

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

AND

IN THE MATTER OF proposals notified for incorporation into a
Christchurch Replacement District Plan

Minor corrections: 2 December 2016

Hearing Panel: Environment Judge John Hassan (Chair), Ms Sarah Dawson,
Mr John Illingsworth, Ms Jane Huria

**MINOR CORRECTIONS TO DECISION 53 – NATURAL HAZARDS AND
DECISION AS TO PLANNING MAPS**

Background

[1] The Hearings Panel (‘the Panel’) issued its decision on Chapter 5, Natural Hazards – Stage 3 (and relevant definitions and associated planning maps) on 3 November 2016. The decision directed the Council to provide an updated set of plan and overlay maps reflecting the decision, and an appendix showing the Residential Unit Overlay, applying to specified High Flood Hazard Management Areas.

[2] We have received one application for minor corrections from the Christchurch City Council¹ ('the Council'). In addition, we received correspondence from Mr and Mrs Raymond and Pauline McGuigan regarding maps filed with closing submissions by the Council.² We address these in turn below.

[3] A final set of planning maps was filed with the Independent Secretariat on 24 November 2016.

Decision as to minor corrections

[4] 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.

[5] The Council has set out in its application a summary of the jurisdiction for minor corrections, which we adopt. We note that some of the corrections also require revisiting our previous decisions on Natural Hazards. Where we undertake such changes, we do so in accordance with our powers under Clause 13 (5) and (6) of the Order.

Corrections sought by the Council

[6] We have reviewed the corrections sought by the Council. Corrections with which we agree are attached in Schedule 1. For the Te Waihora / Lake Ellesmere Flood and Wairewa / Lake Forsyth Management Areas, while we accept the substance of the Council's submission, we have taken a different approach to the formatting of the minor corrections. That is, we replace P1 with a combined version of P11 and P12 (rather than just deleting P1). This is because it places the most common type of consent likely to occur at the front of the table in a

¹ Memorandum of counsel for Christchurch City Council requesting corrections to Decision 53 Natural Hazards (Stage 3), 15 November 2016.

² Email correspondence received by the Secretariat on 8 November 2016.

logical order. Consequential re-numbering therefore differs from the Council's application in relation to those flood management areas.

[7] Where we do not agree to the change sought, we address these below.

Exemptions to Flood Management Area rules

[8] The Council has sought the inclusion of the following text in Rule 5.5.1.1:

Exemptions relating to this rule can be found in Rule 5.5.1.3 and 5.5.1.4.

[9] We do not make the change sought, as the exemption in Rule 5.5.1.3 does not exempt the activity from any flooding rule. Rather, it is an exemption for the daylight recession plane rule.

Inclusion of Specific Purpose Zones in higher earthworks thresholds in the FMA

[10] The Council has sought the inclusion of Specific Purpose Zones in the same earthworks category as Commercial and Industrial Zones. No reference is made to submissions that could be relied upon for this change. Nor does the Council satisfy us that such a change would be of minor effect. The Council's requested change is not consistent with the Council's Revised Version, which provided for different earthworks thresholds for 'other' zones. Therefore, we decline the request.

Amending text to table titles for Table 5.5.4.1b and Table 5.5.4.1c

[11] We do not make any changes in relation to this request as we find it is unnecessary and that the provisions are sufficiently clear.

Applying Rule 5.5.5.2 RD1 to the entire Flood Ponding Management Area

[12] The Council sought the following change to Rule 5.5.5.2 RD1 in relation to the Flood Ponding Management Area:

Filling and excavation within ~~Henderson Basin~~ **Flood Ponding Management Areas** for the creation and enhancement of:

a. waterbodies, wetlands or public accessways associated with the recreation values of the waterways or wetlands ~~within the basin~~; and...

[13] The Council has submitted that this must apply to all Flood Ponding Management Areas, not just Henderson's Basin, as the second column refers to the Avon, Heathcote and Styx Rivers.

[14] The rule in our decision was notified as RD2, and is a specific activity only related to Hendersons Basin. Our decision added stormwater treatment, attenuation and compensatory storage. We are not aware of any submissions seeking that the provisions be applied more widely. We observe that the matters of discretion in the second column also relate to activities in RD2 and RD3. We are not satisfied that the extension of the provision to the entire Flood Ponding Management Area is minor, and do not agree to the change sought. We note that consent would default to non-complying, and an application can still be made for the activity.

