

**Before the Independent Commissioners**

In the matter of                      the Resource Management Act 1991

And

In the matter of                      the Proposed Canterbury Land and Water Regional Plan

**Statement of Evidence of Bob Willis**

Dated: 4 February 2013

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## Introduction

1. My full name is Robert Bruce Willis. I am the Regional Environmental Advisor for Fulton Hogan Limited (**Fulton Hogan**) in the Central South Island area. My professional background is in the field of Resource Management Planning, and I hold the Degree of Bachelor of Resource Studies from Lincoln University.
2. I have previously worked for the Canterbury Regional Council (Environment Canterbury – **ECan**<sup>1</sup>), as a Senior Planner, for approximately seventeen years. That role principally revolved around the co-ordination of ECan's involvement in District Planning Liaison for the five southern district councils within the Canterbury Region, and promoting the integration and consistency of district and regional planning documents across the wider region.
3. In this role, I have also contributed to the development of the *Natural Resources Regional Plan (NRRP)* and the *Canterbury Regional Policy Statement* (along with various other statutory documents).
4. I have also worked closely with ECan River Engineers on a range of issues relevant to their functions within ECan. Accordingly, I am very familiar with many of the resource management issues of significance to the Canterbury region generally, and to this Proposed Plan.
5. I have worked for Fulton Hogan for nine months in the role of Regional Environmental Advisor, and have participated in hearings before ECan in relation to the *Canterbury Regional River Gravel Management Strategy* and the *proposed Flood Protection and Drainage Bylaw 2012*. I have also been involved in the preparation of submissions on the *proposed Canterbury Land and Water Regional Plan (LWRP, "the Plan")*.
6. I consider that my background with ECan provides me with the requisite understanding of the matters subject to submission by Fulton Hogan. I acknowledge that while I have a level of expertise given my past experience, I am not providing this evidence as an independent expert,

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<sup>1</sup> Environment Canterbury or ECan is the promotional name of the Canterbury Regional Council and will be used in reference to the Canterbury Regional Council in this evidence.

but rather in my capacity as Regional Environmental Advisor for Fulton Hogan Limited.

### **Scope of Evidence**

7. My evidence will address the nature of operations undertaken by Fulton Hogan and the associated regulatory processes, and the perceived shortcomings in LWRP Policies, Definitions and Rules to adequately provide for the sustainable management of natural and physical resources. It provides context for, and comments on, a number of changes sought through Fulton Hogan's submissions, with particular emphasis on improving the certainty, consistency, practicality, and sustainability of the LWRP and its alignment with other relevant ECan documents.

### **Outline of Fulton Hogan's contribution to the economy**

8. Fulton Hogan is one of New Zealand's largest roading and infrastructure construction companies and operates throughout New Zealand, as well as in Australia and the South Pacific. Within New Zealand, Fulton Hogan employs close to 4000 staff and has an annual turnover of around NZ\$1.5 billion.
9. Fulton Hogan employs approximately 700 staff within Canterbury. In addition, other sub-contractors contribute in excess of 120 further jobs across the region. The company has operated within this area since 1979, and has a proud history of road and infrastructure construction, within a diverse operational portfolio. Core operations include Major Projects, Asset Management, Manufacturing, Contracting, Land Development and Forestry.
10. Major Projects contracts in operation within Canterbury include the Christchurch Southern Motorway and the Tekapo Canal Remediation Project. Fulton Hogan is also a partner in the Christchurch Rebuild Alliance.
11. To complement the company's business needs, Fulton Hogan manufactures products which are used in day-to-day business, Major Projects, and by clients. These include quarry products (aggregates), asphalt, precast concrete, emulsions, bitumen, and road signs and associated products.

