

Report / decision to determine public notification, limited notification, or non-notification of a resource consent application

(Sections 95A / 95B)

Application Number:

RMA/2016/1434

Applicant:

McConnell Property Ltd

Site address:

189 Deans Avenue and 9 Matai Street East

Legal Description:

Lot 1 DP 51050 and Lot 1 DP 6807

Zoning:

Christchurch City Plan: Living 5 (Travellers Accommodation)

Proposed Replacement District Plan: Guest Accommodation

Operative Replacement District Plan: n/a

Overlays and map notations: Liquefaction Management Area

Activity Status:

Christchurch City Plan: Non-complying

Proposed Replacement District Plan: Restricted discretionary

Operative Replacement District Plan: n/a

Description of Application: Construct 12 townhouses, 42 apartment units, alter and add to a heritage building and setting, and remove 4 notable trees

Introduction

The proposal is described in detail at section 3 of the applicant's AEE. In brief, the key aspects are:

- The north-western corner of the site will be redeveloped as a terrace of 12 residential townhouses, with these townhouses being a mix of two or three stories in height. The townhouses are to be accessed via a new driveway onto Darvel Street.
- The heritage-listed pump house is to be retained, and a new single storey pavilion and north-facing garden courtyard will be constructed behind it with a link into an existing doorway on the pump house's southern façade. This will be used as a café.
- The north-eastern portion of the site will be developed as a 42 unit apartment building
- The apartment building is to have parking contained within a semi-basement accessed from the existing driveway that connects onto Matai Street



A pre-application meeting was held on 19 April 2016, and the proposal was considered by the Urban Design Panel on 2 May 2016. Following lodgement of the application for resource consent, a site visit was carried out on 28/06/2016.

The existing environment

The application site

The portion of the application site used for the proposal (approximately 8189.9m²) is the northern half of an entire block bound by Deans Avenue to the east, Darvel Street to the west and Matai Street East to the north. The central and southern parts of the site are occupied by the existing hotel operation, the Chateau on the Park. The address 9 Matai Street East (271m²) sits within the northern boundary of the site, and contains the heritage pump house and some surrounding land. Existing vehicle access to the site is from Kilmarnock Street, Matai Street East and the south end of Darvel Street.

The surrounding environment

The proposal site is across Deans Avenue from the north west corner of Hagley Park to the east, Christchurch Girls High School (CGHS) to the north, and residential dwellings along Darvel Street to the west. Further south there is another hotel operation on the other side of Kilmarnock Street (The Towers on the Park) and residential units. The part of CGHS which is closest to the proposed apartment building is the site of a proposed performing arts centre. The residential dwellings on Darvel Street range from single storey dwellings on their own sites to attached single and two-storey units. The existing dwellings nearest the proposal are single storey units joined at their garages but on their own sites. Deans Avenue is a four lane road classified as a major arterial road. Across Deans Avenue is a part of Hagley Park that is relatively dense with tall trees with a walking track running beneath. Further into Hagley Park is a large open space and sports fields.



Application site and surrounding area – © 2016 GeoMedia Ltd

Planning Framework

The operative Christchurch district plans are under review. The Independent Hearings Panel has made a number of decisions on specific parts of the Proposed Replacement Christchurch District Plan, including 'Strategic Directions and Strategic Outcomes'. Some of the rules have legal effect pursuant to section 86B of the Resource Management Act, while others are fully operative or treated as operative pursuant to section 86F of the Act. The rules applicable to this proposal have been assessed and the breaches are identified below.

If this recommendation to not notify the proposal is adopted by the Officer Panel, a separate section 104 report has been prepared to allow the substantive decision to be made immediately.

Christchurch Replacement District Plans

The site is proposed to be zoned Guest Accommodation in the proposed Christchurch Replacement District Plan. There has not yet been a decision made on the proposed zoning of this site or the Guest Accommodation zone rules. There has been no other proposed zoning for this site (i.e. Residential Medium Density), hence the proposal has been assessed under the operative City Plan zoning.

The proposal includes the address 9 Matai Street East, which has a former pump house that is listed as a Group 4 protected building under Appendix 1, Part 10 of the operative City Plan. The former pump house building and setting are proposed to be protected as a Group 2 – Significant heritage item and setting under Appendix 9.3.6.1.1 of the proposed Christchurch Replacement District Plan.

The Independent Hearings Panel has not yet released a decision on the proposed *Chapter 9 Natural and Cultural Heritage*, however under s.86B(3) a rule in a proposed plan has immediate legal effect if the rule protects historic heritage. Therefore the proposal must be considered under both the operative City Plan rules and the proposed heritage rules when determining the activity status of the proposal.

A decision on the proposed Chapter 7 Transport (Part) was released by the Independent Hearings Panel on 15/08/2015, and became operative on 18/12/2015.

The proposal is a restricted discretionary activity under the Proposed Replacement Christchurch District Plan as it breaches the following rules:

Heritage

The proposal involves works within the heritage item and the heritage setting. The proposed works are: to seismically upgrade the unreinforced brick walls of the pump house by the introduction of steel portal frames; repoint brickwork and make plastered surfaces good; repair and repaint existing windows and doors; add a new timber floor; add a new single level pavilion to the rear of the pump house for a kitchen, utilities and seating for the café; and to landscape the setting around the pump house with a terrace, outdoor seating, a bicycle stand and access ramp.

- Pursuant to Rule 9.3.3.2.2 C1 consent is required for a controlled activity as the proposal includes heritage upgrade works. Council's control is limited to the matters set out in Clause 9.3.4.1 a to h.
- Pursuant to Rule 9.3.3.2.3 RD1 consent is required for a restricted discretionary activity as the proposal includes alteration of a heritage item. Council's discretion is limited to the matters set out in Clauses 9.3.5.1 a to l and 9.3.5.2 a to h.
- Pursuant to Rule 9.3.3.2.3 RD2 consent is required for a restricted discretionary activity as the proposal includes alteration of a heritage setting - new buildings. Council's discretion is limited to the matters set out in Clauses 9.3.5.1 a to l and 9.3.5.4 a to e.

Transport

- Pursuant to Rule 7.2.2.2 RD1 consent is required for a restricted discretionary activity as the proposal does not achieve Rule 7.2.3.2 which seeks that at least the minimum amount of cycle parking facilities in accordance with Appendix 7.2 shall be provided on the same site as the activity. Under appendix 7.2(2)(c), staff/ residents/ tertiary students' cycle parking facilities shall be located in a covered and secure area. The proposed café requires 2 staff cycle parking spaces, and the cycle parking provided is not located in a covered area.

Christchurch City Plan

The site is zoned Living 5 (Travellers Accommodation). Under Clause 2-5.1.1 *Residential activities and other activities (except travellers' accommodation) - all standards (Living 5 Zone)*, all standards for residential and other activities in Riccarton, Kilmarnock, Raceway and Merivale shall be as for the Living 3 Zone. Therefore, the application is to be considered under the rules for the Living 3 Zone, for both the residential activity and the café.

The Living 3 (Medium Density) zone provides principally for medium-density residential accommodation. It is anticipated that the zone provisions will encourage diverse residential development, redevelopment and infill to medium densities and moderate heights, compatible with the character of existing development in the area while maintaining a reasonable degree of open space. The exception is on the former "saleyards site" fronting Deans Avenue where greater height and densities have been allowed to reflect the site's location adjoining Hagley Park and commercial areas. Similarly, some additional height is provided for in areas of central New Brighton to reflect the area's location adjoining the district centre and coastline. Given the building densities anticipated the retention of a high level of residential amenity, through landscape planting, scale and privacy requirements, will be an essential feature of this environment.

The proposal is a non-complying activity as it breaches the following rules:

Residential development

- *Development Standard 2-4.2.7 Urban design appearance and amenity – residential and other activities* – The erection of new buildings and alterations or additions to existing buildings that result in three or more residential units including all accessory buildings, fences and walls associated with that development, alteration or addition, shall be a discretionary activity, with the exercise of the Council's discretion limited to the assessment matters listed in clause 15.2.8. The proposal would result in 54 residential units.
- *Development Standard 2-4.2.10 Ground floor habitable room - residential activities* - In the Living 3 Zone, where the permitted height limit is 11m or less at least 50% of all residential units within a development shall have a habitable space located at the ground level. Except that, any residential units fronting a road or public space, except those built over access ways, shall have a habitable room located at the ground level. Each of these habitable spaces located at the ground level shall have a minimum floor area of 12m² and a minimum internal dimension of 3m and be internally accessible to the rest of the unit. 25 of the proposed residential units (out of a total of 54 units) would have a habitable space at the ground floor. 27 of the units would need to have a habitable space at the ground floor, so the proposal is 2 units short of providing a complying number of units with habitable rooms on the ground floor.
- *Development Standard 2-4.2.11 Outdoor Living Space – residential activities* – 30m² of outdoor living space shall be provided on site for each unit. This required outdoor living space can be provided through a mix of private and communal areas, at the ground level or in balconies provided that each unit shall have private outdoor living space of at least 16m² in total. There is no communal outdoor living space identified on the site plan. All of the proposed apartment units, with the exception of apartments 2-9, are each provided with an outdoor terrace or balcony with an area of between 4.8m² and 8.5m². Each of these private outdoor living spaces fall short of meeting the required 16m² minimum area by between 11.2m² and 7.5m².
- *Development Standard 2-4.2.12 Service and Storage Spaces* – Each residential unit shall be provided with outdoor service, rubbish, and recycling space of 5m² with a minimum dimension of 1.5m; and a single, indoor storage space of 4m³ with a minimum dimension of 1m. Except that if a communal outdoor service, rubbish, and recycling space with a minimum area of 10m² is provided within the site, the outdoor service, rubbish and recycling space may reduce to 3m² for each residential unit. Each outdoor service, rubbish, and recycling space shall not be located between the road boundary and any habitable room and shall be screened from adjoining sites, conservation or open space zones, roads, and adjoining outdoor living spaces to a height of 1.5 metres. Each of the townhouses (except townhouse 12) has been provided with an outdoor storage space of between 2-2.5m² with a 1m minimum dimension. This would be 2.5-3m² and 0.5m short of the minimum area and dimension requirements. Townhouse 12 has not been provided with an outdoor service space. A communal outdoor service space with an area of approximately 21m² is provided in the basement of the apartment units, which reduces the minimum requirement for the apartments to 3m² for each residential unit. None of the townhouses or apartment units meet the minimum area requirement for the single indoor storage space of 4m³.
- *Critical Standard 2-4.4.3 Building height – residential and other activities* – For All other parts of the Living 3 zone, except for central New Brighton, the maximum height of any building shall be 11m. The apartment building is 17.35m high at its highest point; 6.35m higher than the maximum permitted height.

Café in a heritage item and setting

- *Community Standard 2-4.3.3 Hours of Operation* – The maximum total number of hours the site shall be open to visitors, clients or deliveries for any activity other than a residential activity shall be 50 hours per week. Hours of operation shall be limited to between the hours of 0700 - 2300 Monday to Friday, and 0800 - 2300 Saturday, Sunday and public holidays. Consent is sought for 75 hours of operation per week.
- *Community Standard 2-4.3.4 Traffic generation – other activities* – For sites with frontage to local roads, the maximum number of vehicle trips per site shall be: Heavy vehicles - 2 per week, and Other vehicles - 32 per day. Consent is sought for over 32 vehicle trips per day.
- *Community Standard 2-4.3.6 Residential Coherence* – At least one person engaged in the activity shall reside permanently on the site. Consent is sought for not having someone engaged in the other / café activity residing on the site.
- *Specific Rule 10-1.3.2* – Group 3 and Group 4 Buildings, places and objects (Listed in Appendix 1) outside of the Central City. Any alteration of a Group 4 building, place or object, or the erection of any additional building(s) on a site containing a Group 4 building, place or object shall be a controlled activity, with the exercise of the Council's discretion limited to matters concerning the heritage values of a protected building, place or object.

Notable Tree removal

- *Development Standard 10-2.3.1* – Any work defined by Clause 2.2.4 (b), (c) or (d) affecting a notable tree identified in Appendix 4, shall be a discretionary activity, with the exercise of the Council's discretion limited to the impact of the works on the tree. For the purposes of these rules, any work affecting a protected tree (whether on the site or not) shall be deemed to include removal of any tree or; the construction of any building, or laying of overhead or underground services, any sealing, paving, soil compaction, or any alteration of more than 75mm to the ground level existing prior to work commencing, any depositing of chemical or other substances harmful to the tree within 10 metres of the base of any protected tree.

The proposal includes the removal of the *Fraxinus excelsior* (English Ash) notable tree, the *Betula pendula* (Silver Birch) notable tree, the *Magnolia grandiflora* (Southern Magnolia) notable tree, and the *Eucalyptus delegatensis* (Alpine Ash) notable tree. There would be works within 10m of the English Oak (*Quercus robur*) notable tree and the Pink Horse Chestnut (*Aesculus x carnea*) notable tree.

