

14 January 2014

Sir John Hansen
Convenor
Canterbury Earthquake Recovery Review Panel
c/- Canterbury Earthquake Recovery Authority
Private Bag 4999
CHRISTCHURCH 8140

Dear Sir John

Re: Canterbury Earthquake (Canterbury District Health Board Land Exchange) Order 2014

Proposal

The Canterbury Earthquake Recovery Review Panel is asked to consider the draft Canterbury Earthquake (Canterbury District Health Board Land Exchange) Order 2014 (the draft Order).

The draft Order would amend necessary legislation to enable a land exchange between Canterbury District Health Board (DHB) and Christchurch City Council (CCC) and enable the appropriate re-zoning of land to maintain consistency with the intended land use. The land exchange will adjust the boundaries of Christchurch Hospital and neighbouring Hagley Park to enable a major new hospital block to be built on site.

The draft Order is attached as Appendix 1. A map of the proposed land exchange is attached as Appendix 2.

Background

The Canterbury earthquakes caused major damage to the Christchurch Hospital facilities and buildings, severely testing the Hospital's ability to provide the appropriate level of care to people within the Canterbury DHB's boundaries. It is now necessary for an exchange of land to occur with urgency between the DHB and CCC to allow the redevelopment of Christchurch Hospital as a result of this damage. Without the land exchange it is considered that the Christchurch Hospital site is too constrained. There is no reduction in the size of Hagley Park, with CCC gaining land frontage on the Avon River that will become part of Hagley Park.

The draft Order will also transfer the ownership of the Nurses Memorial Chapel from Canterbury DHB to CCC. The Chapel is of historical significance and the transfer of ownership will ensure the long-term protection of the Chapel as it is proposed the Chapel will be classified as a historical reserve under Section 18 of the Reserves Act 1977.

Policy Objectives

The objective of the draft Order is to expedite the necessary legislative amendments to exchange parcels of land to enable the redevelopment of Christchurch Hospital as a result of the Christchurch earthquakes. The draft Order will give effect to the transfer for the land notwithstanding the Christchurch City (Reserves) Empowering Act 1971, the Christchurch Hospital Act 1887 and direct CCC to amend relevant zones and standards under the Christchurch City District Plan to maintain consistency with the intended land use.

Details of the Proposed Exchange of Land

It is proposed that Canterbury DHB acquire from CCC:

- 0.7025 hectares of land in Hagley Park adjacent to Christchurch Hospital, on which the DHB intends to construct the new hospital facilities. It is proposed that the land will become subject to the right of first refusal under the Ngāi Tahu Claims Settlement Act 1998

It is proposed that CCC acquire from Canterbury DHB:

- 0.7025 hectares of land adjacent to the Avon River with the intention that it becomes part of Hagley Park and subject to the Christchurch City (Reserves) Empowering Act 1971
- 0.1016 hectares of land on which the nurses Memorial Chapel is situated. It is proposed the Chapel site become subject to the Christchurch City (Reserves) Empowering Act 1971 and will become a historic reserve administered by CCC.

The draft Order also proposes to remove a restriction that prevents the development of a section of Canterbury DHB land (contained within Section 3) so that the land can be used as part of the Christchurch Hospital rebuild.

Options

The other option considered was the promotion of a local Bill. As this option can be a lengthy process it was excluded due to the need for the Christchurch Hospital rebuild to progress in a timely and expeditious fashion as a result of the Canterbury earthquakes.

Timing

It is important that the draft Order comes into force at the beginning of March 2014 to enable ground works at the site to commence and the redevelopment to remain on track for a 2018 completion date.

Risks

There is a risk of public misperception that the land exchange will result in a reduction in the overall size of Hagley Park due to the lack of property boundaries between Canterbury DHB and Hagley Park. This is not the case, the land exchange ensures there is no reduction in the size of Hagley Park, with CCC gaining land frontage on the Avon River. Some mature trees will also need to be removed to accommodate the new hospital building. None of the identified trees required to be removed are classified as 'protected' under the Christchurch City District Plan. The CCC and Canterbury DHB are working together to ensure that the number of trees removed is kept to a minimum.

Consultation on Land Exchange

In 2010 Canterbury DHB and CCC undertook a joint consultation process on a proposed Christchurch Hospital redevelopment. The consultation included the proposed exchange of two 0.6550 hectares parcels of land and the transfer of ownership of the Nurses Memorial Chapel. A Hearings Panel appointed at the time to receive and consider submissions recommended that CCC and Canterbury DHB proceed with the proposed exchange of land. The design work post-earthquake has concluded that an increase to both parcels of land by 0.0475 hectares is necessary to significantly reduce the associated building costs.

