

BEFORE THE CHRISTCHURCH CITY COUNCIL

UNDER the Resource Management Act 1991

IN THE MATTER of Proposed Plan Change 10 – Partial removal of Exemplar Overlay

APPLICANT Spreydon Lodge Limited

STATEMENT OF EVIDENCE OF PATRICIA HARTE

Christchurch
Solicitor acting: Gerard Cleary
Level 9, Anthony Harper Tower
62 Worcester Boulevard
PO Box 2646, Christchurch 8140
Tel +64 3 379 0920 | Fax +64 3 366 9277
gerard.cleary@ah.co.nz



1 INTRODUCTION

- 1.1 My name is Patricia Harte. I am a Consultant Planner with Davie Lovell-Smith, Planners, Engineers and Surveyors of Christchurch.
- 1.2 I have a Bachelor of Laws (Hons) and Master of Science in Resource Management and am a full Member of the New Zealand Planning Institute. I have thirty years' experience in planning and resource management. Throughout this period, I have been involved in the preparation of seven district plans and numerous plan changes. I have assisted Councils in processing private plan changes and resource consents for large projects. This has included providing evidence at Council level and at extended Environment Court hearings.
- 1.3 I prepared the Plan Change 10 request and the majority of the responses to the two Council requests for information. I have not been directly involved in obtaining resource consents for the Meadowlands Exemplar area.
- 1.4 I confirm that I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court Consolidated Practice Note (2006). I agree to comply with that Code. Other than where I state that I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2 PLAN CHANGE 10- CHRISTCHURCH DISTRICT PLAN

- 2.1 In mid-2020 Spreydon Lodge Limited initiated the possibility of removing the undeveloped south-eastern extent of the Meadowlands Exemplar Overlay located in the northern section of the North Halswell Outline Development Plan Area. It did this in two ways. Firstly, a submission was made to Proposed Plan Change 5F -Planning Maps requesting partial removal of the Exemplar Overlay. This submission was rejected. The second way was to initiate a private plan change to the Christchurch District Plan. After extensive discussions and responses to further information requests the plan change request was accepted for notification.
- 2.2 The Meadowlands Exemplar Overlay is at the northern end of the North Halswell Outline Development Plan area which is south of Hendersons Road and runs south-east from State Highway 75, also known as Halswell Road. The total area of the Meadowlands Exemplar Overlay is approximately 20.71ha. The south-eastern section of the overlay proposed to be removed has an approximate area of 9.7ha.
- 2.3 Subdivision of the north-west portion of the Exemplar has been completed and is now largely developed with houses. This area has been developed in three stages from Halswell Road through to Manarola Road. A major feature of this development is a

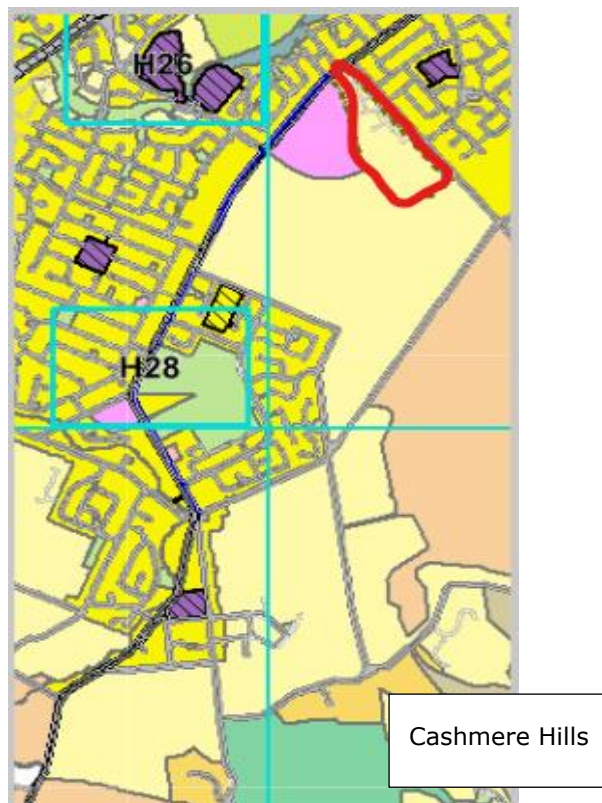
central green area. The applicants own the adjoining land to the southeast and southwest, including land which is zoned Commercial Core.

