

APPLICANT

Central Plains Water Trust/ Ashburton
Community Water Trust

COUNCIL

Environment Canterbury/ Christchurch City
Council/Selwyn District Council

LEGAL SUBMISSIONS ON BEHALF OF ROAD
METALS CO LIMITED, FULTON HOGAN, ISAAC
CONSTRUCTION CO LTD AND WINSTONE
AGGREGATES
(GRAVEL EXTRACTORS' GROUP/GEG)

Section 96 Resource Management Act 1991

Presented for filing by:

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Introduction

1. The Gravel Extractors Group (the “GEG”), which is made up of Road Metals Co Ltd, Winstone Aggregates Ltd, Fulton Hogan Ltd and Isaac Construction Co Ltd, appears today to re-iterate its concerns in terms of the potential increase in groundwater levels in the vicinity of the quarries within the Rural Q Zone.
2. The removal of the storage component from the applications before you does not change the potential increase in the groundwater levels. The GEG continues to seek that the resource consents be refused for the reasons set out below and in the evidence before you. Supplementary evidence from Kevin Bligh and Peter Callander has been lodged which attempts to convey the concerns the GEG still has.

Potential effects

3. It is not disputed that increased irrigation is likely to result in an increase in the groundwater levels. However, Central Plains (“CPW”) maintains the effects of an increase in groundwater are of low probability and low potential impact.
4. It is submitted the effects of an increase in groundwater cannot be considered of low probability. It is widely accepted that irrigation causes an increase in groundwater levels and CPW’s own model predicts that the groundwater rise could be in the order of 1-1.5m.
5. It is submitted the likelihood of an increase in groundwater of at least the magnitude predicted by CPW is proved on the balance of probabilities *Shirley Primary School v Christchurch CC* [1999] NZRMA 66. There is a high probability that an increase in groundwater will occur. The impact of the rise in groundwater is not a temporary effect. Whilst the spike in groundwater may only occur over a short period the impact is as follows:
 - It sets a new bar for gravel extraction for all time;
 - Not just with these pits but for all existing and future extraction sites;
 - It triggers raising of infrastructure;
 - It triggers liability issues for both fill material and prosecutions may follow and further in fill may be required;
 - It recovers 20% of available material for an industry with some available resources.

6. CPW is contending that another industry should absorb a cost of its proposal. The increase in groundwater levels is a negative externality associated with the CPW proposal and the costs of it should be internalised. The potential increase in groundwater has a high potential impact, not only on the GEG and other gravel extractors in the area but also a wider impact on all markets which require aggregate. A decrease in the availability of gravel when the resource is already under pressure will have adverse effects on a wide range of sectors, including proposed roading projects and the housing market.
7. It is submitted the evidence produced by the GEG which shows the potential impact of the likely increase in groundwater has shifted the burden back to CPW. CPW has not produced evidence disputing that an increase in groundwater levels will have a significant effect on gravel operators. CPW has simply argued that the groundwater levels may never reach their new predicted maximum or that other factors may outweigh any effect from the proposed scheme.
8. No evidence has been produced of these “other factors” which will outweigh the effects of the scheme and there is nothing to lend support to the claim that the groundwater levels will not rise to their predicted maximum and in fact exceed it.
9. This is not a case where conditions can be drafted to address the effects of the increase in groundwater levels. The increase in groundwater levels will occur, it is simply a question of how large the increase will be and how quickly it will occur.
10. The Panel needs to take into account the significant effects on the gravel industry caused by the grant of this consent and weigh up whether granting this consent will achieve the purpose of the Resource Management Act 1991. Should one industry group be forced to absorb the adverse effects of another industry? The grant of this consent will produce significant benefits for the dairy industry but it will effectively remove a significant volume of available gravel, when supply of the resource is already constrained.

Gravel resources

11. CPW appears to be discounting the effect on the GEG as a new gravel resource will be required when the current resource has been excavated. This does not take into account the potential liability which may arise for quarry owners in terms of backfill which was deposited on their sites prior to the regulation of fill, or the fact that finding a new resource is not an easy task.

12. The GEG has been trying to get the Councils to plan for the future as it is acknowledged that the available resource will be depleted within the next decade but little progress has been made. The importance of the current resource cannot be underestimated.
13. Ecan has not clearly outlined how it will respond if groundwater levels rise in the area of the quarries. However, it is considered likely that Ecan will require gravel extractors to fill in their quarries to maintain a one metre buffer between the highest recorded groundwater level and the pit floors. The existing plant and machinery will also need to be relocated to a higher ground level.

Conclusion

14. The grant of these consents will impose a significant cost burden on gravel extractors and have flow-on effects on the provision of new roading infrastructure and the housing market. Other groups should not be expected to absorb the costs of CPW's proposal.

