

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

AND

IN THE MATTER OF An application to correct a minor error
pursuant to clause 16(2) to Schedule 3 of the
Order

Date: 7 September 2015

**DECISION
TO MAKE MINOR CORRECTIONS
TO DECISION ON CHAPTER 7 TRANSPORT (PART)**

Background

[1] The Hearings Panel issued its decision on Chapter 7 Transport (Part) on 7 August 2015 (the Decision). Counsel for Canterbury Aggregate Producers Group (CAPG), a submitter on Chapter 7, filed a memorandum requesting the Hearings Panel to make a minor correction to the Decision Version of the proposal pursuant to clause 16(2) to Schedule 3 of the OIC (cl 16(2)).¹ The memorandum sets out the statutory basis, and the reasons, for the request. Following the receipt of the CAPG memorandum we requested comment from the Christchurch City Council, which was provided by email from their legal counsel.² We are satisfied that the request does not directly affect other submitters and we have proceeded to consider the request accordingly.

Jurisdiction to make minor corrections

[2] Clause 16 of Schedule 3 to the OIC provides as follows:

¹ Memorandum of Counsel for CAPG requesting correction of the Decision Version of the Proposal, 21 August 2015.

² Email from Simpson Grierson dated 26 August 2015.

(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] Counsel for CAPG explained the statutory context of the provision with reference to similar provisions in the RMA and relevant case law.³ The Christchurch City Council does not oppose the use of cl 16(2) to correct any error if the Panel considers that it is necessary to do so.⁴

[4] As noted below, we do not consider the correction requested by CAPG is necessary, because the Decision Version is drafted as we intended. However, we accept that there is a minor error in the Decision Version that warrants correction, and that cl 16(2) provides the power for us to make that correction. Specifically, there is an error in the flow diagram in the assessment matters and matters for control set out in 7.3.19 High Trip Generators, which we correct in Attachment A to this decision.

Reasons for the correction

[5] Counsel for CAPG set out the relevant paragraphs from the Decision which relate to the activity status for quarrying activities and/or ancillary aggregates-processing activities in the Rural Quarry Zone. We do not repeat those matters in full here.⁵ We record that, as we understand it, CAPG has interpreted the Decision as meaning that the only relevance of the 250m distance from residential activity is a need to notify those persons of any application for resource consent, rather than it acting as a threshold to trigger an RDA consent.

[6] The Council has noted in its email response to the application that:

The Council accepts that there is an issue and a possible discrepancy between the body of the decision and the decisions version of the provisions that warrants clarification. The Council is neutral to the Panel using Clause 16 of Schedule 3 of the Order in Council to correct any mistake, and will abide the Panel's decision.

The Council wishes to record that the Panel's decision makes it clear that written approval and notification is required where vehicle access to the quarry activity is

³ Memorandum of Counsel for CAPG at para 11 – 21, including reference to *Re an application by the Christchurch City Council* (1996) 2 ELRNZ 431.

⁴ Email from Simpson Grierson dated 26 August 2015.

⁵ Memorandum of Counsel for CAPG at para 4-9.

located within 250m of a Residential Unit (paragraph 114(iii)), and this is relevant to the issue raised by counsel for CAPG.

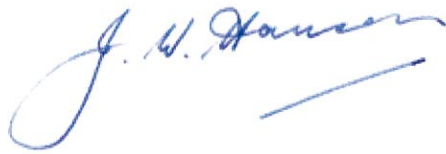
[7] We record that except for the error in the flow diagram, which we now correct, the Decision Version is what we intended when making our decision. What has however occurred, is that the flow diagram does not show the correct consequences of exceeding the standard in Rule 7.2.2.1a (C1) relating to distance from a residential activity. The flow diagram ought to show a line directed to the third box at the bottom of the diagram.

Decision

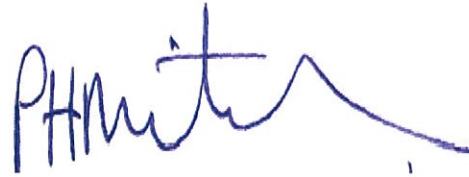
[8] Having considered the application by CAPG in the context of the Decision and Decision Version, we have determined that there is a need to correct the Decision Version, but that correction is limited to an error in the flow diagram at 7.3.19 of the Decision Version, in so far as the lines on the diagram do not reflect the consequences for an activity not meeting the controlled activity rule, which is to direct the activity to the relevant RDA rule.

[9] We make the correction accordingly by replacing the flow diagram at 7.3.19 High Traffic Generators in the Decision Version in Schedule 1 to the Decision with the diagram attached hereto marked Attachment A.

For the Hearings Panel:



Hon Sir John Hansen
Chair



Dr Philip Mitchell
Panel Member



Ms Jane Huria
Panel Member



Mr John Illingsworth
Panel Member

ATTACHMENT A

