

In The Matter

of the Resource Management Act 1991

And

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Plan Change 4 to the Canterbury Land and Water
Regional Plan – Submission of Waimakariri District
Council

BRIEF OF EVIDENCE OF KALLEY SIMPSON

INTRODUCTION

1. My name is Kalley Simpson and I am the 3 Waters Manager for the Waimakariri District Council (WDC). In this position I have responsibility for the water supply, wastewater and drainage assets for the Council.
2. I hold a Degree in Natural Resources Engineering from the University of Canterbury and have 16 years of experience in civil engineering. This experience includes design and management of stormwater systems and flood risk management.
3. I am involved in the Regional Stormwater Forum and lead the Regulation and Process working group that has been established to seek to address a number of stormwater consenting issues in Canterbury.
4. The purpose of this report is to provide evidence to the Hearing Commissioners on flooding and stormwater matters raised in the Waimakariri District Council's submission to Plan Change 4 to the Canterbury Land and Water Regional Plan (LWRP).
5. In my evidence, I will cover the following specific matters:
 - i. Implications of the changes to Rule 5.142 relating to "floodwaters".
 - ii. Scope of the definition of a "reticulated stormwater system".
 - iii. Responsibility for consenting construction-phase stormwater and high risk site that discharge to a reticulated stormwater system.

FLOODWATERS

6. The Plan Change has proposed that the wording in Rule 5.142 be changed from the "diversion of surface runoff water caused by flooding" to the "discharge of floodwaters from a property to a river, lake or artificial watercourse to alleviate surface flooding". This has changed the whole meaning and scope of the original rule, which has widespread implications.
7. The original Rule 5.142 related to the diversion of floodwaters, which is caused by human intervention and should be covered by a rule in the LWRP. The amended Rule 5.412 relates to the discharge of floodwaters, which by in large is a natural event that occurs without any human intervention. Such events should not be covered by a rule in the LWRP.
8. There are large areas in the eastern part of the Waimakariri district that are prone to flooding for extended periods of time. Such floodwaters can pond on farmland for weeks or months at a time. The amended rule would now make this natural event a discretionary activity. I have attached a plan that shows the predicted flooding in the Waimakariri District in a 100 year event to indicate the scale of the potential implications of the amended rule.
9. It is unclear who would be responsible for this activity, whether it would be just limited to the last property that the floodwaters cross before discharging to a river, lake or artificial watercourse or whether each property would need a discharge consent for their individual property.
10. The full implications of this revised rule do not appear to have been appreciated by Environment Canterbury given the response in the Section 42A Report.
11. It is WDC's position that the amended Rule 5.142 and new Rule 5.142A should not be adopted, as the discharge of floodwater is predominantly a natural event. The intent of the original rule has changed from covering the human diversion of floodwaters to the discharge of natural floodwaters.

12. From my evidence, I request that either:
 - (a) The proposed amendments to Rule 5.142 and the inclusion of new Rule 5.142A are rejected; or,
 - (b) Rule 5.142 and Rule 5.142A are deleted.

RETICULATED STORMWATER SYSTEM

13. The definition of a “reticulated stormwater system” has been amended to mean “a network of pipes, swales, kerbs and channels owned or operated by a network utility operator that collects stormwater within urban areas... ”.
14. In our submission we sought additional clarity on the term “urban” as this defines the scope or extent of what will need to be covered by a stormwater management plan under Rule 5.93. Our suggestion was to replace the words “within urban areas” with “areas zoned residential, commercial or business use in the district plan”; however this still has a degree of uncertainty as to what is included.
15. Under the WDC District Plan we have residential zones that cover villages such as Cust and Sefton (Residential 3 zone) and rural residential or lifestyle blocks such as Mandeville and Fernside (Residential 4A and 4B). In such areas there are no stormwater systems operated by the Council as a utility operator. The drainage in these areas is essentially comprised of soak pits, open drains and road culverts similar to most rural areas.
16. Section 42A Report supports providing additional clarity on the term “urban”, but it is unclear how this will be achieved. Whether this is achieved by providing a definition to the word “urban” or by replacing the word “urban” in the definition of a reticulated stormwater system, it is important to ensure the scope of how this will be applied is clear.
17. In the Waimakariri district, we would consider that the townships of Kaiapoi, Rangiora, Oxford, Pegasus and Woodend are all urban, while settlements like Ashley, Cust, Sefton, Tuahiwi, and Woodend Beach are villages and lifestyle block areas like Mandeville, Swannanoa and Fernside are rural residential. This is in keeping with the Oxford Dictionary definition of urban which refers to towns and cities.
18. As set out in the Section 42A Report there is a need for a clear definition of urban. This potentially could be related to the size of sections and number of properties within a residential area. For example housing density of less than 1,000m² lot sizes and total number of households of at least 200.
19. From my evidence, I request that either:
 - (a) The phrase “within urban areas” is replaced with “areas zoned urban residential, commercial or business use in the district plan”; or,
 - (b) A definition for urban is provided that clearly sets out that this does not cover villages or lifestyle blocks.

