

**BEFORE THE WAIKATO REGIONAL COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of Submissions and Further Submissions lodged by Winstone Aggregates (a division of Fletcher Concrete and Infrastructure Ltd) and Fulton Hogan Limited on the Proposed Waikato Regional Plan Change 1.

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**STATEMENT OF PRIMARY EVIDENCE OF SHARON DINES**

**FOR**

**WINSTONE AGGREGATES AND FULTON HOGAN LIMITED**

**Submitter ID 73992**

**Submitter ID 74048**

**3 MAY 2019**

**BLOCK 2**

**Parts C1-C6: Policies, Rules and Schedules (most)**

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## EXECUTIVE SUMMARY

- A. Fulton Hogan and Winstone lodged submissions and further submissions on PC1 that, in general terms, seek to ensure the provisions of PC1:
- give effect to, and are consistent with, the Vision and Strategy for the Waikato and Waipa Rivers ('Vision and Strategy') and the National Policy Statement for Freshwater Management ('NPSFM').
  - allow people and communities in the Waikato region to continue to provide for their economic and social wellbeing, while giving effect to the Vision and Strategy; and
  - are clear, fair and workable for resource users.
- B. In the Block 2 hearings, Fulton Hogan and Winstone's key interests are in the point source policies and the related definition for regionally significant industry. The companies support the inclusion and intent of these policies and a definition of regionally significant industry in PC1.
- C. Many of the submissions and further submissions lodged by Fulton Hogan and Winstone have been given effect to in the relief recommended in the S42A report.
- D. Fulton Hogan and Winstone seek the following changes<sup>1</sup> to Policies 10 and 13 and the definition of regionally significant industry.

### Policy 10

When deciding resource consent applications for point source discharges of nitrogen, phosphorus, sediment and microbial pathogens to water or onto or into land, subject to Policy 11 and Policy 12 provide for the:

- a) Continued operation and development of regionally significant infrastructure; and
- b) Continued operation and development of regionally significant industry

### Policy 13

When determining an appropriate duration for any point source discharge consent granted consider the following matters:

- a) A consent term exceeding 25 years, where the applicant demonstrates that the discharge is consistent with achieving the water quality attribute states set out in Table 3.11-1 ~~the approaches set out in Policies 11 and 12 will be met~~; and
- b) The magnitude and significance of the investment made or proposed to be made in contaminant reduction measures and any resultant improvements in the receiving water quality; and
- c) The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant upgrades or land based application technology)

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<sup>1</sup> Insertions shown underlined and in red. Deletions shown in ~~strike through~~.

- ~~e) The diminishing return on investment in treatment plant upgrades in respect of any resultant reduction in nitrogen, phosphorus, sediment or microbial pathogens when treatment plant processes are already achieving a high level of contaminant reduction through the application of the Best Practicable Option.~~

### Definition of Regionally Significant Infrastructure

Regionally significant industry - means an economic activity based on the use of natural and physical resources in the region which have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.

Regionally significant industry includes:

- a) Dairy manufacturing sites;
- b) Meat processing plants;
- c) Pulp and paper processing plants; and
- d) Mineral extraction activities.

- E. For the reasons set out in my evidence, I consider the changes detailed above will give better effect to the RPS and be more efficient and effective in achieving the purpose of the Resource Management Act and the Vision and Strategy for the Waikato and Waipa Rivers than PC1 as notified.

## **1.0 INTRODUCTION**

1.1 My full name is Sharon Gail Dines. I am a planner and senior principal at Boffa Miskell Limited ('BML'), a national firm of consulting planners, ecologists and landscape architects.

