

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Horowhenua District Council's
Proposed District Plan Review

STATEMENT OF EVIDENCE OF ANDREW DAVID BASHFORD

3 May 2013

Introduction

1. My name is Andrew David Bashford. I am the Senior Planner at Good Earth Matters Consulting Limited (GEM Consulting) and have held this position since May 2011.
2. I hold the tertiary qualification of Bachelor of Resource and Environment Planning from Massey University. I am a Graduate member of the New Zealand Planning Institute and an Associate member of the New Zealand Institute of Forestry. I have over seven years planning experience including three years with the Palmerston North City Council and two years with Civic Corporation Ltd based in Queenstown.
3. I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2011. I agree to comply with this Code of Conduct. Other than where I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

4. The purpose of this statement is to provide planning evidence in support of the submissions made by Higgins Group Holdings Limited (Higgins). In doing so I also respond to the relevant matters raised by the Council's RMA Section 42A report.
5. This evidence is limited to those matters contained in the Higgins submission that are also the subject of this hearing.

Higgins Group Holdings Ltd Interest in the Horowhenua District Plan Review

6. As outlined in the Higgins submissions, aggregates are fundamental to the maintenance and construction of essential infrastructure within New Zealand including the Horowhenua District. Aggregates are utilised daily in a wide range of construction projects including buildings, roads and other infrastructure. Access to aggregates is increasingly problematic, often due to a lack of protection of aggregate resources and resource management plans that do not recognise the importance of aggregates to the community.
7. It is essential, from a sustainability perspective, that aggregates are sourced close to their end use. As noted in the 'Aggregate Facts Sheet', attached to Higgins submission, the transportation of aggregates significantly adds to their cost. Unnecessary transportation can also result in traffic congestion, increased carbon emissions, and increased road maintenance costs.
8. Higgins undertakes a range of infrastructure related activities within the Horowhenua District, including the operation of aggregate extraction sites. Higgins, therefore, has a direct interest in the planning framework for the Horowhenua District insofar as that framework relates to its ability to access aggregate resources and that it provides for the associated extraction and processing activities required for the aggregate industry.

Higgins Group Holdings Ltd Submission

9. Higgins lodged a submission on the Horowhenua District Council's District Plan Review in November 2012. Higgins also lodged further submissions in December 2012.
10. Higgins original submission is focussed on three main themes. The first is to ensure consistent recognition of the importance of aggregates and extraction

- activities to the community across the relevant sections of the District Plan and between the Manawatu-Wanganui Regional Council's One Plan and the Proposed Horowhenua District Plan. It does this by requesting that aggregate extraction be recognised in the discussion under Issue 2.5 and in Objective 2.5.1.
11. The second theme aims to ensure that aggregate extraction activities can occur within the Horowhenua District without undue the delays and costs associated with lengthy notified resource consent applications. Higgins submits that aggregate extraction should be a controlled activity and has requested a new rule to be inserted under Rule 19.2 to provide for this. Matters of control have been developed, in line with the known effects of aggregate extraction activities, and have been requested to be inserted under Rule 19.7.
 12. The final theme concerns the protection of the key aggregate resources of the District and aggregate extraction sites from sensitive activities that may establish within close proximity. This is largely through the request of an additional policy, rule and matters of discretion dealing with reverse sensitivity effects that can affect aggregate extraction activities.
 13. It is of note that the Higgins submission should be read as a whole. It proposes a package of various planning provisions (including identification of issues, objectives, policies, rules, matters of control or discretion as relevant, and definitions) which largely follow a normative planning model as set out in Section 75 of the Resource Management Act 1991.

Discussion

Introduction

14. This section of my evidence responds to the matters raised by the Council Officer's Section 42A report and provides additional assessment where required. It analyses the Higgins submission and the Section 42A report comments, largely in the order they appear in the Section 42A report. The only exceptions to this are in regard to submission points 77.02 and 77.03 which I have considered

together, as well as submission points 77.08 and 77.09 given their close connection.

