

**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 5: Energy and Infrastructure, and Earthworks.

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

**Dated: 7 August 2023**

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## 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 5 – Proposed Waimakariri District Plan: Pūngao me te hanganga hapori - Energy and Infrastructure (**EI 42A Report**);
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- 7.3. the Section 42A Report for Stream 5 – Proposed Waimakariri District Plan: Ketuketu whenua - Earthworks (**Earthworks S42A Report**).

### Scope of evidence

8. Fulton Hogan lodged submissions on earthworks provisions focused on addressing quarrying activities in a concise consistent way in the plan. Fulton Hogan also sought that aggregate, as a key material used for infrastructure construction be recognised as such. Accordingly, my evidence focuses on:
- 8.1. How the earthworks chapter addresses Quarrying Activities,
  - 8.2. Quarrying Activities and potential effects on water resources,
  - 8.3. Quarrying Activities and the role of aggregate in the infrastructure supply chain.

### EARTHWORKS

9. Fulton Hogan's submission on a number of provisions within the Earthworks Chapter of the pWDP<sup>1</sup> focused on its opposition to having quarrying activities addressed through both zone level provisions and general earthworks provisions. Inconsistencies in planning approach can arise where the Quarrying Activity land use is addressed in zone provisions, and activities that fall under the definition of Quarrying Activity are also addressed through earthworks rules. This can be a particular issue for stockpiling activities, or site establishment work such as topsoil stripping and amenity bund formation.
10. The S42A officer has accepted this relief and has recommended that "quarrying activities are treated in their respective zones".<sup>2</sup> To achieve this relief, the S42A officer has recommended that EW-P4(3) is deleted, and that similar phrasing is incorporated into provisions for urban environment zones and most of the special purpose zones.<sup>3</sup>
11. Another consequence of the relief sought through Fulton Hogan's submission on Policy EW-P4, is removing Quarrying Activities from the 'avoid' framework associated with activities in and adjacent to urban environments. Applying a

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<sup>1</sup> 41.33, 41.34, 41.36 and 41.37

<sup>2</sup> Earthworks S42A Report, paragraph 141.

<sup>3</sup> RESZ, CMUZ, INZ, OSRZ, SPZ(HOS), SPZ(HOS), SPZ(KR), SPZ(PBKR), SPZ(PR), SPZ(MCC).

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blanket 'avoid' approach to any Quarrying Activities adjacent to urban environments raises questions as to what is considered adjacent, and ignores the potential for Quarrying Activities to manage effects, and therefore be appropriate based on the particular merits of the activity.

12. The S42A officer's recommended phrasing for substituting EW-P4(3) through the urban environment and special purpose zones is:

*"avoiding quarry, landfill, cleanfill area, mining, or dam activities within to urban environments."*

13. This phrasing removes the words "or adjacent to" which significantly narrows the scope of the provisions to which it is applied. This approach recognises the relative sensitivity of urban zones to the potential effects associated with having Quarrying Activities occur directly within them, while allowing activities proposed in adjacent zones to be assessed based on the individual merits of the activity. Based on the reasons outlined above, I am supportive of the S42A officer's recommendation to delete EW-P4(3) and address Quarrying Activities within each zone. I am also supportive of having the avoidance directive for Quarrying Activities to apply within urban environments only, as opposed to adjacent.

## **WATER RESOURCES**

14. Policy EW-P6 seeks to avoid adverse effects on ground and surface water where this may result in water contamination. The policy does not qualify the type, scale or significance of contamination and therefore could be interpreted to apply very widely. Fulton Hogan submitted that the direction to 'avoid' would potentially foreclose activities that would be acceptable with appropriate management, and that it may create conflict with regional plan provisions addressing earthworks in and around water bodies.<sup>4</sup> Examples of these rules in the Land and Water Regional Plan are Rule 5.168 and 5.169.

