

**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 Specific Purpose  
(Burwood Landfill and  
Resource Recovery  
Park) Zone Proposal  
(Stage 3)

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**MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL  
REQUESTING CORRECTIONS TO DECISION 14**

**SPECIFIC PURPOSE (BURWOOD LANDFILL AND RESOURCE RECOVERY  
PARK) ZONE PROPOSAL (STAGE 3)**

**18 FEBRUARY 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 14, Specific Purpose (Burwood Landfill and Resource Recovery Park) Zone Proposal (Stage 3), dated 11 February 2016.
2. As the Panel is aware, it has a power under clause 16 of Schedule 3 of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (**Order**) 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 first decision to make minor corrections to Decision 7 Transport (Part)<sup>1</sup> and also in its decision to make minor corrections to Decision 9 Temporary Activities 6A, 6B and 6C<sup>2</sup>.
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 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*<sup>3</sup> said:

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<sup>1</sup> Decision to Make Minor Corrections to Decision on Chapter 7 Transport (Part), dated 7 September 2015, at paragraphs [2] to [3].

<sup>2</sup> 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].

<sup>3</sup> *Re an application by Christchurch City Council* [1996] NZEnvC 97.

*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 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"*.<sup>4</sup>
6. The Council would be happy to provide further submissions on the Panel's jurisdiction if that would assist.

#### **Requests for corrections**

7. It is submitted that all corrections sought by the Council in the memorandum do not amend the content (i.e. the merits) of the Panel's decision. The corrections sought are simply to rectify mistakes or inaccuracies to assist users with navigating the Plan.
8. In particular, the heading numbering in the decisions version of the Proposal starts at 21.12.2 rather than 21.12.1, and this error is carried through into all subsequent heading numbers, including the appendices. The error results in cross-references in the rules being incorrect. There are also two words that appear to have been omitted from the rules in error.
9. The requested corrections are:
  - (a) That the objective, policy, rule and appendix heading numbers be amended to reflect the numbering in the

updated redline version of the provisions lodged with the Panel by the Council on 10 December 2015; and

(b) Amendments which are otherwise recorded in **Attachment A** to this application.

10. Although it doesn't affect the final wording of the Specific Purpose (Burwood Landfill and Resource Recovery Park) Zone Proposal, page 29 of the Panel's decision lists Federated Farmers of New Zealand (FS5000) as a submitter. Our instructions are that this submission does not relate to the Specific Purpose (Burwood Landfill and Resource Recovery Park) Zone Proposal and is therefore included in the Panel's decision by mistake.

**DATED** 18 February 2016



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P M S McNamara / T R Fischer  
Counsel for Christchurch City Council

ATTACHMENT A

REQUESTED CORRECTIONS

Provision [page of decision]	Amendment requested (additions in <u>underlined</u> bold text, deletions in <del>strikethrough</del> bold text)
21.12.3.2.1 P1 e [22]	<p>"As long as earthquake waste <u>disposal</u> activities are occurring within the area marked as "Burwood Landfill" in Appendix 21.12.3.1, screen planting in the form of at least three parallel rows of trees, capable of meeting 8m in height, shall be maintained from the southern boundary of this area."</p> <p><i>Note: the word "disposal" was omitted from part of the text which was added to the Proposal through the Panel's decision.</i></p>
21.12.3.2.1 P1 k [22]	<p>"Birds and vermin shall be controlled to avoid nuisance within and adjacent <u>to</u> the site."</p> <p><i>Note: the word "<u>to</u>" was also omitted from the updated redline version of the provisions lodged with the Panel by the Council on 10 December 2015.</i></p>