

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 hearing: 11–13 January and 18 February 2016

Date of decision: 15 July 2016

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

DECISION 29

**Residential New Neighbourhood Zone
and correction to Decision 11 concerning Wigram Business Park**

Outcomes: **Proposals changed as per Schedule 1**

Correction to Decision 11 concerning Wigram Business Park

Direction to Council to update South Masham ODP to remove odour buffer and Prestons ODP to show commercial nodes

COUNSEL APPEARANCES

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Ms A Limmer	Fulton Hogan Limited
Mr G Cleary	Luneys Buchanans Limited
Ms L Semple	Canterbury Racecourse Reserve Trustees and Ngāi Tahu Property Limited CDL Land Limited Ngāi Tahu Property Limited Oakvale Farm Limited Ilam Park Limited K Bush Road Limited and Brian Gillman Limited

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INTRODUCTION

[1] This decision¹ ('decision') is one of a series by the Independent Hearings Panel ('Hearings Panel'/'Panel')² for the formulation of the Christchurch Replacement District Plan ('CRDP'). Primarily it concerns related provisions across Chapter 8 (Subdivision, Development and Earthworks) and Chapter 14 (Residential) pertaining to what is termed the 'Residential New Neighbourhood' ('RNN') zone. The zone is to provide for residential new neighbourhood development of various greenfield areas on the periphery of the existing city urban area. The provisions are designed with a view to dealing with land use, subdivision and development on a comprehensive basis, and in accordance with related directions of the Canterbury Regional Policy Statement 2013 ('CRPS') as to the development of 'Greenfield Priority Area — Residential' areas, including by use of the mechanism of an 'Outline Development Plan' ('ODP').

[2] This decision is made with reference to the version of the RNN proposal attached to the Council's closing submissions ('Revised Version').³ For the reasons explained in the contextual chronology section of this decision, that version supersedes the Council's notified RNN proposal ('Notified Version').

[3] The Revised Version was essentially uncontentious between the parties other than in the various respects addressed in this decision. We have made some confined changes to the Revised Version. These are set out in Schedule 1 ('Decision Version').⁴

Contextual chronology

[4] The confidence the Panel now has in the Revised Version follows a tortuous journey from the Notified Version.⁵ In essence:

¹ This decision follows our hearing of submissions and evidence. Further background on the review process, pursuant to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ('the OIC'/'the Order') is set out in the introduction to Decision 1, concerning Strategic Directions and Strategic Outcomes (and relevant definitions, 26 February 2015) ('Strategic Directions decision').

² Members of the Hearings Panel who heard and determined this proposal are set out on the cover sheet.

³ Closing submissions for the Council at Attachment A.

⁴ Also included in Schedule 1 are provisions included in Chapter 8 by the Panel's Stage 2 decision on that chapter (released in conjunction with this decision). Colour coding is used to distinguish the Decision Version provisions from those of the Stage 2 decision (and shading to show related provisions arising from the Panel's Stage 1 decisions).

⁵ The Panel's 16 July 2015 minute gives some further background to this at [13]–[47].

- (a) The Notified Version attracted significant criticism in submissions for its complexity and uncertainty. During the Stage 1 Residential hearing,⁶ the Council's own peer review planning witness (Mr MacLeod) recommended that it be fundamentally redesigned and simplified. However, he also acknowledged that his proposed new approach was incomplete. The Council's closing submissions acknowledged that the Council no longer had confidence in the soundness of the Notified Version, that the solution was unclear, and that any decision on the Notified Version should be deferred (until the balance of the Stage 1 Subdivision provisions was heard). In effect, the Council conceded that we did not, at that stage, have a basis for determining the most appropriate provisions to give effect to the CRPS, in terms of the requirements of ss 32 and 32AA of the Resource Management Act 1991 ('RMA').
- (b) The hearing of the Notified Version was, therefore, adjourned for the RNN zone to be heard in conjunction with the Stage 1 Chapter 8 provisions. When the provisions were reheard (by a differently constituted Panel),⁷ the Council called Mr Long as its planning expert, and did not call Mr MacLeod. Mr Long proposed an adaption of what Mr MacLeod had recommended during the first hearing. In particular, he did not provide for a combined subdivision and land use consenting path that was a significant feature of the Notified Version. In its opening submissions, the Council then recommended a modification of Mr Long's recommended approach. Whereas Mr Long recommended restricted discretionary activity class, the Council's opening recommended a controlled activity class ('Council Opening Version'). Acknowledging this late change of tack, it asked that we grant a hearing recess and direct further facilitated expert witness conferencing. That request was generally supported by other parties. Directions were duly made. At very short notice, then Environment Commissioner Dr Alex Sutherland facilitated conferencing, on 26 June 2015.⁸ It resulted in a joint expert conferencing statement

⁶ The Panel for the Stage 1 Residential hearing was Hon Sir John Hansen (Chair), Environment Judge Hassan (Deputy Chair), Dr Philip Mitchell, Ms Sarah Dawson.

⁷ The Panel for Stage 1, Chapter 8 was Environment Judge Hassan (Chair), Ms Sarah Dawson and Mr Martin Udale.

⁸ The Panel records its thanks to Dr Sutherland for his significant role in these matters.

identifying several points of agreement, and some points of difference.⁹ The experts agreed that the notified ODPs did not give effect to the CRPS and re-notification could be necessary to rectify this. In addition, the experts were concerned about the appropriateness of various other aspects of the Council Opening Version. However, they were only able to go so far as to proposing conceptual, rather than drafting, solutions. In essence, this meant we were not equipped to determine the most appropriate provisions to give effect to the CRPS in terms of the requirements of ss 32 and 32AA of the RMA. That was effectively conceded in the Council's closing submissions, where again they proposed tentative and conceptual ideas, rather than drafting solutions, to fundamental design failings.

- (c) That resulted in a further adjournment and the issuance by the Panel Chair and Deputy Chair of a Minute which identified the importance of finding an effective comprehensive approach to land use and subdivision development.¹⁰ It noted the commercial importance of catering for the range of development scenarios, in order to be properly enabling so as to give effect to the CRPS and related CRDP objectives. It also noted the importance of addressing both the substantive and procedural dimensions of the problem. A several-page Annexure of questions and issues to prompt and assist the Council and parties on matters of relevance was attached to the Minute. The Minute made a number of associated directions, including for the Council to report back on its proposed way forward, to ensure due process. It also allowed for other parties to respond to what the Council proposed, with a view to making further directions.
- (d) On 11 August 2015, the Council proposed an approach that included consultation with parties,¹¹ re-notification and further public submissions on some ODPs, and a re-hearing of a comprehensive revised set of all Stage 1 and Stage 2 RNN provisions (i.e. for use, subdivision and development) and fresh evidence.

⁹ These matters were shown in a marked up version of the provisions received by the Panel together with a Report to Hearings Panel regarding Expert Conferencing, Chapter 8 Subdivision, from facilitator Dr AJ Sutherland and the report attendees, dated 29 June 2015.

¹⁰ Minute, New Neighbourhood Provisions, 16 July 2015.

¹¹ Memorandum of Counsel for Christchurch City Council regarding New Neighbourhood provisions, 11 August 2015.

Following a pre-hearing meeting, where the Panel heard legal arguments on the re-notified matter, the Panel issued a Minute in preparation for the re-hearing.¹²

- (e) On 16 September 2015, the Council made application for directions under cl 13(4) OIC for re-notification of the ODPs for proposed RNN zoned land at South Masham, North Halswell, and Riccarton Park. Various memoranda were filed in response,¹³ raising some concerns (particularly as to Riccarton Park ODP) and seeking some changes to what the Council proposed. For the reasons given in a Minute dated 24 September 2015, the Panel made a cl 13(4) direction for the notification of proposed new ODPs for South Masham and North Halswell ('South Masham & North Halswell Revised ODP Proposal').¹⁴ It declined to do so for Riccarton Park.
- (f) The South Masham & North Halswell Revised ODP Proposal was notified on 28 September 2015. Submissions and further submissions were received.¹⁵
- (g) Over subsequent months, and in accordance with Panel directions, sequential evidence exchange occurred, further expert conferencing took place (facilitated by then Environment Commissioner Marlene Oliver)¹⁶ and a hearing was held (on 11–13 January 2016). To assist the parties' consideration of various technical drafting matters during the hearing, the Panel issued a further Minute.¹⁷
- (h) During the hearing on 11–13 January 2016, the various matters addressed later in this decision were traversed in evidence, submissions and representations. The Council acknowledged a need for further drafting refinement. For those purposes,

¹² Minute — New Neighbourhood Provisions Directions Following Pre-Hearing Meeting, 20 August 2015.

¹³ Joint Memorandum of Counsel for Canterbury Racecourse Reserve Trustee and Ngai Tahu Property Limited and the Crown, 18 September 2015; Memorandum of Submitter Colin Stokes in response to Christchurch City Councils [sic] Memorandum and RNN Proposal, 18 September 2015.

¹⁴ Minute Residential New Neighbourhood Zones [sic] — application pursuant to cl 13(4) OIC, 24 September 2015.

¹⁵ Luney's Buchanan Limited (RNN1/RNN10); Council (RNN2); Fulton Hogan Limited (RNN3); Orion New Zealand Limited (RNN4); Danne Mora Holdings Limited (RNN5); Transpower New Zealand Limited (RNN6); Oakvale Farm limited (RNN7); Milns Road Farm Limited and Blakesfield limited (RNN8); Canterbury Earthquake Recovery Authority (RNN9); Riccarton/Wigram Community Board (RNN11).

¹⁶ The Panel records its thanks to Ms Oliver for her significant role in these matters.

¹⁷ Minute — drafting questions for Council witnesses in relation to the Residential New Neighbourhood provisions, 12 January 2016.

we adjourned and reconvened the hearing at a later date solely for the purposes of addressing technical drafting issues (‘technical drafting hearing’).¹⁸

- (i) As directed, following the technical drafting hearing the Council filed its Revised Version, and that was the focus of closing submissions which were then filed sequentially.

[5] The Revised Version is, therefore, the product of a very robust process of scrutiny and is able to be accorded an associated high level of confidence that it is technically sound and comprehensive.

Effect of decision and rights of appeal

[6] As set out in our earlier decisions, the Decision Version provisions will become operative as part of the CRDP, as soon as reasonably practicable, upon release of this decision and the expiry of the appeal period.¹⁹

[7] Under the OIC, the following persons may appeal our decision to the High Court (within the 20 working day time limit specified in the Order), but only on questions of law (and, for a submitter, only in relation to matters raised in the submission):²⁰

- (a) Any person who made a submission (and/or further submission) on the Notified Version and/or the South Masham & North Halswell Revised ODP Proposal;
- (b) The Council; and
- (c) The Ministers.²¹

Provisions deferred

[8] This decision defers determination of the following:

¹⁸ Minute — directions as to timetabling and technical drafting hearing, 26 January 2016. The technical drafting hearing occurred on 18 February 2016.

¹⁹ Strategic Directions decision at [5]–[9].

²⁰ Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (‘OIC’), cl 19.

²¹ The Minister for Canterbury Earthquake Recovery and the Minister for the Environment, acting jointly.

- (a) Matters in relation to airport noise (and standardisation of nomenclature) and bird strike,²² until determination of the Stage 3 Chapter 6 General Rules proposal;
- (b) Proposed Policy 14.1.5.7 — Nga Kaupapa, until determination of related Chapter 9;²³
- (c) Definitions (other than as determined by this decision), until determination of the relevant Definitions proposal.

Matters as to the management of earthworks, including compaction, vibration and noise²⁴ and related notification provisions in relation to Highfield are determined by the Panel’s companion Decision 28: Subdivision, Development and Earthworks — Stage 2.²⁵

Identification of parts of Existing Plan to be replaced

[9] The OIC requires that our decision also identifies the parts of the existing Banks Peninsula District Plan and existing Christchurch City Plan (together ‘Existing Plan’) that are to be replaced by the Decision Version.²⁶ We have had regard to what the Council identified for replacement. However, that was in respect to the Notified Version which, as we have noted, has been essentially superseded by the Revised Version. We identify that, for all land zoned RNN by the Decision Version, the zoning of that land by the Existing Plan is replaced by the Decision Version provisions.

Conflicts of interest

[10] We have posted notice of any potential conflicts of interest on the Independent Hearings Panel website.²⁷ In the course of the hearing, it was identified on various occasions that submitters were known to members of the Panel either through previous business associations or through current or former personal associations. Those disclosures (and, on some matters,

²² For example, as raised by Christchurch International Airport Limited (2348/FS2817) (‘CIAL’) and David Lawry (2514).

²³ As requested by the memorandum of counsel on behalf of the Christchurch City Council filing a final updated revised proposal, dated 17 March 2016, at para 2.9.

²⁴ In particular, as raised by Mr Luke Pickering (2510) and Mr Ross Major (2499).

²⁵ The same Panel members heard both proposals.

²⁶ OIC, cl 13(3).

²⁷ The website address is www.chchplan.ihp.govt.nz.

member recusals) were recorded in the transcript, which was again available daily on the Hearings Panel’s website. No submitter raised any issue in relation to this. Later in this decision, we refer to a joint request made by Ngāi Tahu Property Limited (‘NTP’) and the Council to make a technical correction to planning maps in relation to some properties at Wigram Business Park. Consistent with the position he has adopted throughout, Mr Neill recused himself from dealing with this matter, given that the law firm he is a consultant to, Lane Neave, acts for NTP.

REASONS

STATUTORY FRAMEWORK AND HIGHER ORDER DOCUMENTS

[11] The OIC directs that we hold a hearing on submissions on a proposal, and make a decision on that proposal.²⁸

[12] It sets out what we must and may consider in making that decision.²⁹ It qualifies how the Resource Management Act 1991 (‘RMA’) is to apply and modifies some of the RMA’s provisions, both as to our decision-making criteria and processes.³⁰ It directs us to comply with s 23 of the Canterbury Earthquake Recovery Act 2011 (‘CER Act’).³¹ The OIC also specifies additional matters for our consideration.

[13] Our Strategic Directions decision, which was not appealed, summarised the statutory framework for that decision. As it is materially the same for this decision, we apply the analysis we gave of that framework in that decision as we address various issues in this decision.³² On

²⁸ OIC, cl 12(1).

²⁹ OIC, cl 14(1).

³⁰ OIC, cl 5.

³¹ Our decision does not set out the text of various statutory provisions it refers to, as this would significantly lengthen it. However, the electronic version of our decision includes hyperlinks to the New Zealand Legislation website. By clicking the hyperlink, you will be taken to the section referred to on that website. The repeal of the CER Act by the Greater Christchurch Regeneration Act 2016 (‘GCRA’) does not materially alter that position. That is because s 147 of the GCRA provides that the OIC continues in force. Further, Schedule 1 of the GCRA (setting out transitional, savings and related provisions) specifies, in cl 10, that nothing in that Part affects or limits the application of the Interpretation Act 1999 which, in turn, provides that the OIC continues in force under the now-repealed CER Act (s 20) and preserves our related duties (s 17).

³² At [25]–[28] and [40]–[62].

the requirements of ss 32 and 32AA RMA, we endorse and adopt [48]–[54] of our Natural Hazards decision.³³

[14] Of the various relevant Higher Order Documents,³⁴ the most relevant is the CRPS. We must be satisfied that the CRDP gives effect to this document. While the CRPS directly pertains to our decision, it was ultimately non-contentious. Therefore it is unnecessary for us to set out any evaluation of the CRPS provisions. We note that the various areas of land included by this decision in the RNN zone (other than Riccarton Park) are identified by the CRPS as ‘Greenfield Priority Area — Residential’.³⁵ The CRPS specifies various related objectives and policies. In particular, we refer to Objectives 6.2.1 (‘recovery framework’) and 6.2.2 (‘urban form and settlement pattern’), Policy 6.3.1 (‘development within the Greater Christchurch area’), Policy 6.3.2 (‘development form and urban design’), Policy 6.3.3 (‘development in accordance with outline development plan’), Policy 6.3.5 (‘integration of land use and infrastructure’), and Policy 6.3.7 (‘residential location, yield and intensification’). Subject to the changes we have made to some of the ODPs, we are satisfied on the Council’s evidence that they properly give effect to the CRPS.

[15] Also of relevance is the Statement of Expectations in Schedule 4 of the OIC, to which we must have particular regard (cl 14(1)(d)). Given that the Revised Version effectively supersedes the Notified Version, there is no need for us to traverse the various ways in which the Notified Version offended against expectations as to clarity and the nature of development controls. It is sufficient for us to record that we are satisfied that the Revised Version sufficiently remediated those issues (subject to some further refinements we make). We are also satisfied that the Revised Version (and, therefore, the Decision Version) properly responds to the Statement of Expectations concerning matters of the effective functioning of the urban environment, housing supply, types and locations, environmental and infrastructure and development capacity.

[16] For the purposes of our s 32AA RMA evaluation, we also refer to:

³³ Natural Hazards (Part) (and relevant definitions and associated planning maps), 17 July 2015, pages 20–21.

³⁴ A term used in the various Panel decisions to refer to the various statutory instruments that the RMA and OIC prescribes for our consideration in various specified ways, including the Canterbury Regional Policy Statement 2013, the Land Use Recovery Plan (‘LURP’), the Statement of Expectations in Schedule 4 OIC and other instruments under the CER Act (and the GCR Act).

³⁵ CRPS, Map A (page 64).

- (a) CRDP Strategic Directions Objectives 3.3.1, 3.3.2, 3.3.4, 3.3.7, 3.3.9, which are now in effect; and
- (b) The following objectives confirmed by the Stage 1 decision on Chapters 8 (Subdivision, Development and Earthworks) and 14 (Residential) — 8.1.2, 8.1.3, 14.1.1, 14.1.2, 14.1.3 and 14.1.4 (and related Policies). While those provisions are not formally included in the CRDP at the time of writing this decision, they are effectively beyond challenge and must be included in the CRDP as soon as reasonably practicable.

Submissions and relevant issues

[17] There were relatively few submissions and further submissions on either the Notified Version or the South Masham & North Halswell Revised ODP Proposal. We have considered all of them in reaching our decision.

[18] Most submitters who exercised their right to be heard were concerned about the particular implications of provisions (including proposed ODPs) for particular sites or areas.³⁶ We deal with the issues they raise (and their related representations, legal submissions, and evidence) in the context of our s 32AA evaluation, later in this decision.

[19] Although the Revised Version effectively resolved most of the initially expressed concerns in submissions on matters of design and technical drafting clarity, some submitters raised some residual concerns on this in their closing submissions. We refer, in particular to the closing submissions for the Crown (RNN9). Again, we deal with these issues in the context of our s 32AA evaluation.

[20] Schedule 2 lists witnesses who gave evidence for various parties, and submitter representatives.

³⁶ Recorded in Schedule 2 to this decision.

COUNCIL SECTION 32 REPORTS

[21] As was required, the Council prepared s 32 reports on the Notified Version.³⁷ While we have had regard to them, they have not been influential because the Notified Version is essentially superseded by the Revised Version by reason of the matters traversed at [4].

SECTION 32AA EVALUATION

General matters

[22] Except where we otherwise state, we are satisfied that:

- (a) The Revised Version properly gives effect to the CRPS (particularly those objectives and policies we have earlier noted) and otherwise properly responds to the Higher Order Documents; and
- (b) Subject to the minor drafting refinements we make, we are also satisfied that the Revised Version is the most appropriate for achieving related CRDP objectives (and those further objectives, and related policies to which we have earlier referred as now being beyond challenge).

[23] We make those findings in light of the significantly narrowed points of difference on the Revised Version, and on the basis of the Council's expert evidence in support of the Revised Version (which we prefer to the contrary views expressed by various submitters who did not call expert evidence).

The ODPs give effect to the CRPS

[24] The ODPs in Appendix 8.6 of the Revised Version comprise both plans and associated narrative. A number of these have been significantly modified from what was included in the Notified Version (or in the relevant submissions). As we have noted, that was in response to the significant concerns raised by Minutes issued by the Panel, particularly in regard to whether the originally notified ODPs gave proper effect to the CRPS.

³⁷ Section 32 — Residential Chapter, notified on 27 August 2014; and Section 32 — Subdivision, development and earthworks, notified on 27 August 2014.

[25] Ensuring that the ODPs are sound in that respect is particularly important, given the importance that the RNN zone has for achieving greenfield residential development to assist the recovery and long term needs of the city, in accordance with relevant CRPS objectives and policies (to which we have earlier referred).

[26] By the time of closing submissions, most of the ODPs in the Revised Version were uncontentious. On the Council's evidence, which we accept, we are satisfied that those ODPs properly respond to the concerns we raised by Minute and properly give effect to the CRPS. Therefore, we are also satisfied that they are appropriate for achieving related CRDP objectives.

North Halswell, South Masham and Riccarton Park ODPs — visual mitigation for transmission and distribution lines

[27] These ODP areas are located in the following parts of the city:

- (a) North Halswell is located between the established settlements of Hillmorton and Halswell, immediately opposite Aidanfield and Milns Estate (with the Hendersons Basin ponding area to the east, Ngā Puna Wai Reserve and Sports Hub to the north-west and Halswell Domain to the south);
- (b) South Masham is on the western outskirts of the city, near to the developing Yaldhurst Masham residential community, and the established Delamain and Broomfield Common neighbourhoods;
- (c) Riccarton Park is located on surplus land to the west of Riccarton Racecourse, and borders the established residential communities of Broomfield and Russley. The southern part of this new neighbourhood is traversed by the Paparua Stream which links Acron Stream Reserve to the west and Showgate Reserve to the south east. The inclusion of the Riccarton Park ODP in the Notified Version was an outcome of an affordable housing initiative involving the developers, the Council and the Crown. As part of that initiative, legislation to uplift existing reserve status was

introduced to Parliament (promoted by the Council and the Minister for Building and Housing).³⁸

[28] A remaining issue with each of these ODPs concerns what, if any, provision should be made in relation to visual mitigation for transmission or distribution lines that traverse or are adjacent to them.

[29] The Council proposes a related ODP narrative in regard to visual mitigation. In its evidence, the Council recommended that this narrative specify tree planting requirements where residential sites would be within 20m of such lines or associated support structures. The narrative specified 1 tree for every 10m of the shared site boundary (or part thereof), planting within 10m of the shared boundary, and minimum tree heights (1.8m at time of planting, 8m at maturity).

[30] A submitter group with interest in the development of the Riccarton Park ODP ('Canterbury Racecourse Submitter Group'/'CRS')³⁹ opposed this narrative being included for that ODP. It submitted that, in the absence of submissions pursuing setback provisions, including narrative to that effect would go beyond the legitimate scope of the Notified Version. In addition, CRS argued that the provision is not adequately supported by evidence (noting that the Council's landscape expert, Ms Reeves made general reference to interface issues).

[31] CRS's position was supported by its planning expert, Jason Jones. He noted that there was a lack of proper evaluation of the different environmental contexts arising, for different ODP scenarios, for example in relation to support structure design and the location of lines.⁴⁰ Mr Jones pointed out that it is not common for special interface treatments to be required, either under the Existing Plan or other proposed provisions of the CRDP.⁴¹ He considered it more consistent with the OIC Statement of Expectations to remove them.

[32] CRS noted that of most concern is that the proposed narrative would require landscaping to be provided to a minimum mature height of 8 metres, with such specimens planted within

³⁸ Closing submissions for the Crown at 4.1.

³⁹ Canterbury Racecourse Reserve Trustees and Ngai Tahu Property Limited (2366), CDL Land Limited (2275 and FS2814) and Ngai Tahu Property Limited (806).

⁴⁰ Transcript, page 221, lines 1–45 (Mr Jones).

⁴¹ Transcript page 212, line 27–30 (Mr Jones).

10m of the site boundary. It expressed concern that these requirements did not address the potential conflict that could arise with compliance with the Electricity (Hazards from Trees) Regulations 2003 ('Regulations').

[33] Orion New Zealand Limited (2340, FS2797) ('Orion') opposed the narrative for each ODP area. In its closing submissions, Orion acknowledged the provision was intended to provide a visual buffer for future residents living in proximity to lines. However, it opposed the provision to the extent that it could result in trees causing a future hazard that could be in breach of the Regulations. It sought that the narrative be replaced with the following:⁴²

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.

[34] The Crown also opposed this narrative. It acknowledged that CRPS Policy 6.3.3(9) requires an ODP to "[s]how how other potential adverse effects on and/or from nearby existing or designated strategic infrastructure ... will be avoided, remedied or appropriately mitigated". However, it submitted that, in the context of promoting affordable housing, this should be done in a way that allows flexibility for innovative solutions (to the extent that solutions are required) and that does not present unnecessary barriers to development. As such, the Crown recommended that we delete the notation or make it a matter for guidance.⁴³

[35] In response to these concerns, the Council modified its position, proposing (in the Revised Version) the following more flexible wording:

Where residential sites will be located within 20m of the electricity substation the developer is required to provide tree planting within the residential site to mitigate the visual impact of the transmission distribution lines and substation.