Adverse effects of the activity on the environment [Section 95A]

As a non-complying activity the Council's assessment is unrestricted and all actual and potential effects of this proposal must be considered. Relevant guidance is contained in the reasons for the rules breached and the relevant assessment matters as to the effects that require consideration.

Having regard to this planning framework I consider that the adverse effects of the proposal on the environment are:

- shading, dominance and overlooking from the over-height apartment building;
- reduced onsite amenity due to undersized outdoor living spaces, service spaces and less habitable spaces at ground floor than is required;
- transport effects;
- heritage effects;
- effects on residential coherence from the café operation; and,
- effects on notable trees.

Apartment building height - Shading, dominance and overlooking

The maximum height of any building shall be 11m, but the proposed apartment building would be 17.35m high at its highest point, exceeding the maximum by 6.35m. The highest point of the building would be located near the north east corner of the site, and the rest of the building steps down over two stories to reach the maximum height limit, as shown in the two elevations below. I consider that the adverse effects of the height exceedance relate to visual dominance, compatibility with the surroundings, overlooking, and shading.

Although Council's discretion is not restricted, Clause 2-15.2.2 provides some guidance on the relevant assessment matters for a building height exceedance, which include compatibility with other buildings in the area, visual dominance and overshadowing, privacy of neighbouring sites, and any ability to mitigate adverse effects.



Apartment east elevation



Apartment north elevation

Visual dominance

The apartment building would be noticeably high against the lower existing buildings on the site and the open space at Hagley Park. The dominance of the building in this context would be noticeable to those moving along Deans Avenue and Matai Street East, and to users of the north west corner of Hagley Park and Christchurch Girls High School (CGHS). There is also the potential for it to be seen from the residential neighbours on Darvel Street.

The visual dominance would only be perceived for a short duration by those using Matai Street East, Deans Avenue and Hagley Park. The nearby residential sites at Darvel Street would be separated from the apartment building by approximately 150m, and space within which there would be 12 townhouses of a permitted height. CGHS would have longer duration experiences of the visual dominance, but the nearest school building would be the proposed performing arts centre which is of a similar scale.

I also consider that there are a number of mitigating factors for the visual dominance of the apartment building.

The scale and dominance of the apartment building could be balanced by the proposed 15.6m high performing arts centre to be located across Matai Street East which will be located near Matai Street East.

The north and east elevations of the apartment building have been broken up by the design of the units, so well-articulated elevations are presented to the street rather than a monotonous structure.

The retained tall trees and the proposed trees (with a minimum height at planting of 2m) located between the apartment building and the street would soften the structure and echo the type of environment present in the north west corner of Hagley Park where there are dense, tall trees.

The highest part of the apartment building is set back further than the rest of the building from the road boundary on the Matai Street East frontage, so as it gets higher and more dominant it is further distanced from other sites and public spaces, mitigating its own dominance by its layout.

The short duration of use of the nearest surrounding spaces and sites, and the mitigating factors noted above, have led me to consider that the extent of the visual dominance for nearby sites would be less than minor. Any other users of the surrounding public spaces would be experiencing the dominance of the building for short durations but given the busy nature of Deans Avenue, the heavy use of Hagley Park and prominent location of

the apartment building on the corner of the site, I consider that the extent of the visual dominance on the wider environment would be minor.



Existing trees, proposal site at left, looking west down Matai Street East from Hagley Park



Existing trees at the north west corner of Hagley Park, looking east

Compatibility with the surrounding area

The apartment building would be noticeably higher than those around it, in particular the other Hotel buildings at 189 Deans Avenue, and the nearby dwellings along Darvel Street.

There are other apartment buildings of similar heights near the edges of Hagley Park. These examples range in height and distance from the road: 26 Carlton Mill Road at approximately 22m in height and 28m from the road; 50 Carlton Mill Road at approximately 20m in height and 32m from the road; and 138 Park Terrace at approximately 15.3m in height and 30m from the road. There would be less space provided between the apartment building and the road than there has been provided with the other examples of tall apartment buildings near Hagley Park, however the space that is provided is landscaped and contains tall trees. While the setback from the site's eastern boundary is only approximately 5.5m, there is an easement with planting between the site's road boundary and the kerb of Deans Avenue, providing a setback of approximately 12m for the apartments. Hagley Park would balance the scale of the apartment building and create distance for those viewing the building in its wider surrounding environment.

The scale of the apartment building would be compatible with the school buildings at CGHS (and the proposed performing arts centre at 15.6m in height).

Council's Principal Adviser Urban Design, Hugh Nicholson, provided urban design advice for this proposal. Mr Nicholson noted that the additional height emphasizes the corner and is appropriate for and in scale with its surroundings.

I agree that the scale of the apartment building would be compatible with its surroundings, in particular the CGHS buildings and other existing apartment buildings on the edges of Hagley Park. The Townhouses provide a transition from the apartment scale to the single storey dwelling scale on the other side of Darvel Street.

I consider the apartment building would appear larger than other surrounding buildings, but that it would be appropriate for the context. I consider the incompatibility with neighbours would be noticeable but that none of the surrounding neighbours would be directly affected. The compatibility with the wider environment is greater, so I consider the extent of the incompatibility on the wider environment to be less than minor.

Overlooking

There are no existing adjoining residential neighbours for the apartment units to overlook, but the apartment building would establish indoor living areas and balconies with an elevated view of Matai Street East, CGHS, Deans Avenue and Hagley Park, and there is the potential for a view as far as Darvel Street from the highest apartment units.

I consider there would be little additional effect on privacy for the already public spaces that surround the site, although there could be some perceived effects of feeling overlooked from the apartments while using the public spaces. However, there are trees on both sides of Matai Street East and Deans Avenue which would partly screen the view from the apartment units, and to be overlooked from dwellings while using a street is a reasonable expectation within an urban setting.

The apartment building is separated from the Darvel Street dwellings by approximately 150m, which I consider to be a sufficient separation for the extent of the potential overlooking and any loss of privacy of these sites to be less than minor.

I consider any effects on nearby sites would be less than minor, due to their non-residential nature or distance from the building, and any effects on the wider environment would also be less than minor due to the more public nature of the surrounding wider environment.

Shading

A sun study of the shading effects of the apartment building was provided with the application. There are no adjoining sites, and shading effects would be on the site itself and Deans Avenue. The sun study does not show how far the shading would reach over Deans Avenue and if it would reach Hagley Park, but I consider that any shading over the nearby part of Hagley Park would be short-lived, and that the existing tree cover at the edge of the Park would create a greater shading effect than the proposed apartment building.

For these reasons, I consider there would be no shading effects on nearby sites, and any shading effects on the Hagley Park and the wider environment would be less than minor.

Conclusion

In conclusion, I consider the extent of the effects of the apartment building height (shading, overlooking and visual dominance) would be less than minor for the surrounding sites and no person will be affected. I also consider that the extent of these effects on the wider environment would be less than minor, with the exception of visual dominance which I think will be a minor effect on the wider environment.

On-site amenity

The proposal has undersized outdoor living spaces for the apartment units, and undersized service and storage spaces for both the townhouses and apartment units. Adverse effects of these non-compliances are reduced access to outdoor living, the balance of buildings to open space, and potentially inadequate service and storage spaces.

Outdoor living

A minimum of 30m² of outdoor living space shall be provided on site for each unit, which may be provided at ground level or in balconies provided that each unit has a private outdoor living space of at least 16m² in total. There is no communal outdoor living space identified on the site plan, and all apartment units (with the exception of apartments 2-9) are each provided with an outdoor terrace or balcony with an area of between 4.8m² and 8.5m².

While discretion is not restricted, the assessment matters at Clause 2-15.2.12 provide some guidance on relevant matters which include adverse effects on the ability of the site to provide for outdoor living needs, alternative

provision of outdoor living spaces to meet these needs, how commensurate the reduction in outdoor living space is with the scale of the residential unit, and impacts on overall openness and amenity.

In his urban design advice, Mr Nicholson noted that each of the apartments is provided with a balcony facing either north, west (overlooking the 'village green' and internal courtyard) or east (overlooking Hagley Park). Mr Nicholson considered that 'the outdoor living spaces are well designed and will contribute to the amenity of the proposed development and there is high quality access to outdoor spaces for residents'. There are also generous landscape areas at ground level, and Hagley Park is nearby and provides an alternative space for outdoor recreation.

The reduction in outdoor living space is in proportion to the apartment units, which are inherently limited for outdoor living space. The outdoor living spaces are directly accessible from the indoor living spaces which would also have good access to sunlight and fresh air through sliding doors to the balconies. The proposal's apartment building sun study shows that all the units would receive sunlight either early or late in the day.

Due to the orientation of the balconies and the alternative nearby outdoor spaces, I consider the extent of this adverse effect would be less than minor for those living in the apartment units.

Habitable spaces at ground level

At least 50% of all residential units within this development should have a habitable space located at the ground level, but the total proposal is 2 units short of providing a complying number of units with habitable rooms on the ground floor. While discretion is not restricted, the assessment matters at Clause 2-15.2.11 provide some guidance on relevant matters. Adverse effects of this non-compliance relate to the balance of open space and buildings.

The balance of open space to buildings would not be noticeably different if there were two more units on the ground floor of the apartment building. As noted above, each unit has adequate outdoor living space for the nature for the unit, with open space onsite and nearby to balance with buildings. I consider that the extent of the imbalance between open space and buildings would be less than minor for those living in the apartment units.

Outdoor service, rubbish, and recycling space

Each residential unit shall be provided with an outdoor service, rubbish, and recycling space of $5m^2$ with a minimum dimension of 1.5m; and a single, indoor storage space of $4m^3$ with a minimum dimension of 1m. If a communal outdoor service, rubbish, and recycling space with a minimum area of $10m^2$ is provided within the site, the outdoor service, rubbish and recycling space may reduce to $3m^2$ for each residential unit.

Each of the townhouses (except townhouse 12) has been provided with an outdoor service space of between 2 and $2.5m^2$ with a 1m minimum dimension. Townhouse 12 does not have identified outdoor storage space. A communal indoor service space with an area of approximately $21m^2$ is provided in the basement of the apartment units, which reduces the minimum requirement for each of the apartment units to $3m^2$. Not all of the apartment units meet the minimum dimension requirement for the single indoor storage space of 1m.

While discretion is not restricted, the assessment matters at Clause 2-15.2.13 provide some guidance on relevant matters, and include the adequacy of communal or alternative areas provided, the ability to use those spaces, and impacts of visual amenity within the site and for the street scene. The adverse effect of the undersized service and storage spaces relates to the adequacy of the spaces that have been provided.

In his urban design advice, Mr Nicholson considered that the service and storage areas proposed to be provided were adequate.

The apartment units are provided with a space within the building in the underground parking area, which I would consider to be convenient as it is located within the building, and accessible by a lift. The apartments have not been provided with any private outdoor service, rubbish, and recycling space but this seems appropriate given the nature of a multi-storey apartment building.

Each of the townhouses (except townhouse 12) has an outdoor service, rubbish, and recycling space but not of a compliant size. Townhouse 12 has no outdoor service space, but it has two single garages. I consider the space provided would be adequate for the storage of rubbish bins, and the extra garage at townhouse 12 could accommodate bins.

Some of the apartment units do not have a storage space with a 1m minimum dimension. The first 3 floors of the building are provided an extra $8m^2$ of storage space located in the hallway of the building that would also be available for use. I consider that the storage space provided is adequate and in proportion to the size of the apartment units.

The adverse effects of the lack of service or storage space may be felt by those using the units, but I consider that the provision of the alternative and communal service and storage spaces mitigate these effects on those who will occupy the units, so that the extent of the adverse effects would be less than minor.

No parties outside the site will be adversely affected in respect of these on-site amenity matters, nor will there be any effects on the wider environment.

Alterations and additions to heritage item and setting

The proposal involves works within the pump house heritage item and the surrounding heritage setting, as described in the planning framework section above.

Under the City Plan, any alteration of a Group 4 building, place or object, or the erection of any additional building(s) on a site containing a Group 4 building, place or object shall be a controlled activity, with the exercise of the Council's discretion limited to matters concerning the heritage values of a protected building, place or object.

Under the proposed Christchurch Replacement District Plan, consent is required for a controlled activity as the proposal includes heritage upgrade works to the Matai Street East pump house. Council's control is limited to the matters set out in Clause 9.3.4.1 a to h.

Consent is also required for a restricted discretionary activity for two reasons: the proposal includes alteration of a heritage item; and alteration to a heritage setting with the addition of new buildings. Council's discretion is limited to the matters set out in Clauses 9.3.5.1 a to l and 9.3.5.2 a to h, and Clauses 9.3.5.1 a to l and 9.3.5.4 a to e.

The effects of the proposed works on the heritage item and within the heritage setting (a seismic upgrade, brickwork repointing, repair and repainting of windows and doors, the addition of a new timber floor, and a new single level building at the rear of the pump house to accommodate a kitchen and seating for café use) have been assessed by the Council's Heritage Advisor, Gareth Wright, whose comments should be read in conjunction with this report.

