

## Submission on Proposed Variation 2 to the Proposed Canterbury Land and Water Regional Plan

To: Canterbury Regional Council  
Freepost 1201  
Proposed Canterbury Land and Water Regional Plan  
PO Box 345  
Christchurch 8140



Submitter: Fulton Hogan Limited (Canterbury) (Fulton Hogan)

This is a submission by Fulton Hogan on Proposed Variation 2 to the Proposed Canterbury Land and Water Regional Plan.

Fulton Hogan:

- (a) could not gain an advantage in trade competition through this submission.
- (b) is directly affected by an effect of the subject matter of the submission that—
  - (i) adversely affects the environment; and
  - (ii) does not relate to trade competition or the effects of trade competition.
- (c) Fulton Hogan wishes to be heard in support of its submission and would consider presenting a joint case with others making a similar submission at any hearing.

### Background

1. Aggregates are a fundamental building block whose ubiquitous use across all aspects of the built environment is frequently under-recognised. The production and use of aggregates is as vital for the maintenance and sustainable management of communities as it is crucial to their growth, development and maintenance.
2. Within Canterbury, the availability of aggregates in relatively close proximity to areas of demand is directly related to cost. Longer transport distances and requirements for multiple handling of product between the raw and processed form has a correspondingly greater effect on price. At a fundamental level, this cost influences where new development will occur (by affecting financial viability), and the extent to which the maintenance of existing infrastructure is to occur (by influencing, for example, the affordability and scope of road maintenance metalling or reseals). Accordingly, constraints on the ability to extract and process aggregates in relatively close proximity to the source of demand will negatively affect the sustainability of Canterbury's communities. On the other hand, the ready availability of strategic aggregate resources and the ability to process this material at or close to source will provide a significant stimulus into the Canterbury regional economy. It will also strongly influence the sustainability of communities.
3. Fulton Hogan operates extensive transport fleets of trucks, trailers and other specialised aggregate production and construction equipment across the Canterbury region. A number of in-house mechanical and engineering workshops employing mechanics and general engineers also support the aggregate industry fleet build and maintenance activities. Out-sourced work

also contributes substantially to the regional economy. Fulton Hogan has also submitted extensively, both on its own and as a member of the Canterbury Aggregate Producers Group (CAPG), on the Proposed Canterbury Land and Water Regional Plan (PLWRP) and on Variation 1 to this document. It is against this background that the Fulton Hogan submission has been developed.

## Relevance of Proposed Variation 2

4. Fulton Hogan undertakes numerous activities involving land and water resources within the areas affected by Proposed Variation 2, namely the Hakatere/Ashburton River catchment and Hinds/Hekeao Plains Area. It is considered likely that future aggregate extraction and processing activities will establish within this area, also.
5. These activities include but are not limited to:
  - 5.1 Gravel extraction, both within river beds and within land-based quarries/pits;
  - 5.2 Aggregate processing and storage;
  - 5.3 Construction, maintenance and use of structures, defences against water, and roads/access within river beds, riparian margins, and elsewhere;
  - 5.4 Land use and infrastructure development and maintenance activities, either directly or on behalf of third parties (including roading contracts for the State highway on behalf of the New Zealand Transport Agency, and local roads on behalf of a number of territorial authorities);
  - 5.5 Hazardous substance use, transport and storage;
  - 5.6 Workshops, transport depots, storage yards, staff offices, and supporting infrastructure (including wastewater, stormwater, and potable water);
  - 5.7 Water abstraction to support operational activities (e.g. dust suppression, dewatering) and to provide potable water for staff facilities.
  - 5.8 Discharges of water and contaminants to land and water, and the damming and diversion of water, associated with the above activities (where relevant).
6. Fulton Hogan wishes to ensure that the regulatory regime under Proposed Variation 2 does not curtail its existing lawfully established activities or remove opportunities for future aggregate production within this area.
7. In addition to the above, viable aggregate resources from existing consented land and river-based sources in close proximity to main areas of development will eventually be exhausted or are in decline. The CAPG and Fulton Hogan presented evidence at the original PLWRP hearings that demonstrated:
  - 7.1 Approximately 8 to 9 million tonnes of aggregate is consumed across the Canterbury region per year (two-thirds of this demand is from the Christchurch area);
  - 7.2 The annual demand for aggregates in Canterbury is increasing; and
  - 7.3 Presently available resources (i.e. developed quarries and fluvial sources) will be exhausted and/or become less reliable in the short to medium term.

