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Subject: Proposed Plan Change 7 to the Canterbury Land and Water Plan - Statement of Evidence - S Hedley (South Canterbury Gravel Extraction Industry)
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Importance: High

Proposed Plan Change 7 to the Canterbury Land and Water Plan - Statement of Evidence – S Hedley (South Canterbury Gravel Extraction Industry)

Submitter # 393

Please find, on behalf of South Canterbury Gravel Extraction Industry, a formal Statement of Evidence of Simon Hedley.

I would confirm that I seek to be heard in support of the Submission and Statement of Evidence.

Regards



Simon Hedley

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BEFORE THE INDEPENDENT HEARING PANEL

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of Plan Change 7 to the
Canterbury Land and
Water Regional Plan
(CLWRP)

**STATEMENT OF EVIDENCE OF SIMON JAMES MOIR HEDLEY
ON BEHALF OF SOUTH CANTERBURY GRAVEL EXTRACTION INDUSTRY**

17th July 2020

INTRODUCTION

1. My name is Simon James Moir Hedley.
2. I am Technical Director – Planning, and General Manager of Elrick & Co Limited (formerly Lands and Survey (South) Limited), a private sector consulting firm providing surveying, planning and civil engineering services. Elrick & Co Limited has Offices and staff in Christchurch and Wanaka, servicing Clients throughout the South Island.
3. I have in excess of 30-years' experience as a consultant planner and project manager.
4. Since January 2011 I have been engaged by a range of quarry and gravel extraction companies to prepare and lodge applications for resource consents and Gravel Authorisations associated with the extraction and processing of gravel in the Canterbury Region. I have also been engaged to manage and advise on resource consent compliance associated with quarrying and gravel extraction operations.
5. I am fully conversant with the Canterbury Land and Water Regional Plan (CLWRP) and Plan Change 7 to the CLWRP.
6. I hold a Bachelor of Parks and Recreation Management degree in ecology and resource management policy, and a Master of Applied Science degree, with Honours, in resource management policy and environmental impact assessments. I was a founding member of the Resource Management Law Association and the RMA Community Advisory Service associated with the Community Law Centre.
7. I was also a member of the Advisory Group to the Rt Hon Simon Upton, Minister for the Environment, relating to the implementation of the Resource Management Act 1991 from 1993 until 1995.
8. I have been engaged by the South Canterbury Gravel Extraction Industry to prepare and submit a formal Statement of Expert Evidence, pertaining to the proposed amendments to the Canterbury Land and Water Regional Plan (CLWRP) notified in Plan Change 7 and which are relevant to the Submission of the South Canterbury Gravel Extraction Industry.
9. The South Canterbury Shingle Extraction Industry is an unincorporated body made up of and representing the commercial gravel extractors in South Canterbury. In 2007, Environment Canterbury entered into the South Canterbury Shingle Extraction Industry Memorandum of Understanding (MOU) with the South Canterbury Shingle Extraction Industry. The MOU provides for the authorisation of gravel extraction for durations not exceeding 12-months and to a maximum volume of 30,000 m³ related to all rivers south of the Rangitata River and facilitates ECan's ability to manage gravel accumulation in the rivers, while providing the gravel industry with certainty regarding the supply of gravels.

CODE OF CONDUCT

10. I acknowledge I have read, and I am familiar with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and agree to comply with the Practice Note.
11. I confirm that this Statement of Evidence is within my area of expertise, except where I state that this Statement of Evidence is given in reliance on another person's evidence.
12. I have considered all material facts that are known to me that might alter or detract from the opinions I express in this Statement of Evidence.

SCOPE OF STATEMENT OF EVIDENCE

13. The scope of this Submission is limited to the matters raised in the Submission of the South Canterbury Gravel Extraction Industry, Cross-submissions relating to matters raised in the Submission by the South Canterbury Gravel Extraction Industry, and the analysis and findings of the ECan Reporting Officer, contained in the S42A Report and the Appendices.