- 2.4 The reasons for the requested change to the District Plan are detailed in the Plan Change request and addressed further in the extensive information provided to Council relating, in particular, to the consents required for the development.
- 2.5 The primary purpose of the Request is to adopt the same planning framework as other greenfield developments. There are numerous factors in the planning, development and sales of properties within the Exemplar area which have resulted in the very slow sales of sections, with the bottom line being that the process has been inefficient from the point of view time, cost and resources expended. Simply put, the development has not been economically sustainable due to limited sales over time, as compared to the usual functioning of the new sections/housing market in Christchurch. For the sales that have been successful Spreydon Lodge have at times undertaken extra work to get things across the line, including actual payment of costs. This is something Mr. Thompson addresses in his evidence.
- 2.6 A key factor in all this is the requirement that subdivision of sites is required to be accompanied with a land use consent for individual houses. Mr. Brown describes the consenting issues associated with development in the Exemplar, including attempts by Spreydon Lodge Limited to progress with some of the general principles of the Exemplar by a number of iterations to the consent regime. The latest these iterations, as I understand, involves applying for individual houses which are not in compliance with an earlier resource consent and so are processed as a variation to this consent.
- 2.7 I freely acknowledge that despite having worked on this Plan Change request since mid-2020, I still do not fully understand how the various consents over time relate to each other and to the District Plan provisions. It is very complex and, not surprisingly, has put off many prospective purchasers either initially or later in the stage when they are faced with having to change their house design to fit the parameters in the District Plan and/or in subsequent resource consents. This is something Mr. Thompson and Mr. Brown address.
- 2.8 The Plan Change therefore requests removal of the Meadowlands Exemplar Overlay and its associated complexity, leaving development to be implemented through the Residential New Neighbourhood regime, which has been successfully applied elsewhere in the North Halswell Outline Development Plan area and in most other outline development plan areas of the City. The likely impact of this change is considered in detail in the Request and responses. It is also a key consideration in the Council's assessment of the Plan Change. I address these matters below.

3 PLANNING CONTEXT

Christchurch District Plan

- 3.1 The Plan Change 10 area is currently zoned Residential New Neighbourhood (RNN), which is a zoning applied to land that is to be utilised for greenfield residential development. In most cases the RNN zoning is on land on the perimeter of the City, but in this case the Spreydon Lodge land sits between older parts of the City and the suburb of Halswell to the south.
- 3.2 The rezoning of this area as part of the last review of the District Plan has been taken up with much of it now being developed through to the Cashmere Hills. This area is the lighter yellow area running from the Exemplar area (outlined in red) through to the Cashmere Hills.



Strategic Objectives

- 3.3 Chapter 3: Strategic Directions of the District Plan is described as providing an overarching direction for the development of all other chapter within the Plan, and for its subsequent implementation and interpretation.
- 3.4 The key Strategic Directions Objectives are assessed in the Plan Change Request. These are Objectives 3.3.1: *Enabling recovery and facilitating future enhancement of*

the district; 3.3.2: *Clarity of language and efficiency*; and 3.3.4: *Housing capacity and choice*. Of the above, Objectives 3.3.1 and 3.3.2 were intended by the Independent Hearings Panel to have primacy within Chapter 3 of the Plan.¹

3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district

The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:

- i. Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing;*
- ii. Fosters investment certainty; and*
- iii.*

- 3.5 Objective 3.3.1 specifically refers to an “*expedited recovery*” of which the Exemplar was to be an important component. As referred to in the Request, this has not happened due to the complex consenting process which has deterred many housing companies and potential owners. The Exemplar has, as a consequence, also failed to “*foster investment certainty*” with its developers being, as Mr. Thompson states, placed in a position whereby further development in accordance with Exemplar was put on hold as it was not sustainable.

