

BEFORE THE INDEPENDENT HEARINGS PANEL

UNDER the Resource Management Act 1991
and the Canterbury Earthquake
(Christchurch Replacement District
Plan) Order 2014

**IN THE MATTER OF THE PROPOSED CHRISTCHURCH
REPLACEMENT DISTRICT PLAN
STAGE 1**

**SUBMITTER HOUSING NEW ZEALAND
CORPORATION (SUBMITTER
495)**

**OPENING LEGAL SUBMISSIONS ON BEHALF OF HOUSING NEW
ZEALAND CORPORATION**

Dated: 2 April 2015

GREENWOOD ROCHE CHISNALL
LAWYERS
CHRISTCHURCH
Solicitor: L J Semple
(Lauren@grclegal.com)

Submitter's Solicitor
Level 5
83 Victoria Street
P O Box 139
Christchurch
Phone: 03 353 0574

MAY IT PLEASE THE PANEL:

- 1 Housing New Zealand Corporation ("the Corporation") is a contributor to the Crown submission (Submitter 495) on the Residential Proposal.
- 2 The importance of providing for an adequate supply of residential housing, including provision for affordable and social housing, is clearly articulated in the higher order documents including the Recovery Strategy, the Christchurch Central Recovery Plan, the Land Use Recovery Plan and the Canterbury Regional Policy Statement. Those imperatives are well traversed in the opening submissions of Council and the Crown.
- 3 Importantly, this Panel has already reflected the importance of those matters in Strategic Objective 3.3.4:

Objective – Housing Capacity and Choice

- (a) For the period 2012 to 2028, an additional 23,700 dwellings are enabled through a combination of residential intensification brownfield and greenfield development; and*
 - (b) There is a range of housing opportunities available to meet the diverse and changing population and housing needs of Christchurch residents, including:*
 - (i) A choice in housing types, densities and locations; and*
 - (ii) Affordable, community and social housing and papakāinga.*
- 4 As the owner of more than 6,000 social housing dwellings within Christchurch, the Corporation plays a critical role in the provision of social housing within the City.

- 5 As set out in the evidence of Mr Paul Commons on behalf of the Corporation, 95% of the Corporation's social housing portfolio was affected by the 2010 and 2011 earthquakes.
- 6 As articulated in the context section of the Strategic Directions Chapter (decision version) social and affordable housing was disproportionately represented in the housing stock lost as a result of those earthquakes. It is for this reason that some urgency is attributed to its replacement.
- 7 As set out in the Land Use Recovery Plan¹ much of the Corporation's pre-earthquake stock "*was increasingly unsuited to the needs of the relevant communities*". As such "*there is now a significant opportunity to improve the overall amenity of these areas by repairing and rebuilding social and community housing and to provide more effectively for the needs of vulnerable people...*".
- 8 Mr Commons has provided evidence as to the way in which the Corporation provides social housing and the changing demographic of its tenants over time. In recent times demand has shifted from 3 bedroom family homes to smaller 1 – 2 bedroom units.
- 9 Accordingly, the Corporation has an extensive programme to reconfigure its landholdings both to repair existing stock and to rebuild and reconfigure its portfolio to better meet the needs of the tenant population it serves. In doing so, although the Corporation will still hold the same number of social housing units in the City, it expects to free up land for other providers to enter the market.
- 10 The Land Use Recovery Plan identified a set of immediate interventions by way of amendment to the operative City Plan to facilitate (among other things) the urgent replacement and reconfiguration of the social housing stock. These interventions included the Enhanced Development Mechanism ("EDM"), the Community Housing Redevelopment Mechanism ("CHRM"), the removal of age constraints on Elderly Persons Housing ("EPH") and

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the ability to place 2 units on sites that had previously housed only one dwelling (2:1).

