

IN THE MATTER of the Resource
Management Act
1991

AND

IN THE MATTER of an application by
Southern
Screenworks
Limited

DECISION OF THE COMMISSIONER

INTRODUCTION

State Highway 73 generally takes a westerly course from Christchurch until it meets the Midland Railway line at Aylesbury and it then follows a north westerly direction parallel to the railway en route to Darfield and beyond. At Aylesbury, Station Road joins the State Highway from the north and there is a railway crossing to link with Bealey Road, Aylesbury Road and Railway Road south west of the railway. Bealey Road takes the traffic west to Hororata and beyond. Immediately west of the crossing between the road and railway line is a disused gravel quarry which is still designated as a 2.023ha gravel reserve in the Council's District Plan, although the Council has signalled that it wishes to dispose of the site. This land, together with a much larger main parcel (9.635ha) immediately to its west is the subject of the application by Southern Screenworks Limited to develop a quarry together with ancillary buildings (a workshop and site office). To the north, between the 9.635ha parcel and the railway line is a small parcel of 2.023ha. This is also included in the application. The applicant has included this land and the adjoining gravel reserve in the application because it wishes to purchase them.

The purpose of the operation is the extraction of gravel and its processing (crushing and stockpiling) on site for its use for building, construction and road aggregate. The plans with the application show that this activity is to be carried out on the 9.635 ha parcel which is projected to contain a total resource of 800,000m³. An annual rate of

extraction of 30,000m³ (600m³ per day) is anticipated. The company has received consents from ECan to discharge contaminants to air (dust) from gravel extraction activities and to extract up to 30,000 m³ of gravel per year.

The intention is to disturb areas of approximately 8,000-10,000m² or a maximum of 11% of the site at a time as opposed to stripping the site and establishing a blanket quarry. The disturbed area will be quarried and rehabilitated before undertaking the next stage of quarrying. The intention is to excavate down to 8m depth as soon as possible close to the south eastern boundary and to work in a restricted area until this mode of operation is established. Although heavy machinery will be involved no explosives will be used. Gravel crushing is to occur 3-4 times per annum over a period of 3 weeks each time. Stockpiled and/or pit face aggregate will be loaded onto outbound vehicles by front end loader. Activity will depend upon demand and it is anticipated that there will be periods when the quarry is inactive.

The land is in the Rural (Outer Plains) zone in the Selwyn District Plan. The activity falls (generally) within the definition of a Rural Based Industrial Activity. Such an activity is permitted if the maximum area covered by buildings, loading, storage and waste is no more than 100m² and no more than two full time equivalent persons are employed. While only one person will be engaged full time on site, others will frequent intermittently and 2-3 others will be on site for quarrying activities. The area to be covered exceeds 100m². This means that the proposed operation qualifies as a discretionary activity.

NOTIFICATION AND SUBMISSIONS

Consideration was given as to whether the application should be publicly notified, limited notified or non-notified. It was decided that there were potentially affected persons in the vicinity and that limited notification in terms of section 95B of the Act was appropriate. Since quarrying activities are not uncommon in rural areas and there were no special circumstances to warrant full public notification, it was decided that public notification in accord with Section 95A was not appropriate.

In accordance with section 95B of the Act, 22 parties were notified on 25 May 2011 with submissions closing on 24 June 2011. Submissions in opposition were received from eight parties. Two submissions were received from parties not included in the limited notification. Letters were also received from the Canterbury Aero Club and Christchurch International Airport Ltd. While these parties are ineligible, the matters raised in their material are well covered in terms of content by the eligible submissions.

THE HEARING

The hearing of submissions was conducted on Thursday, 28 July 2011 in the Executive Meeting Room, Selwyn Headquarters in Rolleston. At the hearing I was assisted by Mr Sam Flewellen, the planning consultant responsible for the section 42A report. With him were Andrew Craig (Landscape Architect) and Dr Stephen Chiles (Acoustician) and Mr Geoff Birss, the Council's roading engineer, all of which had contributed to that report.

The applicant was represented by:

Ms Jen Crawford (Counsel)
Mr Brett Swain (co-owner of the applicant company)
Mr Lance Roozenburg (Landscape Architect)
Dr Jeremy Trevathan (Acoustic Engineer)
Mr Ryan Rolston (Traffic Engineer)
Mr Grant Finn (Planning Consultant)

The following submitters were represented:

PH and CR Whitehead by Mr Harle Whitehead and supported by Judge J A Farish.
M and S Jones by Mark Jones.
E and S Mildenhall by Stephen Mildenhall
PG and KM Bethell by Graham Bethell

JO and PA Crawford by John Crawford

GR Edwards and J Dixon by Grant Edwards

AM and JK Holt by Andrew Holt.

The section 42A report having been pre-circulated was taken as read and the hearing began with submissions from **Ms Crawford** on behalf of the applicant. She explained that it was the applicant's case that the proposed activity would be appropriately located and that any actual or potential effects on the environment arising over the life of the quarry could be readily managed through the imposition of appropriate conditions and adherence to a management plan. The proposal is expected to provide a reliable and accessible source of aggregate. Ms Crawford took me through the provisions of sections 104, 104A and Part 2 of the Act.

Mr Brett Swain outlined the background to the application and his company's operations. Its core business is crushing for road aggregate but the activity at Bealey Road will be confined primarily to the quarrying and stockpiling of aggregate. A crusher will be operating on the site three to four times each year for a period of three weeks each time. The company is a key supplier of crushed and screened product for a number of companies and local authorities. Currently its headquarters is at Yaldhurst but it has outgrown this site and is seeking to develop alternative premises. The Bealey Road site is suitable for a number of reasons:

- its accessibility to State Highway 73 and the local communities of Darfield, Rolleston and West Melton;
- it is the site of a known resource adjoining a designated gravel reserve;
- it is physically separated and screened from nearby rural residential activities;

Mr Swain described the proposed operation thus:

- extraction of material with heavy machinery;
- crushing of aggregate 3-4 times a year during February/March, June/July and October/November on no more than 3 weeks per occasion between the hours of 7.30 am and 6.00pm Monday to Friday except for statutory holidays;
- loading of aggregate onto trucks/trailers;

- typically 20-30 truck and trailer loads would leave the site daily with truck movements restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00 am to 1.00pm on Saturdays, excluding statutory holidays. On the busiest day heavy vehicle movements to and from the site were not expected to exceed 120;
- a maximum volume of approximately 10,000m³ to be stored in stockpiles within the excavation pit; and
- access to the site to be achieved via the Bealey Road frontage.

Mr Swain described the scale and intensity of the operation as comparatively low key. Water would be required for workshop ablutions, dust suppression and landscape irrigation. A reticulated supply was available and water harvesting from roof catchments was feasible.

Mr Roozenburg had undertaken a landscape assessment of the site and the project on behalf of the applicant. In his evidence he addressed the landscape effects of the proposal, commented on the section 42A report and the concerns expressed by the submitters. He outlined the landscaping components of the project involving:

- the development of evergreen boundary hedging;
- the establishment of a landscaped lifestyle character entrance including a post and rail fence, riverstone landscape treatment and ecological planting along the Bealey Road frontage and the south-eastern boundary;
- the establishment of a 3m high hydro seeded bund around the current area of works which will then be utilised for part of the remediation work behind the quarry and stockpiling area as quarrying work progresses through the site; and
- the establishment of trees for the purpose of screening the buildings on the site.

Mr Roozenburg described the proposed workshop which is to be finished in colours with a reflectance value of less than 36%. He outlined the process of quarrying: the maximum area the operation would cover is 30.5% or 30,000m². The site would be progressively rehabilitated with access being retained through the rehabilitated areas. Final rehabilitation would be to a gentle rolling form vegetated in pasture.

Existing vegetation which partially screened the site could not be relied upon in the long term, but was expected to remain long enough for on-site planting to provide adequate screenings. An evergreen boundary hedge of Leyland cypress is to be planted prior to work commencing. At the time of planting these trees are to be 0.75-1m and with irrigation and at four years were expected to reach and be maintained at a height of 4m. A 3m high gravel/topsoil bund is to be established around the immediate area of works.

Dr Trevathan had provided acoustic engineering advice to the applicant. He explained that the District Plan contained an exception for noise from any motor vehicle or mobile machinery and this would apply to the quarry operation in many respects. Nonetheless the noise rules did provide an indication of what levels might be regarded as reasonable. The plan considered the Rural zone to be a business area where people could reasonably expect a higher level of noise and noise at hours which differ from that for Living Zones. Background noise levels in the vicinity of those houses which would be most exposed to quarry noise were 45 to 55 db (La90) and dominated by traffic noise. He considered that provided crushing noise is restricted to daytime and heavy vehicle movements do not occur before 7.00am, noise emissions complying with district plan standards would not have a material adverse effect.

Dr Trevathan had modelled expected noise propagation from the site assuming a worst case situation of a core crusher, metal composite screens, material dropping off conveyors onto stockpiles, a tracked excavator, and a loader and for trucks in constant use. He noted that even with the crusher located at ground level with no mitigation (such as the proposed building) due to the separation distances involved noise levels will not exceed 50 dB LA10 at the closest dwelling (1062 Railway Road). Based on a review of the District Plan, New Zealand Standard 6802:2008 and World Health Organisation guidance, together with the existing ambient noise levels Dr Trevathan concluded that noise emissions from the proposed quarry would comply with the District Plan standards and would be reasonable. The modelling he had undertaken indicated the District Plan standards would easily be complied with at the notional boundary of all neighbouring rural-residential dwellings. He recommended a number of mitigation measures which would further minimise noise:

- location of the crushing plant 8m below natural ground level within the excavated pit as soon as practicable;
- surrounding the main quarry activity on three sides with 3m high bunds;
- imposing a speed limit of 15km/hr within the quarry site;
- crushing and screening to take place on site no more than 4 times per annum on a maximum duration of 3 weeks per occasion;
- during those periods, crushing to occur only between 8.00am and 6.00 pm Monday to Friday (excluding statutory holidays);
- heavy vehicle movements on site to be restricted to between 7.00am and 6.00pm, Monday to Friday and 8.00am to 1.00pm on Saturdays; and
- no activity on site to occur during Sundays or on public holidays.

Mr Rolston had evaluated the most recent relevant traffic volume data, the road safety records from NZTA and the issues raised in submissions. He understood that on some days there will be little or no quarrying activity. The site would generate a small number of visitors to the site each day – up to 20 light vehicle movements. A small amount of machinery would be stored overnight and transported to and from the site. This, he considered would be likely to generate 4 heavy vehicle movements per day. For the quarrying operations, between 20 and 60 vehicles per day would occur for about one week in four. For large projects, once every 3 or 4 months up to 120 vehicles per day could be involved. About a third of the quarry material would be destined for the Darfield area, one third for the Hororata vicinity and the other third for the Rolleston area. He recognised that unsealed roads such as Railway Road should be avoided wherever practical. Mr Rolston concluded that the proposed quarry operation would have a negligible effect on the efficiency of the surrounding network based on the assessed peak volumes of traffic generated. He could not identify any safety concerns that could be aggravated by the addition of site related traffic. Any potential transportation effects requiring mitigation would be addressed adequately through the conditions of consent recommended by Mr Flewellen.

Mr Finn had prepared the Assessment of Environmental Effects and the Regional consent applications. He opined that the actual or potential effects on the environment of the proposal could be adequately avoided, remedied or mitigated. He summarised the mitigation measures as including:

- the formation of 3.0m high earth bunds along the Bealey Road boundary and other boundaries so as to effectively screen the operation;
- watering of stockpile areas and internal unsealed haul roads and working areas;
- upgrading the existing access to Bealey Road;
- sealing of the main internal haul road; and
- on-site vehicle speed restrictions.

Mr Finn traversed the relevant statutory tests concurring with Mr Flewellen's assessment of the proposal as a Discretionary Activity in terms of Rules 1.6.6, 9.4.2 and 9.13.2 of the District Plan. He referred to the relevant objectives and policies in the Plan which had been addressed by Mr Flewellen agreeing with his assessments. He then addressed matters raised in submission in terms of generation of dust, noise and vibration, traffic, aviation hazard, visual impact and water supply. Several submitters had raised issues relating to conflict of interest, the notification procedure and lack of information in the circulated material these are not matters than come within my purview, however.

Mr Finn concluded that the site had been appropriately chosen for a number of reasons:

- proximity to major transport routes;
- proximity to markets;
- the site was within "Target Area A" in the URS Regional Gravel Resource Management Study, generally the most suitable area;
- the existence of a known resource adjoining an existing designated gravel reserve where quarrying could be resumed as of right;
- physical separation from sensitive activities;
- gravel extraction is an activity anticipated in the Rural Outer Plains Zone; and
- the proposal represented an efficient use and development of natural and physical resources.

Mr Finn did not believe the proposal had any conflict with Part 2 of the Act. Subject to minor amendments outlined by Ms Crawford, he concurred with the conditions recommended by Mr Flewellen.

THE SUBMITTERS

Mr Harle Whitehead and his wife Coral live at 62 Station Road somewhat under 700m from the application site. They had moved to their 25 acre site 8 years ago in anticipation of living in the country in peace and quiet. They now feel this lifestyle is threatened by noise, dust and heavy traffic. He reminded me that the prevailing winds would carry noise and dust toward their house. He did not think the noise level would be comparable to normal agricultural noises. He cited the example of the Wheatsheaf quarry which was causing problems for nearby residences. Mr Whitehead is concerned that trucks would use the gravelled Station Road as a shortcut to the Old West Coast Road and there were now nine family homes along this road. The road generates high levels of dust and noise at times of high use. He again cited the Wheatsheaf quarry which generates so much dust in north-west winds that the operators have to clean people's house windows and people cannot hang out their washing. Mr Whitehead felt that the purpose of the scenic viewpoint at the site of the Old Aylesbury railway station would be compromised.

Mr Whitehead read a letter of support from Ann Seaton a substantial landowner of eight 25 acre blocks along the West Coast Road opposite the quarry site.

Mr Whitehead was also concerned about the possibility that the quarry might attract birdlife which would become a danger for aircraft. Aylesbury is a reporting point for aircraft using Christchurch International Airport (shortly to be drawn into the Common Frequency Zone for General Aviation) and three private aircraft are stationed at Aylesbury. There is a height restriction for general aviation aircraft in relation to Christchurch Airport which keeps many small aircraft at a low altitude in the Aylesbury vicinity. He produced letters expressing concern from Mr Chris English, the Chief Executive Officer of the Canterbury Aero Club, Mr Paul Drake, its president and Mr Ken McAnerngney, the Planning Manager for Christchurch Airport.

Judge Jane Farish lives at 968 Railway Road. She produced evidence in support of Mr and Mrs Whitehead. She expressed concern about roading (especially the use of the

unsealed Railway Road) which had received greater use with the recent industrial development at Rolleston. Dust from the road is a significant issue especially in high winds which are common. She described the area as very quiet with very little rural noise except for trains, the noise from which is transitory. She was concerned that the proposed mitigation measures would not be effective, particularly tree planting.

Ms Farish raised a number of issues with the section 42A report. For instance, she considered that the issue of potential bird strike had been under-estimated. She was concerned that at the end of quarrying the community would be left with a large hole in the ground. People had put a lot of effort and investment into their properties and if adverse effects were more than minor deteriorating property values would be the outcome.

