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# POST ENGAGEMENT PREFERRED OPTION UPDATE REPORT TO DISTRICT PLAN COMMITTEE

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**DATE:** 28 November 2018

**TOPIC NAME:** Rural

**SCOPE DESCRIPTION:** Quarrying

**TOPIC LEAD:** Robert Love

**PREPARED BY:** Robert Love

## EXECUTIVE SUMMARY

<i>Summary of Preferred Option Endorsed by DPC for Further Engagement:</i>	<p>The preferred option includes the following approaches:</p> <ol style="list-style-type: none"><li>1. Provide for quarrying as a discretionary or restricted discretionary activity in the rural zone.</li><li>2. Include setback provisions.</li><li>3. Collate from previous resource consent decisions (such as the Road Metals decision for the Wards/Sandy Knolls/Kerrs Road site) a suite of relevant issues and conditions that could inform the development of appropriate standards or assessment matters.</li><li>4. Consider including a specific section in the Plan outlining minimum information requirements for assessing resource consent applications for quarry developments.</li><li>5. Amend the definition of quarrying and its associated activities in conjunction with reassessing the benefits/costs of a “rural-based industry” definition and “other industry” definition. It is considered that the definitions in the Christchurch District Plan and the Ashburton District Plan are the most helpful from a cross boundary consistency point of view.</li><li>6. Develop a robust objective and policy framework to manage quarrying in the rural zone, and which provides for quarrying to occur in appropriate locations while avoiding or mitigating adverse effects, particularly on sensitive receptors.</li><li>7. Consider a ‘high quality gravels overlay’ to protect key areas from more intensive rural residential development.</li><li>8. Investigate options for transferring powers associated with dust to Environment Canterbury.</li></ol>
<i>Summary of Feedback Received:</i>	<p>Feedback was received across all of the approaches contained within the preferred options report, with the main points of contention being around the approaches dealing with: setbacks, jurisdictional control over dust</p>

	discharges, definitions, use of a gravel overlay, and minimum information requirements for consent applications.
<i>Recommended Option Post Engagement:</i>	<ul style="list-style-type: none"> <li>The recommended amendments to the preferred option are as follows: <ul style="list-style-type: none"> <li>Approach '2': that setbacks be taken from the notional boundary of sensitive activities within rural zones, and residential zone boundaries. The setback will act as an activity status escalator which will enable a dust assessment. Outside of a setback margin the Selwyn District Council will not have the discretion to assess dust.</li> <li>Approach '4': remove this approach as it is superfluous to needs of the District Plan Review.</li> <li>Approach '5': to use the definitions provided by the draft National Planning Standards where possible.</li> <li>Approach '7': remove this approach as it is superfluous to the needs of the District Plan Review.</li> <li>Approach '8': to allow for a split approach in managing the effects of dust discharges, between the Selwyn District Council and the Canterbury Regional Council.</li> </ul> </li> <li>That the updated Preferred Option described above progresses to the 'Drafting and Section 32 Evaluation Phase'.</li> </ul>
<i>DPC Decision:</i>	<p><i>"That the Committee notes the report."</i></p> <p><i>"That the preferred option previously endorsed by DPC be amended as follows:</i></p> <ul style="list-style-type: none"> <li><i>Approach '2': that setbacks be taken from the notional boundary of sensitive activities within rural zones, and residential zone boundaries. The setback will act as an activity status escalator which will enable a dust assessment. Outside of a setback margin the Selwyn District Council will not have the discretion to assess dust.</i></li> <li><i>Approach '4': remove this approach as it is superfluous to needs of the District Plan Review.</i></li> <li><i>Approach '5': to use the definitions provided by the draft National Planning Standards where possible.</i></li> <li><i>Approach '7': remove this approach as it is superfluous to the needs of the District Plan Review.</i></li> <li><i>Approach '8': to allow for a split approach in managing the effects of dust discharges, between the Selwyn District Council and the Canterbury Regional Council.</i></li> </ul> <p><i>"That the updated preferred option described above be progressed to the Drafting and Section 32 Evaluation Phase."</i></p> <p><i>"That the Committee notes the updated summary plan."</i></p>

