



Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 7th day of July 2014

Present:

The Right Hon John Key presiding in Council

Pursuant to section 71 of the Canterbury Earthquake Recovery Act 2011, His Excellency the Governor-General makes the following order, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made following the Canterbury Earthquake Recovery Review Panel's review of a draft of the order.

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Order

- 1 Title**

This order is the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014.
- 2 Commencement**

This order comes into force on the day after the date on which the order is made.
- 3 Interpretation**
 - (1) In this order, unless the context otherwise requires,—
 - alternative dispute resolution** means any process, other than that of a court or tribunal, that is designed to resolve, or assist in resolving, a dispute
 - Christchurch district** means the Christchurch district as described in the Local Government (Canterbury Region) Reorganisation Order 1989, *Gazette* 1989, pp 2296 to 2327, as amended by the Local Government (Banks Peninsula District) Reorganisation Order 2005, *Gazette* 2005, pp 5179 to 5181
 - council** means the Christchurch City Council
 - existing district plans** means the district plans for the Christchurch district that are operative immediately before the commencement of this order
 - hearing** means any hearing or part of a hearing conducted by the hearings panel under this order
 - hearings panel** means the panel appointed under clause 8
 - Ministers** means the Minister for Canterbury Earthquake Recovery and the Minister for the Environment, acting jointly

proposal—

- (a) means a proposal or part of a proposal that—
 - (i) has been notified by the council under Schedule 1 for incorporation into the replacement district plan; but
 - (ii) has not become operative under clause 16; and
- (b) includes a requirement

replacement district plan means the single district plan for the Christchurch district that is prepared and made operative in accordance with this order as a replacement for the existing district plans

requirement means a designation or heritage order (with or without modification) or a requirement for a designation or heritage order that is included in a proposal under clause 4 of Schedule 1

RMA means the Resource Management Act 1991

statement of expectations means the statement set out in Schedule 4.

- (2) The modifications to the RMA made by this order do not affect the text of the RMA, but require that Act to be read as if it had been amended in the manner indicated by this order.
- (3) Unless the context otherwise requires, a term or expression used, but not defined, in this order, but defined in the RMA, has the same meaning as it has in that Act.

4 Modification of RMA

- (1) On and from the commencement of this order, in relation to the Christchurch district,—
 - (a) the council must not notify a proposed plan under Schedule 1 of the RMA:
 - (b) Schedule 1 and section 37 of the RMA do not apply to the council acting under this order:
 - (c) Part 2 of Schedule 1 of the RMA does not apply:
 - (d) clause 6 applies to the council instead of section 79 of the RMA.
- (2) Nothing in this order affects—
 - (a) a request for a change to the existing district plans made under clause 21 of Schedule 1 of the RMA if the council

had made a decision on the request under clause 25 of Schedule 1 of the RMA before the commencement of this order:

- (b) a change notified under Schedule 1 of the RMA before the commencement of this order.
- (3) Any change to the existing district plans that is made operative by the council under clause 20 of Schedule 1 of the RMA while this order is in force is deemed to be part of the replacement district plan.
- (4) The council may make changes of minor effect to a change referred to in subclause (3) without using the process set out in Schedule 1 of the RMA or in this order.
- (5) If a requiring authority or heritage protection authority gives notice of a requirement under Part 8 of the RMA before the commencement of this order or while it is in force and the requirement is determined under Part 8 of the RMA, sections 175 and 192 of that Act apply, subject to references in those provisions to a proposed district plan being treated as references to the replacement district plan under this order.
- (6) Unless subclause (2)(a) applies, the council must not process, or make decisions on, requests for changes to the existing district plans received under clause 21 of Schedule 1 of the RMA before the commencement of this order.
- (7) The following provisions of the RMA do not apply to a rule contained in a proposal notified under this order:
 - (a) section 86B(1)(b) and (c), (2), and (4); and
 - (b) sections 86C and 86D; and
 - (c) section 86E(1)(b).

5 Application of RMA

- (1) The RMA applies to the functions and powers provided for by this order, except to the extent that this order modifies the provisions or application of the RMA.
- (2) The following matters are to be treated in the manner specified for each:
 - (a) a proposal notified under clause 5 of Schedule 1 is to be treated as if it were a proposed district plan notified under clause 5 of Schedule 1 of the RMA:

- (b) a requirement included in a proposal under clause 4 of Schedule 1 is to be treated as if it had been included in a proposed district plan under clause 4 of Schedule 1 of the RMA:
 - (c) a decision of the hearings panel notified by the council under clause 15 of Schedule 3 is to be treated as if it were a decision made and notified by a local authority under clause 10 of Schedule 1 of the RMA:
 - (d) a proposal or part of a proposal that becomes operative under clause 16 is to be treated as if it were a district plan or part of a district plan under the RMA:
 - (e) a provision of the replacement district plan that gives effect to a requirement is to be treated as if it were a designation or heritage order under the RMA.
- (3) Sections 85 and 85B of the RMA apply as if references in those sections to a submission were references to a submission made under Schedule 1 of this order.

Review and replacement of existing district plans

6 Council must review existing district plans and prepare replacement district plan

- (1) The council must, in the manner required by this order,—
 - (a) undertake a full review of the operative provisions of the existing district plans; and
 - (b) develop a replacement district plan by preparing and notifying proposals for the replacement district plan, including identifying the parts of the existing district plans that are to be replaced by proposals for the replacement district plan.
- (2) In reviewing the existing district plans and preparing proposals for the replacement district plan, the council must have particular regard to the statement of expectations.
- (3) Despite clause 4(6), in reviewing the existing district plans, the council must consider—
 - (a) any requests described in clause 4(6); and
 - (b) whether to make provision for those requests.
- (4) The council must—

- (a) notify 1 or more proposals not later than the date that is 37 working days after the commencement of this order; and
 - (b) ensure that it notifies all proposals for the replacement district plan in sufficient time to enable the hearings panel to make all decisions not later than 9 March 2016.
- (5) Any action taken under subclause (1) before the commencement of this order is to be treated as having been taken under and in accordance with this clause, except to the extent that clause 3(2) of Schedule 1 applies.

7 Application of Schedule 1

Schedule 1 sets out procedural matters applying to the review of the existing district plans and development of the replacement district plan required by clause 6(1).

Hearings panel

8 Hearings panel and chairperson

- (1) The Ministers must, in accordance with this clause, establish a hearings panel to hear submissions and make decisions on any proposal notified under clause 5 of Schedule 1.
- (2) The Ministers must appoint—
 - (a) the chairperson of the hearings panel, who may be a current, former, or retired Environment Judge or a retired High Court Judge; and
 - (b) at any time after the commencement of this order, not fewer than 3 other persons to be members of the hearings panel.
- (3) The Honourable Sir John Hansen is appointed to be the first chairperson of the hearings panel as if he were appointed in accordance with subclause (2).
- (4) In appointing the members of the hearings panel, the Ministers must consider the need for the panel to have available to it, from its members, knowledge, skill, and experience relating to—
 - (a) the RMA; and
 - (b) tikanga Māori; and
 - (c) the local community.

