

**Before the Commissioners appointed by Canterbury  
Regional Council**

**IN THE MATTER OF** The Resource Management Act  
1991

**AND**

**IN THE MATTER OF** Applications CRC041330 and  
CRC041332 by Killermont  
Station Ltd for a Land Use Permit  
to undertake works in the bed of  
the river and a Discharge Permit  
to discharge water to water.

**Section 42A Officer's Report of Yvette Rodrigo**

**Date of Hearing: 21 September 2009**

1. This report should be read together with the introductory s42A report which gives an overview of all applications presented at this hearing (Report 1) and the reports on cumulative water quality effects in the catchment (Reports 4(A) - (F)).

**INTRODUCTION**

2. Killermont Station Ltd (the applicant) has applied for a resource consent to:
  - (a) Discharge surplus irrigation water from a diversion race at a maximum rate of 100 litres per second (l/s) into the Ahuriri River; and
  - (b) Undertake works in the bed of the Ahuriri River for the purposes of maintaining an intake structure.

See Attachment One for a map of the location of discharge and works in the river.

3. Mr Grant Richards (of Water Resources Otago Limited) was engaged by the applicant to prepare the initial application and assessment of environmental effects (AEE) of the proposed activity. Since then, Aqualinc have been engaged by the applicant to respond to further information requests from Environment Canterbury (ECan).
4. A 35 year duration is sought for both permits.
5. Both the discharge and land use permits are new activities.
6. A site visit was undertaken by ECan staff in February 2009.

**Background**

7. A water race, known as the 'Tara Hills Water Race', runs through Killermont Station (Run 674 SO2072), supplying water to land owned by AgResearch Limited (Tara Hills Station) and Omarama Station.

8. The applicant states that they have an agreement (as of 1991) to share the use of the Tara Hills water race with Tara Hills Station and Omarama Station. Therefore, the applicant is now applying for resource consent to divert, take and use water via the existing 'Tara Hills Water Race' intake, and to maintain the existing intake structure and diversion channel.
9. This report (Report 23D) discusses the land use permit to maintain the intake structure and the diversion channel (CRC041330) and the discharge permit (CRC041332) to discharge surplus irrigation water back into the Ahuriri River. These applications relate to the water permit (CRC041331) to divert, take and use water from the Ahuriri River via the Tara Hills Race. The application for the water permit is discussed in a separate report (Report 23C). Both reports should be read together to get a full understanding of the proposal.
10. These applications were lodged on 22 December 2003 and considered to be notifiable on the same date.
11. The plan attached in Attachment One identifies the respective diversion point, area of works, irrigation area and discharge point associated with the take and use of water, land-use and discharges associated with this proposal.

## **Notification**

12. Details of the public notification and wording are contained in Appendix 4 of the introductory s42A report (Report 1). These consents were publicly notified in August 2007 with 200 other applications for similar activities in the Waitaki catchment.

## **Submissions**

13. For details of the submissions lodged on the overall proposal see Report 23C. None of those submissions made any reference to this discharge and land use application or the effects of the proposed discharge and works in the bed.

## **DESCRIPTION OF THE PROPOSED ACTIVITY**

14. The overall proposal is described in detail in Report 23C.
15. For the land use permit specifically, the applicant proposes the following:

### **CRC041330**

- (a) To disturb the bed of the Ahuriri River to maintain an existing intake structure and sustain the abstraction for the diversion of water under consent CRC041331 at or about map reference NZMS 260 H39:6062-2992.
- (b) The works shall include repair or replacement of the intake structure should it be washed out or damaged following a flood or fresh in the river and works to divert water upstream of the intake to enable flow past the intake structure.
- (c) At the existing Tara Hills Race intake, a buried irrigation intake pipe of 600 millimetres to 900 millimetres diameter would be installed with a fish screen and slide control gate. This system would deliver water under gravity to a holding pond, housing the irrigation and stockwater pumps.
- (d) A concrete deflector or a gabion basket would be placed on the upstream side of the intake pipe to protect the intake pipe from erosion and to deflect debris

from the intake pipe. The downstream side of the intake pipe would also be protected in a similar manner.

