indigenous plants to provide seasonal food and shelter for birds and insects.
- The western creek edge will have large sweeps of sedges and 1-1.2m high plants to edge both sides of the footpath. Clusters of medium sized native trees and occasional deciduous exotic trees will line the creek edge.



Figure 3: Example of typical cross section of planting along Saxton Creek, Stage 3B (looking downstream, Section BB)

Low growing vegetation (*Carex* and *Juncus*) will be planted among the rock lining on the channel side walls down to near water level to soften the appearance of the channel. The top edge of the rock work will contain groundcover (*Coprosma kirki*).

The path edge will have gossamer grass and various *Carex* species, *Juncus*, hebe, flaxes and with *Pittosporum* and *Kowhai* trees and shrubs. On both banks larger trees will be planted at intervals as close to the channel as possible to provide shade and leaf litter, both of which improve fish habitat.

Maintenance

This consent application includes the ongoing maintenance of the rock bed and batter protection. Maintenance would involve replacement or repositioning of damaged rock protection, but not alteration or realignment of the stream bed, or gravel extraction. Maintenance includes maintaining and replacing planting as necessary.

Construction Methodology

The order of construction will be determined in consultation with the contractor appointed to undertake the work. The timing will need to work around various constraints including fish spawning and migration periods, weather and landowner access.

Where work is occurring in the bed of the stream, best practice will be used and will be under the direct supervision of the ecologist. This includes fish salvage, and bypass pumping of sections being worked on so that construction can occur in the dry.

A Dust, Erosion and Sediment Control Plan will be in place for all works, and again this will be monitored by the ecologist working closely with the engineer in charge.

2.2 Description of the Site and Surrounds

The Site

The site locality is shown in Figure 4 below.

