

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: 8 August 2016

Hearing Panel: Environment Judge John Hassan (Chair), Ms Sarah Dawson, Mr Alec Neill, Mr Gerard Willis

DECISION 33

**Decision on ODPs and amendments to Planning Maps
and minor corrections to Decision 29 Residential New Neighbourhood Zone**

[1] We have received an application from the Christchurch City Council seeking directions for corrections to our Residential New Neighbourhood decision ('Decision 29').¹

Corrections

[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.

¹ Memorandum of counsel for Christchurch City Council requesting corrections to Decision 29 and providing updated ODPs and Planning Maps 18 and 37 – Residential New Neighbourhood Zone, 4 August 2016

- (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] We have reviewed the corrections sought, and we agree that most of the changes can be made and are minor, as set out in Schedule 1.

[4] We do not agree to making the following changes.

[5] The Council has requested that Policy 14.1.5.7 be shaded grey. Grey text in Chapter 14 of Decision 29 is shaded grey to indicate that it is part of the Stage 1 or 2 Residential decision. It would be incorrect to shade it as grey. The text at the bottom of the policy is sufficient to indicate that the decision on the policy is deferred to the Stage 3 Chapter 9 decision. We do, however, consider that it may be more helpful to delete the text under the heading for Policy 14.1.5.7 so that it more clearly shows that a decision has not yet been made on the policy.

[6] The Council has requested that we delete the word “Rule” from the assessment matter column in Rule 14.9.2.3. This change is a matter of style which the Hearings Panel will be looking to make consistent across the plan. As such, we decline to make the change.

[7] The Council has requested that in relation to 14.9.3.13.b we delete the words “or to residential unit constructed as at [insert date of Decision].” This matter was included in the Council’s revised version. Council does not consider this statement is required, as it considers existing use rights apply. Existing use rights are complex, and we note that they rely on an activity being able to continue if the effects of the use are the same or similar in character, intensity and scale to those which existed before the rule became operative or the proposed plan notified. We prefer that the provision is completely clear that an existing residential unit is not required to meet the standard, including where additions are made to a residential unit. We decline the change sought, but amend the provision by inserting the date of the decision and correcting the grammar.

ODPs and Planning Maps

[8] The Council has provided updated Planning Maps and outline development plans (‘ODP’) in accordance with our direction.² We have reviewed the maps and ODPs and concur that they generally accord with our directions, except as set out below where we direct a further amendment which will assist with interpretation.

[9] We directed the Prestons ODP to be updated to show three *indicative* commercial nodes. Our decision found in favour of Ngāi Tahu Property Limited.³ We consider that it is important that the key for the Prestons ODP identify the areas shaded in pink as “Indicative small scale community and commercial node”. This will assist with clear interpretation of the plan, that the positions are not fixed. We direct that change to be made with no further formality from the Panel.

[10] We consider that, as amended, the maps and ODPs are the most appropriate for implementing the objectives and policies of the plan and accord with the Higher Order Documents, and confirm them as set out in Schedule 2.

For the Hearings Panel:



Environment Judge John Hassan
Chair

² Decision 29 at [190].

³ Ibid at [126].

SCHEDULE 1

Corrections to Decision 29

Correction	Reason
<p>Amend Policy 141.5.7 to read:</p> <p>14.1.5.7 Policy – Nga kaupapa / protection and enhancement of sites, values and other taonga of significance to tangata whenua</p> <p>Ensure:</p> <p>i. Protection of sites, values and other taonga of cultural significance to Ngāi Tahu using culturally appropriate methods;</p> <p>ii. Identification and utilisation of opportunities to enhance sites, values and other taonga of cultural significance to Ngāi Tahu; and</p> <p>iii. Protection of the relationship of tangata whenua with freshwater, including cultural wellbeing and customary use opportunities.</p> <p>[deferred to Stage 3 Chapter 9]</p>	<p>This better reflects that the policy is deferred.</p>
<p>Amend Rule 14.9.2.3 RD15 as follows:</p> <p><i>Residential units that do not meet Rule 14.29.3.15 – Water supply for firefighting.</i></p> <p><i>Any application arising from this rule shall not be publicly notified and shall be limited notified only to the New Zealand Fire Service (absent its written approval).</i></p>	<p>Incorrect reference.</p>
<p>Amend Rule 14.9.2.3 RD22 by deleting the “+” symbol inadvertently added at the end of the activity description.</p>	<p>Corrects an error in the text.</p>
<p>Amend 14.9.2.5 to read:</p> <p><i>Within the Awatea Outline Development Plan Area 2, residential activity and units whilst the Carrs Road <u>Christchurch Kart Club</u> operates from its current <u>Carrs Road</u> location as illustrated on the Awatea Outline Development Plan.</i></p>	<p>Amended for clarity and consistency with Appendix 8.6.30 Awatea Outline Development Plan.</p>
<p>Amend Rule 14.9.3.1.6 to read:</p> <p><i>Within the Yaldhurst Outline Development Plan area (Appendix 8.6.28), in Density A areas defined in the outline development plan or on an approved subdivision consent granted before <u>[insert date of Decision] 15 July 2016.</u></i></p>	<p>Density A areas have been deleted, and the date of the decision has now been confirmed.</p>
<p>Amend Rule 14.9.3.7 b.i. to read:</p> <p><i>Prestons Outline Development Plan area in accordance with Appendix 8.6.25 narrative section <u>12</u></i></p>	<p>Corrects reference.</p>
<p>Amend Rule 14.9.3.7 b.ii. to read:</p> <p><i>Highfield Outline Development Plan area in accordance with Appendix 8.6.26 narrative section <u>89</u></i></p>	<p>Corrects reference.</p>

Correction	Reason
Amend Rule 14.9.3.8.c. to read: <i>Additional fencing requirements in the Prestons Outline Development Plan area are specified in Appendix 8.6.25 narrative section <u>12</u></i>	Corrects reference.
Amend Rule 14.9.3.13b to read: <i>This rule does not apply to a retirement village, a comprehensive residential development or to <u>a</u> residential unit constructed as at <u>15 July 2016</u>. insert date of Decision.</i>	Amended to include the date of the decision and correct grammar.

SCHEDULE 2

Amend Chapter 8 and the Planning Maps by including the following maps and outline development plans:

- 1. Appendix 8.6.5: Updated South Masham ODP**
- 2. Appendix 8.6.25: Updated Prestons ODP (North)**
- 3. Appendix 8.6.25: Updated Prestons ODP (South)**
- 4. Replacement Map 18**
- 5. Replacement Map 37**







