

IN THE MATTER OF **the Resource Management Act 1991**

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IN THE MATTER OF **an application by Kāinga Ora on behalf of
the Department of Corrections for a
resource consent to enable the use of
existing buildings at 14 Bristol Street, St
Albans, Christchurch to accommodate
and provide wrap-around rehabilitative
support for men on home detention or
serving community-based rehabilitation
services as part of the Tai Aroha
intensive residential programme**

(RMA/2020/173)

**DECISION OF COMMISSIONERS ANTHONY HUGHES-JOHNSON QC
AND KEN LAWN APPOINTED BY THE CHRISTCHURCH CITY
COUNCIL IN RELATION TO APPLICATION FOR RESOURCE
CONSENT**

DATED 18 JANUARY 2022

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1. **Introduction**

The application

- 1.1 In March 2020, Kāinga Ora on behalf of the Department of Corrections, applied for a land use consent from the Christchurch City Council ("the Council") for the use of the existing site and facilities at 14 Bristol Street, Christchurch (variously "the site" or "14 Bristol Street"), as a short-term residence for men identified as having a risk of further serious criminal offending in the future. In the introductory paragraph of the application it is stated ... ¹

"The proposal is a co-ordinated approach between Kāinga Ora and Ara Poutama Aotearoa (Department of Corrections) whereby the Department of Corrections will be responsible for providing accommodation for men (residents) who will live together in a fully supported environment, and will also work with experienced psychologists, a programme facilitator and each other to progress towards a crime free life. This residence will be based on the Tai Aroha model that has been operating in Hamilton for a number of years. The Tai Aroha model provides a residence programme (i.e. living on site) over an average duration of between 14 to 16 weeks with follow-up maintenance sessions and support provided once the programme is completed."

("the Proposal")

- 1.2 We note that the application is by Kāinga Ora on behalf of the Department of Corrections. For convenience, throughout this decision we refer to the applicant as "the Department", or "Corrections", notwithstanding that the application was made by Kāinga Ora.

Description of site and background

- 1.3 The site contains an area of 1,678 m² and is located on the corner of Bristol Street and Berry Street in St Albans, Christchurch and currently accommodates several buildings. The buildings currently consist of a 24 bedroom complex, comprising a 13 bedroom unit (which we will term "the primary residential units") and a second building accommodating a further 8 bedrooms. The units mainly consist of laundry, dining, kitchen and lounge areas. A shared outdoor living area is located north of the primary residential units

¹ At para 1

along the northern boundary of the site. Four on-site carparking spaces, (two within a double garage and two with open carparking spaces, including one mobility carpark) are located west of the site along Bristol Street. Access to the site and the parking spaces is via the existing vehicle crossing directly off Bristol Street.²

1.4 The buildings on site have existed for several decades as there are previous resource and building consent approvals issued between 1978 and 2007 relating to the previous use of the site.³ The history of the site has assumed importance in this case in relation to our determination of the status of the proposed activity, a matter which is discussed hereafter.

1.5 Previously the Cerebral Palsy Society occupied the site. Some time ago the site ceased operating as an accommodation facility for the Cerebral Palsy Society and thereafter operated as a shared accommodation facility known as "The Bristol Club"⁴. The applicant has stated that no records appear to exist relating to the authorisation of the use of the site for the accommodation activities associated with "The Bristol Club"⁵.

Key aspects of proposal

1.6 The key aspects of the Proposal the subject of the application are summarised in the extensive Council officers' report dated 26 July 2021, prepared for the Council by a senior planner, Ms Emma Chapman ("the Report") which states⁶ ...

- "(i) use of the existing 25 bedroom facility to accommodate a maximum of 16 residents completing the Tai Aroha programme;*
- (ii) three support staff members to be on site during the evening and overnight;*
- (iii) up to two internal / external agency visitors (ie probation officers) to visit the site each day;*

²See para 2.1 of the application

³ See para 2.1 of application

⁴ see para 2.1 of the application

⁵ See para 2.1 of the application

⁶ At page 4 of the Report

- (iv) *up to eight Department of Corrections staff support staff and professional practitioners (ie psychologists) to be on site on weekdays;*
- (v) *pre-approved family visits to occur between the hours of 1300 to 1700 on Saturdays;*
- (vi) *residents live together and are collectively responsible for household activities such as cooking and cleaning;*
- (vii) *residents may be taken on approved and escorted outings, for example for community work, grocery shopping, exercise etc;*
- (viii) *residents will not be locked in but will be monitored electronically via CCTV monitored from a central control room and via ankle bracelets;*
- (ix) *Residents will not be those with convictions for child or serious sexual offences."*

1.7 As is noted in the Report ⁷ further information was submitted in June 2021 after the close of the submission period which included a number of changes to the Proposal or additional mitigation measures as follows ...

- "(i) *a reduction in the maximum of residents on the site from 16 to 12, with a maximum of 10 residents in phases 1-3 of the programme and up to 2 residents on phase 4 (reintegrative phase) of the programme;*
- (ii) *phasing in of the programme over a period of time, with the programme initially commencing with 4 residents and increasing over a period of up to 15 months;*
- (iii) *an increase in the daytime staff : resident ratio on the site, with a minimum of 4 weekday staff and a maximum of 17 (overnight and weekend staff to remain at 2-3 as a minimum);*
- (iv) *the preparation of an operations manual volunteered by way of consent condition;*
- (v) *changes to the site fencing and landscaping:*
 - *replacing the existing northern boundary fencing with a 2m high concrete block wall adjacent to the outdoor social area and a 2m high timber fence adjacent to the staff deck area;*
 - *a 1.6m high metal railing fence and sliding gate on the Bristol Street frontage;*
 - *Etchlite glazing on the programme room and dining room windows;*

⁷ At page 5

- *not allowing residents unauthorised access along that part of the site at the western end adjacent to 13, 13A and 13B Bristol Street or between the building and the Bristol Street boundary of the site;*
- *(Note : the further information response also states the Berry Street fence would be increased in height to 2m, however the applicant has subsequently provided an updated landscape plan showing this to remain at the existing height);*

- (vi) *establishment of a community liaison group, volunteered by way of consent condition;*
- (vii) *provision of Etchlight glazing for upper floor windows of nearby properties for any residents concerned with privacy effects for bedrooms, if desired by property owners;*
- (viii) *a change to the Tia Aroha operating procedures, increasing the monitoring of residents where they are considered at risk of leaving the programme, from the usual 20 minute monitoring period to monitoring every five minutes."*

1.8 There are other aspects of the Proposal which call for comment and which are referred later in this our decision.

2. **Procedural aspects**

Notification decision

2.1 On 8 April 2020 Mr Hughes-Johnson, acting as commissioner, released his decision on the question of notification, being that the application must be the subject of a public notification. In the event the application was publicly notified and drew a large number of submissions which are detailed hereafter in this our decision.

Written approvals

2.2 No written approvals were provided with the application. ⁸

Our appointment

2.3 We have been appointed by the Council to determine this application.

⁸ See ss95D and 95E(3)(a) of the Resource Management Act 1991

- 2.4 At the time of our appointment, we gave careful consideration to the question of whether by reason of our association with any of the parties, we were precluded from acting as commissioners by reason of an actual or potential conflict of interest. In our minute dated 13 July 2021, we commented upon matters relating to our appointment ⁹.
- 2.5 In the minute, Commissioner Hughes-Johnson commented upon his association with certain of the parties and expressed the view that that association did not give rise to any actual or potential conflict of interest. Upon re-checking the schedule, Commissioner Hughes-Johnson noted that Lindsay Lloyd was a submitter. Many years ago Mr Lloyd was a student in a university hostel in which Commissioner Hughes-Johnson was accommodated and was on friendly terms with him and later was a partner in a law firm with which Commissioner Hughes-Johnson had an association as another partner acted for him. As far as Commissioner Hughes-Johnson can recall, he has had no material professional or social contact with Mr Lloyd for a number of years and does not consider that this previous association in any way prevents him bringing an independent mind to bear upon this application.
- 2.6 Commissioner Lawn also commented on his association with a submitter Mr Baden Ewart, who Commissioner Lawn had worked with in various recovery roles following the Christchurch earthquakes, and had spoken with Mr Ewart on social occasions or events. He also did not regard his interactions with Mr Ewart to be an actual or potential conflict of interest.

Late submissions

- 2.7 After the expiry of the time provided for the receipt of submissions on the application (closing on 25 March 2021), a number of late submissions were received. These submissions were received from Karen Maddigan, Rowena May Hart, Kyle Peterson Millar, Deborah Fleur Mason and Chris Rennie between 25 March 2021 and 6 April 2021. On 9 April 2021 Mr Hughes-Johnson, acting as sole

⁹ At para 3 of that minute

commissioner at that time, waived compliance with the timing for lodging submissions in relation to the submissions in question pursuant to s37 of the Act.

- 2.8 Thereafter further submissions were received on 15 April 2021 and 23 April 2021. Compliance with the time limit for lodging submissions was waived on 3 May 2021 in respect of the submissions made by Mozarts Kindergarten and Carla Heritage by Mr John Higgins, Head of Resource Consents, acting under delegated authority.

Applications by Bristol Street Community Network Incorporated seeking extension of time to file expert evidence

- 2.9 On 20 August 2021, Ms Limmer, counsel for Bristol Street Community Network Incorporated ("the Network"), made an application for an extension of time to file the expert evidence of Mr Giddens, a planner engaged by the Network. The application was opposed by Ms Semple, counsel for the Department, in a memorandum dated 20 August 2021. By minute dated 23 August 2021, and having regard to the matters referred to in that minute, we granted an extension of time for the filing and serving of the evidence in question.

- 2.10 Thereafter, on 26 August 2021, Ms Limmer filed a further application seeking a further extension of time to file the expert evidence of Mr Giddens. That application was met by the memorandum of Ms Semple dated 27 August 2021, in which the application was opposed. By minute dated 27 August 2021, and having regard to the matters referred to in that minute which we do not repeat in this decision, we granted the requested extension of time.

Application by the Network to file further expert evidence

- 2.11 On 5 November 2021 immediately prior to the hearing, Ms Limmer filed a memorandum on behalf of the Network, seeking leave to file further expert evidence, being the evidence of James Benjamin Stewart who had been asked to provide comments on the social impact assessment for the proposed facility on Bristol Street. This

was met by a memorandum in response by counsel for the applicant, Ms Semple, dated 5 November 2021 in which, understandably, exception was taken to the introduction of the evidence, broadly on the basis that to admit the evidence at such a late stage would unreasonably prejudice the applicant.

2.12 The application gave rise to concerns on our part that if the evidence were to be allowed so close to the commencement of the hearing, the applicant would not have a reasonable opportunity to respond to that evidence and in the absence of arrangements to facilitate an opportunity to respond, would clearly be prejudiced. In the event we suggested that if leave were to be granted, this should be on the basis that the applicant should have an opportunity to call rebuttal evidence in opposition after the evidence of Mr Stewart had been called. We concluded that it was in the interests of justice for the Network to be given an opportunity to call the evidence as we wanted to ensure that all parties had an opportunity to present their case as fully as possible. In the event we granted leave during the course of the hearing and the applicant availed itself of the opportunity to call rebuttal evidence in the afternoon of 11 November 2021, following the evidence of Mr Stewart. We comment on that evidence later in this our decision.

The hearing

2.13 On Monday 8 November, 2021 Tuesday 9 November, 2021 Wednesday 10 November 2021 and Thursday 11 November 2021, we held a hearing of the application at The Atrium, Christchurch Netball Centre, 455 Hagley Avenue, Christchurch.

Order excluding public and prohibiting publication

2.14 On 8 November 2021 we made an order excluding the public from a hearing whilst a submitter gave evidence. We also made an order prohibiting the publication of the name of the submitter, his address and his occupation and duly heard his evidence. By agreement with the witness, counsel for the Network and a representative, Council staff and certain representatives of the applicant, were present, including counsel for the applicant on 8 November 2021.

Site visits

2.15 In our minute dated 13 July 2021 we noted our intention to conduct a site inspection prior to the hearing and to undertake a full site visit either during or after the hearing.

2.16 In the event we conducted our first site visit on 4 November 2021, which we undertook from the street. After the conclusion of the hearing, we visited the site for a further more detailed inspection, accompanied by Mr Pullan from the Department of Corrections to facilitate access, on 24 November 2021.

3. ***The proposed activity / status in terms of the Christchurch District Plan***

Introduction

3.1 The Christchurch District Plan ("the Plan") is the relevant planning document governing the determination of this application. As noted at the hearing, Commissioner Hughes-Johnson made certain findings regarding the status of the activity in his notification decision. However those findings have been re-visited in the context of the consideration of this decision, given that full legal submissions have now been received from the parties.

Residential Suburban Density Transition zone

3.2 The site is zoned Residential Suburban Density Transition. With respect to the surrounding environment, the immediate residential area is zoned Residential Suburban Density Transition to the north, northwest, and west whereas land to the east is zoned Residential Medium Density. By way of background the area is characterised by a diverse range of housing typologies and densities ranging from older character dwellings on large sections to higher density older style cross-leased units and newer two-storied town house developments.

3.3 This zone covers some inner suburban residential areas between the Residential Suburban zone and the Residential Medium Density zone and areas adjoining some commercial centres. It provides

principally for low to medium density residential development. In most areas there is potential for in-fill and re-development of higher densities than for the Residential Suburban zone.

The relevant provisions of the Plan

3.4 We now turn to examine the status of the activities the subject of the application in order to determine their status in terms of the Plan.

Activity type

3.5 The Department has applied for consent for the activity, contending that it falls under three separate categories of land use activity prescribed in the Plan being:-

- (i) a residential activity;
- (ii) a community corrections facility;
- (iii) a community welfare facility.

3.6 There is a tension between the submissions made on behalf of the Department and those on behalf of the Network. In her opening submissions, Ms Semple submitted that the Proposal was sought on the basis that it comprised three defined activities as noted above ¹⁰. Ms Semple stated that she expected that the commissioners would be urged to consider the Proposal to be something other than the three activities by virtue of their co-location within the property at 14 Bristol Street ¹¹. In the event Ms Limmer submitted that there was only one activity (a "detention facility") which was not defined in the Plan and that the commissioners were tasked with deciding a single proposal not three ¹².

3.7 Each of these categories will be examined in turn to determine the status of the application in terms of the Plan.

¹⁰ See para 2.8 of the opening submissions on behalf of the Department

¹¹ See para 2.11 of opening submissions on behalf of the Department

¹² See paras 11 and 15 of the submissions on behalf of the Network

Approach to plan interpretation

- 3.8 The relevant principles of interpretation of planning instruments are correctly summarised in the Buddle Findlay advice (“the Buddle Findlay advice”) attached to the report for the Council under section 42A of the Act (“the Report”).¹³ For convenience we re-state the paragraphs in question.

Approach to plan interpretation

8. *This matter raises issues of plan interpretation. Accordingly, I summarise my approach to plan interpretation below.*
9. *The Courts generally attempt to give a plain ordinary meaning to a plan provision, having regard to the immediate context. However, where any ambiguity, obscurity or absurdity arises, it becomes necessary to refer to the other sections of the plan (such as the objectives and policies) in order to derive a purposive interpretation.*
10. *The Court of Appeal in Powell v Dunedin City Council contains guidance on the interpretation of district plans as follows:*

In this case, the appellants argued that the Court should look to the plain meaning of the access rule and, having found that there is no ambiguity, interpret that rule without looking beyond the rule to the objectives, plans and methods referred to in the earlier parts of section 20 of the plan. While we accept it is appropriate to seek the plain meaning from the words themselves, it is not appropriate to undertake that exercise in a vacuum. As this court made clear in Rattray, regard must be had to the immediate context (which in this case would include the s and policies and methods set out in section 20) and, where any obscurity or ambiguity arises, it may be necessary to refer to the sections of the plan and the objectives and policies of the plan itself. Interpreting a rule by a rigid adherence to the wording of the particular rule itself would not, in our view, be consistent with a judgment of this Court in Rattray or with the requirements of the Interpretation Act.

11. *Where competing interpretations of a district plan are available, the interpretation ought to:*
 - (a) *avoid absurdity or anomalous outcomes;*
 - (b) *be consistent with the expectation of property owners; and*
 - (c) *promote administrative practicality (e.g. rather than requiring lengthy historical research to assess lawfulness otherwise).*

¹³At paras 8 to 11

3.9 We adopt the above approach to the issues of interpretation of the Plan referred to hereafter. We interpolate that we do not understand any party to differ from the statement of principle referred to above.

One activity or three?

3.10 There is a fundamental difference between the parties as to whether the application is in respect of one activity or three. We now traverse the competing submissions of the principal parties.

One activity or three/the submissions on behalf of the Department

3.11 In her opening submissions, Ms Semple noted that we could expect to be urged to consider the Proposal to be something “other” than the three activities specified in the Plan by virtue of their co-location within the property at 14 Bristol Street. Counsel submitted that to adopt such an approach would be wrong and stated ¹⁴ ...

The complimentary inter-relationship of these three activities on the site does not, in my submission, convert it into some sort of indefinable, different or uncommon activity not contemplated by the Plan. Rather, the activities are, and remain, activities clearly identified by the Plan and which are anticipated as part of residential zones in the city generally and the Residential Suburban Density Transition zone in particular. ¹⁵

3.12 Ms Semple went on to state ¹⁶ that the Proposal could be categorised as ...

..... a mixture of activities which have a relationship, and probably a dependence on each other.

drawing upon the decision of Commissioner Lawn in the Decision of the Council on a resource consent by *The Youth Hub Trust* . ¹⁷

3.13 Then counsel stated ¹⁸

The residential accommodation is an important part of creating the normalised living environment and sense of whānau that is critical to the success of the programme. That accommodation integrates with the rehabilitation and reintegration, counselling and welfare services

¹⁴ At para 2.12 of the opening submissions

¹⁵ See opening submissions at para 2.11

¹⁶ At para 2.12 of opening submissions

¹⁷ RMA/2020/405, dated 6 November 2020

¹⁸ At para 2.12 of the opening submissions

provided by Corrections staff to the residents. It does not become an entirely different "other" activity by virtue of the co-location of those component parts.

3.14 Further, counsel went on to submit that as a matter of law ¹⁹ ...

It is possible and, indeed relatively commonplace, to ascribe more than one activity definition to various components of the Proposal.

drawing upon a number of decisions including *The Youth Hub Trust* decision and a number of decisions of the Environment Court.

3.15 Ms Semple concluded by stating that the issues under this head were ²⁰:-

- (a) *whether as a matter of priority the components meet the key elements of the relevant definitions (given the words their plain ordinary meaning); and*
- (b) *whether the application of those definitions would result in any absurd or anomalous outcomes, or otherwise undermine a practical, realistic, common-sense interpretation and application of the district plan.*

One activity or three / the competing submissions on behalf of the Network

3.16 Ms Limmer, took a different approach. ²¹ She noted the importance of determining the issue of whether the application was for one activity or three because that finding would determine which objectives and policies of the Plan were relevant.

3.17 Ms Limmer referred to the fact that Mr Giddens considered that the contemplated activity was at least fully discretionary because ...

It is an activity not provided for as a permitted, controlled, restricted discretionary or non-complying activity.

drawing upon Rule 14.4.1.4 of the Plan.

3.18 Ms Limmer went on to submit that there was only one activity and that the activity was not defined in the Plan but did not have to be.

¹⁹ *At para 2.13 of opening submissions*

²⁰ *See para 2.13 of the opening submissions on behalf of the Department*

²¹ *See para 9 et seq of submissions on behalf of the Network*

She said that this was not unusual but was a large part of why catch-all rules such as the one in the Plan existed. ²²

3.19 Ms Limmer submitted that the three components of the activity were unavoidably integrated, drawing upon the observation of Mr Giddens. She stated that the applicant had not suggested or offered any evidence that would allow us to consent to just one or two of the component parts and that we were presented with an “all or nothing” scenario which, she submitted, was consistent with the fact that the activity was a single entity.

3.20 Ms Limmer went on to distinguish the activity relevant to *The Youth Hub* ²³ case in that the activity in this case did not represent a mixture of activities that had just some degree of relationship with or dependence on each other. She stated ...

By the Applicants' own evidence, they rise and fall together. They are completely inter-dependent. Without any one of those parts, you would not have the activity proposed.

3.21 Ms Limmer then referred to a decision of the Environment Court, *Rogers v Christchurch City Council* ²⁴ where the court, referring to the characterisation of the activity in question in that case stated ...

[30] We were not assisted by evidence that essentially carved up Omega's business into its constituent parts in order to support the proposition that one part is not "commercial activity". The storage of rental vehicles when not in service as integral to Omega's business model and we find the sum of its parts to be a commercial activity.

3.22 Ms Limmer went on to submit that the “carving up” of the Bristol Street proposal was similarly unhelpful. She said that the fact that resource consents did not authorise breaches of rules but rather authorised activities and the fact that land use consents persisted in perpetuity and could far outlive the rules applying at the time the consent was sought, lent further support to her submission that we were tasked with deciding a single proposal and not three.

²² Referring to Rule 14.4.1.4

²³ Decision of the Christchurch City Council on a resource consent application by the Youth Hub Trust, RMA/2020/405

²⁴ [2019] NZEnvC 119

3.23 In summary Ms Limmer submitted that the only conclusion was that the activity was not just a “non-Residential activity” but an “other non-Residential activity”. This brought with it additional requirements, beyond those which would adhere if the Proposal is to be considered in the manner contended for by Ms Semple for the Department.

One activity or three / our analysis

3.24 We have been considerably assisted by the full and detailed submissions of both parties on this issue. Having those submissions, we have reached the clear view that the categorisation supported by the Department is legally correct for the reasons which follow.

3.25 Undoubtedly there will be cases where it is appropriate to characterise activities as separate when distinct activities are carried out on separate parts of a proposed development. The approach can involve a finding that the activities do not have a sufficient degree of inter-relationship to justify treating them in a bundled fashion. In the present case the activities in question are clearly related which dictates that an attempt at geographical demarcation of those activities is inappropriate.

3.26 We find ourselves in agreement with Ms Semple when she submitted that the fact that there is an independence between the components did not prima facie mean that they could not also separately meet the definitions of the activities in question. We agree that the relevant activity does not become an entirely different “other” activity by virtue of the co-location of those component parts. The proper characterisation of the activity is as a mixture of activities requiring the status of the activity to be established by reference to the provisions of the Plan in relation to each of the component parts. We do not take the statement of the Environment Court in *Rogers v City Council*²⁵ as militating against Ms Semple’s submission. We do not see the approach contended for on behalf of the Department as involving a *carving* up of the overall activity in the sense referred to in *Rogers*. Rather, there is a recognition that the elements of the

²⁵ [2019] NZEnvC 119

activity have a relationship but that in considering the status of the overall activity, there is no need to step outside the component parts and consider a new and undefined activity not captured by the Plan. We agree with Ms Semple when she submitted in her submissions in reply ²⁶, that the Proposal in this case is the opposite of the approach which was criticised in *Rogers*.

Does the proposal include a "residential activity"?

Residential activity

3.27 For convenience we set out the definition of "*residential activity*" in the Plan ...

Residential activity

Means the use of land and/or buildings for the purpose of living accommodation. It includes:

- a. a residential unit, boarding house, student hotel or a family flat (including accessory buildings);
- b. emergency and refuge accommodation, and
- c. sheltered housing, but

excludes

- d. guest accommodation;
- e. the use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site; and
- f. accommodation associated with a fire station.

Submissions on behalf of the Department

3.28 In comprehensive submissions on behalf of the Department dated 8 November 2021, Ms Semple argued that the land and buildings at 14 Bristol Street would be used by residents "for the purpose of living accommodation". ²⁷ The Department argued that none of the listed exclusions applied, and in particular the exclusion which states ...

... the use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site.

3.29 Ms Semple referred to what was said to be the clear residential focus of the Proposal and acknowledged that the Proposal would not meet the Plan definition of *residential activity* if it triggered one or more

²⁶ At para 3.4

²⁷ See opening legal submissions on behalf of the Department at para 2.15 et seq

of the listed exclusions. It was argued that the critical focus was on whether the Proposal constituted *custodial and/or supervised living accommodation where the residents are detained on the site*.

- 3.30 Ms Semple went on to submit that on a plain reading the exclusion was intended to capture custodial facilities or activities closely akin to those arrangements but which did not fall within the term *custodial*. Ms Semple submitted that it was difficult to contemplate an activity that would meet the *supervised and detained* classification without being inherently custodial. She submitted that given the common association of that term with the criminal justice system, the addition of *and/or supervised living accommodation where the residents are detained* was presumably intended to capture non-justice related arrangements, for example a secure accommodation facility for persons with intellectual disabilities where those persons are prevented from leaving, citing the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, s9(2).
- 3.31 Ms Semple went on to refer to s80A(5) of the Sentencing Act 2002 which was noted as stating unequivocally that *an offender sentenced to home detention is not in custody while serving the sentence*.
- 3.32 Ms Semple submitted that nor were they *detained* within the ordinary meaning of that term (the definition of which invariably uses the term in the context of being *detained in custody*).
- 3.33 Fundamental to the case for the Department was the submission that if a resident chose to leave, that resident was able to do so and that there were no physical constraints to stop residents from exercising that choice, nor did staff have any authority or mandate to detain them if they chose to leave.²⁸
- 3.34 Ms Semple then noted that the Council had determined that the men in question were *detained* on the basis that their sentences require them to live and remain at a particular address. Drawing on unlawful imprisonment/questioning cases, the Council argued that even if the

²⁸ See para 2.20 of the opening legal submissions on behalf of the Department

resident is "free" to go and there are no physical barriers to doing so, they are still detained by virtue of their knowledge that there is a consequence to leaving. Ms Semple harboured significant reservations as to whether the caselaw in respect of unlawful imprisonment had direct relevance, but putting that to one side, it was accepted that on the basis of the Council's reasoning, if any person on home detention was "detained on site" then they all were.

3.35 Ms Semple went on to submit that extrapolating that further, any person on a community-based sentence who was subject to the same or similar conditions must also be detained. If they were also "supervised" which the Sentencing Act 2002 also provided that they were, then arguably, every person on a community sentence requires a full discretionary resource consent to reside in their home. It was said that such an outcome would have significant consequences for the administration of the Sentencing Act 2002 and the Plan.

3.36 Ms Semple then referred to what was said to be an attempt by the Council to distinguish such a scenario by determining that the *supervised living accommodation* component was present in the Proposal but not in other home detention arrangements. Counsel submitted that there were very real difficulties with that approach because fundamentally both scenarios did involve supervision in the form of monitoring, visits from, and/or the presence of Corrections staff.

3.37 Ms Semple went on to state that the position of the Council therefore required a somewhat arbitrary determination to be made regarding the amount of time a corrections staff member was present at the home of the "detained" person such that it qualified as "supervised" for the purpose of the definition.

3.38 Ms Semple then noted Mr Gimblet's review of the relevant standards and his view that there was no effects basis for treating the two scenarios differently.²⁹

²⁹ See para 2.27 of the opening submissions of the Department

3.39 Counsel for the Department concluded this part of the submissions by noting that there was common ground that the Plan and the definition of *residential activity*, in particular, did not discriminate between people living in houses on home detention and people living in houses who are not on such sentences and stated that it was a strong position of the Department that the accommodation component of the proposal was not captured by the exclusion. Further, it was submitted that if the Department was wrong on this matter, it did not necessarily follow that the living component was automatically non-residential in the way that term is used throughout the Plan.

Submissions on behalf of the Network

3.40 Ms Limmer on behalf of the Network took a different approach. Fundamental to her approach was that the activity was captured by the custodial and/or supervised living accommodation and detention exception. She argued that it was not accepted that *custodial* necessarily meant the same thing in the Plan as it does in the Sentencing Act 2002. She noted the applicant's submission that it was absurd to classify the proposal as non-residential because this would mean that every individual on home detention within the residential zone of the District would need to get a resource consent to do so. But she said that this was not a natural consequence of adopting the interpretation favoured by the Network.³⁰

3.41 Ms Limmer stated that in determining this matter, the question was not whether the inhabitants were all detained to the same degree but rather whether they were all in *supervised living accommodation*. The Network's position is that if offenders were to reside at Bristol Street they would be detained to the same degree as individuals serving home detention in private residences. But only those at Bristol Street would also be in supervised living accommodation.³¹

3.42 Ms Limmer then went on to refer to references in the evidence of the Department as to the intense level of supervision offered at

³⁰ See para 22 of the legal submissions on behalf of the Network

³¹ See paras 24 to 26 inclusive of the legal submissions on behalf of the Network

Bristol Street and submitted that the applicant could not have it both ways. It was submitted that it could not be argued that what was said to be the highly irregular placement of home detention offenders together was mitigated by a level of supervision individuals did not have and then in the next breath say that they were all detained **and** supervised.

Buddle Findlay advice

3.43 Due to the importance of this issue, the Council sought legal advice from the legal firm Buddle Findlay. The Buddle Findlay advice considered whether residents could be considered to be detained on the site and consequently whether the activity could properly be classed as a *residential activity*.

3.44 We have considered the Buddle Findlay advice alongside the submissions of counsel referred to above and for the reasons which follow we are of the view that the custodial and/or supervised living/detention exclusion applies meaning that the Proposal is not properly regarded as a *residential activity*.

Residential activity / our analysis

3.45 It follows from the definition of *residential activity* that a proposal will not be for such an activity if it involves the use of land and/or buildings where:-

- (i) it is for custodial and/or supervised living accommodation;
- and
- (ii) the residents are detained on-site.

The issue of custody

3.46 We are of the view that the plain ordinary meaning of *custodial* anticipates physical forceful detainment of residents and that accordingly the application is not for custodial living accommodation. We agree with the approach taken in the Buddle Findlay advice.³²

³² See Buddle Findlay advice paras 15 and 16

3.47 We note the provisions of s80A(5) of the Sentencing Act 2002 which, as Ms Semple has submitted, states unequivocally that *an offender sentenced to home detention is not in custody while serving the sentence*. In the Buddle Findlay advice it was noted that the Plan did not define the word *custodial* but went on to refer to a provision in the Plan which states that where words or phrases are undefined, they are best defined using their ordinary dictionary meaning which was said, in the case of *custodial*, pertained to imprisonment or forceable institutionalisation. It was concluded that the plain ordinary meaning of *custodial* anticipated physical forceful detainment of residents.³³ We agree with this approach.

The issue of supervision

3.48 There is a need to examine the extent to which residents in Bristol Street will be supervised. We agree that significant emphasis has been placed on the intended level of supervision by the Department, in order to allay the fears of residents as to the level of control which would be exercised over the residents of Bristol Street. We agree with Ms Limmer when she submitted that the evidence of the applicant was replete with references to the intense level of supervision.³⁴

3.49 The evidence of Mr Gimblett makes a number of references to the level of supervision, some of which are referred to by Ms Limmer.³⁵ References in Mr Gimblett's evidence strongly support the view that there is a significant level of supervision associated with the presence of staff members on-site at all times in varying numbers, the physical layout of the Bristol Street facility lending itself to good supervision. We have also been influenced by the evidence of Professor Polaschek who makes reference to men attending the programme being *much more closely supervised than they would be on regular home detention*.³⁶ We believe that the level of

³³ See para 15 of the Buddle Findlay advice

³⁴ See para 27 of the legal submissions for the Network

³⁵ At para 27 of legal submissions on behalf of the Network

³⁶ See para 10.3 of her evidence

supervision leads to a telling distinction between the Bristol Street facility and the placement of home detention offenders.

Home detention

3.50 In her closing submissions Ms Semple³⁷ referred to the evidence of Mr Gimblett to the effect that multiple individuals under a sentence of home detention residing at one property was not precluded or unprecedented. As previously noted, Ms Semple was critical of the assertion of Mr Cook that instances of two or more persons living at the same residence was unusual and stated that the Department had undertaken a further review of current data which showed that there were 21 separate incidents across the country where two or more persons on home detention were living at the same residence. She said that such a scenario could therefore not be categorised as “very rare” or fanciful.

3.51 It was suggested that if this was not regarded as a *residential activity* within the definition of the Plan, then an absurd situation could arise in that a resource consent would be required for the use of premises to house persons on home detention whether alone or with others.

3.52 We believe that there are significant differences between the facility the subject of the Proposal and the situation where a premises is used to house persons on home detention whether alone or with others. We are doubtful whether persons in the latter category could be said to be in *supervised living accommodation where the residents are detained on the site*, essentially for the reasons given by Ms Chapman and referred to in paragraph 3.54 of this decision. The matter may be arguable and, in the context of the decision, we refrain from making any finite findings in relation to this issue.

3.53 We agree with Ms Semple that a finding that residents in the Bristol Street facility are supervised may sit uncomfortably with the contention that all persons on home detention are supervised and, are equally affected by the exclusory provision, leading to the conclusion that persons on home detention cannot be considered to

³⁷ At para 5.21 et seq

be involved in a residential activity. Undoubtedly, as Ms Semple has observed, persons serving home detention sentences are supervised by a Probation Officer.³⁸

3.54 However we agree with Ms Chapman when she states in the Report³⁹ that home detention in one's own house would not be excluded from the definition of residential activity as, while a person might be detained onsite under their home detention conditions, such a situation would not involve *supervised living accommodation* as there would be no staff supervising them on the site, unlike the current proposal. We acknowledge that this matter is arguable but do not need to determine this matter finally in the context of this application.

3.55 However the Proposal involving supervised living accommodation will not be excluded from the definition of *residential activity* unless the residents are *detained* on the site.

