

IN THE MATTER OF section 71 of the Canterbury Earthquake Recovery Act 2011 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

AND

IN THE MATTER OF proposals notified for incorporation into a Christchurch Replacement District Plan

Date of hearing: 30 and 31 March, 1, 2, 8, 10, 14, 16, 17, 20–23 April 2015

Date of decision: 22 July 2016

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

DECISION 31

Supplementary maps decision Stage 1 Residential Medium Density Lower Height Limit Overlay

Outcomes:

- A. Amend the planning maps to show the Residential Medium Density Lower Height Limit Overlay and Residential Medium Density Lower Height Limit Overlay at Central Riccarton**
- B. Amend Rule 14.3.3.3 to include provisions for the Residential Medium Density Lower Height Limit Overlay and Residential Medium Density Lower Height Limit Overlay at Central Riccarton**

Introduction

[1] This supplementary decision addresses the matter of Stage 1 Residential Planning Maps (‘Planning Maps’) and lower height limits as they apply to the Residential Medium Density Zone (‘RMD’).

[2] Initially, the Christchurch City Council (‘Council’) filed Planning Maps showing a Residential Medium Density Lower Height Limit Overlay applying to areas both in Riccarton, and other areas which we subsequently understand to have been areas that were zoned Living 1 and Living 2 in the operative Christchurch City Plan (‘the Existing Plan’). The Council relied on its interpretation of our Decision 10: Residential (Part) — Stage 1 in preparing the maps, incorrectly assuming that the Hearings Panel had accepted the Council’s submission point on this matter.¹

[3] This was brought to our attention by Housing New Zealand Corporation Limited (495) (‘Housing NZ’),² a party to the overall Crown submission. Housing NZ had become aware of the Council’s submission point when considering the additional proposal for areas to be rezoned RMD in Linwood, Hornby and Papanui (‘Additional Proposal’), and prior to the issue of the Stage 1 Planning Map Decision. An exchange of memoranda between Housing NZ and the Council followed.³

[4] Having considered the memoranda of the Council and Housing NZ, the Panel determined that it had made a decision on the matter and it could not revisit Decision 10. The Panel directed that a revised set of Planning Maps be filed by the Council, excluding the overlay, except for that area at Riccarton which was the subject of our decision.⁴ The Council abided by our direction and filed revised Planning Maps. On 22 June 2016, the Council filed a further memorandum setting out the chronology of submissions and evidence relating to the lower height limit applying to RMD.⁵

¹ Decision 10 — Residential (Part) and relevant definitions and associated planning maps, 10 December 2016.

² Memorandum of Housing NZ, 31 May 2016.

³ Memorandum of the Council responding to Housing NZ’s memorandum — relevant to Decision 10, 2 June 2016; Memorandum of Housing NZ, 8 June 2016.

⁴ Minute in response to memorandum of Housing New Zealand Corporation (495) relating to Planning Map Corrections, 9 June 2016, at 8.

⁵ Memorandum of the Council regarding Panel’s minute of 9 June 2016 — Decision 10.

[5] We issued our decision on the Planning Maps (and other minor corrections relating to our earlier decision).⁶ In that decision, and in light of the further memorandum filed by the Council regarding its submissions and evidence, we directed a further hearing to consider the issues raised. The hearing took place on 12 July 2016 and was attended by the counsel for the Council, Housing NZ and the Crown.

[6] Counsel for Housing NZ⁷ and the Council⁸ filed supplementary submissions. The Panel questioned counsel as to whether the Panel was *functus officio* in terms of Decision 10. The Council agreed that the Panel had not specifically addressed its submission point and therefore the provisions relating to height in the upzoned RMD areas had not been decided. Although Housing NZ was initially concerned that the Panel may have decided the point, in the end it did not pursue the matter. We accept this matter remained undecided.

[7] An agreement was reached between the parties with the assistance of the Chair, and recorded in a joint memorandum to resolve the issues.⁹ Having considered the parties' legal submissions, the relevant Council submission point and the joint memorandum, we are satisfied that we are able to issue this supplementary decision in accordance with cl 12 of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ('OIC').