12. Infrastructure and asset management services are also provided. Examples of this work stream include road maintenance (for both local authorities and New Zealand Transport Agency), facilities maintenance (for example, for the New Zealand Army), airport and port maintenance. The company is also moving into areas such as rail, water, energy and communications, whilst maintaining its core capabilities.
13. Core Contracting activities include the more “traditional” operations, such as road construction, civil construction, drainage works, paving, water cutting and grooving, and suchlike. Land Development is another element of the diverse portfolio. In Canterbury, Fulton Hogan is involved in land development joint ventures at Lincoln (91.6 ha of residential land) and Halswell (117 ha of residential land), amongst others.
14. Within Canterbury, in the order of 5 to 6 million tonnes of aggregates are produced per year, with a total annual gate value of approximately NZ \$40 - \$50 million. A reasonable proportion of this can be attributed to Fulton Hogan’s extensive land and river-based operations, which rely on a combination of fixed and portable processing plants. The diversity of uses of this product – as building blocks for housing, business and infrastructure – is fundamental to sustain the needs and wellbeing of people and communities.
15. Fulton Hogan operates within, and is committed to, a strong environmental philosophy. The company is committed to minimising the environmental impact of its activities and to promoting sustainable development.
16. Compliance with resource consents and other regulatory standards is also a key plank of environmental policy for the company, as is achieving excellence in environmental management. These priorities underpin all aspects of operations, including those involving works in or near waterways.
17. It is against this background that Fulton Hogan lodged its submissions on the LWRP. As noted above, Fulton Hogan has also submitted on other ECan documents, including the “*Canterbury Regional Policy Statement*”, “*Canterbury Regional River Gravel Management Strategy*” and the “*Proposed Flood Protection and Drainage Bylaw 2012*” (Bylaw) (which have now been heard); a number of common “themes” exist across these

submissions, relating to such matters as certainty, duplication of process and similar.

### **Overview of operations**

18. In relation to aggregate production, typical extraction and processing operations involve multiple elements. River-based aggregates are primarily used for roading aggregate or bulk-fill of AP (All Passing grades). Screening and crushing of raw aggregates occurs on-site, along with stockpiling within or adjacent to river beds.
19. On occasion, the production of rail ballast from this source requires washing of aggregates in-situ. Because of the difficulties of managing washdown water in this case, washed aggregates tend to be sourced from land-based quarries.
20. River-based extraction typically requires the creation or upgrading of haul roads. This may necessitate the installation of culverts or crossings through river braids. Stockpiling of material occurs on-site, and crushing generally only where aggregate is to be hauled directly to roading or construction sites. Refuelling of plant and machinery occurs either off-site (e.g. for trucks) or by way of portable fuel tankers (for static plant).
21. Activities may be restricted due to the availability of aggregate, because of seasonally-sensitive values and conditions (e.g. fish spawning or bird nesting), or flooding hazard.
22. Haul distances add a further dimension to the viability of river-based gravel resources. This is particularly relevant if off-site stockpiling is to occur, where double-handling increases costs (but not, necessarily, value). Where relatively low-value aggregates (such as bulk fill) are transported beyond 10 kilometres from source, this doubles the cost of the product. For this resource, the proximity of supply to demand plays a significant role in its economic viability. It will also dictate whether companies such as Fulton Hogan choose to extract aggregate from distant sites or where the additional regulatory burden removes any marginal benefit.
23. In general, river-based extraction is an ephemeral activity. Mobile plant is used for individual projects and then relocated to other sites. An exception to this approach is at Coutts Island, where Fulton Hogan has invested

several million dollars in establishing and operating a fixed screening and crushing plant to process aggregates from the Waimakariri River.

24. The removal of the security of resource consent renewal for this resource, and its replacement with short-term approvals, is a particular concern in relation to this operation.
25. Land-based gravel extraction demands a significantly greater investment in land, fixed plant and infrastructure, and statutory approvals, and requisite operational certainty. These quarries produce a wide range of aggregates, including high quality products for chip sealing, asphalt production, rail ballast and concrete aggregates, which have a high cleanliness specification.
26. Fixed fuel storage, groundwater monitoring bores, water takes, buildings, and cleanfilling for rehabilitation are generally features of this operation that are absent from river-based works. Dust and noise management, traffic and visual effects, and works in or adjacent to ground and surface water remain as issues common to both activities.
27. Where water takes occur, this generally adds complexity to the proposal. This requirement may involve a degree of consumptive use (for example, to service administration buildings and/or establish screen plantings), and for dust suppression and aggregate washing, where much of the water is recycled and, ultimately, returned to ground.
28. Required rates of take during operational periods are in the order of 25 – 30 litres per second (where recycling occurs) or 35 – 40 litres per second where only clean water is used. This would produce in the order of 300 – 400 tonnes per hour of high quality aggregate. A substantial proportion of washdown water (for aggregate crushing and cleaning, for example) is recirculated through the plant and, ultimately, returned to ground. Sediments removed from this water by settling are cleanfilled.
29. Quarries, by their nature, have a limited lifespan. The principal land based quarry operations for Fulton Hogan are the Pound Road quarry (CRC960393.1) and Miners Road quarry (CRC072440), both of which are, I understand, within the area covered by section 9 – Christchurch – West Melton of the LWRP.

