

IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

Resource consent application **CRC021794** by
Ashburton Contracting Limited to discharge
contaminants into water

BETWEEN

Ashburton Contracting Limited
Applicant

AND

CANTERBURY REGIONAL COUNCIL
Respondent

DECISION OF THE HEARING COMMISSIONERS

13th May 2009

Heard on the 20th March 2009 in the Rangitata Room at the offices of the Canterbury Regional Council, 58 Kilmore Street, Christchurch.

Hearing Commissioners:

Councillor Richard Tindall

Ms Sharon McGarry (Chair)

REPRESENTATIONS AND APPEARANCES

The Applicant:

Mr G. Casey, General Manager for Ashburton Contracting Limited

Mr G. Richardson, Health and Safety Manager for Ashburton Contracting Limited

Ms J. Crawford, Counsel

Ms O. Burge, Assisting Counsel

Ms L. Torgerson, Environmental Engineer

Ms L. Chrystall, Environmental Scientist

Submitters:

None in attendance

Section 42A reporting officers:

Mr I. Holland, Environmental Consultant

Ms D. Bambery, Consents Investigating Officer for Canterbury Regional Council

Ms A. Wilkes, Environmental Scientist

BACKGROUND AND PROCEDURAL MATTERS

1. This is the decision of the Hearing Commissioners Councillor Richard Tindall and Ms Sharon McGarry (Chair), appointed by the Canterbury Regional Council ("CRC") to hear and decide an application by Ashburton Contracting Limited ("the applicant") to discharge shingle wash water and associated contaminants into the Ashburton River.
2. This application for a discharge permit was publicly notified in The Ashburton Guardian on Saturday 4th March 2006. Fifteen people were served written notice of the application including local runanga, river user associations, conservation groups, Community and Public Health and Ashburton District Council. Three submissions were received within the statutory timeframe. All three submissions were in opposition to the application and all three stated they wished to be heard at a hearing.
3. The hearing commenced at 9.30am on Thursday 20th March 2009. The hearing was adjourned at 1.30pm, to enable the applicant to provide written procedures for operation and maintenance of the discharge treatment system and a revised set of consent conditions.
4. A site visit was undertaken on Monday 30th March 2009. The additional information and a written right of reply were received on 6th April 2009. Following the provision of further comment on proposed consent conditions from CRC's reporting officer, the applicant provided supplementary closing legal submissions on 20th April 2009. The hearing was closed on 27th April 2009 on the completion of our deliberation.
5. Prior to the hearing, a report was produced pursuant to section 42A of the Resource Management Act ("RMA" or "the Act") by the reporting officer, Mr Ivan Holland. The report provided an analysis of the matters requiring consideration and recommended that consent be granted subject to recommended conditions.

THE APPLICATION

6. The applicant is seeking resource consent to authorise the discharge of shingle wash water and associated contaminants into the Ashburton River, from a shingle washing plant operated on Ashburton Contracting Limited's property located in Dobson Street, Ashburton.
7. The discharge from the applicant's plant is currently authorised by resource consent **CRC921486**, which permits the discharge of shingle wash water at a maximum rate of up to 700 cubic metres per day (m³/d) and 23 litres per second (L/s) via a settling pond, into the Ashburton River immediately upstream of the State Highway 1 bridge on the true left bank.
8. The original resource consent (CRC921486) was granted on 12 July 1993 to Crum Contracting Limited and was transferred to the applicant on 15 April 1997. The applicant lodged an application to renew the resource consent on 24 April 2002, prior to the resource consent expiring on 1 December 2002, and has continued to carry out the activity pursuant to section 124 of the Act.
9. The applicant has also applied for resource consent to take and use groundwater for the purpose of shingle washing at a rate of 23 L/s from bore K37/3085. The application is to authorise the continuation of the activity that was authorised by resource consent **CRC921485** that expired on 1 December 2002. Although resource consent CRC921485 authorises the take and use of groundwater from bore K37/0473, the applicant has obtained resource consent to drill an alternate bore (very close to the original bore site) and is continuing the activity pursuant to section 124 of the Act. This application was not publicly notified and is not part of this hearing process or decision. Ms Dana Bambery, reporting officer for the water permit application, attended proceedings to clarify any issues associated with the water permit application.
10. The applicant originally sought consent duration of 35 years, but since notification has amended this to 15 years.

