

**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)

**STATEMENT OF EVIDENCE OF ANDREW JEFFREY LONG
ON BEHALF OF CHRISTCHURCH CITY COUNCIL**

PLANNING – SUBDIVISION CHAPTER LEAD

5 OCTOBER 2015



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1. INTRODUCTION

- 1.1 My full name is Andrew Jeffrey Long. I hold the position of Senior Planner with the Strategy and Planning Group of Christchurch City Council (**Council**). I have held this position since August 2008.
- 1.2 I hold a Bachelors Degree in Resource Studies from Lincoln University and a Masters in Regional and Resource Planning from Otago University. I have eleven years' experience in planning. I am a graduate member of the New Zealand Planning Institute.
- 1.3 As part of my role at the Council I have been asked to provide evidence in relation to the provisions which manage subdivision, development and earthworks.
- 1.4 My role with Council as relates to this matter has been chapter leader for the Subdivision, Development and Earthworks Chapter for the Replacement District Plan since the start of the review.
- 1.5 I have also previously provided evidence to the proposed Christchurch Replacement District Plan (**pRDP**) Hearings Panel relating to:
- (a) Repair and Rebuild of Multi-Unit Residential Complexes;
 - (b) Natural Hazards Stage 1;
 - (c) Subdivision, Development and Earthworks Stage 1; and
 - (d) Definitions Stage 1.
- 1.6 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, as my employer, has agreed to me giving expert evidence on its behalf in accordance with my duties under the Code of Conduct.

1.7 The key documents I have used, or referred to, in forming my view while preparing this brief of evidence are:

- (a) Independent Hearings Panel decision on Chapter 3 (Strategic Directions);
- (b) Independent Hearings Panel decision on repair and rebuild of multi-unit residential complexes;
- (c) Independent Hearings Panel decision on the Meadowlands Exemplar Development;
- (d) Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, particularly Schedule 4: Statement of expectations;
- (e) Resource Management Act 1991 (**RMA**);
- (f) Land Use Recovery Plan;
- (g) Mahaanui Iwi Management Plan;
- (h) Canterbury Regional Policy Statement; and
- (i) draft Lyttleton Port Recovery Plan (**LPRP**).

1.8 I rely on the evidence of:

- (a) Ms Deborah Hogan, Senior Policy Planner, Christchurch City Council (prepared for the Stage 2 Subdivision hearing);
- (b) Ms Sarah Oliver, Principal Advisor Planning, Christchurch City Council (previously presented at the Stage 2 Residential hearing);
- (c) Mr Andrew Milne, Senior Transport Planner, Christchurch City Council (prepared for the Stage 2 Subdivision hearing);
- (d) Mr Alan Matheson, City Planning Team Leader, Christchurch City Council (prepared for the Stage 2 Subdivision hearing).

2. SCOPE

2.1 The scope of this evidence is Proposal 8: Subdivision, Development and Earthworks: Stage 2 (**the Proposal**) except:

- (i) The provisions and submissions relating to the proposed Residential New Neighbourhood (**RNN**) provisions (as attached to the prehearing memorandum dated 10 August 2015) including those provisions contained within

the decision of the Panel on the Rezoning of Exemplar Housing Areas (26 February 2015).

- (ii) Submissions relating to the matters set out in the Joint Application filed on 19 May 2015 (rules at section 8.3.7, assessment matters at 8.5.2, and the definitions of indigenous vegetation and significant indigenous vegetation).

2.2 In preparing this evidence, I have relied on the evidence of zone chapter leaders. I have noted where I rely on others' evidence.

2.3 I have also relied on evidence previously presented to the Panel and have cross referenced that evidence in my discussion below.

2.4 I have also provided a redline version of the Subdivision, development and earthworks Proposal as **Attachment A**. This version of the Proposal reflects the relief sought in submissions which I have accepted, or accepted in part. Again, I have explained my reasons for supporting the suggested amendments to the Proposal in the body of my evidence.

2.5 I have provided as **Attachment B** a table setting out the submission points relevant to this Proposal. In that table, I have identified whether I accept/accept in part or reject the submission point sought by submitters. I have discussed my reasons for accepting or rejecting the relief sought in submissions in the body of my evidence.

3. DEFINITIONS

3.1 The definitions that fall within the scope of this hearing are identified in Appendix B of the Council's Statement of Issues for the Subdivision, development and earthworks Proposal hearing, dated 3 August 2015.

- 3.2 Of those:
- (a) 'Building', 'Education activity', 'Health care facility', 'Identified building platform', 'Residential unit', 'Indigenous biodiversity' are dealt with in other Stage 2 hearings.
 - (b) No submissions were received in relation to 'Aggregate piers', 'In-situ mixing', or 'Soil mixing'.
 - (c) The definition for 'Concept Plan' will be dealt with through the RNN Hearing (noting that the term is not used in the current RNN proposal).
 - (d) The definition of 'Valuable Tree' was left in Proposal 2 inadvertently and is not required.
- 3.3 My analysis and recommendation with respect to the submissions on "earthworks" and "disturbance of soil", are included below.