New permitted activity providing for flood protection works in the High Flood Hazard Management Area

[15] The Council has sought, as a minor correction, that the Panel provide a new permitted activity that provides for flood protection works in the High Flood Hazard Management Area. We have heard no evidence on this matter, and are not aware of any submissions seeking the change. We are not satisfied that such a change would be of minor effect, and decline the change sought.

[16] Accordingly, we direct changes using our powers under cl 16 of Schedule 3 to the OIC as set out in Schedule 1 attached.

Decision as to Planning Maps

[17] We have received a copy of the Planning Maps showing the revised Hazard Maps. Following the hearing, we received correspondence from Raymond and Pauline McGuigan regarding the identification of the Flood Management Area on the adjacent Preston's site in the Council's Final Revised Version, which differed from the agreement reached between the Council and the McGuigan's. We confirm that the concern raised has been addressed by the Council, and the maps amended. We confirm them accordingly as set out in Schedule 2.

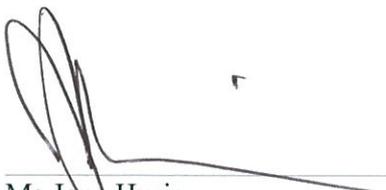
For the Hearings Panel:



Environment Judge John Hassan
Chair



Ms Sarah Dawson
Panel Member



Ms Jane Huria
Panel Member



Mr John Illingsworth
Panel Member

SCHEDULE 1

Corrections to Decision 53

Correction	Reason
Amend paras [113] and [122] to read: <i>...Residential Unity Overlay...</i>	Corrects typographical error.
Amend para [151] to read: <i>The Crown submitted that aAs the rule does not apply in any FMA, the Crown noted that there might be no provision for assessment where a FMA overlays an outstanding Natural Feature or Outstanding Natural Landscape such as a Te Waihora / Lake Ellesmere and Te Wairewa / Lake Forsyth.</i>	Clarifies that this is what the Crown submitted in closing. Also contains correction of statutory acknowledgement name for Wairewa.
Various references in the body of the Decision to Flood Management Area and Flood Management Areas.	Amend to read the following areas as singular, but if reference to more than one, then plural: <ul style="list-style-type: none"> • Flood Management Area • Te Waihora/Lake Ellesmere Flood Management Area • Wairewa/Lake Forsyth Flood Management Area • Waimakariri Flood Management Area
Amend Policy 5.3.2.1 to read: <i>a modelled 0.5% AEP (1 in 200-year) rainfall event plus a 5% AEP (1 in 20-year) tide event plus 250mm freeboard; OR a modelled 5% AEP (1 in 20-year flood event) plus a 0.5% AEP (1 in 200-year) tide event plus 250mm freeboard; OR 11.9m above Christchurch City Council Datum (the maximum 200-year tidal contour) plus 250mm freeboard; whichever is the greater; and...</i>	Corrects term.
Policy 5.3.4.2 a. Page [58] <i>Provide for site-specific assessment of risk from rockfall and/or cliff collapse, in Rockfall Management Area 1, Rockfall Management Area 2, and/or Cliff Collapse Management Area 2, where appropriate in accordance</i>	Corrects text in accordance with Decision 15 and clarifies reference in policy.

<p><i>with the method and parameters described in Policy 5.3.4.1a⁵ (along with all relevant site-specific information) in order to allow for the issue of AIFR certificates.</i></p>	
<p>Amend 5.4 a. iii. as follows:</p> <p><i>iii. Rules 5.7 – Slope instability.</i></p>	<p>Corrects typographical error.</p>
<p>Amend Rule 5.5.1.1 as follows:</p> <p><i>The activities listed below are permitted activities where the activity is located in the area shown on the Planning Maps as Flood Management Area (other than in a Transport Zone, where the Flood Management Area rules do not apply), if they meet the activity specific standards set out in Table 5.5.1.1b.</i></p>	<p>Corrects the application of the Flood Management Area, which did not include the Transport Zone.</p>
<p>Amend Rule 5.5.1.4 a. i. and ii as follows:</p> <p><i>a. Replacement of earthquake-damaged buildings (including partial replacement) in the Flood Management Area are exempt from compliance with the requirements of P1-P4 in Rule 5.5.1.1, provided that:</i></p> <p><i>i. for Flood Management Areas made operative on 7 June 2016 or [insert Stage 3 operative date], on or before the date at which those Flood Management Areas became operative, the Council has received an application for a Project Information Memorandum (PIM) for a building on a specific site; or</i></p> <p><i>ii. for Flood Management Areas made operative on [insert Stage 3 operative date], on or before the date at which those Flood Management Areas became operative, the Council has received an application for a Project Information Memorandum (PIM) for a building on a specific site;</i></p>	<p>Provides a more concise form of the rule.</p>

