

**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 Residential  
Proposal and the  
Subdivision,  
Development and  
Earthworks Proposal  
(Part)

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**APPLICATION BY CHRISTCHURCH CITY COUNCIL RELATING TO DEFERRAL  
OF DECISION MAKING ON NEW NEIGHBOURHOOD PROVISIONS**

**12 MAY 2015**

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## **MAY IT PLEASE THE PANEL:**

1. The purpose of this memorandum is to make an application in relation to the New Neighbourhood provisions and submissions on them (from Proposals 8 and 14) that were heard at the Residential Hearing. Counsel refers to the Minute of His Honour Judge Hassan, *Preliminary Matters for the Subdivision, Development and Earthworks (Part) Hearing*, dated 4 May 2015<sup>1</sup>. That Minute directs the Christchurch City Council (**Council**) to make an application setting out:
  - 1.1 the matters to be deferred;
  - 1.2 whether the Council intends to call further evidence on any matters that were addressed in the Residential Hearing in relation to the New Neighbourhood provisions; and
  - 1.3 any other matter the Council considers relevant to the application.

## ***Background***

2. In the Council's closing submissions at the Residential Hearing, the issue of decision making on the New Neighbourhood Zone was addressed<sup>2</sup>. The provisions within the scope of the Residential Hearing specific to the New Neighbourhood Zone were as follows:
  - 2.1 **Subdivision Proposal**
    - 8.4.2 New Neighbourhood Zone;
    - 8.5.4 Assessment Matters - New Neighbourhood Zone;
    - Appendix 8.6.4 North Halswell Outline Development Plan; and
    - Appendix 8.6.5 Buchanans Road Outline Development Plan.
  - 2.2 **Residential Proposal**
    - 14.6 Rules – New Neighbourhood Zones;
      - 14.6.1 How to use the rules;
      - 14.6.2 Activity status tables; and
      - 14.6.3 Built form standards.

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<sup>1</sup> Paragraphs 6 to 9.

<sup>2</sup> Refer paragraphs 5.8 to 5.13 of the Council's Closing Submissions, dated 23 April 2015.

3. During the course of the Residential Hearing, supplementary evidence from Mr Andrew Macleod was filed with the Hearings Panel that set out, and supported, revised provisions for the New Neighbourhood Zone (both Chapters 8 and 14). Mr Macleod was recalled for cross examination and questioning by the Hearings Panel<sup>3</sup>. In affirming his supplementary evidence, Mr Macleod also added an additional matter to be included in the revised provisions:

*An additional matter, turning to attachment 1 to my supplementary evidence, on page 1 of that attachment there are two restricted discretionary rules RD1 and RD2. In the right hand column related to that table it states that Council's discretion shall be limited to specific matters both arising from a standard not met. I would just like to clarify that those matters of discretion [I would like to note that they] should be expanded to also address the matters outlined under matters for control in rule C1, which is immediately above both those rules on the same page.<sup>4</sup>*

4. These revised New Neighbourhood provisions are addressed at paragraphs 5.1 to 5.3 of the Council's closing legal submissions.
5. In questioning Mr Macleod recognised that there may be a need to align the objective and policy framework in the Residential and Subdivision Chapters, to his revised New Neighbourhood provisions<sup>5</sup>, but that had not been possible in the time available during the course of the Residential Hearing. Mr Macleod also recognised that there will be a need to align *Part 8.2 – Activity status and general matters* and *Part 8.3 – District wide rules – Subdivision and development* of the Subdivision Chapter, to his revised New Neighbourhood provisions.<sup>6</sup>

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<sup>3</sup> Residential Hearing Transcript, 21 April 2015, page 1334.

<sup>4</sup> Residential Hearing Transcript, 21 April 2015, page 1335, line 40.

<sup>5</sup> Residential Hearing Transcript, 21 April 2015, page 1376.

<sup>6</sup> Residential Hearing Transcript, 21 April 2015, page 1365.

***The matters to be deferred***

6. The Council respectfully seeks that the Hearings Panel defers making a decision on the provisions outlined in paragraphs 2.1 and 2.2 (that were within the scope of the Residential Hearing), until the Panel has completed the hearing on the Subdivision Proposal.
7. In addition to those matters, the following definitions relate only to the notified New Neighbourhood Zone provisions and Council seeks that the Hearings Panel also defers making a decision on these definitions until the Panel has completed the hearing on the Subdivision Proposal:

**7.1 Definitions Proposal**

Density uplift areas;  
New neighbourhood entry lot;  
New neighbourhood block area;  
New neighbourhood hectare;  
New neighbourhood net density;  
New neighbourhood residential unit types; and  
New neighbourhood target yield.

