

IN THE MATTER

of the Resource
Management Act 1991
(RMA)

AND

IN THE MATTER

Plan Change 4 to the
Canterbury Land &
Water Regional Plan
(CL&WRP)

TO BE HEARD BY

Canterbury Regional
Council

HEARING DATE

March 2016

**Statement of Evidence of Christopher Adrian Hansen on Behalf of the Hurunui
Water Project**

29 January 2016

Introduction

1. My name is Christopher Adrian Hansen and I am a Director and Senior Planning Consultant with Chris Hansen Consultants Ltd. My qualifications are a Bachelor of Regional Planning (Hons) from Massey University (1980). I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Assoc., and I am a certified Hearings Commissioner. I have over 33 years' experience in planning and resource management.
2. I have particular experience in the review and assessment of regional plans and the preparation of submissions, attendance at hearings providing expert planning evidence, and in mediation to resolve appeals.
3. I provide the following statement of evidence in support of the submission and further submission lodged by the Hurunui Water Project (HWP) to Plan Change 4 (PC 4) to the Canterbury Land & Water Regional Plan (CL&WRP). I assisted HWP prepare its submission(s) to PC 4.
4. Although not necessary in respect of council hearings, I can confirm I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the hearing committee. Except where I state that I am relying on the evidence of another person, this written evidence is 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 in this evidence.

Outline of Evidence

5. I have divided my evidence into two parts: PART ONE addresses the key matters of interest to HWP. These are primarily the submission points that the s.42A Officer Report has recommended be rejected, and which are matters still of concern or interest to HWP.
6. PART TWO addresses submission points the s.42A Officer Report recommends be accepted and, for completeness, I record that I support these recommendations. I have

also included in PART TWO those further submission points that the s.42A Officer Report has provided reasoning for why it is recommended an original submission point is not accepted, when the reasoning is accepted by HWP.

PART ONE

Activities in Beds of Lakes and Rivers

7. PC 4 introduces a new Policy 4.85A that reads: “4.85A Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:
(a) preventing encroachment of activities into the beds and margins of lakes and rivers;
and
(b) limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons
unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures or network utilities, or maintenance of public access.”
8. In its submission HWP opposed the following aspects of this new policy:
 - ‘Preventing’ the encroachment of activities into beds and margins of lakes and rivers;
 - “Limiting vegetation clearance’ within the bed, banks and margins of lakes and rivers;
 - Exemption only relating to a narrow range of matters.
9. The s.42A Officer Report deals with Policy 4.85A on pages 98 – 101 and recommends an amendment to the wording of the new policy on page 112 as follows (amendments in **bold**):
“4.85A Indigenous biodiversity, habitats of indigenous fauna and flora, and the natural character of Canterbury's braided river systems is preserved through:
(a) preventing **further** encroachment of activities into the beds and margins of lakes and rivers; and

(b) limiting vegetation clearance within the bed, banks and margins of lakes, rivers, wetlands or coastal lagoons
unless the vegetation clearance is for the purpose of pest management, habitat restoration, flood control purposes, the operation, maintenance or repair of structures or ~~network utilities~~ infrastructure, or maintenance of public access.”

10. I note the s.42A Officer Report provides a discussion on the importance of the braided river system in Canterbury (pages 100 – 101), which I do not question. However, the Officer Report goes on further to discuss the importance of the woody vegetation (exotic scrub, willows and other trees) adjacent to braided river systems, and indicates they are important biodiversity corridors and provide a range of habitats. The Officer Report goes on to say these areas are under pressure and the intent of the PC 4 provisions is to limit the occurrence of this in the future. I have concerns with this intent, as I discuss below.
11. HWP raised three points in relation to the new Policy 4.85A, and I will discuss these in turn in the context of the discussion on the intent of PC 4 outlined in the s.42A Officer Report above. Firstly, in relation to Clause (a), HWP considered the focus should be managing any adverse effects of activities on the values of the indigenous biodiversity and indigenous vegetation, rather than preventing activities. While I accept a plan may control activities, I agree with HWP that the focus in this case should be on the managing of effects. The provision as it is currently written does not recognise that there are important new activities (such as irrigation and hydro schemes) that will have structures or infrastructure that are required to locate within the beds and margins of lakes and rivers, and managing the effects of these activities will allow for these important activities to occur. In my opinion, the amendment proposed in the s.42A Officer Report (adding the word *‘further’*) does little to address the issue raised by HWP.
12. Secondly, in terms of limiting vegetation clearance in Clause b), while I accept that limiting vegetation clearance is an understandable outcome, there will be new activities with structures or infrastructure that are required to be located within the bed, banks and margins of lakes and rivers where vegetation clearance will be required. In such case, rehabilitation or off-set planting of indigenous vegetation along riparian margins

