

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

AND

IN THE MATTER OF an application to correct a minor error
pursuant and clause 16 to Schedule 3 of the
Order

Date of decision: 14 June 2016

Hearing Panel: Hon Sir John Hansen (Chair), Mr Stephen Daysh and
Mr John Illingsworth

MINOR CORRECTIONS TO DECISION

DECISION 19
Chapter 21 Specific Purpose Zones — Stage 2
(and Relevant Definitions and Associated Planning Maps)

Background

[1] The Hearings Panel (‘the Panel’) issued its decision on Chapter 21 Specific Purpose Zones (‘Decision 19’) on 30 March 2016. We received a memorandum (‘Memorandum 1’) from the Christchurch City Council (‘the Council’) requesting minor corrections to our Decision 19 on 2 May 2016.¹ Memorandum 1 followed an earlier memorandum from the Council on 19 April 2016 regarding the planning maps for Decision 19, but which also indicated a need for clarification on the zoning of particular sites.²

¹ Memorandum of counsel for Christchurch City Council requesting correction to Decision 19, 2 May 2016.

² Memorandum of counsel for Christchurch City Council regarding planning maps for Decision 19 Specific Purpose Zone Stage 2, 19 April 2016.

[2] We received a subsequent memorandum (‘Memorandum 2’) from the Council requesting a minor correction to Decision 19 on 24 May 2016.³ This memorandum also requested that the Panel update its numbering of appendices in its decision on the Residential New Neighbourhood Zone Proposal.

[3] Clause 16 of Schedule 3 to the OIC provides as follows:

- (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.

Reasons for the corrections

[4] Paragraph 7 of Memorandum 1 states that the corrections sought by the Council are to rectify mistakes or inaccuracies in Decision 19, or to assist users with navigating the Plan. The specific detail of the corrections sought, along with the Council’s reasoning, is set out in detail Attachment A of Memorandum 1. The memorandum also contends that the corrections sought do not relate to the substance or merits of Decision 19.

[5] Furthermore, Memorandum 1 identifies that the numbering/structure of the chapters in Decision 19 differs from that adopted in other decisions, most notably Decisions 14 and 21. The memorandum seeks that this matter also be addressed as a minor correction to Decision 19.

[6] Paragraph 8 of Memorandum 2 states that the correction sought by the Council is to clarify where users of the plan should look to ascertain which recession plane diagram applies in the Residential New Neighbourhood Zone.

³ Memorandum of counsel for Christchurch City Council requesting a supplementary correction to Decision 19, 24 May 2016.

Decision

[7] We accept, for the most part, that the corrections sought to Decision 19 in Attachment A of Memorandum 1 amount to minor errors and can be corrected using our powers under cl 16 of Schedule 3 to the OIC.

[8] In addition, we acknowledge that some of the rezoning requests that were deferred until Decision 19 were either not recorded or suitably clarified within the decision itself. Further, we acknowledge that the acceptance of some of the rezoning recommendations relating to school sites and neighbouring properties made in other decisions (e.g. Decision 17) may not have been sufficiently clear. We are satisfied that it is appropriate to clarify the rezoning of these properties in this correction decision.

[9] With respect to the rezoning request by the Holistic Education Trust (2127) identified in Appendix A of Memorandum 1, we sought clarification from legal counsel on behalf of the Council that the site on Quaifes Road, Halswell is for the Seven Oaks School and that Appendix 21.6.3.3 also requires amendment to reflect the alternative zone for the site.⁴ The naming of the school is also noted in the submission of the Trust.⁵

[10] We note that the updated information regarding the status of school closures provided by the Council does not appear to be new information and is information that should have been provided by the Council in their final draft of the provisions in November 2015. That said, we have made these corrections in Schedule 1 so as to ensure that Appendices 21.6.6.1 and 21.6.6.2 to the Specific Purpose (School) chapter are accurate at this point in time.

[11] The Council has requested in Memorandum 1 that Rule 21.5.2.1(b) of the Specific Purpose (Hospital) chapter be amended to make it clear that the listed provisions of Chapters 6 and 7 are not considered by plan users to be the only parts of those chapters that apply. The Council sought that this be addressed by adding the word “including” after the references to the General Rules and Procedures and Transport Chapters in Rule 21.5.2.1(b).

[12] While we accept that the Council’s request for clarity is valid, we do not consider that the addition of the word “including” by itself would provide sufficient clarity. As such, we

⁴ Email correspondence from S Scott on behalf of the Council, 23 May 2016.

⁵ Holistic Education Trust (2127).

have made minor amendments to the rule to clarify that the relevant matters in Chapters 6 and 7 are not limited to the listed provision in Rule 21.5.2.1(b).