[8] The memorandum also sets out an agreed position in relation to the Additional Proposal. We make no findings on that matter at this time.

Decision and s 32AA evaluation

[9] Having considered the parties' legal submissions, the Panel accepts that a decision on the matter of height limits was made only in relation to Riccarton. We accept that in relation to the matter of the lower height limit, it would, in this circumstance, be appropriate that we issue a supplementary decision in relation to the Council's submission seeking that a lower height limit overlay be applied to all areas that were previously Living 1 or 2 zones in the Existing Plan that are to be zoned RMD.

⁶ Decision 10 – Residential (Part) Planning Maps and minor corrections, 1 July 2016.

⁷ Legal submissions – Housing NZ, 8 July 2016.

⁸ Supplementary legal submission for Christchurch City Council for reconvened hearing on 8m height limit overlay, 8 July 2016.

⁹ Memorandum of the Council, the Crown and Housing NZ recording agreed position Proposal 14 – Stage 1 – Decision 10, Proposal 14 – RMD Proposal, 15 July 2016.

[10] We record that the OIC does not require the Hearings Panel to address each submission individually.¹⁰ However, given the extraordinary circumstances leading to this matter (including a lengthy period of time passing before a final set of planning maps was available so that we could issue a decision), and given the parties' agreement, we consider that we may take the pragmatic approach of addressing the submission point in this further supplementary decision.

[11] We attach the provisions and affected planning maps at Schedule 1. We note that an amendment was required to the provisions put forward in the joint memorandum of 15 July 2016 to provide a default 8 metre height limit for the Residential Medium Density Lower Height Limit Overlay. This was confirmed by the Independent Secretariat and counsel for the parties.¹¹

[12] We consider the provisions to be in the scope of the request from the Council through its submission, being the imposition of a lower height limit applying to all areas rezoned from Living 1 and 2 in the Existing Plan, and the submission from the Crown seeking a general 11m height limit in the RMD. In addition, we consider that we have the ability to revisit our earlier decision under cl 13(5) and (6) to ensure that the provisions that are the subject of this decision are coherent and consistent with our earlier Decision 10. We consider that those changes, namely identifying those provisions applying to Riccarton, are of minor effect.

[13] We have considered, and accept, the evidence identified by the Council in its memorandum of 22 June 2016. That evidence supports managing the transition of "upzoned" areas to a higher density through the use of a lower height limit overlay. However, we have also considered, and adopt, our evidential findings in Decision 10 which stated:¹²

There was clear evidence before us, which we accept, that the agglomeration of sites significantly enhances the ability to intensify, and also results in better urban design outcomes.

[14] Having further considered that evidence, we find that there is an evidential basis to support the provisions in Schedule 1, such that the upzoned areas are managed in terms of

¹⁰ OIC, Schedule 3, cl 13(3).

¹¹ Email from Sarah Scott on behalf of the parties to the Independent Secretariat, 19 July 2016.

¹² At [164], with a footnote referencing the Residential Stage 1 transcript at page 283, line 40 to page 285, line 2 (Mr Blair); page 352, lines 35–42 (Mr Mitchell); pages 1433–1435 (Mr Evans (submitter 1181)).

transition, from low to medium density, but that an incentive is applied so that large sites might benefit from a higher height limit where a certain size threshold is met.

[15] While this may result in an opportunity cost in terms of loss of development potential, this is balanced by the benefit of protection of some aspects of amenity for existing residents within the area under transition to the higher density zone. We consider the transitional height measure (through the lower height limit overlay) is likely to be efficient and effective, in particular towards encouraging agglomeration of sites to enable higher height limits for development to be attained. Such height limits might be the subject of review in the future, should intensification targets that are set out in the Higher Order Documents not be met.