- 11 The Corporation's involvement in the Crown submission has been principally to ensure that those provisions are correctly translated into the Replacement Plan, and to consider any other social housing initiatives included, or required to be included, in the Plan.
- 12 The Crown submission identified a number of areas where the LURP provisions were considered not to have been appropriately translated into the Plan, together with some concerns as to the effectiveness of new provisions to enable social housing in the Residential Suburban and Residential Suburban Density Transition Zones.
- 13 To a large extent those submission points have been satisfactorily addressed through a process of dialogue and engagement with the Council for which the Corporation is appreciative.
- 14 The remaining matters of disagreement are relatively minor points but are set out below for the panel's ease of reference.

Rule 14.2.2.3 – RD7 and RD8 – and Rule 14.9.37 - Urban Design Criteria for Social Housing Complexes and CHRM/EDM

- 15 The Council's 26 March 2015 version retains the EDM/CHRM assessment matters as requested in the Crown's submission.
- 16 It is noted that the Corporation did agree at mediation that one set of urban design assessment matters applying to all multi unit complexes (including social housing) would create some efficiencies in administration.
- 17 In that regard, Mr Dale supports the so-called "headline" assessment matters as set out in Ms McIntyre's evidence.

Rule 14.2.3.2 – Tree and Garden Planting in Social Housing Complexes

- 18 The Corporation sought deletion of the landscaping rule for social housing to enable greater site flexibility but accepts, based on the evidence of Mr Dale, that such landscaping may be beneficial to

mitigate the effects of garages intruding into the road boundary setback and/or to ameliorate the effects of an increased site coverage.

- 19 As with many issues the package of rules is of more importance than any single provision and the Corporation would accept the rule as contained in the 26 March 2015 version if the site coverage for single storey dwelling is returned to 40% (35% for 2 storeyed dwellings).

Rule 14.2.3.4 – Site Coverage for Social Housing Complexes

- 20 The Corporation supported the site coverage provision of 40% for multiunit complexes as notified. That has been reduced to 35% in the 26 March 2015 version. Mr Dale's evidence is that 40% for single storey development remains appropriate and in answer to questions I understood Mr Blair to accept that such a distinction could be made. Mr Dale has drafted an appropriate provision to address that.

Rule 14.2.3.9 – Road Boundary Building Setback

- 21 The notified version of the Plan provided an exemption to the building setback for garages associated with existing residential dwellings. The Crown sought to extend this exemption to all garages.
- 22 In the 26 March version of the provisions the entire exemption has been removed. This is not supported by Mr Dale² and in answer to questions I understood Mr Blair to indicate that the removal of the entire exemption was in error³.
- 23 The Corporation's position, supported by the evidence of Mr Dale, is that in the interests of efficiency and flexibility the exemption for garages should extend to all dwellings.

² Paragraphs 12.12 to 12.14

³ Transcript 31 March, page 235

Rule 14.2.3.14 – Waste Management Spaces in Social Housing Complexes

- 24 Although a small matter, the Corporation does not support the amendment to require waste areas to be designed so as to avoid spillage into waterways.
- 25 As set out in Mr Dale's evidence⁴ it is difficult to see how such a requirement would be efficiently administered.

Effectiveness of the CHRM Mechanism

- 26 Since the Crown submission was filed, it has become clear that there may be an issue with the effectiveness of the CHRM in delivering the outcomes set out in the LURP.
- 27 Section 4.4 (page 31) of the LURP sets out matters relating to infrastructure provision. Importantly, at section 4.4.1 the LURP records that "*the provisions in this Recovery Plan for intensification and greenfield development have been designed to be achievable within current and planned infrastructure capacity*".
- 28 As set out in the evidence of Mr Commons, the Corporation is becoming aware that intensification within the CHRM areas may well not be within current or planned infrastructure. In addition the Corporation is experiencing some difficulty in gaining an accurate understanding of the extent of infrastructure constraint that may apply to the CHRM areas, outside of the identified Riccarton Interceptor constraint.
- 29 Ms O'Brien's evidence and her answers to questions have provided some additional information but do not answer the question as to when and how these areas might be fully serviced. What is clear (and what is relatively new information for the Corporation) is that at least for the Wairakei/Greers CHRM all of the areas that Ms O'Brien has reviewed (approximately 50% of the area) "*have no normal sewer capacity*"⁵. Mr Gregory may be able to provide more clarity on this issue although his rebuttal statement does not suggest so.