- (e) A primary intake screen would be fitted to the intake pipe, consisting of a 15 millimetre slotted steel screen fitted to the front of a slide gate. This is considered adequate to keep sticks and fish above fingerling size out of the pipeline.
- (f) Velocity of flow into the intake pipe would be kept low to reduce the risk of blockage of the primary intake screen.
- (g) A pipe would then carry water from the primary intake to a constant head wet well or a holding pond. The intake from this structure would be fitted with a 1 – 2 millimetre screen to avoid drawing small fish, stones etc into the pump. The intake structure consists of a twin pipe intake structure.
- (h) Works will be undertaken when flow within the river is low.
- (i) There is no change proposed for the Ahuriri River diversion or discharge channel (although there will be an increase in the level of flow in these channels).
- (j) Minor maintenance works would be required from time to time to remove any gravel or silt that may build up around the intake.
- (k) Maintenance of the side channel may need to occur following a flood or pre-irrigation season.

16. For the discharge permit specifically, the applicant proposes the following:

CRC041332

- (a) To discharge water into the Ahuriri River at a maximum rate of 100 litres per second, at or about map reference NZMS 260 H39:6234-3058.
- (b) The discharge shall only be unused irrigation water, diverted in accordance with CRC041331.
- (c) The discharge shall not cause erosion to the bed or banks of the Ahuriri River.

## **LEGAL AND PLANNING MATTERS**

### **Consent Requirements**

17. An overview of the consent requirements under the Resource Management Act (RMA), Transitional Regional Plan (TRP) and Proposed Natural Resources Regional Plan (PNRRP) for discharge permit applications is provided in the introductory s42A report (Report 1). These applications were lodged in 2003. The TRP is the regional plan which controls the activity type for both applications (pursuant to section 88A(1) of the RMA).

18. A summary of the requirements for this application is provided below:

TRP

*Discharge permit* - There is no GA for the discharge of water into water as described in the proposed activity. Resource consent is therefore required as a discretionary activity.

*Land use permit* - The TRP is silent on matters relating to works in the bed and banks of rivers and lakes in the Waitaki catchment. These activities are in-nominate and resource consent is required as a discretionary activity under section 77C(1)(b) of the RMA.

19. Overall, proposed discharge permit is a **discretionary** activity under the TRP and resource consent is required in accordance with section 15 of the RMA.
20. Overall, the land use permit is a **discretionary** activity under the TRP and resource consent is required in accordance with section 13 of the RMA.

### **Ahuriri Water Conservation Order (AWCO)**

21. Clause 8(2) of the AWCO states that a water right shall not be granted for any discharge into the protected waters if the effect of the activity would result in the discharge of contaminants such as suspended sediments, grease and oil; and after reasonable mixing make the water within the river unpalatable, destroy aquatic life or change the visual colour and clarity of the water.
22. The discharge from the Tara Hills Race enters the Ahuriri River within the protected waters and therefore these standards would apply to the discharge.

### **CONSULTATION**

23. See Report 23C for details of consultation undertaken.

### **DESCRIPTION OF THE AFFECTED ENVIRONMENT**

24. A description of the values of the Waitaki Basin and Lake Benmore in general is provided in the introductory s42A report (Report 1).
25. See Report 23C for a description of the affected environment specific to this proposal. The Tara Hills Race diverts water from the Ahuriri River to supply irrigation and stockwater to Tara Hills Station and Omarama Station. In addition 500 l/s is also diverted to augment flows in the Omarama Stream as provided for by the Ahuriri Water Conservation Order.

### **ASSESSMENT OF PROPOSED ACTIVITY**

26. The proposed s.13 and s.15 permits are discretionary activities and must be considered in the context of s104 of the RMA.
27. Section 104(1) outlines matters that the consent authority must have regard to when considering an application for resource consent, including any actual and potential effects on the environment, any relevant statutory provisions, and any other matter the consent authority considers relevant.

### **Assessment of actual and potential effects (s104(1)(a))**

28. The effects that have been considered for this type of activity (discharge of water and works in the bed of a river) are presented in the introductory s42A report (Report 1). That report includes the presentation of the relevant planning provisions which direct

us to consider these effects. Summary tables regarding the assessment of individual effects for these applications are provided below.

