

**NOTICE OF SUBMISSION**  
**TO CANTERBURY REGIONAL COUNCIL ON THE PROPOSED COMPREHENSIVE**  
**STORMWATER NETWORK DISCHARGE CONSENT TO DISCHARGE WATER AND**  
**CONTAMINANTS TO LAND AND WATER, INCLUDING COASTAL WATER, FROM THE**  
**EXISTING AND FUTURE CHRISTCHURCH CITY COUNCIL RETICULATED STORMWATER**  
**NETWORK**  
**BY CHRISTCHURCH CITY COUNCIL**  
**UNDER SECTION 96 OF THE RESOURCE MANAGEMENT ACT 1991**

**To:** Canterbury Regional Council  
PO Box 345  
Christchurch 8140

By email: [hearings@ecan.govt.nz](mailto:hearings@ecan.govt.nz)

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Hereafter, collectively referred to as the *Oil Companies*

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## **A. INTRODUCTION**

The Oil Companies submitted in response to resource consent application CRC160056. This submission regarding CRC190445 should be read in conjunction with that submission which is attached at **Annexure A**. That original submission set out the interests of the Oil Companies in Christchurch and they are not repeated here.

The Oil Companies' original submission also raised a number of concerns regarding the lack of clarity, guidance, certainty, transparency and connectivity relating to the management of inputs and effects of discharges by third parties to the reticulated stormwater network. Those concerns remain largely unresolved by this new application.

## **B. THE OIL COMPANIES SUBMISSION IS THAT:**

The new application (CRC190445) does little to address the concerns raised in the original submission of the Oil Companies. The notable exception is that Christchurch City Council (CCC) now recognises the need to include discharges from 'high risk sites', at least from 2025. This shift in intent is supported and aligns with the outcome of Plan Change 4 (PC4) to the Land and Water Regional Plan (LWRP) whereby Canterbury Regional Council (CRC) cannot grant discharge permits for discharges to the reticulated network from 2025.

Notwithstanding the Oil Companies outstanding concerns, there are several matters in the additional information which they consider warrant further attention.

### **New application or amendment**

The Oil Companies have not taken a view in relation to the need for this amended proposal to be considered as a new application. However, the Oil Companies consider that the application should address the current planning framework, including changes to legislation and national and local policy since the initial application was lodged in mid-2015. For example, there have been changes to the LWRP (particularly PC4) and the Lyttelton Port Recovery Plan has been adopted. It is not apparent that these changes in the planning framework have been fully considered by CCC in this new application.

### **Scope of amendment**

The Oil Companies consider the content of CCC's Scope of Amendment to Application letter (*the amendment letter*) requires further comment. The amendment letter includes the following statement:

*'Sites that are excluded in the conditions in the 2016 application are still sites that, if consented separately by the CRC, are discharging into the CCC network and ultimately into the receiving environment being monitored under those conditions.'*

*The effects of all stormwater discharges on the receiving environment are taken account of within the assessment of effects provided in the original application’.*

The Oil Companies struggle to understand the above statement. While it is accepted that consented discharges by third parties may be via the CCC network and therefore enter the same receiving environments, and that these receiving environments will be monitored, the Oil Companies are not clear that the effects of discharges from excluded sites and sites that are considered to pose ‘an unacceptably high risk’ have in fact been assessed, for example discharges to the reticulated network at Lyttelton Port. Section 2.1 of the AEE clearly states that stormwater from construction areas on CRC’s Listed Land Use Register (LLUR) and sites identified as being contaminated or having a risk of being contaminated are excluded. Having excluded them, it is not clear that CCC has considered the effects of these discharges which it will be required to accept, at least from 2025.

For reasons set out in the original submission, the Oil Companies consider it is important that these sites are not excluded and therefore support the intent that discharges from them are provided for in the consent. It is however necessary to ensure that the effect of these discharges have in fact been appropriately assessed.

The Oil Companies also seek clarity regarding the final statement in the amendment letter which is as follows:

*‘CCC also confirms that it does not intend to locate stormwater treatment systems on sites which are listed on the Listed Land Use Register (LLUR) or identified by CRC as being contaminated or having a high risk of being contaminated, and so the statements to this effect in the original application stand.’*

In particular the Oil Companies seek clarity that it is only CCC’s intent to restrict new stormwater facilities<sup>1</sup> on contaminated or potentially contaminated land, for instance via infiltration or wetlands, which have the potential to discharge to contaminated or potentially contaminated land. The Oil Companies consider that a need to not locate devices<sup>2</sup> or other treatment mechanisms on contaminated or potentially contaminated land is unnecessary and may have unintended consequences, particularly where stormwater cannot come into contact with contaminated soils due to overlying impervious surfaces.

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<sup>1</sup> Draft conditions July 2018: **facility** means a (usually large) constructed means of holding or attenuating stormwater for the purpose of reducing discharge rates or removing contaminants. Examples include a sedimentation basin, a constructed wetland, a wet pond an attenuation basin and/or an infiltration basin.

<sup>2</sup> Draft conditions July 2018: **device** means a street or property-scale installation for the purpose of removing contaminants from stormwater in a situation where storage capacity is limited. Examples include a rain garden or a proprietary treatment system.

### **The amendment letter**

The amendment letter sets out a number of key issues. Of most relevance to the Oil Companies, these address Policy 4.16A of the LWRP and a proposed collaborative approach to Stormwater Management Plan (SMP) drafting and review. CCC's position with regard to source control, contaminant load modelling and proposed conditions is also briefly addressed.

