

Independent Hearings Panel

Christchurch Replacement District Plan

Te paepae motuhake o te mahere whakahou a rohe o Ōtautahi

Christchurch Replacement District Plan

CHAPTER 21: SPECIFIC PURPOSES ZONES – FLATLAND RECOVERY, RUAPUNA, BURWOOD LANDFILL PRE-HEARING CONFERENCE

TRANSCRIPT OF PROCEEDINGS

Heard at: Christchurch Plan Independent Hearing Venue
348 Manchester Street, Christchurch

Date: 28 October 2015

Hearing Panel: Sir John Hansen
Judge John Hassan
Sarah Dawson

[10.02 am]

SJH: Yes, thank you. Now, Ms Scott, you are for the Council and again
Mr Carranceja.

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MR CARRANCEJA: Thank you, sir.

SJH: Ms Appleyard, you are for Burwood Recovery and Church Property
Trust at this hearing. Ms Reese you are for the Canterbury Club.
Ms Dewar you are also for the Canterbury Club.

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MS DEWAR: And for the car club, sir.

SJH: They are both the same?

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MS DEWAR: Yes, the Canterbury Car Club.

SJH: Right. And Ms Wyss, you are for the - - -

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MS WYSS: Yes, sir.

SJH: All right, if we just go through the submitters and if you would just give
us your name, the organisation if you are representing one and also
your submitter number please just for the record so this goes into a
transcript.

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MR TSAO: My name is Ernest Tsao, submitter No 3261, submitting on my
behalf and on the behalf of Quake Outcasts.

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SJH: Thank you.

MR BOURKE: My name is Stephen Bourke, my submission number is 3476,
and my submission is on behalf of Brooklands Residents.

35

SJH: Is that an incorporated society or just a group of concerned residents?

MR BOURKE: It is a group of concerned residents.

SJH: Okay, thank you.

40

MS BURNEY: My name is Jan Burney, submitter No 3232, I am here on
behalf of myself and My Community Brooklands.

SJH: You're?

45

MS BURNEY: My Community Brooklands.

5 SJH: Thank you. Is there anyone else is a submitter in the back. Thank you.
Well, the first substantive matter we need to put aside before start
giving directions is this application by the Crown, Mr Carranceja, to
defer part of this hearing. It seems to suggest that the Crown considers
this is in the interests of the residents but it is hard to work out what
that benefit is supposed to be, you give us very little information.

10 MR CARRANCEJA: Sir, thank you, if I may explain. Sir, the Crown was
motivated by a desire in this case to provide more time for submitters
to prepare for this hearing. The reason, sir, for that is because it was
considered by the Crown that - - -

[10.05 am]

15 SJH: But the submitters don't want that time.

20 MR CARRANCEJA: That is news to the Crown. It is acknowledged, sir, that
we received two memoranda since that time and that memoranda does
express a contrary view to that thought by the Crown so, sir, that is
acknowledged and the Crown will be guided in this case with what the
Panel considers to be appropriate, sir.

25 SJH: All right, thank you. Well, I think all of the submitters have the similar
concern. My understanding is your position is that you want the matter
to proceed on the indicated date. Just for the record we will give you
the microphone so you can confirm that is your view.

30 MR BOURKE: Yes, that is my view.

SJH: Thank you.

35 MR TSAO: Yes, I confirm that we would like this hearing to proceed as
planned.

SJH: Thank you.

MS BURNEY: Yes, we would like to proceed.

40 SJH: All right, thank you. Well, on that basis, well we understand the
memorandum, Mr Carranceja, I think we will stick with the original
date.

45 MR CARRANCEJA: Thank you, sir.

SJH: Scope, does the Crown have any issue with the scope and statement of issues?

5 MR CARRANCEJA: Sir, in terms of scope and the statement of issues, there are no scope issues of concern to the Crown as raised by the memorandum. In terms of the statement of issues though, sir, the Crown does want a clarification point inserted into the issue relating to the Flatland Recovery zone, it is issue 1A.

10 SJH: Just a moment. Yes.

MR CARRANCEJA: Sir, the issue as stated is appropriate, it does wish a sub-issue to be inserted beneath that essentially to the effect of saying to what extent should development and land use opportunities - - -

15 SJH: Just slow, to what extent?

MR CARRANCEJA: To what extent should development and land use opportunities within the Residential Red zone be restricted due to the existence of multiple natural hazard risks.