STATEMENT OF EVIDENCE

Rule 5.149

14. The South Canterbury Gravel Extraction Industry opposes the proposed amendment to Rule 5.149. Removing the diversion of water from the Rule is disproportionate to the potential effects of the diversion of water within the bed of a river.
15. The South Canterbury Gravel Extraction Industry considers an effects-based approach to the diversion of water is more appropriate given the very limited volumes of river gravels able to be extracted as a *permitted activity* by Rules 5.148, 5.149 and 5.150.
16. The ECan Reporting Officer (S42A Report) considered the submissions relating to Rule 5.149 in para 5.197 of the Report. The Reporting Officer contends that the proposed amendments to Rule 5.151 provide for temporary diversions; however, the Rule also controls the]effects of temporary diversions regarding the *Critical Habitat of Threatened Indigenous Freshwater Species*.
17. It is not possible within Canterbury to have any water body, regardless of size, which is not occupied by indigenous freshwater species. Accordingly, this amendment to Rule 5.149 does not provide any opportunity for the diversion of water to be considered as a *permitted activity*. Rather, the proposed amendment to Rule 5.149 removes any flexibility that the amendment may have bene endeavouring to achieve.

18. Furthermore, the proposed amendments to Rule 5.151 are complicated and do not, in my professional opinion, provide certainty to the South Canterbury Gravel Extraction Industry regarding the diversions. For example, Rule 5.151 (4) restricts the diversion to a maximum of 25% of the wetted width of an existing river channel. The Rule does not allow for the range of flow rates in South Canterbury rivers.
19. I accept that the Canterbury Regional Gravel Management Strategy does not control the diversion of water; however, consideration of the effects of the diversion of water is made by ECan River Engineers on a case-by-case basis during the assessment and approval of resource consents or Gravel Authorisations.

Rule 5.141

20. The South Canterbury Gravel Extraction Industry opposes Condition 3 of *Rule 5.141*. South Canterbury Gravel Extraction Industry considers that the imposition of quantified sediment limits are too onerous for temporary activities, and impractical and unachievable in these circumstances.
21. The South Canterbury Gravel Extraction Industry has submitted that as any potential discharge must originate from the bed of the river and be native to that waterbody it will have less effect on water quality than a flood or recreational vehicle driving through the same waterbody.
22. I consider there to be extremely localised effects related to the disturbance of the naturally formed sediments in a small localised area with a minor time effect. The freshwater species in Canterbury, and indeed New Zealand, are well adapted for these conditions. Therefore, indigenous and introduced freshwater species are well adapted for any event that mimics a small sediment loaded flood event and are recognised as having the ability to take advantage of these situations.
23. Rules 5.141 and 5.152 of the CLWRP are *permitted activity* rules that refer to temporary discharges to water or to land in circumstances where a contaminant, such as sediment, may enter water associated with undertaking certain activities.
24. Currently permitted activity Condition 3 of Rule 5.141 restricts the temporary discharge of sediment or sediment-laden water to not more than 10 hours in any 24-hour period, and not more than 40 hours in total in any calendar month. This Rule allows the temporary discharge to mimic natural events.
25. Plan Change 7 proposes to amend the existing sediment discharge restrictions in Rules 5.141 Condition 3 to apply water quality limits based on quantification of sediment discharges within a finite area of the river flow channel but including a time duration for “reasonable” mixing.
26. The proposed quantified sediment limits apply after the first four (4) hours of the temporary discharge commencing, with the time delay intended to allow for sediment

discharges associated with minor works to occur as a permitted activity. For example, it is estimated that it would take less than four hours for a gravel extraction contractor to place a temporary culvert in the bed of a river (installed under Rule 5.151).