may be required to be provided (as in the case of the Waitohi Irrigation and Hydro Project) for as these will have positive environmental outcomes. I am not convinced that the exception that includes ‘*habitat restoration*’ provides for rehabilitation and off-set planting to occur. ‘*Habitat restoration*’ is listed between pest management and flood protection which are functions of the council. In my opinion, it would be helpful to specify habitat restoration that may be required as part of a new activity to ensure this activity is exempt the limiting intent.

13. Thirdly, in my opinion structures associated with existing and new irrigation and hydro schemes should be recognised as an activity exempt in the policy. While I accept that the s.42A Officer Report recommends ‘*infrastructure*’ be added to the exemption in Policy 4.85A, my reading of the exemption is that it only applies to the operation, maintenance and repair of structures or infrastructure which implies that it applies to existing structures or infrastructure, and not new.

14. I also note that the s.42A Officer Report recommends an amendment to the definition of ‘*vegetation clearance*’ which I discuss below. My above comments have relevance to that discussion.

15. I seek the Commissioners to address the concerns I have discussed above by:

- Amending Clause (a) in the new Policy 4.85A to read (or similar):

“(a) ~~preventing managing the effects of activities encroaching ment of activities~~ into the beds and margins of lakes and rivers; and...”

- Amending the exemption in the new Policy 4.85A to read (or similar):

“... unless the vegetation clearance is for the purpose of ... habitat restoration including rehabilitation and off-set planting that may be part of a new activity, ... the establishment operation, maintenance or repair of existing or new structures or network utilities infrastructure, or ...”.

Dams and Damming

16. In PC 4 Rules 5.154 and 5.155 have been amended to delete the term: “*and the use of land to store water.*”

17. In its submission HWP noted the provision for the use of land to store water has been deleted from these rules. HWP opposed these deletions as it was unable to find any reasons provided in the s.32 Evaluation Report or after discussions with Council Officers. HWP considered this is a valid activity that is required to be provided for as part of an irrigation scheme that adopts water storage options. HWP supported Rules 5.154 and 5.155 prior to amendment.
18. In the discussion in the s.42A Officer Report regarding this matter (page 152), it is suggested HWP *“may have misinterpreted the change to the Rules in relation to the storage of water outside the bed of a lake or river. The effect of the change will mean the actual use of land for this purpose will not be controlled by the LWRP. Therefore, the concern of the submitter is addressed.”*
19. After reviewing the reasons given in the s.42A Officer Report for deleting the provisions, I accept that the CLWRP does not control this land use activity meaning the activity is permitted by section 9 the Resource Management Act. In my opinion, while it would have been helpful if the CLWRP did provide for the activity as permitted, deleting the provisions from the plan, in this case, does not have an effect on the activity status of the proposed activity.

Vegetation in Lake and Riverbeds; Earthworks and Vegetation Clearance in Riparian Areas

20. In PC 4, Rules 5.163; 5.164; 5.167 and 5.168 deal with vegetation in lake and riverbeds, and earthworks and vegetation clearance in riparian areas. These rules are important to HWP when considering the additional consents that might be required for the construction of the proposed Waitohi Irrigation & Hydro Scheme. HWP currently has consents to take, use, divert and discharge water, and for the change of land use that may occur once the irrigation water is provided to the farm gate.
21. In its submission, HWP raised a number of issues relating to specific provisions in these rules, and in particular supported the inclusion of the term *“and any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water”* and opposed a new condition that required that vegetation

clearance does not result in a reduction in the area or diversity of existing riverbed vegetation.

