

**BEFORE THE CHRISTCHURCH REPLACEMENT
DISTRICT PLAN INDEPENDENT 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 Introduction Proposal
(Part) and Definitions Proposal
(Part)

**STATEMENT OF EVIDENCE OF MARK DAVID STEVENSON
ON BEHALF OF CHRISTCHURCH CITY COUNCIL**

COMMERCIAL / INDUSTRIAL CHAPTER LEAD

9 JUNE 2015



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1. INTRODUCTION

1.1 My full name is Mark David Stevenson. My qualifications and experience are set out in my evidence in chief for the hearing of the Commercial and Industrial proposals dated 13 April 2015

1.2 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

2. SCOPE

Introduction Proposal

2.1 Section 3.0 of my evidence sets out the changes required to the overview of the Commercial and Industrial zones in 10.1 of the Introduction Proposal and my reasons for those suggested changes. This reflects submissions on the Introduction and Commercial proposals, which have been addressed in part through the consolidation of zones and the creation of new zones.

Definitions

2.2 My earlier statements of evidence dated 13 April 2015¹ and 1 May 2015² included evidence on definitions, which is not repeated here but has been listed in Appendix 3 attached to **Mr Thomson's** overview evidence in chief for this hearing.

2.3 This evidence relates to the following definitions in Proposal 2, which I have not addressed in evidence to date:

- (a) Recreation activity; and

1 Attachment E of Evidence in Chief on the Commercial and Industrial proposals dated 13 April 2015.

2 Annexure C of Rebuttal Evidence on the Commercial and Industrial proposals dated 1 May 2015.

(b) Birdstrike.

2.4 My evidence will also cover the following *new* definitions which have been sought for inclusion by submitters through Stage 1:

- (a) Ancillary / Ancillary activity;
- (b) Ancillary showroom activity;
- (c) Birdstrike risk activities; and
- (d) Mahinga Kai.

2.5 There are a number of definitions that have been considered in evidence to date across more than one hearing. My evidence below considers the following definitions, for which inconsistencies have been identified in the evidence of different experts for Christchurch City Council (**Council**):

- (a) Landscaping;
- (b) Pre-school;
- (c) Sensitive activities;
- (d) Service station;
- (e) Spiritual facility; and
- (f) Yard-based supplier.

3. INTRODUCTION PROPOSAL

3.1 Akaroa Civic Trust [#340] has sought amendments to the description of the Commercial Banks Peninsula zone in part 10.1 of the Introduction Proposal to recognise the mix of uses in the Akaroa town centre, including areas which are primarily residential in nature. The commercial zone at Akaroa has a mix of activities, which, unlike other commercial zones, comprises residential properties with a character anticipated in a residential zone. The relief is therefore appropriate and I propose the following amendments:

Commercial Banks Peninsula Zone

This zone includes the established commercial centres of Lyttelton, Akaroa, Governors Bay, Diamond Harbour, Church Bay and Little River. The zone provides for a range of commercial and community

activities and supports their role in meeting the needs of surrounding communities and visitors to the area. The provisions for Lyttelton and Akaroa also recognise and protect the special character of these centres ~~(particularly Akaroa, a registered Historic area)~~. **In Akaroa, this zone is part of the registered Historic Area and includes areas that are residential in character.** [Akaroa Civic Trust [#340, p2]]

3.2 In evidence for the hearing of the Commercial and Industrial proposals, a number of changes have also been proposed, including:

- (a) Replacement of the Industrial Office zone with a Commercial Office zone;³
- (b) Introduction of a Commercial Mixed Use zone;⁴ and
- (c) Consolidation of the Commercial Core and Fringe zones.⁵

3.3 As a consequence of these changes, amendments are necessary to part 10.1 of the Introduction Proposal as set out below:

Chapter 15 Commercial

This chapter identifies areas within the district zoned for commercial activities and sets out the controls that apply to development within these areas. The following five commercial zones are included in the Plan.