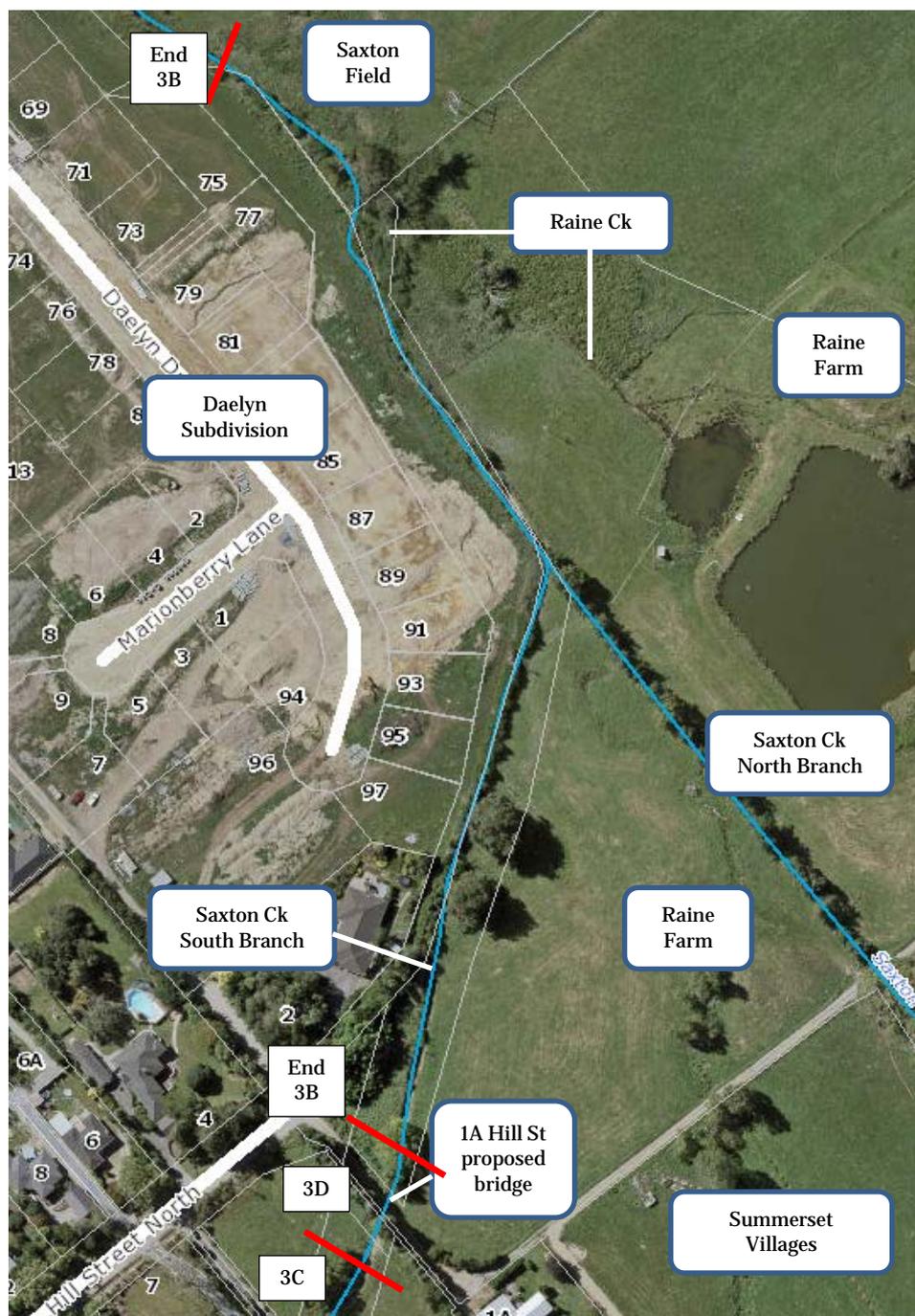


Figure 4: Locality plan for Stage 3B works. Saxton Creek is shown in blue, but its position is not true. (Source: Top of the South Maps. North at top).

The part of Saxton Creek affected by this proposed work is approximately 400m long. It starts just downstream of the vehicle access to 1A Hill St, and finishes just inside Saxton Field.

The surrounding environment is essentially rural, with what has all been Raine Farm on the right bank, and what was mostly the Daelyn berry farm on the left. The Daelyn berry farm has been subdivided in stages with the final stage adjoining Saxton Creek having now reached the s224 stage, with housing development likely to commence soon. An esplanade reserve has been vested with NCC, and runs on the true left bank from the vehicle access to 3A-D Hill St downstream to beyond the Saxton Field boundary.

Raine Farms has sold part of its land to Summerset Village for a planned rest home/retirement village, including the house at 1A Hill Street which is to be removed from the site. A Special Housing Area (SHA) for the Summerset land has been approved by the Minister of Housing and gazetted. Construction of houses has commenced on that site.

The triangle of land between the Summerset property and the creek, as well as the land on the Nelson side of the North Branch is farmed by Raine Farms. With the recent subdivision an esplanade reserve now vests with Nelson City Council along the true right bank of Saxton Creek for the entire Stage 3B length.

The last 60m of the creek within the project area runs through Saxton Field, before it reaches the Stage 1 section of stream.

The physical works that are the subject of this consent application are all within Council owned land – the esplanade reserve or Saxton Field.

There is an 66kV powerline that angles across the corner of Saxton Field but this is not directly affected by these works (but the contractor will need to take precautions in working near such a high voltage line).

There is also a lower voltage line that currently runs along the creek, part of which has been decommissioned (see Figure 8). The poles are to be removed as part of these works.

The Stream

The aquatic AEE (Annexure B: Appendix 5, section 2.0), describes Saxton Creek and notes it was dug by settlers to drain the original swamp forest.

The part of Saxton Creek affected by this proposed work is approximately 400 long. It starts just downstream of the vehicle access to 1A Hill St, and finishes at Saxton Field.

From the culvert to the North Branch confluence the stream is deeply incised, straight and eroded. It flows through 'rural' environment, with grazing on both sides, although the land on both sides has changed ownership recently to become NCC esplanade reserve to facilitate this project. This portion of stream is grassed on the true left bank while the true right bank contains dense growth of pampas grass and Cyprus trees (Figure 5). The stream enlarges somewhat after the North Branch joins, but as Figure 6 shows the North Branch flow is not as large as in the South Branch.



