

Before an Independent Hearings Panel  
Appointed by Christchurch City Council

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*under:* the Resource Management Act 1991

*in the matter of:* proposed Plan Change 14 to the Christchurch District  
Plan

*and:* **Carter Group Limited**  
(Submitter 824)

Summary statement of Jeremy Phillips (Planning) on behalf of  
Carter Group Limited

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Dated: 16 November 2023

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## **SUMMARY STATEMENT OF JEREMY PHILLIPS ON BEHALF OF CARTER GROUP LIMITED**

### **INTRODUCTION**

- 1 My full name is Jeremy Goodson Phillips.
- 2 I provided a statement of evidence in relation to the relief sought by Carter Group Limited (*Carter Group*) on proposed Plan Change 14 to the Christchurch District Plan (*PC14*) dated 20 September 2023 (*Evidence in Chief*). My qualifications, experience and confirmation I will comply with the Code of Conduct for Expert Witnesses (Part 9, Environment Court Practice Note 2023) are set out in my Evidence in Chief and I do not repeat those here.
- 3 This statement is intended to provide a brief summary of my evidence in relation to the Residential Zones hearing topic. This includes updates where relevant in light of the rebuttal evidence filed for Christchurch City Council (*Council*).
- 4 **Attachment 1** of this statement includes the provisions as recommended in the Council's section 42a reports, with tracked and highlighted changes indicating the amendments recommended in my evidence. This attachment also includes an evaluation of the recommended amendments against the mandatory objectives and policies in schedule 3A of the Act, the operative Plan's strategic objectives 3.3.1 and 3.3.2, and a s32AA evaluation.

### **THEMATIC ISSUES**

- 5 As set out in my primary evidence and in my summary for the hearing on the Central City and Commercial Zones hearing topic, I have general concerns with the extent to which PC14: goes beyond the scope of an IPI; and/or is inconsistent with strategic objectives 3.3.1 and 3.3.2; and/or duplicates operative provisions that otherwise provide for evaluation of the merits or effects of increased height or density either partly or fully.
- 6 Those same concerns apply to the provisions which are the subject of this hearing that my evidence engages on, including:
  - 6.1 Residential heritage areas (RHAs) and associated provisions<sup>1</sup>;
  - 6.2 Tree canopy provisions and associated provisions<sup>2</sup>;
  - 6.3 Transport provisions; and,
  - 6.4 Residential provisions.

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<sup>1</sup> RHAs, RHA interface provisions, RHA related subdivision lot size, and RHA related height limit for 32 Armagh)

<sup>2</sup> In the subdivision and residential chapters.

## RESIDENTIAL HERITAGE AREAS

- 7 My evidence concludes that the RHA (and RHA interface) provisions are more restrictive than the status quo and are therefore beyond the scope of an IPI, per *Waikanae*. Section 10 of Ms Dixon's s42a report acknowledges the same.
- 8 Table 1 of my evidence otherwise details the significant, additional constraints on residential development imposed by the Inner City West RHA QM, relative to that currently permitted, or that proposed under PC14's HRZ provisions. Accounting for this and in response to rebuttal evidence asserting otherwise, I consider robust justification of this RHA, its provisions and its status as a QM is essential and remain of the view that insufficient justification has been provided. This is on the basis that:
- 8.1 Historic heritage (as defined in s2 of the Act and including heritage areas) is already subject to a framework for protection and management in the District Plan<sup>3</sup>. As such, heritage items, heritage settings, and heritage areas that are not currently scheduled are able to be assessed, listed and protected within this existing framework, if required. That alternative has not been considered.
- 8.2 The proposed RHA provisions focus on the removal or modification of buildings (which is already managed by operative provisions for scheduled items) and assumes any loss or change to defining or contributory buildings will inherently detract from the values of the area. My evidence questions this assumption, noting:
- (a) The absence of any framework within the PC14 provisions for assessing the contribution/rating of individual buildings (which in turn is relied on to ultimately justify the RHA as a whole);
- (b) The questionable examples of contributory or defining sites within the Inner City West RHA I refer to<sup>4</sup>; and,
- (c) The potential for new buildings to make an equivalent or greater contribution to the heritage values of the area (than the buildings they replace).

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<sup>3</sup> 'Heritage areas' are defined in the Plan as 'an area of land that is identified in Appendix 9.3.7.3 Schedule of significant historic heritage areas because it comprises an inter-related group of historic places, buildings, structures and/or sites that make a significant contribution towards an understanding and appreciation of Christchurch District's history and cultures'. Such areas are subject to policies 9.3.2.2, 9.3.2.3 and 9.3.2.11, are identified in Appendix 9.3.7.3, and development proposals are subject to the specific assessment matters in 9.3.6.3.

<sup>4</sup> At 32 Armagh Street and as described in para 113 of my evidence.

- 8.3 To the extent that RHAs are intended to provide for the protection of areas featuring a collection of buildings that *'contribute to the overall heritage values, identity and amenity of the City'*<sup>5</sup> and satisfy the criteria listed in paragraph 6.1.6 of Ms Dixon's s42a report, the amended policies in PC14 do not clearly express this purpose.

Nor do I consider the site assessments individually or collectively provide sufficient justification to demonstrate that the Inner City West RHA makes a *'significant contribution towards an understanding and appreciation of Christchurch District's history and cultures'*, per the Plan's operative and unchanged definition of 'heritage area', and consistent with the CRPS emphasis on managing heritage values that make a significant contribution to the Region<sup>6</sup>.

Furthermore, operative policy 9.3.2.2.3 *'Management of scheduled historic heritage'* is focused on features of historic heritage identified and scheduled under policy 9.3.2.2.1 and their specific values. It is therefore not well suited to manage the broader values of an area, or the removal or modification of buildings that have no significant heritage value in and of themselves. Conversely, operative policy 9.3.2.2.2 and the assessment matters in Rule 9.3.6.3 that apply when triggered by a rule in the zone chapter are designed to manage areas with heritage values that feature a variety of buildings and activities of variable heritage quality.

For these reasons, my evidence considers that the effects of land use and development on the broader heritage values of an area, are most appropriately managed by design focused provisions that consider the intended (rather than existing) use of a site in the context of its surrounds. If areas are found to have sufficient heritage merit to warrant heritage protection, then that can and should occur within the operative framework for 'heritage areas'. As presently drafted, the proposed provisions for RHA focus on managing changes to existing buildings (as is the case for provisions managing scheduled heritage items) rather than managing the relationship of new development to the values or characteristics of the area.

- 8.4 For the same reasons expressed above, I also consider that taller or more intensive development will not necessarily affect the heritage values of the area it is located in and therefore this should not be precluded or limited by way of the RHA QM or the RHA interface overlay. Such development will generally be subject to urban design rules providing discretion to consider the relationship to among other things,

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<sup>5</sup> Para 6.1.2 of Ms Dixon's s42a report.

<sup>6</sup> See CRPS cl. 13.1.1, policy 13.3.1 and explanation to policy 13.3.1.

*'significant natural, heritage and cultural features'*<sup>7</sup>. And, defining the extent of 'heritage areas' appropriately would allow for new development within those areas to be considered against the operative assessment matters in rule 9.3.6.3. On this basis, development (of any scale) can be managed to ensure its relationship and contribution to the surrounding environment is appropriate.

9 I note that a number of the points addressed in my evidence, as summarised above, were raised in the Minute by the IHP on the Christchurch Replacement District Plan regarding Topics 9.1-9.5 and the drafting of heritage provisions which culminated in the operative provisions now in subchapter 9.3. I attach that minute in full as **Attachment 2**, but note the following points within that minute which I consider equally apply to the RHA provisions here:

9.1 The heritage statements of significance (or in this case, the assessments of contributory or defining buildings) *'are a central plank of the s32 evaluation'*, requiring multi-disciplinary input and peer review, and evaluation in consultation with landowners regarding financial or economic viability issues. Statements/assessments that identify features of heritage value should not be assumed to then warrant identification and regulation in the District Plan in order to satisfy RMA obligations. Care is required to avoid *'restrictions on land use and development [that] are not properly targeted and are uncertain and disproportionate'*<sup>8</sup>.

9.2 In regards the assessment and identification of historic heritage, *'there needs to be a clear distinction made between (a) **assessment** of significance of heritage values; (b) **identification** (listing) in the Schedule; and (c) **protection** through the CRDP'*. Conflation of these three steps is to be avoided<sup>9</sup>. In this case, and as stated in my evidence and above, such a distinction is lacking.

9.3 In regards the risk of acting or not acting, the risks of a poorly targeted regulatory regime (i.e. in terms of uncertainty and cost) would be transferred to individual property owners and the community at large<sup>10</sup>.

10 I further note that since the filing of my evidence, the submitter has obtained resource consent<sup>11</sup> for the demolition of the 'Tuck shop' building at 32 Armagh Street which was assessed in PC14 as a

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<sup>7</sup> Per Residential Design Principle (assessment matter) 14.15.1 (c) City context and character.

<sup>8</sup> Paragraphs 14-19 of IHP Minute on topics 9.1-9.5 of the Christchurch Replacement District Plan.

<sup>9</sup> *Ibid.*, paragraphs 23-30.

<sup>10</sup> *Ibid.*, paragraph 34.

<sup>11</sup> CCC reference RMA20232254 (copy included as **Attachment 3**).

contributory site/building. Relevantly, the conclusion in that resource consent decision stated that the building *'has individual heritage value for its historic association with CGHS. These values may however also be represented by another building on the wider site. Additionally (and more critically), the particular values that the building represents are not those delineated as the defining values of the RHA. The loss of the building would therefore have a negligible impact on the values and significance of the RHA as a whole'*. This conclusion reinforces my evidence questioning the individual value of the building or its contribution to the values of the area and why I consider the provisions should focus on the future, rather than existing, use of the site.

- 11 In regards to the rebuttal evidence and summary statements filed since the preparation of my evidence:
  - 11.1 Contrary to Dr McEwan's rebuttal evidence, I do not dispute the existence of 'heritage areas', noting that they are already a defined term within the operative Plan and are clearly within the Act's definition of historic heritage. Nor do I consider that section 6(f) only applies to nationally important heritage items (as suggested in the rebuttal of Dr McEwan and Ms Dixon). To clarify, my evidence questions (for the reasons summarised above) whether the Inner City West RHA qualifies under the definition of 'heritage area' or constitutes historic heritage of sufficient significance, to then make 'provision' (under s6(f)) for the 'protection' (by way of QM) from MDRS/policy 3 density on the basis that this constitutes 'inappropriate use and development'.
  - 11.2 At paragraph 21, Ms Dixon's rebuttal dismisses the potential for urban design principles or assessment matters (including those in rule 9.3.6.3) to address the compatibility of development with the collective heritage values of an area as a whole. My evidence explains why those provisions are sufficient, and to the extent that Ms Dixon considers they do not adequately cover this issue, she does not engage on the extent to which minor amendments to urban design provisions (or wider application of the matters in rule 9.3.6.3) may address her concerns.
  - 11.3 At paragraph 27, Ms Dixon's rebuttal misses my point that there is no policy guidance as to how individual buildings or sites will be assessed despite RHA's requiring *'a threshold of the majority of the sites/buildings having primary (defining) or contributory importance to the heritage area'*<sup>12</sup>, nor how RHA's as a whole meet the significance criteria in Appendix 9.3.7.1. I otherwise note from Ms Dixon's summary statement, her reliance on heritage experts alone to judge and classify the contribution of buildings, which raises the

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<sup>12</sup> Para 6.1.7 of Ms Dixon's s42a report.

issues cited by the IHP, as addressed in paragraph 9.1 above. Lastly, Ms Dixon's summary statement<sup>13</sup> notes that a number of RHA's are already "fragile" with approximately 65% of buildings being contributory or definitive – indicating that the inclusion or not of individual properties (and the boundary definition of RHAs) may be determinative under Council's own criteria/thresholds.

- 11.4 Paragraphs 30-33 of Ms Dixon's rebuttal evidence addresses the demolition policy for contributory and defining buildings and acknowledges the need for change to its wording. Firstly, I reiterate my concerns above that the RHA provisions (including this policy) prioritise retention of these buildings, rather than retention of heritage values of the area. Ms Dixon's rebuttal also (perhaps inadvertently) concedes that *'it would be difficult to argue on an individual basis that the demolition of any building in an RHA would significantly compromise the collective heritage values of the whole area, unless that building was or should be a scheduled building'*, suggesting that demolition should either be strongly discouraged/avoided (with associated activity status and policy direction), or accepted. For the reasons stated in my evidence, I consider the latter to be appropriate.
- 12 In summary, I remain of the view that the RHA provisions in their entirety (and particularly for the Inner City West RHA) are inappropriate and should be deleted. If areas are found to warrant identification and listing as 'heritage areas', then protection is already afforded to such areas by the operative provisions in the Plan.

### **TREE CANOPY PROVISIONS**

- 13 My evidence concludes that the provisions in PC14 relating to tree canopy cover and associated financial contributions should be deleted in their entirety, primarily on the basis that the Operative District Plan provisions (objectives, policies, rules, and assessment matters) adequately address the problem or issues that the s32 report states the new provisions are intended to address.
- 14 Ms Hansbury's rebuttal has not addressed my evidence, nor the point that existing landscaping provisions are more appropriate. However, I note Mr Clease's evidence for Kainga Ora also describes and prefers the clarity, certainty and effectiveness of the operative tree planting rule for multi-unit developments and I agree with his evidence in this regard<sup>14</sup>.

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<sup>13</sup> paragraph 19

<sup>14</sup> <https://chch2023.ihp.govt.nz/assets/Evidence-20-September/Kainga-Ora-Homes-and-Communities-834-2082-2099-Evidence-Jonathan-Clease-Tree-FC-Planning.pdf> paragraphs 4.59-4.66

## TRANSPORT

15 My evidence largely relies on the traffic engineering evidence of Ms Williams as to the detailed provisions and amendments proposed. I understand that a number of Ms Williams concerns have since been resolved through the conferencing of transport experts and the joint witness statement (JWS), and by way of further amendments that Ms Piper has indicated (through informal conferencing) are forthcoming. To the extent that matters remain outstanding:

15.1 **Accessible parking** – there is presently no requirement for accessible parking for residential activities. As such, the requirement for accessible parking as recommended in the s42a report in response to submissions: is a new requirement, is disabling relative to the status quo, and is a matter of likely interest to potential submitters that have not participated in PC14 to date. In particular, the land required to now provide accessible parking and associated vehicle access and manoeuvring will have potentially significant development costs in intensive central city locations, where it is not otherwise required. For these reasons, I consider this new requirement is not appropriate for reasons of scope. As to its merits, I otherwise agree with Ms Williams that in order to avoid inconsistency between the District Plan and the Building Act, this a matter best managed by the latter and if those requirements are inadequate, that is a matter best resolved through future amendments to that Act. I note that the summary statement of Ms Blair for the Council expresses similar rationale (albeit in respect of MRZ and HRZ rules on fire and structural stability which are otherwise addressed by the Building Act), stating that *'it would be double handling to include these [rules] in the resource consent process, and add time and complexity to consent processing that is not warranted given the matter is addressed through compliance with other legislation'*<sup>15</sup>.

15.2 **Pedestrian access**– through informal conferencing with Ms Piper for Council prior to this hearing, I understand that amendments to Policy 7.2.1.9 are forthcoming, to align with the proposed amendments to the requirements in Appendix 7.5.7 c. and d. as agreed through the JWS. Whilst I am yet to see Ms Piper's amendments to this policy, on the expectation they will align with the amendments to the appendix and are straightforward changes to make, my concerns with this issue are resolved.

15.3 **Vehicle crossing separation** –Ms Williams' evidence prefers a 1.8m crossing separate distance, but per the transport JWS she accepts a 3.0m separation. Ms Piper's s42a report recommended the distance be reduced (from 13m) to 10m,

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<sup>15</sup> Para 14, summary statement of Hermione Blair, 1/11/2023



on the basis of Mr Field’s urban design evidence, which seeks space (in the road reserve between crossings) for on-street car parking and tree planting in the berm. From recent informal conferencing with Ms Piper, I understand she may now be inclined towards an 8.1m or 3.0m distance.

