



In the matter of

Applications to the Selwyn District Council (RC 215749) and Canterbury Regional Council (CRC213142, CRC213143, CRC213144, CRC213145, and CRC213146 by Winstone Aggregates Limited (a Division of Fletcher Concrete and Infrastructure Limited) for land use and discharge consents associated with an extension to an existing quarry and backfilling operation at 692 and 706 Robinsons Road, Prebbleton.

DECISION OF HEARINGS COMMISSIONER

GRAHAM RUTHERFORD TAYLOR

28 JUNE 2022

Hearing: 31 March 2022 – Online via Teams

Site: Lot 2 DP 478287 LOT 1 DP 25795 LOT 1 DP 467327 - 706 Robinsons Road, Prebbleton

Lot 1 DP 80577 BLK IV Leeston SD - 692 Robinsons Road, Prebbleton

Zoning: Rural Inner Plains in the Operative Selwyn District Plan.

Activity Status: Restricted Discretionary.

Decision: **The consents sought are granted subject to conditions.**

1. APPOINTMENT AND SITE VISIT

- 1.1 I have been appointed and empowered by the Selwyn District Council (SDC) and Canterbury Regional Council (CRC) to determine the joint hearing of land use and discharge consent applications by Winstone Aggregates Limited (a Division of Fletcher Concrete and Infrastructure Limited) for land use and discharge consents associated with an extension to an existing quarry and backfilling operation at 692 and 706 Robinsons Road, Prebbleton.
- 1.2 I visited the site and the surrounding area on 30 March 2022. I was accompanied on the site visit by the quarry manager, Ross Aikman. Mr Aikman did not participate in the hearing. His role on the site visit was only to guide me to areas I requested to view, and was also necessary due to health and safety requirements.
- 1.3 Prior to and during the hearing I received full application documentation and evidence from the applicant, including amended plans, and detailed assessment by the council reporting officers and supporting experts. I also received joint witness statements from air quality, groundwater, acoustic and landscape architect experts following conferencing, which recorded areas of agreement and disagreement. This information is on public record therefore I have not attempted to set out all the information and evidence in this decision; rather have focussed on the central facts and key evidence relating to the aspects of the proposal in contention.

2. PROPOSAL

- 2.1 The proposal is set out in the applications lodged with SCC and CRC, as described in the amended AEE dated 22 September 2021, and further amended by the plans labelled "*Landscape Strategy*" - *Figures RG1 and RG2*, attached to the landscape evidence of Mr Girvan, which included an amended 80m quarry setback and bunding proposals in relation to the adjoining property at 726 Robinsons Road.
- 2.2 The applicant operates an existing quarry known as "Wheatsheaf Quarry" at 50 Selwyn Road, Broadfield, on approximately 40ha of land fronting Selwyn Road and Robinsons Road. The site has been quarried since the 1940's. It was formerly operated by Selwyn Quarries Limited, and has been owned and operated by Winstone Aggregates Limited since 2016. The existing quarry operates under a suite of resource consents from both SDC and CRC.
- 2.3 The existing resource consents are described in sections 4.1 and 4.2 of the AEE. The consents authorise activities including the removal of soil and overburden, aggregate extraction and crushing, importation, screening and sale of topsoil, stockpiling of aggregate and soil, loading and transport, site rehabilitation, importing and placement of cleanfill, bunding, and discharges, fuel storage, and the take and use of groundwater associated with the quarry activities. The existing consents also include the extension of bunding along the boundaries with 668, 726 and 736 Robinsons Road and on the Robinsons Road frontage under SDC consent RC165687.
- 2.4 The existing consented quarry area is nearly depleted of aggregate, and the applicant seeks SDC and CRC resource consents to expand the quarry activity to include two areas referred to as B and C blocks. The total additional quarried area will be approximately 6.8ha, out of a 10ha overall site. This is a reduction from that originally notified area due to the impact of providing the 80m setback from 726 Robinsons Road.
- 2.5 B Block is approximately 3.8ha in area and is located to the northwest of the existing extraction area, adjoining properties at 726 and 736 Robinsons Road. It contains an existing planted earth bund along the boundary with 736 Robinsons Road. There is a shelter belt at the southwest end of the block, and along the boundary with 726

Robinsons Road. The proposal includes an extension of the bund as approved by SDC consent RC165687 along the boundary with 726 Robinsons Road, and has been amended to include an 80m setback (originally 20m proposed) for extraction activities from the dwelling at 726 Robinsons Road. The application as now amended proposes extraction of approximately 220000 BCM (banked cubic metres) of aggregate, which equates to approximately 17 months of resource.

- 2.6 C Block is approximately 6.4ha in area, bound by B Block to the east, the existing extraction area to the north, primary production land to the south and Robinsons Road to the west. C Block also contains the existing site office and buildings, two tenanted residential dwellings and stables. The road boundary is largely screened in part by hedgerows and trees including a double row of Leyland cyprus and part of the southern boundary is also screened by an established shelterbelt. A 3m high bund along the site's Robinson's Road and the northern boundary is authorised by SDC RC165687.
- 2.7 The new areas to be quarried in C Block comprise a small area (C Block–North) adjacent to 726 Robinsons Road, contiguous with Block B, and a larger area (C Block–South) in the rear eastern corner behind the dwelling and stables at 692 Robinsons Road. C Block-North has now been amended to provide the 80m setback from the dwelling at 726 Robinsons Road, which will reduce the area of extraction. The proposal includes bunding on the northwest corner of the Robinsons Road frontage and boundary with 726 Robinsons Road, as provided for under RC165687. The C Block-South area is setback from the Robinsons Road frontage, and the bund has been amended to be setback 85m¹ from the road boundary as recommended by the SDC landscape expert (Mr Smith), instead of being adjacent to the boundary as approved under RC165687. The existing Shelter planting and paddocks adjacent to the road frontage will remain. The bund will also extend along the southeast side boundary with 668 Robinsons Road.
- 2.8 C Block contains 390,000 BCM of aggregate that equates to approximately 28 months of resource based on the current projected demand for aggregate. Total approximate volume of extractable material is estimated to be 610,000 BCM. This is a reduction from the 900,000 BCM originally proposed, as a consequence of the amended setback from 726 Robinsons Road. ²
- 2.9 The proposal includes stripping of overburden and construction of bunds prior to extraction of each area commencing. No more than 5ha of aggregate will be exposed at any one time.
- 2.10 All proposed extractive activities will be located at least 120m from any residential dwelling on the west side of Robinsons Road, and 80m from the house foundations at 726 Robinsons Road to the north/west of B Block.
- 2.11 B Block and C Block-North are proposed to be rehabilitated to existing ground level, and C Block-South will be rehabilitated to ground level consistent with the hole left by the existing extraction activities. Site rehabilitation is proposed to be carried out using cleanfill imported to the site, which will be covered with stockpiled topsoil and sown in pasture.
- 2.12 Several components of the existing consented activities are to remain unchanged, and do not form part of the new application. These include:
 - Total volume of aggregate to be extracted per day and per annum.
 - The hours of operation including controls on vehicle movements within the quarry

¹ Para 14(b) Monique Thomas legal submissions

² Para 3.13 Evidence of Claire Kelly

site.

- The number of people employed on the quarry site.
- The location of any aggregate crushing – consent SDC145099 enables the operation of up to two mobile crushing plant(s) in areas north of a line drawn from the Marshall/Garters (Lot 1 DP 52445/Lot 4 DP 463714) boundary to the Legg/Smith/Garters (Lot 1 DP 463714/Lot 1 DP 76885/Lot 2 DP 467327) boundary.
- The formed vehicle crossing from Selwyn Road.
- The number of vehicle movements generated by the activity.
- The location of staff facilities and car parks at 706 Robinsons Road (Lot 1 DP 25795).
- The location and volume of hazardous substances.
- Location and size of stockpiles.
- Water take and location of the water take bore

2.13 In addition to land use consent from the SDC, the proposal requires resource consents from CRC for associated activities including the excavation of land (extraction), the deposition of material into land (filling), the use of water for dust suppression, the discharge of dust to air and the discharge of contaminants onto and into land where they may enter groundwater. All other regional consent matters are authorised by existing resource consents held for the existing quarry.

3. NOTIFICATION AND SUBMISSIONS

3.1 The applicant has obtained written approvals from the owners and occupiers of four properties located at 692, 736, 668/660 and 703 Robinsons Road, and as such adverse effects on these parties have been disregarded under s95D(e). The application was limited notified to the owners and occupiers of four properties at 726, 703, 701 and 679 Robinsons Road. One submission was received within the submission period, that of H and N Crocker from 703 Robinsons Road. This submission was subsequently withdrawn, and their affected party approval obtained, as recorded above.

3.2 A late submission was received on 24 February 2022 from S & D Miller of 726 Robinsons Road. I was advised at the time that the Millers had lodged a submission on the CRC applications within time and wished to be heard, but they had not realised that they had to also lodge a separate submission to SDC in respect of the land use consent. I raised the late submission as a procedural matter at the commencement of the hearing, and the applicants Counsel, Ms Thomas did not oppose it being accepted. I agree that the late lodgement appears the result of a misunderstanding, and that in lodging a submission on the CRC applications, the Miller's clearly had an interest in the application which was already before me. Accordingly, I do not consider that any party will be prejudiced by accepting the late submission, and agree that it be accepted.

3.3 The Millers submission opposed the application and sought that it be declined due to:

- The proximity of the quarrying activities to their property and residential unit
- Adverse effects on their residential amenity and wellbeing
- The increase in adverse dirt and dust effects
- The increased adverse noise effects
- A 25m setback from the quarry is not acceptable, all other adjacent properties have a setback of at least 120 metres
- The existing quarry boundary planting and bunding is not maintained

3.4 Subsequent to the Miller's submission, the applicant amended the proposal to provide for an 80m setback for quarry activities from the Miller's dwelling, as recorded in the evidence of Mr Girvan. The Miller's subsequently advised that they no longer wished

to be heard at the hearing. I was provided with confirmation in the course of the hearing that the Millers had sighted the amended site plan, and am satisfied that they were able to make an informed decision on this matter. I also note that whilst they did not participate in the hearing, their submission was not withdrawn, and therefore remains live.

