

**BEFORE THE CHRISTCHURCH REPLACEMENT DISTRICT PLAN
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

**JOINT MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL
AND THE CROWN IN RESPECT OF CENTRAL CITY ROADS**

Relevant to Decisions 21 and 43

Dated: 1 December 2016

MAY IT PLEASE THE HEARINGS PANEL:

1. This joint memorandum is filed on behalf of the Christchurch City Council ("**Council**") and the Crown (together, "**the Parties**") in relation to an issue identified at paragraphs 4.1 to 4.8 of the Memorandum of Counsel for the Council regarding further planning map corrections, dated 25 November 2016. Specifically, the issue relates to the inadvertent rezoning of roads within the Central City as Central City Residential Zone instead of the Transport Zone.
2. On 29 November 2016, the Parties participated in a telephone conference with the Chair of the Independent Hearings Panel to discuss whether the issue might be addressed as a correction to a minor mistake or defect.
3. The purpose of this memorandum is to respectfully request that the Panel addresses this issue as a correction to a minor mistake or defect pursuant to clause 16 of Schedule 3 of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ("**Order in Council**").

The Panel's ability to correct a minor mistake or defect

4. Clause 16 of Schedule 3 of the Order in Council empowers the Panel to correct a minor mistake or defect in a decision or proposal. 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.*
5. 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
 6. 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

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].

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 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"."

7. 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

Request for corrections

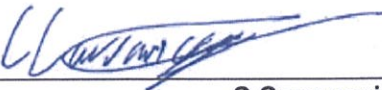
8. As noted in the Council's memorandum dated 25 November 2016:
 - (a) The Crown lodged a Stage 3 submission requesting (amongst other things) that the notified Specific Purpose (Flat Land Recovery) Zone located within the Central City be rezoned as Central City Residential Zone, for consistency with the Christchurch Central Recovery Plan ("**CCRP**"). The Council concurred with that submission.
 - (b) The Panel accepted the Crown's submission, rezoning the relevant land as Central City Residential Zone.
9. Unfortunately, the relevant rezoned area contains the following roads which were also rezoned as Central City Residential Zone:
 - (a) Rees Street;
 - (b) Bangor Street north of Rees Street; and
 - (c) Part of Willow Street.
10. The Central City roads listed above are identified in the cut out from and full version of amended Planning Map 32 attached as **Appendix A**.

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

³ At page 11.

11. The Parties agree that the Central City roads ought to have been rezoned as Transport Zone, being the appropriate zoning for roads, and not as Central City Residential Zone, which is submitted to be an inadvertent error or defect.
12. The Parties submit the Panel has jurisdiction to rezone the Central City roads as a correction to a minor error or defect because:
 - (a) the Central City Residential zoning does not reflect the real world status of the relevant land as road;
 - (b) the Central City Residential zoning is inconsistent with the overall approach of the Replacement District Plan that roads be zoned as Transport Zone;
 - (c) the rezoning to Central City Residential Zone was an inadvertent error/defect in the planning maps;
 - (d) the correction is able to be made as a correction to Decision 43 (Central City) which has not yet been made operative.
13. The Parties respectfully request that the Panel issues a correction to Decision 43 (Central City) by rezoning the following roads from Central City Residential Zone to Transport Zone:
 - (a) Rees Street;
 - (b) Bangor Street north of Rees Street; and
 - (c) Part of Willow Street.

Dated 1 December 2016



C Carranceja
Counsel for the Crown



S Scott
Counsel for the Christchurch City Council

APPENDIX A



Planning Map 32 Residential Central
 City & Transport Zone Updates: 30/11/2016

24	25	26
31	32	33
38	39	40