4. EXECUTIVE SUMMARY

- 4.1 Proposal 8 (Subdivision, Development and Earthworks) Stage 1 includes general subdivision rules such as provision of services, property access, easements, and esplanade reserves. It also includes provisions specific to those zones which are addressed in Stage 1: commercial, industrial, and certain residential zones. Stage 2 of Proposal 8 includes provisions relating to all remaining zones.
- 4.2 Stage 1 hearings resulted in a significant change in the structure and format of the Proposal (refer to revised proposal of 30 June 2015), which has been carried forward into Stage 2 (and Stage 3 to come), and is reflected in the version of the Proposal in **Attachment A**.
- 4.3 The pre-hearing meeting established a number of issues. Submitters were invited to discuss these issues in targeted mediation on 21 and 22 September 2015. While I expect other submitters may decide to pursue other issues, only three outstanding matters remain following mediation. It is likely that there will be further movement in this regard prior to or at the further mediation session scheduled for 8 and 9 October 2015. These issues are set out at section 6 of my evidence.

- 4.4** Section 7 of my evidence sets out my view and, where necessary, a brief s32 analysis for each of the issues identified in the pre-hearing meeting. The bulk of the submissions seek relief for clarification, corrections, or consistency with the operative City or Banks Peninsula District Plans. I accept the bulk of these submissions, either in full or part, noting that I rely on the evidence of **Ms Hogan, Ms Oliver, Mr Matheson** and **Mr Milne** in some instances.
- 4.5** I note also that provisions relating to subdivision in the Specific Purpose (Lyttelton Port) zone have been deleted from the Proposal in anticipation of the Lyttelton Port Recovery Plan being approved. This is consistent with the submission from the Lyttelton Port Company and with the way other Proposals have managed this issue.
- 4.6** Likewise, I have amended provisions relating to subdivision within a transmission (Transpower) or identified distribution (Orion) corridor in line with submissions from Transpower and Orion and with the way other Proposals have managed this issue. Both Transpower and Orion attended mediation and provisions were agreed, noting Transpowers' continued opposition to the protection of Orion assets.
- 4.7** A number of submissions related to provisions within the earthworks section of the Proposal which seek to manage erosion. Material changes have been made to this section to recognise overlap with rules in Canterbury Regional Council plans and the relevant Christchurch City Council bylaw.
- 4.8** Finally, my evidence responds to submissions seeking relief on definitions. Of those assigned to the Proposal, only two ('earthworks' and 'disturbance of soil') remain relevant and are the subject of submissions. A minor addition is proposed to 'earthworks'. No change is proposed to 'disturbance of soil'.

5. BACKGROUND

- 5.1** The Proposal includes provisions that manage the subdivision of land and buildings within the Christchurch district.
- 5.2** Stage 1 includes general subdivision rules such as provision of services, property access, easements, and esplanade reserves. It also includes provisions specific to those zones which are addressed in Stage 1: commercial, industrial, and certain residential zones (Residential Suburban, Residential Suburban Density Transition, Residential Medium Density, Residential Conservation, Residential Banks Peninsula and Residential New Neighbourhood zones). Specific rules include those relating to lot size and dimension and rules pertinent only to a particular site or area.
- 5.3** Stage 2 of the Proposal includes provisions relating to all remaining zones (Rural, Open Space, Specific Purpose, Residential (part), Commercial and Industrial (part), Papakainga) and overlays (e.g. Outstanding Natural Landscapes, heritage items and settings).
- 5.4** Proposal 5 (Natural hazards) manages subdivision in identified hazard areas.
- 5.5** The Proposal is affected by two decisions of the Independent Hearings Panel.
- (a) Firstly, the Panel on 26 February 2015 made a decision on Priority Hearing C - Provisions for repair and rebuilding of multi-unit residential complexes. This decision amends Policy 8.1.2.1 (Recovery activities), rule 8.2.1.1 (Activity status), rule 8.2.2.5 (Suitability for proposed land use), and rules at 8.2 (General matters, renamed 'Conversion of tenure, alteration of cross leases, company leases and unit titles' through the decision). The decision also relocated 8.2.3 RD3 and related rules to a new section of the proposal (8.3.9) as they relate to compliance with outline development plans only, not conversion of tenure or alteration of leases. This decision also inserted a number of rules

into the residential proposal which link to the conversion of tenure, alteration of cross leases, company leases and unit titles.

- (b) Secondly, the decision of the Panel on Strategic Directions (26 February 2015) significantly revised the notified proposal. Most notably, the decision includes a new objective (3.3.2) seeking to minimise transaction costs, reliance on resource consents and the number and prescriptiveness of rules. This objective is not dissimilar to part (a) of Schedule 4 to the Statement of Expectations. The effect of new objective 3.3.2 and the other amendments made in the second decision on the Proposal and my assessment of whether the Proposal gives effect to the Strategic Directions chapter is contained in the following sections.