THE HEARING

The Applicant's Case

11. **Ms Jen Crawford**, counsel for the applicant, conducted the applicant's case presenting legal submissions and calling two witnesses. In summary, Ms Crawford made the following main points:

- The application is a renewal and is not a particularly contentious activity;
- The application was lodged prior to the expiry of the existing resource consent and was accompanied by an application to renew a groundwater abstraction permit, which is being processed non-notified;
- The applicant (and its predecessors) have been operating on the site for approximately 40 years by discharging to settling ponds (with a series of weirs) and there have been significant improvements in recent years relating to management of the activity;
- Technical advice is that the ponds, excavated in the 1970's, are very likely to have sealed by now and that there is no seepage to groundwater;
- In the unlikely event of any incidental seepage occurring, it would be *de minimus* and does not warrant the imposition of specific conditions;
- Previously, CRC has raised concerns that the suspended solids in the wash water was too high and the applicant has developed an effective flocculant dosing regime and tighter management of the settling ponds to remedy this;
- The applicant has consulted key stakeholders and it would appear issues have been largely agreed with the exception of the whether the limit of suspended solids should be set at 100 or 250 grams per cubic metre (g/m³);
- Additional conditions sought by Fish and Game have been agreed to by the applicant and are reflected in the draft conditions;
- The Ashburton River currently has a low grade for contact activities and the applicant's discharge will not contribute significantly to the micro-biological contamination that already exists in the River;
- The applicant seeks to amend the condition limiting total aluminium in the discharge to dissolved aluminium, rather than total aluminium;
- The applicant is seeking a total suspended solid limit that reflects the status quo and wants a limit that it can realistically meet at all times;

- The activity is assessed to be a discretionary activity and as a renewal of an existing consent regard must be had to the applicant's existing investment;
- Ms Torgerson's assessment and Mr Taylor's supporting statement, indicate that the effects of the discharge will be no more than minor, and that the proposal is consistent with the relevant objectives and policies of the Regional Policy Statement (RPS) and the proposed Natural Resources Regional Plan (NRRP);
- The witnesses will describe the applicant's reasons for the proposed choice of discharge and demonstrate that the requirements of sections 105 and 107 of the Act have been met;
- The activity enables the applicant to provide for the current and future needs of the Ashburton Community; and
- The activity is consistent with sustainable management and can properly be granted consent on the conditions sought for a term of 15 years;

12. **Mr Gary Casey**, general manager for the applicant, gave evidence describing the activities at the Dobson St yard and the existing discharge. In summary, Mr Casey made the following main points:

- The company trades as a Council-Controlled Organisation (CCO) from the Ashburton base and has a workforce in excess of 90 staff;
- The company provides essential services to the district and has worked on a large range of recent projects;
- Unprocessed aggregate is trucked in from the North Branch of the Ashburton River and is screened, washed, graded and stockpiled onsite;
- Aggregate processing occurs on weekdays and Saturday mornings depending on supply and demand;
- The Dobson St yard is the company's only permanent processing site;
- The processing of aggregate requires the addition of water;
- The processing water is discharged via a small channel to the settling ponds where it passes through a number of weirs to slow the water down, allowing the sediment time to settle out before it enters the Ashburton River;
- A recent initiative is to add flocculant to the processing water to help extract the sediment and assist in meeting consent limits for suspended solids;

- Accumulated sediment is cleaned out of the ponds, with the small pond cleaned out weekly and the larger pond cleaned out every two to three weeks;
 - Before cleaning out the ponds the plant is shut down and water in the ponds is given time to drain away;
 - There is no water flow out of the ponds when excavation of sediments occurs, but sediment levels can remain elevated after the cleaning process is completed;
 - Past non-compliance issues have been addressed by increasing the size of the settling pond, flocculant dosing, establishing clean out procedures and regular water quality testing, and modification of the screening plant;
 - The company has considered other alternatives, but found them impractical or too expensive; and
 - The company is confident that its current management regime, in combination with the consent conditions proposed, will lead to good environmental and operational outcomes.
13. **Ms Lynn Torgerson**, an environmental engineer, gave evidence describing the activity, classification of the activity under the relevant rules, summarising submissions and addressing potential environmental effects on water quality. In summary, Ms Torgerson made the following main points:
- The wash water generated from the washing plant is directed via a small channel (partially piped) to a small settling pond and is then discharged into a larger secondary settling pond which is fitted with five weirs before discharge to the Ashburton River (approximately 150 metres away) via a small vegetated channel;
 - The point of discharge is not into the main channel of the Ashburton River, but into a smaller separate channel;
 - The applicant has been dosing the discharge with a flocculant (“Sumaclear 802B”) at a rate of 500 millilitres per hour (ml/hr) since late 2007, and this has reduced the concentration of suspended solids significantly;
 - “Sumaclear 802B” is aluminium based with extremely low residual levels and a lower dose rate than other aluminium based flocculants;

