

## Independent Hearings Panel

### Christchurch Replacement District Plan

*Te paepae motuhake o te mahere whakahou a rohe o Ōtautahi*

**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** proposals notified for incorporation into a Christchurch Replacement District Plan

Date of hearing: On the papers

Date of decision: 26 February 2015

Hearing Panel: Hon Sir John Hansen (Chair), Ms Sarah Dawson and Ms Jane Huria

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### DECISION 3

#### REPAIR AND REBUILD OF MULTI-UNIT RESIDENTIAL COMPLEXES (AND RELEVANT DEFINITIONS)

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**Outcomes:** Proposals changed as per Schedule 1

**COUNSEL/APPEARANCES**

Ms K Viskovic and Mr B Pizzey	Christchurch City Council
Mr D Allen	Crown
Mr E Chapman	IAG Ltd
Mr C Fowler	Southern Response Earthquake Services Ltd

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## INTRODUCTION

[1] This decision ('decision') is the third of a series by the Independent Hearings Panel ('Hearings Panel'/'Panel')<sup>1</sup> concerning the formulation of a replacement district plan for Christchurch City (including Banks Peninsula) ('Replacement Plan'/'Plan'). It concerns the following notified proposals for the Replacement Plan to the extent that they are relevant to the repair and rebuilding of multi-unit residential complexes damaged by the earthquakes (together, called 'Repair and Rebuild of Multi-Unit Residential Complexes' Proposal):

- (a) Part Chapter 8 ('Subdivision, Development and Earthworks'), and
- (b) Part Chapter 14 (Residential) and certain definitions of Chapter 2 ('Definitions').

[2] Clause 3(1)(c) of the Panel's Terms of Reference ('ToR') requires that the Panel hear and determine the proposal that relates to the Repair and Rebuild of Multi-Unit Residential Complexes as a matter of priority before 28 February 2015.

[3] The issue of the repair and rebuild of multi-unit housing complexes is of significant importance to the rebuild and recovery of Christchurch. The Minister for Earthquake Recovery and the Minister for the Environment, in consultation with the Council, identified that the Operative Plan provisions were an impediment to recovery, due to their complexity. In short, the Operative Plan provisions do not facilitate the timely and expedient repair and rebuild of existing multi-unit residential complexes which have, in whole or in part, been damaged by the Canterbury earthquakes.

[4] This decision follows the receipt of a joint memorandum of the Parties as to an agreed outcome requesting amendments to Chapters 8 and 14 of the Replacement Plan that relate to the Repair and Rebuild of Multi-Unit Residential Complexes.<sup>2</sup>

<sup>1</sup> The Panel members are Hon Sir John Hansen (chairperson), Environment Judge John Hassan (deputy chairperson), Sarah Dawson, Dr Phillip Mitchell, Jane Huria, John Sax.

<sup>2</sup> Joint memorandum on settling issues for Hearing 3: repair and rebuilding of multi-unit residential complexes, 15 December 2014.

### **Effect of decision and rights of appeal**

[5] Our decision<sup>3</sup> is to make changes to the Council’s notified Chapter 8 Subdivision, Development and Earthworks (part) and Chapter 14 Residential (part) proposals as they relate to the Repair and Rebuild of Multi-Unit Residential Complexes, as set out in Schedule 1.

[6] The effects of our decision and the rights of appeal are set out in our decision on Strategic Directions, delivered contemporaneously.<sup>4</sup> The parties with appeal rights are limited to those parties set out in cl 19(2) of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (‘the OIC’). For this decision, the parties with appeal rights are the Minister for Canterbury Earthquake Recovery and the Minister for the Environment, acting jointly, the Crown, the Council, Southern Response Earthquake Services Limited (Southern Response) and IAG Limited (IAG).

### **Identification of parts of existing district plans to be replaced.**

[7] The OIC requires that our decision also identify the parts of the existing district plans<sup>5</sup> that are to be replaced by the Repair and Rebuild of Multi-Unit Residential Complexes Proposal (if any). We received a memorandum from Council which advised that in accordance with Clause 6(1)(b) of the OIC the Council does not consider that any of the provisions of the Operative Plans are to be replaced by the Priority Hearing 3 provisions.<sup>6</sup> We agree with the Council.

## **PRELIMINARY MATTERS**

### **Conflicts of interest**

[8] We posted notice of any potential conflicts of interest on the Hearing Panel’s website on 17 December 2014. No submitters raised issues in relation to this.

<sup>3</sup> Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, cl 12(1)(b).

<sup>4</sup> Strategic Directions decision at [5]-[9].

<sup>5</sup> Christchurch City Plan and Banks Peninsula District Plan.

<sup>6</sup> Memorandum of Counsel Regarding Provisions of the Operative District Plans to be Replaced dated 12 February 2015.

## Issues with electronic database of submissions

[9] In our first decision we recorded that we had identified a number of issues with the adequacy of the electronic database of submissions that the Council made available to the Hearings Panel.<sup>7</sup> There is no need to repeat those matters in this decision, however, we do wish to record that in light of those concerns the Panel adopted a cautious approach to the identification of submitters with an interest in this matter. The steps that we have undertaken to identify the relevant submissions to this matter are outlined below.