The operative assessment matters for this rule<sup>16</sup> are unchanged by PC14 and in the provisions accompanying the s42a report and only consider: *i. Whether the landscaping adjacent to the road will be adversely affected by the location of the vehicle crossing; and ii. Whether safety will be adversely affected by conflict between manoeuvring vehicles at the crossings.* On this basis, the implications for on-street parking are not a matter that the rule is intended, or has scope, to address.

In any event, the 10m (or 8.1m) separation distance still raises the same practical issues set out in Ms Williams’ evidence. For these reasons, and those set out in Ms Williams’ evidence and summary statement I consider a separation distance need not be prescribed, but if one is imposed it should not exceed 3.0m.

## **RESIDENTIAL CHAPTER**

- 16 My evidence recommends minor wording changes to three residential **policies** to avoid them being imposed as mandatory and prescriptive requirements. On reflection, I have revised my suggested wording for policy 14.2.5.1 to better account for the ‘directive’ requirements in clauses (a)(i)-(vii) and allow for these to be pursued ‘to the extent practicable’.
- 17 In regards **MDR and HRZ zone rules**, I have suggested the deletion of prescriptive rules that I consider are unnecessarily prescriptive, impose greater regulatory obligations than the status quo, are not required in response to MDRS or Policy 3 and conflict with objective 3.3.2.
- 18 In regards the assessment matters in rule 14.15.3 Impacts on neighbouring property, I consider minor amendments are required to clause (c) to improve clarity and certainty.

**Jeremy Phillips**

**16 November 2023**

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<sup>16</sup> Rule 7.4.4.13 Minimum distance between vehicle crossings (assessment matters)

**Attachment 1: Recommended amendments to s42a provisions**

**(Changes to the s42a report version of provisions are highlighted and tracked, and a s32AA evaluation is provided for each set of provisions)**

## [Sub-chapter 6.10A – Tree Canopy Cover & Financial Contributions]

*[Delete these provisions and all associated provisions in their entirety]*

<b>Evaluation of Proposed Deletion of Sub-chapter 6.10A – Tree Canopy Cover &amp; Financial Contributions and associated provisions</b>	
<b>Evaluation against Mandatory Objectives &amp; Policies (per Schedule 3A)</b>	<b>Do the proposed amendments better achieve the provision?</b>
<i>Objective 1 a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i>	Yes, insofar that the status quo includes requirements for landscaping & tree planting that adequately achieves a WFUE and in being less prescriptive better 'enables' all people etc to provide for their wellbeing in the way that they most prefer/choose.
<i>Objective 2 a relevant residential zone provides for a variety of housing types and sizes that respond to— (i) housing needs and demand; and (ii) the neighbourhood's planned urban built character, including 3-storey buildings.</i>	Yes –reducing the design prescription and consenting costs and uncertainty imposed by these rules better 'provides for' the outcomes sought by this provision. The proposed provisions are not otherwise required for the purpose of this policy.
<i>Policy 1 enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.</i>	Somewhat –reducing the design prescription and consenting costs and uncertainty imposed by these rules better 'enables' the outcomes sought by this provision. The proposed provisions are not otherwise required for the purpose of this policy.
<i>Policy 2 apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their</i>	Somewhat. The provisions to be deleted are not necessary to apply the MDRS, and a qualifying matter does not warrant their inclusion.

<i>ancestral lands, water, sites, wāhi tapu, and other taonga).</i>	
<i>Policy 3 encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i>	<p>Yes, on balance.</p> <p>Proposed tree planting provisions 'require', rather than 'encourage' more attractive streets than the status quo. Street tree planting is largely a matter in the control of Council (as road controlling authority) and the status quo includes provisions that 'encourage' attractive street interfaces (landscaping, frontages, urban design, etc) whilst providing greater design freedom, flexibility and choice.</p> <p>The provisions do not otherwise affect the achievement of safe streets and public open spaces.</p>
<i>Policy 4 enable housing to be designed to meet the day-to-day needs of residents.</i>	<p>Yes, insofar that the changes seek to limit design prescription and allow for housing to be designed to meet the range of design requirements (needs), rather than being dictated by inflexible requirements.</p> <p>For example, <i>requiring</i> tree planting and canopy may conflict with the day to day needs of some residents (e.g. those needing or wishing to prioritise daylight and sunlight admission, low maintenance or low height gardens, etc).</p>
<i>Policy 5 provide for developments not meeting permitted activity status, while encouraging high-quality developments.</i>	N/A albeit see above re 'encourage' vs 'require'.
<b>Evaluation against CDP Strategic Objectives 3.3.1 &amp; 3.3.2</b>	<b>Do the proposed amendments better achieve the provision?</b>
<p><b>3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district</b></p> <p><i>a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:</i></p> <p><i>i. Meets the community's immediate and longer term needs for housing, economic</i></p>	<p>Yes, on balance:</p> <p>i. See evaluation of mandatory objectives and policies above re meeting 'needs' by providing choice and flexibility.</p> <p>ii. The proposed provisions diminish investment certainty (insofar as additional regulatory control, development prescription and cost).</p>

<p><i>development, community facilities, infrastructure, transport, and social and cultural wellbeing; and</i></p> <p><i>ii. Fosters investment certainty; and</i></p> <p><i>iii. Sustains the important qualities and values of the natural environment.</i></p>	<p>iii. The provisions proposed by Council better 'sustain' the qualities and values of the natural environment (in terms of existing tree canopy retention).</p>
<p><b>3.3.2 Objective - Clarity of language and efficiency</b></p> <p><i>a. The District Plan, through its preparation, change, interpretation and implementation:</i></p> <p><i>i. Minimises:</i></p> <p><i>A. transaction costs and reliance on resource consent processes; and</i></p> <p><i>B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and</i></p> <p><i>C. the requirements for notification and written approval; and</i></p> <p><i>ii. Sets objectives and policies that clearly state the outcomes intended; and</i></p> <p><i>iii. Uses clear, concise language so that the District Plan is easy to understand and use.</i></p>	<p>Yes. The changes specifically seek to achieve greater alignment with this objective. Refer to evidence and evaluation of the mandatory objectives and policies above.</p>
<p><b>s.32AA Evaluation</b></p>	<p><b>Evaluation of the changes, relative to that proposed in the s42a report</b></p>
<p><b>Effectiveness &amp; efficiency</b></p>	<p>The Council's provisions are complex, difficult to monitor and enforce, and costly (refer to evidence). Against that context, deletion of the provisions as proposed will be more efficient.</p> <p>The proposed changes still effectively address the relevant issues (accounting for existing/operative and other rules that apply), but in a more efficient (non-prescriptive) manner than that proposed by Council. Refer to evidence for examples of other rules (e.g. minimum landscaping and tree planting requirements).</p> <p>Whilst some sub-optimal (i.e. ineffective) outcomes may eventuate through the</p>

	changes and reduced design prescription, on balance this is considered preferable to the inefficiencies of having inflexible and prescriptive rule requirements.
<b>Benefits/Costs</b>	<p>The changes better support and enable residential development/ intensification and otherwise reduce consenting requirements, design prescription and associated costs.</p> <p>There are no significant costs associated with the amendments recommended.</p>
<b>Risk of acting / not acting</b>	<p>There is no significant risk of acting or not acting. The changes relate to the degree of prescription expressed in the rules and as noted above, other existing/operative rules otherwise provide management (albeit to a less prescriptive degree) of the issues that the Council rules address.</p> <p>The main risk of not acting is that the Council's proposed provisions impose greater development costs and consenting complexity to those seeking to undertake intensification – ultimately discouraging, disabling or adding cost to that activity.</p> <p>To the extent that Council seek more planting in streets, they retain the ability to pursue that given their ownership/management of road corridors.</p>
<b>Decision about more appropriate action</b>	The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA

## [Chapter 7 – Transport]

### 7.2.1.9 Policy - Pedestrian Access

- a. **Pedestrian access** is designed to meet the access requirements of residents and their visitors, including persons with a disability or limited mobility.:
- i. ~~be of a sufficient width and grade that the pedestrian access meets the access requirements of all users, including persons with a disability or with limited mobility;~~
  - ii. ~~have a surface treatment that provides for all weather access; and~~
  - iii. ~~where required for consistency with Crime Prevention Through Environmental Design (CPTED), have sufficient illumination to provide for the safety of users after dark.~~

Advice note:

1. Policy 7.2.1.9 also achieves [Objectives 7.2.2](#) and [14.2.4](#)

### 7.4.3.8 Vehicle crossings

	Applicable to:	Standard	The Council's discretion shall be limited to the following matters:
...			
h.	In a residential zone, any Any vehicle crossing onto an urban road	The layout of vehicle crossings shall be in accordance with <a href="#">Rule 7.4.3.13</a> .	<a href="#">Rule 7.4.4.28</a> - Vehicle crossing layout

### 7.4.3.13 Co-Location of Vehicle Crossings

	<u>Applicable to</u>	<u>Standard</u>	<u>The Council's discretion shall be limited to the following matters:</u>
a.	Any new <u>vehicle crossing in an urban area</u>	<p>a. no more than two adjacent <u>sites accesses</u> shall share a <u>single vehicle crossing</u>;</p> <p>b. the total width of a <u>vehicle crossing</u> shared between two adjacent <u>sites accesses</u> shall not exceed 7m; and</p> <p><del>c. the minimum distance between a shared <u>vehicle crossing</u> and any other shared <u>vehicle crossing</u> shall be 13m 1.8m.</del></p> <p><u>See 7.5.11.4 for a diagram illustrating the prescribed distances specified in clauses (b) and (c) of this rule.</u></p>	<p><u>Rule 7.4.4.28 - Vehicle Crossing Co-Location Layout</u></p>

### 7.4.4.18 High trip generators

...

~~vii. Greenhouse gas emissions: Whether measures are proposed to be implemented to promote opportunities for safe efficient travel other than by conventional provide vehicles, to seek to reduce the greenhouse gas emissions from vehicle use associated with the activity, and the ability for the measures to be implemented and maintained over the lifetime of the activity.~~

### 7.4.4.27 Pedestrian Access

- a. The following are matters of discretion for Rule 7.4.3.7 b:
- i. whether the pedestrian access is suitable for use by persons with a disability or with limited mobility including the width and gradient;
  - ii. whether any alternative pedestrian access is provided and the formation and safety of that alternative;



- iii. the effects on the safety and security of people using the pedestrian access and those occupying residential units on the site; and
- iv. the functionality of the pedestrian access to meet the needs of occupants including but not limited to; all weather use, the transportation of rubbish and recycling for collection and the ability for cyclists to safely access any private and shared cycle storage areas; and

v. whether the pedestrian access is suitable for use by emergency services.

## Appendix 7.5.1 – Parking space requirements

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Table 7.5.1.1 – Minimum number of mobility parking spaces required

The minimum number of mobility parking spaces provided must be calculated using the following method:

(1) Non residential activities

...

(2) Residential activities

	<u>Number of units</u>	<u>Minimum number of mobility parking spaces</u>
<u>a.</u>	<u>&lt; 7 units</u>	<u>0</u>
<u>b.</u>	<u>7 – 18</u>	<u>1</u>
<u>c.</u>	<u>19 – 31</u>	<u>2</u>
<u>d.</u>	<u>32 – 43</u>	<u>3</u>
<u>e.</u>	<u>&gt; 43</u>	<u>3 for the first 43 car parking spaces + 1 additional mobility parking spaces for each 12.5 units thereafter</u>

### Appendix 7.5.3 – Loading areas

- a. The minimum number of on-site loading spaces provided shall be in accordance with Table 7.5.3.1.

Table 7.5.3.1 – Minimum numbers of loading spaces required

	Activity	Number of heavy vehicle bays to be provided	Number of 99 percentile vehicle bays to be provided
w.	Other residential activities, if not specified above	Nil	Nil For developments of 20 or more residential units – 1 bay

### Appendix 7.5.7 – Access design and gradient

- c. Where a vehicle access serves ~~nine~~ four or more residential units or residential car parks, or nine or more parking spaces for other activities or residential units and there is no other pedestrian and/or cycle access available to the site then a minimum 1.5 metres wide space for pedestrians and/or cycle shall be provided and the legal width of the access shall be increased by 1.5 metres.
- d. For developments of ~~three~~ fifteen or more residential units without a vehicle access each unit shall be accessed by either a combined vehicle-pedestrian access or a dedicated communal pedestrian access that is a minimum of 3 metres in width shall be provided which includes with a formed pathway of at least 1.5m; and each access shall be from the street to the front door of the unit and any garage or parking space for that unit.
- ~~d. Any pedestrian access longer than 50m with a formed width of less than 1.8m shall provide passing opportunities with a minimum length of 2m and a minimum width of 1.8m at least every 50m.~~

<b>Evaluation of Proposed Changes to Chapter 7 – Transport</b>	
<b>Evaluation against Mandatory Objectives &amp; Policies (per Schedule 3A)</b>	<b>Do the proposed amendments better achieve the provision?</b>
<i>Objective 1 a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i>	Yes, to the extent relevant (noting generally modest changes) and for the reasons set out in evidence.
<i>Objective 2 a relevant residential zone provides for a variety of housing types and sizes that respond to— (i) housing needs and demand; and (ii) the neighbourhood’s planned urban built character, including 3-storey buildings.</i>	N/A (the provisions and changes are not necessary for the purposes of achieving this provision).
<i>Policy 1 enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.</i>	N/A (the provisions and changes are not necessary for the purposes of achieving this provision).
<i>Policy 2 apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).</i>	N/A (the provisions and changes are not necessary for the purposes of achieving this provision).
<i>Policy 3 encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i>	Yes. Refer to L Williams evidence especially re: safe streets.
<i>Policy 4 enable housing to be designed to meet the day-to-day needs of residents.</i>	Yes, insofar that the changes seek to limit design prescription and allow for housing to be designed to meet the range of design requirements (needs), rather than being dictated by inflexible rules.
<i>Policy 5 provide for developments not meeting permitted activity status, while encouraging high-quality developments.</i>	Yes.

