

BEFORE THE HEARING PANEL

AT HAMILTON

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of the Proposed Waikato
Regional Plan Change 1
Waikato and Waipā River
Catchments

AND

IN THE MATTER

of Variation 1 to the
Proposed Waikato
Regional Plan Change 1
Waikato and Waipā River
Catchments

**STATEMENT OF SUPPLEMENTARY EVIDENCE OF DEBORAH HELEN KISSICK
FOR THE DIRECTOR-GENERAL OF CONSERVATION**

ERRATUM TO WRC RESPONSE TO HEARING PANEL QUESTIONS –

17 JULY 2019

23 July 2019

Department of Conservation

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Submission Number 71759

INTRODUCTION

1. My full name is Deborah Helen Kissick.
2. I have been engaged by the Director-General of Conservation (DOC) to provide planning evidence for the Block 3 hearing on proposed Plan Change 1 (PC1 or the Plan Change) for the Waikato and Waipā River catchments.
3. I am currently employed as a Senior Environmental Planning with Traverse Environmental Limited, a resource management consultancy based in Taupō, that I joined in July 2019 following my time as a planner with Perception Planning where I was employed when drafting previous evidence on behalf of the Director-General.

QUALIFICATIONS AND EXPERIENCE

4. My qualifications and experience are set out in my Evidence in Chief dated 15 February 2019.

CODE OF CONDUCT

5. I have read the Environment Court “Code of conduct for expert witnesses”, and I agree to abide by it. I have prepared this Statement in accordance with that Code. I confirm that my evidence is within my area of expertise. I have not omitted to consider any material facts known to me that alter or detract from the opinions I express in this Statement. I have acknowledged the material used or relied on in forming my opinions and in the preparation of this Statement.

SCOPE OF EVIDENCE

6. The scope of my supplementary evidence is in response to the memo from s42A reporting officers for the Waikato Regional Council (WRC) to questions from the Hearing Panel particularly in relation to the question raised in relation to the existence of maps of inanga spawning habitat held by the Waikato Regional Council.

Mapping of Īnanga Spawning Habitat

7. Question 14 from the Hearing Panel asked:

Are Īnanga spawning maps, held by WRC, able to be used in PC1? (In response to Kathryn McArthur's evidence)?

8. I have reviewed both the 'original' response to Question 14 (dated 5 July 2019) and the 'revised' response (dated 17 July 2019) provided to the Hearing Panel from Matthew McCallum-Clark, s42A lead author.
9. Mr McCallum-Clark has corrected the original answer he provided to the Hearing Panel in his 17 July memo and I therefore focus on this response in providing this supplementary planning evidence.
10. I understand that the question from the Hearing Panel arose, at least in part, as a result of the submission made by the Director-General which sought to include new policies and rules to protect Īnanga spawning habitat in Plan Change 1. Submissions seeking this relief were referenced in the Council's summary of submissions as PC1-10639 and PC1-11054.
11. I outlined the need for the protection of Īnanga spawning habitat protection in my Block 2 evidence in chief at paragraphs 89 – 101 and will not repeat my position here although I consider those paragraphs are relevant to the question raised by the Hearing Panel.
12. In the 17 July 2019 memo, Mr McCallum-Clark provides a two-part response to the question raised by the hearing panel. The first part of the response confirms that there is a WRC technical report TR201435 – Assessment of the Waikato River estuary and delta for whitebait habitat management: field survey, GIS modelling and hydrodynamic modelling). Ms McArthur has reviewed the detail contained in this technical report and is best placed, in my view, to provide comment on

the validity and usefulness of the report in assisting with the mapping of Īnanga spawning habitat on behalf of the Director-General.

13. Ms McArthur notes¹ the critical importance of protection for spawning habitat protection to ensure the survival and recruitment of Īnanga and other large bodied Galaxiid fish at a regional and national level and the Waikato River's significant role in this (paragraph 8).
14. Ms McArthur concludes at paragraph 9 of her supplementary evidence that the information held by the WRC "is completely fit for use in PC1 to map potential Īnanga spawning habitat, in conjunction with the requested PC1 provisions to protect Īnanga spawning habitat".
15. I note Ms McArthur's discussion at paragraph 13 around the threat to spawning habitat and successful spawning as a result of high river flows. She identifies that these high flows have the potential to wash away Īnanga eggs before they are fully developed and as a result, it is her recommendation "to provide suitable habitat in tributaries and side streams that are tidally influenced, which may be less prone to flooding than the main river". A Digital Elevation Model (DEM) is provided in the Jones and Hamilton (2014) technical report and Ms McArthur concludes that the information provided by this model should be used to identify the most likely areas for Īnanga spawning in the lower Waikato River, in conjunction with the policy and rule framework, including the exclusion of stock and setbacks for cultivation, recommended by Ms McArthur and myself in our evidence in chief for Block 2. I am supportive of the position reached by Ms McArthur in her consideration of the technical report as outlined in her supplementary evidence.
16. The second part of the response from Mr McCallum-Clark responds to whether in his view, the 'mapping [is] able to be used'. Mr McCallum-Clark identifies, correctly in my view, that in order for mapping of Īnanga spawning habitat to be included in Plan Change 1, there must be scope in submissions to allow this. He acknowledges that the Director-General's submission raises the issue and goes on to state, at paragraph 8, that reference to rules in the submission 'could include mapping'. However, Mr McCallum-Clark outlines that he is concerned