6. OUTCOMES OF MEDIATION / CAUCUSING

- 6.1 Targeted mediation sessions were held on 21 and 22 September 2015. Any agreed amendments to the Proposal are included in **Attachment A**. The Mediation Report outlines issues which were not resolved and is expected to be on the Independent Hearings Panel website in due course.
- 6.2 Three outstanding matters were identified in the conference as set out below:

Summary of Matter the Panel will be required to determine as identified at the Mediation:

1. *The appropriateness of provisions relating to rural subdivision (Rules 8.2.2.1 C7 and C8 8.2.2.2 RD8, 8.2.2.3 D3 and D6, 8.2.2.4 NC5, 8.2.2.5 Pr1, and Tables 6A and 6B). Parties are agreed in principle and are working on detail.*

Summary of Matter the Panel will be required to determine as identified at the Mediation:

2. *The status of activity when it does not comply with Rule 8.8.2 P1 (1) and (2). Currently Restricted Discretionary; sought Discretionary.*

Summary of Matter the Panel will be required to determine as identified at the Mediation:

3. *The appropriateness of the matters of discretion at Rule 8.8.5 (6) as sought by Experience Trust. Parties are agreed in principle and are working on detail.*

- 6.3** These matters have not been resolved since the mediation report was filed, though additional discussions have taken place. For matters 1 and 3, I have included the most recently proposed amendments in **Attachment A**. Matter 2 remains a matter of disagreement.
- 6.4** In relation to the second matter (activity status where there is non-compliance with Rule 8.8.2 P1 (1) and (2)), the submitter (#2501.6 Experience Trust) in mediation identified some earthworks of particular concern at Clearwater Golf Resort and the possibility that a similar outcome could occur elsewhere in the district. The submitter is of the view that increasing activity status would reduce the likelihood of such earthworks occurring again.
- 6.5** My view, however, is that there is scope within the matters for discretion to enable imposition of conditions or decline or consent where appropriate, subject to the additional matters proposed by the submitter (the third matter, discussed below). Where an activity does not meet the permitted activity standards, it is proposed that the activity will be a restricted discretionary activity (Rule 8.8.3 RD1). On that basis, I do not consider there is benefit in increasing the activity status for non-compliance. It may be, however, that such an increase would create uncertainty as to outcome and content of application.
- 6.6** The third matter relates to additional matters of discretion for visual amenity (#2501.9 Experience Trust). The Council acknowledges there is a gap in the matters of discretion (Rule 8.8.7), and generally supports the inclusion of the additional matters, subject to some revision. The submitter (on 2 October) provided a revised set of matters which the Council considers is appropriate. Comment has yet to be received from the Crown. I have included as 8.8.7(6) matters of discretion regarding visual amenity in **Attachment A**. It is my view that the inclusion of these matters will better enable the Council to address effects on adjoining landowners.

7. ASSESSMENT OF SUBMISSIONS AND FURTHER SUBMISSIONS

Format and Revised Proposal of the Subdivision, Development and Earthworks Chapter through Stage 1 Hearings

Issue 1 **To what extent are the submissions received on Stage 2 addressed or negated by the Revised Proposal of 30 June 2015?**

7.1 Submissions¹ seek amendments to matter of discretion 8.3.1.5(2) (for allotment size and dimension) which are proposed to be removed through the Stage 1 Revised Proposal as a result of a review of matters of discretion through the Stage 1 hearing process for the Proposal. Numerous submissions in Stage 1 sought a review of some or all matters of discretion. It was my view that this particular matter was unnecessary as the key issue for the Council in relation to allotment size and dimension are the outcomes of a reduction in site size rather than the reasons for the reduction.

7.2 A number of other submissions relate to provisions which have been revised or reformatted through the Stage 1 hearing. I have considered their submissions in the context of the Revised Proposal, and have provided a response to these submissions in the accept/reject table set out in **Attachment B**.

The appropriateness of Outline Development Plans

Issue 2 **Are specific amendments required to the Outline Development Plans (ODPs)?**

7.3 Aside from submissions relating to the RNN zone (which are to be heard in a separate hearing), the only submissions on an ODP as part of the Proposal relate to Appendix 8.6.6 Halswell West (discussed in evidence in Stage 1 Subdivision and Stage 2 Residential Hearings also). Those

1 #2137.1 and #2137.2 Sedgley.

submissions² seek an update of the ODP and an amendment relating to the location of Knights Stream. The Council submission is consistent with the relief sought by other submitters (other than in relation to alternative relief) and the position reached during the Stage 2 Residential Hearing (in particular the rebuttal evidence of Ms Oliver of 2 September 2015, paragraph 4.50). The Accept/Reject table (**Attachment B**) provides additional detail and the revised ODP is shown at **Attachment A**. This was confirmed at mediation and discussed in the Mediation Report. Attachment B to that report contains the version of the ODP to be included in the Proposal.