- The applicant would like the flexibility to use organic, aluminium based flocculants to achieve the same level of treatment;
- There is agreement with Mr Holland's description of the receiving environment, classification of the discharge as a discretionary activity under Rule WQ56 of the NRRP, and the assessment of environmental effects;
- The applicant is seeking a suspended solid concentration limit of 250 g/m^3 on the basis that this is achievable and realistic;
- The total suspended solid concentrations in the Ashburton River (monitored downstream in a separate braid) are generally below 50 g/m^3 ;
- Total suspended solid concentrations in the discharge prior to flocculant use were high, but since October 2007 monitoring shows a range from $4.95\text{-}1,300 \text{ g/m}^3$, with the high concentrations coinciding with cleaning of the ponds;
- The discharge quality is monitored by taking a sample at the fifth concrete weir, a sample upstream of the discharge, and a sample 10m downstream of the discharge;
- Mixing calculations undertaken using a reasonable mixing zone of 45m downstream, based on actual discharge monitoring data predicts an increase in total suspended solids in the receiving waters in the range of $0.02\text{-}0.7 \text{ g/m}^3$, and based on a total suspended solid concentration of $1,000 \text{ g/m}^3$, predicts an increase in total suspended solids in the receiving waters in the range of $0.62\text{-}5.2 \text{ g/m}^3$;
- The "zone of non-compliance" calculated by using the formula set out in the NRRP is 161m downstream;
- The activity is not expected to have an adverse effect on the water quality of the Ashburton River downstream of the zone of non-compliance, and any impact from cleaning is limited to a period of two hours weekly or every couple of days;
- Monitoring of dissolved aluminium concentrations in the discharge and receiving waters indicates four of the six downstream samples exceeded the 99% trigger level in the ANZECC guidelines (2000), however on two of the sampling occasions the upstream sample also exceed the 99% trigger level;
- It is expected that after complete mixing with the main channel, the discharge will not cause the aluminium standard to be breached downstream of the zone of non-compliance;

- To meet submitters' concerns the applicant has agreed to reduced the consent duration sought to 15 years, limit the discharge rate to 23 L/s, clean ponds out when they reach one third of the storage capacity, continue using flocculant, and continue water quality monitoring;
- Mr Mark Taylor (Aquatic Ecology Limited) has provided a summary assessment of ecological values in the Ashburton River and the potential impact on invertebrates and fish from suspended solids;
- Mr Taylor concludes that there may be some measurable changes in invertebrate fauna from sedimentation, but that perturbations will be minor compared to the changes manifested by flood events;
- The discharge has been consented since 1995, with a maximum total suspended solid concentration limit of 1,000 g/m³, therefore any localised invertebrate fauna in the receiving environment would have adapted to this higher concentration; and
- The activity is consistent with the objectives and policies of the RPS and NRRP, and section 105 and 107 of the Act.

Submitters

14. There were no submitters in attendance.

Section 42A Report

15. **Mr Ivan Holland** tabled his section 42A report and highlighted the main issues. In summary, Mr Holland made the following main points:
 - In relation to seepage from the ponds and potential discharge to groundwater, the applicant has highlighted the self sealing nature of the existing ponds and authorisation to discharge to groundwater has not been expressly applied for;
 - Potential effects on aquatic values have been addressed by Mr Taylor;
 - There are two resource consents less than one kilometre downstream to discharge shingle wash water, and although Allied Concrete Ashburton Limited have moved, the resource consent for the site has not been surrendered;

- If the applicant is concerned that a total suspended solid concentration limit of 100 g/m³ can not be met 100% of the time, then an absolute limit could be statistically weighted based on characteristics of the river, with four out of five samples meeting the 100 g/m³ and an upper maximum limit of 250 g/m³;
- A condition including a sunset clause for sampling frequency for good compliance can be provided for consideration;
- It is acknowledged that the point of discharge is into water in the Ashburton River, but given the potential for public access to the drain between the pond and the river, it would be preferable to continue sampling the discharge at the last weir structure;
- A “reasonable mixing zone” would be approximately 45m downstream;
- The condition referring to flocculant use could be amended to provide the applicant with some flexibility, provided the alternative is aluminium based and concentrations are similar or less than for “Sumaclear 802B”;
- It would be preferable to see written procedures for clean out and sampling operations before consent is granted and conditions are finalised; and
- In terms of section 105 of the Act, the sensitivity of the receiving environment is considered to be moderate.

Site Visit

16. A site visit was undertaken at 11.45am on Monday 30th March 2009, and Mr Casey, Mr Richardson and Mr Maurice Wotton (production manager for the applicant) accompanied the Hearing Panel. The shingle washing plant was operating during our visit and we viewed its operation, the location of the new and old bores, the settling ponds, sediment storage area and the point of discharge to the Ashburton River bed.
17. We noted during our visit that although there was water in the drain to the river, the discharge was dissipating across the river bed and was not reaching the receiving waters (natural water).

