

## 24. BANKS PENINSULA DISTRICT COUNCIL DECISION ON VARIATION 2 RURAL ZONE

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### PURPOSE OF REPORT

1. The purpose of this report is to advise the Council of the Banks Peninsula District Council's decision on its Rural Zone Variation 2, and, to seek a decision on whether or not to lodge an appeal where certain submissions lodged by the City Council have been rejected. Submissions on the Variation focussed on cross boundary issues and consistency between district plans, in particular subdivision on the rural Port Hills.

### EXECUTIVE SUMMARY

2. The Council must consider its statutory context under the Resource Management Act 1991 and matters along its boundary in terms of its own City Plan.
3. Under Part II, the purpose and principles of the Act are to promote the sustainable management of natural and physical resources. This includes avoiding adverse effects on the environment and these can be taken to mean across boundary effects.
4. Specifically under section 6(b), the Port Hills are to be recognised and provided for as a matter of national importance – their outstanding natural features and landscapes requiring protection from inappropriate subdivision, use and development. For that reason the Proposed City Plan contains a rule limiting subdivision to 100 ha minimum.
5. Section 74(2)(c) of the Act requires local authorities in preparing their plans "... to have regard to ... the extent to which the district plan needs to be consistent with the plans of adjacent territorial authorities" including their objectives and policies.
6. It should be noted that Selwyn District Council adopted the City Council's rural hills subdivision standard of 100 ha minimum lot size following submissions on its proposed district plan. (See attached map - Christchurch City - Port Hills Zoning). The ridgeline of the Port Hills forms a boundary with both Selwyn and Banks Peninsula Districts, and is a highly visible landscape within those districts.
7. Section 75(1)(h) of the Act requires a district plan to make provision for such appropriate matters set out in Part II of the Second Schedule to the Act, and state "the processes to be used to deal with issues which cross territorial boundaries". It is still however the discretion of each Council as to how it views and practices this relationship.
8. Section 31 of the Act also requires a council to manage the effects of development and protection of resources in an integrated manner.
9. Therefore, the key issue for the City Council is the extent to which it should pursue the matter of cross boundary integration through the statutory process.

### INCONSISTENCIES

10. The following table identifies the inconsistencies between the current rules in treating the Port Hills in Banks Peninsula District and Christchurch City. The more liberal approach of Banks Peninsula District has the potential to undermine the more restrictive plan rules of Christchurch City and Selwyn District seeking to preserve the outstanding qualities of the Port Hills. The attached map from Banks Peninsula's decision identifies interim Landscape Protection Areas. Therefore there is also no certainty from Banks Peninsula as to the final outcome for the Port Hills.

<b>Location</b>	<b>Banks Peninsula decision on Variation 2 Rural zones - subdivision standards</b>	<b>Christchurch City Council Rural Hills subdivision standard</b>
Minimum lot size – within Landscape protection Area (see 2 <sup>nd</sup> map)	<ul style="list-style-type: none"> <li>• 20 ha discretionary activity</li> </ul>	
	<ul style="list-style-type: none"> <li>• Less than 20ha non-complying activity</li> </ul>	
Minimum lot size – outside Landscape Protection area	<ul style="list-style-type: none"> <li>• 40 ha controlled activity</li> </ul>	
	<ul style="list-style-type: none"> <li>• 20ha -40ha a 'restricted discretionary' activity, provided building platform is below 160m amsl and 80% of allotment is below that height. Council discretion limited to building location, design, access and appearance.</li> </ul>	
	<ul style="list-style-type: none"> <li>• 4ha-20ha discretionary activity</li> </ul>	
	<ul style="list-style-type: none"> <li>• less than 4ha non complying activity</li> </ul>	
Minimum lot size		Less than 100ha a non complying activity

#### **FINANCIAL AND LEGAL CONSIDERATIONS**

11. It is expected that legal counsel, John Hardie, will be engaged to lead the City Council's case in the Environment Court. He is familiar with the Council's cross boundary matters.

