

*Tabled @ Hearing  
Thursday 03.03.2016  
CRC*

**BEFORE INDEPENDENT COMMISSIONERS**

**UNDER** the Resource Management Act 1991

**IN THE MATTER** of Plan Change 4 to the Canterbury Land and Water  
Regional Plan

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**OPENING LEGAL SUBMISSIONS OF COUNSEL FOR THE CANTERBURY  
REGIONAL COUNCIL  
3 March 2016**

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## **Introduction**

1. These opening legal submissions are given to provide context for Plan Change 4 ("PC4") to the Canterbury Land and Water Regional Plan ("LWRP"). In these submissions I will provide a brief outline of:
  - (a) the rationale for PC4;
  - (b) the key amendments proposed by PC4;
  - (c) the current status of other proposed changes to the LWRP; and
  - (d) the key documents that have been prepared and filed by Council Officers following notification of PC4.

## **The Rationale for PC4**

2. The LWRP was notified in August 2012. During the development of the LWRP, it was identified that there would need to be ongoing updates, improvements and adjustments made to adapt to changing circumstances. Over the intervening 3 years, during which the notified version, then the operative (in part) version of the LWRP have been implemented, a number of issues of interpretation, clarification and potential areas for improvement have been identified.
3. PC4 (referred to as the "Omnibus Plan Change") contains changes to existing provisions, and in some instances, the addition of new provisions, to address the issues that have arisen since the LWRP was notified. The majority of the changes are relatively minor. However, some of the changes have more significance.
4. Set out below is a brief description, on a topic by topic basis, of the changes proposed by PC4.

### *Inanga spawning sites*

5. The proposed amendments to the provisions and planning maps are intended to provide greater protection to both known inanga spawning sites (according to the Inanga Spawning Database), as well as areas that are likely to be, or have the potential to be, inanga spawning areas (referred to as "Inanga Spawning Habitat"). The Inanga

Spawning Habitats have been identified by a GIS based model<sup>1</sup> that maps the areas where inanga spawning is likely to occur based on estimates of saltwater intrusion.

*Stormwater discharges*

6. PC4 modifies a number of provisions relating stormwater. PC4 seeks to amend the definition of "Reticulated stormwater system" so that it only applies to stormwater conveyed by network utility operators within urban areas, and removing the phrase "more than one property" from the definition.
7. As a result of those proposed changes, the provisions relating to Reticulated stormwater systems would not apply to rural drains and drainage systems or properties which share a stormwater system.
8. The changes also seek to transition responsibility for managing discharges into reticulated systems to the operators of those systems.
9. In addition, changes are also proposed in relation to construction phase stormwater.

*Tāngata Whenua Values*

10. PC4 proposes to introduce a new policy relating to tāngata whenua values that applies where resource consent applications are received for certain discharges.

*Group and community drinking water supplies*

11. The amendments proposed by PC4 seek to improve consistency between the LWRP definitions and other statutory documents that manage the protection of human drinking water. The proposed amendments also introduce new provisions (including policies and an additional matter of discretion) to provide an appropriate level of protection for drinking water supplies.

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<sup>1</sup> More information on the methodology of the model is provided in the report titled "Predicting inanga/whitebait spawning habitat in Canterbury" on page 43 of the Section 32 Report.

*Dewatering and Drainage Water*

12. PC4 proposes amendments to the definition of "Dewatering", "Drainage system" and "Drainage water" as well as amendments to Rules 5.75 - 5.80 to protect receiving waters from contamination originating from drainage systems.

*Bores*

13. Amendments are proposed to the definition of "Bore", as well as the suite of rules that relate to bores. The amendment to the definition seeks to clarify that, in relation to investigations, it only applies to geotechnical investigations. The amendments proposed to the rules seek to avoid duplication within the rules, address inconsistencies with other rules and between definitions and rules in the Plan.

*Surface Water Sampling and Monitoring*

14. A new rule is included to enable the installation of measuring and monitoring devices as a permitted activity.

*Vegetation and Earthworks*

15. The proposed amendments seek to introduce new provisions to protect the natural character and biodiversity values of Canterbury's braided rivers by imposing limits on the removal of vegetation from the bed of specified rivers and their riparian margins.
16. The proposed amendments also insert specific region-wide provisions relating to the removal of fine sediment from waterways. The amendments are in line with provisions established through sub-region plan-change processes (in the Hinds/Hekeao Plains Area and Selwyn – Te Waihora catchments) and do not change the way the effects of fine sediment are ultimately managed. Rather, the amendments seek to simplify the provisions that manage fine sediment from an administrative perspective.

