

## **Resource Management Act 1991**

### **Canterbury Regional Council**

#### **Decision on an application by Malbon Dairy Farms Limited (“the applicant”) to: Canterbury Regional Council for Discharge Consent CRC223817 to discharge contaminants to land.**

##### The Applications

1. The application to the Canterbury Regional Council is for a:
  - i. Discharge permit - CRC223817 to discharge contaminants in diluted dairy effluent to land, at 335 Wrights Road and 856 Thongcaster Road, Oxford.
2. A consent duration of 15 years is sought.
3. This application is for a new consent to replace CRC012363.2, which expires on the 22<sup>nd</sup> of August 2022 and authorises the discharge of dairy effluent from 1800 cows over 468 ha of land (consisting of 446 ha of irrigated land plus setbacks). The new consent, if granted will authorise the discharge from 1700 cows over a similar area via centre pivots that will apply the effluent to land at a maximum daily application depth of 25 mm.
4. The application was limited notified to Te Ngāi Tūāhuriri Rūnanga on the 9<sup>th</sup> of May 2022. No submission was received from them.
5. The Canterbury Regional Council (CRC) has delegated to me (in my role as a Principal Consents Advisor and a member of the council's Resource Managers Officers Group (RMOG)), the authority to decide whether an application should be granted if that application has been limited notified but where there are no submitters to be heard.
6. To assist in making this decision, a Section 42A Officer's report has been prepared by Ms Danielle Korevaar. Her report describes the details associated with the application, an assessment of the effects associated with the activity requiring consent and makes recommendations regarding whether the application should be granted or refused. The report also recommends conditions to be included on the consent, should the application be granted.
7. Where appropriate, I have adopted Ms Korevaar’s report as per s113(3)(b) of the RMA rather than repeating information, and this decision should therefore be read in conjunction with the recommendations in that report (CRC Content Manager records document C22C/125287).

## **Summary of Application and Description of the Receiving Environment**

8. Ms Korevaar has provided a detailed summary of the proposal (paragraphs 6-39) and a description of the environment (paragraphs 40-41), in her s42A officer's report. Rather than repeat those matters, I adopt them as part of this decision.

## **Legal and Planning Matters**

9. Ms Korevaar provides an assessment of the legal status of the application (paragraphs 47-61). I agree with Ms Korevaar's assessment that the discharge should be classified as a "restricted discretionary" activity under Rule 5.36 of the Canterbury Land and Water Regional Plan (LWRP). The matters for discretion relevant to this application are set out in paragraph 75 of Ms Korevaar's report.

## **Assessment of Actual and Potential Effects**

10. Ms Korevaar provides a discussion of the actual and potential effects that could arise from the activity, in paragraphs 74 - 149 of her s42A report. These effects include:
  - a. Adverse effects of the discharge on ground water quality.
  - b. Adverse effects of the discharge on surface water quality.
  - c. Adverse effects of the discharge on significant indigenous biodiversity.
  - d. Adverse effects on Tangata Whenua values.
  - e. Positive effects of the discharge.
11. I am satisfied that all the relevant adverse effects have been assessed and are relevant to the matters of discretion required by Rule 5.36 of the LWRP. The detailed analysis of these effects provided by Ms Korevaar is considered thorough and she concludes that the adverse effects of the proposal are acceptable, subject to the mitigation measures recommended in her report being imposed as conditions of consent, should it be granted.
12. I generally agree with Ms Korevaar's conclusions and consider the following:
  - a. The applicant is a member of the Waimakariri Irrigation Limited (WIL) scheme and therefore nutrient discharges from the property are managed through the scheme's discharge consent (CRC184861). In addition, the preparation, maintenance and audit of a Farm Environment Plan is a requirement for belonging to the scheme and should ensure that the activities at the farm are managed appropriately.
  - b. The applicant's property is within the Ashley Waimakariri Nutrient Allocation Zone, which is classified as "red" in the LWRP. This means that water quality outcomes within the zone are not being met. The applicant is currently only utilising 104 hectares of the 446.8 ha available irrigation area. There is significant potential therefore to reduce nitrogen loading rates by increasing the utilised area and therefore reduce the adverse impacts of nutrient discharges on groundwater quality from the property.

