

Before Independent Commissioners Appointed by the Canterbury Regional Council

In the matter of The Resource Management Act 1991

And

In the matter of Proposed Plan Change 7 to the Canterbury Land
and Water Plan

And

In the matter of A submission by the Isaac Conservation and Wildlife
Trust on Map B-C05 - Indigenous Freshwater
Species Habitat

**MEMORANDUM OF COUNSEL FOR THE ISAAC CONSERVATION AND
WILDLIFE TRUST AS TO THE EVIDENCE OF MS ANITA SPENCER**

DATED: 11 SEPTEMBER 2020

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MAY IT PLEASE THE COMMISSIONERS:

1. This Memorandum is filed on behalf of The Isaac Conservation and Wildlife Trust¹ (**Trust**). It relates to that part of the Trust's submission concerned with identification of Indigenous Freshwater Species Habitat (**IFSH**) within the Trust's landholding.
2. The purpose of this Memorandum is to respectfully request leave for Ms Anita Spencer (a witness called by the Director-General of Conservation (**Director-General**)) to appear with the Trust's other witnesses² at the hearing. The reasons for the request are set out below. Through the Department of Conservation (**DOC**), the Director-General has agreed to Ms Spencer appearing as part of the Trust's case, as well as its own case.

Context for the request

3. By way of context, the Trust's original submission on IFSH:
 - (a) Opposed identification of IFSH within the Peacock Springs area of the Trust's landholding (as shown in proposed Map B-C05); and
 - (b) Sought (relevantly) the following relief:
 - (i) *Delete the Indigenous Freshwater Species Habitats identified within Lot 1 DP36807, Lot 1 DP34362 and Lot 1 DP21725; and*
 - (ii) *Such further or other consequential relief, to the identified provisions or to other provisions under the Proposal as may be necessary to give full effect to the relief sought in this submission;*
and
 - (c) Provided (summarily) the following reasons for its submission on this point:
 - (i) The mudfish colonies – which are the reason for the IFSH notation – have been established and maintained by the Trust, in collaboration with DOC. The colonies are not natural;

¹ Submitter ID 371

² Kim Seaton (Planning) and Shelley McMurtrie (Aquatic Ecologist – Salmon Spawning Habitat).

- (ii) The mudfish colonies are a valued part of the Trust's conservation efforts;
 - (iii) The mudfish colonies require active management to flourish. Active management can include, for example, relocation if water quality or water quantity changes render current habitats less suitable; and
 - (iv) The IFSH notation could unnecessarily restrict the Trust's ability to continue active management of its mudfish colonies, without obtaining resource consents to do so.
4. This aspect of the Trust's submission is addressed in:
- (a) Paragraphs 17 to 34 and 43(a) and (b) of Ms Seaton's evidence; and
 - (b) The evidence of Ms Spencer³.

Ms Spencer's evidence

5. Ms Spencer describes the "Purpose and Scope" of her evidence at paragraphs 6 and 7. For ease of reference, the full text of this part of her evidence is reproduced below:

Purpose and Scope

6 *The purpose of my evidence is to provide the hearing panel with information about the captive population of Canterbury mudfish and the management of that population within the Trust's holdings at Peacock Springs. This is in the context of concerns it is understood the Trust may hold regarding how PC7 could impact on their conservation related activities at Peacock Springs.*

7 *My evidence covers the following matters:*

- (a) A brief overview of the Canterbury mudfish;*
- (b) A description of the Trust's mudfish population;*
- (c) A description of the management of that population by DOC and Isaacs;*
and
- (d) Conclusions.*

6. Ms Spencer's expert evidence is relied upon by the Trust (in support of its case for amendment of Map B-C05) and Ms Seaton (in forming her expert

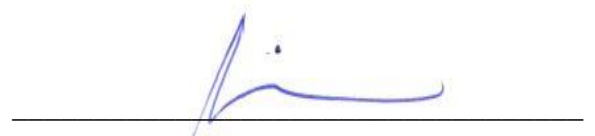
³ Evidence of Anita Spencer on behalf of the Director-General of Conservation (17 July 2020)

opinion on the plan provisions at issue). The Trust had initially understood Ms Spencer's evidence would be formally filed by the Trust – either alone or jointly. As it eventuated, the evidence was filed for the Director-General only.

Request for leave

7. Upon receiving advice Ms Spencer's written evidence would not be filed by the Trust (either wholly or in part), the Trust sought DOC's agreement that the two parties would arrange for a common appearance date. This has been done. Both parties are scheduled to be heard on 2 October with the Trust to appear immediately after DOC.
8. The Trust also sought DOC's agreement to Ms Spencer remaining after DOC's case, in order to appear with the Trust's witnesses. This will afford Ms Spencer, Ms Seaton and the Panel opportunity to explore the issue of mudfish colonies within the Trust's landholdings, during presentation of the Trust's submission – being the subject-matter of Ms Spencer's technical evidence.
9. The Trust makes this request prior to its scheduled appearance to minimise any inconvenience, disruption or confusion the proposed approach may cause on the day.
10. As such, the Trust respectfully seeks leave for Ms Spencer to appear with its two other witnesses at the hearing.

Dated this 11th day of September 2020



A C Limmer

Counsel for the Isaac Conservation and Wildlife Trust (Submitter 371)