#### *LWRP Policy 4.16A and discharges after 1 January 2025*

The Oil Companies support the principle of CCC taking responsibility for all discharges from the CCC network after 1 January 2025 as is now proposed. This will help address the concern raised by the Oil Companies in submissions that the LWRP does not provide for CRC to consent discharges via the reticulated network from 1 January 2025. This is addressed by condition 3 of the July 2018 conditions proposed by CCC:

- 3. Discharge from the sites excluded by Condition 2 will be within the scope of this consent on 1 January 2025, or when current discharge permits expire for those sites, whichever is the latest.*

The Oil Companies consider that the condition should be amended such that it does not require existing discharge permits to expire prior to connection to the network. Post 2025 a consent holder should be able to surrender a consent and connect to the reticulated stormwater network irrespective of whether it happens to hold an existing discharge permit. That would enable parties to proactively seek to connect to the reticulated network when upgrading or maintaining sites, as opposed to necessarily having to wait for the expiry of a discharge permit. This could be simply addressed by deleting 'or when current discharge permits expire for those sites, whichever is the latest' from condition 3.

The CCC commentary to this change also references proposed condition 41. That condition is as follows:

- 41. The consent holder shall, in collaboration with the Canterbury Regional Council:*
- a. Undertake a desktop based identification of industrial sites, ranking sites for risk relative to stormwater discharge and identify the industrial sites that pose the highest risk;*
  - b. Audit a rolling list of at least 10 of the highest risk sites in the city and report progress on an annual basis;*
  - c. Identify any industrial sites that pose an unacceptably high risk and add them to Schedule 1 of this consent. The consent holder cannot add any more sites to Schedule 1 of this consent after 1 January 2025.*

The Oil Companies support the principle of a risk ranking of sites but remain concerned at the lack of transparency regarding what will be considered to pose an unacceptably high risk. As set out in its original submission, the Oil Companies consider that

petroleum industry sites managed in accordance with the MfE Guidelines<sup>3</sup> are not high risk and should be able to discharge to the reticulated stormwater network. CCC's position in this regard remains unclear.

The Oil Companies also seek to understand how the current schedule 1 sites have been compiled. The current list includes several industry sites where stormwater is managed in accordance with the MfE Guidelines and discharged to ground soakage. In the event that reticulated stormwater networks are extended to these areas, it is unclear why the Council would seek to exclude connections to the reticulated stormwater network. As a minimum, the Oil Companies consider there should be a pathway whereby sites can be removed from the Schedule.

Finally, it is considered that condition 41c) should clearly state that Schedule 1 will cease to have effect from 1 January 2025, not just that new sites will not be added to it. That will align the condition with the changes sought to condition 3.

As an aside, the Oil Companies note that the proposed definition of industrial site is very broad and, in the absence of other definitions, for instance commercial site/residential site, may unintentionally capture a range of non-industrial activities. For instance a commercial or retail site storing products would technically be considered an industrial site as defined. This is contrary to the normal definition of industrial site and is considered likely to be unintended.

Notwithstanding the comments above and the acknowledgement by CCC of the need to provide for all discharges from 2025, the Oil Companies retain outstanding concerns with regard to the lack of transparency around how CCC will provide for discharges pre 2025. In particular, the Oil Companies remain concerned that CCC's adversity to any risk will continue to impose significant costs and delays on third parties seeking to discharge to the reticulated network. For instance, even where third parties have obtained resource consent from CRC for discharges via the piped network, it is the Oil Companies' experience that CCC has at times withheld permission to discharge via the network based on quality concerns, not quantity. This is inappropriate and contrary to CCC's Stormwater Bylaw which clearly sets out that in those situations the Council's focus should be solely on quantity.

#### SMP drafting and review

The Oil Companies' submission also raised concerns at the limited potential to input to development and amendment of SMP. In response to submissions and feedback from CRC, CCC has proposed conditions requiring feedback from rūnanga, the relevant Zone

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<sup>3</sup> Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (MfE, 1998).

Committee(s) and Community Board(s). This is addressed via proposed conditions 6(n) and 7:

6. *SMPs submitted to Canterbury Regional Council after the operative date of this consent shall include but not be limited to the following information:...*
  - n. *A summary of feedback obtained in accordance with Condition 7 and if / how that feedback has been incorporated into the SMP.*
7. *Prior to submitting a SMP or any amendment to a SMP to the Canterbury Regional Council, the consent holder shall provide a draft copy to the following parties inviting feedback within a timeframe of not less than 40 working days:*
  - a. *papatipu rūnanga;*
  - b. *The relevant Zone Committee(s) (or successor organisation); and*
  - c. *The relevant Community Board(s) (or successor organisation)*

*Advice Note: The Christchurch City Council intend for development of the SMPs to be a collaborative process with input from key stakeholders. During development of SMPs, papatipu rūnanga, CWMS Zone Committees and Canterbury Regional Council technical staff will be invited to all technical presentations and will have opportunity to review and comment on draft SMP documents. Presentations will be made at public meetings of both the Banks Peninsula and Christchurch-West Melton Zone Committees. Once all documented feedback has been considered and addressed, the finalised SMP documentation will be submitted to the Canterbury Regional Council.*

The Oil Companies acknowledge CCC's intent but seek to ensure that there is an opportunity for wider input given the potential implications of changes to SMP. This could be achieved by making the relevant documents available online and alerting the public to the opportunity to them via a public notice. This will ensure that there is opportunity for a range of stakeholders to input, including those representing critical infrastructure<sup>4</sup>, such as the Oil Companies.

