

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 NEW ZEALAND TRANSPORT  
AGENCY

(ENV-2007-CHC-265)

(Topics: ENV-2009-308-031

ENV-2009-308-032

ENV-2009-308-033

ENV-2009-308-034)

Appellant

AND

CANTERBURY REGIONAL  
COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

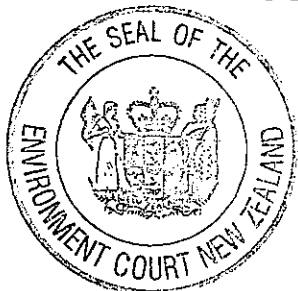
Environment Judge J E Borthwick sitting alone under section 279 of the Act

In Chambers at Christchurch

### CONSENT ORDER

#### Introduction

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



**Order**

- [5] Therefore the Court orders, by consent, that the appeal is allowed to the extent that the Canterbury Regional Council is directed to modify Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan as specified in **Appendix One** attached to and forming part of this consent order.
- [6] The appeal, as it relates to topics ENV-2009-308-031, ENV-2009-308-032, ENV-2009-308-033 and ENV-2009-308-034, is otherwise dismissed.
- [7] There is no order for costs.

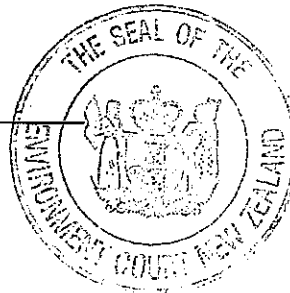
**DATED** at CHRISTCHURCH

June 2009.

*Julie Borthwick*  
**J E Borthwick**  
**Environment Judge**

Issued:

**11 JUN 2009**

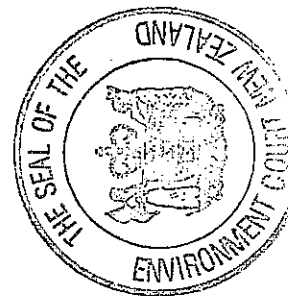


## Appendix One: Changes to Chapter 3 of the Proposed Canterbury Natural Resources Regional Plan

### 1. Table 3.1 Summary of Rules

Amend Table 3.1 Summary of Rules as follows:

<i>Discharges to air from waste management processes.</i>			
<i>Where it applies</i>	<i>Rule N°</i>	<i>Description</i>	<i>Activity Status</i>
Anywhere in the Canterbury region	AQL63	Waste management processes established on or before 1 June 2002 – permitted activity	Permitted
	<u>AQL63A</u>	<u>Disposal of clean fill material resulting from the maintenance, operation and minor improvements to legal road</u>	<u>Permitted</u>
	AQL64	Application of pig effluent to land on the same property from where the pig effluent originates established after the date of notification of the Proposed NRRP or not lawfully established before the date of notification of the Proposed NRRP	Permitted
	AQL65	Application of effluent to land other than provided for in Regional Rules AQL63	Permitted
	AQL66	Small scale human sewage treatment and disposal established after 1 June 2002 or not lawfully established on or before 1 June 2002	Permitted
	AQL67	Offal pits established after 1 June 2002 or not lawfully established on or before 1 June 2002	Permitted
	AQL68	Waste management processes not permitted in Regional Rules AQL63 to AQL67	Discretionary

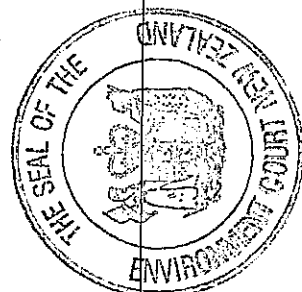


2. New Rule AQL63A

Add new Rule AQL63A Disposal of clean fill material resulting from the maintenance, operation and minor improvements to legal road – permitted activity as follows:

Rule AQL63A Disposal of clean fill material resulting from the maintenance, operation and minor improvements to legal road – permitted activity

