

**Before the Canterbury Regional Council
Hearing Commissioners**

In the Matter of the Environment Canterbury (Temporary
Commissioners and Improved Water Management)
Act 2010 and the Resource Management Act 1991

And

In the Matter of Submissions and further submissions on proposed
plan change 4 (omnibus) to the partly operative
Canterbury Land and Water Regional Plan

**STATEMENT OF EVIDENCE OF JEANINE GESINE KELLER FOR THE
CHRISTCHURCH CITY COUNCIL**

29 January 2016

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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 with regard to the Council's submissions on the proposed Plan Change 4 (omnibus) to the partly operative Canterbury Land and Water Regional Plan (LWRP).
2. I hold a Bachelor of Science Honours Degree majoring in Zoology and Botany from Victoria University, and a Masters in Natural Resource Management Natural Sciences from the University of Canterbury.
3. I have over 20 years' experience working as an environmental planner, working for local government, NGOs, central government, research organisations, and private consultancies, within New Zealand and Norway.
4. I am a self-employed Environmental Planner engaged by the Council as a consultant. My work for Council has included providing planning advice and information throughout the Natural Resource Regional Plan and the Land and Water Regional Plan processes. I have also prepared numerous resource consent applications to both the Council and Environment Canterbury.

Scope of Evidence

5. Plan Change 4 to Environment Canterbury's LWRP includes numerous minor variations as well as some more significant changes. In my planning evidence I shall address two significant changes of concern to the Council.
 - 5.1 The first matter is in regard to the updated Schedule 17 *Salmon and Inanga Spawning Sites*. The Council supports protecting these species, however submits that the accuracy of the sites listed requires amending to ensure consistency between Schedule 17 and the Council's records of known spawning sites.
 - 5.2 The second matter is in regards to the proposed amendment of the stormwater management provisions in the LWRP. The

Council seeks to have the proposed provisions deleted and the original provision retained.

6. My evidence specifically addresses the planning issues with regard to the Council's submission and further submission. Submissions responded to in the Council's further submission and in my evidence are Point ID PC4 LWRP 240, 536, 642 and 602. In my evidence I will refer to the expert evidence provided by two Council officers, Dr Belinda Margetts on waterway ecology, and Mr Brian Norton's evidence on stormwater management.
7. The key documents I have used, or referred to, in forming my view while preparing this brief of evidence are:
 - 7.1 The partly operative Canterbury Land and Water Regional Plan;
 - 7.2 Plan Change 4 to the Canterbury Land and Water Regional Plan;
 - 7.3 Plan Change 4 Section 32 Report;
 - 7.4 Plan Change 4 Section 42A Report;
 - 7.5 Chapter 9 Proposed Christchurch Replacement District Plan;
 - 7.6 Waterways and Wetlands Natural Asset Management Strategy 1999.
8. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (dated 1 December 2014) and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SUMMARY

9. My evidence discusses the importance of ensuring the accuracy of the inanga spawning sites listed within Schedule 17 of the LWRP. I rely on the evidence provided by Dr Belinda Margetts, and I describe the need for compatibility between Schedule 17 and the Council's records in order to maximise protection of the species and help ensure effective planning

outcomes. Dr Margetts has identified anomalies between the Council's known inanga spawning sites and those proposed in Schedule 17 of Plan Change 4.

10. I recommend, based on Dr Margetts and my evidence, that the LWRP Schedule 17 *Salmon and Inanga Spawning Sites* is updated to be consistent with the Council's records of known sites, and that the planning maps are amended accordingly.
11. In my evidence I will also discuss the proposed variation to the stormwater provisions (Policy 4.16A and Rules 5.93, 5.94, 5.94A, 5.94B, 5.94C, 5.95A, 5.95, 5.96 and 5.98 of the LWRP). The proposed changes will have significant impacts on the Council's responsibilities, and require additional technical experts and budget in order to undertake the function, duplicating the resources that will still need to be engaged by Environment Canterbury. The changes to the provisions are opposed by the Council collectively, rather than as individual provisions, as they have been developed as a set and are inextricably linked.
12. I recommend that the proposed provisions are deleted and the original LWRP provisions, Policy 4.16 and 4.17 and Rules 5.93, 5.94, 5.95, 5.96, and 5.97 are retained. The retention of the operative provisions would provide a sound basis, for the existing forums set up to manage stormwater in the Canterbury region, to start discussions on potential changes to the LWRP provisions.