SJH: All right, thank you.

25 MR CARRANCEJA: Other than that, sir, no further comments.

SJH: Thank you. Ms Appleyard, any issues?

MS APPLEYARD: No, I am happy with the issues, sir.

30 SJH: All right, thank you. Ms Dewar?

MS DEWAR: Sir, I am not involved in that portion of the hearing.

35 SJH: All right. The Regional Council?

MS WYSS: Sir, the Regional Council have two additional issues in relation to the Specific Purpose Burwood zone.

40 SJH: That are not in the statement of issues?

MS WYSS: Yes.

SJH: And have you discussed it?

45 MS WYSS: Yes, we have, sir.

SJH: And is the Council in agreement to any amendment?

MS WYSS: I understand that they are.

5 SJH: So you have got a copy of it, someone has got a copy of it?

MS WYSS: Yes, sir, I can read it now or - - -

10 SJH: I said did you have a copy of it. If you had agreed it could have been drawn, couldn't it?

MS WYSS: Yes, sir.

15 SJH: What does it go under?

MS WYSS: New issue 2F.

SJH: 2F, yes.

20 MS WYSS: Are amendments required to the permitted activity standards relating to the material that can be disposed of or stockpiled.

SJH: Yes.

25 MS WYSS: The second issue, sir, is - - -

SJH: So this is 2G?

30 MS WYSS: Yes, sir. Should public access for recreational use in areas where rehabilitation has been completed.

SJH: Rehabilitation of what?

35 MS WYSS: Where rehabilitation has been completed.

SJH: Rehabilitation of what, of land?

[10.10 am]

40 MS WYSS: Yes, sir.

SJH: Has been completed.

45 MS WYSS: Be included as a permitted activity standard.

And the only other matter that the Regional Council wishes to raise is whether the definition of earthworks should be heard in relation to this hearing as it seeks to exclude the Specific Purpose Burwood zone from that definition.

5

SJH: At the moment I presume it is in subdivision?

Isn't this more appropriate in subdivision?

10 MS WYSS: It might well be, sir, it is just there is an exclusion for the Burwood zone from that definition and whether that part is better heard with the Burwood hearing.

15 SJH: All right, well, you will need to alert us to that during the hearing so it is no overlooked.

MS WYSS: Yes, sir.

20 SJH: Thank you. Ms Dewar, you are involved in issue 3 though, aren't you, the Ruapuna Motor Sport zone?

MS DEWAR: Sorry, sir.

25 SJH: We really do rather expect lawyers to come along prepared and if they expect changes to have copies of them.

MS DEWAR: I had understood that today the Council was going to ask to defer that portion of the hearing relating to Ruapuna. So I hadn't understood - - -

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SJH: Whether there are or not there is issues around that. Is the statement of issues relating to your client's interests adequately covered? If you haven't read it just say so.

35 MS DEWAR: I haven't read it, sir.

SJH: It was filed on 20 October.

40 MS DEWAR: I have a memorandum filed on 20 October.

SJH: Well, that has attached to it the statement of issues. We will come back to you. You have a look at it and we will come back to it.

45 MS DEWAR: Thank you, sir.

5 SJH: Do the submitters understand that the statement of issues is a document that for all of these hearings we request the Council to prepare and file and others may comment on it to ensure that it captures the relevant matters from submissions to be dealt with and decided at the hearing?
Do you understand that?

MR TSAO: Yes.

10 MR BOURKE: No, I don't, sorry, sir.

SJH: Well, have you read the document that is posted online?

MR BOURKE: No, sir, so that is why.

15 SJH: All right, Ms Burney?

MS BURNEY: Yes, I have.

20 SJH: Do you accept the issues are properly set out?

MS BURNEY: They are properly set out but we probably don't agree with some of them.

25 SJH: No, it is not a matter of agreeing it is just that that is what we need to hear evidence and submissions on and make a decision about.

MS BURNEY: Absolutely.

30 SJH: All right. Well, it is rather lengthy and I don't want to go through it now. Perhaps at the end, Mr Bourke, the Friend of the Submitter is here, if you discuss it with him he will explain it to you and if you have issues we can hear from you further if necessary, all right.

