

Before the Environment Canterbury Hearings Panel

in the matter of Christchurch City Council Catchment Management Plan

and

in the matter of a submission on a resource consent application by the Christchurch City Council – Comprehensive Stormwater Network Discharge CRC190445

between New Zealand Steel Ltd

and Christchurch City Council

October 2018

Statement of primary evidence of **Andrea Rickard** on behalf of **New Zealand Steel Limited**

Dated: October 2018

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**STATEMENT OF PRIMARY EVIDENCE OF ANDREA RICKARD ON
BEHALF OF NEW ZEALAND STEEL LIMITED**

October 2018

INTRODUCTION

- 1 My full name is Andrea Judith Rickard. I am a Planner and hold the position of Senior Technical Director and Technical Fellow at Beca Limited. I hold a Bachelor of Arts majoring in Geography and a Bachelor of Planning (honours), both from the University of Auckland. I am a full member of the New Zealand Planning Institute. A career summary is attached as Attachment A.
- 2 I have practised as a planner for 24 years. During that period I have undertaken a wide range of planning projects including strategic planning, plan changes and land use and development consenting around New Zealand.
- 3 I have read the evidence of some witnesses¹ that is relevant to this NZ Steel's submission on the Christchurch City Council – Comprehensive Stormwater Network Discharge, and have read the officers' report.
- 4 I have been engaged by New Zealand Steel Limited (NZ Steel) to provide planning advice over more than a decade on a variety of statutory planning processes including the Auckland Unitary Plan, various resource consent applications and strategy documents around the country. I therefore have a broad understanding of the nature of NZ Steel's operations. A background and overview to the NZ Steel business is provided in the further submission.
- 5 I have read the Environment Court's Code of Conduct for Expert Witnesses, including amendments. I agree to comply with this Code. I confirm that the issues addressed in this statement of

¹ S.42A Report, S.42A report Appendices 5, 6, 7; Evidence of Brian Norton, Belinda Margetts, David Adamson, Eric van Nieuwerkerk, Jane West.

evidence are within my area of expertise and I have not omitted to consider any material facts known to me that might alter or detract from my opinions expressed in this statement. In this light, I note that whilst I am presenting planning evidence, I have not sought to undertake a comprehensive statutory planning analysis of the relevant provisions in the statutory documents, including National and Regional Policy Statements and the Regional Plan. Rather, I have focused on workable outcomes (including conditions) in the event that the applications were to be granted consent by the Hearings Panel.

BACKGROUND

- 6 Both NZ Steel as a company, and the products it makes, provide significant contributions toward the social and economic wellbeing, and the health and safety of New Zealand's communities through the provision of infrastructure and by contributing to numerous industrial and commercial activities. It is my view that this is an important contribution to New Zealand that is relevant in a RMA context.

- 7 As discussed in the submission, NZ Steel has been working closely with Auckland Council on the topic of zinc and water quality for some years. This is also an issue that has arisen in other regions around the country. After market misconceptions of roofing and cladding products containing zinc arose in relation to a study² by the (then) Auckland Regional Council (ARC) linking unpainted zinc/aluminium materials to high risk (for release of contaminants), NZ Steel worked with the ARC to develop a greater understanding about its products. NZ Steel has continued to work with Councils around New Zealand on an ongoing basis to enhance understanding of its products and environmental performance, including Christchurch City Council. In particular, NZ Steel maintains an interest in how this issue is addressed through

² *Study of Roof Runoff Quality in Auckland, NZ: Implications for Stormwater Management*, Auckland Regional Council 2004

statutory planning provisions including policy and through resource consent outcomes.