## Relevant submissions

[10] A number of submissions were made on the provisions in Chapters 8 and 14 that related to multi-unit residential complexes generally, but not specifically related to the Repair and Rebuild of Multi-Unit Residential Complexes as a consequence of the earthquakes. This decision relates to the submissions that are directly related to the Repair and Rebuild of Multi-Unit Residential Complexes priority matter, not the wider provisions applicable to multi-unit developments in Chapters 8 and 14.

[11] Notice of Hearing was served on the persons identified from the Council's database as having made submissions on the provisions relating to the Repair and Rebuild of Multi-Unit Residential Complexes as follows:

- (a) At an informal pre-hearing meeting held on 29 October 2014, the Panel directed the Council and the Crown to confer on the relevant provisions that we are required to address in determining the Repair and Rebuild of Multi-Unit Residential Complexes priority matter. Officers of the Council and CERA provided a joint memorandum to the Secretariat on 21 November 2014 setting out their view on the relevant provisions. Mr Fowler, counsel for Southern Response, identified a number of other provisions to add to these provisions.<sup>8</sup>
- (b) Following a pre-hearing meeting held on 28 November 2014, the Panel confirmed the list of matters to be heard.<sup>9</sup> A list of submitters and further

<sup>7</sup> Strategic Directions decision at [16]-[25].

<sup>8</sup> Memorandum of Counsel for Southern Response, 1 December 2014.

<sup>9</sup> Record of Pre-Hearing Meeting and Directions, 4 December 2014.

submitters were identified from the Council database on the basis of the provisions identified for hearing.

- (c) Due to the issues with the database the list of submitters included those who had made submissions on the provisions that would also apply to multi-unit developments generally as well as those related to the Repair and Rebuild of Multi-Unit Residential Complexes. The notice of hearing contained the following statement:
- If your submission is on the provisions contained in Appendix B to the Pre Hearing Report and Directions for Hearing 3, but it addresses issues that are of a more general nature or do not relate specifically to the Repair and Rebuild of Multi-Unit Complexes, the Panel wishes to assure those submitters that they will hear any such general or unrelated submissions at later hearings scheduled in relation to the more relevant proposal. Decisions made on Hearing 3 Repair and Rebuilding of Multi-Unit Complexes will not prejudice submission of a more general or unrelated nature. Please refer to the Pre Hearing Report and Directions for Hearing 3.
- (d) A number of the submitters who were served with the notice of hearing subsequently advised that they had no interest in the Repair and Rebuild of Multi-Unit Residential Complexes matter, withdrew their submissions or advised that they did not wish to be heard.
- (e) At the pre-hearing meeting on 28 November 2014, the Panel offered submitters with an interest in the Repair and Rebuild of Multi-Unit Residential Complexes matter the opportunity to attend mediation. Of the submitters notified of the pre-hearing, only the Crown, Southern Response and IAG attended mediation, along with the Council ('the Parties'). The Parties reached agreement and filed a Joint Memorandum on 15 December 2015 recording their agreement and requesting that the hearing be vacated and the Panel make a decision on the papers.
- (f) The remaining submitters<sup>10</sup> were served with a copy of that joint memorandum and the outcome of mediation, and were directed by the Panel by minute to clarify their status and interest in the Repair and Rebuild of Multi-Unit

<sup>10</sup> Appendix A to Second Minute in Response to the Joint Memorandum of the Parties, 19 December 2014.

Residential Complexes matter.<sup>11</sup> Two submitters, the NZ Institute of Surveyors and Davie Lovell-Smith, made comment on the activity status of particular subdivision activities.<sup>12</sup> The Spreydon/Heathcote Community Board initially stated that it did not agree with the mediated outcome, but did not wish to be heard.<sup>13</sup> Submitters who had not withdrawn their submission were required to attend a further pre-hearing meeting on 6 January 2015 to ensure the Panel had identified all interested parties. At the pre-hearing meeting on 6 January 2015, representatives of the New Zealand Surveyors Institute, the Spreydon/Heathcote Community Board and the Riccarton/Wigram Community Board<sup>14</sup> confirmed their agreement with the mediated outcome.<sup>15</sup>

[12] We have also reviewed the written submissions filed by the submitters served with the Notice of Hearing and have determined that it is only those parties who attended mediation who have an interest in this specific matter:<sup>16</sup>

- (a) The Council
- (b) The Crown
- (c) Southern Response
- (d) IAG

[13] Those parties are signatories to the joint memorandum of 15 December 2014 setting out the agreed provisions. As noted in the Pre-Hearing Report, those submitters with broader interests are not prejudiced by this decision.

<sup>11</sup> Minute, 22 December 2014.

<sup>12</sup> NZ Institute of Surveyors (#575); Davie Lovell-Smith (#969).

<sup>13</sup> Spreydon/Heathcote Community Board (#899).

<sup>14</sup> Riccarton/Wigram Community Board (#254).

<sup>15</sup> Transcript, 6 January 2015, pages 1-3.

<sup>16</sup> For completeness we record that further submitters Vero Insurance New Zealand Limited (#1350) and AA Insurance Limited (#1340) supported the submission of Southern Response, however they did not respond to the Minute of 22 December 2014, nor did they attend the further pre-hearing meeting on 6 January 2015. Accordingly, we have taken it that those further submitters are not opposed to the mediated agreement.



