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**BEFORE**

Independent Commissioners appointed by  
Tasman District Council

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

**AND**

**IN THE MATTER** Of an application by CJ Industries Ltd for  
land use consent RM200488 for gravel  
extraction and associated site rehabilitation  
and amenity planting, for land use consent  
RM200489 to establish and use vehicle access  
on an unformed legal road and erect  
associated signage, and for a discharge permit  
to discharge clean fill to land RM220578

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**REPLY EVIDENCE OF ELIZABETH JANE GAVIN ON BEHALF OF CJ  
INDUSTRIES**

**LANDSCAPE**

21 April 2023

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## 1.0 INTRODUCTION

- 1.1 My full name is ELIZABETH JANE GAVIN. I am a Senior Principal Landscape Planner consultant at Boffa Miskell Limited.
- 1.2 The applicant has applied for resource consents authorising the extraction of gravel, stockpiling of topsoil, and reinstatement of quarried land, with associated amenity planting, signage and access formation at 134 Peach Island Road, Motueka:
- RM200488 land use consent for gravel extraction and associated site rehabilitation and amenity planting, and
  - RM200489 land use consent to establish and use vehicle access on an unformed legal road and erect associated signage.
- 1.3 The applicant has also applied for a discharge permit authorising the discharge of contaminants to land, in circumstances where the contaminants may enter water (RM220578).
- 1.4 My evidence addresses the landscape assessment of the activities for which land use consent is sought.

### **Qualifications and Experience**

- 1.5 My qualifications and expertise are included in paragraphs 1.4-1.7 of my primary evidence, dated 15 July 2022.

## 2.0 SCOPE OF EVIDENCE

- 2.1 I have been asked to provide reply evidence on matters raised in the technical evidence, submitters' hearing presentations and submitter and Council comments on information produced after the hearing relating to landscape issues. I have read the submitters' evidence and reviewed relevant hearing presentations. I have read the comments by submitters and Council on information produced after the hearing. I have also reviewed Mr Payne's reply evidence.

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### 3.0 CODE OF CONDUCT

3.1 I confirm that I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Note 2023. I agree to comply with the code and am satisfied the matters I address in my evidence are within my expertise. I am not aware of any material facts that I have omitted that might alter or detract from the opinions I express in my evidence.

### 4.0 EXECUTIVE SUMMARY

4.1 Having read and listened to the submitters' evidence, in particular Mr Taia's evidence, and having reviewed comments on information produced since the hearing; my conclusions regarding landscape, visual and landscape character effects of the proposed activity remain as outlined in my primary evidence.

4.2 On completion of quarrying activities, the rural and amenity values that are currently on site associated with an agricultural land use and its simple geometric patterns will be retained. There will be an enhancement associated with the restoration of Stage 1 alluvial area, that is identified by Mr Payne as resulting in a net gain for terrestrial ecological values; that will in turn result in an enhancement of natural character and visual amenity values. This conclusion is shared by the Council reporting officer<sup>1</sup>.

4.3 There will be an increase in native plants in other areas of the site interplanted into the shelterbelts, that will also contribute positively to these natural character and amenity values within the site. As a result of the evidence from Mr Taia, the species in the Stage 1 River Terrace Restoration Plan have been updated to ensure that species represent a drier habitat that is also resilient to flooding and inundation. The Landscape Mitigation Plan was updated to include *Eucalyptus globoidea* that is more resilient to pest species. These changes were made in the updated Stage 1 River Terrace Restoration Plan and the Landscape Mitigation Plan submitted by the applicant on 23 March 2023.

4.4 The delay of quarrying in the Stage 1 area will allow for the mitigation planting to grow and provide an appropriate level of screening to the Stage 1 area –from the Motueka River West Bank Road (MRWBR), and from

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<sup>1</sup> S42A report page 48 Positive effects, paragraph 16.2

neighbouring properties on the foothills that look across this area. In terms of surrounding residential views of land that looks across or down on to the site from adjoining foothills, I conclude the effect will be no greater than **low-moderate**. I note that the Section 42A report agrees with the methodology applied that that this equates to a minor effect, which in planning terms is an acceptable level of effect<sup>2</sup>.