27. The South Canterbury Gravel Extraction Industry agrees with the Submission from Rooney Earthmoving Ltd (REL), which contends that Condition 3, as proposed in Plan Change 7, adds an additional layer of complicated and unnecessary compliance and costs through the requirement on a gravel extraction operator to quantify the discharge.
28. The existing Rule is practical and provides for temporary discharges to mimic a natural event. The proposed amendment, which attempts to increase the restrictions relating to temporary discharges, over complicates the situation, makes temporary discharges impractical and increases the difficulty of enforcement. Overall the proposed amendment creates uncertainty for the Industry and regulatory compliance officers.
29. In summary, the amendment proposed in to Rule 5.141 in Plan Change 7 does not provide for minor temporary discharges which mimic a small natural event.
30. The South Canterbury Gravel Extraction Industry agrees that it is important to manage the discharge of fine sediment into a waterway and the mobilisation of sediments already present on the bed. I would confirm that South Canterbury Gravel Extraction Industry management practices, including the separation of gravel extraction works from flow channels and the wetted bed of a river, ensure there is no sediment discharge. These practices are also requirements which are able to be enforced through by consent conditions and authorisation conditions imposed on any gravel extraction operation.
31. While I accept that a “... *simplified method has ... been developed specifically to overcome constraints involved with community monitoring and in small streams*”. I consider the use of the “black disc” method (clarity tube) to quantify water sediment concentrations is subjective and prone to varying interpretations, particularly during river flood events.
32. It would be unrealistic to expect members of the South Canterbury Gravel Extraction Industry to engage a full-time environmental compliance staff member or contractor. Accordingly, given my experience in the industry, it is my professional opinion that this is problematic, costly and potentially inaccurate when the use of these environmental measurement tools is delegated to gravel extraction staff.

Rule 5.136

33. The South Canterbury Gravel Extraction Industry opposes Rule 5.136 due to concerns that the proposed amendments contained in Plan Change 7 restrict the existing activities provided in the rule, such as creating bird islands, habitat enhancement and erosion protection. In my opinion, the CLWRP does **not** provide an alternative rule which would enable these enhancement activities to occur.
34. Accordingly, I consider these activities are unlikely to occur.

35. The amendments to the rule descriptor of Rule 5.136 mean that any drilling, tunnelling or disturbance of the bed of a lake or river undertaken as a permitted activity under this rule must now be associated with only the installation or removal of pipes, ducts, cables or wires not gravel extraction.
36. I can confirm that members of the South Canterbury Gravel Extraction Industry are committed to river habitat enhancement. River habitat enhancement is **not** inconsistent with the standard gravel extraction resource consent, Gravel Authorisation or Gravel Code of Practice conditions require that the bed of the river is returned to a natural state within 30 days of the completion of the activity.
37. Rather, the South Canterbury Gravel Extraction Industry has regularly demonstrated the enhancement of existing river islands or delta through the removal of exotic flora and the purposeful re-shaping of such islands or delta to enhance their attraction for riverine bird species.
38. I am aware that ECan commissioned Wildlife Management International Limited (WMIL) to prepare a Report, which sought to review management of the potential adverse impacts of gravel extraction activities on riverbed-nesting birds in the Canterbury region. The WMIL Report was dated August 2018.
39. The WMIL Report found that gravel extraction had **no** effect on the birds or their breeding outcomes but did improve their preferred habitat.
40. It appears that the Report did not align with the community perception that there is an effect on riverine birds associated with gravel extraction; rather, the Report encouraged ECan to provide a mechanism where the gravel industry could provide cleared island sites at the industry's cost for the benefit of feeding and nesting birds.
41. I have read correspondence between REL and the Gravel Industry and ECan, and I do not understand why ECan appears to have ignored the advice and recommendations contained in the Report.
42. Accordingly, it is my professional opinion that ECan should adopt the Report's findings and recommendations during the Plan Change 7 process.
43. The South Canterbury Gravel Extraction Industry fully supports the Report's findings and recommendations. The Gravel Industry firmly believes a beneficial environmental outcome could be achieved.

Accuracy of GIS Maps

44. I would confirm that the South Canterbury Gravel Extraction Industry supports the protection of indigenous species; however, the South Canterbury Gravel Extraction

Industry has raised concerns regarding the mapping accuracy of the 'Indigenous Freshwater Species Habitat' map layer.