¹ Ms McArthur's Supplementary Evidence dated 23 July 2019

that “a person who may be affected by this mapping and any specific controls may not have reasonably anticipated the nature of mapping or specific rules that could result from the submission”.

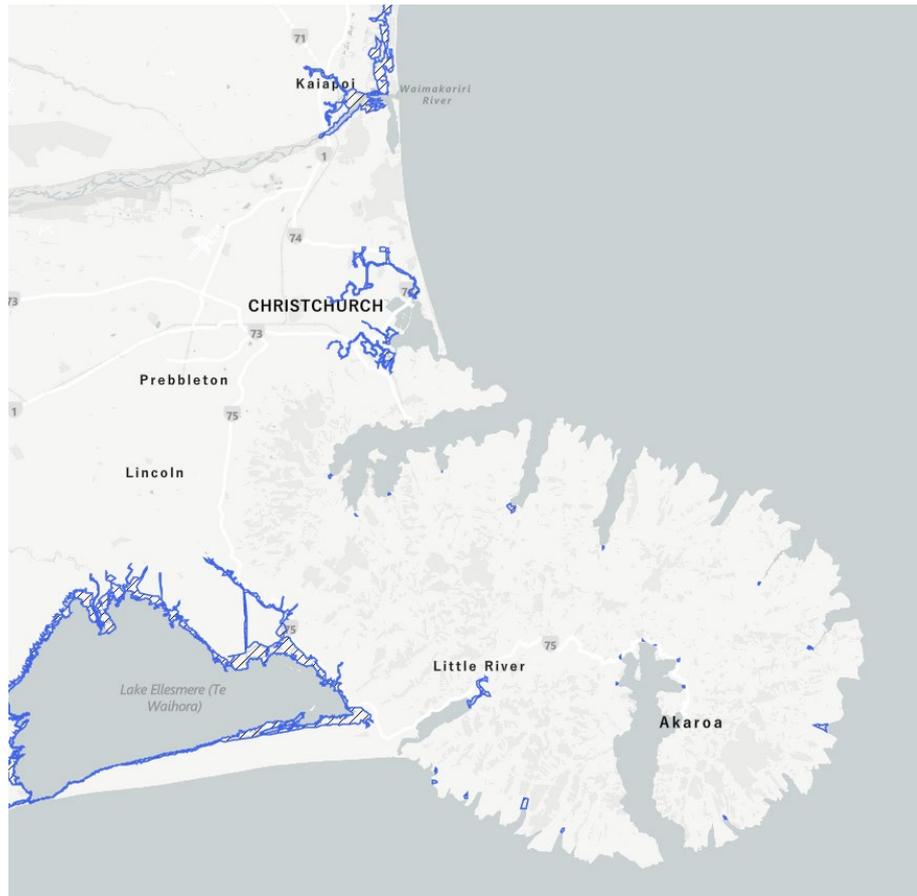
17. As a result of this concern, Mr McCallum-Clark recommends that mapping of īnanga spawning habitat is not done at this time. This recommendation is despite the footnote at the bottom of page 1 of the memo where Mr McCallum-Clark states his support for the ‘protection of īnanga spawning habitat’ and that this protection is a ‘logical and effective place to start’ in recognising the conservation threat status of īnanga as ‘At Risk, Declining’.
18. I do not agree with Mr McCallum-Clark’s statement that a person who may be affected by the mapping and specific control of īnanga spawning habitat could not have reasonably anticipated this outcome from the Director-General’s submission.
19. S6c of the RMA requires that the ‘protection of ...significant habitats of indigenous fauna’ be recognised and provided for as a matter of national importance. As identified by Ms McArthur in her evidence for Block 1 at paragraph 72

īnanga are a key freshwater fish species that are at risk and declining in population nationally (Dunn et al. 2018). They comprise the largest proportion of the five indigenous fish which make up the whitebait catch in New Zealand (and in the Waikato), and thus have high cultural value as mahinga kai species in addition to their intrinsic ecological value.

