

IN THE MATTER OF section 71 of the Canterbury Earthquake Recovery Act 2011 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

AND

IN THE MATTER OF The proposal for deeming provisions for zoning for new and stopped roads outside the Central City — Transport chapter

Date of hearing: On the papers

Date of decision: 14 October 2016

Hearing Panel: Sir John Hansen (Chair), Environment Judge John Hassan (Deputy Chair), Ms Sarah Dawson

Counsel: Ms Sarah Scott for the Council

DECISION 48

CHAPTER 7 — TRANSPORT
in relation to deeming provisions for new and stopped roads

Outcomes: Proposals changed as per Schedule 1

[1] In a memorandum filed on 19 September 2016, Ms Scott invited the Panel to determine this matter on the papers. We consider it appropriate to do so.¹

Background

[2] In both the Central City and Transport hearings, there was support for the zoning of transport infrastructure, including road corridors, as the Transport Zone. This is beneficial for a number of reasons, including that it provides a clear demarcation of the area intended for transport-related activities; and provides a set of rules to facilitate the development and maintenance of the infrastructure and control other uses to protect the transport function of the zone.

[3] The Crown's submission on the Central City hearing noted a concern with a potential issue with identifying the Transport Zone in the planning maps. This was that adding new roads, or removing existing roads, would necessitate a Plan Change. To this extent, this departed from the Existing Plan.²

[4] The Council was in agreement with the Crown, and the Panel in its decision accepted the joint position and introduced the relevant provisions at 7.3 of the Transport provisions.

[5] At that hearing, both the Council and the Crown were in agreement there was no scope to extend these beneficial provisions beyond the central city. As a consequence we directed that the matter be notified by the Council to apply district-wide.³ That process has now been completed, with no submissions being received.⁴

Hearings Panel decisions and statutory framework

[6] We have opened all of our decisions with a standard set of paragraphs. We will not repeat them here, but simply refer to, and endorse, Decision 43: Central City at [5] to [9].

¹ Memorandum for the Council regarding submissions on renotified provisions and request for decision on the papers, 19 September 2016.

² Christchurch City Plan (Operative), Volume 3 — The Statement of Rules, Part 8 Special Purpose Zones, 4.3 Extent of the zone.

³ Minute in relation to notification of deeming provisions for new and stopped roads, 13 July 2016.

⁴ Memorandum for the Council regarding submissions on renotified provisions and request for decision on the papers, 19 September 2016, at 1.1.

Reasons

[7] The Council filed a fully explanatory memorandum, attaching a s 32 report; the evidence of Mr Richard Shaw on behalf of the Crown, where relevant, given at the Stage 2 Transport hearing; the rebuttal evidence of Mr David Falconer on behalf of the Council at the same hearing; the Council's opening and legal submissions to the Central City hearing; and the Crown's opening submissions at the same hearing.⁵

[8] The evidence and the s 32 report show that what was being put forward by the Crown in the Central City hearing removed the necessity to apply for a plan change where new roads were vested or existing roads were stopped. This accords with the OIC and the Statement of Expectations.

[9] Furthermore, the s 32 report is well founded on the evidence and demonstrates that the deeming provisions, that we have already inserted for the Central City, are much more beneficial than the plan change approach. They also save considerable costs, time and uncertainty.

[10] In the Central City hearing, we accepted the submissions of the Crown and inserted the deeming provisions within "Rule 7.3 — How to interpret and apply the rules". On reflection, we do not think such deeming provisions are appropriately placed there. We think the better approach is that demonstrated in the Existing Plan, of having a standalone rule dealing with the extent of the zone. We have provided for a new rule in the Transport chapter as a standalone rule, and removed from it the reference limiting it to the Central City. We have also added a paragraph to the Introduction to Chapter 7 as per Schedule 1.

Conclusion

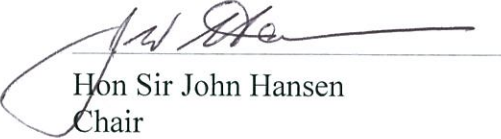
[11] This decision amends Chapter 7 Transport in the manner set out in Schedule 1.

[12] The changes we have made, placing the provisions in a standalone rule, provides greater clarity and is inconsequential in terms of costs and benefits. The Council are directed

⁵ Memorandum for the Council regarding submissions on renotified provisions and request for decision on the papers, 19 September 2016.

to insert Schedule 1 into the Chapter 7 provisions. The Council is also directed to make the necessary changes to the Planning Maps Legend, as per Schedule 2.

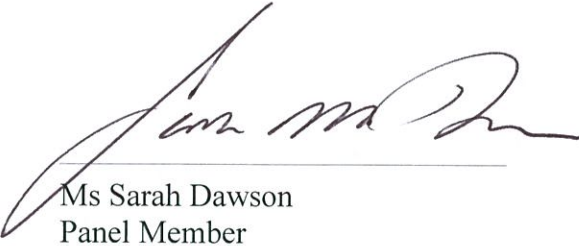
[13] Any party who considers we need to make any minor corrections under cl 16 of the OIC must file a memorandum specifying the relevant matters within five working days of the date of this decision.



Hon Sir John Hansen
Chair



Judge John Hassan
Deputy Chair



Ms Sarah Dawson
Panel Member

SCHEDULE 1

Delete the following text from section **7.3 How to interpret the rules** (changes shown tracked):

- e. ~~Within the Central City, any land vested in the Council or the Crown as road pursuant to any enactment of provision in this plan, from the date of vesting shall be subject to the rules in the Transport Zone.~~
- f. ~~Within the Central City, if a road within the Transport zone has been lawfully stopped under any enactment, and any relevant designation removed, then the land shall no longer be subject to the rules in the Transport Zone but will instead be subject to the rules of the adjoining zoned land (as shown on the Planning Maps) from the date of the stopping and removal of any relevant designation.~~
- g. ~~Within the Central City, where the zoning of the adjoining land on one side the road being stopped is different to that of that other side then the zone boundary shall be deemed as the centre line of the road.~~

Insert the following new section as the first section under **7.4 Rules - Transport**

7.4.0 Deeming provisions for Transport Zone

- a. Any land vested in the Council, or the Crown, as road pursuant to any enactment or provision in this plan, from the date of vesting shall be deemed to be Transport Zone and be subject to all the provisions for that zone.
- b. If a road within the Transport zone has been lawfully stopped under any enactment, and any relevant designation removed, then the land shall no longer be subject to the provisions for the Transport Zone but will instead be deemed to be included in the same zone as that of the land that adjoins it and subject to all the provisions for that zone (as shown on the Planning Maps) from the date of the stopping and removal of any relevant designation.
- c. Where the zoning of the land that adjoins one side of the road being stopped is different to that of that of land that adjoins the other side of that road, then the land shall be included in both zones (as shown on the Planning Maps) on the basis that the zone boundaries shall be deemed as the centre line of the road.

7.1 Introduction

Insert the following as 4th paragraph:

In the life of the plan new roads will be vested and some roads will be stopped. The plan provides that where new roads are vested they become part of the Transport Zone and are subject to all the provisions of that zone. Where roads are stopped they become part of the adjoining zone as shown on the planning maps. Where there are different zones on each side of the road those zones shall apply to the area of stopped.

SCHEDULE 2

Planning Maps

Legend

Insert the following into the **Land Use Zones** section of the Legend, directly under the Transport Zone notations (in the same manner as the additional information is inserted under the notations in the **Natural Hazards Overlays** section of the Legend):

All roads are deemed to be part of the Transport Zone.

Legally stopped roads are deemed to be zoned in accordance with the adjoining zone.