

**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: 17, 19 and 22 February 2016

Date of decision: 12 August 2016

Hearing Panel: Honourable Lester Chisholm (Chair), Mr Stephen Daysh, Ms Jane Huria, Mr Alec Neill

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**DECISION 35**

**CHAPTER 18:**  
**Open Space — Stages 2 and 3**  
**(and relevant definitions)**

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

## COUNSEL APPEARANCES

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Ms A Limmer	Fulton Hogan Limited Isaac Conservation and Wildlife Trust
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## INTRODUCTION

[1] This decision concerns open space within the Christchurch district. It continues the series of decisions made by the Independent Hearings Panel ('Hearings Panel'/'Panel') relating to the formulation of a replacement district plan for Christchurch City, which includes Banks Peninsula ('Replacement Plan'/'Plan').

[2] 'Open space' might be more commonly thought of as recreation and conservation areas. Such areas range from small corner parks to large parks accommodating recreation space; to playing fields and associated facilities; to built up urban parks; and to open spaces focusing on the natural environment, biodiversity and landscapes, including fresh water bodies.<sup>1</sup> In some cases such spaces are of a largely natural character, and in other cases they have been highly modified.

[3] In this decision the phrase 'Notified Version' or 'Proposal' describes the Chapter 18 version notified by the Christchurch City Council ('Council'). Subsequently, a number of modifications were made by the Council following consideration of submissions, conferencing, and mediation between the Council and submitters. This modified version was presented by the Council at the opening of the hearing as a red-line version dated 17 February 2016 ('Red-line Version').

[4] As a result of matters arising through the course of the hearing and further discussions with submitters, the Council produced further revised versions of Chapter 18. A final revised version dated 19 May 2016 ('Final Revised Version') was provided to the Panel.

[5] Where we refer to the 'Decision Version', it is our redrafting of the Final Revised Version (as set out in Schedule 1) which will become operative upon release of this decision and expiry of the appeal period.

[6] This decision follows our hearing and consideration of submissions and evidence (including site visits). Further background about the review process pursuant to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 ('the OIC') is set out in the

<sup>1</sup> Evidence of Janice Carter on behalf of the Council at 5.3.

introduction to Decision 1. That decision concerned Strategic Directions and Strategic Outcomes (and relevant definitions) (‘Strategic Directions decision’).<sup>2</sup>

### **Effect of decision and rights of appeal**

[7] Explanations about these proceedings and the rights of appeal are set out in earlier decisions.<sup>3</sup> This Panel endorses those explanations.

[8] Under the OIC any person who made a submission (and/or further submission) on the Notified Version, the Council, and the Ministers, may appeal this decision to the High Court within the 20 working day period specified in the Order. However, any such appeal is confined to questions of law and, for a submitter, to matters raised in the submission.<sup>4</sup>

### **Identification of parts of existing district plans to be replaced**

[9] The OIC requires our decision to also identify the parts of the existing district plans that are to be replaced by the Open Space Chapter.

[10] In this respect we replace the zoning of the sites, which are the subject of this decision, in the existing Banks Peninsula District Plan and existing Christchurch City Plan.

[11] As a matter of precaution, we do not propose to replace the existing provisions in the operative plans until such time as we are sure that those provisions are no longer required. This precaution is in part because we note that the Council has identified that some provisions are also covered by other chapters.<sup>5</sup>

### **Inter-relationship between this decision and other decisions**

[12] In some cases there is a close relationship between issues to be determined by this Panel and those to be determined by other panels. For example, a proposed land swap involving the

<sup>2</sup> Strategic directions and strategic outcomes (and relevant definitions), 26 February 2015.

<sup>3</sup> Strategic Directions decision at [5]–[9].

<sup>4</sup> OIC, cl 19.

<sup>5</sup> For example, a number of City Plan provisions are said to be “also covered by Chapter 9”. Refer to [http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/dpr\\_openspace\\_comparisonable.pdf](http://resources.ccc.govt.nz/files/TheCouncil/policiesreportsstrategies/districtplanning/districtplanreview/dpr_openspace_comparisonable.pdf) and [http://resources.ccc.govt.nz/files/policiesreportsstrategies/whatschanging\\_centralcity\\_openspace.pdf](http://resources.ccc.govt.nz/files/policiesreportsstrategies/whatschanging_centralcity_openspace.pdf)

existing Fulton Hogan quarry and the Templeton golf course has given rise to issues involving both the Rural Panel (Chapter 17) and this Panel (Chapter 18). As recorded in the transcript, this Panel has taken into account not only the evidence and submissions adduced to this Panel, but also the evidence and submissions adduced to the Rural Panel. In that case this Panel also requested a witness who had given evidence for the Council before the Rural Panel to be made available for questioning by us.<sup>6</sup>

[13] In other situations involving an overlap between this chapter and other chapters we have adopted a similar approach. Further references to these situations will be made as the need arises.

## PRELIMINARY MATTERS

### Conflicts of interest

[14] Notice of any potential conflicts of interest was posted on the Independent Hearings Panel website.<sup>7</sup> During the course of the hearing it emerged on some occasions that submitters were known to members of the Panel either through previous business associations or through current or former personal associations. Those disclosures (and, in one case, a member's recusal) were recorded in the transcript, which was available daily on the Hearings Panel's website. No submitter raised any issue in relation to such matters.

[15] We record that panel member Alec Neill indicated at the beginning of the hearing that he would recuse himself if any person from his firm (Lane Neave) appeared as counsel on any particular matter. That situation arose in relation to the Yaldhurst Road matter, and Mr Neill recused himself accordingly. He did not take any part in the hearing or decision-making process concerning the Canterbury Sports Limited's sports field development at Yaldhurst Road.

<sup>6</sup> Adele Radburnd.

<sup>7</sup> The website address is [www.chchplan.ihp.govt.nz](http://www.chchplan.ihp.govt.nz).



## Deferral from earlier stages

[16] When the Stage 1 proposals were notified 71 sites were inadvertently zoned by the Council as residential, commercial or industrial, notwithstanding the intention that they be zoned in Stage 2 as Open Space.<sup>8</sup> In addition, waterways and their margins, which are not mapped in the operative City Plan, were notified in Stage 1 with the same zoning as the adjacent site. However, the decision to map waterways as Open Space Water and Margins Zone was made as part of the Stage 2 Open Space proposal and therefore all major waterways and their margins were re-notified in Stage 2 as Open Space Water and Margins Zone.<sup>9</sup> The Council identified that no submissions were made during Stage 1 on the zoning of any of these sites.<sup>10</sup>

[17] The Council sought<sup>11</sup> and was granted<sup>12</sup> a direction from the Hearings Panel that the Open Space sites referred to above would be excluded from the Panel's Stage 1 decision on the basis that the outcome for those sites would be determined by the Open Space Panel. Subsequently, following a pre-hearing meeting on 10 August 2015, it was decided that the hearing of Chapter 18 notified as Stage 2 would be deferred so that it could be heard alongside those parts of Chapter 18 notified as Stage 3.<sup>13</sup> Consequently the zoning of those sites forms part of this decision (with the exception of the zoning of slivers of land referred to and rezoned in Decision 26: Open Space).

[18] The Council also asked that the decision on the zoning of land between Lyttelton Harbour and Church Lane, shown on Map 60, be deferred to the Open Space Hearing.<sup>14</sup> The decision on this land was accordingly deferred in the Stage 2 Transport Decision and forms part of this decision.<sup>15</sup>

<sup>8</sup> Application to set aside land from Stage 1 proposals, where the land has been re-notified in Stage 2 proposals, 17 June 2015.

<sup>9</sup> Ibid at 8.

<sup>10</sup> Ibid at 9.

<sup>11</sup> Ibid.

<sup>12</sup> 26 June 2015.

<sup>13</sup> Minute in relation to Stage 2 pre-hearing meetings held on 10 August 2015.

<sup>14</sup> Stage 2 Transport hearing transcript, page 27 and Stage 2 Transport hearing closing submissions for the Crown at 32. We note that in that decision the relevant land was referred to "Church land" rather than "Church Lane".

<sup>15</sup> Decision 12: Transport (part) (and relevant definitions), 22 December 2015 at [12].

[19] In addition, this decision includes the Central City Open Space provisions that were notified as part of Stage 3. Those matters were referred to this Panel as a result of the Council's memorandum of 19 October 2015.<sup>16</sup>

### **Decisions on matters referred to this Panel**

[20] As noted above, the zoning of several sites has been deferred for our consideration. With respect to the 71 sites that were inadvertently zoned as residential, commercial or industrial in Stage 1, we confirm the Open Space zoning of these sites, as set out in Schedule 2. Similarly, where sites adjacent to waterways and their margins were notified in Stage 1 with the same zoning as the adjoining sites, but subsequently notified in Stage 2 with an Open Space Water and Margins zoning, we confirm the latter zoning (unless otherwise stated in this decision).

[21] We have already recorded that when the zoning of land between Lyttelton Harbour and Church Lane was heard during the Stage 2 Transport hearing, the Hearings Panel deferred the zoning request to this hearing.<sup>17</sup> The rezoning requested by the Crown was not supported by the Council, for the reasons set out in Mr Falconer's evidence.<sup>18</sup> He explained that unformed legal roads within urban areas, such as the land between Lyttelton Harbour and Church Lane, were zoned Transport to protect their existing or potential use as walking and cycling links. If zoned the same as adjoining sites, these links would not be protected, as buildings could be erected on them. He explained that this is different from the approach taken in rural areas where unformed legal roads are less likely to be used for walking and cycling. No further evidence was presented in favour of the zoning. We accordingly decline the zoning request.

[22] Finally, in Decision 23,<sup>19</sup> the zoning of part of the Buchan Street Playground was deferred to the Open Space hearing. The notified zoning of this site proposed in Stage 2 was Open Space Community Parks. The New Zealand Sikh Society (South Island) Incorporated sought that the site be zoned Commercial Core, as the submitter and the Council were negotiating a land swap whereby the playground land would be swapped with the adjoining land owned by the submitter. On that basis, Mr Stevenson, the council's planning witness, recommended that

<sup>16</sup> Memorandum of the Council filed in advance of the pre-hearing meeting for the Central City proposal, 19 October 2015, at 5 and 6.

<sup>17</sup> Decision 12: Transport (part) (and relevant definitions), at para 12.

<sup>18</sup> Evidence in chief of David Falconer on behalf of the Council (Chapter 7 – Stage 2), at 8.1–8.5 and 9.7.

<sup>19</sup> Decision 23: Chapter 15 Commercial (Part) and Chapter 16 Industrial (Part) — Stage 2 and the New Brighton medium density overlay (and related changes to zoning maps)

the rezoning request be accepted.<sup>20</sup> In her evidence before us, Ms Carter disagreed with Mr Stevenson's recommendation and recommended that the rezoning request be rejected. This was on the basis that the land swap had not been approved by the Council and, as such, the playground will remain at its current location.<sup>21</sup> Mr Stevenson's support did not take this into account. We therefore accept Ms Carter's recommendation to decline the rezoning and confirm the Open Space Community Parks zoning.

### **Other rezoning requests**

[23] A number of other rezonings were sought through submissions, either to change the notified zoning of a site from some other zone to an open space zoning, or from an open space zoning to another zone.

[24] Where evidence for the rezoning has been prepared and presented to other Hearings Panels, the decision on that zoning request has or will be made by that Panel, unless it is otherwise discussed in this decision. In most cases, such requests and the hearing at which evidence was presented is recorded in Part A of Attachment A to the evidence of Ms Carter.

[25] Where evidence for the rezoning has not been prepared and presented to other Hearings Panels, planning evidence was provided by Ms Carter.<sup>22</sup> Except where otherwise stated in this decision, we accept the evidence of Ms Carter on these rezoning requests. Schedule 3 records where our decision is to rezone and Schedule 4 records where our decision is to confirm the notified zoning. Although not a change in the underlying zoning, we also confirm the 'Summit Road Protection Act Overlay' areas recommended by Ms Carter.<sup>23</sup>

[26] As a consequence of Decision 29: Residential New Neighbourhood Zones, we also accept Ms Carter's recommendation to decline that portion of Cashmere Field's submission (2148) that requested an Open Space zoning. This is on the basis that the Open Space zoning is 'part and parcel' of the request for a Residential New Neighbourhood zoning, which was declined. It therefore follows that the open space aspect of the request should likewise be declined.

<sup>20</sup> Evidence in chief of Mark Stevenson on behalf of the Council (Chapters 15 and 16 – Stage 2), at 18.28.

<sup>21</sup> Evidence in chief of Janice Carter, Attachment A, Part B at 23.2.

<sup>22</sup> Evidence in chief of Janice Carter, Attachment A, Part B.

<sup>23</sup> Evidence in chief of Janice Carter, Attachment A, Part B, pages 30–36.

## Reconsideration by this Panel of Stage 1 Zonings

[27] Given zoning decisions made in Stage 1 of the Replacement Plan, four sites, where zoning requests have been made, require further discussion.

### *441 Colombo Street*

[28] This site was notified in Stage 1 of the Replacement Plan as Commercial Core, and no submissions were received seeking that the site be rezoned. As such, the Commercial Core zoning was confirmed through Decision 11. Subsequently, the Council purchased the property and vested it as a recreation reserve under the Reserves Act 1977. Ms Carter provided evidence that the reserve is to be developed as a local community park as part of the Sydenham neighbourhood recovery and revitalisation programme.<sup>24</sup> In Stage 2, Samir Govind (submission 2022) made a submission seeking that the site be rezoned to Open Space.

[29] Ms Carter considers that rezoning the site to Open Space Community Parks would better reflect its reserve status and the anticipated future use of the site and recommended that the submission be accepted, subject to scope. In relation to the latter, the Council identified in opening legal submissions that this raised a potential issue as to scope to seek a zoning change for this site via a stage 2 submission.

[30] The Panel considers that this is an example of the impact of the staging of the proposal on the Replacement Plan, and that it is appropriate, and within scope, to consider the submission on its merits.<sup>25</sup> We accept the evidence of Ms Carter that the Open Space Community Parks Zone is most appropriate for this site. To give effect to this decision to rezone, we therefore need to revisit the Stage 1 decision. Clause 13(5) of the OIC allows us to reconsider any decision that has been made on another proposal if we consider it is “necessary or desirable to do so to ensure that the replacement district plan is coherent and consistent”. We find that this is the case in respect to the zoning of this site. Having found that change is required, we must then determine under Clause 13(6) whether the rezoning is of no more than minor effect. We are satisfied that this is the case, given the vesting of the site as recreation

<sup>24</sup> Evidence in chief of Janice Carter, Attachment A, Part B at 9.2.

<sup>25</sup> This is also traversed in more detail in Decision 19: Specific Purpose Zones — Stage 2 at paras 79–90, which we adopt and endorse.

reserve and the consistency of the zoning with the Sydenham neighbourhood recovery and revitalisation programme.

*2E Waipapa Avenue, Diamond Harbour*

[31] This site (the former Godley House site), was notified in Stage 1 as Commercial Banks Peninsula, with submissions seeking that the land be rezoned for reserve or community purposes. This was considered by the Panel in Decision 19 and the Commercial Banks Peninsula zoning was confirmed. The Lyttelton/Mt Herbert Community Board then made a submission in Stage 2, seeking that the site be zoned Open Space Community Parks. This was not supported by Ms Carter, who relied on the evidence given by Mr Stevenson for the Council in the Stage 1 Commercial/Industrial hearing. In the absence of any additional evidence on the zoning, we decline the request to rezone the site.

*38 Waipapa Avenue, Diamond Harbour*

[32] In a late submission to Chapter 18 Adrian Daly sought that 38 Waipapa Avenue, Diamond Harbour, be zoned Community Parks. The late submission was accepted.<sup>26</sup> In his submission Mr Daly outlined a number of background matters relating to the rezoning of this site, including other processes where he, supported by others, had sought recognition of the site's recreational values. Current uses and features of the site, including its vegetation and fauna, and its use as an informal play area, were provided.

[33] The proposed zoning of the land in the Notified Version is Residential Banks Peninsula. This also reflects the current Residential zoning of the site under the Operative Banks Peninsula District Plan.

[34] In its capacity as a requiring authority the Council also issued a Notice of Requirement in relation to the site, seeking to have its designation (C34) as a water reservoir rolled over from the Operative Plan. However, as the site is no longer used for its designated purpose, the Council removed the designation from the Operative Plan pursuant to s 182 of the RMA and withdrew the rollover requirement in accordance with cl 4(10) of the First Schedule of the OIC.<sup>27</sup> The designation is therefore no longer relevant to our consideration of this submission.

<sup>26</sup> Record of decision, 10 February 2016.

<sup>27</sup> Memorandum of counsel on behalf of the Council, 12 February 2016.

[35] Mr Daly did not attend the hearing or provide any further statement in relation to this submission.

[36] For the Council, Ms Carter considered the matter of zoning in a supplementary statement of evidence. She recommended that the residential zoning be retained on the basis that the site is surrounded by residential properties on both boundaries.<sup>28</sup> While acknowledging the current character and amenity the site provides to neighbours and users, it was her view that it was suitable for residential development.

[37] Ms Carter's view was also informed by discussions with a Senior Network Planner at the Council, who considered that the land may be redundant for park purposes due to the sufficiency of open space in this area. The planner also noted that the Council was currently considering disposing of the property. Ms Carter therefore felt a Community Parks zoning would be premature, prior to the disposal process being completed.

[38] We agree with Ms Carter that it would be premature to rezone the property Community Parks at this time. The evidence indicates that the land is suitable for residential development and that it might be disposed of by the Council. If that does not eventuate, the Council might see fit to revisit the zoning issue.

#### *Gullies at 27 Hunters Road*

[39] The full site at 27 Hunters Road was notified in Stage 1 as Residential Banks Peninsula. There were no submissions seeking an alternate zoning. The notified zoning was confirmed in Decision 10. However, in Stage 2, the Lyttelton/Mt Herbert Community Board (2354) and Richard Suggate (2339) sought that three gullies located within this Council-owned block of land be zoned Open Space Community Park. On the basis that the zoning was confirmed in Stage 1, Ms Oliver recommended at the Residential Stage 2 hearing that the submission be declined on the basis that it was outside scope. In the Stage 2 Residential Decision, the Panel did not revisit the zoning.

[40] Ms Carter provided further evidence in relation to the rezoning request, including her assessment as to the merits of the rezoning. Her view is that an Open Space Community Parks

<sup>28</sup> Supplementary evidence of Janice Carter, 15 February 2016.

zoning would better reflect the character and informal recreation function of these gullies. She considers that the land in the gullies is too steep for residential development and that they provide important recreational and biodiversity/conservation functions.<sup>29</sup> On the basis of discussions with the Property and Parks Unit of the Council, she recommended that the retention of these areas as open space be achieved through the insertion of an Outline Development Plan within Proposal 8, rather than through a rezoning of the gullies (which are not separate legal parcels). The proposed ODP was included within the Final Revised Version and includes indicative areas to be retained as public open space and indicative pedestrian and cycle links.

[41] While we are satisfied that there is scope to consider the introduction of an overlay in this decision, in order to give effect to the overlay, we would need to revisit the Residential Banks Peninsula provisions and make amendments to them necessary to ensure the Replacement Plan is coherent and consistent and to consider whether such changes would have a more than minor effect. In any event, we do not consider that rezoning or an ODP is necessary. The Council owns the land and can ensure that the gullies are retained as Open Space. The request is declined.

### Site visits

[42] Following the hearing the Panel visited the Peacock Springs Wildlife Reserve, Elmwood Park, the Yaldhurst Road sports facility, the Templeton golf course and the Fulton Hogan quarry.

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## REASONS

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### STATUTORY FRAMEWORK

[43] The OIC directs us to hold a hearing on submissions on a proposal and to make a decision on that proposal.<sup>30</sup>

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<sup>29</sup> Evidence in chief of Janice Carter, Attachment A, Part B at 31.2.  
<sup>30</sup> OIC, cl 12(1).

[44] It sets out what we must, and may, consider when making that decision.<sup>31</sup> The OIC qualifies how the Resource Management Act 1991 ('RMA') is to apply and modifies some of the RMA's provisions, both as to our decision-making criteria and processes.<sup>32</sup> We are directed to comply with s 23 of the Canterbury Earthquake Recovery Act 2011 ('CER Act').<sup>33</sup> The OIC also specifies additional matters for our consideration.

[45] The Strategic Directions decision, which was not appealed, summarised the statutory framework for that decision. As it is materially the same for this decision, we apply the analysis in that decision.<sup>34</sup>

[46] Documents specific to the Open Space Chapter are set out in Schedule 5 along with the relevant statutory directions. To the extent that reference to those documents is necessary, we will discuss them later in this decision.

### **Evaluations under ss 32 and 32AA of the RMA**

[47] Again, this is a matter referred to in earlier decisions. We endorse [48]–[54] of the Natural Hazards decision.<sup>35</sup> Where necessary, we discuss these aspects later in our decision.

### **Structure of Open Space Zones**

[48] Under the Operative Christchurch City and Banks Peninsula District Plans (Operative Plans) there are 23 Open Space/Conservation zones. The proposed Replacement Plan before the Panel now reduces these to five zones:

- (a) Open Space Community Parks (Community Parks)
- (b) Open Space Metropolitan Facilities (Metropolitan Facilities)
- (c) Open Space McLeans Island (McLeans Island)

<sup>31</sup> OIC, cl 14(1).

<sup>32</sup> OIC, cl 5.

<sup>33</sup> Our decision does not set out the text of various statutory provisions it refers to, as this would significantly lengthen it. However, the electronic version of our decision includes hyperlinks to the New Zealand Legislation website. By clicking the hyperlink, you will be taken to the section referred to on that website.

<sup>34</sup> At [25]–[28] and [40]–[62].

<sup>35</sup> Natural Hazards (Part) (and relevant definitions and associated planning maps), 17 July 2015, pages 20-21.



(d) Open Space Natural (Natural)

(e) Open Space Water and Margins and Avon River Precinct/Te Papa Ōtākaro (Water and Margins)

Six other zones under the Operative Plans have not been included in the Open Space chapter and instead incorporated into other zones which are considered by the Council to be more appropriate. No issues arose before this Panel in relation to those six zones and no further comment is required.

[49] In broad terms community parks, where the emphasis is on retaining large areas of open space, have been included in the Community Parks zone. Where considerable built infrastructure for recreation is anticipated and provided for, the open space has been included in the Metropolitan Facilities zone. The McLeans Island zone recognises the specific characteristics of that zone, which will be described later in this decision. Finally, the Natural and Water and Margins zones generally reflect the conservation zones under the Operative Plans.

[50] When preparing the proposed Plan, the Council was required to have particular regard to the Statement of Expectations contained in Schedule 4 of the OIC.<sup>36</sup> Amongst other things, the Statement of Expectations directs that complexity is to be reduced and the Replacement Plan is to be easy to use.<sup>37</sup> We are under similar obligations when making our decision.

[51] Subject to our comments in the next two paragraphs, there was little, if any, challenge to the five zone structure before us. Compared with the Operative Plans, this proposed structure is relatively simple and easy to follow. We agree with the Council that it gives effect to the Statement of Expectations to reduce complexity, and we are also satisfied that the structure is efficient and effective. It provides an appropriate foundation for the Open Space component of the Replacement Plan.

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<sup>36</sup> Clause 6(2).

<sup>37</sup> Paragraphs (a) and (i).

[52] Hands Off Hagley (HOH) strongly advocated a stand-alone zone for Hagley Park within Chapter 18. We will return to that aspect when considering Hagley Park. Suffice to say at this stage that, for reasons we will give later,<sup>38</sup> we have not accepted that proposition.

[53] Zoning issues also arose in relation to the Yaldhurst Road sports facility. Again, we will discuss these at the appropriate time. However, as will become apparent from that discussion, Yaldhurst Road is in a special category, and our conclusions concerning that facility do not compromise the five zone structure that we have just endorsed.

### **Requirement for simplicity and ease of use**

[54] As already mentioned, the Statement of Expectations includes the expectation that the Replacement Plan:

- (i) uses clear, concise language and is easy to use.

This supplements other components of the Statement of Expectations which are aimed at reducing complexity and making the new Plan user-friendly.

[55] Between notification of the proposed Plan and presentation of the Final Revised Version the parties having an interest in Chapter 18 have worked very hard to achieve these expectations. The Crown has been particularly active in this regard. In the end result there has been considerable progress in achieving these important expectations. We are grateful to the parties for the roles they have played in progressing this aspect.

### **ISSUES RAISED BY SUBMISSIONS**

[56] We have considered all the submissions and evidence that have been presented in relation to Chapter 18. And as indicated earlier, we have, where necessary, also considered the evidence and submissions presented in relation to other chapters. Schedule 6 lists witnesses who gave evidence for various parties before us, and also lists submitter representatives.<sup>39</sup>

<sup>38</sup> At [73]–[84].

<sup>39</sup> Counsel appearances are recorded on page 2.

[57] By the time the hearing concluded many of the issues in contention between submitters and the Council had been satisfactorily resolved, with the result that relatively few now remain in contention. The matters that we need to resolve relate to:

- (a) Hagley Park
- (b) McLeans Island Zone
- (c) Elmwood Park
- (d) Yaldhurst Road sports facility
- (e) Templeton golf course/Fulton Hogan quarry
- (f) Other matters

We now address each of these matters.

## HAGLEY PARK

### Background

[58] Located at the centre of the city, Hagley Park is the premiere park within the city. It comprises 165 hectares. In addition to its open spaces and mature woodlands, the park provides a major sporting and cultural focus, as well as offering a diverse range of entertainment and recreational opportunities.<sup>40</sup> We record that for the purposes of this decision, Hagley Park does not include the Botanical Gardens.

[59] When Christchurch city was established (as a Provincial Council), Hagley Park was set aside as a public reserve by the Canterbury Association Reserves Ordinance 1855. Since that time part of the land originally set aside has been re-allocated to other uses, but much of it remains as a public reserve today.<sup>41</sup>

<sup>40</sup> Hagley Park Management Plan, page 1.

<sup>41</sup> Hagley Park Management Plan, pages 2 and 35.

[60] In 1971 the purposes for which Hagley Park is held were redefined by the Christchurch City (Reserves) Empowering Act 1971 (Empowering Act). Under that Act, the park was vested in the Council as a reserve for recreational purposes (after allowing for the upgrading of Harper Avenue). Amongst other things, the Act states that the Council is not permitted, without the consent of the Minister of Conservation, to “appropriate” any part of the park for “parking places” for vehicles unless that part was already appropriated for that purpose at the commencement of the Act.

[61] Subject to the specific requirements of the Empowering Act, Hagley Park is administered by the Council under the Reserves Act 1977 (Reserves Act). Included in the responsibilities resting on the Council under that Act is the obligation to prepare a management plan for approval by the Minister of Conservation. The first Hagley Park Management Plan was approved in 1983. Since that time, it has been reviewed and updated, with the current version having been adopted in 2007. We understand a further review is imminent.

[62] In 2013 the Environment Court granted resource consent for the Canterbury Cricket Association to develop the oval within South Hagley Park for cricket.<sup>42</sup> When granting the application the Environment Court recorded:

[347] The landscape experts were of the view that the protection of the historic heritage of the Park from inappropriate subdivision, use, and development was a matter of national importance. We agree with them to the extent that the area’s historic and cultural heritage is evidenced in the Park’s landscaping. While the heritage of the Park is not a matter recognised through the District Plan’s zoning, it is recognised in the HPMP which provides that English heritage style woodland and open space landscape character is to be protected and enhanced. The Park is to reflect contemporary values, but its valued historic form is to be retained.

The Court found that Hagley Park was an area of historic and cultural significance for the purposes of s 6(f) of the Resource Management Act 1991 (RMA).<sup>43</sup>

[63] Over the years North Hagley Park has been the venue for entertainment and other events involving the attendance of large numbers of people, on some occasions exceeding 100,000 people. By and large these events are run by the Council. On occasions temporary provision has been made for vehicles to park on the playing fields, and this has given rise to one of the contentious issues before us. HOH would like to see parking confined to the formalised

<sup>42</sup> *Canterbury Cricket Association Incorporated* [2013] NZEnvC 184.

<sup>43</sup> At [348].

parking areas in existence at the time the Empowering Act was passed. More will be said about that later.

## Issues

[64] HOH is the primary submitter in relation to Hagley Park. It is an umbrella group representing parties having a particular interest in the Park, with its objectives including:

- (a) promoting and supporting use and preservation of Hagley Park as a public park that is open for recreation and enjoyment of the public
- (b) promoting and supporting the recognition of Hagley Park as a place of social, historical and environmental significance for the people of Christchurch

The Panel acknowledges the passion and sincerity of those presenting submissions on behalf of HOH.

[65] According to the initial submission presented by HOH, Hagley Park needs:

... better protection and better management than has been evident in the last 10 years.<sup>44</sup>

That allegation has prompted extensive dialogue between representatives of HOH and the Council's consultant planner for Chapter 18, Janice Carter. While this dialogue might not have achieved all that HOH hoped for, it is obvious from the numerous iterations to the Proposal before us that this dialogue has been instrumental in advancing many issues.

[66] It now remains for us to consider whether:

- (a) Hagley Park should be a stand-alone zone
- (b) there should be stronger recognition of heritage values
- (c) the 'spirit' of the management plan should be embodied in the Chapter 18 rules
- (d) parking for temporary events should be curtailed
- (e) proliferation of commercial activities should be constrained

<sup>44</sup> HOH submission, 28 January 2016, at para 1.5.

We now address each of these matters.

## Stand-alone zone

### *HOH submission*

[67] HOH seeks a “Hagley Park Legacy zone” within the Open Space chapter with its own objectives, policies, rules and matters of discretion.<sup>45</sup> It believes that Hagley Park is unique and sits at the top of the parks and reserves hierarchy within the city. Thus retention of the park’s iconic status needs special recognition by way of separate zoning (and heritage listing).

[68] On HOH’s analysis a separate zone would provide the best way for the public to find out what can, and cannot, be done within Hagley Park. Such a zone would avoid “traipsing” over various chapters of the district plan.<sup>46</sup> While the representatives of HOH acknowledged that they did not have the necessary expertise to draw up objectives, policies and rules for the zone, they expressed a willingness to work with Council planners to achieve the desired outcome.

[69] According to HOH, the Council’s broad brush approach of including Hagley Park within the Community Parks zone has served as a “blunt instrument”.<sup>47</sup> They contended that this is compounded by the Council’s more relaxed regulatory approach as a result of which inappropriate permitted activity status has been conferred on a number of activities that are controlled by the Hagley Park Management Plan.

[70] In support of its case for greater recognition of the park, HOH observed that the 1855 Ordinance declared that Hagley Park should be forever reserved for the recreation and enjoyment of the public, and the Empowering Act had anticipated that there would be pressures that could compromise the park. It also noted that the Greater Christchurch Regeneration Act 2016 (Regeneration Act) recognised the value of the park.

[71] By the time it presented closing submissions, HOH was requesting:<sup>48</sup>

... a separate sub-section within Open Space – Community Parks zone be implemented, as was discussed at the hearing ...

<sup>45</sup> HOH submitter statement, 28 January 2016, at 4.1.

<sup>46</sup> Transcript, page 341, line 11 (Professor Kissling).

<sup>47</sup> Submitter statement of Martin Meehan on behalf of HOH at page 28.

<sup>48</sup> Closing submissions for HOH at page 5.

Although this appears to be a departure from the original request for a completely stand-alone zone, we note that throughout HOH has accepted that there might be more than one way of achieving the outcome that it was seeking.

### *Council's response*

[72] Apart from raising issues as to jurisdiction, the Council contended that a separate zone for Hagley Park would run counter to the policy direction in the Statement of Expectations of simplifying the plan and making it more user-friendly. The Council maintained that Hagley Park is primarily used for public recreation and that under those circumstances the most appropriate zoning is Community Parks. In response to some of the concerns expressed by HOH, the Council emphasised that it had made amendments to the objectives, policies and rules in the Final Revised Version.

### *Discussion*

[73] For reasons that we will give shortly, we did not find it necessary to resolve the jurisdiction issue. Instead we considered the merits of the competing arguments on the assumption that the necessary jurisdiction exists.

[74] It goes without saying that Hagley Park stands at the forefront of the parks and reserves within Christchurch, and its importance and value are reflected in the legislation mentioned by HOH. What we need to resolve is whether its special characteristics should be recognised by way of a stand-alone zone, as sought by HOH, or via specific provisions within the Community Parks Zone, as advocated by the Council.

[75] A stand-alone zone for Hagley Park would need to have a comprehensive set of objectives, policies, rules, and discretionary matters. That is, of course, the basis on which it was promoted by HOH. Because Hagley Park shares so many characteristics with other parks within the Community Parks Zone (and logically fits into the zone), a high degree of duplication between the Hagley Park zone and the Community Parks Zone would be inevitable, and such duplication would add to the length of Chapter 18.

[76] For members of the public wishing to consult *only* the Hagley Park zone, the stand-alone zone approach would probably be advantageous. But we are obliged to take a wider view of

the matter. We need to consider whether the stand-alone zone would be user-friendly *for the public at large* and whether it would be the most efficient and effective way of achieving the objectives of the Replacement Plan.

[77] Having balanced the competing considerations, we have concluded that a stand-alone zone would not be appropriate and that the necessary recognition of Hagley Park can be achieved by specific objectives, policies, rules and discretionary matters within the Community Parks Zone. When reaching that conclusion we noted in particular the amendments to Objective 3 and Policy 1 proposed by the Council.

[78] It is now proposed by the Council, and supported by HOH, that the words in italics should be added to Objective 3:

- a. Activities, building and structures within open spaces are of scale, form and design which:  
  - ...
  - viii. *protect the heritage and visual landscape characteristics of Hagley Park and its primary function for outdoor active and passive recreation and sporting activities.*
- b. *Heritage open spaces are recognised, maintained and protected.*

With the support of HOH, the Council also proposes that the word “heritage” be added in the heading of the objective so that it reads “Objective 3 — Character, quality, heritage and amenity”.

[79] While this proposed amendment might not go as far as HOH wished, it is nevertheless a powerful acknowledgement of the importance and status of Hagley Park. We considered whether the amendment to the objective should go further, but in the end concluded that Objective 3 is satisfactory as now proposed.

[80] Supporting this objective is Policy 1, which sets out the role of open space and recreational facilities.<sup>49</sup>

#### **18.1.4 Policy 1 – The role of open space and recreation facilities**

<sup>49</sup> 18.1.4 Policy 1(a)(i)(D).



- a. Provide, restore and enhance a network of public and private open spaces and recreation facilities that cater for a range of roles, functions and activities as follows:
  - i. Open Space Community Parks Zone –  
Enable formal and informal recreation activities, while complementing and enhancing neighbourhood and Central City amenity values, and ensure provision of:  
  
...
    - D. Heritage and urban parks, *such as Hagley Park* and Latimer and Cranmer Squares, which have important scenic, botanical, educational, heritage, cultural and/or recreational values and providing for entertainment.

The words in italics were inserted at the instigation of HOH. Given the specific reference to Hagley Park, we consider that there is appropriate recognition of Hagley Park at a policy level.

[81] When it comes to the rules within the Community Parks Zone, we note that there are numerous provisions relating specifically to Hagley Park, many of them having been added in response to points made by HOH. It is unnecessary to go into detail. Suffice to say they form part of the overall Hagley Park package within the Community Parks Zone that persuades us that a stand-alone zone for Hagley Park is unnecessary and is not required by the Statement of Expectations. We are also of the view that a stand-alone zone would not be the most efficient and effective way of providing the necessary recognition of Hagley Park.

[82] In reaching those conclusions we have considered whether a sub-zone for Hagley Park within the Community Parks Zone (as proposed in the HOH closing submissions) might provide the answer. However, such an approach would give rise to problems similar to those arising for a stand-alone zone outside the Community Parks Zone. We do not accept that there is any parallel between Hagley Park and the special set of rules for Canterbury Agricultural Park within the Metropolitan Facilities Zone. Whereas the activities of the Agricultural Park required a comprehensive set of rules, our view is that the activities of Hagley Park can be satisfactorily and succinctly handled within the umbrella of the Community Parks Zone objectives, policies and rules.

[83] Finally, as mentioned earlier, the Council challenged whether the Panel has jurisdiction to determine whether there should be an additional zone. It questioned whether the HOH submission can fairly and reasonably be said to be “on” the proposal as required by cl 6 of Schedule 1 to the OIC. Questions of procedural fairness were also raised.

[84] Given that the Panel has reached a clear view on the merits, the question of jurisdiction becomes academic. Under those circumstances the Panel could not see any point in attempting to resolve the jurisdiction issue.

## **Recognition of heritage values**

### *HOH submission*

[85] When presenting submissions on behalf of HOH, Professor Kissling explained to the Panel:<sup>50</sup>

Christchurch is very proud of being a Garden City. Hagley Park is part of the Garden City heritage. If you give it that status in a plan people will be more confident that it is going to be protected, that is my bottom line ...

That broad approach was supported by Ms Dingwall, who expressed the view that the heritage listing would add a robustness and that the strongest “belt and braces approach” was needed.<sup>51</sup>

[86] In its closing submissions HOH argued that now is the point in history to formally recognise Hagley Park’s historic heritage in terms of s 6(f) of the RMA. It suggested that this could be achieved not only by its recognition in Chapter 9 (Natural and Cultural Heritage), either by schedule listing or heritage overlay, but also through specific provision for its protection within Chapter 18.

### *Council’s response*

[87] The Council’s response is that the amendments it proposes in the Final Revised Version to the objectives, policies and rules relating to Hagley Park provide the necessary degree of recognition of the park’s heritage and heritage characteristics. Beyond that, it considered that any protection of the park should be dealt with as part of the Chapter 9 deliberations.

### *Discussion*

[88] We agree with the Council that whether particular features within Hagley Park, or the park itself, should receive heritage listing logically falls for consideration by the Chapter 9 Panel. Consequently those matters will be resolved by the Chapter 9 Panel.

<sup>50</sup> Transcript, page 351, lines 7–10 (Professor Kissling).

<sup>51</sup> Transcript, page 350 at line 45 (Ms Dingwall).

## Embodying the ‘spirit’<sup>52</sup> of the Hagley Park Management Plan in the Chapter 18 rules

### *HOH submission*

[89] This concept and the underlying reasoning are best explained by Professor Kissling’s submission to the Panel:<sup>53</sup>

... the Council’s imminent review of the Hagley Park Management Plan now creates uncertainty, not only for Hands off Hagley but also for the public at large, as to the extent of the Replacement District Plan’s protection of the historic and cultural heritage values of Hagley Park.

Hands off Hagley contends that the [Redline Version] rules do not implement the objectives and policies applicable to the management of Hagley Park. Therefore the Plan does not give effect to the Canterbury Regional Policy Statement in respect of protection of Hagley Park’s heritage from loss and/or degradation.

On the other hand, if a District Plan rules and matters of discretion were to require referral to any future Reserve Management Plan objectives and policies other than those of the operative 2007 Hagley Park Management Plan, the replacement District Plan could well not give effect to the Canterbury Regional Policy Statement in respect of the protection of the historic heritage of Hagley Park from loss and/or degradation.

... If the Panel’s intended outcomes can be subsequently unilaterally amended by the Council’s amending the Hagley Park Management Plan without right of appeal under the Reserves Act 1977, Hands Off Hagley contends that the Panel’s rulings will be [defensible].

When Professor Kissling refers to the Canterbury Regional Policy Statement (CRPS), he is referring to Policy 13.3.1, which requires the protection of significant historic places and areas to be recognised and provided for.

[90] At a later point in his submission Professor Kissling said:<sup>54</sup>

Therefore, the uncertainty arising from the fact that the future Hagley Park Management Plan could no longer be relied upon to protect Hagley Park’s historic and cultural heritage. Hands off Hagley contends that the Replacement District Plan would be stronger as a protection of the 2007 Hagley Park Management Plan [if it] were to be written into the Replacement District Plan...

So we are saying that a Replacement District Plan should reflect the intent and substance of the Operative 2007 Hagley Park Management Plan. Such an action would be consistent with strategic directions and objectives 3.3.1(c) and 3.3.9(c).

<sup>52</sup> This word ‘spirit’ comes from HOH.

<sup>53</sup> Transcript, page 336 (Professor Kissling).

<sup>54</sup> Transcript, page 337 (Professor Kissling).

Strategic Directions Objective 3.3.1(c) requires recovery and future enhancement of Christchurch in a manner that sustains the important qualities and values of the natural environment. And Objective 3.3.9(c) requires a natural and cultural environment where objects, structures, places, water/wai, landscapes and areas that are historically important, or of cultural or spiritual importance to Ngāi Tahu Manawhenua, are identified and appropriately managed.

[91] When asked by the Panel about the specific range of information in the Management Plan that should be included in the Replacement District Plan, Ms Dingwall mentioned Objective 21 which restricts permanent car parks and Objective 17 relating to buildings and structures. She also said that there were “pages and pages of excellent matters for consideration”.<sup>55</sup>

#### *Council’s response*

[92] The Council noted that the Hagley Park Management Plan is a substantial document and it was unclear which parts HOH is seeking to have embedded in the Replacement Plan, or how that could be achieved. On the basis that a management plan under the Reserves Act serves a different function to a district plan, the Council contended that the relief sought by HOH would be “unusual and inappropriate”.<sup>56</sup>

[93] Apart from that, argued the Council, the management plan was not “frozen in time”.<sup>57</sup> It notes that the current management plan is to be reviewed and that problems would arise if there was an attempt to freeze the 2007 plan.

#### *Discussion*

[94] Our research has not revealed any situation where the substance of a management plan under the Reserves Act has been duplicated in a district plan. No doubt this reflects the problems that are inherent in such a proposition. Before listing those problems we will briefly explain the relevant provisions of the Reserves Act, RMA, and the recently enacted Regeneration Act.

<sup>55</sup> Transcript, page 349, line 28 (Ms Dingwall).

<sup>56</sup> Closing submissions for the Council at 6.15.

<sup>57</sup> Closing submissions for the Council at 6.16.

[95] In this case we are dealing with a recreation reserve administered by the Council for the purposes set out in s 17 of the Reserves Act. These purposes include the provision of areas for recreation and sporting activities and the physical welfare and enjoyment of the public. The statutory emphasis is expressly on the retention of open spaces and outdoor recreational activities. In terms of s 17, the qualities which contribute to the pleasantness, harmony and coherence of the natural environment and the better use and enjoyment of the reserve, are to be conserved.

[96] One of the statutory obligations resting on the Council is to prepare a management plan for approval by the Minister of Conservation. Section 41(3) directs:

- (3) The management plan shall provide for and ensure the use, enjoyment, maintenance, protection, and preservation, as the case may require, and, to the extent that the administering body's resources permit, the development, as appropriate, of the reserve for the purposes for which it is classified...

The plan is also to comply with the principles set out in s 17 that we outlined in the previous paragraph.

[97] Importantly for present purposes, the Council is required to keep the plan “under continuous review” so that it is adapted to changing circumstances, or in accordance with increased knowledge, and the Minister can also require the Council to review its plan.<sup>58</sup> Reviews involve public participation.<sup>59</sup> When administering the reserve the Council is required to comply with the management plan and any amendment to it.<sup>60</sup>

[98] That summarises the Reserves Act regime. Now we turn to the RMA.

[99] Section 74(2)(b)(i) RMA directs that when preparing the Replacement Plan we shall “have regard to” management plans and strategies prepared under other Acts (to the extent that their content has a bearing on resource management issues of the district). Clearly the Hagley Park Management Plan comes within this direction.

[100] “Have regard to” indicates that such matters must be considered, but not necessarily followed. The words are not synonymous with ‘shall take into account’ which means they

<sup>58</sup> Reserves Act, s 41(4).

<sup>59</sup> Section 41(6).

<sup>60</sup> Section 41(11).

affect the discretion of the decision maker: see *R v Westminster City* and *Haddon v Auckland RC*.<sup>61</sup> We also refer the reader to the Strategic Directions decision, where the Panel confirmed that “have regard to” means “to give genuine attention and thought to the matter”.<sup>62</sup>

[101] It follows that we need to give the Hagley Park Management Plan genuine attention and thought. We also need to consider the extent to which its content has a bearing on resource management issues of the district. In undertaking that exercise we keep in mind that while the Replacement Plan and Hagley Park Management Plan are prepared for different statutory purposes, there may be a degree of overlap on some matters.

[102] Section 75(5) of the RMA provides that a District Plan may incorporate material “by reference” under Part 3 of Schedule 1. However, Part 3 of Schedule 1 limits material that may be incorporated by reference to “standards, requirements, or recommended practices of international or national organisations, standards, requirements, or recommended practices prescribed in any country or jurisdiction, and any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan or proposed plan”.<sup>63</sup>

[103] The Hagley Park Management Plan does not come within Part 3 of Schedule 1. Consequently it is not possible to simply incorporate the Management Plan into the Replacement District Plan by reference.

[104] Before leaving the RMA we note that a Management Plan may be a relevant consideration when determining an application for a resource consent (if it addresses a relevant resource management issue). Section 104(1)(c) of the RMA allows a decision maker to have regard to “any other matter the consent authority considers relevant and reasonably necessary to determine the application.”

[105] The third piece of legislation is the Regeneration Act.<sup>64</sup>

<sup>61</sup> *R v Westminster City* (1990) 1 QB 87, *R v CD* [1976] 1 NZLR 436; *Haddon v Auckland RC* (1993) 1 B ELRNZ 8 [1994] NZRMA 49.

<sup>62</sup> At [43].

<sup>63</sup> Clause 30 of Part 3 to Schedule 1.

<sup>64</sup> ‘Regeneration’ is defined as the rebuilding of Christchurch and improving the environmental, economic, social, and cultural well-being and resilience of communities.

[106] Under that Act any person performing functions under the RMA must not make any decision or recommendation in relation to specified matters for all or part of Greater Christchurch that is inconsistent with a Regeneration Plan.<sup>65</sup> In specified situations RMA documents must be amended if a Regeneration Plan so directs,<sup>66</sup> and the Minister<sup>67</sup> may suspend, amend or revoke plans or proposed plans under the RMA.

[107] For present purposes the provisions of the Regeneration Act relating to Management Plans under the Reserves Act are of particular interest. Whereas such Management Plans must not be inconsistent with a Regeneration Plan,<sup>68</sup> an exception is made in the case of the Hagley Park Management Plan which prevails where there is any inconsistency between it and a Regeneration Plan.<sup>69</sup> Moreover, while the Minister has power to suspend, amend or revoke management plans or changes or variations to such plans, that power does not include the Hagley Park Management Plan.<sup>70</sup> In other words, the Reserves Act processes govern the Hagley Park Management Plan.

[108] Clearly this special treatment of the Hagley Park Management Plan was prompted by Parliament's recognition of the status and importance of the park. However, it seems to us that rather than supporting the proposition that the Hagley Park Management Plan needs to be reinforced through the Replacement Plan, there is a strong statutory indication in this latest legislation that the Management Plan can stand on its own feet by utilising the Reserves Act processes.

[109] Now we come back to the specific problems that are inherent in the proposition that the 'spirit' of the Hagley Park Management Plan should be incorporated into the Replacement Plan.

[110] First, it appears to be implicit in the HOH submission that the 'spirit' of the 2007 *Management Plan* needs to be entrenched in the district plan. However, the Reserves Act imposes a statutory obligation on the Council to keep the management plan under continuous review and to adapt it to changing circumstances. Given that the imminent review of the

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<sup>65</sup> Section 60(2).

<sup>66</sup> Section 61(1).

<sup>67</sup> Which means the Minister who, with the authority of the Prime Minister, is for the time being responsible for the administration of the Act.

<sup>68</sup> Section 63(1).

<sup>69</sup> Section 63(1)(iv) and (v).

<sup>70</sup> Section 71(2)(iv) and (3)(a).

management plan might result in amendments to the ‘spirit’ of the plan, any attempt by us to freeze the 2007 Management Plan would be inconsistent with the Reserves Act regime.

[111] Secondly, HOH seems to be under the impression that the Hagley Park Management Plan standing alone is not sufficiently robust and needs reinforcement through the Replacement Plan. But, as we have already noted, the Council is under a statutory obligation to comply with the management plan as amended from time to time.<sup>71</sup> That is an enforceable obligation for which the Council can be held to account, and we cannot accept that it needs additional reinforcement via the resource management process. Had such reinforcement been intended, it might be expected that this would have been apparent from the statutory regime. As we have already noted, the most recent statutory pronouncement (Regeneration Act) points in the opposite direction.

[112] Thirdly, if the ‘spirit’ of the 2007 Management Plan was entrenched into the Replacement Plan but was later amended as part of the review of the Management Plan under the Reserves Act, a state of confusion would arise with the Replacement Plan saying one thing and the Management Plan another. Apart from constituting bad planning, such a situation would be contrary to the Statement of Expectations which requires a straightforward and user-friendly Replacement Plan. Put another way, the Management Plan should be left to control matters that are properly within its domain.

[113] Finally, there was a suggestion in the initial HOH submission that the outcome it was seeking to achieve could be accomplished by a statement in Policy 2 of the Replacement Plan to the effect that activities in Hagley Park must be in accordance with the Management Plan. However, as we have already mentioned, this technique of referencing external documents would not be compatible with Part 3 of Schedule 1 to the RMA. Apart from that, it would not constitute a user-friendly technique in terms of the Statement of Expectations.

[114] All of this reflects the unavoidable reality that, while there is a degree of overlap, management plans and district plans serve essentially different purposes and are effectively stand-alone documents. Attempting to entrench the ‘spirit’ of the 2007 Management Plan in the Replacement Plan is simply unworkable and unnecessary. We are not persuaded that the CRPS or the Strategic Directions objectives require a different outcome.

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<sup>71</sup> See [97].



[115] Of course, as we have already observed, this does not mean that topics covered in the Management Plan cannot also be addressed in the Replacement Plan, but that is a difficult matter. Whether this should occur will turn on whether they are relevant to the content of the objectives, policies, rules, and discretionary matters in the Replacement Plan. As we progressed through the various issues before us, we kept that possibility in mind.

### **Parking for temporary events**

#### *HOH submission*

[116] HOH does not have any issue with temporary entertainment activities in North Hagley Park per se (so long as they are confined to that specific area of the park).<sup>72</sup> But it is very concerned about parking on the playing fields that is often associated with such activities.

[117] Professor Kissling is an emeritus professor of transport studies. He is unaware of any other major park in New Zealand or overseas where vehicles are allowed to park on the turf playing areas. His view is that the Council should be looking outside the perimeter of the park for parking opportunities and he believes that opportunities are available to relieve the pressure on Hagley Park. He also raised the possibility of using “red zoned” land for some events.

[118] Opposition by HOH to parking on the turf reflects its view about the adverse effects such parking has on the turf, as well as other damage, particularly where cars are continually parking within the dripline of trees. HOH considers that at the very least parking should be away from the dripline of trees. Numerous photographs have been presented in support of the HOH submission.

[119] According to HOH, the Council has misinterpreted and failed to properly apply the parking provisions in the Hagley Park Management Plan and the provisions of the Empowering Act. Inappropriate parking has arisen as a consequence. HOH also claims that use of the by-laws to allow temporary parking on playing fields is unlawful.

<sup>72</sup> Transcript, page 347 (Ms Dingwall).

### *Council's response*

[120] The Council noted that it has amended the permitted activities in Rule 18.2.2.1 so that permanent parking is limited to existing formal car parks. It also submitted that over time it has been reducing the occasions on which temporary parking in the park has been permitted.