- (5) Before appointing persons to be members of the hearings panel under subclause (2)(b), the Ministers must consult—
 - (a) the council on the persons proposed to be members of the panel; and
 - (b) the chairperson on the date or dates when the appointments are to be made.
- (6) Despite clause 3 of Schedule 2 (which relates to the powers of the chairperson), until the members of the hearings panel are appointed under subclause (2)(b), the chairperson's jurisdiction is limited to determining only the matters described in clause 4(4) of Schedule 3 (subject to any obligations specified in terms of reference under clause 9).

9 Terms of reference

- (1) The Ministers must, after consulting the council, set terms of reference for the hearings panel.
- (2) The terms of reference for the hearings panel under subclause (1)—
 - (a) must specify the matters of priority for which the hearings panel must make decisions not later than 28 February 2015; and
 - (b) may specify the matters and time limits referred to in clause 4(4) of Schedule 3 for the purpose of ensuring the efficiency and effectiveness of the hearings panel and that it completes the performance of its functions in a timely manner.
- (3) The Ministers may, after consulting the council, amend the terms of reference for the hearings panel, including the time limit specified under subclause (2)(a).
- (4) The Ministers may grant an extension of the time limit specified under subclause (2)(a), but only if they consider that special circumstances apply.

10 Functions and powers of hearings panel

- (1) The principal functions of the hearings panel are to—
 - (a) hold hearings on submissions on proposals that have been notified under clause 5 of Schedule 1; and

- (b) make decisions in relation to those proposals as required by clauses 12 to 14.
- (2) The hearings panel has the powers set out in this order for the purpose of, or incidental to, carrying out its functions under this order.
- (3) The hearings panel must determine its own procedures, except—
 - (a) as set out in clause 3 of Schedule 2; or
 - (b) as otherwise provided for in this order.

11 Application of Schedule 2

Schedule 2 sets out further provisions relating to the hearings panel.

Jurisdiction of hearings panel

12 Hearings and decisions on proposals

- (1) The hearings panel must—
 - (a) hold a hearing on submissions on a proposal; and
 - (b) as soon as practicable after the close of the hearing,—
 - (i) in the case of a requirement, make a draft decision and final decision; and
 - (ii) in the case of all other provisions of a proposal, make a decision; and
 - (iii) in both cases, report on the decision or draft decision in accordance with Schedule 3.
- (2) The hearings panel must complete its obligations under sub-clause (1) within the time limits specified in any terms of reference given under clause 9, and in any case not later than 9 March 2016.

13 Decisions on proposals (other than in relation to requirements)

- (1) This clause applies to the making of decisions on proposals other than in relation to requirements.
- (2) In making a decision on a proposal, the hearings panel—
 - (a) may make any changes to the proposal that it considers appropriate:

- (b) is not limited to making changes within the scope of the submissions made on the proposal.
- (3) After having regard to the parts of the existing district plans identified for replacement by the council under clause 6(1)(b), the hearings panel must identify the parts of the existing district plans that are to be replaced by proposals for the replacement district plan.
- (4) If the hearings panel considers that changes are needed to deal with matters that are, in a material way, outside the scope of the proposal as notified and to deal with submissions on it, the panel must direct the council to—
 - (a) prepare and notify a new proposal; and
 - (b) invite submissions on the new proposal in accordance with Schedule 1.
- (5) While the hearings panel is considering a proposal, it may reconsider any decision it has already made on another proposal if it considers it is necessary or desirable to do so to ensure that the replacement district plan is coherent and consistent.
- (6) If the hearings panel considers, after reconsidering a decision under subclause (5), that an earlier proposal or a part of the replacement district plan requires change, the panel may direct the council—
 - (a) to make changes of no more than minor effect; or
 - (b) to prepare and notify a new proposal, and invite submissions on the new proposal in accordance with Schedule 1.
- (7) If the council is directed by the hearings panel under subclause (4) or (6),—
 - (a) the council must comply with—
 - (i) the provisions of Schedule 1 (other than clauses 3 and 4 of that schedule); and
 - (ii) any time limits specified by the panel; and
 - (b) the hearings panel must comply with this clause, clause 12, and Schedule 3.
- (8) Clause 12(2) applies to the obligations of the hearings panel under this clause.

14 Considerations relevant to decision making

- (1) In making decisions on proposals under clause 12, the hearings panel must—
 - (a) have regard to the information provided to the panel under clause 9 of Schedule 1; and
 - (b) have regard to any reports prepared under clause 3(4), 8(1), or 9(3) of Schedule 3; and
 - (c) take account of any outcomes reported under clause 10(4) of Schedule 3; and
 - (d) have particular regard to the statement of expectations.
- (2) In making a decision on a requirement, the hearings panel must,—
 - (a) in relation to a designation or requirement for a designation, comply with section 171 of the RMA as if the panel were a territorial authority; and
 - (b) in relation to a heritage order or requirement for a heritage order, comply with section 191 of the RMA as if the panel were a territorial authority; and
 - (c) treat all references to a recommendation in sections 171 and 191 of the RMA as references to a decision.
- (3) In making a decision on an existing designation or heritage order that is included in a proposal without modification, and on which no submissions are received, the hearings panel—
 - (a) must confirm the designation or heritage order; but
 - (b) must not alter, or impose new conditions on, the designation or heritage order.
- (4) In making decisions on all other provisions of a proposal, the hearings panel must—
 - (a) undertake, and have particular regard to, a further evaluation of the proposal prepared in accordance with section 32AA of the RMA; and
 - (b) apply sections 74 to 77D and 85B of the RMA as if it were the council; and
 - (c) comply with section 23 of the Canterbury Earthquake Recovery Act 2011 as if the panel were making a decision under Schedule 1 of the RMA.
- (5) Subclause (1)(d) does not limit subclause (4)(c).

*How effect to be given to decisions of hearings
panel*

15 Proposal deemed to be approved

- (1) This clause applies once the council has given public notice under clause 15 of Schedule 3 of the decisions of the hearings panel on a proposal.
- (2) The proposal is deemed to have been approved by the council under clause 17(1) of Schedule 1 of the RMA on and from—
 - (a) the date on which the appeal period expires, if no appeals relating to the proposal are made under clause 19 of this order; or
 - (b) the date on which all appeals, including further appeals, relating to the proposal are determined, if appeals are made under clause 19 of this order.