30. Pound Road, which has been a significant source of aggregate, is coming to the end of its lifespan.
31. Fulton Hogan is conducting investigations into several proposals as part of its long term quarrying strategy.
32. One of the projects being investigated involves a potential land swap for land currently occupied by the Templeton Golf Course. While this is still very much at a preliminary stage, it would in essence involve the rehabilitation of the old quarry site to create a new 18 hole golf course and club facilities on the existing Pound Road quarry site.
33. While I am not actively involved in that project, it is my understanding that it will involve additional water takes, or transfer of existing takes. The proposed prohibition on further groundwater takes from the Christchurch/West Melton sub regional area, and the proposed volume restrictions on transfers, will obviously be relevant to that project, and indeed to any quarry development within that zone.

#### **Overview of regulatory context**

34. A number of differences exist between river-based extraction and land-based extraction, the most significant being land tenure; river-based extraction tends to occur on Crown land or land with presumed "*ad medium filum aquae*" rights, whereas land-based quarries tend to be on freehold land owned or operated by Fulton Hogan.
35. Where legal access (principally formed public roading) is not available to riverbeds, negotiated agreement to access is required with the landowner. This frequently requires some form of compensation.
36. Crown agencies also seek rental or other compensation for access to riverbeds and aggregate. For example, Land Information New Zealand issues non-exclusive access licences for riverbed areas. At this stage, no royalty fee is being charged, but the access licence fee is of the order of \$1500.00 per annum (plus GST) per licence. These licences generally contain a raft of conditions addressing such matters as buildings, discharges, tracking, fencing, hours of use, and so on.

37. The Department of Conservation also seeks royalty fees for aggregate extraction from DoC-administered riverbed areas. This schedule includes a concession management fee of approximately \$300.00 per annum (plus GST), a royalty fee of \$2.00 (plus GST) per m<sup>3</sup> of aggregate extracted, with a minimum extraction fee of \$200.00 per concession. These concessions also include conditions addressing wildlife and other natural values.
38. Resource consents and other approvals are also a standard feature of aggregate extraction and processing operations. A typical scenario for river-based extraction would require the following resource consents:
- (a) ECan resource consent for works in the bed of a river.
  - (b) ECan resource consent for diversion of water or forming a vehicle crossing across a flowing channel.
  - (c) ECan approval under the *Flood Protection and Drainage Bylaw 2012* (should it be adopted), including a royalty fee.
  - (d) City/district council land use consent where works are defined as “mining activities” (or similar), and/or where work occurs within a “site of natural significance” and/or within set distances from the bed or margin of rivers, lakes or wetlands.
  - (e) Approvals from agencies such as Land Information New Zealand and/or the Department of Conservation are generally also required, along with privately-negotiated access agreements in some cases.
39. Where land-based extraction is proposed, this is generally for a longer duration. A typical scenario for a land-based quarry would require the following resource consents and approvals:
- (a) ECan resource consent for the use of land for mineral extraction.
  - (b) ECan resource consent for discharges to air associated with crushing, handling and storage of aggregates.
  - (c) ECan resource consent for establishment of bores (for monitoring and/or water take)