[13] The Council has also requested clarification from us in Memorandum 1 as to whether there is a need to amend Rule 21.5.3.1 within the Specific Purpose (Hospital) chapter in order to clarify that repair, maintenance and refurbishment works are not non-complying activities in accordance with Rule 21.5.3.5. We accept that the current structure of the rules is potentially unclear in light of the exceptions for repair, maintenance and refurbishment works set out in Rule 21.5.3.2 C1 and Rules 21.5.3.3 RD4 and RD5.

[14] That said, we do not consider that it is appropriate to establish a specific permitted activity rule for these works in Rule 21.5.3.1. In this regard, the works that are excluded from Rule 21.5.3.2 C1 and Rules 21.5.3.3 RD4 and RD5 are either activities that will be lawfully established (i.e. repair or maintenance activities) or activities not intended to be captured by the Plan (i.e. fire or building code upgrades) — and not activities that involve an addition to a building or the establishment of new buildings. Further, we note that none of the other rule frameworks for the Specific Purpose Zones within Decision 19 provide for repair, maintenance or refurbishment works in a manner similar to Rule 21.5.3.2 C1 and Rules 21.5.3.3 RD4 and RD5 (i.e. there are no similar rules for the repair, maintenance or refurbishment of schools or tertiary education facilities within the existing footprint of buildings).

[15] In light of the above, we have chosen to amend Rule 21.5.3.2 C1 and Rules 21.5.3.3 RD4 and RD5 by deleting the reference to the exceptions for repair, maintenance and refurbishment works.

[16] The Council sought clarification in Memorandum 1 with respect to those aspects of our decision regarding the setback and coverage rules for spiritual facilities in Rules 21.6.4.1, 21.6.4.3 and 21.6.4.4. In particular, the Council has queried whether there needs to be a specific reference (or standard) for spiritual facilities in these rules so as to ensure, as we understand it, that the site coverage and setback provisions for other activities in the Specific Purpose (School) Zone remain appropriate.

[17] We accept that the amendments made to the site coverage and setback rules for the Specific Purpose (School) Zone in order to ensure that spiritual facilities in the zone are

managed in the same manner as for churches in other zones would apply more broadly to any activities in the zone. In addition, we acknowledge that by amending Rule 21.6.4.1(a) the site coverage standards for school sites in the Residential Suburban Zone are more permissive than for those in the Residential Medium Density Zone.

[18] As such, we have chosen to amend Rules 21.6.4.1, 21.6.4.3 and 21.6.4.4 via the inclusion of new clauses to provide specific site coverage and setback rules for spiritual facilities in the Specific Purpose (School) Zone that are consistent with the management approach for scheduled spiritual facilities in Chapter 6, but which do not impact on the amenity and density controls intended for all other activities in the Specific Purpose (School) Zone. These amendments provide for spiritual facilities to be developed in the Specific Purpose (School) Zone up to a maximum net site area of 50 per cent, a minimum building setback from road boundaries of 6 metres, and a minimum building setback from internal boundaries of 5 metres.

[19] With respect to the observation in Memorandum 1 regarding the numbering structure of the chapters in Decision 19, and its consistency with Decisions 14 and 21, this is a matter that will be addressed in an integrated and consistent manner across all chapters of the Plan as we conclude our decisions.

[20] In Memorandum 2 the Council requested that Rule 21.6.4.2 be amended in light of Appendix 14.14.2 not including a specific recession plane diagram that applies to the Residential New Neighbourhood Zone. This request is accepted and we have amended Rule 21.6.4.2 by including a new clause (b) that references the daylight recession plane requirements for the Residential New Neighbourhood Zone in Rule 14.9.3.4.

[21] Decision 19 is hereby amended in accordance with Schedule 1.

[22] Notwithstanding the above, we have not accepted all of the requested corrections in the memorandum. These are explained as follows.

Activities and facilities

[23] While we accept that Rule 21.5.2.1(c) of the Specific Purpose (Hospital) chapter clarifies the application of the words “activities” and “facilities” in the corresponding rules, we do not consider it necessary to amend Rule 21.5.3.1 P7 as requested by the Council in Memorandum 1.

In this regard, the reference to “spiritual activities and facilities” does not alter the scope of the rule and is consistent with the drafting of other rules in Decision 19 (e.g. the rules for the Specific Purpose (Tertiary Education) Zone).