"Detained"

3.56 The essence of the case put forward by the Department in this context is that the Proposal does not involve participants being *detained* as they will not be forcibly restrained from leaving the programme and have the choice to leave the residence.⁴⁰ In essence then it is suggested that residents are not detained on the site if they are *physically* free to leave the site notwithstanding that they may be prohibited from doing so by law (e.g. see, inter alia, the provisions of the Sentencing Act 2002).⁴¹

3.57 In his submissions on behalf of the Network, Mr Cook supported the view that in an offender sentenced to home detention was detained for two main reasons:-

- (i) there is clearly a reasonably held belief, induced by state conduct (namely, Corrections officials and the courts

³⁸ See *Sentencing Act 2002, s80C(2)(a)*

³⁹ At para 26

⁴⁰ See s1 (Introduction) and s6 (response to specific questions raised by Council, answer to question 9

⁴¹ See para 19 of the Buddle Findlay advice recording this matter

which have provided the formal order of sentence) that they are not allowed to leave;

(ii) s80C(2)(b) of the Sentencing Act 2002 provides objective verification that the offender is not free to leave noting that serious consequences flow from any unapproved effort to leave.

3.58 We agree with the Buddle Findlay advice to the effect that the ordinary dictionary meaning of *detained* does not specify that a person can only be kept or restrained from leaving the site by physical as opposed to other means.⁴² As is noted in the Buddle Findlay advice⁴³ the leading case on the definition of the meaning of *detained* is *Everitt v Attorney General*.⁴⁴ We agree with the Buddle Findlay advice that this case confirms that a person can be detained without *physical* detention and that the test mentioned by the Court of Appeal is not whether a person is physically free or detained but whether a person has a *reasonably held belief* that he or she is not free to leave.

3.59 All of the above reinforces our view that persons residing at the Bristol Street site will understand that they are not free to leave the site except in very limited circumstances. The provisions of the Sentencing Act 2002⁴⁵ reinforce the view that the offender must be taken as understanding that he or she is not free to leave the site and the fact that the word *detention* is used in the context of the description of the sentence in question reinforces our view that residents are *detained* on-site in the context of the custodial sentences in question.

3.60 We also adopt the stance which was taken in the Buddle Findlay advice that a person need not be physically deprived of their liberty in order to be detained and that when one looks at the definition *residential activity* in the context of the Plan, this supports the

⁴² See para 22 of Buddle Findlay advice

⁴³ At para 24

⁴⁴ [2002] 1 NZLR 82 (CA)

⁴⁵ See s80A(2)(a)(ii) in particular as to the requirement to understand the conditions of home detention

conclusion that *detained on-site* is not limited to situations involving *physical* detention.⁴⁶ We agree with Ms Chapman when she states (on the basis of the legal advice provided to her) that she considers

... the view that detention can only relate to physical detention (i.e. locked doors and barred windows) to be taken as a too narrow interpretation.

Residential activity / our conclusions

3.61 For the reasons stated above, we are of the view that the proposed activity cannot be considered to be a *residential activity* as defined in the Plan. We interpolate that later in this decision we consider the question of whether, in interpreting other provisions of the Plan, we are bound to apply the *residential activity* definition.

Community welfare facility / community corrections facility

3.62 The applicant has assessed the non-residential aspects of the Proposal to fall within the definition of *community corrections facilities* and *community welfare facilities*. It is clear that the staff working on the site will use the buildings for Corrections purposes such as rehabilitation and reintegration services, workshops and programmes, and that they will provide *information, counselling and material welfare of a personal nature* to residents on the site. Ms Chapman is of the view that the non-residential aspects of the Proposal fall within these definitions.⁴⁷

3.63 In her opening submissions,⁴⁸ Ms Semple noted that Mr Giddens on behalf of the Network did not agree that the definitions captured *non-residential* components of the Proposal. Mr Giddens suggests that the Proposal cannot be a *community corrections facility* because it is "not like any of the six existing facilities in Greater Christchurch." Ms Semple submitted that this is not the correct approach to plan interpretation. We agree with Ms Semple that the primary focus of an interpretative inquiry must be the plain ordinary

⁴⁶ See paras 20 to 28 inclusive of the Buddle Findlay advice

⁴⁷ See para 27 of the Report

⁴⁸ At para 2.33

meaning of the words in the Plan, and the fact that this particular facility may not mirror other facilities in Greater Christchurch is not the test. We agree that the *non-residential* components of the Proposal clearly involve activities which are explicitly included in the definition of *community corrections facility*. The fact that the buildings at 14 Bristol Street are also being used for living accommodation does not somehow prevent that from being the case because of the need to take a holistic view of the description of the relevant activity, mirroring the approach which we adopted earlier in this our decision.

The community issue

3.64 Ms Semple then goes on to examine the question of whether the approach contended for by Mr Giddens, namely a restrictive interpretation of *community corrections facility* and/or a *community welfare facility*, necessitates the activity also meeting the definition of *community facility* and in order to do so must first meet the definition of *community activity*.

3.65 We agree with Ms Semple when she notes the common law principle of interpretation that the general does not derogate from the specific.⁴⁹ As Ms Semple has noted, this legal principle has been applied by the Environment Court in relation to planning provisions as to activities.⁵⁰ Adopting this approach we agree that if the particular activity meets the definition of (in this case) *community corrections facility* and *community welfare facility*, then it is not permissible to attempt to derogate from that definition by reference to other more general definitions in the Plan. Whilst there is a precept of plan interpretation that there needs to be an holistic approach towards interpretation, reflected in cases such as *Powell v Dunedin City Council*,⁵¹ that approach does not impact upon the requirement to terminate an inquiry where the wording is clear and a particular activity clearly meets a specified category of activity.

⁴⁹ At para 2.38 of her opening submissions

⁵⁰ As an example in *Re Royal Forest and Bird Protection Society Inc AO82/99 (ENF 66/99)* 5 August 1999 at [26] and *Foster Family Trust v Christchurch City Council C130/2005*

⁵¹ See para 3.8 of this decision

Community activity / contribution to the community

3.66 Mr Giddens argues that the Proposal is excluded from being a *community activity* because it is not part of, and does not otherwise contribute to, the community. The *community activity* definition states ...

The use of land and/or buildings principally by members of the community for

3.67 The question of whether the residents can properly be considered members of the community, given the limitation of the duration of their stay at 15 Bristol Street and other factors has assumed importance in this case for reasons which will be discussed later in our decision. We agree that the Plan does not define who does and does not constitute a member of the community *for the purposes of this definition*. In the context of the definition, we agree that there is no imperative for there to be some geographical link as a pre-requisite to being considered a member of the community for the purpose of the community. We agree with Ms Semple when she submitted ⁵² that the residents of the Proposal ...

... are plainly members of the community for the purposes of the community activity definition. While they reside there, they are members of the community within 14 Bristol Street. They are also members of the St Albans community, as well as being members of the wider Christchurch community and no doubt members of the Canterbury community for some purposes.

3.68 Ms Semple made reference to the decision on the Residential Chapter of the District Plan by the Independent Hearings Panel in her opening submissions. ⁵³ We have been assisted by the passage to which she referred and repeat it here ...

*.... we find that it is important for the health, safety and wellbeing of people and communities that there is confidence that such non-custodial facilities can be provided in residential zones. As to the (Community) Board's submission, we do not consider "community angst" as the Board puts it, as a necessarily valid reason for imposing a notified consent process. Such "angst" can simply be a form of localised initial prejudice against such facilities (or NIMBYism) by reason of the service they perform for the **community as a whole**. We accept Ms Tai Tua's evidence to the effect that these facilities do not typically give rise to issues, once*

⁵² At para 2.43 of her opening submissions

⁵³ At para 2.44

*they are established. The **greater community purposes** served by these facilities overwhelmingly favours making positive provision for them.*

(our emphasis)

3.69 Having reflected on this matter, we do not favour giving the term *community*, as contained in *community corrections facility* and *community welfare facility*, a restrictive meaning. In the particular context of the activity prescription, we are of the view that the term *community* embraces a wider community than that in the St Albans area. We do not consider that the question of whether the residents at Bristol Street can be considered to be part of the St Albans community (a matter which is discussed hereafter) is directly relevant to the interpretation of the terms in question.

3.70 In the result we are of the view that, leaving aside the residential components, the activity the subject of the Proposal is clearly and properly defined as *community corrections facility* and *community welfare facility*.

Site coverage

The issue

3.71 The issue of site coverage has assumed importance because the Network contends that, having regard to the purpose and context of the relevant rule, the proposed activity is non-complying because the buildings on site do not meet Rule 14.4.2.4 (the site coverage built form standard). It being argued that because a new activity is contemplated, this triggers the need to comply with the rule, notwithstanding that the buildings in question may have been lawfully established at some time in the past in the context of past activities conducted on the site.

3.72 Rule 14.4.1.5 NC4 describes the following as a non-complying activity:-

Activities and buildings that do not meet Rule 14.4.2.4 where the site coverage exceeds 40% (accept as provided for in Rule 14.1.1.5 NC5).

3.73 Rule 14.4.2.4 provides for site coverage in the following table.

14.4.2.4 Site coverage

a. The maximum percentage of the net site area covered by buildings shall be as follows:

	Zone/activity	Standard
i.	All activities unless specified below.	35%
ii.	Multi-unit residential complexes, social housing complexes and groups of older person's housing units where all the buildings are single storey. The percentage coverings by buildings shall be calculated over the net site area of the entire complex or group, rather than over the net area of any part of the complex or group.	40%
iii.	Market gardens	55%
iv.	Retirement villages	45%

Site coverage / submissions on behalf of the Network

3.74 Ms Limmer has referred to the evidence of Mr Giddens as to the purpose and context of the rule and in addition has submitted:-

- (i) it is appropriate to assume every word used in Rules 14.4.1.5 (NC4) and (NC5) and Rule 14.4.2.4 is deliberate and intended to have a meaning;
- (i) it is illogical (absurd) to suggest you would need resource consent if your use was proposed to be in a new building that exceeded the coverage thresholds, but not if you were moving that same use into an existing building that also exceeded the coverage thresholds. That simply makes no sense.

Site coverage / submissions on behalf of the Department

3.75 The Department takes a different view.⁵⁴ Ms Semple has referred to the Buddle Findlay advice, noting agreement with that advice. The Buddle Findlay advice may be summarised as follows:-

- (i) a contextual and purposive approach to the interpretation of Rule 14.4.1.5 NC4 dictates that it is concerned about *buildings* exceeding site coverage limitations, not the *activities* per se;

⁵⁴ At para 2.50 et seq

- (ii) Rule 14.4.2.4 is also concerned about ensuring that *buildings* (not *activities*) are controlled in terms of the maximum percentage they can cover of the net site area of a given site or allotment;
- (iii) it is evident from the context that the purpose of the references to different activity descriptions in the table for Rule 14.2.4.2 is not to control the area used by *activities* per se, but to impose a limitation on the area covered by *buildings*, with the applicable maximum percentage net site area of buildings determined by what activity occurs to date;
- (iv) Rule 14.4.1.5 NC4 would only be triggered if:-
 - (a) the *buildings* exceed the applicable site coverage rule limit in Rule 14.4.2.4 (as determined by the activity which occurs on-site); and
 - (b) the *buildings* exceed 40% site coverage.

3.76 Having regard to the fact that the buildings in question have already been lawfully established, the Act (ss 9 and 10) does not require a resource consent. Because the buildings were lawfully established, there is no need for a further resource consent to authorise the existing site coverage breaches of the buildings.

3.77 In her submissions, Ms Semple submitted as follows ⁵⁵:-

- (i) the application of Rule 14.4.1.5 (NC4) is premised on a failure to meet Rule 14.4.2.4 and that rule is described in the Plan as *built form standard*, and along with the other standards in Rule 14.4.2, it was designed to control the manner in which built form occurs on any given site. The emphasis is on buildings;

⁵⁵ See paras 2.54 to 2.56 inclusive of the opening legal submissions of the Department

- (ii) the building site coverage accompanying the activities of the standard is what it is concerned with not the activities themselves.

3.78 Ms Semple noted that what she said were a number of absurd outcomes if the interpretation contended for by Mr Giddens was followed by way of example:-

- (i) property owners would be unable to rely on consent authorising exceedance in net area covered by buildings because a simple change in an activity where it did not affect site coverage would, for all intents and purposes , render the consent useless;
- (ii) to avoid falling foul of the site coverage rule (and the requirement to obtain consent) buildings which were consented for exceeding the site coverage standard would need to be reduced in size when the activity of that building changed.

3.79 Ms Semple submitted that for a proposal to be assessed for compliance (or otherwise) against the relevant standard, it must include some land use which actually affects the percentage of the net site area covered by buildings. If as a result of that land use, the percentage of the net site area covered by buildings exceeds 40% it will be a non-complying activity and will require resource consent.⁵⁶

Site coverage / our views

3.80 We are in little doubt that the interpretation contended for by the Department is correct. We agree with the approach which is taken in the Buddle Findlay advice and will not repeat what is said in that advice here. Adopting a purposive interpretation of Rules 14.4.2.4 and 14.4.1.5 NC4 leads to the conclusion that the rules in question are concerned with the site cover of *buildings* not *activities*.

⁵⁶ See para 2.56 of the Opening Legal Submissions on behalf of the Department

3.81 We also agree with the submissions of Ms Semple that if the proposal is to be assessed for compliance against the relevant standard, it must include some land use which actually affects the percentage of the net site area covered by the buildings which is not the case in relation to the Proposal. Accordingly, given that the evidence is that the buildings in question were lawfully established in the context of other activities, we are of the view there is no breach of Rule 14.4.2.4 which would have had the consequence of the proposed activities in the Proposal being treated as non-complying activities.

Carparking and cycle space numbers

3.82 In the Report, it is noted that for the purposes of calculating carparking and cycle parking requirements, Appendix 7.5.1 and 7.5.2 state that

"Where an activity does not fall within a particular category, the activity which is closest to the definition shall apply."

It is stated that in this case a residential corrections facility is not captured within any of the listed categories. It is noted that for the purpose of carparking, the applicant has assessed the Proposal as four sheltered housing units, three of which would be used by the residents and one would be a staff unit. For the purpose of cycle parking, the *Other Residential Activities* definition has been used.

3.83 The Report goes on to note that given the nature of the activity, there has been a difficulty in concluding which category is closest for the purposes of the carparking calculation the Report then considers various options.

3.84 It is noted that the category with the highest parking demand is that of *care facility*. Whilst not a perfect fit for the activity, Ms Chapman considers it appropriate for the purpose of carparking requirements to assess the activity using the worst case scenario to ensure that the effects of the Proposal are adequately captured.

3.85 It is noted that the care facility parking rate triggers a requirement for four parking spaces. Ms Chapman calculates the activity qualifies for a 23% reduction in carparking under the permitted parking reduction factors, reducing the requirement to three spaces.

3.86 With respect to cycle parking, the Report records that using the care facility definition would trigger the requirement for one cycle space. On the premise of choosing the worst case scenario, Ms Chapman notes that the application proposes four cycle parking spaces to be provided on site and that this is therefore compliant with respect to cycle space numbers. An issue arises as to whether the cycle spaces (or at least three of them) need to be covered. We think they are covered and that there is accordingly compliance here.

3.87 It is also noted that for the purpose of loading (Appendix 7.5.3) neither the *care facilities* or *other residential activities* categories trigger the requirement to provide any loading facilities on the site.

Requirement for consent

3.88 The Proposal requires resource consent under the following rules in the Plan.

Activity status rule	Standard not met	Reason	Matters of control or discretion (if relevant)	Notification clause
14.4.1.3 RD17	14.4.1.1 P22 & P23 Community corrections and community welfare facilities shall limit the hours of operation when the site is open to clients to between 0700 – 1900.	Community corrections and community welfare services will continue to be provided to clients by the overnight support staff outside of the specified hours.	As is relevant to the activity specific standard that is not met: i Scale of activity - Rule 14.15.5 ii Traffic generation and access safety - Rule 14.15.6 iii Non-residential hours of operation - Rule 14.15.21	Shall not be limited or publicly notified.
14.4.1.4 D1 - Any activity not otherwise provided for.	-	The use of land and buildings for supervised living accommodation where the residents are detained on the site is not otherwise provided for in the RSDT zone.	-	No clause

Our findings in relation to status of the proposed activity

3.89 Because of our finding that the proposed activity does not constitute a *residential activity*, it follows that the activity must be treated as a *fully discretionary activity*. The application breaches two rules, as set out in the table above. Non compliance with the hours of operation for a community corrections facility would make the application a restricted discretionary activity. The determination that the application is not a residential activity means that the activity becomes an "activity not otherwise provided for" (Clause 14.4.1.4D1), and therefore is for a discretionary activity. Taking the most restrictive of these two matters, the application becomes one for a (fully) discretionary activity.

3.90 We observe that even if we were to accept the submissions on behalf of the Network to the effect that the activity must be regarded as not provided for in the Plan, it follows that the activity is required to be treated as a full discretionary activity, on the assumption that our findings as to site coverage (referred to above) are correct.

4. ***Submissions***

Introductory comments

4.1 As is noted in the Report, the application, when publicly notified, drew a large number of submissions. A total of 203 submissions were received on the application, 20 in support and 183 in opposition. This included 11 submissions in opposition made in the name of Lucy Forrester of the law firm Chapman Tripp on behalf of persons who are understood to wish their name and address to remain anonymous.

4.2 ***Attached*** to this decision as ***Attachment 1*** is a summary of various matters which were raised by submitters, the summary having been prepared by Ms Chapman in the context of the preparation of the Report. We are of the view that the document fairly summarises the submissions which were made at the relevant time and we do not see the need to prepare a further summary, noting that we have taken

the various matters raised in the summary into account in reaching this our decision.

- 4.3 We have perused the submissions which contain reasons for supporting the application and, conversely, reasons for opposing the application. We note that in paragraph 45 of the Report, Ms Chapman summarises the reasons for both supporting and opposing the application. We do not see the need to give an account of the various matters raised in the submissions and are content to rely upon our perusal of the submissions in question and the summary which Ms Chapman has prepared which, in our view, fairly summarises the matters which have been raised by submitters.

5. ***The evidence at the hearing / the case for the applicant***

Introduction

- 5.1 At this point of the decision we summarise the evidence given on behalf of the Department. We emphasise that what follows is only a summary and is not intended to capture every feature of the evidence led on behalf of the Department. The summary is intended to record the main features of the evidence led on behalf of the Department.

Dr Jarrod Gilbert

- 5.2 Dr Gilbert is a director of Criminal Justice at the University of Canterbury. In his evidence he stressed the significance of problems in New Zealand's criminal justice system and situation, noting the failure of the prison system, the high rates of imprisonment compared similar countries, and high re-offending rates out of prison.
- 5.3 Dr Gilbert said that the approach which had been taken for many years had not been effective in tackling issues of crime and were essentially ignoring future victims. He emphasised the concern for the country as a whole, but the even bigger problem relating to the Māori population stating that the over-representation of Māori in the prison population was one of the most significant issues facing New Zealand. He said that issues like these led to a growing consensus for the desirability of change to move towards rehabilitation,

reintegration and prevention rather than just punishment to ensure safer communities.

- 5.4 Dr Gilbert went on to refer to the approach being taken internationally, namely the move towards rehabilitation, stating that in many other comparable countries a similar approach was being taken with a focus on smaller facilities providing rehabilitation and reintegration elements, noting that New Zealand was “behind the play” here. He said that more was required to do things differently in an effort to get better outcomes for the country.
- 5.5 Dr Gilbert went on to refer to the difficulty which people had in discerning fact from fiction in this area, noting that what he termed “the enormous amount of talk about crime” and the focus of reports on certain types of crime contributed to a perception of lack of safety which impeded the ability of organisations like the Department to do more work in communities. Dr Gilbert emphasised that that is where change needed to happen, and referred to the Bristol Street proposal as being an important step down the path, albeit a modest one.

Benjamin Clark

- 5.6 Mr Clark is employed by Ara Poutama Aotearoa / the Department of Corrections as the Regional Commissioner for the Southern Region covering the whole of the South Island. He noted that the job of the Department was focussed on keeping communities safe by accommodating people in prison securely, but importantly noted that the Department managed almost three times as many people in the community as in prison, and that the community programmes were a critical part of the Department’s role.
- 5.7 Mr Clark then went on to refer to the 2017 Waitangi Tribunal Report which found that the Crown, through Corrections, had a Treaty responsibility to apply “a renewed strategic focus that gives appropriate priority to reduce the disproportionate rate of Māori offending”, noting that the response of the Department to this responsibility was Hōkai Rangi, being a new strategic direction focus on supporting the wellbeing (or oranga) of all people. He said that this goal would not be achieved without succeeding with those under

the Department's management in the community, noting the obligation to help people in the transition to a crime free life in the community.

- 5.8 Mr Clark then went on to refer to community-based sentences available to the court including home detention. He said that it was a fundamental tenet that for home detention to work in keeping communities safer by turning lives around, that there was a need for those on the sentence to be in the community. He said that it was only by living in the community that the individual learns how to become part of the community and pursue a crime free life.
- 5.9 Mr Clark commented that people in the Ara Poutama Corrections system are a high-need population and those individuals with a higher likelihood to reoffend tended to need a more intensive programme response. He said that offending behaviour programmes had been found to be most effective when delivered in a residential setting, where opportunities for distraction and disconnection from the programme were minimised.
- 5.10 Mr Clark then went on to refer to features of the Bristol Street programme, noting that the programme was targeted primarily to men who have longstanding personal or Iwi links to the Southern Region. He said that the programmes sought to involve mana whenua in the design and delivery of the programme to ensure that it was culturally responsive. He then referred to the rigorous selection process and the fact that the programme was staged across four phases to assist staff and residents to evaluate and place rehabilitation and reintegration activity. He then noted that following graduation from the programme at 14 to 16 weeks the individual will transition to their planned and approved living situation in the community, likely throughout Canterbury or the South Island.
- 5.11 Mr Clark noted the fact that the Department took seriously its responsibilities to keep the people in its care, and the wider communities, safe and referred to a combination of important safeguards proposed for Bristol Street. Given the significance of this issue in this case it is important that we record the safeguards in question. Mr Clark said that these included trained and specialised

programme staff; detailed operation protocols and safety features (such as CTV and electronic monitoring); rigorous selection of participants; intensive supervision and support from the on-site team; internal rules (kawa) that participants sign-up to; the cultural framework that the programme operates within, and not least, the will of the participants to make the best of their opportunity to turn their lives around.

- 5.12 Mr Clark was realistic when commenting upon the response from the surrounding community, stating that he understood that many people would find the idea challenging and ask why it could not be located in the prison setting or in a more rural or non-residential area or indeed anywhere other than their community, stating that he understood this.
- 5.13 Mr Clark went on to state that the intent of the community services was that they took place in communities where integration in the community was a critical factor, and stated that there was a need for such a programme to operate in an environment that afforded the residents an opportunity to learn and model positive behaviours. He said that he wanted an environment that promoted access to everyday services that could create a sense of hope and aspiration while minimising potential reoffending related triggers.
- 5.14 As a final comment Mr Clark said that it was important to him that the residents operated in a location where compassion and empathy were central to the community sense of shared values, and said that the St Albans area had these attributes. In conclusion Mr Clark reemphasised his recognition of the concerns expressed by members of the community and undertook to commit himself and his regional team, including staff working in the Bristol Street programme, to continue working with the surrounding community to build relationships and improve understanding of our mahi. He said that for him the initiative was about promoting community safety, by the community, in the community.

Glen Kilgour

- 5.15 Mr Kilgour is a clinical psychologist and the manager of Psychological Services for the Tai Aroha programme, currently located in Huntly in the Waikato. He noted his experience as a psychologist, and that his current role involved leading the team delivering therapy at Tai Aroha. In his evidence he gave an overview of Tai Aroha as it operated in the Waikato and some of the key features of the Community of Change model under which the programme operated.
- 5.16 Mr Kilgour noted that Tai Aroha was introduced by Ara Poutamu in 2010, noting that until recently the programme occupied an old villa in the residential neighbourhood in Anglesea Street, but that at the end of 2020 there was a temporary move to Hukanui a Muri Marae in Huntly due to subsidence and other issues at the Anglesea Street property.
- 5.17 Mr Kilgour noted the aim of the programme being to assist men to break the cycle of offending in their lives for the betterment of themselves, their whanau, and the broader community. He emphasised the intensity of the rehabilitation and therapy programme undertaken by residents in the programme. This meant that there was a heavy emphasis on selecting participants who were ready for change, and who were thought to be able to benefit from the programme. He said that this required a strong commitment from residents to identify and confront unhelpful and problematic patterns in their interpersonal behaviour, and work towards significant and lasting change.
- 5.18 Mr Kilgour referred to the nature of the sessions designed to identify and address each resident's specific factors for violence and crime, stating that by the end of the programme each resident was expected to have a good understanding of their criminal behaviour, and the strengths and assets that they had to reduce offending. He said that they would have identified new positive ways of thinking about themselves and others and learnt and practiced a range of skills to better manage their relationships, emotions, and difficult situations in their lives. He referred to the development of a "*safety plan*". He said that residents would also have a reintegration plan covering

accommodation, work or study, prosocial supports and other needs related to their daily living including follow-up therapy that may be required.

- 5.19 As to the programme, it was noted that this operated on a continuous improvement model. Mr Kilgour said that at reviews there was an attempt to improve systems and processes, noting that since 2019 there had been a revision and updating of all therapeutic manuals to reflect changes and best practice when working with residents.
- 5.20 Mr Kilgour noted that those involved took their role as a member of the wider community seriously, and Mr Kilgour went on to address some of the comments in the evidence of Mr Giddens regarding the important issue of the contribution of the programme to the surrounding community.
- 5.21 Mr Kilgour said that Tai Aroha did contribute positively to the community it sits within, and whilst the interactions between men in the community were managed, it did not mean that they did not exist. He referred to men in Hamilton going to a local gym where they interacted with the owner and the staff, and also their attendance at a local doctor for their health needs. Further he referred to the residents going to the library and then down to the local supermarket. He said that on supervised weekend outings they often visited areas of culture significance, or took recreational activities to local parks. He said that during the latter stage of the programme they may utilise public transport when meeting with supporters or whanau for approved outings. Further they went to look at properties to rent once they left the programme.
- 5.22 In addition Mr Kilgour said that the staff also contributed to the community and around the whare, noting the involvement of staff members in the community. Importantly, he said, that put simply, persons involved in the programme did feel part of the community that the programme sat within, and believed that the programme made a positive contribution to the community in question.
- 5.23 Mr Kilgour then addressed the important question of whether a residential location was necessary to realise the benefits of the programme. Mr Giddens had suggested that this was not necessary.

- 5.24 Mr Kilgour referred to the experience of Anglesea Street involving trips to GPs, shopping, gym facilities, rental accommodation viewings, probation sites, driver's licence to appointments etc, and being some five to ten minutes away. He said that the current location in Huntly meant that access to those activities was now involving round trips of up to 1.5 hours and that this was a barrier to meeting the reintegrated needs of residents in a timely fashion.
- 5.25 Mr Kilgour referred to the evidence of Dr Polaschek which highlighted the importance of these graduated opportunities for community participation, and the successful reintegration of the men involved in the programme.
- 5.26 Mr Kilgour said that the suggestion that programme participants should simply to "go elsewhere" highlighted what he termed a key challenge for reintegrating marginalised individual and whanau who had become involved in criminal lifestyles. He said that human beings needed to be accepted and integrated into communities to start becoming psychologically invested in the notion of being part of a community, and that the programme provided such an opportunity.
- 5.27 In conclusion Mr Kilgour said that there was a responsibility to prevent violence in communities, that the work was hard and confronting and not always immediately successful, but that there was a need to keep trying. Mr Kilgour's passion for Tai Aroha and supporting men and changing their lives, represented his contribution to the work. He said that he hoped that Bristol Street would be able to be the passion for others to be of a similar desire for safer communities.

Professor Devon Polaschek

Evidence-in-chief

- 5.28 Professor Polaschek was a central witness in support of the Proposal. She has been a university academic engaged in research and teaching for many years and is currently a professor of correctional psychology and the Director of Te Puna Haumarū, the New Zealand

Institute of Security and Crime Science at Te Whare Wananga o Waikato. She is also a clinical psychologist.

- 5.29 Professor Polaschek referred to the approach of Ara Putamu Aotearoa working with men at high risk of crime and violence, stating that it was well informed by local and international theory and research. Professor Polaschek noted that persons who were most suited to the Bristol Street programme came from a section of the public who had started life with a significant disadvantage, and that the consequences of such disadvantage continued to snowball as they developed. She went on to refer to the negative elements in their life as they developed, and that if the men were left on the trajectory in question, they may continue in and out of prison and community sentences well into late middle-age, and would also be in need of support and assistance from a number of other government services. Importantly she said that well targeted interventions that could modify their path could have a big impact on the trajectory of these men, which was likely to affect the next generation.
- 5.30 Professor Polaschek went on to note that finding the right intervention was not easy in that prison as an example has, at best, no effect on the likelihood of new convictions, and could possibly increase risk. She referred to how research on developments in the science of how to work with people on sentences in the criminal justice system had assisted in reducing their likelihood of ongoing convictions, and that Ara Poutamu (New Zealand Corrections) were early adopters of this research, and had a live round of programmes informed by international and best practice.
- 5.31 Professor Polaschek said that the research literature informed as to how to design and run effective programmes with specific programme components and processes, which needed to be brought together consistently to achieve change, and that when the programmes were run according to these well-established principles, people taking part in them could make important gains towards desisting from crime.
- 5.32 Professor Polaschek went on to refer to the evaluation of the Tai Aroha programme in the Waikato. She said that one often used way of determining programme effectiveness was to conduct a recidivism

outcome evaluation, which compared the proportion of programme graduates who were re-convicted during a follow-up period. She said that there were increasing difficulties in only using this tool in determining effectiveness, not the least of which was coming up with a truly equivalent comparison given the number of interventional programmes now provided to people in Ara Poutamu's care. She said that it was not surprising to her that the Tai Aroha recidivism evaluation recently completed for Ara Poutamu by an independent statistician was inconclusive, and that information from other sources was needed to properly evaluate whether Tai Aroha was in fact working. Professor Polaschek said that she had been reviewing and analysing other data sources including interviewing men who had completed the programme, and examining the results on psychometric tests. These test results show that those finishing the programme, reported significant reductions in their personality and mental health problems, and in their criminal attitudes to violence, and that they also reported they had gained in their wellbeing and in the skills needed to manage themselves better. Professor Polaschek said that these gains were even more evident in the follow-up interviews where men talked of profound changes in their lives, and the lives of those around them, as a consequence of finishing the programme. Professor Polaschek concluded by stating that although interim, her conclusion was that the Tai Aroha programme was effective in making those involved safer, for the benefit of themselves, and their happier families, and the wider community.

- 5.33 At this stage Dr Polaschek returned to discuss the question of the risk posed to the immediate neighbourhood, stating that she agreed with the evaluation made by Dr Cording. She said that in practice the risk posed to the immediate neighbourhood by concentrating residents in the proposed Bristol Street facility with all of the features outlined in the proposal, was minimal. She referred to the concept of "dynamic security" involving staff being actively engaged in maintaining a safe environment. She noted that increased safety came not only from high walls, but from staff developing relationships with those they supported, and showing an understanding of them, and working with them in a firm but fair way.

- 5.34 Professor Polaschek then went on to make comments about the evidence of Mr Giddens on behalf of the Network and wanted to correct what she said were misunderstandings of her evidence. She said that the process of integration began the day men came into the residence and continued throughout their time there. This graduated approach was one of the key reasons why the programme needed to be located in a neighbourhood in a town or city.
- 5.35 Professor Polaschek then dealt with an issue which has assumed importance in this case, namely to define what is meant by the term *community*. She said that this referred to three different things, firstly the whānau of staff and residents and so on, living and working on the property, secondly, the immediate neighbourhood, and thirdly the wider social world in which we all lived. She did not support the narrow interpretation which she said that Mr Giddens had taken.
- 5.36 Professor Polaschek then turned to discuss what she said were misconceptions in Mr Giddens' evidence regarding recidivism. She said that the recidivism analysis that she discussed in her evidence was inconclusive, which meant that it was not possible to tell if recidivism was reduced as a result of the programme. Importantly, she said that this did not mean that the programme was **not** reducing recidivism. She said that there were many ways to answer the question of whether the programme was beneficial and that the programme clearly had beneficial events.
- 5.37 Professor Polaschek then went on to refer to the fact that Mr Giddens had referred to a "5 year period of analysis" in relation to Tai Aroha. She said that substantial improvements had been made since the last evaluation and it made sense to use this period in order to be evaluating the current programme, not one with some different features given that there was a continuous improvement model. To conclude, Professor Polaschek said that she considered that additional centres of the type proposed in this case were well overdue in New Zealand, and that the proposal and the case for the facility was strong.

Rebuttal evidence

5.38 Professor Polaschek dealt with the issue of recidivism rates of graduates from Tai Aroha, Hamilton, in her rebuttal evidence, commenting upon the evidence of Mr Stewart. She said that she wanted to clarify that the Tai Aroha recidivism rates cited by Mr Stewart refer to incidents of reoffending once the graduates have completed the programme and are no longer residing at Tai Aroha. She said this was distinct from incidents which resulted in some adverse interaction with the community when the resident has left the programme early (without permission). She noted that there was only one incident (recorded in 2012) where an interaction with a neighbour occurred. She said that the other incident cited the interaction with a dairy owner (occurred when the resident was still in the programme and was with a staff member in 2017).

5.39 Professor Polaschek then referred to Mr Stewart's evidence citing data relating to reimprisonment and reconviction rates, which were compared to the reconviction rates of graduates finishing the Tai Aroha programme. She said that with respect of Mr Stewart, the comparison was flawed because it compared Tai Aroha graduates (a very specific group) to a much larger, more generic group, being all those released from custodial sentences during the period in question. She said that the number of variable factors between these two groups made the comparison meaningless. She said that to determine whether the Tai Aroha programme had any impact on reconviction rates the correct approach was to compare graduates to a cohort as similar as possible, and that approach was reflected in the recidivism evaluation for Tai Aroha.