<b>Evaluation against CDP Strategic Objectives 3.3.1 &amp; 3.3.2</b>	<b>Do the proposed amendments better achieve the provision?</b>
<p><b>3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district</b></p> <p><i>a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:</i></p> <p><i>i. Meets the community’s immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and</i></p> <p><i>ii. Fosters investment certainty; and</i></p> <p><i>iii. Sustains the important qualities and values of the natural environment.</i></p>	<p>Yes:</p> <p>i. See assessment of mandatory objectives and policies above re meeting ‘needs’ by providing choice and flexibility.</p> <p>ii. The proposed changes enhance investment certainty (insofar as reducing development prescription with associated uncertainty and cost).</p> <p>iii. N/A</p>
<p><b>3.3.2 Objective - Clarity of language and efficiency</b></p> <p><i>a. The District Plan, through its preparation, change, interpretation and implementation:</i></p> <p><i>i. Minimises:</i></p> <p><i>A. transaction costs and reliance on resource consent processes; and</i></p> <p><i>B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and</i></p> <p><i>C. the requirements for notification and written approval; and</i></p> <p><i>ii. Sets objectives and policies that clearly state the outcomes intended; and</i></p> <p><i>iii. Uses clear, concise language so that the District Plan is easy to understand and use.</i></p>	<p>Yes. Refer to evidence.</p>

<b>s.32AA Evaluation</b>	<b>Evaluation of the changes, relative to that proposed in the s42a report</b>
<b>Effectiveness &amp; efficiency</b>	<p>For the reasons expressed in Ms Williams evidence, the proposed changes are still considered to effectively deal with the relevant issues, but in a more efficient manner than that proposed by Council.</p> <p>As set out in evidence, a number of Council’s recommendations on the provisions above are assessed as being ineffective and inefficient (vehicle crossing separation and mobility parking especially).</p>
<b>Benefits/Costs</b>	<p>The changes better support and enable residential development/ intensification and otherwise reduce consenting requirements and design prescription.</p> <p>There are no costs associated with the amendments recommended.</p>
<b>Risk of acting / not acting</b>	<p>There is no significant risk of acting or not acting. The changes are modest and relate to matters of design detail.</p> <p>The main risk of not acting is that the Council’s proposed provisions impose greater development costs and consenting complexity to those seeking to undertake intensification – ultimately discouraging, disabling or adding cost to that activity.</p>
<b>Decision about more appropriate action</b>	<p>The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA</p>

## [Sub -Chapter 9.3– Heritage re: Residential Heritage Areas]

*[Delete all proposed provisions related to Residential Heritage Areas, including the RHA Interface Overlay in their entirety]*

<b>Evaluation of Proposed Deletion of Sub-chapter 6.10A – Tree Canopy Cover &amp; Financial Contributions and associated provisions</b>	
<b>Evaluation against Mandatory Objectives &amp; Policies (per Schedule 3A)</b>	<b>Do the proposed amendments better achieve the provision?</b>
<i>Objective 1 a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i>	Yes, insofar that the status quo includes provisions (in Chapter 9) for 'heritage areas', and otherwise includes urban design (and other) rules and matters of discretion that provide for this issue, adequately achieves a WFUE and in being less prescriptive better 'enables' all people etc to provide for their wellbeing in the way that they most prefer/choose.
<i>Objective 2 a relevant residential zone provides for a variety of housing types and sizes that respond to— (i) housing needs and demand; and (ii) the neighbourhood's planned urban built character, including 3-storey buildings.</i>	Yes –reducing the design prescription and consenting costs and uncertainty imposed by these rules better 'provides for' the outcomes sought by this provision. The proposed provisions are not otherwise required for the purpose of this policy.
<i>Policy 1 enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.</i>	Yes –reducing the design prescription and consenting costs and uncertainty imposed by these rules better 'enables' the outcomes sought by this provision. The proposed provisions are not otherwise required for the purpose of this policy.
<i>Policy 2 apply the MDRS across all relevant residential zones in the district plan except in</i>	Yes. As set out in evidence, whilst historic heritage is a relevant QM, the proposed RHA is not considered to warrant the exclusion of

<p><i>circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).</i></p>	<p>MDRS (and other regulatory controls) as proposed.</p>
<p><i>Policy 3 encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i></p>	<p>Yes. The status quo includes provisions that 'encourage' attractive street interfaces (landscaping, frontages, urban design, etc).</p> <p>The provisions do not otherwise affect the achievement of safe streets and public open spaces.</p>
<p><i>Policy 4 enable housing to be designed to meet the day-to-day needs of residents.</i></p>	<p>Yes, insofar that the changes seek to limit design prescription and allow for housing to be designed to meet the range of design requirements (needs), rather than being dictated by inflexible requirements.</p> <p>For example, <i>requiring</i> the retention of defining or contributory buildings may conflict with the day to day needs of some residents (e.g. those needing or wishing to replace or modify older/existing dwellings).</p>
<p><i>Policy 5 provide for developments not meeting permitted activity status, while encouraging high-quality developments.</i></p>	<p>N/A.</p> <p>However, the proposed RHA provisions do not readily provide for developments not meeting permitted activity status.</p>
<p><b>Evaluation against CDP Strategic Objectives 3.3.1 &amp; 3.3.2</b></p>	<p><b>Do the proposed amendments better achieve the provision?</b></p>
<p><b>3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district</b></p> <p><i>a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:</i></p> <p><i>i. Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and</i></p>	<p>Yes:</p> <p>i. See evaluation of mandatory objectives and policies above re meeting 'needs' by providing choice and flexibility.</p> <p>ii. The proposed provisions diminish investment certainty (insofar as additional regulatory control, development prescription and cost). As such the changes/ deletion of these provisions better achieve clause ii.</p> <p>iii. N/A</p>

<p><i>ii. Fosters investment certainty; and</i></p> <p><i>iii. Sustains the important qualities and values of the natural environment.</i></p>	
<p><b>3.3.2 Objective - Clarity of language and efficiency</b></p> <p><i>a. The District Plan, through its preparation, change, interpretation and implementation:</i></p> <p><i>i. Minimises:</i></p> <p><i>A. transaction costs and reliance on resource consent processes; and</i></p> <p><i>B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and</i></p> <p><i>C. the requirements for notification and written approval; and</i></p> <p><i>ii. Sets objectives and policies that clearly state the outcomes intended; and</i></p> <p><i>iii. Uses clear, concise language so that the District Plan is easy to understand and use.</i></p>	<p>Yes. The changes specifically seek to achieve greater alignment with this objective. Refer to evidence and evaluation of the mandatory objectives and policies above.</p>
<p><b>s.32AA Evaluation</b></p>	<p><b>Evaluation of the changes, relative to that proposed in the s42a report</b></p>
<p><b>Effectiveness &amp; efficiency</b></p>	<p>The Council’s provisions are complex, inflexible and costly (refer to evidence). Against that context, deletion of the provisions as proposed will be more efficient.</p> <p>The proposed changes still effectively address the relevant issues (accounting for existing/operative and other rules that apply), but in a more efficient (non-prescriptive) manner than that proposed by Council. Refer to evidence for examples of other rules (e.g. provisions for scheduled heritage items and areas, urban design controls).</p> <p>Whilst some sub-optimal (i.e. ineffective) outcomes may eventuate through the changes and reduced design prescription (e.g. loss of some buildings that contribute to the heritage values of an area), on balance this is considered preferable to the inefficiencies of</p>



	having inflexible and prescriptive rule requirements.
<b>Benefits/Costs</b>	<p>The changes better support and enable residential development/ intensification and otherwise reduce consenting requirements, design prescription and associated costs.</p> <p>There are no significant costs associated with the amendments recommended.</p>
<b>Risk of acting / not acting</b>	<p>There is no significant risk of acting or not acting. The changes relate to the degree of prescription expressed in the rules and as noted above, other existing/operative rules otherwise provide management (albeit to a less prescriptive degree) of the issues that the Council rules address.</p> <p>The main risk of not acting is that the Council's proposed provisions impose greater development costs and consenting complexity to those seeking to undertake intensification – ultimately discouraging, disabling or adding cost to that activity.</p> <p>To the extent that Council seek to protect the heritage values of areas of the city, they retain the ability to pursue this through the operative provisions (which provide for heritage areas), including the listing of specific sites and buildings that warrant scheduling.</p>
<b>Decision about more appropriate action</b>	The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA

## [Chapter 14 – Residential]

### 14.2.3.7 Management of increased building heights

- a. Within medium and high density zoned areas, only provide for increased building heights beyond those enabled in the zone or precinct where the following is achieved:

...

### 14.2.45.1 Policy - Neighbourhood character, amenity and safety

- a. ~~Facilitate the contribution of~~ Provide for individual developments ~~to high quality residential environments~~ in all residential areas (as characterised in Table 14.2.1.1a), ~~through design which contributes to a high quality environment through a site layout and building design that,~~ to the extent practicable:

...

### 14.2.5.3 Policy – Quality large scale developments

- a. Residential developments of four or more residential units contribute to a high quality residential environment through site layout, building and landscape design to achieve that promotes:

...

<b>Evaluation of Proposed Changes to Policies in Chapter 14 – Residential</b>	
<b>Evaluation against Mandatory Objectives &amp; Policies (per Schedule 3A)</b>	<b>Do the proposed amendments better achieve the provision?</b>
<i>Objective 1 a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i>	Yes, the policy changes provide greater flexibility to cater for all needs, whilst still achieving a WFUE.
<i>Objective 2 a relevant residential zone provides for a variety of housing types and sizes that respond to— (i) housing needs and demand; and (ii) the neighbourhood’s planned urban built character, including 3-storey buildings.</i>	Yes, the policy changes better ‘provide for’ a variety of housing types.
<i>Policy 1 enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.</i>	Yes, the policy changes better ‘enable’, and provide greater flexibility to cater for a ‘variety of housing types’
<i>Policy 2 apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).</i>	N/A – the changes do not affect this provision.
<i>Policy 3 encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i>	Yes. The wording changes better align with the policy requirement to ‘encourage’ (rather than ‘require’) these outcomes.
<i>Policy 4 enable housing to be designed to meet the day-to-day needs of residents.</i>	Yes, insofar that the changes seek to limit design prescription and allow for housing to be designed to meet the range of design requirements (needs), rather than being dictated by inflexible requirements.
<i>Policy 5 provide for developments not meeting permitted activity status,</i>	Yes.

<p><i>while encouraging high-quality developments.</i></p>	
<p><b>Evaluation against CDP Strategic Objectives 3.3.1 &amp; 3.3.2</b></p>	<p><b>Do the proposed amendments better achieve the provision?</b></p>
<p><b>3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district</b></p> <p><i>a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:</i></p> <p><i>i. Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and</i></p> <p><i>ii. Fosters investment certainty; and</i></p> <p><i>iii. Sustains the important qualities and values of the natural environment.</i></p>	<p>Yes:</p> <p>i. See the assessment of mandatory objectives and policies above re meeting 'needs' by providing choice and flexibility.</p> <p>ii. The proposed changes enhance investment certainty (insofar as reducing development prescription with associated uncertainty and cost).</p> <p>iii. N/A</p>
<p><b>3.3.2 Objective - Clarity of language and efficiency</b></p> <p><i>a. The District Plan, through its preparation, change, interpretation and implementation:</i></p> <p><i>i. Minimises:</i></p> <p><i>A. transaction costs and reliance on resource consent processes; and</i></p> <p><i>B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and</i></p> <p><i>C. the requirements for notification and written approval; and</i></p> <p><i>ii. Sets objectives and policies that clearly state the outcomes intended; and</i></p> <p><i>iii. Uses clear, concise language so that the District Plan is easy to understand and use.</i></p>	<p>Yes. The changes specifically seek to achieve greater alignment with this objective. Refer to evidence.</p>

<b>s.32AA Evaluation</b>	<b>Evaluation of the changes, relative to that proposed in the s42a report</b>
<b>Effectiveness &amp; efficiency</b>	<p>The proposed changes still address the relevant issues, but in a more efficient (non-prescriptive) manner than that proposed by Council.</p> <p>Whilst some inefficiencies in plan administration (e.g. debate) and sub-optimal (i.e. ineffective) outcomes may eventuate through the changes, on balance this is considered preferable to the inefficiencies and ineffectiveness of having inflexible and prescriptive policy requirements that are difficult to overcome.</p>
<b>Benefits/Costs</b>	<p>The changes better support and enable residential development/ intensification and otherwise reduce consenting requirements and design prescription.</p> <p>There are no costs associated with the amendments recommended.</p>
<b>Risk of acting / not acting</b>	<p>There is no significant risk of acting or not acting. The changes are modest and relate to the degree of prescription expressed in policies.</p> <p>The main risk of not acting is that the Council's proposed provisions impose greater development costs and consenting complexity to those seeking to undertake intensification – ultimately discouraging, disabling or adding cost to that activity.</p>
<b>Decision about more appropriate action</b>	<p>The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA</p>

#### 14.5.2.2 ~~Tree and garden planting~~ **Landscaped area and tree canopy cover**

- a. **A residential unit at ground floor level must have a landscaped area of a minimum of 20% of a developed site with grass or plants, and can include the canopy of trees regardless of the ground treatment below them.**
- b. **The landscaped area may be located on any part of the development site, and does not need to be associated with each residential unit.**

#### **Advice note:**

~~1. In addition to these rules, the tree canopy cover and financial contributions requirements in Chapter 6.10A apply to residential development in residential zones resulting in one or more residential units, except where (c) or (d) applies.~~

#### 14.5.2.14 **13 Service, storage, and waste management spaces**

...

- b. ~~Each residential unit shall have covered and secure storage areas, (in addition to storage in kitchens, bathrooms, bedrooms, and the space set aside for car parking in garages with a minimum dimension of 600mm, and with a total cumulative volume of:~~
  - i. ~~6m<sup>3</sup> for one bed units;~~
  - ii. ~~8m<sup>3</sup> for two bedroom units; and~~
  - iii. ~~10m<sup>3</sup> for three bedroom or greater units;~~~~with at least 50% of storage provided within the residential unit. The required storage shall be additional to any storage in the kitchen, bathroom/s and/or bedroom/s of the residential unit, and additional to the area dedicated to car parking in any garage which for the purpose of this rule is deemed to be an area 5.5m deep, 3.1m wide and 2.4m high, per garage.~~

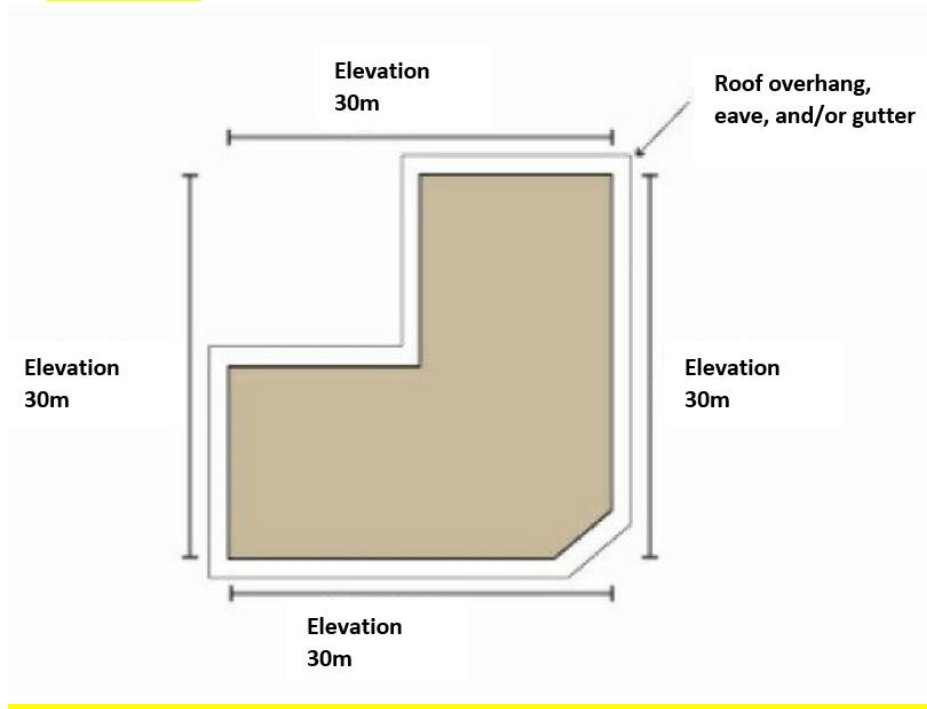
#### **14.5.2.17 Location of outdoor mechanical ventilation**

- a. ~~Outdoor heat pump units, or other similar mechanical ventilation units, located at ground level between a street facing façade and a road boundary shall be screened shall not be located within 3 metres from the boundary between a residential site and a road or shared accessway (including a proposed accessway), by a maximum of 50% visually transparent fencing a minimum of 1.2 metres in height above ground~~

level, or the height of the ventilation/heat pump unit, whichever is higher.

#### 14.5.2.19 Building length

- a. For new buildings the maximum length of a building elevation shall not exceed 30 metres (see Figure below), measured from the external face of the building.



#### 14.5.3.1.3 Area- specific restricted discretionary activities

- a. The activities listed below are restricted discretionary activities.
- b. Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in [Rule 14.15](#), or as specified, as set out in the following table:

...

