

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an appeal under Clause 14 of the
First Schedule to the Act

BETWEEN

FULTON HOGAN LIMITED

(ENV-2007-CHC-270)

(Topic: ENV-2009-303-017)

RAVENSDOWN FERTILIZER CO-
OPERATIVE LIMITED

(ENV-2007-CHC-273)

(Topic: ENV-2009-308-026)

Appellants

AND

CANTERBURY REGIONAL
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

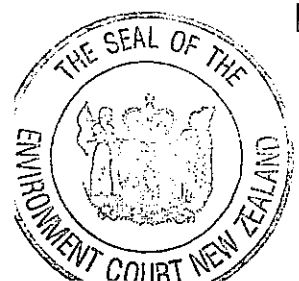
Environment Judge J E Borthwick sitting alone under section 279 of the Act

In Chambers at Christchurch

CONSENT ORDER

Introduction

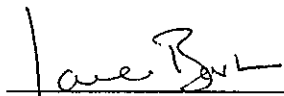
- [1] The Court has read and considered the appeals and the memorandum of the parties received on 29 May 2009.



[6] The appeals are otherwise dismissed.

[7] There is no order for costs.

DATED at CHRISTCHURCH ^{11th} June 2009.



J E Borthwick
Environment Judge

Issued:

11 JUN 2009

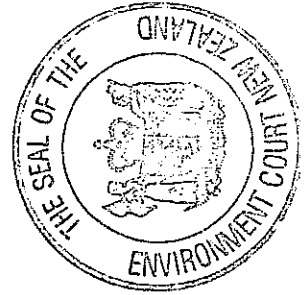


Appendix One: Changes to Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan

1. Table 3.1 Summary of Rules

Amend Table 3.1 Summary of Rules as follows:

| <i>Discharges to air from industrial or trade premises and industrial or trade processes</i> | | | |
|--|----------------|---|------------------------|
| <i>Area rule applies</i> | <i>Rule N°</i> | <i>Description</i> | <i>Activity Status</i> |
| <i>Anywhere in the Canterbury region</i> | AQL38 | <i>Fugitive dust emissions from unconsolidated surfaces</i> | <i>Permitted</i> |
| | AQL39 | <i>Petroleum storage and transfer facilities</i> | <i>Permitted</i> |
| | AQL40 | <i>Dry cleaning</i> | <i>Permitted</i> |
| | AQL41 | <i>Metal work processes</i> | <i>Permitted</i> |
| | AQL42 | <i>Existing handling of bulk materials</i> | <i>Permitted</i> |
| | AQL42A | <i>Handling of bulk materials as part of a quarry or mining activity not permitted by Rule AQL42</i> | <i>Permitted</i> |
| | AQL42B | <i>Handling of bulk materials not part of a quarry or mining activity and not permitted by Rule AQL42</i> | <i>Permitted</i> |
| | AQL43 | <i>Seed cleaning</i> | <i>Permitted</i> |

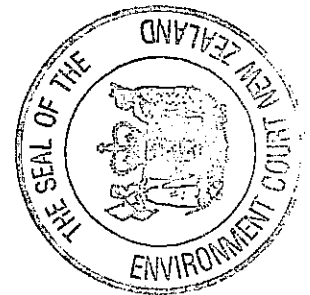


2. Rule AQL42 Existing handling of bulk materials – permitted activity

Add Rule AQL42 Existing handling of bulk materials – permitted activity as follows:

Rule AQL42 Existing handling of bulk materials – permitted activity

| Activity | Conditions | Cross Ref. |
|--|--|-------------------|
| <p><u>Discharge of contaminants into air from existing extraction, handling, processing, conveying, or storage of bulk materials on industrial or trade premises or involving, or as part of, industrial or trade processes, where the activity was lawfully established on site on or before 1 June 2002, and where a permit or resource consent for the discharge to air was not required on or before 1 June 2002, is a permitted activity.</u></p> <p><u>For the purposes of this rule "existing" means the extraction, handling, processing, conveying, or storage of bulk materials which was operating on, or within the 12 months before, 1 June 2002.</u></p> | <ol style="list-style-type: none"> 1. <u>The extraction, handling, processing, conveying, or storage of bulk materials shall not have been discontinued for a continuous period of more than 12 months.</u> 2. <u>There shall be no increase in the scale, intensity, frequency or duration of the effects of the discharge of contaminants into air from the activity.</u> 3. <u>The dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates.</u> 4. <u>The discharge of odour beyond the boundary of the site shall not be noxious, dangerous, offensive or objectionable to such an extent that it has an adverse effect on the environment.</u> | |

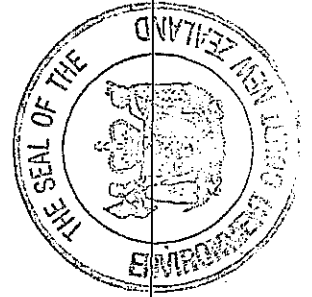


3. Rule AQL42A New handling of bulk materials outside – permitted activity

Amend existing Rule AQL42 Bulk materials – permitted activity as follows:

