

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

**AND**

**IN THE MATTER** of the Proposed Natural Resources Plan for the  
Wellington Region

**STATEMENT OF EVIDENCE OF SYLVIA ALLAN  
ON BEHALF OF GBC WINSTONE AGGREGATES**

**1 Introduction and Background**

1.1 My name is Sylvia Jean Allan. I have a BSc (Hons) Degree in geography and geology and a Diploma in Town Planning. I am a Fellow of the New Zealand Planning Institute and a former President of that professional body. I have over 45 years experience as a planner, both in New Zealand and in the United Kingdom. I am experienced in most aspects of environmental planning. Amongst my clients are central government, district and regional councils, energy and communications companies, port companies, industrial and commercial organisations and community groups and individuals. I work widely around New Zealand.

1.2 I have assisted GBC Winstone Aggregates (Winstone) with many of its planning issues throughout the southern half of the North Island for approximately 20 years, including assisting with submissions on various regional and district plan matters and a private plan change to the City of Lower Hutt District Plan. I have also been involved in numerous applications relating to Winstone quarry operations and expansions and cleanfills. I assisted Winstone with its submissions and appeals on the Wellington Regional Policy Statement, and this Proposed Plan.

- 1.3 I also assisted the operators of Kiwi Point Quarry for many years, including with two significant changes to Wellington City District Plan, and several resource consents.
- 1.4 I am familiar with the needs for quarry products in the region, for infrastructure and other major developments, and for the community generally. I am also familiar with the various means of managing the effects on the environment associated with quarry and quarry-related use and development. I have been asked by Winstone to provide planning evidence for the various hearings in respect of the matters raised in Winstone's primary and further submissions on the Proposed Natural Resources Plan for the Wellington Region (the Plan).
- 1.5 Mr Nel in his evidence has outlined the importance of aggregate resources and cleanfills to the Wellington community as a whole, and for economic development. He has also summarised Winstone's major concerns relating to the recognition of quarries and cleanfills in plan policy, and some specific areas of the Proposed Plan. My evidence relates to the submissions to be covered in Hearing 1.
- 1.6 Winstone made a number of submissions on the matters that are being covered in Hearing 1. My evidence addresses them in the order in which they appear in the section 42A reports. Some of these matters have been recommended for approval, and I provide only brief comment on those.

## **2 Acknowledgement of Code of Conduct**

- 2.1 Although this evidence is not prepared for an Environment Court hearing, I have applied the Code of Conduct for Expert Witnesses in the Environment Court 2014 version. Except where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might detract from the opinions that I express in this statement of evidence.

## **3 Use of "Coastal" Icon in Rules (S66/103)**

- 3.1 Winstone's submission noted that, while it was clear in the Interpretation section how the "coastal" icon was intended to work, this was not the case in the Rules sections 5.1 to 5.7.

- 3.2 The section 42A report (Overall Policy Framework – Part B, p 23) recommends a rewording of section 2.1, as well as an expanded paragraph for each of the Rules sections.
- 3.3 In my opinion, the last sentence, second paragraph of section 2.1 did not need rewording. The Winstone submission did not seek a change. The current wording is perfectly clear, and there is no need to include an explanation referring to the “integrated nature of the Plan”. However, Winstone would not oppose the additional complexity of wording if the hearing panel so decides.
- 3.4 In the recommended change to the third paragraph of each of the rules sections, it is useful to have a reference back to section 2.1. I do not see any reason why there should also be a reference to section 2.1.3, as the Plan user will look in vain for a reference to the icon there. Similarly, I see no reason to refer to “the integrated nature of the Plan” in each section. Both additions add unnecessary verbiage to rule provisions which should be clear and straight-forward. It would be sufficient to repeat the original wording from section 2.1 in each of the Rules sections.

#### **4 Definition of “Whaitua” (S66/028)**

- 4.1 Winstone’s submission here was intended to remove any possible confusion with the use of the term “whaitua” in applying the Plan<sup>1</sup>. It simply sought to replace “designated” with “specific”.
- 4.2 I note that paragraph 252 of the section 42A report (Overall Policy Framework – Part B, p57) recommends both adding “specific” and retaining “designated”. However, the recommendation on page 58 does delete the term “designated”.
- 4.3 I support the Officer’s recommendation in paragraph 253(b).

#### **5 Policy P4 – Minimising Adverse Effects (S66/006)**

- 5.1 Winstone’s submission raised a large number of issues with this policy. The policy sits as a general one close to the start of the policy section (Section 4) under the heading

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<sup>1</sup> This suggestion, which was intended to be helpful was included in Winstone’s comments on the draft plan, but was not taken up.

“Ki uta ki tai and integrated catchment management” and is one of the integrated and interpretative generic policies which has implications throughout the Plan. The Officer’s section 42A reports deal with this policy on pages 124 to 134 of the Overall Policy Framework of the Proposed Plan – Part B, and recommends no change.

