

Application CRC167579, CRC167580, CRC167581

By Penley Ltd

for a discharge permit

**to discharge contaminants to surface water during construction and to
discharge a hazardous substance**

to discharge operational phase stormwater and land drainage water to land

and

a land use consent to use land to excavate material and clear vegetation

Section 42A Officer's Report – Suzanne Blyth

Date: 4 July 2016

INTRODUCTION

1. The applicant has applied for:
 - a. CRC167579 – a discharge permit to discharge construction phase stormwater and to discharge a hazardous substance;
 - b. CRC167580 - to discharge operational phase stormwater and land drainage water;
 - c. CRC167581 to undertake earthworks and vegetation clearance in an erosion-prone areato expand an earthbund containment cell at 318 Kennedys Bush Road, Christchurch.
2. The applicant is proposing to undertake earthworks to alter and expand an existing earthbund containment cell to dispose of soils that include asbestos at 318 Kennedys Bush Road, Kennedys Bush, Christchurch. The site already has an engineered containment cell on the site and it is proposed this be extended to accommodate additional material that will be imported to the site.
3. Consent is also required from the Christchurch City Council (CCC) for a land use:
 - a. to undertake a HAIL activity on land where a HAIL activity has previously taken place; and
 - b. to construct a containment cell for the disposal of asbestos containing material, classified as non-complying.
4. In 2014 resource consent RMA92026763 was obtained from the CCC to deposit crushed concrete and asbestos cement materials within an engineered containment cell. The containment cell was constructed in 2015.
5. The applicant seeks:
 - a. Three year duration for CRC167579 – construction phase discharge;
 - b. 35 year duration for CRC167580 – the stormwater discharge; and
 - c. Unlimited CRC167581 – the land use.

BACKGROUND

6. The need for RMA92026763 arose because crushed concrete initially placed (approximately 2 years prior) at 318 Kennedys Bush Road and intended to be used as hard fill for foundations and track stabilisation was found to be contaminated with asbestos and heavy metals. A detailed site investigation identified asbestos in the deposited material, the result for lead was found to be above residential guidelines. When commenting on effects on Environmental Health Isobel Stout, Senior Environmental Health Officer, Christchurch City Council did not consider the result for lead significant.
7. The best practicable option was deemed to be to move the asbestos contaminated material to an engineered containment cell in the rural zoned area of the property.
8. There are no existing Regional Consents held by the applicant. Mr Paul Dahl, Senior Compliance Officer, Environment Canterbury, has advised me that at the time of construction of the containment cell, he agreed with the applicants planning assessment that consent was not required (personal conversation 6 June 2016) [Applicants Planning assessment C16C/84962].
9. Prior to speaking to Mr Dahl I also advised the Pollution Hotline of the existing activities authorised under RMA92026763 as I was not aware of Mr Dahl's correspondence.
10. Prior to lodging the current consent application the applicant discussed the proposal with Paul Dahl Senior Compliance Officer, and Stuart Edwards, Consent Planner, Environment Canterbury.

DESCRIPTION OF THE PROPOSED ACTIVITY

11. The applicant proposes to undertake the works in accordance with *Contamination Management Plan, 36 Colwyn Street (Soil Removal) / 318 Kennedys Bush Road (Soil Deposition)* produced by Eliot Sinclair in behalf Penley Ltd, document number 39569, dated 7 April 2016, attached to the AEE.
12. The works include:
 - a. upgrading an existing access track and extend an existing proposal;
 - b. installing erosion and sediment control measures as part of site preparation of the containment cell;
 - c. removal of part of the surface layer of the existing engineered containment cell and topsoil and subsoil storage, leaving approximately 400mm of undisturbed silt to protect the existing containment cell and avoid damage to the filter cloth layer that separates the crushed concrete from the clean silt overlay;
 - d. constructing a containment cell base with a subsoil drainage system;
 - e. depositing asbestos containing soil¹² (ACM) which have been enclosed in double 200µm polythene bags at source site. Removal

¹ The material to be deposited contains asbestos fines and fibrous asbestos that exceeds acceptable concentrations for landuse residual asbestos concentration in soil in accordance with the *Western Australian Health Guidelines for the assessment, remediation and*

from the source site and deposition at subject site will supervised by a site supervisor with a current Certificate of Competence for Restricted Work with Asbestos (Class A) issued by Worksafe New Zealand;

- f. covering deposited material with engineered fabric and construction of engineered containment cell;
 - g. restoring and revegetating stockpile and containment cell sites
 - h. undertaking monitoring and inspection on completion.
13. The existing containment cell has an area of 1,205 m². The area of the altered containment cell will be 2,993 m², with a total land area of 4,332m²; the overall volume of earthworks will be 9,013m³, which comprises of 4,496m³ of on-site earthworks and 4,517 m³ of material from the source site.
14. The maximum cut will be 3 metres deep and the maximum fill is 5.8 metres from the bottom of the exposed excavation to the finished ground level. This will include 800mm of capping and 200mm of topsoil.
15. Erosion and sediment control measures include cut-off drains and bunding to prevent stormwater entering the works. The erosion and sediment control measures will be undertaken in accordance with the CRC Erosion and Sediment Control Guidelines.
16. The works are expected to take four weeks subject to weather and site conditions.
17. Refer to Section 4 of the AEE, (Page 3), which accompanied this application for a more detailed description. See figure 1 below which shows the location of the proposed cells and scale of the works. Figure 2 shows the existing stabilised cell authorised under RMA92026763, May 2016.

management of asbestos-contaminated sites in Western Australia – May 2009. See Appendix 3 Table 3 Asbestos concentrations and stockpiles at source site, attached to this report.

² All other contaminants are at NES - background or below concentrations levels of other contaminants (Arsenic, heavy metal and organochlorine pesticide concentrations are at or below natural background concentrations).



Figure 2: Location of proposed extension to the containment cell on land at 318 Kennedys Bush Road.



Figure 3: The existing containment cell during excavation earthworks in November 2014 (looking west).



Figure 4: The existing containment cell after earthworks were completed in March 2015 (looking south).

Figure 1 location of proposed cell, construction of existing containment cell, and finished cell.



Figure 2: Existing Earthbund containment cell at May 2016 (Source: Penley Ltd)

LEGAL AND PLANNING MATTERS

18. The proposal has been classified as a **discretionary**. For further details as to how the activity was classified, please refer to the attached s42A addendum.
19. No other consents are considered to be required for this application.

ASSESSMENT OF POTENTIALLY AFFECTED PARTIES

20. The applicant did not carry out any consultation as they did not identify any potentially adversely affected parties. I agree that no persons are adversely affected by this proposal.

DESCRIPTION OF THE AFFECTED ENVIRONMENT

21. The location is Lot 1 Deposited Plan 9250, 318 Kennedys Bush Road, Kennedys Bush, Christchurch, at or about map reference NZ Topo 50 BX24:6702-7171.
22. Of particular note:
 - a. 318 Kennedys Bush Road comprises of 110.1757Ha of which 4,232 m² is the subject of these applications.
 - b. The current proposal is located where there is existing containment cell authorised under RMA92026763.

- c. The site is listed on the Environment Canterbury Land Listed Use Register as a HAIL site type *E1 – asbestos products manufacture of disposal*.
 - d. The nearest residential dwelling is a single house approximately 460 metres west of the subject site. No other dwellings are located within 500 metres of subject site.
23. The applicant has provided a description of the affected environment in Section 3 of the AEE (Page 2) which accompanied the application.
24. In addition I note the subject site is located in the Halswell catchment and in the Selwyn – Waihora water management zone.

ASSESSMENT OF ACTUAL AND POTENTIAL EFFECTS

25. Refer to Section 3 of the AEE, (Page 2), which accompanied this application for the assessment of effects that may arise from this proposal.
26. I agree with the applicant's assessment and their conclusions in regards to the following potential effects:
- **Potential adverse effects on surface water quality**
 - **Potential adverse effects on surface water quantity**
 - **Potential adverse effects on slope stability**
 - **Potential adverse effects on tangata whenua values**
 - **Potential adverse effects from the discharge of asbestos containing material**
27. Further discussion is provided below for those effects where I do not agree with the applicant's assessment or conclusions or where I consider further discussion is required.
28. There are two phases where there is the potential to adversely effect surface water quality, during construction and during the operational phase of the proposal.
29. The applicant assessed the effects on soil quality in section 8.4 of the AEE and acknowledges that the subject site is in an area characterised by the presence of loess soils that are highly erodible under certain conditions.
30. Given the highly erodible nature of the loess soils there is the potential for the soils to become entrained in stormwater and discharge off the site.
31. The sedimentation of waterways can decrease water quality and adversely affect aquatic ecology and in addition with erosion can reduce flood carrying capacity of waterways. The water quality management class of the surface water within the subject site is 'Banks Peninsula'.
32. In order to avoid adverse effects the applicant states that an erosion and sediment control plan will be in place during the construction of the containment cell which will be in accordance with best practice. Therefore, it is considered that the proposed mitigation will avoid adverse effects on surface water quality.

33. The applicant has proposed the following mitigation measures:
- a. Separate soil stockpiles for material above the containment cell;
 - b. Construction of silt fence prior to excavation which is to remain until after revegetation;
 - c. Installing cut off drains and bunding to prevent water running from the work area.
 - d. Minimising exposed surfaces by stabilising exposed surfaces as soon as practicable;
 - e. No works in dry or windy conditions and the use of water carts and wetting down to prevent dust emissions.
34. The applicant provided a further description of the subject site. On behalf of the applicant John Aramowicz, Principal of Elliot Sinclair and Partners, MIPENZ, CPEng, InPE(NZ) describes the subject site as being located on a wide ridge with a gentle slope. Mr Aramowicz also states that there are no existing topographic features that concentrate surface stormwater at the site. Furthermore, that site is located well above any gullies and inundation is not considered to be a hazard [HPRM C16C/69692].
35. Mr Matt Surman, Asset Management Engineer, Environment Canterbury reviewed the proposal for effects on the Halswell Catchment. Mr Surman, expressed concern about the limited calculations of stormwater run-off during construction. However, considers that an erosion and control plan is an appropriate way to address effects during construction which are temporary with sediment the primary concern.
36. The applicant has confirmed that it is unlikely that there will be any stormwater discharging off the site during construction. Stating that with perimeter bunds stormwater runoff will not enter the construction area from surrounding land. Any stormwater generated by the construction area will be infiltrated to ground on site. [HPRM C16C/81215].
37. I consider that provided the erosion and sediment measures are designed, implemented and maintained in accordance with best practice, there is unlikely to be a discharge of stormwater off the site during the construction of the cell. There is limited potential for run on water and given that the excavation will be below ground level: stormwater is likely to collect in the footprint of the excavation.
38. The applicant has not specified any guidelines or sources of best practice. For certainty I recommend that the consent conditions specify that any erosion and sediment control measures are designed, implemented and maintained in accordance with Environment Canterbury Erosion and Sediment Control Guidelines. In addition I recommend that a reference is also made to the section 4.9 of the Christchurch City Council Infrastructure Design Standard (January 2013) which controls construction and the management of stormwater on the Port Hills.
39. In addition given the sensitivity of the receiving environment and the erosion prone nature of the subject site I recommend that:
- a. the applicant is required to submit the erosion and sediment control plan for certification by the Manager, Compliance and Monitoring Canterbury Regional Council, prior to the works commencing; and
 - b. the applicant undertakes a pre-works meeting with the Resource Management Officer.