15. The S42A officer agrees that adverse effects cannot be avoided in all cases, and also states: *"non-compliance with the permitted activity setback standards is considered as a restricted discretionary activity (RDIS). This activity status does not accord with an 'avoid' policy, but rather accords with a 'manage' policy."*

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<sup>4</sup> 41.35

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16. The s42A officer also agrees that EW-P6 should integrate with regional council plans. On this basis the S42A officer has recommended amendments to EW-P6 as follows:

*Avoid, Manage adverse effects of earthworks on ground and surface water bodies that could result in water contamination ~~and adverse effects on mahinga kai.~~*

17. While not as direct as the relief sought by Fulton Hogan, I am supportive of the S42A officer's recommendation to substitute 'avoid' with 'manage' and agree that it allows application of the full effects management hierarchy. This will assist in avoiding conflict with regional rules of a similar nature, and better aligns with the pWDP rule framework.

## **AGGREGATE AND INFRASTRUCTURE**

18. Fulton Hogan's submission sought a new policy recognising the materials requirements for infrastructure be included in the Energy and Infrastructure chapter.<sup>5</sup> This relief is linked to a submission on Objective SD-O3 that was discussed in Hearing Stream 1,<sup>6</sup> and also seeks to highlight the link between infrastructure and the materials used in its construction, operation and maintenance, and the advantage that a ready local supply has for infrastructure in a district such as Waimakariri.

19. While agreeing that "*aggregate supply sterilisation is an issue that is relevant to the district plan review*",<sup>7</sup> the S42A officer has rejected the relief sought as they disagree that the EI chapter is the appropriate place for an additional policy on this issue, and that it should be addressed in the RURZ chapter.<sup>8</sup>

20. Fulton Hogan sought similar relief in relation to SD-O3. This was rejected by the S42A officer for Hearing Stream 1 on the basis that aggregate production in the district is not a strategic matter.

21. Fulton Hogan's relief on this issue has been rejected in relation to the SD and EI chapters and the S42A report for the RURZ has yet to be released. Therefore, there is no tangible support for the role aggregate plays in

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<sup>5</sup> 41.18

<sup>6</sup> 41.13, EIC of Tim Ensor for Hearing Stream 1, paragraph 33

<sup>7</sup> S42A Report, Proposed Waimakariri District Plan: Pūngao me te hanganga hapori - Energy and Infrastructure, paragraph 180.

<sup>8</sup> Ibid, paragraph 181.

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infrastructure provision in sections of the plan heard to date, and any recommendations reflecting Mr Maclennan's potential support for a similar policy in the RURZ chapter have not been documented.

22. For the most part, Quarrying Activities in the Waimakariri District will occur in the rural environment. On this basis, the inclusion of a policy addressing aggregate resource sterilisation within the RURZ chapter is appropriate and is supported. However, aggregate extraction as it relates to a construction material for infrastructure specifically is not only a rural issue. In the absence of any certainty on the issue via the officer's recommendations to date, I am supportive of including the new policy as proposed by Fulton Hogan in the EI chapter. This allows the link between infrastructure and associated construction materials to be identifiable across all chapters. This will be helpful for consent applicants and decision makers when addressing the inevitable conflict between competing land uses and priorities in the future. However, I will also consider the costs and benefits of including a similar policy in the RURZ chapter as suggested by Mr Maclennan via the appropriate hearing stream.

## **CONCLUSION**

23. Consistency within the pWDP and across both regional and district planning documents is important for an efficient integrated planning framework. Fulton Hogan's submission, and the recommendations of the S42A officer in relation to EW-P4(3) and the urban zones, and EW-P6 will assist in creating a more efficient planning environment for Quarrying Activities (along with others).
24. There appears to be some support from the S42A officer for addressing the issue of aggregate supply sterilisation and the role of aggregate in supporting infrastructure within the pWDP. However, there is some uncertainty regarding the most appropriate location to address this matter within the plan. My preference is that this is addressed at a level within the plan that creates a clear link between materials supply and infrastructure provision.

**Tim Ensor**

7 August 2023

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