

Plan Change 42 – General Rural and Rural Lifestyle Environments

Before Taupo District Council

Submissions by Tauhara Quarries Ltd

Brief of Evidence

9 August 2023

Taupo District Plan: Plan Change 42 General Rural and Rural Lifestyle Environments

- 1 My name is Duncan Graham Whyte and I am appearing on behalf of Tauhara Quarries Ltd.
- 2 I am a Principal Planning and Policy Consultant with 4Sight – part of SLR.
- 3 I have over 27 years of experience as a planner that has included providing assistance to a number of Councils across New Zealand with the preparation of plans, prepared private plan changes, and represented territorial local authorities and regional councils at resource consent hearings. I am a full member of the New Zealand Planning Institute, and a member of the Resource Management Law Association. I have a Bachelor of Arts (Honours) from the University of Canterbury, and a Master of Regional and Resource Planning from the University of Otago.
- 4 In preparing this evidence I have reviewed:
 - (a) Plan Change 42 – General Rural and Rural Lifestyle Environments;
 - (b) Plan Change 42 – General Rural and Rural Lifestyle Environments Section 32 Evaluation Report;
 - (c) Summary of Decisions Sought;
 - (d) Plan Changes 38-43 Overarching Section 42a Report; and
 - (e) Plan Change 42 – General Rural and Rural Lifestyle Environments Officer Report.

Scope of evidence

- 5 I have been asked by Tauhara Quarries Ltd to present evidence in relation to their submissions to Plan Change 42 – General Rural and Rural Lifestyle Environments. This includes:
 - (a) Background;
 - (b) Submission points;
 - (c) Further submissions received; and
 - (d) Section 42A reports.

Background

- 6 Tauhara Quarries Ltd operate Tauhara Quarry which is located at 674 Hipaua Road, Tauhara Forest. The site comprises approximately 41.2021 hectares of land which accommodates an operating quarry. Tauhara Quarries Ltd have operated the quarry since April 2012. In addition

to aggregate for local roading, including supply the vast majority of construction materials for the Taupo bypass Highway. The quarry also produces gabion rock used in multiple other regions for erosion protection and slip repair, currently for repair works post Cyclone Gabrielle.

7 Tauhara Quarry is recognised as being significant because of its production volumes, reserves, the quality of the resource and its suitability for a wide range of uses. Tauhara Quarry was identified as one of a number of quarries under the Taupo County Second Reviewed District Scheme 1985 (Mining and Mineral Resources Zone) and operates under a certificate of compliance (File reference: L15 0012) in accordance with Section 139 of the Resource Management Act 1991. The list of quarries in the Taupo County Second Reviewed District Scheme 1985 included:

- (a) Rotokawa Lake (Sulphur Deposits);
- (b) Mount Tauhara;
- (c) Taupo Urban Area (Scoria Quarry No. 1 and No.2);
- (d) Poronui Argillite Quarry; and
- (e) Tauhara Forest

8 Of those quarries listed above, Tauhara Quarry remains the only operative quarry in this list. There is a need to recognise the benefits that people and communities of the District and Region derive from the supply of construction materials and to provide for the operation of significant sites.

Submission points

- 9 Changes sought to this chapter are to specifically recognise for quarries as a key component of providing construction materials for significant and local infrastructure. It is my view that it is important not to lose sight of those activities that support the establishment of the significant infrastructure, and not just the infrastructure itself. Aggregates are necessary for pavements of roads and access, erosion protection, producing concrete for foundations and structures, and the need for suitable materials that are sourced locally will have a strong influence on overall project costs and levels of greenhouse gas emissions in material supply.
- 10 For those reasons Tauhara Quarries Ltd has sought the following changes to objectives and policies.
- 11 Amend definition of *Rural Industry* in *Section 10 Definition* to include *quarrying activities* (underlined text added):

Rural Industry – an activity that directly supports, services, or is dependent on primary production and has a locational need to be within the General Rural Environment (rather than an urban environment). These activities include, but are not limited to; forestry, agriculture, dairy farming, quarrying activities, and geothermal/electricity generation.

- 12 Add a definition to *Section 10 Definitions for Primary Production* in accordance with the National Planning Standards definition (underlined text added):

primary production means:

(a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and

(b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);

(c) includes any land and buildings used for the production of the commodities from a) and used for the initial processing of the commodities in b); but

(d) excludes further processing of those commodities into a different product.

