

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

ENV-2020-CHC-127

UNDER the Resource Management Act 1991 (RMA)

IN THE MATTER of the Water Permits Plan Change - Plan Change 7, being part of a proposal of national significance directed by the Minister for the Environment to be referred to the Environment Court under section 142(2)(b) of the RMA

AND

IN THE MATTER of an application under section 149T of the RMA

BETWEEN **OTAGO REGIONAL COUNCIL**

Applicant

**STATEMENT OF EVIDENCE IN REPLY OF DR JULIE MARIE EVERETT-
HINCKS ON BEHALF OF THE OTAGO REGIONAL COUNCIL
19 February 2021**

Judicial Officer: Judge Borthwick

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Introduction

- 1 My full name is Dr Julie Marie Everett-Hincks.
- 2 My qualifications and experience are set out in my Statement of Evidence in Chief dated 7 December 2020.

Scope of Rebuttal evidence

- 3 In my evidence in reply I provide a response to the following evidence:
 - (a) Evidence in Chief of Dean Olsen for Otago Water Resources User Group (**OWRUG**) dated 5 February 2021; and
 - (b) Evidence in Chief of Matthew Hickey for OWRUG dated 4 February 2021.

Evidence in Chief of Dean Olsen for OWRUG dated 5 February 2021

- 4 Paragraph 14 of Mr Olsen's evidence relates to monitoring networks. In this paragraph he states that "monitoring networks should not be static and should be reviewed regularly to ensure that they meet the needs of decision-makers."
- 5 I disagree with this statement to a certain extent. While I agree that monitoring networks need to be dynamic to address environmental problems as they arise, the core monitoring network must remain static to ensure that the data record is of sufficient length to determine environmental trends.
- 6 The Parliamentary Commissioner for the Environment has discussed this requirement in his annual report for 2020. This referred to a previous report (titled "Focusing Aotearoa New Zealand's environmental reporting system"), and stated:¹

My report recommended that the Environmental Reporting Act 2015 be amended to encourage a shift away from the current 'passive-harvest' approach to an environmental monitoring system that can accurately track and characterise the impact we are having on the environment. Such amendments would clarify the purpose in the Act and require the development of a set of core environmental indicators that can be applied nationally in a transparent, consistent manner. Authoritative time series data, coupled with improved spatial coverage, are essential if we are to detect trends in environmental indicators. Only then will we be able to confidently judge whether we are making progress or going backwards.

¹ Simon Upton, *Annual Report for the year ended 30 June 2020* (Parliamentary Commissioner for the Environment, Annual Report, 30 September 2020) at 12.

- 7 In paragraph 15 of Mr Olsen’s evidence, he refers to the NIWA review of the surface water State of Environment (**SOE**) monitoring programme conducted in 2018. Mr Olsen states that the “secondary objective of the SOE monitoring programme was to collect information that would allow for the development of regional-scale water quality models. This contrasts with Dr Everett-Hinks’ [sic] statement that regional-scale modelling was part of the response to Professor Skelton’s reviews.”
- 8 In paragraph 13 of my evidence in chief, I referred to a regional modelling approach to assist/inform limit setting across the freshwater management units (**FMUs**), adopted following Professor Skelton’s review. The regional modelling I refer to in my evidence in chief was to address hydrology, not water quality as stated in Mr Olsen’s evidence.
- 9 As a result of the National Policy Statement for Freshwater Management 2020 (**NPSFM 2020**) the Council now requires naturalised flows for the FMUs in order to give effect to the new hierarchy of obligations. For these reasons, hydrological modelling (additional to the water quality modelling previously undertaken, as referred to in Mr Olsen’s evidence) is required.
- 10 Paragraph 21 of Mr Olsen’s evidence refers to detailed catchment studies previously carried out by the Council to build on routine SOE monitoring. I note that these catchment studies focussed on “sufficient” water allocation, rather than considering land use activity, water quality and ecological issues.
- 11 I note that the NPSFM 2020 and its predecessor, the National Policy Statement for Freshwater Management 2014 (as amended 2017) are fundamentally different pieces of national direction, with different requirements. The NPSFM 2020 was promulgated after Professor Skelton’s report and after the Council had conducted its internal capacity and capability review (set out in my evidence in chief).
- 12 Paragraph 99 of Mr Olsen’s evidence notes his view that Mr de Pelsemaeker’s evidence for the Council “over-plays the lack of scientific information to support decision-making”.

