

**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 Chapter 21 (Stage 3)
Specific Purpose Zone
(Ruapuna) Proposal of
the proposed
Christchurch
Replacement District
Plan

**MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL
REQUESTING CORRECTIONS TO DECISION 32**

SPECIFIC PURPOSE ZONE (RUAPUNA) (STAGE 3)

8 August 2016

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MAY IT PLEASE THE PANEL:

Introduction and jurisdiction

1. The purpose of this memorandum on behalf of the Christchurch City Council (**Council**) is to respectfully request the Panel to make corrections to its Decision 32: Specific Purpose (Ruapuna Motorsport) Zone, dated 29 July 2016 (**Decision**).
2. As the Panel is aware, it has a power under clause 16 of Schedule 3 of the Order in Council to make minor corrections to its decisions and proposals. For ease of reference, clause 16 states:

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.*

3. The Panel discussed the scope of this power in its decision to make minor corrections to Decision 9 Temporary Activities 6A, 6B and 6C.¹
4. Because the Panel's jurisdiction has been canvassed previously, we do not repeat that discussion in detail here. In summary, clause 16 of Schedule 3 of the Order in Council is similar to, but not exactly the same as, clauses 16 and 20A of Schedule 1 of the RMA. Clauses 16 and 20A of Schedule 1 of the RMA use the words "*minor error*" rather than "*minor mistake or defect*". The Environment Court in *Re an application by Christchurch City Council*² said:

An error is simply a mistake or inaccuracy which has crept into the plan. The obvious example is a spelling mistake or reference to a wrong paragraph number where there can be no doubt what number is intended. It is analogous to the use of the slip rule in other Court Proceedings. Thus rule 12 of the District Courts Rules 1992 make provisions for correction of a judgment which contains a clerical mistake or error arising from an accidental slip or omission. The

1 Decision to Make Minor Corrections to Decision on Temporary Activities, dated 22 October 2015, at paragraphs [3] to [9]. The Panel also discussed what changes of "no more than minor effect" are for the purposes of clause 13(6) in its Decision 9 Temporary Activities 6A, 6B and 6C at para [19] to [25].

2 *Re an application by Christchurch City Council* [1996] NZEnvC 97.

fundamental principle applicable to the use of the slip rule is that it may only be used to correct a slip in the "expression" of a judgment not the "content".

5. The Environment Court determined a change would be within clause 16 of Schedule 1 of the RMA if "*the draftsman seeks only to clarify what is clearly intended by the document and does not in any way make a change to it which alters its meaning*".³
6. The Council would be happy to provide further submissions on the Panel's jurisdiction if that would assist.

Requests for corrections

Definition of "Ruapuna Clubrooms"

7. At the Specific Purpose Zone (Stage 3) hearing, the Panel queried whether it was necessary to have the words 'accessory', 'ancillary' and 'complementary' in the Specific Purpose Zone (Ruapuna) provisions.⁴ The Council considered that only 'ancillary' was needed and amended the revised proposal attached as Appendix A to the Council's closing submissions accordingly.⁵
8. The Council has identified that the word 'accessory' has not been deleted from the definition of 'Ruapuna Clubrooms' at page 27 of the Decision, and the Council respectfully requests that the Panel exercise its power under clause 16 of the Order in Council to remove the reference to 'accessory' in the definition of Ruapuna Clubrooms.
9. It is submitted that the correction sought by the Council does not amend the content (ie, the merits) of the relevant provisions, but simply rectifies an omission in the Decision text.

Planning maps

10. The revised proposal attached to the Council's closing legal submissions dated 27 May 2016 included the following text on page 20:

PLANNING MAPS

Amend Planning Maps 28, 29, 35, 36 of the Christchurch District Plan to show the Ruapuna Inner and Outer Noise Boundary contour (as attached).

3 At page 11.

4 Transcript of Proceedings, 23 May 2016 at page 15, lines 26-29.

5 Closing Submission of Christchurch City Council at paragraph 3.2.

11. No planning maps were attached, as the relevant planning maps were to be made operative by the Council when it made Plan Change 52 operative. This has now occurred, and the map amendments were deemed to be part of the Replacement District Plan under clause 4(3) of the Order in Council, and did not form part of the Specific Purpose (Ruapuna Motorsport) Zone Proposal.⁶ The reference to the planning maps was therefore superfluous. The Council apologises for any confusion this may have caused.
12. The text quoted above was carried through into Decision 32, and it is respectfully submitted that a correction is needed to Decision 32 accordingly. Although one option might be to change the text quoted above to grey font and to delete the words "(as attached)", the Council considers that deleting the text quoted above would be more appropriate, to avoid confusion about whether the maps form part of the decision. Now that Plan Change 52 is operative and already in the District Plan, the maps are no longer needed to provide context, unlike the rest of the greyed out areas in the attachment to Decision 32.
13. It is submitted that the correction sought by the Council does not amend the content (ie, the merits) of the relevant provisions, but simply removes superfluous text in the Council's revised proposal that has been carried through into the Decision text.

DATED this 8th day of August 2016



M G Conway
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⁶ See the note in the key to Appendix A of the Council's closing legal submissions, which stated: "*PC 52 Decision text is shown in grey for context only. [The provisions from the Environment Court's decision on PC52 are deemed to be part of the replacement district plan under clause 4(3) of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 and cannot be revisited through this process.]*"