Closing Submission by the Applicant

18. Following adjournment of proceedings, Counsel for the applicant provided a written right of reply, a revised set of consent conditions, and a draft "Dobson Street Silt Pond Clean Out & Sampling Procedure". This information was provided to Mr Holland and comment was received in relation to the revised consent conditions. Mr Holland's comments were subsequently provided to the applicant and a supplementary legal submission was received.

ASSESSMENT

19. We have taken time to summarise the evidence presented, and in doing so will not repeat all the points made in our evaluation. Our assessment focuses on the central issues raised regarding potential adverse effects on water quality and ecological values in the Ashburton River.
20. In making our assessment, we have considered the original application and assessment of environmental effects, all further information provided in response to section 92 requests, the section 42A report, all submissions received, all the evidence presented at the hearing, and any further written submissions received.

Status of the application

21. The starting point for our assessment is to determine the status of the activity. There is agreement between the reporting officer and the applicant that the activity should be considered as a discretionary activity under the provisions of the Transitional Regional Plan (TRP) and Rule WQL56 of the NRRP. We agree the activity should be considered as a **discretionary activity**.
22. In terms of our responsibilities for giving consideration to an application for a discharge permit for a discretionary activity, we are required to have regard to the matters listed in sections 104, 104B, 105 and 107 of the Act.

23. In terms of section 105, when considering a section 15 (discharges) matter, we are required to have regard to:
- (a) The nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (b) The applicant's reason for the proposed choice; and
 - (c) Any possible alternative methods of discharge, including discharge to any receiving environment.
24. In terms of section 107, we are prevented from granting a discharge permit allowing any discharge into a receiving environment which would, after reasonable mixing, give rise to any of the effects set out in section 107(1)(c)-(g).

The existing receiving environment

25. The existing receiving environment of the Ashburton River is well described in the Section 42A Report. The River is classified under the NRRP as a Class Hill waterway, which is to be managed for natural character, amenity and recreation values, Ngai Tahu Values, stockwater and aquatic ecosystems.
26. Water quality monitoring on the receiving waters by CRC, downstream of the discharge, indicates that concentrations of dissolved nutrients (nitrogen and phosphorous) typically exceed guideline values considered adequate for protection of biodiversity and aesthetic/recreational values. However, total suspended solid concentrations over the past five years have been generally well below 50 g/m³.
27. The Ashburton River provides habitat for periphyton communities, benthic invertebrates, indigenous and introduced fish species, and a number of riverine bird species.
28. The Ashburton River provides a regionally significant sport fishery, has low use for hunting waterfowl, and low visitor numbers for recreational use. Although microbial water quality is low and contact recreation is not advisable around the bridge, the discharge point is near to a public reserve area.

29. The Ngai Tahu Deed of Settlement recognises that the Ashburton River (Hakatere) was a major source of mahinga kai for Canterbury Ngai Tahu.
30. There is agreement between the parties that overall the existing receiving environment of the Ashburton River can be considered to be moderately sensitive to adverse effects, and we agree.

Actual and potential effects on the environment

31. We have considered all submissions to the application and the issues and concerns raised have been accurately summarised in the section 42A report. In having regard to the evidence before us, it is apparent that we can focus our assessment of actual and potential adverse effects of the activity on water quality and ecological ecosystems. We are mindful that protection of water quality and ecological values are central to ensuring tangata whenua values and the mauri of the Ashburton River are protected.
32. We accept on the basis of the evidence presented that any potential adverse effects on erosion and scouring in the banks or bed (at the point of discharge), recreation and amenity values, and other established uses of the Ashburton River are likely to be less than minor.

Effects on water quality and aquatic ecosystems

33. The discharge contains total suspended solids and aluminium concentrations that could adversely affect water quality in the Ashburton River and consequently affect localised aquatic ecosystems. We note the previous consent imposes a limit of 1,000 g/m³ for total suspended solids concentration in the discharge, and that flocculant use is not expressly allowed by the existing consent conditions.
34. It is apparent that since implementing the use of flocculant for water treatment that the applicant has generally achieved significantly lowered concentrations of suspended solids, and that the limit has only been exceeded during settling pond cleaning operations. Records of compliance monitoring of the discharge quality

(undertaken for the purposes of the previous consent) indicate a total suspended solid limit of 250 g/m³ can be met as long as there is no discharge during pond cleaning. The results also indicate that *most* of the time the discharge can meet a suspended solid limit of 100 g/m³.