[121] Relying on Ms Carter's evidence, the Council does not consider that any further regulation of temporary parking is necessary, and that any controls are appropriately dealt with outside the Replacement Plan under the Council's Traffic and Parking By-Law 2008. Ms Carter also drew attention to controls under the Reserves Act which limit the number of events for which there can be paid entry, controls as to frequency under Rule 6.2.1, and limits on noise levels.

### *Discussion*

[122] We begin this part of our analysis by considering whether temporary parking on the turf is contrary to the Empowering Act, which relevantly provides:<sup>73</sup>

- (2) Notwithstanding anything in the Reserves and Domains Act 1953, the Corporation shall not, without the consent of the Minister, appropriate any part of Hagley Park for parking places for vehicles unless that part is already appropriated for that purpose at the commencement of this Act.

In essence HOH contends that the words "parking places for vehicles" apply to temporary parking on the turf, as well as the parking places that have been formally laid out.

[123] The Empowering Act was prompted by the upgrading of Harper Avenue as part of the Regional Transport Strategy of the day. Initially the Council thought it could simply seek the Minister of Land's approval for the works and had actually commenced work on the road. However, following legal advice the Minister decided that special legislation was required.

[124] Hagley Park (minus the land required for the road) was vested in the Council as a reserve for recreation purposes (s 5(1)). This meant that Hagley Park was subject to the Reserves and Domains Act 1953 (s 12).<sup>74</sup> But, notwithstanding anything in the Reserves and Domains Act,

<sup>73</sup> At 5(2).

<sup>74</sup> Repealed by the Reserves Act 1977.

the Council could not appropriate any part of the Park for parking places for vehicles unless that part was already appropriated at the beginning of the Act (s 5(2)).

[125] Opponents of the legislation were concerned that the Council had a ‘blank cheque’ to do almost anything, with the Minister’s approval. For example, the Hansard discussion on s 5(2) records a concern that the proposed upgrading of Harper Avenue might enable Little Hagley Park to be used “as a car park to provide a facility for a local hostelry”.<sup>75</sup> Opponents of the legislation believed that this should require the approval of Parliament rather than the approval of the Minister, but their efforts to have the bill amended failed.

[126] The issue is whether parking ancillary to events in the park requires Ministerial approval under the Empowering Act, or whether it can be managed solely by the Council. To a large extent this turns on the meaning of “appropriate” in s 5(2). Does it mean ‘set apart’ permanently, or does it extend to temporary parking?

[127] According to the Shorter Oxford Dictionary “appropriate” means:

1. Take to oneself as one’s own property or for one’s own use.
2. Make over to a person, institution, etc., as his, her or its own or for his, her, or its use.
3. Devote, set aside, or assign, to the use of a person or institution, to or for a special purpose or use.
4. Assign or attribute as properly pertaining to; attribute specially or exclusively to.

In our opinion those meanings indicate a degree of permanence.

[128] We also note that the dictionary meaning includes “set aside”. Section 53(1)(h)(ii) of the Reserves Act expressly provides for parking places for vehicles to be ‘set apart’ in recreation reserves with the Minister’s approval:

- (1) The administering body of a recreation reserve may ... in the exercise of its functions ... and to the extent necessary to give effect to the principles set out in section 17,—

...

- (h) at any time and from time to time *set apart* any part or parts of the reserve—

<sup>75</sup> Hansard 1971 at 2304.

...

- (ii) with the prior consent of the Minister, for baths, camping grounds, *parking places for vehicles*, or mooring places for boats, necessary for the convenience of persons using the reserve, and construct and develop such baths, camping grounds, and *parking ... places*, and fix reasonable charges for the use of such baths, camping grounds, and *parking ... places*

...

[our emphasis]

Like the dictionary definition of “appropriate”, all the activities mentioned in (ii) suggest a degree of permanence. This is reinforced by the reference to “construct and develop” and use of the expression “parking places for vehicles” (which is also used in s 5(2) of the Empowering Act).

[129] The meaning of “set apart” was discussed in *AG v Ireland*,<sup>76</sup> in the context of an historic reserve. The relevant provision included the phrase “set apart and use” in relation to particular sites. The Court held:<sup>77</sup>

The power is to set aside and use part of the reserve as sites for the two types of structures. It is not simply to use (existing) structures, but to set apart part of the reserve as sites for structures. The plain meaning appears to us to be that part of the reserve, otherwise in general accessible to the public, is being set apart so that a new (non historic) building or structure may be constructed.

Again this interpretation, based on the deprivation of public access, seems to carry a connotation of permanence, at least to some degree.

[130] Another lead as to the intended scope of s 5(2) is provided by the exception for parts of the Park already appropriated at the commencement of the Act. Judging from the statutory language (“unless that part is already appropriated for that purpose”), that exception is aimed at the formed car parks that existed when the legislation came into force. Any attempt to fit temporary parking into that language runs into problems. Which “part” could be said to be “appropriated” when the area used might differ from event to event? And could Parliament have really intended that Ministerial consent is required for temporary one-off parking associated with events?

<sup>76</sup> *AG v Ireland* CA180/01.

<sup>77</sup> At [30].

[131] We have therefore concluded that the Empowering Act only controls the establishment of formally laid out parking spaces for vehicles. It does not control the temporary allocation of space for the parking of vehicles on the turf. Given those conclusions, we now consider the implications of the Hagley Park Management Plan.

[132] Shortage of car parking spaces in and around Hagley Park is acknowledged in the Hagley Park Management Plan. It notes that policies to protect the park from this impact have been incorporated into the plan. Specific reference is made to the need to protect trees in the park and minimise damage to their root systems. It is stated that parking on the berms will be actively discouraged.<sup>78</sup>

[133] When discussing the use of the main sports areas for organised recreation the Management Plan comments:

The banning of vehicles on the Park (*except for one off events*) has reduced their impact on the sports grounds.

[our emphasis]

In other words, there is an acknowledgement that the park is used for temporary parking in relation to one-off events.

[134] Specific reference to car parking issues follows later in the Management Plan.<sup>79</sup> Parking in and around Hagley Park, particularly at peak times, is said to be one of the major management issues. The plan comments that the formalisation of new car parks has not been implemented because of the Empowering Act and the strong public support for that Act. This suggests that the Empowering Act is confined to formally laid out car parks.

[135] At the end of the section dealing with car parking there is a section about ‘Event Car Parking’.

Hagley Park has been, and is, the venue for a number of large entertainment events. Many of these are now regular Council organised and run events held in the Special Events Area in North Hagley Park as part of the ‘Summer Times’ events festival.

Coping with such significant volumes of concert goers over a concentrated period creates a number of logistical problems. These include the provision of access to the

<sup>78</sup> Hagley Park Management Plan, page 8.

<sup>79</sup> Pages 65–71.

Park, traffic circulation before and after the event and the provision of an adequate number of temporary car parks in close proximity to the venue.

The planning for the concert traffic is undertaken by the Inspections and Enforcement Unit of the Council. A minimum of one month's notice of an event is usually required by the Unit, which prepares a traffic and parking plan covering all aspects of the traffic and car parking management for the event. The police are consulted in the preparation of this strategy. In the past the police, and previously the Ministry of Transport, have assisted the Council with traffic control before and after each event.

The traffic and parking plan is designed to cater for the specific requirements of the event to be held. Variables range from the expected size of the event, its planned location, the expected age group of concert goers and the time of day the event is to be staged, and so on.

The approach taken to cope with the expected traffic and demand for parking arising from these events can involve more than one option. For example, one is a "Bus and Ride" system (employed for the Kiri Te Kanawa concert). Concert goers are encouraged to park their cars at various locations in the suburbs, including shopping mall car parks and the Addington Raceway. A shuttle bus service operates from these points to Park Terrace or Rolleston Avenue destinations which may be cleared of cars for the event.

Another option is for large areas within the Park to be made available for temporary parking. These car parks have been located in the Carlton Mill Corner sportsground area of North Hagley Park, in the central portion of Little Hagley Park and in South Hagley Park. For the Kiri Te Kanawa concert, a combined total of 2,500 car parking spaces were provided in these three areas. For that event, few of the car parks in South Hagley Park were utilised, due to the "Bus and Ride" promotion proving to be very successful.

Additional traffic control was provided by New Zealand Army volunteers. Parking assistance was provided by local service clubs, including the Lions and Kiwanis, who were responsible for collecting the parking charge. In return for this service, 50 percent of the take went to the service club and the other 50 percent was put into a fund to repair any damage to the Park, although this proved to be minimal.

Again a clear acknowledgement that the park is used from time to time for temporary parking.

[136] Of the objectives in the Management Plan, only Objective 21 relates specifically to car parking. That objective is to:

... restrict car parking to the formal car parks. To maximise the use, amenity value and safety of the existing Hagley Park car parks for the convenience of the Park users.

This is one of the provisions of the Management Plan that HOH contends should be incorporated into the Replacement District Plan.

[137] The policies supporting this objective include a policy that car parking on the berms will not be formalised because of damage arising to the grass surface and root systems of the

adjoining trees (Policy 21.1). Another (Policy 21.9) records that, subject to approval, the Canterbury Horticultural Society will be permitted to use a specified section of the park for overflow car parking for a maximum of two times per year.

[138] Taken in isolation, Objective 21 indicates that parking in Hagley Park will be restricted to formal car parks. At the same time, however, there is an acknowledgement in the Management Plan (and apparently an acceptance in that Plan) that temporary car parking does occur within the park in association with large entertainment events.

[139] The parking provisions in the Management Plan (including Objective 21) were considered by the Environment Court in the *Canterbury Cricket* case. Having grappled with the parking provisions, the Court concluded:

[500] Given the incoherency between the HPMP's recognition of parking within the grounds and the restriction in Objective 21 we place little weight on these provisions.

We endorse that view. Objective 21 seems to turn a blind eye to what is actually happening at the park.

[140] Whether the forthcoming review of the Management Plan will advance the issue of temporary parking, we do not know. But given the differing functions of a management plan and a district plan, we should be cautious about interfering with the imminent review of the Management Plan in relation to temporary parking. Our attention should be confined to matters that are legitimately within the realm of the District Plan process. We will return to that matter shortly.

[141] Before leaving this topic we need to say something about the Christchurch City Council Traffic and Parking By-Law 2008 which relevantly provides:

### **5. Parking, Stopping and Standing Restrictions**

- (1) The Council may by resolution set aside any road, or part of any road, or any other area controlled by the Council, as a restricted parking area.
- (2) A restricted parking area may be subject to such conditions as the Council determines by resolution and, without limitation, may include:...

The Council relies on this By-Law to provide the necessary authority for it to manage temporary parking in Hagley Park (on the basis that the park is an area controlled by the

Council). HOH challenged this view and encouraged us to declare whether it was lawful for the Council to rely on this By-Law.

[142] This is not the appropriate forum to deliver the type of declaration sought by HOH, and we decline to do so. In any event, the issue whether there should be further provisions in the Replacement Plan in relation to temporary parking falls to be resolved on the basis of sound planning principles (including any relevant ‘higher order’ documents) rather than the lawfulness or otherwise of the Council’s reliance on the By-Law.

[143] Now we return to the question of whether there are any aspects of temporary parking that require our attention. We have concluded that the proposed rules are deficient in relation to parking within the dripline of trees.

[144] Chapter 9 covers the topic of ‘significant and other trees’. Rule 9.4.3.2.2(a)(RD4) lists the following restricted discretionary activity for which consent is required:

Any works or construction that involves disturbance of land (including earthworks); vehicular traffic; sealing or paving (excluding earthworks); storage of materials, vehicles, plan, equipment, or release, injection or placement of chemicals or toxic substances within the dripline of a significant tree

This rule is, of course, aimed at works or construction involving any of the specified matters. It does not apply to temporary parking in Hagley Park.

[145] We have decided that there should be a rule specifying that temporary parking in Hagley Park within the dripline of any tree constitutes a restricted discretionary activity. This reflects that the trees within Hagley Park constitute an important component of the character of the park. Because temporary parking is managed as part of temporary activities and buildings within Chapter 6 General Rules, this new discretionary activity rule will be inserted into that chapter. Beyond that we consider that the temporary parking issue is best left in the hands of those reviewing the Management Plan.

[146] Finally, a drafting issue needs to be mentioned. Rule 18.2.2.1(P1)(b) provides:

For Hagley Park, permanent parking areas are restricted to the existing formed car parks.

HOH objects to the word “permanent” on the basis that by its very nature parking is temporary.



[147] We decline to interfere. On our reading, the word “permanent” refers to the formed parking area rather than the act of parking.

## **Commercial activities**

### *HOH submission*

[148] Broadly speaking HOH supports the commercial activities currently undertaken on the park, provided they are consistent with the Hagley Park Management Plan or have been consented. But it is concerned about the potential for proliferation of commercial activities. And it claims that some activities are currently being undertaken in breach of the Management Plan and/or leases under the Reserves Act.

[149] As the hearing progressed it became apparent that temporary commercial activities were the focus of HOH’s concerns. Professor Kissling reminded us that each time there is a temporary activity within a confined area, the wider public are denied access to that particular section of the park. He also expressed concern about the adverse effects of such activities on the environment (as well as the risk of proliferation).

### *Council’s response*

[150] The Council emphasised that s 54 of the Reserves Act constrains the ability of the Council to authorise commercial activities. It also noted that the permitted activity standards in the Community Parks Zone restrict the site coverage of ancillary office and retail activities, as well as food and beverage outlets. We were also reminded that an activity that does not meet those standards becomes a restricted discretionary activity and that the matters of discretion the Council is required to consider have been amended in response to concerns raised by HOH.

### *Discussion*

[151] Section 54 of the Reserves Act includes power to:

- (d) grant leases or licences for the carrying on of any trade, business, or occupation on any specified site within the reserve, subject to the provisions set out in Schedule 1 relating to leases or licences of recreation reserves issued pursuant to this paragraph:

provided that the trade, business, or occupation must be necessary to enable the public to obtain the benefit and enjoyment of the reserve or for the convenience of persons using the reserve:

provided also that the prior consent of the Minister shall not be required to a lease or licence under this paragraph where the trade, business, or occupation is to be carried on in the reserve only temporarily and the term of the lease or licence does not exceed 6 consecutive days.

Schedule 1 sets out the basic provisions that are to be included in a lease or licence. So it is clearly contemplated by the Reserves Act that there will be some commercial activity on recreation reserves such as Hagley Park.

[152] The issue for us is whether the controls over commercial activities in the Final Revised Version are adequate. In this regard it is apparent that HOH has made considerable progress in confining the scope of permitted activities within the plan beyond those contained in the Notified Version. For example, only one visitor information centre is now permitted in the park; ancillary office activities have been reduced from 25 per cent of the gross floor area of all buildings on the same site to 10 per cent (or alternatively 250m<sup>2</sup> of gross floor area); a similar reduction has been made for ancillary retail activity and for food and beverage outlets; and there is to be no residential activity or guest accommodation within Hagley Park.

[153] Moreover, as the Council emphasised, if a commercial activity does not qualify as a permitted activity it becomes a restricted discretionary activity, which would require consideration of the following matters:<sup>80</sup>

#### **18.7.1.14 Additional matters for Hagley Park**

- a. Whether there are alternative convenient locations, venues or buildings outside Hagley Park where the activity/facility could locate.
- b. Whether the scale of the proposed activity/facility is in proportion to the need generated by the recreational and sporting activities taking place within the park.
- c. The extent to which the activity/facility impacts on:
  - i. the ability to accommodate future outdoor recreation and sporting activities;
  - ii. the existing landscape qualities, including vistas, views into the park, water body margins, woodlands and group planting, and avenues of trees; and
  - iii. the botanical and heritage features within the park.

<sup>80</sup> Note that this is renumbered 18.7.14 in the Decision Version.

- d. The length of time, where relevant, and the season in which the proposed activity/facility is proposed to be in operation and measures proposed to reinstate the area upon vacating the site.

These matters were included at the instigation of HOH and we agree with the Council that they appropriately reflect the special characteristics of Hagley Park.

[154] Looking at the provisions of the Community Parks Zone as a whole, we are satisfied that the possible proliferation of commercial activities in Hagley Park has been appropriately addressed in the Final Revised Version.

## MCLEANS ISLAND ZONE

### Introduction

[155] McLeans Island is a stand-alone zone because of its particular characteristics. It provides large areas of open space and natural environment, and is close to both the airport and active quarrying activities. Because parts of the zone are prone to inundation from the Waimakariri River, investment in substantial infrastructure might not be appropriate.<sup>81</sup>

[156] Activities within the McLeans Island Zone include the Isaac Conservation and Wildlife Trust (Isaac Trust), Orana Wildlife Park, golf courses, mountain biking tracks, a paintball venue, and a small bore shooting range. The issues to be resolved by us focus on the Isaac Trust's activities involving the breeding of endangered endemic bird and reptile species.

### Issues

[157] By the time the Final Revised Version was presented to the Panel only two issues remained in dispute between the Isaac Trust and the Council:

- (a) Whether an amendment proposed by the Isaac Trust concerning shooting ranges within 1km of the Trust's activities is within scope.
- (b) The appropriate setback from the Isaac Trust wildlife reserve for fireworks.

<sup>81</sup> Evidence in chief of Janice Carter at 5.4.

## Scope issue

[158] One of the submissions presented by the Isaac Trust concerned a 1km setback from the Isaac wildlife reserve for shooting ranges. Subsequently leave was granted for New Zealand Deerstalkers' Association, the Christchurch Pistol Club and the New Zealand Handloaders Association, to file a late submission. Those organisations conduct activities in the vicinity of the Trust's wildlife reserve. When granting leave, Sir John Hansen commented that it would be appropriate for those organisations to see if they could reach an agreed position with the Isaac Trust and the Council.

[159] In its opening submissions the Council questioned whether the discretionary activity rule proposed by the Trust (for the 1km setback) was within the scope of its submission. The Council emphasised that there was no specific reference in the Trust's submission to any concern in relation to effects on birds from shooting ranges. In the Council's submission at least one party (Handloaders Association) would be prejudiced if relief was granted.

[160] Since that time all parties have been involved in discussions and a facilitated mediation. Agreement has been reached that the appropriate solution is to include a new Rule 6.1.4.2.11 in Chapter 6 (General Rules and Procedures) imposing a noise limit for shooting ranges within 1km of the Peacock Springs Conservation Area to ensure that the noise level within the Peacock Springs Conservation Area does not exceed 60 dB  $L_{Amax}$ .<sup>82</sup>

## Fireworks setback

### *Background*

[161] In 1977 the Isaac Wildlife Trust was created by Sir Neil and Diana Lady Isaac. Their vision was to develop a conservation park through the rehabilitation of quarry land at McLeans Island and to assist with the protection of endemic endangered bird, reptile and plant species. A total of 1100 hectares is held by the Trust.

[162] The Trust's captive breeding programmes for critically endangered species of birds, reptiles and fish within the Peacock Springs conservation facility have been instrumental in preventing some species from potential extinction. As part of its captive breeding activities

<sup>82</sup> Mediation Report: Open Space, 30 May 2016.

the Trust works in conjunction with the Department of Conservation (DOC) and other organisations.<sup>83</sup> New Zealand has one of the highest proportions of threatened bird species in the world, and for many years the Trust has been a vital partner in DOC's work through its captive rearing and breeding programmes.<sup>84</sup>

[163] The infrastructure for captive breeding at Peacock Springs, particularly the aviaries, consists of large permanent structures. There are eight aviaries for shore plover, ten for black stilts, and eight for waterfowl, along with a number of ancillary buildings. Because many of the aviaries require water to be flowing through them, it is not feasible for them to be relocated.

[164] It is common ground that the Trust's conservation activities with respect to threatened birds are long-term and important.<sup>85</sup>

[165] The Handloaders Association operates a facility involving shooting about 280 metres from the Peacock Springs facility. Christchurch Airport, where bird scaring activities occur, is also nearby.

### *Impact of noise on Peacock Springs*

[166] Noise and the proximity of people have a wide range of effects on birds. Dr John Dowding indicated that there can be physiological responses in the absence of behavioural responses, eg increases in heart rate and inhibition of breeding.<sup>86</sup> Consequently, the Isaac Trust manages noise and human activity carefully so as to reduce noise disturbance as much as possible.<sup>87</sup>

[167] Evidence about the impact of noise on birds was provided by Dr Dowding. He said:

- 18 Loud and/or sudden-onset noises startle birds and tend to induce a flight/escape response. This response is widely used to scare birds from airports, agricultural crops, and other areas where they may cause damage (Beason 2004). People used to handling birds (for example for banding, translocations, or health checks) are well aware that sudden noises, even at relatively low volumes, usually cause birds to struggle and attempt to escape.

<sup>83</sup> Bruce Rule at pages 2–5.

<sup>84</sup> Evidence in chief of Dr John Dowding (for Chapter 17: Rural hearing), 29 October 2015 at page 2.

<sup>85</sup> Expert conferencing statement, Open Space — Topic: McLeans Island Zone, 26 November 2015, at 3.1.

<sup>86</sup> Evidence in chief of Dr Dowding, 27 January 2016, at para 12.

<sup>87</sup> Ibid at 13.

- 19 In the wild, loud or sudden noise has a range of effects – flight from the source of noise always has an energetic cost, it may cause birds to abandon feeding areas, and it can result in separation of parents from offspring, increasing the risk of predation. In captivity, loud or sudden noise also causes birds to panic and fly, which may result in collision injuries... Such events also result in stress...
- 20 At extreme noise levels, bird hearing may be damaged, and there is variability between species in the level at which this happens (Ryals et al. 1999).

Dr Dowding also explained that disturbance during the breeding season may be particularly important because it can reduce reproductive success.<sup>88</sup>

[168] Hearing is the second most important sense (after vision) used by birds to monitor their environment. There is a very high degree of overlap in the frequency range detected by humans and many birds. In other words, birds typically hear the sounds that we hear, although birds are generally a little less sensitive to sound than humans.<sup>89</sup>

[169] Reports from staff responsible for bird husbandry at Peacock Springs note that startling from sudden noise is “possibly the most important problem to control from an animal health perspective”. They also note the importance of chronic stress from a range of sources. One effect of chronic stress is to lower the bird’s normal immune response, which increases the incidence of a fungal infection which is nearly always fatal.<sup>90</sup>

[170] Dr Dowding considers it is very likely that some of the effects outlined above will be amplified when birds are in captivity:

- 27 ... In particular, the normal fright response to sudden noise is an attempt to leave the area; because the birds are confined, this is impossible, which will almost certainly lead to an increased and more prolonged period of stress. The consequences of this at Peacock Springs are known to include a reduction in breeding effort ... and an increase in fatal fungal infections...

Additional responses such as birds colliding with netting or beams in the aviary also result in injuries.<sup>91</sup>

[171] As far as Dr Dowding is aware there has been no assessment of the impacts of different types or different levels of noise on any of the threatened bird species that are bred at Peacock

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<sup>88</sup> Ibid at 23.

<sup>89</sup> Ibid at 24.

<sup>90</sup> Ibid at 25.

<sup>91</sup> Ibid at 28.

Springs. Black stilt, shore plover and orange fronted parakeet are three of New Zealand's most threatened bird species, and Peacock Springs is the only institution worldwide to breed all three.<sup>92</sup> Some of the unexplained injuries and deaths might be stress related,<sup>93</sup> and it is quite feasible that some of those events were caused by impulsive noises from the NZ Handloaders Association shooting range.<sup>94</sup>

[172] Given the national and international significance of the Trust's breeding programmes, their importance to the maintenance of New Zealand's biodiversity, and the likelihood of enhanced effects of disturbance in the captive situation, Dr Dowding advocates a "cautious and conservative approach" when assessing the suitability of noise and disturbance generating activities and developments in the area around Peacock Springs.<sup>95</sup>

[173] These concerns focus on commercial scale fireworks in the vicinity of Peacock Springs. There was general agreement between the noise experts that proposed noise limits in Chapter 6 (General Rules and Procedures) will not effectively address the fireworks issue. Thus a setback is required.

#### *Evidence from acoustic experts*

[174] For the Trust, Dr Jeremy Trevathan considered that a minimum setback distance of five kilometres from the Peacock Springs activities was appropriate. This was on the basis that the expert ornithologists agreed that "sudden and/or loud" noises are of concern and that 60 dB  $L_{Amax}$  appeared to be a reasonable and conservative upper limit for noise received in the Peacock Springs area from new impulsive sources.<sup>96</sup> He also proceeded on the basis that commercial-scale fireworks may generate noise levels in the order of 100 dB  $L_{Amax}$  at 100 metres.<sup>97</sup>

[175] Another acoustic engineer, Stuart Camp, gave evidence for the Council. He was also of the view that 60 dB  $L_{Amax}$  was an appropriate limit for impulsive noise received at Peacock Springs.<sup>98</sup> Although his initial statement of evidence did not suggest any setback for fireworks,

<sup>92</sup> Ibid at 31.

<sup>93</sup> Ibid at 32.

<sup>94</sup> Ibid at 33.

<sup>95</sup> Evidence in chief of Dr Dowding at 39.

<sup>96</sup> Dr Trevathan statement at para 13.

<sup>97</sup> Ibid at 24.1(a).

<sup>98</sup> Stuart Camp statement, 19 January 2016 at 4.7.

his rebuttal evidence was to the effect that he agreed with Dr Trevathan that fireworks could result in startle effects on birds. But he could not support a setback of several kilometres from the Peacock Springs facilities, largely because of the close proximity of the Handloaders' shooting facilities. He considered that a setback of 500 metres would be appropriate.<sup>99</sup>

[176] By the time Mr Camp gave oral evidence to the Panel, he was prepared to accept that a setback of something in the order of two kilometres would be appropriate.<sup>100</sup> Under cross-examination he agreed that it could never be said that it would avoid *any* risk of startle, but his view was tempered by the existing shooting range.<sup>101</sup> He agreed that there would be less chance of startle at five kilometres.<sup>102</sup>

[177] When he gave oral evidence to the Panel, Dr Trevathan mentioned a fireworks display at Hagley Park a few nights earlier, on 13 February 2016. His measurement of the noise produced by that event suggested that he might have underestimated the source level referred to in his original statement (100 dB  $L_{Amax}$  at 100 metres) by 5–10 decibels. While he acknowledged that five kilometres is a large distance, he expressed the view that it simply reflected the “high sound power” of the source.<sup>103</sup> Under cross-examination Dr Trevathan acknowledged that the Handloaders Association's facility was likely to cause startle effects on birds at Peacock Springs above 60 dB  $L_{Amax}$ .<sup>104</sup>

[178] Having heard the evidence, the Panel directed the two acoustics experts to confer and report back about areas of agreement and disagreement. When making that direction the Panel was conscious that both experts seemed to have started from the same point.

[179] In their joint report of 22 June 2016 the acoustics experts confirmed agreement:

- 4.1 ... a ‘source noise level of 100 dB  $L_{AFmax}$  at 100 metres is a reasonable basis for an indicative study of noise from commercial-scale fireworks displays.
- 4.2 ... based on simple propagation models, this ‘source’ fireworks noise level will result in a noise level of approximately 75 dB  $L_{AFmax}$  at 1500 metres, and 60 dB  $L_{AFmax}$  at 5000 metres.

<sup>99</sup> Rebuttal statement of Stuart Camp, 4 February at 3.6.

<sup>100</sup> Transcript, page 317.

<sup>101</sup> Transcript, page 318.

<sup>102</sup> Transcript, page 319.

<sup>103</sup> Transcript, page 424.

<sup>104</sup> Transcript, page 427.



- 4.3 Actual noise levels could be higher downwind of the source, or during a temperature inversion. Noise levels could be lower upwind of the source, or when there is screening between the source and receiver.
- 4.4 Actual noise levels will also be reduced by air absorption, which is a significant high frequency effect over large distances. In addition, the character of the sound will change. The result of this is that the sharp ‘crack’ of fireworks gradually becomes a dull ‘thud’ at large distances. We do not have sufficient measurement data to establish the precise extent of this effect.

They also noted that actual noise levels in a given display may vary, and that the noisiest will always result from explosions in mid-air.<sup>105</sup>

[180] It was indicated that the only data to which the experts had had access for a commercial-scale fireworks display in Christchurch was the brief measurement during the Hagley Park Sparks event on 13 February 2016. Dr Trevathan’s measurements of that event suggested that a number of detonations were louder than the source level referred to earlier in the joint report, with measured levels typically being 75–85 dB  $L_{AFmax}$  at 1500 metres.

[181] While Mr Camp was not able to measure the sound levels, he had listened to the event at a distance of 4.5 kilometres from the fireworks display, and at that distance only a small number of the mid-air explosions were noticeable, with many events barely audible. Mr Camp’s estimate was that noise levels were typically less than 60 dB  $L_{AFmax}$  at this distance.

[182] Beyond that there was no agreement as to distance. Dr Trevathan remained of the view that five kilometres was required to ensure that the noise from the detonations did not exceed 60 dB  $L_{AFmax}$  within the Peacock Springs conservation area. On the other hand Mr Camp supported a two kilometre setback. This was based on his assessment of the 13 February 2016 event and his view that it was hard to justify a greater setback having regard to the established shooting ranges and bird scaring devices in the area.

### *Discussion*

[183] We are satisfied that the Peacock Springs breeding programmes are of national and international importance. They are long established and the facilities from which they operate are purpose-built. There is no realistic possibility of relocation. Consequently it is necessary

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<sup>105</sup> At 4.5 and 4.6.

to find an appropriate planning mechanism to protect the Trust's activities from the adverse effects of commercial-scale fireworks.

[184] Noise controls based on  $L_{AFmax}$  are not practicable because of the unwanted implications of those controls on other activities. A setback is the only effective way of controlling fireworks, with commercial-scale fireworks within the setback requiring a resource consent.

[185] On the expert evidence before us, the setback distance should be somewhere between two and five kilometres. The aim is to set a distance that will result in a noise level of 60 dB  $L_{AFmax}$  at the boundary of the Peacock Springs facility.

[186] A 'source' noise level of 100 dB  $L_{AFmax}$  at 100 metres provides a reasonable basis for an indicative study of noise from commercial-scale fireworks displays. This will result in 60 dB  $L_{AFmax}$  at 5 kilometres (we were not told what it would be at 2 kilometres). However, the only available measured data indicates that a number of detonations during the Hagley Park Sparks event exceeded that source level. We also keep in mind that actual noise levels at Peacock Springs can be affected by environmental conditions at the time.

[187] As the discrepancy between the acoustics experts illustrates, arriving at the appropriate setback distance ultimately comes down to a matter of judgment. Having considered the evidence and balanced all relevant factors, our judgment is that a setback of four kilometres is appropriate.

[188] When arriving at that setback we balanced the importance of protecting the Peacock Springs programmes against the likely impact of the control on those undertaking commercial scale fireworks. We also kept in mind that unnecessary controls should be avoided. In terms of the potential impact on those undertaking fireworks displays, we took into account that such displays would not be permitted in the zones surrounding the McLeans Island Zone. And within that zone there is no suggestion that fireworks displays are likely to occur very frequently. Consequently the adverse effect of the control is unlikely to be very significant.

[189] Another factor that we regarded as significant is that, at least on an indicative basis, a 5km setback would achieve the desired noise level at Peacock Springs. Of course, the variables explained by the experts mean that the distance cannot be measured with precision. But we

concluded that Dr Trevathan was closer to the mark than Mr Camp, who initially started at 500 metres.

[190] Factoring the surrounding environment (Handloaders Association and bird scaring devices) into the equation is difficult. We are conscious that a display will not necessarily occur at the same time as the Handloaders range is in use, or bird scaring devices are being activated. Nor is there any suggestion that the Handloaders range and/or bird scaring devices will reduce the impact of fireworks on the Peacock Springs breeding programmes. Nevertheless, we decided that the existence of these other activities involving impulse noise should be recognised when setting the distance.

## **ELMWOOD PARK**

### **Introduction**

[191] Elmwood Club, which consists of seven sports clubs governed by a voluntary board, made a submission in relation to its facilities at 83D Heaton Street. As a result of earthquake damage those facilities require rebuilding, and this has presented the Club with an opportunity to upgrade and redevelop its facilities as a “multi-purpose all weather shared-use facility”. It is likely that the rebuilding will utilise the existing site as well as a portion of the adjoining Heaton Normal Intermediate School.

[192] This is another situation where there is an overlap between this chapter and another chapter. In this case the overlap is with the provisions relating to the school portion of the site, which is within the Specific Purposes (Schools) Zone of Chapter 21.

### **Decision 19**

[193] In that decision the Panel accepted that the development plans of the Elmwood Club were consistent with the intent of Strategic Objectives 3.3.1 and 3.3.11. Nevertheless, the Panel recognised that the development plans are still in their infancy and there was limited information about the potential effects that might be generated by the development. Consequently a permitted activity rule for recreational facilities, as sought by Neil Gow on

behalf of the Club, was not appropriate. The appropriate classification was restricted discretionary.

[194] The Decision 19 Panel reasoned:

[128] With respect to defining the facilities that are a restricted discretionary activity, we consider that this should be a ‘major sport facility’. We agree with the supplementary evidence of Ms Dixon that this definition accurately describes the facility described by Elmwood Club via the evidence of Mr Gow, which was an indoor multi-purpose recreation facility. The definition clearly includes indoor sports and recreation facilities and accessory club rooms. We do not accept the evidence of Mr Gow that the appropriate definition is a more general ‘community facility’.

[129] As to whether the restricted discretionary activity should be limited to a development of a particular size or scale, this matter was only addressed in detail in the supplementary evidence by Ms Dixon on behalf of the Council. Her evidence justified a restricted discretionary activity trigger of 6000m<sup>2</sup> based on a number of assumptions regarding how the development may occur across the two parcels of the site and the configuration of other sports facilities in Christchurch. Ms Dixon concluded that if the site is not at least 6000m<sup>2</sup> across both parcels of the site, the activity should be a discretionary activity.

[130] As there was no technical evidence that countered that of Ms Dixon, and in light of the embryonic nature of the proposal by the Elmwood Club, we accept that the position of the Council that major sports facilities on the grounds of Heaton Intermediate should be a restricted discretionary activity where the site is 6000m<sup>2</sup> or greater. The matters of discretion proposed by Ms Dixon will provide suitable opportunity to manage the potential effects of traffic, parking, amenity and privacy. Any development proposals that do not comply with this trigger shall be classified as discretionary activities.

### Issues to be determined

[195] Although Elmwood Club originally sought to have its site rezoned from Community Parks to Metropolitan Facilities, it now agrees that the Community Parks zoning should be retained. This is on the basis that there will be a site-specific restricted discretionary activity rules package.

[196] Rule 18.2.2.3(RD13) in the Final Revised Version lists the following as a restricted discretionary activity:

Major Sports Facility/Activity limited to that part of Elmwood Park located at 83D Heaton Street (Lot 1, DP 12727) where:

- a. it is developed in conjunction with part of the adjacent Lot 1 DP11232 (Heaton Street Intermediate Normal School, 125 Heaton Street); and

- b. the net contiguous site area set aside for the major sports facility is no less than 6,000m<sup>2</sup> across both sites

shall be a restricted discretionary activity...

If conditions a. and b. are not met, any development would default to a fully discretionary activity.

[197] While the Club generally agrees with the rule package, it is concerned about four matters:

- (i) The need for a. and b. in Rule 18.2.2.3(RD13).
- (ii) Whether the access lot should be included in the rule.
- (iii) A number of standards in the matters of discretion.
- (iv) Reference in the rule to “Major Sports Facilities”.

We now address each of these concerns.

### **Whether a. and b. should be included**

[198] The issue is whether the package should be restricted to a development that involves *both* the Club’s existing site and the adjoining Heaton Intermediate site.

[199] Elmwood’s concern is that talks with Heaton Intermediate are only at a very preliminary stage and the proposal is still in its infancy. It considers that a rebuild on its site on a like-for-like basis should remain a restricted discretionary activity and should not default to a discretionary activity.

[200] For its part the Council considers that the proposed package is appropriate and should stand. It notes that the rules package has been designed to work across both sites, and it considers that the default to a full discretionary activity is an “entirely orthodox and well-tested approach”.<sup>106</sup> The Council believes there is insufficient information at this stage for a package

<sup>106</sup> Closing submission for the Council at 3.4.

to be designed for rebuild on the Club's site alone. If that situation arises the effects of the proposal can be assessed as part of a discretionary consent.

[201] We agree with the Council that the rules package should cover both sites. In any event, the Decision 19 Panel has adopted the dual site approach and this needs to be mirrored in Chapter 18. A different approach in each chapter would be contrary to the Statement of Expectations.

### **Whether the access lot should be included**

[202] The restricted discretionary rule proposed by the Council does not apply to Lot 2 DP 11232, which provides the only access to the Club's facilities on Lot 1 DP 11232.

[203] Elmwood believes that restricted discretionary activity status should extend to the access lot which provides the only access to the Club's lot. It reasons that any development it undertakes will necessarily require the ongoing use of the access lot for access, with the result that a resource consent will also be required for the access lot. The Club believes that it would be more efficient for the restricted discretionary status to extend to the access lot.

[204] Apart from that, says the Club, exclusion of Lot 2 would also have implications in relation to the internal boundary setback standards. In this regard the Club draws the attention of the Panel to the location of the existing building on its site.

[205] The Council rejects the Club's contention that the access lot should be included in the rule. It makes the point that the access lot is shared with other users for other purposes and by definition is not part of the 'net site'. Under the rule an area of at least 6000m<sup>2</sup> is required across both sites, and the Council does not accept that the access lot should contribute to that threshold.

[206] Given the distinct function of the setback, the Council does not consider that it is appropriate for the access lot to be used for setback requirements. It also considers that very significant trees located along the access reinforce the importance of the setback requirement.

[207] Again we agree with the Council. We note that the definition of "net site area" *excludes* "any entry/exit strip of land 6m or less in width". Thus, even if the access lot was included it

would not make any practicable difference to the assessment of whether the 6000m<sup>2</sup> requirement was met. Given that inclusion of the access lot would make no practicable difference and it is shared by other users, we are satisfied that the access lot should not be included in the rule.

## Standards

### *Setback*

[208] Rule 18.2.3.2(f) requires an internal boundary setback of 6 metres for any major sports facility on this site (except between Heaton School and Lot 1). This means a 6m setback is required between a new building on Lot 1 and the accessway (Lot 2) as well as with other adjacent sites.

[209] Elmwood claims that the setback is not justified. It notes that the setback between buildings in a heavy industrial zone and a residential site is only 3m and that the effects of the Elmwood proposal would be less than the effects of activities in the industrial zone.

[210] The Council's position is that because 6m is the setback for a permitted activity, any reduction in that setback should be considered as part of the overall restricted discretionary consent assessment. It also considers that the setback between Lots 1 and 2 is necessary to protect the large trees, and that the Chapter 9 tree protection rules will have a bearing on whether a building can be sited within the 6m setback area.

[211] We accept that if the 6m setback is not met, the proposal will default to a restricted discretionary activity (not meeting the setback does not change the overall activity status of the proposal). We also note that the setback that otherwise applies in the Open Space zone is generally 10m. In our view this is a more appropriate comparison than the industrial comparison relied on by Elmwood.

[212] In our view the 6m setback is justified and appropriate.

### *Site Coverage*

[213] Rule 18.2.3.6 specifies the outer limits for building footprint, site coverage and impervious surfaces. On this site the maximum footprint for any building is 1500m<sup>2</sup>, with the site coverage being a maximum of 60 per cent, and impervious surfaces a maximum of 20 per cent.

[214] Elmwood submits that Ms Carter's comparison of the site to Horncastle Arena and Lancaster Park is not appropriate and that the Canterbury Museum is more comparable. It notes that there is no maximum building area or site coverage for the Canterbury Museum. Elmwood submits that Ms Carter's acceptance that a high yield development at the site would alleviate the need to develop facilities on Elmwood Park itself is consistent with the objectives and policies of Chapter 18.<sup>107</sup>

[215] The Council considers that the existing provisions should remain. In its view the comparison with the Canterbury Museum site is not appropriate. In that case the site coverage reflects an existing development, its central city location, and the scale of the buildings in the area.<sup>108</sup>

[216] The Panel finds it significant that the proposed site coverage for Elmwood is considerably higher than for other Open Space sites, where the default rates are:

- Sites less than 5000m<sup>2</sup> – 30m<sup>2</sup> max single building size; 1% site coverage; 5% impervious surfaces
- Sites 5000m<sup>2</sup> – 10,000m<sup>2</sup> – 100m<sup>2</sup> max single building size; 1% site coverage; 10% impervious surfaces
- Sites above 10,000m<sup>2</sup> – 500m<sup>2</sup> max single building size; 25% site coverage; 20% impervious surfaces

<sup>107</sup> Closing submissions for The Elmwood Club at 22–24.

<sup>108</sup> Closing submissions for the Council at 3.15.



We also accept that there are particular factors distinguishing the Elmwood site from the Canterbury Museum. Under those circumstances we are not prepared to interfere with the proposed provisions related to site coverage.

### *Landscaping*

[217] Landscaping requirements for a major sports facility on Elmwood Park are contained in Rule 18.2.3.8. Elmwood Club claims that these are unnecessary and unjustified because they do not take into account the existing plantings on the site or the mature trees on neighbouring sites.<sup>109</sup> The Club considers the requirements to be superfluous in the Community Parks Zone, and contends that landscaping is better considered as a matter of discretion rather than through rigid requirements.

[218] In response the Council submitted that the landscaping requirements are consistent with those confirmed in relation to the Heaton School portion of the site.<sup>110</sup> It notes that these requirements are intended to assist in mitigating the effects of large scale built development.

[219] Obviously there needs to be consistency between Chapters 18 and 21 and this effectively rules out any possibility of us granting the relief sought by Elmwood. In any event, we agree with the Council that landscaping is an appropriate mechanism to assist in mitigating the effects of large scale development and nothing has been advanced that persuades us that there should be a departure from that approach in the Elmwood situation.

### **The definition of ‘major sports facility’**

[220] Elmwood opposes the use of the expression “major sports facility” in the rule and seeks to substitute “community facility”. This is on the basis that the latter expression more accurately reflects the activities that are proposed, as well as current activities on the site.<sup>111</sup>

[221] The Council’s position is that because the Club owns the facilities, the ‘community facility’ definition cannot apply. It also maintains that some of the proposed activities would fall outside the definition.<sup>112</sup>

<sup>109</sup> Closing submissions for The Elmwood Club at 26.

<sup>110</sup> Closing submissions for the Council at 3.16.

<sup>111</sup> Closing submissions for The Elmwood Club at 31.

<sup>112</sup> Closing submissions for the Council at 3.17–3.18.

[222] As recorded earlier, the Panel considering Chapter 21 addressed this issue and decided that the major sports facility definition should apply. This should be mirrored in Chapter 18. We agree with the Chapter 21 Panel that the major sports facility definition is a better fit than ‘community facility’. It should also be added that there have been minor amendments to the provisions to ensure that there is consistency between the provisions of Chapter 21 and those relating to Open Space.

## **YALDHURST ROAD SPORTS FACILITY**

### **Introduction**

[223] Canterbury Sports Limited owns 19.8 hectares of land at Yaldhurst Road on the outskirts of Christchurch. Part of the holding has already been developed as a sports facility pursuant to a resource consent granted in 2014. The company intends to develop the remainder of the site for sporting purposes and it seeks to have the whole of its holding rezoned from Rural Urban Fringe to Metropolitan Facilities.

[224] Viatcheslav Meyn is the director of Canterbury Sports Limited. He, his wife, and their three children, previously lived in Russia where he founded sporting facilities for a football league of which he was president. Since moving to Christchurch with his family in August 2009 Mr Meyn has become passionate about the Christchurch region and wished to help the area recover from the earthquake events. He believed that a sports facility would assist in achieving this goal.

[225] In 2011 Mr Meyn began looking for a suitable site for a football academy. Having been unable to locate any suitable sites within the urban part of the city, he purchased part of the Yaldhurst Road site in December 2012. When the balance of the land became available in May 2013, he also purchased that land.

[226] The rectangular block of flat land now owned by Canterbury Sports is located adjacent to the rural/urban boundary of Christchurch. It is directly opposite a major residential subdivision to the south, and the entrance to the Canterbury Sports site is controlled by traffic lights. To the north the site is largely surrounded by what could be described as rural residential

properties (including properties belonging to neighbours who oppose any change in the zoning).<sup>113</sup>

[227] Mr Meyn explained in his evidence that the Yaldhurst Road property meets the requirements for a sports facility. In particular it is close to the urban boundary, contains stable and free-draining soils, and is in the northwest quadrant of the city which Mr Meyn believes will be the focus of future development for the city.

[228] To date the eastern part of the Canterbury Sports site has been developed in accordance with the resource consent obtained in 2014. This allows for:

- (a) Two full-sized artificial football fields.
- (b) One full-sized natural turf football field.
- (c) Six artificial mini football fields (two of which are covered).
- (d) A clubrooms building (including spectator stand, changing rooms, coaches room, some offices, a pro shop and a function room).
- (e) Lighting for the fields, with conditions imposed in relation to heights and angles.

[229] Three full-sized football pitches have been completed, one surfaced with natural turf and two with artificial turf. Each pitch has scaffold seating for up to 300 people. These facilities are surrounded by a five-metre high post and wire fence. In addition there are six mini pitches surfaced with artificial turf, which are also fenced. The two central pitches are covered with an open-sided overhead canopy 6.9 metres high.

[230] A clubroom building with a ground floor area of 950m<sup>2</sup> and a height of 8.9m is to be located between the full sized pitches and the mini pitches. The full sized pitches are lit by 12 lighting masts 21m high. Another series of lighting masts 9.7m high provide lighting for the smaller pitches. The resource consent restricts operation of these lights to the hours of 4 p.m. to 10 p.m.

<sup>113</sup> Paul Bridgman (2389); Paul Bridgman and Robbie and Denyse Rowland (FS2820).

[231] Street lights 7m high are installed along the internal road leading from the site entrance to the car park areas. Sealed car parking is provided for 382 cars. During peak hours, informal parking for another 297 cars is permitted by the resource consent.

[232] Up to this time the cost of the development has been met by Mr Meyn. He anticipates that future development will be undertaken in consultation with the Council so that the needs of the city can be taken into account.<sup>114</sup> Future developments possibly include a 50-metre Olympic standard swimming pool and a gymnasium, which would be used for elite training purposes as well as for competitions, meets, and tournaments.<sup>115</sup> Although Mr Meyn was willing to fund the initial development, many of the future developments he has in mind will depend on the support and financial backing of other entities.<sup>116</sup>

### **Relief sought by Canterbury Sports Limited**

[233] As already mentioned, the proposed zoning for the land is Rural Urban Fringe, and Canterbury Sports seeks to have it rezoned Metropolitan Facilities. It believes that this is the only zone that would accurately reflect what is currently consented and future aspirations for the site. According to Canterbury Sports, the alternative possibility of Community Parks Zone is too narrow.

[234] Three witnesses gave evidence for Canterbury Sports.

[235] Mr Meyn explained his underlying motivation to develop a sports facility on the site and the history of its development down to the present time. He also outlined proposed future developments for the site.

[236] Jeremy Phillips, a consultant planner, assessed the appropriateness of a Metropolitan Facilities Zone compared with the alternatives. He concluded that a Metropolitan Facilities zoning would be the most appropriate way of achieving the objectives of the proposed Replacement Plan without conflicting with higher order planning documents.

<sup>114</sup> Evidence in chief of Mr Meyn at 24.

<sup>115</sup> Opening submissions for Canterbury Sports Limited at para 5.

<sup>116</sup> Evidence in chief of Mr Meyn on behalf of Canterbury Sports Limited at 26.

[237] A landscape architect, Jeremy London, provided an assessment of effects. He considered that the proposed development would not be inconsistent with the wider environment and would be sympathetic to the “semi-rural qualities” of the surroundings.<sup>117</sup> Mr London also considered that from a landscape perspective the proposed development is appropriate for the periphery of an urban environment.<sup>118</sup>

### **The Council’s position**

[238] The Council does not support the Metropolitan Facilities zoning because it believes such zoning would be inconsistent with the CRPS. It claims that the objectives and policies within that statement confine new urban activities to the existing urban areas defined by Map A in Chapter 6 of the policy statement. However, the Council supports a Community Parks zoning with ‘bespoke’ controls reflecting the specific characteristics of the Canterbury Sports development.

[239] Four witnesses presented evidence on behalf of the Council.

[240] Supporting the Council’s view that Metropolitan Facilities zoning would be contrary to the CRPS, Janice Carter, the Council’s planning consultant, noted that the Canterbury Sports development would not be typical of those found within rural areas. She considered that by definition it was an “urban activity” for the purposes of the CRPS, which meant that such zoning needed to be confined to the urban area delineated by the policy statement. But Ms Carter considered that rezoning to Community Parks with ‘bespoke’ controls would provide a satisfactory planning solution.

[241] Bridget O’Brien, the Council’s senior planning engineer, confirmed that provided the developer constructed and funded the necessary mains, there was sufficient water supply and waste water capacity to accommodate a Metropolitan Facilities zoning of the property.<sup>119</sup> Charles Wright, the Council’s senior geotechnical engineer, confirmed that any geotechnical issues could be satisfactorily mitigated. And Andrew Milne, the Council’s senior transportation planner, was not opposed to the rezoning request.

<sup>117</sup> Evidence in chief of Jeremy London on behalf of Canterbury Sports Limited at 4.4.

<sup>118</sup> Evidence in chief of Jeremy London at 4.5.

<sup>119</sup> Evidence in chief of Bridget O’Brien on behalf of the Council at 3.

## Opposition by neighbours

[242] Paul Bridgman is a trustee of a trust that owns a Yaldhurst Road property adjoining the Canterbury Sports land. He and his family have lived there for the past 15 years and he was a submitter on the Canterbury Sports resource consent application. Mr Bridgman discussed the noise effects from the Canterbury Sports property. He considered that the intrusiveness of those effects is compounded by the frequency and intensity of the use of the facilities. Mr Bridgman stated that the noise from the facility “is intrusive and can have the effect of gnawing away at you”.<sup>120</sup> He is concerned that any further development of the site will result in even more noise.

[243] Supporting Mr Bridgman’s opposition are his neighbours, Robbie and Denyse Rowland, whose property also adjoins the Canterbury Sports property.

[244] In broad terms the opposition by neighbours to the rezoning revolves around:

- (a) lack of necessity to rezone, given the resource consent;
- (b) adverse effects on the neighbouring properties (particularly in relation to noise) due to the lack of controls over the development and operation of the facility;
- (c) impediments to rezoning by virtue of the CRPS;
- (d) the absence of any control over the location of lighting poles in relation to boundaries.

[245] Planning evidence for the neighbours was given by Darryl Millar. He supported the Council’s view that the CRPS presented a fundamental impediment to the rezoning of the site at this time. In his view a Metropolitan Facilities zoning would anticipate “an urban standard of development”, and that such a package would not sit comfortably within the rural environment.<sup>121</sup> Mr Millar considered that the rezoning should be rejected and the site should remain Rural Urban Fringe.<sup>122</sup>

<sup>120</sup> Evidence in chief of Paul Bridgman on behalf of Bridgman and Rowland at para 12.

<sup>121</sup> Evidence in chief of Darryl Millar on behalf of Bridgman and Rowland at paras 13 and 16.

<sup>122</sup> Evidence in chief of Darryl Millar at para 17.

