

**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 Stage 2 Specific
Purpose
Zone (part) Proposal

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF NEIL GOW ON BEHALF OF THE
ELMWOOD CLUB INC.**

(SUBMITTER REFERENCE: 2343)

Dated 20 January 2016

INTRODUCTION

1. My name is Neil Graham Gow. I am a member of the Elmwood Club Board and am authorised to give evidence in support of the submission made by the Elmwood Club in relation to Proposal 21 - Specific Purpose (School) Zone of the Christchurch Replacement District Plan ("Replacement Plan"). In this regard, I represented the Elmwood Club at mediation on 12 October 2015 and gave evidence at the Replacement Plan hearing on 3 November 2015.
2. The purpose of this evidence is to respond to the directions given in the Minute of the Independent Hearings Panel dated 18 December 2015.
3. This evidence sets out the Elmwood Club's preferred approach to the rules in both Chapter 18 and Chapter 21 (given their inter-relationship), along with the reasons for these provisions. The Elmwood Club supports a consistent restricted discretionary activity rule for a community facility across both zones without standards that trigger a default to discretionary activity status. The Elmwood Club also supports site specific amendments to the Built Form Standards to reflect the particular circumstances of the subject site (a portion of Heaton Intermediate, the Elmwood bowling club site and associated access strip). The Proposed Facility is entirely consistent with the Objectives and Policies of the Replacement Plan and any effects of the proposed rebuild and redevelopment can be appropriately managed by the Matters of Discretion.

DIALOGUE WITH CHRISTCHURCH CITY COUNCIL

4. As a preliminary matter, I wish to acknowledge the Hearings Panel's express "hope" that the Christchurch City Council ("Council") and the

Elmwood Club would respond to these directions via a joint response and statement.¹

5. With this in mind, representatives of the Elmwood Club have sought to reach a common position (in conjunction with informal mediation in relation to Proposal 18: Open Space) on a number of occasions through email requests for further discussion on 7, 12, 13 and 16 January 2016.

6. The rationale for combining discussions with mediation in relation to the Proposal 18 provisions responds to the cross boundary (and cross zone) nature of the development described in my primary statement of evidence² and is consistent with Ms Dixon's view that the Elmwood Club's relief should be rejected on the basis that:

"It can be further considered in the Open Space hearing next year from the perspective of the zoning of Elmwood Park, and if some of the issues with this proposal have been resolved or at least further progressed at that time."³

7. In the absence of an ability to meet, on 16 January 2016 the Elmwood Club provided Council with a draft suite of provisions, incorporating amendments to both Proposal 18 and Proposal 21 and in response to this, representatives of the Elmwood Club (including myself) met with Council representatives on 18 January 2016.

8. At the 18 January 2016 meeting, Ms Dixon did not provide specific feedback on the draft provisions for Proposal 21, nor did she provide an alternative proposal, but indicated:

- a. that there was "merit in harmonising" the provisions; and
- b. that the Council did not wish to file a joint response or statement.

¹ Independent Hearings Panel, Christchurch Replacement District Plan, Minute dated 18 December 2015, paragraph 7.

² Statement of evidence of N Gow dated 19 October 2015, paragraphs

³ Statement of rebuttal evidence of G Dixon dated 23 October 2015, paragraph 10.8.

DEFINITION OF THE EXISTING AND PROPOSED FACILITY

9. In terms of whether 'major sports facility' or 'recreation facility' should apply, I firstly note that the Elmwood Club has been advised by the Council that 'recreation facility' is "*meant to capture whatever else is not defined and provided for, which is not the case here*".⁴ While this is not clearly set out in the Replacement Plan, the Elmwood Club acknowledges the Council's position in this regard.
10. The Elmwood Club has considered the Council's preferred 'major sports facility' definition and understand that the Council's preference is based on clauses (b) and (g) of that provision. The Elmwood Club does not support the 'major sports facility' approach for the following reasons:
 - a. The definition does not provide for existing or proposed activities at the site. This includes Merevale Corner (a parish based community group and charity), MASH after school care, and (critically) education activities that may occur in the new facilities as part of a shared-use arrangement with Heaton Intermediate.
 - b. Major sports facilities are not an activity that is generally anticipated in the Open Space Community Park zone rather they generally anticipated by the Replacement Plan to be located in the Open Space Metropolitan Facilities Zone and this Zone typically applies to sites such as the A & P Showgrounds, golf courses and race tracks; and
 - c. The definition generally provides for facilities of a substantially greater scale than is anticipated at this site. Noting that the proposal is to replace the existing bowling club clubrooms; provide a covered bowling green to replace the existing bowling green (currently the urban beach); and add an indoor multi-use training facility (the only additional component).