3.3.2 Objective - Clarity of language and efficiency

The District Plan, through its preparation, change, interpretation and implementation

- i. Minimises:*
 - A. transaction costs and reliance on resource consent processes; and*
 - B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and*
 - C. the requirements for notification and written approval; and*
- ii. Sets objectives and policies that clearly state the outcomes intended; and*
- iii. Uses clear, concise language so that the District Plan is easy to understand and use*

- 3.6 Objective 3.3.2 is directly relevant as the Exemplar Overlay provisions and their “*interpretation and implementation*” have increased transaction costs and reliance on (complex) resource processes to the extent that it has resulted in the public choosing to build elsewhere, thus defeating the purpose of the development being an exemplar. The need to avoid such procedural complexity is exactly why the Strategic Objectives were inserted into the District Plan.

- 3.7 I particularly note item B which refers to minimising the “*number, extent and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice*”. I have detailed in Item 2 of the Response to the first RFI (pages 1-9) the provisions relevant to the assessment of development with

¹ Decision 1: *Strategic Directions and strategic outcomes* at para 129

the Exemplar relating to a variety of matters including housing topologies, density, roof angles, location of front doors etc...

3.8 On page 1, I noted that there are approximately 115 matters listed either as standards or matters of discretion. Some of these then refer to other documents including the Statement of Commitment which is a detailed 15 page document. This complex of provisions has a number of adverse effects which are referred to in Objective 3.2.2, namely:

- (a) The transaction costs are not minimised, but rather they are increased massively;
- (b) There are so many objectives and policies in the provisions that there is confusion and, at times, inconsistency; and
- (c) The language is confusing as it refers to qualities in standards and matters of discretion which are not sufficiently certain to provide certainty for all parties involved in development layout and design and in consent processing.

3.9 There is no doubt, in my view, that the Meadowlands Exemplar provisions are inconsistent with Strategic Directions Objective 3.2.2.

3.10 Objective 3.3.4, set out below, addresses *Housing capacity and choice* by setting a minimum number of additional houses created by a combination of intensification, brownfield and greenfield development as well providing for a choice of housing types and densities. While there has been a range of house typologies created in the first stage of the Exemplar, it is difficult to conclude that this was a matter of "choice" as many potential and actual purchasers of sites have been unhappy with the degree to which they had to compromise the desired house design to conform to Plan and consenting requirements.

3.3.4 Objective - Housing capacity and choice

- a. *For the period 2018-2048, a minimum of 55,950 additional dwellings are enabled through a combination of residential intensification, brownfield and greenfield development, made up of:*
 - i. *17,400 dwellings between 2018 and 2028, and*
 - ii. *38,550 dwellings between 2028 and 2048; and*
- b. *There is a range of housing opportunities available to meet the diverse and changing population and housing needs of Christchurch residents, including:*
 - i. *a choice in housing types, densities and locations; and*
 - ii. *affordable, community and social housing and papakāinga*

3.11 The Residential objectives and policies do not specifically refer to the Meadowlands Exemplar rather they refer to the Residential zones as providing for various density distributions and attributes. In that regard the Exemplar is not identified or required to be treated any differently than its underlying RNN zoning.

