

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

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

AND Stage 3 of the Christchurch Replacement District Plan

**OPENING SUBMISSIONS FOR THE CROWN ON THE SPECIFIC PURPOSE
(BURWOOD LANDFILL AND RESOURCE RECOVERY PARK) ZONE
PROPOSAL 21.12**

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BUDDLE FINDLAY

NEW ZEALAND LAWYERS

Barristers and Solicitors
PO Box 2694, Wellington

Solicitors Acting:
David Allen
Partner
Phone: 04 462 0423 Fax: 04 462 0418
Email: david.allen@buddlefindlay.com

Julia White
Senior Associate
Phone: 04 498 7331 Fax: 04 462 0825
Email: julia.white@buddlefindlay.com

1. INTRODUCTION

- 1.1 The Crown agrees with Mr Murray for Burwood Resource Recovery Park ("BRRP") Limited that significant process has been made since the Stage 2 notification of the Christchurch Replacement District Plan ("**Replacement Plan**"), in which the Replacement Plan was completely silent in providing for current and future activities at the BRRP and Burwood Landfill.¹
- 1.2 Prior to the notification of Proposal 21.12, the Crown and the Christchurch City Council ("**Council**") worked together on the drafting of the Specific Purpose (Burwood Landfill and Resource Recovery Park) Zone ("**Proposal 21.12**") and its section 32 report.
- 1.3 This collaborative approach has meant that the Crown's submission on the Stage 3 notification of Proposal 21.12 was concise.
- 1.4 The Crown's submission was resolved through informal discussions between the Crown and the Council between notification and the filing of the Council's evidence in chief. The evidence in chief of Ms Rolton (Council planner) attaches a revised proposal ("**Revised Proposal**") which, for the reasons set out in the evidence of Ms Yozin and discussed below, satisfies the Crown's concerns.
- 1.5 Further changes to the Revised Proposal were agreed through mediation and are attached to Mr Murray's evidence in chief and Ms Rolton's rebuttal evidence ("**Updated Revised Proposal**"). The further changes largely addressed the BRRP operator's submission points. These submissions refer to the Updated Revised Proposal, which also achieves the outcomes expressed in the Crown's submission.
- 1.6 These submissions:
 - (a) outline how the Crown's concerns have been resolved;
 - (b) provide an update on Site B; and
 - (c) outline how the Updated Revised Proposal satisfies the statutory requirements.

¹ Evidence in chief of Mr Murray for BRRP Ltd, 24 November 2015, paragraph 9.

2. RESOLUTION OF THE CROWN'S CONCERNS

2.1 The Crown's submission on Proposal 21.12:

- (a) supported the rezoning of the Burwood Landfill site to a Specific Purpose Zone and the inclusion of the BRRP and Site D as part of the Zone;
- (b) sought to ensure that Proposal 21.12 appropriately recognises the importance of the BRRP and the Burwood Landfill to the ongoing recovery of Christchurch and provides a streamlined planning framework which allows these activities with sufficient flexibility to function as required to assist with recovery;
- (c) sought to ensure that the policy framework provides certainty for the operator and the Council (as owner of the BRRP and the Burwood Landfill) to operate facilities efficiently; and
- (d) sought to ensure that Proposal 21.12 mitigates the adverse effects of the BRRP and the Burwood Landfill activities on people and the environment.

2.2 As detailed in the Crown's submission points table (Attachment B to Ms Yozin's evidence in chief) and discussed broadly below, these submissions have now been resolved in the Updated Revised Proposal.

Streamlined and certain consenting process

2.3 The Crown agrees with the evidence of Mr Murray that the statutory interventions (the passage of the BRRP Order,² section 27 amendments³ and Action 46 to the Land Use Recovery Plan, Te Mahere Whakahaumanu Tāone ("LURP")⁴) carried out as a consequence of the Canterbury earthquakes, illustrate that significant analysis has been undertaken in determining that the zone is reasonably necessary for earthquake waste

² The BRRP Order was made on the Minister's recommendation in accordance with section 71 of the Canterbury Earthquake Recovery Act 2011 ("CER Act"), and therefore its provisions were considered "reasonably necessary or expedient" for the earthquake recovery purposes specified in section 3(a)-(g) of the CER Act. The BRRP Order set up a streamlined consenting process with limited notification for the consent applications required to establish and operate the BRRP.