16 Council must make decisions of hearings panel operative

- (1) As soon as is reasonably practicable after the date that a proposal is deemed to have been approved, the council must make the proposal operative as part of the replacement district plan by giving public notice in accordance with clause 20 of Schedule 1 of the RMA.
- (2) On and from the day on which a proposal is made operative under subclause (1), that proposal replaces any parts of the existing district plans that were identified in the report of the hearings panel required by clause 13(1)(c) of Schedule 3.
- (3) The obligation on the council under subclause (1) does not limit the application of section 86F of the RMA (which relates to rules being treated as operative).

17 Application of Schedule 3

Schedule 3 sets out the procedural matters relevant to the functions and powers of the hearings panel.

Objections and appeals

18 Objection rights

- (1) A person who makes a submission on a proposal has a right of objection to the hearings panel in relation to—

- (a) a decision of the hearings panel under clause 3(6) of Schedule 3 to decline to consider the person's submission:
 - (b) a decision of the hearings panel to strike out the whole or a part of the person's submission under clause 7(1)(e) of Schedule 3.
- (2) An objection must be made by notice in writing, setting out the reasons for the objection, not later than 5 working days after the decision is notified to the person or any longer time allowed by the hearings panel.
- (3) The hearings panel must—
 - (a) consider the objection as soon as practicable; and
 - (b) hold a hearing on the objection at which all members of the panel are present, after giving the objector not less than 5 working days' notice of the date, time, and place for the hearing.
- (4) After the hearing, the hearings panel must—
 - (a) dismiss or uphold the objection in whole or in part; and
 - (b) inform the objector in writing of the panel's decision and the reasons for it.
- (5) A decision of the hearings panel under this clause is final and there is no right of appeal against it.

19 Appeals only on questions of law

- (1) The persons or bodies listed in subclause (2) may appeal to the High Court against a decision of the hearings panel made under clause 12(1)(b).
- (2) The persons or bodies are—
 - (a) the Ministers;
 - (b) the council;
 - (c) a submitter on the relevant proposal, but only in relation to matters raised in his or her submission.
- (3) An appeal under this clause is available only on a question of law.
- (4) In relation to a decision on a requirement, the following persons also have a right of appeal on questions of law:
 - (a) the relevant requiring authority or heritage protection authority; and

- (b) the owners and occupiers of land who are directly affected by the decision.
- (5) Notice of an appeal must be filed with the High Court and served on the council not later than 20 working days after the council notifies the decision of the hearings panel under clause 15 of Schedule 3.
- (6) Except as otherwise provided in this order, sections 299(2) and 300 to 307 of the RMA apply, with all necessary modifications, to an appeal under this clause.
- (7) Section 308 of the RMA applies in respect of an appeal from a decision of the High Court.

*Requests for changes to existing district plans
or replacement district plan*

20 Request for change

- (1) Any person may request a change to an existing district plan or the replacement district plan.
- (2) A request must be made to the council in writing, and must—
 - (a) set out the purpose of the proposed change and the reasons for making the request; and
 - (b) include an evaluation prepared in accordance with section 32 of the RMA; and
 - (c) specify the environmental effects anticipated from the proposed change, taking into account the provisions of Schedule 4 of the RMA in the detail that corresponds with the scale and significance of the actual or potential effects anticipated from implementing the change.
- (3) The council must, not later than 10 working days after receiving a request, provide the request to the hearings panel.

21 Decision on request for change

- (1) Not later than 20 working days after receiving a request under clause 20(3), the hearings panel must decide whether to accept or reject the request.
- (2) In making its decision, the hearings panel must have particular regard to the evaluation provided under clause 20(2)(b).
- (3) If the hearings panel accepts the request, it must direct the council to notify the request as a proposal, in accordance with

clause 5 of Schedule 1, within the time that the hearings panel specifies.

- (4) The hearings panel may reject a request on the grounds that the request or part of it—
 - (a) is frivolous or vexatious; or
 - (b) does not accord with sound resource management practice; or
 - (c) would make the replacement district plan inconsistent with Part 5 of the RMA or this order.
- (5) The hearings panel may also reject a request if—
 - (a) the hearings panel considers that—
 - (i) it would be unable to make a decision on the proposal by 9 March 2016; or
 - (ii) it has insufficient information to enable it to consider or approve the request; or
 - (b) the substance of the request—
 - (i) is included in a proposal that has been notified under this order; or
 - (ii) has been given effect to or rejected by the hearings panel under this order.
- (6) If the council is directed by the hearings panel under subclause (3),—
 - (a) the council must comply with—
 - (i) the provisions of Schedule 1 (other than clauses 3 and 4 of that schedule); and
 - (ii) any time limits specified by the panel; and
 - (b) the hearings panel must comply with this clause, any time limits specified in any terms of reference given under clause 9, and Schedule 3.

22 Withdrawal of requests

- (1) A person who has made a request under clause 20 may withdraw the request at any time before the hearing panel's decision is notified by the council under clause 15 of Schedule 3.
- (2) If the council has reasonable grounds to consider that a person who has made a request no longer wishes to continue with it, the council may give written notice to the person that, unless the person confirms within 30 working days that he or she

intended to continue with the request, the council deems the request to have been withdrawn.

Administrative matter

23 Administrative charges

- (1) Section 36 of the RMA applies, as far as it is relevant, to the functions of the council under clauses 20 to 22.
- (2) The council may recover—
 - (a) its costs in carrying out its functions under clauses 20 to 22; and
 - (b) the costs incurred under clause 4 of Schedule 2 in relation to a request received under clause 20, other than the council's costs in making a submission to the hearings panel or presenting evidence in support of the submission.

*Application of Local Government Official
Information and Meetings Act 1987*

**24 Application of Local Government Official Information
and Meetings Act 1987**

The Local Government Official Information and Meetings Act 1987 applies, with the necessary modifications, to the hearings panel as if it were a board of inquiry with authority to conduct a hearing under section 149J of the RMA.

Schedule 1 cls 3, 5, 7, 8, 10, 13, 14, 21
**Process for review of existing district
plans and preparation of replacement
district plan**

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- 1 Consultation when undertaking review and replacement**
- (1) This clause applies when the council reviews the existing district plans and prepares proposals (other than requirements) under clause 6(1) of this order.
- (2) The council must consult—
- (a) the Ministers; and
 - (b) any other Ministers of the Crown whose responsibilities may be affected by the replacement district plan; and
 - (c) the Canterbury Regional Council; and
 - (d) Te Rūnanga o Ngāi Tahu; and
 - (e) the Selwyn District Council; and
 - (f) the Waimakariri District Council; and
 - (g) the New Zealand Transport Agency.
- (3) The council may consult any other person during the process of reviewing the existing district plans and preparing proposals (other than requirements).
- (4) The council must carry out consultation—
- (a) with the persons specified in subclause (2) in the manner agreed with those persons; and

- (b) under subclause (3) in accordance with section 82 of the Local Government Act 2002.
- (5) Consultation carried out with the persons referred to in subclauses (2) and (3) before the commencement of this order on any proposal that becomes part of the replacement district plan is consultation for the purposes of this clause.