[36] On balance, we find that the most appropriate approach to this matter is that recommended by Orion. We consider the Revised Version less appropriate in addressing the risk of conflict with the Regulations. In particular, that is in the fact that it establishes an expectation of tree planting without any clear signal to avoid conflict with the Regulations. Furthermore, we do not consider there to be sufficient resource management justification for

⁴² Closing submissions for Orion at para 13.

⁴³ Closing submissions for the Crown at 4.6–4.7.

any expression of expectation that trees will be planted in vicinity to such infrastructure. We accept Mr Jones's evidence on that point.

[37] We are satisfied that Orion's recommended approach properly gives effect to CRPS Policy 6.3.3. In particular, it effectively addresses potential effects on that infrastructure. As for effects of that infrastructure, it is not inherently inappropriate for dwellings to have even reasonably proximate views of transmission or distribution lines. Forcing an outcome of tree planting could give rise to other adverse consequences for amenity values, such as increased shading nuisance and the cost of unwarranted regulation. Bearing in mind that Riccarton Park is for affordable housing, it is important that we are rigorous in avoiding unwarranted sources of cost. Therefore, we consider it better to leave such matters to a broader discretion, albeit with express signal to the matter of the Regulations, as Orion has proposed.

8.6.5 South Masham ODP — quarrying and related policies

[38] The issue under this heading concerns the quarrying resource beneath presently greenfield land. It concerns the regime that should govern resource consent processes that would apply to quarrying applications made to win that resource prior to residential redevelopment.

[39] Fulton Hogan Limited (1011, FS2819, RNN3) sought a range of related relief on the topic of quarrying prior to residential development. This was particularly in regard to the South Masham ODP, but not exclusively so. A number of its requested changes ultimately proved uncontentious, with the Council making related changes to the Revised Version which were not opposed by other parties (including Riccarton/Wigram Community Board (RNN11)). Where we are satisfied that those non-contentious matters are appropriate, we have provided for them in the Decision Version, and do not traverse them further in our reasoning that follows.

[40] Fulton Hogan accepted that quarrying should be classified as a non-complying activity (Rule 14.9.2.5, NC4).⁴⁴ For non-complying activities such as quarrying, the expression of objectives and policies is significant to the question of whether an activity would be able to secure consent. That is mainly by reason of the wording of s 104D RMA as a necessary threshold test on the question of whether consent can be forthcoming.

⁴⁴ Closing submissions for Fulton Hogan at para 10.

[41] Fulton Hogan sought a change to proposed Policy 14.1.5.1(b), as follows:⁴⁵

Interim use and development shall not compromise the timely implementation of, or outcomes sought by, the Outline Development Plan. Interim use of identified greenfields priority areas for quarrying may be able to be undertaken ~~as part of the preparation of an area for urban development~~, provided that the adverse effects of the quarrying activity can be adequately mitigated, including not compromising the use of the land for future urban development.

[42] Fulton Hogan also sought that we make a consequential change to the wording of Policy 8.1.2.1(b) (included in Chapter 8 by the Panel's Decision 13 concerning Subdivision, Development and Earthworks: Stage 1(Part)) as follows:

Recognise that ~~short-term~~ interim use of greenfields priority areas for aggregate extraction may be able to be undertaken as part of the preparation of an area for urban development, provided that the adverse effects of the quarrying activity can be adequately mitigated, including by not compromising the use of the land for future urban development.

[43] For these changes, Fulton Hogan referred to the (uncontested) evidence of its witness Mr Willis, given to the Stage 1 Chapter 8 hearing, concerning the high quality gravel resource beneath western Christchurch and the economic importance (including for recovery) of enabling opportunity to extract it from greenfield priority areas (noting the success Fulton Hogan has had in securing resource consent).⁴⁶ Fulton Hogan's counsel, Ms Limmer, pointed out that residential development and quarrying activity are not mutually exclusive, in that one piece of land is capable of delivering on both objectives (consistent with the position Fulton Hogan took in the Stage 1 Chapter 8 hearing, and as recognised at [45] of Decision 13: Subdivision, Development and Earthworks).

[44] The Council opposed Fulton Hogan's requested change to Policy 14.1.5.1(b), submitting that the change was unnecessary, in that the Council's proposed wording did not necessarily mean quarrying and urban development would be required to be followed in close sequence.

[45] In the final analysis, we see little in the points of difference between Fulton Hogan and the Council. We agree with the Council's position that reference to the preparing of an area for urban development should remain in the policy. Those words do not necessitate a rigid sequential approach or preclude capacity to undertake quarrying in tandem with aspects of

⁴⁵ Closing submissions for Fulton Hogan at para 9.

⁴⁶ Closing submissions for Fulton Hogan at para 17.

development. On the other hand, they usefully convey that quarrying should serve to assist the primary intention that this land be urbanised. Further, the words achieve an important consistency with Policies 8.1.2.1(b) and 8.1.2.9(d).

[46] We consider ‘interim’ a better choice of word than ‘short-term’ in that it allows greater flexibility and efficiency for resource extraction in circumstances where development of a Greenfield Priority Area takes a relatively long period of time. Such flexibility does not conflict with the intentions of the CRPS, given the relatively long windows of time it allows for in regard to the meeting of forecast housing development needs. Under cl 13(2) of the OIC we can make such minor change to the Stage 1 Chapter 8 decision, being satisfied both that no party (or other person) would be in any way impacted by this change, and that it will achieve better consistency with the use of the word ‘interim’ in proposed Policy 14.1.5.1(b). On the same basis, we can make a consequential change to Decision 13: Subdivision, Development and Earthworks (under cl 13(5) of the OIC).

[47] Therefore, we find ourselves somewhere between the respective positions of Fulton Hogan and the Council on these matters.

[48] We agree in principle with Fulton Hogan’s submission on both the wording of proposed Policy 14.1.5.1(b) and the value of making a consequential change to the wording of Policy 8.1.2.1(b), as included by Decision 13. However, we consider the wording of both policies somewhat clumsy and inappropriately narrow in their focus on quarrying. That is certainly one potentially appropriate interim use of RNN zoned land, but the policies should contemplate the potential for others.

[49] Therefore, we have modified the drafting of both policies. We are satisfied that we have jurisdiction to make these modifications to existing Policy 8.1.2.1(b), under cl 13(5) and (6) as a minor consistency correction. Drafting of our Decision Version has resulted in Policy 14.1.5.1(b) being renumbered as Policy 14.1.5.1(c). We find the modified policies the most appropriate for achieving related CRDP objectives (particularly Strategic Directions Objectives 3.3.1 and 3.3.5), and responding to the Higher Order Documents.

[50] For the reasons we have stated, we are satisfied on the evidence that our modified Policy 14.1.5.1(c) is the most appropriate for achieving the related objectives, as follows:

Recognise that quarrying and other interim activities may be a suitable part of preparing identified greenfields priority areas for urban development, provided that their adverse effects can be adequately mitigated and they do not compromise use of the land for future urban development.

[51] We are further satisfied that the wording of Policy 8.1.2.1(b), as included by Decision 13: Subdivision, Development and Earthworks, can and should, be consequentially changed so as to align.

[52] Finally, we consider the matter of whether a policy or rule should be expressed on the matter of public notification. This was a topic of importance to Riccarton/Wigram Community Board, and was the subject of some Panel questioning during the hearing. By Minute, the Panel requested the parties to consider what, if any, position should be specified in the provisions.⁴⁷ In its closing submissions, Fulton Hogan accepted that applications for quarrying within the RNN zone would be publicly notified and confirmed it was not opposed to a rule to that effect.⁴⁸ The Council submitted that the more appropriate approach would be to leave this matter to the assessment of consent processing staff (although recording that public notification was likely).⁴⁹ In its closing submissions, the Community Board recorded its support for the Revised Version provisions for South Masham.⁵⁰

[53] We agree with the Council that the most appropriate approach is to leave the question of notification track to the assessment of the Council in its consent authority capacity (i.e. effectively as adjudged by Council processing staff). It is in that context that the nature of quarrying activities and the extent to which there are matters of interest to the public and/or affected parties are best assessed, in order to inform the choice of notification track.

8.6.5 South Masham ODP — odour buffer

[54] Some 120m west of the South Masham ODP land, along Buchanans Road, is a long-established poultry farm operated by Tegel Foods Limited (2774) ('Tegel'). Immediately across Buchanans Road from the poultry farm, to the north, is the Delamain residential community which is now well established with new dwellings.

⁴⁷ Minute, Residential New Neighbourhood Zone — clarification of the status of quarrying and conflicts, 15 January 2016.

⁴⁸ Closing submissions for Fulton Hogan at para 12.

⁴⁹ Closing submissions for the Council at 3.18.

⁵⁰ Closing submissions for Riccarton/Wigram Community Board at 2.1.

[55] The South Masham ODP includes a large swathe of ‘hatching’ denoted ‘Odour assessment area around poultry farm buildings and where Rule 8.3.2.2 RD7 Restricted discretionary activities applies’ (‘Odour Buffer Area’). As that signals, the associated rule classifies subdivision in the Odour Buffer Area as a restricted discretionary activity with the following associated matter of discretion:

The extent to which the subdivision design mitigates any adverse effects, including potential reverse sensitivity effects in relation to odour from nearby existing land uses.

[56] This restriction was supported by Tegel (2460) and the Council, and opposed by the land developer, Luneys Buchanans Limited (900, RNN1, RNN10) (‘Luneys’).

[57] Tegel made a further submission (2774) on matters pertaining to Chapter 17 (Rural) and some directly associated (but confined) aspects of Chapter 8 (Earthworks, Subdivision and Development). It did not present legal submissions, but called evidence from a planning consultant, Angela Stewart.⁵¹

[58] Despite the narrow focus of Tegel’s submission, Ms Stewart’s evidence focussed on potential ‘reverse sensitivity’ from incompatible land uses on the continued operation of the poultry farm. She gave us relatively minimal information about the operations of the poultry farm. We learned from Luney’s planning witness, Ms Harte, that the operation is a “breeder farm” involving parent stock producing fertilised eggs in three sheds housing some 12,000 birds.⁵²

[59] Ms Stewart explained that her client’s primary interest was “to ensure reverse sensitivity issues do not arise, creating a situation where the lawfully established poultry farm is forced to close or reduce its operations as a result of residential development occurring around the site”.⁵³ She explained that Tegel operated “in accordance with best practises [sic] and operational design features” but, even so, its operation has the potential to generate odour and noise which, while not offensive in a rural environment, could be considered so in a residential environment

⁵¹ Ms Stewart is a planner with Harrison Grierson Consultants Limited. She holds a Bachelor of Resource and Environmental Planning from Massey University. She is a Graduate Plus member of the New Zealand Planning Institute. She has ten years’ planning experience within district planning, resource consent preparation and consent processing.

⁵² Rebuttal evidence of Patricia Harte on behalf of Luneys at 3.3–3.4.

⁵³ Evidence in chief of Angela Stewart on behalf of Tegel at 4.1.

(due to higher amenity expectations).⁵⁴ Hence, she considered there was a risk of reverse sensitivity that should be managed.

[60] Ms Stewart pointed out that the proposed Rural chapter included 200m minimum setbacks between new residential units and a building, compound or part of a site used for intensive farming (of which poultry farming was an example). As such, she considered that it was appropriate for this matter to be treated consistently in the RNN zone, where the context is of former rural land being brought into a residential urban zoning.⁵⁵ She noted that to do so was consistent with standard planning practice. In response to Panel questioning, she conceded that we did not have evidence before us of odour effects occurring for neighbours at present.⁵⁶

[61] Patricia Harte gave planning evidence for Luneys.⁵⁷ She told us that her investigations revealed that there had been no complaints so far in relation to the farm operation and that “immediate neighbours have advised that there is no odour problem with the breeder operation”.⁵⁸ She explained that, under the Air Chapter of the Natural Resources Regional Plan (‘NRRP’), the poultry farm is a permitted activity (AQL59), given that it was established prior to 2002. She offered the view that, were there to be an odour issue, the RMA offered sufficient powers to require compliance with the NRRP’s standard that there are not to be noxious, offensive or objectionable odours beyond the site boundaries.⁵⁹

[62] Ms Harte considered Ms Stewart’s proposition of making the density regimes consistent between the Rural and RNN zone regime “extraordinary”, particularly when the RNN zone itself was not opposed.⁶⁰ She considered that, while there is a theoretical odour and reverse sensitivity risk, the potential for such adverse effects is very limited given the poultry farm’s operational history. As such, she considered there was no justification for Tegel’s requested relief. She argued that it renders a large part of the ODP area effectively ‘rural’, inconsistent with the intentions of the LURP and CRPS.⁶¹

⁵⁴ Evidence in chief of Angela Stewart at 5.1–5.3.

⁵⁵ Evidence in chief of Angela Stewart at 6.1–6.6.

⁵⁶ Transcript, page 469, lines 1–12 (Ms Stewart).

⁵⁷ Ms Harte is a planner and Principal with Davie Lovell-Smith Ltd, consultant Planners, Surveyors and Engineers of Christchurch. She has an LLB (Hons) and MSc (Resource Management) and is a full Member of the New Zealand Planning Institute.

⁵⁸ Rebuttal evidence of Patricia Harte at 3.6.

⁵⁹ Rebuttal evidence of Patricia Harte at 3.6.

⁶⁰ Rebuttal evidence of Patricia Harte at 3.7.

⁶¹ Rebuttal evidence of Patricia Harte at 4.3-4.5.

[63] In his closing submissions for Luneys, Mr Cleary submitted that three factors should influence whether reverse sensitivity risk “is a relevant effect” — an established use causing adverse environmental impact on adjoining land; an intended benign use for adjoining land; and a risk that the benign use would result in restrictions on the established use. As to the third factor concerning risk, he emphasised the lack of evidence as to odour effects and the lack of any complaints record. He pointed out that the Council evidence did not explain how subdivision design could mitigate potential reverse sensitivity. He submitted that there is no policy mandate for the proposed restricted discretionary rule and odour issues were more appropriately managed through the NRRP.⁶²

[64] In its closing submissions, the Council maintained its position that a buffer with related restricted discretionary activity restrictions on subdivision was appropriate. It submitted that potential reverse sensitivity effects are best addressed at the subdivision stage through consideration of design and other potential mitigation measures and conditions/consent notices as may be appropriate. It pointed out that the wording of proposed rule was “largely the Panel’s existing decision text” in regard to reverse sensitivity and strategic infrastructure.⁶³ It disputed the relevance of Luneys’ reliance on a lack of complaint history, as it was not a reliable gauge of future risk given that RNN zoning would likely significantly increase the number of people living in proximity to the poultry farm. It acknowledged the effect of the NRRP rule was as referred to by Ms Harte. However, it argued that this did not mean it was unnecessary to manage adjacent subdivision.⁶⁴

[65] The Panel undertook a site visit following the hearing adjournment. At the time, the prevailing wind was from the south, blowing across the poultry farm towards the established Delamain residential subdivision across Buchanans Road to the north. Standing on that opposite side of Buchanan’s Road, approximately in line with the access to the poultry farm, we experienced a slight odour from the poultry farm. Several dwellings of the Delamain subdivision were in close proximity, facing the poultry farm gate. Our rough gauging of distance indicated to us we were standing approximately 25m from the gate, and well within 200m of the poultry sheds. That experience of the site conditions was, of course, minimal. We

⁶² Closing submissions for Luneys at 1.5; 2.1–2.3 and 5.1-5.4.

⁶³ Closing submissions for the Council at 4.52.

⁶⁴ Closing submissions for the Council at 4.45–4.54.

have also put it in the context of evidence we heard (and accept) that prevailing winds could expose the ODP land to potential odour from the poultry farm from time to time.

[66] The RMA does not use the term “reverse sensitivity” and does not express any explicit principle or duty to account for this category of effect. We are mindful of the danger of tacking ‘principles’ or ‘duties’ onto the RMA, given its clear purpose and principles and subordinate framework of policy statements and plans for the purpose of decision-making.

[67] Mr Cleary offered the following definition of ‘reverse sensitivity’ in his closing submissions:⁶⁵

Reverse sensitivity is the legal vulnerability of an established activity to complaint from a new land use. It arises when an established use is causing adverse environmental impact to nearby land, and a new, benign activity is proposed for the land. The ‘sensitivity’ is this: If the new use is permitted, the established use may be required to restrict its operations or mitigate its effects so as not to adversely affect the new activity.

[68] While some may take issue with the finer points of this definition, it is sufficient for our purposes. One thing it serves to demonstrate is that, where this type of effect arises, it is as a result of the operation of the RMA. For instance, the concept of being “required to restrict ... operations or mitigate ... effects” could arise through RMA abatement notices or enforcement action in relation to the duties in ss 16 and/or 17 of the RMA. Alternatively, it could arise through the imposition of more stringent conditions at re-consenting or through plan review. Given that, we consider it important that we are careful not to make any unjustified assumptions that intervention to manage reverse sensitivity effects is appropriate. That is particularly because such intervention inevitably involves a choice between competing rights and interests. In terms of that balance, the RMA gives some limited recognition to incumbency, particularly in the fact that it specifies existing use rights. However, it does not go so far as to express any principle that, in plan review processes, new activities must be curtailed or restricted so as to protect incumbent or established uses. We would expect such a principle, if intended, to be clearly expressed given the constraints it would impose on the capacity for plans to instigate and assist land use change for greater community wellbeing.

⁶⁵ Closing submissions for Luneys at 2.2. Attributed to Bruce Tardy & Janine Kerr: *Reverse Sensitivity — the Common Law Giveth and the RMA Taketh Away*, New Zealand Journal of Environmental Law, Vol. 3, 1999: 93–107.

[69] It is relevant for us to consider competing rights and interests in relation to reverse sensitivity, as part of our s 32AA RMA evaluation. However, unlike the position for strategic infrastructure, nothing in the CRPS directs that we protect the poultry farm from the introduction of sensitive adjacent land use. On the other hand, the CRPS identifies the South Masham ODP land as a ‘Greenfield Priority Area — Residential’.

[70] The evidence overwhelmingly satisfies us that the proposed RNN zoning will give effect to related CRPS objectives and policies to which we have earlier referred. That position is clearly demonstrated by the evidence for the Council, supported by Ms Harte for Luneys. Nothing in Tegel’s evidence suggests otherwise.

[71] On the matter of competing costs and benefits, we agree with Ms Harte that the imposition of a restricted discretionary activity rule over what would be a large part of the ODP area would be a significant impediment to subdivision and, therefore, development of the land for its intended residential purposes. We agree with Mr Cleary that it is unclear how reverse sensitivity risk would be managed through subdivision design. In effect, we consider it likely to result in retention of a ‘rural’ environment for much of the hatched area, unless some sort of ‘no complaints covenant’ deal could be struck with Tegel. We find it would be unprincipled and inappropriate to establish a rules regime that, in effect, conferred such commercial leverage on Tegel in the absence of any Higher Order Document policy giving sway to Tegel’s interests over those of the Luneys (and the wider community’s interests in regard to additional greenfields housing development).

[72] On the relatively limited evidence Tegel tendered, we are not satisfied that the imposition of a restricted discretionary activity rule is justified in terms of any risk posed to economic wellbeing. We acknowledge the theoretical potential for odour nuisance complaints and associated action against Tegel from a greater intensity of residential dwellings in close proximity. However, for the reasons noted, we see that as simply what the RMA allows for and not a valid reason for imposing the restrictions sought by Tegel and the Council. As the Council acknowledged, the NRRP allows for enforcement intervention in the event of odour nuisance. In any case, the s 17 RMA duty could also apply to those matters. More broadly, the RMA allows for land use change to occur (including to give effect to a regional policy statement). The RMA does not impose any necessary presumption that land use change is to

be constrained for the purposes of shielding existing neighbouring established activities from the consequences of that change.

[73] The evidence satisfies us that residential redevelopment of the South Masham ODP assists to give effect to the CRPS and, in terms of s 5 RMA, to enable the community to provide for its wellbeing particularly in terms of housing needs. That evidence satisfies us that the proposed restricted discretionary activity rule would impose an unreasonable and inappropriate impediment to that redevelopment. Therefore, we modify the Revised Version by deleting the proposed restricted discretionary activity rule and direct the Council to update the ODP by removal of the hatched area.

8.6.18 Hendersons ODP

[74] The Hendersons ODP lies to the north of Cashmere Road and to the east of Hendersons Road and would integrate with the established residential community of Hoon Hay. Cashmere Stream traverses it. The Hendersons Basin area was historically a major wetland/raupo swamp.

[75] Cashmere Fields (2148, FS 2727) is a collection of some 10 landowners in the Henderson Basin Ponding Area. Cashmere Park Trust (2380, FS 2728) owns land at the east end of Henderson Basin. They presented a combined case ('Cashmere submitters'/'submitters'), calling evidence from their representative Warren Lewis,⁶⁶ and stormwater engineer, Andrew Tisch (who did not appear).⁶⁷

[76] The submitters sought an expansion of the Hendersons ODP. The nature and extent of this was described by Mr Lewis, with reference to a body of plans and related background assessment information attached to his evidence. In essence, the Cashmere submitters sought a significant expansion of the Hendersons RNN zone south of Cashmere Road and to the north towards Sparks Road. The submitters proposed associated replacement ODP plans. Amongst other things, these plans illustrate proposed roading and movement networks, stormwater arrangements and a flood management zone, conservation areas, planting and open space, and

⁶⁶ Mr Lewis is a beneficiary and trustee of Cashmere Park Trust. He has a Bachelor of Engineering (Hons), is a Chartered Professional Engineer and is a director of Lewis and Barrow Limited, a civil and structural engineering consultancy.

⁶⁷ Mr Tisch is a Principal Engineer and Director of e2environmental Ltd, a civil engineering consultancy based in Christchurch. He has a BE (Civil), CPeng, with over 20 years' engineering experience, the last 15 in the field of stormwater drainage, treatment and flood mitigation.

various densities. Other supporting technical assessments (some in draft) by Geotech Consulting Limited and Eliot Sinclair were also provided.

[77] Mr Lewis explained that the Cashmere submitters considered expansion of the Hendersons RNN zone was appropriate as it would assist to provide affordable housing in relatively close proximity to the central city, necessary infrastructure was in place and an approach to stormwater engineering was determined.⁶⁸ Despite the fact that the reports attached to Mr Lewis's evidence pre-dated the Christchurch earthquake sequence, Mr Tisch considered the additional land could be engineered to provide a robust stormwater treatment (including swales, ponds and wetlands). He considered that earthworks would be possible to provide developable land above the floodplain with flood compensation elsewhere. He considered the post-development runoff from the expanded ODP area should be similar to the peak runoff generated in the existing (present) situation. Therefore, he considered that downstream flooding would be unlikely to be exacerbated by the Cashmere submitters' proposal.⁶⁹

[78] The Council's relevant witnesses on these matters were Mr Norton (stormwater),⁷⁰ and Ms O'Brien (wastewater).⁷¹ Mr Norton noted that the consultants' work in the reports attached to Mr Lewis's evidence was undertaken before the earthquake sequence (and, hence was outdated). However, he also pointed out that it showed increased peak flood levels for both the Henderson Basin and Cashmere Stream ponding areas. He considered any measurable increase in peak flood levels was an adverse effect on low-lying properties within the floodplain. He was not convinced that compensatory storage could be provided without causing adverse effects, and noted that Mr Lewis did not supply related calculations to support the evidence that the submitters tendered on this.⁷²

⁶⁸ Evidence in chief of Warren Lewis on behalf of Cashmere Fields and Cashmere Park Trust; Transcript, page 192, lines 34-41 (Mr Lewis).

⁶⁹ Evidence in chief of Andrew Tisch on behalf of Cashmere Fields and Cashmere Park Trust at paras 9–11.

⁷⁰ Mr Norton has a Bachelor of Science in Civil Engineering and is a Planning Engineer (Stormwater) at the Council.

⁷¹ Ms O'Brien holds a Bachelor of Engineering in Natural Resources (Hons) and a Bachelor of Science (Biochemistry). She is the Council's Senior Planning Engineer — Growth, with the focus of her role on water and wastewater.

⁷² Rebuttal evidence of Robert Norton on behalf of the Council at 6.1–6.12.

[79] Ms O'Brien noted that the report on wastewater infrastructure, provided with the evidence of Mr Lewis, acknowledged the need to upgrade the surrounding Council gravity network, but wrongly assumed the upgrade would be required for only the local network.⁷³ Mr Norton and Ms O'Brien were not cross-examined on these matters.

[80] We accept the evidence of Mr Norton and Ms O'Brien as more reliably informed for our purposes. In particular, as Mr Norton pointed out, the fact that the reports attached to Mr Lewis's evidence were prepared before the earthquake sequence makes them of questionable reliability. In any case, several of the reports were in draft and their authors were not called to give evidence and to be tested on their conclusions. Mr Tisch's opinion that the land could be safely engineered to ensure robust stormwater management was not well supported by analysis. Rather, it was essentially an assertion, and we agree with Mr Norton that we should not rely upon it. Ms O'Brien's evidence also persuades us that it would be unsafe to rely on the information Mr Lewis has provided on wastewater.

