

The Mayor and Councillors

**WAIMAKARIRI DISTRICT COUNCIL**

**SUPPLEMENTARY AGENDA for a meeting of the WAIMAKARIRI DISTRICT COUNCIL  
to be held in the Council Chamber 215 High Street, Rangiora at 1PM TUESDAY  
1 OCTOBER 2024**

Sarah Nichols  
GOVERNANCE MANAGER

**Recommendations in reports are not to be construed as  
Council policy until adopted by the Council.**

**BUSINESS**

*Page No*

**REPORTS**

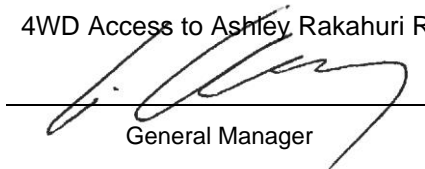
**7.1 4WD Access to Ashley Rakahuri River – Gerard Cleary (General Manager Utilities  
and Roading)**

*RECOMMENDATION*

*2- 10*

**THAT** the Council:

- (a) **Receives** Report No. 240917158820.
- (b) **Instructs** staff to engage with Environment Canterbury, Department of Conservation, and community interest groups to consider options for helping to manage recreational opportunities in the Ashley River, and to protect the bird breeding habitat.
- (c) **Instructs** staff to work with DOC staff to develop a Communications Plan to focus on the protection of wildlife.
- (d) **Instructs** staff to undertake a workshop with the Oxford-Ohoka Community Board, Rangiora-Ashley Community Board and the Council to consider options for protecting river bird species, along with consideration of Community feedback.

**WAIMAKARIRI DISTRICT COUNCIL****REPORT FOR DECISION****FILE NO and TRIM NO:** RDG-18 / 240917158820**REPORT TO:** COUNCIL**DATE OF MEETING:** 1 October 2024**AUTHOR(S):** Gerard Cleary, General Manager Utilities and Roading**SUBJECT:** 4WD Access to Ashley Rakahuri River**ENDORSED BY:**  
(for Reports to Council,  
Committees or Boards)

  
General Manager


  
Chief Executive
**1. SUMMARY**

- 1.1. This report seeks direction from Council on options for the Waimakariri District Council's role in managing access to the upper Ashley Rakahuri River during the summer bird nesting season.
- 1.2. Staff received a request from the Department of Conservation for a temporary closure of vehicular access via unformed legal roads to the upper Ashley Rakahuri River for a three-month period from 31 October to 31 January. The Department requested the temporary closure to aid in the protection of nesting birds who use the riverbed to raise their young during this time period.
- 1.3. This specifically would require the temporary closures of the following unformed legal roads (ULRs) for ecological protection purposes:
  - Unnamed unformed legal road, Birch Hill Road between #395 & #403
  - Garrymere Road
  - Rakahuri Road
  - O'Hallorans Road
  - Glentui Bennetts Road
  - Bowicks Road
- 1.4. Many of the birds that nest in the river are only found in braided rivers, of which there are very few around the country. A number of the birds which nest in the river are protected species, and population numbers are in decline.
- 1.5. Non-motorised access, including fishing and hiking, generally does not pose the same high level of threat to nesting birds as motor vehicles do, and would not be impacted by a proposed temporary vehicular closure.
- 1.6. The riverbed and adjacent accesses are gazetted as unformed legal road reserve, and motorised use can occur in these locations, which poses a substantial threat to these nesting birds.
- 1.7. Concerns in the past have led to a similar annual temporary closure of unformed legal roads accessing the lower Ashley Rakahuri River by Environment Canterbury since 2012.
- 1.8. Due to these ecological concerns and threat to these protected species, it is requested by the Department of Conservation that these access roads are temporarily closed to motor vehicles.

- 1.9. There has been concern raised by some members of the community that this will limit their ability to gain vehicle access to the river and for 4WD drivers to recreate on the riverbed.