5. This method does not take account of hazard mitigation works.

<p>Amend 5.5.1.4 title as follows:</p> <p><i>Exemption for buildings in certain circumstances where a PIM or building consent has been issued.</i></p>	<p>Addresses the subject matter of the rule.</p>			
<p>Amend Rule 5.5.1.4 a. iii Page [66] iii. <i>ii. in response to that application, the Council has issued a PIM that confirms the minimum floor level for the building on that site.</i></p>	<p>Amends consequential numbering.</p>			
<p>Amend all references in the chapter to the following text as follows, by deleting the full stop and adding a hyphen:</p> <p><i>These restricted discretionary activities will be assessed against the following criteria:-</i></p>	<p>Consistency.</p>			
<p>Amend Rule 5.5.1.5 RD2 as follows:</p> <p><i>Filling or excavation which is not a permitted activity under P10, P11, P12, or P17 set out in Rule 5.5.1.1, or filling or excavation that exceeds the standards in P13 or P14 – P15 set out in Rule 5.5.1.1.</i></p>	<p>Includes correct reference.</p>			
<p>Amend Rule 5.5.2.1 as follows:</p> <p><i>The activities listed below are permitted activities where the activity is located within the areas shown on the Planning Maps as Te Waihora/Lake Ellesmere or Wairewa/Lake Forsyth Flood Management Areas (<u>other than in a Transport Zone, where the Flood Management Area rules do not apply</u>), if they meet the activity specific standards set out in this table.</i></p>	<p>Corrects the application of the Flood Management Area, which did not include the Transport Zone.</p>			
<p>Delete Rule 5.5.2.1 P1 in its entirety and replace with:</p> <table border="1" data-bbox="209 1491 971 1711"> <tr> <td data-bbox="209 1491 272 1711"><i>P1</i></td> <td data-bbox="276 1491 608 1711"><i>New buildings and additions to existing buildings unless specified in Rule 5.5.2.1 P2-P6</i></td> <td data-bbox="611 1491 971 1711"><i>a. Minimum floor levels shall be the level specified in the Minimum Floor Level Certificate (refer to Rule 5.5.2.2)</i></td> </tr> </table> <p>Delete Rule 5.5.2.1 P11 and P12 as a consequence of inserting P1 above.</p> <p>Re-number Rule 5.5.2.1 P13 to P11.</p> <p>Amend Rule 5.5.2.1 P10 as follows:</p>	<i>P1</i>	<i>New buildings and additions to existing buildings unless specified in Rule 5.5.2.1 P2-P6</i>	<i>a. Minimum floor levels shall be the level specified in the Minimum Floor Level Certificate (refer to Rule 5.5.2.2)</i>	<p>Amended for conciseness, removing duplication of rules between P1, and P11 and P12. P11 and P12 combined, and replace P1.</p> <p>Consequential changes as a result of replacing provisions.</p>
<i>P1</i>	<i>New buildings and additions to existing buildings unless specified in Rule 5.5.2.1 P2-P6</i>	<i>a. Minimum floor levels shall be the level specified in the Minimum Floor Level Certificate (refer to Rule 5.5.2.2)</i>		

P10	<i>Filling or excavation that is not provided for under Rule 5.5.2.1 P7-P9 or P13P11.</i>	
Amend Rule 5.5.2.4 RD1 as follows:		
RD1	<i>New buildings or additions to buildings which are not permitted by the activity status rules and/or activity specific standards for P1 – P6, P11 and P12 set out in Rule 5.5.2.1.</i> <i>Any application arising from this rule shall not be limited or publicly notified.</i>	
Amend Rule 5.5.2.4 RD1 as follows:		
RD 2	<i>Filling or excavation which is not a permitted activity under P7–P9 or P11P13 set out in Rule 5.5.2.1, or filling or excavation that does not meet the standards in P10 set out in Rule 5.5.2.1.</i>	
Amend Rule 5.5.2.2 as follows: <i>a. For P11 and P12 Rule 5.5.2.1 <u>P1</u>, new buildings or additions to existing buildings within the Te Waihora/Lake Ellesmere and Wairewa/Lake Forsyth Flood Management Areas, but outside the Fixed Minimum Floor Level Overlay, shall have a floor level that is greater than or equal to that specified in a Minimum Floor Level Certificate. The Council will issue a Minimum Floor Level Certificate (which will be valid for 2 years from the date of issue) which specifies the design floor level for a building calculated as the highest of the following:</i>		Amends numbering and deletes provisions that don't apply within the flood management areas.
Amend Rule 5.5.2.2 a. ii. as follows: <i>ii. flooding predicted to occur in a 0.5% AEP (1 in 200-year) tidal event concurrent with a 5% AEP (1 in 20-year) rainfall event, including 1m sea level rise plus 400mm freeboard, as predicted by the most up to date Christchurch City Council <u>approved</u> model and any relevant field information; or</i>		Amended to record that the Council may not necessarily own the model.
Amend Rule 5.5.2.3 a. as follows: <i>For P11 and P12 <u>P1</u> in Rule 5.5.2.1, the applicable daylight recession plane in residential zones shall be determined as if the ground level at the relevant boundary</i>		Corrects numbering.