#### Source control

The Oil Companies support CCC's position in the amendment to application letter regarding source control:

*'The applicant considers that although the development and maintenance of stormwater treatment facilities represents a significant cost to the CCC, it achieves relatively modest stormwater contaminant reductions when compared to source control measures such as community education and behaviour change, and those that*

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<sup>4</sup> Critical infrastructure is defined in the Christchurch District Plan as infrastructure necessary to provide services which, if interrupted, would have a serious effect on the communities in Christchurch District and which would require immediate reinstatement and specifically includes structures that support, protect or form part of critical infrastructure. A number of examples are provided in the definition, including petroleum storage and supply facilities.

*could be achieved by central government intervention such as prohibiting over time the use of copper brake pads. Therefore, in addition to the required stormwater contaminant reductions (as discussed above), the applicant is also proposing other 'non-infrastructure' measures to further demonstrate a commitment to improving the quality of stormwater discharge over time (LWRP Policy 4.16)(refer to Condition 38).'*

The Oil Companies consider it essential that CCC apply the same thinking when considering costs to third parties for proprietary treatment devices which achieve similarly modest contaminant reduction.

The Oil Companies would be supportive of submissions to central government seeking source control measures as set out at condition 38. While the example of discharges of contaminants from metal roofs is given, the Oil Companies note reference elsewhere in the application to controls on the composition of brake pads and suggest that tyre composition is similarly important, including to CCC in terms of managing stormwater from the local road network. The Oil Companies seek that brakes and tyres be specifically mentioned at condition 38.

The Oil Companies have a number of technical reports regarding contaminants arising on service stations and roads and would be pleased to discuss these further with CCC in due course.

#### Contaminant load model

A contaminant load model accompanies the new application and includes estimates of Total Suspended Solids (TSS), total zinc and total copper for the four main river catchments in Christchurch under the current situation, and in 5, 10 and 35 years. The focus of the model is on treatment systems, not source control.

The Oil Companies are supportive of the attempt to quantify treatment reductions but consider the model should be accompanied with a cost benefit analysis to enable a better understanding of the merits of treatment systems, particularly in relation to source control of zinc and copper. The Oil Companies wish to ensure that the benefits associated with treatment systems are proportionate to the risks, noting that CCC itself recognises the significant cost of such devices, despite relatively modest stormwater contaminant reductions (see source control section of this submission).

The Oil Companies also seek further clarification on the rationale for the treatment efficiencies presented in Table 6. In particular the Oil Companies seek that CCC explains how the treatment efficiencies take account of the influent. For instance, TSS arising on sealed surfaces is typically low but yet Table 6 indicates proprietary treatment devices such as the Stormfilter will achieve TSS reductions of 75% on roads, paved surfaces or grassland. The Oil Companies consider this is unrealistic given TSS is likely to primarily arise from unsealed surfaces. Similarly, arisings of zinc and copper are likely to be higher on roads due wear of tyre and brakes but the same percentage reductions are

estimated on both roads and paved surfaces. The Oil Companies anticipate that devices will not achieve these stated reductions where yield is low and consider that these efficiencies should be revisited.

The contaminant load model has influenced the proposed conditions, including condition 16. That condition requires percentage reductions in stormwater management loads for TSS, copper and zinc and will be calculated against the modelled untreated contaminated load (see condition 17). CCC will be in breach of the condition if reductions are not met. The intent of condition 16 is supported but the Oil Companies seek to ensure that low base loads do not make these reductions unachievable, especially if these catchment criteria are inappropriately applied to individual sites at a later date. For instance, if the base load of TSS to a service station catchment is negligible, due for instance to the predominance of hardstanding, the Oil Companies consider it may be difficult to achieve the percentage reductions set out in Table 2 to condition 16, despite TSS loads being acceptable from an effects perspective. The same difficulty may apply to CCC in a range of catchments. This could be addressed by establishing a quantitative threshold below which these reductions are not required.

**C RELIEF SOUGHT (noting that alternative relief may achieve the same outcome)**

**Give effect to the submission by:**

- (i) Providing the relief sought in the Oil Companies original submission to CRC160056 (see Annexure A).
- (ii) Providing an assessment of the new application against the current planning framework.
- (iii) Ensuring the effects of all discharges to the network have been considered, including high risk sites and Schedule 1 sites.
- (iv) Clarifying that only new stormwater facilities, as defined in the draft consent conditions, are precluded from locating on contaminated or potentially contaminated land.
- (v) Amending condition 3 to enable connections for excluded sites from 1 January 2025, irrespective of whether existing discharge permits have expired. This could be achieved by amending the condition as follows (deletions in strikethrough):

*Discharge from the sites excluded by Condition 2 will be within the scope of this consent on 1 January 2025, ~~or when current discharge permits expire for those sites, whichever is the latest.~~*



- (vi) Justifying the exclusion of the Schedule 1 sites and remove those sites where risks do not justify exclusion.
- (vii) Amending condition 41 to make it clear that Schedule 1 will cease to have effect from 1 January 2025. This could be achieved by amending the condition as follows (additions in underline):

*The consent holder shall, in collaboration with the Canterbury Regional Council:*

- a. Undertake a desktop based identification of industrial sites, ranking sites for risk relative to stormwater discharge and identify the industrial sites that pose the highest risk;*
- b. Audit a rolling list of at least 10 of the highest risk sites in the city and report progress on an annual basis;*
- c. Identify any industrial sites that pose an unacceptably high risk and add them to Schedule 1 of this consent. The consent holder cannot add any more sites to Schedule 1 of this consent after 1 January 2025 when the schedule will cease to have effect.*

- (viii) Providing for stormwater discharges from petroleum industry sites where stormwater is managed in accordance with the MfE Guidelines.
- (ix) Amending the definition of industrial site to ensure it captures industrial activities but not a range of other non-industrial activities. This could be achieved by amending the definition as follows (additions in underline):