35 Now, the purpose of the rest of this is to work through the procedural matters that lead to the hearing. The statement of issues will be amended as outlined subject to the right of Mr Bourke to make further submissions in a few moments. It is suggested that mediation should take place on 17 November 2015 and parties to liaise with the Secretariat about the place and timing of that. If you are representing
40 an organisation such as your residents in matters of that sort you need to have authority from those other residents to bind them at the mediation, you understand that.

45 Expert conferencing, just before we go to that we should ask, are you proposing to call any expert witnesses, any of the three submitters?

MR BOURKE: No, I am not.

[10.15 am]

5 SJH: Mr Tsao?

MS BURNEY: No, we are not.

10 MR TSAO: We are undecided at the moment due to the lack of available time
of the experts that we know.

SJH: I am sorry I don't understand the answer.

15 MR TSAO: We are undecided as to whether are we going to send an expert to
attend the expert meeting. I understand that - - -

20 SJH: Well, no, I am asking at the moment are you going to call an expert
witness at the hearing and what area of expertise will that witness
have?

MR TSAO: We may, yes.

SJH: What, an engineer, a planner or?

25 MR TSAO: A geophysical engineer.

SJH: Sorry, a geotech?

30 MR TSAO: A geophysical engineer and possibly also a geotechnical engineer,
they are slightly different fields.

SJH: All right, thank you.

35 MR TSAO: Thank you.

SJH: Right, the Crown witnesses?

40 MR CARRANCEJA: Sir, there are two elements of this proposal that the
Crown is interested in, the Burwood Recovery Park and the Flatland
Recovery. For the Burwood Recovery Park, sir, the Crown is looking
at a maximum of four witnesses. They are a demolition recovery
witness; secondly, a witness commenting on what is called "site D";
thirdly, an environmental effects witness and, fourthly, a planner. The
45 Crown will also investigate and liaise with the Burwood Resource
Recovery Park to ascertain whether a shared witness could be
organised in terms of operational matters.

5 For the Flatland Recovery aspects, sir, a maximum of four witnesses. One would be an expert on horizontal infrastructure; secondly, sir, on natural hazards; thirdly, red zone policy matters, and fourthly a planner. And just to indicate, sir, again the Crown will be looking to liaise with the Council as to whether some of those could be shared. Thank you, sir.

10 SJH: Thank you, Mr Carranceja. Ms Appleyard?

MS APPLEYARD: Sir, in relation to the Specific Purpose zone submission by Church Property Trustees the issues they are now related to access to the Holy Trinity Church so there will just be a planner.

15 In relation to the Burwood zone I do see that Ms Scott has a plethora of witnesses with lots of technical expertise set out. As between ourselves, the Crown and the City Council I am not sure whether those matters are matters in contention or whether they are just issues that need to be covered. So at the moment I can indicate we are calling a planner but, subject to discussions with the City Council and my friend from the Crown, we may need to call matching witnesses in those areas of expertise so I can't give you any indication at the moment. There seems to be a lot of technical areas to be - - -

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25 SJH: But absence agreement you would be calling the planner that you are going to share with the Crown you are calling your own expert witnesses?

30 MS APPLEYARD: Yes, what we actually need from the City Council is a list of the issues that are in contention if any. A list of experts doesn't tell us whether they agree or not agree so I have indicated to my friend that even if we could have an informal indication by email as to what the technical areas where there is dispute if any are, we can probably shortcut this process quite significantly.

35 The City Council's evidence is on a tight timetable 12 November and it would be a pity to call a large range of technical witnesses if there isn't a dispute.

40 SJH: Well, it seems to be you could sit down when we finish this hearing and sort it out this morning.

MS APPLEYARD: Yes, thank you, sir.

45 SJH: Ms Dewar, you have had a chance to read that statement of issues now?

MS DEWAR: Yes, I have, sir.

SJH: And it covers off the issues?

5 MS DEWAR: Yes, there is probably an issue there that shouldn't be there but there is no difficulty - - -

SJH: Well, it is better to have one too many than one too short I guess.

10 MS DEWAR: That is right, sir. So I am happy that it covers - - -

SJH: All right, thank you, and witnesses that your client is likely to call?

MS DEWAR: Well, I am not expecting this will proceed to a hearing, sir, but
15 if that is the case then we would probably just call a planner.

SJH: Okay, thank you. The Regional Council?

MS WYSS: The Regional Council is not anticipating calling any witnesses.
20

SJH: All right. Well, subject to the extent of agreement between various expert witnesses the expert conferencing subjects will be, Ms Scott, geotechnical?