Mr Wright noted that the seismic upgrade would avoid altering the exterior envelope of the building and that the steel frames would not be at odds with the industrial nature of the building. As details have not been provided for the works on the heritage building, they have been addressed through the recommended conditions. The elevations of the building would be largely unchanged and there would be minimal penetrations required for services. Mr Wright considered that the new pavilion would contrast with the pumphouse and be only lightly joined to it. The existing rear doors would be retained in-situ.

Mr Wright concluded that:

The conversion of the Matai Street Pumphouse to a café is an innovative example of adaptive reuse, securing the future of this under-utilized and neglected building. The manner in which the building is being converted is also exemplary. Heritage form, fabric and appearance are being maintained, upgraded and restored. The new pavilion addition strikes the right balance between contrast and compatibility, whilst being appropriately subordinate.

I accept Mr Wright's assessment and on this basis consider the adverse effects on heritage values to be less than minor.

Protected Trees

Any work defined by Clause 2.2.4 (b), (c) or (d) affecting a notable tree identified in Appendix 4, shall be a discretionary activity, with the exercise of the Council's discretion limited to the impact of the works on the tree. The work affecting the protected trees would be the construction a townhouse, the apartment building, and the decking attached to the café, and sealing, paving, or soil compaction within 10 metres of the base of two protected trees (the English Oak (*Quercus robur*) notable tree and the *Pink Horse Chestnut* (*Aesculus x carnea*) notable tree). The proposal also involves the removal of the *Fraxinus excelsior* (English Ash) notable tree, the *Betula pendula* (Silver Birch) notable tree, the *Magnolia grandiflora* (Southern Magnolia) notable tree, and the *Eucalyptus delegatensis* (Alpine Ash) notable tree.

Council Arborist, Mr John Thornton, considered that;

in terms of the removal of the existing Notable trees on site i.e. that is the English Ash, Silver Birch, the Southern Magnolia and the Alpine Ash (technically missing though there is a Eucalyptus in that spot), I would expect that some reasonably large replacement trees be provided, as their removal will be a significant loss of vegetation to the landscape. Also of note is the loss of one of

the best Rimu trees I have seen in the city boundaries. This is both a very large example of an urban Rimu, which is also of very good form and health.

In particular the English Ash is a very large tree and currently has a trunk diameter of over 96 cm, is 17 m tall and 18.5 m in crown width. Although the trees have been rated as below the level to qualify for continued protection under the proposed District Plan, the criteria for inclusion is far more severe than the current assessment system uses, with which they were assessed in the 1990's. This does not mean they are not worth retaining, just that they are not at a Notable tree level according to the proposed new CTEM system of appraisal.

However, if new trees of a species that will grow into large enough trees to replace the ones lost are provided, this would mitigate to a reasonable extent the loss of the trees.

Therefore I recommend that the planting of four replacement trees ... at least 3 metres high at the time of planting for exotics, and 2 metres high for natives.

The replacement trees should be planted in a suitable location, preferably where they are most visible. The replacement trees are to be maintained in accordance with internationally recognised Arboricultural practice and should not be topped.

Mr Thornton originally included a list of preferred species for the above mentioned four trees, but subsequent discussion with Mr Thornton established that a number of the species proposed for the site would be adequate.

The removal of four notable trees would reduce the amount of existing planting retained on the site. However more trees are proposed to be planted between the proposed buildings and the road boundaries, which would be in a more visible location in terms of the view of the site from the street.

The applicant has proposed a number of trees be planted on the site, and the applicant has accepted conditions recommended by Mr Thornton to manage the works within 10m of the two retained notable trees (the English Oak (*Quercus robur*) and the *Pink Horse Chestnut* (*Aesculus x carnea*)).

I consider the extent of the reduced amenity from loss of trees on the site would be less than minor, and that the extent of this effect on the wider environment would also be less than minor

Transport

There are two transport related non-compliances, which relate to trip generation from the café operation (greater than the permitted 32 trips per day) and staff cycle parking provision for the café (not under cover or secure as required). The transport effects of the whole development on the surrounding transport network have also been considered. Vehicle and cycle parking numbers, parking manoeuvring, increased use of the Matai Street East and Darvel Street vehicle accesses, effects on the major cycle way along Matai Street East have been assessed by a consultant Transport Engineer from Novo Group Limited, Mr Nick Fuller, whose comments should be read in conjunction with this report.

Mr Fuller considered that more than the required number of cycle parks had been provided for the café and that the proposed provision would be acceptable. With regard to traffic generation at the vehicle accesses, Mr Fuller agreed with the integrated transport assessment provided with the application that traffic generation at the Darvel Street access would be very low and that the access would operate satisfactorily. Changes at the Kilmarnock Street access were anticipated to be negligible.

Regarding the Matai Street East vehicle access, Mr Fuller considered that 'whilst we note that it is not ideal to increase the volume of traffic using this access and therefore crossing the Major Cycle Route, we consider that it can occur safely.' The cross-section of the Matai Street East access contains a footpath, planting strip, cycle way and then the road carriageway, with no parking permitted on the proposal's side of the street. A visibility splay would also be provided, so Mr Fuller was satisfied that visibility for pedestrians would be improved and that drivers leaving the site would be able to see cyclists. Mr Fuller also considered that vehicles entering the site would need to give way and that the possible delay for them would not create adverse traffic effects for the road network. The possibility of each townhouse having their own access to Matai Street East was considered as creating worse effects than the proposal.

Regarding the trip generation associated with the café operation, Mr Fuller considered the transport effects of the café operation would be less than minor.

Mr Fuller concluded that he was satisfied that the transport effects of the proposed development on the safety and efficiency of the surrounding transport network would be less than minor. Accordingly, he could support the proposal from a traffic perspective.

I have relied on the advice of Mr Fuller and accept his advice that the transport effects of the proposal would be less than minor. I do not consider that any parties will be adversely affected in terms of traffic.

Café operation

At least one person engaged in the activity shall reside permanently on the site, and the maximum total number of hours the site shall be open to visitors, clients or deliveries for any activity other than a residential activity shall be 50 hours per week. Consent is sought for not having someone engaged in the café activity residing on the site, and for 75 hours of operation per week. Adverse effects of the café are on the residential coherence and character of the area.

While discretion is not restricted, the assessment matters under Clauses 15.2.25 and 15.2.27 provide some guidance and include the extent the surrounding area will be dominated by residential activity, the presence of residential neighbours for residential sites, any cumulative effects of loss of residential activity in the area, traffic and pedestrian movements that are out of character with the area, inconsistent noise, disturbance and loss of privacy, and mitigating aspects of the activity.

The immediately surrounding area contains CGHS, the existing hotels on the site and across Kilmarnock Street, and Hagley Park, so the area is already dominated by non-residential activities. The café component is a part of the whole proposed development which will introduce more residential activity to the proposal site than currently exists. These proposed residential neighbours would have neighbours in the townhouses or apartment building, and would mitigate any impact on residential coherence caused by the café.

There is already pedestrian traffic along Matai Street East, being a quiet route to Hagley Park and Christchurch Girls High School. The existing major cycle way travels along the front of the proposed café site, and would already be anticipated to encourage cycle traffic along this road frontage. The proximity of the proposed café near a large open space in Hagley Park also makes the presence of a café compatible in terms of people frequenting the area.

Given the receiving environment and context, I consider the adverse effects of the proposed café operation (residential coherence and pedestrian, bicycle and vehicle traffic, and additional noise) on surrounding neighbours and the wider environment would be less than minor.

Urban design

The proposal would result in 54 residential units, making it a restricted discretionary activity, to be assessed against the urban design matters listed in Clause 15.2.8. The council's discretion is not limited, but the assessment matters listed in Clause 15.2.8 provide some guidance to establish whether the proposal achieves a good outcome in terms of urban design principles. For completeness, I have summarised the advice from Council's Principal Adviser Urban Design, Hugh Nicholson, whose comments should be read in conjunction with this report.

Mr Nicholson made a number of points about the visual effects of the scale of the proposed buildings on the site and context. The proposed townhouses were considered to be of an appropriate scale for Matai Street East, and the residential components appropriately address the street. In particular, the ground floor living areas of the proposed apartments would provide for some interaction with the street, and the articulation of the proposed buildings would provide visual interest and human scale.

Mr Nicholson concluded that:

In general this is a high quality proposal which will provide an attractive medium density living environment adjacent to Hagley Park and the existing Chateau on the Park hotel. The residential terrace housing and apartments are well-designed and the extra height in the proposed apartment building overlooking the park is appropriate reinforcing the corner and providing a high quality living environment with views over Hagley Park.

I have relied on the advice of Mr Nicholson and accept his advice that the proposal is of high quality and takes into account the relevant urban design principles.

Both the townhouses and the apartment building present a large amount of solid built form to the street, but for the reasons discussed above I agree that the development is appropriate for the context, and the units at ground level would connect with the street frontage. The articulated form of the townhouses and apartment building avoid a monotonous structure on the street front, and parking and garages have been mostly kept away from the surrounding streets. Trees have been retained and while some are being removed there are more proposed to be planted, many between the buildings and the road boundaries.

I only consider the height above ground level of the apartment building's ground floor (1.25m above ground level) to present an adverse visual effect to the street frontages on Deans Avenue and Matai Street East because in the context of the whole building the height of the first floor would not be obvious when viewed at a greater distance. The visual impact of the ground floor height is mitigated by planting and direct accesses to courtyards which creates a more human scale at ground level. I consider that CGHS and the performing arts centre, and users of the north west corner of Hagley Park may notice the apartment building's ground floor design, but only for short durations. I therefore consider this adverse effect to be less than minor for surrounding sites and the wider environment.

Conclusion

Due to the nature of nearby neighbours and buildings, the separation provided between the proposed apartment building and the nearest existing residential dwellings, and the balancing and mitigating effect of Hagley Park and the existing and proposed trees, I have considered that the extent of the effects of the proposal on nearby residential neighbours and users of CGHS, Hagley Park and the surrounding streets would be less than minor.

While I consider that most of the effects are not of a scale to adversely affect any particular persons who might own or occupy nearby sites, I have concluded that the extent of the visual dominance of the apartment building on the wider environment would be minor. This is because the scale of the building would be noticeable to the general public but would not have a significant adverse impact as it is appropriate for its context.

Pursuant to Section 95E(1) of the Act a person is not deemed affected by an activity where the adverse effects are less than minor, hence no persons are considered to be adversely affected.

Recovery Plans and Regeneration Plans

Section 60((2) of the Greater Christchurch Regeneration Act 2016 requires that decisions and recommendations on resource consent applications are not inconsistent with Recovery Plans and Regeneration Plans.

I consider that non-notification of the proposal is not inconsistent with the Christchurch Central Recovery Plan, which seeks to enable residential activity within the Central City as the proposal is likely to support recovery of the Central City despite not being located within the four avenues.

There are no Regeneration Plans relevant to this application.

Special circumstances [Section 95A(4)]

There are no special circumstances or other aspects of the application that warrant public notification of this application.

RECOMMENDATION ON PUBLIC NOTIFICATION

That, for the reasons outlined above, the application **need not be publicly notified** in accordance with Section 95A of the Resource Management Act 1991.

Persons who may be adversely affected by the activity [Section 95E]

As concluded above, I consider that the effects of the proposal are not of a scale to adversely affect any particular persons, including those who might own or occupy nearby sites. The extent of any effects on owners or occupiers of the surrounding sites have been assessed as less than minor.

Objective 3.3.2 of the Christchurch Replacement District Plan

Chapter 3 of the Operative Replacement District Plan contains a number of high level strategic objectives to guide the recovery and future development of the City. Objective 3.3.2 states that requirements for notification and written approval are to be minimised when implementing the Plan. A decision not to notify the application is consistent with this objective.

RECOMMENDATION ON LIMITED NOTIFICATION OR NON-NOTIFICATION

That the application be processed on a **non-notified** basis in accordance with Sections 95A – 95F of the Resource Management Act 1991.

