

Before Independent Commissioners Appointed by the Canterbury Regional Council and Selwyn District Council

In the matter of The Resource Management Act 1991

And

In the matter of Applications by **Fulton Hogan Limited** for all resource consents necessary to establish, operate, maintain and close an aggregate quarry (**Roydon Quarry**) between Curraghs, Dawsons, Maddisons and Jones Roads, Templeton

REBUTTAL EVIDENCE OF JOHN KYLE ON BEHALF OF FULTON HOGAN LIMITED

PLANNING

DATED: 21 OCTOBER 2019

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Introduction

1. My name is John Clifford Kyle.
2. I have previously provided a written brief of planning evidence in relation to the Roydon Quarry Proposal. That evidence is dated 23 September 2019. I confirm my qualifications and experience as set out in paragraphs 1 to 5 of that evidence.
3. I also confirm I have read and agree to comply with those parts of the Environment Court Practice Note that bear on my role as an expert witness, in accordance with paragraph 6 of my earlier evidence.

Scope

4. In my rebuttal evidence I address the evidence of the following witnesses:
 - (a) Mr Shaw on behalf of NZTA;
 - (b) Ms Stace on behalf of NZ Motor Caravan Association; and
 - (c) Ms Ruston on behalf of Christchurch City Council.
5. I will also identify matters not discussed in my primary evidence, but which are raised by other witnesses and with which I agree.

Mr Shaw

6. Mr Shaw and I both agree that the provisions in the District Plan which address effects on State Highway 1 are directive¹ in that they seek to protect the safe and efficient operation of roads to the extent that this is not compromised by the adverse effects of activities on surrounding land. This makes the potential for queuing on the State Highway behind the railway barrier, and the potential effects of this on the safe and efficient operation of the State Highway an important issue.
7. The evidence of Mr Shaw reaches the conclusion that the proposed activity has the potential to have a 'significant adverse effect' on the safe operation of the state highway network, and in turn that there is the potential for significant conflict with the Plan provisions in question.²

¹ These include Objective B2.1.1, Policy B2.1.2, Policy B2.1.3 and Policy B2.1.4(b).

² Mr Shaw, paragraph 8.4.

8. I do not reach this same conclusion based on the evidence of the various transport witnesses. It seems to be common ground between the transport witnesses that there is potential for queuing back into the roundabout both with and without the proposed quarry, and that with the quarry there is an increased probability such a queue will occur. However, it seems there is no consensus view on what those queues mean in terms of affect upon the safe and efficient flow of traffic, or the extent of the incremental change created by the quarry.
9. Mr Clark states the consequence of a queuing event could be '*quite significant*'.³ However, he does not appear to provide additional context to support that statement. Likewise, while Mr Scarlet observes that if queues form on State Highway 1 it will increase the risk of nose to tail crashes because vehicles will be required to stop unexpectedly, he provides no context as to the incremental contribution the proposed quarry will have to that increased risk. Nor does he provide any comment on the severity of impact that should be ascribed to such crashes.
10. Mr Metherell has provided detailed analysis of the level of risk arising from the queuing issue in both his primary and rebuttal evidence. Mr Metherell concludes that there will be a low propensity for queuing to occur and a low risk of safety concerns noting that:
 - (a) Queues will regularly be generated at all times at the roundabout regardless of the quarry or railway level crossing queue back;⁴
 - (b) The intersection will be a higher volume intersection where vehicles need to approach with the expectation of stopping at any time;⁵
 - (c) Any queue generated by the railway crossing is of a short duration;⁶
 - (d) The change in potential rear end collisions with such an infrequent queue back would be very small;⁷
 - (e) When collisions do occur within the circulating carriageway of a roundabout, they are usually of low severity (non-injury);⁸

³ Mr Clark, paragraph 6.5.

⁴ Mr Metherell, paragraph 2.7, 3.4 & 3.5.

⁵ Mr Metherell, paragraph 2.7.

⁶ Mr Metherell, paragraph 3.5.

⁷ Mr Metherell, paragraph 3.6.

⁸ Mr Metherell, paragraph 3.5 & 4.4.

- (f) The potential safety risk associated with queuing back to the roundabout is something that NZTA will need to address anyway, irrespective of the proposed quarry;⁹ and
 - (g) Queue monitoring, and, if needed, implementation of a queue warning system would be an effective means of addressing this matter.¹⁰
11. I also note that:
- (a) Mr Kelly, Mr Clark, Mr Scarlet and Mr Wright also suggest a queue warning system could be effective in minimising the adverse safety consequences of a queuing event should it occur;¹¹ and
 - (b) Potential mitigation measures have been discussed with KiwiRail's Level Crossing Manager, and KiwiRail has confirmed that if it is considered further mitigation measures are needed to address potential effects caused by queuing vehicles it is happy to work with the road controlling authorities and the applicant on those works.¹²
12. On the basis of Mr Metherell's more detailed analysis of the comparative risk (and Mr Kelly's review of that), the seemingly broadly held view by the various traffic experts that the risk associated with queuing can be addressed via mitigation, and the willingness of the applicant, roading authorities and KiwiRail to investigate and if need be implement those mitigation measures, it is my opinion that the safety and efficiency of that part of the highway at issue can be adequately provided for sufficient to meet the relevant provisions in the District Plan.
13. I note that at paragraph 6.6 Mr Shaw suggests that if the Agency had prior knowledge of the subject proposal it "*would have considered an alternative formation arrangement for the intersection*". In my experience, infrastructural assets such as roads are frequently adapted to respond to changing operating conditions. Traffic demands on road assets are rarely static. It is likely that other elements of the State highway network will also need to be adapted in response to changing demands over time, many of which will be unforeseen.

