

30 September 2020

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Garry and Monique Bond  
120A Clyde Road  
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Dear Garry and Monique

**Non-Compliance with the Resource Management Act 1991 and the Building Act 2004**  
Guest Accommodation Activity at 421 Pound Road, Yaldhurst – ‘The Bond Estate’

you are aware, the Christchurch City Council has received a complaint regarding activities occurring at 421 Pound Rd, Yaldhurst ‘The Bond Estate’. The issues raised are to do with the use of the property to provide home share accommodation and as a venue for events (weddings, parties).

**Christchurch District Plan + the Resource Management Act 1991**

421 Pound Road is located in the Rural Urban Fringe Zone (RUuf) and under the 55db Airport Air Noise Contour overlay.

The Resource Management Act classifies activities into six primary consent categories. Discretionary activities require a resource consent to carry out. The council can exercise full discretion as to whether or not to grant consent, as well as what conditions to impose if the consent is granted.

- Guest accommodation services in this zone are categorised as a discretionary activity and are subject to rules set out by section 17.5.1.4 of the District Plan.
- Guest accommodation services under the airport 55 dB Air Noise Contour overlay are categorised as a non-complying activity and are subject to rules around acoustic treatment, as set out by section 6.1.7.1.5 of the District Plan.

This means that you are currently breaching the Resource Management Act 1991. Section 9(3)(a) of the RMA states;

- (1) No person may use land in a manner that contravenes a district rule unless the use (a) is expressly allowed by resource consent.

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**Building Act 2004**

When the house was built at 421 Pound Road, building approval was granted for the house to be used for residential purposes and not for its current use of providing un-hosted guest accommodation.

The new use of the building means that the property owner is required (under section 114 of the Building Act 2004) to notify Council by submitting a “change of use” form.

## Report / decision to determine notification of a resource consent application

(Sections 95A / 95B)

**Application number:** RMA/2020/3001  
**Applicant:** Garry and Monique Bond  
**Site address:** 421 Pound Road (Minor Arterial)  
**Legal description:** Lot 2 DP24939  
**Zone:** Rural Urban Fringe.  
**Overlays and map notations:** 55dB L<sub>dn</sub> Air Noise Contour – refer Appendix A  
Christchurch International Airport Protection Surfaces  
33kV electricity distribution lines  
**Activity status:** Non complying activity  
**Application:** Guest accommodation for nine guests within the existing dwelling and buildings on the site.

### The proposed activity

The proposal is described in detail in paragraph 3 of the attached application. The key aspects are:

- To provide boutique style luxury accommodation for groups of up to 9 people within the existing dwelling.
- Full use of the facilities (including the indoor pool/tennis courts) except there will be no use of the multi-purpose gym/studio/retreat area which includes a kitchen.
- No other functions or events are proposed.
- Check in and check out is to be managed remotely. There will be no manager on site and no one living on the site.
- Anticipated vehicle movements are 26 per day (Source - Table 1 part 3 of the application).
- No new building or earthworks are proposed.
- The site has been operating as guest accommodation.

The purpose of this report is to determine whether the application must be processed on a non-notified, limited notified, or publicly notified basis, pursuant to Sections 95A and 95B of the Resource Management Act.

### Background

Relevant background consenting is contained in section 1.2 of the application.

A site visit has been undertaken although the site itself could not be accessed.

In assessing this application expert advice has been received from the following Christchurch City Council Staff.

1. Ms Kirsten Rayne, Environmental Health Officer – Appendix B.
2. Mr Ray Wong – Water supply capacity for firefighting. TRIM 21/179076

Relevant definitions referred to in the below report are contained in Appendix C.



## The site and surrounds

The application site and surrounding environment are described in section 2.1 of the AEE submitted with the application. I adopt the applicant's description and add the following point.

- The Ruapuna outer noise boundary overlay is located approximately 166m from the southern boundary of the site and approximately 200m from the existing dwelling on the site. Refer to Appendix A.
- The outer edge of the 65 – 95 *Air Noise boundary* is located approximately 290m to the northwest of the rear boundary of the site. Refer to Appendix A.
- Photographs of the site are contained in the application Appendix 4 and in TRIM21/73650.
- The application site is shown on google maps as including a Tesla Destination Charger as shown in the below image. The site is also listed as providing such a service on Tesla's website. The website specifically states the following in relation to these stations:  
*Attract Tesla Drivers to your property by joining the Destination Charging network.....in addition they will benefit from visibility in the charging maps on the Tesla website and in-vehicle navigation.*  
 The applicant has confirmed that the charging station is for use by guests only and there is no public access to this station. The agreement with Tesla included provisions that it not be a public station.



## Activity status

### Christchurch District Plan

The site is zoned Rural Urban Fringe (RUF). Permitted activities in this zone include farming and associated buildings, rural produce retail/manufacturing, residential activity on sites of at least 4ha; conservation, recreation, farm-stay and rural tourism activities subject to activity specific standards.

The proposal requires resource consent for a non-complying activity under the following rules:

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
Chapter 6.1.Noise Rule 6.1.7.1.5	Rule 6.1.7.1.1 P1 b	The activities shall meet the activity standards in Rule 6.1.7.2.2	-	-

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
<p>NC3</p> <p>Any activity not provided for as a permitted, restricted discretionary, or prohibited.</p>	<p>Rule 6.1.7.2.2 (Activities near Christchurch Airport)</p>	<p>Whilst guest accommodation within new buildings or extensions to existing buildings are required to comply with noise insulation standards in Rule 6.1.7.2.2, the activity of guest accommodation within existing buildings is not provided for and is therefore non-complying activity.</p>		
<p><b>Chapter 17 Rural</b></p> <p>Rule 17.5.1.4 D1 <i>Guest accommodation</i></p>	<p>N/A</p>	<p>The proposal would accommodate up to 9 guests. There will be no manager on site, with the site let to groups.</p> <p><i>However, refer to NC5 separately triggered below for sensitive activities (including uninsulated guest accommodation in the 50dBLdn.</i></p>	<p>All matters to be considered.</p>	<p>No clause</p>
<p><b>Rule 17.5.1.5 NC5</b></p> <p><b>Any sensitive activities located within the 50dB Ldn Air noise contour or the 50dB Ldn Engine testing Contour, including</b></p> <p><b>i any residential unit on a site less than 4ha</b></p> <p><b>ii</b></p>		<p>A recent legal opinion (Refer Appendix D ) confirms that sites within the 55dB Ldn Air noise contour are also within the 50dB Ldn (outer) noise contour and therefore are captured in rules that refer only to this outer 50 dB Ldn boundary. Guest accommodation is a sensitive activity. The only guest accommodation that is excluded from the definition of sensitive activity and NC5, is where the accommodation is that <i>"which is designed, constructed and operated to a standard to mitigate the effects of aircraft noise on occupants."</i></p> <p>This proposal is not insulated.</p> <p>The site is not in the Engine testing contour.</p> <p>The residential building on the site is existing.</p>	<p>All matters to be considered.</p>	<p>-</p>



Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
<p>any activity in 17.5.1.1 P7 that does not meet activity specific standard d and</p> <p>iii any activity listed in Rule 17.5.1.1 P11 that does not meet activity specific standard b.</p>		<p>P7 relates to minor residential units and is therefore not relevant but for clarity this rule restricts a minor residential unit to a family flat within the 50dBLdn air noise contour.</p> <p>P11 relates to a farm stay activities and on sites within the 50dB Ldn Air noise contour guests are limited to four at one time and shall only be accommodated in an existing residential unit. The proposal is not a farm stay but the applicant refers to this use as a "permitted baseline".</p>		
<p>Rule 17.5.1.3 RD1 a</p> <p>Any activity that does not comply with built form standards</p>	Rule 17.5.2.8 Water supply for fire fighting	Alternative water supply not in accordance with SNZ PAS 4509: 2008	<p>17.11.1.11 Water supply for fire fighting</p> <p>a. Whether sufficient firefighting water supply is available to ensure the health and safety of the community, including neighbouring properties.</p>	<p>Limited notified to FENZ absent their written approval</p> <p>Note: Written approval has been obtained from FENZ.</p>
<p><b>Chapter 7 Transport</b></p> <p>Rule 7.4.2.3 RD1</p> <p>Any activity that does not comply with any one or more of the standards in Rule 7.4.3.</p>	<p>Rule 7.4.4.1 ii</p> <p>Rule 7.4.3.1 a ii Carparking spaces shall be provided with the minimum dimensions in Table 7.5.1.3 in Appendix 7.5.1</p> <p>Rule 7.4.3.1.iii Mobility spaces shall be provided in accordance with Table 7.5.1.2 in Appendix 7.5.1.</p> <p>Rule 7.4.3.1 – minimum number of cycle spaces and 7.4.4.3</p>	<p>Carparking numbers are met however will remain informal, i.e not marked on site however the sites to be used are sealed.</p> <p>No Mobility carpark is provided</p> <p>Cycle spaces are not shown on plans however the applicant has stated these are to be provided in garage and farm buildings.</p>	<p>7.4.4.1 - Parking space dimensions</p> <p>7.4.4.4 – Minimum number of cycle parking facilities</p>	<p>No clause</p> <p>No clause</p>

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
	Rule 7.4.3.3 Minimum number of loading spaces	One loading space is required and none is provided	7.4.4.5 – Minimum number of loading spaces required	No clause.
	Rule 7.4.3.6 Design of parking and loading areas	Lighting of parking areas / loading areas will not be maintained at a minimum level of two lux during the hours of operation.	7.4.4.8- Illumination of parking areas and loading areas	Must not be limited or publicly notified
		The surface of the parking areas / loading areas and associated access areas will not be formed, sealed (except for access), drained and spaces permanently marked. Permanent lighting is not provided.	7.4.4.9 – Surface of parking and loading areas.	Must not be limited or publicly notified.

**For clarity**

Chapter 6 Noise

Noise from the activity itself is proposed to comply with Chapter 6 noise requirements noting no event style functions are proposed, only accommodation is proposed.

Chapter 6.1.7 Noise near infrastructure

Council obtained a legal opinion (in relation to a different site and proposal) regarding the application of the rules in Chapter 6 and this is attached in Appendix D. Relevant to this application the legal opinion confirms the following:

- a. Sites within the 55 dB Ldn are also within the outer 50dB Ldn (This is relevant to NC5 above)
- b. Rule 6.1.7.1.5 NC3 applies in terms of noise sensitive activities.

In particular refer to paragraph 9b of this attached opinion.

The applicant does not agree with the assessment of the application as a non-complying activity under Chapter 6 Rule 6.1.7.1.5 NC3. Appendix E contains the applicant's response in relation to this matter.

I further clarify below how this matter has been determined under this chapter.

6.1.1 Introduction states that *"In addition this sub-chapter sets out where sound insulation is required for sensitive activities, or alternatively, by limiting the location of sensitive activities relative to activities which have elevated noise levels"*.

Turning to the rules, Rule 6.1.7.1.1 P b relates to activities near Christchurch Airport which are permitted, subject to the activity specific standards in a ii - Rule 6.1.7.2.2 (*Activities near Christchurch Airport*).

Rule 6.1.7.2.2 sets out that new buildings or additions to existing buildings are permitted for the various activities listed, subject to meeting insulation standards. *"Guest accommodation"* is listed however in this case there is no rule in here for the use of existing buildings for guest accommodation and this proposal does not involve any new building to enable this rule to be triggered.

There are no discretionary activity standards however there are non-complying standards that capture, as stated in the assessment table above, *"any activity not provided for as a permitted, restricted discretionary or prohibited activity"*. The use of an existing building for guest accommodation is not otherwise provided for and therefore a non-complying activity.



In essence the applicant's view is that the proposed "guest accommodation" is permitted as it does not trigger Rule 6.1.7.2.2. In our view the activity of guest accommodation within existing buildings is not an activity that is otherwise provided for or listed and is therefore captured by NC3 and is non-complying. In any event, the fact that Chapter 17 Rural urban fringe zone NC5 is now triggered, due to the clarified "overlapping" contours, non-compliance is captured separately.

#### Chapter 17 Rural - Rule 17.5.1.4 NC5 for sensitive activities within the 50dB Ldn.

Whilst initially the guest accommodation was considered a fully discretionary activity under RUF zone rule 17.5.1.4 D1, now, based on the legal opinion Rule 17.5.1.5 NC5 is triggered as per the above assessment table, noting that the definition of "sensitive activity" includes guest accommodation.

#### Vehicle trips to the site.

Vehicle trips would comply with the maximum permitted of 100 per day (50 vehicles) under Rule 17.5.2.7a, noting no event style functions are proposed.

#### CIAL protection surfaces

No specific rules are triggered in this regard.

#### 33kV electricity distribution lines

There is no development proposed that triggers any rules in relation to those lines.

#### Plan Change 4 for Short term accommodation.

At the time the application was lodged on 21/12/2020, Plan Change 4 in relation to short term accommodation had been notified and submissions and further submissions received. A hearing date has been set for the 17<sup>th</sup> May 2021. Below is a link to Council's public information on this proposed change.

