

**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: 16 December 2016

Hearing Panel: Hon Sir John Hansen, Environment Judge John Hassan, Ms Sarah Dawson, Ms Jane Huria, Dr Phil Mitchell

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## DECISION 62

### **Minor corrections and decision as to Planning Maps (including aerial maps for sites of Ngāi Tahu Cultural Significance) relating to Decisions 44, 45, 46, 50 and 51**

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#### **Background**

[1] As directed by us in Decisions 44, 45, 46, 50 and 51, the Hearings Panel ('Panel') for Natural and Cultural Heritage has received Planning Maps from the Christchurch City Council ('Council') relating to those decisions.<sup>1</sup> This includes maps relating to Sites of Ngāi Tahu Cultural Significance ('SONTCS') (comprised of non-aerial maps relating to Ngā Wai, and Aerial Maps relating to the balance of the SONTCS).

[2] This decision also addresses an application for Minor Corrections from the Christchurch City Council.<sup>2</sup>

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<sup>1</sup> Decision 44 – Topic 9.4 – Significant Trees, 30 September 2016; Decision 45 – Topic 9.3 – Historic Heritage, 30 September 2016; Decision 46 – Chapter 9.3: Historic Heritage – Hagley Park (including Botanic Gardens), 30 September 2016; Decision 50 – Sub-chapter 9.1 – Indigenous Biodiversity and Ecosystems, 21 October 2016; Decision 51 – Sub-chapter 9.5 – Ngāi Tahu Values, 21 October 2016.

<sup>2</sup> Memorandum of Counsel on behalf of Christchurch City Council – Corrections to Appendix 9.3.7.2 (Historic Heritage), 9.4.7.1 and 9.4.7.2 (Significant Trees).

[3] A number of minor correction applications have been made in relation to our decisions on the Natural and Cultural Heritage proposal, and corrections decisions issued. The Council confirms in its first memorandum attaching the maps that the changes made to the planning maps are to reflect the Panel decisions and minor corrections decisions.<sup>3</sup> Except as set out below, we rely on the Council having reflected our decisions in the maps provided. An updated set of maps was then filed on 14 December 2016 with an accompanying memorandum.<sup>4</sup>

### **Ngā Wai ID96**

[4] In the course of checking the maps related to Decision 51, we raised with the parties a concern regarding the mapping of ID96 – Te Tai o Mahaanui. This matter resulted in an exchange of minutes and memoranda between the Panel and the parties.

[5] The exchange clarified the Council and Ngāi Tahu’s position. Initially, they both sought that Ngā Wai – Coastal be extended to include the whole of the coastal environment (to be identified as ID96 – Te Tai o Mahaanui). While the maps showing this were filed with the Council’s closing submissions, we recorded that the Council had not raised this matter with us directly, or addressed the matter of scope. The matter of scope arose because Ngāi Tahu’s submission only sought a much more limited area (ID77) on the landward side of Mean High Water Springs, as being a site of Ngāi Tahu Cultural Significance, along with the area on the seaward side of Mean High Water Springs proposed as ID96. We invited any other interested parties to comment, and one response was received from Federated Farmers North Canterbury (‘Federated Farmers’).<sup>5</sup>

[6] On a without prejudice basis, by way of minute, we directed the Council to prepare alternative maps (‘alternative maps’), just identifying the coastal marine area as Ngā Wai.<sup>6</sup> The Council filed alternative maps and also identified matters that it considered should be changed in the description of Ngā Wai in Schedule 9.5.6.4. Those changes included identifying Te Tai o Mahaanui as “for information only”.

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<sup>3</sup> Memorandum on behalf of Christchurch City Council enclosing updated maps in relation to Natural and Cultural Heritage, 2 December 2016, at para 5 and 6.

<sup>4</sup> The Council subsequently provided an updated set of planning maps incorporating the alternative maps. See Memorandum of Counsel on behalf of Christchurch City Council in relation to mapping of Ngā Wai (Coastal) sites, 14 December 2016.

<sup>5</sup> Memorandum of Counsel for North Canterbury Province of Federated Farmers of New Zealand, 1 December 2016

<sup>6</sup> Minute - in relation to mapping of Te Tai o Mahaanui ID96, 29 November 2016

[7] We set out our reasons for our preliminary views, which expressed our preference for the alternative map, in our third minute.<sup>7</sup> We did not consider that identifying ID96 being shown for information purposes was appropriate, given that land use activities within a district are capable of being regulated to address effects seaward of mean high water springs. We sought to resume the hearing, inviting all interested parties to consider this matter, setting out our preliminary views to the parties for discussion and submission.

[8] The Council and Ngāi Tahu filed a further memorandum advising that they wished to record that they would accept the mapping of Te Tai o Mahaanui (ID96) as detailed in the alternative maps, having regard to the reasons and concerns raised by the Panel, as an appropriate representation of Ngā Wai ID96. On that basis, they advised us that they considered that the scheduled hearing could be vacated.<sup>8</sup> Federated Farmers similarly agreed.<sup>9</sup>

[9] This was uncontested by the parties, and for those reasons, we find that the alternative maps are the most appropriate means of achieving the objectives of the Plan and Part 2 of the Resource Management Act 1991. It expressly recognises the value to Ngāi Tahu of the coastal marine area as a waterbody. The alternative maps recognise and provide for the Statutory Acknowledgement in the Ngāi Tahu Claims Settlement Act. Furthermore, the relationship of Ngāi Tahu with the coastal environment generally, is still recognised and provided for in sub-Chapter 9.6, its associated objectives and policies, and assessment criteria.