### **‘Hot tubbing’ of planning consultants**

[246] The Panel directed the three planning experts to give evidence together. This provided each of them with a useful opportunity for them to respond to the evidence of the other two experts. Following that they were questioned by counsel and the Panel.

[247] After the experts had completed their evidence the Panel asked them to confer in the hope that agreement could be reached on a set of ‘bespoke’ planning provisions for the Canterbury Sports site. The Panel is grateful to the planners for their conferencing statement dated 16 March 2016.

### **Issues**

[248] Following conferencing, Ms Carter and Mr Millar remained of the view that Metropolitan Facilities zoning for the site would be inconsistent with the CRPS, but Mr Phillips still considered there would be no inconsistency. That is the first issue that needs to be resolved by the Panel. If Metropolitan Facilities zoning is ruled out by the policy statement, it will then be necessary to consider whether the zoning should remain as it is, or whether a Community Parks zoning should be adopted.

[249] Finally, it will be necessary to consider the content of the ‘bespoke’ rules. Although the planners are largely in agreement, six particular issues still require resolution by the Panel, namely, whether:

- (a) there should be clubrooms and food/beverage outlets in Area 2;
- (b) conference and function facilities should be allowed;
- (c) ancillary activities should be limited to the standards set out in the Community Parks zone or the Metropolitan Facilities zone
- (d) a code of conduct should be included in the noise management plan;
- (e) use of indoor facilities and buildings should commence at 5 a.m. or 8 a.m.;

- (f) there should be ‘respite’ days.

### **Would a Metropolitan Facilities zoning be contrary to the CRPS?**

#### *Chapter 6 of the Regional Policy Statement*

[250] Chapter 6 was inserted into the Policy Statement at the direction of the Minister for Earthquake Recovery. It supports implementation of the Recovery Strategy for Greater Christchurch. Although there have been recent amendments to the CRPS,<sup>123</sup> there were no amendments to Chapter 6.

[251] Objective 6.2.1 provides:

Recovery, rebuilding and development are enabled within Greater Christchurch through a land use and infrastructure framework that:

...

- (3) avoids urban development outside of existing urban areas or greenfield priority areas for development, unless expressly provided for in the CRPS;

...

- (7) maintains the character and amenity of rural areas and settlements;

One of the principal reasons expressed in the policy statement for the foregoing is the need to provide certainty to all resource users as to locations for development, thereby enabling long term planning and funding.

[252] Supporting this objective is Policy 6.3.1, which provides:

In relation to recovery and rebuilding for Greater Christchurch:

...

- (4) ensure new urban activities only occur within existing urban areas or identified greenfield priority areas as shown on Map A, unless they are otherwise expressly provided for in the CRPS;

The explanation in the policy statement is that the existing urban areas in Map A provide sufficient land zoned for urban purposes to enable recovery and rebuilding through to 2028.

<sup>123</sup> These were made public on 16 April 2016: see <http://www.dpmc.govt.nz/land-use-recovery-plan-amendment>.



[253] Both ‘urban activities’ and ‘rural activities’ are defined in the CRPS:

**Urban activities**

means activities of a size, function, intensity or character typical of those in urban areas and includes:

...

- Sports fields and recreation facilities that service the urban population (but excluding activities that require a rural location);

...

**Rural activities**

means activities of a size, function, intensity or character typical of those in rural areas and includes:

...

- Large – footprint parks, reserves, conservation parks and recreation facilities.

...

A good deal of the debate in legal submissions, expert planning evidence, and in response to cross-examination and Panel questions at the hearing, revolved around these definitions.

[254] Anticipated Environmental Results listed in the CRPS include a statement to the effect that existing urban areas identified in the Policy Statement will provide the location for all new urban developments.<sup>124</sup>

[255] On 11 March 2016 the Panel released Decision 17 which concerns Residential Stage 2. That decision contains a detailed analysis of the provisions of the CRPS, including those quoted above. Amongst other things, the Decision 17 Panel commented that “the language of the CRPS is clear and properly restrictive and it is highly directive”.<sup>125</sup> Although that decision was in the context of residential development, the Panel stated that the limitations contained in the policy statement also extended to commercial and industrial developments.<sup>126</sup>

<sup>124</sup> CRPS at 6.4.

<sup>125</sup> Decision 17: Residential — Stage 2 at [94].

<sup>126</sup> At [96].

### *The Canterbury Sports argument*

[256] Mr Chapman and Ms Robinson, counsel for Canterbury Sports, submitted that Decision 17 did not undermine its stance that Metropolitan Facilities represented the appropriate zone. They noted that the CRPS contemplates recreational activity occurring on *both* sides of the Map A “line”.<sup>127</sup> Given that the activities in this case require a rural location, the exception within the definition of ‘urban activities’ is triggered, with the result that the CRPS does not present a barrier to the Metropolitan Facilities zoning.

[257] Apart from that it was submitted that, numerous objectives and policies within the CRPS support recreational activities on this site. Indeed, existing and proposed activities for the site sit exactly within those contemplated by a Metropolitan Facilities zoning. On the other hand, the Community Parks Zone contemplates minimal impervious surfaces and building cover, which does not sit comfortably with the current and proposed Canterbury Sports facilities. Moreover, it was submitted that the development is consistent with the term ‘metropolitan’ because it will benefit the entire region by providing an elite training and performance centre.

### *The Council’s argument*

[258] The Council submitted that while some recreational facilities can locate outside the urban limits, it is a question of scale and the nature of those activities. In this case the scale and intensity of the potential development that would be permitted by a Metropolitan Facilities zoning would not be typical of those found within rural areas. Thus it would be an ‘urban activity’ for the purposes of Policy 6.3.1(4).

[259] Under those circumstances, it was submitted, the Panel is obliged to give effect to the CRPS. Even if the Panel considered there was some merit in the rezoning sought, it has no flexibility to extend the urban boundary delineated in Map A. The appropriate zoning is Community Parks with ‘bespoke’ provisions tailored to the Canterbury Sports site.

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<sup>127</sup> Opening submissions for Canterbury Sports at 9.1.

*Argument on behalf of the neighbours*

[260] In broad terms, counsel for the neighbours support the arguments advanced by the Council. However, rather than supporting a Community Parks zoning, they contend that the existing Rural Urban Fringe zoning should be retained.

*Discussion*

[261] Had the Canterbury Sports land been within the urban boundary defined in the CRPS, it is scarcely arguable in our view that a Metropolitan Facilities zoning would have been appropriate for this site. But the reality is that it is outside the urban boundary, and we agree with the Council that a Metropolitan Facilities zoning would not reflect activities of a size, function, intensity or character that would be typical of a rural zone. Under those circumstances Policy 6.3.1(4) applies.

[262] As indicated in Decision 17, the language of that policy statement is highly directive. In our view the comments in Decision 17 quoted previously are equally applicable to the matter at hand and we are obliged to give effect to the policy. We cannot find anything in the policy statement that would trigger the exclusion.

[263] Notwithstanding the argument on behalf of Canterbury Sports, we do not accept that the existing and proposed activities require a rural location. In reaching that conclusion we have taken into account that the consented area only comprises a relatively small proportion of the total site which is yet to be developed. Apart from that there do not seem to be any compelling planning reasons for the sporting and recreational activities under consideration to be located in a rural area.

[264] One of the difficulties with the Canterbury Sports proposition is that a Metropolitan Facilities zoning would contemplate activities that would be typically found within a metropolitan area, not a rural area. Indeed, it is difficult to reconcile the ‘Metropolitan’ description of the zone with a rural location. We do not accept Canterbury Sports’ argument that this difficulty can be overcome by the fact that the facilities would benefit the entire region. So do many other activities that are patently of an urban nature.

[265] Having reached the conclusion that a Metropolitan Facilities zoning is not available, we need to decide whether the existing zoning should be retained or whether the site should be zoned Community Parks with ‘bespoke’ rules. For the purposes of s 32AA we have carefully considered the evidence provided by the three expert planning witnesses, Mr Phillips, Ms Carter and Mr Millar as provided to us in their written evidence, during the hot tub session at the hearing and as outlined in their 16 March 2106 Expert Conferencing Statement. We have also considered the Evaluation of Options provided by Mr Phillips in his evidence, relating to both the Statement of Expectations and the Strategic Directions Chapter. Our evaluation is that we agree with the Council that a Community Parks Zone with ‘bespoke’ rules provides the best planning solution. It takes into account both the existing and future development, while avoiding the possibility of a development that would offend the CRPS. That could not be achieved by retaining the existing Rural Urban Fringe Zone, and this appeared to be conceded by Mr Millar when he was giving oral evidence to the Panel.<sup>128</sup>

### Outline Development Plan

[266] During the hot tub process involving the three planners at the hearing there was general agreement that an Outline Development Plan (ODP) would be needed for the site to complement the set of bespoke rules that would be required. Mr London, a Landscape Architect appearing for Canterbury Sports Limited, had tabled an ODP at the hearing. During the hot tub Mr Millar provided his view that an updated ODP would need to cover a range of matters:<sup>129</sup>

... I believe there needs to be more definition around, for example the location and massing of buildings, not being specific about building footprints but rather just generally where they are to be located, where outdoor recreation activities will occur on the site and perhaps where there will be areas of no activity occurring. And that in my view will assist in providing the ability to develop a more meaningful noise management plan for the site.

[267] In response Mr Phillips’ position was:<sup>130</sup>

... consistent with my evidence I guess I question what an ODP would achieve beyond what the applicable rules both in terms of the open space chapter and in terms of general rules, transport, noise et cetera would achieve. Notwithstanding that view I am of the view that an ODP dealing with the types of details that Mr Millar just described could reasonably easily be developed and it is probably not likely to be a major concern I

<sup>128</sup> Transcript, page 603 (Mr Millar).

<sup>129</sup> Transcript, page 598 (Mr Millar)

<sup>130</sup> Transcript, page 598 (Mr Phillips)

would imagine for Canterbury Sports to do that or provide a further level of detail if that were considered necessary or helpful as a circuit breaker.

[268] We agree with the planners that inclusion of an ODP is required (to be inserted in the Plan provisions as Appendix 18.8.4). This is a key reference for the working of the bespoke rule P25 in the Community Parks Zone.

### **Contents of bespoke rules**

[269] As already mentioned, during their Expert Conferencing the planners were unable to agree on six particular aspects, which we now discuss.

#### *Clubrooms, food and beverage outlets*

[270] In order to reduce adverse effects, Mr Millar supported exclusion of these items from Area 2 shown on the ODP (Appendix 18.8.4). While Ms Carter supported exclusion of food and beverage outlets, she did not support exclusion of clubrooms. Mr Phillips contended that there should be no exclusion for those facilities.

[271] We consider that clubrooms and food and beverage outlets should not be included in Area 2. All of these activities can potentially be noisy and obtrusive and there is ample room for them on other parts of the site which are further away from the neighbours who have presented submissions.

#### *Conference and function facilities*

[272] In relation to conference and function facilities, Ms Carter did not consider these to be appropriate on the site. Mr Phillips and Mr Millar considered that they would be appropriate in Areas 1 and 3 but not Area 2 (although Mr Millar's support is conditional on additional constraints on the nature of activities and frequency of events).

[273] While these facilities are permitted in the Metropolitan Facilities zone, they are not permitted in the Community Parks zone. Given our conclusion that the Metropolitan Facilities zoning is not available and that the Community Parks zone provides the best planning solution, we do not consider that conference and function facilities should be permitted.

### *Ancillary activities*

[274] Both Ms Carter and Mr Millar considered that ancillary retail, ancillary office and food and beverage outlets should be limited to the standards set out in the Community Parks zone, being 250m<sup>2</sup>. Mr Phillips considered that the standards in the Metropolitan Facilities zone (being 10 per cent of the total floor area of buildings on the site) should apply.

[275] We do not consider it appropriate to apply the same standard for ancillary activities as applies to the Metropolitan Facilities zone, and therefore agree with Ms Carter and Mr Millar that the Community Parks zone standard should be applied to this site.

### *Code of conduct*

[276] Mr Millar proposed that the noise management plan should include:

- (a) a code of conduct to promote responsible and considerate behaviour towards neighbouring residents during the use of buildings and facilities. This code of conduct would seek to reduce the use of offensive, abusive or insulting language, indicate corrective actions, including banning persistent offenders from using the buildings and facilities;
- (b) a protocol to ensure that the code of conduct is provided to all sports organisations using the site to communicate to their members and any other parties using the buildings and facilities.

[277] For their part, Ms Carter and Mr Phillips considered that the code of conduct promoted by Mr Millar would be difficult to enforce and administer. They also contended that other requirements in the proposed rules will adequately avoid or manage those effects. Nevertheless they provided a modified wording of the code of conduct for consideration by the Panel.

[278] We accept that a code of conduct should be included in the noise management plan. As Ms Dewar and Ms Reese pointed out in their closing submissions for Mr Bridgman and Mr and Mrs Rowland, a code of conduct was included by the Environment Court in conditions of consent in *Friends of Michaels Avenue Reserve Inc v Auckland Council*.<sup>131</sup> The wording

<sup>131</sup> *Friends of Michaels Avenue Reserve Inc v Auckland Council* [2016] NZEnvC 5.

proposed by Mr Millar reflects (in part) the wording proposed in that decision, and we adopt Mr Millar’s wording. If nothing else, a code of conduct will remind users of the facility about the importance of avoiding antisocial conduct and the possible consequences of failing to do so.

*Whether use of indoor facilities and buildings should commence at 5 a.m. or 8 a.m.*

[279] Whereas Mr Phillips proposes that the use of indoor facilities and buildings should be able to commence at 5 a.m. (and finish at 11 p.m.), Ms Carter and Mr Millar consider the start time should be 8 a.m. However, the conferencing report indicates that Ms Carter and Mr Millar would consider a “suitable” exception to allow specifically for athletes to train earlier, provided use of the other facilities (including ancillary offices, ancillary retail, and food and beverage outlets) was restricted to 8 a.m. to 11 p.m.<sup>132</sup> Agreement as to suitable wording had not been reached by the time the conferencing statement was filed.

[280] When considering indoor facilities/buildings we were conscious of the link between the use of those facilities/buildings and the use of outdoor facilities on the site. In our view it was illogical for the hours of the indoor facilities to be 8 a.m. to 11 p.m. and outdoor facilities to be 7 a.m. to 10 p.m. We therefore concluded that the hours for all the facilities should be 7 a.m. to 10 p.m. Given the location of the facilities we were not persuaded that the indoor facilities should be available for training purposes during earlier hours. Any proposal for the use of indoor facilities outside these hours can still be considered through a resource consent process, where the specific details and effects of any particular proposal can be considered.

### *Respite days*

[281] Mr Millar proposes the following additional restrictions in proposed rule P25:<sup>133</sup>

- k. No organised outdoor recreation activities shall occur on the following days:
  - 25<sup>th</sup> to 31<sup>st</sup> December
  - New Years Day
  - ANZAC day

<sup>132</sup> Expert conferencing joint statement at para 9.

<sup>133</sup> Expert conferencing joint statement at para 9.

1. There shall be a minimum of 10 weekend calendar days scheduled between 21 October and 31 March per annum where there shall be no organised outdoor recreation activities. A record of these dates shall be maintained and shall be made available to the Christchurch City Council on request.

Ms Carter and Mr Phillips were opposed to this suggestion.

[282] In support of the proposed respite days, counsel for Mr Bridgman and Mr and Mrs Rowland note that in *Quieter Please (Templeton) Inc v Christchurch City Council* the Environment Court provided for respite days as part of its decision concerning the Ruapuna Sports Park.<sup>134</sup> Although they acknowledge that noise from that racing facility differs from the noise that could be expected from the Canterbury Sports facilities, they argue that noise from the Yaldhurst Road facility is still of a type or frequency that has an impact on the amenity of the neighbouring residents.

[283] In our view the *Ruapuna* case is distinguishable from the Yaldhurst Road facilities. The noise generated by Ruapuna is of an entirely different intensity and scale. We are satisfied that the choice of zone coupled with the bespoke rules will ensure the activities are compatible with the surrounding neighbourhood without the need to impose respite days other than Christmas Day.

## Conclusion

[284] The zoning of the Canterbury Sports land will therefore be changed to Community Parks with ‘bespoke’ rules reflecting the particular characteristics of the site.

## TEMPLETON GOLF COURSE/FULTON HOGAN QUARRY

### Introduction

[285] This section of our decision concerns a proposed land swap involving the Templeton golf course and the adjacent Fulton Hogan quarry at Pound Road. The proposal, which is advanced by Fulton Hogan Limited, would enable aggregate to be mined on the current Templeton golf

<sup>134</sup> *Quieter Please (Templeton) Inc v Christchurch City Council* [2015] NZEnvC 167.



course and a new international golf course to be established on the Pound Road quarry.<sup>135</sup> The case for Fulton Hogan proceeds on the basis that deferred zoning would provide the appropriate planning mechanism. While the proposal is supported by Templeton Golf Club, it is strongly opposed by the Council and by neighbours Sara Harnett and Tjeerd Kikstra. It is also opposed by Waterloo Park Limited.

[286] Templeton Golf Club has existed since 1931.<sup>136</sup> Its golf course occupies 53.5 hectares within the former Waimakariri flood plain and sits on top of an extensive aggregate resource.<sup>137</sup> The land occupied by the golf club is vested in and administered by the Council under the Reserves Act, with the current lease from the Council to the Club expiring in 2021. There is a right of renewal for a further 33 years.<sup>138</sup>

[287] Adjacent to the golf course is the Pound Road quarry, occupying 84.3 hectares, which is owned and operated by Fulton Hogan. Quarrying began around 1953.<sup>139</sup> Today the supply of on-site aggregate material is almost exhausted, hence the desire of Fulton Hogan to secure another source. Currently the quarry maintains a crushing plant which processes material brought in from nearby quarry sites. The site also contains other facilities and receives large volumes of cleanfill and top soil which has been used for the progressive rehabilitation of the quarry.<sup>140</sup>

[288] Surrounding the golf course and quarry are a mixture of activities including rural, quarrying, recreational, institutional and industrial based activities. To the west is the Ruapuna Motor Sports site, Department of Corrections land associated with the Paparoa Prison complex, and Fulton Hogan's Barbers Road quarry. To the north are a number of rural lifestyle blocks. The developing Waterloo industrial area, two consented quarries, and rural land, are located to the east. To the south are farms, rural lifestyle blocks, and a group of residential properties now primarily in the ownership of the Council (which stems from issues associated with noise from the Ruapuna site).<sup>141</sup>

<sup>135</sup> Mr Chrystal indicated that the cost of the new course could be in the region of \$14m — Transcript (Rural Stage 2 hearing), page 797.

<sup>136</sup> Evidence of Chrystal (for Chapter 17: Rural hearing), 29 October 2015, at 25.

<sup>137</sup> Evidence of Chrystal (for Chapter 17: Rural hearing), 29 October 2015, at 26.

<sup>138</sup> Evidence of Wedge (for Chapter 17: Rural hearing), 16 October 2015, at 10.1.

<sup>139</sup> Evidence of Savage (for Chapter 17: Rural hearing), 29 October 2015, at 11.

<sup>140</sup> Evidence of Chrystal (for Chapter 17: Rural hearing), 29 October 2015, at 24.

<sup>141</sup> Evidence of Chrystal (for Chapter 17: Rural hearing), 29 October 2015, at 28.

[289] Under successive district plans the Templeton golf course has carried a Recreation zoning, with an ‘Ecological Heritage Site’ notation being recorded in the Operative Christchurch City Plan. It is proposed to be zoned Community Parks in the Replacement Plan. Under Chapter 9, as notified, the golf course is shown as a ‘Site of Ecological Significance’ which means that clearance of vegetation would require a resource consent. The Pound Road quarry has always carried a rural zoning and under the Replacement Plan it is to be zoned Rural Quarry.

[290] The Fulton Hogan land swap proposal involves both Chapter 17 (Rural) and this chapter (Open Space). These two Panels have taken a collaborative approach and decided that the lead discussion should be contained in this chapter. To a large extent this reflects that refinements to the proposal after it had been presented to the Rural Panel meant that the Open Space Panel had the benefit of a more comprehensive suite of planning provisions.

[291] When producing this decision we have utilised the evidence and submissions presented to both Panels, to the extent that it is relevant to the Fulton Hogan proposal.

[292] Of the 14 witnesses presenting evidence to the Rural Panel on behalf of the Council, the evidence of only five witnesses has specific relevance to the Fulton Hogan proposal (Trevor Partridge, Russell Wedge, Adele Radburnd, Dr Helen Rutter and Robert Potts). Fourteen witnesses gave evidence for Fulton Hogan to the Rural Panel, and the evidence of all of those witnesses is relevant to the Fulton Hogan proposal.

[293] Dean Chrystal, Fulton Hogan’s consultant planner, gave evidence to both the Rural and Open Space Panels. Because the evidence presented to the Open Space Panel by Janice Carter (the Council’s consultant planner for Chapter 18) relied on the evidence of Ms Radburnd (the Council’s consultant planner for Chapter 17), we arranged for Ms Radburnd to be re-called for questioning by us.

### **Deferred zoning concept advanced by Fulton Hogan**

[294] Unless the following ‘triggers’ are activated by 31 December 2021, the status quo under the proposed Replacement Plan will remain, and the Templeton golf course will continue to be

governed by the Community Parks provisions and the Pound Road quarry by the Rural Quarry provisions. The triggers are:<sup>142</sup>

- i. The Recreation Reserve status applying to the Rural Quarry Templeton Zone is uplifted from that land and placed upon the land within the Open Space Community Park[s] Templeton Zone; and
- ii. Resource consent to clear indigenous vegetation and significant trees from within the Rural Quarry Templeton Zone is obtained; and
- iii. A contract has been provided to the Council which provides for the establishment of an 18 hole golf course with an endorsement that the designed course and supporting amenities will meet Marquee standard when completed.

If the triggers are satisfied by the specified date, the deferred zoning will be activated and the Templeton golf course land will have a special zone within the Rural Quarry Zone and the Pound Road quarry will have a special zone within the Community Parks Zone. On the other hand if the triggers are not satisfied by the specified date the deferred zoning will be of no effect.

[295] A new Policy 14 in Chapter 17, supported by a rules package proposed by Fulton Hogan, provides the framework for the deferred zoning that would allow quarrying on the Templeton golf course. And a complementary policy/rules package in Chapter 18 provides the corresponding framework for the new golf course on the Pound Road quarry. In both cases the ‘triggers’ mentioned in the previous paragraph must be activated by 31 December 2021 before the deferred zoning can come into operation.

[296] The Fulton Hogan rules package details matters that must be covered in the contract between Fulton Hogan, Templeton Golf Club, and the party responsible for constructing the new golf course.<sup>143</sup>

1. An 18 hole golf course and supporting amenities to be constructed in 3 stages over 3 years, with 6 holes to be constructed prior to any Quarrying Activities occurring within the Rural Quarry Templeton Zone.
2. An endorsement from Golf Tourism New Zealand (or its successor) that the designed course and supporting amenities will meet Marquee standard when completed and will merit inclusion in the marketing of Golf Trails to International visitors.

<sup>142</sup> 18.1.10 Policy 7 — Development in the Open Space Community Parks Templeton Zone, in evidence in chief of Dean Chrystal (for Chapter 18: Open Space), Appendix 1.

<sup>143</sup> Rule 17.6.5.1, in evidence in chief of Dean Chrystal (for Chapter 18: Open Space), Appendix 1.

3. The area or areas set aside for Biodiversity Conservation within or adjoining the new golf course which will be provided for in the design as follows:
  - a) a minimum area of 1 ha; comprising no more than four separate areas, set aside for biodiversity conservation purposes; that is the subject of a management plan approved through the consent process referred to in (ii) above [at [294]];
  - b) construction of at least half of this area or areas being carried out as part of the first stage of works on the new golf course site;
  - c) the area or areas being outside the areas of play for golf;
  - d) the areas being located away from the boundary of the site or facilities and clearly identifiable on the ground; and
4. The details of an area to be established at the northern end of the new Open Space Community Park Templeton Zone for potential recreation comprising:
  - a) At least 15 ha of contiguous open space land being set aside for non-golf activities;
  - b) That land being in a position that adjoins the two CCC gravel reserves allowing them to be connected as a potential large-scale area of public open space;
  - c) That non-golf land being rehabilitated to a state suitable for grazing at the time the golf course is developed; and
  - d) The facilities associated with the golf course to be located in a manner which enables shared use of the facilities and passive surveillance of the non-golf land.

The new golf course on the Pound Road quarry would also be a controlled activity provided a landscape plan containing specified matters has been prepared.<sup>144</sup>

[297] The quarrying activity on the Templeton golf course site would be a controlled activity provided the three triggers are satisfied and:

- (a) Six new golf holes have been constructed.
- (b) Specified building standards are met.
- (c) A noise management plan, landscape and ecological management plan, and a rehabilitation plan, all covering specified matters, have been prepared.

<sup>144</sup> The Council's control would be limited to the character of the golf course, implementation of the landscape plan, creation of biodiversity areas, non-golf open space, and a bond or other security ensuring completion of the golf course.

The Council's control is limited to conditions relating to noise standards, the three plans mentioned above, a bond or security instrument, and building standards.

[298] The Fulton Hogan package has been designed to ensure that 18 holes of golf will be available during construction of the new golf course.<sup>145</sup>

### **The Council's opposition to the Fulton Hogan proposal**

[299] According to the Council the proposed deferred zoning is "unworkable, uncertain and inappropriate".<sup>146</sup> It considers that the provisions it has advanced in the proposed Replacement Plan provide adequate opportunity for Fulton Hogan to apply for a resource consent for its proposal, if it can resolve the Reserves Act matters (which we will discuss shortly) and achieve ownership of the Templeton Golf Club land.<sup>147</sup>

[300] The Council reasons that if the reserves classification under the Reserves Act is lifted, the Council could re-zone the Templeton golf course land Rural Urban Fringe because the Community Parks status would no longer be appropriate. Once that happened the new quarry would become a discretionary activity, rather than a non-complying activity under the current zoning.<sup>148</sup>

[301] It is the Council's case that even if Fulton Hogan wished to apply for consent before the zoning of the Templeton golf course had been changed (assuming the reserve status had been lifted), it could do so under the Community Parks provisions or initiate a private plan change request to re-zone the land (or both in tandem). This was based on Ms Radburnd's evidence that in that situation little weight would be given to the Open Space objectives and policies.<sup>149</sup>

[302] In their closing submission to us on behalf of the Council, Mr Laing and Mr Bangma summarised the Council's opposition to Fulton Hogan's proposal:<sup>150</sup>

- (a) Deferred zonings create uncertainty and are inconsistent with the directions around clarity and certainty contained in the statement of expectations and strategic objective 3.3.2.

<sup>145</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing), 29 October 2015, at 35.

<sup>146</sup> Closing submissions for Council (for Chapter 17: Rural hearing) at 7.77.

<sup>147</sup> Closing submissions for Council (for Chapter 17: Rural hearing) at 7.78.

<sup>148</sup> Chapter 17 Rural transcript, page 234.

<sup>149</sup> Rebuttal evidence of Ms Radburnd at 11.2.

<sup>150</sup> Closing submissions for the Council at 4.3.

- (b) The proposed deferred zoning in this case is particularly uncertain, and relies on a number of matters beyond the Council's control or indeed Fulton Hogan's control. In particular, uncertainty arises in relation to:
  - (i) the decision on a reserve exchange by the Minister of Conservation;
  - (ii) the execution of various commercial agreements to which the Council would not be party; and
  - (iii) dependence on appropriate off-site ecological mitigation being able to be provided, when it is not clear if this can be achieved.
- (c) There is further uncertainty because the Fulton Hogan proposal relates to land that Fulton Hogan does not own, or have any reliable future prospect of owning or otherwise gaining access to.
- (d) There is a risk to the Council of it being left with a failed asset which it cannot lease, or otherwise put to a useful purpose. There are considerable financial and planning uncertainties which are evident even from a review of the Rules proposal advanced by Mr Dean Chrystal in his evidence in the Rural (Stage 2) Hearing. These uncertainties are further illustrated in the Proposed Chapter 18 provisions attached to the evidence of Mr Chrystal in the Open Space hearing, and in particular the need for a bond as part of the controlled activity rule (18.2.5.2).
- (e) As the Court noted in the *Foreworld Developments Limited v Napier City Council*, deferred zoning can result in “Unmeetable expectations [being] raised and the Council is put under pressure to spend money it has decided, as a matter of managing the city in an integrated fashion, to commit elsewhere.... Deferred zoning has the distinct potential to pre-empt analysis that is still to be done.”
- (f) In the present case, the Fulton Hogan proposal creates the same problems as those identified in the *Foreworld Developments* case in that:
  - (i) It would lead to inappropriate expectations that the Templeton Golf Course would be quarried and the significant indigenous vegetation would be lost.
  - (ii) It has the potential to pre-empt the necessary analysis for the reserve exchange and application to remove indigenous vegetation.
- (g) There is currently sufficient aggregate to support the existing processing facility at Pound Road site for a further 25 years. Therefore, although the Templeton Golf Course land may be suitable for quarrying, other land is available. There are no earthquake recovery reasons to support the rezoning and there is plenty of time for Fulton Hogan to progress its proposals through the usual processes.
- (h) The values of the indigenous vegetation on the Templeton Golf Course site are significant in terms of section 6(c) of the RMA, and the Council has an obligation to protect those values under the CRPS. The Golf Course is subject to a Site of Ecological Significance overlay.

- (i) The purported recreational benefits of a new golf course in the quarry are also questionable. Mr Moore's evidence to the Panel in the Rural hearing, highlighted that the proposal is likely to be disruptive to existing members, and may result in the cost of new memberships tripling. Further, it is submitted that the international quality focus of the proposed new course is likely to be at the expense of local golfers and therefore in conflict with the Council's role under the LGA 2002.

Counsel submitted that the Fulton Hogan proposal should be declined.

[303] It was also argued on behalf of the Council that Open Space zoning (deferred or otherwise) was not needed to enable a new golf course to be established on the quarry site, because it was already a permitted activity under the Rural Quarry rules; and inclusion of a permitted activity rule for golf courses and related activities in that zone is significantly clearer, more concise, and easier to use than the provisions proposed by Fulton Hogan, which are “confusing and not “plan ready””.<sup>151</sup>

[304] Finally, the Council contended that the s 32 analysis undertaken by Mr Chrystal was deficient in various respects;<sup>152</sup> any land exchange under the Reserves Act faced significant issues;<sup>153</sup> the Council had intentionally sought to avoid the use of deferred zoning in a situation where the trigger for uplifting the deferral is highly uncertain;<sup>154</sup> and given the requirements of s 32 of the RMA, the deferred zoning approach is less appropriate than other methods available to Fulton Hogan.

### **Other opposition to the Fulton Hogan proposal**

[305] Waterloo Park Limited opposed the relief sought by Fulton Hogan. That company owns a business park opposite the golf club and Pound Road quarry.

[306] During closing legal submissions on behalf of Waterloo Park, its counsel, Ms Appleyard and Mr Williams, stated:<sup>155</sup>

Waterloo considers that the present proposed District Plan Review process is not the appropriate forum to consider Fulton Hogan’s proposed ‘zone exchange’, establishment of a new quarry on the Templeton Golf Course, and rehabilitation of its current Pound Road quarry. This proposal is more appropriately considered as part of the normal

<sup>151</sup> Closing submissions for the Council at 4.9 and 4.10.

<sup>152</sup> Closing submissions for the Council at 4.16–4.22.

<sup>153</sup> Closing submissions for the Council at 4.32.

<sup>154</sup> Closing submissions for the Council at 4.35.

<sup>155</sup> Closing submissions for Waterloo Park at 12.

resource consent process when the nature of the proposal and required mitigation (in light of submitter concerns) are properly understood.

Although Waterloo Park did not adduce evidence before us, it relied on the evidence provided by its planner, Laura Buttimore, to the Rural hearing. In summary its concerns are: insufficient information, potential adverse effects on adjacent land owners, and insufficient details as to mitigation and management of a new quarry on the Templeton Golf Club site.

[307] The only opposition of a residential nature came from Ms Harnett and Mr Kikstra, who have owned a property in Pound Road for over 26 years. Their property is adjacent to the southern boundary of the golf club and their dwelling is approximately 36 metres from their boundary with the Templeton golf course. Currently they enjoy a high level of amenity due to the proximity of their property to the golf course, which also provides some respite from the otherwise noisy environment surrounding their property.

[308] Ms Harnett and Mr Kikstra oppose the proposal on the grounds of noise, dust, and visual effects, as well as effects on groundwater and traffic. Evidence about those matters was presented to the Rural hearing. As a precaution Ms Harnett provided a range of mitigation requests in the event that they were unsuccessful in preventing the Fulton Hogan proposal.

## Issues

[309] The primary issue is whether the deferred zoning proposal advanced by Fulton Hogan should be accepted or rejected by the Rural and Open Space Panels. Underlying that issue are a number of sub-issues.

[310] We have decided to address the issues before us under the following heads:

- (a) Jurisdiction
- (b) Deferred zoning as a planning tool
- (c) Alternatives
- (d) Higher order documents



- (e) Reserves Act issues
- (f) Ecological issues
- (g) Uncertainty
- (h) Risk to the Council
- (i) Effects on neighbours
- (j) Costs/benefits/section 32AA analysis
- (k) The policy and rules package
- (l) Overall conclusions

[311] During the analysis that follows we find it necessary to consider whether potential applications under the Reserves Act (to uplift the Recreation Reserve status from the Templeton golf course and place it on the Pound Road quarry) and for a resource consent (to clear indigenous vegetation and significant trees from the Templeton golf course) are viable. Two matters need to be emphasised. First, we are assessing *only* the viability of those potential applications in the narrow sense of whether a favourable outcome is possible. Any subsequent references to viability are to be construed in that narrow sense. Secondly, and this follows on from the first point, we have not attempted to consider whether the applications (or either of them) will ultimately succeed. That is a matter for those considering the applications (if and when they are made), and our decision should not be taken as indicating a view, one way or other, about the ultimate outcome.

## **Jurisdiction**

[312] During opening submissions to the Rural Panel, counsel for the Council suggested that there might be a jurisdictional impediment to the Fulton Hogan proposal based on procedural unfairness. First, Fulton Hogan's evidence contained greater detail than its original submission; secondly, there was a risk that interested parties might not have lodged submissions. Although these matters were addressed in closing submissions on behalf of

Fulton Hogan, they do not appear to have been mentioned again in the Council's closing submissions.

[313] Fulton Hogan's original submission sought a deferred Quarry Zone for the Templeton golf course and a deferred Community Park Zone for the Pound Road quarry. Since that time the evidence and submissions presented by Fulton Hogan have been directed towards clarifying and further limiting the potential for adverse effects arising out of its proposal.

[314] We agree with counsel for Fulton Hogan, Ms Limmer, that this evolution of a submission is contemplated under the RMA and OIC.<sup>156</sup> We are satisfied that the refinements traversed in the Fulton Hogan evidence and submissions were raised by the original submission and that no party would have been prejudiced. Consequently we have the necessary jurisdiction to consider the Fulton Hogan proposal.

### **Deferred zoning as a planning tool**

[315] There is a fundamental difference between the Fulton Hogan planning expert, Mr Chrystal, and the Council's experts, Ms Radburn and Ms Carter, about whether use of the deferred zoning technique would be appropriate on this occasion. Before examining that issue, it is helpful to outline the competing stances.

#### *Fulton Hogan (Mr Chrystal)*

[316] In Mr Chrystal's view, rather than being an unusual planning technique, deferred zoning is an appropriate planning tool which continues to be used throughout New Zealand.<sup>157</sup> It can be used to determine a potential change in land use in advance, and is often used to signal a direction for growth.<sup>158</sup>

[317] Mr Chrystal traversed examples of deferred zoning in Christchurch, Selwyn, Hastings, and Horowhenua. In response to a question from the Panel about whether deferred zoning is still commonly used around the country, Mr Chrystal said:<sup>159</sup>

<sup>156</sup> Closing legal submissions for Fulton Hogan (for Chapter 17: Rural hearing) at 76.

<sup>157</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing) at 52.

<sup>158</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing) at 52.

<sup>159</sup> Transcript, page 501.

... I did a little bit of research around that. As you will probably be aware, the Hastings District Plan uses them quite extensively and the Horowhenua Plan which I was involved in as a Commissioner used deferred zoning. The Selwyn Plan uses deferred zoning – a lot of plans around New Zealand do. The Operative Plan uses deferred zoning and a lot of it is around infrastructure, but not entirely.

I think there is one in the Hastings Plan which says something along the lines that when the industrial land runs out we will then look at this next site as to whether it can be brought forward. The Christchurch Operative Plan, Taylor's Mistake was a good example of a situation where you had a deferred zone which was dependent on an exchange of land. Essentially the Taylor's Mistake Association owned a piece of land up a valley. In order for them to move their [baches] into a new zone being created they had to release that land to the Council, that was part of the deferment.

Similarly, there was an environmental compensation situation in Worsleys Spur over in Cashmere where there was a land exchange involved in the deferral process there as well.

So it is not solely used for infrastructure, there are other reasons it is being used, but it is used, in my experience, quite extensively around the country.

He emphasised that the 'trigger' for deferred zoning needs to be clearly specified in the Plan, which, in his view, is not always the case.<sup>160</sup>

[318] It was acknowledged by Mr Chrystal that deferred zoning can create an expectation that might never be realised and:<sup>161</sup>

... this is something which needs to be considered in deciding whether it is appropriate in this instance. In this case I do not consider the deferral is likely to create a significant sense of uncertainty any more so than other deferrals have. Existing activities on both sites will continue as they are and the total extent of the deferral period of approximately 5 years is sufficiently short so as not to impose undue constraints on investment decisions for [Templeton Golf Club], who in any event are supportive of the proposal. The deferral is also very clear about what needs to be done to satisfy it, thereby removing any suggestion that the deferred zoning itself provides certainty of development.

After conducting a s 32 analysis, Mr Chrystal concluded that the deferred zoning technique was appropriate for the Fulton Hogan proposal.

*Council (Ms Radburnd/Ms Carter)*

[319] Ms Radburnd (supported by Ms Carter) accepted that deferral of zoning is a mechanism that has been used in the Operative Christchurch City Plan and other plans around the country. She said that it is most often used to signal a direction for urban growth, subject to timing, and

<sup>160</sup> Transcript, page 502.

<sup>161</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing) at 68.

that it is often tied to the future provision of infrastructure. But she contended that none of those situations is comparable to the Fulton Hogan proposal.

[320] In Ms Radburnd's view, deferred zoning on this occasion would not be consistent with the statutory tests, and would not achieve the objectives and policies of the Replacement Plan.<sup>162</sup> When questioned by the Panel, she explained that the statutory test she was referring to is s 32 of the RMA.<sup>163</sup> A particular concern mentioned by Ms Radburnd was that the deferred zoning under consideration was dependent on events or actions outside the district plan process, which added uncertainty. Ms Radburnd also noted that the use of deferred zoning had been criticised by the Environment Court.<sup>164</sup>

[321] Apart from those matters, Ms Radburnd observed that the proposed Replacement Plan is being prepared within a significantly different planning context:<sup>165</sup>

11.9 The statement of expectations and strategic objectives 3.3.1 and 3.3.2 [are] clear that the provisions of this district plan should be clear and foster investment certainty and as such, this plan does not include any deferred zoning. The approach adopted is to determine now whether a zoning is appropriate or not. This District Plan has sought not to include deferred zones that rely on actions outside the district plan that might or might not eventuate and which you would need a plan change to remove anyway. The use of deferred zonings places expectations that may never eventuate and so in reviewing the plan we have gone through and removed those that are uncertain i.e. all of them.

When questioned by the Panel about these matters, Ms Radburnd said that the Council had taken the view that if there was uncertainty and a risk of something not happening, deferred zoning would not be used: either something was zoned or it was not, and this philosophy was not necessarily just about the fact that a third-party decision was involved.<sup>166</sup>

[322] Later, under questioning by the Panel, Ms Radburnd said that although she was familiar with the deferred zoning technique, she had not used it in a plan herself. She acknowledged that there was nothing particularly unusual about the technique.<sup>167</sup>

<sup>162</sup> Evidence in chief of Adele Radburnd (for Chapter 17: Rural hearing) at 11.20.

<sup>163</sup> Transcript, page 676.

<sup>164</sup> Evidence in chief of Adele Radburnd at 11.24.

<sup>165</sup> Rebuttal evidence of Adele Radburnd (for Chapter 17: Rural hearing), 6 October 2015, at 11.8.

<sup>166</sup> Rebuttal evidence of Adele Radburnd (for Chapter 17: Rural hearing), 6 October 2015, at 11.9.

<sup>167</sup> Transcript, page 696.

## Discussion

[323] We should make it clear at the outset that at this stage of our decision we are approaching the use of deferred zoning at a conceptual level. A more detailed analysis will follow as we progress through the various matters requiring consideration.

[324] The Council seems to have adopted a relatively rigid approach to the use of deferred zoning in this part of the Replacement Plan. A deferral that relies on actions outside the District Plan process (and is not within the control of the Council) seems to have been ruled out on the basis that it would be contrary to the approach signalled in the Statement of Expectations and the Strategic Directions decision. On the Council’s approach, zoning is either justified or it is not: there is no intermediate position.

[325] While we have no difficulty in accepting that a s 32 analysis or uncertainty can rule out the use of deferred zoning, we have difficulty in accepting that the Council’s rigid approach to its use in the proposed Replacement Plan is justified.

[326] As Mr Chrystal stated, and Ms Radburnd accepted, the deferred zoning technique is used reasonably extensively throughout New Zealand, and there is nothing particularly unusual about it. We do not accept that there is anything in the Statement of Expectations and/or the Strategic Directions that automatically counts against use of deferred zoning in situations where it might otherwise be appropriate. Nor do we accept that deferred zoning based on actions outside the District Plan process or the control of the Council should necessarily be rejected out of hand. Whether or not deferred zoning is an appropriate tool will depend on all the circumstances surrounding its proposed use on any particular occasion.

[327] Relying on *Foreworld Developments Limited v Napier City Council*,<sup>168</sup> the Council seems to imply that the Environment Court frowns on the use of deferred zoning because it can result in “unmeetable” expectations. However, that observation by the Court needs to be construed in context. In that case the Court was not prepared to consider deferred residential zoning because the Council had no intention of providing the necessary infrastructure. Not surprisingly the Court concluded that to impose deferred zoning in that type of situation would raise “unmeetable” expectations.<sup>169</sup>

<sup>168</sup> *Foreworld Developments Limited v Napier City Council* [2005] NZEnvC 38; W008/2005.

<sup>169</sup> *Ibid* at [20].

[328] We do not consider that the Fulton Hogan proposal is in that category. As we will explain shortly, we do not believe that the three pre-requisites (transfer of reserve status under the Reserves Act, obtaining resource consent to allow clearance of vegetation, and entry into a contract) are “unmeetable”. Consequently this is not a situation where unmeetable expectations would be raised.

[329] The issue of deferred zoning was also considered in Decision 20 with reference to the Cranford Basin. In essence deferred residential zoning for Cranford Basin was sought in anticipation of a future change to the Land Use Recovery Plan (LURP) and Map A of the CRPS. Deferred zoning was opposed by the Council and others on the basis that it would not give effect to the CRPS or the Strategic Directions, and would be inconsistent with the LURP.<sup>170</sup> The Panel agreed.<sup>171</sup> It also concluded that the rezoning was unnecessary.<sup>172</sup>

[330] Again we consider that the Cranford Basin situation is distinguishable from the Fulton Hogan proposal. While the Cranford Basin Panel found that the deferred zoning would be contrary to the higher order documents, we have found (as we will explain later) that the Fulton Hogan proposal is entirely compatible with all relevant higher order documents.

[331] We should also add that the Council supported deferred zoning in relation to the Heinz Wattie’s land at Main South Road/Shands Road under circumstances that have some parallels with the deferred zoning proposed by Fulton Hogan. In the end result the Commercial and Industrial Stage 1 Panel decided that there was a more appropriate solution to the particular issue under consideration in that hearing.<sup>173</sup> We mention this to illustrate that the Council does not seem to have been totally consistent in its opposition to deferred zoning in the proposed Replacement Plan.

[332] Whether or not the deferred zoning proposed by Fulton Hogan should proceed depends on a wide range of factors that we are about to examine. Suffice to say at this juncture that we have not been persuaded that it should be ruled out at a conceptual level on the basis that it does not fit the Council’s philosophy about the use of that technique in the proposed Replacement Plan.

<sup>170</sup> Decision 20: Residential (Part) and Rural (Part) Cranford Basin — Stage 3 at [36].

<sup>171</sup> Ibid at [36].

<sup>172</sup> Ibid at [37].

<sup>173</sup> See Decision 11 at [553]–[569].

## Alternatives

[333] It is common ground that there are two possible alternatives to Fulton Hogan’s proposal for deferred zoning: a resource consent or a plan change, both of which are advocated by the Council in preference to the deferred zoning approach. However, beyond agreeing that those alternatives exist, Fulton Hogan and the Council see the matter through entirely different eyes.

### *Fulton Hogan*

[334] For Fulton Hogan, Mr Chrystal rules out both alternatives on the basis that they do not offer viable alternatives to the deferred zoning proposal.<sup>174</sup>

Resource consent would be difficult, basically because it would be non-complying. I think it would be quite a hard resource consent to achieve. Plan changes, that is a catch-22 because without going through the process under this plan review the options of a plan change are probably three to four years away, because once a plan becomes operative you have got your two year stand down period, you have then probably got at least a year, if not more in my experience, for a planning change to go through. You have still got the reserve exchange and the supposed uncertainty would still exist if you did the reserve exchange first because you would still need the plan change and the biodiversity resource consent.

Mr Chrystal added that he did not think the new golf course would be established unless a quarry could also be established on the Templeton golf course.

### *Council*

[335] To a large extent the Council’s argument has already been recorded during our summary of its opposition to the Fulton Hogan proposal: obtaining a resource consent should not be a problem if Fulton Hogan can resolve the Reserves Act matters and achieve ownership of the Templeton golf course; alternatively (or in tandem with resource consent) it could seek rezoning via a private plan change.

[336] When these alternatives were explored with Ms Radburn by the Panel, she said:<sup>175</sup>

... it would be appropriate to start [with] the Reserves Act transfer process. I had understood that that was imminent some time ago. And then a resource consent application where all of those outstanding matters could be addressed. And the reason why I support a resource consent process as well is, and you would have heard the

<sup>174</sup> Transcript, page 503.

<sup>175</sup> Transcript, pages 689–690.

evidence on the issues we have with site rehabilitation, it offers an opportunity to consider rehabilitation outcomes as well.

But I think that is the most straightforward route, just a resource consent. Mr Chrystal did raise some concerns, in his opinion he felt that the resource consent route would be problematic because under the Open Space provisions a quarry would be a non-complying activity. I do not share that view, in my view if the Reserves Act matters were addressed and there was an undertaking or commitment to transfer the reserves then once that was done then it would be appropriate to lift the Open Space zoning anyway, because that is why it has the Open Space zoning. It is not because it has got a golf course, they clearly have other Rural zoned golf courses.

So at that time either the applicant could pursue a resource consent under the Open Space rules where it would be non-complying but in my view, the processing officer would give less weight to those Open Space objectives and policies, or the Council would have initiated its own plan change to lift the Open Space zoning and then the quarry would be considered as a discretionary activity in a Rural zone just like any other quarry.

At a later point Ms Radburnd agreed that it would be difficult to obtain the necessary resource consent unless Reserves Act status was lifted.<sup>176</sup>

[337] As to the possibility of a future plan change, Ms Radburnd accepted that it could be at least three years before a change of zoning could be attempted. This reflected the two-year stand-down period and the time taken to prepare the necessary application.<sup>177</sup>

### Discussion

[338] The difficulty with the Council's approach is that it is not comparing apples with apples. When opposing the deferred zoning proposal it relies on the high hurdle that the current Reserves Act status of the Templeton golf course would present. But when it comes to the alternatives of resource consent or plan change, the Council proceeds on the basis that those alternatives should not present a problem *on the assumption that the Reserves Act issue has been overcome*.

[339] In our view any accurate comparison of deferred zoning with the alternatives should take into account the existing situation, namely, the current Reserves Act status of the golf course. On that basis quarrying of the Templeton golf course would be a non-complying activity, and we agree with Mr Chrystal that it is likely to be very difficult to obtain the necessary consent to mine the reserve. Likewise it would be difficult for a private plan change to succeed under

<sup>176</sup> Transcript, page 697.

<sup>177</sup> Transcript, page 697.



these circumstances. Moreover, the alternatives would involve significant duplication of the hearings that have already taken place, which would be inefficient and costly, as well as giving rise to delay. Finally, the Statement of Expectations anticipates that there will be a significant reduction in reliance on resource consent processes, which obviously does not favour the resource consent alternative.

[340] For those reasons we cannot agree with the Council that the deferred zoning approach is less appropriate than the two other methods advanced by the Council.

## Higher order documents

### *Statement of Expectations*

[341] We are obliged to have particular regard to the Statement of Expectations which anticipates, amongst other things, that innovation will be encouraged. We agree with Mr Chrystal that the Fulton Hogan proposal is innovative and to that extent it aligns with the Statement of Expectations.

[342] By the same token, the Statement of Expectations expects the Replacement Plan will be clear, concise and easy to understand. In this regard Mr Laing and Mr Bangma submitted on behalf of the Council:<sup>178</sup>

Having regard to plan objectives and the statement of expectations requirements for seeking a clear, concise and easy to understand plan and minimisation of the number extent and prescriptiveness of development controls (Strategic Objective 3.3.2 and the Statement of Expectations), it is submitted that inclusion of a permitted activity rule for golf courses and related activities in the [Rural Quarry] Zone, is significantly more clear, concise and easy to use than the [Community Parks] (Templeton Golf Course) provisions promoted by Fulton Hogan for the existing quarry site...

While that statement might be true as far as it goes, it is simplistic and fails to take into account the intent of the *whole* Fulton Hogan proposal, in particular the establishment of a new quarry on the Templeton golf course.

[343] By its very nature the deferred zoning package is relatively complex, and we have had particular regard to that feature. On the other hand it is innovative and, as we will discuss later, our s 32AA analysis favours it over the alternatives. Under those circumstances we do not

<sup>178</sup> Closing submissions for Council at 4.10.

accept that the proposal should be rejected simply because the Replacement Plan would be simpler without it.

[344] Having said that, we agree with the Council that in a number of respects the drafting of the policy/rules packages for Chapters 17 and 18 needs to be revisited. But, as we will discuss later, those deficiencies can be remedied and do not justify outright rejection of the Fulton Hogan proposal.

*Recovery Strategy for Greater Christchurch and Land Use Recovery Plan*

[345] Planning witnesses for the Council and Fulton Hogan were generally in agreement that the priority of the Recovery Strategy is the repair or rebuild of infrastructure for which low cost accessible aggregates are vital.<sup>179</sup> They also agreed that recovery includes restoration and enhancements.

[346] The Recovery Strategy sets out a number of natural environment goals that work together. These include to:<sup>180</sup>

restore the natural environment to support biodiversity and economic prosperity... including by:

(a) “ensuring ecosystems are healthy and functioning” (goal 6.2)

[347] The Land Use Recovery Plan (LURP) focuses on the recovery and rebuilding of urban areas, particularly housing, business needs, community facilities, transport and other infrastructure. The LURP requires support for land, building and infrastructure repair, by making available materials (including aggregates) for this purpose.<sup>181</sup>

[348] We are satisfied that the proposed ‘land swap’ arrangement would enable the mining of additional aggregate to assist in the recovery of Greater Christchurch (and into the future), as well as providing an improved recreational facility. The proposed threshold triggers would also provide the opportunity to test whether there will be an enhancement of ecological values.