- 3.5 The CRC consents were limited notified to Te Tuahuriri Rūnanga and 18 property owners and occupiers due to the potential effects of the discharge to air, and/or the potential effect on groundwater quality being at least minor. 11 submissions were received as follows:

Submitter	Address
SD Miller (owner)	726 Robinsons Road
RS and SJ McIntosh (owners)	90 Selwyn Road
HM Stevenson (owner)	74 Selwyn Road
JR Davidson (owner)	668 Robinsons Road
T Chi-Ying (owner)	679 Robinsons Road
J Taylor Limited (occupier)	660 Robinsons Road
JG Taylor (owner)	660 Robinsons Road
DC Platt (owner)	108 Selwyn Road
LS Platt (owner)	108 Selwyn Road
AP Marshall (owner)	58 Selwyn Road
N&A Kitson (owners)	628 Robinsons Road

- 3.6 Reasons for submissions are summarised in paragraphs 25 – 26 of the CRC s42A report therefore I do not repeat them here.
- 3.7 The submissions included several general points concerning the quarry operation, historical issues, effects on surrounding rural properties, bunding, and dwelling setbacks. More specific matters were raised concerning effects of dust and respirable silica, and effects on groundwater due to contamination from fill material.
- 3.8 I note that the CRC submissions also raised several issues pertaining to noise and traffic safety, which the CRC s42A report identifies as being outside the scope of the CRC consents. With the exception of the Miller's these submitters did not submit on the SDC applications, and I note that only two of these properties (726 & 679 Robinsons Road) were limited notified of the SDC land use consent.
- 3.9 Accordingly, I am unable to consider those parts of the CRC submissions that deal with matters that fall outside the scope of the CRC consents – although I also acknowledge that these issues form part of the overall effects assessment in any case, therefore remain matters to consider.
- 3.10 Written approvals to the CRC applications were obtained from the owners and occupiers of 692, 703 and 736 Robinsons Road, therefore I may not consider any effect on those persons.

3.11 I have read and taken into account all submissions.

4. CONSENTS REQUIRED

Selwyn District Council

4.1 The application site is zoned Rural (Inner Plains) under the Rural Volume of the Operative District Plan (OSDP). There are no special features or notations shown on the Planning Maps applying to the application site.

4.2 An assessment of compliance with relevant rules is set out in the application and was also included in Ms Conlon-Geddes's s42A report. There was no dispute between parties regarding relevant SDC rules.

4.3 The proposal requires land use consent as a **discretionary activity** under the OSDP due to:

Part C1 – Rule 1.7.1.2

Earthworks will exceed:

a) A vertical cut face where no more than 5% of the total vertical cut is over 2m; and

(b) A maximum volume of 5000m³ per project

Part C8 – Rule 8.1.1.1

The activity involves the generation, storage or disposal of solid waste³ generating more than 3m³ of solid waste per week, averaged over any calendar year.

Part C9 – Rule 9.4.1.1

The quarrying activity occupies building(s), loading, storage and waste areas that exceed 100m² and employs more than two full-time equivalent persons. Rule 9.4.2 states any activity which does not comply with Rule 9.4.1 shall be a discretionary activity.

4.4 The proposal complies with all other relevant OSDP rules including those relating to roading, signs, hazardous substances, noise and vibration, lighting and stockpiling.

4.5 The Proposed Selwyn District Plan (PSDP) was publicly notified on 5 October 2020, and hearings on submissions are presently underway. No decisions have yet been made on the Proposed District Plan that are relevant to this application.

4.6 There are no rules with immediate legal effect or that have been deemed operative following the close of submissions that apply to this proposal. I am however still required to have regard to the provisions of the PSDP under s104(1)(b)(vi).

4.7 I was advised that a PSI has been undertaken for the land directly adjoining B Block, which was used for the same activities as B and C Blocks. Based on the applicant's review of Council records, and the findings of the PSI, the piece of land to which this application relates is not considered to be a HAIL site, and therefore the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) does not apply. I accept that the proposal is a permitted activity

³ Clean fill material is deemed to be solid waste.

in terms of the NES.

Regional Consents

4.8 An assessment of the regional consents required was contained in the application and in the CRC s42A report of Ms Kamali. The applicant's planner Ms Kelly agreed with most of Ms Kamali's assessment except in relation to the use of dust suppressants and the activity status of discharging contaminants to air from dust generating activities. Ms Kamali had questioned whether use of dust suppressant agents may require consent under rule 5.19 of the CLAWP, due to the nature of the suppressant used. However following clarification from the applicant at the hearing, she agreed that this is permitted under rule 5.18.⁴

4.9 CRC consents are required as follows:

CRC213142 – use of land for excavation

- **Restricted discretionary activity** under Rule 5.176 of Canterbury Land and Water Regional Plan (CLAWP) and Rule 5.176 as amended by Plan Change 7 (PC7) for excavation within 26m of a surface water body, and within 1m of the highest groundwater level.⁵

CRC213143 – use land for deposition of fill

- **Restricted discretionary activity** under rule 5.178 of CLAWP and rule 5.178 as amended by PC7 for deposition of more than 50m³ of clean fill in a consecutive 12 month period where it may be placed less than 1m above the highest groundwater level at the site, and where a site rehabilitation plan has not been submitted.⁶

CRC213144 – use of water for dust suppression

- **Discretionary activity** under rule 5.6 of CLAWP for use of water authorised under CRC212834 over new quarry area.

CRC213145 – discharge dust and dust containing contaminants to air

- **Discretionary activity** under rule 7.63(2) of Canterbury Air Regional Plan (CARP) for discharge of dust contaminants to air from the handling of bulk solid material from an industrial or trade premise
- **Discretionary activity** under rule 7.63(1) of CARP for storage and disposal of clean fill material exceeding 1000 tonnes and set back less than 200m from sensitive activities (dwellings).

CRC213146 – discharge contaminants to land where they may enter groundwater

⁴ Lisa Kamali Verbal Submission Record – Page 1

⁵ The application proposes 1m from existing groundwater levels, however Ms Kamali advised that based on advice of Mr Thorley, this may not be achieved for highest levels as per the rule wording.

⁶ The application assessed as a controlled activity as the fill would be at least 1m from existing groundwater levels, however rule requires assessment against highest groundwater level.

- **Discretionary activity** under rule 5.100 of CLAWP for deposition of fill⁷ material exceeding 10m³ per day, and which may not comply with conditions 5 and 6 of rule 5.98, in circumstances where a contaminant may enter groundwater.

4.10 Overall, it was agreed that the bundle of CRC consents falls to be assessed as a **Discretionary activity**.

4.11 I also questioned applicant's counsel as to whether a s.127 RMA variation is necessary to authorise the amendment to the bunds approved under RC165687. In her right of reply, the applicant's Counsel volunteered a condition that would require RC165687 to be surrendered, to avoid any confusion.

5. THE HEARING AND EVIDENCE HEARD

Appearances Recorded

Applicant

- Monique Thomas – Legal Counsel
- Christopher Edmonds – Operations Manager
- Richard Chilton – Air Quality Scientist
- Brydon Hughes – Hydrogeologist
- Rhys Girvan – Landscape Architect
- Gary Walton – Acoustic Consultant
- Claire Kelly – Consultant Planner

CRC s42A Report

- Michael Massey / Hannah Mirabueno – Contaminated Land Team
- Michael Thorley –Hydrologist
- Deborah Ryan – Air Quality Scientist
- Lisa Kamali – Senior Consents Planner

SDC s42A Report

- Gemma Conlon-Geddes – Consultant Planner
- Michael Smith – Acoustic Consultant (did not appear)
- Paul Smith – Landscape Architect (did not appear)

Submitters

- All submitters who had indicated they wished to be heard advised that they no longer sought to do so and did not provide evidence.

Evidence Circulation and Joint Witness Statements

5.1 Evidence from the s42A reporting officers and the applicant was provided and pre-circulated prior to the hearing. Further, following the circulation of evidence, I issued a minute directing conferencing of technical expert witnesses, and preparation of joint witness statements. This was because the applicant's evidence contained

⁷ Fill material is defined as a contaminant under the RMA

amendments to the proposal in terms of the increased setback from the 726 Robinsons Road dwelling, and it enabled remaining points of difference and agreement to be identified and refined.

- 5.2 Joint witness statements (JWS) were received in relation to groundwater, air quality, landscape and noise effects. I note that the landscape and noise JWS confirmed that there were no longer any areas of disagreement between experts, and all parties agreed that these matters were either resolved or could be dealt with by conditions. Accordingly, the SDC acoustic and landscape reporting officers did not appear at the hearing.
- 5.3 The groundwater and air quality JWS identified remaining areas of disagreement which were expanded on in the course of the hearing.
- 5.4 All evidence was taken as read, and is held on the Council files, therefore I will not repeat all matters in detail. Witnesses provided verbal or written summaries of their evidence at the hearing and answered questions.