## 1.0 Introduction

### 1.1 Overview of Preferred Option Endorsed by DPC

The preferred option endorsed by DPC includes the following approaches:

1. Provide for quarrying as a discretionary or restricted discretionary activity in the rural zone.
2. Include setback provisions.
3. Collate from previous resource consent decisions (such as the Road Metals decision for the Wards/Sandy Knolls/Kerrs Road site) a suite of relevant issues and conditions that could inform the development of appropriate standards or assessment matters.
4. Consider including a specific section in the Plan outlining minimum information requirements for assessing resource consent applications for quarry developments.
5. Amend the definition of quarrying and its associated activities in conjunction with reassessing the benefits/costs of a “rural-based industry” definition and “other industry” definition. It is considered that the definitions in the Christchurch District Plan and the Ashburton District Plan are the most helpful from a cross boundary consistency point of view.
6. Develop a robust objective and policy framework to manage quarrying in the rural zone, and which provides for quarrying to occur in appropriate locations while avoiding or mitigating adverse effects, particularly on sensitive receptors.
7. Consider a ‘high quality gravels overlay’ to protect key areas from more intensive rural residential development.
8. Investigate options for transferring powers associated with dust to Environment Canterbury.

## 2.0 Summary of Feedback Received

### 2.1 Landowner/ Public Feedback

There was overwhelming support from landowners and the public for the implementation of setbacks between quarrying activities and sensitive activities. There was a mix of thoughts on where a setback should originate with responses indicating the residential zone boundary, a sensitive activity’s notional boundary, but the majority wished to see the sensitive activity’s property boundary used.

Two thirds of respondents wished to see the Canterbury Regional Council take over full control in dust control matters, with the other third wanting to see the Selwyn District Council retain control over this matter.

Other common or key themes borne out of consultation were:

- Appropriate restrictions on hours of operation, traffic generation, and noise emissions be applied to quarry activities.

- Quarry operations should not impinge on the use and enjoyment of residential dwellings within the rural zone.
- That a high quality gravel overlay may be beneficial to indicate to the general public which areas a quarry may seek to establish. Conversely, it was stated that an overlay should not be created just for information purposes, as this may drive up land prices.
- A point of view was given about the use of setbacks as their accuracy and reliability for protecting the community is questionable, and if a setback is included then it should only act as a trigger for greater assessment rather than as a prohibitory mechanism.

## 2.2 Partner/Stakeholder Feedback

### ***Canterbury Regional Council***

This Partner supported the approach clarifying quarrying as a rural activity, and managing the effects of quarrying through a resource consent process. Additionally, they were supportive of the approach to include setbacks within the plan to signal appropriate and inappropriate locations for quarrying activities which will help support the regional council when assessing applications under the Canterbury Air Regional Plan, and also give effect to the reverse sensitivity policies of the Canterbury Regional Policy Statement.

### ***Mahaanui Kurataiao Limited***

This partner submitted in support of the preferred option.

### ***Canterbury District Health Board***

This stakeholder submitted in support of the preferred option, specifically supporting the use of setbacks to separate quarries and sensitive receptors. Additionally this party supports any delegation to the regional council, and would like to see hours of operation restrictions placed on activities near sensitive receptors.

### ***Transpower***

This stakeholder submitted on the preferred option, stating that dust and earthworks need to be carefully considered when quarries seek to establish near transmission assets.

### ***The Aggregate and Quarry Association of New Zealand***

This stakeholder submitted with the following concerns/statements:

- There is a need to protect existing quarry sites from inappropriate development encroaching near their activities to prevent reverse sensitivity.
- Quarries need to be located in close proximity to the source of demand to prevent the resource becoming cost prohibitive for the users.
- That any definition of 'quarrying' should include associated processing activities.
- Supports a discretionary activity status, as long as suitable policy support exists to enable those quarries with little effect.
- Would prefer that setbacks were not included in the plan, but instead have the effects of an activity assessed on a case by case basis.