1.2 I have the qualifications and experience set out in paragraphs 1.2-1.5 of my primary evidence for the Block 1 Hearings of PC1 dated 15 February 2019. In addition, I have the following experience relevant to point source discharges:

1.2.1 I prepared the planning assessment to support the resource consent applications to authorise the ongoing operation and expansion of the Fonterra Lichfield manufacturing site to double its milk processing capacity. Lichfield is located in the South Waikato district and the Waikato River catchment. These consents were granted in December 2014;

1.2.2 I was the project manager and planner that led the RMA approvals process to authorise the expansion of Waikeria Prison to increase the site capacity from 1,250 prisoners to 3,000 prisoners. Waikeria is located in Otorohanga District and the Waipa River catchment. These authorisations were granted in 2018; and

1.2.3 I have been providing advice to Winstone in relation to consenting matters at the Pukekawa and Whitehall quarries.

1.3 I reconfirm that while this matter is not before the Environment Court, I have read the Code of Conduct for expert witnesses in the Environment Court Practice Notes and I agree to comply with it. I am also satisfied the evidence in this statement is within my area of expertise, except where I state that I am relying on the evidence of another person. I am also not aware of any material facts that I have omitted that might alter or detract from the opinions that I express in this evidence.

1.4 In preparing this statement of evidence, I have relied on the evidence of Mr Dan McGregor and Mr Phill Houben presented at the Block 1 hearings and the evidence of Mr Peter Clough from the New Zealand Institute of Economic Research dated 3 May 2019.

## **2.0 SCOPE OF EVIDENCE**

- 2.1 I have been engaged by Fulton Hogan and Winstone to provide a planning analysis of PC1 and the recommendations in the Section 42A Hearing Report Parts C1-C6: Policies, Rules and Schedules (most) ('Block 2 S42A report') including recommended tracked changes to the text of PC1.
- 2.2 I have reviewed the relevant sections of the Block 2 S42A report prepared by the Council officers and the tracked changes version of PC1 that accompanied it. I have also reviewed many of the technical reports prepared in the course of the development of PC1 and relevant sections of the section 32 report.
- 2.3 In the following section of my evidence, I set out the key changes that Fulton Hogan and Winstone seek in their submissions and further submissions, an analysis of the Council officers' recommendations in the Block 2 S42A report and my recommendations for any additional changes that I consider to be necessary.

## **3.0 PROVISIONS OF THE PROPOSED WAIKATO REGIONAL PLAN CHANGE 1**

- 3.1 Fulton Hogan and Winstone each made the same five primary submission points and a number of further submissions on the provisions of PC1 covered by the Block 2 Hearings on PC1.
- 3.2 Submissions related to:
- Policy 10;
  - Policy 11;
  - Policy 12;
  - Policy 13; and
  - Definition of Regionally Significant Industry.
- 3.3 Further submissions related to:
- New policies;
  - Policy 5

- Policy 6;
- Policy 8;
- Policy 13;
- Policy 16;
- Rule 3.11.5.7; and
- Schedule 1.

### **Further submissions**

- 3.4 Fulton Hogan and Winstone made opposing further submissions on new policies to protect inanga spawning habitat, Policy 5 and Policy 6. These have been recommended to be rejected by the officers in the Block 2 S42A report. I support these recommendations for the reasons stated in the Block 2 S42A report.
- 3.5 In relation to Policy 8, Policy 16, Rule 3.11.5.7 and Schedule 1, the officers have recommended that the submissions opposed by the companies be accepted in part. In their further submissions, Fulton Hogan and Winstone opposed the changes requested to these provisions due to concerns that there was insufficient information in the relevant submission points to determine the effect of the changes proposed. Now that the effect of the recommended changes are clear, Fulton Hogan and Winstone do not have concerns with the officers recommendations.
- 3.6 I do not intend to address any other further submissions of Fulton Hogan and Winstone in this statement of evidence. Rebuttal evidence will be prepared if required once the primary evidence of other submitters has been reviewed.

### **Point source discharge policies**

- 3.7 As set out in the evidence of Mr McGregor and Mr Houben for the Block 1 hearing Fulton Hogan and Winstone operate six quarries in the Waikato region and they are reliant on land and water resources to undertake quarrying activities. Point source discharges of process water containing sediment are the primary quarrying activity that will be affected by PC1.
- 3.8 In general terms I agree with the analysis set out in section C6.4.4 of the Block 2 S42A report relating to point source discharges.

3.9 In the following subsections of my evidence, I address each of the point source discharge policies and the definition of Regionally Significant Industry.