25 MS SCOTT: Sir, an invite has been circulated to the submitters for the hearing and it includes the topics that match the witnesses that the Council has listed.

SJH: All right, thank you.

30 MS SCOTT: It is ecological.

SJH: So that has gone to all submitters?

35 MS SCOTT: It has, sir. It also includes for Flatland Recovery geotechnical issues and then there is also Ruapuna listed on there but I anticipate that that won't be required.

40 SJH: All right, thank you. So the date at the moment for the expert conferencing is 4 November. Submitters and those represented will need to liaise with the Secretariat around the timing of the various experts, they won't necessarily be all together and I think again, Mr Carranceja, we will accept your recommendations from yesterday that with the planners it will be a mediation with clients present.

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[10.20 am]

MR CARRANCEJA: Thank you, sir.

5 SJH: Council evidence by 12 November, submitters by 24 November and any
rebuttal evidence by 30 November. Now just pause a moment, do the
submitters intend to call your own evidence, that is give evidence
yourself or simply make a submission and do you understand the
difference?

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MR BOURKE: I don't really understand the question but I would be
submitting on behalf of - - -

15 SJH: Well you have the opportunity as well as calling expert evidence to give
evidence yourself about the history, what has occurred, what you are
seeking, matters of that sort.

MR BOURKE: Yes.

20 SJH: That is sworn evidence which means people can apply to cross examine
you on it. It generally carries more weight than a submission which is
where you simply tell us without going on oath and giving evidence
what it is you are complaining about.

25 MR BOURKE: I think I would go for the submission.

SJH: All right, thank you.

MR BOURKE: Thank you.

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MS BURNEY: We have made a submission, well you know this is all a bit
new for us, with the submitters.

SJH: No, no, I understand that.

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MS BURNEY: We have made a submission but we could possibly make a
statement as well.

40 SJH: Well if you wish to do it by evidence, you will need to file that by
24 November.

MS BURNEY: Yes, I understand.

45 SJH: A record of all this will be recorded and posted online.

MS BURNEY: Sure.

SJH: So you can make notes by all means but you don't need to take down everything because there will be a report of the meeting and direction.

5 MS BURNEY: Okay, thank you.

SJH: And Mr Tsao?

MR TSAO: Sir, I am happy to file for evidence.

10

SJH: Thank you, any rebuttal evidence by 30 November. In terms of the order in Council to cross examine you must get leave so if anyone wishes to cross examine any witnesses, lay or expert, it will be necessary to file an application for leave by 12 noon on Wednesday 2 December.

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The standard time at these hearings for cross examination has been 10 minutes however if you require longer you should simply ask for that and explain your reasons why longer is needed.

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Evidence is pre-circulated, if you wish to serve using the website it is required by 3.00 pm on the due date but noting that the onus of the obligation to serve sits with submitters, not the secretariat. It sometimes happens inevitably that there are late documents. You can only file those with leave so if you are filing late documents you should make an application to the secretariat. You should set out the reasons why it is late and the document you are seeking to file.

25

As with all other chapters the evidence will be pre-read. Witnesses, both lay and expert, will be asked to give a highlights' package which normally has a limit of 10 minutes. If that is not considered sufficient all submitters have the ability to apply to the Panel for a longer time.

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The expert witnesses that have given evidence in other chapters do not need to repeat that evidence. They can simply cross reference that evidence which is already online.

35

As with all other hearings, the legal openings we accept to be brief. If parties wish to open in person on legal matters they should advise the secretariat three working days beforehand. If they simply want to do it in writing that should be lodged by 4.00 pm the day preceding the openings.

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As with other chapters the closing legal we expect to be rather more fulsome. They can be lodged in writing and we will deal with the timetabling of that when we get to the hearing but we would expect

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them to be lodged relatively soon after the close of the hearing, and the two days set down for hearing are the 9th and 14th of December.

[10.25 am]

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Just to repeat to the submitters, Mr Ball, the Friend of the Submitter is sitting at the table across from you. He cannot give you advice on what you should do but he can advise you about process, about the form of documents. He cannot tell you what to put in them but how you put them in and how you set them out, when you file them, how you file them, all of those matters he will assist you with. He can expand further on what we mean by the difference between evidence and submission and give you advice around applying to cross examine either expert or lay witnesses if you seek to do so.

10

15

Ms Scott, do you have anything?

