

**BEFORE THE CHRISTCHURCH REPLACEMENT  
DISTRICT PLAN INDEPENDENT HEARINGS PANEL**

**IN THE MATTER** of the Resource Management  
Act 1991 and the Canterbury  
Earthquake (Christchurch  
Replacement District Plan) Order  
2014

**AND**

**IN THE MATTER** of the Subdivision, Development  
and Earthworks Proposal (Part)  
Hearing (Stage 2)

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**REBUTTAL EVIDENCE OF DEBORAH JANE HOGAN  
ON BEHALF OF CHRISTCHURCH CITY COUNCIL**

**PLANNING – RURAL SUBDIVISION**

**21 OCTOBER 2015**

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## **1. INTRODUCTION**

**1.1** My full name is Deborah Jane Hogan. My experience and qualifications are set out in my evidence in chief dated 5 October 2015.

**1.2** I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise except where I state that I am relying on the evidence of another person. The Council has agreed to me giving expert evidence on its behalf in accordance with my duties under the Code of Conduct.

## **2. SCOPE**

**2.1** I have read the submitter evidence in chief dated 14 October 2015 relevant to my area of expertise. My rebuttal evidence is provided in response to the evidence in chief filed by the following submitters:

- (a) Ms Wharfe for Horticulture New Zealand (#2165);
- (b) Ms Anderson for The Crown (#2387);
- (c) Mr Bonis for Christchurch International Airport Ltd (#2348 and #FS2817);
- (d) Ms Cook for Akaroa Civic Trust (#2285), Cook and Brailsford (#2241) and Martin and Thompson (#2418).

**2.2** I do not provide any response to the evidence in chief for Ms Anderson.

## **3. RESPONSE TO SUBMISSIONS**

### **Horticulture New Zealand (#2165)**

**3.1** Ms Wharfe advises at paragraph 3.21 of her evidence a suggested amendment to the Matter of Discretion Rule 8.2.4.1(6)(h) replacing references to high productive potential/versatile soil with rural productive activities. I

agree with this amendment which aligns with the terminology and approach used in Proposal 17 (Rural).

- 3.2** I consider that Ms Wharfe's proposed amendment is appropriate and the changes have been included in Attachment A to **Mr Long's** rebuttal evidence.

**Akaroa Civic Trust (#2285), Cook and Brailsford (#2241) and Martin and Thompson (#2418)**

- 3.3** Ms Cook states at paragraphs 21 and 22 of her evidence that Rules 8.2.2.1 C7 and Rule 8.2.2.3 D6 now require only a minimum area of the balance allotment to be protected and provides for multiple 1ha allotments under Rule 8.2.2.2 RD8. This rules package in her view undermines the findings of the Environment Court decisions that informed the subdivision provisions for the Operative Banks Peninsula District Plan. In relation to this Ms Cook states at paragraph 23 of her evidence that my evidence in chief does not appear to have considered the decisions of the Environment Court in 2008, or the process that has led to these decisions, in relation to the ability to provide for multiple 1 hectare allotments.

- 3.4** I did consider the Environment Court decisions as part of the background when reviewing the effectiveness and efficiency of provisions of the Operative Banks Peninsula District Plan and developing the Rural Chapter provisions for the proposed Replacement District Plan (**pRDP**). While these decisions contributed to the review and development of the pRDP provisions they were balanced with fact that the higher order policy frameworks have changed since these Environment Court decisions were released. This new framework is required to be given effect to and applied to all provisions developed under this framework.

- 3.5** At her paragraph 26, Ms Cook considers that a proliferation of 1ha residential sites will not maintain the openness and character of the Rural Banks Peninsula Zone and that the creation of more than one 1ha lot should be a non-complying activity under Rule 8.2.2.4 NC3. In my view there needs to be a differentiation between the provisions in relation to 1ha allotments for the 40/100ha option compared to the 4ha option, which Ms Cook does not distinguish between.

- 3.6** I support the approach as outlined in Attachment A to **Mr Long's** rebuttal evidence for the 40/100ha option under Rule 8.2.2.1 C7 and multiples managed through Rule 8.2.2.2 RD8. In my view, these provisions will maintain the openness and rural character to achieve Policies 2, 3, 5 and 6 of the Rural Chapter. To achieve these provisions a significant land area is necessary to enable multiples of 40ha or 100ha to be achieved for every 1ha residential allotment to be created. The balance area must be contiguous with the 1ha to which it relates (Rule 8.2.2.1 C7(4)). This option also, in my view, retains the underlying intent of density of development in Rural Banks Peninsula.
- 3.7** The restricted discretionary activity status will ensure that the design and layout of allotments will maintain the appropriate separation between buildings to retain openness and rural character (as specified in Matter of Control Rule 8.2.4.1 (6)(k)). This will ensure that multiple 1ha allotments do not end up adjacent to each other to maintain openness and rural character, and to avoid reverse sensitivity effects. In my view, the risk of multiple 1ha allotments with a balance of 40ha or 100ha occurring is low based on the same reasons outlined in paragraph 27 of Ms Cook's evidence, in that there are a small number of existing large titles on Banks Peninsula.
- 3.8** With respect to the 1ha plus 3ha balance option in Rule 8.2.2.3 D6, I do agree on further consideration with Ms Cook that there is the potential for this option to lead to proliferation of small sites and further fragment land in the Rural Banks Peninsula Zone such that it would not maintain the rural character and amenity values as sought under Policies 17.1.1.2 and 17.1.1.5 of the Rural Chapter.
- 3.9** This option presents a greater risk due to the higher number of smaller sites present on Banks Peninsula. Where multiples are created under this option it could lead to rural residential development within the rural environment which is inconsistent with the Policy 17.1.1.5 and which will not maintain rural character under Policy 17.1.1.2 of the Rural Chapter.
- 3.10** In my view, there are two options available to ensure that the provisions are consistent with the policy framework of the Rural Chapter and the outcomes sought. The first option is to delete Rule 8.2.2.3 D6 and it would default to non-complying. This would satisfy the relief sought by Ms Cook. This option would achieve Policies 17.1.1.2 and 17.1.1.5 of the Rural Chapter and would

clarify that this option is not anticipated on Rural Banks Peninsula however will be considered in certain circumstances.

