

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: 18–25 January, 2–10 February and 9–10 May 2016

Date of decision: 30 September 2016

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

DECISION 45

CHAPTER 9: NATURAL AND CULTURAL HERITAGE (PART)

Topic 9.3 — Historic Heritage

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

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INTRODUCTION

Preliminary matters

[1] This decision follows our hearing of submissions and evidence on Chapter 9 Natural and Cultural Heritage for Topic 9.3 Historic Heritage.

[2] In this decision, the phrase ‘Notified Version’ describes the version notified by the Christchurch City Council (‘the Council’/‘CCC’) and to which, subsequent to consideration of submissions and conferencing, a number of changes were made. The Council proposed a number of revisions during the hearing. On 20 April 2016 CCC filed an updated revision, incorporating changes made following mediation (‘20 April Version’). Submitters addressed the 20 April Version in their closing legal submissions. This was then ultimately updated by CCC to address matters raised in submitters’ closing legal submissions and produced in closing as a final Revised Version (‘Final Revised Version’).¹

[3] This decision follows our hearing of submissions and evidence. Further background on the review process, pursuant to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (‘the OIC’/‘the Order’) is set out in the introduction to Decision 1, concerning Strategic Directions and Strategic Outcomes (and relevant definitions) (‘Strategic Directions decision’).²

Effect of decision and rights of appeal

[4] Under the OIC,³ any person who made a submission (and/or further submission) on the Notified Version, the Council and the Ministers⁴ may appeal our decision to the High Court (within the 20 working day time limit specified in the Order), but only on questions of law (and, for a submitter, only in relation to matters raised in the submission).

¹ Closing legal submissions for CCC, 17 June 2016, Appendix B.

² Strategic Directions and Strategic Outcomes (and relevant definitions), 26 February 2015.

³ Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014, cl 19.

⁴ The Minister for Canterbury Earthquake Recovery and the Minister for the Environment, acting jointly.

Identification of parts of existing district plans to be replaced

[5] The OIC requires that our decision also identifies the parts of the Existing Plans to be replaced by the Decision Version.⁵ We defer the replacement of all heritage provisions in the Existing Plan until we issue our final decision on the Chapter 9 provisions.

Conflicts of interest

[6] In the course of the hearing, it was identified on various occasions that submitters were known to members of the Panel either through previous business associations or through current or former personal associations. Those disclosures (and, on some matters, member recusals) were recorded in the transcript, which was again available daily on the Hearings Panel’s website. No submitter raised any issue in relation to this.⁶ The Chair recused himself from any consideration of submissions relating to Hagley Park, which is subject to a separate decision to be released concurrently.

REASONS

STATUTORY FRAMEWORK

[7] The OIC directs that we hold hearings on submissions concerning proposals, and make decisions on those proposals.⁷ It sets out what we must and may consider in making that decision.⁸ It qualifies how the Resource Management Act 1991 (‘RMA’) is to apply and modifies some of the RMA’s provisions, both as to our decision-making criteria and processes.⁹ It directs us to comply with s 23 of the Canterbury Earthquake Recovery Act 2011 (‘CER Act’).¹⁰ The OIC also specifies additional matters for our consideration.

⁵ Known as the Christchurch City District Plan and Banks Peninsula District Plan.

⁶ The website address is www.chchplan.ihp.govt.nz.

⁷ OIC, cl 12(1).

⁸ OIC, cl 14(1).

⁹ OIC, cl 5.

¹⁰ Our decision does not set out the text of various statutory provisions it refers to, as this would significantly lengthen it. However, the electronic version of our decision includes hyperlinks to the New Zealand Legislation website. By clicking the hyperlink, you will be taken to the section referred to on that website. The CER Act was repealed and replaced by the Greater Christchurch Regeneration Act 2016 (‘GCR Act’), which came into force on 19 April 2016. However, s 148 of the GCR Act provides that the OIC continues to apply and the GCR Act does not effect any material change to the applicable statutory framework for our decision or to related Higher Order Documents. That is because s 147 of the GCR Act provides that the OIC continues in force. Further, Schedule 1 of the GCR Act (setting out transitional, savings and related provisions) specifies, in cl 10, that nothing in that Part affects or limits the application

[8] Our Strategic Directions decision, which was not appealed, summarised the statutory framework for that decision. As it is materially the same for this decision, we apply the analysis we gave of that framework in that decision as we address various issues in this decision.¹¹ On the requirements of ss 32 and 32AA of the RMA, we endorse and adopt [48]–[54] of our Natural Hazards decision.¹²

Specific statutory considerations for historic heritage

[9] The main area of difference between the parties in these proceedings is what constitutes the most appropriate protection of historic heritage in the Christchurch context.

[10] The starting point is our obligations under RMA, Part 2, and in particular:

6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...

- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:

...

[11] ‘Historic heritage’ is defined in RMA, s 2 as:

- (a) means those natural and physical resources that contribute to an understanding and appreciation of New Zealand’s history and cultures, deriving from any of the following qualities:
 - (i) archaeological:
 - (ii) architectural:
 - (iii) cultural:
 - (iv) historic:

of the Interpretation Act 1999 which, in turn, provides that the OIC continues in force under the now-repealed CER Act (s 20) and preserves our related duties (s 17).

¹¹ At [25]–[28] and [40]–[62].

¹² Natural Hazards (Part) (and relevant definitions and associated planning maps), 17 July 2015, pages 20–21.

- (v) scientific;
- (vi) technological; and
- (b) includes—
 - (i) historic sites, structures, places, and areas; and
 - (ii) archaeological sites; and
 - (iii) sites of significance to Māori, including wāhi tapu; and
 - (iv) surroundings associated with the natural and physical resources

[12] The meaning of the phrase “inappropriate subdivision, use, and development” was considered in *Environmental Defence Society Inc. v New Zealand King Salmon Company Ltd*¹³ where it was held that protection against ‘inappropriate’ subdivision, use or development allows for the possibility of some forms of ‘appropriate’ subdivision, use and development.¹⁴ The inappropriateness of any subdivision, use or development should be assessed on a case by case basis, by reference to what is sought to be protected.¹⁵

[13] In *Lambton Quay Properties Nominee Ltd v Wellington City Council*, Collins J held:¹⁶

[72] Section 6 of the Resource Management Act requires those who exercise powers under the Resource Management Act to recognise and provide for, among other matters, “the protection of historic heritage from inappropriate subdivision and development”.
...

[73] In this case s 6 of the Resource Management Act requires the consent authority to ensure heritage buildings are only demolished in appropriate circumstances. “Appropriate” in this context means the consent authority approves a demolition of a heritage building only when it is “proper” to do so. In my assessment this requires the consent authority to ensure its consideration of an application to demolish a heritage building is founded upon an assessment of whether or not demolition is a balanced response that ensures all competing considerations are weighed, and the outcome is a fair, appropriate and reasonable outcome.

[74] Section 6 of the Resource Management Act does not mean a consent authority is required to “exhaustively and convincingly exclude” alternatives to demolition before granting resource consent to demolish a heritage building. The statutory requirement for a consent authority to recognise and provide for the protection of historic heritage is a less onerous obligation than the Environment Court’s “exhaustively and convincingly” test for excluding alternatives to demolition of a heritage building. In my

¹³¹³ *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38, [2014] 1 NZLR 593 at [30].

¹⁴ *Ibid* at [29].

¹⁵ *Ibid* at [101].

¹⁶ *Lambton Quay Properties Nominee Ltd v Wellington City Council* [2014] NZRMA 257 at 276.

assessment the Environment Court overstated the effect of s 6 of the Resource Management Act.

[14] In *Lambton Quay*, Collins J held that the consequences of a building owner doing nothing, and not strengthening a building, was an important consideration because it required a careful analysis of the risks to public safety and surrounding buildings. The risk the building posed to people and other places in the case of a moderate earthquake needed to be taken into account in the context of the balancing exercise required.¹⁷ The findings in *Lambton Quay* are particularly apposite when considering appropriate protection of historic heritage in Christchurch following the devastating effects of the Canterbury earthquakes. We agree with the Crown's closing submission that s 6 does not seek to protect historic heritage at all cost but allows a more flexible approach where the Council can make an election on what is to be protected.¹⁸

[15] We interpret s 6(f) as enabling the Council (and in this case the Hearings Panel performing its functions under the OIC) to make a choice, subject to a s 32 evaluation, as to what historic heritage is to be protected, and the method of protection from inappropriate subdivision, use and development. What is inappropriate subdivision, use and development, as we discuss below, is to be considered in the context of the evidence and submissions we heard. We also find, as we discuss next, that recognition of that choice and flexibility of methods for protection are appropriately given effect to in Chapter 13 of the CRPS.

Canterbury Regional Policy Statement

[16] The obligations under s 6(f) are reflected in Chapter 13 of the CRPS. We discussed the interpretation of the relevant objective and policies in the CRPS (that the CRDP must give effect to)¹⁹ in our Preliminary Minute.²⁰ We confirm those views here. The relevant provisions are:

Objective 13.2.1 — Identification and protection of significant historic heritage

Identification and protection of significant historic heritage items, places and areas, and their particular values that contribute to Canterbury's distinctive character and sense of identity from inappropriate subdivision, use and development.

¹⁷ Ibid at [91]

¹⁸ Closing legal submissions for the Crown, at 19-22

¹⁹ RMA, s 75(3).

²⁰ Hearing Panel Minute regarding Topics 9.1-9.5, 22 February 2016 at [22].

Objective 13.2.2 – Historic cultural and historic heritage landscapes

Recognition that cultural and heritage values are often expressed in a landscape setting and to make provision for the protection of such landscapes from inappropriate subdivision, use and development.

Objective 13.2.3 Repair, reconstruction, seismic strengthening, on-going conservation and maintenance of built historic heritage

The importance of enabling the repair, reconstruction, seismic strengthening, and ongoing conservation and maintenance of historic heritage and the economic costs associated with these matters is recognised.

[17] The relevant policies include Policy 13.3.1 which provides:

Policy 13.3.1 — Recognise and provide for the protection of significant historic and cultural heritage items, places and areas

To recognise and provide for the protection of the historic and cultural heritage resource of the region from inappropriate subdivision, use and development by:

- (1) identifying and assessing the significance of the historic and cultural heritage resource according to criteria based on the following matters:
 - (a) Historic
 - (b) Cultural
 - (c) Architectural
 - (d) Archaeological
 - (e) Technological
 - (f) Scientific
 - (g) Social
 - (h) Spiritual
 - (i) Traditional
 - (j) Contextual
 - (k) Aesthetic
- (2) work with Ngāi Tahu to identify items, places or areas of historic heritage significance to them.
- (3) having regard to any relevant entry in the Historic Places Register in the process of identifying and assessing the historic heritage resource.
- (4) considering historic heritage items, places or areas of significance or importance to communities in the process of identifying and assessing the historic heritage resource.

- (5) recognising that knowledge about some historic heritage may be culturally sensitive and support protection of those areas through the maintenance of silent files held by local authorities.

[18] Policy 13.3.1 outlines how the protection of historic and cultural heritage resources in the Canterbury region from inappropriate subdivision, use and development will be recognised and provided for, including by:

- (a) identifying and assessing the significance of historic and cultural heritage resources according to various criteria:
- (b) working with Ngāi Tahu to identify items, places or areas of historic heritage significance to them: and
- (c) considering historic heritage items, places or areas of significance or importance to communities in the process of identifying and assessing the historic heritage resource.

[19] Policy 13.3.2 requires the recognition of:

... places of historic and cultural heritage significance to Ngai Tahu...

and the protection of:

... their relationship and culture and traditions with these places from the adverse effects of inappropriate subdivision, use and development.

[20] Policy 13.3.3 outlines the matters that will be considered in managing and determining the significance of values of historic cultural or historic heritage landscapes.

[21] Policy 13.3.4 provides:

Policy 13.3.4 — Appropriate management of historic buildings

Recognise and provide for the social, economic and cultural well-being of people and communities by enabling appropriate repair, rebuilding, upgrading, seismic strengthening and adaptive re-use of historic buildings and their surrounds in a manner that is sensitive to their historic values.

[22] Policy 13.3.4 recognises the direct relationship between social, cultural and economic wellbeing and the ability to repair, reconstruct, seismic strengthen, conserve and maintain historic buildings, while being sensitive to the historic values of the buildings and their

surrounds. The explanation to the policy recognises that economics will often be a factor as to how quickly or easily re-use can be achieved, and will need to be considered on a case-by-case basis.²¹

[23] Chapter 13 recognises the importance of historic heritage to Canterbury’s unique identity, and provides for the protection and management of historic heritage. Identification and protection of ‘significant’ historic heritage involves first the identification of historic heritage (that derives from the matters listed in Policy 13.3.1(1)(a)–(k)). It then involves an assessment and the exercise of a value judgement as to whether the historic heritage item is ‘significant’, and then an evaluation of what is inappropriate subdivision, use and development that historic heritage is required to be protected from. Finally we must evaluate the extent of protection required.

[24] We find that the relevant objectives and policies in Chapter 13 enable appropriate repair, restoration, reconstruction and adaptive re-use of heritage items and settings in a way that protects heritage values but also recognises the challenges and economic realities for owners of heritage buildings. We find that the CRPS is not prescriptive of how protection is to occur. We also find, consistent with our findings on s 6(f) of the RMA, that protection is not at any cost, and that the focus is on what is appropriate, taking into account the context.

Recovery Strategy

[25] One of the six components of the Recovery Strategy is cultural recovery.²² The Recovery Strategy sets out cultural goals that work together to “renew greater Christchurch’s unique identity and its vitality expressed through sport, recreation, art, history, heritage and traditions”, including by:²³

... restoring historic buildings, where feasible, for the benefit of the community

acknowledging losses and creating spaces to remember, while embracing necessary changes to the city’s character and urban form.

[26] We find that the Recovery Strategy also recognises a balanced and pragmatic approach to heritage protection in light of the consequences of the Canterbury earthquakes.

²¹ CRPS, Chapter 13, page 154.

²² Recovery Strategy, page 4

²³ Recovery Strategy, page 10, goals 4.4 and 4.5.

Central City Recovery Plan

[27] Where historic heritage items, settings and places are located in the Central City, our decision must not be inconsistent with the Central City Recovery Plan (CCRP). Relevantly the CCRP encourages retention of heritage buildings.²⁴

[28] The CCRP inserted policies, rules and assessment matters for historic heritage management in the Existing Plan. In particular, the CCRP enables repairs and maintenance of heritage items, reconstruction of earthquake-damaged buildings and upgrades needed to meet building code requirements for seismic strengthening, fire protection or access. The CCRP has a strong focus on the need to expedite recovery and rebuilding in the Central City.

Strategic Directions

[29] Objective 3.3.9 provides:

Objective – Natural and cultural environment

[The requirement for further or alternative strategic direction to be provided in respect of the “Natural and cultural environment” will be reconsidered by the Panel as part of its further hearing of relevant proposals.]

A natural and cultural environment where:

- (a) People have access to a high quality network of public open space and recreation opportunities, including areas of natural character and natural landscape; and
- (b) Important natural resources are identified and their specifically recognised values are appropriately managed, including:
 - (i) outstanding natural features and landscapes, including the Waimakariri River, Lake Ellesmere/Te Waihora, and parts of the Port Hills/Ngā Kōhatu Whakarakaraka o Tamatea Pōkai Whenua and Banks Peninsula/Te Pātaka o Rakaihautu; and
 - (ii) the natural character of the coastal environment, wetlands, lakes and rivers, springs/puna, lagoons/hapua and their margins; and
 - (iii) indigenous ecosystems, particularly those supporting significant indigenous vegetation and significant habitats supporting indigenous fauna, and/or supporting Ngāi Tahu Manawhenua cultural and spiritual values; and
 - (iv) the mauri and life-supporting capacity of ecosystems and resources; and

²⁴ Central City Recovery Plan, p40

- (c) 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.

[30] In the context of post-earthquake Christchurch, there is a tension in the Higher Order Documents between:

- (a) protecting significant historic heritage; and
- (b) enabling their owners to take practical and affordable steps to repair and bring them up to an appropriate seismic building standard and to continue to use, change or adapt them so as to provide for cultural, social and economic needs.

[31] In some cases, the evidence is that the economic costs of repair, or earthquake strengthening are such that the purpose of the RMA is not enabled through continued listing of a building. In some cases the evidence is that the nature of the repairs or reconstruction that is required so diminishes heritage values that they are no longer worthy of protection. In other cases the evidence demonstrates that protection of significant historic heritage is possible, through various means, but the issue is one of ensuring that the method of protection is enabled, through a properly targeted and focused regulatory framework. That is so the costs and uncertainty associated with resource consent process do not become a disincentive to appropriate management of historic heritage.

Hearings Panel Preliminary Minute of 22 February 2016

[32] The Hearings Panel issued a Preliminary Minute on 22 February 2016 setting out its preliminary findings on a number of issues arising from the hearing of submissions and evidence. Although our observations in the Preliminary Minute were by their very nature preliminary, in particular in view of the fact we had yet to receive closing legal submissions, we identified a number of significant flaws in the Council's approach to the protection of historic heritage under RMA s 6(f), s 32 and in giving effect to Chapter 13 of the CRPS. We made a number of observations about the proposed objective and policy framework, in particular its lack of proper recognition of the impacts of the Canterbury earthquake sequence, the financial costs of repair and reconstruction of heritage items, and related to that, the engineering complexity of repair, reconstruction and seismic strengthening. We were concerned that the approach to the Notified Version, and the revision proposed by the Council,

as it stood prior to the Preliminary Minute, effectively transferred the risks of a poorly targeted regulatory regime (i.e. in terms of uncertainty and cost), based on the Council's limited s 32 evaluation, to individual property owners and, consequently, to the community at large.²⁵

[33] In response to our Preliminary Minute and following further mediation of the parties, the 20 April Version was filed by CCC, to which the closing submissions were addressed. In broad terms there is support from most parties for the revised objective and policy framework, with some matters still outstanding in relation to specific provisions and individual sites, which we address further below. In general terms the 20 April Version responded to the matters raised in our Preliminary Minute and provided a more appropriate framework. There are still significant drafting issues, particularly in terms of the clarity and ease of use, and the requirements to reduce resource consenting requirements. The Council has responded to these matters in its closing legal submissions and made some further amendments, which were produced as the Final Revised Version. We still have a number of drafting concerns which we address below.

The Council's original s 32 Report and our approach to RMA s 32AA

[34] The Council's original s 32 Report that accompanied the Notified Version ('Original s 32 Report') did not involve investigation and reporting on the particular extent of damage of each scheduled building, and the engineering possibilities and cost implications for each of those buildings, due to the scale of the task (over 600 heritage items) and the time available for preparation of the proposal.²⁶ However, where information was held about the condition of heritage buildings, the Council told us that it had been factored into the heritage assessment. As it happened, and as we discuss further below in relation to some site-specific matters, that was not always the case. The Council commissioned an economic assessment of the value of heritage and the economic impact of the proposal (Appendix 10 of the Original s 32 Report). Those matters were addressed in the evidence of Dr Douglas Fairgray, an economist.²⁷ However, Dr Fairgray's evidence was at such a level of generality that it did not assist us in our evaluation. Dr Fairgray had also relied on the Council's flawed approach to the identification, assessment and regulation of historic heritage, referred to in our Preliminary

²⁵ Preliminary Minute at [34].

²⁶ Closing legal submissions for CCC, at 3.6

²⁷ Evidence in chief of Dr Douglas Fairgray, 4 December 2016.

Minute. In Decision 27 at [55], in relation to the Public Trust Building, we referred to the evidence of Mr Michael Copeland, an economist called by Tailorspace,²⁸ and Dr Fairgray. They agreed that the measurement and quantification of heritage benefits can be contentious and difficult.

[35] We concur and have approached our evaluation under s 32AA with that in mind and have considered both quantifiable and unquantifiable costs and benefits, to the extent that those matters were addressed in the evidence and submissions we heard.

Scope for changes to the Notified Version

[36] There are a number of submissions that were generally supportive of the Council's Notified Version but requested specific changes to either site specific matters (which we consider separately below) or changes to the provisions. In some cases those submissions sought stronger protection of historic heritage.²⁹ Other submissions were critical of the Notified Version on the basis that it failed to address the financial and engineering consequences of earthquake damaged heritage buildings, and did not accord with the requirements of the Higher Order Documents.³⁰ As the hearing progressed, and in response to our Preliminary Minute, the Notified Version changed considerably to better align with the requirements of the Higher Order Documents. Although we have considered all written submissions lodged on the Notified Version in our deliberations, because the proposal has altered significantly in response to our Preliminary Minute, we have not found it necessary to address those individual submissions that requested more stringent controls than the Notified Version in detail in this decision, except to the extent they relate to site specific matters.

[37] We are satisfied that the changes proposed in the Final Revised Version, and the further changes, in the Decision Version, are within the scope of relevant submissions made on the Notified Version.³¹

²⁸ Tailorspace Property Limited (3718).

²⁹ For example submissions from the Christchurch Civic Trust (3700), Heritage NZ (3674), Historic Places Canterbury (3675) and Dr Ian and Dr Lynne Lochhead (3633).

³⁰ For example from Crown, Tailorspace, Gaba, CPT and others.

³¹ OIC, cl 13(2) and (4).

Decision Version

[38] In general terms the Final Revised Version addresses many of the concerns we raised with the Notified Version in our Preliminary Minute, however, we have made a number of further changes to the provisions in the Decision Version in light of our analysis and findings on the evidence and submissions, and in response to closing legal arguments. Where those changes are substantive changes that depart from the Council's Final Revised Version we have set out our reasons for those changes below. There are also a number of changes we have made to improve the simplicity, clarity, coherence and ease of use in accordance with the Statement of Expectations and Strategic Directions. Not all of those changes are addressed in our reasoning, but we are satisfied that those changes are otherwise of minor effect, and have not warranted separate detailed reasoning.

Definitions

[39] We deal with this topic at the outset as a number of definitions are critical to the application of the objectives, policies and rules on heritage matters. As the hearing unfolded, it became apparent that a number of definitions relevant to historic heritage should be determined in this decision, before confirming the provisions. That is because there was a significant overlap of some definitions that lead to a lack of clarity in the rules.

[40] It was generally accepted that following our Preliminary Minute, significant work was required to address the definitions. We accept the Final Revised Version of definitions as appropriate, except to the extent we make the following changes.³²

Alteration of a heritage item

[41] We have accepted the Final Revised Version of the definition as most appropriate. We note that the Crown did not consider that the words 'interior' or 'exterior' needed to be included before 'heritage fabric', however, the Council considered that it reminded users of the plan that heritage fabric may include interiors. We note that interiors are only regulated where

³² We have also made a number of minor drafting changes to reflect the technical drafting review lead by CCC in the Stage 2 and 3 Definitions hearing where these relate to the heritage definitions. We have not made consequential changes to non-heritage reliant definitions at this time; to the extent we later accept those changes, we will address further consequential changes to heritage definitions in the Stage 2 and 3 Chapter 2 Definitions decision.

specifically identified as a scheduled item. We find that the words improve the clarity of the provisions, and have retained them on that basis.

Deconstruction

[42] We have amended the definition to make it clear that the purpose of deconstruction is so that the deconstructed material can be used in the reconstruction and/or restoration of a heritage item. On the evidence we heard, particularly from Mr John Hare in relation to ChristChurch Cathedral, (which we discuss in more detail later), there is a significant overlap between the activities of reconstruction and restoration, and in relation to deconstruction, partial demolition and demolition. We find that our amendments provide greater clarity for the purposes of the relevant rules. We have defined ‘deconstruction’ as follows:

in relation to a heritage item, means carefully dismantle a building or features in such a way that the deconstructed materials may be later used in reconstruction and or restoration.

Demolition and partial demolition

[43] We have accepted the Final Revised Version of the definition of ‘demolition’ as appropriate. The Crown requested the addition of the words “it does not include deconstruction for the purpose of reconstruction”. We agree with the Council that it is not necessary. Further, our amendments to the definition of deconstruction, amendments to the provisions, and the addition of a definition for ‘partial demolition’ improve the clarity of the rules relating to demolition.

[44] We have considered the evidence of Mr Michael Vincent, a planner called by Heritage NZ³³ and Mr Ian Bowman, a heritage architect for the Crown,³⁴ requesting the inclusion of a definition for ‘partial demolition’.³⁵ Ms Caroline Rachlin for the Council did not consider a definition was required, but that appears to be on her understanding the Notified Version was sufficient. Ms Rachlin was concerned about the specific examples that Heritage NZ sought to

³³ Transcript, page 1009, line 44 to page 1010, line 10.

³⁴ Mr Bowman is an historian, a registered architect and a built heritage conservator. Mr Bowman holds a Bachelor of Arts in History and Economic History from Victoria University obtained in 1978, a Bachelor of Architecture from the University of Auckland obtained in 1983 and a Master of Arts in Conservation Studies from the University of York obtained in 1986. He has certificates from the International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM) in the conservation of stone in 1991 and earthen architecture in 1994. He completed an Association of Preservation Technology course in Canada on the conservation of timber buildings in 2000, a Plymouth University/ICCROM course on cob building conservation in 2001 and a National Heritage Ironwork Group course on the conservation of architectural ironwork in York in 2015.

³⁵ Transcript, page 1056.

include and exclude from the definition, which she considered did not assist with the usability of the provisions.³⁶ We agree with Mr Vincent that a definition is appropriate because it is both enabling of partial demolition and offers protection of heritage values. However, we do not accept the wording suggested by Mr Vincent provides the necessary clarity. We prefer that the definition is simplified to provide for those matters not falling within the definition of ‘demolition’. Such a definition would enable more targeted regulation of all demolition as well as offering appropriate protection of heritage values by providing greater clarity as to the extent of demolition provided for in the CRDP.

[45] Mr John Hare, a structural engineer who has extensive experience in working with damaged heritage buildings, gave evidence for Church Property Trustees (CPT). He confirmed that works required for reconstruction of ChristChurch Cathedral may well involve elements of restoration, repair, demolition and deconstruction.³⁷ We accept that it is appropriate that the demolition of the whole, or a substantial part of, a heritage item is subject to particular consenting requirements. However, where the demolition work is undertaken for the purposes of restoration and reconstruction, we find that a more targeted approach most appropriately achieves the CRDP objectives, at least in the case of ChristChurch Cathedral.

[46] We note that the definition of ‘alteration’ includes ‘partial demolition’, therefore, recognising the activity of partial demolition in that context. The definition of ‘alteration’ excludes restoration and reconstruction. When partial demolition may be required for restoration or reconstruction purposes, the activity class of ‘alteration’ is triggered unless we separately provide for partial demolition for the purposes of restoration and reconstruction. In the CCRP, the definition of ‘demolition’ was amended in the Existing Plan for the purposes of earthquake recovery in the Central City to exclude demolition for repair and reconstruction purposes (amendments in bold):³⁸

in relation to a protected building, place or object, means its destruction in whole but not in part, **where that item is located outside of the Central City.**

For heritage items located within the Central City, it means the destruction in whole or of a substantial part of a listed heritage item which results in the complete or significant loss of the heritage form, fabric and heritage values of the item, but excludes demolition necessary for undertaking repairs to or reconstruction of a heritage item.

³⁶ Evidence in chief, Caroline Rachlin, 18 December 2016, at 16.33.

³⁷ Transcript, page 1192-1198.

³⁸ CCRP, Appendix 1.

[47] The Final Revised Version aligns with the first part of the Central City definition for ‘demolition’ for the whole city. We have considered whether it would also be appropriate to address in the CRDP the second element, which relates to enabling demolition in the context of repairs or reconstruction. On the evidence, we find that, in the context of the CRDP, a more targeted activity of ‘partial demolition’ is required in the case of ChristChurch Cathedral, which we address below. However, in the case of all other Group 1 and 2 historic heritage we are satisfied that partial demolition is appropriately addressed as an ‘alteration’ and subject to Rule RD1.

[48] In the context of the definition of ‘alteration’ we find that a definition of ‘partial demolition’ would assist users of CRDP and have included a definition in the Decision Version. We find that the following definition is most appropriate for ‘partial demolition’:

in relation to a heritage item, means the permanent destruction of part of a heritage item which does not result in the complete or significant loss of the heritage form and fabric which makes the heritage item significant.

Heritage fabric

[49] As we discuss below, we have improved the clarity of this definition by making reference to the certification of non-heritage fabric in the definition as follows:

Heritage fabric excludes fabric certified in accordance with Appendix 9.3.7.6.

Historic heritage place

[50] In the Final Revised Version, the following definition was provided:

means land containing one or more heritage items, and, in many cases, an associated heritage setting, which collectively possess the protected heritage fabric and heritage values associated with the place.

[51] The term ‘Historic heritage place’ forms part of the title of Final Revised Version’s Appendix 9.3.6.1 (the schedule of heritage items and settings). There are no rules that regulate ‘historic heritage places’ as a separate heritage category. The way the definition is worded implies an additional heritage category for ‘land containing one or more heritage items and settings’ which collectively have heritage value. If the intention is that it is simply the collective noun for heritage items and settings, we do not find it assists with the clarity and usability of CRDP. It is not necessary and can be deleted. Wherever it is necessary to refer to a collective term, we have used ‘historic heritage’ which is defined in the RMA, or ‘scheduled

historic heritage’, which is the description of Appendix 9.3.7.2 of significant and highly significant heritage items and settings. ‘Heritage area’ is also now separately defined, and the use of historic heritage place may also confuse users of CRDP.

Heritage values

[52] The Crown submitted that the definition could be dispensed with because heritage values are defined in the relevant policy. The Council disagrees and points to the frequent use of the phrase throughout CRDP and considers that it assists with the clarity of the provisions. We are satisfied that the definition improves clarity and have included it in the Decision Version.

Maintenance

[53] The Crown requested that the definition of maintenance be simplified to refer only to the elements relating to the maintenance of heritage fabric.³⁹ The Council disagrees and considers the detail in the definition assists users of CRDP. We agree with the Council that, in this case, a more comprehensive definition is more appropriate and assists with the application of the rules that provide for maintenance. We have included the definition as proposed in the Final Revised Version in the Decision Version for those reasons.

Heritage professional

[54] The definition of ‘heritage professional’ was subject to considerable discussion throughout the hearing and general consensus was reached following mediation on the definition. We discuss the role and expertise of heritage professionals in our discussion below on certification and preparation of Heritage Statements of Significance (‘HSOS’). We are satisfied that the definition in the Final Revised Version is fit for purpose, with one minor change (as requested by the Crown) to change ‘they have’ to ‘he/she has’.

Reconstruction and Restoration

[55] The Crown suggested that the definitions could be improved by deleting ‘mainly’ in front of ‘new materials’ and ‘existing materials’ respectively. We agree with the Council that it is not an appropriate amendment because it would create uncertainty as to which activity class

³⁹ Closing legal submissions for the Crown, page 34.

applied. We note that, for the purposes of the rules, ‘reconstruction’ and ‘restoration’ are coupled together in 9.3.4.1 P11 and 9.3.4.2 C2. We find this is appropriate, given the degree of overlap and relationship between the two activities. We have amended the definition of ‘Restoration’ to also include ‘deconstruction for the purposes of restoration’, given the relationship the latter has with reconstruction. The evidence, particularly from Mr Hare, demonstrates that there may be elements of deconstruction associated with restoration work. Accordingly the amended definitions are as follows:

Reconstruction

in relation to a heritage item or heritage setting, means to rebuild part of a building, structure or feature which has been lost or damaged, as closely as possible to a documented earlier form and using mainly new materials. Reconstruction includes deconstruction for the purposes of reconstruction, and may also include Building Code upgrades which may be needed to meet relevant standards as part of the reconstruction.

Restoration

in relation to a heritage item or heritage setting, means to return the item or setting to a known earlier form, using mainly existing materials, by reassembly and reinstatement, and may include removal of heritage fabric that detracts from its heritage value and Building Code upgrades which may be needed to meet relevant standards, as part of the restored area. Restoration includes deconstruction for the purposes of restoration.

Objective 9.3.1 (now 9.3.2.1)

[56] As with other Chapters we have included an introduction, now 9.3.1, so the provision numbers have been adjusted accordingly.

[57] Objective 9.3.1 (now 9.3.2.1) has been amended in response to evidence and submissions, and in response to our Preliminary Minute and further mediation.

[58] The Final Revised Version provided:

9.3.1 Objective – Historic heritage

The contribution of historic heritage to the district’s character and identity is maintained through the protection and conservation of significant historic heritage in a way which:

- a. Enables and supports the ongoing use and adaptive re-use of historic heritage; and
- b. Facilitates the retention, repair, and reconstruction of damaged heritage items; and
- c. Takes into account the condition of buildings, particularly those that have suffered earthquake damage, and the effect of engineering and financial factors on the ability to retain, restore, and continue using them.

[59] In closing legal submissions the Council submitted that the Final Revised Version increases the alignment with the CRPS and enables a suitable degree of flexibility in the policies and rules about how historic heritage is managed. The Final Revised Version's objective removed the focus on historic heritage per se, and focuses on the contribution that historic heritage makes to the district's character and identity. In proposing the change, the Council seeks to recognise that historic heritage does not necessarily have to be maintained or preserved in its present state in order to continue to make a valuable contribution to the district's character and identity.⁴⁰ The Council submits that the objective appropriately focusses on 'significant' historic heritage and provides consistency with the provisions that recognised the necessary judgement on whether heritage will be protected. The Final Revised Version wording also takes into account the condition of buildings and the effect of financial and engineering factors on the ability to retain, restore and continue using the heritage item.

[60] There was general agreement from submitters who participated in the further mediations and in closing legal submissions that the Final Revised Version's expression of the objective⁴¹ was now more appropriate.⁴²

[61] We agree that it better aligns with the requirements of the Higher Order Documents. We have, however, made amendments as follows:

9.3.2.1 Objective – Historic heritage

- a. The overall contribution of historic heritage to the District's character and identity is maintained through the protection and conservation of significant historic heritage across the district in a way which:
 - i. enables and supports:
 - A. the ongoing retention, use and adaptive re-use;
 - B. the maintenance, repair, upgrade, restoration and reconstruction; and
 - C. in some situations, the demolition;
- of historic heritage; and

⁴⁰ Closing legal submissions for the Council, at 4.3.

⁴¹ Referring to the 20 April Version, which was the same as the Final Revised Version.

⁴² Supplementary legal submissions on behalf of Greg and Mia Gaba, The Roman Catholic Bishop of the Diocese of Christchurch, Church Property Trustees and Tailorspace, 6 May 2016, at 12; Closing legal submissions for the Crown, Church Property Trustees and Heritage NZ, each dated 10 June 2016.

- ii. recognises the condition of buildings, particularly those that have suffered earthquake damage, and the effect of engineering and financial factors on the ability to retain, restore, and continue using them.

[62] We have included reference to the ‘overall’ and ‘across the district’ because, as we discussed in our Preliminary Minute, s 6(f) of the RMA and the CRPS do not require every heritage item to be maintained and it is a district-wide objective. We have also relocated the reference of ‘retention’, ‘repair’ and ‘reconstruction’ of historic heritage to matters that are enabled and supported, rather than simply as a matter to be ‘facilitated’. We do not find any justification to separate out matters to be facilitated. It also adds unnecessary complexity to the drafting.

[63] We have also included express acknowledgement that in some situations demolition of heritage items is appropriate. This is now expressly recognised in the provisions through recognition of financial and engineering factors and is consistent with our findings in relation to s 6(f), discussed at [10]–[15] above.

[64] We have deleted the reference to ‘damaged’ in b. because the objective applies not only to earthquake or other damaged buildings. There is an issue regarding the ongoing repair, maintenance and upgrading of undamaged and repaired heritage items throughout the life of CRDP. We have replaced ‘takes into account’ with ‘recognises’ because this is consistent with the language of the CRPS, in particular Objective 13.2.3.

[65] We have considered the Council’s updated s 32 Report,⁴³ filed with closing legal submissions, the submissions of other parties and are satisfied that the Decision Version of Objective 9.3.2.1 gives effect to the CRPS, properly responds to the other Higher Order Documents and is the most appropriate to achieve the purpose of the RMA.

Policy 9.3.2.1 (now 9.3.2.2) Identification and assessment of historic heritage for scheduling in the District Plan

[66] Following further mediation Policy 9.3.2.1, (now 9.3.2.2) was substantially redrafted to address the deficiencies that our Preliminary Minute identified concerning the process of identification and assessment of significant historic heritage. Also in response to further

⁴³ Closing legal submissions for CCC, Appendix C.

comments in parties' closing legal submissions, the Council proposed the following in the Final Revised Version:

9.3.2.1 Policy - Identification and Assessment of Historic heritage places for Scheduling in the District Plan

- a. Identify historic heritage places which represent cultural and historic themes and activities of importance to the district, and assess them for significance according to the following:

- i. Historical and social value:

Historical and social values that demonstrate or are associated with: a particular person, group, organisation, institution, event, phase or activity; the continuity and/or change of a phase or activity; social, historical, traditional, economic, political or other patterns;

- ii. Cultural and spiritual value:

Cultural and spiritual values that demonstrate or are associated with the distinctive characteristics of a way of life, philosophy, tradition, religion, or other belief, including: the symbolic or commemorative value of the place; significance to Tangata Whenua; and/or associations with an identifiable group and esteemed by this group for its cultural values;

- iii. Architectural and aesthetic value:

Architectural and aesthetic values that demonstrate or are associated with: a particular style, period or designer, design values, form, scale, colour, texture and material of the place;

- iv. Technological and craftsmanship value:

Technological and craftsmanship values that demonstrate or are associated with: the nature and use of materials, finishes and/or technological or constructional methods which were innovative, or of notable quality for the period;

- v. Contextual value:

Contextual values that demonstrate or are associated with: a relationship to the environment (constructed and natural), a landscape, setting, group, precinct or streetscape; a degree of consistency in terms of type, scale, form, materials, texture, colour, style and/or detail; recognised landmarks and landscape which are recognised and contribute to the unique identity of the environment; and

- vi. Archaeological and scientific significance value;

Archaeological or scientific values that demonstrate or are associated with: the potential to provide information through physical or scientific evidence an understanding about social historical, cultural, spiritual, technological or other values of past events, activities, structures or people; and

- b. Assess whether the historic heritage place has met a level of either ‘Significant’ or High Significance, through assessing it against the following:
 - i. To meet the level of Significant (Group 2) the historic heritage place must:
 - A. Meet at least one of the values under Policy 9.3.2.1 (a)(i)-(vi) at a significant or high level; and
 - B. Be of significance to the Christchurch District (and may also be of significance nationally or internationally), because it conveys aspects of the district’s contextual/thematic development, and thereby contributes to the district’s sense of place and identity; and
 - C. Have a moderate degree of authenticity (based on physical and documentary evidence) to justify that it is of significance to the district; and
 - D. Have a moderate degree of integrity (based on how whole or intact it is) to clearly demonstrate that it is of significance to the district.
 - ii. To meet High Significance (Group 1) the historic heritage place must:
 - A. Meet at least one criterion of the values under (a)(i)- (vi) above at a high level; and
 - B. Be of significance to the Christchurch District (and may also be of significance nationally or internationally), because it conveys important aspects of the district’s contextual/thematic development, and thereby makes a strong contribution to the district’s sense of place and identity, and
 - C. Have a high degree of authenticity (based on physical and documentary evidence); and
 - D. Have a high degree of integrity (particularly whole or intact heritage fabric and heritage values).
- c. Schedule significant historic heritage places as heritage items and heritage settings where:
 - (i) The thresholds for Significant (Group 2) or High Significance (Group 1), are met as outlined in 9.3.2.1b; and
 - (ii) The physical condition of the heritage item, and any necessary retention, repairs or reinstatement work would not significantly compromise the heritage values and integrity of the heritage item to the extent that it would no longer retain its heritage significance; unless
 - (iii) Any engineering and financial factors are identified that would make it unreasonable to schedule the heritage item.
- d. Schedule the interiors of heritage items only to the extent that the interior heritage fabric of those heritage items contributes to the significance of the heritage item and has been clearly identified in the schedule.