[10] As a consequence of that decision, we also consider that the description of ID 96 in Schedule 9.5.6.4 requires amendment, and that is provided in Schedule 5.

### **Minor corrections**

[11] We refer to our jurisdiction set out in earlier corrections decisions.<sup>10</sup>

<sup>7</sup> Minute (3) – in relation to mapping of Te Tai o Mahaanui ID96, 6 December 2016 at para 4.

<sup>8</sup> Joint memorandum on behalf of Christchurch City Council and Te Rūnanga o Ngāi Tahu in relation to the mapping of Te Tai o Mahaanui ID96, 7 December 2016.

<sup>9</sup> Memorandum of Counsel for North Canterbury Province of Federated Farmers of New Zealand, 7 December 2016.

<sup>10</sup> Decision to make Minor Corrections to Decision – Decision 51 – Chapter 9: Natural and Cultural Heritage (Part) – 9.5 Ngāi Tahu Values, 22 December 2016, at [5] and [6]

### *Appendix 9.3.7.2 – Historic Heritage*

[12] The Council has requested a number of minor corrections to Schedule 9.3.7.2. In relation to the properties at 35 Knowles Street, 23 New Regent Street and 1-37/25 Peterborough Street, no further correction is required as the matters raised by the Council were addressed in our earlier minor corrections decisions.<sup>11</sup> In relation to 228 Kilmore Street and 5 St Barnabas Lane, those corrections were confirmed in our earlier minor corrections decisions. We have made the correction to 51 Radley Street and now include an updated version of Schedule 4 to Decision 45 incorporating the change for that property and 228 Kilmore Street and 5 St Barnabas Lane in Schedule 7 to this decision.

[13] In relation to 2 Summit Road, we accept the change requested and will include the amendment in Appendix 9.3.7.2 when it is issued with the Supplementary Definitions Decision to be issued shortly.

[14] We acknowledge the corrections to the Aerial Maps and the changes to Aerial Maps 800, 801, 802, 803, 804, 806 and 807 and confirm these in this decision.

### *Appendix 9.4.7.1 and 9.4.7.2 - Significant Trees*

[15] The further minor changes requested by Council in relation to Appendix 9.4.7.1 are accepted for the reasons outlined in the memo. These relate to corrections to the schedules as the Council checks the locations and details of trees on the ground. This includes some trees near road boundaries that are duplicated in both public and private lists. The Council has also added references to relevant, more detailed maps. The updated schedules for Significant Trees will be included in the Supplementary Definitions Decision.

## **CONCLUSION**

[16] In relation to the minor corrections, we are satisfied the corrections fall within our jurisdiction and direct the changes to be made.

[17] Based on our findings set out above, we confirm:

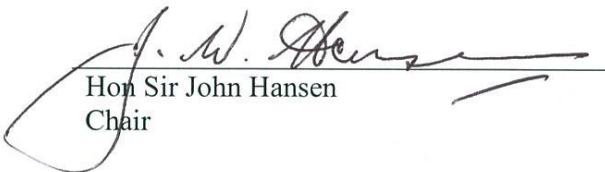
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<sup>11</sup> Minor corrections to Decision 45, 8 November 2016 and Further Minor Corrections, 2 December 2016


- (a) the Natural and Cultural Heritage Planning Maps, provided in Schedule 1;
- (b) the Aerial Maps for Ngā Tūranga Tūpuna, provided in Schedule 2;
- (c) Map 1 and 2 of Schedule 9.5.5.4: Ngā Wai, provided in Schedule 3;
- (d) the updated mapping for Ngā Wai – Te Tai o Mahaanui (Christchurch and Banks Peninsula Coastal Marine Area) – ID96, provided in Schedule 4;
- (e) amendments to ID96 in Appendix 9.5.6.4, provided in Schedule 5;
- (f) the Aerial Maps for Wāhi Tapu and Wāhi Taonga provided in Schedule 6; and
- (g) updated Schedule 4 to Decision 45, provided in Schedule 7.

[18] Any applications for minor corrections on matters that are the subject of this decision are to be filed by **5pm Friday 27 January 2017**.

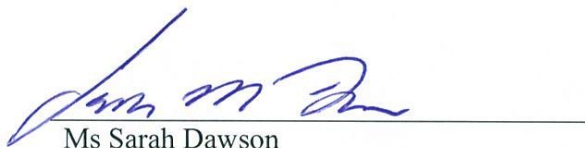
For the Hearings Panel:




Hon Sir John Hansen  
Chair




Environment Judge John Hassan  
Deputy Chair



Ms Sarah Dawson  
Panel Member



Ms Jane Huria  
Panel Member



Dr Phil Mitchell  
Panel Member