- 4.5 Overall the landscape effect of the application will have a **low-moderate** adverse effect on landscape character, and visual amenity associated with the stockpile and excavation activity. This will reduce to an overall **low positive effect** on landscape character and amenity values by completion of consent. The reporting officer considers visual effects as minor and consistent with Policies 5.2.3.1 and 5.2.3.4<sup>3</sup>.

## 5.0 EVIDENCE OF PETER TAIA

- 5.1 In paragraph 2 of his evidence, Mr Taia states that he has over two decades of experience with landscape planning and planting. I am not aware of Mr Taia being a landscape planner and think it likely that reference to landscape planning here relates to designing landscape plans rather than relating to providing landscape effects assessments.
- 5.2 Mr Taia states that in his view that the mitigation planting is unlikely to survive in the Stage 1 area due to the fact that it is well draining, dry and subject to frequent flooding<sup>4</sup>, and that the Stage 1 area should remain as a floodplain<sup>5</sup>.
- 5.3 As noted by Mr Payne (ecologist for the Applicant) the species chosen are represented in similar locations within the locality (which have been inundated by flood events) and have been selected from Council's restoration guidelines as being appropriate for this area. As a result of Mr Taia's submission, Mr Payne has reassessed the species and suggested removing to Carex species from the plant list as the site may be too dry for these, however, is otherwise satisfied that the restoration will be successful. I have

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<sup>2</sup> S42A report page 31 paragraph 7.35

<sup>3</sup> S42A report Visual effects page 30 paragraph 7.29

<sup>4</sup> Taia evidence paragraph 7.

<sup>5</sup> Taia evidence paragraph 17.

- updated the plant list accordingly and am also confident that the species chosen are suited to the growing conditions and can withstand flood events.
- 5.4 With regards to flooding and the Stage 1 restoration area, in his paragraph 17, Mr Taia states that the Stage 1 area should be maintained and managed as a floodplain, noting that the Council is working with landowners to reduce the vegetation that impedes or inhibits water flow from the flood plain during flood events.
- 5.5 The Stage 1 River Terrace Restoration Plan shows the central area kept clear of vegetation, fenced, and grazed to ensure appropriate path for flood flows. Mr Giles Griffiths (flooding assessment for Council) having read the mitigation planting plan was supportive of the gaps in the poplar shelterbelts to allow water to flow through the Stage 1 area. Work recently carried out by the Council can be seen downstream at the intersection of Peach Island Road and MRWBR, where most of the vegetation in the secondary flow path has recently been removed.
- 5.6 Mr Griffith requested that trees be set back 5 metres from the toe of the stop bank to protect the flood banks' integrity. This was added by the Section 42A author to the suggested conditions, and I have no issues with that change from a landscape perspective. Both the Overall Landscape Mitigation Plan and the Stage 1 River Terrace Restoration plan of the Graphic Attachment were updated to show this setback in the versions circulated at the hearing and retained in subsequent versions. Condition 44 now specifies all plantings shall be set back at least 5 m from the toe of the stop bank, and Council proposes (comments dated 14 April 2023) an advice note that clarifies this excludes grass. I am happy with those conditions.
- 5.7 I have read the primary and rebuttal evidence of Mr Aiken for the Applicant, in particular paragraphs 3.10 – 3.17 of the rebuttal in which he addresses this part of Mr Taia's evidence and responds on how the proposed planting had already been previously reviewed and amended through feedback from Mr. Aiken and Mr Giles to manage flood risk. I defer to Mr Aiken's knowledge on flooding issues and acknowledge that he is comfortable with the measures put in place, being:
- a) *“Species selection will maximise smaller flaxes and sedges that can fold away during large flood flows;*

- b) *Planting will occur parallel to flood flows and*
- c) *The central area of the floodplain will be cleared of the current woody vegetation and reinstated as clear pasture.*<sup>6</sup>

5.8 With regard to the mitigation planting, the S42A report stated the following<sup>7</sup>:

*“As part of his evidence, Mr Aiken also assessed the proposed Mitigation Planting and confirmed that*

*“It will not further increase the flood risk, provided planting occurs parallel to flood flows and that the final plant selection maximises smaller flaxes and sedges that can “fold away” during large flood flows”*”.