Attachments:

- i. DoC Proposal to close the upper Ashley Rakahuri River to vehicles during the bird nesting season (TRIM No. 240917158827)

## 2. **RECOMMENDATION**

**THAT** the Council:

- (a) **Receives** Report No. 240917158820.
- (b) **Instructs** staff to engage with Environment Canterbury, Department of Conservation, and community interest groups to consider options for helping to manage recreational opportunities in the Ashley River, and to protect the bird breeding habitat.
- (c) **Instructs** staff to work with DOC staff to develop a Communications Plan to focus on the protection of wildlife.
- (d) **Instructs** staff to undertake a workshop with the Oxford-Ohoka Community Board, Rangiora-Ashley Community Board and the Council to consider options for protecting river bird species, along with consideration of Community feedback.

## 3. **BACKGROUND**

- 3.1. Protected birds, including wrybill/ngatu para, black-fronted tern/tarapiore, black-billed gull/tarapuka and banded dotterel/tuturiwhatu, utilise the upper and lower stretches of braided riverbed of the Ashley Rakahuri River over the summer to nest and raise their young.
- 3.2. The Ashley Rakahuri River bed is gazetted as legal road reserve. Public use of the riverbed historically has included non-motorised activities including fishing and hiking, and vehicular use via a network of unformed legal roads connecting the riverbed to the District's formed roading network.
- 3.3. The riverbed and unformed legal roads accessing it are not part of the District's formed transport network. Motorised access is chiefly for recreational or gravel extraction purposes.
- 3.4. Non-motorised access generally does not pose a high level of threat to nesting birds. However, motorised vehicle use can pose a substantial threat to nesting birds and do significant damage in a very short space of time.
- 3.5. Staff received a request from the Department of Conservation for a temporary closure of vehicular access via unformed legal roads to the upper Ashley Rakahuri River for a three-month period from 31 October to 31 January to aid in the protection of nesting birds.
- 3.6. Concerns in the past have led to a similar annual temporary closure in the lower Ashley Rakahuri River by Environment Canterbury since 2012.
- 3.7. Requests for temporary road closures are typically evaluated as operational issues by Roothing staff under the Local Government Act 1974 Schedule 10. These closures are most often requested for construction activities and sporting/community events. As this is a more substantial request and following a deputation from Department of Conservation staff, the Council has requested a report outlining options.
- 3.8. Temporary closures of local purpose reserves are enabled as an operational matter under Section 23 of the Reserves Act. The land south of the Okuku River Bridge, including an informal track, is a local purpose reserve, not road reserve, and thus managed through the Reserves Act instead of the Local Government Act 1974.

- 3.9. Since the issue has arisen, there have been several members of the 4WD community reach out to Council elected members expressing their concern that they will not have access to the river.

#### 4. **ISSUES AND OPTIONS**

- 4.1. Council has the following options available to respond to the temporary closure request from the Department of Conservation:
- 4.1.1. Option One: Approve the closures as requested through a standard temporary road closure process for the proposed period from 31 October 2024 to 31 January 2025.
- 4.2. This specifically would require the temporary closures of the following unformed legal roads (ULRs) for ecological protection purposes:
- Unnamed unformed legal road, Birch Hill Road between #395 & #403
  - Garrymere Road
  - Rakahuri Road
  - O'Hallorans Road
  - Glentui Bennetts Road
  - Bowicks Road

DoC will manage access to the river for gravel extractors through their permissions process. This option would provide the full protection required for the bird nesting period and the protected river bird species, whose populations are in decline.

- 4.2.1. Option Two: Instruct staff to engage with Department of Conservation, ECAN, and interested community groups to explore options for allowing recreational access for 4WD users, as well as reducing the risk to endangered bird species in these breeding areas.

#### **Implications for Community Wellbeing**

There are implications on community wellbeing by the issues and options that are the subject matter of this report.

There are a range of views in the community on this issue.

#### 5. **COMMUNITY VIEWS**

##### 5.1. **Mana whenua**

Te Ngāi Tūāhuriri hapū are likely to be affected by, or have an interest in the subject matter of this report.

Protection of waterways and native flora and fauna is of a very high priority for iwi.

##### 5.2. **Groups and Organisations**

There are groups and organisations likely to be affected by, or to have an interest in the subject matter of this report.

Council Roding staff have liaised with the Council Greenspace Team, Ashley Rakahuri Rivercare Group, Ashley Gorge Holiday Park, and Environment Canterbury in discussing options for nesting bird protection.