Applicant

- 5.5 **Monique Thomas** provided opening legal submissions for the applicant.
- 5.6 Prior to her proceeding, I sought clarification as to the extent of the proposed amended 80m setback from the Miller's dwelling at 726 Robinsons Road. There was inconsistency in various submissions and evidence statements as to whether this was to be measured from the closest point of the dwelling (ie: an 80m radius), or from the boundary (ie: a parallel setback line). Whilst the amended plan attached to Mr Girvan's evidence showed an 80m radius, other statements including the evidence of Mr Edmonds and the noise JWS referred to an 80m setback from the site boundary. It was also unclear if the Millers were aware of whether an 80m radius or boundary setback was being proposed when they advised they would not attend the hearing.
- 5.7 Ms Thomas sought an adjournment to seek clarification. She provided confirmation that Mr Edmonds and all experts were aware that the proposal was for an 80m radius from the closest point of the dwelling, and that any references to a setback in the JWS and other statements are to be read in that regard. She also provided confirmation that the Millers had been provided a copy of Mr Girvan's plan prior to withdrawing their wish to be heard. I also confirmed this with the individual experts during questions.
- 5.8 Ms Thomas described the activities authorised by existing consents, and noted conditions of CRC145183 which are relevant to excavation depth and clean filling, which do not require groundwater quality monitoring, and allow placement of cured asphalt material. She advised that the proposed consent conditions differed in that they would require the first 1m of fill to be virgin excavated natural material (VENM), a cleanfill management plan was proposed, and groundwater quality monitoring is proposed.
- 5.9 She noted that the scale of noise effect will remain consistent with the existing consented quarry. Block C – North adjacent to 726 Robinsons Road would take approximately 3 months to extract and 6 months to cleanfill, therefore any effects would be very short term. Noise levels would be 7dB below the permitted level for the rural zone.
- 5.10 Ms Thomas submitted that air quality effects would be reduced compared to the existing operation, and cumulative effects would not arise as the areas would not be quarried concurrently.
- 5.11 She noted that the SDC s42A report recommended declining the application due to effects on 726 Robinsons Road, however these were now addressed by the amended

- 80m setback from the dwelling proposed. The Block C-South bund location was also proposed to be amended to be setback 85 m from the road, as recommended by Mr Smith.
- 5.12 She also submitted that the CRC s42A reports concluded that consent could be granted if further information was provided to show that effects on groundwater will be acceptable, the applicant adopted a best practice approach to fill management on site in accordance with the 2018 WasteMINZ guideline, and all recommended consent conditions were adopted.
 - 5.13 She advised an updated set of conditions was attached to the planning evidence of Ms Kelly, which reflected responses to the issues raised in the s42A reports, the proposal amendments, and outcomes of the expert conferencing.
 - 5.14 Ms Thomas noted that following expert conferencing, and the JWS statements, there were now no areas of disagreement between landscape, noise and air quality witnesses. The groundwater experts also agreed that cleanfill may result in localised aesthetic effects on groundwater quality and that the greatest potential for groundwater quality change was on bores within 400m downstream of the expansion areas. There was one bore within this distance, which is over 40m depth, and the likelihood of being affected by localised changes was low.
 - 5.15 Ms Thomas commented on the existing environment, which includes the effect of permitted and existing consented activities. She submitted that only any difference between effects of the existing consented operation and the proposal are relevant.
 - 5.16 She submitted that consideration of a permitted baseline was relevant in terms of noise and of excavation within 1m of the highest groundwater level.
 - 5.17 Ms Thomas discussed the differences between the MfE and WasteMINZ guidelines for cleanfill management. She submitted that the WasteMINZ guidelines were intended to manage waste levies, did not have regulatory effect, and had not been accepted by decision makers in respect of other Canterbury Region cleanfill consents. She submitted that the correct usage was to apply the definition of cleanfill as set out in the CLAWP. A condition was offered which would enable a review of this if the WasteMINZ guideline is given regulatory effect in future.
 - 5.18 Ms Thomas submitted that a covenant limiting future land use as recommended by Ms Kamali was not necessary, as non has been required in respect of the existing quarry, and the CLAWP manages discharges from activities such as intensive farming.
 - 5.19 She submitted that a bond as recommended by Ms Kamali was unnecessary, given the scale of the proposal, proposed rehabilitation, and agreement between groundwater experts that adverse effects on groundwater quality will be unlikely and will be subject to monitoring.
 - 5.20 Ms Thomas discussed proposed consent durations, and submitted that a 20 year duration as sought by the applicant is justified, and there was no requirement to align with existing consent durations.
 - 5.21 **Christopher Edmonds**, Operations Manager, spoke to his pre-circulated evidence and also provided a power point presentation of the existing and proposed quarry operation.
 - 5.22 His evidence provided operational detail of the existing quarry operation and proposed expansion, and elaborated on the demand for the gravel resource. He provided details of how the company would manage compliance with proposed consent conditions, including dust control, and cleanfill selection and management.
 - 5.23 He clarified that the previous owners of 726 Robinsons Road had entered into an agreement with the previous quarry owner that would have allowed quarrying within 25m of the boundaries of those properties, however the Millers were not party to that

- agreement, and the applicant now proposed an 80m setback from the Miller's dwelling to address dust, visual amenity and noise concerns.
- 5.24 He clarified that existing consented activities would remain unchanged by the extension.
- 5.25 Mr Edmonds also attached a draft updated Quarry Management Plan (QMP), which included a Cleanfill Management Plan, which would apply to the new extraction and filling activities. A draft Dust Management Plan (DMP) had also been prepared.
- 5.26 He described how effects of dust, noise and visual impacts on neighbouring properties would be mitigated by setback from Robinsons Road, 120m setback from residential dwellings opposite Robinsons Road, and 80m setback from the dwelling at 726 Robinsons Road.
- 5.27 Mr Edmonds described the process of preparatory works including overburden stripping and bund construction. The bund material would ultimately be reused for rehabilitation works.
- 5.28 Extraction would commence in the northeast corner of B block, and progress in an anti-clockwise direction through the block and into C-Block North. 1 – 2 ha of quarry area would be opened up at any one time.
- 5.29 Mr Edmonds described dust control measures, including monitoring, managing operations according to wind and weather conditions, minimising exposed areas, water cart and spray and haul road management. Additional controls were proposed in the draft DMP.
- 5.30 He discussed the clean fill and rehabilitation process. He considered that use of the WasteMINZ 2018 definition of cleanfill would narrow down the range of material that could be accepted, and result in a significantly longer rehabilitation period. The existing quarry rehabilitation is not subject to this limitation.
- 5.31 Mr Edmonds considered that a 20 year consent period was necessary, as although extraction was likely to be completed relatively quickly, the vagaries of the cleanfill market mean that supply fluctuation can occur.
- 5.32 **Rhys Girvan** summarised his landscape evidence. His evidence described the key features of the proposal from a landscape and visual amenity perspective, and the potential effects of the proposal on landscape character / values and visual amenity. He made specific comment on the submission by the Millers and commented on the s42A reports. His evidence also included the amended site plan, which provided for an 80m setback of quarry activities from the dwelling at 726 Robinsons Road, and modifications to the bund location, to set the C-Block South bund back 85m from Robinsons Road, to be adjacent to the quarry margin.
- 5.33 Mr Girvan noted that all visual effects of bunding including construction effects had already been consented under RC145099 and RC165687 and form part of the existing environment. He noted that quarry activity and use of machinery would generally occur below the bund level, limiting potential visual effects.
- 5.34 Given the existing quarry, relative containment of the site (which includes established screen planting along site boundaries), the proposed bunds and the progressive nature of extraction activity followed by rehabilitation to enable ongoing rural land use, he considered that any landscape and visual effects will be low and less than minor. He noted that the SDC landscape expert, Mr Smith, generally agreed with his conclusions.
- 5.35 I note that the landscape JWS concluded that there were no material areas of disagreement between landscape experts, and recommended amendments to the draft land use conditions concerning bund construction and planting.
- 5.36 **Richard Chilton** spoke to his air quality evidence, and the air quality JWS. He noted

that the quarry expansion is principally an extraction activity only, with aggregate processing, storage and site access continuing to occur at the existing consented site. Accordingly, he considered the range of activities forming part of the current proposal (and therefore sources of dust) is limited compared to most quarries.

- 5.37 Mr Chilton described the receiving environment, with dust sensitive activities including residential dwellings within 250m of the quarry, the closest being the Miller residence.
- 5.38 He assessed the potential effects of dust nuisance and potential human health effects from the fine fraction of dust in a manner consistent with Ministry for the Environment (MfE) guidance, including considering the frequency, intensity, duration, offensiveness and location of impacts. This was informed by a review of wind and dust monitoring data and complaints records.
- 5.39 Mr Chilton noted that there was a low frequency of dust related complaints from the existing quarry, and that continuous dust monitoring results show low dust concentrations coming from the quarry and that control measures have largely been effective.
- 5.40 He advised that mitigation measures and monitoring consistent with industry good practice were proposed. Additional measures including increased setbacks were proposed in relation to the four rural dwelling receptors. With the implementation of the mitigation and monitoring proposed, he considered potential dust effects can be controlled to acceptable levels and that the risk of offensive or objectionable effects will be low. He also considered that sufficient water was available for effective dust suppression.
- 5.41 He referred to the air quality JWS, which had been prepared following the amendment to provide increased separation from the dwelling at 726 Robinsons Road. The experts agreed that the increased separation distance of excavation activities to the Miller dwelling reduced the elevated risk of dust to result in adverse effects commensurate with those that already exist. The experts considered that the mitigation and real-time monitoring as proposed are appropriate to ensure that the potential dust effects can be controlled to acceptable levels and that the risk of offensive or objectionable effects will be low.
- 5.42 They also agreed that additional measures set out in Ms Kamali's s42a report are no longer necessary – notably the need for water sprinklers linked to an automated system of operation associated with real time dust and wind monitoring data.
- 5.43 There were no remaining areas of disagreement between air quality experts.
- 5.44 **Gary Walton** spoke to his noise evidence and the noise JWS. He noted that the existing consented activities on site would not change. The processing plant is the most prominent source of noise, and it will remain in the same location. There would also be no change to truck movements.
- 5.45 Mr Walton noted that the expansion would bring quarry activities closer to dwellings along Robinsons Road which are around 100 – 200 m from the existing pit. His noise surveys and calculations indicated that the site has complied with consented noise limits, and the amendment to provide an 80m setback from the nearest dwelling at 726 Robinson Road, means that noise levels will not exceed 50 dB LAeq during any phase. This is less than the presently consented 55dB, and is well within the WHO guidelines, and the OSDP and PSDP limits.
- 5.46 He considered that with the additional mitigation now proposed, noise effects at this property will be less than minor.
- 5.47 Short term effects would be associated with bund construction, however this is assessed as 'construction noise' and will meet the appropriate noise and vibration standards.

