

**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**

**IN THE MATTER** of the Specific Purpose (Burwood Landfill and Resource  
Recovery Park) Zone Proposal (Stage 3)

**SUBMITTER** **CANTERBURY REGIONAL COUNCIL** (3629, FS-5004)

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**MEMORANDUM OF COUNSEL ON BEHALF OF  
CANTERBURY REGIONAL COUNCIL**

**9 December 2015**

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LAWYERS  
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**MAY IT PLEASE THE HEARINGS PANEL**

- 1 This Memorandum is filed on behalf of the Canterbury Regional Council ("CRC") to indicate the CRC's support for the amendments recommended to the Specific Purpose (Burwood Landfill and Resource Recovery Park Zone) Proposal in the Supplementary Evidence of Kimberley Rolton ("the Revised Proposal").

**Canterbury Land and Water Regional Plan**

- 2 The Canterbury Land and Water Regional Plan ("LWRP") identifies a Burwood Landfill Special Purpose Site on Map 9.2 and contains rules controlling the discharge of earthquake related residual demolition waste, liquefaction silt, and infrastructure waste onto or into land within or outside of that site, in circumstances where contaminants may enter water.<sup>1</sup>
- 3 The Burwood Landfill Special Purpose Site identified in Map 9.2 represents the existing "Burwood Landfill" site that was identified in the notified version of the Proposal.
- 4 The discharge of earthquake related residual demolition waste, liquefaction silt, and infrastructure waste onto or into land within the Burwood Landfill Special Purpose Site in circumstances where contaminants may enter water is a controlled activity under Rule 9.5.17 of the LWRP. If the discharge occurs outside of the Site, then it is prohibited under Rule 9.5.18.
- 5 Sites B, C and D set out in the CCC's redline version and rebuttal evidence of Ms Rolton sit outside of the Burwood Landfill Special Purpose Site identified on Map 9.2 of the LWRP.
- 6 As part of its review of the Land Use Recovery Plan ("LURP"), the CRC has recommended that the Minister for Canterbury Earthquake Recovery ("the Minister") amend Map 9.2 of the LWRP to include the area known as Site B within the Burwood Landfill Special Purpose Site.
- 7 This recommendation is still with the Minister for his consideration. However, it is anticipated that a decision of the Minister is imminent.

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<sup>1</sup> See Attachment B to Supplementary Evidence of Kimberley Rolton.

- 8 BRRP has sought amendments to the Proposal to enable permanent disposal of earthquake waste on Site B. CRC lodged a further submission (FS5004) in support of this, subject to the Minister amending Map 9.2 of the LWRP and subject to controls to ensure that permanent disposal does not take place on the unlabelled parcel to the west (Site D)<sup>2</sup>.
- 9 The CCC sought amendments in its submission to the planning maps to incorporate Site C into the Zone. Site C is an area within the BRRP which is being utilised for the stockpiling of earthquake demolition material.

### **Potential inconsistency with the Land and Water Regional Plan**

- 10 Following the receipt of the CCC's rebuttal evidence, the CRC raised a concern with the CCC in relation to the potential inconsistency of the revised provisions with the LWRP.
- 11 These concerns related to amendments to the provisions, in particular the removal of Rule 21.12.2.2.1 P1(a), which resulted in the disposal of earthquake waste on sites C and D becoming a permitted activity. As notified, the Proposal specified that the disposal of earthquake waste could only take place as a permitted activity on the area marked as "Burwood Landfill."
- 12 CRC was concerned that the revised provisions were inconsistent with the LWRP as Sites C and D sit outside the Burwood Landfill Special Purpose Site on Map 9.2 and therefore the disposal of earthquake waste on these sites is likely to be prohibited under the LWRP.
- 13 CRC acknowledges that the district plan and regional plan are intended to control different effects. However, the LWRP provides a clear indication that the disposal of earthquake waste should only take place on the Burwood Landfill Special Purpose Site on Map 9.2 in the LWRP.
- 14 As set out in the evidence of Ms Yozin, Burwood Landfill had previously closed but was re-opened to receive the large volume of earthquake waste resulting from the demolition of buildings and infrastructure as a

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<sup>2</sup> Site C did not form part of the notified version of the Proposal.

result of the earthquakes.<sup>3</sup> Amendments were made to the Natural Resources Regional Plan and the LWRP under the Canterbury Earthquake Recovery Act 2011 to facilitate the re-opening of Burwood Landfill. These amendments, together with recommendations as part of the LURP Review, only relate to the existing Burwood Landfill Site and Site B, not the additional Sites C and D.

- 15 It is the CRC's view that it is inappropriate to permit the disposal of earthquake waste on Sites C and D as this gives rise to an expectation that permanent disposal could take place on these sites as a permitted activity, when it is likely to be prohibited under the LWRP.
- 16 CRC has liaised with CCC in relation to this matter and is grateful for the CCC's willingness to address these concerns.

#### **Revised Proposal set out in Supplementary Evidence**

- 17 The CRC has reviewed the Revised Proposal set out in the Supplementary Evidence of Ms Rolton and supports the amendments to reinstate Rule 21.12.2.2.1 P1(a).
- 18 The effect of the amendments is that disposal on Sites C and D is no longer a permitted activity. The CRC considers that this is appropriate as it provides a clear distinction between where disposal of earthquake waste can take place as a permitted activity and is consistent with the area identified as Burwood Landfill Special Purpose Site on Map 9.2 in the LWRP (together with the recommendation to the Minister to amend Map 9.2 to include Site B within the Burwood Landfill Special Purpose Site).

#### **Advice note**

- 19 Ms Rolton has referred in her supplementary evidence to a request by the CRC to include an advice note that the discharges associated with earthquake waste disposal must comply with the LWRP.

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<sup>3</sup> Statement of Evidence of Nardia Yozin dated 24 November 2015 at [5.6] to [5.19].

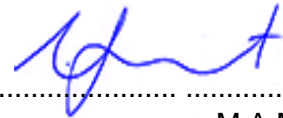
- 20 The CRC considers that the inclusion of such a note would assist users of the plan so that they are made aware of the associated requirements of the LWRP. In particular, when the relevant activity may be prohibited under the LWRP.
- 21 If the Panel is minded to include an advice note in the Proposal, then the following could be inserted:

*Relevant regional plans, including the Canterbury Land and Water Regional Plan, should also be referred to before undertaking an activity within the Specific Purpose (Burwood Landfill and Resource Recovery Park) Zone.*

**Attendance at hearing**

- 22 The CRC has not indicated that it wishes to present legal submissions at the hearing scheduled to commence at 10am on 9 December 2015. However, Counsel for CRC has liaised with Counsel for CCC, the Crown and BRRP and will attend the hearing to be available to answer any questions that the Hearing Panel may have.

Dated this 9<sup>th</sup> day of December 2015



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M A Mehlhopt  
Counsel for Canterbury Regional Council