5.9 As can be seen on the Stage 1 River Terrace Restoration plan, the main flood path is fenced, kept clear of introduced vegetation and will continue to be grazed. Grasses and sedges are located in the band adjacent to this. Mr Payne suggested removing *Carex secta* and *Carex virgata* from the plant list (to address a concern raised by Mr. Taia<sup>8</sup>) and this change was made in the 23<sup>rd</sup> March plan.

5.10 I note that the tributary stream (Shaggery Stream), downstream from the site has flax growing alongside it as seen in the photo below:



**Figure 1:** The Stream path of Shaggery Stream can be seen mid distant lined with Flax. Flax plants are also growing on the “dry” side of the stopbank around the dwelling at 134 Peach Island Road.

<sup>6</sup> Aiken rebuttal evidence para 3.14

<sup>7</sup> S42A report Paragraph 6.6

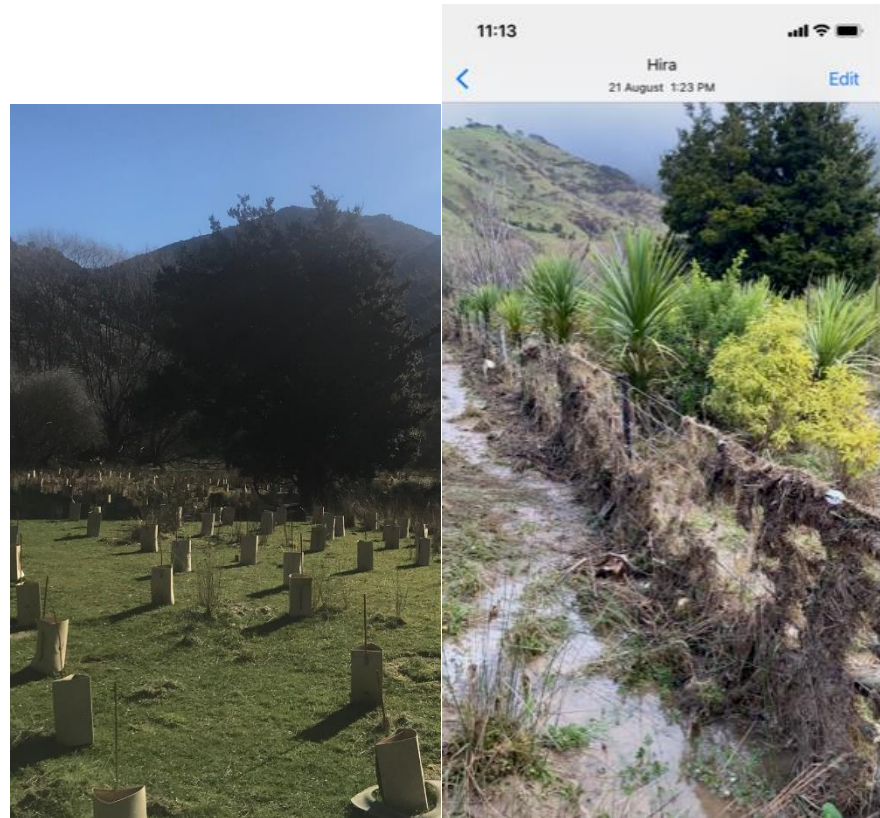
<sup>8</sup> Taia submitter evidence para 7

