

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: 29 September 2015

Date of decision: 22 December 2015

Hearing Panel: Hon Sir John Hansen (Chair), Dr Philip Mitchell, Mr John Illingsworth

DECISION 12

**TRANSPORT (PART)
(AND RELEVANT DEFINITIONS)**

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

COUNSEL APPEARANCES

Ms S Scott and Ms A Sinclair

Christchurch City Council

Ms F Wedde

Crown

Ms A Arthur-Young

KiwiRail Holdings Limited

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INTRODUCTION

[1] This decision (‘decision’) continues the series of decisions made by the Independent Hearings Panel (‘Hearings Panel’/‘Panel’) concerning the formulation of a replacement district plan for Christchurch City (including Banks Peninsula) (‘Replacement Plan’/‘Plan’).¹

[2] This decision concerns Chapter 7 Transport (Part) and is our second decision on this chapter.²

[3] In this decision, the phrase ‘Notified Version’ describes the version notified by the Christchurch City Council (‘Council’) and to which, subsequent to consideration of submissions, conferencing and mediation between the Council and submitters, a number of changes were made. This was then ultimately produced by the Council through the rebuttal evidence of Mr David Falconer as a red-line version (‘Revised Notified Version’).³

[4] Where we refer to ‘Decision Version’, it is our redrafting of the Revised Notified Version, as set out in Schedule 1, which will become operative upon release of this decision and the expiry of the appeal period.

[5] This decision follows our hearing and consideration of submissions and evidence. Further background on the review process, pursuant to the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (‘the OIC’) is set out in the introduction to Decision 1, concerning Strategic Directions and Strategic Outcomes (and relevant definitions) (‘Strategic Directions decision’).⁴

Effect of decision and rights of appeal

[6] Our proceedings and the rights of appeal are set out in our earlier decisions.⁵ We concur in those.

¹ The Panel members are Hon Sir John Hansen (Chairperson), Dr Philip Mitchell, John Illingsworth.

² The first being Decision 7, dated 7 August 2015.

³ Rebuttal evidence of David Ian Falconer, 21 September 2015.

⁴ Strategic directions and strategic outcomes (and relevant definitions), 26 February 2015.

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

Identification of parts of existing district plans to be replaced

[7] The OIC requires that our decision also identifies the parts of the existing district plans that are to be replaced by the Transport Chapter.⁶

[8] The reasons for our decision follow the Preliminary Matters section.

PRELIMINARY MATTERS

Conflicts of interest

[9] We have posted notice of any potential conflicts of interest on the Independent Hearings Panel website.⁷ No submitter raised any issue in relation to this.

Zoning of roads

[10] As noted in the Council's opening legal submissions, when the Stage 1 proposals were notified, the zoning of roads (as shown on the planning maps) assumed the adjacent zoning.⁸ Previously, in the operative City Plan, these corridors were primarily zoned Special Purpose (Road), Special Purpose (Rail) and Special Purpose (Pedestrian Precinct) zones. In Stage 2, the Council sought to consolidate the transport-related zones from the operative City Plan into one 'Transport Zone'. The Council sought and was granted a direction from the Hearings Panel that all legal roads on the Stage 1 planning maps be excluded from the Panel's Stage 1 decisions and instead be decided on following the Stage 2 Transport hearing.⁹ As such, consideration of the zoning of roads forms part of this decision.

Submissions relating to the Lyttelton Farmers Market

[11] Submission on the Stage 1 Commercial Proposal relating to the Lyttelton Farmers Market (Rule 15.5.2.1 P17 & P18 and Appendix 15.9.10 — Lyttelton master plan overlay area) were deferred from the Stage 1 Commercial and Industrial proposals hearing, to be

⁶ We have done so in Schedule 3.

⁷ The website address is www.chchplan.ihp.govt.nz.

⁸ Opening legal submissions for the Council at para 2.1.

⁹ Christchurch City Council's application to set aside land from Stage 1 proposals, 17 June 2015, granted 26 June 2015.

heard and considered as part of this Stage 2 Transport decision.¹⁰ Our consideration and determination of this matter is set out at [62]–[65] of this decision.

Zoning of land between Lyttelton Harbour and Church land

[12] The Council also sought that the decision on the zoning of land between Lyttelton Harbour and Church land, shown on Map 60, be deferred to the Open Space Hearing.¹¹ As such, we have not considered it as part of this decision and deferred it accordingly.

Mr Ireland's submission

[13] As per our minute of 28 September 2015, we also record that we have considered the written statement of Mr Ireland (submitter 2584) when making our decision on this proposal.¹²

¹⁰ Memorandum of counsel for Council, 4 April 2015 at para 6. Approved in Panel Minute, 23 April 2015. Refer also Transport (Stage 2) Pre-hearing Report and Directions at para 3.

¹¹ Transcript, page 27. Closing legal submissions for the Crown at paras 32–32.

¹² Minute re Ireland (submitter 2584), 28 September 2015.

REASONS

STATUTORY FRAMEWORK

[14] The OIC directs that we hold a hearing on submissions on a proposal and make a decision on that proposal.¹³

[15] It sets out what we must and may consider in making that decision.¹⁴ It qualifies how the Resource Management Act 1991 (‘RMA’) is to apply, and modifies some of the RMA’s provisions, as to both our decision-making criteria and processes.¹⁵ It directs us to comply with s 23 of the Canterbury Earthquake Recovery Act 2011 (‘CER Act’).¹⁶ The OIC also specifies additional matters for our consideration.

[16] 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.¹⁷ As with all our decisions, we apply our Strategic Directions decision throughout.

[17] Documents specific to the Transport Chapter are set out in Schedule 2 of our first decision on the Transport Proposal.¹⁸

The required “s 32” and “s 32AA” RMA evaluation

[18] Again, this is a matter referred to in earlier decisions. We adopt and endorse [48]–[54] of our Natural Hazards decision.¹⁹

¹³ OIC, cl 12(1).

¹⁴ OIC, cl 14(1).

¹⁵ OIC, cl 5.

¹⁶ 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.

¹⁷ At [25]–[28] and [40]–[62].

¹⁸ Decision 7, dated 7 August 2015.

¹⁹ Natural Hazards (Part) (and relevant definitions and associated planning maps), 17 July 2015, pages 20-21.

Issues raised by submissions

[19] We have considered all submissions and further submissions received in relation to the Stage 2 Transport Proposal. Schedule 2 lists witnesses who gave evidence for various parties, and submitter representatives.²⁰

[20] The Notified Version and the Revised Notified Version introduce provisions into Chapter 7 — Transport for activities that occur within transport corridors.²¹ These corridors form the proposed Transport Zone.

[21] A significant level of agreement had been reached between the Council and submitters prior to the hearing.²²

[22] The issues remaining outstanding were best summarised by the Council in Ms Scott's opening submissions.²³ For convenience, we will deal with those in the same chronological order that she presented them, and make our evidential finding.

What adjoining zone rules should apply in the Transport Zone?

[23] The position of the Council, as reflected in the Revised Notified Version, is to apply the adjoining zone rules (activity status and activity specific standards) to activities in the Transport Zone, when the adjoining zone is either rural, industrial or residential. Regardless of the specific rural, industrial or residential zone adjacent, the rules that would be applied to activities within the Transport Zone would be the Rural Urban Fringe Zone, Industrial General Zone and Residential Suburban Zone rules. As such, where adjacent to an Industrial Heavy Zone, activities in the Transport Zone would be subject to the activity status and standards for Industrial General Zone, not those of the Industrial Heavy Zone. This would, however, exclude any 'sensitive activities' as so defined, and this exclusion was agreed by all parties.

[24] The Crown supports the Council's position, except in relation to the Residential Zone, where its position is that the residential zone rules should not be applied to non-transport

²⁰ Counsel appearances are recorded on page 2.

²¹ The scope of the Stage 2 portion of the Transport Proposal are set out in the Christchurch City Council's Memorandum of Counsel Regarding Pre-Hearing Meeting, 3 August 2015, para 2.1.

²² The mediation report can be found on the Transport hearing page (Stage 2) of the Hearings Panel's website: www.chchplan.ihp.govt.nz.

²³ Opening legal submissions for the Council.

activities in the Transport Zone where adjacent to any residential zone. The Crown’s position is that such an approach does not clearly articulate the outcomes intended for the Transport Zone or represent clear drafting, and is not consistent with the Statement of Expectations.²⁴ This is on the basis that the majority of permitted activities in the residential zone are sensitive activities and could therefore result in several ‘Claytons’ permitted activity rules, such that the clarity of the provisions is lost.²⁵ Their preference is to list the permitted activities from the residential zone that are not sensitive activities. We note that the Crown and Council differ in relation to the drafting approach used, rather than in relation to substance.

[25] The position of KiwiRail Holdings Limited (2246) (‘KiwiRail’) is that the zone rules applicable to the adjoining zone should be applied to the Transport Zone, but excluding any sensitive activities. On this latter point, it agreed with the Council. Under KiwiRail’s approach, where adjacent to a commercial, open space and specific purposes zones, the activity status and standards of that zone would apply. Where adjacent to a rural, industrial or residential zone, the activity status and standards of the specific rural, industrial or residential zone would apply, rather than defaulting to those of the Rural Urban Fringe, Industrial General and Residential Suburban zones respectively. Thus, using the earlier example, where adjacent to an Industrial Heavy Zone, activities in the Transport Zone would be subject to the activity status and standards for Industrial Heavy Zone.

