

BEFORE THE CANTERBURY REGIONAL COUNCIL

UNDER THE

Resource Management Act 1991

And

IN THE MATTER OF

Application CRC190445 by Christchurch City Council for a comprehensive resource consent to discharge stormwater from within the Christchurch City area and Banks Peninsula settlements on or into land, into water and into coastal environments

EVIDENCE SUMMARY OF LINDA ELIZABETH KIRK

For the DIRECTOR-GENERAL OF CONSERVATION

(Submitter #SUB031490)

DATED 9 November 2018

Department of Conservation
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Introduction

1. My name is Linda Elizabeth Kirk. This is a summary of the key points of my evidence, highlighting areas of agreement and disagreement between my opinion and that expressed by other experts who have provided evidence on the same topic.

Summary of Evidence

2. My evidence provides a general overview of the Department of Conservation's (DOC) statutory interests and responsibilities in indigenous freshwater biodiversity and coastal environments.
3. The Director-General of Conservation (D-G) seeks that the Applicant consults DOC in the development and review of stormwater management plans (SMP) and SMP implementation plans, including a requirement to consult about ongoing environmental monitoring required in SMPs.
4. In my opinion, I consider that consultation with DOC in 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.
5. I consider that such consultation supports the adaptive management approach being undertaken by the Applicant and that un-anticipated consequences (such as impeding fish passage or damaging spawning sites) can be avoided and that relevant provisions of the New Zealand Coastal Policy Statement 2010 and Freshwater Fisheries Regulations 1983 are not overlooked.
6. The D-G submitted on several other matters as well. These included:
 - a) Supporting non-infrastructure measures and seeking the addition of "industrial behaviour change" to the list of non-infrastructure measures.
 - b) Providing certainty with respect to the ongoing management of the proposal to transfer the stormwater consents from Canterbury Regional Council to Christchurch City Council in 2025, including "high risk sites" and "Schedule 1" sites;

- c) Requiring the Contaminant Load Model is run based on the specific conditions of the different river catchments for each SMP; and
- d) Require monitoring and reporting of *E. coli*, nitrate, ammonia, dissolved oxygen and any others to be consistent with the National Policy Statement for Freshwater Management 2017.

DOC Consultation in SMPs, Implementation Plans and Environmental Reporting

Agreement with Expert Opinion

7. I refer to the rebuttal evidence of David Page Adamson and Jane Susan West given on behalf of the Applicant.
8. At paragraphs 6 and 10 respectively of Mr Adamson's and Ms West's rebuttal evidence, I thank them both for the recognition of DOC's statutory functions and responsibilities and its "unique embedded knowledge gained from their responsibilities across the country". As Ms West stated, "DOC...has the potential to provide additional expertise and overview regarding the development and review of SMPs".
9. I support Mr Adamson's proposal for a condition that the Applicant will engage with DOC during the preparation and review of the SMPs required under this consent. Ms West has also agreed with that suggestion (rebuttal evidence, paragraph 10).
10. As such, I support the amended proposed Condition 7 in the "CSNDC Applicant's Conditions 5th November 2018".
11. A consequential amendment (in green) to proposed Condition 4 is also required to provide consistency in the consent conditions, as follows:

"The consent holder shall, in consultation with papatipu rūnanga, the Department of Conservation, and the Christchurch-West Melton and Banks Peninsula Zone Committees (or successor organisations), develop, and as necessary update Stormwater Management Plans (SMPs) in accordance with the programme set out in Table 1 and submit each SMP to Canterbury Regional Council for certification that it contains the matters required by condition 6 and is consistent with the purpose of SMPs in condition 5. Certification will be by the RMA Compliance and Enforcement Manager of the Canterbury Regional Council."

12. Proposed Conditions 4 (as amended in paragraph 10 above) and 7 above support 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, if the Hearing Panel agrees.

Disagreement with Expert Opinion

13. I refer to the pre-circulated, rebuttal and summary evidence of Mr Adamson, Ms West, and Helen Mary Beaumont given on behalf of the Applicant.
14. The D-G sought that DOC is consulted in the preparation of the Implementation Plans for the SMPs, and to receive environmental reporting. It is important for DOC to encourage the implementation of the New Zealand Fish Passage Guidelines and to ensure that the Implementation Plans of the SMPs do this. Both existing and new stormwater infrastructure need to enable fish passage as appropriate, as well as consideration of the timing and location of any works that are undertaken, so as to minimise adverse effects on indigenous freshwater biodiversity.
15. At paragraph 9 of Mr Adamson's rebuttal evidence, he supports Ms West's comments in paragraph 11 of her rebuttal evidence. Here Ms West does not consider that there would be any added value for DOC involvement in implementation plans and that as annual reporting of monitoring results will be available on the Applicant's website, it is not necessary for DOC to receive these as part of consent conditions.
16. At paragraph 216 of Ms West's pre-circulated evidence, Ms West considers that fish passage is "a matter that will be relevant if and when Council proposes to locate infrastructure within waterways, at which time the effects of that will need to be appropriately addressed".
17. In Ms Beaumont's evidence (paragraphs 41-42), it is clear that the "Infrastructure Design Standard" requires the implementation of the New Zealand Fish Passage Guidelines as follows:

“Infrastructure Design Standards

41. *The Infrastructure Design Standard (IDS), sets the standards for public infrastructure in the disciplines of roads, three waters, parks and open space. It is updated regularly to ensure best practice and to align with the Councils Strategic Priorities, such as healthy waterways. The next version, to be released in October 2018, requires the implementation of the New Zealand Fish Passage Guidelines.*