Reported and recommended by: Shona Jowett, Planner

Date: 22 August 2016

Reviewed by: Ruth Markham-Short, Planner

Date: 22 August 2016

Decision

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

Delegated officer:



Christofferson, Andy
23/08/2016 2:12 PM
Planning Team Leader

Report / Decision on Non-notified Resource Consent Application

(Sections 104 / 104B /104D)

Application Number:

RMA/2016/1434

Applicant:

McConnell Property Ltd

Site address:

189 Deans Avenue and 9 Matai Street East

Legal Description:

Lot 1 DP 51050 and Lot 1 DP 6807

Zoning:

Christchurch City Plan: Living 5 (Travellers Accommodation)

Proposed Replacement District Plan: Guest Accommodation

Operative Replacement District Plan: n/a

Overlays and map notations: Liquefaction Management Area

Activity Status: Christchurch City Plan: Non-complying

Proposed Replacement District Plan: Restricted discretionary

Operative Replacement District Plan: n/a

Description of Application: Construct 12 townhouses, 42 apartment units, alter and add to a heritage building and setting, and remove 4 notable trees

Introduction

The proposal is described in detail at section 3 of the applicant's AEE. In brief, the key aspects are:

- The northwestern corner of the site will be redeveloped as a terrace of 12 residential townhouses, with these townhouses being a mix of two or three stories in height. The townhouses are to be accessed via a new driveway onto Darvel Street.
- The heritage-listed pump house is to be retained, and a new single storey pavilion and north-facing garden courtyard will be constructed behind it with a link into an existing doorway on the pump house's southern façade. This will be used as a café.
- The northeastern portion of the site will be developed as a 42 unit apartment building
- The building is to have parking contained within a semi-basement accessed from the existing driveway that connects onto Matai Street



The existing environment

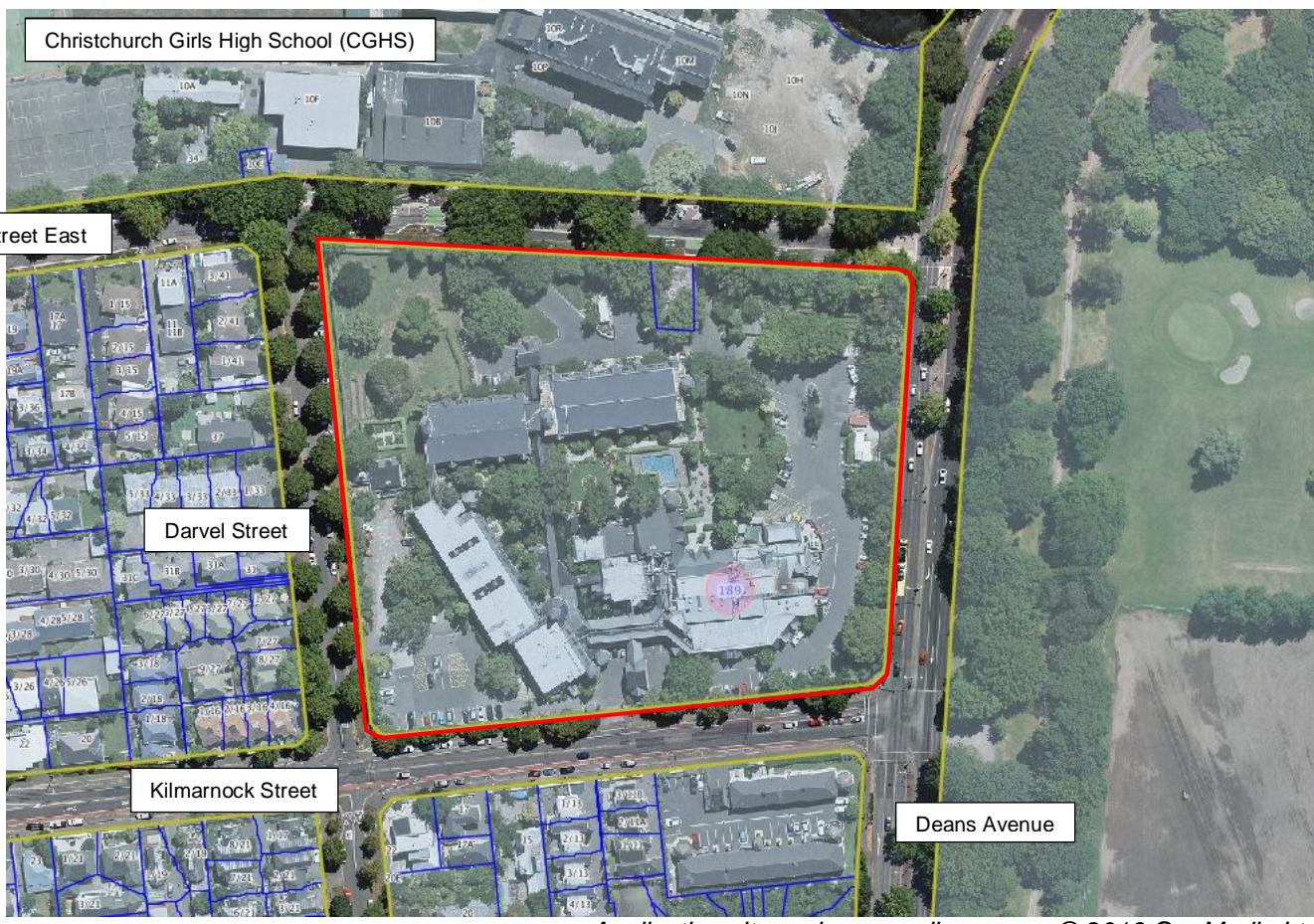
A pre-application meeting was held on 19 April 2016, and the proposal was considered by the Urban Design Panel on 2 May 2016. Following lodgement of the application for resource consent, a site visit was carried out on 28/06/2016.

The application site

The portion of the application site used for the proposal (approximately 8189.9m²) is the northern half of an entire block bound by Deans Avenue to the east, Darvel Street to the west and Matai Street East to the north. The central and southern parts of the site are occupied by the existing hotel operation, the Chateau on the Park. The address 9 Matai Street East (271m²) sits within the northern boundary of the site, and contains the heritage pump house and some surrounding land. Existing vehicle access to the site is from Kilmarnock Street, Matai Street East and the south end of Darvel Street.

The surrounding environment

The proposal site is across Deans Avenue from the north west corner of Hagley Park to the east, Christchurch Girls High School (CGHS) to the north, and residential dwellings along Darvel Street to the west. Further south there is another hotel operation on the other side of Kilmarnock Street (The Towers on the Park) and residential units. The part of CGHS which is closest to the proposed apartment building is the site of a proposed performing arts centre. The residential dwellings on Darvel Street range from single storey dwellings on their own sites to attached single and two-storey units. The existing dwellings nearest the proposal are single storey units joined at their garages but on their own sites. Deans Avenue is a four lane road classified as a major arterial road. Across Deans Avenue is a part of Hagley Park that is relatively dense with tall trees with a walking track running beneath. Further into Hagley Park is a large open space and sports fields.



Planning Framework

The operative Christchurch district plans are under review. The Independent Hearings Panel has made a number of decisions on specific parts of the Proposed Replacement Christchurch District Plan, including 'Strategic

Directions and Strategic Outcomes'. Some of the rules have legal effect pursuant to section 86B of the Resource Management Act, while others are fully operative or treated as operative pursuant to section 86F of the Act. The rules applicable to this proposal have been assessed and the breaches are identified below. The operative Christchurch district plans are under review. The Independent Hearings Panel has made a number of decisions on specific parts of the plan, including 'Strategic Directions and Strategic Outcomes'. Some of the rules have legal effect pursuant to section 86B of the Resource Management Act, while others are fully operative or treated as operative pursuant to section 86F of the Act. The rules applicable to this proposal have been assessed and the breaches are identified below. Relevant objectives and policies are discussed in a later section of this report.

Christchurch Replacement District Plans

The site is proposed to be zoned Guest Accommodation in the proposed Christchurch Replacement District Plan. There has not yet been a decision made on the proposed zoning of this site or the Guest Accommodation zone rules. There has been no other proposed zoning for this site (i.e. Residential Medium Density), hence the proposal has been assessed under the operative City Plan zoning.

The proposal includes the address 9 Matai Street East, which has a former pump house that is listed as a Group 4 protected building under Appendix 1, Part 10 of the operative City Plan. The former pump house building and setting are proposed to be protected as a Group 2 – Significant heritage item and setting under Appendix 9.3.6.1.1 of the proposed Christchurch Replacement District Plan.

The Independent Hearings Panel has not yet released a decision on the proposed *Chapter 9 Natural and Cultural Heritage*, however under s.86B(3) a rule in a proposed plan has immediate legal effect if the rule protects historic heritage. Therefore the proposal must be considered under both the operative City Plan rules and the proposed heritage rules when determining the activity status of the proposal.

A decision on the proposed Chapter 7 Transport (Part) was released by the Independent Hearings Panel on 15/08/2015, and became operative on 18/12/2015.

The proposal is a restricted discretionary activity under the Proposed Replacement Christchurch District Plan as it breaches the following rules:

Heritage

The proposal involves works within the heritage item and the heritage setting. The proposed works are: to seismically upgrade the unreinforced brick walls of the pump house by the introduction of steel portal frames; repoint brickwork and make plastered surfaces good; repair and repaint existing windows and doors; add a new timber floor; add a new single level pavilion to the rear of the pump house for a kitchen, utilities and seating for the café; and to landscape the setting around the pump house with a terrace, outdoor seating, a bicycle stand and access ramp.

- Pursuant to Rule 9.3.3.2.2 C1 consent is required for a controlled activity as the proposal includes heritage upgrade works. Council's control is limited to the matters set out in Clause 9.3.4.1 a to h.
- Pursuant to Rule 9.3.3.2.3 RD1 consent is required for a restricted discretionary activity as the proposal includes alteration of a heritage item. Council's discretion is limited to the matters set out in Clauses 9.3.5.1 a to l and 9.3.5.2 a to h.
- Pursuant to Rule 9.3.3.2.3 RD2 consent is required for a restricted discretionary activity as the proposal includes alteration of a heritage setting - new buildings. Council's discretion is limited to the matters set out in Clauses 9.3.5.1 a to l and 9.3.5.4 a to e.

Transport

- Pursuant to Rule 7.2.2.2 RD1 consent is required for a restricted discretionary activity as the proposal does not achieve Rule 7.2.3.2 which seeks that at least the minimum amount of cycle parking facilities in accordance with Appendix 7.2 shall be provided on the same site as the activity. Under appendix 7.2(2)(c), staff/ residents/ tertiary students' cycle parking facilities shall be located in a covered and secure area. The proposed café requires 2 staff cycle parking spaces, and the cycle parking provided is not located in a covered area.

Christchurch City Plan

The site is zoned Living 5 (Travellers Accommodation). Under clause 2-5.1.1 *Residential activities and other activities (except travellers' accommodation) - all standards (Living 5 Zone)*, all standards for residential and other activities in Riccarton, Kilmarnock, Raceway and Merivale shall be as for the Living 3 Zone. Therefore, the application is to be considered under the rules for the Living 3 Zone, for both the residential activity and the café.

The Living 3 (Medium Density) zone provides principally for medium-density residential accommodation. It is anticipated that the zone provisions will encourage diverse residential development, redevelopment and infill to medium densities and moderate heights, compatible with the character of existing development in the area while maintaining a reasonable degree of open space. The exception is on the former "saleyards site" fronting Deans Avenue where greater height and densities have been allowed to reflect the site's location adjoining Hagley Park and commercial areas. Similarly, some additional height is provided for in areas of central New Brighton to reflect the area's location adjoining the district centre and coastline. Given the building densities anticipated the retention of a high level of residential amenity, through landscape planting, scale and privacy requirements, will be an essential feature of this environment.

The proposal is a non-complying activity as it breaches the following rules:

Residential development

- *Development Standard 2-4.2.7 Urban design appearance and amenity – residential and other activities* – The erection of new buildings and alterations or additions to existing buildings that result in three or more residential units including all accessory buildings, fences and walls associated with that development, alteration or addition, shall be a discretionary activity, with the exercise of the Council's discretion limited to the assessment matters listed in clause 15.2.8. The proposal would result in 54 residential units.
- *Development Standard 2-4.2.10 Ground floor habitable room - residential activities* - In the Living 3 Zone, where the permitted height limit is 11m or less at least 50% of all residential units within a development shall have a habitable space located at the ground level. Except that, any residential units fronting a road or public space, except those built over access ways, shall have a habitable room located at the ground level. Each of these habitable spaces located at the ground level shall have a minimum floor area of 12m² and a minimum internal dimension of 3m and be internally accessible to the rest of the unit. 25 of the proposed residential units (out of a total of 54 units) would have a habitable space at the ground floor. 27 of the units would need to have a habitable space at the ground floor, so the proposal is 2 units short of providing a complying number of units with habitable rooms on the ground floor.
- *Development Standard 2-4.2.11 Outdoor Living Space – residential activities* – 30m² of outdoor living space shall be provided on site for each unit. This required outdoor living space can be provided through a mix of private and communal areas, at the ground level or in balconies provided that each unit shall have private outdoor living space of at least 16m² in total. There is no communal outdoor living space identified on the site plan. All of the proposed apartment unit, with the exception of apartments 2-9, are each provided with an outdoor terrace or balcony with an area of between 4.8m² and 8.5m². Each of these private outdoor living spaces fall short of meeting the required 16m² minimum area by between 11.2m² and 7.5m².
- *Development Standard 2-4.2.12 Service and Storage Spaces* – Each residential unit shall be provided with outdoor service, rubbish, and recycling space of 5m² with a minimum dimension of 1.5m; and a single, indoor storage space of 4m³ with a minimum dimension of 1m. Except that if a communal outdoor service, rubbish, and recycling space with a minimum area of 10m² is provided within the site, the outdoor service, rubbish, and recycling space may reduce to 3m² for each residential unit. Each outdoor service, rubbish, and recycling space shall not be located between the road boundary and any habitable room and shall be screened from adjoining sites, conservation or open space zones, roads, and adjoining outdoor living spaces to a height of 1.5 metres. Each of the townhouses (except townhouse 12) has been provided with an outdoor storage space of between 2-2.5m² with a 1m minimum dimension. This would be 2.5-3m² and 0.5m short of the minimum area and dimension requirements. Townhouse 12 has not been provided with an outdoor service space. A communal outdoor service space with an area of approximately 21m² is provided in the basement of the apartment units, which reduces the minimum requirement for the apartments to 3m² for each residential unit. None of the townhouses or apartment units meet the minimum area requirement for the single indoor storage space of 4m³.
- *Critical Standard 2-4.4.3 Building height – residential and other activities* – For All other parts of the Living 3 zone, except for central New Brighton, the maximum height of any building shall be 11m. The apartment building is 17.35m high at its highest point; 6.35m higher than the maximum permitted height.

