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| Resource Management Act 1991 | CCC logo Black&White |
| **Report / Decision on a Resource Consent Application**(Sections 104 / 104A / 104B / 104C / 104D – *delete as appropriate*) |

*If there is a relevant Plan Change refer to templates P-400b – 400f for additional wording. This template only contains the basic references to PC14 for applications in the RLL, RSS, RBP outside Lyttelton, and proposed Future Urban zone.*

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| **Application number:** | **RMA/+** |
| **Applicant:** | + |
| **Site address:**  | + |
| **Legal description:** | + |
| **Zone:** |  |
| **District Plan**: | + |
| **Proposed Plan Change 14**:  | + *delete red rows if no relevant PC14 provisions* |
| **Overlays and map notations:** |  |
| **District Plan**: | + |
| **Proposed Plan Change 14**:  | + *delete red rows if no relevant PC14 provisions* |
| **Road classification:** | + |
|  |  |
| **Activity status:**  | + |
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| **Description of application:**  | + |

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| **Introduction** |

A Commissioner/Hearings Panel/Delegated Officer determined on + that this application be processed on a non-notified / limited notified / publicly notified basis.

*Explain any relevant background information, e.g.*

* *If a non-notified hearing was requested:* The applicant has requested a hearing under Section +.
* *If notified but no parties wish to be heard:* Whether any submissions were received and that neither the applicant nor any submitters wish to be heard. If the applicant has reviewed and/or accepted draft conditions mention this.

The purpose of this report is to determine whether the application should be granted or declined pursuant to Sections 104 and 104A (CA) / 104B (DA & NCA) / 104C (RDA) / 104D (NCA) of the Resource Management Act.

To avoid duplication this report does not repeat information contained in the section 95 report/decision. The section 95 report/decision is attached / available in TRIM <record number> and should be read in conjunction with this report.

*Attach the s95 report if s104 decision is going to a Hearings Panel, a hearing, or a commissioner, otherwise just include the TRIM number.*

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| **Proposed activity and existing environment** |

Refer to the section 95 report/decision.

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| **Activity status** |

The proposal requires resource consent for a + activity under the Christchurch District Plan, and a + activity under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

Refer to the section 95 report/decision for further detail.

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| **Written approvals [Section 104(3)(a)(ii)]** |

No written approvals have been provided with the application.

OR

The applicant has obtained written approval from the owners and/or occupiers of the following properties/the following persons:

Pursuant to Section 104(3)(a)(ii) any effects on these persons must be disregarded.

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

The adverse effects of the proposed activity on the wider environment and on persons are discussed in the section 95 report/decision, and that discussion is equally applicable here. It was concluded that … *briefly note the conclusions in that report.*

In addition, I note that the proposal will have the following positive effects:

*Discuss any recommended conditions that were not addressed in the s95 report. For RD activities only include if they relate to the matters of discretion.*

*Finish with an overall conclusion on the scale of effects and whether they are acceptable in the context of the planning framework,* e.g.

Overall, I consider that the effects of the proposed activity on the environment will be acceptable.

Overall, I consider that the effects on the environment are able to be mitigated through compliance with recommended conditions such that they will be **+** and acceptable.

*There is no “more than minor” test here, so avoid using that term.*

*Guidance notes:*

* *Must consider measures proposed by/agreed to by applicant to offset or compensate adverse effects*
* *Consider mitigation by other recommended conditions*
* *Must not consider trade competition and associated effects*
* *For RDA, must not consider effects outside the restricted discretion in the plan or NES*
* *Consider cumulative effects where relevant*
* *Consider any positive effects, which can be balanced against adverse effects in this report*
* *Must have sufficient information to determine effects (s104(6)*

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

Regard must be had to the relevant objectives and policies in the Christchurch District Plan. In my opinion the application is + *Adopt the applicant’s assessment where possible.*

As noted above the MDRS objectives and policies in PC14 do not apply outside ‘relevant residential zones’, and other proposed objectives and policies are not relevant to the proposal. *Or discuss any that are relevant*

*Also discuss weighting if the application requires consent under the coastal hazard provisions of the City Plan.*

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

The NES for Assessing and Managing Contaminants in Soil to Protect Human Health is relevant to this application and is discussed in the section 95 report. *Delete if not applicable*

The District Plan gives effect to the relevant higher order instruments referred to in s104(1)(b), including the Regional Policy Statement, Regional Plans, and the National Policy Statement on Urban Development (NPS-UD) which has largely been implemented via Plan Change 14. As such, there is no need to specifically address them in this report.