[81] In any case, as the Council's closing submission also points out, the submitters' requested expansion of the ODP would conflict with the CRPS in that it would extend the RNN zone beyond the Greenfield Priority Area — Residential identified on CRPS Map A. That is a fatal flaw, for the reasons given at [73]–[115] of Decision 17 (on Stage 2 Residential), which we respectfully adopt.

[82] Therefore, we decline the relief sought by the Cashmere submitters.

[83] The Council's closing submissions refer to agreement having been reached with submitters Lindsay Macbeth and Laurence Dann (2220), of 280 and 282 Cashmere Road, clarifying where the RNN boundaries should be in relation to their properties. The Panel is satisfied that the agreed position, as reflected in the Revised Version (whereby those parts of the properties within the CRPS Map A boundary are included) is the most appropriate.

[84] For those reasons, we are satisfied that the Revised Version is the most appropriate for achieving the related CRDP objectives for the Henderson ODP, and we have provided for that in the Decision Version.

⁷³ Rebuttal evidence of Bridget O'Brien on behalf of the Council at 3.2–3.5.

8.6.20 South Halswell ODP

[85] South Halswell ODP extends from below the hill slopes of the Hyndhope Road residential area to the established suburb of Halswell. It is bounded to the west by Halswell Road (SH75), to the east by Kennedys Bush Road, and to the north by Glovers Road, Halswell. Its south-western portion defines the boundary of the urban area and appears as the entrance to the city from the south. As with South East Halswell, parts enjoy views of the Port Hills and Halswell Quarry Park to the south and east. Various submitters opposed the RNN zoning in its entirety or sought alternative zoning and/or a reduced scale of development.⁷⁴

[86] Kennedys Bush Road Neighbourhood Association ('KBRNA') (2412) was represented at the hearing by Mr John Greene, a member of the KBRNA board. Mr Greene outlined why KBRNA considered that the land should not be zoned for residential development. In part, that was because of concern about flooding and liquefaction risk, on which KBRNA adopted and supported the position taken by submitters Dr Keith Woodford and Ms Annette Woodford ('the Woodfords').⁷⁵ In addition, KBRNA envisaged that the land opposite the Halswell Quarry Park, on Kennedys Bush Road, should be made part of an enlarged green corridor, linking from Halswell Quarry Park, and running from the Kennedys Bush Road through to SH75.⁷⁶

[87] We deal first with the flooding and liquefaction risk issue raised by both KBRNA and the Woodfords. Dr Woodford attended the hearing, gave evidence, cross-examined Council witnesses, and presented closing submissions.

[88] The Council's stormwater expert, Mr Norton, explained that modelling confirms that parts of the South Halswell land floods, either as a result of Greens Stream surcharging during high intensity rainfall events, or due to backwater effects from the Halswell River during long duration rainfall events. He told us how the Council's South West Area Stormwater Management Plan included a strategy for mitigating existing flooding and the effects of new development of the South Halswell ODP land. It involves upgrading Greens Stream to increase its capacity for upstream catchment peak flows, filling development areas to protect dwellings and land from inundation, and setting aside large areas for compensatory stormwater retention

⁷⁴ For example, Mike Harrington (2496), Kennedys Bush Road Neighbourhood Association (2412), Keith & Annette Woodford (2314), Richard Porter (2181).

⁷⁵ Transcript, page 320, lines 33–34 (Mr Greene).

⁷⁶ Transcript, page 321, lines 6-12 (Mr Greene).

and treatment. He was satisfied that the proposed ODP included all essential components for mitigation for both stormwater and flooding.⁷⁷ When cross-examined by Dr Woodford about these matters, he remained clear in his views by reference to photographs Dr Woodford put to him.⁷⁸

[89] The Council called Mr Peter Kingsbury as a rebuttal witness on liquefaction matters.⁷⁹ He disagreed with Dr Woodford that the combination of geological (including liquefaction) and flooding risk made development inappropriate. Rather, he agreed with the Woodford's soil scientist, Dr Peter Almond that any development in this area would need to be preceded by a carefully staged programme of geotechnical investigations.⁸⁰

[90] In his evidence, Dr Woodford argued that urban development of South Halswell is inappropriate given what he considered a combination of serious natural hazards.⁸¹ He explained that he did not claim expert status in relation to either hydrology or geotechnical design. In any case, we treated his evidence as being tendered on the basis of his interest and knowledge as a submitter, rather than as from an independent expert.

[91] He identified two natural hazard factors that he considered had a cumulative consequence even though he regarded each as independently sufficient to make development inappropriate. One was that the South Halswell zone is a natural flood plain which, in wet weather, carries water in a non-confined manner from the catchment of the Halswell Quarry Park, together with the extensive lands above and surrounding it. He commented that, under heavy but not unusual rain events, much of South Halswell can be flooded to a considerable depth. The second 'unusual' factor he identified is that South Halswell (and immediately adjacent lands on either side of the Kennedys Bush Spur) are "highly susceptible to a pulse of energy transferred through the aquifer from seismic events to the west, including from plains faults, foothills faults and potentially the Alpine Fault".⁸² He said this was demonstrated by the 4 September 2010

⁷⁷ Evidence in chief of Robert Norton at 15.7–15.8.

⁷⁸ Transcript, pages 69 – 72 (Mr Norton).

⁷⁹ Mr Kingsbury is a Principal Advisor Natural Resources at Christchurch City Council. He holds a Master of Science (Honours) (Engineering Geology) from the University of Canterbury and has some 25 years' experience with natural hazards investigation, policy formation and regulation.

⁸⁰ Rebuttal evidence of Peter Kingsbury on behalf of the Council at 3.2-3.5.

⁸¹ Evidence in chief of Dr Keith Woodford at page 3.

⁸² Evidence in chief of Dr Keith Woodford at page 3.

earthquake, when South Halswell flooded to a considerable depth within a matter of minutes following the earthquake on the Greendale Fault.

[92] Adding to this risk, Dr Woodford said, South Halswell is an area of historic natural springs and low lying land. He suggested this was a major reason it was not developed historically. With reference to Regional Council groundwater measurements, he expressed a view that one of the “unquantifiable effects” from the consented Central Plains Water Scheme is that some groundwater recharge will in future occur throughout the Selwyn — Lake Ellesmere — Te Waihora Catchment, of which South Halswell is part.⁸³

[93] The Woodfords also called evidence from Dr Peter Almond, a soil scientist from Lincoln University who is involved in post-earthquake and ongoing research on liquefaction issues, including for this part of Christchurch.⁸⁴ In his evidence, he explained that the proposed ODP area is on liquefaction-prone land and that it also covers buried former channels of the Waimakariri River. However, Dr Almond did not go so far as supporting Dr Woodford’s theory as to the aggravating impact of geological factors on flooding risk. As noted, his overall conclusion was that any development in the area would need to be preceded by detailed geotechnical investigations, followed by appropriate mitigation.⁸⁵ He confirmed that to be the position when cross-examined.⁸⁶

[94] In his closing submissions, Dr Woodford explained that the essential issue was that the regime proposed by the Council for South Halswell failed “to identify and respond to specific issues of flood risks identified in the evidence”.⁸⁷ He reiterated that he considered these to relate to “...surface flooding from rainfall events, and ... aquifer-transmitted energy pulses from earthquakes with epicentres west of Christchurch (primarily but not necessarily exclusively relating to the Alpine Fault and various foothill faults)”.⁸⁸ He criticised the Council’s expert, Mr Norton, asserting that he failed to respond to his empirical photographic evidence of what he termed “extensive overland flooding from the Quarry Park and

⁸³ Evidence in chief of Dr Keith Woodford at page 3.

⁸⁴ Dr Almond is an Associate Professor and Head of the Department of Soil and Physical Sciences at Lincoln University. His experience includes 30 years of research, supervision of postgraduate students, teaching and consultancy in the areas of soil science, geomorphology and Quaternary geology.

⁸⁵ Evidence of Dr Peter Almond on behalf of the Woodfords at 2.1(a).

⁸⁶ Transcript, page 365, lines 15–36 (Dr Almond).

⁸⁷ Closing submissions for the Woodfords at 2.1.

⁸⁸ Closing submissions for the Woodfords at 2.1.

surrounding catchment, across South Halswell, before it enters the Halswell River”.⁸⁹ With reference to Mr Norton’s answer to Dr Woodford’s cross-examination that Dr Woodford’s evidence was “anecdotal”, he offered a view that “the key point is that the floods have traversed and will traverse this land at all times of the day and for prolonged durations (days)”.⁹⁰

[95] Given Dr Almond’s evidence, we do not accept Dr Woodford’s theory that geological factors have any material bearing on the question of flooding risk. Leaving that theory aside, we find there is no material difference between Dr Woodford and Mr Norton on the fact that the South Halswell ODP area is prone to flooding. The difference is in their opinions on whether that risk is manageable.

[96] Counting against the reliability of his opinion on that matter, Dr Woodford has assumed all possible roles — submitter, witness, cross-examiner, and representative presenting closing submissions (including offering new untested and unsworn opinion disputing that of the experts we heard).

[97] On flood risk management, we accept the opinions of the Council’s experts, Mr Norton (stormwater and flooding) and Mr Kingsbury (liquefaction), which we observe was materially consistent with the related evidence of Dr Almond. On the Council’s evidence, we are satisfied that natural hazard risks do not make the development of the land inappropriate, because those risks are capable of being safely and appropriately managed in terms of the ODP and related natural hazard management provisions of the CRDP.

[98] We now return to the other issue raised by KBRNA, namely whether a portion of the land should be excluded from residential development such as to form part of an open space corridor. On this topic, KBRNA called landscape expert, Mr Jeremy Head.⁹¹ KBRNA did not call a planning witness, but much of the theory of Mr Head’s evidence called for consideration of planning matters, including the influence of Higher Order Documents.

⁸⁹ Closing submissions for the Woodfords at 3.1.

⁹⁰ Closing submissions for the Woodfords at 3.1.

⁹¹ Mr Head is a landscape architect. While he did not present a full curriculum vitae with his evidence, we understand he has relevant qualifications, from evidence he has previously delivered to the Panel. He explained that he had prepared and presented landscape evidence in Council hearings and before the Environment Court and has taught regularly in the landscape architecture programme at Lincoln University.

[99] Mr Head characterised the area between the southern edge of Halswell and the rural Port Hills as comprising “a high amenity mosaic of settlement patterns, natural elements and open spaces”.⁹² He considered that this contributed significantly to the landscape amenity of the area. He characterised the existing urban development patterns as being “subservient to natural patterns and processes — which are highly legible”.⁹³ He observed that there is a distinctive separation provided by an uninterrupted sequence of open spaces between the current southern limit of Halswell’s traditional suburban development and the Port Hills in the vicinity of the site. In that regard, he identified a purple-shaded triangular area (‘purple area’) located in the southeast corner of the ODP as being suitably part of an open/green space corridor. Given broader residential and general landscape character patterns, he considered that extending high density urban development further south into this locality would be inappropriate.⁹⁴

[100] In support of his opinion, Mr Head presented relatively limited visual aid material, including a photograph (at Figure 2).⁹⁵ From questioning, we understood his underpinning visual assessment was also relatively confined. It concerned views from the top of Halswell Quarry Park and for people in the park walking westwards towards Kennedy Bush Road and beyond.⁹⁶

[101] In cross-examination, Mr Head conceded that development of the purple area at less than 15 hh/ha would likely lessen the visual impact, and that RNN zoning would likely result in visual change to the area in any case. He also agreed that Kennedys Bush Road provided an existing and future demarcation between land for development and land remaining open space.⁹⁷ He conceded that he had not considered the impacts of his proposed restricted zoning on landowners.⁹⁸

[102] In her rebuttal evidence for the Council, Ms Oliver acknowledged that a density yield of 15hh/ha is unlikely to be achievable in the purple area, which Mr Head identified as his preferred open space area. She recommended that a reference to these potential density yield limitations be added to the South Halswell ODP narrative, and considered this would go some

⁹² Evidence in chief of Jeremy Head on behalf of KBRNA at 8.1.

⁹³ Evidence in chief of Jeremy Head at 8.1.

⁹⁴ Evidence of Jeremy Head on behalf of KBRNA at 8.1.

⁹⁵ Refer also to transcript, pages 338–339.

⁹⁶ Transcript, pages 334–335 (Mr Head).

⁹⁷ Transcript, page 332, lines 8–31 (Mr Head).

⁹⁸ Transcript, page 337, lines 8–44 (Mr Head).

way to achieving the desired landscape outcomes as sought by Mr Head.⁹⁹ In the Revised Version, the ODP specifies density exemptions for its Areas 2 and 3 (including the purple area).

[103] In her rebuttal for the Council, landscape expert Ms Reeves concurred with Ms Oliver on these matters. While she agreed with Mr Head that an open space treatment of the purple area would benefit the outlook of development beyond it, she concurred with Ms Oliver that such outlook benefit is not sufficient to withdraw this area of land for residential development.¹⁰⁰

[104] In closing submissions for KBRNA, Ms Steven QC noted that KBRNA supported deletion of the specified density but remained concerned that “some development opportunity still remains for the land, subject to geotechnical issues being addressed”.¹⁰¹

[105] As to the position of landowners, she referred us to three Environment Court decisions on related principles: *Purdie*, *Capital Coast Health* and *Creswick Valley Residents Association*.¹⁰² With reference to *Purdie*, she noted that, while land ownership was a potentially relevant consideration, “the rider to that position must always be that it is subject to Part 2 of the Act”.¹⁰³ On that basis, she submitted that the Panel should consider the competing positions by asking what is the more appropriate for achieving and implementing relevant objectives and policies.

[106] As to that question, she also gave particular emphasis to the South West Area Plan (‘SWAP’) as an important strategic planning document that identifies the purple area as being intended for reservation. She commented that KBRNA assumed that, when the SWAP documents were prepared, the Council had either been prepared to acquire the site for reserves purposes, or to take the land in satisfaction of the developer’s (cash) development contribution liability under the Local Government Act 2002 for reserves.¹⁰⁴ She submitted that treating the purple area as open space would go some way towards creating the planned corridor extending between Halswell Quarry Park and SH75, as envisaged by the SWAP.

⁹⁹ Rebuttal evidence of Sarah Oliver on behalf of the Council at 7.3.

¹⁰⁰ Rebuttal evidence of Janet Reeves on behalf of the Council at 6.4.

¹⁰¹ Closing submissions for KBRNA at para 9.

¹⁰² *Purdie v Wellington City Council* [2010] NZEnvC 83 at [51]; *Capital Coast Health v Wellington City Council* [1998] NZEnvC 351; *Creswick Valley Residents Association Inc v Wellington City Council* [2015] NZEnvC 149.

¹⁰³ Closing submissions for KBRNA at para 53, citing *Purdie* at [23].

¹⁰⁴ Closing submissions for KBRNA at para 58.

[107] Ms Steven also emphasised the LURP and the CRPS. She submitted that granting her client’s requested relief would assist to give effect to CRPS Policy 6.3.2 on development form and urban design. She asked that, if we do not to grant KBRNA its primary relief, we consider amending the ODP to specify a minimum lot size of 1500m², and to require sympathetic landscape treatment along Kennedys Bush Road.¹⁰⁵

[108] In his closing submissions for the Council, Mr Laing disputed KBRNA’s position that retaining the purple area for residential development would result in any inconsistency with the SWAP, LURP or Chapter 6 of the CRPS. He noted that the issue should be seen against the background of the extensive areas of public open space and stormwater detention and treatment land already set aside. He said, apart from Mr Head’s visual impact evidence, no other evidence indicated that what was set aside was insufficient. As such, there was no justification for the added burden on landowners that would result from what KBRNA pursued.

[109] Mr Laing agreed that the Environment Court’s decision in *Capital Coast Health* was a leading case, and that *Purdie* was also relevant in its focus on the application of s 85 RMA. However, he submitted that *Creswick* is “clearly distinguishable for the reasons outlined at paragraph 50 of ... [KBRNA’s] closing submissions”.¹⁰⁶ He noted that Ms Steven’s assumptions that the Council was prepared to fund acquisition of the purple area were without foundation. He explained that the Council’s position remained that the entire area should be zoned RNN, subject to noting that the Revised Version modified the narrative in view of the acknowledged position that 15 hh/ha was unlikely to be achievable across the subject land. He submitted that change, together with the additional clause proposed at Appendix 8.6.20.C.8 of the Revised Version, would go “some way to achieving the desired landscape outcomes as sought by Mr [Head] and the KBRNA”.¹⁰⁷

[110] Insofar as it goes, on the matter of relevant legal principles, we agree with Ms Steven that the essence of our task is to determine the most appropriate planning approach for achieving related CRDP objectives. That is the essence of what we must do under s 32AA. However, how planning controls the measure of most appropriate objectives (and, therefore, other provisions) must ultimately be Part 2 RMA. We must be satisfied also that the CRDP

¹⁰⁵ Closing submissions for KBRNA at para 14.

¹⁰⁶ Closing submissions for the Council at 4.30–4.33.

¹⁰⁷ Closing submissions for the Council at 4.37.

will give effect to the CRPS and not be inconsistent with the LURP. However, that does not lead us to conclude that KBRNA's primary or secondary relief is more appropriate than the Revised Version.

[111] For the reasons already stated, we prefer the Council's evidence on the matter of stormwater and geotechnical risk, and therefore do not accept Ms Steven's closing submissions on that matter.

[112] On the question of the adequacy of public open space provision, Mr Head's visual and landscape effects evidence is the only evidence of his professional opinion that expanding on what the Revised Version already sets aside would offer benefits he would value. In effect, his evidence shows that making the purple area open space would maintain or enhance the amenity values of certain viewers, such as users of public walking tracks and some other property owners. While we have particular regard to that for the purposes of s 7(c) RMA, we must also weigh the costs that would give rise to (s 32AA RMA). That includes the costs of denying affected landowners development opportunity, and the costs to the wider community of reducing residential development yield. We weigh those costs having regard to the fact that the CRPS identifies the land as a Greenfield Priority Area — Residential. The Higher Order Documents do not accord any priority to the benefits that Mr Head identifies. Specifically, nothing in the Higher Order Documents indicates any intention that the views he identifies should be protected against land use change. We agree with the Council's position that what is already intended as open space provision is generous and sufficient.

[113] On the evidence, our evaluation of costs and benefits leads us to conclude that the Revised Version would be more appropriate than KBRNA's primary and alternative relief for achieving relevant CRDP objectives, and in particular Strategic Objectives 3.3.7 and 3.3.9, Objectives 14.1.1, 14.1.2, 14.1.4 (as confirmed by Decision 10), and 14.1.5 (as included in the Decision Version). We are also satisfied that the Revised Version properly gives effect to the CRPS, including its objectives and policies for the development of Greenfield Priority Area — Residential land and Policy 6.3.3.

[114] While the SWAP has some general relevance as a background document, we do not read it as having the influence claimed by KBRNA in terms of the statutory framework that governs

our decision. In particular it is invalid to read back what the Higher Order Documents plainly say by reference to this other document.

[115] Therefore, we have determined that the approach of the Revised Version in regard to Appendix 8.6.20 South Halswell ODP is the most appropriate for achieving related objectives (and decline the relief sought by those submitters seeking a different outcome).

8.6.21 South-West Halswell ODP

[116] In its opening submissions, the Council recorded that Elizabeth Stewart (Holistic Education Trust (2127)) proposed a change to the ODP narrative to enable the Trust to make progress with the development of their school ahead of infrastructure provision by the Council. It noted that Mr Norton's rebuttal evidence agreed in principle with the wording proposed by Ms Stewart but suggested some changes for the reasons explained in that evidence. The Trust did not file closing submissions on the matter.¹⁰⁸ We accept Mr Norton's recommendation and, on the Council's evidence, find that the Revised Version is most appropriate for achieving related CRDP objectives and have provided for it in the Decision Version.

8.6.25 Prestons (North and South) ODP

[117] The Prestons ODP covers some 200 ha of land on the north east edge of the city. It is bounded by Mairehau Road to the south and Lower Styx Road to the north, and is in two parts — north and south of Prestons Road. To the east are the established suburbs of Burwood and other residential developments. By the time of closing submissions, issues were significantly narrowed, following discussions between the planners for the Council and Ngāi Tahu Property Limited ('NTP') (840/FS1375, 2235/FS2793).

[118] NTP's key remaining concern was that, in updating the ODP after submitter evidence exchange, the Council removed from the Prestons ODP any spatial reference to indicative commercial areas. It sought that these be reinstated. NTP adopted the closing submissions of

¹⁰⁸ Planning expert Elizabeth Stewart filed evidence on behalf of Holistic Education Trust. The submitter sought leave not to appear (by memorandum dated 5 January 2016), saying it had reached full agreement with the Council.

Ms Semple for the Canterbury Racecourse Submitter Group ('Submitter Group') on this matter.¹⁰⁹

[119] Ms Oliver proposed an ODP in her evidence in chief on behalf of the Council. It was relatively more prescriptive in showing various commercial local zones. It included an associated narrative (in 8.6.25.C(2)) that "Commercial activities will be centrally located and will accommodate local retail, business, civic and community/recreational activities".¹¹⁰

[120] Referring to the transcript of the 18 February 2016 hearing on technical drafting matters, Ms Semple said her clients were supportive, in principle, of the Council's proposed 'floating zone' approach such as would enable a local centre to be established without resource consent if specified conditions were met. However, her clients had reservations about the nature of the changes that had been made and the fact that her clients were left unable to call evidence about them.¹¹¹

[121] In particular, she submitted her clients would be disadvantaged by the removal of indicative commercial nodes from the ODP, given that proposed Rule 14.9.2.1 P21 relies on identification of the local commercial area on an approved subdivision consent plan.¹¹² In that context, she submitted that an applicant seeking to prove the development is consistent with the ODP would be left with having to rely on the statement in the revised ODP narrative (at 8.6.25.C(3)) that "There is potential for at least one small scale community and commercial node, in a high profile, readily accessible location".¹¹³ Therefore, she submitted that the developer was exposed to greater uncertainty. For instance, on a subdivision application, the Council could take a different view on the phrase 'at least one' in 8.6.25(C)(3) where there were no indicative commercial nodes shown. That could render the subdivision a restricted discretionary activity.

[122] Ms Semple explained that this late change to the Council's proposed ODPs was at odds with what had been secured through the plan change (PC30) process that led to the inclusion of the land in question in the Existing Plan's Living G (Prestons) zone. She submitted that it

¹⁰⁹ NTP is a member of the Submitter Group.

¹¹⁰ Evidence in chief of Sarah Oliver on behalf of the Council, Attachment A.

¹¹¹ Closing submissions for the Canterbury Racecourse Submitters Group at paras 36–38.

¹¹² Closing submissions for the Canterbury Racecourse Submitters Group at paras 39–40.

¹¹³ As revised in Memorandum on behalf of CCC updating the Outline Development Plan Maps, 16 February 2016.

would increase inefficiency and uncertainty, contrary to Strategic Directions Objectives 3.3.1(b) and 3.3.5.¹¹⁴ To address these concerns, Ms Semple provided a set of updated ODP plans with her closing submissions. These demarked indicative locations for commercial areas by means of broad yellow rings.

[123] Ms Semple recorded that her clients also opposed the proposed imposition of a 2000m² GFA restriction (of proposed Rule 14.9.2.1 P21) on the basis that it would work against the original intent of the Prestons Master Plan. She submitted there was no evidence that the Council had considered that in proposing the restriction.¹¹⁵

[124] In his closing submissions, Mr Laing recorded that the Council opposed both aspects of what Ms Semple sought. As to what the ODPs showed, he explained that the Council considered a definitive boundary was required for each commercially zoned area. Therefore, the Council considered the revised ODPs attached to Ms Semple's closing submissions were inadequate. He invited the Panel to direct that more detailed plans be provided and the subject land be rezoned from RNN to Commercial Local.¹¹⁶

[125] As for the question of the 2000m² GFA restriction, Mr Laing submitted that the size of new Commercial Local zones require careful management in regard to retail distribution effects. He pointed out that Commercial Local centres are considerably smaller than other commercial centres and, by nature, would not support greater than 2000m² GFA of development.¹¹⁷

[126] We agree with Ms Semple on the matter of the ODP plans and Mr Laing on the 2000m² GFA restriction.

[127] While Ms Oliver's original ODP plans were unduly prescriptive on this matter, we find that the Revised Version goes too far in removing all indications from the plans of suitable locations for commercial nodes. We agree with Ms Semple that this would significantly disadvantage the developer and foster undue uncertainty, especially considering the background of PC30 to the Existing Plan. We also agree with Ms Semple that, in this respect,

¹¹⁴ Closing submissions for the Canterbury Racecourse Submitters Group at paras 46-48.