*industrial site means:*

- (a) any industrial premises used for the manufacturing, assembly, wholesaling or storage of products or the processing of raw materials and other ancillary activities; or*
- (b) any industrial premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or*
- (c) any other premises from which a contaminant is discharged in connection with any industrial or trade process—but does not include any land under agricultural production.*

- (x) Stipulating how the Council will engage with the wider community in developing SMP by amending condition 7 as follows (additions in underline, deletions in strikethrough):

*Prior to submitting a SMP or any amendment to a SMP to the Canterbury Regional Council, the consent holder shall make ~~provide~~ a draft copy accessible to the following parties inviting feedback within a timeframe of not less than 40 working days:*

- a. papatipu rūnanga;*
- b. The relevant Zone Committee(s) (or successor organisation); and*

- c. *The relevant Community Board(s) (or successor organisation)*
- d. *The general public, via a public notice.*

*Advice Note: The Christchurch City Council intend for development of the SMPs to be a collaborative process with input from key stakeholders. During development of SMPs, papatipu rūnanga, CWMS Zone Committees and Canterbury Regional Council technical staff will be invited to all technical presentations and will have opportunity to review and comment on draft SMP documents. Presentations will be made at public meetings of both the Banks Peninsula and Christchurch-West Melton Zone Committees. Draft SMPs shall also be advertised via public notices to provide the opportunity for the general public to comment. Once all documented feedback has been considered and addressed, the finalised SMP documentation will be submitted to the Canterbury Regional Council.*

- (xi) Retaining references to ‘non-infrastructure’ measures as a means to demonstrate commitment to improving the quality of stormwater discharge.
- (xii) Amending condition 38 to specifically include reference to copper in brakes and zinc in tyres. This could be achieved by amending the condition as follows (additions in underline):

*Source Control*

*1. Lodge a submission to central government seeking national measures and industry standards to reduce the discharge of contaminants including zinc and copper from metal roofs, car tyres and brakes.*

- (xiii) Quantify the potential benefits of source control to enable a comparison of the costs and benefits of source control versus treatment.
- (xiv) Ensure treatment requirements are practicable and proportionate to risks associated with contaminant loading from particular surfaces.
- (xv) Further explain the rationale for the treatment efficiencies presented at Table 6 of the Contaminant Load Model, especially where influent yields are low in particular catchments.
- (xvi) Amending condition 16 to ensure that percentage reductions are practicable, especially where base loads of a particular contaminant are low. This could be achieved by adding a minimum quantitative threshold under which these reductions are not required.
- (xvii) Any other such relief as to give effect to the submissions.

- A. THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION
- B. IF OTHERS MAKE A SIMILAR SUBMISSION, THE OIL COMPANIES WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.
- C. THE OIL COMPANIES COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.
- D. THE OIL COMPANIES ARE DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT—
  - (i) ADVERSELY AFFECTS THE ENVIRONMENT; AND
  - (ii) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.

Dated at TAKAPUNA this 31 August 2018

Signature on behalf of of Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Ltd



.....  
Mark Laurensen

Encl – Annexure A: Oil Companies’ submission to CRC160056

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## **A. INTRODUCTION**

The Oil Companies receive, store and distribute refined petroleum products.

The Oil Companies have commercial, shore and marine based and aviation and bulk storage facilities (which are regionally significant infrastructure) and are also owners of retail outlets and suppliers of petroleum products to individually owned retail outlets. In the Canterbury Region this includes the bulk storage tanks at the Port of Lyttelton, Christchurch Airport and Woolston and associated wharflines and pipelines.

Maintaining the fuel supply into Canterbury is a significant issue for the Region, and is one which involves a number of cross-boundary considerations.

Under the Resource Management Act 1991 (RMA), the Oil Companies bulk storage facilities and pipeline infrastructure are a significant physical resource that must be sustainably managed, and any adverse effects on that infrastructure must be avoided, remedied or mitigated.

This submission on the CCC Comprehensive Stormwater Network Discharge Consent (CSNDC) application is focused on the key issues that will potentially adversely affect the management of the Oil Companies discharge activities from their assets within Christchurch City as a result of the subject consent. These issues include the exclusion of construction and operational stage discharges from Oil Company sites within Christchurch City from the proposal.

## **B. THE COMPANIES SUBMISSION IS THAT:**

The scope of the proposed CSNDC is to permit the discharge of stormwater from the Christchurch City Council (CCC) stormwater network, including Te Pataka O Rakaihautu/Banks Peninsula (BP) settlements, into land and water within the boundaries of CCC administered area. Whilst the Oil Companies support the concept of a CSWDC and recognise the benefits it provides, the proposal directly affects the Oil Companies as users of the reticulated stormwater network as the proposal specifically excludes:

- Any site or development area on the Canterbury Regional Councils Listed Land Use Register that is considered by Christchurch City Council to pose an unacceptably high risk of surface water or groundwater contamination; and
- Any site listed on the attached Schedule 1 'Sites excluded from the Christchurch City Council Comprehensive Stormwater Network Discharge Consent'.

The Oil Companies concerns relate to the effects the proposal will have on their existing and future assets and the management of discharges for their sites, specifically:

- The lack of clarity, guidance, certainty, transparency and connectivity relating to the management context of inputs and effects of discharges from third party properties. This includes the lack of consideration to the change in management focus posed at the Regional level (PC4 of the Land and Water plan) and the lack of a clear basis for identifying what is considered to be a high risk industrial site. In particular:-
- Draft Condition 2:
  - The requirement for joint authorisation by ECAN and CCC
  - Classification of high and low risk sites
  - Exclusion of LLUR sites and Schedule 1 sites
  - The reference to ground water contamination
- Draft Table 2. Specifically:
  - The ability of CCC to change Table 2 without authorisation or public input
  - The apparent contrary relationship of Table 2 to Condition 15
- Condition 3; Stormwater Management Plan – the lack of certainty and limitation of public input
- Condition 13: The unfettered ability to replace documents with successor documents and lack of scrutiny or public input into those successor documents
- Schedule 1 process – Lack of a clear, formal Schedule 1 process for inclusion along with criteria and scrutiny to enable the public to be aware of how the selection process takes place and whether there is any option to be removed from the list.
- Definition of Hardstand – Inclusion of a new definition to avoid misinterpretation.
- Definition of Redevelopment – Scope of this definition and need for greater clarity.