Mr Mark Jones and his wife Sue live at 158 Bealey Road about 750 metres west of the application site. Some of the matters of concern to them are issues which I may not review such as the limited notification of the consultation process and the fact that not all the information was circulated to the parties. I will have more to say about that later. Although there were local gravel reserves including that next to the application site, Mr Jones' enquiries had led him to believe the resources had been worked out. There had been no quarrying in the district for at least ten years. Mr Jones noted that the Council had been advertising for interested parties to remove excess gravel from the Selwyn River. Could this be an alternative source? Mr Jones expressed concerns regarding vehicle movements, the safety of the extended intersection with State Highway 73 and the unsealed state of Railway and Station Roads. The prospect of continuous noise is of considerable concern to Mr and Mrs Jones and he was concerned that there was too much reliance upon supposedly high levels of ambient noise. The consent of the adjoining landowner held little weight because the dwelling on that property was some two kilometres away.

Mr Jones felt that the fact that the area is in a high wind zone, had not been taken into account in terms of the potential for dust to affect a wide area. While conditions could be imposed, Mr Jones was concerned that they would be difficult to monitor and enforce.

Mr Jones produced a letter of support from Tracy Black-Clark who lives at the corner of Bealey Road and Miles Road 1.5km from the application site. Appended to his evidence were letters from Robert Wynn Williams who lives 200m away from the Wheatsheaf quarry in Broadfield and Alan Marshall who lives approximately forty metres from it. Both of these residents were suffering adverse effects in terms of noise and dust.

Mr Stephen Mildenhall resides at 1062 Railway Road. He explained that his wife drives the local school bus. He expressed strong support for Mr and Mrs Jones and Mr and Mrs Whitehead.

Mr Graham Bethell and his wife Karyn live at 92 Station Road. He indicated that he admired progress, but it had to be seen in a different light when it was at someone else's expense. In this case he considered that it would be at significant expense to local residents. His concerns echoed those already expressed.

Grant Edwards and Joanna Dixon live at 1056 Railway Road. Their concerns echoed those of the previous submitters. They expressed concern at the potential increase in traffic generated which they felt would be significant and may contribute to an increased local accident rate. While the reported accident history at the combined intersection with State Highway 73 was low, there were a significant number of near misses. They were particularly concerned about the use of Railway Road which they felt should have a 50km speed limit imposed for its first 200m from the intersection.

Andrew and Janine Holt live at 153 Bealey Road approximately 550m west of the application site. They identified with Mr and Mrs Jones and others. They too are concerned about the limited notification, the consultation process, the neighbours' approvals, the fact that the farmhouse associated with the adjoining land is about 2km away and conflicting information in the application. Mr and Mrs Holt cited the example of a quarry near Christchurch Prison the entrance to which spreads loose metal on the road. Trucks take-off slowly causing conflicts with through traffic. Although Aylesbury Road is sealed its carriageway is relatively narrow and they did not think it was suitable for truck and trailer units.

Mr and Mrs Holt bought their property at least in part for its freedom from noise especially when they were outside. They did not believe planting would be effective against noise or dust. From their own experience, they believed that the applicant was overly optimistic about potential tree growth rates. They believed that dust from drying wind on the roads would be a continuing problem and that dust suppression would not be available when the site was not manned. They considered that other sites should have been considered and the most appropriate among them selected. Mr and Mrs Holt pointed to longstanding issues with quarrying companies leaving sites unrestored and considered that if consent was to be granted a significant bond should be taken to ensure proper rehabilitation is undertaken.

Mr Crawford lives at 18 Station Road. His residence is the closest to the application site. He pointed out that the trees on the gravel reserve were 27 years old and at the point when they are due to be harvested. Leylands and Pines grow slowly in this area and need irrigation. Water for irrigation would need to be a priority and it would be tempting, if supplies were limited to use it for more immediate needs. He considered that the application contained a lot of uncertainties, particularly relating to rehabilitation and vehicle movements

THE OFFICERS' RESPONSE

In response Dr Chiles stood by his contributions to the section 42A report. He said that whether the truck and trailer movements were 60 or 120 per day it is still a small number. His noise modelling was undertaken in accord with international standards which had been tested and found to be appropriate but the applicant would be prepared to accept specific noise limits which would provide certainty. Mr Flewellen reminded me that the proposed hours of operation were now to commence at 7.30 am and that no explosives were to be used.

Mr Birss commented that the combined intersection with State Highway 73 had a very light accident history and was performing better now than it used to. Aylesbury Road had sufficient seal width for truck and trailer units. Local roads were very straight and

visibility was not an issue. The entrance to the Wheatsheaf quarry had proved to be safe. Mr Flewellen added that it would be difficult to impose a condition relating to vehicle movements but a log book could be kept with its details available to the Council.

Mr Craig commented that a quarry was an activity anticipated in the rural area but the effects were expected to be controlled. There were not many features to distinguish the application site from other rural sites. While the viewpoint on the old railway station site is a factor to be considered, this should be examined in the light of what could be established on the site as of right which might well interfere with outlook. The District Plan did not rule out adverse effects as long as they are mitigated. He thought mounding on its own without planting would be sufficient in most cases, although 1.5m of machinery might protrude. It would be necessary to hydroseed the bunds but as long as topsoil is present, grass could be re-established. Mr Craig gave consideration to the amendments to conditions sought by the applicant. Generally, he accepted these except for the wish to irrigate the perimeter planting only. He considered that all landscape planting should be irrigated.

Mr Flewellen added that the three 30,000 litre water tanks (utility structures in terms of the District Plan) that were proposed for water harvesting should be located to the west of the buildings and should be in similar recessive colours and it would be necessary to provide plans showing the siting of the tanks. He clarified the matter of the designated gravel reserve next to the application site: although formal notice had been given of its intended revocation this had not been given effect to and nor had the designation been removed. Submitters were concerned about the length of time the quarry could operate. It was not usual to time limit land use consents but he noted that the regional consents time limited as to time. The quarry could not continue to operate once they had expired. Mr Flewellen acknowledged that birds could be attracted to newly exposed soil but he considered that the potential for ponding of water was the real issue as far as birds were concerned. Although water would be used for dust suppression there would be no ponded water and the mode of operation would ensure that the pit was not large, however, the potential to attract birds should be monitored and required by a separate condition rather than just being the subject of a management plan. All exposed earth should be required to be regressed immediately. He considered that the reference to

dwelling near the Wheatsheaf quarry were not comparing like with like. These dwellings were much closer than those in the case of the Aylesbury quarry.

THE APPLICANTS' REPLY

Mr Swain explained that his company was contracted to work the Wheatsheaf quarry. This was an open site and the nearest dwelling was only 40m away. The Wheatsheaf quarry was a more intensive operation than Aylesbury would be, but it used the same machinery. The quarries near the airport held water to wash concrete aggregates and that would not be part of the operation at Aylesbury. The Aylesbury site would be kept in grass except for the 100m x 100m working area. As that moved the worked area would be regressed. People had asked about the alternative source of material from the Selwyn River but that was suitable only for bulk fill.

Mr Rolston acknowledged that people were concerned about trucks using Station Road but it did not link to a market source. Both Bealey Road and State Highway 73 were very high standard roads and Aylesbury Road had good 6.1m wide carriageway. The site had a good balance of access to market through a high standard road network.

Ms Crawford reminded me that I had no jurisdiction to review the matter of public notification and I had to assume that the application had been properly served. I had to assume that on the balance of probability that the evidence was correct: the independent experts had committed to the appropriate code of conduct and their opinions were corroborated by the independent consultants engaged to prepare the section 42A report. The Act anticipated that adverse effects would occur but they should be appropriately avoided, remedied or mitigated.

Ms Crawford said that the District Plan did not set out to protect views but planting heights could be tapered down from a point 75m back from the (northern) boundary in order to keep a more open vista. She acknowledged that there would be a need to irrigate perimeter planting and specimen trees but this would not be needed for native plantings. The applicant acknowledged that there would need to be a certification

condition for water. Ms Crawford reminded me that the applicant's noise modelling had a conservative basis and had been done on the assumption that there would be no mitigation in terms of working at the bottom of the pit or that there would be any bunding. The applicant was prepared to have a log book for vehicles visiting the site enabling the Council to monitor vehicle movements.

As far as the risk of bird strike is concerned Ms Crawford reminded me that no water would be ponded on site and that a management and monitoring regime would be acceptable to the applicant. She said this was not a case where alternative locations should be considered and it was significant that a Council contractor could work the remaining resource on the adjoining gravel reserve land. The sort of activity proposed was expected to be in a rural zone close to transport routes and market locations. The fact that controls to mitigate adverse effects were necessary was accepted. The applicant would be happy to accept a 50km/h limit on Railway Road and to avoid unsealed roads where practicable. There was no basis for requiring a bond, the project was too small and in any case rehabilitation was to be undertaken progressively and there was no need to return strictly to original ground level. I had to assume that the Council would effectively enforce any conditions.

DISCUSSION OF THE ISSUES

Comparison with the Wheatsheaf Quarry

On the day following the hearing I first visited the site of the Wheatsheaf quarry then spent some time examining the site of the application and its locality. The Wheatsheaf is a large open pit not subject to a staged excavation and rolling programme of rehabilitation. It lies in a more densely populated area than Aylesbury and direct comparisons are therefore difficult.

Limited Notification

This was an issue raised by several submitters who felt that full public notification should have been undertaken. Ms Crawford is correct that I may not review the matter in the sense of requiring full notification, that being an issue which would have to be the

subject of an application to the High Court. However, I do note that there is now no longer a presumption in the Act that an application will be publicly notified and that the proposal is a discretionary activity, one that is anticipated by the plan to be in a rural location.

Lack of Information in the Circulated Material

A number of submitters were concerned that the package of material received by them did not contain all the information included with the application. Again this is something I have no power to review. However, I note that notification must contain enough information to inform a person with a reasonable knowledge of the area to be able to identify generally what the activity is and where it is to be located. The notice need only alert people to the mechanics of what is proposed and whether or not it might affect them. It is, however, common practice by Councils to send rather more than just a notice to people and in this case the Council has done that but stopped short of a full documentation.

Bias/Conflict of Interest

A perception of bias or conflict of interest arises because the Council's operations would derive benefit from the quarry. This is the reason the Council has appointed independent consultants and an independent commissioner.

Traffic

The Canterbury Plains are characterised by long straight roads which sometimes meet in complex intersections. In this case, four roads intersect with the State Highway and the Midland Railway. The railway has the effect of separating the junction of three of these so that they link then cross the line and join the State Highway as one. As far as the State Highway is concerned, the intersection has the characteristic of a cross roads with a major road in the direction of Hororata and a minor road (Station Road) leading to the north. Statistically, the intersection is safe, however and I have the benefit of two expert opinions. Access to Bealey Road will be to the Type D (heavy vehicle) access standard with PW50 truck warning signs and there is no problem with visibility. Save for the obvious benefit of discouraging the use of Railway Road (which is more of an amenity matter) traffic generation and safety matters do not amount to a critical issue.

Noise and Vibration

Noise is a potentially serious issue and it has been taken seriously notwithstanding the fact that noise from any motor vehicle or mobile machinery is exempted from the controls in the District Plan. The concern expressed by local residents is understandable when there is evidence of noise and vibration disturbance from other quarries such as the Wheatsheaf. That quarry and others are older operations and in the case of the Wheatsheaf houses are much closer than in the case at Aylesbury. Nonetheless, the operation is a discretionary activity the adverse effects of which are expected to be subject to adequate mitigation. In this case the applicants' consultant, Dr Trevathan of Acoustic Engineering Services, has taken a conservative approach to his modelling and this has been reviewed by Mr Chiles. There has been no contravening evidence other than expressions of doubt from (understandably) concerned residents. I am left, therefore, to conclude that the effects associated with noise and vibration from the activity limited to daytime hours will be within the permitted plan standards.

I note that the District Plan does anticipate some environmental effects from farming activities that are potentially noisier and/or more unpleasant than those found in urban areas. Quarrying is not a farming activity and although noise and vibration may not exceed those from farming activities they are likely to be more constant and of a different character. The District Plan has indicated the appropriate levels of performance and it is apparent that these standards can be met. Should the project go ahead it is essential that the mechanisms are in place to ensure that this is so and remains so.

Dust

Both the quarrying operation and the hauling of the aggregate have the potential to generate dust. There are recognised methods of avoiding the creation of dust. Dust can be suppressed with water. Haul roads can be kept damp or sealed and gravel roads can be avoided where practicable. These are the methods proposed by the applicant. They are known to be effective if applied correctly and this would need to be the subject of conditions in sufficient detail for the Council to be able effectively to enforce them.

Hazards to Aircraft

Aylesbury is an important position in terms of transiting aircraft many of which must remain at a low altitude. Bird strike is a concern and if a quarrying operation attracts

birds that could have a serious effect. Mostly, there is a risk if a quarry pit contains water. This quarry will not but initial soil disturbance could well attract bird life in the way cultivation can. Should the project proceed, a management and monitoring mechanism should be in place with the tools to act swiftly if there is a problem.

Visual Effects

This is a major concern to neighbours who have chosen to live in a rural area based on its present attributes. One cannot rely upon any changes occurring and the RMA is not a no-effects statute. Here, one should be guided by the District Plan. For instance, what would be allowed to occur as of right in this area? Firstly, it is apparent that a contractor for the Council could operate a quarry as of right within the adjacent gravel reserve part of which is not worked out on what at first examination appears to be part of the applicants' site (but is not). Secondly, a significant complex of farm buildings could be erected in a position where outlook from the public viewing point would be affected. The quarrying operation has some similarities but it is significantly different and it requires a full discretionary consent. Discretionary activities are anticipated in the zone but not necessarily on each or any particular site. Adverse effects are also an expected outcome and suiting any activity to a site is often very much dependent upon whether or not the effects can be effectively avoided, remedied or mitigated. In this case, the rolling method of operating, the creation of bunds and the planting/irrigation programmes are important provisions.

Should there have been a comparison with Other Potential Locations

The consideration of alternative locations can become important when a matter of national importance has been raised in relation to Part 2 of the Act. For it to be relevant in terms section 104(1)(c), I believe there would have to be credible evidence of a significant adverse effect on the environment which was not able to be effectively mitigated. The expert evidence indicates otherwise. Rejection of this site in favour of another in the general vicinity would be likely to raise very similar or even identical issues. The public call for contractors to remove shingle from the bed of the Selwyn River, however, did cause some confusion especially in light of apparent policy moves away from such sources. I was told, however that this material is not suitable for aggregate and would generally be used for hardfill.

DELIBERATION

Quarrying has been carried out on the Canterbury Plains since the earliest times of European settlement and it has not always been managed in an environmentally friendly way. Quite naturally, people look to past performance of an industry in order to anticipate the effects it will have with a new proposal. This is why the example of the Wheatsheaf quarry comes to mind and it is a useful reference to make. The Wheatsheaf is a large open pit with some bunding and landscape planting. It is clearly disruptive to residents nearby. In the case of the Aylesbury proposal the applicant is proposing a regime that has the capacity to address these issues, both in terms of its distance from dwellings and management measures.

However, the actual and potential effects on the environment of allowing the activity (in terms of s.1041(a)) are not the only matter I must address in terms of section 104 of the Act which is also subject to the overarching provisions of Part 2. The section 42A report addresses these issues the relevant elements of which are the Regional Policy Statement and the provisions of the District Plan. Regional consents have issued in terms of the Natural Resources Regional Plan which gives effect to the Regional Policy Statement. In other respects the Regional Policy Statement is given effect to by the District Plan.