- 5.11 I agree with the river engineer that the grasses and sedges listed do fold down in large flood events and recover much faster than other species after flooding and can withstand and recover from flow events such as those shown in Mr Taia's photos. I have practical experience of how flaxes and grasses in a floodplain area respond, as our family are restoring 6ha of riparian river margin along the Wakapuaka River in Nelson through the Ministry for the Environment's Jobs for Nature and Freshwater Improvement Programme— a restoration effort which has been running since 2021, complementing family restoration efforts that started in 2019. The species chosen in the Stage 1 restoration area survive well after inundation under flowing floodwaters and standing water.
- 5.12 Mr Taia considers that River terrace is not the correct terminology for the Stage 1 restoration site<sup>9</sup>. Mr Payne has given a description of how river terrace relates to a larger geographical area than the current river channel and its banks. I consider the site to be both river terrace, berm land and floodplain and agree with Mr Taia that this is also a floodplain, with the restoration planting designed to maintain the floodplain channel.
- 5.13 Mr Taia states that the restoration planting will take 5-6 years before the planting shows any result. I disagree with this and have found in my own experience that the beginnings of a habitat can be seen within 3 years of planting – especially with grasses but also Ti Kouka (Cabbage trees) and other shrub and grass species. Below I include two photos, one showing plants in the ground (August 2019), and another of the same area after 3 years growth and after the August flood in 2022; where you can see flood debris against the fence.

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<sup>9</sup> Taia submitter evidence para 19





**Figure 2:** planting in Wakapuaka 2019, and after the August 2022 floods – note flood debris on the fence line and the health of the Cabbage trees. Water depth was high enough to float apple crates of firewood over the fence.



**Figure 2:** Planting 50m north of the figure 1 area one year younger - after 2 years growth.

5.14 The above photos illustrate how within 2-3 years there can be good growth and habitat developing, achieving the height and density consistent with the images shown by Mr Payne in his evidence. In terms of plant guards, I have found that in some cases in high flow areas adjacent to the River, the guards can be removed by the force of the water. This is less likely to occur in areas back from the high energy flow, where the issue is more water inundation.



The biodegradable cardboard plant guards can be picked up and re-used around plants or replaced with new plant guards. Combined with the weed and pest controls proposed, and the vegetation observed growing on site and in the surrounding floodplain environment, I consider that there is no reason why the proposed restoration would not be successful. I note that Mr Payne shares this position. Viewpoint 3 of the Rebuttal Graphic Attachment includes a photograph taken at Woodman's Bend – south of the settlement of Brooklyn. This shows planting of toi toi and cabbage trees in cardboard plant protectors adjacent to the Motueka River (with no real separation in flood from the main river channel).

- 5.15 Mr Taia in his paragraphs 13 and 14 states that the level of mitigation offered by the foreground orchard and vegetation within the site has been overstated due to the deciduous nature of this vegetation, and states that the photos in the photographic attachment were taken when the trees were in full leaf. The photos as shown on the photographic attachment were taken in March (at the beginning of autumn), with the orchard area only relating to viewpoints 2 and 3 – both of which have other factors that mitigate views into the site (i.e. distance and topography).
- 5.16 I agree that the deciduous trees will lose their leaves during winter, however note that those within the site provide limited mitigation currently as they are sparsely planted (as can be seen in photographic attachment). Any foreground orchard planting along Westbank Road would relate to the Stage 1 area, which is not being worked for 5-6 years – enabling the native shelterbelt plants and taller exotics to develop. On my site visit I was aware and considered that the foreground trees (outside of the site) could be removed by the orchardist at any time. Other factors contributed to the overall visual assessment – including the distance between the viewer and the effect, the intervening topography – including stopbanks and foreground topographical screening (as is evident in viewpoint 3). I note that the 3m high earth bund along the northern boundary of Stage 2 and the shared boundary with 131 Peach Island Road will restrict views into the site from neighbouring land to the north year-round.
- 5.17 The other factor to remember is that the whole stage is not worked at once, only 1600m<sup>2</sup> of excavation area shall be open at any one time (approximately 80m in length and 20m across) which also limits the visual effect associated

with exposed areas. In this regard, I note some submitters have misunderstood the proposed conditions regarding quarrying of Stage 1 in three tranches. I am advised that the proposed condition requiring a three-tranche approach was a response to issues discussed in the Pit Erosion JWS and is in addition to, not instead of, the condition requiring that the maximum size of excavation must not exceed 1600m<sup>2</sup>. I consider the three-tranche approach will have a small benefit in landscape mitigation terms through limiting the area that is either open or without vegetative cover at any one time and does not open up a larger area that can be worked.