- 13 I note the previous Parliamentary Commissioner for the Environment's advice on the purpose of an environmental reporting system, where the previous Commissioner, Dr Wright stated:²

The purpose of state of the environment reporting [should] be to inform the public and decision-makers of the current state and long-term trends in the environment. It should identify and explain environmental issues, including their causes and location, and contain conclusions about their significance.

- 14 In this case, the Council holds data, and limited scientific information, as referred to by Mr Olsen. The data held by the Council does not identify and explain environmental issues, including their causes and location, and contain conclusions about their significance in this regard.

- 15 I note the Parliamentary Commissioner's recent report on environmental monitoring notes the differences between data and information. This report states:³

Data gaps and knowledge gaps are different things. Data gaps relate to deficiencies in the current environmental monitoring regimes that mean we have insufficient data to accurately describe pressures, state and impacts. Knowledge gaps relate to our inability to make meaningful sense of what the data we have gathered might be telling us, or indeed, where we may need additional data.

Evidence in Chief of Matthew Hickey for OWRUG dated 4 February 2021

- 16 Paragraph 23 of Mr Hickey's evidence refers to my evidence relating to the capacity gaps in the science team and the Council's process to address these. Mr Hickey takes this to mean "they are comfortable with the level of knowledge held by the science team on water related topics."
- 17 I note that my evidence referred to the Council's science capacity being increased, but not yet full. The Council is still in the process of addressing the capacity gaps in the science team. This is due to a shortage of scientists in New Zealand with the required expertise, due to high demand from all councils across the country seeking input on similar freshwater management issues.

² Simon Upton, *Focusing Aotearoa New Zealand's environmental reporting system* (Parliamentary Commissioner for the Environment, Environmental Report, November 2019) at 16.

³ Simon Upton, *Focusing Aotearoa New Zealand's environmental reporting system* (Parliamentary Commissioner for the Environment, Environmental Report, November 2019) at 24.

- 18 In addition to this, COVID-19 border restrictions have limited the ability to bring skilled scientists in from outside the country to fill capacity gaps. The Council still has four roles in its science team that it is working to fill.
- 19 In paragraph 29 of Mr Hickey's evidence, he expresses doubts over the success of the Council's proposed programme for modelling to enable the notification of the new Land and Water Regional Plan (**LWRP**).
- 20 The Council will make the most of the data available to enable notification within the Minister's specified timeframes. However, as part of this process the Council will be reviewing the data available and the monitoring network from which it is collected to build a robust monitoring network to ensure the future LWRP can be effectively evaluated.
- 21 Paragraph 43 of Mr Hickey's evidence states that he cannot identify the data deficit that Mr de Pelsemaeker refers to in order to justify delaying the implementation of the NPSFM 2020. Mr Hickey states "the reality is that the information presently available to the Council for assessing consents will, in the most part, be the same information used for the development of the LWRP."
- 22 I disagree with this statement. In my view, this is a simplistic and high-risk view, as relying on information for assessing resource consent applications is unlikely to provide the robust information required to inform the new LWRP for all of Otago.
- 23 Paragraph 54 of Mr Hickey's evidence considers that the timing for the required background information for the LWRP does not match with his understanding of council processes and technical information requirements for plan change processes.
- 24 In response, I note that the Council is in a unique situation. Most plans or plan changes are not developed on the basis of specific recommendations from the Minister for the Environment.

25 For these reasons, the Council's approach in these circumstances is different from what might be considered a "standard" approach to plan development. To comply with the Minister's directions, significant resourcing and investment is required, which the Council is currently undertaking.

Dated this 19th day of February 2021

A handwritten signature in blue ink that reads "Julie M. Everett-Hincks". The signature is written in a cursive style with a large initial 'J'.

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Dr Julie Everett-Hincks