Commercial Core Zone

*This zone provides for ~~the major commercial development in a centre and is generally the part of a suburban centre dominated by a mall or supermarket. The rules enable a larger range of activities at a scale consistent with the role a centre plays in the hierarchy of development (e.g. greater height of buildings).~~ The Commercial Core zone ~~can be found in~~ **extends over the commercial area of all District and Neighbourhood centres and comprises one or more anchor stores including a supermarket***

3 Paragraph 33.54 of Evidence in chief of Mark Stevenson on the Commercial and Industrial proposals dated 13 April 2015.

4 Attachment C of Evidence in chief of Mark Stevenson on the Commercial and Industrial proposals dated 13 April 2015.

5 Paragraphs 16.2 and 16.3 of Evidence in chief of Mark Stevenson on the Commercial and Industrial proposals dated 13 April 2015.

and/or department store as well as smaller retail and other tenancies.

Commercial Fringe Zone

~~This zone adjoins the Commercial Core zone and has an interface (boundary) with adjoining residential zones. It provides for a smaller scale of development and smaller shop sizes, reflecting the historic use and character of these areas. Given the proximity to residential areas, the rules limit the scale of development to protect adjoining residential amenity. The Commercial Fringe zone can be found in all District centres and most Neighbourhood centres.~~

...

Commercial Mixed use zone

The Commercial Mixed use zone recognises areas with a mix of business activities including Blenheim Road, Mandeville Street and in Addington. Provisions for the zone acknowledge the existing retail and office development that has occurred in these areas while limiting the scale and function of further commercial activity. The zone provides for a broad range of other business activities including warehousing, trade suppliers, yard-based suppliers, food and beverage outlets and residential activity amongst other land uses.

Commercial Office zone

The Commercial Office Zone recognises and enables office activities in existing office park areas in Addington and Russley. These areas have clusters of large scale office activities which have established in less than optimal locations. The policy for this zone provides a very clear direction that the Council does not support new office parks in industrial areas.

Chapter 16 Industrial

This chapter identifies areas within the district zoned for industrial activities and sets out the controls that apply to development within these areas. The Plan provides for the following industrial zones.

...

~~**The Industrial Office Zone recognises and enables office activities in existing office park areas at Addington and Russley. These areas have lawfully established large scale office activities which have located in less than optimal locations. The policy for this zone provide a very clear direction that the Council does not support new office parks in industrial areas.**~~

4. DEFINITIONS PROPOSAL

Recreation activity

4.1 Viatcheslav Meyn [#733] has sought retention of the definition of 'Recreation activity' but with reference to the definition of 'Rural activity' under 'Related definitions'. There is no definition proposed for 'Rural activity' in Stage 1 of the Definitions Proposal, although it is noted that a definition of 'Rural activity' is proposed in Stage 2.

4.2 Given there is not a definition of 'Rural activity' in Stage 1, it would be inappropriate, in my opinion, to refer to 'Rural activity'. On this basis, it is recommended that the relief sought is rejected and the decision re-considered as part of Stage 2.

Birdstrike

4.3 Christchurch International Airport [#863] Limited has sought retention of the definition of 'Birdstrike'. The term 'Birdstrike' is used in the context of provisions in the Residential, Subdivision, Commercial and Industrial proposals, concerned with minimising birdstrike risk in proximity to the airport e.g. Matters of Discretion in 14.9.7.

4.4 It is noted that the Residential Proposal attached to Closing Legal Submissions for the Residential hearing refers to "Bird strike", while it is recommended in evidence on the Commercial and Industrial proposals that the provisions to minimise birdstrike be deleted.⁶

⁶ Paragraph 9.13 of Evidence in Chief of Mark Stevenson on the Commercial and Industrial proposals dated 13 April 2015 recommends deletion of the relevant provisions and their deferral to Stage 2 of the pRDP.

- 4.5 The definition is required in Stage 1 to enable interpretation of the Residential and Subdivision proposals. Inclusion of the definition therefore provides clarity, consistent with Objective 3.3.2 of the Strategic Directions chapter. The relief is therefore accepted.