## Land-Use

Adverse Effects	Applicant's assessment	My assessment	My Conclusion
Flood-carrying capacity & erosion	The applicant proposes to undertake maintenance works from time to time to repair or re-build the intake structure which has been in place since the system began operation and to date these works have not affected flood-carrying capacity of the river or resulted in erosion of the banks.	The Tara Hills Race has been in existence since the 1920s. I am unaware of any adverse effects relating to erosion or flood-carrying capacity occurring as a result of these works and I am satisfied that this effect should be no more than minor, provided that appropriate conditions are included in the consent, should it be granted.	Effects minor.
Water quality & ecosystems	<p>The applicant predicts that effects of the works are minor for the following reasons:</p> <ul style="list-style-type: none"> <li>• The works would be limited in extent – and only associated with maintenance and remediation of the intake structure.</li> <li>• The extent of disturbance will be limited to 50 metres downstream; and</li> <li>• Any effects would be temporary.</li> </ul>	I agree with the applicant's assessment. The applicant is now proposing to use the existing diversion and intake for the Tara Hills Race, therefore the works associated with this application only relate to maintaining the existing intake structure. This will occur as and when required, be of limited extent and duration.	Effects minor.
Man-made Structures	The applicant has not identified any downstream man-made structures	I do not consider that the works will lead to any effects on man-made structures. Given the absence of downstream structures, relatively infrequent requirement for works, and mitigation of any erosion or flood-carrying capacity effects, potential effects of the maintenance and reconstruction on man-made structures would likely be minor.	Effects minor.
Downstream users and amenity values	The applicant states that people in the neighbourhood and the wider community will not experience any adverse effects and there are no adjacent neighbours or water users.	I agree that the works are unlikely to result in adverse effects on amenity and note that the intake structure is already established. Given that the intake structure is located in the bed of the Ahuriri River and the sensitivity of this receiving environment, I have recommended conditions requiring that the works should not coincide with times when people are likely to be using the river for recreation.	Effects minor, provided recommended conditions included and adhered to.
Tangata Whenua values	No assessment provided.	As effects on water quality considered minor, I am satisfied that effects on Tangata Whenua	Effects minor.

		values minor.	
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**Table 1: Summary assessment of effects for application CRC041330.**

### Discharge permit

Adverse Effects	Applicant's assessment	My assessment	My Conclusion
Flood-carrying capacity & erosion	The applicant has not assessed this effect in relation to the discharge of surplus irrigation water to the Ahuriri River.	I note that the maximum proposed rate will not likely be discharged for much of the time as the water will be used as efficiently as possible for irrigation. Given that the diversion and discharge channel has been in place for a number of years and the amount of water diverted and discharged as a result of this proposal is relatively small compared to what already occurs from this channel, I am satisfied that the discharge will not increase the risk of flooding or erosion downstream of the discharge point.	Effects minor.
Water quality	The applicant has not assessed the impacts on water quality as a result of the discharge of surplus irrigation water.	The discharge from the applicant's property will be approximately 6% of the total abstractions authorised by resource consent. While there is little information on the quality of the discharges into the Ahuriri River, any effects resulting from the applicant's diversion and discharge are likely to be minor in relation to the total diversion and discharge of water from the race. I have also recommended a condition requiring the discharge to meet the standards set out in the AWCO.	Effects minor.
Amenity	The applicant has not assessed this effect.	The discharge from this race has been occurring for a number of years and the increase in flow of surplus irrigation water is unlikely to change the clarity or result in any visible change to the discharge.	Effects minor.
Tangata Whenua values	No assessment provided.	As effects on water quality considered minor, I am satisfied that effects on Tangata Whenua values minor.	Effects minor.

**Table 2: Summary assessment of effects for application CRC041332.**

### Conclusion

29. With regard to s104(1)(a), the actual and potential effects of the activities have been discussed above. For these consents, I consider that the actual and potential effects of the proposed activity are acceptable when taking account the mitigation measures proposed by the applicant and those recommended and listed in the table below.

30. The impacts on flood-carrying capacity and erosion, man-made structures, water quality and ecosystems, amenity values and Tangata Whenua values can be mitigated, if the recommended conditions are adopted, should the Commissioners decide to grant consent for these activities.

### **Statutory Assessment (s104(1)(b))**

#### **Regional Policy Statement (RPS)**

31. Under Section 104(1)(b)(iii) of the RMA, the consent authority shall have regard to any relevant regional policy statement. The Canterbury Regional Policy Statement has been operative since 26 June 1998.
32. Of significance to this application is Chapter 4, which relates to the management of the quality of the region's water resources and Chapter 10, which relates to the management of activities in the beds and margins of rivers. The PNRRP takes into account policies in the RPS and address the issues outlined in more detail. Any assessment of effects has been made using these documents and therefore I have had regard to the RPS throughout this assessment.