³ The Minister for Canterbury Earthquake Recovery, acting under section 27 of the CER Act, amended the Canterbury Natural Resources Regional Plan and the operative Christchurch City Plan to enable the Burwood Landfill to be used as a permanent disposal facility for earthquake wastes. As set out in the evidence of Ms Yozin, those amendments provided a number of permitted activity standards for the Burwood Landfill, and where those permitted activity standards were not met, the status of the landfill activities would require controlled activity consent on a non-notified basis.

⁴ Action 46 of the LURP made changes to the Canterbury Land and Water Regional Plan to reinstate the controlled non-notified earthquake waste disposal at Burwood Landfill.

disposal processing and disposal activities, and that enabling provisions within the zone will aid the recovery process.⁵

- 2.4 The evidence of Ms Yozin provides further details of the streamlined consenting processes established for the BRRP and the Burwood Landfill, and the need for these facilities for earthquake waste processing and disposal.⁶
- 2.5 Mr James and Ms Yozin concur that the original justification for the enabling planning framework which provides for earthquake waste processing and disposal facilities in the zone remains, as the volume of earthquake waste needing to be processed has exceeded original projections.⁷ As set out in the evidence of Mr Clark, between November 2015 and December 2018 there will be approximately 14,550 to 30,600 tonnes of earthquake waste to be disposed from Crown work in the residential red zone.⁸
- 2.6 The Crown supports the Updated Revised Proposal which:
- (a) establishes a specific purpose zone that recognises the significant role the BRRP and Burwood Landfill continue to play in the recovery of Christchurch;
 - (b) inserts a new objective facilitating resource recovery and disposal of earthquake waste;⁹ and
 - (c) establishes a streamlined and certain consenting process for the processing and disposal of earthquake waste by the BRRP and the Burwood Landfill.

Flexible operations

- 2.7 The Crown supports the BRRP and Burwood Landfill having necessary flexibility for operations across the zone to continue as needed to assist recovery.¹⁰ Mr Clark supports the expansion of current waste disposal cells, if required, to allow for disposal of the remaining planned demolition materials.¹¹ As set out in the evidence of Mr Yozin and Ms Rolton

⁵ Evidence in chief of Mr Murray, paragraph 29.

⁶ Evidence in chief of Ms Yozin, 24 November 2015, section 5.

⁷ Evidence in chief of Ms Yozin, paragraph 4.2; evidence in chief of Mr Murray, paragraph 30.

⁸ Evidence in chief of Mr Clark, paragraph 4.3. The range of tonnage is due to the fact that 291-613 Crown-owned dwellings in the flat lands and Port Hills residential red zones will require demolition, with a typical residential dwelling generating approximately 150 tonnes of earthquake waste (Evidence in chief of Mr Clark, paragraphs 6.2 and 6.9).

⁹ Evidence in chief of Ms Rolton, paragraph 8.1.

¹⁰ Crown Stage 3 submission p 276 on Policy 21.12.1.1.1.

¹¹ Evidence in chief of Mr Clark, paragraph 7.6.

appropriate flexibility is now proposed through the amendment to Policy 21.12.1.1.1.¹²

Mitigate adverse effects on people and the environment

- 2.8 Although the Crown did not submit on the specific amendments sought by BRRP Limited in relation to natural hazards, it supports the related amendments in the Updated Revised Proposal¹³ as it considers they mitigate the adverse effects of the BRRP and the Burwood Landfill activities on people and the environment.
- 2.9 The Crown considers that the noise generated by the facilities is appropriately mitigated through the Updated Revised Proposal, whereby residential noise standards apply to activities within the zone.