Ancillary / Ancillary activity

- 4.6 A new definition of 'Ancillary', sought by Carter [#1028] on the Commercial and Industrial proposals in Stage 1, has been considered as a part of the Commercial and Industrial hearing⁷ in conjunction with submissions on the definitions of 'Ancillary Office activity' and 'Ancillary Retail activity'. It was recommended to the Panel that the relief sought for a definition of 'Ancillary' be accepted.
- 4.7 A submission made by the Upper Riccarton Residents Association [#738] sought amendments to make it clear that for an activity to be ancillary, it must occur on the same site. This submission was not considered in evidence for the Commercial and Industrial hearings. However, I consider that the relief sought has been addressed in an amended definition of 'Ancillary' proposed for consideration by the Panel, which is not repeated here.⁸

Ancillary Showroom activity

- 4.8 Bellavista Property Consultants [#776] have sought the addition of a new definition for 'Ancillary Showroom activity'. This is in the context of their submission, which seeks amendments to rules 16.2.3.2 and 16.3.3.2 (Minimum building setback from road boundaries) to permit ancillary showrooms up to 1.5 metres from the road boundary, additional to the provision made in the notified rules for 'Ancillary Office activity' 1.5 metres from the boundary.
- 4.9 The relief to amend the subject rules to permit 'Ancillary showrooms' up to 1.5 metres from the road boundary was accepted in the 'rebuttal version' of

7 Page 13 of Attachment E to the Evidence in chief for Mark Stevenson on the Commercial and Industrial proposals dated 1 May 2015.

8 Refer to Annexure C of my Rebuttal Evidence on the Commercial and Industrial Proposals dated 1 May 2015.

the Industrial proposal,⁹ but is proposed to be deleted in the version of the Industrial Proposal to be attached to the Closing Legal Submissions for the Commercial and Industrial proposals. This is on the basis that clause (a) provides for any activity 1.5 metres from the road boundary, unless specified otherwise. It is therefore unnecessary to prescribe a specific standard for 'Ancillary showrooms' and it is recommended that the term 'Ancillary showroom activity' is not used in the proposal.

Birdstrike risk activities

4.10 Christchurch International Airport Limited [#863] has sought the addition of a new definition of 'Birdstrike risk activities', which lists the activities which may pose a risk of birdstrike within 13 kilometres of the airport. Mr Andrew Long for the Council considers the definition at paragraph 7.66 to 7.69 of his Evidence in Chief on the Subdivision Proposal and recommends that the relief is rejected. The Residential Proposal attached to Closing Legal Submissions for the Residential hearing¹⁰ and the 'rebuttal' versions of the Commercial and Industrial proposals dated 1 May do not use the term and I consider that the relief should therefore be rejected.

Mahinga Kai

4.11 Council [#310] sought the addition of a new definition of 'Mahinga kai' in its submission, being "*means food and other resources and the areas they are sourced from*". This is in the context of matters of discretion in the Commercial and Industrial proposals, e.g. 15.2.4.3.3, concerned with recognition of areas as Mahinga Kai.

4.12 Mahaanui Kurataiao [#1145] seeks that a glossary of terms be incorporated into Chapter 1 (Introduction) from the Proposed Canterbury Land and Water Regional Plan.¹¹ That includes a description of 'Mahinga kai' sourced from the Ngai Tahu Whanui Claims Settlement Act 1998, being "*the customary gathering of good and natural materials and the places where those resources are gathered*". The request by Maahanui

9 Attached to Mr Mark Stevenson's Rebuttal evidence dated 1 May 2015.

10 Refer to Annexures A and B of the Closing Representations for the Council in relation to the Residential Proposal dated 23 April 2015.

11 Mahaanui Kurataiao [#1145, page 7].

Kurataiao to include an explanation of this term in the Introduction Proposal has been accepted by **Mr Thomson** (refer to his overview statement for this hearing). Therefore the Council submission can be rejected.