Rule AQL42A Handling of Bulk materials as part of a quarry or mining activity not permitted by Rule AQL42 – permitted activity

| Activity | Conditions | Cross Ref. |
|--|--|------------|
| <p>Except as provided for in Rule AQL42, the discharge of contaminants into air from extraction, handling, processing, conveying, transporting or storage of bulk materials as part of a quarry or mining activity which is not undertaken within a permanent structure which is fully enclosed on industrial or trade premises or involving, or as part of, industrial or trade processes, where:</p> <p>(a) the rate of open cast extraction does not exceed:</p> <p>(i) 100 tonnes per hour, or</p> <p>(ii) 250 tonnes per hour and 1250 tonnes per calendar day if the extraction does not occur for more than 21 days per calendar year; and</p> <p>(b) the rate of size reduction, screening, processing or pneumatic conveyance does not exceed 50 100 tonnes per hour; and</p> <p>(c) the quantity of material handled (other than in the processes described in (b)) or transported does not exceed</p> <p>(i) 100 tonnes per hour, or</p> <p>(ii) 250 tonnes per hour and 1250 tonnes per calendar day if the handling does not occur for more than 21 days per calendar year; and</p> <p>(d) the amount of bulk material stored does not exceed 1000 tonnes at any time when the material is of a particle size of less than 3.5mm;</p> <p>is a permitted activity.</p> | <p>1. The dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates.</p> <p>2. If the rate of size reduction, screening, processing or pneumatic conveyance exceeds 50 tonnes per hour in any one hour, any discharge of contaminants to air shall not be located within:</p> <p>i. 200 metres of any sensitive activity located on a different property; and</p> <p>ii. if the activity involves blasting, 500 metres of any sensitive activity located on a different property.</p> | |

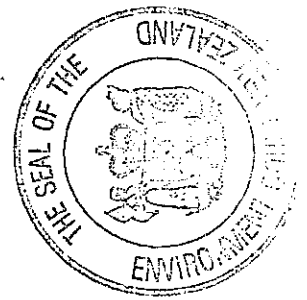


4. Rule AQL42B Handling of bulk materials not part of a quarry or mining activity and not permitted by Rule AQL42 – permitted activity

Add Rule AQL42B Handling of bulk materials not part of a quarry or mining activity and not permitted by Rule AQL42 – permitted activity as follows:

Rule AQL42B Handling of bulk materials not part of a quarry or mining activity and not permitted by Rule AQL42 – permitted activity

| Activity | Conditions | Cross Ref. |
|--|---|------------|
| <p>Except as provided for in Rule AQL42, the discharge of contaminants into air on industrial or trade premises or involving, or as part of, industrial or trade processes from the extraction, handling, processing, conveying, or storage of bulk materials that is not part of a quarrying or mining activity and which is not undertaken within a permanent structure which is fully enclosed, where:</p> <p>(a) the rate of size reduction, screening, processing or pneumatic conveyance, including associated handling of material, does not exceed 100 tonnes per hour; and</p> <p>(b) the quantity of material handled does not exceed 100 tonnes per hour; and</p> <p>(c) the amount of bulk material stored does not exceed at any time 1000 tonnes when the material is of a particle size of less than 3.5mm;</p> <p>is a permitted activity.</p> | <p>1. The dispersal or deposition of particles shall not cause an objectionable or offensive effect beyond the boundary of the property where the discharge originates.</p> <p>2. If the rate of size reduction, screening, processing, or pneumatic conveyance, including associated handling of material is not located within a permanent structure which is fully enclosed, and exceeds 50 tonnes per hour in any one hour, any discharge of contaminants to air shall not be located within:</p> <p>i. 200 metres of any sensitive activity located on a different property; and</p> <p>ii. if the activity involves blasting, 500 metres of any sensitive activity located on a different property.</p> | |
| | | |



5. 3.5 Explanations and principal reasons for methods

Add new Explanation and principal reason after Rule AQL41 Metal work processes – permitted activity as follows:

Rule AQL42 Existing handling of bulk materials – permitted activity

Rule AQL42A Handling of bulk materials as part of a quarry activity not permitted by Rule AQL42 – permitted activity

Rule AQL42B Handling of bulk materials not part of a quarry or mining activity and not permitted by Rule AQL42 – permitted activity

Where the size of the bulk material operation is small, mitigation measures can be effectively implemented to prevent dust nuisance at neighbouring properties. Siting of larger scale operations at a distance well removed from dwellings and other sensitive areas is also an effective means of preventing significant nuisance.

Rule AQL42 recognises and provides for those bulk handling facilities within the Region existing on or before 1 June 2002 which were legally established without the need to obtain a permit or resource consent. Existing means those activities which were physically present and operational within the 12 months prior to 1 June 2002 and continue to be undertaken at least once every 12 months since that date. Rule AQL42A permits new quarry and mining activities that are of a size, intensity, type and location which provide a high degree of confidence that the adverse effects of the discharge to air of dust can be effectively mitigated by relatively straight forward means undertaken by the quarry operator. Rule AQL42B permits other handling of bulk materials not part of a quarry or mining activity within the Region when there is a high degree of confidence that the adverse effects of the discharge to air of particles can be avoided either through the size or location of the activity. When the bulk handling is located within a permanent structure, there is unlikely to be discharges to air. If discharges to air do occur, they will be associated with the ventilation of the structure. For the purpose of Rules AQL42A and AQL42B 'fully enclosed' refers to a structure that is totally covered by a combination of permanent cladding, and windows and doors which can be closed.