- Supports minimum information requirements to assist consent application clarity, but a balance is needed to avoid undue restriction.
- Is supportive of a delegation of functions to the regional council.

### **Fulton Hogan**

This stakeholder submitted with the following concerns/statements:

- Supports the classification of quarrying as a discretionary activity, but needs to have clear policy guidance which recognises the benefits of quarrying and the fact that it is a rural activity, where some effects are expected.
- Would prefer to see any definition for 'quarrying' to expand to the processing of materials as well. They would not like to see the processing of materials be defined as an industrial activity.
- An overlay would be useful to show the community where future quarries may be located and to protect the resource. However, if it is only for information purposes, it may alarm the community and drive up land prices.
- Minimum information requirements could be beneficial in helping with the uncertainty on information requirements for resource consent applications, but a balance needs to be made as they could be too prescriptive.
- Supportive of the regional council taking over monitoring and assessment functions.

## 3.0 Analysis of Feedback Received

### 3.1 Setbacks

#### **Analysis**

As to be expected there was widespread support from the community to introduce setbacks between sensitive activities and quarry operations, while the converse of this was supported by the industry. However, industry would not be wholly opposed to setbacks if policy support was present in the district plan to enable those activities that breach a setback but can effectively mitigate their effects.

It may be relevant to note that the public's support of setbacks may stem from a false understanding on their implementation. Based on the content of the comments received, it would appear that some believe that the presence of a setback creates a 'red line' that quarry operators cannot cross. However, the district plan is unable to adopt this approach as it would then be contrary to the Canterbury Regional Policy Statement, which defines mineral extraction as a rural activity. As such, the district plan cannot unduly restrict mineral extraction within a rural zone where rural activities are expected. The purpose of the setback is to trigger additional scrutiny of the activity by giving the district council the ability to assess the activity's effect on amenity values as a result of a dust discharge. It also provides an indication to regional council consent planners as to the appropriate location of these activities within the Rural Zone.

There were mixed views on where the origin of the setback should be from, either the residential zone boundary, the notional boundary of the sensitive activity, or the property boundary of the sensitive activity. The majority did indicate that they wished to see the setback be measured from the property boundary. However, it is considered that this origin point would be unreasonable, given that property

boundaries in the Rural Zone can extend well beyond the sensitive activity on that site. This would effectively render every activity as a discretionary activity, and therefore needing a dust assessment, defeating the purpose of a setback. To address this issue, the use of a notional boundary set 20 metres from the façade of the sensitive activity may be more appropriate, as this will encompass the actual sensitive activity, and the immediate surrounds. For example, it would include a dwelling and the surrounding amenity space used for personal enjoyment. This approach can be used in conjunction with a setback from residential zone boundaries. This approach is consistent with that contained within the CARP.

### **Conclusion**

That setbacks should be included in the district plan, and should be measured from the notional boundary of sensitive activities within the rural zone, and from a residential zone boundary.

## **3.2 Canterbury Regional Council to control dust discharges**

### **Analysis**

As already stated two thirds of respondents supported the approach to allow the regional council to take control over the management of dust discharges, with the remaining third submitted in support of the Selwyn District Council to retain control.

If a setback approach is taken where the Selwyn District Council only controls dust discharges where a setback breach occurs, and to allow the regional council to manage dust outside of these setbacks, then this acts as a half-way option between the two competing viewpoints.

Selwyn District Council retains the ability to assess dust in close proximity to any sensitive activity to ensure that these effects are effectively mitigated, while also removing the Council's control in areas where no sensitive activity exists, reducing the potential confusion and cost for landowners by having to deal with two councils around consenting and monitoring the dust component of the activity.

### **Conclusion**

That Selwyn District Council should retain the ability to assess the effects of dust discharges on amenity values only when in close proximity to sensitive activities and residential zones.

