

**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

SUBMITTER **CANTERBURY EARTHQUAKE RECOVERY AUTHORITY
FOR AND ON BEHALF OF THE CROWN**
(Submitter 495)

**MEMORANDUM OF COUNSEL FOR THE CROWN SEEKING LEAVE TO RELY
ON EVIDENCE HEARD IN RELATION TO OTHER PROPOSALS**

Definitions Proposal

Dated: 23 June 2015

BUDDLEFINDLAY
NEW ZEALAND LAWYERS
Barristers and Solicitors
Christchurch

Solicitor Acting: **Cedric Carranceja / Jenna Silcock**
Email: cedric.carranceja@buddlefindlay.com / jenna.silcock@buddlefindlay.com
Tel 64 3 379 1747 Fax 64 3 379 5659 PO Box 322 DX WX11135 Christchurch 8140

Counsel Acting: **Paul Radich QC**
Tel 64 4 974 5951 Fax 64 4 974 5955 PO Box 10731 Wellington 6143

MAY IT PLEASE THE HEARINGS PANEL:

1. This memorandum is filed on behalf of the Crown in relation to Proposal 2 - Definitions.
2. Further to the Hearings Panel's direction at paragraph 6 of the Pre-hearing Report and Directions dated 7 May 2015, the Crown respectfully seeks leave to rely on evidence heard in relation to other Proposals in respect of the definitions listed in the table attached as Appendix "A" to this memorandum. The table lists against each definition:
 - (a) the hearing(s) in which the definition was addressed;
 - (b) the Crown witness(es) who gave evidence on the definition, with paragraph and/or page references; and
 - (c) the Crown's position on the definition in the evidence.

Dated 23 June 2015

 

J Silcock / E Moore
Counsel for the Crown

APPENDIX A: REFERENCES TO EVIDENCE

Definition	Hearing	Witness	Reference	Summary of the Crown's position
Accessible	Residential	Ms McIntyre (Crown)	Evidence, [12.10], p 45	The Crown sought that the definition proposed by the Council in its submission be reviewed.
Brownfield	Commercial / Industrial	Ms Whyte (Crown)	Evidence, [8.27]-[8.29] Exhibit 3	As agreed between the Crown, the Council, Gelita NZ Limited and Waterloo Park Limited during the Commercial / Industrial hearing, amend the definition of Brownfield to read: <i>means previously used industrial land or commercial land, or land no longer required by a requiring authority for a designated purpose.</i> <u><i>means abandoned or underutilised commercial or industrial land, or land no longer required by a requiring authority for a designated purpose.</i></u>
Community facility	Residential	Ms Barker (Crown) Ms Legarth (Crown) Ms McLeod (Crown)	Evidence, [9.3]-[9.5] and p 28 Evidence, [9.4] Evidence, [10.2]	Amend definition to read: <i>means any land and/or building or part thereof intended to be used principally by members of the community</i> <i>for recreation, entertainment, education, health care, safety and welfare, worship, cultural or deliberation purposes.</i> <i>Community facilities include reserves, recreation and entertainment facilities, community infrastructure such as libraries and community halls, education activities, health care facilities, care facilities, emergency service facilities, <u>community corrections facilities, community welfare facilities,</u> and spiritual facilities, but do not include privately (as opposed to publicly) owned recreation and entertainment facilities, or restaurants.</i>
	Commercial / Industrial	Ms Whyte (Crown)	Evidence, [7.22]	Amend list of reliant definitions to read: <i>Reliant definitions</i>

Definition	Hearing	Witness	Reference	Summary of the Crown's position
				<i>Building</i> <i>Care facility</i> <u><i>Community corrections facility</i></u> <u><i>Community welfare facility</i></u> <i>Community infrastructure</i> <i>Education activity</i> <i>Emergency service facilities</i> <i>Entertainment facility</i> <i>Health care facility</i> <i>Recreation facility</i> <i>Reserve</i> <i>Restaurant</i> <i>Spiritual facility</i>
Community corrections facility	Residential	Ms Legarth (Crown)	Evidence, [9.3] and [10.6]-[10.7]	Define as follows: <u><i>means a building used for administrative and non-custodial services. Services may include probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes, and offices may be used for the administration of and a meeting point for community work groups.</i></u>
	Commercial / Industrial	Ms Whyte (Crown) Ms Legarth (Crown)	Evidence, [7.22] Evidence, [6.4]	
Community infrastructure	Residential	Ms Barker (Crown)	Evidence, [9.6]-[9.7] and p 29	Amend definition to have the same meaning as in s 197 of the LGA 2002.
	Commercial / Industrial	Ms Whyte	Evidence, [7.22]	