Issue 2.5 (Higgins Submission Point 77.04)

15. Submission Point 77.04 is aiming to achieve recognition for aggregate extraction within the District Plan. As outlined in Higgins submission, the benefits of aggregates are recognised in the Manawatu-Wanganui Regional Policy Statement (Chapter 6 of the One Plan), specifically at Policy 6-32. The introductory text to the Objectives and Policies for the Rural Environment of the Horowhenua District Plan also recognises industrial type activities such as gravel extraction, quarrying and aggregate processing when it states:

*“The rural environment currently supports a diversity of land based primary production activities, particularly dry stock, dairying, cropping, horticulture, exotic forestry and small niche primary production land uses. Infrastructural and **other industrial-type activities also occur in the rural environment, such as network utility facilities, gravel extraction and quarrying/aggregate processing, and these are critical to the functioning of the District.** Providing for a range of land use activities in the Rural Zone is important for ensuring diversity and resilience to the rural economy by providing additional employment and economic opportunities.”* [Emphasis added].

16. The emphasised wording above is very similar to that requested to be inserted into the Issue 2.5 discussion and the significance of the words ‘industrial-type activities’ should not be overlooked. This is discussed further in Paragraphs 22 and 23 below.
17. For consistency, it would be reasonable to use the suggested wording of the Issue 2.5 discussion. However, whilst the wording suggested in the Higgins submission is preferred, for the purposes of the issue discussion and achieving recognition of aggregate extraction in the Plan, the amendments to Paragraphs 1 and 3 of the issue discussion as proposed by the Council’s Planner are supported.

Objective 2.5.1 (Higgins Submission Point 77.05)

18. In terms of Objective 2.5.1, Higgins requested that specific recognition for aggregate extraction be provided. The Council's Planner appears to be concerned with this request as it will give specific recognition to one type of activity, whereas other activities might also occur in the rural areas. The Council's Planner considers that the words 'rural based land use' captures aggregate extraction activities.
19. There are three key issues that do not appear to have been considered, by the Council's Planner, which make aggregate extraction different from other activities in the rural areas.
20. First, aggregate extraction activities cannot locate as they please within rural areas. They are fixed to locations where the aggregate resources are located. This means that potential adverse effects of aggregate extraction activities cannot be mitigated by the use of an alternative site, as is the case for other rural based activities.
21. Second, aggregate demand is generally cyclic, with more demand throughout the construction season, i.e. October-March. During this time, it is common that every hour of daylight needs to be utilised by extracting contractors to keep up with the demand for aggregates. In terms of noise and general amenity, this can be problematic for those wanting to make the most of the outdoors and their leisure time. This is another factor that makes it particularly difficult for the aggregate extraction industry to internalise these types of effects.
22. Finally, whilst there may be little mistaking 'rural contractors' or 'packing sheds' as a 'rural based land use' or rural based activity, aggregate extraction is often viewed as being an industrial land use or activity. This is reinforced by the wording quoted from the District Plan in Paragraph 15 above that describes gravel extraction and quarrying/aggregate processing as an 'industrial-type activity'.

23. Given this common view of aggregate extraction activities, and the fact that 'rural based land use' is not defined, there is a real risk that aggregate extraction is not encapsulated within the meaning of the term 'rural based land use'.
24. Given the importance of aggregates to the local community and the factors above that differentiate aggregate extraction from rural based land uses, it is my opinion that the activity should have specific recognition within Objective 2.5.1 as requested by the Higgins submission. This will have the effect of providing for aggregate extraction to operate and function within the district and also provides a basis for the policy and rule framework for aggregate extraction activities discussed below.