This will ensure any erosion and sediment control measures installed are both appropriate and timely.

40. Given the construction works are likely to be restricted to four weeks and the proposed mitigation I consider that the effects on surface water quality during construction are likely to be minor.
41. With regards to the operational phase discharges including land drainage the containment cells will be designed with six drains at the base. The top of the containment cell will consist of 800 mm of compacted and engineered fill and 200 mm of topsoil which will be grassed.
42. A stabilised site will ensure minimise any potential for the discharge of sediment from the site. I recommend that the consent conditions include the requirement to maintain the vegetation on the site to prevent any discharge of sediment.
43. With regard a discharge from the drains. I agree with the applicant that any discharge will comprise rainfall that has filtered through the capping layer, or through the loess silt and will not result in a significant flow via the drainage system. In addition any discharge will pass through sandy gravels and geotextile within the drain which will provide a filter media to remove any potential sediment which is the only likely contaminant given the fill associated with the ACM is at or below background levels for all other contaminants.
44. A concentrated flow of land drainage water has the potential to erode or scour and I recommend that a consent condition is include that requires the applicant to avoid any erosion or scour from the discharge of water from the drains.
45. Given the site will be stabilised with grass I agree with the applicant that the effects on surface water are likely to be minor from the any operational discharges to land.

Potential adverse effects on surface water quantity

46. Given the duration of the construction phase, and the likelihood that any stormwater generated during construction being discharged off the site. I consider effects on surface water quantity during construction are minor.
47. With regards to the operational phase discharges the containment cells will be designed with six drains at the base. The top of the containment cell will consist of 800 mm of compacted and engineered fill and 200 mm of topsoil which will be grassed.
48. The surface area of the earthworks will be 4,332m² in total and the applicant considers that the increase in surface area of the containment cell will not increase the rate or volume of stormwater run-off that is discharged into the surrounding land. Stating that there are no topographical features that will concentrate surface water onto the site and therefore any discharges will be neutral.
49. I agree with the applicant's assessment of the topology the site. The location of the cell is at the top of a knoll which has gentle slope. While the finished level of the containment cell will be above the surface of the land it will not alter the underlying nature of the topography of the site.
50. Mr Matt Surman, Asset Management Engineer, Environment Canterbury reviewed the proposal for effects on the Halswell Catchment. Mr Surman

agreed that the drainage system was precautionary and that there was unlikely to be any significant volumes of water involved.

51. Mr Surman noted that as the engineered fill was designed to reduce the infiltration rate there is the potential for increased volumes and rates of runoff. Particular concern was expressed for the effects on the Halswell catchment which is particularly sensitive to increases in stormwater runoff.
52. The applicant considers the due to the topography, where there are no topographic features to concentrate surface stormwater and the site being located 'well above' any gullies. The construction of the containment cell is not likely to increase the rate or volume of stormwater runoff discharged into the surrounding environment. Further given its location the proposal is expected to have a neutral impact on run-off from the hills given its scale and 'remote upper catchment location' any effects is considered smaller than the limits of accuracy for storms up to and including a 50 year, 36 hour event. [HPRMC16C/69692].
53. I agree with the applicant that the proposal will not concentrate flows. While there is the potential for an increase in runoff I consider that this is unlikely given the proposed design which includes a 200mm topsoil layer above the compacted and engineered fill. Generally topsoil has a higher infiltration rate the native loess soils at the site. In addition the final topography of the finished cell will be similar to the existing landform. Therefore, I consider the proposed there is not likely to be a change in the stormwater run-off or surface water at the site. For certainty I recommend the consent conditions ensure that top soil media is required to have an infiltration rate that is greater than that of the existing native soils.
54. Given the scale and location of the proposed containment bund, I consider effects on surface water quantity to be less than minor.

Potential adverse effects on slope stability

55. The applicant accessed the effects on soil quality in section 8.4 of the AEE and acknowledges that the subject site is in an area characterised by the presence of loess soils that are highly erodible under certain conditions.
56. The applicant proposes to implement an erosion and sediment control plan prepared in accordance with best practice to minimise the risk of soil erosion. In addition the applicant commented in slope stability in an email dated 5 May 2016 [HPRM C16C/69692].
57. I agree with the applicant that controlling erosion and sediment via best practice is a critical component of avoiding adverse effects. In addition the proposal has been designed to prevent stormwater penetrating the capping layer and the underlying and loess soils via installing drainage.
58. Mr Aramowicz provided an assessment of the potential effects on slope stability. Mr Aramowicz considered that proposed containment cell is located in an area of 'low geotechnical risk' and that measures proposed will ensure that land slippage and erosion is unlikely.
59. In order to avoid the risk of consolidation settlement, a risk to slope stability, Mr Aramowicz considered that there should be no foundations or vehicle driveways constructed over the containment cell. Mr Aramowicz recommended that the area of containment cell was fenced to exclude potential vehicle traffic.

60. I consider demarcation rather than fencing will provide sufficient protection of the containment bund given the activities that are likely to occur at the site, which are rural in nature. I recommend a condition that requires the applicant to clearly demark the extent of the containment bund and to avoid activities that may damage the containment bund.
61. The applicant also provided a comment on the potential effects from the grazing of stock over the surface of the containment cell post construction and stabilisation of the site based on the existing containment cell.
62. Figure 2 above shows the existing containment cell with cattle grazing on the site. The applicant notes that the existing cell has been designed to fit in with the existing hillside contours and there is no evidence of erosion or scouring. Given the proposal is similar the applicant considered that any grazing is not likely to generate any erosion or scour effect. As a mechanism to safeguard any potential risk of slope stability the applicant proposed a condition that would ensure any remediation of any issues;

In the event that any erosion or other signs of disturbance of the containment cell is present, which has the potential to compromise the integrity of the containment cell, the land owner shall engage a suitably qualified and experienced practitioner to remediate any issues and immediately notify the Christchurch City Council by way of email to envrresourcemonitoring@ccc.govt.nz
63. I consider that it is appropriate that there is a consent condition that ensures any damage to the containment cells is remediated. Given the potential adverse effects and mobilisation of sediment from unstable land and exposed soil I also consider it is appropriate that the disturbance is attended to immediately.
64. The applicant has provided design plans from a certified engineer. In order to ensure that the earthworks are carried out in a way that maintains slope stability I recommend that the design plans are certified by an appropriately qualified person, prior to the works. And once completed that the completed works are also certified by an appropriately qualified person. These recommendations can be included as conditions.
65. Therefore, I consider the mitigation proposed by the applicant will ensure that effects on slope stability are minor.

Potential adverse effects on tangata whenua values

66. The subject site is within the administrative Taumutu Rūnanga. I agree with the applicant that the site is not within a statutory acknowledgement area, silent file, nohoanga site or cultural landscaped.
67. The applicant acknowledges that the proposal is located within the Te Waihora catchment identified in the Mahaanui Iwi Management Plan 2013.
68. Objective 8 of Section 6.11 Te Wai hora is for the cultural health of the lowland waterways to be restored through the restoration of water quality and quantity... The applicant considers that while stormwater discharges from the proposal, where they take place at all, will flow into the upper catchment of an ephemeral water course, by extension forming a tributary of the Te Waihora/ Ellesmere. Given the proposals neutral effect on water quality and quantity it is considered that the proposal will not generate any increased flows or effects on water quality. Therefore, there will be no difference in
69. I agree with the applicant that the proposal is consistent with Issue TW4 Cultural health of Te Waihora. The applicant has recognised the connection

between catchment land use and the proposal is unlikely to adversely affect water quality or quantity within the catchment.

70. While the applicant has not specially proposed an ADP condition I recommend that a condition that addresses accidental discovery is included in the consent conditions. I consider given the extent of the earthworks an accidental discovery protocol with ensure adverse effects on wāhi tapu and wāhi toanga are avoided.
71. I consider that given the applicants proposed mitigation that Taumutu Rūnanga are not adversely affected by the proposal, and the effects on Ngai Tahu Cultural Values are minor given the following points:
 - a. The discharges are not located in a Ngai Tahu Statutory Acknowledgement Area, or Silent File Area;
 - b. The applicant has proposed best practice to mitigate effects of the earthworks and discharges on water quality;
 - c. Effects on wāhi tapu and wāhi toanga have been addressed by the inclusion of an ADP.

Potential adverse effects from the discharge of asbestos containing material

72. In applying rule 5.89 I consider the key effects that need to be considered are the potential effects on groundwater quality and the potential for a spill of the ACM during the deposition of the material and once the material is encased within the containment cell.
73. In terms of effects on groundwater quality from the storage of asbestos, the applicant notes that asbestos is not soluble and is stable and inert when entrained in ground. The discharge of the proposed hazardous waste (soil with elevated levels of asbestos) therefore is less of a discharge and more of a deposit or disposal that will remain in-situ with no potential to leach or migrate into adjacent land in any quantity that it could be a risk to human health or the environment.
74. I have consulted Mr Beck who agrees' with the applicant that asbestos is inert in land and water. Mr Beck considers the "only real risk of asbestos is inhalation with no risk to ground water". Therefore, the proposed deposition of asbestos will not have an adverse effect on ground water quality.
75. With regard to the potential for a spill of asbestos during the construction of the containment cell or in the post construction period. The applicant notes that the handling of the asbestos and its safe containment during construction is principally controlled under the Health and Safety at Work (Asbestos) Regulations 2016.
76. The asbestos containing soil (ACM) will be enclosed in double 200µm polythene bags at the source site. Removal from the source site and deposition at subject site will supervised by a site supervisor with a current Certificate of Competence for Restricted Work with Asbestos (Class A) issued by Worksafe New Zealand. There provisions for when a bag is damaged in the Contamination Management Plan to prevent any spills.
77. With regard to permanent storage of the ACM material the applicant describes states on deposition of the pre-bagged soils containing elevated levels of asbestos within the containment cell at the application site; capping layers will be applied to fully entomb the bagged soils. Once entombed the asbestos will be fully entrained with soil and will cease to have hazardous properties as asbestos combined with soils or water (should water penetrate)

is not hazardous and is inert. The applicant expects that no adverse effects will occur from the storage of asbestos in the containment bund. Further details of the containment cell design are provided in the application.

