

**BEFORE THE INDEPENDENT HEARING PANEL**

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

**AND** of the proposed Timaru District Plan

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**Memorandum of Counsel**

**on behalf of the Director-General of Conservation *Tumuaki Ahurei***

**Hearing B: B1 Rural Zones and Versatile Soil; B2 Urban and Open Space Zones**

**Submitter No. 166 Further Submitter No.166**

**Dated: 14 June 2024**

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**Department of Conservation | *Te Papa Atawhai***

Private Bag 4715

Christchurch Mail Centre

Christchurch 8140

Solicitors rōia: Ceri Warnock and Alice McCubbin-Howell

Phone waea: 0273436890 / 0272013551

Email Īmera: [cwarnock@doc.govt.nz](mailto:cwarnock@doc.govt.nz) / [amccubbinhowell@doc.govt.nz](mailto:amccubbinhowell@doc.govt.nz)

## **MAY IT PLEASE THE HEARING PANEL**

### **Introduction**

1. The Director-General of Conservation lodged a further submission in response to the following submission points made by five submitters (**GHJ Rooney and Others**) relating to a proposed gravel extraction overlay:
  - i. GJH Rooney (191.5)
  - ii. Rooney Group Limited (249.5)
  - iii. Rooney Farms Limited (250.5)
  - iv. Rooney Earthmoving Limited (251.5)
  - v. Timaru Development Limited (252.5)

2. These submission points (**the relevant submission points**) will be heard at Hearing B.

3. Each of the relevant submission points is the same. The submissions provide:

*It is submitted that the proposed plan should introduce a gravel extraction overlay across land where existing land-based gravel extraction and clean fill deposition occurs. Such a layer should recognise and provide for this activity as well as protecting the sites from encroachment of sensitive activities in a way that the proposed plan has recognised and protected primary production. Land based gravel extraction is extremely important to continuity of supply and consistency of gravel quality.*

4. The Director-General opposed the relevant submission points in her further submission on the following grounds:

*The D-G does not support the creation of a new Gravel Extraction Overlay and consequential amendments. This is not considered necessary with other provisions of the plan managing gravel extraction. The D-G would be concerned if gravel extraction was permitted in areas in or near to SNAs or other sensitive areas such as habitats of threatened or at risk species. Gravel extraction in the beds of lakes and rivers will also require Regional Council approval.*

### **Submission contains insufficient information to enable preparation for hearing**

5. The Director-General considers that the relevant submission points provide insufficient detail to enable interested parties to prepare for the hearing. Specifically:
  - i. while the relevant submission points refer to the proposed overlay applying 'where existing land-based gravel extraction and clean fill deposition occurs', no further detail is provided about these locations. No maps or location descriptions were provided with the submissions;

- ii. No detail is provided as to any proposed plan provisions that would support the proposed gravel overlay.
  
- 6. As set out in the Director-General's further submission, the proposed gravel extraction overlay is potentially significant in terms of effects on conservation values. The Director-General wishes to present expert evidence at Hearing B in support of its further submission. However, without further detail in the relevant submission points, the potential relevance of the proposal to the Director-General's interests cannot be properly assessed. This presents practical difficulties for the Director-General in terms of the preparation of expert evidence. Other parties are likely to face the same issue.
  
- 7. The Planner for the Director-General e-mailed the relevant contact at GJH Rooney on 4<sup>th</sup> June 2024 and requested additional detail in relation to the proposed gravel overlay, specifically:
  - i. Whether it is for existing gravel extraction activities only that are operating now and if so, where/what sites these are located in the Timaru District?
  - ii. Where the proposed gravel extraction overlay (land based) is proposed for the Timaru District; if you have a map, please could you provide a copy?
  - iii. What amendments (if any) to the Rural zone provisions of the plan are Rooney Developments seeking? Are these to recognise existing activities and/or enabling new provisions?

To date, no response has been forthcoming.

- 8. Paragraph 25 of the Minute 6 directs parties to file expert evidence 10 days prior to the hearing. Given that any expert evidence will be filed simultaneously, however, this will not resolve the issue identified by the Director-General. The Director-General also notes that paragraph 26 of Minute 6 allows lay witnesses to provide material on the day of the hearing.

### **Directions sought**

- 9. The Director-General considers that in order to ensure a fair process, and to ensure that all relevant parties are able to appropriately respond to the relevant submission points and assist the Panel, additional directions from the Panel are required.

10. The Director-General considers that this could be achieved as follows:
- i. An invitation to the GJH Rooney and Others to withdraw the relevant submission points, with a direction that the submitters provide confirmation of withdrawal by **Monday 24 June 2024**; and/or
  - ii. An invitation to GJH Rooney and Others to provide further detail on the relevant submission points, in accordance with time tabling directions for sequential filing of evidence prior to the hearing (as set out below); and/or
  - iii. Confirmation that other submitters would have the opportunity following the hearing to respond to any additional details raised in evidence at the hearing in relation to the relevant submission points.
11. In terms of (ii), the Director-General considers that the following timetabling directions for sequential filing of evidence would be appropriate:
- i. Any expert and (preferably) any non-expert evidence on behalf of GJH Rooney and Others in relation to the relevant submission points to be filed by **Friday 28 June 2024**;
  - ii. Any expert evidence from other submitters in response to be filed by **Friday 5 July 2024** (noting that this is the current date for filing of any expert evidence for Hearing B).



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Alice McCubbin-Howell / Ceri Warnock  
Counsel / Rōia for the Director-General