### Policy 10

3.10 Fulton Hogan and Winstone supported the intent of Policy 10 in their submission but sought the following changes<sup>2</sup>:

When deciding resource consent applications for **point source discharges** of nitrogen, phosphorus, sediment and **microbial pathogens** to water or onto or into land, subject to Policy 11 and Policy 12 provide for the:

- a) Continued operation and development of regionally significant infrastructure; and
- b) Continued operation and development of regionally significant industry

3.11 The officers recommendation in the Block 2 S42A report is to reject the amendments requested. Fulton Hogan and Winstone are concerned that without the change requested, quarry development and expansion in the Waikato and Waipa River catchments may not be possible. I share this concern.

3.12 At paragraph 1065 on page 170, the S42A report states:

Officers have also considered whether Policy 10 should be extended to expansion of existing, and development of new, RSI&I. Given the Vision and Strategy clearly identifies that additional adverse effects on the Waikato River are unacceptable, it would seem inappropriate to provide explicit policy support.

3.13 I disagree with the officers on this matter. The statement quoted above contains an assumption that any expansion or development of regionally significant infrastructure and industry will generate additional adverse effects on the Waikato River.

3.14 As outlined above, I have been involved in obtaining authorisations under the RMA for two significant developments in the Waikato region where environmental effects on the Waikato and Waipa River's have been reduced in association with expansion. In the first case, the processing capacity of the Fonterra Lichfield site was doubled but did not increase its nutrient footprint from pre-development levels. In addition, Fonterra Lichfield made a commitment to reduce that pre-development nutrient footprint by 10% within seven years of consents being granted. These commitments were secured by resource consent conditions. In the Waikeria Prison case, the Minister of Corrections more than doubled the capacity of the prison site, while also reducing the nutrient, pathogen and sediment footprint of the

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<sup>2</sup> Submission Point ID PC1-10744, PC1-2883  
Insertions shown underlined and in red. Deletions shown in ~~strike through~~.

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development. Activities required to ensure contaminant reductions in this case are also secured by conditions.

3.15 As noted by the officers,<sup>3</sup> the RPS directs, in Policy 6.6 that the management of the built environment ensures that particular regard is given to (amongst other things), the protection of the effectiveness and efficiency of existing and planned regionally significant infrastructure, and the benefits that can be gained from its development and use. It is also identified by the officers that RPS Policy 4.4 directs that that management of natural and physical resources provides for the continued operation and development of regionally significant industry. The officers further note the importance of bearing in mind, the overall direction of the RPS in relation to water quality and identify that Policy 8.3 directs that the effects of activities on fresh water bodies are managed to maintain or enhance identified values including by reducing contaminants. The officers also note that Policy 8.5 specifically requires that the Vision and Strategy is recognised as the primary direction setting document for the River. In addition, Policy 6.8 of the RPS seeks to ensure management of development of the built environment appropriately recognises (amongst other things) the potential benefits of further development of the region's minerals and providing for the continued operation of existing lawfully established mineral extraction activities.

3.16 In short, the RPS clearly directs that the operation and development of regionally significant infrastructure and regionally significant industry is provided for in the regional plan, while achieving the Vision and Strategy. I therefore find it difficult to understand how the officers reach the conclusion that it would be inappropriate to amend a policy in PC1 to achieve this, as suggested by Fulton Hogan and Winstone and as I have outlined in paragraph 3.10 above. In my opinion, the insertion of the words "subject to Policy 11 and Policy 12", make it clear that any development must meet the trajectory of water quality improvement required by Objectives 1 and 3 to achieve the Vision and Strategy (i.e. be subject to the Vision and Strategy). I further consider that not granting this relief would not give effect to the policies 4.4 and 6.6 of the RPS.

3.17 Mr Clough notes in his evidence<sup>4</sup>:

Regional economic well-being and the efficient use of resources will be served if PC1 that aims to improve water quality in the Waikato and Waipa Rivers and improve the

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<sup>3</sup> Paragraph 1051-1056 of the Block 2 S42A Report.

<sup>4</sup> Paragraph 9.2

quality of life for the region's residents, is introduced in a way that does not unduly restrict continued operation, expansion and development of existing quarries already set up for extraction, as this has lower economic cost of supplies and environmental effect than sourcing aggregates at greater distance or establishment of new quarries.

