

**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 Christchurch
Replacement District
Plan

**APPLICATION ON BEHALF OF CHRISTCHURCH CITY COUNCIL TO ALIGN THE
NUMBERING AND STRUCTURE OF THE CHRISTCHURCH REPLACEMENT
DISTRICT PLAN**

5 December 2016

 **Simpson Grierson**
Barristers & Solicitors

J G A Winchester / S J Scott / C J McCallum
Telephone: +64-3-968 4030
Facsimile: +64-3-379 5023
Email: catherine.mccallum@simpsongrierson.com
PO Box 874
SOLICITORS
CHRISTCHURCH 8140

MAY IT PLEASE THE PANEL:

1. INTRODUCTION

1.1 This application is filed on behalf of the Christchurch City Council (**Council**) to seek directions from the Independent Hearings Panel (**Panel**) to align the numbering and structure of the operative Christchurch Replacement District Plan (**CRDP**) chapters.

1.2 As identified through the Council's memorandum responding to the minor corrections decision for Decision 43, there is a need to align the numbering and structure of the CRDP.¹

2. EXPLANATION OF DIRECTIONS SOUGHT

2.1 With the release of Decision 58: Chapter 2 Definitions (Stage 2 & 3) all substantive decisions have been released by the Panel on the CRDP. Consequently, the Council now considers it appropriate to undertake a renumbering and restructuring exercise of the entire plan to ensure coherency and consistency is achieved.

2.2 The CRDP structure and numbering, and location of some plan topics has evolved through the release of the various decisions, resulting in the plan now containing various numbering styles. In addition, there are now some CRDP chapter numbers that do not have any content (i.e. pRDP Chapter 13 – notified Central City provisions were disseminated out into other CRDP chapters) and other chapters are not in a logical order.

2.3 The Council considers the following order of chapters should be used in the CRDP:

- (a) Chapter 1 Introduction;
- (b) Chapter 2 Definitions;
- (c) Chapter 3 Strategic Directions;
- (d) Chapter 4 Hazardous Substances and Contaminated Land;
- (e) Chapter 5 Natural Hazards;
- (f) Chapter 6 General Rules and Procedures;
- (g) Chapter 7 Transport;

¹ Memorandum of Counsel for Christchurch City Council responding to Decision 43 Minor Corrections Decision dated 30 November 2016, at paragraph 3.2.

- (h) Chapter 8 Subdivision, Development and Earthworks;
- (i) Chapter 9 Natural and Cultural Heritage;
- (j) Chapter 10 Designations and Heritage Orders;
- (k) Chapter 11 Utilities and Energy;
- (l) Chapter 12 Papakāinga;
- (m) Chapter 13 Specific Purpose Zones;
- (n) Chapter 14 Residential;
- (o) Chapter 15 Commercial;
- (p) Chapter 16 Industrial;
- (q) Chapter 17 Rural; and
- (r) Chapter 18 Open Space.

2.4 In making this recommendation the Council has endeavoured to make the least amount of changes to chapter numbers as possible, although the Council notes that the above order results in:

- (a) the Papakāinga/Kāinga Nohoanga chapter renumbering from 4 to 12;
- (b) the Hazardous Substances and Contaminated Land chapter renumbering from 12 to 4; and
- (c) the Specific Purpose Zones chapter renumbering from 21 to 13.

2.5 For completeness, the Council notes that Chapter 13 Central City and Chapter 19 Coastal Environment are no longer required as:

- (a) Chapter 13 Central City's provisions have been integrated into the rest of the CRDP chapters; and
- (b) Chapter 19 Coastal Environment's provisions have been relocated as follows:
 - (i) the Coastal Environment objectives, policies and matters of discretion to sub-chapter 9.6 to Chapter 9 Natural and Cultural Heritage; and
 - (ii) the rules for the Open Space Coastal Zone and the Coastal Bach Overlay (notified as the Residential Bach Zone in Chapter 14) to sub-chapter 18.6A Open Space Coastal Zone in Chapter 18 Open Space Zone.