- 8 I was involved in the Auckland Unitary Plan hearings process where NZ Steel presented evidence, including in relation to the water quality topic and the zinc issue. For the benefit of the Hearings Panel, I have attached the Auckland Unitary Plan Independent Hearings Panel's findings on the matter (Attachment B).
- 9 My experience is that there have been a range of approaches taken to planning provisions around the country. In my view, there have been a number of instances where the Council approach has been problematic from a planning perspective. These have included instances where:
 - 9.1 Councils have sought to limit or control metal building products either through policy and rules, or under resource consents, noting that in some instances the process has worked well in terms of identifying and managing specific issues based on research and practical understanding;
 - 9.2 environmental guidelines (such as ANZECC Water Quality Guidelines) have been adopted within a rule-like framework;
 - 9.3 an additional non-statutory process has been adopted such as future management plans as part of network discharge consents without sufficient clarity about how these will be developed and implemented and which stakeholders will be involved; or
 - 9.4 there is little or no clear evidence of a linkage between relative sources of contaminants and their actual and potential environmental effects.
- 10 As an overarching point in relation to this application, I consider it to be inequitable for specific building products to be targeted for controls through a planning process, when there are many other

sources of zinc in the environment, and many existing sources (e.g. existing buildings and infrastructure, zinc anodes) that are not proposed for control or management.

ISSUES RAISED

Use of Stormwater Management Plans

- 11 My understanding is that the approach the Christchurch City Council's has taken with its application is that it would use Stormwater Management Plans (SMPs) to give effect to the consent conditions (if consent is granted). The conditions are effectively the legacy of any decision to grant a consent, and fulfilling the requirements of those conditions is the method to continue to manage effects on the environment associated with the consent.
- 12 This means that the SMPs, which are required by the consent conditions, would be a key method to continue to manage effects for the duration of the consents. My understanding is that the SMPs will be "living" documents (i.e. they will be iterative over time and can be changed by going through a process with the regulatory authority). This means they will be very influential in terms of how the consents are given effect to, and the Council (as consent holder) will have a high degree of control over the contents of the SMPs and the methods within them. That said, it is my understanding, and experience, that management plans of this nature are complex and time-consuming to produce, and this can mean the appetite to regularly review and improve then is reduced. This makes it all the more important to get them right using accurate inputs.
- 13 In paragraph 197 of the evidence of Mr Norton, it is suggested that NZ Steel's desire for consultation through the development of SMPs and implementation plans is best achieved through existing forums such as Zone Committees. In my view this is problematic because the Zone Committees are not the consent holder, and nor

do they have an apparent statutory standing. It will be up to the Zone Committees themselves to decide on public input into any draft management or implementation plan provided to it by the consent holder, and this input may (or may not) include NZ Steel. It is my view that NZ Steel can have little confidence that views would be taken into account via the process set out in the evidence of Mr Norton.

- 14 The evidence of Mr Norton states that further evidence on this matter is provided in the evidence of Mr Adamson or Mr Harrington. However, both briefs effectively re-state the same position.
- 15 In my view, the general approach taken by Council has the potential to create uncertainty for users of the SMPs, and for there to be limited recourse to challenge if the SMPs contain information or processes that others might disagree with. With respect to the matters of interest to NZ Steel, if there is potential for ongoing misconceptions about metal building products to be incorporated into SMPs in a way that is not clearly linked to actual or potential effects and in a manner that may not have the desired environmental outcomes.
- 16 Mr Black has set out some of the overarching background in his evidence, including the processes NZ Steel follows in its research and development of products specifically in relation to environmental effects of its products, and I draw on his evidence in my own assessment. On the basis of his evidence, it is my view that there needs to be a more careful and considered approach taken than the more blanket approach proposed by Council in suggesting what is effectively “source control” for certain metal building products (i.e. by controlling their use) and not for some other potential sources of zinc.
- 17 In relation to the iterative process for development of SMPs, there appears to be a degree of detailed reliance on the Contaminant Load Model (CLM) to assist Council in understanding effects from

stormwater runoff and treatment device efficacy over time, and that this will in turn inform the formulation of the SMPs and determine achievement of detailed load reduction targets. As set out in the evidence of Mr Cameron, it is unclear how, in fact, the CLM and its outputs could be analysed and interpreted in order to achieve this level of detailed information on current and future loads, and predicted effects, to then inform the SMPs, particularly in relation to the effects on a specific receiving environment. This raises a question as to how, from a planning perspective, SMPs will reasonably be used as a planning tool to manage environmental effects in relation to zinc.