22. I note the s.42A Officer Report recognises HWP's support for the additional term associated with discharge of sediment and sediment-laden water (page 109), but does not recognise that HWP opposed the new condition. The report reiterates that the intention is for the rule to apply to all vegetation (not just significant indigenous vegetation) because it relates to the woody vegetation along the margins of braided river. The PC 4 recommended amendments are retained and no further amendments are recommended.
23. As I have discussed above, I note that the s.42A Officer Report does recommend an amendment to the definition of 'vegetation clearance' to exclude in clause (b) (amendment in bold): "*clearance for the establishment or maintenance of utilities, infrastructure or structures*" (page 112).
24. I support the recommendation that the additional term associated with the discharge of sediment or sediment-laden water be retained, as requested by HWP. While I consider it would have been preferable for Condition 9 to be deleted or amended for certainty, I consider the amendment to the definition of 'vegetation clearance' to exclude clearance associated with the establishment and maintenance of infrastructure addresses HWP's concerns.
25. I seek the Commissioners to:
 - Adopt the s.42A Officer Report recommendations that the term "*and any associated discharge of sediment or sediment-laden water in circumstances where sediment may enter surface water*" be retained; and
 - Adopt the s.42A Officer Report recommendation to amend the definition of 'vegetation clearance' to include '*infrastructure*' as an exclusion.

PART TWO

26. In its submission, HWP supported the intent of the following PC 4 provisions, and sought for the provisions to be retained as written:
- New Rules 5.94A – 5.94C – Construction-phase stormwater
 - Rule 5.128; new Clause 11 – Take and use groundwater
 - New Rule 5.14 – Structures
 - New Rule 5.141B – Structures
 - Rule 5.146A and 5.146B – Fine sediment removal from rivers
 - Rule 5.170 – Vegetation clearance and earthworks in erosion-prone areas
27. I note for all of the above PC 4 provisions, the s.42A Officer Report recommends the intent of these provisions be retained as written. I support the s.42A Officer Report recommendation, and seek the Commissioners to adopt the recommendation accordingly.

Further Submissions

28. I note the s.42A Officer Report recommends a number of outcomes that are consistent with the further submission points made by HWP. For completeness, I attach a further submission table identifying those recommendations that meet the relief sought by HWP. I would seek the Commissioners accept the s.42A Officer Report recommendations on these matters.
29. In addition to these matters, there are three further submissions that are recommended to be rejected by the s.42A Officer Report that I accept the reasons given. These are:
- **Royal Forest & Bird Protection Society of NZ (F&B)** – Submitter No. 52265; Submission Point 273. F&B sought Policy 4.86 be amended and requested the character and channel characteristics of rivers including the variable channel characteristics of braided rivers to be *preserved* rather than *maintained*. HWP opposed this request as the current policy is considered appropriate and necessary, and promotes the sustainable management of natural and physical resources. The s.42A Officer Report accepted the F&B submission as the

amended policy would closely align with s.6 (a) of the RMA. I accept that the requested amendment closely aligns with the RMA.

- **Beef + Lamb New Zealand** – Submitter No. 52292; Submission Points 204 and 206. The submitter requested additional wording to the matters of discretions in Rules 5.123 and 5.128 that required an individual farm within an irrigation scheme to demonstrate the farm is at Good Management Practice. HWP supported the request. The s.42A Officer Report rejects the request as good management practices are adequately addressed in Schedule 7. I accept this point.
- **Combined Canterbury Provinces, Federated Farmers of New Zealand** – Submitter No. 63238; Submission Points 457 and 458; Horticulture New Zealand – Submitter No. 57998; 473 and 474. The submitters sought amendments to the matters of discretions in Rules 5.123 and 5.128 that required water used for irrigation to be used efficiently. HWP supported this request. The s.42A Report rejects the request as Farm Management Plan, required by Schedule 7, addresses this matter. I accept this point.