Definition	Hearing	Witness	Reference	Summary of the Crown's position
Community welfare facility	Residential	Ms Barker (Crown)	Evidence, [9.8]-[9.10] and p 30	Define as follows: <u>means a building used for providing information, counselling and material welfare of a personal nature. Includes personal and family counselling, citizen's advice bureaux, legal aid and the offices of charitable organisations where the facility is operated by a non-profit making organisation.</u>
	Commercial / Industrial	Ms Whyte (Crown)	Evidence, [7.22]	
Early childhood education facility	Residential	Mr McCallum-Clark (Crown)	Evidence, [5.6]	Define as follows: <u>has the same meaning as "early childhood education and care centre" in section 310 of the Education Act 1989 and for clarity includes a creche, Kōhanga Reo, day care centre, kindergarten, playgroup or play centre and the land on which these are located.</u>
EDM Qualifying Supermarket	Residential	Ms McIntyre (Crown)	Evidence, [12.9]	The 1000m ² threshold in the definition sets the minimum size of supermarket appropriate to support housing intensification under the EDM. The removal of the threshold (as sought by the Council and Foodstuffs) would make the definition inconsistent with the intent of the LURP, which introduced this provision. While the Council's submission indicates the threshold will instead be included in the relevant rule, this amendment is not included in the submission. The threshold is not specified elsewhere in the proposals.
Education activity	Residential	Mr McCallum-Clark (Crown)	Evidence, [5.1]-[5.4]	Define as follows: <u>means the use of land and/or buildings for the provision of regular teaching or training, or out of school care, and includes the use of ancillary administrative, boarding/residential accommodation, spiritual, recreation, health and cultural and shared facilities, and also includes early childhood education.</u>

Definition	Hearing	Witness	Reference	Summary of the Crown's position
				<i>The use of boarding/residential accommodation shall be ancillary to education activity on that site. Where community activities occur in education facilities, the parking requirements will be those for education activity.</i>
Elderly persons housing complexes	Residential	Ms McIntyre (Crown)	Evidence, [12.8]	Oppose new definition proposed by CIAL.
Emergency service facility	Residential	Ms McLeod	Evidence, [5.4(f)]	Seeks retention of the definition as notified.
Habitable space	Residential	Ms McIntyre (Crown)	Evidence, [12.6], p 45	Support Council's submission but seek amended wording as follows: <i>means all the spaces of a residential unit or guest accommodation unit excluding <u>except</u> any bathroom, laundry, toilet, pantry, walk in wardrobe, corridor, hallway, lobby, clothes drying room or garage (except <u>but including</u> any portion of a garage that includes <u>used as a sleep-out</u>).</i>
Multi-unit residential complex	Residential	Mr Dale (Housing NZ)	Evidence, p 38	Amend the definition of multi-unit residential complex to read: <i>means a group of four <u>two</u> or more residential units where the group is either held under one title or unit titles under the Unit Titles Act 2010 with a body corporate.</i>
Neighbourhood Block Area	Residential	Ms McIntyre (Crown)	Evidence, [12.9]	Delete because it does not appear in the Replacement Plan.
Neighbourhood Plan	Residential	Ms McIntyre (Crown)	Evidence, [12.9]	The area specification in this definition is necessary to describe the scope of the definition. Reference instead to 'a specified minimum area' would make the definition unclear.

Definition	Hearing	Witness	Reference	Summary of the Crown's position
New Neighbourhood Hectare	Residential	Ms McIntyre (Crown)	Evidence, [12.9]	Delete because it does not appear in the Replacement Plan.
Residential activity	Residential	Ms McIntyre (Crown) Ms McLeod (Crown)	Evidence, [12.5] and p 44 Evidence, [10.1] and p 22	<p>Amend the definition of Residential activity to add:</p> <p><i>a. a residential unit or a family flat <u>(including accessory buildings)</u>;</i></p> <p>Also add:</p> <p><i>but does not include:</i></p> <p><i>d. guest accommodation; and</i></p> <p><i>e. the use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site; <u>and</u></i></p> <p><i><u>f. accommodation associated with a fire station.</u></i></p> <p>The Council's legal submissions on the Residential Proposal (Annexure A) dated 23 April 2015 accepted the proposed amendments.</p>
Residential unit	Residential	Ms McIntyre (Crown) Ms McLeod (Crown)	Evidence, [8.8], [12.5] and p 44 Evidence, [5.4(f)]	Support the definition as notified.
Social housing	Residential	Mr Dale (Housing NZ)	Page 38	<p>Amend the definition of social housing as follows:</p> <p><i>means residential units owned by Housing New Zealand, the Christchurch City Council, a not-for-profit housing entity or a registered community housing provider (under Part 1 of the Housing Restructuring and Tenancy Matters Act</i></p>

Definition	Hearing	Witness	Reference	Summary of the Crown's position
				<p><i>1992), or where one of these parties is in a public / private development relationship to provide mixed tenure housing, and where the provision of residential units is to help low and modest income households and other disadvantaged groups to access appropriate and secure housing that is affordable.</i></p>