

**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
(Flat Land Recovery)
Zone Proposal (Stage
3)

**CLOSING SUBMISSIONS FOR CHRISTCHURCH CITY COUNCIL
ON THE SPECIFIC PURPOSE (FLAT LAND RECOVERY) ZONE PROPOSAL**

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1. INTRODUCTION

- 1.1 Christchurch City Council (**Council**) continues to support the Specific Purpose (Flat Land Recovery) Zone Proposal (Stage 3) (**Proposal**) and commends it to the Hearings Panel.
- 1.2 The redline version of the Proposal filed and served with the Council's opening legal submissions (**Revised Proposal**) contained significant changes to the Proposal as notified. These changes were made as a result of the Council's planning witness, Mr Eman, considering that a relaxation of constraints on land use in the Specific Purpose (Flat Land Recovery) Zone (**Zone**), and a more enabling approach, would strike the right balance between:
- (a) Maintaining options for future land use and recognising hazard risks and infrastructure constraints within the Zone; and
 - (b) Avoiding unnecessary constraints on the private property rights of existing owners and providing for the long-term needs of the Christchurch community.
- 1.3 Subject to the two specific issues identified below, there appears to be consensus that the Revised Proposal is much closer to striking the appropriate balance. The Crown supports the Revised Proposal with one exception (activity status of community facilities on private land). Counsel for the Human Rights Commission advised the Hearings Panel on 14 December 2015 that the Revised Proposal "represents a significant shift from the notified proposal and goes some way towards achieving the right balance", although "not far enough".¹ He also admitted that there was not very much difference in real terms as to land use between the Revised Proposal and residential zoning.²
- 1.4 Mr Tsao characterised the Revised Proposal as an improvement, but still fundamentally objects to the Zone due to it not being a "normal" residential zone and the Zone being subject to future planning

1 Transcript page 148, lines 25-28.

2 Transcript page 150, lines 27-30.

processes.³ Ms Burney and Mr Bourke share the same objections, although Ms Burney also considers special purpose zoning to be "pre-empting the future use of the land" and a form of "taking private property by restricting use and locking in to an interim zone for an undetermined length of time".⁴

2. KEY ISSUES

2.1 It is submitted that the two key issues still disputed between the parties, and which had the most prominence at the hearing, are:

- (a) The activity status of community facilities (pre-schools, health care facilities, veterinary care facilities, education activities, places of assembly, and spiritual activities) on privately owned property in the Zone; and
- (b) The relationship between the Zone and the Residential Red Zone declared by the Crown, and in particular whether the Zone is appropriate in light of the Supreme Court's decision in *Quake Outcasts v Minister for Canterbury Earthquake Recovery* [2015] NZSC 27.

2.2 There is also a site specific issue as to whether Mr Tsao's property at 123 Hulverstone Drive is appropriately within the Zone. The Council's position remains that Mr Tsao's property should stay within the Zone for the reasons set out in the rebuttal evidence of Mr Eman.⁵ Those reasons focussing on the inadequacy of infrastructure to serve the range of activities provided for under the Residential Suburban zoning sought by Mr Tsao.

Activity status for community facilities on privately owned property

2.3 The opening submissions of counsel for the Crown indicated that the Crown considers the Revised Proposal to strike the right balance in terms of residential activities.⁶ The only issues on which the Council

3 Transcript page 162, lines 18-35.

4 Transcript page 165, lines 36-40.

5 Mr Eman, rebuttal evidence, Part 5.

6 Opening submissions for the Crown, paragraph 3.5.