Figure 5: Saxton Ck between 1A Hill St and confluence with North Branch (Photo: Tom Kroos)



Figure 6 Confluence of North Branch (labelled 'left') and South Branch (right) of Saxton Ck (Photo: Tom Kroos)

Downstream of the confluence the stream leaves the pampas, and is deeply incised initially mostly with grassy banks (Figures 7 and 8).



Figure 7: Stage 3B looking upstream towards confluence. Raine Farm (and pump house) on left, Daelyn on right. (Photo: Josh Large)



Figure 8: Looking upstream between Raine and Daelyn properties. (Photo: Josh Large)

It then continues with long straight runs but with banks more dominated by willows and gorse.



Figure 9: Upstream from Saxton Field (Photo: Josh Large)



Figure 10: Saxton Field /Raine and former Daelyn boundary. (Photo: Josh Large)

As the aquatic AEE notes, the creek in the last 6 years has experienced many changes, affecting its form and habitat function. Some change has come from significant flooding events as in 2011 and 2013 and subsequent drain cleaning to remove gravel and sediment. In addition, cattle and four-wheel drive activity in the headwaters (within Tasman District) have adversely affected water quality and sediment flows. The flood capacity works upstream of the Stage 2 portion of the creek have also altered the stream.

Flow rates in Saxton Creek are highly variable, with a mean annual flow of 62 l/s, median flow of 24 litres/second, and mean annual low flow of 7 litres/second¹. Design flow for the proposed stream channel upgrade is based on a 1% AEP of 46.8m³/s at Main Road Stoke.

Water quality has been classified as extremely degraded or degraded with elevated levels of nitrogen, sedimentation, E.coli and poor turbidity².

Fish

The Rapid Habitat Assessment in the aquatic AEE indicates that the existing stream habitat values within Stage 3 are generally degraded and on average do not meet even 50% of maximum habitat quality indicators. Section 3B has the best habitat value of the three sub-stages coming in at 54%.

¹ Fisher 2011, quoted in the aquatic AEE, Annexure B: Appendix 5. P5.

² Aquatic AEE, p14.

There are few fish in the reach above the North Branch confluence – only 4 small shortfin and one longfin eel. The reach below the confluence has better habitat, and on survey supported 12 small eels, 2 medium longfin eels and 11 banded kokopu whitebait.

3 Status of the Application

3.1 Nelson Resource Management Plan

Nelson Resource Management Plan

The relevant aspects of the NRMP are discussed in section 2.4 of Annexure A, and a zoning map is included in that section, at Figure 13.

In summary the key provision area:

- Rural Zone – esplanade reserve both sides of stream downstream to approximately Chainage 980 (2 Hill St) and then on true right bank downstream to Saxton Field
- Residential Zone – esplanade reserve on true left bank, including part of stream upgrade within “Saxton Field” (i.e. adjoining Saxton Field)
- Services Overlay (Residential Zone. Not considered relevant to this application as relates to co-ordination of roading infrastructure)
- Riparian Overlay
- Flood Path notation.
- Designation DN16 (Rural Zone beneath). Purpose: - To provide for future recreation needs of Tasman and Nelson District and to further provide open ‘green’ space between the urban areas of Stoke and Richmond”

There are no other overlays in the NRMP on the area of the subject works e.g. no heritage buildings or trees, and no archaeological sites.

The table below identifies the rules in the Nelson Resource Management Plan that are considered to be relevant and the category of consent required.