8. If the Hearings Panel was to make a decision that adopted the revised New Neighbourhood provisions provided by Mr Macleod, those definitions would become unnecessary and have no relevance to the pRDP.

***Whether the Council intends to call further evidence on any matters that were addressed in the Residential Hearing, in relation to the New Neighbourhood provisions***

*Rules / assessment matters / built form standards*

9. Subject to the Hearings Panel making the direction to defer decision making until the Panel has completed the hearing on the Subdivision Proposal as addressed in paragraphs 6 and 7 above, Council confirms that it does not intend to call further evidence on the following New Neighbourhood provisions, in the Subdivision hearing (these are the same provisions as are listed above in paragraphs 2.1, 2.2 and 6.1):

**9.1 Subdivision Proposal**

8.4.2 New Neighbourhood Zone;  
8.5.4 Assessment Matters - New Neighbourhood Zone;  
Appendix 8.6.4 North Halswell Outline Development Plan;<sup>7</sup> and  
Appendix 8.6.5 Buchanans Road Outline Development Plan.<sup>8</sup>

**9.2 Residential Proposal**

14.6 Rules – New Neighbourhood Zones;  
14.6.1 How to use the rules;  
14.6.2 Activity status tables; and  
14.6.3 Built form standards.

**9.3 Definitions Proposal**

Density uplift areas;  
New neighbourhood entry lot;  
New neighbourhood block area;  
New neighbourhood hectare;  
New neighbourhood net density;  
New neighbourhood residential unit types; and  
New neighbourhood target yield.

10. Overall, the Council considers that there is sufficient evidence before the Hearings Panel on the appropriateness of these provisions as notified and submissions on them, and counsel for submitters were given an opportunity to cross-examine Mr Andrew Macleod on his supplementary evidence and the revised provisions.

11. It was however acknowledged by Mr Macleod in answers to questions from Commissioner Dawson<sup>9</sup> that *Part 8.2 – Activity status and general matters* and *Part 8.3 – District wide rules – Subdivision and development*, of the Subdivision Chapter requires further consideration and updating in light of the Council's position on the New Neighbourhood Zone in the Residential Hearing.

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<sup>7</sup> To the extent that the New Neighbourhood zoning is shown on the Outline Development Plan.  
<sup>8</sup> To the extent that the New Neighbourhood zoning is shown on the Outline Development Plan.  
<sup>9</sup> Residential Hearing Transcript, Tuesday 21 April 2015, page 1365.

12. Part 8.2 of the Subdivision Chapter sets out activity statuses used in the chapter and general matters, and Part 8.3 of the Subdivision Chapter sets out district wide rules for subdivision and development and as currently drafted, these apply to the New Neighbourhood Zone. As acknowledged by Mr Macleod, there is a need to ensure these sections of the Subdivision Chapter are refined so that they work alongside the New Neighbourhood provisions. In particular:

12.1 If the Hearings Panel was to make a decision that controlled activity status was appropriate for Subdivision in the New Neighbourhood Zone, then controlled activity provisions would need to be drafted into Parts 8.2 and 8.3 of the Subdivision Chapter. Alternatively, if the Hearings Panel was to make a decision that restricted discretionary activity status was more appropriate for Subdivision in the New Neighbourhood Zone, Parts 8.2 and 8.3 of the Subdivision Chapter would still require refinement; and

12.2 The question of the appropriateness and necessity of general issues (such as servicing, access) in the district wide rules for subdivision and development. Evidence on these provisions is being preparing for the Subdivision chapter.

13. In respect of the appropriate activity status to be included in the revised Part 8.2 and 8.3 of the Subdivision Chapter (to be filed/served on Submitters on 14 May 2015), Mr Macleod's supplementary evidence included a controlled activity rule for Subdivision in the New Neighbourhood Zone, which was provided on the basis that an ODP included a level of detail that complied with Policy 6.3.3 of the Canterbury Regional Policy Statement. There has been discussion in the Residential Hearing about whether the two ODPs that were within the scope of the hearing<sup>10</sup> contained sufficient detail, and Mr Macleod's evidence was that where detail is lacking, restricted discretionary status is likely to be more appropriate (to ensure that co-ordinated development outcomes are delivered).<sup>11</sup>

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<sup>10</sup> For North Halswell and Buchanans Road/South Masham.

