

**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 the Christchurch Replacement District Plan

**STATEMENT OF EVIDENCE OF MASON JOHN SCHEELE
ON BEHALF OF
ORION NEW ZEALAND LIMITED (#2340, F-2797)
THE UNIVERSITY OF CANTERBURY (#2464, F-2822)
CHRISTCHURCH POLYTECHNIC INSTITUTE OF TECHNOLOGY (#2269, F-2769)**

CHAPTER 8 (SUBDIVISION, DEVELOPMENT AND EARTHWORKS) – STAGE 2

Planning Evidence
Dated 14 October 2015

INTRODUCTION

1. My full name is Mason John Scheele.
2. I am a Consultant Planner with Resource Management Group Ltd (RMG), an urban and environmental planning consultancy, based in Christchurch.
3. My qualifications and experience are set out in my evidence in chief lodged with this Hearings Panel in relation to the Stage 2 Hazardous Substances and Contaminated Land chapter, dated 30 September 2015 (refer paragraph 3).
4. I have been asked to provide planning evidence on behalf of Orion New Zealand Limited (Orion), the University of Canterbury (UC) and Canterbury Polytechnic Institute of Technology (CPIT) in relation to Chapter 8 Subdivision, Development and Earthworks, of Stage 2 of the proposed Christchurch Replacement District Plan (pCRDP).
5. The key documents I have used, or referred to, in forming my view while preparing my statement of evidence are:
 - (a) the Resource Management Act 1991;
 - (b) the evidence in chief of Andrew Long, Deborah Hogan, Alan Matheson and Andrew Milne for the Christchurch City Council, dated 5 October 2015;
 - (c) the Hearing Panel's decision on the Strategic Directions Chapter; and
 - (d) the notified Stage 2 Chapter 8 Subdivision, Development and Earthworks Chapter of the pCRDP.

CODE OF CONDUCT

6. I confirm that I have read the code of conduct for expert witnesses contained in the Environment Court's Practice Note 2014. I have complied with the practice note when preparing my written statement of evidence.
 7. I confirm that the issues addressed in this statement of evidence are within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
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SCOPE OF EVIDENCE

8. My evidence relates to Chapter 8 Subdivision, Development and Earthworks of the pCRDP. It is limited to those matters of Orion, UC and CPIT's submissions which remain in contention following mediation which took place on 21-22 November and again on 8-9 October 2015.

9. The matters which remain in contention are:

Orion

- Rule 8.8.1(3)
- Rule 8.8.5(6)

UC

- Rule 8.8.1(3)
- Rule 8.8.2 Table 1
- Rule 8.8.5(6)

CPIT

- Rule 8.8.1(3)
- Rule 8.8.2 Table 1
- Rule 8.8.5(6)

NATURE OF SUBDIVISION AND EARTHWORKS

10. Orion operates and maintains an electricity distribution network within Christchurch City. The network incorporates a range of assets which includes, but not limited to, overhead and underground lines, transformers, kiosks and substations. Where practicable, assets are contained within separate titles for operational and public safety purposes. In a post-earthquake environment, Orion has sought to re-establish resilience within their network. This has included the upgrading of various distribution lines, predominately underground which has necessitated associated earthworks. This work is vital to Orion as the network recovers post-earthquake.

 11. UC and CPIT undertake a range of activities that involve earthworks, including but not limited to, landscaping, research and educational purposes.
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Furthermore, some buildings and infrastructure of both UC and CPIT have sustained damage as a result of earthquakes. Both parties are currently undertaking a redevelopment programme to re-establish pre-earthquake services. This involves a range of earth working activities such as trenching for utilities and foundations for buildings.

EVIDENCE

12. Orion, UC and CPIT (collectively referred to as *the parties*) have sought similar relief, which has been largely adopted by Council (in full or part), in the evidence of Mr Long dated 5 October 2015. I adopt Mr Long's evidence in relation to those matters. Where concerns of the parties have been adequately addressed in the evidence of Mr Long, I consider that this does not erode the original relief sought by the parties.

13. Relief sought by the parties not adopted in the revised version of Mr Long is discussed below:

Rule 8.8.1(3) Application of these rules

14. The relief sought by the parties in respect of 8.8.1(3) has largely been adopted by Council (in full or part) in the evidence of Mr Long dated 5 October 2015. I adopt that evidence in relation to this matter.

15. However, I wish to make a comment on a drafting matter. I note the rule as drafted in the revised version of the proposal attached to Mr Long's evidence states that Transpower and Orion (where relevant) will be considered affected parties in relation to Rule 8.8.3 RD10. An update is required to the reference to just RD10 as a result of further changes to the corridor protection rules located within the revised subdivision chapter. Reference is now also required to be made to RD11 and NC1. I have proposed alternative wording to this effect in Appendix One of my evidence. I consider the proposed wording of 8.8.1(3) as contained in Mr Long's evidence, along with the changes to drafting discussed above, will address the concerns raised by the parties in their submissions.