Table 1: Relevant rules and consent status, NRMP

Activity	RMA	Rule	Consent Status	Comment
Land Use Consents				
Disturbing river	s13	FWr.1	Discretionary	The work is more than is provided for under the permitted rule. Other than the proposed ongoing maintenance, the construction work is more than just to maintain peak flow capacity, and therefore is not a controlled activity.
Removal of vegetation weeds and litter	s13		Permitted	The activity is discretionary. No wetland areas are being affected. This activity is permitted by the rule.
Planting in streambed	s13	FWr.3	Permitted	Low native grasses will be planted in the streambed. None of the prohibited species will be planted, and the plantings will comply with the permitted conditions in FWr.3.1, including that the plants will not result in damming or diversion or adverse effects on ecosystems.
Installation and removal of temporary culverts (if needed)	s13	FWr.5.	Discretionary	Temporary culverts may be required for access during construction. The General Conditions in FWr.1.1 may not be met, therefore discretionary. Removal of any temporary culverts would be discretionary under FWr.4, again as general conditions under FWr.1.1 would not be met.
Depositing material in stream bed (rock lining, habitat enhancement, filling disused streambed)	s13	FWr.9	Non-complying	Does not meet the permitted conditions e.g. more than 30 lineal metre per 100m will be rock lined. In terms of the restricted discretionary standards, under FWr.9.3, the general conditions in FWr.1.1 will not be met as the work may need to occur outside the periods specified in the general conditions. Therefore, the activity is non-complying.
Realigning stream	s13	FWr.10	Discretionary	The stream has a continuous flow. Therefore the permitted rule does not apply, and the activity is discretionary under FQr.10.3a) ii).

Vegetation Clearance	s9	REr.59 RUr.25	Controlled	Clearance of vegetation will occur within 5m of a stream listed in Appendix 6.
Earthworks	s9	REr.61 RUr.27	Restricted Discretionary	<p>Because the work is within 10m of the bank of a river, it is restricted discretionary.</p> <p>Also the retaining walls/excavations on the boundary between the esplanade reserve and the properties in the Daelyn subdivision would not comply with the boundary setbacks in REr.61.1c) and RUr.27.1c), which requires the setback to match the depth of excavation, which would make such earthworks more than 10m from a stream a controlled activity.</p>
Riparian Overlay	s9	REr.71 RUr.58	Discretionary	<p>The erection of structures, and the disturbance of river banks is not permitted within the distance set out in Table 6.2 of Appendix 6 NRMP – in this case the distances defined in the consent order to Plan Change 18 and included in Annexure B: Appendix 4 of this application.</p> <p>For extension of a utility service line or structure, the activity is controlled. The stream work is not considered to qualify for this.</p> <p>Therefore the river bank disturbance and structures require discretionary consent.</p>
Flood Path	S9	REr.82	Discretionary	<p>Earthworks in the Residential Zone within the Flood Path are not permitted (except where associated with the establishment, operation and maintenance of underground network utility lines). Therefore river bank and stream bed disturbance requires discretionary consent.</p> <p>(Note: No rules apply to the Flood Path within the Rural Zone)</p>
Water Permits				
Temporary diversion of water	s14	FWr.13	Discretionary	Temporary diversions of water during construction and maintenance will not be able to comply with all the permitted conditions. In particular, diversions

				may have to occur within the time restrictions specified in the permitted rule, and fish passage may not always be provided (except where the ecologist considers it is necessary (covered in proposed conditions of consent)). Flow will be maintained at all times and the length of diversions is not expected to exceed the 50m specified in the permitted rule. The duration of diversion is likely to vary from between 1-2 days to 1-2 weeks, depending on the nature of the work.
Discharge Permit				
Temporary discharge of stormwater	s15	FWr.22	Controlled	<p>This consent is for dewatering and related discharge during construction and maintenance.</p> <p>The permitted activity rule does not apply as it relates just to discharges from the roofs of houses.</p> <p>The applicable rule is controlled activity (FWr.22.2 2) - point source discharges to a river which are not from the Council's stormwater infrastructure. Several standards need to be met for this rule to apply, relating to no discharge of chemicals etc, or change of clarity, suspended solids etc. Best practice and the implementation of the Erosion and Sediment Control Plan will ensure compliance with the controlled rule standards.</p>

The take of groundwater for dewatering during some aspects of construction and maintenance may be needed. This is a permitted activity under FWr.14.1 d). The discharge of that water would be covered under FWr.22.

The discharge of stormwater to Saxton Creek at Chainage 1030 from the proposed new pipe is permitted under RM075499, Nelson City Council's global consent to discharge stormwater to freshwater.³

Consent is being sought for realignment of the streambed. It necessarily follows that the water within the bed goes with the realigned stream. Consent is not considered necessary under Rule FWr.12 to divert water since the bed is moving. If necessary, however, that permission could be considered as part of this package of consents.