35. We are satisfied that the applicant can improve the management of water treatment to ensure there are no discharges during settling pond cleaning and that if time is allowed for settlement after cleaning (two hours) that high suspended solid concentrations in the discharge can be avoided or minimised.
36. The applicant has agreed to meet a total suspended solids concentration limit of 100 g/m³ for at least three out of every five samples, and 250 g/m³ in any sample. We are of the view this is a significant improvement from the previous standard of 1,000 g/m³.
37. With regard to potential aluminium contamination, we are satisfied that the evidence supports the view that any effect on the receiving waters is likely to be immeasurable outside the zone of non-compliance (as defined by the provisions of the NRRP).
38. Overall, we consider that given the mitigation proposed by the applicant and the consent conditions proffered, that the discharge is unlikely to adversely affect water quality after reasonable mixing, and that therefore any adverse impact on aquatic ecosystems is also unlikely. Given the significant improvements in management and more stringent environmental standards, we are of the view that the discharge should be significantly improved and the localised state of the receiving waters is enhanced.

Relevant Planning Provisions

39. An analysis of the relevant objectives and policies of the **Regional Policy Statement (RPS)** was provided in the Section 42A Report. We note of particular relevance Objective 3, Policy 9 and Policy 10 of Chapter 9 Water, and concur that subject to the mitigation proposed, the discharge is unlikely to have an adverse

effect on water quality or aquatic ecosystems in the Ashburton River (outside the zone of reasonable mixing).

40. The **Transitional Regional Plan** (TRP) provides little guidance and in effect the general provisions of section 104 of the Act overtake the plan. There are no objectives or policies of relevance to our assessment.
41. The Section 42A Report provided us with an analysis of the relevant objectives and policies of the proposed **Natural Resources Regional Plan** (NRRP) and drew our attention to Objective WQL1 and Policy WQL1 of Chapter 4. Given the above assessment of potential environmental effects, we consider that with the imposition of appropriate consent conditions that the discharge is likely to be consistent with the provisions of Chapter 4.
42. The Act requires us to make an overall assessment of the proposal against the relevant objectives and policies of the RPS, TRP and NRRP. In having regard to the evidence before us, we consider that with the mitigation proposed and the imposition of consent conditions, the discharge is likely to be consistent with the relevant provisions.

Other Matters

43. The reporting officer drew our attention to other previously granted resource consents for discharges of shingle wash water into water. We note the proposed conditions and environmental standards (agreed to by the applicant) set a higher standard for water treatment and significantly improve compliance monitoring requirements.

Part 2 of the Resource Management Act 1991

44. In accordance with Part 2 of the Act, we consider that given the mitigation proposed the discharge is likely to be consistent with the purpose of the Act and the principles of the sustainable management of natural and physical resources, as defined in section 5.
45. In recognising and providing for matters of national importance contained in section 6 of the Act, we note the particular relevance of 6(e) and the relationship of Maori with water and the Ashburton River. We note Te Runanga o Ngai Tahu were served written notification of the application. In considering the evidence before us, we accept that, with the imposition of consent conditions, any adverse effects on water quality are likely to be minor. Therefore, we are satisfied that the relationship of Maori with the water and the river has been recognised and provided for.
46. In having particular regard to section 7 matters, we note the particular relevance of section 7(c), (d), (f), and (h). We are of the view that after reasonable mixing the discharge is unlikely to impact on these values.
47. In forming our opinion, section 8 requires us to take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi). We have no evidence before us to suggest that the proposal would offend any of these principles.

Sections 105 and 107

48. In making our assessment, we are required to have regard to the matters set out in section 105 of the Act. We are satisfied with the applicant's reasons for the proposed choice, accept that other methods of discharge have been considered, and agree that their choice minimises potential environmental effects. We accept the evidence of Ms Torgerson and Mr Holland that the existing receiving environment should be considered as moderately sensitive to change, and are satisfied the level of mitigation proposed is appropriate.

49. On the basis of the evidence presented, we accept that, after reasonable mixing the discharge is unlikely to give rise to any of the effects set out in section 107(1)(c)-(g) of the Act.

Summary

50. The evidence before us supports the view that any potential or actual adverse effects on the environment of the discharge can be adequately avoided, remedied or mitigated, by the imposition of appropriate consent conditions.
51. It is our overall judgement, that the application for **Discharge Permit CRC021794** is consistent with the relevant provisions of the RPS, TRP and NRRP, and that the purpose and principles of the Act can be best achieved by granting consent subject to conditions.