2 Evaluation report

- (1) Before publicly notifying a proposal (other than a requirement), the council must—
 - (a) prepare a draft proposal that complies with Part 5 of the RMA and section 23 of the Canterbury Earthquake Recovery Act 2011; and
 - (b) prepare an evaluation report on the draft proposal in accordance with section 32 of the RMA; and
 - (c) have particular regard to the report when deciding whether to proceed with the draft proposal.
- (2) An evaluation report may not be challenged other than in a submission lodged under this schedule.
- (3) Subclause (2) applies instead of section 32A of the RMA.

3 Changes in response to comments from Ministers

- (1) If the council decides to proceed with a draft proposal (other than a requirement), it must provide a copy of the draft to the Ministers, who may, within 15 working days of receiving the copy, provide comments with reasons to the council.
- (2) If the Ministers consider that the Council has not had particular regard to the statement of expectations, the Ministers may make comments under subclause (1) on how they consider the statement of expectations should be addressed in the proposals.
- (3) The council—
 - (a) must have particular regard to any comments provided by the Ministers; and
 - (b) may modify the draft proposal—
 - (i) in response to the Ministers' comments:
 - (ii) to correct minor errors.

- (4) Before notifying the draft proposal, the council must give written notice to the Ministers, summarising its response to the comments and the reasons for the response.
- (5) The council is not required to prepare a further evaluation report if it modifies a draft proposal in response to the Ministers' comments.

4 Process for inclusion of requirements in replacement district plan

- (1) Not later than 5 working days after the commencement of this order, the council must issue a written request to requiring authorities to give written notice to the council of any designations that should be included in a proposal.
- (2) The council—
 - (a) must specify the date by which requiring authorities must respond, which must not be earlier than 30 working days after the request is issued; and
 - (b) must not notify a draft proposal before the date specified under paragraph (a).
- (3) If written notice is not received from a requiring authority by the date specified, the designation must not be included in the proposal.
- (4) If a requiring authority wishes to have a designation included with modifications in the proposal, the requiring authority must specify in its written notice to the council the modifications required and the reasons for them.
- (5) The council must, in the proposals notified under clause 6(4)(a) of this order, make provision for—
 - (a) any designation it receives notice of under this clause; and
 - (b) any existing heritage orders.
- (6) The council may include in a proposal—
 - (a) requirements for designations or heritage orders for which the council has responsibility; and
 - (b) existing designations or heritage orders, with or without modifications, for which the council has responsibility.
- (7) Subclause (8) applies if the council—

- (a) is given notice of a requirement for a designation under section 168 of the RMA or a heritage order under section 189 of the RMA; and
 - (b) proposes to give public notice of a proposal under clause 5 of this schedule within 50 days of receiving the requirement.
- (8) The council may, with the consent of the requiring authority or heritage protection authority, include the requirement in a proposal instead of complying with section 169 or 190 of the RMA.
- (9) If the council includes a requirement in a proposal, the council must make relevant information about the requirement available for public inspection.
- (10) A requiring authority that has given written notice to the council under subclause (1) may withdraw the requirement in accordance with section 168(4) of the RMA, and the council must, as soon as is reasonably practicable, amend the proposal accordingly, without applying the process in this order.
- (11) If the council issues a written request of the kind referred to in subclause (1) to a requiring authority before the commencement of this order, the request must be treated as if it were given under this order.

5 Public notification of proposals

- (1) After the council has considered any comments on a draft proposal received from Ministers under clause 3 of this schedule, it must—
 - (a) give public notice of the draft proposal as provided for in subclause (2); and
 - (b) if the proposal includes a requirement, give notice to any land owners and occupiers who, in the council's opinion, are likely to be directly affected.
- (2) The public notice required by subclause (1) must be given in the form set out in Schedule 5.
- (3) The council must provide 1 copy of a proposal without charge to—
 - (a) the Ministers; and
 - (b) the Canterbury Regional Council; and

- (c) Te Rūnanga o Ngāi Tahu; and
 - (d) the Selwyn District Council; and
 - (e) the Waimakariri District Council; and
 - (f) the New Zealand Transport Agency.
- (4) The council must make the proposal available in every public library in its district and in any other place in its district that it considers appropriate.
- (5) The obligation under subclause (4) is in addition to the council's obligations under section 35 of the RMA (which relates to a council's records).
- (6) After a proposal has been notified under this order, the council must not amend or withdraw any provisions of the proposal, except as provided for by clause 13(4) of this order and clause 4(10) of this schedule.

6 Submissions

- (1) When a proposal is publicly notified under clause 5 of this schedule, the council and any person may, not later than 30 working days after the date of the public notice given under clause 5 of this schedule, make a submission to the hearings panel on the proposal.
- (2) However, if a person could gain an advantage in trade competition through making a submission, that person may make a submission only if the person is directly affected by an effect of the proposal that—
- (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.

7 Public notice of submissions and right to make further submission

- (1) Not later than 10 working days after the closing date for submissions stated in the notice given under clause 5(1) of this schedule, the council must—
- (a) give public notice that submissions are available for inspection, and invite further submissions; and
 - (b) publish the submissions on its Internet site.
- (2) The public notice given under subclause (1) must state—

- (a) where the submissions may be inspected; and
 - (b) the closing date for further submissions, which must be not later than 10 working days after the date of the public notice; and
 - (c) the persons who may make further submissions, as specified in subclause (3); and
 - (d) any limitations applying to the content and form of any further submission.
- (3) The persons referred to in subclause (2)(c) are—
- (a) the Ministers;
 - (b) any person representing a relevant aspect of the public interest;
 - (c) any person that has an interest in the proposal greater than the interest that the general public has;
 - (d) the council.

8 Further submissions

- (1) A person making a further submission under clause 7 of this schedule must serve a copy of it—
- (a) on the council; and
 - (b) not later than 5 working days after the copy is served on the council, on the person who made the submission to which the further submission relates.
- (2) A further submission must be limited to a matter in support of, or in opposition to, the relevant submission made under clause 6 of this schedule.
- (3) The council must publish any further submissions on its Internet site not later than 10 working days after the closing date for the further submissions.