[26] For KiwiRail, we heard from Mr Gordon Munro, the Manager of Property Revenue in KiwiRail’s Property, Investment and Revenue team.²⁶ He explained that his role was to manage all of KiwiRail’s landholdings that are not required for immediate operational use, which in the Christchurch area is about 28 hectares of mostly bare land, which generate \$3.9 million dollars in revenue.²⁷ He noted that KiwiRail is mandated by Government to conduct rail operations, and also under the State-Owned Enterprises Act 1986 to operate in a profitable manner, comparable to businesses that are not Crown-owned.²⁸ He explained that, where land is not required for immediate operational use, the land can be leased to third parties to generate income which is directly funded back into the operational activities.²⁹

²⁴ Closing legal submissions for the Crown at para 25. Statement of Expectations, Canterbury Earthquake (Christchurch Replacement District Plan) Order, Schedule 4.

²⁵ Closing legal submissions for the Crown at para 26.

²⁶ Evidence of Gordon Munro on behalf of KiwiRail.

²⁷ Transcript, page 50, lines 40–44.

²⁸ Transcript, page 51, lines 6–9.

²⁹ Transcript, page 51, lines 21–23.

[27] He outlined his concerns that restrictions placed upon activities in the proposed Transport Zone would have a significant effect on KiwiRail’s ability to responsibly and efficiently manage its landholdings in Christchurch, by restricting the kinds of uses the land can be put to.³⁰ His opinion was that KiwiRail needs to continue to be able to maximise the efficient use of its land, where such use does not jeopardise KiwiRail’s ability to revert the land to rail (or other public transport) purposes.³¹

[28] We also heard from Ms Deborah Hewett, a Senior RMA Advisor for KiwiRail.³² She stated that in order for KiwiRail to maximise the efficient use of its land, it requires a planning framework which has the same opportunities as adjoining sites, in order to proactively manage the use of their land until it is needed for rail purposes.³³ Her view is that:³⁴

... locking up the rail corridor by not enabling non-rail related uses (the same as adjoining zones) fetters the efficient use of rail land not presently being utilised and creates additional holding and maintenance costs to KiwiRail.

[29] We turn first to consider the evidence of the Council and the Crown in relation to industrial, rural and residential zones.

[30] Mr Falconer, providing transport planning evidence for the Council, recommends applying the Industrial General and Rural Urban Fringe zones activity statuses to land in the Transport Zone adjoining any rural or industrial zone. It is not clear from his evidence, what the rationale is for applying the Industrial General and Rural Urban Fringe rules only. In relation to residential zones, Mr Falconer accepted in his rebuttal evidence that, where adjoining a residential zone, the activities and activity status of residential zones (subject to excluding sensitive activities) should be included within the Transport Zone. However, his view is that the rules that should be applied are those of the Residential Suburban Zone, on the basis that the majority of the rail corridor adjoins this zone and that permitting higher density development is not appropriate next to strategic infrastructure.³⁵ The Council also indicated that the approach to apply only the Industrial General, Rural Urban Fringe and Residential Suburban zone rules related to “allowing activities to occur at an appropriate density”.³⁶

³⁰ Evidence of Gordon Munro at para 4.2.

³¹ Evidence of Gordon Munro at para 4.5.

³² Evidence of Deborah Ann Hewett on behalf of KiwiRail.

³³ Evidence of Deborah Ann Hewett at para 5.8.

³⁴ Evidence of Deborah Ann Hewett at para 5.19.

³⁵ Rebuttal evidence of David Ian Falconer on behalf of the Council at para 5.8.

³⁶ Transcript, page 5, line 12 (Ms Scott).

[31] In relation to rural and industrial zones, Ms McLeod, providing planning evidence for the Crown, supports providing for industrial and rural activities in the Transport Zone where adjoining these respective zones, subject to standards applying, which include limiting activities to those of a rural or industrial nature such that the on-going efficient functioning of the Transport Zone is not compromised.³⁷ In relation to the residential zones, her view is that some activities could be permitted in the Transport Zone, but these might be better addressed by actually listing those activities in the Transport Zone rules.³⁸

[32] It is not clear to us from the evidence why it is necessary to apply only the Industrial General and Rural Urban Fringe zone rules to activities within the Transport Zone, where those activities adjoin *any* industrial or rural zone, in order to achieve the Plan’s objectives. We accept the evidence of Mr Munro that restrictions placed upon activities in the proposed Transport Zone affect KiwiRail’s ability to responsibly and efficiently manage its landholdings, and Ms Hewett’s evidence that the restrictions proposed will fetter (at least to some extent), the efficient use of rail land. We therefore find that, where adjoining an industrial or rural zone, the rules that should be applied within the Transport Zone are those of the specific adjoining zone.

[33] We are satisfied that applying only the Residential Suburban zone rules to the Transport Zone where it adjoins any type of residential zone is inappropriate. While the Council is concerned with permitting higher density development next to strategic infrastructure, we note that KiwiRail, as operators of such infrastructure, do not share this concern. Given that sensitive activities are to be excluded, it is also difficult to see what “higher density development” the Council is meaning.

[34] We have also considered the Crown’s view, supported by the evidence of Ms McLeod, that a more appropriate drafting approach would be to list permitted activities, rather than refer to the residential zone permitted activities but exclude sensitive activities. We note that the Council helpfully summarised those activities permitted in the Residential Suburban Zone that are not defined as sensitive activities.³⁹ We are satisfied that the reference to the relevant

³⁷ Rebuttal evidence of Ainsley Jean McLeod on behalf of the Crown at para 13.

³⁸ Transcript, page 32, lines 23–26.

³⁹ Opening legal submissions for the Council at para 4.5.

residential zone is a more efficient approach than listing non-sensitive permitted activities, as this avoids duplicating the rules for each residential zone within the Transport Zone chapter.

Open Space and Specific Purpose Zones

[35] Turning now to the open space and specific purpose zones, Mr Falconer does not appear to oppose the application of the open space zones to the Transport Zone per se. Rather, he considers that the Transport Zone permitted activity rules already cover the types of activities permitted in open space zones, citing landscaping and public amenities as an example.⁴⁰ Upon review of the proposed permitted activities in several of the open space zones, we think this excludes a number of activities permitted in open space zones that are not defined as sensitive activities.⁴¹

[36] In relation to specific purpose zones, Mr Falconer notes that the majority of these adjacent to the rail corridor are Specific Purpose ‘School’ or ‘Tertiary Education’ zones, and because education activities are defined as sensitive activities, which all parties agree should not be permitted, it is not necessary or appropriate to apply the adjoining specific purpose zone rules.⁴² It is not, however, clear if Mr Falconer has turned his mind to other activities permitted in these zones that do not fall within the definition of sensitive activities, such as spiritual activities and related community activities (Specific Purpose School Zone); community activities and research and laboratory activities (Specific Purpose Tertiary Zone).

[37] Our understanding is that if the relief sought by KiwiRail is not accepted in relation to the open space and specific purpose zones, these activities would default to a non-complying activity status under Rule 7.2.2.4 NC1.

[38] We refer again to the evidence for KiwiRail as set out in [26]–[28] above.

[39] On this matter, we accept the position of KiwiRail. We find that a non-complying activity status for the range of activities that are permitted in the adjoining zone, excluding sensitive activities, would affect KiwiRail’s ability to responsibly and efficiently manage its landholdings, and will place an unnecessary constraint on the efficient use of rail land.

⁴⁰ Rebuttal evidence of David Ian Falconer at para 5.11.

⁴¹ For example, recreation activities, parks, conservation activities, sports facilities, food and beverage, community facilities, farming and farm buildings, parking and community gardens.

⁴² Rebuttal evidence of David Ian Falconer at para 5.11.

Adjoining Commercial zones

[40] KiwiRail seeks that the commercial zone rules apply to activities within the adjoining Transport Zone. The Council is firm in its view that adjoining commercial zone rules should not be provided in the Transport Zone, as this would have the potential to undermine the centres based approach for commercial development.⁴³ It submits that KiwiRail has not provided any evidence, including economic evidence, in which it has considered the effects of allowing this land to be used for commercial purposes, nor considered the relief it seeks against the provisions in Chapter 15 and the CRPS.⁴⁴ Mr Falconer's view is that permitting commercial activities risks adversely affecting the recovery of the Central City and the hierarchy of centres as proposed in Chapter 15 and is, therefore, not consistent with the centres based approach for commercial activity.⁴⁵ His estimate is that application of the commercial zone to the adjoining Transport Zone could add approximately 5.4 hectares of additional commercial land.⁴⁶

[41] Counsel for KiwiRail, Ms Arthur-Young, submitted that the slender nature of these additional sites (in conjunction with their position adjoining a number of existing and proposed Key Activity Centres, as well as the railway lines) means that they will not be put to any significant new commercial use in a way which would detract from the primacy of, and support given to, the recovery of the City Centre.⁴⁷ Further, it was submitted that the extension of commercial activities into the Rail Corridor might provide positive benefits for existing commercial centres such as additional loading space at the rear of properties.⁴⁸

[42] We note that, under cross-examination, Ms Hewett stated that she had not undertaken an assessment of the relief sought by KiwiRail against Chapter 6 of the CRPS,⁴⁹ nor against the provisions of the Commercial Chapter of the CRDP.⁵⁰ Notwithstanding this, we have reviewed the extent of commercially-zoned land adjacent to the Rail Corridor,⁵¹ and agree that the likelihood of this land being able to be used for commercial purposes is limited, due to its shape and location. Further, we do not agree that it realistically adds 5.4 hectares of additional commercial land. As a result, we consider that applying the commercial zone rules to activities

⁴³ Opening legal submissions for the Council at para 4.7.

