

**BEFORE THE HEARING PANEL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions and further submissions on the Proposed Waimakariri District Plan – Stream 1: Definitions, Strategic Direction and Urban Form and Development

---

**EVIDENCE IN CHIEF OF TIMOTHY ALISTAIR DEANS ENSOR ON BEHALF OF  
Fulton Hogan Limited**

**Dated: 1 May 2023**

---

## INTRODUCTION

1. My full name is Timothy Alistair Deans Ensor.
  2. I hold a Bachelor of Science and a Bachelor of Arts with honours majoring in Geography, obtained from the University of Canterbury in 2002. In 2012 I graduated with a Post Graduate Diploma in Planning from Massey University. I am an associate member of the New Zealand Planning Institute.
  3. I am currently a Principal Planner with Tonkin & Taylor Limited having previously been employed by AECOM New Zealand Limited and its predecessor, URS New Zealand Limited. I have been a consultant planner for approximately 15 years. Prior to consulting I was employed by Environment Canterbury for approximately two and a half years as a consents planner.
  4. I have worked throughout the South Island assisting private and public sector clients with obtaining statutory approvals, undertaking environmental impact assessment and policy analysis for projects, and providing expert planning evidence at plan and consent hearings. These clients include the Department of Conservation, Waka Kotahi the NZ Transport Agency, Environment Canterbury, the Canterbury Aggregate Producers Group, Opuha Water Limited and the Ministry for the Environment.
  5. I am authorised to provide expert planning evidence in relation to the proposed Waimakariri District Plan (**pWDP**) on behalf of Fulton Hogan Limited (**Fulton Hogan**).
  6. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2022. I agree to comply with this Code of Conduct. This evidence is within my expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
  7. In preparing my evidence I have reviewed:
    - 7.1. the pWDP;
    - 7.2. the Section 42A Report for Stream 1 – Strategic Directions of the pWDP; and
-

- 7.3. the Section 42A Report for Stream 1 – Urban Form and Development of the pWDP.

### **Scope of evidence**

8. Fulton Hogan lodged submissions on several definitions, Strategic Direction (**SD**) objectives, and policies in the Urban Form and Development (**UFD**) chapter. Fulton Hogan also lodged further submissions on submissions by Christchurch International Airport Limited (**CIAL**) and Christchurch City Council (**CCC**).
9. Accordingly, my evidence focuses on:
- 9.1. Definitions affecting Quarrying Activities being heard through this hearing stream,
  - 9.2. The role aggregate plays in achieving social and economic wellbeing,
  - 9.3. The locational constraints associated with aggregate and Quarrying Activities (Quarrying Activities can only occur where the resource exists),
  - 9.4. The impact incompatible land uses can have on access to aggregate through reverse sensitivity effects,
  - 9.5. CIAL's proposed changes to the pWDP to introduce bird strike restrictions.

### **DEFINITIONS**

#### **NATIONAL PLANNING STANDARDS – DEFINITION STANDARD**

10. Fulton Hogan's submission comments on several definitions that are contained in the National Planning Standards – Definition Standard (**NPS definitions**).
11. There is no discretion for Waimakariri District Council (**WDC**) to choose whether to apply a definition contained in the standard, nor is there discretion for WDC to alter the meaning of any term set out in the NPS definitions.
12. While I acknowledge that there cannot be any deviations from these definitions, the issues surrounding their use within the pWDC are relevant. My
-

view is that careful consideration as to how these definitions will be utilised, and how activities that are not neatly captured by the NPS definitions will be provided for within the rules of the pWDP, is required at the appropriate hearing.

## RURAL PRODUCTION

13. Rural Production is an example of a definition being heard at this hearing with potential implementation challenges given its use as a partial substitute for the NPS definition of Primary Production. Primary Production means:
- a. *any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and*
  - b. *includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);*
  - c. *includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but*
  - d. *excludes further processing of those commodities into a different product.*
14. The notified definition of Rural Production is similar, but of particular interest to Fulton Hogan, does not include Quarrying Activities. Consequently, Fulton Hogan sought that the definition of Rural Production be deleted from the pWDP, and wherever it appears is replaced with Primary Production.<sup>1</sup>
15. The S42A officer does not address the submission point in any detail and states “*An explanation around the term primary production will be provided in the Section 42A report on the Rural zones.*”<sup>2</sup> Despite this, the officer accepts Fulton Hogan’s submission on SD-O4<sup>3</sup> which sought to replace Rural Production with Primary Production.<sup>4</sup>
16. While imperfect in some applications/situations, the NPS definitions provide a consistent foundation for planning. On this basis, my view is these definitions should be the starting point for plan provisions, and similar definitions should not be included in the pWDP. If due to environment or situation specific reasons the definitions need modification, this should occur within the policies and rules of the plan in order to ensure their use is subject to the full scrutiny of Section 32 of the RMA. Modifying definitions in this way also allows the full

---

<sup>1</sup> 41.9

<sup>2</sup> Strategic Directions Section 42A Report, Para 152.