- (d) ECan resource consent for taking and using ground or surface water.
  - (e) ECan resource consent for discharging wash water to land.
  - (f) ECan resource consent for the storage of hazardous substances (principally diesel fuel, but also, potentially bitumen products and oils).
  - (g) ECan resource consent for discharge of stormwater and/or effluent to land.
  - (h) ECan resource consent for discharge of cleanfill to land.
  - (i) City/district council land use consent for the establishment and operation of a quarry, including the construction of buildings and ancillary operations, traffic, rehabilitation, and for fuel storage.
  - (j) Additional approvals may be required from other agencies or authorities. Examples include Transpower (where transmission lines bisect the site), agencies such as NZTA where state highways are involved, or council-controlled organisations where other infrastructure (water races, water supply schemes) is present.
40. The approvals identified above generally incorporate a raft of conditions and ongoing monitoring obligations. These impose “operational costs” over and above those required to obtain resource consent. As the above lists suggest, the initial and on-going regulatory costs for access to aggregates is substantial. Where process streamlining can be achieved and duplication avoided, this will significantly improve the cost-effectiveness and certainty of supply of aggregates in Canterbury.

### **Appropriate emphasis in the Plan**

41. While “*Recovery activities*” are defined in the Plan, along with useful general discussion (by way of background) of aggregate uses contained within the “*Introduction, Issues and Major Responses*”<sup>2</sup> and a specific rule (Rule 5.5) relating to “recovery activities”, greater recognition is sought

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<sup>2</sup> LWP, Section 1, see for example, pages 1–1, 1-4, 1–5, 1–11, and 1-13 for discussion of gravel extraction and integration with other statutory documents, including the Christchurch Earthquake Recovery Act 2011.

given to the central importance of the aggregates industry to the well-being of people and communities and in particular, to recovery activities.

42. The *Recovery Strategy for Greater Christchurch Mahere Haumanutanga o Waitaha*<sup>3</sup> includes Goals to contribute to the recovery and future growth of greater Christchurch by (inter alia) “*facilitating a timely and efficient recovery, including intervening where necessary to remove impediments, resolve issues and provide certainty*.”<sup>4</sup> and to revitalise greater Christchurch by “*collaborating with the private sector and government agencies to address obstacles to economic recovery and to match supply with demand for resources*”<sup>5</sup> However, any regime which adds cost and uncertainty to the industry could cause difficulties.
43. Turning to the specific changes sought through submission, the introductory discussion in the LWRP does provide some useful discussion of aspects of the use of aggregates. Unfortunately, this promising start does not then readily translate into provisions that give appropriate recognition to gravel extraction activities.
44. Included within the suite of changes requested by Fulton Hogan are amendments to the introductory text in Section 1 – Introduction, Issues and Major Responses. Changes sought in submission points 1, 2 (in part) and 4 have been recommended for adoption in the Section 42A Report. This is supported. The specific amendments sought by Fulton Hogan are discussed by Mr Murray in his evidence.
45. An important additional Objective sought for inclusion to acknowledge the importance of aggregates is requested to complement Objective 3.16, and reads as follows: “3.24 Recognise and provide for the development of mineral resources (including gravel) while avoiding, remedying or mitigating any inappropriate adverse effects”.
46. This Objective provides a focussed and specific emphasis on the importance of mineral resources for the sustainable management of the environment; this is something foreshadowed in the introductory section of the LWRP, but absent from the Objectives section of the document.

<sup>3</sup> Discussed at page 1-13, Section 1.3.3 “*Statutory Planning for Managing Land and Water, and the Role of the Land and Water Regional Plan*”. Note, also, that Figure 1 does not identify the hierarchical status of this Strategy.

<sup>4</sup> “Recovery Strategy for Greater Christchurch”, page 9, Leadership and Integration Goal 1.1.

<sup>5</sup> “Recovery Strategy for Greater Christchurch”, page 9, Economic Recovery Goal 2.7.

