

<b>BEFORE THE</b>	Canterbury Regional Council
<b>IN THE MATTER OF:</b>	The Resource Management Act 1991
<b>AND</b>	
<b>IN THE MATTER OF:</b>	The Proposed Canterbury Land and Water Regional Plan

## **STATEMENT OF EVIDENCE OF ANGELA FENEMOR**

### **INTRODUCTION**

1. My name is Angela Marie Fenemor and I hold the qualification of a Bachelor of Science in Geography and Biology from the University of Canterbury. I am an Associate member of the New Zealand Planning Institute. I have six years of experience in resource management planning in New Zealand. Currently, I am a Planner with Beca Carter Hollings and Ferner Ltd (Beca) in Christchurch. For five years prior to my current role I worked at the Canterbury Regional Council in consents planning roles, including consents Team Leader for rural activities for South Canterbury. I am familiar with the Canterbury Region and activities associated with the abstraction of water.
2. I have prepared evidence in relation to Section 6 Water Takes of the Section 42A Report - Proposed Land and Water Regional Plan (pLWRP). I am jointly responsible with Paul Whyte for drafting this section, including the recommendations. Mr Whyte has reviewed this evidence and is available to respond to any questions from the Commissioners. Our evidence at this stage takes the form of an executive summary.
3. I have read the Environment Court Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes. I agree to comply with the code and am satisfied that 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.

## **SCOPE OF EVIDENCE**

4. My evidence will address the following matters
  - a. Summary of Section 6;
  - b. Summary of key findings from the s42A report; and
  - c. Summary of the key issues raised in expert evidence

## **SECTION 6 WATER TAKES**

5. This section refers to the abstraction and the use of water which Regional Councils have the function of controlling under Section 30 of the RMA.
6. The policies associated with the abstraction and use of water establish the pLWRP approach to the management of the effects associated with the abstracting water, which for the purposes of the policies include the abstraction from groundwater, surface water, storage facilities and irrigation canals. The Policies are directive and outcome focused, with an emphasis on methods to reduce over-allocation of water resources and increase water use efficiencies.
7. The Policies require that adverse effects of the abstraction of water be appropriately avoided, remedied or mitigated, in respect of matters such as Ngāi Tahu values, ecological values, sustainable limits and effects on other users. The introduction of prohibited activities in over-allocated catchments ensures there is no further allocation of the resource in the interim while working towards achieving the requirements of the National Policy Statement for Freshwater Management 2011 (NPS Freshwater).
8. The policies and rules related to the use of water seek to ensure that existing users will become more efficient. Limiting the transfer of water in fully allocated catchments ensures that the environment also benefits from efficiency gains.

## **KEY FINDINGS FROM SUBMISSIONS**

9. A large number of submissions have been received in support of, and in opposition to, the policies, rules and schedules associated with the take and use

of water. While the submissions request a wide range of amendments, we have generally recommended the wording and intent of the notified Plan is retained, although a number of amendments are recommended to improve the Plan.

10. The key issues raised by the submissions are as follows:
- a. transfer provisions are considered to be a disincentive for the efficient use of water;
  - b. clarification of the provisions for community and stockwater takes and small abstractions;
  - c. the appropriateness of default flow and allocation regimes;
  - d. introduction of non-complying and prohibited activities in over-allocated catchments;
  - e. resource consent duration and lapsing dates; and
  - f. requirement to adhere to an annual volume restriction and the methods used to determine an appropriate volume.

## KEY ISSUES FROM EVIDENCE

11. I have undertaken a preliminary review of the expert evidence provided by the submitters and note that the key issues raised in submissions are still in contention. This section of my evidence discusses each of the following key issues identified in more detail (although I acknowledge other matters are raised).

Transfer provisions are considered to be a disincentive for the efficient use of water (Policies 4.71 - 4.73<sup>1</sup> and Rules 5.107 - 5.108<sup>2</sup>)

12. A number of experts believe that the transfer policies and rules are a disincentive for the efficient use of water and that the portions of the water required to be surrendered appear to be arbitrary.

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<sup>1</sup> Page 244 -248 of the Section 42A report

<sup>2</sup> Page 292 – 294 of the Section 42A report

13. I note that the requirement to surrender water only applies in over-allocated catchments and the remainder of the permit is still available for transfer.
14. The requirement to surrender water is an appropriate method to give effect to the obligations set out in the NPS Freshwater while encouraging the movement of water to more appropriate locations<sup>3</sup>. The reconfiguration of water permits across the Canterbury Plains is a clearly stated outcome of the CWMS.<sup>4</sup>
15. The term “dynamic efficiency” was also raised in relation to transfers, with submitters noting that the term is widely used within the industry and should be used in the policies. However, as dynamic efficiency will be driven by the market there does not appear to be any particular need to include this specific term, particularly when the pLWRP does not prohibit the transfer of water.

