

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 decision: 27 May 2016

Hearing Panel: Hon Sir John Hansen (Chair), Dr Philip Mitchell, Mr Alec Neill and Ms Jane Huria

**MINOR CORRECTIONS TO DECISION 17 (RESIDENTIAL STAGE 2) AND
AMENDMENTS TO DECISION 10 (RESIDENTIAL STAGE 1)**

Background

[1] We have received an application from the Christchurch City Council identifying requests for clarification and directions for corrections to our Residential (Part) Stage 2 decision (Decision 17).¹

¹ Application on behalf of Christchurch City Council requesting corrections to Decision 17 Residential Stage 2, 16 May 2016.

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

- (1) The hearings panel may, at any time, issue an amendment to a decision to correct a minor mistake or defect in a decision of the panel.
- (2) This power includes the power to amend or correct a proposal, provided that the amendment or correction is made before the proposal becomes operative in accordance with clause 16 of this order.

[3] Clause 13 of the Order relevantly provides that:

- (5) While the hearings panel is considering a proposal, it may reconsider any decision it has already made on another proposal if it considers it is necessary or desirable to do so to ensure that the replacement district plan is coherent and consistent.
- (6) If the hearings panel considers, after reconsidering a decision under subclause (5), that an earlier proposal or a part of the replacement district plan requires change, the panel may direct the council—
 - (a) to make changes of no more than minor effect; or
 - (b) to prepare and notify a new proposal, and invite submissions on the new proposal in accordance with Schedule 1.

[4] The amendments sought in Appendix A of the Council's application variously comprise matters that will address consistency in the decisions on the plan, were errors in the decision, or were errors carried over from the Council's Revised Version.

[5] In response to the matters contained in Appendix A of the Council's application, our direction for corrections are contained in Schedule 1, for the reasons set out, and we accept them as being of minor effect. We separately note that the Council has identified an error at para [284] in the body of the decision that incorrectly refers to 77 Hawthornden Road, whereas the decision should refer to 100-120 Hawthornden Road. We acknowledge the error and this decision amends Decision 17 to correct the error.

[6] Where an application has been made to revisit a previous decision using cl 13(5) and (6), the agreed amendments are included in Schedule 2.

[7] Appendix B to the Council's application also contains questions of clarification and requests for amendments to previous decisions, to provide consistency and coherence between decisions.

[8] In response to the matters contained in Appendix B of the Council's application, our direction for corrections are contained in Schedule 1, for the reasons set out, and we accept them as being of minor effect. Where an application has been made to revisit a previous decision using cl 13(5) and (6)(a), the agreed amendments are included in Schedule 2. We have further expanded on all of the matters in Appendix B of the Council's application below.

Convenience activities in the Residential Hills Zone

[9] The Council has noted that the Stage 2 Decision Version did not include provision for convenience activities. This error was carried over from Council's Revised Version submitted as Attachment A to its closing submissions. We acknowledge the error, and amend the decision to reinsert convenience activities as requested.

Indigenous vegetation clearance in the Akaroa Hillslopes Density Overlay

[10] The omission of reference to Akaroa Hillslopes Density Overlay was an error; it was intended that P19 relate only to that part of the Residential Large Lot Zone in line with the Council's closing submission. We direct that the change be made as requested.

Daylight recession planes in the Residential Small Settlement Zone

[11] The Decision Version incorrectly references the origin for the daylight recession plane for the Residential Small Settlement Zone as being at any point above the boundary. This should refer to any point *2 metres* above any adjoining site boundary. We direct that the change be made to 14.8.3.4 to the following effect:

... at any point 2 metres above any adjoining site boundary...

Minimum building setbacks in the Spencerville Overlay Area

[12] The Decision Version omits reference to the Spencerville Overlay Area in relation to minimum building setbacks in Rule 14.8.3.5, whereas it should be included in line with the Council's Revised Version. We direct that the change be made as requested.

Clarification regarding proposed amendments to Policies 14.1.6.2 and 14.1.6.7

[13] In its application, the Council requested clarification regarding Ms Sarah Oliver's recommended insertion of an additional clause in Policies 14.1.6.2 and 14.1.6.7 regarding further confinement of community activities and facilities and guest accommodation in relation to arterial corridors. The Council has advised that the change is outside the scope of submissions, but has not provided any assessment in its application as to whether the changes give rise to any natural justice issues. We are satisfied that our decision appropriately deals with submissions on this topic and we decline the amendments sought.

Halswell West Outline Development Plan

[14] Appendix 8.6.6 (as notified) relating to Halswell West was deferred from Subdivision Stage 1 to Residential Stage 2.² It was not the subject of Subdivision Stage 2, which the Council appears to have incorrectly noted in its application.

