

**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** an application to make minor corrections to Decision 10 pursuant to cl16, Schedule 3 of the Order.

Date of decision: 4 February 2016

Hearing Panel: Hon Sir John Hansen (Chair), Environment Judge John Hassan (Deputy Chair), Dr Philip Mitchell, Ms Sarah Dawson

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**MINOR CORRECTIONS TO DECISION 10**

**RESIDENTIAL (PART)  
(AND RELEVANT DEFINITIONS AND ASSOCIATED PLANNING MAPS)**

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[1] We have received applications from Orion New Zealand Limited ('Orion')<sup>1</sup> ('the Orion Memorandum') and Lyttelton Port Company Limited ('LPC')<sup>2</sup> ('the LPC Memorandum') identifying drafting matters and requesting corrections to our Residential (part) Stage 1 decision ('Decision 10').

[2] Clause 16 of Schedule 3 to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ('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.

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<sup>1</sup> We received an initial Memorandum of counsel dated 14 December 2015, and an Amended Memorandum of counsel dated 16 December 2015. Further corrections to the rule referencing were identified by Orion and the CCC in a Joint Memorandum of counsel dated 15 January 2016.

<sup>2</sup> Memorandum of counsel for Lyttelton Port Company Limited relating to drafting matters arising from Residential (part) Stage 1 decision dated 17 December 2015.

- (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.

*Orion Memorandum*

[3] The drafting matters referred to in the Orion Memorandum are as follows:

- (a) Rules 14.2.2.5 NC7, 14.3.2.5 NC3, and 14.4.2.5 NC2 do not include a clause b. relating to a 5m setback for fences from electricity distribution line support structure foundations, as sought by Orion and as included in the drafting suggested in the evidence of Ms Buttimore and Mr Blair;
- (b) Objective 14.1.3 “Strategic Infrastructure” at a. makes reference to “the National Grid and other strategic transmission lines”, whereas Policy 14.1.3.1 “Avoidance of adverse effects on strategic infrastructure” at a.v. refers to “the National Grid and strategic distribution lines identified on the planning maps”;
- (c) The final note contained in Rules 14.2.2.5 NC7, 14.3.2.5 NC3, and 14.4.2.5 NC2, referring to the New Zealand Electrical Code of Practice for Electrical Safe Distances, references National Grid transmission lines, whereas the rules refer to electricity distribution lines.

[4] We issued a Minute to Orion and the Council in relation to the scope of the original submission made by Orion that supported the correction requested at [3](a) above.<sup>3</sup> Orion responded, referring to the relevant authorities, that the inclusion of the fencing setback provisions are within the scope of Orion’s submission and further submission and within the scope of the proposal as notified.<sup>4</sup> The Council raised the issue of scope of Orion’s submission in relation to their application, however the Council considered there was jurisdiction for the Panel to make the correction in reliance upon OIC, cl 13(2)(b).<sup>5</sup> We have considered the responses of counsel for Orion and the Council and, having considered those submissions and

<sup>3</sup> Minute in relation to an application by Orion for corrections to Decision 10 Residential Stage 1 dated 18 December 2015.

<sup>4</sup> Memorandum of counsel for Orion relating to Residential (part) Stage 1 Decision dated 21 December 2015 at paragraphs 2-17.

<sup>5</sup> Memorandum of Counsel for CCC in response to the Panel’s Minute of 18 December 2015 and Orion New Zealand Limited’s Application for Corrections to Decision 10 dated 21 December 2015.

the relevant authorities, we are satisfied that there is scope within Orion's submission to make the corrections sought and that the omission of the fencing provision by the Panel was an error.

[5] In our Minute we accepted that the matters at [3](b) and (c) above were omitted in error.

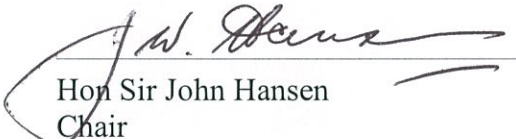
*LPC Memorandum*

[6] The drafting issues raised in the LPC Memorandum relate to the notes to the Residential Banks Peninsula Zone rules, which make it clear to plan users that different rules apply to sensitive activities within the Lyttelton Port Influences Overlay. The note was included for some rules but not others. This was an unintentional drafting error carried over from the Council's final version of the text.


[7] We agree to the corrections sought and amend the provisions accordingly as set out in Schedule 1, in relation to Orion, and Schedule 2, in relation to LPC.

[8] Decision 10 is amended in accordance with Schedule 1 and Schedule 2 attached.

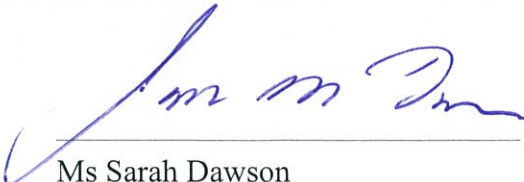
For the Hearings Panel:




Hon Sir John Hansen  
Chair



Environment Judge John Hassan  
Deputy Chair<sup>6</sup>



Ms Sarah Dawson  
Panel Member



Dr Philip Mitchell  
Panel Member

<sup>6</sup> In relation to the application by LPC only.

**SCHEDULE 1**

Amendments to the Proposal contained in Schedule 1 to Decision 10

1. Amend **14.1.3 Objective – Strategic Infrastructure** to read as follows:

**14.1.3 Objective – Strategic infrastructure**

Development of sensitive activities does not adversely affect the efficient operation, use, and development of Christchurch International Airport and Port of Lyttelton, the rail network, the National Grid and strategic distribution lines, the state highway network, and other strategic infrastructure.