⁴⁴ Opening legal submissions for the Council at para 4.7.

⁴⁵ Rebuttal evidence of David Ian Falconer at para 5.10.

⁴⁶ Rebuttal evidence of David Ian Falconer at para 5.10.

⁴⁷ Closing legal submissions for KiwiRail at para 4.7.

⁴⁸ Closing legal submissions for KiwiRail at para 4.6.

⁴⁹ Transcript, page 65, lines 22–23.

⁵⁰ Transcript, page 67, line 5.

⁵¹ Closing legal submissions for KiwiRail, Appendix A.

within the adjoining Transport Zone would not allow for significant new commercial use that would be inconsistent with the centres based approach. In doing so, we find in favour of KiwiRail.

Other outstanding matters relating to the application of adjoining zone rules

[43] There were two further matters of disagreement between the parties that relate to the application of adjoining zone rules, namely:

- (a) What standards should be applicable to such ‘non-transport’-related activities (the ‘standards’ question); and
- (b) To what point should the adjoining zone be applied (the ‘centreline’ question).

[44] Firstly, in relation to the ‘standards’ question, in circumstances where the adjoining zone rules are to be applied, the Council’s position is that the activities that would be permitted by applying the adjoining zoning should be subject to compliance with both the activity specific standards and built form standard applicable to the adjoining zone, and to the height limits, maximum area of buildings, setbacks and recession planes that apply to new transport infrastructure and additions to existing transport infrastructure in the Transport Zone (contained in P13 of the Revised Notified Proposal).

[45] KiwiRail’s position is that compliance should only relate to the activity specific standards and built form standards applicable to the adjoining zone. In her evidence, Ms Hewett stated the reason for KiwiRail proposing this is to simplify the requirements and in recognition that KiwiRail has the ability, mandate, and mechanisms to adequately manage and assess effects on the rail corridor.⁵²

[46] We agree with the Council that it is appropriate to apply both the standards applicable to the adjoining zone as well as those that apply to other activities (for example transport infrastructure) in the Transport Zone. We consider that these standards more broadly manage the effects of activities on the environment, not only those on the rail corridor.

⁵² Evidence of Deborah Ann Hewett at para 5.20(d).

[47] In relation to the ‘centreline’ question, KiwiRail seeks that the application of the adjoining zones are provided, in the designated rail corridor, to the centreline of the rail corridor; or, in the absence of a designation, to the legal boundary of the rail corridor. The Council’s position is to apply the zoning to the centre of the Transport Zone in that location. Mr Falconer stated that he supports this approach because in his view the Transport Zone is the appropriate area to define where the adjoining zones start and finish, whereas the designated rail corridor is a subset of that zone.⁵³ The Crown supports the Council’s position, on the basis that KiwiRail’s approach fails to take into account that the Transport Zone applies to land beyond the rail corridor.⁵⁴ Ms McLeod also supported the Council’s centreline approach in the Revised Notified Version on the basis that it provides a greater level of clarity and ease of use and is consistent with the Statement of Expectations.⁵⁵

[48] While Ms Hewett has set out what KiwiRail is seeking, her evidence does not appear to traverse why this is more appropriate than the Council’s approach.⁵⁶ We also note that in KiwiRail’s submission, the relief sought was that the adjoining zone be applied to the centre of the Transport Zone, i.e. what the Council is now proposing. It is, therefore, not clear to us from the KiwiRail evidence, why KiwiRail is now seeking application of the centreline to the rail corridor itself, nor why this is more appropriate than applying the centreline to the Transport Zone. As such, we accept the evidence of Mr Falconer and Ms McLeod that the application of the adjoining zones should be provided to the centreline of the Transport Zone.

Requiring non-transport activities to be “relocatable”

[49] The Council’s position is that non-transport uses within the designated rail corridor should be required to be “relocatable” activities and propose a permitted activity standard in that regard. Mr Falconer’s view is that enabling activities, as long as they are relocatable, is a compromise between providing KiwiRail the ability to use the rail corridor, whilst protecting the ‘strategic infrastructure’ corridor for future transport uses.⁵⁷ The Council’s distinction between the designated and non-designated rail corridor (the latter not being subject to the relocatable condition) he explained as distinguishing between what constitutes the ‘strategic

⁵³ Transcript, page 14, lines 34–37.

⁵⁴ Closing legal submissions for the Crown at para 30.

⁵⁵ Transcript, page 32, lines 14–21.

⁵⁶ Evidence of Deborah Ann Hewett at paras 5.22 - 5.23.

⁵⁷ Rebuttal evidence of David Ian Falconer at para 5.5.

transport’ network and therefore the area to which Policy 5.3.7 of the CRPS and 3.3.12 of Strategic Directions apply.⁵⁸

[50] KiwiRail’s position is that requiring activities to be “relocatable” is an unreasonable and unnecessary restriction on its ability to efficiently manage its land, and to ensure that land is put to its highest and best use.⁵⁹ Rather, KiwiRail submits that there is nothing unique or problematic under the RMA in a requiring authority having designated land, with underlying zoning which does not precisely mirror what the designation enables.⁶⁰ KiwiRail submits that its relief would not “foreclose opportunities” for the development of the strategic transport network and, therefore, is not in conflict with Policy 5.3.7 of the CRPS.⁶¹ Counsel for KiwiRail further submitted that the Council’s position is a kind of “designation by stealth”, arguing that if the Council wishes to properly “protect” parts of the corridor not presently used for rail purposes, but which could potentially serve some public transport role in the future, the obligation rests upon the Council to designate (and purchase) the land.⁶² This arose from Council evidence that parts of the rail corridor may be utilised in the future for cycling and pedestrian ways. Ms Hewett also noted her view that it is unusual and unreasonable to require relocatable buildings in circumstances when there is no pressure for public transport needs and they have not been determined or identified in the Plan as such.⁶³

[51] Mr Munro’s view is that, while the primary purpose of KiwiRail’s land is to run the rail corridor, its secondary purpose is to maximise the value of its land holdings to provide the best return on those land holdings to fund the operational activity of its core business.⁶⁴ While he stated that it was not KiwiRail’s intention to allow for development across the width of the rail corridor that would sever the rail lines, he remained concerned that restrictions on land use within the rail corridor would still undermine the underlying land value and limit KiwiRail’s ability to generate interim revenue from the land, to assist in funding their core rail business.⁶⁵

[52] Mr Falconer’s view is that transport corridors should be protected for transport use and in particular, the rail corridor “should be protected to support the investigations into future

⁵⁸ Transcript, pages 13–14.

⁵⁹ Opening legal submissions for KiwiRail at para 3.26.

⁶⁰ Opening legal submissions for KiwiRail at para 3.27.

⁶¹ Closing legal submissions for KiwiRail at para 3.5.

⁶² Opening legal submissions for KiwiRail at para 3.20.

⁶³ Transcript, page 63, lines 5–18.

⁶⁴ Transcript, page 53.

⁶⁵ Transcript, page 55.

public transport options proposed in AAC, CSTP, GCTS, LURP, RPTP and the Greater Christchurch Metro Strategy.”⁶⁶ His view is that interim non-transport uses should only be permitted within transport corridors if they are relocatable, so that the corridor can be converted to a transport use when required.⁶⁷ He considers that this approach fulfils Objective 3.3.12 of the Strategic Directions Chapter by protecting the strategic transport network for current and future cycling, public transport and freight use of the rail.⁶⁸

[53] We consider that this issue turns on whether or not requiring that non-transport related buildings and structures in the Transport Zone are “relocatable” is necessary to achieve Objective 3.3.12 of Strategic Directions and give effect to Policy 5.3.7 of the CRPS. These are set out as follows:

3.3.12 Objective — Infrastructure

- (a) The social, economic, environmental and cultural benefits of infrastructure, including strategic infrastructure, are recognised and provided for, and its safe, efficient and effective development, upgrade, maintenance and operation is enabled; and
- (b) Strategic infrastructure, including its role and function, is protected by avoiding adverse effects from incompatible activities, including reverse sensitivity effects, by, amongst other things:
 - (i) avoiding noise sensitive activities within the Lyttelton Port Influences Overlay area; and
 - (ii) managing activities to avoid adverse effects on the National Grid, including by identifying a buffer corridor within which sensitive activities will generally not be provided for; and
 - (iii) avoiding noise sensitive activities within the 50dBA Ldn noise contour for Christchurch International Airport, except:
 - within an existing residentially zoned urban area; or
 - within a Residential Greenfield Priority Area identified in the Canterbury Regional Policy Statement Chapter 6, Map A; or
 - for permitted activities within the Open Space 3D (Clearwater) Zone of the Christchurch City Plan, or activities authorised by a resource consent granted on or before 6 December 2013; and
 - (iv) managing the risk of bird strike to aircraft using Christchurch International Airport; and

⁶⁶ Evidence of David Ian Falconer at para 3.4.

⁶⁷ Evidence of David Ian Falconer at para 3.4.

⁶⁸ Evidence of David Ian Falconer at para 6.10

- (c) The adverse effects of infrastructure on the surrounding environment are managed, having regard to the economic benefits and technical and operational needs of infrastructure.

Policy 5.3.7 — Strategic land transport network and arterial roads (Entire Region)

In relation to strategic land transport network and arterial roads, the avoidance of development which:

- (1) adversely affects the safe efficient and effective functioning of this network and these roads, including the ability of this infrastructure to support freight and passenger transport services; and
- (2) in relation to the strategic land transport network and arterial roads, to avoid development which forecloses the opportunity for the development of this network and these roads to meet future strategic transport requirements.