[16] The agreed approach is supported by the uncontested policies of the Christchurch Replacement District Plan ('CRDP'), in particular Policy 14.1.4.2 which is set out below:

14.1.4.2 Policy – High quality, medium density residential development

- a. Encourage innovative approaches to comprehensively designed, high quality, medium density residential development, which is attractive to residents, responsive to housing demands, and provides a positive contribution to its environment (while acknowledging the need for increased densities and changes in residential character), through:
 - i. consultative planning approaches to identifying particular areas for residential intensification and to defining high quality, built and urban design outcomes for those areas;
 - ii. encouraging and incentivising amalgamation and redevelopment across large-scale residential intensification areas;
 - iii. providing design guidelines to assist developers to achieve high quality, medium density development;
 - iv. considering input from urban design experts into resource consent applications;
 - v. promoting incorporation of low impact urban design elements, energy and water efficiency, and life-stage inclusive and adaptive design; and
 - vi. recognising that built form standards may not always support the best design and efficient use of a site for medium density development, particularly for larger sites.

[17] The provisions will enable multi-unit housing that provides a positive contribution to its environment while acknowledging the need for increased densities and changes in residential


character, and will encourage and incentivise amalgamation and redevelopment across large-scale residential intensification areas.

[18] We find that the inclusion of the height limit overlay, which implements Policy 14.1.4.2, at this time, is the most appropriate for implementing the objectives of the CRDP, including Objectives 14.1.1, 14.1.2, 14.1.4 and the relevant objectives in the Strategic Directions Chapter, in particular Objectives 3.3.4 and 3.3.7. We are satisfied that the provisions are appropriate given our duties under s 32AA, and properly give effect to the Higher Order Documents.

Conclusion

[19] In reaching our conclusion to amend the provisions as set out in Schedule 1, we have considered all submissions and further submissions made on the proposal, and taken into account the further legal submissions of the Council, the Crown and Housing NZ and the matters traversed at the further hearing. Based on our evidential findings set out in this decision, we are satisfied that those provisions are the most appropriate for achieving the objectives of the CRDP and Higher Order Documents, and are best suited to enable the recovery of greater Christchurch.


For the Hearings Panel:



Hon Sir John Hansen
Chair



Environment Judge John Hassan
Deputy Chair



Dr Phil Mitchell
Panel Member



Ms Sarah Dawson
Panel Member

SCHEDULE 1**Amend 14.3.3.3 to read:****14.3.3.3 Building height and maximum number of storeys**