⁹ Mr Metherell, paragraph 2.9 – 2.11.

¹⁰ Mr Metherell, paragraph 2.8, 3.7, 7.2.

¹¹ Mr Clark, paragraph 7.2; Mr Scarlet, paragraph 8.1, Mr Wright, paragraph 7.

¹² Letter from Pam Butler, Senior RMA Advisor, 16 October 2019. Joint Hearing of Resource Consent Applications RC185627 – Fulton Hogan Limited (Roydon Quarry Application).

Ms Stace

14. In paragraph 69 and 70 Ms Stace seems to suggest that achieving Objective B3.4.2 requires protection of existing lawful activities (including NZMCA) from adverse effects. I disagree. The part of Objective B3.4.2 which is relevant to effects on NZMCA is that which seeks a variety of activities are provided for in the rural area while maintaining rural character.
15. The part of Objective B3.4.2 which addresses protection of lawfully established activities relates only to protecting them from reverse sensitivity effects. The proposed quarry will not have any reverse sensitivity effects on the NZCMA site.
16. In paragraphs 71 – 74 Ms Stace lists Policies B3.4.1 and B3.4.3 and makes several statements in respect of those provisions which I agree with, including

“the Rural zone is principally a business area and the policies and rules are designed to allow people to undertake farming activity and other business activities relatively freely”

“quarrying activities are expected in the Rural (Inner Plains) zone”

“the proposed suite of conditions will mitigate some adverse effects on amenity values (i.e. dust management, noise levels, limits on heavy vehicle numbers).”
17. However, Ms Stace suggests that further mitigation is needed for the proposal to be consistent with Policies B3.4.1 and B3.4.3, noting that:
 - (a) The operation of the quarry in the manner proposed (including in the evening for 150 days per year) could unduly compromise the enjoyment of campground users; and
 - (b) Conditions need to prevent crushing or screening activities in the evening with the mobile crusher being restricted to the central portion of the site.
18. It seems that this is based on Mr Jackett’s evidence that the crushing and screening activities have special audible character which needs to be accounted for when considering the noise effects of those activities. Mr Farren’s rebuttal evidence has outlined why that should not be the case, why the activities do not have special audible character, and why noise levels from the proposed quarry activity will be within the relevant District Plan noise

standards at the NZCMA site. On the basis of Mr Farren's evidence I do not consider the additional measures are necessary.

19. I also note that Mr Jackett suggests that the NZCMA site is currently "relatively quiet" during the evening. I note that the District Plan does not contain provisions which direct that those conditions must necessarily be preserved. The panel will recall that I address matters relevant to this consideration at paragraphs 104 – 107 of my primary evidence. The objectives and policies I refer to there make it clear, at least to me, that collectively these provisions set an expectation that this area operates as a working rural environment, with the attendant effects that come from this, and the focus is on managing the external effects of activities, particularly where these are significantly adverse.
20. In that regard I note there is an error in the version of Policy B3.4.3 quoted in the evidence of Ms Stace in that the word 'significant' has been omitted. The policy states [**emphasis added**]:

Policy B3.4.3

*Avoid, remedy or mitigate **significant** adverse effects of activities on the amenity values of the rural area.*

21. I also disagree with Ms Stace's comment in paragraph 80 and 81 that the proposed quarry activity is inconsistent with sections 7(c) and 7(f) because "*the proposal in its current form, will not maintain or let alone enhance amenity values*". For the reasons outlined in paragraphs 18, **Error! Reference source not found.** and 19 above, and in paragraphs 104 – 107 of my primary evidence, in my opinion the proposed quarry activity will maintain amenity values, including those enjoyed by NZCMA members, in line with the expectations of the District Plan. As Mr Farren has explained, insofar as noise is concerned the proposal will meet the relevant permitted activity standards set out in the Plan.

Ms Ruston

22. In paragraph 6.10 Ms Ruston states the conditions need strengthening to ensure that [emphasis added] "*the potential effects of the proposed quarry result in **less than minor** effects on the 'rural character and amenity values of the rural area'*".
23. It is not clear to me why Ms Ruston has chosen the 'less than minor' threshold as determining acceptability. That is not what the District Plan

requires. As outlined in paragraphs 103 – 107 of my primary evidence it seeks '*a variety of activities are provided for in the rural area, while maintaining rural character*'¹³ while the key policy on amenity values directs that significant adverse effects be avoided, remedied or mitigated.¹⁴

24. In paragraph 7.8 Ms Ruston sets out her understanding that Regulation 17(1) of the National Environmental Standard for Air Quality only requires that an application be declined when an increase in the concentration of PM₁₀ by more than 2.5_{µg}/m³ is probable or expected. I agree with that interpretation and based on Mr Cudmore's primary and rebuttal evidence it is my opinion that Regulation 17(1) does not present a barrier to granting consent.

John Kyle
21 October 2019

¹³ Objective B3.4.2

¹⁴ Policy B3.4.3.