<sup>11</sup> Andrew Macleod, Supplementary evidence, paragraph 4.4.

14. As mentioned above, with either activity status (controlled or restricted discretionary), Parts 8.2 and 8.3 will need amendments in light of Mr Macleod's revised New Neighbourhood provisions. Therefore the Council also seeks a direction from the Hearings Panel that evidence can be filed with the Panel to ensure that *Part 8.2 – Activity status and general matters* and *Part 8.3 – District wide rules – Subdivision and development* align with the New Neighbourhood provisions as attached to Mr Macleod's supplementary evidence and with the amendment Mr Macleod provided orally set out at paragraph 3 above.
15. As a result of this direction, the Council considers that it would be appropriate and procedurally fair for those submitters who have made submissions on the New Neighbourhood Zone provisions, to be served with the evidence on this point, and offered an opportunity to participate in the Subdivision Hearing.

*Objective/policy framework*

16. Council has considered the objective and policy framework in the Residential Chapter and confirms that it does not consider any further changes are required to the objectives and policies, in light of Mr Macleod's supplementary evidence. It therefore does not intend to call any further evidence on the Chapter 14 objective and policy framework, as far as it relates to the New Neighbourhood Zone.
17. In respect of the Subdivision Chapter, Council also considers that the objective and policy framework in Proposal 8 does not require amending as a result of the removal of the comprehensive land use and subdivision consent activity rule.

**Any other matter the Council considers relevant to the application**

18. All matters considered relevant to the application are discussed above.

## **Summary of directions sought**

19. In summary, the Council respectfully seeks that the Hearings Panel make the following directions:

(1) *That the Hearings Panel defers making a decision on the following provisions, until it has heard evidence at the Subdivision Chapter:*

**(a) Subdivision Proposal**

*8.4.2 New Neighbourhood Zone;*

*8.5.4 Assessment Matters - New Neighbourhood Zone;*

*Appendix 8.6.4 North Halswell Outline Development Plan; and*

*Appendix 8.6.5 Buchanans Road Outline Development Plan.*

**(b) Residential Proposal**

*Objective - Comprehensive planning for new neighbourhoods*

*Policy – Comprehensive development*

*14.6 Rules – New Neighbourhood Zones;*

*14.6.1 How to use the rules;*

*14.6.2 Activity status tables; and*

*14.6.3 Built form standards.*

**(c) Definitions**

*Density uplift areas;*

*New neighbourhood entry lot;*

*New neighbourhood block area;*

*New neighbourhood hectare;*

*New neighbourhood net density;*

*New neighbourhood residential unit types; and*

*New neighbourhood target yield.*

(2) *That evidence can be filed with the Hearings Panel, in the Subdivision Hearing, to address the subdivision matters raised in Part 8.2 – Activity status and general matters and Part 8.3 – District wide rules – Subdivision and development and to ensure they align with the New Neighbourhood provisions as attached to Mr Macleod's supplementary evidence.*



20. For the avoidance of doubt, Council's application for directions on this point is made on the basis that it is supporting the revised version of the provisions included in Mr Macleod's supplementary evidence and set out in the revised version of the Proposal filed with Council's closing submissions. However, Council notes the uncertainty around the level of detail included in the North Halswell and Buchanans Road/South Masham ODPs, and therefore the issue of the appropriate activity status for Subdivision in the New Neighbourhood Zone and the amendments will be the subject of the Hearings Panel's decision.
21. In order to assist the Panel, Council proposes to include amended provisions in the Subdivision Chapter to be circulated on Friday 14 May 2015 in Parts 8.2 and 8.3 to allow subdivision in the New Neighbourhood Zone to be a restricted discretionary activity, but will include in its Evidence in Chief an alternative set of provisions that would allow Subdivision to proceed as a controlled activity status, in the New Neighbourhood Zone.

**DATED** this 12<sup>th</sup> day of May 2015



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S J Scott  
Counsel for Christchurch City Council