

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 ELRICK & CO LIMITED
SOL SCREENING & CRUSHING LIMITED**

28th September 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 policy planner, a consultant resource management planner and a project manager. Amongst other cases, between 1997 and 2001 I represented Tangata Whenua Iwi (Te Atiawa, Ngati Tama and Ngati Rarua) in the Golden Bay Marine Farmers v Tasman District Council case (*Judge Kenderdine, Environment Court, W42/2001*). I was also the Project Manager and Consultant Planner relating to the authorisation, construction and maintenance of gravel defence against flood structures in the bed of the Makarora River.
4. I have prepared four (4) Reports and been called as an Expert Witness for Tangata Whenua hapu and whanau in Waitangi Tribunal hearings (Wai 546, Wai 546A, Wai 546B & Wai 953), between 2000 and 2002.
5. From January 2011 until April 2016 I was engaged as Environmental, Infrastructure and Health & Safety Manager for Smith Crane & Construction Ltd, with responsibility for all resource consents, environmental policy, resource consent compliance, infrastructure development and health & safety related matters during the five (5) year period in the immediate aftermath of the Canterbury Earthquake Events.
6. During this period, I was responsible for the preparation, lodgement, and compliance with respect to gravel extraction and processing consents in the Canterbury Region for companies affiliated to Smith Crane & Construction Ltd.
7. Between April 2016 and August 2018, I was engaged as General Manager of the SOL Group of Companies, including SOL Quarries Ltd and SOL Screening & Crushing Ltd. During this period, I was responsible for the establishment of the existing SOL Quarry at 81 Conservators Road, Yaldhurst, and the Variation to the Conditions of Consent (RMA/2018/505; June 2018).
8. During this period, I was also responsible for all resource consent applications and RMA compliance related matters for the SOL Group of companies and their operations.
9. Since August 2016 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.

10. I am fully conversant with the Canterbury Land and Water Regional Plan (CLWRP) and Plan Change 7 to the CLWRP.
11. I hold the qualifications of 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.
12. I was a founding member of the Resource Management Law Association and the RMA Community Advisory Service associated with the Community Law Centre.
13. 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.
14. I have been engaged by SOL Screening & Crushing Ltd (SOL) 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 SOL.
15. I am also making this Submission on behalf of Elrick & Co Limited, a specialist resource management consultancy company with particular expertise in quarry and river-based gravel extraction consenting.

CODE OF CONDUCT

16. 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 it.
17. 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.
18. 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

19. The scope of this Submission is limited to the matters raised in the Cross-submissions by Elrick & Co Limited and SOL, and the analysis and findings of the ECan Reporting Officer, contained in the S42A Report and the Appendices.

STATEMENT OF EVIDENCE

Rule 5.149

20. Elrick & Co Limited and SOL oppose 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.
21. Elrick & Co Limited and SOL consider 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.
22. 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*.
23. However, the proposed amendments to Rule 5.151 are complicated and do not, in my professional opinion, provide certainty to REL 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.
24. 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

25. Elrick & Co Limited and SOL oppose Condition 3 of *Rule 5.141*. Elrick & Co Limited and SOL consider that the imposition of quantified sediment limits are too onerous for temporary activities, and impractical and unachievable in these circumstances.
26. Elrick & Co Limited and SOL would submit 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.
27. However, Elrick & Co Limited and SOL acknowledge that the spawning habitat of many indigenous freshwater species are vulnerable to activities that increase sedimentation. REL agrees that sediment released by activities within flowing reaches has the potential to smother invertebrate and fish gills as well as benthic habitat

28. 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.
29. 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.
30. 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.
31. 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).
32. Elrick & Co Limited and SOL agree with the Submission from South Canterbury Gravel Extraction Industry, 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.
33. Elrick & Co Limited and SOL agree 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 REL management practices, including in particular the separation of gravel extraction works from flow channels and the wetted bed of a river, ensure there is no sediment discharge.
34. 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.
35. It would be unrealistic to expect Elrick & Co Limited and SOL 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.
36. While the ECan Planner accepts that, based on technical advice, the “... *measurement of suspended sediment in the discharge is excessive in relation to the activities managed under Rules 5.141 and 5.152*”, is too onerous, I do not agree with the reinstatement of a

maximum time period for discharge (i.e. not more than ten hours in any 24-hour period and not more than 40-hours in total).

37. It is my professional opinion that reinstatement of a maximum time period for discharge is unwarranted and extremely difficult to enforce.

Rule 5.136

38. Elrick & Co Limited and SOL oppose Rule 5.136 due to concerns that the proposed amendments contained 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.
39. Accordingly, I consider these activities are less likely to occur.
40. 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 the installation or removal of pipes, ducts, cables or wires.
41. I can confirm that Elrick & Co Limited and SOL 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 requiring the bed of the river is returned to a natural state within 30 days of the completion of the activity.
42. Rather, Elrick & Co Limited and SOL have 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.

Accuracy of GIS Maps

43. I would confirm that REL supports the protection of indigenous species; however, Elrick & Co Limited and SOL have raised concerns regarding the mapping accuracy of the 'Indigenous Freshwater Species Habitat' map layer.
44. 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.
45. 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 SOL, and liaise with ECan River Engineers and Council planners to adequately mitigate any potential effects on the identified indigenous species.

46. Based on my professional expertise 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.
47. On behalf of Elrick & Co Limited and SOL, 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.

Submissions of Other Parties

48. I would confirm that Elrick & Co Limited and SOL support the Submissions of the following parties:

- i. 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.
- ii. 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.



Simon Hedley

30 September 2020