### Provisions of notified proposals to which this decision relates

[14] The ToR are silent as to which provisions in the Replacement Plan are subject to the Repair and Rebuild of Multi-Unit Residential Complexes priority matter. As we read the ToR, these matters are left for us to determine.

[15] We have done this with assistance from the Council and submitter parties, as follows:

- (a) At an informal pre-hearing meeting conducted on 29 October 2014, the Panel directed that the Council and the Crown confer as to the provisions that were within the scope of the Repair and Rebuild of Multi-Unit Residential Complexes.
- (b) The Crown and Council set out the relevant provisions in a joint memorandum.<sup>17</sup> The memorandum was made available to the submitters who attended the pre-hearing meeting on 28 November 2014.
- (c) Mr Fowler, counsel for Southern Response, identified a number of other provisions to add to these provisions.<sup>18</sup> In the Pre-Hearing Report and Directions, the Panel confirmed the matters to be heard.<sup>19</sup> The provisions identified are contained in part of Proposal 8 in relation to Subdivision, Development and Earthworks and part Proposal 14 Residential. The scope of provisions being considered included all definitions of the terms contained therein.<sup>20</sup>

[16] The Parties have not proposed any changes to the definitions contained in Chapter 2. We note that there are a number of submissions on definitions, which we will deal with as part of the hearings on Chapters 8 and 14 in due course. The Parties to the Repair and Rebuild of Multi-Unit Residential Complexes matter may well wish to be heard on these later chapters to the extent that their submissions addressed definitions.

<sup>17</sup> Memorandum to the Independent Secretariat from CCC and CERA dated 21 November 2014.

<sup>18</sup> Memorandum of Counsel for Southern Response dated 1 December 2014.

<sup>19</sup> Appendix B, Pre-Hearing Report and Directions dated 4 December 2014.

<sup>20</sup> Chapter 2 Definitions Christchurch Replacement District Plan.

## Mediation

[17] The Parties attended a mediation on 4 December 2014. The mediation was conducted by Mr John Mills, an Environment Court Commissioner. Mr Mills filed a Report on the Mediated Outcome dated 10 December 2014. The Parties filed a Joint Memorandum of Counsel on 15 December 2014 setting out the basis of the agreement and seeking a decision from the Panel on the papers. The Panel issued further directions requiring the Parties to confirm that the provisions are within the Panel’s jurisdiction and that the provisions meet the statutory requirements of the OIC, the Resource Management Act 1991 (‘the RMA’) and the Canterbury Earthquake Recovery Act 2011 (‘the CER Act’).<sup>21</sup>

[18] The Panel received a further joint memorandum of the Parties dated 19 December 2014, and a brief of evidence from planning expert Mr Andrew Long dated 18 December 2014.

## Hearing

[19] A hearing on these provisions as they relate to the Repair and Rebuild of Multi-Unit Residential Complexes priority matter was notified on 5 December 2014. The hearing was scheduled to commence on 13 January 2015, but was vacated following a further pre-hearing on 6 January 2015.

## Further clarification of drafting

[20] During the course of our deliberations we identified some drafting issues with the proposed amendments to the Permitted Activity Rules in Chapter 14. We were mindful that the OIC Statement of Expectations requires us to have particular regard to the clarity of language and the usability of the Plan. Our minute of 16 February 2015 asked the Parties to clarify the drafting of the permitted activity rules. A response was provided by the Parties on 18 February, and included amended drafting.<sup>22</sup> We are satisfied that the minor amendments proposed are an improvement to the drafting and do not alter the intended meaning of the provisions agreed by the Parties. We have adopted the amendments in our decision.

<sup>21</sup> Minute, 16 December 2014.

<sup>22</sup> Joint Memorandum of the Parties 18 February 2015.

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## REASONS

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### Decision sought by agreement

[21] The Parties have reached agreement on a suite of provisions that, in their submission, more appropriately enable the Repair and Rebuild of Multi-Unit Residential Complexes.

[22] In particular they:

- (a) Provide more clearly for subdivision consent applications for cross-lease, unit title and conversions to freehold title, and are supported by specific recognition in subdivision policy.
- (b) Include a new restricted discretionary rule (Rule 8.2.3.1) that provides for the conversion of tenure or the alteration of cross leases, company leases and unit titles. The Council's discretion is to be confined to a limited range of matters which are directed towards ensuring that the subdivision is practically feasible (eg adequate provision for access and parking, utility services, and fire safety requirements).
- (c) Make amendments to Chapter 14 residential development standards where a repaired or replacement building is altered for reasons beyond the owner's or insurer's control (such as to comply with legislative or regulatory requirements, or on the advice of a suitably qualified and experienced engineer). This will mean the repaired or replacement building will not need to comply with the residential standards, except the residential rules regarding building height and recession plane, and must comply with a building setback from road boundaries.
- (d) Make amendments to provisions to provide for any application arising from non-compliance with recession plane and building height to not require written approval except from the affected adjoining landowner(s) and not be publicly notified.

### **Supporting evidence and information**

[23] In support of their joint request, the Parties have provided a statement of evidence from Mr Andrew Long (a planning consultant). Mr Long's evidence covers the reasons for the proposed amendments, the outcome of mediation and his assessment of the amendments in accordance with the statutory requirements of the OIC, the RMA and the CER Act.