- 5.48 Mr Walton noted that the quarry activity would have different audible characteristics compared to permitted rural activities, which may be louder, but would typically be shorter in duration. The quarry differed in that it created a steady noise – however it also formed part of the consented baseline.
- 5.49 The noise JWS confirmed that both Mr Walton and the SDC noise expert Mr Smith had no remaining areas of disagreement, and agreed that the draft noise conditions proposed by the applicant were appropriate subject to minor amendments for clarity, and the deletion of conditions that restricted night-time activities, which have been made redundant by the operating hours at Condition 13.
- 5.50 **Brydon Hughes** provided a statement summarising his groundwater evidence and discussed the groundwater JWS.
- 5.51 His evidence addressed the hydrogeological setting of the site, existing groundwater levels and quality, effects of the proposal in terms of maintaining a >1m separation from the water table and cleanfill effects on water quality, management and monitoring, matters raised in submissions and s42A reports, and proposed conditions.
- 5.52 He noted water levels measurements show the aquifer is permanently saturated, with groundwater from around 14 to 19 m below the natural ground surface. Above this depth, the groundwater table fluctuates over time by several metres reflecting seasonal and inter-annual variations. Groundwater flows in a south easterly direction.
- 5.53 He discussed fortnightly groundwater monitoring at three bores within the quarry site. Since regular monitoring began in August 2016 which showed measured groundwater levels exhibiting a relatively consistent temporal trend, varying by around 4.3 metres. These levels correlated well with nearby Ecan monitoring wells. He considered it possible to establish maximum excavation depth for the proposed quarry expansion areas to maintain an unsaturated zone of at least 1m, using similar methodology to conditions of CRC145183 for the existing quarry.
- 5.54 While extended rainfall events could see groundwater levels rise to less than 1m of the base of the proposed excavation, he considered such instances will be infrequent (> 1 in 40 year return based on available data) and of limited duration. He also considered that potential saturation of cleanfill during such periods would be mitigated by the proposed placement of 1m of VENM under the fill material.
- 5.55 Mr Hughes considered that based on studies of other cleanfill activities in the Miners Road area, any effect on downgradient water quality would be aesthetic only, and dissipate within a few hundred metres. Sampling taken in March 2022 indicated elevated alkalinity in one bore, consistent with the Miners Road example.
- 5.56 He referred to the groundwater JWS, and noted there was agreement that the greatest potential for any change in groundwater quality will be for bores located within 400m downstream of the expansion areas and existing fill areas. A single private bore (M36/7411) is located within this distance down-gradient of the proposed quarry expansion C Block South. This bore is however drawing groundwater from >40m depth, some 25 metres or more below the water table, and therefore at reduced risk of being affected by any localised changes in groundwater quality.
- 5.57 Mr Hughes considered that the potential for adverse effects on well M36/4892 at 726 Robinsons Road would be low, given its up-gradient location, and distance from the amended quarry area in C-Block north.
- 5.58 He noted agreement had been reached on most groundwater matters in the JWS, and considered that overall the following measures will mitigate potential effects on groundwater quality resulting from the proposed quarrying activities including:
- (a) Ensuring composition of cleanfill meets standards specified in the Land and

Water Plan;

- (b) Maintaining a minimum 1 m separation between the base of the excavation and the water table;
 - (c) Placing a 1 m metre thick layer of VENM at the base of the excavation, under any cleanfill materials;
 - (d) Undertaking regular monitoring of groundwater quality and levels; and
 - (e) Ensuring appropriate response measures are in place to manage quarrying activities during periods of rising groundwater levels or if contaminant concentrations in groundwater are detected at specified thresholds (50% of MAV with the exception of Nitrate-Nitrogen) are detected.
- 5.59 **Claire Kelly** summarised her pre-circulated evidence, and discussed the amended draft conditions. She confirmed that a 20-year consent duration was sought and described the amendments made to the application and draft conditions in response to submissions and the s42A reports.
- 5.60 She described the consents sought, and confirmed that they are to be stand-alone and bespoke, meaning that the consents for the existing quarry would continue unchanged.
- 5.61 She noted that the SDC s42A report recommended declining the application as the proposal in its current form (ie: prior to amendment) was not consistent with all the relevant objectives and policies of the SDP and as adverse effects arising from the proposal have not been appropriately avoided, remedied or mitigated.
- 5.62 She agreed with Ms Kamali's advice that the CRC consents were overall a discretionary activity, although disagreed on interpretation of rules relating to dust suppressants, discharging contaminants to air from dust generating activities, and the status of cleanfilling.
- 5.63 She noted that Ms Kamali's report recommended declining the CRC consents based on inadequate information regarding effects for groundwater quality and groundwater users. Alternatively, if an additional robust site-specific assessment was to demonstrate that effects on localised groundwater for groundwater users near the site are acceptable, consent could be granted subject to adopting a best practice approach to fill management, and adoption of recommended conditions. She considered that the evidence now showed this.
- 5.64 Ms Kelly described the permitted baseline, and considered it relevant in terms of the noise limits at the notional boundaries of residential dwellings. She also noted that the consented baseline included the noise effects of the existing quarry and crushing activity, which would exceed that of the proposal.
- 5.65 She summarised the conclusions of the relevant expert witnesses in terms of environmental effects.
- 5.66 She noted that Mr Walton and SDC noise expert both agreed that the expansion (as assessed in the s42A report) will not be a significant change from the existing operation and will result in less than minor effects, except on 726 Robinsons Road. Mr Smith considered noise effects to be minor on this property and recommended including a new condition to restriction operations within 80m of the dwelling at 726 Robinson Road prior to 0730h. Since then, the application has been amended to provide an 80m quarry setback from the dwelling, meaning that Mr Smith's recommended limit on hours is now unnecessary. She discussed proposed hours of operation suggested in the s42A officers and considered that a 6:30am start time and was appropriate, with a 1pm finish

time on Saturdays as per the existing quarry consents.

- 5.67 The geotechnical report prepared for the application confirmed the site suitability for quarrying and that potential adverse effects on stability of adjoining land can be managed appropriately.
- 5.68 There was a high level of overall agreement between Mr Girvan and the SDC landscape expert, Mr Smith, and the proposed mitigation measures (bunding, setback of quarrying activities from Robinsons Road, planting of the bund adjacent to 726 Robinsons Road and the retention of shelterbelts including within the site) will appropriately manage adverse effects on all surrounding properties.
- 5.69 Ms Kelly disagreed with Ms Conlon-Geddes in relation to adverse cumulative effects on 726 Robinsons Road, as noise levels would meet SDC requirements and dust effects could be mitigated. However the applicant had also agreed to a condition imposing restriction on hours within 120m of the dwelling, which although she considered unnecessary, would provide additional reassurance to the neighbour.
- 5.70 She noted that there was general agreement between all planning experts as to positive effects.
- 5.71 Dust effects had been addressed in the evidence of Mr Chilton, and there appeared to be general agreement between Mr Chilton and Ms Ryan, except for reservations about the practicality of some mitigation measures, with the trigger levels being set so low, and therefore subsequent responsiveness (or not) of site staff in relation to the additional measures. Ms Ryan had recommended the adoption of additional dust prevention and control measures including the use of water sprinklers in the vicinity of 726 Robinsons Road, however both experts now agreed through the JWS that this was not required due to the amended setback.
- 5.72 Ms Kelly considered that these concerns were now addressed by the 80m setback proposed from the boundary with 726 Robinsons Road, and the level of mitigation proposed by the applicant, as further refined in Mr Chilton's evidence. She considered that the proposed approach to mitigating adverse dust effects provides for an appropriate level of caution and adverse dust effects can be mitigated to an acceptable level.
- 5.73 Ms Kelly discussed the concerns raised by Ms Kamali that there is insufficient certainty that adequate water will be available for dust suppression. Whilst a 20-year consent duration was sought, the existing water permit expires in 2035.
- 5.74 Ms Kelly did not consider this to be an issue, as the quarrying would have ceased by that time, and the only remaining activity would be cleanfilling, which required significantly less water. The applicant had also volunteered a condition that the quarrying consents could only be exercised in conjunction with the existing water permit or any consents granted in addition to or in replacement of the existing water permit.
- 5.75 She noted that Mr Chilton had addressed concerns raised by Ms Ryan that there would be insufficient water for dust suppression, as water would only be required to suppress dust over approximately 2.5ha (this being the active, frequently trafficked areas of the existing site including the haul road). The remaining exposed areas will be covered in pea gravel for dust suppression.
- 5.76 She noted that there were no culturally significant sites identified on the site or surrounding land, and that consultation with Tūāhuriri kaitiaki reiterated the importance of maintaining a minimum 1m barrier between excavation and groundwater, due to the potential for adverse effects on groundwater.
- 5.77 She agreed with Ms Kamali's recommended conditions to manage the risk associated with use and storage of hazardous substances, and that associated adverse effects would be low or negligible.

- 5.78 Ms Kelly discussed concerns raised by Ms Kamali and the CRC cleanfill and groundwater experts regarding groundwater. These included lack of data on ground water flow and quality, procedures to manage a rise in groundwater levels, contaminant transport, reference to MfE (2002) cleanfill guidelines instead of WasteMINZ 2018, and potential effects on downstream bores.
- 5.79 Mr Hughes had addressed these matters in his evidence, She also considered that the correct guidelines are the MfE (2002) guidelines as these are the standards used in the CLAWRP, and the WasteMINZ guidelines remain in draft form. To her knowledge, all current operational cleanfills in the Canterbury region were consented on the basis of the MfE guidelines.
- 5.80 She also noted that a stand alone cleanfill application on the site would be a controlled activity and consideration would be limited to the MfE guidelines only. It would be inappropriate to apply the WasteMINZ guidelines on the basis that the bundling of activities made the overall application discretionary.
- 5.81 The applicant did however accept that a condition could be imposed requiring compliance with the 2018 WasteMinz Guidelines should they be adopted by MfE in the future.
- 5.82 She noted that Ms Mirabueno and Mr Massey had advised that potential health effects from cleanfilling can generally be expected to be low and minor exceedances of toxic contaminants might not result in adverse health effects, however cumulative effect were possible. Aesthetic effects were however more likely. The applicant was proposing a cleanfill management plan (CMP) that would be more stringent than the current consented cleanfill activity.
- 5.83 Based on the water quality monitoring results and the evidence of Mr Hughes, she considered groundwater quality effects associated with the proposed excavations and discharge of cleanfill will be less than minor.
- 5.84 Ms Kelly noted that groundwater monitoring could be undertaken on bores within the applicant's land, which would meet concerns raised by Ms Kamali regarding access to test bores.
- 5.85 She disagreed with Ms Kamali's interpretation of the rules relating to excavation close to surface waterbodies, as she did not consider it applied to a water race. However, she agreed with her overall assessment that with the separation distance proposed, and subject to the applicant agreeing to erosion and sediment control conditions, effects on surface water quality can be avoided.
- 5.86 Overall, she concluded that the adverse effects of this proposal on the environment will be acceptable.
- 5.87 She discussed proposed conditions, which had been amended in the s42A reports, and would now require further amendment as a consequence of the proposal amendments and the expert JWS outcomes.
- 5.88 Ms Kelly discussed the relevant statutory documents and considered the proposal consistent with the:
- Resource Management (National Environmental Standard for Air Quality) Regulations 2004
 - National Policy Statement for Freshwater Management 2020
 - National Environmental Standard for Sources of Human Drinking Water
 - National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