## **1. General Concerns**

The Oil companies are concerned with the general lack of clarity, guidance, certainty, transparency and connectivity relating to the management context of inputs and effects of discharges from third party properties as a result of this application. This includes the lack of consideration to the change in management focus posed at the Regional level (Plan Change 4 (PC4)) of the Canterbury Land and Water plan). Between PC4 and and CCC's exclusion of discharges listed in Condition 2 of the CSNDC consent application, the Oil Companies will not have a consent pathway for construction or operational stage discharges post 2025.

The CSNDC as drafted showcases a lack of appreciation that operational discharges from the Oil companies sites is to a level that complies with the MfE Guidelines (*Environmental Guidelines for water discharges from petroleum industry sites in New Zealand: 1998*). The reality is that these discharges are not from contaminated land and will ultimately be to the CCC network whether they are included in the CSNDC or have their own discharge permits. It is understood that the rationale for excluding discharges from the Oil Companies sites is to reduce liability for these discharges, this issue is addressed in point 2 below.

The conditions as proposed are similar to some existing CCC global consents, namely CRC090292, in terms of providing exclusions from HAIL sites or any other development where CCC considers that there are factors which require ECAN input, it can choose to not accept a proposed discharge to its network. There has been a lack of consistency in the way in which these consents have been managed in the past with some sites being accepted for discharge and others excluded. The CDNDC provides an opportunity to provide pragmatic approach to the management of discharges, clarity, guidance, certainty and transparency to the users of the network.

## **2. Condition 2**

Draft condition 2 as outlined in the s92 response is as follows:

*There shall be no discharge to land or surface water from the following unless expressly authorised by the Canterbury Regional Council and Christchurch City Council:*

- a) Any site or development area of the Canterbury Regional Councils Listed Land Use Register that is considered by Christchurch City Council to pose an unacceptably high risk of surface water or groundwater contamination;*
- b) Any stage of development with a total area of disturbance exceeding 5 hectares on flat land or 1 hectare on hill land; and*
- c) Any site on the attached Schedule 1 'Sites excluded from the Christchurch City Council Comprehensive Stormwater Network Discharge Consent'.*

### Joint Authorisation

Whilst it is understood that CCC wishes to retain discretion as to which sites they include and exclude, the process around this is unclear and ambiguous. Draft Condition 2 does not assist in clarifying the nature of discretion to be exercised and it should. The condition specifically states that there shall be no discharges from those sites listed in Condition 2 (a)-(c) unless authorised by Canterbury Regional Council (ECAN) and Christchurch City Council (CCC). For those sites excluded by the condition the pathway is to obtain regional consent under the Land and Water plan. However the nature of the CCC approval in that circumstance is different from that as consent holder. For a regional

consent application by a third party CCC will likely be considered an affected party. Affected party approvals given have to be unconditional. The Council therefore has leverage in terms of whether the application is limited notified by granting or withholding their approval. In granting their affected party approval and in terms of their role as utility operator the scope of the concerns on the network should only be limited to capacity and integrity of the network. Aspects pertaining to water quality are matters for the Regional Council. What is lacking in the documentation is clarity in the nature and scope of the exercise of discretion CCC should be exercising. The Condition should be amended to make it clear that there is no discharge from those exclusions provided for unless a regional resource consent has been obtained. There can be an advice note then attached relating to the exercise of Councils discretion as an affected party in such circumstances.

#### Classification of high and low risk sites

The s92 response clarifies that the intention of Draft Condition 2 is to exclude those sites in the Listed Land Use Register (LLUR) that are deemed to be 'low risk'. CCC will liaise with the ECAN Contaminated Sites team to determine whether a site poses an unacceptable high risk and those sites will be excluded. This is an area of considerable discretion. It is unclear what process will be followed. The Oil Companies are aware that there is an existing MOU for residential contaminated sites but have been advised by ECAN that the process agreed only applies to those sites, it is therefore uncertain what process will and should apply to industrial and trade premises. The process for residential sites makes explicit reference and reliance on Suitably Qualified Experienced Persons (SQEP) (a concept upon which the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to protect Human Health) Regulations 2011 also relies). The Companies would support greater use of the SQEP process for all contaminated land. In the Companies view such processes should be made explicit, be publicly available and developed in a way that would also enable some public comment or input. There is no barrier to putting more open processes around these matters for CCC or ECAN. Condition 2 should clearly link and reference a formal process and documentation by which sites are considered high risk or low risk to give certainty to the Council and those parties who have such sites that there are clear and explicit criteria that can be consistently applied and consistently administered.

In addition, Condition 2 (a) specifically excludes those sites that pose an unacceptably high risk of surface water or ground water contamination. Oil Company experience to date is that for operational discharges there is a lack of appreciation that surface water derived from impervious surfaces does not come into contact with contaminated land and therefore such discharges will



have to be considered low risk in terms of entraining contaminants from contaminated land. It is accepted that there may be other issues relating to potential contamination from the use of hazardous substances but that is a different matter and requires a different regime and focus to manage it properly. Using the LLUR in such circumstances is too blunt an instrument.

