

BEFORE A HEARINGS PANEL FOR THE CANTERBURY REGIONAL COUNCIL

UNDER THE Resource Management Act 1991

AND

IN THE MATTER Public Hearings on the Proposed
Canterbury Air Regional Plan

**STATEMENT OF EVIDENCE OF JEANINE GESINE KELLER ON BEHALF OF THE
CHRISTCHURCH CITY COUNCIL**

INTRODUCTION

Qualifications and Role

1. My full name is Jeanine Gesine Keller. I have been requested by the Christchurch City Council (the Council) to give evidence in relation to planning issues in the proposed Canterbury Air Regional Plan (the proposed Plan).
2. I hold an Honours Degree in Animal and Plant Ecology from Victoria University and a Master Degree in Resource Management from Canterbury University. I have over 20 years' experience in Resource Management and Environmental Planning. I am a consultant, employed as an environmental planner with Christchurch City Council.
3. I have worked for the Christchurch City Council as a planner for three years before working as a Policy Analyst for the Norwegian Ministry for the Environment and the World Wildlife Fund (Arctic Programme). I worked for seven years as senior planner for the Christchurch Office of URS New Zealand Ltd, before starting my own planning business eight years ago.
4. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

Background

5. The Council would like to commend Environment Canterbury (ECan) on its well-structured and clearly written proposed Plan. The structure and clarity of the proposed Plan will ensure that it is "accessible" to a broad range of people, give confidence to those who support its key objectives, lead to greater adherence to plan provisions, and ultimately result in improved air quality. Along with a reliable source of high quality water, healthy air is of considerable relevance and importance to the Council and Christchurch residents.

6. The Council has worked closely with Environment Canterbury on air quality matters over many years and will continue to do so through both informal and formal contact. In June 2014 the Council provided feedback to Environment Canterbury on the *Air Plan Review Discussion Document* as part of initial public consultation. The Council's comments included support for the general intent and purpose of the proposed policy framework and the proposed approaches to addressing industry and large scale emissions, nuisance effects, outdoor burning and home heating emissions.
7. In November 2014 the Council provided comment on Environment Canterbury's draft Air Plan as part of Resource Management Act Schedule 1 consultation. The Council acknowledged the difficulty of balancing economic activity and healthier/warmer homes while also achieving improved air quality, as well as the challenge of meeting the Government's National Environment Standard for Air Quality (NESAQ) concentration limit for PM₁₀. Matters relating to ultra-low emission wood burners, outdoor burning, motor vehicle emissions, industrial and large-scale discharges, and definitions, were also raised by the Council.
8. In March 2015 the Council lodged a submission with Environment Canterbury on the proposed Plan. A list of the parts of the proposed Plan that the Council submitted on is given in the following section of my evidence.

Scope of Evidence

9. The following table summarises the Council's submissions to the proposed plan.

Section of plan	Submission number	Page(s) in s.42A Report	s.42A report recommendation (accept/reject)	Council position on s.42A report recommendation (support/oppose)
Introduction 1	pCARP-2537	5.5	reject	support
Introduction 1	pCARP-2544	5.8	accept	support
Non-regulatory work programmes Figure 1.1	pCARP-2542	5.7	accept	support
General Definitions Table 2.1	pCARP-2546	6.1	reject	support
General Definitions	pCARP-2548	6.4	accept	oppose

Table 2.1				
General Definitions Table 2.1	pCARP-2550	6.10	reject	support
General Definitions Table 2.1	pCARP-2551	6.5	reject	support
General Definitions Table 2.1	pCARP-2555	6.5	oppose	support
General Definitions Table 2.1	pCARP-2557	6.7	oppose	support
General Definitions Table 2.1	pCARP-2597	6.7	oppose	support
How the Plan works 3	pCARP- 2558	7.1	accept	support
Issues of Significance to Ngai Tahu	pCARP-2559	8.1	accept	support
Objectives 5	pCARP-2563	-	No decision sought	-
Policy 6.5	pCARP-2577	10.6	No decision sought	-
Policy 6.7	pCARP- 2565	13.3	reject	oppose
Policy 6.7	pCARP- 2571	13.3	reject	oppose
Policy 6.18	pCARP-3136	13.6	reject	oppose
Policy 6.23	pCARP-2572	13.12	reject	support
Policy 6.23	pCARP-2573	13.12	reject	support
Policy 6.34	pCARP-2574	15.12	reject	oppose
Policy 6.34	pCARP-2576	15.12	reject	oppose
Policy 6.39	pCARP-2578	16.20	accept	support
Policy 6.40	pCARP-2580	16.21	accept	support
Policy 6.41	pCARP-2581	16.21	accept	support
Policy 6.42	pCARP- 2582	16.21	accept	support
Rules 7	pCARP- 2606	16.28	reject	support
Rules 7.3	pCARP-2584	11.3	reject	support
Rules 7.5	pCARP-2586	12.4	accept	support
Rules 7.6	pCARP-2587	11.4	accept	support
Rules 7.6	pCARP-2590	11.4	reject	support
Rules 7.7	pCARP-2589	11.3	accept	support
Rules 7.10	pCARP-2593	16.24	reject	oppose
Rules 7.11	pCARP-2595	16.25	reject	oppose
Rule 7.15	pCARP-2599	16.26	accept	support
Rule 7.16	pCARP-2603	13.8	accept	support
Rule 7.17	pCARP-2604	13.8	reject	support
Rule 7.56	pCARP- 2608	13.21	reject	oppose
Rule 7.57	pCARP- 2610	13.20	reject	oppose