<https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/district-plan/Proposed-changes/2020/PC4/PC4-Summary-of-submissions-and-further-submissions.pdf>

<https://www.ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/plans/christchurch-district-plan/changes-to-the-district-plan/proposed-changes-to-the-district-plan/planchange4/>

The "as notified" rules for this plan change are attached in Appendix F. Essentially under those proposed rules, this proposal would be a non-complying activity under Chapter 17 Rural Urban Fringe Zone, NC5 for "visitor accommodation" that does not meet two activity standards, *a* and *b*, under P21. Activity standard *a* limits the total number of nights per year to 180 and activity standard *b* limits total guests to four. Note also that one of the activity standards of P21 is that neighbours are provided with contact details of the manager of the short term accommodation.

Submissions have been made in relation to these rules and no decision has been made as yet and so no weight can be placed on the above described rules.

#### **Written approvals [Sections 95D, 95E(3)(a)]**

Fire and Emergency New Zealand – (FENZ). TRIM21/15794 in relation to water supply for firefighting.

#### **PUBLIC NOTIFICATION TESTS [Section 95A]**

Section 95A sets out the steps that must be followed to determine whether public notification is required:

##### **Step 1: Mandatory notification – section 95A(3)**

Has the applicant requested that the application be publicly notified?

No

Is public notification required under s95C (following a request for further information or commissioning of report)?	No
Is the application made jointly with an application to exchange reserve land?	No

Public notification is not mandatory under this section.

<b>Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95A(5)</b>	
A rule or NES precludes public notification for all aspects of the application	No
The application is a controlled activity	No
The application is a boundary activity	No

Public notification is not precluded under this section.

<b>Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)</b>	
Does a rule or NES require public notification?	No
Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor? (discussed below)	No

### Assessment of effects on the environment

When assessing whether the adverse effects on the environment will be, or are likely to be, more than minor, any effects on the owners and occupiers of the application site and adjacent properties must be disregarded pursuant to section 95D(a).

As a non-complying activity the Council's assessment of this proposal is unrestricted and all actual and potential effects must be considered. Guidance as to the effects that require consideration is contained in the relevant objectives and policies, and any associated matters of discretion or control.

The objectives and policies in the District Plan set the context for assessing the effects of the application. The most relevant objectives and policies are contained in **Appendix G** to this report. In summary the rural objectives seek the following:

- To support and maintain the rural environment and to avoid significant reverse sensitivity effects on rural productive activities Objective 17.2.1.1
- To provide for the economic development potential by enabling activities that have a direct relationship with or are dependent on the rural resource, rural productive activity; have a functional technical or operational necessity for a rural location; present an efficient use of natural resources. (Policy 17.2.2.1).
- To ensure that activities utilising the rural resource avoid significant adverse effects on areas of important natural resources and avoid remedy or mitigate other adverse effects on rural character and amenity. (Policy 17.2.2.2 c).
- To ensure the nature, scale and intensity of use recognises the different natural and physical resources including rural productive activities and recreation activities in the rural flat land surrounding Christchurch (Policy 17.2.2.4)
- Avoid the establishment of industrial and commercial activities that are not dependent on or directly related to the rural resource unless they have a strategic or operational need to locate on rural land; or provide significant benefits through utilisation of existing physical infrastructure and avoid significant reverse sensitivity effects on rural productive activities and will not result in a proliferation of associated activities that are not reliant on the rural resource, and will not have significant adverse effects on rural character and amenity values. (Policy 17.2.2.5).
- Finally, Policy 17.2.2.10 – Separation of incompatible activities c. seeks to protect strategic infrastructure by avoiding reverse sensitivity effects from incompatible activities; and by managing the density of residential units within the 50dBa L<sub>dn</sub> Air Noise contour to take into account the impacts of the operation of Christchurch International Airport.

In relation to Chapter 6 General rules – 6.1 Noise objectives and policies, these seek

- To manage adverse noise effects on the amenity values and health of people and communities (Objective 6.1.2.1 - Adverse noise effects).



- Policy 6.1.2.1.1 seeks to manage these effects by requiring sound insulation for sensitive activities or limiting their location relative to activities with elevated noise levels.
- Policy 6.1.2.1.4 – Activities in key locations outside the Central City. This includes Ruapuna, and this policy seeks to enable activities that contribute to the economic and social wellbeing of the city while ensuring adverse noise effects on the surrounding community are managed to levels consistent with the anticipated outcomes for the receiving environment.
- Specific policy 6.1.2.1.5 – Airport noise, seeks to mitigate adverse noise effects from the operations of the Airport on sensitive activities by requiring noise mitigation for new sensitive activities within the 55dB Ldn air noise contour.

The relevant transport policies are applicable but less so for this application. Refer to the application paragraph 8.2 for a summary of these relevant policies.

### **Permitted baseline**

Section 95D(b) allows the effects of activities permitted by the District Plan to be disregarded (the “permitted baseline”). The applicant in section 7.1 of the Assessment of environmental effects, (AEE) and again in the further information received has presented permitted baselines of a “Farm Stay” and a Residential Unit.

A “Farm stay” is a permitted activity in the Rural Urban fringe Zone subject to compliance with activity specific standards in rule 17.5.1.1 P11. A “Farm stay” is defined as follows:

Whilst the applicant initially put forward a “farm stay” baseline of 10 people, it has since been confirmed they agree with the interpretation of a farm stay (P11) being limited to 4 persons due to the activity specific standard restricting the number of guests on sites within the 50dB Ldn (as the 55dB Ldn is also encapsulated within the “outer” 50dB Ldn). It is arguable that the use as a farm stay would also trigger non-complying status under Chapter 6.1 - Activities near infrastructure for an activity not otherwise provided for as per the abovementioned legal opinion. In any event the stable labelled “B” on the site plan, and the existing dwelling are both closer than the required 10m building setback from the internal boundary and although these buildings are established via resource consent on site, for this reason of non-compliance with the district plan, there is no permitted baseline.

I have considered whether the buildings could be demolished and rebuilt in compliance with built form standards and air contour insulation standards and would that then be a permitted baseline of a residential unit with a “farm stay” for four people in association with rural activity. I have determined that it would not be a permitted baseline given the only permitted residential dwellings are on lot sizes of 4 hectares or more, and this site is just over 2 hectares. One residential unit on a lot existing as at 2 May 2015, is a restricted discretionary activity (Rule 17.5.1.3 RD10) but not inside the 50 dB Ldn air noise contour and this site is within this contour. A residential unit on this lot is a non-complying activity under rule 17.5.1.5 NC3 due to site size and location within the air noise contour. Furthermore any “sensitive activity” within the 50dB Ldn Air noise contour (therefore including the 55dB Ldn contour) including any residential unit on a site less than 4ha is a non-complying activity Rule 17.5.1.5 NC5.