To date there has not been any formal engagement by WDC staff with 4WD groups.

### 5.3. **Wider Community**

The wider community is likely to be affected by, or to have an interest in the subject matter of this report.

The wider community will have an interest in the issue of public access for both motorised and non-motorised users, as well as the protection of these bird species.

## 6. **OTHER IMPLICATIONS AND RISK MANAGEMENT**

### 6.1. **Financial Implications**

There are financial implications of the decisions sought by this report.

Processing of a temporary road closure application is part of business as usual within the Roading Team and is allowed for within Council budgets.

If the request is approved, the physical infrastructure required for the temporary closures will be procured and installed by the Department of Conservation.

Should Council instruct staff to undertake further engagement on this matter then this will require staff time to be allocated.

### 6.2. **Sustainability and Climate Change Impacts**

The recommendations in this report could have sustainability impacts, improving the nesting and breeding conditions for protected bird species within the District.

### 6.3. **Risk Management**

There are risks arising from the adoption/implementation of the recommendations in this report.

There are likely to be opposing views around closure of access to motor vehicles within the community.

Failing to put in adequate protection for the bird species that nest within the Ashley Rakahuri River will likely contribute to bird populations continuing to decline.

Enforcement of similar closures has historically been undertaken by the Department of Conservation and Police, as Council does not have enforcement authority in this area.

### 6.4. **Health and Safety**

There are minor health and safety risks arising from the adoption/implementation of the recommendations in this report.

Physical works to install the closures will be undertaken by the Department of Conservation or their nominated contractors.

## 7. **CONTEXT**

### 7.1. **Consistency with Policy**

This matter is not a matter of significance in terms of the Council's Significance and Engagement Policy.

### 7.2. **Authorising Legislation**

Section 342 of the Local Government Act 1974 allows a council to close any road to traffic on a temporary basis.

### 7.3. **Consistency with Community Outcomes**

The Council's community outcomes are relevant to the actions arising from recommendations in this report. This report considers the following outcome:

***A place that values and restores our environment***

- Land use is sustainable; biodiversity is protected and restored
- The natural and built environment in which people live is clean, healthy and safe
- Our communities are able to access and enjoy natural areas and public spaces.

**7.4. Authorising Delegations**

The matter is for consideration by Council as it requires approval for temporary closure of an unformed legal road.

## **Proposal to close the upper Ashley Rakahuri River to vehicles during the bird nesting season**

### **Importance of Ashley Rakahuri to biodiversity**

Globally rare, the Ashley Raka River is one of Canterbury's significant braided river ecosystems. Braided rivers are home to a unique suite of plants, birds and invertebrates who have evolved to live only on the dynamic changing landscape of braided rivers. Some bird species have evolved to live only on braided rivers and are reliant on the health of these rivers for their survival. Species which call the Ashley Rakahuri home include the wrybill/ngatu para, black-fronted tern/tarapiore, black-billed gull/tarapuka and banded dotterel/tuturiwhatu. All of these species are now threatened, and in the case of the black-fronted tern nationally endangered.

Braided river bird species nest on the bare shingle of riverbeds between September – February each year. Their natural predators were airborne, so laying eggs that look like river pebbles was an evolutionary tool that served them well, until humans introduced mammalian predators like rats, cats, and mustelids.

Since 1999 the Ashley Rakahuri Rivercare Group (ARRG) has worked with government, regional and local councils and others to protect these species from various threats including introduced predators, weeds and human disturbance, specifically vehicles driving over their well camouflaged nests.

### **The problem we are trying to address**

Under the Land Transport Act 1998 the definition of a road is broad and includes riverbeds. The section of the Ashley River from the confluence of the Okuku to Ashley Gorge, is public conservation land managed by the Department of Conservation, and is classified as an unformed legal road, which is managed by the Waimakariri District Council. This means currently there is unrestricted vehicle access along the riverbed.

The lower river is managed by Environment Canterbury as a regional park. Over the last 10 years the regional council has closed off vehicle access to the riverbed during nesting season.