The section 42A report took me through the following objectives and their attendant policies:

- Objective B1.1.1 and
Policy B1.1.7 which deal with effects on land and soil resources.
- Objective B2.1.1 and
Policy B2.1.6 which deal with the safe and efficient operation of roads, railways and airfields.
- Policy B2.1.17 which deals with the safety of aircraft approaches to Hororata Domain or West Melton airfield.

- Objectives B3.4.1 and B3.4.2 which deal with the balance of providing for rural activities and maintaining the area as a pleasant place in which to live.
- Policies B3.4.1 and B3.4.3 which implement the above.
- Policy B3.4.4 which is there to ensure that the effects arising from industries in the rural zone are avoided, remedied or mitigated to the extent that the adverse effects are no more than minor.
- Policies 3.4.5 and 3.4.6 relating to building density, bulk and reflectivity and vegetation cover.
- Policy B3.4.11 which relates relevantly to ensuring that regular or continuous noise is at a level which does not disturb people indoors on adjoining properties.
- Policy 3.4.13 which relates relevantly to the adverse effects of prolonged vibration.
- Policy B3.4.14 relating to the effects of dust on adjoining dwellings.
- Policy 3.4.16 relating to building setbacks from property boundaries.

While it is clear that the levels of consistency or lack of it with these elements of the District are varied, I believe that an acceptable level of consistency can be achieved if the operation is conducted in accord with appropriate conditions.

Central to Part 2 of the Act is section 5 which outlines the purpose of the Act – the promotion of the sustainable management of natural and physical resources. Sustainable management of these resources must be done in a way or at a rate that enables people to provide for their livelihood while (at the same time) – among other things – avoiding, remedying or mitigating any adverse effects on the environment. Obviously there are various competing considerations to be made resulting in an overall judgement. In cases of this nature, where an activity is expected to have a rural location

and some adverse effects are also expected, the key lies with whether or not the adverse effects can be sufficiently mitigated so that both local residents and the community that requires the aggregate can provide for their livelihood. What constitutes an adverse effect that is no more than minor, is subject to individual and varying opinions and in such cases we must look to some sort of empirical base such as the standards of the District Plan. If these can be met, well and good but the open question is as to whether or not they will be met and continue to be met.

CONCLUSION

The proposed activity has the potential to produce adverse effects that are more than minor but these can be mitigated to a sufficient extent and for that reason refusal of consent would not be warranted. Having said that, the possibility of serious adverse effects is very real and that is sufficient reason to impose a comprehensive range of conditions that not only ensure the activity is established in acceptable terms, but also that it continues to operate in this manner.

DECISION

For the above reason, consent is **granted** to the application subject to the following conditions:

General

1. That the proposed activities shall proceed generally in accordance with the information submitted in the application including:
 - The Acoustic Engineering Services Letter dated 11 May 2011.
 - The building plans prepared by Bond Frew Ltd (No. S2.2 - Floor Plan, S3.2 - Elevations C & D and S3.3 - Elevations A and B dated January 2011.

- The landscape assessment and Landscape Plans prepared by Earthwork Landscape Architects (Appendix F – Development Proposal dated 1 August 2011 – Revision 2 and Appendix C - Sections and Elevations dated 27 June 2011 – Revision 3) except as specifically amended by the following conditions.
2. That a vehicle crossing to service the quarry shall be formed in accordance with Appendix 10, Diagram E10.D of the Partially Operative District Plan (Rural Volume) (attached as Appendix G). The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing and for the first ten metres (as measured from the edge of the existing formed carriageway towards the property).
 3. That PW50 Truck Warning signs be placed on Bealey Road at the consent holder's expense. The location of these signs shall be arranged and approved by a Council Transportation Asset Engineer.

Landscape

4. That all planting shall be in accordance with the Landscape Assessment and Appendix 4 —Development Proposal Plan and Appendix 6 - Sections and Elevations as prepared by Earthwork Landscape Architects with the exception of any alterations made by the following conditions:
 - 4.1 All planting shall be implemented prior to the commencement of quarrying.
 - 4.2 That the perimeter shelter belt planting shall be at least 750mm-1 metre high at time of planting shall be maintained at a height of 4 metres, with the exception of the northern corner of the site where the perimeter shelter belt planting shall be maintained at a height of 3 metres for a distance of 75 metres back from the northern corner in order to provide for some distant views towards the south west of the Southern Alps.

- 4.3 That all proposed building screening trees as identified on the key on Appendix 4 - Development Proposal Plan as prepared by Earthwork Landscape Architects, shall be a minimum height of 2 metres prior to the commencement of quarrying. For clarification, this height limit does not apply to the proposed native planting areas. *next week,*
- 4.4 That all perimeter shelter belt and specimen planting shall be irrigated throughout the establishment period.
- 4.5 That any dead, diseased or dying vegetation required for mitigation purposes shall be replaced within the following planting season.
- 4.6 That the colour of the proposed building shall be a recessive natural colour such as Resene
what colour? *Sandstone*
Greystone.
- a) Lignite BR34-021-058
or
- b) Karaka G31-010-106
or
- c) New Denim Blue B39-012-250
or an equivalent with reflectivity (RV) less than 36%.
- 4.7 That the application site shall be progressively rehabilitated at the conclusion of the quarrying activity so that;

The head wall batters are naturalistically shaped as shown in the diagrammatic cross section below

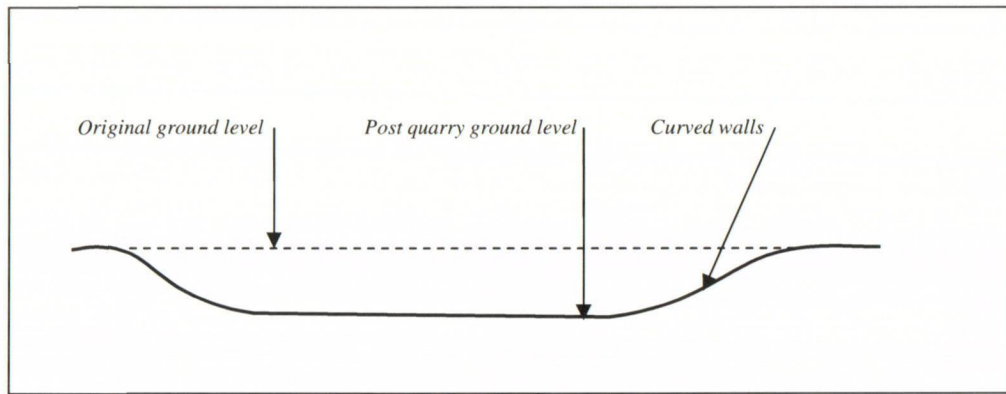


Diagram: showing profile of re-shaped quarry walls following closure

The entire site is fully re-vegetated, which may include pasture.

- 4.8 As each stage is completed the affected area shall be re-vegetated with (at least) pasture grass.
- 4.9 That an earth bund be constructed and hydroseeded around the periphery of the quarry pit in accordance with the landscape plan submitted with the application prior to the commencement of any quarrying activity.
under construction
- 4.10 That the vegetation cover on the earth bund and non quarried areas of the site be maintained to reduce any soil exposure.
- 4.11 In the event that water storage tanks are established on the site, these shall be a recessive natural colour to match the building and shall be located adjacent to the western side of the building as shown on the Landscape Plans prepared by Earthwork Landscape Architects (Appendix F – Development Proposal dated 1 August 2011 – Revision 3).

Hours of operation

5. The quarry operation shall occur only between 0730 – 1800 hours Monday to Friday and 0800 – 1300 on Saturday (staff may arrive earlier and depart later). The quarry shall not operate during Sundays or statutory holidays.

Noise

6. The crusher plant shall not be operated more than 4 times per year for a maximum duration of 3 weeks at each time. *log of use*
7. Crushing will be limited to the following hours/days of operation:
- 0730-1800 Monday – Friday.
 - No crushing shall occur on Saturdays, Sundays, or any statutory holidays.
8. The activities carried out pursuant to this consent shall comply with the District Plan noise limits for the outer plains rural zone at all times.

Dust

9. No explosives or blasting shall be used as part of the quarry activity.
10. All stockpiled material shall be stored on the pit working/excavation area such that it does not extend above the height of the 3 metre earth bund.
11. That the consent holder shall ensure on a continuing basis that dust is not generated from consolidated/stockpiled material by keeping the surface of the material damp or by using another appropriate method of dust suppression.

Birds

12. The consent holder shall undertake monthly monitoring and reporting of bird populations within the site to the Selwyn District Council for the first 5 years of operation. *- fly zone ?
- Bird strike*

Water

13. Prior to the commencement of quarrying, the consent holder shall provide to Council's Planning Manager documentation confirming that a water supply to or within the site has been legally established. This documentation shall demonstrate that the water supply is sufficient to cater for all required activities on site, particularly the mitigation of dust and irrigation of landscape planting.

Traffic

14. The consent holder shall keep a log book to be submitted upon request to the Council detailing the numbers of heavy vehicle movements to and from the site.

Quarry Management Plan

12. The consent holder shall submit an Operation Management Plan to the Selwyn District Council prior to the commencement of quarrying activity. The Operation Management Plan must include:
 - (a) Construction drawings and procedures, methods and measures to be applied to address, as a minimum, the following:
 - (i) dust control from the on-site activities and from vehicles travelling to and from the site,
 - (ii) formation of earth bunds and stability of all earthworks and quarry faces,
 - (iii) speed restrictions of vehicles within the site,
 - (iv) security of loads on vehicles travelling to and from the site,
 - (v) vehicles associated with the site avoiding unsealed roads where practicable.
 - (vi) the active maintenance and irrigation of landscaping throughout the site e.g. reticulated timed system or similar.

Swaino@extra.co.nz November
Next callup.

- (vii) the measures to ensure that the internal road network, parking and manoeuvring areas are maintained in a compact manner to avoid potholes which could increase noise and vibration.

Review of Conditions

- 13. That pursuant to section 128 of the Act the consent authority may, at any time review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

Notes to the Consent Holder

The following information is included as information to the applicant and is not a condition of this approval.

- a) The consent holder must ensure that all required consents from Environment Canterbury are obtained prior to commencing operations on-site.
- b) There may be development contributions required for this activity. These will be canvassed at building consent stage and required prior to uplift of building



M.J.G. Garland
Commissioner

Date: 19 August, 2011



HIGH STREET, LEESTON
PRIVATE BAG 1, LEESTON
PH: (03) 324-8080 FAX: (03) 324-3531

R307020 &
REF No. R307021

FILE COPY



4 October 2004

Frizzell and Associates
PO Box 5558
Papanui
CHRISTCHURCH

Dear Sir

**RE: RESOURCE CONSENT APPLICATION - R307020 & R307021 – AJ BROOKER,
BEALEY ROAD/AYLESBURY CORNER**

APPLICANT: AJ Brooker

LOCATION: Bealey Road/Aylesbury Corner

LEGAL DESCRIPTION: Lot 1 DP70076 and RS36811

ZONING: Proposed District Plan – **Outer Plains**
Malvern County section of the Transitional Plan – **Rural B**

PROPOSAL: To subdivide a 157.4ha block of land into two allotments with Lot 1 being 9.5ha and Lot 2 being 147.88ha in area, place an open space covenant on part of Lot 2 and erect a dwelling on Lot 1.

TYPE OF APPLICATION: *Subdivision*
Proposed District Plan – **Controlled Activity**
Malvern County section of the Transitional Plan – **Discretionary Activity**
Land Use
Proposed District Plan – **Permitted Activity**
Malvern County section of the Transitional Plan – **Discretionary Activity**

COUNCIL DECISION

This application was lodged and formally received with the Selwyn District Council on 27th August 2004.

Assessment and approval took place on 4th October 2004 under a delegation given by the Council.

SERVICE
CENTRES:

LEESTON
HIGH STREET, LEESTON
PH: (03) 324-8080

DARFIELD
SOUTH TERRACE, DARFIELD
PH: (03) 318-8338

LINCOLN
GERALD STREET, LINCOLN
PH: (03) 325-3288

ROLLESTON COMMUNITY CENTRE
ROLLESTON DRIVE, ROLLESTON
PH: (03) 347-9669

The full text of the decision is as follows:

R307020

That pursuant to Sections 104, 108, 220, 405 and 407 of the Resource Management Act 1991, the Selwyn District Council grants Resource Consent Application R307020 to subdivide a block of land into two allotments with Lot 1 being 9.5ha and Lot 2 being 147.9ha and to place an open space covenant over part of Lot 2.

The following conditions are imposed on this consent:

1. That the application proceed in general accordance with the attached approved site plan and details submitted with the application.

2. That a calculated connection fee shall be paid to the Council for the water supply. The contribution being \$4,947.00 (GST inclusive) for the connection of one additional dwelling per allotment is to be paid to the Council for water reticulation (the amount or value shall be adjusted annually on 30 June each year based upon the Consumer Price Index).

3. That prior to the issue of a completion certificate for the subdivision, any required new vehicle entranceway shall be formed and sealed in accordance with the attached Appendix 11 Table 3 for an arterial/collector road where the speed limit is greater than 50kph and located not less than 180m from any intersection.

4. That pursuant to section 221 of the Resource Management Act 1991, a consent notice shall be registered over the certificate of title for Lot 2 recording the following restrictions in perpetuity in relation to Lot 2:

- a. That no dwelling is permitted within the area marked 'A' on Lot 2; and
- b. That the area marked 'A' on the survey plan over Lot 2 may not be utilised for the purpose of contributing to any future calculation of dwelling density and/or lot size calculation and/or any future boundary adjustment under the rules of the Proposed District Plan.

5. That the subdivider shall provide evidence from the relevant service provider that electricity and telecommunication connections are available to service Lots 1 and 2.

R307021

That pursuant to Sections 104 and 108 of the Resource Management Act 1991, the Selwyn District Council grants Resource Consent Application R307021 to erect a dwelling on Lot 1 which was created by subdivision consent R307020.

The following conditions are imposed on this consent:

1. That the application proceed in general accordance with the attached approved site plan and details submitted with the application.