78. The applicant considers that the proposed containment cell is 'raising the engineering standard' for engineered fill (Section 6.3 Construction of new engineering containment cell, page 12 of the Contamination Management Plan. The cell is designed to ensure that there are safeguards (top to bottom through the containment cell) to ensure that asbestos fibres are permanently retained.
79. The applicant has also undertaken a risk assessment in conjunction with the Licensed Asbestos Assessor (that would be involved with the project as required by the Health and Safety at Work Act and Regulations). The risk applicant considers that the assessment provides evidence in relation to the definition of 'effect' in s.3 RMA, specifically in relation to the consideration of low probability which has a high potential impact concluding that "evidence finds the proposal has a very low risk".
80. The risk assessment can be found in [C16C/104863] and focuses on the risk of the release of asbestos fines during the transportation, deposition of the ACM, the construction and long term management of the containment cell.
81. Greg Beck, Principal Contaminated Sites Officer, Environment Canterbury, has reviewed the DSI reports for the source site and the Contamination Management Plan for 36 Colwyn Street / 318 Kennedys Bush Road. Based on his review, Mr Beck believes that the risk of leachate production within the cell looks to be 'low'. Concluding that the expansion of the containment cell should not pose a significant risk to human health or the environment [HPRM C16C/83416].
82. Mr Dahl has also reviewed the application. Mr Dahl stated the WEMP team (Waste and Environmental Management Team) had no extra concern for the proposed activities. With regard to the subject site MR Dahl considered that the increasing the size of the containment cell does not increase the risk from future discharges due to the siting [C16C/104865].
83. I consider there is little likelihood of the ACM becoming exposed during storage. Furthermore, under the applicant has agreed to:
 - a. Demarcation of the site to prevent activities occurring on the cell that may cause damage to the bund condition (10) CRC167581;
 - b. Undertake remediation in the event that erosion, slope instability or other signs of disturbance are identified condition (11) CRC167581.
 - c. Monitor the stormwater system which includes the surface of the containment bund at least every six weeks and repair any damage within ten working days of the inspection conditions (8) and (9)CRC167580.
84. I consider the measures described in paragraph 83 will ensure that the risk of a spill from the completed containment bund is avoided, however for certainty I recommend that a condition is included on the land use consent (CRC167581) that requires the monitoring and inspection of the containment bund. I consider this addresses the recommendation by the applicant.
85. The applicant has proposed to include a covenant on the consent conditions encumbrance on the conditions to control any risks and to ensure the integrity of the containment cell is not compromised. Given the duration of the land

use consent is unlimited and conditions have been agreed to I do not consider it necessary to include an encumbrance on the consent conditions.

86. Based on Mr Becks advice and the applicants proposed mitigation I consider the effects of the storage of ACM are minor.

COMPLIANCE HISTORY

87. According to the CRC Consent records database the applicant does not hold any other consents with the Regional Council.
88. I have advised the pollution hotline of the existing activities authorised under RMA92026763 which may have necessitated authorisations from Environment Canterbury – for construction phase discharges and land use activities.

OBJECTIVES AND POLICIES

89. The relevant objectives and policies are identified in the attached 's42A Addendum'.
90. Of particular reference to this application is:
- a. Objective 3.24 of the Land and Water Regional Plan - Activities operate at good environmental practice or better to optimise efficient resource use and protect freshwater resources;
 - b. Policy 4.25 of the Land and Water Regional Plan – use all best practicable options to avoid a discharge of hazardous substances;
 - c. Objective 18.2.2 of the RPS – avoid new contamination of land.

OTHER RELEVANT MATTERS

Previous Council Decisions

91. I am not aware of any previous decisions that would prevent the granting of this consent.

RECOMMENDATION

Notification – (Section 95A and 95B)

92. The assessment of adverse effects undertaken above indicates that adverse effects on the environment will be no more than minor. I also note that public notification is not required by a National Environmental Standard or rule in a plan. I do not consider that special circumstances would require public notification. Given the above, I consider that public notification of this application, pursuant to s95A of the RMA 1991, is not required.
93. I also note that adverse effects on persons will be less than minor, and that there are no affected protected customary rights group or affected customary marine title group. Given this, I consider that limited notification of this application, pursuant to s95B of the RMA 1991, is not required.
94. In conclusion, I recommend that this application be decided on a non-notified basis.

Part 2 Matters (Purpose and Principles of the RMA)

95. Under section 104(1) of the RMA, the consent authority must consider applications "subject to Part 2" of the Resource Management Act 1991 (RMA), specifically sections 5, 6, 7 and 8.
96. The Purpose of the RMA (Section 5) is to:
"promote the sustainable management of natural and physical resources."
97. The purpose is achieved by the guidance provided by the Principles of the RMA (i.e. s.6, s.7, and s.8).
98. In the attached s42A Addendum (Appendix 2), I have considered Part 2 of the RMA. Of particular importance for this proposal are the protection and the development of natural and physical resources while sustaining their potential and avoiding remedying and mitigating any adverse effects on these resources.
99. Given this, I consider that this activity will achieve the purpose of the RMA.

Consideration of Application (Section 104(1)(a) –(c))

100. The assessment of adverse effects undertaken for the purpose of notification determination concluded that adverse effects were no more than minor. I consider that this assessment is also relevant to the assessment required under s104(1)(a).
101. The applicant identified a number of following positive effects [C16C/104861] the most relevant being:
- a. The proposal allows post construction the land to be used for productive pastoral purposes in the same manner as it is presently used and line with the intent of the district plan rural zoning.
 - b. On completion the improved access track will benefit the continued use of the land for farming and provide improved safeguard to the hillside watercourse through the extended culvert that affords protection.
 - c. The proposal will maintain the existing open landscape as restored contours will blend into the existing hillside contours. The proposal will have a similar visual outcome to the existing containment cell constructed under RMA92026763 and the existing farm access track.
 - d. The proposal is an appropriate utilisation of previously contaminated land.
 - e. The proposal does not damage or destroy the existing containment cell and on completion provides better containment of the existing cell by increasing the depth of the capping layer from 0.5m to 1.0m and through the placement of an orange geogrid, introduces better safeguards for long term management (refer to below).
 - f. The proposal utilises on-site subsoils and topsoil to facilitate successful restoration and minimise transport demand.
 - g. The proposal does not affect any strategic infrastructure, community drinking water protection zone or other sensitive social and economic constraint.
 - h. The proposal is not a high hazard area, or over an aquifer system, or other sensitive environmental constraint. The proposal provides for

long term maintenance and management by measures such as demarcation of the containment cell and a proposed covenant to ensure that the containment cell will be identified with posts and signage, with limits on land uses and vehicle access and controls on the vegetation, inspections and maintenance to ensure the integrity of the containment cell is not compromised.

102. In summary, in accordance with Section 5 of the RMA I consider that any adverse effects will be acceptable and are able to be avoided, remedied or mitigated subject to an appropriate set of conditions.
103. In accordance with section 104(1)(b) of the RMA, I have had regard to all relevant objectives and policies for this application. The relevant objectives and policies are identified in the attached 's42A Addendum'. The addendum also includes a list of the purpose and principles of the RMA which I have taken into consideration when making my recommendation. I consider these applications are consistent with the objectives and policies of the relevant planning provisions.
104. Of particular relevant is the delegations and function of the councils when considering Chapter's 17 and 18 of the RPS. Chapter 17 describes the function of the Regional Councils to investigate land for the purpose of identifying and monitoring contaminated land. While territorial authorities have the function to prevent or mitigate adverse effects on the environment that may arise from the use, subdivision or development of contaminated land, which is also controlled under the NES (Assessing and Managing Contaminants in Soil to Protect Human Health) 2011, which addresses the management of contaminated land from a health perspective.
105. Under Chapter 18 the CRC has the responsibility for matters including methods for the control of the use of land for preventing or mitigating adverse effects of the ...disposal of hazardous substances on the quality of air and water. As discussed above the ACM is not likely to adversely affect water and the due to the location of the subject site and the proposed management of the ACM there is not likely to be a discharge into air beyond the property boundary from the activity.
106. In accordance with section 104(1)(c) I have had regard to any other matters relevant to this application including:
 - a. Canterbury Water Management Strategy

The proposal is located within the area managed by the Ellesmere/ Te Waihora Zone Committee. The committee is very focused on the improving water quality in the zone surface waters.

Zone committee recommendations do not carry any statutory weight in the assessment of resource consents but do provide an indication as to the community environmental expectations for their zone. As there is unlikely to be any reduction in surface water quality as a result of this consent being granted it giving effect to this consent is like to be consistent with the Zone Committees zone expectations.
 - b. The applicant assessed effects on cultural values in relation to those identified in the Mahaanui Iwi Management Plan 2013 (MIMP) and these are discussed above.

Determination of applications for discretionary or non-complying activities (Section 104B)

107. After considering an application for a resource consent for a **discretionary activity**, a consent authority:
- a. *May grant or refuse the application; and*
 - b. *If it grants the application, may impose conditions under section 108 of the RMA.*
108. I have considered s104B of the RMA and have outlined in the section titled "Grant or Refuse" that this application be granted subjected to recommended conditions under s108 of the RMA.

Section 105(1) – Matters relevant to certain applications

109. In accordance with section 105, I have had regard to:
- a. the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - b. the applicant's reasons for the proposed choice; and
 - c. any possible alternative methods of discharge including discharge into any other environment. These have been described by the applicant as:
 - i. The subject site is the preferred location after considering a number of options. The applicant considered that given the adverse effects are not considered to be significant alternative methods or locations did not need to be considered.
110. While the receiving environment is sensitive to discharge of sediment. I consider that the proposal is consistent with section 105. Provided the applicant carries out the proposed mitigation I consider there is unlikely to be an adverse effect on water quality or slope stability.

Section 107(1) – Restrictions on grant of certain discharge permits

111. Under Section 107(1) of the RMA a consent authority may not grant a consent for the discharge of a contaminant into water, or onto or into land, if after reasonable mixing the discharge is likely to give rise in the receiving waters, to:
- "(c) The production of conspicuous oil or grease films, scums, foams, floatable or suspended material:*
- (d) Any conspicuous change in the colour or visual clarity:*
- (e) Any emission of objectionable odour:*
- (f) The rendering of fresh water unsuitable for consumption by farm animals:*
- (g) Any significant adverse effects on aquatic life."*
112. There is unlikely to be a discharge of stormwater offsite and therefore the proposal will be consistent with section 107.

Duration

113. The applicant has sought a consent duration:
- a. Three years duration CRC167579 – construction phase discharge;
 - b. 35 years for CRC167580 – the stormwater discharge; and

c. Unlimited CRC167581 – the land use.

114. Chapter 1.3.5 of the NRRP lists matters which we shall have particular regard to when considering the duration of a resource consent. I have taken into consideration these matters, and I am satisfied the durations sought by the applicant are appropriate.

Grant or Refuse

115. Having considered all relevant matters under sections 104 – 104D, I recommend granting resource consent CRC167579, CRC167580, CRC167581 subject to the conditions attached (Appendix 1), which have been adopted by the applicant as mitigation measures for their proposal (TRIM ref C16C/81364).