Ancillary activities

[24] We do not accept that it is necessary to amend Rules 21.5.3.1 P3 and P4 of the Specific Purpose (Hospital) chapter to explicitly state that any office or retail activities must be ancillary to the hospital activity as has been requested in Memorandum 1. We consider that the drafting of the rules is sufficiently clear that any office or retail activity must be ancillary to the activities on the site and is not to be a principal activity. There is no error in Rules 21.5.3.1 P3 and P4 that requires amendment.

[25] In addition, we note that the drafting of Rules 21.5.3.1 P3 and P4 was agreed by the Council, the Crown (2387) and the Canterbury District Health Board (2360) as being acceptable in November 2015, and that no issues were raised at this time about the possible ambiguity of Rules 21.5.3.1 P3 and P4.

Built form standards — Specific Purpose (Hospital) Zone

[26] The request by the Council in Memorandum 1 to amend the built form standards in Rules 21.5.4.1(e) and (f) of the Specific Purpose (Hospital) chapter is not accepted. We consider that the drafting of both standards is sufficiently clear as to their meaning and will not cause issues for users of the Plan. We also note that the proposed amendment to standard (e) recommended by the Council is not appropriate in light of it referring to “activities” when the standard is actually concerned with exceptions at particular locations.

[27] In addition, and as with the above matter, the drafting of the built form standards in Rules 21.5.4.1(e) and (f) was agreed by all of the relevant parties in November 2015 and no issues were identified at that time with the lack of clarity in the drafting of the standards.

Use of student accommodation

[28] We do not consider that any additional clarification is required by way of an amendment to standard (a) of Rule 21.7.3.1 P1 of the Specific Purpose (Tertiary Education) chapter (as

suggested by the Council in Memorandum 1). The rule already clearly defines the scope of the activity which is permitted. That is, the use of accommodation by persons not associated with the tertiary education and research activity.

[29] As such, we do not accept that there is potential for confusion with respect to the user of student accommodation under standard (a) of Rule 21.7.3.1 P1.

For the Hearings Panel:



Hon Sir John Hansen
Chair



Mr John Illingsworth
Panel Member



Mr Stephen Daysh
Panel Member

SCHEDULE 1

Amendments to the Proposal in Schedule 1 of Decision 19.

1. Amend **Rule 21.2.3.3 RD1 and RD2** to read as follows:

	Activity	The council's discretion shall be limited to the following matters:
RD1	Any activity listed in Rule 21.2.3.1 that does not comply with one or more of the built form standards listed under the Activity Specific Standards for Activities P1, P2, P3 and P4.	a. Street scene – 21.2.5.1. b. Height, separation from neighbours and daylight recession planes – 21.2.5.2.
RD2	Any work on monuments, vaults or mausolea in the Akaroa French Cemetery and Mount Magdala Cemetery listed in Appendix 21.2.6.2.	a. Street scene – 21.2.5.1. b. Height, separation from neighbours and daylight recession planes – 21.2.5.2. Note: This activity should align with the appropriate Cemetery Conservation Plan and the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value.

2. Amend **Rule 21.5.2.1(b)** to read as follows:

The Activity Status Tables and Standards in the following chapters also apply to activities in all areas of the Specific Purpose (Hospital) Zone (where relevant):

- 5 Natural Hazards;
- 6 General Rules and Procedures – including, but not limited to, the noise standards for hospitals (see Rule 6.1.4); the rules for temporary activities, buildings or events (see Rule 6.2.2); and the rules for outdoor lighting and glare (see Rule 6.3.2);
- 7 Transport – including, but not limited, to rules for High Trip Generators (see Rule 7.2.3.10); the parking standards (numbers) for hospitals/healthcare (see Appendix 7.1; and the cycle parking standards (numbers) for hospitals/healthcare (see Appendix 7.2);
- 8 Subdivision;
- 9 Natural and Cultural Heritage;
- 10 Utilities and Energy; and
- 11 Hazardous Substances and Contaminated Land.

3. Amend **Rule 21.5.3.2 C1** to read as follows:

	Activity	The matters over which Council reserves its control
C1	<p>Within Suburban sites any new building, set of contiguous buildings, or addition to a building that is set back 30m or more from a boundary with a gross ground floor area over 2000m².</p> <p>Any application arising from this rule will not require written approvals and shall not be limited or publicly notified.</p>	<p>a. 21.5.5.2 Site and building design (i) and (iv).</p>