<b>RD15</b>	<p><del>a. Activities that do not meet one or more of the built form standards for Residential Heritage Areas in <a href="#">Rule 14.5.3.2</a>.</del></p>	<p><del>a. Matters of Discretion for new buildings and additions to buildings in Residential Heritage Areas— <a href="#">Rule 9.3.6.4</a></del></p> <p><del>b. Matters of Discretion for the Character Area Overlay in <a href="#">Rule 14.15.27</a>, where the site is also located in the Character Area Overlay.</del></p> <p><del>c. Matters of Discretion for the applicable specifically relevant built form standards in <a href="#">Rule 14.15</a>.</del></p>
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#### **14.6.2.5 Building separation**

- ~~a. Residential units above 12 metres in height above ground level must be separated from any other residential units above 12 metres in height above ground level on the same development site by at least 10 metres measured horizontally, except where a other than where these buildings are joined by a common wall is included.~~

#### **14.6.2.1 Building height**

- ~~a. Buildings must not exceed 14 metres in height above ground level. The maximum height of any buildings shall be as shown on the Central City Maximum Building Height planning map, except that the Central City Maximum Building Height planning map does not apply to the following land where a maximum building height of 20 metres shall apply to buildings for a retirement village:~~
- ~~i. Lot 1 DP 77997 CT CB46D/74;~~
  - ~~ii. Town Section 118 DP 3780; and~~
  - ~~iii. Town Section 119 DP 3780.~~
- ~~b. Residential units shall not be less than 7 metres in height above ground level.~~
- ~~c. Buildings for a residential activity within the Industrial Interface Qualifying Matter Area must not exceed 7 metres in height above ground level or two storey, whichever is the lesser.~~



a. Other than where b.v. applies, buildings must not exceed the following height above ground level:

- i. 22 metres; or
- ii. 39 metres within the Central City Residential Precinct.

b. The following standards also apply:

i. For any building exceeding 14 metres in height above ground level:

A. any part of the building above 14 metres is set back at least 4 metres from the road boundary.

B. A ground level communal outdoor living space shall be provided at a ratio of 50m<sup>2</sup> per 10 residential units. The number of units shall be rounded to the nearest 10, in accordance with the Swedish rounding system. This ratio shall be calculated on the number of residential units on the 4<sup>th</sup> floor of the building and any subsequent floors above, with the maximum required area being 20% of the site area. Any communal outdoor living space shall have a minimum dimension of no less than 8 metres.

ii. For any building between 19-22 metres height above ground level (except in the Central City Residential Precinct):

A. That part of the building above 19 metres shall be set back a minimum of 2 metres from the highest part of each façade (including balustrades or similar architectural features) at or below 19 metres; or

B. the roof shall have a pitch of less than 45 degrees measured from the external walls of the building (excluding eaves and gutters to a maximum combined width of 650mm per wall);

iii. For any building between 36-39 metres within the Central City Residential Precinct:

A. That part of the building above 36 metres in height above ground level shall be set back between 2 and 5 metres from the highest part of each façade (including balustrades or similar architectural features) at or below 36 metres in height above ground level; or

~~b. the roof shall have a pitch of less than 45 degrees measured from the external walls of the building (excluding eaves and gutters to a maximum combined width of 650mm per wall);~~

~~c. Other than where d. applies, residential units shall not be less than be a minimum of 7 metres in height above ground level or two storeys (not including mezzanine floors), whichever is lesser, when developing three or more residential units.~~

**d. Buildings for residential activity within the Industrial Interface Qualifying Matter Area must not exceed 7.8 metres in height above ground level or two storeys, whichever is the lesser.**

#### 14.6.2.6 ~~14.6.2.5~~ Fencing and screening

- a. Parking areas shall be screened on internal boundaries by landscaping, wall(s), fence(s), or a combination of these to a minimum height of 1.5 metres from any adjoining site. Where this screening is by way of landscaping it shall be for a minimum depth of 1.5 metres and the minimum height shall be the minimum height at the time of planting;
- b. Other than for screening of the required area of service space or outdoor living space, fences and other screening structures shall not exceed 1 metre in height where they are located either:
  - i. within 2 metres of the road boundary; or
  - ii. on the boundary with any land zoned Open Space Community Parks Zone, Open Space Water and Margins Zone and Avon River Precinct/Te Papa Ōtākaro Zone, except that the maximum height shall be 2 metres if the whole fence or screening structure is at least 50% transparent.
- c. For the purposes of this rule, a fence or other screening structure is not the exterior wall of a building or accessory building.

~~a. a. The maximum height above ground level for any fencing shall be:~~

	<b>Fence location</b>	<b>Fence height standard</b>
<del>i.</del>	<del>road boundary — non-arterial road</del>	<del>50% road boundary width (excluding accessways) — 1.58m Remaining road boundary width: 1.0m</del>

	<b>Fence location</b>	<b>Fence height standard</b>
ii.	<b>road boundary — arterial road</b>	<b>50% road boundary width (excluding accessways) — 1.8m</b> <b>Remaining road boundary width: 1.0m</b>
iii.	<b>Side, rear, and internal boundary (other than where iv. applies)</b>	<b>2.0m</b>
iv.	<b>On the boundary with any land zoned Open Space Community Parks, Open Space Water and Margins and Avon River Precinct/Te Papa Ōtākare</b>	<b>1.0m; or</b> <b>2.0m where the whole fence or screening structure is a minimum of 50% visually transparent.</b>

**b. Any fencing requirements under Rule 14.6.2.11 shall not be in addition to the above standards, unless the required fence height in this rule is less than 1.2m adjacent to the proposed storage area/s.**

**i. 1m in height maximum on the boundary with any land zoned Open Space Community Parks Zone, Open Space Water and Margins Zone and Avon River Precinct/Te Papa Ōtākare Zone, except that the maximum height shall be 2 metres if the whole fence or screening structure is at least 50% transparent.**

#### **14.6.2.101 Service space, storage and waste management**

- a. Each residential unit shall be provided with at least 3m<sup>2</sup> of indoor or outdoor service space at ground floor level for the dedicated storage of waste and recycling bins.
  - b. The required service space for each residential unit shall be provided either individually, or within a dedicated shared communal space, but shall not be located between the road boundary and any habitable space.
  - c. Service space for the storage of waste and recycling bins shall be fully screened from any site, road and outdoor living space which adjoins the service space.
- a. For any development resulting in four or more residential units on a development site:
- i. each residential unit shall have at least 2.25m<sup>2</sup> of outdoor or indoor space at ground floor level for the dedicated storage of waste and recycling bins. This space shall have with a minimum dimension of 1.2 metres. Where located between a residential unit and the road

boundary or access (pedestrian or vehicle) bins shall be screened by a solid fence with a minimum height of 1.2 metres;

- ii. each ground floor residential unit shall have at least 3m<sup>2</sup> of dedicated outdoor space at ground floor level for washing lines. This space shall have a minimum dimension of 1.5 metres; 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. Any communal area shall be at least the sum total of the spaces required under (i) and (ii) for serviceable residential units.

~~b. Each residential unit shall have covered and secure storage areas, (in addition to storage in kitchens, bathrooms, bedrooms, and the space set aside for car parking in garages (at a dimension of 5.5m deep, 3.1m wide, 2.4m high) with a minimum dimension of 600mm, to a total cumulative volume of:~~

- ~~i. 6m<sup>3</sup> for one bed units;~~
- ~~ii. 8m<sup>3</sup> for two bedroom units; or~~
- ~~iii. 10m<sup>3</sup> for three bedroom units or greater;~~

~~with at least 50% of storage provided internal to the unit. The required storage shall be additional to any storage in the kitchen, bathroom/s and/or bedroom/s of the residential unit, and additional to the area dedicated to car parking in any garage which for the purpose of this rule is deemed to be an area 5.5m deep, 3.1m wide and 2.4m high, per garage.~~

#### **14.6.2.112 Minimum site density from development and redevelopment of residential units Building coverage**

a. The maximum building coverage must not exceed 50% of the net site area;

i. Any eaves and roof overhangs up to 300mm in width and guttering up to 2650mm in total cumulative width from the wall of a building shall not be included in the building coverage calculation.

ii. In addition to 14.6.2.12.a.i, a total site building coverage of up to 60% of the net site area is permitted when the following is are met:

A. except where required under Chapter 7, where no on-site vehicle parking is provided;

B. a ground level communal outdoor living space shall be is provided, with an area of to a scale of 10% of the development site area, with a minimum dimension of 8 metres;

C. a the minimum development site dimension of is 25m is achieved; and

D. at least 50% of the landscaping provided in compliance with 14.6.2.7 shall be shrubs.

b. The minimum residential site density to be achieved when a site is developed or redeveloped with a residential unit or units shall be not less than one residential unit for every complete 200m<sup>2</sup> of site area (e.g. a site area of 399m<sup>2</sup> requires 1 residential unit, a site area of 400m<sup>2</sup> requires 2 residential units).

<b>Evaluation of Proposed Changes to Activity Standards and Built Form Standards (Rules) in Chapter 14 – Residential</b>	
<b>Evaluation against Mandatory Objectives &amp; Policies (per Schedule 3A)</b>	<b>Do the proposed amendments better achieve the provision?</b>
<i>Objective 1 a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i>	Yes, the changes to proposed rules provide greater flexibility to cater for all needs, whilst still on balance achieving a WFUE, recognising the existing/operative and other rules that manage the effects of built form and intensification to an appropriate standard.
<i>Objective 2 a relevant residential zone provides for a variety of housing types and sizes that respond to—(i) housing needs and demand; and (ii) the neighbourhood’s planned urban built character, including 3-storey buildings.</i>	Yes, the changes better ‘provide for’ a variety of housing types. The rules proposed to be deleted are not otherwise necessary to achieve this objective.
<i>Policy 1 enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.</i>	Yes, the changes better ‘enable’, and provide greater flexibility to cater for a ‘variety of housing types’. The rules proposed to be deleted are not otherwise necessary to achieve this policy.
<i>Policy 2 apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).</i>	Yes. The rules are over and above the MDRS, and a qualifying matter does not warrant their inclusion.
<i>Policy 3 encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i>	Yes, on balance. Whilst the rules proposed by Council may achieve more attractive streets (in terms of interface), they are directive. As such, the changes (in conjunction with existing/operative and other rules – such as the urban design, street scene, and landscaping rules) better align with the policy requirement to ‘encourage’ (rather than ‘require’) these outcomes.  Given the nature of the rules, the changes do not otherwise detract from the realisation of safe streets and public open spaces.

<p><i>Policy 4 enable housing to be designed to meet the day-to-day needs of residents.</i></p>	<p>Yes, insofar that the changes seek to limit design prescription and allow for housing to be designed to meet the range of design requirements (needs), rather than being dictated by inflexible requirements.</p>
<p><i>Policy 5 provide for developments not meeting permitted activity status, while encouraging high-quality developments.</i></p>	<p>Yes.</p>
<p><b>Evaluation against CDP Strategic Objectives 3.3.1 &amp; 3.3.2</b></p>	<p><b>Do the proposed amendments better achieve the provision?</b></p>
<p><b>3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district</b></p> <p><i>a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:</i></p> <p><i>i. Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and</i></p> <p><i>ii. Fosters investment certainty; and</i></p> <p><i>iii. Sustains the important qualities and values of the natural environment.</i></p>	<p>Yes:</p> <p>i. See the assessment of mandatory objectives and policies above re meeting 'needs' by providing greater choice and flexibility.</p> <p>ii. The proposed changes enhance investment certainty (insofar as reducing development prescription with associated uncertainty and cost).</p> <p>iii. N/A</p>
<p><b>3.3.2 Objective - Clarity of language and efficiency</b></p> <p><i>a. The District Plan, through its preparation, change, interpretation and implementation:</i></p> <p><i>i. Minimises:</i></p> <p><i>A. transaction costs and reliance on resource consent processes; and</i></p> <p><i>B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and</i></p> <p><i>C. the requirements for notification and written approval; and</i></p>	<p>Yes. The changes specifically seek to achieve greater alignment with this objective. Refer to evidence and evaluation of the mandatory objectives and policies above.</p>

<p><i>ii. Sets objectives and policies that clearly state the outcomes intended; and</i></p> <p><i>iii. Uses clear, concise language so that the District Plan is easy to understand and use.</i></p>	
<p><b>s.32AA Evaluation</b></p>	<p><b>Evaluation of the changes, relative to that proposed in the s42a report</b></p>
<p><b>Effectiveness &amp; efficiency</b></p>	<p>The proposed changes still effectively address the relevant issues (accounting for existing/operative and other rules that apply), but in a more efficient (non-prescriptive) manner than that proposed by Council.</p> <p>Whilst some sub-optimal (i.e. ineffective) outcomes may eventuate through the changes and reduced design prescription, on balance this is considered preferable to the inefficiencies of having inflexible and prescriptive rule requirements.</p>
<p><b>Benefits/Costs</b></p>	<p>The changes better support and enable residential development/ intensification and otherwise reduce consenting requirements, design prescription and associated costs.</p> <p>There are no significant costs associated with the amendments recommended.</p>
<p><b>Risk of acting / not acting</b></p>	<p>There is no significant risk of acting or not acting. The changes are modest and relate to the degree of prescription expressed in rules. As noted above, other existing/operative rules otherwise provide management (albeit to a less prescriptive degree) of the issues that the Council rules address.</p> <p>The main risk of not acting is that the Council's proposed provisions impose greater development costs and consenting complexity to those seeking to undertake intensification – ultimately discouraging, disabling or adding cost to that activity.</p>
<p><b>Decision about more appropriate action</b></p>	<p>The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA</p>



### 14.15.3 Impacts on neighbouring property

...

c. In addition, for height breaches ~~W~~within the Medium Density Residential zone, for buildings exceeding 14 metres in height, and within the High Density Residential zone, for buildings exceeding 32 metres in height, the matters of discretion are as follows mitigation of the effects of additional height, considering:

- i. The degree of alignment of the **building** with the planned urban character of the zone or applicable precinct;
- ii. Building bulk and dominance effects on surrounding neighbours, particularly the effect on the relationship between **buildings**, public spaces, and views;
- iii. The degree of privacy effects on surrounding neighbours, including on habitable rooms or outdoor living spaces;
- iv. The degree of shading effects on surrounding neighbours, including the extent of impact on any habitable rooms or outdoor living spaces;
- v. The extent to which the increased height is necessary to enable more efficient, cost effective and/or practical use of the site, or the long term protection of significant trees or natural features on the site;
- vi. Any modulation or design features of the roof form and façade to reduce its visual impact;

Whether a minimum of 30% of the ground floor area is occupied by habitable rooms and/or indoor communal living space (including any shared pedestrian access to lifts, stairs and foyers);

iii. The extent to which the ground floor area of the building provides adequate, appropriately located and glazed activated indoor space to link the building to the street and to accessways within the development, including through the provision of ground floor habitable and/or communal living space that provides such activation, and by locating garages or access to internal carparking areas to the rear of such spaces to ensure the ground floor elevation is not dominated by garage/carpark access doors when viewed from the street or site access;

vii iv. The extent to which the development provides for greater housing choice, by typology or price point compared to existing or consented development within the surrounding area;

viii viii Whether the building is for the purposes of papakāinga / kāinga housing;

ix. The location of the development relative to current and planned public transport corridors, community facilities, or commercial activities and the connectivity of the development to these facilities;

x. ix. How the proposal contributes to or provides for a sense of local identity or place making;

xi Residential Design Principles listed under 14.15.1.c (site layout and context) and 14.15.1.f (residential environment);

xii. x. For any building greater than 20 metres in height that does not meet the built form standards for additional setbacks from boundaries: the effects of building dominance on the immediate and wider neighbourhood, and effects on outlook and access to sun and daylight within the development site and on neighbouring properties. For any building greater than 20 metres in height that does not include a complying communal outdoor space: the nature and extent of outdoor living available on the site; whether any communal indoor spaces are proposed; the proximity of the development site to public open space; the ability for the site to support tree and garden planting; the effects on occupants of a smaller or no communal space; and whether the lack of communal space contributes to cumulative dominance of built form in the immediate and wider area and any mitigation offered.

xiii For sites within 1.2km walking distance of the City Centre zone, any direct or indirect economic effects on the city centre, including the effects of directing investment away from the city centre. Whether the development detracts from the economic opportunities within the city centre and its primacy.

xi. reverse sensitivity effects on existing lawfully established non-residential activities.