5.40 Professor Polaschek concluded by stating that recidivism evaluation does not allow us to reach definitive conclusions on the effectiveness of Tai Aroha in reducing recidivism, because the sample size was too small. She noted that the overall evaluations she conducted set out a much wider evaluation. On the basis of that evaluation, she did not consider Mr Stewart to be correct in his comment that "no commentary is provided as to the likelihood of the desired benefits of

this model materialising". Professor Polaschek did not consider the model to be particularly "novel".

Amelia Joan Linzey

Evidence-in-chief

- 5.41 Ms Linzey is a Senior Technical Director of Beca Group Limited who led the social impact team and co-authored the Social Impact Assessment Report for the Proposal with a colleague. Her evidence was of particular importance in that her evidence dealt with the issue of anticipatory fears expressed by the community in relation to the Proposal.
- 5.42 From the information which was accessed by Ms Linzey and which is detailed in her evidence, she concluded that the likelihood of the fears anticipated by the community being realised was low to very low, and in some cases similar to potential adverse social effects that could be experienced within the existing local residential environment due to a normal and complex nature of urban communities.
- 5.43 Notwithstanding this conclusion, she acknowledged that there were also potential adverse social impacts associated with the proposal which are set out in her evidence. In particular she referred to the process of establishing an "unwanted and uninvited" activity in a community, giving rise to potential social effects related to the sense of pride people have in their community, and the values they place on their environment and their way of life, noting that there are opportunities to mitigate these impacts. Further she referred to potential way of life social impacts for neighbours associated with the proposed activities of the site, in particular privacy, and again referred to conditions proposed to ensure that these measures are appropriate including screening some residents from areas of activity, limiting access to some parts of the site, and measures to improve the communication information sharing between operators of 14 Bristol Street. On this basis Ms Linzey considered that a potential adverse social impact from the Proposal to be low or "none" in terms under the Act (though some temporary potential moderate adverse effects are identified which are expected to reduce/ameliorate over

time, with the mitigation and management measures proposed by the applicant). It will be apparent in this decision, that the assessment of this potential social impact has assumed particular importance in this case.

- 5.44 Ms Linzey went on to conclude that the overall potential social effects of the proposal were minor, and considered those effects will be experienced by local residents in proximity to 14 Bristol Street, and in particular the immediate neighbours. She remained of the opinion that with mitigation, and post 6 to 12 months of operation, the potential social affects impacts would be low to very low, and over time reduced to very low. However she acknowledged that due to personal circumstances some members of the community may never be comfortable with the proposed activity on the site and may continue to perceive it as a risk to their safety and alter their way of life accordingly. Based on her assessment she considered this was likely to be for a very small number of people in the community.
- 5.45 Ms Linzey then went on to consider matters raised in submissions, acknowledging that many would not choose to have the activity in their neighbourhoods. However she did not consider that the matters raised in submissions materially changed her overall assessment. Further, she stated that based on her experience and review of other facilities in New Zealand, as well as a literature review undertaken for the impact assessment, the evidence indicated that the fears and concerns voiced by residents often did not materialise. Ms Linzey considered that the concerns of the community could be addressed through design of activities at the site and management at the interface between these activities and the community. .
- 5.46 Then Ms Linzey reviewed the social impact advice provided by Ms Strogon for the Council, noting general agreement. Ms Linzey noted that Ms Strogon considered impacts will be moderate to low (with low impacts being achieved over time). However Ms Linzey considered that with mitigation and the passage of time (post 6-12 months of operation) social impacts will be low and potentially reducing to very low, and that nothing in the assessment of Ms Strogon has led her to revise her conclusion.

- 5.47 Ms Linzey went on to respond to the evidence of Mr Giddens. She did not accept the assertion from Mr Giddens that reliance on data from five years of operations at Tai Aroha was the basis for the social effects assessment. She commented that the base-line research from Tai Aroha was only one source of information, and referred to other sources of information. She went on to state that her site visit to Tai Aroha was entirely appropriate, given that the greater consideration of the effects of an established existing area of a very similar operation is appropriate. She stated that when supplemented with the other information sources used in her assessment, she considered that the evidence relied on to assess the social effects is appropriate.
- 5.48 As to the positive effects on the local community, she spoke of the conflation of two separate issues. The first relates to whether, at a community scale, the facility will assist participants in the programme to rehabilitate and change their behaviour. Ms Linzey relied on the evidence of others to reach the conclusion that at a community level the programme has potentially positive social impacts as a result of changes to behaviour and reduce antisocial criminal behaviour. Secondly, Ms Linzey commented upon the apparent conclusion drawn by Mr Giddens of uncertainty as to the positive effects to reach a conclusion on why the activity is not appropriate in the residential environment. She made the observation that there were some in the community who consider that facilities like those proposed in Bristol Street were positive for their sense of place, and there were some residents in the survey who indicated that they saw the operations of that site as positive to their neighbourhood, as an example indicating a sense of improved safety by some residents.
- 5.49 Ms Linzey then went on to summarise the differences between the evidence she had given and that of Ms Stroger. She did not oppose the recommendations that Ms Stroger has made in respect of additional privacy outcomes to the neighbours, noting that she understood that the conditions provide for greater certainty of screening for windows on the site, and management for some parts of the site where resident access will be managed. As to additional matters she was of the view that if such measures were provided, they needed to consider light and amenity for the residents of the

Bristol Street site, and a degree of permeability so that the residential character of the site was not lost.

5.50 Ms Linzey did not agree with Ms Stroger that the programme needs to co-ordinate its outings with Salisbury Street. As to monitoring and reporting outcomes, she did not think it necessary that such monitoring is undertaken by the Council, nor that a social impact monitoring plan be prepared. She stated that the principal reason for any such monitoring relates to outcomes for residents of the programme rather than for the local and surrounding community. Further, Ms Linzey was of the opinion that the data collected through the operations of the programme (which are specified) would provide adequate process to capture social impacts or concerns for the community, and that additional specific social impact monitoring is not required.

5.51 Ms Linzey was not opposed to consideration of additional Community Liaison Group (CLG) membership but noted the need to provide clear accountability for the roles of participants in these types of groups. She thought that the condition should only require invitation for membership of the CLG, and not a requirement for their attendance, and that community relations and information sharing could more appropriately occur CLG meetings.

Rebuttal evidence

5.52 In addition Ms Linzey gave rebuttal evidence directed to the matters raised by Mr Stewart on behalf of the Network.

5.53 Firstly Ms Linzey said that the reference to 10% of Tai Aroha neighbours *changing* their behaviour was a misquote as the figure actually referred to those who *anticipated* that they would make changes to their way of life.

5.54 Ms Linzey confirmed that none of the neighbours who had participated in the survey had made any reference to changing their way of life because of the activity at Tai Aroha, although one responded indicating they were vigilant about privacy of their property due to Tai Aroha being a neighbour.

5.55 Ms Linzey said that the assertion by Mr Stewart that the assessment of longer-term impacts on way of life decreasing over time was based on one study was incorrect. Ms Linzey stated that her conclusions were drawn from a variety of sources.

5.56 In response to the question raised by Mr Stewart as to how information collected for the assessment was considered, assessed, and used to inform the conclusions reached in her assessment, Ms Linzey said that she had used a mixed method approach which explained how this was drawn from a number of sources. She said that she considered it to be good practice to take a mixed method approach for source information, as the assessment was predictive, and there was no direct historic data to model for, or to rely on, to form that assessment.

5.57 She said that all communities were different, and that it was not feasible to have a proven or direct counter-factual case on which to assess the social impacts of a proposal. She said that there was substantial information and community views in response to proposals from "unwanted" activities, but limited research available on the social consequences of the operation of such activities. For that reason the data outlined in the methodology of the report included a number of sources of information, which included community views and behaviour associated with the operation of the Tai Aroha residents, a literature review, a media review, review of context reports, stakeholder interviews, site visits, staff interviews, specialist reports, residents' survey data, targeted follow-up telephone interviews, observation of community conversations at the ara putamu engagement days, a review of ara putamu engagement notes, an analysis of community demographic data, the experience of the assessors who had been involved in the assessments, and social impact implementation monitoring for a range of infrastructure and social change projects.

5.58 In addition to this Ms Linzey made specific reference to the Toronto 1994 study stating it was only one of seven studies reviewed. Ms Linzey said that she did not consider that the report was silent on the applicability or the limitation of the application of the literature

resources, and did not consider that the findings of the study were relied upon or dismissed. The Toronto 1994 study was simply one study that informed the overall understanding.

5.59 Thereafter Ms Linzey referred to supporting data for the SIA and Tai Aroha study, commenting upon detail in the survey methodology, the questions and results of the survey used, the stakeholder interviews and the follow-up telephone interviews to survey residents and neighbours.

5.60 As to Mr Stewart's comment that the Beca Report admits key differences between Tai Aroha and Bristol Street, Ms Linzey made a number of points. She agreed that there are more immediate neighbours at Bristol Street, and that as a result she noted some specific potential impacts relating to privacy issues, and further she provided recommendations on appropriate use of outdoor space by the applicant. In terms of density of communities Ms Linzey noted that density was less at Tai Aroha. However from 40 metres onwards (two properties down on the same side of the street as Tai Aroha) the density is similar if not higher at Tai Aroha. Further Ms Linzey stated that the topography of the Tai Aroha site meant that it was prominent for properties to the north of Anglesea Street on the river front (Hillsborough Terrace). Further Ms Linzey noted that residents of the Tai Aroha residence must pass through this more densely populated part of the neighbourhood as they travelled to and from the property, particularly as there was only one way out of the cul-de-sac.

5.61 Ms Linzey disagreed with Mr Stewart's statement in paragraph 14 of his evidence that the Beca Report played down a number of relevant considerations, and that the Report underestimates the actual and potential social impacts of the surrounding community. She stated that the assessment scale considers a matrix of severity, extent, duration and likelihood. Further Ms Linzey stated that the methodology showed the phases of her assessment, and noted that the sources of information used to assess the likelihood that anticipatory impacts would occur in the community were drawn from a number of information sources, including stakeholder interviews, surveys interviews with the surrounding community at Tai Aroha,

review of research and professional experience to ground truth findings and provide an overall assessment.

5.62 Ms Linzey then commented upon a matter raised by Mr Stewart that "Way of Life Impacts" are likely to be higher than in Ms Linzey's assessment. Ms Linzey noted that the Bristol Street survey responses served as an indication of concerns that they *anticipated* experiencing. Ms Linzey went on to state that the community being concerned about a potential impact was not in itself evidence of that impact occurring. Whilst they were *anticipatory* impacts from the community, Ms Linzey accepted that that is not to say that they were not "real concerns", and Ms Linzey stated that she definitely considered that they were. However Ms Linzey stated that the response from the community was based on how the community understood the proposal and there could be a misunderstanding as to how they believe that the programme will operate, and their evaluation of risk and consequence, and that it is the role of expert social impact assessors to undertake assessment of the likelihood, scale and severity of these anticipated impacts actually resulting. Ms Linzey went on to state that undertaking the assessment she relied upon a number of other sources.

5.63 Ms Linzey noted that the SIA Report explicitly considered both the probability of and potential impacts on the community's way of life associated with either increased crime or other impacts of "interaction" incidents (that is to say when residents abscond or leave the residence).

5.64 Ms Linzey then went on to comment upon examples where Mr Stewart had directly referred to "community concern" that were social impacts. Ms Linzey noted that Mr Stewart had cited the survey results of 85% of respondents indicating their concern that the proposal would adversely impact sense of place and character and health and wellbeing impacts. She said that by implication that Mr Stewart seems to assume that the survey information should be used as a quantification of the social change actually expected from the proposal. However Ms Linzey said that the role of the social impact assessment was to assess (from a mix of information sources) the likelihood and severity of the anticipated social change actually

occurring. People's perception was only one source of information relied upon.

- 5.65 Ms Linzey disputed Mr Stewart's suggestion that she had dismissed concerns and feelings of being uncomfortable. Ms Linzey said that her role was not to represent the concerns in question but to hear them and then assess the likelihood, scale and severity of any impact occurring. Ms Linzey went on to state that there was a mismatch between the stated fears and concerns and the evidence that the anticipated concerns will likely occur. Ms Linzey went on to refer to the evidence regarding the level of the risk in question.
- 5.66 Then Ms Linzey commented upon the suggestion by Mr Stewart that she had remained silent on the difference between the number of people at Bristol Street compared with Tai Aroha. She disputed this and stated that her overall assessment of impacts did not change with the reduction of the numbers of men at the site (by four men). She did not consider the difference of 12 men at Bristol Street (compared with 10 men at Tai Aroha) to be material.
- 5.67 Ms Linzey then went on to comment upon the important matter of the duration of effect, noting that her assessment of reduction over time was not consistent with that of Mr Stewart. Ms Linzey referred to way of life longer term impacts, noting the sources that she had used, and professional experience, and noting the range of sources of information which had led her to make her assessment. Ms Linzey reiterated her view that once the activity was established it was highly probably that the social impacts associated with the fear and anticipation would reduce over time. Accordingly she concluded that many in the community would be less likely to implement any planned changes to their way of life. She said that this was a social consequence she had seen realised on a number of occasions on projects in urban change.
- 5.68 Ms Linzey acknowledged that some may choose to continue to make changes in their way of life because of the residence, referring to one neighbour in Tai Aroha who indicated that the steps which had been taken to build and design a home to ensure privacy and security. However Ms Linzey said that they also noted no direct impact or risk

to their safety from the Tai Aroha residence. Other residents interviewed had indicated that their behaviour was a choice and that other residents in Anglesea Street interacted with the residents at Tai Aroha more. Ms Linzey went on to note that other neighbours had opposite views. In conclusion Ms Linzey said that overall her experience and research indicated that where places were all maintained and well run, the anticipated impacts are not realised, and as a consequence the high level of concern in the community reduces over time.

Rhys Andrew Chesterman

5.69 Mr Chesterman is a director and transport engineer at Novo Group Limited and provided the Transport Assessment (November 2020) that accompanied the resource consent application.

5.70 Mr Chesterman stated that the proposed activity did not result in any Plan traffic non-compliances noting that the activity can comply with the parking rates associated with *sheltered housing, care facilities and boarding houses*, and that a compliant number of cycle spaces can also be provided. However he noted two key issues (carparking and traffic generation). He noted the typical weekday demand for around eight curb side parking spaces, potentially increasing to eleven spaces for a 15 minute period between 2.30pm and 2.45pm when there is a staff shift and on Saturdays when pre-arranged visitors are permitted (between 1pm and 5pm only), which activity could create a demand of eight curb side (visitor) parking spaces and on Sundays (in the evenings) the parking demand would be negligible owing the low numbers of staff and no visitors. Mr Chesterman is of the view that the level of parking demand can easily be accommodated by the surrounding roads without affecting the safety or efficiency of the frontage roads, noting that the kerb spaces directly outside the application site are able to accommodate eleven carparking spaces and that there are a further 66 unrestricted on-street parking spaces on the opposite side of the application site and along Bristol Street (between Clare Road and Holly Road) which can easily accommodate the demand.

5.71 Mr Chesterman stated that if 80% of staff drive to the site; and allowing for 10 staff lunch or personal trips (on week days) 12 Corrections van errands (on weekdays) and two deliveries (on weekdays) the activity on the site will generate around:-

- (i) 54 trips per weekday;
- (ii) around 30 trips on Saturday; and
- (iii) around 16 trips on a Sunday;

He said that the level of traffic was not considered to be significant and would be akin to an otherwise permitted residential (or other) development on the same site.

5.72 In conclusion he noted that the Council planner and traffic engineer both support his conclusions.

Ken Gimblett

5.73 Mr Gimblett is a Senior Resource Management Planner / partner with the environmental consultancy firm Boffa Miskell Limited. He has extensive experience in the resource management area and has been involved in numerous resource consent applications. We noted the qualifications set out in his primary evidence.

5.74 Mr Gimblett visited the Bristol Street site and also spent time at the Hamilton based Tai Aroha programme near Huntly, spending the day with participants and Ara Putamu staff involved with delivering the programme. He also visited the then vacated Tai Aroha premises at 32 Anglesea Street, in Hamilton. Mr Gimblett has undertaken a comprehensive planning assessment of the Proposal.

5.75 At the commencement of his evidence, Mr Gimblett commented upon the issue of whether the activity should be considered as one, that of a detention facility, an activity that is undefined by the Plan or whether, on the other hand, the application should be treated consistent with the legal submissions of Ms Semple. We have commented upon Mr Gimblett's approach in the relevant section of

this decision dealing with what we term the bundling issue and will not repeat what was said at this point.

5.76 Then Mr Gimblett addressed the issues of whether the Proposal constituted a residential activity, the question of whether there was also a community corrections/community welfare component and the activity status of the proposal. Again we have commented upon the evidence of Mr Gimblett when dealing with each of these discrete issues in the relevant part of this our decision and will not repeat what was said at this point. Thereafter Mr Gimblett dealt with the planning framework and in particular the relevant objectives and policies of the Plan which relate to this activity before making an assessment of effects. Again the relevant parts of the evidence of Mr Gimblett are referred to later in this our decision when considering the planning framework and in particular the objectives and policies of the Plan and our assessment of effects.

Conclusion

5.77 In conclusion we repeat that the above is but a summary of the evidence given by each of the witnesses on behalf of the Department. We record that we have considered the summary of evidence, the full statement of evidence and rebuttal evidence in the context of our overall consideration of this application.

6. *Evidence of the submitters*

Introductory comments

6.1 Our account of the evidence given on behalf of submitters follows. We have not attempted to record every aspect of the evidence given by the submitters in question. Rather we have attempted to identify what we perceive as the most important elements of that evidence. Having said that, we want to make it clear that in reaching our decision, we have considered all of the evidence.

The evidence at the hearing / general comments

6.2 As noted above, the Proposal has drawn a large number of submissions in opposition and limited submissions in support of the

Proposal. Before embarking on a discussion of the evidence of submitters, which in deference to them we have attempted to record with a relatively high level of detail, we wish to make two comments of a general nature:-

- (i) we remind ourselves that the fact that there are a number of submissions in opposition, evidencing strong feelings against the Proposal, does not itself dictate the result of the application. The volume of submissions in opposition is not a factor by itself that we should take into account. It is the substance of the submissions, and not the number of them, which dictate the weight that we give to both the submissions in opposition and the submissions in support;
- (ii) a number of the submissions suggest that a facility of the kind contemplated by the Proposal should not be in a residential setting. It is suggested that there are other more appropriate locations for such a facility and that we should decline the application on this basis. It is not our task to consider that there may be more suitable sites which should lead to a rejection of the application. Our task is to determine whether the subject site is suitable, not whether there are more suitable sites elsewhere;
- (iii) finally, it is not the nature of our task to determine whether in locating the facility at the Bristol Street site is a good idea. There may be room for a number of views in relation to that. Our task is to consider the application in the setting of the provisions of the Plan. We are not faced with an open slate. Rather we are required to consider the provisions of the Plan as reflecting the position of the community to that point. This aspect of our consideration assumes particular importance when we consider the question of the permitted baseline and whether we should be guided by such a baseline.

Consultation and information

6.3 As we have noted when reviewing the evidence on behalf of submitters, a number of submitters have complained about what was termed misleading advertising of the Proposal, lack of information and inadequate consultation. We note that notwithstanding these criticisms, the submitters have now had an opportunity to present, and have presented a very full case to us, identifying what we perceive are all relevant features of their opposition to the Proposal. In those circumstances we are of the view that it is unlikely that the matters complained of by the submitters being lack of information and lack of consultation will have resulted in significant prejudice to them. In the circumstances we have determined that we do not need to make any finding in relation to the question of whether the information provided was inadequate or whether there was an adequate consultation for the reasons expressed above.

Innominate submitter

- 6.4 During the course of the hearing on 8 November 2021, we heard the evidence of an innominate submitter, having made orders as to confidentiality and publication referred to earlier in this our submission. What follows is a summary of the evidence given.
- 6.5 Mr X and his wife own a property immediately adjacent to the subject site and also own and live at a property in Ranfurly Street, Christchurch. In the interests of preserving confidentiality, we refrain from identifying the occupation of Mr X who presented extensive evidence in opposition to the Proposal.
- 6.6 Fundamental to the evidence of Mr X was his view that the evidence presented on behalf of the Department lacked balance, and that several experts had formed conclusions beyond their technical level or expertise and experience. His view was that based on his experience, it was not possible to predict the future actions of unpredictable violent men and to claim otherwise was unwise. This was a feature of his evidence, a central feature of which was that any gains or values were not important enough to justify the imposition

of what Mr X saw as significant risk. Mr X stated that the only acceptable outcome was zero risk with no collateral harm and he stated that this was not able to be guaranteed.

- 6.7 Further Mr X went on to state that there was no strategic or operational need to locate the facility in a residential area and that the avoidance of harm had priority over the provision of any benefit. Mr X said that crime and the fear of crime were real and important issues and that the facility would adversely affect people's quality of life and the character of the neighbourhood. He went on to state that that the Department had failed to complete comprehensive due diligence as to risk in identifying sensitive locations.
- 6.8 Mr X said that there was no evidence that Tai Aroha Hamilton out performed either Stopping Violent Services or He Waka Tapu, which currently deliver rehabilitative services to violent men in Christchurch. He said that the risks to the community had been understated and the risk mitigation strategies did not meet the highest precautionary standards of care that were required. He said that a house rule based on risk mitigation strategy was more suited to the four local girls' boarding schools than a facility housing 12 violent men.
- 6.9 Mr X went on to state that we would be naive to believe that the detention and rotation of what he termed violent, volatile criminals through the heart of a suburban neighbourhood would not cause any concern and that a 16 week course could unravel behaviours of a lifetime. Essential to the evidence of Mr X was his contention that the men who would be residents are violent and dangerous, that they offend without empathy and that they would not just bring their violence but what he termed "their lifetime of criminality". He said that they would be unpredictable and that, as he put it, the "warning signs are in neon".
- 6.10 Mr X went on to criticise the site selection processes. He said that the processes confused wishful thinking with reality, and commented upon the Property and Environmental Scan dated 3 August 2021 and the Property Assessment Evaluation. Mr X repeated the level of support which the Department said that it had for the Proposal and

went on to criticise the analysis of properties in the vicinity and their features by reference to the residents who live there.

- 6.11 Mr X went on to state that consultation did not occur before a decision had been made, and should have been, and that the consultation which did occur was fundamentally flawed.
- 6.12 With reference to similarities with the operations of the Bristol Street Trust, Mr X said that the residents in the Trust were part of the community and that a comparison with the Proposal was "simply disingenuous".
- 6.13 Mr X then went on to refer to the Tai Aroha facility in Hamilton. He criticised the establishment of Tai Aroha stating that it was not a case of clinical design, that it had been ad hoc, and that there had been no blue print or master plan. He said that neighbours had left the area and that the social report by the Department was silent upon the emergency relocation to the Huntly Marae and its performance of its new rural location.
- 6.14 Mr X then criticised the design of the building at Bristol Street, stating that for a number of reasons that it was unfit for the purpose intended for it by the Department. He emphasised the difficulty that could be expected to be experienced by the Department in supervising the site, having regard to its design and setting.
- 6.15 Mr X then went on to refer to the parking demand and traffic flow which could be expected on weekdays and was critical of Mr Chesterman's report in relation to this. He stated that there was no present issue with parking, clear footpaths and road user behaviour in the neighbourhood, and questioned why this should be created. He said that there was a likelihood that there would be a collection of smokers who would gather on the footpath before entering the building and the Department had no jurisdiction over this.
- 6.16 Mr X expressed concern about the inclusion of males as young as 18 into the programme stating that they would be likely to be under the influence of older violent men and could be recruited into gangs. Mr X was critical of the introduction of 18 year olds into the facility

stating that the behaviour of adolescents could not be accurately predicted.

- 6.17 Mr X went on to refer to the issue of gang membership and he questioned the role of gang members in the proposed facility. He suggested that it was likely that at least 20% of inmates would be gang affiliated and that this would increase. Mr X was critical of Dr Gilbert's failure to mention the impact which the gang occupancy in this facility could bring, commenting on a number of aspects of the evidence of Dr Gilbert.
- 6.18 Mr X went on to refer to his contention that criminal convictions of an offender would not mirror the totality of criminal offending, and that assessing the risk of an offender should be treated with extreme caution. He questioned whether Professor Polaschek could guarantee the behaviour of the men in question.
- 6.19 Mr X then dealt with the issue of sexual offending saying that whilst violent men with *convictions* for sexual offending would be excluded, many sexual offences went unreported, and that sexual violence was often an unreported side of inmate partner violence. He referred to the presence of women, including young girls, in the vicinity and expressed concern that it was highly likely that one or more of the residents would be a sexual offender.
- 6.20 Mr X went on to criticise the installation of a gym, stating that it was not normal to have such a facility in the location in question. He then went on to refer to the likely problems with security cameras not being able to focus on all areas, including public areas in the privately shared driveway. He noted that unmonitored security cameras were an ineffective security tool. He then contended that GPS monitoring, given the ability to interfere with devices and other factors, would not stop residents from offending. He went on to refer to assaults on staff of the Department in the 2019 to 2020 year, expressing concern about the implications of these figures.
- 6.21 Mr X then referred to the information from the Department in relation to incidents at Tai Aroha. He was critical of the information for reasons which he expressed in his evidence by referring to incidents which were managed by the Police, questioning how that

management occurred. He questioned the coincidence and accuracy of the reporting and effectively invited us not to rely upon the information in question.

- 6.22 Mr X was critical of the proposals for visitation stating that the Department had understated and deliberately minimised the impact of visits which he says are likely to increase because of the insistence by residents of rights of visitation. He was concerned about elements of visitor management referred to in his evidence, including problems associated with the parking of visitors. Mr X then went on to deal with health issues including the prospect that infectious diseases such as Covid may increase. He went on to refer to mental health issues asserting that the introduction of residents into the facility in what he terms a fragile community will "self-combust and destroy its social fabric". He asserted, contrary to the claims of the Department, that mental health illness issues will not be able to be fixed within the timeframes identified prior to residents being detained in the facility.
- 6.23 Mr X then referred to the assertion that after time the facility would become "ordinary" and that those neighbours would become apathetic to its existence. He strongly contested this view and asserted that the community would not simply forget about having the facility in the heart of their neighbourhood.
- 6.24 He went on to deal with privacy issues contending that the lack of curtilage, compounded by several of the neighbouring properties being either elevated or multi-level, made privacy management difficult. He stated that privacy issues at the Tai Aroha Hamilton site were limited because of high fencing and the large curtilage between the main residence and the footpath. In this context he said that young people with mild intellectual disabilities had a different lens than adult male criminals, and that what he termed "these violent men" would covet what they saw in the environs available to them. He reiterated that the Department could not satisfactorily remediate the privacy issue due to the proximity of its sites to many neighbours. He said that he did not receive an email sent to immediate neighbours relating to opportunities to provide additional screening, and was critical of the suggestion by the Department to install etchlite glazing in rooms in houses.

6.25 In conclusion Mr X emphasised that the residents of the facility were unwanted in the community for reasons which he expressed. He contended that the safety of the community could not be guaranteed when dealing with a risk that was predictable, volatile and violent. He then went on to refer to the consequences of violent episodes involving criminal behaviour and the serious injuries which have been, and can be expected to be, inflicted. In essence his view was that the behaviour of the inmates would be impossible to predict and that changes in behaviour could not be guaranteed.

Kyle Millar

6.26 Mr Millar spoke in support of the Proposal. Mr Millar resides at 22 Holly Road. He referred the Proposal as representing a "worthy endeavour". He commented that he did not live far from the subject site. He said that his grandfather had been a miserable alcoholic who had entered a resident programme which had turned his life around. He termed the impact of this being intergenerational. Thereafter the grandfather was a model to all which indicated to Mr Millar that behavioural problems could be dealt with.

6.27 Mr Millar went on to refer to the parking situation saying that he did not think that it was "brilliant". However he thought it was manageable and said that it was normally possible to find a carpark.

Chris Rennie

6.28 Mr Rennie lives with his wife at 37 Clare Road, less than 50 metres from the proposed facility. Their main bedroom window looks directly into the proposed facility through its Berry Street windows. Mr Rennie said that notwithstanding that he and his wife are close neighbours of the proposed facility, to-date they had never been contacted or consulted by the Department.

6.29 Mr Rennie went on to outline his work experience noting that in recent years he had specialised in crisis management. Having regard to his experience detailed in his evidence, he expressed the view that he was qualified to comment on the credibility of the applicant and the

trustworthiness during the project application process to-date from the perspective of a neighbour and resident.

- 6.30 Mr Rennie was very critical of the Department referring to the Corrections Minister's reference to Tai Aroha in glowing terms referring to the success which justified celebration. Mr Rennie said that Tai Aroha was not a success, but as he termed it, "as an abysmal failure". He referred to criminals escaping into the community and concluded that only a small number of those who completed the course went on to live a crime free life.
- 6.31 Mr Rennie went on to criticise the Department for, as he put it "hiding the truth" and "keeping us in the dark". He went on to criticise what he said was a failure to reveal that the proposed facility was to house "violent offenders". He said that he could not see any reference to the term "violent offenders" in the letters that the Department sent to residents and the PowerPoint presentation used at the community information sessions. Mr Rennie was critical of the fact that stories about escapes, or what he termed the "appalling recidivism rates" relating to Tai Aroha, had never been published. He was critical of what he said was an ignoring of requests for official information involving significant delays in providing the requested information.
- 6.32 Mr Rennie then went on to refer to what he termed "a rather complicated legal issue" for us to unravel relating to the question of whether or not residents were detained. In this context he referred to his move to the Clare Road property some three years ago and the interaction which he and his wife had with neighbours at the relevant time. He termed the community "hugely welcoming" because residents had reached out to each other. He wanted us to rule that the residents who would be kept in the proposed facility could not and never would be residents in our community in the ordinary accepted meaning of the word, and in the light of examples which he gave of what it was to be a resident in the community.
- 6.33 In conclusion Mr Rennie referred to his attendance at AA meetings in prison where he learned about the extreme abuse which a number of inmates had received. He concluded that regrettably and cruelly, these fellow human beings were damaged, inferring that this could

not be corrected. Mr Rennie asked us to consider whether the Department had fulfilled its Te Tiriti obligations to Ngai Tuahuriri and Ngai Tahi in trying to establish the facility in question.

Breanna Gowland

6.34 Ms Gowland resides at 11A Bristol Street. She said that her elderly aunt spent a significant amount of time alone and was anxious in the community. She said that she had concerns for her aunt who lived in close proximity to the subject site immediately across the road. She commented that the statistics for Tai Aroha were disheartening and that it did not seem that the facility had been very successful. She said that the inner-city suburbs harboured a substance abuse problem. There was a lot of exposure.

6.35 Ms Gowland questioned why other options could not be looked at by way of rehabilitation. Referring to the subject site, she said it was small, and that the grounds were limited, and that there were no options, for example gardening. She emphasised that there were other options, and that the Department should be looking at other options.

6.36 In answer to a question from Mr Lawn, Ms Gowland said that money was not well spent housing violent men opposite her aunt.

Debbie Rollinson

6.37 Ms Rollinson lives at 8 Clare Road. She is a member of the Network and a director of a local hotel.

6.38 The evidence of Ms Rollinson was centred around the impact that the facility might have on hotel operations but also on the wider community.

6.39 Ms Rollinson said that her father was terminally ill at the time when Corrections spoke to him until he became visibly upset. Ms Rollinson was upset that Corrections had not taken an opportunity to contact her regarding the facility. Ms Rollinson was concerned about what she termed the high risk of reoffending involving violence. She noted

that there were five entrances to her hotel, and that a very substantial sum had been spent changing locks because of persons entering the hotel when not lawfully entitled to be there. She said that she and her husband had been approached by people entering the property who had often been abusive and violent towards them. She was not only concerned about the safety of herself and her husband, but also of the staff. The staff came to the hotel early and had to park and then left late. Further Ms Rollinson commented upon her mother who lives at 27 Onslow Street, being alone in her house which gave rise to concerns about her safety.

- 6.40 Ms Rollinson went on to state that she was concerned about members of the community having to look out the window to view a facility with violent offenders. She thought that this would make them feel uncomfortable. Further she felt that the residential amenity of the area could be adversely affected involving increased traffic, lack of security, and an increased feeling of insecurity.
- 6.41 She went on to refer to what she termed a feeling of isolation from neighbours. She felt that the residents in the facility would not be a group of people sharing a common interest, inferring that they would not be regarded as part of the community. She felt that the residents would not be giving back to the community but would be a risk to the community. She was concerned that the residents may act in an aggressive manner or be verbally aggressive to persons walking around the neighbourhood.
- 6.42 Ms Rollinson contended that Corrections had no contact with her and that there had been a letter in the mail box bringing the Proposal to her attention. She was critical of the fact that there was a lack of knowledge in the area of the establishment of the facility. She said that the proposal did not take into account the effect on businesses and the effect on staff.
- 6.43 In answer to a question from Commissioner Lawn, she said that people had come through the hotel during the day and had come back and taken things from the hotel. Advice had been given to residents not to leave their keys in the car because of concerns about illegal behaviour.

