

Under the Resource Management Act 1991

IN THE MATTER OF applications by
Cromwell Certified Concrete Limited to the
Otago Regional Council and Central Otago
District Council for discharge permits, a
water permit and a land use consent
relating to expansion of an existing quarry at
1248 Luggate-Cromwell Road

Fourth Minute of Hearing Commissioner John Iseli

The Hearing Process to Date

1. I have been appointed by the Otago Regional Council and the Central Otago District Council as commissioner under Section 34A of the Act to hear and decide the applications lodged by Cromwell Certified Concrete Limited (the Applicant) in relation to proposed expansion of the Amisfield Quarry at 1248 Luggate-Cromwell Road.
2. The hearing of the applications was held in Cromwell on 15-17th December 2021.
3. After completion of proceedings on 17th December, the hearing was adjourned to allow time for the applicant to prepare a final set of proposed conditions and for the parties to comment on those conditions, prior to provision of the applicant's written reply.
4. The requested information from the parties has now been received. I received the applicant's reply and proposed conditions on 1st March 2022.
5. I have considered all the additional information provided in depth and determine that there are a limited number of matters outstanding that require clarification before I issue a decision. Those matters and directions for resolution are detailed as follows.

Directions Regarding Outstanding Matters

Cleanfill Deposition and Site Rehabilitation

6. The application is somewhat unclear regarding the intention to deposit cleanfill at the site, particularly in relation to deposition into exposed groundwater. The Quarry Rehabilitation Plan February 2021 does not address this issue and shows two lakes remaining after rehabilitation. However, at the hearing Mr Allison stated that a lake/pond would only be retained in the expansion area.
7. The applicant is requested to update the Quarry Rehabilitation Plan and to confirm intentions in relation to any deposition of cleanfill or other fill material at the site. It is noted that the ORC Waste Regional Plan, Rule 7.6.3 only permits cleanfill deposition where sediments do not enter into any water body. Clarification of how the proposal complies with the various district and regional plan rules relating to cleanfill deposition is requested.
8. It is anticipated that any cleanfill deposition into exposed groundwater as part of rehabilitation may require additional consent to be sought. However, if it is proposed that cleanfill deposition can occur in a manner that complies with the relevant permitted activity rules, it is requested that limits or conditions be proposed to ensure such compliance and impose appropriate controls to prevent groundwater contamination. For example, such conditions may include inspection and recording of all cleanfill loads received at the site, site security, and measures to prevent any deposition into exposed groundwater or in areas subject to groundwater inundation. It is expected that these conditions would be more detailed than those currently proposed for RM20.360.04 (bore consent).
9. It is recognised that there may be a potential technical issue associated with imposing conditions on an activity (cleanfill deposition) whereby compliance with conditions might result in permitted activity status. However, without such controls there would be a risk of deposition occurring in a manner that could cause contamination and require consent. It is expected that appropriate conditions proposed by the applicant could avoid the need for a further consent application.

Mobile Refuelling

10. The application contains limited information regarding the potential effects of hydrocarbon spills from mobile refuelling and any specific mitigation measures to prevent adverse effects on groundwater. It is anticipated that, if consent is granted, conditions would require all vehicle refuelling to occur within a designated bunded area as per Mr Whyte's recommendation. If the applicant seeks an alternative approach, further information should be provided accordingly.

Sampling of Monitoring Bores and Associated Conditions

11. Proposed condition 13 of RM20.360.02 (discharge to land) requires comparison of groundwater sampling results to NZDWS guideline values (in addition to maximum acceptable values), with associated actions. However, the evidence of Dr Freeman indicates that guideline values such as turbidity are already exceeded in neighbouring bores for various possible reasons. This issue would appear to require resolution to achieve an appropriate condition, if consent is granted. It is also noted that a time frame has not been specified for provision of an alternative drinking water supply under proposed condition 13(d).
12. Accordingly, it is requested that a revised condition 13 of RM20.360.02 be proposed.

Conveyor

13. It is anticipated that if any consent is granted to quarry the expansion block, conditions would mandate the exclusive use of conveyor(s) within that area and specifically prevent the use of any haul trucks within the expansion block. The applicant is requested to confirm that this understanding is consistent with the revised proposal.