9 Information to be supplied to hearings panel

- (1) As soon as is reasonably practicable after a proposal has been notified, the council must provide copies of the following documents and information to the hearings panel:
- (a) a copy of the relevant proposal; and
 - (b) the council's evaluation report referred to in clause 2(1)(b) of this schedule; and
 - (c) any notice of, or information about, a requirement; and

- (d) any other information that the council considers to be relevant.
 - (2) As soon as is reasonably practicable after the council receives any submissions on the proposal (including submissions received after the closing date specified under clause 5 or 7 of this schedule), the council must provide them to the hearings panel.
-

Schedule 2

cls 8, 10, 11, 23

**Further provisions on appointments to
hearings panel****Contents**

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1 Appointments to hearings panel

- (1) The Ministers must give a person appointed as a member of the hearings panel written notice stating—
- (a) the date on which the appointment takes effect; and
 - (b) the terms of reference for the hearings panel.
- (2) The term of appointment for the hearings panel continues until the panel has completed the performance of its functions and duties and the exercise of its powers in relation to reviewing and replacing the existing district plans required by clause 6(1) of this order, including any appeals that are filed in any court.

2 When member ceases to hold office

- (1) A member of the hearings panel remains a member of the panel until the earliest of the following:
- (a) he or she dies;
 - (b) he or she resigns by giving 20 working days' written notice to the Ministers;
 - (c) he or she is removed under subclause (2);
 - (d) the hearings panel ceases to exist.
- (2) The Ministers may, at any time for just cause, remove a member by written notice to the member (with a copy to the hearings panel), stating—
- (a) the date on which the removal takes effect, which must not be earlier than the date on which the notice is received by the member; and
 - (b) the reasons for the removal.

- (3) The Ministers may appoint a member to replace a member who ceases to hold office under subclause (1) or (2).
- (4) Clause 8(4) of this order applies to members appointed under subclause (3).
- (5) A member of the hearings panel is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.
- (6) In subclause (2), **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the hearings panel or the individual duties of members.

3 Powers of chairperson

- (1) The chairperson of the hearings panel has the power—
 - (a) to decide how many, and which, members of the hearings panel are to be present at each hearing or pre-hearing:
 - (b) to direct that members sit as 2 hearings panels and appoint a second chairperson for that purpose:
 - (c) to approve persons, whether members of the panel or other persons, to chair pre-hearing meetings:
 - (d) to determine when submissions are to be heard and other procedural matters for the hearing of submissions:
 - (e) to decide whether to accept any late submissions:
 - (f) to direct the council to participate in an alternative dispute resolution process:
 - (g) to deal with any complaints in respect of the hearings panel or any member of the panel.
- (2) If a chairperson is not able to attend any part of a hearing, he or she must appoint another member as chairperson.

4 Funding of hearings panel

- (1) The council is responsible for—
 - (a) all costs incurred by the hearings panel; and
 - (b) all costs of activities related to the performance of the hearings panel's functions or duties or the exercise of its powers.

-
- (2) Without limiting subclause (1), the council is responsible for—
- (a) the remuneration and expenses of the members of the hearings panel; and
 - (b) the administrative costs of each hearing, including venue hire and public notices; and
 - (c) the remuneration of any expert, mediator or other dispute resolution facilitator, or other person whose services are engaged by the hearings panel; and
 - (d) the allowances of any witness called by the hearings panel, subject to section 25 of the Inquiries Act 2013.
- (3) For the purposes of subclause (1), each member of the hearings panel must be paid—
- (a) remuneration by way of salary, fees, or allowances at a rate determined by the Ministers after consultation with the council; and
 - (b) actual and reasonable travelling and other expenses incurred in carrying out his or her office in accordance with the Fees and Travelling Allowances Act 1951, and that Act applies as if the members were members of a statutory Board within the meaning of that Act.

5 Liability of members of hearings panel

A member of the hearings panel is not liable for anything the member does or omits to do, in good faith, in performing the functions and duties or exercising the powers of the hearings panel.

Schedule 3 cls 5, 8, 9, 12–19, 21, 22
**Provisions relating to functions and
powers of hearings panel**

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1 Officer or representative of council required to attend hearings

- (1) The council must ensure that an officer of the council, or a person commissioned by the council for the purpose, attends every hearing conducted by the hearings panel in order to assist the panel in 1 or more of the following ways:
- (a) to clarify or discuss matters in a proposal:
 - (b) to give evidence:
 - (c) to provide a response to submissions or deal with issues raised by any submission:
 - (d) to provide any other relevant information requested by the hearings panel.

- (2) Despite subclause (1), the hearings panel may excuse the council from attending or remaining at a hearing or any particular part of a hearing.
- (3) If the hearings panel excuses the council under subclause (2), that does not invalidate a hearing or any part of a hearing.
- (4) To avoid doubt, this clause does not limit or prevent the council from—
 - (a) making a submission on a proposal; or
 - (b) being heard on that submission.

2 Persons with right to be heard

- (1) If the council and persons who have made a submission or further submission on a proposal have stated that they wish to be heard at the hearing, they may speak at a hearing personally or through a representative and call evidence.
- (2) If a person referred to in subclause (1) fails to appear at the hearing, the hearings panel may proceed with the hearing if it considers it fair and reasonable to do so.

3 Pre-hearing meetings

- (1) Before a hearing is conducted on a proposal, the hearings panel may invite or require the persons listed in subclause (2) to attend a meeting for the purpose of—
 - (a) clarifying a matter or an issue relating to a proposal or a submission; or
 - (b) facilitating resolution of a matter or an issue relating to a proposal.
- (2) The persons are—
 - (a) any submitters;
 - (b) the council;
 - (c) any other persons that the hearings panel considers appropriate, including any experts.
- (3) A pre-hearing meeting may be chaired by a member of the hearings panel or by a person approved by the chairperson of the panel.
- (4) After the pre-hearing meeting, but not later than 5 working days before the hearing to which the pre-hearing meeting re-

- lates, the chairperson of the pre-hearing meeting must provide a report on the pre-hearing meeting to—
- (a) the hearings panel; and
 - (b) the persons who attended the pre-hearing meeting.
- (5) The report prepared under subclause (4)—
- (a) must set out—
 - (i) the issues that were agreed; and
 - (ii) the issues that remain outstanding; and
 - (b) may set out—
 - (i) the nature of the evidence that the parties are to call at the hearing;
 - (ii) the order in which the parties are to call evidence at the hearing;
 - (iii) a proposed timetable for the hearing; but
 - (c) must not, without a person's consent, include any material that the person communicated or made available at the meeting on a without prejudice basis.
- (6) If a submitter is required to attend a meeting under subclause (1), but fails to do so without reasonable excuse, the hearings panel may decline to consider the person's submission.
- (7) A submitter referred to in subclause (6) has no rights of appeal under this order, but may object under clause 18 of this order.