Ron Duffield

- 6.44 Mr Duffield lives at 24 Bristol Street which is close to the proposed facility. He is a member of the Network. He spoke to his submission stating that he had lived in his property for some two years.
- 6.45 Mr Duffield said that the proposal had generated a high level of concern for residents, and that residents would feel less safe in their local neighbourhood, there being physical, mental and social and spiritual wellbeing adverse impacts. He took issue with the Social Impact Report on behalf of the Department where impacts had been assessed and was critical of the statement that the risk was low. He questioned the independence of Beca in providing the report in question.
- 6.46 Mr Duffield referred to the number of submissions in opposition to the Proposal. He was concerned that low risk sexual offenders may be introduced into the system and expressed concern about what he termed violent men living in a confined space with a very small outdoor living area. He was also concerned about the carparking situation stating that his biggest fear was that visitors would be delivered to the site by friends and family and these people would sit in their cars while their friends visited. He was concerned that his house would be a high risk for burglary.
- 6.47 Mr Duffield expressed concern about the resource consent notification on Saturday February 6 2021, stating that he did not think it was a fair representation of what was happening on the site because it did not mention that a facility for 18 violent men was involved. He went on to note that a new sign had been erected stating 18 violent offenders but felt that Corrections had been trying to play down how violent the men were. He felt that Corrections had "tried to sneak this facility through the system without notifying the public".
- 6.48 In answer to a question from Mr Lawn, Mr Duffield commented that a common theme was that the residents could leave the facility. He was concerned about the consequences if they did leave when there was no one to stop them leaving. He was fearful that they could leave at any time and that he was at highest risk.

Felicity Price

6.49 Ms Price is the wife of Chris Rennie and lives some 50 yards from the facility. She said that there were three matters which of concern to her:-

- (i) what she termed obfuscation. The Bristol Street facility would not be a friendly neighbour;
- (ii) she felt that the presence of the residents could represent a real danger to neighbouring residents;
- (iii) the residents would never be part of the community.

6.50 Ms Price said that at present residents always look into each others properties but the position would be different if the property housed violent men. She was critical of communications from Corrections. She said that Corrections had not advised her of what was proposed, even after the submission had been filed. She said that the wording of the advice received was "so bland" that what was represented was a nice community centre for men.

6.51 Ms Price went on to refer to the high rate of recidivism in the Tai Aroha centre. She was critical of comments made by the Member of Parliament, Mr Duncan Webb, who said that Corrections should be congratulated. She said that there was no reference to violent criminals. Ms Price felt uncomfortable that when walking past the facility, residents might think that they were being "sized-up". She was concerned as to what could be seen from bedrooms. She felt uncomfortable about the prospect that "eyes might be on me day and night". There would be a need to be meticulous to pull curtains across and to lock gates day and night. She noted that inmates would be able to look up and see how to access properties, and she felt that it was unfair that she had to be in a position to protect herself day and night.

6.52 She went on to refer to what she termed the failure rate in Tai Aroha and she questioned why what she termed a "failed experiment" should be foisted on the community. She referred to escapes with, as she put it, two involving violence.

6.53 Ms Price said that the inmates were locked away for a reason and questioned why the facility should be placed in a high-density neighbourhood with vulnerable people living in fear and behind locked doors.

6.54 Ms Price said that no one in Clare Road had been consulted about the facility.

Rupert Ward

6.55 Mr Ward lives at 42 Bristol Street, Christchurch, some eight houses away from the subject site. Mr Ward is a lawyer with expertise in mental health issues. He said that he was concerned that this facility was being put in a densely populated area, and went on to submit that the residents were dangerous, noting that a sentence of home detention was one step down from a sentence of imprisonment. He said that home detention was a serious sentence in response to serious charges.

6.56 Mr Ward was critical of the reports which had been submitted on behalf of the Department and said that they were not linked to what he termed "the humanity of the situation". Mr Ward commented that the facility was designed to be a friendly environment and he said that it was unrealistic to think that the residents were not going to be involved in drugs. He said that it was not possible to stop drugs going into this location. Mr Ward went on to state that the facility was a detention facility and that the restrictions were high. He said that the facility would not form part of the community and would not be part of St Albans. He said that the location had been chosen as a convenient location because there were sufficient bedrooms. He said that an alternative location with a bigger garden would be much more appropriate for what he termed "a bunch of males".

6.57 Mr Ward went on to express concern about his 17 year old daughter who had been through what he termed a "difficult time" having been very depressed. She had got over this but Mr Ward had reservations about informing his daughter about the Proposal noting that when he moved house he did not know about the Proposal. Mr Ward was concerned about what he said was the lack of a link in the reports

produced by the Department to the people that the Proposal will affect. He said that the proposal did not consider the health and wellbeing of the residents and the establishment of it was against common-sense.

6.58 In answer to a question from Commissioner Lawn, he noted that there needed to be a higher level of electronic restriction. As to whether the residents were supervised, he said that Corrections would never approve two people in one property and children on the property would not be considered. In answer to a question from Commissioner Lawn as to whether Mr Ward accepted that the facility was a rehabilitation centre, Mr Ward said that the building was of the wrong type and there was no garden or spaces for the male residents.

6.59 At this point Commissioner Hughes-Johnson asked Mr Ward a number of questions about the sentence of home detention. At the conclusion of the questions Ms Semple objected to Mr Ward answering the questions on the basis that he was not qualified as an expert and was, in effect, giving expert evidence. We have considered Ms Semple's objection and uphold it in relation to this part of the evidence. We observe that in any event we have sufficient expert evidence to consider providing us with the full information which we need as to the nature of the home detention sentence.

Randolph Grace

6.60 Randolph Grace is a Professor of Psychology at the University of Canterbury and he gave evidence which was strongly in support of the application. Professor Grace had over 20 years experience and research related to the justice sector and offender rehabilitation, and was clearly in a position to comment on the need for the facility and associated matters.

6.61 Professor Grace agreed with the evidence of Professor Polaschek and her assessment of the relative safety of the programme based on the Tai Aroha model, but made several additional points which supported the establishment of such a facility in Christchurch. He said that there was an urgent need for a facility such as that proposed in Bristol Street to provide treatment services and reduce incarceration. He

examined the alternatives to the Bristol Street facility, being serving a community sentence without supervision or being imprisoned for a period, and said that in either case the risk of reoffending for these men would be greater and public safety compromised in the long-run. He noted that being sent to prison increased the likelihood of future offending, referring to academic literature.

- 6.62 Professor Grace said that he understood that an outcome evaluation of the Tai Aroha programme was in progress and that the data did not so far provide clear evidence of reduced reoffending. He said that he had reviewed the evaluation and was familiar with the methodology. He said the sample size was small, which merited caution. He said, with reference to propensity score matching involving a comparison group, that he had doubts as to whether the comparisons provided a valid estimate of the treatment effect of Tai Aroha.
- 6.63 Further Professor Grace went on to state that location in a residential area was very important for rehabilitation purposes. He said that successful reintegration to the community was critical and that the Bristol Street facility was needed urgently to provide an alternative to incarceration for men in the Canterbury region. He said that because Corrections had already shown that it could operate the Tai Aroha/Hamilton with no harm to the community, the rationale for the Bristol Street facility was compelling and urged approval of the proposal.
- 6.64 In answer to a question from Commissioner Lawn, as to whether having 12 men in a facility together was a help or hindrance, Professor Grace said that once the men started to gain insight, this would be reinforced from the group, thus supporting the need for a group. Commissioner Lawn then questioned whether there was any benefit in the facility being placed in a residential area. Professor Grace referred to contact between men and their family and felt that life was more normal for them in a facility in a residential area.
- 6.65 In answer to a further question Professor Grace said that some would leave the programme. Professor Grace thought that there was a minimal risk and that most would be going back to see their family.

He said that there were no circumstances where a resident had assaulted another person, stating that there was electronic monitoring and that any escape would be dealt with within minutes. Professor Grace emphasised that there was a long-term safety issue concerned to prevent people going back to prison.

- 6.66 In answer to questions from Commissioner Hughes-Johnson, Professor said that it was early days before one could state that the Tai Aroha programme was successful or not. He went on to state that the figures as to reoffending needed to be read with caution. He said that the figures may have involved technical violations and, importantly, said that the figure did not mean that the treatment had not been effective. There need to be a long-term follow-up.

Rehua Marae

- 6.67 We heard from representatives from Te Whatumanawa Maori Tanga O Rehua Marae. David Ormsby, the chairperson of Rehua Marae, who was accompanied with a fellow trustee, Russell Caldwell, and the newly appointed manager of the Marae, Jim Hauraki were involved.
- 6.68 The starting point was that the representatives could not presently support the Proposal and opposed the granting of a resource consent.
- 6.69 There was reference to the background to the establishment of the charitable trust controlling Rehua Marae which had its origins in the 1950s. The representatives went on to comment upon consultation and relationship with government agencies and working in partnership, and stated that Rehua Marae did not believe that a foundation relationship existed with the Department of Corrections and Kāinga Ora in order to support the proposal. It was said that if a solid relationship or partnership existed with these agencies then dialogue would have occurred before the property in question had been acquired and this had not occurred. It was said that the trustees were yet to be officially engaged in any form of dialogue in the matter. It was stated that there was deep concern that it was stated in the social impact assessment completed by Beca dated 28 January 2021 that stakeholder interviews had been undertaken with Rehua Marae. Whilst it was acknowledged that Beca did talk to several of

the members of the Marae, this did not represent a formal consultation with Rehua Marae. Further, Rehua Marae was supportive of providing a venue to the Department of Corrections to house community engagement events, but there was a need to state that providing a venue could not be considered as support for the Proposal.

- 6.70 The representative stated that whilst the Proposal was described as culture responsive, there was little information provided to support the assertion that the programme was aimed at men who had longstanding personal iwi links in the South Island. As such it was said there was minimal room for support of such a kaupapa. Further, it was said that what worked in Hamilton would not necessarily work in Christchurch.
- 6.71 In the evidence it was stated that since lodging a submission there had been encouragement by the pro-active responsiveness of the Department where a hui was held in May 2021 with key managers from both Corrections and Kāinga Ora. This was noted as being positive.
- 6.72 It was stated that there was a concern that the community remain safe and reference was made to two actual and recent experiences of the marae where there had been a request by the Department and Oranga Tamariki to provide work placements for clients doing community services. These had not been positive because in both cases reoffending occurred at the marae and within the immediate neighbourhood. A third instance was said to be where there was a client with convictions for domestic violence. After six months with the marae the person was helped to leave pending an investigation about further offending against wahine associated with the Marae.
- 6.73 In summary Rehua Marae are yet to be persuaded that their concerns have been covered, the concerns being summarised as the quality of relationships with government agencies and working in partnership, a culturally responsive programme, whanau housing and whanau population demographics, economic and fiscal issues and whanau psychological and physical wellbeing. It was said that Rehua Marae was still open to dialogue.

Brett Stuart Marshall

- 6.74 Brett Marshall purchased a property at 1/12 Berry Street, St Albans, in the mid-1990s. The property looks directly over the subject site. The property is rented.
- 6.75 With reference to negative impact, Mr Marshall was critical of the social impact assessment and doubted that the report writers fully understood the views of the residents as to the impact of the Proposal. He was critical of the suggestion that people would be concerned during the beginning but that "they will get used to it". Mr Marshall said that for people living in places other than Christchurch what was stated may "ring true", but having regard to the stressful events which had occurred in Christchurch since 2010, the mental stress that a proposal such as the Proposal created was far stronger than would have been the case had both the earthquakes and terror attack not been experienced.
- 6.76 Mr Marshall was critical of the case study assessment of Te Aroha in Hamilton where there appeared to be the suggestion that a local resident was overly sensitive in relation noises and negative language. He said that negative behaviour from neighbours should not just be accepted, and he disputed the suggestion that there would be a reduction over time. He said that there would only be a reduction because people felt powerless and "just rolled-over by the Government and be forced to accept it".
- 6.77 Mr Marshall went on to criticise Corrections for the consultation with him, commenting that his name was incorrectly stated and that the correct name was not confirmed. He went on to dispute the suggestion that there would be a continuation of the perception that there was a risk to safety, stating that this was not a perception as there would be an ongoing risk to the safety of those for as long as the facility existed.
- 6.78 Mr Marshall went on to refer to a negative impact on house prices and rental values and potentially the ability to rent properties.

6.79 In concluding, Mr Marshall resisted the suggestion that his comments should be viewed as nimbyism by some, stating that he was the commanding officer of the New Zealand Defence Force's Youth Development Unit, and whilst the courses that he was involved with saw positive improvement in the lives of many young men, it was not uncommon for there to be serious incidents due to actions of an individual, resulting in total lockdown of the facility and staff being put directly in harm's way. He said that there was an incredibly high probability that there would be a few whose behaviour would result in serious incidents and he strongly opposed the application.

Gretchen Jane Hart

6.80 Ms Hart's parents have owned a property at Berry Street, immediately opposite the proposed site, for over 25 years and Ms Hart has stayed regularly at their property. The building at the subject site faces mostly out to Berry Street and directly onto the home that Ms Hart regularly occupies. Ms Hart stated that she is the mother of two teenagers who have regularly walked back to the Berry Street flat by themselves. Ms Hart is a practicing lawyer and is sympathetic to people in the court and the prison system as she works as a youth advocate and has practised in the field of criminal law a lot in the last 21 years. She was concerned about the building on what she terms "such a small site in a densely populated residential area, magnifying the effects from the facility".

6.81 Ms Hart went on to express her concerns with the Proposal, referring to what she values about the Bristol Street / Berry Street area in terms of community values, and she then commented upon how she perceived that the problem might affect those values. Of primary concern to her was the issue of privacy in the house with a large number of offenders and staff being on-site as well as visitors. She expressed concerns about the use of the outdoor area in the house when facing the facility and is concerned about hearing noise and smelling cigarette smoke.

6.82 Ms Hart then referred to the number of people coming and going from the site due to the staff numbers, and expressed concern in relation

to the issue of parking, noting that a number of people including staff will need to park on the street and that parking "will be harder". She stated that the application did not fit within the community, and questioned how the residents are going to be part of the community. She stated that relationships would not be built with them because they were still detained and there was no possibility of a sense of community forming. She noted that a problem for neighbours is multiple people outside and group swearing which she said is referred to in the report from Tai Aroha.

6.83 Ms Hart went on to refer to the important issue of whether the fears would dissipate. She stated that the idea that the fears that she holds will not be real in six to twelve months if the Proposal goes ahead "are preposterous". She referred to issues that have occurred in Hamilton and expressed the fear that the issues would be greater in Christchurch because the site was so small. She stated that there is only a tiny buffer of outdoor area around it and expresses concern that in a high-density residential area without the benefit of space between the facility and surrounding residence the issues would affect more people and be greater than in Hamilton.

6.84 Ms Hart then dealt with the issues of consultation. She was critical of the lack of understanding of the concerns about privacy expressed by residents and criticised the suggestion that flats at Berry Street should "get screens put on our windows". She suggested that this was a ridiculous way to resolve concerns. Ms Hart went on to express the view that consultation was not carried out which allowed engagement, and that the visits to the home never came at times when the family was at home, and telephone availability was only in office hours and even then, she said that there were no answers when she called in spite of leaving messages. Ms Hart expressed the view that if the Department wanted to keep trying to help offenders, which she supports, this should be done in a rural or industrial area where the Department might still make a positive change to those in the programme and avoid the negative change for people in residential neighbourhoods. Ms Hart stated that the facility was not a residential facility, it was effectively a detention facility.

- 6.85 Ms Hart then drew on her experience as a criminal lawyer, stating that home detention was not an option if anyone else serving a sentence was at the address in question. She questioned whether the experts who had given evidence really knew how home detention worked in reality. She suggested not. She then referred to the lack of supervision in a usual home detention situation where she said probation officers rely on compliance based on the GPS signal not being activated. She was critical of the level of supervision which had been suggested for the facility, suggesting that the supervision of numerous offenders on a small site needed to be far higher and that it would be worrying if it was not.
- 6.86 Ms Hart then went on to refer to elements of the home detention sentence, stating that it was not only rehabilitative but punitive. She then referred to provisions in the Sentencing Act 2002 as to the constraints which are imposed upon persons serving home detention. She stated that neighbours living in close proximity would not be able to give informed consent to a person leaving the facility, as would be the case for a person living at a house in company with another person.
- 6.87 Ms Hart then questioned why a residential location was so important stating that there are other areas in the city which had proximity to the services described and that there was no need for a residential area. She then made further remarks about the sentence of home detention and suggested that a well-intentioned department should be delivering these sentences in prison while people are serving their time. It should not matter where they are delivered. It was the content that was important.
- 6.88 Ms Hart stated that no consideration had been given to the subject site being a place for use of a day programme only where an intensive programme could be run without offenders living en masse at the site 24/7. She questioned evidence to the effect that the residential location matters to create change, stating that there would be no interaction and that the residents in the facility would be able to observe neighbours coming and going from their homes without restriction.

6.89 Ms Hart was critical of the ongoing issues at Hamilton and referred to issues reported by the neighbours in Hamilton and the recidivism rates. With reference to the evidence of Dr Polaschek, Ms Hart questioned , when offenders could be identified at five years old , it was being left until persons were repeat violent offenders to address issues and put supports in place. Ms Hart was critical of the reliability of the assessment of the measure of success of the Hamilton facility.

Baden John Ewart

6.90 Mr Ewart lives with his wife at Flat 3, 17 Bristol Street, St Albans, immediately opposite the proposed facility. Mr Ewart and his wife have lived at this address since 1996 and are familiar with the history of the neighbourhood. Both oppose the application. Mr Ewart has been nominated to speak on behalf of the Network. He gave an account of senior roles that he has had in employment including (recently) Deputy Chief Executive of the Canterbury Earthquake Recovery Authority. By virtue of his work experience, Mr Ewart was familiar with government administration processes. He stated that his is a typical New Zealand family with a mixture of races and an acknowledgement that some spent time prison, perhaps because of their addiction to drugs and criminal lifestyles.

6.91 Mr Ewart was critical of what he said was a failure of the applicant to approach the steering committee of the Network nor any of its representatives on any matter. He said that the members of the Network found themselves "excluded observers of a process which is substantially impacting on our lives, while effectively ignored by all the participants whose opinions seem to matter". This led to the formation of the Network. The Network decided to decline to respond to the landscaping proposal because that would provide the applicant with an impression that the Network was prepared to accept the Proposal subject to some-what superficial conditions.

6.92 Mr Ewart went on to discuss the sentence of home detention, stating the view that detainment is the fundamental characteristic of the sentence of home detention. Mr Ewart relied upon what he said is the plain language of the exclusion in the Plan to the effect that defenders sentenced to home detention are legally *detained*. He went on to

consider the meaning of the word *exclude* in the context of the residential activity definition stating it is illogical to argue that it means something other than to exclude – i.e., to keep out, deny access to, prevent the occurrence. He considered the Council’s legal advice was correct, and that while attending the proposed programme the offenders are detained for the purposes of the Sentencing Act 2002, and because offenders were to be *both* detained and supervised the two limbs of the Plan exclusion were satisfied.

6.93 Mr Ewart then discussed the request for official information noting a number of requests for information which we will not repeat. He recorded the information received and summarised the salient points of that information. He then drew conclusions from the material received. He referred to the appropriation by the Government of substantial funds to fund the provision of accommodation in the community in which to house offenders because of the shortage of suitable houses available in which offenders may serve their sentence including home detention. He noted the number of placements anticipated and the facilities in contemplation. He referred to concerns by Corrections officials that the Council would exercise its planning obligations in a way which would inhibit the strategy to locate many similar detention facilities in residential areas and accordingly a plan was developed in collaboration with Kiānga Ora officials to accelerate the purchase prices of suitable properties to get ahead of the ability of the Council to respond to the intended expansion of community detention facilities.

6.94 Mr Ewart then went on to refer to the health and safety performance at the Tai Aroha facility noting the official information which had been obtained relating to this. The documentation requested had been refused by Corrections on the grounds that collecting, combining and collating the information would require a significant time and resources. Mr Ewart concluded that Corrections had the opportunity to produce evidence to support its contentions of a well-run and successful operation but “decided it was too much of an effort to do so”.

- 6.95 Mr Ewart then referred to official information which was obtained relating to the measures of success of the Tai Aroha facility. There was reference to positive results on recidivism for residents on home detention but not for residents on a sentence of intensive supervision, and improved impact on recidivism rates for those who participated in Tai Aroha after the "bedding in" period. Further he referred to meaningful changes in the psychological functioning of the programme graduates, a consistency of good practice and reference to the involvement of residents while living at the property in a programme to support them to return them to living in the community.
- 6.96 Mr Ewart then referred to the reasons to select Christchurch for this activity expressing the opinion that the selection of the Bristol Street site was simply to find a place as quickly as possible to meet a shortfall in supply of suitable houses for offenders sentenced to home detention. He said that it seemed clear that this application was a test case and that the hearing would set the scene for future applications of this type.
- 6.97 Mr Ewart was critical of what he said was the failure of Mr Clark to front to the community at any stage and said that the members of the Network had no confidence that Mr Clark would deliver on his promises to the members of the Network.
- 6.98 Mr Ewart then discussed the Bristol Street community, outlining the salient characteristics of that community including the sense of community, the coherent character of the residential area and the increasing density of the area as older dwellings made way for newer dwellings. Further there was reference to the proximity to town.
- 6.99 Mr Ewart then went on to discuss the opposition to the proposal which we have already detailed in this our decision. Mr Ewart stated that the presence of the facility would drive many changes to the way that residents lived and that he and his wife would have to modify how they lived on their property. He said he had no confidence that the numbers in the facility would not swell should it go ahead. He referred to the fact that whilst detainees would be able to leave, residents would be unable to leave and that the experience of the detention

facility would be present for all time. He referred to the number of new offenders who would arrive each year, the prospects that they may offend and the dismissal by Corrections of concerns regarding safety. Mr Ewart was critical of the concerns being described as anticipatory and said that the SIA did not provide empirical evidence that the concerns would diminish over time, but that it anticipated a secure and safe future for the residents without offering any substantial evidence.

- 6.100 Mr Ewart's evidence then went on to discuss consultation and the SIA. In summary he was critical of the independence of the Beca Report and the steps which had been taken by Beca to ascertain the views of residents, which he says were inadequate. There was a criticism of the lack of reference by Mr Clark to concerns raised by a number of people, also what he said was the failure of Mr Clark to mention the solicitation of support from, in particular, the local MP, Dr Duncan Webb. He was critical of Dr Webb's criticisms of those opposing the facility. He then went on to refer to the selection process for residents stating that because of the effects of that process, there was "no demand driver for creating a detention facility in Christchurch, given the limited number of persons who would be likely to qualify".
- 6.101 Mr Ewart then went on to deal with the issue of what he termed "competing harms". He contended that there was nothing in the material of the applicant which discussed avoiding or minimising harm to residents from the facility. Mr Ewart went on to state that many residents reported that they would change their daily routine to avoid the facility and otherwise modify their behaviour, needing to be hyper-vigilant when out on Bristol Street. He contended that for some people it would exacerbate anxiety and feelings of both loss and isolation. He referred to unsupervised outings in connection with which Mr Ewart stated that the residents would need to adopt a risk avoidance strategy. He went on to express concern about controlling contraband like drugs.
- 6.102 He referred to a memorandum from Dr Cording in which she stated that the level of risk posed to residents in the immediate area of the proposed facility was likely to be higher because of the introduction of the facility but that there was a certain level of risk posed by any

unknown person moving into the immediate neighbourhood. Mr Ewart stated that it was fatuous to argue that unknown persons moving into the immediate area posed a risk and explained his reasons for that statement. He stated that violent offenders detained at the facility would not be introduced to residents nor the residents to them and there would be no knowledge of the circumstances which led to detention. He went on to refer to more facilities like that proposed for Bristol Street being needed in New Zealand but stated that unfortunately the approach taken by the applicant and Corrections had been "opaque, arrogant and duplicitous". He said it was not surprising that there had been people who had reacted strongly (to the application).

6.103 Mr Ewart then went on to refer to success. He noted the reference in the 2019–2020 Annual Report of Corrections which refers to the success rates of (inter alia) rehabilitation programmes. He expressed the view that the Annual Report may overstate the effects of the programme on detainees referring to the Tai Aroha experience stating that the assertions of success of that programme appear to have been overstated. He then referred to the evidence of Dr Polaschek acknowledging that she was clearly an expert in her chosen profession. Mr Ewart referred to extracts from her evidence relating to the success of programmes and then went on to state that Dr Polaschek may be galled to read that an independent evaluation (of the Tai Aroha programme) described it as ineffective in achieving the aims which it had set itself – to rehabilitate and reintegrate carefully selected violent offenders. As to attempts by Dr Polaschek to assuage security and safety concerns raised by neighbours, Mr Ewart stated that Dr Polaschek had taken a very narrow view of the risk of neighbours and not considered the effects short of violence assaults, or of effects by externalities arising from the use of a building in a dense residential neighbourhood as a detention centre. He expressed the view that placing violent offenders into a building in Bristol Street appeared likely to create the very conditions which both she and Dr Cording described as being likely to be less successful.

6.104 Mr Ewart then went on to refer to strategic and operational need. He referred to Dr Cording's comments on the need for the proposed

facility to be in a residential location. He said that it was clear from the intended security arrangements described by the applicant that the detainees would not be permitted to interact with the local community in ways which developed positive, supportive social connections. He concluded this section of his evidence by stating that locating this sort of detention facility in an area closer to the communities in which the violent offenders lived when not serving their sentences would more closely correspond to Dr Cording's logic.

6.105 In concluding remarks, Mr Ewart summarised the general thrust of his evidence concluding with the remark that the applicant and Corrections, their experts, their supporters, the violent offenders and their families get to go home after the interaction with the site, but the neighbours of 14 Bristol Street will not be able to get away because they will be committed.

Dayne Ian Drummond

6.106 Mr Drummond is chair of the Network and also an individual submitter. He lives with his wife and two daughters at 22 Bristol Street, next-door to the proposed facility. His daughter's second storey bedroom looks directly down into the courtyard and into a number of the bedrooms at the proposed facility. Mr Drummond gave an account of an approach by representatives of the Department of Corrections to advise of the facility. Because of concerns about the facility and the extent to which neighbours had been informed, the Network was subsequently formed.

6.107 Mr Drummond went on to comment on the volume of documentation which he described as "overwhelming" and the extent to which both he and his wife were able to attend meetings to obtain information about the proposed facility. He was critical of the response of the representatives of the Department to questions and went on to state that he did not accept an invitation to meet with representatives of the Department to discuss landscape changes because he thought this was a token gesture and because no amount of landscaping would deal with the prime concern of himself and his wife which was the nature of the activity.

- 6.108 Mr Drummond went on to describe the community at Bristol Street, commenting favourably upon the relationship with neighbours. As to residential community and character, he stated Bristol Street was a quiet street and was concerned about noise problems associated with the proposed facility. He was concerned about offenders being allowed in the courtyard outside his daughter's bedroom with music playing and the potential for bad language and loud voices until 8pm, given that his daughters went to bed at 6.30pm each night. He went on to refer to his concerns associated with his daughter's bedroom looking directly into the courtyard and into a number of bedrooms at the facility. He did not see any of the proposed mitigation measures, including planting and etchlite glazing as being acceptable.
- 6.109 Mr Drummond went on to outline the reasons for opposition to the proposal which mirrored the concerns which had been expressed by the residents in evidence to this point. The concerns can be summarised as a loss of feeling of safety, a loss of sense of "togetherness", a fear from an awareness of the nature of the facility and concerns about what he termed the "ever changing" identity of individual offenders. He referred to the comments of Dr Cording as to the increased level of risk in the immediate vicinity of the proposed facility and questioned why the community should carry this high level of risk. He was concerned that the proposed site would become a "black hole in the centre of our community", meaning a place that would be avoided. As to positive effects from the proposed facility, he said that nearly all of them related to the offenders not the local community.
- 6.110 Mr Drummond went on to refer to concerns about visitors to the facility, questioning how their movements would be monitored and managed and noted that a significant degree of monitoring would place a high demand on staffing capacity at the facility. Mr Drummond had a particular concern about his daughters riding bikes adjacent to the facility when strangers were passing through.
- 6.111 Mr Drummond then went on to express concerns about risk to the community. He said that the Department appeared to define harm as the risk of an offender interacting with a member of the community before they were apprehended by the Police, but Mr Drummond and

his wife considered harm to be broader than this and encompassing behaviour such as strange men signalling or pointing at their daughters while they were in their bedrooms and other associated behaviour. He did not agree that anticipatory anxiety would diminish over time and stated that it would only take one event for anxiety levels to be re-heightened and he anticipated that anxiousness would spike every time there was an event such as he described in his evidence. He commented upon the number of high-risk offenders that would have been through the proposed facility by the time his youngest daughter was 18, and considered the cumulative risk events over the 16 year period in question to be greater than minor. He referred to the Waikato facility incidents of offenders leaving the Tai Aroha Waikato facility and was concerned about the risk of absconding from the proposed facility which he did not accept was low. As to the timeframe in which Police could act, he said that there were differences in distances to the nearest Police station with the Hamilton Central Police Station being one block away from Tai Aroha whereas the nearest Police station from the proposed facility at Bristol Street is the Christchurch Central Police Station which he said is 2.5 kilometres away.

- 6.112 Lastly Mr Drummond referred to eligibility for the programme and was concerned that the eligibility criteria could change which could make things worse. He went on to express concern about assessing "significant" untreated mental health or addiction issues and questioned when meth addiction was considered "significant". He concluded by stating that he never imagined that he would end up with a detention facility next to him.

Emily Taylor

- 6.113 Ms Taylor is a member of the Network and lives near Bristol Street having lived in the area with her young family for five years. She said that her house was close to her parents' house and grandparents' house and that the area was very family orientated. She described the characteristics of the area with a sense of neighbourly connection.

- 6.114 Ms Taylor went on to refer to her knowledge of the resource consent application, commenting that she and her husband were never visited by the Department nor any leaflet dropped into her letterbox. She could not understand why she had not been consulted. She was also critical of the terms in which a letter addressed to the householder, which she said was only put in some letterboxes next to Bristol Street, was written. She said that there was no mention that the men in question would be serving a sentence of home detention and that they had a 75% chance of serious violent criminal offending within five years. She was critical of the lack of invitation for the community to ascertain information and said that she had spent a substantial period of time researching the application.
- 6.115 Ms Taylor went on to outline her concerns with the proposal centered around the fear she said she felt when she found out about the proposal, not only for herself but also for people in the community. She said that people in the community had gone through a lot and suffered a lot mentally and emotionally through the events which had occurred in Christchurch, and should not be burdened with a facility to house serious violent criminal men. She was concerned about the effectiveness of electronic monitoring bracelets and expressed concern about the offences that the men had committed in order to have received a sentence a sentence of home detention. She also expressed a concern that there would be lack of knowledge about whether men had sexually assaulted another person, and there could be no guarantee that they had not, heightening the risk. She referred to concerns about the mental health of the community adjacent to the facility. She went on to criticise the social impact assessment noting what she said were limited responses from a small area of the community. She said that she was close to the proposed facility and had not received a letter in association with the social impact assessment. She was critical of that assessment because of lack of engagement with the community. She referred to the community bearing the burden of the facility but that it would not bring anything positive to the community.
- 6.116 Ms Taylor went on to refer to the community and what she valued about it and how the proposal might affect those values. In essence

her concerns were that moving around the streets would concern her if the facility were to be established. She said that the proposal was not good for her mental health and that for the past 11 months she had felt very anxious about it. She referred to not feeling safe going for walks if the facility were to be established and expressed concern for other people in the community. She went on to comment upon visitors to Bristol Street expressing a fear that there could be other criminals, including gang members, coming into the community. She felt that surveillance in the community due to the proposal would be oppressive.

- 6.117 Ms Taylor then went on to refer to traffic effects, producing a number of photographs of parking areas adjacent to the proposed facility. She said that Novo Group had chosen times where there were very few cars parked on Bristol Street in preparing its report. She said that she lived in the area and referred to the photographs she had taken and said that most days there was no park to be found. She said that the parking on the streets was used by residents and members of the community. Ms Taylor went on to refer to daily trips by delivery vehicles which she said would be disruptive on Bristol Street.
- 6.118 Ms Taylor disagreed with the comment of Mr Clark that "these men can learn from our community" stating that the men would never be part of the community and that they needed to be put in a supportive community. She went on to refer again to the issue of fear for her mental health and felt that this fear would continue for as long as she lived in her present house. She said that because she had not been interviewed, no person on behalf of the Department could say that she would not feel this way.
- 6.119 Finally Ms Taylor referred again to the issue of the lack of consultation with her. She went on to refer to incidents of absconding at Tai Aroha in Hamilton. She said that the Department could not understand the qualities, attributes and features of her community because they did not speak to the majority of that community. She concluded by stating that the Department had not done enough to understand her community and so it could not understand the effect on members of the community.

Lucy Cross

- 6.120 Ms Cross is a member of the Network and lives at 7 Bristol Street having lived there for eight and a half years. She has also lived in the community for a number of years. Ms Cross is the mother of two girls and gave an account of the attraction of the area from the point of view of living there.
- 6.121 Ms Cross gave an account of the extent of opposition to the Proposal. Having explained the steps which she took to obtain information about the Proposal, she then proceeded to express her concerns. She said that the Proposal had caused great anxiety for herself and her husband and explained the effect that it had had on her. She said that her sister-in-law had left the area because of the Proposal, that she felt unhappy about this, and went on to express fear for the sake of her children and regret that she moved them into the area in question.
- 6.122 Ms Cross then went on to refer to the community and what she valued about it. She emphasised the real sense of community, as had other witnesses. She went on to explain how the proposal might affect the values. She said that the proposed facility would change the way people felt and acted. She commented that the detainees would not be interacting with the community and neither should they. She expressed concern about interaction with (in particular) children when they were playing in the vicinity of the facility. She expressed concern about safety and felt that her young girls would not be able to do the activities they enjoyed on Bristol Street once the facility had been established.
- 6.123 She went on to refer to psychological trauma caused to her because of fear of the facility. She then commented upon the contention of the Department that she and others would "get over the fear". She said "this feels so dismissive and patronising. It makes me feel irrelevant". She criticised the Department for knowing better than she did how she would feel about the Proposal. She said that she would not grow accustomed to the facility, that each new defender would bring something new which created unpredictable activity and the community would all live in continuous fear of the unknown. She said

there would an inability to build trust given the changes which would occur in personnel at the facility. She said that, unlike previous occupiers of the Bristol Street premises, the residents of the Bristol Proposal would never be part of the community. Further she went on to express concern about Saturday family visits commenting that this made the community feel vulnerable having persons from outside the community "loitering outside our homes".