NOTES TO THE CONSENT HOLDER

- a) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a

Letter Orion
Telecom

Tony Potts

Helen
Allison
Lot 2 =

Flora
Rayner

- pos to extend
- produce v-cop.
- vested in SDC
- 2 m²/p day

② refund
big block

Engineering 5267 + \$1800

Jeff / 2 m²/p/d Roadway in bond

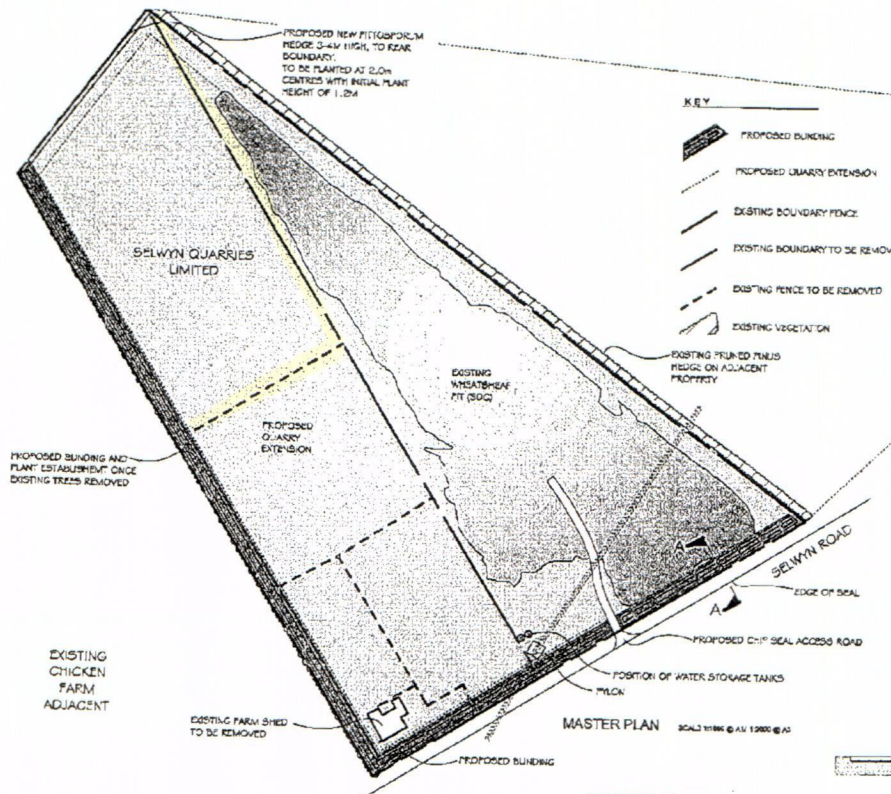
~~\$5447~~

\$5428.9

\$200

6200

+ GST



PLANT SCHEDULE

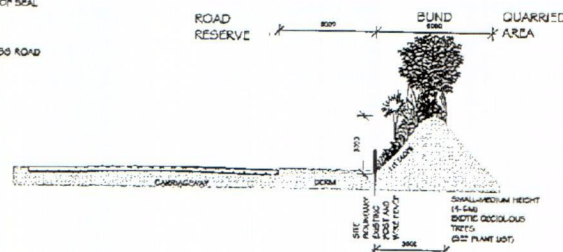
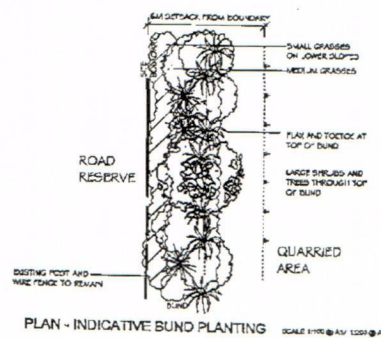
GRASSES AND FLAX (Plant at centres shown)

Botanical name	Common name	Grade	Distance
<i>Antennaria dioica</i>	goosefoot grass	1	800mm on
<i>Chenopodium rubrum</i>	red goosefoot	1	800mm on
<i>Chenopodium fluviatile</i>	downy goosefoot	1	800mm on
<i>Convolvulus sepium</i>	bindweed	1	2.0m on
<i>Plantago lanceolata</i>	plantain	1	450mm on
<i>Plantago lanceolata</i>	plantain	1	2.0m on

SHRUBS AND TREES (Plant at 2.5m average centres)

Botanical name	Common name	Grade	Distance
<i>Corylus avellana</i>	hazel	1.2m	1.2m
<i>Cornus verna</i>	dog rose	1.2m	1.2m
<i>Crataegus laevigata</i>	hawthorn	1.2m	1.2m
<i>Lonicera xylosteum</i>	honeysuckle	1.2m	1.2m
<i>Philadelphus coronarius</i>	mock orange	1.2m	1.2m

Note: plants have been planted to provide a fast growing stabilising windbreak



CROSS-SECTION AA - INDICATIVE BUND PLANTING

AS APPROVED BY S.D.C.
RESOURCE CONSENT

R 105049

DATE: 02/07/10 INT: BR

SELWYN QUARRIES LTD

Landscape Plan



NOTES

1. Contour lines are shown at 1m intervals. All contours are shown on the plan to the nearest 1m.
2. Contour lines are shown at 1m intervals. All contours are shown on the plan to the nearest 1m.
3. The plan is a general guide only. It is not intended to be used as a basis for any legal proceedings.

10/01/10 10/01/10

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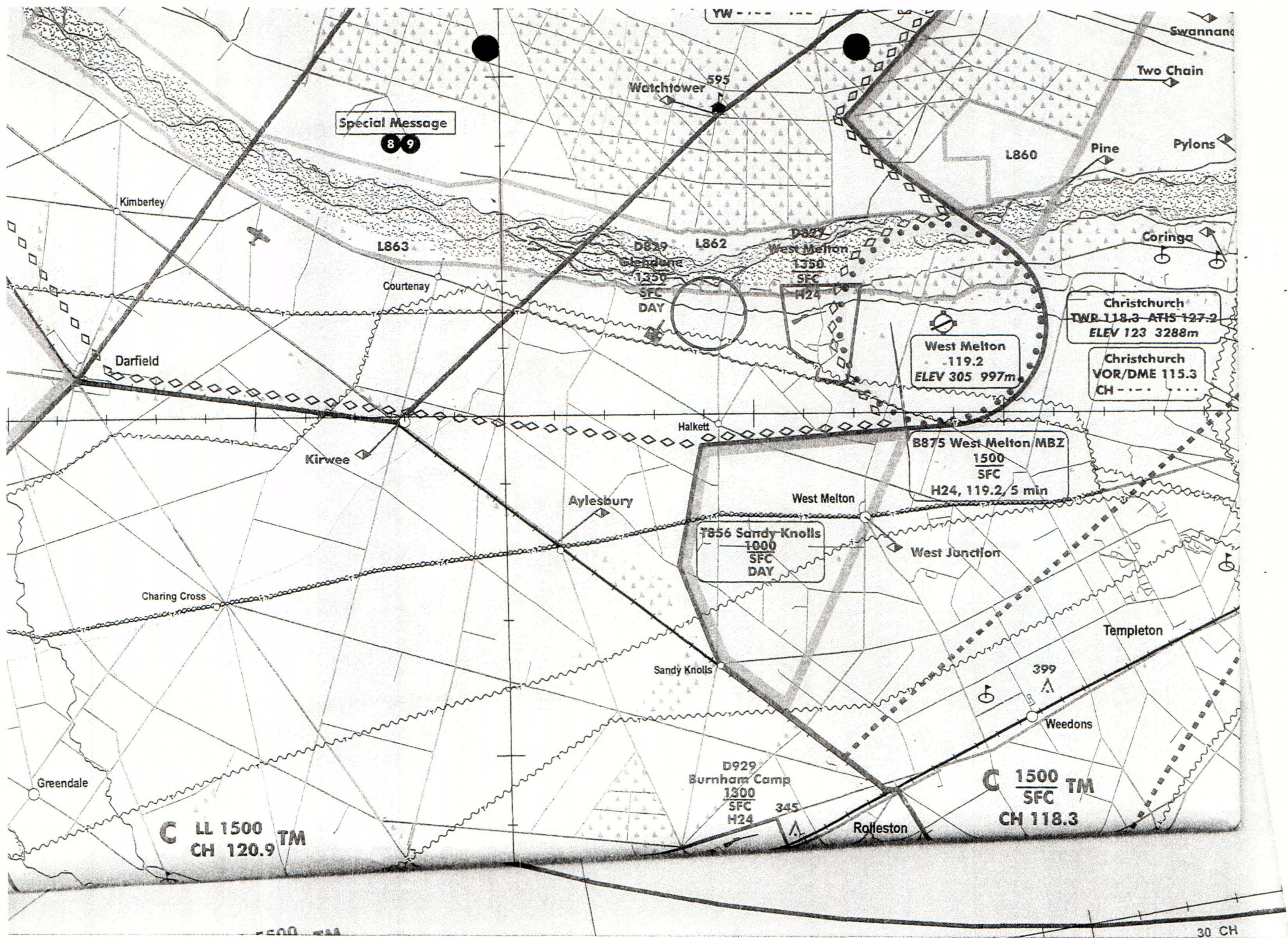
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10/01/10 10/01/10

10/01/10 10/01/10

10/01/10 10/01/10



Special Message

89

Watchtower 595

L860

Pine

Pylons

Coringa

Christchurch
TWR 118.3 ATIS 127.2
ELEV 123 3288m

Christchurch
VOR/DME 115.3
CH - - - - -

West Melton
119.2
ELEV 305 997m

B875 West Melton/MBZ
1500
SFC
H24, 119.2, 5 min

1056 Sandy Knolls
1000
SFC
DAY

C 1500
SFC TM
CH 118.3

C LL 1500
CH 120.9 TM

30 CH

105049

02 July 2010

Selwyn Quarries Ltd
C/- Resource Management Group
PO Box 13792
CHRISTCHURCH 8141

Attn: Nick Boyes

Dear Sir/Madam

RE: RESOURCE CONSENT APPLICATION – 105049

APPLICANT:	Selwyn Quarries Ltd
LOCATION:	Selwyn Road, Broadfield
LEGAL DESCRIPTION:	PT RS 6662 & Res 388
ZONING:	The property is zoned Inner Plains under the provisions of the Partially Operative District Plan – Rural Section.
PROPOSAL:	To continue an existing quarry operation and extend the operation to include an adjoining site.
TYPE OF APPLICATION:	This application has been assessed as a landuse consent for a discretionary activity under the Partially Operative District Plan. As such the relevant provisions of the Partially Operative District Plan – Rural Section and the Resource Management Act 1991, have been taken into account.

COUNCIL DECISION

This application was formally received with the Selwyn District Council on 26 February 2010. Further information was requested on the 8 March 2010 and received on the 20 April 2010. Affected party approval was requested on 27 April 2010 and received 17 June 2010. Assessment and approval took place on the 02 July 2010.

The full text of the decision is as follows:

“Resource consent 105049 is granted pursuant to Sections 104 and 104B of the Resource Management Act 1991 subject to the following conditions imposed under Section 108 of the Act.

1. That the proposed activities shall proceed generally in accordance with the information submitted in the application including the Quarry Management Plan and the attached Landscape Plan prepared by Morgan + Pollard Associates (Rev D, dated 19 April, 2010).

Roading

2. That a vehicle crossing to service the quarry lot shall be formed in accordance with Appendix 10, Diagram E10.D of the Partially Operative District Plan (Rural Volume) (attached, which forms part of this consent) with a minimum width at the property boundary of 6.0 metres. The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing and for the first ten metres (as measured from the edge of the existing formed carriageway towards the property) or to the property boundary, whichever is the lesser.
3. That site accessway be formed and sealed from the property boundary to the Quarry floor as indicated on the attached Landscape Plan.

Landscape

4. That an earth bund be constructed and planted to the road and south western boundaries in accordance with the landscape plan submitted with the application prior to the commencement of any gravel extraction activity on Pt RS 6662.
5. That the vegetation cover on the earth bund be maintained and any dead or diseased plants shall be replaced with similar species in the next available planting season (*May to August*).

Hours of operation

6. That the operation only occurs between 0600 – 1800 hours Monday to Friday and 0700 – 1300 on Saturday.

Noise

7. That the loader does not operate within 80m of the south western boundary near the adjacent dwelling before 0730 hours, as per figure 3.1 of the acoustics report.
8. That the crusher plant does not operate before 0800 hours.

Dust

9. That the consent holder shall ensure on a continuing basis that dust is not generated from consolidated material by keeping the surface of the consolidated material damp or by using another appropriate method of dust suppression.

10. The consent holder must ensure that the discharge of dust and/or particulate matter from the gravel extraction and/or wider activities within the site do not create any dust hazard or nuisance to the transmission lines.

Transpower

11. The consent holder must submit an Operation Management Plan for the approval of the Selwyn District Council. The Operation Management Plan will include:

- (a) Construction drawings and procedures, methods and measures to be applied to address the following:
 - (i) dust control, including specific reference to the protection of the Islington – Springston A overhead transmission lines, including conductors and support structures;
 - (ii) earthworks with specific measures to ensure compliance with the NZECP 34:2001 and that any potential destabilisation of the transmission line support structures is avoided and adequate ground clearances are maintained;
 - (iii) ensuring existing access arrangements to the transmission line support structures on the site are maintained; and,
- (b) Surveyed drawings showing the precise location and dimensions of the bunds, supported by an electrical engineer's report as to the expected clearances between the ground and the transmission line conductors and support structures upon completion of the bunds under worst case conditions. The electrical engineer must be approved by Transpower New Zealand Limited.

At least one month before the Operation Management Plan is submitted to the Council it must be given to Transpower New Zealand Limited for their review and comment. Any comment provided by Transpower New Zealand Limited must be included with the Operation Management Plan submitted to the Council for approval.

Bund Construction

12. No later than one month after completing the construction of the bunds, the consent holder must submit as-built plans for the bunds to the Selwyn District Council for approval. The plans must be supported by an electrical engineer's report as to the expected clearances between the ground and the transmission line conductors and support structures under worst case conditions. At least two weeks before the as-built plans are submitted to the Council they must be given to Transpower New Zealand Limited for its review and comment. Any comment provided by Transpower New Zealand Limited must be included with the as-built plans submitted to the Council for approval.

13. If the Council notifies the consent holder that the as-built plans and electrical engineer's report referred to in condition 12 indicate that the bunds do not comply with the requirements of NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) under worst case conditions, the consent holder must undertake the required remedial work on the bunds within one month of the Council's notice.

Buildings

14. All buildings and structures must be set back a horizontal distance of at least 12 metres from the centre line of each transmission line, and must also be located no closer than 12 metres from the closest visible edge of any transmission line support structure foundation.

Note: Refer to section 2.4 of the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

Earthworks

15. In the case of any transmission line tower (pylon), the consent holder must not excavate or otherwise interfere with any land:

- (a) At a depth of greater than 300mm within 6 metres of the outer edge of the visible foundation of the transmission line tower (pylon); or
- (b) At a depth greater than 3 metres, between 6 metres and 12 metres of the outer edge of the visible foundation of the transmission line tower (pylon); or
- (c) In such a way as to create an unstable batter, which for the purposes of this condition is defined as being one steeper than 1v:2horz or 26 degrees.

Note: Refer to section 2.2.3 of the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

16. No material is to be deposited (either permanently or temporarily) under or near the transmission lines which would reduce the distance between the ground and the transmission line conductors to less than 6.5 metres.

Note: Refer to section 4.3 of the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

Access

17. All buildings and structures must be located, and all site activities must be undertaken, so as existing vehicle access to the existing transmission line support structures within the site is not precluded.

Fences

18. Fences of conductive materials must not be attached to any transmission line support structure.

Note: Refer to section 2.3.1 of the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001).

Machinery and Mobile Plant

19. All machinery and mobile plant must maintain a minimum clearance distance of 4 metres from the transmission line conductors at all times.

Note: Refer to section 5.2.1 of the NZ Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). It is Transpower New Zealand Limited's preference that all machinery and mobile plant operated on site maintain a horizontal distance of at least 12 metres from the centre line of each transmission line and from each transmission line support structure.

20. Mobile processing plant for aggregate crushing or screening must not be located closer than 75 metres from the centre line of the Islington – Springston A transmission line.

Trees and Vegetation

21. All newly planted trees or vegetation (exceeding maximum height of two metres and over at full maturity) must:

- (a) Be set back by a horizontal distance of at least 12 metres from the centre line of each transmission line; and
- (b) When fully-grown, not be able to fall within 5 metres of any part of the transmission lines.

22. All trees and vegetation planted within the application site must comply with the Electricity (Hazards from Trees) Regulations 2003 when planted.