Rule 7.87	pCARP-2622	15.13	accept	support
Schedule 1	pCARP- 2628	16.38	accept	support
Schedule 2	pCARP- 2629	16.38	accept	support
Schedule 9	pCARP- 2620	16.42	reject	oppose

MAIN PART OF EVIDENCE

10. This evidence covers a number of issues identified in the Council's submission. These submissions include:

Paragraph number in the evidence	Section of plan	Submission number	Page(s) in s.42A Report	s. 42A report recommendation (accept/reject)	Council position on s.42A report recommendation (support/oppose)
11.0	General Definitions Table 2.1	pCARP-2548	6.7	reject	oppose
12.0	General Definitions Table 2.1	pCARP-2557, 2597	6.7	reject	support
13.0	Policy 6.7	pCARP- 2565	13.3	reject	oppose
13.0	Policy 6.7	pCARP- 2571	13.3	reject	oppose
	Rule 7.17	pCARP-2604	13.8	reject	support
14.0	Rule 7.57	pCARP- 2610	13.20	reject	oppose

11. **General Definition table 2.1 submission no. pCARP-2548 seeking amendment to the definition "large scale fuel burning device" exemptions.**

- 11.1. The Council's submission sought to amend the exemptions provided within the proposed definition of "large scale fuel burning devices". The two additional categories proposed to be included were:

6. Heritage engines prior to a specific date

7. Emergency generators

- 11.2. The Officer's Report has rejected the Council's submission in relation to "6. Heritage engines prior to a specific date." The Officer's Report agrees with the general intent of the exemptions, however does not consider this is the appropriate place in the proposed Plan to include

an exemption, stating that this should be included in Schedule 9 of the proposed Plan (pCARP 6-4 para 6).

- 11.3. There are significant issues with this proposed solution. Schedule 9 is not designed to include what are often mobile engines. There are problems in how such engines would be classified. For example, would they classify them as an engine, or do you classify them as trains, or mobile structures. They also do not have an address as they can be located in different places at a different times. The Council has not included them in their heritage lists up to this date, at least partly because of the difficulties mentioned above and also due to the difficulty in managing them.
- 11.4. In conclusion I consider that the Council's submission be accepted and 6. Heritage engines prior to a specific date should be included in the exemption.
- 11.5. In relation to the inclusion of "7. Emergency generators" in the exemption, the Officer's Report also rejects the submission commenting that emergency generators are covered under Rule 7.24. Rules 7.24 and 7.25 (p-CARP 13-13) relate to internal combustion. Rule 7.24 sets out the provision for a permitted activity and Rule 7.5 for a controlled activity.
- 11.6. The emergency generators used by the Council are generally located either within residential zones or on reserve land, therefore it is highly unlikely that the majority of generators would meet all the provisions for permitted activity status. A consent, therefore will be required for the majority of generators due to not being able to meet, in particular, conditions 1 and 2 of Rule 7.24, which are conditions relating to the proximity to a sensitive activity.
- 11.7. I consider that this is an onerous requirement for the Council, for what is a structure which is required specifically for managing the adverse consequences of emergencies.
- 11.8. In conclusion I consider that the Council's submission be accepted and emergency generator be included as an exemption to this definition.

12. **General Definition Table 2.1 submission no. pCARP-2557, 2597 seeking amendment to definition of *urban***

12.1 Submission no. pCARP-2557 sought to amend the definition of "urban" by amending the definition to state:

"any site or area either zoned or mainly used for residential, commercial or industrial activities".

12.2 Submission no. pCARP-2597 sought to amend the definition of "urban" to be consistent with the Fire Services Act 1978.

12.3 Submission no. pCARP-2557 sought to capture the smaller groups of either residential and/or industrial and commercial activities which may not be zone respectively, and which should be considered under the Plan in the same manner.

12.4 Submission no. pCARP-2597 sought to amend the definition of "urban" to be consistent with the Fire Services Act 1978, was related to the activity of fire warden in the City area.