<b>Evaluation of Proposed Changes to Assessment Matter Clause 14.15.3(c) in Chapter 14 – Residential</b>	
<b>Evaluation against Mandatory Objs &amp; Pols (per Schedule 3A)</b>	<b>Do the proposed amendments better achieve the provision?</b>
<i>Objective 1 a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i>	Yes, the changes still support a WFUE, noting the existing/operative and other rules that manage the effects of building height on neighbouring property. Among other things, clause (c)(ii) provides broad scope to consider height related impacts, insofar as it requires assessment of "ii. <i>Building bulk and dominance effects on surrounding neighbours, particularly the effect on the relationship between buildings, public spaces, and views</i> ".
<i>Objective 2 a relevant residential zone provides for a variety of housing types and sizes that respond to—(i) housing needs and demand; and (ii) the neighbourhood's planned urban built character, including 3-storey buildings.</i>	Somewhat – by reducing design prescription and consenting uncertainty the changes better 'provide for' the outcomes sought by this provision.
<i>Policy 1 enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.</i>	Somewhat – by reducing design prescription and consenting uncertainty the changes better 'enable' the outcomes sought by this provision.
<i>Policy 2 apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga).</i>	Somewhat. The provisions to be deleted are not necessary to apply the MDRS, and a qualifying matter does not warrant their inclusion.
<i>Policy 3 encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i>	Yes, on balance. Whilst the assessment matters as proposed by Council (especially clause (c)(x)) may support attractive and safe streets (in terms of interface), they are directive. As such, the changes better align with the policy requirement to 'encourage' (rather than 'require') these outcomes.
<i>Policy 4 enable housing to be designed to meet the day-to-day needs of residents.</i>	Yes, insofar that the changes seek to limit design prescription and allow for housing to be designed to meet the range of design

	requirements (needs), rather than being dictated by inflexible requirements.
<i>Policy 5 provide for developments not meeting permitted activity status, while encouraging high-quality developments.</i>	Yes. As worded, the assessment matters may discourage (rather than 'provide for') developments not meeting permitted activity status.
<b>Evaluation against CDP Strategic Objs 3.3.1 &amp; 3.3.2</b>	<b>Do the proposed amendments better achieve the provision?</b>
<p><b>3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district</b></p> <p><i>a. The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:</i></p> <p><i>i. Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and</i></p> <p><i>ii. Fosters investment certainty; and</i></p> <p><i>iii. Sustains the important qualities and values of the natural environment.</i></p>	<p>Yes:</p> <p>i. See evaluation of mandatory objectives and policies above re meeting 'needs' by providing greater choice and flexibility.</p> <p>ii. The proposed changes enhance investment certainty (insofar as reducing development prescription with associated uncertainty and cost).</p> <p>iii. N/A</p>
<p><b>3.3.2 Objective - Clarity of language and efficiency</b></p> <p><i>a. The District Plan, through its preparation, change, interpretation and implementation:</i></p> <p><i>i. Minimises:</i></p> <p><i>A. transaction costs and reliance on resource consent processes; and</i></p> <p><i>B. the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and</i></p> <p><i>C. the requirements for notification and written approval; and</i></p> <p><i>ii. Sets objectives and policies that clearly state the outcomes intended; and</i></p> <p><i>iii. Uses clear, concise language so that the District Plan is easy to understand and use.</i></p>	<p>Yes. The changes specifically seek to achieve greater alignment with this objective. Refer to evidence and evaluation of the mandatory objectives and policies above.</p>

<b>s.32AA Evaluation</b>	<b>Evaluation of the changes, relative to that proposed in the s42a report</b>
<b>Effectiveness &amp; efficiency</b>	<p>The proposed changes still effectively address the relevant issues (accounting for existing/operative and other rules that apply), but in a more efficient (non-prescriptive) manner than that proposed by Council.</p> <p>In particular, clause (c)(ii) provides broad scope to consider height related impacts, insofar as it requires assessment of "<i>ii. Building bulk and dominance effects on surrounding neighbours, particularly the effect on the relationship between buildings, public spaces, and views</i>".</p> <p>Whilst some sub-optimal (i.e. ineffective) outcomes may eventuate through the changes and reduced design prescription, on balance this is considered preferable to the inefficiencies of having inflexible and prescriptive rule requirements.</p>
<b>Benefits/Costs</b>	<p>The changes better support and enable residential development/ intensification and otherwise reduce consenting requirements, design prescription and associated costs.</p> <p>There are no significant costs associated with the amendments recommended.</p>
<b>Risk of acting / not acting</b>	<p>There is no significant risk of acting or not acting. The changes are modest and relate to the degree of prescription expressed in the assessment matters. As noted above, other existing/operative rules otherwise provide management (albeit to a less prescriptive degree) of the issues that the Council rules address.</p> <p>The main risk of not acting is that the Council's proposed provisions impose greater development costs and consenting complexity to those seeking to undertake intensification – ultimately discouraging, disabling or adding cost to that activity.</p>
<b>Decision about more appropriate action</b>	<p>The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA</p>

**Attachment 2: Christchurch Replacement District Plan IHP Minute**

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

**AND**

**IN THE MATTER OF** Stage 3 Chapter 9 Natural and Cultural  
Heritage Hearing

Date: 22 February 2016

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**MINUTE**

**Regarding Topics 9.1–9.5**

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[1] This Minute follows the adjournment of the hearing on the above topics, and requests from the Council for the Panel to give guidance to the parties as to the Panel’s concerns on various topics, and for the processes of intended further inter-party mediation. It follows our consideration of a Memorandum of Counsel on behalf of Christchurch City Council, on these matters, dated 15 February 2016 (‘Council’s Memorandum’).

**Topic 9.1: Indigenous biodiversity and ecosystems**

[2] The Council’s Memorandum informs us<sup>1</sup> that it will be recommending deletion of the general indigenous vegetation clearance rule for the Low Plains Ecological District (Rule 9.1.2.2.4 D1). While the Panel views that as an appropriate position for the Council, in view of the evidence, parties will also note that the Panel’s concerns as expressed in its related Minute are significantly broader than this. Central to those concerns is the fact that all parties

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<sup>1</sup> Council’s Memorandum at paras 3 and 4.

and relevant witnesses acknowledged the essential ingredient of land owner engagement, a matter also recognised in relevant Council strategies, yet distinctly lacking from the Council’s approach to preparation of the Notified Proposal.

[3] This matter is the subject of mediation between the parties, with our 26 January 2016 Minute providing the parties with relevant focus for that mediation. The next facilitated session is scheduled for 24 and 25 February 2016. We await the outcomes of that.

### **Topic 9.2 – Landscape and natural character**

[4] At this stage, the Panel has no observations to make other than that the Panel will make determinations in due course.

### **Topic 9.3: Historic heritage**

[5] In questioning by the Panel, Mr Matheson confirmed to us that it would be “very helpful for the parties if the Panel were able to give some indication of where its thinking was which allowed people to go away and draft in light of [that]”.<sup>2</sup> He confirmed it would be very helpful if the Panel were to provide that indication by way of a “prognosis”, rather than a “general view”.

[6] The Council’s Memorandum acknowledges the matters raised by the Panel and submitters relating to “the clarity and certainty of a number of provisions, including definitions and the level of connection between objectives, policies and rules”. It records that the Council wishes to undertake further work “to refine these provisions”. It records that the Council “will await the Panel’s minute setting out a process for that work to be done in conjunction with the relevant parties”. It makes some suggestions concerning the “policy framework”, protection of interiors, certification, minor alterations, and various site specific matters.

[7] The Council’s Memorandum helpfully acknowledges a need for significant improvement to the Notified Proposal, as indeed did the Council’s rebuttal evidence (and associated proposals for amending the Notified Proposal) following mediation. However, as will be

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<sup>2</sup> Transcript, page 1994, lines 39–44.



evident from our following observations, the prognosis we reach on the evidence we have heard to date is far more serious than the Council’s Memorandum has assumed.

[8] We make the following observations in the context of the relevant evidence being tested before us, and in light of findings on related matters in our earlier decisions on the Christchurch Replacement District Plan (‘CRDP’). However, our observations are inherently preliminary, and do not represent our ultimate findings on the matters we cover. In particular, while the Council has specifically sought this indication at this time to assist intended mediation, we are mindful that we have not yet heard closing submissions. Further, our observations are made with the qualifier that the Panel has appointed planning consultant, John Kyle, as an expert adviser to assist the Panel to determine, following mediation, the most appropriate provisions on this topic.

[9] As s 32 of the RMA recognises, the quality of planning outputs is inherently dependent upon the quality of inputs, particularly in the processes the Council applies for the evaluation of benefits, costs and risks of available alternative objectives, policies, rules and other methods.

[10] Sound evidential foundation is important for proper evaluation of these matters, which we must now undertake, under s 32AA. Our Strategic Directions decision, in relation to Objective 3.3.9 on “Natural and cultural environment”, relevantly sought:<sup>3</sup>

... detailed expert evidence on this topic from relevant disciplines (not simply planning evidence), such as can assist us to ensure properly targeted provision in the Replacement Plan, including in the expression of any Strategic Directions objective(s). We see that as very important, given the use, development and protection trade-offs that can be associated with such provisions. Those trade-offs can impact on both private property rights and at a wider community scale.

[11] In a joint statement requested by the Panel, Council senior managers Ms Helen Beaumont (Head of Strategic Policy) and Mr Alan Matheson (Team Leader District Plan (Strategy and Planning)) explained the approach taken by the Council in the development of the Topic 9.3 Historic Heritage provisions.<sup>4</sup> That statement helpfully explains the structured approach taken by the Council in development of the Notified Proposal. However, cross-examination and questioning of those witnesses confirmed the processes for preparation of the Notified Proposal

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<sup>3</sup> Decision 1, Strategic directions and strategic outcomes at [223] and [224].

<sup>4</sup> Joint statement of Helen Beaumont and Alan Matheson on behalf of the Council (Historic Heritage), 2 February 2016.

significantly lacking in a strategic sense.<sup>5</sup> Testing of evidence has demonstrated a number of failures in the Council's processes of heritage assessment and the development of rules for heritage protection.

[12] In the context of the recovery needs and challenges facing Christchurch, it is particularly important that the protection of historic heritage is approached strategically. Central to that is making difficult choices concerning what is selected for protection and how much protection is to be accorded. Part of that is to be mindful of the extent of heritage that has been lost through the earthquakes. However, that does not dictate that what remains must be the subject of stringent regulatory control. To take that approach fails to recognise that working with the economic drivers that landowners face is critical for protection. That means choices for regulatory intervention must be well-informed, including as to the very significant challenges faced, by building owners and the community at large, in achieving recovery from those earthquakes. As we note, those matters are reflected in relevant CRPS directions and in our Strategic Directions decision.

[13] There is a direct relationship between the serious shortcomings of the Council's s 32 evaluation and the inappropriateness of the objectives, policies and rules of the Notified Proposal for Topic 9.3.

[14] The several Heritage Statements of Significance ('HSOS') are a central plank of the Council's s 32 evaluation for the Notified Proposal. We understand that this was a new initiative, in that heritage listings under the Existing Plan were not supported in this way. HSOS were prepared according to a template, to assist to ensure the application of consistent assessment approaches including through a multi-disciplinary team approach. As a technique to underpin s 32 evaluation, we consider the approach a sound one, in principle.

[15] Unfortunately, however, the reliability of HSOS technique has been considerably let down by how it has been applied. One problem is that the various HSOS do not identify their contributing authors. In this multi-disciplinary technique for heritage assessment, qualified architectural input will usually be needed as, fundamentally, the assessment concerns buildings including their architectural qualities. However, we understand that a number of HSOS were

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<sup>5</sup> Transcript, page 1971–2001.

prepared without input from anyone holding relevant architectural qualifications. While the various HSOS follow a template that identifies various determinative criteria, there is considerable variability amongst them in how they approach identification of heritage fabric. There was no robust peer review of what the unnamed authors of HSOS recommended. Hence, a soundly designed methodology was let down in its application, including the lack of properly qualified resourcing.

[16] In relation to interior fabric, we heard from Heritage New Zealand ('HNZ') and from some heritage experts that this variability (particularly the lack of specific identification of fabric intended for protection) does not accord with good practice.

[17] In addition, the Council's s 32 evaluation did not involve any structured or formal evaluation, in consultation with landowners, of engineering feasibility and/or financial or economic viability issues. As we shortly address, the evidence we have heard on those matters for various submitters has informed our view that several listings should be deleted or modified. However, we have only had insight into the small sample of listings brought to our attention by submitters. Given the various considerations we have noted, this significant weakness in the listings in the Notified Proposal needs to be addressed in both policies and rules so as to ensure all landowners (whether or not submitters) will have a fair capacity for relief. We return to this matter shortly.

[18] Those problems have their consequences for the Notified Proposal. One consequence concerns the reliability or otherwise of the heritage list in the Notified Proposal, given the quality control matters we have identified. In addition to the unreliability of the foundation evaluation work, our impression is that there was also an invalid assumption that what HSOS identified as being of heritage value must be identified in the CRDP and regulated in order to satisfy requisite RMA obligations. The combined result is that restrictions on land use and development imposed through the Notified Proposal are not properly targeted, and are uncertain and disproportionate.

[19] Therefore, on the evidence, our concerns go significantly beyond issues of "clarity and certainty". Rather they go also to the fundamental inappropriateness and unreasonableness of provisions not supported by proper cost, benefit and risk evaluation on the Council's part. Therefore, while we record that a number of suggestions made in the Council's Memorandum

are helpful insofar as they go, our overall observation is that the Council has not yet appreciated the extent to which its Notified Proposal needs to be changed (in terms of objectives, policies, rules and listing changes) in order to satisfy relevant Higher Order Documents and the RMA.

*The objective and policies*

[20] The Council's Memorandum proposes or invites consideration of the following changes:

- (a) Including a new policy focussed solely on facilitating the recovery of heritage buildings from earthquake damage;
- (b) Expanding proposed Policy 9.3.2.1 to provide more explanatory detail on what the assessment methodology for listing entails;
- (c) Including a new policy on how future assessment and identification of heritage items will operate;
- (d) Amending proposed Policy 9.3.2.5 to expand the description of key principles and possibly also specify principles referring to earthquake damage, enabling recovery and enabling sensible modernisation of buildings;
- (e) Replacing references to "economic viability" in Policies 9.3.2.6 and 9.3.2.8 with wording that describes what is "sought via this term" (which the Council suggests to be "should be in proportion with the value of the property and the heritage values in question").

[21] These suggestions fail to grasp the much more fundamental concerns we have on the objective and policies, as we next discuss.

*Objective 9.3.1*

[22] This objective will need to be reassessed and amended following additions and amendments to policies. Some further observations we make at this time (on the 2 February 2016 revised version in Exhibit 11 to Ms Rachlin's evidence ('Revised Version')) are:

- (a) Proposed Objective 9.3.1 does not properly pick up on the different directions given in CRPS Objectives 13.2.1 and 13.2.3, and Policies 13.3.1 and 13.3.4. This is particularly in the sense that the vague concept of “maintain” or “maintenance” is used in the Revised Version apparently to seek to cover the range of directions from protection to enablement of sensitive change.
- (b) Proposed Objective 9.3.1.a. uses the unqualified term “historic heritage”, whereas CRPS Objective 13.2.1, as to *protection*, uses the qualifier “significant” with reference to historic heritage. “Significant” allows for judgment in choosing what historic heritage will be protected, having regard to other matters.
- (c) The direction “maintain historic heritage”, as used in proposed Objective 9.3.1.b, is inflexible and connotes holding the ground in favour of the status quo of a building, i.e. in effect full protection. By contrast, CRPS Objective 13.2.3 and Policy 13.3.4 invite regard to the various commercial and seismic strengthening dimensions building owners must consider. Further, its language of “sensitive to their heritage values” invites much more capacity to change a heritage listed building than does the word “maintain”. Furthermore, “appropriate management” in Objective 9.3.1.b(ii) does not give any clear direction.

*Policy 9.3.2.1 Assessment and identification — items and settings*

[23] In the Revised Version, Policy 9.3.2.1:

- (a) Clause (a) concerns the basis for assessment of significance of items and settings;  
and
- (b) Clause (b) concerns whether a level of “high significance” is reached.

[24] We note the Council’s suggestion to expand this proposed policy so as to provide more explanatory detail of what is entailed in the assessment methodology for listing.

[25] Insofar as it goes, this is a helpful suggestion in that the explanatory detail relates to the assessment methodology for determining significance or high significance of the heritage values of any item or setting. We would like to see more detail regarding the assessment criteria

and thresholds for significance or high significance (drawing from what is currently set out in the Council's s 32 Technical Report). A possible drafting approach could be to expand Policy 9.3.2.1 (possibly through cross-reference to an Appendix).

[26] More fundamentally, however, we consider that there needs to be a clear distinction made between:

- (a) *assessment* of significance of heritage values;
- (b) *identification (listing)* in the Schedule; and
- (c) *protection* through the CRDP (which we address in the next section of this Minute).