[15] We set out the merits of changes relating to Halswell West Outline Development Plan at [190]–[198] of our decision. These were unchallenged and have not been appealed.

[16] The Council has outlined two options to address the changes decided in our decision. We confirm, in line with our decision, that an amendment to the Outline Development Plan for Halswell West is the most efficient form of achieving the outcome of the decision. No further area specific rules are required. We direct that the Outline Development Plan is amended in accordance with our decision and no further formality is required.

Amendment to Decision 10 regarding non-compliance with daylight recession planes for Prestons Road Retirement Village

[17] The Council has sought clarification regarding the activity status for activities that do not comply with the daylight recession planes for Prestons Road Retirement Village Overlay. In the Residential Stage 1 decision (Decision 10), the Hearings Panel retained the notified full discretionary status as recommended by the Council. In the Stage 2 decision, the drafting for the site specific provisions was grouped together with the Accommodation and Community

² Decision 13 – Subdivision, Development and Earthworks (Part) — Stage 1 at [3].

Facilities Overlay, and a restricted discretionary status for recession plane breaches was inserted as Rule 14.2.4.3 RD11. However, activity D4 from Decision 10 was retained.

[18] We agree with the Council that it is more appropriate, and consistent with other recession plane breaches, that the activity status is restricted discretionary. We consider such a change to be of no more than minor effect, and that it provides for a consistent framework within the plan. We therefore direct the Council, using our power under cl 13(6)(a) of the Order, to delete activity 14.2.4.4 D4, as the activity is appropriately addressed in 14.2.4.3 RD11.

Appendix 14.10.13 Hawthornden Road Development Plan

[19] The Council has requested confirmation that an updated version of the Hawthornden Road Development Plan Appendix be included in Decision 17. This was within the scope of the Residential Stage 2 hearing, however the plan was omitted from the Council's Revised Version. In our decision, we agreed with the Council on site and area specific matters unless otherwise noted.³ Ms Oliver had recommended accepting the submissions of the Franks in her rebuttal evidence.⁴

[20] The Council has now filed an updated plan with its application.⁵ We confirm that the development plan, provided at Schedule 3 of this decision, accords with our decision and can be included as a minor correction. The Council has also submitted that the appendix be inserted into Chapter 8. We agree that this is appropriate and direct that it be inserted with the appropriate numbering.

Naming changes to Christchurch Character Areas (excluding Lyttelton and Akaroa)

[21] We accept and update the name changes for the Character Areas provided in the Council's application. These are provided at Schedule 4.

³ Decision 17 at [187].


⁴ Rebuttal evidence of Ms Sarah Oliver on behalf of the Council, Attachment B at page 248, in response to the submission of John Hutton and Graham and Lillian Franks (submitter 2238).

⁵ Attachment D.


Directions

[22] We direct the Council to undertake the changes to the Decision Version specified in this corrections decision and provide the Hearings Panel an amended version for checking prior to making the decision operative.


For the Hearings Panel:



Hon Sir John Hansen
Chair



Dr Philip Mitchell
Panel Member



Ms Jane Huria
Panel Member



Mr Alec Neill
Panel Member

SCHEDULE 1

Corrections to Decision 17 Residential (Part) — Stage 2

| Correction | Reason |
|---|--|
| The reference at para [284] to 77 Hawthornden Road, is replaced with 100-120 Hawthornden Road. | Incorrect address. |
| Renumber the Character Areas in accordance with Schedule 4. | The removal of the Category 2 areas has resulted in the need to renumber |
| Amend reference to “Spencer Park” in table 14.1.1.1a to “Spencerville” | Incorrect settlement name. |
| Amend Rule 14.2.4.6.12 to read as follows: <i>New buildings: up to 15 metres</i> <i>Additions to an existing building: up to 10 metres</i> | To provide clarity. |
| Amend Rule 14.2.4.6.16 to read as follows: <i>Screening of outdoor storage areas shall ensure that outdoor storage is not visible from 1.8 metres above ground level on any adjoining road or site, and that storage is outside of not located within any required 2 metre planted strip along adjoining the road frontage.</i> | To provide consistency or wording with the landscaping standard in Rule 14.2.4.6.17. |
| Amend Rule 14.3.4.6.4 to read as follows: <i>New buildings: up to 15 metres</i> <i>Additions to an existing building: up to 10 metres</i> | To provide clarity. |
| Amend Rule 14.4.4.2 RD3 and RD4 to read: <i>RD3</i> ... <i>b. the erection of dwellings a building and accessory buildings, except for new buildings dwellings within the Lyttelton Port Influences Overlay Area; and/or</i> ... <i>RD4</i> ... <i>b. the erection of dwellings a building and accessory buildings; and/or</i> ... | To provide consistency within the provisions and with other Character Area Overlay provisions. |
| Amend Rules 14.5.3.2 and 14.7.3.2 by deleting the words “minor dwelling unit” and replacing with “minor residential unit”. | Incorrect term used. |

