

**BEFORE THE SELWYN DISTRICT COUNCIL**

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

**AND**

**IN THE MATTER OF**     Proposed Plan Change 66 at Maddisons  
Road, Rolleston

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**MINUTE NO 2 OF COMMISSIONER DAVID CALDWELL**  
**Dated 3 August 2021**

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1. In accordance with my directions in Minute No 1, I have received the Officer's Report; the Applicant's evidence; a Statement of Evidence of Mr Nicholas Griffiths on behalf of the Canterbury Regional Council (**CRC**); and a Statement of Evidence from Ms Davina Penny, submitter.
2. I have commenced my preparation for the hearing and have undertaken an initial review of the evidence.
3. This Minute addresses 4 issues, being:
  - (a) CRC evidence;
  - (b) Advice from Lyttelton Port Company Limited (**LPC**) that it does not intend to present evidence or appear at the hearing;
  - (c) The need for those contributing to the Officer's Report to attend hearing; and
  - (d) A disclosure which is made for reasons of transparency.

#### **CRC evidence**

4. CRC indicated in its submission that it did not wish to speak in support of that submission. Evidence has been lodged by Mr Griffiths. That evidence addresses LiDAR data inaccuracies and responds to Mr McLeod's evidence on behalf of the Applicant.
5. Given the nature of that evidence, and that it was filed in accordance with my timetable directions, I will hear it. I do not consider there is any prejudice to the Applicant in my hearing from Mr Griffiths. The Applicant has the opportunity to respond during the course of the hearing.

#### **Lyttelton Port Company Limited**

6. I have also been provided with correspondence from Ms Kelleher, Head of Environment and Sustainability with LPC. Ms Kelleher has advised that given the agreement between LPC and the "s42A" Report writer on the outcome of LPC's submission, it does not intend to present evidence or appear at the hearing. Ms Kelleher's letter appended a further letter of general support to the proposed plan change. That, I understand, had been requested by the Applicant.
7. It is possible that I will have questions of clarification for LPC. These would be to ensure that I have a proper understanding of the inland port. If I have such questions, I will raise those through the Hearings Officer and provide an opportunity for LPC to respond. I will of course take into account its submission and the correspondence provided.

### **Contributing Officers**

8. I have been advised that Mr England, who provided comment on servicing, and Mr Bentley, who provided a landscape peer review, have advised the Reporting Officer that there is nothing arising from the Applicant's evidence with which they are concerned. I am advised that Mr Foy has indicated that the concerns raised in his economic peer review have been resolved through the evidence lodged by the Applicant. I have been asked whether I require them to appear.
9. Regarding servicing, I consider the issues are reasonably clear. It is unlikely that I will have any further questions. I may ask Mr England to attend if anything arises. I do not require Mr England to be present for the whole of the hearing. He should be available if requested.
10. In relation to landscape issues, it is possible that there may be issues arising from discussions with the landscape expert architect that I would wish to discuss with Mr Bentley. I do not require him to be present for the whole of the hearing. It would be helpful if Mr Bentley attended during the presentation of the Applicant's landscape evidence. He can provide his comments as part of the Reporting Officer's presentation.
11. In terms of Mr Foy's economic peer review, I understand that Mr Foy will be joining by video link from Auckland. I do not require Mr Foy to be present for the whole hearing. I do however require him to be present, by video link, when the Applicant's economic evidence is given and discussed. I also require him to speak to his summary, again by video link.
12. I require the contributing experts to provide a brief summary of their report/evidence. Their reports were provided prior to the Applicant's evidence. It would be helpful if those summaries addressed, in particular, areas of agreement and reasons for that agreement, and areas of disagreement (if any) and reasons for that disagreement.

### **Commissioner's Interests**

13. I have identified that I have had professional dealings or worked with several of the witnesses. That is to be expected given that I have been involved in resource management in Christchurch and elsewhere for many years.
14. In her submission, Ms Penny commented on the Fulton Hogan quarry near Templeton, known as the Roydon Quarry. Ms Penny and Ms Greenfield were submitters on that application.
15. I appeared as Counsel for Fulton Hogan during the hearing process. Consent was granted. Appeals are presently before the Environment Court and have been subject to a mediation process.
16. Mr Copeland and Mr Mthamo, expert witnesses for the Applicant, provided expert evidence on behalf of Fulton Hogan at the Council hearing.

17. The quarry consent is, of course, a very different project. The evidence of both Mr Copeland and Mr Mthamo addressed matters arising on that application.
18. The role of an expert is to assist the decision-maker. It is not their role to be an advocate for the applicant, or for that matter, any other party.
19. It is not unusual for me to have expert witnesses appearing before me as Commissioner, who have previously provided expert evidence either on behalf of a party I represented, or on behalf of a party opposing.
20. I have disclosed this in the interests of transparency. I do not consider it gives rise to any issues of actual or potential bias or conflict of interest. My decision will be made based on the information I receive during this process. That will include the application, reports, responses to further information requests, the submissions and further submissions, evidence from submitters, the Applicant's evidence, and legal submissions.

#### **Site Visit**

21. One of the matters I wish to discuss at an appropriate time during the hearing is that of a site visit. While I am broadly familiar with the area, it would be helpful if the parties turn their minds to whether there are any particular locales or viewpoints which they consider I should include on my site visit.
22. If there are any issues relating to the matters raised in this Minute, they must be raised through Council through Ms Tina Van Der Velde ([Tina.vandervelde@selwyn.govt.nz](mailto:Tina.vandervelde@selwyn.govt.nz)).



**David Caldwell**

Hearing Commissioner

Dated: 3 August 2021