Removal of the Lyttelton Port Zone provisions

Issue 3 Are the provisions relating to the operation of the Port appropriate?

7.4 A draft LPRP has been prepared and was presented to the Minister in August 2015. The LPRP will, when a decision is issued, manage activities at the Port. Submissions³ therefore seek the removal of provisions in the Proposal managing the Port. The Council's position is to remove those provisions and this is reflected in **Attachment A**.

Flooding in Lower Styx

Issue 4 Should the Proposal limit subdivision in the Spencerville / Lower Styx River area?

7.5 A number of identical submissions⁴ were received in relation to flooding issues in the Lower Styx Catchment. The submissions seek that:

- (a) the Lower Styx River be dredged and riparian vegetation be managed;

2 #2097.2, 2097.4 and 2097.5 Fulton Hogan Land Developments Ltd, #2123.201 Christchurch City Council, #2474.8 Pan and Yu, #2475.8 Sissons, 2476.8 Bromac Lodge Ltd, #2477.8 Harcourt, #2478.8 Mercantile Trust.

3 #2123.197 Christchurch City Council, #2367.16 Lyttelton Port Company.

4 #2152.2 Spencer, #2513.2 Wylaars, #2515.2 Spyve, #2516.2 Griffiths, #2517.2 Dawber, #2518.2 Spencer, #2519 Simmiss, #2520.2 Sharlick, #2521.2 Currey, #2522.2 Harvey, 2523.2 de Gouw, #2524.2 Kickheger. #2525.2 Snook, #2526.2 Hargreaves, #2527.2 St Clair-Newman, #2528.2 Wilkinson/Dawber/Ditfort, #2529.2 Wakelin, #2531.2 Winter, #2532.2 Richards, #2522.2 Snook, #2534.2 Wylaars, #2591.2 Robertson, #2592.2 Walker, #2535.37 McGuigan.

- (b) that development contributions are increased to cover the cost of the dredging and maintenance being sought; and
- (c) that landowners affected by increasing release of stormwater are compensated if dredging and maintenance does not relieve the flood hazard.

7.6 This relief is considered to be out of scope as these matters listed above are not within the ambit of a district plan.

7.7 These submissions do, however, discuss outflow of stormwater from upstream subdivisions (including New Neighbourhood Prestons Zone). These submissions advise that stormwater is retained up to a 1/50 year flood event rather than a 1/100 year flood event as used elsewhere. The Proposal is silent as to the design event, relying on the Infrastructure Design Guide which requires a 1/50 year design. No specific amendment to the Proposal is sought by the submissions, however I consider that it is appropriate for subdivision in the Lower Styx catchment to be managed as per other parts of the district.

7.8 A submission from C & S Richards (#2173.3) also seeks the Lower Styx River and associated drains be maintained. This submission is also considered to be out of scope because the relief sought is not within the ambit of a district plan.

The appropriateness of minimum net site area provisions.

Issue 5 Is the minimum net site area for the Specific Purpose Airport Zone appropriate?

7.9 The notified Proposal included a minimum net area of 500m² for the Specific Purpose Airport Zone (**SPAZ**). This was carried over from the operative City Plan where the minimum net area is linked to the Business 4 (Suburban Industrial) zone. The Christchurch International Airport Ltd (**CIAL**) submission (#2348.107) seeks to amend the Proposal to include no minimum net area for the SPAZ. The submission advises that this is appropriate for the following reasons:

- (a) development at the airport is planned in a coordinated way and is part of well-established and highly specialised land-uses;
- (b) there is a designation for airport purposes over land within the zone; and
- (c) prescribing a minimum net area is not consistent with treatment of similar zones (for example the Specific Purpose Port Zone).

7.10 I accept that, given the above, removing the 500m² minimum is unlikely to result in any adverse effects within the SPAZ. It is my view that the change will reduce compliance costs and prescriptiveness in what is a specialised zone and still achieve the relevant objectives in the Proposal and in the SPAZ plan change (Plan Change 84 to the operative Christchurch City Plan), which I will shortly discuss. I therefore consider that this CIAL submission point should be accepted.

7.11 It is noted that the Council had prepared a plan change for the SPAZ (notified October 2013) and that the Environment Court has issued a decision on the SPAZ plan change. The decision currently is under appeal. The Order in Council at clause (4)(3) provides that, once the appeal has been resolved, this decision will be deemed to be part of the RDP. The plan change does not include any subdivision provisions but does include policy guidance for development of the zone. The proposed amendment is not inconsistent with the Court's decision. All documents relevant to the plan change are available on the Council's website.⁵

The appropriateness of provisions for the Rural Zones.

Issue 6 Are the restrictions on subdivision in Rural zones appropriate?

Issue 7 Are the objectives and policies sufficient and/or appropriate?

Issue 14 Are the restrictions on subdivision in Rural zones appropriate in relation to protection of high class soils?

Issue 15 Are the objectives and policies sufficient and/or appropriate?