[54] Mr Falconer’s evidence, and the Council’s position, is premised on non-relocatable buildings ‘foreclosing the opportunity’ for development of the strategic land transport network and not ‘protecting’ strategic infrastructure from adverse effects from incompatible activities. We do not accept this view. While we accept, as did Ms Hewett,⁶⁹ that this is one way in which to achieve Objective 3.3.12 (Strategic Directions) and give effect to Policy 5.3.7 (CRPS) we do not accept that it is the most appropriate way to do so. Where KiwiRail has land that is currently in excess to requirements, we do not consider that buildings and structures within the rail corridor should have to be relocatable. Rather, we agree with the submissions of KiwiRail that Mr Falconer’s analysis of Objective 3.3.12 is narrow and does not take into account:⁷⁰

- (a) the “enabling” of the safe, efficient, and effective development of strategic infrastructure, including the rail corridor in paragraph (a); and
- (b) that the “protection” afforded in paragraph (b) is aimed particularly at reverse sensitivity effects from activities which may be inappropriate near such infrastructure, not at preserving the corridor for any possible future use the Council might want to implement.

[55] We also accept the submission that if the Council wishes to reserve parts of the corridor which are not presently used for rail purposes, but could potentially serve some public transport role in the future, then the obligation rests upon the Council to designate (and purchase) the land.⁷¹ We do not consider it appropriate to introduce the level of restriction proposed by the Council on KiwiRail’s land “in the hope that it might one day form part of the wider public

⁶⁹ Transcript, page 72.

⁷⁰ Opening legal submissions for KiwiRail at para 3.16.

⁷¹ Opening legal submissions for KiwiRail at para 3.19.

transport system in greater Christchurch.”⁷² We note that under cross-examination, Mr Falconer accepted that the provisions put forward by the Council were about the Council trying to keep available the land for transport purposes.⁷³

[56] We are satisfied on the evidence that a standard requiring buildings and structures within the designated area within the Transport Zone to be relocatable is not warranted.

Building Setbacks from the Railway Corridor

[57] KiwiRail has noted that, as a result of applying the standards of adjoining zones to the Transport Zone, a setback would be required within the Transport Zone, from its boundary with adjoining sites. KiwiRail has sought, in relation to other proposals, that a 4 metre setback be applied from the Railway Corridor boundary, which is now, in effect, the boundary with the Transport Zone.⁷⁴ Thus, by applying the standards of the adjoining zone within the Transport Zone, a 4 metre setback from the boundary would be required. KiwiRail’s position is that a setback should not be applied within the railway corridor, on the basis that it is not required to manage effects within the corridor itself and that its application would lead to a perverse outcome where the requisite setback would push buildings within the Transport Zone closer to the tracks, lines and operational equipment.⁷⁵ Overall, KiwiRail sought that a 4 metre setback be required from the Rail Corridor (i.e. in the provisions for other zones adjacent to the Transport Zone), but that no setback should apply in the Railway corridor.⁷⁶ In closing legal submissions, they stated acceptance of a 1.5 metre setback from the rail corridor boundary on sites within the Transport Zone that are outside the rail corridor.⁷⁷

[58] The Council’s view was that applying no setback is not appropriate for health and safety reasons, maintenance, service and upgrade requirements and to manage potential adverse effects arising from development adjoining the rail corridor. Its position is that a 1.5 metre setback should be applied for non-transport activities in the Transport Zone.⁷⁸ Mr McKee, a

⁷² Opening legal submissions for KiwiRail at para 3.20.

⁷³ Transcript, page 16.

⁷⁴ Closing legal submissions for KiwiRail at paras 5.1 and 5.2.

⁷⁵ Closing legal submissions for KiwiRail at paras 5.2 and 5.3.

⁷⁶ Closing legal submissions for KiwiRail at para 5.6.

⁷⁷ Closing legal submissions for KiwiRail at para 5.7.

⁷⁸ Opening legal submissions for the Council at paras 6.3–6.4.

submitter on the Transport proposal, did not attend the hearing but filed a memorandum outlining his support for the 1.5 metre setback proposed by the Council.⁷⁹

[59] Mr Falconer’s view is that the setback is required for non-transport activities in order to provide space for construction and maintenance, on the basis that while KiwiRail can manage this on their land without a setback being applied, there is privately-owned land within the designated rail corridor, on which it would be more difficult to manage safety issues.⁸⁰

[60] Ms Hewett’s view is that a setback is not necessary because the effects of activities within the rail corridor on the safe and efficient operation of the rail network can be appropriately managed by KiwiRail as the owner and operator of the network.⁸¹ Under cross-examination, Ms Hewett conceded that where land is no longer required by KiwiRail and is disposed of to private landowners, it would be difficult for those landowners to maintain structures and buildings that are built up to the rail corridor without entering the rail corridor.⁸²

[61] We are satisfied, on the evidence, that a 1.5 metre setback is appropriate and should be applied for non-transport activities in the Transport Zone.

Lyttelton Farmers Market

[62] In both the Notified Version (P14) and the Revised Notified Version (P15), ‘community markets’ are proposed to be a permitted activity. Mr Falconer advised us, in relation to Lyttelton, that a farmers market currently operates every Saturday from 10 a.m. to 1 p.m. on London Street, between Canterbury and Oxford Streets. The road is temporarily closed to vehicles, and stalls are temporarily established on the street.⁸³ Several submitters specifically support the Lyttelton Farmers Market.⁸⁴ We heard from Ms Everingham and Ms Hindin for Project Lyttelton (2548). They also read out a statement from Mr Minehan for the Lyttelton Harbour Business Association (107, 769).

⁷⁹ Memorandum of Counsel on behalf of Mr McKee, 22 September 2015.

⁸⁰ Rebuttal evidence of David Ian Falconer at para 5.18–5.19.

⁸¹ Evidence of Deborah Ann Hewett at para 6.1.

⁸² Transcript, page 71, lines 14–20.

⁸³ Evidence of David Ian Falconer at para 7.1.

⁸⁴ For completeness, we note that some of these submissions were originally received as Stage 1 submissions but were deferred to this Stage 2 hearing: see [11] above.

[63] Ms Everingham outlined the value, in her view, of the Lyttelton Farmers Market to the Lyttelton community, including its role in revitalising the community after the earthquakes, providing both economic opportunities and a focal point for the local community. Mr Minehan’s statement also confirmed support for the market being able to continue operations and again emphasised its role as a focal point to the community and its contribution to Lyttelton’s recovery.⁸⁵

[64] In contrast, Ms Ross (1052) made a submission seeking that community markets and other events in the Transport Zone be discretionary rather than permitted. Ms Ross did not appear at the hearing, but filed a written statement. In her statement she outlined concerns about the effect that the market has, as a result of the road closure, for example on parking and on access for local residents. For completeness, we note that Ms Ross also raised concerns about matters that are outside our consideration, such as the naming of the market and traffic management plans.

[65] The evidence of Mr Falconer is that there are a number of other processes and approvals outside the District Plan that community markets located on roads require, including approval from the Council under both the Public Places Bylaw 2008/Trading and Events in Public Places Policy 2010 and the Traffic and Parking Bylaw 2008.⁸⁶ We accept the evidence of Mr Falconer that the issues raised by Ms Ross are adequately addressed through other approval processes.⁸⁷ We find that additional regulation through the Plan is unnecessary and would add additional transaction costs and reliance on resource consent processes for community markets, contrary to Objective 3.3.2(a)(i) of the Strategic Directions Chapter.

Orion

[66] In a further submission, Orion New Zealand Limited (2340, FS2797) (‘Orion’) supported Transpower New Zealand Limited’s (2218, FS2780) (‘Transpower’) submission that the Transport provisions require setbacks from the National Grid in the Transport Zone. They also sought to extend the proposed setback rules to Orion’s electricity network. We note that Orion did not submit on the Transport Proposal in its primary Stage 2 submission.

⁸⁵ Mr Minehan’s statement was read out by Ms Everingham. Refer to the Transcript, page 83, lines 27–37.

⁸⁶ Evidence of David Ian Falconer at para 7.2.

⁸⁷ Evidence of David Ian Falconer at para 7.3.

[67] This is a similar matter to that which we have considered in our decision on the Temporary Activities Priority Matter 2 Proposal (‘Decision 2’)⁸⁸ and the Temporary Activities 6A, 6B and 6C Proposals (‘Decision 9’).⁸⁹ We find that Orion’s further submission is outside of scope because it goes beyond support for the primary submission (of Transpower) and seeks to extend the relief sought.

[68] We note the submission of the Council that, if the setback rule sought by Orion is not included in the Transport Proposal but is in other topic-specific chapters, there will be an inconsistency as to setbacks to Orion’s network, whereas Transpower’s will apply to all zones including Transport.⁹⁰ While we accept this, it is a situation that has ultimately resulted from the provisions in the Notified Proposal and the submissions received on that proposal. We also note that Orion has made a submission on Stage 3 seeking the inclusion of rules to provide corridor protection for Orion’s strategic electricity distribution lines across all relevant zones and overlays.⁹¹

Section 32

[69] We refer to the necessary principles set out in our earlier decisions.⁹² We have had regard to the Council’s s 32 report (‘Report’).⁹³ On matters where we have not departed from the Notified Version, we have relied on the Report and the evidence which we have discussed.

Section 32AA

[70] We have already referred in earlier decisions to the matters we must address.⁹⁴

[71] We only have to consider changes that we have made to the Notified Version. In this instance we have amended Policy 10 and the rule package to provide for the adjoining zone rules to apply to activities within the Transport Zone and removed the requirement for buildings and structures within designated parts of the Transport Zone to be relocatable.