- 3.12 The most relevant District Plan policy provision relating to the Exemplar is *Objective 8.2.2- Design and amenity and the Meadowlands Exemplar Overlay* in the Subdivision section, which states:
- a. *An integrated pattern of development and urban form through subdivision and comprehensive development that:*
 - i. *provides allotments for the anticipated or existing land use for the zone*
 - ii. *consolidates developed for urban activities*
 - iii. *improves people’s connectivity and accessibility to employment, transport, services and community facilities;*
 - iv. *improves energy efficient and provides for renewable energy and use; and*
 - v. *enables the recovery of the district*
 - b. *A comprehensively planned development in the Meadowlands Exemplar Overlay in the Residential New Neighbourhood (North Halswell) zone that is environmentally and socially sustainable over the long term.*
- 3.13 Removing the Exemplar Overlay over the undeveloped section, while not requiring the area to be “comprehensively planned”, will still require that it has an “integrated pattern of development and urban form through subdivision and comprehensive development” that addresses anticipated land uses, improves connectivity and accessibility, and enables energy efficiency. In my opinion this RNN approach is very similar to comprehensive planning but without the requirement that houses be designed at an early stage and that they require specific consent.
- 3.14 Overall, it is my opinion that the removal of the south-western (undeveloped) section of the Meadowlands Exemplar Overlay aligns with the relevant objectives of the District Plan and does so to a much greater degree than has occurred under the current provisions and administration. Accordingly, I consider the RNN approach to be the most appropriate method to adopt.

National Policy Statement on Urban Development (NPS-UD)

- 3.15 The most relevant national policy statement is the National Policy Statement on Urban Development 2020 (NPS-UD). The NPS-UD is one the more recent of central government’s attempts to overcome the unintended obstacles created by plans, policy statements and planning decisions (or lack of them) that has resulted in a serious shortage of land zoned for residential use. This NPS has many significant objectives, the most direct and relevant being Objective 2:
- Objective 2: Planning decisions improve housing affordability by supporting competitive land and development markets.*
- 3.16 The application of the Exemplar Overlay, through the combination of requiring house designs to be part of subdivision applications and through an extremely difficult processing regime, has resulted in Spreydon Lodge being unable to offer a competitive option for new home buyers. In my opinion removal of the Overlay over the undeveloped section of the Exemplar will address this issue and bring it in line with Objective 2.

- 3.17 Related to this Objective is Policy 2 which requires Council to provide at least sufficient capacity to meet expected demand for housing and business land over the short term, medium term and long term. I assume the Exemplar area was included in the short term supply of housing land. As it has been constrained by the Exemplar provisions this supply has not been available, presumably adding to the current shortfall, which has a knock-on effect in terms of providing for medium and long term supply.
- 3.18 The Exemplar overlay generally satisfies Objective 3 (a) in the NPS which requires District Plan to enable more people to live in urban areas that are near centre zones or other employment. This is achieved by providing for residential use and development in an area close of the, yet to be developed, Commercial Core Zone. In addition there is a high demand for housing in the area as referred to in this Objective. However the complexity of the exemplar provisions and their administration via resource consents has prevented full achievement of this Objective. This is particularly obvious when compared to the adjoining areas where development commenced several years later but is now well ahead in providing new homes.
- 3.19 Overall then I consider the proposed Plan Change 10 removing the Exemplar provisions satisfies the relevant objectives and policy of the NPS-UD.

Enabling Act

- 3.20 Although it is somewhat premature to say for certain, it would appear from Ms Dixon's Report that the MDRS provisions of the Resource Management (Enabling Housing Supply and other Matters) Act (the Enabling Act) will apply to the Exemplar land. Effectively this means that in the future, the extent of Plan controls, urban design included, over the Exemplar area will be minimal.
- 3.21 Because the MDRS provisions are subject to a yet to be notified change to the District Plan via an intensification planning instrument (IPI), it is possible that inclusion of the Exemplar area in the IPI could be challenged on the grounds that it is a "qualifying matter". Also, as Ms Dixon has pointed out, there is likely to be scope for arguments as to whether or not rules are, either wholly or partially, inconsistent with the MDRS provisions included in the Enabling Act. The same could be said for submissions on the proposed IPI which could potentially seek to modify the MDRS provisions as they apply to a particular site or sites.