New Policy 2.5.X (Higgins Submission Point 77.06)

25. Reverse sensitivity is an issue that provides challenges to the aggregate extraction industry. Whilst most effects from aggregate extraction activities can be internalised to the subject site, or at least mitigated to acceptable levels, noise often remains a residual issue. This is a result of the type of machinery required to extract and process aggregates and the nature of the aggregate. The machinery required includes the usual excavators, loaders and dump trucks and perhaps the odd bulldozer but also specialist equipment such as crushers and shaker screens. Rock or aggregate crushing and screening are particularly noisy activities and can be extremely difficult to mitigate given the nature and height of the noise generating equipment.
26. Aggregate, in particular rock and gravel, is hard, solid material and, as such, creates noise when it is moved by machinery. This can be a particular issue for the unloading of dump trucks and the dumping of aggregate material into hoppers for the crushers and screens, which again is very difficult to mitigate given the nature and level of the noise that these particular activities generate.
27. Following on from the requested changes to Objective 2.5.1, Higgins has requested that a new policy be inserted into the Proposed District Plan specifically requiring the effects on aggregate extraction sites and activities to be

considered when planning for, or making decisions in relation to, the establishment of new activities near such sites.

28. The Council's Planner considers that this submission point is similar to other submission points in regard to Policy 2.5.4. Again, managing this particular issue comes down to the difference between utilising a specific provision for protecting aggregate resources and enabling their extraction, as opposed to a more general provision related to all activities in the Rural Zone, in relation to reverse sensitivity effects.
29. Although not quite as direct, it is considered that the wording proposed by the Council's Planner achieves a similar outcome to that as proposed by the Higgins submission and would be acceptable.

Rule 19.2 and Rule 19.7 (Higgins Submission Points 77.02 and 77.03)

30. Higgins has requested that a controlled activity rule and suitably relevant matters of control be inserted into the plan under Rules 19.2 and 19.7 respectively. The Council's Planner has recommended that these submission points be rejected on the basis of two primary points, summarised as follows:
 - The Council would be limited in the matters it could consider in a resource consent application and that there may be occasions where it is appropriate to consider effects on natural resources and values, such as landscapes or a waterway over which it has not reserved control.
 - That the Council must approve a controlled activity consent application and that there may be circumstances where the adverse effects cannot be effectively avoided, mitigated or remedied.
31. This is matter where the importance of aggregates to the local community is a factor. A controlled activity status for aggregate extraction would fully recognise the significance that aggregates have for the district.
32. In response to the Council Planner's concerns I note that the Higgins original submission point has been split into two separate points by the Council and in doing so the Council appears to have overlooked the connection between the

rule and the matters of control. As part of its submission, Higgins suggested matters of control, to be included in Rule 19.7, as follows:

- (i) *The management of noise and vibration*
- (ii) *The management of heavy vehicle movements on local roads*
- (iii) *Management of dust, erosion and sediment discharges beyond the site*
- (iv) *The effects of modifications to the landscape character and particularly on the amenity values of any outstanding natural feature or landscape.*

33. It is noted that the suggested matter of control (iv) addresses possible effects on natural values such as landscapes. It is a little unclear what the Council's Planner means by 'natural resources' in this instance, but I take this opportunity to remind the hearings panel, with respect, that aggregate is a mineral, and that the rate of the use of minerals is subject to other legislation.
34. It is also noted that effects on waterways fall within the jurisdiction of the Regional Council, for which separate resource consents are usually required, where applicable.
35. There is little disputing the Council Planner's second concern where, as a controlled activity, a consent must be granted despite the potential adverse effects on the environment. A restricted discretionary activity status for aggregate extraction would overcome this issue for those instances where the Council may find itself in such a situation. Whilst such a solution to this issue could be supported, I could only do so if the matters of discretion remained the same as the matters of control listed within the Higgins submission and that resource consents for such activities were processed on a non-notified basis.

Rule 19.6.4 and Rule 19.8 (Higgins Submission Points 77.08 and 77.09)

36. Higgins has requested that Rules 19.6.4 and 19.8 be amended to provide for setbacks for dwellings and sensitive activities from aggregate extraction sites or the Ohau River. The Council's Planner has given a preliminary recommendation to reject these submission points, but nonetheless appears to recognise some merit in these requests as there is a request for further information in respect of existing sites and the 500 metre setback distance.