Signed:

Date:

4 July 2016

Name:

Suzanne Blyth

Consents Planner

REFERENCES

Canterbury Regional Council, 2004. Canterbury Natural Resources Regional Plan.

Canterbury Regional Council, 2015. Land and Water Regional Plan.

Canterbury Regional Council, 2013. Canterbury Regional Policy Statement, including the amended CRPS provisions effective 12 June 2015 and 23 July 2015.

Canterbury Regional Council, 2007. Erosion and Sediment Control Guidelines. R06/23.

Ministry for the Environment National Policy Statement for Freshwater Management 2011.

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

Resource Management (National Environmental Standards for Air Quality) Regulations 2004

Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009.

Te Rūnanga o Ngāi Tahu Freshwater Policy Statement 1999

Mahaanui Kurataiao Ltd. Mahaanui Iwi Management Plan 2013

Te Rūnanga o Ngāi Tahu and Department of Conservation Te Papa Atawhai, 2005. Te Waihora Joint Management Plan (Mahere Tukutahi o Te Waihora).

The Resource Management Act 1991. Consolidated version incorporating all the amendments to that Act including the Resource Management Amendment Act 2013.

APPENDIX 1: RECOMMENDED CONDITIONS

The initial draft conditions have been revised after a discussion with the applicant.

The revisions are on **CRC167581** - Land Use Consent to undertake earthworks and vegetation clearance in an erosion-prone area and include:

1. Replacing:
 - a. vegetation with pasture grass;
 - b. vegetation as means of demarcation with a fence or posts.

Vegetation has the potential to interfere with the capping on the containment cell. Therefore, I consider the revision appropriate.

2. Adding an advice note referencing the need for authorisation from the Christchurch City Council.

CRC167579 - to discharge construction phase stormwater and to discharge a hazardous substance to land

1	<p>The activity shall be limited to:</p> <ol style="list-style-type: none"> a. the discharge of sediment laden stormwater from exposed areas; and b. the discharge of asbestos contaminated material into land <p>during site the construction of a earth bund containment cell at Lot 1 DP 9250, 318 Kennedys Bush Road, Kennedys Bush, Christchurch into land at or about Topo50 BX24:6702-7171 labelled as "discharge point" as shown on Plan CRC167579A.</p>
2	<p>The volume of asbestos contaminated material (ACM) shall be limited to a maximum of 4,517 cubic metres and shall only be ACM sourced from 36 Colwyn Street in accordance with the document entitled <i>Contamination Management Plan, 36 Colwyn Street (Soil Removal) / 318 Kennedys Bush Road (Soil Deposition)</i> produced by Eliot Sinclair in behalf Penley Ltd, document number 39569, dated 7 April 2016, attached to and forming part of this consent (CMP).</p>
5	<p>The asbestos contaminated material (ACM) shall be deposited into an earthbund containment cell which is;</p> <ol style="list-style-type: none"> a. limited to a surface area of approximately 4,332 square metres; b. consists of at least 800 millimetres of engineered capping and at layer of sandy loam topsoil least a

	<p>200 millimetre millimetres thick; and</p> <p>c. installed in accordance with the CMP.</p>
6	<p>Prior to the works described in condition (1) the consent holder shall ensure that all personnel working on the site are made aware of and have access to the contents of this consent document, all associated erosion and sediment control plans and methodology and the CMP.</p>
4	<p>Prior to commencement of works the consent holder or their agent shall arrange and conduct a pre-construction site meeting between the Canterbury Regional Council and all relevant parties, including the primary contractor. At a minimum, the following shall be covered at the meeting:</p> <ul style="list-style-type: none"> a. Scheduling and staging of the works; b. Responsibilities of all relevant parties; c. Contact details for all relevant parties; d. Expectations regarding communication between all relevant parties; e. Procedures for implementing any amendments; f. Site inspection; and g. Confirmation that all relevant parties have copies of the contents of this consent document and all associated erosion and sediment control plans and methodology.
5	<p>The discharges during the construction phase of the development shall occur in accordance with the Erosion and Sediment Control Plan (ESCP). The ESCP shall:</p> <ul style="list-style-type: none"> a. detail the sediment control measures that will be taken to ensure compliance with this consent included and not limited to: <ul style="list-style-type: none"> i. Constructing silt fences prior to excavation which is to remain until after pasture grass is re-established; ii. Installing cut off drains and bunding to prevent storm water running from and into the work area; iii. Minimising exposed surfaces by stabilising exposed surfaces as soon as practicable; iv. a methodology for stabilising the site if works are abandoned; and v. a methodology for stabilising the site and decommissioning erosion and sediment control measures after works have been completed; b. Include: <ul style="list-style-type: none"> i. A map showing the location of all works; ii. Detailed plans showing the location of sediment control measures, on-site catchment boundaries, and sources of runoff; iii. Drawings and specifications of designated sediment control measures; iv. A programme of works, which includes but is not

	<p>limited to, a proposed timeframe for the works;</p> <p>v. Inspection and maintenance of the sediment control measures;</p> <p>c. be prepared in accordance with:</p> <ul style="list-style-type: none"> i. the Environment Canterbury Erosion and Sediment Control Guidelines (Report R06/23, February 2007), and any amendments to that document; or ii. Section 4.9 of the Christchurch City Council Infrastructure Design Standard (January 2013), and any amendments to that document; or iii. An equivalent industry guideline. If an alternative guideline is used, the ESCP shall provide details of the relevant alternative methods used and an explanation of why they are more appropriate than the ESCG; iv. Where conflicting measures are identified in the documents listed in condition (5)(b)(i) – (ii) the most conservative approach shall be applied.
7	<p>The ESCP shall be submitted to the Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, at least ten working days prior to construction commencing, for certification that it complies with Environment Canterbury's Erosion and Sediment Control Guidelines for the Canterbury Region and the conditions of this consent.</p> <ul style="list-style-type: none"> a. The discharge shall not commence until the consent holder has received the certification from the Canterbury Regional Council that it consistent with the ESCG and the conditions of this consent; and b. Notwithstanding Condition 7)a. if the consent holder has not received the certification within ten working days of the RMA Monitoring and Compliance Manager receiving the ESCP, the discharge may commence.
8	<p>The ESCP may be amended at any time. Any amendments shall be:</p> <ul style="list-style-type: none"> a. Only for the purpose of improving the efficacy of the erosion and sediment control measures and shall not result in reduced discharge quality; and b. Consistent with the conditions of this resource consent; and c. Submitted in writing to the Canterbury Regional Council, Attention: RMA Monitoring and Compliance Manager, within two (2) working days of any amendment being implemented. d. The applicant shall apply best practice and all practicable measures to mitigate dust and sediment transport off-site.
9	<p>All practicable measures shall be taken to avoid spills of fuel or any other hazardous substances, including asbestos within the site.</p> <ul style="list-style-type: none"> a. In the event of a spill of fuel or any other hazardous substance, the

	<p>spill shall be cleaned up as soon as practicable, the stormwater system shall be inspected and cleaned and measures taken to prevent a recurrence;</p> <p>b. The Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, shall be informed within 24 hours of a spill event and the following information provided:</p> <ul style="list-style-type: none"> a. The date, time, location and estimated volume of the spill; b. The cause of the spill; c. The type of hazardous substance(s) spilled; d. Clean up procedures undertaken; e. Details of the steps taken to control and remediate the effects of the spill on the receiving environment; f. An assessment of any potential effects of the spill; and g. Measures to be undertaken to prevent a recurrence.
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 and which it is appropriate to deal with at a later stage.
11	The lapsing date for the purposes of section 125 shall be 30 June 2021.

CRC167580 - to discharge operational phase stormwater and land drainage water into surface water

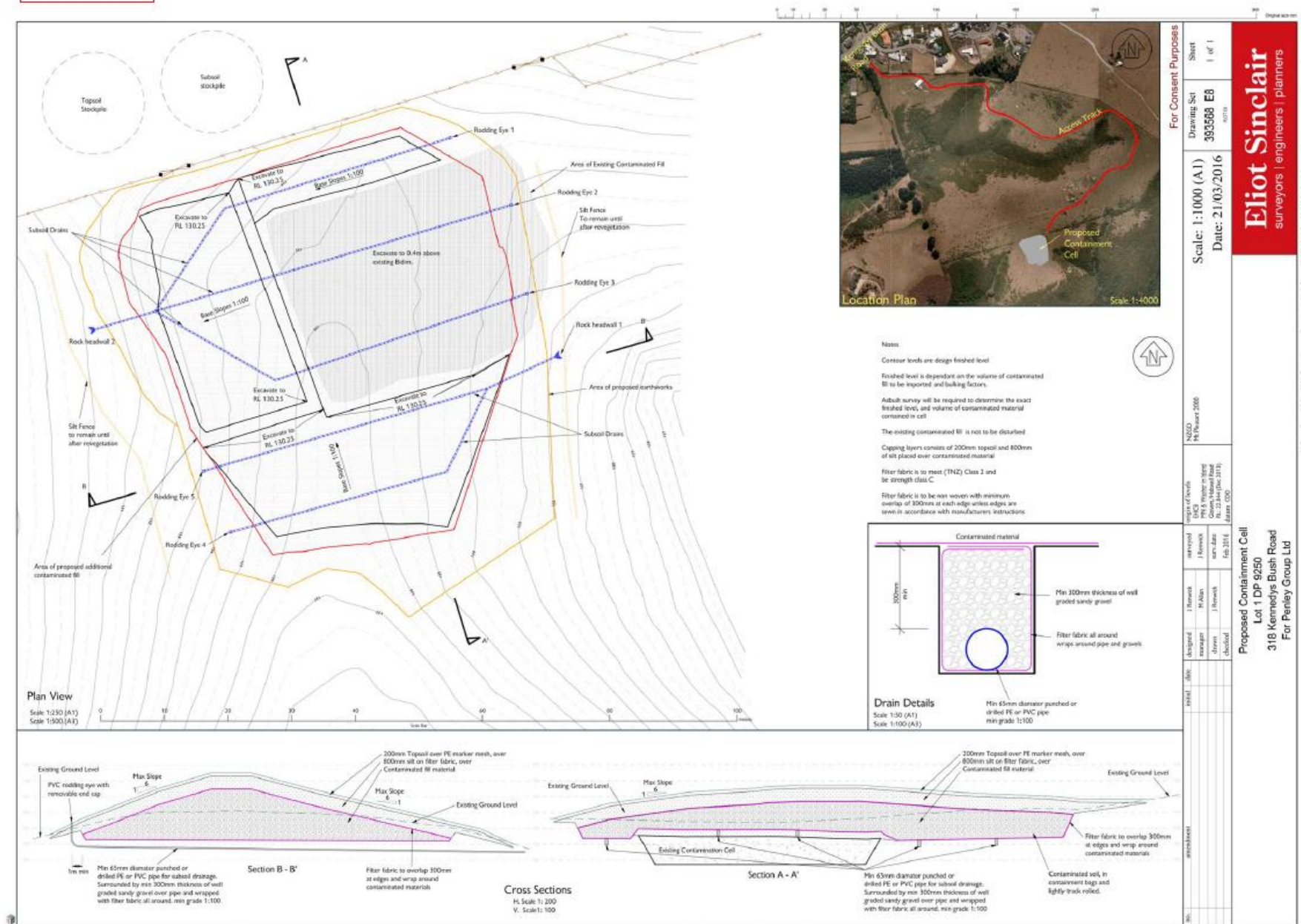
1	The discharge shall be only stormwater and land drainage water generated from an earthbund containment cell located at Lot 1 DP 9250, 318 Kennedys Bush Road, Kennedys Bush, Christchurch, labelled as labelled as "Site" on Plan CRC167580A, which form part of this consent.
2	<p>Stormwater and land drainage water shall only be discharged onto and into land, at map reference Topo50 BX24:6702-7171 via:</p> <ul style="list-style-type: none"> a. the surface of the earthbund containment cell; and b. the under drainage system installed under the earthbund containment cell <p>as shown on Plan CRC167580B, which forms part of this consent.</p>
4	<p>The earthbund containment cell shall:</p> <ul style="list-style-type: none"> a. be limited to a surface area of approximately 4,332 square metres; b. consist of at least 800 millimetres of engineered capping and at layer of sandy loam topsoil least a 200 millimetre millimetres thick; and c. include a subsoil soil drainage system <p>as shown on Plan CRC167580B attached to this consent.</p>
5	The discharge of land drainage water via the subsoil drains shall not cause erosion and scour at the point of discharge onto land.
6	Within ten working days of the installation of the stormwater system and earthbund containment cell, the Consent Holder shall provide a certificate signed by a Chartered Professional Engineer (CPEng) with stormwater system construction experience shall be submitted to the Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, to certify that the stormwater system complies with Condition (4) of this consent. This CPEng shall also sign a statement confirming that they are competent to certify the engineering work.
7	<p>The surface of the earthbund containment cell shall be:</p> <ul style="list-style-type: none"> a. maintained so that grass is in a healthy and uniform state with the exception of seasonal browning off; and b. re-planted where erosion or die-off has resulted in bare or patchy soil cover.