⁵ <http://www.ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/plans/district-plan/operative-christchurch-city-plan/proposed-changes-city-plan/proposed-plan-change-84/>.

7.12 The Accept/Reject table at **Attachment B** briefly outlines reasons for accepting and rejecting submissions relating to rural subdivision. These reasons are addressed in the evidence of **Ms Hogan** for the Council in relation to the Proposal. I rely on the evidence of **Ms Hogan** and have amended the Proposal accordingly (refer to **Attachment A**).

The appropriateness of provisions for Residential zones.

Issue 8 Are the minimum net area requirements and other rules governing subdivision in these zones necessary and appropriate?

Issue 9 If submissions seeking a new 'Residential Hills Mixed Density' zone are accepted, is there a need for the subdivision proposal to include specific provisions for the new zone?

Issue 10 Are the minimum net area requirements and other rules governing subdivision in character areas necessary and appropriate?

Issue 11 Is the required intersection upgrade shown at appendix 8.6.7(c) necessary?

7.13 The Accept/Reject table at **Attachment B** briefly outlines reasons for accepting and rejecting submissions relating to residential subdivision. These reasons are dealt with in the evidence in chief and rebuttal evidence of Ms Sarah Oliver for the Council in relation to Proposal 14 Residential (Stage 2). The Accept/Reject table provides a cross-reference to the appropriate document and section. I rely on the evidence of **Ms Oliver** and have amended the Proposal accordingly (refer to **Attachment A**).

7.14 In relation to Issue 11 and Appendix 8.6.7(c), I rely on the evidence of **Mr Milne**. The submission (#2399.1 McVicar/Christ's College) seeks to delete assessment matter 8.5.3(13) - now at 8.2.4.1 (10).

7.15 **Mr Milne** is of the view that development of the Cashmere/Worsleys area is likely to require an upgrade to the intersection and that 8.2.4.1(10) should therefore be retained. The effect is that Appendix 8.6.7(c) is not a standard, but a matter for consideration at the time of consent. I therefore consider that this assessment matter should be retained.

7.16 Appendix 8.6.7(c) is also given effect in the Proposal through two additional standards in Table 1 to Rule 8.2.3.1(1) and these have been amended (as sought in #2399.3) to clarify that compliance is not required with Appendix 8.6.7(c).

The appropriateness of provisions for the Coastal zone.

Issue 12 Should subdivision in the Coastal Zone be a discretionary activity?

7.17 Two submissions⁶ were received in relation to subdivision in the Coastal Zone, both seeking to delete Rule 8.3.1.2 D5 on the basis that the Coastal Zone had not been shown on planning maps. The Coastal Zone is in fact identified on the planning maps and the rule is necessary. I therefore consider that the relief sought by both submissions should be rejected. These submissions are opposed by Annandale Enterprises (#FS2737.62 and #FS2737.76).

The appropriateness of provisions for the Industrial zone.

Issue 13 Should there be additional provisions relating to an Industrial Park (Memorial Avenue) subzone?

7.18 The submission received from Memorial Avenue Investments Ltd (**MAIL**) (#2378.74) seeks that two additional assessment matters be included at a new clause 8.5.6, both relating to provision of a memorial feature. The Crown (#FS2810.254) supports the submission of MAIL.

6 #2285.65 Akaroa Civic Trust, #2311.28 Rod Donald Banks Peninsula Trust.

7.19 The MAIL memorandum to the Panel of 5 August 2015 accepts the Council's proposed rules package with some exceptions. Those exceptions do not include the relief sought in #2378.74. Regardless of whether MAIL wishes to pursue the matter, I am of the view that the provision of a memorial on this site is a private matter for MAIL and it is not necessary to include the proposed assessment matters. I therefore consider that the relief sought should be rejected.

EARTHWORKS

The appropriateness of volume thresholds.

Issue 16 Are the volume thresholds for earthworks at Table 1 of 8.8 of the Proposal appropriate, in particular in the Industrial zones, Commercial Core zone, Retail Park zone, Specific Purpose (Airport) zone and the Coastal zone?

Issue 17 Should the 5 year timeframe (at 8.8.2 Activity Standard 1 for P1), to which the volume thresholds for earthworks relate apply to all zones?

7.20 Submissions seek that volume thresholds for earthworks in industrial zones and commercial zones⁷ and in the SPAZ⁸ are amended. The submissions relating to the industrial and commercial zones identified in Issue 16 seek the thresholds be amended to 1000m³/ha (Gelita) or 2000m³/ha (CIAL), from 100m³/site.

7.21 Both proposed thresholds reflect operative City Plan thresholds, but not the operative Banks Peninsula Plan which includes no volume limits for Industrial or Town centre zones (making all earthworks in those zones permitted activities).

7.22 The Proposal has included standards for earthworks in the Town Centre and Industrial zones, noting the building consent exemption at 8.8.5(4).

7 #2307.20 Gelita New Zealand Ltd; #273.25 Progressive Enterprises Ltd.
8 #2348.113 and .114 Christchurch International Airport Ltd.