[67] This version of the policy addresses a number of the deficiencies that we identified in our Preliminary Minute. We do not need to discuss those deficiencies here. This also received general approval from submitters in closing legal submissions. However, the Crown, in particular, remained concerned about the matters identified in subparagraph a. It submitted these remained unnecessarily broad and imprecise, did not meet with the expectation in the OIC Statement of Expectations to “clearly state the objectives that are intended for the Christchurch District”. The Crown sought that each of the ‘values’ be described individually, rather than paired, and moved to an appendix so they could be described in more detail.⁴⁴ It also considered that it was appropriate that the criteria for determining significance made reference to ‘representativeness and rarity’. It provided a suggested structure.⁴⁵

[68] The Council did not agree with the changes proposed by the Crown. It submitted that the values were sufficiently clear, and noted that they had been used to identify heritage items in the Council’s s 32 Report. It submitted that matters as to rarity and representativeness were inherent in the terminology used and, therefore, were matters of drafting preference rather than substantive differences.

[69] Ms Amanda Ohs, a Senior Heritage Advisor for the Council,⁴⁶ accepted that ‘rarity’ would be an appropriate addition. However, she noted that the term ‘representativeness’ was not defined in the ICOMOS Charter, although it was used by Heritage New Zealand Pouhere Taonga.⁴⁷ Mr Bowman was of the view that those terms should be incorporated into the assessment criteria. He accepted that the terms were implicit in the drafting of the policy. However, he considered that they should be made explicit for users of CRDP.⁴⁸

[70] We agree with the Crown in part. We find that it is unnecessary to have the listed heritage values and their descriptions in the policy itself. That is because ‘heritage values’ is already defined to include those matters. The descriptions themselves are not matters of policy but are descriptive material to explain how the values are applied when identifying historic heritage.

⁴⁴ Closing legal submissions for the Crown at 12 and 13.

⁴⁵ Ibid, Appendix 3.

⁴⁶ Ms Ohs holds a BA with First Class Honours, majoring in Art History from the University of Canterbury, and a Post Graduate Diploma in Cultural Heritage Management from Deakin University, Melbourne. Ms Ohs has 15 years’ experience in heritage conservation management and research. She is a member of ICOMOS New Zealand, and DOCOMOMO New Zealand.

⁴⁷ Transcript, page 800, line 25-802, line 20.

⁴⁸ Transcript, page 1060-1063.

As such, they can, therefore, be included in an appendix. We have made that change in the Decision Version.

[71] We accept that the descriptions of the heritage values now to be contained in Appendix 9.3.7.1, are sufficiently clear. Whether they are listed separately or as pairs, there is a degree of overlap between each of the values and the descriptions given are adequate for their purpose.

[72] We find that on the ordinary meaning of the terms rarity and representativeness, that the terms are sufficiently incorporated into the drafting of the criteria as these now stand.

[73] The Crown expressed its concern about the use of the term ‘contextual/thematic development’ in proposed Policy 9.3.2.1(b). It noted that these words are similar, but not identical to, the term ‘cultural and historic themes’ used in 9.3.2.1(a). We note that the term ‘contextual’ is one of the values described in Appendix 9.3.7.1. We agree with the Crown that the reference to ‘contextual/thematic’ is not clear. It appears to us to simply be heritage professional jargon which mixes a range of concepts. We do not consider this to be sufficiently clear to members of the public, who are the intended users of the CRDP. We prefer that the reference be to the district’s ‘cultural and historic themes and activities’. We find it is appropriate to use consistent terms in the policy and have amended it accordingly.

[74] The Crown also requested that an amendment be made to the 20 April Version of Policy 9.3.2.1(c)(iii) to include specific reference to the physical condition of the heritage item, when referring to engineering and financial factors so that the provisions are not applied in an inappropriately broad manner.⁴⁹ We agree with the Crown that the policy, including its relationship to the associated suite of provisions that now recognise that financial and engineering factors are relevant matters, relates to the physical condition of the heritage item. For the avoidance of doubt, we have included the words “related to the physical condition of the heritage item”.

[75] The Crown raised a concern that the drafting of 20 April Version of 9.3.2.1(d) was circular. We have addressed the clarity of the drafting by incorporating reference to interiors in 9.3.2.1(c)(ii) (now 9.3.2.2(c)(ii)).

⁴⁹ Closing legal submissions for the Crown at 15-23.

[76] We have not referred to ‘historic heritage places’, having decided to delete the term for the reasons stated at [51].

[77] At this point, we also wish to explain why we have included a note in the ‘how to interpret and apply the rules’ provision as to the Council’s HSOS. The Council’s identification and assessment of heritage significance is captured in HSOS. We are satisfied that HSOS should not form part of the CRDP, but rather operate as a ready reference tool that summarises the information known by the Council on individual heritage items and settings and which formed the basis of the Council’s s 32 evaluation. We have included the note to make this clear. It is for the Council to maintain its records and it may update the HSOS from time to time. We have included the note because in the electronic version, there is an electronic link to the relevant HSOS but it is not clear that the HSOS form part of the CRDP, or are documents included by reference,⁵⁰ or reference documents that sit outside the CRDP. We find that they more appropriately form the latter.

[78] We have also amended the wording of the assessment criteria to cross-reference the relevant appendix and have improved the clarity of drafting to make it clear there are three distinct stages:

- (a) identifying candidates for listing;
- (b) assessing their significance; and finally,
- (c) assessing whether the circumstances warrant protection having regard to financial and economic factors.

[79] For those reasons our Decision Version redrafts Policy 9.3.2.1 (now 9.3.2.2) as follows:

9.3.2.2 Policy - Identification and assessment of historic heritage for scheduling in the District Plan

- a. Identify historic heritage throughout the District which represents cultural and historic themes and activities of importance to the District, and assess their heritage values for significance in accordance with the criteria set out in Appendix 9.3.7.1.
- b. Assess the identified historic heritage in order to determine whether each qualifies as ‘Significant’ or ‘Highly Significant’ according to the following:

⁵⁰ To which RMA, Schedule 1, Part 3 applies.

- i. to be categorised as meeting the level of ‘Significant’ (Group 2), the historic heritage shall:
 - A. meet at least one of the heritage values in Appendix 9.3.7.1 at a significant or highly significant level; and
 - B. be of significance to the District (and may also be of significance nationally or internationally), because it conveys aspects of the District’s cultural and historical themes and activities, and thereby contributes to the District’s sense of and identity; and
 - C. have a moderate degree of authenticity (based on physical and documentary evidence) to justify that it is of significance to the District; and
 - D. have a moderate degree of integrity (based on how whole or intact it is) to clearly demonstrate that it is of significance to the District.
- ii. to be categorised as meeting the level of ‘Highly Significant’ (Group 1), the historic heritage shall:
 - A. meet at least one of the heritage values in Appendix 9.3.7.1 at a highly significant level; and
 - B. be of high overall significance to the District (and may also be of significance nationally or internationally), because it conveys important aspects of the District’s cultural and historical themes and activities, and thereby makes a strong contribution to the district’s sense of place and identity; and
 - C. have a high degree of authenticity (based on physical and documentary evidence); and
 - D. have a high degree of integrity (particularly whole or intact heritage fabric and heritage values).
- c. Schedule significant historic heritage as heritage items and heritage settings where each of the following are met:
 - i. the thresholds for Significant (Group 2) or Highly Significant (Group 1) as outlined in Policy 9.3.2.2b(i) or (ii) are met; and
 - ii. in the case of interior heritage fabric, it is specifically identified in the schedule;

unless

 - iii. the physical condition of the heritage item, and any restoration, reconstruction, maintenance, repair or upgrade work would result in the heritage values and integrity of the heritage item being compromised to the extent that it would no longer retain its heritage significance; and/or
 - iv. there are engineering and financial factors related to the physical condition of the heritage item that would make it unreasonable or inappropriate to schedule the heritage item.

[80] We are satisfied that the changes we have made to the Final Revised Version are supported by the evidence and are the most appropriate for achieving the Strategic Directions, Objective 9.3.2.1 and are consistent with the Higher Order Documents.

Policy 9.3.2.2 (now 9.3.2.3) Heritage areas

[81] In the Notified Version, there were no heritage areas identified and scheduled. Policy 9.3.2.4 of the Notified Version set out the manner in which the Council would undertake future assessments of historic heritage areas and develop a framework for their protection, including through scheduling in the CRDP and through non-regulatory methods. The Final Revised Version now proposes to provide for Heritage Area 1, in relation to Akaroa, which we address further below. In relation to this, the Final Revised Version also includes proposed Policy 9.3.2.2 (now 9.3.2.3):

9.3.2.2 - Policy - Heritage Areas

- a. Identify groups of related historic places within a geographical area which represent cultural and historic themes and activities of importance to the district and assess them for significance and their relationship to one another according to:
 - i. the criteria set out under Policy 9.3.2.1; and
 - ii. whether the area is a comprehensive, collective and integrated place.
- b. Schedule historic heritage areas that have been assessed as significant in accordance with Policy 9.3.2.2(a).

[82] We have made some minor drafting amendments to align with the changes to Policy 9.3.2.2. We have also replaced the word ‘criteria’ when referring to Policy 9.3.2.2 because not all matters are ‘criteria’. In the Decision Version Policy 9.3.2.3 provides:

9.3.2.3 Policy – Heritage areas

- a. Identify groups of related historic heritage within a geographical area which represent important aspects of the District’s cultural and historic themes and activities and assess them for significance and their relationship to one another according to:
 - i. the criteria set out in Policy 9.3.2.2; and
 - ii. the extent to which the area is a comprehensive, collective and integrated place.
- b. Schedule historic heritage areas that have been assessed as significant in accordance with Policy 9.3.2.3(a).

Policy 9.3.2.3 (now 9.3.2.4) Management of significant historic heritage

[83] In the Final Revised Version, the Council significantly redrafted the Notified Version of Policies 9.3.2.2 and 9.3.2.5 in response to our Preliminary Minute and further mediation. We had significant concerns regarding the approach in the Notified Version to management of significant historic heritage. We were particularly concerned that the policy should be directed at enabling and facilitating the repair, rebuilding, upgrading, seismic strengthening, ongoing maintenance and adaptive reuse of heritage buildings and their settings. We made suggestions as to what we considered the relevant policy needed to address.⁵¹

[84] Having considered our Preliminary Minute and the views of other parties at mediation, the Council's Final Revised Version proposed:

9.3.2.3 - Policy - Management of Significant Historic heritage

- a. Manage the effects of subdivision, use and development on heritage items, heritage settings and heritage areas which are scheduled in the District Plan in a way that:
 - (i) Protects and conserves heritage values from inappropriate subdivision, use and development;
 - (ii) Provides for the ongoing use and adaptive reuse of historic heritage places in a manner that is sensitive to their heritage values while recognising the need for works to be undertaken to accommodate their long term viability taking into account engineering and financial factors;
 - (iii) Recognises the need for a flexible approach to heritage management, with particular regard to enabling repairs, heritage investigative works, heritage upgrades to meet building code requirements, restoration and reconstruction, in a manner which is sensitive to the heritage values of the heritage item.
- b. Any works to heritage items and heritage settings should be in accordance with the following principles:
 - i. Identify and assess the heritage values and their significance;
 - ii. Assess the sensitivity of the heritage values to any proposed changes;
 - iii. Focus any changes to those parts of heritage items or heritage settings, which have more potential to accommodate change wherever practicable;
 - iv. Conserve, and wherever possible enhance, the authenticity and Integrity of heritage items and settings, particularly in the case of High Significance (Group 1) heritage items and heritage settings;

⁵¹ Preliminary Minute, at [43]-[49].

- v. Identify, minimise and manage risks or threats to the structural integrity of the heritage item and the heritage values of the heritage item, including from natural hazards;
 - vi. Document the material changes to the heritage item and heritage setting in the Statements of Significance;
 - vii. Be reversible wherever practicable; and
 - viii. Distinguish between new work and existing heritage fabric in a manner that is sensitive to the heritage values.
- c. Manage land use and subdivision within heritage areas scheduled on the planning maps in a way that:
- (i) Avoids significant adverse effects on heritage values; and
 - (ii) Enables development which is compatible with the heritage values of the area.

[85] In supplementary legal submissions on behalf of Gaba, The Roman Catholic Bishop of the Diocese of Christchurch (‘the Roman Catholic Bishop’), CPT and Tailorspace, Ms Appleyard submitted that, in relation to 9.3.2.3(b) (iii), in Christchurch, it may not always be practical to focus on parts of a heritage item which have the potential to accommodate change and that change will be focused where the change is necessary. She gave the example in the case of repairs and maintenance as a result of earthquake damage.⁵² To address those concerns, the Council added the words “wherever practicable” to this clause. The Crown supported the Final Revised Version of this policy.

[86] We find this proposed policy of the Final Revised Version is an improvement on the Notified Version. However, we remain concerned about a number of aspects of it. We note that the Final Revised Version did not expressly address the issue of the need for flexibility in the management of change in heritage settings, which was a matter we raised in our Preliminary Minute.⁵³ We have also made a number of drafting changes to improve clarity and consistency.

⁵² Supplementary legal submissions on behalf of Greg and Mia Gaba and others, 6 May 2016, at 14.1.

⁵³ Preliminary Minute at paragraph 40.

[87] The Decision Version provides:

9.3.2.4 Policy - Management of scheduled historic heritage

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

[88] We are satisfied that the Decision Version better reflects the requirements of the CRPS, particularly Objective 13.2.1, and is the most appropriate for achieving related Objective 9.3.2.1.

Policy 9.3.2.4 (now 9.3.2.5) – Archaeological sites

[89] Heritage NZ sought that this policy be amended to include the identification and protection of significant archaeological sites. The Council did not consider it necessary or appropriate to identify archaeological sites in the CRDP.⁵⁴ Heritage NZ did not pursue this issue in closing legal submissions. We accept the Final Revised Version of this policy and confirm it accordingly in the Decision Version to provide:

9.3.2.5 Policy — Archaeological Sites

- a. Assist Heritage New Zealand Pouhere Taonga in the identification and protection of archaeological sites

Policy 9.3.2.5 (now 9.3.2.6) – Ongoing use of heritage items and heritage settings

[90] The Final Revised Version provided:

9.3.2.5 - Policy – Ongoing Use of Heritage items and Heritage settings

- a. Provide for the ongoing use and adaptive reuse of heritage items and heritage settings, including the following:
 - i. Repairs and maintenance.
 - ii. Temporary activities.
 - iii. Specific exemptions to zone and transport rules to provide for the establishment of a wider range of activities.
 - iv. Alterations, restoration, reconstruction, and heritage upgrade works, including seismic, fire and access upgrades.
 - v. Signs on heritage items and within heritage settings.
 - vi. New buildings in heritage settings.

[91] The Final Revised Version was not agreed at mediation and, therefore, represents the Council's closing position in response to the Preliminary Minute. The Council submits that the policy expands upon and complements the directives in Policy 9.3.2.3 (now 9.3.2.4) about ongoing use and adaptive reuse of historic heritage places and lists activities that are envisaged as acceptable in that context. The Council submits that the policy gives effect to CRPS Policy 13.3.4 by providing express recognition of the types of activities which are to be enabled by Policy 13.3.4.⁵⁵ The Crown suggested that the word 'appropriate' be removed because it

⁵⁴ Evidence in chief of Fiona Wykes, 2 December 2015 at 6.1-6.5.

⁵⁵ Closing legal submissions for the Council, at 5.35-5.38.

creates uncertainty.⁵⁶ We agree and further note that the policy is part of the broader Policy 9.3.2.4. As such a cross-reference would assist with clarity.

[92] We have accepted the changes in the Decision Version with minor drafting refinements as follows:

9.3.2.6 Policy – Ongoing use of heritage items and heritage settings

- a. Provide for the ongoing use and adaptive re-use of heritage items and heritage settings (in accordance with Policy 9.3.2.4), including the following:
 - i. repairs and maintenance;
 - ii. temporary activities;
 - iii. specific exemptions to zone and transport rules to provide for the establishment of a wider range of activities;
 - iv. alterations, restoration, reconstruction and upgrades to heritage items, including seismic, fire and access upgrades;
 - v. signs on heritage items and within heritage settings; and
 - vi. new buildings in heritage settings.

Policy 9.3.2.6 (now 9.3.2.7) — Relocation of heritage items within and beyond heritage settings

[93] This policy has not been amended since the Notified Version (aside from numbering changes) and no submission sought changes to it. We are satisfied that the policy is appropriate in its current form and have confirmed in the Decision Version accordingly.

9.3.2.7 Policy - Relocation of a heritage items within and beyond heritage settings

- a. Provide for the relocation of a heritage item within its heritage setting, where the relocation will maintain the heritage significance of the heritage item.
- b. Protect heritage items from relocation beyond its heritage setting, except:
 - i. when alternatives which retain the item within its setting have been explored, and relocation is demonstrated to be the only reasonable option to provide for the retention and ongoing viable use, including adaptive re-use of the heritage item and maintaining heritage significance; and
 - ii. where the location provides a setting compatible with the item's heritage value.

⁵⁶ Closing legal submissions for the Crown, at Appendix 3.

Policy 9.3.2.7 (now 9.3.2.8) Utilities

[94] The Council proposed a new policy to provide a connection between Chapter 11 Utilities and Chapter 9 Natural and Cultural Heritage, so as to ensure that utilities do not inappropriately compromise the values associated with heritage items.⁵⁷ Orion is supportive of this policy.⁵⁸ We have accepted that the policy is appropriate, subject to a minor amendment for consistency by changing the word ‘specific’ to ‘particular’, and included in the Decision Version as follows:

9.3.2.8 Policy - Utilities

- a. Ensure that utilities, where they are required by their locational, technical or operational requirements to be located within, or on, a heritage item or heritage setting are appropriately designed, located and installed to maintain, as far as practicable, the particular heritage values of that heritage item or heritage setting.

Policy 9.3.2.8 (now 9.3.2.9) Demolition of heritage items

[95] In the Final Revised Version the policy is expressed as follows:

9.3.2.8 - Policy - Demolition of Heritage items

- a. Avoid the demolition of heritage items unless the heritage item cannot otherwise be retained having regard to matters including the following:
 - i. Whether there is a threat to life and property for which interim protection measures would not remove that threat.
 - ii. Whether the extent of the work required to retain and repair the heritage item is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised.
 - iii. Whether the costs to retain the heritage item, (particularly as a result of damage) would be unreasonable.
 - iv. The ability to retain the overall heritage values and significance of the heritage item through a reduced degree of demolition.
 - v. The level of significance of the heritage item.

[96] In closing legal submissions, the Council submitted that the policy primarily seeks to avoid the demolition of heritage items, in recognition of the protective directions in s 6(f) and in Objective 9.3.1. The Council submits that the drafting ‘acknowledges that there will be circumstances in which demolition might be appropriate’. At the time of the hearing, the policy was drafted in a way that required the demonstration of exceptional circumstances and a list of

⁵⁷ Closing legal submissions for the Council, at 5.41-5.43.

⁵⁸ Closing legal submissions for Orion, at 7.1.

matters relevant to determining whether they existed. The Council moved away from this and now proposes a framework that ‘enables an assessment of whether these costs would be in proportion with the value of the property and the heritage values in question’.⁵⁹

[97] The Crown generally supports the Revised Version, however, it seeks to tie the cost considerations to an assessment of whether retention or repair is financially viable.⁶⁰ The Council does not support this change because it does not necessarily apply to the circumstances of non-commercial uses such as churches, where financial viability would have little or no application.

[98] Tailorspace submitted that there should be an additional clause, in now 9.3.2.9, requiring regard to be given to whether retention of the heritage item would enable and facilitate recovery from the impacts of the earthquakes.⁶¹ The Council considers such an amendment to be unnecessary because matters of recovery are already inherent in the other matters already listed, in particular iii. CPT supports the changes in the Revised Version.⁶²

[99] We find that there is no statutory presumption that ‘demolition’ will be inappropriate, or that it requires avoidance in an absolute sense. In the Christchurch recovery context, there is a need for overall flexibility in the appropriate management of historic heritage. Policy 9.3.2.9 does not sit alone. It is one of the matters that sits under Policy 9.3.2.4. We find that the list of matters in Policy 9.3.2.9, are relevant considerations for ensuring whether demolition is appropriate. On the evidence we find the listing of these matters is particularly important for the proper consideration of applications for complex restoration or rebuilding projects involving historic heritage. As we discuss below in the context of ChristChurch Cathedral, demolition can take a number of forms. It does not always mean the loss of an entire building to make way for a new and modern building. There are a range of factors that affect how much demolition is required. All of those matters are recognised in the Final Revised Version. However, we find that the policy still inappropriately framed these factors as ‘exceptions’, notwithstanding the Council’s movement away from the phrase ‘exceptional circumstances’. In the Christchurch context, we find that there should be no presumption that ‘demolition’ is inappropriate or that it must be avoided, or only allowed in limited circumstances.

⁵⁹ Closing legal submissions for the Council, at 5.44-5.51.

⁶⁰ Closing legal submissions for the Crown, at page 21.

⁶¹ Closing legal submissions for Tailorspace, 20 June 2016, at 14 and 31.

⁶² Closing legal submissions of CPT, 20 June 2016, at 8.

[100] In the Decision Version we have significantly amended the way in which this policy is framed to recognise the shift in the drafting of the provisions in response to our Preliminary Minute and the evidence we heard. The Decision Version more appropriately provides:

9.3.2.9 Policy - Demolition of heritage items

- a. When considering the appropriateness of the demolition of a scheduled heritage item have regard to the following matters:
 - i. whether there is a threat to life and/or property for which interim protection measures would not remove that threat;
 - ii. whether the extent of the work required to retain and/or repair the heritage item is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised;
 - iii. whether the costs to retain the heritage item (particularly as a result of damage) would be unreasonable;
 - iv. the ability to retain the overall heritage values and significance of the heritage item through a reduced degree of demolition; and
 - v. the level of significance of the heritage item.

Policy 9.3.2.9 (now 9.3.2.10) Awareness and education of historic heritage

[101] This policy remained unchanged from the Notified Version. The policy was supported by Akaroa Civic Trust (3627), Dr Ian and Dr Lynne Lochhead (3633) and The Christchurch Civic Trust (3700).

[102] We accept the Notified Version as appropriate and have included in the Decision Version as follows:

9.3.2.10 Policy — Awareness and education of historic heritage

- a. Enhance the community's awareness and understanding of the values of historic heritage, including sites of Ngāi Tahu cultural significance, through education initiatives.
- b. Promote the use of conservation plans.

Policy 9.3.2.10 (now 9.3.2.11) – Incentives and assistance for historic heritage

[103] The Council made a change to this Policy in the Final Revised Version in response to the Crown. The Final Revised Version provided:

9.3.2.11 Policy — Incentives and Assistance for Historic Heritage

Provide incentives and technical advice to assist in achieving the retention, conservation and ongoing use of historic heritage, including earthquake repairs and seismic strengthening, in recognition of the public good value of heritage to the community.

[104] The Crown in closing seeks to specify financial incentives.⁶³ We note that Ms Sandra McIntyre, the Crown’s planning witness, acknowledged a range of incentives may be available, but financial incentives are particularly important.⁶⁴ We find the Crown and Council’s issues regarding the policy can be addressed by inserting ‘including financial incentives, in the policy.

[105] Accordingly we have made the amendment in the Decision Version:

9.3.2.11 Policy - Incentives and assistance for historic heritage

- a. Provide incentives (including financial incentives) and technical advice to assist in achieving the retention, conservation and ongoing use of historic heritage, including earthquake repairs and seismic strengthening, in recognition of the public good value of heritage to the community.

Policy 9.3.2.11 (now 9.3.2.12) – Future work programme

[106] Mr Matheson, for the Council, explained that a policy addressing future work programmes would be of assistance to the Council to support further work, particularly in terms of the future scheduling of interior heritage fabric.⁶⁵ We have also provided for this elsewhere in recognition of the Council’s ongoing obligations under s 6 of the RMA. We have included a policy in the Decision Version as follows:

9.3.2.12 Future Work Programme

- a. The Council will facilitate further identification and assessment of heritage items, including interior heritage fabric, heritage settings and heritage areas for inclusion in the district plan over time.

Rules

[107] In this decision we refer to the following abbreviations in relation to activity categories:

- (a) permitted activity (‘PA’)

⁶³ Closing submissions for the Crown, page 22.

⁶⁴ Evidence in chief of Sandra McIntyre at 7.17

⁶⁵ Transcript, page 2198.

- (b) controlled activity ('CA')
- (c) restricted discretionary activity ('RDA')
- (d) discretionary activity ('DA')
- (e) non-complying activity ('NC').

[108] There is an expectation in the OIC Statement of Expectations that the CRDP reduce significantly reliance on resource consent processes. The Final Revised Version responds to this by proposing a number of rules that provide for certification of matters by heritage professionals and hence, providing for a more benign activity classification. Before addressing the relevant rules we address the concept of certification and the qualifications of heritage professionals.

Certification

[109] The Final Revised Version proposes a PA pathway to enable 'heritage upgrade works', 'restoration' and 'reconstruction' in circumstances where a heritage work plan has been certified by a heritage professional. It also proposes changes to enable certification of 'non-heritage fabric'.

[110] Before addressing the merits of extending the certification process beyond the rules in the Final Revised Version, we address the issue relating to the appropriate qualifications by a certifying heritage professional.

Heritage Professionals

[111] In its closing legal submissions the Council addresses the concerns that we expressed regarding the appropriate qualifications of heritage experts who may be certifying or supervising heritage works. Mr Conway submitted:

In particular, there was a suggestion that training as an architect is a necessary precondition for the purpose of being a heritage professional.

[112] Mr Conway references an exchange between Environment Judge John Hassan and Mr Margetts, the Heritage Advisor Architecture and Conservation for the Southern Regional

Office of Heritage New Zealand Pouhere Taonga. Mr Margetts holds architectural qualifications.⁶⁶ The exchange is as follows:

JUDGE HASSAN: ... Just in terms of your qualifications, and again please do not take this the wrong way, I am trying to actually get to a question around accreditation in this route, by going to your qualifications.

And I noted with interest your architectural qualifications and your experience and membership of ICOMOS. Am I right to understand that if we are looking at the construct of doing work or doing significant work, in particular on heritage fabric in a heritage listed building, then a basic qualification, that is a necessity for anyone to be accredited for that work would be that they are a qualified architect, number one if they are working on a building?

MR MARGETTS: Preferable, but - - -

JUDGE HASSAN: Can you conceive of any other qualification where somebody would come forward with designs and say – these are my designs and I am not qualified as an architect.

MR MARGETTS: Could be a draughtsman.

JUDGE HASSAN: So if we were specifying the minimum qualification for accreditation it would be okay to refer to a Bachelor's Degree in Architecture or a Diploma of some kind in Architectural Draughtsmanship?

MR MARGETTS: I think it would be a weighting process across a range of

JUDGE HASSAN: I just want you to focus on the qualification point first, what is the answer?

MR MARGETTS: That would be preferable, yes.

JUDGE HASSAN: One or the other? Sorry, are you saying one or the other is okay, that is what I heard you say, Diploma as a Draughts person, or a Bachelor's Degree in Architecture?

MR MARGETTS: I would prefer a Bachelor's Degree in Architecture.

JUDGE HASSAN: I thought so.

MR MARGETTS: Yes.

JUDGE HASSAN: In terms of minimum years of experience, you have clearly got a lot of experience, but we have to make sure this is commercially workable and we do not dry up the pool. What would be a minimum years of experience in heritage architecture that you would recommend?

⁶⁶ Mr Margetts holds a Bachelor's Degree in Architecture from Auckland University and is an affiliate member of the NZ Institute of Architects. He is a member of ICOMOS New Zealand, and has 15 years' experience in heritage architecture in New Zealand. He has have worked within local architect practices and for the Arts Centre as Heritage Curator.

MR MARGETTS: Assuming that they could get experience without being credentialed in heritage specifically, five years.

JUDGE HASSAN: All right, thank you. Now you say, I mean you are a member of ICOMOS, would that be a prerequisite for accreditation or not?

MR MARGETTS: On its own, no.

[113] Mr Conway has taken the exchange as having general application to whether a person is qualified to be described as a 'heritage professional'. It is clear, however, that the questions are related to 'work or significant work' on heritage fabric. The Hearings Panel was particularly concerned that, for works involving the structure of a heritage building, architectural qualifications are a prerequisite to being a certifier. We accept that, in the case of the identification and assessment of the significance of historic heritage, it may well be appropriate for a multi-disciplinary approach to identify and assess the relevant heritage values from a range of heritage experts (provided those contributing authors are identified). However, that is a different issue entirely, to whether or not a heritage professional holds the appropriate qualifications to 'certify' heritage works plans or supervise specific heritage work.

[114] Mr Ian Bowman, for the Crown, held the view that architectural qualifications were necessary for a certifier.⁶⁷

In my view a certifier should be a registered architect member of ICOMOS, have a Master's degree in building conservation, plus a minimum of three years' experience. An alternative to having a Master's is a minimum of five years documented in relevant experience.

[115] In a memorandum filed on behalf of Heritage NZ,⁶⁸ Ms Baumann, counsel for Heritage NZ, advised that currently there are few opportunities to undertake a comprehensive study of cultural heritage conservation in New Zealand leading to a formal qualification. Ms Baumann submitted that, rather than referring to 'conservation architect' or 'heritage expert', the certification rule should use the term 'heritage specialist' to:

encompass the sorts of necessary expertise that informs heritage work. 'Heritage specialist' should include at least architectural historians, architects, archaeologists, engineers and landscape architects that have training and expertise in heritage work.

[116] We have considered Mr Conway's submissions in relation to the breadth of heritage works and the various qualifications that are generally accepted to qualify as a heritage expert.⁶⁹

⁶⁷ Transcript 1057, lines 25-30.

⁶⁸ Memorandum of Counsel for Heritage New Zealand Pouhere Taonga, 25 February 2016.

⁶⁹ Closing legal submissions for the Council at 10.

There is no real disagreement with his written submission as far as it goes. We think, however, Mr Conway misses the point. On the evidence, we find that a person trained as an ‘architectural historian’ could fill a valuable role as a member of the heritage assessment team. However, in the absence of an architectural qualification, that person should not be the certifier of a heritage works plan that involves works on the structure of a heritage building.

[117] In our Preliminary Minute, we invited the parties to consider whether a certification pathway could be extended to circumstances when, on feasibility and/or financial viability grounds, the listed item could be released from the standard rules and placed in a more moderate activity classification with associated advantages in cost and certainty. We asked the parties to consider whether certification could be the trigger. Our preliminary view was that could be appropriate given the enquiry would primarily be factual.⁷⁰ Carter Group requested that a certification process also extend to alterations of Group 2 heritage items and new buildings in a heritage setting, to reduce consenting requirements. The Council did not support Carter Group’s request on the basis that there would be significant risk to the heritage values of the heritage item if this work was not done appropriately. The Council submitted that alterations need to be carefully managed, including the ability to decline resource consent. For those submissions, the Council relied on its planning witness, Ms Rachlin’s evidence.⁷¹

[118] Heritage NZ, in closing legal submissions, did not support having a specific provision to exclude certified non heritage fabric from the rules. It submitted that the certification process does not accord with Policy 13.3.4 of the CRPS, nor RMA s 6(f). It submitted that the “whole place is scheduled not for components of heritage but because of the complex values which taken together pass the heritage test.” It also noted that under s 74 of the RMA, a territorial authority is to have particular regard to any relevant entry on Heritage NZ’s list:⁷²

With this requirement would go the criteria for Listing set out in s 66 of the Heritage New Zealand Pouhere Taonga Act 2014. The criteria go much further than the presence of ‘heritage fabric’.

[119] It is Heritage NZ’s position that excluding part of a scheduled heritage place from the requirements of the CRDP does not accord with the reasons for scheduling and could lead to

⁷⁰ Preliminary Minute at paragraph 37.

⁷¹ Evidence in chief of Caroline Rachlin at 5.22-5.23. Ms Rachlin is a resource management planner, she has a Bachelor of Arts (in History and Geography) from the University of Canterbury, and a Master of Resource Studies (in Environmental Planning) from Lincoln University. Ms Rachlin is a Senior Planner at the Christchurch City Council.

⁷² Closing legal submissions of Heritage NZ, 10 June 2016, at 16.

unfortunate changes to heritage places which are totally unsympathetic and insensitive to the reasons for scheduling.

[120] The Crown supported the certification process but suggests an amendment to make it clear that, where works are proposed on parts of a heritage item or setting that does not contribute to the overall significance of the item, a certificate may be obtained with the effect that the rules in the table would not apply.⁷³

[121] We have had particular regard to the Heritage NZ listing of historic heritage in making our decision and this is reflected in the listing of significant and highly significant heritage items, settings and areas in Appendix 9.3.7.2 and 9.3.7.3. We are required to provide a regulatory response that is the most appropriate means to achieve the CRDP objectives (and that achieves the purpose of the RMA). We have concluded on the evidence before us that providing a certification process for heritage works plans and to exclude non-heritage fabric from the requirement of resource consent, is the most appropriate method to achieve the Strategic Directions, accords with our obligations under the Higher Order Documents and achieves the purpose of the RMA.

[122] Neither Ms Gillies, a conservation architect who gave evidence for the Council, nor Mr Margetts favoured having a certification process. They both expressed concern about the potential for unconscious bias, the difficulties in defining a heritage professional, and whether or not, the certification process would have sufficient rigour. They also questioned whether certification would provide any cost saving advantage to a consent process.

[123] Mr Bowman favoured a certification process. He concluded that:⁷⁴

Ms Gillies has opposed the use of certification outside the context of conservation plans because of the problems in identifying suitable certifiers, potential inconsistencies in approach and unconscious bias. I have already addressed the issue of identifying suitable certifiers and do not consider this to be a concern. I also do not agree that there will be problems with inconsistencies in approach or an unconscious bias. Currently there are a number of built heritage practitioners who carry out work in this area and, to date, I am not aware of any concerns. There will always be differences in approach but where the work is carried out by appropriately qualified, trained and experienced practitioners, the result should be professional

⁷³ Closing legal submissions for the Crown, 10 June 2016, at 27.

⁷⁴ Evidence in chief of Ian Bowman, 10 December 2015 at 8.19.

[124] On the evidence, we find that a certification step is an appropriate method to ensure appropriate protection of heritage values, whilst reducing consenting requirements. We accept that the Final Revised Version appropriately identifies activities that are to be subject to certification.

[125] The Final Revised Version includes the following statement ahead of each set of rules:

The rules in the table below include restrictions on what may be done with heritage fabric. Confirmation that particular fabric is not heritage fabric, and therefore is not subject to those rules/standards, can be obtained by obtaining a certificate in accordance with Appendix 9.3.6.9 - Certification of non-heritage fabric.

[126] We have incorporated the Council's addition to the introductory text for each rule category to note that confirmation of whether material is heritage fabric or not can be obtained through obtaining a certification in accordance with Appendix 9.3.7.6.

[127] We are satisfied that providing for a certification process is an appropriate response to the judgement we are entitled to make, which is supported by the evidence, when making a choice as to how to protect historic heritage from inappropriate subdivision, use and development in terms of RMA s 6(f). We have considered the costs and benefits of providing for a certification regime, which are addressed in the Council's updated s 32 evaluation.⁷⁵ We accept the s 32 evaluation undertaken by the Council to the certification provisions. We have addressed the requirements for certification in Appendix 9.3.7.5 and 9.3.7.6 to ensure that the reasons for scheduling a heritage item, setting or area, is not undermined through the certification process.

Extending certification beyond Final Revised Version

[128] We have also considered whether certification should extend to alteration to heritage items and additions to heritage settings.

[129] Mr Jeremy Phillips, the planning witness for Carter Group maintained the view that a CA rule for Group 2 alterations and new buildings in heritage settings would be appropriate where the activity is certified by an approved heritage expert. He envisaged that this approach would

⁷⁵ Closing legal submissions for CCC, 17 June 2016, Appendix C.

apply in the same way as the urban design certification rule for Commercial Core zones in our Decision 11.⁷⁶

[130] Mr Phillips referred to [189]–[192] of Decision 11:⁷⁷

In terms of the most appropriate method of enabling alterations, and with reference to the relevant part of the Panel’s decision on urban design matters in Decision 11 ... I consider an equivalent heritage certification process would be effective for the following reasons:

- (a) The inherent professional judgement and opinion involved with heritage assessment lends itself to certification, recognising that heritage professionals can legitimately have differing judgments on heritage matters and it should not matter whether the professional is in the employ of a developer or the Council on such matters of judgment, so long as the Plan’s specified principles (i.e. the heritage conservation management and heritage principles in Policy 9.3.2.5) are addressed in the design.
- (b) Controlled activity classification allows for the imposition of conditions to enforce adherence to the design as certified and avoids wider matters of heritage judgment being revisited following certification.
- (c) The heritage conservation management and heritage principles in Policy 9.3.2.5 are clear and focused and would provide for effective certification.
- (d) In the absence of certification, a restricted discretionary consent process (as otherwise proposed by Council) could apply, with scope to notify and/or decline consent as appropriate.
- (e) Certification ‘offers benefits of incentivising collaboration between developers and [heritage] experts in project development and delivery, reducing potential for costly subjective debates and conflict through consenting processes, and incentivising good design through the offer of associated RMA processing benefits’

[131] We find that we have insufficient evidence before us to test whether the certification regime could be extended to alterations beyond those provided for in P13 or, to the addition of new buildings in a heritage setting. The evidence does not satisfy us that our obligations under s 32 can be met. On that basis, we find it most appropriate that alterations and additional buildings be subject to a resource consent, as 9.3.4.5 RD1 and RD2.