- c. I note that the expiring dairy effluent discharge consent includes a condition limiting the maximum annual nitrogen loading rate to 200 kg N/ha/year and that the applicant is seeking to keep this condition. I consider that this limit is somewhat misleading as it permits a much higher loading rate than what has been assessed or is likely to eventuate at the site. I agree with Ms Korevaar that a better way to manage the effects of the discharge is by limiting cow numbers and application rates.
  - d. While this is not a new activity at the site, the consent authorising the discharge of dairy effluent is about to expire. On this basis, it is necessary to consider the effects of the activity on the environment as though the discharges were not occurring. In my opinion, the mitigation measures proposed by the applicant including the capacity of the effluent collection and storage system, limits on cow numbers, effluent application rates and the separation distances to sensitive surface waterways or wetlands, should be sufficient to ensure that the effects on groundwater and surface water quality are acceptable.
  - e. While Te Ngāi Tūāhuriri Rūnanga did not submit on the application when it was limited notified to them, a TWAS response was received from Mahaanui Kurataiao Limited (MKT), prior to notification, outlining rūnanga opposition to the application and providing a very comprehensive and helpful assessment of the proposal against the policies of the Mahaanui Iwi Management Plan. I have considered this assessment and Ms Korevaar's response to the points raised by MKT in paragraphs 140 – 146 of her report and in general, agree with her conclusions. In this particular case, the applicant's proposed measures to manage the effects of the activity at the property in line with WIL scheme requirements and the ability to reduce the nutrient loads at the property due to the land available for irrigation should ensure that the effects of the discharges are no worse than what has been occurring under their existing consent and are likely to improve in future.
13. In summary, I consider that while the activities could potentially result in adverse effects, these effects are likely to be acceptable, provided the mitigation measures proposed by the applicant and recommended by Ms Korevaar are required as conditions of consent and implemented vigilantly by the applicant.

### **Grant or Refusal of Consent**

14. Ms Korevaar has provided a recommendation on whether to grant or refuse consent in her s42A report. This recommendation includes discussion of Part 2 of the RMA, and those matters in s104, s104C and s105 which must be considered in making this decision.
15. Ms Korevaar has also provided a view on the relevant objectives and policies of those documents specified in s104(1)(b) and other relevant matters (s104(1)(c) in paragraphs 151-177 of her s42A report.

16. I thank Ms Korevaar for this discussion and adopt it as part of this decision. I agree with her conclusions that the proposed activity is largely consistent with all of the policies in the relevant planning documents.
17. In considering the resource consent applications I have had regard to sections 104, 105, and 107 of the RMA. Section 105 sets out matters relevant to certain applications; and Section 107(1) sets out restrictions on grant of certain discharge permits. In my view, I consider that this activity will achieve the purpose of the RMA.
18. Section 108 allows conditions to be imposed on a consent. Ms Korevaar has recommended conditions that should be included as part of the consent, should it be granted. These conditions have been agreed to by the Applicant.
19. On the basis of the evidence before me, I am satisfied that the application can be granted subject to the imposition of the recommended conditions.

## Duration

20. The applicant has requested a duration of 15 years for the resource consent application.
21. Ms Korevaar has recommended a duration of seven years and provided reasons for her recommendation in paragraphs 195 - 201 of her s42A report. While I appreciate the applicant's reasoning for seeking a 15-year term of consent, I agree with Ms Korevaar that Policy 8.4.36 does not specifically provide guidance on the duration of ancillary farming activities, such as dairy effluent discharge consents.
22. While it may appear reasonable to align all farming activities to the common catchment expiry date of 2037, the discharge is within a nutrient allocation zone where water quality outcomes are not being met. In addition, rūnanga have expressed concerns about the effects of the activity on groundwater quality.
23. For these reasons, I agree with Ms Korevaar that a term of seven years would be more appropriate. This would allow the activity to be reassessed in accordance with requirements of the sub-regional chapter of the LWRP.

## Decision

24. It is my decision, under delegated authority on behalf of the Canterbury Regional Council pursuant to sections 104, 105, 107, 108 to **GRANT** Malbon Dairy Farms Limited the following resource consent:
  - I. CRC223817 – To discharge contaminants in diluted dairy effluent to land in circumstances where those contaminants may enter water.subject to conditions set out in Appendix 1.