- 13 Amend objective 3 of *3b.3 Objectives and Policies – Rural Lifestyle Environment, Objective* (underlined text added):

Objective 3b.3.3 Commercial and industrial and rural industry activities

The establishment of commercial and industrial and rural industry activities that have no functional need to locate and are incompatible with the rural residential activities occurring within the Environment are avoided. [withdrawn]

- 14 Following the review of the Officer Reports and considering the function of this objective in the plan structure, these amendments are no longer sought. Rural industry by its nature has a functional need to locate in rural areas because that is where primary production is based. That applies equally to the location of mineral resources and quarrying activities. It is not necessary to establish new rural industry in the Rural Lifestyle Environment. If the extent of this zone is to be expanded the proposed objectives and policies such as Objective 3b.3.2 and Policy 3b.2.14 provide a useful means to assess the appropriateness of this. I would further note that the change sought by others to specifically exclude rural industry from Policy 3b.2.14 is a preferable approach. That is because quarrying activities occur in the rural areas and have a functional need to be located there, and furthermore they are not provided for in any other Environments.

- 15 Amend Policy 3b.3.9 of *3b.3 Objectives and Policies – Rural Lifestyle Environment, Policy 3b.3.9* (underlined text added):

Policy 3b.3.9 Character of the Rural Lifestyle Environment

Manage the anticipated character of the Rural Lifestyle Environment as defined by:

- a) Buildings on different sites are separated from each other in a way that creates a sense of privacy.
- b) Accessory buildings that do not dominate the landscape.
- c) Dwellings may be large but are surrounded by open space and do not dominate the landscape.
- d) A general absence of urban infrastructure including community stormwater and wastewater services.
- e) An environment which includes residential activities, ~~rural-productive~~ primary production activities and home business activities.
- f) Noise related to production activities during the day but low levels of noise at night.
- g) Low levels of light spill.
- h) Limited signage that directly relates to the activity operating on the site.

- 16 Amend Policy 3b.3.10 of *3b.3 Objectives and Policies – Rural Lifestyle Environment, Policy 3b.3.10* (underlined text added):

Policy 3b.3.10 Lot sizes and setbacks for allotments adjoining the General Rural Environment

Require larger lot sizes and greater building setbacks for allotments adjoining the General Rural Environment or primary production activities in the Rural Lifestyle Environment to manage reverse sensitivity.

Plan Change 42 Further Submissions

- 17 Tauhara Quarries Ltd received further submissions from:
- (a) EnviroNZ Limited that supported the inclusion of the National Planning Standards definition of 'Primary Production' in *Section 10 Definitions*.
 - (b) Horticulture New Zealand that opposed the inclusion of Rural Industry in 3b.3.3 Commercial and industrial activities.

- 18 Since Tauhara Quarries Ltd now withdraw the change sought in submissions to amend Objective 3b.3.3, this would satisfy Horticulture New Zealand in relation to this point in the further submission.
- 19 EnviroCo also supported the submission of Horticulture New Zealand (OS26.14) to include the definition of Primary Production from the National Planning Standards. Horticulture New Zealand likewise supported the submission of NZ Pork Industry (OS22.2) for the inclusion of the definition of primary production from the National Planning Standards. The further submissions from EnviroCo and Horticulture New Zealand highlight that there are several submitters who support the inclusion of the definition of Primary Production from the National Planning Standards in *Section 10 Definitions*, these being Horticulture New Zealand, EnviroCo, NZ Pork Industry, and Tauhara Quarries Ltd.

Plan Change 42 Section 42A report

- 20 The 'Plan Change 42 – Strategic Directions Section 42A Officer Report' prepared by Mr Craig Sharman recommends that the changes sought by Tauhara Quarries Ltd not be accepted, in particular the inclusion of the definition for 'Primary Production' in accordance with the National Planning Standards. At paragraph 79, the Mr Sharman states that *"PC42 was not formulated to give effect to the National Planning Standards given that it relates to only part of the district (albeit a substantial part), and therefore was impractical to implement the standards"* and that *"TDC has a clear intent to produce a full National Planning Standards ODP in 2024 and will do so on a district-wide basis"*. Mr Sharman states that the definition of 'Primary Production' from the National Planning Standards cannot "be easily retro-fitted into the chapter".
- 21 Mr Sharman has recommended that the definition of 'Rural Industry' be replaced to be consistent with the definition of 'Rural Industry' in the National Planning Standards as follows:

"means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production."

Mr Sharman states in Appendix 1 that *"replacing the current definition [...] is innocuous and does not result in consequential amendments elsewhere in the ODP"*. It is unclear why the National Planning Standard definition for 'Rural Industry' may be used but the definition for 'primary production' may not be. The key difference between the two definitions is that the National Planning Standards definition for 'primary production' specifically references mining and quarrying activities whereas the definition for 'Rural Industry' does not.
- 22 Mr Sharman has recommended that a definition be included in the chapter for 'Land Based Primary Production' in accordance with the definition in the National Policy Statement for Highly Productive Land 2022 (NPS-HPL) as follows:

“means production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land.”