[132] In our Preliminary Minute we also invited the parties to consider whether the certification regime could be extended to the delisting of listed items. Having considered the evidence

⁷⁶ Transcript, page 1136, lines 8-18.

⁷⁷ Evidence in chief of Jeremy Phillips, 13 January 2016, at 32.

before us, we do not have sufficient evidential basis to progress this matter in terms of our obligations under s 32.

Interiors

[133] Having considered the Preliminary Minute⁷⁸ the Council revised its proposal for protection of interiors, to only include Council-owned heritage buildings. Mr Matheson set out the Council's position as:⁷⁹

(a) Council officers had considered the direction contained in the Panel's minute at paragraph [61] and the position taken by parties at the mediation, as well as the extent of engagement and assessment that would be possible within the limited timeframe that had been given for provision of supplementary evidence about heritage interiors;

(b) In light of these matters and the insufficient time to properly engage with building owners in preparation of schedules of interior heritage fabric between then and the evidence due date, Council officers could support and would progress the identification of interior heritage fabric for up to 48 Council buildings that are listed in the schedule, are supported by conservation management plans and/or are readily able to have the interior fabric identified. My advice to the Subcommittee was that this approach aligned best with the direction given by the Panel; and

(c) Council officers could not support a general "interim protection rule" (eg for a period of 2 years), because time is required to consider the best approach to protecting heritage interiors and engage with the building owners and organisations with an interest in historic heritage. In particular, the support of Heritage New Zealand is seen as critical in assisting in formulating the proposed approach.

[134] We were initially concerned as to whether there was any real benefit from listing Council owned heritage buildings which were also registered under the Heritage New Zealand Pouhere Taonga Act 2014.⁸⁰

DR MITCHELL: ... in terms of Section 32, there is a general presumption about whether it is preferable to act or not act, in terms of putting something into a planning framework.

Given that the Council owns all the buildings where interior heritage is to be protected, and given that all of those buildings I think are already scheduled under the Historic Places legislation, is it necessary to schedule the interiors at all?

MR MATHESON: Yes, it is. I think I may have answered this question in another forum. It is the same reason we have zones relating to reserves that the Council owns. The Council is a large organisation, it has different arms within it, and it is very hard sometimes to manage those other arms of Council.

⁷⁸ At [61].

⁷⁹ Supplementary evidence of Alan Matheson, 20 April 2016, at 4.2

⁸⁰ Transcript, page 2198.

I am comfortable that this is really sending a very clear policy position, which has been accepted by the Council as the political arm, that Council speaks with one voice, and the interiors are protected, and that is what we wanted to put in the plan.

It also helps to show that Council is not treating itself differently to any other property. I am hoping the same level of restriction or control or management.

[135] Mr Matheson indicated that it would be helpful to have a policy around a future work programme to assist the future plan change process to incorporate interiors of privately owned buildings. We have included a policy in the Decision Version.

[136] Heritage NZ supported the Council's revised approach to interiors and to the future works programme.⁸¹

[137] The Crown was supportive of the Council's revised approach to interiors but was concerned about the level of detail provided and wished to see it simplified further. The Council also wished to include the details of each interior in an extremely lengthy and detailed appendix to the CRDP. Mr Matheson explained that this would make the CRDP easy to use, particularly bearing in mind the electronic format, where the material would be accessed via an electronic link in the CRDP. The legal form of the CRDP is in its hard copy version. On that basis adding the detailed descriptions into the CRDP will add significant further volume to the plan and then it will require a plan change to update the material. We find that the information should sit outside the CRDP as a document to be incorporated by reference, in accordance with Part 3, Schedule 1 of the RMA. We recognise that, if the information is in, even as a reference document, a plan change would be required before any update would have legal effect. We find, given that the material defines the extent to which rules will apply, that is appropriate in this context.

[138] We acknowledge the Crown's position that there may be a simpler way to express the information. However, our decision to have that information incorporated by reference in the CRDP, means this is no longer an issue for the CRDP itself. We think the more important point is that the information is accurate.

[139] We have included a note in the 'how to interpret and use the rules' section of the Decision Version to that effect.

⁸¹ Closing legal submissions for Heritage NZ, at 5-7

Maintenance, Repair and Investigative and Temporary works

P1 Maintenance of a scheduled heritage item, P2 Repairs to a scheduled heritage item and P3 Heritage investigative and temporary works to a heritage item and Rule P12 Temporary lifting of a damaged heritage item for the purpose of heritage investigative works or repair

[140] The Final Revised Version enabled a PA pathway for works to be undertaken in accordance with the design and/or supervision of a heritage professional. A definition of heritage professional is now to be included in the CRDP. The Crown has suggested that the words ‘design or supervision’ may not be appropriate because it may imply a broader responsibility for the work than is necessary to ensure the work is carried out in a way that respects heritage values. In response, the Council has suggested that the words be replaced with ‘guidance’.

[141] CPT and the Roman Catholic Bishop have requested further clarification of the definition of ‘heritage professional’ as it relates to the PA rules. Ms Appleyard notes that, at the reconvened hearing, the Panel expressed concerns that a ‘heritage professional’ did not necessarily include a person who is an architect. We suggested that the standard for the PA rule involving structural changes to a building should be supervised by a heritage professional who is a registered architect.⁸²

[142] Ms Appleyard suggested the rules could be modified to refer to:

Under the design and/or supervision of a heritage professional and, where that heritage professional is not also a registered architect, a registered architect.

[143] The Council submits that this change is unnecessary, because the focus of these provisions is to provide an efficient way for the works to be carried out in a heritage sensitive manner, and an architect may not be needed. The Council submits that, although an architect may well be involved in the maintenance or repair work in any event, the Council does not wish to assume that an architect must be engaged in every situation.

[144] Although we agree most maintenance is not likely to involve structural changes, we cannot be sure that will always be the case. We have accepted Ms Appleyard’s suggestion and included the following in relation to P1, P2, P3, P12 and P13.

⁸² Transcript, page 2229-2230.

...and where the works involve structural changes and the heritage professional is not also a registered architect, a registered architect.

[145] In relation to P12 temporary lifting of heritage items the provision is consistent with the activity status for lifting of buildings as determined in our Temporary Activities decision.⁸³ We have made some minor drafting changes for clarity. We find that the Final Revised Version is otherwise appropriate, and have included it in the Decision Version.

[146] Any activity that does not comply with the PA standards in P1, P2 and P3 becomes an RDA, 9.3.4.3 RD5. Discretion is limited to the matters in 9.3.5.1. We address the matters to which discretion is limited below, at [263].

Temporary buildings, structures and events in heritage settings and open spaces

*P4 Temporary buildings or structures for events in a heritage item that is an open space and
P5 Temporary buildings or structures for events in a heritage setting*

[147] The Council accepted amendments to these rules in response to submissions from the Arts Centre Trust Board (3275) ('Arts Centre') and the Canterbury Museum Trust Board (3351)('CBTB').

[148] To the extent that Hands off Hagley requests additional standards to the rule, we address those matters in a separate decision.

[149] Any activity that does not comply with the PA standards in P4 and P5 becomes an RDA, RD6. Written approvals and public notification is not required.

Signage

P6 Signs

[150] Following mediation on 9 December 2015, and in response to the Arts Centre's concerns, the Council proposed substantial changes to this rule to make it more enabling. The rule also sits alongside signage rules in Chapter 6. In the Final Revised Version, the Council included

⁸³ Decision 2.

a note to the effect that the rule applies in addition to the rules in Chapter 6, and where the rules conflict, this rule would prevail.

[151] The Final Revised Version provided:

P6	Sign/Signage Clarification note: This rule applies to heritage items and heritage settings in addition to the rules for signage in Chapter 6. Where the rules conflict, this rule will prevail.	a. For signs on heritage items <ul style="list-style-type: none"> i. protective material must be used to prevent damaging the surface of the heritage fabric, or where fixing signs to the heritage item is necessary, the number of fixing points must be limited to the minimum necessary to secure the sign. ii. the method and materials used to fix to the heritage item must not permanently damage any heritage fabric unless that heritage fabric is of a type that is regularly replaced as part of maintenance activities. iii. the sign must not project out from a building above verandah level. b. For signs in heritage settings: <ul style="list-style-type: none"> i. any sign which is for the purposes of interpretation shall not exceed 1.2m² in size. ii. where the road frontage exceeds 50m, the maximum sign area shall be 0.5m² per 50m of road frontage or part thereof, and the maximum area of any individual sign shall be 2.0m². Any sign exceeding 0.5m² in areas shall be separated from other signs by a minimum of 10m. c. Signs must not be flashing or moving.
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[152] In the Decision Version, we have deleted a. ii and iii for the following reasons:

- (a) ii conflicts with i in terms of whether permanent damage can occur;
- (b) there is an inconsistency with the Council's proposed General Rules signage provisions for commercial buildings, where signs may be attached to upper floors of buildings.

[153] Although heritage settings cover many different zones, there are different provisions for free-standing signs in the General Rules for signage in Chapter 6 (on which a separate Panel decision will issue in due course).

[154] We are satisfied that provision for stand-alone signs in heritage settings in sub-chapter 9.3 are appropriate because they are convenient and they are related to the size of each

site rather than to the number of vehicle entrances to the sites (which is the case in the General Rules). We are satisfied that they strike the right balance between enabling the use of heritage buildings, protecting heritage fabric and providing for amenity values.

[155] We find the approach we have taken achieves greater simplicity, whilst maintaining appropriate consistency, where this is important, with the General Rule provisions. Therefore, it is most appropriate. We appreciate that there may be differences in relation to signs on heritage buildings in some instances. We have included an advice note to that effect.

[156] If standards are not met the activity becomes a RDA 9.3.4.3 RD7, with discretion limited to the matters in 9.3.6.1 (o).

Monks Cave, Moa Point Cave and Lyttelton Rail Tunnel

P7 Buildings and earthworks on sites located above Monks Cave (HID 1376), Moa Point Cave (HD351), and the Lyttelton Rail Tunnel (HID 760).

[157] This rule was introduced in response to the Council's submission to regulate development on sites above Monks Cave, Moa Point Cave and the Lyttelton Rail Tunnel. It permits buildings and earthworks on these sites where they avoid impacts on the underground scheduled item. We accept the rule is appropriate and achieves the Objectives of the CRDP.

[158] We note that P7 as Notified related to works within a heritage setting. The rule was deleted in light of the confirmation that the activities are permitted in heritage settings, subject to other rules in the CRDP, with the exception of new buildings in heritage settings and temporary structures and signage.⁸⁴

CER Act s 38 Notices

P8, Activity Status for heritage buildings subject to s 38 Notices

[159] Rule P8 relates to the demolition and deconstruction of heritage items that are subject to a notice under s 38 of the CER Act (s 38 Notice). The Minister and CERA issued a notice

⁸⁴ Closing legal submissions on behalf for CCC, at 6.28.

under s 27(1)(a) of the CER Act to CCC to require that demolition under a s 38 Notice be a PA in Chapter 9 of the pCRDP.⁸⁵

[160] The Notified Version provided:

P8	Demolition and deconstruction of heritage items	Regardless of any other rule, demolition or deconstruction works carried out or commissioned by the Chief Executive of the Canterbury Earthquake Recovery Authority under section 38 of the Canterbury Earthquake Recovery Act 2011 Before making a decision under section 38 of the Canterbury Earthquake Recovery Act, the Chief Executive of the Canterbury Earthquake Recovery Authority must consult with Heritage New Zealand Pouhere Taonga and the Christchurch City Council
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[161] The Notified Version provides that demolition of a Group 1 and Group 2 heritage item, outside of that permitted by P8, is NC.

[162] Rule P8 was opposed by the Great Christchurch Buildings Trust (3558) (GCBT), Dr Ian and Dr Lynne Lochhead (3633) (Lochhead), Restore Christchurch Cathedral Group (3279) (RCCG) and Historic Places Canterbury (3675) (HPC). Those submitters maintained that the activity status should retain the ability for further public participation. Generally they advocated for DA status. RCCG sought NC status for demolition.

[163] Submissions from CPT, the Roman Catholic Bishop and jointly from CPT, Alpine Presbytery and the Roman Catholic Bishop (3670) (the Churches) addressed the relevant provisions in Chapter 9 and supported the inclusion of Rule P8. In its further submission (FS5007), the Roman Catholic Bishop opposed submissions from GCTB, Lochhead, and HPC. The Roman Catholic Bishop and CPT also requested that demolition of both the Cathedral of the Blessed Sacrament and ChristChurch Cathedral, outside of the s 38 Notice, be classified as a CA. The April 20 Version provided for a CA for the Cathedral of the Blessed Sacrament in relation to works beyond P8. The Council proposed a DA in relation to the ChristChurch Cathedral. The opposing submitters continued to seek a discretionary status, or non-complying status for any demolition of the ChristChurch Cathedral.⁸⁶ We address those matters further below.

⁸⁵ Exhibit 14

⁸⁶ Opening legal submissions for GCBT, 15 January 2016, at 3.

[164] The Final Revised Version P8 is:

P8	Demolition and deconstruction of heritage items	a. Regardless of any other rule, demolition or deconstruction works carried out under Section 38 of the Canterbury Earthquake Recovery Act 2011, or section 77 of the Greater Christchurch Regeneration Act 2016.
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[165] In our Preliminary Minute, we observed that the Notified Version's reference to mandatory consultation ought to be deleted. GCBT agreed that the addition of the standard creates uncertainty, and may be ultra vires for a PA rule.⁸⁷ Heritage NZ remained concerned about the deletion of the requirement for consultation in Rule P8.⁸⁸

[166] We find that the inclusion of the requirement for consultation is not appropriate as part of a PA rule. It creates uncertainty and would likely be ultra vires. To the extent that Heritage NZ requested that reference to consultation with Heritage NZ be included, we note that the Decision Version includes reference to the HPT listings in Appendix 9.3.7.2 and in the HSOS held on Council files. We find that the addition of a consultation requirement in Rule P8 is inappropriate in the circumstances. It is a matter for Heritage NZ to ensure that land owners of heritage listed buildings are aware of their obligations under the Heritage New Zealand Pouhere Taonga Act.

[167] The Roman Catholic Bishop, CPT and Tailorspace seek to amend Rule P8 to make it clear that demolition will be permitted if the works are carried out in accordance with a s 38 Notice "which existed prior to the expiry of the CER Act".⁸⁹ The reason for the request is in the event that there is a later dispute regarding the interpretation of the notice or its continued application in light of the repeal of the CER Act, it is important that this is clear.⁹⁰ This amendment is opposed by the Council on the basis that the rule is sufficiently clear as it is. The Council submits that, if there is a valid s 38 Notice in place, then the rule already authorises works to be carried out under the notice. The Council is of the view that the addition would:⁹¹

simply serve to create an anomalous situation in the event that a section 38 Notice lapsed, was overturned, or otherwise ceased to authorise works; that is P8 would then authorise works on the basis of an approval that no longer existed.

⁸⁷ Closing legal submissions for GCBT, at 12.

⁸⁸ Mediation Report, 8 April 2016, page 9.

⁸⁹ Closing legal submissions of the Roman Catholic Bishop at 20.

⁹⁰ Supplementary legal submissions of the Roman Catholic Bishop and Others, 6 May 2016, at 17.

⁹¹ Closing legal submissions for CCC at 6.34

[168] Mr Johnson, counsel CPT, in relation to ChristChurch Cathedral, submitted that:⁹²

Although the Interpretation Act 1999 provides that the repeal does not affect an existing right (such as CPT’s existing section 38 Notice), to avoid ambiguity and potential argument in the future, CPT considers it important that this matter is clarified.

[169] We accept Mr Johnson’s submission that the Interpretation Act would apply. We find that the drafting could be improved for clarity reasons, as requested by the Roman Catholic Bishop and Others. Matters relating to the validity of a s 38 Notice are matters for the High Court not for us.

[170] Another drafting issue that remained in dispute in closing submissions was the inclusion of reference to notices issued under s 77 of the GCR Act (s 77 Notice). A s 77 Notice is the equivalent provision to the s 38 Notice under the CER Act, which was repealed on 19 April 2016. The s 77 Notice process similarly enables the Chief Executive of the Department of Prime Minister and Cabinet to carry out or commission works, including the demolition of buildings in furtherance of the GCR Act purposes.⁹³

[171] The Council set out both s 38 of the CER Act and s 77 of the GCR Act in its closing at 6.38. We find that in effect the sections provide for the same process, albeit there are drafting differences, which are not material to the argument here. We note that the statutory purposes of the CER Act and GCR Act differ, in particular ‘regeneration’ is broader than recovery but it includes ‘residual recovery activity’. The Council has included in the drafting of P8 reference to s 77 of the GCR Act. The inclusion of reference to s 77 of the GCR Act was opposed by the

⁹² Closing legal submissions for CPT at 15.

⁹³ GCR Act, s 3 — Purposes:

- (1) This Act supports the regeneration of greater Christchurch through the following purposes:
 - (a) enabling a focused and expedited regeneration process;
 - (b) facilitating the ongoing planning and regeneration of greater Christchurch;
 - (c) enabling community input into decisions on the exercise of powers under section 71 and the development of Regeneration Plans;
 - (d) recognising the local leadership of Canterbury Regional Council, Christchurch City Council, Regenerate Christchurch, Selwyn District Council, Te Rūnanga o Ngāi Tahu, and Waimakariri District Council and providing them with a role in decision making under this Act;
 - (e) enabling the Crown to efficiently and effectively manage, hold, and dispose of land acquired by the Crown under the Canterbury Earthquake Recovery Act 2011 or this Act.
- (2) In this Act,—

regeneration means—

 - (a) rebuilding, in response to the Canterbury earthquakes or otherwise, including—
 - (i) extending, repairing, improving, subdividing, or converting land;
 - (ii) extending, repairing, improving, converting, or removing infrastructure, buildings, and other property;
 - (b) improving the environmental, economic, social, and cultural well-being, and the resilience, of communities through—
 - (i) urban renewal and development;
 - (ii) restoration and enhancement (including residual recovery activity)

GCBT on the basis that it was an unlawful delegation of discretion.⁹⁴ We note that the reference to a s 77 Notice was included for the first time in the 20 April Version. However, it was not the subject of any evidence so as to enable a proper s 32AA evaluation. We reject the inclusion of reference to s 77 Notices in Rule P8 on that basis.

[172] Having considered the Final Revised Version and the closing legal submissions of the parties we are satisfied that the drafting of P8, as proposed by the Final Revised Version, excluding reference to s 77 Notices, is most appropriate. It enables steps to be taken to give effect to works authorised under notices that have been issued under the CER Act, without the additional costs and uncertainties of a further approval process. We have included reference to ‘partial demolition’ for completeness because we have now defined that term. We are satisfied that a permitted activity status is most appropriate and is supported by the evidence.

Cathedral of the Blessed Sacrament

[173] The Cathedral of the Blessed Sacrament at 136 Barbadoes Street is listed as Heritage Item 46 in the CDRP, and is located on Heritage Setting number 368. The building is also listed by Heritage New Zealand/Te Pouhere Taonga as Item 47, with a Category 1 listing. The listing has not been contested by the Roman Catholic Bishop.

[174] The heritage significance of the Cathedral of Blessed Sacrament is not in dispute. Ms Fiona Wykes, a Senior Heritage Advisor for the Council,⁹⁵ explained in her evidence that the Cathedral of the Blessed Sacrament is historically and socially highly significant as the principal place of Catholic worship in Canterbury since 1860, and the seat of the Roman Catholic Diocese of Christchurch since its establishment in 1887. It has high cultural and spiritual significance as the spiritual home of Canterbury’s Roman Catholic community since 1905 and technological significance as one of the most advanced construction projects in New Zealand for its time. The Cathedral has contextual significance in its setting amongst the precinct of Catholic buildings on Barbadoes Street, including Cathedral College and the former diocesan offices. In spite of the damage and deconstruction that has occurred to date following

⁹⁴ Closing legal submissions for GCBT at 9.

⁹⁵ Ms Wykes holds a Bachelor of Arts Degree in Archaeology (BA Hons) and a Post Graduate Diploma in Architectural Conservation (PG Dip, Arch Cons) from the University of Bristol and a Master of Arts in Urban Design (MA) from Birmingham City University. Ms Wykes is a full member of ICOMOS (NZ) Te Mana O Nga Pouwhenua O Te Ao, the International Council on Monuments and Sites and until she left the UK in 2008 she was a full member of the Institute of Historic Building Conservation.

the Canterbury earthquake sequence, the building still retains enough authenticity and integrity to retain its meaning and sense of place, as well as enough physical fabric to demonstrate the criteria outlined above.⁹⁶

[175] The high significance of heritage values of the Cathedral of the Blessed Sacrament is recognised by both the Catholic community and the wider community. Given its location outside of the Central City, it is generally accepted that its value to the wider community is less than that of the ChristChurch Cathedral.⁹⁷ It is common ground that the s 38 Notice, issued by the Chief Executive of CERA, remains valid and enables the total demolition.⁹⁸

[176] Mr Keith Beal, Property Development Manager for the Roman Catholic Bishop, explained in his evidence the plan for the Cathedral:⁹⁹

148 The Diocese received a decision from CERA under s38 CER Act for the total demolition of the Cathedral. It has elected to attempt to “save the nave” with a self-imposed 12 point test and hold Option Evaluation Plan. This plan is designed to assess the findings of the investigations against the original evaluation criteria that gave rise to the decision to ‘save the nave’. These criteria include heritage values as well as technical feasibility and budget acceptance.

149 If it can be demonstrated that the original criteria cannot reasonably be realized, the Bishop will accept a recommendation for the total demolition of the structure. The three separate stages of test and hold are designed to identify any issues at the earliest possible opportunity.

150 Sign off by the Bishop and his advisors limited the exposure to \$5million during the investigations phase.

151 All parties within the Diocese agreed the plan to save the nave with a maximum budget of \$45million. If this cannot be achieved then it will trigger the demolition of the Cathedral. If additional fundraising is achieved for the Cathedral, it will first be applied to make up the total diocesan requirement of \$30m just as any shortfall will be made up from the rest of the Diocese. If more than \$30million is received it will go in the first instance to speed up the delivery of [the Diocesan Master Recovery Plan].

[177] The Final Revised Version provides for the demolition and deconstruction of the Cathedral of the Blessed Sacrament that is not in accordance with the s 38 Notice as a CA.

⁹⁶ Evidence in chief of Fiona Wykes, 2 December 2015, at 10.55.

⁹⁷ Transcript, page 1277, lines 10-26 (Mr Nixon).

⁹⁸ Exhibit 18.

⁹⁹ Evidence in chief of Keith Beal, 14 December 2015, at 148-151.

[178] The Roman Catholic Bishop supports the status of demolition as set out in the 20 April Version, with some drafting amendments. For works not in accordance with the s 38 Notice, the Roman Catholic Bishop requested a CA status in the event that the Cathedral of the Blessed Sacrament cannot be demolished as a PA. It is important to the Roman Catholic Bishop that an alternative pathway is provided for demolition in the event that the conditions of the s 38 Notice cannot be adhered to. The Roman Catholic Bishop's submission is that this is particularly important given the deconstruction works on the Cathedral have already begun and a prolonged consenting procedure would hinder the overall recovery.

[179] The GCBT conceded in its closing submissions that PA status within the confines of the s 38 Notice was appropriate and that demolition outside the s 38 Notice as a CA is also appropriate. The GCBT's support for CA status is conditional on the inclusion of a control that requires that the applicant demonstrates that it is no longer possible to adhere fully to the s 38 conditions. It sought that the matters of control be worded to ensure demolition would occur as close as practicable to the intent of the original s 38 Notice.¹⁰⁰

[180] Submitters Lochhead and HPC did not lodge evidence in support of their opposition to the Rule P8. We note Dr Ian Lochhead gave evidence for the GCBT but that evidence did not assist in the application or interpretation of Rules P8 and C3 in relation to the Cathedral of the Blessed Sacrament.

[181] The Council and the Roman Catholic Bishop agree that the following assessment matters are appropriate for the purposes of imposing conditions.¹⁰¹

In considering whether or not to impose conditions in respect of demolition and deconstruction of the Cathedral of the Blessed Sacrament, the Council reserves control over the following matters:

- a. The methodology for deconstruction including the phasing of the works, any heritage fabric which is to be retained, and how any heritage fabric to be retained is to be stored.
- b. A photographic record of the heritage item, including prior to, during the course of the works and on completion.
- c. Any mitigation measures, such as installation of interpretative panels on the site that identify the history and significance of the heritage item, and may include photographs, text and architectural plans of the building.

¹⁰⁰ Closing legal submissions for GCBT

¹⁰¹ Revised Proposal.

[182] GCBT did not provide any alternative wording of a condition to achieve its preferred outcome. The proposed rule provides for CA status for works beyond P8 so as to enable demolition and deconstruction to occur in circumstance where P8 is not able to be met. Tying the exercise of control to matters aligning with the s 38 Notice is inappropriate because it would simply defeat the purpose of the CA. GCBT's relief is also uncertain because it leaves matters as to the extent to which an alternative demolition methodology aligns with the s 38 Notice to the discretion of the Council. In substance this would revert to GCBT to their original position that demolition be treated as a DA.

[183] The evidence of the Roman Catholic Bishop in support of its request for CA status included the evidence of Mr Beal in respect of the Roman Catholic Bishop's recovery plans for the Cathedral site,¹⁰² Ms Halliday in relation to engineering matters,¹⁰³ Mr Julian Mace,¹⁰⁴ quantity surveyor, as to cost, and Ms Kerrigan in relation to heritage matters.¹⁰⁵ We have also been assisted by the economic evaluation of Mr Copeland, and planning evaluation undertaken by Mr Nixon.¹⁰⁶ We found all of that evidence of assistance to support the Roman Catholic Bishop's requested relief. To the extent that there were differences between the witnesses for the Roman Catholic Bishop and the Council, these matters have been largely resolved through the Final Revised Version.

[184] The evidence of GCBT, focussed predominantly on the ChristChurch Cathedral and did not challenge the site specific evidence from the Roman Catholic Bishop. Accordingly, on the evidence, we find that the proposed Rule C3 and associated matters for control in Rule 9.3.5.2, to be the most appropriate. The GCBT alternative would create uncertainty, add to the costs to the Roman Catholic Bishop which are inappropriate and would be inefficient, given the extent of deconstruction that is underway and the advanced stages of planning by the Roman Catholic Bishop. Therefore, we decline the additional relief requested by the GCBT in closing submissions and determine that Rule C3 with the associated assessment matters in 9.3.4.2. are the most appropriate.

¹⁰² Evidence in chief of Mr Keith Beal, 14 December 2015.

¹⁰³ Evidence in chief of Marianne Halliday, 14 December 2015.

¹⁰⁴ Evidence in chief of Julian Mace, 14 December 2015.

¹⁰⁵ Evidence in chief of Carole-Lynne Kerrigan, 14 December 2015/

¹⁰⁶ Evidence in chief of Robert Nixon, 12 January 2016.

[185] For the sake of completeness we note that we have included reference to ‘partial demolition’ in Rules 9.3.4.1 P8 and 9.3.4.2 C3, for the reasons noted in our discussion on the definition.

Heritage setting

[186] In the Notified Version, the Council identified a heritage setting in conjunction with the listing of the Cathedral of the Blessed Sacrament as a heritage item. The Roman Catholic Bishop sought that the entire setting be deleted from the CRDP. The reasons given by the Roman Catholic Bishop are that the setting has already been severely impacted by work required to stabilise and make safe the badly damaged Cathedral, and the demolition of nearby buildings.

[187] Mr Nixon, the planning expert for the Roman Catholic Bishop, was of the opinion that:¹⁰⁷

the setting can be considered in isolation from the building on the site which in this case will be subject to radical external change even under a “save the nave” outcome. Apart from forming the curtilage of the building, it does not in its current form contribute to the significance of the heritage item in terms of the Council’s current definition of “Heritage setting”, nor is an integral to its values under the definition is sought by the submitters. Under any scenario, the setting would be severely impacted further by necessary construction activities, such that the retention of the setting is inappropriate as any significant elements of heritage value have now been lost or compromised. Furthermore, even the previous setting was significantly compromised by activities such as car parking. Put another way, the setting of the Cathedral of the Blessed Sacrament will be entirely new and potentially significantly different from that which existed prior to the earthquakes, and I am not of the view that it is the role of the District plan to design the future setting.

[188] We are satisfied on the evidence of Mr Nixon that given the intended demolition, even if the nave were to be retained, the listing of the heritage setting is no longer appropriate and have removed it accordingly.

ChristChurch Cathedral

[189] It is undisputed that ChristChurch Cathedral is one of the most significant heritage buildings in Christchurch. ChristChurch Cathedral is a Group 1 High Significance heritage building and setting and is a Category 1 Historic Place.¹⁰⁸

¹⁰⁷ Evidence in chief of Robert Nixon, 12 January at 9.14.

¹⁰⁸ Heritage New Zealand/Te Pouhere Taonga

[190] The Council's HSOS records that the ChristChurch Cathedral has high cultural and spiritual significance for its former role as the Cathedral Church of the Anglican diocese in Canterbury, its civic role as a venue for important cultural events and as the physical and metaphorical heart of the city. The Cathedral has high technological and craftsmanship significance, for the period of construction, for its quality of its masonry construction and the accomplishment of its constructional and applied decoration. It has high contextual significance as the eponymous major feature of Cathedral Square and as the city's defining central landmark.

[191] Ms Wykes gave evidence that, in spite of the damage and deconstruction that has occurred to date, the building retains high architectural and aesthetic significance as an important design by leading British Gothic Revival architect, Sir George Gilbert Scott, with alterations and additions by a number of prominent Christchurch architects, including Benjamin and Cyril Mountfort, Paul Pascoe and Alun Wilkie. The Cathedral still has enough authenticity and integrity to retain its meaning and sense of place, as well as enough physical fabric to meet the threshold for listing.

[192] The Cathedral sustained significant damage through the Canterbury earthquakes. There has been considerable public interest and debate in the future of the Cathedral due to its high heritage significance, and also its location at the heart of the Christchurch central city. Mr Johnson submitted in opening that:¹⁰⁹

Resolving its ongoing future is fundamental to the recovery of the City, and in particular to Cathedral Square.

[193] The future options for ChristChurch Cathedral involve either 'reinstatement', (utilising a range of methods including repair, restoration, reconstruction and earthquake strengthening) or replacement. In the event of replacement, there remain issues as to design of a replacement cathedral.

[194] The options for reinstatement or replacement have been the subject to a number of engineering, design and costing exercises in the last 5 years, involving CPT, the GCBT and CERA. There has been ongoing litigation around the decision-making processes and the

¹⁰⁹ Opening legal submissions for CPT, 14 January 2016, at 3.

obligations of CPT in relation to the Cathedral.¹¹⁰ CPT filed evidence in relation to the extent of the damage and the cost of repair and replacement from Mr Hare, a structural engineer, and Mr Doherr, a quantity surveyor. The Council called a structural engineer, Mr Marriott, who agreed with Mr Hare's assessment on engineering matters. Its quantity surveyor, Mr Gavin Stanley, however, was unable to provide any direct evidence on the issue of cost because he had not undertaken any separate assessment.¹¹¹ GCBT did not file evidence on engineering and cost matters and did not cross examine the CPT witnesses on those topics. After evidence in chief was filed, the outcome of an independent review commissioned by the Government undertaken by Ms Miriam Dean QC ('Dean Report') became available.¹¹² A copy of the Dean Report was provided by Mr Nixon in his evidence and was also referred to by GCBT.¹¹³

[195] The Dean Report was prepared with input from Mr Hare and Mr Doherr, along with expert advisors to GCBT.¹¹⁴ Mr Johnson submitted that the evidence before us and the Dean Report concluded:

- (a) It is feasible, from an engineering perspective, to 'reinstate' the ChristChurch Cathedral (through a combination of repair, restoration, reconstruction and seismic strengthening), or to replace it entirely.
- (b) The costs of reinstatement are in the order of \$105 million.
- (c) A new Cathedral (of similar size and scale) could be constructed for \$63 million to \$66 million (although it would be possible to reduce the size and scale so that the design met the funds on hand).
- (d) Delays will lead to further costs.

[196] Mr Gavin Holley, the General Manager of CPT, gave evidence that the insurance monies in respect of the Cathedral are significantly less than the costs associated with any option for

¹¹⁰ *Great Christchurch Buildings Trust v Church Property Trustees* [2013] NZSC 132; *Great Christchurch Buildings Trust v Church Property Trustees* [2013] NZCA 331; *Great Christchurch Buildings Trust v Church Property Trustees* [2012] NZHC 3045.

¹¹¹ Rebuttal evidence of Gavin Stanley, 18 December 2015, 3.2.

¹¹² Report on facilitated discussions with engineers for Church Property Trustees and the Great Christchurch Building Trust on engineering options for repair, restoration or replacement of ChristChurch Cathedral, Miriam Dean QC, November 2015.

¹¹³ Evidence in chief of Robert Nixon at Appendix 3.

¹¹⁴ Adam Thornton, structural engineer and Julian Mace, quantity surveyor.

either a modern or a replica rebuild. He explained that, as the Cathedral is an asset that does not generate a commercial income, financing the future Cathedral is challenging. Mr Holley explained that CPT has very limited financial capability in its own right. He said that CPT holds assets on behalf of the parishes, Cathedral and Diocese and that the Trustees do not hold any assets in their own right and, therefore, have no ‘reserves’ to assist any parish or the Cathedral in the event of a financial shortfall. Mr Holley’s evidence was that, if CPT was to fundraise to meet shortfalls, the amount to be fundraised would be between \$23m for a modern Cathedral to \$76m for a replica rebuild.¹¹⁵

[197] The costs of planning uncertainty is a significant issue for CPT in light of its overall responsibilities. Mr Holley explained that, while CPT has a s 38 Notice, this is only to the extent demolition is needed to remove hazards. Accordingly, CPT has lodged specific submissions requesting a more certain planning framework in relation to both options of reinstatement and replacement. Mr Johnson submitted that CPT is committed to fully investigating the reinstatement option for the Cathedral with the Government, including exploring options for funding the shortfall for the reinstatement option.¹¹⁶

[198] Since the publication of the Dean Report, a further working group has now been established to consider the issues around cost and safety of the reinstatement option. The brief for that working group is not a matter that is before us in evidence. We simply record that we are aware that further investigation is being undertaken as an outcome of the Dean Report and that a further report is likely to issue later this year.¹¹⁷

[199] CPT submitted that, no matter the outcome of the investigation it and the Government were undertaking as to whether cost and safety issues can be addressed to enable reinstatement, substantial deconstruction will be required whatever solution is required. That is in view of the extent of damage and the need for safe buildings.

[200] Mr Hare, who has significant experience in regard to earthquake related damage and heritage buildings, gave evidence in relation to the extent of the earthquake damage of the

¹¹⁵ Evidence in chief of Gavin Holley, 10 December 2015, at 10.

¹¹⁶ Opening legal submissions for CPT (Mr Johnson), 14 January 2016, at 15.

¹¹⁷ Transcript 1185, line 43-46.

Cathedral and the nature of the works required to reinstate the Cathedral to an appropriate standard. He summarised his evidence as follows:¹¹⁸

- (a) The Cathedral is in a highly vulnerable condition, due to the extent of damage suffered through the Canterbury earthquake sequence, the continued risk of further earthquakes and the exposure of the building to weather and infestation.
- (b) The Cathedral requires significant repair and strengthening to bring it up to the capacity required by the Building Act, as well as satisfying the Church Property Trustees requirements.
- (c) In order to complete the repair and strengthening in a safe and efficient manner, most perimeter walls will need to be completely deconstructed down to sill level, with partial deconstruction down to foundation level. This will allow restoration of the wall piers to their original alignment, and the addition of new reinforced concrete infill walls to provide additional strength.
- (d) Worker safety during the detailed assessment, design and construction phases requires extensive temporary stabilisation and the removal of vulnerable elements that present a significant safety hazard and which would require deconstruction in any case in order to complete strengthening.
- (e) Until the Cathedral is either removed or reinstated, it is a significant hazard. Even though it is fenced off and entry is restricted, members of the public still access the site occasionally. In the event of full collapse at the apse or transepts, it is possible that the temporary protective steel and timber barrier would not contain all debris.
- (f) It is my opinion that the Cathedral cannot be effectively repaired and strengthened without the deconstruction of significant areas of the existing stone walls.

[201] Mr Hare also explained that the definitions of ‘demolition’, ‘deconstruction’ and ‘reconstruction’ have a significant overlap and his evidence was that, for a repair and reconstruction project as significant as required for the Cathedral, there is going to be a mix of demolition and deconstruction of material which may or may not be used.¹¹⁹

[202] Mr Hare was not cross-examined by CGBT or the Council (aside from matters relating to the definitions). His opinions are consistent with the findings in the Dean Report. We accept his evidence and have approached our evaluation on the basis that, regardless of whether a decision is made by CPT to reinstate or to replace ChristChurch Cathedral, we must ensure that the planning framework is the most appropriate in light of the evidence before us, for whatever alternative is ultimately pursued.

¹¹⁸ Evidence in chief of Henry (John) Hare, 10 December 2015, at 13.

¹¹⁹ Transcript, page 1198.

[203] Mr Doherr’s quantity surveying evidence was also consistent with the findings of the Dean Report, and was not challenged by any party. We accept Mr Doherr’s evidence.

[204] CPT seeks through its submission that the CRDP will:¹²⁰

- (a) allow for works to be carried out under the s 38 Notice as a PA: and
- (b) allow for the demolition or deconstruction of the ChristChurch Cathedral, beyond the works authorised by the s 38 Notice, as a CA rule which precludes public or limited notification.

[205] CPT’s relief was opposed by GCBT, and RCCG. GCBT, was represented by legal counsel and it called evidence from Trustee, The Honourable Mr James Anderton in relation to the background to the Trust and the importance of the Cathedral to the wider community and, Dr Ian Lochhead, architectural historian, in relation to heritage values.¹²¹ It also presented an affidavit from Ms Jamie Robinson, a solicitor advising the Trust.¹²² RCCG, was represented by David Collins and called evidence from Dr Ian Lochhead. Mr Collins also filed closing submissions.