- 5.18 I am comfortable that my evidence has considered the deciduous nature of the vegetation in determining overall level of effect, and do not consider that this needs to be revisited.
- 5.19 In paragraphs 28-31 of his evidence, Mr Taia discusses species selection. These have been considered by Mr Payne from an ecological perspective, and myself as a landscape architect. As mentioned previously, the *Carex* species have been removed from the Stage 1 restoration area as a precaution, with a resulting increase in the numbers of toi toi and flax and Ti kouka. Mr Taia has said that poplar can damage infrastructure, and this has been addressed through the condition that requires all trees to be 5m from the toe of the stopbank<sup>10</sup> as recommended by Council's technical experts<sup>11</sup>.
- 5.20 Mr Taia has also stated that *Eucalyptus nitens* can be susceptible to aphids. As a precaution, this species has also been replaced with the more hardier pest resistant *Eucalyptus globoidea*. I consider that these measures have improved the resilience of the plant species proposed. I note that gum trees are not deciduous and will offer year-round visual mitigation
- 5.21 Mr Taia states that the Restoration and Mitigation plans are at concept stage only<sup>12</sup>. This is standard procedure when providing plans that go through a consenting process and enables the concept to be fine-tuned prior to any activity being granted, in order to accommodate any changes necessary. The Stage 1 area has been amended to allow for the functioning of the overland flow path, and the species have been amended as a result of the submission

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<sup>10</sup> S42A Report Recommended condition 45

<sup>11</sup> S42A Report page 24 paragraph 6.8

<sup>12</sup> Taia submitter evidence paragraph 15

of Mr Taia to remove *Carex* sp. and to replace *Eucalyptus nitens* with *Eucalyptus globoidea*.

- 5.22 Condition 22 requires that the Plans are generally in accordance with the draft Plans already submitted and contains the requirements that the final Plans must meet. This includes species and grade of plantings. There is also a requirement for confirmation to be obtained from Council's River Engineer that the Plans are acceptable from a flood flow perspective prior to certification. I consider that the requirements of Condition 22 are appropriate to ensure the final Plans achieve the outcomes described in my evidence.

## 6.0 HANNAH MAE COMMENTS

- 6.1 In her comments on the applicant's updated conditions and Management Plans, Hannah Mae said:

Cond 3 Quarrying commencement after planting established:

*"Is 80% survival required for 6 years duration? Is this understood to mean that if some plants do not survive or are lost by flood (say if 30% needed to be replanted) and where replanting is required to achieve 80% survival, then 6 years establishment time is required from the season when the replants are replanted? If more than 20% plants are replanted at any time the clock should start again at that time for the 6 years establishment criteria to be met, in order for the mitigation planting to be effective. This needs to be more specific in condition, otherwise it may as well say 6 years full stop, and not specify survival rate or establishment criteria."*

- 6.2 I consider that as mentioned by Hannah above, the condition should be worded around effective mitigation. The intention of the planting should be considered. The Council recommended wording of the condition is as follows:

Prior to commencement of quarrying in the Stage 1 area the consent holder shall provide a report to Council from a suitably qualified and experienced practitioner to confirm that the landscape mitigation planting plan required under condition 45 of this consent has been successfully established (at least 80% survival rate) for a period of at least 6 years.