³ Confirmed in email dated 20 September 2017 from NCC Senior Consents Planner, Susi Bernsdorf Solly, to David Jackson, Opus.

3.2 HAIL

There are no Hazardous Activities or Industries Listed (HAIL) sites within the subject area for the Stage 3B works.

3.3 Overall Consent Status

The overall consent status is a **non-complying activity**.

3.4 Outline Plan

A small part of the proposed work is within designation DN16. Section 175A(1) states:

Subject to subsection (2), an outline plan of the public work, project, or work to be constructed on designated land must be submitted by the requiring authority to the territorial authority to allow the territorial authority to request changes before construction is commenced.

Subsection (2) provides exceptions, when an outline plan need not be submitted to the territorial authority if—

- (a) the proposed public work, project, or work has been otherwise approved under this Act;*
- or*
- (b) the details of the proposed public work, project, or work, as referred to in subsection (3), are incorporated into the designation; or*
- (c) the territorial authority waives the requirement for an outline plan.*

The current proposal, if granted, will be totally subject to approval by resource consents under the RMA, meeting the requirements under subsection 2(a). All the matters required to be addressed in an outline plan, under s176A(3), are covered by the consent application and its associated plans and AEE. Moreover, the project does not involve traffic access, circulation and the provision of parking, which are often key considerations in outline plans.

The consent process gives the territorial authority much greater ability to influence the outcome than does the outline plan process, where the consent authority can only make recommendations to the requiring authority.

There is also the alternate exception available under subsection (2)(c) where the territorial authority may waive the outline plan requirement. In this situation it is considered that section 175A(2)(a) applies and so consideration under subsection c) is not required. But for the avoidance of doubt, the consent authority might wish to turn its mind to exercising that option. It is possible under section 175A(2) to support an exception under both a) and c), and out of caution, this might be the best approach. The amount of work on this proposal occurring within Designation DN16 is so small that the need for an outline plan could be waived.

The approval of Nelson City Council as requiring authority for designation DN16 is implicit within this consent application, since the Council is both the applicant and the requiring authority responsible for the designation.

4 Assessment of Actual and Potential Effects

An Assessment of Effects on the environment is included in Annexure A, section 3.

5 Statutory Considerations

5.1 Section 95 RMA

Section 95A of the Resource Management Act 1991 sets out the steps for deciding on public notification of resource consent applications. It is accepted that section 95A(8)(b) applies. This section requires public notification if the consent authority decides that the activity will have, or is likely to have, adverse effects on the environment that are more than minor.

While there will be short term effects from the work on the aquatic biology that are more than minor, the aquatic AEE (Conclusion, 18) states these can be mitigated by best practice and appropriate conditions (as being offered), including by salvaging the eels present prior to construction and transferring them safe locations up or downstream of the works. In terms of long-term effects the aquatic AEE concludes “*the long-term effect of the proposed channel upgrade will be a minor adverse effect that is partially offset by the positive effects*”.

It is submitted therefore that the application can be processed by the consent authority without public notification as the mitigated effects are considered to be not more than minor.

Section 95B of the Act states that if the Council does not publicly notify an application it must decide whether there is any affected person in relation to the proposed activity. The consent authority must give limited notification to any affected person, unless a rule precludes it. There are no rules in the Nelson Resource Management Plan or a national environmental standard relating to this activity that precludes limited notification. Therefore, in determining affected persons, section 95E(1) of the Act clarifies that a person is an affected person ‘if the consent authority decides that the activity’s adverse effects on the person are minor or more than minor (but not less than minor)’. A person is not deemed affected if they have given written approval to the activity or if it is unreasonable in the circumstances to seek the person’s written approval (section 95E(3)).

As noted in the aquatic AEE (section 9.0, p17) the stream does not have introduced trout. It therefore is not on the list of streams of interest to Fish and Game.

The owners and occupiers of the affected properties are considered to be directly affected and their written approval is being sought. The written approval of iwi is being sought.

