

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

**MEMORANDUM OF COUNSEL FOR FULTON HOGAN LIMITED
RESPONSE TO REQUESTS FROM THE FIRST WEEK OF HEARING**

DATED: 29 November 2019

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MAY IT PLEASE THE COMMISSIONERS:

1. The hearing of Fulton Hogan Limited's application for all necessary consents relating to the Roydon Quarry commenced on 18 November 2019. Fulton Hogan's case ran for three days.
2. Some submitter evidence was presented on Thursday and Friday of the first week. Two more weeks are scheduled for hearing, primarily to hear from the remainder of submitters and also the Reporting Officers.
3. In the course of Fulton Hogan's case, the Commissioners asked for various items of additional information or various additional tasks to be attended to. This memorandum is intended to respond to those requests as far as it can.
4. Some of the Panel's requests – principally relating to project detail and parameters - are more appropriately answered by Mr Bligh and/or Mr Kyle after conferencing on consent conditions has occurred. At that time, an updated set of conditions can be provided along with an explanation of what has been clarified.
5. In addition, confusion regarding Mr Cudmore's evidence on predicted PM₁₀ discharges became evident during the course of his evidence presentation and in later questioning of Mr Kyle. On Wednesday, I foreshadowed an intention to try and reduce or remove any apparent confusion by the collation of Mr Cudmore's numerous items of evidence on this matter. This memorandum also addresses that.
6. Therefore, the matters addressed in this memorandum are:
 - (a) Mr Stewart's amendment to paragraph 35 of his primary evidence.
 - (b) Supplementary Evidence from Ms Wagenaar in response to a direction from Commissioner McGarry.
 - (c) The well results at paragraph 51 of Mr Van Nieuwkerk's primary evidence.
 - (d) A map showing predicted groundwater level rise from the Central Plains Water application (as discussed with Mr Eldred with reference to paragraph 13(d) of his Rebuttal Evidence).

- (e) Collation of all Mr Cudmore's evidence regarding PM₁₀ levels in the adjacent air shed.

Mr Stewart's Evidence

7. At the hearing Mr Stewart read through his Summary Statement. Mr Stewart also read paragraph 18 (which set out a correction to paragraph 35 of his primary brief). The version of the Summary Statement originally filed with the Regional Council did not include paragraph 18. That has now been rectified by re-filing the complete Summary Statement. Aside from paragraph 18, it is identical to the earlier Summary Statement.

Supplementary Evidence from Ms Wagenaar

8. Commissioner McGarry asked Ms Wagenaar to record (in writing) a response she provided to questions around acceptable levels of PM₁₀ emissions. Ms Wagenaar's supplementary evidence on this matter has also been filed with Ms Cooper.

Supplementary Evidence from Mr Van Nieuwkerk

9. During questioning, Commissioner McGarry asked Mr Van Nieuwkerk to breakdown the well information referred to at paragraph 51 of his primary evidence – in respect of TSS and Nitrate-N values. Mr Van Nieuwkerk has prepared Supplementary Evidence addressing that question. This has also been filed with Ms Cooper.

Groundwater Level Rise and the Central Plains Water Scheme

10. During Mr Eldred's presentation, the Commissioner's asked for a copy of the information referred to in paragraph 13(c) (and footnote 1) of his rebuttal evidence. The relevant part of the Baseline Groundwater Level Assessment is **attached** to this memorandum.

Mr Cudmore's Evidence on Predicted PM₁₀ Levels

11. Mr Cudmore was questioned at some length on Table 4 and paragraph 118 of his primary evidence. During his exchange with the Commissioners Mr Cudmore agreed to change the "2.4" figure in paragraph 118, to "2.7". In discussing this change with Counsel later, it was apparent Mr Cudmore and the Commissioners have different understandings of the implications of this change.

12. On Wednesday afternoon, Commissioner McGarry presented her understanding of paragraph 118 (as amended) to Mr Kyle. That question confirmed a mis-match in understanding with respect to the 2.7 figure and how it relates to the Roydon Quarry.
13. Mr Cudmore had to file several briefs of evidence on this aspect of the proposal, due to the primary evidence from submitter experts being filed at different times. In an effort to assist, Counsel has collated the various strands of Mr Cudmore's evidence on PM₁₀ levels, into one document. This is not new evidence and therefore not in evidence form. It is a collation of what is already before you.
14. In addition, the air quality experts are conferencing for a second time on Monday 2 December. The conference is to specifically focus on the issue of PM₁₀ levels from the Roydon Quarry. It is considered the collated information attached to this memorandum may be of assistance to the participants in that conference.

Project parameters

15. Throughout the week various questions were raised regarding what was proposed and/or whether certain conditions were to be refined or added. Numerous of those matters were discussed during conferencing of the planners yesterday.
16. It is respectfully proposed that Fulton Hogan file another memorandum or supplementary brief of evidence after that conferencing. This would be accompanied by a further set or draft consent conditions for consideration and should clarify the project parameters as raised by the Commissioners during the first week of hearing.

Residual legal matters

17. In terms of legal matters, Counsel has noted the Commissioners' request for submissions on:
 - (a) Whether conditions can be imposed on the District Council land use consent (and possibly one or more of the Regional Council consents) that will endure beyond expiry of the relevant consent; and
 - (b) What the process would be and what approvals would be needed to allow either one of the Dawsons/Jones Road round-about options.

18. Counsel has commenced work on these points and had intended to cover them in closing legal submissions. However, Counsel can accelerate the work on these matters if the Commissioners would like to see it sooner?

Dated 29 November 2019



D C Caldwell
Counsel for the Applicant

Attachment A

Central Plains Water Limited Baseline Groundwater Level Assessment

Figure 37 shows the calculated difference in 90 percentile groundwater levels between Scenario 2 (CPWL) and Scenario 1 (status quo). The figure shows the maximum increase in groundwater levels occurring within the scheme area while a range of less than 2 metres occurring across the remainder of the scheme area.



Figure 37. Modelled difference between Scenario 2 (CPWL) and Scenario 1 (status quo) 90 percentile groundwater levels (reproduced from Environment Canterbury, unreferenced)⁵

Overall, modelling of potential effects of CPWL scheme development on groundwater levels across the Central Plains area the magnitude of mounding is likely to be greatest (up to 7 metres) within the scheme area. Smaller increases in groundwater levels (<1 metre) are predicted to occur in lowland areas where the effects of increased groundwater throughflow are moderated by increased discharge to lowland streams and the existing drainage network. However, given the heterogeneity of the hydrogeological environment and the sensitivity of potential adverse effects associated with relatively small increases in groundwater levels (particularly around the margin of Te Waihora /Lake Ellesmere) it is difficult to reliably quantify the projected effects of CPWL development with any significant degree of accuracy.

It is however noted that modelling suggests that CPWL development will return baseflow in lowland streams (and by inference contributing groundwater levels) close to that occurring under natural (i.e. unpumped) conditions. As a consequence, initiatives to further augment lowland stream flow (for example by managed aquifer recharge) may serve to further exacerbate issues associated with a high water table in lowland areas.

⁵ <http://ecan.govt.nz/publications/Plans/selwyn-tewaihora-groundwater-quantity-draft-report.pdf>