3.18 Furthermore, I have been advised by Mr Houben that there are a range of technology options available to treat process water containing sediment to a high standard.

3.19 Based on the technical information that supports PC1, achieving the Vision and Strategy - including objective d which relates to the restoration of protection of Waikato communities with the River, including their economic, social, cultural and spiritual relationships - is going to be challenging. If development is not allowed for, within the bounds of what is required to achieve the Vision and Strategy, infrastructure to provide services, and industry to generate employment may not be able to obtain resource consents necessary to proceed, curtailing the ability of people and communities to provide for their economic and social wellbeing in what may already be challenging circumstances. I do not consider it is necessary to exclude development or expansion of regional significant industry and infrastructure, provided Objectives 1 and 3 are met, and the industry or infrastructure provider seeking to develop, makes a proportional contribution to the achievement of those Objectives. I consider the amendments to Policy 10 as stated in paragraph 3.10 above, provide for this outcome. Development or expansion activities would still be subject to a resource consent process and if the specific circumstances of a proposal and associated effects on the Waipa or Waikato River were considered to be unacceptable, the consent application could be declined.

#### **Policy 11 and 12**

3.20 In their submission, Fulton Hogan and Winstone supported Policies 11 and 12 but sought a number of changes to policy wording that were intended to improve the clarity of the policy. I also consider the wording of the policies as notified can be improved.

3.21 I have reviewed the recommendations and reasoning provided by the officers in the S42A report. Many of the changes sought by Fulton Hogan and Winstone are recommended to be accepted and I support this. Where the officers recommend rejecting the companies' submissions, it is my opinion that the alternative wording recommended, in combination, achieves an acceptable outcome.

### Policy 13

- 3.22 In their submissions, Fulton Hogan and Winstone strongly supported the intent of Policy 13 as notified but sought that the reference to a consent term of 25 year be changed to 35 years.
- 3.23 The officers recommend rejecting this amendment and in addition have recommended the replacement of the reference to a consent duration exceeding 25 years with a reference to “a longer consent duration.”
- 3.24 I consider that consent terms of 25-35 years provide certainty for applicants. In the context of PC1, point source discharges and the Vision and Strategy, consent terms of 25-35 years can be warranted considering the investment in technology upgrades likely to be necessary if an applicant makes a contribution to improving water quality that is consistent with the achievement of Objectives 1 and 3 and proportional to the scale and effect of the activity they are seeking consent for.
- 3.25 In my opinion, the change recommended by the officers significantly reduces certainty and clarity for consent applicants and decision makers as it is not clear what constitutes “a longer consent duration.” For example, a five-year consent duration is “a longer duration” than a four-year consent term.
- 3.26 I therefore consider the wording of Policy 13 a) should retain the reference to a consent term of 25 years, as notified. The full text of the policy, as amended by the officers, but with the reference to 25 year reinstated is shown below<sup>5</sup>:

When determining an appropriate duration for any point source discharge consent granted consider the following matters:

- a. A consent term exceeding 25 years, where the applicant demonstrates that the discharge is consistent with achieving the water quality attribute states set out in Table 3.11-1 ~~the approaches set out in Policies 11 and 12 will be met~~; and
- b. The magnitude and significance of the investment made or proposed to be made in contaminant reduction measures and any resultant improvements in the receiving water quality; and
- c. The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant upgrades or land based application technology).

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<sup>5</sup> Submission Point ID PC1-10818, PC1-2966

## Definition of Regionally Significant Industry

3.27 Fulton Hogan and Winstone sought the inclusion of a definition of Regionally Significant Industry in PC1 to ensure consistency with the RPS. The definition requested was<sup>6</sup>:

Regionally significant industry - means an economic activity based on the use of natural and physical resources in the region which have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:

- a) Dairy manufacturing sites;
- b) Meat processing plants;
- c) Pulp and paper processing plants; and
- d) Mineral extraction activities.