- 6.3 My suggested wording would be:

Prior to commencement of quarrying in the Stage 1 area the consent holder shall provide a report to Council from a suitably qualified and experienced practitioner to confirm that the landscape mitigation planting plan required under condition 45 of this consent has been successfully established ~~at least 80% survival rate) for a period of at least 6 years.~~ **In this instance, “established” means 80% canopy cover and an average height of 5m in the exotic mitigation species (i.e., the Eucalyptus and Poplar species).**

## 7.0 HEARING PRESENTATION OF PATRICIA HARRIS-VIRGIN<sup>13</sup>

7.1 The hearing presentation by Patricia Harris-Virgin stated that the proposed application had a negative visual impact, would be ugly, unsightly and in full view of neighbouring properties. The activity would relate to a bare gravel landscape, littered with structures and equipment and stockpiles of gravel, which would not be a rural outlook. On 28<sup>th</sup> February I visited the submitter’s property located at 273 College Street. Patricia met me on site and showed me the areas of her property where she was concerned about visibility of the site. With the benefit of an aerial photo, we could ascertain the extent of site visible from the areas visited. I have provided a visual assessment in table form at the end of this rebuttal evidence. The conclusion reached from the site visit was that the site was not overly visible from the submitters property. Most views were oriented to the west and northwest, with the extraction area to the south west. Visibility was assessed as **low (adverse)**, and the dominant rural character of the outlook would remain.

## 8.0 HEARING PRESENTATION OF IWI (TE ATIWA AND NGATI RARUA)

8.1 There has been consultation with Te Atiawa and Ngati Rarua regarding the use of exotic species within the river plain, with the preference for all species introduced to the site to be native. As native species were unable to grow to the heights needed within the timeframe, the exotic species included for mitigation purposes have been retained for the duration of the activity requiring mitigation. The compromise solution is to remove the exotic

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<sup>13</sup> Submitter #7

species once gravel extraction is completed. A condition has been included to achieve this, worded as followed in condition 22 General Conditions.

The Landscape Mitigation Plan, Stage 1 River Terrace Restoration Plan, and Maintenance and Establishment Plan required by condition 14(f) shall be prepared in general accordance with the plans prepared by Canopy, dated November 2022. These plans shall be prepared to ensure that the proposed landscape mitigation and restoration plantings successfully establish and shall include, as a minimum:

- Species and grade of plantings. The Consent Holder will use eco-sourced native species only, except for the use of poplar and eucalyptus species used in shelter belt planting where required to provide fast-growing visual screening of the site. Where such exotic species are used, they shall be removed from the site within 2 years of the cessation of the quarrying activity

8.2 As the purpose of the species is mitigation only, there will be no landscape/visual effects associated with this removal.

## 9.0 SUMMARY OF CHANGES SINCE PRIMARY EVIDENCE/FIRST DRAFT OF PLANS

9.1 I set out below a summary of the changes that I have recommended, and which have been made, to the Stage 1 River Terrace Restoration Plan and the Landscape Mitigation Plan and conditions:

- a) That the landscape restoration species list on the Stage 1 River Terrace Restoration Plan (figure 5 of Graphic Attachment) be updated to remove *Carex secta* and *Carex virgata*. That the Overall Landscape Mitigation Plan species (figure 4 of Graphic Attachment) exchange *Eucalyptus nitens* with for *Eucalyptus globoida* or similar pest and disease resistant variety suited to conditions.
- b) That all trees planted shall be 5m from the toe of the stopbank.
- c) That biodegradable cardboard plant guards be used.
- d) That condition 21 be updated to include species and grade of plants, and that the plan also be checked by the Council River Engineer at this time to ensure flood measures are correctly carried through.

e) That Condition 3 of the land use be reworded as follows:

Prior to commencement of quarrying in the Stage 1 area the consent holder shall provide a report to Council from a suitably qualified and experienced practitioner to confirm that the landscape mitigation planting plan required under condition 45 of this consent has been successfully established. In this instance, “established” means 80% canopy cover and an average height of 5m in the exotic mitigation species (i.e., the Eucalyptus and Poplar mitigation trees).