⁴ Email correspondence from A Hansbury (CCC) dated 12 January 2016.

11. The Elmwood Club is of a view that the existing and proposed uses of the facility are better encompassed by the 'community facility' definition. It is considered that this definition enables genuine multi-use of the existing and proposed facilities in a manner that reflects the existing uses of the existing facilities and gives Heaton Intermediate the greatest opportunity for flexible use of the facilities over time. Community facilities are provided for in the Open Space Community Park Zone and it is considered that applying this definition is consistent with Objective 3.3.11 and 18.1.5 Policy 2 of the Replacement Plan.
12. That said, it is acknowledged that the definition of 'community facilities' does "*not include privately (as opposed to publicly) owned recreation and entertainment facilities, or restaurants*". Council representatives have advised that they do not consider the proposed facility to be publicly owned. The Elmwood Club does not agree and considers that private ownership is typically individual or corporate ownership as opposed to community groups, sports clubs, incorporated societies, charities etc. It is recognised that this is a legal question and the Elmwood Club has asked the Council whether this could be clarified, but no response has been forthcoming. It is noted that there are examples of community facilities that are not in Council or Government ownership located in the Open Space Community Park Zone. One such example is the Plunket facility at 185 Fendalton Road.
13. I note that the Council planners stated at the 18 January 2016 meeting that the terminology applied to the proposed facility was not critical because any component part of the proposed activity that is also specifically listed in the activity status tables in the Replacement Plan would apply. For instance, if a community facility included an educational activity then both rules would apply. The Elmwood Club does not agree and considers that, providing all activities fall within

the definition of community activity only the rule for community activities would apply.

14. I understand that the Council representatives have also questioned whether the lease arrangement provides for the existing and proposed uses of the facility. I can confirm that the 1949 lease in favour of the Elmwood Bowling Club states the following:

"The Council for itself and its successor DOTH HEREBY GRANT unto the Club and its permitted successors and assigns full and free right and liberty and licence to occupy and use the said land above described ... The Club shall be at liberty at any time to erect and maintain upon the said land any pavilion or pavilions or other buildings or improvements provided the plans and specifications thereof shall first be approved by the Council PROVIDED THAT all such pavilions or other buildings or improvements shall when erected become attached to and form part of the fee simple of the said land and shall not be removed without the express consent of the Council."

15. I also wish to reiterate that the Elmwood Club project remains a priority project for the Fendalton Waimairi Community Board and Ms Dixon stated at the hearing that *"I have spoken with members of the sports and recreation unit and I am aware that they support the concept of this proposal in general terms."*⁵

THE NEED FOR, AND SCOPE OF, ANY SCALE LIMITATIONS AND BUILT FORM STANDARDS

16. The Elmwood Club continues to support a site specific restricted discretionary activity rule (in both Proposal 18 and Proposal 21) that applies to the site of the proposed facility (the Heaton Site, Bowling Club site and associated access to the Bowling Club) without limitations that would trigger a default to discretionary activity status.

⁵ Chapter 21 (Stage 2) Specific Purposes Zone, Transcript of Proceedings, 3 November 2015 at page 57 para 20

17. It is considered that the potential adverse effects of the necessary post –earthquakes rebuild on the existing facilities, in conjunction with the opportunity this rebuild presents for redevelopment, can be easily anticipated and encompassed in Matters of Discretion that will enable an appropriate consideration of such effects.
18. In the context of Proposal 21 it is suggested that the most succinct, clear and easy to use approach would be to include a restricted discretionary activity rule that cross-references to the relevant assessment matters and built form standards that apply to the site specific rule in Proposal 18. It is noted that these matters are currently the subject of Council evidence and are not agreed with the Elmwood Club.
19. The revised provisions supported by The Elmwood Club (including the Elmwood Club’s current position in relation to the Proposal 18 provisions) are attached as **Appendix A**. These provisions are similar to those provided to Council on 18 January 2016 and do not take into account the most recent revision of Proposal 18 that was filed last evening (19 January 2016). These provisions include notes that set out the rationale for the changes sought. Where there are no references to Built Form Standards, this is because the Elmwood Club does not seek any amendments to these standards (for instance outdoor storage and sunlight access).