- 5.89 She identified areas of agreement and disagreement between herself and the s42A reports in respect of the relevant SDC and CRC plans objectives and policies.
- 5.90 The main areas of disagreement with Ms Kamali related to inconsistency with provisions of the CRPS and CLAWP arising from concerns with groundwater levels and water quality, groundwater monitoring, depth of excavation, cleanfill content and setback from the boundary of 726 Robinsons Road. Ms Kamali considered the proposal could be made more consistent with the CRPS and CLAWP subject to additional information to provide certainty regarding the application and its effects, and provided the Applicant adopts the conditions she has recommended. Ms Kelly that as a result of the amendments and additional assessments provided, these concerns were now met.
- 5.91 There was general agreement with Ms Kamali that the proposal would not contravene the provisions of the CARP, subject to additional measures including an automated sprinkler system, however his was no longer necessary due to the increased setback from 726 Robinsons Road.
- 5.92 Ms Kelly considered that the proposal is consistent with OSDP objectives and policies relating to land and soil, water, quality of the environment, noise and vibration, dust, and reverse sensitivity. She considered that concerns raised by Ms Conlon-Geddes relating to objectives and policies of the OSDP dealing with to adverse effects on a sensitive activity, were now satisfied by the amended setback from 726 Robinsons Road.
- 5.93 She considered the proposal consistent with the relevant objectives and policies of the PSDP, and again considered that concerns raised by Ms Conlon-Geddes regarding mineral extraction policies in relation to effects on 726 Robinsons Road were now met by the amended setback controls.

CRC S42A Reporting Officers

- 5.94 **Hannah Mirabueno and Michael Massey** provided a supplemental report, which summarised their original contaminated land report and responded to the additional information and amendments provided in the applicants evidence.
- 5.95 They discussed that the technical definition of cleanfill which is undergoing change coinciding with the expansion of the waste disposal levy starting in 2021. The waste levy is part of the Waste Minimisation Act 2008. The WasteMINZ guidelines are used to calculate levies, however have not yet been adopted by MfE. However, they had been informed that the adoption of the WasteMINZ guidelines is considered “imminent,” perhaps by June 2022, to support the proper assignment of landfill classes by facility operators and the MfE Waste Minimisation Act compliance team. At that point, the MfE (2002) cleanfill guidelines will reportedly be decommissioned. To put it another way, a consent granted on the basis of the MfE (2002) guidelines could be outdated before it was ever exercised.
- 5.96 They considered that a precautionary approach to waste acceptance criteria is necessary to limit adverse environmental impacts from the proposed activities.
- 5.97 They discussed rule 5.178 of CLAWP. Specifically, the rule states that CRC discretion is restricted to, “The proportion of any material other than cleanfill and its potential to cause contamination.” With the changing technical definition of cleanfill they considered the allowed proportion of material other than cleanfill in a class 5 cleanfill will fall to 5%, from 100% under the MfE (2002) guidelines.
- 5.98 They noted that although the groundwater experts had agreed that water quality effects would likely be limited to aesthetic effects only, this can be just as bad, if not worse, than impacts on contaminants of health significance. For example, hard water that causes scaling on dishes and plugging of water fixtures can cause significant and costly

problems for water users. Staining of laundry or dishes by iron or manganese contamination can be a costly nuisance in a similar fashion.

- 5.99 Whilst the groundwater JWS stated that proposed water quality trigger limits would be adequate, these were based on the CLAWP limits, and Ecan has been moving away from recommending Plan limits water quality trigger limits. They recommend thorough, carefully crafted, and in some cases more stringent water quality monitoring trigger limits, to enable actions in response to trigger limit exceedances before water quality becomes substantially degraded.
- 5.100 **Mike Thorley** provided additional comments to his pre-circulated groundwater evidence, and the groundwater JWS. He commented that the available information had now improved and more robust as a result of the additional work undertaken prior to the hearing, but there were still some information gaps.
- 5.101 In the JWS, he agreed with Mr Hughes as to many issues concerning the hydrogeological setting, although there was uncertainty as to groundwater levels in the case of C Block South, and the location of some downstream bores may differ from that contained in the ecan database.
- 5.102 The JWS agreed that condition of CRC145183 provides a reasonable methodology for establishing a maximum excavation depth for the proposed excavation areas to ensure a minimum 1 metre separation between the base of the excavation and underlying groundwater, subject to some provisos as contained in the JWS. They agreed on the maximum excavation depths as set out in Table 6 of Mr Hughes evidence.
- 5.103 He noted that there was some uncertainty as to the location of the existing bore at 726 Robinsons Road, and that as this is a shallow domestic take, it could be susceptible to reverse gradient flow.
- 5.104 He also agreed that the increased setback from the dwelling at 726 Robinsons Road would reduce potential impacts on the bore.
- 5.105 He commented on the variability in baseline monitoring across bores, and that it was hard to ascertain why this is.
- 5.106 He did not consider the proposal likely to impact on background nitrate levels significantly, due to the use of clean fill that would contain little organic matter.
- 5.107 He considered that the high alkalinity measured at bore BX23/0271 was likely a result of concrete contained in existing fill, which would also continue under the present consents.
- 5.108 Mr Thorley agreed that groundwater monitoring would allow for a response time to rainfall events, however considered that automated monitoring should be carried out rather than fortnightly checks. This could be undertaken at one site, with manual checks at other sites providing confirmation.
- 5.109 **Deborah Ryan** spoke to her air quality evidence and the air quality JWS. She confirmed that as recorded in the JWS there were no significant areas of disagreement between herself and Mr Chilton. She also confirmed that her assessment of water requirements for dust suppression took into account the whole quarry site, and not just the area subject to the application.
- 5.110 She remained concerned with the availability of groundwater for dust suppression. She was concerned that the clean fill operation would still require water post 2035, however also acknowledged that the post extraction period would require less. There were a range of options for dust suppression post 2035, and the need for water beyond then would require addressing in relation to the existing fill anyway.
- 5.111 **Lisa Kamali** provided comments on her original s42A report and recommendations, and responses to the matters raised in the hearing. Following the hearing, she also

provided a written summary of her notes and responses, which I directed be provided to the applicant to assist with their written reply.

- 5.112 She disagreed that the bundling of consents disadvantaged the applicant in respect of clean filling, as she considered that the filling required discharge consent as a full discretionary activity under CLAWP rule 5.100. Legal advice was that rule 5.178 only provided for the use of land for the deposition of cleanfill, and not the discharge. As the activity is fully discretionary, she considered it appropriate to consider the WasteMINZ guidelines, as well as the National Policy Statement for Freshwater Management 2020 which post-dates the CLAWP rules. CLAWP policies 4.13 and 4.19 also specifically state the first priority as being to avoid the production of the contaminant and that activities are sited, designed and managed to avoid the contamination of groundwater. She confirmed that recent consents have been granted by the Council applying the WasteMINZ guidelines.
- 5.113 She agreed with Ms Kelly that the use of dust suppressants is permitted, and that new monitoring bores can be installed as a permitted activity.
- 5.114 Ms Kamali noted the timeframes for extraction and rehabilitation contained in Mr Edmond's evidence, which showed that a 13 year consent duration coinciding with the water permit expiry would be sufficient. She did not consider the applicant had provided technical justification regarding how much water will be needed during backfilling and rehabilitation activities. There were remaining questions as to how water could be sourced for rehabilitation beyond 2035, as the groundwater zone is overallocated.
- 5.115 She considered that the use of covenants was still necessary to ensure that future purchasers of the land are made aware through an appropriate notice on the property title that certain uses will not be appropriate.
- 5.116 Ms Kamali confirmed that bonds had been used for several smaller sized quarry operations, and noted that no rehabilitation plan has been provided with the application. Without clear evidence that the site will be appropriately rehabilitated, she considered it may be appropriate to impose a bond.
- 5.117 She acknowledged that improved information on ground water levels and quality had been provided, however there were gaps remaining, particularly regarding groundwater conditions in C Block, and in relation to cumulative effects.
- 5.118 Ms Kamali agreed that the now proposed 80m setback from the dwelling at 726 Robinsons road was an improvement in reducing dust effects, however the applicant also now proposed removing all requirements for automated dust suppression. Without this she queried the response time to address dust issues at times when the quarry is not open and when wind speeds suddenly increase.
- 5.119 She identified and discussed key issues regarding conditions, including demarcation of existing and proposed fill areas, pre-commencement meetings, use of the WasteMINZ guideline from the consent outset, water metering conditions, and the exposed area requiring dust suppression at any one time.

SDC S42a Reporting Officers

- 5.120 **Ms Conlon-Geddes** provided comments and answered questions in relation to the pre-circulated SDC s42A reports, and evidence submitted at the hearing. The SDC noise and landscape reporting officers did not appear at the hearing, as the respective JWS's identified no remaining areas of disagreement with the applicant over these matters.
- 5.121 She discussed the proposed consent timeframes and considered it would be appropriate to impose timeframes on B Block and C Block North, which would align with the predicted rate of extraction, and minimise the time that 726 Robinsons Road

would be exposed to the effects of nearby quarry activity.

- 5.122 She did not consider that there was a valid permitted baseline applying to the whole of the activity, as it was discretionary overall.
- 5.123 She considered that if consent were granted, there was a need to bring the existing consents in to line, for consistency.
- 5.124 Ms Conlon-Geddes thought that the extension of the quarry activity would have a cumulative effect, due to the extended time period in which the activity would operate. Although the existing consent does not have a timeframe, it is limited by the available resource, therefore would end sooner.
- 5.125 She acknowledged that the proposed bunds formed part of the consented baseline.
- 5.126 She remained concerned that despite the amendments in relation to 726 Robinsons Road, there were still remaining adverse effects on amenity values of that property, due to the proximity and extended duration of quarrying activities. She considered that there were operational matters such as the preparation of a dust management plan (DMP) that were still necessary to provide certainty of mitigation.
- 5.127 She accepted that certification of the DMP by way of the CRC consent conditions was appropriate, as this also covered fugitive dust emissions, which were a consent of concern in relation to the SDC land use consent.