Review of Conditions

23. That pursuant to section 128 of the Act the consent authority may, at any time during the first year of operation of the quarry and thereafter within 10 working days of each anniversary of this consent, review the conditions on this consent to deal with any adverse effect on the environment which may arise from the exercise of the consent.

Notes to the Consent Holder

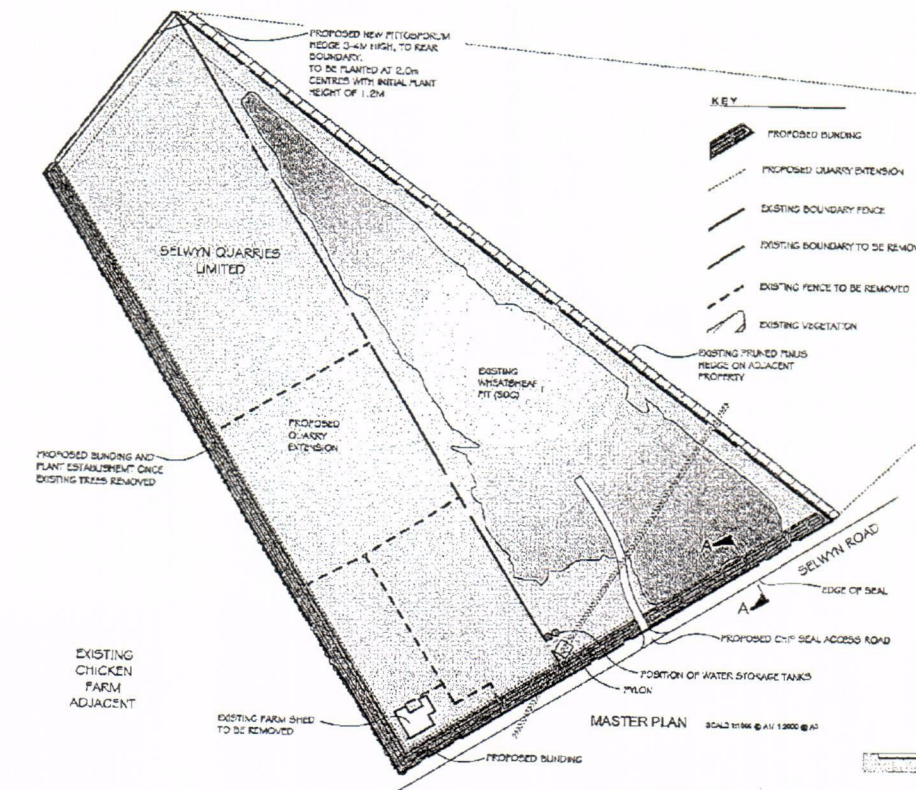
The following information is included as information to the applicant and is not a condition of this approval.

- a) That in accordance with section 36 of the Resource Management Act 1991, the Council's standard monitoring fee has been charged.

- b) Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse ten years after the date of this decision unless a longer period is specified by the Council upon application under section 125 of the Act.
- c) The consent holder will have to contact Environment Canterbury for any discharge permits that may be required.
- d) The restrictions on the use of the site described in the conditions above are in addition to the mandatory requirements of the NZ Code of Practice for Electrical Safety Distances 2001 (NZECP 34:2001) and the Electricity (Hazards from Trees) Regulations 2003. The conditions are not exhaustive of the requirements of those enactments. It is an offence under regulation 17 of the Electricity (Safety) Regulations 2010 to carry out any construction, building, excavation or other work that does not maintain safe distances in accordance with NZECP 34:2001. Please contact Transpower New Zealand Limited for further details.
- e) Transpower New Zealand limited has a right of access to its existing assets situated within the site under s23 Electricity Act 1992. Activities at the site must not preclude or obstruct this right of access. It is an offence under s163D(d) Electricity Act 1992 to intentionally obstruct any person in the performance of any duty or in doing any work that the person has the lawful authority to do under s23 of the Electricity Act 1992.

Yours faithfully
Selwyn District Council

Ben Rhodes
RESOURCE MANAGEMENT PLANNER



PLANT SCHEDULE

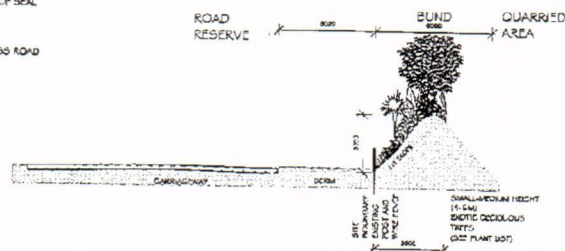
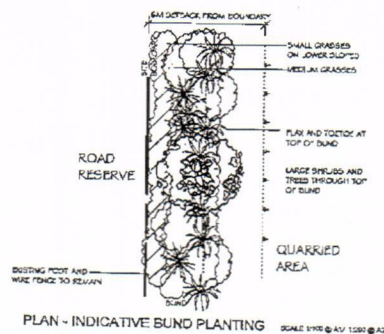
GRASSES AND FLAX (Plant at centres shown)

Botanical name	Common name	Grade	Spacing
Anemone pulsatilla	pasque flower	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm
Chrysanthemum	chrysanthemum	fl	800mm x 800mm

SHRUBS AND TREES (Plant at 2.5m average centres)

Botanical name	Common name	Grade	Spacing
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m
Cornus alba	dogwood	fl	1.2m x 1.2m

Note: plants have been studied to provide a fast growing/establishing wind dust screen



CROSS-SECTION AA - INDICATIVE BUND PLANTING

AS APPROVED BY S.D.C.
RESOURCE CONSENT

R 105049

DATE: 02/10/10 INT: BR

SELWYN QUARRIES LTD
Landscape Plan



NOTES

1. Contractors are to ensure that the bund is constructed to the required standard and that all vegetation within the bund is removed.
2. Contractors are to ensure that the bund is constructed to the required standard and that all vegetation within the bund is removed.
3. Contractors are to ensure that the bund is constructed to the required standard and that all vegetation within the bund is removed.

PROJECT INFORMATION

102 Arnhem Street
PO Box 1000
Tauranga 3113
Phone 06 777 4221
Fax 06 777 4222

PROJECT: SELWYN QUARRIES LTD

DESIGNED: LANDSCAPE PLAN

SCALE: 1:100

DATE: 10/10/10

BY: [Signature]

FOR: [Signature]

DATE: 10/10/10

BY: [Signature]

FOR: [Signature]

8 July 2011



110713-07
SCANNED

**CANTERBURY
AERO CLUB**

Manager of Planning
Selwyn District Council

Dear Sir

I understand that the Selwyn District Council has begun the planning process to consider the establishment of a shingle quarry near to Aylesbury corner, between the West Coast Highway and Bealey Road. Aylesbury corner is significant to the Canterbury Aero Club in that this 'bend in the road' is a featured reporting point so that aircraft operating under visual navigation rules can be sequenced inside sectorised areas of the airspace surrounding Christchurch International Airport.

From an aviation safety aspect, aircraft operations are managed by a number of methods which include the requirement to remain at a low altitude and or inside sections of airspace. In doing this, airline traffic can be safely sequenced ahead of and clear of slower, lower flying aircraft. There is a significant amount of fixed-wing and rotary-wing aircraft activity because in nearly all cases such aircraft are transiting to or from Christchurch International Airport.

When flying in such confined areas of airspace a number of matters of concern have to be always considered. One of these relates to bird activity. Given that it is proven that large numbers of birds (of all species) are attracted to pits, quarries and gravel crushing plants, aircraft operations in the vicinity of such areas either have to be avoided or carefully managed so that such risks do not cause an accident.

The suggestion that a quarry is being considered in the Aylesbury area is of concern because of the regulatory requirements to separate aircraft and the consequent need for aircraft operations to be able to access the West-Southwest sector of Christchurch Airport airspace (See attached navigation chart). Depending on the sector of airspace, and weather conditions, aircraft altitude is restricted to being no higher than either 1000 or 1,500 feet above sea level. This translates to being restricted to being no higher than 600 and

1100 feet above ground level. It is known that various bird species like to hang about shingle pits and quarries and that depending on bird species (usually gulls) they can circle about to many hundreds of feet.

Mixing of birds and aircraft would therefore expose significant risk of bird strikes which can result in engine failure or impaired flying. In either way, the risk of unsafe flying is very real.

Very close to Christchurch Airport there is an existing shingle pit which is required to be carefully managed. This means providing resources to count bird species and numbers very regularly and on occasion to carry out bird culls so as to reduce the number of birds being active in the area. Despite the actions to keep bird species and numbers controlled, the area is known as a "risk area" and so it seems inappropriate to repeat such a scenario.

On behalf of the Canterbury Aero Club, I would like it to be known that the risk associated with knowingly mixing bird movements and aircraft activities is too high. Therefore significant strategies need to be implemented to reduce natural risk and to ensure zero-risk when associated with planning criteria. We do not want a quarry in the busy aviation area of Aylesbury due to the potential of suffering bird strike accidents.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Drake', with a stylized flourish at the end.

Paul Drake

President

IN THE MATTER OF the Resource
Management Act 1991

AND

IN THE MATTER OF BD & HM Rowlands

***DECISION OF THE SELWYN DISTRICT COUNCIL
APPLICATION 105183***

APPLICANT: BD & HM Rowlands

PROPOSAL: To erect a dwelling on an undersized rural allotment

ADDRESS: Bealey Road, Aylesbury corner

LEGAL DESCRIPTION: Section 7 Block VII Town of Aylesbury (CT 29K/1102)
being 1340m²

ZONING: Partially Operative District Plan – Rural Section – Outer
Plains

STATUS: Non-complying

NOTIFICATION: The application proceeded to public notification on
9 November 2010, with submissions closing on 8
December 2010. Three submissions in opposition were
received however subsequently one of these submissions
was withdrawn, and one submitter after discussions with
the applicant provided written approval.

DATE OF HEARING: 4 February 2011 at Rolleston.

DECISION: Granted, with conditions

APPEARANCES: The hearing was attended by:
Heather and Barry Rowlands – applicants
Fiona Aston – Planning consultant for the applicants
Brett Swain - Representative of submitter and subsequent
giver of written approval – Southern Screenworks
Ben Rhodes, Council Officer, presenting the s42A report

INTRODUCTION

1. The Council appointed Councillors L Philps (Chair) and N Barnett to hear and decide on this application under Committee Delegation 103.
2. In accordance with Section 113 of the Resource Management Act 1991 this decision:
 - i. Gives a summary of the evidence heard
 - ii. States the main findings of fact
 - iii. Discusses the principal issues that were in contention
 - iv. Outlines the relevant statutory provisions considered by the Council
 - v. Outlines the relevant provisions of the Partially Operative District Plan
 - vi. Gives the reasons for the Council's decision
 - vii. Records the Council's decision

THE HEARING

3. The Panel first heard from Ms Aston who presented evidence on behalf of the applicants. She stated that she had read the Planner's report and generally agreed with its findings and recommendations. She then volunteered a number of conditions intended to reduce the visual impact of the dwelling. The only condition in conflict with the recommendation of the Planners report was that allowing a dwelling of 8 metres in height, whereas Mr Rhodes recommended that the dwelling be restricted to single story only. It was explained that if the dwelling was required to comply with the setbacks (20 from the road and 3m from internal boundaries) the area in which to place a dwelling was rather small and restrictive, meaning that allowance for a 2 story dwelling would provide the applicant with more flexibility. Alternatively, she suggested that the front yard setback could be reduced to 13 metres and the dwelling restricted to single story.
4. The Panel then questioned the applicant on which option they would prefer and the applicants replied that they were fine with either option as at the present time they had not prepared any house plans. Ms Aston stated she considered that the single storey dwelling with the reduced setback would provide more flexibility.
5. Ms Aston then explained that a no-complaints covenant had been agreed to between the applicants and the Voices and between the applicants and BJ Walker and that Screenworks had signed a written approval form. It had been requested by the Voices that this no-complaints covenant be required to be entered into as a condition of consent.
6. The Panel then queried where the potable water for the proposed dwelling would come from and the applicant replied that it was coming from the reticulated rural water supply which was currently 1km away and that they had been given a quote from Sicon for the carrying out of this work.
7. The applicant was then asked whether a requirement to locate the vehicle crossing at the western end of the section would cause an issue and the applicant replied that this would be fine.
8. The submitter Brett Swain then spoke on behalf of Screenworks. He explained that Screenworks had now supplied affected party approval, however he still wished to outline the concerns raised in the original submission. These concerns were largely based round potential reverse sensitivity effects. He stated that the main concern was dust although a number of mitigation measures should largely eliminate this effect. The original submission from Screenworks stated that it would be satisfied that the

reverse sensitivity risk would be sufficiently mitigated were a no complaints covenant entered into. However prior to the hearing, during a meeting between Screenworks and the applicant it was decided that a no complaints covenant was no longer necessary as if Screenworks were working within the conditions of their consent there would be no basis for complaints.

9. Ben Rhodes, Council Planner then highlighted the important parts of his Section 42A report. With regards to the conditions he stated that he had no issue with the reduced front yard setback as long as the dwelling was restricted to being a single story dwelling as the road contained a large berm resulting in any dwelling on the site appearing to be located further back from the front boundary than it actually was. He also suggested that an additional landscaping condition be added requiring any dead or diseased landscaping to be replaced. Mr Rhodes also recommended that the requested no-complaints covenant be required as a condition of consent.
10. The issue as to the appropriateness of a no-complaints covenant being required as a consent condition and whether this would limit Councils functions as far as acting on complaints was also raised.
11. Ms Aston then exercised the applicant's right of reply. She highlighted that Screenworks had provided written consent and so Council could not consider the effects upon them when assessing the effects of the proposal. She also stated that she did not consider that imposing a no-complaints covenant as a consent condition would restrict the Council in carrying out its duties as far as investigating complaints was concerned however she would discuss whether this was able to be sorted out as a side agreement rather than a consent condition with the Voices. She also stated that the applicants were fine with the restriction of a 5 metre building height as long as the reduced front yard setback was allowed.
12. The hearing was then adjourned in order to allow a site visit to be undertaken and for the applicant to consult with the Voices as to whether they would be agreeable for the no complaints covenant to be entered into as a side agreement, rather than it being enforced through a consent condition.

SITE VISIT

13. The Panel noted the small size of the section and its openness to both road boundaries. It was however noted that although there were small allotments located on the corner of Railway Road and West Coast Road, due to intervening vegetation these allotments were not visible from the subject site. The location of the potential quarry site was noted as was the location of the existing pig farm which was somewhat distant from the site with no odour being observable.

POST HEARING CORRESPONDENCE

14. A letter was received from Ms Aston on 11 February 2011 which quoted a legal opinion obtained in relation to the no complaints covenant issue raised at the hearing. This letter stated that restrictive covenants are only enforceable by the parties to the covenant. Following the consideration of the contents of this letter by the Panel the hearing was closed on the 15 February 2011.