¹¹⁵ Closing submissions for the Canterbury Racecourse Submitters Group at para 45.

¹¹⁶ Closing submissions for the Council at 4.41.

¹¹⁷ Closing submissions for the Council at 4.42.

the Revised Version would fail to achieve Strategic Directions Objectives 3.3.1(b) and 3.3.5. We find it would be more appropriate for subdivision consent applications to be determined on the footing that the ODP clearly indicated suitable commercial node locations, given these are well founded by PC30. We do not agree with the Council that greater certainty is needed than what is proposed by the revised ODPs attached to Ms Semple's evidence. We find those revised ODPs to strike a helpful balance of certainty and flexibility, subject to one rider: we do not consider there should be any underlying Commercial Local zoning shown on the ODP.

[128] We reach that view on the basis that we agree with Mr Laing on the matter of the 2000m² GFA restriction. On this matter, we observe that proposed Rule 14.9.2.1 P21(a) in the Revised Version is materially the same as that proposed in the evidence of Ms Oliver (and which Mr Jones, the planning expert for the Canterbury Racecourse Submitter Group, did not take specific issue with). In addition, we note that the Submitter Group did not call retail distribution evidence in support of its position. Given that, we respectfully adopt the findings in the Panel's Decision 11 (on the Stage 1 Commercial and Industrial chapters) on that matter, and find it supports the Council's position.¹¹⁸

[129] In view of our findings, we do not need to respond to the procedural matters raised by Ms Semple. However, we record that the Submitter Group did not exercise their opportunity to attend the technical drafting hearing session.

[130] Ms Sue McLaughlin (2459) of 548 Marshlands Road asked that we expand the RNN zone to east of Marshlands Road, south of Lower Styx Road and north of Mairehau Road. She explained her concern about reverse sensitivity issues for rural property, such as hers, just beyond the proposed RNN zone boundary. Such issues concerning conflicting land use expectations often arise at rural/urban boundaries. Were we to expand the boundaries as Ms McLaughlin prefers, those issues could just as easily arise at the revised boundary. Moreover, we find the RNN zone boundaries as proposed by the Notified Version are consistent with, and would give effect to, the CRPS, whereas those Ms McLaughlin prefers would not. We are also satisfied, on the Council's evidence, that the Notified Version boundaries are the most appropriate for achieving related CRDP objectives. Therefore, we decline Ms McLaughlin's requested relief on this matter.

¹¹⁸ Decision 11 Commercial (Part) and Industrial (Part) — Stage 1 at [97]–[98] and [103].

[131] Ms McLaughlin also raised concerns about the control of development earthworks and the issues arising from earthworks' applications being processed on a non-notified basis. We address those shortly, in conjunction with similar concerns expressed by submitters living in proximity to the Highfield Park area.

[132] For the reasons stated, we have determined to make the modifications we have described to the Prestons ODP on the matter of indicative commercial nodes. We make a direction to the Council to update the ODP for those purposes. Subject to those modifications, we are satisfied that the Prestons ODP (including its geographic extent) is the most appropriate for achieving related objectives (and decline the relief sought by those submitters seeking a different outcome).

8.6.26 Highfield Park ODP and issues concerning earthworks (including at Prestons)

[133] Highfield Park is located in the Marshland area of the city, extending north and south of Prestons Road. It is bounded by the Styx River to the north and the Christchurch Northern Arterial to the west. Horners Drain traverses the southern half of the site. Prestons Road provides access to the established neighbourhood of Redwood (to the west) and the proposed Prestons new neighbourhood and neighbourhood centre (to the east). As the name "Marshland" suggests, the area was originally swampland. Settlers of the 1860s undertook significant drainage work to convert it to productive market gardening and dairy farmland.

[134] Luke Pickering (2510) and AJ & JR Van der Leij¹¹⁹ sought, as a first preference, that we reject the proposed RNN zoning entirely. Both attended the hearing to tell us about their concerns.

[135] Mr Pickering characterised the zoning as a premature and "hostile proposal" instigated by the now liquidated company Highfield Park Limited.¹²⁰ Whilst we acknowledge those concerns, we do not find them relevant to our decision. That is because our focus is on the most appropriate zoning regime for regulation of future land use and development. One reason Mr Van der Leij asked that we reject the zoning is that he considered that reticulated sewer and water services were inadequate and the ground conditions were not suitable for residential

¹¹⁹ AJ & JR Van der Leij and GK Riach (2184, FS2772).

¹²⁰ Memorandum of L Pickering, 17 February 2016 at para 2(i).

development. We are satisfied that neither of those matters warrants decline of the zoning. That is because they are, by nature, matters that can be addressed, if need be, through resource consent conditions (some of which will be the subject of the Stage 2 Chapter 8: Subdivision, Development and Earthworks decision).

[136] A more fundamental concern for both of these residents was as to how RNN zoning would impact on their rural lifestyle.

[137] In the event that we decided to proceed with RNN zoning, Mr Pickering sought (amongst other things) that we preserve his ability to undertake the range of existing and potential rural activities that are allowed under the Existing Plan's Rural Fringe zoning. Mr Van der Leij explained that his property (16 Selkirk Place) was some 4ha in area and in two titles (with a dwelling on one and outbuildings on the other). If we were not to reject the RNN zoning outright, he sought that we change it to the effect that Selkirk Place was the physical transition point for lower density residential more in keeping with the rural amenities he enjoyed.

[138] As for ability to continue rural activities, the Revised Version includes a proposed Rule 14.9.2.1 P22. This is to the effect that all permitted activities in the Existing Plan's Rural Fringe Zone Rule 17.3.2.1 are permitted in the RNN zone, subject to specified standards. Those include standards as to building heights and setbacks and site coverage. On that matter, we find that the proposed rule strikes an appropriate balance to reasonably enable Mr Pickering, Mr Van der Leij and others to continue to enjoy the range of rural activities they value and described to us.

[139] We acknowledge that the proposed rule does not itself address the wider concerns these residents raised as to loss of amenity values. RNN zoning will allow for urbanisation and an attendant loss of rural amenity in the area. While landscape planting controls can be anticipated, at best those will soften the blow of this land use change.

[140] While we have had particular regard to that, on the evidence we do not find it in any sense sufficient to warrant rejection or curtailment of the extent of RNN zoning as proposed by the Notified Version. The Highfield Park ODP area is identified by the CRPS as a Greenfield Priority Area — Residential. CRPS Objective 6.2.1 refers to the recovery, rebuilding and development of Christchurch as being enabled through a framework that

identifies priority areas for urban development and CRPS Policies 6.3.1 and 6.3.7 reinforce this. In particular, Policy 6.3.1 includes a direction to ‘give effect to the urban form identified in Map A’. Related to those identified priorities is Strategic Objective 3.3.4 of the CRDP, concerning housing capacity and choice. For the period 2012 to 2028, it sets a target of an additional 23,700 dwellings being enabled, including through greenfield development. It also seeks that the CRDP assists in providing a range of housing opportunities for the needs of Christchurch residents. That includes choice in housing types, densities and locations and affordable housing. Also pertaining to this matter, proposed Policy 8.1.2.8(b) of the Revised Version specifies that a minimum density of 15hh/ha is to be achieved (13–15 hh/ha for Prestons). That policy is well-supported by the evidence, which we accept, including the expert conferencing that preceded this hearing to which we have referred.

[141] Subject to the minor drafting refinements we make, we confirm proposed Policy 8.1.2.8(b) as the most appropriate for achieving related objectives, including Strategic Objective 3.3.4.

[142] Mr Van der Leij’s request that we change the RNN zone boundary to the effect that Selkirk Place became a transition point for lower density residential was not supported by the evidence, and is not supported by the Higher Order Documents. In substance, it would involve having a form of peri-rural density within a CRPS Map A Greenfield Priority Area. However, CRPS Objective 6.2.2(6) refers to ‘[m]anaging rural residential development *outside* of existing urban and priority areas’ (our emphasis).

[143] Having had particular regard to maintenance of rural amenity values, particularly for the submitters, we find that consideration is outweighed by the competing priority of enabling this land to be developed to provide recognised housing supply needed to serve the community. By providing for that need, we find the Revised Version gives proper effect to related CRPS objectives and policies and achieves Strategic Objective 3.3.4 (and Policy 8.1.2.8(b) in the form we have confirmed by this decision). In that context, we find we should go no further on the matter of maintenance of amenity values than is already proposed by the Revised Version. Therefore, we decline those aspects of the relief pursued by submitters.

[144] We now turn to the topic of earthworks management which, as we have noted, was raised by submitters in relation to both Prestons and Highbury.

[145] Mr Pickering and Ross Major (2499) raised several concerns about whether the ODP properly carried forward protections that they understood were provided by the Existing Plan regime (through Plan Change 67 (PC67)). On this matter, if we did not reject RNN zoning, they¹²¹ sought that we carry forward the essence of what PC67 provided as to:

- (a) the requirement for limited notification of adjacent landowners whose land was within 25m of earthworks; and
- (b) protection of existing residents, their property and the environment from the effects of subdivision and development, for instance protection from vibration and noise effects of ground treatment for liquefaction and densification.

[146] Ms Sue McLaughlin (2459), of 548 Marshlands Road, told us of her experiences of development earthworks at Prestons. A change to the consent was granted on a non-notified basis. It significantly changed the originally consented design, including with the building of a large retaining wall close to her boundary (and that of her neighbours) to support land raised by up to 1.5 metres. She asked that we require any development that is not consistent with the ODP be notified, at least to neighbours.¹²²

[147] As for Ms McLaughlin's related concern about non-notification, the Revised Version proposes that subdivision that does not comply with an ODP is a restricted discretionary activity for which consent applications must be assigned either to the limited notified or public notified track (in the absence of written approvals). We consider that appropriately addresses this concern.

[148] All of these matters concern the Stage 2 Chapter 8 Subdivision, Development and Earthworks proposal, which is to be the subject of a separate Panel decision. Therefore, we do not determine them in this decision.

¹²¹ In a memorandum dated 17 February 2016, Mr Pickering reiterated that his preference (should we confirm RNN zoning) was for the notification regime to be clear and unequivocal, and to apply within 25m, and all that was allowed to occur under the Existing Plan rural zoning should be allowed to continue. See Memorandum of L Pickering, 17 February 2016 at para 18.

¹²² Transcript, pages 315–317 (Ms McLaughlin).

[149] However, at this stage, we record the assurances given by the Council's Memorandum of Counsel of 25 February 2016.¹²³ Those are to the effect that the Council intends limited notification of earthworks consent applications to be potentially required in specified circumstances (including where the application would be for land within 25m of the boundary of land not owned by the applicant). The Council also acknowledged that its drafting was flawed on this matter (to the extent that it said the opposite of what was intended). The Memorandum also points out that the Stage 2 Chapter 8 rules for earthworks now include standards as to compaction and noise management.

[150] Finally, concerning Highfield Park, the Council's 25 February Memorandum informed us of an error in the Notified Version concerning new road connections to QEII Drive (SH74). The Highfield ODP shows an indicative connection with a red arrow. Under the Existing Plan, this is classed as a discretionary activity and written approvals may be required to dispense with public notification. The Council intended to, but did not, fully carry forward this regime (i.e. either in the relevant activity status rules or development standards applicable under the 8.6.26 Highfield Park ODP). The Memorandum asked that we consider adding a new discretionary activity rule to the following effect:¹²⁴

D1 — Any proposed subdivision that provides for a new roading connection to QE II Drive from within the Highfield Outline Development Plan area is a discretionary activity.

[151] However, we were not provided with any assurance that we could make this change under cl 13(2) of the OIC. We find the change materially outside the scope of the Notified Version in that it would impose significant new restrictions on subdivision. We do not know the position of the NZ Transport Agency, which is the responsible road controlling authority for SH74. We cannot determine whether or not the change would prejudice the interests of those who have not made submissions. By its nature, we consider the change has potential to give rise to such prejudice. We do not rule out the potential for a change of this kind to be the subject of a cl 13(4) OIC direction for notification of a new proposal. However, in all the circumstances, we do not consider we should go so far as making such a direction at this time. Rather, we consider it better to allow the Council to consider this and other options (such as a

¹²³ Memorandum of Counsel on behalf of the Christchurch City Council in response to the Panel's Minutes regarding Highfield matters and additional matters raised at the drafting hearing, 25 February 2016.

¹²⁴ Memorandum of Counsel on behalf of the Christchurch City Council in response to the Panel's Minutes regarding Highfield matters and additional matters raised at the drafting hearing, 25 February 2016 at para 5.1.

later plan change), in discussion with the NZTA and relevant landowners. Therefore, we decline to make the modification requested by the Council's Memorandum.

[152] Subject to that, and in view of the foregoing, we are satisfied that the Highfield ODP and related provisions of the Revised Version are the most appropriate for achieving related CRDP objectives and we have therefore confirmed them in the Decision Version.

8.6.28 Yaldhurst ODP

[153] This area is located adjacent to Yaldhurst Road on the north-western outskirts of the city. Once established, it would integrate with the established and developing residential community of Yaldhurst Masham (including Delamain to the south and Kintyre Estate and Broomfield to the east). A creek runs along its southern boundary, transmission lines run through the neighbourhood, Christchurch International Airport is to the north and the 50 dBA air noise contour affects the western part of the ODP area.

[154] By the time of closing submissions, the issues in regard to the Yaldhurst ODP had significantly narrowed. The developer, Noble Investments Limited ('Noble'), sought a confined wording change to part of the narrative (referring to the word 'roundabout') that is rectified by the fact that the Revised Version removes this relevant passage entirely from the ODP narrative.¹²⁵ In addition, submitter Colin Stokes (1182) raised a number of matters that we now address.

[155] Attached to Mr Stokes' closing submissions is a copy of the ODP showing an amendment sought by Mr Stokes. The amendment is shown as a proposed cross-hatched overlay. This extends above what the ODP already identifies by the notation:

Land to be set aside for stormwater management/recreational/conservation use.
Alignment and shape may vary.

[156] Mr Stokes' cross-hatched addition would more than double the indicative size of that area and has the following notation:¹²⁶

¹²⁵ In addition, Noble sought a change to Rule 14.9.3.5b that we address at [165]–[167] of this decision.

¹²⁶ Closing submissions for Mr Stokes at Appendix A.

Land to be reserved for stormwater management and not sold or marketed until stormwater provision requirements for the ODP, exclusive of the Enterprise Land Block to the East, have been provided.

[157] Mr Stokes explained that he sought this change in view of his concerns about the changes proposed by the Council in its 17 March 2016 version of the ODP (including its deletion of a stormwater management area that was formerly shown on higher land to the west of the ODP). As a consequence of that change, he considered there was inadequate stormwater provision to enable the ODP “to be effected, as anticipated, required and consented”. He submitted that, to ensure the ODP can be developed and subdivided in full, the area known to be required for stormwater management needs to be shown and land “reserved” where it is known it can go.¹²⁷ For those submissions, he referred to various extracts from the evidence of Mr Norton, including the following:¹²⁸

As is standard practice, implementation of the western facilities will require detailed engineering review as part of the resource consent process. To ensure engineering design meets the Council's requirements, the following condition has been included in the recommended decision on the current subdivision Section 127 variation:

Prior to the release of s224 approval for either of stages 16 or 14B the consent holder shall provide proof of concept for the proposed Catchment C areas and the basin system to the west. Proof of concept shall confirm that the requirements of the remaining parts of Condition 9 (Stormwater) of this consent are able to be delivered. Should this not be proven, the consent holder shall demonstrate the location of an alternate solution, and demonstrate its functionality in terms of the remainder of Condition 9.

[158] Mr Stokes submitted that, in view of this proposed resource consent condition, his proposed hatched area needed to be reserved “until such time as the stormwater system is in place, or the depositing of s224 [RMA] plans would put the system in place, to enable the whole of the ODP within original [resource consent] RMA92009135 to be constructed and deposited with s224 certificates”.¹²⁹

[159] Mr Stokes also referred to the fact that the Council had made non-notified changes to the resource consent for the Noble development and we took him to express some distrust of RMA consenting processes and/or the Council.

¹²⁷ Closing submissions for Mr Stokes at paras 8–14.

¹²⁸ Closing submissions for Mr Stokes at para 5, where he refers to the Supplementary evidence of Robert Norton on behalf of the Council, 13 January 2016, at 4.9.

¹²⁹ Closing submissions for Mr Stokes at para 11.

[160] In response, the Council’s closing submissions explained that the stormwater management area was deleted in view of the fact that the ODP already specifies that an ‘integrated stormwater management solution’ is required¹³⁰ and because the matter is being dealt with through a resource consent application. As such, the Council considered the deletion would simplify the ODP and lessen confusion. In view of the fact that Mr Stokes appeared to cross-examine Mr Norton on an assumption that the Yaldhurst ODP would wipe certain related conditions of the resource consent, Mr Laing pointed out that this was incorrect as a matter of law (and we agree).¹³¹

[161] We start by noting that we found Mr Norton a reliable witness. Some of Mr Stokes’ cross-examination of him suggested he nursed some distrust of his answers, perhaps in light of his past experience of consenting processes concerning the development. Whether or not that is the case, we consider Mr Norton honestly answered questions within his expertise, and in accordance with the Code of Conduct. Secondly, we agree with Mr Laing that it is proper and appropriate to treat the ODP as performing a different function from that of a resource consent. This matter is perhaps nugatory in view of Mr Norton’s supplementary evidence that:¹³²

... a decision on the current Section 127 application is likely to be issued before the end of January. It is therefore unlikely that any changes made to the ODP through this hearing will have any material effect on the progress of the subdivision.

[162] However, in any case, the ODP is not a proper vehicle for addressing matters of detailed engineering design of stormwater management systems. Rather, it is properly for the purposes of setting relevant a relevant strategic framework for the operation of CRDP rules that pertain to the granting of resource consents in order that resource consent conditions can be imposed on such matters of detail. As such, we do not consider it appropriate to allow the modification to the ODP sought by Mr Stokes, given it was explicitly designed to ensure the delivery of what Mr Stokes considered was necessary design detail.

[163] We record that Mr Stokes also filed a memorandum on 27 June 2016.¹³³ Ostensibly, it was in response to the Panel’s 16 June 2016 Minute. That Minute invited parties to comment

¹³⁰ Referring to the narration at 8.6.28.5.a.

¹³¹ Closing submissions for the Council at 4.58.

¹³² Supplementary evidence of Robert Norton at 4.10.

¹³³ Memorandum of Concerns in Councils (sic) Final Yaldhurst ODP, Colin Stokes Submitter 1182, 27 June 2016.

on a consolidated set of provisions (combining the Revised Version provisions into a consolidated set with related subdivision provisions) which the Council filed according to the Panel's directions. However, in substance, Mr Stokes' memorandum reiterated various perceptions Mr Stokes has (and which the Panel does not share) about the Council's impartiality, the integrity of Mr Norton and other Council staff and statements in the Council's closing submissions.

[164] Having considered all these matters, and accepted the Council's evidence, we are satisfied that the ODP, in conjunction with related rules is the most appropriate for achieving related CRDP objectives (including in relation to any further consenting processes for this ODP area).

8.6.28 Yaldhurst ODP and proposed Rule 14.9.3.5.b: minimum setbacks from internal boundaries

[165] Also related to the Yaldhurst ODP, Noble sought an amendment to proposed Rule 14.9.3.5 on minimum building setbacks from internal boundaries, such as to include the following rider:

The above setbacks do not apply to the sites shown on an approved subdivision consent plan granted before (date) in Yaldhurst Outline Development Plan Appendix 8.6.28, unless a residential unit constructed on these sites is demolished and rebuilt using an alternative design.

[166] Noble did not have legal counsel attend the hearing but its agent, Richard Graham, filed closing submissions. These recorded that Noble was supportive of the version of the RNN proposal that the Council circulated on 17 November 2016 subject to the points that its closing outlined. One concerned the reference to the roundabout, noted earlier in this decision (and which the Revised Version essentially covered off). The other concerned the above-noted matter concerning Rule 14.9.3.5. The closing submission for this requested change was:¹³⁴

This amendment is requested on the basis that the sites subject to this rule have land use consents issued for specific dwelling design and these designs should be able to rebuilt without further consents being required. The setback provisions as proposed for the new District Plan only need to be invoked if the existing dwelling design is proposed to be altered at which point a new consent is likely to be required.

¹³⁴ Closing submissions for Noble at para 5.

[167] The Council’s closing opposed this change as being unnecessary. The Council noted that that, should a building be demolished and rebuilt, s 10 RMA existing use rights would apply. As such, the rule would apply only if an alternative design and/or location was being sought to replace a consented residential unit.¹³⁵ We agree with the Council on both points. We consider the rider would add unwarranted and confusing detail. On the Council’s evidence, which we accept, we find Rule 14.9.3.5 the most appropriate for achieving related CRDP objectives. Therefore, we determine that Noble’s requested change is inappropriate and decline it.

8.6.30 Awatea ODP

[168] Awatea is bounded by Wilmers Road, Halswell Junction Road, Wigram Road and the extensive Mahurangi Reserve. It is bisected by the Christchurch Southern Motorway and hence is split into two communities (Area 1 to the north and Area 2 to the south of the motorway). Warren Park is to the west and Westlake Reserve to the east of the area, and the Little River Link cycleway runs through the area, alongside the motorway.

[169] By the time of the hearing, the issues concerning this ODP had narrowed to the concerns of Awatea Residents’ Association Incorporated (‘ARA’) as to the close proximity of the Kartsport Canterbury (‘Kart Club’) facility and associated noise issues. A statement of evidence on these matters was filed by ARA members, Peter Dellaca (ARA chairman) and Kay Stieller (ARA secretary).¹³⁶ In essence, the evidence explained why the ARA sought Commercial/Industrial zoning for a part of the Awatea ODP land in the vicinity of the Kart Club. This pertained to the ARA’s understanding that investigations were being undertaken for relocation of the Kart Club but that there were funding shortfall difficulties pertaining to relocation.¹³⁷

[170] ARA also sought two rules or other provisions. One was in effect to release development restraints on the land (which restrict residential development by reason of the noise from the Kart Club facility) in the event that the Kart Club were to take up an offer of specified financial assistance for relocation (\$3.5M plus GST together with \$100,000 for resource consenting). The second was in effect to compel the Council to address noise issues “within the boundaries

¹³⁵ Closing submissions for the Council at 3.5.

¹³⁶ Statement of evidence of Peter Dellaca, Chairman, and Kay Stieller, Secretary, Awatea Residents’ Association Incorporated (ARA), 15 December 2015.

¹³⁷ Statement of evidence of Peter Dellaca, Chairman, and Kay Stieller, Secretary, ARA at paras 7-10.

of the Carrs Road Reserve, in accordance with the RMA” and effectively to implement “a comprehensive zoning pattern in accordance with the rules and policies for karting”, and to ratify this within a specified period.¹³⁸

[171] In its opening, the Council acknowledged that the Panel could decide to rezone the subject land for Commercial/Industrial purposes. However, it confirmed that the Council did not support such a zoning of the land at this time. As to the two proposed rules or provisions noted above, the Council respectfully submitted that these would be beyond the Panel’s powers in that they pertained to property and financial issues beyond what could be properly provided for in a district plan under the RMA.¹³⁹

[172] Ms Stieller attended the hearing and spoke in response to the Council’s opening submissions on these matters. She confirmed that the ARA had not taken legal advice on this requested relief. In answer to Panel questions, she confirmed that, in the event that residential zoning was confirmed, the proposed non-complying activity rule would be appropriate for so long as the Kart Club’s activities remained.¹⁴⁰

[173] We agree with the Council’s opening submission that the two additional rules sought by ARA are inappropriate in that they are beyond our powers. We accept the Council’s evidence and are satisfied that the proposed RNN zoning of the Revised Version, including its restrictions against residential development whilst the Kart Club remains, is the most appropriate for achieving related CRDP objectives.¹⁴¹ Therefore, we confirm it in the Decision Version and decline ARA’s relief.

Submission by John Paterson Drive submitters¹⁴²

[174] This group of submitters sought the rezoning of approximately 33 ha of land near John Paterson Drive, from Rural Urban Fringe to RNN. The submitters acknowledged that their land fell outside the existing urban boundary in Map A of the CRPS and this was an impediment

¹³⁸ Statement of evidence of Peter Dellaca, Chairman, and Kay Stieller, Secretary, ARA at para 20.

¹³⁹ Opening submissions for the Council at paras 6.9-6.10.

¹⁴⁰ Transcript, pages 441–443 (Ms Stieller).

¹⁴¹ The determination of the ARA’s submission seeking Commercial/Industrial zoning of the land was determined by Decision 23 Commercial (Part) and Industrial (Part) — Stage 2.