In recent years there has been an increase in vehicle use on this part of the river, specifically around early December when an unofficial holiday "Crate Day" has been promoted by a national radio station. The Ashley River has been the location of a "River Run" organised unofficially by local members of the North Canterbury community and with up to 150 vehicles driving along the river. This poses a threat to the endangered native species who nest on the riverbed at this time of year. It also has an impact on other users' enjoyment of the riverbed during summer.

Recent strong media coverage has resulted in public pressure for DOC to restrict vehicle access on this section of public conservation land as well. The Ashley Gorge Holiday Park also experiences the same issues at its family camping and picnic site and is very supportive of this proposal for the summer months.

### **What options have we considered**

Due to the dynamic nature of the river, nest locations are not static which means marking out a route for vehicles to follow would not mitigate the impacts to these threatened species. Previous years have shown that there are vehicle users who consider the riverbed to be exempt from the road rules, and do not comply by having warranted, registered vehicles. There is also a culture of consuming alcohol and other substances while participating in the river run event. We do not believe that encouraging users to follow a marked route would be practical, or successful.

The Department is limited in how it can manage the impacts of vehicle users in the riverbed in this Conservation Area, and Department staff have determined the only mechanism available to them would be to completely close the conservation area to all users under the Conservation Act.

Since 2021 the Department has undertaken joint advocacy with Environment Canterbury, ARRG, Waimakariri District Council, and the Police to encourage a change in behaviour. Despite some

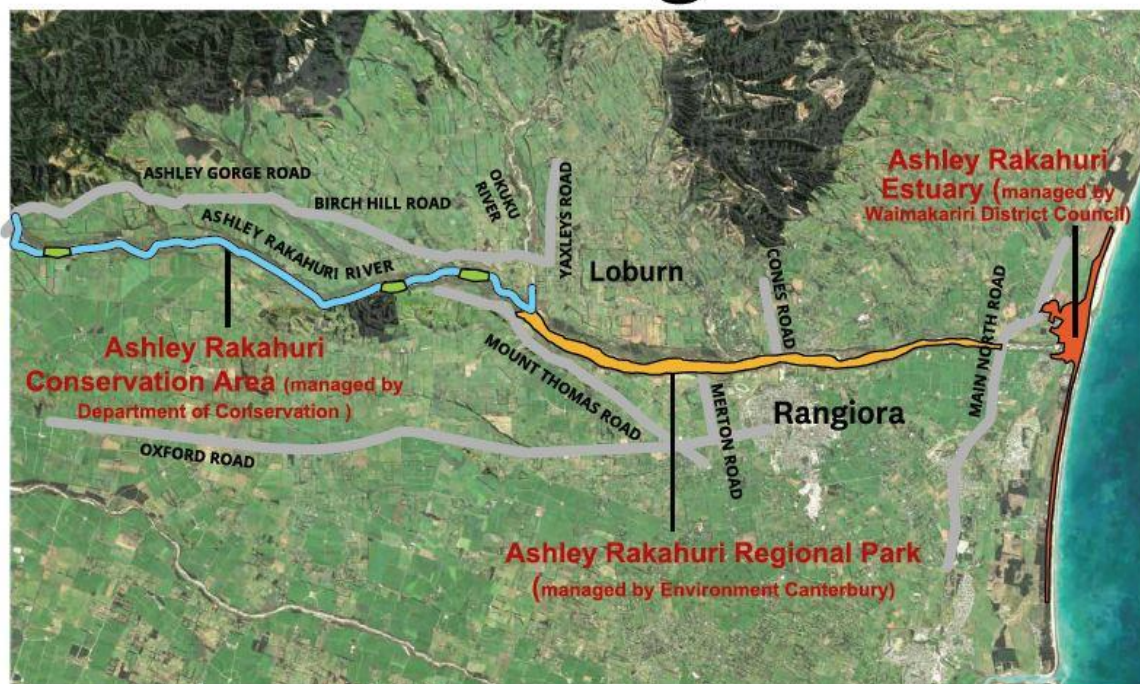
support from some participants to change the timing of the event to outside of nesting season, social media indicates strong support for continuing to hold this in December.




### What we are proposing

Waimakariri District Council has the legal ability to close legal roads, including riverbeds and beaches. DOC, with support from ARRG and ECan, would like to see annual closure to the unformed legal road during the nesting season – 1 September to 31 January.