There may well be existing use rights that apply to the replacement of the existing residential unit with a form similar to but complying with built form standards in the plan and required insulation standards, however that is not a permitted baseline, that is a determination on any application for existing use rights on a lot size smaller than permitted for a residential unit.

In summary, it is my view that no permitted baseline is available to enable me to consider disregarding of effects of permitted activities under section 95D(b) for the purposes of this report.

### **Effects on the environment.**

In the context of this planning framework, I consider that the potential adverse effects of the activity relate to reverse sensitivity effects due to a luxury retreat style guest house located within a potentially “working” rural environment, within the air noise contour; and within proximity to Ruapuna Motorsport Park and a Quarry. Further for consideration are any effects on rural character and amenity, any traffic safety effects and consideration of the adequacy of water supply for firefighting.

### **Safe operation parking/access on the site**



The applicant has provided an assessment of effects in relation to traffic/parking in part 7.3 of the application and I agree with that assessment. Further I consider a lack of specified spaces on plans for cycle storage would have less than minor effects, with the applicant stating there is space within existing buildings for cycles. Due to both the existing layout and access and the proposed activity being relatively small scale within associated limited vehicle movements I consider any traffic related effects to be less than minor and there are no wider effects.

### Rural character and amenity

The applicant has provided an assessment of rural character and amenity in part 7.2 of the application. In essence nothing is changing physically on the site, only the use. In terms of the activity changing to up market guest accommodation, reverse sensitivity effects are considered further below however in relation to visual amenity effects, there is no change on site and all landscaping is proposed to be retained, including boundary plantings. Any effects are less than minor on existing rural character and amenity in my opinion. There are no wider effects.

### Water supply for firefighting

Water supply for firefighting has been assessed as being adequate by Fire and Emergency NZ (FENZ) and Council's water capacity unit have accepted this advice (TRIM 21/179076). Written approval has been obtained from FENZ. For this reason any effects are less than minor in this regard and there are no wider effects.

### Reverse sensitivity effects.

*"Reverse sensitivity is the term used to describe the sensitivity of some activities to other lawfully established activities in the vicinity" potentially resulting in complaints about those existing activities. Some lawfully established activities may produce adverse effects on their surrounds and resultant complaints from more sensitive activities can result in stifling of growth or in extreme cases drive those uses elsewhere with significant loss (locally or regionally). "It is when sensitive activities seek to establish within a range of lawfully established activities that control of effects may become difficult". Source: Quality planning website.*

Guest accommodation is a "sensitive activity" as is residential activity, and the subject site is within the 55Ldn air noise contour. The site is also located around 160 - 200m from the outer noise contour of Ruapuna Raceway, and the Pound Road quarry is within 500m of the site. Further, the proposal is for a high end luxury rural retreat within a rural urban fringe zone, a zone which supports uses reliant on the rural resource.

I have received advice from Ms Kirsten Rayne, Christchurch City Council Environmental Health Officer contained in Appendix B. Ms Rayne has advised it is possible that guest accommodation such as this one can and do generate complaints about existing established activities. Ms Rayne is of the view that based on the information she has about the existing level of complaints in the locality and considering this particular proposal she does not expect a notable increase in complaint numbers should this proposal be approved. I agree with Ms Rayne that people can and do complain in particular about noisy, and dusty activities, and this can depend on the scale of effect, the length of time exposed to it and proximity. I consider that due to the proposed scale of the activity within an existing building with limited numbers of guests, that any reverse sensitivity effects would be less than minor in the wider environment noting that such effects on the immediate environment and particular locational facilities in that environment is discussed further below under section 95B.

### Summary

Having considered the proposal, the planning framework and assessed the potential effects on the environment excluding adjacent neighbours my conclusion is that there are minor effects on the environment in relation to reverse sensitivity.

#### **Step 4: Relevant to all applications that don't already require notification – section 95A(9)**

Do special circumstances exist that warrant the application being publicly notified?	No
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#### **Conclusion on public notification**



Having evaluated the application against the provisions of section 95A, my conclusion is that the application **must not be publicly notified**.

**LIMITED NOTIFICATION TESTS [Section 95B]**

Where an application does not need to be publicly notified, section 95B sets out the steps that must be followed to determine whether limited notification is required.

<b>Step 1: Certain affected groups/persons must be notified – sections 95B(2) and (3)</b>	
Are there any affected protected customary rights groups or customary marine title groups?	<b>No</b>
If the activity will be on, adjacent to, or might affect land subject to a statutory acknowledgement, is there an affected person in this regard?	<b>No</b>

<b>Step 2: Preclusions to limited notification – section 95B(6)</b>	
Does a rule or NES preclude limited notification for all aspects of the application?	<b>No</b>
Is the application for a land use consent for a controlled activity under the District Plan?	<b>No</b>

There are no preclusions to limited notification under this section.

<b>Step 3: Notification of other persons if not precluded by Step 2 – sections 95B(7) and (8)</b>	
For a boundary activity, are there any affected owners of an allotment with an infringed boundary under s95E?	<b>N/A</b>
For other activities, are there any affected persons under s95E, i.e. persons on whom the adverse effects are minor or more than minor, and who have not given written approval?	<b>Yes</b>

**Assessment of affected persons**

The statutory context for assessing the adverse effects of this application on the environment is outlined earlier. It is equally relevant to the assessment of affected persons, which extends to include the owners and occupiers of adjacent properties. I have regarded the quarry, Ruapuna Motorsport and the airport as “adjacent.”

I note that persons who have given their written approval to the application are not classified as affected persons (section 95E(3)(a)). FENZ have given written approval and are not an affected party.

**Effects on the character and amenity of immediately adjoining properties.**

As previously stated the visual amenity is not changing and noise rules would be met, and traffic effects are less than minor. I therefore consider any effects on the visual character as well as existing amenity in terms of noise and traffic would be less than minor. This proposed activity is relatively small scale and no use of the existing function/retreat style room is proposed.

There is however, an unknown factor as to whether paying guests would have other guests on site so that larger gatherings of people could occur (without the knowledge of the management). I have become aware of this type of complaint from the news media about Airbnb style accommodation. The complaints usually relate to damage to property or noise or disruption experienced by those in close proximity to the site. There might, on occasion, be a larger number of guests on site however this is not part of the application nor has it been applied for, so I am not able to consider this further.

**Reverse sensitivity – Existing activities in the environment - Airport, Ruapuna Motorsport and Pound Road Quarry.**

Via a response to a request for information the applicant has advised as follows.