- 2.6** Finally, the Council notes that the proposed Chapter 20 – Future Urban Development Areas proposal was a place holder that was never used through the notification of various proposals.
- 2.7** Consequential amendments to chapter cross-references throughout the CRDP will be required as a result of the changes set out above.
- 2.8** In regards to internal numbering, the Council considers that a common template should be adhered to in each chapter so that there is consistency throughout the CRDP. The Council's suggested numbering template is appended at **Appendix A**.
- 2.9** The Council's preference, as set out in **Appendix A**, is that all activity statuses are included in each chapter with a specific rule number, regardless of whether a rule of that activity status exists within that particular zone. For example, if there were no permitted activities the following would be shown in the CRDP:

x.4.1.1 Permitted activities table

<i>There are no permitted activities.</i>

- 2.10** The reasons for this include:
- (a) that the numbering is consistent within all zone chapters throughout the CRDP (ie, every permitted activity rule would end in ".1" and every controlled activity rule would end in ".2"); and
 - (b) that in the event that future plan changes include an additional activity status, a consequential renumbering exercise is not required.
- 2.11** The renumbering exercise would also include deleting any 'number not used', 'deferred', 'delete/d' etc references, and consequential internal renumbering. This would include any deleted activities in the activity status tables and appendices.

Written Approvals and Limited and Full Public Notification

- 2.12** The review of the chapters would also ensure that the wording around written approvals and public notification was consistent throughout the CRDP. For example, in earlier decisions the following two versions of wording has been used for written approvals and notification, with Council's preference being for the first version, as this provides clarity with respect to both the written approval and notification situations:

Rule 16.2.8.2.1 - Any application arising from non-compliance with this rule will not require written approvals and shall not be limited or publicly notified.

Rule 16.2.9.2.1 – Any application arising from non-compliance with this rule shall not be publicly notified.

- 2.13** Further, Rule 14.12.2.3 RD4 states "*Until 31 December 2018, any application arising from this rule shall not be publicly notified and shall only be limited notified to KiwiRail where it has not given its written approval.*" However, later decisions used the wording '*absent written approval*' or variations on this wording. The Council respectfully considers that this later wording is not commonly understood and therefore does not provide enough clarity around when written approvals / public notification are required. Therefore, the Council respectfully seeks to revert to the earlier wording as set out above.

Matters of Control and Matters of Discretion

- 2.14** The review would also ensure that earlier decisions match later decisions where matters of control and discretion include the word "Rule" in the heading, as the Panel has decided is appropriate.

3. ORDER OF TASKS

- 3.1** Following Panel directions, the Council proposes to undertake a review of the CRDP numbering and will complete the below tasks in the following order:

- (a) **Renumber the chapters** as set out in paragraph 2.3 above;
- (b) Review each chapter for **internal consistency**. This check will begin with the chapters that are most often cross-

referenced by other chapters (for example Subdivision, Development and Earthworks) and will involve:

- (i) checking that there are no gaps in the internal numbering;
 - (ii) that all internal cross-references to other parts of the chapter are correct;
 - (iii) that the chapter adheres to the numbering template set out in **Appendix A**; and
 - (iv) ensure that the wording around written approval/public notification has been used in a consistent manner;
- (c) Review the chapters for **external consistency**. This involves ensuring that cross-references to the relevant chapter from other chapters in the CRDP are correct; and
- (d) Amend the CRDP accordingly.

4. DIRECTIONS SOUGHT

4.1 The Council respectfully seeks that the Panel direct the Council to complete the CRDP numbering and structure review as set out in section 3 above and amend the CRDP accordingly.

4.2 The Council notes that the matter of numbering was recently raised by the Crown² and responded to by the Panel³ in the context of the General Rules hearing. Counsel for the Council have provided counsel for the Crown with a copy of this memorandum prior to filing. Counsel for the Crown has advised that the Crown supports the Council's process to review and subsequently renumber and restructure the CRDP (as set out in this memorandum) and considers that it should address the matters raised by the Crown in the General Rules hearing.

² Crown memorandum dated 25 November 2016, at paragraphs 11 to 13.

³ Minute dated 2 December 2016, at paragraphs 4 to 5.

4.3 Accordingly, counsel respectfully requests that this memorandum be accepted by the Panel in place of the joint memorandum directed to be filed by 4pm tomorrow, Tuesday 6 November.⁴

DATED this 5th day of December 2016

A handwritten signature in blue ink, appearing to be 'C. J. McCallum', is positioned above a horizontal line.

