

**ROYDON QUARRY, TEMPLETON****MINUTE 16****AMENDED CONDITIONS – SECTION 133A RMA****Introduction**

- [1] In paragraph [480] of our Decision dated 22 April 2020 we noted that given the length and complexity of the consent documents it was quite conceivable that the conditions might contain errors of a grammatical or cross-referencing nature. Accordingly, we advised that should the Applicant or the SDC or CRC reporting officers identify any minor mistakes or defects in the conditions, then we were prepared to issue an amended suite of conditions under s133A of the RMA correcting any such matters.

**Advice Received**

- [2] We did not receive any advice from the CRC reporting officers regarding any minor mistakes or defects in the conditions.
- [3] On 8 May 2020 the SDC Planning Manager emailed the Hearing Administrator and attached an email from submitter Davina Penny regarding SDC Land Use Consent RC185627 Condition 43(e). The Planning Manager asked that we consider the matter raised by Ms Penny and so we understand that to be a request from the SDC that conforms with the terms of our Decision as outlined in paragraph [1] above.
- [4] On 18 May 2020 we received advice from the Hearing Administrator that Fulton Hogan (the Applicant) had sought corrections to:
- SDC Land Use Consent RC185627 Condition 34
  - SDC Land Use Consent RC185627 Condition 98(b)
  - CRC Land Use Consent CRC192408 and 192409 Condition 5, 8 and 21(c)
  - CRC Discharge Permits CRC192411 and CRC192412 Condition 4

**SDC Land Use Consent RC185627 Condition 34**

- [5] The Applicant pointed out an error in the figure referred to and suggested that the correct figure was CRC192408A. We agree that the figure reference is incorrect but note that the correct figure is CRC192408C.
- [6] Pursuant to section 133A of the RMA Condition 34 of SDC Land Use Consent RC185627 is amended read:

All fixed and mobile processing plant and associated stockpiling must be set back at least 500m from the site boundaries and be located within the CPSA, as shown on Figure ~~RC185627A~~ CRC192408C and in general accordance with the figures listed in condition 4(a).

**SDC Land Use Consent RC185627 Condition 43(e)**

- [7] Ms Penny referred to paragraphs [15] and [459] of our Decision. Paragraph [15] noted (based on the evidence of Fulton Hogan witness Mr Chittock) that before a truck leaves the quarry, it will pass under an automatic spray bar whether or not the truck leaving the site has a load and irrespective of whether the load is covered. Paragraph [459] notes that we intended to amend the SDC conditions to require all loaded trucks leaving the quarry to be covered.
- [8] Ms Penny suggested that SDC Land Use Consent RC185627 Condition 43(e) is not consistent with those elements of our Decision. We agree.

[9] In that regard paragraph [259] of our Decision noted that the Applicant proposed that all heavy vehicles leaving the site would pass under a water spray bar which would moisten the load and minimise dust emissions while in transit. We considered that would work effectively in conjunction with covering of loads and that would be addressed in Condition 41(e) of the SDC consent.

[10] Pursuant to section 133A of the RMA Condition 43(e) of SDC Land Use Consent RC185627 is amended read:

- e) Heavy vehicles with aggregate or other quarry material leaving the site must ~~either~~ cover their load ~~or~~ and have the load dampened with water spray before leaving the site.

**SDC Land Use Consent RC185627 Condition 98(b)**

[11] The Applicant suggested that wording in Condition 98(b) should be changed from “best practical option”, to “best practicable option” to align with s128(1)(a)(ii) of the RMA. We agree that is appropriate.

[12] Pursuant to section 133A of the RMA Condition 98(b) of SDC Land Use Consent RC185627 is amended read:

To require the consent holder to adopt the best ~~practical~~ practicable option to remove, remediate or reduce any adverse effects on the environment resulting from the activity; and/or

**CRC Land Use Consent CRC192408 and 192409 Conditions 5, 8 and 21(c)**

[13] The Applicant noted that Conditions 5 and 8 use the term “highest groundwater level” and footnotes to those conditions read “As defined in the Canterbury Land and Water Regional Plan”. The Applicant sought that the footnotes be amended to include the actual definition from the LWRP, as proposed to be inserted by Plan Change 7 to the LWRP, including a minor wording amendment recommended by the Section 42A Report to that plan change.

[14] The Applicant also noted that Condition 21(c) also refers to “the highest groundwater level”.

[15] We note that Condition 5 refers to maximum depths of excavation determined by the Applicant based on their assessment of historical groundwater levels at and around the site. Those maximum depths of extraction are plotted on the contour plan attached to the CRC conditions as Plan CRC192408B. Condition 5 is therefore ‘self-contained’ and on reflection it was confusing to include the term “the highest groundwater level” in that condition.