- The site has been operating without consent and without complaint and given the usual short duration stay of 1 -3 nights guests are less likely to complain rather they would choose to go elsewhere.
- The proposal does not trigger Rule 6.1.7.2.2 for new buildings for sensitive activities in the airport contour.
- The site is outside of the noise boundaries for Ruapuna raceway/motorsport park, thereby meeting plan objectives to the extent sought in relation to reverse sensitivity effects.
- Regional Council rules refer to a 200m separation distance in relation to air discharges from quarries. The 500m distance is therefore considered sufficient so as not to trigger the Quarry as an affected party.

Regarding the above points, the site has been operating, with no apparent complaint, however I consider that the lack of complaint to date from an unconsented activity is not conclusive that there would be no complaint in the future. An owner may well not be aware of consenting requirements, or alternatively, if aware, be reluctant to complain about other activities in the locality.

As the whole proposal is non-complying, I am not constrained to considering just the rules in the plan. I cannot discount potential effects on established activities in the surrounds because no rule is triggered, specifically in relation to Ruapuna Motorsport Park or the Quarry. The site is approximately 1.8km from Ruapuna Motorsport Park and relatively close to the outer noise boundary. A "no complaints" covenant has been discussed with the applicant however has not been offered. I can however use the objectives, policies rules/matters of discretion as a guide in my overall assessment of all effects.

Finally in relation to the further information supplied I do not have information to confirm the assertion that people on sites greater than 200m from a quarry site do not complain about quarry activity. I do note however that any new residential unit must be located at least 250m from a Rural Quarry Zone or legally established quarrying activity rule 17.5.2.4 a iii. otherwise resource consent is required and the site more than meets this requirement.

I turn now to the expert advice from Ms Kirsten Rayne, Christchurch City Council Environmental Health Officer who provided advice around established facilities in the locality.

I accept the advice of Ms Rayne in relation to Ruapuna raceway and consider that any reverse sensitivity effects are less than minor, due to the site being outside the specific noise contours and sufficiently separated from this motorsport activity. The noise contours distinguish between areas the plan seeks to protect from noise complaint i.e. within the inner and outer noise contours, and to limit new sensitive activities in those locations and in that way the plan enables the protection of this facility. I note that there is no use proposed for the function room/retreat room and therefore no more intensive potential "sensitive use" that I can assess in this regard. Overall I consider the proposal would have an effect that is less than minor and consistent with the enabling and protecting provisions in the plan for Ruapuna Motorsport park and therefore do not consider them to be an affected party.

The advice of Ms Rayne is that there are no recorded complaints about the Pound Road quarry located around 500m from the application site. I also note however that complaints may go to Environment Canterbury and I do not have information from that source at this time. For guidance, there is a district plan rule which triggers resource consent for new units within 250m of a quarry or quarry zone. This activity is outside of that distance. Although this proposal is different to residential accommodation I am guided by that general separation distance which in my view sets the distance whereby sensitive activities are less likely to complain about and therefore impinge on established activities. For this reason and due to the limited scale of the proposal, I consider the proposal would have less than minor effects on the quarry activity and I do not consider them to be an affected party.

In relation to any reverse sensitivity effects on Christchurch International Airport (CIAL), objectives seek to require noise mitigation for new sensitive activities. A new sensitive activity is proposed and noise is not mitigated. The applicant has presented that guests would go elsewhere rather than complain about noise, which may be true however any business owner (and this site is for sale) would in my view wish to protect an exclusive luxury rural retreat type of activity and it may be that guests may provide feedback about airport noise to the owner or online platform which may impact on the success of the business, and any future owner of the site may act upon that. I have considered whether, given the site is already a residential property with 5 bedrooms it is possible that a larger family could occupy the site with similar effects in terms of the number of people on the site. I have concluded that although this is a replacement of one sensitive activity with another, those seeking an upmarket rural retreat/holiday may have higher expectations on the rural amenity experience and further to this the site is within the noise contour which is an area specifically designed to protect the airport from complaint from sensitive activities. Christchurch airport do receive complaints about noise and those identified by Ms Rayne are within a flight path further northwest of the site. I note that a new proposal for guest accommodation in new buildings would require noise insulation to mitigate airport noise within any proposed building. It follows that any such activity in existing buildings within the noise contour would be of interest to CIAL in relation to reverse sensitivity



effects. Overall I conclude that there are minor effects due to the change of activity in relation to CIAL. I say minor given the existing (lawful) sensitive activity on the site which is a rural residential activity with 5 bedrooms.

**Reverse sensitivity – potential of complaints about nearby/adjoining rural activities – i.e. spray, odour/dust.**

Adverse reverse sensitivity effects can be faced by farming operations due to new sensitive activities establishing nearby. This proposal is to provide very high amenity guest accommodation.

The applicant has advised that there are no intensive farming activities occurring on adjoining properties at present and that the existing dwelling is 8m from the internal boundary. (Section 8.3 of the AEE, second to last paragraph). The applicant also advises there is a green grocer on the site immediately to the north of the application site at 355 Buchanans Road.

It is apparent to me that there are several aspects to the question of reverse sensitivity effects, that is, what is existing in the environment and what might be permitted or enabled in the environment by the district plan and/or what might be planned on adjoining sites by adjoining property owners, which we do not have knowledge of. I do not think that because there are no intensive farming activities at present that there are no reverse sensitivity effects. Permitted activities such as farming, including horticulture, and stock yards and associated activities (excluding intensive farming which requires resource consent) can establish in this rural environment. There is the possibility that adjoining owners may have plans for their sites for permitted rural activities that may result in dust or noise that could or may lead to complaints. It is not known whether adjoining property owners may be planning to establish such uses or amalgamate sites to provide larger working units. The intention of consideration of reverse sensitivity effects is to protect those more enabled rural activities from complaints that may restrict the reasonable functioning of those activities. In balancing the change in activity from residential (in association with rural use) to guest accommodation I accept the number of people on site could be similar for each of those activities however I consider that high end luxury guest accommodation that would provide "an oasis of peace, tranquillity and comfort"(Ref. AEE 3.1) could result in higher expectations of rural amenity than expected, when compared to an owner/occupier in association with rural activities on the site might. I consider that this equates to a minor effect on immediately adjoining property owners.

In a policy framework that (amongst other matters to be considered at the section 104 stage in relation to character and amenity) seeks to avoid significant reverse sensitivity effects, and mitigate other reverse sensitivity effects (Objective 17.2.1.1 a ii) and provide for the economic development potential of rural land enabling activities that have a direct relationship with the rural resource or rural productive activity (Policy 17.2.2), I consider that the owners and occupiers of the following properties are affected persons/organisations because the adverse effects on them are likely to be minor, as explained in the assessment of effects above, and they have not given their written approval to the application.