SUBMISSION - SCHEDULE 17- SALMON AND INANGA SPAWNING SITES

BACKGROUND

13. Council policies are generally supportive of Environment Canterbury's approach to the protection of inanga sites and their habitats through the regional plan process. The protection of known spawning sites is included in the Proposed Christchurch Replacement District Plan provisions, where such sites are included within *Sites of Ecological Significance* in Chapter 9 *Natural and Cultural Heritage*. Conditions to protect, and avoid, remedy or mitigate any adverse environmental effects of land uses on sites of

ecological significance are included in Chapter 9. Both the operative Christchurch City Plan and Proposed Christchurch Replacement District Plan have setback rules along waterways, which amongst other functions, aims to protect both inanga spawning sites and habitats. The Council also has a strategy which recognise the importance of these sites and habitats: the *Waterways and Wetlands Natural Asset Management Strategy 1999*.

MAIN EVIDENCE - SALMON AND INANGA SPAWNING SITES

14. Schedule 17 in the LWRP identifies only four inanga spawning sites in the Canterbury region. In Plan Change 4, 71 spawning sites are listed. In addition, the proposed Schedule 17 states in the introduction to the schedule that *"The inanga spawning sites include a protection zone, 20 metres in diameter, around the specified co-ordinates listed in the table below."*
15. The Schedule 17 sites are discrete points with a 20 metres protection zone whereas the Council's Replacement Christchurch District Plan provisions identify *"reaches"*. Specific spawning sites may be temporal in nature. The Council's records of *"reaches"* are a more accurate information base than that of Environment Canterbury, for the reasons given in Dr Margett's evidence. Therefore I consider it is important that the sites listed in Schedule 17 and shown in the planning maps correspond to the reaches identified in the Council's records. This approach will help to ensure that both data sets are effective in managing both the species and its habitat.
16. Improving the accuracy of Schedule 17 and the planning maps will improve the ability of Environment Canterbury to meet the proposed Policies 4.86A and 4.86B in the section *Activities in Beds or Lakes and Rivers* (page 4-7) and Rule 5.163 condition 7 (page 5.28) of the LWRP.

Policy 4.86

"4.86A Inanga spawning sites are protected through, as a first priority, avoiding activities within the beds and margins of lakes, rivers, hapua, wetlands, coastal lakes and lagoons that may damage inanga spawning sites, and where these activities cannot be avoided, the use of best practicable options to minimise all impacts."

Rule 5.163 condition 7

"7. Vegetation clearance does not occur in an inanga or salmon spawning site listed in Schedule 17, or undertaken in any inanga spawning habitat during the period of 1 January to 1 June inclusive; and.."

17. Consistency between the Council's data set and Environment Canterbury's will also help ensure Objective 3.17 of the LWRP is met:

"Objective 3.17 The significant indigenous biodiversity values of rivers, wetlands and hapua are protected."

ENVIRONMENT CANTERBURY SECTION 42A REPORT

18. The s. 42A report addresses the Council's submission with regards to Schedule 17 in paragraph A-81 and in Appendix B (Technical Memoranda from Dr Michael Greer and Jean-Marie Thompkins), and the s. 42A report conclusion is that *"changes to the schedule and mapping are recommended, in accordance with this technical advice"*.

19. I agree with the approach identified in the Technical Memoranda which is endorsed by Dr Margetts in her evidence, and with the s. 42A report, and recommend that changes should be made to the Schedule 17 and the maps to ensure consistency of records between Environment Canterbury and the Council.

RESPONSE TO SUBMISSIONS

20. Of the nine submissions received by Environment Canterbury on the proposed variation to Schedule 17, none are related to the Council's submission. There were no further submissions to our submission.

RECOMMENDED CHANGES

21. I recommend that the changes discussed in Dr Margetts' evidence are accepted, and that the recommendations in the s. 42A report are also accepted.

22. I note that the Council is keen to work directly with Environment Canterbury to assess the anomalies in Schedule 17 and the maps to help ensure inanga spawning sites within the Council's jurisdiction are appropriately protected.

