

**Before** the Hearing Panel appointed by the  
Canterbury Regional Council

**IN THE MATTER OF** the Resource Management Act 1991

**And**

**IN THE MATTER OF** Application CRC190445 by Christchurch  
City Council for a permit to discharge  
stormwater into land and to water, and a  
coastal permit to discharge stormwater  
to coastal water, from the reticulated  
stormwater network

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**STATEMENT OF EVIDENCE OF LINDA ELIZABETH KIRK**

**For the DIRECTOR-GENERAL OF CONSERVATION**

**(Submitter #SUB031490)**

**DATED 23 October 2018**

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**Department of Conservation**  
Private Bag 4715, Christchurch 8011  
Attention: Linda Kirk  
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Counsel: S Newell

## Introduction

1. My full name is Linda Elizabeth Kirk.
2. I am employed at the Department of Conservation (DOC) in Christchurch where I have worked since 26 March 2018, providing planning advice and assistance in relation to resource consent applications and planning matters.
3. I hold a Master of Philosophy (Resource and Environmental Planning) from Massey University (2002). From the University of Canterbury, I hold a Master of Arts with Distinction (Thesis: "*Coastal Management and Planning and New Zealand*") (1994), Bachelor of Arts Second Class Honours (Division One) (1993) and Bachelor of Science (1992), all majoring in Geography.
4. I have over 20 years in experience in local government, with approximately 12 years in resource management planning and policy. I was contracted as an Environment Advisor for He Mahi Poha, the Environmental Entity for Te Rūnanga o Kaikoura (2015-2016), and Senior Environment Advisor for Te Rūnanga o Ngāi Tahu (2013-2014). I was employed by Environment Canterbury for 14 years (1999-2013), starting as a Senior Resource Management Planner in 1999-2005, and was involved in the development of the Canterbury Natural Resources Regional Plan. I held a range of senior positions at Environment Canterbury from 2005-2013 as a Portfolio/Programme Manager with oversight of five portfolios/programmes.
5. I have provided input, from a local government perspective, to the Ministry for the Environment in the development of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 and was a local government member of the NZCPS 2010 Implementation Steering Group that provided advice in the preparation of the New Zealand Coastal Policy Statement 2010 guidance notes.
6. I have been asked to prepare this evidence for the Director-General of Conservation (D-G), on application CRC190445 by Christchurch City Council for a discharge permit to discharge stormwater into land and to water and a coastal permit to discharge stormwater to coastal water from the reticulated stormwater network.

### **Code of Conduct**

7. Although this is not an Environment Court hearing, I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014 ("the Code"). I have complied with the Code when preparing my written statement of evidence.
8. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence. The reasons for my opinions are also stated.
9. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
10. DOC has authorised me to provide evidence on behalf of the D-G and to do so in an independent capacity in accordance with the Code.

### **D-G's submission**

11. The scope of this evidence is confined to the matters raised in the D-G's submission (SUB031490).
12. The submission supported in part the granting of the application, subject to conditions being imposed that would require the applicant to consult DOC in the development and review of stormwater management plans (SMPs) and SMP implementation plans, including a requirement to consult about ongoing environmental monitoring required in SMPs.
13. The D-G recognises the applicant's intention to manage the discharges of contaminants from the stormwater systems to improve water quality and appropriately manage water quantity. This is summarised as an "Adaptive Management Approach" to stormwater management in the s42A Officers' Report.

### **Stormwater Management plans**

14. The proposed activity is a non-complying activity under Rule 7.5 of the Regional Coastal Environment Plan 2012 and Rule 5.94 of the Canterbury Land and Water Plan.

15. The D-G has concerns about granting consent on the basis that SMPs which are to be formulated in future, and are based on a general intention to achieve results, without knowing or understanding how such results will be achieved or understanding the effects of the implementation of the methods used.
16. It is likely the formulation of SMPs will require the identification of site and location-specific values that exist around the stormwater infrastructure. It will also be necessary to identify, understand and address the effects of SMP implementation, including the effects of the discharge of contaminants, and of the stormwater infrastructure itself, on those values at each location throughout the Christchurch District and Banks Peninsula.
17. Where SMPs are yet to be developed, DOC has a particular interest in effects on, and benefits for, indigenous freshwater fish species and their habitats on Banks Peninsula.
18. The Canterbury Land and Water Regional Plan Activity & Resource Policy 4.15(b)<sup>1</sup> seeks for stormwater discharges to avoid adverse effects by “*stormwater being discharged in accordance with a stormwater management plan, where one has been consented*”. This implies that SMPs are developed and able to be considered as a component of the application for resource consent. That process would likely enable the D-G to raise any issues with a SMP at the time of processing the consent.
19. However, in this application, the proposal to develop SMPs after consent is granted means there is a lack of opportunity for the D-G to contribute to the development of