8. Fulton Hogan considers that the area encompassed by the Variation 2 changes is likely to play a pivotal role in the development of new aggregate resources over the next few decades. On that basis, Fulton Hogan wishes to ensure the regulatory regime under Proposed Variation 2 does not foreclose future development opportunities. Moreover, the activities of Fulton Hogan contribute to the sustainable management of resources for the wider benefit of people and communities; where aggregates and aggregate-based products are not available (including at a reasonable cost), this has a fundamental effect on the ability of communities to provide for roading, building and other infrastructural requirements vital to their needs. As it stands, Variation 2 is skewed in favour of the allocation of water for farming activities and irrigation schemes at the exclusion of other legitimate land use activities that may require water as part of their processes.

#### **Existing regulatory requirement and voluntary measures**

9. Fulton Hogan accepts that there is a need for a certain and reasonable regulatory regime for the management of water (amongst other matters) to secure the sustainable management of natural and physical resources. The company holds numerous regional council resource consents for its various activities across the Canterbury Region. These resource consents were obtained through processes under the Resource Management Act 1991 (**RMA** or **Act**) pursuant to provisions of the Transitional Regional Plan or Natural Resources and/or other Regional Plans and, in some instances, required additional land use consents from the relevant territorial authorities.
10. Other relevant regulatory, contractual or voluntary requirements, which assist Fulton Hogan in achieving the purpose of the RMA, include but are not limited to:
  - 10.1 Compliance with ISO 9001 and ISO14001 standards and on-going certification;
  - 10.2 Extensive and comprehensive internal environmental management systems to manage environmental risks, compliance matters, measurement and management processes, and to implement environmental improvement programmes;
  - 10.3 A "Zero Harm" policy and compliance with the Health and Safety in Employment Act;
  - 10.4 Policies and programmes centred on sustainability, including around environmental care, sustainable energy use, waste reduction and pollution prevention (for example, participation in the ROSE scheme (Recycling Oil Saves the Environment) and recycling of asphalt and other road products); and
  - 10.5 Various obligations as part of entering into landowner agreements including with the Council to lease, or gain access to land. Such obligations include the requirement to use and manage land in a good and husband-like manner, requirements relating to fencing, weed and animal pest control, erosion control, and site reinstatement, alongside any rental or other form of compensation. For example, Fulton Hogan constructed and planted embankments on Coutts Island for the Council.
11. Fulton Hogan also needs certainty in its business operation in order to service contracts that may extend over several years, and to provide security for investment in plant and machinery. The company also considers that the availability of reasonably-priced aggregates, as fundamental building blocks for all aspects of community living (from roading to construction), should be explicitly recognised and provided for as part of the regional council's role to promote the sustainable management of natural and physical resources.

### General submissions

12. Fulton Hogan and the CAPG were successful in the earlier phase of the PLWRP in ensuring that existing and new aggregate quarry developments could, under particular circumstances, be considered as a non-consumptive activity and therefore not be subject to allocation limits (see Rules 5.131 and 5.132). As a general submission, Fulton Hogan seeks that Proposed Variation 2 does not impinge on these rules. However, in some circumstances there remains the possibility that some takes and uses of water required by the aggregates industry may be considered consumptive. Therefore specific submissions have been made to ensure that the aggregates industry is still able to make resource consent applications for consumptive takes and uses of water in areas where the catchment may be considered to be allocated.

### Specific submissions

13. Fulton Hogan's specific submissions are contained in Appendix A.

### Relief Sought

14. That the application of Rules 5.131 and 5.132 to the aggregates industry remains unaffected;
15. That the policies, methods and any explanatory texts be amended to give effect to the decisions sought in this submission (including the relief sought in the table annexed as Appendix A and forming part of this submission) or such other words to address the concerns raised; and
16. Any consequential changes necessary to the policies, methods and any other explanatory text necessary to give full effect to the decisions sought.

