

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE MACKENZIE DISTRICT COUNCIL**

UNDER

the Resource Management Act
1991

IN THE MATTER OF

submissions by Opuha Water
Limited on Plan Changes 28 and 29
to the Operative Mackenzie District
Plan

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF JULIA MARGARET
CROSSMAN ON BEHALF OF OPUHA WATER LIMITED IN RESPONSE TO
QUESTIONS BY THE HEARING PANEL**

**PLAN CHANGE 28: SUBMITTER NO. 64
PLAN CHANGE 29: SUBMITTER NO. 28**

Dated: 06 June 2025

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INTRODUCTION

1. As set out in my primary Statement of Evidence dated 16 May 2025, my name is Julia Margaret Crossman. I am the Environmental and Regulatory Manager for Opuha Water Limited (**OWL**).
2. This supplementary Statement sets out my response to the Hearing Panel's questions contained in the Information Request to Submitters dated 29 May 2025.

QUESTIONS FROM THE HEARING PANEL

Question 1 - Role and Scope of Works:

Can you describe the typical natural hazard mitigation works OWL undertakes or may need to undertake in the future – and whether these include both soft and hard engineering?

3. The typical natural hazard mitigation works OWL undertakes (and may need to undertake in the future) includes both hard and 'soft engineering'. Such works include:
 - (a) Installation, maintenance and repair of rock protection;
 - (b) Excavation, removal and disturbance of natural material;
 - (c) Removal of vegetation;
 - (d) Lateral tree/tree layering;
 - (e) Establishment of rock groynes;
 - (f) Gravel cuts and water diversions.
4. The large majority of the natural hazard mitigation works which OWL undertakes comprise of hard engineering works that are often time critical, require the use of machinery, and are of a nature and scale necessary to prevent flooding or erosion.
5. The hard engineering works which OWL undertakes are also:
 - (a) The most important natural hazard mitigation works it undertakes;

- (b) The most time critical; and
- (c) Mitigate the greatest amount of risk to health and safety, and ensures continued operation of OWL's critical infrastructure.

Question 2 – Urgency and Operational Risk:

How important is it, from an operational or public safety perspective, that OWL be able to carry out hazard mitigation works without delay (i.e., as a permitted activity)?

- 6. It is very important, from both an operational perspective and a public safety perspective, that OWL be able to carry out the most time critical natural hazard mitigation works without delay (i.e. as a permitted activity).
- 7. There are times where OWL would need to undertake urgent works in order to protect scheme infrastructure, to protect surrounding land (i.e. from erosion), and/or to protect public safety. The works OWL may need to undertake in the beds of waterways are typically the most time critical mitigation works.
- 8. The ability to undertake time critical natural hazard mitigation works quickly is vital to ensure that:
 - (a) OWL's critical infrastructure remains operational and functional and continues to:
 - (i) Provide reliable public and community-scale irrigation and stock water continuously to OWL's irrigator shareholders, and the urban and industrial users in the Timaru District via the Timaru District Council's community water takes;
 - (ii) Meet environmental flow requirements in the Opuha and Opihi River systems, which is critical for maintaining the health and wellbeing of these waterways.
- 9. From a public safety perspective, the ability to undertake time critical natural hazard mitigation works quickly is important to ensure:
 - (a) The health and safety of employees and contractors of OWL;

- (b) The health and safety of recreational users of Lake Opuha and the surrounding areas; and
- (c) The health and safety of all people downstream of the Downstream Weir (**DSW**).

10. In the past where there has been great urgency, OWL has operated under emergency works provisions under the Resource Management Act 1991 (**RMA**). In these instances, Environment Canterbury (**ECan**) had granted authority to OWL to undertake Emergency Works under section 330 RMA, and apply for a retrospective consent following the works.

11. As an example, in 2021, Gooseberry Stream, which enters the Opuha River regulating pond just below the Opuha Dam, experienced significant flows during the extreme rainfall event that resulted in the declaration of a Canterbury-wide state of emergency between 30 May and 10 June. These flows caused erosion of the stream bank, immediately upstream of where it enters the Opuha River. The erosion:

- (a) Undercut the embankment which supports the only roading access to the Opuha Power Station and the manual control facility of the flow control valve from the Opuha Dam to the downstream weir;
- (b) Exposed a fibre communication line and irrigation pipe;
- (c) Threatened damage to two drains which are utilised for dam measuring and monitoring points; and
- (d) Left the road and other infrastructure vulnerable to further erosion and potential damage or destruction.

12. Remedial work in the form of the deposition of rock armouring was undertaken under Emergency Works provisions.

13. Retrospective resource consent was applied for, which also sought the ability to undertake the same type of erosion repair work in future, upstream and downstream, should high river flows or flooding cause erosion. Consent CRC222513 was granted in June 2022.

Question 3 – Checks and Balances:

If permitted activity status were extended to OWL, what safeguards or internal processes does OWL have to ensure environmental risks are managed responsibly.