### **Jurisdiction to make changes**

[24] In their joint memorandum, the Parties submitted a set of the amendments they request the Panel to make, which are cross-referenced to the relevant submissions made on the proposals. We are not constrained by the relief that the Parties seek in their submissions on the notified proposals and may make any changes that we consider appropriate, provided that any changes are not materially beyond the scope of the proposals as notified.<sup>23</sup> We are satisfied that we have jurisdiction to make the changes requested, both in reliance upon the matters raised by submissions, and to the extent we consider them to be appropriate.

### **Statutory considerations**

[25] The Parties helpfully provided a table in their joint memorandum of 15 December 2014 which sets out the reasons for the changes that are proposed as part of the mediated agreement. We have considered the reasons given and are satisfied that the changes will make the provisions for Repair and Rebuild of Multi-Unit Residential Complexes damaged in earthquakes more effective, and assist in simplifying and streamlining the consenting process.

[26] The Joint Memorandum of Parties dated 19 December 2014 and the evidence of Mr Long address the statutory requirements that apply to the exercise of our discretion when making a decision on this matter. We have also set out the statutory requirements in full in our first decision on Strategic Directions.<sup>24</sup> We are satisfied that the joint representations of the Parties are justified, on the basis of the evidence of Mr Long. In particular, they are consistent with our consideration of the statutory requirements in our earlier decision. We have not set out the provisions in detail in this decision, but record that our views remain as we have set out in our first decision.

<sup>23</sup> OIC, cl 13(2) and (4).

<sup>24</sup> Strategic Directions decision, Section 3 at [26]-[29] and [40]-[71].

[27] In particular:

- (a) We are satisfied, having regard to the representations of legal counsel on behalf of the Parties and the evidence of Mr Long, that the amended provisions are within the jurisdiction of the Panel and are not materially outside of the scope of the Proposal as notified.<sup>25</sup>
- (b) Allowing the amended provisions will enable the recovery of Christchurch by the reduction of the number of rules in the Replacement Plan that apply to the repair and rebuild of multi-unit residential complexes and consequently reduce compliance time and costs to insurance companies.
- (c) We are satisfied that the provisions are consistent with, and give effect to, the higher order resource management and recovery documents.<sup>26</sup> We note that the evidence of Mr Long is that the amended provisions will reduce the reliance on the resource consent processes and number and type of development and design controls affecting the repair and rebuild of multi-unit complexes, which is in accordance with the Statement of Expectations contained in Schedule 4 of the OIC.

[28] We have had regard to the Council's s 32 report on the relevant notified Replacement Plan provisions.<sup>27</sup> Mr Long has addressed the requirements of s 32AA of the RMA, which requires the Panel to undertake a further evaluation of any changes that are made to the proposal since the Council carried out its evaluation of the Proposal as notified. Our evaluation must be undertaken in accordance with s 32(1) to (4) of the RMA, and must be undertaken at a level of detail that corresponds to the scale and significance of the changes.<sup>28</sup>

[29] We have considered Mr Long's evaluation and accept that it is appropriate, having regard to the scale and significance of the changes proposed.

[30] We are satisfied the Proposal achieves the objectives set out in our Chapter 3.<sup>29</sup>

<sup>25</sup> Evidence of A Long, para 4.3 and Appendix A.

<sup>26</sup> Evidence of A Long, para 6.1-6.13.

<sup>27</sup> Section 32 report Notified 27 August 2014.

<sup>28</sup> RMA, s 32AA(1).

<sup>29</sup> Strategic Directions decision, Schedule 1.


## Power to reconsider

[31] Finally, in view of the requirement of our ToR that we deliver this decision at this early stage, we intend to keep under continuing review the question of whether any aspect of it should be revisited in light of what we come to consider in later stages of our inquiry into the Replacement Plan.<sup>30</sup>

## DECISION OF PANEL

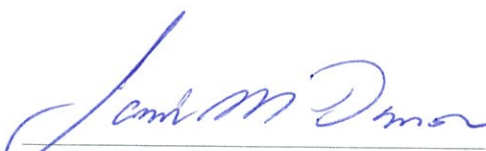
[32] Therefore, the Panel determines that parts of Proposals 8 and 14 of the proposed Christchurch Replacement District Plan be amended to incorporate the amended provisions that provide for the Repair and Rebuild of Multi-Unit Residential Complexes as set out in Schedule 1 to this decision.

For the Hearings Panel:





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Hon Sir John Hansen  
Chair




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Ms Sarah Dawson  
Panel Member




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Ms Jane Huria  
Panel Member

<sup>30</sup> OIC, cl 13(5) and (6).

## SCHEDULE 1

### Changes that our decision makes to the Proposals

Additions shown as **bold underline**.