*OR*

The District Plan gives effect to the higher order documents referred to in s104(1)(b) for all matters except …

*Also discuss the provisions of any other relevant statutory documents not reflected in the Plan, e.g. Coastal Policy Statement, any recent NPS or regional plans / policy statements, e.g.*

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

*Discuss any other matters that are relevant and reasonably necessary to determine the application, e.g.*

* *Interests on the title that may impact on the activity.*
* *Non-statutory documents such as Urban Development Strategy, Biodiversity Strategy, Regional Land Transport Strategy, Master Plans etc). Consider only any relevant documents which relate to a resource management purpose. Note case law has determined that limited weight can be given to such documents in your overall assessment.*

**Precedent / Plan Integrity**

*In most cases precedent and Plan integrity will not be relevant, so there is no need to routinely include this section in all reports on non-complying activities. Applications involving density issues or activity-based non-compliance (e.g. out-of-zone activities such as non-residential activities in residential zones) do have the potential to give rise to a precedent effect. If in doubt as to whether to include, discuss with a Senior Planner/Team Leader.*

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 District Plan. These are not mandatory considerations but are matters that decision makers may have regard to, depending on the facts of a particular case including:

* Whether a proposal is contrary to the objectives and policies of the plan; and if so
* Whether it can be seen as having some distinct or unusual qualities that would set it aside from the generality of cases.

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.

OR

I have concluded above that the application is contrary to the objectives and policies, so there is potential for issues of precedent or plan integrity to arise. However in my opinion there are a number of sufficiently unique characteristics of this site and proposal which would distinguish it from other applications for … activities seeking to locate in the … zone. These include:

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 District Plan.

OR

*If there are no unusual characteristics, explain how a precedent effect might arise, and why it would be of concern.*

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| **Part 2 of the Resource Management Act 1991 [Section 104(1)]** |

The above considerations are subject to Part 2 of the Act which outlines its purpose and principles.

The Christchurch District Plan provisions were prepared under the higher order planning documents and, through its preparation and the process of becoming operative, have been assessed against the matters contained within Part 2.

Taking guidance from case law[[1]](#footnote-1), the District Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Christchurch District. It was competently prepared via independent hearing and decision-making processes, in a manner that appropriately reflects the provisions of Part 2.

Accordingly, no further assessment against Part 2 is considered necessary.

*OR …*

*Discuss the relevant provisions of Part 2 if the application involves coastal hazards, as the District Plan has not yet given effect to the higher order documents relating to these and is therefore incomplete in relation to such applications.*

*A structured analysis is needed if there are competing / conflicting provisions (obs and pols) which are unable to be resolved – refer East West Link Supreme Court decision.*

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| **Section 104(3)(d) notification consideration**  |

Section 104(3)(d) states that consent must not be granted if an application should have been notified and was not. No matters have arisen in the assessment of this application which would indicate that the application ought to have been notified.

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| **Non complying activity gateway test [Section 104D(1)]** *- delete if not a non-complying activity* |

As a non-complying activity, the gateway test in section 104D must be met in order for the application to be granted consent. Either the adverse effects on the environment must be minor, or the application is not contrary to the objectives and policies of the Plan.

The application satisfies one/both test(s) *delete one* as, for the reasons discussed above, 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.On this basis Council has discretion to grant consent.