<sup>179</sup> Evidence in chief of Adele Radburnd on behalf of the Council (for Chapter 17: Rural hearing), 16 October 2015, at 7.12, and evidence in chief of Dean Chrystal for Fulton Hogan (for Chapter 17: Rural hearing), 29 October 2015, at 49 and evidence in chief of Dean Chrystal for Fulton Hogan (for Chapter 18: Open Space hearing), 27 January 2016.

<sup>180</sup> Recovery Strategy, page 11.

<sup>181</sup> Evidence in chief of Adele Radburnd (for Chapter 17: Rural hearing), 16 October 2015, at 7.14.

Thus the proposal would not be inconsistent with the Christchurch Recovery Strategy or the LURP.

*Canterbury Regional Policy Statement*

[349] In the Rural hearing, both Mr Chrystal and Ms Radburnd addressed the relevant policy framework in the CRPS and were generally agreed as to the relevant objectives and policies. Chapter 6 of the CRPS sets out the recovery framework for rebuilding and development of Greater Christchurch. In so doing it seeks to protect key elements of natural and physical resources to ensure that harm to the natural environment is minimised and the character and amenity of rural areas is maintained. Ms Radburnd noted that the CRPS is relatively silent on quarrying matters other than including a direction to avoid significant adverse effects on adjacent rural activities (including quarrying) from the location and design of any proposed rural residential development.

[350] The Policy Statement does not specifically address the interface between quarrying and recreation or other rural land uses.<sup>182</sup> There is, however, recognition in Chapters 5, 7 and 14 of the CRPS that there may be effects on significant natural and physical resources (in particular, water bodies and air quality) that need to be appropriately managed. In the context of the issues before us we are satisfied that the proposal put forward by Fulton Hogan will give effect to those provisions of the CRPS.

[351] The remaining issue of contention regarding the CRPS framework is the extent to which the Fulton Hogan proposed land swap would give effect to the objectives and policies in Chapter 9 of the CRPS regarding the protection of indigenous biodiversity within the Templeton golf course. In the case of the Fulton Hogan proposal, the Council witnesses were concerned about a lack of certainty regarding the proposed offset. They contended that the lack of certainty precluded an appropriate assessment at this stage.

[352] For reasons that we will give later, we accept that the conceptual offsetting proposal advanced by Fulton Hogan, which still requires resource consent under the biodiversity provisions in Chapter 9 of the CRDP, represents a viable method of giving effect to the relevant objective and policies of the CRPS.

<sup>182</sup> Evidence in chief of Adele Radburnd (for Chapter 17: Rural hearing), 16 October 2015, at 7.18.

[353] The ecological expert witnesses were agreed that biodiversity offsetting is a viable option in this case and that such offsetting is something that must be assessed and designed using current best practice methodologies. They acknowledged, however, that biodiversity offsetting in this type of environment is difficult and may involve techniques that are un-tested and can entail high risk.<sup>183</sup>

[354] We have considered the evidence of those experts and their agreed statement. Although there is an element of risk in the proposed offset arrangement, we are satisfied, on the basis of Dr Roper-Lindsay's evidence, that an offset arrangement in this case is feasible. Any risk is no greater than that inherent in any rehabilitation or restoration proposal involving significant ecological sites. Those risks have been appropriately assessed in the work undertaken to date, and will continue to inform the final methodologies adopted.<sup>184</sup> As discussed later, the appropriate time to assess and design the methodologies for any offset proposal is during the resource consent process.

[355] In the context of the CRPS and Chapter 9 of the CRDP, we are therefore satisfied that the Fulton Hogan proposal, which includes the requirement to obtain resource consent for removal of indigenous vegetation and for any offset proposal, provides adequate protection such that Fulton Hogan proposal gives effect to the objectives and policies in Chapter 9 of the CRPS.

### *Mahaanui Iwi Management Plan*

[356] We have taken into account the relevant provisions in the Mahaanui Iwi Management Plan which are addressed in Ms Radburnd's evidence.<sup>185</sup> Policy TM2.5 requires that district plans "include specific policy and rules to protect, enhance and extend existing remnant and restored areas of indigenous biodiversity in the takiwā". And Policy TM2.8 requires "the integration of robust biodiversity objectives in urban, rural land use and planning".

<sup>183</sup> Chapter 17 Rural Expert witness conference statement of Dr Judith Roper-Lindsay, Dr Trevor Partridge and Dr Antony Shadbolt, 25 September 2015.

<sup>184</sup> (Chapter 17) Evidence in chief Dr Judith Roper- Lindsay, 29 October 2015, on behalf of Fulton Hogan at 122 and 123.

<sup>185</sup> Evidence in chief of Adele Radburnd (for Chapter 17: Rural hearing), 16 October 2015, at 7.21.

### *Strategic Directions*

[357] Our decision on the Fulton Hogan proposal must achieve Objectives 3.3.1 and 3.3.2 of the Strategic Directions. These direct us to ensuring that the Replacement Plan enables recovery and the future enhancement of the district in a way (amongst other things) that uses clarity of language and is efficient, particularly through minimising transaction costs and resource consent processes.

[358] Objective 3.3.9 is also relevant. It further provides for a natural and cultural environment where, amongst other things:

important natural resources are identified and their specifically recognised values are appropriately managed.

[359] A new Rural Strategic Objective 3.3.16 is included in the Chapter 17 Rural decision:

A productive and diverse rural environment promotes efficient use of the rural productive resource, to the benefit of the economy whilst recognising the contribution that rural land makes to maintaining natural and cultural values.

[360] For Fulton Hogan, Mr Chrystal was of the opinion that the Fulton Hogan proposal would achieve those Strategic Directions.<sup>186</sup> On the other hand, Ms Radburnd and Ms Carter adopted the position that a deferred zoning approach would not achieve the requirements of Strategic Objectives 3.3.1 and 3.3.2.<sup>187</sup>

[361] Ms Buttimore, the planning witness for Waterloo Park Limited, took a similar approach to the Council and concluded that in view of the current lack of information, the proposed deferred zoning is inconsistent with Objective 3.3.1(b) and 3.3.2 because:<sup>188</sup>

the deferred zoning does not foster adjacent landowner's investment certainty or provide clarity for plan users.

Ms Buttimore also considered that the deferred zoning might be inconsistent with Objective 3.3.5 Business and Economic Prosperity, due to the unknown potential adverse effects associated with quarrying activity opposite the Waterloo Park Limited. She also flagged the possibility that there might be Incompatible Activities in terms of Objective 3.3.14, due to the

<sup>186</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing), 29 October 2015, at 50 and 51.

<sup>187</sup> Rebuttal Evidence of Adele Radburnd (for Chapter 17: Rural hearing), 6 October 2015, at 11.9, adopted by Ms Janice Carter.

<sup>188</sup> Evidence in chief of Laura Buttimore (for Chapter 17: Rural hearing), 29 October 2015, at 31.

lack of information about the nature of the activity that will occur on the Templeton Golf Course site and the possibility of conflicts with adjoining activities.<sup>189</sup>

[362] We have already found that there is nothing in the Strategic Directions that automatically counts against the use of deferred zoning. Contrary to the concerns of the Council and Waterloo Park Limited, we consider that the use of deferred zoning in this case, contingent on specified matters, will assist with certainty for adjacent land owners and provide clarity as to future land uses. This can be contrasted with the Council's approach of a plan change or resource consent which would in our opinion create greater uncertainty. Localised effects of the proposal, if and when implemented, will be appropriately addressed through the relevant rules in the proposed Replacement Plan relating to the Open Space and Rural zonings.

#### *Other statutory documents*

[363] A number of other plans and strategic documents relating to biodiversity matters were referred to in the evidence of Dr Roper-Lindsay. The relevance of these are not in contention and we have had regard to them during our deliberations.

### **Reserves Act issues**

[364] These revolve around two matters: the *timing* of any application to have the Reserves Act status transferred from the Golf Club land to the Pound Road quarry; and the likely *outcome* of any such application. Before discussing these matters we will briefly outline the stance of the parties on each of them.

#### *Timing of Reserves Act processes*

[365] It is inherent in the Fulton Hogan proposal that a decision on deferred zoning will have to be reached before Reserves Act issues are addressed (which will only occur if the deferred zoning is endorsed by the Panels). On the other hand, the Council (through Ms Radburnd) considers that the Reserves Act processes should take precedence (on the basis, it seems, that they could have been started a long time ago and the Council, as land owner, does not support the proposal).<sup>190</sup>

<sup>189</sup> Evidence in chief of Laura Buttimore (for Chapter 17: Rural hearing), 29 October 2015, at 32 and 33.

<sup>190</sup> Transcript, page 677.

*Likely outcome of the Reserves Act processes*

[366] A number of Fulton Hogan expert witnesses gave evidence to the Rural Panel about the desirability of the land swap proposal. These included Dean Chrystal; Robert Greenaway, a consultant recreation and tourism planner; David Moore, a golf sector consultant; William Field, a landscape architect; and Michael Copeland, a consulting economist. Mr Chrystal also gave evidence before us.

[367] While Fulton Hogan acknowledges that the outcome of a reserve exchange application is uncertain, it maintains that any such uncertainty is managed through the proposed ‘end date’ of 31 December 2021.<sup>191</sup> When advancing that proposition, Ms Limmer was particularly critical of the evidence presented to the Rural Panel by Russell Wedge on behalf of the Council. She claimed that in various respects Mr Wedge’s evidence is “at the least contentious, if not incorrect at law”.<sup>192</sup>

[368] Mr Wedge, the Council’s Senior Planner for Parks, was the primary Council witness on Reserves Act matters. He discussed a number of factors that would count against approval of the land exchange:<sup>193</sup>

- (a) the areas of land not being of equitable size and physical attributes;
- (b) there is limited if any recreational benefit to be gained at the time of the exchange;
- (c) the proposed site does not have the same level of developed physical facilities including established trees, shrubs and grass; and
- (d) the exchange is not equitable in terms of the value of the assets particularly if the gravel under the surface in the reserve is taken into consideration.

He also raised legal issues concerning the possible change of classification and the Council’s lease to the golf club.<sup>194</sup>

[369] In his rebuttal evidence Mr Wedge responded to the expert evidence presented by Fulton Hogan. Mr Wedge did not accept that the alleged benefits would necessarily be desirable, beneficial or acceptable to the Council.<sup>195</sup> His view was that managing more complex

<sup>191</sup> Closing legal submissions of Fulton Hogan at 29.

<sup>192</sup> Closing legal submissions of Fulton Hogan at 28.

<sup>193</sup> Evidence in chief of Russell Wedge on behalf of the Council (for Chapter 17: Rural hearing) at 3.7.

<sup>194</sup> Evidence in chief of Russell Wedge (for Chapter 17: Rural hearing) at 8–10.

<sup>195</sup> Rebuttal evidence of Russell Wedge (for Chapter 17: Rural hearing) at 3.3.

contractual and leasing arrangements of the type involved in the Fulton Hogan proposal could be left to private enterprise.<sup>196</sup> Given the risks involved, he considered the Council would be very hesitant about entering into the proposed bond arrangement.<sup>197</sup> In his view the proposal for a new golf club and recreational facilities was more suited to a private commercial venture and in any event the Pound Road quarry site could be developed as a golf course without having to classify it as a recreation reserve.<sup>198</sup>

### *Discussion*

[370] We begin with the issue of timing.

[371] Given that the hearings relating to the Fulton Hogan deferred zoning proposal have now been completed, it must follow that they will have to be repeated in one form or other if we decide that the Reserves Act process should now take precedence. We do not see how that approach could be justified. The deferred zoning proposal must stand or fall on the evidence before the two Panels, and it is not for the Panels to dictate that the proposed deferred zoning should now be put on hold so that the Reserves Act issues can take precedence.

[372] In reaching this conclusion, we have taken into account s 15 of the Reserves Act:

#### **15 Exchange of reserves for other land**

- (1) The Minister may, by notice in the Gazette, authorise the exchange of the land comprised in any reserve or any part or parts thereof for any other land to be held for the purposes of that reserve:

provided that this power shall not be exercised with respect to any reserve vested in an administering body except pursuant to a resolution of that body requesting the exchange.

- (2) No such resolution shall be passed before the expiration of 1 month after notice of intention to pass the resolution and calling for objections thereto in writing has been published ... and until the administering body has considered all such objections received within that period. A copy of the resolution shall be forwarded to the Commissioner for transmission to the Minister, and shall be accompanied by all objections received as aforesaid and the comments of the local authority thereon:

<sup>196</sup> Rebuttal evidence of Russell Wedge (for Chapter 17: Rural hearing) at 3.5.

<sup>197</sup> Rebuttal evidence of Russell Wedge (for Chapter 17: Rural hearing) at 3.9 and 3.12.

<sup>198</sup> Rebuttal evidence of Russell Wedge (for Chapter 17: Rural hearing) at 3.14.



*provided that such a notice of intention shall not be necessary where, in order to enable the exchange to be made, a change has been made in an operative district scheme under the Town and Country Planning Act 1977.*

...

[our emphasis]

Thus there is statutory recognition in the Reserves Act that the exchange of reserves might be set in motion by planning processes before the matter falls to be considered under the Reserves Act.<sup>199</sup> That also answers the Council's point that the deferred zoning might pre-empt the necessary analysis for the reserve exchange.

[373] Now we turn to the second issue: the likely outcome of a Reserves Act application.

[374] As Fulton Hogan properly conceded, it is not possible to say at this stage that any such application *will* succeed. That must be determined under the Reserves Act. Nevertheless we have examined, on the information before us, whether such an application is viable. If not, the deferred zoning would be futile and we do not see how it could be saved by the cut-off date of 31 December 2021. Put another way, if the exchange of reserves is not viable we would be facing a *Foreworld*-type situation.

[375] When examining the viability issue we have considered all the evidence and submissions, including the evidence of Mr Wedge. We agree with counsel for Fulton Hogan that there are difficulties with some of Mr Wedge's evidence, and in our view his assessment is overly pessimistic. To take an example, it is difficult to follow Mr Wedge's logic when he suggests that there is an inequality in size of the lands to be exchanged when the 84.3 hectares that would be received, compared with the 53.5 hectares that would be lost, favours the exchange. In any event, even if there is an inequality in value, s 15(3) and (4) contemplate that there can be a payment to achieve equality.

[376] We should also add that on our reading of the Act, the legal points raised by Mr Wedge in relation to the change of classification and lease are not likely to present insurmountable obstacles. Furthermore, to the extent that Mr Wedge disagrees with the evidence of the experts called by Fulton Hogan about the benefits of the proposal, we prefer the evidence of those

<sup>199</sup> We should add that on our reading of the proviso, deferred zoning in this case would not obviate the need for public participation.

experts who have particular expertise in relation to the topics addressed in their evidence. In most cases the Fulton Hogan experts have been involved with the project for a number of years.

[377] While we cannot say that the Reserves Act hurdle will definitely be surmounted, we are not prepared to rule out the Fulton Hogan proposal on the basis that it is insurmountable. And we are satisfied that the five-year sunset provision will ensure that if a timely decision under the Reserves Act is not available, the deferred zoning will go no further and the status quo will remain. Therefore the need to obtain approval to the exchange of reserves is not, *of itself*, a fatal impediment to the Fulton Hogan proposal.

### **Ecological issues**

[378] As stated earlier, Templeton golf course is a ‘Site of Ecological Significance’ under the proposed Replacement Plan, and it is not disputed that the threatened indigenous vegetation on the golf course also constitutes an area of significant indigenous vegetation in terms of s 6(c) of the RMA. Under the proposed Replacement Plan, clearance of the Templeton Golf Club vegetation will require a resource consent.

[379] The principal witnesses on this topic were Dr Judith Roper-Lindsay, an ecological consultant, for Fulton Hogan; and Dr Trevor Partridge, Council botanist, for the Council. Although Dr Antony Shadbolt, the Council landscape architect/ecologist, gave evidence to the Chapter 9 Panel, his evidence was not specifically directed towards the Fulton Hogan deferred zoning proposal.

#### *Dr Roper-Lindsay’s evidence*

[380] Dr Roper-Lindsay has been working on the Templeton golf course ecological issues with a team of specialists since 2011. In 2013 a stakeholder group was set up as a means of consulting with interested parties (the Council declined an invitation to be part of that group). Since it was set up, the group has been kept informed of the Fulton Hogan proposal concerning ecological matters and the offsetting design process.<sup>200</sup>

[381] It was Dr Roper-Lindsay’s view that the Templeton golf course:<sup>201</sup>

<sup>200</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 23–33.

<sup>201</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 43.

... has probably been subject to more frequent and more detailed ecological survey and assessment than any other dry grassland site in the area...

To enable that site to be set in context and compared with other sites, a wider study area was identified and the search for potential biodiversity offsetting sites focused on this wider area.<sup>202</sup>

[382] Higher value ecological features on the golf course were described by Dr Roper-Lindsay.<sup>203</sup> She noted that these features occupied approximately 184m<sup>2</sup>,<sup>204</sup> and that golf course management practices had led to a decline in the health of the plant populations.<sup>205</sup> Dr Roper-Lindsay also observed that the indigenous plant species found at the golf course had all been found in recent surveys of similar sites near to Christchurch, primarily in the McLeans Island area.<sup>206</sup>

[383] Dr Roper-Lindsay is of the view:<sup>207</sup>

... that re-zoning Templeton Golf Course from Open Space to Rural Quarry Zone and the effectively concurrent re-zoning of the Pound Road quarry to Open Space (to provide for the development of a golf course) has the potential to provide net benefit (net gain) to biodiversity values in the Low Plains Ecological District. The net gain could be achieved through a comprehensive impact management package. Having looked at the options available, I am satisfied the potential for net biodiversity gain exists with the rezoning.

I understand that Fulton Hogan's submission ... would preserve the need to obtain a resource consent to clear indigenous vegetation before the deferred status is lifted. I also understand it to be the intent of Fulton Hogan's submission that such consent would only be granted if a net biodiversity gain were proven. As a result, the rezonings would not be implemented unless they were going to be beneficial to indigenous biodiversity. I discuss whether this is a realistic outcome.

[384] In her evidence, Dr Roper-Lindsay set out to demonstrate how a net gain could be achieved, given the extent of investigations and consultation that had been carried out to date.<sup>208</sup> She expressed confidence that Fulton Hogan could put forward a vegetation clearance proposal that appropriately addressed the potential adverse effects of quarrying activities/golf course construction on the biodiversity values in the rezoned areas.<sup>209</sup>

<sup>202</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 45.

<sup>203</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 55.

<sup>204</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 56.

<sup>205</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 56.

<sup>206</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 56 and 57.

<sup>207</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 71 and 72.

<sup>208</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 73.

<sup>209</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 74.

[385] We need to explain that the biodiversity mitigation and offsetting measures contemplated by Dr Roper-Lindsay involve two separate components: first, a biodiversity conservation area (or areas) within the new golf course on the Pound Road quarry; secondly, a separate biodiversity offsetting site within the vicinity of the Templeton golf course.

[386] Dr Roper-Lindsay contemplates that the biodiversity conservation area/s within the new golf course would comprise at least one hectare in total. This would: provide a receiving environment as close as possible to the existing site for the creation of a landform-vegetation sequence; maintain a pool of healthy dryland plants; provide an area protected and managed specifically for dryland plants; ensure that the genetic material of plants at Templeton golf course is maintained close to its current location; provide an example of biodiversity conservation; and provide the Christchurch community with a substantial area for biodiversity conservation to reflect the loss at Templeton golf course.<sup>210</sup>

[387] Seeds, cuttings etc from the indigenous plants on the existing golf course are being grown in a nursery. In terms of Kowhai, there are already 1123 *Sophora microphylla* and 579 *Sophora prostrata*. There are also healthy plants of six other species grown from seed or cuttings. The potential receiving sites include the new golf course biodiversity conservation area, the Ruapuna section of the SES (site of ecological significance), and the site or sites protected as part of the biodiversity offsetting programme.<sup>211</sup>

[388] Turning to the offsetting component, Dr Roper-Lindsay considers:<sup>212</sup>

... the preliminary ecological work and estimates of biodiversity gain through offsetting indicate that there are sites that are currently unprotected and worthy of protection, and where a range of biodiversity management actions can be taken, to offset the biodiversity losses through quarrying activities establishing at Templeton Golf Course.

As already mentioned, this is on the basis that Dr Roper-Lindsay accepts that the offset must achieve net biodiversity gain.<sup>213</sup>

[389] It is acknowledged by Dr Roper-Lindsay that one or more management plans (covering both the new biodiversity area/s and the separate biodiversity offset site) would have to be

<sup>210</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 76.2.

<sup>211</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 77.2.

<sup>212</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 80.6.

<sup>213</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 80.7.

drawn up for the resource consent hearing. As well as covering day-to-day management, the plan/s would guide annual funding and work planning. Dr Roper-Lindsay considers it “entirely feasible” for this to be done.<sup>214</sup>

[390] Dr Roper-Lindsay considers that under the status quo the decline in the condition of the indigenous biodiversity on the golf course will continue. She noted that although it has been an ecological heritage site since 1993, there has been no management of the indigenous biodiversity values and consequently no actual protection of those values.<sup>215</sup>

### *Dr Partridge*

[391] Dr Partridge has been providing the Council with expertise in relation to ecological management of the Templeton golf course since 2006.

[392] Dr Partridge notes that the dryland savannah vegetation of Canterbury Plains is classified as acutely threatened, and the Templeton golf course contains indigenous species of this dryland savannah, albeit in a vegetation matrix that is highly modified. He considers that the values are considerable.<sup>216</sup> According to Dr Partridge, these values have been understated by Dr Roper-Lindsay.<sup>217</sup> With reference to Dr Roper-Lindsay’s comment that higher value ecological features cover only 184m<sup>2</sup>, Dr Partridge responds that the species are scattered around the course, not grouped together, and the fact that the indigenous vegetation covers only a relatively small proportion of the golf course should not be taken as a reason to discount its significance.<sup>218</sup>

[393] Any consent to quarry entailing the removal of vegetation or habitat of indigenous fauna would result in considerable loss in ecological values. The remnant plant communities existing at the golf course are unlikely to be replicated at another site.<sup>219</sup>

[394] All the dryland remnant sites remaining on the Canterbury Plains have small but noticeable differences, and today there is only a small fraction of the variability that once

<sup>214</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 81 and 82.

<sup>215</sup> Evidence in chief of Dr Judith Roper-Lindsay (for Chapter 17: Rural hearing) at 109.

<sup>216</sup> Evidence in chief of Dr Trevor Partridge on behalf of the Council (for Chapter 17: Rural hearing) at 3.1-3.3.

<sup>217</sup> Rebuttal evidence of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 3.2.

<sup>218</sup> Rebuttal evidence of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 3.5.

<sup>219</sup> Evidence in chief of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 3.6 and 3.7.

existed. Therefore, finding an exact equivalent site that has not been irreversibly modified through ploughing, cropping etc will be very difficult.<sup>220</sup>

[395] Given that at this stage no offsetting plan has been put forward by Fulton Hogan, Dr Partridge did not find it possible to comment in detail about whether a biodiversity offset would enable the proposal to proceed. To be able to assess the merits of a mitigation plan in the future, any rezoning of this site should ensure that a mitigation plan is put forward as part of a consent application.<sup>221</sup>

[396] In Dr Partridge's view it would be premature to recognise in the proposed Replacement Plan that an offset or other mitigation measure could be an appropriate way of allowing quarrying to occur on this site, as this site has not yet been assessed.<sup>222</sup> Significant questions as to feasibility, cost, and ongoing management have not been covered and there are also establishment risks associated with the creation of a new biodiversity area.<sup>223</sup>

[397] Dr Partridge does not agree with Dr Roper-Lindsay that creation of a one-hectare biodiversity conservation area on the new golf course and a separate biodiversity offset site would achieve a better long-term outcome for indigenous biodiversity. He considers that it would be more ecologically appropriate to repair and improve the ecological situation of the Templeton golf course.<sup>224</sup> Nor does he agree with Dr Roper-Lindsay's cost benefit analysis. He believes that the status quo would be much less costly.<sup>225</sup>

#### *Agreed statement following expert conferencing*

[398] As a result of expert conferencing between Dr Shadbolt, Dr Partridge and Dr Roper-Lindsay, the following matters were recorded:<sup>226</sup>

### **5. FACTUAL MATTERS AND METHODOLOGY**

- 5.1 The Templeton Golf Course site has been evaluated against the criteria for determining significant indigenous vegetation and significant habitat of indigenous fauna listed in Appendix 3 of the Canterbury Regional Policy Statement referring also to the Wildland Consultants Guidelines and advice

<sup>220</sup> Evidence in chief of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 3.8.

<sup>221</sup> Evidence in chief of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 3.9.

<sup>222</sup> Evidence in chief of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 3.10.

<sup>223</sup> Rebuttal evidence of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 5.3 and 6.

<sup>224</sup> Evidence in chief of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 6.4.

<sup>225</sup> Rebuttal evidence of Dr Trevor Partridge (for Chapter 17: Rural hearing) at 7.1–7.5.

<sup>226</sup> Expert conferencing statement — Rural, Session 1: Templeton golf course, rezoning issues relating to ecology/trees/sites of ecological significance, 27 September 2015.

from the relevant Specialist Ecologist Groups. Under these criteria the site is ecologically significant because it meets the representativeness (criterion 1 & 2), and rarity/distinctiveness criteria (criteria 3 & 4).

5.2 We agree the following:

- (a) That Templeton Golf Course site meets the RPS significance criteria (as contained/assessed within the Site Significance Statement) as a Site of Ecological Significance under the proposed CCC District Plan,
- (b) That the condition of the indigenous component of the vegetation is poor,
- (c) Considering the perilous state of this vegetation type in the Low Plains Ecological District, all remnants at TGC have high value,
- (d) That the remnant kowhai and prostrate kowhai at TGC have ecological value despite not being listed as Notable Trees in the proposed CCC District Plan
- (e) That biodiversity offsetting is a viable option and such offsetting is something that must be assessed and 'designed' using current best practice methodologies.
- (f) That biodiversity offsetting in this type of environment is difficult, may involve techniques that are un-tested, and can entail high risk
- (g) That the former Pound Road Quarry site offers opportunities to support biodiversity initiatives, concurrent with the development of the new golf course, but not as a biodiversity offset area

5.3 Agreement of the above points 5.3(a – g) is in the context of the re-zoning process only, and NOT in the context of the details of any impact management (including any biodiversity offset) that may be proposed in the future

## 6. POTENTIAL EFFECTS OF RETAINING THE STATUS QUO AND THE PROPOSAL

- 6.1 The effects of keeping the status-quo may mean the ecological values of the site will continue to decline under current management regimes (unless appropriate indigenous vegetation management actions are implemented)
- 6.2 The status quo does not give FH the incentive to carry out dryland conservation actions.
- 6.3 Options to avoid, mitigate and/or remedy have been considered by the submitter (FH). We agree that some aspects can be mitigated, some can be remedied, and those aspects that cannot be avoided will need to be addressed through biodiversity offsetting.
- 6.4 Notwithstanding 5.3f (above), biodiversity offsets must achieve a net gain in biodiversity. This should include net gains in 1) area, 2) composition, and 3) condition to be effective.

- 6.5 No assessment of the efficacy of the biodiversity offset can be determined until such time that a detailed proposal including methodologies has been developed.

### *Discussion*

[399] As with the Reserves Act issues, we begin by examining whether the necessary resource consent application is likely to be a viable proposition. When deciding that matter we also consider whether we have sufficient information to make that judgment call.

[400] There is, of course, a conflict of evidence about whether it would be premature to introduce deferred zoning in the absence of specific offsetting proposals. Whereas Dr Partridge was of the view that it would be premature, Dr Roper-Lindsay was confident that the deferred zoning could proceed at this stage on the basis that specific offsetting proposals would be prepared for the resource consent phase.

[401] We prefer Dr Roper-Lindsay's evidence. She has been working on the project since 2011. Apart from that, her approach seems to have been largely vindicated by the expert conferencing. We note in particular that the three experts were in agreement that biodiversity offsetting is a viable option and that, to the extent that adverse effects could not be mitigated, remedied, or avoided, they would need to be addressed through biodiversity offsetting.

[402] Although Dr Partridge is concerned that deferred zoning might influence the resource consent hearing, we do not share that concern. In our view the situation is no different from any other situation where decisions have to be made or actions taken before deferred zoning can take effect. In this particular case the resource consent application would have to be resolved in accordance with the relevant sections of the RMA. If those considering the application are not satisfied that the resource consent should be granted, the deferred zoning will not go any further.

[403] We are therefore satisfied that there is sufficient information for us to properly assess the viability of the resource consent application. Given Dr Roper-Lindsay's evidence, which we accept, a biodiversity offset is feasible and the necessary resource consent is a viable proposition. However, as we have indicated earlier, the ultimate fate of any resource consent application will need to be determined when the application is heard. We should add that we can understand why Fulton Hogan decided not to incur the expense of investigating and



defining an offsetting proposal in detail until the outcome of this proposed Replacement Plan process is known.

## Uncertainty

[404] On the Council's case, uncertainty is attributable to a number of features:

- (a) the deferred zoning approach
- (b) the decision by the Minister of Conservation concerning the reserve exchange
- (c) off-site ecological mitigation, when it is not clear that this can be achieved
- (d) execution of various commercial agreements to which the Council will not be a party
- (e) Fulton Hogan does not own the Templeton golf course land
- (f) financial uncertainty of the new golf course project

There is a degree of overlap between some of these matters, which we now address.

### *Deferred zoning*

[405] In the normal course of events deferred zoning will have to be 'triggered' by specified actions or decisions. Inevitably these carry an element of uncertainty, whether it be as to timing or for some other reason. Thus, as Mr Chrystal accepted, the trigger must be clearly explained in the Plan.

[406] Subject to redrafting some parts of the Rural and Open Space provisions advanced by Fulton Hogan, we are satisfied that the three 'triggers' have been clearly explained and that any uncertainty about the outcome is satisfactorily managed by the cut-off date of 31 December 2021. Moreover, given that the proposal has now been in the public domain for a considerable time, any uncertainty accompanying the deferred zoning approach is likely to also arise in the case of a resource consent or private plan change.

*Reserve exchange/ecological matters*

[407] These two matters have been combined because they have already been largely addressed.

[408] Although the outcome of each of these applications is unknown at this stage, we have concluded that they are at least viable. And once the five-year cut-off is included in the equation, any uncertainty is, in our opinion, acceptable.

*Commercial agreements*

[409] Before the deferred zoning could be triggered Fulton Hogan, Templeton Golf Club, and the party responsible for constructing the new golf course, must execute a contract. The proposed rules specify matters that must be included in that contract.

[410] Expert evidence before us suggests that construction of a new golf course in accordance with the contract is feasible,<sup>227</sup> and that it is likely to have a satisfactory long-term financial trajectory.<sup>228</sup> We also know that the Fulton Hogan proposal is supported by the Templeton Golf Club, and that those parties entered into a heads of agreement in 2012. It can therefore be inferred that both Fulton Hogan and the Golf Club will be willing parties to the contract. Although we do not know the identity of the party that would be constructing the golf course, common sense would indicate that the chosen party would also be a willing participant.

[411] We do not, therefore, share the Council's concerns about execution of the commercial agreements.

*Fulton Hogan does not own the land*

[412] That is true. But we do not see that as an insuperable hurdle. The Minister can give his/her consent subject to such conditions as he/she thinks fit (s 121 of the Reserves Act). Once the reservation is uplifted the Templeton Golf Club land will no longer be subject to it (s 15(3) of the Reserves Act), and the land could be sold to Fulton Hogan as part of the overall package.

<sup>227</sup> In particular Greenway, Moore, and Savage.

<sup>228</sup> Evidence of David Moore on behalf of Fulton Hogan at 36.

### *Financial uncertainty of new golf course*

[413] David Moore, a golf sector consultant, has been involved with the project since 2011. His evidence was that he had:<sup>229</sup>

... conducted a financial sustainability study with TGC on the practical day-to-day revenue and cost prospects of TGC operating in the Quarry. The study concluded that, completed to the planned standard, with appropriately trained and skilled management and transition costs covered by the project a new TGC in the Quarry will have a membership and market offer that will enable a stable long-term financial trajectory.

These conclusions were on the footing, confirmed by Peter Savage on behalf of Fulton Hogan, that the golf course would be provided by Fulton Hogan at no cost to Templeton Golf Club, its members, or to the Council.

[414] Support for this outlook is provided in a letter from Ryan Brandeburg, the Executive Director of Golf Tourism New Zealand.<sup>230</sup> Mr Brandeburg confirms that another Marquee golf course in Christchurch would significantly enhance tourism in the region and in the country. He is familiar with the Pound Road quarry and believes that a golf course on it would “provide significant interest”. He has recently seen two “noteworthy” overseas golf courses in quarries and believes that Christchurch and Queenstown could combine to form a South Island “golf trail”.

### **Risk to the Council**

[415] According to the Council the Fulton Hogan proposal would effectively force the Council to become a party to a risky commercial venture for Fulton Hogan’s advantage.<sup>231</sup> The Council does not accept that the bond offers a satisfactory solution.<sup>232</sup>

[416] In the Council’s view it should be able to make its own decision about the proposal in accordance with the Local Government Act 2002, after considering the views and preferences of the community.<sup>233</sup> The Council also considers that it would be unreasonable for the Panels to impose a project on it which alters one of its recreational facilities without its support. Again

<sup>229</sup> Statement of evidence of David Moore (for Chapter 17: Rural hearing) on behalf of Fulton Hogan at 36.

<sup>230</sup> Statement of evidence of David Moore (for Chapter 17: Rural hearing) at Annexure 2.

<sup>231</sup> Closing submissions for the Council (for Chapter 17: Rural hearing) at 7.6.

<sup>232</sup> Closing submissions for the Council (for Chapter 17: Rural hearing) at 7.15–7.18.

<sup>233</sup> Closing submissions for the Council (for Chapter 17: Rural hearing) at 7.13.

the Council argues that the requisite support would require a decision in accordance with the Local Government Act.<sup>234</sup>

[417] In our view it is important to keep the risk to the Council in perspective. The new golf course would open its doors without debt: the financial model does not rely on a return on capital.<sup>235</sup> The Council is not being asked to put in any money. According to the expert evidence there will be a significant benefit to the Templeton Golf Club, its members, and others using the new golf course. At best the new golf course would materially enhance Christchurch City's golf offering and benefit the area by attracting more national and international visitors.<sup>236</sup>

[418] To a large extent the points raised by the Council revolve around policy matters which will presumably have to be addressed when the proposed exchange of reserves is considered by the Council and the Minister of Conservation. Whether or not those policy matters put an end to the proposal remains to be seen. But it would be inappropriate for us to become embroiled in those matters. It is enough that, for reasons already given, we are satisfied that deferred zoning under the RMA should not be ruled out on account of the Reserves Act processes.

[419] Before leaving this topic we should say something about the proposed bond/other security instrument which is, of course, intended to manage risk to the Council. At this stage it is estimated that the golf course will cost in the vicinity of \$14 million,<sup>237</sup> and the bond/security instrument is intended to cover the actual cost of constructing the golf course and any administration and enforcement costs.<sup>238</sup> We accept that the rules must be tight enough for the proposed bond/security instrument to achieve its purpose, and we are satisfied that this can be achieved.

[420] In our view the potential risk to the Council has been overstated.

<sup>234</sup> Closing submissions for the Council (for Chapter 17: Rural hearing) at 7.14.

<sup>235</sup> Statement of evidence of David Moore (for Chapter 17: Rural hearing) at 53.

<sup>236</sup> Ibid at 54.

<sup>237</sup> Transcript (for Chapter 17: Rural hearing), page 797 (Mr Chrystal).

<sup>238</sup> Transcript, page 493 (Mr Chrystal).

## Adverse effects on neighbours

[421] Apart from supporting the Council’s opposition to the use of deferred zoning, the neighbours’ submissions raised issues concerning noise, dust, visual effects, and implications for traffic, water quality and air quality.

[422] When questioned by the Panel about the expert evidence called by Fulton Hogan, Ms Radburnd accepted that aside from uncertainty arising from the Fulton Hogan proposal, “we pretty much accepted that other quarry related matters have been addressed”.<sup>239</sup> Later she mentioned concerns about managing the effects of such things as access, noise, and landscaping, but added that “most of these have been either resolved or could be resolved”.<sup>240</sup>

### *Noise effects*

[423] Noise effects were considered by Stuart Camp, noise consultant. Using Sarah Harnett’s dwelling as an example, he was of the opinion that adding quarrying noise at a permitted level would not significantly alter the overall level of noise at her dwelling.<sup>241</sup> When expressing that opinion he took into account that Fulton Hogan accepts a restriction of 6 a.m. to 6 p.m. for processing and extraction activities. This means that before the daytime noise rules come into operation at 7 a.m., the quarry activities would be restricted to preparatory work.<sup>242</sup>

[424] Under the proposed rules, quarrying activities on the Templeton golf course are a controlled activity and location of the processing plant on the site will have to be specified in an ODP.<sup>243</sup> Coupled with that a noise management plan prepared by a suitably qualified and experienced person would have to demonstrate how specified noise limits would be met, tonal reversing beepers on equipment permanently located on the site would be banned, and a complaints procedure would have to be incorporated.

[425] We are satisfied that the issue of noise can be properly managed through the standard noise provisions in Chapter 6 coupled with the noise management plan required for any controlled activity consent for this quarry.

<sup>239</sup> Transcript, page 685.

<sup>240</sup> Transcript, page 685.

<sup>241</sup> Evidence in chief of Stuart Camp on behalf of Fulton Hogan (for Chapter 17: Rural hearing) at 6.4 and 6.5.

<sup>242</sup> Ibid at 6.6.

<sup>243</sup> Transcript (for Chapter 17: Rural hearing) at page 854, lines 13–28.

### *Visual effects*

[426] With the assistance of William Field, landscape architect, an ODP for the new quarry has been prepared on behalf of Fulton Hogan. This is supplemented by a graphic attachment to Mr Field's evidence. The ODP shows the proposed staging of extraction, the approximate location of the on-site facilities, and provisions relating to the boundaries. As far as possible existing perimeter vegetation would be retained, with setbacks to visually screen the quarry and maintain the existing boundary character.<sup>244</sup>

[427] Mr Field listed the specific requirements that should be included in the ODP.<sup>245</sup> He also made recommendations concerning the construction phase of the new golf course.<sup>246</sup> Those requirements are supplemented by the requirement for a Landscape and Ecological Management Plan covering ongoing maintenance and management.

[428] Again we are satisfied that visual effects can be properly managed if Mr Field's recommendations (including the retention of vegetation and planting) are incorporated into the rules and the quarry face is set back by 30m from the boundary with Ms Harnett's property. We shall return to this setback when considering Ms Harnett's request for a 250m setback.

### *Groundwater*

[429] Evidence concerning groundwater was given by three experts: Dr Helen Rutter and Robert Potts for the Council, and Stephen Douglass for Fulton Hogan. They disagreed in some respects.

[430] Dr Rutter considered that there was a risk of contaminating groundwater from land use activities, difficulties in monitoring for contamination, and uncertainties associated with determining the depth of groundwater under the Templeton golf course site. She considered that Mr Douglass had understated the potential risk of contamination. Mr Potts' evidence was primarily directed towards the difference between the depth and composition of appropriate backfill material that would be needed for rehabilitation.

<sup>244</sup> William Field on behalf of Fulton Hogan (for Chapter 17: Rural hearing) at 13 and 14.

<sup>245</sup> William Field (for Chapter 17: Rural hearing) at 41.

<sup>246</sup> William Field (for Chapter 17: Rural hearing) at 47.

[431] For his part, Mr Douglass was satisfied that the Fulton Hogan proposal did not pose a risk to groundwater quality from quarrying or cleanfilling operations,<sup>247</sup> and that in broad terms the effects would be similar to the Pound Road quarry, which “has a very minor effect on groundwater quality”.<sup>248</sup> He considered that Dr Rutter had overstated the potential risk of contamination. While he agreed that soils used for the creation of a new golf course needed to be suitable, he did not consider that the concerns raised by Ms Harnett in relation to soil quality presented a barrier to the proposed development.<sup>249</sup>

[432] Although groundwater issues are largely controlled by the Regional Council, we accept that it is appropriate for any rules package to include minimum standards for quarrying. These concern the maintenance of a one metre buffer between any excavation and the highest recorded groundwater level; rehabilitation of the quarry to at least one metre of inert fill and 0.3m to 0.5m of topsoil; and soils that are used to form the new golf course should be suitable for recreational purposes.

### *Traffic*

[433] This aspect was considered by Michael Rossiter, a transportation engineer engaged by Fulton Hogan. He considered that the combined effect of relocating the golf course and quarry will be largely neutral from a traffic perspective. And he did not anticipate any effects on safety or network efficiency within the wider area.<sup>250</sup>

[434] Mr Rossiter was also satisfied that the existing roading network could safely and efficiently accommodate any increase in traffic that might be generated by the new recreational activities.<sup>251</sup> In his opinion there would be no noticeable effects for residential dwellings adjacent to the network. We accept Mr Rossiter’s evidence.

### *Air quality*

[435] An air quality scientist, Richard Chilton, considered that the quarry operation proposed by Fulton Hogan could be undertaken in the manner proposed by the Rural Quarry Zone

<sup>247</sup> Evidence in chief of Stephen Douglass on behalf of Fulton Hogan (for Chapter 17: Rural hearing) at 11.

<sup>248</sup> Evidence in chief of Stephen Douglass at 12.

<sup>249</sup> Rebuttal evidence of Stephen Douglass (Rural) at 7 and 13.

<sup>250</sup> Evidence in chief of Michael Rossiter on behalf of Fulton Hogan (for Chapter 17: Rural hearing) at 45.

<sup>251</sup> Evidence in chief of Michael Rossiter (for Chapter 17: Rural hearing) at 46.

provisions without giving rise to any adverse dust effects on the surrounding environment.<sup>252</sup> This would require the implementation of appropriate dust control measures and monitoring to ensure their effectiveness, which are matters that would be addressed specifically for this site as part of any air discharge permit application to Canterbury Regional Council. His experience is that such dust control measures are effective in minimising dust effects from quarries of this type.<sup>253</sup> The additional setbacks and limit on excavation offered by Fulton Hogan would further assist in achieving the desired purpose.<sup>254</sup> We accept this evidence.

### *250 metre setback*

[436] Counsel for Ms Harnett, Pru Steven QC, submitted that in all the circumstances a 250 metre setback from the edge of any excavation to the boundary between Templeton golf course and the Harnett property would be appropriate. She argued that such a setback would be consistent with the requirements for new quarries under the proposed Replacement Plan and with the duty for the effects of the new quarry to be internalised. Ms Steven also drew support from the evidence of Mr Chilton and Mr Camp.

[437] As Ms Steven acknowledged, however, the 250 metre setback for new quarries under the proposed Replacement Plan only applies to boundaries between quarries and Residential or Special Purpose (Schools) Zones. That is not the situation here. When all relevant circumstances are taken into account we are satisfied that the 30m landscape and ecological management strip on Ms Harnett's boundary (as shown on the ODP) will provide a satisfactory buffer between Ms Harnett's property and the proposed quarry. In reaching that decision we have been particularly assisted by the graphic attachment to Mr Field's evidence. We also note that the setback of 30m exceeds the standard setback for quarries in the Rural Quarry Zone.

### *Conclusion*

[438] We recognise, of course, that implementation of the land swap proposal would give rise to some adverse effects on the neighbouring properties. However, taking into account the foregoing, we are satisfied that such adverse effects can be satisfactorily avoided, remedied or mitigated.

<sup>252</sup> Evidence in chief of Richard Chilton on behalf of Fulton Hogan (for Chapter 17: Rural hearing) at 57.

<sup>253</sup> Evidence in chief of Richard Chilton (for Chapter 17: Rural hearing) at 58.

<sup>254</sup> Evidence in chief of Richard Chilton (for Chapter 17: Rural hearing) at 59.



## Further evaluation under s 32AA

### *The statutory requirements*

[439] Section 32AA(1)(a) and (b) of the RMA states that:

- (1) A further evaluation under this Act—
  - (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and
  - (b) must be undertaken in accordance with section 32(1) to (4)

[440] Section 32(1)(a) of the RMA requires an evaluation of the objectives of the proposal in terms of whether they are the most appropriate to achieve the purpose of the RMA. Section 32(1)(b) then requires an examination of whether the provisions in the proposal are the most appropriate way to achieve the objectives.

[441] For the purposes of this further evaluation the ‘changes’ to the ‘proposal’ are those put forward through Fulton Hogan’s submission and as further developed through the various hearings. When undertaking the further evaluation in terms of s 32(1) to (4), subs (3) and (6) are particularly relevant, and are set out below:

- (3) If the proposal (an **amending proposal**) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—
  - (a) the provisions and objectives of the amending proposal; and
  - (b) the objectives of the existing proposal to the extent that those objectives—
    - (i) are relevant to the objectives of the amending proposal; and
    - (ii) would remain if the amending proposal were to take effect.

- (6) In this section,—

**objectives** means,—

- (a) for a proposal that contains or states objectives, those objectives;
- (b) for all other proposals, the purpose of the proposal

**proposal** means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act

**provisions** means,—

- (a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change;
- (b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

*The Fulton Hogan ‘amending proposal’*

[442] In terms of our s 32AA analysis the Fulton Hogan ‘amending proposal’ provides a policy, zoning and rules ‘package’ which will enable the current Templeton Golf Course to be quarried over an anticipated period of 10 to 15 years, and for the staged re-establishment of the Templeton Golf Course on the site of the present Pound Road Quarry. This is to be achieved through a deferred zoning mechanism and specific policy and rule package applicable to both sites. The uplifting of the deferral is reliant on three triggers:

- (a) the uplifting of the Recreation Reserve status from the current golf course and its placement over the current quarry;
- (b) a resource consent having been obtained for the clearance of indigenous vegetation and significant trees within the current golf course; and
- (c) a contract being executed between Fulton Hogan and/or Templeton Golf Club and the party responsible for constructing a new golf course and associated facilities.

If not completed by 2021, the deferred zone would fall away and the current zones would remain.

[443] For comparative purposes, the existing proposal as supported by the Council is, in brief, to retain the existing zonings and related plan provisions (i.e. the current quarry zoned Rural Quarry, and the current golf course zoned Community Park), albeit the golf course would be provided for as a permitted activity in the Rural Quarry zone. This would mean that Fulton Hogan’s proposal to quarry the Templeton golf course would need to be considered either by way of resource consent obtained under the provisions relevant to the current zoning or as part of a future plan change. A particular option suggested by the Council involved completing the Reserves Act process first, to be followed by a Council-initiated plan change. If any such plan change simply rezoned the site Rural Urban Fringe, which was one of the scenarios suggested,

a subsequent discretionary activity resource consent would be required before the quarry could establish.

[444] Fulton Hogan do not propose any new objectives. As Mr Chrystal explained in his evidence:<sup>255</sup>

82.2 In terms of Section 32(6)(a) the submission does not contain objectives. It proposes to add a policy, and seeks an exchange in zoning in conjunction with their associated rules with modifications. Accordingly, the provisions of subsection (6) (a) do not apply, but rather those of subsection (6)(b), which in terms of objectives requires an examination of the “purpose of the proposal”.

82.3 In terms of Section 32 this assessment examines and compares the provisions contained in the pRDP and their expected outcomes with those inherent in the proposal by Fulton Hogan. Also considered is the extent to which the objectives in the pRDP could remain without the need for change, if the amending proposal were to take effect.

*Mr Chrystal’s s 32 analysis*

[445] As part of his evidence presented on the Rural Chapter, Mr Chrystal prepared a s 32 analysis of the Fulton Hogan amending proposal in table form.<sup>256</sup> This was supported in the body of his Rural Zone evidence with further analysis. His s 32 table and associated evidence considered:

- (a) whether the purpose of the Fulton Hogan proposal is the most appropriate way to achieve the purpose of this Act;
- (b) whether the provisions of the proposal are the most appropriate way to achieve the relevant objectives;
- (c) the efficiency and effectiveness of the provisions in achieving the objectives and the costs and benefits from implementing the provisions; and
- (d) the risks of acting or not acting.

[446] In terms of reasonably practical options, Mr Chrystal evaluated the Fulton Hogan proposal, the Council proposal, a resource consent option, and alternative quarry sites beyond

<sup>255</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing).

<sup>256</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing), Appendix 2.

the city boundaries. His assessment includes consideration of the Strategic Directions objectives that are considered relevant, as well as the relevant objectives and policies proposed in the Rural and Open Space chapters. Finally, in his respective Rural Zone and Open Space evidence, Mr Chrystal proposed new policies in each chapter associated with the Fulton Hogan proposal for our consideration.<sup>257</sup>

[447] Based on the evaluation described above Mr Chrystal concluded that:<sup>258</sup>

- 69 A detailed s32 analysis has been prepared based on the evidence as to costs and benefits (positive and adverse effects). The s.32 has concluded that the proposed deferred zone swap better enables the following benefits than the pRDP:
  - 69.1 Rehabilitation of the existing quarry into an international quality golf course;
  - 69.2 Associated recovery in terms of tourism;
  - 69.3 Increased aggregate resource made available adjacent to existing quarry infrastructure and in a location that will result in reduced travel costs relative to other sites;
  - 69.4 Potential for the creation of a regional park;
- 70 A significant biodiversity enhancement package that will result in a net benefit in ecological values relative to the status quo of gradual decline in those values
- 71 Deferred zoning is a well-established and proven planning tool that is a common method in District Plans. In this case it provides the Council and plan users that certain matters will be confirmed prior to the zoning being implemented. This is an appropriate way to ensure the outcomes discussed in the evidence for Fulton Hogan as well as avoiding any pre-emption of the processes to follow.
- 72 Overall, the proposal is considered to better achieve the strategic outcomes sought in the relevant higher order planning documents and better achieves sustainable management under Part 2 of the RMA.

### *The Council's response*

[448] For the Council the primary planning witness who considered the Fulton Hogan proposal was Ms Adele Radburnd as part of her evidence associated with the Rural Zone quarry provisions. Her conclusion, based on her planning analysis and consideration of the statutory tests, was that deferred zoning is not appropriate.<sup>259</sup>

<sup>257</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing), Appendix 1; Evidence in chief of Dean Chrystal (for Chapter 18: Open Space), Appendix 1.

<sup>258</sup> Evidence in chief of Dean Chrystal (for Chapter 17: Rural hearing).

<sup>259</sup> Evidence in chief of Adele Radburnd (for Chapter 17: Rural hearing) at 11.14 to 11.42.

[449] The Panel requested that Ms Radburnd attend the Open Space hearing to answer questions regarding her evidence on the Fulton Hogan proposal. She elaborated on her opinion, with specific reference to s 32, as follows:<sup>260</sup>

MR DAYSH: Mr Chrystal talked about preparing a section 32 assessment as part of his proposal. I think you have said that you do not think that there is not sufficient section 32 justification for the proposal?

MS RADBURND: There is no consideration of the costs of the loss of the ecological values, for example.

MR DAYSH: So that is not included in his section 32 notice?

MS RADBURND: No.

MR DAYSH: I will have to have a look at that. Mr Chrystal talked about a significant benefit being that with the land swap proposal, the existing quarry would be rehabilitated and currently that is not required under its current resource consents. Do you see that as a benefit?