#### **Proposed Natural Resources Regional Plan (PNRRP)**

33. Section 88(A)(2) of the RMA states that any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b). For this reason it is appropriate to consider the objectives and policies of the PNRRP that are relevant to the applications to discharges of water and works in the bed or margins of rivers. A discussion of the relevant objectives
34. The objectives and policies of the PNRRP that are relevant to each potential adverse effect have been identified in the introductory s42A report. A discussion of the relevant objectives and policies is provided below.

#### **Chapter 4**

##### ***Objective WQL1.1 – Water quality outcomes for rivers***

This objective aims to maintain and improve water quality, physical and chemical characteristics of the rivers. The proposed discharge into the Ahuriri River is likely to be consistent with the outcomes required by this objective.

##### ***Policy WQL1 – Point source discharges into surface water***

This policy refers to consideration of whether the discharge is necessary, or whether other options are available. Consideration of the zone of non-compliance, the assimilative capacity of the receiving body, effects on cultural values and ecosystems are also referred to. The proposed discharge uses an existing system and will be within the same catchment it originates from. The discharge into the Ahuriri River will likely meet the water quality standards for “Class Alpine” rivers outside the zone of non-compliance.

#### **Chapter 6**

##### ***Objective BLR1 – Activities within the beds and margins***

This objective aims to ensure that works in the beds and banks of rivers and streams can be undertaken while minimising effects, including flood-carrying capacity, natural character, ecosystems, other structures, erosion, Ngai Tahu values. Given the small

scale of the works and recommended mitigation, the proposed works will be consistent with the outcomes required by this objective.

**Policy BLR1 – Effects of activities within the bed or margins**

This policy aims to control activities within the bed and within 7.5 metres of the banks or any flood control structure to ensure that objective BLR1 is achieved. This may include restricting activities so that do not affect flood-carrying capacity, erosion or create plant infestations. With the proposed conditions, the works will be consistent with this policy.

**Conclusion**

35. With regard to s104(1)(b), the relevant provisions of the RPS and PNRRP have been considered above. I consider the discharge permit and land use permit applications are consistent with the relevant planning provisions of those documents.

**Other Matters (s104(1)(c))**

36. With regard to s104(1)(c), the consent authority can consider any other matter relevant and reasonably necessary to determine the applications. I do not consider that there are any other matters which are relevant to this application.

**PART II PURPOSE AND PRINCIPLES**

**Purpose of the RMA (s5)**

37. Under Section 104, the consent authority must consider applications “subject to part II” of the RMA. The purpose of the RMA (Section 5(1)) is to:
- “promote the sustainable management of natural and physical resources.”*
38. Section 5(2) defines the meaning of “sustainable management”, which is to manage resources in a manner that provides for the social, economic and cultural wellbeing of communities while protecting the life-supporting capacity of the environment for the needs of future generations. This section also states that this should be achieved by “avoiding, remedying or mitigating” the adverse effects of activities.
39. The proposal as a whole, including the diversion and use application, will allow the development of land to occur, which may provide for the economic and social wellbeing of the community. For these applications specifically, the applicant has proposed measures to “avoid, remedy or mitigate” the potential impacts on flood-carrying capacity, erosion and water quality, as required in Section 5(2)(c), and mitigation measures will ensure that the proposed effects on water quality will be minor so that it will be consistent with Section 5(2)(a), which aims to provide for the needs of future generations.

**Matters of National Importance (s6)**

40. Sub-sections (a) and (e) of Section 6 of the RMA are particularly relevant to these applications. The applicant has proposed some measures to minimise the effects on water quality, flood-carrying capacity and ecosystems which will protect the natural character of the environment. The applicant has not assessed the impacts on cultural values, and runanga have submitted in opposition on this application. However, the scale of the proposed works in the bed and discharge, with the proposed mitigation, will provide for protection of water quality and ecosystems and subsequently cultural values.

## **Other Matters (Section 7)**

41. In achieving the purpose of the RMA, the consent authority is directed to have particular regard to a number of matters as set out in (a) – (j) of Section 7.
42. Sub-sections (c), (f) and (h) are specifically relevant to these applications and should be considered when deciding the acceptability of effects resulting from the proposed works in the bed and discharge of water. Section (c) refers to the maintenance and enhancement of amenity values. The discharge and works associated with maintaining the intake structure for the race are unlikely to have an effect on amenity values.
43. Section (f) refers to the maintenance and enhancement of the quality of the environment. The applicant has proposed mitigation measures to ensure that this objective is achieved, particularly with regard to water quality and ecosystems.
44. Section (h) requires the protection of the habitat of trout and salmon. A condition has been recommended to ensure that the timing of works will not coincide with fish-spawning or bird nesting.