⁸⁸ Decision 2 — Temporary Activities Related to Earthquake Recovery (and Relevant Definitions), 26 February 2015, at [41].

⁸⁹ Decision 9 — Temporary Activities 6A, 6B & 6C, 3 September 2015, at [30].

⁹⁰ Opening legal submissions for the Council at para 7.4.

⁹¹ Opening legal submissions for Orion New Zealand Limited at para 25.

⁹² Strategic Directions at [63]–[70].

⁹³ As updated and contained in Attachment B to the evidence of David Ian Falconer, 7 September 2015.

⁹⁴ Above, at [15].

[72] We have evaluated the various options and approaches put to us, in accordance with the matters in ss 32 and 32AA. We are satisfied that our consideration of the evidence and our findings is sufficient assessment of those matters.

[73] We have also made minor changes for drafting clarity.

[74] In reaching our decision, we have considered all submissions and further submissions made on the Notified Version, and had regard to the Council's recommended acceptance or rejection of those submissions, as filed.⁹⁵ Except to the extent that those recommendations have been modified by this decision, we accept the Council's 'Accept/Accept in Part/Reject Table'.

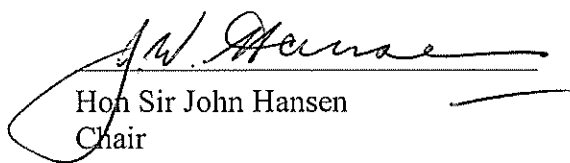
Overall evaluation and conclusions

[75] In light of the submissions and evidence we have considered, and for the reasons we have set out, we are satisfied that:

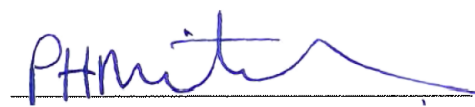
- (a) We have exercised our function, in making this decision, in accordance with the provisions of Part 2, RMA (there are no applicable regulations).
- (b) As part of the Replacement Plan, these further provisions for Transport in Schedule 1 to this decision will:
 - (i) accord with and assist the Council to carry out its statutory functions for the purposes of giving effect to the RMA;
 - (ii) give effect to NPSET and the CRPS (to the extent relevant);
 - (iii) duly align with other RMA policy and planning instruments, the land use recovery plans, and the OIC (including the Statement of Expectations).
- (c) As part of the Replacement Plan, the policy and rules we have included in Chapter 7 will achieve the purpose of the RMA.

⁹⁵ The Council's updated Submissions Table ('Accept/Accept in Part/Reject Table'), is contained in Appendix A of the evidence of David Ian Falconer, 7 September 2015.


For the Hearings Panel:



Hon Sir John Hansen
Chair



Dr Phil Mitchell
Panel Member



Mr John Illingsworth
Panel Member

SCHEDULE 1

Changes that the decision makes to the proposals.

Key:

- Stage 1 provisions are shown in black text shaded grey; and
- Stage 2 provisions are shown in black text.

The Stage 1 text is as per the Hearing Panel's Stage 1 decision and only the relevant Stage 1 provisions have been included.

Chapter 7 Transport

7.1 Objectives and policies

[7.1.1, 7.1.1.1—7.1.1.8]

[Refer to Stage 1 decision]

7.1.2 Objective 2 – Adverse effects from the transport system

- a. Enable Christchurch’s transport system to provide for the transportation needs of people and freight whilst managing adverse effects from the transport system.

7.1.2.1 Policy 9 – Effects from the strategic transport network

To manage any adverse effects from the ongoing use, repair, and development of the strategic transport network, whilst recognising the national and regional scale and economic importance of this network, and the role of the strategic transport network in the recovery of Christchurch.

7.1.2.2 Policy 10 – Activities within the Transport Zone

- a. Enable activities for transport purposes and ancillary activities within the Transport Zone that seek to provide, maintain or improve:
 - i. the safety, amenity, efficiency and functionality of the Transport Zone, in particular the strategic transport network; and
 - ii. structures, facilities, services and installations of the transport network.
- b. Enable non-transport related activities which contribute to public amenity and/or provide a public place for community activities, including opportunities for people to interact and spend time whilst not having an adverse effect on:
 - i. the safety, amenity, efficiency and functionality of the transport function of the Zone; and
 - ii. the potential for the full width of the Transport Zone to be utilised for transport use in the future.
- c. Where land in the Transport Zone is not immediately required for transport purposes, enable non-transport related activities that:
 - i. will not give rise to reverse sensitivity effects that would undermine transport activities in the zone;
 - ii. do not prevent land designated for transport purposes reverting to a transport use when required;
 - iii. do not undermine the future transport use of the land designated for transport purposes; and
 - iv. are consistent with the activities provided for in the adjoining zones.

7.1.2.3 Policy 11 – Effect on adjacent land uses to the Transport Zone

- a. Manage the adverse effect(s) of an activity within the Transport Zone so that the effects of the activity are consistent with the amenity values and activity of adjacent land uses, whilst providing for the transport network, in particular the strategic transport network to function efficiently and safely.
- b. To ensure adjacent land uses are designed, located and maintained in such a way as to avoid reverse sensitivity effects on the strategic transport network.

Notes

1. Policies 7.1.1.1 - 7.1.1.8 also apply to Objective 7.1.2
2. Policies 7.1.2.2 - 7.1.2.3 also apply to Objective 7.1.1
3. For more details on Christchurch City Council's vision, expectation and plans for transport, during the recovery period and longer term, please refer to the 'Christchurch Transport Strategic Plan'.

7.2 Rules – All zones outside the Central City

7.2.1 How to use the rules

7.2.1.1 The transport rules that apply to activities in all zones outside the Central City are contained in:

- a. The activity Status table in 7.2.2; and
- b. Rules in 7.2.3.

7.2.1.2 The Activity Status table and standards for the zone where the activity is located, and the Activity Status table and standards in the following chapters also apply (where relevant):

- 5** Natural Hazards
- 6** General Rules and Procedures
- 8** Subdivision, Development and Earthworks
- 9** Natural and Cultural Heritage
- 11** Utilities, Energy and Infrastructure
- 12** Hazardous Substances and Contaminated Land.

7.2.2 Activity status tables – All zones outside of the Central City

7.2.2.1 Permitted activities

- a. The activities listed in the table below are Permitted Activities if they comply with the Activity Specific Standards set out in this table and the Rules in 7.2.3.

- b. Activities may also be restricted discretionary, discretionary, or non-complying as specified in Standards 7.2.2.2 - 7.2.2.4.

	Activity	Activity Specific Standards
P1	Any activity that complies with 7.2.3.1 – Minimum number and dimensions of car parks required	Nil
P2	Any activity that complies with 7.2.3.2 – Minimum number of cycle parking facilities required	
P3	Any activity that complies with 7.2.3.3 – Minimum number of loading spaces required	
P4	Any activity that complies with 7.2.3.4 – Manoeuvring for parking and loading areas	
P5	Any activity that complies with 7.2.3.5 – Gradient of parking and loading areas	
P6	Any activity that complies with 7.2.3.6 – Design of parking and loading areas	
P7	Any activity that complies with 7.2.3.7 – Access design	
P8	Any activity that complies with 7.2.3.8 – Vehicle crossings	
P9	Any activity that complies with 7.2.3.9 – Location of buildings and access in relation to road/rail level crossings	
P10	Any activity that complies with 7.2.3.10 – High trip generators	
P11	Only until 30 April 2018, in the Rural Quarry Zone, heavy vehicle trips for any quarrying activity that do not exceed the average daily heavy vehicle trip generation that existed for the 12 month period prior to 27 August 2014.	
P12	The operation or maintenance of transport infrastructure (including ancillary office activities and car parking) and freight handling activities in the Transport Zone	

	Activity	Activity Specific Standards												
P13	New transport infrastructure and additions to existing transport infrastructure in the Transport Zone (excluding activities or structures listed in P15) and new freight handling activities	<p>i. Height limit of any building (excluding street lighting, poles, traffic signals, safety cameras and fences), shall be as follows:</p> <table border="1" data-bbox="858 353 1426 797"> <thead> <tr> <th data-bbox="858 353 1161 651">Distance of the closest point of the building from the boundary of a Residential, Commercial (excluding Commercial Retail Park), Specific Purpose Hospital Zone or Open Space Community Park Zone:</th> <th data-bbox="1161 353 1294 651">Maximum height - within a road reserve:</th> <th data-bbox="1294 353 1426 651">Maximum height - not within a road reserve:#:</th> </tr> </thead> <tbody> <tr> <td data-bbox="858 651 1161 703">Less than 15m</td> <td data-bbox="1161 651 1294 703">5m*</td> <td data-bbox="1294 651 1426 703">8m</td> </tr> <tr> <td data-bbox="858 703 1161 754">15-50m</td> <td data-bbox="1161 703 1294 754">5m*</td> <td data-bbox="1294 703 1426 754">10m</td> </tr> <tr> <td data-bbox="858 754 1161 797">More than 50m</td> <td data-bbox="1161 754 1294 797">10m</td> <td data-bbox="1294 754 1426 797">15m</td> </tr> </tbody> </table> <p>* The maximum gross floor area of buildings in these locations is 5m²</p> <p># Any building not within road reserve that is located on a site which has a boundary with a residential zone, shall have minimum setback of 1.8m from that boundary; and shall not project beyond a building envelope constructed by the recession planes which apply in the adjacent residential zone.</p> <p>Note – Provisions for signs and temporary activities can be found in Chapter 6</p> <p>Note - Road design standards (including road widths) for new roads are contained in Chapter 8. Road design standards (including road widths) for existing roads are controlled by the Christchurch City Council's Infrastructure Design Standards</p>	Distance of the closest point of the building from the boundary of a Residential, Commercial (excluding Commercial Retail Park), Specific Purpose Hospital Zone or Open Space Community Park Zone:	Maximum height - within a road reserve:	Maximum height - not within a road reserve:#:	Less than 15m	5m*	8m	15-50m	5m*	10m	More than 50m	10m	15m
Distance of the closest point of the building from the boundary of a Residential, Commercial (excluding Commercial Retail Park), Specific Purpose Hospital Zone or Open Space Community Park Zone:	Maximum height - within a road reserve:	Maximum height - not within a road reserve:#:												
Less than 15m	5m*	8m												
15-50m	5m*	10m												
More than 50m	10m	15m												
P14	Public transport facilities (including any office or retail activity ancillary to a public transport facility), public amenities and landscaping in the Transport Zone	<p>i. Buildings located in road reserve where the closest point of the facility is within 50m of the boundary of a Residential, Commercial (excluding Commercial Retail Park), Specific Purpose Hospital Zone or Open Space Community Park Zone shall be less than 5m in height</p> <p>ii. Buildings in any other location shall be less than 10m in height</p>												
P15	All public artwork, street furniture, community markets, cultural activities or community fund-raising events within road reserve in the Transport Zone	<p>Nil</p> <p>Note – The Council or New Zealand Transport Agency as owner of roads and KiwiRail as the owner of rail corridors may require permits/approval for such activities outside of this District Plan</p>												