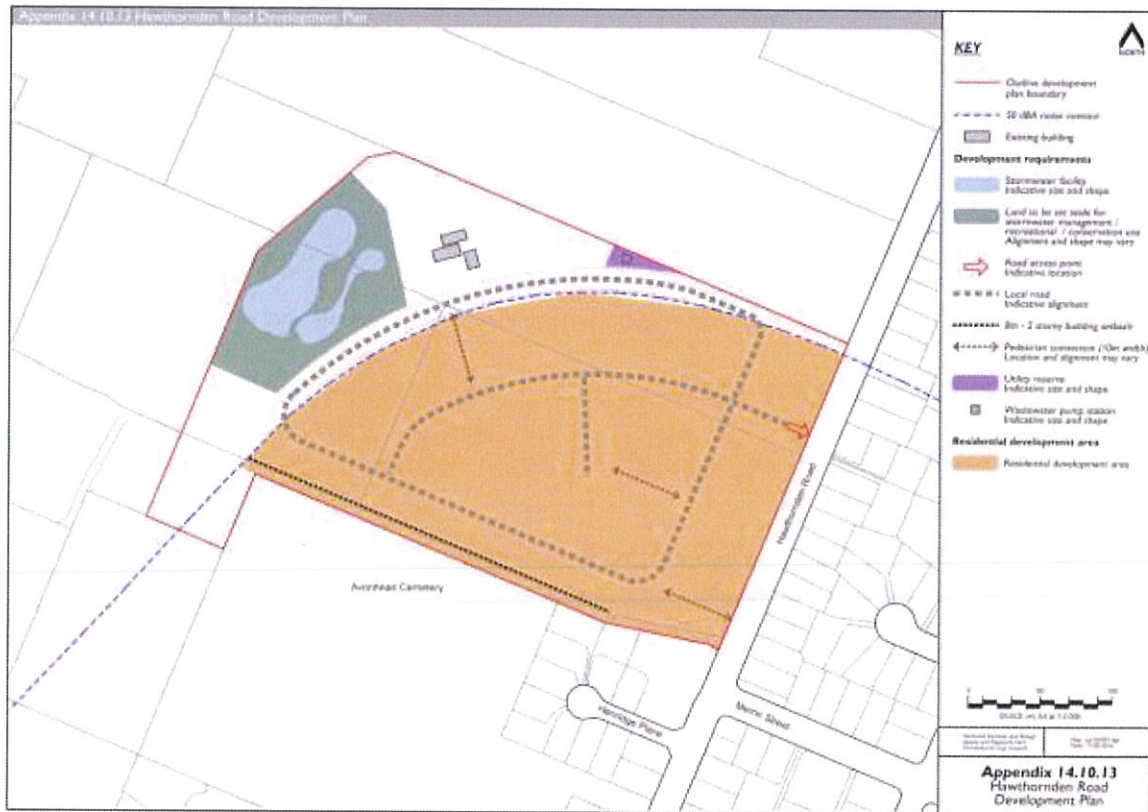
| Correction | Reason | | | |
|---|---|--|--|---|
| <p>Amend 14.5.2.3 by inserting the following activity:</p> <table><tr><td><u>RD22</u></td><td><u>Convenience activities</u></td><td><u>a. Residential design principles – 14.13.1;</u> <u>b. Scale of activity - 14.13.5;</u> <u>c. Traffic generation and access safety - 14.13.6</u> <u>d. Hours of operation - 14.13.22;</u></td></tr></table> | <u>RD22</u> | <u>Convenience activities</u> | <u>a. Residential design principles – 14.13.1;</u> <u>b. Scale of activity - 14.13.5;</u> <u>c. Traffic generation and access safety - 14.13.6</u> <u>d. Hours of operation - 14.13.22;</u> | <p>This activity was incorrectly omitted from the decision.</p> |
| <u>RD22</u> | <u>Convenience activities</u> | <u>a. Residential design principles – 14.13.1;</u> <u>b. Scale of activity - 14.13.5;</u> <u>c. Traffic generation and access safety - 14.13.6</u> <u>d. Hours of operation - 14.13.22;</u> | | |
| <p>Amend Rule 14.7.2.1 P19 to read:</p> <p><i>P19 - Indigenous vegetation clearance <u>in the Akaroa Hillslopes Density Overlay</u></i></p> | <p>The underlined words were incorrectly omitted from the decision.</p> | | | |
| <p>Amend Rule 14.8.3.5 to read:</p> <p><i>Side and rear internal boundaries in <u>the Spencerville Overlay Area and the Kainga Overlay Areas 1 and 2</u></i></p> | <p>Reference to the Spencerville Overlay Area was incorrectly omitted from the decision.</p> | | | |
| <p>Amend 8.6.6 Halswell West Outline Development Plan by providing a 15m setback/planted buffer in relation to the boundaries of the Harcourt and Mercantile Trust properties. In relation to the Harcourt property, the 15 metres is to be measured from the furthest side of the road that abuts 19 John Patterson Drive. Also provide an access restriction limiting access from within Halswell West so that access cannot be obtained to the NZTA designated road that joins to the end of John Patterson Drive.</p> | <p>This provides a clarification of the direction.</p> | | | |
| <p>Amend Hawthornden Road ODP by deleting and inserting Hawthornden Road Development Plan, contained in Schedule 3</p> | <p>Updated in accordance with decision, and amended to refer to development plan, rather than outline development plan.</p> | | | |