Chris Hansen

29 January 2016

Attachment: HWP Further Submission Table.

Attachment: Further HWP Submission table

Submitter Name/Number	Submitter Point No.	Plan Provision	Support/ Oppose	Reason/Relief	S.42A Report Recommendation
Director-General of Conservation – Submitter No. 53688	PC4 LWRP-591	Rule 5.146A	Oppose	The submitter requests a new condition be added to the rule that reads: “5. <u>The activity occurs between October and March.</u> ” HWP opposes this request as it is unduly restrictive, inappropriate and unnecessary and does not promote the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-594 PC4 LWRP-595 PC4 LWRP-596 PC4 LWRP-597	Rules 5.163; 5.164; 5.166; 5.167	Oppose	The submitter requests a new condition for the rules that reads: “ <u>No vegetation shall be disturbed, removed, damaged or destroyed without the prior written permission of the person or agency responsible for the management of the river or lakebed.</u> ” HWP oppose the additional condition sought by the submitter as it is all-inclusive, is inappropriate for a rule in a plan, does not consider whether any adverse effects are less than minor, and does not promote the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
Ellesmere Sustainable Agriculture Inc. – Submitter No. 52210	PC4 LWRP-47 PC4 LWRP-631	Rules 5.123 and 5.128	Oppose	The submitter requests matters of discretion 13 and 11 (respectively) be deleted. HWP opposes this request as the matters of discretion are considered appropriate and necessary and promote the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
Te Runanga o Ngai Tahu – Submitter No. 65933	PC4 LWRP-304	Rule 5.94A	Oppose	The submitter requests the rule be amended by deleting the phrase: “ <u>to a surface waterbody, or</u> ”. HWP oppose the deletion of this phrase as it there may be times when such a discharge is appropriate and the effects are less than minor. HWP considers the rule should remain as written as sought in its own submission.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.

Royal Forest & Bird Protection Society of New Zealand Inc. – Submitter No. 52265	PC4 LWRP-115	2.9 Definitions, Translations and Abbreviations – definition of ‘Earthworks’	Oppose	The submitter requests an amendment to part (a) of the definition of 'Earthworks' so that the effects of cultivation on water quality and biodiversity are addressed. HWP opposes the request as there are no words offered up by the submitter, and the amendments are considered unnecessary and inappropriate.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-261	Policy 4.85A	Oppose	The submitter requests the deletion of clause (b) from the policy. HWP opposes this request as this clause is supported in its submission, and the clause is considered appropriate and necessary and represents sound resource management principles.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-268	Rules 5.109 and 5.119	Oppose	The submitter requests the rules be amended so that the lower limit of 50mg/m ³ applies to all rivers. HWP opposes this request as the requirement is inappropriate and unnecessary and does not promote the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-275	Rule 5.123	Oppose	The submitter requests the amendment proposed by PC4 to be deleted i.e. the introduction of matter of discretion 13. HWP opposes this request as it considers matter of discretion 13 is appropriate and necessary, and promotes the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-262 PC4 LWRP-265 PC4 LWRP-266	Rules 5.163; 5.167 and 5.168	Oppose	The submitter seeks condition 9; condition 6; and condition 5 (respectively) to be amended to read: <i>“From 5 September 2015, <u>no vegetation clearance takes place and within</u> in the bed of the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and the Waitaki rivers the vegetation clearance does not result in a reduction in the area or diversity of existing riverbed vegetation; and”</i> . HWP opposed condition 9 in its submission and sought for it to be deleted, or amended if the condition is retained by Council. HWP oppose the additional wording sought by the submitter in the conditions as it is all-	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.