2. Amend **Rule 14.2.2.5 NC7** to read as follows:

|            |  |
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| <b>NC7</b> | <p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ul style="list-style-type: none"> <li>i. within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>ii. within 5 metres of the centre line of a 33kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ul> <p>b. Fences within 5 metres of a 66kV or 33kV electricity distribution line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>1. The electricity distribution lines are shown on the planning maps.</li> <li>2. Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activity in the vicinity of electricity distribution lines must comply with NZECP 34:2001.</li> </ul> |
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3. Amend **Rule 14.3.2.5 NC3** to read as follows:

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| <b>NC3</b> | <p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ol style="list-style-type: none"> <li>i. within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>ii. within 5 metres of the centre line of a 33kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ol> <p>b. Fences within 5 metres of a 66kV or 33kV electricity distribution line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <p>The electricity distribution lines are shown on the planning maps.</p> <p>Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</p> <p>The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activity in the vicinity of electricity distribution lines must comply with NZECP 34:2001.</p> |
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4. Amend **Rule 14.4.2.5 NC2** to read as follows:

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| <b>NC2</b> | <p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ol style="list-style-type: none"> <li>i. within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>ii. within 5 metres of the centre line of a 33kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ol> <p>b. Fences within 5 metres of a 66kV or 33kV electricity distribution line support structure foundation.</p> |
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|--|---|
|  | <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <p>The electricity distribution lines are shown on the planning maps.</p> <p>Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</p> <p>The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activity in the vicinity of electricity distribution lines must comply with NZECP 34:2001.</p> |
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**SCHEDULE 2**

Amendments to the Proposal contained in Schedule 1 to Decision 10

Amend Rule 14.4.2.1 Permitted activities and Rule 14.4.2.3 Restricted discretionary activities as follows

**Rule 14.4.2.1 Permitted activities**

| <b>Activity</b>  | <b>Activity specific standards</b>  |
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| <p>P2 Minor residential unit where the minor unit is a detached building and the existing site it is to be built on contains only one residential unit</p> | <p>a. The existing site containing both units shall have a minimum net site area of 450m<sup>2</sup>.</p> <p>b. The minor residential unit shall have a minimum gross floor area of 35m<sup>2</sup> and a maximum gross floor area 70m<sup>2</sup>.</p> <p>c. The parking areas of both units shall be accessed from the same access.</p> <p>d. There shall be a total outdoor living space on the existing site (containing both units) with a minimum area of 90m<sup>2</sup> and a minimum dimension of 6 metres. This total space can be provided as:</p> <ul style="list-style-type: none"> <li>i. a single continuous area; or</li> <li>ii. be divided into two separate spaces, provided that each unit is provided with an outdoor living space that is directly accessible from that unit and is a minimum of 30m<sup>2</sup> in area.</li> </ul> <p><b>Note: for minor residential units within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p> |
| <p>P3 Retirement villages</p>  | <p>a. Building façade length – there must be a recess in the façade of a building where it faces a side or rear boundary from the point at which a building exceeds a length of 16 metres. The recess must:</p> <ul style="list-style-type: none"> <li>i. be at least 1 metre in depth, for a length of at least 2 metres;</li> <li>ii. be for the full height of the wall; and</li> <li>iii. include a break in the eave line and roof line of the façade.</li> </ul> <p><b>Note: for retirement villages within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p>   |

## 14.4.2.3 Restricted discretionary activities

| Activity |  | The Council's discretion shall be limited to the following matters:   |
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| RD1      | <p>Minor residential unit where the minor unit is a detached building and does not comply with any one or more of the activity specific standards in Rule 14.4.2.1 P2 a, b, c, or d.</p> <p><b>Note: for minor residential units within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p>  | a. Minor residential units 14.13.23   |
| RD10     | <p>Multi-unit residential complexes</p> <p><b>Note: for multi-unit residential complexes within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p>  | a. Residential design principles — 14.13.1  |
| RD11     | <p>Activities that do not comply with any one or more of the activity specific standards in 14.4.2.1 (except for P8-P11 activity standard i., refer to D2) for:</p> <p>a. P5 – Home occupation;<br/>b. P8 – Education activity;<br/>c. P9 – Pre-schools;<br/>d. P10 – Health care facility;<br/>or<br/>e. P11 – Veterinary care facility.</p> <p>Any application arising from these rules will not require written approval and shall not be publicly or limited notified.</p> <p><b>Note: for P8 – education activity, P9 pre-schools and P10 – health care facility within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p> | <p>As relevant to the breached rule:</p> <p>a. Scale of activity — 14.13.5<br/>b. Traffic generation and access safety — 14.13.6<br/>c. Non-residential hours of operation — 14.13.22</p> |
| RD14     | <p>Retirement villages that do not comply with any one or more of the activity specific standards in Rule 14.4.2.1 P3.</p> <p><b>Note: for retirement villages within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p>  | a. Retirement villages 14.13.10   |
| RD15     | <p>Boarding house</p> <p><b>Note: for boarding houses within the Lyttelton Port Influences Overlay refer to area specific Rule 14.4.4.</b></p>   | <p>a. Scale of activity - 14.13.5<br/>b. Traffic generation and access safety - 14.13.6</p>   |