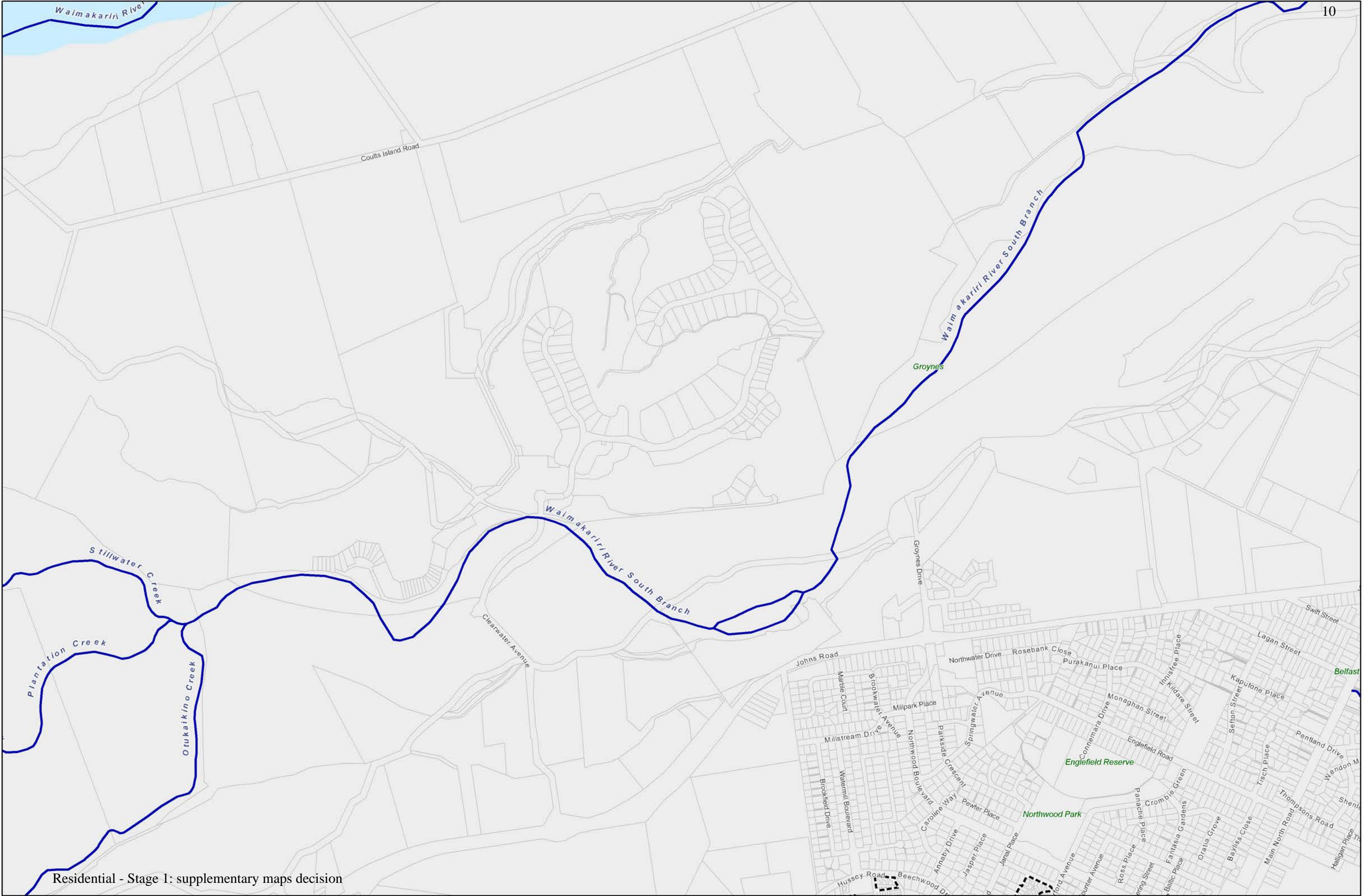
The maximum height of any building shall be:

		Standard
1	All buildings in areas not listed below	11 metres provided there is a maximum of 3 storeys
2a	<u>Residential Medium Density Lower Height Limit Overlay</u>	<p>8m</p> <p><u>On sites of 1500m² or greater, the maximum height of any building shall be 11 metres, with a maximum of three storeys, except that:</u></p> <p><u>(i) Within 10 metres of a site boundary that directly adjoins the Residential Suburban or Residential Suburban Density Transition Zone, the maximum height shall be 8 metres</u></p>
2b	<u>Residential Medium Density Lower Height Limit Overlay at Central Riccarton</u>	8 metres