J G A Winchester / S J Scott / C J McCallum
Counsel for Christchurch City Council

4 Minute dated 2 December 2016, at paragraph 5.

APPENDIX A

CHAPTER STRUCTURE

x.1 Introduction (each paragraph to be numbered – see below example of numbering/indent/level structure)

- a. (...)
- b. (...)
- c. (...)
 - i. (...)
 - ii. (...)
 - A. (...)
 - B. (...)
 - I. (...)
 - II. (...)

x.2 Objectives and policies

- x.2.1 Objective (...)
 - x.2.1.1 Policy (...)
 - x.2.1.2 Policy (...)
- x.2.2 Objective (...)
 - x.2.2.1 Policy (...)

x.3 How to interpret and apply the rules

x.4 Rules (...)

- x.4.1 Activity status tables
 - x.4.1.1 Permitted activities
 - table example

Activity	Activity specific standards
P1 Any new building or addition to a building for any permitted activity listed in Rule 15.4.1.1 P2 to P23.	Nil
P2 Department store, supermarket, unless specified below. (refer to Rule 15.4.1.4 D2)	

- x.4.1.2 Controlled activities
 - table example

Activity	The Council's control shall be limited to the following matters:
C1 New buildings and structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Council, Canterbury Regional Council or the Crown.	<ul style="list-style-type: none"> a. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed. b. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed. c. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable. d. The design of the building or structure and method of installation to mitigate effects on a Site of Ngāi Tahu Cultural Significance identified in Schedules 9.5.6.1 and/or 9.5.6.4.

x.4.1.3 Restricted discretionary activities

table example

Activity	The Council's discretion shall be limited to the following matters:
RD1 Activities listed in Rule 15.9.1.1 P1 - P27, and Rule 15.9.1.2 RD2, that do not meet one or more of the built form standards in Rule 15.9.2, unless otherwise specified. Refer to relevant built form standard for provision regarding notification.	<p>As relevant to the breached built form standard:</p> <ul style="list-style-type: none"> a. Maximum building height - Rule 15.13.3.1 b. Minimum building setback from road boundaries/ street scene - Rule 15.13.3.2 c. Minimum separation from the internal boundary with a residential zone - Rule 15.13.3.3

x.4.1.4 Discretionary activities

table example

Activity
D1 Any activity not provided as a permitted, restricted discretionary, or non-complying activity.

x.4.1.5 Non-complying activities

table example

Activity
<p>NC1</p> <ul style="list-style-type: none"> a. Sensitive activities <ul style="list-style-type: none"> i. within 12 metres of the centre line of a 220kV National Grid transmission line or within 12 metres of the foundation of an associated support structure. ii. within 10 metres of the centre line of a 66 kV electricity distribution line or within 10 metres of a foundation of an associated support structure. iii. within 5 metres of the centre line of a 33 kV electricity distribution line or within 5 metres of a foundation of an associated support structure. b. Buildings on greenfield sites

x.4.1.6 Prohibited activities

table example

Activity
PR1 Any new or relocated bach, that would result in the total number of baches in that part of the Open Space Coastal
PR2 Any new or relocated bach that does not meet the built form standard in Rule 18.6A.2.1.

x.4.2 Built form standards

x.4.2.1 (...)

x.4.2.2 (...)

x.4.2.3 (...)

x.4.3 Area specific rules

x.4.3.1 (...)

x.4.3.2 (...)

x.5 Rules (...)

x.6 Rules (...)

x.7 Rules – Matters of discretion

x.8 Other methods

x.9 Appendices

City Wide Chapter and Sub-topics Structure

Chapter x

x.1 sub topic

x.1.1 Introduction

x.1.2 Objectives and Policies

x.1.2.1 Objective

x.1.2.1.1 Policy

x.1.3 How to interpret and apply the rules

x.1.4 Rules

x.1.4.1 Activity status tables

x.1.4.1.1 Permitted activities

x.1.4.1.2 Controlled activities

x.1.4.1.3 Restricted discretionary activities

x.1.4.1.4 Discretionary activities

x.1.4.1.5 Non-complying activities

x.1.4.1.6 Prohibited activities

x.1.5 Rules – Matters of discretion

x.1.6 Other methods

x.1.7 Appendices

x.2 sub topic

x.2.1 Introduction

x.2.2 Objectives and Policies

x.2.2.1 Objective

x.2.2.1.1 Policy

etc. (...)