5.2 I am concerned about this policy as it is expressed in a highly directive way, and in my opinion therefore does not provide for the flexibility of interpretation that region-wide policy should provide. It also goes beyond the requirement of the Resource Management Act (RMA) in a number of ways.

5.3 Winstone’s submission raised the following points:

- The use of the term “minimise” is inconsistent with the RMA’s requirement to “avoid, remedy or mitigate” adverse effects of activities.
- “The smallest amount practicable” is not acceptable unless the Plan includes a definition of “practicable”, which it does not.
- The construction of the rule including “shall include” and linking the paragraphs (a) to (e) with the word “and” is unreasonable. The construction also requires that any other ideas for minimisation also come into play.
- Items (a) and (d) were particularly identified as unreasonable, but Winstone also has particular concerns in relation to an item in (b) which is the subject of another of its submissions.

5.4 There are a large number of policies which require minimisation of effects<sup>2</sup>. These policies are very diverse. Winstone’s submission has generally not opposed these policies, and from my experience, responsible businesses in seeking to undertake use or development do actually endeavour to minimise their adverse effects and to adopt good management practices in whatever context the activity is occurring.

5.5 However, the simplistic yet directive wording of Policy 4 does not allow for the range of circumstances that might be relevant. For example, item (e) relates to the scale of

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<sup>2</sup> The section 42A report notes two objectives and 40 policies.

an activity and is a requirement that the activity is designed so that the footprint is “*as small as practicable*”. That would not allow for economies of scale in planning or economic development. An example could be a new quarry or new road, both of which might cross streams, remove vegetation or have other implications within policy which requires “*minimisation*”. It would not be reasonable to try to apply Policy P4 as currently expressed when long-term beneficial activities are involved. Such wording (which is not an optional consideration in relation to all 41 policy provisions) involves a judgement call which in my opinion goes beyond the RMA and fails to deal adequately with scale and needs for long-term planning.

- 5.6 The RMA itself only requires an assessment of alternatives when adverse effects are significant – yet Policy 4(a) would require demonstration of alternative locations **and** methods (my emphasis) in every situation, however minor the effect, in a proposal which for example crosses a stream.
- 5.7 The lack of any guidance on the term “*practicable*” means that the interpretation of the policy is left wide open, and that may be unfair to all parties. In my opinion, the term “*practicable*” should always have an economic and technological evaluation component. An applicant then has the ability to provide information justifying choice of approach.
- 5.8 In my opinion, this policy should be deleted in its entirety. It is not workable and will increase the cost and effort in applying for consents, and assessing applications.
- 5.9 Reading the Officer’s report and the extensive list of policy items to which an effects “*minimisation*” approach applies (footnote 38), it is clear that items in Policy P4 (a) to (e) will not relate to many of them. Some of the policies already have their own list of possibly applicable methods of minimising effects – e.g. Policy P91 on landfills, and Policy P97 on sediment discharges from vegetation clearance.
- 5.10 I find the Officer’s comment in paragraph 554 somewhat strange. The suggestion seems to be that it is a good thing that “*minimisation*” does not apply in listed areas in Policy P4 (b). However, this overlooks the point that Policy P4 is effectively already an “*avoid*” policy for such areas, thereby providing a double jeopardy situation for a use

seeking to affect such an area. A case in point relates to Winstone’s sand extraction at the Hutt River mouth which is undertaken within a Schedule C site, where Policy P19 would bring Policy P4 into play. Both require avoidance as directive policies.

5.11 I do not agree with the Officer’s comment in paragraph 563 that deleting the policy would make the Plan less clear. As I have identified above, the policy is too directive and inflexible to be workable and items (a) to (e) (all of which must be responded to if one of the two objectives or 40 policies that involve “minimising” come up) are not relevant to many.

5.12 Although in my opinion the policy should be deleted, Winstone’s submission does not go to that extent (others however do). Winstone’s submission could be met by a rewording which made items (a) to (e) examples only. Such a rewording could be:

*“Where minimisation of adverse effects is required by policies in the Plan, minimisation means reducing adverse effects of the activity to the smallest amount practicable by appropriate means, which may include:*

*(a).....*

*(b).....*

*(c).....*

*(d).....*

*(e).....”*

5.13 Such rewording would at least help to overcome the problems I have identified earlier in this evidence. Of course “practicable” would also need to be defined. Any definition to be developed should pick up the key elements of “best practicable option” as defined in the RMA section 2 which are:

- the circumstances of the proposal
- the financial implications (compared with other options)

- technical knowledge and likely effectiveness.