SCHEDULE 2**Amendments to previous decisions**

| Amendment | Reason |
|---|---|
| Delete Policy 14.1.4.9 placeholder from Decision 10. | Policy 14.1.4.9 was retained as a placeholder in Decision 10 (with the decision on the Policy to be considered in Residential Stage 2). The content of notified Policy 14.1.4.9 has been incorporated into Policy 14.1.4.6. |
| Delete Policy 14.1.4.10 placeholder from Decision 10. | Policy 14.1.4.10 was retained as a placeholder in Decision 10 (with the Policy to be considered in Residential Stage 2). The content of notified Policy 14.1.4.10 has been replaced by clause (b) of Policy 14.1.4.7. |
| Amend Decision 10 by deleting Rule 14.2.4.4 D4 in relation to non-compliance with daylight recession planes for Prestons Road Retirement Village. | This rule is duplicated by the less restrictive restricted discretionary rule Rule 14.2.4.3 RD11. A restricted discretionary rule is consistent across the plan. |

SCHEDULE 3

Hawthornden Road Development Plan



SCHEDULE 4**Updated numbering for Christchurch Character Area Overlay areas**

| Notified Character Area number and name | Key road names | Renumbered to improve plan usability |
|---|---|---|
| CA 2 - Beckenham Loop | Fisher Avenue, Sandwich Road, Martin Avenue, Malcolm Avenue, Corson Avenue, Riverview Street, Birdwood Avenue | New combined area and renumber to - CA4 Beckenham Loop |
| CA 3 - Beckenham Central | | |
| CA 4 – Tainui | Tainui Street, Moana Street, Darley Street | Renumber to - CA5 Tainui |
| CA 7 – Piko | Piko Crescent, Tara Street, Shand Crescent | Redefine boundary in accordance with Council memorandum (refer to excerpts below) and renumber to - CA6 Piko |
| CA 11 – Dudley | Slater Street, Chancellor Street, Warden Street, Stapletons Road, Petrie Street, Guild Street, Dudley Street, Averill Street, Nicholls Street, Randall Street | Renumber to - CA14 Dudley |
| CA 13 – Heaton | Heaton Street | Renumber to - CA7 Heaton |
| CA 15 – Massey | Massey Crescent | Renumber to - CA10 Massey |
| CA 16 – Francis | Francis Avenue | Renumber to - CA 13 Francis |
| CA 17 – Malvern | Gosset Street, Carrington Street, Jacobs Street, Roosevelt Avenue | Renumber to - CA11 Malvern |
| CA 18 – Dee | Malvern Street, Dee Street, Severn Street, Mersey Street | Renumber to - CA12 Severn |
| CA 19 – St James | St James Avenue | Delete CA 19 |
| CA 20 – Cashmere | Hackthorne Road, MacMillan Avenue, Dyers Pass Road | Renumber to - CA3 Cashmere |
| CA 22 – The Esplanade East | Esplanade | Renumber to - CA1 Esplanade |
| CA 25 – Englefield | Elm Grove, Hanmer Street, Gilby Street | Renumber to - CA15 Englefield |
| CA 27 – Beverley | Beverley Street | Renumber to - CA8 Beverley |
| CA 28 – Ranfurly | Ranfurly Street | Renumber to - CA9 Ranfurly |
| CA 29 – Auburn | Auburn Avenue, Riccarton Road | Delete CA 29 |
| CA 30 – Clifton | Clifton Terrace, The Spur | Renumber to - CA2 Clifton |
| CA 32 – Emmett | Emmett Street | Delete CA 32 |