Provisions for community and stock water takes and small abstractions (Policy 4.46<sup>5</sup>, and Rules 5.84 - 5.88<sup>6</sup>)

16. Amendments have been sought for the provision of stock water and water used for the processing of perishable goods and meat processing. Horticulture NZ also seek amendments to the Permitted Activity rules for small takes for individual properties.
17. The Poultry Association suggests that further provisions are necessary for stock water takes where the abstraction does not meet the requirements of section 14(3)(b) of the RMA.
18. I note that stock water takes that do not meet the provisions of section 14(3)(b) of the RMA are to be considered under the other abstraction rules in the Plan. At this stage there does not appear to be justification to depart from these rules.
19. The evidence of Jane Whyte on behalf of the territorial authorities requests clarification of the definition of Community Water Supply on page 213 of the

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<sup>3</sup> Pages 108-109 of the Section 32 Report

<sup>4</sup> Pages 49-50 of the Canterbury Water Management Strategy – Strategic Framework, November 2009.

<sup>5</sup> Page 224 of the Section 42A Report

<sup>6</sup> Pages 263-269 of the Section 42A Report

Section 42A report. I agree the definition should read as follows (amendments from the Section 42A report shown by strikethrough and underlining):

*means water taken primarily for ~~group drinking water supply~~ and includes group drinking water supply, ~~and community drinking water supply~~ and community stockwater supply but that may also be used for other purposes such as supply to institutional, industrial, processing, ~~stockwater~~, or amenity irrigation use and fire-fighting.*

The appropriateness of default flow and allocation regimes<sup>7</sup>, and

The introduction of non-complying and prohibited activities in over-allocated catchments<sup>8</sup>

20. A number of experts have queried the appropriateness of the default flow and allocation regimes in lieu of a catchment specific regime set in sections 6-15 of the plan. Te Runanga o Ngai Tahu, Ngai Tahu Property Ltd and Fish and Game provide evidence supporting alternative default flow and allocation regimes for rivers and streams.
21. The default provisions contained in Rule 5.96 are still considered appropriate as an interim approach.
22. The abstraction of water from an over-allocated water body is classified as a prohibited activity under Rules 5.98 and 5.104. A number of submitters, in their evidence, do not believe that the default provisions to determine surface water allocation and the carry-over of the NRRP interim groundwater allocation limits are appropriate and argue that a prohibited activity is therefore onerous.
23. The groundwater allocation limits form part of the sub-regional chapters, and while these matters will be addressed in a separate s42A report for the Stage 3 Hearings, I understand that a precautionary approach was taken when specifying allocation limits in the plan. In particular, the limits set in the pLWRP have not taken into account the Environment Canterbury decisions to grant a number of applications for water in excess of the interim allocation limits set in the Natural Resources Regional Plan, as no “new” allocation limits were identified through the resource consent hearings.

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<sup>7</sup> Pages 278-281 of the Section 42A report

<sup>8</sup> Pages 282, 288-9 of the Section 42A report

Resource consent duration and lapsing dates (Policies 4.75 - 4.76)<sup>9</sup>

24. A number of submitters are opposed to a two year lapse period and five year consent durations and have concerns about the financial implications of such policies.
25. I note that Policy 4.75 already contains flexibility to allow longer lapse periods where required.
26. In respect of consent durations, the sub-regional chapters will be setting new allocation limits for both water quantity and water quality. The granting of consents for longer than five years in over-allocated catchments as further allocation may hinder the community's ability to meet the new limits and address over-allocation and undermine the collaborative process to determine limits.

Requirement to adhere to an annual volume restriction and the methods used to determine an appropriate volume<sup>10</sup>

27. The evidence submitted by a number of submitters raised concerns about requiring an annual volume restriction on surface water abstractions.
28. I understand that annual volume restrictions on surface water abstractions are one tool to ensure that surface water bodies maintain flow variability. It is therefore appropriate to retain this requirement.
29. The evidence queried the appropriateness of the methods to calculate annual volume restrictions outlined in Schedule 10, with a number of submitters suggesting amendments.
30. One expert (Dr A Daveron, HydroServices Ltd) also suggests that a number of definitions associated with the efficient use and allocation of water be amended/included to reflect commonly accepted definitions<sup>11</sup>. While these

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<sup>9</sup> Page 249-251 of the Section 42A report

<sup>10</sup> Pages 237-7, 239-40, 312-15 of the Section 42A report.

<sup>11</sup> Field capacity, wilting point, profile available water, seasonal duration and irrigation season

amendments appear to have some merit, no change is considered to be necessary at this stage.

**Angela Fenemor**

**15 February 2013**