Mr Sharman notes in response to Horticulture New Zealand’s submission OS26.11 that *“Including the current definition [...] does not result in consequential amendments elsewhere in the ODP”*. Again, the notable difference between the definition of ‘Land based primary production’ and ‘Primary Production’ is that the former does not include mining or quarrying activities.

- 23 I note that Mr Sharman has recommended changes to Objective 3b.2.1 for the General Rural Environment, namely:

“Objective 3b.2.1 Enable Primary Production and the Use of Natural Resources”

Primary production and the use of natural resources are is enabled by protecting the availability of the rural land and other resources and its their productive capability.”

- 24 It is not clear why Mr Sharman has recommended the National Planning Standards definition for ‘Rural Industry’ and the NPS-HPL definition for ‘Land Based Primary Production’ be adopted, but not the National Planning Standards definition for ‘Primary Production’. The request to change definitions by Tauhara Quarries is a far simpler approach than outlined in recommended changes to Objective 3b.2.1. Mr Sharman has stated that *“adopting the national planning standards definition of ‘primary production’ as sought would then necessitate a re-drafting of provisions that rely on the Plan Change 42 definition of ‘rural industry’”*. It is not clear what provisions Mr Sharman is referring to. If the National Planning Standards definition for ‘Primary Production’ and ‘Rural Industry’ were adopted, that would achieve the outcomes sought by Tauhara Quarries Ltd since the definition of Rural Industry links to ‘Primary Production’. That would also sit within the existing plan structure without the change recommended by Mr Sharman for Objective 3b.2.1 for example.

- 25 The difference between ‘Land Based Primary Production’, ‘Rural Industry’, and the National Planning Standards definition for ‘Primary Production’ is that the later explicitly includes aquaculture, mining, and quarrying activities. It therefore appears inconsistent for Mr Sharman to say that the phrases ‘Rural Industry’ and ‘Primary Production’ are analogous.¹ It is also inconsistent to say that ‘Primary Production’, as defined in the WRPS and National Planning Standards, cannot be ‘retro-fitted into the chapter’ but then recommend that ‘Rural Industry’ as defined in the National Planning Standards and ‘Land Based Primary Production’ as defined in the NPS-HPL, which excludes quarrying or mineral extraction, can be included. The implication here is that mining and quarrying activities will not be provided for under the definitions for

¹ Appendix 1, Plan Change 42, General Rural and Rural Lifestyle - Summary of Decisions Sought p.90

'Rural Industry' or 'Land Based Primary Production' in the chapter. If quarrying does not fit under 'Primary Production' in the General Rural Zone, then there is no other nominated zone in which for quarrying is to be sited.

- 26 I further note that the NPS-HPL specifically recognises in Clause 3.9 that mineral extraction and aggregate extraction (amongst other uses) will be an appropriate use because where they have a functional or operational need to be on the highly productive land. If the concern is that a National Policy Statement must be implemented through Plan Change 42 in my view it is not appropriate to implement only parts of it, and the reason to exclude reconsideration of providing for appropriate uses such as mineral extraction or aggregate extraction when that is an important component of the NPS-HPL becomes all the more unclear and arbitrary.
- 27 Mr Sharman appears to overlook that the Waikato Regional Policy Statement 2016: Te Tauāki Kaupapahere Te-Rohe O Waikato (WRPS) which contains the topic EIT – Energy, infrastructure and transport. This is notable for two reasons. The first that it groups energy, infrastructure, and transport together recognising the interconnected relationship between all elements of the topic, and the second being that there is a specific policy requiring recognition of primary production (which includes land used for mineral extraction) where it supports regionally significant industry:

IM-P4 – Regionally significant industry and primary production

The management of natural and physical resources provides for the continued operation and development of regionally significant industry and primary production activities by:

- 1. recognising the value and long term benefits of regionally significant industry to economic, social and cultural wellbeing;*
- 2. recognising the value and long term benefits of primary production activities which support regionally significant industry;*
- 3. ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated;*
- 4. co-ordinating infrastructure and service provision at a scale appropriate to the activities likely to be undertaken;*
- 5. maintaining and where appropriate enhancing access to natural and physical resources, while balancing the competing demand for these resources;*
- 6. avoiding or minimising the potential for reverse sensitivity; and*
- 7. promoting positive environmental outcomes.*

- 28 The changes sought by Tauhara Quarries Ltd are to make the link between infrastructure and the natural resources they rely on explicit in the Strategic Directions chapter and provide for the full range of primary production activities in the Rural zones as envisaged by clause 2 of IM-P4 of the WRPS. In my view to exclude the requested changes would be contrary to the requirements of Section 75(3)(c) of the RMA that states a district plan must give effect to any regional policy statement.
- 29 To delay making the requested change to include the National Planning Standards definition of primary production until 2024 also seems wasteful of process and resources when there

would be the immediate benefits of adopting the definition. I don't agree that has unanticipated consequences that would be difficult to retro-fit into the existing structure of the district plan.