DOC would take responsibility in installing blocks to physically block access at strategic locations and collaborate with WDC to provide public communication about the seasonal closure to vehicles.

## Restricted Riverbed Access to Protect Nesting Birds



	<b>Ashley Rakahuri Riverbed Conservation Area</b> known bird nesting sites	Access around nesting sites restricted until 1 February
	<b>Ashley Rakahuri Regional Park</b>	Access to riverbed restricted until 1 February
	<b>Ashley Rakahuri Estuary</b>	Highly restricted vehicle access. See Northern Pegasus Bay Bylaw for full details.



## Q&A

### ***Is it legal for 4WDs to drive in the riverbed?***

It is not a given that 4WD vehicles can drive on riverbeds. It depends on the tenure of the land and who manages it. No vehicles are permitted on any national parks (riverbed or otherwise), some sections of braided river are closed off to vehicles through local by-laws for a range of reason, including protection of infrastructure, other recreational users, and protection of wildlife.

The upper section of the Ashley Rakahuri River is vested in DOC as a conservation area. Under the Conservation Act, DOC is mandated to conserve native wildlife and ecosystems. DOC is also responsible for enforcing the Wildlife Act to protect native species which can result in a fine or imprisonment for knowingly disturbing or killing wildlife.

Regionally DOC priorities and management strategies are set out in the Canterbury Conservation Management Strategy which was developed through public consultation. This statutory document provides for restricting public access to public conservation lands where there may be adverse effects on which the lands and waters are held.

Section 13 of the Conservation Act allows for closing off **all** public access to parcels of public conservation land where may be a risk to visitors and/or the ecological values of the area, but this is not considered to be a feasible option.

### ***Why should we protect these birds? What makes them special?***

There are a host of endemic birds that evolved over thousands of years to breed only on braided riverbeds. With no mammalian threats, their main predators were native birds of prey feeding on eggs and chicks. The birds evolved to look like stones, and the nests like clumps of dried grass and twigs on the riverbed. Under threat, the birds and chicks would freeze to avoid being spotted. This survival adaptation has now led to their demise following the arrival of people and introducing rats, hedgehogs, stoats, weasels, cats and dogs.

The birds are sitting dinners for these predators, and blending in with the river makes it almost impossible to see them for people walking or driving vehicles on the riverbed during nesting season.

The birds also require open shingle to nest, and the introduction of gorse, broom, lupins and other weeds has also restricted their breeding ground.

They are at serious threat of becoming extinct, were it not for the efforts of local volunteer groups trapping predators and clearing weeds, and local councils and DOC protecting them and their ecosystem.

### ***Why have agencies not stopped the 4WDs from driving in the rivers sooner/already?***

ECan and Waimakariri District Council have been working on protecting the most populous breeding sites along the lower Ashley for the last 20 years. ECan now place blocks on the access points to the lower river from early September to late February. This work is also undertaken in conjunction with an extensive education and advocacy programme in the local community, led by the Ashley Rakahuri Rivercare Group.

The upper Ashley was, for a long time, not well used by these birds for nesting sites, mainly due to the weeds and lack of predator control. However, in the past few years, surveys have shown increasing numbers of birds are choosing to nest in this area as well.

DOC is mandated to protect wildlife and is working with ECan, Waimakariri District Council and ARRG to look at extending the current protection in the lower Ashley to the upper section from Okuku River junction to the Ashely Gorge.

### ***Is this just a problem in Canterbury or does it happen elsewhere as well?***

The east coast of the South Island, from Marlborough to Otago has the highest number of braided rivers. Braided rivers are very rare, and the only other countries with them include Nepal, Alaska and Iceland – but these countries do not have birds specifically adapted to live

and breed on braided riverbeds. This makes the birds extremely rare world-wide.

All these rivers also have issues with drivers, weeds and predators threatening the survival of these birds.

***What are the consequences if people run over birds? How much can they be fined etc?***

Under the wildlife Act it is an offence to disturb or kill native wildlife. If convicted offenders may face a maximum penalty of two years imprisonment and/or \$100,000 fine.

As compliance officers cannot be present on site at all time, trail cameras overlooking nesting sites has become a very useful tool in following up any wilful disturbance or damage to nesting colonies or solitary nests.