[206] The Honourable Mr Anderton gave evidence regarding the establishment of GCBT, and also in relation to the public interest in the outcomes for the Cathedral. In answer to questions from Environment Judge John Hassan, Mr Anderton accepted that it was reasonable that any consent process should be focused on relevant matters such as heritage values, engineering and cost matters.¹²³ In response to questions from Mr van der Wal, legal counsel for GCBT, Mr Anderton accepted that “restoration” of the Cathedral would not be at any cost, nor would it be reasonable to require every element to be put back the way it was.¹²⁴

MR VAN DER WAL: Mr Anderton, just in response to his Honour, Judge Hassan’s question to you. In terms of focusing or narrowing the scope of matters that might be taken into account or be able to be considered in such a process, do you have

¹²⁰ Closing legal submissions of counsel on behalf of the CPT (ChristChurch Cathedral), at 5-9 and submission 3610.

¹²¹ Dr Lochhead holds the degrees of BA, MA (1st class hon) and PhD in Art History. He was a member of academic staff at the University of Canterbury from 1981 until 2014 and was, for 15 years prior to retirement, Associate Professor of Art History. His specialist fields of teaching and research are the history of New Zealand architecture and the history and theory of architectural heritage conservation.

¹²² The Affidavit contained a press article that preceded the appointment of Miriam Dean QC.

¹²³ Transcript, page 737-738.

¹²⁴ Transcript page 739-740.

any guidance or ideas that you think would be of assistance in terms of the types of matters that you think should be considered in such a process?

HON ANDERTON: Well, in essence what you are talking about here is whether an historic one building, category one building, should be demolished or not, and that should be determined by the evidence for whether any restoration is reasonable and feasible. I mean you cannot say that a building should be restored under any circumstances no matter what the cost, for example, at one extreme.

The other extreme is you cannot say that a building can be restored only if every nut, bolt and screw can be put back in the same place it was before, that is impossible too, you know, under a major earthquake situation.

So you have to have a kind of reasonable approach and that is what I think a resource consent process allows for. In the end the judgment would be “yes” or “no”, under this circumstance or that circumstance and you would have some conditions obviously put on according to the evidence.

[207] We note that the Honourable Mr Anderton’s evidence regarding what is reasonable and feasible in the circumstances is consistent with our findings on the interpretation of s 6(f) and the relevant objectives and policies in the CRPS.

[208] CGBT did not challenge the evidence of Messrs Holley, Hare or Doherr. In closing legal submissions Mr van der Wal explained his reasoning for that, including the fact that the engineering and cost evidence was the subject of the Dean Report, which is in evidence before us.¹²⁵ We take that as meaning that CGBT accepts the conclusions of the Dean Report, and we certainly understood that to be the case from Mr Anderton’s evidence. We will make our decision based on the evidence before us, which is largely unchallenged.

[209] We have already addressed GCBT’s submission as it related to the drafting of Rule P8 above. In addition GCBT was particularly concerned with the activity status of demolition of the ChristChurch Cathedral, beyond the scope of works provided for in the s 38 Notice and the importance of public participation in any resource consenting outcomes.

[210] RCCG maintained the strong view that anything other a NC status for demolition would be inappropriate and would not recognise and provide for the Cathedral, given its heritage significance.

¹²⁵ Closing legal submissions for CGBT, at 20-38.

[211] The Council, whilst accepting the appropriateness of Rule P8, remained opposed to ‘CA’ status, and retained a DA status in the Final Revised Version. That position was largely reliant on the planning evidence of Ms Rachlin, which we discuss below.

Activity Status for demolition and deconstruction of ChristChurch Cathedral

[212] GCBT continue to seek the removal of the ChristChurch Cathedral from the PA Rule P8, on the basis of uncertainty regarding the scope of the works authorised by that s 38 Notice. The s 38 Notice for ChristChurch Cathedral authorises demolition works ‘to the extent necessary to remove hazards’. GCBT argue the rule would be void for uncertainty.

[213] CPT accepted, in opening submissions, that the s 38 Notice is limited to removing hazards and is not sufficiently broad to provide for the complex works that are required for either the reconstruction or construction of a new Cathedral.¹²⁶

[214] We have considered the terms of the s 38 Notice and find it is clear on its face as to what it is intended to cover. Whether or not the works undertaken are within scope becomes issue of contention that is not as a result of the inclusion of the notice in P8. It is not of itself inherently uncertain. The validity or otherwise of the s 38 Notice is a matter for the High Court. Similarly if there is any complaint that works were undertaken beyond the scope of a PA rule that is an enforcement matter. The drafting of the rule does not create the uncertainty.

[215] We find that extending the application of Rule P8 to the ChristChurch Cathedral s 38 Notice is the most appropriate means to achieve the CRDP Objectives and is consistent with the Higher Order Documents.

Works beyond Rule P8

[216] CPT request ‘CA’ status for ‘demolition and deconstruction’ to provide planning certainty for the works that are necessary for either reinstatement or replacement. GCBT and RCCG continue to seek activity status for ‘demolition’ that would require public notification. GCBT supported the Notified Version that provided for demolition as a ‘NC. However, in closing submissions GCBT considered that at least a full ‘discretionary’ activity status was

¹²⁶ Opening legal submissions for CPT at 16.

most appropriate. RCCG continued to seek a ‘non-complying’ activity for demolition. The Council proposes full DA status in the Final Revised Version.

[217] In the context of the ChristChurch Cathedral, and for other heritage items, the term ‘demolition’ is complex. Demolition can also be an emotive phrase in relation to heritage because it is ordinarily associated with the complete destruction of a heritage building. ‘Demolition’ was defined in the Notified Version, such that it incorporated deconstruction, even if it was undertaken in a way to carefully retain heritage fabric for use in the reconstruction or restoration of a heritage item. In the Final Revised Version, ‘deconstruction’ was decoupled from the definition of demolition. Demolition is now defined in the Decision Version as:

Demolition

in relation to a heritage item, means permanent destruction in whole, or of a substantial part which results in the complete or significant loss of the heritage form and fabric.

[218] Deconstruction is separately defined as:

in relation to a heritage item, means to carefully dismantle a building or features in such a way that the deconstructed materials may be later used in reconstruction and or restoration.

[219] The evidence of Mr Hare illustrates that demolition can involve the total destruction of the building, with no reuse of any material in any subsequent structure, or it can be part of the methodology required to reinstate a building. On the basis of the evidence before us, and the Dean Report, we understand that ‘reinstatement’ involves elements of repair, restoration and reconstruction as well as seismic strengthening works.¹²⁷ In the Dean Report, it is noted that reinstatement would result in a Cathedral that most people would be unable to distinguish from the pre-earthquake building:¹²⁸

From an engineering perspective, the cathedral can largely be reinstated. The parties’ engineers prefer the term “reinstated” to “repaired” or “restored” because it would be impossible, from an engineering perspective, to rely solely on repair methods or on restoration methods to bring the cathedral up to full building code. Reinstatement, as already noted, employs a combination of repair, restoration, reconstruction and seismic strengthening.

Because the cathedral is constructed of archaic materials, it can never fully comply with New Zealand’s building code, which specifies the required performance of buildings, in all respects. However, reinstatement could achieve 100 per cent of seismic capacity

¹²⁷ Evidence in chief of Robert Nixon at 8.2 referring to the Dean Report, page 5 — “What would be required is a combination of repair, restoration, reconstruction and seismic strengthening, an approach defined for this report as reinstatement”.

¹²⁸ Dean Report, page 24.

as required by the code, that is, the cathedral would achieve the same level of safety from structural collapse that would be required for a new building.

The tower and west wall are substantially demolished. The way they collapsed or were demolished means no record could be kept for removal or reconstruction purposes. Many elements were damaged beyond repair. Reinstatement here would follow a similar process to the rest of the cathedral, but with the introduction of significantly more new material and probably, as already noted, a lighter upper section.

Reinstatement is not a novel or untried process. The Arts Centre is being reinstated using the same combination of techniques. For example, the Clock Tower building at the Arts Centre has been reinstated, including the insertion of reinforced concrete walls, which have been clad in a combination of the original masonry and new masonry elements in the same form. To most people, the outcome will be virtually indistinguishable from the original pre-earthquake building.

[220] Mr Johnson submitted that, although the 20 April Version provides for reconstruction, the requirement that the heritage item is rebuilt “as closely as possible” to its earlier form could preclude reinstatement of the Cathedral from being defined as a ‘reconstruction’. Mr Johnson submitted that was particularly the case given the need for the reinstated building to be 100% of the seismic capacity of the NBS in order to ensure protection of life, insurability and that the building will survive future seismic events without significant further damage. He submitted that, due to the contentious nature of the works, the complex definitions and inevitable overlap, a specific rule is required in respect of the Cathedral.¹²⁹

[221] Mr Johnson explained that, notwithstanding activity status for reconstruction, in relation to the ChristChurch Cathedral, the scope of works required, even for reinstatement would likely fall within the 20 April Version definition of ‘demolition’. That submission is supported by the evidence of Mr Hare and Mr Nixon.

[222] Dr Lochhead referred in his evidence to the ICOMOS definitions of ‘restoration’ and ‘reconstruction’:¹³⁰

The New Zealand ICOMOS Charter 2010 recognises varying levels of intervention in order to conserve heritage structures. These include both ‘Restoration’ and ‘Reconstruction’. Restoration ‘typically involves **reassembly** and **reinstatement**, and may involve the removal of accretions that detract from the **cultural heritage value** of a **place**....’ (s.19) ‘**Reconstruction** is distinguished from **restoration** by the introduction of new material to replace material that has been lost. **Reconstruction** is appropriate if it is essential to the function, **integrity**, **intangible value**, or understanding of a **place**, if sufficient physical and documentary evidence exists to minimise conjecture, and if surviving **cultural heritage value** is preserved.

¹²⁹ Closing legal submissions for CPT, 32-36.

¹³⁰ Evidence in chief of Dr Ian Lochhead, 2 December 2015, at 11.5.

Reconstructed elements should not usually constitute the majority of a **place** or **structure**.’ (s.20) In the case of Christchurch Cathedral, ample evidence exists to allow accurate reconstruction without conjecture. The charter also recognises the need for repair of buildings to a higher structural standard than the existing in order to meet seismic [sic] codes. S.18.iii states: ‘**Repair** of a technically higher standard than that achieved with the existing materials or construction practices may be justified only where the stability or life expectancy of the site or material is increased, where the new material is compatible with the old, and where the **cultural heritage value** is not diminished.’ The anticipated level of intervention required to restore and strengthen Christchurch Cathedral comes within the ambit of these heritage principles.

[223] Dr Lochhead’s evidence demonstrates some uncertainty around the concepts of ‘reinstatement’, ‘restoration’ and ‘reconstruction’. In the Final Revised Version, even if the Cathedral is ‘reconstructed’ on the basis of the definition of ‘reconstruction’, if demolition is involved, the activity would default to a full discretionary status, or if RCCG are successful, a NC status.

[224] In the case of the ChristChurch Cathedral, the evidence demonstrates that the extent of earthquake damage is known, and the extent of engineering works required for reinstatement or replacement, is reasonably certain (subject to matters of detail regarding methodology). We find that a catch-all category for ‘demolition’ as NC, or even a fully DA, would be disproportionate, and impose a level of uncertainty, significant costs and delays that are not justified in the circumstances.

[225] When considering which activity status is the most appropriate in relation to ChristChurch Cathedral we have considered the evidence of Dr Lochhead and Ms Wykes regarding its high heritage significance, the evidence of funding challenges faced by CPT of Mr Holley, the costs of delay that may occur through consent processing requirements, and the evidence of Mr Holley and of Mr Nixon as to planning uncertainty. We have also considered Mr Anderton’s evidence in relation to public support for the reinstatement of the Cathedral. All are relevant factors to our evaluation of the costs and benefits of the alternative rule status and to the options of requiring public notification or not.

[226] We do not accept the submission from RCCG that simply by listing as a Group 1 Highly Significant Heritage, demolition is most appropriately classified as a NC. What is appropriate is a matter of judgement to be informed by the evidence. RCCG, and to a degree GCBT,¹³¹

¹³¹ GCBT has provided evidence as to the potential for fundraising efforts to address any shortfall.

simply rely on the expert evidence of Dr Lochhead regarding heritage significance. Their evidence did not challenge the evidence of CPT regarding costs of various options or the cost of delay. Nor did it dispute the broader obligations of CPT to the Parish and Dioceses. In light of the evidence of Mr Hare¹³² that, whatever option is pursued, demolition and deconstruction is required in relation to the ChristChurch Cathedral. We find that a blanket NC status is inappropriate. Specifically it would not achieve the CRPD objectives, and would not give effect to the CRPS.

[227] It appears to us that a presumption underpinning the various submissions of opposing parties, and the Council's case, is that the more stringent activity classification (e.g. NC or DA), the more appropriate it is to require public notification. Conversely there would appear to be a similar presumption underpinning CPT's opposition in favour of CA, namely that it is an activity class that is less likely to require public notification. The issue of whether a resource consent requires public notification is a matter to be considered by us, in terms of individual rules, under RMA, s 77D. In the absence of an express requirement, the issue of public notification is a decision for the consent authority having considered the relevant matters in RMA, s 95A-E. Although activity classification and the requirements for public notification are related, we have approached our evaluation on the basis that they are separate matters for consideration. Activity classification does not drive the notification status, whether or not a matter is publicly notified.

[228] Although we accept the evidence of Dr Lochhead and Ms Wykes regarding the heritage values of ChristChurch Cathedral, we do not accept that Dr Lochhead's evidence provides sufficient foundation to determine the appropriate consenting pathway for the alternatives available. Dr Lochhead is an architectural historian, not a planning expert, and his evidence is necessarily focused on heritage values rather than the wider considerations under s 32 of the RMA, or in the OIC. Nor do we accept Dr Lochhead's view that more time is needed to determine the future of the Cathedral. Dr Lochhead's views do not take into account the recovery imperatives of the Higher Order Documents. We were also concerned that his comparison with the Frauenkirche in Dresden was misplaced in light of the very different historical facts and circumstances.¹³³

¹³² Transcript, page 1192-1198.

¹³³ Transcript, page 1756 -1757.

[229] We have considered the evaluative evidence of Mr Nixon and Ms Rachlin in relation to the alternatives for activity status. Mr Nixon's evidence was that, given the emphasis on recovery through the CRDP review process and OIC:¹³⁴

...if there is sufficient technical information to demonstrate that the extent of the damage to the cathedral is of such magnitude as to justify demolition or deconstruction through a controlled approach, then in the absence of contrary evidence a decision on that can be made in my view.

[230] Mr Nixon was of the opinion that that evidence exists from Mr Hare and Mr Doherr, which was not challenged by any party, to conclude that demolition and deconstruction of the Cathedral is appropriate, and that, to the extent a resource consent is required, it need not be publicly notified. Mr Nixon considered that a notified process through a resource consent is inappropriate because of the process and potential appeals would give rise to significantly greater delay and costs for the reinstatement or replacement of the Cathedral. In his opinion, that would not be consistent with promoting recovery.

[231] Mr Nixon accepted that, in the case of the Cathedral, the consequences of not replacing the Cathedral, or what it would be replaced with, were also relevant resource management considerations (in addition to the removal and recording of heritage fabric during deconstruction or demolition).¹³⁵ On that basis Judge Hassan asked Mr Nixon if the activity status should be a CA or a RDA. Mr Nixon's opinion is that it should be 'controlled' given the issues of replacement were related to design expertise, which was available to the Council. Mr Nixon's evidence was that there was sufficient evidence before the Hearings Panel for us to decide on the controlled status and not requiring public notification.¹³⁶

[232] Judge Hassan also questioned Mr Nixon on his views of not requiring public notification, even in the event of us being satisfied that a CA was appropriate.¹³⁷

JUDGE HASSAN: ... So coming back to the matters for control in 9.3.4.2, adding the item we discussed just a minute ago, this is my question. If we decide in the planning process now that we will authorise the control of this activity to the extent of it being a controlled activity for the purposes of conditions set by the Council, why do you say that the public could have no legitimate interest in making submissions for the purposes of a consent being granted on appropriate conditions on these matters?

¹³⁴ Transcript, page 1242.

¹³⁵ Transcript, page 1275.

¹³⁶ Transcript, page 1276, lines 6-22.

¹³⁷ Transcript, page 1276, lines 22-44 and 127, lines 1-8.

MR NIXON: Okay, well it could I have somewhat conflated the issue of demolition on one hand with what might be the design of a new building on the other, having just listened to your question. Obviously turning my mind to it just on the spot response, I can see some merit in the suggestion that there could well be public – well I would expect there will be public interest in the design of a replacement building.

JUDGE HASSAN: Yes. And if there are special circumstances then regardless of what rule we impose the Council is going to have residual discretion available to it, aren't they?

MR NIXON: Yes, in terms of the design features, yes, that is correct.

JUDGE HASSAN: All right. So do I hear you say that on reflection, perhaps a rule precluding notification may be inappropriate?

MR NIXON: Yes, as I say inflated demolition, I still maintain that that should not be a required notification, but in terms of the design of a new building, I mean I imagine that is something the public could have a great deal of interest in, so that may well be quite a reasonable position to take.

[233] However, we took his answers to accept that the proper regime for notification is a different matter and we should weigh into consideration the high public interest in the matter.

[234] Ms Rachlin, the Council's planning witness, initially supported the Notified Version NC status for demolition and deconstruction of ChristChurch Cathedral. Ms Rachlin's assessment was based on the high heritage significance of the ChristChurch Cathedral. She altered her position following her consideration of the evidence and submission and conceded that non-complying status may set the test too high. She considered a full DA provided greater certainty and was, therefore, more appropriate in the circumstances.

[235] Ms Rachlin had not read the Dean Report, and was of the understanding that there was no conclusive evidence on costing and financial aspects for the ChristChurch Cathedral. On that basis, she considered RDA status would be inappropriate because it would not allow an ability to weigh the costs and retention matters. Ms Rachlin accepted that cost and financial matters are technical matters, and of themselves do not justify the threshold of NC status. She considered that DA status would address Strategic Direction 3.3.2, because it would provide greater certainty than non-complying, but would allow for matters to be weighed and considered.¹³⁸

¹³⁸ Transcript, page 956, lines 36-42.

[236] When cross-examined by Mr Johnson, Ms Rachlin accepted that a RDA would provide even greater certainty, but she still maintained that discretionary status was more appropriate, having factored in the high heritage significance as well as matters of certainty and the Statement of Expectations with regard to reducing consenting requirements.¹³⁹ Ms Rachlin accepted that if the issues were around cost and finance, it would not need to be fully discretionary to address those matters. However, she maintained her position in favour of DA status.¹⁴⁰

[237] Having considered the uncontested expert engineering and cost evidence, the Dean Report, the submissions and evidence in relation to heritage values and the evaluation of those matters by Mr Nixon and Ms Rachlin, we find that the matters relevant for the determination of whether it is appropriate to ‘demolish’ the whole or any part of ChristChurch Cathedral for the purposes of reconstruction, restoration or replacement, are capable of prescription and can form the basis of at least an RDA status and possibly CA status. Further such status would properly target the matters for consideration. This is because the evidence clearly demonstrates that demolition of either the entire Cathedral (for replacement) or part of it (for reinstatement) is appropriate, regardless of whether the decision is to reconstruct, restore or replace it.

[238] We have considered the alternative DA, or NC classification. We reject those options on the basis that the costs would simply outweigh the benefits. It would open up the debate to a decision on CPT’s preferences to restore, reconstruct (or reinstate) or to replace. The CRDP cannot compel either outcome. That approach would also ignore undisputed engineering evidence as to the fate of the ChristChurch Cathedral. It would add unwarranted cost, delays through ongoing litigation and be obstructive to the recovery of Christchurch and Cathedral Square.

[239] We find, on the evidence, that a more targeted consenting regime for activities associated with the restoration, reconstruction or replacement of the ChristChurch Cathedral is the most appropriate means of achieving the CRDP Objectives and meeting the requirements of the Higher Order Documents. Reconstruction and restoration are coupled together and provided for in Rules 9.3.4.1 P11 and 9.3.4.2 C2. As discussed above in relation to definitions, we have included a definition of ‘partial demolition’ and provided for both deconstruction and partial

¹³⁹ Transcript, page 957, lines 4-9.

¹⁴⁰ Transcript, 957, lines 11-25.

demolition for the purposes of reconstruction and restoration respectively in 9.3.4.2 C3. In doing so, we accept the relationship between those activities and the need to provide an appropriate pathway to enable reconstruction and restoration to achieve the Strategic Objectives and Objective 9.3.2.1. We find that the PA and CA activity category is the most appropriate means to provide for work required for restoration and reconstruction purposes and is supported by the evidence.

[240] In light of the evidence, that even reinstatement of the ChristChurch Cathedral is likely to involve more substantial demolition and would not wholly conform with the definition of ‘reconstruction’, we find that a targeted rule is still required to provide for demolition reconstruction and/or restoration of ChristChurch Cathedral. CA status is most appropriate. On the evidence before us, we have been able identify appropriate standards for the purposes of imposing conditions providing for appropriate protection of heritage fabric to enable its re use. We find the addition of a contested resource consent process would simply add cost, delay and uncertainty that would not be efficient or effective in achieving the objectives of the CRDP.

[241] We find, on the evidence, should CPT decide not to reinstate ChristChurch Cathedral, that demolition should be subject to a resource consent on a RDA basis. We find on the evidence that it is most appropriate to confine the relevant considerations to matters relating to:

- (a) whether the engineering requirements and associated costs of retaining the Cathedral in whole or in part are unreasonable; and
- (b) whether there is threat to life and or property as a result of the condition of the building; and
- (c) whether there are applications for resource consent made or granted for a replacement building in accordance with Rules 15.10.1.2 C2 and 15.10.1.3 RD9; and
- (d) the engineering methodologies for demolition, the extent of demolition and the protection of heritage fabric; and

- (e) mitigation measures.

[242] We have considered a range of methods to achieve the distinction between demolition for restoration and reconstruction purposes and demolition to enable replacement. We have considered the risks of enabling demolition of the ChristChurch Cathedral, without any countervailing obligation to either reinstate or replace. In Decision 43 in relation to the central city provisions, we have provided the appropriate regulatory framework for a replacement building, on the basis of the alternatives of a spiritual facility or other use. We are satisfied that the provision we have made for deconstruction, partial demolition and demolition in conjunction with restoration and reconstruction as PA or CA, is the most efficient method of ensuring that any such work is limited to those purposes. To the extent that demolition is for a replacement building, we are satisfied these are appropriately addressed through Rules 15.10.1.2 C2 and 15.10.1.3 RD9.

[243] We have made provision to ensure the linking of the demolition of the Cathedral in conjunction with ‘Restoration’ and ‘Reconstruction’ in CA Rule C3 and 9.3.5.2. For other demolition not in conjunction with ‘Restoration’ and ‘Reconstruction’, Rule RD8 reserves for the Council discretion to consider (and set conditions about) whether or not related applications have been made for a replacement building under Rules 15.10.1.2 C2 and 15.10.1.3 RD9. We find that such an approach is consistent with the holistic and integrated management of resources required by the purpose of the RMA. We find that such an approach responds to the relevant resource management matters raised by submitters on Chapter 9 as they relate to ChristChurch Cathedral.

[244] We have considered the submissions and evidence on behalf of CCC, CPT and GCBT and others on the issue of whether resource consents in relation to the Cathedral ought to be exempt from the notification requirements of the RMA. We have also considered the requests of GCBT and RCCG that we require public notification of all matters relating to the Cathedral. In relation to the latter request, we find that it is an inappropriate exercise of our discretion to require public notification in a rule in the CRDP. We find on the evidence that Rule C3 is not required to be notified, and leave it for the Council to consider whether exceptional circumstances exist. For the purposes of Rule RD8, we find that this should be left to the usual RMA tests, given the significance of the ChristChurch Cathedral.

Non-heritage items in a heritage setting

P9 Replacement of buildings (which are not themselves listed separately as a heritage item) which are located within a heritage setting or within a heritage item identified as an open space, and where the building is to be replaced was damaged in the Canterbury earthquakes of 2010–2011

[245] The Final Revised Version provides:

P9	Replacement of buildings (which are not listed separately as a heritage item) in a heritage setting or an open space heritage item, and where the replacement building is required as a result of damage sustained in the Canterbury earthquakes of 2010 and 2011.	<p>a. Buildings must reuse the existing floor pad and foundations, or have upgraded or new foundations.</p> <p>b. Buildings must be of the same location, footprint, form, scale and orientation as the damaged buildings</p> <p>c. The exterior of the building must be of compatible materials and colours with the damaged building and/or with the heritage item within the same setting.</p> <p>Clarification: For a. to c. above, minor variations can be incorporated to the specified standards, providing there is not a material increase or variation.</p>
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[246] The Final Revised Version was supported by the Council and the Crown as providing certainty to owners of heritage buildings that they may replace damaged buildings without requiring resource consent. We have considered the rule as proposed and find that the proposed standards are unduly onerous given the rule applies to an unlisted building that has been damaged by the earthquakes. We do not find that there is a sufficient evidential basis to support the inclusion of the standards. Accordingly we have deleted the standards in the Decision Version.

Heritage upgrade works, reconstruction and restoration

P10 Heritage upgrade works for Group 2 heritage items and Group 1 heritage items where the works are as a result of damage and P11 Reconstruction and Restoration for Group 2 heritage items and Group 1 heritage items where the works are as a result of damage, C1 Heritage upgrade work and C2 Reconstruction or Restoration

[247] These rules provide that the works can proceed as a PA if they are carried out in accordance with a certified heritage works plan. The requirements of a heritage works plan are set out in Appendix 9.3.7.5. The heritage works plan is required to be certified by a heritage professional. The Council must be sent a copy of the plan and certify that the plan has been prepared in accordance with the requirements of the appendix, but the Council is not the certifier of the planned work, that is the role of the heritage professional.

[248] The Final Revised Version's proposed changes to this rule are in response to our Preliminary Minute (in particular at [56](d) and (e)) and following further mediation. In relation to Group 1 heritage items, the revised PA would apply where the upgrade, reconstruction and restoration is required for earthquake damaged buildings. The Council considered whether the rules could extend to all works, not limiting it to earthquake damage. It concluded that, although that would be appropriate for Group 2 buildings, it is not appropriate for Group 1 buildings due to the higher heritage significance which the Council submits 'justifies a greater level of scrutiny'.

[249] As we have determined above, we find that approval by a heritage professional ought to include a heritage architect when structural changes are being made to heritage buildings and structures.

[250] In closing legal submissions, Heritage NZ did not support a different approach for dealing with reconstruction or restoration work on heritage places whether the damage was caused by an earthquake or not, or whether the upgrade work was required because of the need for strengthening for seismic reasons.¹⁴¹ Ms Baumann, counsel for Heritage New Zealand, submitted that the CRPS:¹⁴²

9. ... does not require or anticipate this differentiation in that those activities which have potential for adverse effects on significant heritage fabric should be undertaken with concern for sensitives [sic] so as not to degrade heritage values, rather than explicitly single out the reason for the works.
10. The requirements of s 6(f) RMA do not differentiate work caused by earthquakes, or for the purpose of avoiding such damage by seismic strengthening and repair or restoration work on heritage buildings arising from general wear and tear and other events.

[251] Ms Baumann relies on Heritage NZ's planning witness, Mr Vincent. We do not accept the submission of Heritage NZ on the interpretation of s 6(f) or of the CRPS. Our analysis in our Preliminary Minute and at [10] –[24] above, shows that s 6(f) is clearly context dependent. What constitutes 'inappropriate subdivision, use and development' is not decided in a vacuum. Ms Baumann's submission also ignores the express reference to the effects of the Canterbury earthquakes and the challenges faced by owners of heritage buildings in the CRPS, and in the other relevant Higher Order Documents. We have also reviewed the transcript references in

¹⁴¹ Closing legal submissions for Heritage NZ at 8, referring to the evidence of Michael Vincent, Transcript page 1913, lines 20-23

¹⁴² Closing legal submissions for Heritage New Zealand.

relation to Mr Vincent's evidence, and do not find support for Heritage NZ's submissions on this matter. We understood Mr Vincent to be expressing support for a broadening of the application of rules, to non-earthquake damage, but that this was not on the basis that separate treatment was inappropriate.¹⁴³ Further, in Mr Vincent's evidence in chief he said:¹⁴⁴

Further, the rule structure must recognise the local context and the scale of heritage management in Christchurch. The influence of the intense ground shaking which occurred with the sequence of earthquakes, in my view, has presented the single largest repair, strengthening, alteration and in some case demolition programme to any stock of local authority heritage buildings in recent history in New Zealand.

[252] We find on the evidence that the Final Revised Version is most appropriate to achieve the CRDP objectives, gives effect to the CRPS and is consistent with the remaining Higher Order Document directives. We have accordingly included the Final Revised Version in the Decision Version.

Alterations to a heritage item

P13 Minor alterations and RD1 alteration of a heritage item

[253] The Council supports provision for a PA pathway could be available for minor alterations to heritage items. Ms Rachlin was concerned about the difficulty in comprehensively defining those alterations which would be 'minor' in terms of their effect on heritage values. Mr Conway explained, in his closing legal submissions, that the possible path was discussed at mediation and while their wording was not agreed, there was general support for such a rule. The Final Revised Version proposed to limit the rule to installation, modification or removal of systems and fixtures which form part of the heating, cooling, ventilation, lighting, audio-visual, cooking, hot or cold water systems for buildings.¹⁴⁵

[254] Ceres New Zealand (3334 and FS5001) seeks that this rule be extended to allow the removal of internal walls or other structures that do not themselves form part of the original heritage fabric, or other changes that can be considered a minor alteration. The Council and the Crown are opposed to the extension of the rule.¹⁴⁶

¹⁴³ Transcript, page 1913, lines 16-37.

¹⁴⁴ Evidence in chief Michael Vincent, January 2016, at 9.6

¹⁴⁵ Closing legal submissions for the Council, at 6.50.

¹⁴⁶ Closing legal submissions for the Crown, at 17.

[255] In closing submissions, counsel for Ceres argues that the rule is too limited in scope in the way it is drafted and provided an alternative drafting for the rule. The Ceres version of the rule would refer to the following standards:

- (a) The works must be sufficiently minor that they will not materially detract from the heritage value of the building or cause material irreversible damage to the heritage fabric of the building:
- (b) Installation methods must be chosen that involve the lowest reasonably achievable impact on the heritage values and fabric of the building.

[256] The Ceres version identified non-exclusive examples to include in the rule. We have considered the Ceres version and find that the rule it proposes would allow for a significant amount of discretion, which is likely to be subjective in nature. We find the drafting is not sufficiently certain or clear to meet the requirements of the Statement of Expectations. However, we have provided for a range of building service and utility related alterations in Rule P13. We decline to grant the relief to extend the PA beyond that we have provided in 9.3.4.1 P13.

[257] Carter Group continues to seek amendments to make the alteration of Group 2 heritage items PA or CA (rather than RDA).¹⁴⁷ The issue was addressed in the planning evidence of Mr Phillips for Carter Group,¹⁴⁸ and Ms Rachlin for CCC.¹⁴⁹ Mr Philip Carter also gave evidence as to the practical difficulties experienced with some Council resource consent processes and the costs and delays that ensue. We acknowledge that the witnesses for CCC have accepted that the certification regime could be extended to reduce consenting requirements further.¹⁵⁰ However, having carefully considered the evidence before us, we find on balance, that it does not provide sufficient s 32AA support for the relief Carter Group seeks on this matter. That is particularly given the breadth of work that may fall within the definition of ‘alteration’ and the varying effect that work may have on heritage values. We find that a resource consent path as RDA is most appropriate to achieve the objectives. In particular it

¹⁴⁷ Closing legal submissions for Carter Group, 10 June 2016.

¹⁴⁸ Evidence in chief of Jeremy Phillips, 13 January 2016.

¹⁴⁹ Evidence in chief of Caroline Rachlin, 18 December 2016 at 13.36

¹⁵⁰ Transcript, page 1003.

will enable properly focused conditions, if consent is granted, but also enable resource consent to be declined in appropriate circumstances.

[258] We have considered Carter Group’s request that resource consent for alterations need not be publicly notified.¹⁵¹ We are satisfied that the matters of discretion are such that they can be appropriately addressed by an applicant’s heritage professionals and appropriately qualified Council officers. As such, we find there is no overriding benefit from requiring public notification or written approval from affected parties. We find that approach accords with the Statement of Expectations and Strategic Directions.

[259] We note we have included provision for alterations of a more minor nature in Rule 9.3.4.1 P13 which reduces consenting requirements for alterations associated with building services and utilities.

RD2 New buildings in a heritage setting, RD4 Relocation of a heritage item in and beyond a heritage setting and RD3 New buildings, structures or features in a heritage open space

[260] Carter Group also requested that the Panel extend the certification regime to new buildings in a Group 2 heritage setting. We have considered Mr Phillips’ evidence in relation to this matter, but find that RDA status is the most appropriate. Given the range of potential settings, and the variance of effects on those settings, an RDA status will enable a properly focused assessment of effects. We find that the reasoning above at [253]–[257] is applicable here also. We decline the relief sought and have incorporated Rules RD3 and RD4 respectively in the Decision Version. We have not provided for an exemption from the notification requirements of the RMA for RD3 and RD4, and leave it to the consent authority to address the relevant matters in the RMA given that there may be significant effects on the wider environment from a new building or structure and notification should be considered on a case by case basis.

¹⁵¹ Evidence in chief of Jeremy Phillips, 13 January 2016.

Demolition (excluding the Cathedral of the Blessed Sacrament and ChristChurch Cathedral)

D2 Demolition of a Group 2 Heritage item and NC1 Demolition of a Group 1 Heritage Item

[261] In the Final Revised Version the Council proposes DA and NC for Group 2 and Group 1 heritage items respectively.

[262] In closing submissions, the Crown and Heritage NZ also supported this distinction. RCCG, who has an interest in ChristChurch Cathedral that we have already addressed above, sought NC status for all demolition. Here we are dealing with demolition not otherwise provided for in the PA, CA and RD rules. A number of submissions also requested that a distinction be made between Group 1 and Group 2, recognising their different heritage value.¹⁵² We find that the Final Revised Version is well supported by the evidence and is most appropriate to achieve the CRDP objectives and meets with the requirements of the Higher Order Documents. We have included DA for demolition of a Group 2 heritage item and NC for Group 1 heritage items (except where otherwise provided for as PA and CA) in the Decision Version on that basis.

Matters of discretion and control

[263] We have made a number of minor drafting changes to the matters of discretion and control for consistency reasons. Otherwise, we are satisfied that the matters addressed in the Final Revised Version and the matters we have included in relation to ChristChurch Cathedral align appropriately with the activity status and our reasons as set out above. We have incorporated those matters into the Decision Version accordingly.

Appendix 9.3.7.2 — Schedules of Significant Historic Heritage

[264] The Crown initially requested that there is only one heritage list. However, by the end of the hearing, it did not pursue this matter and there was general agreement regarding the approach to listing. We note that we have made a change to refer to ‘High Significance’ as ‘Highly Significant’ as requested the Christchurch Civic Trust (3700). We address specific heritage items, settings and areas below.

¹⁵² Canterbury Jockey Club (3414) and Carter Group (3602).

SITE-SPECIFIC REQUESTS

[265] A number of submissions requested additions, deletions or amendments to the ‘scheduled’ heritage items in Appendix 9.3.6.1 (now 9.3.7.2). In many cases the Council’s evidence accepted the submissions made either in whole or in part. The Council also reached agreements with a number of submitters through mediation.¹⁵³ A list of those submissions where agreement was reached to amend Appendix 9.3.6.1, or the amendments became uncontentious, are set out in Schedule 4. We confirm that those agreements are appropriate and supported by the evidence.

[266] At the close of the hearing, a number of submissions seeking amendments to Appendix 9.3.6.1 (now 9.3.7.2) or specific rules for individual listed sites, remained unresolved as between the Council and submitters. We address the submissions and evidence in relation to each of those matters below. Before addressing those site specific matters, we wish to reiterate our concerns expressed in the Preliminary Minute regarding the Council’s heritage evidence, where the authors of the HSOS were not identified before us.

Identification and qualifications of the authors of Heritage Statements of Significance

[267] During the course of the hearing, a significant issue arose as to the identity and qualifications of heritage experts undertaking assessments of heritage significance in RMA processes. The Council relied on the HSOS as the central plank to determine whether or not an item or setting should be ‘listed’ in the CRDP, in accordance with its obligations under ss 6(f) and 32 of the RMA.

[268] Preparation of the HSOS was a collaborative effort, as was explained in the supplementary evidence of Mr Matheson and Ms Beaumont.¹⁵⁴ The process was also explained by Ms Ohs.¹⁵⁵ For heritage assessment and identification a range of expertise is required. Mr Conway asked Mr Margetts about the requirements:¹⁵⁶

MR CONWAY: Mr Margetts, his Honour Judge Hassan asked you some questions about qualifications in the context as I understood it of proposals for work to be done on a heritage building, are you able to comment, if we take the context of heritage assessments and identification, can you comment on what qualifications

¹⁵³ Closing legal submissions for the Council, Appendix G and Appendix L ‘accept/reject’ table.

¹⁵⁴ Joint statement of evidence of Alan Matheson and Helen Beaumont, 2 February 2016 at 5.

¹⁵⁵ Transcript (Ohs), page 815-816 and 834-837.

¹⁵⁶ Transcript, page 1906.

and experience Heritage New Zealand requires of its own practitioners to carry out that work?

MR MARGETTS: Yes, heritage practitioners have to have a qualification in architecture.

MR CONWAY: So in order to be able to assess a building to determine whether it has heritage value are you saying the same answer applies, there must be a Bachelor in Architecture?

MR MARGETTS: Well it is more a team, can often be a team approach in terms of a range of expertise, including architectural history and it is not just a matter of having a degree in architecture to be able to assess what is significant about a heritage building.

MR CONWAY: So to take Ms Burgess' qualifications – and I am not commenting on those in particular – but in her evidence it says she has a Bachelor of Arts and postgraduate Bachelor of Arts Honours Degree Art History and a postgraduate Diploma in Museum Studies and it indicates she works in the field of heritage identification and management.

Is that the kind of qualification that you see as being relevant to determination of whether a building has heritage value?

MR MARGETTS: Yes, I think in conjunction with architectural and planning inputs that would provide an adequate range.