*Gravel Extraction*

17. PC4 introduces a new policy and proposes amendments to rules to implement (and avoid duplication of) the provisions of the Canterbury Regional River Gravel Management Strategy when considering applications for resource consent to extract gravel.

*Sediment-Laden Water Discharges*

18. PC4 introduces new provisions and proposes amendments to existing provisions including definitions, policies and rules to better manage the adverse effects on water quality arising from sediment in specific discharges.

*Contaminated Land*

19. Minor amendments are proposed to provisions relating to contaminated land to improve consistency in terminology and linkages between the provisions in the LWRP.

*Stock Exclusion*

20. PC4 proposes amendments to Rule 5.68 to provide further clarity in respect of the exceptions provided for and introduces a new rule to provide certainty in respect of stock exclusion from braided rivers and artificial lakes.

*Minor amendments*

21. These amendments are classified as "general technical corrections" and do not fundamentally change the intent of the existing provisions in the LWRP. These amendments include correcting drafting errors, minor inconsistencies, omissions and duplications. For example, references to "outstanding freshwater bodies" are replaced by "high naturalness waterbody", a definition of which is also proposed to be inserted.

*Sewerage, Wastewater and Industrial and Trade Wastes*

22. Minor amendments are proposed to the definitions and provisions that relate to sewerage, wastewater, industrial and trade wastes for clarity and consistency.

*Water Takes and Water Supply Strategies*

23. The proposed changes seek to clarify the intent of the current provisions in the LWRP to ensure that the status of activities is aligned with the anticipated effects, and to rectify an unintended consequence of water takes that do not comply with the 20m setback contained in other related rules.

*Groundwater and Surface Water Limits*

24. PC4 proposes amendments to Policy 4.13 to prevent further degradation of waterbodies while recognising that those waterbodies do not currently meet the limits in Schedule 5. Amendments are also proposed to Schedule 5 to more appropriately define the mixing zone relative to the receiving environment.

**The current status of other proposed changes to the LWRP**

25. A number of changes (some, previously notified as variations), have been notified in respect of the LWRP, as follows:
- (a) Plan Change 1 (Selwyn - Te Waihora) – has now been made operative by the Council, and the changes approved have been merged into the LWRP.
  - (b) Plan Change 2 (Hinds/Hekeao) – On 4 February 2016 the Council resolved to adopt the recommendations of the Independent Hearing Commissioners, and the decisions were publicly notified on 13 February 2016. Parties have 15 working days within which to lodge an appeal (on questions of law only) following receipt of the Council's decisions. No appeals have been lodged to date, but the appeal period remains open.
  - (c) Plan Change 3 (South Coastal Canterbury) – was publicly notified on 24 April 2015. It introduces new provisions for the South Coastal Canterbury Area as a new Section 15A. The Plan Change does not make any changes to the remaining provisions for the Upper and Lower Waitaki zones. Plan Change 3 introduces changes to describe the limits, targets, timeframes and additional policies and rules to address over-allocation of water quantity and water quality for the South Coastal Canterbury Area as required by the objectives and strategic policies of the LWRP. Plan Change 3 is part heard, with the Reply Hearing scheduled to commence on the 2 May 2016.
  - (d) Plan Change 6 (Lake Forsyth / Wairewa Catchment) – was publicly notified on 6 October 2015. It seeks to amend section 10 (Banks Peninsula sub-region) of the LWRP to introduce freshwater outcomes, limits and provisions for the Lake Forsyth /

Wairewa catchment. The Plan Change also seeks to amend the LWRP Map Series (the Planning Maps) as they apply to the catchment.

- (e) Plan Change 5 (Nutrient Management / Waitaki) – was publicly notified on 13 February 2016. It introduces nutrient management provisions that will (in the future) apply on a region-wide basis. It also seeks to amend Section 15 (Waitaki sub-region) to introduce sub-region specific provisions.

**Documents filed following notification**

- 26. The following documents have been prepared and filed by the Council Officers following notification of PC4:
  - (a) Section 42A Report dated 18 December 2015 (including Errata dated 15 January 2016);
  - (b) Plan Change 4 Report (Tracked) dated 31 January 2016; and
  - (c) ECan Responses to Questions of Hearing Commissioners on Council section 42A Report

**DATED** this 3<sup>rd</sup> day of March 2016



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P A C Maw

Counsel for the Canterbury Regional Council

