

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions and further submissions on
the Proposed Selwyn District Plan – Topic 01 Strategic
Directions

**EVIDENCE IN CHIEF OF TIMOTHY ALISTAIR DEANS ENSOR ON BEHALF OF
Fulton Hogan Limited**

Dated: 20 July 2021

INTRODUCTION

1. My full name is Timothy Alistair Deans Ensor.
 2. I hold a Bachelor of Science and a Bachelor of Arts with honours majoring in Geography, obtained from the University of Canterbury in 2002. In 2012 I graduated with a Post Graduate Diploma in Planning from Massey University. I am an associate member of the New Zealand Planning Institute.
 3. I am currently a Principal Planner with Tonkin & Taylor Limited having previously been employed by AECOM New Zealand Limited and its predecessor, URS New Zealand Limited. I have been a consultant planner for approximately 13 years. Prior to consulting I was employed by Environment Canterbury for approximately two and a half years as a consents planner.
 4. I have worked throughout the South Island assisting private and public sector clients with obtaining statutory approvals, undertaking environmental impact assessment and policy analysis for projects, and providing expert planning evidence at plan and consent hearings. These clients include the Department of Conservation, Waka Kotahi the NZ Transport Agency, Environment Canterbury, the Canterbury Aggregate Producers Group, Opuha Water Limited and the Ministry for the Environment.
 5. I am authorised to provide expert planning evidence in relation to the proposed Selwyn District Plan (**SDP**) on behalf of Fulton Hogan Limited (**Fulton Hogan**).
 6. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. I agree to comply with this Code of Conduct. This evidence is within my expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
 7. In preparing my evidence I have reviewed:
 - 7.1. the SDP;
 - 7.2. the Section 32 Report for the SDP (**s32 Report**); and
 - 7.3. the Section 42A Report for Topic 01 Strategic Directions of the SDP (**s42A Report**).
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Scope of evidence

8. Fulton Hogan filed a further submission on submissions made by Christchurch International Airport Limited (CIAL)¹ and Gulf Central Properties Limited & Apton Developments Limited (GCPL).²
9. Accordingly, my evidence focuses on:
 - 9.1. CIAL's proposed changes to Objective SD-IR-O2, Effects of Important Infrastructure, and
 - 9.2. GCPL's proposed changes to SD-UFD-O2, Urban Growth and Development.

OBJECTIVE SD-IR-O2 EFFECTS ON IMPORTANT INFRASTRUCTURE

10. Objective SD-IR-O2 is:

"The development, upgrade, maintenance, and operation of all important infrastructure is enabled in a way that minimises adverse effects, while having regard to the practical constraints and the logistical and technical practicalities associated with important infrastructure".

11. CIAL has proposed significant amendments to the objective to protect CIAL infrastructure from incompatible development. The proposed amendments of concern to Fulton Hogan identify *"land use activities that increase the risk of bird strike to aircraft using Christchurch International Airport"* as incompatible activities.
12. This amendment to the objective on its own does not create a particular issue. However, CIAL's submission also proposes a policy and rule framework to achieve this objective that is in my view, unreasonable. The proposed rule³ puts in place consent requirements and requires CIAL to be notified of any application for resource consent for a 'bird strike risk activity' within an 8 km radius of Christchurch International Airport. Bird strike risk activity includes: *"excavation works, including quarrying, which result in ponding exceeding 100m² or more of open water, for more than a continuous 48 hour period"*.

¹ Submission DPR-0371-017

² Submission DPR-0399-003

³ Submission DPR-0371-088

13. The CIAL's proposal has previously been discussed in the context of the Christchurch Replacement Plan development process and through the resource consent process for Fulton Hogan's Roydon Quarry at Templeton (**Roydon Quarry**).⁴
14. Through the Christchurch Replacement Plan process, CIAL proposed a suite of plan provisions to address bird strike risk that were very similar to those proposed through its submission on the SDP. The Independent Hearings Panel (**IHP**) Decision 57⁵ discusses the merits of this proposal from paragraph 423. The IHP determined that based on the evidence presented, activity-based regulation and controls on the creation of water bodies to address bird strike risk should be confined to within 3 km of the thresholds of the runways at Christchurch International Airport (the Bird Strike Management Area⁶), not the 8 km proposed by the CIAL.
15. The Bird Strike Management Area in the Christchurch District Plan does not extend into Selwyn District. CIAL's proposed 8 km bird strike risk activity buffer in the Selwyn District would therefore leave a strip of land approximately 3.2 km wide between the 3 km Bird strike Management Area in Christchurch and the Selwyn / Christchurch district boundary 'unregulated'. This would create conflicting cross boundary regulations potentially applying to property with the same land use, in relative proximity or in common ownership. This regulation would also occur a significant distance⁷ from Christchurch International Airport.
16. The IHP heard submissions on the Christchurch Replacement Plan on a plan section by plan section basis, similar to the approach being taken in relation to the SDP. This resulted in strategic objectives, including those related to bird strike,⁸ being discussed absent the context of the implementing rules. Decision 57 of the IHP noted this issue when recording its decision on Strategic Directions and included the following rider in a footnote to Objectives 3.3.12(b)(iii) and (iv):