#### **STAFF RECOMMENDATIONS**

It is recommended that the City Council lodge an appeal to the Environment Court on the basis that the decision of the Banks Peninsula District Council does not adequately recognise Part II of the Act, Sections 74(2)(c), 75(1)(h) and 31 of the Act. Consequently the sustainable management of the Port Hills is likely to be threatened

#### **BACKGROUND ON BANKS PENINSULA DISTRICT COUNCIL DECISION ON VARIATION 2 RURAL ZONE**

12. See 1-10 above.

#### **OPTIONS**

13. (a) Do not appeal, which means that Banks Peninsula District plan standards could remain without change, promote inconsistencies in development across the Port Hills, and create adverse effects in an area of outstanding landscape. This could undermine the position currently taken by the City Council.
- (b) The City Council could wait and see if any other party appeals on the basis of inconsistency of rural subdivision standards and/or that proposed development is inappropriate on the Port Hills, and 'tag on' to them as a Section 274 party. It is by no means certain what other parties may appeal and whether their interests would be exactly the same as those of the city.
- (c) The City Council could be an appellant in its own right, which allows it to promote its views and argue for consistency of district plans and sustainable management of resources.

**PREFERRED OPTION**

14. The preferred option is (c). This allows the City Council to pursue its interests irrespective of whether other parties have made same or similar appeals and their reasons for them.

**ASSESSMENT OF OPTIONS****The Preferred Option (Option (c))**

Appeal the decision.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Opportunities for current and future generations	Loss of opportunities for future generations
<b>Cultural</b>	Natural resource for future generations to enjoy	Permanent loss of natural resource for future generations.
<b>Environmental</b>	If successful, anticipate more consistent treatment of an area of outstanding landscape.	Irreversible loss of an outstanding landscape in Christchurch and the surrounding region.
<b>Economic</b>	None identified	Staff time and legal costs.

**Extent to which community outcomes are achieved:**

Maintaining the Port Hills as a resource that remains largely undeveloped or sparsely developed, through low density subdivisions standards aligns with the community outcome of a city of people who value and protect the natural environment.

**Impact on Council's capacity and responsibilities:**

Council resources will be required to ensure the community outcomes the city seeks are achieved and managed accordingly.

**Effects on Maori:**

Caring for the Port Hills also reflects a commitment to guardianship of the natural environment – working to protect, enhance and restore our environment for future generations.

**Consistency with existing Council policies:**

Seeking a lowering standard for rural subdivision and therefore development densities on the Port Hills will maintain a more consistent treatment of the whole of the Port Hills, and in particular, in the vicinity of a large urban area such as Christchurch.

**Views and preferences of persons affected or likely to have an interest:**

The public generally would have an interest in the outcomes of an Environment Court decision, as a resource for future generations, as an outstanding natural landscape, as an important ecological area and area of biodiversity, as a recreation resource, and as area of visual amenity near an large urban centre.

**Other relevant matters:**

None identified.

**Option (a)**

Do not appeal.

	<b>Benefits (current and future)</b>	<b>Costs (current and future)</b>
<b>Social</b>	Opportunities for current and future generations	Loss of opportunities for future generations
<b>Cultural</b>	Natural resource for future generations to enjoy	Permanent loss of natural resource for future generations.
<b>Environmental</b>	None identified.	Amenity of the Port Hills will be adversely affected.
<b>Economic</b>	None identified	No further staff time required

**Extent to which community outcomes are achieved:**

Community outcomes will not be achieved.

**Impact on Council's capacity and responsibilities:**

Not appealing will undermine existing consistent standards for the Port Hills.

**Effects on Maori:**

Loss of cultural and heritage landscape.

**Consistency with existing Council policies:**

Standards are not generally consistent with City Plan policies and objectives.

**Views and preferences of persons affected or likely to have an interest:**

Loss to the public will only become apparent over time when it will be too late to reverse any current decision.

**Other relevant matters:**

None identified.