<p><i>was the minimum floor level specified in the Minimum Floor Level Certificate issued under Rule 5.5.12.2, or natural ground level, whichever is higher.</i></p>	
<p>Amend Rule 5.5.3.1 as follows:</p> <p><i>The activities listed below are permitted activities where the activity is located within the area shown on the Planning Maps as the Waimakariri Flood Management Area (other than in a Transport Zone, where the Flood Management Area rules do not apply), if they meet the activity specific standards set out in this table.</i></p>	
<p>Amend Rule 5.5.3.1 P13 d. as follows:</p> <p><i>d. The filling has consent approval <u>been approved as part of a building consent.</u></i></p>	<p>Adds clarity to the type of consent being referenced in the rule.</p>
<p>Amend Rule 5.5.3.1 P15 as follows:</p> <p><i>New buildings outside the Fixed Minimum Floor Level Overlay unless specified in P1, P2, P3 or P4 in Rule 5.5.3.1 or RD1 or RD2 in Rule 5.5.3.3 or NC1 or NC2 in Rule 5.5.3.4.</i></p>	<p>Removes reference to fixed minimum floor level overlay as it does not currently apply to this flood management area, and improves clarity by referencing specific rules.</p>
<p>Amend Rule 5.5.3.1 P16 as follows:</p> <p><i>Additions to existing buildings which increase the ground floor area of the building outside the Fixed Minimum Floor Level Overlay unless specified in P2, P3 or P4 in Rule 5.5.3.1 or RD1 or RD2 in Rule 5.5.3.3 or NC1 or NC2 in Rule 5.5.3.4.</i></p>	<p>Removes reference to fixed minimum floor level overlay as this does not currently apply to this flood management area, and improves clarity by referencing specific rules.</p>
<p>Amend Rule 5.5.3.1 P16 a. as follows:</p> <p><i>a. Minimum floor levels shall be the level specified in the Minimum Floor Level Certificate (refer to Rule 5.5.13.2).</i></p>	<p>Corrects numbering.</p>
<p>Amend Rule 5.5.3.2 a. as follows:</p> <p><i>a. For P15 and P16 in Rule 5.5.3.1, new buildings or additions to existing buildings within the Waimakariri Flood Management Area, but outside of the Fixed minimum Floor Level overlay...</i></p>	<p>Removes reference to fixed minimum floor level overlay as it does not currently apply to this flood management area.</p>

<p>Amend Rule 5.5.3.2 a. ii. as follows:</p> <p><i>...Christchurch City Council <u>approved</u> model</i></p>	<p>Amended to record that the Council may not necessarily own the model.</p>
<p>Amend Rule 5.5.3.3 RD5 b. as follows:</p> <p><i>b. These restricted discretionary activities will be assessed against the following criteria.</i></p> <p><i>i. Whether any effects arise from filling or excavation on land stability, flooding, waterways, groundwater and natural ground levels on and/or off site, including:</i></p> <p><i>A. any likelihood of exacerbation of flooding, erosion, or siltation either upstream or downstream of the site;</i></p> <p><i>B. any likelihood of affecting the stability of adjoining land, including its susceptibility to subsidence or erosion;</i></p> <p><i>C. any adverse effects on other properties from disturbances to surface drainage patterns;</i></p> <p><i>D. effects on flood storage capacity and function in the immediate area, and any wider effects on the flood storage in the catchment including any compensatory storage proposed; and any effects on existing stormwater and flood protection works;</i></p> <p><i>E. any implications for groundwater and the water table, on or off site; and</i></p> <p><i>F. any benefits associated with flood management.</i></p> <p><i>ii. Whether there are any benefits arising that enable the reasonable use of the site.</i></p> <p><i>iii. Whether any mitigation measures are proposed, their effectiveness and whether, and to what extent there is a transfer of adverse effects to other properties.</i></p> <p><i>iv. <u>Whether any effects arise with regard to access, character, ecology and amenity, including:</u></i></p> <p><i>A. <u>any adverse effects or benefits for public access, natural character or ecology of waterways and wetland areas.</u></i></p> <p><i>B. <u>any adverse effects on amenity values</u></i></p>	<p>Amended for consistency.</p>