Dated at Christchurch this 7th day of July 2022

A handwritten signature in blue ink, appearing to read 'Yvette Rodrigo', with a stylized flourish at the end.

Yvette Rodrigo  
Principal Consents Advisor  
(Resource Managers Officers Group)

## Appendix 1: Conditions

- 1 The discharges shall be only:
  - a. diluted dairy effluent originating from a dairy shed, located as shown on Plan CRC223817, which forms part of this consent, and stockholding areas (including milking platforms, feedpads, wintering pads and farm raceways used for holding stock during milking); and
  - b. Slurry originating from the effluent storage ponds, located as shown on Plan CRC223817.
- 2 A maximum of 1700 cows per day may be milked in the dairy shed, comprising:
  - a. 850 cows on Centre Dairy; and
  - b. 850 cows on Malbon Dairy.
- 3 The discharge of diluted dairy effluent and slurry to land shall occur only within the area labelled "Effluent Discharge Area" on Plan CRC223817.
- 4 Prior to this consent being exercised, the consent holder shall establish an effluent storage facility on the property which provides a minimum working capacity of 894 cubic metres and which shall be maintained for the duration of this consent. For the purpose of this consent, 'minimum working capacity' is defined as the capacity available to store diluted dairy effluent, but excludes stonetrap, settling ponds, a minimum 300 millimetre vertical free-board and unpumpable sludge at the base of the storage facility.

***Advice note:*** *The minimum storage requirement comprises 401 cubic metres on Centre Dairy, and 493 cubic metres on Malbon Dairy.*
- 5 The discharge shall not:
  - a. enter, or be onto land within 50 metres of the Kanuka Stand as shown on Plan CRC223817A;
  - b. enter, or be onto land within 20 metres of a lake, river, artificial water course (including drains), wetlands, or a bore used for water abstraction, the Coastal Marine Area, or soakhole; or
  - c. be onto frozen or snow covered soil.
- 6 The discharge and any irrigation water applied within 24 hours before or after discharge shall not:
  - a. exceed an application depth of 25 millimetres per day;
  - b. result in runoff of effluent from the effluent discharge area; or
  - c. result in effluent ponding on the land surface.
- 7 The discharge of slurry to land shall not exceed an application depth of 5 millimetres per day.
- 8 There shall be no leakages or spills of effluent to land or water from the effluent application system.

- 9 At the time of discharging, if the irrigator used to discharge effluent is also connected to the mainline used to abstract groundwater or surface water for irrigation, the consent holder shall ensure that:
- a. an effective backflow prevention device is installed and operated within the pump outlet plumbing or within the mainline to prevent the backflow of contaminants into the water source;
  - b. the backflow prevention device is tested at the time of installation and annually thereafter by a suitably qualified or certified person in accordance with the Canterbury Regional Council approved test methods for the device used; and
  - c. a test report shall be provided to the Canterbury Regional Council, Attention: Regional Leader - Monitoring and Compliance, within two weeks of each test.
- 10 The Canterbury Regional Council may, once per year, on any of the last five working days of May or November, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent.
- 11 If this consent is not exercised before 30 September 2027, it shall lapse in accordance with Section 125 of the Resource Management Act 1991.

***Advice note: 'Exercised' is defined as implementing any requirements to operate this consent and undertaking the activity as described in these conditions and/or application documents.***