Café in a heritage item and setting

- *Community Standard 2-4.3.3 Hours of Operation* – The maximum total number of hours the site shall be open to visitors, clients or deliveries for any activity other than a residential activity shall be 50 hours per week. Hours of operation shall be limited to between the hours of 0700 - 2300 Monday to Friday, and 0800 - 2300 Saturday, Sunday and public holidays. Consent is sought for 75 hours of operation per week.
- *Community Standard 2-4.3.4 Traffic generation – other activities* – For sites with frontage to local roads, the maximum number of vehicle trips per site shall be: Heavy vehicles - 2 per week, and Other vehicles - 32 per day. Consent is sought for over 32 vehicle trips per day.
- *Community Standard 2-4.3.6 Residential Coherence* – At least one person engaged in the activity shall reside permanently on the site. Consent is sought for not having someone engaged in the other / café activity residing on the site.
- *Specific Rule 10-1.3.2* – Group 3 and Group 4 Buildings, places and objects (Listed in Appendix 1) outside of the Central City. Any alteration of a Group 4 building, place or object, or the erection of any additional building(s) on a site containing a Group 4 building, place or object shall be a controlled activity, with the exercise of the Council's discretion limited to matters concerning the heritage values of a protected building, place or object.

Notable Tree removal

- *Development Standard 10-2.3.1* – Any work defined by Clause 2.2.4 (b), (c) or (d) affecting a notable tree identified in Appendix 4, shall be a discretionary activity, with the exercise of the Council's discretion limited to the impact of the works on the tree. For the purposes of these rules, any work affecting a protected tree (whether on the site or not) shall be deemed to include removal of any tree or; the construction of any building, or laying of overhead or underground services, any sealing, paving, soil compaction, or any alteration of more than 75mm to the ground level existing prior to work commencing, any depositing of chemical or other substances harmful to the tree within 10 metres of the base of any protected tree.

The proposal includes the removal of the *Fraxinus excelsior* (English Ash) notable tree, the *Betula pendula* (Silver Birch) notable tree, the *Magnolia grandiflora* (Southern Magnolia) notable tree, and the *Eucalyptus delegatensis* (Alpine Ash) notable tree. There would be works within 10m of the English Oak (*Quercus robur*) notable tree and the Pink Horse Chestnut (*Aesculus x carnea*) notable tree.

Actual and potential effects on the environment of allowing the activity [Section 104(1)]

As a non-complying activity the Council's assessment is unrestricted and all actual and potential effects of this proposal must be considered. Relevant guidance is contained in the reasons for the rules breached and the relevant assessment matters as to the effects that require consideration.

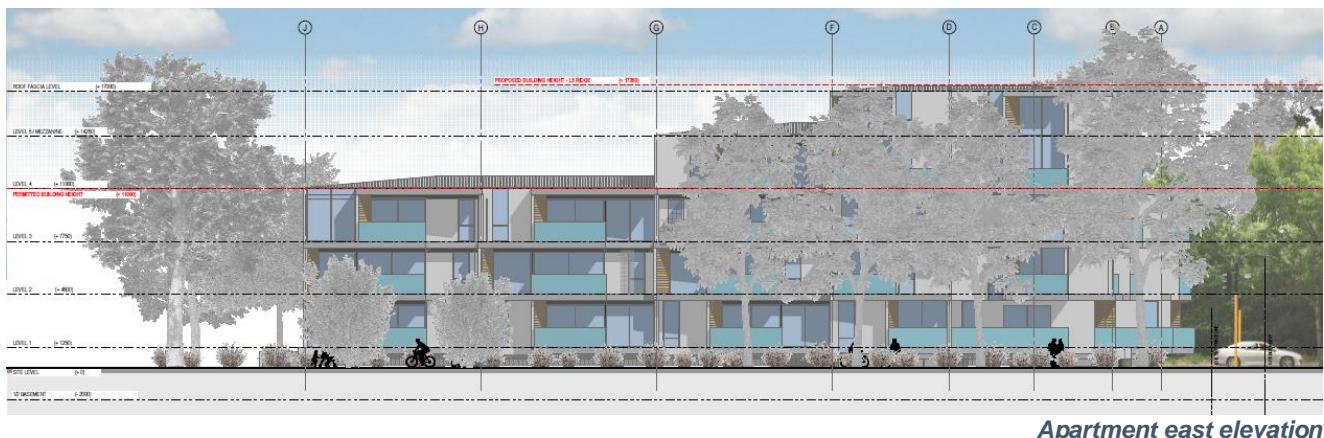
Having regard to this planning framework I consider that the adverse effects of the proposal on the environment are:

- shading, dominance and overlooking from the over-height apartment building;
- reduced onsite amenity due to undersized outdoor living spaces, service spaces and less habitable spaces at ground floor than is required;
- transport effects;
- heritage effects;
- effects on residential coherence from the café operation; and,
- effects on notable trees.

Apartment building height - Shading, dominance and overlooking

The maximum height of any building shall be 11m, but the proposed apartment building would be 17.35m high at its highest point, exceeding the maximum by 6.35m. The highest point of the building would be located near the north east corner of the site, and the rest of the building steps down over two stories to reach the maximum height limit, as shown in the two elevations below. I consider that the adverse effects of the height exceedance relate to visual dominance, compatibility with the surroundings, overlooking, and shading.

Although Council's discretion is not restricted, Clause 2-15.2.2 provides some guidance on the relevant assessment matters for a building height exceedance, which include compatibility with other buildings in the area, visual dominance and overshadowing, privacy of neighbouring sites, and any ability to mitigate adverse effects.



Apartment east elevation



Apartment north elevation

Visual dominance

The apartment building would be noticeably high against the lower existing buildings on the site and the open space at Hagley Park. The dominance of the building in this context would be noticeable to those moving along Deans Avenue and Matai Street East, and to users of the north west corner of Hagley Park and Christchurch Girls High School (CGHS). There is also the potential for it to be seen from the residential neighbours on Darvel Street.

The visual dominance would only be perceived for a short duration by those using Matai Street East, Deans Avenue and Hagley Park. The nearby residential sites at Darvel Street would be separated from the apartment building by approximately 150m, and space within which there would be 12 townhouses of a permitted height. CGHS would have longer duration experiences of the visual dominance, but the nearest school building would be the proposed performing arts centre which is of a similar scale.

I also consider that there are a number of mitigating factors for the visual dominance of the apartment building.

The scale and dominance of the apartment building could be balanced by the proposed 15.6m high performing arts centre to be located across Matai Street East which will be located near Matai Street East.

The north and east elevations of the apartment building have been broken up by the design of the units, so well-articulated elevations are presented to the street rather than a monotonous structure.

The retained tall trees and the proposed trees (with a minimum height at planting of 2m) located between the apartment building and the street would soften the structure and echo the type of environment present in the north west corner of Hagley Park where there are dense, tall trees.

The highest part of the apartment building is set back further than the rest of the building from the road boundary on the Matai Street East frontage, so as it gets higher and more dominant it is further distanced from other sites and public spaces, mitigating its own dominance by its layout.

The short duration of use of the nearest surrounding spaces and sites, and the mitigating factors noted above, have led me to consider that the extent of the visual dominance for nearby sites would be less than minor. Any other users of the surrounding public spaces would be experiencing the dominance of the building for short durations but given the busy nature of Deans Avenue, the heavy use of Hagley Park and prominent location of

the apartment building on the corner of the site, I consider that the extent of the visual dominance on the wider environment would be acceptable.



Existing trees, proposal site at left, looking west down Matai Street East from Hagley Park



Existing trees at the north west corner of Hagley Park, looking east

Compatibility with the surrounding area

The apartment building would be noticeably higher than those around it, in particular the other Hotel buildings at 189 Deans Avenue, and the nearby dwellings along Darvel Street.

There are other apartment buildings of similar heights near the edges of Hagley Park. These examples range in height and distance from the road: 26 Carlton Mill Road at approximately 22m in height and 28m from the road; 50 Carlton Mill Road at approximately 20m in height and 32m from the road; and 138 Park Terrace at approximately 15.3m in height and 30m from the road. There would be less space provided between the apartment building and the road than there has been provided with the other examples of tall apartment buildings near Hagley Park, however the space that is provided is landscaped and contains tall trees. While the setback from the site's eastern boundary is only approximately 5.5m, there is an easement with planting between the site's road boundary and the kerb of Deans Avenue, providing a setback of approximately 12m for the apartments. Hagley Park would balance the scale of the apartment building and create distance for those viewing the building in its wider surrounding environment.

The scale of the apartment building would be compatible with the school buildings at CGHS (and the proposed performing arts centre at 15.6m in height).

Council's Principal Adviser Urban Design, Hugh Nicholson, provided urban design advice for this proposal. Mr Nicholson noted that the additional height emphasizes the corner and is appropriate for and in scale with its surroundings.

I agree that the scale of the apartment building would be compatible with its surroundings, in particular the CGHS buildings and other existing apartment buildings on the edges of Hagley Park. The Townhouses provide a transition from the apartment scale to the single storey dwelling scale on the other side of Darvel Street.

I consider the apartment building would appear larger than other surrounding buildings, but that it would be appropriate for the context.

I consider that the extent of the dominance from the over-height apartment building is acceptable.

Overlooking

There are no existing adjoining residential neighbours for the apartment units to overlook, but the apartment building would establish indoor living areas and balconies with an elevated view of Matai Street East, CGHS, Deans Avenue and Hagley Park, and there is the potential for a view as far as Darvel Street from the highest apartment units.

I consider there would be little additional effect on privacy for the already public spaces that surround the site, although there could be some perceived effects of feeling overlooked from the apartments while using the public spaces. However, there are trees on both sides of Matai Street East and Deans Avenue which would partly screen the view from the apartment units, and to be overlooked from dwellings while using a street is a reasonable expectation within an urban setting. I note that this can be seen as a positive effect in some situations by providing passive surveillance opportunities and enhancing neighbourhood safety.

The apartment building is separated from the Darvel Street dwellings by approximately 150m, which I consider to be a sufficient separation for the extent of the potential overlooking and any loss of privacy of these sites to be acceptable.

I consider any effects on nearby sites, due to their non-residential nature or distance from the building, and any effects on the wider environment would be acceptable

Shading

A sun study of the shading effects of the apartment building was provided with the application. There are no adjoining sites, and shading effects would be on the site itself and Deans Avenue. The sun study does not show how far the shading would reach over Deans Avenue and if it would reach Hagley Park, but I consider that any shading over the nearby part of Hagley Park would be short-lived, and that the existing tree cover at the edge of the Park would create a greater shading effect than the proposed apartment building.

I consider that the extent of the shading effect of the apartment building is acceptable.

Conclusion

In conclusion, I consider that the adverse effects of the apartment building height (shading, overlooking and visual dominance) are acceptable, given the site's context.

On-site amenity

The proposal has undersized outdoor living spaces for the apartment units, and undersized service and storage spaces for both the townhouses and apartment units. Adverse effects of these non-compliances are reduced access to outdoor living, the balance of buildings to open space, and potentially inadequate service and storage spaces.

Outdoor living

A minimum of 30m² of outdoor living space shall be provided on site for each unit, which may be provided at ground level or in balconies provided that each unit has a private outdoor living space of at least 16m² in total. There is no communal outdoor living space identified on the site plan, and all apartment units (with the exception of apartments 2-9) are each provided with an outdoor terrace or balcony with an area of between 4.8m² and 8.5m².

While discretion is not restricted, the assessment matters at Clause 2-15.2.12 provide some guidance on relevant matters which include adverse effects on the ability of the site to provide for outdoor living needs, alternative provision of outdoor living spaces to meet these needs, how commensurate the reduction in outdoor living space is with the scale of the residential unit, and impacts on overall openness and amenity.

In his urban design advice, Mr Nicholson noted that each of the apartments is provided with a balcony facing either north, west (overlooking the 'village green' and internal courtyard) or east (overlooking Hagley Park). Mr Nicholson considered that 'the outdoor living spaces are well designed and will contribute to the amenity of the proposed development and there is high quality access to outdoor spaces for residents'. There are also generous landscape areas at ground level, and Hagley Park is nearby and provides an alternative space for outdoor recreation.