5.2 Part II of the Act and Statutory Documents

An assessment of the proposal against the Regional Policy Statement and the Nelson Resource Management Plan and the RMA is in Annexure A, section 4.

Suggested conditions are in Annexure A, section 6.

6 Resource Consent Duration

Consents for activities under Section 13, 14 and Section 15 of the Act are required to have a duration imposed pursuant to Section 123(c) of the Act.

Where the consents relate to the construction phase, a 5 year duration is sought, and for ongoing maintenance a 35 year term is sought.

7 Lapsing of Resource Consent

Under Section 125 of the Act if no lapse date is specified a resource consent lapses five years after the date of commencement of the consent, unless the consent has been actioned (given effect to). The default lapse date is sufficient for this project.

8 Proposed Resource Consent Monitoring

The Fourth Schedule of the Act, requires that 'where the scale or significance of the activity's effect are such that monitoring is required, a description of how, once the proposal is approved, effects will be monitored and by whom'.

Monitoring of the construction phase is to be carried out by the supervising engineer, which involves meeting any applicable resource consent conditions. All workers and contractors will be made familiar with resource consent conditions as it affects their particular area of operation.

A condition is volunteered for monitoring of water temperature and the fishery in the stream once the project is completed.

9 Overall Assessment

This consent application proposes an upgrade in the flood capacity of a 420m length of Saxton Creek and the establishment of public access along part of the stream where no access currently exists.

The aquatic AEE notes that there will be short-term effects from the works from loss of habitat. The upper half of the subject reach supports only 5 small eels. The reach below the North Branch confluence supports a better fishery. The effects on eels and fish will be mitigated by relocating them prior to construction, and by including logs and novacoil eel refuges within the new streambed. These structures will provide habitat to facilitate re-establishment of the fish and eel populations on completion of the works.

The long term benefits include variation in bank shape, improved bank stability, rehabilitated riparian edges, the removal of invasive vegetation, variation of channel width and depth, a reduction in flooding, rehabilitated opportunities for flora and fauna with stream bank protection and planting, and the removal of stock access into the streambed.

Overall, as a result of this proposal ecologically there will be '*a minor adverse effect that is partially offset by the positive effects identified above*'⁴. In other words, the long-term effect impact on aquatic ecology will be less than minor.

Flood capacity will be improved significantly, from approximately Q2-3 at present, to Q100 (1% AEP). While the margins of the stream recently have passed into public ownership, there currently is no public access available. The project will provide full public access along the length of the stream, connection to the Daelyn subdivision and to the network within Saxton Field, with associated recreational and commuter benefits.

The proposal has been evaluated against the relevant statutory documents and the RMA (including section 104D) as discussed in Annexure A, section 4. The activity is not contrary to the relevant objectives and policies of the Nelson Resource Management Plan, nor will the adverse effects on the environment when mitigated be more than minor. Both the tests in s104D can be met (although only one of the tests needs to be met). Therefore the consent authority is not prevented from granting the application.

In terms of section 104, the proposal with the compensatory benefits overall has positive effects on the environment. It supports Part II of the Act and is consistent with the objectives and policies in the freshwater NPS, the RPS, the NRMP, and the non-statutory Nelson Biodiversity Strategy.

The proposal in the longer term will also enhance an area which currently has low to moderate amenity value and in places, poor stream bed quality. With the removal of stock from the stream, water quality will improve.

The works will also assist with the future development of the area through the accommodation of stormwater from urbanisation, allowed for people to meet their housing and their social and economic needs under section 5 of the Act.

The written consent of the landowners and the occupiers of the land directly affected, and of iwi, is being sought. It is submitted that public notification is not required, and that if those approvals are forthcoming the application can be processed without limited notification.

On the basis of the plans submitted, the remediation, mitigation and enhancement proposed, the conditions offered, it is considered that the proposal is in accordance with sustainable management under the Resource Management Act, and that consent can be granted.

10 Suggested Conditions

The applicant proposes conditions as set out in Annexure A, section 6.

⁴ Aquatic AEE, p18, Annexure B: Appendix 5.