				inclusive and removes any discretion Council may have as it does not provide for the consideration of activities whether adverse effects are less than minor.	
Combined Canterbury Provinces, Federated Farmers of New Zealand – Submitter No. 63238	PC4 LWRP-461	Rule 5.154	Oppose in part	The submitter requests additional wording be added so that Rule 5.154 (a) reads: <i>“The volume of water impounded <u>above ground level (where depth is measured as the vertical distance between the maximum water height within the dam and the natural ground level immediately adjacent to the dam)</u> is less than 20,000m³.”</i> HWP is unclear why the submitter considers the additional wording is necessary as the rule is directed towards the volume of water being impounded rather than the dam structure. HWP supports Rule 5.154(a) as written.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
Whitewater NZ (Inc) and others – Submitter No. 65190	PC4 LWRP-169	Section 4 Policies	Oppose	The submitter requests the addition of a new policy (to support Policy 4.86) that would protect key recreation sites through avoiding activities that would damage these sites. HWP opposes this request as no words are provided, and the proposed policy is all inclusive and will have significant effects on proposed activities. It is considered the new policy is unnecessary and inappropriate, and does not represent sound resource management principles.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-165	Policy 4.85A	Oppose	The submitter requests the preservation of key recreation sites to be added to the policy. HWP opposes this request as it considers the amendments are inappropriate for a policy that focusses on Section 6 (RMA) matters.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-166	Policy 4.86	Oppose	The submitter requests the key recreation sites to be added to the policy. HWP opposes this request as it considers the amendments are inappropriate for a policy that focusses on Section 6 (RMA) matters.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.

	PC4 LWRP-180	Rule 5.155	Oppose	The submitter requests condition 2 to be amended to read: “2. <i>Any new dam is not located in a river listed as a high naturalness river in Section 6 to 15, in any freshwater bathing sites listed in Schedule 6, in any key river recreation sites listed in Schedule 24, or in the mainstem of any river; and</i> ”. HWP opposes this amendment and considers it is inappropriate and unnecessary and supports the Rule as written.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-182 PC4 LWRP-183	Rules 5.167 and 5.168	Oppose	The submitter requests the following wording to be added to condition 4 in each rule: “ <i>in any freshwater bathing sites listed in Schedule 6, in any key river recreation sites listed in Schedule 24,</i> ”. HWP opposes this amendment and considers this is inappropriate and unnecessary and supports the Rule as written.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-184	Rule 5.169	Oppose	The submitter requests the following wording to be added to condition 4: “ <i>areas of key or significant recreation values</i> ”. HWP opposes this amendment and considers this is inappropriate and unnecessary and supports the Rule as written.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
Oil Companies Z Energy, Mobil and BP – Submitter No. 65931	PC4 LWRP-416	Policy 4.18	Support	The submitter requests the policy be retained. HWP supports this request as the policy is appropriate and necessary, and represents sound resource management principles.	S. 42A Officer Report recommends submission request be accepted. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
	PC4 LWRP-425 PC4 LWRP-426 PC4 LWRP-427	Rules 5.94A-C	Oppose	The submitter requests the rules be deleted. HWP opposes the request as it is contrary to its own submission that supports the rules. The rules are considered to be appropriate and necessary and promote the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
Fonterra Limited – Submitter No. 65892	PC4 LWRP-445	Policy 4.18	Support	The submitter requests the policy be retained. HWP supports this request as the policy is appropriate and necessary, and represents sound resource management principles.	S. 42A Officer Report recommends submission request be accepted. <u>Comment:</u> I seek the Commissioners to adopt this

					recommendation.
Mackenzie District Council – Submitter No. 53929	PC4 LWRP-348	Rule 5.146A	Oppose	The submitter requests the new rule proposed by PC4 to be deleted. HWP opposes this request as it considers the proposed new rule is appropriate and necessary, and promotes the sustainable management of natural and physical resources.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.
J Demeter – Submitter No. 52312	PC4 LWRP-392 PC4 LWRP-393 PC4 LWRP-394 PC4 LWRP-395	Rules 5.163; 5.167; 5.168; and 5.170	Oppose	The submitter requests a new condition to be added to the rules that reads: “ <u>Vegetation is not removed from any areas of significant indigenous vegetation.</u> ” HWP opposes the additional condition sought by the submitter as it is all-inclusive and removes any discretion Council may have as it does not provide for the consideration of activities whether adverse effects are less than minor.	S. 42A Officer Report recommends submission request be rejected. <u>Comment:</u> I seek the Commissioners to adopt this recommendation.