<sup>3</sup> 41.15

<sup>4</sup> Strategic Directions Section 42A Report, Para 154.

---

implications of these modifications to be understood within the context in which they will be implemented. The potential confusion or unintended outcomes that can result through introducing similar or adjacent definitions to those in the NPS Definitions is highlighted through Fulton Hogan's submission and the recommendations of the S42A officer on SD-O4.

17. Consequently, my opinion is that the definition of Rural Production should be deleted, and Primary Production should be relied on instead.

### **BIRD STRIKE AND BIRD STRIKE RISK ACTIVITY (NEW DEFINITIONS SOUGHT BY CIAL)**

18. CIAL is seeking a number of amendments pertaining to bird strike risks, including identifying quarries as a bird strike risk, and an extensive 13km radius from Christchurch Airport for bird strike provisions as well as supporting policy amendments.
19. CIAL has proposed amendments to various provisions to protect CIAL infrastructure from incompatible development. The proposed amendments of concern to Fulton Hogan identify "*land use activities that increase the risk of bird strike to aircraft using Christchurch International Airport*" as incompatible activities.
20. The relief sought by CIAL subject to this hearing stream centres on a new definition of 'Bird Strike' and 'Bird Strike Risk Activity' within a 13 km radius of Christchurch International Airport. Bird strike risk activity includes: "*excavation works, including quarrying, which result in ponding exceeding 100m<sup>2</sup> or more of open water, for more than a continuous 48 hour period*".
21. CIAL's proposal has previously been discussed in the context of the Christchurch Replacement Plan development process and through the resource consent process for Fulton Hogan's Roydon Quarry at Templeton (**Roydon Quarry**).<sup>5</sup>
22. Through the Christchurch Replacement Plan process, CIAL proposed a suite of plan provisions to address bird strike risk that were very similar to those proposed through its submission on the pWDP. The Independent Hearings

---

<sup>5</sup> Resource consent applications CRC192408, CRC192409, CRC192410, CRC192411, CRC192412, CRC192413, CRC192414, and RC185627.

---

Panel (**IHP**) Decision 57<sup>6</sup> discusses the merits of this proposal from paragraph 423. The IHP determined that based on the evidence presented, activity-based regulation and controls on the creation of water bodies to address bird strike risk should be confined to within 3 km of the thresholds of the runways at Christchurch International Airport (the Bird Strike Management Area<sup>7</sup>), not the 8 km proposed by CIAL.

23. The Bird Strike Management Area in the Christchurch District Plan does not extend into Waimakariri District. CIAL's proposed 13 km bird strike risk activity buffer in the Waimakariri District would therefore leave a strip of land (including half of the Waimakariri River) approximately 1 km wide between the 3 km Bird Strike Management Area in Christchurch and the Waimakariri / Christchurch district boundary 'unregulated'. The 13 km buffer would also impact land use a significant distance from Christchurch International Airport.

24. The IHP heard submissions on the Christchurch Replacement Plan on a plan section by plan section basis, similar to the approach being taken in relation to the pWDP. This resulted in definitions and strategic objectives, including those related to bird strike,<sup>8</sup> being discussed absent the context of the implementing rules. Decision 57 of the IHP noted this issue when recording its decision on Strategic Directions and included the following rider in a footnote to Objectives 3.3.12(b)(iii) and (iv):

*"The requirement for alternative strategic direction in respect of Objectives 3.3.12(b)(iii) and (iv) will be reconsidered by the Panel as part of its further hearing of relevant proposals."*<sup>9</sup>

25. While aspects of CIAL's proposal may be appropriate in isolation, the definition of Bird Strike Risk Activity impacts the whole of the proposed bird strike risk framework creating an unreasonably restrictive set of rules. This is especially the case given that the Waimakariri River and a number of artificial water bodies exist within the 13 km buffer proposed. Based on the rationale of the IHP through the Christchurch Replacement Plan process, my view is the framework surrounding bird strike as a whole is not the most appropriate

---

<sup>6</sup> Decision 57, Chapter 6 General Rules and Procedures (Part) – Noise, Airport matters and Hagley Park, 10 November 2016.