12.5 The Officer's Report has proposed the amendment which will be consistent with the definition in the Canterbury Regional Policy Statement (CRPS):

"Urban means a concentration of residential, commercial and/or industrial activities, having the nature of town or village which is predominantly non-agricultural or non-rural in nature."

It is considered that the proposed amendment in the Officer's Report, achieves the same outcome as the Council sought to achieve in pCARP-2557. Although it is not consistent with the Fire Service Act submission I consider that it is a more helpful definition as the amendment proposed is also now consistent with the CRPS and will reduce confusion.

12.6 I consider that the Officer's Report amendment is appropriate and recommend that it is accepted.

13. **Policy 6.7 submission nos. pCARP-2565 and 2571 seeking amendment of Policy 6.7**

13.1 The Council's submission sought to delete Policy 6.7

"Where, as a result of authorised land use change, land use activities within the neighbourhood of a discharge into air are significantly adversely affected by that discharge, it is anticipated that within a defined time frame the activity giving rise to the discharge will reduce effects or relocate."

and replace it with an alternative policy, as following:

"Take into account of reverse sensitivity implications with existing activities when making decisions with respect to authorising land use changes, to ensure that any changes proposed will allow discharges from the existing activity to continue at a level that prevailed at the time that the changes were approved, or can reasonably be mitigated to reduce the adverse effects."

13.2 The Officer's Report rejected the submission and has sought to have Policy 6.7 retained (pCARP 10-8). The Officer's Report (pCARP 10-7) explains the reason for the policy and I agree with their explanation however, it is that use of the term "relocation" in policy which I consider unnecessary.

13.3 It is my concern that the Plan's proposed Policy 6.7 will create a considerable issue with regards to reverse sensitivity.

13.4 Post-earthquake development in Christchurch has led to a heightened awareness of the conflict between reverse sensitivity and reducing the potential adverse environmental effects of activities.

13.5 The Council is presently preparing the Christchurch Replacement District

Plan (pCRDP), and has also been focused in the issue of reverse sensitivity as related to the potential land use changes and development of Christchurch over the next 15 years.

13.6 The Council's response in the proposed pCRDP review process, is to recognise existing activities and to mitigate the potential or actual adverse environmental effects of those effects rather than applying pressure on such activities to relocate. In other words, to recognise the existing rights of existing activities at a site, while also encouraging them to management their impacts better, thereby reducing the conflict between various activities. Examples of these provisions in the notified pCRDP include:

- Chapter 3 Strategic Direction (part), 3.3 Objectives - Infrastructure
- Chapter 12 Hazardous Substances and Contaminated Land (part) 12.1.1.2 Objective - Reserve Sensitivity effects
12.1.1.2.1 Policy - Establishment of sensitive land use activities.
- Chapter 14 Residential (part) 14.1.4 Objective - Strategic infrastructure, 14.1.6.9 Policy - Separation of incompatible activities.

13.7 The Council's approach is in conflict with Policy 6.7, where there is an emphasis on getting existing activities to relocate to make way for new activities.

13.8 The purpose of the Resource Management Act (the Act) is to promote sustainable management of natural and physical resources. This management can only be achieved when it enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. An important component of this is the economic and social activities which provide for the wellbeing of the community, by the provision of goods, employment, recreation and wealth. Section 5 (2) (a), (b) and (c) of the Act can be seen to set the parameters which should set the limits on how any particular activities operate.

13.9 "Avoiding" adverse environmental effects may be more easily achieved when new activities are locating in an area. I consider that remedying and mitigating potential or actual adverse environmental effects is a more effective and efficient mechanism for managing adverse environmental effects for existing activities. Including a policy in the proposed Plan which identified that existing activities may be relocated may lead to a sense of uncertainty for all existing activities, not just a few.

13.10 In conclusion I consider that the mechanism for achieving the purpose of the Act with regards to existing activities is to manage adverse effects of these activities, through avoidance, remediation and mitigation. This can be achieved through the use of various methods, both through legislation (such as through setting resource consent conditions) and non-regulatory methods (such as mediation).

13.11 It is recognised that these mechanisms may lead to a particular industry deciding to relocate because it cannot meet resource consent conditions or there is significant community pressure to relocate.

13.12 It is also considered that the proposed Policy 6.7 is not consistent with the CRPS, Policy 14.2.3 - *Relationship between discharges to air and sensitive land-uses*.

13.13 Policy 14.3.5 clearly identifies:

(i) that encroachment by new development should only take place where any reverse sensitive effects of the new development can be mitigated or avoided.

(ii) that existing discharges are though the resource consent process to adopt best practicable option to prevent of minimise adverse effects, and finally

(iii) new activities which require resource consents are located away from sensitive landuses unless the discharges can be avoided or mitigated.