The reduction in outdoor living space is in proportion to the apartment units, which are inherently limited for outdoor living space. The outdoor living spaces are directly accessible from the indoor living spaces which would also have good access to sunlight and fresh air through sliding doors to the balconies. The proposal's apartment building sun study shows that all the units would receive sunlight either early or late in the day.

Due to the orientation of the balconies and the alternative nearby outdoor spaces, I consider that the provision of outdoor living space for the apartment building units will be adequate for the needs of future residents and therefore acceptable.

Habitable spaces at ground level

At least 50% of all residential units within this development should have a habitable space located at the ground level, but the total proposal is 2 units short of providing a complying number of units with habitable rooms on the ground floor. While discretion is not restricted, the assessment matters at Clause 2-15.2.11 provide some guidance on relevant matters. Adverse effects of this non-compliance relate to the balance of open space and buildings.

The balance of open space to buildings would not be noticeably different if there were two more units on the ground floor of the apartment building. As noted above, each unit has adequate outdoor living space for the nature for the unit, with open space onsite and nearby to balance with buildings. I consider that the balance between open space and buildings in the proposal is acceptable.

Outdoor service, rubbish, and recycling space

Each residential unit shall be provided with an outdoor service, rubbish, and recycling space of $5m^2$ with a minimum dimension of 1.5m; and a single, indoor storage space of $4m^3$ with a minimum dimension of 1m. If a communal outdoor service, rubbish, and recycling space with a minimum area of $10m^2$ is provided within the site, the outdoor service, rubbish and recycling space may reduce to $3m^2$ for each residential unit.

Each of the townhouses (except townhouse 12) has been provided with an outdoor service space of between 2 and $2.5m^2$ with a 1m minimum dimension. Townhouse 12 does not have identified outdoor storage space. A communal indoor service space with an area of approximately $21m^2$ is provided in the basement of the apartment units, which reduces the minimum requirement for each of the apartment units to $3m^2$. Not all of the apartment units meet the minimum dimension requirement for the single indoor storage space of 1m.

While discretion is not restricted, the assessment matters at Clause 2-15.2.13 provide some guidance on relevant matters, and include the adequacy of communal or alternative areas provided, the ability to use those spaces, and impacts of visual amenity within the site and for the street scene. The adverse effect of the undersized service and storage spaces relates to the adequacy of the spaces that have been provided.

In his urban design advice, Mr Nicholson considered that the service and storage areas proposed to be provided were adequate.

The apartment units are provided with a space within the building in the underground parking area, which I would consider to be convenient as it is located within the building, and accessible by a lift. The apartments have not been provided with any private outdoor service, rubbish, and recycling space but this seems appropriate given the nature of a multi-storey apartment building.

Each of the townhouses (except townhouse 12) has an outdoor service, rubbish, and recycling space but not of a compliant size. Townhouse 12 has no outdoor service space, but it has two single garages. I consider the space provided would be adequate for the storage of rubbish bins, and the extra garage at townhouse 12 could accommodate bins.

Some of the apartment units do not have a storage space with a 1m minimum dimension. The first 3 floors of the building are provided an extra $8m^2$ of storage space located in the hallway of the building that would also be available for use. I consider that the storage space provided is adequate and in proportion to the size of the apartment units.

The adverse effects of the lack of service or storage space may be felt by those using the units, but I consider that the provision of the service and storage spaces for each residential unit, in addition to the alternative and

communal service and storage spaces will meet the needs of future residents and any adverse effects are acceptable.

Alterations and additions to heritage item and setting

The proposal involves works within the pump house heritage item and the surrounding heritage setting, as described in the planning framework section above.

Under the City Plan, any alteration of a Group 4 building, place or object, or the erection of any additional building(s) on a site containing a Group 4 building, place or object shall be a controlled activity, with the exercise of the Council's discretion limited to matters concerning the heritage values of a protected building, place or object.

Under the proposed Christchurch Replacement District Plan, consent is required for a controlled activity as the proposal includes heritage upgrade works to the Matai Street East pump house. Council's control is limited to the matters set out in Clause 9.3.4.1 a to h.

Consent is also required for a restricted discretionary activity for two reasons: the proposal includes alteration of a heritage item; and alteration to a heritage setting with the addition of new buildings. Council's discretion is limited to the matters set out in Clauses 9.3.5.1 a to l and 9.3.5.2 a to h, and Clauses 9.3.5.1 a to l and 9.3.5.4 a to e.

The effects of the proposed works on the heritage item and within the heritage setting (a seismic upgrade, brickwork repointing, repair and repainting of windows and doors, the addition of a new timber floor, and a new single level building at the rear of the pump house to accommodate a kitchen and seating for café use) have been assessed by the Council's Heritage Advisor, Gareth Wright, whose comments should be read in conjunction with this report.

Mr Wright noted that the seismic upgrade would avoid altering the exterior envelope of the building and that the steel frames would not be at odds with the industrial nature of the building. As details have not been provided for the works on the heritage building, they have been addressed through the recommended conditions. The elevations of the building would be largely unchanged and there would be minimal penetrations required for services. Mr Wright considered that the new pavilion would contrast with the pump house and be only lightly joined to it. The existing rear doors would be retained in-situ.

Mr Wright concluded that:

The conversion of the Matai Street Pumphouse to a café is an innovative example of adaptive reuse, securing the future of this under-utilized and neglected building. The manner in which the building is being converted is also exemplary. Heritage form, fabric and appearance are being maintained, upgraded and restored. The new pavilion addition strikes the right balance between contrast and compatibility, whilst being appropriately subordinate.

I consider that the effects of the proposal on the heritage item and setting are acceptable.

Protected Trees

Any work defined by Clause 2.2.4 (b), (c) or (d) affecting a notable tree identified in Appendix 4, shall be a discretionary activity, with the exercise of the Council's discretion limited to the impact of the works on the tree. The work affecting the protected trees would be the construction a townhouse, the apartment building, and the decking attached to the café, and sealing, paving, or soil compaction within 10 metres of the base of two protected trees (the English Oak (*Quercus robur*) notable tree and the Pink Horse Chestnut (*Aesculus x carnea*) notable tree). The proposal also involves the removal of the *Fraxinus excelsior* (English Ash) notable tree, the *Betula pendula* (Silver Birch) notable tree, the *Magnolia grandiflora* (Southern Magnolia) notable tree, and the *Eucalyptus delegatensis* (Alpine Ash) notable tree.

The removal of four notable trees would reduce the amount of existing planting retained on the site. However more trees are proposed to be planted between the proposed buildings and the road boundaries, which would be in a more visible location in terms of the view of the site from the street.

Council Arborist, Mr John Thornton, considered that;

in terms of the removal of the existing Notable trees on site i.e. that is the English Ash, Silver Birch, the Southern Magnolia and the Alpine Ash (technically missing though there is a Eucalyptus in that spot), I would expect that some reasonably large replacement trees be provided, as their

removal will be a significant loss of vegetation to the landscape. Also of note is the loss of one of the best Rimu trees I have seen in the city boundaries. This is both a very large example of an urban Rimu, which is also of very good form and health.

In particular the English Ash is a very large tree and currently has a trunk diameter of over 96 cm, is 17 m tall and 18.5 m in crown width. Although the trees have been rated as below the level to qualify for continued protection under the proposed District Plan, the criteria for inclusion is far more severe than the current assessment system uses, with which they were assessed in the 1990's. This does not mean they are not worth retaining, just that they are not at a Notable tree level according to the proposed new CTEM system of appraisal.

However, if new trees of a species that will grow into large enough trees to replace the ones lost are provided, this would mitigate to a reasonable extent the loss of the trees.

Therefore I recommend that the planting of four replacement trees ... at least 3 metres high at the time of planting for exotics, and 2 metres high for natives.

The replacement trees should be planted in a suitable location, preferably where they are most visible. The replacement trees are to be maintained in accordance with internationally recognised Arboricultural practice and should not be topped.

Mr Thornton originally included a list of preferred species for the above mentioned four trees, but subsequent discussion with Mr Thornton established that a number of the species proposed for the site would be adequate.

The removal of four notable trees would reduce the amount of existing planting retained on the site. However more trees are proposed to be planted between the proposed buildings and the road boundaries, which would be in a more visible location in terms of the view of the site from the street. While Mr Thornton recommended that four of the replacement trees be 3m in height at the time of planting, I consider that a condition requiring the two trees labelled plan reference 19 on the Proposed Tree Plan (at page 93 of the consent document) to be 3m in height at the time of planting would mitigate the effects of the loss of mature trees on the site.

I consider that the removal of four notable trees and works within 10m of two retained notable trees are acceptable, based on the recommended conditions that would manage the works.

Transport

There are two transport related non-compliances, which relate to trip generation from the café operation (greater than the permitted 32 trips per day) and staff cycle parking provision for the café (not undercover or secure as required). The transport effects of the whole development on the surrounding transport network have also been considered. Vehicle and cycle parking numbers, parking manoeuvring, increased use of the Matai Street East and Darvel Street vehicle accesses, effects on the major cycle way along Matai Street East have been assessed by a Transport Engineer from Novo Group Limited, Mr Nick Fuller, whose comments should be read in conjunction with this report.

Mr Fuller considered that more than the required number of cycle parks had been provided for the café and that the proposed provision would be acceptable. With regard to traffic generation at the vehicle accesses, Mr Fuller agreed with the ITA (provided with the application) that traffic generation at the Darvel Street access would be very low and that the access would operate satisfactorily. Changes at the Kilmarnock Street access was anticipated to be negligible.

Regarding the Matai Street East vehicle access, Mr Fuller considered that 'whilst we note that it is not ideal to increase the volume of traffic using this access and therefore crossing the Major Cycle Route, we consider that it can occur safely.' The cross-section of the Matai Street East access contains a footpath, planting strip, cycle way and then the road carriageway, with no parking permitted on the proposal's side of the street. A visibility splay would also be provided, so Mr Fuller was satisfied that visibility for pedestrians would be improved and that drivers leaving the site would be able to see cyclists. Mr Fuller also considered that vehicles entering the site would need to give way and that the possible delay for them would not create adverse traffic effects for the road network. The possibility of each townhouse having their own access to Matai Street East was considered as creating worse effects than the proposal.

Regarding the trip generation associated with the café operation, Mr Fuller considered the transport effects of the café operation would be less than minor.

Mr Fuller concluded that he was satisfied that the transport effects of the proposed development on the safety and efficiency of the surrounding transport network would be less than minor. Accordingly, he could support the proposal from a traffic perspective.

I have relied on the advice of Mr Fuller and accept his advice. I consider that the transport effects of the proposal are acceptable.

Café operation

At least one person engaged in the activity shall reside permanently on the site, and the maximum total number of hours the site shall be open to visitors, clients or deliveries for any activity other than a residential activity shall be 50 hours per week. Consent is sought for not having someone engaged in the café activity residing on the site, and for 75 hours of operation per week. Adverse effects of the café are on the residential coherence and character of the area.

While discretion is not restricted, the assessment matters under Clauses 15.2.25 and 15.2.27 provide some guidance and include the extent the surrounding area will be dominated by residential activity, the presence of residential neighbours for residential sites, any cumulative effects of loss of residential activity in the area, traffic and pedestrian movements that are out of character with the area, inconsistent noise, disturbance and loss of privacy, and mitigating aspects of the activity.

The immediately surrounding area contains CGHS, the existing hotels on the site and across Kilmarnock Street, and Hagley Park, so the area is already dominated by other activities. The café component is a part of the whole proposed development which will introduce more residential activity to the proposal site than currently exists. These proposed residential neighbours would have neighbours in the townhouses or apartment building, and would mitigate the residential incoherence of the café.

There is already pedestrian traffic along Matai Street East, being a quiet route to Hagley Park and Christchurch Girls High School. The existing major cycle way travels along the front of the proposed café site, and would already be anticipated to encourage cycle traffic along this road frontage. The proximity of the proposed café near a large open space in Hagley Park also makes the presence of a café compatible in terms of people frequenting the area.

I consider that the effects of the café operation on residential coherence are acceptable.

Urban design

The proposal would result in 54 residential units, making it a restricted discretionary activity, to be assessed against the urban design matters listed in Clause 15.2.8. The council's discretion is not limited, but the assessment matters listed in Clause 15.2.8 provide some guidance to establish whether the proposal achieves a good outcome in terms of urban design principles. For completeness, I have summarised the advice from Council's Principal Adviser Urban Design, Hugh Nicholson, whose comments should be read in conjunction with this report.

Mr Nicholson made a number of points about the visual effects of the scale of the proposed buildings on the site and context. The proposed townhouses were considered to be of an appropriate scale for Matai Street East, and the residential components appropriately address the street. In particular, the ground floor living areas of the proposed apartments would provide for some interaction with the street, and the articulation of the proposed buildings would provide visual interest and human scale.