⁴ Paragraphs 13.1 to 13.5

⁵ Transcript 30 March, page 68

- 30 It is accepted that there are provisions within the Replacement Plan which may provide some “offset” for the loss of the CHRM opportunity. As set out in Mr Dale’s evidence social and multi-unit residential complexes are enabled in the Residential Suburban and Residential Suburban Density Transition Zones. This is an addition to the opportunities enabled by the LURP.
- 31 Those provisions do not, however, provide the same outcome or process advantages that the CHRM provides. Specifically, they do not provide the same certainty of process as to non-notification nor do they provide the same flexibility or advantage in built form. As such, it seems likely (although it is not yet entirely clear) that there is overall some loss of enablement towards achieving the outcomes the LURP envisages for social housing.
- 32 It is accepted that this panel has no jurisdiction to resolve matters of physical infrastructure provision. Those matters fall properly to the Council or in the unique circumstances of Christchurch, the Minister of Earthquake Recovery under the CER Act.
- 33 Some consideration has however, been given, to the options that may be available to this panel. The Crown has set out in paragraphs 45 – 60 of its Opening Submissions some options to respond to a finding that the intensification targets in the LURP may not be appropriately enabled by the provisions in the Replacement Plan.
- 34 Those options include directing the notification of a new proposal under Clause 13(4) of the Canterbury Earthquake (Replacement District Plan) Order 2014 (“the Order”) or, as an alternative but not a preferred option, the inclusion of a policy within the Plan that provides for additional intensification opportunities to be initiated by the Council should monitoring establish a need to do so.
- 35 It is submitted that the clear need for redevelopment of social housing has already been established. The evidence of Mr Commons highlights the current waiting list of Priority A and Priority B tenants and the expectation of the Corporation is that even if its redevelopment plans are fully executed a waiting list will remain.

- 36 It is further submitted that the option to notify a new proposal to enable greater intensification for social housing may require more than an extension of the Residential Medium Density Zone and could extend to the use of the EDM in the Residential Suburban Zones (with or without extension of the accessibility criteria) or the development of new CHRM areas (in locations identified to be without significant infrastructure constraint).
- 37 In directing notification of a new proposal, Clause 13(4) of the Order requires an assessment by this panel that changes are "*necessary to deal with matters that are, in a material way, outside the scope of the proposal as notified and to deal with submissions*". It is clear that the Crown has lodged a submission that requests the intensification of land be revisited. Directing a new proposal on that basis is therefore appropriate.
- 38 What is less clear is whether, with respect specifically to social housing, the matter is "material". The Corporation is somewhat hamstrung in this regard. At this time, it is unable to clearly identify the extent to which its redevelopment (and intensification) aspirations are constrained other than by applying for development on a case by case basis. The evidence of Ms O'Brien is that with respect to at least one of the CHRM areas half or more of the land is entirely constrained – with the balance still to be investigated. As set out in the evidence of Mr Commons, development in other CHRM areas is at least questionable.
- 39 Given this, it is submitted that an appropriate interim step may be for the Panel to commission a report under Schedule 3, Clause 8 of the Order to endeavour to determine the extent to which development within each CHRM may be constrained by infrastructure provision. The purpose of such a report would be to determine the extent to which such constraints might be material with a view to directing a new proposal to be notified under Clause 13(4).
- 40 As previously set out such a proposal if initiated would be directed toward enabling the intensification of social housing development in

areas where infrastructure is in place or planned and would be by way of new RMD, CHRM or EDM (modified or unmodified) areas.

- 41 There is a complexity to the challenges that Christchurch faces which is not easily resolved by simply amending provisions on front boundaries or site coverage rules. While the Corporation is grateful to the Council for assisting in resolving those matters, there remain more critical barriers to the achievement of its aspirations in providing for the people and communities of the city. The Corporation is grateful to the Panel for any consideration it might give to those matters.

DATED this 2nd day of April 2015



L J Semple

Counsel for Housing New Zealand Corporation