¹⁴² A Pan & S Tsun Yu (2474), RJ & CB Sissons (2475), Bromac Lodge (2476), Martin Harcourt (2477) and Mercantile Trust (2478)

to their relief.¹⁴³ They did not call evidence, but relied on passages from the evidence of various Council witnesses that their land had a number of attributes making it suitable at some stage for rezoning. Their counsel, Ms Steven QC, submitted that “it is a case of *when* rather than *if* the land will be rezoned”. We must make our determinations according to the evidence before us and with reference to the Higher Order Documents in the manner we have set out. As was effectively acknowledged by the submitters, that makes it inappropriate for us to grant the relief at this time, particularly given the land is not a Greenfield Priority Area – Residential under the CRPS. It is not appropriate that we express any view on the future zoning position for this land, in the event that there is any relevant change to the Higher Order Documents, and we refrain from doing so.

Other matters raised by submitters

[175] Ms Kim Seaton gave planning evidence for Oakvale Farms Ltd (2337), and Ms Semple presented associated legal submissions. Oakvale is the owner of land within the South Halswell and North Halswell ODPs. This evidence, and related submissions, focussed on a range of relatively minor amendments Ms Seaton recommended be made to the Revised Version. She asked that the location of the indicated position of the stormwater management plan on the South Halswell ODP be retained in the indicative position shown in Ms Oliver’s evidence. It has. She also sought clarification that the development requirements of ODPs must be complied with, and some other points of refinement, including as to minimum lot size matters. To the extent that there are any residual points of difference in the respective opinions of Ms Seaton and Ms Oliver, we prefer Ms Oliver’s opinion in being satisfied that the Decision Version is the most appropriate.

[176] Ms Harte gave planning evidence in support of a submission by Summerset Group Holdings Limited (2251). Ms Harte explained why her client was seeking rezoning of four properties in Cavendish Road from Residential Suburban to Residential New Neighbourhood. This was supported by the Council’s planning expert, Ms Oliver. We accept that evidence and confirm the requested rezoning as the most appropriate. We are satisfied that this consequential correction to Decision 10 is a minor change (under OIC, cl 13(5), (6)). We make an associated direction to the Council to update the related Plan map.

¹⁴³ Legal submissions on Residential New Neighbourhood Zones for following submitters [listed in above footnote], dated 12 January 2016.

[177] Mr Matthew Bonis gave planning evidence for Christchurch International Airport Limited (‘CIAL’) (2348). This evidence, and related legal submissions, concerned matters (bird strike and noise) that have been deferred to the determination of the General Rules Chapter. Maria Simmonds (2036) attended the hearing and spoke to her concerns in regard to the effects that shade cloth can have on views. Ms Simmonds spoke to similar issues in the hearing for the Residential Stage 1 chapter, the subject of Decision 10. That decision has determined those matters.

[178] We have considered the various other requests for zoning changes that were made by submitters who did not attend the hearing. Unless we have otherwise specified, we have declined that relief in reliance on Ms Oliver’s evidence and our findings in this decision (including in regard to the CRPS).

Drafting refinement matters

[179] We are grateful for the investment made by various submitters, particularly by the Council and the Crown, in ensuring drafting soundness and clarity.

[180] As we have noted, the Final Revised Version is part of a consolidated set of provisions including the Council’s final revised provisions for Chapter 8 in relation to its Stage 2 Subdivision, Development and Earthworks proposal (together ‘Revised Versions’). Most of the drafting refinements we have made to the Revised Versions are in relation to Chapter 8. The same Panel members heard both matters. For convenience, we set out our reasoning for all changes at [92]–[151] of Decision 28: Subdivision, earthworks and development — Stage 2, and adopt them in this decision.

Wigram Business Park zoning correction — also concerning Decision 11: Commercial (Part) and Industrial (Part) — Stage 1

[181] On 10 June 2016, NTP’s representative Mr Darryl Millar filed a memorandum (‘NTP memorandum’) requesting that we use our powers under cl 13(2)(a) of the OIC to correct a zone mapping error.¹⁴⁴ The request, supported by the Council,¹⁴⁵ pertains to the following five

¹⁴⁴ Memorandum of Ngai Tahu Property Limited, 10 June 2016.

¹⁴⁵ Memorandum of counsel for Christchurch City Council — zoning of sites within the Wigram Business Park, 13 June 2016.

undeveloped sites on the south side of Avenger Crescent ('Avenger Crescent sites'/'sites'), at the Wigram Business Park being developed by NTP alongside its Wigram Skies residential subdivision:¹⁴⁶

Lot	Street address	Ownership
33	8 Avenger Cres	Calder Stewart Land Holdings Limited — settlement date 27 May 2016
34	10 Avenger Cres	JDW Development Limited — settlement date 2 May 2015
35	12 Avenger Cres	Calder Stewart Land Holdings Limited — 27 May 2016
36	14 Avenger Cres	NZ Bosi Ltd — 22 December 2015
38	16 Avenger Cres	NTPL, subject to conditional contract with settlement due 29 June 2016

[182] The circumstances leading to the request are described in the NTP memorandum and are not in dispute. In essence:

- (a) Zoning map 37 in Decision 11 erroneously shows the boundary of the Industrial General zone bisecting these sites, rather than encompassing them entirely within the Industrial General zone.
- (b) The error was in the notified Stage 1 Commercial and Industrial proposal, but not picked up by the Council or NTP or anyone else. It would appear the mistake arose from an erroneous online Existing Plan zoning map which was subsequently corrected so that now, consistent with the Business Park's Plan Change 62, it shows the entire south west side of Avenger Crescent as within its Business 4 zone.

[183] NTP and the Council ask that we exercise our powers under the OIC to correct this error. Both agree that we can do so under cl 13(2), which relevantly states:

In making a decision on a proposal, the hearings panel —

¹⁴⁶ These details from the NTP memorandum.

- (a) may make any changes to the proposal that it considers appropriate:
- (b) is not limited to making changes within the scope of the submissions made on the proposal.

[184] NTP and the Council agree that the cl 13(2) prerequisite “In making a decision on a proposal” is satisfied because the positioning of the RNN/Industrial General boundary is ‘on’ the Notified Version. NTP also say that this is not a case to which cl 13(4), as to notification of a new proposal, would apply.

[185] In the alternative, NTP and the Council say we have available powers under cl 13(5) and (6), which are relevantly as follows:

- (5) While the hearings panel is considering a proposal, it may reconsider any decision it has already made on another proposal if it considers it is necessary or desirable to do so to ensure that the replacement district plan is coherent and consistent.
- (6) If the hearings panel considers, after reconsidering a decision under subclause (5), that an earlier proposal or a part of the replacement district plan requires change, the panel may direct the council— (a) to make changes of no more than minor effect; or (b) to prepare and notify a new proposal, and invite submissions on the new proposal in accordance with Schedule 1.

[186] It is self-evidently the case that the sites in issue are intended for industrial purposes, and should be zoned Industrial General. No sensible purpose is served by having the zoning boundary bisect the sites, as is provided for by Decision 11: Commercial and Industrial. It is also unarguably the case that Decision 11: Commercial and Industrial has carried forward this purely technical error from the notified Stage 1 Commercial and Industrial proposal, for the reasons the NTP memorandum has explained. We agree with NTP and the Council that the correction they request is of minor effect and no resource management purpose would be served by any further process of public notification or submissions. Specifically, there can be no prejudice in making the correction sought, to the effect that the zone boundary will properly align with site boundaries and ensure zoning treatment according to the intended purposes of the sites as part of the Wigram Business Park. Therefore, we are also satisfied that correcting the zoning boundary will assist to ensure that the CRDP is coherent and consistent.

[187] As the mapping error concerns the proper alignment of the RNN and Industrial General zoning boundary, correcting it involves both this decision and a revisiting of Decision 11: Commercial and Industrial. We are satisfied that cl 13(2), (5) and (6) collectively allow us to

do so. We are satisfied that making the requested change to the zoning of the sites is the most appropriate for achieving related CRDP objectives.

[188] Therefore, later in this decision, we direct the Council to provide to the Panel a replacement Map 37 showing Industrial General zoning for the Avenger Crescent sites. A second decision to effect that change to Decision 11: Commercial and Industrial will then be issued.

CONCLUSION

[189] This decision therefore:

- (a) confirms the zoning of land RNN as proposed in the Revised Version (subject to the modifications made by this decision);
- (b) amends the Notified and Revised Version and the South Masham & North Masham Revised ODP Proposal in the manner set out in Schedule 1; and
- (c) makes a consequential change to Decision 13, in relation to Policy 8.1.2.1(b).

[190] We direct that, **within 14 working days of the date of this decision**:

- (a) The Council must file:
 - (i) an updated South Masham ODP removing the odour buffer;
 - (ii) an updated Prestons ODP showing the three indicative commercial nodes discussed at [120];
 - (iii) a replacement Map 18 to make the zoning change noted at [176];
 - (iv) a replacement Map 37 showing Industrial General zoning for the Avenger Crescent sites; and

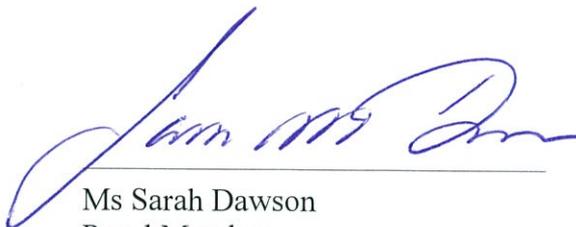
- (b) Any party who considers that we need to correct any minor mistake in this decision must file a memorandum identifying the correction(s) sought.

[191] A second decision will then issue to effect the replacement of that ODP and correction of Map 37 and address any minor correction matters.

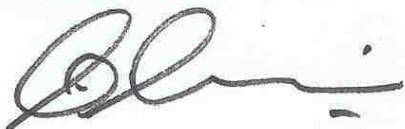
For the Hearings Panel:



Environment Judge John Hassan
Chair



Ms Sarah Dawson
Panel Member



Mr Alec Neill
Panel Member



Mr Gerard Willis
Panel Member

SCHEDULE 1

The notified proposal is amended by our decision as follows.

Text that is highlighted grey indicates Stage 1 text and is not the subject of this decision.

Greyed out Stage 1 text does not incorporate requests for minor corrections for which a decision has not yet been issued.

Chapter 14 Residential

14.1 Objectives and policies

14.1.1 Objective - Housing supply

- a. An increased supply of housing that will:
 - i. enable a wide range of housing types, sizes, and densities, in a manner consistent with Objectives 3.3.4(a) and 3.3.7;
 - ii. meet the diverse needs of the community in the immediate recovery period and longer term, including social housing options; and
 - iii. assist in improving housing affordability.

14.1.1.1 Policy - Housing distribution and density

- a. Provide for the following distribution of different areas for residential development, in accordance with the residential zones identified and characterised in Table 14.1.1.1a, in a manner that ensures:
 - i. new urban residential activities only occur in existing urban areas or in greenfield priority areas identified in Map A of the Canterbury Regional Policy Statement;
 - ii. high density residential development in the Central City, that achieves an average net density of at least 50 households per hectare for intensification development;
 - iii. medium density residential development in and near identified commercial centres in existing urban areas where there is ready access to a wide range of facilities, services, public transport, parks and open spaces, that achieves an average net density of at least 30 households per hectare for intensification development;
 - iv. a mix of low and medium residential density development in greenfield neighbourhoods, that achieves a net density (averaged over the Outline Development Plan) of at least 15 households per hectare;
 - v. greenfield land that is available for further residential development up to 2028;
 - vi. low density residential environments in other existing suburban residential areas, in the residential areas of Banks Peninsula, and in small settlements are maintained, but limited opportunities are provided for smaller residential units that are compatible with the low density and township suburban environment; and
 - vii. within Banks Peninsula, limited low density residential development adjacent to existing residential townships and small settlements, that complements the surrounding environment, is able to be efficiently serviced by public infrastructure and in some limited circumstances private infrastructure; and is in locations not subject to significant risks to life safety and property damage from natural hazards.

Table 14.1.1.1a

Residential Suburban Zone	<p>Provides for the traditional type of housing in Christchurch in the form of predominantly single or two storeyed detached or semi-detached houses, with garage, ancillary buildings and provision for gardens and landscaping.</p> <p>The changing demographic needs and increasing demand for housing in Christchurch are provided for through a range of housing opportunities, including better utilisation of the existing housing stock. A wider range of housing options will enable a typical family home to be retained, but also provide greater housing stock for dependent relatives, rental accommodation, and homes more suitable for smaller households (including older persons).</p>
Residential Suburban Density Transition Zone	<p>Covers some inner suburban residential areas between the Residential Suburban Zone and the Residential Medium Density Zone, and areas adjoining some commercial centres.</p> <p>The zone provides principally for low to medium density residential development. In most areas there is potential for infill and redevelopment at higher densities than for the Residential Suburban Zone.</p>
Residential Medium Density Zone	<p>Located close to the central city and around other larger commercial centres across the city. The zone provides a range of housing options for people seeking convenient access to services, facilities, employment, retailing, entertainment, parks and public transport.</p> <p>The zone provides for medium scale and density of predominantly two or three storey buildings, including semi-detached and terraced housing and low-rise apartments, with innovative approaches to comprehensively designed, high quality, medium density residential development also encouraged.</p> <p>Residential intensification is anticipated through well-designed redevelopments of existing sites, and more particularly through comprehensive development of multiple adjacent sites. Zone standards and urban design assessments provide for new residential development that is attractive, and delivers safe, secure, private, useable and well landscaped buildings and settings.</p>
Residential New Neighbourhood Zone	<p>The Residential New Neighbourhood Zone generally includes new areas of greenfield land where large-scale residential development is planned. The zone allows a wide range of residential house types and section sizes to provide for a wide spectrum of household sizes and affordable housing. People will therefore be able to remain within the neighbourhood throughout their lifetime as they move to housing types that suit their life stage. These areas are intended to achieve higher overall residential densities than traditionally achieved in suburban developments.</p>
Residential Banks Peninsula Zone	<p>Includes urban and suburban living, commuter accommodation and the small harbour settlements.</p> <p>The zone includes the settlements of Lyttelton and Akaroa which each have a distinctive urban character. Lyttelton has a more urban atmosphere and a distinct urban-rural boundary. The residential areas are characterised by small lot sizes and narrow streets. Akaroa is a smaller settlement characterised by its historic colonial form and architecture, relatively narrow streets, distinctive residential buildings and well-treed properties. Akaroa is a focal point for visitors to the region and the district. The character of these two settlements is highly valued and the District Plan provisions seek to retain that character. Opportunities for residential expansion around Lyttelton and Akaroa are constrained by the availability of reticulated services and land suitability.</p> <p>The smaller settlements around Lyttelton harbour provide a variety of residential opportunities. Residential areas at Cass Bay, Corsair Bay, Church Bay and Diamond Harbour offer a lower density residential environment with relatively large lots. Each settlement differs as a reflection of its history, the local topography, the relationship with the coast and the type of residential living offered.</p> <p>Non-residential activities that are not compatible with the character of the Residential Banks Peninsula Zone are controlled in order to mitigate adverse effects on the character and amenity of the area.</p>

Residential Hills Zone	Covers all the living environments that are located on the slopes of the Port Hills from Westmorland in the west to Scarborough in the east. It provides principally for low density residential development that recognises the landscape values of the Port Hills, including opportunities for planting and landscaping, and control of reflectivity of roof finishes in order to blend buildings into the landscape. Provision is made for a range of housing options that will enable a typical family home to be retained, but also provide greater housing stock for dependent relatives, rental accommodation, and homes more suitable for smaller households (including older persons). Provision is also made for a range of appropriate non-residential activities.
Residential Large Lot Zone	Covers a number of areas on the Port Hills where there is an existing residential settlement that has a predominantly low density or semi-rural character as well as the Akaroa Hillslopes and rural residential areas of Samarang Bay and Allandale on Banks Peninsula.
Residential Small Settlement	Covers the many small settlements on Banks Peninsula, as well as the settlements of Kainga and Spencerville to the north of Christchurch. Lot sizes within the settlements are typically larger than urban areas reflecting their existing character and providing a lower density semi-rural living environment, with the exception of Kainga, where smaller lots are provided for. New development is consolidated in and around existing settlements. Control of roof reflectivity seeks to blend buildings into the rural landscape. Non-residential activities that are not compatible with the character of the settlements are controlled in order to mitigate adverse effects on amenity and the environment of the settlements.
Residential Bach Zone	<i>Deferred to Coastal Environment Hearing</i>

14.1.1.2 Policy – Establishment of new medium density residential areas

- a. Support establishment of new residential medium density zones to meet demand for housing in locations where the following amenities are available within 800 metres walkable distance of the area:
 - i. a bus route;
 - ii. a Key Activity Centre or larger suburban commercial centre;
 - iii. a park or public open space with an area of at least 4000m²; and
 - iv. a public full primary school, or a public primary or intermediate school.
- b. Avoid establishment of new residential medium density development in:
 - i. high hazard areas;
 - ii. areas where the adverse environmental effects of land remediation outweigh the benefits; or
 - iii. areas that are not able to be efficiently serviced by Council-owned stormwater, wastewater and water supply networks.
- c. Encourage comprehensively designed, high quality and innovative, medium density residential development within these areas, in accordance with Objective 14.1.4 and its policies.
- d. Provide for medium density residential development in defined arterial locations identified as suitable for larger scale community facilities and guest accommodation.

Note: This policy also implements Objective 14.1.2.

14.1.1.3 Policy – Residential development in Banks Peninsula

- a. Provide for limited growth and changes to residential townships and small settlements that:
 - i. improves the long term viability of the townships, settlements and their communities;
 - ii. provides new housing opportunities in locations that are not subject to significant risks to life-safety and property damage from natural hazards;
 - iii. integrates with the existing residential settlement and maintains a consolidated urban form; and
 - iv. does not compromise the dominance of the landscape setting, and avoids ribbon residential development along the coastline, on prominent spurs, ridges and skylines.

14.1.1.4 Policy - Needs of Ngāi Tahu whānui

- a. Enable the housing needs of Ngāi Tahu whānui to be met throughout residential areas and in other locations where there is an ongoing relationship with ancestral lands.

Note: This policy also implements Objective 14.1.2.

14.1.1.5 Policy – Provision of social housing

- a. Enable small scale, medium density social housing developments throughout residential areas as a permitted activity and social housing developments generally throughout residential areas.

Note: This policy also implements Objective 14.1.2

14.1.1.6 Policy – Non-household residential accommodation

- a. Enable sheltered housing, refuges, and student hostels to locate throughout residential areas, provided that the building scale, massing, and layout is compatible with the anticipated character of any surrounding residential environment.

Note: This policy also implements Objective 14.1.2.

14.1.1.7 Policy – Provision of housing for an aging population

- a. Provide for a diverse range of independent housing options that are suitable for the particular needs and characteristics of older people throughout residential areas.
- b. Provide for comprehensively designed and managed, well-located, higher density accommodation options and accessory services for older people and those requiring care or assisted living, throughout all residential zones.
- c. Recognise that housing for older people can require higher densities than typical residential development, in order to be affordable and, where required, to enable efficient provision of assisted living and care services.

Note: This policy also implements Objective 14.1.2

14.1.1.8 Policy – Monitoring

- a. Evaluate the effectiveness of the District Plan’s residential provisions by monitoring the supply of additional housing through residential intensification, greenfield and brownfield development (including housing types, sizes and densities), and its contribution to:
 - i. meeting regional growth targets for greater Christchurch in the Land Use Recovery Plan and the Canterbury Regional Policy Statement;
 - ii. achieving an additional 23,700 dwellings by 2028 (Objective 3.3.4(a));
 - iii. meeting the diverse and changing population and housing needs for Christchurch residents, in the immediate recovery period and longer term;
 - iv. improving housing affordability; and
 - v. meeting the housing intensification targets specified in Objective 3.3.7(d).
- b. Undertake the monitoring and evaluation at such intervals as to inform any other monitoring requirements of other statutory instruments, and make the results publicly available.
- c. Have regard to the information from this monitoring when determining priority areas for residential intensification and provision for new and upgraded infrastructure.

14.1.2 Objective – Short term residential recovery needs

- a. Short-term residential recovery needs are met by providing opportunities for:
 - i. an increased housing supply throughout the lower and medium density residential areas;
 - ii. higher density comprehensive redevelopment of sites within suitable lower and medium density residential areas;
 - iii. medium density comprehensive redevelopment of community housing environments;
 - iv. new neighbourhood areas in greenfields priority areas; and
 - v. temporary infringement of built form standards as earthquake repairs are undertaken.

Note: Policies 14.1.1.1, 14.1.1.2, 14.1.1.3, 14.1.1.4, 14.1.1.5, 14.1.1.6, and 14.1.1.7 also implement Objective 14.1.2

14.1.2.1 Policy – Short term recovery housing

- a. Provide for and incentivise a range of additional housing opportunities to meet short term residential recovery needs through redevelopment and additions to the existing housing stock and/or vacant land, that:
 - i. are appropriately laid out and designed to meet the needs of current and future residents; and
 - ii. avoid significant adverse effects on the character or amenity of existing residential areas.

14.1.2.2 Policy – Recovery housing - higher density comprehensive redevelopment

- a. Enable and incentivise higher density comprehensive development of suitably sized and located sites within existing residential areas, through an Enhanced Development Mechanism which provides:
 - i. high quality urban design and onsite amenity;
 - ii. appropriate access to local services and facilities;
 - iii. development that is integrated with, and sympathetic to, the amenity of existing neighbourhoods and adjoining sites; and
 - iv. a range of housing types;
 - v. and which does not promote land banking, by being completed in accordance with a plan for the staging of the development.
- b. To avoid comprehensive development under the Enhanced Development Mechanism in areas that are not suitable for intensification for reasons of:
 - i. vulnerability to natural hazards;
 - ii. inadequate infrastructure capacity;
 - iii. adverse effects on Character Areas ; or
 - iv. reverse sensitivity on existing heavy industrial areas, Christchurch International Airport, arterial traffic routes, and railway lines.

14.1.2.3 Policy – Redevelopment and recovery of community housing environments

- a. Enable and incentivise comprehensive redevelopment of the existing community housing environments, through a Community Housing Redevelopment Mechanism which:
 - i. provides high quality urban design and on-site amenity;
 - ii. provides development that is integrated with, and sympathetic to, the amenity of adjacent neighbourhoods;
 - iii. maintains or increases the stock of community housing units;
 - iv. provides for an increased residential density; and
 - v. provides for a range of housing types including housing for lower income groups and those with specific needs.

14.1.2.4 Policy – Temporary infringement for earthquake repairs

- a. Enable temporary infringement of built form standards relating to building height and recession planes to facilitate the timely completion of repairs to earthquake damaged houses and ancillary buildings.

14.1.3 Objective – Strategic infrastructure

- a. 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.

14.1.3.1 Policy – Avoidance of adverse effects on strategic infrastructure

- a. Avoid reverse sensitivity effects on strategic infrastructure including:
 - i. Christchurch International Airport;
 - ii. the rail network;
 - iii. the major and minor arterial road network;
 - iv. the Port of Lyttelton;
 - v. the National Grid and strategic distribution lines identified on the planning maps.

14.1.4 Objective – High quality residential environments

- a. High quality, sustainable, residential neighbourhoods which are well designed, have a high level of amenity, enhance local character and reflect the Ngāi Tahu heritage of Ōtautahi.

Note: Policies 14.1.6.1, 14.1.6.2, 14.1.6.3, and 14.1.6.6 also implement Objective 14.1.4.

14.1.4.1 Policy – Neighbourhood character, amenity and safety

- a. Facilitate the contribution of individual developments to high quality residential environments in all residential areas (as characterised in Table 14.1.1.1a), through design:
 - i. reflecting the context, character, and scale of building anticipated in the neighbourhood;
 - ii. contributing to a high quality street scene;
 - iii. providing a high level of on-site amenity;
 - iv. minimising noise effects from traffic, railway activity, and other sources where necessary to protect residential amenity;
 - v. providing safe, efficient, and easily accessible movement for pedestrians, cyclists, and vehicles; and
 - vi. incorporating principles of crime prevention through environmental design.

14.1.4.2 Policy – High quality, medium density residential development

- a. Encourage innovative approaches to comprehensively designed, high quality, medium density residential development, which is attractive to residents, responsive to housing demands, and provides a positive contribution to its environment (while acknowledging the need for increased densities and changes in residential character), through:

- i. consultative planning approaches to identifying particular areas for residential intensification and to defining high quality, built and urban design outcomes for those areas;
- ii. encouraging and incentivising amalgamation and redevelopment across large-scale residential intensification areas;
- iii. providing design guidelines to assist developers to achieve high quality, medium density development;
- iv. considering input from urban design experts into resource consent applications;
- v. promoting incorporation of low impact urban design elements, energy and water efficiency, and life-stage inclusive and adaptive design; and
- vi. recognising that built form standards may not always support the best design and efficient use of a site for medium density development, particularly for larger sites.