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<sup>1</sup> Canterbury Land and Water Regional Plan - Activity and Resource Policies - *Stormwater and community wastewater systems*

4.15 In urban areas, the adverse effects on water quality, aquatic ecosystems, existing uses and values of water and public health from the cumulative effects of sewage, wastewater, industrial or trade waste or stormwater discharges are avoided by:

- (a) all sewage, industrial or trade waste being discharged into a reticulated system, where available;
- (ab) all stormwater being discharged to land or into reticulated system, where a reticulated system is available;
- (b) all stormwater being discharged in accordance with a stormwater management plan, where one has been consented;
- (c) the implementation of contingency measures to minimise the risk of a discharge from a wastewater reticulation system to surface water in the event of a system failure or overloading of the system beyond its design capacity; and
- (d) any reticulated stormwater or wastewater system installed after 11 August 2012 is designed and managed to avoid sewage discharge into surface water.

(source: page 56-57 of the Canterbury Land and Water Regional Plan)

SMPs or raise any concerns about the content of them at the time of the consent application.

20. The absence of a requirement for consultation with DOC specifically in the development of the SMPs and their associated implementation plans, and the lack of a requirement to provide DOC with environmental monitoring reports, raises concern about potential effects on indigenous biodiversity and how those effects are to be managed.
21. This is of concern as DOC has statutory responsibilities for conservation/ environmental matters both on land and in the coastal marine area. It is the coastal environment that is the ultimate receiving environment for most stormwater discharges, which eventually drain to estuaries and the open coast.

#### **New Zealand Coastal Policy Statement and Freshwater Fisheries Regulations - consultation**

22. The New Zealand Coastal Policy Statement 2010 (NZCPS) is a statutory document under the Resource Management Act 1991 (RMA). It is prepared by DOC and approved by the Minister of Conservation. DOC has a role in administering the NZCPS on behalf of the Minister of Conservation.
23. The NZCPS is one of the matters listed in section 104(b) of the RMA which the consent authority must have regard to when considering an application for a resource consent.
24. The consent authority must also have regard to any relevant provisions of other regulations. In this case, provisions of the Freshwater Fisheries Regulations 1983, which include requirements to provide for fish passage, are likely to be relevant, at least in some elements of SMPs.
25. From a planning perspective, I consider that a requirement to consult DOC about the development and review of SMPs is likely to be an efficient and effective mechanism to ensure DOC can contribute its specialist technical advice at the time of development and review of the SMPs. It should also ensure that relevant provisions of the NZCPS and Freshwater Fisheries Regulations 1983 are not overlooked.

26. I agree with the conclusions in paragraph 200 of the s42A Officers' Report, that the applicant's proposal for SMP development leaves uncertainties around how recommendations from members of the public or stakeholders will be heard and responded to.
27. I agree with the statement at paragraph 201 of the s42A Officer's Report, in which the Officer considers that consultation throughout the development and review processes for SMPs (and other resource consent related documents) is reasonable and notes that proposed condition (7) could be amended to include some of the groups to be consulted (such as DOC), should the Hearing Panel agree. In accordance with the Officer's opinion, I consider that it is appropriate to include a specific condition(s) requiring consultation with DOC regarding the development of SMPs, SMP implementation plans, the review of SMPs, and ongoing environmental monitoring.
28. Non-statutory collaborative initiatives for the development and structure of the various committees are referred to in the resource consent application, such as Zone Committees and the SWiM Committee. DOC is unable to rely on non-statutory entities as a mechanism to carry out its statutory roles and provide its specialist technical advice in relation to environmental effects and giving effect to the NZCPS on this resource consent proposal. I consider that the appropriate mechanism to enable DOC to carry out its statutory functions is by having specific conditions on the resource consent to require consultation with DOC regarding the development of SMPs, SMP implementation plans, the review of SMPs, and ongoing environmental monitoring.
29. In my opinion, an adaptive management approach and likelihood of frequent amendments to SMPs means a requirement to consult DOC is desirable as an additional means of ensuring the adaptive management approach will be effective, and that un-anticipated consequences (such as impeding fish passage or damaging spawning sites) can be avoided.

## **Conclusion**

30. In conclusion, if the Hearing Panel is of mind to grant the consent, I consider that it would be reasonable to impose conditions, as appropriate, to require consultation with the Department of Conservation (DOC) in the development of stormwater

management plans (SMPs), SMP implementation plans, and the review of those SMPs, including the ongoing environmental monitoring as a result of the SMPs.

A handwritten signature in blue ink, appearing to read "L. Kirk".

L Kirk

23 October 2018