391 Pound Road – Immediately to the south of the application site  
 426 Pound Road – Opposite the site, a part commercial activity.  
 355 Buchanans Road – The green grocer to the north of the site  
 367 Buchanans Road – Adjoining the northern boundary  
 379 Buchanans Road – West of the site.  
 Christchurch International Airport Limited (CIAL)

I consider that there are less than minor effects on the owners/occupiers of properties across from the application site at 420 and 450 Pound Road due to the location of the existing dwellings on those sites with rural land and therefore rural uses more physically separated from the proposed activity.

**Step 4: Relevant to all applications – section 95B(10)**

Do special circumstances exist that warrant notification to any other persons not already identified above (excluding persons assessed under s95E as not being affected)?	<b>No</b>
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**Conclusion on limited notification**

Having evaluated the application against the provisions of section 95B, my conclusion is that the application **must be limited notified** to the affected persons listed above and CIAL.

**Recovery Plans and Regeneration Plans**

Section 60 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 am satisfied that processing this application on a non-notified basis will not be inconsistent with any Recovery Plans or Regeneration Plans.

**RECOMMENDATION**



That, for the reasons outlined above, the application **be processed on a limited notified basis** in accordance with sections 95A and 95B of the Resource Management Act 1991, and that it be served on all affected persons identified under section 95E who have not given written approval to the activity (as listed above).

**Reported and recommended by:** Jo McAfee, Senior Planner

**Date:** 12/03/2021

**Decision** That the above recommendation be accepted for the reasons outlined in the report and the additional reasons given below.

Decision maker notes:

The applicant's consultant and the council officer processing the application and other officers have engaged in fulsome exchanges (supplied to me) on the matters in issue. I have found those exchanges very helpful and have carefully read and considered them all.

Similarly the legal opinion from Brookfields dated 4/02/21 has been very useful in arriving at a decision.

Very recently(17/03/21) I was informed by email from the council processing officer that the applicants consultant has a copy of the legal opinion and in regard to NC5 agreed that for the purposes of limited notification that CIAL is an affected party.

Even apart from that agreement I am in agreement with the interpretative approach and outcome relating to the noise contour rules as expressed within that legal opinion particularly at paragraph 1.3.7.9b.and 13b

For completeness I record I agree with the Council officer that the activity of guest accommodation within an existing building is not an activity that is otherwise provided for or listed and is therefore captured by NC3 and is non complying.

I prefer the council officer's assessment of reverse sensitivity effects leading to complaints about nearby adjoining rural activities over the applicants. The applicant places in my view too much weight on an opinion in the absence of persuasive independent informed evidence that the existing activities on neighbouring will not in the future change.

I do not consider it unrealistic over the life of the plan for there to be change including establishment of permitted activities such as high value horticulture on existing nearby sites or upon nearby amalgamated sites. I consider more compelling evidence than presented by the applicant is needed on that point to support a different notification decision.

Finally I am influenced as the reporting officer was by the strength of the relevant policy framework that in summary form seeks to avoid significant reverse sensitivity effects and mitigate others. As well the policy framework provides for the economic development potential of rural land enabling activities that have a direct relationship with the rural resource or rural activity.

So given written approvals have not been given I agree with the Council officer that the owners and occupiers of the properties identified in her report need be notified of this application.

**Commissioner:**

Name: Paul Rogers

Signature: 