37. In response to these requests, Higgins has two currently active aggregate extraction sites within the Horowhenua District; one being at the end of Hoggs Road and the other at Gladstone Road. Another site at the end of Kimberly Road is under investigation. In terms of the Ohau River, it is likely that extraction will occur from the stretch of the river between the Hoggs Road site and the State Highway 2 Bridge.
38. To achieve the outcome that Higgins desires it is recommended that Rule 19.8.4 be amended by including the following:
- b) All residential dwelling units and sensitive activities shall comply with the following additional setbacks and separation distances:
...
(iv) 500 metres from any existing Aggregate Extraction site or that stretch of the Ohau River bed between the Hoggs Road end and the State Highway 2 Road Bridge.
39. The 500 metre setback distance requested is largely based on noise. As discussed above, noise from certain elements of the processes required to extract and process aggregates is difficult to mitigate. Given the height of certain noise producing machinery acoustic bunding is not always effective. Other methods, such as siting crushers in an excavated depression, can be effective to mitigate noise to a certain extent but does not provide any mitigation while new sites are being developed. From its past experience, Higgins has found that its activities are generally within District Plan noise limits most of the time, at about 500 metres distance from its sites. It is noted that not each site is the same and that variations in the mitigation options available to be utilised from site to site is normal. This, along with the topography of the land at each site, can influence noise levels at the suggested 500 metre setback distance.
40. In terms of the matter of discretion as suggested by Higgins, this is a specific matter that directly relates to the rule for the setback from aggregate extractions sites. The Council's Planner considers that the addition of a further criteria to the assessment criteria in Section 25 of the Plan would be sufficient. I note that assessment criteria do not provide the Council with discretion, but rather provide

guidance as to the type of matters that may be relevant when assessing and determining resource consent applications.

41. In this instance the Council has relied on a wide catch-all provision [Rule 19.8.1(a)(i)] to provide discretion for activities not meeting the permitted activity conditions. I have not noted any submissions requesting changes to this approach or specifically to Rule 19.8.1(a)(i). Whilst this is not an approach that I wholly support, given the Plan's structure, and provided that Rule 19.8.1(a)(i) remains unchanged through the hearings process, the Council Planner's recommended approach to provide additional assessment criteria will achieve the same result as the specific matter of discretion as suggested in the Higgins submission. It is considered that such changes should be included into Section 25.2.1 (General). In particular an amendment to 25.2.1(d) to ensure reverse sensitivity effects on aggregate extraction are considered, would be an appropriate place for such a change

Conclusions and Recommendations

42. Higgins has an interest in the Horowhenua District Plan review and also has an interest in aggregate extraction. It has first-hand experience and knowledge of the implications of not providing for aggregates and their extraction within District Plans and, as such, made submissions on the proposed plan in November and December 2012.
43. Higgins submission proposes a framework that ensures that the importance of aggregates to the community has recognition within the Plan, ensures that aggregate extraction can occur with minimal delays and costs and also protects aggregate extraction sites from reverse sensitivity and known aggregate resources from sterilisation.
44. Overall, the Council Planner's recommendations have accepted, in part, the recognition of aggregates and a policy change to provide for the recognition of reverse sensitivity effects. However, the recommendations have not provided for

aggregate extraction in the objectives of the Plan, have not provided for aggregate extraction in the rule framework (meaning that it will default to a full discretionary activity), and have not provided any rules to allow reverse sensitivity effects on aggregate extraction sites and resources to be considered when dwellings or sensitive activities seek to establish near such sites. This has, obviously in my view, left a few holes in the overall strategy of providing for aggregate extraction within the District.

45. The discussions above have responded to the points made by the Council's Planner in the Section 42A report and also provide a basis for the planning framework for aggregates as requested by Higgins.
46. Overall, I recommend that the points made by Higgins Group Holdings Ltd in its submission dated 12 November 2012 be accepted by the Hearings Panel, with such amendments as have been discussed above.

Andrew Bashford