14.1.4.3 Policy – Scale of home occupations

- a. Ensure home occupation activity is secondary in scale to the residential use of the property.

14.1.4.4 Policy – Character of low and medium density areas

- a. Ensure, consistent with the zone descriptions in Table 14.1.1.1a, that:
 - i. low density residential areas are characterised by a low scale open residential environment with predominantly one or two storey detached or semi-detached housing, and significant opportunities for landscaping and good access to sunlight and privacy are maintained; and
 - ii. medium density areas are characterised by medium scale and density of buildings with predominantly two or three storeys, including semi-detached and terraced housing and low rise apartments, and landscaping in publicly visible areas, while accepting that access to sunlight and privacy may be limited by the anticipated density of development and that innovative approaches to comprehensively designed, high quality, medium density residential development are also encouraged in accordance with Policy 14.1.4.2.

14.1.4.5 Policy – Character of residential development on the Port Hills

- a. Ensure that residential development on the Port Hills:
 - i. maintains the visual dominance of the Port Hills rural environment as a backdrop to the City;
 - ii. avoids buildings and structures on skylines of significant and outstanding natural landscapes;
 - iii. is of a density that provides opportunity for ample tree and garden planting;
 - iv. integrates with existing residential areas and where possible provides connections to public open space; and
 - v. where practicable, provides access to mahinga kai and sites of Ngai Tahu cultural significance.

14.1.4.6 Policy – Character of residential development in Banks Peninsula

- a. Ensure that residential development in Banks Peninsula:
 - i. maintains and complements the rural and coastal character elements that are distinct and unique to the local area and existing residential settlements;
 - ii. maintains the landscape setting and does not visually dominate views from land and water;
 - iii. avoids buildings and structures on skylines of significant and outstanding natural landscapes;
 - iv. encourages innovative design and sustainable land-use development; and
 - v. where practicable, creates and improves connections to recreational, open space, ecological, mahinga kai areas and sites of Ngai Tahu cultural significance.

14.1.4.7 Policy – Residential character areas in Christchurch City, Akaroa and Lyttelton

- a. Maintain and enhance the identified special character values of residential areas arising from the following elements:
 - i. the continuity or coherence of the character;
 - ii. the pattern of subdivision, open space, buildings and streetscape;
 - iii. the landforms or features that contribute to the qualities of the landscape and built form;
 - iv. the scale, form and architectural values of buildings and their landscape setting;
 - v. the qualities of the streetscape; and
- b. Within the Lyttelton and Akaroa Character Areas:
 - i. maintains and enhances the relationship to historic heritage;
 - ii. retains buildings and settings of high character value;
 - iii. retains important views from public places;
 - iv. reflects the existing small scale of development and integration with the landscape.

14.1.4.8 Policy – Best practice for health, building sustainability, energy and water efficiency

- a. Promote new residential buildings that:
 - i. provide for occupants' health, changing physical needs, and life stages; and
 - ii. are energy and water efficient;
 - iii. through non-regulatory methods including incentives.

14.1.5 Objective – Residential New Neighbourhood Zone

Co-ordinated, sustainable and efficient use and development is enabled in the Residential New Neighbourhood Zone.

14.1.5.1 Policy – Outline development plans

- a. Use and development shall be in accordance with the development requirements in the relevant outline development plan, or otherwise achieve similar or better outcomes, except as provided for in Clause b. in relation to any interim use and development.
- b. Interim use and development shall not compromise the timely implementation of, or outcomes sought by, the outline development plan.
- c. Recognise that quarrying and other interim activities may be a suitable part of preparing identified greenfields priority areas for urban development, provided that their adverse effects can be adequately mitigated and they do not compromise use of the land for future urban development.

14.1.5.2 Policy – Comprehensive residential development

- a. Encourage comprehensive residential developments that are in accordance with the relevant outline development plan as a means of achieving co-ordinated, sustainable and efficient development outcomes.

14.1.5.3 Policy – Development density

- a. In residential development areas, achieve a minimum net density of 15 households per hectare, when averaged across the whole of the residential development area within the relevant outline development plan, except:
 - i. in the Residential New Neighbourhood (Prestons) Zone where the minimum net density is between 13 and 15 households per hectare; and
 - ii. in areas shown on an outline development plan as being subject to development constraints.
- b. Except as provided for in (a)(i) and (ii) above, any use and development which results in a net density lower than the required net density shall demonstrate, through the use of legal mechanisms as appropriate, that the net density required across residential development areas of the outline development plan can still be achieved.
- c. Except as provided for in (a) and (b) above, a proposal for use and development which results in a net density lower than the required net density will result in other owners of greenfield (undeveloped) land within the outline development plan area being identified as affected parties (where they have not given written approval).
- d. Encourage higher density housing to be located to support, and have ready access to, commercial centres, community facilities, public transport and open space; and to support well-connected walkable communities.

14.1.5.4 Policy – Neighbourhood quality and design

- a. Ensure that use and development:
 - i. contributes to a strong sense of place, and a coherent, functional and safe neighbourhood;
 - ii. contributes to neighbourhoods that comprise a diversity of housing types;
 - iii. retains and supports the relationship to, and where possible enhances, recreational, heritage and ecological features and values; and
 - iv. achieves a high level of amenity.

14.1.5.5 Policy – Infrastructure servicing for developments

- a. Ensure that developments are serviced with all required infrastructure in an effective and efficient manner.

14.1.5.6 Policy – Integration and connectivity

- a. Ensure effective integration within and between developments and existing areas, including in relation to public open space networks, infrastructure and movement networks.
- b. Ensure that the boundaries between new and existing developments are, where appropriate, managed to avoid or mitigate adverse effects.
- c. Avoid significant adverse effects and remedy or mitigate other adverse effects on existing businesses, rural activities or infrastructure.

14.1.5.7 Policy – Nga kaupapa / protection and enhancement of sites, values and other taonga of significance to tangata whenua

- a. Ensure:
 - i. Protection of sites, values and other taonga of cultural significance to Ngāi Tahu using culturally appropriate methods;
 - ii. Identification and utilisation of opportunities to enhance sites, values and other taonga of cultural significance to Ngāi Tahu; and
 - iii. Protection of the relationship of tangata whenua with freshwater, including cultural wellbeing and customary use opportunities.

[deferred to Stage 3 Chapter 9]

14.1.6 Objective – Non-residential activities

Residential activities remain the dominant activity in residential zones, whilst also recognising the need to:

- i. provide for community facilities and home occupations which by their nature and character typically need to be located in residential zones; and
- ii. restrict other non-residential activities, unless the activity has a strategic or operational need to locate within a residential zone.

Note: this objective and its subsequent policies do not apply to brownfield sites.

14.1.6.1 Policy – Residential coherence character and amenity

- a. Ensure that non-residential activities do not have significant adverse effects on residential coherence, character, and amenity.

Note: This policy also implements Objective 14.1.4

14.1.6.2 Policy - Community activities and facilities

- a. Enable community activities and facilities within residential areas to meet community needs and encourage co-location and shared use of community facilities where practicable.
- b. Enable larger scale community activities and facilities within defined arterial locations that:
 - i. are within walking distance of the central city and suburban commercial centres;
 - ii. front onto core public transport routes; and
 - iii. are not dominated by residential development.

Note: This policy also implements Objective 14.1.4

14.1.6.3 Policy – Existing non-residential activities

- a. Enable existing non-residential activities to continue and support their redevelopment and expansion provided they do not:
 - i. have a significant adverse effect on the character and amenity of residential zones; or
 - ii. undermine the potential for residential development consistent with the zone descriptions in Table 14.1.1.1a.

Note: This policy also implements Objective 14.1.4

14.1.6.4 Policy – Other non-residential activities

- a. Restrict the establishment of other non-residential activities, especially those of a commercial or industrial nature, unless the activity has a strategic or operational need to locate within a residential zone, and the effects of such activities on the character and amenity of residential zones is insignificant.

14.1.6.5 Policy – Retailing in residential zones

- a. Ensure that small scale retailing, except for retailing permitted as part of a home occupation, is limited in type and location to appropriate corner sites on higher order streets in the road hierarchy.

14.1.6.6 Policy – Memorial Avenue and Fendalton Road

- a. Maintain the war memorial and visitor gateway roles of Memorial Avenue and Fendalton Road and their very high amenity values, by limiting the establishment of non-residential activities and associated outdoor advertising and vehicle parking on sites in residential zones with frontage to these roads.

Note: This policy also implements Objective 14.1.4

14.1.6.7 Policy – Guest accommodation

- a. Provide for guest accommodation within defined arterial locations that:
 - i. are within walking distance of the central city and suburban commercial centres;
 - ii. front onto core public transport routes; and
 - iii. are not dominated by residential development.

14.1.7 Objective – Redevelopment of brownfield sites

- a. On suitable brownfield sites, provide for new mixed use commercial and residential developments that are comprehensively planned so that they are environmentally and socially sustainable over the long term.

14.1.7.1 Policy – Redevelopment of brownfield sites

- a. To support and incentivise the comprehensive redevelopment of brownfield sites for mixed use residential and commercial activities where:
 - i. natural hazards can be mitigated;
 - ii. adequate infrastructure services and capacity are available;
 - iii. reverse sensitivity effects on existing industrial areas are managed;
 - iv. the safety and efficiency of the current and future transport system is not significantly adversely affected;
 - v. there is good walking and cycling access to public transport routes, commercial and community services, and open space;
 - vi. if necessary, contaminated land is remediated in accordance with national and regional standards; and
 - vii. the redevelopment does not impact on the vitality and strategic role of commercial centres.
- b. Ensure the redevelopment is planned and designed to achieve:
 - i. high quality urban design and on-site amenity; and
 - ii. development that is integrated and sympathetic with the amenity of the adjacent neighbourhoods and adjoining sites.

14.9 Rules – Residential New Neighbourhood Zone

14.9.1 How to use the rules

- a. The rules that apply to activities in the Residential New Neighbourhood Zone are contained in:
 - i. Rule 14.9.2 - activity status tables (including activity specific standards); and
 - ii. Rule 14.9.3 - built form standards.
- b. Where activity status rules in this section include activity specific standards which conflict with any development requirements specified in an applicable outline development plan then the development requirements in the outline development plan shall apply.
- c. The activity status tables and standards in the following chapters also apply to activities in all areas of the Residential New Neighbourhood Zone.
 - 5 Natural Hazards;
 - 6 General Rules and Procedures;
 - 7 Transport;
 - 8 Subdivision, Development and Earthworks;
 - 9 Heritage and Natural Environment;
 - 11 Utilities, Energy and Infrastructure; and
 - 12 Hazardous substances and Contaminated land.
- d. Where the word “facility” is used in the rules (e.g. spiritual facility), it shall also include the use of a site/building for the activity that the facility provides for, unless expressly stated otherwise.

Similarly, where the word/phrase defined include the word “activity” or “activities”, the definition includes the land and/or buildings for that activity unless stated otherwise in the activity status tables.

14.9.2 Activity status tables

14.9.2.1 Permitted activities

The activities listed below are permitted activities if they meet any activity specific standards set out in this table and the built form standards in Rule 14.9.3

Activities may also be controlled, restricted discretionary, discretionary, non-complying or prohibited as specified in Rules 14.9.2.2, 14.9.2.3, 14.9.2.4, 14.9.2.5, and 14.9.2.6.

Activity		Activity specific standards
P1	Residential activity, except for boarding houses	<ul style="list-style-type: none"> a. No more than one heavy vehicle shall be stored on the site of the residential activity. b. Any motor vehicles and/or boats dismantled, repaired or stored on the site of the residential activity shall be owned by people who live on the same site.
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	<ul style="list-style-type: none"> a. The existing site containing both units shall have a minimum net site area of 450m². b. The minor residential unit shall have a minimum gross floor area of 35m² and a maximum gross floor area of 80m². c. The parking areas of both units shall be accessed from the same access. d. There shall be a total outdoor living space on the existing site (containing both units) with a minimum area of 90m² and a minimum dimension of 6 metres. This total space can be provided as: <ul style="list-style-type: none"> i. a single continuous area; or 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 30m² in area. <p>Note: This requirement replaces the general outdoor living space requirements set out in Rule 14.9.3.3</p>
P3	Student hostels owned or operated by a secondary education activity or tertiary education and research activity containing up to 6 bedrooms	<ul style="list-style-type: none"> a. Nil
P4	Older person's housing unit	<ul style="list-style-type: none"> a. A maximum gross floor area of 120m².
P5	Home occupation	<ul style="list-style-type: none"> a. The gross floor area of the building, plus the area used for outdoor storage area, occupied by the home occupation shall be less than 40m². b. The maximum number of FTE persons employed in the home occupation, who reside permanently elsewhere than on the site, shall be two. c. Any retailing shall be limited to the sale of goods grown or produced on the site, or internet-based sales where no customer visits occur. d. The hours of operation, when the site is open to visitors, clients, and deliveries, shall be limited to between the hours of: <ul style="list-style-type: none"> i. 0700 – 2100 Monday to Friday; and ii. 0800 – 1900 Saturday, Sunday and public holidays. e. Visitor or staff parking areas shall be outside the road boundary setback. f. Outdoor advertising shall be limited to a maximum area of 2m².

Activity	Activity specific standards								
P6 Care of non-resident children within a residential unit in return for monetary payment to the carer	There shall be: <ol style="list-style-type: none"> a. a maximum of four non-resident children being cared for in return for monetary payment to the carer at any one time; and b. at least one carer residing permanently within the residential unit. 								
P7 Bed and breakfast	There shall be: <ol style="list-style-type: none"> a. a maximum of six guests accommodated at any one time; b. at least one owner of the residential unit residing permanently on site; and c. no guest given accommodation for more than 90 consecutive days. 								
P8 Education activity	The activity shall: <ol style="list-style-type: none"> a. only locate on sites with frontage and the primary entrance to a minor arterial or collector road where right turn offset, either informal or formal, is available; b. only occupy a gross floor area of building of less than 200m², or in the case of a health care facility, less than 300m²; c. limit outdoor advertising to a maximum area of 2m²; d. limit the hours of operation when the site is open to visitors, students, patients, clients, and deliveries to between the hours of: <table border="1" data-bbox="689 1048 1402 1630"> <tbody> <tr> <td data-bbox="689 1048 983 1227">Education activity</td> <td data-bbox="983 1048 1402 1227"> <ol style="list-style-type: none"> i. 0700–2100 Monday to Saturday; and ii. Closed Sunday and public holidays. </td> </tr> <tr> <td data-bbox="689 1227 983 1413">Pre-school</td> <td data-bbox="983 1227 1402 1413"> <ol style="list-style-type: none"> i. 0700–2100 Monday to Friday, and ii. 0700–1300 Saturday, Sunday and public holidays. </td> </tr> <tr> <td data-bbox="689 1413 983 1462">Health care facility</td> <td data-bbox="983 1413 1402 1462" rowspan="3"> <ol style="list-style-type: none"> i. 0700–2100 </td> </tr> <tr> <td data-bbox="689 1462 983 1552">Veterinary care facility</td> </tr> <tr> <td data-bbox="689 1552 983 1630">Places of assembly</td> </tr> </tbody> </table> e. in relation to a pre-school, limit outdoor play areas and facilities to those that meet the Group 1 acoustic standard for residential zones; f. in relation to a pre-school, veterinary care facilities and places of assembly: <ol style="list-style-type: none"> i. only locate on sites where any residential activity on an adjoining front site, or front site separated by an access, with frontage to the same road is left with at least one residential neighbour. That neighbour shall be on an adjoining front site, or front site separated by an access, and have frontage to the same road; and 	Education activity	<ol style="list-style-type: none"> i. 0700–2100 Monday to Saturday; and ii. Closed Sunday and public holidays. 	Pre-school	<ol style="list-style-type: none"> i. 0700–2100 Monday to Friday, and ii. 0700–1300 Saturday, Sunday and public holidays. 	Health care facility	<ol style="list-style-type: none"> i. 0700–2100 	Veterinary care facility	Places of assembly
Education activity		<ol style="list-style-type: none"> i. 0700–2100 Monday to Saturday; and ii. Closed Sunday and public holidays. 							
Pre-school		<ol style="list-style-type: none"> i. 0700–2100 Monday to Friday, and ii. 0700–1300 Saturday, Sunday and public holidays. 							
Health care facility		<ol style="list-style-type: none"> i. 0700–2100 							
Veterinary care facility									
Places of assembly									
P9 Pre-schools									
P10 Health care facility									
P11 Veterinary care facility									
P12 Places of assembly									

Activity	Activity specific standards
	<ul style="list-style-type: none"> ii. only locate on residential blocks where there are no more than two non-residential activities already within that block; <p>Note: See Figure 1.</p> <ul style="list-style-type: none"> g. in relation to veterinary care facilities, limit the boarding of animals on the site to a maximum of four; h. in relation to places of assembly, entertainment facilities shall be closed Sunday and public holidays; i. in relation to noise sensitive activities, not be located within the 50 dBA Ldn Air Noise Contour as shown on the Planning Maps; and j. not include the storage of more than one heavy vehicle on the site of the activity.
P13 Spiritual facilities	<p>The facility shall:</p> <ul style="list-style-type: none"> a. limit the hours of operation to 0700-2200; and b. not include the storage of more than one heavy vehicle on the site of the activity.
P14 Community corrections facilities	<p>The facility shall:</p>
P15 Community welfare facilities	<ul style="list-style-type: none"> a. limit the hours of operation when the site is open to clients and deliveries to between the hours of 0700–1900; and b. limit signage to a maximum area of 2m².
P16 Emergency services facilities	<ul style="list-style-type: none"> a. Nil
<p>P17 Temporary lifting or moving of earthquake damaged buildings where the activity does not meet one or more of Rules:</p> <ul style="list-style-type: none"> a. 14.9.3.1 – Building height; b. 14.9.3.2 – Site coverage; c. 14.9.3.3 – Outdoor living space; d. 14.9.3.4 – Daylight recession planes; or e. 14.9.3.5 – Minimum building setbacks from internal boundaries and railway lines. 	<ul style="list-style-type: none"> a. Buildings shall not be: <ul style="list-style-type: none"> i. moved to within 1 metre of an internal boundary and/or within 3 metres of any waterbody, scheduled tree, listed heritage item, natural resources and Council owned structure, archaeological site, or the coastal marine area; or ii. lifted to a height exceeding 3 metres above the applicable recession plane or height control. b. The building must be moved or lowered back to its original position, or a position compliant with the District Plan or consistent with a resource consent, within 12 weeks of the moving or lifting works having first commenced. c. In all cases of a building being moved or lifted, the owners/occupiers of land adjoining the sites shall be informed of the work at least seven days prior to the move or lift of the building occurring. The information provided shall include details of a contact person, details of the move or lift, and the duration of the move or lift. d. The Council’s Resource Consents Manager shall be notified of the moving or lifting of the building at least seven days prior to the move or lift of the building occurring. The notification must include details of the lift or move, property address, contact details and intended start date.
P18 Relocation of a building	<ul style="list-style-type: none"> a. Nil
P19 Temporary military or emergency service training activities	

Activity	Activity specific standards
P20 Market gardens, community gardens, and garden allotments	
P21 All permitted activities in the Commercial Local Zone - Rule 15.3.2.1, within an area identified for this purpose on an approved subdivision consent plan.	<p>a. The area identified for commercial activities shall not exceed 2,000m² in gross floor area.</p> <p>b. Activities shall meet the following standards of the Commercial Local Zone:</p> <ul style="list-style-type: none"> i. Rule 15.3.3.1 Maximum building height ii. Rule 15.3.3.2 Building setback from road boundaries iii. Rule 15.3.3.3 Minimum building setback from residential zones iv. Rule 15.3.3.4 Sunlight and outlook with a residential zone v. Rule 15.3.3.5 Outdoor storage areas vi. Rule 15.3.3.6 Landscaping and trees vii. Rule 15.3.3.7 Water supply for fire fighting viii. Rule 15.3.3.8 Minimum building setback from railway corridor <p>The built form standards in Rule 14.9.3 do not apply</p>
P22 All permitted activities in the Rural Urban Fringe Zone - Rule 17.3.2.1 Permitted activities	<p>a. Activities shall meet the following standards of the Rural Urban Fringe Zone:</p> <ul style="list-style-type: none"> i. Rule 17.3.3.2 Maximum building height ii. Rule 17.3.3.3 Minimum building setback from road boundaries iii. Rule 17.3.3.4 Minimum building setback from internal boundaries iv. Rule 17.3.3.8 Maximum site coverage <p>The built form standards in Rule 14.9.3 do not apply.</p>
P23 Show homes	<p>a. The hours of operation, when the site is open to visitors, clients, and deliveries, shall be limited to between the hours of:</p> <ul style="list-style-type: none"> i. 0700 – 2100 Monday to Friday; and ii. 0800 – 1900 Saturday, Sunday and public holidays.

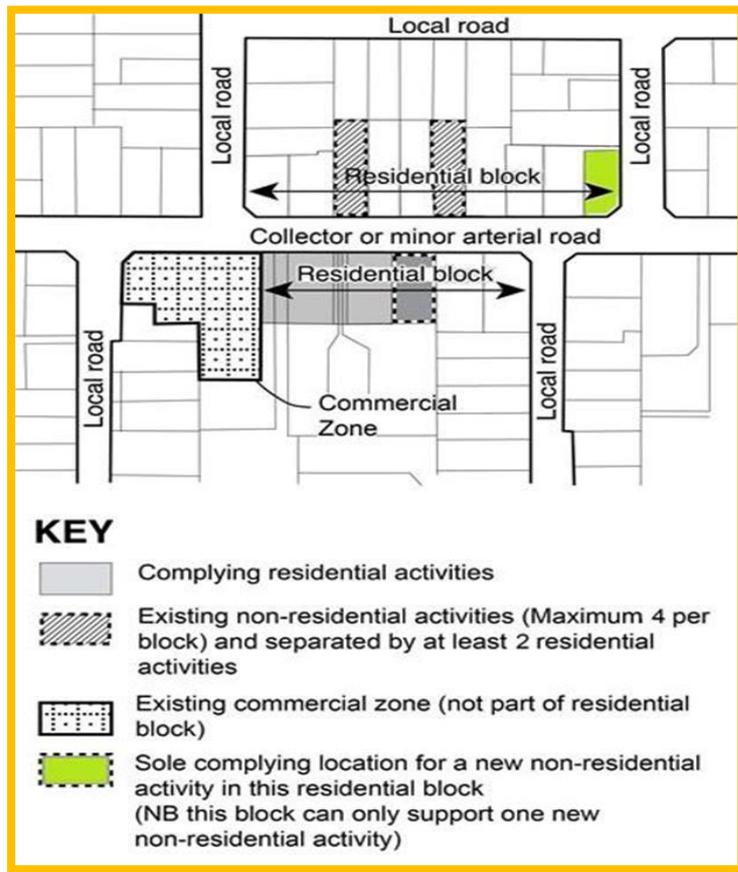


Figure 1: Residential coherence

14.9.2.2 Controlled activities

The activities listed below are controlled activities.

Unless otherwise specified, applications for controlled activities shall not be limited or publicly notified.

Discretion to impose conditions is restricted to the matters of control set out in Rule 14.13, as set out in the following table.

Activity		The matters over which Council reserves its control:
C1	Retirement villages that meet all applicable built form standards in Rule 14.9.3	a. Retirement villages - Rule 14.13.10
C2	Comprehensive residential development that meet all applicable built form standards in Rule 14.9.3	a. Comprehensive residential development in the Residential New Neighbourhood Zone - Rule 14.13.27
C3	Development of the sites marked as controlled within the Awatea Outline Development Plan area – Tangata whenua layer where: a. a cultural assessment has been supplied with a resource consent application; and	a. Matters arising from consultation undertaken with tangata whenua representatives in the design phase of the works and preparation of the cultural assessment

Activity		The matters over which Council reserves its control:
	b. the development meets all built form standards in Rule 14.9.3.	b. The means of incorporating the findings of the cultural assessment in the design and implementation of the works c. The development requirements set out in the Awatea Outline Development Plan.
C4	Residential units (including any sleep outs) containing more than six bedrooms in total.	a. Scale of activity – Rule 14.13.5 b. Traffic generation and access safety – Rule 14.13.6
C5	Activities and buildings that do not meet any one or more of the following Rules in 14.9.3: Rule 14.9.3.7 - Landscaping Rule 14.9.3.8 – Fencing in the road boundary setback Rule 14.9.3.12 - Ground floor habitable space and overlooking of street Any application arising from this rule shall not be publicly or limited notified.	a. Street scene – road boundary, building setback, fencing and planting – Rule 14.13.18
C6	Activities and buildings that do not meet Rule 14.9.3.13 – Service, storage and waste management space Any application arising from this rule shall not be publicly or limited notified.	b. Service, storage and waste management spaces – Rule 14.9.20

14.9.2.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 14.13, or as otherwise specified, as set out in the following table for each activity.