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| **Section 108 and 108AA - Conditions** |

*If not discussed in the AEE section, discuss the rationale for the imposition of any conditions where this isn’t immediately apparent. Note whether they were offered, and if the applicant has reviewed and/or agreed to them (if they are extensive, technical or may be potentially contentious).*

*Note – conditions can only be imposed if at least one of the following applies:*

* *The applicant agrees to the condition; or*
* *The condition is directly connected to an adverse effect of the activity on the environment; or*
* *The condition is directly connected to a relevant rule or NES; or*
* *The condition relates to administrative matters essential for the effective implementation of the consent.*

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| **Recommendation** |

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

1. The development shall proceed in accordance with the information submitted with the application, including the stamped approved plans entered into Council records as RMA/+.

*OR be more specific where necessary, e,g.*

 Except where varied by the conditions of this consent *(delete if not applicable)*, the development shall proceed in accordance with the information and plans submitted with the application, including the further information/amended plans submitted on + *(be specific about what the additional/amended information relates to)*. *The approved plans are:*

* *List the plans, with authors, dates, revision numbers etc.*

**[Heading]**

1. +

*Only enable photographic evidence to be submitted and document verification fee charged in lieu of an inspection for consents in remote locations. Monitoring site inspections will be required for other conditions. If unsure, discuss with the Compliance Team.*

**[Heading]**

1. +

**Advice Notes (****click to view standard conditions****):**

1. This resource consent will **lapse five years** **from the date it is issued** unless it is given effect to (i.e. the activity is established) before then.Application may be made under Section 125 of the Resource Management Act 1991 to extend the period for giving effect to the resource consent, and this must be submitted prior to the consent lapsing.
* **Monitoring** will be carried out to ensure the **conditions are complied with** and that the development proceeds in accordance with the plans and details which were submitted with the application.

The Council will require payment of its **administrative charges** in relation to monitoring, under section 36 of the Resource Management Act 1991. The monitoring programme administration fee and initial inspection fee OR document verification fee will be charged to the applicant with the consent processing costs. If more than one inspection, or additional monitoring activities (including those relating to non-compliance with conditions), are required, the additional time will be invoiced to the consent holder when the monitoring is carried out, at the applicable hourly rate. The current monitoring charges are outlined on the [Resource Management Fee Schedule](https://www.ccc.govt.nz/assets/Documents/Consents-and-Licences/resource-consents/P-301-Resource-Management-Fee-Schedule.pdf).

* As the site is shown by Council **flood hazard** modelling to be affected by flooding in a 2% annual exceedance probability event, the land is considered to be subject to a natural hazard and the building consent application will be considered under section 71 – 72 of the Building Act. If adequate provision for protection from this natural hazard is not made, the building consent will be granted subject to the condition that a natural hazard notice will be entered on the record of title.  Please contact the Duty Building Consent Officer for more information (dutybco@ccc.govt.nz). *Check floor levels advice and include when a site is within the 50yr flood extent*
* *Noise attenuation outside the Central City:* At the time of the lodgement of building consent, the consent holder will need to provide a **design report prepared by a suitably qualified acoustics specialist** stating that the design is capable of achieving compliance with District Plan Rule 6.1.7.2.1 Sensitive activities near roads and railways (including mechanical ventilation and air conditioning where required).  The development must be constructed in accordance with this information.

 If design changes are required to meet the requirements of the design report, and are outside the scope of this consent, an application under s127 for a change of conditions will need to be lodged and processed at the consent holder’s expense.

* *Noise attenuation within the Central City:* At the time of the lodgement of building consent, the consent holder must demonstrate **compliance with an acceptable solution** listed in Appendix 6.11.4 Noise Attenuation Construction Requirements or provide a **design report prepared by a suitably qualified acoustics specialist** stating that the design is capable of achieving compliance with District Plan Rule 6.1.7.2.3 Sensitive activities near roads in the Central City.  The development must be constructed in accordance with this information.

 If design changes are required to meet the requirements of rule 6.1.7.2.3, and are outside the scope of this consent, an application under s127 for a change of conditions will need to be lodged and processed at the consent holder’s expense.