DISCUSSION

15. The Panel noted that the proposal was a non-complying activity and therefore ss104, 104B and 104D were applicable.
16. In terms of environmental effects, the Panel considered that the issues mainly focused around potential effects on rural amenity, reverse sensitivity and traffic. They noted the following:

Visual Effects

17. The Panel noted that at 1340m² the site was well under the 20ha required within the Outer Plains zone and therefore the proposed density was significantly higher than that anticipated by the District Plan. As observed during the site visit the site is defined by a post and rail fence around its boundaries which clearly indicates it to be a separate allotment and its size denotes a residential site rather than a rural one. It was noted that any dwelling located on the site would be clearly visible and potentially appear bulky on the small site as other than the fence there is no other screening. It was however noted that although the site appeared residential in nature there are no other residential/rural residential sites visible from this site and so there would be no cumulative type effect from the creation of an additional residential style allotment. In addition, a number of mitigation measures could be introduced to limit the visual effect of the proposal. These measures include the requirement to plant vegetation around the boundaries of the site so as to screen the view of the dwelling and controls on the design of the dwelling. The Panel considered that by screening the house block in this way and ensuring a recessive type dwelling design the visual effect will not be dissimilar to a defined dwelling curtilage within a farming operation and so will not be out of keeping with what may be anticipated in the rural environment.
18. The Panel considered that the conditions recommended by Mr Rhodes were appropriate with the addition of the landscape condition as suggested by Mr Rhodes at the hearing requiring any dead or deceased plantings to be replaced. In terms of the placement of the dwelling on the site, the Panel is of a mind that allowing the dwelling to be located 13 metres from the front boundary whilst restricting the building to single storey (5m maximum height) would result in a less dominant building than requiring the building to be located 20 metres from the front boundary but allowing it to be 2 storey in height (8m maximum).
19. The Panel considered that given these factors the visual effects of the proposal would be minor.

Reverse Sensitivity

20. The Panel noted that the District Plan has provisions to manage potential reverse sensitivity effects when the effects may be significant enough to create an unpleasant living or working environment. However the District Plan does not address effects which the Council considers are a typical or normal part of the rural environment, and which are mild or of short duration.
21. It was noted that all three original submitters have raised reverse sensitivity as an issue in opposing this application.
22. Since the original submissions were lodged, the proposed quarry operators Screenworks have signed a written approval form and so the Panel noted that it does not need to consider any effects on them.
23. With regards to the Voice's pig farm, the Panel does not consider that reverse sensitivity from the actual pig operation is an issue given the 900m distance of the operation from the subject site. It is however noted that spreading of effluent does have the ability to create reverse sensitivity issues however these effects should be short term only.
24. In relation to reverse sensitivity effects on Mr Walker, the Panel noted that there are no specific operations on Mr Walkers land which are in the category of those most likely to cause reverse sensitivity effects. However given the small size of the site the setback of the dwelling from the boundaries would be the bare minimum from three property boundaries and any effects generated from Mr Walkers farming activity would come from all 3 internal property boundaries. It was however noted that the District Plan permits dwellings with a complying density to be erected only 5 metres from a site boundary, and although at 3 rather than 5 metres, it was not considered that this additional 2 metres was likely to have a significant change in the degree of reverse

sensitivity likely to be created. For these reasons it was considered that reverse sensitivity effects were minor.

It is also noted that the applicants have agreed to a no-complaints covenant stating that the occupiers of the dwelling can not complain about the effects of either the adjoining farms operation or that of the Voice's pig farm

Traffic

25. The Panel considered that the addition of 10 vehicle movements would have a minor effect on the safety and traffic efficiency of Bealey Road as long as the vehicle crossing was located on the far west side of the section therefore as far away as possible from the Bealey Road/ State Highway 73 intersection.

Objectives and Policies

26. The objectives and policies relating to quality of the environment and residential density recognise that the rural zone is a diverse area but seeks to ensure that activities in the rural area maintain rural character and allow the continuation of primary production. The policies also seek to maintain low residential density and to discourage residential densities in the Outer Plains zone at a density higher than one dwelling per 20 hectares. The Panel concurred with the analysis and conclusions of Mr Rhodes S42A report that although the proposal was not strictly in accordance with these objectives and policies, it was not contrary to their intent when considered as a whole.
27. The Panel noted that the objectives and policies relating to transport networks required maintenance of safe and efficient operation of roads with vehicle crossings being located and designed to ensure good visibility for motorists and so allow safe access and egress. It was noted that it is not possible to construct a complying vehicle crossing on the site given its small size and location adjacent to the State Highway 73/ Bealey Road intersection. However it was considered that as long as the vehicle crossing is located adjacent to the western boundary of the site, given the layout of Bealey Road to the east, the 130m sight line available is sufficient and would ensure good visibility for motorists to allow safe access and egress.

Section 104D Test

28. The Panel then considered the Section 104D test and concluded that the adverse effects of the proposal on the environment would be minor and the proposal would not be contrary to the objectives and policies of the Partially Operative District Plan (Rural Volume) when read as a whole. The Panel therefore considered that the proposal passed both limbs of the Section 104D Threshold Test and was able to be considered for approval.

Regional Policy Statement

29. Next the Panel considered the provisions of Proposed Change 1 (PC1) to the RPS (regional Policy Statement) which seeks to provide direction for growth, development and enhancement of the urban and rural areas of the Greater Christchurch region. Under PC1 it was noted that residential units under 4ha are defined as urban activities and Policy 1 of PC1 seeks to prevent urban activities outside the Urban Limits. However although outside the urban limits, it was noted that the property is an existing title on the edge of the UDS area and is located well away from any urban

centre and was therefore considered unlikely to be considered urban intensification. Therefore although the proposal would not strictly comply with this policy it was considered that it will not result in the failure of PC1 to achieve the strategic vision for Greater Christchurch and would not be of a nature or scale that challenged the provisions of the Regional Policy Statement as a whole. It was also noted that PC1 is not yet operative with some appeals against PC1 in its entirety so it can not be given full weight when considering the application. Also relevant was the fact that Environment Canterbury was directly notified of the application and did not choose to make a submission on the application.

Other Matters - precedent

30. In terms of matters of precedent the Panel noted that it has been common practice to allow dwellings on existing undersized lots where effects were minor or less than minor. In that regard it was considered that this application would not set any new precedent.

CONCLUSION AND DECISION

After considering: the application; the Council Officer's report; the evidence produced at the hearing (including in writing after it was adjourned); and the observations made during the site visit the Panel has determined that the proposal to erect a dwelling on an undersized lot subject to appropriate conditions, will not generate any actual or potential adverse effects that could be considered as more than minor and would not be contrary to the objectives and policies of the Partially Operative District Plan.

On that basis, resource consent 105183 is granted pursuant to sections 104, 104B and 104D of the Resource Management Act 1991, subject to the following conditions imposed under section 108 of the Act:

1. That the dwelling be erected within a building square located 13.65 metres from the front (Bealey Road) boundary and 3 metres from the internal boundaries as shown on the attached approved plan.

Design

2. That the dwelling be single storey with a maximum height of 5 metres.
3. That the exterior cladding of the dwelling be of grey, green, and brown hues with a reflectance value no greater than 37% or comprise of natural unpainted materials.
4. That the total area of the site covered in buildings shall not exceed 300m².

Vehicle Crossing

5. That prior to the habitation of the dwelling or the issue of the Code Compliance Certificate for the dwelling (which ever comes first) the new vehicle crossing to service the new dwelling shall be formed in accordance with Appendix 10, Diagram E10.C1 of the Partially Operative District Plan (Rural Volume) (attached, which forms part of this consent). The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing and for the first ten metres (as measured

from the edge of the existing formed carriageway towards the property) or to the property boundary, whichever is the lesser.

Landscaping

6. That prior to the lodging of the building consent, a landscape plan shall be submitted to Council's 'Team Leader, Resource Consents' for approval. This landscape plan is to show landscaping planted around the full-length of the subject site boundaries (other than a gap left for the vehicle crossing) being of a suitable species to be grown to form an all year visual screen and capable of being maintained to a height of at least 3m on maturity.
7. The landscaping shown on the landscape plan approved by condition 6 above shall be planted within the first planting season following lodgment of the building consent and once matured shall be maintained at a height of at least 3 metres and maintained to form a year round visual screen of the property.
8. That should any of the landscaping referred to in condition 7 above die or become diseased then it be replaced with a similar species capable of producing a similar screening effect within the first planting season.

Covenants

9. That conditions 2, 3 and 4 above be registered as a covenant under section 108(2)(d) of the Resource Management Act 1991 against the Certificate of Title to Section 7 Block VII Aylesbury Township (CT29K/1102). This covenant shall be prepared by Council's solicitors at the request and expense of the consent holder. The covenant shall be entered into before the building consent is issued.
10. That the Consent Holder shall, within 20 working days of this consent commencing, offer the owner of property Lot 1 DP 416081 and Lot 1 DP 383160 (comprised in Certificate of Title 462406 (Canterbury Registry)) the opportunity to enter into a restrictive covenant against the consent holder's land (legally described as Section 7 Block VII Town of Aylesbury and comprised in Certificate of Title CB29K/1102, (Canterbury Registry)), in favour of the land contained in Certificate of Title 462406. The terms of the covenant offered should be in the form attached as Appendix B forming part of Consent RC 105183.
11. That the Consent Holder shall, within 20 working days of this consent commencing, offer the owner of property RS 36812 (comprised in Certificate of Title 531660 (Canterbury Registry)) the opportunity to enter into a restrictive covenant against the consent holder's land (legally described as Section 7 Block VII Town of Aylesbury and comprised in Certificate of Title CB29K/1102, Canterbury Registry), in favour of the land contained in Certificate of Title 531660. The terms of the covenant offered should be in the form attached as Appendix B forming part of Consent RC 105183.
12. If the registered proprietor(s) of CT 462406 and CT 531669 accept the offer to enter into a restrictive covenant within 15 working days of the offer being made under conditions 9 and 10 above, the consent holder shall arrange for the covenant to be duly executed and registered on the relevant Certificate of Titles at the consent holder's expense.

NOTES TO THE CONSENT HOLDER

- a. ***The no complaints covenants required under conditions 10-12 above do not restrict the Council in terms of responding to any complaint it receives with regards to adverse effects on the consented property from adjoining activities.***
- b. Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under Section 125 of the Act.
- c. In accordance with Section 36 of the Resource Management Act 1991, the Council's standard monitoring fee has been charged.
- d. This consent is not an authority to build, and Building Consent is also required before construction begins.
- e. The consent holder shall contact the Transportation Dept to coordinate an inspection of the entranceway formation in accordance with Condition 5 above. At least two day's notice shall be given before work commences.
- f. Any future dwellings must be provided with an adequate, potable and wholesome drinking water supply. This shall be in accordance with Council minimum water quality standards and as identified in the Long Term Community Plan (Drinking-Water Standards for NZ 2005 levels)(revised 2008).
- g. Onsite wastewater and stormwater treatment and disposal system(s) must comply with requirements of SDC,CRC General Authorisations, Proposed Natural Resource Regional Plan and other relevant documents. Where compliance via a Certificate of Compliance cannot be provided, then a resource consent must be obtained.

DATED THIS ____ DAY OF MARCH 2011

COUNCILLOR L PHILPS
HEARING COMMITTEE CHAIR

ACTING UNDER COMMITTEE DELEGATION 103

LIST OF APPENDICIES

- A** Location map
- B** Certificate of title
- C** Relevant legislation
- D** Affected party sign off locations.

STATUTORY REQUIREMENTS

95A Public notification of consent application at consent authority's discretion

- (1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.
- (2) Despite subsection (1), a consent authority must publicly notify the application if—
 - (a) it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor; or
 - (b) the applicant requests public notification of the application; or
 - (c) a rule or national environmental standard requires public notification of the application.
- (3) Despite subsections (1) and (2)(a), a consent authority must not publicly notify the application if—
 - (a) a rule or national environmental standard precludes public notification of the application; and
 - (b) subsection (2)(b) does not apply.
- (4) Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.

104. Consideration of applications

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
 - (a) any actual and potential effects on the environment of allowing the activity; and
 - (b) any relevant provisions of—
 - (i) a national policy statement;
 - (ii) a New Zealand coastal policy statement;
 - (iii) a regional policy statement or proposed regional policy statement;
 - (iv) a plan or proposed plan; and
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- (2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.
- (3) A consent authority must not—
 - (a) have regard to trade competition when considering an application;
 - (b) when considering an application, have regard to any effect on a person who has given written approval to the application;
 - (c) grant a resource consent contrary to the provisions of section 107 or section 217, any Order in Council in force under section 152, or under any regulations;
 - (d) grant a resource consent if the application should have been publicly notified and was not.
- (4) Subsection (3)(b) does not apply if a person has given written approval in accordance with that paragraph but, before the date of the hearing (if a hearing is held) or otherwise before the determination of the application, that person gives notice in writing to the consent authority that the approval is withdrawn.

- (5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.

104B. Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

- (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or
- (b) the application is for an activity that will not be contrary to the objectives and policies of—
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.

108 Conditions of resource consents

(1) Except as expressly provided in this section and subject to any regulations, a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2).

(2) A resource consent may include any one or more of the following conditions:

- (a) Subject to subsection (10), a condition requiring that a financial contribution be made:
- (b) a condition requiring provision of a bond (and describing the terms of that bond) in accordance with section 108A:
- (c) A condition requiring that services or works, including (but without limitation) the protection, planting, or replanting of any tree or other vegetation or the protection, restoration, or enhancement of any natural or physical resource, be provided:
- (d) In respect of any resource consent (other than a subdivision consent), a condition requiring that a covenant be entered into, in favour of the consent authority, in respect of the performance of any condition of the resource consent (being a condition which relates to the use of land to which the consent relates):
- (e) Subject to subsection (8), in respect of a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or section 15B, a condition requiring the holder to adopt the best practicable option to prevent or minimise any actual

or likely adverse effect on the environment of the discharge and other discharges (if any) made by the person from the same site or source:

- (f) In respect of a subdivision consent, any condition described in section 220 (notwithstanding any limitation on the imposition of conditions provided for by section 77B(2)(c) or (3)(c)):
- (g) In respect of any resource consent for reclamation granted by the relevant consent authority, a condition requiring an esplanade reserve or esplanade strip of any specified width to be set aside or created under Part 10:
- (h) In respect of any coastal permit to occupy any part of the coastal marine area (relating to land of the Crown in the coastal marine area or land in the coastal marine area vested in the regional council), a condition—
 - (i) Detailing the extent of the exclusion of other persons:
 - (ii) Specifying any coastal occupation charge.

(3) A consent authority may include as a condition of a resource consent a requirement that the holder of a resource consent supply to the consent authority information relating to the exercise of the resource consent.

(4) Without limiting subsection (3), a condition made under that subsection may require the holder of the resource consent to do one or more of the following:

- (a) To make and record measurements:
- (b) To take and supply samples:
- (c) To carry out analyses, surveys, investigations, inspections, or other specified tests:
- (d) To carry out measurements, samples, analyses, surveys, investigations, inspections, or other specified tests in a specified manner:
- (e) To provide information to the consent authority at a specified time or times:
- (f) To provide information to the consent authority in a specified manner:
- (g) To comply with the condition at the holder of the resource consent's expense.

(5) Any conditions of a kind referred to in subsection (3) that were made before the commencement of this subsection, and any action taken or decision made as a result of such a condition, are hereby declared to be, and to have always been, as valid as they would have been if subsections (3) and (4) had been included in this Act when the conditions were made, or the action was taken, or the decision was made.

(6) [Repealed]

(7) Any condition under subsection (2)(d) may, among other things, provide that the covenant may be varied or cancelled or renewed at any time by agreement between the consent holder and the consent authority.

(8) Before deciding to grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or 15B subject to a condition described in subsection (2)(e), the consent authority shall be satisfied that, in the particular circumstances and having regard to—

- (a) The nature of the discharge and the receiving environment; and
- (b) Other alternatives, including any condition requiring the observance of minimum standards of quality of the receiving environment—

the inclusion of that condition is the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.