4. Amend **Rule 21.5.3.3 RD4 and RD5** to read as follows:

	Activity	The council's discretion shall be limited to the following matters:
RD4	<p>Within Inner urban sites, any new building, set of contiguous buildings, or addition to a building of 1000m² (gross ground floor area) or more.</p> <p>Any application arising from this rule will not require written approvals and shall not be limited or publicly notified.</p>	<p>21.5.5.1 City context and character. 21.5.5.2 Site and building design. 21.5.5.5 Landscaping.</p>
RD5	<p>Within Suburban sites, any new building, set of contiguous buildings, or addition to a building set back:</p> <ol style="list-style-type: none"> 10m to 20m from a boundary that is 1000m² gross ground floor area or more; or 10m to 20m from a road boundary and is over 14m in height; or 20 to 30m from a boundary that is 2000m² gross floor area or more. <p>Any application arising from this rule will not require written approvals and shall not be limited or publicly notified.</p>	<p>21.5.5.1 City context and character. 21.5.5.2 Site and building design. 21.5.5.5 Landscaping.</p>

5. Amend **Rule 21.5.3.5 NC1** to read as follows:

	Activity
NC1	Any activity not provided for as a permitted, controlled, restricted discretionary or discretionary activity.

6. Amend **Rule 21.6.4.1** to read as follows:

	Applicable to	Standard
a.	School sites where the additional activities and standards are from the zones listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3: Residential Suburban, Residential Suburban Density Transition, Residential Hills, Residential Banks Peninsula, Residential Small Settlement or Rural Zones.	40%
b.	School sites where the additional activities and standards are from the zones listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3: Residential Medium Density, or Residential New Neighbourhood Zones.	45%
c.	The Phillipstown School site, where the additional activities and standards are from the Industrial General Zone.	No maximum percentage.
d.	Spiritual facilities on school sites listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3.	50%

7. Amend **Rule 21.6.4.3** to read as follows:

	Applicable to	Standard
a.	School sites where the additional activities and standards are from the zones listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3: Residential Suburban; Residential Suburban Density Transition; Residential Hills; Residential Banks Peninsula; Residential Small Settlement; or Rural Zones.	10m
b.	School sites where the additional activities and standards are from the zones listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3: Residential Medium Density, or Residential New Neighbourhood Zones;	4m
c.	The Phillipstown School site, where the additional activities and standards are from the Industrial General zone.	6m
d.	For a major sports facility on Lot 1 DP 11232, and on any land in an adjoining open space zone.	10m
e.	Spiritual facilities on school sites listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3.	6m

8. Amend **Rule 21.6.4.4** to read as follows:

	Applicable to	Standard
a.	From a boundary with any other zone, with the exception of b., c., d., and e. below.	6m

b.	From a boundary with any other zone, if the building does not exceed 4.5m in height; and Either: i. does not exceed 15m in length, or ii. a recess is provided for every additional 15m of building length or part thereof, with a minimum dimension of 3m by 3m for the full height of the building including the roof.	3m
c.	Accessory buildings for caretaking and storage purposes from a boundary with any other zone.	Nil, if the length of walls of accessory buildings within 6m of a boundary does not exceed a total of 9m for each 100m length of boundary; Otherwise 6m.
d.	For a major sports facility on Lot 1 DP 11232 developed in conjunction with part of the adjacent Elmwood Park located at 83D Heaton Street.	6m, except that on the boundaries with Lot 1 DP12727, Elmwood Park no setback is required.
e.	Spiritual facilities on school sites listed in Appendices 21.6.6.1, 21.6.6.2 or 21.6.6.3.	5m

9. Amend **Appendix 21.6.6.1** to read as follows:

	School Name	Location	Map Ref	Alternative Zone
22	Central New Brighton Primary School (closed)	Seaview Road, New Brighton	26	RSDT
34	Freeville Primary School (closed)	Sandy Avenue, New Brighton	26	RS
62	Marshland Primary School	Prestons Road, Marshland	19	RuUF – Marshland Rd site; RNN – Prestons site
67	North New Brighton Primary School (closed)	Leaver Terrace, North New Brighton	26	RS
116	Rawhiti Primary School	Leaver Terrace, North New Brighton	26	RS

10. Amend **Appendix 21.6.6.2** to read as follows:

	School Name	Location	Map Ref	Alternative Zone
10	St Francis of Assisi Catholic	Innes Road, Mairehau	25	RS

11. Amend **Appendix 21.6.6.2** by deleting Item 24 (St Paul's) and renumbering Items 25 (St Peter's) to Item 30 (Villa Maria) as Items 24 to 29 respectively.

12. Amend **Appendix 21.6.6.3** to read as follows:

	School Name	Location	Map Ref	Alternative Zone
10	Seven Oaks School	Quaifes Road, Halswell	49	RNN

13. Amend all references to ‘Christchurch Polytechnic Institute of Technology’ in **Proposal 21.7 (Specific Purpose (Tertiary Education) Zone)** to ‘Ara Institute of Canterbury’.