- 7.23** Given that the relief sought is consistent with the provisions of the operative City Plan which I understand to be managing earthworks appropriately, I accept the relief sought in relation to Industrial and Commercial Zones. I prefer the lesser threshold sought, noting again the building consent exemption at 8.8.5(4). Amending the threshold would, in my view, reduce compliance costs and prescriptiveness, without compromising achievement of the relevant objectives and policies or imposing any material costs.
- 7.24** In relation to the SPAZ zone, the CIAL submission seeks that the threshold revert to that under the operative City Plan. Given that the relief sought is consistent with the provisions of the operative City Plan, which I understand to be managing earthworks appropriately, and the additional standards in 8.8.2 P1, I accept the relief sought. Amending the threshold would, in my view, reduce compliance costs and prescriptiveness, without compromising achievement of the relevant objectives and policies or imposing any material costs.
- 7.25** Submissions⁹ also seek that the five year timeframe be removed from 8.8.2 P1 (1). The operative City Plan includes a ten year return period and this was reduced to five years following comments on the draft proposal (prior to notification) by the Minister for Canterbury Earthquake Recovery. The operative Banks Plan does not include a return period. The submissions seek a one year return period (rather than five years) and this was also discussed and agreed at the mediation session of 21 and 22 September 2015. I accept this relief in part, as it my view that the standards at 8.8.2 P1 (which are not included in either operative plan, aside from in relation to repair of land damaged by earthworks (as inserted by the Minister for Canterbury Earthquake Recovery)) are considered sufficient to manage the effects of earthworks without stipulating a return period, but that for the volume thresholds to function some time period is necessary. Amending the threshold would, in my view, reduce compliance costs and prescriptiveness, without compromising achievement of the relevant objectives and policies or imposing any material costs.

Erosion on the Port Hills.

Issue 18 Will the earthworks provisions (at 8.8.2 P1) appropriately manage erosion on the Port Hills?

7.26 The submission from the Cashmere Stream Care Group (#2156.8) relates to earthworks on the Port Hills and seeks relief in relation to Rule 8.8.2 P1 (7), which deals with erosion and sediment control. There are a number of other submissions¹⁰ seeking relief to Rule 8.8.2 P1 (7) in terms of content and necessity.

7.27 In reviewing Rule 8.8.2 P1 (7), I acknowledge that it is not clear or readily measurable. It also overlaps with parts of the Natural Resources Regional Plan (**NRRP**) (for earthworks in riparian margins) and the Land and Water Regional Plan (**LWRP**) (for earthworks on the Port Hills). The Council's Water Supply, Wastewater and Stormwater Bylaw 2014 (**the Bylaw**) is also relevant and applies to all stormwater systems within the District. Relevant sections of these documents include:

- (a) Christchurch City Council Water, Wastewater and Stormwater Bylaw 2014: section 34 (restricted activities);
- (b) Natural Resources Regional Plan: Rules WQL30, WQL 42, WQL46/47 and WQL 48;
- (c) Operative Land and Water Regional Plan: Rules 1 - 5 of Part II;
- (d) Proposed Land and Water Regional Plan: Rules 5.18/5.19, 5.167/5.168/1.169, and 5.170/5.171/5.172.

7.28 It is my view that the NRRP, LWRP and the Bylaw deal appropriately with discharge of sediment to water and therefore additional regulation addressing this matter does not need to be included in the Proposal. In terms of airborne discharge, the Proposed Canterbury Air Regional Plan (**Air Plan**) manages 'objectionable' dust emission through Rule 7.3 and Schedule 2. The s42A report for the Air Plan of 28 August 2015 recommends Rule 7.3 be retained as proposed and that minor amendments be made to Schedule 2. The Hearing is scheduled for 27

10 #2235.69 Ngai Tahu Ltd; #2249.48 Canterbury Regional Council; #23878.266; The Crown; #2275.18 CLD New Zealand Ltd.

October 2015. The rules in the Air Plan took effect on 28 February 2015. I consider that it is appropriate for airborne dust emissions from earthworks be managed by the Air Plan and do not consider that the Proposal needs to include this.

- 7.29** On the basis of the above paragraphs, it is my view that the existing text (8.8.2 P1 (7)) should be replaced with a note cross-referencing the relevant documents (refer to **Attachment A**). It is noted that the Proposed LWRP does not specifically provide for the Port Hills, but does include earthworks controls in riparian and erosion prone areas. If the proposed LWRP becomes operative, the Proposal will require updating.

Earthworks and electricity transmission.

Issue 19 **Should the earthworks section of the Proposal include specific provisions for earthworks around transmission and distribution lines?**

- 7.30** The submission from Transpower New Zealand Ltd (#2218.24) seeks that the notified provisions managing earthworks be amended to make them consistent with amendments made to the pRDP recognising the National Grid. This submission is supported by Federated Farmers of New Zealand (#FS2788.6) and Orion New Zealand Ltd (#FS2797.32). The notified rule included a 12m setback from transmission lines. It does not manage Orion distribution lines and does not align with the agreed position between the Council, Transpower and Orion in relation to setback distances. The proposed revision to rule 8.8.2 P3, P4 and P5 remedies both issues.