(9) In this section, **financial contribution** means a contribution of—

- (a) Money; or
- (b) Land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Maori land within the meaning of the Maori Land Act 1993 unless that Act provides otherwise; or
- (c) A combination of money and land.

(10) A consent authority must not include a condition in a resource consent requiring a financial contribution unless—

- (a) The condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and
 - (b) The level of contribution is determined in the manner described in the plan or proposed plan.
-
- (b) Land shall be regarded as adjoining other land notwithstanding that it is separated from the other land only by a road, railway, drain, water race, river, or stream.

(3) Before deciding to grant a subdivision consent on a condition described in subsection (1)(b), the territorial authority shall consult with the District Land Registrar as to the practicality of that condition. If the District Land Registrar advises the territorial authority that it is not practical to impose a particular condition, the territorial authority shall not grant a subdivision consent subject to that condition, but may if it thinks fit grant a subdivision consent subject to such other conditions under subsection (1)(b) which the District Land Registrar advises are practical in the circumstances.

IN THE MATTER OF the Resource
Management Act 1991

AND

IN THE MATTER OF BD & HM Rowlands

***DECISION OF THE SELWYN DISTRICT COUNCIL
APPLICATION 105183***

APPLICANT: BD & HM Rowlands

PROPOSAL: To erect a dwelling on an undersized rural allotment

ADDRESS: Bealey Road, Aylesbury corner

LEGAL DESCRIPTION: Section 7 Block VII Town of Aylesbury (CT 29K/1102)
being 1340m²

ZONING: Partially Operative District Plan – Rural Section – Outer
Plains

STATUS: Non-complying

NOTIFICATION: The application proceeded to public notification on
9 November 2010, with submissions closing on 8
December 2010. Three submissions in opposition were
received however subsequently one of these submissions
was withdrawn, and one submitter after discussions with
the applicant provided written approval.

DATE OF HEARING: 4 February 2011 at Rolleston.

DECISION: Granted, with conditions

APPEARANCES: The hearing was attended by:
Heather and Barry Rowlands – applicants
Fiona Aston – Planning consultant for the applicants
Brett Swain - Representative of submitter and subsequent
giver of written approval – Southern Screenworks
Ben Rhodes, Council Officer, presenting the s42A report

INTRODUCTION

1. The Council appointed Councillors L Philps (Chair) and N Barnett to hear and decide on this application under Committee Delegation 103.
2. In accordance with Section 113 of the Resource Management Act 1991 this decision:
 - i. Gives a summary of the evidence heard
 - ii. States the main findings of fact
 - iii. Discusses the principal issues that were in contention
 - iv. Outlines the relevant statutory provisions considered by the Council
 - v. Outlines the relevant provisions of the Partially Operative District Plan
 - vi. Gives the reasons for the Council's decision
 - vii. Records the Council's decision

THE HEARING

3. The Panel first heard from Ms Aston who presented evidence on behalf of the applicants. She stated that she had read the Planner's report and generally agreed with its findings and recommendations. She then volunteered a number of conditions intended to reduce the visual impact of the dwelling. The only condition in conflict with the recommendation of the Planners report was that allowing a dwelling of 8 metres in height, whereas Mr Rhodes recommended that the dwelling be restricted to single story only. It was explained that if the dwelling was required to comply with the setbacks (20 from the road and 3m from internal boundaries) the area in which to place a dwelling was rather small and restrictive, meaning that allowance for a 2 story dwelling would provide the applicant with more flexibility. Alternatively, she suggested that the front yard setback could be reduced to 13 metres and the dwelling restricted to single story.
4. The Panel then questioned the applicant on which option they would prefer and the applicants replied that they were fine with either option as at the present time they had not prepared any house plans. Ms Aston stated she considered that the single storey dwelling with the reduced setback would provide more flexibility.
5. Ms Aston then explained that a no-complaints covenant had been agreed to between the applicants and the Voices and between the applicants and BJ Walker and that Screenworks had signed a written approval form. It had been requested by the Voices that this no-complaints covenant be required to be entered into as a condition of consent.
6. The Panel then queried where the potable water for the proposed dwelling would come from and the applicant replied that it was coming from the reticulated rural water supply which was currently 1km away and that they had been given a quote from Sicon for the carrying out of this work.
7. The applicant was then asked whether a requirement to locate the vehicle crossing at the western end of the section would cause an issue and the applicant replied that this would be fine.
8. The submitter Brett Swain then spoke on behalf of Screenworks. He explained that Screenworks had now supplied affected party approval, however he still wished to outline the concerns raised in the original submission. These concerns were largely based round potential reverse sensitivity effects. He stated that the main concern was dust although a number of mitigation measures should largely eliminate this effect. The original submission from Screenworks stated that it would be satisfied that the

reverse sensitivity risk would be sufficiently mitigated were a no complaints covenant entered into. However prior to the hearing, during a meeting between Screenworks and the applicant it was decided that a no complaints covenant was no longer necessary as if Screenworks were working within the conditions of their consent there would be no basis for complaints.

9. Ben Rhodes, Council Planner then highlighted the important parts of his Section 42A report. With regards to the conditions he stated that he had no issue with the reduced front yard setback as long as the dwelling was restricted to being a single story dwelling as the road contained a large berm resulting in any dwelling on the site appearing to be located further back from the front boundary than it actually was. He also suggested that an additional landscaping condition be added requiring any dead or diseased landscaping to be replaced. Mr Rhodes also recommended that the requested no-complaints covenant be required as a condition of consent.
10. The issue as to the appropriateness of a no-complaints covenant being required as a consent condition and whether this would limit Councils functions as far as acting on complaints was also raised.
11. Ms Aston then exercised the applicant's right of reply. She highlighted that Screenworks had provided written consent and so Council could not consider the effects upon them when assessing the effects of the proposal. She also stated that she did not consider that imposing a no-complaints covenant as a consent condition would restrict the Council in carrying out its duties as far as investigating complaints was concerned however she would discuss whether this was able to be sorted out as a side agreement rather than a consent condition with the Voices. She also stated that the applicants were fine with the restriction of a 5 metre building height as long as the reduced front yard setback was allowed.
12. The hearing was then adjourned in order to allow a site visit to be undertaken and for the applicant to consult with the Voices as to whether they would be agreeable for the no complaints covenant to be entered into as a side agreement, rather than it being enforced through a consent condition.

SITE VISIT

13. The Panel noted the small size of the section and its openness to both road boundaries. It was however noted that although there were small allotments located on the corner of Railway Road and West Coast Road, due to intervening vegetation these allotments were not visible from the subject site. The location of the potential quarry site was noted as was the location of the existing pig farm which was somewhat distant from the site with no odour being observable.

POST HEARING CORRESPONDENCE

14. A letter was received from Ms Aston on 11 February 2011 which quoted a legal opinion obtained in relation to the no complaints covenant issue raised at the hearing. This letter stated that restrictive covenants are only enforceable by the parties to the covenant. Following the consideration of the contents of this letter by the Panel the hearing was closed on the 15 February 2011.

DISCUSSION

15. The Panel noted that the proposal was a non-complying activity and therefore ss104, 104B and 104D were applicable.
16. In terms of environmental effects, the Panel considered that the issues mainly focused around potential effects on rural amenity, reverse sensitivity and traffic. They noted the following:

Visual Effects

17. The Panel noted that at 1340m² the site was well under the 20ha required within the Outer Plains zone and therefore the proposed density was significantly higher than that anticipated by the District Plan. As observed during the site visit the site is defined by a post and rail fence around its boundaries which clearly indicates it to be a separate allotment and its size denotes a residential site rather than a rural one. It was noted that any dwelling located on the site would be clearly visible and potentially appear bulky on the small site as other than the fence there is no other screening. It was however noted that although the site appeared residential in nature there are no other residential/rural residential sites visible from this site and so there would be no cumulative type effect from the creation of an additional residential style allotment. In addition, a number of mitigation measures could be introduced to limit the visual effect of the proposal. These measures include the requirement to plant vegetation around the boundaries of the site so as to screen the view of the dwelling and controls on the design of the dwelling. The Panel considered that by screening the house block in this way and ensuring a recessive type dwelling design the visual effect will not be dissimilar to a defined dwelling curtilage within a farming operation and so will not be out of keeping with what may be anticipated in the rural environment.
18. The Panel considered that the conditions recommended by Mr Rhodes were appropriate with the addition of the landscape condition as suggested by Mr Rhodes at the hearing requiring any dead or deceased plantings to be replaced. In terms of the placement of the dwelling on the site, the Panel is of a mind that allowing the dwelling to be located 13 metres from the front boundary whilst restricting the building to single storey (5m maximum height) would result in a less dominant building than requiring the building to be located 20 metres from the front boundary but allowing it to be 2 storey in height (8m maximum).
19. The Panel considered that given these factors the visual effects of the proposal would be minor.

Reverse Sensitivity

20. The Panel noted that the District Plan has provisions to manage potential reverse sensitivity effects when the effects may be significant enough to create an unpleasant living or working environment. However the District Plan does not address effects which the Council considers are a typical or normal part of the rural environment, and which are mild or of short duration.
21. It was noted that all three original submitters have raised reverse sensitivity as an issue in opposing this application.
22. Since the original submissions were lodged, the proposed quarry operators Screenworks have signed a written approval form and so the Panel noted that it does not need to consider any effects on them.
23. With regards to the Voice's pig farm, the Panel does not consider that reverse sensitivity from the actual pig operation is an issue given the 900m distance of the operation from the subject site. It is however noted that spreading of effluent does have the ability to create reverse sensitivity issues however these effects should be short term only.
24. In relation to reverse sensitivity effects on Mr Walker, the Panel noted that there are no specific operations on Mr Walkers land which are in the category of those most likely to cause reverse sensitivity effects. However given the small size of the site the setback of the dwelling from the boundaries would be the bare minimum from three property boundaries and any effects generated from Mr Walkers farming activity would come from all 3 internal property boundaries. It was however noted that the District Plan permits dwellings with a complying density to be erected only 5 metres from a site boundary, and although at 3 rather than 5 metres, it was not considered that this additional 2 metres was likely to have a significant change in the degree of reverse

sensitivity likely to be created. For these reasons it was considered that reverse sensitivity effects were minor.

It is also noted that the applicants have agreed to a no-complaints covenant stating that the occupiers of the dwelling can not complain about the effects of either the adjoining farms operation or that of the Voice's pig farm

Traffic

25. The Panel considered that the addition of 10 vehicle movements would have a minor effect on the safety and traffic efficiency of Bealey Road as long as the vehicle crossing was located on the far west side of the section therefore as far away as possible from the Bealey Road/ State Highway 73 intersection.

Objectives and Policies

26. The objectives and policies relating to quality of the environment and residential density recognise that the rural zone is a diverse area but seeks to ensure that activities in the rural area maintain rural character and allow the continuation of primary production. The policies also seek to maintain low residential density and to discourage residential densities in the Outer Plains zone at a density higher than one dwelling per 20 hectares. The Panel concurred with the analysis and conclusions of Mr Rhodes S42A report that although the proposal was not strictly in accordance with these objectives and policies, it was not contrary to their intent when considered as a whole.
27. The Panel noted that the objectives and policies relating to transport networks required maintenance of safe and efficient operation of roads with vehicle crossings being located and designed to ensure good visibility for motorists and so allow safe access and egress. It was noted that it is not possible to construct a complying vehicle crossing on the site given its small size and location adjacent to the State Highway 73/ Bealey Road intersection. However it was considered that as long as the vehicle crossing is located adjacent to the western boundary of the site, given the layout of Bealey Road to the east, the 130m sight line available is sufficient and would ensure good visibility for motorists to allow safe access and egress.

Section 104D Test

28. The Panel then considered the Section 104D test and concluded that the adverse effects of the proposal on the environment would be minor and the proposal would not be contrary to the objectives and policies of the Partially Operative District Plan (Rural Volume) when read as a whole. The Panel therefore considered that the proposal passed both limbs of the Section 104D Threshold Test and was able to be considered for approval.

Regional Policy Statement

29. Next the Panel considered the provisions of Proposed Change 1 (PC1) to the RPS (regional Policy Statement) which seeks to provide direction for growth, development and enhancement of the urban and rural areas of the Greater Christchurch region. Under PC1 it was noted that residential units under 4ha are defined as urban activities and Policy 1 of PC1 seeks to prevent urban activities outside the Urban Limits. However although outside the urban limits, it was noted that the property is an existing title on the edge of the UDS area and is located well away from any urban

centre and was therefore considered unlikely to be considered urban intensification. Therefore although the proposal would not strictly comply with this policy it was considered that it will not result in the failure of PC1 to achieve the strategic vision for Greater Christchurch and would not be of a nature or scale that challenged the provisions of the Regional Policy Statement as a whole. It was also noted that PC1 is not yet operative with some appeals against PC1 in its entirety so it can not be given full weight when considering the application. Also relevant was the fact that Environment Canterbury was directly notified of the application and did not choose to make a submission on the application.

Other Matters - precedent

30. In terms of matters of precedent the Panel noted that it has been common practice to allow dwellings on existing undersized lots where effects were minor or less than minor. In that regard it was considered that this application would not set any new precedent.

CONCLUSION AND DECISION

After considering: the application; the Council Officer's report; the evidence produced at the hearing (including in writing after it was adjourned); and the observations made during the site visit the Panel has determined that the proposal to erect a dwelling on an undersized lot subject to appropriate conditions, will not generate any actual or potential adverse effects that could be considered as more than minor and would not be contrary to the objectives and policies of the Partially Operative District Plan.

On that basis, resource consent 105183 is granted pursuant to sections 104, 104B and 104D of the Resource Management Act 1991, subject to the following conditions imposed under section 108 of the Act:

1. That the dwelling be erected within a building square located 13.65 metres from the front (Bealey Road) boundary and 3 metres from the internal boundaries as shown on the attached approved plan.

Design

2. That the dwelling be single storey with a maximum height of 5 metres.
3. That the exterior cladding of the dwelling be of grey, green, and brown hues with a reflectance value no greater than 37% or comprise of natural unpainted materials.
4. That the total area of the site covered in buildings shall not exceed 300m².

Vehicle Crossing

5. That prior to the habitation of the dwelling or the issue of the Code Compliance Certificate for the dwelling (which ever comes first) the new vehicle crossing to service the new dwelling shall be formed in accordance with Appendix 10, Diagram E10.C1 of the Partially Operative District Plan (Rural Volume) (attached, which forms part of this consent). The vehicle crossing shall be sealed to match the existing road surface for the full width of the crossing and for the first ten metres (as measured

from the edge of the existing formed carriageway towards the property) or to the property boundary, whichever is the lesser.

Landscaping

6. That prior to the lodging of the building consent, a landscape plan shall be submitted to Council's 'Team Leader, Resource Consents' for approval. This landscape plan is to show landscaping planted around the full-length of the subject site boundaries (other than a gap left for the vehicle crossing) being of a suitable species to be grown to form an all year visual screen and capable of being maintained to a height of at least 3m on maturity.
7. The landscaping shown on the landscape plan approved by condition 6 above shall be planted within the first planting season following lodgment of the building consent and once matured shall be maintained at a height of at least 3 metres and maintained to form a year round visual screen of the property.
8. That should any of the landscaping referred to in condition 7 above die or become diseased then it be replaced with a similar species capable of producing a similar screening effect within the first planting season.

