

Tabled at Hearing 30/09/14

VARIATION 1 – PROPOSED CANTERBURY LAND AND WATER REGIONAL PLAN.

**COMMENTS TO THE HEARING COMMISSIONERS 30TH SEPT 2014
PURSUANT TO THE SUBMISSION DATED 18TH MARCH 2014 BY D G FOSTER.**

Background:

My submission (18/3/14) set out my rationale for supporting the proposed requirement for a Resource Consent to discharge stormwater into the Halswell River.

I further requested that consent applications should be notified, at least to affected parties.

Further Comment:

1. ECan river engineer Ross Vesey was concerned before 2008 that new developments were discharging into the Halswell River when it was already running at full capacity.
2. In the Freyberg Resource Consent Hearing CRC074090, 17/11/2008, the proposed system of tanks was not considered adequate to fully mitigate stormwater effects. The application was declined 12/2/2009
3. The decision was appealed to the Environment Court (ENV-2009-CHC-34) leading to a Court mediated settlement dated 12/6/09 between Freyberg, ECan and S.274 parties. The solution was to use a large capacity dam on adjacent land capable of **fully mitigating** stormwater effects.
4. **Full Mitigation** was defined in the mediated agreement as:

“No adverse effects from stormwater or erosion. Stormwater refers to no increase in the extent, depth or duration of flooding on properties owned by S274 parties”, and clearly the corollary from that is no stormwater added to the Halswell River until its flow is abating.

5. S.274 parties were shocked to learn that subsequently Freyberg reneged on the Court mediated settlement and was successful in obtaining a WQL7 certificate to discharge stormwater that did not require full mitigation, with detrimental implications for S.274 parties and river management. The s.274 parties met with Donald Couch and other senior ECan staff to discuss mutual concerns, and reinstatement of the resource consent procedure in relation to discharges to the Halswell River as set out in Variation 1 has been proposed as an effective solution.
6. This background provides the rationale for my support for the resource consent procedure set out in Variation 1. I have further requested that the Commissioners require that such resource consents be notified, at least to affected parties.
7. **Notified Consent:** When Freyberg was issued a WQL7 certificate, I understand the issuing officer was completely unaware of the history of the Freyberg development and the Court Mediated Agreement Freyberg had signed up to, and with staff churn, the potential is always there for staff not to be aware of the issues which adjacent landowners have to live with. If the consent applications are not notified, inequitable

outcomes are certain to result and potentially affected parties should be heard.

8. **Further Corollary:** Given that the Halswell River is at full capacity, there is a requirement that major subdivisions like Fulton Hogan's Halswell Junction Road development discharging to the Halswell River, must have first flush detention ponds with capacity to hold the increased volume of stormwater runoff from hard surface areas for 60 hours in a 2% AEP rain event. If we then consider that the equitable definition of full mitigation as far as existing landowners is concerned is that the runoff should not increase the extent frequency duration or depth of stormwater on their land, then we have a potential problem with the cumulative effect of many major developments like Fulton Hogans. The more there are, the more water will continue to be released beyond the 60 hour withholding volume with the effect that the river height will stay higher for longer after the storm peak, which will prolong the period before ponding in Lansdowne Valley can effectively discharge to the river, in contravention of existing landowners equitable rights as defined in the Freyberg case. In addition, obviously, the river is less able to cope with a resumption of rain after the first storm until all first flush withholding ponds have discharged. Clearly, if ad hoc large developments are to continue to be approved then ECan or CCC must give due consideration to cumulative effect, by increasing the capacity of the river or some other method of full mitigation. Otherwise there will be inequitable effects for other landowners.
9. Lastly, Lansdowne Valley has been identified as a ponding area.

We have owned our 4Ha block since 1969 (ie. 45 years), and acknowledge and accept its propensity to flood occasionally but we do not accept that others should cause that flooding to be worse in any way. The land is productive and we and our neighbours on the valley floor work the land. Over those 45 years, there have been many years with no flooding at all. At a guess the average over that time would be under one flood per year. The first flood in any winter season takes a rainfall event above 125mm over several days to create ponding. If it occurs in late winter, then spring absorption rates may avert subsequent flooding unless there is another significant rain event. If it occurs early in the winter season, there is more likelihood that subsequent lesser rain events will cause further flooding. We have to be aware of the issue as far as stock management is concerned. But for the most part, it is good land and can be farmed effectively. We don't want that compromised by inequitable stormwater effects from other developments. The Resource Consent process is a safer procedure for protecting the rights of all interested parties.

SUMMARY:

- 1. We support the proposal in Variation 1 to require Resource Consents in the Halswell River catchment area for stormwater discharge.**
- 2. We request that such Consent applications be notified at least to potentially affected parties.**
- 3. We further request that the cumulative effect of first-flush withholding ponds be taken into account by the issuing authority in**

calculating required capacity and discharge rates or other appropriate mitigation measures to avoid detrimental effects to downstream properties from a river recognised to be running at full capacity.

**Donald Foster,
For the D & P Foster Family Trust
30th Sept 2014**