## Duplication of Process/ Multiple Consents

47. Fulton Hogan, and indeed the industry, accepts that a degree of regulation is required to manage gravel extraction operations. The company also acknowledges that ECan has a duty to manage and protect the environment, including flood protection works, for the benefit of the wider community; this sits alongside the regional council and territorial authorities' functions under the Resource Management Act 1991 (**RMA**)<sup>6</sup>.
48. Across the Canterbury Region, the company holds in excess of 100 resource consents from ECan for river-based gravel extraction and/or processing. Numerous additional resource consents are also held from territorial local authorities for the same activities, and run in parallel with those granted by ECan. Additional approvals are now proposed under the *proposed Flood Protection and Drainage Bylaw*, once adopted by ECan. The nature of these regulatory approvals has been discussed earlier in my evidence.
49. The costs of obtaining and complying with these resource consents and approvals are not inconsiderable; whilst this is an accepted element of the business, Fulton Hogan (and the industry generally) would prefer a more streamlined and integrated approach to obtaining approvals, rather than the additional cost and uncertainty imposed by the requirement to procure multiple approvals for the same site and activity.
50. To this extent, Fulton Hogan holds some concerns that ECan has not fully explored measures to remove potential duplication of controls with those contained in the proposed Bylaw and district plans.
51. Furthermore, many river-based resource consents granted by ECan incorporate conditions designed to avoid adverse effects (for example on bird nesting and fish spawning sites). While this approach is endorsed, it is apparent that there is a large degree of, at the very least, overlap or, at worst, duplication of functions with those of territorial authorities in this area; many district plans include controls on activities affecting indigenous vegetation and habitats of indigenous fauna and prescribe separation thresholds from waterways.

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<sup>6</sup> RMA sections 30(1)(c)(iv) and 31(1)(b)(i) respectively.

52. While I raise this issue as a general matter of concern, I believe the opportunity should be explored to streamline the resource consent process both with territorial authorities and in-house. Such an approach would significantly reduce costs and improve certainty and timeliness for proposals requiring resource consent.
53. Similar concerns are expressed about ambiguities and conflicts within the LWRP and between other relevant regional plans. For example, The *Waitaki Catchment Water Allocation Regional Plan* purports to address only water allocation but does appear to also inadvertently capture some non-consumptive activities such as in-bed diversions for river bed activities.
54. In submission number 7 (page 11), Fulton Hogan has requested that Section 2.9 is amended to incorporate detailed guidance on how any ambiguities and conflicts between the LWRP and other relevant regional plans are to be resolved.
55. The Section 42A report (pages 73 and 74) is “hopeful” that a greater level of clarity between relevant controls will eventually be achieved but that, in the meantime, “[t]he detail of relationships with other plans will continue to be subject to some interpretation...” (page 74 of the Report). Clearly, this situation is far from ideal for those affected by overlapping controls or by different criteria.
56. I note that some amendment is recommended to this provision on pages 77 and 78 of the Section 42A Report to clarify the matter of priority. While this recommended change is not that sought by Fulton Hogan, it does remove a degree of ambiguity that this submission seeks to resolve.

### **Enhancement of Carrying Capacity/Flood Management**

57. A suite of changes has been sought to Objective and Policy provisions dealing with flooding management.
58. The thrust of the submissions is to allow that, particularly within braided river systems, the removal or induced erosion of gravels in storage is sometimes desirable to manage flooding risk and, in some cases, to enhance (rather than simply maintain) flood carrying capacity.

59. Submission number 24 from Fulton Hogan requests that Objective 3.20 is retained but amended to read “*Extraction of gravel from riverbeds maintains and enhances (where appropriate) flood carrying capacity, protects infrastructure and provides a resource to enable development.*” The merit of Fulton Hogan’s submission has not been assessed in the Section 42A Report<sup>7</sup>.
60. The Report recommends that Objective 3.20 is amended to become Objective 3.22 (page 99) in response to a submission from Nga Runanga. The amendments proposed fail to provide scope to acknowledge that improvements in and/or enhancement of floodway capacity may be a more appropriate objective of gravel extraction in some circumstances. This may also involve some diversion of river channels (which may also be constrained within stopbanks).
61. It is not clear why the recommended amendment strays so far from the notified Objective. Not only does this introduce a significant degree of duplication (with, for example, proposed Objectives 3.6 – 3.10 or amended Objectives 3.10 – 3.14) – where the Council Officers identify that a short list of concise, non-repetitive but inter-related objectives is the goal<sup>8</sup> - but the fundamental flavour of the provision is also lost within the raft of new matters that are introduced.
62. Additionally, it incorporates the “no effects” approach that Fulton Hogan has identified as being at odds with the principles of sustainable management.
63. Fulton Hogan has also requested amendment to Policy 4.8<sup>9</sup>. The requested inclusion of the words “...do not inappropriately affect flood flows...” has been accepted by the reporting officers in principle. The recommended alternative wording incorporates the term “*materially*” in the place of Fulton Hogan’s preferred term.
64. There will be circumstances where it is desirable to divert flood flows to cut or open new channels for erosion control or the management of flooding risk to adjacent land. This work is frequently initiated by ECan river engineers on behalf of private landowners or river rating districts.