Implementation through resource consent, building consent and other requirements

- 18 In addition to the issues I raise in relation to SMPs, there also appears to be an inference that future (and in some cases existing) activities may require resource consents on the basis of matters related to water quality. This is based on a reference to a table in the Canterbury Land and Water Regional Plan (LWRP)³ (as set out in the application documents). However Mr Norton's evidence states (at para 200) that this consent does not require the need for any other consent. From my read, this is not correct. In my view, it would be beneficial for the Hearing Committee to understand how additional requirements (as part of the implementation of this consent) would be exercised without any other form of approval, and I am of the view that (in the absence of that information) there

³ Schedule 3 specifically recognises that consent under the LWRP may in fact be required, as set out below: *"This table indicates minimum requirements to enable discharges under this consent from greenfield developments and re-developments in areas not yet covered by a Stormwater Management Plan. Until 1 January 2025, for any development where the Christchurch City Council (CCC) considers there are factors that require Canterbury Regional Council input it can choose to not accept a proposed discharge to its network, and therefore a consent from the Regional Council would be required. The CCC may also require a higher standard than is represented in the table below in order to mitigate effects on the network or if any special conditions exist."*

is uncertainty as to how an individual building or lot owner could comply in the face of this uncertainty.

- 19 A key point of NZ Steel’s submission, and a concern that I share, is that this consent provides little certainty that ad hoc decisions wouldn’t be made under this consent and result in pressure on individual building owners to use different (as yet unspecified) materials to further reduce zinc loadings. I understand that NZ Steel has had first-hand experience of this confusion in the processing of building consents / Project Information Memoranda by the City Council where annotations have been added by Council specifying limitation on use of metal products.

Linkage to NPSFM

- 20 Lastly, it is also unclear to me how any updates to the LWRP – for example in response to changes to the National Policy Statement Freshwater Management (NPSFM) requirements – would influence or change the SMPs, and what would happen if they were either already in place or being developed. It is also unclear how the Council has had regard to the NPSFM and, in particular, the approach which seeks to recognise regional and local circumstances, and the process of having discussions with communities and coming up with solutions on a catchment by catchment basis. In my view, this provision set (which was included in the NPSFM in 2017) would reasonably include a range of parties such as NZ Steel that have an interest in, and specialist knowledge of, matters that relate to actual and potential effects on freshwater quality alongside related social and economic matters.

RELIEF SOUGHT

- 21 Should the applications be granted:
- 21.1 Amend the Conditions (including Condition 7) to require involvement of NZ Steel in development of SMPs

Andrea Rickard
October 2018

Attachment A Career Summary – Andrea Rickard

Career Summary	<p>2014 – Present: Beca Limited, Technical Fellow – Advisory</p> <p>2009 – Present: Beca Limited, Senior Technical Director</p> <p>2001 – 2009: Tonkin & Taylor Limited, Principal Planner</p> <p>1998 – 2001: Resource Management Solutions (RMS) Limited</p> <p>1996 – 1998: Harrison Grierson Consultants Limited, Senior Planner</p> <p>1994 – 1996: Auckland City Council, Planner</p>
Qualifications	<p>n Bachelor of Arts (geography) – University of Auckland</p> <p>n Bachelor of Planning (hons) – University of Auckland</p>
Memberships and Affiliations	<p>n NZ Planning Institute – full member</p> <p>n Member Resource Management Law Association; Elected National Executive/Committee Member 2011-2018</p> <p>n Member NZ Coastal Society</p>
Competencies / Areas of Work	<p>n Consenting Strategy</p> <p>n Managing major designation and consent projects including coordinating specialist inputs</p> <p>n Statutory planning, policy analysis and advice</p> <p>n Regional/Environmental consenting</p> <ul style="list-style-type: none"> - Coastal permits - Air discharge permits, new and replacement - Discharge permits including industrial and trade processes (including consenting NZ Steel's new landfill) - Water permits: use, groundwater, surface water <p>n Consultation and Stakeholder Engagement and Communications Strategy</p> <p>n Hearing evidence/Expert witness – Council, Courts, Board of Inquiry</p> <p>n Environmental Management Systems and Processes</p> <ul style="list-style-type: none"> - Corporate - Major construction alliances / project delivery

Attachment B

**Auckland Unitary Plan Independent Hearings Panel
Recommendation**

this size (up to 1,000m²) over the Auckland Isthmus these would equate to 0.3% of the existing road area and 0.03% of the total land area. This demonstrates that the area of road and land potentially affected is very small.