[269] For a number of the HSOS, the contributors included architectural historians and in some cases architects. However, not all of those contributing authors are identified nor did they give evidence. In our evaluation of whether an individual item, setting or area meets the threshold for listing, we must take into account whether the heritage professionals who have supported or opposed the various listings hold the requisite qualifications such that their opinions can be a reliable basis for an assessment and identification of heritage significance.

[270] The ultimate decision on whether a heritage item, setting or area should be protected involves a broader planning judgement, taking into account other relevant matters including financial and engineering factors. We have in our inquiry considered all of the relevant experts' qualifications and experience, and where necessary placed greater or lesser weight on particular judgements formed by heritage professionals based on their expertise and the relevant heritage qualities being considered. In some cases it has, therefore, not been possible to simply prefer the evidence of one expert over another on all areas of difference. Instead, we have had to exercise our judgement, informed by the views of a number of experts, within the statutory framework.

[271] A particular example of this contest arose in the context of submissions from the Arts Centre and CPT, where there was a difference of opinion between the heritage evidence of the submitter's expert, Mr David Pearson, a registered architect specialising in heritage conservation,¹⁵⁷ and the Council's heritage witnesses, Dr Ann McEwan¹⁵⁸ and Ms Amanda Ohs¹⁵⁹, who are both architectural historians. In those cases, Mr Conway criticised the evidence of Mr Pearson because he submitted that Mr Pearson's evidence (and, therefore, the submitters' cases):¹⁶⁰

Incorrectly substituted 'architectural merit' for 'architectural and aesthetic value'. The focus of this aspect of heritage significance assessment is on the latter, and what those values are 'demonstrative of or associated with', rather than on whether a building has architectural merit or is of a particular standard, as illustrated by Policy 8.3.2.2(a)(iii):

'Architectural and aesthetic values that demonstrate or are associated with: a particular style, period or designer, design values, form, scale, colour, texture and material of the place.'

[272] We disagree with Mr Conway's assessment of Mr Pearson's evidence. We do not accept his submission that a distinction can be drawn between 'architectural merit' and 'architectural and aesthetic value' in the context of the relevant policy and statutory framework. To attempt to do so simply creates an artificial and inappropriate distinction for the purposes of assessment and identification of significant historic heritage. In the context of RMA s 6(f), the definition of 'historic heritage' requires the consideration of the 'qualities' of the relevant natural and physical resources.

[273] The ordinary meaning of 'qualities' in this context is:¹⁶¹

an attribute, a property, a special feature or characteristic.

¹⁵⁷ Mr Pearson holds the degree of Bachelor of Architecture. Mr Pearson is a registered architect and an associate member of the New Zealand Institute of Architects. Mr Pearson has undergone specialist conservation training at the University of York in the United Kingdom and is the sole principal of Dave Pearson Architects of Auckland. The company was founded in 1996 and specialises in the conservation of built heritage.

¹⁵⁸ Dr Ann McEwan holds a PhD in Art and Architectural History from the University of Canterbury. Dr McEwan has 27 years' experience in historic heritage identification, research, assessment, and policy advice. Dr McEwan is the Registers Co-ordinator for DOCOMOMO New Zealand, the national chapter of an international organisation dedicated to the identification and conservation of Modern Movement architecture. Dr McEwan is a member of the Society of Architectural Historians of Australia and New Zealand and the Professional Historians Association of New Zealand Aotearoa.

¹⁵⁹ Ms Ohs holds a BA with First Class Honours, majoring in Art History from the University of Canterbury, and a Post Graduate Diploma in Cultural Heritage Management from Deakin University, Melbourne. Ms Ohs has 15 years' experience in heritage conservation management and research and is a member of ICOMOS New Zealand, and DOCOMOMO New Zealand.

¹⁶⁰ Council closing legal submissions at 18.14 and 18.24.

¹⁶¹ Shorter Oxford English Dictionary.

The nature or kind of something. The relative nature or standard of something; the degree of excellence etc. possessed by a thing; a particular class or grade of something as determined by this...

[274] The term ‘values’ is introduced through Objective 13.2.1 which refers to “Identification and protection of significant historic heritage items, places and areas, **and their particular values...**” (our emphasis).

[275] ‘Values’ has its ordinary meaning, which in this context means:¹⁶²

The worth, usefulness, or importance of a thing; **relative merit** or status according to the estimated desirability or utility of a thing...

The **quality** of a thing considered in respect of its ability to serve a specified purpose or cause an effect.

[our emphasis]

[276] The ordinary meaning of ‘merit’:

A point of intrinsic quality; a commendable quality, an excellence, a good point...the intrinsic excellences or defects of something.

[277] We note that ‘heritage values’ is also defined in the Final Revised Version as:

Heritage values

means the following tangible and intangible attributes which contribute to the significance of a heritage item and its associated heritage setting:

- a. historical and social values;
- b. cultural and spiritual values;
- c. architectural and aesthetic values;
- d. contextual values;
- e. technological and craftsmanship values; and
- f. archaeological and scientific values.

[278] The definition of heritage values, uses yet another synonym for ‘qualities’ by using ‘attributes’ and then simply repeats the term ‘values’ which has its ordinary meaning. This does not assist Mr Conway’s argument either.

¹⁶² Shorter Oxford English Dictionary

[279] We find no merit in Mr Conway’s argument. We find ‘architectural merit’ is an essential component in the exercise of a value judgement regarding the architectural qualities of a building that contribute to its significance.

[280] Mr Conway also emphasised that the reference to architectural and aesthetic values are ‘demonstrative of or associated with’ as supporting his submission.¹⁶³ The phrase used in Final Revised Version 9.3.2.1 is ‘that demonstrate or are associated with’ the particular value. We find that these words simply mean that they are examples of the ‘value’ or ‘quality’ that is identified, and there is credible evidence to support it.

[281] We find, on the ordinary meaning of the word in light of the context in which it is used in the CRPS and in Policy 9.3.2.2, ‘values’ refers to the relative merit and, therefore, the quality or importance of the item, setting or area that is being assessed and identified. At the end of the day, what contributes to ‘architectural and aesthetic value’ must necessarily be informed by how ‘good or bad’ the item is as an example of a particular style, design values, form and scale all of which are matters within the expertise of a heritage architect. We find on the evidence we heard, an architectural historian is qualified to assist with understanding those ‘qualities’ or ‘values’ through research, recording and evaluation of heritage values. However, an architectural historian who is not also qualified as an architect means that they do not have sufficient expertise to be the sole determiner of the significance of architectural qualities.

[282] We have already commented about our concerns about the lack of ownership for some HSOS. In our decision on the Public Trust building¹⁶⁴, we also found that the collaborative approach to the preparation of HSOS, where the contributors were not identified, did not accord with the requirements of expert witnesses. We confirm that view here. Therefore, we have taken into account the identification of, or lack of identification of, contributing authors to HSOS when weighing the evidence in our s 32AA evaluation of individual listings.

¹⁶³ Council closing legal submissions at 18.14

¹⁶⁴ Decision 27

Canterbury Museum — Canterbury Museum Trust Board (3351/FS5018)

[283] The key issue of concern of the Canterbury Museum Trust Board ('Board') was the Notified Version listed the whole of the Museum group of buildings as a single Group 1 'High Significance' heritage item. The Board requested that the buildings be separated out as follows:

- (a) List the 19th Century Mountford buildings listed as Group 1 (High Significance),
- (b) List the 1955-58 Centennial Wing (Rolleston Avenue façade only) and 1977 Roger Duff wing (façade only) listed as Group 2 (significant),
- (c) Do not list the 1990/1995 additions and the interior of the Centennial and Roger Duff Wings.

[284] The Board also sought amendments to the heritage provisions, including rules relating to signage, temporary structures and the definition of 'heritage fabric'.

[285] In the Preliminary Minute, we indicated our preliminary view that the listing for the Museum buildings should be modified so that it does not apply to:

- (a) The Roger Duff wing, except for the two facades that face the Botanical Gardens (which should be listed as Group 2); and
- (b) to the Centennial wing, except for the façade for the Centennial wing that faces Rolleston Avenue (which should also be listed as Group 2).

[286] Following the issue of our Preliminary Minute, the Council and the Board attended mediation and resolved all matters of interest to the Board.¹⁶⁵ The Final Revised Version now includes:

- (a) A revised listing of the Museum, which is separated into three parts:
 - (i) Canterbury Museum (1870-1882 buildings) and Setting – Group 1 (High Significance),

¹⁶⁵ Closing legal submissions on behalf of the Canterbury Museum Trust Board, 25 May 2016

- (ii) Centennial Memorial Wing East Façade – Group 2 (Significant),
- (iii) Roger Duff Wing South and West Façade – Group 2 (Significant),
- (b) Three new HSOS for each component listed above.
- (c) Amendments to the provisions so that the interior of heritage items is only protected where it is specifically listed in the Schedule.
- (d) Other amendments that address issues of concern to the Board including rules relating to signage, temporary structures and the definition of ‘heritage fabric’.

[287] The Board submitted in closing that this represents the most appropriate outcome which furthers the RMA’s sustainable management purpose and accords with the Statement of Expectations and the relevant Higher Order Documents. The Council confirmed that position in its closing submissions.¹⁶⁶

[288] We note the Lochheads were further submitters who opposed the relief requested by the Board. They did not present any evidence in support of their submission. We reject their relief on that basis. We agree that the outcome reached by the Board and CCC is the most appropriate outcome in accordance with the requirements of s 32 and 32AA of the RMA, and confirm those aspects of the Decision Version.

The Arts Centre of Christchurch — Arts Centre of Christchurch Trust Board (3275/FS 5016)

[289] The key issue for the Arts Centre is the proposed listing of the 1957/1966 Registry Office building at 310 Montreal Street (‘Registry Office’) as a Group 2 (‘Significant’) heritage item. In the Notified Version, the building formed part of the Group 1 listing that incorporated the Registry building that was built in 1916 and 1926 (‘Registry building’). Following mediation, the Council agreed that the Registry Office is separate from the Registry building and could be assessed independently. The Council position following mediation was that the Registry Office met the threshold for a Group 2 ‘significant’ building.

¹⁶⁶ Closing legal submissions for CCC at 2.2(i).

[290] The Arts Centre opposed the listing on the basis that the Registry Office does not possess significant heritage values and does not meet the thresholds for listing as a heritage building. The Arts Centre also submitted that the listing would compromise the benefits the Registry Office currently provides as a flexible and adaptable building that provides an important income to support the restoration of the balance of the Arts Centre site.¹⁶⁷ The Arts Centre confirmed in closing that all other submission points have been resolved through mediation. Aside from the listing of the Registry Office, the Arts Centre supports the 20 April Version. We have considered the Arts Centre's other submission points in our discussion of the provisions above.

[291] In our Preliminary Minute, we set out our preliminary view on the tested evidence that the proposed listing of the Registry Office should be uplifted in its entirety. The Council's position in closing is that the Registry Office should be listed as a Group 2 building, but that only the exterior would be subject to the heritage provisions of the CRDP for the time being. The Arts Centre remained opposed to the outcome.

[292] We heard evidence from two heritage professionals in relation to the Registry Office. Dr McEwan gave evidence for the Council. Mr Pearson gave evidence for the Arts Centre.

[293] There was general agreement between the experts that the Registry Office:

- (a) is the most recent structure on the Arts Centre site (with the exception of some post-earthquake structures);
- (b) is erected in more modern material and in a different architectural style to the other buildings on the Arts Centre site;
- (c) is of lower significance than other buildings on the Arts Centre site;
- (d) is the only remaining pre –earthquake building on the Arts Centre site that is not listed in the Existing District Plan or listed by Heritage New Zealand; and

¹⁶⁷ Closing legal submissions for the Arts Centre of Christchurch Trust Board, 9 June 2016, at 2.

- (e) was constructed by the University of Canterbury at a time when the University was well advanced in its plans to move from the Arts Centre site and was only used by the University for a comparatively short period of time.

[294] Dr McEwan prepared an updated HSOS for the Registry Office and its setting and concluded that the:

overall heritage significance to Christchurch, including Banks Peninsula, as a distinctive, mid-twentieth century element within a complex of buildings that housed Canterbury University College (later the University of Canterbury) between the 1870's and the 1970's, and the Christchurch Arts Centre from that time until the present day.

[295] Mr Pedley, counsel for the Arts Centre, submitted that the issue before the Panel was the differences in opinion between the two experts which is a consequence of their differing judgements and opinions regarding the heritage significance of the building in light of the agreed facts. Mr Pedley submitted it was for us to determine which expert opinion we prefer, taking into account the respective qualifications and experience and the robustness of the assessment they have completed.¹⁶⁸

[296] We accept that, notwithstanding the limited use of the building by the University of Canterbury, the building contributes to the historical and social significance of the Arts Centre site since the late 1950s and to a more limited extent to its cultural significance. Dr McEwan's evidence does not, however, provide sufficient detail to demonstrate why she considers the historical or social values to be 'significant'. In any event, those matters do not of themselves lead to a finding that the building ought to be listed, or that modifications to the building are appropriately regulated in the manner proposed by the Council.

[297] We were surprised at Dr McEwan's reluctance to accept the evidence of Mr Pearson regarding the extent of the modifications that have been made to the Registry Office, notwithstanding his more detailed assessment, which included the relevant floor plans.¹⁶⁹ The Council did not offer any architectural evidence to contest Mr Pearson's opinions. Mr Pearson's view was confirmed by our site visit.

¹⁶⁸ Closing legal submissions for the Arts Centre at 8.

¹⁶⁹ Transcript, page 897, line 44- page 899 and 905, lines 19-34.

[298] Mr Pearson provided a detailed assessment of the heritage significance of the building in his evidence in chief.¹⁷⁰ He did not dispute the factual matters identified in the HSOS regarding the historical and social significance of the Registry Office, but noted the HSOS did not include any assessment to support a finding of ‘significant’. Mr Pearson’s more detailed assessment supports his conclusion that the Registry Office has some significance, but does not meet the thresholds for listing when the Council’s own methodology in Appendix 4 to the s 32 Report is applied (and has now been incorporated into Policy 9.3.2.2 (b)). We agree with Mr Pearson’s criticism of Dr McEwan’s assessment and accept Mr Pearson’s evidence on those matters.

[299] The Council criticised Mr Pearson’s architectural assessment because it focused on the ‘architectural merit’ of the building rather than on ‘architectural and aesthetic value’, as identified in the relevant assessment criteria in the Final Revised Version of Policy 9.3.2.1(a) (iii). We have addressed the meaning of those terms above. Mr Conway did not cross examine Mr Pearson on whether those matters were distinguishable in the manner he now submits. Rather, his cross examination essentially conceded that heritage experts may exercise different judgements on the various values.¹⁷¹ We find that the Council’s interpretation of the provision and the assessment of Mr Pearson’s evidence is unjustified. We find that, on the evidence, Mr Pearson’s assessment appropriately reflects the requirements of the Decision Version of Policy 9.3.2.2 as he has demonstrated in his assessment of significance in Appendix A to his evidence in chief.

[300] We find on the evidence that, although the Registry Office undoubtedly contributes to the historical and social significance of the Arts Centre site, it is not in of itself ‘significant’ when considering the factors in 9.3.2.2 due to its limited role in the evolution of the site as a whole and its more recent uses to support the functions of the Arts Centre. Nor is its architectural, technological, and contextual values significant or of high value. We have also considered, that even if it had met the threshold for listing, whether the listing and, therefore, regulation of any changes to the building, would be the most appropriate in achieving the CRDP objectives. On that issue we find that it would not. That is because, as we discuss below, in relation to the evidence of Mr Lovatt, the Arts Centre Chief Executive Officer, there is considerable benefit to the heritage protection of the wider site, and in particular the Gothic Revival buildings, through enabling greater flexibility in the use of the Registry Office.

¹⁷⁰ Evidence in chief of David Pearson on behalf of the Arts Centre, 10 December 2015.

¹⁷¹ See for example Transcript at page 1449-1450.

[301] We have been assisted in our overall evaluation by the planning evidence of Mr Graham Taylor on behalf of the Arts Centre. We also heard planning evidence from Ms Rachlin for the Council. Ms Rachlin's evidence did not assist as she relied on the evidence of Dr McEwan. Although Ms Rachlin took into account the evidence of Mr Pearson, she did not address the evidence of Mr Lovatt, the Arts Centre Chief Executive, and did not provide an explanation of why she preferred Dr McEwan's evidence. Nor had she evaluated the evidence as against the relevant statutory framework.¹⁷² Ms Rachlin's evidence suffered from the same flaws as the Council's original s 32 evaluation as it considered little beyond the identification of significant historic heritage by the Council's heritage expert. We reject Ms Rachlin's evidence for those reasons.

[302] Mr Taylor was of the opinion that Dr McEwan's updated HSOS does not provide sufficient detail to justify listing of the Registry Office. For those reasons he prefers the evidence of Mr Pearson. Mr Taylor also considered the evidence of Mr Lovatt regarding the importance of the flexible and adaptive use of the Registry Office to the recovery of the Arts Centre.¹⁷³ Mr Lovatt's evidence has assisted us in evaluating the costs and benefits of the protection of, in this case less significant historic heritage, when compared with the 'High significance' of the Arts Centre's Gothic Revival buildings and setting and the needs of the Arts Centre to recover from the earthquakes. We accept Mr Lovatt's evidence that the separate listing of the Registry Office would likely impede the flexible use of the Registry Office and its potential to generate income to contribute to the wider restoration effort for the Arts Centre. In the context of the overall heritage significance of the Arts Centre site, we find that the additional costs associated with resource consent requirements that arise from listing the Registry Office are not justified when compared to the Registry Office's lesser heritage significance. Listing the Registry Office would not achieve the Strategic Directions Objectives 3.3.1 and 3.3.2.

[303] We have also considered the fact that in terms of the Decision Version, were the Registry Office to be demolished at some future time and replaced by a new building, any new building would be subject to resource consent in terms of Rule 9.3.4.3 RD2. The impact of this on the heritage values of the site and its buildings would be a relevant consideration. In that context

¹⁷² Transcript, page 949, lines 1-24

¹⁷³ Evidence in chief of Andre Lovatt for the Arts Centre dated 10 December 2015.

we find that a more enabling framework with regard to the Registry Office could in fact benefit the site through a more appropriate building design in the future.¹⁷⁴

[304] Accordingly, we find that listing the Registry Office as a Group 2 ‘Significant’ building is not the most appropriate response to achieving the objectives, or in fulfilling the obligations and we accept the Arts Centre submission point accordingly.

St Barnabas Parish Administration building – Church Property Trustees (3670)

[305] The current Parish Administration Centre (previously the Sunday School building) (‘administration building’/‘building’) dates from 1965. In the Notified Version, the building is proposed to be listed as a Group 2 Significant item.

[306] CPT oppose the listing of the building on the basis that the age and architectural values of the building do not justify its listing. The Council disagrees with that view, and maintains that the threshold for listing is achieved.

[307] The contest between the Council and CPT on this building has similarities with the Arts Centre Registry Office submission point. That is the contest is in the difference in opinion and assessment of heritage values between the Council’s heritage witness, Ms Ohs, a Senior Heritage Planner, who holds qualifications in art history and heritage management and research, and Mr David Pearson. The Council is similarly critical of Mr Pearson’s heritage assessment on the basis of the distinction between assessment of architectural merit and architectural values. For the reasons set out at [271]–[280], we disagree with the Council’s criticism of Mr Pearson’s heritage assessment.

[308] Ms Ohs provided an updated HSOS for the administration building.¹⁷⁵ We understand, however, that Ms Ohs did not prepare the HSOS, but that it was the product of the collaborative efforts of the Council’s Heritage Team, which, under her leadership, recommended the acceptance of various items for listing.¹⁷⁶

¹⁷⁴ Transcript, pages 904-905.

¹⁷⁵ Rebuttal Evidence of Amanda Ohs, at 17.12-17.15 and Appendix D.

¹⁷⁶ Transcript, pages 835-837.

[309] Mr Hughes-Johnson QC, counsel for CPT, submitted that Ms Ohs placed reliance on the HSOS and her evidence lacked any detailed analysis beyond the revised HSOS and he submitted:¹⁷⁷

given this reliance, her evidence was essentially derivative, rather than based upon her own assessment of matters.

[310] Mr Conway responded to Mr Hughes-Johnson's criticism in his closing and stated:

The statement of significance was attached to Ms Ohs' rebuttal evidence and it was clear from Ms Ohs' evidence at the hearing that she had considered and formed her own views about the heritage significance of the building. Given that the key points of the assessment were set out in the statement of significance attached to her evidence, there was no need for her to repeat those points in the body of her evidence. In addition, the statement of significance had had input from and peer reviewed by other heritage professionals as per the process outlined earlier in these submissions.

[311] Mr Pearson's evidence, on the other hand, is based on his own comprehensive assessment of heritage values, within his areas of expertise.¹⁷⁸

[312] We also undertook a site visit and observed the building in light of the evidence that we heard. We have addressed our concerns regarding the lack of ownership by the author or authors of the HSOS in our Preliminary Minute and in our decision on the Public Trust building. The position is similar here. Therefore we give the Council's assessment less weight. Even if Ms Ohs's own assessment supports the revised HSOS, her evidence does not provide sufficient assessment detail to satisfy us that the Council's s 32 criteria and now Policy 9.3.2.2. are met. The evidence of the Council's planning witness, Ms Rachlin, did not assist us further for the reasons previously addressed.

[313] Ms Hardy, a resource management planner, gave evidence for CPT. Ms Hardy relied on Mr Pearson in relation to heritage significance. Ms Hardy did not set out a full planning assessment. Ms Hardy was careful to explain, that notwithstanding that she had studied art history (and architecture within that context), she did not purport to be a 'heritage planner'.¹⁷⁹ Ms Hardy's evidence assisted our inquiry by explaining the complexity of CPT's property portfolio, its careful conservation management practices and liaison with Heritage NZ.¹⁸⁰

¹⁷⁷ Closing legal submissions for CPT (Mr Hughes-Johnson QC), 10 June 2016, page 6.

¹⁷⁸ Evidence in chief of David Pearson on behalf of CPT, 14 December 2015, at 70–101.

¹⁷⁹ Transcript, page 1206-1207.

¹⁸⁰ Transcript, page 1205-1206.

[314] We have evaluated the proposed listing as against Strategic Directions 3.3.1, 3.3.2 and 3.3.9, Objective 9.3.2.1 and Policy 9.3.2.2 and our obligations under s 32AA. We find that the listing of the administration building is not the most appropriate means to achieve the objectives and will result in additional costs to CPT, which are not justified in light of the carefully managed CPT property portfolio. We are satisfied that it is appropriate to allow CPT the additional flexibility that not listing the building will allow for the use of the building. In the event the administrative building was removed from the site, the Decision Version Rule RD2 provides appropriate protection for the listed heritage items and heritage setting.

[315] Accordingly we find that removal from the heritage list is most appropriate

[316] We record that CPT and the Council reached agreement in relation to the Parish Hall so that it is now a Group 2 significant building.¹⁸¹ We accept that amendment is supported by the evidence and included it in the Decision Version.

The Crossing Development/former Beaths Department Store — Carter Group Limited (3602, FS5062)

[317] Carter Group Limited supported the inclusion of Heritage Item 90, the former Beaths Department Store ('the Crossing'), in the heritage schedule in the Notified Version. It called evidence in support of that position from Ms Jennifer May, an architectural historian and Mr Jeremy Phillips, planner. Both Ms May and Mr Phillips supported the notified listing. During the hearing, Mr Philip Carter modified his position. That was in light of the changes that had been proposed to the provisions during the hearing. Finally he considered that the listing of the façade of the Crossing may not now reach the threshold of significance. Further changes have also been made since that time to address financial factors and earthquake damage. In her closing submissions for Carter Group, Ms Semple argued that the listing of the Crossing was not appropriate when assessed against the matters in the 20 April Version of Policy 9.3.2.1. She relied upon Mr Carter's comments made at the hearing that the Panel would need to carefully consider the revised proposal and review it carefully to eliminate unnecessary consenting requirements.

¹⁸¹ Transcript, page 1210.

[318] In closing, the Council maintained the position that listing of the façade met the threshold for a Group 2 Significant heritage item and there was no expert evidence disputing that position.

[319] This left the Panel in the position of having no expert evidence to support Mr Carter’s ultimate position. We find that we do not have sufficient evidence for an evaluation under s 32AA to support the late request from Mr Carter to delist the building. On that basis, we decline the request and leave the façade listed for the time being.

High Street Triangles

[320] Carter Group opposed the listing of the High Street Triangles as heritage items, due to a concern about the impact on adjacent development.¹⁸² The High Street Triangles are the five reserves formed by High Street Crossing on Colombo, Cashel, Lichfield and Tuam Streets. The formation of the Triangles was the result of the development of a road way to connect the city to Sumner creating a diagonal across a grid lay out. Originally, the Triangles served as a location for essentials such as wells, water troughs and a taxi stand; in more recent times the Triangles have been converted to provide inner city recreational space with fountains, plantings and seating.¹⁸³

[321] Although Carter Group’s submission opposed the listing of the heritage items, the expert evidence called by Carter Group from Mr Phillips and Ms May supported the listing on heritage grounds.¹⁸⁴ The Council’s heritage witness, Ms Ohs, also supported the listing.¹⁸⁵ Mr Phillips was of the opinion that, on the basis of the heritage evidence lack of any direct consenting obligation on adjacent or nearby owners, he considered that the listing of the Triangles is appropriate.¹⁸⁶

[322] We have considered Mr Carter’s evidence regarding the practical impact of an adjacent listed heritage item, along with counsel’s closing legal submissions. On the evidence before us, it is not clear what the costs of the listing are, relative to the benefits of listing the heritage item which are accepted by the expert evidence. The fact that the Triangles are in public

¹⁸² Closing legal submissions of Carter Group Limited, 10 June 2016.

¹⁸³ Evidence in chief of Amanda Ohs, 2 December 2015 at 9.26.

¹⁸⁴ Evidence in chief of Jeremy Phillips. 10 December 2015 at 40 and Evidence in chief of Jennifer May, 10 December 2015, at 14.

¹⁸⁵ Evidence in chief of Amanda Ohs at 9.26.

¹⁸⁶ Evidence in chief of Jeremy Phillips at 41.

ownership does not necessarily mean that the heritage item will be otherwise adequately protected. We note that Mr Matheson gave evidence that the Council wishes to be treated as any other land owner in that regard.¹⁸⁷ In the absence of any planning evaluation to show that the listing of the Triangles is inappropriate in the context of our evaluation under s 32AA, we decline Mr Carter's request and confirm the listing of the heritage for the High Street Triangles as appropriate.

19 Exeter Street Lyttelton — Malcolm Hattaway and Keri Whitiri (3963)

[323] The owners of the former Parsonage, Malcolm Hattaway and Keri Whitiri, object to the listing of the building and setting as a Group 2 Significant Heritage item. In the Notified Version, both the exterior and interior of the building was included in the listing. As noted at [133]–[139], the Council is no longer pursuing the listing of interior heritage fabric for privately owned buildings.

[324] Ms Whitiri spoke to her submission at the hearing and said:¹⁸⁸

The statement of significance as prepared and amended by the Council relies largely on the historical and social as well as cultural and spiritual significance of the property, yet it is the architectural and aesthetic as well as technological and craftsmanship categories, that have the most bearing in terms of the management of the property and resource consent and implications.

The architectural and aesthetics' significance of the property is marked by its scale, but also by its considerable lack of ornamentation which is noted in the statement of significance which describes the house as 'quite chaste, lacking in ornamentation'. So both in its original fabric and subsequently stripped through successive unsympathetic alterations and earthquake damage and emergency repairs...

It is also argued that the remaining heritage fabric such as lathe and plaster makes for substandard living and leaves the house vulnerable to further superficial and structural damage. The damage to foundations currently leaves the property uninsurable.

[325] Mr Hattaway produced photographs that demonstrated the extent of the unsympathetic modifications to the exterior and interior modifications.¹⁸⁹ Ms Whitiri submitted that the Heritage New Zealand Pouhere Taonga Act provides sufficient protection for the archaeological fabric of the property and that the Lyttelton character area overlay provides protection to maintain the street appearance and contextual relationships.¹⁹⁰

¹⁸⁷ Transcript, page 2198, lines 10-28.

¹⁸⁸ Transcript, page 1809

¹⁸⁹ Transcript, pages 1810-1811.

¹⁹⁰ Transcript, page 1812, lines 12-18.

[326] The Council's position was that the former Parsonage meets the threshold for listing, because it has historical and social significance as the site of the Lyttelton's Wesleyan Methodist Parsonage from 1862 and in the present building from 1881–1963, and as a former home of the Catholic missions to seamen, and the Apostleship of the Seas, and as a former home of the St Joseph's Covenant of the Sisters of Mercy. The Council's evidence is that the site had technological and craftsmanship significance, as well as archaeological significance.¹⁹¹

[327] Ms Fiona Wykes, a senior heritage advisor for the Council¹⁹², was of the opinion that the building still retains sufficient authenticity and integrity to retain its listing. That was in spite of changes to the building, including: a 1976 lean-to garage, aluminium joinery added in 1990, new kitchen, additional windows in each of the east and west elevations, and damage caused by the Canterbury earthquake sequence of 2010–2011 (which resulted in the chimneys, chimney breasts and fireplaces being removed and not reinstated, and various temporary internal repairs).¹⁹³

[328] Relying on Ms Wykes, Ms Rachlin recommended that we decline the relief sought by the submitters. However, Ms Rachlin's recommendation was not supported by a specific planning evaluation. Therefore, it has not assisted us. The Council's closing legal submissions do not assist with any additional evaluation of the evidence and submitter representations, in the context of the Final Revised Version's proposed objective and policies. We note that the representations of Ms Whitiri and Mr Hattaway, along with the photographic evidence, demonstrates to us that there is significant damage and modification to the building. The owner's intentions are to restore the building to the greatest extent possible within their means. On the limited evidence before us, and taking into account the representations of the submitters and their telling photographs, we are not persuaded that the building meets the threshold for listing, nor that listing is the most appropriate means of achieving the Objectives. We find the building should be delisted.

¹⁹¹ Evidence in chief of Fiona Wykes, 2 December 2015, at 10.39.

¹⁹² Ms Wykes holds a Bachelor of Arts Degree in Archaeology (BA Hons) and a Post Graduate Diploma in Architectural Conservation (PG Dip, Arch Cons) from the University of Bristol and a Master of Arts in Urban Design (MA) from Birmingham City University. Ms Wykes is a full member of ICOMOS (NZ) Te Mana O Nga Pouwhenua O Te Ao, the International Council on Monuments and Sites and a past member of the Institute of Historic Building Conservation (UK).

¹⁹³ Ibid at 10.44.

Rehutai homestead, 427 Menzies Bay Road —Te Wharau Investments Limited (3290)

[329] Rehutai Homestead is proposed to be listed as a Group 1 High Significance heritage item and setting. Te Wharau Investments Limited ('Te Wharau') requested that the Rehutai Homestead be delisted. That was due to the condition of the building and the resource consent and cost requirements that a listing would impose on any future efforts to restore or relocate the building.

[330] Ms Wykes, for the Council gave evidence that:

- 10.49 Rehutai and its setting are of high overall significance to Christchurch, including Banks Peninsula. It has high historical and social significance for its association with carver John Menzies and as the earliest known surviving example in New Zealand of a Pakeha carver using Maori motifs to extensively decorate a dwelling. Rehutai has high cultural significance as a particular and individual manifestation of interest in Maoritanga. It is also reflective of the pattern of generational ownership of rural land and building of properties to accommodate this.
- 10.50 The dwelling has some architectural value and has high aesthetic significance as an unusual and idiosyncratic effort by a Pakeha to integrate his interpretation of Maori design into what is otherwise a standard late nineteenth century home. Rehutai has high craftsmanship significance for the extensive woodcarving and painting executed by John Menzies. Much of this is his personal interpretation of Maori design, although European-style carving also features.
- 10.51 Rehutai has contextual significance on its site. The setting of the building is the area of former garden and bush extending to the driveway to the south and east of the dwelling, to the hedgerow at the western extent of the former garden, and the former garden and a portion of bush to the north. Rehutai and its setting are of archaeological significance because they have the potential to provide archaeological evidence relating to past building construction methods and materials, and human activity on the site, including that which occurred prior to 1900. I will be undertaking a site visit on 8 December 2015 to assess whether the state of repair prejudices the heritage significance of the building to the point where it no longer meets the threshold for heritage listing.

[331] Ms May, architectural historian, gave evidence for Te Wharau. She accepted that, even in its current state, the building would meet the thresholds for listing. However, she concluded:¹⁹⁴

Listing Rehutai would impose another level of bureaucracy to the building without necessarily supporting the protection of historic heritage. The building is listed by Heritage New Zealand and as a pre-1900 item, whether listed or not, any work would require an archaeological authority to destroy or modify the site. This raises the question

¹⁹⁴ Evidence in chief of Jennifer May for Te Wharau, 10 December 2015, at 9.1.

as to whether another listing is needed in the Proposed District Plan and whether under the circumstances a listing promotes or hinders the protection of historic heritage.

[332] Heritage NZ supported the Council's position in relation to the listing.¹⁹⁵

[333] Similar to many of the listed items, the Council has not provided any detailed planning analysis as to whether, notwithstanding that the building reaches the threshold for identification as significant historic heritage, it is the most appropriate planning response to achieve the objectives of the CRDP or to achieve the purpose of the Act (and in the obligations under s 6(f)). The Council submits in closing that:

... the revised approach to interiors reduces the consenting requirements on owners. The owners of this building may alter or remove heritage fabric without requiring a resource consent under this proposal.

[334] We understand that Te Wharau maintains its opposition to the listing of the building.¹⁹⁶

[335] In this case, the historic significance of the building is intrinsically tied to the interior heritage fabric. The Council's choice not to pursue the listing of the interior further complicates the issue. On the evidence before us, the physical state of the exterior structure of the building is such that it presents a significant risk to the interior heritage fabric. Excluding the interior fabric from the listing, and, therefore, not requiring resource consent for its alteration or removal, may well enable the careful removal of interior heritage fabric without the costs of resource consent. However, if the building itself is to be restored and so, offer protection to the interior fabric, those works may still require resource consent, in any event. We find that the Council's revised approach to interiors does not provide Te Wharau with the benefits suggested by Mr Conway because of the unique set of circumstances. In this case, the evidence is that it is the interiors which hold the most heritage significance.

[336] Ms May correctly identified the issues that we face. In this case, the listing of the building, even if it only applies to the exterior, still presents an additional level of uncertainty and cost to the land owner, such that the building is at risk of further dilapidation if no work is to be done.

¹⁹⁵ Transcript, Burgess, page 1872.

¹⁹⁶ Council closing legal submissions, Appendix G page 2.

[337] The physical state of this Group 1 heritage item is not a direct cause of earthquake damage and, therefore, the PA pathway of 9.3.4.1 P11 is not available. Repairs are provided for in 9.3.4.1 P2. Restoration and reconstruction would become CA. We accept that, even as a CA, the consent process would be at considerable cost to the owner. We accept Ms May's evidence that listing of the building may not protect heritage values in this case and delisting is warranted on that basis. We have removed the listing accordingly.

Slab Cottage — Okains Bay Maori and Colonial Museum Board (3565)

[338] Okains Bay Maori and Colonial Museum Board ('Museum Board') requested that Slab Cottage at 1149 Okains Bay Road be added to the Schedule of protected items. The building is currently listed in the Existing Plan.

[339] The written submission filed by the Museum Board explains the history of the building and acknowledges that it has been moved from its original Kaituna location. The Museum Board notes that the building is listed by Heritage NZ as a Category 2 Historic Place. They state that the listing refers to the building being a rare example of a colonial building type, the slab cottage. The submitter did not attend the hearing to further explain the reason for the submission, or to provide a heritage assessment.

[340] The Council disagrees with the request to list the building due to the lack of evidence. For the Council Ms Wykes gave evidence that the cottage had lost its contextual significance, due to its relocation to the Okains Bay Museum. She considered that its reconstruction has also meant that the original technological and craftsmanship detail has been significantly lost.¹⁹⁷ We accept Ms Wykes' evidence on the heritage values. We further note that given the Heritage NZ listing, and location at the Okains Bay Museum, there is little added benefit to protection of the remaining heritage values through listing and regulation in the CRDP. We decline the relief requested by the Museum Board accordingly.

3 Rue Benoit, Akaroa — Viewfield Trust (3289)

[341] Viewfield Trust requested that 3 Rue Benoit be removed from Appendix 9.3.6.1. Viewfield Trust did not attend the hearing. However, in its written submission on the Notified

¹⁹⁷ Evidence in chief, Fiona Wykes, 2 December 2015, at 13.1-13.2.

Version, the Trust noted that the property was not listed in the Existing Plan, and that although it was a ‘character residence’ it did not meet the threshold in terms of being ‘distinctive or important in terms of the district.’

[342] Ms Ohs was of the opinion that the lack of identification in the Existing Plan may be an error because the property at 91 Rue Lavaud, Lots 1 and 2 DP 42595 is listed as a Notable building. The legal description covers both 91 Rue Lavaud and 3 Rue Benoit. Ms Ohs told us that in 1980 the property was subdivided into two sections, and a house was built on the previously vacant Rue Lavaud address in 1995.

[343] Regardless of whether the dwelling is listed in the Existing Plan, Ms Ohs considered that the property meets the threshold for listing. She explained that the property is associated with T. E Taylor, a leading Akaroa businessman and identity in the late Victorian and Edwardian periods into the inter-war years. The building is considered to be of significance because of that association and because it is one of the first homes in Akaroa to have been built in the Arts and Craft style and is part of a small precinct of larger homes that indicate the lifestyle of the town’s leading citizens in the early twentieth century. Ms Ohs considered that the changes made to the building are sympathetic and relatively small in scale, such that the integrity of the building remains intact.¹⁹⁸

[344] We accept Ms Ohs evidence in relation to those matters. We are satisfied that the evidence supports the listing under Policy 9.3.2.2 and decline the relief requested by the submitter.

Holy Trinity Avonside Lychgate and St Peters Church Lychgate – Church Property Trustees (3670), Dr Ian and Dr Lynne Lochhead (3633) and (Historic Places Canterbury (3633))

[345] In their written submissions Historic Places Canterbury and Dr Ian and Dr Lynne Lochhead each requested that the listing of the Holy Trinity Avonside Lychgate be elevated to Group 1 Highly Significant. We were told by Ms Ohs that Dr Ian Lochhead provided information to the Council in the form of an email to support his opinion. However, he did not put those matters to the Hearing Panel in a statement of evidence.¹⁹⁹ Ms Ohs addressed the

¹⁹⁸ Evidence-in-chief of Amanda Ohs, 2 December 2015 at 9.28-30.