8	<p>The maintenance of the stormwater and land drainage systems shall include, but not be limited to:</p> <ul style="list-style-type: none"> a. inspecting the surface of the containment bund and the Rock headwall outlets at least once every six months; and b. repairing any scour or erosion within ten working days of the inspection.
9	<p>Records of the inspection and maintenance of the earthbund containment cell stormwater and land drainage system shall be kept. The records shall include, but not be limited to information that demonstrates compliance with Conditions (7) and (8) of this consent. Copies of these records shall be provided to the Canterbury Regional Council on request.</p>
10	<p>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 and which it is appropriate to deal with at a later stage.</p>
11	<p>The lapsing date for the purposes of section 125 shall be 30 June 2021.</p>



Plan CRC167580B

318 Kennedys Bush Road. Proposed and existing containment cell: engineering design and erosion and sediment control measures



CRC167581 - Land Use Consent to undertake earthworks and vegetation clearance in an erosion-prone area

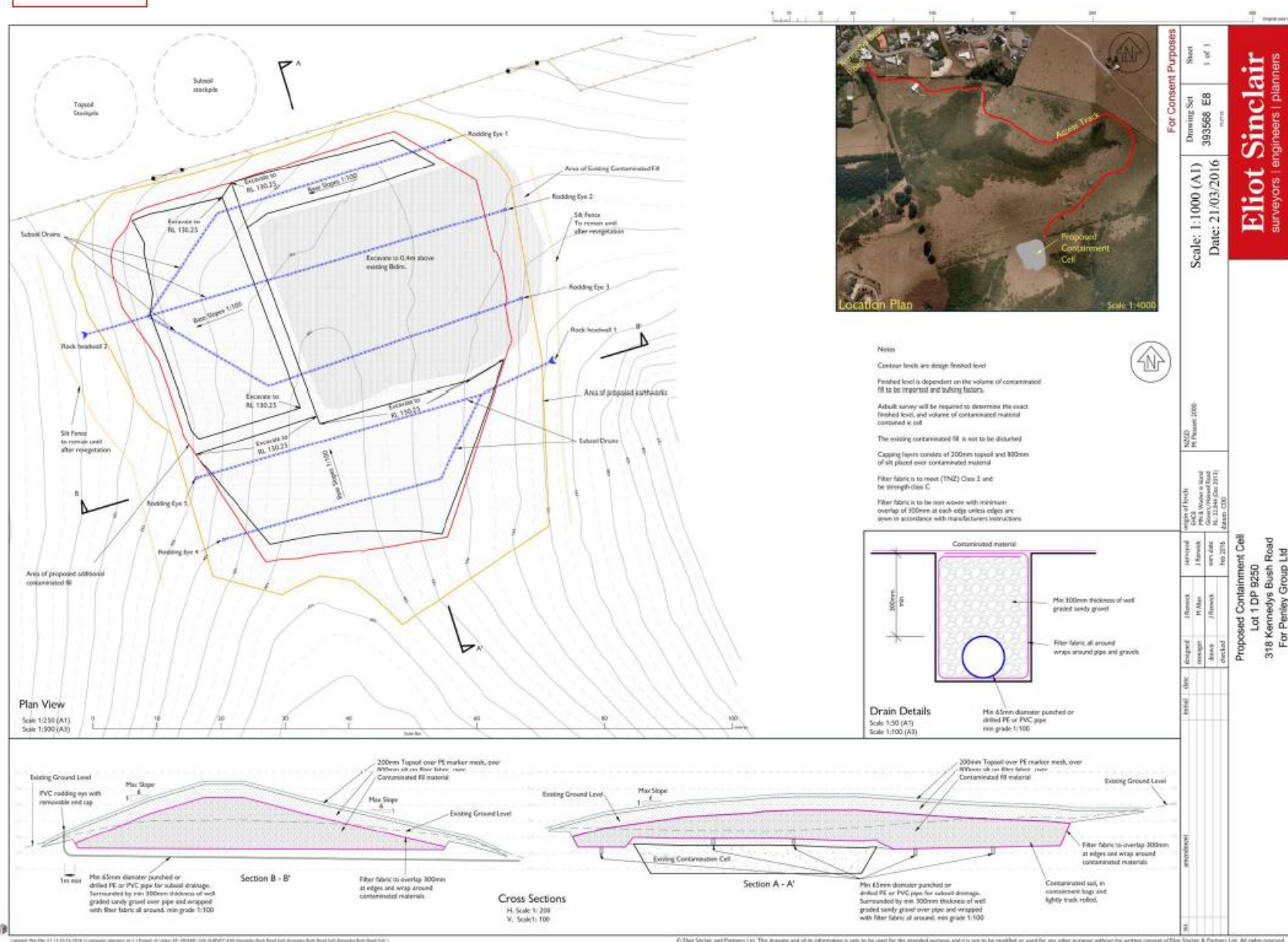
1	<p>The land use shall be earthworks associated with the construction of an earthbund containment cell at 318 Kennedys Bush Road, Christchurch.</p> <p>Advice note; The activities authorised under this consent also require authorisation from the Christchurch City Council in accordance with the District Plan.</p>
2	<p>The works carried out in accordance with condition (1) shall be located at Lot 1 DP 9250, 318 Kennedys Bush Road, Kennedys Bush, Christchurch, at or about map reference Topo 50 BX24:6702-7171, as shown in Plan CRC167581A, which forms part of this consent.</p>
3	<p>The volume of earthworks shall be limited to 9,013 cubic metres and includes excavation of 4,496m³ on-site and 4,517 m³ of material from beyond the site boundary.</p>
4	<p>The works shall be undertaken in general accordance with the attached design plan CRC167581B, which forms part of this consent</p>
5	<p>The Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager shall be informed at least five days before any works are undertaken under this consent.</p>
6	<p>The consent holder, and all persons exercising this consent, shall ensure that all personnel undertaking activities authorised by this consent are made aware of, and have access to, the contents of this consent document and the Contamination Management Plan prior to the commencement of the works.</p>
7	<p>The earthworks shall be carried out in accordance with the document entitled <i>Contamination Management Plan, 36 Colwyn Street (Soil Removal) / 318 Kennedys Bush Road (Soil Deposition)</i> produced by Eliot Sinclair in behalf Penley Ltd, document number 39569, dated 7 April 2016, CMP attached to and forming part of this consent.</p>
8	<p>A copy of the Contamination Management Plan shall be kept on site at all times</p>
9	<p>All practicable measures shall be undertaken to avoid surface water run-off entering any excavated area.</p>
10	<p>The consent holder shall:</p> <ul style="list-style-type: none"> a. Adopt the best practicable options to prevent the discharge of sediment and contaminants into surface water, including, but not limited to the following measures: <ul style="list-style-type: none"> i. Constructing silt fences prior to excavation which is to remain until after pasture grass is re-established ; ii. Installing diversion bunds and other erosion and sediment controls as required; iii. Minimising exposed surfaces by stabilising exposed surfaces as soon as practicable iv. Stabilising and re-grassing all disturbed areas within one month following completion of the works;

	<ul style="list-style-type: none"> v. Checking, repairing and maintaining where necessary erosion and sediment control measures daily and, repaired to ensure efficient functioning; b. Ensure that erosion and sediment control measures are constructed and maintained in accordance with the: <ul style="list-style-type: none"> i. the Environment Canterbury Erosion and Sediment Control Guidelines (Report R06/23, February 2007), and any amendments to that document; or ii. Section 4.9 of the Christchurch City Council Infrastructure Design Standard (January 2013), and any amendments to that document; or iii. An equivalent industry guideline. If an alternative guideline is used, the ESCP shall provide details of the relevant alternative methods used and an explanation of why they are more appropriate than the ESCG c. Remove from site all spoil and other waste material from the works on completion of works; and d. Protect stockpiled material stored onsite from wind and rain erosion.
11	The perimeter of the earthbund containment cell shall be clearly demarcated by a post and rail fence or sufficient posts to demarcate the area of the earthbund containment cell and the consent holder shall ensure that there is no activity undertaken on top of the containment bund that may cause damage to the containment bund (for example: installation of vehicle tracks or building foundations).
12	<p>In the event that any erosion, slope instability or other signs of disturbance of the containment cell is present, and which has the potential to compromise the integrity of the earthbund containment cell, the consent holder owner shall:</p> <ul style="list-style-type: none"> a. Engage a suitably qualified and experienced practitioner to remediate any issues; b. Immediately inform the Manager RMA Monitoring and Compliance, Canterbury Regional Council; c. Identify the cause of the slope instability and undertake mitigation and remediation actions to improve erosion, slope instability and the integrity of the containment cell; and d. Provide on request to the Manager RMA Monitoring and Compliance, Canterbury Regional Council Certification by a suitably qualified person that the slope stability remediation been undertaken in accordance with conditions of this consent and in a manner that reflects best practice for slope stability
13	<p>Within one month of the completion of the containment cell the consent holder shall provide to the Canterbury Regional Council, Attention: Regional Manager - RMA Monitoring and Compliance, the following:</p> <ul style="list-style-type: none"> (a) A certificate that certifies that the works have been undertaken in a manner that reflects best practice for the maintenance of slope stability. The certificate shall be signed by a Chartered Professional