* This resource consent has been processed under the Resource Management Act 1991 and relates to [District – include if consent also required from ECan] **planning matters only**. You will also need to comply with the requirements of the Building Act 2004 and any other legislative requirements (including but not limited to Environment Canterbury Regional Plans, health licence, liquor licence, archaeological authority, certificate of title restrictions such as covenants, consent notices, encumbrances, right of way or easement restrictions, landowner approval where required).
* For more information about the **building consent process** please contact our Duty Building Consent Officer (phone 941 8999) or go to our website <https://ccc.govt.nz/consents-and-licences/> *Include when the application relates to conversion of the use of an existing building, or other similar situations where the applicant may not be aware that a building consent is required.*

* *New/altered vehicle crossing*

As the proposal involves the construction or alteration of a **vehicle crossing**, a Vehicle Crossing Application to the Council's Transport Unit is required.  Please refer to our webpage for more information: [Vehicle crossings : Christchurch City Council](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ccc.govt.nz%2Ftransport%2Fworking-on-our-roads%2Fvehiclecrossing%2F&data=05%7C02%7CCatherine.Elvidge%40ccc.govt.nz%7Cb1a10e7194ef47a305e908dd1318a0d2%7C45c97e4ebd8d4ddcbd6e2d62daa2a011%7C0%7C0%7C638687718676901549%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=3lBpVNl6NjRGblPbO4NkVbrRa7utKA1rFK1nq%2FeRU8Y%3D&reserved=0). Please allow plenty of time for your vehicle crossing application. If any changes are needed to the road layout or markings it may require consultation and approval by Council, the Parking Committee or the local Community Board (depending on the changes) and can take up to 3 months. The costs of making the changes must be met by the consent holder.

* *Redundant vehicle crossing*

 As the proposed development will result in the redundancy of an existing **vehicle crossing**, the consent holder will need to consult with the Council’s Vehicle Crossing Engineer to reinstate the redundant crossing. Please refer to our webpage for more information: [Vehicle crossings : Christchurch City Council](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ccc.govt.nz%2Ftransport%2Fworking-on-our-roads%2Fvehiclecrossing%2F&data=05%7C02%7CCatherine.Elvidge%40ccc.govt.nz%7Cb1a10e7194ef47a305e908dd1318a0d2%7C45c97e4ebd8d4ddcbd6e2d62daa2a011%7C0%7C0%7C638687718676901549%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=3lBpVNl6NjRGblPbO4NkVbrRa7utKA1rFK1nq%2FeRU8Y%3D&reserved=0). The costs of making the changes must be met by the consent holder.

* *Structure on legal road*

Separate permission to erect a structure on legal road is required from the Council’s Transport Unit for the proposed garage.  This requires an application to be lodged under the Structures on Road Policy.  Please refer to Council’s website for the Policy and application form: [Structures on Roads Policy : Christchurch City Council](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fccc.govt.nz%2Fthe-council%2Fplans-strategies-policies-and-bylaws%2Fpolicies%2Froads-and-footpaths-policies%2Fstructures-on-roads-policy&data=05%7C02%7CCatherine.Elvidge%40ccc.govt.nz%7C5899c00532084e67e35a08dcfe9cffbe%7C45c97e4ebd8d4ddcbd6e2d62daa2a011%7C0%7C0%7C638665197461381196%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=NHJl%2BdXjX4vZiUa3fUUJIaaMLzryxeF9i9ONDV2x1VI%3D&reserved=0) Please note that there are fees and possibly a licence or lease required as part of any application and approval.

* *Where manoeuvring is non-compliant:*

**Vehicle manoeuvring:** The consent holder should make prospective purchasers and/or tenants aware that the vehicle manoeuvring for Unit(s) + does not comply with the District Plan, which means that additional manoeuvres are required for the 85th percentile vehicle to access/exit the carpark/garage for Unit(s) +, and that a larger vehicle may not be able to access the space at all.  An 85th percentile vehicle equates to an intermediate sedan.

* *Where maneouvring is compliant but tight for 85%ile vehicle*

**Vehicle manoeuvring** assessed for this resource consent is compliant with the layout shown. Any addition of kerbing or similar features that impede the movement of vehicles may affect manoeuvring and lead to a non-compliance requiring an additional consent or change of conditions.

The consent holder should make potential purchasers and/or tenants aware that manoeuvring <into/out of> the <carpark/garage> for <Unit X> is compliant for an 85th percentile vehicle only, which equates to an intermediate sedan. Larger vehicles may require additional manoeuvres or may not be able to access the space.