Activity		The Council's discretion shall be limited to the following matters:
RD1	Student hostels owned or operated by a secondary education activity or tertiary education and research activity containing 7 to 9 bedrooms.	a. Scale of activity – Rule 14.13.5
RD2	<i>[deferred to General Rules]</i>	
RD3	Retirement villages that do not meet any one or more of the built form standards in Rule 14.9.3	a. Retirement villages - Rule 14.13.10
RD4	Convenience activities where: a. the site is located on the corner of a minor arterial road that intersects with either a minor arterial road or collector road; b. the total area occupied by retailing on the site is no more than 50m ² public floor area; c. the activity does not include the sale of alcohol;	a. Residential design principles - Rule 14.13.1 b. Scale of activity – Rule 14.13.5 c. Non-residential hours of operation – Rule 14.13.22

Activity	The Council's discretion shall be limited to the following matters:
<ul style="list-style-type: none"> d. signage is limited to no more than 2m² and shall be within the road boundary setback; e. the hours of operation when the site is open to business visitors or clients are limited to between the hours of 0700–2200 Monday to Sunday and public holidays; and f. there is no provision of on-site parking area for visitors or service purposes. 	<ul style="list-style-type: none"> d. Traffic generation and access safety – Rule 14.13.6
<p>RD5 Comprehensive residential development that does not meet any one or more of the built form standards in Rule 14.9.3. Any application arising from this rule shall not be publicly notified.</p>	<ul style="list-style-type: none"> a. Comprehensive residential development in the Residential New Neighbourhood Zone – Rule 14.13.27
<p>RD6 Buildings that do not meet Rule 14.9.3.1 – Building height.</p>	<ul style="list-style-type: none"> a. Impacts on neighbouring property - Rule 14.13.3
<p>RD7 Buildings that do not meet Rule 14.9.3.4 – Daylight recession plane.</p>	<ul style="list-style-type: none"> a. Impacts on neighbouring property – Rule 14.13.3
<p>RD8 Activities and buildings that do not meet Rule 14.9.3.2 - Site coverage. Any application arising from this rule shall not be publicly notified.</p>	<ul style="list-style-type: none"> a. Site density and coverage – Rule 14.13.2
<p>RD9 Residential units that do not meet Rule 14.9.3.3 - Outdoor living space. Any application arising from this rule shall not be publicly or limited notified.</p>	<ul style="list-style-type: none"> a. Outdoor living space – Rule 14.13.21
<p>RD10 Activities and buildings that do not meet any one or more of the following Rules in 14.9.3: Rule 14.9.3.9 - Parking areas Rule 14.9.3.10 - Garages Any application arising from this rule shall not be publicly or limited notified.</p>	<ul style="list-style-type: none"> b. Street scene – road boundary, building setback, fencing and planting – Rule 14.13.18
<p>RD11 Activities and buildings that do not meet Rule 14.9.3.14 - minimum unit size Any application arising from this rule shall not be publicly or limited notified.</p>	<ul style="list-style-type: none"> a. Minimum unit size – Rule 14.13.4
<p>RD12 Buildings that do not meet Rule 14.9.3.5 - Setback from internal boundaries and railway lines (other than Rule 14.9.3.5(6) – refer to RD13)</p>	<ul style="list-style-type: none"> a. Impacts on neighbouring property - Rule 14.13.3 b. Minimum building window and balcony setbacks – Rule 14.13.19
<p>RD13 Buildings that do not meet Rule 14.9.3.5(6) relating to rail corridor boundary setbacks.</p>	<ul style="list-style-type: none"> a. Whether the reduced setback from the rail corridor will enable buildings to be maintained without requiring access above, over or on the rail corridor.

Activity		The Council's discretion shall be limited to the following matters:
RD14	Buildings that do not meet Rule 14.9.3.11 - Road boundary building setback. Any application arising from this rule shall not be publicly or limited notified.	a. Street scene – road boundary, building setback, fencing and planting – Rule 14.13.18
RD15	Residential units that do not meet Rule 14.2.3.15 – Water supply for firefighting. Any application arising from this rule shall not be publicly notified and shall be limited notified only to the New Zealand Fire Service (absent its written approval).	a. Water supply for fire fighting – Rule 14.13.8
RD16	Activities and buildings that do not meet any one or more of the activity specific standards in Rule 14.9.2.1 (except for P8 to P10 activity standard i. relating to noise sensitive activities in the 50 dBA Ldn Air Noise Contour refer to RD26; or P8 to P12 activity standard j. relating to storage of heavy vehicles refer to D2) for: a. P5 Home occupation; b. P8 Education activity c. P9 Pre-school; d. P10 Health care facility; e. P11 Veterinary care facility. Any application arising from this rule shall not be publicly or limited notified.	As relevant to the built form standard that is not met: a. Scale of activity – Rule 14.13.5 b. Traffic generation and access safety – Rule 14.13.6 c. Non-residential hours of operation – Rule 14.13.22
RD17	Integrated family health centres where: a. the centre is located on sites with frontage and the primary entrance to a minor arterial or collector road where right turn offset, either informal or formal is available; b. the centre is located on sites adjoining a Neighbourhood, District or Key activity centre; c. the centre occupies a gross floor area of building of between 301m ² and 700m ² ; d. signage is limited to a maximum area of 2m ² ; and e. the hours of operation when the site is open to patients, or clients, and deliveries is limited to between the hours of 0700–2100.	a. Scale of activity - Rule 14.13.5 b. Traffic generation and access safety - Rule 14.13.6 c. Non-residential hours of operation - Rule 14.13.22
RD18	Community corrections and community welfare facilities that do not meet any one or more of the activity specific standards in Rule 14.9.2.1 P14 or P15. Any application arising from this rule shall not be publicly or limited notified.	As relevant to the built form standard that is not met: a. Scale of activity – Rule 14.13.5 b. Traffic generation and access safety – Rule 14.13.6 c. Non-residential hours of operation – Rule 14.13.22
RD19	Boarding house	a. Scale of activity - Rule 14.13.5 b. Traffic generation and access safety - Rule 14.13.6

Activity		The Council's discretion shall be limited to the following matters:
RD20	Spiritual facilities that do not meet the hours of operation in Rule 14.9.2.1 P13. Any application arising from this rule shall not be publicly notified and shall (absent written approval) be limited notified only to directly abutting land owners and occupiers.	a. Non-residential hours of operation – Rule 14.13.22
RD21	Development of the sites marked as controlled within the Awatea Outline Development Plan - Tangata Whenua layer diagram, where no cultural assessment has been supplied with resource consent application.	a. Matters arising from consultation undertaken with tangata whenua representatives and any written approval obtained in the design phase of the works. b. Whether appropriate recognition has been given to the development requirements set out in the Awatea Outline Development Plan.
RD22	In locations to which Rule 14.9.2.1 P21 applies, activities and buildings that are permitted activities in the Local Commercial Zone but do not meet any one or more of the activity specific standards specified in Rule 14.9.2.1 P21.+	a. Impacts on neighbouring property -Rule 14.13.3 b. Scale of activity – Rule 14.13.5 c. Traffic generation and access safety – Rule 14.13.6 d. Non-residential hours of operation – Rule 14.13.22
RD23	Activities and buildings that are permitted activities in the Rural Urban Fringe Zone but do not meet any one or more of the activity specific standards specified in Rule 14.9.2.1 P22	a. Whether appropriate recognition has been given to the development requirements set out in the relevant outline development plan and adverse effect of the rural activity on achieving the development requirements in the future.
RD24	Show homes that do not meet Rule 14.9.2.1 P23	a. Non-residential hours of operation – Rule 14.13.22
RD25	Older person's housing units that do not meet the activity specific standard in Rule 14.2.2.1 P4	a. Scale of activity - Rule 14.13.5
RD26	a. Residential activities which are not provided for as a permitted or controlled activity; b. Education activities (Rule 14.9.2.1 P8); c. Pre-school (Rule 14.9.2.1 P9); or d. Health care facilities (Rule 14.9.2.1 P10); located within the Air Noise Contour (50 dBA Ldn) as shown on the Planning Maps. Any application arising from this rule shall not be publicly notified and shall be limited notified only to Christchurch International Airport Limited (absent its written approval).	a. The extent to which effects, as a result of the sensitivity of activities to current and future noise generation from aircraft, are proposed to be managed, including avoidance of any effect that may limit the operation, maintenance or upgrade of Christchurch International Airport.
RD27	Activities and buildings that do not meet Rule 14.9.3.16 - Outline development plan	a. Outline development plan - Rule 14.13.26

14.9.2.4 Discretionary activities

The activities listed below are discretionary activities.

Activity	
D1	Any activity not provided for as a permitted, controlled, restricted discretionary, non-complying or prohibited activity
D2	Activities that do not meet any one or more of the activity specific standards in Rule 14.9.2.1 for: <ol style="list-style-type: none"> a. P1 Residential activity; b. P6 Care of non-resident children in a residential unit; c. P7 Bed and breakfast; d. P12 Places of assembly; or e. Storage of more than one heavy vehicle for P8-P11 and P13.
D3	Student hostels owned or operated by a secondary education activity or tertiary education and research activity containing more than 10 bedrooms
D4	Integrated family health centres which do not meet any one of more of the requirements specified in Rule 14.9.2.3 RD17.

14.9.2.5 Non-complying activities

The activities listed below are non-complying activities.

Activity	
NC1	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ol style="list-style-type: none"> i. within 12 metres of the centre line of a 110kV or 220kV National Grid transmission line or within 12 metres of the foundation of an associated support structure; or ii. within 10 metres of the centre line of a 66kV National Grid transmission line or within 10 metres of a foundation of an associated support structure; or <p>b. Fences within 5 metres of a National Grid transmission line support structure foundation.</p> <p>Any application arising from this rule shall not be publicly notified and shall be limited notified only to Transpower New Zealand Limited (absent written approval).</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. The National Grid transmission lines are shown on the planning maps. 2. Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003. 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 National grid transmission lines. Buildings and activity in the vicinity of National Grid transmission lines must comply with NZECP 34:2001.
NC2	a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):

Activity	
	<p>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;</p> <p>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; or</p> <p>iii. within 5 metres of the centre line of the 11kV Heathcote to Lyttelton electricity distribution line (except that this shall not apply to any underground sections) or within 5 metres of a foundation of an associated support structure.</p> <p>b. Fences within 5 metres of a 66kV, 33kV and the 11kV Heathcote to Lyttelton electricity distribution line support structure foundation.</p> <p>Any application arising from this rule shall not be publicly notified and shall be limited notified only to Orion New Zealand Limited or other electricity distribution network operator (absent written approval).</p> <p>Notes:</p> <ol style="list-style-type: none"> The electricity distribution lines are shown on the planning maps. 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. 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.
NC3	Within the Awatea Outline Development Plan Area 2, residential activity and units whilst the Carrs Road Kart Club operates from its current location as illustrated on the Awatea Outline Development Plan.
NC4	Quarrying activity

14.9.3 Built form standards

14.9.3.1 Building height

a. The maximum height of any building shall be:

1.	All buildings except as specified below.	8m
2.	Comprehensive residential development on any site that meets Rule 14.9.3.17, except where a different maximum height is specified in the areas in (4) or (5) below.	11m
3.	Retirement villages, except where a different maximum height is specified in the areas in (4) or (5) below.	11m
4.	Within the Prestons Outline Development Plan area (Appendix 8.6.25), in Density A and B areas defined in the outline development plan or on an approved subdivision consent granted before [insert date of Decision] :	
	A. Density A	11m
	B. Density B	10m

5.	Within the Wigram Outline Development Plan area (Appendix 8.6.29), in Density A and B areas defined in the outline development plan or on an approved subdivision consent granted before [insert date of Decision]. A. Density A B. Density B	13m 9m
6.	Within the Yaldhurst Outline Development Plan area (Appendix 8.6.28), in Density A areas defined in the outline development plan or on an approved subdivision consent granted before [insert date of Decision].	11m

14.9.3.2 Site coverage

- a. The maximum percentage of the net site area covered by buildings excluding:
- i. Fences walls and retaining walls;
 - ii. Eaves and roof overhangs up to 600 millimetres in width from the wall of a building;
 - iii. Uncovered swimming pools up to 800 millimetres in height above ground level; and/or
 - iv. Decks, terraces, balconies, porches, verandahs, bay or box windows (supported or cantilevered) which:
 - A. Are no more than 800 millimetres above ground level and are uncovered or unroofed; or
 - B. where greater than 800 millimetres above ground level and are covered or roofed, are in total no more than 6m² in area for any one site;

shall be as follows:

1.	Sites with a net area of 300m ² and over, except as specified below.	40%
2.	Sites with a net area of under 300m ² , except as specified below.	45%
3.	Comprehensive residential development on any site that does not meet Rule 14.9.3.17 Comprehensive residential development – development site area.	45%
4.	Comprehensive residential development on any site that meets Rule 14.9.3.17 Comprehensive residential development – development site area. The percentage coverage by buildings is to be calculated over the net area of the site of the entire development, rather than over the net area of any part of the development.	50%
5.	Retirement villages The percentage coverage by buildings is to be calculated over the net area of the site of the entire development, rather than over the net area of any part of the development.	50%
6..	Within the Prestons Outline Development Plan area (Appendix 8.6.25), in Density A and B areas defined in the outline development plan: A. Density A B. Density B	80% 60%
7.	Within the Wigram Outline Development Plan area (Appendix 8.6.29), in Density A and B areas defined in the outline development plan: A. Density A B. Density B	80% 60%

8.	Within the Yaldhurst Outline Development Plan area (Appendix 8.6.28), in Density A and B areas as shown on an approved subdivision consent plan granted before [insert date of Decision].	60%
9.	Within the Yaldhurst Outline Development Plan area (Appendix 8.6.28), in medium density areas as shown on an approved subdivision consent plan granted before [insert date of Decision].	45%

14.9.3.3 Outdoor living space

- a. Accessible outdoor living space shall be provided on site for each residential unit, and can be a mix of private and communal areas, at ground level or provided by way of above ground balconies, and shall meet the following areas and dimensions:

	Activity/Area	Standard		
		Minimum total area	Minimum private area	Minimum dimension
i.	Residential units (two bedrooms or more).	30m ²	16m ²	4m for a private ground floor space or communal space
ii.	One bedroom or studio units on the ground floor	16m ²	16m ²	4m for a private ground floor space or communal space
iii.	One bedroom or studio units on the first floor or above	16m ²	6m ²	1.5m for balconies 4m for a private ground floor space or communal space

- b. Outdoor living space shall not be encumbered by parking or access arrangements.
- c. At least one private outdoor living space shall be accessible from a living area of the residential unit.
- d. This rule does not apply to a retirement village or a comprehensive residential development.

14.9.3.4 Daylight recession plane

- a. Buildings shall not project beyond a building envelope constructed by recession planes (as shown in Appendix 14.14.2 Diagram C), from points 2.3 metres above:
- internal boundaries; or
 - where an internal boundary of a site abuts an access allotment or access strip the recession plane may be constructed from points 2.3 metres above the furthest boundary of the access allotment or access strip or any combination of these areas; or
 - where buildings on adjoining sites have a common wall along an internal boundary the recession planes will not apply along that part of the boundary covered by such a wall.
 - Except; buildings on sites in the Density A and B area shown on an approved subdivision consent plan granted before [insert date of Decision] in the Yaldhurst Outline Development Plan Appendix 8.6.28 is to calculate recession planes as shown in Appendix 14.14.2 Diagram D.

- b. Where the building is located in an overlay that has a permitted height of more than 11 metres, the recession plane measurement shall commence from points 2.3 metres above internal boundaries and continue on the appropriate angle to points 11 metres above ground level, at which point the recession plane becomes vertical.

Refer to Appendix 14.14.2 for permitted intrusions

- c. Where the building is located in a Flood Management Area, the exemptions in Rule 5.3.1.3 apply (for activities in P1-P4 in Table 5.3.1.1b).

14.9.3.5 Minimum building setbacks from internal boundaries and railway lines

- a. The minimum building setback from internal boundaries shall be as follows:

1.	All buildings not listed below	1 metre
2.	Where residential buildings on adjoining sites have a ground floor window of a habitable space located within 1.8m of the common internal boundary. Except for Density A and B sites shown on an approved subdivision consent plan granted before [insert date of Decision] in the Yaldhurst Outline Development Plan Appendix 8.6.28.	1.8m from neighbouring window for a minimum length of 2m either side of the window. This rule also applies to accessory buildings.
3.	All other accessory buildings where the total length of walls or parts of the accessory building within 1 metre of each internal boundary does not exceed 10.1 metres in length	Nil
4.	Buildings that share a common wall along an internal boundary	Nil
5.	All other buildings where the internal boundary of the site adjoins an access or part of an access	1 metre
6.	Buildings, balconies and decks on sites adjacent or abutting railway lines,	4 metres from the rail corridor boundary
7.	Additional setbacks are required from specified internal boundaries in the Prestons Outline Development Plan.	Refer to Prestons Outline Development Plan

- b. The above setbacks do not apply to the sites shown on an approved subdivision consent plan granted before [insert date of Decision] in the Yaldhurst Outline Development Plan Appendix 8.6.28, unless a residential unit constructed on these sites is demolished and rebuilt.
- c. For a retirement village or a comprehensive residential development, this rule applies only to the internal boundaries on the perimeter of the entire development.

14.9.3.6 Minimum setback and distance to living area windows and balconies

- a. The minimum setback from an internal boundary for a living area window, including studio units, shall be 3m (and 4m for living area windows and balconies on floors above ground level).

- b. For a retirement village or a comprehensive residential development, this rule applies only to the internal boundaries on the perimeter of the entire development.

14.9.3.7 Landscaping

- a. The full length of the road frontage not used as vehicle or pedestrian access, shall be landscaped to a minimum depth of 2m.
- b. Landscaping shall be provided in specified areas within the:
 - i. Prestons Outline Development Plan area in accordance with Appendix 8.6.25 narrative section 2
 - ii. Highfield Outline Development Plan area in accordance with Appendix 8.6.26 narrative section 9.
- c. This rule does not apply to a comprehensive residential development.

14.9.3.8 Fencing in the road boundary setback

- a. The maximum height of any fence in the required building setback from a road boundary shall be 1.2 metres.
- b. This rule does not apply to fences or other screening structures located on an internal boundary between two properties zoned residential, or residential and commercial or industrial.

For the purposes of this rule, a fence or other screening structure is not the exterior wall of a building or accessory building.

Within the Prestons Outline Development Plan area (Appendix 8.6.25), clause (a) shall apply except that the maximum height of any fence shall not exceed 2m where the fence is at least 50% transparent.

- c. Additional fencing requirements in the Prestons Outline Development Plan area are specified in Appendix 8.6.25 narrative section 2.
- d. This rule does not apply to a comprehensive residential development.

14.9.3.9 Parking areas

- a. Parking areas shall be separated from adjoining roads by either planting, fences, or a combination thereof. The standards in Rules 14.9.3.7 (Landscaping) and 14.9.3.8 (Fencing in the road boundary setback) apply.
- b. This rule does not apply to a retirement village or a comprehensive residential development.

14.9.3.10 Garages

- a. Garages shall not comprise more than 50% of the ground floor elevation viewed from any one road boundary on any one site and shall not be more than 6.5m wide. For garages with the vehicle door generally facing a shared access or road boundary the minimum garage setback shall be 5.5m from the shared access (not including access allotments) or road boundary.

- b. This rule does not apply to sites shown on subdivision approval plans RMA92029514 in the Yaldhurst Outline Development Plan Appendix 8.6.28, unless a residential unit constructed on these sites is demolished and rebuilt.
- c. This rule does not apply to a retirement village or a comprehensive residential development.

14.9.3.11 Road boundary building setback

- a. The minimum building setback from road boundaries shall be 4m except where b or c applies.
- b. The minimum building setback from road boundaries shall be 3m on any site within the Prestons Outline Development Plan area (Appendix 8.6.25) or Yaldhurst Outline Development Plan (Appendix 8.6.28).
- c. The minimum building setback from road boundaries shall be 2m on any site in Density A areas within the Wigram Outline Development Plan area (Appendix 8.6.29).
- d. This rule does not apply to a comprehensive residential development.

14.9.3.12 Ground floor habitable space and overlooking of street

- a. The ground floor of a residential unit shall have a habitable space with a window area of at least 2m² facing the road boundary.
- b. This rule does not apply to a retirement village or a comprehensive residential development.

14.9.3.13 Service, storage and waste management spaces

- a. For multi-unit residential complexes and social housing complexes only:
 - i. each residential unit shall be provided with at least 2.25 m², with a minimum dimension of 1.5 metres, of outdoor or indoor space at ground floor level for the dedicated storage of waste and recycling bins;
 - ii. each residential unit shall be provided with at least 3 m², with a minimum dimension of 1.5 metres, of outdoor space at ground floor level for washing lines; and
 - iii. the required spaces in i. and/or ii. for each residential unit shall be provided either individually, or within a dedicated shared communal space.
- b. This rule does not apply to a retirement village, a comprehensive residential development or to residential unit constructed as at [insert date of Decision].

14.9.3.14 Minimum unit size

- a. The minimum net floor area (including toilets and bathrooms, but excluding carparking, garaging or balconies) for any residential unit shall be as follows:

	Number of bedrooms	Minimum net floor area
1.	Studio	35m ²
2.	1 bedroom	45m ²
3.	2 bedrooms	60m ²

	Number of bedrooms	Minimum net floor area
4.	3 or more bedrooms	90m ²

- b. This rule does not apply to residential units in a retirement village or a comprehensive residential development.

14.9.3.15 Water supply for fire fighting

- a. Sufficient water supply and access to water supplies for fire fighting shall be made available to all residential units via Council's urban fully reticulated system and in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS:4509:2008).

14.9.3.16 Outline development plan

- a. Any activity shall be in accordance with the development requirements in a relevant outline development plan.

14.9.3.17 Comprehensive residential developments – development site area

- a. The minimum area of any comprehensive residential development site shall be 6000m².

14.13 Controlled and restricted discretionary matters

14.13.1 Residential design principles

New developments shall be assessed against the six residential design principles a.-f. set out below. Each residential design principle is accompanied by relevant considerations which are a guide to applicants and consent officers when considering an application against the residential design principles themselves.

The relevance of the considerations under each residential design principle will vary from site to site and, in some circumstances, some of the considerations may not be relevant at all. For example, a.ii. is likely to be highly relevant to a development adjacent to heritage buildings; whereas a.ii. might be less relevant to a development in an area void of heritage buildings.

City context and character

- a. Whether the design of the development is in keeping with, or complements, the scale and character of development anticipated for the surrounding area and relevant significant natural, heritage and cultural features.

The relevant considerations are the extent to which the development:

- i. includes, where relevant, reference to the patterns of development in and/or anticipated for the surrounding area such as building dimensions, forms, setbacks and alignments, and secondarily materials, design features and tree plantings; and
- ii. retains or adapts features of the site that contribute significantly to local neighbourhood character, potentially including existing heritage buildings, site contours and mature trees.

Relationship to the street and public open spaces

- b. Whether the development engages with and contributes to adjacent streets, and any other adjacent public open spaces to contribute to them being lively, safe and attractive.

The relevant considerations are the extent to which the development:

- i. orientates building frontages including entrances and windows to habitable rooms toward the street and adjacent public open spaces;
- ii. designs buildings on corner sites to emphasise the corner; and
- iii. avoids street facades that are blank or dominated by garaging.

Built form and appearance

- c. Whether the development is designed to minimise the visual bulk of the buildings and provide visual interest.

The relevant considerations are the extent to which the development:

- i. subdivides or otherwise separates unusually long or bulky building forms and limits the length of continuous rooflines;

- ii. utilises variety of building form and/or variation in the alignment and placement of buildings to avoid monotony;
- iii. avoids blank elevations and facades dominated by garage doors; and
- iv. achieves visual interest and a sense of human scale through the use of architectural detailing, glazing and variation of materials.

Residential amenity

- d. In relation to the built form and residential amenity of the development on the site (i.e. the overall site prior to the development), whether the development provides a high level of internal and external residential amenity for occupants and neighbours.

The relevant considerations are the extent to which the development:

- i. provides for outlook, sunlight and privacy through the site layout, and orientation and internal layout of residential units;
- ii. directly connects private outdoor spaces to the living spaces within the residential units;
- iii. ensures any communal private open spaces are accessible, usable and attractive for the residents of the residential units; and
- iv. includes tree and garden planting particularly relating to the street frontage, boundaries, accessways, and car parking.

Access, parking and servicing

- e. Whether the development provides for good access and integration of space for parking and servicing.

The relevant considerations are the extent to which the development:

- i. integrates access in a way that is safe for all users, and offers convenient access for pedestrians to the street, any nearby parks or other public recreation spaces;
- ii. provides for car parking and garaging in a way that does not dominate the development, particularly when viewed from the street or other public open spaces; and
- iii. provides for suitable storage and service spaces which are conveniently accessible, safe and/or secure, and located and/or designed to minimise adverse effects on occupants, neighbours and public spaces.