Deletions shown as ~~**bold and strikethrough**~~

## CHAPTER 8 – Subdivision, Development and Earthworks (part)

### 8.1.2.1 Policy - Recovery activities

- a. Ensure that subdivision processes enable recovery initiatives including by facilitating:
  - i. subdivision of greenfield and intensification areas;
  - ii. the issue of fee simple title where the following permitted or approved initiatives occur:
    - A. conversion of a residential unit into two residential units;
    - B. conversion of a family flat into a residential unit; or
    - C. replacement of a residential unit with two residential units;
  - iii. conversion of the type of tenure from a cross lease or unit title to fee simple;**
  - iv. subdivision of a cross lease or unit title site arising from the updating of the flat plan or unit plan.**

### 8.2.1.1 Activity status

- 1. The subdivision activities specified in Rule 8.2.3.1 of this Plan are Restricted Discretionary Activities, subject to compliance with the standards specified within that rule. Discretion to grant or decline consent and impose conditions is restricted to the matters specified at Rule 8.2.3.3.**
- ~~12.~~ All **other** subdivision activities are Restricted Discretionary Activities in all zones, subject to compliance with the standards set out at Rule 8.2.1.2 of this Plan. ~~2-~~ Discretion to grant or decline consent and impose conditions is restricted to the Matters of Discretion as set out in the relevant Activity Standards detailed at Rule 8.2.1.2 of this Plan.
- ~~33.~~ Where a subdivision activity does not comply with a development standard, subdivision will be a discretionary activity except where specified otherwise in that development

standard. ~~4.~~ Assessment Matters at 8.5 and other relevant assessment matters in this Plan may be referred to where relevant.

#### **8.2.2.5 Suitability for proposed land use**

1. Where section 106 of the Act applies to any part of the land to be subdivided it is the applicant's responsibility to provide all information relevant to the potential hazard and to show the means by which the land shall be made suitable for the proposed land use. Regard should be had to any information held on the Council's hazards register. The Council shall have regard to any appropriate mitigation measures before issuing the subdivision consent, or declining approval pursuant to section 106. Chapter 5 of this Plan provides for the management of hazards as might be relevant to consideration of an application under s106.
2. Where any part of the land contains contamination, it is the applicant's responsibility to provide all relevant information and to show the means by which the land shall be made suitable for the proposed land use. Regard should be had to any information held on the Council's hazard register and the Hazardous Activities and Industries List held by Environment Canterbury.
3. Every new site created shall be able to accommodate a permitted or discretionary activity in terms of the rules of the relevant zone. Sites created which contain existing buildings shall be able to accommodate those buildings in compliance with the rules of the zone, or without increasing any existing non-compliance. Where it is considered that an appropriate building platform is not available on a site, the Council may impose a consent notice as a condition of consent which precludes the erection of a building on that site.

**The above requirements do not apply to subdivisions carried out in accordance with Rule 8.2.3 of this Plan.**

4. All subdivisions of land that involve buildings on or near allotment boundaries shall comply with the relevant requirements of this Plan and the Building Act 2004.

### **8.2.3 General Matters - Conversion of tenure, alteration of cross leases, company leases and unit titles**

#### **8.2.3.1 Restricted Discretionary Activities - ~~general matters~~ Conversion of tenure, alteration of cross leases, company leases and unit titles**



## Schedule to Decision

Subdivision **for the conversion of tenure or the alteration of cross leases, company leases and unit titles** is a restricted discretionary activity and shall comply with the standards listed below. Discretion to grant or decline consent and impose conditions is restricted to the Matters of Discretion specified in 8.2.3.4.

Restricted discretionary standards		
RD1	Conversion of tenure	For any conversion of the type of tenure from unit title or cross lease to fee simple: <del>any alteration to the size or dimension of the allotment shall not be more than 10% the size of the resulting fee simple title shall be within 10% of the size of the original allotment or leased area, excluding any access.</del>
RD2	Alteration of cross leases, company leases and unit titles	Nil <del>Note: Refer to Chapter 14 Residential</del>
RD3	<del>Compliance with Outline Development Plan</del>	<del>The subdivision of any land shown on an Outline Development Plan appended to this Plan shall be undertaken in accordance with that plan.</del>

For the avoidance of doubt, the district wide rules (8.3) and zone specific rules (8.4) for subdivision do not apply to activities covered by this rule.

### 8.2.3.2 Discretionary Activities - ~~general matters~~ Conversion of tenure, alteration of cross leases, company leases and unit titles

Any ~~subdivision activity~~ conversion of tenure which does not comply with the standards at Rule 8.2.3.1 RD1 – ~~RD2~~ is a discretionary activity. In determining whether to grant or decline consent and impose conditions, the Council will consider the Assessment Matters specified in 8.5 and any other relevant matter.

### ~~8.2.3.3 Non-complying Activities – general matters~~

~~Any subdivision activity which does not comply with the standards at Rule 8.2.3.1 RD3 is a non-complying activity unless specified otherwise elsewhere in this chapter.~~

#### 8.2.3.4 Matters for discretion - ~~general matters~~ Conversion of tenure, alteration of cross leases, company leases and unit titles

##### 1. ~~General~~

- a. ~~Whether the proposed layout is practicable and provides for the existing or intended purpose or land use.~~
- b. ~~Whether the proposed layout provides for access, outdoor storage areas, outdoor service space or outdoor living space.~~
- e. ~~The relationship of the proposed allotments within the site and their compatibility with the pattern of the adjoining subdivision and land use activities.~~
- d. ~~Whether each title has legal vehicle access and access to services, including through easements where necessary.~~
- e. ~~The degree to which natural topography, drainage and other features of the natural environment, or existing built features of significance, determine site boundaries where that is practicable.~~
- f. ~~Whether the proposed dimensions and orientation of the allotment will ensure the capture of solar gain appropriate to the subsequent land use.~~