<sup>7</sup> Referred to as the 'Bird strike Management Area' in the Christchurch District Plan and shown in Appendix 6.11.7.5.

<sup>8</sup> Objectives 3.3.12(b)(iii) and (iv).

<sup>9</sup> Decision 1, Strategic Directions and Strategic Outcomes (and Relevant Definitions), paragraph 261, 26 February 2015.

---

option for achieving the purpose of the Resource Management Act 1991 (RMA).

## THE IMPORTANCE OF AGGREGATE

26. Aggregate literally forms the foundation of the infrastructure and buildings that we rely on. The proposed and future development areas for Rangiora and Kaiapoi (and elsewhere in the district) will all require aggregate for roading and three waters infrastructure, building foundations, building construction materials and public amenity infrastructure. Aggregate is a high-volume low-cost material and transportation makes up a significant cost of the product (when calculated at the site of its end use). It costs the same to transport aggregate 30 km as it does to produce it, and the same transport costs are added for every subsequent 30 km travelled.<sup>10</sup> The further the aggregate source is from the point at which it is used, the greater the cost to the project. This has the potential to impact infrastructure costs and housing affordability.

27. As reported in the Responsibly Delivering Value – Minerals and Petroleum Resource Strategy for Aotearoa New Zealand: 2019–2029<sup>11</sup> report:

*“Houses, roads, bridges and buildings would not exist without aggregates. The crushed rock is expensive to transport (the cost of aggregate doubles in the first 30km of transport) which is why it is important that quarries are located near their end uses.”*

28. There are significant cost advantages from having quarries located close to the point at which aggregate is used. It is therefore important that Quarries and Quarrying Activities are planned for appropriately in order to realise this advantage while managing associated effects.

29. The aggregate resource is location specific and therefore quarrying can only occur where the resource exists. Urban development therefore has the potential to foreclose access to aggregate resources that might be located in the area being developed.

---

<sup>10</sup> Richard Paling Consulting, IPC & Associates, John Bolland Consulting Ltd, Murray King & Francis Small, and Ascari Partners. (2008). National Freight Demands Study 2008. Ministry of Transport. Retrieved from <https://www.transport.govt.nz/assets/Uploads/Report/FreightStudyComplete.pdf> (accessed 27 April 2023).

<sup>11</sup> New Zealand Government. (2019). Responsibly Delivering Value – A Minerals and Petroleum Resource Strategy for Aotearoa New Zealand: 2019–2029. MBIE. Retrieved from <https://www.mbie.govt.nz/dmsdocument/7148-responsibly-delivering-value-a-minerals-and-petroleum-strategy-for-aotearoa-new-zealand-2019-2029> (accessed 27 April 2023).

## STRATEGIC DIRECTION

### Objective SD-O2 Urban Development

30. Objective SD-O2 is the key strategic objective for how urban development will occur in the Waimakariri District. All other objectives, policies and rules within the pWDP relating to urban development work toward achieving this objective. Fulton Hogan has recognised that with urban development pressure increasing, interactions between incompatible land uses and reverse sensitivity effects are a key issue for Quarrying Activities. Incompatible land uses encroaching on established quarries and creating reverse sensitivity effects can impact the way quarries operate, and reduce the potential advantages having a local source of aggregate can have for an area. It has therefore sought that urban development avoid reverse sensitivity effects, and that this is addressed as a strategic matter to ensure it permeates throughout the pWDP.<sup>12</sup>

31. In relation to Fulton Hogan's submission, the S42A Officer states: *"It is more appropriate to cover the impacts of reverse sensitivity within the appropriate zone chapter rather than within the Strategic Directions chapter."*<sup>13</sup>

32. Given the potential significance of curtailing or even foreclosing Quarrying Activities through reverse sensitivity effects, my opinion is that the avoidance of reverse sensitivity effects needs to be a key consideration when locating, designing and delivering urban development, and this warrants recognition at the strategic level within the pWDP. This provides clear direction to all plan users of the range of factors influencing urban development, and allows those to be appropriately taken into account at all levels of decision making under the pWDP.

