

REASONING FOR COUNCIL'S PROPOSED ADDITION TO PERMITTED ACTIVITIES

An option for a rule change which could be added to the section 71 proposal, within the context of the revised policy wording, is to amend or add to Rule 5.4.6.1 P1 of the Christchurch District Plan.

Purpose of P1

This rule has an effect similar to existing use rights under section 10 of the Resource Management Act 1991 (RMA), without the statutory tests set out in section 10 of the RMA and in particular the 12 month discontinuance.

The purpose of the P1 rule was to follow on from existing use rights, while taking into account the specific circumstances of the earthquake rebuild. P1 does however only provide for the replacement of buildings, subject to similar limitations as existing use rights.

P1 Limitations

The words "existing building" in the activity standards for P1, means that the rule only applies if the building existed at the time this rule gained legal effect i.e. the date of public notification of the Independent Hearings Panel (IHP) Decision 53 on the Christchurch District Plan, which was 10 November 2016.

A number of households have used this Plan provision to rebuild in the High Flood Hazard Management Area (HFHMA), including in the Residential Unit Overlay, where houses were demolished after November 2016. However other owners in the HFHMA and Residential Unit Overlay area with earthquake damaged houses demolished before that date have been unable to use this permitted activity rule, and have been required to seek resource consent. In these circumstances applications for resource consent have been subject to the wider policy framework associated with the HFHMA. The Council recognises that this creates a fairness and equity issue, and seeks to resolve this as part of the current section 71 process.

Proposed P2

Of the 74 vacant properties in the Residential Unit Overlay, 32 have demolitions recorded between 2011 and 2017. (The remainder were created through subdivision though have never been built on). While a few of these demolitions likely occurred in 2017 and may have used the P1 rule, a group of possibly up to 30 of these vacant sites would benefit by a permitted activity provision to cover houses existing as at 4 September 2010. This has been drafted as a separate rule to ensure it is appropriately targeted to residential units within the Residential Unit Overlay.

Residential units built as a permitted activity under a proposed P2 would not be specifically assessed on a site by site basis in terms of flooding issues, although they would still need to have raised floor levels in accordance with Flood Management Area rules which still apply.

This approach mirrors that for the houses which were demolished after November 2016 and have subsequently been rebuilt in the HFHMA under the existing permitted activity P1.

The approach proposed is consistent with the District Plan's general natural hazard policies, eg Policy 5.2.2.1.2 – Manage activities to address natural hazard risk, and Policy 5.2.2.1.8 - Assessment of hazards. There would be no overall increase in risk, as the houses built under P2 would still be replacing houses previously on the site, and be of the same or similar scale and in the same or similar location on the property. Minimum floor levels under the Flood Management Area overlay, which applies across the HFHMA and Residential Unit Overlay area, would be required.

The IHP Decision 53 on the P1 provision was that the replacement and repair of buildings would be appropriate for achieving Objective 3.3.6 (the Natural Hazards Strategic Objective) and would assist in achieving other strategic objectives relating to recovery, housing capacity and prosperity. A similar rationale can be applied to the additional change now proposed by the Council as P2. There are only a relatively small number of properties which would be covered by the proposed P2 rule, and this additional provision is justified on grounds of equity and contribution to achieving recovery.

How vacant sites would be treated with P2 in place

There are four categories of proposals for vacant sites.

1) In the Residential Unit Overlay, for replacement houses on sites where earthquake damaged houses were demolished - P1 or P2 will apply.

P1 and P2 are permitted activities. No consent is required if the standards set out are met, including minimum floor levels under the Flood Management Area rules, which apply throughout the HFHMA and Residential Unit Overlay areas.

2) In the Residential Unit Overlay, for new houses on sites which were vacant before the earthquakes - RD2 will apply, and the new policy 5.2.2.2.1(b)(i) will provide the policy context.

Restricted discretionary activity resource consent required, applications may be declined or granted, and if granted conditions may be attached in respect of flooding. Minimum floor levels under the Flood Management Area Rules.

3) Outside the Residential Unit Overlay, in areas where flooding risk is predominantly the result of sea level rise, new houses may be covered by the new policy 5.2.2.2.1(b)(i). Consent under NC2 will be required, but there would be a greater chance of obtaining resource consent in the context of the reworded policy.

4) Outside the Residential Unit Overlay, where flooding risk is **not** predominantly as a result of sea level rise, proposals will continue to be assessed in the context of Policy 5.2.2.2.1(b)(ii) i.e. the existing "avoid" policy wording. Consent under NC2 would apply for new houses.