<sup>7</sup> There is only a very generic assessment at pages 79, 80, 89 and 97 – 99 of the Section 42A Report.

<sup>8</sup> Stated at pages 80 (1<sup>st</sup> paragraph) and 97 (2<sup>nd</sup> paragraph) of the Section 42A Report.

<sup>9</sup> Discussed at pages 333 and 334 of the Section 42A Report.

Accordingly, the wording promoted by Fulton Hogan is considered to be the more appropriate in this case.

### **Rule 5.118 - Diversions**

65. Fulton Hogan lodged three submissions on Rules dealing with the diversion of water<sup>10</sup>. Three decisions are sought:
- (a) Delete reference to “diversion” within rules 5.96 – 5.100.
  - (b) Insert a new rule for diversion (and related disturbance) activities, as follows: “Rule 5.121B Where not classified by any other rule in this Plan, the diversion of water as a result of the excavation and disturbance of a river or lake bed, or the establishment of a structure or defence against water, is a discretionary activity.”
  - (c) Retain Rule 5.118, but delete condition 1, which sets a diversion threshold of one third of the width of the water body.
66. The Reporting Officers recommend these changes be adopted and incorporated into the LWRP<sup>11</sup>. This is supported.

### **Rule 5.119 – Temporary Discharges**

67. Rule 5.119 prescribes Permitted Activity thresholds for temporary discharges of contaminants to water. Fulton Hogan generally supports the rule, but requested some specific changes to better reflect the practicalities of temporary discharges.
68. The reporting officers have accepted these changes and have made recommendations which are supported by Fulton Hogan.

### **Rules 5.116, 5.120, 5.124 – 5.126 – Gravel allocation and sections 124A to 124C**

69. The series of rules that include Permitted Activity conditions that rely on activities that are “...undertaken by a local authority or network utility operator in accordance with a flood protection plan that has been certified as being in accordance with the CRC’s River Engineering Section Quality

<sup>10</sup> Submission numbers 55, 58, and 63. These are assessed at pages 278 – 284, 347 and 348 of the Section 42A Report.

<sup>11</sup> Section 42A Report Recommendations R5.96, R5.99, R5.118, and R5.121A.

and Environmental Management System Manual (March 2010) by the CRC” are strongly opposed by Fulton Hogan. These rules are 5.116<sup>12</sup>, 5.120<sup>13</sup>, 5.125<sup>14</sup> and 5.126<sup>15</sup> respectively.

70. This reservation of discretion to only local authorities and sundry network utility operators is not an effects-based approach. Neither is it equitable.
71. The Section 32 Assessment states that<sup>16</sup> “*The regional council has an existing environmental management system, which is in the process of being updated into a code of practice for works in riverbeds. This environmental management system provides a non-regulatory approach to the management of works within riverbeds...*” This statement does not align with the identified provisions above.
72. My interpretation of these conditions is that the environmental management system is, in fact, part of a regulatory approach to managing works in riverbeds.
73. In respect of the Quality and Environmental Management System Manual that a flood management plan must be certified to be in accordance with, I note that this document is 368 pages long and does not contain any particular process by which an operator might ascertain its flood management plan to be in “accordance” with the Manual. Equally there appears to be no guidance in the Manual by which an officer might assess a certification application.
74. It is accepted that the Manual contains a “Gravel Extraction Permit” form (on pages 347 and 348), but this document appears to rely substantially on the production of a relevant resource consent. The Manual appears to be focussed rather on describing in-house practices and processes for ECan river engineering officers
75. Fulton Hogan has requested that the various identified provisions are amended to be more inclusive. The conditions of Rules 5.116(3) and 5.120(1) are requested to be amended to read: “*The activity is undertaken by a local authority or a network utility operator in accordance with a flood*

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<sup>12</sup> Assessed at pages 345 and 346 of the Section 42A Report.