THE MATTERS OF DISCRETION THAT SHOULD APPLY

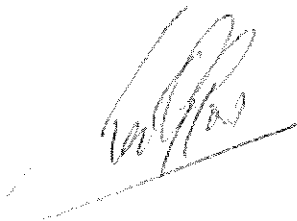
20. The rules in **Appendix A** set out the matters of discretion that should apply to the proposed facility. The Elmwood Club considers that any potential adverse effects of the proposed rebuild and redevelopment are within the breadth of these matters of discretion.

WHAT ANY APPLICATION SHOULD INCLUDE WITH RESPECT TO THE ASSESSMENT OF POTENTIAL EFFECTS AT HEATON INTERMEDIATE NORMAL SCHOOL

21. It is considered that any potential effects at Heaton Intermediate will necessarily be addressed through the requirement for the Elmwood Club firstly to reach agreement to achieve access to the Heaton land and secondly to secure section 176 consent before undertaking any works. For the avoidance of doubt the Elmwood Club also proposes the inclusion of a written approval clause in the restricted discretionary activity rule.

22. In this regard, I note that the Elmwood Club has continued to communicate with the Ministry of Education, who in turn liaise with Heaton Intermediate in relation to this matter. The Ministry has been provided with a copy of the Hearings Panel's minute and the draft provisions proposed by the Elmwood Club. This evidence will also be forwarded to Ministry representatives.

Dated: 20 January 2016



Neil Graham Gow

Appendix A

Amendments to Proposal 18

Proposed amendments are shown as blue and are made to the 19 November 2015 2nd revision of Proposal 18 (clean).

Amend Rule 18.2.2.3 (Restricted Discretionary Activities) to include the following additional activity

"Activity		The Council's discretion shall be limited to the following matters:
RDx	<u>Community facility at Elmwood Park (83D Heaton Street, legally described as Lot 1 DP 12727 and Lot 2 DP 11232).</u>	<u>a. Scale of activity, displacement, multifunctional, non-recreational and cultural facilities – 18.7.1.2</u> <u>b. Traffic generation and access – 18.7.1.3</u> <u>c. Hours of operation – 18.7.1.4"</u>

Comment [TEC1]: These could also include 18.7.1.1 although it is noted that:
 -there is significant duplication with 18.7.1.2; and
 18.7.1.1 is not used elsewhere in the RD activities in Open Space Community Park Zone.

Comment [TEC2]: Assumes that the existing and proposed facility would be understood to be publicly owned.

Comment [TEC3]: Preferred activity definition on the basis that it provides for the existing and proposed uses of the facility. For instance, Merevale Corner, after school care and (importantly) educational activities in conjunction with Heaton Normal Intermediate School. With the exception of "recreation facility" other definitions in the Replacement Plan do not encompass the existing activities at the site.

Comment [TEC4]: Restricted to two parcels (existing Elmwood Bowling Club clubrooms site and vehicle access) does not include the site that accommodates the 2nd bowling green.

Comment [TEC5]: 5 metres is a greater separation than the separation that currently exists between the neighbouring residential site and the existing 2 storey building. There is only one other neighbouring residential site to the north. This property is owned by Mr Gow. This is consistent with the set back for the similarly constrained Museum site and greater than the set back from the rail corridor.

Comment [TEC6]: Necessary to enable the facility to establish across the boundary with Heaton Normal Intermediate School and the various parcels that make up Elmwood park given the definition of 'site' in the Replacement Plan.

Comment [TEC7]: Necessary given the particular circumstances of the site. The continuous nature of this site with Heaton Intermediate to the east, Elmwood Park to the West and St Andrew's College to the north mean that any effects managed by the rule are mitigated by the site specific circumstances. It is noted that there is no maximum applied to the similarly constrained museum site.