6.124 Ms Cross went on to refer to the issue of consultation, being critical of it, making particular reference to the letter drop. She said that when speaking to the Corrections' representative, there was little or no empathy or understanding of how she and her family and community felt. She stated that she also attended the consultation at Rehua Marae when she said that there were no reasons given as to what the benefits to the community would be of the facility. She said that when she commented that she was fearful about an offender coming onto her property, she was assured that they would not and that" the best security would be is to "buy a dog".

6.125 Ms Cross went on to state that she had completed the Beca survey online but never heard from the company, finding this very frustrating and, as she termed it, "unprofessional and disappointing to say the least". She was also critical of the definition of the "affected area" in the social impact assessment stating that not even her neighbours that she backed onto, located on Onslow Street, were classed as being in the "affected area". She felt that Beca had avoided going to the west so as to avoid two schools, being St Margaret's College and the Christchurch Girls High School hostel.

Nicola Drummond

6.126 Nicola Drummond is a member of the Network and lives at 22 Bristol Street with her husband, whose evidence we have already commented upon. Her evidence reflected a number of matters which had been raised by her husband.

6.127 Ms Drummond gave an account how she came to find out about the proposed facility and said that she had not intended to speak at this hearing but that she felt that her husband did not grasp the vulnerability of how women would feel with violent men living next

door, given that she was in the house a lot of the time, sometimes at night on her own with two young children to also keep safe. She said that the reduction in the number of people who were prepared to speak out the proposal were because many were saying "they are burnt out and don't have energy to speak at the hearing anymore".

6.128 Ms Drummond went on to refer to her residence at Bristol Street and the family dynamics as they affected occupation of the house. She said that she enjoyed being outside and going for runs around Hagley Park and loved living on Bristol Street, having bought the house as "our forever home".

6.129 Ms Drummond went on to describe the neighbourhood, repeating what others had said about the sense of community and the good relationships with other neighbours. She also referred to the sense of security. She then went on to comment on the effect that the establishment of the facility would be likely to have upon her. She said that she felt safe now in the house but that this would change if the facility went ahead, commenting that the residents of the facility would have no connection with the community because they would not be there long enough to build a relationship with members of the community. She went on to comment about her concerns of meeting men on her walks and stated that she would probably be less likely to walk into the park with her girls and would be inclined to drive the car. She said that she would not go for her run around Hagley when it was dark because she would feel too vulnerable to do so.

6.130 Ms Drummond then went on to refer to the parking situation stating that Bristol Street was a quiet street with minimal traffic. She said that this would change and that the traffic would be "relentless". She also said that the noise levels would rise and that this was a concern to her. She said that if the facility opened she would need to keep her daughter's bedroom window closed to stop hearing residents talking and was concerned about hearing bad language or the sounds of a fight if one broke out. She said that the aesthetics of her house would need to change and was strongly opposed to the suggestion of the Department that etchlite glazing should be placed on the windows, commenting that it would ruin how the house looked. She had concerns about how she would explain to her daughters about the

facility, who lives there and why they were being located in Bristol Street.

- 6.131 As with others, Ms Drummond commented that she would never get used to or adapt to the residents arriving onto Bristol Street, stating that it was not a short-term worry but one that would be with the community for as long as Ms Drummond and her husband lived in their house.
- 6.132 She went on to have a concern with visitors visiting offenders and expressed concern that the facility could become a gathering place for friends of the offenders. She said that the statement in the Beca Report that concerns would fade in 6-12 months was unfounded and she could not understand how this conclusion was reached. She said that the harm both emotional and psychological with the proposed facility was very real and the fear was coming from a genuine concern for the community, especially for young families like her own and elderly residents that lived there.
- 6.133 Ms Drummond went on to criticise the consultation relating to the Proposal. We will not repeat what she said but summarise the position by stating that Ms Drummond believed that Corrections had "not communicated very well". She was also concerned about the fact that the facility could have proceeded without any consultation. She went on to state that considering her experience with the Corrections she would find it difficult to trust and have confidence in information provided to her going forward. She concluded her evidence by repeating her concerns about sleepless nights and worry relating to the establishment of the facility.

Ngairé Duffield

- 6.134 Ms Duffield said that approximately three years ago she and her husband built a home on Bristol Street next door to the rehabilitation facility. She commented that previous occupants of the subject site "were a pleasure to have as neighbours" and were linked to the community.

6.135 Ms Duffield that since retiring almost two years ago, she had enjoyed spending time at home and built-up confidence to walk a dog to Hagley Park and enjoy interacting with people. She said that this had not always been the case because she had lived, as she put it, "quite a reclusive sheltered life in the past due to suffering anxiety and insecurity issues all her life". She said that she had also experienced someone trying to break-in to her home at night and had witnessed domestic violence right next door. She said that upon hearing the proposal she had trouble sleeping at night and said that the impact on all residents would be "huge". She said that she could not imagine being able to relax on evenings during the week when her husband was home late and that the residents had a right to feel comfortable in their own homes and not be, as she put it, "living on edge" waiting for something to happen.

Peter John Croft

6.136 Mr Croft lives at 8 Venice Street, Martinborough. In his general comments he referred to what he termed the difficulty which Corrections had experienced in siting proposed facilities in local neighbourhoods and he said that the Bristol Street proposal was typical. He said that we should ignore all of the submissions of Corrections which did not deal directly with the issue which he said was on the table, "Why 14 Bristol Street?" and he questioned why what he termed the planning rules should be ignored.

6.137 Mr Croft then turned to discuss a number of matters relating to the Proposal. He said that what was involved was not residential accommodation but more akin to an educational and business facility and questioned why it should be established in Bristol Street. He went on to refer to the Tai Aroha facility in Hamilton and the review of that facility which he termed "hardly glowing". Mr Croft then went on to refer to concerns about the impact on residents in the vicinity of the facility and said that not enough thought had been given to them. As to support and supervision, he felt that the proposal involved inadequate supervision and questioned whether staff would have powers of detention and arrest. He was concerned about visitors and questioned who would approve them. He went on to comment on the

inadequacy of carparking and when commenting on buildings and landscaping, stating that the facility "sounded very like a prison".

6.138 At the conclusion of his evidence, Mr Croft commented upon the evidence of the independent experts called on behalf of the Department. He was critical of the way in which reports had been written, commenting that new and "soft" language had been used to describe events which was not acceptable. As to the evidence which was criticised:-

- (i) Mr Croft said that nothing in the statement of Glen Kilgour attempted to address the effectiveness of the Tai Aroha programme and said that he had provided a series of speculative judgments without any attempt at substantiation with respect to the Bristol Street facility;
- (ii) when referring to the evidence of Dr Jarrod Gilbert, he said that the experience of overseas facilities which was referred to could not be compared with what was proposed at Bristol Street. He went on to comment that the perception of risk and actual risk were two different elements. He said that each one was real and needed to be considered and accorded equal weight. He inferred that this had not been done;
- (iii) referring to the evidence of Professor Polaschek, he said that reference to a programme to reduce recidivism did not make it clear whether this was an outline of the Tai Aroha programme or a summation of academic literature. If it was about Tai Aroha then there was no evidence of its reduction in recidivism;
- (iv) he then referred to the evidence of Mr Rhys Chesterman. He said that this was not balanced and that no attempt had been made to consider the impact of additional cars from staff or from visitors (professional and personal) on existing residents' cars or their visitors (professional and personal). He said that the report did not, and did not

attempt to, portray the realistic traffic patterns in parking around the proposed Bristol Street site;

- (v) Mr Croft then went on to refer to a social impact analysis by Ms Amelia Linzey stating that it was very weak in its methodology and verifiable outcomes. When referring to Tai Aroha he said that the problem was that the two properties were very different, and questioned how any valid comparison could be made, explaining the differences. In addition he said that there had been no person-to-person interviews undertaken with the Bristol Street community which affected the quality of the data which was available. As to the survey form delivered into letterboxes, Mr Croft commented that the quality of the data requested and provided was not known and the results were not presented. He went on to state that no data was presented about follow-up telephone calls other than the statement that the data "informed" her analysis;
- (vi) lastly Mr Croft dealt with the evidence of Mr Benjamin Clark. He said there was nothing in his evidence about the effectiveness of the Tai Aroha programme although his evidence was based on the current functioning of that programme. He went on to comment on the evidence of Mr Clark in relation to the fact that Bristol Street was well served by a range of facilities, but Mr Croft questioned why access to a public facility was so important given the emphasis which Mr Clark made on how the proposed attendees would be kept secure on the site and restricted from contact with the community. The only exceptions being "supervised outings" subject to "intense supervision".

Ms Rowena May Hart

6.139 Ms Hart lives directly opposite the site. She explained why there was as she said, no comparison between the Hamilton facility and the Christchurch facility. She said that she had owned a property at 4 Berry Street for almost 30 years and enjoyed the close-knit

community in the area. She said that the facility was directly opposite her house and that this faced directly into where the programme room, the residents' lounge and the dining room were located. She said she had large windows that faced the facility. Ms Hart expressed concern about the noise level that could be expected and also the prospect of bad language and loud voices. She also expressed concern about the number of visitors who could be expected in weekends. Lastly, she mentioned concerns about safety for children in what she termed a quiet residential area. She felt that the village feel of the neighbourhood would be lost forever if the proposal proceeded.

Brett James Giddens

- 6.140 Mr Giddens is a senior planner and the director of Town Planning Group NZ Limited. He gave evidence on behalf of the Network in relation to resource management planning matters. A number of the matters raised by Mr Giddens are referred to elsewhere in this our decision.
- 6.141 In his preamble, Mr Giddens accepted that programmes that sought to reduce reoffending were commendable but remained of the view that any positive effects of the programme could be equally experienced at any number of locations around the district and that the evidence could not quantify or qualitatively explain what benefits would arise.
- 6.142 Mr Giddens then went on to deal with the issue of whether the activity was to be treated as three activities or one activity. We have commented upon his evidence earlier in this our decision. Thereafter Mr Giddens dealt with the question of the status of the activity, again a matter which we commented upon earlier in our decision noting the relevant evidence of Mr Giddens.
- 6.143 Mr Giddens then considered the issue of what is the community. He said that his opinion remained that the proposed activity did not meet the definition of a *community activity* and had characteristics which isolated it from the community rather than integrated with it. Mr Giddens noted that *community* was not defined in the Plan but went

on to explain what was meant by *community* in the Plan. He said that having regard to his analysis in his evidence-in-chief, the assessment criteria in the Plan directed consideration of community context at a local scale.

- 6.144 Mr Giddens then went on to express the view that the bundle proposal fell as a non-complying activity for reasons set out in his evidence. Again we have commented upon this in a previous part of this decision.
- 6.145 Mr Giddens then examined the issue of the permitted baseline. We will comment upon his evidence later in our decision when dealing with the issue of whether we should take into account a permitted baseline. In summary Mr Giddens examined the question of whether a *community corrections facility* or a *community welfare facility* could be established on the site and he said that he did not see any evidence that this could happen in reality. We will deal with this legal issue later in our decision. Mr Giddens concluded this part of his evidence by stating that the proposed activity had departed too far from anything permitted for a meaningful comparison to be made. He said that even if there were a comparable activity, there was lack of evidence around how similar any effects were on residential coherence, character and amenity.
- 6.146 Mr Giddens then went on to discuss effects on the environment which related to residential character, cohesion and amenity. He said that the effects on residential character amenity and cohesion would be significant. He said that the use was inappropriate in meeting the needs of residents principally within the surrounding living environment and that the notion of incompatibility was underpinned by Strategic Objective 3.3.14. He said he had concerns that the nature of the facility and activity created heightened adverse effects with respect to privacy on surrounding properties and did not see how the effects on directly adjoining properties would reduce from more than minor to minor over a short period of time when the facility was operating continuously. He said that the activity was *another non-residential activity* in the context of Policy 14.2.6.4 of the Plan.

6.147 Mr Giddens then went on to discuss health, safety and wellbeing, stating that he had seen no evidence to demonstrate how the more than minor effects of the activity would reduce over time (being fear and anxiety levels of the community). He said that there was only very limited evidence that offenders would join the community, and he had not seen any evidence that demonstrated positive community interaction with the facility or otherwise. He said that because the Proposal did not have positive effects on the local community, he concluded that the Proposal was not appropriately related to a residential zone. He concluded by stating that the effects on health and wellbeing could not be considered minor or insignificant. As to positive effects he remained of the opinion that they were limited to the applicant and the offenders, rather than the residents in the neighbourhood or the surrounding community.

6.148 Mr Giddens then went on to discuss the objectives and policies of the District Plan. We refer to his evidence later in this decision when we discuss this issue, as well as the issue of precedent and plan integrity.

Mr James Benjamin Stewart

6.149 Mr Stewart is a director at Gemelli Consultants which provides feasibility and business case services to social enterprises and impact-based organisations. He was engaged by the Network to assess the social impact of the Proposal in this case.

6.150 Mr Stewart was in agreement with Ms Linzey in relation to her evidence that there were potential negative social outcomes on peoples' way of life and how people in the local neighbourhood live, outlining these outcomes. However he disagreed with the conclusions drawn as to both the level of potential adverse effects, and the dilution of these over time. When dealing with short term social impacts, Mr Stewart said that the Beca report had focused primarily on direct impacts through actualised crime or interaction incidents, which led to an assessment of the social risk as being low, and that this approach dismissed the concerns of residents and feelings of being deeply uncomfortable with the proposed facility, which he said were important. He said that if the concerns were their concerns and if they were evident, they were real and they must be considered in the

assessment of social risks. He said that given what he termed the vast difference between the feedback of residents to Corrections and that deduced by Ms Linzey, he did not understand why the reviewers had not conducted bespoke face to face social impact interviews or engagement exercises with the local community. He said that the nature, stress, anxiety and other subjective wellbeing or mental health concerns were much better expressed through face-to-face interaction and interviews. He said that this was a flaw in the Beca methodology, and a departure from the SIA methodology and international best practice.

6.151 Mr Stewart then went on to refer to differences between the community impact on the Tai Aroha residential programme when compared between the Bristol Street proposal. He said that the Bristol Street site was a substantially denser residential environment, located on a corner in a neighbourhood of feeder streets (compared to a cul-de-sac in Hamilton) and had a street frontage almost as large as the Tai Aroha site. He stated that the Bristol Street facility was expected to house 12 men, more than in residence at one time in the Tai Aroha facility. The Tai Aroha facility had been used as a corrections facility (in some form for 34 years) and it was fair to assume that many of the neighbours would have moved into the neighbourhood knowing about the facility. He went on to state that the Beca report had stated that one-quarter of the Bristol Street response did not anticipate making changes to their way of life, but the report was silent on whether the remaining three quarters anticipated having to make changes.

6.152 Mr Stewart then discussed the longer-term impact on the way of life and was critical as to the conclusion in the Beca report that the low negative impact would be likely to decrease in time to very low to negligible adverse effect. He said the facilities of the kind contemplated in Bristol Street could bring about enduring negative social impacts on neighbours where residents end up living in a "hyper-vigilant state", concerned with their safety and privacy. Referring to the Beca report it was stated that approximately 10% of the Tai Aroha neighbours changed their behaviour by restricting walking close to the site and being outside on private property visible

to the site, he said that it was important to note that these were residents who moved into the neighbourhood knowing that there was a facility of this nature already in existence and were willing to live with the risks, and accordingly there is a very different population to the Bristol Street population.

6.153 In conclusion Mr Stewart said that the Beca report's low-rating of longer-term social impact seemed like a fragile conclusion having regard to the matters he raised in his evidence. He said that it was his conclusion that the report understated the actual level of social impact on the neighbourhood and considered there was a reasonable prospect of effects not dropping in the way the Beca report concluded.

6.154 Lastly Mr Stewart dealt with recidivism data. He referred to the data relating to the Tai Aroha facility and noted the unfavourable reconviction figures being, as he said, 86% or over twice the New Zealand average of 38.3%. He concluded by stating that the proposal placed a degree of social impact on the local neighbourhood much higher than assessed by the Beca report, in exchange for unproven benefits which had the potential to result in higher recidivism rates than nationwide average levels.

7. *Consideration of actual and potential effects on the environment*

Introduction

7.1 It follows from our conclusion that the activity the subject of the Proposal is a discretionary activity, that all actual and potential effects must be considered, and the assessment of the Proposal is not confined by reference to any particular considerations but is unrestricted. The objectives and policies of the Plan provide guidance as to the effects that require consideration. These are discussed later.

7.2 At this point we discuss the issue of whether we should apply what is known as the permitted baseline in making our assessment of effects. Our discussion of this matter follows.

Permitted baseline/introduction

7.3 S104(2) of the Act provides ...

"When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect."

7.4 At this point it is appropriate to identify the activities which would be permitted on the site by a rule or rules in the Plan, because the Act provides that we have a discretion to disregard an adverse effect of the proposal on the environment if the Plan permits an activity with that effect, representing what is known as the application of the permitted baseline.

Permitted baseline/residential activities

7.5 The description of residential activities permitted by the Plan is contained in the Report ⁵⁷ and we agree with that analysis. As is noted in the Report, the Plan anticipates development of traditional stand-alone dwellings in the relevant zone at a density of one house per 330 m². Thus on the site in question, development of this permitted density would allow for four to five dwellings with site coverage of 35% each, a maximum building height of 8 m and compliant with internal and road boundaries, set-backs and recession planes.

7.6 In terms of non-household accommodation permitted on the site, student hostels of up to six bedrooms are permitted as are retirement villages. A retirement village could be operated from the existing buildings, or the buildings could be used for a spiritual activity, with hours of operation from 7am to 10pm daily. However such developments would need to comply with Plan parking requirements which Ms Chapman believes would be difficult. ⁵⁸

7.7 Ms Chapman goes on to state that more likely to occur on the site would be the establishment in the existing buildings of another care

⁵⁷ At page 18 of the Report

⁵⁸ At page 18 of the Report

facility such as previously existed on the site. Such an activity could establish on the site relying on the existing resource consents issued for the Cerebral Palsy Society provided the activity operated in accordance with the approved plans and consent conditions.⁵⁹

Permitted baseline / permitted community corrections facility

Report by The Property Group Limited

7.8 Of importance to this assessment is to consider whether a community corrections facility could establish on the site and if so whether we should exercise our discretion to treat this as an appropriate baseline. As noted by Mr Gimblett, on behalf of the Department, information was provided to the Council in April 2020, supplementing the application, regarding the permitted baseline. We have had the advantage of considering the report in question from Ms Karen Williams, senior planner at The Property Group Limited directed to the Council and dated 3 April 2020. This report is directed to an assessment of a permitted baseline scenario for a *community corrections facility* to operate from the site as a platform from which to consider the effects of the proposed use of the site. The following is a summary of the pivotal conclusions in the report:-

- (i) existing buildings on the site have already been authorised by existing resource consents and therefore the built form is already authorised and forms part of the existing environment. It is considered credible that the existing building platform on the eastern portion of the site would be removed to provide additional on-site carparking. It is said that this would not alter the realistic viability of a community corrections facility operating from the site in the remaining 464.58 m² building area. The assessment is therefore predicated on the basis that permitted activities would operate from the site utilising this area;

⁵⁹ See para 56 of the Report

(ii) it is clear from the definition of *community corrections facility* the Department could operate on-site services including, but not limited to:-

- (a) probation services;
- (b) rehabilitation and reintegration services;
- (c) counselling services;
- (d) workshops and programmes (such as stopping violence programmes);
- (e) participant assessments.

Rule 14.4.1.1 Permitted Activities P22 provides for the hours of operation when the site is open to clients and deliveries occurring only between 07.00 and 19.00. If the proposed activity operates during these times, then the applicant considers that the activity is permitted under the Plan.

(iii) the report goes on to consider the parking requirements in the Plan, opining that the parking categories that best reflect the proposed activity are *office* and *other healthcare facilities*, given that a *community corrections facility* is not included in the provisions of (Table 7.5.1.1) of Chapter 7) transport of the plan and that accordingly, as noted in Appendix 7.5.1(iv) of the Plan ...

where an activity does not fall within a particular category, the activity which is closest in definition shall apply.

(iv) the remaining footprint of 464.58 m² is said to be logically divided into two discrete spaces that accommodate use as akin to an *office activity* and those that are more akin to *other healthcare facilities*. This contention is developed by reference to a plan in the report;

- (v) having regard to the definition of *healthcare facility* in the Plan, the report notes a number of activities which are permitted under this heading where it is noted that on-site support services are an expected and anticipated component of the permitted baseline activity, and that such services include the provision of information to programme participants, counselling (by a psychologist) and supporting the personal welfare of programme participants. It is said that this use is closely aligned with the relevant definition;
- (vi) by reference to the close proximity of the application site to cycle routes and bus routes, the reduction adjustment factors for on-site car parking (specified in Appendix 7.5.14 of the Plan) are set out and it is concluded that the total reduction in the parking requirement of the Plan is 13%;⁶⁰
- (vii) there then follows an assessment of the parking requirements for an office activity. After referring to the requirements in the Plan the report concludes that a total of four carparking spaces would be required on-site for the *office* component of on-site activities prior to applying the adjustments factors referred to above;
- (viii) there then follows an assessment of *other healthcare facilities*. After referring to the requirements of the Plan it is concluded that a total of 18 carparking spaces would be required for this component of the on-site activities prior to applying the adjustment factors referred to above;
- (ix) the report concludes this section by noting that prior to applying the reduction factor the requirement is 22 carparks and that after the 13% reduction referred to

⁶⁰ See p4 of the report

above, a total of 19 carparking spaces would be required on-site;

- (x) it is noted that the site currently provides four carparking spaces on the western portion of the site and that removing the eastern portion of the building would enable on-site parking in the area. The remaining 15 carparks are said to be able to be accommodated in the vacated area in the eastern portion of the site as shown on a plan attached to the report;
- (xi) there then follows an assessment of the permitted baseline against the wider transport provisions within Chapter 7 of the Plan.⁶¹ It is noted that the assessment is based on a scenario where the eastern most building on the site is removed without affecting the operation of the *community corrections facility* and enabling the vacant eastern portion of the site to accommodate the carparking spaces required by the Plan;
- (xii) it is said that the creation of an associated vehicle access into the site via Berry Street to the these carparking spaces is also considered credible in this relevant scenario;
- (xiii) the report concludes by stating that overall, based on the assessment in the report, the *Community corrections facility* on-site would be permitted and would also comply with all relevant standards of the Plan.

Permitted baseline / the evidence of Mr Gimblett

7.9 Having referred to the report by The Property Group Limited, Mr Gimblett said that he considered that a viable community corrections facility was the more likely non-residential activity scenario. He said

⁶¹ See page 6 of the report

that this relied upon the provision of 19 carparks including the four carparking spaces on the western portion of the site.

7.10 Mr Gimblett stated that he had reviewed the analysis by The Property Group Limited and considered it to be credible, other than the carparking configuration that was relied upon encroaching into their required minimum waterway setback distance and would therefore not be permitted. Mr Gimblett went on to note that Mr Chesterman considered the carparking analysis relied upon by The Property Group Limited and concluded that a compliant number of carparks was 17 spaces rather than 19. He subsequently produced a compliant alternative carparking layout for the site clear of the setback accommodating the 17 carparks (July 2021). Mr Gimblett concluded that the baseline analysis is both accurate and non-fanciful.

Permitted baseline / legal submissions on behalf of the Department

7.11 In her opening legal submissions, Ms Semple submitted that Mr Giddens had erred in his approach to the discretion afforded under s104(2) of the Act. She stated that the caselaw is clear that in deciding whether to exercise a discretion it would be relevant to consider whether the permitted activity in question is *fanciful* or *out of touch with reality*.⁶² She stated that this was not a test of likelihood but rather required that an activity be credible. She stated that there was nothing in the section itself, or the applicable caselaw, which required, as a pre-requisite to the exercise of the discretion, that the permitted activity itself be *comparable* to the activity or activities for which consent is sought. Rather the correct approach is to identify activities permitted by the Plan, and the adverse effects of those activities.

7.12 Ms Semple went on to state that Mr Gimblett and Ms Chapman identified comparable adverse effects arising from a full range of *non-fanciful* activities that are permitted on the site by the Plan. The

⁶² Referring to *Rodney District Council v Eyres Echo-Park Limited CIV-2005-485, High Court, Auckland* at [38] and *McGrade v Christchurch City Council [2010] NZEnvC 172* at [22]

concern of Mr Giddens that this analysis is flawed because the activities themselves are not comparable is misplaced.

Permitted baseline / submissions on behalf of the Network

- 7.13 Ms Limmer submitted that there had been misplaced reliance on the permitted baseline and potential adverse effects had been erroneously discounted as a result. She submitted that Ms Chapman had lent heavily on the permitted baseline to conclude that the potential adverse effects would be acceptable in the Report.⁶³
- 7.14 Ms Limmer submitted that there was no permitted baseline to apply and that we should decline to entertain the construction of one. In dealing with what she said was the first consideration, being what is allowed under the relevant Plan, Ms Limmer took issue with what she stated was the position of the Department that the definition of *community corrections facility* was broad and therefore capable of evolving over time. Ms Limmer submitted this was inappropriate for a permitted activity. She emphasised the requirement for certainty in the definition of district planning regulations and the unacceptability of vague and broad definitions.
- 7.15 Ms Limmer then referred to the passage from the Independent Hearings Panel decision relating to the definition of *community corrections facility* relating to the definition of *community corrections facility*. She noted that the hearing involved submissions only from the Crown and the Council and that no other party was involved. Ms Limmer then referred to the evidence given by Ms Taitua on behalf of the Department relating to existing community corrections sites. Ms Taitua attested to the activities undertaken at a community corrections facility and her evidence noted the competence of existing facilities to cater for the spectrum of offenders from first-time to high-risk offenders and the aim to break offending cycles. She referred to the six existing sites in Canterbury. She said that based on Ms Taitua's evidence the type of facility that the Department sought sanction for was similar to the five existing facilities in Christchurch, that facilities are geographically established to serve an "area" of

⁶³ *Par 34 legal submissions*

offenders, that there was an urgent need for a facility in east Christchurch, that Bristol Street was very proximate to the Winston Avenue facility and there was an overall goal to reduce the number of facilities in Christchurch to four.

- 7.16 Ms Limmer submitted that even if there was a permitted activity of relevance in the Plan, the activity needed to be set out with some particularity and it was the submission of Ms Limmer that in the absence of particulars as to the activity in question, no party could test whether it was actually permitted or compare the effects of it with the effects of the Proposal.
- 7.17 In addition Ms Limmer submitted that the baseline must be proven realistic and that there must be some evidence supporting the proposition that a community corrections facility on the Bristol Street site was not fanciful. She submitted there was no evidence to that effect.
- 7.18 Concluding this section of her submissions, she stated that either the definition of *community corrections facilities* was not as broad and open-ended as the Department hoped or was void for uncertainty. She said that to suggest that the definition supported a different kind of corrections facility sprinkled throughout the residential zones in the District was not what the panel thought it was agreeing to and not what the definition meant. Ms Limmer went on to reiterate the submissions which she had previously made as the need for proof of the baseline to be realistic and concluded by submitting that it was too late in the hearing to construct a baseline, prove it is permitted and realistic and evaluate the potential adverse effects arising from it, and then compare it with the potential adverse effects of the Proposal.

Permitted baseline / the Report

- 7.19 Ms Chapman notes that *community corrections facilities* with hours of operation between 7a.m. and 7p.m. only could operate as a permitted activity from the site without a residential component. She notes that the Department has provided detail, including a site plan, to demonstrate that a *community corrections facility* could operate

as a permitted activity from the site using the majority of the existing buildings. She goes on to state that *community corrections facilities* are used for *probation, rehabilitation and reintegration services, assessments, reporting, workshops and programmes*. She says that the existing buildings could lend themselves to such a facility with some alterations.

- 7.20 Ms Chapman goes on to refer to the Department's permitted baseline scenario showing the easternmost standalone building removed to accommodate the requisite amount of carparking. Ms Chapman notes that a *community corrections facility* is not listed in Appendix 7.5.1 and therefore it is necessary to choose the closest category. She goes on to refer to the carparking requirements, considering that *healthcare facility* to be the closest in definition to a *community corrections facility* and therefore appropriate to base parking, cycle parking and loading calculations.
- 7.21 The updated permitted plan provided by Boffa Miskell shows what Ms Chapman agrees is the required 17 parking spaces once reduction factors have been taken into account. Ms Chapman is of the view that the activity would comply with the requirements of the transport chapter.
- 7.22 Ms Chapman goes on to state that the permitted baseline plan has been updated because of the setback requirement referred to earlier in this decision. The amended plan provides for the required setback area.
- 7.23 Ms Chapman does not consider the permitted community corrections facility put forward by the Department, utilising the existing buildings on the site, to be a fanciful baseline proposal. She notes that while other existing community groups and facilities in Christchurch tend to be located in industrial and commercial zones, the specific inclusion in the Plan of *community corrections facilities* as permitted activities in residential zones indicates that a residential location for such a facility cannot be considered fanciful.
- 7.24 In answer to the submission of the Network that it was not appropriate to apply the permitted baseline because the nature of the

men's offences added an additional layer to the consideration of the consent, which is not present with other permitted activities, Ms Chapman expressed the view that there is no reason why the discretion to disregard the adverse effects of permitted activities should not be exercised in this case. She states that the baseline of a community corrections facility is not a fanciful one because the Plan provides for such an activity in this location. She goes on to state that the established baseline of the previous care facility buildings and activities on the site are a relevant baseline against which to compare the effects of the current proposal.

Our consideration of the permitted baseline issue

- 7.25 We agree with Ms Chapman when, after noting that other existing community groups and facilities in Christchurch tend to be located in industrial and commercial zones, she states that the specific inclusion in the Plan of *community corrections facilities* as permitted activities in residential zones indicates that a residential location for such a facility could not be considered to be fanciful.
- 7.26 We agree with Ms Semple when she submitted that in deciding whether to exercise the discretion which is open to us, this required consideration of whether the activity was credible, and this was not a test of likelihood. In this case that is important because on one view of matters, it may be thought that it is unlikely that a community corrections facility would establish on the site in question, having regard to the location of other corrections facilities in the Christchurch area and other factors.
- 7.27 Indeed, during the hearing Commissioner Lawn sought information about the size and location of community corrections facilities in Christchurch (and possibly other cities). That information was provided by the applicant in the closing legal submissions. That information showed that existing community correction facilities did exist at a similar, and even smaller, size to the 464m² that would be available on the application site (although most were somewhat larger). That information also showed that almost all facilities were

in commercial and industrial zones, with two of the facilities being on the edge of residential zones.

- 7.28 We note that in her submissions, Ms Limmer submitted that there was a burden on the Department to provide at least some evidence supporting the proposition that a community corrections facility was not fanciful, relying upon a passage in the decision *Te Whakaruru v Thames Coromandel District Council*⁶⁴. We accept this statement of principle, but for the reasons which follow do not believe that it has been infringed by the Department in putting forward the view that the baseline of the community corrections facility is not a fanciful one.
- 7.29 We agree with Ms Chapman when she states that the baseline of the community corrections facility is not a fanciful one, because the Plan provides for such an activity in this location, while existing buildings also lend themselves to such a use with some alterations. So we proceed on the basis that as a matter of discretion we should have regard to this baseline. However as appears later in this our decision, there are material differences in effects between the conduct of a community corrections facility involving people with criminal convictions, corrections and probation staff, psychologists and other training and counselling staff attending during daytime hours, when compared with a fully residential facility.
- 7.30 We note that there was some support for community correction facilities being in residential areas in the deliberations of the Independent Hearings Panel referred to by Ms Limmer ("the deliberations"). However the Plan clearly anticipates that community corrections facilities can be located in residential areas and on this basis, we do not need to rely on the deliberations and we have concluded that a community corrections facility is a plausible permitted baseline. However the community corrections facilities which form part of the permitted baseline do not contemplate residential accommodation and it is this factor which impacts upon the extent to which reliance can be placed upon the established

⁶⁴ *Te Whakaruru v Thames Coromandel District Council (Env Ct W086/2008 at [64]*

permitted baseline in support of the Proposal, given the residential component which is proposed.

7.31 Commissioner Lawn is also of the view that the regard we should have to the permitted baseline scenario put forward by the applicant could be discounted having regard to the likelihood of a typical community corrections establishing on this property. However, he accepts that such a facility is plausible and non-fanciful based on the provisions of the Plan.

8. ***Actual and potential effects on the environment / our analysis***

Introduction

8.1 For convenience we set out the introductory part of s104 of the Act relating to the consideration of applications ...

(i) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to –*

(a) *any actual and potential effects on the environment for allowing the activity; and*

(b) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.*

8.2 What follows is our assessment of the actual and potential effects on the environment of allowing the activity the subject of the Proposal, and our consideration of measures proposed or agreed to by the Department for the purpose of ensuring positive effects, or mitigating adverse effects, on the environment. As a matter of convenience we have followed the sequence of the consideration of actual and potential effects on the environment adopted in the Report.

Risk of crime or harm to the community

Introduction

8.3 Central to a number of the submissions on behalf of residents are concerns regarding the risk of harm to members of the community

from the proposed residents of the facility, given that they will be men with a history of serious violent offending and a high risk of reoffending. A particular concern has been expressed as to the vulnerability of groups such as children and the elderly. The Department led extensive evidence as to the level of risk which could be expected from the operation of the facility, which was to the effect that risk was negligible and no more than could be expected in association with the conduct of a permitted activity. On the other hand the residents have not accepted that the operation of the facility will be risk free and, in particular, have questioned the information which has been published as to the behaviour of residents at the Tai Aroha facility in Hamilton and recidivism rates.