SUBMISSION ON VARIATION TO THE STORMWATER PROVISIONS

23. In its submission the Council opposed all the stormwater policies and rules proposed in Plan Change 4 and sought retention of the stormwater policies and rules in the LWRP.

BACKGROUND

24. The Council has significant concerns with some of the proposed changes in Plan Change 4 with regard to the policies and rules in relation to the stormwater provisions.

25. Mr Norton, in his evidence, provides an overview of the existing relationship between the Council and Environment Canterbury on stormwater management. An excellent working relationship has developed over the last ten years and this has had a substantial impact on the way in which the Council manages stormwater, including the development of a number of global stormwater consents.

26. The present stormwater discharges from the Council's stormwater system are managed by the Council through the operative rules in the LWRP as follows.

27. Under Rule 5.95 a mechanism exists for the Council to allow discharges into its reticulated stormwater system, as long as a discharger has the permission of the Council (Rule 5.95 Condition 1). Rule 5.95 also excludes a discharge from entering the Council's reticulated stormwater system if the discharge is from, into or onto contaminated or potentially contaminated land (Condition 2(a)).

"5.95 The discharge of stormwater into a river, lake, wetland or artificial watercourse or onto or into land in circumstances where a contaminant may enter a river, lake, wetland, or artificial watercourse is a permitted activity, provided the following conditions are met:

1. The discharge is into a reticulated stormwater system and the discharger has obtained written permission from the system owner to discharge into the system; or

2. The discharge is not into a reticulated stormwater system, and

(a) The discharge is not from, into or onto contaminated or potentially contaminated land; and ..."

28. The remaining stormwater rules and the related stormwater policies provide a clear framework to both encourage those who discharge to discharge into the Council's 's reticulated stormwater system, while at the same time ensuring that the risk to the environment is minimised from potentially high risk discharges.
29. The proposed changes to Policy 4.16A and Rules (5.94B, 5.94C, 5.95A, 5.95, 5.96 and 5.97) would have the result that a discharger's application to Environment Canterbury for resource consent to discharge to the Council's reticulated stormwater system is a non-complying activity. That appears to be the proposed means of giving effect to Policy 4.16A, unless there is a future plan change that makes it a prohibited activity. It is presumably intended to encourage people to seek approval from the Council for discharge into the Council network rather than resource consent from Environment Canterbury. However, as described in Mr Norton's evidence, Environment Canterbury are the experts in discharges from contaminated sites. The most common reason for the Council to refuse to allow a discharger to discharge to the Council's system is that the activity or land where the discharger is discharging from, is either a potentially contaminated or contaminated site.
30. These proposed changes constitute a significant change to the Council's current procedures and responsibilities.

MAIN EVIDENCE - STORMWATER PROVISIONS

31. The Council opposes Policy 4.16A and rules proposed in Plan Change 4 and seeks retention of the stormwater policies and rules as in the LWRP.

32. My evidence will now discuss:

32.1 The effectiveness and efficiency of introducing Policy 4.16A and its associated proposed rules in the manner proposed in Plan Change 4;

32.2 The reasons for the Council opposing all the proposed policies and rules changes within Plan Change 4 rather than individual provisions.

The effectiveness and efficiency of introducing Policy 4.16A and its associated proposed rules in the manner proposed in Plan Change 4.

33. I understand that there is no statutory bar to Environment Canterbury altering the provisions in a plan to restrict their responsibilities to consenting only the "end of the pipe" discharges if the changes meet the tests in the Resource Management Act.

34. However, I do not consider that it is efficient and effective to change the current system that appears to be "working well" for the environment, and particularly when there is an excellent working relationship and close collaboration between the Council and Environment Canterbury.

35. The s. 32 evaluation report (pages 50 -58) discusses the benefits and costs of two options. Option 1 is the status quo and Option 2 is the proposed provisions. The analysis of the proposed and status quo provisions are not assessed individually but as a "package" of provisions.

35.1 Environmental Costs and Benefits

The effects argument identified in the s. 32 report for Option 2 is that by directing all discharges into a reticulated stormwater system, the cumulative effects from multiply discharges are better managed. I do not consider that this argument is correct. It can be true where a reticulated stormwater system is developed at the same time as development is being undertaken, for example, in a greenfields situation. In these situations there is the ability to develop treatment systems with the network. However, within an existing area which

already has an established reticulated system this is not the case, and it may be better to have separate consents for specific high risk sites. Retrofitting existing stormwater networks with treatment systems is often not possible and/or extremely expensive.