Conditions

52. The recommended conditions of consent put forward by Mr Holland formed the basis for robust discussion during the hearing and were very helpful. These conditions have been revised by the applicant and commented on by Mr Holland. We note the high level of agreement between the parties, and appreciate the approach taken to work together to further revise conditions reflecting issues raised in the hearing.
53. The nub of the issue related to setting absolute limits for total suspended solid concentrations, with the applicant seeking a maximum limit of 250 g/m³ and Mr Holland and submitters seeking 100 g/m³. However, this was resolved by proposing a requirement that three out of every five samples not exceed a 100 g/m³ limit, and that no sample will exceed 250 g/m³. These limits, in combination with tighter operational and discharge standards, provide more certainty that the imposed standards can be met in the future and that water quality will be protected.
54. The applicant provided us with a written procedure for managing the water treatment and discharge process, and has assisted in drafting practical and

enforceable consent conditions. The written documentation reflects a significant improvement by the applicant in onsite water management and discharge.

55. In general we have not made any significant changes to the conditions as recommended and agreed to, but we have made some minor amendments and briefly outline these below.
56. In considering the evidence presented regarding the applicant's ability to prevent discharge during settling pond cleaning operations, it is apparent that elevated total suspended solid concentration levels could potentially be discharged for up to two hours after cleaning (disturbance). Given the applicant's on-site options for management, we are of the view that it would be reasonable to require the applicant to continue to not discharge for at least two hours after completion of pond cleaning. We are of the opinion this is not overly onerous for the applicant, and will significantly reduce the risk of discharging poor quality, turbid water into the river. To reflect this we have amended **Condition (8)(b)**.
57. We have added **Condition (10)** to require the applicant to maintain a written operating procedure.
58. We have reworded **Condition (11)** to reflect both the requirement that there be no discharge for at least two hours after cleaning operations, and the agreement reached on imposing a statistically weighted lower limit and maximum concentration limit for total suspended solids. In light of the improvements made and the higher standards imposed, we have made provision for the monitoring frequency to be reduced from every month to three monthly, if all samples comply with the lower limit. This rewards the applicant for good compliance, and will fit in with the requirement to monitor aluminium concentrations on a three monthly basis.
59. **Condition (12)** has been amended to impose a maximum dissolved aluminium limit of 0.2 g/m³. We note there is no requirement to monitor aluminium concentrations in the receiving waters, and therefore consider it appropriate to impose an absolute maximum limit on the discharge. Similarly, we consider it

appropriate to continue monitoring aluminium three monthly, for the duration of consent.

60. In light of the fact that there was no discharge to the receiving waters during our site visit, we have amended **Condition (13)** to ensure sampling is undertaken when the discharge actually reaches the receiving waters (the river). We see little point in monitoring the receiving waters on the same day the discharge is sampled, if the discharge is not able to affect water quality in the river.

Duration

61. The applicant reduced the consent duration sought to 15 years. Mr Holland is of the opinion that 15 years is reasonable duration, given the improvements made in water treatment procedures and tightened consent conditions. Submitters have requested a shorter duration (5 years).
62. Having had regard to the matters outlined in Section 1.3.5 of Chapter 1 of the NRRP, we are of the view that consent duration of 15 years is reasonable, given the assessment of environmental effects. Given the applicant's existing infrastructure and investment at the site, and the conditions proffered setting higher environmental standards, it would be unreasonable to impose any shorter duration.

Decision

It is the decision of the Canterbury Regional Council, pursuant to section 104, section 104B, section 105, section 107 and section 108, and subject to Part 2 of the Resource Management Act 1991, that resource consent application CRC021794 to discharge shingle wash water containing contaminants to the Ashburton River, by Ashburton Contracting Limited, be granted for duration of 15 years, subject to the following consent conditions:

- (1) The discharge shall be only treated shingle wash water from the property legally described as Lot 1 DP 63955 and located on Dobson Street West, Ashburton.**

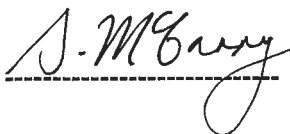
- (2) The shingle wash water shall be dosed with flocculant and treated in settling ponds prior to discharge via a drain into the Ashburton River, adjacent to the railway bridge at map reference NZMS 260 K37:8706-9043 and labelled as “discharge point” on Plan CRC021794, which forms part of this consent.
- (3) The flocculant used shall be only “Sumaclear 802B”, or an alternative aluminium based flocculant, which shall not result in any other residual contaminants of concern in the discharge. If “Sumaclear 802B” is used, it shall only be added at a rate between 500 and 750 millimetres per hour. If an alternative aluminium based flocculant is used, it shall be added at a rate which results in an equivalent or greater rate of suspended solids removal than “Sumaclear 802B”. The Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, shall be notified in writing and provided with a copy of the material safety data sheet at least five working days prior to the use of any alternative aluminium based flocculant.
- (4) The settling ponds shall consist of a small settling pond and a larger settling pond. The larger settling pond shall have at least five concrete weirs.
- (5) The discharge rate shall not exceed 700 cubic metres per day, an average of 15 litres per second and a maximum of 23 litres per second.
- (6) The settling ponds shall be inspected at least once per week for sediment accumulation.
- (7) Accumulated sediment shall be removed from the small settling pond weekly, and the larger settling pond where the sediment exceeds one third of the total storage capacity of the pond.
- (8) The consent holder shall use the best practicable options to minimise the effects of the discharge on Ashburton River associated with the removal of accumulated sediment from the settling ponds. These options shall include but not be limited to:

 - (a) Ensuring that shingle washing is not occurring and that there is no inflow to the settling ponds for at least 12 hours prior to, and during, sediment removal from the settling ponds;
 - (b) Ensuring discharge from the lowest weir of the larger settling pond does not occur while accumulated sediment is being removed and for a two hour period after completion;
 - (c) Placing accumulated sediment in the sediment holding pond area, as shown on Plan CRC021794; and
 - (d) Dewatered sediment removed from the settling ponds shall be either removed from the site and disposed of at an appropriate facility, or reused onsite.
- (9) The consent holder shall keep written records of the date, time and details of all plant shutdowns, inspections and maintenance of the settling ponds, and shall provide these records to the Canterbury Regional Council on request.

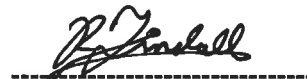
- (10) The consent holder shall maintain a written procedure for removing sediment from the settling ponds, and record keeping to comply with condition (8) and (9).**
- (11) The concentration of suspended solids in the discharge shall not exceed 100 grams per cubic metre in more than two samples of every five samples collected, and shall not exceed a maximum of 250 grams per cubic metre in any sample.**
- (12) The concentration of dissolved aluminium in the discharge shall not exceed 0.5 grams per cubic metre in more than two samples of every five samples collected, and shall not exceed a maximum of 2.0 grams per cubic metre in any sample.**
- (13) The consent holder shall collect and analyse a sample of the discharge for total suspended solids at least every month, during plant operation and when a discharge to the Ashburton River is occurring. Provided the concentration of total suspended solids in all samples does not exceed 100 grams per cubic metre for a period of at least two years, the frequency of sampling and analysis required for the purposes of condition (11) may be reduced to at least once every three months.**
- (14) The consent holder shall collect and analyse a sample of the discharge for dissolved aluminium at least once every three months, during plant operation.**
- (15) The consent holder shall monitor the rate of discharge at any time when samples are being collected in accordance with conditions (13) and (14). For the purposes of conditions (5), (11) and (12), the monitoring and sampling of the discharge shall be carried out at the outflow from the lowest weir in the larger settling pond.**
- (16) The discharge shall not at any time result in a greater than 20 percent reduction in visual clarity in the Ashburton River greater than 45 metres downstream of the discharge point.**
- (17) The consent holder shall monitor water quality in the Ashburton River, at least once every three months and on the same day as discharge samples are collected in accordance with condition (13).**
- (18) The water quality monitoring shall be conducted in the Ashburton River, in the braid receiving the discharge, at the following locations:
 - (a) 10 metres upstream of the discharge point; and**
 - (b) 45 metres downstream of the discharge point.****
- (19) For the purposes of condition (18), the water quality monitoring shall include:
 - (a) Collection of water samples and analysis of the water samples for total suspended solids; and**
 - (b) Measurement of visual clarity using a clarity tube.****

- (20) In the event that water quality monitoring indicates that any of the limits specified in conditions (5), (11), (12) and (16) have been breached, the consent holder shall notify the Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, within five working days.
- (21) All samples and measurements required by the conditions of this consent shall be collected or taken by a suitably qualified person and samples shall be analysed by a laboratory accredited for that method by International Accreditation New Zealand or an equivalent authority.
- (22) By 31 July each year, the consent holder shall provide the Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, with a monitoring report for the preceding 12 month period. This report shall include:
- (a) The results of all monitoring required by the conditions of this consent;
 - (b) Details of the monitoring including the date and time samples were collected, the sampling, measurement and analysis methods, and the laboratory used;
 - (c) An analysis of all monitoring results against relevant guidelines;
 - (d) Identification of adverse effects caused by the discharge and actions taken to remedy or mitigate these effects; and
 - (e) Recommended changes to the monitoring.
- (23) The discharge shall not cause erosion of the bed or banks of the Ashburton River.
- (24) The Canterbury Regional Council may, on any of the last five working days of October each year, serve notice of its intention to review the conditions of this consent, for the purposes of:
- (a) Dealing with any adverse effect on the environment which may arise from the exercise of this consent and which it is appropriate to deal with at a later stage;
 - (b) Requiring the adoption of the best practicable option to remove or reduce any adverse effect on the environment;
 - (c) Requiring the consent holder to carry out monitoring and reporting instead of, or in addition to, that required by the consent; or
 - (d) Reviewing the water quality limits specified in the conditions of this consent.