- 7.31** Orion New Zealand's submission (#2340.28 - 2348.31) seeks to amend the notified provisions to refer also to their high voltage electricity distribution network. Transpower New Zealand (#FS2780.5) opposes the submission from Orion.

- 7.32** These submissions were the subject of discussion at the mediation sessions of 21 and 22 September 2015 and agreement was reached between the parties. This agreement is reflected in **Attachment A**.

Exemption where building consent has been obtained.

Issue 20 **Should the list of earthworks (at 8.8.5) that are exempt from the rule at 8.8.2 include where building consent has been obtained for retaining walls or should it apply only to buildings (as notified at 8.8.5 number 4)?**

7.33 Experience Trust (#2501.7) and Progressive Enterprises Ltd (#2373.26) seek to amend Rule 8.8.5(4) (Exemptions): Experience Trust by adding a note for clarification and Progressive Enterprises Ltd by deleting some of the notified text.

7.34 Experience Trust seeks to add a clarification to (4) to exclude retaining walls constructed only to retain earth (rather than those which have a role in ensuring the stability of land upon which a residence or other building has building consent). It is my view that the current exemption is effective in providing for recovery and reducing the cost of compliance for the construction of buildings, and the building consent process will ensure that ground under a building will be stable.

7.35 In relation to retaining walls for non-structural purposes, it is possible that substantial volumes of earth could be retained by the wall beyond the area subject to a building consent and could affect land stability on and adjoining a site. Such works could also lead to overlooking issues, particularly on hillslopes. While there would be additional compliance costs, it is my view that these are outweighed by the avoidance of potentially sub-optimal outcomes and effects on adjoining landowners. I therefore accept this submission point.

7.36 Progressive Enterprises Ltd seeks to widen the scope of the exemption to any earthworks subject to a building consent, regardless of whether they occur within the footprint of a building. The submission seeks this amendment because it is narrower than the exemption provided at Volume 3 Part 9 5.6.4(h) of the City Plan. The rule, however, is intended to limit the breadth to which a building consent applies because it is not limited through the building consent process and could show earthworks across a site. Building consent applications assess against a much narrower range

of matters and the Council would therefore not necessarily be able to manage those earthworks in a manner which would achieve the relevant objectives and policies. I do not consider that to be appropriate. I therefore reject this submission point. McDonald's Restaurants (NZ) Ltd (#FS2729.10) and Scentre New Zealand Ltd (#FS2799.152) support the submission of Progressive Enterprises Ltd.

Quarrying outside the Rural Quarry zone.

Issue 21 Are the provisions for quarrying activities in Rule 8.8.2 appropriate?

7.37 The Council submission (#2123.200) seeks to exempt filling in the Rural Quarry zone from the earthworks provisions in Table 1 to Rule 8.8.2. Proposal 17 (Rural) manages filling in the Rural Quarry zone therefore it is not necessary to include provisions regarding this zone in the Proposal. I accept the submission point.

Additional Issues proposed by Z Energy Ltd / BP Oil Ltd / Mobil Oil NZ Ltd

Notification of discretionary activities

Issue 22 Should applications for consent for earthworks as a discretionary activity be notified and require written approval of affected parties?

7.38 The submission from Z Energy Ltd / BP Oil Ltd / Mobil Oil NZ Ltd (#2185.65) and a number of other submissions¹¹ seek to delete the requirement to notify and obtain written approval for discretionary activities. The submission from Z Energy et al is supported by Scentre New Zealand Ltd (#FS2799.92). Scentre New Zealand Ltd (#FS2799.148) supports the submission of Progressive Enterprises Ltd.

7.39 There are no discretionary activities within the Stage 2 text of the Proposal and I therefore accept its deletion. There are discretionary activities within

11 #2235.63 Ngai Tahu Property Ltd, #2269.25 Christchurch Polytechnic Institute of Technology, #2340.25 Orion New Zealand Ltd, #2373.23 Progressive Enterprises Ltd.

Stage 3 of Proposal 8 and will require a statement as to how applications for discretionary activities will be treated. Whether the statement should be reinstated as part of Stage 3 is the matter for Stage 3 evidence to consider.

Exemption for earthworks regulated by Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (Soil NES)

Issue 23 Should earthworks that are regulated by the Soil NES be added to the list of exemptions in 8.8.5?

7.40 The submission from Z Energy Ltd / BP Oil Ltd / Mobil Oil NZ Ltd (#2185.67) seeks an exemption be added to Rule 8.8.5 for works regulated by the Soil NES for clarification. I agree and include an additional subclause to 8.8.5 (refer to **Attachment A**). The submission also seeks an amendment to clause 8.8.1 in relation to the Soil NES, again for clarification, which I accept. The latter amendment is supported by Liquigas Ltd (#FS2751.4).