3. SITE B

- 3.1 As explained in Ms Rolton's evidence in chief,¹⁴ the Specific Purpose (Burwood Landfill and Resource Recovery Park) Zone is shown in planning Maps 13 and 20 and includes the area zoned Specific Purpose (Burwood Landfill) Zone within the Operative City Plan and the operational areas of the BRRP known as "Site B", "Site C" and "Site D" (as authorised through resource consents). Site B is the existing demolition material stockpile location and recovery park facility (screening and processing plant). Site C is a stockpile area for earthquake waste and Site D is the area where storage of demolition material from buildings where human lives were lost is located.
- 3.2 In her evidence in chief Ms Yozin noted that as a result of the LURP review, the Canterbury Regional Council ("**Regional Council**") recommended to the Minister that the Land and Water Regional Plan ("**LWRP**") be amended so that earthquake waste disposal in Site B of the BRRP become a permitted activity, and that the matter was with the Minister for consideration.¹⁵ The Minister is yet to make a decision on this recommendation.
- 3.3 The position is therefore that the disposal of earthquake waste to Sites B, C and D is a prohibited activity under the LWRP (only disposal to the Burwood Landfill is a controlled activity);¹⁶ however, the proposal at the time of

¹² See page 18 of Ms Yozin's evidence in chief, referring to Ms Rolton's evidence in chief paragraphs 8.4 and 8.5.

¹³ See eg the insertion of matter 'e' in controlled activity C1, 21.12.2.2.2.

¹⁴ Ms Rolton evidence in chief, paragraph 4.13.

¹⁵ Ms Yozin evidence in chief, paragraph 5.19.

¹⁶ Under the LWRP Rule 9.5.17 the discharge of earthquake waste must be within the area defined as the Burwood Landfill Special Purpose Site to be a controlled activity, otherwise the discharge is a prohibited activity. Sites B and D are outside that area shown on Map 9.2 as the Burwood Landfill Special Purpose Site.

preparing evidence in chief and rebuttal was for such disposals to be a permitted activity under the Replacement Plan.

- 3.4 In her supplementary evidence Ms Rolton queries whether there is in fact an inconsistency between the LWRP and the Replacement Plan provisions, given that the Council and the Regional Council are managing different effects.¹⁷ Ms Rolton and the Council seek that, to address a submission from BRRP, disposal of earthquake waste at Site B be a permitted activity.¹⁸
- 3.5 The Crown's desired outcome is also that disposal of earthquake waste at Site B be a permitted activity.¹⁹ Ms Rolton's evidence is that the effects associated with disposal activities at Sites B, C and D would be no greater than those at the existing disposal site²⁰ and the BRRP operator has identified a need for Site B to be used for the disposal of earthquake waste.
- 3.6 However, there is a potential inconsistency between the LWRP and the Replacement Plan because, although the two plans are intended to control different effects (as Ms Rolton considers)²¹, the activity on land sought to be controlled, namely the disposal of earthquake waste, is the same. Ms Yozin's opinion is that permitting the disposal of earthquake waste under the Replacement Plan at sites other than the Burwood Landfill could be inconsistent with the LWRP, under which such disposals are prohibited.²²
- 3.7 Also, the Statement of Expectations states that the Replacement Plan "*clearly articulates how decisions about resource use and values will be made, which must be in a manner to reduce significantly ... reliance on resource consent processes and the number, extent and prescriptiveness of development controls*".²³ There is a potential inconsistency with this expectation if an applicant could obtain consent under the Replacement Plan but (at least as long as the LWRP remains un-amended) could not obtain consent for the same activity under the LWRP.
- 3.8 If the Hearings Panel finds that there is an inconsistency with the LWRP, the Crown submits that, as originally notified, item 'a' in P1 should be reinserted and Burwood Landfill identified in Appendix 21.12.3.1. By this change, only disposal in the Burwood Landfill is permitted, achieving consistency with the

¹⁷ Ms Rolton supplementary evidence, paragraph 3.12.

¹⁸ Ms Rolton supplementary evidence, paragraph 3.10 and Council opening submissions, paragraph 7.12.

¹⁹ Subject to the activity standards set out in P1, in the version attached to Ms Rolton's supplementary evidence.

²⁰ Ms Rolton supplementary evidence, paragraph 3.1.