The provisions have been changed to reflect the Panel's recommendations.

17. High contaminating activities (049)

17.1. Statement of issue

The proposed Auckland Unitary Plan contains a definition and provisions relating to high contaminating activities. It includes three components:

- i. high contaminant car park;
- ii. high contaminant-yielding building materials; and
- iii. high use roads

With respect to high contaminant car parks, the main submitter who raised issues was Mr Le Marquand, expert planner for Z Energy Limited, BP Oil Company Limited, Mobil Oil NZ Limited and Wiri Oil Services Limited. While the need for the provision was questioned, Mr Le Marquand and the Council essentially agreed on a revised definition. In Council's closing statement, the Council considered that the changes clarified the definition but did not change the substantive effect of the definition and rule.

17.2. Panel recommendation and reasons

With respect to high contaminant-yielding building materials, the Panel has recommended that this be deleted. The Panel preferred the evidence of New Zealand Steel (Mr Shedden - engineering, Dr Ogilvie - ecology and Ms Rickard - planning) to that of the Council.

In summary the Panel agrees with Ms Rickard's evidence in chief, (summary paragraph C), which states:

My evidence addresses my view that the provisions for stormwater management as they relate to High Contaminant-Yielding Building Materials:

Do not respond to any demonstrated adverse effect experienced within the receiving environment, and are therefore not necessary, reasonable or appropriate in terms of the RMA;

Are unnecessarily complex, hard to understand, and open to variable interpretation;

Do not represent, to my knowledge, an approach that has been used anywhere else in the world;

Seek to effectively apply ANZECC "ambient" water quality guidelines at the "top of pipe", rather than in a receiving environment which is where they are designed to be applied, and after reasonable mixing;

Would require individual site-based approaches to stormwater quality management; C.6 could potentially deter people from using certain building products, including

some of the more cost-effective and efficient products available; and C.7 are unlikely to achieve notable beneficial outcomes from a wider planning and environmental perspective.

and D:

I also consider it to be inequitable for specific building products to be targeted for planning controls when there are many other sources of zinc in the environment. Further to this, it is unclear from the Council evidence and background information as to the overarching environmental effect (or problem) that the rules are seeking to manage. In short, it is not clear why zinc, at the levels being experienced in Auckland, is considered to be a problem that warrants this rule framework.

Ms Rickard also set out her opinion in her summary statement at the hearing, with which the Panel agrees.

From an overarching planning perspective, and taking into account the goals of the Auckland Plan and the PAUP, my view is that there is a reasonable expectation that demand for development, an increasing focus on intensification within the existing urban limits, and the redevelopment of existing urban sites, may also result in a quicker reduction. For example, there are a lot of older industrial fringe areas and older residential areas that may experience pressure from new intensification and development. If demand for housing continues to increase, then the old roofs get replaced with the newer products with lower discharge rates. That happens without PAUP "zinc rules". In short, my view is that you can have all the rules you like, that would not address the presence of older, poorer performing materials. (paragraph 6) - emphasis added.

Overall, I am not convinced that there is any demonstrated link between the discharge of zinc from building products, environmental effects, and therefore the PAUP provisions proposed, and that the Council's proposed provisions are overly complex and likely to be difficult to apply. In particular, I consider it is important to recognise that there are positive changes occurring without the need for further regulation such as these provisions (paragraph 14).

The issue of high use roads was raised by the New Zealand Transport Agency. Their concern was the provisions that relate to high use roads. These have been addressed in the sections of this report above.

18. Consequential changes

18.1. Changes to other parts of the plan

There are no consequential changes to other parts of the Plan as a result of the Panel's recommendations on this topic.

18.2. Changes to provisions in this topic

There are no changes to provisions in this topic as a result of the Panel's recommendations on other hearing topics.