14. Amend **Rule 21.7.3.3 RD5** to read as follows:

	Activity	The Council’s discretion shall be limited to the following matters:
RD5	Any activity listed in Rules 21.7.3.1 or 21.7.3.2 that does not comply with Rule 21.7.4.7 outdoor storage.	a. Amenity of the neighbourhood – 21.7.5.1 a. and e.

15. Amend **Rule 21.7.4.2** to read as follows:

	Applicable to	Standard
a.	UC east of Ilam Road site; UC west of Ilam Road site; UC Dovedale site; Ara Institute of Canterbury Sullivan Avenue site; and Ara Institute of Canterbury Hassals Lane site.	No part of any building shall project beyond a building envelope contained by recession planes from points 2.3m above a boundary with a residential zone as shown in Appendix 14.14. 2 – Diagram A.
b.	UC east of Ilam Road; and Ara Institute of Canterbury Hassals Lane site.	No part of any building shall project beyond a building envelope contained by recession planes from points 2.3m above a boundary with a Transport zone as shown in Appendix 14.14.2 – Diagram A.

16. Amend **Appendix 7.1 of Chapter 7 Transport** to read as follows:

9. For the purposes of the land held by the University of Canterbury in the Specific Purpose (Tertiary Education) Zone, car parking requirements are to be assessed with regard to the following matters:
- a. The University of Canterbury Specific Purpose (Tertiary Education) Zone is to be treated as one site;
 - b. Car parking shall be provided to staff and students of the University as set out in Table 7.2 below;
 - c. Not less than 20% of the car parks shall be provided West of Waimairi Road and 30% shall be provided East of Ilam Road with the balance provided by University of Canterbury across the site.

17. Amend the Proposal in Schedule 1 of Decision 19 so that the amendment to **Appendix 7.1 of Chapter 7 Transport** is not identified as an advisory note and is renumbered as clause 9 (with the existing clause 9 becoming clause 10).
18. Amend the changes to the **Planning Maps for the Specific Purpose (Hospital) Zone** in Schedule 3 of Decision 19 to read as follows:

Specific Purpose (Hospital) Zone

Hospital Name	Street Name	Legal Description	Map Ref	Revised Zoning
Nurse Maude	28 Mansfield Avenue	Pt Lot 8 DP 2378, Lot 9-10 DP 2378 and Lot 3 DP 20807	31	Specific Purpose (Hospital) Zone

19. Update the changes to the **Planning Maps for the Specific Purpose (School) Zone** in Schedule 3 of Decision 19 to include the following properties:

Specific Purpose (School) Zone

School Name	Street Name	Legal Description	Map Ref	Revised Zoning
Harewood Primary School	721 Harewood Road	Pt Lot 2 DP1074 and Pt Lot 1 DP13089	17	Specific Purpose (School) Zone
Hillview Christian School	132 and 136 Wilsons Road	Lot 1 DP 18633 and Lot 3 DP 14984	39	Specific Purpose (School) Zone
Seven Oaks School	100 Quaifes Road	Lot 2 DP 33729 (4ha of total site)	49	Specific Purpose (School) Zone
Hornby High School	180 Waterloo Road	Lot 2 DP 58588	36/37	Specific Purpose (School) Zone
Kirkwood Intermediate School	19 Kirkwood Avenue	Pt Lot 2 DP 12047, Pt Lot 3 DP 12047 and Pt Lot 4 DP12047	31	Specific Purpose (School) Zone
Mt Pleasant School	62 Major Hornbrook Drive	Lot 4 DP 11756	47	Specific Purpose (School) Zone
Shirley Intermediate	56 Shirley Road	Lot 1 DP 64964	25/32	Residential Medium Density
St Teresa's School	14 Puriri Street	Lot 307 DP 6079	31	Specific Purpose (School) Zone

20. Update the Planning Maps for the Residential Suburban Zone to include the following properties:

Residential Suburban Zone

Street Name	Relevant / Adjacent School	Legal Description	Map Ref	Revised Zoning
16, 18, 20, 22, 24, 24A and 26 Hei Hei Road	Hornby Primary School	Lot 6 DP 336122, Lot 5 DP 336122, Lot 4 DP 336122, Lot 3 DP 336122, Lot 2 DP 336122 and Lot 1 DP 336122	36	Residential Suburban
15 Kirkwood Avenue	Kirkwood Intermediate School	Sec 1 SO 17158	31	Residential Suburban
37 Poulton Avenue	Marian College	Lot 1 DP24962	32	Residential Suburban
126A–126K North Parade	Marian College	Lot 1 DP 41144	32	Residential Suburban