It is recognised that construction activities pose a greater potential risk when occurring on a HAIL site. Proposed Plan Change 4 of the Land and Water Plan does provide a consent pathway for such activities. This distinction should be recognised in the consent (i.e. construction activity discharges from HAIL sites are excluded as are High risk operational discharges from contaminated land).

#### Exclusion of LLUR and Schedule 1 Sites

The majority of Regional Authorities around New Zealand place responsibility for discharges to the reticulated network with the network operators. Regional Authorities retain control over the discharges from the reticulated network. This is not currently the case in Christchurch. The inclusion of Condition 2 directly affects the Oil Companies as they will be required to obtain their own Construction Stage and potentially Operational Stage Discharge consent from Environment Canterbury for any redevelopment of any of their multiple sites, for any maintenance or repair work, retanking, dewatering, discharge of ballast water, or any redevelopment of minor or major scale. Rule 5.95 of the Environment Canterbury Land and Water Plan specifically provides for the discharge of stormwater as a permitted activity provided the discharger has obtained written approval from the system owner to discharge into the system. If written approval cannot be obtained, the discharger is required to obtain their own discharge consent from ECan and in most cases the Oil Companies have been required to do exactly that. However, Policy 4.16A of the current Proposed Plan Change 4 states:

*4.16A Operators of reticulated stormwater systems implement methods to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater system, and from 1 January 2025 network operators account for and are responsible for the quality and quantity of all stormwater discharged from that system, and the Canterbury Regional council shall not issue and permit to discharge stormwater into a reticulated stormwater system.*

While this matter is being contested by numerous parties it signals an intent by ECan that they want to move to a regime where the CCC is responsible for all inputs. Should Policy 4.16A be made operative, the Oil Companies will be unable to discharge construction or operational stage discharges within Christchurch City unless they have consent, obtained prior to 2025. This is not practical given

that they are unable to forecast all future developments, upgrades or locations of these.

The presence of the Oil Companies assets within the area is an integral and vital component of Christchurch City. It is important to recognise that fuels are required by society to sustain living standards. As currently drafted, the consent conditions will not enable a clear and obvious pathway for stormwater from excluded sites. It is therefore important that there is agreement between CCC and ECan as to what is to happen in terms of responsibilities for inputs in to networks in the future before these conditions are finalised.

The management and treatment of construction and operational stage discharges from the Oil Companies sites is of utmost importance. In terms of operational discharges, all discharges from 'at risk' areas are treated prior to discharge in accordance with MfE Guidelines (*Environmental Guidelines for water discharges from petroleum industry sites in New Zealand: 1998*) for the specific site conditions. In some cases stormfilter treatment systems, sweeping or raingardens have been used to treat non forecourt areas. In terms of construction stage discharges in reticulated areas, these similarly need to be to the reticulated network. The effects associated with excavations are limited due to the relatively contained scale of proposals and that fact that the contractors are required to implement erosion and sediment control measures to control silt prior to works commencing on site and to monitor and maintain such measures throughout the construction phase. The likelihood of stormwater contamination via soil phase contamination (hydrocarbons attached to the soil) is considered very low, with any stormwater being discharged to the reticulated system predominantly only being in contact with any soils at surface level, and clean water (i.e. stormwater) being diverted away from excavations and stockpiles. In some cases shallow perched water and stormwater *may* collect in open excavations, and potentially hydrocarbon impacted perched water may be encountered, particularly in excavations associated with infrastructure removal or replacement. However in the event that potentially impacted water is encountered, this water may either be removed, if necessary to assist in infrastructure removal, and transported to a licensed waste treatment facility or appropriately treated.

Given the temporary nature of the discharge it is considered that the sediment and erosion control measures adopted are adequate to ensure that the construction stage discharges are adequately managed in a manner that will ensure any adverse effects on the receiving environment are less than minor. In addition, certain construction activities from the Oil Companies sites require the discharge of 'clean water' e.g. ballast testing water. The above condition also excludes these activities.

It is noted that the scope of the consent does not cover construction dewatering or other sources of water discharges such as pipe and tank testing waters. Such activities will therefore continue to require discharge consent from ECan; nevertheless such discharges will require consent of CCC as a potentially affected party. It is noted though that Council has already effectively provided for such discharges by way of the Water Supply, Wastewater and Stormwater Bylaw 2014, under clause 30(4) where it identifies no consent is required under the bylaw where there is an ECan consent obtained.

It is understood that CCC wish to reduce exposure to risk from private sites operating under their network discharge consents. However their liability lies with the collective discharges that come from the network. It is noted that the definition of stormwater within the consent specifically excludes spills, and therefore excludes the liability on CCC if the worst case scenario were to occur. Given that spills are not included, liability is with the Oil Companies. As such it is requested that operational discharges from their sites are included within the scope of this consent where they are considered low risk in terms of contaminated land (e. g. when stormwater from a LLUR site is from an impervious area). If the intention is to address other issues such as from a high traffic use site or use of hazardous substances, then further conditions and associated guidance need to be explicitly developed to target that.

#### Reference to Ground Water contamination

Condition 2(a) specifically excludes sites listed on the LLUR that are considered by CCC to pose an unacceptably high risk of surface water or ground water contamination. The consent sought is specifically for the discharge of stormwater from the CCC network to land, water and the coastal environment. It is not to be confused with issues surrounding “passive discharges” which are otherwise sanctioned by the land and Water Plan. It should only be stormwater that comes in contact with contaminated land and enters the CCC network. It is accepted that parts of the network may discharge to ground or surface water. However to avoid uncertainty the condition could be improved by rewording as follows (changes in strikethrough and underline):

Any site or development area on the Canterbury Regional Council’s Listed Land Use Register that is considered to by Christchurch City Council to pose unacceptably high risk ~~of surface water or groundwater contamination~~ to the network discharge;

### **3. Draft Table 2 compliance**

Condition 9 and 12 both state that prior to submission to the Canterbury Regional Council of the SMP for a particular catchment, all new greenfield development and redevelopment shall meet the General City Conditions for water quality mitigation as specified in Table 2 of the consent.