<i><u>including dust nuisance, visual impact, noise, vibration and traffic associated with the filling or excavation.</u></i>	
Amend Table 5.5.4.1a Activity specific standard a. as follows: <i>a. Any filling, excavation or disturbance of soils shall not exceed the standards in Tables 5.5.4.1b or 5.5.4.1c (<u>whichever applies</u>) under Rule 5.5.4.1.</i>	Amended for clarity.
Amend Rule 5.5.5.1 P7 a. as follows: <i>a. The maximum volume of filling shall be 20m³ per site <u>per year</u> and a maximum volume of filling of 100m³ per site within any continuous period of 10 years.</i>	Amended for clarity.
Amend Rule 5.5.5.1 P14 a. as follows: <i>a. The residential unit is either i. on piles designed to meet the minimum floor level specified in rule 5.4.1; or ii. has a maximum of 200m² ground floor area.</i>	Directly addresses the purpose of the rule, and provides clarity.
Amend Rule 5.5.5.1 P17 a. as follows: <i>a. The building: i. is on piles designed to meet the minimum floor level specified in rule 5.4.1; or ii. the building has a maximum of 200m² ground floor area.</i>	Directly addresses the purpose of the rule, and provides clarity.
Amend Rule 5.5.5.3 NC3 as follows: <i>New buildings within a Flood Ponding Management Area shown on the Planning Maps, unless specified in P11, and P13-17 <u>and</u> P19 in Rule 5.5.5.1 or RD2 in Rule 5.5.5.2.</i>	Amended for consistency.
Amend Rule 5.5.6.1 P6 a. i. as follows: <i>a. The building is: i. on piles designed to meet the minimum floor level specified in rule 5.4.1; or ii. The building has a maximum ground floor area of 200m².</i>	Directly addresses the purpose of the rule, and provides clarity.
Amend Rule 5.5.6.3 NC2 as follows: <i>New buildings within a High Flood Hazard Management Area shown on the Planning Maps, unless specified in P1 or P4 - P6 <u>or</u> P8 in Rule 5.4.6.1 <u>5.5.6.1</u>, or RD2 in Rule 5.5.6.2.</i>	Corrects numbering.

<p>Amend Table 5.6.3a RD1</p> <p><i>Any activity located on a site with an area of 1500m² or more, qualifying as a <u>controlled or restricted discretionary activity</u> under any of the following residential rules: ...</i></p>	<p>Corrects by including a reference to controlled activities.</p>
<p>Amend Table 5.7.1.1a n. as follows:</p> <p><i>n. Any building or structure not listed in activities a₂ to g_m of Rule 5.7.1.1</i></p>	<p>Corrects numbering.</p>
<p>Rule 5.7.1.2 2.</p> <p>Page [95]</p> <p><i>2. If the risk (AIFR) resulting from calculation 1(a) is less than that shown in the Table in Policy 5.3.4.1a for</i></p>	<p>Amended for consistency.</p>
<p>Amend Table 5.7.1.3a. e. as follows:</p> <p><i>e. Repair and maintenance of existing infrastructure, buildings, and accessways, including minor upgrading of existing infrastructure of electricity network providers <u>including minor upgrading of the existing electricity network.</u></i></p>	<p>Amended for consistency.</p>
<p>Amend Rule 14.8.3.4 c. ii. as follows:</p> <p><i>In the Te Waihora/Lake Ellesmere and Wairewa/Lake Forsyth Flood Management Areas, Rule 5.5.2.3 (for activities P1- P5 or P11-P12 in Table 5.5.2.1).</i></p>	<p>Consequential numbering change.</p>
<p>Amend 14.10.3.6 as follows:</p> <p>Insert the following exemption at the end of the rule, consistent with the other exemptions provided for residential zones:</p> <p><u><i>Where the building is located in a Flood Management Area, the exemptions in Rule 5.5.1.3 apply (for activities P1-P4 in Table 5.5.1.1b).</i></u></p>	<p>Amended for consistency.</p>
<p>Rule 14.13.3.2</p> <p>Page [110]</p> <p><i>b.</i> <i>Where the building is located in a Flood Management Area, the exemptions in Rule 5.5.1.3 apply (for activities P1-P4 in Table 5.5.1.1b).</i></p>	<p>Corrects numbering.</p>