

**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 proposed  
Christchurch  
Replacement District  
Plan – all Stage 1  
Proposals

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**APPLICATION FOR DIRECTIONS ON BEHALF OF CHRISTCHURCH CITY  
COUNCIL RELATING TO MAKING OF SUBMISSIONS ON FUTURE STAGES OF  
DISTRICT PLAN REVIEW PROCESS**

**26 MARCH 2015**

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**MAY IT PLEASE THE PANEL:**

**1. INTRODUCTION AND DIRECTION SOUGHT**

**1.1** The purpose of this application is to seek directions from the Hearings Panel regarding the making of submissions on proposals that are to be notified through the remaining stages of the proposed Replacement District Plan (**pRDP**) review process.

**1.2** In particular, Counsel seek that the Hearings Panel make a direction confirming that those submitters who made a submission, in Stage 1:

(a) on an area or piece of land that was not "zoned" on the Stage 1 planning maps (ie, as residential, industrial or commercial) and therefore is not within the scope of Stage 1; or

(b) that related to an area or piece of land that was "zoned" on the Stage 1 planning maps (ie, as residential, industrial or commercial), but was on issues or topics that were not within the scope of any of the Stage 1 Proposals notified in Stage 1;

must make a new submission in Stage 2 or Stage 3, on the appropriate and relevant Proposal that either "zones" the relevant area or piece of land, or that relates to the topic that the submitter is interested in.

**1.3** For the avoidance of doubt, for situation (a), Counsel refer to the "zoning" *per se* that would apply to a particular piece or area of land, rather than the "district wide" provisions in the Strategic Directions, Natural Hazards and Transport Proposals, that logically apply across the entire district.

**1.4** The purpose of the direction sought is to provide certainty to all participants in the pRDP process about their responsibilities, and

to avoid or reduce the need for directions to be sought on a case-by-case basis. The direction would need to be served on Stage 1 submitters.

## **2. SUBMISSIONS MADE DURING STAGE 1 THAT WERE NOT "ON" THE STAGE 1 PROPOSALS**

**2.1** As the Hearings Panel is aware, there were some submissions made during the notification of the Stage 1 Proposals that are considered as not being "on" any of the Stage 1 Proposals (commonly referred to as "out of scope"). Those submissions generally fell into two categories:

- (a) submissions on the zoning of an area or piece of land that was not "zoned" on the Stage 1 planning maps (ie, as residential, industrial or commercial)<sup>1</sup>. That is, that area or piece of land was shaded grey on the Stage 1 planning maps, rather than given a specific zoning type. The grey shading indicated that the land was not zoned as part of Stage 1 and therefore Stage 1 provisions could not apply to that (un-zoned) land; or
- (b) submissions that related to an area or piece of land that was "zoned" on the Stage 1 planning maps (ie, as residential, industrial or commercial), but were on issues or topics that were not within the scope of any of the Stage 1 Proposals notified in Stage 1.

**2.2** We understand that the Hearings Panel has taken the view that the consequence of these submissions being "out of scope" is that the Hearings Panel, during its consideration of evidence and hearings on Stage 1, is unable to make a decision on them as they are not on a Stage 1 Proposal.

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<sup>1</sup> Counsel is referring to the zoning *per se* that would apply to a particular piece or area of land, rather than the "district wide" provisions in the Strategic Directions, Natural Hazards and Transport Proposals.

- 2.3** A significant number of these 'out of scope' Stage 1 submissions are on land and on topics that will be covered under the Stage 2 (or Stage 3) proposals. However, if those submitters wish to have their concerns taken into consideration by the Hearings Panel, based on Counsel's understanding of the Hearing Panel's approach, it is the Council's view that they will need to make new submissions on the relevant Stage 2 (or Stage 3) proposal in accordance with the Stage 2 (or Stage 3) submission form.
- 2.4** Importantly it is crucial that these submitters (as well as any other Stage 2 and 3 submitters) identify the particular provision that each of their submission points relate to, so that their submission points can be appropriately linked on the submissions database.
- 2.5** For completeness, some of the submitters who made a submission during Stage 1 have since recognised that their submission (or part of their submission) was not "on" the Stage 1 land notified on the planning maps and / or Stage 1 provisions, and they have communicated this to the Hearings Panel.<sup>2</sup> The Council considers that, despite these formal communications, these submitters will still need to make a submission on Stage 2 (or Stage 3), if they wish for those out of scope submissions (or submission points) to be heard. This is a matter of practicality, as submitters need to identify the particular provision of the new proposal that each submission decision point links back to, but also a matter of law (as the submission needs to comply with the requirements under Form 5 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003).
- 2.6** It is noted that the approach of having to lodge a submission on a new proposal has already been undertaken with respect to the Temporary Earthquake Recovery Activities 1(b) proposal, where submissions have been received and now publicly notified for further submissions.

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<sup>2</sup> For example, the Memorandum of Counsel filed on 8 December 2014 by Faulks Investment Limited during the Strategic Directions hearing.

**3. STAGE 1 SUBMITTERS (WITHIN SCOPE) WHO MAY ALSO WISH TO MAKE A SUBMISSION ON LATER PROPOSALS**

**3.1** There may be submitters on Stage 1 (whose submissions were "on", or within the scope of the Stage 1 proposals) who may also wish to make a new submission on proposals that are yet to be notified. This may be the case where land zoned as part of Stage 1 is again affected by some of the Stage 2 or Stage 3 provisions. An example of this is where neighbouring land has been zoned through Stage 2, and new setback provisions therefore apply to the Stage 1 land.

**3.2** As a matter of law, the Council considers that the Stage 1 submitter will need make a new submission on the relevant Stage 2 or 3 provisions, in order to be heard on the Stage 2 or 3 proposal(s).

**4. DIRECTION SOUGHT**

**4.1** Counsel respectfully seeks that the Hearings Panel makes the following direction and that it be served on all Stage 1 submitters:

*Those submitters who made a submission, in Stage 1:*

*(a) on an area or piece of land that was not "zoned" on the Stage 1 planning maps (ie, as residential, industrial or commercial) and therefore is not within the scope of Stage 1; or*

*(b) that related to an area or piece of land that was "zoned" on the Stage 1 planning maps (ie, as residential, industrial or commercial), but was on issues or topics that were not within the scope of any of the Stage 1 Proposals notified in Stage 1;*

*must make a new submission in Stage 2 or Stage 3, on the appropriate and relevant Proposal that either "zones" the*

*relevant area or piece of land, or that relates to the topic that the submitter is interested in.*

- 4.2** The Council is conscious that it needs to provide the draft Stage 2 submission form and public notice for Stage 2 proposals to the Independent Secretariat for review. If the Panel is minded to make the direction sought, Council considers it would be helpful to reiterate the direction by summarising it (or referring to it) in both the public notice and the submission form.

**DATED** this 26<sup>th</sup> day of March 2015



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Counsel for Christchurch City Council