Other definitions

- 4.13** Other notified definitions submitted on, or definitions sought in the context of the Commercial and Industrial proposals, are addressed in evidence on those proposals. This includes the following terms:

Commercial and Industrial Proposals: *Ancillary¹², Ancillary office activity, Building, Building supplier, Café, Commercial services, Community facility, Community corrections facility, Coverage, Food and beverage outlet, Guest accommodation, Height, Industrial activity, Landscaping, Landscaped area, Landscaping strip, Low impact urban design, Mixed-use, Ngai Tahu/ Manawhenua, Noxious or offensive activity, Office, Outdoor storage area, Pre-school, Public area, Public artwork, Retail activity, Second-hand goods outlet, Sensitive activities, Service station, Site, Supermarket, Surface water management structure, Trade and industry training facility, Trade supplier, Yard-based supplier.*

Commercial Proposal only: *Anchor store, Department store, District centre, Drive-through services, Finer grain retailing, Key activity centres, Key pedestrian frontage, Large format centre, Large format retail/ Large format retail activity; Neighbourhood centre, Net floor area, Scale and form, Spiritual facility.*

Industrial Proposal: *Ancillary retail activity; Brownfield, Light manufacturing and servicing; Manufacturing; Repair and maintenance; Reverse sensitivity, Wahi Taonga, Warehouse and Distribution activities.*

12 Submission #738 in respect of the definition of 'Ancillary activity' was not considered in Attachment E of the Evidence in Chief of Mark Stevenson on the Commercial and Industrial proposals, and is therefore considered in this evidence.

4.14 Since the preparation of evidence on the Commercial and Industrial proposals, I have reviewed the definition of 'Finer grain retailing' and do not consider it necessary. The provisions that use the term specify that it is retail activity below a maximum threshold and the definition does not provide further clarity.

4.15 The following definitions as notified have not had any submissions:

Alcohol licence, Articulation, Automotive and/or marine supplier, Banks Peninsula, Farming and agricultural supplier, Food court, Garden and patio supplier, Office furniture equipment and systems suppliers, Residential amenity, Tavern, and Wetland.

4.16 In my opinion, the common understanding of 'Alcohol licence', 'Food court', 'Farming and agricultural supplier', 'Garden and patio supplier', and 'Office furniture equipment and systems supplier' are sufficient for the purposes of interpretation and the definitions for these terms are not required.

4.17 In respect of 'Residential amenity', this is not required as 'Amenity' is defined and can be applied in the relevant context.

4.18 With regard to the following definitions, being the balance of those described in paragraph 4.15 (which I do not recommend be deleted in paragraphs 4.16 to 4.17), I consider these definitions should be retained and refer to the evidence of **Mr Falconer** (dated 9 June 2015) in respect of 'Automotive and/or marine supplier' and **Mr Thomson's** evidence on the definitions relevant to the Residential Proposal (dated 9 June 2015) in respect of Banks Peninsula:

Articulation, Automotive and/or marine supplier, Banks Peninsula, Tavern, and Wetland.

5. INCONSISTENCIES BETWEEN DEFINITIONS

5.1 There are a number of definitions that have been considered in evidence to date across more than one hearing. My evidence below considers the

following definitions, for which inconsistencies have been identified in the evidence of different experts for the Council:

- (a) Landscaping;
- (b) Pre-school;
- (c) Sensitive activities;
- (d) Service station;
- (e) Spiritual facility; and
- (f) Yard-based supplier.

Landscaping

5.2 The definition of 'Landscaping' was considered in Annexure F of Closing Legal Submissions on the Residential Proposal (dated 23 April) with recommended amendments put forward by Mr Blair. In my evidence in chief for the Commercial and Industrial proposals (dated 13 April), I recommended deferral of the decision on 'Landscaping' to Stage 2 when a revised definition was proposed and consolidation of separate parts of the definition applicable to different zones could be addressed.

