

IN THE MATTER OF the Canterbury Earthquake
(Christchurch Replacement District Plan)
Order 2014

AND

IN THE MATTER OF proposals notified for incorporation into a
Christchurch Replacement District Plan

Minor corrections: 14 November 2016

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

MINOR CORRECTIONS TO DECISION 48

CHAPTER 7 — TRANSPORT

in relation to deeming provisions for new and stopped roads

Background

[1] The Hearings Panel (‘the Panel’) issued its decision on deeming provisions for new and stopped roads (‘Decision 48’) on 14 October 2016. We received a memorandum (‘the Memorandum’) from the Christchurch City Council seeking corrections to Decision 48 on 20 October 2016.¹ We address the corrections sought below.

Decision as to minor corrections

[2] Clause 16 of Schedule 3 to the Canterbury Earthquake (Replacement District Plan) Order 2014 (‘OIC’/‘the Order’) provides that:

- (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.

¹ Memorandum of counsel for Christchurch City Council requesting corrections to Decision 48, 20 October 2016.

- (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] Appendix A to the Memorandum sets out the requested corrections. The Council summarised the nature of corrections sought as follows:

[7] It is submitted that all corrections sought by the Council do not amend the content (i.e. the merits) of the relevant provisions. The corrections comprise of amending grammatical errors and changes to ensure clarity. The requested corrections, and reasons for them, are recorded in **Appendix A** to this application.

[4] To the extent included in revised Schedules 1 and 2 to this decision, we accept the amendments to 7.4.0 (b. and c.) and the text for inclusion in the Planning Maps legend for the reasons set out by the Council.

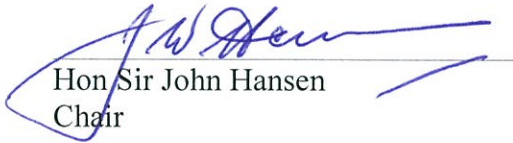
[5] However, we do not accept the full suite of amendments requested by the Council to the Introduction text in 7.1. Council has requested these changes to ensure the introduction is ‘consistent with, and correctly describes the effect of the rules in 7.4.0’.

[6] As stated in 7.1 Introduction, the ‘introduction is to assist the lay reader to understand how this chapter works and what it applies to. It is not an aid to interpretation in a legal sense’. It is our opinion that the amended text proposed by the Council simply repeats the rule. The terms “deem” or “deemed” in the rule carry specific legal consequences. It is highly unlikely a lay reader would understand that. We have specifically written the introduction in a way that clearly explains to lay readers what happens when roads are designated or stopped. We are satisfied our wording explains the process in a readily understood manner for lay readers. This does accords with our responsibilities under the OiC, in particular, that the replacement district plan uses clear, concise language and is easy to use.² Accordingly, we have not made the change requested.

[7] We direct changes using our powers under cl 16 of Schedule 3 to the OIC as set out in the revised Schedules 1 and 2 attached.

² OiC Schedule 4 cl (i)

For the Hearings Panel:



Hon Sir John Hansen
Chair

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 (as shown on the Planning Maps) and subject to all the provisions for that zone 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 the land that adjoins the other side of that road, then the road shall be deemed to 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 when 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 road on the basis that the zone boundaries shall be the centre line of the road.

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 new roads are deemed to be part of the Transport Zone, from the date of vesting in Council or the Crown.

When roads are legally stopped and any relevant designations removed they are deemed to be subject to the provisions of the adjoining zone(s).