8. DEFINITIONS

Introduction

8.1 There are a number of definitions used in stage 2 of the Proposal. These are listed in Attachment A to the pre-hearing meeting report lodged by the Council on 11 August 2015, and are reproduced below (updated to remove Residential New Neighbourhood Zone definitions):

Proposal number 8		
Stage 1 definitions	Stage 2 definitions	Relevant submitter-requested definitions
<ul style="list-style-type: none"> • Access • *Allotment • Boundary • Esplanade reserve • Grout • *Indigenous vegetation • *Net site area • **Residential unit 	<ul style="list-style-type: none"> • **Building • **Earthworks • **Education activity • **Health care facility • **Identified building area • **Site 	

<ul style="list-style-type: none"> • Road • *Subdivision 		
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* = subject to stage 1 submissions only.

** = subject to stage 1 and 2 submissions.

8.2 I record some Stage 1 definitions were deferred until stage 2. Of those 'Aggregate piers', 'Disturbance of soil', 'Indigenous biodiversity', 'In-situ mixing', 'Soil mixing', and 'Spring' are used in the Proposal.

8.3 Of those submissions subject to stage 1 and 2 submissions, including those deferred identified above:

(a) 'Building', 'Education activity', 'Health care facility', 'Identified building platform', 'Residential unit', 'Site', 'Indigenous biodiversity' are dealt with in the Council's evidence on other Proposals.

(b) 'Springs' is proposed (as advised through evidence on Proposal 2 Definitions) to be dealt with through the Proposal 9 (Natural and Cultural Heritage).

(c) No submissions were received for 'Aggregate piers', 'In-situ mixing', or 'Soil mixing'.

(d) The definition for 'Concept Plan' will be dealt with through the RNN Hearing (noting that the term is not used in the current RNN proposal).

(e) The definition of 'Valuable Tree' was left in Proposal 2 inadvertently and is not required.

8.4 Given the above, this evidence will address the following definitions:

(a) 'Earthworks';

(b) 'Disturbance of soil';

Earthworks

- 8.5** There are seven submission points¹² in relation to the definition of earthworks. Four submission points seek to retain the definition as notified.
- 8.6** Two submissions from Horticulture New Zealand seek to add an exclusion for cultivation (the submission also seeks to add a definition of cultivation). The term "earthworks" was not intended to include cultivation and I accept that it would be clearer to specifically exclude it.
- 8.7** In terms of adding a definition of cultivation to the Plan, the wording proposed in the submission is appropriate for use in relation to the current Proposal; however, the term is also relevant to Proposal 9 (Natural and Cultural Heritage) and it may be that it is not appropriate in that context to exclude harrowing and / or direct drilling from the definition. I suggest deferral of consideration of any new cultivation definition until the Natural and Cultural Heritage hearing, or the Stage 3 definitions hearing.
- 8.8** The other submission (McDonalds) seeks to combine the definitions of earthworks, disturbance of soil, and excavation. I do not consider doing so would be helpful. Firstly, the definition of earthworks is more confined than disturbance of soil, and secondly, excavation is used to mean different things within the Proposal (and other Proposals).
- 8.9** Given the above, I suggest amending the definition as below:

Earthworks

means any excavation, depositing or other disturbance of earth, rock, sand or soil on a site, including that which raises ground level or changes the profile of the landform, and that which involves the inclusion or insertion of other materials into the ground for the purposes of repairing a site damaged by earthquakes or strengthening a site in preparation for the construction of a building, or the installation of services or utilities. Earthworks include the

12 #2165.10 and .15 Horticulture New Zealand, #2218.2 Transpower New Zealand Ltd, #2269.4 Canterbury Polytechnic Institute of Technology; #2297.3 McDonald's Restaurants New Zealand Ltd; #2340.3 Orion New Zealand Ltd and #2264.4 University of Canterbury.

*construction of tracks, firebreaks and landings, and ground shaping (recontouring), root raking and blading, **but not cultivation.***

Disturbance of Soil

- 8.10** There are five submission points¹³ in relation to the definition of disturbance of soil. Three seek to retain the definition as notified.
- 8.11** McDonalds again seeks to combine the definitions of earthworks, disturbance of soil, and excavation. Horticulture New Zealand seeks its deletion for the same reasons. I do not consider doing so would be helpful, however, as the terms are used to mean different things within the Proposal (and other Proposals). I do not suggest any changes to the definition.



Andrew Jeffrey Long

5 October 2015

13 #2165.112 Horticulture New Zealand; #2269.1 Canterbury Polytechnic Institute of Technology; 2297.4 McDonald's Restaurants New Zealand Ltd; #2340.2 Orion New Zealand Ltd and #2264.1 University of Canterbury.

ATTACHMENT A – REDLINE CHAPTER

ATTACHMENT B – SUBMISSION ACCEPT/REJECT TABLE