¹⁹⁹ Evidence in chief of Amanda Ohs, 2 December 2015, at 10.4-10.9.

information provided by Dr Lochhead in her evidence in chief, but confirmed that, in her opinion, there was not sufficient justification to elevate the listing. On the basis of the evidence before us, we accept Ms Ohs evidence and confirm the Group 2 Significant listing.

[346] We record that the extent of the heritage setting for the Holy Trinity Avonside Lychgate is proposed to be reduced in light of an agreement reached between CPT and the Council.²⁰⁰

[347] Historic Places Canterbury and Dr Ian and Dr Lynne Lochhead also requested that the St Peters Lychgate be elevated to a Group 1 High Significance listing. Ms Ohs addressed this submission point in her evidence.²⁰¹ We are satisfied, on the evidence before us, that the Group 2 listing is most appropriate for the reasons given by Ms Ohs.

Banks Peninsula Presbyterian Church Akaroa- Banks Peninsula Presbyterian Church (3105)

[348] The Banks Peninsula Presbyterian Church (BPPC) lodged a submission on the Notified Version in relation to St Peters Church located at 43 Rue Lavaud.²⁰² It was not represented at the hearing. The concern of the BPPC is that regulation of the interiors of churches created difficulties for the more modern church uses and adds unnecessary cost. BPPC requests changes to the provisions relating to interiors. In particular, it seeks to be allowed to make alterations as a PA, and that DA status that takes into account issues of financial viability. Alternatively, BPPC requested that St Peters be downgraded to a 'Significant' building.

[349] In her evidence Ms Ohs addressed the listing of the Church. She recommended that we do not revisit the listing, based on her review of the HSOS and site visit.²⁰³

[350] The concerns of the BPPC are similar to those raised by other church submitters who called evidence at the hearing. We note that the Council no longer seeks that the interiors of privately owned heritage buildings be listed in the CDRP at this time. The Council's intended further work programme on interiors would necessarily involve consultation with the landowners. We support that approach. To that extent, the BPPC submission is accepted in part. To the extent that the BPPC seek changes to the grouping of the listing, we note this was

²⁰⁰ Memorandum of counsel for Church Property Trustees, 28 January 2016.

²⁰¹ Evidence in chief of Amanda Ohs, 2 December 2015, at 10.12.

²⁰² Ms Ohs advised in her Evidence in chief at 10.17 that this is identified as 39 Rue Lavaud in Appendix 9.3.6.1.2.

²⁰³ Evidence in chief of Amanda Ohs, 10.17- 10.18

as an alternative request in the event we did not resolve the interiors issue in its favour. Given the listing is now limited to the exterior of the building, and in the absence of any evidence challenging Ms Ohs assessment, we accept the Council's evidence and decline the submitter's request.

College House – 100 Waimairi Road - (3420) and University of Canterbury (FS5013)

[351] College House is a University student hall of residence located at 100 Waimairi Road. The complex of buildings was designed by Warren and Mahoney in the 1960s and is a distinctive 'Brutalist' style of architecture. Within the complex, various buildings are listed, some as 'Highly Significant' and others as 'Significant'. College House made a submission requesting changes to the listing of the buildings.

[352] Evidence regarding the significance of College House was addressed by Mr Alec Bruce, a registered architect who has been involved in a number of heritage consenting processes and has undertaken some heritage assessment.²⁰⁴ Ms Ohs gave evidence for the Council. During the course of the hearing, agreement was reached between the Council and College House on some of the Heritage Items.²⁰⁵ We accept the agreed changes to the listings as appropriate and supported by the evidence.

[353] The remaining matters of dispute as between Ms Ohs and Mr Bruce included the appropriateness of the listing of the squash court at College House. The squash court is set apart from the remaining complex.

[354] Mr Bruce was of the opinion that:²⁰⁶

The building does not make any contribution to the important communal outdoor spaces of the campus and is not in public view. College House already has a significant burden placed on its resources with the upkeep of its original buildings due to their ambitious Brutalist design and require a compromise when it comes to this relatively unimportant, isolated, utilitarian building. Resources should be directed into other projects with higher heritage value and there should be less restriction (and reduced cost of consents) on what use the Squash Court may be put to.

²⁰⁴ Transcript, page 1318

²⁰⁵ Closing legal submissions for the Council at 10.76

²⁰⁶ Evidence in chief of Alec Bruce for College House, 10 December 2015

[355] Ms Ohs was of the opinion that the squash court has historical and social significance for its association with the everyday life and onsite recreation of college residents, and as reflecting the rise in popularity of squash in the 1970s and 80s. Ms Ohs stated that the building has contextual value as part of the complex of College House. She agreed that it does not have the degree of architectural and aesthetic or technological and craftsmanship significance of other College House buildings. However, she considered that, as a purpose designed facility that has served the students at College House for over 40 years, and it relates to the rest of the complex in terms of its materials and construction, the squash court meets the thresholds for overall significance. Ms Ohs maintained that view in her rebuttal evidence.²⁰⁷ Ms Ohs's HSOS was peer reviewed by Ms May, who agreed with Ms Ohs's assessment.²⁰⁸

[356] In the Council's closing submissions Mr Conway noted that future changes in the use of the squash court may find favour in Policy 9.3.2.5 (now 9.3.2.6). That policy supports the regulatory framework and assumes listing of the items. That is not the issue.

[357] We agree with Mr Bruce that there is insufficient justification for listing the squash courts, the building is separated from the quadrangles and accommodation and administration enclave that give College House its distinctive architectural character. We find that the past use as a squash court is not of itself of sufficient heritage significance to meet the threshold for listing. We accept the relief requested by College House in relation to the squash court on that basis and have removed it from the heritage schedule.

[358] Aside from the issue of the squash court, we understood from Mr Bruce that College House could live with the Group 1 listing of the front entrance portion of office and reception building.²⁰⁹ College House also requested that the original 1960s accommodation blocks be downgraded to Group 2, to enable greater flexibility in the maintenance and improvements to the buildings to maintain standards for students. We find that the removal of interiors from the listing will reduce consenting requirements affecting those matters. We are satisfied that the Group 1 listing remains appropriate given the high significance of the complex. We understood that there also remained a disagreement between Mr Bruce and Ms Ohs regarding the Library and Recreation area.

²⁰⁷ Rebuttal evidence of Amanda Ohs, 18 December 2015, 7.2

²⁰⁸ Evidence in chief of Jennifer May, 3 December 2015, at 13.6

²⁰⁹ Transcript, page, 1320, lines 36-44.

[359] Mr Bruce said in his evidence:

A Group 2 listing would still achieve the sought after protection of this building with more latitude for necessary maintenance, strengthening and alterations required to allow changes necessary for adapting this building for new patterns of use. The ground floor recreation rooms are utilitarian in character, but it is accepted the building form has been designed to enclose the east end of the quadrangle and the interior of the library is unique.

[360] In light of the physical relationship of the Library and the Recreation Area to the other listed items and setting, we find on balance that Group 1 listing of those items is most appropriate. As with the accommodation blocks, some relief is achieved through the removal of interior fabric from the listing.

81 Grehan Valley Road – Alistair Cocks (3654)

[361] Mr Cocks owns the property at Grehan Valley Road that contains a cottage listed as Group 2 Significant heritage item and the surrounding setting. The listing recognises the heritage values associated with the cottage and the historical setting of a mill and orchard. Mr Cocks requested that the setting be reduced to a curtilage area immediately surrounding the cottage, and not the whole property. Mr Cocks did not attend the hearing.

[362] Ms Ohs's evidence was:²¹⁰

I do not consider the reduction proposed would provide for the retention of the contribution the setting makes to the heritage item, and does not provide sufficient open space, context and views to the heritage item. The setting as notified reflects the historical extent of this property which was associated with a Mill operation, provides for views to and from the cottage, recognises the importance of the proximity of the stream, and also includes a number of early fruit trees historically associated with the heritage item. Based on the above discussion, I disagree with this submission. The owners have expressed a desire to keep their options open for potential future subdivision. I do not consider that the identification of the whole of the existing land parcel would prevent this, but I do consider that there is potential for impact on the listed item from subdivision or new buildings, and therefore the setting protection is appropriate.

[363] We have considered Mr Cocks' written submission and Ms Ohs's evidence and the HSOS for the building and setting. We accept on the evidence before us that the extent of the setting is appropriate and decline Mr Cocks' submission.

²¹⁰ Evidence in chief of Amanda Ohs, 2 December 2015, at 12.24.

Dry Rock Wall Maori Gully Menzies Bay — Richard Menzies (3579)

[364] Mr Menzies requested that the dry rock wall at Maori Gully Menzies Bay be listed as a heritage item. Mr Menzies did not attend the hearing. Ms Wykes considered the request but declined to include it in the list on the basis that it did not meet the significance thresholds.²¹¹

[365] We accept that evidence and decline Mr Menzies' request accordingly.

Bishop Park Chapel — Anglican Living (3349)

[366] The Bishop Park Chapel is listed as a Highly Significant item and setting. Anglican Living opposed the extent of the setting (setting 470). Anglican Living owns the Bishopspark Complex on Park Terrace and has been operating as a rest home and village complex since 1984. The total area of the Complex is 1.2267 hectares. The Former Bishop's Residence was subject to a s 38 CER Act demolition notice. In respect of the Chapel and its setting, Anglican Living accept the inherent value in retaining the heritage building. However, it is concerned about the extent of the heritage setting. In its written submission, Anglican Living stated that:

... the identification of a heritage setting over all of the Bishopspark Complex, and the associated s 32 analysis fails to have proper regard to the extent of existing development at the Complex and potential implications for its development and/or redevelopment. In particular, the requirements to obtain resource consent for all new buildings within a heritage setting creates potentially significant cost and uncertainty for future rebuilding of the site.

[367] Anglican Living's submission was supported by CPT and Alpine Presbytery (FS5023).

[368] Ms Ohs addressed the submission in her evidence in chief. She recommended that we reduce the extent of the setting, given the loss of the Bishop's residence. Ms Ohs provided an updated map in her evidence.²¹² It shows a substantial reduction in area to the immediate surroundings of the Chapel. It is not known if this is acceptable to Anglican Living.

[369] We have considered Anglican Living's submission and the updated aerial map. On Ms Ohs's evidence we accept that the reduction of the setting area is appropriate and have provided for that in the Decision Version.

²¹¹ Evidence in chief of Fiona Wykes at 12.8.

²¹² Evidence in chief of Amanda Ohs at 12.35-37

32 Armagh Street — Christ's College (3212)

[370] Christ's College accepts the listing of a number of its buildings with the exception of a timber cottage on the corner of Gloucester and Montreal Streets. Christ's College's written submission states that the cottage is currently a Group 4 listed item in the Existing Plan. Christ's College submitted that it has very limited functional value as a building and needs extensive repairs and upgrading to make it functional, with the cost of such works exceeding the building's value. Further, the College submits that the HSOS accompanying the listing is largely comprised of a simple description of the item, without any clear articulation as to why the described features are of any particular significance beyond those provided by numerous pre-1900 cottages and villas present throughout the City.²¹³

[371] Mr Colin Sweetman, the Christ's College Bursar, made representations at the hearing. He said:²¹⁴

In looking towards the future, I cannot see any further practical use for this building. The Council officers suggested that it could be restored and re-let as an income producer and in my expert opinion as a commercial landlord in the city; this is a very theoretical suggestion which I believe would not be practical. There would be no real commercial payback, nor would the building be very attractive to any but community or small-type groups seeking premises at minimal rental and, therefore, the building would not really be able to pay its way.

Our architect has advised that it would cost as much as a new building to complete any renovations.

[372] We understood that Christ's College is saying, in short, that it is impractical to retain the building.

[373] Ms May, architectural historian, gave evidence for the Council in relation to the building's listing.²¹⁵ Ms May agreed with the Council's HSOS which concluded that:

The former dwelling and its setting have overall significance to the Christchurch District, including Banks Peninsula. The building has historical significance as a c.1875 colonial cottage, the former home of Ernest Empson, and for its association with Christchurch Girl's High School. The former dwelling has architectural significance due to the authenticity of its exterior and retention of some of its original interior detailing. As a small colonial cottage this building has landmark significance within the inner-city's historic western precinct. It has further contextual significance as it stands as a reminder of the style, scale and materials that once dominated the city's colonial

²¹³ Submission (3212), page 6.

²¹⁴ Transcript, page 1499.

²¹⁵ Evidence in chief of Jennifer May, 3 December 2015, 8.3

built environment. The dwelling and its setting has archaeological significance in view of its 19th century construction.

[374] Ms May had undertaken a site visit with a representative of Christ’s College and had considered the 2003 Conservation Plan for the building. She was ‘strongly’ of the opinion that the heritage values of this building are such that they meet the six assessment criteria for listing and the four thresholds for listing in Appendix 9.3.6.1.

[375] The assessment was also addressed in the evidence of Jacqueline Gillies for the Council.²¹⁶ She was of the opinion that all of the physical values remain very much intact and other non-tangible values are also still applicable. She noted that the context has changed since the earthquakes and the subsequent demolition of Christchurch Girls’ High School. However, because it is the sole remains of the Girls’ High School, she considered that the building’s significance has increased. Given that the Council proposes only two categories of listing, she disagreed the building has “relatively little heritage significance”. While the building does not have the obvious significance of a cathedral, it is one of a number of more modest items that still demonstrate identifiable heritage significance.

[376] With respect to the condition of the building, Ms Gillies considered that the majority of the repairs have been caused by lack of maintenance, only the loss of the brick chimney at the rear was a result of the earthquakes. Ms Gillies observed that there are areas of rotten timber weatherboards in places, caused mostly by blocked or poorly functioning valley and eaves gutters, some crumbling of the surface of the basalt foundations and damage to the rear elevation caused by the collapsed chimney. She noted that the mature tree on the southeast corner of the house has overgrown its location and its roots will be damaging the foundations, and the leaves would fill the gutters and downpipes. Internally, Ms Gillies observed that there was remarkably little evidence of earthquake damage, with cracking in the lath and plaster walls and ceilings and very little damage elsewhere. Although Ms Gillies noted that the interior is looking neglected, she considered that redecoration and new floor finishes would change this very quickly and cheaply. Overall, she considered that both the interior and the exterior could be repaired and made attractive, with little work.

²¹⁶ Ms Gillies hold a BA in Architecture, a BArch and RIBA Part 3 from Liverpool University, and a Masters in Conservation Studies (Historic Buildings) from York University, both in the United Kingdom. Ms Gillies has 35 years’ experience in architecture. I am a Registered Architect with the New Zealand Registered Architects Board and a Fellow of the New Zealand Institute of Architects. I am also a member of ICOMOS New Zealand.

[377] Mr Gavin Stanley, a quantity surveyor, gave evidence for the Council that he had carried out a full cost estimate, based on the advice of Ms Gillies and Ms May, of the repairs to bring the structure to a habitable and, therefore, lettable standard. His budget estimate for the repair works was attached to his evidence in chief. He estimated that the overall cost repair estimate for the required works would be \$161,000 excluding GST.²¹⁷

[378] We find that the Council's evidence supports listing and is most appropriate to achieve Objective 9.3.2.1. Mr Sweetman's representations did not persuade us otherwise. We confirm the listing on that basis.

35 Knowles Street – Rafe Hammett (3666)

[379] Mr Rafe Hammett, the owner of 35 Knowles Street objected to the listing of the dwelling as a Group 2 Significant building. That was on the basis that the building was uneconomic to repair, and any repairs would diminish the heritage values to such an extent that it did not warrant listing. The submitter argued that the Council's s 32 Report was deficient because it failed to consider financial implications.

[380] Ms Gillies, for the Council explained that the house is typical of Arts and Crafts design with a large Marseille tiled roof extending down over the upper floor with multiple gables, dormer windows, and overhanging eaves. The interior features of the house include a timber panelled hall with a corbelled shelf, timber posts and false arches, a panelled living room, panelled timber ceilings, multi panelled doors, and a wide and airy upper landing. The house has sustained some earthquake damage, including the loss of two chimneys, settlement and interior and exterior cracking of plaster.

[381] The submitter did not attend the hearing. However, in his written submission, Mr Hammett's solicitor referred to the extensive work required to undertake earthquake repairs. An engineer's report was described in the submission (the original of which has not been provided to Council). It suggested that the building had twisted as well as suffering vertical movement. As a result, the walls would have to be stripped of internal and external linings and claddings, the tiled roof removed and new specialist foundations designed. Mr Hammett's

²¹⁷ Transcript, page 870

written submission explained the various modifications made to the building since the 1950s including its conversion to flats, return to a single dwelling and an extension to the building

[382] Ms Gillies accepted that, if this repair option explained by Mr Hammett was undertaken, much of the heritage values would be lost.²¹⁸ However, she suggested that a further structural engineer's report should be commissioned to determine if another repair solution was available. She also explained what that repair methodology might entail.

[383] Ms Gillies' suggestions have not been subject to any analysis as to their cost or engineering feasibility.²¹⁹ Mr Marriot, the Council's structural engineer, noted in his evidence that he had not seen any engineering assessment from the submitter so he was unable to comment.²²⁰

[384] The Council's closing legal submissions relied on

the potential for an alternate repair solution to be adopted, whereby the building could be repaired to a suitable standard with little loss of heritage fabric and heritage values, the Council submits that its retention on the schedule is appropriate.

[385] We note that interiors of privately owned buildings is now not regulated in the CRDP. This gives some relief for the submitter. Without having heard further from the submitter, or having received detailed engineering evidence. We find the listing remains appropriate. We confirm it accordingly.

Waltham Park Memorial Gates – Cashmere Residents Association (3601)

[386] On behalf of the Cashmere Residents Association ('CRA'), Mr Tindall made a submission requesting that the Waltham Park Memorial Gates be included as a heritage item in Appendix 9.3.6.1. Mr Tindall attended the hearing and made representations that these gates were under repair and were due for re-use at the ANZAC Memorial 2016.

[387] The Council indicated in closing legal submissions that there was a lack of information at this time to support the listing.²²¹ In the circumstances, we do not have a proper evidentiary

²¹⁸ Evidence in chief of Jacqueline Gillies at 7.72.

²¹⁹ Ibid 17.75-17.77.

²²⁰ Transcript, page 766.

²²¹ Closing legal submissions for the Council at 18.94.

basis to support listing at this time. This may be a matter that Mr Tindall or the CRA can discuss further with Council as part of its future work program.

St Mary's Pro Cathedral, Aberdeen Cottages, Manchester Street Manor Cottages and Victoria Square – Peterborough Village Incorporated (3233)

[388] The submitter requested the addition of St Mary's Pro Cathedral, Aberdeen Cottages, Manchester Street Manor Cottages and Victoria Square protection of these places in the CRDP. The Council requested additional information from the submitters to support the listing. However, as no information was provided, the Council submitted it was unable to make an assessment. The Council notes that as part of the future work programme it intends to undertake in relation to heritage, there may be an opportunity for the places to be considered.²²²

[389] We accept that is an appropriate course of action in the circumstances. Therefore, we decline the requested relief.

159 Manchester Street – Lochhead (3633) and Boltbox Limited (FS5080)

[390] Dr Lochhead requested the addition of the former Canterbury Building Society building at 159 Manchester Street to the Schedule of Historic Heritage. The addition was originally supported by the Council and opposed by the building owner. In our Preliminary Minute we addressed the reasons why we considered there was no justification for the listing.²²³ The Council accepted that position.²²⁴ We confirm our findings and reject Dr Lochhead's submission and accept the further submission of Boltbox.

Orion New Zealand Limited (3720/FS 5049) — equipment located in heritage items 201, 207, 489, 544, 600, 614

[391] Orion owns several buildings that are listed heritage items in the pCRDP. This includes six working substation buildings, and a historic, decommissioned, pump house building and setting on Rue Pompallier in Akaroa.²²⁵

²²² Evidence in chief of Amanda Ohs, 2 December 2015 at 14.9-14.11.

²²³ Preliminary Minute at paragraph 77.

²²⁴ Transcript, page 1323.

²²⁵ Heritage Items 201, 207, 489, 544, 600 and 624; Heritage Item 752.

[392] Orion requested the delisting of the working substation buildings on the basis that the proposed regulatory framework would unduly restrict Orion's operational requirements. As an alternative to delisting, Orion requested appropriate exemptions and recognition of its operational requirements, notwithstanding the heritage status of the buildings.

[393] In closing legal submissions, counsel for Orion submitted that Orion supported the 20 April Version, in particular Policy 9.3.2.7 (now 9.3.2.8) and Rules 9.3.3.1.6 and 9.3.3.1.7 (together now 9.3.3 j.).²²⁶ We accept that the inclusion of those provisions are most appropriate to give effect to the Strategic Directions, including Objective 9.3.2.1 and also provides appropriate protection of heritage significance of the listed buildings.

[394] Orion does not oppose the Final Revised Version's provisions in relation to the decommissioned pump station, located in the Akaroa Heritage Area.

[395] We accept Orion's submission to the extent that the Decision Version incorporates the agreed provisions.

Annandale Woolshed – 67 Starvation Gully Road, Pigeon Bay

[396] Annandale Enterprises Limited (3630) requested the deletion of the Annandale Woolshed from the Schedule of Significant Historic Heritage Places (Banks Peninsula). This is due to the building and its immediate locality being an integral part of farming operations. The submitter noted that it may be necessary to erect farm buildings and infrastructure within the identified setting around the woolshed. The Council's expert Ms Wykes did not agree that the building should be removed from the list. However, following a site visit and discussions with the farm manager, she accepted that the listed item can be reduced to remove the later workshop building to the east. This was because that building is not part of the original structure and is not directly related to the use of the building as a woolshed. In addition, Ms Wykes accepted that the setting can be reduced from its original extent to exclude the area to the west of the yards and the land to the east of the driveway to the road frontage as these do not directly relate to the use of the building.²²⁷ The submitter did not provide any evidence to the contrary.

²²⁶ Closing legal submissions on behalf of Orion, 29 April 2016.

²²⁷ Evidence in chief of Fiona Wykes, at 10.35-10.38.

We accept Ms Wykes' evidence on that basis and have amended the listing in the Decision Version.

Main building, Christchurch Boys High School 39 Kahu Road.

[397] Submissions on behalf of the school requested the delisting of the buildings that were included with the 1921 Main Block and setting, under heritage item 506. Delisting of the buildings was sought due to the extensive development that the site has undergone since construction of the first school building.²²⁸ The submissions note that the buildings had not been assessed and, therefore, may not warrant inclusion in the CRDP. Ms Wykes agreed with this submission in part and accepted that there is merit in delisting some of the later additions.²²⁹

[398] Following a site visit and further research, Ms Wykes recommended that the following buildings can be delisted, due to a lack of heritage significance, or the lack of information on them to enable a full assessment to be made:

- (a) The 1990s machine shop extensions on the east side of the Main Block;
- (b) The 1961 block on the south side of the east courtyard;
- (c) The Memorial Hall;
- (d) The lean-to structure attached to the south side of the Main Block in the west courtyard;
- (e) The Caddick Block; and
- (f) The buildings to the south of the Caddick Block and the Memorial Hall.

[399] Ms Wykes considered that, based on research undertaken to date, it is likely that the Caddick Block would meet the significance criteria to be a listed heritage item in its own right. However, at present she did not have time to complete the necessary research to confirm this.

²²⁸ Nic Hill, Headmaster of Christchurch Boys' High School (3234), John Osborne, Chairman, Christchurch Boys' High School Board of Trustees (3235) and the Crown (FS5030).

²²⁹ Evidence in chief of Fiona Wykes, at 11.1- 11.4.

[400] She considered that the 1927 Science Block, on the south east wing and the 1955 linking building that joins it to the original 1926 building should be retained as part of the heritage listing. That is because they are architecturally and physically contiguous with the Main Block building and the Science Block is contemporary with the Main Block, being completed a year later. The submitters did not present any evidence to the contrary.

[401] We accept Ms Wykes' evidence and have amended the Schedule in the Decision Version to reflect the changes she recommended.

Matters arising following closing submissions

104 Glandovey Road

[402] The dwelling at 104 Glandovey Road was listed as a Group 2 Significant heritage item in the Notified Version. No submissions were made opposing the listing. However, following the hearing, the new owner of the building, Westall Trust, made an application to waive the time for filing a late further submission. We declined to grant the waiver due to delay.²³⁰ As part of the application for waiver, Westall Trust provided information regarding the earthquake damage to the building. In closing legal submissions, the Council provided an updated HSOS, incorporating the material that Westall Trust had provided in its application for waiver.²³¹ The Council told us it had updated the HSOS but submitted that we retain the listing.

[403] On 15 September 2016, the Council filed a further memorandum advising the Panel of further developments in relation to the listing.²³² As it transpires, the Council now has available to it a number of engineering reports in relation to the property provided by the Westall Trust and from its own advisors. The Westall Trust filed a memorandum in response to the Council's memorandum outlining further detail and noting issues of natural justice if the now disclosed information is not taken into account.²³³ In its memorandum, Westall Trust point to the fact that some of the information may have been available to the Council as early as 25 February 2011 (albeit for a different purpose), but that the Trust and the Council have been in ongoing discussions and engineering assessments since the Trust acquired the property in December

²³⁰ Record of Decision on late submission, 8 June 2016.

²³¹ Closing legal submissions for CCC at 18.54 and 18.55.

²³² Memorandum of Counsel on behalf of CCC 9.3 Historic Heritage 104 Glandovey Road, 15 September 2016.

²³³ Memorandum of the Westall Trust in respect of CCC Memorandum dated 16 September 2016.

2015. None of these matters were brought to our attention by the Council during the hearing early this year. We are strongly of the view that they ought to have been.

[404] Notwithstanding that the Westall Trust is not a submitter on the CRDP, the Council had an obligation to ensure that all relevant matters are before us in relation to its proposed listing of heritage items to support its obligations under RMA s 32. The Council's obligation is not simply to respond to matters raised by submitters.

[405] We find that there is a natural justice issue, and that we are obliged to consider the new material, at the very least on the papers. Given the limited time available to us to issue decisions under the terms of the OIC, we find that we can review the Council's HSOS in light of the material now provided by the Council and Westall Trust and that we do not need to reconvene the hearing to do so. We have done so, and find the Council's case for listing of this property is deficient in terms of RMA s 32, and that the engineering reports and costings of repairs overwhelmingly support the delisting of the item. We have removed 104 Glandovey Road from the schedule of significant historic heritage.

3 Clifton Bay

[406] The Council filed a memorandum on 19 September 2016 advising the Panel that the dwelling at 3 Clifton Bay had been destroyed by fire. The Council requests the listing of the building be removed. We have done so accordingly.

Heritage Areas and Character Overlays

Akaroa

[407] Submitters Rod Donald Banks Peninsula Trust (RDBPT) (3469) and Akaroa Civic Trust (ACT) (3627) requested the identification of a defined area of Akaroa as an historic place in the CRDP. This was initially opposed by the CCC due to a lack of assessment to support the definition of the area concerned. In our Preliminary Minute, we indicated our preliminary view that the evidence supported the identification of an historic area in Akaroa along the lines recommended by Ms McIntyre for the Crown, subject to defining the geographical area. The parties attended mediation and agreed to include the Akaroa Historic Area and give policy recognition for heritage area in the CRDP. The parties also agreed to the inclusion of matters

of discretion to apply to the underlying zone, which addressed relevant heritage matters.²³⁴ In closing legal submissions, RDBPT and ACT noted that the 20 April Version did not include the Anglican, Catholic and Dissenters cemeteries and all of the Garden of Tane which are part of the Heritage NZ registered Akaroa Historic Area.

[408] In its closing submissions the Council recommended that we also include land within the Garden of Tane Reserve as shown in Appendix H. It noted that the Garden of Tane extension is a logical extension, given part of it is already mapped within the BPDP Akaroa Historic Area, and is under the ownership of the Department of Conservation.

[409] The Council did not favour the inclusion of additional cemetery land because it was concerned about fairness to landowners, who may not have been aware of the Trust's submission. The Council was of the view that the fact that the additional cemeteries are zoned for Open Space in the CRDP would assist in managing their heritage values. As such, the Council considered that there is limited risk in not including this area in the Akaroa Heritage Area. The Council also submitted that the fact that the additional cemeteries area is managed by the City Council (albeit not owned by the Council) would assist with the protection of the relevant values.

[410] Providing for these does not result in any additional resource consent trigger. Instead, matters of discretion are to be added to relevant zone rules so that, if an activity already requires consent, the heritage values of the area would have to be considered. These matters of discretion are located at 9.3.6.3.

[411] We have considered the agreement reached at mediation and the closing submissions of the parties and accept, on the evidence, that the Final Revised Version, as amended in Appendix H and the consequential changes to provisions in Appendix D to the Council's closing legal submissions are most appropriate to achieve the CRDP objectives.

²³⁴ Closing submissions for CCC, Appendix D Schedule of changes to the Subdivision, Open Space, Specific Purpose, Residential, General Rules, and Commercial provisions.

Lyttelton

[412] RDBPT and ACT also requested the addition of an historic area for Lyttelton, however, during the course of mediation it was confirmed that this was no longer being pursued. We have not considered the issue further.

Inner City West

[413] In our Central City decision we have addressed the submission of the Inner City West Residents Association, also known as ICON (3607) relating to the recognition of the heritage character for the inner city west area. In Decision 43, we declined the relief requested by ICON. ICON did not attend the Chapter 9 hearing. There is insufficient evidence to support a proper s 32 evaluation for the separate identification of a heritage area for the inner central city. We decline the relief requested by ICON.

Cemeteries and crematoria and their relationship with Specific Purpose Zone (Decision 19)

[414] The Council and the Crown filed a joint memorandum asking that we reconsider Decision 19 which relates to Specific Purpose (Cemetery) zone for the purposes of consistency.²³⁵ Decision 19 made provision for a single building to be erected in, and plantings to be removed from and added to, cemeteries and crematoria as PAs, except where they are listed in Appendix 9.3.6.1 as significant heritage places. In Chapter 21, those activities, otherwise permitted, default to ‘non-complying’ activity status.

[415] In the Final Revised Version, those same activities are now proposed to be permitted and/or restricted discretionary activities.²³⁶

[416] The Crown and Council request that we make provision for those activities so that the rules in Chapter 9 prevail. Proposed amendments are set out in Attachment A to their joint memorandum.

[417] The Crown and Council acknowledge that the change they seek would result in a more permissive activity status than in Decision 19 for the listed cemeteries and crematoria. They

²³⁵ Joint memorandum on behalf of the CCC and the Crown, 14 June 2016.

²³⁶ Rules 9.3.3.2.1 P4, P5, P9, 9.3.3.2.3 RD1, RD2 and RD3.

also acknowledge that this could be a surprise to some submitters on the CRDP. Having reviewed the submissions, they advise that there are no specific submissions which address the relationship between the two chapters. We have considered the joint memorandum, and closing legal submissions of the parties. We are satisfied that it is appropriate to reconsider Decision 19 as it relates to listed cemeteries and crematoria under cl 13(5) of the OIC. We are satisfied that the changes proposed are of minor effect and, therefore, that we can make the changes as requested without further notification. We find it appropriate to do so for the reasons given by the parties. We accept the proposed amendments are appropriate and we will include them along with the updated provisions to be handed down with our decision on sub-chapter 9.5.

Consequential changes to other chapters

[418] To the extent that the Decision Version requires consequential changes to other Chapters we will provide updated provisions of the affected Chapters with our decision on sub-chapter 9.5.

OVERALL EVALUATION AND CONCLUSIONS

[419] We have undertaken an evaluation of the Decision Version as required by s 32AA. In particular we have examined the extent to which Objective 9.3.2.1 is the most appropriate way to achieve the purpose of this Act. We have considered whether amendments are also required to Strategic Objective 3.3.9. We do not consider that is required. We find that Objective 3.3.9, as supported by Objective 9.3.2.1, is most appropriate.

[420] We have examined whether the Decision Version is the most appropriate way to achieve the objectives. In doing so we have identified other reasonably practicable options for achieving the objectives and we have assessed the efficiency and effectiveness for achieving the objectives; and given reasons for the Decision Version.

[421] We have identified and assessed the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions. We have done so bearing in mind that quantification of the costs and benefits of heritage protection is inherently difficult.²³⁷

²³⁷ Decision 27 at [55].

[422] We have assessed the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

[423] 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 CRDP, these provisions for Historic Heritage 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 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 CRDP, the policy and rules we have included in sub-chapter 9.3 and consequential changes to allow chapters to give effect to our decision will achieve the purpose of the RMA.

[424] This decision, therefore, amends the Notified and Final Revised Version Versions in the manner set out in Schedule 1.


Directions to Council to update Planning Maps, Appendices and minor corrections

[425] We direct that the Council provide to the Secretariat, **within 10 working days of the date of this decision** an updated Appendix 9.3.7.2 to give effect to our decision. We will issue a separate decision confirming those changes in due course.

[426] One matter we reserve for direction in conjunction with our decision on sub-chapter 9.5 is for the relevant planning maps and aerial maps to be updated.

[427] 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 **five working days of the date of this decision**.


For the Hearings Panel:




Hon Sir John Hansen
Chair



Environment Judge John Hassan
Deputy Chair



Dr Phil Mitchell
Panel Member



Ms Jane Huria
Panel Member



Ms Sarah Dawson
Panel Member

SCHEDULE 1

Changes that the decision makes to the Proposals

Chapter 9 Natural and Cultural Heritage

9.3 Historic heritage

9.3.1 Introduction

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.

This sub-chapter relates to the management of the District's significant historic heritage. The values of heritage items, heritage settings and heritage areas of the District are identified in a series of schedules appended to this sub-chapter and shown on the planning maps.

The objectives, policies, rules, standards and matters of discretion in this sub-chapter are intended to provide for the protection of significant historic heritage, while also recognising the impact of the Canterbury earthquakes on heritage items and the effect of engineering and financial factors on the ability to retain, restore, and continue using them.

The provisions in this chapter give effect to the Chapter 3 Strategic Directions Objectives.

9.3.2 Objectives and policies

9.3.2.1 Objective – Historic heritage

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

9.3.2.2 Policy - Identification and assessment of historic heritage for scheduling in the District Plan

- a. Identify historic heritage throughout the District which represents cultural and historic themes and activities of importance to the District, and assess their heritage values for significance in accordance with the criteria set out in Appendix 9.3.7.1.
- b. Assess the identified historic heritage in order to determine whether each qualifies as ‘Significant’ or ‘Highly Significant’ according to the following:
 - i. to be categorised as meeting the level of ‘Significant’ (Group 2), the historic heritage shall:
 - A. meet at least one of the heritage values in Appendix 9.3.7.1 at a significant or highly significant level; and
 - B. be of significance to the District (and may also be of significance nationally or internationally), because it conveys aspects of the District’s cultural and historical themes and activities, and thereby contributes to the District’s sense of and identity; and
 - C. have a moderate degree of authenticity (based on physical and documentary evidence) to justify that it is of significance to the District; and
 - D. have a moderate degree of integrity (based on how whole or intact it is) to clearly demonstrate that it is of significance to the District.
 - ii. to be categorised as meeting the level of ‘Highly Significant’ (Group 1), the historic heritage shall:
 - A. meet at least one of the heritage values in Appendix 9.3.7.1 at a highly significant level; and
 - B. be of high overall significance to the District (and may also be of significance nationally or internationally), because it conveys important aspects of the District’s cultural and historical themes and activities, and thereby makes a strong contribution to the district’s sense of place and identity; and
 - C. have a high degree of authenticity (based on physical and documentary evidence); and
 - D. have a high degree of integrity (particularly whole or intact heritage fabric and heritage values).
- c. Schedule significant historic heritage as heritage items and heritage settings where each of the following are met:
 - i. the thresholds for Significant (Group 2) or Highly Significant (Group 1) as outlined in Policy 9.3.2.2b(i) or (ii) are met; and
 - ii. in the case of interior heritage fabric, it is specifically identified in the schedule;

unless

 - iii. the physical condition of the heritage item, and any restoration, reconstruction, maintenance, repair or upgrade work would result in the heritage values and integrity of

- the heritage item being compromised to the extent that it would no longer retain its heritage significance; and/or
- iv. there are engineering and financial factors related to the physical condition of the heritage item that would make it unreasonable or inappropriate to schedule the heritage item.

9.3.2.3 Policy - Heritage areas

- a. Identify groups of related historic heritage within a geographical area which represent important aspects of the District's cultural and historic themes and activities and assess them for significance and their relationship to one another according to:
 - i. the criteria set out in Policy 9.3.2.2; and
 - ii. the extent to which the area is a comprehensive, collective and integrated place.
- b. Schedule historic heritage areas that have been assessed as significant in accordance with Policy 9.3.2.3(a).

9.3.2.4 Policy - Management of scheduled historic heritage

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

- iv. document the material changes to the heritage item and heritage setting;
- v. be reversible wherever practicable (other than where works are undertaken as a result of damage); and
- vi. distinguish between new work and existing heritage fabric in a manner that is sensitive to the heritage values.

9.3.2.5 Policy - Archaeological sites

- a. Assist Heritage New Zealand Pouhere Taonga in the identification and protection of archaeological sites.

9.3.2.6 Policy – Ongoing use of heritage items and heritage settings

- a. Provide for the ongoing use and adaptive re-use of heritage items and heritage settings (in accordance with Policy 9.3.2.4), including the following:
 - i. repairs and maintenance;
 - ii. temporary activities;
 - iii. specific exemptions to zone and transport rules to provide for the establishment of a wider range of activities;
 - iv. alterations, restoration, reconstruction and upgrades to heritage items, including seismic, fire and access upgrades;
 - v. signs on heritage items and within heritage settings; and
 - vi. new buildings in heritage settings.

9.3.2.7 Policy - Relocation of heritage items within and beyond heritage settings

- a. Provide for the relocation of a heritage item within its heritage setting, where the relocation will maintain the heritage significance of the heritage item.
- b. Protect heritage items from relocation beyond its heritage setting, except:
 - i. when alternatives which retain the item within its setting have been explored, and relocation is demonstrated to be the only reasonable option to provide for the retention and ongoing viable use, including adaptive re-use of the heritage item and maintaining heritage significance; and
 - ii. where the location provides a setting compatible with the item's heritage value.

9.3.2.8 Policy - Utilities

- a. Ensure that utilities, where they are required by their locational, technical or operational requirements to be located within, or on, a heritage item or heritage setting are appropriately

designed, located and installed to maintain, as far as practicable, the particular heritage values of that heritage item or heritage setting.