	Activity	Activity Specific Standards
P16	Any verandahs, balconies or floor area of a building overhanging road reserve within the Transport Zone	Nil Note – The Council or New Zealand Transport Agency as owner of roads and KiwiRail as the owner of rail corridors will have their own separate approval process for granting rights to build overhanging their land. The Council has a Policy that is relevant to this process
P17	Any activity in the Transport Zone (except for sensitive activities) permitted in the adjoining zone Note: For the purpose of this rule, where the Transport Zone adjoins two different zones, the provisions of the adjoining zone only apply up to the centre of the Transport Zone in that location For the avoidance of doubt, any activity permitted in the Industrial General Zone, shall be a permitted activity on 99 Ensors Road (Sec 1 SO 448367)	<ul style="list-style-type: none"> i. The height limits, maximum gross floor area of a building, setbacks and recession planes in P13 apply ii. The applicable activity specific standards and built form standards (except for any minimum building setback from the railway corridor) for the activity in the adjoining zone also apply iii. On sites adjacent to the rail corridor the minimum building setback from the railway corridor shall be 1.5 metres from the site boundary adjacent to the railway corridor
P18	Construction and/or reconstruction of Selkirk Place, Hawkins Road, Hills Road and Prestons Road within the New Neighbourhood Zone (Highfield)	Works shall be in general accordance with the cross-sections shown in Appendix 14.10.22 in Chapter 14

Note: P11 is a temporary measure to allow existing quarry activities in the Rural Quarry Zone to continue while they seek the necessary consents required by this chapter. The average daily heavy vehicle trip generation relates to, and shall be calculated for, each calendar month.

7.2.2.1a Controlled activities

The activities listed below are a Controlled Activity:

Matters of Control for which conditions may be imposed are specified in the following table and as set out for that Matter in 7.3.

	Activity	The Council's control shall be limited to the following matters:
C1	<p>Any activity that is not in accordance with Rule 7.2.3.10 where:</p> <ul style="list-style-type: none"> i. the land use activity is otherwise permitted in zone where it is located; and ii. the activity does not exceed the thresholds in Table 7.1; and iii. direct vehicle access is not obtained from a state highway, major arterial road, or crosses a railway line; and iv. for a quarrying activity and/or an ancillary aggregates-processing activity in the Rural Quarry Zone, where a vehicle access to the activity is located further than 250 metres from a residential unit. 	<p>Matters over which the Council has control to impose conditions are set out in section 7.3.19.</p>
C2	<p>Any activity in the Transport Zone (except for sensitive activities) that is a controlled activity in the adjoining zone.</p> <p>For the purpose of this rule, where the Transport Zone adjoins two different zones, the provisions of the adjoining zone only apply up to the centre of the Transport Zone in that location.</p>	<p>The applicable matters of control for the adjoining zone, as well as:</p> <ul style="list-style-type: none"> a. Transport infrastructure in the Transport Zone - 7.3.20.

7.2.2.2 Restricted discretionary activities

The activities listed below are a Restricted Discretionary activity:

Discretion to grant or decline consent and impose conditions is restricted to the Matters of Discretion specified in the following table and as set out for that Matter in 7.3.

	Activity	The Council's discretion shall be limited to the following matters:
RD1	Any activity that is not in accordance with any one or more Rules in Section 7.2.3, except where otherwise provided for by 7.2.2.1a C1	Matters over which the Council has restricted discretion are set out in sections 7.3.1 - 7.3.19 for each standard.
RD2	Activities P13, P14 and P18 listed in Rule 7.2.2.1, that do not comply with any one or more of the activity specific standards	a. Transport infrastructure in the Transport Zone - 7.3.20.
RD3	Any formation of an unformed legal road	a. Formation of unformed legal roads - 7.3.21.
RD4	<p>Any activity (except for sensitive activities) in the Transport Zone that is a restricted discretionary activity in the adjoining zone.</p> <p>For the purpose of this rule, where the Transport Zone adjoins two different zones, the provisions of the adjoining zone only apply up to the centre of the Transport Zone in that location.</p> <p>For the avoidance of doubt, any restricted discretionary activity in the Industrial General Zone, shall be a restricted discretionary activity on 99 Ensors Road (Sec 1 SO 448367).</p>	<p>The applicable matters of discretion for the adjoining zone, as well as:</p> <p>a. Transport infrastructure in the Transport Zone - 7.3.20.</p>
RD5	Activity P17 listed in Rule 7.2.2.1, that does not comply with any one or more of the activity specific standards	<p>The applicable matters of discretion for the adjoining zone, as well as:</p> <p>a. Transport infrastructure in the Transport Zone - 7.3.20.</p>

7.2.2.3 Discretionary activities

The activities listed below are a Discretionary activity:

	Activity
D1	Any activity in the Transport Zone not provided for as a permitted, controlled, restricted discretionary or non-complying activity

7.2.2.4 Non-complying activities

The activities listed below are a Non-complying activity:

	Activity
NC1	<p>Except where provided for in P12 – P16 and P18 listed in Rule 7.2.2.1, or RD2 or RD3 listed in Rule 7.2.2.2, any activity in the Transport Zone that is a non-complying activity in the adjoining zone.</p> <p>For the purpose of this rule, where the Transport Zone adjoins two different zones, the provisions of the adjoining zone only apply up to the centre of the Transport Zone in that location.</p>
NC2	<p>Any building or structure (except transport infrastructure and utilities that comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001)) that exceeds 2.5 metres in height within:</p> <ul style="list-style-type: none"> - 12 metres of the centre line of a 110kV or a 220kV National Grid transmission line, or/and - 10 metres of the centre line of a 66kV National Grid transmission line.

Notes:

1. The National Grid transmission lines are shown on the planning maps.
2. Vegetation to be planted around the National Grid should be selected and/or managed to ensure that it will not breach the Electricity (Hazards from Trees) Regulations 2003.
3. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to National Grid transmission lines. Buildings and activities in the vicinity of National Grid transmission lines must comply with the NZECP 34:2001.

7.2.2.5 Prohibited activities

There are no prohibited activities.

7.3 Matters of control and discretion

The Activity Status table states which activity is a controlled activity or a restricted discretionary activity. The matters over which the Council has restricted its control or discretion are specified for each activity listed below.

[7.3.1 — 7.3.19]

[Refer to Stage 1 decision]

7.3.20 Transport infrastructure in the Transport Zone

The following are assessment matters for Rules C2, Section 7.2.2.1a and RD2 and RD4, Section 7.2.2.2:

1. Whether there is a need for the development in relation to improving the safety, amenity, efficiency or functionality of the Transport Zone.
2. Any adverse effects on the current or future safety and efficiency of transport modes.
3. Whether the scale and location of buildings will adversely affect or dominate its surrounding setting including adjacent buildings and the environment. In particular:
 - a. where a larger building is proposed to locate adjacent to areas with smaller buildings, the massing and design of the proposed building should not overly dominate the built scale or open space of the surrounding area. Methods to moderate the bulk of the proposed building may include:
 - (i) varying roof forms;
 - (ii) window placement;
 - (iii) appropriate use of materials; and
 - (iv) modulation of facades.
4. Whether the building adversely affects the environment, amenity or activity of adjacent land uses.
5. Whether there is adequate access to sunlight.
6. Whether the location or/and the scale of the building does not solely or cumulatively affect public access.
7. Whether the building results in areas of entrapment or concealment.
8. The extent to which the development and activity specific standards of the adjoining zone mitigates potential adverse effects.

9. If the land is being used for non-transport related activities, the extent to which the activity does not undermine the future use of the land for transport purposes.