Table 2 requires first flush treatment for stormwater runoff from new hardstand areas in excess of 150m<sup>2</sup>, buildings with copper or uncoated galvanised roofs or guttering/spouting and high use sites from new/re-development of non-residential roof and hard stand areas.

Table 2 appears to create a conflict with Condition 15. Condition 15 states that:

15. *For all other water quality mitigation facilities constructed after the commencement of this consent, 'reasonable endeavours' shall be taken to treat the first flush*

The above condition would apply to redevelopment, yet Table 2 does not appear to facilitate a best endeavours approach for redevelopment. Condition 15 as drafted recognises the inherent difficulties in providing retro-fit treatment of existing developed catchments. CCC has stated within their application that they recognise full flush treatment in retro-fit situations is not always possible due to financial or physical constraints. The reference to redevelopment in Table 2 should therefore include recognition of the “best endeavours” approach.

The first paragraph in Table 2 states:

*This table indicates minimum requirements to enable discharges under this consent from greenfield developments and redevelopments in areas not yet covered by a Stormwater Management Plan. For any development where the Christchurch City Council (CCC) considers there are factors that require Canterbury Regional Council input it can choose to not accept a proposed discharge to its network and therefore a consent from the Regional Council would be required. The CCC may also require a higher standard than is represented in the table below in order to mitigate effects on the network or if any special conditions exist.*

This statement effectively provides CCC with absolute discretion in determining whether to accept discharges in accordance with the consent or require dischargers to get a Regional Council (non-complying for operational discharges) consent. While this may be desirable from the CCC perspective it does not give the public any certainty as to what will and will not be included and the basis for that. It is the Companies view that the basis for such determination (e.g. as part captured in the MOU for residential HAIL sites) should be included in the consent for reasons of consistent administration.

Further the current proposed policy in Plan Change 4 to the Land and Water Plan states that ECAN will not issue discharge permits post 2025, this statement is void for certainty should that Policy be adopted.

At the very least the last sentence should only be included after the first sentence. This is to avoid the implication that the discretion to impose a requirement for higher standards will be imposed not through the consent but as an affected party to any Regional Consent.

#### **4. Condition 3 – Stormwater Management Plan (SMP)**

Condition 3 requires that CCC, in consultation with Papatipu Runanga and the Christchurch-West Melton and Banks Peninsula Zone Committees (or successor organisations), develop and update as necessary SMPs to meet the receiving environment targets as set out in the conditions of this consent. The SMPs will include mitigation methods to achieve compliance with the conditions of the consent including the Receiving Environment Targets (some of which are yet to be finalised). It is understood that CCC intend for the development of SMPs to be a collaborative process with input from key stakeholders.

As drafted, any future SMP will essentially act as a defacto Regional Plan. It will set the parameters by which discharges can be accepted and how they must be treated. The process by which any future SMP is approved excludes public input, although it is stated in the application documents that presentations will be made at public meetings, the public will be unable to comment on draft SMP documents and will not be included in the development of these documents. It is understood that CCC intend for the development of the SMPs to be a collaborative process with input from key stakeholders. However it is unclear who the 'key stakeholders' are. A clearer, more transparent public process of approval is required.

#### **5. Condition 13**

Condition 13 refers to water quality and quantity mitigation facilities and devices being designed in accordance with a series of listed documents or their respective successor documents. This condition directly affects users of the reticulated network and it determines the level of design required for the mitigation facilities and devices that will be required to be used. In some instances the level of treatment that devices or facilities provide is debateable and they do not actually achieve what is intended in certain scenarios. It is considered inappropriate to enable Council to claim any document as a successor document that imposes costs on people using the network without appropriate scrutiny. The reference to successor documents should be deleted.

## 6. Schedule 1 Process

The schedule 1 process of including sites on the schedule 1 list is unclear and requires further clarification. A more formal process for inclusion along with criteria and scrutiny is required. It is unclear which parties will be targeted and how they will be notified or how long the Council will work with the parties to meet the Receiving Environment Targets before they are included on the list and required to obtain their own consent (which they will potentially be unable to do post 2025).

## 7. Definition of Hardstand

Hardstand is not defined in the Draft Conditions. The lack of a clear definition may cause issues in consistent administration of inputs and lead to misinterpretation. Most dictionary definitions relate to vehicles and aircraft parking on hard surfaces. For example the Collins (on line) dictionary defines it as follows: *a hard surface on which vehicles, such as cars or aircraft, may be parked*. There are many compacted gravel areas where vehicles are currently parked in Christchurch pending redevelopment. It is considered appropriate to focus on the redeveloped surfaces that are impervious as that is when treatment devices are more appropriately considered. As a consequence the following definition is sought:

*Hardstand: An impervious surface used for parking of vehicles or aircraft*

## 8. Definition of Redevelopment

The definition of redevelopment is critical to the application of the consent conditions and the scope by which different types of redevelopment activities are authorised or not and where they trigger table 2 requirements (i.e first flush treatment). The definition as drafted in the draft consent conditions (below) encompasses all redevelopment.