4 Conduct of hearings

- (1) Not fewer than 3 members of the hearings panel must be present at each hearing.
- (2) The hearings panel must, except as expressly provided otherwise by this order, regulate its own proceedings in the manner it thinks fit.
- (3) In carrying out its functions and exercising its powers, the hearings panel must—
 - (a) hold hearings in public unless permitted otherwise by—
 - (i) clause 12 of this schedule (which relates to the protection of sensitive information); or
 - (ii) section 48 of the Local Government Official Information and Meetings Act 1987, as that Act applies under clause 24 of this order; and
 - (b) fix a place, date, and time for a hearing; and

- (c) give not less than 10 working days' notice of the place, date, and time for a hearing to—
 - (i) the council; and
 - (ii) any person who lodged a submission on the proposal by the closing date for submissions or whose submission is accepted by the chairperson of the hearings panel under clause 5 of this schedule and has requested to be heard (and who has not subsequently withdrawn the request); and
 - (iii) every requiring authority or heritage protection authority that has a requirement included in the proposal; and
 - (d) establish a procedure for a hearing that—
 - (i) is appropriate and fair in the circumstances; and
 - (ii) avoids unnecessary formality; and
 - (iii) recognises tikanga Māori where appropriate; and
 - (e) receive evidence written or spoken in Māori, in which case the Maori Language Act 1987 applies as if the hearing were legal proceedings before a tribunal named in Schedule 1 of that Act.
- (4) The hearings panel (or the chairperson if no members have been appointed under clause 8(2)(b) of this order) may determine the following matters:
- (a) matters that are to be given priority over other matters in conducting a hearing on a proposal:
 - (b) the time within which procedural steps relating to a proposal are to be taken:
 - (c) the time within which the hearing of submissions on a proposal must be conducted and completed:
 - (d) the time within which the panel must make a decision on a proposal.
- (5) However, the discretion of the hearings panel under subclause (4) is subject to the obligations—
- (a) specified under any terms of reference provided to the hearings panel; and
 - (b) set out in clause 12 of this order.
- (6) The hearings panel may—

- (a) permit a party to question any other party or witness; and
 - (b) permit cross-examination; and
 - (c) if it considers that there is likely to be excessive repetition, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.
- (7) Before the hearings panel exercises its power under clauses 6 and 7 of this schedule, it must consider whether the scale and significance of the hearing makes the exercise of the power appropriate.
- (8) The hearings panel must keep a full record of every hearing and any other proceeding it conducts.
- (9) Sections 19, 20, and 23 to 25 of the Inquiries Act 2013 apply to a hearing conducted by the hearings panel.

5 Compliance with time limits

- (1) The chairperson of the hearings panel may—
- (a) extend, or waive compliance with, any time limits specified by or under this order, except in relation to the time limit specified in clause 12(2) of this order; and
 - (b) accept submissions received after the relevant closing date notified under clause 5 or 7 of Schedule 1.
- (2) In making a decision under subclause (1), the chairperson must take into account—
- (a) the interests of any person who, in the chairperson's opinion, may be directly affected by a waiver; and
 - (b) the need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal; and
 - (c) the stage of the hearing when the hearings panel is provided with the submissions.
- (3) A decision of the chairperson under this clause is final and there is no right of objection or appeal against it.

6 Directions as to evidence

- (1) The hearings panel may direct a submitter or the council to provide briefs of evidence, including the evidence of any ex-

perts, to the panel at least 10 working days before the hearing to which the evidence relates.

- (2) The submitter or council must provide the briefs by the date specified by the hearings panel.

7 Procedural directions and requests

- (1) Before or in the course of a hearing, the hearings panel may—
 - (a) direct the order of business of the hearing, including the order in which submissions and evidence are presented;
 - (b) direct that submissions and evidence be recorded, taken as read, or limited to matters in dispute;
 - (c) direct the council or a submitter, when presenting a submission or evidence, to present it within a time limit;
 - (d) request a submitter to provide further information;
 - (e) direct that the whole, or a part of, a submission be struck out if the panel considers that—
 - (i) the whole submission, or the part, is frivolous, is vexatious, or discloses no reasonable or relevant case; or
 - (ii) it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.
- (2) At a hearing, the hearings panel may direct a submitter not to present—
 - (a) the whole or any part of a submission, if all or part of it is irrelevant or not in dispute; or
 - (b) any part of a submission that does not relate to that part of the proposal being dealt with at the hearing.
- (3) If the hearings panel gives a direction under subclause (1)(e), it must record its reasons for the direction.

8 Hearings panel may commission reports

- (1) At any reasonable time before or during a hearing, the hearings panel may require the council, or may commission a consultant or other person, to prepare a report on—
 - (a) any submissions;
 - (b) any matters arising from the hearing;
 - (c) any other matter that it considers necessary for the purpose of the decision to be made by the panel.

- (2) A report does not need to repeat material from a submission, but may adopt the whole or any part of the assessment by reference to the relevant parts of the submission.
- (3) The hearings panel may request and receive, from any person who makes a report under this clause, any information and advice that is relevant and reasonably necessary for the panel to make its decisions under clause 12 of this order.

9 Conference of experts

- (1) The hearings panel may, at any time before or during a hearing, direct that a conference of experts be held to—
 - (a) clarify a matter or an issue relating to a proposal; or
 - (b) facilitate resolution of a matter or an issue relating to the proposal.
- (2) A conference may be facilitated by a member of the hearings panel or by a person appointed by the panel.
- (3) The facilitator of a conference must, if the hearings panel so directs, prepare a written report on the conference and provide it to—
 - (a) the hearings panel; and
 - (b) the persons who attended the conference.
- (4) A report prepared under subclause (3) must not, without a person's consent, include any information that the person communicated or made available at the conference on a without prejudice basis.

10 Alternative dispute resolution

- (1) The hearings panel may, at any time before or during a hearing, direct the persons listed in subclause (2) to mediation or any other alternative dispute resolution process if—
 - (a) the panel considers that it is—
 - (i) appropriate to do so; and
 - (ii) likely to resolve issues between the parties that relate to the proposal; and
 - (b) each person has consented (other than the council, which must participate if directed to do so by the chairperson of the hearings panel).
- (2) The persons are—

- (a) any submitters; and
 - (b) the council; and
 - (c) any other person that the hearings panel considers appropriate.
- (3) The hearings panel must appoint the mediator or person facilitating the mediation or other process (the **mediator**).
- (4) The mediator must report the outcome of the dispute resolution process to the hearings panel.
- (5) In reporting the outcome under subclause (4), the mediator must not, without a person's consent, include information that the person communicated or made available at the mediation or other process on a without prejudice basis.

11 Availability of evidence and reports

- (1) The hearings panel must direct the council to make available for inspection on its Internet site and at its offices—
- (a) any information received by the panel during a hearing, including information provided under clause 1(1)(d) or 7(1)(d) of this schedule; and
 - (b) any report provided to the panel under clause 3(4), 8, 9(3), or 10(4) of this schedule.
- (2) The council must give notice to all relevant submitters when it makes the documents referred to in subclause (1) publicly available.