Rule 8.8.2 Table 1: Maximum volumes - earthworks

16. The maximum volume of earthworks is identified in Table 1 of Rule 8.8.2. In the notified version of Stage 2 of the pCRDP, no threshold limit for the volume of earthworks was identified for the Specific Purpose (Tertiary Education) Zone (SPTE). This was supported in the submissions of both UC and CPIT as it reflected the current status within the operative Christchurch City Plan.
17. Via the submission of Experience Trust¹, and in mediation, the Council's position was that Table 1 contained an error when it was originally notified. This related to:
- (a) identifying the Specific Purpose (Cemetery) Zone twice within Table 1; and
 - (b) the exclusion of 'any other' Specific Purpose zone not already identified in Table 1.
18. To address this, the revised subdivision chapter contains an amendment to point (e) under the Specific Purpose heading of Table 1 to include reference to 'Any other Specific Purpose' zone. The amendment now references the SPTE zone and establishes a threshold limit of earthworks of 100m³/ha which did not previously apply.
19. The s.32 analysis report prepared by Council² is sparse in terms of any evaluation of the nature of effects that would now necessitate a threshold volume to apply to the SPTE zone, where none had applied previously in the operative Christchurch City Plan. However, even accepting that a volume threshold is now applicable, the threshold of 100m³/ha is restrictive to the SPTE zone in a post-earthquake environment.
20. The Specific Purpose (Hospital) Zone (SPH) has a threshold of 150m³/ha.³ The characteristics of the SPH are similar to that of the SPTE zone in that both zones are characterised by:
- (a) large sites;

¹ Submitter #2501

² Section 32 Subdivision, Development and Earthworks – Addendum B: Earthworks notified 2 May 2015

³ Rule 8.8.2 Table 1

- (b) multiple large buildings;
- (c) maintenance of large areas of landscaped open spaces; and
- (d) provide an important function to the wider community.

21. Given the similarities in the characteristics of the SPTE and SPH zones, I consider it appropriate that the same threshold for earthworks apply to both zones. This can be accomplished via an amendment to Table 1. I have proposed alternative wording in Appendix One that would achieve this. I consider the proposed wording will address the concerns raised by UC and CPIT in their submissions.

Rule 8.8.5 Exemptions

22. All parties submitted on Rule 8.8.5 which identifies exemptions for earthworks set out in Rule 8.8.2 P1 and P2. Of relevance to the parties, 8.8.5(6) provides an exemption for the establishment, repair or replacement of any permitted, established or consented utility. The submission of the parties queried the meaning of the term 'permitted' and sought amendments such that the exemption applies to utilities permitted under Chapter 11 (Utilities) of the pCRDP. The relief sought has been adopted in the evidence of Mr Long.
23. However, Mr Long has proposed a further amendment such that any permitted utility will be subject to the waterbody setbacks set out in Chapter 6 (General Rules and Procedures) of the pCRDP. Water body setbacks are identified in section 6.6.
24. Filling or excavation associated with any permitted utility, their replacement, repair or maintenance is exempt from the water body setbacks under 6.6.2.1.4(g). Given this exemption, there are no waterbody setbacks that apply to permitted utilities within Chapter 6. This renders the amendment as proposed by Mr Long redundant by referencing rules in another chapter that are irrelevant.
25. The exemptions apply to earthworks for permitted utilities, their replacement, repair or maintenance. To be effective, the full length of a utility by its nature is required for it to be operational, irrespective of its positioning in relation to
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roads or water bodies, for example. It would be nonsensical that a utility would otherwise be permitted, with an exception in relation to a setback from a water body.

26. For this reason, the amendment as proposed will result in uncertainty in interpreting the rules and should be deleted. For clarity, I have proposed alternative wording for 8.8.5(6), which is attached to Appendix One of my evidence. I consider the proposed wording will address the concerns raised by the parties in their submissions.

CONCLUSION

16. My evidence is limited to the remaining matters of contention relating to Orion, UC and CPIT's submissions on Chapter 8 Subdivision, Development and Earthworks of Stage 2 of the pCRDP.
17. In my view, I consider that agreement in principle has been reached by all parties. The only outstanding matters of substance relate to:
 - (a) referencing all relevant standards at 8.8.1(3) in which Transpower and Orion will be identified as affected parties;
 - (b) wording for Rule 8.8.5(6) in relation to incorporating waterbody setback standards; and
 - (c) earthworks volume thresholds for the SPTE zone.
18. Proposed alternative wording forms Appendix One of my evidence, and if adopted by Council (in full or part), will adequately address all matters.

Mason John Scheele

14 October 2015

APPENDIX ONE: Proposed alternative wording for Rule 8.8.5 (6)

Wording proposed by Council post notification are underlined and deleted ~~struck out~~.
New wording proposed in this evidence is underlined and deleted ~~struck out~~.

Rule 8.8.1 Application of these rules

3. ~~Applications for consent as a restricted discretionary activity shall not be notified or require written approval of affected parties~~ Any application arising from non-compliance with standards at 8.8.2 may require written approval from the affected adjoining landowner(s) and may be limited notified, but shall not be publicly notified. In relation to Rule 8.8.3 RD10, RD11 and NC1, Transpower New Zealand Ltd or Orion New Zealand (where relevant) will be considered an affected party. ~~Applications for consent as a discretionary activity shall be notified and require written approval of affected parties.~~

Rule 8.8.2 Permitted Activities: Earthworks

Table 1: Maximum volumes – earthworks

Zone/Overlay		Volume
...
Specific Purpose	a. Specific Purpose (Airport) and Specific Purpose (Hospital) zone <u>and Specific Purpose (Tertiary Education) zone.</u>	150m ³ /ha
...

Rule 8.8.5 Exemptions

6. Any earthworks involving the establishment, repair or replacement of any utility permitted in Chapter 11 of this Plan, established or consented utilities or the maintenance of existing drains or ponds, including within road reserves ~~but not within the waterbody setbacks set out at Chapter 6.~~