## **6 Quarries and Landfills as Beneficial Uses (S66/005) and (FS 51/005)**

- 6.1 Winstone's made a further submission on a submission by the Fertiliser Association of New Zealand which sought new objectives for rural production activities. This was, however, as a backup for its own substantive submission relating to Policy P7 (S66/007). Although the section 42A report on Beneficial Use and Development refers to S66/1005 and FS 51/005 and addresses these on pages 19 and 21 to 23, I cannot find a reference to submission S66/007 which is also highly relevant (and is recommended to be rejected in the overall summary of recommendations).
- 6.2 The section 42A report acknowledges in paragraph 109 that insufficient effect is given to the RPS provisions that recognise and acknowledge the importance of mineral resource availability and use within the Region, and does recommend some change, which I discuss below.
- 6.3 The section 42A report places much emphasis on Objective O2 as supporting landuses (paragraph 110). With respect, Objective O2 does not do that: it simply recognises land and water resources as important and contributing to the social, economic and cultural wellbeing of the community. This objective could equally be seen to support protection and no use of land and water resources (refer to RMA section 5 – "*use, development and protection of natural and physical resources*") as supportive of their use and development.
- 6.4 Other than regionally significant infrastructure, no uses of land are recognised at the objective, or highest policy, level. Winstone's submission seeking to broaden the definition of regionally significant infrastructure is addressed in section 7 of this evidence, below. In my opinion, major quarries and cleanfills as well as major landfills are regionally significant and should be covered by Objective O12 or an equivalent provision.
- 6.5 I am nevertheless pleased to note the Officer's suggestion that Policy P7 should recognise the importance of quarries. I do not understand why the Officer thinks it is important to specify "hard rock". The RPS recognition of quarry materials is not

limited in this way. Land based gravel extraction takes place in several parts of the region where hard rock is unavailable, and this is equally important as a type of quarry resource. Such activities may not always be associated with flood protection and control<sup>3</sup>. In my opinion the recommended new supportive item (l) should simply read *“quarry purposes”*.

- 6.6 The Officer has not however commented on cleanfills (except somewhat dismissively as discussed in the next section) or landfills, which are increasingly difficult to find suitable sites for and to consent for well-known reasons such as access and reverse sensitivity, and which were included in the Winstone submission.
- 6.7 In my opinion both cleanfills and landfills should be added to Policy P7. If there are concerns about the breadth of such addition, these could be qualified as serving regional or sub-regional areas (see below).
- 6.8 Winstone’s supportive submission on Policy P7 also sought that the reference in (g) to gravel extraction from rivers for flood protection and control purposes should have the word *“sand and other materials”* added. This appears not to have been addressed. The addition was sought to recognise that sand is an important component of extraction, for example at the Hutt River mouth and the Otaki River. There is always other “by-catch” of fine material and river flotsam and jetsam, which was also sought to be recognised.

## **7 Quarries, Cleanfills and Landfills as Regionally Significant Infrastructure (S66/004), (S66/005)**

- 7.1 Winstone sought that quarries, landfills and cleanfills which serve regional or sub-regional areas are recognised as regionally significant infrastructure (S66/004), or that there be an objective that refers specifically to these items (S66/005). I do not consider that the section 42A reports have recognised the aspect that these matters were trying to get to, which is that lack of recognition at policy level<sup>4</sup> makes it difficult to consent such activities, including obtaining new sites.

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<sup>3</sup> Which is what is recognised in Policy P7(g).

<sup>4</sup> In this case, the recognition of quarries at RPS level “jumps” the plan objective level and is only covered for policy if the Officer’s recommendation for quarries in Policy P7 is accepted.

- 7.2 For quarries, obviously the resource itself (whether it be hard rock or high-quality gravel in situ) is a key determinant in site selection. However, large cleanfills and landfills also have very demanding site requirements (ability to separate the depositional activity from water and site stability), and all three types of major infrastructure have requirements for accessibility (ideally off major arterials and not local or urban roads), and separation from residential and lifestyle areas for reasons of security, safety, noise and/or odour and reverse sensitivity.
- 7.3 I can appreciate the evidence in the Officer's section 42A report relating to the definition of regionally significant infrastructure (Report on Beneficial Use and Development, p57 to 62), having been part of that earlier process myself. However, the outcome for Winstone was recognition at RPS level of the importance of the region's mineral resources, and therefore quarries. I should also point out that the RPS contains policies on waste, although this is focussed on minimisation rather than recognition of waste management facilities.
- 7.4 In my view, if it is not acceptable to include such regional facilities as part of regionally significant infrastructure, then they need to be given recognition at the level of an objective separately. I particularly find that paragraph 270 of the Officer's section 42A report shows complete lack of understanding of what a regional or sub-regional cleanfill now requires to have in place (it is not just moving earth from one area to another as claimed, and most are properly "structured"). The Officer also seems to think that landfills relate to individual cities or districts, whereas these days they transcend that.
- 7.5 In my opinion, if quarries and regional or sub-regional landfills and cleanfills cannot be included in the definition of regionally significant infrastructure, and thereby become subject to the recognition that such facilities have in Objective O12, then there should be a new objective – say O12A – which states:

*"The social, economic, cultural and environmental benefits of quarries and regional or sub-regional landfills and cleanfills are recognised."*

- 7.6 If there was concern about the term sub-regional, then alternative wording could be:

*“The social, economic, cultural and environmental benefits of quarries, landfills and cleanfills serving all or significant parts of the region are recognised.”*

- 7.7 This is significant and vital infrastructure which underpins health, safety and wellbeing in the same way as major network utilities do. It requires much better policy recognition in the Plan.
- 7.8 However, if regionally significant quarries, landfills and cleanfills cannot be included within the definition of “regionally significant infrastructure” then they also do not obtain the benefits of recognition in Policy P13 and P14 (which effectively enables the listed significant infrastructure), which they very much need.
- 7.9 Thus, there should be consequential amendments made to these policies (covered within the scope of Winstone’s “alternative or other relief” – S66/027) to recognise these items. This could be done by inserting the words “*quarries and regional or sub-regional landfills and cleanfills*” into both policies. I strongly support such addition.

## **8 Reverse Sensitivity (FS 51/003)**

- 8.1 Winstone supported NZTA’s submission seeking an improved definition of “reverse sensitivity” to recognise that established activities subject to reverse sensitivity do develop and change over time, and this should be acknowledged in policy and appropriate allowance made.
- 8.2 The section 42A report (Beneficial Use and Development – p64) recommends no change due to consistency with the RPS. I do not see that needs to limit an update, given that almost 10 years has passed since notification of the RPS and reverse sensitivity issues have become more pressing due to development pressures and considerable advance in life-style development throughout the region.

## **9 Policy P14 – Direct Effects from Adjacent Activities (FS 51/014)**

- 9.1 Winstone supported submissions seeking to broaden the scope of Policy P14 to recognise direct as well as reverse sensitivity effects. As alternative relief (see section 7 of this evidence above) Winstone now seeks to have this policy apply to significant quarries, landfills and cleanfills.

9.2 I consider the section 42A report (Beneficial Use and Development – p51) has taken too conservative a view in relation to the change sought. I would see no harm in adding the words “and other adverse” to Policy P14 before “effects” at the end. Also, it is not clear where else in the Plan such direct effects on established important activities (see statements in paragraph 372 of section 42A report) are addressed.

## **10 Policy P44 and P45, for Sites with Significant Manawhenua Values (S66/008 and 009)**

10.1 Winstone’s submission does not challenge the recognition of the single identified site with significant mana whenua values at the mouth of the Hutt River (Te Awa Kairangi) within which it has operated gravel and sand extraction activities (as required for flood management) for decades. Its submission simply requests policy recognition of established activities and any wider beneficial components of such activities within such sites.

10.2 While I recognise that Policy P7 sits alongside Policies P44 and P45, the formulation of the latter two policies is much stronger than the former – e.g. in Policy P45, *“in the first instance, activities in sites ..... shall be avoided”*.

10.3 It appears that consent renewals will in future require a cultural impact report and probably written approval from several iwi organisations. Winstone has raised no issues with this, and assumes that GWRC would assist as the activity has wider flood protection benefits throughout the Lower Hutt valley.

10.4 The section 42A report (Significant Areas and Sites for Mana Whenua – p54) is dismissive of the submission’s concerns of lack or recognition of established activities. In my opinion, the submission represents a practical planning and consenting issue for which some remedy is needed. The remedy would most likely be achieved by a qualification to Policy P45. This would leave the overall direction of Policy P44 intact.

10.5 I propose that the introduction to Policy P45 should be reworded to commence *“In the first instance, except in relation to established activities which provide benefits to the wider community, activities in sites ..... shall be avoided”*. The rest of the wording of the policy could remain intact. There may be an alternative way to soften the

directive nature of this policy, but in my opinion the above wording is probably the most appropriate.

## **11 Conclusion**

11.1 The matters covered in this Hearing are of fundamental importance to the continuation of Winstone's quarry and cleanfill activities within the Wellington Region, and other like activities. These activities are essential elements of modern life and they underpin the health and wellbeing of the community in a similar way to airports, ports and electricity generation.

11.2 It is disappointing that the reporting officers do not recognise the scale at which such activities are now undertaken, the environmental performance required and routinely regarded as good practice, and the difficulties of replacing sites when existing ones become exhausted and new ones are needed. Policy recognition and support at regional level is necessary, as the activities invariably and unavoidably involve a raft of regional consents.

11.3 The matters raised in the submission and the remedies I have suggested, require careful consideration and changes should be made at this stage as requested.

Sylvia Allan

5<sup>th</sup> May 2017