MS RADBURND: Absolutely, yes, a major objective of this Plan review is to see greater rehabilitation of quarry sites particularly historical ones that may not have the, in this case, does not have resource consent, so there are not those controls around there to see that rehabilitation is certain but having said that, the chapter 17 proposal includes new rules around quarry rehabilitation such that some rehabilitation would be required anyway so whether it is for pastoral grazing or whether it is a golf course, I guess it is a matter of preference.

MR DAYSH: I think Mr Chrystal said that he saw the benefit as being far greater than the cost, in terms of his analysis?

MS RADBURND: There is a benefit.

[450] The closing legal submission for Fulton Hogan provided some clarification to Ms Radburnd's statement that Mr Chrystal had not assessed costs of the loss of ecological values. It pointed to parts of Mr Chrystal's evidence where he does cover those costs with reference to both Dr Roper-Lindsay's opinion, and a statement acknowledging such costs in his s 32 table.<sup>261</sup>

[451] In relation to the alternative assessed by Mr Chrystal in his s 32 evaluation of maintaining the existing zone provisions and relying on a resource consent process to implement the Fulton Hogan proposal, Ms Radburnd gave her view in an answer to a Panel question that "the evidence presented to the Panel suggests that they will be very, very difficult".<sup>262</sup>

<sup>260</sup> Transcript, pages 698–699.

<sup>261</sup> Closing submissions for Fulton Hogan at 13 and 14.

<sup>262</sup> Transcript, page 685, lines 24–25.

[452] The Council’s closing submissions emphasised the following in relation to the relevant s 32 matters:

- (a) Difficulties in quantifying the costs of the loss of ecological values, in the absence of any detailed offsetting proposal; and the uncertainty of a consent being granted to permit clearance of identified ecological areas.
- (b) The uncertainty associated with the Reserves Act process.
- (c) The deferred zoning approach not being supported.

*Our analysis*

[453] It is important to record that we have considered Fulton Hogan’s alternative planning provisions against both the status quo (where existing land uses are retained on their current sites) and the alternative scenario suggested by the Council where the outcome sought by Fulton Hogan might still be achieved by way of an alternative planning process.

[454] We have carefully reviewed and evaluated all of the relevant evidence provided to us on the matters we are directed to consider under s 32AA. This has included reviewing Mr Chrystal’s s 32 assessment, the evidence of Ms Radburn and the relevant primary evidence associated with the matters we must address in relation to an amending proposal in terms of s 32(1) to (3) of the RMA. After this further evaluation we are satisfied that the Fulton Hogan proposal has been thoroughly tested and we favour the evidence provided on behalf of Fulton Hogan on these matters.<sup>263</sup> In particular, regarding aspects of uncertainty and the risks of acting or not acting, our earlier discussion and conclusions were important findings in our further evaluation process.

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<sup>263</sup> Transcript, pages 668–669.

## **Policy/Rules package**

[455] To a large extent the Open Space and Rural policies/rules concerning the proposed land swap need to operate in tandem. Consequently we have redrafted various components of the package presented by Fulton Hogan to ensure that they are consistent with the Rural package (which has been redrafted by the Rural Panel), and to reflect modifications to the package that we have deemed necessary. Our underlying objective has been to produce a package that uses clear and concise language and is as easy to use as possible.

## **Overall conclusion**

[456] Given the foregoing, both the Open Space and Rural Panels have concluded that the deferred zoning proposal advanced by Fulton Hogan should be adopted, subject, however, to the modifications to the policy/rules package shown in both our Decision Version and the Rural Panel's Decision Version.

## **OTHER MATTERS**

### **Christchurch International Airport Limited**

[457] Christchurch International Airport Limited (CIAL) raised two matters: engine testing contours and rules relating to bird strikes. Although those matters were raised with us, CIAL considered that they would be best dealt with by the Chapter 6 General Rules Panel. We agree and therefore the decision on these matters, including any provisions that might be included in Chapter 18, will be made by that Panel.

## **Section 32**

[458] The necessary principles are set out in our earlier decisions.<sup>264</sup> We have had regard to the s 32 report filed with the Revised Proposal. On matters where we have not departed from the Final Revised Version, we have relied on the Report and the evidence which we have discussed.

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<sup>264</sup> Strategic Directions at [63]–[70].

## Section 32AA

[459] The matters we must address have already been referred to in earlier decisions and in this decision.<sup>265</sup>

[460] We have evaluated the various options and approaches put to us, in accordance with the matters in ss 32 and 32AA. We are satisfied that our consideration of the evidence and our findings is sufficient assessment of those matters.

[461] In reaching our decision, we have considered all submissions and further submissions made on the Notified Version, and had regard to the Council’s recommended acceptance or rejection of those submissions, as filed.<sup>266</sup> Except to the extent that those recommendations have been modified by this decision, we accept the Council’s “Accept/Accept in Part/Reject Table”.

## The Decision Version

[462] To reflect our findings, we have made changes to the Final Revised Version in our Decision Version as follows:

- (a) Included provisions for the deferred Open Space Community Parks Zone in Templeton, through:
  - (i) additions to 18.1.4 Policy - The role of open space and recreation facilities, to refer to this site;
  - (ii) inserting section 18.2.4 which provides area-specific rules for the Open Space Community Parks Zone (Templeton); and
  - (iii) directing changes to the Planning Maps to reflect the deferred zoning.
- (b) Amended the rule applicable to the 466-482 Yaldhurst Road (Rule 18.2.2.1 P25) to:

<sup>265</sup> Above, at [47].

<sup>266</sup> The Council’s updated Submissions Table (‘Accept/Accept in Part/Reject Table’), as contained in Attachment B to Evidence in chief of Janice Carter, 19 January 2016.



- (i) restrict clubrooms from Area 2,
  - (ii) include the activity specific standards proposed by Mr Millar in relation to a Code of Conduct;
  - (iii) amend the hours of use for indoor facilities to 0700 – 2200;
  - (iv) restrict the use of the facilities for organised recreation activities on Christmas Day.
- (c) Increased the setback that relates the setting off of fireworks near the Peacock Springs Conservation Area (for minor and major sports facilities within the Open Space McLeans Island Zone – Rule 18.4.2.1 P4) to 4 km.
- (d) Aligned the rules applicable to Elmwood Park with those of the Specific Purposes (Schools) Zone of Chapter 21.

[463] These are the only substantive changes made to the Final Revised Version. We note, however, that some formatting and phrasing (but not altering the effect) of the Provisions has been carried out to bring the chapter into line with other parts of the proposed Replacement Plan, or to ensure the provisions are clear and consistent. For example, we have:

- (a) combined any restricted discretionary rules where the matters of discretion were the same;
- (b) deleted P1 from Rule 18.3.2.1 (Open Space Metropolitan Facilities) as it appeared to unnecessarily duplicate other rules, with the potential to add confusion;
- (c) deleted P19 from Rule 18.5.2.1 (Open Space Natural Zone) as it related to a scheduled activity which is managed in Chapter 6 (and simply referred back to that chapter), and therefore results in unnecessary duplication and the potential to add confusion;
- (d) removed activity specific standards that required compliance with standards in other chapter (e.g. noise) as these standards apply in any case and therefore their

inclusion would result in unnecessary duplication and the potential to add confusion; and

- (e) removed sub-titles from the matters of discretion that in some cases were not accurate, and consequentially re-numbered that section.

[464] Related to the above, the Panel also raised concerns regarding the drafting of the area-specific rules for the Metropolitan Facilities Zone relating to the Canterbury Agricultural Park and the Temporary Christchurch Stadium, and directed the Council to clarify several matters regarding the intent of the drafting.<sup>267</sup> The response received from the Council has been considered by the Panel and the comments noted.<sup>268</sup> The provisions have been updated accordingly, except where the Panel considers that alternate drafting would provide greater clarity (for example, deleting the separate built form standards for the Canterbury Agricultural Park and combining these with the built form standards in Rule 18.3.3). For completeness we record that the changes made to these provisions have been made to ensure that they are clear and consistent, but without altering their effect.

[465] We also note that the Decision Version includes an advice note relating to the Summit Road (Canterbury) Protection Act 2001. The inclusion of this note was discussed and agreed in the Rural decision. For completeness we note that our reformatting has resulted in the note being moved into the section numbered 18.1A in the Decision Version, but we have not altered the wording (or the effect) of the note.

## Definitions

[466] We record that at the time this decision was released some definitions were still under consideration by the Panel having responsibility for that topic. Potentially, final decisions made by that Panel could result in minor drafting changes to Chapter 18, pursuant to cl 13(5) of the OIC.

<sup>267</sup> Minute – Open Space Metropolitan Facilities Zone – Canterbury Agricultural Park and Temporary Christchurch Stadium: Proposed Rule Package, 2 August 2016.

<sup>268</sup> Memorandum on behalf of the Council in response to minute of the Panel dated 2 August 2016 re drafting of rules for Canterbury Agricultural Park (18.3.4) and Temporary Christchurch Stadium (18.3.5), 8 August 2016.

## OVERALL EVALUATION AND CONCLUSIONS

[467] In light of the submissions and evidence we have considered, and for the reasons we have set out, we are satisfied that:

- (a) We have exercised our function, in making this decision, in accordance with the provisions of Part 2, RMA (there are no applicable regulations).
- (b) As part of the Replacement Plan, these further provisions for Open Space in Schedule 1 to this decision will:
  - (i) accord with and assist the Council to carry out its statutory functions for the purposes of giving effect to the RMA;
  - (ii) give effect to National Policy Statement on Electricity Transmission and the CRPS (to the extent relevant);
  - (iii) duly align with other RMA policy and planning instruments, the land use recovery plans, and the OIC (including the Statement of Expectations).
  - (iv) represent the most appropriate method of achieving the Strategic Directions
- (c) As part of the Replacement Plan, the policy and rules we have included in Chapter 18 will achieve the purpose of the RMA.

[468] This decision therefore amends the Notified and Revised Versions in the manner set out in Schedule 1.

[469] Any party who considers that we need to make any minor corrections under Schedule 3, cl 16 of the OIC, must file a memorandum specifying the relevant matters within **14 working days of the date of this decision**.

[470] We direct the Council to provide to the Hearings Panel within **14 working days of the date of this decision** an updated set of planning maps to give effect to the various zoning

changes to the Notified Version that we have made by this decision. Leave is reserved to the Council to make application for further or replacement directions.

[471] A second decision will then issue to the effect of further amending the Notified Version by inclusion of updated Planning Maps.

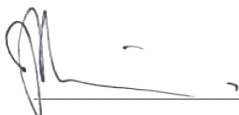
For the Hearings Panel:



Honourable Lester Chisholm  
Chair



Mr Stephen Daysh  
Panel Member



Ms Jane Huria  
Panel Member



Mr Alec Neill  
Panel Member

## **SCHEDULE 1**

Changes that the decision makes to the proposals

## Chapter 18 Open Space

### 18.0 Introduction

- a. This introduction is to assist the lay reader to understand how this chapter works and what it applies to. It is not an aid to interpretation in a legal sense.
- b. The provisions in this chapter give effect to the Chapter 3 Strategic Directions Objectives.
- c. This chapter relates to a wide range of open spaces within the District, including small corner parks, large parks accommodating recreation space, playing fields and associated facilities, built up urban parks, and open spaces focusing on the natural environment, biodiversity and landscapes, including freshwater bodies. The objectives, policies, rules, standards and assessment criteria in this chapter seek to manage activities in those areas through five different open space zones, being the Open Space Community Parks Zone, the Open Space Metropolitan Facilities Zone, the Open Space McLeans Island Zone, the Open Space Natural Zone, and the Open Space Water and Margins and Avon River Precinct/Te Papa Ōtākaro Zone.

### 18.1 Objectives and Policies

#### 18.1.1 Objective — Provision of open spaces and recreation facilities

- a. A network of open spaces and recreation facilities that:
  - i. provides a diversity in the type and size of open spaces and recreational facilities to meet the current and future recreational, cultural, health and wellbeing needs of the community;
  - ii. contributes to the earthquake recovery of Christchurch and revitalised communities where people enjoy a high quality urban environment and enhanced opportunities for recreation;
  - iii. is accessible and distributed to meet the demands generated by population growth, urban intensification and areas of identified deficiency;
  - iv. provides users with a pleasant and safe environment;
  - v. enables temporary and multifunctional uses;
  - vi. maintains and enhances amenity values, connectivity and public access, where appropriate;
  - vii. recognises and provides for the historic and contemporary relationship of Ngāi Tahu with the District's land and water resources, and reflects their cultural values; and
  - viii. recognises and provides for the district's indigenous biodiversity.

### 18.1.2 Objective – Natural open space, water bodies and their margins

- a. The inherent qualities of natural open spaces and water bodies are protected, maintained and enhanced, including:
  - i. the natural character, biodiversity, mahinga kai values, health and life supporting capacity of water bodies, their margins and the adjacent open spaces; and
  - ii. ecosystems and indigenous biodiversity, including habitats of indigenous fauna.
- b. Accessibility of natural open spaces and water bodies and their margins is maintained and, where appropriate, enhanced, for the enjoyment of:
  - i. their amenity;
  - ii. a range of compatible recreation activities; and
  - iii. cultural and mahinga kai values.

### 18.1.3 Objective – Character, quality, heritage and amenity

- a. Activities, buildings and structures within open spaces are of a scale, form and design which:
  - i. maintain the predominance of open space, except for sites specifically dedicated to a more intense built development of recreation, sports or community facilities;
  - ii. are compatible with the role and anticipated use of the open space, acknowledging that metropolitan facilities sites may contain large scale built development;
  - iii. in the case of Naval Point marine recreation area, support the existing function of the site and maintain public access to recreational boating activities and facilities;
  - iv. are integrated and consistent with the character of the surrounding area;
  - v. minimise adverse effects on adjoining land uses and the surrounding environment's ecological, landscape, heritage, natural and amenity values, both within and outside the open space;
  - vi. support the Garden City character of urban Christchurch and the heritage and natural setting of Banks Peninsula townships and settlements;
  - vii. recognise and provide for cultural heritage and the culture, traditions and relationship of Ngāi Tahu mana whenua with their ancestral lands, water, sites, waahi tapu and other taonga; and
  - viii. protect the heritage and visual landscape characteristics of Hagley Park and its primary function for outdoor active and passive recreation and sporting activities.
- b. Heritage open spaces are recognised, maintained and protected.

### 18.1.4 Policy – The role of open space and recreation facilities

- a. Provide, restore and enhance a network of public and private open spaces and recreation facilities that cater for a range of roles, functions and activities as identified in Table 18.1.4.

- b. Avoid activities that do not have a practical or functional need to be located within open space.
- c. Provide for the redevelopment of open spaces no longer required for recreational activities in accordance with the rules of the zone most compatible with the surrounding environment.
- d. Maintain and enhance, where appropriate, public access connections to walking and cycling track networks, and recognise and provide for collaborative projects by multiple parties.

Table 18.1.4

Open Space Community Parks Zone	<p>These spaces enable formal and informal recreation activities, while complementing and enhancing neighbourhood and Central City amenity values, and ensure provision of:</p> <ul style="list-style-type: none"> <li>A. Small public spaces with landscaping and seating located and designed to promote interaction within the local community;</li> <li>B. Accessible neighbourhood parks with a predominance of open space and relatively flat topography capable of accommodating tree planting, landscaping, small scale public amenities, playground equipment and informal playing fields;</li> <li>C. Large parks accommodating minor sports and recreation facilities, public amenities, landscaping, large trees and potential capacity for multifunctional use;</li> <li>D. In the case of the sites at 466-482 Yaldhurst Road and that part of Elmwood Park located at 83D Heaton Street (Lot 1, DP 12727) accommodating major sports and recreation facilities; and</li> <li>E. Heritage and urban parks, such as Hagley Park and Latimer and Cranmer Squares, which have important scenic, botanical, educational, heritage, cultural and/or recreational values and providing for entertainment.</li> <li>F. In the case of the Open Space Community Parks Zone (Templeton) , a golf course, recreation activity, community facilities and associated activities only if all of the following are satisfied prior to 31 December 2021: <ul style="list-style-type: none"> <li>i. the recreation reserve status applying to the Rural Quarry Templeton Zone is uplifted and upon the land within the zone;</li> <li>ii. any resource consent(s) to clear or fell indigenous vegetation, as required to undertake a quarrying activity within the Rural Quarry Templeton Zone, is/are granted; and</li> <li>iii. any quarrying activity undertaken within the Rural Quarry Templeton Zone occurs in conjunction with development of an international standard golf course in the zone.</li> </ul> </li> </ul>
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Open Space Metropolitan Facilities Zone	<p>These spaces accommodate public and private major sports facilities, larger recreation facilities, marine recreation facilities, and motorised sports facilities on sites that provide:</p> <ul style="list-style-type: none"> <li>A. Sufficient land area to accommodate large scale buildings and structures, car and cycle parking and, where necessary, buffer areas to minimise reverse sensitivity;</li> <li>B. Sufficient area to facilitate marine recreation activities, recreational boating and associated facilities while maintaining and enhancing public access to the coastal marine area for recreation;</li> <li>C. Capacity for multifunctional use, (i.e. co-location of complementary or compatible activities) and for hosting city, regional, national and international events which provide entertainment to residents and visitors;</li> </ul>
Open Space McLeans Island Zone	<p>This zone accommodates recreation and animal conservation activities requiring larger scale buildings or areas of land and/or benefiting from natural, relatively isolated surroundings, and provides for:</p> <ul style="list-style-type: none"> <li>A. A predominance of open space; and</li> <li>B. Separation from residential and sensitive activities; while</li> <li>C. Recognising the environmental context of the area which is flood prone, close to active rural quarrying activities and the airport, and which accommodates conservation elements.</li> </ul>
Open Space Natural Zone	<p>These spaces recognise extensive natural, ecological, scenic and outdoor recreation areas and ensure:</p> <ul style="list-style-type: none"> <li>A. Protection and enhancement of biodiversity, landscape, cultural and historic values;</li> <li>B. The natural open space environment is accessible and can be experienced through a range of compatible recreation and tourist activities, and/or facilities;</li> <li>C. Rural activities and buildings are compatible and appropriate to the location and proposed use.</li> </ul>
Open Space Water and Margins Zone	<p>These are spaces that include the surface of water and margins of rivers, lakes, and wetlands, which are managed to ensure:</p> <ul style="list-style-type: none"> <li>A. Protection and enhancement of the natural qualities and habitats of surface water bodies and their margins, including Lake Te Waihora (Ellesmere), Lake Wairewa (Forsyth), the Waimakariri River, and the Bromley wildlife conservation area associated with the sewage treatment facility;</li> </ul>

	<p>B. Maintenance and enhancement of public access, where appropriate, through esplanade reserves and strips;</p> <p>C. Provision for sports and recreational use of water bodies, where this does not compromise other values, including the use of motorised craft on specific water bodies;</p> <p>D. Provision for customary harvesting.</p>
Open Space Avon River Precinct (Te Papa Ōtākaro) Zone	<p>This zone is an area alongside the Avon River/Te Papa Ōtākaro which provides for the restoration and enhancement of the established and important public open space of the Avon River Precinct/Te Papa Ōtākaro as a:</p> <p>A. People, walking and cycle focused river edge that provides a continuous and connective link through the Central City;</p> <p>B. Place that provides leisure opportunities and enhances the city's distinctive identity while protecting and enhancing the natural qualities and habitats of the river and its margins.</p>

### 18.1.5 Policy - Multifunctional use, accessibility and recovery

- a. Increase the capacity of open space and recreation facilities by promoting compatible multi-functional use of land, buildings and facilities through adaptable designs.
- b. Maximise utilisation of metropolitan facilities and large urban parks while maintaining the open space amenity.
- c. Provide for community gardens, temporary activities and facilities, where appropriate, to revitalise and connect communities, and promote recovery.
- d. Maintain and enhance accessibility of open spaces to communities by providing appropriately located entrances, public access ways, frontages to public roads and waterways, and wherever practicable connectivity with the wider open space and transport network.
- e. Recognise and provide for opportunities for revitalisation of Christchurch after the earthquakes.

### 18.1.6 Policy - Safety

- a. Design and develop open space and recreation facilities to ensure a safe environment by:
  - i. designing spaces to deter crime and encourage a sense of safety, reflecting the principles of Crime Prevention through Environmental Design (CPTED);
  - ii. providing clear sightlines and sufficient lighting to enhance visibility of public areas;
  - iii. achieving passive surveillance by having open space that is overlooked; and
  - iv. providing an adequate firefighting water supply in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice.

### 18.1.7 Policy - Water bodies and their margins

- a. Maintain and enhance the natural character, biodiversity, health and life supporting capacity of water bodies and their margins by:
  - i. limiting development and activities in the vicinity of water bodies to those activities which have a practical and functional need to be located within these areas; and
  - ii. rehabilitation of water bodies and their margins and encouraging indigenous planting.
- b. Retain and enhance recreation opportunities and public access, where appropriate, to and along water bodies through provision of esplanade reserves or strips, or creation of adjacent open space parks.
- c. Recognise the cultural significance of water resources to Ngāi Tahu and ensure they are managed to maintain and enhance mahinga kai and, where appropriate, Ngāi Tahu whānui access to these resources.

### 18.1.8 Policy - Environmental effects

- a. Ensure activities and the scale, layout, and design of open spaces and/or the facilities within them are appropriate to the locality and context, and any adverse effects on the amenity values of neighbours, Ngāi Tahu cultural values, conservation activities and programmes, and the wider community are managed, through:
  - i. providing sufficient separation distances and limiting the height of buildings;
  - ii. limiting the floor area and site coverage;
  - iii. requiring landscaping and screening;
  - iv. mitigating adverse noise, glare, dust and traffic effects;
  - v. restricting the types, duration, hours of operation and frequency of activities;
  - vi. minimising disturbance of natural landforms, cultural landscapes identified in the plan, ecosystems or indigenous biodiversity, including fauna habitats;
  - vii. avoiding impacts on mahinga kai;
  - viii. requiring building setbacks from the banks of water bodies;
  - ix. encouraging the planting and maintenance of indigenous vegetation in the setback margins of water bodies; and
  - x. controlling the volume and depth of filling and excavation within the water body setbacks, and removal of vegetation.
- b. Ensure the scale, layout, and design of facilities, buildings and structures is consistent with the role and function of the open space, its anticipated level of spaciousness and character.
- c. Minimise potential impacts of development within the open space zones on the operation of the Christchurch International Airport by:
  - i. avoiding development which could give rise to reverse sensitivity effects; and

- ii. *[Deferred to Chapter 6 General Rules]*
- d. Protect the National Grid and identified electricity distribution lines by avoiding buildings, structures and sensitive activities in the open space zones within setback corridors.

### 18.1.9 Policy - Flood protection

Recognise and provide for flood hazard mitigation and protection works when undertaken by the Council, the Canterbury Regional Council or the Crown having regard to potential adverse effects.

### 18.1.10 Policy - Electricity transmission and distribution infrastructure

Recognise that electricity transmission and distribution infrastructure may have a locational, operational and technical requirement to be located in an open space zone.

## 18.1A How to use the rules

- a. The rules that apply to activities in the various open space zones are contained in the tables (including activity specific standards) and built form standards within:
  - i. Rule 18.2 – Open Space Community Parks Zone;
  - ii. Rule 18.3 – Open Space Metropolitan Facilities Zone;
  - iii. Rule 18.4 – Open Space McLeans Island Zone;
  - iv. Rule 18.5 – Open Space Natural Zone; and
  - v. Rule 18.6 – Open Space Water and Margins Zone and Avon River Precinct/Te Papa Ōtākaro Zone.
- b. Area specific rules also apply to activities within the Open Space Community Parks Zone and Open Space Metropolitan Facilities Zone in the following areas:
  - i. Open Space Community Parks Zone (Templeton) – Rule 18.2.4;
  - ii. Canterbury Agricultural Park (as identified in Appendix 18.8.1) – Rule 18.3.4; and
  - iii. Temporary Christchurch Stadium (as identified in Appendix 18.8.2) – Rule 18.3.5.
- c. The activity status tables and standards in the following chapters also apply to activities in all open space zones:
  - 5 Natural Hazards;
  - 6 General Rules and Procedures;
  - 7 Transport;
  - 8 Subdivision, Development and Earthworks;

- 9 Natural and Cultural Heritage;
- 11 Utilities and Energy; and
- 12 Hazardous Substances and Contaminated Land.

- d. Where the word ‘facilities’ is used in the rules, e.g. emergency service facilities, it shall also include the use of a site/building for the activity that the facilities provide for, unless expressly stated otherwise.

Similarly, where the word/ phrase defined includes the word ‘activity’ or ‘activities’, the definition includes the land and/or buildings for that activity unless expressly stated otherwise.

- e. Open Space Metropolitan Facilities zoned sites specified in Table 1 below, which are no longer required for recreation and major and/or minor sport activities, shall be subject to the provisions of the underlying zones set out in the table:

**Table 1: Metropolitan Facilities — underlying zones**

Privately owned Metropolitan Facilities	Underlying Zone
<ul style="list-style-type: none"> <li>i. Christchurch Park</li> <li>ii. Rugby Park</li> <li>iii. Wilding Park</li> <li>iv. Kearneys Park (currently known as Linfield Cultural Recreational Sports Club)</li> </ul>	Residential Suburban Zone – Rule 14.2
<ul style="list-style-type: none"> <li>i. Shirley Golf Course</li> <li>ii. Avondale Golf Course</li> <li>iii. Waimairi Beach Golf Course</li> </ul>	Residential Suburban Zone – Rule 14.2
<ul style="list-style-type: none"> <li>i. Riccarton Racecourse</li> <li>ii. Addington Racecourse</li> <li>iii. Christchurch Sports and Entertainment Centre at 55 Jack Hinton Drive, Addington (currently known as Horncastle Arena)</li> </ul>	Residential Suburban Density Transition Zone – Rule 14.2
<ul style="list-style-type: none"> <li>i. Lancaster Park Stadium, 40 Stevens Street</li> </ul>	Industrial General Zone – Rule 16.2

- f. Reference should also be made to any other applicable rules or constraints within other legislation or ownership requirements including the following:
- i. Reserves Act;
  - ii. Wildlife Act;
  - iii. Conservation Act;
  - iv. Regional Rules under Canterbury Regional Council Plans.

- v. Ngāi Tahu Claims Settlement Act 1998 – refer to Chapter 1, Section 8.3 which sets out the Statutory Acknowledgement for Wairewa (Lake Forsyth);
- vi. Christchurch City Council Traffic and Parking Bylaw 2008;
- vii. Christchurch City (Reserves) Empowering Act 1971;
- viii. The Heritage New Zealand Pouhere Taonga Act 2014 in relation to any modification or destruction of archaeological sites.
- ix. The Council Marine and River Facilities Bylaw 2008;
- x. Environment Canterbury Navigation Safety Bylaws 2010;
- xi. Canterbury Regional Council Flood Protection and Drainage Bylaw 2013;
- xii. The requirements of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP: 2001) apply to land use activities and vegetation under or near transmission lines and include restrictions on the location of structures and activities;
- xiii. Summit Road (Canterbury) Protection Act 2001 - Note: Any development may be affected by the provisions of the Summit Road (Canterbury) Protection Act 2001 which applies to land above Summit Road and within 30m vertically below Summit Road and Dyers Pass Road (refer to Summit Road (Canterbury) Protection Act and Gazette notice). You are advised to contact the Summit Road Protection Authority for more information. The extent of the subject area is shown on the planning maps.

## 18.2 Rules – Open Space Community Parks Zone

### 18.2.1 *[This number is not used]*

### 18.2.2 Activity status tables – Open Space Community Parks Zone

#### 18.2.2.1 Permitted activities

The activities listed below are permitted activities in the Open Space Community Parks Zone if they meet any activity specific standards set out in the following table and the built form standards in Rule 18.2.3.

Activities may also be controlled, restricted discretionary, discretionary or non-complying as specified in Rules 18.2.2.2, 18.2.2.3, 18.2.2.4, 18.2.2.5 and 18.2.2.6.

Activity		Activity specific standards:
<b>P1</b>	Recreation activity and/or recreation facility.	b. On sites less than 5,000 m <sup>2</sup> in area, parking areas shall be limited to: <ul style="list-style-type: none"> <li>i. One per site; and</li> <li>ii. A maximum of 6 car parking spaces per parking area.</li> </ul>

Activity		Activity specific standards:
		c. For Hagley Park, permanent parking areas are restricted to the existing formed car parks.
<b>P2</b>	Park management activity and /or park management facility.	Nil.
<b>P3</b>	Conservation activity.	Nil.
<b>P4</b>	Environmental education programmes.	a. Shall be limited to education programmes that: <ul style="list-style-type: none"> <li>i. are ancillary to research and conservation activities; or</li> <li>ii. increase awareness of the natural environment and conservation issues, historic heritage, and Ngai Tahu cultural knowledge.</li> </ul>
<b>P5</b>	Public amenities.	a. Any building containing toilets and/or changing rooms shall be setback a minimum of 20 metres from the boundary with any rural or residential zone. b. In the case of Hagley Park (excluding Botanic Gardens) any visitor information centre shall be limited to one such facility.
<b>P6</b>	Public artwork.	Nil.
<b>P7</b>	Minor sports facility.	a. Shall be limited to: <ul style="list-style-type: none"> <li>i. Sites greater than 5,000 m<sup>2</sup> in area.</li> </ul>
<b>P8</b>	Golf courses, including ancillary club rooms.	a. Shall be limited to: <ul style="list-style-type: none"> <li>i. Sites greater than 10,000 m<sup>2</sup> in area.</li> </ul>
<b>P9</b>	Guest accommodation.	a. Unless specified in P15, shall be limited to: <ul style="list-style-type: none"> <li>i. camping grounds at the following locations: <ul style="list-style-type: none"> <li>A. South Brighton Domain Camping Ground</li> <li>B. Spencer Park</li> <li>C. Hibburt Christian Camping Ground</li> <li>D. Okains Bay Camping Ground</li> <li>E. Pigeon Bay Camping Ground</li> <li>F. Duvauchelle Camping Ground</li> <li>G. Orton Bradley Park; and</li> </ul> </li> </ul>
<b>P10</b>	Ancillary office activity.	a. On all sites except as specified in b. below, all ancillary office activity shall: <ul style="list-style-type: none"> <li>i. Be limited to sites greater than 10,000 m<sup>2</sup> in area; and</li> <li>ii. Cumulatively occupy no more than 250 m<sup>2</sup> of gross floor area; or 10% of the gross floor area</li> </ul>

Activity		Activity specific standards:
		<p>of all buildings on the same site, whichever is the lesser.</p> <p>b. For the Canterbury Museum and Robert McDougall Art Gallery (Rolleston Avenue):</p> <p>i. any office activity shall be ancillary to the management of the museum and/or art gallery.</p>
<b>P11</b>	Ancillary retail activity.	<p>a. On all sites except as specified in b. below, all ancillary retail activity shall:</p> <p>i. Be limited to sites greater than 10,000 m<sup>2</sup> in area; and</p> <p>ii. Cumulatively occupy no more than 250 m<sup>2</sup> of gross floor area or 10% of the gross floor area of all buildings on the same site, whichever is the lesser.</p> <p>b. For the Canterbury Museum and Robert McDougall Art Gallery (Rolleston Avenue):</p> <p>i. the maximum total floor area utilised for ancillary retail activities shall be limited to:</p> <p>A. 600 m<sup>2</sup> for the Museum;</p> <p>B. 250 m<sup>2</sup> for the Art Gallery; and</p> <p>ii. the maximum floor area for any individual retail activity shall not exceed 200 m<sup>2</sup>.</p>
<b>P12</b>	Food and beverage outlet.	<p>a. Shall be limited to sites greater than 10,000 m<sup>2</sup> in area, except that this limit shall not apply to the Canterbury Museum and Robert McDougall Art Gallery site (Rolleston Avenue).</p> <p>b. Shall cumulatively occupy no more than 250 m<sup>2</sup> of gross floor area or 10% of the gross floor area of all buildings on the same site, whichever is the lesser.</p>
<b>P13</b>	Residential unit/activity.	<p>a. Unless specified in P15, shall be located:</p> <p>i. within an existing residential unit; or</p> <p>ii. within a new residential unit provided that:</p> <p>A. it is used for caretaker and site management purposes only; and</p> <p>B. it is located on a site greater than 10,000 m<sup>2</sup>; and</p> <p>C. it is not located within the Air Noise Contour (50 dB Ldn); and</p> <p>D. there is only one residential unit on any site;</p>
<b>P14</b>	Community facility.	<p>a. Shall be limited to:</p> <p>i. Sites greater than 10,000 m<sup>2</sup>; or</p>



Activity		Activity specific standards:
		ii. Sites specifically set aside by the Council for community facilities and vested as a Local Purpose Reserve (Community facility).
<b>P15</b>	The following activities within a building listed as a heritage item: <ul style="list-style-type: none"> <li>i. gymnasium;</li> <li>ii. conference and function facilities;</li> <li>iii. guest accommodation;</li> <li>iv. residential activity; and</li> <li>v. cultural facility.</li> </ul>	<ul style="list-style-type: none"> <li>a. Residential activity shall be limited to no more than two residential units except as specified in b. below.</li> <li>b. There shall be no residential activity or guest accommodation within Hagley Park.</li> <li>c. Irrespective of anything to the contrary in this Plan, any activities within a heritage item or heritage setting shall be exempt from compliance with:               <ul style="list-style-type: none"> <li>i. Rules in 7.2.3 in relation to parking and loading – Open Space Zones</li> </ul> </li> </ul> <p>Note: Refer also to Rule 9.3.3 for rules relating to historic heritage places.</p>
<b>P16</b>	Cultural facility.	<ul style="list-style-type: none"> <li>a. Unless specified in P15, shall be limited to:               <ul style="list-style-type: none"> <li>i. Sites greater than 10,000 m<sup>2</sup> in area; and</li> <li>ii. The Canterbury Museum and Robert McDougall Art Gallery site (9-11 Rolleston Avenue, legally described as Pt Res 25 and Lot 1 DP 45580).</li> </ul> </li> </ul>
<b>P17</b>	Community market.	<ul style="list-style-type: none"> <li>a. All community markets not involving any sound amplified activity shall comply with noise provisions in Rule 6.1.4.1.1.1 and Table 1.</li> <li>b. All community markets involving sound amplified activity shall comply with noise provisions in Rule 6.1.4.2.4 as if it were a temporary activity.</li> </ul>
<b>P18</b>	Farm buildings.	<ul style="list-style-type: none"> <li>a. Any new farm buildings shall:               <ul style="list-style-type: none"> <li>i. be limited to the Orton Bradley Park site (1 Charteris Bay Road); and</li> <li>ii. not exceed 500 m<sup>2</sup> in gross floor area.</li> </ul> </li> </ul>
<b>P19</b>	Customary harvesting.	<p>Nil.</p> <p>Note: this rule does not override the requirements to obtain permission of the landowner or administrator for any customary harvesting of taonga species.</p>
<b>P20</b>	Heli-landing areas (Banks Peninsula only - refer Appendix 2.1).	<ul style="list-style-type: none"> <li>a. Any heli-landing areas shall be limited to sites greater than 3,000 m<sup>2</sup> and located more than 450 metres from any Residential Large Lot, Residential Small Settlement, Papakāinga, Residential Banks Peninsula or Commercial Banks Peninsula Zone.</li> <li>b. There shall be no:               <ul style="list-style-type: none"> <li>i. more than 12 flights (24 movements) in any calendar year;</li> <li>ii. more than five days of flights (movements) in any one month period;</li> </ul> </li> </ul>

Activity	Activity specific standards:
	<ul style="list-style-type: none"> <li>iii. more than three flights (six movements) in any one week; and</li> <li>iv. movements taking place within 25 metres of any residential unit unless that residential unit is owned or occupied by the applicant.</li> <li>c. Any movements shall occur only between 0800 and 1800.</li> <li>d. A log detailing the time and date of each helicopter movement shall be maintained and made available for inspection by the Council if requested.</li> </ul>
<b>P21</b>	Emergency service facilities.
<b>P22</b>	Community gardens.
<b>P23</b>	<p>Rural cottage industry at Orton Bradley Park including:</p> <ul style="list-style-type: none"> <li>i. Rural produce manufacturing, including cheese making;</li> <li>ii. Rural produce retail;</li> <li>iii. Garden nursery; and</li> <li>iv. Firewood supply.</li> </ul>
<b>P24</b>	Maintenance and upgrade of existing flood and/or bank erosion mitigation and protection works, where undertaken by the Council, Canterbury Regional Council or the Crown.
<b>P25</b>	<p>The following activities at 466-482 Yaldhurst Road (Yaldhurst Recreation and Sports Facility) identified on the Outline development plan in Appendix 18.8.4(a) and (b):</p> <ul style="list-style-type: none"> <li>i. Major sports facilities/activities;</li> <li>ii. Gymnasium, excluding health care facility;</li> <li>iii. Ancillary sports and fitness</li> </ul>

<sup>1</sup> Legal description: Pt RSs 124,124,129,129,129,14054,14055,1521,1740,1740 Canterbury Dist, RSs 1775,1776 Canterbury Dist, Pt RSs 1815,1815 Canterbury Dist, RSs 18285,1829,1830,1841,1842,1843,1844,1875 Canterbury Dist, Pt RS 1875 Canterbury Dist, RS 18865 Canterbury Dist, Pt RSs 19617,2100 Canterbury Dist, RS 2101 Canterbury Dist, Pt RS 22547 Canterbury Dist, RSs 22548,22549,22559,22804,23287 Canterbury Dist, Pt RS 23288 Canterbury Dist, RSs 23289,23346,23688 Canterbury Dist, Pt RSs 23689,23712,23924,23924 Canterbury Dist, RS 2644 Canterbury Dist, Pt RSs 265,30478,30478 Canterbury Dist, RS 30974 Canterbury Dist, Pt RSs 33763,34040,34040 Canterbury Dist, RSs 34041,34042,34043 Canterbury Dist, Pt RSs 34062,34616 Canterbury Dist, RSs 37327,5327,7749,921 Canterbury Dist, Pt RSs 921,948 Canterbury Dist, Lot 4 DP 13820, Lots 1,3,5,7 DP 3035.

Activity	Activity specific standards:
<p>health care services; and</p> <p>iv. Activities listed in Rule 18.2.2.1 P1 - P8, P10 - P13 and P17.</p>	<p>expert;</p> <p>ii. demonstrates, as a minimum, compliance with the relevant noise rules in Chapter 6;</p> <p>iii. includes a Code of Conduct to promote responsible and considerate behaviour towards neighbouring residents during the use of buildings and facilities. In particular this Code of Conduct shall seek to reduce the use of offensive, abusive or insulting language, indicate corrective actions, including banning persistent offenders from using the buildings and facilities.</p> <p>iv. A protocol to ensure the Code of Conduct is provided to all sports organisations using the site to communicate to their members and any other parties using the buildings and facilities;</p> <p>v. specifies the range of activities and buildings that are subject to the noise management plan;</p> <p>vi. is certified by the Council in respect of rule P25(c)(i) to (v) prior to the establishment of the activity; and</p> <p>vii. shall be amended and recertified in accordance with P25(c)(i) to (vi), where activities or buildings are proposed that are not specified in the noise management plan as required by rule P25(c)(v).</p> <p>d. Buildings in Areas 1 and 2 shall have no opening doors or windows on the northern façade.</p> <p>e. No public address systems or external amplified speakers shall be used on the site.</p> <p>f. All flood lighting shall be controlled by an automated system and shall not be used outside of the hours of 1600 to 2200.</p> <p>g. All outdoor recreation activities shall be limited to the hours of 0700 to 2200.</p> <p>h. All indoor facilities and buildings shall not be in use outside of the hours of 0700 to 2200.</p> <p>i. Use of clubroom facilities shall be limited to events, functions or gatherings ancillary to football-related outdoor recreation. For the avoidance of doubt this shall exclude functions such as weddings, 21sts, funerals and conferences, except that:</p> <p>i. up to a total of 12 non-football related functions or events shall be permitted over the course of a calendar year provided that the total number of days for all those events combined does not exceed 12 days; and</p> <p>ii. a record of the dates and duration of any non-</p>

Activity	Activity specific standards:
	<p>football related functions or events shall be kept, and made available to the Council on request.</p> <p>j. No organised outdoor recreation activities shall occur on Christmas Day.</p>

### 18.2.2.2 Controlled Activities

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved, as set out in the following table.

Activity	The Council's control shall be limited to the following matters:
<p><b>C1</b> New buildings and structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Council, Canterbury Regional Council or the Crown.</p>	<p>a. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed.</p> <p>b. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed.</p> <p>c. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable.</p>

### 18.2.2.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table.

<b>Activity</b>		<b>The Council's discretion shall be limited to the following matters:</b>
<b>RD1</b>	Any activity listed in Rules 18.2.2.1 P1-P25 and Rule 18.2.2.3 RD13 below that does not meet one or more of the built form standards in Rule 18.2.3, unless otherwise specified.  Refer to relevant built form standard for provisions regarding notification.	As relevant to the built form standard that is not met: a. For rules 18.2.3.1, 18.2.3.2 and 18.3.3.3 - Setback from boundaries – Rule 18.7.16. b. Outdoor storage – Rule 18.7.17. c. Building height – Rule 18.7.18. d. Recession planes – Rule 18.7.19. e. Water supply for firefighting – Rule 18.7.20. In addition, in the case of Hagley Park, for applications relating to Rule 18.2.3.1 and 18.2.3.6 - Additional matters for Hagley Park - building footprint, site coverage and impervious surfaces - Rule 18.7.21.
<b>RD2</b>	Any activity listed in Rule 18.2.2.1 P1 that does not meet one or more of the activity specific standards. Any application arising from this rule shall not be limited or publicly notified.	a. Parking areas and public transport facilities – Rule 18.7.5. b. Additional matters for Hagley Park - Rule 18.7.14.
<b>RD3</b>	Any activity listed in Rules 18.2.2.1 P4 and P7 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities - Rule 18.7.2.
<b>RD4</b>	Any activity listed in Rule 18.2.2.1 P5 that does not meet one or more of the activity specific standards.	a. Public amenities - Rule 18.7.6. b. Additional matters for Hagley Park - Rule 18.7.14.
<b>RD7</b>	Any activity listed in Rule 18.2.2.1, P10 - P12 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Traffic generation and access – Rule 18.7.3. c. Additional matters for Hagley Park - Rule 18.7.14
<b>RD8</b>	Any activity listed in Rules 18.2.2.1 P14, P16 and P23 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Traffic generation and access – Rule 18.7.3. c. Hours of operation – Rule 18.7.4.
<b>RD9</b>	Any activity listed in Rule 18.2.2.1 P15 that does not meet one or more of the activity specific standards, except as specified in Rule 18.2.2.3 D4.	a. Residential activities – Rule 18.7.12.
<b>RD10</b>	Any activity listed in Rule 18.2.2.1 P17 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Matters of Discretion - 6.1.4.3 (General Rules - Noise).
<b>RD11</b>	<i>[Deferred to Chapter 6 General Rules]</i>	<i>[Deferred to Chapter 6 General Rules]</i>

Activity		The Council's discretion shall be limited to the following matters:
<b>RD12</b>	New buildings on the Canterbury Museum and Robert McDougall Art Gallery site (9-11 Rolleston Avenue, legally described as Pt Res 25 and Lot 1 DP 45580) or external alterations and/or additions to existing buildings.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Building height – Rule 18.7.18. c. 9.3.4 (Matters of Control - Historic heritage) and 9.3.5 (Matters of Discretion - Historic heritage).
<b>RD13</b>	A major sports facility on Lot 1, DP 12727 (that part of Elmwood Park located at 83D Heaton Street) where: <ol style="list-style-type: none"> <li>it is developed in conjunction with part of the adjacent Lot 1 DP11232 (Heaton Street Intermediate Normal School, 125 Heaton Street);</li> <li>the net contiguous site area set aside for the major sports facility is no less than 6,000 m<sup>2</sup> across both sites;</li> <li>a 3 metre wide landscaped area is established along all Residential Suburban Zone boundaries to be planted with a minimum of 1 tree for every 10 metres of boundary; and</li> <li>in addition to c, within on-site car parking areas, 1 tree to be planted for every 5 car parking spaces.</li> </ol> shall be a restricted discretionary activity except as specified in Rule 18.2.2.4 D1.	a. Minor and major sports facilities - Rule 18.7.1. b. Parking areas and public transport facilities - Rule 18.7.5. c. Traffic generation and access - Rule 18.7.3. d. Landscaping and trees - Rule 18.7.4. e. Overlooking and privacy in relation to adjacent residential properties and the remainder of the school property. f. Amenity of the neighbourhood - refer to Rule 21.6.5.1.
<b>RD14</b>	Any activity listed in Rule 18.2.2.3 RD1 -RD11 located within the Coastal Environment overlay area.	a. Matters of discretion for activities in the Coastal Environment in 9.4.3

### 18.2.2.4 Discretionary activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	Any building that does not comply with built form standard 18.2.3.6.
<b>D2</b>	Any residential activity listed in Rule 18.2.2.1 P13 that does not meet one or more of the activity specific standards or Rule 18.2.2.1 P15 that does not meet activity specific standard b.
<b>D3</b>	Any activity listed in Rule 18.2.2.1 P8 that does not meet one or more of the activity specific standards.
<b>D4</b>	Any guest accommodation activity listed in Rule 18.2.2.1 P9 or P15 that does not meet one or

<b>Activity</b>	
	more of the activity specific standards.
<b>D5</b>	A major sports facility on Lot 1, DP 12727 (that part of Elmwood Park located at 83D Heaton Street), developed in conjunction with part of Lot 1 DP11232 (Heaton Street Intermediate Normal School), that does not meet the minimum contiguous net site area in Rule 18.2.2.3 b. or the landscaping requirements in Rule 18.2.2.3 c. and d. – RD13.
<b>D7</b>	Any activity listed in Rule 18.2.2.1 P25 that does not meet one or more of the activity specific standards or the built form standards in Rule 18.2.3.

### 18.2.2.5 Non-complying activities

The activities listed below are non-complying activities.

	<b>Activity</b>
<b>NC1</b>	Any activity not provided for as a permitted, controlled, restricted discretionary, discretionary or prohibited activity.
<b>NC2</b>	Motorised sports activity / Facility.
<b>NC3</b>	Sensitive activities within the Air Noise Contour (50 dB Ldn) as defined on the Planning Maps.
<b>NC4</b>	Any activity listed in Rule 18.2.2.1 P18 which does not meet one or more of the activity specific standards.
<b>NC5</b>	Any activity listed in Rule 18.2.2.1 P20 that does not meet one or more of the activity specific standards.
<b>NC6</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ol style="list-style-type: none"> <li>within 12 metres of the centre line of a 110kV or 220kV National grid transmission line or within 12 metres of a foundation of an associated support structure; or</li> <li>within 10 metres of the centre line of a 66kV National grid transmission line or within 10 metres of a foundation of an associated support structure.</li> </ol> <p>b. Fences within 5 metres of a National grid transmission line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Transpower New Zealand Limited.</p> <p>Notes:</p> <ol style="list-style-type: none"> <li>The National grid transmission lines are shown on the planning maps.</li> <li>Vegetation to be planted around the National grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to National grid transmission lines. Buildings and activities in the vicinity of National grid transmission lines must comply with the NZECP 34:2001.</li> </ol>
<b>NC7</b>	a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):

	Activity
	<ol style="list-style-type: none"> <li>i. within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>ii. within 5 metres of the centre line of a 33kV and the Heathcote to Lyttelton 11kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ol> <p>b. Fences within 5 metres of a 66kV, 33kV and the Heathcote to Lyttelton 11kV electricity distribution line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <ol style="list-style-type: none"> <li>1. The electricity distribution lines are shown on the planning maps.</li> <li>2. Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activities in the vicinity of or electricity distribution lines must comply with the NZECP 34:2001.</li> </ol>

## 18.2.3 Built form standards – Open Space Community Parks Zone

### 18.2.3.1 Road boundary setback

The minimum building setback from road boundaries shall be as follows:

	Applicable to	Standard
a.	All sites, unless specified below	5 metres
b.	All sites in the Banks Peninsula area (refer Appendix 2.1)	7.5 metres
c.	Sites fronting a State Highway	20 metres
d.	Central New Brighton Beach Park (adjacent to the New Brighton Pier)	3 metres
e.	Canterbury Museum and Robert McDougall Art Gallery site (9-11 Rolleston Avenue, legally described as Pt Res 25 and Lot 1 DP 45580)	1.5 metres
f.	Hagley Park, excluding Botanic Gardens	20 metres
g.	For a major sports facility on Lot 1 DP 12727	10 metres

### 18.2.3.2 Internal boundary setback

The minimum building setback from an internal boundary shall be as follows:



	<b>Applicable to</b>	<b>Standard</b>
a.	All sites, unless specified below	10 metres
b.	All sites in the Banks Peninsula area (refer Appendix 2.1) except as specified in c. below	3 metres
c.	Any buildings, balconies or decks on sites adjacent to a designated railway corridor	4 metres from the designated railway corridor
d.	Central New Brighton Beach Park (adjacent to the New Brighton Pier)	3 metres
e.	Canterbury Museum and Robert McDougall Art Gallery site (9-11 Rolleston Avenue, legally described as Pt Res 25 and Lot 1 DP 45580)	5 metres
f.	A major sports facility on that part of Elmwood Park located at 83D Heaton Street (Lot 1, DP 12727)	6 metres except that on the boundaries with Lot 1 DP11232 (Heaton Intermediate Normal School, 125 Heaton Street) no setback is required.
g.	466-482 Yaldhurst Road (Yaldhurst Recreation and Sports Facility)	20 metres

### 18.2.3.3 Outdoor storage

- a. Any outdoor storage area shall not be located within the minimum setbacks specified in Rules 18.2.3.1 and 18.2.3.2.
- b. Outdoor storage areas shall be screened from adjoining sites and roads by either planting, wall(s), fence(s), or any combination of these, to at least 1.8 metres in height along the length of the storage area. Where such screening is by way of planting it shall be for a minimum depth of 3 metres.

### 18.2.3.4 Building height

The maximum height of any building shall be as follows:

	<b>Applicable to</b>	<b>Standard</b>
a.	All buildings unless specified below	8 metres
b.	All buildings in the Banks Peninsula area (refer Appendix 2.1)	6 metres
c.	Central New Brighton Beach Park (adjacent to the New Brighton Pier)	
d.	<ol style="list-style-type: none"> <li>i. Canterbury Museum and Robert McDougall Art Gallery site (9-11 Rolleston Avenue, legally described as Pt Res 25 and Lot 1 DP 45580)</li> <li>ii. 466-482 Yaldhurst Road (Yaldhurst Recreation and Sports Facility)</li> </ol>	15 metres
e.	Any pole or support structure for flood or training lights accessory to sports facilities in Hagley Park	30 metres

	<b>Applicable to</b>	<b>Standard</b>
f.	For a major sports facility on Lot 1 DP 12727 developed in conjunction with part of the adjacent Heaton Street Intermediate Normal School	12 metres

### 18.2.3.5 Recession planes

Where an internal site boundary adjoins a residential zone, no part of any building (excluding poles/light support structures) shall project beyond a building envelope contained by a recession plane measured at any point 2.3 metres above the internal site boundary in accordance with the diagrams in 18.8.3 - Appendix 1.