14. I consider the CLWRP rules (particularly condition 3 of Rule 5.138, which requires works to be undertaken in accordance with a plan certified by the Canterbury Regional Council (**CRC**) as being in accordance with the CRC Code of Practice (**COP**) for Defences Against Water and Drainage Schemes) (April 2019)) contain sufficient checks and balances to ensure environmental risks are managed responsibly, whilst enabling OWL to undertake the works necessary to manage the risk of natural hazards. (The COP is a detailed document which specifies the work practices and mitigation measures that must be taken for each work type and requires detailed information to be submitted with each plan. It also requires that if adverse effects are identified either through reported incidents or observations/audits on site, action must be taken as soon as practicable within a 48-hour period to address the cause of the effect and undertake any remedial or mitigation measures considered necessary. If certification is required to carry out work to urgently repair flood damage, the COP provides that a decision on certification will be made within two working days). Given the efficacy of Rule 5.138 I consider the duplication of controls on such activities in the proposed District Plan is inefficient, and would greatly affect OWL's ability to quickly respond to natural hazards. In my experience, the Regional Council has the capacity and the necessary resourcing in house to quickly certify any plans required by the COP, or to process any consent applications required for works in the beds of waterways.
15. Furthermore, OWL's Environmental team, who manage the environmental risks within OWL's business, are all tertiary qualified in resource management or environmental sciences and have built significant collective knowledge and experience in rule assessments, identifying and managing risks, and drafting Erosion and Sediment Control plans.

Question 4 – Collaboration with Council:

In practice, does OWL coordinate with the Regional Council on these works? Could such coordination address the Section 42A Author's concerns about oversight?

16. The works OWL undertakes in the beds of the waterways are regulated under the CLWRP by the Regional Council. It is therefore part of OWL's standard procedure to coordinate and engage with the Regional Council in relation to these works, including for those works which fall under permitted activity rules in the Regional Plan. Such coordination and engagement is formalised through condition 3 of Rule 5.138.
17. A recent example that may assist in alleviating the s42A Author's concerns was hazard mitigation works undertaken by OWL in the Te Moana River. Whilst the Te Moana River is located in the Timaru District rather than Mackenzie District, it is illustrative of the typical natural hazard work that OWL may undertake in the future, including in the Mackenzie District, and illustrative of the working relationship between OWL and the Regional Council:
 - (a) As part of the Kakahu irrigation scheme infrastructure, OWL has a (consented) siphon under the Te Moana River. The consent which provided for installation of the siphon does not include reinstallation/maintenance or protection works if the siphon is damaged. Over time, the Te Moana River has moved within the riverbed and has eroded the banks for the river. If a large flood occurred, there was a potential that this could cause significant damage to the riverbanks and undermine or damage the siphon and/or dislodge the pipeline under the river, any of which would have significant ramifications to water supply.
 - (b) This issue was discussed with ECan River Engineers who visited the site and suggested a combination of natural hazard mitigation works which included lateral trees, groynes, gravel cuts and water diversions to protect the banks of the river.
 - (c) Under the CLWRP permitted activity rule 5.138, (referred to in my evidence), OWL submitted a work plan in accordance with the

COP, which was certified by ECan. The methodology included in the plan covered scope and extent of works, site remediation, timing and duration of works, consultation, bird survey and fish salvage requirements, and emergency response planning.

(d) With this certification, the works met the permitted activity conditions, and OWL were able to proceed without the need for a resource consent from ECan.

18. If the relevant District Plan had required OWL to obtain a resource consent over and above what was required in the CLWRP, OWL would not have been able to undertake the works in a timely or efficient manner. It is this duplication that OWL is concerned about and that I consider to be unnecessary.

Question 5 – Scale and Precedent:

Do you see OWL's submission as setting a precedent for other infrastructure providers, or is it narrowly focused on OWL's particular context and assets?

19. The concerns raised in my Statement of Evidence are focused on OWL's particular context and assets, being:

(a) the Opuha Dam and the related infrastructure and assets owned and operated by OWL that fall within the definition of 'critical infrastructure'; and

(b) the fact that the entirety of the Opuha Scheme is regulated by both territorial and regional council authority.

20. In my view, the issue of precedent is addressed in part through the provisions of Rule 5.138 of the CLWRP, condition 3 of which limits the use of that rule to a local authority or network utility operators. If precedent were of concern to the Panel, I consider this could be addressed by limiting 'infrastructure providers' further to 'critical infrastructure providers.'

Question 6 – Rule Drafting:

Your subclause (8) reads "The maintenance, operation, upgrade, or new natural hazard mitigation works undertaken in accordance with a rule in the Canterbury

Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council.” Do you mean “a permitted activity rule”?

21. Yes, I did intend for the subclause to read “a permitted activity rule”. I have set out the revised wording to include this below:

NH-R5 Natural Hazard Mitigation Works

All Zones

Activity Status: PER

Where:

The works are:

- (1) *The maintenance or operation of any existing natural hazard mitigation works; or*
- (2) *The upgrading of any natural hazard mitigation works administered by a Regional Council or Territorial Authority; or*
- (3) *New natural hazard mitigation works administered by a Regional Council or Territorial Authority provided:*
 - (a) *The works are outside of an area identified as SASM, ONL or ONF; and*
 - (b) *The works are soft engineering natural hazard mitigation; or*
- (4) *The maintenance, operation, upgrade, or new natural hazard mitigation works undertaken in accordance with a permitted activity rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council;*

Note: The earthworks provisions in the Earthworks Chapter shall not apply to any activity permitted under NH-R5.1, 5.2 and 5.3.

All Zones

Activity Status: RDIS-DIS

Where:

The works are:

- (5) *The upgrading or establishment of any new natural hazard mitigation works not administered by a Regional Council or*

Territorial Authority, and not otherwise undertaken in accordance with a permitted activity rule in the Canterbury Land and Water Regional Plan or a resource consent and/or approval granted by the Canterbury Regional Council.

Matters of discretion are restricted to:

(a) NH-MD2.

Julia Margaret Crossman

06 June 2025