## **3.3 High Quality Gravel Overlay**

### **Analysis**

Few submissions were received on this component of the preferred option. Those that were received indicated that an overlay could be a useful tool in providing information to the community where quarrying may occur in the future. However, the downsides of this approach were also highlighted, these being that the overlay may not be necessary if it is only for 'information purposes', especially if it leads to an artificial increase in land prices.

As any overlay in the district plan would be effectively to indicate potential areas that quarrying may occur, rather than to act as support for any provision, the cost of creating this overlay may not warrant the value gained by including this in the plan.

### **Conclusion**

Given the limited value gained by including an overlay in the district plan verses the cost of developing this overlay, it is recommended that no overlay is included in the district plan.

## **3.4 Definitions**

### **Analysis**

There was a reasonable level of debate included in the feedback as to what quarrying, and its associated processing activities should be defined as, either as rural activity, or as an industrial activity.

Understandably, the wider community wanted quarrying and its associated activities defined as an industrial activity, and the industry wished to see it defined as a rural activity, which is consistent with the Canterbury Regional Policy Statement's definition.

However, Central Government has released draft National Planning Standards, which includes definitions which are relevant to this scope of works. These are as follows:

'Mining' – which includes to take, win, or extract a mineral existing in a natural state in the land. This definition would encompass the physical act of extracting material from the ground, but not the processing of it.

'Quarry' – defined as an area of land where the excavation, with or without the processing of minerals occurs. However, this is a noun, and does not cover the activity of quarrying and its associated processes.

'Primary Production' – this definition does not include mining or the processing of minerals, which is relevant when considering the definition for 'rural industry'.

'Rural Industry' – defined as an industrial activity where the principle function supports primary production. As mining is not a primary production activity, its' associated processes cannot be considered a rural industry activity.

'Industrial Activity' – includes in its definition any activity which has a primary purpose of processing goods, which may cover the processing of minerals.

Given the compulsory nature of these definitions, the district council will be required to use the above relevant definitions, rather than developing new ones. However, as the processing of minerals from mining is not expressly covered other than the link to 'industrial activity' there may be scope to create a new definition for this aspect of the activity.

### **Conclusion**

It is recommended that ongoing work adopt an approach where the draft National Planning Standards definitions are used, until these are further revised and confirmed in early 2019.

## **3.5 Minimum Information Requirements**

### **Analysis**

Several industry members have provided a comment on this aspect, stating that while it can be beneficial for the district plan to contain guidance as to the minimum information required for a resource consent application, they are wary that the requirements could become too onerous in certain situations.

Generally, when preparing an application for a resource consent, the level of information and detail is directly related to the scale and significance of the effect being assessed. Minimum information requirements can stifle this flexibility and result in high consenting costs. If an application is submitted absent particular information, there are functions under the Resource Management Act 1991 to deal with this situation.

Additionally, one of the core tenants of this district plan review is to reduce the size of the plan, and the review work programme in itself. This can be achieved through not including minimum information requirements in the district plan.

### **Conclusion**

For the above reasons it is recommended that minimum information requirements are not included in the district plan.

## 4.0 Recommended Option Post Engagement

The Project Team recommends that:

- The Preferred Option previously endorsed by DPC is amended as follows:
  - Approach '2': that setbacks be taken from the notional boundary of sensitive activities within the Rural Zone, and from residential zones boundaries. The setback will act as an activity status escalator which will enable a dust assessment. Outside of a setback margin the Selwyn District Council will not have the discretion to assess dust.
  - Approach '4': remove this approach as it is superfluous to needs of the District Plan Review.
  - Approach '5': to use the definitions provided by the draft National Planning Standards where possible.
  - Approach '7': remove this approach as it is superfluous to the needs of the District Plan Review.
  - Approach '8': to allow for a split approach in managing the effects of dust discharges between the Selwyn District Council and the Canterbury Regional Council.
- The updated Preferred Option described above progresses to the 'Drafting and Section 32 Evaluation Phase'.