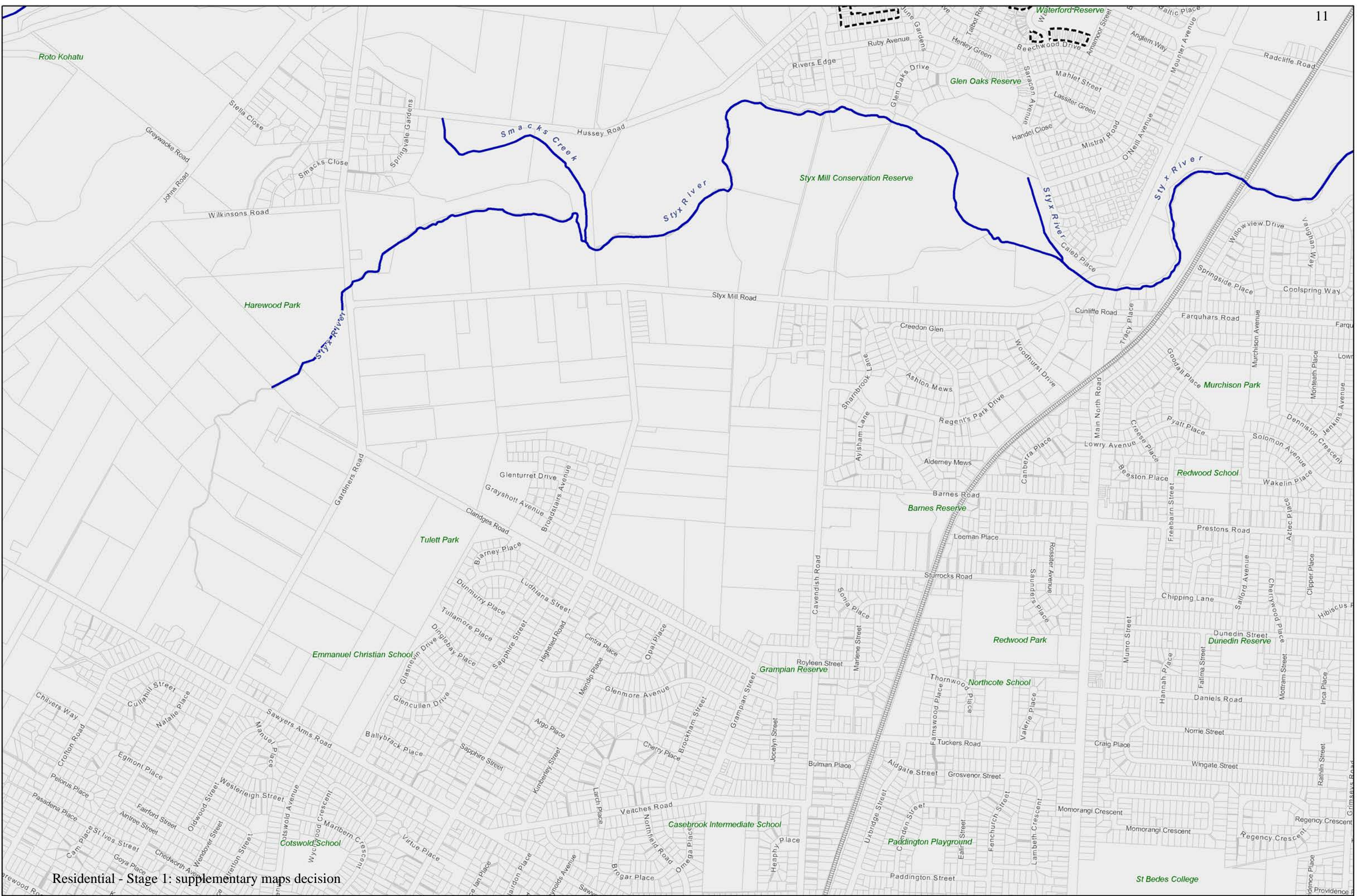
Amend the key to the Planning Maps so that the following two overlays are identified:

1. Residential Medium Density Lower Height Limit Overlay
2. Residential Medium Density Lower Height Limit Overlay at Central Riccarton

