

Before Independent Commissioners appointed by 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

Submissions on behalf of Southern Woods Nursery Limited

Introduction

1. These submissions are made in support of the written submission and evidence¹ provided by Southern Woods Nursery Limited (**Southern Woods**).

2. Southern Woods interest in the resource consent applications lodged by the applicant Fulton Hogan is primarily due to its proximity to the proposed application site being approximately 250m from the south-western corner of the application site² and, in particular, its concerns over the potential for effects on their business were fugitive dust from the quarry to become an issue.

The written submission

3. Briefly, Southern Woods submission touched on 3 concerns:
 - 3.1. Potential dust effects;

 - 3.2. Potential impacts groundwater; and

 - 3.3. Potential noise effects.

¹ From Mr D Westley and Mr G Mitchell, both dated 9 October 2019.

² Though, according to Mr Cudmore, 300m from any active quarrying.

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4. However, without limiting its concerns in respect of groundwater and noise effects, it is the long term potential impacts from dust on its operations that is Southern Woods key concern. I emphasise long term since, as is noted in Mr Cudmore's rebuttal evidence, dust effects from the Southern Motorway project (**CSM2**) have been experienced over the last few years, despite mitigation measures. However, these have been accepted (in part, due to the 'greater good' recognised in the CSM2 development) on the basis that they were to be short term in nature.
5. The quarry poses potential long term impacts.
6. In its submission Southern Woods touches on the types of conditions it would like to see (at least) in the suite of consents, if granted. I comment on conditions further below.

Southern Woods position

7. In making its submission and providing its evidence, Southern Woods recognises the limits of its case. It has not engaged an expert on the effects of dust on plants – though it has attempted to convey the extent of the risk of such effects by way of Mr Westley's evidence. Nor has it given detailed evidence on groundwater or noise, such issues being addressed by other parties. That its case is limited is reflected in the limited responses given in Fulton Hogan's evidence on the likelihood of the risks from dust³.
8. That limited response is also understandable since Fulton Hogan's stated intent is to minimise, as much as it can, the extent of fugitive dust emissions⁴. And, providing they are successful in their proposed methodology and mitigation measures, then, as Mr Cudmore puts it in his evidence summary:

There is likely to be minor or less than minor dust nuisance effects (therefore not objectionable or offensive dust effects) beyond the boundary of the site.

9. I note the use of the terms minor or less than minor, which as relative standards, can be of limited use absent a point of reference, i.e. minor compared to what? Whether that is greatly assisted by references to the objectionable or offensive dust effects may also be arguable. But Mr

³ Paragraphs 42 – 47 of Mr Cudmore's rebuttal evidence dated 21 October 2019.

⁴ In addition to noise effects and any impacts on groundwater, the other matters raised in Southern Woods written submission.

Cudmore does go on to offer some context and his overall conclusions⁵, while remaining qualified in terms of likelihood – an issue covered in Mr Caldwell’s opening submissions⁶, with which I agree on the meaning of ‘likely’ – are undeniably upbeat as to the ‘likely’ extent of adverse dust effects beyond the boundary of the site.

10. In the circumstances, and the absence of an ability, on its part at least, to contest those expert findings, Southern Woods is generally accepting of that conclusion. It is also, having discussed the proposal and the applicants intentions in greater depth at a meeting with Messrs Chittock and England for Fulton Hogan⁷, and having taken up the offer of visiting Fulton Hogan’s existing site at Pound Road to observe some of the mitigation measures proposed for Roydon Quarry in action⁸, prepared to accept Mr Cudmore’s final conclusion that the design and proposed controls for the quarry could:

...[represent] a new level of best practice for New Zealand quarries and is a considerable improvement on the level [of] control that is typically achieved by conventional quarries in New Zealand.