- 30 Mr Sharman's has recommended to reject Tauhara Quarries Ltd submission on Policy 3b.3.10 as "the Rural Lifestyle Environment locations are relatively small in size and typically do not contain large-scale primary production activities". However, Paragraph 88 notes that several submissions have sought extension of the proposed RLE boundaries, thus emphasising our concern that RLE may be extended in future via private plan change requests and create issues of reverse sensitivity for existing primary production/rural industry activities. It is important that the policy framework be robust and allow for consideration of reverse sensitivity should private plan change requests or Council plan changes seek to extend these areas in the future. In which case, inclusion of 'primary production' in Policy 3b.3.10 would be beneficial in anticipation of future private plan change requests or Council plan changes.
- 31 Mr Sharman's response to submission on Objective 3b.3.3: *"Reject, as Objective 3b.3.3 is a provision about 'establishment of commercial and industrial activities that have no functional need to locate' in a rural environment, which by definition is distinct from 'rural industry' which has a locational need to be in a rural environment. This distinction is apparent throughout the provisions."* While this change to Objective 3b.3.3 is no longer sought, I do support the view that quarrying activities are a rural industry and a primary production activity that should be enabled and supported through the other changes sought in these submissions by Tauhara Quarries Ltd.

Plan Changes 38-43 Overarching Section 42A

- 32 The focus of the submissions by Tauhara Quarries Ltd on Change 42 as outlined above has been on amending the proposed General Rural and Rural Lifestyle Environments to improve their support and protection for quarrying activities. I note that Ms Hilary Samuel, in paragraph 16 of the Overarching Section 42A report, has indicated that the following Plan Changes are anticipated to be developed by the Council as a next bundle (or bundles) in the near future:

- *Full review of the Residential Chapter*
- *Māori purpose zone*
- *Hospital Zone (may be supported by the sector)*
- *Energy Chapter (may be supported by the sector)*
- ***Quarry Zone (may be supported by the sector)***
- *Rangatira E and Paenoa Te Akau Growth area (in partnership with landowners)*
- *Designations*
- *Turangi Spatial Planning*
- *Chapter 3e Land Development [emphasis in **bold** added]*

- 33 Since the matter has been raised in Ms Samuel's report I confirm that I would support a Quarry Zone for the District. In my view addressing existing quarrying activities with a specific purpose Quarry Zone and identifying significant mineral resources across the district would be a step

forward. It would provide a suitable structure to manage reverse sensitivity between it and neighbouring zones. In fact, that was a change requested in the submission by Tauhara Quarries Ltd on the draft plan changes. While it may be beyond the scope of the submissions by Tauhara Quarries Ltd on Plan Change 42, it would be a change that I would support.

- 34 It is also my experience in other localities in New Zealand that a specific purpose zone is a positive mechanism to provide for quarrying activities, e.g Waipa District Plan (Significant Mineral Extraction Zone) and the Christchurch District Plan (Rural Quarry Zone). I believe these examples are evidence that demonstrate its value as a suitable approach. As I have discussed in paragraph 7 above, that would also be a familiar approach based on earlier planning scheme documents in the Taupo District.

Conclusion

- 35 It is necessary to consider and provide support for not just the significant infrastructure itself, but those activities directly required to provide and maintain it. That should be included within the objectives and policies of the district plan.
- 36 The changes sought by Tauhara Quarries Ltd give effect to the WRPS, whereas to omit these requested changes does not.
- 37 Mr Sharman appears to be selective in which provisions of the NPS-HPL should be implemented and those that should not. The consequences of adopting the definition of primary production in the National Planning Standards would assist and provide greater clarity and benefit the plan structure as is proposed. It would also avoid the need for changes such as is recommended for Objective 3b.2.1.
- 38 The changes requested by Tauhara Quarries Ltd provide additional clarification and support that recognise the importance of quarrying to the provision of infrastructure as is appropriate in the General Rural and Rural Lifestyle Environments chapter and its objectives and policies as introduced by Plan Change 42.
- 39 While it is not specifically requested in the submissions by Tauhara Quarries Ltd to Plan Change 42, the indication that a Quarry Zone is to be developed by the Council in the near future is supported.



Duncan Whyte

9 August 2023