[27] An observation we make concerning the Council's s 32 evaluation is that it essentially conflated those three distinct steps. That conflation is carried forward into the expression of policy in (and the wider design of) the Notified Proposal. The Revised Version essentially displays the same flaw. In particular, Policy 9.3.2.1(c) is to the effect that all items and settings identified through the assessment under Policy 9.3.2.1(a) and (b) will be scheduled.

[28] The context of post-earthquakes recovery in Christchurch make clarity in this area especially important. That is in the sense that the policy drivers in each step are different:

- (a) As for *assessment*, we have already referred to the importance of sound and transparent methodology. The problems that have been brought to light concerning the reliability of the Council's approach to the HSOS highlight the importance of clear policy on this, pertaining to future assessment for changes to the CRDP listing.
- (b) Following sound assessment, *identification* calls for value judgement. Policy should give direction on how that value judgement will be exercised. For example, despite the relative significance of heritage values associated with a particular earthquake-damaged building, that damage could be such that it is not technically or financially viable to retain or reinstate the damaged heritage (bearing in mind,

also, associated Building Code obligations, and insurance arrangements). In that scenario, assessment ought not to lead to listing.

- (c) Finally, *protection* of what is identified also requires a range of value judgements on which policy direction should be given. We return to this shortly.

[29] Therefore, we invite the parties to consider revision to the Notified Proposal to make explicit and distinct policy provision for:

- (a) Future HSOS *assessment* methodology, to require the Council to apply sound, consistent and transparent methodology; and
- (b) Future *identification* following assessment, addressing where items are assessed as having heritage significance, but have earthquake damage. This part of the policy should recognise that, where there is evidence that it is not technically/financially viable to retain or reinstate the damaged item in a way that retains the heritage significance, the item will not be scheduled. We envisage wording that describes what is meant by not technically/financially viable in the context of retaining or reinstating a damaged heritage item (as recognised by the Council (para 5(e)).

[30] For identified heritage items, we next address what we consider as insufficient policy direction in relation to *protection*, recognising the importance of enablement in the terms we have already discussed.

#### *Policy 9.3.2.2 Protection — items and settings*

[31] Proposed Policy 9.3.2.2(a) of the Revised Version is to the effect that all scheduled items and settings will be protected from inappropriate subdivision, use and development. The subsequent policies and associated rules are such that determining what is “inappropriate” would be done through resource consent processes (based on generic rules for High Significance (Group 1) and Significant (Group 2) items and settings).

[32] Picking up from our earlier observations as to the flaws in conflating assessment, identification and protection, we are concerned that there is a significant policy gap as to the approach to be taken where an item is listed but has material earthquake damage.

[33] As we have noted, the HSOS methodology does not provide any reliable insight into this matter. That is, in essence, a gap in the Council's s 32 evaluation of "benefits, costs and risks". For a sample of the listed items, we have been informed of these matters through the evidence called by relevant submitters (and the Council's related evidence). As we later address, that evidence has led us to the view that a number of these listings should be modified or removed. For a number of other earthquake damaged items listed, however, we have no basis of knowing what is technically and/or financially viable in terms of rectifying earthquake damage (whether by way of repair, reconstruction or potentially full demolition). Our concern is that what has been brought to light through the evidence of submitters could just be the tip of the iceberg.

[34] Part of our obligation through s 32AA is to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. We are concerned that the present approach under the Revised Version would effectively transfer the risks of a poorly targeted regulatory regime (i.e. in terms of uncertainty and cost) based on the Council's limited s 32 evaluation to individual property owners (and, consequentially, to the community at large). Should not landowners in these circumstances also have opportunity for relief where they can substantiate that rectification of damage is not technically feasible and/or financially viable? If so, it occurs to us that there needs to be explicit recognition and provision for this in the policies and related rules.

[35] We invite parties to consider additional policy recognition of these matters.

[36] While the Council's Memorandum acknowledges the need to address difficulties with the words "economic viability", it proposes that this be replaced with wording to the effect that "costs should be in proportion with the value of the property and the heritage values in question". That would appear to be a significant qualifier, in terms of certainty. We invite the parties to consider whether or not that qualifier is justified, having regard to matters we have already discussed concerning the CRPS, what "protection" requires in the context of post-earthquakes Christchurch, and also the relationship of ss 5 and 6 of the RMA.

[37] We envisage that an appropriate policy direction could be to the effect that, where the case is made out on feasibility/financial viability grounds, the listed item is released from the usual Group 1 and 2 protection rules and put into a more moderate activity classification, with associated advantages in cost and certainty. Would certification on matters as to



feasibility/viability be an option, as an activity classification trigger? Our preliminary view is that it could well be appropriate, given that the enquiry would be primarily factual. If so, we invite parties to consider how this could be reflected both in policies and related rules.

[38] There are two further matters, relating to this policy, that we would like parties to consider.

[39] One concerns the level of protection that is appropriately provided to interiors of heritage items through rules in the Plan (which we address shortly). As we later discuss, this matter directly impacts on matters of certainty and the capacity, or otherwise, of a landowner to adaptively reuse their property. We have noted Heritage New Zealand's position as to the importance of clear identification. Related to that, it would appear that it is inherently important to engage with landowners in the process of identification.

[40] The second concerns the level of protection that is appropriately provided to heritage settings through rules in the Plan. Again, this can have a direct bearing on a landowner's capacity to adaptively reuse their property. Given that significant room for judgement as to extent and location is often available, it would again appear important that any choices made here are informed by landowner engagement.

#### *Policy 9.3.2.4 Future assessment and identification*

[41] This policy currently only relates to Historic Heritage Areas. As recognised by the Council's Memorandum (para 5(c)), this policy could usefully be expanded to address how future assessment and identification of heritage items and settings will be undertaken.

[42] We refer to our earlier comments inviting parties to consider an appropriate policy direction for this work.

#### *New Policy — Appropriate management of heritage buildings (in a recovery context)*

[43] The Council's Memorandum (at para 5(a)) suggests a new policy focused solely on facilitating the recovery of heritage buildings from earthquake damage.

[44] That would appear to lose sight of the fundamentally different position Christchurch faces in light of the earthquakes, and the community's need for recovery. Related to this, it also appears to lose sight of what the CRPS directs, concerning the management of historic buildings (and their settings) as we have noted.

[45] We agree there is a need for further policy provision. However, we invite parties to consider the various related priorities identified in CRPS Objective 13.2.3 and Policy 13.3.4. The new policy should be directed to enabling and facilitating the repair, rebuilding, upgrading, seismic strengthening, ongoing maintenance and adaptive re-use of heritage buildings and their settings (in a manner sensitive to their identified heritage values), in order to enable the maintenance of historic heritage (Objective 9.3.1). Hence, going significantly beyond the proposal floated in the Council's Memorandum, it should encompass:

- (a) The importance of retaining the City's remaining built heritage;
- (b) The degree of appropriate protection signalled by those provisions, including in the use of the phrase "sensitive to their historic values", which is significantly different from absolute protection of, or maintenance of, identified heritage values;
- (c) The necessary ingredients for facilitating the repair, rebuilding, upgrading, seismic strengthening, ongoing maintenance and adaptive re-use of heritage buildings and their settings (in a manner sensitive to their identified heritage values), in order to enable the maintenance of historic heritage (Objective 9.3.1). Specifically, we refer to the importance of understanding what landowner needs are in regard to their property and its uses; and
- (d) Landowner "economic costs" (as opposed to what Dr Fairgray described as being "economic" considerations). That must account for the different perspectives of landowners (e.g. as commercial entities, non-commercial community organisations, or home owners).

[46] As an alternative, it may be possible to incorporate these considerations into a refocused and expanded Policy 9.3.2.6.

*Policy 9.3.2.5 Heritage conservation management and heritage principles*

[47] In the Revised Version, this policy is to the effect that works to heritage items and settings should follow “best practice” heritage conservation management and heritage principles. A list then follows of what, in particular, such work should involve.

[48] It would have been evident from Panel questioning of various witnesses that we have concern as to the inappropriate uncertainty of “best practice”. We do not consider it appropriate for a policy to default to individual expert witness judgement, as those words would encourage. Similarly, we do not favour incorporation of reference to documents such as ICOMOS. Rather, it is the function of CRDP policy to direct what is to be assessed, and for experts to follow those directions.

[49] We consider that the Council’s Memorandum (at para 5(d)) is heading in the right direction in suggesting that the policy make more explicit the key principles, including recognition of the context of recovery from earthquake damage, and the need for ongoing adaptive re-use.

[50] However, we emphasise our expectation overall is that this policy will not default to “best practice” concepts, but describe what is intended (in a way that gives proper effect to the CRPS, achieves what is intended by the Strategic Directions objectives, and properly responds to other Higher Order Documents).

*Policy 9.3.2.6 Ongoing, viable use of heritage items and settings, and  
Policy 9.3.2.8 Demolition of heritage items*

[51] In regard to the indication in the Council’s Memorandum that it would seek to replace the words “economic viability”, we refer to our earlier comments.

[52] The Council’s Memorandum does not address the concept of “exceptional circumstances” in Policy 9.3.2.8 as to demolition of heritage items.

[53] The evidence suggests to us that this concept is unrealistically restrictive and uncertain. We invite the parties to consider a reformulation that enables financial, engineering, safety and

other related circumstances to be considered (particularly in the context of earthquake-related damage).

### *Rules*

[54] Our following observations are not intended to be exhaustive, but to provide assistance to parties in mediation on relevant topics, and to Mr Kyle. As an overall comment, we expect that parties will need to ensure that the rules bear proper relationship to objectives and policies, as intended by ss 75 and 76 RMA. In that sense, all provisions will need to be considered together, and tested for the effectiveness of how they inter-relate.

### *Activity standards*

[55] We support the direction progressed by Ms Rachlin's Exhibit 11 of 2 February 2016. That includes responses to amendments suggested in expert evidence in support of submissions.

[56] We support the acknowledgements in the Council's Memorandum (at paras 6–14) as to the need for further amendment to the rules (and associated definitions). By way of example:

- (a) In P1–P3, P10 and P11, the concept of the “Qualified heritage practitioner on a Council approved list” needs to specify applicable qualification and experience requirements. If there is to be a process of having to be on a Council approved list, this is not to be a process allowing the Council to pick its favourites and exclude other relevantly qualified experts. Architectural qualifications (with related heritage building knowledge/experience) would at least appear more pertinent than other qualifications, given the focus is on management of building modification according to objectives and policies often requiring architectural knowledge. We would welcome, in particular, Heritage New Zealand input into this matter.
- (b) In P3, the provision for heritage investigation and temporary works to Group 1 heritage items should not be confined to works required as a result of earthquake damage.

- (c) In P8, as to demolition and deconstruction of heritage items under s 38 of the CER Act, we consider standard (b), as to consultation, ought to be deleted. We also note our earlier comments concerning the clarity advantages of specifying a cut off date (in this regard ensuring the CRDP is self-contained, not having to be dependent on what may or may not arise from Select Committee processes on the legislation in train).
  
- (d) In P10, Heritage upgrade works:
  - (i) Heritage upgrade works undertaken as part of “Repairs” or “Reconstruction and Restoration” should be excluded;
  
  - (ii) The permitted activity should not be confined to upgrade works required as a result of earthquake damage (although parties may wish to consider whether there is justification for limiting permitted upgrade works that are not earthquake-related to Group 2 buildings and/or to “minor upgrades”);
  
  - (iii) The Panel would welcome any further development of the concept of a “Reconstruction and Repair Plan” as part of any final rules package. Certification of the Plan should be by a qualified heritage practitioner, rather than by the Council.
  
- (e) In P11, Reconstruction and Restoration:
  - (i) The permitted activity should not be limited to reconstruction and restoration required as a result of earthquake damage (although parties may wish to consider whether there is justification for limiting permitted Reconstruction and Restoration that are not earthquake-related to Group 2 buildings);
  
  - (ii) The Panel would welcome any further development of the concept of a “Reconstruction and Restoration Plan” as part of any final rules package. Certification of the Plan should be by a qualified heritage practitioner, rather than by the Council.

- (f) We consider there is merit in Mr Taylor’s suggestion for a new permitted activity rule enabling activity to continue, for example until 31 December 2018, where the activity was authorised by the Existing Plan, in regard to reconstruction of buildings in the Central City damaged in the earthquakes (and we invite the parties to consider whether this rule is only required for the Arts Centre buildings).

[57] We encourage a robust review of the overlaps between the rules (and associated definitions) to ensure clarity and certainty regarding activity status.

### *Definitions*

[58] We recognise the improvements the Council recommends to definitions in Rachlin Exhibit 11, including responses to amendments suggested in expert evidence in support of submissions.

[59] We encourage a further review of any overlaps between definitions to ensure clarity and certainty (as far as possible) regarding the activities covered by each definition. For example, where one activity is included as part of another activity, this should be clearly identified within the relevant definition and/or the associated rules (e.g. where “heritage upgrade works” are included as part of “repairs” or “reconstruction”, and where partial “demolition” is included as part of “alteration”).

[60] We support further exploration of amendments to definitions, and make the following suggestions as examples:

- (a) “Heritage investigation and temporary works” — whether, as suggested in Mr Nixon’s evidence, this definition should specifically include temporary lifting and relocation of buildings, and drilling for core samples.
- (b) “Repairs” — whether this definition should include heritage upgrade works (as Council recommends to include in “reconstruction”).
- (c) “Heritage setting” — whether this definition should be tightened refer to the spatial context which “is integral to” the significance of a heritage item, rather than “contributes to”;

- (d) “Heritage fabric” — whether the need for specialist technical advice can be removed or minimised. We acknowledge that this would be assisted by reconsideration of the extent to which “interiors” of heritage items are included, as is next discussed.

*Interior fabric not to be restricted unless specifically listed*

[61] The Panel’s preliminary view on the evidence is that it is more appropriate that interior fabric is not the subject of heritage protection unless and to the extent that the fabric is itemised in the applicable CRDP Schedule. Bearing in mind that the Council has not taken this approach with the schedules in the Notified Proposal, it is a matter for the Council whether or not it would make any application (on notice) seeking leave to adduce supplementary evidence to support the addition of such interior fabric to the applicable schedule, on the basis of investigation it has undertaken. Any such application would need to explain what engagement is intended with landowners (whether or not submitters). Should the Council make such an application, any procedural directions on this (including to ensure due process) would be considered at that time.

*Site specific matters including heritage listings*

[62] We preface our comments by noting that our views below on various de-listings reflect, and are in accordance with, the views we express above as to the flaws of the Council’s conflated s 32 evaluation methodology, and related issues concerning objectives, policies and rules. That is in the sense that we are satisfied that all of our observations are materially consistent. They are also informed by our consideration of tested evidence (and the undertaking of some requested site visits), applicable statutory directions and related opening submissions. Hence, to that extent, they are our considered views. They are also necessarily preliminary. First, that is because we have not yet heard closing submissions. In addition, our observations are subject to outcomes from mediation, and Mr Kyle’s recommendations in due course. It is at that stage, and after consideration of closing submissions, that we will finalise and deliver our reasoning as part of our determination.

*Activity status for demolition of Christchurch Cathedral, Cathedral of the Blessed Sacrament and Maclean's Mansion*

[63] We will await the outcome of mediation on these matters, including the Council's proposals (at paras 15–18). Without expressing any view on appropriate activity classifications or other matters traversed by the Council's Memorandum, we note for the parties' consideration:

- (a) For rules as to "section 38 notices", it is desirable in certainty terms for the CRDP to be self-contained. As such, while it may be at large at this stage whether or not the legislation before Select Committee will or will not keep s 38 notices alive, it is relatively straightforward for a CRDP rule to specify that it applies to all s 38 notices issued as at a specified date. That would appear to have a significant benefit of certainty.
- (b) Along the same lines, we invite the parties to discuss the value, or otherwise, of retaining the reference to consultation in the rule.

*Proposed listing of Canterbury Museum*

[64] The Council's Memorandum explains that it no longer wishes to pursue the listing of Canterbury Museum as a single entity. It reports that it considers that the Roger Duff Wing (excluding the interior) and the 1958 Centennial Wing (interior and exterior) can be listed as separate Group 2 items.