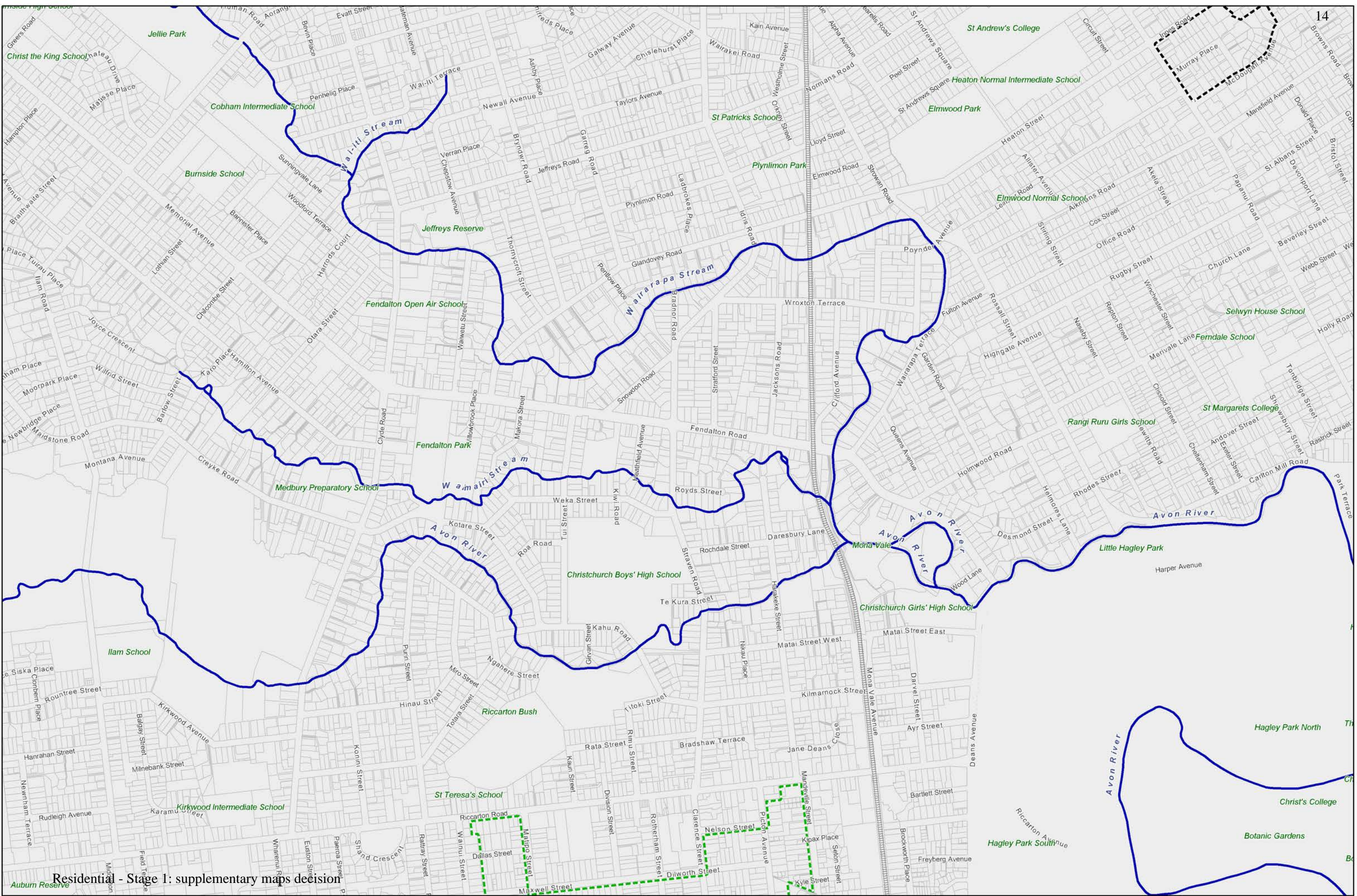
Amend the Planning Maps to include the Residential Medium Density Lower Height Limit Overlay as contained in the following maps:

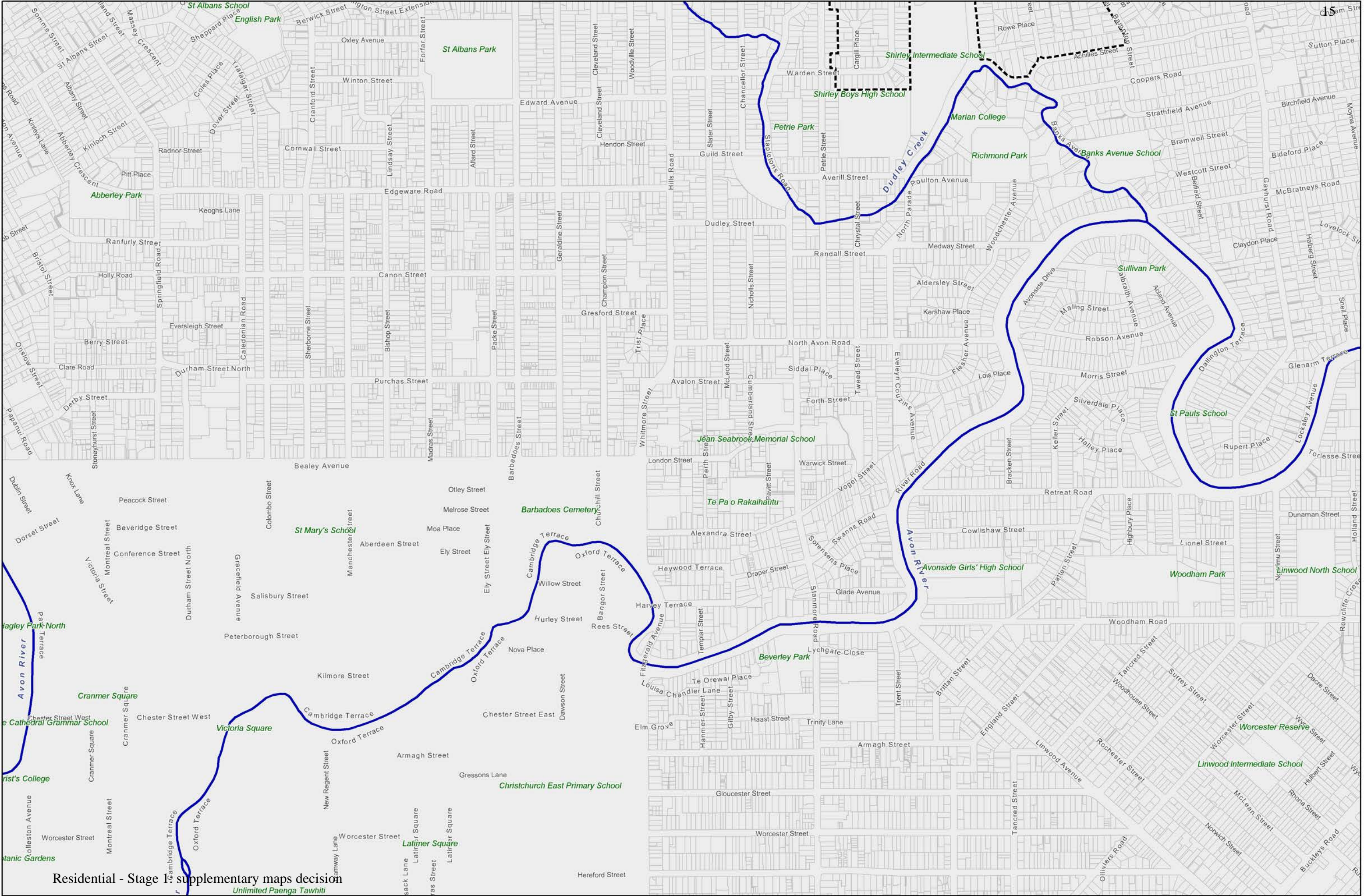


Residential - Stage 1: supplementary maps decision









Residential - Stage 1: supplementary maps decision



District Plan Review

24	25	26
31	32	33
38	39	40

Residential Medium Density Lower
Height Limit Overlays
Planning Map 32

