

### 3. BANKS PENINSULA PROPOSED DISTRICT PLAN- VARIATION NO.2: THE RURAL ZONE SUBMISSIONS

<b>Officer responsible</b> Senior Planner, City Development Group	<b>Author</b> Heather Wallis, Graduate Transport Planner, City Development Group DDI 941-8292
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The purpose of this report is to seek the Council's confirmation of submissions to the Banks Peninsula Proposed District Plan Variation No 2 - The Rural Zone. These submissions focus on boundary issues and consistency between plans, along the mutual boundary.

The submissions must be lodged with Banks Peninsula District Council (BPDC) by **4pm** on **1 November 2002**.

#### THE STATUTORY FRAMEWORK

The basis for making submissions across territorial boundaries is Section 74(2)(c) of the Resource Management Act 1991 which requires Councils changing their plans to have regard to the extent to which the change needs to be consistent with the plans of adjoining territorial authorities.

Section 75(1)(h) requires a District Plan to make provision for matters to be set out in Part II of the Second Schedule. The District Plan shall state 'The processes to be used to deal with issues which cross territorial boundaries...'

It is however, still the discretion of other Councils as to how they may view the relationship.

#### DISCUSSION

The Banks Peninsula District Plan Variation No 2 – The Rural Zone has been considered in terms of its consistency with policies and zoning in the Christchurch City Proposed District Plan affecting the Port Hills area and the cross boundary issues related to activities that affect this area.

The variation makes special provisions for sensitive coastal and landscape areas. These are defined as a Moderate Sensitivity Coastal Protection Area, a High Sensitivity Coastal Protection Area and Outstanding Natural Features and Landscapes Areas. These latter two areas border Christchurch City in parts.

The Section 32 (assessment of benefits and costs report) states that the changes created through this variation '...in particular embraces a move away from a regulatory or confrontational approach toward voluntary methods.' This is also consistent with the approval of the City Council in managing land resources on the Port Hills.

- *Moderate Sensitivity Coastal Protection Area* has been identified within specific areas in both Akaroa and Lyttelton Harbours as land that contributes to special coastal and natural character qualities to be protected.
- *High Sensitivity Coastal Protection Areas* are areas which have high natural character and high sensitivity to potential development. This covers an area east of the Lyttelton township along the coastal area to Godley Head.
- *Outstanding Natural Features and Landscape Areas* are elements of the landscape or areas of land that are worthy of protection because they are striking or special to Banks Peninsula. This area covers much of the area adjoining the Christchurch City Council boundary along the Port Hills.

The proposed variation recognises these special areas for protection and provides opportunities to encourage the preservation of land through various methods and conditions including environmental credits and agreements on Certificates of Title to preserve and protect land into perpetuity. This should be supported and is consistent with efforts undertaken by Christchurch City Council (CCC) to ensure the protection of the Port Hills area.

However, there are a few matters that are not fully consistent in terms of cross boundary treatment for this area. They relate to intensification of land use, protection of significant indigenous vegetation, general terminology and definitions. These matters are discussed below.

## PROPOSED SUBMISSION POINTS

### 1. Intensification Of Land Use (Chapter 19 Rural And Chapter 30 Subdivision)

Of particular concern are the provisions for subdivision (Chapter 30 Subdivision) and intensification of land (Chapter 19 Rural). The Banks Peninsula District boundary with Christchurch City Council involves land zoned Rural H and Conservation 1 in the Christchurch City Proposed District Plan and Rural and Recreation in the Banks Peninsula Proposed District Plan.

Comparisons of the standards for subdivision along this boundary are detailed below.

	<i>Rural (BPDC)</i>	<i>Rural H (CCC)</i>
Minimum lot size <b>(Controlled Activity)</b>	20 ha	100 ha
Discretionary Activity	4ha	
Discretionary Activity	4ha (special areas) with a separate 1ha lot for building a dwelling	

The difference between the provisions at the boundaries is considered in this case to be significant. In the Christchurch Proposed District Plan subdivision is a controlled activity (therefore one that must be granted where it meets the standards but can have conditions) and is limited to 100ha. This contrasts with a much smaller minimum lot size of 20ha (Chapter 30 Rule 1) as proposed in the Banks Peninsula Proposed Variation No 2 - Rural. This means up to five times the intensification on the Banks Peninsula District compared to the Christchurch City District.

Most of the Banks Peninsula land on the boundary with Christchurch City has Landscape Protection status. Under this zoning, while the land can be subdivided down to parcels of 20ha and less (as a discretionary activity), it should be noted that the erection of any building including a dwelling or forestry activity are discretionary activities (planning consent may or may not be granted and public notification may be involved).

Further, the Proposed Variation No 2 - Rural enables two types of 4ha subdivision as a discretionary activity.

1. A site may be subdivided down to 4ha under Chapter 30 Rule 3.1.
2. A 4ha subdivision as a discretionary activity (Chapter 30 Rule 3.2) can also be undertaken to create a separate title for areas of significant indigenous vegetation, outstanding natural feature or landscape. This land is to be protected into perpetuity, however a 1ha lot can be created under Chapter 30 Rule 3.5 for residential/lifestyle purposes where the lot is created in exchange for the right to construct and occupy a house on a lot created under Rule 3.2. This in fact means that very small parcels of land could be created along or near the city boundary.

### 2. Protection Of Significant Indigenous Vegetation

Issue 2 of Chapter 19: The Rural Zone deals with significant indigenous vegetation. Policies 2A and 2B refer to the removal of significant indigenous vegetation. The clearance of areas of significant indigenous vegetation is to be considered as a non-complying activity (planning permission must be sought and may or may not be granted depending on whether the adverse effects of the activity are minor or granting consent will not be contrary to objectives and policies of the plan). While protection of significant indigenous vegetation and land within the Landscape Protection Zone is important, it should however be noted that this area is potentially susceptible to fire risk. Under the Forest and Rural Fires Act 1977, Section 27 gives the Rural Fire Officer wide ranging powers to limit and require the legitimate and sometimes necessary clearance of vegetation to provide defensible space for fire fighting.

### 3. **General Terminology And Definitions**

The use of terms in Chapter 19: The Rural Zone such as 'equivalent environmental value' (Policy 2A), 'normally generated' (Policy 3B), 'legitimate' (Policy 6A), 'currently acceptable' (Policy 6A) and 'appropriate' (Issue 7) are very difficult to define and therefore deciding what fits within these broad terms, particularly in recognition of the changes occurring in rural businesses and farming practice may be open to wider interpretation than is in fact intended.

#### **Staff**

**Recommendation:** That the Urban Planning and Growth Committee confirms submissions lodged on the above three subject matters. Detailed submissions will be circulated prior to the meeting.

#### **Chairman's**

**Recommendation:** That the staff recommendation be supported.