Signed on behalf of  
**Fulton Hogan Limited (Canterbury)**



**Dated 24 October 2014**

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## Appendix A: Submissions

Sub #	The provisions of the Proposed Variation that Fulton Hogan's submission relates to are:	Fulton Hogan's submission is that:  Reasons  Oppose/ Support	Fulton Hogan seeks the following decisions from Environment Canterbury:
1	General - All amendments to the PLWRP relating to the taking and use of water and discharge of contaminants, and the associated controls.	<p>The proposed amendments are skewed almost exclusively in favour of activities associated with farming land use intensification – described as “farming activity” or “farm enterprise” – and associated irrigation schemes or principal water suppliers. With few exceptions (notably drinking water supplies and water quality “enhancement” by dilution of contamination), no provision is made for legitimate non-farming activity requirements for water use. This selective “picking of winners”, at the exclusion of other land uses (for example quarrying and aggregate processing) is inequitable and contrary to section 32 of the Act because it is not the most appropriate way to achieve the Objectives of the PLWRP, nor does it identify and assess the benefits and the costs of the environmental, economic, social and cultural effects of the changes across the spectrum of potential land uses.</p> <p>Moreover, the Rule regime is convoluted and uncertain. For example, rules are included around the discharge of nutrients onto or into land, however “nutrients” are not defined in the PLWRP (although “nutrient discharge” is, but this relates only to “nutrient loss from the property...”). In the absence of clarity around these controls, the ability to readily interpret and ensure compliance with the rules is significantly compromised. The multiple requirements for cross-referencing of provisions across and throughout the main body of the PLWRP are a further confounding element of the document. This increased complexity substantially undermines the confidence of the ordinary reader of the PLWRP around the correct interpretation of provisions.</p>	<p>Make any amendments to Variation 2, and any consequential amendments throughout the PLWRP, as necessary to:</p> <p>(1) Ensure consistency in the application, terms and wording of policies and rules relating to the Ashburton section;</p> <p>(2) Ensure that an ordinary reader of the PLWRP can readily identify the demarcation between where general and section-specific Rules apply;</p> <p>(3) Clearly provide for new groundwater takes in that part of the Zone as a restricted discretionary activity. One of the conditions for any amended or new rule could be the groundwater level restrictions, as per Tables 13(d) and (e). Other conditions and matters for discretion could also be similar to Rule 13.5.27(3) – (7), subject to any consequential amendments required for the Zone and avoidance of any restrictions on the ability of the aggregates industry to abstract water for related activities.</p> <p>Specific submission points are made below.</p>
2	Introductory text in Section 13.1	<p>Fulton Hogan supports the discussion of cultural significance and effects of water abstraction across the catchment. However, the “Solutions Package” traversed in the final paragraph appears to focus on supporting baseline land uses at the exclusion of other legitimate land uses that may propose to establish within this area. For the reasons stated in submission (1) above, Fulton Hogan requests amendments to Variation 2 which clearly provide for new groundwater takes for ‘other activities’ in the Ashburton Zone to be treated as restricted discretionary activities.</p>	<p>Retain introductory text, subject to the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for ‘other activities’ in that part of the Zone are allowed for as a restricted discretionary activity.</p>
3	Policies 13.4.16 and 13.4.178	<p>For the reasons stated in submission (1) above, Fulton Hogan requests amendments to Variation 2 which clearly provide for new groundwater takes for ‘other activities’ in that part of the Section 13 areas to be treated as restricted discretionary activities.</p>	<p>Retain Policies 13.4.16 and 17, subject to amendment to include the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for ‘other activities’ in that part of the Zone are allowed for as a restricted discretionary activity.</p>

Sub #	The provisions of the Proposed Variation that Fulton Hogan's submission relates to are:	Fulton Hogan's submission is that:  Oppose/ Support	Reasons	Fulton Hogan seeks the following decisions from Environment Canterbury:
4	Rules 13.5.21 to 13.5.25	Oppose	<p>Fulton Hogan considers that the restriction of these Rules to irrigation schemes, with the exclusion of other potential legitimate land uses, the uncertainty of the nature of "nutrients" that may be discharged, and the prohibition of discharges of "nutrients" by non-farming activities is too onerous, too uncertain, and unjustified. There appears to be no justification in the Section 32 report for the level of intervention proposed. In addition, this analysis appears to focus almost exclusively on the use of water for farming activities without any acknowledgement or consideration of other economic activities.</p>	<p>Amend Rules 13.5.22 – 13.5.25 to provide for the discharge of "nutrients" as part of aggregates extraction and processing activity as a restricted discretionary activity.</p> <p>Alternatively, include a Definition of "nutrients" in the PLWRP that excludes the by-products of processing aggregates.</p>
5	Rules 13.5.31 to 13.5.34	Oppose	<p>These Rules affect the take and use of ground and surface water and the transfer of water permits. In relation to Rules 13.5.30 – 13.5.32, these controls apply to "replacement" or "substitute" water takes; provision should be included for alternative takes (such as through a change in land use from farming to aggregate extraction and processing) as a restricted discretionary activity. If this is implied in this Rule, the wording should be more explicit to accommodate this interpretation.</p> <p>In relation to Rules 13.5.33 and 13.5.34, these controls allow for the transfer of water provided that the location of the take and use of that water does not change; if it does, this triggers Prohibited Activity status. This occurs whether the take and use is of a temporary or permanent nature, and irrespective of whether the transfer is in whole or in part.</p> <p>Fulton Hogan submits that the aggregates industry should be exempt from these restrictions.</p> <p>For the reasons stated in submission (1) above, Fulton Hogan requests amendments to Variation 2 which clearly provide for ground and surface water takes and transfers for 'other activities' to be treated as restricted discretionary activities.</p>	<p>Amend Rules 13.5.31 to 13.5.34 to provide for the taking and transfer of ground and surface water where this is to be used for aggregates processing.</p>