Date: 19/03/21

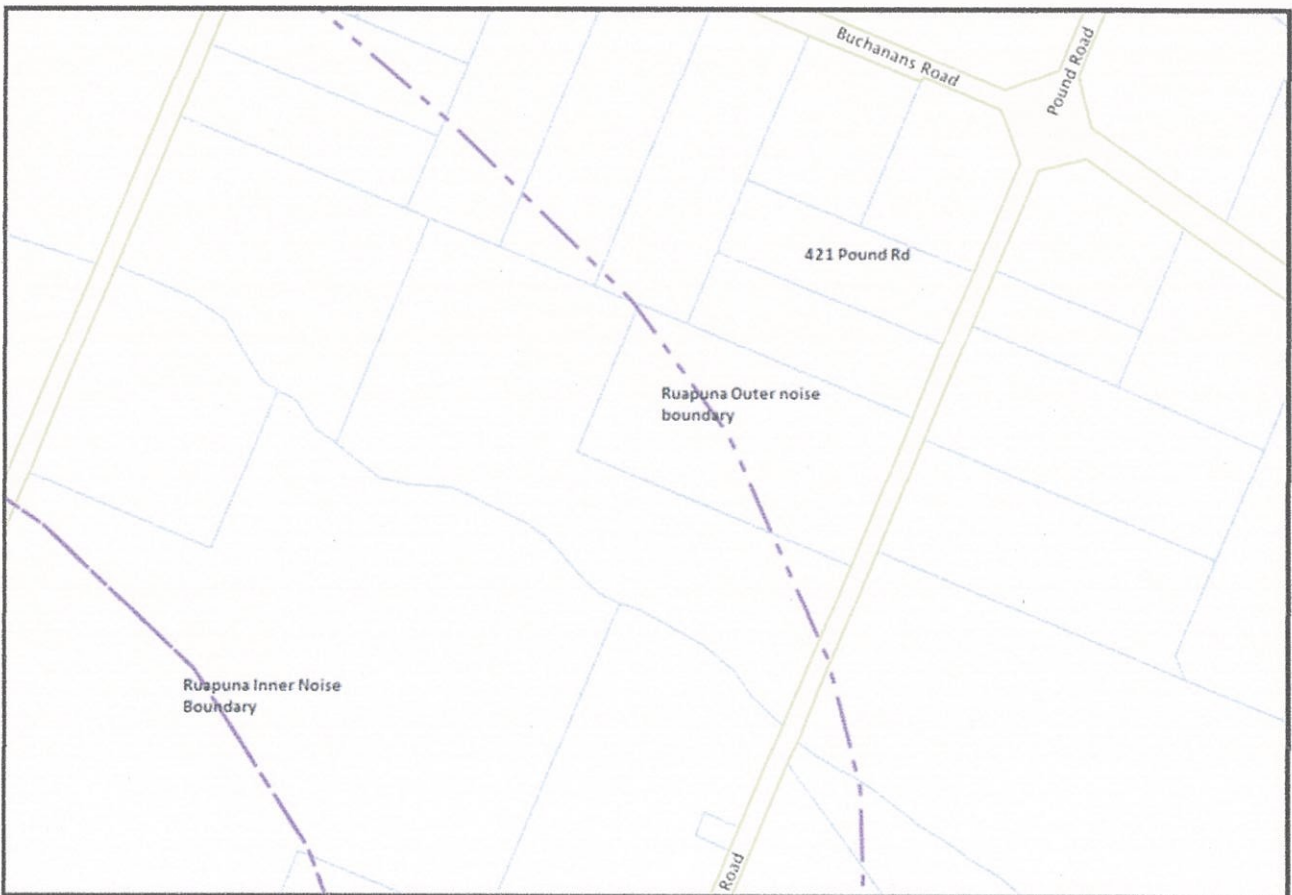


# Appendix A – Air noise contours

## CIAL



## RUAPUNA



## Appendix B – EHO memo.

# MEMO

To: Jo McAfee, Planner, Resource Consents Team

From: Kirsten Rayne, Environmental Health Officer, Environmental Health Team

Date: 05/03/2021

RMA/2020/3001 – 421 POUND ROAD - ENVIRONMENTAL HEALTH COMMENTS

### Introduction

1. My name is Kirsten Rayne, and I am employed as an Environmental Health Officer in the Environmental Health Team, Regulatory Compliance Unit at the Christchurch City Council. I have held this position since August 2016. I have a Bachelor of Science in Geography and a Graduate Diploma in Environmental Health.
2. I acknowledge that I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained within the Environment Court Practice Note 2014, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state I am relying on the advice of another person, I confirm that the opinions expressed within these comments are my own and are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

### Scope

3. This application seeks to provide guest accommodation for nine guests within the existing dwellings and buildings on the site.
4. The purpose of this memo is to address environmental health related matters such as noise.

### Site Description

5. The application site is located at 421 Pound Road. It is zoned Rural Urban Fringe and falls within the 50dB Ldn and 55dB Ldn air noise contour. The dwelling is approximately 200 metres from the Ruapuna outer noise boundary overlay and is located a minimum of 500 metres away from any existing quarrying activity.

### Reverse Sensitivity Effects



## Appendix C – Definitions

### Air noise boundary

means a composite line formed by the outer extremity of the 65 dB L<sub>Aeq</sub> noise contour and the 95 dB L<sub>Aeq</sub> noise contour

#### Advice note

- 1 The Air Noise Boundary defines an area around Christchurch International Airport in which the future daily aircraft noise exposure from aircraft operations is sufficiently high as to require prohibition on new sensitive activities to avoid adverse noise effects and reverse sensitivity issues

### Farm stay

means transient accommodation offered at a tariff that is accessory to farming conservation activity or rural tourism activity and in association with a residential unit on the site  
(Proposed Plan Change 4)

### Farming

means the use of land and/or buildings for horticulture (including viticulture) and agriculture (including the rearing of animals) whether for profit or not. It includes

- a fencing and stock yards
- b shelterbelt and amenity tree planting
- c field-based horticultural and agricultural research
- d ancillary outdoor storage areas and offices and
- e horticultural structures

Farming excludes intensive farming

### Guest accommodation

means the use of land and/or buildings for transient residential accommodation offered at a tariff which may involve the sale of alcohol and/or food to in-house guests, and the sale of food with or without alcohol, to the public. It may include the following ancillary activities

- a offices
- b meeting and conference facilities
- c fitness facilities and
- d the provision of goods and services primarily for the convenience of guests

Guest accommodation includes hotels, resorts, motels, motor and tourist lodges, backpackers, hostels and camping grounds. Guest accommodation excludes bed and breakfasts and farm stays  
(Proposed Plan Change 4)

### Sensitive activities

means

- a residential activities unless specified below
- b care facilities
- c education activities and preschools unless specified below
- d guest accommodation unless specified below
- e health care facilities which include accommodation for overnight care
- f hospitals and
- g custodial and/or supervised living accommodation where the residents are detained on the site

but excludes in relation to airport noise

- h any residential activities in conjunction with rural activities that comply with the rules in the relevant district plans as at 23 August 2008
- i flight training or other trade and industry training activities located on land zoned or legally used for commercial activities or industrial activities including the Specific Purpose (Airport) Zone and
- j commercial film or video production activities and
- k guest accommodation which is designed, constructed and operated to a standard to mitigate the effects of aircraft noise on occupants

## Appendix D – Legal Opinion



Appendix D - LEX  
20449 - Rule- - redz

## Appendix E – Applicant’s Letter



APPENDIX E  
Applicants letter ~h



## Appendix F – Plan Change 4

### Plan Change 4 for Short term accommodation.

#### Chapter 17 – Rural Urban Fringe Zone

P21	<u>Unhosted visitor accommodation in a residential unit</u>	<p>a <u>The total number of nights per year that guests may be accommodated on any one site is 180.</u></p> <p>b <u>A maximum of six guests shall be accommodated at any one time. No more than four guests may be accommodated at the same time within the 50 dB Ldn Air Noise Contour or the 50 dB Ldn Engine Testing Contour or any more restrictive air noise or engine testing contours.</u></p> <p>c <u>Guests shall not hold functions or events on the site where the number of additional attendees exceed the number of paying guests.</u></p> <p>d <u>Within the 50 dB Ldn Air Noise Contour or the 50 dB Ldn Engine Testing Contour or any more restrictive air noise or engine testing contours, guests shall only be accommodated in a building which is not a vehicle, trailer, tent, marquee, shipping container, caravan or boat.</u></p> <p>e <u>The owners and residents of adjoining sites must be provided with up-to-date contact information for the owner or manager of the unit.</u></p> <p>f <u>The owner of the unit must provide the Council with a copy of the listing and any unique identification number, keep records of the number of nights booked per year and the dates used for visitor accommodation and provide those records to the Council on an annual basis.</u></p>
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#### 17.5.1.4 Discretionary activities

Activity	
D1	<u>Guest accommodation, other than any activity provided for by Rules 17.5.1.1 P11 and P17 or Rule 17.5.1.3 RD7.</u>
D1	<u>Visitor accommodation that does not meet the activity specific standards in Rule 17.5.1.1 P20-P23 except as specified in Rule 17.5.1.5 NC5.</u>

#### 17.5.1.5 Non-complying activities

- a The activities listed below are non-complying activities.

Activity	
NC5	<p>a Any <u>other sensitive activities</u> located within the 50dB Ldn Air Noise Contour or the 50dB Ldn Engine Testing Contour, including:</p> <ul style="list-style-type: none"> <li>i. <u>any residential unit on a site less than 4ha;</u></li> <li>ii. <u>any activity listed in Rule 17.5.1.1 P7 that does not meet activity specific standard d. , and</u></li> <li>iii. <u>any activity listed in Rule 17.5.1.1 P11 P20 that does not meet activity specific standards (a) or (c) or d; and</u></li> <li>iv. <u>any activity listed in Rule 17.5.1.1 P21 that does not meet activity specific standards (a), (b) or (c); and</u></li> <li>v. <u>any activity listed in Rule 17.5.1.1 P22 that does not meet activity specific standards (b) or (c);</u></li> <li>vi. <u>any activity listed in Rule 17.15.1.1, P23 that does not meet activity specific standards (e) or (f).</u></li> </ul>

#### Chapter 6 General Rules

## 6.1.7 Rules - Activities near infrastructure

### 6.1.7.1 Activity status tables

#### 6.1.7.1.1 Permitted activities

(...)