Memorandum of Understanding

In October 2013 a Memorandum of Understanding and Agreement between Canterbury DHB, CCC and Ngāi Tahu was formally signed by all parties outlining their support to the land exchange and detailing Ngāi Tahu's conditions to the land exchange.

The land currently owned by Canterbury DHB is subject to Part 9 of the Ngāi Tahu Claims Settlement Act 1998 which gives Ngāi Tahu the first right of refusal where the land is disposed of by the DHB. Ngāi Tahu has agreed to waive, in this instance, the application of its right of first refusal on the land transferring to CCC. The land transferring to Canterbury DHB will then be subject to the right of first refusal under the Ngāi Tahu Claims Settlement Act 1998 when in the future the land is disposed of by the DHB.

Consultation

The following departments and agencies were consulted on the Cabinet policy paper and draft Order: Canterbury Earthquake Recovery Authority, the Treasury, Te Puni Kōkiri, Office of Treaty Settlements, Land Information New Zealand, Department of Conservation and Department of Internal Affairs. The CCC, Canterbury DHB and Ngāi Tahu were also consulted and supported the proposal.

Profile of Draft Order and Proposed Publicity

The Minister of Health is not intending to make a press release on the land exchange. The DHB, CCC and Ngāi Tahu have indicated that they intend to release a joint statement once the draft Order has been approved.

Conclusion

We look forward to receiving your recommendations so that they can be considered prior to Ministers making a recommendation on the draft Order. The key contact for this item of work is John Hazeldine, Acting Director – DHB Performance, National Health Board, (04) 496-2396 John_Hazeldine@moh.govt.nz.

Yours sincerely



Michael Hundleby
Acting National Director
National Health Board

PCO 17658/8.0
Drafted by Shane Williams

IN CONFIDENCE

Canterbury Earthquake (Canterbury DHB Land Exchange) Order 2014

Governor-General

Order in Council

At Wellington this day of 2014

Present:
in Council

Pursuant to section 71 of the Canterbury Earthquake Recovery Act 2011, His Excellency the Governor-General makes the following order, acting—

- (a) on the advice and with the consent of the Executive Council;
and
- (b) on the recommendation of the relevant Minister made after the Canterbury Earthquake Recovery Review Panel's review of a draft of the order.

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Order

1 Title

This order is the Canterbury Earthquake (Canterbury DHB Land Exchange) Order 2014.

2 Commencement

This order comes into force on [x February 2014].

3 Revocation

This order is revoked on the expiry of the Canterbury Earthquake Recovery Act 2011.

4 Interpretation

In this order, unless the context requires another meaning,—

adjacent land means the part of Section 3 on Survey Office plan SO 467852 held, or formerly held, in computer freehold register CB20K/1038

chapel site means 0.1016 hectares, more or less, being Section 5 on Survey Office plan SO 467852

new Council land means 0.7025 hectares, more or less, being Section 2 on Survey Office plan SO 467852

new DHB land means 0.7025 hectares, more or less, being Section 1 on Survey Office plan SO 467852.

5 Vesting and status of new DHB land

- (1) The reservation of the new DHB land as a recreation reserve subject to the Reserves Act 1977 is revoked.
- (2) The fee simple estate in the new DHB land then vests in Canterbury DHB.
- (3) The new DHB land is then to be treated as if it were relevant land for the purposes of Part 9 of the Ngāi Tahu Claims Settlement Act 1998.
- (4) The new DHB land ceases to be subject to sections 5(2) to (4) and 12 of the Christchurch City (Reserves) Empowering Act 1971, in accordance with clause 10.

6 Vesting and status of new Council land and status of adjacent land

- (1) The fee simple estate in the new Council land vests in Christchurch City Council.
- (2) The new Council land is then declared a reserve and classified as a recreation reserve subject to section 17 of the Reserves Act 1977.
- (3) The Council is the administering body of the reserve for the purposes of the Reserves Act 1977.
- (4) The new Council land and the adjacent land cease to be subject to the Christchurch Hospital Act 1887 and to be held for any purpose imposed by that Act.
- (5) The new Council land becomes subject to sections 5(2) to (4) and 12 of the Christchurch City (Reserves) Empowering Act 1971, in accordance with clause 10.
- (6) Section 97 of the Ngāi Tahu Claims Settlement Act 1998 does not apply to the new Council land because of the vesting under this clause (meaning that the restriction in section 49 of that Act will apply to the land if a Crown body becomes its owner).