3.28 The Officers have recommended this submission be accepted in part so that the definition of regionally significant industry is the first two sentences of the definition above. The officers state:<sup>7</sup>

For regionally significant industry, Officers note that the RPS anticipates that these will be identified in regional and district plans. However, the definition also says which has been shown to have benefits that are significant at a regional or national scale. Officers therefore do not agree with listing the various industries as sought, in absence of justification that these industries meet the RPS definition. Officers therefore prefer, at this stage, that the definition generally repeats the RPS definition (as sought by submitters) but that it not be extended at this stage to list specific industries.

3.29 It is my opinion that, subject to appropriate justification if an industry meets the first two sentences of the definition listed in paragraph 3.26 above, it would be more efficient for regionally significant industries to be identified and listed in the regional plan as requested by Fulton Hogan and Winstone Aggregates. If such a list is not included, individual applicants would be required to provide economic justification for every resource consent application for a point source discharge. For Fulton Hogan and Winstone's that involves providing economic analysis for the consenting of each of their six quarries – potentially more, if new quarries or quarry expansions are proposed in future.

3.30 It could be argued that other industries, not listed in the definition, that emerge as regionally significant in future are not included and that is unfair. However, the definition proposed is an inclusive one and new industries that emerge in future will be able to use the first part of the definition to demonstrate their regional or national significance.

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<sup>6</sup> Submission Point ID PC1-10819, PC1-3627

<sup>7</sup> Paragraph 1072 Block 2 S42A report

3.31 Mr Clough, concludes in his evidence<sup>8</sup> that:

In 2017 Waikato accounted for around 20% of New Zealand's production tonnage of rock and aggregate, compared to around 8% of the nation's gross domestic product, as it supplied demand in both Waikato and other regions, particularly Auckland. It contributed around 0.2% of Waikato's GDP and around 0.3% of the region's total employment. Waikato is one of the largest producers of quarried rock and aggregate in New Zealand, and its quarrying has an economic significance far beyond its relatively modest economic impact, as it supplies material for the physical infrastructure on which the economy depends. In my opinion it is a regionally significant industry because of its underpinning role in development and maintenance of infrastructure, and without continuing access to aggregate sources close to demand, infrastructure costs would rise and its affordability would decrease, with impacts for all the region's industries that use and rely on that infrastructure.

3.32 I therefore consider it appropriate that mineral extraction activities be included in the definition of regionally significant industry.

## 4.0 CONCLUSION

4.1 In the Block 2 hearings, Fulton Hogan and Winstone's key interests are in the point source policies and the related definition for regionally significant industry. The companies support the inclusion and intent of these policies and a definition of regionally significant industry in PC1.

4.2 Many of the submissions and further submissions lodged by Fulton Hogan and Winstone have been given effect to in the relief recommended by the officers in the Block 2 S42A report and I support these recommendations for the reasons set out in the report.

4.3 Fulton Hogan and Winstone seek changes to Policies 10 and 13 and the definition of regionally significant industry as shown in Attachment 1.

4.4 In my opinion, the changes sought, will give better effect to the RPS and be more efficient and effective in achieving the purpose of the RMA and the Vision and Strategy for the Waikato and Waipa Rivers than PC1 as notified.

### Sharon Dines

Boffa Miskell Limited

3 May 2019

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<sup>8</sup> At paragraph 9.1, Evidence of Mr Peter Clough

## APPENDIX 1 – PROPOSED AMENDMENTS TO PROVISIONS

### Policy 10

When deciding resource consent applications for **point source discharges** of nitrogen, phosphorus, sediment and **microbial pathogens** to water or onto or into land, subject to Policy 11 and Policy 12 provide for the:

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- b) Continued operation and development of regionally significant industry

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- a) A consent term exceeding 25 years, where the applicant demonstrates that the discharge is consistent with achieving the water quality attribute states set out in Table 3.11-1 ~~the approaches set out in Policies 11 and 12 will be met~~; and
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- c) The need to provide appropriate certainty of investment where contaminant reduction measures are proposed (including investment in treatment plant upgrades or land based application technology).

### Definition of Regionally Significant Infrastructure

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Regionally significant industry includes:

- a) Dairy manufacturing sites;
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