Activity	Activity specific standards
P2	<p>In any rural zone other than the Rural Quarry Zone, any <u>new noise sensitive activity and any addition to an existing noise addition of a whole room to an existing building or any part of a new building or any part of a new building where these are intended for a sensitive activity</u> proposed between the Ruapuna Inner and Outer Noise Boundary relating to Ruapuna Motorsport Park as shown on the relevant planning maps.</p> <p>a The activities shall be designed and constructed to ensure compliance with the indoor design sound levels in <a href="#">Rule 6.1.7.2.1</a>.</p> <p>Advice note:</p> <p>1 These rules are intended to mitigate the effects of motorsport noise within internal <u>building spaces</u> only. Noise from motor sport activities will also be audible outside of <u>buildings</u> to a varying degree. When constructing new dwellings, residents are encouraged to consider orientating <u>outdoor living spaces</u> away from the Motorsport Park. Where this is not practical, the use of solid continuous walls or fencing encircling the outdoor space, can be used to help mitigate noise.</p>

#### 6.1.7.1.5 Non-complying activities

(...)

Activity	Activity specific standards
NC5	In any rural zone, any <u>addition of a whole room to an existing building or any part of a new building where these are intended for a new noise sensitive activity</u> located within the Ruapuna Inner Noise Boundary surrounding Ruapuna Motorsport Park as shown on the relevant planning maps.
NC6	In any rural zone, other than the Rural Quarry Zone, any <u>addition of a whole room to an existing building or any part of a new building where these are intended for a new noise sensitive activity or any addition to an existing noise sensitive activity</u> proposed between the Ruapuna Inner and Outer Noise Boundary relating to Ruapuna Motorsport Park as shown on the relevant planning maps, that does not comply with the activity specific standard of <a href="#">Rule 6.1.7.1.1 P2</a> .

#### 6.1.7.2.2 Activities near Christchurch Airport

a. The following activity standards apply to new buildings and additions to existing buildings located within the 55 dB L<sub>dn</sub> air noise contour or the 55 dB L<sub>dn</sub> engine testing contour shown on the planning maps:

i. Any new buildings and/or additions to existing buildings shall be insulated from aircraft noise and designed to comply with the following indoor design sound levels:

A. Residential units, hosted visitor accommodation in a residential unit and unhosted visitor accommodation in a residential unit:

- I. Sleeping areas – 65 dB LAE/40 dB L<sub>dn</sub>
- II. Other habitable areas – 75 dB LAE/50 dB L<sub>dn</sub>

B. Guest Visitor accommodation, resort hotels, hospitals and health care facilities:

- I. Relaxing or sleeping - 65 dB LAE /40 dB L<sub>dn</sub>
- II. Conference meeting rooms - 65 dB LAE / 40 dB L<sub>dn</sub>
- III. Service activities – 75 dB LAE /60 dB L<sub>dn</sub>



# Appendix G – Objectives and Policies

## Rural

### 17.2 Objectives and Policies

#### 17.2.1 Objectives

##### 17.2.1.1 Objective - The rural environment

- a. Subdivision, use and development of rural land that
  - i. supports, maintains and, where appropriate, enhances the function, character and amenity values of the rural environment and, in particular, the potential contribution of rural productive activities to the economy and wellbeing of the Christchurch District.
  - ii. avoids significant, and remedies or mitigates other reverse sensitivity effects on rural productive activities and natural hazard mitigation works.
  - iii. maintains a contrast to the urban environment, and
  - iv. maintains and enhances the distinctive character and amenity values of Banks Peninsula and the Port Hills, including indigenous biodiversity, Ngāi Tahu cultural values, open space, natural features and landscapes, and coastal environment values.

#### 17.2.2 Policies

##### 17.2.2.1 Policy - Range of activities on rural land

- a. Provide for the economic development potential of rural land by enabling a range of activities that
  - i. have a direct relationship with, or are dependent on, the rural resource, rural productive activity or sea-based aquaculture.
  - ii. have a functional, technical or operational necessity for a rural location, or
  - iii. recognise the historic and contemporary relationship of Ngāi Tahu with land and water resources.
  - iv. provide for commercial film or video production activities and facilities on the rural flat land close to the main Christchurch urban area, and
  - v. represent an efficient use of natural resources.

##### 17.2.2.2 Policy - Effects of activities utilising the rural resource

- a. Ensure that activities utilising the rural resource avoid significant adverse effects on areas of important natural resources and avoid, remedy or mitigate other adverse effects on rural character and amenity values.

##### 17.2.2.3 Policy - Contributing elements to rural character and amenity values

- a. Recognise that rural character and amenity values vary across the Christchurch District resulting from the combination of natural and physical resources present, including the location and extent of established and permitted activities.
- b. Recognise that the elements that characterise an area as rural, from which desired amenity is derived, include the predominance of
  - i. a landscape dominated by openness and vegetation;
  - ii. significant visual separation between residential buildings on neighbouring properties;
  - iii. where appropriate, buildings integrated into a predominantly natural setting, and
  - iv. natural character elements of waterways, water bodies, indigenous vegetation and natural landforms, including the coastal environment where relevant.
- c. Recognise that rural productive activities in rural areas can produce noise, odour, dust and traffic consistent with a rural working environment, including farming, plantation forestry and quarrying activities, that may be noticeable to residents and visitors in rural areas.

##### 17.2.2.4 Policy - Function of rural areas

- a. Ensure the nature, scale and intensity of subdivision, use and development recognise the different natural and physical resources, character and amenity values, conservation values and Ngāi Tahu values of rural land in the Christchurch District, including
  - i. the rural productive activities, recreation activities, rural tourism activities and conservation activities on Banks Peninsula and their integrated management with maintaining and enhancing landscape, coastal and indigenous biodiversity values.
  - ii. the rural productive activities and recreation activities in the rural flat land area surrounding the main Christchurch urban area.
  - iii. the flood management and groundwater recharge functions adjoining the Waimakariri River.
  - iv. the open character and natural appearance of the rural Port Hills which maintain distinct urban/rural boundaries
  - v. the re-use of the site of the former Templeton Hospital.
  - vi. the historic and contemporary cultural landscapes, sites of Ngāi Tahu cultural significance and the use of land and water resources for mahinga kai, and