Dr Cording

- 8.4 Dr Cording provided a report to the Council dated 9 July 2021 relating to the Proposal. Dr Cording is employed as a lecturer in the School of Psychology, Speech and Hearing at the University of Canterbury and has had significant experience in researching offender rehabilitation and risk assessment, particularly for violent offenders (including sexual offenders). Dr Cording provided a detailed description of the proposed programme and in particular procedures and processes for maintaining security of the site, including physical features (such as high walls and CCC TV, 24/7 electronic monitoring of residents by ankle bracelets, weekly therapy team meetings to discuss potential concerns about resident behaviour, perimeter checks (twice a day, and hourly overnight) and location/status checks of residents occurring every 20 minutes (increased to five minute intervals where there is a concern about the risk of a resident absconding (i.e. leaving the property without permission)).⁶⁵
- 8.5 Dr Cording referred to details of incidents occurring at the Tai Aroha Hamilton site from January 2015 to November 2020. She noted that 26 incidents were identified that represented a situation which was a potential risk of harm to the wider community. Most of these incidents involved the resident leaving the programme site without permission, although two involved incidents during supervised

⁶⁵ See para 21 of her report

outings. She said that all of these incidents were resolved without members of the community being harmed or threatened, although one incident involved a resident becoming "verbally agitated" with a staff member at a store. Additionally, one further incident was noted in 2012 in which a Tai Aroha resident entered a neighbouring property through an open door. This incident was resolved without members of the community being directly harmed or threatened, and the Department has stated that this incident led to changes in the operating model to address contributing factors.

- 8.6 Dr Cording noted that one of the most prominent-relevant factors associated with the proposal was the eligibility criterium that residents must have a RoC*RoI score of 0.70 or higher to participate in the programme. This represented a high risk of reoffending, and as such, many submitters raised concerns about the possibility of residents offending against members of the local community. These concerns were acknowledged but in Dr Cording's view the conditions and support provided by the Tai Aroha programme would mitigate this level of risk to a large degree.
- 8.7 Dr Cording noted that some submitters had raised concerns about perceptions of low rates of success and completion identified by the 2015 Tai Aroha Hamilton evaluation. It was her opinion that the evidence of a significant treatment effect was an indication of the success of the programme of shifting relevantly entrenched patterns of thinking and behaviour within a relatively short period of time. She went on to state that there was no indication that treatment non-completers posed a direct risk to the local community during the period of being exited from the programme.
- 8.8 Referring to what was said to be the cumulative risk posed by housing a number of high-risk violent offenders in the same location and the risk posed by potential visitors at the site, Dr Cording considered that the extensive visitor vetting procedures would significantly reduce the risk of harm caused by visitors to the site. She then went on to consider the comparative level of risks that would be posed by the community if the proposed facility was not available. She said that all residents of the facility would otherwise be on home detention which was likely to be in an environment that did not include

professional supervision. This meant that even if the Proposal were not be approved, residents would still be in the community without any additional support such as that provided by the Proposed programme. She went on to state ...

Further, it is proposed that most residents would come from the Canterbury region, so this baseline level of risk is already applicable to local residents rather than being dispersed throughout the country. That said, because of the concentrated nature of the programme, the level of risk posed to residents in the immediate vicinity of the proposed facility is likely to be higher as a result of the introduction of the facility in the area.

- 8.9 She went on to state that there was a certain level of risk posed by any unknown person moving into the immediate neighbourhood.
- 8.10 Importantly, Dr Cording then dealt with activities permitted by the Plan being community corrections facilities and welfare facilities. In her opinion the proposed facility did not pose a greater level of risk to the local community than that posed by the permitted baseline activities in the Plan. She said that the proposed facility appeared to have higher levels of staff than many community providers and group rehabilitative services, and they may therefore pose a lower risk to harm to individuals in the local community. She said that the residents would continue to be monitored by support staff during the night, that overnight visitors would be prohibited, and that all residents would be subject to electronic monitoring. She said that providing 24 hour support at the proposed facility would not have an appreciable impact on the risk posed on the facility beyond that of a community corrections facility that operated only during permitted hours.
- 8.11 Dr Cording then went on to refer to data provided in relation to incidents at the Tai Aroha site and in particular in relation to absconding. She said that in terms of the impact of any potential absconding, the risk of harm to the local community from absconders was low noting that data from the Tai Aroha Hamilton site indicated that in all identified instances of absconding there was no interaction with members of the local community.
- 8.12 Dr Cording concluded by expressing her opinion that the proposal represented a low risk of harm to the local community that was

similar to the risk posed by other permitted activities such as community corrections facilities. Referring to her statement she reiterated that she did not consider the risk of serious harm to the community to be any higher than that posed by individuals being detained in other residences in the local community (i.e. on typical home detention or other community sentences). She said that given the relevant lack of supports and rehabilitating services provided in these other typical cases, the risk of offending by the residents against members of the local community was likely to be lower.

Submissions on behalf of the Network

- 8.13 Mr Cook gave submissions on behalf of the Network in relation to the nature of the sentence of home detention, associated matters, and he also commented upon certain of the evidence by the Department relating to these matters.
- 8.14 In her closing legal submissions, Ms Semple was critical of that part of the submissions of Mr Cook which attempted to controvert the conclusions reached by Dr Cording and Professor Polaschek.⁶⁶ She submitted that to the extent that Mr Cook sought to address some of these matters, we should consider the extent to which it was said that Mr Cook had lost sight of the distinction between his role as an advocate and that as an expert witness. We have been conscious of these criticisms when considering the submissions of Mr Cook, given that he did not purport to be qualified as an expert witness. Whilst some parts of the submissions did traverse the boundary, and we acknowledge that the line is difficult to draw, we have taken into account his submissions in relation to matters properly raised as counsel.
- 8.15 Of importance was the reference by Mr Cook to it being very rare for two people to be sentenced to home detention at the same address. This submission referred to this as a standard approach. Whilst arguably this submission crossed the line referred to above, Ms Semple dealt with this matter in her closing submissions. He then went on to discuss the question of whether the Bristol Street facility

⁶⁶ At para 5.29 of her closing submissions

was comparable to the community correction facilities in Christchurch, submitting that there was no similarity between somewhere where a person resides, such as the Bristol Street address, and what he termed "a drop in community corrections facility, where a person may go (not subject to detention) for a short period of time to check in with his or her probation officer, to get into transport for community work, or meet a psychologist for an assessment."

- 8.16 Mr Cook then went on to discuss the evidence of Mr Clark. He stated that the recidivism figures referred to by Mr Clark had been "almost ignored in favour of anecdotal outcomes". When discussing the evidence of Mr Clark, Mr Cook discussed a number of other matters which are not directly relevant to the question of assessment of risk now being discussed.
- 8.17 Mr Cook then went on to discuss the evidence of Mr Kilgour. After discussing the issue of whether the facility could be seen to be part of the community in a general sense, he went on to refer to the issue of recidivism. He said that he was not persuaded by a reference by Professor Polaschek to an instance of reoffending "merely being a breach of the protection order". He inferred that this underestimated the seriousness of the offence in question. He went on to discuss the recidivism results referring to what he termed "unconscious bias" by experts who by virtue of their training are given a privileged position to offer opinions, and said that anecdotal evidence also suffered from significant frailties and therefore should be treated with caution.
- 8.18 Mr Cook then went on to comment on the evidence of Professor Polaschek. He submitted that there was no empirical evidence that the Tai Aroha programme was working. Mr Cook went on to submit that the facility did not need to be located in what he termed a densely populated residential area. Mr Cook then referred to Professor Polaschek's evidence where she talked about the proposed facility as posing significantly less of a risk to the surrounding community than a regular community corrections centre. Mr Cook noted the number of correction facilities in Christchurch but said that they were situated in very different areas to Bristol Street and operated in very different circumstances.

Professor Polaschek

8.19 We have already summarised the evidence given by Professor Polaschek earlier in this our decision. After an extensive discussion of background matters relating to the reasons for offenders entering a life of crime and the transformation along the pathway to rehabilitation and reintegration into the community, Professor Polaschek discussed the interim evaluation results relating to Tai Aroha, and stated ...

*For the most part Tai Aroha graduates are **more** likely to recidivate than the Home Detention comparison sample and **less** likely to recidivate than the prison release sample.*

8.20 However Professor Polaschek commented upon the small size of the sample, the total number of comparison analyses, and other factors in concluding that the right "take home message" from this recent evaluation is that it is inconclusive with regard to whether Tai Aroha reduces recidivism or not.

8.21 Professor Polaschek went on to refer to the issue of risk. She agreed with the assessment of Dr Cording stating ...

I particularly agree with her assessment that the proposed facility is likely to be significantly less of a risk for the surrounding community than a regular community corrections centre, where throughout the day a significant number of people on community sentences and their family and whanau may be coming in and out of the facility or waiting nearby, all of them in an unknown risk state.

8.22 Professor Polaschek stated that if it were to be assumed that the men who might be in the facility at any one time were instead on regular home detention but distributed over a wider area, even the same general neighbourhood, and that the Bristol Street facility remained empty then ...

..... the risk to those within say, 25 metres, or the facility should be lower. That is, these men as individuals must, conceptually at least, pose a higher risk at any particular point in time than a person randomly selected from those who had never had, or have only had an occasionally criminal conviction.

8.23 Professor Polaschek noted the rigorous selection criteria for men attending the programme and the high level of supervision. As to

risk, she referred to the baseline level of risk being equivalent to that of Tai Aroha and stated ...

That there are no documented incidents of crime or harm in the last decade which suggest the actual level of risk for the programme residents to be very small. Taken together, all of these factors suggest that a low concentration conceptually increases the level of risk around the facility, and in practice the risk is likely to remain very small.

8.24 Professor Polaschek stated that a number plausible alternative uses of the premises could also impose an as yet unknown, but higher risk to the community than it is likely from the Proposal.

8.25 Professor Polaschek gave extensive evidence on the question of whether the recidivism rates, and in particular those relating to Tai Aroha, told the full story as to the effectiveness of the programme, concluding that they did not.

8.26 Lastly, dealing with the safety of the surrounding neighbourhood, Professor Polaschek said that she had given considerable thought to the question of the safety of the surrounding neighbourhood. Professor Polaschek conducted an analysis of the pre Tai Aroha violence convictions of those who entered the programme and concluded that most of the violence for which records could be obtained appeared to have been assaults against family members in their homes and that just 5% were against strangers. She said that from this information very little of the offending was in effect "random" or would give rise to concern that it was undue risk to the neighbourhood.

8.27 Professor Polaschek then went on to refer to interview data and said that the evidence from Tai Aroha suggested that there had been no actual increase in the risk to neighbours of that programme than if the facility were not present. In conclusion she said that safety was not just an issue for the neighbourhood but also for the staff which mean that there was a degree of vigilance in the manner in which the facility could be expected to be conducted because of this factor.

8.28 Ms Semple said that the question became whether the use of a property for twelve men on home detention created an elevated risk

above the baseline which she said involved the prospect that two or more persons could be living at a residence on home detention. She referred to Dr Cording's evidence that the level of risk posed by the safety of the surrounding community was the same as, if not lower, than might otherwise arise if the site was used to accommodate persons on home detention in the "normal sense".

Risk of crime or harm to the community / our conclusions

8.29 Of importance to the case for the residents is in relation to the issue of risk is the incident noted in 2012 in which a Tai Aroha resident entered a neighbouring property through an open door in circumstances where the instant was resolved without members of the community being directly harmed or threatened, this being referred to in the report of Dr Cording⁶⁷. This incident indicates that the prospect of a resident at Bristol Street absconding and entering a neighbouring property cannot be dismissed. However there would appear to be no other incidents involving persons leaving the Tai Aroha facility.

8.30 Undoubtedly the conduct of a community corrections facility would carry with it the risk that a person or persons attending such a facility, by reason of their criminal background, would commit offences such as burglary in the neighbouring area, having regard to the evidence of Dr Cording and Professor Polaschek (in particular). In reliance upon that evidence we have formed the view that the risk of offending by persons entering a community corrections facility, including the proposed facility at Bristol Street, is not significant and for that reason we do not regard this element by itself to justify refusal of consent to the application. We make it clear that in this part of the decision we are speaking of the risk of offending and not the perception by residents of that risk, the consideration of which follows.

⁶⁷ At para 23

Impacts on social wellbeing

8.31 Community perceptions of risk are not themselves effects on the environment. It would not be consistent with the principles of the Act for us to be influenced by the number of people who express opposition to the Proposal, or perceive themselves to be at risk or concerned or possible adverse effects. If adverse effects on the environment are shown to be well founded, it is the adverse effects, rather than the supposed secondary results of them, that should be considered in the ultimate judgment.⁶⁸

8.32 Ms Limmer has properly drawn our attention to a case of some importance in this context *Harewood Gravels Company Limited v Christchurch City Council*⁶⁹ where, in discussing the evidence of landscape experts and the evidence of residents concerned about proposed quarrying activities, Davidson J stated ...

[226] The criticism of the Court's approach to the evidence of the landscape expert is in my view entirely misplaced. The Court said that the experts did not (so far as it knew) engage with the residents' views that their amenity is adversely impacted by quarrying activity taking place in the locality. That is simply to point to the need for an understanding of the experience and concerns about amenity including rural character of those affected, and for those elements to be objectively brought into account, recognising their inherent subjectivity. What better evidence in the first place is there than that of those who experience and live with the effects, provided their evidence is objectively assessed against the provisions of the District Plan and other expert evidence? The Court was not in error in observing the need for this fundamental step. A querulous and unreasonable stance taken by a resident will never prevail, but their living experience, not overstated, must be prime evidence. It is easy to dismiss or minimise the views of affected persons as subjective, yet theirs are the experiences of the very effects and amenity with which the Court is concerned.

8.33 A matter of some difficulty in this case is that the expert evidence led on behalf of the Department is supportive of the Proposal, and there is a lack of expert evidence on behalf of the residents in opposition to counter a number of essential elements of the expert evidence led on behalf of the Department. This relates in particular to the issue of the fears which have been expressed by the residents as to crime

⁶⁸ See *Contact Energy Limited v Waikato Regional Council* (2000) 6 ELRNZ 1 (EnvC), *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66 (EnvC) and *Thompson Reuters Resource Management* at para A104.17(8)

⁶⁹ CIV-2017-409-891
[2018] NZHC 3118

and other matters associated with the proposed activities, and the question of whether those fears will dissipate once the facility is established. *Harewood Gravels Company Limited* is a reminder that evidence given on behalf of residents as to their feelings and state of mind is still evidence which requires to be considered, notwithstanding that it may not be supported by expert evidence. We need to treat the expert evidence with respect, but on the other hand we should not ignore the evidence on behalf of the residents in opposition, particularly in relation to their account of the fears which they are harbouring in relation to the proposed activities and the likely duration of those fears.

8.34 There was a stark contrast between the expert evidence given on behalf of the Department as to the likely duration of concerns regarding risk to community safety and security, and the account of matters given by a number of residents. We note that in the Report ⁷⁰ Ms Chapman notes that some members of the St Albans Community are experiencing very high levels of anxiety and stress over the proposed facility, particularly those who are located near the facility, and those who have experienced previous trauma or been the victim of previous criminal activity in their lives. Both Beca and Ms Strogon note in their assessments that research indicates that the fear and anxiety over such facilities is highest in the planning phases and these fears are not generally borne out through actual community experiences once the activity is operational. As Ms Chapman has noted ⁷¹, Ms Strogon considers that once a facility has established itself as a good neighbour, fears diminish over time, and that she has no evidence to conclude that the facility would not be effectively managed.

8.35 Ms Linzey for the applicant concludes that the corrections facility will have low to moderate adverse social effects during the planning stages, mainly due to anticipatory concerns. However, over time, and as people get used to the facility, and experience the actual rather than the anticipated effects, those adverse effects will reduce to low, and probably very low, negative effects.

⁷⁰ At para 119

⁷¹ At para 120 of the Report

- 8.36 Ms Stogen, for the Council, concluded that adverse social effects will be moderate (more than minor in resource management terms) in the planning phases, and will reduce over time to moderate to low (minor in resource management terms).
- 8.37 Mr Giddens, planner for the Network, and although he is not a social planning expert, concluded that the facility is incompatible in this zone and community setting, and its effects could not be considered minor or insignificant.
- 8.38 The community residents who appeared before us, and from submissions of people who did not attend the hearing, described their concerns as extreme, harrowing, and significant. They generally did not accept that their fears and concerns would lessen over time

Our conclusions on social effects

- 8.39 We accept the expert evidence that anticipatory fears and concerns about social consequences of the proposed Corrections facility will be higher in the planning phases, and that not all of the fears and concerns will materialise. We accept the expert advice that those fears and concerns will reduce once the facility has been operating for a while.
- 8.40 Ms Linzey describes the anticipatory concerns as having low to moderate negative effects. Ms Stogen describes them as moderate, and as more than minor in resource management terms. The community residents who appeared before us would describe them as significant, and more than minor (if not extreme). Mr Giddens also described them as neither minor nor insignificant.
- 8.41 We conclude that the anticipatory concerns are significant, and would be at a level that is more than minor. We expect that that level of concern would greet the facility when it opened. Although, if an effective community liaison group is established, some of those concerns may be mitigated to some degree. Given the antagonism between the community residents and the Department, we record that achieving sufficient trust and relationship may be difficult.

8.42 We also conclude that the residents' concerns and fears will reduce over time, once the facility is established, and the real impacts of the facility are experienced. However, we do not agree that the social effects will reduce to a level that could be described as less than minor (as asserted by Ms Linzey). We are more comfortable with the conclusion of Ms Stogen that the social effects will reduce to a level that could be described as minor.⁷²

8.43 We reach these conclusions in respect of the wider neighbourhood, and note that there are some privacy and relationship with adjoining properties issues that could apply to the immediate neighbours. We will discuss those later in this decision.

Cultural matters

8.44 Ms Chapman has noted in the Report that Mahaanui Kurataiai Limited, on behalf of Te Ngai Tuahuriri Runanga as mana whenua exercising rangatiratanga over the Takiwa in which Bristol Street is located, have provided the applicant with a document entitled *Assessment of Impacts on Rangatiratanga and Treaty Principles – Position Statement* in lieu of a cultural impact assessment. The statement notes that the integration of Māori values, concepts and customs is a critical component of the programme and that the bi-cultural premise is considered an essential component. Te Ngai Tuahuriri Runanga advised it does not oppose the granting of the required consent but anticipates further engagement involving the naming of the facility, the nomination of the tikanga advisor, the managing of the Proposal to avoid adverse impacts on ecological processes, the return of native and endemic species and opportunities to enhance and advocate for biodiversity and mahinga kai should be explored within the urban landscape.

8.45 We agree with Ms Chapman when she states that the Proposal will not have adverse effects on ecological processes and we do not consider that any of the matters raised on behalf of the Runanga are averse to the granting of consent to the Proposal.

⁷² See para 97 of her report

8.46 A submission was also received from Te Whatumanawa Māoritanga O Rehua Marae Trust Board. We have already recorded the evidence given on behalf of Rehua Marae. In essence the evidence is critical of the lack of communication and consultation with Rehua Marae for reasons which are recorded in the evidence. We note that Ms Chapman considers that it will be important for engagement in dialogue to occur as the Marae is a key community stakeholder in the area but she notes that this process would need to occur outside the resource consent process. Rehua Marae trustees have indicated in their submission that they open to the dialogue taking place ⁷³.

Cultural matters / our analysis

8.47 We do not regard any of the matters raised as justifying the refusal of consent to the application. It is understandable that concerns have been expressed about lack of consultation in the context of an assertion, with which we agree, that the involvement of Māori culture and interests is clearly pivotal to the success of the programme. However we agree with Ms Chapman that these matters lie outside the resource consent process and we do not see the matters raised as impinging upon our analysis of the question of whether consent should be given to the application.

Impacts on residential character and amenity

Introduction

8.48 As Ms Chapman has observed in the Report ⁷⁴ non-residential or larger non-household accommodation activities have the potential to have adverse effects on the residential character and amenity of living zones in terms of the scale of activities and buildings, and levels of noise, traffic generation, parking and general levels of activity which may be out of character with the receiving environment. In examining the impacts in question, we proceed to consider a number of matters which are germane to a proper consideration of the issue.

⁷³ See para 132 of the Report

⁷⁴ At para 133

Noise

8.49 We note that a number of submitters have expressed concern that there will be unacceptable noise levels from the site when compared with the previous care facility use of the site. Of particular concern to the residents is the prospect that the residents may indulge in bad language or speak in loud voices and also there was concern about the potential for there to be unacceptable levels of noise associated with music.

8.50 With respect to noise, the application states ⁷⁵ ...

While at the site, residents will spend their time in the units utilising the communal areas or working with support staff. As with any Residential activity, general noise that is residential in nature will be associated with this activity. Noise from residential use of the subject site will generally be dispersed throughout the site, rather than being concentrated in any one area. Moreover, as outlined in section 3 of this report, residents are required to comply with a number of rules and guidelines, whilst residing at the site, including prohibiting overnight stays/visitors, parties or outdoor music to be played on audible speakers after 2200. Other rules may also be added as and when it is deemed necessary by the Service Provider. Given the above, overall, it is not anticipated that any noise generated from the proposed use of the site will be over and above the permitted noise levels for this environment, nor is it expected to be any greater than the noise generated from the current use of the site and other surrounding properties.

8.51 We have had regard to the relevant section of the application dealing with the generation of noise noting:-

- (i) it is contended that noise from the residential use of the subject site will generally be dispersed throughout the site rather than concentrated in one area;
- (ii) emphasis is placed upon the need for residents to comply with rules and guidelines including a prohibition on overnight stays/visitors, parties or outdoor music to be played on audible speakers after 2200.

⁷⁵ At page 20 of the application

8.52 Mr Gimblett has noted the inevitability that some noise will arise from the proposed activity but emphasises the presence of staff in a supervisory role and the impact of oversight. He is of the view that noise will comply with the applicable Plan standards, and in fact will meet the lower night time standard earlier from 8pm in the evenings rather than from 10pm, a condition to that effect being offered by the Department. He considers that any adverse noise effects to be adequately mitigated to a degree consistent with reasonable explanations for the living environment, a view which is mirrored in the views of Ms Chapman, expressed in the Report.⁷⁶

8.53 A number of residents expressed concern that not only would levels of noise be unacceptable, but that residents in adjacent households could be expected to be subjected to bad language and loud voices. Concerns were expressed that this was likely to have an adverse effect on young children who could be expected to be subjected to those effects in question. The concerns of residents are reflected in the evidence of Ms Nicola Drummond who said that noise would rise and that because her daughter goes for a nap during the day, she would need to have her window closed permanently if the facility sent ahead. She was afraid of hearing bad language or if a fight broke out that would be "scary for her to hear".⁷⁷ Further Ms Drummond expressed concern about the prospect of "hearing men shouting or using aggressive language".⁷⁸ These comments are reflected in other evidence on behalf of submitters.

8.54 Ms Chapman considers that the use of outdoor areas will be similar to that which would have occurred previously under the consented care home's activity where up to 24 residents would have utilised the space for their outdoor living requirements and considers that noise from outdoor areas would be likely to be residential in nature, noting the high level of oversight and control of onsite staff to ensure residents complied with guidelines relating to the use of outdoor areas.⁷⁹

⁷⁶ *At para 138*

⁷⁷ *See para 25 of her evidence*

⁷⁸ *See para 29 of her evidence*

⁷⁹ *See para 138 of the Report*

8.55 Undoubtedly the Department has attempted to address the concerns about potential unacceptable noise effects by agreeing to conditions limiting noise generating activities after 8pm and also with reference to the rules governing behaviour at the facility and the effect of oversight by the staff. Further, and importantly, we note that an applicant is entitled to have its application treated on the basis that it will be comply with the consents that it holds and with the requirements of the Act. See *Guardians of Paku Bay Association Inc v Waikato Regional Council*.⁸⁰ Thus in assessing the issue of potential adverse noise effects, we proceed on the basis that there can be expected to be compliance with the conditions of consent which include the restriction of hours for noise generating activities and a high level of supervision which is intended to ensure compliance. We have carefully considered the concerns expressed by residents as to the prospects that the residents at the facility will behave in such a way as to generate unacceptable noise. On the basis of the above, we have concluded that noise effects will be less than minor and do not represent an adverse effect which should influence our consideration of the application.

Privacy and relationship with surrounding properties

8.56 A number of residents living immediately adjacent to the site have raised concerns about privacy. These concerns emanate from an assertion that residents in the facility will be able to view their properties and they are also concerned that residents will be able to overhear conversations on neighbouring sites which would represent an unacceptable intrusion on privacy.

8.57 As is noted in the Report,⁸¹ the Department has sought to address concerns through amendments to the proposal. Because of the importance of this issue we identify the amendments in question as follows:-

- (i) obscured glazing on the programme room and dining room windows on the southern façade of the building;

⁸⁰ (2011) 16 ELRNZ 544, [2012] 1 NZLR 271 (HC)

⁸¹ At para 140

- (ii) increased internal boundary fence height to 2m on the northern boundary of the site within 20 Bristol Street;
- (iii) the addition of a fence and gates on the Bristol Street frontage to ensure that residents wait within the site prior to embarking on outings;
- (iv) removing residents' access, unless accompanied by a staff member, to the areas between the building and the Berry Street road boundary, between the eastern building and the eastern site boundary with 13 Berry Street and the area to the north of the eastern building, adjacent to the boundary with 20 Bristol Street.

8.58 On our second visit to the site, we paid particular attention to the areas where access was to be removed and we were able to achieve a perception of the strength of the concerns of nearby residents on this important privacy issue.

8.59 In his evidence, Mr Gimblett stated that particular care had been taken in the design of landscaping and fencing to reduce or practically screen direct views into or out of the property.⁸² He went on to describe the steps in question. Mr Gimblett referred to the fencing along the southern side of Berry Street and concluded that this represented a practical attempt to meet submitter concerns and he did not consider, in terms of amenity values, that there were concerns. Because of the proposed requirement that there be no unauthorised access by residents to the south and east (as detailed above) Mr Gimblett considered any adverse effects on privacy for properties to the south and east to be adequately mitigated. He considered that any adverse effects on privacy reached the same conclusion in relation to properties to the west and north.

8.60 He then discussed the very specific privacy concerns raised by submitters in respect of the unit properties at 1 to 5/20 and also 22

⁸² See para 4.145 et seq relating to privacy issues

and 24 Bristol Street, all located directly to the north and was of the view that with the proposed 2 m high wall extending along the northern boundary, and higher screen planting, the effects would be acceptable. Mr Gimblett went on to refer to an offer made by the Department to neighbours to provide additional screening, including the possibility of planting vegetation or etchlite glazing of upper storey windows, installed at the cost of the Department. This possibility was raised in the Beca Report.

Privacy and relationship with surrounding properties / our consideration

8.61 We note that the area surrounding the site is a medium density area zoned Residential Suburban Density Transition. The area has been extensively developed and redeveloped to a high residential standard. On both of our inspections we noted that there had been extensive redevelopment of sites in proximity to the site and that the redevelopment in question was to a high residential standard. In summary the site is situated in an area of high residential quality and amenities.

8.62 Undoubtedly the facility is very close to adjoining properties. There is a significant amount of evidence directed towards the question of whether the physical/geographical situation of the Tai Aroha facility is similar to that in Bristol Street. It was clear from that evidence that the Tai Aroha facility does not share the same closeness to adjoining properties as applies in Bristol Street. We refer to the submission of Ms Gretchen Hart (who also gave evidence) where she discusses the physical differences between the Tai Aroha setting and that proposed for the Bristol Street facility. We have noted that the Tai Aroha facility is surrounded by a limited number of properties, unlike the proposed facility at Bristol Street. The entrance area for the Tai Aroha facility is less constrained than that proposed for Bristol Street and there is a large open area at the rear of the Tai Aroha facility which contrasts with the tight outdoor space in the proposed Bristol Street facility. Our impression is and has been that this closeness to residential units requires very close consideration and analysis. The question which has arisen is whether the steps which have been taken by the Department, involving the limitation of

residential use of outdoor areas on the east, south and west and the landscaping to the north, are sufficient to avoid the privacy effects which are clearly of significant concern to residents.

8.63 Our conclusion is that the proposed facility has an uncomfortable relationship with its surrounding neighbours. Buildings occupy a considerable proportion of the site (exceeding site coverage). The outdoor living area to the north is the main (only) outdoor area that the 12 residents have access to, and as described above, is close to and overlooked by up to 6 residential units. We acknowledge the proposed 2-metre-high wall on the intervening boundary, but we do not consider that this wall will totally remove the relationship between the occupants and use of the outdoor area. In order to remove potential privacy issues for community residents on Berry Street, the applicant proposes to exclude the facility residents from the open space areas on the east, south and west of the site with the consequence that the only open outdoor area is that to the north. The applicant has proposed screening (etchlite) some of the windows within the facility where the facility residents will congregate, and also offered to pay for screening windows in adjoining properties should they wish. That offer evoked considerable displeasure from submitters.

8.64 Access to the property is from Bristol Street. The 4 proposed car parks are accessed from Bristol Street, with 2 of the spaces being within a double garage. Visitors to the site (mainly arranged meetings on Saturdays) will access from Bristol Street. Visitors will almost certainly need to park on the road. The parking and access will all be visible from surrounding properties. While we accept the Department's assurances that visiting will be limited and managed, any visiting access and egress will be in the vicinity of, and seen by, neighbours.

8.65 As we have already noted the surrounding neighbourhood is intensively developed, and is certainly reflective of a medium density neighbourhood. That means the property has more neighbours that may well be the case in many other residential neighbourhoods. We observe from the material and information put before us that the

application site is in a more intensively developed residential neighbourhood than the Tai Aroha facility in Hamilton, although we acknowledge that the zoning in Hamilton would appear to allow more intensive residential development to occur.

- 8.66 It is not our place to determine that another site would be better than the one chosen by the applicant. We need to consider and make a decision on the application and site before us. However, we have significant reservations, for the reasons set out above, that 14 Bristol Street is a suitable location, having regard to privacy and relationship to adjoining properties.

Hours of operation

- 8.67 With reference to additional hours of operation for a community corrections facility, the Plan sets out a number of matters of discretion which are said to be helpful in guiding assessment of the activity contained in Rule 14.15.21 of the Plan. For convenience we set out the rule in question ...

14.15.21 Non-residential hours of operation

a. Whether the hours of operation are appropriate in the context of the surrounding residential environment taking into account:

- i. traffic or pedestrian movements which are incompatible with the character of the surrounding residential area;*
- ii. any adverse effects of pedestrian activity as a result of the extended hours of operation, in terms of noise, disturbance and loss of privacy, which is inconsistent with the respective living environments;*
- iii. any adverse effects of the extended hours of operation on the surrounding residential area, in terms of loss of security as a result of people other than residents frequenting the area; and*
- iv. the ability to avoid, remedy or appropriately mitigate any adverse effects of the extended hours of operation; and other factors which may reduce the effect of the extended hours of operation, such as infrequency of the activity or limited total hours of operation.*

- 8.68 We remind ourselves that it is the non-residential hours of operation that distinguish this application from being a *residential activity*, and in respect of any community corrections and welfare facility operations that are carried out outside the hours of 0700 and 1900. It is the full-time residence of persons who have supervised living

accommodation and who are detained on site that excludes the proposed operation of the facility from being a residential activity. And it is the full-time occupation (for a period of time) of twelve men on home detention, and who have had a violent past, and have high risk of re-offending, that is of particular concern to the submitters who appeared before us.

- 8.69 It was important that we said that, because the matters of discretion that are set out above relate to non-residential hours of operation of facilities (such as community correction facilities, and other non-residential and more community or commercial type facilities), rather than the overnight sleeping and living arrangements of the residents of this facility. With those comments and provisos, we now work through the matters of discretion set out above.
- 8.70 We are in agreement with the Report when it is contended that the nature of the activity is such that it is not likely to generate a large number of pedestrian movements and not at a level which would be out of character with the surrounding residential environment.
- 8.71 Further, we do not consider that the extended hours of operation would be likely to result in any additional noise, disturbance, or privacy effects, over and above the use of the site for permitted residential activity or for the previously consented care facility. This is because residents are not likely to be leaving the site in the evenings and instead will be spending time cooking, sleeping, undertaking recreational activities etc.
- 8.72 As to the reference to loss of security as a result of people other than residents frequenting the area, it is noted that whanau visits to residents will only occur on Saturday afternoons and for the remainder of the week the visitors to the site will be confined to external staff with occasional deliveries or maintenance visits.
- 8.73 In summary we are of the view that the extended hours will not result in adverse effects on the surrounding residential area beyond those which could be expected to be experienced during daytime hours in terms of the rule referred to above.

8.74 However, as we discussed in para 8.68 above, it is the full-time residence of persons who have supervised living accommodation and who are detained on site that excludes the proposed operation of the facility from being a residential activity. And it is the full-time occupation (for a period of time) of twelve men on home detention, and who have had a violent past, and have high risk of re-offending, that is of particular concern to the submitters who appeared before us.

Scale of the activity

8.75 As stated in the Report ⁸³ the Plan is concerned with the scale of non-residential activities in residential zones. Further we set out Rule 14.15.5

14.15.5 Scale of activity

a. Whether the scale of activities and their impact on residential character and amenity are appropriate, taking into account:

- i. the compatibility of the scale of the activity and the proposed use of the buildings with the scale of other buildings and activities in the surrounding area;*
- ii. the ability for the locality to remain a predominantly residential one; and*
- iii. the appropriateness of the use in meeting needs of residents principally within the surrounding living environment.*

b. The adverse effects of additional staff, pedestrian and traffic movements during the intended hours of operation on:

- i. the character of the surrounding living environment; and*
- ii. noise, disturbance and loss of privacy of nearby residents.*

c. ...

d. ...

e. The ability to avoid, remedy or appropriately mitigate any adverse effects of the extended hours of operation; and other factors which may reduce the effect of the extended hours of operation, such as infrequency of the activity or limited total hours of operation.

f. The opportunity the activity provides to support an existing nearby commercial centre.

g. The opportunity the activity provides to support and compliment any existing health-related activities and/or community activities in the surrounding area.