[65] On the evidence, the Panel's preliminary view is that the proposed listing for Canterbury Museum should be modified so that it:

- (a) Does not apply to the Roger Duff wing, except for the two façades that face the Botanical Gardens (which should be listed as Group 2); and
- (b) Does not apply to the Centennial wing, except for the façade of the Centennial wing that faces Rolleston Avenue (which should also be listed as Group 2).



*Basement of St Augustine's Church*

[66] The Council Memorandum records that “in this instance” it considers the basement should be excluded, given the limited heritage value of the interior. It also prefaces that with a qualifier that it is “preferable to include the whole of the building in heritage listings”.

[67] The Panel records that its preliminary view on the evidence is that the basement should be excluded. The Panel also records that the Council’s stated preference for whole of building listing appears inconsistent with what has occurred in some other listings.

*Public Trust building — 152 Oxford Terrace*

[68] The Council Memorandum proposes a somewhat convoluted change whereby demolition of the rear of the building would be a controlled activity and demolition of the façade would be a discretionary activity.

[69] The Panel’s preliminary view on the evidence is that the proposed listing for the Public Trust building should be uplifted in its entirety.

*Arts Centre Registry Office*

[70] The Council proposes to retain the exterior listing but confine the interior listing to three specified matters.

[71] The Panel’s preliminary view on the evidence is that the proposed listing of this building should be uplifted in its entirety.

[72] Having noted that, the Panel observes that the Council’s proposal for specification of interior heritage fabric is a method that ought to have been applied for all buildings where interiors are intended to be protected.

*Elmwood Park*

[73] The Panel considers that the Council’s proposals for reducing the extent of this listing are consistent with the Panel’s views on the evidence, although the Panel will await the outcome of mediation in terms of defining precise boundaries for this reduction.

*Barrington Park stone gates and Coronation Hall*

[74] The Panel notes the Council's indication that these items could meet the listing threshold, and notes the Council's intentions to undertake investigation of this. The Panel's preference is for this investigation to be done now, in conjunction with the submitter, in order to inform our decision. Directions are made accordingly.

*25 Helmores Lane*

[75] Although this was not addressed in the Council's Memorandum, the Panel's preliminary view on the evidence is that the listing should be uplifted in its entirety (including in relation to the East Wing and setting).

*St Barnabas' Church office*

[76] Although this was not addressed in the Council's Memorandum, the Panel's preliminary view on the evidence is that the listing should be uplifted in its entirety.

*159 Manchester Street*

[77] The Council indicated earlier that it no longer pursued a listing of this building. The Panel's view on the evidence, and in view of the owner's representations, is that this listing should never have been proposed.

*19 Exeter Street, Lyttelton*

[78] The Panel's preliminary view on the evidence, and in view of the owner's representations, is that this listing should be removed entirely.

*6 Peartree Lane*

[79] Panel's preliminary view on the evidence, and in view of the owner's representations, is that this listing should be modified. While it should remain for the building (subject to our comments concerning interior fabric matters generally) its setting should be confined to the front garden area.

*16 Aubrey Street, Akaroa*

[80] We are concerned about the consequences of this listing for Mrs Lyon. We invite the Council and her representative (Mr Cuthbert) to further discuss this listing, including whether it could appropriately be more confined in regard to setting (bearing in mind Mrs Lyon’s aspirations, including for subdivision and future usage for her needs). We refer to our earlier observations on interior fabric.

*Akaroa Historic Area*

[81] The Panel favours some provision for this, along the lines recommended by Ms McIntyre for the Crown. Clarity is needed as to the geographic area. We ask the relevant parties to address this and report back following mediation.

**Topic 9.4 — Significant Trees**

*Policy changes*

[82] The Council’s Memorandum signals it is considering a further policy to give more guidance on the factors that qualify a tree as significant. We welcome further consideration of this.

[83] In this regard, we consider it would be useful to consider making explicit how matters such as safety, amenity, nuisance and financial viability bear on the question of whether or not a significant tree is listed (with attendant consequences by way of land use and development is restricted) under the CRDP.

[84] On this matter, we observe that the Notified Proposal is not consistent in terms of how it treats “public realm” and “private realm” trees. Public realm trees are typically in well-planned landscape settings, whereas private realm trees can often be unwisely located. Yet, the scope for release from restriction, by reason of locational difficulties, appears to be much more generous for public realm trees.

*Public realm tree protection*

[85] The Council’s Memorandum proposes to consider extending the public realm tree protection rules beyond urban Christchurch, noting the potential for this to be to the urban areas

of Lyttelton and Akaroa and to parks and open spaces owned by the Council beyond the urban Christchurch City area.

[86] On this matter, however, the Panel's preliminary view on the evidence is that a materially different approach may be more appropriate in terms of certainty. That would be along the lines of carrying forward the Existing Plan's regime of scheduling rural trees and trees on public land.

[87] We invite the parties to consider these alternative approaches.

*Permitted activity with certification route for removal of dead, damaged or deteriorated trees*

[88] The Panel agrees with the Council's Memorandum that this is worth exploring. However, the Panel has concerns about the Council's proposed qualifier, which appears to be to the effect that this regime would only be available if the death, damage or deterioration was to the extent that the tree no longer qualified for listing. That would appear to exclude capacity for a person to get relief when a tree is a danger to life or property. As we have noted, we are curious about why more generosity is offered for public realm trees, and invite the parties to consider whether this inconsistency is appropriate.

*Controlled activity for pruning and trimming trees to reduce or eliminate nuisance*

[89] The Panel notes the Council's intention to explore this, and considers this would be helpful.

*Potential for some trees previously listed but excluded to be brought back in*

[90] While the Panel is not necessarily calling for this, it notes that there is some contested arborist opinions concerning the value or otherwise of returning some trees to listing. It will be a matter for parties to mediation whether, supported by proper assessment, any further adjustments will be jointly sought. Otherwise, the Panel will make determinations on these matters on the evidence before us.

## **Topic 9.5 Cultural landscape and related matters**

[91] The Panel has received a joint memorandum on behalf of Te Rūnanga o Ngāi Tahu and ngā rūnanga ('Ngāi Tahu') and the Council ('Ngāi Tahu/Council joint memorandum'). This reports on a work programme underway between those parties, and requests one month for the filing of a joint memorandum or separate memoranda. We make directions accordingly.

[92] The parties will no doubt also be aware of the importance of engagement with Federated Farmers and stakeholder landowners (and we refer to the transcript on these matters).

### **Appointment of independent planning expert adviser to the Panel**

[93] In questioning by the Panel, Mr Matheson invited us to engage an expert to "work with the people that are involved in this, get an understanding of where everyone is going" and provide "the update and a revised package to you, rather than the individual parties with individual interests trying to push their particular matter".<sup>6</sup>

[94] Pursuant to clause 8, Schedule 3 to the OIC,<sup>7</sup> the Panel has appointed Mr John Kyle of Mitchell Partnerships for those purposes. Following facilitated mediation (which Mr Kyle will attend in his capacity as an expert to the Panel, rather than a party to mediation), Mr Kyle will report to the Panel with his detailed recommendations including on drafting matters. That report will, of course, be made available to all parties in due course. Where parties are not in agreement with Mr Kyle's recommendations, opportunity will be given to parties who wish to cross-examine him at a resumed hearing in due course, subject to further directions to be made by Minute.

[95] Parties will be aware that Mr Kyle has given evidence on other proposals for the preparation of the CRDP,<sup>8</sup> most notably for Ryman Healthcare Limited ('Ryman') and the Retirement Villages Association Incorporated ('RVA'). Most recently, this was in relation to the Central City provisions, on which the hearing is continuing. We are satisfied that there is no material cross-over between that and the role we seek his assistance with. However, if any

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<sup>6</sup> Transcript, page 1993, lines 39 – 45, page 1994, lines 1 - 6

<sup>7</sup> Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

<sup>8</sup> Christchurch Replacement District Plan

party has any concerns, they must communicate those urgently to the Panel as Mr Kyle will need to commence this work in the very near future, and in light of other commitments.

### **Mediation arrangements and dates**

[96] Mr Mills will facilitate mediation on Topic 9.3 (Historic Heritage). At this stage, it is not anticipated that facilitated mediation is sought for the other topics (beyond what is already in train for Topic 9.1). However, parties can communicate any requests for other topics, should that assist, and we will endeavour to arrange this (subject to resource availability). Given Mr Mills' commitments, and those of Mr Kyle, mediation will occur in March 2016 (the available dates being 3, 21, 22 and 30 March). The Council and parties taking part in mediation must ensure they and their relevant representatives/attendees are available on those days.

### **Concluding comments**

[97] It is in the interests of assisting parties to mediation, and informing Mr Kyle, that the Panel has given this detailed prognosis as sought by Mr Matheson. We reiterate that the prognosis, including our various comments on possible cures, is inherently preliminary. In due course, in light of the outcomes of mediation and Mr Kyle's report and recommendations, we will revisit these matters at a resumed hearing (arrangements for which will be detailed by a future Minute).

### **Directions**

[98] I **direct** as follows:

- (a) The Council (through counsel) is to confer with Mr Mills to confirm timetabling and other mediation arrangements;
- (b) The Council is to attend mediation (with legal counsel, Mr Matheson and other relevant planning witness(s));
- (c) Other parties with relevant interests in the relevant Historic Heritage topics should also attend;

- (d) Parties to that mediation are to be guided by this Minute on matters it addresses;
- (e) Mr Kyle's participation in that mediation will be as expert adviser to the Panel (on the basis that the Panel will, in due course, receive a report from Mr Kyle with his recommendations for changes to the Revised Version);
- (f) Parties must abide the directions of Mr Mills concerning the processes of mediation, including in relation to any documents or other reports Mr Kyle prepares;
- (g) Leave is reserved to the Council to apply to adduce supplementary evidence for specified listed buildings, for the purposes of specifying interior heritage fabric for protection, provided that any application for leave must:
  - (i) Specify intended arrangements for landowner engagement for these purposes;
  - (ii) Be filed with the Secretariat by *4 p.m., Friday 26 February 2016*;
- (h) Leave is reserved to the Council to apply to adduce supplementary evidence as to its investigation for any listing of Barrington Park stone gates and Coronation Hall. Any application for leave is to be filed by *4 p.m., Friday 26 February 2016*;
- (i) Leave is reserved to the Council to apply to adduce supplementary evidence as to its proposals for updating the Notified Proposal to address the various matters discussed in this Minute concerning Topic 9.4 (Significant Trees). Any application for leave is to:
  - (i) Specify intended arrangements for engagement with interested parties; and
  - (ii) Be filed by *4 p.m., Friday 26 February 2016*;
- (j) The present timetable, in regard to the matters addressed in the Ngāi Tahu/ Council joint memorandum, is modified to the effect that those parties must file preferably

a joint memorandum and otherwise separate memoranda reporting on their position(s) on appropriate provisions on this topic, by *4 p.m., 25 March 2016*;

- (k) Leave is reserved for any party to apply, on four hours' notice, for any modification of, or addition to, these directions.

[99] A further Minute giving directions for resumption of the hearing of relevant topics will follow in due course.



Environment Judge John Hassan  
For and on behalf of the Chair



**Attachment 3: Resource consent decision RMA20232254**

## Report / Decision on a Resource Consent Application

(Sections 95A, 95B and 104 / 104C)

Application number:	RMA/2023/2254
Applicant:	Carter Group Limited
Site address:	32 Armagh Street
Legal description:	Sec 1 SO 20236
Zone:	
District Plan:	Specific Purpose School
Proposed Plan Change 14:	Specific Purpose School
Overlays and map notations:	
District Plan:	Central City Building Height 14m Overlay, Category 3 Lower Noise Level Area, Central City Inner Zone, Liquefaction Management Area, Significant Individual Trees (two), Heritage Item 390, Heritage Setting, Adjoins Street Trees (four)
Proposed Plan Change 13 & 14:	Heritage Item, Heritage Setting, Residential Heritage Area, Significant and Other Trees
Road classification:	Central City Main Distributor / Central City Local Distributor / Local
Activity status:	
District Plan:	Permitted
Proposed Plan Change 13 & 14:	Restricted discretionary
Description of application:	Demolition of a building

### Proposed activity

Resource consent is sought to enable the demolition of a building. While the building is not identified in the District Plan as a Heritage Item, the building is within a Heritage Setting and a Residential Heritage Area (under Plan Change 13).

This application does not seek consent to use the site for car parking (and nor would such be enabled by the current application if it were to be granted consent).

### Description of site and existing environment

The application site is a 5,620m<sup>2</sup> site with frontage to Armagh, Montreal and Gloucester Streets. It contains a heritage item and two significant trees, in addition to the building proposed for demolition. The site is currently used for car parking. The site is not a listed HAIL site.

The surrounding environment is a mix of land zoned for residential, commercial and schooling. It is within walking distance of Hagley Park, Cranmer Square and Cathedral Square.

### Activity status

#### Christchurch District Plan

The site is zoned Specific Purpose School in the operative Christchurch District Plan. The applicant is of the view that the proposed works would be permitted under the Plan. The applicant, notably, advises that: "Earthworks are not proposed. The building will be demolished with the foundations, paths, etc left in situ".

#### Proposed Plan Change 13 Heritage

Proposed Plan Change 13 (PC13) is relevant to this proposal. It was notified on 17 March 2023 prior to the lodgement of this application and proposes amendments to the heritage rules and related provisions in various other chapters of the Plan. The submission period has now closed and there are submissions relating to all proposed provisions.

The objectives, policies and rules have legal effect from the date of notification pursuant to s86B(3) as the rules relate to the protection of historic heritage.

Resource consent is required under the following rules in PC13 (and PC14, see below):

Activity status rule	Standard not met	Reason	Matters of control or discretion	Notification clause
9.3.4.1.3 RD7	-	The proposal involves demolition of a contributory building in a Residential Heritage Area.	9.3.6.5	No clause

Proposed Plan Change 14 Housing and Business Choice

Proposed Plan Change 14 (PC14) was also notified on 17 March, but only the provisions relating to historic heritage have immediate legal effect. As the historic heritage provisions are qualifying matters for the purpose of the Medium Density Residential Standards and the NPS Urban development, the provisions of PC14 cannot be considered for the purpose of assessing resource consent applications beyond the heritage rules with immediate legal effect. These duplicate the PC13 provisions, so for ease of reference in this report I refer to the "Plan Change" to encompass both sets of identical rules, and reference should be made to the table above for the rules triggered.

Written approvals [Sections 95D, 95E(3)(a) and 104(3)(a)(ii)]

No written approvals have been provided with the application.

#### NOTIFICATION ASSESSMENT

Adverse effects on the environment and affected persons [Sections 95A, 95B, 95E(3) and 95D]

When assessing whether adverse effects on the environment will be, or are likely to be, more than minor, any effects on the owners and occupiers of the application site and adjacent properties must be disregarded (section 95D(a)). The assessment of affected persons under section 95E includes persons on adjacent properties as well as those within the wider environment.

As a restricted discretionary activity, assessment of the effects of this proposal is limited to the matters of discretion for the rules breached.

Given the nature of the proposal and the site, the application has been reviewed by the Council's Heritage Team. Their advice is that:

*Application has been made for the demolition of the former Christchurch Girls' High School (CGHS) tuck shop and swimming pool changing rooms ('the tuck shop') at 35 Armagh Street (alternative addresses: 325 Montreal Street, 35 Gloucester Street). The tuck shop is a Contributory building in the Inner City West Residential Heritage Area (RHA). Demolition of a Contributory building is a restricted discretionary activity (RD4). This application has been assessed against Matters of Discretion 9.3.6.5.*

- (a) *The effect of the works on the heritage values of the building or site and the collective heritage values and significance of the heritage area, including the overall integrity and coherence of the heritage area.*

*The heritage values of the building and site are principally those associated with occupation and use by CGHS. CGHS was established in 1877 at what is now the Arts Centre of Christchurch but relocated to a new building at the corner of Armagh and Montreal Streets in 1881. The school remained on this site until 1986. The majority of the historic school buildings were severely damaged in the Canterbury Earthquake Sequence in 2011 and subsequently demolished. Two buildings associated with the school however remain in-situ: the former caretaker's residence (popularly known as the Blue Cottage), a Significant heritage item and a Defining building within the RHA, and the tuck shop. The tuck shop (also known as the lunchroom) and associated pool changing rooms (the school pool was located east of the building) were built in 1967 after extensive fundraising by the school's Parent Teacher Association. The building is a utilitarian concrete block structure set well back from the site's street frontages. Despite its lack of obvious charm however, arguably the tuck shop has significant social, cultural and historical value for its central role in the life of the school for two decades. It also has contextual values for its association with the Blue Cottage and the wider school site. Were the tuck shop to be demolished, the heritage values associated with the school could feasibly be represented by the Blue Cottage alone - although it is noted that this building is not being actively maintained and there is a current submission to Plan Change 14 to remove it from the heritage schedule. More critically however, the tuck shop does not clearly align with the form, materials, or typology of the majority of the Defining and Contributory buildings within the RHA. As set out in the RHA report, the collective heritage values and significance of the heritage area are principally those associated with its residential use and its late nineteenth and early twentieth century-built character. The only other comparable non-residential building within this RHA is the YMCA on Hereford Street (also built in 1967), which is assessed as neutral. Therefore – although demolition would (by*

definition) remove any heritage values associated with the building itself and impact the means of representing the site's important history – the loss of the building would have little or no impact on the nominated heritage values and significance of the heritage area, including its overall integrity and coherence.