Post Evidence Directions

- 5.128 At the conclusion of the evidence, it directed that further conferencing occur between groundwater experts in respect of groundwater monitoring proposals and remaining issues of disagreement.
- 5.129 I adjourned the hearing and issued directions that:
- the expert groundwater witnesses, Mr Hughes and Mr Thornley conference and provide a joint witness statement relating to groundwater monitoring conditions, to be provided to the CRC Consents Coordinator by 5pm, Friday 1 April 2022.
 - the additional notes presented by Ms Kamali at the hearing be provided to the CRC Consents Coordinator by 5pm, Friday 1 April 2022
 - the applicant file a written reply, including any proposed amendments to the proposal and conditions with the CRC Consents Coordinator by 5pm, Thursday 14 April 2022

Further Groundwater JWS

- 5.130 Following the additional groundwater conferencing, a further Groundwater JWS was provided on 1 April. The statement recorded agreements as to:
- The standard of wellhead protection
 - Decommissioning of non-utilised bores on site
 - Identification of monitoring bores, including 5 new bores
 - Continuous (15 min) monitoring of M36/20450
 - Manual weekly monitoring of other bores

Applicants Closing Submissions

- 5.131 The applicant's written closing submissions in reply were received dated 14 April.
- 5.132 It noted that there were no residual areas of disagreement between air quality, noise, or landscape witnesses. There were also no material areas of disagreement between groundwater experts, and the location of the groundwater quality monitoring bores and groundwater quality trigger values have been agreed by those witnesses.
- 5.133 The reply noted that the processing planners had not changed their recommendations, despite the evidence provided.
- 5.134 Amendments had been made to the proposal prior to the hearing including the increased quarry setback and bund planting. In addition, the applicant now proposed further amendments to the proposal and included an updated set of conditions. These further amendments included:
- a) A new condition was proposed which requires all activities in C Block North to be completed within 14 months.
 - b) The conditions were amended to refer to the setbacks as shown on the plan included in the Landscape Graphic Supplement and in Mr Girvan's evidence (rather than distances from site boundaries), and also refer to existing dwellings.
 - c) A more detailed condition (recommended by Mr Hughes) was proposed which specifies the measures to be taken should groundwater quality sampling results exceed trigger values.
- 5.135 The applicants reply confirmed that no variation was being sought to the existing consents, although it was now proposed that RM165687 be surrendered to avoid confusion as to the required bund location.
- 5.136 A condition was also volunteered on an *augier* basis that a further 45m of the access road in the existing site be sealed.
- 5.137 There were no material differences between air quality experts, and they agreed that an automated dust suppression system is not necessary.
- 5.138 The applicant confirmed that blood and bone type dust suppressant is not used on site, and that any suppressants used will comply with Rule 5.18 of the CARP.
- 5.139 Additional groundwater information had been provided, and the experts agreed that the greatest potential for any change in groundwater quality will be for bores located within 400m downstream of the expansion areas and existing fill areas. A single private bore (M36/7411) is located within this distance however is drawing groundwater from >40m depth, some 25 metres or more below the water table.
- 5.140 Agreement had been met between experts as to groundwater monitoring trigger values which are consistent with the limits contained in Schedule 8 of the Land and Water Regional Plan (LWRP) which are set at less than 50% MAV for other contaminants of health significance as listed in the NZ Drinking Water Standards.
- 5.141 The applicant considered that remaining uncertainties expressed by Ms Kamali and Mr Thorley were not relevant; as:
- A new monitoring bore was now proposed in Block C – North; and
 - Whilst the exact bore location at 726 Robinsons Road was not confirmed, the minimum 80m separation and the low rate of take of that bore means that reverse flow gradient effects will not occur; and

- The Cleanfill Management Plan proposed applies waste acceptance criteria that are more stringent than those that apply to the current area of cleanfill. A new monitoring bore (Bore 5) is proposed downgradient of Bore BX23/0271. The conditions and trigger values proposed will ensure that cumulative groundwater effects will not arise, and that response actions will be taken should an investigation determine that fill placed within B and C Blocks is causing exceedance of the trigger values.
- 5.142 The applicant noted Ms Kamali's concerns regarding highest recorded groundwater levels, however considered that that potential for saturation of cleanfill during periods of elevated groundwater levels will be low due to the infrequent and limited duration, and would be and further mitigated by the placement of a 1 metre layer of virgin excavated natural material (VENM) under the fill materials.
- 5.143 It referred to Ms Kamali's comments on general suitability of the site for landfilling, however the applicant considered that the geology of this site is common to all land on the Canterbury Plains, and the proposal will meet the CLAWP and MfE 2002 guidelines for a cleanfill.
- 5.144 There had been considerable discussion concerning whether the MfE or WasteMINZ guidelines should be applied. The applicant noted that whilst a recent CRC decision had referenced the WasteMINZ guidelines, in that instance, the site was located in the Christchurch Groundwater Protection Zone, the applicant had offered the condition, and the consent was granted at officer level on a non-notified basis. The decision could not be considered a precedent.
- 5.145 Whilst Mr Massey had considered that rule 5.178 *functionally* allows discretion over this matter, the applicant considered that the definition of 'cleanfill' in the CLAWP will continue to apply until such time as the Plan is changed. Further, whilst rule 5.100 covers discharges from the cleanfill, the waste acceptance criteria is contained in rule 5.178.
- 5.146 The applicant had also proposed that soils placed within the fill will not exceed background levels within B Block and C Blocks North and South. To that extent, the fill to be used within the expansion area is intended to be more restrictive than the existing quarry.
- 5.147 The closing submissions discussed the remaining concerns of Ms Conlon-Geddes that there would be adverse effects on 726 Robinsons Road, and commented that these concerns should be given little weight, as:
- a) They ignore the existing environment.
 - b) It was inconsistent with the evidence relevant to amenity effects.
 - c) It is inconsistent with the level of amenity anticipated in that zone by the District Plan.
 - d) It relies on the permitted activity setback standard for a quarry in the PSDP that does not yet have legal effect.
 - e) It does not appear to have any regard to the positive effects of the proposal.
 - f) This proposal will not result in activities being undertaken much closer to the dwelling at 726 Robinsons Road than they currently are. The duration of effects will now be limited by conditions on C Block North.
 - g) Granting a consent to enable effects to occur for longer than otherwise might have occurred does not itself give rise to a cumulative effect.

- 5.148 The applicant submitted that a bond is not necessary, as the draft updated Quarry Management Plan and proposed conditions including a rehabilitation plan will provide certainty, and there are financial incentives for the applicant to ensure that the site will be suitable for future land uses. It was also unclear how a bond would be calculated. Other enforcement mechanisms were available to the Councils under the RMA.
- 5.149 Covenants were not considered necessary, as future land use did not form part of the proposals, and would be subject to the relevant rules in force at such time. LLUR and LIM processes would identify the consented use to future purchasers.
- 5.150 The applicant did not consider there to be any resource management reason to limit the consent duration to correspond with the water take expiry in 2035, and maintained that the 20 years sought was appropriate, out of an abundance of caution, to allow for the vagaries of the cleanfill market. It noted that the existing regional consents were also not aligned to this date. The conditions proposed by the applicant (which require the consents to be exercised with CRC212834 or any replacement) addressed the concern raised by Ms Kamali in relation to the need for water for dust suppression should activities within the expansion land still be occurring in January 2035.
- 5.151 The applicant included amended copies of draft SDC and CRC consent conditions with the closing submissions.

6. PRINCIPAL ISSUES, EVALUATION AND FINDINGS OF FACT

- 6.1 The SDC and the suite of CRC consents are to be considered as discretionary activities. Accordingly, my discretion as to consideration of effects is not limited.
- 6.2 I note that there was agreement between experts on the majority of matters relevant to the application, and am grateful to the experts for the effort provided in expert conferencing and Joint Witness Statements, which significantly narrowed the matters of disagreement.
- 6.3 I also acknowledge that the s42A planning reports and recommendations were prepared based on the applications as notified prior to any amendments and JWS. Whilst both the SDC and CRC reports recommended declining the applications, this was predominantly based on effects on 726 Robinsons Road, and lack of information regarding effects on groundwater quality and users. The reports also raised concerns with dust control measures, however Ms Kamali considered that air quality effects may be acceptable subject to diligent implementation of the proposed dust control measures, along with the adoption of additional measures including the use of an automated sprinkler system.
- 6.4 In most other respects, the s42A reports generally found adverse effects to be acceptable.
- 6.5 Most of these issues were addressed by amendments, further information and evidence presented at the hearing. Several although not all of these issues were resolved to the satisfaction of the respective experts, and reflected in the Joint Witness Statements.
- 6.6 I have identified areas where I consider there is agreement between all parties, and in those cases I have agreed with and adopted the findings of the respective experts.
- 6.7 I then discuss the remaining areas of contention.
- 6.8 My discussion and findings on these are discussed in turn.

Rule Interpretation Issues

- 6.9 There was no dispute between parties as to the interpretation of the relevant Selwyn District Council plan rules.
- 6.10 I note that whilst Ms Kamali questioned whether dust suppressant agents required consent under rule 5.19 of the CLAWP, she advised following information provided by the applicant at the hearing that this was permitted. I accept that advice.
- 6.11 Whilst the application stated that the earthworks would comply with rule 5.175 of the CLAWP, I accept the advice of Ms Kamali that the rule requires a 1m separation from the highest groundwater water level as defined in the CLAWP, which includes historical levels. On this basis the 1m separation may not be met and I agree that rule 5.176 applies.