7.3.21 Formation of unformed legal roads

The following are assessment matters for Rule RD3, Section 7.2.2.2:

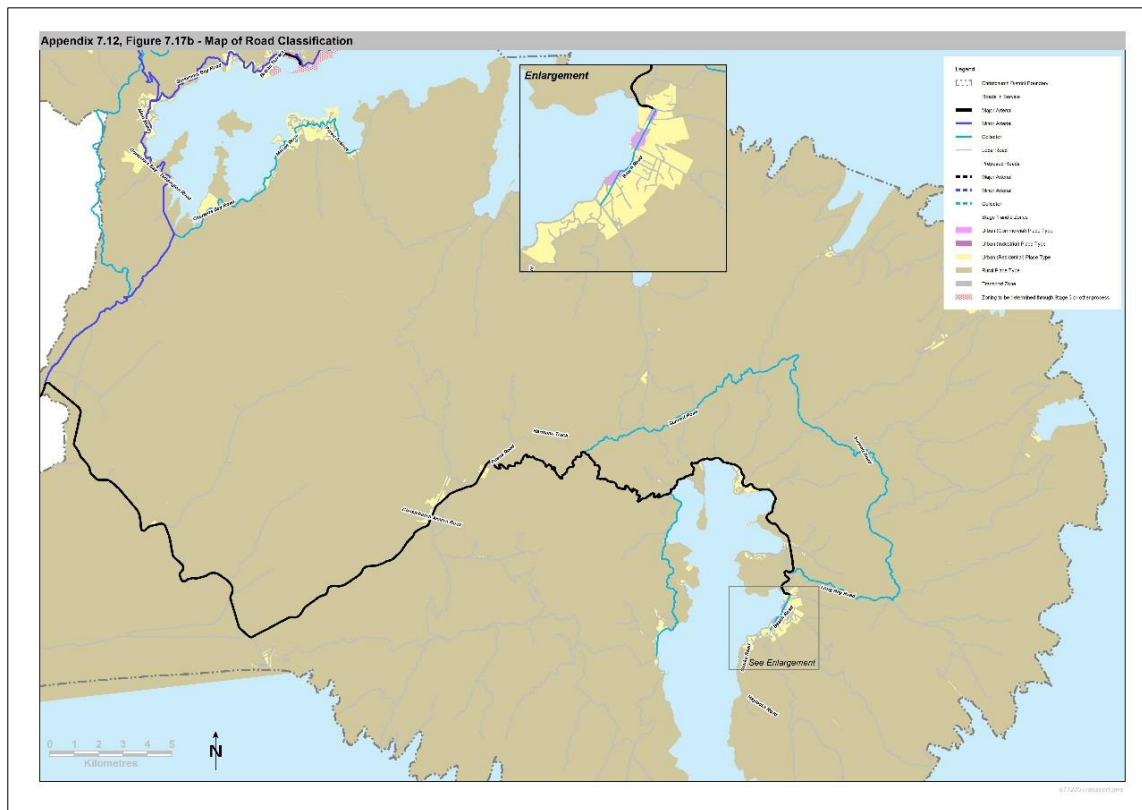
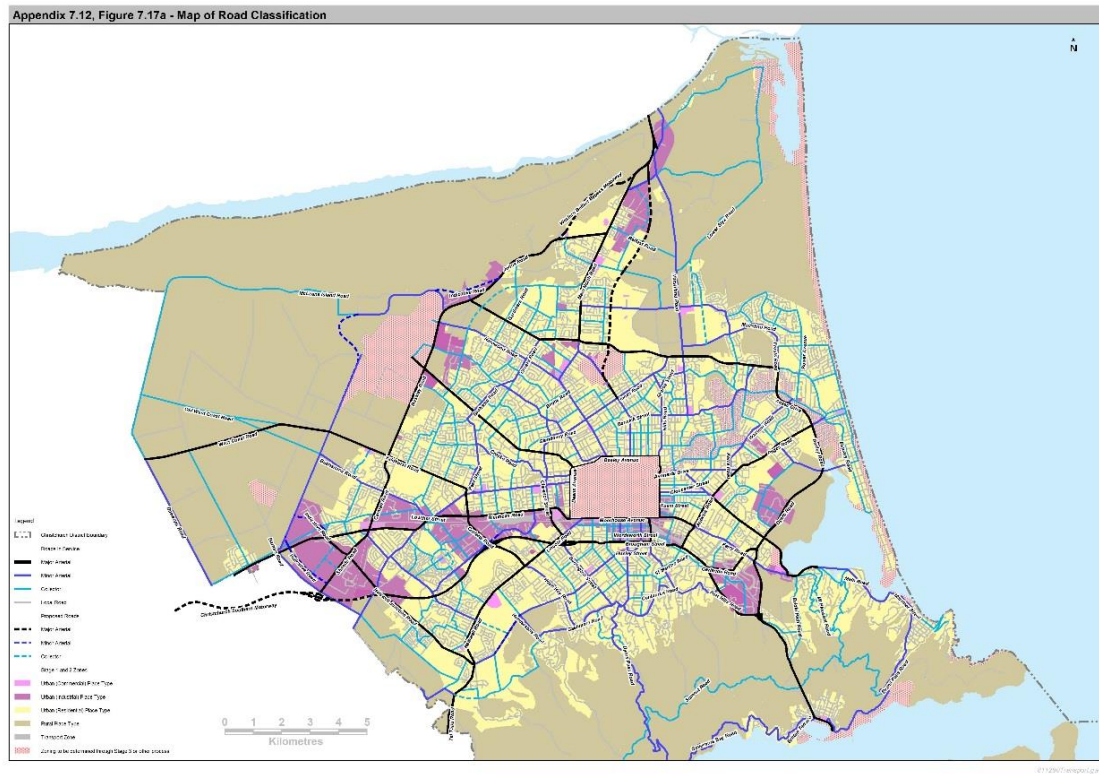
1. Whether there is ability to form the unformed legal road in a way that is safe, functional and maintainable at a reasonable cost.
2. Whether the use of the unformed legal road will adversely affect the environment and/or character of the location and surrounding area (including effects from dust, noise and vibration and effects on visual amenity).
3. Whether the use of the unformed legal road will adversely affect safe access for other current and potential users of the unformed legal road, including pedestrians and cyclists.

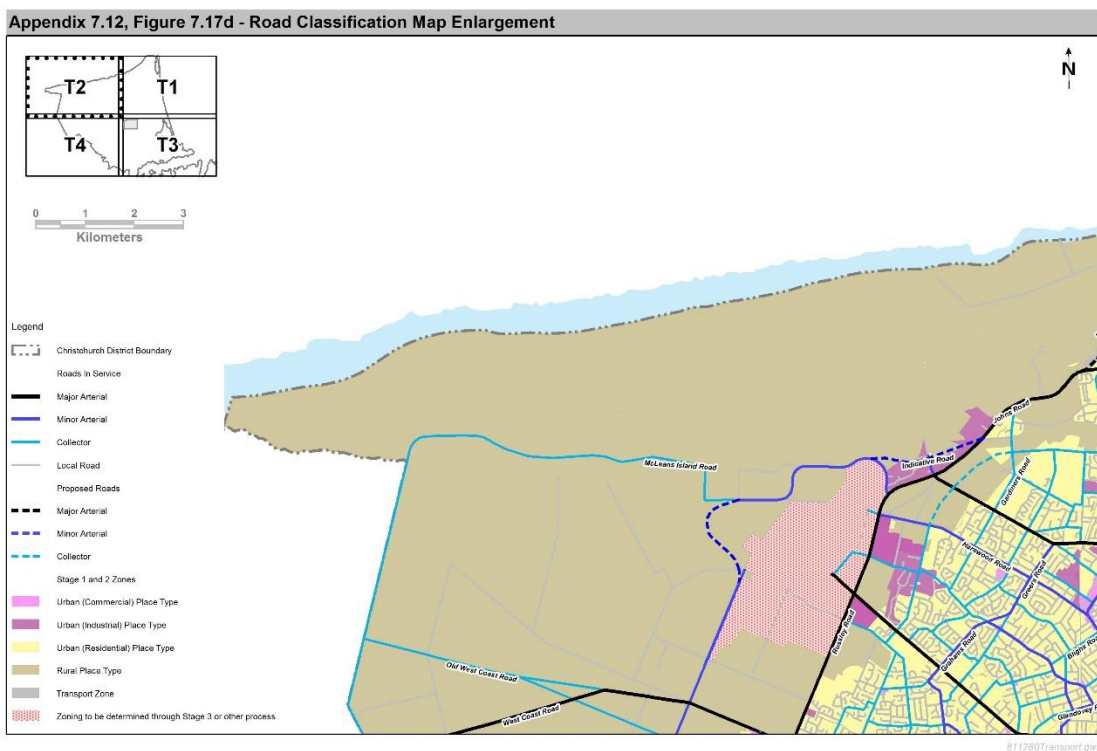
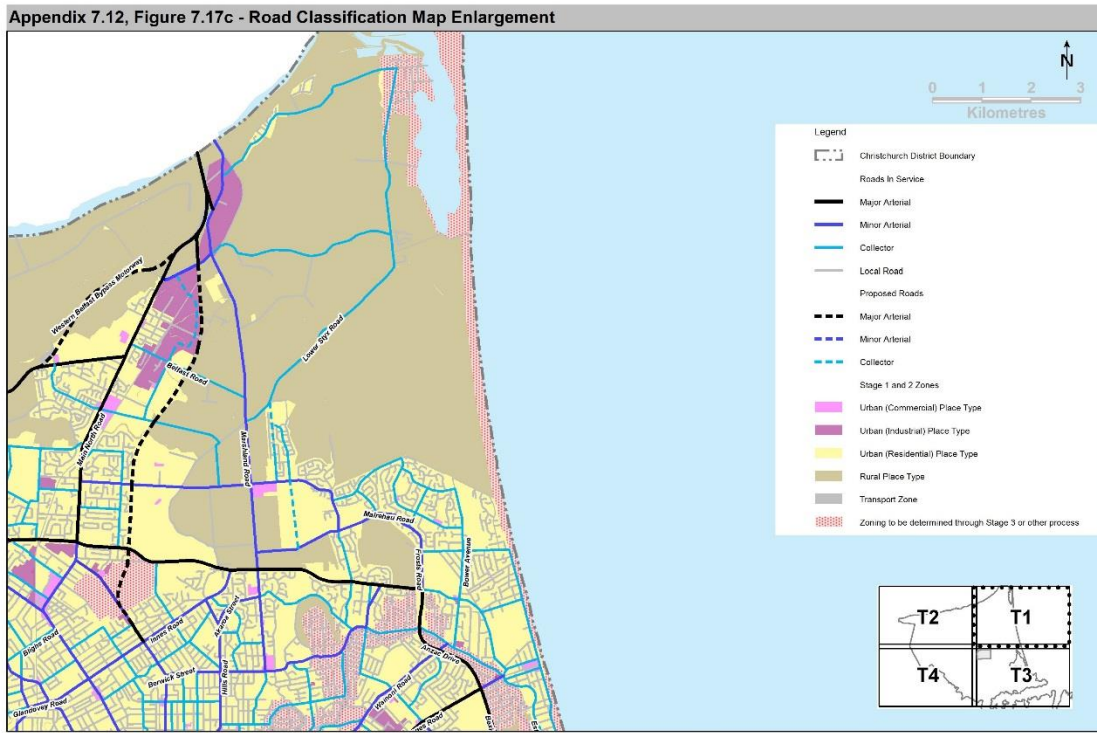
[7.4 — 7.11]