(b) Whether the building is a defining building or a contributory building.

The tuck shop has been assessed as a contributory building within the RHA. The definition of a contributory building is one which support[s] the historic heritage values of the heritage area [and which is] consistent with the heritage values of the area and may be either modified or modern buildings...in sympathy with the design and typology of their neighbours. As set out above, the tuck shop is a tangible link with the former use of the site by CGHS and the heritage values associated with that use. It does not however strongly support the principal heritage values of the heritage area - which are residential. Although contributory therefore, the contribution that this building makes to the heritage values of the area is comparatively slight.

(c) The extent to which the heritage fabric or heritage values have been damaged by natural events, weather and environmental factors, and the necessity and practicality of work to prevent further deterioration.

The applicant considers that the building has not suffered any damage that would support the proposal to demolish.

(d) Whether the costs to retain the building on site would be unreasonable.

The applicant considers that the costs associated with retaining and maintaining an unwanted building (including the opportunity cost of the restriction on development that the building imposes) are unreasonable. No specific figures are volunteered.

(e) The ability to retain the overall heritage values of the building through an alternative proposal.

No alternative proposal is offered by the applicant. Partial demolition or relocation are not viable options.

(f) The extent of photographic documentation that will occur prior to, during and on completion of the works.

The applicant has offered to undertake a photographic record if required. A condition addresses this.

Conclusion:

- The tuck shop has been assessed as a Contributory building within the Inner City West RHA. It has individual heritage value for its historic association with CGHS. These values may however also be represented by another building on the wider site. Additionally (and more critically), the particular values that the building represents are not those delineated as the defining values of the RHA. The loss of the building would therefore have a negligible impact on the values and significance of the RHA as a whole. I recommend thus that the effects of the proposed demolition of the former CGHS tuck shop on the Inner City West RHA are less than minor, subject to the following condition and advice note.
  - (condition) A digital photographic record containing labelled image files documenting the exterior and interior of the building is to be taken by the consent holder. The record must be lodged with the Christchurch City Council's Heritage Team within three months of the completion of the work. Images must be of printable quality, at least 1440 pixels by 960 pixels for a 4"x 6" print at a minimum resolution of 240 PPI.
  - (advice note) The intention of the photographic record condition is to maintain a record of the demolished building. Photos should be labelled with a brief description of what is being photographed, position on site or in relation to the site, date and photographer's name, and submitted as individual image files, with a plan showing photograph locations. Photos should be submitted to the Council's nominated Heritage team contact electronically, either by email (noting that Council's email data transfer limit is 20MB per email), or via a file transfer website such as [wettransfer.com](http://wettransfer.com) or [dropbox.com](http://dropbox.com) to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz).

I accept and rely on that advice and agree that adverse effects would be less than minor. The above condition has been agreed.

Notification tests [Sections 95A and 95B]

Sections 95A and 95B set out the steps that must be followed to determine whether public notification or limited notification of an application is required.

PUBLIC NOTIFICATION TESTS – Section 95A	
Step 1: Mandatory notification – section 95A(3)	
➤ Has the applicant requested that the application be publicly notified?	No
➤ Is public notification required under s95C (following a request for further information or commissioning of report)?	No

➤ Is the application made jointly with an application to exchange reserve land?	No
<i>Step 2: If not required by Step 1, notification is precluded if any of these apply – section 95A(5)</i>	
➤ Do operative and proposed rules or an NES preclude public notification for all aspects of the application?	No
➤ Is the application a controlled activity under the District Plan and Plan Changes?	No
➤ Is the application a boundary activity?	No
<i>Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)</i>	
➤ Does a rule or NES require public notification?	No
➤ Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor (discussed above)?	No
<i>Step 4: Relevant to all applications that don't already require notification – section 95A(9)</i>	
➤ Do special circumstances exist that warrant the application being publicly notified?	No

In accordance with the provisions of section 95A, the application must not be publicly notified.

<b>LIMITED NOTIFICATION TESTS – Section 95B</b>	
<i>Step 1: Certain affected groups/persons must be notified – sections 95B(2) and (3)</i>	
➤ Are there any affected protected customary rights groups or customary marine title groups?	No
➤ If the activity will be on, adjacent to, or might affect land subject to a statutory acknowledgement - is there an affected person in this regard?	No
<i>Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95B(6)</i>	
➤ Do operative and proposed rules or an NES preclude limited notification for all aspects of the application?	No
➤ Is this a land use consent application for a controlled activity under the District Plan and Plan Change?	No
<i>Step 3: Notification of other persons if not precluded by Step 2 – sections 95B(7) and (8)</i>	
➤ Are there any affected persons under s95E, i.e. persons on whom the effects are minor or more than minor, and who have not given written approval (discussed above)?	No
<i>Step 4: Relevant to all applications – section 95B(10)</i>	
➤ Do special circumstances exist that warrant notification to any other persons not identified above?	No

In accordance with the provisions of section 95B, the application must not be limited notified.

Notification recommendation
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That, for the reasons outlined above, the application be processed on a non-notified basis pursuant to sections 95A and 95B of the Resource Management Act 1991.

Reported and recommended by: Andrew Long, Senior Planner

Date: 29 September 2023

Notification decision
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That the above recommendation be accepted for the reasons outlined in the report.

Delegated officer:

Matthew Klomp  
Senior Planner  
02/10/2023

## SECTION 104 ASSESSMENT

### Actual and potential effects on the environment [Section 104(1)(a)]

The adverse effects on the environment are assessed in the preceding section 95 discussion, and that assessment is equally applicable here. Overall, I consider that the effects of the proposed activity on the environment will be acceptable.

### Relevant objectives, policies, rules and other provisions of the Plan and Proposed Plan [Section 104(1)(b)(vi)]

Regard must be had to the relevant objectives and policies in the District Plan and the heritage objectives and policies in Plan Changes 13 and 14. Those set out below are particularly relevant. Having regard to the assessment of effects above it is my view that the proposal is consistent with the relevant objectives and policies. I note that given the number and nature of submissions on PC13, I afford little weight to the objectives and policies therein.

#### Operative District Plan

##### 9.3.2.1.1 Objective - Historic heritage

- a. The overall contribution of historic heritage to the Christchurch District's character and identity is maintained through the protection and conservation of significant historic heritage across the Christchurch District in a way which:
  - i. enables and supports:
    - A. the ongoing retention, use and adaptive re-use; and
    - B. the maintenance, repair, upgrade, restoration and reconstruction of historic heritage; and
  - ii. recognises the condition of buildings, particularly those that have suffered earthquake damage, and the effect of engineering and financial factors on the ability to retain, restore, and continue using them; and
  - iii. acknowledges that in some situations demolition may be justified by reference to the matters in Policy 9.3.2.2.8.

#### Plan Changes 13 and 14

##### 9.3.2.2.3 Policy – Management of scheduled historic heritage

- a. Manage the effects of subdivision, use and development on the heritage items, heritage settings and heritage areas scheduled in Appendix 9.3.7.2 and 9.3.7.3 in a way that:
  - i. provides for the ongoing use and adaptive reuse of scheduled historic heritage in a manner that is sensitive to their heritage values while recognising the need for works to be undertaken to accommodate their long term retention, use and sensitive modernisation change and the associated engineering and financial factors;
  - ii. recognises the need for a flexible approach to heritage management, with particular regard to enabling repairs, heritage investigative and temporary works, heritage upgrade-Building Code works to meet building code requirements, and restoration and reconstruction, in a manner which is sensitive to the heritage values of the scheduled historic heritage, and retains the current level of significance of heritage items and heritage areas on the schedule; and
  - iii. subject to i. and ii., protects their particular heritage values from inappropriate subdivision, use and development.
- b. Undertake any work on heritage items and heritage settings scheduled in Appendix 9.3.7.2 and defining building or contributory building in heritage areas scheduled in Appendix 9.3.7.3 in accordance with the following principles:
  - i. focus any changes to those parts of the heritage items or heritage settings, or defining building or contributory building which have more potential to accommodate change (other than where works are undertaken as a result of damage), recognising that heritage settings and Significant (Group 2) heritage items are potentially capable of accommodating a greater degree of change than Highly Significant (Group 1) heritage items;
  - ii. conserve, and wherever possible enhance, the authenticity and integrity of heritage items and heritage settings, and heritage area, particularly in the case of Highly Significant (Group 1) heritage items and heritage settings;
  - iii. identify, minimise and manage risks or threats to the structural integrity of the heritage item and the heritage values of the heritage item, or heritage area, including from natural hazards;
  - iv. document the material changes to the heritage item and heritage setting or heritage area;
  - v. be reversible wherever practicable (other than where works are undertaken as a result of damage); and
  - vi. distinguish between new work and existing heritage fabric in a manner that is sensitive to the heritage values.



**9.3.2.2.5 Policy – Ongoing use of scheduled historic heritage, heritage items and heritage settings**

- a. Provide for the ongoing use and adaptive re-use of heritage items and heritage settings scheduled in Appendix 9.3.7.2 and defining buildings and contributory buildings in heritage areas scheduled in Appendix 9.3.7.3 (in accordance with Policy 9.3.2.2.3), including the following:
- i. repairs and maintenance;
  - ii. temporary activities;
  - iii. specific exemptions to zone and transport rules to provide for the establishment of a wider range of activities;
  - iv. alterations, restoration, reconstruction and heritage upgrade-Building Code works to heritage items, including seismic, fire and access upgrades;
  - v. signs on heritage items and within heritage settings; ~~and~~
  - vi. new buildings in heritage settings, Subdivision and new development which maintains or enhances access to heritage items, defining buildings and contributory buildings.

**9.3.2.2.8 Policy – Demolition of heritage items**

- a. When considering the appropriateness of the demolition of a heritage item scheduled in Appendix 9.3.7.2 or a defining building or contributory building in a heritage area scheduled in Appendix 9.3.7.3, have regard to the following matters:
- i. whether there is a threat to life and/or property for which interim protection measures would not remove that threat;
  - ii. whether the extent of the work required to retain and/or repair the heritage item or building is of such a scale that the heritage values and integrity of the heritage item or building would be significantly compromised, and the heritage item would no longer meet the criteria for scheduling in Policy 9.3.2.2.1;
  - iii. whether the costs to retain the heritage item or building (particularly as a result of damage) would be unreasonable;
  - iv. the ability to retain the overall heritage values and significance of the heritage item or building through a reduced degree of demolition; and
  - v. the level of significance of the heritage item.

Relevant provisions of a National Environmental Standard, National Policy Statement, Regional Plan, Regional Policy Statement or Coastal Policy Statement [Section 104(1)(b)]

The District Plan gives effect to the higher order documents referred to in s104(1)(b) for all relevant matters except the National Policy Statement on Urban Development (NPS) which came into effect on 20 August 2020. The Council has commenced the Plan change process to give effect to the NPS, with Plan Change 14 including provisions enabling urban intensification around centres and other amenities, services, and transport corridors, however, its provisions do not yet have legal effect. Only the provisions relating to historic heritage have immediate legal effect, with the intensification provisions subject to change through the submission and decision-making process. Overall, I consider this proposal is not inconsistent with the NPS as proposed to be given effect to by PC14.

Part 2 of the Resource Management Act [Section 104(1)]

Taking guidance from the most recent case law<sup>1</sup>, the District Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Christchurch District. It was competently prepared through an independent hearing and decision-making process in a manner that appropriately reflects the provisions of sections 5-8 of the Act. Assessment against Part 2 is only considered necessary in respect of the NPS as it has not yet been given effect to within the District Plan. This is discussed above.

Section 104(3)(d) notification consideration

Section 104(3)(d) states that consent must not be granted if an application should have been notified and was not. No matters have arisen in the assessment of this application which would indicate that the application ought to have been notified.

<sup>1</sup> *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316

## Section 104 Recommendation

That, for the above reasons, the consent be granted under the proposed Plan Changes 13 and 14 pursuant to Sections 104, 104C, 108 and 108AA of the Resource Management Act 1991, subject to the following conditions:

1. The development shall proceed in accordance with the information submitted with the application, including the stamped approved plans entered into Council records as RMA/2023/2254.
2. A digital photographic record containing labelled image files documenting the exterior and interior of the building is to be taken by the consent holder. The record must be lodged with the Christchurch City Council's Heritage Team within three months of the completion of the work. Images must be of printable quality, at least 1440 pixels by 960 pixels for a 4"x 6" print at a minimum resolution of 240 PPI.

### Advice Notes

- The intention of the photographic record condition is to maintain a record of the demolished building. Photos should be labelled with a brief description of what is being photographed, position on site or in relation to the site, date and photographer's name, and submitted as individual image files, with a plan showing photograph locations. Photos should be submitted to the Council's nominated Heritage team contact electronically, either by email (noting that Council's email data transfer limit is 20MB per email), or via a file transfer website such as [wetransfer.com](https://www.wetransfer.com) or [dropbox.com](https://www.dropbox.com) to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz).
- The Council will require payment of its administrative charges in relation to monitoring of conditions, as authorised by the provisions of section 36 of the Resource Management Act 1991. The current monitoring charges are:
  - (i) An administration fee of \$107 to cover the cost of setting up the monitoring programme; and
  - (ii) A monitoring inspection fee of \$185 for the first inspection to ensure compliance with the conditions of this consent; and
  - (iii) Time charged at an hourly rate if more than one inspection, or additional monitoring activities (including those relating to non-compliance with conditions), are required.

The monitoring programme administration fee and initial inspection fee / documentation fee / inspection fees will be charged to the applicant with the consent processing costs. Any additional monitoring time will be invoiced to the consent holder when the monitoring is carried out, at the hourly rate specified in the applicable Annual Plan Schedule of Fees and Charges.

- This resource consent has been processed under the Resource Management Act 1991 and relates to District planning matters only. You will also need to comply with the requirements of the Building Act 2004 and any other legislative requirements (including but not limited to Environment Canterbury Regional Plans, health licence, liquor licence, archaeological authority, certificate of title restrictions such as covenants, consent notices, encumbrances, right of way or easement restrictions, landowner approval where required). For more information about the building consent process please contact our Duty Building Consent Officer (phone 941 8999) or go to our website <https://ccc.govt.nz/consents-and-licences/>.
- This site may be an archaeological site as defined and protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the HNZPTA as any place in New Zealand where there is physical evidence of pre-1900 occupation, regardless whether the site is known or not, recorded in the NZAA Site Recording Scheme or not, or listed with Heritage New Zealand or the local council. Authority from Heritage New Zealand is required for any work that affects or may affect an archaeological site. Please contact the Heritage New Zealand regional archaeologist on 03 363 1880 or [archaeologistcw@heritage.org.nz](mailto:archaeologistcw@heritage.org.nz) before commencing work on the land.

Reported and recommended by: Andrew Long, Senior Planner

Date: 29 September 2023

## Section 104 Decision

That the above recommendation be accepted for the reasons outlined in the report.

I have viewed the application and plans.



I have read the report and accept the conclusions and recommendation.

Delegated officer:

A handwritten signature in blue ink, appearing to read 'MKlomp', is written in a cursive style.

Matthew Klomp  
Senior Planner  
02/10/2023