##### 2. ~~Compliance with Outline Development Plan~~

- a. ~~Whether the subdivision precludes the required household density target to be met across the Outline Development Plan area.~~
- b. ~~Whether the subdivision precludes or discourages development in another part of the Outline Development Plan area.~~
- e. ~~Whether the subdivision integrates and connects appropriately to other parts of the Outline Development Plan area and any layering diagrams.~~

##### 3. ~~Alteration of cross leases, company leases and unit titles.~~

- A1.** Whether each title or leased area has vehicle access, and whether there is any decrease in formed width, parking spaces and size, or manoeuvring areas which materially compromises where function or safety ~~may be compromised~~.
- B2.** Whether each title or leased area has access to services.
- C3.** Whether any title or leased area would be reduced in area or dimension in a manner which might result in a more than minor reduction in issues with functionality in relation to outdoor living space, outdoor service space or outdoor storage space.

## Schedule to Decision

**D4.** Whether fire safety requirements can be met.

**E.** ~~Relevant assessment matters in Chapter 5.~~

**5.** Effects of works associated with the subdivision on:

**a.** surface and subsurface drainage patterns and stormwater management.

**b.** hydrological and geological features, both underlying and surface and on site and on adjoining sites.

### **8.3.9 Compliance with Outline Development Plan**

#### **8.3.9.1 Restricted Discretionary Activities: Compliance with Outline Development Plan**

**Subdivision is a restricted discretionary activity and shall comply with the standards listed below. Discretion to grant or decline consent and impose conditions is restricted to the Matters of Discretion specified in 8.3.9.3.**

<b><u>Restricted Discretionary Standards</u></b>		
<b><u>RD3</u></b>	<b><u>Compliance with Outline Development Plan</u></b>	<b><u>The subdivision of any land shown on an Outline Development Plan appended to this Plan shall be undertaken in accordance with that plan.</u></b>

#### **8.3.9.2 Non-complying Activities: Compliance with Outline Development Plan**

**Any subdivision activity which does not comply with the standards at Rule 8.3.9.1 RD3 is a non-complying activity unless specified otherwise elsewhere in this chapter. In determining whether to grant or decline consent and impose conditions, the Council will consider the Matters of Discretion specified in 8.3.9.3, Assessment Matters at 8.5.2, and any other relevant matter**

#### **8.3.9.3 Matters for discretion: Compliance with Outline Development Plan**

- 1. Whether the subdivision precludes the required household density target to be met across the Outline Development Plan area.**
- 2. Whether the subdivision precludes or discourages development in another part of the Outline Development Plan area.**

3. Whether the subdivision integrates and connects appropriately to other parts of the Outline Development Plan area and any layering diagrams
4. Whether the proposed layout is practicable and provides for the existing or intended purpose or land use.
5. Whether the proposed layout provides for access, outdoor storage areas, outdoor service space or outdoor living space.
6. The relationship of the proposed allotments within the site and their compatibility with the pattern of the adjoining subdivision and land use activities.
7. Whether each title has legal vehicle access and access to services, including through easements where necessary.
8. The degree to which natural topography, drainage and other features of the natural environment, or existing built features of significance, determine site boundaries where that is practicable.
9. Whether the proposed dimensions and orientation of the allotment will ensure the capture of solar gain appropriate to the subsequent land use.

## CHAPTER 14 - RESIDENTIAL

### 14.2.2.1 Permitted Activities

In the Residential Suburban Zone and the Residential Suburban Density Transition Zone the activities listed below are permitted activities if they comply with the Activity Specific Standards set out in this table and the applicable Built Form Standards in Rule 14.2.3.

Activities may also be restricted discretionary, discretionary, non-complying or prohibited as specified in Rules 14.2.2.3, 14.2.2.4, 14.2.2.5, and 14.2.2.6.

Activity		Activity specific standards
P24	Repair or rebuild of buildings <u>damaged by the Canterbury earthquakes of 2010 and 2011 on properties</u> with cross	<del>a. Where the building footprint, or building location, is to be altered to enable the repair or rebuild of a building damaged by the Canterbury earthquakes of 2010 and 2011, and the existing building complies with zone Rules 14.2.3.3,</del>