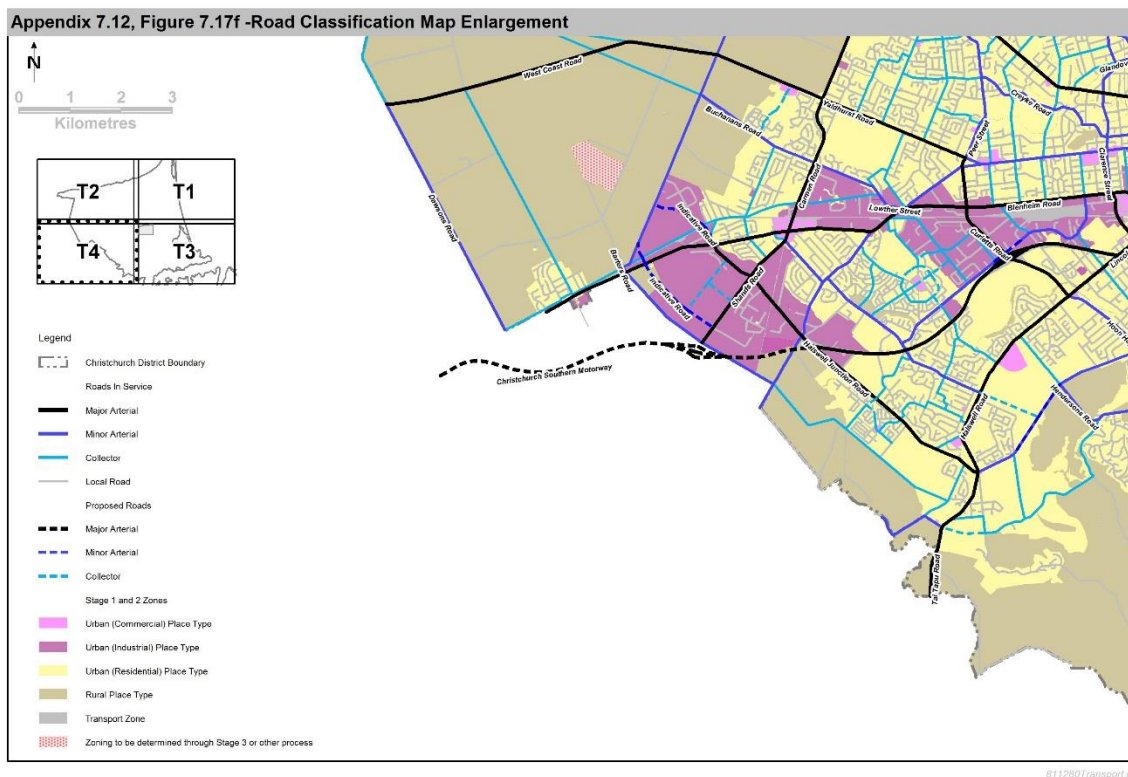
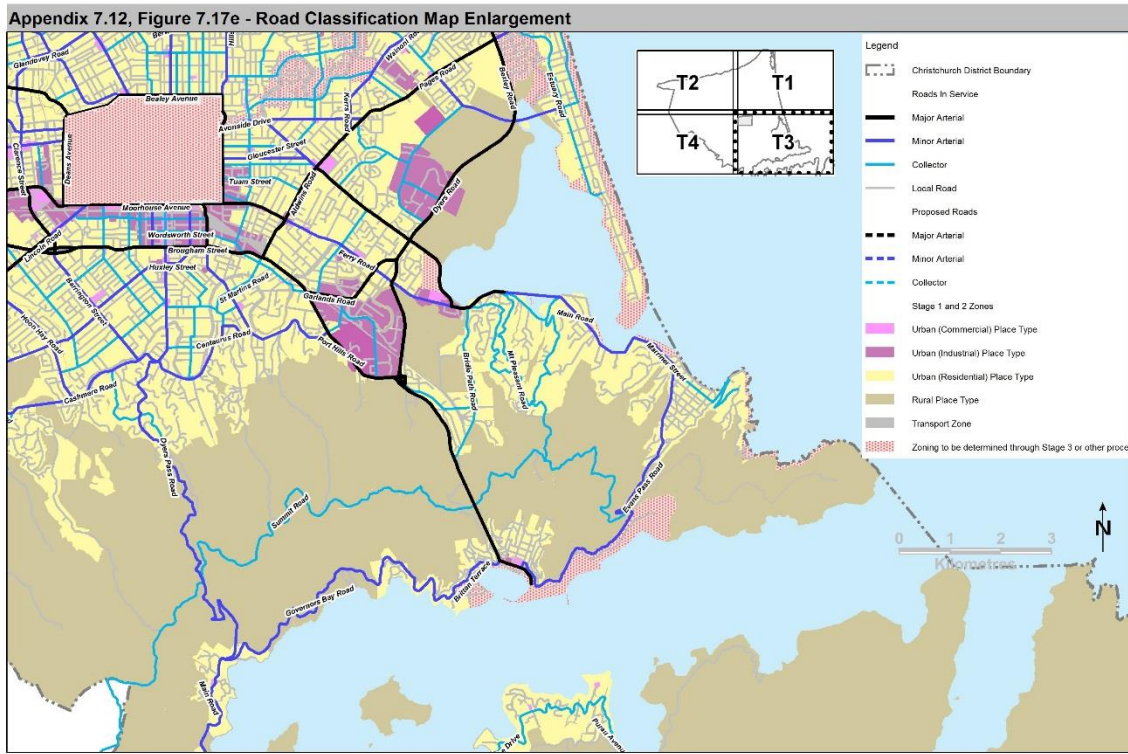
[Refer to Stage 1 decision]

7.12 Appendices

Figure 7.17 Road Classification Maps







Definitions

Transport System

means all transport infrastructure, services, mechanisms and institutions that contribute to providing for transport, including key transport hubs, such as ports, airports and bus interchanges.

SCHEDULE 2

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

Submitter	No.	Person	Expertise or Role if Witness	Appeared/ Filed
Christchurch City Council	2123	D Falconer	Senior Policy Planner Transport	Appeared/Filed
Crown	2387	A McLeod	Planner	Appeared/Filed
KiwiRail Holdings Limited	2246	G Munro	Manager of Property Revenue	Appeared/Filed
		D Hewett	Senior RMA Advisor	Appeared/Filed
Project Lyttelton	1143	W Everingham and L Hindin		Appeared
A Ross	1052	A Ross		Filed
A Ireland	2584	A Ireland		Filed

SCHEDULE 3

Provisions of existing district plans that we replace or delete by this decision, as identified by the Council¹

Existing provision to be replaced or deleted	Our reasons for replacing or deleting
Christchurch City Plan	
Volume 3	
Part 8 Special Purpose Zones	
Rule 13.4.2 — Status of buildings extending over Road Zone	Rule 7.2.2.1 P16
Rule 13.4.3 — Extent of the zone	Removed
Development standards 4.5	Removed
Critical standards 4.6	Removed
Rule 13.4.5.1 — Roadway Widths	Removed
Rule 13.4.5.7 — Cross Sections for roads in Living G (Highfield) Zone	Rule 7.2.2.1 P18
Rule 13.4.6.1 — Roads to be stopped	Removed
Rule 13.5.2.1 — All activities, 13.5.3.1 Scale of building & Rule 13.5.3.2 — Height	Rule 7.2.2.1 P13
Rule 13.6.2.1 — Maintenance of unobstructed rail corridor	Rule 7.2.2.3
Rule 13.6.2.2 — Building structures — effect on living zones	Rule 7.2.2.1 P13
Rule 13.6.2.3 — Public accessways — effect on living zones	Removed
Banks Peninsula District Plan	
31.2.8 – Technical standards	Removed

¹ Closing legal submissions for Christchurch City Council, 28 September 2015, paras 6.1–6.2.