

**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: 31 August 2016

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

---

**Minor corrections to Decision 28  
Subdivision, Development and Earthworks (part) – Stage 2**

---

[1] We have received an application from the Christchurch City Council seeking directions for corrections to our Stage 2 Subdivision, Development and Earthworks (part) decision ('Decision 28').<sup>1</sup>

**Corrections**

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

---

<sup>1</sup> Memorandum of counsel for Christchurch City Council requesting corrections to Decision 28 and providing updated ODPs and Planning Maps 18 and 37 – Residential New Neighbourhood Zone, 4 August 2016

- (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] As we have noted in response to the minor corrections for the Residential New Neighbourhood provisions, the Hearings Panel has undertaken a review of the chapters and as part of the final tidy up of formatting of the plan, will be making further directions on corrections to previous decisions.

[4] We generally agree with the corrections requested, except as set out below.

[5] In Decision 28, we included the title “Rules as to matters of control - subdivision”. We intend that this will be rolled out across the plan as part of our final review process.

[6] The Council has questioned whether matters of control and matters of discretion are appropriately called rules.<sup>2</sup> We are satisfied that matters of control and discretion are rules having the force of regulation on the subject activity, refer s 76(2) RMA. Furthermore, s 77B(2) and (4) require that rules specify the matters over which control is reserved or discretion restricted in relation to the activity. The matters of control and discretion are inherently a part of the rules. As such, we do not make the change requested.

[7] The Council requests that we add a paragraph to Decision 28 in relation to deferral of provisions that may be amended by the decision on the Natural and Cultural Heritage Proposal, as set out in the closing submissions on that proposal.<sup>3</sup> We do not consider that warranted and we make no such amendment. We understand the content to be in the substance and scope of the Natural and Cultural Heritage Proposal. If it is necessary for us to revisit our decision as a consequence of the Panel’s decision on the Natural and Cultural Heritage Proposal, we shall do so using our powers under the Order in Council, and there is no need to amend this decision to defer the provisions.

---

<sup>2</sup> Ibid, para 9

<sup>3</sup> Ibid, Attachment A page 4

[8] The Council has, as we directed in Decision 28 at paragraphs 128 and 129, provided us with an update which looks at the interaction between the earthworks provisions in the Subdivision, Development and Earthworks chapter and the earthworks provisions in the Natural Hazards chapter. We acknowledge the Council's preferred approach as set out in Attachment B of its memorandum. We advise that the matter will be addressed by the Panel for Stage 2 Natural Hazards.

[9] Lastly, we note that in filing its request for amendments, the decision version of the text has not been used. The Secretariat is able to supply decision text to better enable such applications to be made if that is of assistance.

[10] Having considered the request for corrections, we direct the changes to be made as set out in Schedule 1. We consider those changes to be errors or defects of minor effect, and correcting them will ensure coherency and consistency across the plan.

For the Hearings Panel:



---

Environment Judge John Hassan  
Chair

**SCHEDULE 1****Corrections to Decision 28**

<b>Correction</b>				<b>Reason</b>
Amend Rule 8.3.2.1 C5 to read:				Clarifies the provisions that apply to development plans and corrects an omission carried over from the Council's revised version.
C5	Subdivision in any area subject to an outline development plan <u>or</u> <u>development plan</u> , except as otherwise specified in Rules 8.3.2.1, 8.3.2.2, 8.3.2.3 or 8.3.2.4	<p>a. Activity standards in Rules 8.3.3.1 - 8.3.3.12.</p> <p>b. The subdivision shall be undertaken in accordance with the relevant outline development plan <u>or</u> <u>development plan</u>, except that:</p> <p>i. In relation to any outline development plan in a Residential New Neighbourhood Zone, the activity shall meet the activity standard in Rule 8.3.3.11(a);</p> <p>ii. In relation to any outline development plan contained in Chapters 15 or 16, compliance is only required with the key structuring elements for that outline development plan area as described in the relevant chapter.</p> <p>c. In the Industrial Park Zone (Awatea), disposal of wastewater shall be via the Christchurch City Council reticulated sanitary sewage disposal system.</p> <p>d. For subdivision in areas marked as controlled on the Awatea Outline Development Plan – Tangata whenua layer diagram in Appendix 8.6.30, a cultural assessment shall be provided.</p>	<p>Rule 8.4.4 and, where relevant for industrial zones, Rule 8.4.5.</p> <p>In addition, in areas marked as controlled on the Awatea Outline Development Plan – Tangata whenua layer diagram in Appendix 8.6.30:</p> <p>i. Matters arising from consultation undertaken with tangata whenua representatives in the design phase of the subdivision and preparation of the cultural assessment</p> <p>ii. The means of incorporating the findings of the cultural assessment in the design and implementation of the subdivision.</p>	



Correction	Reason
Correct the numbering hierarchy for Rule 8.5A.2.1 P4 to a., i., A., as requested by the Council.	This corrects a numbering error in the decision.
Correct Rules 8.5A.2.1 activity standards for P3 b., P4 b. and P5 b as follows: P3 b.– Activity <del>Standard 4a</del> <u>a.i.</u> (above) shall not apply to... P4 b. - Activity Standard <del>4a</del> a.ii.A (above) shall not apply to... P5 b. - Activity Standard <del>4a</del> a.ii.A (above) shall not apply to...	This corrects a numbering error in the decision.
Amend Policy 8.1.4.5 to read:  <b>8.1.4.5 Policy - Protection of wahi tapu and wahi taonga</b> a. For land use consent applications for earthworks within or adjacent to sites of Ngāi Tahu cultural significance and silent file areas, ensure that consultation has occurred with the appropriate rūnanga.  <u>[This policy may be revisited following the hearing for the Natural and Cultural Proposal]</u>	This gives plan readers forewarning of the possible further amendments as a consequence of the decision on the Natural and Cultural Proposal.
Amend Rule 8.3.2.1 C6 activity standard (e) to read:  ... a <del>minimum</del> net site area of 1-4ha...	The site size is no longer a minimum, it must be in the range of 1-4 ha.
Amend Rule 8.3.2.1 C7 activity description to read:  ... with a <del>minimum</del> net site area between 1ha and 4ha...	The site size is no longer a minimum, it must be in the range of 1-4 ha.
Amend Rule 8.3.2.1 RD7 to read:  ... with a <del>minimum</del> net site area between 1ha and 4ha...	The site size is no longer a minimum, it must be in the range of 1-4 ha.
Amend Rule 8.3.3.11 b(ii) to read:  ... or on an approved subdivision consent granted before <del>[insert date of Panel decision]</del> 15 July 2016.	Inserts date.
Amend Rule 8.4.4.5(h) to read:  The extent to which <u>conditions are appropriate</u> on a subdivision in a Residential New Neighbourhood Zone <u>in order to</u> gives effect to the development requirements specified in the relevant outline development plan.	Consistent with wording of equivalent provisions.
Delete Rule 8.5A.2.1 P2 exemption (v).	This provision is within the scope of the Central City hearing.
Delete the following note in Rule 8.5A.2.1 P4 and P5 activity standards:  <del>Note: this rule does not apply within the Central City</del>	The rule is not relevant to the Central City.