Community Liaison Group (CLG)

14. A CLG condition has not been proposed. It is anticipated that, given the sensitivity of the receiving environment, a CLG condition would be imposed if consent is granted. The applicant is invited to propose a suitable condition, requiring regular CLG meetings that include the consent holder, neighbouring submitters and the councils.

Bond

15. The proposed \$200,000 bond appears to be based on only one estimate from the applicant and does not include costs of remediation associated with contamination (for example due to sediments, fuel spills or accidental deposition of contaminated fill) or costs of supplying alternative drinking water supplies. It is requested that a revised bond calculation be provided, based on appropriate calculation methodology consistent with current best practice and taking into account the above matters.

Timing of Bund Construction

16. There appears to be some inconsistency between proposed condition 15 of RC200343 (no construction 1 September to 1 Jan in relation to bird disturbance) and condition 19 of the Discharge to Air consent (land stripping and rehabilitation to occur 1 May to 1 Sep). It is anticipated that any consent granted would require bund construction to only occur during the winter period, for dust control purposes. The applicant is requested to confirm if this understanding aligns with the proposal and amend proposed conditions accordingly.

Confirmation Process for the Siting of Continuous PM Monitors

17. If consent is granted for the expansion area, it is considered that a confirmation process for the location of the PM monitors would be appropriate. This could be done via annual updates of the DMP to be submitted for certification to the council. The applicant is invited to provide an amended proposed condition to that effect.

Conditions and Plans

18. It is considered appropriate that any consent granted would refer to specific plans submitted, as per condition 1 of RC2003473 recommended by Mr Whyte. The applicant is invited to update any plans as necessary to confirm consistency with the current proposal.
19. For discussion purposes concerning conditions going forward, it is intended to use the set of conditions recommended by Mr Whyte (including tracked changes) for the deepening and expansion proposal as the base document. To avoid confusion, it is requested that the applicant submit final proposed conditions (including updates based on response to the outstanding matters above) showing tracked changes from

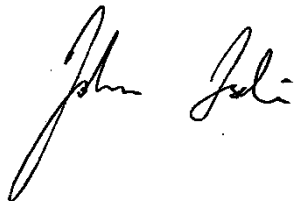
Mr Whyte's latest condition set. Comments explaining reasons for any differences between the two condition sets should be included, as Mr Curran has done for the conditions provided in reply.

Hearing Process Going Forward

20. The hearing remains adjourned, awaiting response to the specific matters detailed above.
21. The applicant is requested to provide a date when the above information will be provided in writing and also identify a suitable date for a brief reconvened virtual hearing to address these matters and any questions I may have on updated conditions. Depending on the specifics of the applicant's response to the outstanding matters, it is anticipated that Mr Curran and potentially Dr Freeman will be required to attend. The applicant should identify any other witnesses it intends to call.
22. Once the applicant has provided this information in writing, submitters and the council officers will then have 5 working days to provide any comments (strictly limited to the outstanding matters detailed above) in writing.
23. Ms Bagnall will notify parties of the date and time of the reconvened online hearing. It is expected that Mr Whyte would attend for the Councils, to respond to any questions I have regarding planning matters and conditions. Submitters and their counsel should confirm with Ms Bagnall if they wish to attend the reconvened online hearing.
24. The purpose of the reconvened hearing will be to allow me to question the parties specifically regarding the additional information and conditions provided in writing to address the above matters. There will be no opportunity for parties to revisit other matters that have already been traversed at the hearing.
25. Ms Hill, acting for the submitters, has today provided a memorandum noting matters of clarification on the applicant's reply. That information falls outside the appropriate hearing process I set down in my third minute. However, in the interests of fair process, I will allow the applicant to respond to any of the matters raised if necessary.

Correspondence

26. The parties are instructed to provide the requested information to the hearing administrator, Karen Bagnall at the Otago Regional Council who can be contacted by phone (027 218 4164) or email (karen.bagnall@orc.govt.nz).
27. Ms Bagnall is requested to circulate to the parties all information received in accordance with these directions.
28. Ms Bagnall will inform the parties of timing for written comments and the online hearing once the applicant has confirmed timing for provision of the requested information on outstanding matters.

A handwritten signature in black ink, appearing to read 'John Iseli'. The signature is fluid and cursive, with the first name 'John' written in a larger, more prominent script than the last name 'Iseli'.

John G Iseli
Independent Commissioner

Dated 9th March 2022