	<p>Engineer (CPEng) with geotechnical experience. This CPEng shall also sign a statement confirming that they are competent to certify the engineering work;</p> <p>(b) An “As built” plan showing the exact location (defined by GPS coordinates points) final geometry and the final depth and thickness of soil cover of the earthbund containment cell; and</p> <p>(c) Photographs which show the demarcating of the perimeter of the containment bund.</p>
14	<p>In the event of any discovery of archaeological material:</p> <ol style="list-style-type: none"> a. the consent holder shall immediately: <ol style="list-style-type: none"> a. Cease earthmoving operations in the affected area and mark off the affected area; and b. Advise the Canterbury Regional Council of the disturbance; and c. Advise the New Zealand Heritage New Zealand Pouhere Taonga of the disturbance. b. If the archaeological material is determined to be Koiwi Tangata (human bones) or taonga (treasured artefacts) by Heritage New Zealand Pouhere Taonga, the consent holder shall immediately advise the office of the appropriate runanga (office contact information can be obtained from the Canterbury Regional Council) of the discovery. c. If the archaeological material is determined to be Koiwi Tangata (human bones) by the New Zealand Historic Places Trust, the consent holder shall immediately advise the New Zealand Police of the disturbance. d. Work may recommence if Heritage New Zealand Pouhere Taonga (following consultation with runanga if the site is of Maori origin) provides a statement in writing to the Canterbury Regional Council, Attention: RMA Monitoring and Compliance Manager that appropriate action has been undertaken in relation to the archaeological material discovered. The Canterbury Regional Council shall advise the consent holder on written receipt from Heritage New Zealand Pouhere Taonga that work can recommence. <p>Advice Note:</p> <p>This may be in addition to any agreements that are in place between the consent holder and the Papatipu Rūnanga. (Cultural Site Accidental Discovery Protocol).</p> <p>Advice Note: Under the Heritage New Zealand Pouhere Taonga Act 2014 an archaeological site is defined as any place associated with pre-1900 human activity, where there is material evidence relating to the history of New Zealand. For sites solely of Maori origin, this evidence may be in the form of accumulations of shell, bone, charcoal, burnt stones, etc. In later sites, artefacts such as bottles or broken glass, ceramics, metals, etc, may be found or evidence of old foundations, wells, drains, tailings, races or other structures. Human remains/koiwi may date to any historic period.</p>

	It is unlawful for any person to destroy, damage, or modify the whole or any part of an archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga. This is the case regardless of the legal status of the land on which the site is located, whether the activity is permitted under the District or Regional Plan or whether a resource or building consent has been granted. The Heritage New Zealand Pouhere Taonga Act 2014 provides for substantial penalties for unauthorised damage or destruction.
15	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 and which it is appropriate to deal with at a later stage.
16	The lapsing date for the purposes of section 125 shall be 30 June 2021.





APPENDIX 2: S42A ADDENDUM

LEGAL AND PLANNING MATTERS

ACTIVITY:

CRC167579 – a discharge permit to discharge construction phase stormwater

CRC167580 - to discharge operational phase stormwater

CRC167581 to undertake earthworks and vegetation clearance in an erosion-prone area

Canterbury Land and Water Regional Plan

In general I agree with the applicant's assessment that the following rules apply:

Rule 5.171- use of land for earthworks in erosion prone land

- The activity does not comply with Rule 5.170 as the cut and fill exceeds 0.5 and does not comply with condition (k)(ii). The volume of earthworks is greater than 10 m3 per hectare, therefore it does not comply with condition (k)(i) either. Under rule 5.171 the activity status is **restricted discretionary**.

The exercise of discretion is restricted to the following matters:

1. *The actual and potential adverse environmental effects on soil quality or slope stability; and*
2. *The actual and potential adverse environmental effects on the quality of water in rivers, lakes, wetlands and*
3. *The actual and potential adverse environmental effects on areas of natural character, outstanding natural features or landscapes, areas of significant indigenous vegetation and significant habitats of indigenous fauna, mahinga kai areas or sites of importance to Tangata Whenua; and*
4. *The actual and potential adverse environmental effects on a wetland or the banks or bed of a waterbody or on its flood carrying capacity; and*
5. *The actual and potential adverse environmental effects on transport networks, neighbouring properties or structures; and*
6. *In addition, for forest harvesting, the harvesting method, location of haulage and log handling areas, access tracks, and sediment control.*

Rule 11.5.31 Discharge of stormwater into the Halswell River Huritini Catchment:

- The applicant provided an assessment against rule 11.5.29 – I agree with the applicant that activity is status **discretionary** under this rule. The subject site is within the Halswell River Huritini Catchment and the activity is not authorised by a consented stormwater management plan and will occur after 5 December 2016.

- Rule 11.5.31 over rides rules in Section 5 of the LWRP

Plan Change 4 to the Canterbury Land and Water Regional Plan

Rule 5.94A – discharge of construction phase stormwater...

- I agree with the applicants assessment the consent is required because the activity does not comply condition (4) the site is potentially contaminated. Under rule 5.94C the activity status is **restricted discretionary**.

Rule 5.95 – discharge of post construction water

- The applicant has accessed the activity against Rule 5.95 pf PC4 – as noted above rule 11.5.29 over rides section 5. Therefore I consider that Rule 5.95 does not apply.

Rule 5.171- use of land for earthworks in erosion prone land

- The activity does not comply with Rule 5.170 as the cut and fill exceeds 0.5 and does not comply with condition (k)(ii). The volume of earthworks is greater than 10 m3 per hectare, therefore it does not comply with condition (k)(i) either. Under rule 5.171 the activity status is **restricted discretionary**.

The exercise of discretion is restricted to the following matters (yellow high light is changes under PC4):

1. *The actual and potential adverse environmental effects on soil quality or slope stability; and*
2. *The actual and potential adverse environmental effects on the quality of water in rivers, lakes, **artificial watercourses or^M** wetlands **or the sea,^M** and*
3. *The actual and potential adverse environmental effects on areas of natural character, outstanding natural features or landscapes, areas of significant indigenous vegetation **indigenous biodiversity^A** and significant habitats of indigenous fauna, mahinga kai areas or sites of importance to Tangata Whenua; and*
4. *The actual and potential adverse environmental effects on a wetland or the banks or bed of a waterbody or on its flood carrying capacity; and*
5. *The actual and potential adverse environmental effects on transport networks, neighbouring properties or structures; and*
6. *In addition, for forest harvesting, the harvesting method, location of haulage and log handling areas, access tracks, and sediment control.*

Rule 5.75/ 5.76 and 11.5.24 LWRP/ Rules 5.75/5.76 of PC4– which relates to the discharge of land drainage water:

- I agree that rule 11.5.24 (11.5.21/ 11.25.21A) applies. Rule 11.5.21 requires the addition of a reference to the discharges in the Halswell River/Huritini Catchment.

- The applicant is installing topsoil and subsoil drainage to manage stormwater. The applicant considers that the rules relating to land drainage do not apply any discharge is stormwater related and not derived from the land itself.
- I disagree with the applicant's assessment that the drainage system is not for the purpose of managing surface water or subsurface water rather for the purpose of managing stormwater. The drains will act like an underdrain to remove any stormwater collected as a result of the installation of the containment bund.
- Therefore, I consider that consent is required under Rule 5.75/ 5.76 and 11.5.24. I recommend appending the land drainage to the discharge permit for the stormwater discharge.

Rule 5.89

Municipal Solid Waste

5.89 The discharge of municipal solid waste or hazardous waste into or onto land, or into or onto land in circumstances where a contaminant may enter water and is not categorised as a prohibited activity is a discretionary activity.

5.90 The discharge of municipal solid waste into or onto land, or into or onto land in circumstances where a contaminant may enter water, where the discharge is:

- (a) in the Christchurch Groundwater Protection Zone as shown on the Planning Maps; or*
- (b) in a Group or Community Drinking-water Protection Zone as set out in Schedule I;*
is a prohibited activity.

With regard to the ACM being a hazardous waste the land and water plan defines hazardous waste as meaning waste that contains ... *a hazardous substance*...

With regard to the ACM being a hazardous substance:

- I consider asbestos is a hazardous substance in accordance with Schedule 4 Part A of the LWRP (a)(v)– Toxicity and (c). Under Part A of Schedule 4 – (c) asbestos is persistent and has chronic effects on humans.
- Part A of Schedule 4 of the LWRP references the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001. Under the Regulations asbestos has a toxic effect over and above the Western Australian Guidelines³ for friable asbestos. I have consider Schedule 4 *Minimum degrees of hazard for substances with toxic properties (2)(p)* as providing the toxicity criteria:

³ Western Australian Department of Health (WADoH) 2009. Guidelines for the Assessment, Remediation and Management of Asbestos-Contaminated Sites in Western Australia

“...reliable information for the substance indicates to an expert that exposure to the substance causes the development of cancer or an increase in the incidence of benign or malignant tumours in an organ or an organism...”

Therefore, I consider that ACM at certain concentrations in accordance with the Western Australian Guidelines is hazardous waste as the material can be classified as a hazardous substance under Part A of Schedule 4 of the LWRP.

I consider rule 5.89 may apply to the proposal (after a decision by QYP 30 June 2016).

The applicant has agreed that consent is required to discharge ACM into land under Rule 5.89; however they consider the discharge is only during the construction phase and does not apply to the operational phases. I agree with the applicant that the disposition of the ACM is a construction phase activity only, however not for the reasons cited in their email of 1 July 2016 [C16C/107411]. The case law the applicant has referred to is a test for something that has happened in the past and has been quoted out of context.

I consider that there is only a risk of discharge during the construction of the containment cell. Once the containment cell is completed there is not likely to be any discharge due to the proposed mitigation.

Rule assessment

As discussed above it is possible that Rule 5.89 may apply to the proposal. Below is a discussion on the applicant's assessment of rule 5.89.

Rule 5.89

Rule 5.89 – discharge of Hazardous waste into or onto land ... and is not categorised as prohibited is a discretionary activity.

The applicant has considered Rule 5.89 and considers that this rule is triggered in relation to the section 15 discharge permits sought [HPRM C16C/84642].

Summary

The following activity status' applies:

- If rule 5.89 applies it is a discharge permit to discharge hazardous waste - **discretionary**

Whether rule 5.89 applies depends on how they are interpreted I consider that a reading of the S32 and S42A, shows that Rule 5.89 is intended to control municipal waste.

Previously the most restrictive rule status was discretionary. There is no change to the activity status if rule 5.89 applies. Therefore, I consider overall the consent status would remain **discretionary**.