None of these approaches consider a territorial authority to use its powers to "force" the relocation of an existing activity.

13.14 I consider the approach taken by the Council in the development of the Christchurch Replacement District Plan, is consistent with s.5 of the RMA and CRPS Policy 14.3.5 and is therefore in direct conflict with Policy 6.7 of the proposed Plan where the desired outcome appears to be to relocate existing activities.

13.15 The Proposed District Plan clearly recognises that land use changes can have a significant impact on existing land use activities, and that land use changes should be managed, as much as possible, to take these existing activities into account, while still trying to avoid, remedy or mitigate effects (see references earlier in this evidence).

13.16 In conclusion the Council is therefore opposed to the Officer's Report recommendation and seeks to have the proposed Policy 6.7 replaced by the Council's suggested wording, or similar

"Take into account of reverse sensitivity implications with existing activities when making decisions with respect to authorising land use changes, to ensure that any changes proposed will allow discharges from the existing activity to continue at a level that prevailed at the time that the changes were approved, or can reasonably be mitigated to reduce the adverse effects."

14. Rule 7.57 Submission no. pCARP-2610. Oppose the rule and seek this activity as a permitted activity.

14.1 The Council submission states that it is concerned about the restriction placed on air pressure release valves. It considers that it is impractical for the location of such valves to be located outside of Christchurch residential areas, and it is considered onerous for the Council to be required to apply for a resource consent for each site. The submission therefore suggested that an amendment be included at the end of the rule stating:

"Unless agreement is reached with the property owners and an appropriate odour control mechanism is installed and maintained"

14.2 The Officer's Report has rejected the Council's submission, commenting that they consider the resource consent process will be more efficient and that the Council's submission will require that landowners' agreement will need to be obtained whenever the land is sold.

14.3 The Council acknowledges that it may be required to gain agreement more than once for any particular property, for example when landowners change. However, including the Council's amendment would provide a choice for the Council, and both processes would achieve the desired outcome, the management of potential and actual adverse environmental effects.

14.4 The Council therefore opposes the Officer Report conclusions and seeks to have the amendment proposed by the Council's submission accepted.

14.5 The Officer's Report also has recommended a significant change to Rule 7.57. Instead of this rule relating only to air pressure lease valves on sewerage system, it has extend the scope to;

"wastewater pumping stations and reticulated sewerage networks"

14.6 The Council is opposes the extension in scope of Rule 7.57 as proposed in the Officer's Report. The change from managing the discharges from air pressure release valves to all wastewater pumping stations and reticulated sewerage networks is onerous.

14.7 The Council presently has:

- 233 wastewater pump stations,
- 686 vented manholes,
- 153,000 properties where connections have a main vent, and
- 14 air pressure valves

Based on the likely location of these structures within or near to sensitive areas such as residential zones and reserves, most would require a consent as a restricted discretionary activity. The costs to both the Council and Environment Canterbury in consent costs, balanced against the potential or actual improvement of the quality of the environment achieved appear impractical. Requiring consents for discharges which generally have less than minor effects (if any) is in my opinion unwarranted.

- 14.8 In conclusion I oppose the extension of the scope of Rule 7.57 as proposed in the Officer's Report, and recommend that it is rejected. I also seek the acceptance the Council's proposed amendment as follows;

"Unless agreement is reached with the property owners and an appropriate odour control mechanism is installed and maintained"

15. SUMMARY

- 15.1. In summary I recommend that the conclusions discussed in the above evidence are accepted.
- 15.2. I consider that the Council's submission pCARP -2548 be accepted and 6. Heritage engines prior to a specific date should be included in the exemption.
- 15.3. I consider that the Council's submission pCARP -2548 be accepted and *emergency generator* be included as an exemption to this definition.
- 15.4. I consider that the Officer's Report amendment in relation to the Council's submissions pCARP 2557 and 2597 is appropriate and recommend that it is accepted.
- 15.5. I consider the Council's submission pCARP 2610 be accepted and I am opposed to the Officer's Report recommendation and seek to have the proposed Policy 6.7 replaced by the Council's suggested wording, or similar

"Take into account of reverse sensitivity implications with existing activities when making decisions with respect to authorising land use"

changes, to ensure that any changes proposed will allow discharges from the existing activity to continue at a level that prevailed at the time that the changes were approved, or can reasonably be mitigated to reduce the adverse effects."

15.6. I oppose the extension of the scope of Rule 7.57 as proposed in the Officer's Report, and recommend it is rejected. I also seek the acceptance the Council's proposed amendment as follows;

"Unless agreement is reached with the property owners and an appropriate odour control mechanism is installed and maintained"

A handwritten signature in black ink, appearing to read 'J. G. Keller', is written over a horizontal dotted line.

J. G. Keller

18 September 2015