MS SCOTT: Sir, yes just regarding the Ruapuna Motorsport zone.

20 SJH: Yes.

MS SCOTT: In the memorandum that I filed, I set out there some detail about the separate process, that is plan change 52, which is going through the Environment Court at the moment.

25

SJH: Oh yes, I am sorry, I overlooked that.

MS SCOTT: So the latest - - -

30 SJH: What stage is that at, has it moved forward at all since your memoranda?

MS SCOTT: At the moment we are waiting for Ms Semple to file a response to the Council's suggestion and then - - -

35 SJH: Has it been time-lined though?

MS SCOTT: Yes, so it is due I think in the next week. The date that the Council and the Kart Club have proposed in the process is that it will circulate the updated provisions by 20 November so at that date the Council considers that there will be some certainty as to what the provisions are going through that separate Environment Court process.

40

SJH: And it is considered that is going to resolve the matter?

MS SCOTT: Well at that point I think the Council and the Kart Club and the other submitters on the Ruapuna zone will be able to mediate together and I think informally is probably best, to ensure that provisions - - -

5 SJH: I understand all of that, all I am trying to get my head around is if we are going to have to have a hearing when are you going to be ready to advise us of that?

MS SCOTT: After 20 November, sir.

10

SJH: All right. So you want the order around evidence and suchlike suspended for Ruapuna?

MS SCOTT: Yes, that is what we are asking for, sir.

15

SJH: We will suspend that until further order of the Panel.

MS SCOTT: Thank you, sir.

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SJH: But keep on it because it can't drift and drift.

MS SCOTT: Sir, after that date what we will do is work with the submitters and then, hopefully, bring a proposal to you in terms of timing and we can work with the secretariat in terms of the hearing date as well.

25

SJH: All right, thank you.

MS SCOTT: Thank you.

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MS APPLEBYARD: Just - - -

SJH: Sorry, Ms Applebyard.

35

MS APPLEBYARD: Just one minor matter, the two hearing dates are a week apart. We have some availability issues with the second one. I have spoken to my friend, Ms Scott, and I think she also has similar availability issues so I was going to indicate that if the Burwood matter could be heard on the 9th rather than the 14th and I will liaise with the secretariat about that.

40

SJH: We will accommodate parties as far as we are able with that.

MS APPLEBYARD: Thank you.

45

SJH: Ms Dewar, you have got nothing to add because that was - - -

MS DEWAR: No, sir, other than to say that the 293 process that the court has been asked to invoke, that may involve some consultation with the community about specific matters relating to the noise provisions of the Ruapuna zone and of course the timeline for that is not under my control or the court's control but I agree that the best course of action is to just put this on hold and we continue - - -

SJH: We have timelines of our own that we - - -

MS DEWAR: And I understand that and we will still continue to work with the Council to make sure that we can liaise and join those two sets of provisions together as quickly as possible.

SJH: This is an issue that has existing long – it has got nothing to do with the earthquake – it has existed forever, hasn't it?

MS DEWAR: You are quite right, sir, yes.

SJH: Around Ruapuna, so again like a lot of stuff we are dealing with it is not earthquake related, it is stuff that has been a problem in Christchurch and not resolved for a long time.

MS DEWAR: Yes sir.

SJH: All right. I note the problem, anything from the Regional Council?

MS WYSS: Nothing.

SJH: Okay, do the submitters have any questions or queries that you wish to raise now?

MR TSAO: I would like to ask if in terms of expert witnessing, if the expert is unavailable to attend physically is it a possibility to have teleconferencing?

SJH: Well we can do it by video link.

MR TSAO: Yes, thank you.

SJH: Is it not an expert in Christchurch or in New Zealand?

MR TSAO: One of the experts is not based in New Zealand, so we may - - -

SJH: Where is he based?

MR TSAO: Europe.

SJH: Where in Europe?

MR TSAO: Croatia.

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SJH: All right, well we will need to work around time zones but you will need to arrange, if you are going to call that witness, with the secretariat to set all of that up. The onus is on you to put that in place, okay.

10 MR TSAO: Yes, okay, thank you, sir.

[10.30 am]

SJH: We will make it happen once you give us the details and such like.

15

MR TSAO: Of course, thank you.

SJH: Thank you, any of the other two submitters, Mr Bourke and Mr Burney?

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All right, thank you, we will adjourn till the next pre-hearing.

ADJOURNED

[10.30 am]