* Under the [Council’s Stormwater and Land Drainage Bylaw 2022](https://cccweb.cwp.govt.nz/the-council/plans-strategies-policies-and-bylaws/bylaws/stormwater-and-land-drainage-bylaw-2022/) no person may obstruct any overland flow path or floodplains with any material or structures such as fences and retaining walls. As the application site forms part of the flood plain for [name of waterway], any proposed fencing will require authorisation from the Asset Planning Stormwater and Waterways Team who can be contacted via email Stormwater.Approvals@ccc.govt.nz.
* You will need to obtain separate permission from the **Council as owner of the land** before you may carry out the proposed activity on this site. Please contact Kelly Hansen, Manager Parks Planning & Asset Management, via email at Kelly.Hansen@ccc.govt.nz*. Include where the proposal is on Council land*
* This site may be an archaeological site as defined and protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. Archaeological sites are defined in the HNZPTA as any place in New Zealand where there is physical evidence of pre-1900 occupation, regardless whether the site is known or not, recorded in the NZAA Site Recording Scheme or not, or listed with Heritage New Zealand or the local council. Authority from Heritage New Zealand is required for any work that affects or may affect an archaeological site. **Please contact the Heritage New Zealand regional archaeologist on 03 363 1880 or** **archaeologistcw@heritage.org.nz** **before commencing work on the land**.

**Development Contributions *Where DCs NOT Payable***

No development contributions are payable on this consent.

**Development Contributions *Where DC assessment is available***

Insert table and Advice notes prepared by DC Assessors here

**Development Contributions *Where DC assessment is NOT yet available***

Please note that a development contribution may be required under the provisions of the CCC Development Contributions Policy applicable at the time of application. The Council requires Development Contributions to be paid prior to the issue of the Code Compliance Certificate for a building consent, commencement of a Resource Consent, the issue of a section 224 certificate for a subdivision consent, or authorisation of a service connection.

Development contribution requirements are as defined in Council’s Development Contributions Policy established under the Local Government Act 2002. Full details of the policy are available from our website at [www.ccc.govt.nz/consents-and-licences/development-contributions/](https://aus01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.ccc.govt.nz%2Fconsents-and-licences%2Fdevelopment-contributions%2F&data=05%7C01%7CCatherine.Elvidge%40ccc.govt.nz%7Ccf15a64b9dd14f614a4e08da5303853c%7C45c97e4ebd8d4ddcbd6e2d62daa2a011%7C0%7C0%7C637913571821548078%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=P0iXpXhavO1f06jBKwi%2FULsCUyGJpZoeXBDExBiPVjE%3D&reserved=0). If you have any queries in relation to this matter, please contact one of our Development Contribution Assessors on phone (03) 941 8999 or email developmentcontributions@ccc.govt.nz.

**Reported and recommended by:** type your name and position **Date:** type it in

**Peer reviewed by:** type your name and position **Date:** type it in

*(Peer review required if Planner Level 2 or Planning Technician - delete if not required)*

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| **Decision** |

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

🗹 I have viewed the application and plans.

🗹 I have read the report and accept the conclusions and recommendation.

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| Decision maker notes *Add any further notes of relevance/reasons for decision, otherwise delete this box* |

**Delegated officer:**

*[Insert digital signature]*

OR

**Commissioner: *(Conflict of Interest Form*** ***P-426*** ***also needs to be signed by commissioner)***

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| Name: |  |  |
| Signature: |  |  |
| Date: |  |  |

OR

**Hearings Panel Chair – Independent Commissioner**

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| Name: |  |  |
| Signature: |  |  |
| Date: |  |  |

**Hearings Panel member – Commissioner / Councillor / Community Board member**

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| Name: |  |  |
| Signature: |  |  |
| Date: |  |  |

**Hearings Panel member – Commissioner / Councillor / Community Board member**

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| Name: |  |  |
| Signature: |  |  |
| Date: |  |  |

1. *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 [↑](#footnote-ref-1)