Summary

The following activity status' applies:

- discharge permit to discharge construction phase stormwater and to discharge a hazardous substance - **discretionary**
- discharge permit to discharge operational phase stormwater and land drainage water - **discretionary**
- land use consent to undertake earthworks and vegetation clearance in an erosion-prone area - **restricted discretionary**.

It is typical to bundle the consents and apply the most restrictive status. Therefore, I consider overall the consent status is discretionary.

Other consents

Proposed Canterbury Air Plan (PCARP)/ Natural Resources Regional Plan (NRRP) – Chapter 3 Air Quality

- Asbestos is classified as a hazardous pollutant under Schedule 4 Contaminants Part 4 – Table 8.4.1 Hazardous Air Pollutants of the PCARP. The applicant has stated that the asbestos contaminated material will be double bagged and managed in accordance with Contamination Management Plan (CMP) which includes measures to avoid the generation of dust via 'rigorous controls'.
- I agree with the applicant that consent to discharge contaminants is not required as there is no discharge to air – material arriving at the site is bagged and trucks will be covered therefore there is unlikely to be a discharge to air.
- Therefore, I agree with the applicant's assessment that the activity is **permitted** under rule 7.30 of the Proposed Canterbury Air Plan (PCARP). The area of disturbed land is less than 4ha, and likely to comply with Rule ALQ38 of the NRRP.
- While consent is needed to deposit cleanfill under the PCARP, I note that the definition of cleanfill excludes asbestos; therefore I consider rule 7.55 of the pCARP and rule does not apply.
- With regard to rule 7.59 of the PCARP which is the controls the discharge of contaminants into air from an industrial or trade premise. The closest property dwelling is 460 metres west. Given the separation to distance to the closest receptor and the mitigation proposed I consider there is unlikely to be any discharge to air beyond the property boundary, therefore consent is not required. I consider the same principal applies to rule AQL57 of the NRRP.
- My assessment on whether a resource consent is needed to discharge a contaminant into air has been confirmed by Mr Myles McCauley, Principal Consent Planner, Environment Canterbury, who states under s15(1)(c) of the RMA a discharge from a trade or industrial activity requires consent unless specifically permitted. In this instance there is not likely to be a discharge as the ACM will be double bagged so there is no discharge to air from the activity – therefore section does not apply [C16C/107589].

Rule 5.137 – installation, alteration, extension or removal of... culverts. The applicant states a proposed permanent culvert will comply with all the conditions of Rule 5.137 and is therefore **permitted**.

Rule 5.168 relates to the use of land for earthworks outside the bed of a river

- The applicant states the proposal will comply with all the conditions of Rule 5.168 and is therefore **permitted**.

Rule 5.181

Hazardous Substances

5.181 The use of land for the storage, other than in a portable container, and use of a hazardous substance listed in Part A of Schedule 4 is a permitted activity, provided the following conditions are met:

- 1. The substance is approved under the Hazardous Substances and New Organisms Act 1996 and the storage and use of the substance is in accordance with all conditions of the approval; and*

5.182 The use of land for the storage, other than in a portable container, and use of a hazardous substance listed in Part A of Schedule 4 that does not meet one or more of the conditions in Rule 5.181 is a discretionary activity.

I have discussed the relevance of rule 5.181 with Sam Leonard, Resource Management Officer Implementation (II), Environment Canterbury. We concluded that rule 5.181 does not apply to the proposal as these rules refer to storage of hazardous substances. The proposal is not storage which implies something will be stored and then used.

Rules 5.179, 5.181, 5.182 Hazardous Substances

- I agree that rule 5.179 does not apply as the storage is not in a portable container as defined by the plan.
- The applicant does not consider rule 5.181 applies as the proposal does not involve storage of a hazardous substance rather the 'deposition' of asbestos contaminated material in plastic bags.
- I agree that plastic bags are not portable containers however I consider the activity can be deemed storage of a hazardous substance. Although there is storage of a hazardous substance. The activity controlled under rule 5.181 is the use of land to store a hazardous substance and the use of a hazardous substance. While there is the storage there is no use.

Rule 5.187 - contaminated land states:

The discharge of contaminants onto or into land from a contaminated site in circumstances where those contaminants may enter water is a permitted activity, provided the following conditions are met...

The applicant considers rule 5.187 does not apply as the discharge will not enter an aquifer. The rule does not qualify the type of water and therefore I consider this rule

may be relevant. There is not definition of contaminated site the LWRP. As a conservative approach I consider the site can be described as contaminated land.

Asbestos is not a contaminant in water or land and therefore there will be no discharge of a contaminant into water. Therefore the rule does not apply.

The activity is therefore considered as a:

Permitted Controlled Restricted Discretionary **Discretionary** Non-complying
requiring a resource consent under sections 9 and 15 of the RMA.

AFFECTED PARTIES AND WRITTEN APPROVALS

Are there any potentially affected parties? ☐ Yes ☒ No

Have any written approvals been provided? ☐ Yes ☒ No

Comments/details:

ECAN'S CONSULTATION

The following parties were informed about the consent application:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Christchurch City Council | <input checked="" type="checkbox"/> Department of Conservation |
| <input type="checkbox"/> District Council | <input checked="" type="checkbox"/> Fish and Game |
| <input type="checkbox"/> Rāpaki and Tuahururu Rūnanga,
MKT | <input checked="" type="checkbox"/> CDHB, Halswell Drainage Committee,
Flood Bylaw |

Any responses received are discussed in the s42A report.

Silent File: ☐ Yes ☒ No

If yes, detail:

POLICIES AND OBJECTIVES

The following policies and objectives are relevant to this proposal, and were not considered to be compromised by the activity:

CANTERBURY REGIONAL POLICY STATEMENT

Chapter 5: Land use and infrastructure

- ☒ Objective 5.2.1 – Location design and function of development
- ☒ Policy 5.3.12 – Rural production

I consider the development of the site will enable rural activities to continue. Once the containment cell is completed the land can be returned to pasture and used for general rural uses.

The containment cell is not likely to lead to further intensification and is at site where there is an existing albeit un-authorised containment cell.

The potential for primary production is not limited by the containment cell.

Chapter 6: Recovery and Rebuilding of Greater Christchurch

- ☐ Objective 6.2.1 - Recovery framework
- ☐ Objective 6.2.2 - Urban form and settlement pattern
- ☐ Objective 6.2.3 - Sustainability
- ☐ Policy 6.3.3 – Development in accordance with outline development plans
- ☒ Policy 6.3.9 – Rural residential development

Chapter 7: Fresh Water

- ☒ Objective 7.2.1 - Sustainable management of fresh water
- ☐ Objective 7.2.4 - Integrated management of freshwater resources
- ☐ Policy 7.3.1 - Natural character of freshwater
- ☐ Policy 7.3.2 - Natural character of braided rivers and lakes
- ☒ Policy 7.3.5 – Water quantity and land uses
- ☒ Policy 7.3.6 - Freshwater quality
- ☒ Policy 7.3.7 - Water quality and land uses
- ☐ Policy 8.3.8 – Discharge of contaminants to coastal water that is in a natural state.

I consider the applicant has proposed best practice mitigation during construction. There is unlikely to be a discharge off the site during construction and post construction. Therefore I consider the proposal is consistent with Chapter 7.

Chapter 15: Soils

- ☒ Objective 15.2.1 - Maintenance of soil quality
- ☒ Objective 15.2.2 – prevention of soil erosion
- ☒ Policy 15.3.2 – Avoid and remedy significant induced soil erosion

Given the construction of the containment cell asbestos is unlikely to be discharged into the native soils. The site will return to productive use once the cell is completed, therefore the productive capacity of soil is not affected.

The applicant has sought an unlimited duration on the land use consent. I consider the mitigation measures included on the land use consent will avoid the development of soil erosion.

Chapter 17: Contaminated Land

- ☒ Issue 17.1.1 adverse effects of contaminated land and its management
- ☒ Objective 17.2.1 – Protection from adverse effects of contaminated land
- ☐ Policy 17.3.2 – Development of, or discharge from contaminated land.
- ☐ Policy 17.3.3 – Contaminants may remain in the land.

In chapter 17 of the RPS it is the function of Regional Councils to investigate land for the purpose of identifying and monitoring contaminated land. While territorial authorities have the function to prevent or mitigate adverse effects on the environment that may arise from the use, subdivision or development of contaminated land.

The NES (Assessing and Managing Contaminants in Soil to Protect Human Health) 2011 – addressed the management of contaminated land from a health perspective. Provisions seeking the prevention of contaminated land are addressed by Chapter 15 - Soils and Chapter 18 – Hazardous substances.

There are no records of contaminants at the subject or source site that may adversely affect water quality.

Chapter 18: Hazardous substances

- ☒ Objective 18.2.1 – Avoid, remedy or mitigate adverse effects
- ☒ Objective 18.2.2 – New contamination of land (avoid)

Development of, or discharge from contaminated land.

- ☒ Policy 18.3.2 – Avoid, remedy or mitigate adverse effects
- ☒ Policy 18.3.1 – Integration and coordination
- ☒ Policy 18.3.1 – protection of sensitive areas and activities

Under Chapter 18 the CRC has the responsibility for matters including methods for the control of the use of land for preventing or mitigating adverse effects of the ...disposal of hazardous substances on the quality of air and water.

It has been established that there is unlikely to be a discharge to air from the disposal of the asbestos contaminated material therefore I consider it unlikely that there will be any contamination of air by the proposal.

I consider that the adverse effects from the proposed have been adequately mitigated and avoided.

The proposal does not avoid the contamination of land; however the land is already contaminated from the installation of the existing contaminant cell, an activity which was not authorised by the regional council. The proposal forecloses opportunities for future use and development of the land. However, the land is privately owned and the applicant has agreed to a covenant limiting future uses.

The subject site is not within a sensitive area identified by Policy 18.3.1.

The proposal is not likely to cause any adverse effect on the environment of the community and in particular on the quality of air or water in accordance with the regional council responsibilities.

The councils have worked together, with the CCC advising the Regional Council of their notification decision – which is non-notification. Given s91 of the RMA does not apply and timeframe constraints the opportunities for further integration is limited. The CCC expects to make their grant/ decline decision the week of 4th July 2016.

Land and Water Regional Plan (LWRP)⁴

Objectives

- ☐ Objective 3.1 - Recognise and enable Ngāi Tahu culture, traditions, customary uses and relationships with land and water.
- ☐ Objective 3.2 – Management of water applies ki uta ki tai, recognising the connectivity between surface water, groundwater, fresh water, land and the coast.
- ☒ Objective 3.6 - Intrinsic values of water
- ☐ Objective 3.8A - High quality fresh water is available to meet actual and reasonable foreseeable needs for community drinking water supplies.

⁴ The LWRP became effective from 18 January 2014, and was made partly operative on 1 September 2015. The parts of the Decisions version of the LWRP that became operative from 1 September 2015 are: all of Sections 1, 2, 3, 4; Section 5 (other than Rules 5.123 - 5.127; Rules 5.154 - 5.158); and all of Sections 6, 7, 8, 9, 10, 11, 12, 13 (appeal abandoned 07.09.2015), 14, 15 and 16.