20. I have revisited the exact relief sought and reasoning by the Director-General in his original submission. The fundamental aspects of the submission, as I see them, are as follows:
 - a. The relief sought outlines that new policies and rules are required to protect spawning habitat;
 - b. In the ‘reason for the relief sought’, the submission outlines locations where the Director-General understands that spawning occurs namely:

- i. Lower Waikato River (downstream of Tuakau)
 - ii. Lake Waahi and Whangape and the Lower Waikato River;
- c. The 'reason for the relief sought' also outlines that modelling, LiDAR data and any recent spawning records held by WRC would better predict the available spawning habitat for īnanga, similar to methods used by Canterbury Regional Council.
21. In my view the submission clearly signals that new policies and rules to protect īnanga spawning are required, and suggests locations where this habitat may exist, subject to further information held by the Council.
22. I have further explored the approach to protection of īnanga spawning habitat protection by the Canterbury Regional Council, referenced in the Director-General's submission.
23. The Canterbury Land and Water Regional Plan, defines īnanga Spawning Habitat as *"that part of the bed and banks of a lake, permanently or intermittently flowing (but not ephemeral) river, artificial watercourse, coastal lagoon or wetland that is within an area identified as 'īnanga Spawning Habitat' on the Planning Maps"*.
24. The Map Viewer programme on the Council's website² includes a layer labelled "LWRP – īnanga Spawning Habitats" which shows the locations of īnanga Spawning Habitats, an example of which is shown below (īnanga spawning habitat marked blue). The mapping of īnanga spawning habitat ranges in size from the smallest at 0.07ha to 3125ha.

² <https://mapviewer.canterburymaps.govt.nz/>



25. Various rules in the Land and Water Regional Plan then apply to the mapped areas. This includes prohibited activity rules relating to “the use and disturbance of the bed (including the banks) of a lake or river by any farmed cattle, farmed deer or farmed pigs and any associated discharge to water” in any inanga spawning habitat (Section 5, Region Wide Rules, Rule 5.71 Land and Water Regional Plan).
26. While I acknowledge that the Director-General’s submission does not specifically request that mapping be included in the Regional Plan, it does reference the approach used in Canterbury, which is a map-based approach to the protection of inanga spawning habitat.
27. I recommended in my Block 2 evidence, the inclusion of an additional policy with suggested wording being “*To contribute toward achieving ecosystem health, ensure the protection of spawning habitats of inanga and other large-bodied galaxiids from the adverse effects of land use activities and stock access*”. I have also recommended amendments to Schedule C – Stock exclusion to ensure that stock exclusion for cattle, horses, deer, pigs, sheep and goats is achieved through the use of

temporary, permanent or virtual fencing a minimum of “20 metres from the edge of the bed for all waterbodies where large galaxiids including īnanga are known or predicted to spawn”. I have recommended the equivalent setback requirements for cultivation in Schedule 1 – Requirements for Farm Environment Plans in my Block 3 evidence.

28. I also consider that it is logical to conclude that in order to provide the protection of īnanga spawning sites sought by the Director-General, there needs to be an understanding of where these sites exist. In my view this can be achieved through mapping by the Council, so that everyone is clear about where the Council consider these sites are located.

29. In the absence of clear mapping of īnanga spawning habitat provided by the Council, and in order for plan users to give effect to the policy and rule framework I have recommended, I consider all landowners with land surrounding or adjacent to a waterbody will be required to determine whether that waterbody is īnanga spawning habitat. As I have outlined in paragraphs 93 and 94 of my evidence for Block 2, this would require each landowner to undertake an ecological assessment. I also outline that Council mapping of this habitat, which is made available to landowners is likely to be a more efficient and effective way of ensuring these important habitats are identified and appropriately protected.

30. I also consider that Council managed identification and mapping of īnanga spawning habitat is a more efficient and effective way to achieve the objectives of the Plan Change including New Objective 2 which I have recommended be included which seeks:

To restore and protect the health and wellbeing of freshwater bodies and the coastal marine area within the Waikato and Waipā River catchment, waterbodies are managed to:

- *Safeguard the life supporting capacity of aquatic ecosystems;*
- *Recognise and provide for indigenous biodiversity including freshwater fish species;*
- *Recognise and provide for the significant values of all wetlands; and*
- *Ensure that water quality in the catchments is improved.*

31. I agree with Ms McArthur's position at paragraph 17 of her supplementary evidence where she expresses her view that provisions to protect īnanga spawning habitat from stock trampling, grazing and cultivation should be included in PC1 policies and FEPs directed to consider these areas, regardless of whether mapping is included in the Plan Change or not.

32. Overall, I consider that there is sufficient scope within the Director-General's submission, and adequate information available to the Hearing Panel, for the mapping of īnanga spawning habitat to be undertaken as part of Plan Change 1. I consider that this mapping is an appropriate way to achieve the outcomes sought by the Plan Change through the objectives and to give effect to the requirements of the RMA, particularly s6c.



Deborah Kissick

23 July 2019