5.3 Having considered the matter further, there is a need for a definition in Stage 1 to provide clarity for any user of the pRDP interpreting rules in the Residential, Commercial and Industrial proposals. Furthermore, the revised version attached to the Closing Legal Submissions on the Residential Proposal removes the distinction made in the definition as notified between landscaping for different zones. It is therefore recommended that the version in Closing Legal Submissions on the Residential Proposal is accepted. It reads as follows:

~~***except in the Commercial, Retail Park and Industrial Zones, means the provision of tree and/or shrub plantings and may include any ancillary lawn, water, rocks, paved areas or amenity features. In the Commercial, Retail Park and Industrial Zones, landscaping means the provision of predominantly trees and/or shrub plantings and may include some ancillary areas of lawn or other amenity features. Landscaped area and landscaping strip shall have the same meaning.***~~

Pre-school

5.4 The definition of 'Pre-school' was considered in Annexure F of Closing Legal Submissions on the Residential Proposal dated 23 April with recommended amendments put forward by Mr Blair. In my evidence in chief for the Commercial and Industrial proposals dated 13 April, I recommended amendments in response to the Crown's submission to delete "*after school care facility*". However, the amendments put forward for the Commercial and Industrial hearing did not reflect the extent of changes proposed by Mr Blair. Having discussed the amendments with Mr Blair, the amendments he put forward for the Residential Proposal provide greater clarity that pre-schools are for early childhood education and avoids any issue of interpretation as to what is included or excluded from the definition.

5.5 A further amendment has been identified as necessary. There is a need for the definition to state that it is the education of more than four children. This is on the basis that the care of up to four children is provided for in the rules of the Residential Proposal as a permitted activity (e.g. P3 of rule 14.2.2.1 of the Residential Proposal), while 'Pre-school' is identified separately (e.g. P7 of rule 14.2.2.1) and subject to different standards. I therefore propose that the definition of 'Pre-school' in the pRDP reads as follows:

*means **the use of** land and/or buildings ~~used~~ for **the early childhood** education or care of **more than** four ~~or more~~ children (in addition to any children resident on the site or the children of the persons providing the education or care) under the age of six years by the day or part of a day, but not for any continuous period of more than seven consecutive days. ~~Includes a crèche, after-school care facility, kindergarten, kohanga reo or play centre, but does not include a school.~~*

Sensitive activities

- 5.6 The definition of 'Sensitive activities' was considered in Annexure F of Closing Legal Submissions on the Residential Proposal (dated 23 April) and my evidence in chief on the Commercial and Industrial proposals (dated 13 April). The revised definition put forward in evidence has been subject to review by experts as part of the Commercial and Industrial hearing and a consolidated definition was put forward as Exhibit 14 by Mr Matt Bonis for Christchurch International Airport. The Panel's questions of Mr Bonis have informed further amendments to the definition. This includes recognition that not all health care facilities are noise sensitive (Evidence of Mr Chris Day at hearing of the Commercial and Industrial proposals) and that prisons and other custodial correction facilities should be treated the same as other residential accommodation (on the basis that noise can have an adverse effect on health and safety of prisoners as much as residents).
- 5.7 The revised definition was put forward to the Panel in closing submissions on the Commercial and Industrial proposals. This version replaces earlier versions put forward in evidence, and reads as follows:

Sensitive activities means

- i. Residential activities;**
- ii. Education activities;**
- iii. Guest accommodation; and**
- iv. Health care facilities;**
- v. Custodial correction facilities with overnight accommodation**

But excludes in relation to airport noise

- (a) Any residential activities in conjunction with rural activities that comply with the rules in the relevant district plans as at 23 August 2008;**
- (b) flight training or other trade and industry training facilities located on land zoned or legally used for commercial or industrial activities; and**

(c) **Guest accommodation, which is designed, constructed and operated to a standard to mitigate the effects of aircraft noise on occupant**

(d) **Health care facilities with no accommodation for overnight care.**

Service station

5.8 The definition of 'Service station' was considered in Annexure A of Closing Legal Submissions on the Residential Proposal (dated 23 April) and my evidence in chief on the Commercial and Industrial proposals (dated 13 April). Amendments were recommended in evidence for the Residential Proposal to include a floorspace limit on the ancillary sale of goods for the convenience and comfort of service station customers. In evidence for the Commercial and Industrial hearings, the amendments proposed were to delete the word "*ancillary*" from the opening statement of the definition and clause (e). Having considered the definition further, it is appropriate to retain "*ancillary*" in the opening paragraph within the definition to avoid interpretation that the primary activity is one or more of the activities listed in clauses (a) to (f). With retention of "*ancillary*" in the opening statement, it is not necessary to repeat it in clause (e).