Mr Nicholson concluded that:

In general this is a high quality proposal which will provide an attractive medium density living environment adjacent to Hagley Park and the existing Chateau on the Park hotel. The residential terrace housing and apartments are well-designed and the extra height in the proposed apartment building overlooking the park is appropriate reinforcing the corner and providing a high quality living environment with views over Hagley Park.

I have relied on the advice of Mr Nicholson and accept his advice that the proposal is of high quality and takes into account the relevant urban design principles.

Both the townhouses and the apartment building present a large amount of solid built form to the street, but for the reasons discussed above I agree that the development is appropriate for the context, and the units at ground level would connect with the street frontage. The articulated form of the townhouses and apartment building avoid a monotonous structure on the street front, and parking and garages have been mostly kept away from the surrounding streets. Trees have been retained and while some are being removed there are more proposed to be planted, many between the buildings and the road boundaries.

I only consider the height of the apartment building's ground floor to present an adverse visual effect to the street frontages, but this is mitigated by planting and direct accesses to courtyards which creates a more human scale at ground level. I consider that CGHS and the performing arts centre, and users of the north west corner of Hagley Park may notice the apartment building's ground floor design, but only for short durations. I therefore consider this adverse effect to be acceptable.

Positive effects of the proposal

Positive effects of the proposal may be considered under section 104(1). I consider that these are:

- introducing permanent residential activity into the application site
- re-using and restoring a heritage item
- creating a strong built edge along Matai Street and around the corner of Deans Avenue
- providing passive surveillance to Hagley Park and a section of Matai Street East
- locating residential units near a major cycle route.

It is my opinion that while the proposal would establish higher density residential units and a non-residential activity (a café) in an area with predominantly single or two-storey dwellings, the proposal would have the positive effect of establishing more residential activity in a location dominated by a high school and a hotel operation. The housing is of a different nature to the existing housing nearby, but I consider it has been designed in a way that is sympathetic to this existing housing stock, specifically by graduating the density from higher at the Park to lower adjacent to the established residential area.

The proposal creates a number of active frontages along Deans Avenue and Matai Street with outdoor and indoor living spaces facing the street, and pedestrian access from the street for the townhouses and some of the ground floor apartment units. In establishing more residential use the proposal would also provide for more passive surveillance over Matai Street East, Deans Avenue and a densely planted part of Hagley Park. Mr Nicholson, in his urban design advice, also considered that 'Hagley Park would benefit from increased levels of surveillance provided by additional residential units overlooking the park'.

Mr Nicholson also considered that a positive effect of the proposal would be to create a;

'Strong built edge along Matai Street and around the corner onto Deans Avenue. The proposed apartments would overlook Hagley Park and provide an attractive edge to Deans Avenue. The additional height emphasizes the corner. In my opinion the development responds to the corner site positively and would create a legible street corner.'

The proposal would locate more dwellings near to a major cycle route, a pleasant pedestrian route and existing public transport routes that ideally will encourage people to adopt more active modes of transport.

The application site includes the site of the heritage item pump building, and has incorporated the restoration and seismic strengthening of this building into the proposal. Re-use and repair of a heritage item is a positive effect of the proposal as it will retain the building's existing heritage values and contribute to the character of the area.

Conclusion

Due to the nature of nearby neighbours and buildings, the separation provided between the proposed apartment building and the nearest existing residential dwellings, and the balancing and mitigating effect of Hagley Park and the existing and proposed trees, I consider that the adverse effects of the proposal are acceptable. There are also a number of positive effects that the proposal will have on the site and the surrounding area, which will mitigate these minor adverse effects.

In my view, the proposal would be an appropriate use of the site.

Recovery Plans and Regeneration Plans

Section 60(5) of the Greater Christchurch Regeneration Act 2016 states that Recovery Plans and Regeneration Plans are a matter over which discretion is restricted.

I consider that the proposal is not inconsistent with the Christchurch Central Recovery Plan, which seeks to enable residential activity within the Central City, as the proposal is likely to support recovery of the Central City despite not being located within the four avenues.

There are no Regeneration Plans relevant to this application.

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

Regard must be had to the relevant objectives and policies in the Operative City Plan, and those in the Proposed Replacement District Plan. Of particular note, Chapter 3 of the Operative Replacement District Plan contains a number of high level strategic objectives to guide the recovery and future development of the City. Chapter 14 contains objectives and policies for high quality residential environments, Chapter 7 contains objectives and policies for the transport system, and Chapter 9 contains objectives and policies for maintaining historic heritage.

Objective 3.3.1 seeks to enable recovery and facilitate the future enhancement of the district in a manner that meets the community's needs for housing, infrastructure and transport. I consider that the proposal is consistent with this objective.

Heritage

Under the operative City Plan, *Policy 4.3.1 – Heritage Items* aims to identify and provide for the protection of heritage items having regard to their significance. Under the proposed Christchurch Replacement District Plan, *Policy 9.3.2.7 - Ongoing, Viable Use of Heritage Items and Heritage Settings* seeks to provide for the ongoing, viable use including adaptive reuse of heritage items and heritage settings, including recognising and providing for works necessary as a result of damage incurred from the Canterbury earthquakes of 2010 and 2011. The proposal would reuse and seismically strengthen the heritage pump house, and the works on the heritage item would be managed by the proposed conditions of this resource consent. In my view, the proposal is consistent with the heritage objectives and policies in both Plans.

Trees

Under the operative City Plan, *Policy 4.3.7 – Protected trees* aims to identify and provide for the protection of trees having special value to the community.

Policy 9.4.2.3 - Trees in Road Corridors, Parks, Reserves, and Public Open Space seeks to ensure that road corridors, parks, reserves, and public open space are planted with trees to enhance environmental, landscape, cultural, social and economic values. *Policy 9.4.2.4 – Felling of significant trees* endeavours to avoid the felling of significant trees identified as having exceptional values and limit the felling of other significant trees identified as not having exceptional values.

Under the proposed Christchurch Replacement District Plan *Objective 9.4.1 – Trees* aims to maintain and enhance the contribution of significant trees and trees in road corridors, parks, reserves and public open space.

Four trees listed as notable under the City Plan are proposed to be removed. Under the proposed Christchurch Replacement District Plan, none of these trees are retained as notable. As the four trees to be removed have not been retained as notable under the proposed District Plan, I consider that the felling of these trees is not inconsistent with the proposed policies and objectives. The two notable trees under the City Plan that the proposal will retain are located near to Matai Street East and Deans Avenue, which is consistent with Policy 9.4.2.3 for trees in road corridors. While the proposal will remove some trees adjacent to the road corridor, the applicant will plant replacement trees to work with the proposed townhouses and apartment building.

Transport

Under the operative City Plan *Policy 7.1.1* seeks to remedy, mitigate or avoid the adverse effects of the use of the transport system, and *Policy 7.1.4* aims to make efficient use of the transport system, particularly its infrastructure. Under the proposed Christchurch Replacement District Plan, *Policy 7.1.1.6* aims to promote public

and active transport, and *Policy 7.1.1.2* seeks to manage the adverse effects of high trip generating activities on the transport system by assessing their location and design.

The transport advice received for this proposal was that any effects of the proposal on the transport system would be less than minor, which I accept. I therefore consider that the proposal is consistent with the objective and its policies. I also consider that the proposal places more residential units close to the central city, existing bus routes, pedestrian routes and a major cycle way, which would make efficient use of existing public transport systems.

Residential

Under the operative City Plan, urban growth objectives and policies include *Objective 6.1 – Urban consolidation* - to accommodate urban growth with a primary emphasis on consolidation, and *Policy 6.1.2 – Redevelopment and infill* - to promote redevelopment and more intensive use of the urban area in a manner that maintains and improves neighbourhood character and amenity values and the quality of the built environment, while being sensitive to the receiving environment and avoiding and mitigating adverse effects. The proposal would redevelop an area of land close to the city centre and support urban consolidation, with anticipated positive effects for cost effective services, energy efficiency and reduced or shorter private car-borne trips by locating housing close to employment, schools and business areas. I consider that the proposal is compatible with and sensitive to its receiving environment.

Under the operative City Plan, living environment objectives and policies are for diverse living environments (*Objective 11.1*), providing various densities accounting for existing residential characters (*Policy 11.1.4*), locating higher rise buildings adjacent to Hagley Park (*Policy 11.1.5*), and ensuring open space reflects local character (*Policy 11.4.1*). I consider the proposal is consistent with these objectives, by locating the apartment building near to Hagley park, providing a range of living densities, and providing a range of on-site open space areas consistent with expectations for a townhouse, ground floor apartment unit, and above ground apartment unit.

Under the proposed Christchurch Replacement District Plan, a strategic objective (3.3.4) is to enable an additional 23,700 dwellings through a combination of residential intensification, brownfield and greenfield development, and for a range of housing opportunities to meet diverse and changing needs of Christchurch residents. I consider the proposal to be consistent with this objective as it will produce 54 new residential units over less than a hectare of land, and will locate them near the Central City.

Non-residential activity

Under the operative City Plan, living environment *Policy 11.4.12 – Scale* is to ensure that the scale of non-residential buildings and activities is compatible with the scale of those of the surrounding living environment. I consider that the scale of the café is compatible with the existing surroundings of the proposal site, and that the proposal is consistent with this policy.

Note: Strategic Objective 3.3.2 of the Christchurch Replacement District Plan states that requirements for notification and written approval are to be minimised when implementing the Plan. Regard was had to this objective at the time the decision on notification was made.

Overall, I consider the application to be consistent with the relevant objectives and policies in the operative and proposed plans, as it will:

- reuse and retain heritage fabric in the pump house;
- retain notable trees in the road corridor;
- not adversely affect the transport system and will provide residential units near to public and active transport infrastructure;
- consolidate residential units in an existing urban area near the central city in manner that is not incompatible with the receiving environment; and
- will create a high quality residential environment (in particular I consider that the café operation would be not be of an incompatible scale for the proposal site and its surroundings).

Weighting of the City Plan and Christchurch Replacement District Plans

The Strategic Directions and Strategic Outcomes chapter of the Replacement District Plan became operative on 25 May 2015, therefore the strategic objectives must be given significant weight.

The rules within the notified Chapter 9 Natural and Cultural Heritage of the proposed Christchurch Replacement District Plan have immediate legal effect under section 86B(3)(d), and should be given some weight along with the operative rules for protected buildings, places and objects and protected trees.

Decision 7 – Transport (Part) on the proposed Christchurch Replacement District Plan is operative as of 18 December 2015, so must be given full weight.

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

Environment Canterbury and Council records indicate that the application site has not been used for an activity on the Hazardous Activities and Industries List (Ministry for the Environment) therefore the National Environmental Standard for managing contaminants in soil to protect human health does not apply.

Any other matters which are relevant and reasonably necessary to determine the application [Section 104(1)(c)]

Precedent / Plan Integrity

Given the non-complying status of this application it is appropriate to have regard to the issue of precedent, as well as the effect of granting consent upon the integrity of the City Plan and public confidence in its consistent administration. Case Law has established however, through the High Court in *Rodney District Council v Gould*, that concerns relating to plan integrity and precedent effect are not mandatory considerations. The Court held that they are matters that decision makers *may have regard to*, depending on the facts of a particular case including:

1. Whether a proposal is contrary to the objectives and policies of the plan; and if so
2. Whether in the circumstances of a particular case a proposal can be seen as having some unusual quality.

In this case the proposal is not contrary to the objectives and policies, therefore I am satisfied that issues of precedent or plan integrity do not arise.

In my opinion the proposal and the application site have a number of unique characteristics which would distinguish it from other applications for over-height activities in a living zone. These include:

- the location of the proposal site near non-residential activities (a high school and a hotel)
- the use of the whole site bound by Darvel Street, Matai Street East and Deans Avenue for a single development with three components
- the location of the site adjacent to Hagley Park

Given these factors, I consider that granting consent to this application is unlikely to give rise to any significant precedent effect which would challenge the integrity of the City Plan.

Part II of the Resource Management Act 1991 [Section 104(1)]

The above considerations are subject to Part II of the Act which outlines its purpose and principles.

The proposal is considered to be consistent with Part II matters as it will maintain the amenity of the surrounding environment, in accordance with Section 7(c) and 7(f), it will be an efficient use of land (providing residential units and a café in space occupied by gardens near the central city and transport links), in accordance with Section 7(b), and it will protect historic heritage from inappropriate use and development, in accordance with Section 6(f) of the Resource Management Act 1991.

Non complying activity threshold tests [Section 104D(1)]

The application satisfies both tests as the adverse effects on the environment will be no more than minor and the application is not contrary to the objectives and policies of the Plan.

Section 104(3)(d) notification consideration

No matters have arisen in the assessment of this application which would indicate that the application ought to have been notified.

Recommendation: That for the above reasons the application **be granted** pursuant to Sections 104, 104B, 104D and 108 of the Resource Management Act 1991, subject to the following conditions:

1. The development shall proceed in accordance with the information and plans submitted with the application, including the further information and amended plans submitted on 5/08/2016, except as amended by the subsequent conditions. The Approved Consent Documentation has been entered into Council records as RMA/2016/1434 (160 pages) and includes the stamped approved plans RMA/2016/1434 pages 46 to 104.