- 3.11** Such an activity status would also take into account any sites located in outstanding natural landscapes or natural character in the coastal environment. While there may be some additional costs imposed on landowners with a non-complying activity status there is provision under Rule 8.2.2.3 D3 for the ability to subdivide a site that does not meet the minimum allotment size in Table 6 and of course there is always the 40/100ha option available under Rule 8.2.2.1 C7 and 8.2.2.2 RD8.
- 3.12** The second option is to delete the ability to create multiple sites under Rule 8.2.2.3 D6 and return it back to the way it is currently provided for in the Operative Banks Peninsula District Plan, as a one off opportunity with the expectation that the balance of the parent site is covenanted from further subdivision. This would then make any multiples of 1ha plus 3ha a non-complying activity.
- 3.13** The benefit of this option is that it would provide a landowner with an opportunity to create a 1ha residential allotment on a site less than 40/100ha, minimising the need to fragment a larger site, with protection of the balance against further residential units to maintain the open rural character and separation between buildings. In terms of costs, there will be additional consenting costs if a landowner wishes to pursue multiple sites and the risk that it will not be consented and the cost of further fragmentation of rural land with reduced separation to nearby rural productive activities. This option is not fully consistent with Policy 17.1.1.5 of the Rural Chapter in that it does not avoid the creation of new sites less than 4ha or maintain the predominance of larger sites.
- 3.14** Overall, in my view the first option of deleting the provision at Rule 8.2.2.3 D6 is the most effective and efficient to avoid the proliferation of 1ha residential sites and reverse sensitivity effects and to maintain the rural character and openness of Rural Banks Peninsula Zone to achieve the policy framework of the Rural Chapter and the purpose of the Resource Management Act 1991. This does not change the transaction costs substantially; however it does ensure that the outcomes sought for Rural Banks Peninsula are clear which is consistent with Strategic Directions Objective 3.3.2.

- 3.15** Ms Cook also proposes at her paragraph 32 an amendment to Rule 8.2.2.1 C6 to include reference to 'identified building areas' rather than 'area', and to include anticipated 'buildings' along with residential units, with a suggestion that it would be up for the additional zones to provide appropriate standards for that zone in relation to this matter.
- 3.16** I do not support the amendments as suggested. Rule 8.2.2.1 C6 applies wider than just the Rural Banks Peninsula Zone and any amendment to the rule would have implications for other zones. I continue to support the approach in Attachment A to **Mr Long's** rebuttal evidence and in my view the identified building areas should be connected with subdivision where a residential unit is anticipated which allows for consideration of the effects of location of a residential unit for reasons more than just the visual impact of buildings.
- 3.17** It is noted that at mediation it was agreed that for any 1ha sites being created in the Rural Banks Peninsula Zone under Rule 8.2.2.1 C7, Rule 8.2.2.2 RD8, and Rule 8.2.2.3 D6, which are only intended for a residential unit, that it was appropriate to require an identified building area to be shown for all buildings. This would ensure that on smaller sites all buildings would be included in the identified building area. This amendment has been made in Attachment A to **Mr Long's** rebuttal evidence.
- 3.18** At her paragraph 34 Ms Cook seeks an amendment for Matters of Control 8.2.4.1 (6)(a) to align with the amendments sought in her paragraph 32 for the inclusion of all buildings in the identified building area. I do not support this amendment as the matter of control is being applied to all rural zones and not just Rural Banks Peninsula. There is no need for it to get into detail on size of buildings. In addition, the requirements for the identified building area are specified in Rule 8.2.2.1 C6 and in my view is unnecessary to amend the Matter of Control 8.2.4.1(6)(a).

### **Christchurch International Airport Limited (#2348)**

- 3.19** Mr Bonis highlights in his paragraph 31 that the Rural Templeton Zone has a 4ha minimum allotment size (Rule 8.2.3.1 Table 6) compared to the previous minimums of 1ha and 2500m<sup>2</sup> in the Operative City Plan. This variation in minimum allotment size is a departure from the Operative City Plan which may

result in the inability to give effect to development in the zone. The 4ha minimum was to ensure alignment with the CRPS and the need to avoid urban activities. I note that no submissions were received in relation to this provision.

**3.20** In my view, a minimum allotment size of 1ha or 2500m<sup>2</sup> as per the Operative City Plan will not be inconsistent with the CRPS, on the basis that residential activities in the Rural Templeton Zone are not anticipated with the only residential activity provided for being a maximum of two units for security/custodial purposes. Should the Panel be of a mind to consider amending the minimum allotment size for the Rural Templeton Zone, I would support such an amendment which achieves Strategic Directions Objectives 3.3.1 and 3.3.2. I note that Mr Bonis does not oppose such an amendment.

A handwritten signature in black ink, appearing to read 'D. Hogan', with a small dot at the end.

**Deborah Jane Hogan**

**21 October 2015**