Dated at Christchurch this 13th day of May 2009



S A McGARRY
Hearing Commissioner (Chair)



Councillor R Tindall
Hearing Commissioner

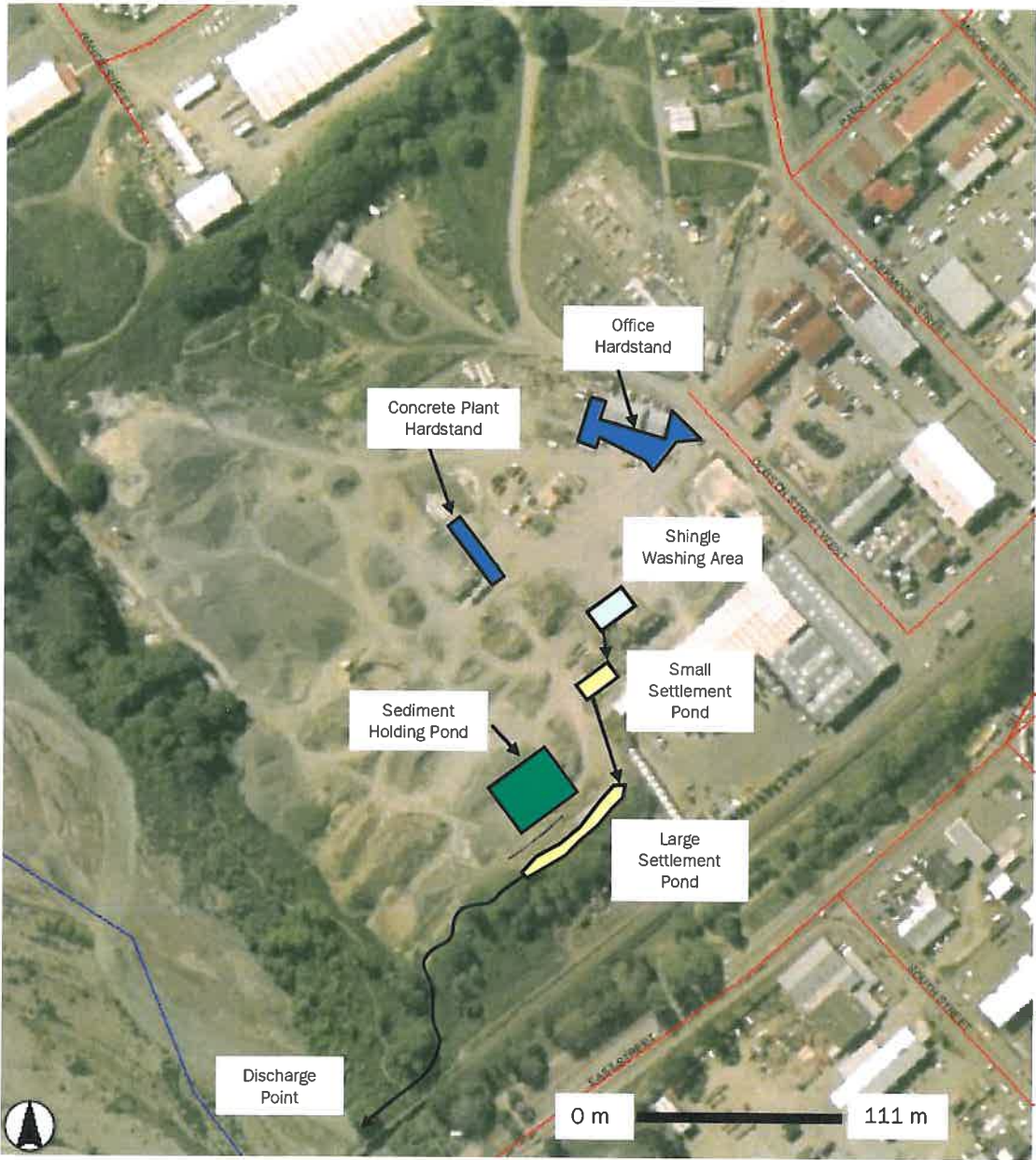


Figure 2: Site Plan of Ashburton Contracting Limited