RESPONSIBILITY FOR CONSENTING DISCHARGES

20. The Plan Change seeks to shift the responsibility for consenting of discharges from reticulated stormwater systems to utility operators by the inclusion of new Policy 4.16A and amendments to Rule 5.93 and Rule 5.94. We consider that this change is being imposed without consent or agreement from operators of stormwater systems.
21. Under the current LWRP utility operators are required to obtain a discharge consent from Environment Canterbury for the developed state of the urban catchment. Any additional future works that don't comply with the consent, such as from construction activities or development of high risk sites (Hazardous Industries and Activities) would require a separate consent or a variation to the catchment consent.
22. However under the proposed amendments, the utility operator would take responsibility for consenting all discharges from 1 January 2025.
23. We are concerned about these changes for a number of reasons:
 - i. Firstly, utility operators or effectively Territorial Authorities are not set up for processing or considering discharge consent applications. If this were to be adopted then councils would need to establish consenting teams similar to that within Environment Canterbury. It would not seem like a good use of ratepayers' money to have separate teams that could process identical consent applications, with processing responsibilities dependent on whether the discharge is into a reticulated stormwater system or into the receiving environment.
 - ii. Secondly, similar to above Territorial Authorities are not set up for compliance monitoring of discharge consents. Additionally Territorial Authorities do not have the same powers as a Regional Council under the Resource Management Act.
 - iii. Thirdly, Environment Canterbury currently rates and has charging mechanism through resource consents for this service. If it was to transfer to Territorial Authorities then this funding stream would also need to transfer also.
 - iv. Fourthly, this is contradictory to the direction of Central Government who are promoting the development of centralised shared services for efficiency reasons, as opposed to fragmented and duplication of resources as required with this approach.
24. WDC position is that consenting of construction activities or high risk sites is the role of the Regional Council.
25. WDC's Stormwater Bylaw sets out that low risk sites can connect directly into our stormwater system, medium risk sites (such as construction and maintenance depots) require a pollution prevention plan to be approved by the Council prior to connection into our stormwater system and high risk sites (as set out in Schedule 3 of the LWRP) require a separate consent from Environment Canterbury prior to connection into our stormwater system. We consider that this is an appropriate approach.
26. We appreciate that intent of this change is for utility operators to take responsibility for what is discharged into their systems. However, the stormwater system is mainly just a conveyance system, therefore whether a discharge occurs into a reticulated stormwater system or directly into a receiving environment the same rules in the LWRP should apply.

27. As an example, WDC were contacted by a construction firm in 2015 seeking approval to discharge dewatering water into a stormwater sump 5m away from the Middle Brook, a spring fed stream that flows through Rangiora. They had been advised by Environment Canterbury that the discharge would be a permitted activity if this occurred into a reticulated stormwater system, but would need to meet certain rules if it discharged directly into the stream. In terms of protecting the receiving environment the same requirements should be imposed on the contractor whether discharge occurs into a stormwater system or the stream directly.
28. Responsibility of stormwater consenting is an issue that has been discussed as part of the Regional Stormwater Forum - Regulation and Process working group. This group is still working through appropriate approaches to address this issue. It is considered appropriate that the status quo is retained until an agreed region-wide outcome is developed.
29. From my evidence, I request that:
 - (a) Policy 4.16A is delete; and,
 - (b) The reference to "construction-phase stormwater" is removed from Rules 5.93 and 5.94.

OTHER MATTERS

30. While not included in our submission, I recommend that the reference to Schedule 8 under Rule 5.93, which refers to rural contaminants, be amended to refer to Schedule 5, which refers to urban contaminants.

Attachment i