²¹ Ms Rolton supplementary evidence, paragraph 3.4.

²² Section 75(4) of the Resource Management Act 1991 ("RMA") requires district plans to "*not be inconsistent with...a regional plan for any matter specified in section 30(1)*."

²³ Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, Schedule 4, clause (a).

LWRP. Disposals to sites B, C and D would be non-complying, by operation of NC1. On those sites, only earthquake waste processing activities would be permitted (under P2).

3.9 The Council has also proposed that reference to groundwater contamination be deleted in Policy 21.12.1.1.2a.i. The Crown agrees that maintenance and enhancement of groundwater quality is not a territorial function, so the reference to groundwater should be deleted. However, the Crown submits that contamination is a potentially significant effect of earthquake waste processing and disposal activities that should be managed. The Crown's Stage 3 submission sought that Proposal 21.12 be amended to "*mitigate the adverse effects of the BRRP and Burwood Landfill on natural resources and the environment*".²⁴ It is submitted that it is within the scope of that broad submission for Policy 21.12.1.1.2a.i. to be amended to refer to "*land contamination*".

4. THE STATUTORY REQUIREMENTS

4.1 The Crown submits that, for the reasons set out in section 7 of Ms Yozin's evidence in chief, section 6 of Ms Rolton's evidence in chief and Ms Rolton's rebuttal evidence, the Updated Revised Proposal (together with the amendments described in paragraphs 3.8 and 3.9 above):

- (a) is consistent with the Statement of Expectations included in Schedule 4 to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014;²⁵
- (b) implements Objectives 3.3.1, 3.3.2, 3.3.7 and 3.3.9 of the decision of the Hearings Panel on strategic directions and strategic outcomes (and relevant definitions) dated 26 February 2015;²⁶
- (c) gives effect to the Canterbury Regional Policy Statement 2013;²⁷
- (d) is consistent with the Recovery Strategy Mahere Haumanutanga o Waitaha²⁸ and the LURP, particularly outcomes 3, 4, 5 and 9, and action 2(iv);²⁹ and

²⁴ Crown's stage 3 submission, paragraph 32.7(b)(iv).

²⁵ In particular, clauses (a), (b), (c) and (f) for the reasons summarised in paragraph 7.4(c) of Ms Yozin's evidence in chief.

²⁶ See further paragraph 7.4(b)-(e) of Ms Yozin's evidence in chief.

²⁷ In particular, the objectives and policies listed in paragraph 6.3 of Ms Rolton's evidence in chief. The Crown submits that Objectives 6.2.3 and 19.2.2, and Policies 6.3.2, 19.3.1 and 19.3.4 are particularly relevant, for the reasons given in paragraph 7.4(g) of Ms Yozin's evidence in chief.

- (e) achieves the purpose of the RMA by enabling development in a manner that enables people and communities to provide for their social, economic and cultural wellbeing and safety while appropriately avoiding, remedying or mitigating adverse effects.³⁰

5. WITNESSES

- 5.1 The Crown will call Nardia Yozin (planning). It also relies on the evidence of Mathew Clark (land clearance), who has been excused from appearing at this hearing as no party has sought to cross examine him.

DATED 9 December 2015



David Allen / Julia White
Counsel for the Crown

²⁸ In particular, Goals 1.1, 1.5 and 6.6 for the reasons given in paragraph 6.6 of Ms Rolton's evidence in chief, and paragraph 7.4(h)(i) of Ms Yozin's evidence in chief.

²⁹ See further paragraph 7.4(h)(ii) of Ms Yozin's evidence in chief and paragraph 6.7 of Ms Rolton's evidence in chief.

³⁰ The evidence in chief of Ms Yozin, paragraph 7.4(a) is that the Revised Proposal "will assist in the rehabilitation and rebuilding of greater Christchurch, contributing to the social, economic and health and safety benefits associated with a timely and efficient rebuild and recovery. Furthermore, the BRRP allows for the sorting and recycling of earthquake waste, promoting sustainable management by reducing the total volume of waste being sent to landfill for disposal."