4 STATUTORY PROVISIONS

Section 74 RMA

- 4.1 Proposed plan changes, both Council and privately initiated are subject to a series of considerations and requirement listed in section 74 (1) and (2) of the RMA. These matters are relevant to preparation and/or decisions on plan changes. I comment on these considerations and requirements below:

i. In accordance with territorial authority functions in s 31 RMA

s.33(1)(aa) lists “methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demand of the district”. The requested uplifting of the Exemplar Overlay will better enable its availability to the public to meet known short-medium term demand.

ii. In accordance with the provisions of Part 2

The purpose of the Act is promoting the sustainable development of natural and physical resources. This includes development at a rate which enables people and communities to provide for their social, economic and cultural wellbeing while meeting several bottom lines including meeting the reasonably foreseeable needs of future generations. The requested Plan Change will remove impediments to providing for development at a rate and in a location which enables people and the Christchurch community to provide for their wellbeing.

Section 75 RMA

- 4.2 Section 75 (1) and (2) set out what district plans must and may contain. The components that are required are objectives, policies and rules (if any) to implement the policies. In the present case there will be a reliance on the existing objectives, policies and the Residential New Neighbourhood rules.
- 4.3 Section 75(3) requires district plans to give effect to any national policy statement, national planning standard and any regional policy statement. Section 74 (2) also requires that regard is had to management plans or strategies prepared under other Acts. These matters are addressed above.

Section 32AA

- 4.4 Section 32AA requires the decision maker to make a further evaluation of changes to a district plan. To assist with this evaluation the Plan Change Request provides an assessment in relation to this.
- 4.5 As mentioned in my assessment above regarding the objectives of the Christchurch District Plan the removal of the Exemplar Overlay results in one component of Subdivision Objective 8.2.2 no longer applying to the site. The area will however be subject to a similar requirement in this Objective to ensure there is an integrated pattern of development and urban form through subdivision and comprehensive development. Therefore, there is no need to evaluate the extent to which objectives are the most appropriate way to achieve the purpose of the Act.

5 RESPONSE TO S42A PLANNING REPORT

- 5.1 The s42A Report describes the Plan Change Request and the various lengthy responses to questions supplied to the Council. This Report also details information and assessments contained in attachments addressing urban design, reserves,

transportation, stormwater and three waters. Of these I consider the most relevant are the urban design and reserves reports. The majority of the 42A report lists the content of relevant planning documents and details comments and assessments contained in the supporting technical reports. The conclusions reached by Ms. Dixon in this report relate to process and outcome concerns relating to density, layout and building types, which I consider below.

5.2 Responding to process issues that have arisen, the Ms Dixon states:

- *"Since the abandonment of attempts to develop under comprehensive consents, each development, (including global subdivision consents and land use consent for whole areas) has to be authorised via a non-complying activity consent. I do not believe this is a sustainable planning approach, particularly if applied to individual developments, as it is time consuming and expensive i.e. inefficient. (para.8.1.6)*
- *In my view if development rules for the whole area have to be negotiated and set by non-complying activities consents, then there is something wrong with the District Plan rules for the area (para.8.1.12)*
- *I consider that the preferable method is to fix the problem in the rules themselves. (para 8.1.21)*

5.3 I agree with the first two statements, however I consider the last comment that the rules need to be fixed are unrealistic and too late. A number of the elements of the Exemplar deal with the look of the development as a whole such as pepper-potting of distinctive buildings and the use of rear accesses. A housing requirement could not be contained in a rule as it could not be site specific, and the rear access lots would need to be determined as part of consideration of a subdivision layout. If the rules were expressed in terms of the number of special features, rather than their location, there would still be issues as how this was to be complied with over time.

5.4 My second concern that new rules at this stage are too late reflect the high level of frustration with the current regime. It is very unlikely that any other landowner would have persevered and achieved what Spreydon Lodge has. It shows a huge commitment to the Exemplar concept, however in my opinion it is not reasonable or appropriate at this crucial time to attempt a new form of control. They should be enabled to move on from the Exemplar and be trusted that a positive outcome will be achieved.