## **Principles of the Treaty of Waitangi (s8)**

45. Section 8 of the RMA requires the consent authority to take into account the principles of the Treaty of Waitangi. The site lies within the rohe of Moeraki Runanga. Runanga were informed separately when ECan received the application and later when the applications were notified. Submissions have been received from Ngai Tahu and runanga on these applications.

## **RECOMMENDATION**

### **Grant or Decline**

46. Section 104B applies to any application which is a discretionary or non-complying activity and states that the consent authority may grant or refuse the application and may impose conditions under s108.
47. For the discharge and land use applications I consider that there are no outstanding adverse effects of the proposed activity that have not been addressed through appropriate mitigation measures. When considering the matters outlined in section 104(1), I am satisfied that under section 104(D), the adverse effects of the proposed activity are minor and the application is not contrary to the objectives and policies of the relevant plans.
48. Under section 104B I recommend that applications CRC041330 and CRC041332 be granted, subject to the attached recommended conditions.

## **RECOMMENDED CONDITIONS**

49. Comments on the mitigation proposed by the applicant are provided earlier in this report.
50. If the Commissioners decide to grant this application, a list of recommended conditions are provided below.

CRC041330 – To undertake works in the bed and banks of the Ahuriri River

No.	Consent Code <sup>1</sup>	Details
<b>Scope</b>		
1	LU01	The works shall be limited to the disturbance of the bed and banks of the Ahuriri River for the purpose of the placement, extension, removal or demolition associated with maintenance of an intake structure in or on the bed and banks of the Ahuriri River for the diversion of water under consent CRC041331.
<b>Location</b>		
2	LU02	<i>Cross reference to Condition: 1</i> <i>Name of watercourse: Ahuriri River</i> <i>Map reference: H39:6062-2992</i>
<b>Limits of Works</b>		
3	LU07	
<b>Erosion Protection</b>		
4	LU12	
5	LU13 modified	Works shall not be undertaken in a manner likely to cause erosion of, or instability to, the banks or bed of the Ahuriri River; or reduce the flood-carrying capacity of the waterway.
<b>Prior to Construction</b>		
6	Non standard	The Canterbury Regional Council Compliance Monitoring Officer shall be notified at least 48 hours prior to the commencement of work.
7	LU08	
<b>During Construction</b>		
8	LU18	
9	LU21	
10	LU23 modified	All practicable measures shall be undertaken to minimise vehicles and machinery entering the Ahuriri River.
11	LU22	

<sup>1</sup> See Report 1, Appendix 6 for condition code and condition wording.

12	LU26	
13	LU24	
14	LU25	
<b>Upon Completion</b>		
15	LU28	
16	Non standard	On completion of works, the area shall be restored to its original condition as far as practicable.
<b>Administrative Conditions</b>		
17	AD03	
18	AD04	

CRC041332 – To discharge water to water

No.	Consent Code <sup>2</sup>	Details
<b>Scope</b>		
1	DP01	<i>Waterbody:</i> Ahuriri River <i>Grid reference:</i> NZMS 260 H39:6234-3058 <i>Rate:</i> 100 litres per second
<b>Operation and Maintenance</b>		
2	DP02	<i>Waterbody:</i> Ahuriri River
3	DP03 modified to reflect standards in AWCO	The discharge after reasonable mixing shall not: <ul style="list-style-type: none"> <li>(a) Taint the waters so as to make them unpalatable; or</li> <li>(b) Contain toxic substances that make the waters unsafe for human consumption or destroy aquatic life; or</li> <li>(c) Emit objectionable odours; or</li> <li>(d) Conspicuously change the natural colour and clarity of the waters.</li> </ul>

<sup>2</sup> See Report 1, Appendix 6 for condition code and condition wording.

	Water Meter	Need to confirm if existing diversion and discharge consent has a water meter.
<b>Administrative Conditions</b>		
4	AD03	
5	AD04	



Signed:

Date: 31<sup>st</sup> August 2009

*Yvette Rodrigo*  
*Consents Investigating Officer*

## REFERENCES

Canterbury Regional Council 2004. Proposed Natural Resources Regional Plan – Chapter 4: Water Quality.

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# ATTACHMENT ONE – LOCATION MAP