42. *Council is a member of the New Zealand Fish Passage Advisory Group that created the New Zealand Fish Passage Guidelines that were released in April 2018. Council has adopted these guidelines and is working with Department of Conservation, Environment Canterbury and others to create a programme to educate practitioners in the use of the guidelines.”*

18. In my opinion, as DOC has technical expertise in indigenous freshwater biodiversity, it would be more efficient if DOC is consulted about how the New Zealand Fish Passage Guidelines (and any other conservation matters that may arise on a site-specific nature) are applied for the existing and future stormwater infrastructure, not only in the development and review of the SMPs, but also in the development of the associated implementation plans. The implementation plan is where the technical detail would lie such as the construction of fish passage and culverts at specific sites and DOC’s technical expertise would be beneficial at this time where there is indigenous freshwater biodiversity management required. This approach would support the Applicant’s best practice initiatives, adoption of the New Zealand Fish Passage Guidelines in its Infrastructure Design Standards, and its strategic priorities, such as healthy waterways.

19. Proposed Condition 13(a) states that the Implementation Plan shall include “*a list and map of proposed stormwater mitigation methods and devices*”. As DOC has technical expertise in indigenous freshwater biodiversity and what methods and devices may be appropriate on a site-specific nature, I consider it is appropriate to have a condition of consent requiring the consent holder to undertake consultation or engagement with DOC in developing this list and map of proposed stormwater mitigation methods and devices. Therefore, I suggest the inclusion of DOC (in green) in proposed Condition 12 as follows:

“The purpose of an Implementation Plan is to give effect to SMPs and to include the matters set out in condition 13. An Implementation Plan shall be:

a. prepared by the consent holder, through engagement with the Department of Conservation, and papatipu rūnanga under condition 15(a), after 12 months but no more than 18 months after this consent commences; and ...”

20. In my opinion, DOC should be provided a copy of the annual report, or at least notified or advised when the annual environmental monitoring reports is available on the Applicant’s website. This would enable DOC to review the reports in a timely manner so as to enable better engagement in the development and review of SMPs. This would further support proposed Condition 6(h) as it requires the “*interpretation of environmental and cultural monitoring and how this information has been used ...*” as well as proposed Condition 6(o) of how the feedback of Condition 7 (which includes consultation with DOC) has been incorporated into the SMP.

21. I suggest, if the Hearing Panel considers it appropriate, to amend (in green) proposed Condition 53 as follows:

“The consent holder shall provide an annual report to the Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager, Banks Peninsula and Christchurch-West Melton Zone Committees, and papatipu rūnanga (via Mahaanui Kurataiao Ltd) by 30 June each year. This report will also be made available on the Christchurch City Council website and the Department of Conservation shall be notified of its availability. The report shall include, where appropriate: ...”

Other Matters Raised in D-G’s Submission

22. It appears that other matters raised in the D-G’s submission have been addressed either through the recommendations of the s42A Officers’ Report or from the Applicant’s evidence.

23. For the sake of completeness, the following matters are identified where they have been addressed.

Non-infrastructure Measures

24. I refer to the proposed Draft Conditions of the Applicant, dated 5th November 2018.
25. The D-G supported non-infrastructure measures and sought the addition of “industrial behaviour change” to the list of non-infrastructure measures.
26. This measure has been proposed in the Applicant’s draft conditions under “Communication, Education and Awareness” (page 24). This suggestion is supported as this action encourages behaviour change to reduce industrial contaminants at source.

“High Risk Sites”

27. I refer to the proposed Draft Conditions of the Applicant, dated 5th November 2018.
28. The D-G sought more certainty with respect to the ongoing management of the proposal to transfer the stormwater consents from Canterbury Regional Council to Christchurch City Council in 2025, including “high risk sites” and “Schedule 1” sites.
29. The Applicant has proposed to amend Condition 41 – “Industrial Site Management” to provide more involvement and certainty in this process, and to reflect the s42A Officers’ Report recommendation for the ability to add more “high risk sites” to “Schedule 1” after 1 January 2025. This approach is supported.

Contaminant Load Model

30. I refer to the statement of evidence of Paul Cameron Kennedy given on behalf of the Applicant.
31. The D-G sought that the Contaminant Load Model (CLM) is run based on the specific conditions of the different river catchments, for each SMP.
32. Mr Kennedy clarified that each river catchment is dealt with independently within the CLM and specific model outputs can be derived for each as required (paragraph 60).
33. However, I note there has been considerable discussion in the s42A Officer’s Report and following statements of evidence with respect to the CLM and how it is applied.

This is outside my area of expertise. In summary, what is sought by the D-G is assurance that the model that is to be used in this proposal is suitable for each SMP.

Monitoring and Reporting of Contaminants

34. I refer to the s42A Officers' Report, the statement of evidence of Mr Kennedy given on behalf of the Applicant, and the proposed Draft Conditions of the Applicant, dated 5th November 2018.
35. The D-G sought to require monitoring and reporting of *E. coli*, nitrate, ammonia, dissolved oxygen and any others to be consistent with the National Policy Statement for Freshwater Management 2017 (NPSFM).
36. At paragraph 499, the s42A Officers' Report clearly states what is being monitored [and therefore will be reported] and appears to meet the NPSFM. Therefore, the recommendations of the s42A Officers' Report are supported (paragraphs 498-505).
37. In addition, Mr Kennedy understands that the monitoring programme provides for the inclusion of all relevant constituents (paragraph 61). This is supported.
38. I note that the Applicant has also suggested amending the proposed Consent Condition 51(b) to include *E. coli* in the "Responses to Monitoring" section. This is supported.

Conclusion

39. 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.
40. In addition to the above, how the other matters raised by the D-G have been proposed to be addressed are supported.



L Kirk

9 November 2018