5.5 In respect of layout and building design issues, Ms Dixon states:

"I consider that it would be desirable for the layout of the PPC10 area to be integrated with the layout of the subdivision to the northwest in terms of the framework of streets and open spaces and for there to be some similarity of building design" (para 8.1.25)

- 5.6 I agree with the integration aspect and understand that this is what the applicants are intending. The most obvious impediment to this is the reluctance of the Council to accept continuation of the central reserve. The similarity of building design I assume means similarity between the developed and yet to be developed Exemplar area. I am unsure of Ms. Dixon's conclusion in relation to this matter as she recommends approval of PPC10 but also proposes consideration of a rule requiring a range of housing typologies.
- 5.7 Ms. Dixon considers the issue of density and Ms. Rennie's comments which assume that reliance only on the RNN provisions would result in a decrease in densities and larger lots. My initial response is that firstly Ms. Rennie suggests that the density for the undeveloped section of the Exemplar would only be "slightly lower". Secondly, I am aware that there are a number of different ways to calculate density and so there should be caution in comparing density rates. Thirdly, I am not sure why they have concluded that the density would decrease. This is something Mr. Brown addresses.
- 5.8 Despite some concerns raised in her report Ms. Dixon concludes in her section 32 Assessment that:
- *Approval of PPC10 and removal of the Exemplar Overlay is likely to be the most appropriate way to achieve these future objectives of the Plan of the Plan, on the basis that it enables people to provide for their well-being by increasing housing choices" (para.9.1.6)*
- 5.9 The objectives being referred to are Objectives 1 and 2 of the Enabling Act that are to be inserted in the District Plan. I agree with this assessment but note that PPC10 is also fully in accord with objectives in the current plan (3.3.1: *Enabling recovery and facilitating future enhancement of the district*; 3.3.2: *Clarity of language and efficiency*; and 3.3.4: *Housing capacity and choice.*) and the NPS-UD.
- 5.10 The Planning Report proposes potential rules relating to a range of housing typologies, layout requirements for rear lane access, garage placement behind facades and minimum roof pitch. The actual wording of these proposed rules is not provided. This approach is at odds with Ms. Dixon's conclusion that acceptance of PPC10 is the most appropriate option to achieve the future objectives of the Plan. I also have real doubts that these could be written in a way that did not involve some form of assessment e.g. as to which building or group of buildings these rules would apply to. This brings us back to the frustration, complexity and cost that this Plan Change is seeking to remove and, in my opinion, would derail their attempt to enable, as soon as possible, further development to meet current demand.
- 5.11 Ms. Dixon raises throughout her evidence the complexity associated with the forthcoming Plan Change 14 implementing the Enabling Act. I absolutely agree with these concerns. There is considerable complexity and uncertainty as to how current or proposed rules relating generally to "density" would relate to those required to be

inserted in the District Plan. In my opinion any additional rules will add unnecessary complexity and for that reason alone should be avoided.

- 5.12 Ms. Dixon's conclusion and recommendation is that PPC10 will result in a method that better implements the operative and future policies for the area, gives effect to higher order documents, more appropriately achieves the objectives of the District Plan and better meets the purpose of the Act. I agree. She then recommends that it be approved but subject to potential inclusion of urban design rules. As I have addressed in this evidence, such an approach will create unnecessary complexity and uncertainty and will delay the completion of Exemplar area. In my opinion this would effectively defeat the purpose of PPC10.

6 CONCLUSION

- 6.1 I conclude that Plan Change 10 is a logical planning response to the clear need to remove impediments from the development and sale of sections and housing within the remainder of the Meadowlands area of the North Halswell Outline Development Plan. The Plan Change is consistent with national level resource management objectives and policies and consistent with the Operative Christchurch District Plan and with the purposes of the Act.



27 April 2022