*Redevelopment means a change to a developed site or a site activity that results in a stormwater discharge that is not the same in scale, intensity or character to the discharge that existing prior to the commencement of this consent.*

It should be recognised that some repair or maintenance activities should be excluded from this definition so they are not unnecessarily subject to compliance with Table 2. It is requested that the definition of redevelopment be changed to include similar exclusions as the Proposed Auckland Unitary Plan which are as follows:

- *Maintenance or repairs, such as:*

- (a) Pothole repairs to parking areas, driveways and paving*
- (b) Painting of roofing and exterior cladding*
- *Resurfacing that does not involve redirection of existing stormwater flows or drainage networks*
- *Trenching and resurfacing associated with the installation, maintenance, repair and replacement of underground equipment, infrastructure or underground utility works.*

## **C RELIEF SOUGHT**

### **A. Give effect to the submission by making amendments to the application and draft conditions along the following lines:**

- (i) Provide improved clarity, guidance, certainty, transparency and connectivity relating to the management context of inputs and effects of discharges from third party properties. Include clear criteria upon which decisions relating to determining high risk sites will be made.
- (ii) Amend Condition 2 as follows:
  - 2. *There shall be no discharge to land or surface water from the following unless expressly authorised by Canterbury Regional Council ~~and the Christchurch City Council~~:*
    - a) Any site or development area on the Canterbury Regional Council's Listed Land Use Register that is considered by Christchurch City Council to pose an unacceptably high risk (assessed in accordance with the X process of classification) ~~of surface water or groundwater contamination to the network discharge~~;*
    - b) Any stage of development with a total area of disturbance exceeding 5 hectares on flat land or 1 hectare on hill land; and*
    - c) Any site listed on the attached Schedule 1 'Sites excluded from the Christchurch City Council Comprehensive Stormwater Network Discharge Consent'.*

*Advice Note: The network utility operator will be considered an affected party for all discharges to the network from excluded sites. In granting their affected party approval and in terms of their role as utility operator the scope of the concerns on the network should only be limited to capacity and integrity of the network. Aspects pertaining to water quality are matters for the Regional Council.*

- (iii) Amend Table 2 by including the following rules in 'Discharges from new/redevelopment of non-residential roof and hard standard areas':

Small sites: 'Reasonable endeavours' shall be taken to treat the first flush on all 'redevelopment' sites.

Large sites: 'Reasonable endeavours' shall be taken to treat the first flush on all 'redevelopment' sites.

- (iv) Table 2: Delete the paragraph above Table 2 and include the basis for which CCC will determine acceptance or otherwise to the CCC network (e.g. as part captured in the MOU for residential HAIL sites) or;

Amend the paragraph as follows:

*This table indicates minimum requirements to enable discharges under this consent from greenfield developments and redevelopments in areas not yet covered by a Stormwater Management Plan. The CCC may also require a higher standard than is represented in the table below in order to mitigate effects on the network or if any special conditions exist. For any development where the Christchurch City Council (CCC) considers there are factors that require Canterbury Regional Council input it can choose to not accept a proposed discharge to its network and therefore a consent from the Regional Council would be required. ~~The CCC may also require a higher standard than is represented in the table below in order to mitigate effects on the network or if any special conditions exist.~~*

- (v) Condition 3: Stormwater Management Plan – amend to provide a requirement for a clearer more transparent public process for SMP approvals
- (vi) Condition 13. Ensure that there is an appropriate process scrutiny for ensuring the appropriateness of successor documents into the consent. Ensure the existing documents referenced are appropriately dated. Delete the reference to successor documents as follows:

*13. Water quality and quantity mitigation facilities and devices shall be designed in general accordance with the Christchurch City Council's Waterways and Wetlands Drainage Guide, Infrastructure Design Standard, and Construction Standard Specifications, Christchurch Rain Garden Design Criteria, Christchurch Stormwater Tree Pit Design Criteria and Stormfilter Design Rainfall Intensity Criterion Report ~~or their respective successor document(s).~~*

- (vii)
- (viii) Schedule 1 Process: Develop a clear, formal Schedule 1 process for site inclusion along with criteria and scrutiny to enable the public to be aware of



how the selection process takes place and whether there is any option to be removed from the list.

- (ix) Include a definition of hardstand into the consent as follows:

*Hardstand: An impervious surface used for parking of vehicles or aircraft*

- (x) Amend the definition of redevelopment to include exclusions as follows:

*Redevelopment means a change to a developed site or a site activity that results in a stormwater discharge that is not the same in scale, intensity or character to the discharge that existing prior to the commencement of this consent; excluding:*

- Maintenance or repairs, such as:
  - (a) Pothole repairs to parking areas, driveways and paving
  - (c) Painting of roofing and exterior cladding
- Resurfacing that does not involve redirection of existing stormwater flows or drainage networks
- Trenching and resurfacing associated with the installation, maintenance, repair and replacement of underground equipment, infrastructure or underground utility works.

**(b) Any other such relief as to give effect to the submissions.**

B. THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION

C. IF OTHERS MAKE A SIMILAR SUBMISSION, THE OIL COMPANIES WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.

D. THE OIL COMPANIES COULD NOT GAIN AN ADVANTAGE IN TRADE COMPETITION THROUGH THIS SUBMISSION.

E. THE OIL COMPANIES ARE DIRECTLY AFFECTED BY AN EFFECT OF THE SUBJECT MATTER OF THE SUBMISSION THAT—

- (i) ADVERSELY AFFECTS THE ENVIRONMENT; AND
- (ii) DOES NOT RELATE TO TRADE COMPETITION OR THE EFFECTS OF TRADE COMPETITION.

Dated at TAKAPUNA this 29<sup>th</sup> February 2016

Signature on behalf of of Z Energy Limited, BP Oil NZ Limited and Mobil Oil NZ Ltd



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MICHELLE KEMP

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