

Before the Independent Commissioners

UNDER The Resource Management Act 1991
IN THE MATTER OF The hearing of submissions and further submissions on
the proposed Canterbury Air Regional Plan

**MEMORANDUM OF COUNSEL FOR CANTERBURY AGGREGATE
PRODUCERS GROUP (SUBMITTER ID: 62784; FURTHER SUBMITTER ID:
1042012) REGARDING PERMITTED ACTIVITY RULES 7.37 AND 7.38**

DATED 26 NOVEMBER 2015

Tavendale and Partners

Lawyers, Christchurch
PO Box 442
Christchurch 8140
Telephone: (03) 374 9999; Fascimile: (03) 374 8888

Solicitor acting: D Caldwell / G Hamilton
david.caldwell@tp.co.nz / georgina.hamilton@tp.co.nz

May it Please the Hearing Commissioners:

Introduction

- 1 This Memorandum of Counsel has been prepared in accordance with the Hearing Panel's directions following the presentation by the Canterbury Aggregate Producers Group (**CAPG**) at the proposed Canterbury Air Regional Plan (**pCARP**) hearing on 12 November 2015.
- 2 It provides suggested wording in relation to proposed permitted activity Rules 7.37 and 7.38, which relate to the discharge of contaminants to air for handling and storage of bulk solid materials.

Proposed Rules 7.37 and 7.38

- 3 At the request of the Hearing Panel, Mr Bligh and Mr Chilton have re-considered proposed Rules 7.37 and 7.38, particularly:
- 3.1 the possibility of separating out the activities of storage and blasting from other activities falling within the pCARP's definition of "handling"¹; and
- 3.2 the appropriateness of the Rules' proposed setback distances from a *sensitive activity, wāhi tapu, wāhi taonga or site of significance to Ngāi Tahu* from a technical perspective.
- 4 The suggested amendments are set out below and are shown as tracked changes in grey shading to the notified form of proposed Rules 7.37 and 7.38. The CAPG continues to seek the amendments proposed in Mr Bligh's evidence in chief (dated 18 September 2015),² which are shown below in tracked changes (without shading).

7.37 *The discharge of contaminants into air from the handling of bulk solid materials is a permitted activity provided the following conditions are met:*

1. *The rate of handling does not exceed 100t per hour; or*
2. *Where handling occurs on less than 21 days per calendar year, the rate of handling does not exceed 250t per hour; and*
3. *The discharge does not cause a noxious or dangerous effect; and*
4. ~~*Where the rate of handling exceeds 20t per hour, a dust management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge into air; and*~~

¹ Set out in Chapter 2 of the pCARP, as "...extraction, quarrying, mining, processing, screening, conveying, blasting, crushing of any material."

² At paragraph 68.

- ~~5. The dust management plan is supplied to the CRC on request; and~~
- ~~6.4 The discharge does not occur within 200m of a sensitive activity located on a different property, wāhi tapu, wāhi taonga or site of significance to Ngāi Tahu; and~~
- ~~5. If the activity involves blasting, the discharge does not occur within 500m of a sensitive activity located on a different property, wāhi tapu, wāhi taonga or site of significance to Ngāi Tahu.~~

- 7.38 The discharge of contaminants into air from the outdoor storage of bulk solid materials is a permitted activity provided the following conditions are met:
1. The amount of material stored does not exceed 1000t when it has an average particle size of less than 3.5mm; and
 2. The discharge does not cause a noxious or dangerous effect; and
 - ~~3. Where the storage exceeds 200t, a dust management plan prepared in accordance with Schedule 2 must be held and implemented by the persons responsible for the discharge into air; and~~
 - ~~4. The dust management plan is supplied to the CRC on request; and~~
 - ~~5.4 The discharge does not occur within 4200m of a sensitive activity located on a different property, wāhi tapu, wāhi taonga or site of significance to Ngāi Tahu.~~

5 We confirm it is Mr Chilton's technical advice that the setbacks in conditions (4) and (5) of Rule 7.37 and condition (4) of Rule 7.38, as redrafted in the manner suggested above, are appropriate on the basis that they accord with the following guideline documents:

- 5.1 EPA Victoria 2013. Recommended Separation Distances for Industrial Residual Air Emissions. Environment Protection Authority Victoria. Publication Number 1518; and
- 5.2 EPA South Australia 2007. Guidelines for Separation Distances. Environment Protection Authority South Australia.

6 For completeness, we confirm that the CAPG no longer seeks to pursue a new permitted activity rule in the form outlined in Mr Bligh's evidence in chief at paragraph 67.

Dated: 26 November 2015



D Caldwell / G Hamilton
Counsel for Canterbury Aggregate Producers Group