Areas of Agreement

Existing and Consented Environment

- 6.12 I agree that the existing consented environment includes the existing quarry activities, and note that these are not proposed to be changed by these applications. I note that this includes:
- The existing processing and stockpiling areas including crushing plant are to remain in their present location, and do not form part of the new application.
 - Existing consent conditions relating to extraction volumes and rates.
 - Hours of operation are proposed to be consistent with the existing quarry, and also subject to additional restrictions in relation to 726 Robyns Road.
 - Vehicle generation as authorised by the existing consents will not change.
 - Noise conditions applying to the existing quarry will not change.
 - Bunding including construction effects is already approved under RC165687.
 - The existing quarry and cleanfill activity is subject to a suite of regional consents that will not change.
 - The existing quarry and cleanfill conditions allow deposition of cleanfill as defined under the MfE 2002 guidelines.
 - Effects of existing consented discharges to groundwater are contained in the present environment.
 - Dust emissions exist and are authorised by the existing consents.

Landscape and Visual Effects

- 6.13 I agree with the conclusions of Mr Smith and Mr Girvan, and the landscape JWS that adverse landscape and visual effects including those on 726 Robyns Road will be less than minor. In particular:
- The bunding is already approved under RC165687 and I accept that any effects of the bunding including construction related effects form part of the existing consented baseline.
 - The existing shelter planting on the Robyns Road boundary will be retained.

- The Block C bund and extraction area will be set back 85m from the Robinsons Road boundary and be screened by existing planting.
- The bunds are to be constructed prior to extraction activities and remain until site rehabilitation is complete.
- The experts agree that there may be a short period when machinery is visible over the bunds, however it will be fleeting during the initial extraction and final rehabilitation stages, and will otherwise be screened.

Noise Effects

- 6.14 Both acoustic experts agreed that following to the amendments in relation to the 80m dwelling setback and hours of operation in relation to 726 Robinsons Road, that adverse noise effects would be less than minor. I note the evidence of Mr Walton that in relation to the closest dwelling at 726 Robinsons Road, the proposal will comply with the OSDP and PSDP rules, as well as the WHO guidelines by a margin of up to 5dB, therefore I agree it will operate within levels that are considered appropriate in the rural zone environment. Other rural dwellings are located opposite Robinsons Road, and will be subject to a greater 120m setback, and I agree that any adverse noise effects on those properties will also be less than minor.
- 6.15 I also note that both experts agree that the highest source of noise on site is the crushing plant, which is not subject to this application.
- 6.16 I find that adverse noise effects associated with the proposal will be less than minor.

Traffic Effects

- 6.17 Some submitters raised issues concerning effects of heavy vehicle movements to and from the site. However these were raised in submissions in respect of the CRC consents, including some from persons who were not limited notified of the SDC consent, and were not raised in terms of any SDC land use submissions. The Millers submission on the SDC consent did not raise vehicle generation.
- 6.18 In any case, I note that the consented vehicle movements for the present quarry and processing plant are not proposed to change, and form part of the existing environment. The proposal will not increase vehicle numbers on any day therefore I consider the effects will be consistent with the existing environment.

Dust Effects

- 6.19 I note that as a result of the increased 80m setback from the dwelling at 726 Robinsons Road, the air quality JWS advised there were no significant areas of disagreement between the experts. They agreed that the four existing receptors including the Miller dwelling would have an 'intermediate' risk of dust impact that could be mitigated through conditions.
- 6.20 They agreed that the mitigation and real time monitoring as proposed are appropriate to ensure that the potential dust effects can be controlled to acceptable levels and that the risk of offensive or objectionable effects will be low, and that the mitigation measures and monitoring proposed are consistent with industry good practice.
- 6.21 They agreed that within the constraints of the existing water take there is sufficient water for dust suppression of 4.24 ha of exposed ground and the supply of water for the dust suppression associated with the operation of the processing plant. I also note that they agreed that with the increased separation to the Miller dwelling, additional measures including automated sprinklers were no longer considered necessary.

- 6.22 They recommended several new and amended conditions concerning dust suppression, monitoring and mitigation.
- 6.23 I note that Ms Kamali expressed concern that whilst an increased setback from 726 Robinsons Road was now proposed, the removal of conditions requiring automated dust suppression meant that there was a risk of a longer response time to address dust issues at times when the quarry is not open and when wind speeds suddenly increase.
- 6.24 I note that this is inconsistent with the expert air quality evidence that now agreed that automated sprinklers were no longer required. However a number of conditions were also proposed in relation to weather and dust monitoring that I agree will provide for appropriate responses to changes in weather conditions.
- 6.25 I accept the evidence of the air quality experts that the mitigation and real-time monitoring as proposed are appropriate to ensure that the potential dust effects can be controlled to acceptable levels and that the risk of offensive or objectionable effects will be low.

Positive Effects

- 6.26 All parties agreed that the proposal will provide positive effects in that it will retain employment for a number of people, and provides for locally sourced quarry material intended to meet local development needs. I accept that the proposal will result in positive effects.

Remaining Areas in Contention

Cumulative Effects

- 6.27 Ms Conlon-Geddes raised concerns that despite the expert conclusions as to landscape, noise, dust and traffic effects, the proposal could still result in adverse cumulative effects on rural amenity values in relation to surrounding properties including 726 Robinsons Road. This was due to the extended timeframe in which the expanded quarry may operate, whereby there would otherwise be an expectation that the existing quarry activity which has a finite resource lifespan would finish operation earlier. While the existing quarry does not have a consent duration (under the SDC land use consent) it is limited by the available resource, which is near depleted.
- 6.28 I agree that the expansion of the quarry will have the effect of extending the time period of quarry and cleanfill activity. However I do not necessarily agree that this will result in an adverse cumulative effect. The two operations will not operate simultaneously, therefore there will be no increase in the actual level of effects compared to the existing consented activity.
- 6.29 The evidence presented was that the effects of the proposed activity on rural amenity values would be acceptable in the rural environment, and will be less than minor. The Council will have also reached a similar conclusion in granting the existing land use consent for the present quarry activity.
- 6.30 I also note that the proposed conditions relating to Block C – North closest to 726 Robinsons Road will require it to be completed in a very short 14 month timeframe. In the context of the historic quarry activity on site, I do not consider this to be a significant additional timeframe, and note that cleanfill activities at the existing quarry would be likely to occur well beyond this.

6.31 Accordingly, I consider that the proposal will not result in adverse cumulative effects on rural amenity values.

MfE vs WasteMINZ Cleanfill Guidelines

6.32 There was considerable discussion in the course of the hearing regarding the use of the 2002 MfE guidelines to define cleanfill, versus the draft 2018 WasteMINZ guidelines preferred by the CRC contaminated site experts Ms Mirabueno and Mr Massey, and Ms Kamali.

6.33 The applicant considered the MfE guidelines should be used as they are the current guidelines referenced in the CLAWP, and are also consistent with the existing quarry consent. The applicant also considered the WasteMINZ guidelines are only an unadopted draft at this stage, and are intended to be used as a tool to calculate waste levies. Mr Massey considered that the newer guidelines should be used as they are more stringent than the MfE guidelines, and he understood that adoption by MfE was imminent. He advocated a precautionary approach.

6.34 I have considered the arguments for and against adoption of the WasteMINZ guidelines, and consider that at present, the MfE guidelines should prevail. I accept the argument in the applicants closing submissions that whilst rule 5.100 covers discharges from the cleanfill, the waste acceptance criteria is contained in rule 5.178, which uses the present CLAWP definition which references the MfE guideline. This will remain until such time as the Council changes the CLAWP. I must decide the application under the current plan, and cannot speculate whether it may change in future.

6.35 I also note that while the existing consent also references the MfE guideline, the proposed conditions of consent will be more restrictive, as soils placed within the fill will not exceed background levels within B Block and C Blocks North and South. Further, the groundwater expert's conclusions as to water quality effects are that any effects will be minor, and groundwater monitoring trigger values will be consistent with the limits contained in Schedule 8 of the Land and Water Regional Plan (LWRP) which are set at less than 50% MAV for other contaminants of health significance as listed in the NZ Drinking Water Standards. On this basis I accept that use of a more stringent standard is not necessary.

6.36 I do however also note that the applicant has volunteered a condition that would require compliance with the WasteMINZ guideline definition of cleanfill if that standard is adopted in future.

Groundwater Effects

6.37 I note that Ms Kamali's initial concerns regarding groundwater effects were expressed prior to the additional testing and assessment carried out at part of the groundwater JWS. I consider that this has addressed some of the information gaps identified by Ms Kamali. The groundwater experts reached agreement over several issues in the initial JWS, including:

- Agreement as to hydrogeological setting including flow direction and the location of downgradient bores.
- The greatest potential for any change in groundwater quality will be for bores located within 400m downstream of the expansion areas and existing fill areas. A single private bore (M36/7411) is located within this distance down-gradient of the proposed quarry expansion C Block South however due to its depth there is a reduced risk of being affected by any localised changes in groundwater quality.

- Agreement over maximum excavation depths set out in Table 6 by Mr Hughes.
 - High rainfall events may result in infrequent and limited duration increases in groundwater levels, however the potential for saturation of cleanfill would be mitigate by the placement of a 1m layer of VENM.
 - Any effect on downgradient water quality would be aesthetic only, and dissipate within a few hundred metres.
- 6.38 Ms Kamali expressed remaining concerns concerning groundwater monitoring including uncertainty as to ground water conditions in C block, and other information gaps.
- 6.39 I am satisfied that these issues have now been addressed in the additional groundwater JWS, whereby both experts now agree as to the identification of bores to be used for monitoring purposes, including automated real time monitoring at M36/20450, and manual monitoring elsewhere. This would enable an achievable response time to any level changes arising from rainfall events.
- 6.40 I agree that the Cleanfill Management Plan now proposed applies waste acceptance criteria that are more stringent than those that apply to the current area of cleanfill. A new monitoring bore (Bore 5) is proposed downgradient of Bore BX23/0271. I agree the conditions and trigger values proposed will ensure that cumulative groundwater effects will not arise, and that response actions will be taken should an investigation determine that fill placed within B and C Blocks is causing exceedance of the trigger values.
- 6.41 On the basis of the groundwater evidence, I am satisfied that any adverse effects on groundwater levels and quality will be acceptable.