Amend 18.2.3 Built Form Standards as follows:

18.2.3.2 Minimum building setbacks from an internal boundary

	"Applicable to	Permitted	Restricted discretionary	Matters of discretion
x	<u>Any buildings at Elmwood Park (83D Heaton Street, legally described as Lot 1 DP 12727 and Lot 2 DP 11232).</u>	<u>5 metres from the boundary of an adjacent residential zoned site.</u> <u>Nil from the boundary of an adjacent specific purpose zoned or open space zone site.</u>	<u>Less than 5 metres from the boundary of an adjacent residential zoned site.</u>	<u>a. Setback from boundaries – 18.7.2.1"</u>

18.2.3.6 Maximum building footprint

"Note: This rule does not apply to any buildings at Elmwood Park (83D Heaton Street, legally described as Lot 1 DP 12727 and Lot 2 DP 11232)."

The Elmwood Club – Amendments to Proposal 21

Proposed amendments are shown as blue and are made to the 12 November 2015 revision of Proposal 18 (clean) provided with Council's closing legal submissions.

Amend Rule 21.6.2.2.2 (Restricted Discretionary Activities) as follows:

"Activity		The Council's discretion shall be limited to the following matters:
RD6	<u>A community facility major sports facility on Lot 1 DP11232 (Heaton Street Intermediate Normal School) developed as part of a community facility on the adjacent Elmwood</u>	<u>a. Where the activity complies with the net site area and coverage standards for RD6, and the Built Form Standards in Rule 21.6.2.3, matters of discretion shall</u>

<p><u>Park site (83D Heaton Street, legally described as Lot 1 DP 12727 and Lot 2 DP 11232), where:</u></p> <p>i. The minimum net site area dedicated to the facility, including land in the School zone and any land located in an adjoining open space zone is 6000m²; and</p> <p>ii. The maximum percentage of the net site area covered by buildings is 20%.</p> <p>This activity is a restricted discretionary activity if</p> <p>a. It complies with the minimum net site area and coverage standards set out above, and the Built Form Standards in Rule 21.6.2.3.</p> <p>b. It complies with the minimum net site area and coverage standards set out above, but not with all of the Built Form Standards in Rule 21.6.2.3.</p> <p><u>Note: Any application made under this rule will require the written approval of the Ministry of Education.</u></p> <p><u>The relevant Built Form Standards in 18.2.3 shall apply to a community facility under this rule. The Built Form Standards in 26.6.2.3 do not apply.</u></p>	<p>be limited to:</p> <p>i. Major Sports Facilities 18.7.1.1, a, b and c</p> <p>ii. Overlooking and privacy in relation to the remainder of the school property.</p> <p>b. Where the activity complies with the net site area and coverage standards for RD6, but not all built form standards, matters of discretion shall be limited to:</p> <p>i. Major Sports Facilities 18.7.1.1, a, b and c</p> <p>ii. Amenity of Neighbourhood 21.6.3.1 a to h,</p> <p>iii. Overlooking and privacy in relation to the remainder of the school property.</p> <p>iv. Adequacy of Landscaping: 21.7.3.2 a, b and c.</p> <p><u>a. Scale of activity, displacement, multifunctional, non-recreational and cultural facilities – 18.7.1.2</u></p> <p><u>b. Traffic generation and access – 18.7.1.3</u></p> <p><u>c. Hours of operation – 18.7.1.4.</u></p>
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Comment [TEC8]: While section 176 consent would be required in any case this inclusion of this clause provides certainty.

Comment [TEC10]: The same Matters of Discretion that apply on the neighbouring site.

Comment [TEC9]: Applies a consistent approach.

Amend Rule 21.6.2.2.3 (Discretionary Activities) by deleting Rule 21.6.2.2.3(RD4) in its entirety.

Amend 21.6.3 Built Form Standards by deleting the following:

- Standard 21.6.2.3.2(c)
- Standard 21.6.2.3.3(d)
- Standard 21.6.2.3.4(d)
- Standard 21.6.2.3.5(d)
- Standard 21.6.2.3.6 in its entirety.