Where sites are located within a Flood Management Area, recession plane breaches created by the need to raise floor levels will not require written approvals and shall not be limited or publicly notified.

### 18.2.3.6 Building footprint, site coverage and impervious surfaces

The maximum building footprint, site coverage and area covered by impervious surfaces, shall be as follows:

	<b>Applicable to</b>	<b>Standard</b>
a.	A single building, excluding playground equipment	<p>The maximum footprint of a single building shall be as specified in:</p> <ul style="list-style-type: none"> <li>i. column A of Table 1 for Christchurch District excluding Banks Peninsula; and</li> <li>ii. column A of Table 2 for Banks Peninsula; or</li> <li>iii. as otherwise specified in the activity specific standards for permitted activities in Rule 18.2.2.1.</li> </ul>
b.	All buildings	<p>The maximum percentage of the site covered by buildings shall be as specified in:</p> <ul style="list-style-type: none"> <li>i. column B of Table 1 for Christchurch District excluding Banks Peninsula; and</li> <li>ii. column B of Table 2 for Banks Peninsula; or</li> <li>iii. as otherwise specified in the activity specific standards for permitted activities in Rule 18.2.2.1.</li> </ul>
c.	All impervious surfaces, excluding walkways, tracks, cycle ways, artificial playing surfaces, and buildings except as specified in d. below	<p>The maximum percentage of any site covered by impervious surfaces shall be as specified in:</p> <ul style="list-style-type: none"> <li>i. column C of Table 1 for Christchurch District excluding Banks Peninsula; and</li> <li>ii. column C of Table 2 for Banks Peninsula.</li> </ul>

	Applicable to	Standard
d.	For Hagley Park (excluding Botanic Gardens), all impervious surfaces, excluding buildings	The maximum percentage of the site covered by impervious surfaces shall be as specified in: <ul style="list-style-type: none"> <li>i. column C (h.) of Table 1 for Christchurch District excluding Banks Peninsula.</li> </ul>

**Table 1**

Christchurch District excluding Banks Peninsula (refer Appendix 2.1)				
	Size of Community Park	A (Single building)	B (Site coverage)	C (Impervious surfaces)
a.	Less than 5,000 m <sup>2</sup> in area unless specified in c. or e. to j. below	30 m <sup>2</sup>	1%	5%
b.	5,000 m <sup>2</sup> to 10,000 m <sup>2</sup> in area unless specified in c. or e. to j. below	100 m <sup>2</sup>	1%	10%
c.	Less than 10,000 m <sup>2</sup> in area but on a site specifically set aside by the Council for community facilities and vested as a Local Purpose Reserve (Community facility)	500 m <sup>2</sup>	25%	20%
d.	Greater than 10,000 m <sup>2</sup> in area unless specified in e. to j. below	500 m <sup>2</sup>	3%	30%
e.	<ul style="list-style-type: none"> <li>iv. Rawhiti Park;</li> <li>v. South Brighton Park;</li> <li>vi. Spencer Park.</li> </ul>	500 m <sup>2</sup>	3%	10%
f.	Central New Brighton Beach Park (adjacent to the New Brighton Pier)	100 m <sup>2</sup>	12%	75%
g.	The Canterbury Museum and Robert McDougall Art Gallery site (9-11 Rolleston Avenue, legally described as Pt Res 25 and Lot 1 DP 45580)	No maximum	No maximum	No maximum
h.	Hagley Park (excluding Botanic Gardens)	300 m <sup>2</sup>	1%	10%
i.	Botanic Gardens	500 m <sup>2</sup>	6%	10%
j.	That part of Elmwood Park located at 83D Heaton Street (Lot 1, DP 12727)	1500 m <sup>2</sup>	60%	20%
k.	466-482 Yaldhurst Road (Yaldhurst Recreation and Sports Facility)	1000 m <sup>2</sup>	4%	30%

**Table 2**

Banks Peninsula only (refer Appendix 2.1)				
	Size of Community Park	A (All buildings)	B (Site coverage)	C (Impervious surfaces)

<b>Banks Peninsula only (refer Appendix 2.1)</b>				
a.	All sites	250 m <sup>2</sup> or 10% of the site area whichever is the lesser.	250 m <sup>2</sup> or 10% of the site area whichever is the lesser.	-
b.	Less than 5,000 m <sup>2</sup> in area	-	-	5%
c.	5,000 m <sup>2</sup> to 10,000 m <sup>2</sup> in area	-	-	10%
d.	Greater than 10,000 m <sup>2</sup> in area	-	-	30%

### 18.2.3.7 Water supply for firefighting

- a. Provision for sufficient water supply and access to water supplies for firefighting shall be made available to all buildings (excluding accessory buildings that are not habitable buildings) via Council's urban reticulated system (where available) in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS: 4509:2008).
- b. Where a reticulated water supply compliant with SNZ PAS:4509:2008 is not available, or the only supply available is the controlled restricted rural type water supply which is not compliant with SNZ PAS:4509:2008, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008.

Any application made in relation to this rule shall not be publicly notified or limited notified other than to the New Zealand Fire Service Commission.

## 18.2.4 Area specific rules – Open Space Community Parks Zone

The following rules apply to the areas specified. All activities are also subject to Rule 18.2.2 and Rule 18.2.3 unless specified otherwise in 18.2.4.

### 18.2.4.1 Open Space Community Parks Zone (Templeton)

- a. Unless, and until, the conditions in Rule 17.6A.1c. are satisfied, the land shown on the Planning Maps as "Ru Q or OSCP (Templeton)" shall be zoned Rural Quarry Zone.
- b. If, and when, the conditions in Rule 17.6A.1c. are satisfied, the land shown on the Planning Maps as "Ru Q or OSCP (Templeton)" shall be zoned Open Space Community Parks Zone (Templeton). The Open Space Community Parks Zone (Templeton) shall take effect from the date that the conditions in Rule 17.6A.1c. are satisfied.

#### 18.2.4.1.1 Controlled Activities

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved, as set out in the following table.

Activity	The Council's control shall be limited to the following matters:
<p><b>C1</b> A golf course, if it meets the built form standards in Rule 18.2.3, and provided that:</p> <p>c. a Landscape Plan has been prepared by a suitably qualified and experienced expert showing:</p> <ul style="list-style-type: none"> <li>i. the concept design and landscape character;</li> <li>ii. planting and landscape treatment proposals;</li> <li>iii. site boundary and proposed boundary treatments, including the retention of the existing screen planting and bunds around the present quarry site which is to be retained until the completion of the golf course construction;</li> <li>iv. fairway layout and golf paths;</li> <li>v. biodiversity conservation area(s);</li> <li>vi. open space recreation area boundaries;</li> <li>vii. clubhouse and carpark, vehicle and pedestrian accessways and entrances; and</li> <li>viii. proposed final contours and levels.</li> </ul> <p>d. a bond is entered into between the Council and Fulton Hogan Limited and/or Templeton Golf Club to ensure completion of construction of the golf course and associated facilities described in Rule 17.6A.1 c. iii..</p>	<ul style="list-style-type: none"> <li>a. The extent to which conditions are required in order to ensure: <ul style="list-style-type: none"> <li>i. the character of the golf course is of a dry grassland indigenous to the Canterbury Plains;</li> <li>ii. implementation of the Landscape Plan;</li> <li>iii. creation of the Biodiversity Conservation Ares(s) specified in the contract as required by Rule 17.6A.1c.iii.3;</li> <li>iv. creation of a non-golf open space as specified in the contract as required by Rule 17.6A.1c.iii.4;</li> </ul> </li> <li>b. Details of a bond or other security instrument of sufficient sum to ensure completion of construction of the golf course and associated facilities in accordance with Rule 17.6A.1 c. iii.;</li> <li>c. The extent to which conditions are required to ensure that 18 golf course holes are available for play at all times across the Rural Quarry Templeton Zone and the Open Space Community Parks Zone (Templeton).</li> </ul>

### 18.2.4.1.2 Discretionary Activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	A major sports facility other than a golf course.

## 18.3 Rules - Open Space Metropolitan Facilities Zone

### 18.3.1 *[This number is not used]*

### 18.3.2 Activity status tables – Open Space Metropolitan Facilities Zone

#### 18.3.2.1 Permitted activities

The activities listed below are permitted activities in the Open Space Metropolitan Facilities Zone (other than the areas identified in 18.3.4) if they meet any activity specific standards set out in the following table and the built form standards in Rule 18.3.3.

Activities may also be controlled, restricted discretionary, discretionary or non-complying as specified in Rules 18.3.2.2, 18.3.2.3, 18.3.2.4, 18.3.2.5 and 18.3.2.6.

Activity		Activity specific standards
<b>P2</b>	Minor sports facility.	a. At the Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton, any minor sports facilities shall be limited to facilities for the purposes of or ancillary to recreational boating and marine recreation activities. a. In all other areas - Nil.
<b>P3</b>	Major sports facility.	a. At the Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton, any major sports facilities shall be limited to: <ul style="list-style-type: none"> <li>i. facilities for the purposes of or ancillary to recreational boating and marine recreation activities;</li> <li>ii. boat ramps, jetty and recreational boat launching facilities;</li> <li>iii. boat storage, sheds, and repair and maintenance facilities;</li> <li>iv. sports club rooms/clubhouse; and</li> <li>v. scout hall facilities.</li> </ul> b. In all other areas shall be limited to sites greater than 10,000 m <sup>2</sup> in area, except for:

Activity		Activity specific standards
		i. the Rollerdrome Reserve, 19 Garvins Road, Hornby.
<b>P4</b>	Gymnasium.	a. Excludes health care facilities.
<b>P5</b>	Ancillary sports and fitness health care services.	Nil.
<b>P6</b>	Park management activity and /or park management facility.	Nil.
<b>P7</b>	Public amenities.	a. Any public amenities building containing toilets and/or changing rooms shall be setback a minimum of 20 metres from the boundary with any residential zone.
<b>P8</b>	Conservation activity.	Nil.
<b>P9</b>	Customary harvesting.	Nil. Note: this rule does not override the requirements to obtain permission of the landowner or administrator for any customary harvesting of taonga species.
<b>P10</b>	Public artwork.	Nil.
<b>P11</b>	Ancillary office activity.	a. The combined floor area of all ancillary office activities shall not exceed 10% of the gross floor area of all buildings on the site.
<b>P12</b>	Ancillary retail activity.	a. Shall be limited to sites greater than 10,000 m <sup>2</sup> in area; and a. The combined floor area of all ancillary retail activities shall not exceed 10% of the gross floor area of all buildings on the site.
<b>P13</b>	Food and beverage outlet.	a. Shall be accessory to recreation, major and/or minor sport activities on the same site; and b. The combined floor area of all food and beverage outlets shall not exceed 10% of the gross floor area of all buildings on the site.
<b>P14</b>	Conference and function facilities.	a. Shall be accessory to recreation, major and/or minor sport activities on the same site.
<b>P15</b>	Guest accommodation.	Unless specified in P21, shall be: a. Accessory to recreation, major and/or minor sport activities on the same site; and b. Limited to sites listed in 18.2 e. - Table 1;
<b>P16</b>	Community activities and/or community facilities.	Shall: a. exclude health care facilities; and b. be accessory to or co-located with recreation facilities or major or minor sports facilities on the same site.
<b>P17</b>	Community market.	a. All community markets not involving any noise amplified activity shall comply with noise provisions in Rule 6.1.4.1.1.1 and Table 1;

Activity	Activity specific standards
	b. Any community market involving noise amplified activity shall comply with noise provisions in Rule 6.1.4.2.4 as if it were a temporary activity.
<b>P18</b> Residential unit/activity.	<p>Unless specified in P21, shall:</p> <ul style="list-style-type: none"> <li>a. Be located in an existing residential unit; or</li> <li>b. Be located within a new residential unit provided that: <ul style="list-style-type: none"> <li>i. it is used for caretaker and site management purposes only; and</li> <li>ii. it is located on a site greater than 10,000 m<sup>2</sup>; and</li> <li>iii. it is not located within the Air Noise Contour (50 dB Ldn); and</li> <li>iv. there is only one residential unit on any site;</li> </ul> </li> </ul>
<b>P19</b> Use of motorised craft.	<p>Shall be limited to:</p> <ul style="list-style-type: none"> <li>a. The Roto Kohatu Park water body (off Sawyers Arms Road).</li> </ul>
<b>P20</b> Motorised sports activity.	Motorised sport activities shall be limited to the existing facilities of the Canterbury Kart Club site at 92 Carrs Road.
<b>P21</b> The following activities within a building listed as a heritage item: <ul style="list-style-type: none"> <li>i. recreation activity and/or facility;</li> <li>ii. guest accommodation;</li> <li>iii. residential activity;</li> <li>iv. cultural facility.</li> </ul>	<ul style="list-style-type: none"> <li>a. Residential activity shall be limited to no more than two residential units.</li> <li>b. Irrespective of anything to the contrary in this Plan, any activities within a heritage item or heritage setting shall be exempt from compliance with Rules in 7.2.3 in relation to parking and loading – Open Space Zones</li> </ul> <p>Note: Refer also to Rule 9.3.3 for rules relating to historic heritage places.</p>
<b>P22</b> Emergency service facilities, including Coastguard Canterbury Emergency services.	Nil
<b>P23</b> Facilities for servicing boats including: <ul style="list-style-type: none"> <li>i. the supply of potable water to boats;</li> <li>ii. the transfer of effluent wastes from boats to land based facilities;</li> <li>iii. the collection and transfer of refuse from boats.</li> </ul>	<p>Shall be limited to:</p> <ul style="list-style-type: none"> <li>a. The Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton.</li> </ul>
<b>P24</b> Parking areas.	<ul style="list-style-type: none"> <li>a. On sites adjoining a Residential zone, trees shall be provided adjacent to the shared boundary at a ratio of at least 1 tree for every 10 metres of the boundary or part thereof, and evenly spaced.</li> <li>b. In addition to the above: <ul style="list-style-type: none"> <li>i. one tree shall be planted for every 5 car parking</li> </ul> </li> </ul>



Activity	Activity specific standards
	<p>spaces provided between buildings and the street; and</p> <p>ii. trees shall be planted within or adjacent to the car parking area at the front of the site.</p> <p>b. For guidance and information on tree species, refer to General Rules and Procedures, Appendix 6.11.6, Part B.</p>
<b>P25</b> Maintenance and upgrade of existing flood and/or bank erosion mitigation and protection works, where undertaken by the Council, Canterbury Regional Council or the Crown.	Nil.

### 18.3.2.2 Controlled activities

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved, as set out in the following table.

Activity	The Council's control shall be limited to the following matters:
<b>C1</b> New buildings and structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Council, Canterbury Regional Council or the Crown.	<p>a. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed.</p> <p>b. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed.</p> <p>c. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable.</p>

### 18.3.2.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table.

Activity	The Council's discretion shall be limited to the following matters:
<b>RD1</b> Any activity listed in Rules 18.3.2.1 P2-P3 that does not meet one or more of the activity specific standards.	<p>a. Minor and major sports facilities – Rule 18.7.1.</p>

Activity		The Council's discretion shall be limited to the following matters:
<b>RD2</b>	Any activity listed in Rule 18.3.2.1 P4 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2.</li> <li>b. Traffic generation and access – Rule 18.7.3.</li> <li>c. Hours of Operation – Rule 18.7.4.</li> </ul>
<b>RD3</b>	Any activity listed in Rule 18.3.2.1 P7 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Public amenities - Rule 18.7.6.</li> </ul>
<b>RD4</b>	Any activity listed in Rules 18.3.2.1 P11 - P15 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2.</li> <li>b. Traffic generation and access – Rule 18.7.3.</li> </ul>
<b>RD6</b>	Any activity listed in Rule 18.3.2.1 P16 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2.</li> </ul>
<b>RD7</b>	Any activity listed in Rule 18.3.2.1 P17 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Hours of operation – Rule 18.7.4.</li> <li>b. Traffic generation and access – Rule 18.7.3.</li> <li>c. Matters of Discretion - Rule 6.1.4.3 (General Rules – 6.1 Noise)</li> </ul>
<b>RD8</b>	Any activity listed in Rule 18.3.2.1 P21 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Residential activities – Rule 18.7.12.</li> <li>b. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities - Rule 18.7.2</li> </ul>
<b>RD9</b>	Any activity listed in Rule 18.3.2.1 P24 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Landscaping and trees – Rule 18.7.13.</li> </ul>
<b>RD10</b>	Any activity listed in Rules 18.3.2.1 P1 – P25 that does not meet one or more of the built form standards in Rule 18.3.3, unless otherwise specified	<p>As relevant to the built form standard that is not met:</p> <ul style="list-style-type: none"> <li>a. For rules 18.3.3.1, 18.3.3.2 and 18.3.3.3 - Setback from boundaries – Rule 18.7.16.</li> <li>b. Outdoor storage – Rule 18.7.17.</li> <li>c. Building height - Rule 18.7.18.</li> <li>d. Recession Planes – Rule 18.7.19.</li> <li>e. Water supply for firefighting – Rule 18.7.20.</li> </ul>
<b>RD15</b>	[Deferred to Chapter 6 General Rules]	<ul style="list-style-type: none"> <li>a. [Deferred to Chapter 6 General Rules]</li> </ul>

Activity		The Council's discretion shall be limited to the following matters:
<b>RD16</b>	Any activity listed in Rules 18.3.2.3 RD1 - RD10 located within the Coastal Environment overlay area.	a. Matters of discretion for activities in the Coastal Environment in 9.4.3.

### 18.3.2.4 Discretionary activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	Any building that does not comply with built form standard 18.3.3.6.
<b>D2</b>	Any activity listed in Rule 18.3.2.1 P18 that does not meet one or more of the activity specific standards.
<b>D4</b>	Any activity listed in Rule 18.3.2.1 P1 that do not comply with one or more of the activity specific standards.
<b>D5</b>	Any activity not provided for as a permitted, controlled, restricted discretionary or non-complying activity.

### 18.3.2.5 Non-complying activities

The activities listed below are non-complying activities.

Activity	
<b>NC1</b>	Any activity listed in Rules 18.3.2.1 P19 and P20 that does not meet one or more of the activity specific standards.
<b>NC3</b>	Sensitive activities within the Air Noise Contour (50 dB Ldn) as defined on the Planning Maps.
<b>NC4</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ul style="list-style-type: none"> <li>i. within 12 metres of the centre line of a 110kV or 220kV National grid transmission line or within 12 metres of a foundation of an associated support structure; or</li> <li>ii. within 10 metres of the centre line of a 66kV National grid transmission line or within 10 metres of a foundation of an associated support structure.</li> </ul> <p>b. Fences within 5 metres of a National grid transmission line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Transpower New Zealand Limited.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>1. The National grid transmission lines are shown on the planning maps.</li> <li>2. Vegetation to be planted around the National grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to National grid transmission lines. Buildings and activities in the vicinity of National grid</li> </ul>

Activity	
	transmission lines must comply with the NZECP 34:2001.
<b>NC5</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ul style="list-style-type: none"> <li>ii. within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>iii. within 5 metres of the centre line of a 33kV and the Heathcote to Lyttelton 11kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ul> <p>b. Fences within 5 metres of a 66kV, 33kV and the Heathcote to Lyttelton 11kV electricity distribution line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>1. The electricity distribution lines are shown on the planning maps.</li> <li>2. Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activities in the vicinity of or electricity distribution lines must comply with the NZECP 34:2001.</li> </ul>

## 18.3.3 Built form standards – Open Space Metropolitan Facilities Zone

### 18.3.3.1 Road boundary setback

The minimum building setback from road boundaries shall be as follows:

	Applicable to	Standard
a.	All sites, other than listed below	10 metres
b.	<ul style="list-style-type: none"> <li>i. Shirley Golf Course</li> <li>ii. Avondale Golf Course</li> <li>iii. Waimairi Beach Golf Course</li> </ul>	20 metres
c.	<ul style="list-style-type: none"> <li>i. Riccarton Racecourse</li> <li>ii. Addington Racecourse</li> <li>iii. Christchurch Sports and Entertainment Centre at 55 Jack Hinton Drive, Addington (currently known as Horncastle Arena)</li> </ul>	20 metres

	Applicable to	Standard
d.	The Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton	No setback

### 18.3.3.2 Internal boundary setback

The minimum building setback from an internal boundary shall be as follows:

	Applicable to	Standard
a.	All sites that adjoin a residential or open space zone, other than listed below	20 metres
b.	i. Christchurch Park ii. Kearneys Park (Linfield Cultural Recreational Sports Club - 56 Kearneys Road) iii. Rugby Park iv. Wilding Park v. Shirley Golf Course vi. Avondale Golf Course vii. Waimairi Beach Golf Course viii. Lancaster Park	10 metres
c.	Any buildings, balconies or decks on sites adjacent to a designated railway corridor	4 metres from the designated railway corridor
d.	The Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton	No setback

### 18.3.3.3 Outdoor storage

- a. Any outdoor storage area shall not be located within the minimum setbacks specified in Rules 18.3.3.1 and 18.3.3.2.
- b. Outdoor storage area shall be screened from adjoining sites and roads by either planting, wall(s), fence(s), or any combination of these to at least 1.8 metres in height along the length of the storage area. Where such screening is by way of planting it shall be for a minimum depth of 3 metres.

### 18.3.3.4 Building height

The maximum height of any building shall be as follows:

	Applicable to	Standard
a.	All sites, other than as specified below	20 metres
b.	i. Christchurch Park	8 metres

	<b>Applicable to</b>	<b>Standard</b>
	ii. Kearneys Park (Linfield Cultural Recreational Sports Club - 56 Kearneys Road) iii. Rugby Park iv. Wilding Park v. Shirley Golf Course vi. Avondale Golf Course vii. Waimairi Golf Course viii. Beach Golf Course	
c.	The Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton	15 metres
d.	i. Addington Racecourse ii. Christchurch Sports and Entertainment Centre at 55 Jack Hinton Drive, Addington (currently known as Horncastle Arena)	25 metres
e.	In the Development Plan area shown in Appendix 18.8.1 Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park), except as specified in f. below.	14 metres
f.	Where any building or part of a building is within 100 metres of a residential zone boundary within the Development Plan area shown in Appendix 18.8.1 Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park).	8 metres

### 18.3.3.5 Recession planes

Where an internal site boundary adjoins a residential zone, no part of any building shall project beyond a building envelope contained by a recession plane measured at any point 2.3 metres above the internal site boundary in accordance with the diagrams in 18.8.3 - Appendix 1.

Where sites are located within a Flood Management Area, recession plane breaches created by the need to raise floor levels will not require written approvals and shall not be limited or publicly notified.

### 18.3.3.6 Site coverage and impervious surfaces

- a. The maximum percentage of the site covered by buildings shall be as specified in column A of Table 1.
- b. The maximum percentage of any site covered by impervious surfaces (excluding walkways, tracks, cycle ways, artificial playing surfaces, and buildings) shall be as specified in column B of Table 1.

**Table 1**

	<b>Applicable to</b>	<b>A (Site coverage)</b>	<b>B (Impervious surfaces)</b>
a.	All sites unless specified below in b. to g.	20%	30%
b.	i. Wilding Park ii. Christchurch Park iii. Rugby Park iv. Western Park v. Kearneys Park vi. The Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton	10%	n/a
c.	i. Shirley Golf Course ii. Avondale Golf Course iii. Waimairi Beach Golf Course	1%	5%
d.	i. Porritt Park ii. Addington Racecourse vii. Riccarton Racecourse	5%	30%
e.	Lancaster Park Stadium	50%	n/a
f.	Christchurch Sports and Entertainment Centre at 55 Jack Hinton Drive, Addington (currently known as Horncastle Arena)	40%	n/a
g.	In the Development Plan area shown in Appendix 18.8.1 Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park).	5%	5%

### 18.3.3.7 Water supply for firefighting

- a. Provision for sufficient water supply and access to water supplies for firefighting shall be made available to all buildings (excluding accessory buildings that are not habitable buildings) via Council's urban reticulated system (where available) in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS: 4509:2008).
- b. Where a reticulated water supply compliant with SNZ PAS:4509:2008 is not available, or the only supply available is the controlled restricted rural type water supply which is not compliant with SNZ PAS:4509:2008, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008.

Any application made in relation to this rule shall not be publicly notified or limited notified other than to the New Zealand Fire Service Commission.

### 18.3.3.8 Building footprint

In the Development Plan area shown in Appendix 18.8.1 Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park), the maximum footprint of any single building, excluding playground equipment, shall be 5,000 m<sup>2</sup>.

### 18.3.3.9 Landscaping and trees

- a. In the Development Plan area shown in Appendix 18.8.1 Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park):
  - i. A 3 metre wide landscaped area shall be established along all road boundaries and shall be planted with a minimum of 1 tree for every 10 metres of frontage.
  - ii. Trees shall not be planted more than 15 metres apart or closer than 5 metres.
  - iii. Adjacent to State Highways 73 and 75, planting shall be of sufficient density, in conjunction with mounding, to screen activities within the Agribusiness Centre from the view of drivers on those highways.
  - iv. The landscaped area along the Curletts Road (State Highway 75) frontage shall be mounded to a height of at least 1.5 metres and planted in accordance with a. to c. above to minimise the transmission of noise to residential areas on the other side of Curletts Road and to screen activities within the Agribusiness Centre from the view of drivers on that road.
  - v. On all sealed parking areas designed to accommodate more than 100 cars, one tree shall be planted for every 5 car parking spaces.

## 18.3.4 Area Specific rules – Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park)

### 18.3.4.1 Activity status tables – Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park)

#### 18.3.4.1.1 Permitted activities

The activities listed below are permitted activities in the Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park) Development Plan area if they comply with any activity specific standards set out in this table and the built form standards in Rule 18.3.3.

Activities may also be controlled, restricted discretionary, discretionary or non-complying, or prohibited activities as specified in Rules 18.3.4.1.2, 18.3.4.1.3, 18.3.4.1.4, 18.3.4.1.5 and 18.3.4.1.6.

Activity		Activity Specific Standards:
<b>P1</b>	Any activity listed in Rules 18.3.2.1 P1 – P12 and P14 - P23.	a. As specified for each activity in Rule 18.3.2.1. Note: Where a non-compliance with the applicable standards occurs, refer to Rule 18.3.2 to determine the applicable activity status.



Activity	Activity Specific Standards:
<b>P2</b> The display, sale and showing of livestock	a. Shall be limited to areas 1, 2 and 3 identified on the Development Plan in Appendix 18.8.1; b. Any activity involving the sale of livestock or side show entertainment shall not be located south of the 300m line shown on the Development Plan in Appendix 18.8.1; c. All permanently constructed livestock pavilions are to be roofed and have concrete floors; d. All livestock pavilions are to be cleared of effluent within 24 hours following any sale or show event involving the display of animals; e. All areas used for the regular loading and unloading of animals and parking and turning of stock trucks shall be sealed; f. Washdown facilities for vehicles transporting stock shall be provided on site; g. All effluent from sealed surfaces and all washdown water shall be disposed of to the city sewerage system.
<b>P3</b> Truck access, loading, parking and wash down facilities	a. Shall be limited to areas 1, 2 and 7 identified on the Development Plan in Appendix 18.8.1.
<b>P4</b> Model livestock farming, horticultural and forestry demonstration plots	a. Shall be limited to areas 3, 4, 5 and 6 identified on the Development Plan in Appendix 18.8.1.
<b>P5</b> Temporary activities including: <ul style="list-style-type: none"> <li>i. Canterbury Agricultural and Pastoral Show;</li> <li>ii. Trade displays and demonstrations;</li> <li>iii. Machinery demonstrations;</li> <li>iv. Short-term carnivals, bazaars, fairs and exhibitions;</li> <li>v. Tourist displays and activities showcasing agriculture and horticulture.</li> </ul>	a. Shall be limited to areas 1, 2, and 3 identified on the Development Plan in Appendix 18.8.1 provided that: <ul style="list-style-type: none"> <li>i. No activity involving the sale of livestock or side show entertainment shall be located south of the 300m line shown on the Development Plan; and</li> </ul> b. No activity shall involve the following: <ul style="list-style-type: none"> <li>i. outdoor musical events and concerts;</li> <li>ii. camping grounds;</li> <li>iii. motorised sports activity.</li> </ul>
<b>P6</b> Equestrian events and dog trialling.	a. Shall be limited to areas 1, 2, 3, 5 and 6 identified on the Development Plan in Appendix 18.8.1;
<b>P7</b> Animal pavilions and ancillary buildings.	a. Shall be limited to areas 1, 2 and 3 identified on the Development Plan in Appendix 18.8.1.
<b>P8</b> Facilities for the research and development of products and services for the agricultural and horticultural industries.	a. Shall be limited to areas 1, 2, and 3 identified on the Development Plan in Appendix 18.8.1.

Activity		Activity Specific Standards:
<b>P9</b>	Offices	a. Shall be limited to: <ul style="list-style-type: none"> <li>i. The day-to-day operations of the Agribusiness Centre and the Canterbury Saleyards.</li> <li>ii. Administration and professional offices of organisations providing services to the agricultural and horticultural industries.</li> <li>iii. A maximum tenancy size of 500m<sup>2</sup> GLFA.</li> <li>iv. Areas 1, 2, and 3 identified on the Development Plan in Appendix 18.8.1.</li> </ul>
<b>P10</b>	Ancillary buildings (including sheds and workshops)	a. Shall be limited to areas 1, 2, and 3 identified on the Development Plan in Appendix 18.8.1.
<b>P11</b>	Club rooms / Clubhouse	a. Shall be limited to: <ul style="list-style-type: none"> <li>i. Organisations which exhibit in the Agribusiness Centre;</li> <li>ii. Sports organisations;</li> <li>iii. Areas 1, 2, and 3 identified on the Development Plan in Appendix 18.8.1.</li> </ul>
<b>P12</b>	Food and beverage outlet	a. All buildings shall be limited to areas 1, 2, and 3 identified on the Development Plan in Appendix 18.8.1; b. Any activity shall have a maximum tenancy size of 250 m <sup>2</sup> GLFA.
<b>P13</b>	Parking areas	a. All permanent parking areas shall be limited to areas 1, 2, 3 and 7 identified on the Development Plan in Appendix 18.8.1. b. Where the parking area adjoins a Residential zone, trees shall be provided adjacent to the shared boundary at a ratio of at least 1 tree for every 10 metres of the boundary or part thereof, and evenly spaced. c. In addition to the above: <ul style="list-style-type: none"> <li>i. one tree shall be planted for every 5 car parking spaces provided between buildings and the street; and</li> <li>ii. trees shall be planted within or adjacent to the car parking area at the front of the site.</li> </ul> d. Any temporary parking areas shall be limited to areas 4 and 5 identified on the Development Plan in Appendix 18.8.1.
<b>P14</b>	Residential unit/activity	a. Any residential activity shall be limited to a maximum of two residential units used for caretaker and/or site management purposes only;

Activity		Activity Specific Standards:
		b. Any residential activity shall be limited to area 3 identified on the Development Plan in Appendix 18.8.1.
<b>P15</b>	Maintenance and upgrade of existing flood and/or bank erosion mitigation and protection works, where undertaken by the Christchurch City Council, Canterbury Regional Council or the Crown.	Nil

### 18.3.4.1.2 Controlled activities

The activities listed below are controlled activities.

Activity		The Council's control shall be limited to the following matters:
<b>C1</b>	New buildings / structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Christchurch City Council, Canterbury Regional Council or the Crown.	<ul style="list-style-type: none"> <li>a. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed.</li> <li>b. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed.</li> <li>c. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable.</li> </ul>

### 18.3.4.1.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table:

Activity		The Council's discretion shall be limited to the following matters:
<b>RD2</b>	Any activity listed in Rules 18.3.4.1.1 P2 – P15 that does not meet one or more of the built form standards in Rule 18.3.3.  Refer to relevant built form standard for provisions regarding notification and written approval.	<p>As relevant to the built form standard that is not met:</p> <ul style="list-style-type: none"> <li>a. For rules 18.3.3.1, 18.3.3.2, 18.3.3.3 and 18.3.3.9 - Setback from boundaries – 18.7.16.</li> <li>b. Outdoor storage – 18.7.17.</li> <li>c. Building height – 18.7.18.</li> <li>d. Recession planes – 18.7.19.</li> </ul>

Activity		The Council's discretion shall be limited to the following matters:
		e. For rules 18.3.3.6 and 18.3.3.8 - Building footprint, site coverage and impervious surfaces – 18.7.22. f. Water supply for firefighting – 18.7.20. g. Landscaping and trees – 18.7.13.
<b>RD3</b>	[Deferred to Chapter 6 General Rules]	[Deferred to Chapter 6 General Rules]

#### 18.3.4.1.4 Discretionary Activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	Any vehicular access to the Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park) that does not meet the following requirements: <ol style="list-style-type: none"> <li>Vehicular access from/to both Christchurch Southern Motorway and Curletts Roads shall generally be as shown in Appendix 18.8.1.</li> <li>Access for livestock vehicles shall only be from the Christchurch Southern Motorway.</li> <li>There shall be no vehicular access between the Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park) Areas 1, 2 and 3 as shown in Appendix 18.8.1 and the reserve areas adjoining their southern and western boundaries.</li> </ol>
<b>D2</b>	Any activity listed in Rule 18.3.4.1.1 P3 – P14 that does not meet one or more of the activity specific standards, unless otherwise specified in 18.3.4.1.5.

#### 18.3.4.1.5 Non-complying activities

The activities listed below are non-complying activities.

Activity	
<b>NC1</b>	Any activity listed in Rules 18.3.4.1.1 P2 – P14 that do not comply with any activity specific standard that relates to their location within the Area boundaries in the Development Plan in Appendix 18.8.1.
<b>NC2</b>	Any activity listed in Rule 18.3.4.1.1 P5 involving the sale of livestock or side show entertainment south of the 300m line shown on the Development Plan in Appendix 18.8.1.
<b>NC3</b>	Any activity listed in Rule 18.3.4.1.1 P2 that does not meet one or more of the activity specific standards.
<b>NC4</b>	Any activity that involves the following: <ol style="list-style-type: none"> <li>outdoor musical events and concerts;</li> <li>camping grounds;</li> <li>motorised sports facility.</li> </ol>

#### 18.3.4.1.6 Prohibited activities

The activities listed below are prohibited activities.

Activity	
<b>PR1</b>	<p>Any activities, other than parking areas, within the 150m exclusion area from the southern boundary of Wigram Road opposite its intersection with Treffers Road, as shown on the Development Plan in Appendix 18.8.1.</p> <p>This restriction shall only apply while the site to the north-east of the intersection of Treffers and Wigram Roads is occupied by Bayer New Zealand Limited or is used for any activity which has the same or similar effects relating to the storage and/or manufacture of hazardous substances, as the activities undertaken on that site by Bayer New Zealand Limited.</p>

### 18.3.5 Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium)

- a. The temporary Christchurch Stadium permitted by the Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium), including but not limited to all temporary structures and portable facilities (including all grandstands, corporate boxes, hospitality facilities, ticket sales, pedestrian entry structures, changing rooms, toilets, first aid and medical rooms, food, souvenirs, sporting goods and liquor sales, scoreboards and display screens, committee and officials rooms, broadcasting facilities, services, camera towers, equipment and signage) shall be removed from the site not later than 3 months from 31 December 2027 or such earlier date as a replacement venue is fully operational, unless permitted pursuant to the rules of the underlying Open Space Metropolitan Facilities Zone or authorised by resource consent.
- b. The stadium will cease operating under the permitted activity standards or any resource consent approved under this temporary planning framework on 31 December 2027 or such earlier date that a replacement venue is fully operational, and from that point Rules 18.3.2 and 18.3.3 shall apply.
- c. The rules of the Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) are outlined in 18.3.5.1. Until 31 December 2027, or such earlier time as a replacement venue is fully operational, Rules 18.3.5.1 and 18.3.5.2 and the Development Plan in Appendix 18.8.2 shall apply.
- d. Note: For the avoidance of doubt, the Christchurch stadium is a temporary sports and entertainment facility established under section 27 of the Canterbury Earthquake Recovery Act 2011. As it is a temporary activity it is intended that:
  - i. The temporary Christchurch Stadium shall create no existing use rights; and
  - ii. For the purposes of any application for resource consent for the site not related to the construction or operation of the temporary Christchurch Stadium, the temporary Christchurch Stadium shall not form part of the environment for the purposes of any assessment required under section 104(1)(a) of the Resource Management Act 1991.

### 18.3.5.1 Activity status tables – Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium)

#### 18.3.5.1.1 Permitted Activities

The activities listed below are permitted activities in the Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) identified on the Development Plan in Appendix 18.8.2 if they comply with the activity specific standards set out in this table and the built form standards in Rule 18.3.5.2.

Activities may also be controlled, restricted discretionary, discretionary, non-complying or prohibited Activities as specified in Rules 18.3.5.1.2, 18.3.5.1.3, 18.3.5.1.4, 18.3.5.1.5 and 18.3.5.1.6.

Activity		Activity specific standards:
<b>P1</b>	Sporting and non-sporting events not requiring the use of floodlights and excluding concerts	<ul style="list-style-type: none"> <li>a. Use of the stadium for events shall be completed by 11pm Monday to Sunday;</li> <li>b. The noise generated by the events (excluding crowd noise and concerts) shall not exceed 65 dB LAeq;</li> <li>c. Lighting shall not exceed an illuminance level of 100 lux when measured both vertically and horizontally at the boundary and 40 lux when measured both vertically and horizontally at the window of any residential unit;</li> <li>d. All events shall have an event day operational plan prepared in accordance with Rule 18.3.5.2.5.</li> </ul>
<b>P2</b>	Night sporting events and non-sporting events requiring the use of flood lights	<ul style="list-style-type: none"> <li>a. All events, excluding sports practice and training sessions, shall:               <ul style="list-style-type: none"> <li>i. be limited to 25 events in any rolling twelve month period; and</li> <li>ii. be limited to a capacity of 25,000 seated patrons;</li> </ul> </li> <li>b. Use of the stadium for events shall be completed by 11pm Monday to Sunday;</li> <li>c. The noise generated by all events (excluding crowd noise and concerts) shall not exceed 65 dB LAeq;</li> <li>d. Use of stadium floodlighting for events is limited to no more than two nights in any week starting Monday.</li> <li>e. Lighting shall not exceed an illuminance level of 100 lux when measured both vertically and horizontally at the boundary and 40 lux when measured both vertically and horizontally at the window of any residential unit;</li> <li>f. Use of stadium floodlights at full illumination level shall be finished by 11pm Monday to Sunday with the floodlights switched to an average level no higher than 100 lux on the field after an event is finished and lasting not longer than 30 minutes thereafter to allow for safe crowd movement from the site. Thereafter the lights shall be reduced to 50 lux on the field to enable cleaning. Within 90 minutes from the finish of the event the lights shall be turned off;</li> <li>g. Stadium floodlights shall be directed towards the pitch;</li> </ul>
<b>P3</b>	Sports practice and training sessions including the use of limited floodlighting	

Activity		Activity specific standards:
		h. All events shall have an event day operational plan prepared in accordance with Rule 18.3.5.2.5.
<b>P4</b>	Concerts	<p>a. Shall be limited to a capacity of 34,000 patrons;</p> <p>b. May include one concert practice session per concert;</p> <p>c. The noise generated by concerts shall not exceed 85 dB LAeq;</p> <p>d. Use of stadium floodlighting for events is limited to no more than two nights in any week starting Monday.</p> <p>e. Lighting shall not exceed an illuminance level of 100 lux when measured both vertically and horizontally at the boundary and 40 lux when measured both vertically and horizontally at the window of any residential unit;</p> <p>f. Use of stadium floodlights at full illumination level shall be finished by 10.00 pm, Sunday to Thursday and by 11.00 pm Friday and Saturday or any public holiday with the floodlights switched to an average level no higher than 100 lux on the field after an event is finished and lasting not longer than 30 minutes thereafter to allow for safe crowd movement from the site. Thereafter the lights shall be reduced to 50 lux on the field to enable cleaning. Within 90 minutes from the finish of the event the lights shall be turned off;</p> <p>g. Stadium floodlights shall be directed towards the pitch;</p> <p>h. All events shall have an event day operational plan prepared in accordance with Rule 18.3.5.2.5.</p>
<b>P5</b>	Feature and directional lighting for use on an event night.	<p>a. Lighting shall not exceed an illuminance level of 100 lux when measured both vertically and horizontally at the boundary and 40 lux when measured both vertically and horizontally at the window of any residential unit.</p> <p>b. The temporary structures and facilities shall be located generally in accordance with the Development Plan in Appendix 18.8.2a. to d.</p>
<b>P6</b>	Construction and use of temporary structures and portable facilities designed to assist in broadcasting events held at the stadium	<p>a. The broadcasting structures and facilities shall be limited to:</p> <ul style="list-style-type: none"> <li>i. production facilities,</li> <li>ii. technical services and facilities,</li> <li>iii. camera towers and transmission equipment.</li> </ul> <p>b. The temporary structures and facilities shall be located generally in accordance with the Development Plan in Appendix 18.8.2a. to d.</p>
<b>P7</b>	Directional way finding, stadium naming advertising and sponsorship signage and images to be placed on temporary grandstands and entrances	<p>a. Only directional way finding signs and images are permitted on the North Stand facing the Residential Medium Density Zone boundary.</p>

Activity		Activity specific standards:
<b>P8</b>	Removal of vegetation	a. No vegetation shall be removed from areas identified generally in the Development Plan in Appendix 18.8.2 c.
<b>P9</b>	Construction and use of temporary structures used for stadium administration including storage sheds, workshops, and administrative offices	a. The temporary structures and facilities shall be located in accordance with Development Plan in Appendix 18.8.2a. to d.
<b>P10</b>	Sale of alcohol to persons attending events at the stadium	a. Shall be located generally in accordance with the areas identified in the Development Plan in Appendix 18.8.2d.
<b>P11</b>	Construction and use of temporary hospitality facilities ancillary to sporting and non-sporting events (including concerts)	
<b>P12</b>	Car parking, vehicle and pedestrian access and egress points, and a paved pedestrian concourse	a. Shall be located generally in accordance with the Development Plan in Appendix 18.8.2c.
<b>P13</b>	Site preparation activities for events at the stadium	a. All events shall have an event day operational plan prepared in accordance with Rule 18.3.5.2.5.
<b>P15</b>	Construction activities (including demolition of existing stands and facilities)	a. Shall be located generally in accordance with the Development Plan in Appendix 18.8.2c. b. Any construction, excavation or demolition works shall be carried out in accordance with an approved Construction Management Plan as specified in 18.3.5.2.5 (i.)
<b>P16</b>	Construction and use of temporary structures and portable facilities designed to cater for spectators and participants at events held at the stadium (including grandstands, corporate boxes, ticket sales, pedestrian entry structures, changing rooms, toilets, first aid and medical rooms, food and beverage, souvenirs, sporting goods and liquor sales, score boards and officials rooms).	
<b>P17</b>	Excavation and replacement of the playing surface.	

### 18.3.5.1.2 Controlled activities

The activities listed below are controlled activities.

Any application arising from the requirements of this rule will not require written approvals and shall not be limited or publicly notified.



Activity		The Council's control shall be limited to the following matters:
<b>C1</b>	Creation of new vehicle and pedestrian access points not generally in accordance with the Development Plan in Appendix 18.8.2c.	<ul style="list-style-type: none"> <li>a. Traffic effects associated with the new location and layout of the access / egress points;</li> <li>b. The provision of adequate lighting and the effects on the neighbouring residential properties; and</li> <li>c. The design of access / egress routes to ensure public safety.</li> </ul>
<b>C2</b>	Removal of vegetation in areas identified on the Development Plan in Appendix 18.8.2c. as to be retained.	<ul style="list-style-type: none"> <li>a. The replacement where appropriate on the site of suitable native vegetation to enhance the ecological and landscape character of the area.</li> </ul>
<b>C3</b>	Use of artificial lighting in excess of 100 lux measured at the boundary of the Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) and 40 lux at the window of any residential unit.	<ul style="list-style-type: none"> <li>a. The proximity of sensitive land uses, such as residential activities, guest accommodation or healthcare facility, and the nature of any adverse effects on them;</li> <li>b. The duration of the activity and its timing;</li> <li>c. The frequency of the use;</li> <li>d. The special nature of the use; and</li> <li>e. Relevant standards and guidelines for lighting effects.</li> </ul>
<b>C4</b>	Any activity listed in Rules 18.4.5.1.1 P1 – P3 that results in amplified noise levels in excess of those specified in the activity specific standards.	<ul style="list-style-type: none"> <li>a. The proximity of sensitive land uses, such as residential activities, guest accommodation or healthcare facility;</li> <li>b. The duration of the activity and its timing;</li> <li>c. The frequency of the use; and</li> <li>d. The special nature of the use.</li> </ul>
<b>C5</b>	Any activity listed in Rule 18.3.5.1.1 P7 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. The matters of discretion for signage set out in 6.8.5.</li> </ul>

### 18.3.5.1.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table.

Activity		The Council's discretion shall be limited to the following matters:
<b>RD1</b>	Any activity listed in Rules 18.4.5.1.1 P1 – P17 that does not meet one or more of the built form standards in Rule 18.3.5.2.	<p>For any application:</p> <ul style="list-style-type: none"> <li>a. Activities and development within the Open Space Metropolitan Facilities Zone – Temporary Christchurch Stadium – 18.7.8.</li> </ul> <p>And as relevant to the built form standard that is not met:</p> <ul style="list-style-type: none"> <li>a. Setback from boundaries – 18.7.16.</li> <li>b. Landscaping and trees – 18.7.13.</li> <li>c. Building height – 18.7.18.</li> <li>d. Recession planes – 18.7.19.</li> </ul>

Activity		The Council's discretion shall be limited to the following matters:
<b>RD4</b>	Any activity listed in Rules 18.3.5.1.1, P1 – P13 and P15-P17 that does not meet one or more of the activity specific standards unless otherwise specified as a controlled activity in Rule 18.3.5.1.2.	a. Activities and development within the Open Space Metropolitan Facilities Zone – Temporary Christchurch Stadium – 18.7.8. b. Matters of Discretion - 6.1.4.3 (General rules - Noise)

#### 18.3.5.1.4 Discretionary activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	Any activity not provided for as a permitted, controlled or restricted discretionary activity.

### 18.3.5.2 Built form standards – Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium)

#### 18.3.5.2.1 Building platforms and setbacks from an internal boundary

Structures and buildings shall be located generally in the two building platforms illustrated on the Development Plan, Appendix 18.8.2a, except that structures remaining on site for less than one month may be located in the playing field.

#### 18.3.5.2.2 Vegetation and landscaping

- Landscaping shown on the Development Plan in Appendix 18.8.2.c. shall be maintained at all times in a tidy state, and any diseased or damaged plants shall be replaced as soon as practicable.
- A solid fence of not less than 1.8 metres in height shall be located on the north eastern boundary of the site with the Residential Medium Density zoned land.

#### 18.3.5.2.3 Maximum building height

The maximum height of any building shall be as follows:

	Applicable to	Standard
a.	All buildings and structures located generally within the area of building platform 1 area shown on the Development Plan in Appendix 18.8.2.a.	22 metres
b.	All buildings and structures located generally within the area of building platform 2 shown on the Development Plan in Appendix 18.8.2.a. except as specified in c. below.	4 metres
c.	Any way finding signage and structures, sculptures and entrance gates located generally within areas 7 and 8 shown on Development Plan in Appendix 18.8.2.a.	9 metres

	Applicable to	Standard
d.	Light towers located generally within areas 9 shown on the Development Plan in Appendix 18.8.2.a.	40 metres

#### 18.3.5.2.4 Recession planes

- a. No part of any building located along the north eastern boundary with the Residential Medium Density zone (except as specified in b. below) shall project beyond a building envelope contained by a 52 degree recession plane measured from any point 2.3 metres above the site boundary.
- b. The corporate box section of the North Stand may project into the recession plane in accordance with the diagrams in the Development Plan in Appendix 18.8.2.b.

Where sites are located within a Flood Management Area, recession plane breaches created by the need to raise floor levels will not require written approvals and shall not be limited or publicly notified.

#### 18.3.5.2.5 Event management plans

- a. An Area Liaison Committee for Event Management comprising representatives of the Stadium Trust, the Arena, Addington Raceway and the Council shall meet at least 4 times per annum for the purposes of:
  - i. determining and publishing a schedule of events and anticipated crowd numbers at the Addington location;
  - ii. Consulting on management plans as appropriate for events.
- b. Prior to any activity being undertaken at the stadium an event day operational plan (the Event Management Plan (EMP)) is required to be developed by the venue operator and submitted to the Council's Environmental Policy and Approvals Manager for certification that the matters set out in this rule are addressed. The EMP will be provided for certification no later than one month prior to the first event and shall address at least five typical event scenarios including:
  - i. concerts of up to 34,000 capacity;
  - ii. events of up to 25,000 capacity;
  - iii. events of up to 25,000 capacity combined with spectator activity nearby e.g. an event at CBS Arena;
  - iv. events of up to 18,000 capacity;
  - v. events of less than 8,000 capacity

Note - while these five scenarios will require specific event management plans to be developed, crowd based formulas may require further planning to recognise differences between for example, crowds for rugby and for league matches and different types of matches e.g. for a test match and for a domestic provincial match.

- c. Coordination of all relevant agencies - the EMP will specifically include a section which outlines a process for the proper coordination of all relevant agencies involved in managing events at the stadium including as appropriate:

- i. Police
- ii. Security companies (in ground and street security patrol)
- iii. Christchurch City Council parking, traffic and roading operations
- iv. NZTA (motorway)
- v. Environment Canterbury and Transport companies (bus and train)
- vi. St Johns (first aid, ambulance)
- vii. Fire service (if required)
- viii. Taxi operators
- ix. Tow truck operators
- x. Department of Labour occupational safety and health (if considered appropriate by the Stadium Operator)
- xi. Media
- xii. Caterers and merchandisers
- xiii. Cleaning contractors
- xiv. Traffic management contractor
- xv. Venue users

This section shall outline the process for convening prior to each event a briefing meeting of all key agencies to confirm arrangements for the particular event (including confirmation of the number and contact details of personnel involved from each agency).

- d. Lighting — the EMP will specifically include a section on lighting which includes provisions related to:
  - i. The initial commissioning of the lighting towers on installation.
  - ii. The testing of the lighting prior to events.
  - iii. Maximum standards and times of operation for the lighting used for both construction and training, including the process and timeframes for warming up and shutting down the lighting.
  - iv. Maximum standards and times of operation for feature lighting.
  - v. A monitoring regime to including the location of monitoring points.
  - vi. Mitigation measures proposed in the case of a restricted discretionary activity to exceed the lighting levels specified.
- e. Noise - the EMP will specifically include a section on noise which includes provisions related to:
  - i. Where and how noise will be measured, monitored and assessed.
  - ii. How the sound system will be calibrated.
  - iii. How fireworks involving detonation will be managed.