	<p>leases, company leases or unit titles <u>as at the date of the earthquakes.</u></p>	<p><del>14.2.3.6, and 14.2.3.9 repaired or relocated buildings need comply with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9.</del></p> <p><b>a. <u>Where the repair or rebuild of a building will not alter the building footprint, location, or height, the building need not comply with any of the built form standards.</u></b></p> <p><b>Clarification: If any of the above standards are not met, the activity status will be as specified in the relevant standard.</b></p> <p><del>b. Where the building footprint or building location is to be altered to enable the repair or rebuild of a building damaged by the Canterbury earthquakes of 2010 and 2011, and the existing building does not comply with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9; repaired or relocated buildings shall not increase non-compliance with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9.</del></p> <p><b>b. <u>Where the building footprint, location, or height is to be altered no more than necessary in order to comply with legal or regulatory requirements or the advice of a suitably qualified and experienced chartered engineer:</u></b></p>
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		<p>1. <u>the only built form standards that shall apply are those specified in Rules 14.2.3.3 (building height) and 14.2.3.6 (daylight recession planes);</u></p> <p>2. <u>In relation to the road boundary setback, the repaired or rebuilt building shall have a setback of at least 3m.</u></p> <p>3. <u>The standards at (1) and (2) shall only apply to the extent that the repaired or rebuilt building increases the level of non-compliance with the standard(s) compared to the building that existed at the time of the earthquakes.</u></p> <p><u>Clarification: examples of regulatory or legal requirements that may apply include the New Zealand Building Code, Council bylaws, easements, and other rules within this Plan such as requirements for minimum floor levels in Chapter 5.</u></p> <p><del>Clarification: If any of the above standards are not met or if there is increased non-compliance with the standards, the activity status will be as specified in the relevant standard.</del></p>
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		<p><b><u>c. If paragraphs (a) and (b) do not apply, the relevant built form standards apply.</u></b></p> <p><b><u>Any application arising from non-compliance with standards (a) and (b) (1) will not require written approval except from the affected adjoining landowner(s) and shall not be publicly notified.</u></b></p> <p><b><u>Any application arising from non-compliance with standard (b)(2) (road boundary setbacks), will not require written approval and shall not be publicly or limited notified.</u></b></p> <p><del>e. — Where the repair or rebuild of a building damaged by the Canterbury Earthquakes of 2010 and 2011 will not alter the building footprint or location, repaired or relocated buildings need not comply with any of the built form standards.</del></p> <p><del>For any other reason, buildings need to comply with all relevant standards.</del></p> <p><del>Refer to Rule 8.2.3.1 of Chapter 8.</del></p>
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**14.3.2.1 Permitted Activities**

In the Residential Medium Density Zone the activities listed below are permitted activities if they comply with any Activity specific standards set out in this table and the **applicable** Built form standards in Rule 14.3.3 and the area specific standards in Rule 14.3.4.



Schedule to Decision

Activities may also be restricted discretionary, discretionary, non complying or prohibited as specified in Rules 14.3.2.3, 14.3.2.4, 14.3.2.5, and 14.3.2.6.

Activity		Activity specific standards
P17	<p>Repair or rebuild of buildings <u>damaged by the Canterbury earthquakes of 2010 and 2011 on properties</u> with cross leases, company leases or unit titles <u>as at the date of the earthquakes.</u></p>	<p><del>a. Where the building footprint, or building location, is to be altered to enable the repair or rebuild of a building damaged by the Canterbury earthquakes of 2010 and 2011, and the existing building complies with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9 repaired or relocated buildings need comply with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9.</del></p> <p><u>a. Where the repair or rebuild of a building will not alter the building footprint, location, or height, the building need not comply with any of the built form standards.</u></p> <p><b>Clarification: If any of the above standards are not met, the activity status will be as specified in the relevant standard.</b></p> <p><del>b. Where the building footprint or building location is to be altered to enable the repair or rebuild of a building damaged by the Canterbury earthquakes of 2010 and 2011, and the existing building does not comply with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9; repaired or relocated buildings shall not increase non-</del></p>

		<p><del>compliance with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9.</del></p> <p><b><u>b. Where the building footprint, location, or height is to be altered no more than necessary in order to comply with legal or regulatory requirements or the advice of a suitably qualified and experienced chartered engineer:</u></b></p> <ol style="list-style-type: none"> <li><b><u>1. the only built form standards that shall apply are those specified in Rules 14.3.3.2 (building height and maximum number of storeys) and 14.3.3.5 (daylight recession planes);</u></b></li> <li><b><u>2. In relation to the road boundary setback, the repaired or rebuilt building shall have a setback of at least 3m.</u></b></li> <li><b><u>3. The standards at (1) and (2) shall only apply to the extent that the repaired or rebuilt building increases the level of non-compliance with the standard(s) compared to the building that existed at the time of the earthquakes.</u></b></li> </ol> <p><b><u>Clarification: examples of regulatory or legal requirements that may apply include the New Zealand Building Code, Council bylaws, easements, and other rules within</u></b></p>
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	<p><u>this Plan such as requirements for minimum floor levels in Chapter 5.</u></p> <p><del>Clarification: If any of the above standards are not met or if there is increased non-compliance with the standards, the activity status will be as specified in the relevant standard.</del></p> <p><u>c. If paragraphs (a) and (b) do not apply, the relevant built form standards apply.</u></p> <p><u>Any application arising from non-compliance with standards (a) and (b) (1) will not require written approval except from the affected adjoining landowner(s) and shall not be publicly notified.</u></p> <p><u>Any application arising from non-compliance with standard (b)(2) (road boundary setbacks), will not require written approval and shall not be publicly or limited notified.</u></p> <p><del>e. — Where the repair or rebuild of a building damaged by the Canterbury Earthquakes of 2010 and 2011 will not alter the building footprint or location, repaired or relocated buildings need not comply with any of the built form standards.</del></p> <p><del>For any other reason, buildings need to comply with all relevant standards.</del></p>
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		<b>Refer to Rule 8.2.3.1 of Chapter 8.</b>
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**14.4.2.1 Permitted Activities**

In the Residential Banks Peninsula Zone the activities listed below are permitted activities if they comply with any Activity Specific Standards set out in this table and the applicable Built Form Standards in Rule 14.4.3.

Activities may also be restricted discretionary, discretionary, non complying or prohibited as specified in Rules 14.4.2.3, 14.4.2.4, 14.4.2.5 and 14.4.2.6.