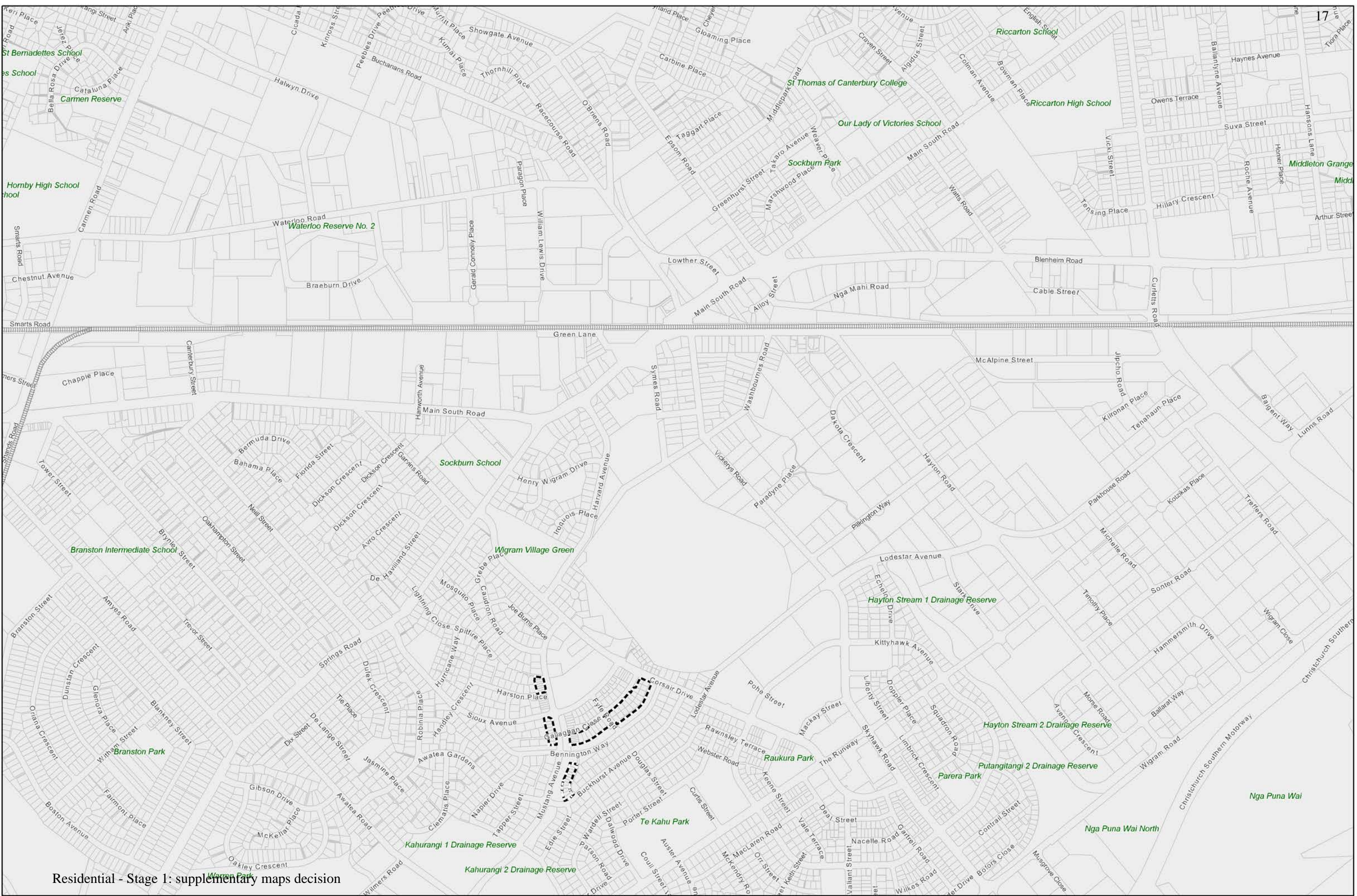


Residential Medium Density Lower Height Limit Overlay
Central Riccarton Residential Medium Density Lower Height Limit Overlay

Meters
WorkSpace: 869016.gws
Layout: BatchPlotTemplate
Date: 13/07/2016









Residential Stage 1: supplementary maps decision