Notable trees

2. The applicant shall appoint a suitably experienced and qualified Arborist that is approved by the City Arborist, Christchurch City Council, to monitor and supervise all works within 10 metres of the protected trees (labelled numbers 23 and 51 on sheet 7 of the Landscape plan, or page 91 of the consent document) for the duration of proposed works. This person is to be engaged by the applicant and is to liaise with the project manager, supervisory staff and the contractors carrying out the works on site to ensure that tree protection occurs for the duration of the works (see advice note 1).
3. The arborist appointed under condition 2 above shall attend a pre-commencement meeting, where the arborist will outline tree protection requirements to the contractors carrying out the proposed works.
4. Soil excavation within 10 metres of the protected trees (23 and 51 on sheet 7 of the Landscape plan) shall occur under the direction and supervision of the appointed Arborist.
5. Hand-digging shall be used under the supervision and direction of the appointed Arborist when excavating soil within the 10 metre setback areas when determining the location of significant roots for foundations, or other locations specified by the appointed Arborist.
6. The laying of any services within the 10 metre setback of the protected trees shall, where practicable, use a boring/thrusting technique at a minimum depth of 600 mm below ground level. If not practicable, it shall be carried out in accordance with condition 5.
7. A 1.8m high fence with wire mesh panels shall be erected around the protected trees (23 and 51 on sheet 7 of the Landscape plan) on the site that may be affected by the construction activities, to exclude the tree root protection zone from site activity.
8. The fence required under condition 7 above shall be well braced to resist impacts, and shall be put in place prior to commencement of site work under the supervision of the Arborist appointed under condition 2, and remain in place until all site work has been completed.
9. There should be no alteration to the barrier fencing or access to the tree root protection zone without prior approval by the Project Manager, stating the purpose and duration of the proposed access, unless the Project Manager is on site and attending in person.
10. When soil is cleared around any tree roots they must not be left exposed for an extended time, and they shall be protected from desiccation and damage by the use of damp Hessian or good quality topsoil, as specified by the appointed Arborist.
11. If any roots encountered at the levels to be excavated have to be severed, they shall be severed cleanly with pruning secateurs or a hand saw, and no ripping or breaking of roots is to occur. All root pruning is to be carried out by the appointed Arborist.
12. Any heavy machinery used on site shall avoid coming within 8 metres of the base of the tree, except where the surface is already sealed.
13. No materials or machinery/vehicles are to be stored/parked within 10 metres of the base of the tree during the construction work, including excavated soil, chemicals or building materials.

14. Disposing of water used to wash down machinery (e.g. concrete mixers) within 10m of the protected trees (labelled numbers 23 and 51 on sheet 7 of the Landscape plan) is prohibited.
15. The appointed Arborist shall advise the City Arborist in writing, within twenty-four hours of any damage to the protected trees (23 and 51 on sheet 7 of the Landscape plan) resulting from the works, which in the opinion of the appointed Arborist is likely to result in more than minor adverse effects on the tree. If damage is caused to the protected trees as a result of the works, then the resource consent holder shall be responsible for rectifying the damage to the best possible extent. In the event of damage to the protected trees, the appointed arborist shall prepare a report detailing what damage occurred, how it will be rectified and how further damage would be prevented. The report shall then be submitted to the council arborist for approval.

Landscaping

16. The proposed landscaping shall be established in accordance with the Proposed Tree Plan at page 93 of 160 of the consent document , with the exception of the two Quercus rubra (plan reference 19 on the Proposed Tree Plan) to be 3m in height at time of planting (all other trees to be 2m in height at time of planting)
17. All required landscaping shall be provided on site within the first planting season (April to October) after the date of issue of the code of compliance certificate under the Building Act. For avoidance of doubt, if the development is staged then this condition shall apply to each stage of the development.
18. All landscaping required for this consent shall be maintained. Any dead, diseased, or damaged landscaping is to be replaced immediately with plants of a similar species.

Parking and transport

19. 3 vehicle parking spaces to the south of the apartment building shall be allocated for apartment use.
20. If the proposed café is to operate under hours of darkness, lighting of parking and loading areas shall be maintained at a minimum level of two lux, with high uniformity, during the hours of operation. Lighting shall still comply with relevant District Plan standards for controlling glare.
21. A visibility splay in accordance with Appendix 7.9 of Chapter 7 of the replacement Christchurch District Plan (as at 23/8/2016) shall be maintained on the west side of the Matai Street East vehicle crossing, and the south side of the Darvel Street vehicle crossing. Any landscaping within the visibility splay shall be kept below 0.5m in height.

Acoustic insulation

22. Any new habitable space within the proposed apartment building which is within 40 metres of the edge of the nearest marked traffic lane of Deans Avenue, shall achieve a minimum external to internal noise reduction of 30 dBA (Dtr, 2m, nT).

Heritage

23. The applicant must advise the CCC Heritage Team leader or nominee of the imminent commencement of works at least ten working days in advance so that it can be ensured that those conditions of consent that require prior agreement are verified.
24. The applicant shall not commence or shall cease work in a given area if there are any changes proposed to the submitted and approved plans in relation to that area. These changes must be discussed and agreed with the CCC Heritage Team Leader or nominee before work is commenced or further work undertaken. See advice note 7.
25. A photographic record of the works must be undertaken before commencement, at regular intervals during works and after completion. This record shall be provided to the CCC Heritage Team leader or nominee within one month of completion. This record shall be executed as per the matters outlined in the City Plan: vol. 3, s. 10, clause 1.3.5 – Photographic Records (Group 1 – 4 heritage items) - except that it is not required that the photographs be taken by a professional photographer. They must however be in a high quality, high resolution digital format. See advice note 5.
26. The applicant must provide a Temporary Protection Plan (TPP) to the CCC Heritage Team Leader or nominee for discussion and approval before the commencement of works on site. Once works are underway, the TPP should be reviewed on a weekly basis to ensure that any immediate risks to heritage fabric are highlighted and necessary mitigation measures undertaken.
27. Copies of the approved consent documentation and the TPP must be held on site at all times; form part of the site induction process; be read, signed and complied with by all tradespeople working on site; and be made available on request to Council employees or their representatives.

28. Heritage joinery must be left in-situ if possible, and original finishes and heritage patina maintained. If the removal of the joinery is required, then it shall be removed with care and marked to permit reinstatement in its original location. Reproduction joinery must only be employed where reinstatement of the original is not possible. Reproduction is to be undertaken on a 'like for like' basis in terms of materials and profile, and must be identified as new work by date stamping or other means of identification. See advice note 3.
29. The mortar mix to be employed for brickwork repair and repointing shall be provided to the CCC Heritage Team Leader or nominee for discussion and approval before the commencement of works on site.
30. The applicant shall provide full structural drawings for the seismic upgrade to the CCC Heritage Team Leader or nominee for discussion and approval before the commencement of works on site.
31. The applicant shall provide the structural detail for the new timber floor to the CCC Heritage Team Leader or nominee for discussion and approval before the commencement of works on site.
32. The applicant shall submit their selected portal frame paint colour to the CCC Heritage Team Leader or nominee for discussion and approval before this element of works commences.

Advice Notes:

Trees

1. The following local Arboricultural firms are considered acceptable to Christchurch City Council:

- a) Advanced Tree Services - 03 344 6162/ Mathew Palmer 027 2202724
- b) Arbor-Tek Ltd - 03 3497143 / Joe Berryman 027 272 6710
- c) City Care - 03 941 7200 Fax 03 941 7250
- d) Four Seasons Tree Care (Otautahi) Limited - 03 381 1422, Mobile: 021 029 66714, email bek@fourseasonstreeecare.co.nz
- e) Treetech Specialist Treecare Ltd - 03 383 9370/ 0800 873378, Chris Walsh 027 2297499
- f) Arbor Vitae - Laurie Gordon (Tree Reports/Assessments only) 027 229 2536
- g) Warner Tree Care Limited (Tree Reports/Assessments only) 03 3394412, Liz Warner 0211206913
email Liz@warnertreecare.co.nz

Heritage

2. All works should be carried out with regard to the conservation principles contained within the ICOMOS New Zealand Charter for the Conservation of Places of Cultural Heritage Value (ICOMOS New Zealand Charter 2010).
3. The dating of new or introduced fabric may be undertaken by any permanent means including marker pen. Marking should be in unobtrusive locations. Not all new fabric requires dating; only where there is the potential for the future misinterpretation of replica fabric or introduced old fabric as original heritage fabric should it be marked.
4. All works to be undertaken on the repair and replacement of heritage fabric should be undertaken by tradespeople experienced in working with such fabric.
5. The purpose of this photographic record (see condition 25) is the recording of changes to the fabric of the heritage item as a consequence of the programme of works. The focus of the images should be the areas in question rather than individual elements.
6. The CCC Heritage Team nominee for this project is currently Gareth Wright gareth.wright@ccc.govt.nz DD: 941 8026.
7. With reference to Condition 24; a further consent will be required for proposed changes which are considered by the CCC Resource Consent Unit to be beyond the scope of this consent.

Monitoring

8. The Council will require payment of its administrative charges in relation to monitoring, as authorised by the provisions of section 36 of the Resource Management Act 1991. The current monitoring charges are:
 - (i) A monitoring fee of \$298 to cover the cost of setting up a monitoring programme and carrying out two site inspections to ensure compliance with the conditions of this consent; and
 - (ii) Time charged at an hourly rate of \$116 incl. GST if additional monitoring is required, including non-compliance with conditions.

Development Contribution Assessment

9. Development Contributions have been assessed in accordance with the Development Contributions Policy 2015, which has been established under the Local Government Act 2002. Full details of the policy are available at <http://www.ccc.govt.nz/consents-and-licences/development-contributions/>.

Payment of Development Contributions can be made at any time following the issue of this consent. Payment in full must be made before either commencement of the Resource Consent activity, issue of Code Compliance Certificate for a building consent, issue of section 224 Certificate for a subdivision consent, or authorisation of a service connection.

Development Contribution Summary as at 17 June 2016:

DEVELOPMENT CONTRIBUTIONS SUMMARY			PIM or Building Consent Ref:		RMA/2016/1434 ASSESSMENT								
Customer Name	Rexton Global Limited												
Assessment Summary													
Location: Riccarton	Activity	Catchment	HUE Credits										
			Current	Assessed	Discounts	Assessed HUE After Discount	Change						
			A	B	C	D	E						
						G	F= Ex G						
Network Infrastructure													
Water supply		District-wide	0.00	54.83	0%	54.83	54.83						
Wastewater collection		District-wide	0.00	54.83	0%	54.83	54.83						
Wastewater treatment and disposal		District-wide	0.00	54.83	0%	54.83	54.83						
Stormwater & flood protection	Avon		0.00	6.26	0%	6.26	6.26						
Road network	Inner City		0.00	59.51	0%	59.51	59.51						
Active travel	District-wide		0.00	59.51	0%	59.51	59.51						
Public transport	District-wide		0.00	59.51	0%	59.51	59.51						
Total Community and Network Infrastructure													
							\$816,980.81						
Reserves													
Regional parks		District-wide					\$154,090.13						
Garden and heritage parks		District-wide					\$10,478.84						
Sports parks		District-wide					\$143,595.82						
Neighbourhood parks		Inner City					\$160,039.84						
							15.00%						
							\$167,632.88						
							\$1,285,185.44						
Total Development Contribution													

Reconsideration and/or objection

A request for reconsideration of development contributions or an objection to development contributions may be made if you have grounds to believe:

- a) the development contribution was incorrectly calculated or assessed under the territorial authority's development contributions policy; or
- (b) the territorial authority incorrectly applied its development contributions policy; or
- (c) the information used to assess the person's development against the development contributions policy, or the way the territorial authority has recorded or used it when requiring a development contribution, was incomplete or contained errors.

A Request for Reconsideration Form must be lodged with Council within 10 working days of receiving this notice. A Request for Reconsideration form can be found at www.ccc.govt.nz.

An Objection to Development Contributions form must be lodged with Council within 15 working days of receiving this notice. An Objection to Development Contributions form can be found at www.ccc.govt.nz.

Notes:

1. This assessment is valid for 24 months from the date of issue. Reassessment of this development contribution assessment will occur after 24 months only when an invoice is generated, and this original assessment (or subsequent reassessment) has expired.
2. This assessment supersedes any estimate you may have received on a Project Information Memorandum (PIM) or Development Check.
3. If you have any queries regarding the Development Contribution please contact our Development Contributions Assessors on ph. 03 941-8999.

Reported and recommended by: Shona Jowett, Planner

Date: 22 August 2016

Peer reviewed by: Ruth Markham-Short, Planner

Date: 22 August 2016

Decision

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

Delegated officer:



Christofferson, Andy
23/08/2016 2:13 PM
Planning Team Leader