35.2 Social and Cultural Benefits and Costs

According to the s. 32 report there are no cultural or social benefits or costs from either option.

35.3 Economic Benefits and Costs

The s. 32 report identifies that there are a wide range of stormwater discharges which require consent, and that this is a significant cost for Environment Canterbury. This matter is addressed in more detail in Mr Norton's evidence.

Under Option 2 the report identifies the economic benefits of the new provisions, for example, reduced costs for Environment Canterbury. However, the only cost identified is that "*territorial authorities will likely need to improve their management of discharges into reticulated systems which may result in additional costs and resource*". The Council will incur very significant additional costs, as described in Mr Norton's evidence. The Council will be required to restructure its management of discharges. This matter is discussed more fully in Mr Norton's evidence.

35.4 Efficiency

I do not agree with the last paragraph in the s.32 report discussing efficiency in Option 2. Efficiencies will exist for Environment Canterbury in only having to manage the end of the pipe discharge. However I consider that the proposed provisions do not provide for a more efficient mechanism for meeting the water quality-related objectives identified in the LWRP, particularly in existing urban environments. Existing urban reticulated discharges do not generally have any ability to further treat discharges entering them due to lack of space and significant retro-fitting costs. Whereas in greenfield sites, for example, reticulated systems with treatment facilities which

can provide high levels of treatment can be designed before development occurs.

35.5 Effectiveness

I consider that there is little difference between Options 1 and 2 in terms of effectiveness in meeting Objectives 3.6, 3.7, 3.8, 3.23 and 3.24.

35.6 In summary, the major areas of difference between the two options are economic, and, from Mr Norton's description of the additional resources required, I consider that the economic costs for the Council have been significantly underestimated in the s. 32 report. Although there appears to be some efficiencies from Option 2 particular in future urban areas, in existing urban area these may not be as significant as suggested the s. 32 analysis.

36. The s.32 points discussed in my paragraph 35 (35.1 - 35.6) do not necessarily lead to the conclusion that there should be no change in the provisions relating to stormwater management, or in fact that an "end of pipe" type management regime may be appropriate. What it clearly does show is some of the s.32 analysis is not sufficient, and that in terms of the economic costs for the Council, and ultimately the ratepayer, the impact has been significantly under-estimated.

37. I consider that taking into account the strong collaborative relationship that exists between the Council, the other territorial authorities and Environment Canterbury (discussed in Mr Norton's evidence), the established forums are the appropriate environment to undertake a consultative approach to developing the best possible regime for the management of stormwater within the Canterbury region. Timing and lack of consultation with, at least the Christchurch City Council, are further reasons why I oppose the changes.

38. The s.42 response to the Council's submission (B.32 - B.37) briefly discusses the submissions which oppose the changes including Selwyn District Council, Waimakariri District Council and Christchurch City Council, and states the reasons the submissions oppose the proposed changes being resourcing, enforcement and expertise.

39. The s.42 report (B.36) states:

"It is acknowledged that there are ongoing discussions between Environment Canterbury and the territorial authorities as to the best method to manage stormwater. In the absence of any agreement between the territorial authorities and Environment Canterbury on this matter, the general policy provision position of PC4 (Omnibus) is recommended to be continued. "

There have been significant discussions between Environment Canterbury and territorial authorities' staff with regard to a range of aspects of managing stormwater, however there appears to have been no discussion about the proposed changes to the LWRP provisions (prior to First Schedule consultation) as proposed in Plan Change 4, in any of the forums described in Mr Norton's evidence. I would suggest that there has been no agreement because there has been no discussion on this topic.

40. I therefore recommend that the policy and rule provisions proposed in Plan Change 4 be deleted. Consultation with the territorial authorities can then be initiated and a plan change made to the LWRP at a later date.

Opposing all the proposed policies and rules changes within variation 4 rather than individual provisions

41. In its submission the Council opposed both Policy 4.16A and all changes to stormwater rules and sought to have them deleted. However, I consider that the changes to rules 5.93, 5.94 and 5.94A have merit and are not directly related to implementation of policy 4.16A.



Jeanine Keller

29 January 2016