11. Overall however, for reasons that Fulton Hogan may consider overstated, Southern Woods is still unable to support the quarry going ahead and feels that it must oppose it. That is partly due to the concerns over effects, which we are told are ‘unlikely’ or of low potential though – logically – remain possible, but also due to the overall impact on the local community. Put simply the quarry has, despite what appears to be Fulton Hogan’s best intentions and efforts, been divisive within that community and ultimately Southern Woods support is for the community it is part of.
12. But Southern Woods is also realistic. And should consent be granted it maintains a keen interest in ensuring that the promises made in the application for this proposal are kept.
13. Therefore, in addition to the conditions, which I will briefly discuss next, Southern Woods remains interested, if consent is granted in taking part – on a voluntary basis – in the Community Liaison Group that is proposed to

⁵ From Mr Cudmore’s evidence summary dated 13 November 2019, paragraphs 11 & 12.

⁶ Synopsis of Opening Submissions for Fulton Hogan dated 14 November 2019, paragraphs 36-46.

⁷ On 22 August 2019.

⁸ The opportunity for which (both the meeting and the visit) Southern Woods greatly appreciates, though it notes that the conditions for the visit were ideal for dust suppression (i.e. there was not a breath of wind). **Note:** Mr Westley was present on the site visit if the Commissioners have any questions in relation to it.

maintain a long term oversight of any quarrying operations that may eventuate and be in a position to participate in minimising any effects on the community (and itself) that may occur in the longer term.

14. Such involvement is supported by Fulton Hogan⁹.
15. As a final point, Southern Woods also remains open to providing advice (if needed) on tree species that might assist in dust mitigation as part of the intended additional shelter belts¹⁰.

Conditions

16. Southern Woods is clearly interested in the conditions that would be imposed and notes that the conditions that it has seen, despite the likelihood of minor potential changes from issues that might arise at this hearing, appear robust. If consent is granted it expects that those conditions, at least, would be imposed.
17. In particular, Southern Woods supports (as a minimum) the conditions relating to CRC192410 including the Dust Management Plan (**DMP**), though makes the following two points in relation to the conditions:
 - 17.1. Under Dust Mitigation at condition 21 (mobile monitors for activities carried out within 500m of sensitive activities), Southern Woods wishes its operation to be identified as a sensitive activity owing to the possibility (even if unlikely) that adverse effects could impact on plant health; and
 - 17.2. Under Reporting and Review at condition 30 (or elsewhere if more appropriate) include the recording of reported offsite impacts from dust, as detailed in a written complaint, and any measures taken to mitigate or remedy any impacts that are 'likely' to have been caused by the quarry operation.
18. Such a condition as suggested in 17.2 would show a real commitment to addressing off-site effect, should they be shown to – more probably than not – have been caused by the quarry. Of course, should quarry activities be as benign as Fulton Hogan's experts maintain, such a condition (and its

⁹ Evidence of Kevin Bligh dated 21 October 2019, at paragraph 99, paragraph 7 (Bullet point 9) of Evidence Summary dated 13 November 2019, and condition 79(b), **RC185627**.

¹⁰ An offer first made at its meeting with Mr Chittock on 22 August 2019.

requirement) would not be triggered, so there appears limited harm in including such a condition.

19. It is also noted that a similar condition in respect of any unexpected groundwater effects, that can be shown to have been a result of quarry activities and are found to occur, could also be included¹¹.
20. In respect of noise, Southern Woods simply records its understanding that, should consent be granted, Fulton Hogan will still remain obligated under section 16 of the Resource Management Act to:

...adopt the best practicable option to ensure that the emission of noise from [their] land... does not exceed a reasonable level.”

Conclusion

21. Southern Woods has felt obligated to oppose the Roydon Quarry in order to protect its interests and to stand with many in the community in which it operates.
22. However, Southern Woods acknowledges Fulton Hogan’s efforts to make the quarry, should consent be granted, a ‘best practice’, state of the art, operation. It only remains, in that circumstance, to ensure that the conditions imposed are sufficient to both support and require the attainment of that high standard.

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¹¹ In the conditions of consents **CRC192408** and **CRC192409**.