Activity	Conditions	Cross Ref.
<p>Except as permitted by Rule AQL63, the discharge of contaminants into the air from the disposal of clean fill material associated with the maintenance, operation and minor improvements of legal road is a permitted activity.</p> <p>For the purposes of this rule, 'cleanfill material' includes virgin natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:</p> <ul style="list-style-type: none"> <li>• <u>combustible, putrescible, degradable, or leachable components</u></li> <li>• <u>hazardous substances</u></li> <li>• <u>products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices</u></li> <li>• <u>materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances</u></li> <li>• <u>liquid waste.</u></li> </ul> <p>For the purposes of this rule 'urban area' means an area that is a city, town, village, residential area or collection of workplaces and is specified in an operative district planning map as a residential, living, commercial, business or industrial</p>	<ol style="list-style-type: none"> <li>1. <u>The discharge to air shall not occur within an urban area.</u></li> <li>2. <u>The discharge to air shall not occur within 300m of a sensitive activity located on an adjoining property.</u></li> </ol> <p><u>Condition 2 shall not apply where the written approval to the discharge to air of the owner and occupier of the adjoining property upon which the sensitive activity is located has been obtained.</u></p> <ol style="list-style-type: none"> <li>3. <u>The dispersal or deposition of particles shall not cause offensive or objectionable effects on the environment beyond the boundary of the property from which the discharge originates.</u></li> </ol>	



zone, or a zone of a similar effect.

**3. 3.5.9.6 Regional rules for discharges of contaminants into air from waste management processes**

Amend **3.5.9.6 Regional rules for discharges of contaminants into air from waste management processes** as follows:

**Regional rules for discharges of contaminants into air from waste management processes**

Waste management processes have the potential to cause significant adverse effects including health, amenity and nuisance effects from the discharge of a variety of contaminants, including odours and dust particulates. However, Rules AQL63 to AQL68 recognise that the effects of waste management processes can be minimised by the adoption of good management practices to the extent that they are minor beyond the boundary of the property where the discharge originates. Such effects can be minimised in both existing and new waste management processes. Rules AQL63 to AQL68 have been determined to be the most efficient and effective means of reducing the discharges of contaminants such as dust and odour from waste management processes, and minimising the adverse nuisance, health and amenity effects resulting from those discharges. However it should be noted that any discharge issues relating to water or land from existing or new waste management processes are addressed in the water and land chapters of the Natural Resources Regional Plan.

Where the conditions of Rules AQL63 to AQL68 cannot be met or the waste management process falls within the ambit of Rule AQL69, then the effects are more than minor and an assessment of effects through the resource consent process would need to occur on a case-by-case basis. For example, the treatment or discharge of hazardous substances to air requires a higher level of control as the adverse effects may be more than minor. Also, if any waste management processes discharge odours or disperses or deposit dust particles that cause an objectionable or offensive effect beyond the boundary of the property from where it originates, as determined by the dust and odour criteria in Appendix AQL4 and AQL5, then this may represent a failure of the treatment system or indicate poor management. Thus, the assessment of effects would consider the proposed method of discharge, mitigation measures, the sensitivity of the location, alternative options available and actual or potential effects on the environment.

Rules AQL63 to AQL68 are applicable to the management of waste. In circumstances where the material being managed is not waste, such as when road construction material is being stockpiled prior to its final use, it is intended these rules do not apply.



4. **3.5.9.6 Regional rules for discharges of contaminants into air from waste management processes**

Add new Explanation and principal reason for methods for Rule AQL63A Disposal of clean fill material resulting from the maintenance, operation and minor improvements to legal road – permitted activity as follows:

Rule AQL63A Disposal of clean fill material resulting from the maintenance, operation and minor improvements to legal road – permitted activity

Rule AQL63A controls the discharges of contaminants to air that occur as a result of disposing of clean fill material associated with the maintenance, operation and minor improvements to legal roads. The ability to dispose of clean fill material in a timely manner is important to maintaining the efficient and effective functioning and operation of the public road network. The handling of clean fill material has the potential to create dust, causing nuisance for sensitive activities located on adjoining properties and within a populated environment. Conditions 1 – 3 seek to control these nuisance effects of any discharge, including by excluding discharges to air resulting from the disposal of clean fill material within an urban environment, and by ensuring that, where sensitive activities located on adjoining properties exist, a suitable separation or buffer area is provided to minimise any potential adverse effect on that activity. This separation distance is not necessary where the owner and occupier of the adjoining property agree to the discharge to air.