# Plan CRC223817 |

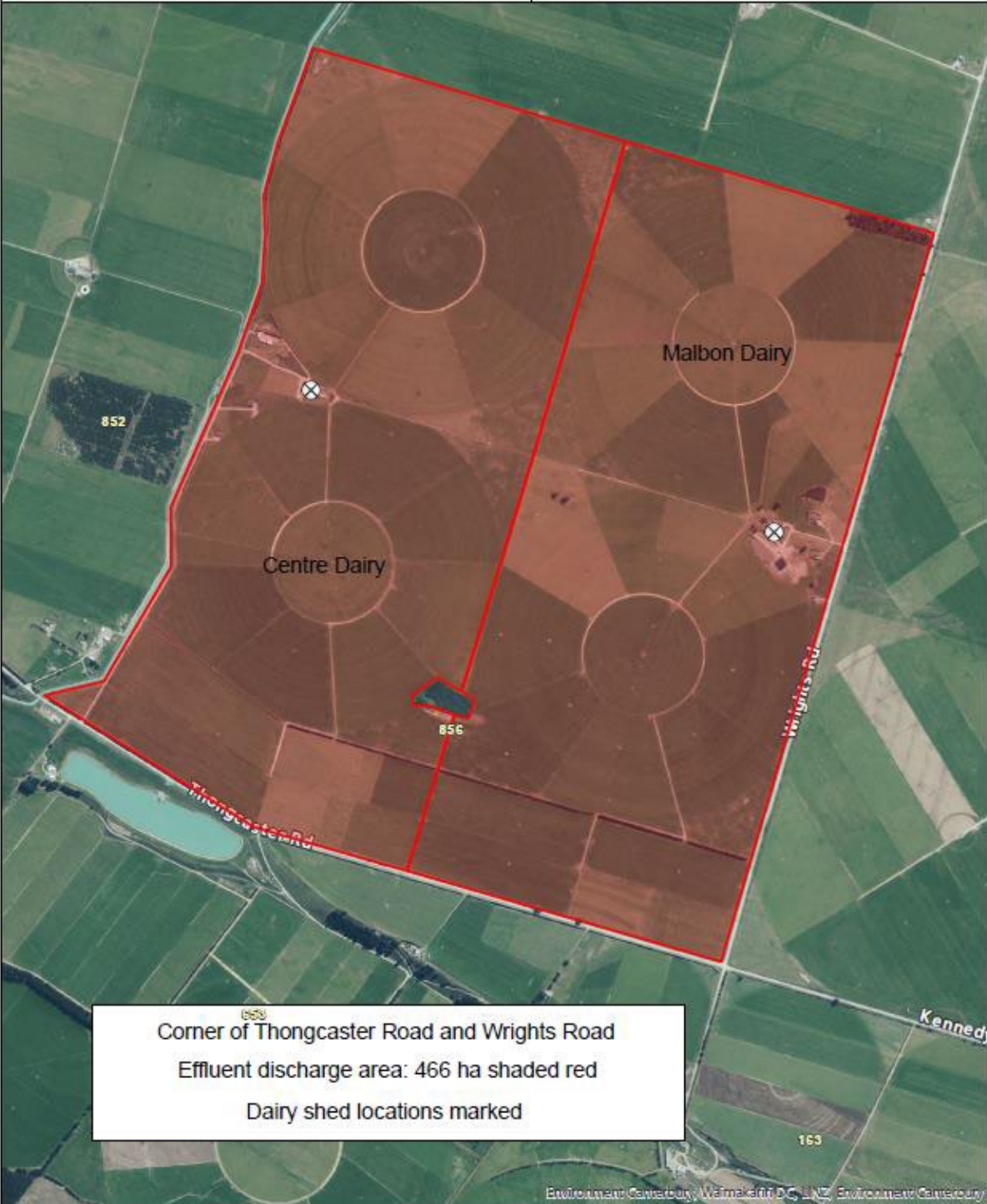
Information has been derived from various organisations, including Environment Canterbury and the Canterbury Maps partners. Boundary information is derived under licence from LINZ Digital Cadastral Database (Crown Copyright Reserved). Environment Canterbury and the Canterbury Maps partners do not give and expressly disclaim any warranty as to the accuracy or completeness of the information or its fitness for any purpose.  
Information from this map may not be used for the purposes of any legal disputes. The user should independently verify the accuracy of any information before taking any action in reliance upon it.



0 0.2 0.4 0.6 0.8 Kilometres

Scale: 1:15,000 @A4

Map Created by Canterbury Maps on 14/03/2022 at 11:55 AM







# Plan CRC223817A

Information has been derived from various organisations, including Environment Canterbury and the Canterbury Maps partners. Boundary information is derived under licence from LINZ Digital Cadastral Database (Crown Copyright Reserved). Environment Canterbury and the Canterbury Maps partners do not give and expressly disclaim any warranty as to the accuracy or completeness of the information or its fitness for any purpose.

Information from this map may not be used for the purposes of any legal disputes. The user should independently verify the accuracy of any information before taking any action in reliance upon it.



0 0.2 0.4 0.6 0.8 Kilometres

Scale: 1:15,000 @A4

Map Created by Canterbury Maps on 16/03/2022 at 3:18 PM