<sup>13</sup> Assessed at page 349 of the Section 42A Report.

<sup>14</sup> Assessed at pages 355 to 358 of the Section 42A Report.

<sup>15</sup> Ibid.

<sup>16</sup> Fourth paragraph, page 120 of LWP Section 32 Report.

~~protection~~ plan that has been certified as being in accordance with the CRC's River Engineering Section Quality and Environmental Management System Manual (March 2010) by the CRC". The deletion of Rule 5.126 as notified is sought.

76. It would also be appropriate for ECan to review the Manual to ensure there is a clear and transparent process for certification.

### **Removal of application of section 124A-C**

77. Turning to Fulton Hogan's submission number 66, this concerns Rule 5.124. This rule states simply that "*Sections 124A to 124C do not apply to resource consents to extract gravel from rivers in Canterbury.*" Fulton Hogan seeks that this rule is deleted.
78. One of Fulton Hogan's overarching concerns arising from this approach is the proposal to apply a generic Canterbury-wide control to gravel management across the region. This would substantially undermine the future certainty of existing infrastructure operated by Fulton Hogan and other contractors, particularly in the Central and North Canterbury areas.
79. For example, the Coutts Island operation operates under consent CRC041208.1. This is a fixed site which has been in operation for over 50 years and supplies the northern Christchurch market with a broad range of roading and construction materials. The investment in this site has been considerable. Its existence provides a degree of certainty for the consent holder at a time when the Christchurch and wider Canterbury rebuild is gaining momentum.
80. In addition, many maintenance contracts, held by businesses such as Fulton Hogan, often run for periods of five or more years. Clearly, it is desirable to have some certainty as to the supply of aggregate in bidding for and servicing these contracts; the proposal to remove the priority afforded by Section 124A-C RMA would remove or substantially diminish that certainty.
81. The investment that companies have already contributed to the Christchurch and North Canterbury region is reliant on the Duration Based allocation. In areas where river extraction is fully allocated (such as the Waimakariri), it is counterproductive and unnecessary to revert to short



term consenting processes. The demand over the next few years in Christchurch will only increase, and it is crucial that there is suitable industry processing capability nearby to ensure these demands are supplied.

82. To “change horses” to a less certain and shorter-term process at this time is considered to be unjustified and inefficient within this context. Moreover, the unwavering support for the removal of Resource Consent renewal provisions to provide greater “flexibility” in the management of gravel<sup>17</sup> appears to be predicated on the preference to pass control of gravel allocation to the Regional Engineer, rather than on any sound Resource Management principles.
83. An unintended but possible outcome of this approach may be for the aggregate industry to abandon the less certain river-based gravel resource for more extensive land-based gravel extraction. Such an outcome would add considerably to ECan’s financial burden, where gravel removal for flood management would be at a cost to the ratepayer.
84. For these reasons, Fulton Hogan seeks that Rule 5.124 is deleted.

#### **Rule 5.128 – Certification for Dams**

85. Rule 5.128 concerns itself with the damming of water in or outside the bed of a river or natural lake. Fulton Hogan supports the intent of the rule, but considers that the requirement that every dam outside a river or lake bed that impounds more than 1000m<sup>3</sup> of water obtains certification by a chartered professional engineer (Civil) is onerous.
86. Fulton Hogan regularly needs to install sediment retention ponds of volumes up to 10,000m<sup>3</sup> to manage dust suppression and crushing processes. This volume is considered to be a far more reasonable threshold for the required certification.
87. The Section 42A Report records, in relation to this submission, that “*in the absence of any justification for the higher (arbitrary) figure, 1000m<sup>3</sup> is considered an appropriate threshold...*”<sup>18</sup> The alternative approach

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<sup>17</sup> At page 125 of the LWP Section 32 Report.

<sup>18</sup> Page 373 of the Section 42A Report.

promoted in Recommendation R5.128 is to require certification by a “Recognised Engineer” at the 1000m<sup>3</sup> threshold.