Consent Duration

- 6.42 Ms Kamali considered that a reduced consent duration matching that of the existing water take should be imposed, due to uncertainty as to availability of water for dust suppression. I have considered this issue and find that there is insufficient basis for requiring this, as:
- The other existing quarry consents including those for excavation and deposition, and for discharges to air have already been granted to September 2045, which is 10 years beyond the water take.
 - An additional water source beyond 2035 will be required for the existing fill anyway.
 - The proposed additional activities subject to this decision would finish earlier than this, in 2042.
 - Ms Ryan has accepted that there is sufficient water available for dust suppression and has recommended limiting the exposed area further, which will require less water for dust suppression.
 - I agree that less water will be required during the rehabilitation stages.

Covenants

- 6.43 I accept the applicant's closing argument that covenants in relation to future land uses are not necessary, as any prospective landowner will be subject to whatever rules are in force at any time, and will be able to readily access necessary information through due diligence including LLUR and LIM processes.

Draft Conditions

- 6.44 The applicant provided an amended set of draft conditions with their closing submissions, that included amendments proposed at the hearing and additional amendments arising from subsequent conferencing and amendments.
- 6.45 I have reviewed and accepted the majority of amendments to conditions, and have also modified some to correct references. There were some requested amendments and deletions that I have not agreed with, and I have modified the conditions accordingly. These include:
- The draft conditions did not include a condition requiring surrendering of the existing consent RM165687 relating to the bunds, which the applicant offered to include. I have included a condition to require this.
 - Draft SDC and CRC conditions as to duration of activities sought terms starting from the commencement of quarrying activities. I have amended this to refer to the commencement date of this consent, which provides more certainty as to the end date, and will be consistent with the 20 year consent duration sought by the applicant.
 - The applicant sought deletion of a condition requiring fencing of the expanded quarry area to prevent deposition of material from the existing quarry into the new areas, as the waste acceptance criteria for clean fill will be different. I agree that a fence would be impracticable and onerous, however consider that a condition requiring demarcation on site is still required. I have included a condition that would enable this to be done using temporary bollards or similar that may be moved as work progresses, and provides a more practicable solution.
 - The applicant sought reduction in response times for CRC staff to respond to and certify various management plans. I have agreed that they be reduced, but by a lesser margin.

Overall Effects Conclusions

- 6.46 Based on the evidence provided at the hearing and in the subsequent JWS's and closing submissions, and subject to conditions, I agree that the adverse environmental effects of the proposed quarry expansion will be acceptable in the rural environment and will not result in adverse effects on rural residents that are more than minor.
- 6.47 I find that the adverse effects of extraction and placement of cleanfill, use of water for dust suppression, and discharges to air and groundwater will be minor.

7. OBJECTIVES AND POLICIES

Operative Selwyn District Plan

- 7.1 Ms Conlon-Geddes identified the relevant OSDP objectives and policies in relation to land and soil, water, and quality of the environment. She was not satisfied that the distance between the proposed quarrying activities and the existing dwelling at 726 Robinsons Road, which is a sensitive activity, had been sufficiently addressed to ensure amenity values are maintained, and raised concerns as to cumulative effects.
- 7.2 I note that this assessment was made prior to the change in quarry setback from the 726 Robinsons Road dwelling, and that I have found the expert evidence to demonstrate that the proposal will not give rise to adverse effects including noise, visual impact and dust nuisance. I have also found that the proposal will not result in

significant adverse cumulative effects.

- 7.3 For these reasons, I do not consider the proposal to be inconsistent with the OSDP objectives and policies relating to rural character and amenity values.

Proposed Selwyn District Plan

- 7.4 I agree with Ms Conlon-Geddes note that the PSDP contains objectives and policies that provide a clear direction of facilitating mineral extraction in the rural area, subject to managing adverse effects. In this case, for the reasons outlined above, I find that adverse land use effects on rural amenity values of sensitive activities will be acceptable, and I consider the proposal to be consistent with the PSDP objectives and policies.

National Policy Statement for Freshwater Management 2020 (NPS-FM 2020)

- 7.5 Ms Kamali and Ms Kelly both addressed the NPS-FM 2020 in their evidence. Ms Kamali was concerned that the lack of a 1m separation between the maximum excavation depth and highest groundwater level, and non-adherence to the WasteMINZ guidelines may result in an adverse impact on the health and wellbeing of the underlying aquifer and be inconsistent with the NPS First Priority – “*The health and well-being of water bodies and freshwater ecosystems.*” She considered that additional information as to excavation depth and compliance with the WasteMINZ guidelines is necessary to avoid this potential.
- 7.6 On the basis of the information now provided and my findings above in relation to effects, including the additional assessment and mitigation agreed in the groundwater JWS, I find that the application now demonstrates consistency with the first priority.
- 7.7 I also find that the agreements in the JWS as to effects on downstream bores means that the second priority “*The Health Needs of People*” is given effect to.
- 7.8 I also that the doubt expressed by Ms Kamali as to the alignment with the third priority – “*The ability of people and communities to provide for their social, economic and cultural well-being, now and in the future-* is now satisfied by the certainty provided as to groundwater levels and separation.
- 7.9 Ms Kamali provided discussion of relevant policies of the NPS-FM 2020, and considered that uncertainty as to groundwater depths and excavation levels, and information gaps gave rise to potential inconsistency with Policy 3, Policy 5, Policy 13, Policy 14 and Policy 15. She considered that significantly more information and assessment, and potentially also some amendment to the application, was required to demonstrate consistency with the NPS-FM 2020. I consider that the amendments and information now provided, and imposition of conditions including those recommended by Ms Kamali mean that these concerns have been satisfied.
- 7.10 Overall I find the proposal to be consistent with the NPS-FM2020.

Canterbury Regional Policy Statement (CRPS)

- 7.11 Ms Kamali assessed the provisions of *Chapter 5: Land-use and Infrastructure*, and found that “*the activity is not entirely consistent with, but is also not entirely contrary to the relevant objectives and policies of Chapter 5.*” She agreed that the CRPS defines rural activities including quarrying and that quarries are generally appropriate in rural locations. Her reservations related to proximity to sensitive rural residential properties.

- 7.12 Given the now proposed increased separation and mitigation measures in relation to the Miller property, I find that this concern has now been addressed.
- 7.13 I have considered the matters raised by Ms Kamali in relation to *Chapter 7: Freshwater*. Due to uncertainty as to separation of fill from groundwater, she considered that the proposal in its current form was generally not consistent with the relevant objectives and policies, however could be significantly more consistent with the relevant objectives and policies of Chapter 7 of the CRPS if the Applicant provided all of the additional information specified in her report, as well as amendments and conditions.
- 7.14 I am satisfied that the concerns expressed by Ms Kamali have been addressed by the amendments and further information provided by Mr Hughes and in the groundwater JWS's, and that the proposal is now consistent with Chapter 7.
- 7.15 I find that the amended setback from the 726 Robinsons Road dwelling, and proposed monitoring and dust suppression conditions mean that the proposal is now consistent with the relevant air quality policies contained in Chapter 14.
- 7.16 Overall I consider that the concerns expressed by Ms Kamali in relation to the CRPS have been satisfied.

Canterbury Land and Water Regional Plan (CLAWP)

- 7.17 Ms Kamali considered that the proposal is inconsistent with several of the policies and intent of the LWRP. In regard to the policies relating to ensuring groundwater quality is safeguarded and the discharge of contaminants is avoided, minimised and/or mitigated, she considered the consistency with these policies was dependent on further clarity from the applicant regarding excavation depth and monitoring, and on the material being deposited meeting the definition of clean and inert fill.
- 7.18 I have discussed these matters and my findings in my effects evaluation above, and find that the additional amendments and information now provided mean that these concerns are now satisfied.
- 7.19 I find that overall, the proposal is now consistent with the relevant objectives and policies of the CLAWP.
- 7.20 She considered that the proposal is consistent with amended policies in CLAWP Proposed Change 7.

Canterbury Air Regional Plan (CARP)

- 7.21 I note that Ms Kamali the considered the proposal currently inconsistent with the objectives and policies of the CARP, however subject to the Applicant implementing all proposed mitigation and subject also to the Applicant adopting the additional mitigation recommended, the proposal had the potential to be generally consistent with the relevant policies and objectives.
- 7.22 I consider that given the amendments to the application and proposed conditions, that the concerns raised by Ms Kamali have been addressed and the proposal is now consistent with the matters which she had identified.

8. STATUTORY ASSESSMENT AND PART 2 OF THE ACT

- 8.1 Consideration of applications under section 104 of the Act is “*subject to*” the purpose

and principles of the Act set out in Part 2, Sections 5 to 8. The Part 2 matters of particular relevance to this case are as follows.

5(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

Section 7 requires that particular regard be had to various matters, including:

- The efficient use and development of natural and physical resources;*
- The maintenance and enhancement of amenity values; and*
- Maintenance and enhancement of the quality of the environment.*

8.2 I have had regard to all of these matters and the matters specified in Section 104 of the Act, and consider the proposals to be consistent with Part 2.

8.3 I also agree with Ms Kamali that the relevant plan objective and policies have been appropriately prepared to give effect to Part 2 of the RMA, therefore having regard to the principles established by *RJ Davidson Family Trust v Marlborough District Council (2018)* I do not consider it necessary to resort to Part 2 to provide additional meaning.

9. DECISIONS

Selwyn District Council Consent

For the reasons detailed in this decision resource consent application RC215749 by Winstone Aggregates Limited (a Division of Fletcher Concrete and Infrastructure Limited) for land use consents associated with an extension to an existing quarry and backfilling operation at 692 and 706 Robinsons Road, Prebbleton is **approved** under sections 104, 104B and 108 of the Resource Management Act 1991, subject to the conditions contained in **Appendix One** to this decision.

Canterbury Regional Council Consents

For the reasons detailed in this decision resource consent applications CRC213142, CRC213143, CRC213144, CRC213145, and CRC213146 by Winstone Aggregates Limited (a Division of Fletcher Concrete and Infrastructure Limited) for land use and discharge consents associated with an extension to an existing quarry and backfilling operation at 692 and 706 Robinsons Road, Prebbleton are **approved** under sections 104, 104B and 108 of the Resource Management Act 1991, subject to the conditions contained in **Appendix Two** to this decision.



Graham R Taylor

Hearing Commissioner

27 June 2022

Appendix One – Selwyn District Council Conditions

Appendix Two – Canterbury Regional Council Conditons