

**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

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**REBUTTAL EVIDENCE OF BRIAN NORTON  
FOR THE CHRISTCHURCH CITY COUNCIL**

**19 FEBRUARY 2016**

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CHRISTCHURCH CITY COUNCIL  
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## **INTRODUCTION**

1. My full name is Robert Brian Norton. My experience and qualifications are set out in my evidence in chief dated 27 January 2016.
2. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note (dated 1 December 2014) and that I agree to comply with it. I confirm that the issues addressed in this rebuttal 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.

## **SCOPE**

3. My rebuttal evidence is provided in response to evidence in chief filed on 29 January 2016 by Mr Marquand on behalf of the Oil Companies.

## **EVIDENCE OF DAVID LE MARQUAND FOR Z ENERGY LIMITED, MOBIL OIL NZ LIMITED, BP OIL LIMITED (THE OIL COMPANIES)**

4. In his evidence, Mr Marquand states, in the context of construction phase stormwater discharges that "*some 'low risk' activities on contaminated or potentially contaminated land need to be permitted*". As examples of such low risk works, he cites such activities as investigation of a potential leak or repair of a pothole.
5. I agree with Mr Marquand that there is likely to be the need for minor works involving small scope land disturbance on contaminated or potentially contaminated commercial/industrial sites that should not require a resource consent. However, I consider that the relative risk of doing works on contaminated or potentially contaminated sites is a function of the extent of works, the length of time required to complete the works and the nature and severity of the site contamination. These factors make choosing a threshold under which consent is not required a difficult prospect, as they vary from site to site.

6. In my opinion, minor works requiring less than one day to complete are able to be reasonably planned for when good weather is forecast and are therefore unlikely to produce any construction-phase stormwater discharge.
7. For works that are likely to generate a stormwater discharge, an option might be for an earthworks volume trigger to be added as a condition of Rule 5.94A, under which the risk of mobilised contaminants would be considered "low" for all types of sites, as suggested in Mr Marquand's paragraph 5.17.
8. Mr Marquand references the approach taken by the PAUP (**Proposed Auckland Unitary Plan**) which sets a 200m<sup>3</sup> site threshold below which the activity is permitted. I am unclear if he is recommending that this specific threshold be adopted, and I am not familiar with the specific rule referenced in the PAUP, but for the record I consider 200m<sup>3</sup> too high to be considered "low risk" for all contaminated or potentially contaminated sites.
9. I would consider a threshold in the order of 5-10m<sup>3</sup> more appropriate, as this would cover most minor site works such as sign foundations or pothole repair. I support a threshold of no more than 10m<sup>3</sup> of total site disturbance being added to rule 5.94A - Condition 4:  
  
*4. The discharge is not from, into or onto contaminated or potentially contaminated land **where works create a total disturbed earthworks volume in excess of 10m<sup>3</sup>**; and*
10. Mr Marquand supports the restricted discretionary activity consenting pathway in 5.94C and uses this proposed rule as an example of the incongruity of the default to non-complying status in Christchurch City for operational phase discharges that do not meet the permitted activity conditions (Rule 5.97).
11. The non-complying status default for discharges within Christchurch City that do not meet the permitted activity rules was requested by Christchurch City Council (CCC) during notification of the proposed Land and Water Regional Plan. The reasoning behind this submission was to prevent developers from intentionally circumventing CCC's Stormwater Management Plans (SMP) and obtaining consent directly from CRC to discharge into the CCC's network. Such actions could jeopardise the objectives of the SMP, particularly where the local scheme relies on mitigation within a collective stormwater mitigation

facility. Non-complying status for discharges which are not given permission to discharge into the CCC's network encourages compliance with a relevant SMP. As SMPs primarily deal with operational-phase discharges, I consider it appropriate that the non-complying status exist for operational discharges but I support restricted discretionary status for construction-phase discharges which do not meet the permitted activity rules.



**Robert Brian Norton**

**19 February 2016**