⁸³ At page 158 et seq

8.76 For convenience we set out the account of this matter given by the applicant's planner on page 19 of the application where it is stated

.....

"The immediately surrounding environment is predominantly residential with housing varying in character, typology, scale and density, due to its inner city, suburban location. There are several examples of unit developments that are of a similar scale to the existing buildings on the subject site, as well as bed & breakfast accommodation, motels and hotels in the area, particularly along the nearby Papanui Road. The design, scale, appearance and layout of the site has been established by the previous care facility development and more recent short-term accommodation. No external alterations are proposed as part of this proposal, and therefore the existing design, scale, appearance and layout of the site will remain unchanged and be in keeping with the existing environment. In addition to the built development of the site, the existing boundary landscaping will also be retained and will be kept in a tidy manner while the site is occupied for the proposed use.

Importantly, when considering the size and capacity of the existing buildings on the site, the level of occupancy proposed (including residents and support staff) will be at a reduced level of intensity/occupation than previous on-site activities such as short-term accommodation and the Cerebral Palsy care facility."

Scale of the activity / our consideration

8.77 Notwithstanding the account set out above in the application, and for the reasons set out in our discussion on privacy and relationship with adjoining properties, we express reservations about the compatibility of the scale of the activity and the proposed use of the buildings with the surrounding residential neighbourhood the area.

8.78 We note that the Proposal is not aimed at meeting the needs of residents principally within the surrounding living environment. The activity services a Christchurch (and even South Island) wide community.

8.79 We also have reservations about the adverse effects (mainly privacy and ongoing social effects) of the operation on the character of the immediately surrounding living environment, and on disturbance and loss of privacy of nearby residents.

8.80 Overall we conclude that although the proposed facility is in itself a relatively low scale residential, and community use, it has a number of adverse effects when considering the scale of the activity. We consider it noteworthy that the Christchurch District Plan has

excluded supervised accommodation when residents are detained on site from being a residential activity.

Traffic generation and parking effects

Introduction

8.81 We observe that there is a tension between the account of the assessment made by traffic engineers engaged to make an assessment of traffic generation and parking and the on the ground assessment of these matters by residents in the Bristol Street neighbourhood. In essence the residents maintain that the traffic engineering evidence underestimates traffic generation and that the parking observations which form the foundation of the views expressed in the reports were not taken at peak parking times and that the parking difficulties have been significantly underestimated.

8.82 The concerns of submitters in respect of traffic and parking include traffic noise, adverse effects on amenity from increased traffic movements on the existing narrow streets, and that there will be inadequate onsite parking for the activity, with overflow parking to be accommodated on the street.

Traffic generation and parking

8.83 We have had regard to evidence of Mr Chesterman, recorded earlier in this our decision. In summary, Mr Chesterman states that the level of traffic expected is not considered to be significant and would be akin to an otherwise permitted residential (or other) development on the same site.

8.84 Mr Andy Milne, a Council Senior Transport Planner, reviewed the matter of traffic generation and parking effects. In his report dated 29 June 2021 attached as Appendix 8 to the Report. The pivotal findings in the Report are as follows ...

- (i) in the absence of an ability to determine precisely what trip and parking generation the former use as a cerebral

palsy care facility generated, Mr Milne has assessed that it is reasonable to assess the trip generation for a comparable land-use – in this case *housing for aged and disabled persons* which has a daily vehicle trip generation of one dwelling. This suggests that the 24 unit Cerebral Palsy Unit would have generated up to 24 vehicle trips per day.

- (ii) Mr Milne goes on to state that as a *care facility* the Plan seeks a parking requirement of one space per five clients plus one staff space per six clients resulting in a parking requirement of nine spaces. The current site layout provides for the four on-site parking spaces;
- (iii) Mr Milne then states records that the application estimates a daily trip generation of up to 32 vehicle trips per day during a week day and up to 22 vehicle trips during the Saturday afternoon period which includes trips associated with visitors. Mr Milne notes that the application estimates a parking demand of up to ten spaces during a week day and eleven spaces during the Saturday peak activity period. He notes that all night time parking (estimated demand of three car parks) can be accommodated;
- (iv) Using a first principles approach, Mr Milne says that it is reasonable to assume that the proposed uses can operate in a similar manner to that which would occur were the site to be used largely for currently consented use. Mr Milne goes on to state that if this is accepted then from a transport impact perspective, it can be accepted that a reduction in residents' numbers (from 24 units under the consented scheme to 12 units under the proposed scheme) could have a lower trip generation and parking impact than its currently consented use;
- (v) Mr Milne concludes that overall the change in trip generation and parking demand is likely to be marginal and from a road safety and efficiency perspective he is of

the view that the Proposal will have no discernible effects in comparison to the previously consented activity.

8.85 Ms Chapman notes in the Report ⁸⁴ that with respect to other matters of discretion, Mr Milne did not express any concerns with respect to the impacts of the Proposal on the safe and efficient functioning of either the site access or the road network. Ms Chapman does not consider that there will be any cumulative effects resulting from traffic associated with the activity in conjunction with any other activities in the vicinity. She states that the scale of the activity is not such as would result in traffic congestion or reduction of the levels of safety in the vicinity. We adopt this view on the basis of the available evidence.

8.86 In the Report ⁸⁵ Ms Chapman then deals with the residential character and amenity effects of traffic generation and parking. She notes that the levels of traffic and on-site parking are likely to be similar to those which were generated by the previous 24 bedroom care home, and she does not consider the traffic generated by the activity will create undue levels of traffic, noise, vibration, glare or fumes, to an extent that it would be incompatible for the surrounding residential environment, particularly when compared to the consented care home activity. She considered the levels of traffic proposed to be not out of character with the existing environment or with what could be anticipated on the application site.

8.87 Ms Chapman goes on to note that some times of the day and week there will be over-spill parking from the site into Bristol and Berry Streets, of up to seven on-street parking spaces. She says that given the combined length of the two road frontages on the site, she considers that this will be able to occur without causing undue nuisance on the occupiers of adjoining residential sites, noting that the Bristol and Berry Street frontages on the site could accommodate parking for that many vehicles or potentially up to ten without

⁸⁴ At page 11

⁸⁵ At page 41 of the Report

encroaching on the road frontages of any other sites where residents may have an expectation of being able to park their vehicles.⁸⁶

8.88 Mr Milne notes that the current proposal varies from the original and that there is a reduction in resident numbers from 16 to 12 and an increase in staff numbers from 10 to 14. Based on a care facility activity which is closest in definition to that proposed, he states that the Plan requires a parking supply of four on-site spaces, or three once the 23% parking reduction factor allowed for in the Plan has been applied. This required parking supplies provided on-site and as such the Proposal complies with the Plan requirements. However because the Proposal would operate beyond business hours, the Proposal is assessed as a discretionary activity whereby the Council has scope to assess all effects including the impacts on the surrounding road network. Mr Milne considers that the road network was capable of accommodating the estimated 54 to 62 vehicle movements per day and concurred with the statement that this was not a significant scale of traffic and was potentially akin to an otherwise prevented residential (or other) development on the same site.

Traffic generation and parking / our analysis

8.89 We have considered the expert evidence and have concluded that we should adopt the approach taken in the relevant reports. We agree that the additional traffic generation will not be materially different from that generation which could be expected were the site to be used for permitted activities. We note that both assessments have included staff and visitor traffic movements. Whilst, as Ms Chapman has noted in the Report⁸⁷, neither traffic expert has provided information or data to compare the effects of the proposal with the permitted community corrections facility, we agree with her when she states that a probation centre would likely generate a reasonable amount of vehicle traffic from staff (such as probation officers,

⁸⁶ See page 43 of the Report

⁸⁷ At para 171

psychologists and trainers), clients, and vehicles travelling to community service sites.

8.90 Mr Chesterman expressed the view that the level of parking demand could easily be accommodated by the surrounding roads without affecting the safety or efficiency of the frontage roads. In answer to a question from Commissioner Lawn, Mr Chesterman noted that the road network was noticeably busier at the southern end, but said that parking should be available but, referring to the north adjacent to Holly Road, said that parking should be available within 150 metres of the site most of the time and at the north of the site.

8.91 Mr Milne, upon reviewing the available information, expressed the view that there is space available outside the site and along Bristol Street to accommodate the eleven space on-street parking demand. He considered that the effects of on-street parking associated with the proposal on the safety and efficiency of the immediate surrounding road network to be acceptable.

8.92 The evidence of the residents indicated a particular concern regarding the availability of parking. We note particular reference to the evidence of Emily Taylor, on behalf of the Network, who was critical of the Novo Group report stating that times were chosen to examine parking when there were very few cars parked on Bristol Street. As noted previously in this decision, Ms Taylor gave a different account of parking availability, showing a number of photographs indicating the parking on Bristol Street between Holly Road and Clare Road and Berry Street as she said "packed full of cars". She said that on most days there was not a park to be found.

8.93 We have given careful consideration to the expert evidence and also the evidence given by residents regarding traffic matters. These matters have guided our assessment of this matter. Whilst we harbour some concerns about the possible adverse effect of the proposed activity on the parking situation, and anticipate that there may be times when car parks in Bristol Street will not be readily available immediately adjacent to the site, on the basis of the expert evidence and our overall assessment of matters, we do not consider

that the traffic effects are likely to be materially different from those that could be expected should a permitted activity be conducted on the site. For this reason we agree with Ms Chapman when she states in the Report ⁸⁸ that she considers that traffic generation and parking effects of the activity will be no more than minor, particularly when viewed in the light of the levels of traffic which could be generated by a permitted or consented use of the site.

Positive effects

8.94 As Ms Chapman has noted in the Report ⁸⁹ the Department has discussed positive effects in section 5.5 of the original application. Those effects are summarised in the Report as follows:-

- (i) Tai Aroha provides an option for men with complex needs to gain access to a wrap-around targeted rehabilitation service;
- (ii) the programme also provides opportunities to develop community connections and re-establish links with whanau;
- (iii) the programme strives to provide a healing environment, where residents can retain their sense of dignity, while at the same time be provided with skills and resources to take responsibility for their own lives;
- (iv) Tai Aroha provides opportunities for reintegration as well as rehabilitation, to lessen the sense of separation and isolation upon community and whanau that a participant might experience in a custodial environment;
- (v) Tai Aroha facilitates whanau engagement and healing within the family by providing opportunities for the whanau to take an active role in supporting their family member;

⁸⁸ At para 179

⁸⁹ At page 43

- (vi) the development of working relationships with mana whenua also provides an opportunity for residents to enhance ties with local the support agencies;
- (vii) use of the existing buildings for a correctional/welfare facility for residents will be an efficient use of an existing development.

8.95 In addition Ms Chapman has noted a number of positive aspects raised by submitters which she said include:-

- (i) effective rehabilitation being important for whanau in the community;
- (ii) there are few programmes such as this, the programme is soundly based on internationally recognised rehabilitative principles and research indicates that rehabilitation programmes for violent offenders are more effective than prison-based programmes;
- (iii) there are positive effects in terms of providing placement opportunities for trainee clinical psychologists;
- (iv) the Christchurch community would be safe overall if the programme goes ahead;
- (v) a location in a residential area is very important for rehabilitation purposes because successful reintegration into the community is a key factor in reducing reoffending.

8.96 We have listened with interest to the evidence of Mr Millar who gave an account of the transformation which his grandfather made from being what he termed a "miserable alcoholic" to a person who was a "model to all".

8.97 Then we refer to the evidence of Professor Grace who made a strong submission in favour of the Proposal. He said that the rationale for

the Bristol Street facility was compelling and he urged the Council to approve it.

8.98 We have listened carefully to the evidence on behalf of the Department as to the alarming imprisonment rates in New Zealand and the disproportionate number of the Māori community who are imprisoned. The response to these matters by the Department is to be commended. The Proposal represents a constructive response to the concerns about the state of the prison system. Nothing in this decision should be taken as an indication that a facility of the type envisaged for Bristol Street is an inappropriate response to the concerns of the Department. The issue in this case is not whether the Proposal represents an appropriate response to the concerns of the Department but rather whether the location of the facility is appropriate having regard to the matters which we have traversed in this decision.

8.99 In summary we are of the view that, notwithstanding the criticisms which have been made to the information regarding recidivism for those who have attended the Tai Aroha facility, on balance the proposed programme is likely to have benefits for those who attend, and in this context, we accept the evidence of Professor Polaschek on this matter.

Our conclusions on effects

8.100 We now summarise our conclusions on the effects of the proposed application on the community and surrounding environment.

8.101 We have found that the risk of offending by residents who may leave the facility (without permission) is not significant. We consider the fears held by residents of the area genuinely held, but they are overstated and based on what they anticipate.

8.102 We have found that social effects expressed through residents anticipated fears and concerns are significant, and will be at a level that is more than minor. We agree with the applicant that those fears and concerns will reduce over time, but we do not accept that social effects will reduce to a level of less than minor. We consider that they

will reduce to a level that is at least minor, and that for some people they may never reduce below a level that could be described as more than minor, or significant.

8.103 We have found that there will not be any adverse cultural or tangata whenua issues, and we are confident that a relationship could be developed between the Department and the Rehua Marae.

8.104 We have found that noise levels generated by the facility are likely to be well within noise levels specified in the District Plan, and have less than minor effects.

8.105 We have found that the proposed facility has an uncomfortable relationship with its surrounding neighbours, and have expressed reservations that 14 Bristol, Street is a suitable location, having regard to privacy and relationship to adjoining neighbours.

8.106 We have considered the matters of discretion set out in Plan for non-residential activities with non-residential hours of operation. While we acknowledge that the assessment matters are largely met, they relate mainly to non-residential and community or commercial type facilities operating in a residential area. The application before us is for the full-time occupation (for a period of time) of twelve men on home detention, and who have a violent past, and a high risk of re-offending.

8.107 We have considered the matters of discretion relating to the scale of non-residential activities in residential zones. We have concluded that although the proposed facility is in itself a relatively low scale residential and community use, it has a number of adverse effects (mainly privacy and relationship with nearby properties, and social effects) when considering the scale of the activity.

8.108 We are satisfied that the level of traffic and parking generation can be accommodated satisfactorily within the surrounding street network.

8.109 We accept and acknowledge the positive effects of running the type of programme proposed for 14 Bristol Street, and that there will be positive benefits for those who attend the programme.

8.110 Our overall conclusion on effects is that likely on-going social effects, and issues with privacy and relationship with surrounding properties, will result on adverse effects that are at a level that is at least minor, and for some people could be more than minor. We acknowledge that in other respects, most adverse effects are likely to less than minor, and that there are positive effects for participants of the programme that need to be considered. We will weigh up these conclusions, and our conclusions on objectives and policies, later in this decision.

9. ***Relevant objectives and policies of the Plan***

Introduction

9.1 S104(1)(b) of the Act provides that regard must be had to the relevant objectives and policies in the Plan. For convenience we ***attach*** what we perceive as the relevant objectives and policies as ***Appendix 2***.

Community activities and community facilities

9.2 Policy 14.2.6.2 seeks to enable community activities and community facilities within residential areas to meet community needs and encourage co-location and shared use of community facilities where possible. We have earlier in this decision dealt with the issue of whether, at least in part, the proposed facility is a community activity, and we have found that it falls within the definition. We have dismissed a contention from Mr Giddens that to be a community activity it must be part of the local community.

9.3 We agree therefore that Policy 14.2.6.2 seeks to “enable” community activities and facilities within residential areas, and therefore this policy supports the activities that would fall within the definition of community activities.

- 9.4 However, community activities and facilities only form part of this application. The full time "living" occupation by the particular programme residents is what distinguishes this application from a community corrections facility. And then the definition of *residential* excludes persons who are in supervised living accommodation where residents are detained on the site.
- 9.5 In that sense this application can be seen to consistent with and gains support from, Policy 14.2.6.2.

The non-residential issue

- 9.6 Of importance are the objectives and policies of the Plan relating to residential and non-residential activities. Earlier in this decision we found that the *residential activity* definition did not apply to the accommodation component of the Proposal. In her closing legal submissions ⁹⁰ Ms Semple argued that should we find that the *residential activity* definition did not apply to the accommodation component of the Proposal, but the community definitions did, (being the position of Ms Chapman) then the Proposal continued to find overall support within the Plan, relying upon the evidence of Mr Gimblett. ⁹¹
- 9.7 When making her assessment, Ms Chapman proceeded on the basis that because the Plan excluded situations where residents were detained on the site from the definition of *residential activity*, the Chapter 14 objectives and policies relating to non-residential activities were the most directly relevant to this proposal. ⁹² Because of the importance of this matter we repeat the footnote, clarifying the views of Ms Chapman. ⁹³

For clarity, given that the plan does not define "non-residential" and the "residential" part of the phrase non-residential is not underlined in the relevant objectives and policies, and in this instance I take the plain meaning of residential to effectively mean the same thing as residential as defined in the District Plan. Any activities not provided for as residential are therefore considered to be non-residential, including supervised living accommodation where the residents are detained on site.

⁹⁰ At para 4.2

⁹¹ Gimblett summary at para [6.1] and the Report at [211]

⁹² See para 189 of the Report

⁹³ Footnote 9

9.8 Ms Semple questioned whether an assessment against the objective and policies in the Plan relating to *non-residential activities* was required noting that *non-residential activity* was not defined in the Plan. She noted that when that phrase was used in the relevant objective and policies, the Plan did not refer to the definition of *residential activity* through a dotted underline with hyperlinking. She submitted that in the absence of that feature, relying upon a decision of the Environment Court *Rodgers v Christchurch City Council*⁹⁴, the plain ordinary meaning of the words in the Plan must apply not the Plan definition. She said that applying that direction, and if the Council was correct and the Proposal was to be considered as *supervised living accommodation where the residents are detained on-site*, then Objective 14.2.6 and its accompanying policies were only relevant if *supervised living accommodation for residents* was found to meet the ordinary meaning of *non-residential activity*. Putting it another way she said that the fact that a certain type of living accommodation may be excluded from the definition of *residential activity* did not necessarily make it *non-residential* for the purpose of these provisions. She went on to state that the Proposal clearly involved living accommodation (even if supervised) and residents (even if detained) on a plain reading of the term. She said that it was difficult to see how such activities could fail to qualify as *residential* and accordingly there was no basis for Objective 14.2.6 and its accompanying policies relating to *non-residential activities* to apply.

The non-residential issue / our analysis

9.9 The point at issue is one of some difficulty, in the absence of express direction in the Plan. As a starting point, we remind ourselves that in interpreting a plan, the first step is to ascertain whether the language of the provision has a plain ordinary meaning. However, as was noted in *Powell v Dunedin City Council*⁹⁵, while it is appropriate to seek the plain meaning from the words themselves it is not appropriate to undertake that exercise in a vacuum, and regard must be had to the

⁹⁴ *Rogers v Christchurch City Council* [2019] NZEnvC 119 at [24] and [25]

⁹⁵ *Powell v Dunedin City Council* [2005] NZRMA (CA)

immediate context, and where any obscurity or ambiguity arises it may be necessary to refer to the section of the Plan and the objectives and policies of the Plan itself. So when considering Objective 14.2.6, and the terms therein, regard must be had to the overall objective to ensure a consistent approach to the exercise of interpretation. We adopt this approach in the consideration of this issue.

9.10 Objective 14.2.6 refers to *residential activity* in its defined sense by reason of the hyper-linking under the relevant term. However, when regard is had to the balance of the objective, and there is reference to *non-residential activities*, there is no hyperlinking and so it is argued that, consistent with the approach taken in *Rogers v City Council*, the plain ordinary meaning of *non-residential* must apply, rather than a meaning linked to the defined term being *residential activities*.

9.11 We note that in Objective 14.2.6, *residential activities* are said to remain the dominant activity but there is recognition of the need to ...

ii restrict other non-residential activities unless the activity has a strategic or operational need to locate within a residential zone or is existing guest accommodation
..... on defined sites

9.12 It seems to us that the reference to *non-residential activities* in Objective 14.2.6 must refer to those activities which are not comprehended by the term *residential activities* as defined for the relevant objective to make sense. Objective 14.2.6 a ii provides for the restriction of *non-residential activities*

..... unless the activity has a strategical operational need to locate within a residential zone or is existing guest accommodation

9.13 We are of the view that *guest accommodation* as defined in the Plan would, as a matter of ordinary dictionary usage normally be regarded as a species of *residential activity* because it has needed to be excluded from the definition of *residential activity*. We note that *guest accommodation* is defined in the Plan as ...

Means the use of land and/or buildings.... for transient residential accommodation offered at a tarriff

so clearly guest accommodation is regarded in the Plan as a species of residential activity. So when Objective 14.2.6 refers to *guest accommodation* with hyperlinking, it is treating *guest accommodation* as a *non-residential activity* because it is excluded from the definition of *residential activities*. Accordingly, in order to make sense of the reference to *non-residential activities* in the Plan, the term must be said to be referable to the activities other than those which have been defined as *residential activities* in the Plan.

- 9.14 We note that in her closing legal submissions, Ms Semple referred to *Rogers v Christchurch City Council*⁹⁶ in support of the submission that the plain ordinary meaning of the words *non-residential activities* applies not the definition in the Plan. In *Rogers* the court was concerned with the interpretation of Policy 17.2.2.5 in the Plan which contained the following provision ...

Avoid the establishment of industrial and commercial activities that are not dependent on or directly related to the rural resource unless ...

there being no hyperlinking or qualifier in the relevant definition of (in this case) *commercial activities*. The ordinary dictionary definition therefore applied. We are of the view that there is a distinction between the situation which confronted the court in *Rogers* and the present case because the interpretation of Policy 17.2.2.5 contended for in *Rogers* did not involve consideration of whether adopting the dictionary definition in that case led to internal inconsistencies in interpreting the policy itself. In the present case we find that there are such inconsistencies in the approach contended for by the Department because of the difficulties which arise if the dictionary definition *non-residential activities* is adopted in relation to Objective 14.2.6 and the policies which implement it.

- 9.15 Given that the purpose of objectives is to implement policies⁹⁷, we do not believe that Policy 14.2.6.4, in relation to the definition of *non-residential activities* can be treated in a manner which differs from the treatment of the term in Objective 14.2.6. This is because Policy

⁹⁶ [2019] NZEnvC 119, at [24] and [25]

⁹⁷ See Rule 1.5.2b of the Plan

14.2.6.4 must be taken to be implementing Objective 14.2.6 and to adopt a different interpretation of *non-residential activities* would result in an inconsistency and treatment which the Plan cannot have contemplated.

- 9.16 It follows from our above analysis that we regard the reference to *non-residential activities* as being referable to the activities which are the subject of the Proposal. We now examine the question of whether the activities the subject of the Proposal are contrary to the relevant policy.

Policy 14.2.6.4

Strategic or operational need to establish in residential zone

- 9.17 Policy 14.2.6.4 provides for the restriction of other non-residential activities, especially those of a commercial and industrial nature, unless the activity has a strategic or operational need to locate within a residential zone and the effects of such activities on the character and amenity of residential zones are insignificant. We examine the qualifications in turn.
- 9.18 In her submissions, ⁹⁸ Ms Limmer addresses the question of strategic and operational need, submitting that the evidence for the Department has fallen well short of proving any need. She referred to comparison with two other Christchurch sites in terms of suitability and submitted that the paper made no mention of the qualities which were needed for the programme. Ms Chapman takes a different approach in the Report ⁹⁹. She addresses the issue of an operational need for the facility to locate within a residential zone, referring to point 2 in the June 2021 further information response from the Department. That response reflected evidence which we heard at the hearing to the effect that there was a clear strategic and operational need for the participants to live in a residential environment as part of the programme and that the programme would be less effective

⁹⁸ At paras 54 and 55

⁹⁹ At paras 194 and 195 of the Report

without this aspect. Reference is made to the report of Dr Cording which is to the same effect.

- 9.19 The residents in opposition have expressed a view that the facility does not need to locate in a residential zone and would more appropriately be located elsewhere. But in relation to this matter, we are guided by the expert evidence given on behalf of the Department to the effect that the residential location is central to the establishment of the facility. We do not overlook the wide-ranging evidence on behalf of the residents in opposition to the effect there can be no meaningful connection with the community if the facility is located in Bristol Street, because of the lack of any connection between the residents in the facility and those living in the neighbourhood, and the fact that the residents will be in the facility for a strictly limited time. In this context we do not see it as our role to make a judgment on whether the facility being located in a residential zone is likely to be effective. Instead we rely upon the expert evidence to the effect that the establishment of the facility in a residential zone is a necessary component and that without that component, the aims of the facility would not be able to be achieved. Accordingly, in summary, we find that there is a strategic and operational need to locate the facility within a residential zone.
- 9.20 Commissioner Lawn had some reservations about reaching that conclusion. He accepts that "need" does not mean a necessity or requirement to be located in a residential zone, but there should be a justified or reasonable need to locate in a residential area. He accepts that there is plenty of evidence before the commissioners that the project would benefit from being in a residential area, and that being in a residential environment would assist the participants on their journey back to re-integration into the community. He agrees with the view of many submitters that the corrections facility will have few interactions with the immediate residential community, and a number of the offered conditions and amendments seek to remove interactions with nearby properties. He also agrees that the facility could also work well on sites that are not residential, but are close to residential areas, and potentially in suburban commercial or community areas. The facility does not require, or necessitate a

residential location, in the sense that it would fail if it was not in such an area, but that is not the test. In the end he accepted that there is a justified need, and benefit, from being in a residential location. That does not mean that there is a need or justification for being on this particular residential site, and that matter is the subject of other considerations in this decision.

Effects insignificant?

9.21 The next question is whether the effects of the proposed activities on the character and amenity of the residential zone can be regarded as *insignificant*. We note that the restriction applies unless the activity has a strategical or operational need to locate within a residential zone *and* the effects of such activities on the character and amenity of residential zones are insignificant.

9.22 Because of its importance, we refer to the Report where Ms Chapman deals with this difficult issue.¹⁰⁰ Ms Chapman refers to the following evidence as to effects:-

In further information supplied by the Applicant addressing the relevant part of the Policy, it was stated that the effects of the activity on the character and amenity of the residential zone would be insignificant.

9.23 Ms Chapman notes that the above statement is somewhat at odds with the social impact assessment of the Department, prepared by Beca, which stated that the Proposal would likely initially have moderate effects on health and wellbeing and low-moderate effects on sense of place and character, although stating that they consider these effects will reduce to low over time.

9.24 Ms Linzey considered that the overall potential social effects of the Proposal were minor. She remained of the opinion that with mitigation and post 6 to 12 months of operation, the potential adverse social impacts would be low to very low and over time would be reduced to very low. However she acknowledged that due to personal circumstances some members of the community may never become

¹⁰⁰ At para 196 et seq of the Report

comfortable with the proposed activity, but this only related to a small number of people.

- 9.25 Ms Stroger, reporting for the Council, conversely concluded that the overall social effects of the proposal would be moderate to low (the low level of effects being a situation that would be reached over time) and that in a planning context the potential social effects would be more than minor, reducing to minor over time.
- 9.26 Ms Chapman concluded

.... that the adverse effects would be no more than minor when compared to the permitted baseline of a community corrections facility and that the proposal therefore did not meet the second part of Policy 14.2.6.4 and the effects, at least in the short term, would not be insignificant.

- 9.27 We have given careful consideration to this important issue. We agree with Ms Chapman that the effects will not be insignificant. Indeed we have found earlier that the effects of this activity will be at least minor.
- 9.28 We have reflected that the use of "insignificant" effects in this clause is deliberate. The Plan has chosen to place this higher, or harder, test on non-residential uses, even those who have a strategic or operational need to locate within a non-residential zone.
- 9.29 We find that the proposed facility at 14 Bristol Street is at least inconsistent with the limb of the policy which seeks those non-residential uses which have an operational or strategic need to locate in a residential zone should have effects that are insignificant.

Restrict or avoid

- 9.30 In the Report, Ms Chapman goes on to deal with the meaning of the term "restrict" used in Policy 14.2.6.4. She referred to the decision of the Environment Court in *Fright v Christchurch City Council*¹⁰¹ where the court referred to the threshold of insignificant events in Policy 14.2.6.4 as being *strong directive language*. However Ms Chapman went on to note that the policy directed the Council to

¹⁰¹ *Fright v Christchurch City Council Decision No [2018] EnvC 111 at para [57]*

restrict the establishment of other non-residential activities, especially those of a commercial and industrial nature (rather than to avoid).

- 9.31 She went on to state that in the relevant context she considered that *restrict* meant to "limit" with particular emphasis on commercial and industrial type activities. She pointed out that the proposal was not for a commercial or industrial activity, but the activity was partly a community facility and partly for living accommodation, and while the living accommodation technically fell to be considered as a non-residential activity due to the residents being detained, the nature of the activity was similar to a residential activity and the men would live on the site and sleep etc. As such she did not consider the activity was one that the relevant policy was intended to restrict, given the emphasis in that policy on commercial and industrial activities.

Non-residential activities / our analysis

- 9.32 We note that *restrict* is not the same as avoid, it is more akin to limit. While we have found that this application is inconsistent with one limb of the policies relating to non-residential activities, that does not mean that the application should fail. It is one of the matters that we shall take into account in our final determination. It will be appropriate that we consider whether this particular activity, which we have found to have at least minor adverse effects, should be restricted, or limited, and whether this particular site is appropriate for the proposed use.

Other Chapter 14 provisions

- 9.33 Clearly the provisions relating to residential activity and non-residential activities are of particular relevance to this application.
- 9.34 As is noted by Ms Chapman in the Report,¹⁰² there are other objectives and policies of the Plan which are relevant, although, in the context of this application, arguably of less critical importance than the objective and policies which we have just considered.

¹⁰² At paras 203 et seq

- 9.35 Objective 14.2.4 seeks high quality, sustainable, residential neighbourhoods which are well designed, have a high-level amenity, enhance local character and reflect the Ngai Tāhu heritage of Ōtautahi. Policy 14.2.4.1 is aimed at ensuring that individual developments contribute to high quality residential environments, by reflecting the character and scope of building anticipated contributing to a high-quality street scene, providing a high level of on-site amenity, minimising noise effects, providing safe access and incorporating crime prevention through environmental design (CPTED) principles. In the Report ¹⁰³ Ms Chapman notes the external appearance of the site is not proposed to change noticeably and comments upon other physical aspects of the site. She notes that noise effects will be commensurate with those experienced throughout living zones and suitable safe access to the site is obtained. She states that while the screening of windows will not contribute to passive surveillance from the site, otherwise she considers that the proposal consisting with CPTED principles as there will be a clear demarcation of public and private space, areas for concealment are not created and the site would be well maintained.
- 9.36 Ms Chapman goes on to consider Policy 14.2.4 which describes the characteristics of both low and medium density areas with low density areas having a low scale (of one or two storey) buildings and plenty of space for landscaping while medium density areas provide for medium scale and density of generally 2-3 storey buildings. Ms Chapman notes that the external appearance of the site will remain very similar to the existing situation of the existing built-form of the site has been lawfully established. She states that the buildings are single-storey and that the site provides adequate areas for landscaping in keeping with the expectations for the RSDT zone and thus she considers the proposal consistent with Policy 14.2.4.4. We agree.
- 9.37 Ms Chapman goes on to consider other chapter 14 provisions, ¹⁰⁴ noting that they are of less relevance in this specific situation but are

¹⁰³ At para 204

¹⁰⁴ At para 206 of the Report

included for completeness. We do not think that there are any particular matters which require comment in this our decision.

Chapter 7 / transport objectives and policies

- 9.38 In the Report, Ms Chapman refers to the transport related objectives and policies listed in Chapter 7 of the Report which are detailed in Appendix 4 of the Report. She notes that Objective 7.2.1 seeks an integrated transport system for Christchurch which is safe and efficient for all transport modes, support safe, healthy and liveable communities by maximising integration with land use that reduces dependency on private motor vehicles and promotes the use of public and active transport. She goes on to refer to subordinate policies which we do not need to repeat in this decision.
- 9.39 She goes on to refer to carparking noting that the traffic engineers agree that although the proposal will result in over-spill carparking onto Bristol or Berry Streets, the adjoining road network is able to cater for this additional parking without adverse effects on the receiving environment. Lastly, she goes on to state that in terms of public and active transport, the activity provides more cycle parking than required under the Plan. In summary Ms Chapman considers the proposal to be consistent with Chapter 7 Transport related objectives and policies.

Transport objectives and policies / our analysis

- 9.40 We refer to our analysis of transport related matters in an earlier part of this decision. Whilst we understood the concerns which residents expressed as to (in particular) concerns about the availability of parking, we were guided by the expert evidence which expressed the view that the Proposal would not give rise to traffic related effects, including parking, which were unacceptable. On the basis of those findings, we agree with Ms Chapman that the Proposal is consistent with the Chapter 7 Transport related objectives and policies.

Overall consideration of objectives and policies

- 9.41 We have concluded that this application can be seen to be consistent with and gains support from Policy 14.2.6.2 (community activities and facilities in residential areas).
- 9.42 We have concluded that there is a strategic or operational need to establish this facility in a residential zone.
- 9.43 We have concluded that the effects of the facility will not be *insignificant*, and therefore the application is inconsistent with this limb of Policy 14.2.6.4.
- 9.44 It is therefore appropriate that we consider whether this facility is one that should be restricted, or limited. In our consideration, that goes to whether this is an appropriate activity on the application site.