7 Vesting and status of chapel site

- (1) The fee simple estate in the chapel site vests in Christchurch City Council.
- (2) The chapel site is then declared a reserve and classified as a historic reserve subject to section 18 of the Reserves Act 1977.

- (3) The Council is the administering body of the reserve for the purposes of the Reserves Act 1977.
- (4) The chapel site ceases to be subject to the Christchurch Hospital Act 1887 and to be held for any purpose imposed by that Act.
- (5) Section 97 of the Ngāi Tahu Claims Settlement Act 1998 does not apply to the chapel site because of the vesting under this clause (meaning that the restriction in section 49 of that Act will apply to the site if a Crown body becomes its owner).

8 Vesting of land with existing interests

Land vested by this order vests subject to, or with the benefit of, any interests that affected it immediately before the vesting, unless another clause provides otherwise.

9 Application of Resource Management Act 1991 to vesting

Section 11 and Part 10 of the Resource Management Act 1991 do not apply to—

- (a) any vesting of land by this order; or
- (b) any matter incidental to, or required for the purpose of, the vesting.

10 Modification of Christchurch City (Reserves) Empowering Act 1971

- (1) This clause relates to the Christchurch City (Reserves) Empowering Act 1971.
- (2) Section 5(2) to (4) of that Act must be read as if Hagley Park—
 - (a) includes the new Council land; but
 - (b) does not include the new DHB land.
- (3) Section 12 of that Act must be read as if—
 - (a) it also applies to the new Council land; but
 - (b) it does not apply to the new DHB land.

11 Changes to computer registers after commencement

- (1) Canterbury DHB and Christchurch City Council must, as soon as is reasonably practicable after the commencement of this order, jointly apply to the Registrar-General of Land citing this clause.

- (2) The Registrar-General must do the following after receiving the application:
 - (a) make any changes to computer registers created under the Land Transfer Act 1952 that are required to give effect to this order;
 - (b) note the words quoted in section 98(3) of the Ngāi Tahu Claims Settlement Act 1998 on the computer register in respect of the new DHB land;
 - (c) remove the notation of those words from the computer registers in respect of the new Council land and the chapel site.
- (3) Sections 98 and 99 of the Ngāi Tahu Claims Settlement Act 1998 do not otherwise apply to the new DHB land, the new Council land, or the chapel site.

12 Change to computer register on subsequent transfer

- (1) If the new Council land or the chapel site is to be transferred to a Crown body after the commencement of this order, the transferor must apply to the Registrar-General of Land citing this clause.
- (2) The Registrar-General must, after receipt of the application and registration of the transfer, note the words quoted in section 98(3) of the Ngāi Tahu Claims Settlement Act 1998 on the computer register in respect of the land transferred.
- (3) In this clause, **Crown body** has the meaning given by section 48(1) of the Ngāi Tahu Claims Settlement Act 1998.

13 Amendments to district plan

- (1) Despite anything in the Resource Management Act 1991, Christchurch City Council must amend its district plan so that—
 - (a) the new DHB land is zoned as Special Purpose (Hospital); and
 - (b) the new Council land is zoned as Conservation 2.
- (2) The Council must amend the plan as soon as practicable without using the process in Schedule 1 of the Resource Management Act 1991 or any other formal public process.

- (3) Until the Council amends the plan, it is deemed to have been amended as required by this clause.

Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order provides for the following:

- 0.7025 hectares of land in Hagley Park, owned by Christchurch City Council, vests in Canterbury DHB (the **new DHB land**):
- 0.7025 hectares of land adjacent to Hagley Park (the **new Council land**) and another 0.1016 hectares of land (the **chapel site**), all owned by Canterbury DHB, vest in Christchurch City Council:
- the new DHB land ceases to be part of Hagley Park, and the new Council land becomes part of Hagley Park, under the Christchurch City (Reserves) Empowering Act 1971:
- the chapel site becomes a historic reserve administered by the Council:
- the new Council land, an area of land adjacent to it, and the chapel site cease to be subject to the Christchurch Hospital Act 1887 and to be held for any purpose imposed by that Act (which, for the new Council land and adjacent land, means that restrictions on the use of the land and on building on the land are removed):
- the new DHB land becomes subject to the right of first refusal under the Ngāi Tahu Claims Settlement Act 1998, and the new Council land and the chapel site cease to be subject to the right of first refusal (while not owned by a Crown body):
- the Council must amend its district plan to re-zone the new DHB land for hospital use and the new Council land for conservation use.