[16] Condition 7 requires the consent holder to use daily groundwater level monitoring information (required to be collected under Condition 6) to undertake five yearly reviews of the maximum depths of extraction below ground level that are set in Condition 5.

[17] Condition 8 refers to both “the highest groundwater level” (which is footnoted to be defined by the LWRP) and the “highest recorded groundwater level for the site” which is footnoted to be defined by the groundwater level monitoring data obtained from Condition 6. On reflection Condition 8 is confusing as it refers to two types of ‘highest groundwater level’. As the maximum allowable depths of excavation plotted in Plan CRC192408B are to be reviewed every five years based on actual groundwater level monitoring obtained at the site (Conditions 6 and 7) we find that there is no need to refer to the “highest groundwater level” “as defined in the Canterbury Land and Water Regional Plan”.

[18] It is sufficient to rely on the actual groundwater levels for the site obtained from the six bores referred to in Condition 6. Given that finding, we also determine that to avoid further confusion and for the sake of

consistency, Condition 21(c) should be amended to mirror the second footnote to Condition 8 which in turn cross-refers to Condition 6.

[19] Pursuant to section 133A of the RMA the footnotes to Conditions 5 and 8 of CRC Land Use Consent CRC192408 and 192409 are deleted:

~~<sup>1</sup>As defined in the Canterbury Land and Water Regional Plan.~~

~~<sup>2</sup>As defined in the Canterbury Land and Water Regional Plan.~~

[20] Footnote 3 to Condition 8 consequently becomes Footnote 1. We also make a minor amendment to its wording.

[21] Pursuant to section 133A of the RMA Conditions 5, 8 and 21(c) of CRC Land Use Consent CRC192408 and 192409 are amended to read:

5. Excavation of aggregate and deposition of cleanfill must only occur where the quarry floor maintains at least one metre separation depth to ~~the highest groundwater level<sup>1</sup>~~. This must be achieved by ensuring the base of the quarry is no deeper than (unless shallower depths are determined pursuant to Condition 7):
  - a) 9.9 metres below natural ground level in the northwest area of the site (42.99 m RL); and
  - b) 8.1 metres below natural ground level in the southeast area of the site (33.22 m RL);
 in accordance with the contour plan included as Plan CRC192408B, attached to and forming part of this consent.
  
8. Notwithstanding Condition 7, at all times and in all circumstances, the consent holder must limit excavation to one metre above ~~both the highest groundwater level<sup>2</sup> for the site and the highest recorded groundwater level<sup>3,1</sup> for the site, referenced to the datum point in Condition 1.~~

~~<sup>3,1</sup> Derived from the groundwater level data obtained from under Condition 6.~~

21(c) Not deposited into groundwater and is at least one metre above the highest recorded groundwater level for the site as determined under conditions of this consent derived from the groundwater level data obtained under Condition 6.

**CRC Discharge Permits CRC192411 and CRC192412 Condition 4**

[22] The Applicant noted that Condition 4(a) also uses the term “highest groundwater level” and a footnote to that condition also reads “As defined in the Canterbury Land and Water Regional Plan”. Consistent with our discussion above we find that the footnote to Condition 4 should be deleted and Condition 4(a) should be amended to mirror amended Condition 21(c) of CRC Land Use Consent CRC192408 and 192409.

[23] Pursuant to section 133A of the RMA the footnote to Condition 4(a) CRC Discharge Permits CRC192411 and CRC192412 is deleted:

~~<sup>4</sup>As defined in the Canterbury Land and Water Regional Plan.~~

[24] Pursuant to section 133A of the RMA Condition 4(a) of CRC Discharge Permits CRC192411 and CRC192412 is amended to read:

- a) provide no less than one metre of separation between the highest recorded groundwater level<sup>4</sup> at the site, derived from the groundwater level data obtained under Condition 6 of CRC Use Consent CRC192408/192409, and the pond invert;

[25] The Applicant noted that Condition 4(c) refers to the definition of contaminated land contained in the LWRP. They suggested that it would be preferable to set out that definition in a footnote. We agree.

[26] Pursuant to section 133A of the RMA Condition 4(c) of CRC Discharge Permits CRC192411 and CRC192412 is amended to read:

- c) be lined with soils to facilitate the removal of contaminants. The soil must not be sourced from contaminated land<sup>2</sup> ~~(as defined in the Canterbury Land and Water Regional Plan)~~.

<sup>2</sup>Land that has a hazardous substance in or on it that either has significant adverse effects on the environment or is reasonably likely to have significant adverse effects on the environment.

[27] We appreciate the SDC and Fulton Hogan bringing these matters to our attention.



Rob van Voorthuysen  
**Independent Commissioner – Chair - on Behalf of the Commissioners**  
Dated: 18 May 2020