12 Protection of sensitive information

- (1) The hearings panel may, on its own motion or on the application of a submitter, make an order described in subclause (2) if it is satisfied that the order is necessary to avoid—
- (a) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or
 - (b) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information.
- (2) An order may—
- (a) require the public to be excluded from the whole or a part of a hearing at which the information is likely to be referred to:

- (b) prohibit or restrict the publication or communication of any information supplied to the hearings panel, or obtained by it, in the course of any proceedings, whether or not the information may be material to the proposal.
- (3) Before making an order under subclause (1), the hearings panel must be satisfied that, in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.
- (4) An order made under subclause (2)(a) is deemed to be a resolution made under section 48(3) to (5) of the Local Government Official Information and Meetings Act 1987.
- (5) An order made under subclause (2)(b) may,—
 - (a) in relation to a matter described in subclause (1)(a), take effect from the commencement of the proceedings to which it relates and for an indefinite period or until a date that the hearings panel considers appropriate in the circumstances:
 - (b) in relation to a matter described in subclause (1)(b), take effect from the commencement of the proceeding to which it relates, but ceases to apply after the conclusion of those proceedings.
- (6) On the date that the order ceases to have effect under subclause (5)(b), the provisions of the Local Government Official Information and Meetings Act 1987 apply in relation to information that was the subject of the order.

Reporting and notifying

13 Reports on decisions

- (1) Every report of the hearings panel must—
 - (a) set out the decision or draft decision of the panel; and
 - (b) provide reasons for the decision, including the reasons for accepting or rejecting submissions on a proposal; and
 - (c) identify the parts (if any) of the existing district plans that a proposal replaces.
- (2) The report may group the submissions according to—
 - (a) the provisions of the proposal to which they relate; or

- (b) the matters to which they relate.
- (3) The hearings panel is not required to address each submission individually.

14 Draft and final reports on decisions relating to requirements

- (1) As soon as practicable after making a draft decision on a requirement under clause 12 of this order, the hearings panel must—
 - (a) prepare and produce a draft report; and
 - (b) serve a copy of the draft report on the council.
- (2) The council must serve a copy of the draft report on the persons listed in subclause (3).
- (3) The persons who must be served under subclause (2) are—
 - (a) the Ministers; and
 - (b) the relevant requiring authority or heritage protection authority; and
 - (c) any person who made a submission under Schedule 1 on the relevant requirement.
- (4) Those persons and the council may provide comments on any minor or technical aspects of the report to the council not later than 20 working days after the date of the invitation.
- (5) Comments on minor or technical aspects of the report—
 - (a) may only include comments on minor errors in the report, on the wording of provisions in the proposal, or identification of omissions from the report (for example, the report does not address a certain issue); but
 - (b) must not include comments on the hearing panel's decision or its reasons for the decision.
- (6) The council must provide comments received under subclause (4) to the hearings panel not later than 5 working days after the date specified under subclause (4).
- (7) As soon as practicable after the hearings panel has received any comments under subclause (4), the panel must consider those comments, make its final decision, and produce a final report.

15 Public notice and service of decisions

- (1) As soon as practicable after the hearings panel has made a decision on a proposal under clause 12(1)(b)(i) of this order or a final decision under clause 12(1)(b)(ii) of this order, it must serve the council with a copy of the decision.
- (2) Not later than 5 working days after the council receives a decision from the hearings panel under subclause (1), it must—
 - (a) give public notice of the decision; and
 - (b) serve a copy of the public notice of a decision on any requirement on—
 - (i) the relevant requiring authority or heritage protection authority; and
 - (ii) the owners and occupiers of land to which a requirement applies; and
 - (c) serve a copy of the public notice on every person who made a submission on the relevant proposal.
- (3) The notice required by subclause (2)(a) must—
 - (a) identify the persons with a right to appeal against the decision; and
 - (b) state the date by which appeals may be lodged.
- (4) The council must also—
 - (a) make a copy of the decision available at all its offices, and all public libraries in the Christchurch district; and
 - (b) include with the copy of the public notice served under subclause (2)(a) a statement of the places where a copy of the decision is available; and
 - (c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

16 Minor corrections

- (1) The hearings panel may, at any time, issue an amendment to a decision to correct a minor mistake or defect in a decision of the panel.
- (2) This power includes the power to amend or correct a proposal, provided that the amendment or correction is made before the proposal becomes operative in accordance with clause 16 of this order.

Schedule 4

Statement of expectations

cls 3, 6, 14

The expectations of the Minister for Canterbury Earthquake Recovery and the Minister for the Environment are that the replacement district plan—

- (a) clearly articulates how decisions about resource use and values will be made, which must be in a manner consistent with an intention to reduce significantly (compared with the existing district plans)—
 - (i) reliance on resource consent processes; and
 - (ii) the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and
 - (iii) the requirements for notification and written approval:
- (b) contains objectives and policies that clearly state the outcomes that are intended for the Christchurch district:
- (c) provides for the effective functioning of the urban environment of the Christchurch district, reflecting the changes resulting from the Canterbury earthquakes, including changes to population, land suitability, infrastructure, and transport:
- (d) facilitates an increase in the supply of housing, including by—
 - (i) confirming the immediate residential intensification changes included in the Land Use Recovery Plan; and
 - (ii) ensuring that the district plan has capacity to accommodate up to 23 700 additional dwellings by 2028 (as compared with the number of households in the 2012 post-earthquake period); and
 - (iii) addressing further intensification opportunities, in line with the Land Use Recovery Plan principle of supporting Key Activity Centres and the Central City; and

- (iv) having regard to constraints on environmental and infrastructure capacity, particularly with regard to natural hazards; and
 - (v) providing for a wide range of housing types and locations:
- (e) ensures sufficient and suitable development capacity and land for commercial, industrial, and residential activities:
 - (f) provides for a range of temporary and construction activities as permitted activities, recognising the temporary and localised nature of the effects of those activities:
 - (g) contains, as appropriate, transitional provisions for the future of temporary activities established under the Canterbury Earthquake (Resource Management Permitted Activities) Order 2011 after that order expires:
 - (h) sets a clear direction on the use and development of land for the purpose of avoiding or mitigating natural hazards:
 - (i) uses clear, concise language and is easy to use.
-