**Canterbury Earthquake (Canterbury DHB
Land Exchange) Order 2014**

Explanatory note

This order comes into force on [x February 2014]. It is revoked on the expiry of the Canterbury Earthquake Recovery Act 2011.

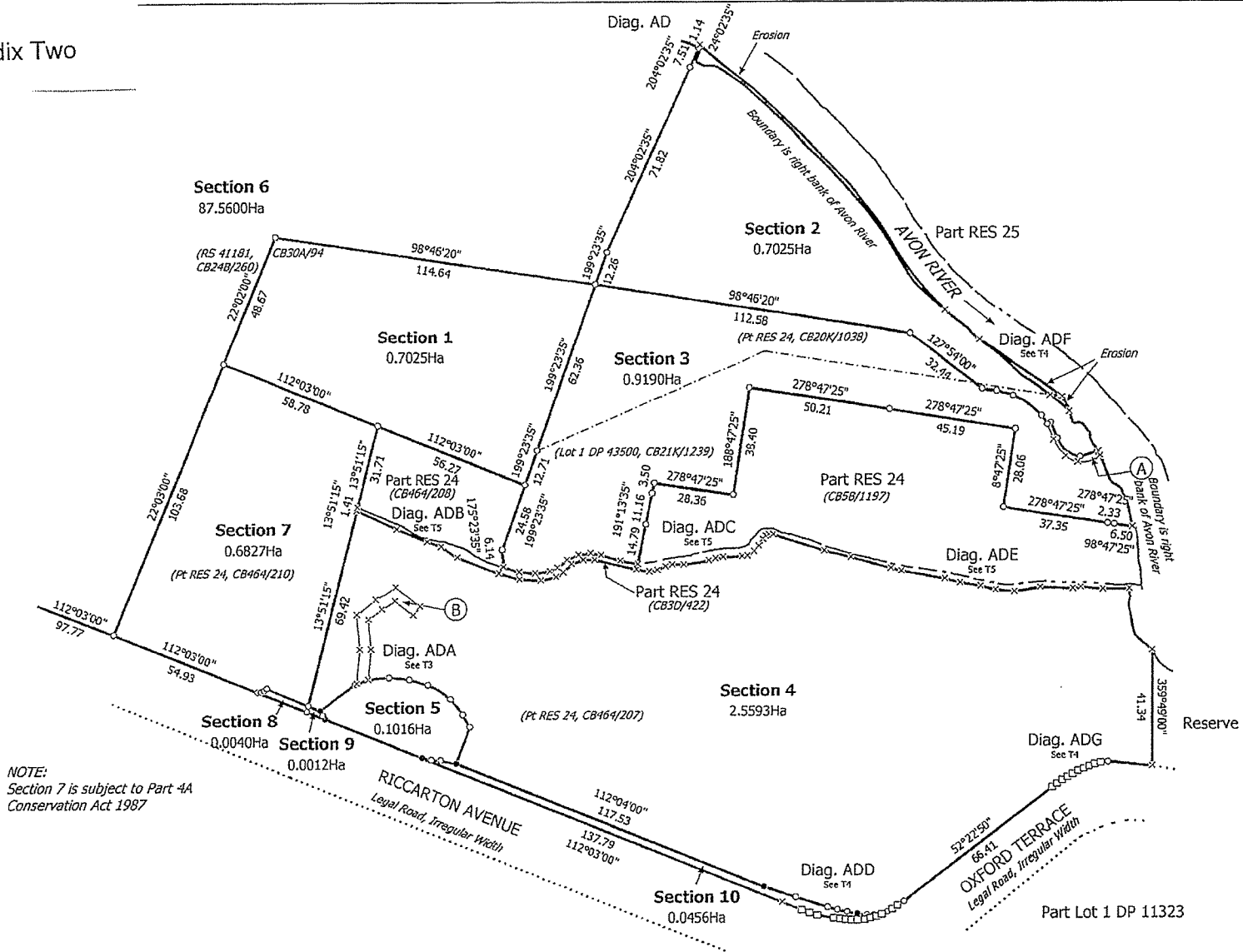
This order is made under the Canterbury Earthquake Recovery Act 2011 and its effect is temporary.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.

Appendix Two



NOTE:
Section 7 is subject to Part 4A
Conservation Act 1987

T 2/6

Land District: Canterbury
Digitally Generated Plan
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Sections 1 - 10

Surveyor: Philip Robert Dewar
Firm: Fox and Associates

Title Plan
SO 467852
Approved on: 7/11/2013