Activity		Activity specific standards
P15	<p>Repair or rebuild of buildings <u>damaged by the Canterbury earthquakes of 2010 and 2011 on properties</u> with cross leases, company leases or unit titles <u>as at the date of the earthquakes.</u></p>	<p><del>a. Where the building footprint, or building location, is to be altered to enable the repair or rebuild of a building damaged by the Canterbury earthquakes of 2010 and 2011, and the existing building complies with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9 repaired or relocated buildings need comply with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9.</del></p> <p><u>a. Where the repair or rebuild of a building will not alter the building footprint, location, or height, the building need not comply with any of the built form standards.</u></p> <p><b>Clarification: If any of the above standards are not met, the activity status will be as specified in the relevant standard.</b></p>

		<p><del>b. Where the building footprint or building location is to be altered to enable the repair or rebuild of a building damaged by the Canterbury earthquakes of 2010 and 2011, and the existing building does not comply with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9; repaired or relocated buildings shall not increase non-compliance with zone Rules 14.2.3.3, 14.2.3.6, and 14.2.3.9.</del></p> <p><b>b. <u>Where the building footprint, location, or height is to be altered no more than necessary in order to comply with legal or regulatory requirements or the advice of a suitably qualified and experienced chartered engineer:</u></b></p> <ol style="list-style-type: none"> <li><b>1. <u>the only built form standards that shall apply are those specified in Rules 14.4.3.2 (building height) and 14.4.3.5 (daylight recession planes);</u></b></li> <li><b>2. <u>In relation to the road boundary setback, the repaired or rebuilt building shall have a setback of at least 3m.</u></b></li> <li><b>3. <u>The standards at (1) and (2) shall only apply to the extent that the repaired or rebuilt building increases the level of non-compliance with the standard(s) compared to the</u></b></li> </ol>
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		<p><u>building that existed at the time of the earthquakes.</u></p> <p><u>Clarification: examples of regulatory or legal requirements that may apply include the New Zealand Building Code, Council bylaws, easements, and other rules within this Plan such as requirements for minimum floor levels in Chapter 5.</u></p> <p><del>Clarification: If any of the above standards are not met or if there is increased non-compliance with the standards, the activity status will be as specified in the relevant standard.</del></p> <p><u>c. If paragraphs (a) and (b) do not apply, the relevant built form standards apply.</u></p> <p><u>Any application arising from non-compliance with standards (a) and (b) (1) will not require written approval except from the affected adjoining landowner(s) and shall not be publicly notified.</u></p> <p><u>Any application arising from non-compliance with standard (b)(2) (road boundary setbacks), will not require written approval and shall not be publicly or limited notified.</u></p> <p><del>e. Where the repair or rebuild of a building damaged by the Canterbury</del></p>
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		<p><del>Earthquakes of 2010 and 2011 will not alter the building footprint or location, repaired or relocated buildings need not comply with any of the built form standards.</del></p> <p><del>For any other reason, buildings need to comply with all relevant standards.</del></p> <p><del>Refer to Rule 8.2.3.1 of Chapter 8.</del></p>
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**14.5.2.1 Permitted Activities**

In the Residential ~~Banks Peninsula~~ Conservation Zone the activities listed below are permitted activities if they comply with any Activity Specific Standards set out in this table and the applicable Built Form Standards in Rule 14.5.3.

Activities may also be restricted discretionary, discretionary, non complying or prohibited as specified in Rules 14.5.2.3, 14.5.2.4, 14.5.2.5, and 14.5.2.6.

Activity	Activity specific standards
<p><b><u>P15</u></b></p> <p><b><u>Repair or rebuild of buildings damaged by the Canterbury earthquakes of 2010 and 2011 on properties with cross leases, company leases or unit titles as at the date of the earthquakes.</u></b></p>	<p><b>a. <u>Where the repair or rebuild of a building will not alter the building footprint, location, or height, the building need not comply with any of the built form standards.</u></b></p> <p><b>b. <u>Where the building footprint, location, or height is to be altered no more than necessary in order to comply with legal or regulatory requirements or the advice of a suitably qualified and experienced chartered engineer:</u></b></p>

		<p>1. <u>the only built form standards that shall apply are those specified in Rules 14.5.3.2 (building height) and 14.5.3.3 (daylight recession planes);</u></p> <p>2. <u>In relation to the road boundary setback, the repaired or rebuilt building shall have a setback of at least 3m.</u></p> <p>3. <u>The standards at (1) and (2) shall only apply to the extent that the repaired or rebuilt building increases the level of non-compliance with the standard(s) compared to the building that existed at the time of the earthquakes.</u></p> <p><u>Clarification: examples of regulatory or legal requirements that may apply include the New Zealand Building Code, Council bylaws, easements, and other rules within this Plan such as requirements for minimum floor levels in Chapter 5.</u></p> <p><u>c. If paragraphs (a) and (b) do not apply, the relevant built form standards apply.</u></p> <p><u>Any application arising from non-compliance with standards (a) and (b) (1) will not require written approval except from the affected</u></p>
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		<p><b><u>adjoining landowner(s) and shall not be publicly notified.</u></b></p> <p><b><u>Any application arising from non-compliance with standard (b)(2) (road boundary setbacks), will not require written approval and shall not be publicly or limited notified.</u></b></p>
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