9.3.2.9 Policy - Demolition of heritage items

- a. When considering the appropriateness of the demolition of a scheduled heritage item have regard to the following matters:
 - i. whether there is a threat to life and/or property for which interim protection measures would not remove that threat;
 - ii. whether the extent of the work required to retain and/or repair the heritage item is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised;
 - iii. whether the costs to retain the heritage item (particularly as a result of damage) would be unreasonable;
 - iv. the ability to retain the overall heritage values and significance of the heritage item through a reduced degree of demolition; and
 - v. the level of significance of the heritage item.

9.3.2.10 Policy - Awareness and education of historic heritage

- a. Enhance the community's awareness and understanding of the values of historic heritage, including sites of Ngāi Tahu cultural significance, through education initiatives.
- b. Promote the use of conservation plans.

9.3.2.11 Policy - Incentives and assistance for historic heritage

- a. Provide incentives (including financial incentives) and technical advice to assist in achieving the retention, conservation and ongoing use of historic heritage, including earthquake repairs and seismic strengthening, in recognition of the public good value of heritage to the community.

9.3.2.12 Future Work Programme

- a. The Council will facilitate further identification and assessment of heritage items, including interior heritage fabric, heritage settings and heritage areas for inclusion in the district plan over time.

9.3.3 How to interpret and apply the rules

- a. These rules apply to scheduled heritage items and heritage settings of Highly Significant (Group 1) and Significant (Group 2), and scheduled heritage areas.

- b. The planning maps identify sites that contain a heritage item and heritage setting, and heritage areas. Reference should also be made to:
 - i. Appendix 9.3.7.2 - Schedule of significant historic heritage;
 - ii. Appendix 9.3.7.3 – Schedule of heritage areas;
 - iii. Heritage aerial maps - heritage items and heritage settings for:
 - A. Christchurch City and Banks Peninsula; and
 - B. Central City.
- c. The schedule of significant historic heritage (Appendix 9.3.7.2) contains the heritage item(s) which have met the significance threshold and their associated heritage setting. Where the heritage item is an area of open space, this is stated in the schedule in Appendix 9.3.7.2. Where the interior of a heritage item is specifically scheduled this is stated in Appendix 9.3.7.2, with the specific interior heritage fabric protected for that heritage item described in the Register of Interior Heritage Fabric which is a document incorporated by reference in this District Plan.
- d. The Heritage aerial maps - heritage items and heritage settings show an outline of each heritage item. The item outline shows the extent of the roofline and the footprint of the parts or whole of the features contained within the heritage item. The Heritage aerial maps also show the extent of the associated setting, which do not always follow cadastral boundaries. Some open spaces contain multiple individual heritage items and settings and have status as a heritage item in their own right.
- e. The rules that apply to heritage items and heritage settings are contained in the Activity status tables (including activity specific standards) in Rules 9.3.4.1 to 9.3.4.5.
- f. Activities within scheduled heritage items, heritage settings and heritage areas are also subject to the rules contained in other sub-chapters of Chapter 9 Natural and Cultural Heritage, the rules in the relevant zone chapters, and the activity status tables, rules and standards in the following chapters (unless stated otherwise below):
 - 5 Natural Hazards;
 - 6 General Rules and Procedures;
 - 7 Transport;
 - 8 Subdivision, Development and Earthworks;
 - 11 Utilities and Energy; and
 - 12 Hazardous Substances and Contaminated Land.
- g. Specific exemptions to zone and transport rules to enable a wider range of activities to establish within scheduled heritage items and heritage settings are identified in Appendix 9.3.7.4. These specific exemptions only apply where:
 - i. the heritage item is retained in situ; or
 - ii. resource consent has been granted for relocation of the heritage item within its heritage setting.

- h. For signage on scheduled heritage items and in scheduled heritage settings the rules in Chapter 6 apply, except as expressly stated under Rule 9.3.4.1 P6 and Rule 9.3.4.3 RD7.
- i. Activities are permitted in scheduled heritage settings (subject to other rules in this Plan), except for new buildings in heritage settings (Rule 9.3.4.3 RD2) and temporary structures and signage in heritage settings (Rule 9.3.4.1 P4, P5 and P6).
- j. The following exemptions apply in relation to Rule 9.3.4 - Activity Status Tables
 - i. Rule 9.3.4 - Activity Status Tables shall not apply to works undertaken to electrical equipment located within heritage items in the schedule of significant historic heritage (at Appendix 9.3.7.2) as heritage item numbers 201, 207, 489, 544, 600 and 624, where such works are associated with the replacement, repair, maintenance and minor upgrading of the electricity distribution network.
 - ii. For the Annandale Woodshed heritage setting (12 Starvation Gully Road) Rule 9.3.4.3 RD1 and RD2 shall not apply to the modification of, or new stockyards within, the heritage setting.
 - iii. For the Elmwood Park heritage item, the rules for heritage items shall not apply to the area shown as marked on the heritage aerial map 672.
 - iv. For the Hagley Park heritage item, Rule 9.3.4 - Activity Status Tables shall not apply, other than to heritage items and heritage settings individually scheduled in Appendix 9.3.7.2.
- k. The matters of discretion for heritage areas apply only to the Akaroa Heritage Area (HA1), and apply when triggered by a rule in the zone chapter.
- l. The Council maintains a record of information held in relation to scheduled historic heritage in the form of a Heritage Statement of Significance (HSOS). A copy of the relevant HSOS can be accessed via the electronic plan through a link from the Scheduled Heritage Item or Setting number or a hard copy can be requested from the Council. The HSOS does not form part of the plan, and is simply a ready reference tool recording information known to the Council that supported the RMA s32 evaluation for the Chapter. The HSOS may be updated by the Council from time to time, if further information becomes available.

Advice Note:

Reference should also be made to other applicable legislation and requirements including the following:

1. The Building Act and Building Code;
2. The Heritage New Zealand Pouhere Taonga Act 2014 in relation to any modification or destruction of archaeological sites;
3. In relation to crematoria and cemeteries, work involving monuments may also require a Monumental Work Permit from Council's Assets and Network Unit; and
4. Any work affecting scheduled heritage items and scheduled heritage settings which may be subject to heritage orders are required to comply with the separate procedures specified in Part 8 of the Resource Management Act 1991.

9.3.4 Rules — Activity Status Tables

9.3.4.1 Permitted activities

The following rules apply to scheduled heritage items and heritage settings in Appendix 9.3.7.2 and identified on the planning maps.

The activities listed below are permitted activities if they meet the activity specific standards set out in this table.

Activities may also be controlled, restricted discretionary, discretionary, or non-complying as specified in Rules 9.3.4.2 to 9.3.4.5.

The rules in the table below include restrictions on what may be done with heritage fabric. Confirmation that particular fabric is not heritage fabric, and therefore is not subject to those rules/standards, can be obtained by obtaining a certificate in accordance with Appendix 9.3.7.6 - Certification of non-heritage fabric.

Exemptions relating to this rule can be found in Rule 9.3.3 j.

Activity		Activity specific standards
P1	Maintenance of a scheduled heritage item.	a. Any temporary scaffolding must be erected: <ol style="list-style-type: none"> without fixing to the heritage item (except where this would breach health and safety requirements) and protective material must be used to prevent damaging the surface of the heritage fabric; or in accordance with the design and/or supervision of a heritage professional and where the works involve structural changes and the heritage professional is not also a registered architect, a registered architect.
P2	Repairs to a scheduled heritage item.	a. The heritage fabric removed is limited to the amount necessary to carry out the repairs. b. Any repairs shall be undertaken: <ol style="list-style-type: none"> in accordance with the following: <ol style="list-style-type: none"> any temporary scaffolding must be erected without fixing to the heritage item (except where this would breach health and safety requirements) and protective material must be used to prevent damaging the surface of the heritage fabric; and introduced or new materials and new work shall be identifiable by use of a recognised conservation technique such as date stamping. the area the heritage fabric has been removed from shall be made weathertight. <p>Or</p> <ol style="list-style-type: none"> in accordance with the design and/or supervision of a heritage professional, and where the works involve

Activity		Activity specific standards
		structural changes and the heritage professional is not also a registered architect, a registered architect.
P3	Heritage investigative and temporary works.	<p>a. Heritage fabric removed is limited to the amount necessary to carry out the associated work.</p> <p>b. Any heritage investigative and temporary works shall be undertaken:</p> <p>i. in accordance with the following:</p> <p>A. removed heritage fabric (excluding core drilling samples) shall be recorded, stored, and reinstated on completion of the works; and</p> <p>B. the area the heritage fabric is removed from shall be made weathertight.</p> <p>Or</p> <p>ii. in accordance with the design and/or supervision of a heritage professional, and where the works involve structural changes and the heritage professional is not also a registered architect, a registered architect.</p>
P4	Temporary buildings or structures for events in a scheduled heritage item which is an open space.	a. The building or structure is removed within one month after the event.
P5	Temporary buildings or structures for events in a scheduled heritage setting.	a. The building or structure is removed within one month after the event.
P6	<p>Sign/Signage.</p> <p>Advice Note:</p> <p>This rule applies to scheduled heritage items and heritage settings in addition to the rules for signage in Chapter 6. Where the rules in each chapter conflict, this rule will prevail.</p>	<p>a. For signs on heritage items:</p> <p>i. protective material must be used to prevent damaging the surface of the heritage fabric, or where fixing signs to the heritage item is necessary, the number of fixing points must be limited to the minimum necessary to secure the sign.</p> <p>b. For signs in heritage settings:</p> <p>i. any sign which is for the purposes of interpretation shall not exceed 1.2 m² in size; and</p> <p>ii. where the road frontage exceeds 50 metres, the maximum sign area shall be 0.5 m² per 50 metres of road frontage or part thereof, and the maximum area of any individual sign shall be 2 m². Any sign exceeding 0.5 m² in areas shall be separated from other signs by a minimum of 10 metres.</p> <p>c. Signs must not flash or move.</p>
P7	Development (i.e. buildings and earthworks) on sites located above Monks Cave (HID 1367), Moa Bone Point Cave (HID351), and the Lyttelton Rail Tunnel (HID 760).	a. Any building or earthworks must avoid direct or indirect (i.e. vibration) impact on the underground scheduled heritage item.

Activity		Activity specific standards
P8	Demolition, partial demolition or deconstruction of a scheduled heritage item.	a. Regardless of any other rule, demolition or deconstruction works carried out under section 38 of the Canterbury Earthquake Recovery Act 2011.
P9	Replacement of buildings (which are not listed separately as a heritage item) in a scheduled heritage setting or an open space heritage item, and where the replacement building is required as a result of damage sustained in the Canterbury earthquakes of 2010 and 2011.	Nil.
P10	Heritage upgrade works for: a. Highly Significant (Group 1) heritage items, where the works are required as a result of damage; or b. Significant (Group 2) heritage items.	a. The works shall be undertaken in accordance with the certified heritage works plan prepared, and certified by the Council, in accordance with Appendix 9.3.7.5
P11	Reconstruction or restoration for: a. Highly Significant (Group 1) heritage items, where the works are required as a result of damage; or b. Significant (Group 2) heritage items.	a. The works shall be undertaken in accordance with the certified heritage works plan prepared, and certified by the Council, in accordance with Appendix 9.3.7.5
P12	Temporary lifting of a damaged scheduled heritage item for the purposes of heritage investigative and temporary works or repair.	a. The scheduled heritage item shall not be lifted to a height exceeding 3 metres above any relevant recession plane in the applicable zone. b. The heritage item must be lowered back to its original position within 12 weeks of the lifting works having first commenced. c. The lifting and lowering shall be undertaken in accordance with the design and/or supervision of a heritage professional and where the works involve structural changes and the heritage professional is not also a registered architect, a registered architect. d. If the heritage item is located in a residential zone, the owners/occupiers of land adjoining the site shall be informed of the work at least seven days prior to the lifting of the heritage item occurring. The information provided shall include details of a contact person, details of the lift, and the duration of the lift. e. The Council shall be notified at least seven days prior to the lift occurring. The notification must include details of the lift, property address, contact details and intended start date.
P13	Installation, modification or removal of electrical, plumbing heating, cooling, ventilation, lighting, audio-visual, cooking, hot	a. Where the works affect heritage fabric, they must be undertaken in accordance with the design and/or supervision of a heritage professional and where the works involve

Activity	Activity specific standards
or cold water, security and/or other service systems and fixtures which form part of heritage items.	structural changes and the heritage professional is not also a registered architect, a registered architect.

9.3.4.2 Controlled activities

The following rules apply to scheduled heritage items and heritage settings in Appendix 9.3.7.2 and identified on the planning maps.

The activities listed below are controlled activities.

Discretion to impose conditions is restricted to the matters over which control is reserved in Rule 9.3.5, as set out in the following table.

The rules in the table below include restrictions on what may be done with heritage fabric. Confirmation that particular fabric is not heritage fabric, and therefore is not subject to those rules/standards, can be obtained by obtaining a certificate in accordance with Appendix 9.3.7.6 - Certification of non-heritage fabric.

Exemptions relating to this rule can be found in Rule 9.3.3 j.

Any resource consent application arising from Rules 9.3.4.2 C1, C2, C3, C4 and C5 shall not be limited or publicly notified.

Activity	The Council's control shall be limited to the following matters:
C1 Heritage upgrade works for: <ul style="list-style-type: none"> a. Highly Significant (Group 1) heritage items where either the works do not meet the activity specific standards in Rule 9.3.4.1 P10, or are not as a result of damage; or b. Significant (Group 2) heritage items which do not meet the activity specific standards in Rule 9.3.4.1 P10. 	a. Heritage upgrade works, reconstruction and restoration – Rule 9.3.5.1.
C2 Reconstruction or restoration for: <ul style="list-style-type: none"> a. Highly Significant (Group 1) heritage items where either the works do not meet with the activity specific standards in Rule 9.3.4.2 P11, or are not as a result of damage; or b. Significant (Group 2) heritage items which does not meet with the activity specific standards in Rule 9.3.4.1 P11. 	a. Heritage upgrade works, reconstruction and restoration – Rule 9.3.5.1
C3 <ul style="list-style-type: none"> a. Demolition, partial demolition or deconstruction of the Cathedral of the Blessed Sacrament (H46), other than where provided in Rule 9.3.4.1 P8. b. Demolition or partial demolition of Christchurch Cathedral (H106), other than provided for in Rule 9.3.4.1 P8, for the purposes of restoration and/or reconstruction and where the resource consent application for this activity is made in conjunction with a resource consent application for restoration and/or reconstruction. 	a. Demolition, partial demolition or deconstruction of the Cathedral of the Blessed Sacrament and Christchurch Cathedral – Rule 9.3.5.2.

Activity		The Council's control shall be limited to the following matters:
	Advice Note: Deconstruction for b. is included within reconstruction and restoration.	
C4	Temporary lifting of a damaged scheduled heritage item for the purposes of heritage investigative and temporary works or repair which does not comply with one or more of the activity specific standards in Rule 9.3.4.1 P12.	a. Temporary lifting or temporary moving - Rule 9.3.5.3
C5	Temporary moving of a damaged heritage item for the purposes of heritage investigative and temporary works or repairs.	a. Temporary lifting or temporary moving - Rule 9.3.5.3

9.3.4.3 Restricted discretionary activities

The following rules apply to scheduled heritage items and heritage settings in Appendix 9.3.7.2 and identified on the planning maps.

The activities listed below are restricted discretionary activities.

Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion in Rule 9.3.6, as set out in the following table.

The rules in the table below include restrictions on what may be done with heritage fabric. Confirmation that particular fabric is not heritage fabric, and therefore is not subject to those rules/standards, can be obtained by obtaining a certificate in accordance with Appendix 9.3.7.6 - Certification of non-heritage fabric.

Exemptions relating to this rule can be found in Rule 9.3.3 j.

Activity		The Council's discretion shall be limited to the following matters
RD1	Alteration of a scheduled heritage item, other than provided in P8, P13 and C3.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings - Rule 9.3.6.1.
RD2	New buildings in a scheduled heritage setting.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings - Rule 9.3.6.1.
RD3	New buildings, structures or features located within an open space which is a scheduled heritage item.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings – Rule 9.3.6.1.
RD4	Relocation of a heritage item within its heritage setting.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings - Heritage items and Settings - Rule 9.3.6.1
RD5	Any activity listed in Rule 9.3.4.1 P1, P2, P3, P7 or P9 that does not meet one or more of the activity specific standards.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings – Rule 9.3.6.1

Activity		The Council's discretion shall be limited to the following matters
	Any application arising from this rule shall not be limited or publicly notified.	
RD6	Any activity listed in Rule 9.3.4.1 P4 or P5 that does not meet the activity specific standard.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings - Rule 9.3.6.1
RD7	Any activity listed in Rule 9.3.4.2.1 P6 that does not meet one or more of the activity specific standards.	a. Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings – Rule 9.3.6.1 (o).
RD8	Demolition of Christchurch Cathedral (H106), other than provided for under Rule 9.3.4.1 P8 and C3.	a. Demolition of Christchurch Cathedral - Rule 9.3.6.2

9.3.4.4 Discretionary activities

The following rules apply to scheduled heritage items and heritage settings in Appendix 9.3.7.2 and identified on the planning maps

The activities listed below are discretionary activities.

Exemptions relating to this rule can be found in Rule 9.3.3 j.

Activity	
D1	Relocation of a scheduled heritage item beyond its heritage setting.
D2	Demolition of a Significant (Group 2) heritage item.

9.3.4.5 Non-complying activities

The following rules apply to scheduled heritage items and heritage settings in Appendix 9.3.7.2 and identified on the planning maps

The activities listed below are non-complying activities.

Exemptions relating to this rule can be found in Rule 9.3.3 j.

Activity	
NC1	<p>Demolition of a Highly Significant (Group 1) heritage item.</p> <p>This rule does not apply to the demolition of the following:</p> <ul style="list-style-type: none"> i. Cathedral of the Blessed Sacrament (H46) (see Rule 9.3.4.2 P8 and C3); and ii. Christchurch Cathedral (H106) (see Rule 9.3.4.5 RD8).

9.3.5 Rules — Matters of control

9.3.5.1 Heritage upgrade works, reconstruction and restoration

- a. The form, materials, and methodologies to be used to:
 - i. maintain heritage values, including integration with, and connection to other parts of the heritage item;
- b. The methodologies to be used to protect the heritage item during upgrading, reconstruction and restoration;
- c. Documentation of change during the course of works, and on completion of work by such means as photographic recording; and
- d. Whether Heritage New Zealand Pouhere Taonga has been consulted and the outcome of that consultation.

9.3.5.2 Demolition, partial demolition or deconstruction - Cathedral of the Blessed Sacrament and Christchurch Cathedral

- a. The methodology for deconstruction in the case of the Cathedral of the Blessed Sacrament, and for partial demolition and demolition, including the phasing of the works, any heritage fabric which is to be retained, and how any heritage fabric to be retained is to be stored.
- b. A photographic record of the heritage item, including prior to, during the course of the works and on completion.
- c. Any mitigation measures, such as installation of interpretative panels on the site that identify the history and significance of the heritage item, and may include photographs, text and architectural plans of the building.
- d. In the case of Christchurch Cathedral, conditions to ensure that the demolition or partial demolition is undertaken in conjunction with reconstruction and/or restoration.

9.3.5.3 Temporary lifting or temporary moving of a damaged heritage item for the purposes of heritage investigative works or repair of heritage items

- a. Measures to avoid or mitigate damage to the heritage item during moving;
- b. The duration of time that the item is to be lifted or moved; and
- c. Measures to avoid or mitigate the effects of the temporary moving on neighbouring properties.

9.3.6 Rules - Matters of discretion

9.3.6.1 Alterations, new buildings, relocations, temporary event structures, signage and replacement of buildings

- a. The nature and extent of damage incurred as a result of the Canterbury earthquakes of 2010 and 2011 including the costs to repair and reconstruct.
- b. The level of intervention necessary to carry out the works, including to meet the requirements of the Building Act and Building Code, and alternative solutions considered.
- c. Whether the proposal will provide for ongoing and viable uses, including adaptive reuse, of the heritage item.
- d. Whether the proposal, including the form, materials and methodologies are consistent with maintaining the heritage values of heritage items and heritage settings, and whether the proposal will enhance heritage values, particularly in the case of Highly Significant (Group 1) historic heritage and in particular have regard to:
 - i. the form, scale, mass materials, colour, design (including the ratio of solid to void), detailing (including the appearance and profile of materials used), and location of the heritage item;
 - ii. the use of existing heritage fabric;
 - iii. the extent of earthworks necessary as part of the proposal;
 - iv. the necessity of the removal or transplanting of mature trees;
 - v. the impact on public places; and
 - vi. within a heritage setting, the relationship between elements, such as layout and orientation, form and materials.
- e. The extent to which the works are in accordance with the principles in Policy 9.3.2.4(b), and whether the proposal:
 - i. is supported by a conservation plan or expert heritage report; and
 - ii. the extent to which it is consistent with the Statement of Significance and Conservation Plan and the ICOMOS New Zealand Charter for the Conservation of Places of Cultural heritage value (2010).
- f. Whether the proposed work will have a temporary or permanent adverse effect on heritage form, layout, fabric or heritage values and the scale of that effect, and any positive effects on heritage form, fabric or values.
- g. The extent to which the heritage fabric has been damaged by natural events, weather and environmental factors and the necessity of work to prevent further deterioration.
- h. Whether Heritage New Zealand Pouhere Taonga has been consulted and the outcome of that consultation.
- i. Whether the site has cultural or spiritual significance to Tangata Whenua and the outcome of any consultation undertaken with Te Rūnanga o Ngāi Tahu and Papatipu Rūnanga.

- j. The extent to which mitigation measures are proposed to be implemented to protect the heritage item. Such mitigation measures, include but are not limited to the use of a temporary protection plan.
- k. The extent of photographic recording which is necessary to document changes, including prior to, during the course of the works and on completion, particularly in the case of Highly Significant (Group 1) heritage items, the need for a high level of photographic recording throughout the process of the works, including prior to the works commencing.

and in addition:

- l. For new buildings, structures and/or features in open space Heritage items whether the building, structure or feature will:
 - i. be compatible with, the heritage fabric, values and significance of the heritage item including design, detailing and location of heritage item(s) within the open space;
 - ii. impact on views to or from the heritage item(s), and reduce the visibility of heritage item(s) from public places; and
 - iii. the relationship between elements, such as the layout and orientation, form, and materials within the open space.
- m. For the relocation of a heritage items:
 - i. whether the new location and orientation of the heritage item will maintain the heritage values of the heritage place;
 - ii. whether alternative solutions have been considered, including repairs, reconstruction, heritage upgrade works, and restoration in situ; and
 - iii. the potential damage to heritage fabric during relocation and whether repairs will be required, and what mitigation measures are proposed, including the use of temporary protection plan.
- n. For temporary event structures in open space heritage items and heritage settings:
 - i. the duration the temporary event structure will remain within the heritage setting; and
 - ii. whether the temporary event structures will impact on views to or from the heritage item(s) or heritage setting, and reduce the visibility of heritage item(s) from public places.
- o. For signage on heritage items and in heritage settings:
 - i. whether the sign (including its supporting structure and methods of attachment to the heritage item) is compatible with the architectural form, features, fabric and heritage values of the heritage place;
 - ii. the extent to which any moving, or flashing signs detract from the heritage values of the heritage item and/or heritage setting; and
 - iii. whether the sign is temporary or permanent, and if temporary, the duration of the signage.
- p. For utilities the functional need to be located in or in proximity to heritage items and settings.

9.3.6.2 Demolition of Christchurch Cathedral

- a. Whether the engineering requirements and associated costs of retaining the Cathedral in whole or in part are unreasonable.
- b. Whether there is a threat to life and/or property as a result of the condition of the building.
- c. Where demolition of the whole or a substantial part of building is proposed, whether resource consent has been applied for and/or has been granted for a replacement building in accordance with Rules 15.10.1.2 C2 and 15.10.1.3 RD9.
- d. The methodology for demolition including the phasing of the works, heritage fabric to be retained, and how any heritage fabric to be retained is to be stored.
- e. Any mitigation measures, such as installation of interpretative panels on the site that identify the history and significance of the heritage item, and may include photographs, text and architectural plans of the building.

9.3.6.3 Akaroa heritage area

In considering whether or not to grant consent or impose conditions in respect of proposals in the Akaroa Heritage Area (HA1), the Council shall have regard to the following matters of discretion:

- a. Whether the scale, form, form, design and location of development and subdivision, will maintain or enhance the heritage values and significance of the heritage area.
- b. Whether development, including new buildings or addition to buildings, will impact on views to or from any heritage item or heritage setting within the heritage area, and whether the visibility of any heritage item from public places will be reduced.
- c. Where relevant, the extent to which the proposal is consistent with the Design Guidelines – Akaroa Commercial Banks Peninsula Zone
- d. Whether the Akaroa Design and Appearance Advisory Committee has been consulted and the outcome of that consultation.
- e. Whether Heritage New Zealand Pouhere Taonga has been consulted and the outcome of that consultation.

9.3.7 Appendices

Appendix 9.3.7.1 — Criteria for the assessment of significance of heritage values

a. Historical and social value:

Historical and social values that demonstrate or are associated with: a particular person, group, organisation, institution, event, phase or activity; the continuity and/or change of a phase or activity; social, historical, traditional, economic, political or other patterns;

b. Cultural and spiritual value:

Cultural and spiritual values that demonstrate or are associated with the distinctive characteristics of a way of life, philosophy, tradition, religion, or other belief, including: the symbolic or commemorative value of the place; significance to Tangata Whenua; and/or associations with an identifiable group and esteemed by this group for its cultural values;

c. Architectural and aesthetic value:

Architectural and aesthetic values that demonstrate or are associated with: a particular style, period or designer, design values, form, scale, colour, texture and material of the place;

d. Technological and craftsmanship value:

Technological and craftsmanship values that demonstrate or are associated with: the nature and use of materials, finishes and/or technological or constructional methods which were innovative, or of notable quality for the period;

e. Contextual value:

Contextual values that demonstrate or are associated with: a relationship to the environment (constructed and natural), a landscape, setting, group, precinct or streetscape; a degree of consistency in terms of type, scale, form, materials, texture, colour, style and/or detail; recognised landmarks and landscape which are recognised and contribute to the unique identity of the environment; and

f. Archaeological and scientific significance value:

Archaeological or scientific values that demonstrate or are associated with: the potential to provide information through physical or scientific evidence and understanding about social historical, cultural, spiritual, technological or other values of past events, activities, structures or people.

Appendix 9.3.7.2 — Schedule of Significant Historic Heritage

[To be inserted]

9.3.7.2.1 Christchurch City and Banks Peninsula

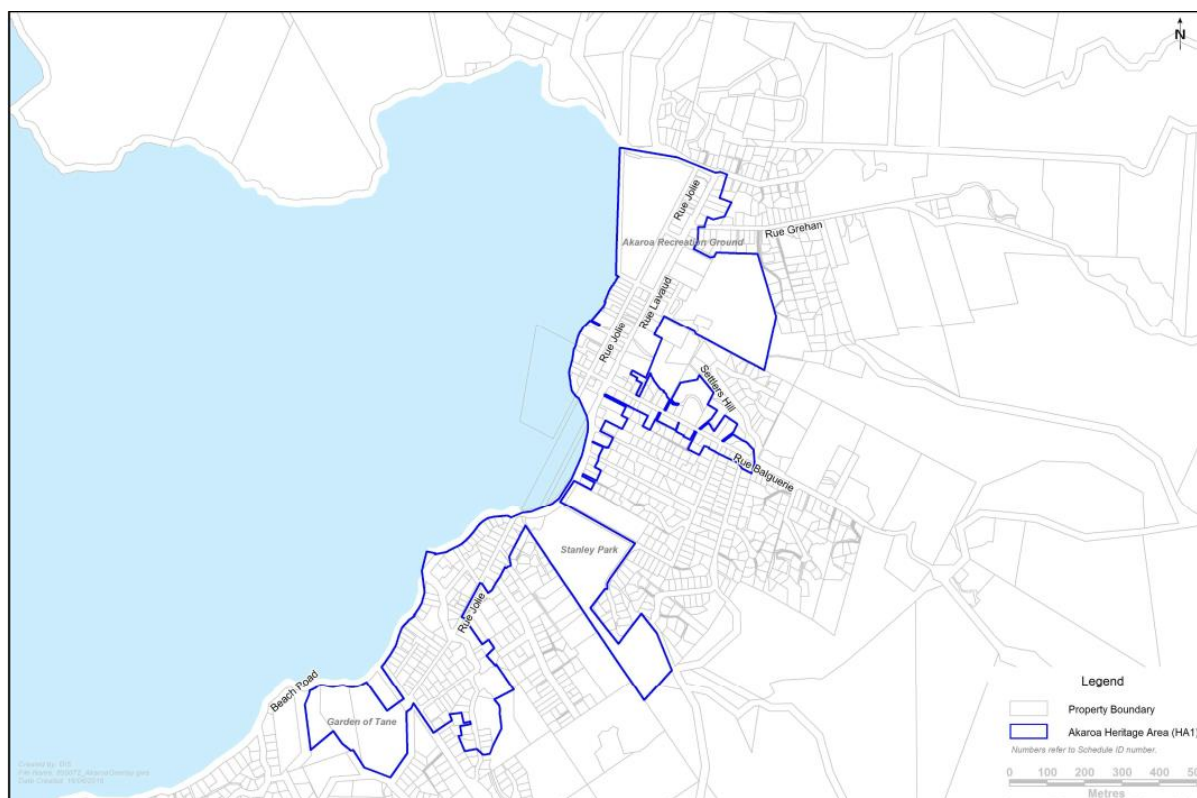
9.3.7.2.2 Banks Peninsula

9.3.7.2.3 Central City

Appendix 9.3.7.3 — Schedule of Heritage Areas

ID Number	Planning Map Number	Name and / or Description	Location
HA1	77, H35, H36, H37, R5	Akaroa Heritage Area	<p>Akaroa Heritage Area includes residential, commercial and open space areas along the waterfront of Akaroa Harbour. The area includes the Garden of Tane; L’Aube Hill Reserve, French Cemetery, Stanley Park and Daly’s Wharf.</p> <p>Refer to Appendix 9.3.6.6 for the schedule reference map showing the location of this heritage area.</p>

9.3.7.3.1 Akaroa Heritage Area map



Appendix 9.3.7.4 — Heritage item and heritage setting exemptions from zone and transport rules

Appendix 9.3.7.4.1 — Christchurch City and Banks Peninsula Heritage Exemptions

The activities within a heritage item or heritage setting shall be exempt from compliance with the rules in other chapters as set out in the table below.

These exemptions shall only apply as long as the protected heritage item remains in the heritage setting or has been granted resource consent for relocation within the same land parcel.

Chapter	Zone	Activity		Type of Exemption
Chapter 7 Transport	All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.1.	Minimum number and dimensions of car parks required	Parking and Loading
Chapter 7 Transport	All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.2	Minimum number of cycle parking facilities required	Parking and Loading
Chapter 7 Transport	All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.3	Minimum number of loading spaces required	Parking and Loading
Chapter 7 Transport	All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.4	Manoeuvring for parking and loading areas	Parking and Loading
Chapter 7 Transport	All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.5	Gradient of parking and loading areas	Parking and Loading
Chapter 7 Transport	All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.6	Design of parking and loading areas	Parking and Loading
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P15b	Bed and breakfast	Residential coherence
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P14b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence

Chapter	Zone	Activity		Type of Exemption
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P13a, P13b, P13c	Home occupation	Scale of activity Residential coherence Retail
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P17b, P17f (i),(ii)	Pre-schools	Scale of activity Residential coherence
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P18b, P18f (i),(ii)	Health care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P19b, P19f (i),(ii)	Veterinary care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P16b, P16f (i),(ii)	Education activity	Scale of activity Residential coherence
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.1 P20b, P20f (i),(ii)	Place of assembly	Scale of activity Residential coherence
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.2.3 RD13b	Convenience activities	Retail
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.4.1 P1a bi	Pre-schools	Scale of activity
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.4.1 P1b bi	Health care facility	Scale of activity
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Density Transition Zone	14.2.4.1 P1c bi	Veterinary care facility	Scale of activity
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Transition Zone	14.2.4.1 P1d bi	Education activity	Scale of activity
Chapter 14 Residential	Residential Suburban Zone and Residential Suburban Transition Zone	14.2.4.1 P1e bi	Places of assembly	Scale of activity

Chapter	Zone	Activity		Type of Exemption
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P6b	Bed and breakfast	Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P5b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P4a, P4b, P4c	Home occupation	Scale of activity Residential coherence Retail
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P8b, P8f (i),(ii)	Pre-schools	Scale of activity Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P9b, P9f (i),(ii)	Health care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P10b, P10f (i),(ii)	Veterinary care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P7b, P7f (i),(ii)	Education activity	Scale of activity Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.1 P11b, P11f (i),(ii)	Place of assembly	Scale of activity Residential coherence
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.3 RD1d	The erection of new buildings and alterations or additions to existing buildings	Scale of activity
Chapter 14 Residential	Residential Medium Density Zone	14.3.2.3 RD5b	Convenience activities	Retail
Chapter 14 Residential	Residential Medium Density Zone - Accommodation and Community Facilities Overlay Area	14.3.4.1 P1a bi	Pre-schools	Scale of activity
Chapter 14 Residential	Residential Medium Density Zone - Accommodation and Community Facilities Overlay Area	14.3.4.1 P1b bi	Health care facility	Scale of activity

Chapter	Zone	Activity		Type of Exemption
Chapter 14 Residential	Residential Medium Density Zone - Accommodation and Community Facilities Overlay Area	14.3.4.1 P1c bi	Veterinary care facility	Scale of activity
Chapter 14 Residential	Residential Medium Density Zone - Accommodation and Community Facilities Overlay Area	14.3.4.1 P1d bi	Education activity	Scale of activity
Chapter 14 Residential	Residential Medium Density Zone - Accommodation and Community Facilities Overlay Area	14.3.4.1 P1e bi	Place of assembly	Scale of activity
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.1 P7 b	Bed and breakfast	Residential coherence
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.1 P6 b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.1 P5a, P5b, P5c	Home occupation	Scale of activity Residential coherence Retail
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.1 P9b, P9e, P9f	Pre-schools	Scale of activity Residential coherence
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.1 P11b, P11e, P11f	Veterinary care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.1 P8b, P8e, P8f	Education activity	Scale of activity Residential coherence
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.4 P10b	Health care facility	Scale of activity
Chapter 14 Residential	Residential Banks Peninsula Zone	14.4.2.4 D6b	Retail	Retail/Scale of activity
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1 P6b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence

Chapter	Zone	Activity		Type of Exemption
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1 P5a, P5b, P5c	Home occupation	Scale of activity Residential coherence Retail
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1 P9b, P9d, P9f (i)	Pre-schools	Scale of activity Residential coherence
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1, P10b	Health care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1 P11b, P11f (i), (ii)	Veterinary care facility	Scale of activity Residential coherence
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1 P8b, P8f (i), (ii)	Education activity	Scale of activity Residential coherence
Chapter 14 Residential	Residential New Neighbourhood Zones	14.9.2.1 P24b, P12d, P12f (i)	Place of assembly	Scale of activity Residential coherence
Chapter 14 Residential	Residential New Neighbourhood Zone	14.9.2.3 RD4b	Convenience activities	Retail
Chapter 14 Residential	Residential Hills Zone	14.5.2.1 P10b	Bed and breakfast	Residential coherence
Chapter 14 Residential	Residential Hills Zone	14.5.2.1 P9b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence
Chapter 14 Residential	Residential Hills Zone	14.5.2.1 P8a, P8b, P8c	Home occupation	Scale of activity Residential coherence Retail
Chapter 14 Residential	Residential Large Lot Zone	14.7.2.1 P7b	Bed and breakfast	Residential coherence
Chapter 14 Residential	Residential Large Lot Zone	14.7.2.1 P6b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence

Chapter	Zone	Activity		Type of Exemption
Chapter 14 Residential	Residential Large Lot Zone	14.7.2.1 P5a, P5b, P5c	Home occupation	Scale of activity Residential coherence Retail
Chapter 14 Residential	Residential Small Settlement Zone	14.8.2.1 P6b	Bed and breakfast	Residential coherence
Chapter 14 Residential	Residential Small Settlement Zone	14.8.2.1 P5b	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence
Chapter 14 Residential	Residential Small Settlement Zone	14.8.2.1 P4a, P4b, P4c	Home occupation	Scale of activity Residential coherence Retail

Appendix 9.3.7.4.2 - Central City Heritage Exemptions

The activities within a heritage item or heritage setting shall be exempt from compliance with the rules in other chapters as set out in the table below.

These exemptions shall only apply as long as the protected heritage item remains in the heritage setting or has been granted resource consent for relocation within the same land parcel.

Zone	Activity		Type of Exemption
Central City Business Zone	15.10.1.1 P13b, P13c, P13d, P13e	Residential activity	Outdoor service space Minimum net floor area Outdoor living space
Central City Business Zone	15.10.2.1 a, b	Building setback and continuity	
Central City Business Zone	15.10.2.2	Verandas	
Commercial Local Zone	15.5.1.1 P3	Retail activity excluding supermarket	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P6	Second hand goods outlet	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P7	Commercial services	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P10	Office activity	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P12	Community facility	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P13	Health care facility	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P14	Education activity	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P15	Care facility	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P16	Preschools	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P17	Spiritual facility	Gross Leasable Floor Area
Commercial Local Zone	15.5.1.1 P19c, P19d (i), (ii)	Residential activity	Minimum net floor area Outdoor service space Indoor storage space

Zone	Activity		Type of Exemption
Commercial Local Zone	15.5.1.1 P9	Food and beverage outlet	Gross Leasable Floor Area
Commercial Local Zone	15.5.2.2 b	Street scene	
Central City Living Zone	14.13.2.1 P7	Care of non-resident children within a residential unit in return for monetary payment to the carer	Residential coherence
Central City Living Zone	14.13.2.1 P8	Any non-residential activity up to 40m ² Gross Floor Area (including any area of outdoor storage) that is otherwise not provided for under Rule 14.13.2.1 P9 and P10	Scale of activity Residential coherence
All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.1 d	Car parking maximum area	Car parking
All zones outside the Specific Purpose (Lyttelton Port) Zone	7.4.2.1 e	Car parking dimensions	Car parking

Appendix 9.3.7.5 — Heritage Works Plan

Heritage Works include Reconstruction, Restoration, and Heritage Upgrade Works and may also include Repairs, Maintenance and Heritage Investigative and Temporary Works that are otherwise permitted activities, but are incorporated as part of these other works.