Safety

- f. Whether the development incorporates Crime Prevention Through Environmental Design (CPTED) principles as required to achieve a safe, secure environment.

The relevant considerations are the extent to which the development:

- i. provides for views over, and passive surveillance of, adjacent public and publicly accessible private open spaces;
- ii. clearly demarcates boundaries of public and private space;
- iii. makes pedestrian entrances and routes readily recognisable; and
- iv. provides for good visibility with clear sightlines and effective lighting.

Hillside and small settlement areas

- g. Whether the development maintains or enhances the context and amenity of the area.
- The relevant considerations are the extent to which the development:
- i. maintains significant and distinctive landforms, geological features, water bodies and courses, indigenous and exotic vegetation, coastal margins and the habitat of indigenous fauna;
 - ii. has regard to and protects historic heritage from inappropriate subdivision use and development, and recognizes the relationship of Ngāi Tahu manawhenua with their ancestral lands, water, sites of cultural significance and other taonga, including access to mahinga kai and sites of cultural significance;
 - iii. is designed and located in a way that reduces dominance of buildings and structures;
 - iv. incorporates environmentally sustainable and low impact subdivision, site and building design;
 - v. responds to the qualities that are distinct and unique to each small settlement; and
 - vi. where appropriate and possible, maintains views from properties.

14.13.2 Site density and site coverage

- a. Whether the non-compliance is appropriate to its context taking into account:
- i. whether the balance of open space and buildings will maintain the character anticipated for the zone;
 - ii. any visual dominance of the street resulting from a proposed building's incompatible scale;
 - iii. any loss of opportunities for views in the Residential Banks Peninsula and Residential Conservation [defer to Stage 2] Zones; and
 - iv. the proportion of the building scale in relation to the proportion of the site.

14.13.3 Impacts on neighbouring property

- a. Whether the increased height, reduced setbacks, or recession plane intrusion would result in buildings that do not compromise the amenity of adjacent properties taking into account:
- i. overshadowing of adjoining sites resulting in reduced sunlight and daylight admission to internal and external living spaces beyond that anticipated by the recession plane, and where applicable the horizontal containment requirements for the zone;
 - ii. any loss of privacy through being overlooked from neighbouring buildings;
 - iii. whether development on the adjoining site, such as large building setbacks, location of outdoor living spaces, or separation by land used for vehicle access, reduces the need for protection of adjoining sites from overshadowing;
 - iv. the ability to mitigate any adverse effects of increased height or recession plane breaches through increased separation distances between the building and adjoining sites, the provision of screening or any other methods; and
 - v. within a Flood Management Area, whether the recession plane infringement is the minimum necessary in order to achieve the required minimum floor level.

14.13.4 Minimum unit size and unit mix

- a. When considering under sized units, whether the reduced unit size is appropriate taking into account:
 - i. the floorspace available and the internal layout and their ability to support the amenity of current and future occupants;
 - ii. other onsite factors that would compensate for a reduction in unit sizes e.g. communal facilities;
 - iii. scale of adverse effects associated with a minor reduction in size in the context of the overall residential complex on the site; and
 - iv. needs of any social housing tenants.

14.13.5 Scale of activity

- a. Whether the scale of activities and their impact on residential character and amenity are appropriate, taking into account:
 - i. the compatibility of the scale of the activity and the proposed use of the buildings with the scale of other buildings and activities in the surrounding area;
 - ii. the ability for the locality to remain a predominantly residential one; and
 - iii. the appropriateness of the use in meeting needs of residents principally within the surrounding living environment.
- b. The adverse effects of additional staff, pedestrian and traffic movements during the intended hours of operation on:
 - i. the character of the surrounding living environment; and
 - ii. noise, disturbance and loss of privacy of nearby residents.
- c. For home occupations, whether the non-compliance is an integral and necessary part of the home occupation.
- d. For residential units with more than 6 bedrooms, whether there should be a limit on the number of bedrooms over 6 bedrooms based on the impact on the surrounding neighbourhood and residential character.
- e. The ability to avoid, remedy or appropriately mitigate any adverse effects of the extended hours of operation; and other factors which may reduce the effect of the extended hours of operation, such as infrequency of the activity or limited total hours of operation.
- f. The opportunity the activity provides to support an existing nearby commercial centre.
- g. The opportunity the activity provides to support and compliment any existing health related or community activities in the surrounding area.

14.13.6 Traffic generation and access safety

- a. Whether the traffic generated is appropriate to the residential character, amenity, safety and efficient functioning of the access and road network taking into account:
 - i. in the case of effects on residential character and amenity:

- A. any adverse effects in terms of noise and vibration from vehicles entering and leaving the site or adjoining road, and their incompatibility with the noise levels acceptable in the respective living environments;
 - B. any adverse effects in terms of glare from headlights of vehicles entering and leaving the site or adjoining road on residents or occupants of adjoining residential sites;
 - C. any reduction in the availability of on-street parking for residents, occupants or visitors to adjoining residential sites to the point that it becomes a nuisance;
 - D. any adverse effects in terms of fumes from vehicles entering or leaving the site, on residents or occupiers of adjoining residential sites; and
 - E. the ability to mitigate any adverse effects of the additional traffic generation such as through the location and design of vehicle crossings, parking and loading areas or through the provision of screening and other factors that will reduce the effect of the additional traffic generation, such as infrequency of the activity, or limited total time over which the traffic movements occur; and
- ii. in the case of the safe and efficient functioning of the road network:
- A. any cumulative effect of traffic generation from the activity in conjunction with traffic generation from other activities in the vicinity;
 - B. adverse effects of the proposed traffic generation on activities in the surrounding living environment;
 - C. consistency of levels of traffic congestion or reduction in levels of traffic safety with the classification of the adjoining road;
 - D. the variance in the rate of vehicle movements throughout the week and coincidence of peak times with peak traffic movements on the wider network; and
 - E. the location of the proposed access points in terms of road and intersection efficiency and safety, and the adequacy of existing or alternative access points.

14.13.7 Stormwater ponding areas within three kilometres of Christchurch International Airport

[deferred to Stage 2 General Rules]

14.13.8 Water supply for fire fighting

- a. Whether sufficient fire fighting water supply provision to ensure the health and safety of the community, including neighbouring properties, is provided.

14.13.9 Acoustic insulation

- a. Whether a reduction in acoustic insulation is appropriate taking into account:
 - i. a reduced level of acoustic insulation may be acceptable due to mitigation of adverse noise impacts through other means, e.g. screening by other structures, or distance from noise sources;

- ii. there is an ability to meet the appropriate levels of acoustic insulation through alternative technologies or materials; and
- iii. the provision of a report from an acoustic specialist provides evidence that the level of acoustic insulation is appropriate to ensure the amenity of present and future residents of the site.

14.13.10 Retirement villages

For the avoidance of doubt, this is the only matter of discretion that applies to retirement villages.

- a. Whether the developments, while bringing change to existing environments, is appropriate to its context taking into account:
 - i. engagement with, and contribution to, adjacent streets and public open spaces, with regard to:
 - A. fencing and boundary treatments;
 - B. sightlines;
 - C. building orientation and setback;
 - D. configuration of pedestrian entrances;
 - E. windows and internal living areas within buildings; and
 - F. if on a corner site is designed to emphasise the corner;
 - ii. integration of access, car parking and garaging in a way that is safe for pedestrians and cyclists, and that does not visually dominate the development, particularly when viewed from the street or other public spaces;
 - iii. retention or response to existing character buildings or established landscape features on the site, particularly mature trees, which contribute to the amenity of the area;
 - iv. appropriate response to context with respect to subdivision patterns, visible scale of buildings, degree of openness, building materials and design styles;
 - v. incorporation of Crime Prevention Through Environmental Design (CPTED) principles, including effective lighting, passive surveillance, management of common areas and clear demarcation of boundaries and legible entranceways;
 - vi. residential amenity for occupants and neighbours, in respect of outlook, privacy, noise, odour, light spill, weather protection, and access to sunlight, through site design, building, outdoor living and service/storage space location and orientation, internal layouts, landscaping and use of screening;
 - vii. creation of visual quality and interest through the separation of buildings, variety in building form, distribution of walls and openings, and in the use of architectural detailing, glazing, materials, and colour; and
 - viii. where practicable, incorporation of environmental efficiency measures in the design, including passive solar design principles that provide for adequate levels of internal natural light and ventilation.

14.13.11 Use of site and buildings - Prestons Road Retirement Village Overlay

- a. Whether the use of site and buildings is appropriate taking into account:
 - i. enhancement of services of value to the older person's housing complex, or assistance in retaining the viability of the complex;
 - ii. the likely effect of any additional activities on traffic generation, and the safety and efficiency of traffic movement within the older person's housing complex and the wider road network; and
 - iii. the effect of additional activities on residential amenities in the vicinity, particularly noise, traffic safety, parking congestion and visual amenity.

14.13.12 Concept plan - Prestons Road Retirement Village Overlay

- a. Whether the concept plan for the whole site is appropriate taking into account:
 - i. coordination and integration of road and pedestrian access with adjoining networks;
 - ii. provision for landscaping, outdoor living space, passive recreational facilities, and stormwater systems, swales for stormwater soakage, wetlands and retention basins. These must be planted with native species (not left as grass) that are appropriate to the specific use, recognising the ability of particular species to absorb water and filter waste for 165 independent units and a multi storey health facility including 45 services apartments;
 - iii. the provision, and design and layout of pedestrian circulation and connectivity of pedestrian access to Snellings Drain reserve;
 - iv. the efficient design and layout of carparking, vehicle manoeuvring, and garaging;
 - v. the incorporation and enhancement of existing landscape and water features;
 - vi. the external appearance of the health facility and how it respects the character and amenity values of the area, including building colours and materials, roof pitch and the effect and form of façade modulation, while recognising the use and functional nature of the health facility;
 - vii. adequacy of provision of planting for amenity and screening, enhancement of ecological and habitat values, and interface with surrounding areas. The incorporation of a minimum of 60% indigenous endemic species into new plantings;
 - viii. the effectiveness, environmental sensitivity of the stormwater management systems; and
 - ix. the integration of the stormwater management systems with the Council's drainage network.

14.13.13 Vehicular access - Prestons Road Retirement Village Overlay

- a. Whether vehicle access for the whole site is appropriate taking into account:
 - i. the actual or potential level of vehicle and pedestrian traffic likely to be generated from the proposed access;
 - ii. adverse effects on the traffic use of the access on the traffic function or safety of Prestons Road or both;

- iii. adequate mitigation for the adverse effects of additional vehicle movements on the access; and
- iv. safe ingress and egress in relation to site distances at the access from Prestons Road with reference to the Austroads Guide.

14.13.14 Special setback provision – Residential Suburban Zone Wigram

- a. Whether the location, form and function of the outdoor living area is appropriate taking into account:
 - i. adverse effects on the outdoor living needs of the likely future residents of the site;
 - ii. any alternative provision on, or in close proximity to, the site for outdoor living space to meet the needs of likely future residents of the site;
 - iii. adequacy of mitigation of potential adverse reverse sensitivity effects on current Royal New Zealand Air Force functions and operations through the location of outdoor living space, windows and the provision of fencing and/or landscaping;
 - iv. adequacy of mitigation of adverse effects from current Royal New Zealand Air Force functions and operations through the location of outdoor living space, windows and the provision of fencing and/or landscaping; and
 - v. adequacy of glazing, window design and location in mitigating the potential adverse effects from current Royal New Zealand Air Force functions and operations.

14.13.15 Lyttelton Port Influences Overlay

- a. Whether the development is appropriate taking into account:
 - i. increased potential for reverse sensitivity effects, including complaints, on the port activities resulting from residential outdoor living area activities; and
 - ii. any other methods to reduce the potential for reverse sensitivity effects on the port operator, other than the required acoustic insulation, that have been or can be incorporated into the design of the proposal.

14.13.16 Development plans

- a. Whether the development need be in accordance with the development plan taking into account:
 - i. coordination of development, particularly roading access and cycle linkages, with adjoining land;
 - ii. the adequacy and location, of open space areas within the development;
 - iii. any adverse effects on the visual appearance of development in the zone as seen from outside the zone, particularly where the land is highly visible;
 - iv. adverse effects on the strength of definition of the rural urban boundary;
 - v. any potential adverse effects on the surrounding road network;
 - vi. any adverse effects on Christchurch International Airport and its approach path, including any reverse sensitivity complaints;

- vii. any adverse effects on the visual amenity of residents in adjoining areas;
- viii. any adverse effects in terms of the enhancement of waterways within the development; and
- ix. effective, efficient and economically viable provision of services.

14.13.17 Relocation of buildings and temporary lifting or moving of earthquake damaged buildings

- a. Whether the relocation of the building is appropriate taking into account:
 - i. the likely appearance of the building upon restoration or alteration;
 - ii. the compatibility of the building with buildings on adjoining properties and in the vicinity;
 - iii. the exterior materials used, and their condition and quality;
 - iv. the period required for restoration work to be undertaken; and
 - v. any requirements to impose a bond or other condition to ensure completion of restoration work to an acceptable standard.
- b. Whether the temporary lifting or moving of the earthquake damaged building is appropriate taking into account:
 - i. the effect of reduced proximity on the amenity and/or operation of any neighbouring sites, water way, coastal marine area, archaeological site, or protected tree;
 - ii. the duration of time that the building will intrude upon the recession plane;
 - iii. any adverse effects on adjoining owners or occupiers relating to shading and building dominance; and
 - iv. occupancy of the neighbouring properties of the duration of the works, the extent to which neighbouring properties are occupied for the duration of the works.

14.13.18 Street scene – road boundary building setback, fencing and planting

- a. The extent to which the proposed building will detract from the coherence, openness and attractiveness of the site as viewed from the street.
- b. The ability to provided adequate opportunity for garden and tree planting in the vicinity of road boundaries.
- c. The ability to provide passive surveillance of the street.
- d. The extent to which the breach is necessary to enable more efficient, cost effective and/or practical use of the remainder of the site, or the long term-protection of significant trees or natural features on the site.
- e. For fencing, whether solid fencing is appropriate to provide acoustic insulation of living spaces where the road carries high volumes of traffic.
- f. The ability to provide adequate parking and manoeuvring space for vehicles clear of the road or shared access to ensure traffic and pedestrian safety.

- g. The effectiveness of other factors in the surrounding environment in reducing the adverse effects.

14.13.19 Minimum building, window and balcony setbacks

- a. Any effect of proximity of the building on the amenity of neighbouring properties through loss of privacy, outlook, overshadowing or visual dominance of the buildings.
- b. Any adverse on the safe and effective operation of site access.
- c. The ability to provide adequate opportunities for garden and tree plantings around buildings.
- d. The extent to which the intrusion is necessary to enable more efficient cost. Effective and/or practical use of the remainder of the site, or the long term protection of significant trees or natural features on the site.

14.13.20 Service, storage and waste management spaces

- a. The convenience and accessibility of the spaces for building occupiers.
- b. The adequacy of the space to meet the expected requirements of building occupiers.
- c. The adverse effects of the location, or lack of screening, of the space on visual amenity from the street or adjoining sites.

14.13.21 Outdoor living space

- a. The extent to which outdoor living areas provide useable space, contribute to overall on-site spaciousness and enable access to sunlight throughout the year for occupants.
- b. The accessibility and convenience of outdoor living space for occupiers.
- c. Whether the size and quality of communal outdoor living space or other open space amenity compensates for any reduction in private outdoor living space.
- d. The extent to which a reduction in outdoor living space will result in retention of mature on-site vegetation.

14.13.22 Non-residential hours of operation

- a. Whether the hours of operation are appropriate in the context of the surrounding residential environment taking into account:
 - i. traffic or pedestrian movements which are incompatible with the character of the surrounding residential area;
 - ii. any adverse effects of pedestrian activity as a result of the extended hours of operation, in terms of noise, disturbance and loss of privacy, which is inconsistent with the respective living environments;
 - iii. any adverse effects of the extended hours of operation on the surrounding residential area, in terms of loss of security as a result of people other than residents frequenting the area; and

- iv. the ability to avoid, remedy or appropriately mitigate any adverse effects of the extended hours of operation; and other factors which may reduce the effect of the extended hours of operation, such as infrequency of the activity or limited total hours of operation.

14.13.23 Minor residential units

- a. Whether the minor residential unit is appropriate to its context taking into account:
 - i. location of the minor residential unit so that it is visually hidden from the road leaving the site with a similar street scene to that of a single residential unit;
 - ii. the adverse visual effects associated with parking and access of any additional driveway to accommodate the minor residential unit on the street-scene;
 - iii. the size and visual appearance of the minor residential unit and its keeping with the existing level of buildings in rear gardens or rear sections surrounding the site;
 - iv. the consistency of the number of bedrooms and level of occupancy with a single large residential unit;
 - v. the convenience of the location of outdoor living space in relation the respective residential units; and
 - vi. the adequacy of size and dimension of the outdoor living space to provide for the amenity needs of future occupants.

14.13.24 Character Area Overlay

Area context

- a. Whether development recognises the distinctive landforms, landscape setting and development patterns of the character area in respect to:
 - i. retaining and enhancing the areas' natural features;
 - ii. integrating with the existing pattern and grain of subdivision and building;
 - iii. the extent and scale of vegetation retained and/or provided;
 - iv. the relationship with adjoining sites and buildings, including any recorded heritage values;
 - v. the visual coherence of the area.

Site character and street interface

- b. Whether the development complements the residential character and enhances the amenity of the character area by:
 - i. providing a balance of open space to buildings across the site consistent with the surrounding sites within the block, and to a lesser extent, the wider area ;
 - ii. providing a front yard building setback which is consistent with the overall depth and pattern of the character area, and in particular with other sites within the street;
 - iii. retaining the front yard for outdoor living, open space, tree and garden planting
 - iv. avoiding the location of vehicle access, parking and garaging within the front yard, or where it visually dominates the streetscene;

- v. having low height or no fencing on the street frontage; and
- vi. orientating the building on the site to face the street.

Built character

- c. Whether the development supports the residential built character values of the character area in regard to:
 - i. the scale and form of the building, including the roof form;
 - ii. architectural detailing including features such as verandas, materials, window and front entry design and placement;
 - iii. complementary and compatible building design;
 - iv. the recognition of recorded heritage values of adjacent buildings.

Akaroa and Lyttelton

- d. In addition to the matters listed above, in respect to Akaroa and Lyttelton character areas, whether the development:
 - i. retains important views from public places;
 - ii. reduces the potential for visual dominance of the development when viewed from elsewhere within the viewing catchment;
 - iii. responding through the use of the landscape at the street interface to the existing informality or formality of the streetscape;
 - iv. retains residential buildings, including accessory buildings, that were built prior to 1945 and/or that contribute to the architectural traditions and character values;
 - v. reflects the small scale and simple forms of residential building; and
 - vi. recognises any recorded heritage values adjacent and opposite to the development.

14.13.25 Indigenous vegetation clearance in Akaroa Hillslopes Density Overlay

- a. Whether it is necessary to remove indigenous vegetation, including whether the vegetation is removed to manage disease or plant pathogens.
- b. The relationship with other areas of vegetation and whether the proposed removal or alteration would negatively impact on that relationship, including in relation to habitat fragmentation and the effectiveness of any ecological corridor.
- c. Whether the vegetation has a positive effect in managing erosion, slope stability or other hazard.
- d. The extent to which existing vegetation will continue to contain and define the edge of Akaroa township, providing it with a distinct edge.
- e. The degree to which alteration or removal of vegetation will adversely affect soil conservation, water quality or the hydrological function of the catchment and the efficacy of mitigating measures.

- f. The extent of any revegetation proposed and its efficacy in mitigating any adverse effects.

14.13.26 Outline development plan

- a. The appropriateness of the proposal taking into account the outcomes sought by the outline development plan and relevant environmental effects with respect to those outcomes.

14.13.27 Comprehensive residential development in the Residential New Neighbourhood Zone

For the avoidance of doubt, these are the only matters of discretion that apply to comprehensive residential development in the Residential New Neighbourhood Zone.

- a. Whether the comprehensive residential development is consistent with the relevant outline development plan.
- b. Whether the comprehensive residential development demonstrates that every site or residential unit will experience appropriate levels of sunlight, daylight, privacy, outlook and access to outdoor open space and overall a high level of amenity for the development.
- c. Whether sites proposed to exceed the maximum site coverage in Rule 14.9.3.2 are internal to the application site and will not compromise the achievement of a high level of amenity within or beyond the development.
- d. Whether buildings proposed to exceed the maximum permitted height in Rule 14.9.3.1 will contribute positively to the overall coherence, design, layout and density of the development and surrounding sites.
- e. Whether the development engages with and contributes to adjacent streets, lanes and public open spaces, through the building orientation and setback, boundary and landscape treatment, pedestrian entrances, and provision of glazing from living areas.
- f. Whether the development, in terms of its built form and design, generates visual interest through the separation of buildings, variety in building form and in the use of architectural detailing, glazing, materials, and colour;
- g. Whether the development integrates access, car parking and garaging to provide for pedestrian and cyclist safety and the quality of the pedestrian environment, and the access, carparking and garaging does not dominate the development, particularly when viewed from the street or other public spaces;
- h. Whether there is sufficient infrastructure provision to service the development and ensure the health and safety of residents, visitors and neighbouring properties, including water supply for fire fighting purposes; and
- i. In relation to the built form standards that do not apply to comprehensive residential developments, consideration of these standards as a flexible guideline to achieve good design and residential amenity.

SCHEDULE 2**Table of submitters**

This list has been prepared from the index of appearances recorded in the Transcript, and from the evidence and submitter statements shown on the Independent Hearing Panel's website.

Submitter Name	№	Person	Expertise or Role if Witness	Filed/ Appeared
CCC	RNN2	A Collins	Planner	Filed/Appeared
		A Milne	Transport planner	Filed/Appeared
		B O'Brien	Planning engineer	Filed/Appeared
		J Reeves	Urban designer	Filed/Appeared
		J Schröder	Urban designer	Filed/Appeared
		P Kingsbury	Engineering geologist	Filed/Appeared
		R Norton	Planning engineer	Filed/Appeared
		S Oliver	Planner	Filed/Appeared
Colin Stokes	1182	C Stokes		Appeared
Maria Simmonds	2036	M Simmonds		Appeared
The Holistic Education Trust	2127	E Stewart	Planner	Filed
Cashmere Fields and Cashmere Park Trust	2148 2380	A Tisch	Engineer	Filed
		W Lewis	Engineer	Filed/Appeared
A&J Van der Leij and G Riach	2184	J van der Leij		Filed/Appeared
Lindsay Macbeth and Laurence Dann	2220	L Dann		Appeared
		L Macbeth		Appeared
Summerset Group Holdings Limited	2251	P Harte	Planner	Filed/Appeared
Awatea Residents' Association Incorporated Kay Stieller P and C King John Stewart Denise Stewart C Tindale & H Dawe	2306	K Stieller P Dellaca		Filed/Appeared
	2264			
	2279			
	2287			
	2290			
	2260			
Keith Woodford	2314	K Woodford		Filed/Appeared
		P Almond	Soil scientist	Filed/Appeared

Submitter Name	Nº	Person	Expertise or Role if Witness	Filed/ Appeared
Ryman Healthcare Limited and Retirement Villages Association	2347	J Kyle	Planner	Filed
Christchurch International Airport Limited (CIAL)	2348	M Bonis	Planner	Filed/Appeared
Canterbury Racecourse Reserve Trustees & Ngāi Tahu Property Limited	2366	A Penny	Traffic engineer	Filed
Canterbury Racecourse Reserve Trustees & Ngāi Tahu Property Limited CDL Land Limited Ngāi Tahu Property Limited	2366 2275 FS2814 2235	J Jones	Planner	Filed/Appeared
Crown	2387	S McIntyre	Planner	Filed/Appeared
Kennedys Bush Road Neighbourhood Association	2412	J Head	Landscape architect	Filed/Appeared
		J Green		Appeared
Sue McLaughlin	2459	S McLaughlin		Appeared
Ross Major	2499	R Major		Appeared
Luke Pickering	2510	L Pickering		Appeared
Tegel Foods Limited	2774	A Stewart	Planner	Filed/Appeared
Luneys Buchanan Limited	RNN1	P Harte	Planner	Filed/Appeared
Riccarton Wigram Community Board	RNN11	J Cook	Planner	Filed/Appeared
		M Mora and H Broughton		Appeared
Fulton Hogan Limited	RNN3	J West	Planner	Filed/Appeared
Danne Mora Holdings Limited	RNN5	M Brown	Planner	Filed
Oakvale Farm Limited	RNN7	K Seaton	Planner	Filed/Appeared
		M Wenborn	Civil engineer	Filed
Milns Road Farm Limited and Blakesfield Limited	RNN8	J Comfort	Planner	Filed