45. I am of the professional opinion, based on 3-decades of resource consenting works, that imposing references to 'Indigenous Freshwater Species Habitat' in a number of the proposed amendments to the CLWRP contained in Plan Change 7 will create uncertainty and the potential for non-compliances **unless** the accuracy of the ECan GIS Mapping Database is significantly improved.
46. Unless the ECan GIS Mapping Database is updated regularly to clearly identify the species areas that are alleged to provide habitat it will be impossible to provide accurate advice to clients, such as the South Canterbury Gravel Extraction Industry, and liaise with ECan River Engineers and Council planners to adequately mitigate any potential effects on the identified indigenous species.
47. Based on my professional expertise, as an adviser to the South Canterbury Gravel Extraction Industry and in accordance with the Submission by the South Canterbury Gravel Extraction Industry, I request that the areas identified as significant to indigenous species in the ECan GIS Mapping Database are continually updated on the basis of independent research.
48. On behalf of the South Canterbury Gravel Extraction Industry, I would request a transparent process whereby as site specific information becomes available that identifies new habitat for indigenous fauna, avian or otherwise, the ECan GIS Mapping Database is updated.
49. The above comments are also relevant to all bird species that utilise this same environment. The onus should be on the Unitary Authority to supply the evidence to facilitate good decision making when implementing rules being imposed on resource users. We forget that its our communities that create the demand for gravels not the Gravel Extraction Industry.

Submissions of Other Parties

50. I would confirm that the South Canterbury Gravel Extraction Industry supports the Submissions of the following parties:
 - i. Rooney Earthmoving Limited
 - a. Oppose, in full, the proposed amendment to Rule 5.136, due to concerns that the proposed amendments contained in Plan Change 7 restrict the existing activities provided in the rule, such as creating bird islands, habitat enhancement and erosion protection.

- b. Oppose, in part, the proposed amendment to Rule 5.141, as the imposition of quantified sediment limits are too onerous for temporary activities, and impractical and unachievable.
 - c. Oppose, in full, the proposed amendment to Rule 5.149, as removing the diversion of water from the Rule is disproportionate to the potential effects of the diversion of water within the bed of a river.
 - d. Oppose, in part, the proposed inclusion of proposed Indigenous Freshwater Species Habitats unless the ECan GIS Mapping Database clearly identifies the specific areas that are alleged to provide habitat.
- ii. Road Metals Company Limited (# 480).
- a. Amend the provision to give effect to the submission point.
Highest groundwater level means the single highest elevation to which groundwater has historically risen that can be reasonably inferred for the site, based on appropriate available hydrogeological and topographic information. Site specific monitoring results obtained by an applicant over a period of 5 years may be used to set this level if available.
 - b. Oppose the amendment of Rule 5.177 as a Rehabilitation Plan is not an appropriate requirement of the CLWRP.
- iii. SOL Screening & Crushing Ltd (Further Submission # 569).
- a. Amend the provision to give effect to the submission point. Possible wording is set out below.
Highest groundwater level means the single highest elevation to which groundwater has historically risen that can be reasonably inferred for the site, based on appropriate available hydrogeological and topographic information. Site specific monitoring results obtained by an applicant over a period of 5 years may be used to set this level if available.
 - b. Oppose the amendment of Rule 5.177 as a Rehabilitation Plan is not an appropriate requirement of the CLWRP.
- iv. Fulton Hogan Ltd (# 428)
- a. Point PC7-428.1 is supported as it is important that relevant groundwater data is utilised by ECan staff when making decisions. Failure to make the amendments proposed in PC7-428.1 could result in significant economic impacts for operations such as

quarries through loss of resource and would not achieve Part 2 of the RMA.

- b. A culvert length of 10 m is not wide enough to allow operators to meet health and safety requirements when crossing flow channels is river.
- c. The proposed amendments to Rule 5.152 include more stringent sediment limits that may undermine the current efficient system of providing gravel extraction. The amendments proposed by Fulton Hogan Ltd in PC7-428.8 are supported.
- d. The proposed amendment that requires a rehabilitation plan is considered to be inappropriate as deposited substances can only be cleanfill and deposited to at least 1 m above highest groundwater and a Management Plan is already required under MfE guidelines. The amendments to this rule proposed by Fulton Hogan Ltd are supported.
- e. Being required to surrender 50% of water allocation from a transfer may reduce the volume of water available to a consent holder for mitigation measures such as dust management. This may cause compliance issues.

I confirm that I wish to be heard in support of the Submission of the South Canterbury Gravel Extraction Industry Group.



Simon Hedley
17 July 2020