Variations:

- The decision for Plan Change 1 (regarding the Te Waihora/Lake Ellesmere catchment) was notified on 9 May 2015. [Link to amendments [here](#)].
- The rules in proposed PC2 (regarding Section 13: Ashburton) have legal effect from 27 September 2014. [Link to PC2 [here](#)] – Nothing relevant to stormwater.
- The rules in proposed PC3 (regarding Section 15: Waitaki and South Coastal Canterbury) have legal effect from 24 April 2015. [Link to PC3 [here](#)] – Nothing relevant to stormwater.
- Proposed Plan Change 4, which seeks to amend sections 2, 3, 4, 5, 6, 7 and 16 of the LWRP and the Planning Maps, has legal effect from 12 September 2015. [Link to PC4 [here](#)].

☐ Objective 3.16 - Freshwater bodies and their catchments are maintained in a healthy state, including through hydrological and geomorphic processes such as flushing and opening hāpua.

☐ Objective 3.18 - Maintain wetlands that contribute to cultural/community values, biodiversity, water quality, mahinga kai, water cleansing & flood mitigation.

☒ Objective 3.23 - Soils are healthy and productive, and human induced erosion and contamination are minimised.

☒ Objective 3.24 - Activities operate at good environmental practice or better to optimise efficient resource use and protect freshwater resources.

I agree with the applicant that will have a less than minor effects and any contaminated material (asbestos) will be contained on site. The proposed activities are small in scale and will be adequately controlled through best practice measures outlined in the erosion and sediment control and dust management plans and the remediation action plan that have been prepared. The site will be re-vegetated as soon as practicable after the completion of the works.

Policies

☒ Policy 4.1 – Lakes, rivers, wetlands and aquifers will meet the fresh water outcomes set in the plan.

☒ Policy 4.2 – Management of fresh water will take into account outcomes, limits and cumulative effects.

There is not likely to be a discharge off the site therefore any additional effect beyond the subject site.

☒ Policy 4.12 – Direct discharges to surface water bodies. –There is no direct discharge.

☒ Policy 4.13 – Minimise effects of any discharges of contaminants into or onto land where it may enter water or to surface water bodies or groundwater.

☒ Policy 4.17 – Manage stormwater run-off volumes and peak flows so they don't cause or exacerbate risk of inundation, erosion or damage or risk human safety.

☒ Policy 4.18 – Discharges of sediment and other contaminants to surface water is avoided or minimised.

☒ Policy 4.19 – The discharge of contaminants to groundwater from earthworks and contaminated sites is avoided or minimised.

☒ Policy 4.20 - On erosion-prone land, any medium and large-scale earthworks, harvesting of forestry or other clearance of vegetation minimises the exposure of soil to erosion, controls sediment run-off and re-establishes vegetation cover.

☒ Policy 4.22 - Sedimentation of water bodies as a result of land clearance, earthworks and cultivation is avoided or minimised.

Given the proposed mitigation I consider that any discharge of sediment to surface water will be avoided. There is unlikely to be a discharge into ground water and spill mitigation has been proposed. The applicant has proposed to manage the earthworks in accordance with good engineering practice, minimise exposed surfaces, and re-establish vegetation as soon as possible.

In addition the applicant has proposed to avoid undertaking activities that may damage the capping on the completed containment cell.

☒ Policy 4.25 - ...activities involving the use, storage or discharge of a hazardous substance with will be undertaken using the best practicable option to (a) avoid the discharge of a hazardous substance onto or into land or water... (b) where there is a residual risk of discharge of a hazardous substance ...it is contained onsite;

☒ Policy 4.26 – any discharge of hazardous substances from contaminated land ... are managed to ensure that adverse effects beyond the boundary on people's health or safety, human or stock water supplies or on surface water are avoided;

☒ Policy 4.27 landfills or other ... waste disposal sites are designed to avoid contamination of groundwater or surface water through direct discharge of hazardous substances to water ...;

While in a literal sense the proposal does not avoid the discharge of ACM. The design of the containment cells has been undertaken by a CPeng Engineer, the works are authorised under the Worksafe regulations which includes supervising the deposition of the ACM material. Therefore I consider the applicant is using the best practicable option to avoid a discharge of ACM into land and water.

The design and management of the proposal will ensure there is not likely to be a discharge of the ACM beyond the containment cell. Therefore, adverse effects are likely to be contained within the site boundary. Given the nature of ACM which is inert contamination of groundwater or surface is unlikely.

Therefore, I consider that the proposal is not inconsistent with the policies of the LWRP.

Sub-regional Policies: Selwyn-Waihora

The following policies are to be added to Chapter 9 of the proposed Land and Water

Regional plan:

☒ Policy 11.4.2 (Enable Ngai Tahu to exercise kaitiakitanga in freshwater management)

☒ Policy 11.4.4 (Manage the Cultural Landscape/Values Management Area as an integrated system)

The applicant has recognised potential adverse effects and any effects are likely to be retained onsite subject to the application of good practice.

☒ Policy 11.4.4A (Recognise the value of Te Waihora/Lake Ellesmere catchment)

The applicant has acknowledged Te Waihora catchment; I agree the catchment will not be affected by the proposal, given the scale. Furthermore there is unlikely to be a discharge of stormwater off the site.

Managing Land Use to Improve Water Quality

☒ Policy 11.4.12 (Reduce discharges of nitrogen, phosphorous, sediment and microbial contaminants)

There is unlikely to be a discharge of sediment off the site provided the applicant undertakes the proposed mitigation during construction and maintains the containment cell for the duration of the land use consent.

Chapter 11 Selwyn Te Waihora Subregion

☒ Policy 11.4.1 - Manage water abstraction and discharges of contaminants within the entire Selwyn Te Waihora sub-region to avoid, remedy or mitigate adverse cumulative effects on water quality.

There is unlikely to be a discharge of contaminant off the site provided the applicant carries out the mitigation as proposed.

☒ Policy 11.4.34 - To prevent any increase in inundation of land in the Halswell River/Huritini Catchment, the discharge to surface water of any stormwater or drainage water

that is not within an area covered by a consented stormwater management plan will require specific evaluation.

I agree with the applicant that the proposed is not likely to concentrate flows or involve the placement of impermeable or other surfaces which will affect the run-off coefficients to those currently existing. Therefore, there is unlikely to be any adverse effect on the wider Halswell Catchment.

LWRP Plan Change 4

☒ Policies 4.13; 4.14B - Discharge of contaminants to land or to water

☒ Policies 4.18; 4.19 – Earthworks, land excavation and deposition of material into land over aquifers

The applicant has applied first principals and is consistent with policy 4.13:

- the construction phase bunding and clean water diversion will avoid the production of sediment laden water;
- secondly any collected stormwater during construction will be directed into the excavation.
- provided the cell site remains vegetated there are unlikely to be any contaminants (sediment) discharging off the site.

With regard to 4.14B – I agree with the applicant that the proposal is not likely to adversely affect any statutory acknowledgement area, nohonga site or cultural landscape. I consider the proposal is consistent with the objectives and policies within the IMP.

Regards 4.18 / 4.19 –The applicant has proposed to manage the earthworks in accordance with good engineering practice, minimise exposed surfaces, and re-establish vegetation as soon as possible.

WATER CONSERVATION ORDERS – Does not apply

☐ The activity is located within an area where the Water Conservation Order applies.

Comment:

NATIONAL ENVIRONMENTAL STANDARDS and NATIONAL POLICY STATEMENTS

The following NES and NPS have been considered as relevant to this application for the reasons described below:

☐ NPS (Electricity Transmission) 2008 -

☒ NPS (Freshwater Management) 2011 – There is no adverse effect on water quantity or water quality – Policy A4 and Policy B7.

☐ NPS (Renewable Electricity Generation) 2011 –

☐ NES (Sources of Human Drinking Water) 2007 –

☐ Proposed NES (Ecological flows and water levels) 2008 –

☐ NES (Assessing and Managing Contaminants in Soil to Protect Human Health) 2011 –

RESOURCE MANAGEMENT ACT

Section 5 Purpose

“(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

*(2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

☒ I consider the application meets the purpose of the RMA.

Section 6 (Matters of National Importance)

- recognise and provide for the following:

- ☐ (a) the preservation of the natural character of the coastal environment, wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.
- ☐ (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.
- ☐ (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- ☐ (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.
- ☐ (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.
- ☐ (f) the protection of historic heritage from inappropriate subdivision, use, and development.
- ☐ (g) the protection of recognised customary activities.

Section 7 (Other Matters)

- have particular regard to the following:

- ☐ (a) kaitiakitanga.
- ☐ (aa) the ethic of stewardship.
- ☐ (b) the efficient use and development of natural and physical resources.
- ☐ (ba) the efficiency of the end use of energy.
- ☐ (c) the maintenance and enhancement of amenity values.
- ☐ (d) intrinsic values of ecosystems.
- ☒ (f) maintenance and enhancement of the quality of the environment.
- ☐ (g) any finite characteristics of natural and physical resources.
- ☐ (h) the protection of the habitat of trout and salmon.
- ☐ (i) the effects of climate change.
- ☐ (j) the benefits to be derived from the use and development of renewable energy.

Section 8 (Treaty of Waitangi)

☒ takes into account the principles of the Treaty of Waitangi

APPENDIX 3: TABLE 3 ASBESTOS CONCENTRATIONS AND STOCKPILES AT SOURCE SITE

Table 3. Quantitative asbestos results from various stockpiles, finished levels and the stormwater reserve. Bold/red numbers denote concentrations above Western Australian asbestos guidelines values. All values in % w/w calculated from raw data in appended laboratory reports.

	ACM	Asbestos Fines (AF)	Fibrous Asbestos (FA)	Trace Asbestos
	>7mm	2-7mm	<2mm	(Yes/No)
WA Guideline (residential)	0.01% w/w	0.001% w/w	0.001% w/w	0.001% w/w
WA Guideline (stormwater reserve)	0.02% w/w	0.001% w/w	0.001% w/w	0.001% w/w
Stockpile Lots 12-14 N-face/lower ramp	0.218	0.05	0.01599	Not detected
Stockpile Lots 12-14 N-face	0.27	0.06	<0.001	Not detected
Stockpile Lots 12-14 upper ramp/top	Not detected	0.0382	0.00288	Not detected
Stockpile Lots 12-14 S-face	Not detected	Not detected	Not detected	Not detected
Lots 15-17 subsoil (cross-contaminated?)	Not detected	0.0426	<0.001	Not detected
Stormwater Reserve	0.32	0.02	<0.001	Not detected
Topsoil finished level Lots 9-11, 18-21	0.77	0.05	0.007	Not detected
Stockpile Lot 2	Not detected	Not detected	Not detected	Not detected
Stockpile Lot 0	Not detected	0.007	Not detected	Not detected
Stockpile Lot 22	0.238	0.070	<0.001	Not detected