ELIZABETH JANE GAVIN

LANDSCAPE

Boffa Miskell Limited

21 April 2023



APPENDIX 1 LVEA from 273 College Street

GRAPHIC ATTACHMENT A

**Table 1: LVA from 273 College Street:**

Address	Name	Submitter	
273 College Street	Patricia Harris Virgin	#7	<p>738m visual separation between the residence and the closest boundary with Stage 3 (600m visual separation between property boundaries). Separated by orchard plantings along the eastern valley edge, the Motueka River, and grazed farmland in the floodplains that have some mature shelterbelts. The submitters residence and secondary dwelling are 30 metres higher than the site, so a slightly elevated view across river plains, with a portion of the southwestern view of the submitters affected. Foreground and midground vegetation reduce visibility of the site. This screening would lessen in winter with some trees (i.e the oaks along the driveway) losing their foliage.</p> <p>Photos taken from the shared driveway with 271 College St as well as outside the secondary dwelling on 273 College Street. Both photo locations had only partial views of the site.</p> <p>Change will form a portion of the midground view of a wider panoramic view, which extends from the south west to the north west. The open activity of the gravel extraction pits and the stockpile area will be partially visible from a distance of between 600 – 950m visual distance from the photo location points. Only parts of the site can be viewed, when looking in a south westerly direction with the view from the secondary dwelling visually restricted by foreground vegetation in summer. The backdrop of the Arthur Range will be unaffected from both viewpoints.</p> <p>Visual effects less of an issue from this location given the level of screening and view orientation from within the submitters site.</p> <p><b>Extent of change: low visual change</b> due to level of intervening mitigation, area being worked at any one time and extent of exposed earthworks in the view at any time.</p> <p><b>Mitigation planting:</b> will only slightly decrease views into Stage 3 and Stage 1 area due to the current restricted levels of visibility.</p> <p><b>Magnitude of effect: low visual effect.</b> The north western and western views across the valley will be unaffected, with south western views affected. The activity has the potential to form a central change (mid distance) in a portion of the midground view, when looking to the south west, with a small loss of the pastoral character while the consent is active, with the addition of both trucks and earthworks in the view. The visual effects will be ameliorated as the site is worked, so that on completion the landscape will appear visually very similar to its current state.</p>



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# CJ INDUSTRIES GRAPHIC ATTACHMENT A

## REBUTTAL EVIDENCE

MARCH 2023





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## FIGURES

**FIGURE 1:** Map 1 Viewpoint Location Plan

## PHOTOGRAPHS

**Viewpoint 1:** Photograph from driveway to 271 College St and 273 College Street

**Viewpoint 2:** From outside the second residence at 273 College Street

**Viewpoint 3:** Riparian planting of similar species to that proposed in Stage 1 area (the secondary flood plain). Species in the photograph include *Cortaderia richardii* (toe toe), Cabbage Tree (Ti Kouka), and Flax (harakeke). This photograph shows planting next to the Motueka River south of Brooklyn settlement, and north east of Shaggery Stream tributary

**PRINT** A3 landscape double-sided

**COVER IMAGE:** View from driveway of 273 College Street looking north west (site to the south of photo not visible from viewpoint)

**LEFT IMAGE:** Existing native vegetation adjacent to the existing dwelling located at 134 Peach Island Road.











*Most of the developable part of the site obscured in summer by foreground vegetation. The site will be seen as a slither of land in the distant view. In winter the site will form a portion of the midground (southern) view, however overall the view will not change.*





Existing View from 273 College Street. Foreground evergreen trees obscure view of site.





View showing planting adjacent to the Motueka River in Brookland, Species in the photograph include Cortaderia richardii (toe toe), Cabbage Tree (Ti Kouka), and Flax (harakeke).



**About Boffa Miskell**

Boffa Miskell is a leading New Zealand professional services consultancy with offices in Auckland, Hamilton, Tauranga, Wellington, Christchurch, Dunedin and Queenstown. We work with a wide range of local and international private and public sector clients in the areas of planning, urban design, landscape architecture, landscape planning, ecology, biosecurity, cultural heritage, graphics and mapping. Over the past four decades we have built a reputation for professionalism, innovation and excellence. During this time we have been associated with a significant number of projects that have shaped New Zealand's environment.

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