### Objective SD-O3 Energy and Infrastructure

33. Fulton Hogan has sought amendments to Objective SD-O3 to recognise that in order to achieve infrastructure outcomes, a cost-effective source of construction materials is required.<sup>14</sup> Fulton Hogan's submission seeks to highlight the link between infrastructure and the materials used in its construction, operation and maintenance, and the advantage that a ready local

---

<sup>12</sup> 41.13

<sup>13</sup> Strategic Directions Section 42A Report, Para 122.

<sup>14</sup> 41.14

---



supply has for infrastructure in a district such as Waimakariri. As discussed above, aggregate is a low-cost high-volume product which makes transportation a significant component of the cost of the product. Therefore, having a local source assists with minimising the financial and carbon costs of infrastructure.

34. The S42A officer has recommended that the Rural Zones chapter reporting officer consider the submission, but has also stated “*The submission is inconsistent with Policy 8 of NPSHPL which in section 3.9(2)(j)(iv) details that aggregate extraction is only allowed on highly productive land where it “...provides a significant national or regional public benefit that could not be achieved using resources within New Zealand”.*”<sup>15</sup>
35. While there will inevitably be an interaction between rural resources and Highly Productive Land for some Quarrying Activities, the relief sought in this instance is independent of both of these matters and would apply regardless of the status of the land (highly productive or otherwise). However, in the case that a Quarrying Activity is looking to establish on Highly Productive Land, the recognition of the role aggregate plays in infrastructure construction, operation and maintenance, will assist decision makers with addressing the tension that exists between providing significant national or regional benefit, and the cost of achieving that benefit (including the cost implications for transporting aggregate from elsewhere in the region or country).
36. On this basis, my opinion is that Fulton Hogan’s relief is not inconsistent with Policy 8 of the NPSHPL. Rather, my view is that this relief is likely to assist decision makers implementing the NPSHPL. It will assist by providing necessary context to decision making for Quarrying Activities which contribute to social, and economic wellbeing through supporting infrastructure development, housing and urban development.

#### **Objective SD-O4 Rural Land**

37. Fulton Hogan sought amendments to SD-O4 to utilise the term Primary Production as opposed to Rural Production (in line with its submission point on the definition of Rural Production),<sup>16</sup> and use the definition of Rural Industry to

---

<sup>15</sup> Strategic Directions Section 42A Report, Para 114.

<sup>16</sup> 41.9

---

assist in describing activities that are reliant on the natural resources associated with Rural Zones.<sup>17</sup>

38. The S42A officer has accepted Fulton Hogan's submission point in full as it "*makes sense*" and "*...will better align with the Section 32 on the Rural Zones.*"<sup>18</sup>
39. I am supportive of the relief sought by Fulton Hogan and the S42A officer's recommendation for the reasons outlined in my discussion regarding the definitions earlier in my evidence.

## **URBAN FORM AND DEVELOPMENT**

### **UFD-P2 Identification/location of new Residential Development Areas**

40. Fulton Hogan submitted that because the effects from reverse sensitivity can be significant for activities such as Quarrying, reverse sensitivity should be avoided when identifying and locating new residential development and suggested amendments to UFD-P2 accordingly.<sup>19</sup>
41. The S42A officer has rejected Fulton Hogan's submission as "*The issue of reverse sensitivity is already covered in UFD-P10(2) and RURZ-P8 and I consider does not need to be repeated throughout the chapter.*"<sup>20</sup>
42. UFD-P10 is limited in geographic extent to Rangiora and Kaiapoi and therefore does not require the consideration of reverse sensitivity effects from other potential new development areas. In addition, UFD-P10(2) only requires reverse sensitivity effects to be minimised which will be discussed below.
43. RURZ-P8 requires that new sensitive activities avoid establishing near existing quarries. This part of the policy (RURZ-P8(1)) was supported through Fulton Hogan's submission.
44. While the issue of reverse sensitivity is addressed to some extent in these existing provisions, in my view the approach taken does not direct strategic consideration (which is the aim of Policy UFD-P2) of reverse sensitivity effects. The benefits of Quarrying Activities and the risks incompatible development can pose to these activities has been discussed earlier in my evidence. On this

---

<sup>17</sup> 41.15

<sup>18</sup> Strategic Directions Section 42A Report, Para 147.

<sup>19</sup> 41.16

<sup>20</sup> Urban Form and Development Section 42A Report, Para 115.