5.9 With regard to the floorspace limit sought by the Oil Companies [#723] for the sale of other goods, this is best dealt with in rules which prescribe floorspace limits on activities rather than in the definition. With respect to the rules, it should be noted that floorspace limits are not proposed due to the low risk of a significant quantum of retail floorspace ancillary to the sale of fuels. The revised definition being proposed now is therefore as follows:

*means any site where the primary activity is the retail sale of motor vehicle fuels, including petrol, LPG, CNG and diesel, and may include any one or more of the following **ancillary** activities:*

- a. *the sale or hire of kerosene, alcohol based fuels, lubricating oils, tyres, batteries, vehicle spare parts, trailers and other accessories normally associated with motor vehicles;*

- b. *the mechanical repair, servicing and cleaning of motor vehicles (other than heavy vehicles) and domestic garden equipment but not panel beating, spray painting and heavy engineering such as engine reboring and crankshaft grinding;*
- c. *truck stops;*
- d. *inspection and certification of motor vehicles;*
- e. *the ~~ancillary~~ sale of other goods for the convenience and comfort of service station customers;*

but shall not include any industrial activity.

Spiritual facility

5.10 The definition of 'Spiritual facility' was considered in in Annexure F of Closing Legal Submissions on the Residential Proposal (dated 23 April) and my evidence in chief on the Commercial and Industrial proposals (dated 13 April). The amendments put forward in the latter acknowledge the wider range of uses for spiritual facilities and I therefore propose the amendments are accepted.

5.11 Evidence for the Residential Proposal sought to amend the term defined from 'Spiritual facility' to 'Spiritual activity' with a new definition being introduced into Stage 2 to define 'Spiritual facility' as "*means land and/or buildings used for spiritual activities*". This has merit. However, the term 'Spiritual facility' is used in Stage 1 Residential, Commercial and Industrial proposals and is therefore required. It is therefore proposed that separate definitions of 'Spiritual activity' and 'Spiritual facility' are introduced into Stage 1 as follows:

*Spiritual activity means the use of land and/or buildings for the public and/or private assembly of people primarily for worship, meditation, spiritual deliberation and ~~ancillary community activities~~ **for ancillary social and community support services associated with the spiritual activity; the ancillary hire/use of church buildings for community groups and activities; and for temporary activities (as defined under "Temporary buildings and activities", clause (b)).***

Spiritual facility means land and/or buildings used for spiritual activities.

Yard-based supplier

- 5.12 The definition of 'Yard-based supplier' was considered in my evidence in Chief on the Commercial and Industrial proposals (dated 13 April) and the revised Transport Proposal (dated 14 May). The only difference between the two definitions put forward was the reference in the last sentence to 'yard space', which was amended to 'yard area' in the revised Transport Proposal. 'Space' or 'area' have similar meanings in this context although 'space' is preferred. The final version would therefore read as follows:

*means ~~any retail activity~~ **the use of any land and/or building for** selling or hiring products for construction or external use (which, for the avoidance of doubt, includes activities such as sale of vehicles and garden supplies), where more than 50% of the area devoted to sales or display is located in covered or uncovered external yard or forecourt space as distinct from within a secured and weatherproofed building. ~~For the purpose of this definition, areas of a site providing rear access and all other areas devoted to customer, staff and service vehicle access and parking (including parking driveways) are not to be included in the extent of yard area devoted to sales or display.~~ Drive-in or drive-through covered areas devoted to storage and display of construction materials (including covered vehicle lanes) will be deemed yard **space** area for the purpose of this definition.*



Mark David Stevenson

9 June 2015