⁴ Resource consent applications CRC192408, CRC192409, CRC192410, CRC192411, CRC192412, CRC192413, CRC192414, and RC185627.

⁵ Decision 57, Chapter 6 General Rules and Procedures (Part) – Noise, Airport matters and Hagley Park, 10 November 2016.

⁶ Referred to as the 'Bird strike Management Area' in the Christchurch District Plan and shown in Appendix 6.11.7.5.

⁷ A distance similar to the extent of the Bird Strike Management Area from of the thresholds of the runways at Christchurch International Airport.

⁸ Objectives 3.3.12(b)(iii) and (iv).

“The requirement for alternative strategic direction in respect of Objectives 3.3.12(b)(iii) and (iv) will be reconsidered by the Panel as part of its further hearing of relevant proposals.”⁹

17. As mentioned above, my view is that the amendment to Objective SD-IR-O2 proposed by CIAL is not in itself an issue unless the rule framework included in CIAL’s submission is incorporated into the SDP. In this case the framework as a whole is opposed on the basis that the amended objective is not the most appropriate option for achieving the Resource Management Act 1991 (**RMA**), and that the proposed rules are not the most appropriate way to achieve the objective.
18. Given the challenges highlighted by the IHP associated with hearing submissions on issues that traverse hearing topics, my view is that all provisions addressing bird strike issues should be heard together at the time submissions on the rules will be heard. Fulton Hogan would present evidence in relation to the framework at that time.
19. If deferring the issue is not possible for hearing process reasons, my opinion is that consideration should be given to adopting the approach of the IHP to any decisions made on strategic directions relating to bird strike in the SDP.

OBJECTIVE SD-UFD-O2 URBAN GROWTH AND DEVELOPMENT

20. Objective SD-UFD-O2 is giving effect to Policy 2 of the National Policy Statement on Urban Development 2020 (**NPSUD**). Policy 2 is:

“Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.”

21. GCPL has requested that Objective SD-UFD-O2 is amended as follows:

“There is ~~sufficient~~ as a minimum, ample feasible development capacity to meet anticipated demands for housing and business activities.”

22. The term ‘ample’ does not appear in the NPSUD which instead uses ‘sufficient’. While both terms can refer to there being ‘enough’ of something, ample can also mean more than enough.

⁹ Decision 1, Strategic Directions and Strategic Outcomes (and Relevant Definitions), paragraph 261, 26 February 2015.

23. Requiring more development capacity than is required has the potential to create greater conflict between competing land uses for limited gain. In terms of s32 of the RMA requiring more development capacity than is necessary reduces the efficiency of the policy response by increasing costs associated with providing infrastructure, and creating an opportunity cost by not having the land available for other uses that may be more productive.
24. Introducing a new term is also unnecessarily confusing given Objective SD-UFD-O2 is seeking to mirror Policy 2 of the NPSUD with limited modification. The NPSUD defines what 'sufficient' means in the context of Policy 2 in Subpart 1, Clause 3.2 and 3.3. By introducing the term 'ample' in place of sufficient, the connection to this definition and the certainty that this provides is lost.
25. Consequently, my opinion is that the amendments sought by GCPL are unnecessary, and the submission should be disallowed.

CONCLUSION

26. The amendments proposed to Objective SD-IR-O2 by CIAL are not opposed provided that the proposed rules implementing the objective are rejected.
27. The amendments proposed to Objective SD-UFD-O2 by GCPL are in my view unnecessary and may create uncertainty in interpretation.
28. My view is that the relief articulated in this evidence will better achieve the purpose of the RMA.

Tim Ensor

20 July 2021