88. While this change does, potentially, marginally reduce the cost of compliance, it remains Fulton Hogan’s preference that the impoundment threshold in condition 1(c) is amended to 10,000m<sup>3</sup>, for the reasons given above.

#### **Rule 5.160 and 5.161 - Cleanfill**

89. The LWRP incorporates Region-wide Rules to provide for the excavation and deposition of material over aquifers. The relevant Rules are contained in 5.155 to 5.161. Separate controls are applied to Offal and Farm Rubbish Pits (Rules 5.129 to 5.132) and for Silage Pits and Compost (Rules 5.37 and 5.38). These latter Rules provide for activities that may produce substantial risks to water quality in situations where insufficient separation from groundwater is achieved, where inadequate controls are in place to ensure that hazardous substances are not discharged, or as a result of poor design, location and/or management. Proposed Rules 5.160 and 5.161 are arbitrary and not sufficiently effects-based.
90. The disposal of cleanfill material (soils, building rubble, concrete, and similar inert material) is subject to considerably more stringent and onerous control under the LWRP than silage pits and the disposal of offal and farm rubbish. The analysis does not adequately identify or recognise the economic and environmental benefits that accrue from a more flexible control regime for cleanfill. Moreover, the notified controls do not adequately reflect the risks, benefits and costs associated with the management of cleanfill. In addition, the absence of any definition of the term “cleanfill” creates uncertainty in the interpretation of the proposed Rules.
91. Where earthworks occur that involve virgin natural materials being moved from one part of a site to elsewhere on the same or a nearby adjacent site – whether temporarily or permanently - the effects or risks of this activity are such that Permitted Activity status is considered appropriate. Examples may include topsoil stripping for road construction or subdivision development. Similarly, where land slippage occurs affecting road corridors, for example, this material is indistinguishable from natural soils

and poses little environmental risk if it is disposed of by spreading onto land or placement in a cleanfill site. Sediments derived as a byproduct of gravel crushing have many similar characteristics to virgin soils or loess. The potential risk to groundwater from these materials is low. Accordingly, provision should be made for the discharge of inert cleanfill materials as a Permitted Activity, subject to compliance with appropriate conditions.

92. Other considerations that are relevant to the discharge of cleanfill include the effects of transport distances on cost, viability, roading, safety, and hydrocarbon use. In this respect, the shorter the haul distance, the greater the overall benefit (or smaller risk) that accrues. Land rehabilitation is a further aspect. Properly managed cleanfill operations can restore land to productive use or improve productive potential through such means as filling borrow pits to conform with adjacent ground levels.
93. Fulton Hogan seeks the amendment of Rule 5.160 (with consequential amendments to Rule 5.161), and the incorporation of a Definition of “Cleanfill”. The Section 42A Report accepts, largely, the changes requested<sup>19</sup>. This is supported.

## Conclusion

94. In conclusion, Fulton Hogan generally supports the preparation of the Canterbury Land and Water Regional Plan. It is hoped that the “end product” of this process will significantly reduce the number of Resource Consent conditions applied to extraction, will help simplify and streamline the Resource Consent process, and will secure better environmental outcomes.
95. While shortcomings in various provisions have been identified, in my opinion, significant improvements could be made by:
  - (a) adequately recognising the fundamental importance of aggregates to the sustainability of people and communities; and
  - (b) particularly, their contribution to the recovery and future growth of greater Christchurch and the region generally.

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<sup>19</sup> At pages 384 and 420 – 422 of the Section 42A Report.

96. Significant investment has been made by Fulton Hogan and other industry groups in infrastructure to service legitimately-held Resource Consents for gravel extraction in Canterbury, and the proposal to remove the availability of sections 124A to C of the RMA and to apply a short-term consenting process to this area is strongly opposed.
97. I note that there is no direct linear relationship between demand and supply of aggregate. Many other elements apply in respect of certainty and cost of supply, servicing of contracts, and investment in plant and infrastructure. With the onset of the greater Christchurch and Canterbury rebuild, such security has attained increased importance to the industry.

R B Willis

4 February 2013