---

basis, my opinion is that reverse sensitivity is a matter that justifies strong consideration when planning for new residential development and therefore inclusion in Policy UFD-P2.

#### **UFD-P10 Managing reverse sensitivity effects from new development**

45. Fulton Hogan submitted on Policy UFD-P10 and sought that the policy is clarified/broadened so as to apply to all new development areas. The relief sought also included strengthening UFD-P10(2) so as to require reverse sensitivity effects to be avoided rather than minimised and to remove reference to specific mitigation methods, in this case setbacks and screening.<sup>21</sup>
46. The S42A officer has rejected Fulton Hogan's submission on the basis that urban and residential zones are already established, and therefore there is no scope to move the dwellings to avoid reverse sensitivity effects.<sup>22</sup> Policy UFD-P2 provides for the identification of new development areas other than those already identified on the planning maps. It is therefore conceivable that Policy UFD-P10 may also apply to these new development areas (and would do if Fulton Hogan's relief was accepted). In this case, reverse sensitivity would be a relevant consideration. Action to address reverse sensitivity effects through Policy UFD-P10 would be even more important if the officer's recommendation for UFD-P2 was accepted as there would be no directive to consider reverse sensitivity at a Strategic Directions level when establishing new residential areas.
47. When discussing Fulton Hogan's submission on UFD-P10, the S42A officer also states "*The use of "avoid" would be inconsistent with Policy 5.3.2 of the RPS which has "avoid or mitigate" of reverse sensitivity effects and conflicts [sic].*" My opinion is that Fulton Hogan's submission is entirely consistent with Policy 5.3.2 of the Canterbury Regional Policy Statement (**RPS**), as Policy 5.3.2 provides the option to avoid or mitigate. Avoidance is clearly anticipated as an available option for WDC in this instance. Based on the direction Policy 5.3.2 provides, it could be argued that the notified requirement to 'minimise' reverse sensitivity effects does not provide adequate guidance in order to give effect to Policy 5.3.2 of the RPS.

---

<sup>21</sup> 41.17

<sup>22</sup> Urban Form and Development Section 42A Report, Para 116.

---

48. There appears to be a lack of clarity surrounding the term 'new development' as used in UFD-P10 and whether it applies to existing Residential Zones, future areas identified in accordance with UFD-P2, or both. To provide clarity, there is potential opportunity to differentiate between the two in the policy. Policy UFD-P10 could be redrafted to require reverse sensitivity effects mitigation in the instance where Residential Zones are already in place, and avoidance of reverse sensitivity effects (consistent with Fulton Hogan's submission on UFD-P2) for any future development areas. This would make UFD-P10(2) consistent with UFD-P10(1), which requires avoidance of certain effects unless the activity is occurring within an existing Residential Zone. A potential redraft of Policy UFD-P10 to address these issues is:

~~*Within Residential Zones and For new development areas in Rangiora and Kaiapoi:*~~

- 1. avoid residential activity that has the potential to limit the efficient and effective operation and upgrade of critical infrastructure, strategic infrastructure, and regionally significant infrastructure, including avoiding noise sensitive activities within the Christchurch Airport Noise Contour, unless within an existing Residential Zone;*
- 2. minimise avoid reverse sensitivity effects on primary production activities, from activities within new development areas through setbacks and screening, without compromising the efficient delivery of new development areas unless the residential development is occurring within an existing Residential Zone whereby reverse sensitivity effects shall be mitigated.*

## **CONCLUSION**

49. The pWDP utilises definitions that are similar to definitions contained in the NPS Definition Standard. This has the potential to introduce inconsistencies in the way rural land uses are treated in the pWDP. Fulton Hogan's submission, which I am supportive of, requests that NPS Definitions are used instead of bespoke substitutions.

50. The definitions introduced by CIAL in relation to bird strike have wide reaching consequences for Quarrying Activities that create an inconsistent management framework with neighbouring districts.

51. Reverse sensitivity is a significant issue for Quarrying Activities and a strategic approach is necessary in order to plan new urban development so as to avoid conflict between incompatible land uses while still providing for the advantages

---

that land uses such as Quarrying Activities provide for infrastructure and housing supply.

52. The amendments suggested in this evidence will assist in improving the efficiency and effectiveness of the pWDP and will better achieve the purpose of the RMA.

**Tim Ensor**

1 May 2023

---