- iv. How noise from mechanical plant associated with the site will be managed.
  - v. Mitigations proposed in the case of a restricted discretionary activity to exceed the noise levels specified.
  - vi. Procedures for complaint recording and action, including liaison and cooperation with Council Noise Control Officers.
- f. Facilities - the EMP will specifically include a section on the provision and operation of facilities which will include provisions related to:
- i. Ensuring facilities for the storage, collection and disposal of refuse and recycling are provided on site at all times.
  - ii. Providing additional temporary public toilet facilities external of the stadium at the conclusion of every event.
  - iii. Management of any temporary hospitality facilities associated with an event including their set up, servicing and removal.
  - iv. Preparing a litter management plan and identifying an area within the vicinity of the stadium that shall be cleaned of rubbish and litter attributable to the activities at the stadium between the hours of 8.00am and 2.00pm on the day following any event. (The litter management plan will need to address how to limit any adverse effects of this operation).
  - v. Ensuring that there is no sale or supply of alcohol within car parking areas or other open areas outside of the stadium perimeter although the sale or supply of alcohol to persons in licensed areas inside the stadium is permitted up to 10.00pm Sunday to Thursday and 11pm Friday, Saturday and any public holiday.
  - vi. Taking all reasonable and practical steps to prevent the consumption of alcohol in car parking areas after events finish and shall, through the use of security staff or other means actively encourage patrons to leave the car parks as soon as practicable.
- g. Communication — the EMP will specifically include a section on communication, including provisions related to:
- i. Ensuring ongoing community liaison to inform each household and businesses within the vicinity of the stadium of forthcoming events and related arrangements not less than four times per year. The timing, manner and extent of distribution of information shall be undertaken after consultation with the Council.
  - ii. Providing a telephone "Hotline" to be maintained and advertised by the stadium operator for the purposes of enabling residents to contact the appropriate authorities or gain assistance. The Hotline shall operate for two hours prior to any event and shall continue to operate until midday (12.00pm) the following day. The Hotline shall be implemented in such a way that ensures all callers can make contact with event organisers without delay.
  - iii. Developing a protocol to effectively and promptly deal with any complaints arising, including but not limited to noise, lighting, litter, the actions of spectators and concerns over the management of night time events.
- h. Transport Management - the EMP will specifically include a section on transport, including provisions related to:

- i. Establishment and functioning of a Transport Management Group ("TMG") comprising representatives of the Stadium Operator, the CBS Arena and Addington Raceway and the Council, the traffic management contractor as well as where possible representatives of appropriate transport agencies, organisations and service providers. These should include ECAN, NZTA, NZ Police, bus, coach, taxi and train operators and others as considered appropriate by the Council. The TMG will provide input into the preparation of the various Transport Management Plans and meet at least 4 times per year to review and modify the Transport Management Plans.
- ii. The requirement for a Transport Management Plan (TMP) to be finalised at least one month prior to an Event and to be operational for every event. The TMP shall show how transport and traffic aspects of events will be managed to reduce or mitigate any adverse effects.
- iii. The goal of the TMP namely to avoid, mitigate and manage the adverse effects of event – related traffic on the wider neighbourhood and to manage the overlapping transport effects that could result from events occurring at either the CBS Arena or the Addington Raceway on the same day. The objectives of the TMP and any future modifications shall be:
  - A. to manage the potential impact of events at the stadium and/or at the CBS Arena and Addington Raceway occurring on the site at the same time period;
  - B. to ensure that residents are able to access their properties and street permitted parking at all times during events days;
  - C. to ensure that arterial roads continue to function and do not experience excessive congestion as a result of event related activity;
  - D. to strongly encourage patrons and staff to make increasing use of passenger transport to access the stadium for events and to provide passenger transport information and to promote passenger transport services and Information;
  - E. to maximise pedestrian safety particularly immediately before and after event;
  - F. to ensure emergency vehicle access both to the ground and the surrounding neighbourhood is maintained at all times;
  - G. in the immediate vicinity of the ground to separate the different modes to achieve safe and efficient traffic flow;
  - H. to provide for the parking and movement of passenger transport so as to encourage this form of transport and assist efficient traffic movement before and after events;
  - I. to manage traffic flows around the stadium so as to facilitate efficient clearing of people and vehicles after events;
  - J. to investigate the definition of a parking restriction zone around the stadium for events, which may include provision for:
    - (i) Residents' only parking in residential streets within the restricted zone;
    - (ii) Stadium related parking being excluded with the zone;
    - (iii) Business areas to retain existing parking restrictions;

- K. to ensure the TMP is reviewed on a regular basis;
  - L. that contingency plans are developed, to ensure that solutions are available to accommodate foreseeable deviations from the expected operation of the TMP;
  - M. to provide for park and ride and park and walk facilities which may be required for the purpose of enabling patrons to use passenger transport or special bus and train services, in accordance with the TMP for any given event;
  - N. to provide facilities for cyclists and for the safe and efficient storage of bicycles;
  - O. to ensure that convenient and accessible parking is provided for the mobility impaired;
  - P. Provisions to ensure that transport arrangements, (including residents only parking areas, the likelihood of towing, street closures, park and ride and walk locations and special bus and train services) shall be included in all pre-match publicity for events, in conjunction with the TMG.
- i. Construction Management Plan - A Construction Management Plan is required to be developed by the venue operator before the works commence and submitted to the Council's Resource Consents Unit Manager for certification that the matters set out in this rule are addressed. The Construction Management Plan will include specific details relating to the excavation of the site, or parts thereof, and the construction and management of all works including:
- i. Methods for reducing the potential adverse effects associated with the interaction of construction traffic with traffic associated with events at the CBS Arena/Addington Raceway.
  - ii. Ingress and egress to the construction site for construction, trade and worker vehicles and machinery during the construction period.
  - iii. Measures to be adopted to minimise impacts on visual and aural amenity, including location of noisy activities away from residences and businesses any screening proposed, and to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage and unloading of building materials and similar construction activities.
  - iv. Construction noise shall be managed as far as is practicable in accordance with NZS 6803:1999 Acoustics – Construction noise Table 2 and Annex E.
  - v. The Construction Noise Management Plan shall include specific details relating to managing noise to achieve these conditions and shall include specific details relating to managing noise in the event that these levels may be exceeded.
  - vi. Temporary construction lighting if required should be directed away from adjacent properties and roads.
  - vii. Measures to provide local residents and businesses information about the construction activity and timeframes.
  - viii. Procedures for complaints recording and auctioning.
  - ix. Measures to limit the disturbance caused by the delivery of materials to the site on neighbouring residents.
  - x. Location of off street parking sufficient for site workers and contractors.
  - xi. Hours of operation and days of the week for construction activities.

- xii. Means of ensuring the safety of the general public.
- xiii. Procedures for controlling sediment runoff, dust and the removal of soil, debris and demolition and construction materials from adjacent properties, public roads or places.
- xiv. Procedures for preventing contamination of stormwater drains with water containing soil sediment.
- xv. Procedures related to the excavation of soil including preparation of a management plan for managing contaminated materials in the event they are discovered, including:
  - A. Health and safety requirements for those working around contaminated materials;
  - B. Outline of visual/odour indicators of contamination at site;
  - C. Unexpected contamination discovery procedure – includes notifying relevant authorities etc.;
  - D. Stockpiling requirements for contaminated soils;
  - E. Erosion and sediment control measures;
  - F. Possible groundwater control measures;
  - G. Disposal requirements, landfill acceptance of materials;
  - H. Validation of remaining in situ soils, and reporting to Environment Canterbury and Christchurch City Council;
  - I. Reinstatement.

## 18.4 Rules - Open Space McLeans Island Zone

### 18.4.1 *[This number is not used]*

### 18.4.2 Activity status tables – Open Space McLeans Island Zone

#### 18.4.2.1 Permitted activities

The activities listed below are permitted activities in the Open Space McLeans Island Zone if they meet any activity specific standards set out in the following table and the built form standards in Rule 18.4.3.

Activities may also be controlled, restricted discretionary, discretionary or non-complying as specified in Rules 18.4.2.2, 18.4.2.3, 18.4.2.4, 18.4.2.5 and 18.4.2.6.

Activity		Activity specific standards
<b>P1</b>	Conservation activities.	Nil.



Activity		Activity specific standards
<b>P2</b>	Recreation activities and/or recreation facility.	Nil.
<b>P3</b>	Public amenities.	a. Visitor information centres, public toilets, and/or changing rooms shall: <ul style="list-style-type: none"> <li>i. Not exceed 250 m<sup>2</sup> of floor area on sites up to 10,000 m<sup>2</sup> in area;</li> <li>ii. Not exceed 500 m<sup>2</sup> of floor area on sites greater than 10,000 m<sup>2</sup> in area.</li> </ul>
<b>P4</b>	Minor and major sports facilities.	a. Any minor or major sports facility shall: <ul style="list-style-type: none"> <li>i. be located a minimum of 500 metres from the Peacock Springs Conservation Area as shown in Appendix 17.9.1;</li> <li>ii. not include the setting off of any fireworks within 4,000 metres of the Peacock Springs Conservation Area as shown in Appendix 17.9.1.</li> </ul>
<b>P5</b>	Ancillary office activity.	a. Shall be limited to a maximum of 100 m <sup>2</sup> floor area per site.
<b>P6</b>	Ancillary retail activity.	a. Shall be limited to a maximum of 100 m <sup>2</sup> floor area per site.
<b>P7</b>	Food and beverage outlet.	a. Shall be limited to a maximum of 150 m <sup>2</sup> floor area per site.
<b>P8</b>	Park management activities.	Nil.
<b>P9</b>	Farming.	a. Any buildings shall: <ul style="list-style-type: none"> <li>i. Be limited to farm buildings; and</li> <li>ii. Not exceed 300 m<sup>2</sup> in gross floor area.</li> </ul>
<b>P10</b>	Plantation forestry.	Nil.
<b>P11</b>	Public artwork.	Nil.
<b>P12</b>	Public transport facility.	a. Shall be limited to bus shelters and bus bays.
<b>P13</b>	Parking areas.	a. One tree shall be planted within or adjacent to any car parking area for every 5 car parking spaces provided.
<b>P14</b>	Camping grounds.	a. Any permanent building shall not exceed the following: <ul style="list-style-type: none"> <li>i. 250 m<sup>2</sup> gross floor area on sites up to 10,000 m<sup>2</sup> in area; or</li> <li>ii. 500 m<sup>2</sup> gross floor area on sites greater than 10,000 m<sup>2</sup> in area</li> </ul>
<b>P15</b>	Wildlife park / zoo, including animal enclosure and predator proof fences.	Nil.

Activity		Activity specific standards
<b>P16</b>	Community market.	<ul style="list-style-type: none"> <li>a. All community markets not involving any noise amplified activity shall comply with noise provisions in Rule 6.1.4.1.1.1 and Table 1;</li> <li>b. Any community market involving noise amplified activity shall comply with noise provisions in Rule 6.1.4.2.4 as if it were a temporary activity.</li> </ul>
<b>P17</b>	Emergency service facilities.	Nil.
<b>P18</b>	Maintenance and upgrade of existing flood and/or bank erosion mitigation and protection works, where undertaken by the Council, Canterbury Regional Council or the Crown.	Nil.
<b>P19</b>	Exotic tree planting for the purposes of shelter, soil conservation, flood protection and/or bank erosion mitigation, where undertaken by the Council, Canterbury Regional Council or the Crown.	Nil.

### 18.4.2.2 Controlled activities

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved, as set out in the following table.

Activity		The Council's control shall be limited to the following matters:
<b>C1</b>	New buildings and structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Council, Canterbury Regional Council or the Crown.	<ul style="list-style-type: none"> <li>c. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed.</li> <li>d. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed.</li> <li>e. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable.</li> </ul>

### 18.4.2.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table.

Activity		The Council's discretion shall be limited to the following matters:
<b>RD1</b>	Any activity listed in Rules 18.4.2.1 P1 – P19 that does not meet one or more of the built form standards, unless otherwise specified.	As relevant to the built form standard that is not met: a. For rules 18.4.3.1 and 18.4.3.2 - Setback from boundaries – Rule 18.7.16. b. Building height – Rule 18.7.18. c. Water supply for firefighting – Rule 18.7.20.
<b>RD2</b>	Any activity listed in Rule 18.4.2.1 P3 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Traffic generation and access – Rule 18.7.3. c. Public amenities – Rule 18.7.6.
<b>RD3</b>	Any activity listed in Rules 18.4.2.1 P5 – P7 that does not meet one or more of the activity specific standards. Any application for this activity will not require written approvals and shall not be limited or publicly notified.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Traffic generation and access – Rule 18.7.3.
<b>RD4</b>	Any activity listed in Rule 18.4.2.1 P9 that does not meet one or more of the activity specific standards.	a. Building footprint, site coverage and impervious surfaces – Rule 18.7.22.
<b>RD5</b>	Any activity listed in Rules 18.4.2.1 P12 and P14 that does not meet one or more of the activity specific standards. Any application for activity P12 will not require written approvals and shall not be limited or publicly notified.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2.
<b>RD6</b>	Any activity listed in Rule 18.4.2.1 P13 that does not meet one or more of the activity specific standards. Any application for this activity will not require written approvals and shall not be limited or publicly notified.	a. Landscaping and trees – Rule 18.7.13.
<b>RD7</b>	Any activity listed in Rule 18.4.2.1 P16 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Matters of Discretion - 6.1.4.3 (General rules - Noise)
<b>RD8</b>	[Deferred to Chapter 6 General Rules]	a. [Deferred to Chapter 6 General Rules]

Activity	The Council's discretion shall be limited to the following matters:
<b>RD10</b> Any activity listed in Rule 18.4.2.1 P4 that does not meet one or more of the activity specific standards. Any application arising from non-compliance with this rule will only require written approval from the trustees of The Isaac Conservation Wildlife Trust or its successors.	a. Minor and major sports facilities - Rule 18.7.1 (e.)

#### 18.4.2.4 Discretionary activities

The activities listed below are discretionary activities.

Activity
<b>D1</b> Any activity that does not comply with built form standard 18.4.3.4.
<b>D2</b> Shooting ranges located closer than 1 kilometre from the Peacock Springs Conservation Area as shown in Appendix 17.9.1.

#### 18.4.2.5 Non-complying activities

The activities listed below are non-complying activities.

Activity
<b>NC1</b> Any activity not provided for as a permitted, controlled, restricted discretionary, or discretionary activity.
<b>NC2</b> Motorised sports activity / facility.
<b>NC3</b> Sensitive activities within the Air Noise Contour (50 dB Ldn) as defined on the Planning Maps.
<b>NC4</b> a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity): <ol style="list-style-type: none"> <li>within 12 metres of the centre line of a 110kV or 220kV National grid transmission line or within 12 metres of a foundation of an associated support structure; or</li> <li>within 10 metres of the centre line of a 66kV National grid transmission line or within 10 metres of a foundation of an associated support structure.</li> </ol> b. Fences within 5 metres of a National grid transmission line support structure foundation. Any application made in relation to this rule shall not be publicly notified or limited notified other than to Transpower New Zealand Limited. Notes: <ol style="list-style-type: none"> <li>The National grid transmission lines and electricity distribution lines are shown on the planning maps.</li> <li>Vegetation to be planted around the National grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to National grid transmission lines. Buildings and activities in the vicinity of National grid transmission lines must comply with the NZECP 34:2001.</li> </ol>

### 18.4.3 Built form standards – Open Space McLeans Island Zone

#### 18.4.3.1 Road boundary setback

The minimum building setback from any road boundary shall be 25 metres.

#### 18.4.3.2 Internal boundary setback

The minimum building setback from an internal boundary with any zone excluding the Transport Zone shall be 20 metres.

#### 18.4.3.3 Building height

The maximum height of any building shall be 20 metres.

#### 18.4.3.4 Building footprint, site coverage and impervious surfaces

- a. The maximum footprint of a single building (excluding playground equipment) shall be 1,000 m<sup>2</sup>, unless otherwise specified in the activity specific standards in Rule 18.4.2.1.
- b. The maximum percentage of any site covered by buildings shall be 3%.
- c. The maximum percentage of any site covered by impervious surfaces (excluding buildings, walkways, tracks, and cycle ways) shall be 5%.

#### 18.4.3.5 Water supply for firefighting

- a. Provision for sufficient water supply and access to water supplies for firefighting shall be made available to all buildings (excluding accessory buildings that are not habitable buildings) via Council's urban reticulated system (where available) in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS: 4509:2008).
- b. Where a reticulated water supply compliant with SNZ PAS:4509:2008 is not available, or the only supply available is the controlled restricted rural type water supply which is not compliant with SNZ PAS:4509:2008, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008.

Any application made in relation to this rule shall not be publicly notified or limited notified other than to the New Zealand Fire Service Commission.

## 18.5 Rules - Open Space Natural Zone

### 18.5.1 *[This number is not used]*

## 18.5.2 Activity status tables – Open Space Natural Zone

### 18.5.2.1 Permitted activities

The activities listed below are permitted activities in the Open Space Natural Zone if they meet any activity specific standards set out in the following table and the built form standards in Rule 18.5.3.

Activities may also be controlled, restricted discretionary, discretionary or non-complying as specified in Rules 18.5.2.2, 18.5.2.3, 18.5.2.4 and 18.5.2.5.

Activity		Activity specific standards:
<b>P1</b>	Conservation activities.	Nil.
<b>P2</b>	Recreation activity and/or recreation facility.	Nil.
<b>P3</b>	Park management activity and/or park management facility.	Nil.
<b>P4</b>	Public amenity.	a. Any public amenity building containing toilets and/or changing rooms shall be set back a minimum of 20 metres from the boundary with any residential zone.
<b>P5</b>	Public artwork.	Nil.
<b>P6</b>	Customary harvesting.	Nil. Note: this rule does not override the requirements to obtain permission of the landowner or administrator for any customary harvesting of taonga species.
<b>P7</b>	Farming and farm buildings.	a. Any farm buildings shall be limited to a maximum of 300 m <sup>2</sup> of gross floor area.
<b>P8</b>	Existing forestry.	Nil.
<b>P9</b>	Residential unit /activity.	Unless specified in P14, shall be limited to: a. Sites greater than 10,000 m <sup>2</sup> . b. One residential unit on any site for caretaker and site management purposes only. The residential unit shall not be located within the Air Noise Contour (50 dB Ldn) as shown on the planning maps.
<b>P10</b>	Guest accommodation.	Shall be limited to: a. Tramping huts with a maximum 100 m <sup>2</sup> of gross floor area; b. The use of existing building/s on the site; and

Activity		Activity specific standards:
		c. Camping grounds restricted to tents.
<b>P11</b>	Farm stay.	Shall be limited to: <ul style="list-style-type: none"> <li>a. The use of and existing building/s on the site;</li> <li>b. New building with a maximum floor area of 100 m<sup>2</sup>; and</li> <li>c. Camping grounds restricted to tents.</li> </ul>
<b>P12</b>	Planting of exotic vegetation or native plants of non-local origin.	Shall be limited to: <ul style="list-style-type: none"> <li>a. Planting and screening of public amenities and/or parking areas;</li> <li>b. Re-introduction of native species no longer occurring naturally in the Christchurch area (these species are to be procured from the next most appropriate source where they still occur naturally);</li> <li>c. Oversowing with exotic grasses;</li> <li>d. Victoria, Elizabeth, Halswell Quarry and Bottle Lake parks for botanical display, species conservation, historic, Sister City Gardens (Halswell Quarry Park) or amenity purposes;</li> <li>e. Conservation activities; and</li> <li>f. Planting for soil conservation and shelter purposes.</li> </ul>
<b>P13</b>	The following activities in the Open Space Natural Zone at Ferrymead: <ul style="list-style-type: none"> <li>i. Golf course,</li> <li>ii. Golf driving range,</li> <li>iii. Paintball,</li> <li>iv. Restaurant and café,</li> <li>v. Conference and function facilities.</li> </ul>	Nil.
<b>P14</b>	The following activities within a building listed as a heritage item: <ul style="list-style-type: none"> <li>vi. ancillary office activity;</li> <li>vii. ancillary retail activity;</li> <li>viii. food and beverage outlet;</li> <li>ix. gymnasium;</li> <li>x. conference and function facilities;</li> <li>xi. community facility;</li> <li>xii. residential activity;</li> <li>xiii. cultural facility.</li> </ul>	<ul style="list-style-type: none"> <li>a. Residential activity shall be limited to no more than two residential units.</li> <li>b. Irrespective of anything to the contrary in this Plan, any activities within a heritage item or heritage setting shall be exempt from compliance with rules 7.2.3.1-7.2.3.6 in relation to parking and loading – Open Space Zones.</li> </ul> <p>Note: Refer also to Rule 9.3.3.5 for rules relating to historic heritage places.</p>

Activity	Activity specific standards:
<b>P15</b> Rural tourism activity and facility.	<ul style="list-style-type: none"> <li>a. The floor area of any building and/or impervious surfaces used shall be limited to a maximum of 150 m<sup>2</sup>;</li> <li>b. All ancillary retail activity shall be limited to a maximum of 50 m<sup>2</sup> of floor area.</li> </ul>
<b>P16</b> Community market.	<ul style="list-style-type: none"> <li>a. All community markets not involving any noise amplified activity shall comply with noise provisions in Rule 6.1.4.1.1.1 and Table 1.</li> <li>b. Any community market involving noise amplified activity shall comply with noise provisions in Rule 6.1.4.2.4 as if it were a temporary activity.</li> </ul>
<b>P17</b> Parking areas.	<ul style="list-style-type: none"> <li>a. On sites adjoining a Residential Zone, trees shall be provided adjacent to the shared boundary at a ratio of at least 1 tree for every 10 metres of the boundary or part thereof, and evenly spaced.</li> <li>b. In addition to the above: <ul style="list-style-type: none"> <li>i. one tree shall be planted for every 5 car parking spaces; and</li> <li>ii. trees shall be planted within or adjacent to the car parking area at the front of the site.</li> </ul> </li> </ul> <p>For guidance and information on tree species, refer to General Rules and Procedures, Appendix 6.11.6, Part B.</p>
<b>P18</b> Heli-landing areas (Banks Peninsula only – refer Appendix 2.1).	<ul style="list-style-type: none"> <li>a. Any heli-landing areas shall be limited to sites greater than 3000 m<sup>2</sup> and located more than 450 metres from any Residential Large Lot, Residential Small Settlement, Papakāinga, Residential Banks Peninsula or Commercial Banks Peninsula Zone.</li> <li>b. There shall be no: <ul style="list-style-type: none"> <li>i. more than 12 flights (24 movements) in any calendar year;</li> <li>ii. more than five days of flights (movements) in any one month period;</li> <li>iii. more than three flights (six movements) in any one week; and</li> <li>iv. movements taking place within 25 metres of any residential unit unless that residential unit is owned or occupied by the applicant.</li> </ul> </li> <li>c. Any movements shall occur only between 0800 and 1800.</li> <li>d. A log detailing the time and date of each helicopter movement shall be maintained and made available for inspection by the Council if requested.</li> </ul>
<b>P20</b> Emergency service facilities.	Nil.
<b>P21</b> Maintenance and upgrade of existing flood and/or bank erosion	Nil.



Activity	Activity specific standards:
<b>P22</b> Exotic tree planting for the purposes of flood protection and/or bank erosion mitigation, where undertaken by the Council, Canterbury Regional Council or the Crown.	Nil.

### 18.5.2.2 Controlled activities

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved, as set out in the following table.

Activity	The Council's control shall be limited to the following matters:
<b>C1</b> New buildings and structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Council, Canterbury Regional Council or the Crown.	a. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed. b. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed. c. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable.

### 18.5.2.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table.

Activity	The Council's discretion shall be limited to the following matters:
<b>RD1</b> Any activity listed in Rules 18.5.2.1 P1 – P22 that does not meet one or more of the built form standards in Rule 18.5.3, unless otherwise specified.	As relevant to the built form standard that is not met: a. For rules 18.5.3.1 and 18.5.3.2 - Setback from boundaries – Rule 18.7.16. b. Building height – Rule 18.7.18. c. Recession planes – Rule 18.7.19. d. Water supply for firefighting – Rule 18.7.20.

Activity		The Council's discretion shall be limited to the following matters:
<b>RD2</b>	Any activity listed in Rule 18.5.2.1 P4 that does not meet one or more of the activity specific standards.	a. Public amenities - Rule 18.7.6.
<b>RD3</b>	Any activity listed in Rules 18.5.2.1 P7, P10 and P11 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2.
<b>RD4</b>	Any activity listed in Rules 18.5.2.1 P9 and P14 that does not meet one or more of the activity specific standards.	a. Residential activities – Rule 18.7.12.
<b>RD6</b>	Any activity listed in Rule 18.5.2.1 P12 that does not meet one or more of the activity specific standards. Any application arising from non-compliance with this rule will not require written approvals and shall not be limited or publicly notified.	a. Planting of exotic vegetation – Rule 18.7.9.
<b>RD8</b>	Any activity listed in Rule 18.5.2.1 P15 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities - Rule 18.7.2. b. Traffic generation and access – Rule 18.7.3. c. Hours of operation – Rule 18.7.4.
<b>RD9</b>	Any activity listed in Rule 18.5.2.1 P16 that does not meet one or more of the activity specific standards.	a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. b. Matters of Discretion - 6.1.4.3 (General rules - Noise)
<b>RD10</b>	Any activity listed in Rule 18.5.2.1 P17 that does not meet one or more of the activity specific standards.	a. Parking areas and public transport facilities – Rule 18.7.5.
<b>RD11</b>	Minor sports facility.	a. Minor and Major Sports Facilities – Rule 18.7.1
<b>RD12</b>	<i>[Deferred to Chapter 6 General Rules]</i>	a. <i>[Deferred to Chapter 6 General Rules]</i>
<b>RD13</b>	Any activity listed in Rules 18.5.2.3 RD1 -RD11 located within the Coastal Environment overlay area.	a. Matters of discretion for activities in the Coastal Environment in 9.4.3.

### 18.5.2.4 Discretionary activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	Any building that does not comply with built form standard 18.5.3.5.
<b>D2</b>	Major sports facility – golf courses only.

Activity	
<b>D3</b>	Plantation forestry.

### 18.5.2.5 Non-complying activities

The activities listed below are non-complying activities.

	Activity
<b>NC1</b>	Any activity not provided for as a permitted, controlled, restricted discretionary or discretionary activity.
<b>NC2</b>	Motorised sport activity / facility.
<b>NC3</b>	Major sports facility other than golf courses.
<b>NC4</b>	Any activity listed in Rule 18.5.2.1 P18 that does not meet any one or more of the activity specific standards.
<b>NC5</b>	Sensitive activities within the Air Noise Contour (50 dB Ldn) as defined on the Planning Maps.
<b>NC6</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ul style="list-style-type: none"> <li>i. within 12 metres of the centre line of a 110kV or 220kV National grid transmission line or within 12 metres of a foundation of an associated support structure; or</li> <li>ii. within 10 metres of the centre line of a 66kV National grid transmission line or within 10 metres of a foundation of an associated support structure.</li> </ul> <p>b. Fences within 5 metres of a National grid transmission line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Transpower New Zealand Limited.</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>1. The National grid transmission lines are shown on the planning maps.</li> <li>2. Vegetation to be planted around the National grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to National grid transmission lines. Buildings and activities in the vicinity of National grid transmission lines must comply with the NZECP 34:2001.</li> </ul>
<b>NC7</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ul style="list-style-type: none"> <li>i. within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>ii. within 5 metres of the centre line of a 33kV and the Heathcote to Lyttelton 11kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ul>

	<b>Activity</b>
	<p>b. Fences within 5 metres of a 66kV, 33kV and the Heathcote to Lyttelton 11kV electricity distribution line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <ol style="list-style-type: none"> <li>1. The electricity distribution lines are shown on the planning maps.</li> <li>2. Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activities in the vicinity of or electricity distribution lines must comply with the NZECP 34:2001.</li> </ol>

## 18.5.3 Built form standards – Open Space Natural Zone

### 18.5.3.1 Road boundary setback

The minimum building setback from road boundaries shall be as follows:

	<b>Applicable to</b>	<b>Standard</b>
a.	All sites, unless specified below	5 metres
b.	All sites in Banks Peninsula (refer Appendix 2.1)	7.5 metres
c.	Sites fronting a State Highway	20 metres

### 18.5.3.2 Internal boundary setback

The minimum building setback from an internal boundary setback shall be as follows:

	<b>Applicable to</b>	<b>Standard</b>
a.	All sites, unless specified below	6 metres
b.	All sites in Banks Peninsula (refer Appendix 2.1), except as specified in c. below	3 metres
c.	Any buildings, balconies or decks on sites adjacent to a designated railway corridor	4 metres from the designated railway corridor

### 18.5.3.3 Building height

The maximum height of any building shall be as follows:

	Applicable to	Permitted
a.	All sites, unless specified below	5 metres
b.	All buildings in Banks Peninsula (refer Appendix 2.1)	6 metres

### 18.5.3.4 Recession planes

Where an internal site boundary adjoins a residential zone, no part of any building (excluding poles/light support structures) shall project beyond a building envelope contained by a recession plane measured at any point 2.3 metres above the internal site boundary in accordance with the diagrams in 18.8.3 - Appendix 1.

Where sites are located within a Flood Management Area, recession plane breaches created by the need to raise floor levels will not require written approvals and shall not be limited or publicly notified.

### 18.5.3.5 Building footprint and site coverage

The maximum building footprint and site coverage shall be as follows:

	Applicable to	Standard
a.	All sites, unless specified below	a. Buildings shall have a gross floor area less than 150 m <sup>2</sup> ; or b. As otherwise specified in the Activity Specific Standards for Permitted activities in 18.5.2.1.
b.	All sites in Banks Peninsula (refer Appendix 2.1)	a. Site coverage shall not exceed 10% of the net site area or 250 m <sup>2</sup> whichever is the lesser; or b. As otherwise specified in the Activity Specific Standards for Permitted activities in 18.5.2.1.

### 18.5.3.6 Water supply for firefighting

- a. Provision for sufficient water supply and access to water supplies for firefighting shall be made available to all buildings (excluding accessory buildings that are not habitable buildings) via Council's urban reticulated system (where available) in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS: 4509:2008).
- b. Where a reticulated water supply compliant with SNZ PAS:4509:2008 is not available, or the only supply available is the controlled restricted rural type water supply which is not compliant with SNZ PAS:4509:2008, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008.

Any application made in relation to this rule shall not be publicly notified or limited notified other than to the New Zealand Fire Service Commission.

## 18.6 Rules - Open Space Water and Margins Zone and Avon River Precinct/Te Papa Ōtākaro Zone

### 18.6.1 [This number is not used]

### 18.6.2 Activity status tables – Open Space Water and Margins Zone and the Avon River Precinct/Te Papa Ōtākaro Zone

#### 18.6.2.1 Permitted activities

The activities listed below are permitted activities in the Open Space Water and Margins Zone and the Avon River Precinct/Te Papa Ōtākaro Zone if they meet any activity specific standards set out in the following table and the built form standards in Rule 18.6.3.

Note that for provisions on building setbacks from water bodies reference should be made to the requirements in Chapter 6, General Rules, Rules in 6.6.

Activities may also be controlled, restricted discretionary, discretionary or non-complying as specified in Rules 18.6.2.2, 18.6.2.3, 18.6.2.4 and 18.6.2.5.

Activity		Activity specific standards:
<b>P1</b>	Conservation activities.	Nil.
<b>P2</b>	Recreation activity on the surface of water.	Shall be limited to non-motorised craft except as provided for in P3 below.
<b>P3</b>	Use of motorised craft.	Shall be limited to: <ul style="list-style-type: none"> <li>a. the Waimakariri River;</li> <li>b. Lake Ellesmere/Te Waihora for the purposes of customary harvesting, recreational and commercial fishing, game bird shooting, and park management activities;</li> <li>c. Lake Forsyth/Wairewa;</li> <li>d. the Styx River between Kainga and Marshlands Roads at speeds not exceeding 5 knots;</li> <li>e. the Avon River in association with rowing events at Kerrs Reach; and</li> <li>f. emergency, safety or maintenance purposes only on:               <ul style="list-style-type: none"> <li>i. the Styx River above/west of Marshland Road; and</li> <li>ii. other rivers or lakes unless specified above.</li> </ul> </li> </ul>
<b>P4</b>	Recreation activities and/or recreation facilities.	a. Any recreation facilities shall be limited to those not requiring the construction of any new buildings other than public amenities permitted in P7 below.

Activity		Activity specific standards:
<b>P5</b>	Recreational fishing.	Nil.
<b>P6</b>	Commercial fishing (Lake Ellesmere/Te Waihora only).	Nil. Note: Commercial fishing activities may also require a permit under other legislation.
<b>P7</b>	Public amenities.	a. Any visitor information centres, public toilets, and/or changing rooms shall: <ul style="list-style-type: none"> <li>i. be located within existing buildings in the zone; or</li> <li>ii. located in a new building with a gross floor area not exceeding 100 m<sup>2</sup>.</li> </ul>
<b>P8</b>	Ancillary office activity.	a. Shall: <ul style="list-style-type: none"> <li>i. be located in an existing building; and</li> <li>ii. cumulatively occupy no more than 100 m<sup>2</sup> or 25% of the gross floor area of all buildings on a site, whichever is the lesser.</li> </ul>
<b>P9</b>	Ancillary retail activity.	a. Shall: <ul style="list-style-type: none"> <li>i. be located in an existing building; and</li> <li>ii. cumulatively occupy no more than 100 m<sup>2</sup> or 25% of the gross floor area of all buildings on a site, whichever is the lesser.</li> </ul>
<b>P10</b>	Food and beverage outlet.	a. Shall be located in an existing building. b. The maximum gross leasable floor area per tenancy shall be 150 m <sup>2</sup> . c. The activity shall only operate between the hours of 0700 and 1900 on sites adjacent to a residential zone.
<b>P11</b>	Park management activities.	Nil.
<b>P12</b>	Amenity tree planting (Lake Ellesmere/Te Waihora only).	a. Any amenity tree planting shall be limited to areas outside the 1.8 metre buffer contour (land side) as shown on the planning maps.
<b>P13</b>	Farming.	a. Shall be limited to: <ul style="list-style-type: none"> <li>i. a land-based farming activity (including the maintenance of existing drains and water bodies) which does not require the erection of any building or structure.</li> </ul>
<b>P14</b>	Opening and closing of the seaward outlet of Lake Forsyth/Wairewa and Lake Ellesmere/Te Waihora to maintain lake levels (when carried out by or under the supervision of the City or Regional Councils).	Nil.

Activity		Activity specific standards:
<b>P15</b>	Public artwork.	Nil.
<b>P16</b>	Parking area.	a. Any parking area shall be limited to: <ul style="list-style-type: none"> <li>i. a maximum of six car parks; and</li> <li>ii. one parking area for every 10,000 m<sup>2</sup> of the site.</li> </ul>
<b>P17</b>	The following activities within a building listed as a heritage item: <ul style="list-style-type: none"> <li>i. gymnasium;</li> <li>ii. conference and function facilities;</li> <li>iii. guest accommodation;</li> <li>iv. community activity;</li> <li>v. residential activity; and</li> <li>vi. cultural facility</li> </ul>	a. Residential activity shall be limited to no more than two residential units. b. Irrespective of anything to the contrary in this Plan, any activities within a heritage item or heritage setting shall be exempt from compliance with Rules in 7.2.3 in relation to parking and loading – Open Space Zones. Note: Refer also to Rule 9.3.3 for rules relating to historic heritage places.
<b>P18</b>	Customary harvesting.	Nil. Note: this rule does not override the requirement to obtain permission of the landowner or administrator for any customary harvesting of taonga species.
<b>P19</b>	Heli-landing areas (Banks Peninsula only - refer Appendix 2.1).	a. Any heli-landing areas shall be limited to sites greater than 3000 m <sup>2</sup> and located more than 450 metres from any Residential Large Lot, Residential Small Settlement, Papakāinga, Residential Banks Peninsula or Commercial Banks Peninsula Zone; b. There shall be no: <ul style="list-style-type: none"> <li>i. more than 12 flights (24 movements) in any calendar year;</li> <li>ii. more than five days of flights (movements) in any one month period;</li> <li>iii. more than three flights (six movements) in any one week;</li> <li>iv. movements taking place within 25 metres of any residential unit unless that residential unit is owned or occupied by the applicant;</li> </ul> c. Any movements shall occur only between 0800 and 1800; d. A log detailing the time and date of each helicopter movement shall be maintained and made available for inspection by the City Council if requested.
<b>P20</b>	Emergency services.	a. Any emergency services shall be located in an existing building.
<b>P21</b>	Any works related to the operation or maintenance of	Nil.



Activity		Activity specific standards:
	transport infrastructure in the Transport Zone outside the water body setbacks specified in Rule 6.6.2.2.	
<b>P22</b>	Maintenance and upgrade of existing flood and/or bank erosion mitigation and protection works, where undertaken by the Council, Canterbury Regional Council or the Crown.	Nil.
<b>P23</b>	Exotic tree planting for the purposes of shelter, soil conservation, flood protection and/or bank erosion mitigation, where undertaken by the Council, Canterbury Regional Council or the Crown.	Nil.
<b>P24</b>	Cultural facility / activity.	Unless specified in P17, shall be limited to: a. The site at 85 Armagh Street (Lot 3 DP 82831), 282 Durham Street (Lot 1 DP 82831) and 66 Chester Street West (Lot 2 DP 82831).
<b>P25</b>	Entertainment facility / activity.	a. Shall be limited to the site at 85 Armagh Street (Lot 3 DP 82831), 282 Durham Street (Lot 1 DP 82831) and 66 Chester Street West (Lot 2 DP 82831).

### 18.6.2.2 Controlled activities

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved, as set out in the following table.

Activity		The Council's control shall be limited to the following matters:
<b>C1</b>	New buildings and structures (including stopbanks) for the purposes of flood and/or bank erosion mitigation and/or protection, where undertaken by the Council, Canterbury Regional Council or the Crown.	<ul style="list-style-type: none"> <li>a. The visual impact of the proposed flood protection or bank erosion works on open space and any neighbouring sites and public places, and any mitigation proposed.</li> <li>b. The potential effects during construction of the flood protection or bank erosion works both within and surrounding the site, including increased erosion and sedimentation, noise, dust and traffic, and any mitigation proposed.</li> <li>c. The adequacy and appropriateness of measures proposed to reinstate the open space affected by the works post construction including but not limited to landscaping or grassing where applicable.</li> </ul>

### 18.6.2.3 Restricted discretionary activities

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in Rule 18.7, as set out in the following table.

Activity		The Council's discretion shall be limited to the following matters:
<b>RD1</b>	Any activity listed in Rule 18.6.2.1 P7 that does not meet one or more of the built form standards in Rule 18.6.3.	<ul style="list-style-type: none"> <li>a. For rules 18.6.3.1, 18.6.3.2 and 18.6.3.5 - Setback from boundaries – Rule 18.7.16.</li> <li>b. Outdoor storage – Rule 18.7.17.</li> <li>c. Building height – Rule 18.7.18.</li> <li>d. Recession planes – Rule 18.7.19.</li> <li>e. Water supply for firefighting – Rule 18.7.20.</li> </ul>
<b>RD2</b>	Any activity listed in Rules 18.6.2.1 P2 and P3 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Activities on the surface of water bodies – Rule 18.7.10.</li> </ul>
<b>RD3</b>	Any activity listed in Rules 18.6.2.1 P8 – P10 located in an existing building that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2.</li> <li>b. Traffic generation and access – Rule 18.7.3.</li> <li>c. Parking areas and public transport facilities – Rule 18.7.5.</li> <li>d. Hours of operation – Rule 18.7.4.</li> </ul>
<b>RD4</b>	Any Permitted activity listed in Rule 18.6.2.1 P12 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Planting of exotic vegetation – Rule 18.7.9.</li> <li>b. Additional matters for Open Space Water and Margins Zone – Rule 18.7.15.</li> <li>c. Te Waihora (Lake Ellesmere), Wairewa (Lake Forsyth), and Kaitorete Spit - Open Space Water and Margins Zone – Rule 18.7.11.</li> </ul>
<b>RD5</b>	Any activity listed in Rule 18.6.2.1 P13 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Additional matters for Open Space Water and Margins Zone – Rule 18.7.15.</li> <li>b. Te Waihora (Lake Ellesmere), Wairewa (Lake Forsyth), and Kaitorete Spit - Open Space Water and Margins Zone – Rule 18.7.11.</li> </ul>
<b>RD6</b>	Any activity listed in Rule 18.6.2.1 P16 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Parking areas and public transport facilities – Rule 18.7.5.</li> </ul>
<b>RD7</b>	Any activity listed in Rule 18.6.2.1 P17 that does not meet one or more of the activity specific standards.	<ul style="list-style-type: none"> <li>a. Residential activities – Rule 18.7.12.</li> </ul>
<b>RD8</b>	[Deferred to Chapter 6 General Rules]	<ul style="list-style-type: none"> <li>a. [Deferred to Chapter 6 General Rules]</li> </ul>
<b>RD9</b>	The future Pavilion building/s at 794 Colombo Street (784m <sup>2</sup> site,	<ul style="list-style-type: none"> <li>a. Setback from boundaries - Rule 18.7.16.</li> </ul>

Activity		The Council's discretion shall be limited to the following matters:
	legally described as Pt RES 16) limited to: a. a maximum of 250 m <sup>2</sup> site coverage; and b. the following activities and facilities: i. community facilities; ii. recreation activities and facilities (including commercially operated recreation facilities/activities); iii. food and beverage outlets; and iv. ancillary office and retail activities.	b. Outdoor storage – Rule 18.7.17. c. Building height – Rule 18.7.18. d. Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities – Rule 18.7.2. e. Additional matters for Open Space Water and Margins Zone and Avon River Precinct Zone – Rule 18.7.15.
<b>RD10</b>	Any activity listed in Rules 18.6.2.3 RD1 - RD9 located within the Coastal Environment overlay area.	a. Matters of discretion for activities in the Coastal Environment in 9.4.3.

### 18.6.2.4 Discretionary activities

The activities listed below are discretionary activities.

Activity	
<b>D1</b>	Any activity listed in Rule 18.6.2.1 P7 which requires the construction of a new building or additions to a building that does not meet one or more of the activity specific standards.
<b>D2</b>	Any activity listed in Rules 18.6.2.1 P4, P8, P9, P10, P13 and P20 which requires the construction of a new building, except as specified in Rules 18.6.2.3 RD1 or RD11.
<b>D3</b>	Any activities and development within the area subject to the Outline development plan requirements in Appendix 14.10.10.2 – Residential Established New Neighbourhood (Wigram) Open Space Network (refer also to Rule 14.6.4.3).

### 18.6.2.5 Non-complying activities

The activities listed below are non-complying activities.

Activity	
<b>NC1</b>	Any activity not provided for as a permitted, controlled, restricted discretionary, or discretionary activity.
<b>NC2</b>	Any activity listed in Rule 18.6.2.1 P21 that does not meet one or more of the activity specific standards.

<b>Activity</b>	
<b>NC3</b>	Sensitive activities within the Air Noise Contour (50 dB Ldn) as defined on the Planning Maps.
<b>NC4</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ol style="list-style-type: none"> <li>within 12 metres of the centre line of a 110kV or 220kV National grid transmission line or within 12 metres of a foundation of an associated support structure; or</li> <li>within 10 metres of the centre line of a 66kV National grid transmission line or within 10 metres of a foundation of an associated support structure.</li> </ol> <p>b. Fences within 5 metres of a National grid transmission line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Transpower New Zealand Limited.</p> <p>Notes:</p> <ol style="list-style-type: none"> <li>The National grid transmission lines are shown on the planning maps.</li> <li>Vegetation to be planted around the National grid should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to National grid transmission lines. Buildings and activities in the vicinity of National grid transmission lines must comply with the NZECP 34:2001.</li> </ol>
<b>NC5</b>	<p>a. Sensitive activities and buildings (excluding accessory buildings associated with an existing activity):</p> <ol style="list-style-type: none"> <li>within 10 metres of the centre line of a 66kV electricity distribution line or within 10 metres of a foundation of an associated support structure; or</li> <li>within 5 metres of the centre line of a 33kV and the Heathcote to Lyttelton 11kV electricity distribution line or within 5 metres of a foundation of an associated support structure.</li> </ol> <p>b. Fences within 5 metres of a 66kV, 33kV and the Heathcote to Lyttelton 11kV electricity distribution line support structure foundation.</p> <p>Any application made in relation to this rule shall not be publicly notified or limited notified other than to Orion New Zealand Limited or other electricity distribution network operator.</p> <p>Notes:</p> <ol style="list-style-type: none"> <li>The electricity distribution lines are shown on the planning maps.</li> <li>Vegetation to be planted around electricity distribution lines should be selected and/or managed to ensure that it will not result in that vegetation breaching the Electricity (Hazards from Trees) Regulations 2003.</li> <li>The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to electricity distribution lines. Buildings and activities in the vicinity of or electricity distribution lines must comply with the NZECP 34:2001.</li> </ol>
<b>NC6</b>	Motorised sport activity / facility.

## 18.6.3 Built form standards – Open Space Water and Margins Zone and Avon River Precinct/Te Papa Ōtākaro Zone

### 18.6.3.1 Road boundary setback

The minimum building setback from road boundaries shall be as follows:

	Applicable to	Standard
a.	All sites unless specified below	5 metres
b.	Sites fronting a State Highway	20 metres
c.	Within the Avon River Precinct Zone	Nil

### 18.6.3.2 Internal boundary setback

The minimum building setback from an internal boundary shall be as follows:

	Applicable to	Standard
a.	All sites unless specified below	10 metres
b.	In the Avon River Precinct Zone, any activity on sites adjacent to Central City Residential only	Nil
c.	Any buildings, balconies or decks on sites adjacent to a designated railway corridor	4 metres from the designated railway corridor
d.	In the Bromley wildlife conservation area (on and around the oxidation ponds) bounded by Cuthberts, Dyers, Breezes and Bexley Roads, Linwood Avenue, and the Coastal Marine Area	20 metres

### 18.6.3.3 Building height

The maximum height of any building shall be 5 metres.

### 18.6.3.4 Recession planes

Where a site adjoins a Residential Zone, no part of any building shall project beyond a building envelope contained by a recession plane measured at any point 2.3 metres above the internal site boundary in accordance with the diagrams in Appendix 18.8.3.

Where sites are located within a Flood Management Area, recession plane breaches created by the need to raise floor levels will not require written approvals and shall not be limited or publicly notified.

### 18.6.3.5 Outdoor storage

- a. Any outdoor storage area shall not be located within the minimum setbacks specified in Rules 18.6.3.1 and 18.6.3.2 except that this rule shall not apply to the Avon River Precinct Zone.
- b. Outdoor storage areas shall be screened from adjoining sites and roads by either planting, wall(s), fence(s), or any combination of these to at least 1.8 metres in height along the length of the storage area. Where such screening is by way of planting it shall be for a minimum depth of 3 metres.

### 18.6.3.6 Water supply for firefighting

- a. Provision for sufficient water supply and access to water supplies for firefighting shall be made available to all buildings (excluding accessory buildings that are not habitable buildings) via Council's urban reticulated system (where available) in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice (SNZ PAS: 4509:2008).
- b. Where a reticulated water supply compliant with SNZ PAS:4509:2008 is not available, or the only supply available is the controlled restricted rural type water supply which is not compliant with SNZ PAS:4509:2008, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008.

Any application made in relation to this rule shall not be publicly notified or limited notified other than to the New Zealand Fire Service Commission.

## 18.7 Matters of discretion

### 18.7.1 Minor and major sports facilities

- a. Whether any reduced site size will:
  - i. Provide sufficient separation to mitigate the effects of activities, buildings and car parking on open space and adjoining residents;
  - ii. Provide adequate public access and connectivity;
  - iii. Promote a safe physical environment and reflect principles of Crime Prevention through Environmental Design (CPTED);
  - iv. Enable a mixed or multifunctional use of land and facilities, and/or an adaptable design to increase the capacity of the open space and the recreation facility;
  - v. Create benefits in terms of satisfying the needs of the local community, particularly where there is an identified deficiency, or specialised recreational needs.
- b. Whether the scale of the facility is in keeping with the local context and character of the surrounding environment.
- c. Whether any natural and historic heritage areas, and/or significant trees will be protected.
- d. In addition, in the case of Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton, whether the facility:
  - i. will displace the permitted recreational boating, marine recreation activities and/or associated facilities;
  - ii. will have adverse impacts on access to the boat launching facilities and/or the coastal marine area.
- e. In addition, in the case of Open Space McLeans Island Zone, whether the facility and associated activities will adversely affect conservation activities, including the captive bird breeding programme, within the Peacock Springs Conservation Area (identified in Appendix 17.9.1, Chapter 17, particularly in terms of noise disturbance.
- f. In addition, in the case of the Open Space Natural Zone, whether:
  - i. indigenous flora and fauna and their habitats will be maintained and/or enhanced;
  - ii. the proposal will enable people to experience the natural environment;
  - iii. it is necessary for the activity and/or facility to be located within an open space natural environment;
  - iv. the facility supports recreation and/or tourism activities and provides necessary services such as public toilets.

### 18.7.2 Scale of activity, displacement, multifunctional, non-recreational, community and cultural facilities

- a. Whether the activity/facility has a practical or functional need to be located within the open space and/or recreation facility.
- b. Whether the activity/facility and/or its scale will:
  - i. Significantly reduce open space or impede access to it;
  - ii. Displace recreation facilities or activities;
  - iii. Be compatible with open space functions and recreation activities;
  - iv. Have a layout and design that is appropriate to the locality, context, character and/or natural values of the area;
  - v. Adversely impact on the amenity of adjoining open space and residents, including visual impacts, noise, glare, nuisance and traffic effects;
  - vi. Promote a safe physical environment and reflect principles of Crime Prevention through Environmental Design (CPTED).
- c. The extent to which the ground level area of the building interacts with pedestrians and pedestrian linkages.
- d. Whether the activity will provide economic benefits enabling the ongoing operation and maintenance of recreation facilities and/or open spaces.
- e. The extent to which the activity/facility maintains existing or future public access connections to walking/cycling track networks including alignment with the Christchurch City Council Public open space Strategy 2010-2040.

### 18.7.3 Traffic generation and access

- a. Whether traffic generation and vehicle access will adversely affect the character and amenity of the surrounding area and/or safety and efficient functioning of the road network.
- b. The ability to cater for increased traffic generation taking into account:
  - i. The classification and formation of the connecting road network; and
  - ii. The hourly, daily and weekly pattern of vehicle movements;
  - iii. The ability to provide safe vehicle access and adequate on-site car parking and circulation;
  - iv. Traffic Management plans.
- c. Any adverse effects in terms of noise, vibration, dust, nuisance, glare and fumes that are incompatible with the amenity of the open space and/or adjoining residents.



### 18.7.4 Hours of operation

- a. The extent to which the hours of operation:
  - i. will result in adverse effects on the amenity of open space and/or residents, including noise, glare, nuisance, disturbance, loss of security and privacy; and
  - ii. support the retention and viability of the use within a historic heritage item.

### 18.7.5 Parking areas and public transport facilities

- a. Whether the parking area or public transport facility will:
  - i. Significantly reduce open space and/or displace recreation activities;
  - ii. Give rise to nuisance effects;
  - iii. Be designed and landscaped to mitigate visual effects. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species.
  - iv. Promote a safe physical environment and reflect principles of Crime Prevention through Environmental Design (CPTED).
  - v. Allow for better utilisation and improve the amenity of the open space and/or facilities within.
- b. Whether the facility has a practical need to be located within open space.
- c. In the case of Major sports facility on that part of Elmwood Park located at 83D Heaton Street (Lot 1, DP 12727), whether the reduced on-site car parking will create extra demand for parking in the surrounding streets and/or adversely affect the efficiency and safety of the road network, and/or the amenity values of the surrounding environment.