Covenants

9. That conditions 2, 3 and 4 above be registered as a covenant under section 108(2)(d) of the Resource Management Act 1991 against the Certificate of Title to Section 7 Block VII Aylesbury Township (CT29K/1102). This covenant shall be prepared by Council's solicitors at the request and expense of the consent holder. The covenant shall be entered into before the building consent is issued.
10. That the Consent Holder shall, within 20 working days of this consent commencing, offer the owner of property Lot 1 DP 416081 and Lot 1 DP 383160 (comprised in Certificate of Title 462406 (Canterbury Registry)) the opportunity to enter into a restrictive covenant against the consent holder's land (legally described as Section 7 Block VII Town of Aylesbury and comprised in Certificate of Title CB29K/1102, (Canterbury Registry)), in favour of the land contained in Certificate of Title 462406. The terms of the covenant offered should be in the form attached as Appendix B forming part of Consent RC 105183.
11. That the Consent Holder shall, within 20 working days of this consent commencing, offer the owner of property RS 36812 (comprised in Certificate of Title 531660 (Canterbury Registry)) the opportunity to enter into a restrictive covenant against the consent holder's land (legally described as Section 7 Block VII Town of Aylesbury and comprised in Certificate of Title CB29K/1102, Canterbury Registry), in favour of the land contained in Certificate of Title 531660. The terms of the covenant offered should be in the form attached as Appendix B forming part of Consent RC 105183.
12. If the registered proprietor(s) of CT 462406 and CT 531669 accept the offer to enter into a restrictive covenant within 15 working days of the offer being made under conditions 9 and 10 above, the consent holder shall arrange for the covenant to be duly executed and registered on the relevant Certificate of Titles at the consent holder's expense.

NOTES TO THE CONSENT HOLDER

- a. ***The no complaints covenants required under conditions 10-12 above do not restrict the Council in terms of responding to any complaint it receives with regards to adverse effects on the consented property from adjoining activities.***
- b. Pursuant to section 125 of the Resource Management Act 1991, if not given effect to, this resource consent shall lapse five years after the date of this decision unless a longer period is specified by the Council upon application under Section 125 of the Act.
- c. In accordance with Section 36 of the Resource Management Act 1991, the Council's standard monitoring fee has been charged.
- d. This consent is not an authority to build, and Building Consent is also required before construction begins.
- e. The consent holder shall contact the Transportation Dept to coordinate an inspection of the entranceway formation in accordance with Condition 5 above. At least two day's notice shall be given before work commences.
- f. Any future dwellings must be provided with an adequate, potable and wholesome drinking water supply. This shall be in accordance with Council minimum water quality standards and as identified in the Long Term Community Plan (Drinking-Water Standards for NZ 2005 levels)(revised 2008).
- g. Onsite wastewater and stormwater treatment and disposal system(s) must comply with requirements of SDC,CRC General Authorisations, Proposed Natural Resource Regional Plan and other relevant documents. Where compliance via a Certificate of Compliance cannot be provided, then a resource consent must be obtained.

DATED THIS ____ DAY OF MARCH 2011

COUNCILLOR L PHILPS
HEARING COMMITTEE CHAIR

ACTING UNDER COMMITTEE DELEGATION 103

LIST OF APPENDICIES

- A** Location map
- B** Certificate of title
- C** Relevant legislation
- D** Affected party sign off locations.

STATUTORY REQUIREMENTS

95A Public notification of consent application at consent authority's discretion

- (1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.
- (2) Despite subsection (1), a consent authority must publicly notify the application if—
 - (a) it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor; or
 - (b) the applicant requests public notification of the application; or
 - (c) a rule or national environmental standard requires public notification of the application.
- (3) Despite subsections (1) and (2)(a), a consent authority must not publicly notify the application if—
 - (a) a rule or national environmental standard precludes public notification of the application; and
 - (b) subsection (2)(b) does not apply.
- (4) Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.

104. Consideration of applications

- (1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
 - (a) any actual and potential effects on the environment of allowing the activity; and
 - (b) any relevant provisions of—
 - (i) a national policy statement;
 - (ii) a New Zealand coastal policy statement;
 - (iii) a regional policy statement or proposed regional policy statement;
 - (iv) a plan or proposed plan; and
 - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- (2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.
- (3) A consent authority must not—
 - (a) have regard to trade competition when considering an application;
 - (b) when considering an application, have regard to any effect on a person who has given written approval to the application;
 - (c) grant a resource consent contrary to the provisions of section 107 or section 217, any Order in Council in force under section 152, or under any regulations;
 - (d) grant a resource consent if the application should have been publicly notified and was not.
- (4) Subsection (3)(b) does not apply if a person has given written approval in accordance with that paragraph but, before the date of the hearing (if a hearing is held) or otherwise before the determination of the application, that person gives notice in writing to the consent authority that the approval is withdrawn.

- (5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.

104B. Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

- (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or
- (b) the application is for an activity that will not be contrary to the objectives and policies of—
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.

108 Conditions of resource consents

(1) Except as expressly provided in this section and subject to any regulations, a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2).

(2) A resource consent may include any one or more of the following conditions:

- (a) Subject to subsection (10), a condition requiring that a financial contribution be made;
- (b) a condition requiring provision of a bond (and describing the terms of that bond) in accordance with section 108A;
- (c) A condition requiring that services or works, including (but without limitation) the protection, planting, or replanting of any tree or other vegetation or the protection, restoration, or enhancement of any natural or physical resource, be provided;
- (d) In respect of any resource consent (other than a subdivision consent), a condition requiring that a covenant be entered into, in favour of the consent authority, in respect of the performance of any condition of the resource consent (being a condition which relates to the use of land to which the consent relates);
- (e) Subject to subsection (8), in respect of a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or section 15B, a condition requiring the holder to adopt the best practicable option to prevent or minimise any actual

or likely adverse effect on the environment of the discharge and other discharges (if any) made by the person from the same site or source:

- (f) In respect of a subdivision consent, any condition described in section 220 (notwithstanding any limitation on the imposition of conditions provided for by section 77B(2)(c) or (3)(c)):
- (g) In respect of any resource consent for reclamation granted by the relevant consent authority, a condition requiring an esplanade reserve or esplanade strip of any specified width to be set aside or created under Part 10:
- (h) In respect of any coastal permit to occupy any part of the coastal marine area (relating to land of the Crown in the coastal marine area or land in the coastal marine area vested in the regional council), a condition—
 - (i) Detailing the extent of the exclusion of other persons:
 - (ii) Specifying any coastal occupation charge.

(3) A consent authority may include as a condition of a resource consent a requirement that the holder of a resource consent supply to the consent authority information relating to the exercise of the resource consent.

(4) Without limiting subsection (3), a condition made under that subsection may require the holder of the resource consent to do one or more of the following:

- (a) To make and record measurements:
- (b) To take and supply samples:
- (c) To carry out analyses, surveys, investigations, inspections, or other specified tests:
- (d) To carry out measurements, samples, analyses, surveys, investigations, inspections, or other specified tests in a specified manner:
- (e) To provide information to the consent authority at a specified time or times:
- (f) To provide information to the consent authority in a specified manner:
- (g) To comply with the condition at the holder of the resource consent's expense.

(5) Any conditions of a kind referred to in subsection (3) that were made before the commencement of this subsection, and any action taken or decision made as a result of such a condition, are hereby declared to be, and to have always been, as valid as they would have been if subsections (3) and (4) had been included in this Act when the conditions were made, or the action was taken, or the decision was made.

(6) [Repealed]

(7) Any condition under subsection (2)(d) may, among other things, provide that the covenant may be varied or cancelled or renewed at any time by agreement between the consent holder and the consent authority.

(8) Before deciding to grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) or 15B subject to a condition described in subsection (2)(e), the consent authority shall be satisfied that, in the particular circumstances and having regard to—

- (a) The nature of the discharge and the receiving environment; and
- (b) Other alternatives, including any condition requiring the observance of minimum standards of quality of the receiving environment—

the inclusion of that condition is the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.

(9) In this section, **financial contribution** means a contribution of—

- (a) Money; or
- (b) Land, including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Maori land within the meaning of the Maori Land Act 1993 unless that Act provides otherwise; or
- (c) A combination of money and land.

(10) A consent authority must not include a condition in a resource consent requiring a financial contribution unless—

- (a) The condition is imposed in accordance with the purposes specified in the plan or proposed plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and
- (b) The level of contribution is determined in the manner described in the plan or proposed plan.
- (b) Land shall be regarded as adjoining other land notwithstanding that it is separated from the other land only by a road, railway, drain, water race, river, or stream.

(3) Before deciding to grant a subdivision consent on a condition described in subsection (1)(b), the territorial authority shall consult with the District Land Registrar as to the practicality of that condition. If the District Land Registrar advises the territorial authority that it is not practical to impose a particular condition, the territorial authority shall not grant a subdivision consent subject to that condition, but may if it thinks fit grant a subdivision consent subject to such other conditions under subsection (1)(b) which the District Land Registrar advises are practical in the circumstances.

01 March 2012

Southern Screenworks Ltd
C/- Brown & Co Planning Group
PO Box 1467
QUEENSTOWN 9348

Dear Sir or Madam:

RE: RESOURCE CONSENT APPLICATION – 125013

APPLICANT:	Southern Screenworks Ltd
LOCATION:	Bealey Road
LEGAL DESCRIPTION:	Lot 1 DP 354364
ZONING:	The property is zoned Outer Plains under the provisions of the Partially Operative Selwyn District Plan (Rural Volume).
PROPOSAL:	Variation of conditions pursuant to Section 127 of the Resource Management Act 1991 in respect to landuse consent 115008 granted on 22 August 2011 by delegated authority.
TYPE OF APPLICATION:	This application has been assessed as a change of condition pursuant to Section 127 of the Resource Management Act 1991. As such the relevant provisions of the Partially Operative Plan and the Resource Management Act 1991 have been taken into account.

COUNCIL DECISION

This application was lodged and formally received with the Selwyn District Council on 27 January 2012. The applicant suspended the application to consider draft conditions on the 22 February 2012 with the suspension lifting on the 28 February 2012. Assessment and approval took place on 29 February 2012 under a delegation given by the Council.

The full text of the decision is as follows:

That pursuant to Section 127 of the Resource Management Act 1991, the Selwyn District Council grants Change of Condition Application 125013 to change Condition 1 of 115008, Bealey Road

Condition 1 shall now read:

1. That the proposed activities shall proceed generally in accordance with the information submitted in the application including:

- The Acoustic Engineering Services Letter dated 11 May 2011
- The building plans prepared by Bond Frew Ltd (Floor Plan, No. S2.2, Revision 1 & Elevation Plans, Drawing No S3.1, Revision 1, both now marked SDC 125013)
- The landscape assessment and landscape plans prepared by Earthwork Landscape Architects (Appendix 1, Revised - Development Proposal, dated 12 December 2011) except as specifically amended by the following conditions:

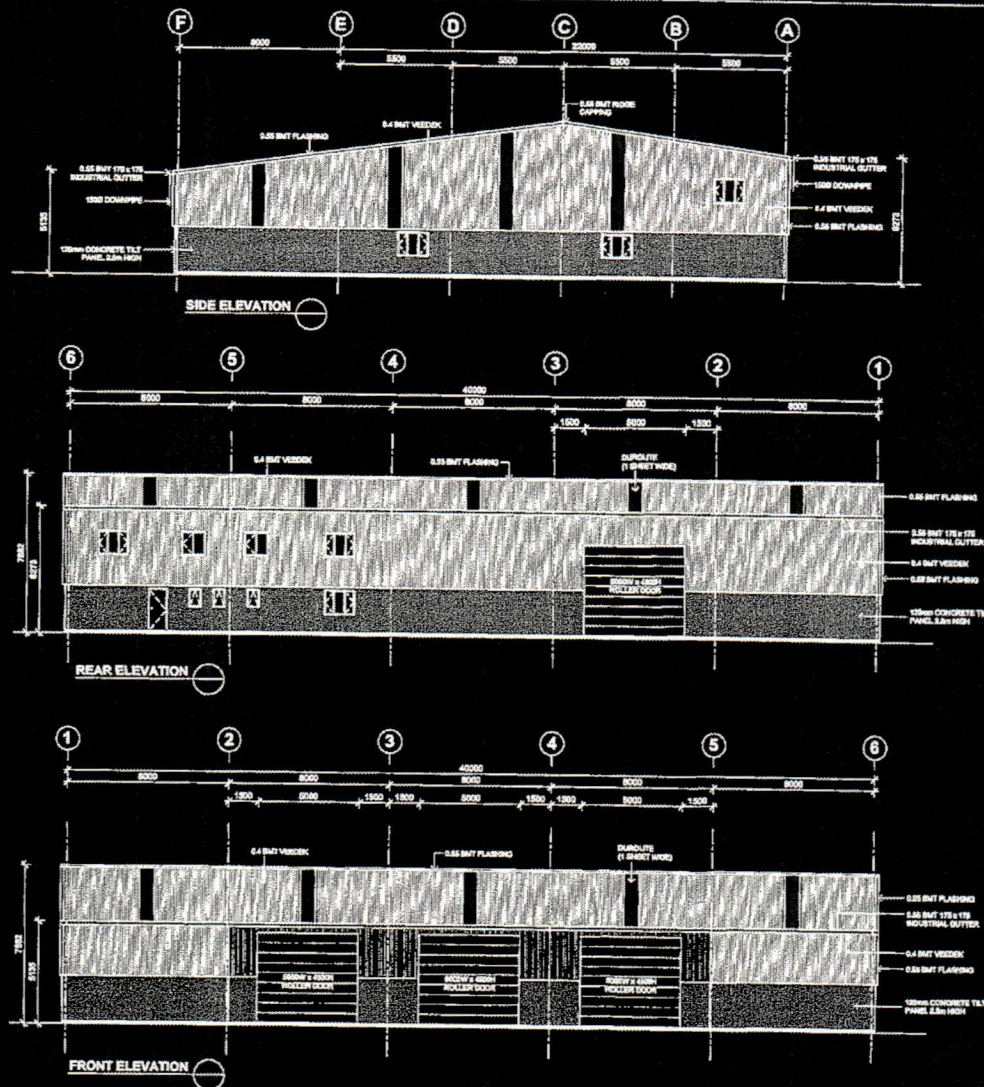
1(a). Further to the proposed landscaping shown in Appendix 1 (referred to above) 12 evergreen trees shall be planted at a height of 2.5m – 3m between the front of the proposed building and Bealey Road and shall be generally located around the access way.

Notes to the Consent Holder

1. All other conditions of Resource Consent 115008 shall remain unchanged and in effect.

Yours faithfully
Selwyn District Council

Ben Rhodes
Resource Consents Planner



DRAFT

AS APPROVED BY S.D.C.
RESOURCE CONSENT

R 1250 13
DATE: 29-02-12 INT: 5/16

Bond Frew LTD
CIVIL ENGINEERS

8 South Terrace
P.O. Box 11
Christchurch 7741
T. 03 3188800
F. 03 3188800
E. bondfrew@bondfrew.co.nz

PROJECT: SCREENWORKS LTD
PROPOSED WORKSHOP / OFFICE

LOCATION: SEALEY ROAD, AYLESBURY

SHEET TITLE: ELEVATIONS

DATE: OCTOBER 2011

SCALE: 1:200 (A3)

ISSUE: SCHEME

REVISION: 1

JOB NO: 1485

DRAWING NO: S3.1

CAD FILE: H1485Screenworks Office 1.dwg

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