Schedule 5

cl 5 of Schedule 1

Form

Form

Public notice of proposal

- 1 The Christchurch City Council has prepared the following proposal to replace some of the provisions of the operative Christchurch City District Plan and the Banks Peninsula District Plan (the **proposal**):
[Describe the proposal, including which parts (if any) of the existing district plans are intended to be replaced by the proposal.]
- 2 The proposal may be inspected or purchased at *[place]*. Please contact *[name of person handling queries and contact telephone number]* if you have any questions about the proposal.
- 3 The following persons may make a submission on the proposal:
 - (a) the Christchurch City Council; and
 - (b) any other person unless that person could gain an advantage in trade competition through the submission, in which case the person may make a submission only if the person is directly affected by an effect of the proposal that—
 - (i) adversely affects the environment; and
 - (ii) does not relate to trade competition or the effects of trade competition.
- 4 To lodge a submission, send a written or an electronic submission to the Christchurch City Council at *[provide both an address for service for written submissions and an email address for service for electronic submissions]*. The submission must state whether or not you wish to be heard on your submission.
- 5 Submissions close on *[closing date, which must be 30 working days after publication of this notice]*.
- 6 The process for public participation in the consideration of the proposal under the Act is as follows:
 - (a) after the closing date for submissions, Christchurch City Council will publish all submissions and give public

Form—*continued*

- notice of the availability of the submissions and where the submissions can be inspected; and
- (b) there must be an opportunity for the following persons to make a further submission in support of, or in opposition to, the submissions already made:
 - (i) any person representing a relevant aspect of the public interest; and
 - (ii) any person who has an interest in the proposal greater than the general public has; and
 - (iii) the Minister for the Environment and the Minister for Canterbury Earthquake Recovery; and
 - (iv) the Christchurch City Council; and
 - (c) a hearing must be held; and
 - (d) the Minister for the Environment and the Minister for Canterbury Earthquake Recovery will appoint a hearings panel to hold a hearing and make decisions on submissions to the proposal; and
 - (e) the following persons have the right to appeal to the High Court against the decision of the hearings panel but only on a question of law:
 - (i) a person who made a submission on a provision or matter that is the subject of the appeal; and
 - (ii) the Minister for the Environment and the Minister for Canterbury Earthquake Recovery; and
 - (iii) the Christchurch City Council; and
 - (iv) in the case of a decision on a designation or heritage order, the relevant requiring authority or heritage protection authority and owners and occupiers of land that are directly affected by the decision.

Date:

Signature:

(Signature on behalf of Christchurch City Council)

Form—*continued*

Contact details

Physical address for service of Christchurch Council:

Email address for service of Christchurch Council:

Telephone:

Fax:

Contact person: [*name and designation, if applicable*]

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order comes into force on the day after the date on which the order is made and remains in force until the expiry of the Canterbury Earthquake Recovery Act 2011.

The order modifies the Resource Management Act 1991 (the **RMA**) to provide a streamlined process for the review of the existing Christchurch district plans (the Christchurch City Plan and the Banks Peninsula District Plan) and for the preparation of a comprehensive replacement district plan for the Christchurch district. The council must review the existing district plans and prepare 1 or more proposals for the replacement district plan.

The proposals must be publicly notified, and any person may make a submission on a notified proposal.

A hearings panel, appointed by the Minister for the Environment and the Minister for Canterbury Earthquake Recovery, in consultation with the Christchurch City Council, will conduct a hearing into any submissions and decide whether to make any changes to a proposal.

The hearings panel's decisions can be appealed to the High Court, but only on points of law.

Subject to any appeals, a proposal as amended by the hearings panel must be made operative as a district plan under the RMA.

The modifications to the RMA made by this order do not affect the text of the RMA, but require that Act to be read as if it had been amended in the manner indicated by this order.

Clauses 1, 2, and 3 are the Title, Commencement, and Interpretation clauses respectively. The Interpretation clause contains definitions of key terms, including the terms Christchurch district, the area covered by the order, existing district plans, and replacement district plan.

Clause 4 specifies the ways in which the application of the RMA is modified for the purposes of the order; *clause 5* provides for the application of the RMA to the functions and powers carried out and exercised under this order unless modified by the order.

Review and replacement of existing district plans

Clause 6 requires the council to review the existing district plans and develop proposals for the replacement district plan, identifying the parts of the existing district plans that are to be replaced. In undertaking these functions, the council must have particular regard to the statement of expectations (*Schedule 4*). The first of the new proposals must be notified within 37 working days of the order coming into force (*clause 6(4)(a)*). *Clause 6(5)* validates any functions undertaken under *subclause (1)* before the order comes into force, provided *subclause (2)* has been complied with (*see clause 3(2) of Schedule 1*) and all other proposals required for the replacement plan must be notified in time for their final approval by 9 March 2016. *Clause 7* provides for the application of *Schedule 1*.

Hearings panel

Clauses 8 to 11 make provision for the appointment, functions and powers of the hearings panel, including the chairperson, the Honourable Sir John Hansen, and provide for the application of *Schedule 2*. The panel must complete all its obligations not later than 9 March 2016.

Jurisdiction of hearings panel

Clauses 12 to 14 provide for hearings to be held and for the decision-making process of the hearings panel, including having particular regard to the statement of expectations.

*How effect to be given to decisions of hearings
panel*

Clauses 15 to 17 provide for the approval of decisions of the hearings panel, and how these decisions become operative.

Objections and appeals

Clause 18 provides a right of objection in relation to certain decisions of the hearings panel and *clause 19* sets out the rights of appeal. These are limited to a right of appeal on questions of law to the High Court for the Ministers, the council, and submitters (in relation to the matter of the submission only).

*Requests for changes to existing district plans
or replacement district plan*

Clauses 20 to 22 relate to requests for changes or withdrawal of a request.

Administrative matter

Clause 23 provides a power for the council to recover costs incurred in carrying out its functions under the order.

*Application of Local Government Official
Information and Meetings Act 1987*

Clause 24 applies the Local Government Official Information and Meetings Act 1987, with the necessary modifications, to the hearings panel as if it were a board of inquiry conducting a hearing under the RMA.

Schedules

Schedule 1 sets out the process to be followed in reviewing the existing district plans and preparing the replacement district plan, including the public notification of a proposal, and the submission and hearing process by the hearings panel.

Schedule 2 provides further detail on the appointment of members of the hearings panel, funding of the panel, and a limitation on the liability of its members. The powers of the chairperson include the

power to split the hearings panel for the purpose of concurrent hearings, including pre-hearings.

Schedule 3 sets out further provisions relating to the functions and powers of the hearings panel.

Schedule 4 is the statement of expectations of the Minister for Canterbury Earthquake Recovery and the Minister for the Environment in respect of the replacement district plan. The statement is a mandatory relevant consideration; decision makers under *clauses 6 and 14* of this order must have particular regard to it.

Schedule 5 provides the form to be used under *clause 5 of Schedule 1*.

Issued under the authority of the Legislation Act 2012.

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This order is administered by the Ministry for the Environment.