### 18.7.6 Public amenities

- a. For public amenity buildings containing toilets and/or changing rooms, whether the reduced setback will:
  - i. detract from amenity of adjoining residents and give rise to nuisance effects;
  - ii. promote a safe physical environment and reflect principles of CPTED.
- b. For other public amenity buildings/structures, whether the building/structure will:
  - i. be of scale that detracts from the open space qualities, particularly the natural character of waterway margins;
  - ii. have a layout and design that is appropriate to the locality, context and character of the area;
  - iii. allow for better utilisation and improve the amenity of the open space.

- c. The extent to which the design and landscaping mitigates visual effects. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species.
- d. In the case of the Open Space McLeans Island zone, whether adequate disposal of effluent can be provided, and whether buildings can be protected from flood risk.
- e. The extent to which indigenous flora and fauna and their habitats will be damaged or destroyed and whether any replacement planting or habitat is proposed.
- f. The extent to which the removal of vegetation and/or proposed planting recognises Ngāi Tahu/Manawhenua cultural values such as biodiversity or mahinga kai.

### **18.7.7 Surface water management structures and birdstrike risk**

*[Deferred to Chapter 6 General Rules]*

### **18.7.8 Activities and development within the Open Space Metropolitan Facilities Zone – Temporary Christchurch Stadium**

- a. For night sporting events that exceed capacity limits specified for permitted activities in 18.3.5.1.1:
  - i. The duration of the activity and its timing;
  - ii. The nature of the activity including its value and/or benefit (economically, socially and/or culturally) to the wider community;
  - iii. The availability or otherwise of alternative venues with an appropriate capacity;
  - iv. The impact on nearby residential properties and occupants;
  - v. The cumulative effect of the activity.
- b. For concerts that exceed noise levels specified for permitted activities in 18.3.5.1.1:
  - i. The proximity of sensitive land uses;
  - ii. The levels of noise predicted to be received at residential properties in the vicinity and elsewhere, and the scale and nature of associated effects;
  - iii. Relevant standards and guidelines for noise effects assessment;
  - iv. The duration of the activity and its timing;
  - v. The nature of the activity including its value and/or benefit (economically, socially and/or culturally) to the wider community;
  - vi. The availability or otherwise of alternative venues with an appropriate capacity;
  - vii. The effectiveness of methods of control and mitigation proposed in the Event Management Plan;
  - viii. Sound system design and calibration;

- ix. Any proposals made by the applicant to reduce noise generation, including:
  - A. reduction of noise at source;
  - B. screening of boundaries.
- c. For any other permitted activity which does not meet the provisions of the Development Plan in Appendix 18.8.2, the activity specific standards specified for permitted activities in 18.3.5.1.1, or the built form standards in 18.3.5.2:
  - i. The impact on nearby residential properties and occupants;
  - ii. The cumulative effect of the activity;
  - iii. The necessity for the location as opposed to elsewhere on site where it may be permitted;
  - iv. The duration, timing and frequency of the activity;
  - v. The nature of the activity including its value and/or benefit (economically, socially and/or culturally) to the wider community.

### 18.7.9 Planting of exotic vegetation

- a. The extent to which planting of exotic vegetation:
  - i. Will adversely affect natural habitats, including their restoration and enhancement;
  - ii. Could be substituted with appropriate endemic native plants;
  - iii. Will create a risk of the species spreading to adjoining land;
  - iv. Has benefits in terms of control of localised erosion;
  - v. Provides a temporary shelter for endemic native plants.
- b. Whether there will be opportunities to remove the exotic plants and replace with endemic native plants and the likely timeframes.
- c. The extent of adverse effects on the functioning and indigenous vegetation of the wetlands adjoining Te Waihora (Lake Ellesmere).
- d. In the context of the historic parks design, whether exotic vegetation would maintain the predominant character of existing planting.
- e. The extent to which the activity will impact on Ngāi Tahu/Manawhenua cultural values, including biodiversity and mahinga kai.

### 18.7.10 Activities on the surface of water bodies

- a. The size and speed of any vessels to be used and the extent to which activities on the surface of the water body will adversely affect:
  - i. The natural values of water bodies and their margins;
  - ii. Margin and bank stability and the likelihood of erosion;

- iii. Wildlife, including disturbance to nesting, feeding or spawning sites;
- iv. Residents in adjoining Residential or Rural zones, particularly in terms of noise impacts;
- v. Public access to the water body and create potential congestion where vessels are loaded and unloaded.
- vi. Ngāi Tahu/Manawhenua cultural values, including biodiversity and mahinga kai.

### **18.7.11 Te Waihora (Lake Ellesmere), Wairewa (Lake Forsyth), and Kaitorete Spit - Open Space Water and Margins Zone**

- a. The extent to which the activities will impact tangata whenua's cultural values, customary harvesting rights, the viability of the lakes as a source of mahinga kai, and the health of their ecology.
- b. The ability to prevent nutrients and pollutants from entering the lakes.
- c. Whether the activities are consistent with the established cultural significance of the lakes to iwi.
- d. The extent to which activities are designed to avoid sediment and contaminants from entering the lakes and coastal waters.
- e. The extent to which activities are designed to avoid inducing erosion, subsidence or landslip.
- f. Whether the opening and closing of Te Waihora (Lake Ellesmere) and Wairewa (Lake Forsyth) manages lake water levels in a way which avoids, remedies or mitigates adverse effects on the character and the cultural, ecological and amenity values of the lakes.
- g. The extent to which public vehicle access to Kaitorete Spit and the margins of Te Waihora (Lake Ellesmere), other than to formed roads or authorised vehicle tracks, and except for emergency services, farming, and scientific research, will adversely affect the natural character, indigenous ecosystems, human safety or the amenity values of the lake margins and the adjacent land.

### **18.7.12 Residential activity**

- a. Whether a dwelling or additional dwelling(s) is needed for custodial or management purposes, or other purposes.
- b. The extent to which available open space would be reduced by proposed buildings and their surrounds and adversely affect the range of recreational activities undertaken on the site.
- c. Whether the scale of residential accommodation would have adverse effects on the visual quality of the environment, residential amenities and traffic generation.
- d. The extent of the visual impacts of such development as seen from any residential zone or street frontage.

### 18.7.13 Landscaping and trees

- a. The extent to which the proposed landscaping and tree planting:
  - i. achieves a high level of on-site amenity while minimising the visual effects of activities and buildings on the surroundings;
  - ii. supports the growth of vegetation and its protection through the provision of space, or other methods e.g. barriers;
  - iii. recognises Ngāi Tahu/Manawhenua values through the use of indigenous species.
- b. Whether any lesser landscaping (or mounding, in the case of the Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park,)) would increase actual or perceived noise, odour and visual detraction.
- c. The extent to which the non-compliance is mitigated through the design, scale and type of landscaping proposed, including the species used.

### 18.7.14 Additional matters for Hagley Park

- a. Whether there are alternative convenient locations, venues or buildings outside Hagley Park where the activity/ facility could locate.
- b. Whether the scale of the proposed activity/facility is in proportion to the need generated by the recreational and sporting activities taking place within the park.
- c. The extent to which the activity/facility impacts on:
  - i. the ability to accommodate future outdoor recreation and sporting activities;
  - ii. the existing landscape qualities, including vistas, views into the park, water body margins, woodlands and group planting, and avenues of trees; and
  - iii. the botanical and heritage features within the park.
- d. The length of time, where relevant, and the season in which the proposed activity/facility is proposed to be in operation and measures proposed to reinstate the area upon vacating the site.

### 18.7.15 Additional matters for Open Space Water and Margins Zone and Avon River Precinct/Te Papa Ōtākaro Zone

- a. The extent to which the proposal may have adverse effects on the water body and margins, ecosystems, water quality and the ability to drain stormwater.
- b. Whether the proposal may have adverse effects on wildlife by way of disturbance to nesting or feeding sites.
- c. The extent to which any building within the water body margins may affect public access to and along the water body.
- d. Whether the proposal will have adverse impacts on the visual, natural or heritage character of the water body and/or margins and their value to the public.

- e. The extent of the visual impact of the proposed development's scale and its appropriateness having regard to the purpose of the zone.
- f. Whether the proposed building or structure forms an integral part of the Avon River Precinct/Te Papa Ōtākaro in which case regard will be had to any approved Park Master plan.
- g. The extent to which the activity will impact on Ngāi Tahu/Manawhenua cultural, biodiversity and mahinga kai values.

### 18.7.16 Setback from boundaries

- a. The extent to which a reduced internal boundary setback will result in:
  - i. Adverse visual effects on open space and/or adjoining residents;
  - ii. Potential for activities within the building to give rise to disturbance to neighbours or nuisance effects;
- b. The extent to which a reduced road setback will detract from the pleasantness, coherence, openness and attractiveness of the site as viewed from the street and adjoining sites, including consideration of:
  - i. Compatibility with the appearance, layout and scale of other buildings and sites in the surrounding area;
  - ii. The classification and formation of the road, and the volume of traffic using it in the vicinity of the site.
- c. Whether the scale and height of the building/s is compatible with the layout, scale and appearance of other buildings within the site and/or on adjoining sites.
- d. The extent to which the provision of planting or screening will mitigate adverse effects of the encroachment. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species.
- e. Whether the development is designed and laid out to promote a safe environment and reflects principles of Crime Prevention through Environmental Design (CPTED).
- f. The extent to which the reduced setback will result in a more efficient, practical and better use of the balance of the site.
- g. Whether a reduced setback from the railway corridor will enable buildings, balconies or decks to be constructed and/or maintained without requiring access above, on, or over the railway corridor.

### 18.7.17 Outdoor storage

- a. The extent to which planting or screening will mitigate any adverse visual effects of outdoor storage. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species;

- b. The extent to which the materials or goods stored within the setback have an adverse visual effect.

### 18.7.18 Building height

- a. The extent to which the increased building height will result in:
  - i. Visual dominance;
  - ii. Loss of privacy and outlook for adjoining residents;
  - iii. Incompatibility with the character and scale of buildings within and surrounding the site;
  - iv. Adverse visual effects that are mitigated by landscaping. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species.
- b. Whether the increased height will result in any benefits in terms of retention of open space, significant trees or the satisfaction of specialised recreational needs.
- c. Whether the development is designed and laid out to promote a safe environment and reflects the principles of Crime Prevention through Environmental Design (CPTED).
- d. In addition, in respect of the Canterbury Museum and Robert McDougall Art Gallery site (Rolleston Avenue), the extent to which the increased building height:
  - i. reflects or complements adjoining or nearby areas of important public or open spaces;
  - ii. impacts on the use of adjoining public open space (e.g. shadowing and wind funnelling);
  - iii. impacts on the definition or containment of any adjoining public open space;
  - iv. visually dominates nearby focal points or features (e.g. statues, memorials, water features or specimen trees);
  - v. impacts on any vistas or pedestrian linkages.

### 18.7.19 Recession Planes

- a. The extent to which the recession plane intrusion will result in:
  - i. Overshadowing and reduced sunlight admission, taking account the location of residential units on adjoining sites and the position of main living areas and outdoor living spaces;
  - ii. Loss of privacy and outlook for adjoining residents;
  - iii. Visual dominance;
  - iv. Compatibility with the character and scale of buildings within and surrounding the site;
  - v. Adverse visual effects that can be mitigated by landscaping. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species.

- b. Whether the recession plane intrusion will create any benefits in terms of retention of open space or the satisfaction of specialised recreational needs.

### **18.7.20 Water supply for firefighting**

- a. Whether sufficient firefighting water supply is available to ensure the health and safety of the community, including neighbouring properties.

### **18.7.21 Additional matters for Hagley Park - building footprint, site coverage and impervious surfaces**

- a. The extent to which the maximum building footprint, site coverage and/or impervious surfaces coverage are exceeded and whether the extent proposed is necessary to meet the needs of existing and future recreational and sporting activities provided for within Hagley Park.
- b. Whether there are opportunities for co-location within existing facilities within the park or locating the activity/facility on alternative sites outside the park.
- c. Whether the scale of development will detract from the amenity and historic values of the park, public use and enjoyment of the green open spaces, and whether an appropriate balance of open space will be retained.
- d. The extent to which the proposal will result in loss of the existing heritage landscaping and planting.
- e. Whether any landscaping proposed:
  - i. will be sufficient to mitigate the environmental effects of the development; and
  - ii. will complement the existing landscape qualities and botanical values of the park.

### **18.7.22 Building footprint, site coverage and impervious surfaces**

- a. Whether the proposal is consistent with the role and function of the open space and/or recreation facility;
- b. Whether the scale of development will detract from amenity values, public use and enjoyment of the open space and/or recreation facility.
- c. Whether the location, layout and design is consistent with urban design principles.
- d. Whether the scale, design, materials, and external appearance are appropriate to the receiving environment.
- e. Whether the development is designed and laid out to promote a safe environment and reflects principles of Crime Prevention through Environmental Design (CPTED).
- f. Whether appropriate public access and connectivity is provided;



- g. The extent to which any adverse visual effects can be mitigated by effective use of planting. Reference should be made to General Rules and Procedures, Appendix 6.11.6, Part B for guidance and information on tree species.
- h. The extent to which mixed or multifunctional use of land and facilities, and adaptable design increases the capacity of the open space and recreation facility;
- i. The extent to which the proposal meets a recreational need of the community, particularly where there is an identified deficiency, or a specialised recreational need.

### 18.7.23 Plantation forestry

- a. Whether the plantation forestry promotes best practice in terms of any recognised industry standards or guidelines and any management plan for the operation.
- b. The effects of the plantation forestry on the open space character and amenity taking into account:
  - i. The scale and extent of the proposed forestry and any cumulative effects taking into account existing forestry in the vicinity.
  - ii. Any adverse effects of tracking or roading, including visibility, scarring, the extent to which existing contours are followed and any proposed measures to remedy or mitigate the effects.
  - iii. Any adverse effects on the landscape values of the site and surrounding environment.
  - iv. The relationship of the planted area to existing landforms, including ridgelines.
- c. The effects of forestry activities, in particular harvesting, on infrastructure and the surrounding environment amenity, in terms of traffic generation and safety, noise, dust and nuisance and proposed management methods to mitigate the potential effects.
- d. Any benefits generated by the forestry in relation to carbon sequestration and reduction of greenhouse gases.
- e. The potential for the spread of wilding trees and any management plans to contain or eradicate wilding trees.

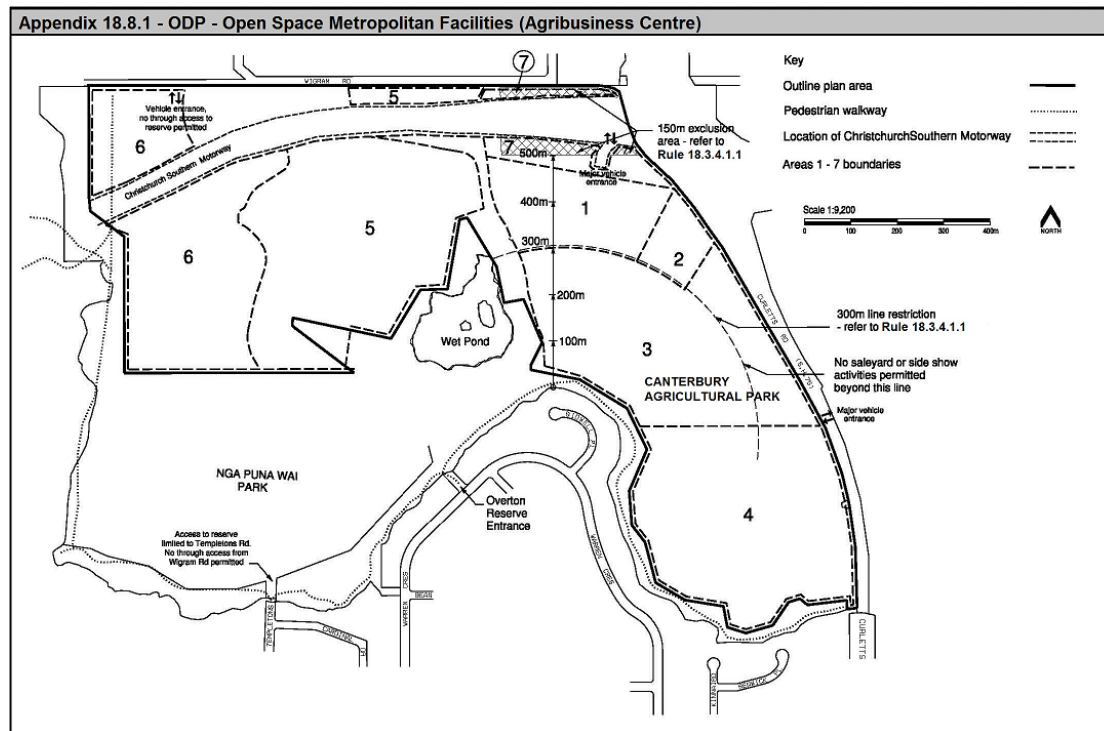
### 18.7.24 Recreation facilities

- a. Whether the recreation facility:
  - i. Is consistent with the role and function of the Open Space Zone it is proposed in;
  - ii. Will displace the permitted recreation facilities and activities;
  - iii. Has a practical or functional need to be located within the open space;
  - iv. Will displace recreational boating, marine recreation activities or facilities at the Naval Point Boat Harbour, 16-25 Marina Access, Lyttelton, and/or adversely affect public access to the coastal area.

## 18.8 Appendices

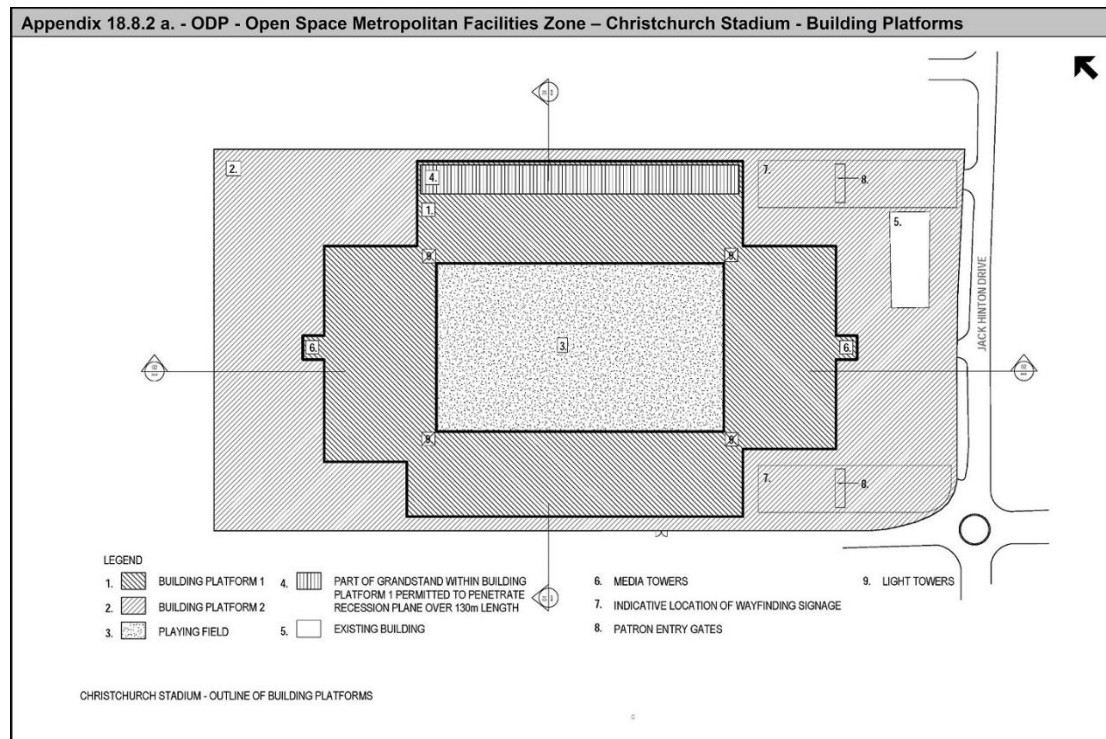
## Appendix 18.8.1 — Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park) Development Plan

*- Replace title with: 'Appendix 18.8.1 – Open Space Metropolitan Facilities Zone (Canterbury Agricultural Park) Development Plan'*

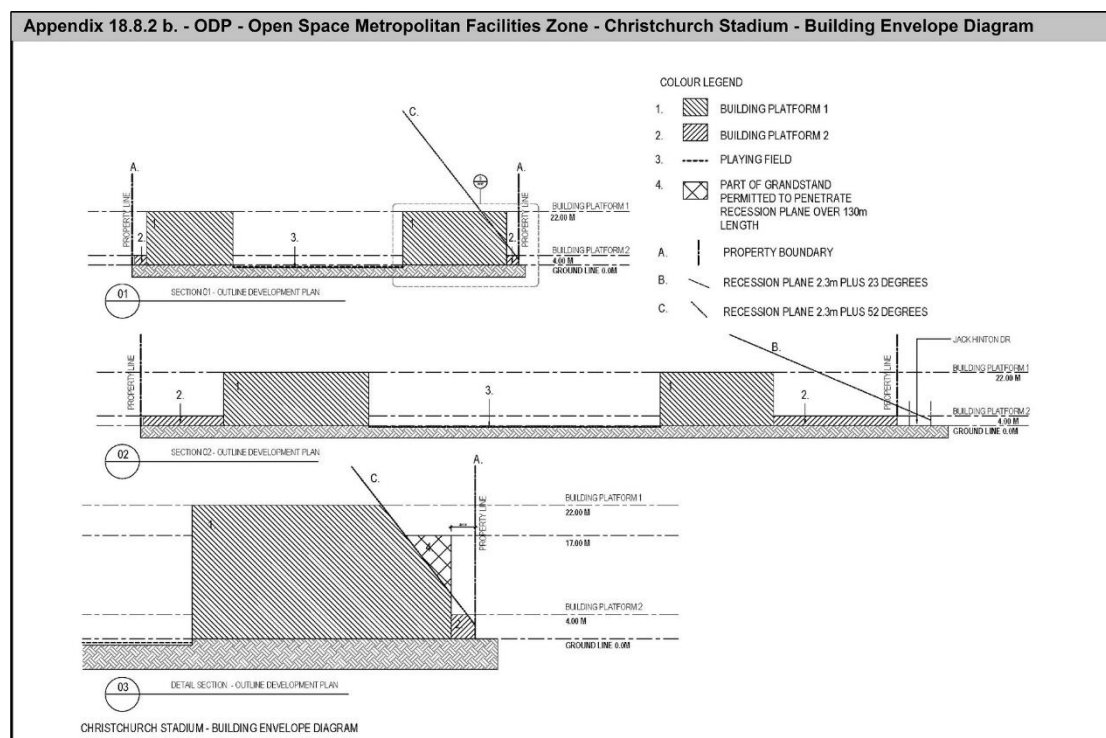


## Appendix 18.8.2 - Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) Development Plan

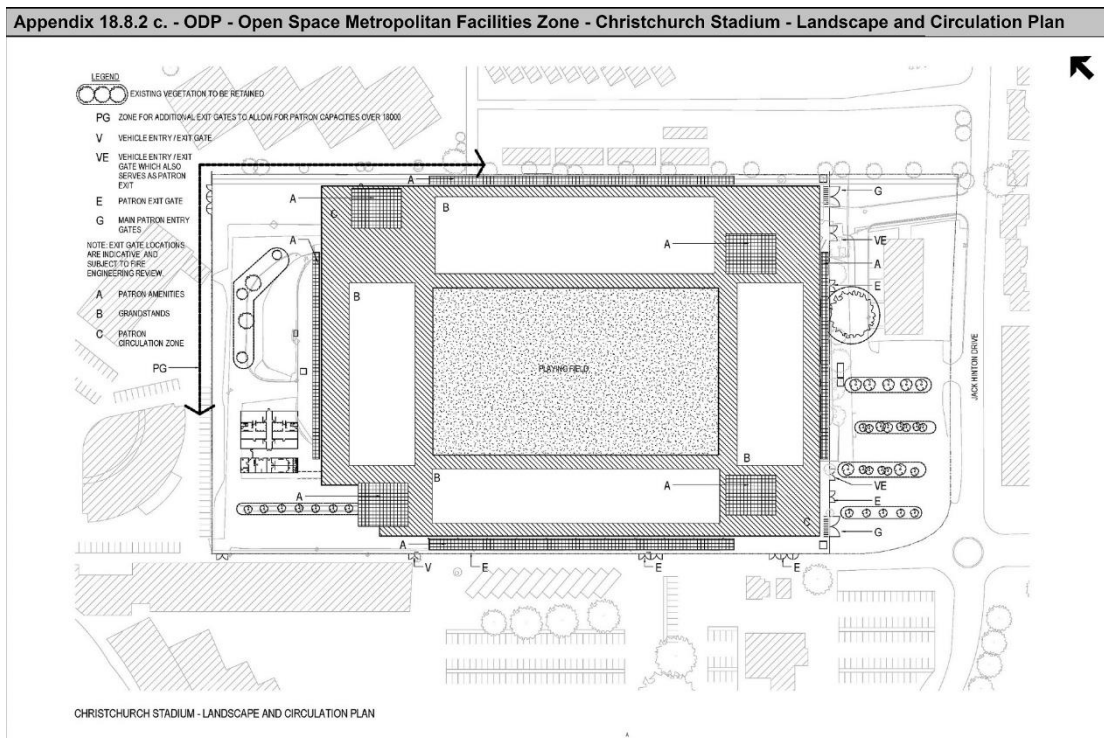
- Replace title with: 'Appendix 18.8.2 a. – Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) Development Plan – Building Platforms'



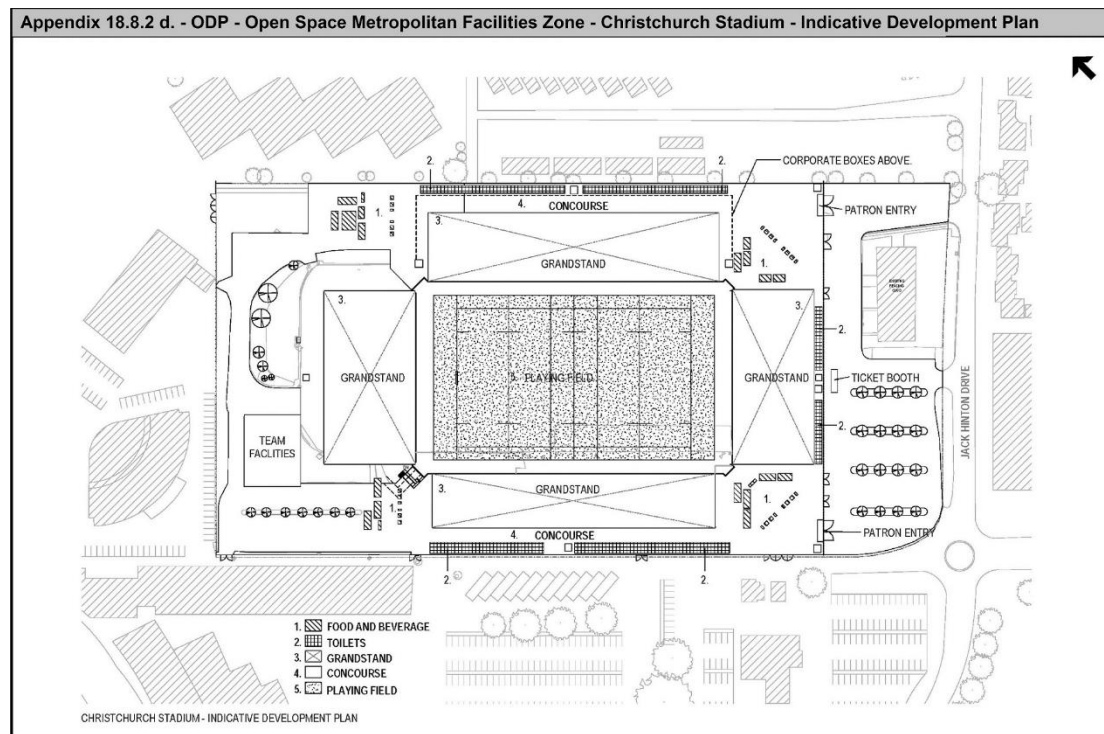
Replace title with: 'Appendix 18.8.2 b. – Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) Development Plan – Building Envelope Design'



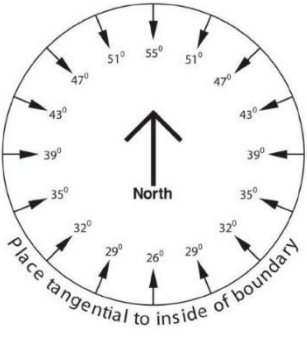
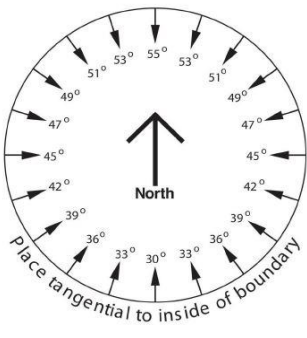
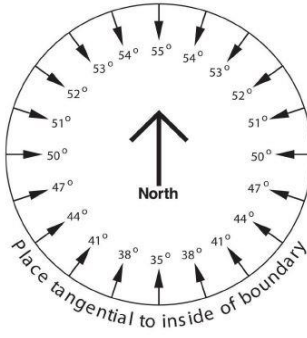
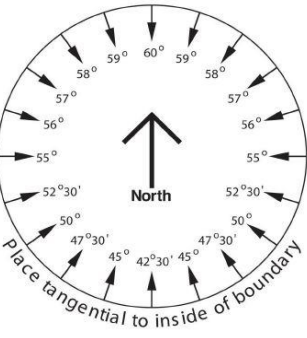
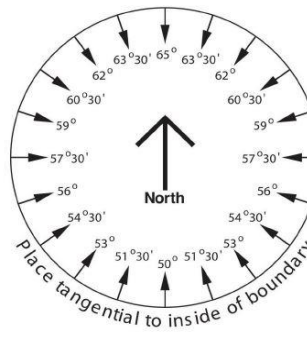
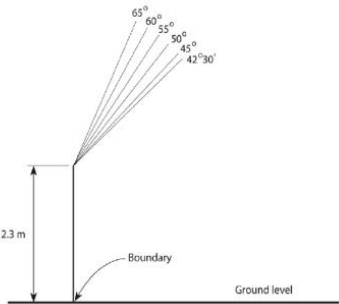
*Replace title with: 'Appendix 18.8.2 c. – Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) Development Plan – Landscape and Circulation Plan'*



*Replace title with: 'Appendix 18.8.2 d. – Open Space Metropolitan Facilities Zone (Temporary Christchurch Stadium) Development Plan – Indicative Development Plan'*

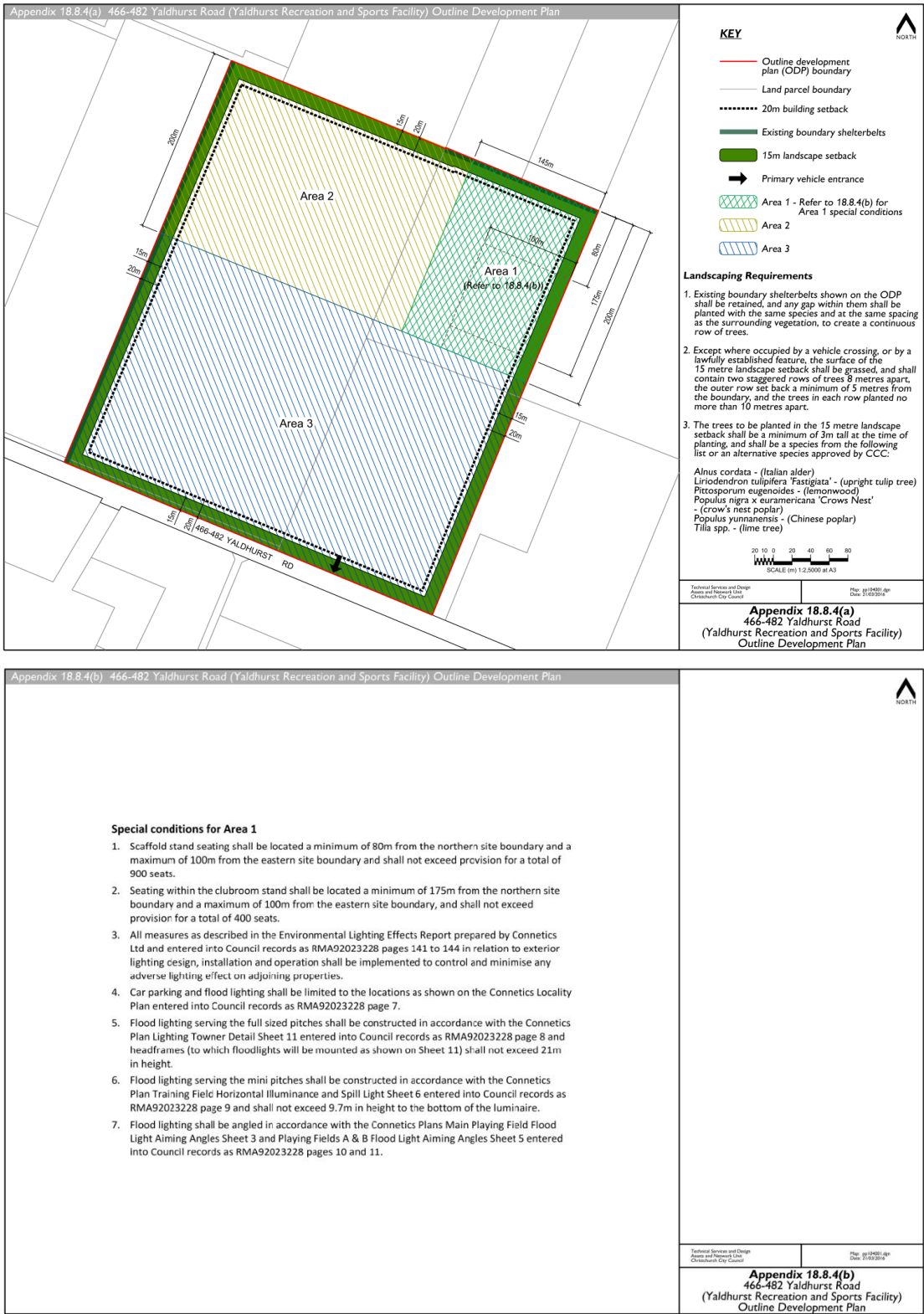


### Appendix 18.8.3 - Recession Planes

	
<p><b>A. Applicable to all buildings:</b></p> <ul style="list-style-type: none"> <li>On sites in non-residential zones that adjoin the Residential Suburban Zone, Residential Small Settlement Kainga Overlay Areas 1 and 2 and Spencerville Overlay Area.</li> </ul>	<p><b>B. Applicable to all buildings:</b></p> <ul style="list-style-type: none"> <li>On sites in non-residential zones that adjoin the Residential Density Transition Zone and Residential Hills Zone.</li> </ul>
	
<p><b>C. Applicable to all buildings:</b></p> <ul style="list-style-type: none"> <li>On sites in non-residential zones that adjoin the Residential Medium Density Zone</li> </ul>	<p><b>D. Applicable to all buildings:</b></p> <ul style="list-style-type: none"> <li>On sites in non-residential zones that adjoin the Residential Medium Density Zone Higher Height Limit Overlay areas</li> <li>On sites in non-residential zones that adjoin the Residential Medium Density Zones (except those buildings over 11 metres in height)</li> </ul>
	
<p><b>E. Applicable to all buildings.</b></p> <ul style="list-style-type: none"> <li>Over 11 metres in height on sites in non-residential zones that adjoin the Residential Medium Density Zone Higher Height Limit Overlay areas, Central City Residential Zone, Guest accommodation Zone, and Accommodation and Community Overlay.</li> </ul>	<p>Note: North is true north</p>



Appendix 18.8.4 - Yaldhurst Recreation and Sports Facility Development Plan



## Planning Maps

On the Planning Maps, the land identified below is to be shown as having two possible zones - one being the notified zone, the other being the future zone if the pre-requisite conditions in Rule 17.6A.1 are met:

Directions:

- The wording on the Planning Maps shall be as follows:
  - OSCP or RuQ Templeton [pre-requisite conditions for RuQ Templeton to apply are set out in Rule 17.6A.1] – Res. 2418; Res. 5094; RS 38609.
  - RuQ or OSCP Templeton [pre-requisite conditions for OSCP Templeton to apply are set out in Rule 18.2.4.1] - Lot 3 DP 34025; Lot 2 DP 54768; Lot 2 DP 19504; Lot 3 DP 19504; Lot 4 DP 19504; Part Lot 5 DP 19504; Lot 6 DP 19504; Lot 7 DP 19504; Lot 8 DP 19504; Lot 1 DP 20191; Lot 2 DP 20191

**SCHEDULE 2**

Sites notified in Stage 1 but deferred to Stage 2 and re-notified with Open Space zoning

Map	Address	Notified Stage 1 Zone	Notified Stage 2 Zone
<b>Zoning Decision: Open Space Community Parks</b>			
32	69 Alexandra Street	Residential Medium Density	Open Space Community Parks
38	7R Annex Road	Residential Suburban	Open Space Community Parks
20	84 Aston Drive	Residential Suburban	Open Space Community Parks
77	269 Beach Road	Residential Banks Peninsula	Open Space Community Parks
34	71 Beatty Street	Residential Suburban	Open Space Community Parks
33	182, 184 & 192 Bexley Road	Residential Suburban	Open Space Community Parks
31	50R Carlton Mill Road	Residential Medium Density	Open Space Community Parks
39	398 Cashel Street	Residential Medium Density	Open Space Community Parks
31	172 Clarence Street	Residential Medium Density	Open Space Community Parks
44	30 Coppinger Terrace & 22R Date Crescent	Residential Medium Density	Open Space Community Parks
38	26 & 28 Dickens Street & 338A Lincoln Road	Residential Medium Density	Open Space Community Parks
31	18 Dilworth Street	Residential Medium Density	Open Space Community Parks
38	10 Disraeli Street	Residential Medium Density	Open Space Community Parks
20	40 Eastwood Rise	Residential Suburban	Open Space Community Parks
39	113 Gasson Street	Commercial Retail Park	Open Space Community Parks
39	125 Gasson Street	Commercial Retail Park	Open Space Community Parks
36	18 Goulding Avenue	Residential Suburban Density Transition	Open Space Community Parks
47	4R Kennaway Road	Industrial General	Open Space Community Parks
47	59R Kennaway Road	Industrial General	Open Space Community Parks
52	44 London Street	Commercial Banks Peninsula	Open Space Community Parks
12	18R March Place	Industrial General	Open Space Community Parks
38	9R Mokihi Gardens	Residential Suburban	Open Space Community Parks
46	8 Nutfield Lane	Residential Suburban	Open Space Community Parks
33	60 Owles Terrace	Residential Suburban	Open Space Community Parks
52	18B Oxford Terrace	Commercial Banks Peninsula	Open Space Community Parks
32	129 Packe Street	Residential Medium Density	Open Space Community Parks
31	331 Riccarton Road	Residential Suburban	Open Space Community Parks
23	210 Roydvale Avenue	Industrial General	Open Space Community Parks
38	41 Ruskin Street	Residential Medium Density	Open Space Community Parks
24	114R Sawyers Arms Road	Industrial General	Open Space Community Parks
38	410R Selwyn Street	Industrial General	Open Space Community Parks
36	171 Shands Road	Industrial Heavy	Open Space Community Parks
33	176 Shortland Street	Residential Suburban	Open Space Community Parks
38	81 Simeon Street	Residential Suburban Density Transition	Open Space Community Parks



Map	Address	Notified Stage 1 Zone	Notified Stage 2 Zone
44	12R & 48R Somerville Crescent	Residential Medium Density	Open Space Community Parks
40	89R St Lukes Street	Residential Suburban	Open Space Community Parks
32	80 & 84 Stanmore Road	Residential Medium Density	Open Space Community Parks
26	312 Wainoni Road	Residential Suburban	Open Space Community Parks
23	490 Wairakei Road	Industrial General	Open Space Community Parks
25	280 Westminster Street	Residential Suburban	Open Space Community Parks
<b>Zoning Decision: Open Space Metropolitan Facilities</b>			
52	29 Winchester Street	Residential Conservation	Open Space Metropolitan Facilities
<b>Zoning Decision: Open Space Water and Margins</b>			
45	19R Augustine Drive	Residential Suburban	Open Space Water & Margins
40	44 Bamford Street	Residential Suburban Density Transition	Open Space Water & Margins
47	129 & 133 Bamford Street	Industrial Heavy	Open Space Water & Margins
40	26 Catherine Street	Residential Suburban	Open Space Water & Margins
40	3 Connal Street	Residential Suburban	Open Space Water & Margins
40	320C Cumnor Terrace	Residential Suburban Density Transition	Open Space Water & Margins
31	17 Fendalton Road	Residential Suburban	Open Space Water & Margins
47	982 Ferry Road	Industrial General	Open Space Water & Margins
24	57 & 57A Halliwell Avenue	Residential Medium Density	Open Space Water & Margins
40	41R & 43R Heathcote Street	Residential Medium Density	Open Space Water & Margins
45	1 Hennessy Place	Residential Suburban	Open Space Water & Margins
45	35 Holbrook Way	Residential Suburban	Open Space Water & Margins
40	2 Lane Street	Residential Suburban Density Transition	Open Space Water & Margins
46	3 Palatine Terrace	Residential Suburban	Open Space Water & Margins
24	2 & 54 Proctor Street	Residential Medium Density	Open Space Water & Margins
46	390 Riverlaw Terrace	Residential Suburban	Open Space Water & Margins
40	100E Rutherford Street	Industrial Heavy	Open Space Water & Margins
32	159R Slater Street	Residential Suburban	Open Space Water & Margins
32	125R Stapletons Road	Residential Suburban	Open Space Water & Margins

**SCHEDULE 3**

Properties/Areas where decision is to rezone

Map	Address/Area	Notified Zoning	Decision on Zoning	Submitters
<b>Notified Zone: Open Space Water and Margins</b>				
40, 47	100 Rutherford Street <sup>269</sup>	Open Space Water and Margins	Industrial General	2123: Christchurch City Council
47	Part of the Heathcote River mouth which is in the Coastal Marine Area <sup>270</sup>	Transport Zone over Open Space Water and Margins	Transport Zone	2123: Christchurch City Council
<b>Notified Zone: Commercial Core (Stage 1)</b>				
39	441 Colombo Street	Commercial Core (Stage 1)	Open Space Community Parks	2022: Samir Govind
<b>Notified Zone: Rural Port Hills</b>				
46	70 Rapaki Road	Rural Port Hills	Open Space Natural	2123: Christchurch City Council
<b>Notified Zone: Open Space Community Parks</b>				
61	268 Marine Drive, Church Bay	Open Space Community Parks	Open Space Natural	2123: Christchurch City Council
74	413 Wainui Main Drive	Open Space Community Parks	Open Space Natural	2123: Christchurch City Council
75	34 Warnerville Road	Open Space Community Parks	Open Space Natural	2123: Christchurch City Council
<b>Notified Zone: Rural Banks Peninsula</b>				
75	804 Wainui Main Road	Rural Banks Peninsula	Open Space Water and Margins	2123: Christchurch City Council
<b>Notified Zone: Rural Urban Fringe</b>				
29, 30	466-482 Yaldhurst Road	Rural Urban Fringe	Open Space Community Parks	2277: Canterbury Sports Limited 2817: Christchurch International Airport FS2820: Paul G Bridgman, Robbie Rowland and Denyse Rowland
<b>Notified Zone: Transport</b>				
18	Pasadena Reserve, between St Ives	Transport	Open Space Community Park	2123: Christchurch City Council

<sup>269</sup> This site was zoned Industrial in Stage 1, then re-notified in Stage 2 as Open Space Water and Margins.

<sup>270</sup> Evidence in chief of David Falconer on behalf of the Council (for Chapter 7: Transport – Stage 2), at paras 9.11.

Map	Address/Area	Notified Zoning	Decision on Zoning	Submitters
	Street and Pasadena Place <sup>271</sup>			

<sup>271</sup> Evidence in chief of David Falconer on behalf of the Council (for Chapter 7: Transport – Stage 2), at paras 9.9 – 9.10.

**SCHEDULE 4**

Properties/Areas where decision is to retain notified zoning

Map	Address	Zoning Decision	Submitter Name
<b>Notified Zone: Open Space Water &amp; Margins</b>			
31	126 Puriri Street	Open Space Water and Margins	2101: The Burrell Family Trust
12	Kaputone Creek adjacent to Silver Fern Farms at 66, 68 and 83 Factory Road	Open Space Water and Margins	2365: Silver Fern Farms
<b>Notified Zone: Open Space Metropolitan Facilities</b>			
58, R1	Naval Point, 16-25 Marine Access, Lyttelton	Open Space Metropolitan Facilities	Various <sup>272</sup>
<b>Notified Zone: Open Space Community Park</b>			
39	Part of the Buchan Street Playground	Open Space Community Park	2217: New Zealand Sikh Society (South Island) Inc
31, 32, 38, CC, H9, H10, H15	Hagley Park, 1 Harper Avenue	Open Space Community Park	2302: Hands Off Hagley
58, 59	2C Waipapa Avenue, Diamond Harbour	Open Space Community Park	2339: Diamond Harbour Community Association
31, H6	83 & 83D Heaton Street	Open Space Community Park	2343: The Elmwood Club Inc
6, 34, R2, 65, 70, 61	Camping Grounds listed in Rule 18.2.2.1, P9	Open Space Community Park	2387: Crown
69	12 Barclays Road, Little River	Open Space Community Park	2197: The Little River Wairewa Community Trust
<b>Notified Zone: Residential New Neighbourhood</b>			
49	Land in Kennedys Bush Road opposite Halswell Quarry, south of Glovers Road	Residential New Neighbourhood	2377: Jonathan Douglas Gillard FS2770: Rock Hill Limited
<b>Notified Zone: Rural Banks Peninsula</b>			
78, R4	Land at the margins of Lake Forsyth / Wairewa	Rural Banks Peninsula	2387: Crown
<b>Notified Zone: Transport</b>			

<sup>272</sup> Michael Batstone (2327); Paul Beatson (2401); Graeme Burney (2273); Ross Connolly (2384); Richard Connor (2573); John Cullens (2256); Craig Edwards (2386); Robert Gordon (2581); Ashley Grindley-Jones (2398); Kevin Guy (2442); Christopher Guy (2411); David Haylock (2262); Andrew Herriott (2429); Morris Hitching (2434); Christopher Hynds (2299); Samuel Jones (2400); Richard Jones (2580); Jeffrey Mann (2438); Peter Marshall (2578); Colin McKenzie (2393); Rachael O'Sullivan (2253); Michael Rossouw (2582); William Ruske (2397); Geoffrey Savage (2294); Peter Savage (2284); Karen Selway (2575); Peter Stokell (2593); Garry Suckling (2175); Wayne Taggart (2268); Anthony Taylor (2424); David Vile (2414); Naomi Wilde (2583); Hekia Bodwitch (2392); Natalia Crestani (2303); Naval Lyttelton (2305); Brenda Moore (2289); Peter McBride (2177); Dudley Jackson (2437); Nicola Hockley (2244); Ross May (2252); David Hawke (2258); Michael Anderson (2261); Danielle Lake (2266); Seth Moore (2291); Victoria Moore (2293); Lee Sharland (2441); Moore Viki (2576); David Bastin (2577); Karilyn Cooper (2579); Malcolm Guy (2388); Victoria Murdoch (2390); Jes Vilsbaek (2394); Colin Lock (2395); Isaac Armstrong (2396); Garry Dixon (2402); Nicola Blain (2405); Kaleb Buckland (2407); Olivia Edwards (2408); Logan Edwards (2413); Dan Quick (2417); Debby Taylor (2431).

Map	Address	Zoning Decision	Submitter Name
18	The Old Coach Road along the foreshore between Governors Bay and Allandale	Transport	2354: Lyttelton/Mt Herbert Community Board <sup>273</sup>
60-66, 68, 70, 72-75, R1-R9	Unformed legal roads	Transport	2354: Lyttelton/Mt Herbert Community Board <sup>274</sup>
<b>Notified Zone: Open Space Natural</b>			
53, R1	1020 Summit Road, 226F Taylors Mistake Bay	<i>Zoning decided in the Panel's decision on the Rural Proposal</i>	2128: Taylors Mistake Association Land Company Limited 2134: M Slemint
<b>Notified Zone: Commercial Banks Peninsula</b>			
R1, 59	2E Waipapa Ave, Diamond Harbour (former Godley House site)	Commercial Banks Peninsula <i>(as confirmed in Decision 11)</i>	2354 & 3716: Lyttelton/Mt Herbert Community Board

<sup>273</sup> Evidence in chief of David Falconer on behalf of the Council (Chapter 7: Transport – Stage 2), at paras 8.1 – 8.5 and 9.7.

<sup>274</sup> Evidence in chief of David Falconer on behalf of the Council (Chapter 7: Transport – Stage 2), at paras 8.1 – 8.5 and 9.7.

**SCHEDULE 5**

Documents specific to the Open Space Chapter.

Statutory document	Statutory direction
Canterbury Regional Policy Statement 2013 (CRPS)	Give effect to
National Policy Statement on Electricity Transmission	Give effect to
OIC Statement of Expectations	Have particular regard
Mahaanui Iwi Management Plan 2013	Take into account
Recovery Strategy for Greater Christchurch: Mahere Haumanutanga o Waitaha	Not be inconsistent with
Land Use Recovery Plan (LURP)	Not be inconsistent with
Christchurch Central Recovery Plan	Not be inconsistent with
Hagley Park Reserve Management Plan	Have regard to

**SCHEDULE 6****Table of submitters heard**

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

Submitter Name	Nº	Person	Expertise or Role if Witness	Filed/ Appeared
CCC	3723	Ms A Radburnd	Planning	Appeared
		Mr A Milne	Transport	Filed/Appeared
		Ms B O'Brien	Water, wastewater	Filed/Appeared
		Mr I Wright	Geotechnical	Filed/Appeared
		Ms J Carter	Planning	Filed/Appeared
		Mr P Dickson	Stormwater	Filed/Appeared
		Mr S Camp	Noise	Filed/Appeared
Isaac Conservation and Wildlife Trust	2146	Dr J Trevathan	Noise	Filed/Appeared
		Dr J Dowding	Wildlife/Ecology	Filed/Appeared
		Ms K Seaton	Planning	Filed/Appeared
Transpower New Zealand Limited	2218	Ms A McLeod	Planning	Filed
KiwiRail Holdings Limited	2246	Ms D Hewett	Planning	Filed
Canterbury Sports Limited	2277	Mr J London	Landscape Architect	Filed/Appeared
	2277	Mr J Phillips	Planning	Filed/Appeared
	2277	Mr S Meyn		Filed
Hands Off Hagley Incorporated	2302	Professor Kissling Ms Dingwall Ms Martin Mr Meehan		Filed/Appeared
Rod Donald Banks Peninsula Trust	2311	Ms J Cook		Filed
The Elmwood Club	2343	Mr N Gow		Filed/Appeared
Christchurch International Airport Limited	2348	Mr M Bonis	Planning	Filed/Appeared
Crown	2387	Ms A Cameron	Planning	Filed
		Mr R Kerr	Engineer	Filed
		Ms V Barker	Planning	Filed
Fulton Hogan	2455	Mr D Chrystal	Planning	Filed/Appeared
P Bridgman and R & D Rowland	2389 FS2820	Mr D Millar	Planning	Filed/Appeared
		Mr P Bridgman		Filed/Appeared