1. Principles

The Heritage Works Plan shall be prepared, and the Heritage Works shall be undertaken, in accordance with the following matters:

- 1.1 The objective and policies of Section 9.3 of the District Plan;
- 1.2 The heritage building is made and kept safe for future occupation in terms of compliance with required seismic standards and Building Act requirements;
- 1.3 The degree of intervention should be kept to a practical minimum;
- 1.4 Traditional methods and materials should be given preference, except where new materials are necessary for reasons of safety, compliance and performance; and
- 1.5 The Heritage Works are for the purpose of facilitating ongoing viable uses of heritage items.

2. The Heritage Works Plan shall:

- 2.1 Include the documentation process to be used to capture a comprehensive photographic record of the heritage item prior to Heritage Works commencing, while they are being undertaken (particularly to record revealed heritage fabric) and once completed.
- 2.2 Contain a description and plans, elevations and cross sections (scope of works) showing those parts of the heritage item which are subject to the Heritage Works. These are to be accompanied by an assessment by the Heritage Professional in regards to the effect on heritage fabric.
- 2.3 Provide a description of the techniques to be used to undertake the Heritage Works described in clause 2.2 above.
- 2.4 Include a Temporary Protection Plan where this is necessary to prevent further damage to the heritage item or damage to the heritage setting, during the Heritage Works.
- 2.5 Identify any special skills required for undertaking the Heritage Works (e.g. stonemasonry, glass, timber).
- 2.6 Where relevant be accompanied by a chartered structural engineer's assessment addressing:
 - the damage;
 - with regard to the effects on heritage fabric, the options considered for undertaking the works; and

- the engineering design documentation for the chosen option.
- 2.7 Specify the timeframe required to complete the Heritage Works, and nominate the Heritage Professional who will be responsible for overseeing the works.

The level of information provided under each of 2.1 – 2.7 shall be commensurate with the nature and scale of the proposed works.

3. Need for further works

- 3.1 The Heritage Works Plan may be amended should investigative works or Building Act requirements lead to the need for additional work or modifications to the Heritage Works Plan as originally submitted. In this case, an amendment to the Heritage Works Plan shall be submitted to the Council.

4. Preparation

- 4.1 The Heritage Works Plan shall be prepared and signed by:
- (i) A Heritage Professional; and
 - (ii) A chartered structural engineer, where any works affect structural elements of the heritage item; and
 - (iii) Where required, any other relevant expert with respect to compliance with other provisions of the Building Act.
- 4.2 For the purposes of clause 4.1(i), a Heritage Professional is defined in Chapter 2 Definitions the Heritage Works Plan shall include confirmation that the Heritage Professional meets the relevant criteria in the Heritage Professional definition, and shall provide evidence of the person's role the projects relied on for the purpose of that definition. The evidence provided must demonstrate that the person's experience in heritage conservation is relevant to the nature of the works and the heritage fabric being considered.

5. Certification

The Council shall certify that the Heritage works plans (or any subsequent amendments) has been prepared in accordance with Clauses 1 – 4 above.

Appendix 9.3.7.6 - Certification of Non-Heritage Fabric

1. Principles

An assessment to confirm fabric is not heritage fabric shall be undertaken in accordance with the following matters:

1.1 An understanding of the heritage significance of the fabric, including within the context of the significance of the heritage item as a whole, shall be established before assessing and identifying non-heritage fabric.

1.2 Identification of non-heritage fabric shall be informed by relevant and recent documentation and through visual inspections.

1.3 The purpose of the documentation and visual inspections is to assist in determining factors such as: evidence of age of the fabric; context; and other relevant information about the item and fabric; new information about the significance of materials/fabric (particularly in the case of interior fabric which is scheduled in the Schedule of Interior Heritage Fabric of that heritage item, within Appendix 9.3.6.7.1).

1.4 Documentary sources include (but are not limited to): conservation plans, conservation reports, detailed heritage assessment reports, resource consent history, building or planning files, architectural plans, photographs, the Statements of Significance of the heritage item.

2. Preparation and documentation to confirm non-heritage fabric

The documentation required to prepare and confirm non-heritage fabric shall include the following:

2.1 Documentary sources consulted and relied upon. As a minimum these shall include any relevant conservation plan, where this is available and the relevant statement of significance.

2.2 The dates of site visit(s) undertaken, (which must include a visit in the period subsequent to any previous modifications of the fabric or area being assessed).

2.3 A record of any second opinion or peer review that has been obtained.

2.4 Confirmation that in the heritage professional's opinion, and having regard to Clauses 1 and 2 above the fabric does not make any contribution to the overall significance of the heritage item. This shall include an explanation of how this opinion has been formed.

3. The confirmation of non-heritage fabric shall be prepared and signed by a Heritage Professional, and shall include: confirmation that the Heritage Professional meets the relevant criteria in the Heritage Professional definition and evidence of the person's role in the projects relied on for the purpose of that definition.

The evidence provided must demonstrate that the person's experience in heritage conservation is relevant to the nature of the heritage fabric being considered.

4. For the purposes of clause 3, a Heritage Professional is defined in Chapter 2 Definitions.

5. Certification

The Council shall certify that the documentation confirming non-heritage fabric is in accordance with Clauses 1 – 4 above.

Chapter 2 Definitions

Alteration of a heritage item

in relation to the heritage provisions in the Natural and Cultural Heritage Chapter means any modification or addition to a heritage item, which impacts on heritage fabric.

Alteration of a heritage item includes:

- a. permanent modification of, addition to, or permanent removal of, exterior or interior heritage fabric which is not decayed or damaged and includes partial demolition of a heritage item;
- b. changes to the existing surface finish and/or materials; and
- c. permanent addition of fabric to the exterior or interior.

In relation to a building, structure or feature which forms part of an open space heritage item, alteration includes:

- d. modifications or additions to buildings, structures or features;
- e. permanent modification or addition to garden or landscaping layout, paths, paving, circulation or on-site access, walk or cycle ways;
- f. earthworks which change the profile of the landform (other than earthworks approved by subdivision consent);
- g. removal or transplanting of mature trees, unless the tree is dead;
- h. in relation to cemeteries, new planting on, or immediately adjoining, plots;
- i. new buildings, structures or features; and

alteration of a heritage item excludes maintenance, repairs, restoration, heritage upgrade works, heritage investigative and temporary works, and reconstruction new or replacement headstones, plaques or panels in church graveyards and cemeteries other than closed cemeteries.

Deconstruction

in relation to a heritage item, means to carefully dismantle a building or features in such a way that the deconstructed materials may be later used in reconstruction and or restoration.

Demolition

in relation to a heritage item, means permanent destruction in whole, or of a substantial part which results in the complete or significant loss of the heritage form and fabric.

Heritage area

means an area of land that is identified in the Schedule of Heritage Areas in Appendix 9.3.7.3 because it comprises an inter-related group of historic places, buildings, structures and/or sites that make a significant contribution towards an understanding and appreciation of the district's history and cultures.

Heritage fabric

in relation to the heritage provisions in the Natural and Cultural Heritage Chapter means any physical aspect of a heritage item or heritage setting, which contributes to its heritage values, and in the case of the interior of a heritage item, heritage fabric includes only that heritage fabric which is scheduled in the Appendix 9.3.7.2 for that heritage item. Heritage fabric includes:

- a. original and later material and detailing which forms part of, or is attached to, the interior or exterior of a building, structure or feature;
- b. the patina of age resulting from the weathering and wear of construction material over time;
- c. fixtures and fittings that form part of the design or significance of a heritage item, but excludes inbuilt museum and artwork exhibitions and displays
- d. for open space heritage items, built or non-built elements independent of buildings, structures or features, such as historic paths, paving and garden layout.

Heritage fabric excludes fabric certified in accordance with Appendix 9.3.7.6.

Heritage investigative and temporary works

in relation to a heritage item, means temporary removal, recording, storage and reinstatement of undamaged heritage fabric where necessary for associated works to the heritage item, and may include:

- a. temporary removal for investigation of building condition and determining the scope of works; and
- b. temporary removal of heritage fabric where the heritage fabric cannot be satisfactorily protected in situ; and
- c. core drilling.

Heritage item

means an entry in the Schedule of Significant Historic Heritage in Appendix 9.3.7.2 which has met the significance threshold for listing in the District Plan. Heritage items can be:

- a. a building, buildings or group of interrelated buildings;
- b. a structure or feature such as a bridge, monument, gun emplacement, whale pot or lamp stand; and
- c. an open space such as a square, park, garden, or cemetery

Heritage professional

in relation to Rule 9.3.4 and Appendices 9.3.7.5 and 9.3.7.6, heritage professional means:

- a. a registered architect with a recognised post-graduate qualification in a field related to heritage conservation or management and at least three years of experience, including experience on at least three projects where he/she has acted as the principal heritage advisor for works involving a heritage building listed by Heritage New Zealand, and/or in a District Plan; and/or
- b. a person with a degree or with a recognised post-graduate qualification in a field related to heritage conservation or management, and at least five years of experience in heritage conservation or management, and including experience on at least five projects where he/she has acted as a principal heritage advisor for works involving a heritage building listed by Heritage New Zealand and/or in a District Plan.

Heritage setting

means an entry in the Schedule of Significant Historic Heritage in Appendix 9.3.7.2 which has met the significance threshold for listing in the District Plan. A heritage setting is the area around and adjacent to a heritage item that is integral to its function, meaning and relationships and may include individually listed heritage items. Heritage settings include:

- a. buildings;
- b. structures or features, such as fences, walls and gates, bridges, monuments, gun emplacements, whale pots, lamp stands and public artworks;
- c. gardens, lawns, mature trees and landscaping, water features, historic landforms; access, walk and cycle ways, circulation, paths and paving;
- d. open space; and
- e. spatial relationships.

Heritage upgrade works

in relation to a heritage item or heritage setting, means works undertaken to satisfy or increase compliance with Building Act 2004 and Building Code requirements. Heritage upgrade works may include:

- a. structural seismic upgrades, core sample drilling, shifting off foundations or permanent realignment of foundations;
- b. fire protection; and
- c. provision of access, and
- d. temporary relocation of a heritage item to allow for ground, foundation and retaining wall remediation.

It excludes building code upgrade works undertaken as part of repairs, reconstruction or restoration.

Heritage values

means the following tangible and intangible attributes which contribute to the significance of a heritage item and its heritage setting:

- a. historical and social values;
- b. cultural and spiritual values;
- c. architectural and aesthetic values;
- d. contextual values;
- e. technological and craftsmanship values; and
- f. archaeological and scientific values.

Historic heritage

Has the same meaning as in s 2 of the Resource Management Act 1991

- a. means those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:
 - i. archaeological:
 - ii. architectural:
 - iii. cultural:
 - iv. historic:
 - v. scientific:
 - vi. technological; and
- b. includes:
 - i. historic sites, structures, places, and areas; and
 - ii. archaeological sites; and
 - iii. sites of significance to Māori, including wāhi tapu; and
 - iv. surroundings associated with the natural and physical resources.

Maintenance

in relation to a heritage item or heritage setting, means regular and ongoing protective care of the item or setting to prevent deterioration and to retain its heritage value. Maintenance includes the following, where there is no permanent damage or loss of heritage fabric:

- a. cleaning, washing or repainting exterior or interior fabric using a method which does not damage the surface of the heritage fabric;
- b. reinstating existing exterior or interior surface treatments;
- c. temporary erection of freestanding scaffolding;
- d. laying underground services and relaying paved surfaces to the same footprint;
- e. upkeep of gardens, including pruning of trees, pruning or removal of shrubs and planting of new trees or shrubs (except planting within, or adjoining, plots within cemeteries); and
- f. in relation to crematoria and cemeteries, maintenance also includes protective care and routine works to enable their ordinary functioning, such as temporary and reversible modifications or additions to buildings; installation of plaques; restoration, repair and reinstatement of monuments; and soil disturbance for burials and interment of ashes.

Partial demolition

in relation to a heritage item, means the permanent destruction of part which does not result in the complete or significant loss of the heritage form and fabric which makes the heritage item significant.

Reconstruction

in relation to a heritage item or heritage setting, means to rebuild part of a building, structure or feature which has been lost or damaged, as closely as possible to a documented earlier form and using mainly new materials. Reconstruction includes deconstruction for the purposes of reconstruction, and may also include Building Code upgrades which may be needed to meet relevant standards as part of the reconstruction.

Relocation of a heritage item

in relation to a heritage item or heritage setting, means permanently moving part or all of a structure either within or beyond the heritage setting. Relocation of a heritage item excludes temporary lifting or shifting of a heritage item off its foundations, or permanent realignment of foundations of a heritage item where this is required for heritage upgrade works.

Repairs

in relation to a heritage item or heritage setting, means to replace or mend in situ decayed or damaged heritage fabric, using materials (including identical, closely similar or otherwise appropriate material) which resemble the form, appearance and profile of the heritage fabric as closely as possible. Repairs include temporary securing of heritage fabric for purposes such as making a structure safe or weathertight and Building Code upgrades which may be needed to meet relevant standards, as part of the repairs.

Restoration

in relation to a heritage item or heritage setting, means to return the item or setting to a known earlier form, using mainly existing materials, by reassembly and reinstatement, and may include removal of heritage fabric that detracts from its heritage value and Building Code upgrades which may be needed to meet relevant standards, as part of the restored area. Restoration includes deconstruction for the purposes of restoration.

SCHEDULE 2**Counsel appearances**

Mr M Conway, Ms M Jagusch, Mr Z Fargher, Ms C Coyle and Mr W Bangma	Christchurch City Council
Mr P Radich QC, Mr C Carranceja and Ms E Moore	Crown
Mr D Pedley	Arts Centre of Christchurch Trust Board
Mr E Chapman and Mr R Webster	Brent Thomas, Willesden Farms Limited, Wongan Hills Limited
Ms P Steven QC	Canterbury Cricket Association Inc
Mr D Pedley	Canterbury Museum Trust Board
Ms M Mehlhopt	Canterbury Regional Council
Ms H Marks	Carter Group Limited
Mr H van der Wal	Ceres NZ The Christchurch Civic Trust and Others The Great Christchurch Building Trust
Mr M Christensen	Christchurch Gondola
Mr J Johnson and Ms L de Latour	Church Property Trustees (Christchurch Cathedral)
Mr T Hughes-Johnson QC	Church Property Trustees (site-specific heritage items)
Mr R Gardner	Federated Farmers of New Zealand
Ms A Limmer	Fulton Hogan Limited Isaac Conservation and Wildlife Trust N&T Tyler
Mr B Burke	Graeme and Joy McVicar

Ms J Appleyard, Mr B Williams
and Ms E Ellis

Greg & Mia Gaba

Tailorspace Property Limited

The Roman Catholic Bishop of the Diocese of
Christchurch

The Roman Catholic Bishop of the Diocese of
Christchurch, Alpine Presbytery and Church Property
Trustees

Ms G Baumann

Heritage New Zealand Pouhere Taonga

Mr A Schulte

Michael Bayley

Mr D van Mierlo, Ms J Walsh
and Mr J Leckie

Ngāi Tahu

Ms M Nichol

Orion New Zealand Limited

Mr H Cuthbert

Rosemary Lyon

Mr P Anderson

Royal Forest and Bird Protection Society of NZ

Ms J Crawford and Ms E Osborne

Silver Fern Farms

Mr G Cleary

The Radford Family

Mr A Beatson and Ms N Garvan

Transpower New Zealand

SCHEDULE 3

Table of submitters

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

Submitter Name	No.	Person	Expertise or Role of Witness	Filed/Appeared
Christchurch City Council	3723	Dr C Appleton	Ecologist	Filed/Appeared
		P Barnes	Open Space planner	Filed
		H Beaumont	Natural environment and heritage manager	Filed/Appeared
		W Blake	Valuer	Filed/Appeared
		A Crossland	Ornithologist	Filed
		Dr J Fairgray	Economist	Filed/Appeared
		S Ferguson	Planner	Filed/Appeared
		J Gillies	Conservation architect	Filed/Appeared
		R Graham	Arborist	Filed/Appeared
		D Hogan	Planner	Filed/Appeared
		Dr S Hooson	Ecologist	Filed/Appeared
		S Jenkin	Planner	Filed/Appeared
		A Long	Planner	Filed/Appeared
		Dr B Margetts	Waterway ecologist	Filed
		A Marriott	Heritage engineer	Filed/Appeared
		A Matheson	Planner	Filed/Appeared
		J May	Architectural historian	Filed/Appeared
		Dr A McEwan	Heritage	Filed/Appeared
		J Moore	Landscape architect	Filed
		A Ohs	Heritage advisor	Filed/Appeared
		Dr T Partridge	Botanist	Filed
		C Pauling	Planner	Filed/Appeared
		Y Pflüger	Landscape architect	Filed/Appeared
		C Rachlin	Planner	Filed/Appeared
		E Sard	Arborist	Filed
		Dr A Shadbolt	Landscape architect/ecologist	Filed/Appeared
		G Stanley	Quantity surveyor	Filed/Appeared
		M Stevenson	Planner	Filed/Appeared
		F Wykes	Heritage advisor	Filed/Appeared
Crown	3721	I Bowman	Conservation architect	Filed/Appeared
		A Cameron	Planner	Filed/Appeared
		J Cumberpatch	Earthquake recovery	Filed/Appeared

Submitter Name	No.	Person	Expertise or Role of Witness	Filed/Appeared
		N Head	Terrestrial ecologist	Filed/Appeared
		S McIntyre	Planner	Filed/Appeared
		P Rough	Landscape architect	Filed/Appeared
		A Spencer	Ecologist	Filed/Appeared
Chris Abbott	904	C Abbott		Filed
Sarah Harnett	3018	S Harnett		Appeared
Kathleen Clinton	3039	K Clinton		Appeared
Maree & Chris Johnston	3045	C & M Johnston		Filed/Appeared
Diamond Harbour Community Association	3090	R Suggate		Appeared
Christs College	3212	C Sweetman		Appeared
Faye and Ron Sedgley	3215	J Rea		Filed/Appeared
Barbara Stewart	3270	Barbara, Lady Stewart		Filed/Appeared
The Arts Centre of Christchurch Trust Board	3275	A Lovatt		Filed/Appeared
		D Pearson	Conservation architect	Filed/Appeared
		G Taylor	Planner	Filed/Appeared
Restore Christchurch Cathedral Group Inc	3279	D Collins		Appeared
		Prof I Lochhead	Architectural historian	Filed/Appeared
Tapper Family Trust	3284	HJ Tapper		Filed
Michael Bayley	3285	M Bayley		Filed/Appeared
Te Wharau Investments Limited	3290	J May	Architectural historian	Filed
Brian Hutchinson	3293	B Hutchison	Farmer	Filed/Appeared
Ceres New Zealand Limited	3334	B de Vere		Filed
Girl Guiding New Zealand	3346	K Hilton		Filed
Canterbury Museum Trust Board	3351	J May	Architectural historian	Filed/Appeared
		G Taylor	Planner	Filed/Appeared
		A Wright		Filed/Appeared
Martin Stanbury	3381	M Stanbury		Appeared
Richard Schneideman Investment Trust	3397	D Morel	Construction	Filed
		R Schneideman		Filed
"The Utilities Group"	Various	M McCallum-Clark	Planner	Filed
Mark Belton	3410	M Belton		Filed/Appeared
College House	3420	A Bruce	Architect	Filed/Appeared
Rod Donald Banks Peninsula Trust	3469	J Cook		Filed/Appeared
		K Thompson		Filed/Appeared
Fulton Hogan Limited	3482	D Chrystal	Planner	Filed/Appeared
		S Miller	Arborist	Filed
		Dr J Roper-Lindsay	Ecologist	Filed/Appeared
Transpower New Zealand Limited	3494	A McLeod	Planner	Filed/Appeared

Submitter Name	No.	Person	Expertise or Role of Witness	Filed/Appeared
Taylors Mistake Association	3525	D Hill		Filed
The Great Christchurch Buildings Trust	3558	H Anderton		Filed/Appeared
		Prof I Lochhead	Architectural historian	Filed/Appeared
David Brailsford & Jan Cook	3596	J Cook		Filed/Appeared
John Thornton	3600	J Thornton	Arborist	Filed/Appeared
Rik Tindall on behalf of Cashmere Residents' Association	3601	R Tindall		Filed/Appeared
Carter Group Limited	3602	P Carter		Filed/Appeared
		J May	Architectural historian	Filed
		J Phillips	Planner	Filed/Appeared
Church Property Trustees	3610	D Doherr	Quantity surveyor	Filed/Appeared
		H Hare	Engineer	Filed/Appeared
		G Holley		Filed
Graeme and Joy McVicar	3613	J Head	Landscape architect	Filed
Royal Forest & Bird Protection Society of New Zealand Inc	3614	M Davis	Ecologist	Filed/Appeared
The Isaac Conservation & Wildlife Trust	3616	B Rule		Filed/Appeared
		K Seaton	Planner	Filed/Appeared
The Radford Family	3622	F Aston	Planner	Filed/Appeared
Rosemary Lyon	3625	R Lyon		Filed/Appeared
Akaroa Civic Trust	3627	J Cook		Filed/Appeared
		Dr J Wilson	Historian	Filed/Appeared
Walter Fielding-Cotterell	3628	W Fielding-Cotterell	Arborist	Filed/Appeared
Canterbury Regional Council	3629	A Parrish	Planner	Filed/Appeared
Riccarton/Wigram Community Board	3637	M Mora		Appeared
Greg & Mia Gaba	3639	M Bonis	Planner	Filed/Appeared
		B Gilmore	Engineer	Filed/Appeared
Lindsay Carswell	3641	WL Carswell		Filed
Michael Ostash	3661	M Ostash	Arborist	Filed/Appeared
The Spreydon/Heathcote Community Board	3664	P McMahon		Appeared
Suky Thompson	3665	KS Thompson		Filed/Appeared
The Roman Catholic Bishop of the Diocese of Chch and Alpine Presbytery, Church Property Trustees	3670	W Clark	Engineer	Filed/Appeared
		B Nixon	Planner	Filed/Appeared
		R Hardy	Planner	Filed/Appeared
		L Kimberley		Filed
		D Pearson	Conservation architect	Filed/Appeared
		S Price		Filed/Appeared
		M Copeland	Economist	Filed/Appeared
The Elmwood Club	3682	M Gow		Appeared

Submitter Name	No.	Person	Expertise or Role of Witness	Filed/Appeared
The Roman Catholic Bishop of the Diocese of Christchurch	3692	K Beal		Filed/Appeared
		M Halliday	Engineer	Filed/Appeared
		C Kerrigan	Archaeologist	Filed
		J Mace	Quantity surveyor	Filed/Appeared
The University of Canterbury Canterbury Polytechnic Institute of Technology	3694 3274	P Lemon	Planner	Filed
Brent Thomas, Willesden Farms Ltd, Wangan Hills Limited	3698	B Thomas	Planner	Filed/Appeared
Christchurch Civic Trust Inc	3700	B Cadwallader	Arborist	Filed/Appeared
		H Lowe	Planner	Filed/Appeared
		D Lucas	Landscape architect	Filed/Appeared
		M Belton		Filed/Appeared
Eliot Sinclair and Partners Ltd	3701	W Haynes		Appeared
		C McKeever	Planner	Filed/Appeared
Federated Farmers of New Zealand	3702	E Aitken		Filed
		C Chamberlain		Appeared
		H & A Crow		Filed/Appeared
		F Helps		Filed/Appeared
		P Helps		Filed/Appeared
		F Mackenzie		Filed/Appeared
		RM Manson		Filed/Appeared
		K Reilly		Filed/Appeared
		P & I Richardson		Filed/Appeared
The Tait Foundation and Tait Limited	3707	D Cawte	Heritage	Filed
		K Morrison	Lawyer	Filed
		C Patient		Filed
		G Sellars	Valuer	Filed
		D Wade		Filed
Hands off Hagley Inc.	3711	S Williams		Filed/Appeared
Silver Fern Farms	3712	F Aston	Planner	Filed/Appeared
Lyttelton/Mt Herbert Community Board	3716	P Smith		Appeared
Tailorspace Property Limited	3718	S Ansley	Valuer	Filed/Appeared
		C Armitage	Corporate finance	Filed/Appeared
		M Bonis	Planner	Filed/Appeared
		M Copeland	Economist	Filed/Appeared
		C Oldfield	Engineer	Filed/Appeared
		K Pomeroy	Quantity surveyor	Filed/Appeared
		GW Taylor		Filed/Appeared
		B Vincent		Filed

Submitter Name	No.	Person	Expertise or Role of Witness	Filed/Appeared
Orion New Zealand Limited	3720	A Craig	Landscape architect	Filed
		C Kelly	Architect	Filed
		P Lemon	Planner	Filed
		S Watson	Engineer and asset manager	Filed
Te Rūnanga o Ngāi Tahu	3722	I Cranwell	Cultural (Ngāi Tahu)	Filed
		M Dale	Freshwater ecologist	Filed
		K Davis	Environmental advisor	Filed/Appeared
		Y Legarth	Planner	Filed/Appeared
		L Murchison	Planner	Filed/Appeared
		T Stevens	Planner	Filed/Appeared
		G Tikao	Cultural (Ngāi Tahu)	Filed/Appeared
Christian Jordan	3955	C Jordan		Filed/Appeared
Malcolm Hattaway and Keri Whitiri	3963	K Whitiri and M Hattaway		Appeared
Annette Wilkes and Diana Madgin	3974	A Wilkes		Filed/Appeared
Penny Hargreaves	3979	P Hargreaves		Appeared
The Christchurch Gondola Limited	4000	N Smetham	Landscape architect	Filed
Penny Wenlock	4002	P Wenlock		Appeared
Heritage New Zealand	5029	R Burgess	Heritage advisor	Filed/Appeared
		D Margetts	Heritage architect	Filed/Appeared
		M Vincent	Heritage planner	Filed/Appeared
Errol Hadfield	5076	E Hadfield		Filed/Appeared
Llewyn Davis	5078	L Davis		Appeared
Boltbox Limited	5080	S Newby		Appeared
Raymond Winter	5082	R Winter		Appeared

SCHEDULE 4

Agreed changes to Appendix 9.3.7.2

ADDITION TO SCHEDULE

Address	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. Add in accordance with:
270 Barrington Street	Barrington Park Gates	1377	N/A	Significant	3601 Cashmere Residents Assn	Amanda Ohs Supplementary Evidence, 4 April 2016, at 4.3
79 Carmen Road	Former Stoneyhurst / Hornby Lodge and setting	1370	635	Significant	3643 Li Jun Xue	Amanda Ohs. EIC, Appendix AD.
71 Domain Terrace	Coronation Hall	1376	641	Significant	3601 Cashmere Residents Assn	Amanda Ohs, Supplementary Evidence, 4 April 2016, at 5.5
8 Governors Bay - Teddington Road	Former Vicarage and Setting, St Cuthbert's	1375	640	Significant	3670 Church Property Trustees and 3633 Dr Ian and Dr Lynne Lochhead 3675 Historic Places Canterbury	Closing legal submissions for CPT, 10 June 2016, Schedule A, page 6.
2 Norwich Quay	Commercial building and Setting	1372	637	Significant	3615 Jenny Betts	Amanda Ohs, EIC, Appendix AB.
51 Radley Street	Dwelling	1371	636	Significant	3260 Anthony and Maria Johnson	Fiona Wykes, EIC, at 12.9.
2 Summit Road	Godley Head Battery and associated camp and Setting	1373	638	Highly Significant	3675 Historic Places Canterbury	Amanda Ohs, EIC, Appendix AF.
1 Taylors Mistake Bay	Bach and Setting	1393	643	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G.
2 Taylors Mistake Bay	Bach and Setting	1392	643	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
6 Taylors Mistake Bay	Bach and Setting	1391	643	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G

Address	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. Add in accordance with:
28 Taylors Mistake Bay	Bach and Setting	1390	644	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
30 Taylors Mistake Bay	Bach and Setting	1389	644	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
31 Taylors Mistake Bay	Bach and Setting	1388	644	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
32 Taylors Mistake Bay	Bach and Setting	1387	644	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
33 Taylors Mistake Bay	Bach and Setting	1386	644	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
47 Taylors Mistake Bay	Bach and Setting	1385	644	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
49 Taylors Mistake Bay	Bach and Setting	1384	645	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
56 Taylors Mistake Bay	Bach and Setting	1383	645	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
57 Taylors Mistake Bay	Bach and Setting	1382	645	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
59 Taylors Mistake Bay	Bach and Setting	1381	645	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G
68 Taylors Mistake Bay	Bach and Setting	1380	645	Significant	3525 Taylors Mistake Association and others	Closing legal submissions for CCC, Appendix G

AMEND ITEM DESCRIPTION

Address	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. Amend in accordance with:
145 Gloucester Street	Theatre Royal, including all of that part of the building south of the proscenium arch but excluding the new part of the building on the eastern side of the seismic wall, and setting	222	331	Highly Significant	3633 Lochhead FS5072 Theatre Royal Foundation	Amend Item description to identify parts in accordance with Amanda Ohs, EIC at 12.2.
39 Kahu Road	Christchurch Boys' High School Main Building and Setting	506	214	Highly Significant	3234 and 3235 Christchurch Boys' High School	Amend Item description to remove some elements of Main Block in accordance with Fiona Wykes, EIC at 11.2 and Appendix O
231 Old Sumner - Lyttelton Road	Battery Point Battery	1129	N/A	Highly Significant	3323 Lyttelton Port Company	Amend Item description in accordance with Amanda Ohs, Appendix T.
5 Cracroft Terrace	St Augustine's Anglican Church and Setting (excluding the basement)	156	312	Significant	3670 Church Property Trustees	Memorandum of Counsel for CCC, 15 February 2016. Item description to exclude basement, Hannan Hall, Hannan Centre.

AMEND LISTING CATEGORY

Address	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. Amend in accordance with:
663 Main North Road	Dwelling and setting, Belfast School Master's House	352	614	Highly Significant	3633 Lochhead	Amanda Ohs, EIC, at 10.1.
100 Waimairi Road	College House Principal's Lodge and Setting	534	194	Significant	3420 College House	Amanda Ohs, EIC, at 11.4.
100 Waimairi Road	College House Office, Foyer, Accommodation Block and Setting	1336	194	Significant	3420 College House	Amanda Ohs, EIC, at 11.4.

AMEND SETTING

Address	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. Amend setting in accordance with:
30 Acacia Avenue	Former Dwelling and Setting, Middleton	27	200	Significant	3025 Lawrence John Allpress	Amanda Ohs, EIC, at 12.38. Remove 47B Arthur Street.
16 Aubrey Street South	Dwelling and Setting (note the setting on the north east side of the building ends at the concrete retaining wall on that side)	1037	42	Significant	3626 Rosemary Lyon	Closing submissions for Rosemary Lyon, 10 June 2016, at 2.1 and Closing submissions for CCC, 17 June 2016, at 2.2(f).
66H Clarence Street	Former Addington Railway Workshops Water Tower and Setting	96	222	Highly Significant	3626 Ngāi Tahu Property Limited	Amanda Ohs, EIC, at 12.30, Appendix U.
71 Corsair Drive	Former RNZAF Station Wigram Instructional Building/Control Tower and Setting	628	184	Highly Significant	3626 Ngāi Tahu Property Limited	Amanda Ohs, EIC, at 12.31, Appendix V.
8 Governors Bay - Teddington Road	St Cuthbert's Church and Setting	674	179	Highly Significant	3670 Church Property Trustees and 3675 Historic Places Canterbury	Amanda Ohs, Rebuttal, Appendix H.
50 Hawke Street	St Faith's Church and Setting	239	468	Highly Significant	3670 Church Property Trustees	Amanda Ohs, Rebuttal, Appendix G.
59 Hewitts Road	Former Dwelling and Setting, Te Koraha	270	240	Highly Significant	3697 Rangi Ruru	Amanda Ohs, Rebuttal, Appendix M and Correction to Spelling
90 Ilam Road	Former Dwelling and Setting, Okeover	300	201	Significant	3694 University of Canterbury	Amanda Ohs, Rebuttal, Appendix N.
248 Manchester Street	Former Church of St Luke the Evangelist Bell Tower and Setting.	1290	344	Significant	3670 Church Property Trustees	Closing legal submissions on behalf of CPT, 10 June 2016, Schedule A, page 2.

Address	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. Amend setting in accordance with:
387 Manchester Street	Former Dwelling and Setting, Holly Lea/McLean's Mansion	373	332	Highly Significant	3233 Peterborough Village and 3668 Rochfort Group	Amanda Ohs, EIC, at 12.11, Appendix N.
35 Mustang Avenue	Former RNZAF Station Wigram Hangar 4 and Setting	1306	184	Highly Significant	3626 Ngāi Tahu Property Limited	Amanda Ohs, EIC, at 12.31, Appendix V
35 Mustang Avenue	Former RNZAF Station Wigram Hangar 5 and Setting	629	184	Highly Significant	3626 Ngāi Tahu Property Limited	Amanda Ohs, EIC, at 12.31, Appendix V
1131 Okains Bay Road	St John the Evangelist Church and Setting	715	144	Highly Significant	3670 Church Property Trustees	Amanda Ohs, Rebuttal, Appendix I.
6 Peartree Lane	Dwelling and Setting, Glenmore	449	395	Significant	4002 Penelope Wenlock	Closing submissions for CCC, 17 June 2016, at 2.2 (j)..
65 Riccarton Road	St James' Church and Setting	465	220	Highly Significant	3670 Church Property Trustees	Amanda Ohs, Rebuttal, Appendix F.
30 Sullivan Avenue	Former Girls' Training Hostel and Setting	1366	632	Significant	3277 CPIT	Amanda Ohs, EIC, Appendix M.
200 Tuam Street	Commercial Building and Setting, Lawrie and Wilson Auctioneers	514	378	Significant	3721 CERA	Amanda Ohs, EIC, 12.41, Appendix Z.
214 Tuam Street	Former Tuam Street Hall and Setting	515	606	Significant	3721 CERA	Amanda, Ohs EIC, 12.41 Appendix Z

NO CHANGE

Street	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. No change in accordance with:
99 Cathedral Square	Cathedral Square and Setting	98	553	Highly Significant	3633 Dr Ian and Dr Lynne Lochhead, 3700 Christchurch Civic Trust and Others and Carter Group 3602	Amanda Ohs, EIC, at 12.1.
243 Durham Street South	St Michael's School Hall and Setting	169	307	Highly Significant	3670 Church Property Trustees	Closing legal submissions on behalf of CPT, 10 June 2016, Schedule A
243 Durham Street South	St. Michael and All Angels Church & Setting	410	307	Highly Significant	3670 Church Property Trustees	Closing legal submissions on behalf of CPT, 10 June 2016, Schedule A
83 Heaton Street	Elmwood Park	243	N/A	Significant	3682 and FS5019 Elmwood Park Inc	Closing legal submissions for CCC, 17 June 2016, at 2.2(e). Correction to exclude 83D Heaton Street.
20 Mona Vale Avenue	Dwelling and Setting	384	224	Significant	3154 David Owens	Submission withdrawn.
389 Onuku Road	Karaweko and Setting	1174	152	Highly Significant	3721 Te rūnanga o Ngāi Tahu	Amanda Ohs, EIC, 9.25.
392 Onuku Road	Te Whare Karakia o Ōnuku and Setting	683	500	Significant	3721 Te rūnanga o Ngāi Tahu	Amanda Ohs, EIC, 9.25.
165 Racecourse Road	Riccarton Racecourse Public Grandstand and Setting	453	183	Highly Significant	3414 Canterbury Jockey Club	No Change to listing. CCC closing submissions Appendix G
165 Racecourse Road	Riccarton Racecourse Tea House and Setting	452	183	Highly Significant	3414 Canterbury Jockey Club	No Change to listing. CCC closing submissions Appendix G
41 Ranfurly Street	Dwelling and Setting	454	452	Significant	3486 N and T Tyler	No Change in accordance with CCC closing submissions, Appendix G.

Street	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated direction. No change in accordance with:
100 Waimairi Road	College House Chapel and Setting	1338	194	Highly Significant	3420 College House	No change in accordance with Amanda Ohs, EIC, at 11.4.
100 Waimairi Road	College House Courtyard and setting	1342	194	Highly Significant	3420 College House	No change in accordance with, Amanda Ohs, EIC, 11.4.

REMOVE FROM SCHEDULE

Street	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated directions. Remove from Appendix 9.3.7.2 in accordance with:
217 Armagh Street	Former dwelling and setting	44	362	Significant	Girl Guiding NZ (3346)	Amanda Gillies, EIC, at 7.58-7.63
971 Chorlton Road	Dwelling and setting	699	155	Significant	Hamish and Annabel Craw and Longridge Agriculture Limited (3242)	Fiona Wykes, EIC, at 10.18
3 Clifton Bay	Dwelling and Setting	125	409	Significant	N/A	Memorandum of Counsel for CCC, 9 September 2016.
48A Fendalton Road	Dwelling and setting, Lismore Lodge	181	225	Significant	Richard Schneideman Investment Trust 3397	Closing submissions for CCC, Appendix G.
25 Helmores	Dwelling and setting	253	231	Significant	Gaba 3639	Closing submissions for CCC, 17 June 2016, at 2.2(d).
228 Kilmore Street	Commercial Building and Setting	316	367	Significant	3723 and FS5025 Susan Stagg and Michael Rucse	Amanda Ohs, EIC, at 12.33
58 Old Taitapu Road	Lansdown Stables	1363	629	Significant	Trevor Burt and Fiona Glassy (3647) and Heritage NZ	Amanda Ohs, EIC, at 9.13-9.18.
8 Rue Grehan	Dwelling and setting	1191	102	Significant	Milnes Family Trust (3994)	Fiona Wykes, EIC, 10.45-10.47.
5 St Barnabas Lane	5 and 7 St Barnabas Lane	189	211	Significant	Richard Peebles (3723)	Amanda Ohs, EIC, at 12.34 to remove 7 St Barnabas Lane
78 Starvation Gully Road	Brookshaw	1229	540	Significant	R and L Holloway (3214)	Fiona Wykes, EIC, at 10.24-10.29
78 Starvation Gully Road	Goodwin Seed Store	685	541	Significant	Holloway 3214	Closing submissions for CCC, Appendix G.

Street	Description and/or Name	Heritage Item Number	Heritage Setting Number	Group	Submitter(s)	Decision and associated directions. Remove from Appendix 9.3.7.2 in accordance with:
558 Wairakei Road	Former Millers factory building	1347	593	Highly Significant	3707 Tait Foundation and Tait Limited, 3634 Manufacturers and Exporters Association	Joint Memorandum of Counsel, 11 December 2015.