Statutory considerations

- 9.45 Under section 104(1) we must have regard to;
- (a) Effects on the environment of allowing the activity; and*
(ab) Any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
(b) Any relevant provisions of
- I. A national environmental standard*
 - II. Other regulations*
 - III. A national policy statement*
 - IV. A New Zealand coastal policy statement*
 - V. A regional policy statement or proposed policy statement*
 - VI. A plan or proposed plan*
- (c) Any other matter the consent authority considers relevant and reasonably necessary to determine the application*

Effects

- 9.46 We have had regard to the effects on the environment of allowing the activity. Our conclusion on effects is that likely on-going social effects, and issues with privacy and relationship with surrounding properties, will result in adverse effects that

are at a level that is at least minor, and for some people could be more than minor. We acknowledge that in other respects, most adverse effects are likely to be less than minor, and that there are positive effects for participants of the programme that need to be considered.

Permitted baseline

- 9.47 We have had regard to the permitted baseline. We have concluded that a community corrections facility is a plausible permitted baseline. However, the community corrections facilities which form part of the permitted baseline do not contemplate residential accommodation, and it is this factor which impacts upon the extent to which reliance can be placed upon the established permitted baseline in support of the Proposal, given the residential component which is proposed.

S104(1)(ab) of the Act

- 9.48 We have had regard to the measures and conditions offered by the Applicant. While they go some way to remedy some of the privacy and site relationship issues, we did not find that they would remove, or compensate the reservations that we have about this proposal on this site.

Objectives and policies

- 9.49 We have had regard to the objectives and policies of the Christchurch District Plan. We have found that this application finds some support from the objectives and policies of the Christchurch District Plan (especially in regard to the community activity components, and the reasonable need to establish such a facility in a residential zone). We have however found it to be inconsistent with one of the limbs of Policy 14.2.6.4 in that the effects of this activity will not be insignificant. Indeed we found them to be at least minor. Being an activity that should be restricted, it is appropriate for us to determine whether this is an appropriate site.

S104(1)(b) other statutory documents

- 9.50 We have had regard to the National Policy Statement for Urban Development, and the Canterbury Regional Policy Statement. We accept the advice of Ms Chapman that there is nothing in those documents that will influence this decision.

Part 2 of the Act

- 9.51 Given that the Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Christchurch District we agree with Ms Chapman when she states in the Report ¹⁰⁵ that there is no further assessment against Part 2 is considered necessary.

Our Decision

- 9.52 We have not found this to be an easy decision. We applaud the Department in putting forward a second live-in rehabilitation programme, modelled on the Hamilton Tai Aroha facility. The facility at Hamilton appears to be reasonably well run, and although it is difficult to prove that it has successfully changed the behaviour, and reduction of recidivism, of the residents who participated in this, we are satisfied that it is a worthy programme which will achieve worthwhile results.
- 9.53 We have heard considerable fears and concerns expressed by residents who live in the area around Bristol/Berry Street. We understand those concerns, and do not question the strength or truth of those concerns. They are genuinely held. But on the evidence before us we found that the actual and likely effects will be less than anticipated, but not so much as to reduce them to a level that could be described as less than minor, or insignificant.
- 9.54 In the end, we have gone to our first impressions on our first site visit, re-enforced on our second visit when we saw the property, and relationship with surrounding properties, from inside the

¹⁰⁵ See para 219 et seq

buildings and property. The site is in a medium density area, which has been extensively developed and re-developed to a high residential standard. The facility is very close to adjoining properties. We have expressed the view that the proposed facility has an uncomfortable relationship with its surrounding neighbours. We expressed significant reservations about the privacy and relationship with adjoining properties.

- 9.55 This application is for a facility that will house up to 12 men, who are on home detention, who have committed violent crimes, and who have a high chance of re-offending. We are not satisfied that this particular property is appropriate for such a facility.
- 9.56 The Plan specifically excludes the use of land/buildings for supervised living accommodation where the residents are detained on site from being a residential activity. We believe that it did so for good reason, and that a facility that houses such persons from towards one extreme of the corrections charges, in a medium density area, and on a site which is close, and overlooked, by a number of properties, requires very careful consideration.
- 9.57 It is our conclusion that the applicant has not satisfied us that this is an appropriate site for such a facility. It is not our role to determine whether there would be more suitable properties and locations for such a facility.
- 9.58 We have therefore concluded that this is an application that we should decline. Accordingly the application is declined.

DATED 18 January 2022



A C HUGHES-JOHNSON QC



KEN LAWN

ATTACHMENT 1

Summary of submissions

Reasons for submissions in support:

	COMMENT	
	Supports the programme, intention behind the programme / it is our social responsibility to support these members of the community through programmes that help with reintegration / will bring significant public good.	5
	Supports innovative approaches to rehabilitation and reintegration, we need to rethink our approach to corrections / firmly believe in the need for more rehabilitation programs outside traditional jails / supports non-punitive programmes when possible	3
	Welcome the facility to the area, as well as future residents and staff of the facility / happy for the facility to be in the area / close residents support the facility / As a resident of St Albans, I was pleased to see that our community might be welcoming in former inmates, we are a diverse and tolerant community uniquely positioned to be supportive / I wish the participants in the programme well with their rehabilitation and hope being part of the St Albans community helps them to achieve their goals of living without crime or violence.	6
	Locking people away does not help them to integrate back into society, nor does it allow a society to see and empathize with those who need our kindness and support in their season of need.	
	This active approach to place these men in our community will enrich our lives as it will hopefully enrich their lives	
	Dept of Corrections is willing to work closely with the community	
	Security will be well structured and effective / happy with security measures proposed	2
	Effective rehabilitation is important for whanau and the community / such facilities are an important part of our justice system, to restore offenders to 'normal' society	2
	Will be a beneficial programme for residents and their families/whanau / this rehabilitation approach will have worthwhile benefits	3
	Submitter is a clinical psychologist with experience working offenders and treatment programmes – submitted has seen the power of a therapeutic community, where living together with highly trained staff, supportive structure and evidence-based treatment, is the overall intervention. A different and positive experience compared to attending a programme for a few hours a week whilst continuing to live in a standard prison unit without intensive support.	
	There are few such programmes in the community, important that these programmes are allowed to be undertaken within a positive community setting to inspire hope for the future for residents, as well as to give access to the multiple services they need.	
	Putting criminals well out of the way simply feeds social dislocation and exclusion from prosocial experiences.	
	Tai Aroha in Hamilton is clearly effectively and professionally managed / have confidence that the programme is well conceived, well designed, professionally managed and will not put the surrounding community to undue risk	2

	The clinical manager at Tai Aroha, and the clinical team here in Christchurch are very experienced in the area of criminal justice psychology services.	
	I have read the Social Impact Assessment and agree that, like Tai Aroha, this service will integrate into the community environment.	
	Submitter undertook a google search "tai aroha Hamilton problems" with no negative stories identified, again highlighting how well integrated the residence is.	
	The proposal at Bristol Street would allow the Department to fulfil more of its obligations to public safety, which have to extend well beyond imprisonment.	
	Can see no reason, from the extensive experience of Tai Aroha or the current proposal, to suggest why safety would be compromised for the immediate community by the presence of the Bristol Street programme / submitter is satisfied that even with a high recidivism rate, the safety precautions in place will keep our community safe.	3
	Will bring important benefits to the wider New Zealand/Aotearoa community, in particular the South Island	
	The proposed programme is soundly based on internationally recognised rehabilitative principles and practices combined with kaupapa Māori principles and practices to ensure cultural responsiveness.	
	The evaluation findings from the North Island-based sister programme Tai Aroha of meaningful changes in the psychological functioning of graduates and reduced recidivism	
	The individuals who would become residents of the proposed programme are members of the community in their own right and a duty of care exists towards them	
	Currently a shortage of clinical psychologists in NZ - programme would provide a placement site for trainees psychologists undertaking their training at University of Canterbury.	
	Ara Poutama Aotearoa will set up a community representative group. Submitter believes that the community has a joint responsibility with the Department of Corrections to provide a representative group.	
	Important that the Community Representative Group established is made up of individuals who will allay fears of the local residents, but more so, encourage an atmosphere of support and integration between the residents at the facility and other local residents and greater community. Submitter would be happy to volunteer for the group.	
	Noise - there are many AirBNB units in the area with no restrictions on noise. Submitter would rather have a managed facility than a non-managed AirBNB with transient residents who have no community involvement or consequences	
	There is plenty of off-street parking in the area to facilitate this proposal.	
	Important that the community of men at Tai Aroha are given every opportunity to integrate with the local residents	
	Encouraged that the existing residential style Cerebral Palsy care facility buildings have been re-purposed and given another opportunity to serve the community	
	The effects from the proposed use, on the environment and immediately surrounding properties are less than minor and no greater than the current use of the site.	
	This is run with a Te Ao Maori approach with specialists. You cannot go	

	wrong with a kaupapa that is Te Ao Maori based and works for all nations not just Maori.	
	There are not enough residential therapeutic programmes in Otautahi. Family Harm is rife in our communities and there are refuges for the victims but not enough treatment for our men who are the perpetrators. This is a safe space for our Tane to get treatment in an environment that is healing, as many of our perpetrators were once victims. This is a place to restore mana to our Tane in an appropriate setting.	
	Research tells us that rehabilitation programmes for violent offenders are more effective than prison-based programmes.	
	As a result of this programme the overall Christchurch community will be safer than if this programme does not progress.	
	Disgusted / concerned that some of the reasons for opposition to the proposal are racially based.	2
	I would encourage all councils to take similar steps and allow for rehabilitation programs in community environments.	
	The owner of the property is Kainga Ora so this property is already intended for marginal people in our community. By leasing the property to corrections for this purpose the neighbourhood will enjoy far greater safety and right to quiet enjoyment than if it was used for general housing tenants who have had no filtering out for mental health, drug and alcohol, sexual violence etc.	
	I hope that there will be strong liaison and integration support for any persons housed	
	We already have had Salisbury Street Foundation operational for decades	
	We should be aware and proactive and humanly interact on the basis of all being affected in some way by each other's perspectives.	
	The nimby boomers in the neighbourhood that are trying to start a disingenuous moral campaign against this, when all they're really worried about is their property prices, have annoyed me sufficiently that I am now motivated enough to voice my opinion that I'm fine with this in my neighbourhood.	
	The small but vocal voice of opposition currently trying to incite fear in myself and my neighbours might mean that this positive sounding programme is scrapped, and that would be a shame.	
	I note that the resource consent application is for a worthwhile purpose. I live around the corner from 14 Bristol Street. I support the application.	
	Submitter has read the memorandum submitted by Dr Cording and fully agree with her comments about the low risk of harm to the community of the proposed facility and benefits of the rehabilitation and reintegration programmes it will provide.	
	There is an urgent need for facilities such as this, which represent international best practice in efforts to reduce incarceration and reoffending	
	If the Bristol St facility is not available, then eligible offenders in the Canterbury region would either serve a community sentence without the wrap-around services that the facility would provide, or be imprisoned for a short term that would likely be too brief to allow for meaningful rehabilitation programming. In either case, the risk of reoffending for these men will be greater and public safety compromised.	
	Although some might question why the proposed facility should be located in a residential area, this is very important for rehabilitation purposes. We	

	know that successful reintegration into the community – reconnecting with whānau and family, making steps toward gaining employment – is a key factor in reducing reoffending	
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Reasons for submissions in opposition:

	LOCATION / SUITABILITY OF SITE	
	Offenders should be rehabilitated but this is not the right way to do it / submitter supports the intention behind the programme / there is a need for a facility like this (elsewhere) / rehabilitate them first before bringing them into the community	17
	Not appropriate activity in a suburban environment / high density residential area / in this location	51
	Wrong location, should be located in rural area, non-residential area, red zone area, less populated area / out by the prison / part of the prison / elsewhere	17
	Site is not fit for purpose / unsuitable / too small / Needs a purpose built facility.	12
	Need a site with more space for inmates to exercise, garden, or have workshops / not enough outdoor space on site for residents. Important for their wellbeing and rehabilitation / should be near a sports arena for exercise	11
	RISK / IMPACTS ON COMMUNITY	
	Risk / danger to schools / preschools / girls schools	26
	Risk / danger to elderly / retired people	33
	Risk / danger to women / women's refuge or to personal safety as a woman	31
	Risk to young families & children, children / teenagers walking to school, riding bikes, playing on driveways etc. Will not feel safe allowing children to walk unsupervised, go to parks.	60
	Risk to vulnerable people including deaf and vision impaired people using the RNZ Foundation for the Blind or Deaf Association sites / violent men lack any form of tolerance. Submitter is legally blind - mobility and to feel safe and secure in familiar surrounds are of the utmost importance, as submitter is in such a vulnerable situation of extremely low vision. Proposal will greatly impact submitters mobility and sense of safety.	13
	Will no longer feel safe in the area/neighbourhood, no longer safe to walk around the area, walk to work	54
	Would no longer feel safe at home alone / within their own home / or feel safe to leave family members home alone	33
	People value the area as a safe, quiet suburb / diverse yet connected / close knit community, excellent location. Adverse effects on safe family friendly suburb / Having a facility like this will change / destroy the community / the nature of the community	43
	Unacceptable effects on residential coherence / amenity / character	4
	Would lose / erode sense of security	7
	Neighbours in a residential suburb should be free to come and go	
	Quality of life / happiness / wellbeing will be affected / compromised, will change the way people live their lives / impacts on way of life	29


	Submitter expects fewer family & friends will visit if this goes ahead / will not be able to have grandchildren visit	9
	Unacceptable risk to submitter's safety / safety of the local community / cannot guarantee public safety or that reoffending wont occur	9
	Unacceptable risk of residents absconding and breaking into submitters house / property	2
	Submitter already has a protection order against a violent man, concerned he may be there in the future / Other submitters have experienced domestic violence / abuse from ex-partner, parents	9
	The area has a village feel / village feel of the neighbourhood will be lost forever.	2
	Opposes the transient nature of this consent, many criminals will visit over short periods of time / residents will be transient and not assimilate into community or form connections with the area.	3
	Putting the activity in a sought after area	2
	Risk from violent offenders outweighs the benefit	3
	Offenders will not contribute to the community / facility will not be a good neighbour / no benefit to the community	8
	The area currently has a low crime rate / has the same low crime rate as Merivale / concerned there will be an increase in crime and antisocial behaviour	6
	People in Christchurch have been through enough with earthquakes, EQC, the mosque attacks and Covid-19, people are still suffering stress and anxiety / Christchurch is a vulnerable community. Not able to cope with any more. Facility will add to this deterioration of people's mental health. As a result, there is unmet mental health needs in this community, we should be planning for the long-term recovery of this community. there were 90 suicides recorded in Canterbury from July 2019 to June 2020. The establishment of this facility will be the " the last straw that breaks the camel's back"	13
	Submitter is / people are appalled, worried, frightened, horrified, upset, already suffering emotional trauma / anxiety / stress / sleeplessness at the thought of the facility / mental health effects / concerned at the anxiety/stress this will cause.	46
	Submitter should not have to live life in constant fear / live like a prisoner in own home / feel vulnerable / should be able to feel safe / have the right to feel safe	13
	Submitter should not have to leave their home and community / submitter will move away if consent granted / submitter contemplating selling house, moving away / doesn't want to move away	14
	OPERATIONAL / SECURITY / VISITORS	
	Lack of security and supervision / staff are not able to 'detain' prisoners on site / facility is not secure enough / security provisions inadequate	20
	Concerns regarding off site visits both supervised and unsupervised, residents of the proposed facility will be free to walk, bike, jog in the area / concerned that residents will be able to leave the property / what are the criteria for these unsupervised trips? / object to residents being able to leave unsupervised	13
	How far will residents be allowed to travel when allowed out?	

	Risk from visitors to the facility, no guarantee that visitors to the facility can be monitored / concerns about visitors loitering or gathering on the street / how will visitors be managed / who will approve the visitors? / no mention of security checks on visitors / additional visitors who are not vetted will wait around outside / undesirable or unsavoury nature of visitors/associates of residents / drawing in many people who do not live in the area	22
	TAI AROHA HAMILTON	
	The Hamilton facility and the Christchurch facility are not comparable – Hamilton facility has a large site with only 10 residents, larger setbacks, with room for parking, located in a lower density area, on a cul-de-sac. Fewer privacy effects. No residents transitioning from prison. Christchurch has a small site, few car parks and a large number of properties very close by, 16 residents proposed.	13
	Lack of success of Hamilton Tai Aroha project / Tai Aroha facility in Hamilton has a 92% failure rate (8% success rate) over 10 years / percentage completing the course also very low / positive effects of Tai Aroha have been overstated while negative effects understated.	14
	Have all available reviews of Tai Aroha been included in the consent application? Have there been any independent reviews of the programme.	
	The day before these submissions close, Correction release a lengthy report about Tai Aroha facility. Another example of the frivolous way in which they have managed their disclosure obligations.	
	Number of absconding incidents at Hamilton Tai Aroha facility and as a result concerns about how many will occur at Bristol Street, potentially one or two per year.	2
	Tai Aroha works well in Hamilton with support from the community, not whole hearted support here	
	PRIVACY	
	Submitter owns a property directly opposite the facility where the programme room, the residents lounge and dining room are located. Submitter has large windows facing the facility / submitter's daughter's bedroom is opposite and looks out onto the property	5
	Submitter's home (1/20 Bristol) is next door to the outdoor area at the facility. If residents look over the fence can see into front door and through house into back yard. Garage and parking bay also faces the outdoor smoking area. Another submitter (1/20 Bristol) – outdoor area and indeed most of the facility have clear views of my property. Not only the exterior but into the second story spare bedroom window, through the upstairs hall into the master and bathroom. The blinds would have to be constantly kept closed. The communal area and a large part of the facility can look straight through out front door through the lounge to the back yard. To access our property my partner and I have to walk directly beside the communal area and rooms occupied by residents of this facility. Because of the close proximity every conversation will be heard both ways. 2/20 Bristol - views into the submitter's windows and front entrance from the outdoor space of the site. No privacy available short of having closed curtains, for the bedroom upstairs. Concerned with noise from use of the outdoor area.	3

	<p>(1/20 Bristol) Submitter is a Tenancy Manager for Kainga Ora and I has concerns for her safety if she should be recognised by any of the facility residents or their visitors. Also concerned for partner who is ex-police officer who may have dealt with residents and their visitors before.</p> <p>(1/20 Bristol) I served as a Police Officer for 27 years. Most of that time in Christchurch. A real concern for me is that I will be recognised by a resident at this facility or one of their visitors. I also have many police friends that visit off duty and sometimes on duty.</p>	2
	Little privacy to the property, which has a number of large windows in the dining/lounge/kitchen area overlooking the street and surrounding properties with windows facing.	3
	The landscaping plan proposed is not going to assist with privacy concerns at all.	
	CCTV cameras will infringe local residents personal rights and privacy / members of the community should not have CCTV focussed on them going about their lives	2
	Unacceptable for neighbours to have to screen their windows or plant trees. Blocks access to sun / doesn't want to make the house like a prison.	5
	CPTED - suggestion that residents screen their windows seems to fly in the face of contemporary urban design principles which emphasise unobstructed views to reduce offending	
	NOISE, PARKING, TRAFFIC	
	Noise levels / cigarette smoke etc for adjoining neighbours. Noise levels with 16 residents and staff plus visitors in the weekend will change. There will be bad language and loud voices. Traffic noise.	6
	If 8 of the residents have 4 visitors in the weekend, 40 more people coming and going in the area.	
	Parking effects – inadequate parking for the activity / parking is already a problem for residents, many cars already parked on surrounding narrow streets / difficult to park near to one's house / where will staff park? Weekend events in Hagley Park contribute to parking congestion.	28
	Parking for Corrections vehicles not accounted for - Both on Google earth imagery and on the Correction own YouTube video of Tai Aroha (Hamilton) a Correction van is seen parked at the address.	
	Effects from increased traffic movements, staff on site, rubbish collection, visitors etc / resident outings will significantly increase traffic from the site / 32 extra trips (14 on a Sunday) is a significant change / amenity effects of additional traffic on existing local streets, narrow roads / safety effects for cyclists	19
	<p>The traffic report is inaccurate and fails to sensibly identify what the impact will be. Underestimates staff traffic/trips during breaks, professional staff visiting the site, also assumes visitors would all arrived in one car instead of multiple family members. Also trips from medical staff, drug testers, the electronic monitoring company (Attenti) would be multiple times per week. Does not mention Corrections vehicles which will need to be parked on the site for outings.</p> <p>Police will visit the site on regular occasions to serve Protection Orders against the inmates and also to interview inmates about other offending. Inmates have the right to be visited by lawyers at any time. Also restorative justice processes with victims.</p>	

	<p>It is likely that there will be events at the Detention Centre, these will include course openings, course graduations, public Open Days. In fact, Corrections have advertised that this will occur.</p> <p>No mention of the likelihood of drive-by by members of these organised crime groups during gang anniversaries, funeral processions, unveilings. National motorcycle runs often include drive-by of Prisons as a sign of respect for incarcerated members. Unlike prison grounds these vehicles and the behaviour of the visitors cannot be managed by Corrections. Corrections do not have any statutory powers to control this type of behaviour. The Traffic report is silent in respect to this.</p> <p>It is likely that there will be further visits including:</p> <ul style="list-style-type: none"> • Compassionate visitation • Religious visitation. • Inmate travel to and from court (Often on active charges or family court matters. • Volunteers • PARS assistance and visitation • Taxi's. • Uber eats (Staff and Residents) 	
	Cars drive fast in the area, no speed bumps	
	Number of proposed residents	
	Currently only light traffic volumes on Bristol & Berry Streets	
	Increase in number of residents and staff on site over the previous use, increase in noise as previous residents were quiet.	
	Increased traffic flow up and down Bristol Street particular now the new motorway north is open. Further, that there is decreased street parking now that in-fill housing no longer requires the same off-street parking requirements as previously required in the District Plan. New residential at 29, 31 and 37 Webb Street developments are an example of this. Also, I suspect that the north-west corner site of Bristol and Webb Streets (No.95,93,91, etc) will also be developed as Williams Corporation housing unfortunately. In short, I believe traffic volumes will increase further in the area. Further, traffic volumes and speed along Bristol Street has increased dramatically over the last 15 years. This situation needs to be addressed by Council, particularly given the Blind and Deaf Centre and childcare centre on Bristol Street.	
	BRISTOL STREET COMMUNITY NETWORK (AND OTHERS)	
BSCN	<p>Activity will result in significant and adverse social impacts for neighbours and the wider community, being impacts on amenity as well as:</p> <ul style="list-style-type: none"> - Health and wellbeing, particularly in respect of fears and concerns for people's safety and security; - Quality of life – the potential to change the way people in the community live their lives; and - People's sense of place – the value that people put in their community and the sense of pride or identity they have with that community. 	
BSCN	Concerned with the fact that all of the residents for the Site are proposed to be men who have a history of serious violent offending.	5
BSCN	Concerned about the concentration of these violent offenders in one place	3

BSCN	The application does not adequately consider and mitigate the risks of an offender absconding and perpetrating further violent (or other) crimes within the local area.	
BSCN	Level of staffing (including at night) is not adequate to ensure rules are complied with and prevent absconding. "Up to 8 staff" could mean 1 or 2.	11
BSCN	No copy of the proposed house rules is provided.	
BSCN	No consideration of the two year finding for Tai Aroha that there was a high proportion of residents identified as having personality disorders suggesting that therapists and house staff will need training to help identify and manage personality issues	
BSCN	Possible cumulative effects/risk of having an increase in corrections facilities in the neighbourhood in combination with another men's correction facility (the Salisbury Street Foundation) at 15 St Albans St for men who have committed serious crimes (including child sex offences) / St Albans area and its residents are being disproportionately exposed to the inherent risk that the participants of these programmes pose / already have an existing facility on St Albans Street / concentration of these facilities in the area.	9
BSCN	Not clear whether men undertaking the psychological assessment phase of the programme (which can take up to six weeks) will be on site.	
BSCN	Concerning that only incidents over the last five years at Tai Aroha were referenced and considered by the applicant and the Council. Concerned about the number of absconding incidents and aggressive incidents at Hamilton facility.	
BSCN	High proportion of residents and visitors may have gang affiliations / no mention of a risk mitigation strategy in respect to this significant issue. Corrections are very aware of the instability, influence, and violence that gangs bring.	4
BSCN	Application does not engage with the most recent evaluation of Tai Aroha completed in 2015 that concludes that the programme "appears to be having a limited positive effect on recidivism with some sub-groups of high risk men ... but a detrimental effect with those on Intensive Supervision".	
BSCN	The sample size relating to Tai Aroha on which the social impact assessment was formed is not large enough from which to draw any substantive conclusions.	
BSCN	Application is not correctly applied for / categorised in the application. Entire application is incorrect.	
BSCN	The activity cannot be a 'community activity' as it is not principally (or at all) used by members of the Bristol Street community.	
BSCN	The applicant has not demonstrated there is either a strategic or operational need for this proposal to be located in a residential zone, in accordance with Objective 14.2.6 and Policy 14.2.6.4.	
BSCN	To grant this consent would be contrary to the objectives and policies in the District Plan.	
BSCN	Possible that this activity might be non-complying under Rule 14.4.1.5 NC4 (site coverage).	
BSCN	Application includes offices which are 'commercial activities.'	
BSCN	Applicant considers it is not appropriate to apply the permitted baseline. Application is unique and should be considered as such without reference to the permitted baseline.	
BSCN	Must take particular note of effects of low probability but high potential impact. It would only take one single event to have a significant negative	

	effect of high impact on the entire neighbourhood. The risk of an offender absconding, while low, is a real risk, just as there is a real (albeit low probability) chance that that offender might commit a violent crime while absconding.	
	It is important to realise that once an incident has occurred impacting on a current resident it is too late - the damage has been done to that person / Sorry is cheap and a waste after the damage is done.	2
	Who will be accountable when things go wrong? Neighbours will bear the brunt of any trauma / what recourse do citizens have if the facility does not work as proposed? / what happens if someone is assaulted or when thefts occur?	5
	REHUA MARAE	
Rehua	Do not support because a foundational relationship does not exist with Department of Corrections and Kainga Ora. Dialogue should have occurred before the property was acquired.	
Rehua	Rehua Marae member views in the SIA do not represent the formal position of Rehua Marae. Provision of a venue for community engagement sessions does not constitute support for the proposal.	
Rehua	Little information provided about the cultural aspects of the programme. Cultural aspects of the programme from Hamilton will not necessarily work here. Significantly more involvement of local iwi in Hamilton.	
Rehua	SIA has only looked at locally resident population not those Rehua Marae members who do not necessarily live on the site.	
Rehua	Security at daytime or overnight events on the marae is usually light – safety concerns for the people staying if the consent is approved. Same concern for those who live on the site.	
Rehua	Concerned that use of the marae as venue hire for schools, organisations will be affected, having adverse financial effects for the marae.	
Rehua	Rehua Marae has an obligation to ensure a safe, positive environment for all whanau who wish to associate with the Marae and to minimise risk to those people.	
	ST MARGARETS COLLEGE	
SMC	Proposal will reduce the freedom of girls at nearby boarding schools to leave the site for recreation, exercise and outings	
SMC	A St Margaret's student was approached on Bristol Street and asked to get into a car, this has caused distress and fear. Other incidents reported to police in the last 12 months.	
SMC	Could be a target because of perceived affluence of a private school.	
SMC	Teachers and students will not feel safe when working at school on evenings and weekends.	
SMC	Visitors to the school for events (including elderly) will feel unsafe walking from their cars.	
	 acknowledge any of the risks, flippant disregard for their duty	10

	Submitter does not have confidence or trust that key information relating to this facility and how it will impact the community will be communicated with transparency on an ongoing basis / no faith in the applicants ability to either run the facility in a proper manner or to administer it transparently / concerns about future communications with residents if facility approved	4
	Lack of prior engagement from Department of Corrections with local community / consultation process was flawed due to time of year/day etc / very limited consultation / Corrections have tried to get the proposal through non-notified shows lack of openness/transparency/empathy / attempt to 'sneak' the proposal through	16
	Corrections state that residents will not have committed serious sexual offences or child sex offences but will not be able to guarantee this, will only know of those they are convicted of. Convictions for sexual assault are very rare / paedophiles will also be there.	4
	Section 6 (l)(a) Corrections Act 2004 states that public safety is paramount, this principal must be continually satisfied before any other factor can be considered. Corrections have failed to recognise this as the cornerstone of their decision making process.	
	Corrections are not being fair or reasonable by proposing the facility in this location.	
	Various statements in information obtained under the OIA appear to infer that the Department of Corrections has a policy to locate similar facilities in suburbs across New Zealand / it appears that Government through the Department of Corrections has an undeclared policy intent to locate detention centres in residential suburbs.	2
	In future Corrections will try to introduce low risk sexual offenders without the community ever being told.	
	Corrections' inability to control the flow of contraband into prisons suggests that it is most unlikely to prevent similar activity in a less secure facility / layout of site will facilitate contraband into this facility, introduction of contraband equals risk to inmates, staff and the public.	2
	ELECTRONIC MONITORING, HOME DETENTION, REOFFENDING	
	There have been a number of cases of violent offenders reoffending whilst monitored on bail or home detention	6
	There has been a spike in the number of criminals absconding while on electronic monitoring	
	Margin of error on GPS bracelets, accurate to 3m, given the size of the site accuracy is insufficient to pick if a resident is off the site.	
	Concern that a resident will escape from GPS monitoring onto a nearby property	
	It is very easy to remove, tamper with or hide an electronic bracelet / videos are available on the internet on how to disable ankle bracelets / electronic monitoring not fool proof / Would take some time before disappearance is noted. / Reliance on such technology does not provide an adequate safeguard against the risks for our residential community / bracelets are useless, just window dressing	10
	In order to mitigate risk to the community when a resident absconds this would be an expectation that a response capacity (including a vehicle) to deploy at least to commence a search and monitor phase for the absconder. If Corrections propose not to have a response capacity,	

	then risk to the community is elevated. The purpose of GPS tracking is obsolete if you know the whereabouts of an escaped inmate but have no capacity to respond or intervene.	
	People who are sentenced to home detention in NZ have often been convicted of serious violent acts	3
	Very high risk that residents will commit further serious violent crimes / having volatile people at such close proximity means we will always be at risk of a violent incident no matter how rare / high risk of reoffending	5
	Any unexpected issue at the site will have a greater impact on the surrounding residents due to the proximity of the building to others on sites, and there are far more residents due to the high density building.	
	SOCIAL IMPACT ASSESSMENT	
	SIA inadequate due to small sample size / submitter was not interviewed even though they live very close by	5
HART G	SIA suggests effects anticipatory only and temporary. Issues such as parking congestion, privacy being lost, and noise from residents are not going to be temporary, will be ongoing.	
HART G	SIA identifies privacy issues for a neighbour at Hamilton facility, more neighbours are closer at this site.	
HART G	SIA states the residents have "multiple treatment needs related to violent and nonviolent offending" and it goes on to say that men with untreated mental health issues and addiction issues won't be accepted, so the question is, what are the other treatment needs in addition to violence if it is not mental health or addiction, and where is the assessment of whether those pose any risk to the community?	
	Submitter strongly disagrees with the SIA report where it claims a low to very low negative impact for immediate neighbours, with effects to decrease over time / SIA assumes all negative effects will occur in the first 6-12 months / nothing to support the assertion that moderate effects will reduce over time.	5
	SIA – effects will only "reduce" because if it goes ahead then what will happen is that people will just feel powerless and just rolled over by the government and be forced to accept it	
	The SIA assessment of "low negative impact" is subjective and varies from person to person. 85% (22 out of 26) of the survey respondents believed there would be mild to strong negative impact. Despite this the report writers (neither of whom will be impacted) concluded it would be low.	
	Disagrees with SIA, as submitter has had intimidating neighbours in the past and can, from experience, inform the Beca researchers that it is not something you get used to, rather you get tired and keep your head down because you're stuck with it, and when it is over, the relief is palpable.	
	SIA noted re Tai Aroha Hamilton, in response to a local resident noting increased stress due to the behaviour of residents of the facility (loud noises and negative language), the writers seemed to indicate that the local resident was overly sensitive and that "these are considered to be a potential experience of any neighbour depending on that neighbour's behaviour". That however does not mean negative behaviour from neighbours should just be accepted and put up with yet it seems to me that those who live in the vicinity of this proposal are being told they should do exactly that.	
	SIA notes that "both the passage of time and geographic distance from	

	the (Hamilton) residence appear to be factors to 'neutralise' potential way of life impacts" (Page 29 Para 2). This would suggest that given the proposed location for the Christchurch residential unit, in a higher density area with more houses immediately neighbouring 14 Bristol St, there will be many more people who do not have the impacts on their way of life 'neutralised'.	
	SIA report authors have not made any comments of their personal knowledge of this community and their approach is consistent with persons who have never lived here. Only cursory comments re earthquakes and terror attacks. The failures to recognise and examine the fragilities of this community caused by these catastrophic events shows an absolute disconnect from the community on which they report.	
	DISTRICT PLAN	
	District Plan definition of residential activity excludes "custodial and/or supervised living accommodation where the residents are detained on site" / Not within definition of residential activity / primarily a non-residential activity / Site will be a Corrections workplace	6
	Objective 14.2.4 / Policy 14.2.4.1 – proposal does not promote a high quality, sustainable residential neighbourhood.	
	Objective 14.2.6 – proposal is for a non-residential activity and therefore should be discouraged.	
	Contrary to the objectives and policies of the District Plan.	
	Both community corrections facilities and community welfare facilities operate in daytime hours; typically, from 0700 – 1900. Both providers and clients/customers attend these facilities during the opening hours; no persons remain on the premises at night. The proposed use for 14 Bristol St is not synonymous with these two uses permitted under the District Plan.	
	A detention centre is not contemplated by the planning rules for the RSDT zone / activity doesn't meet the residential purpose of the zone	3
	OTHER MATTERS	
HART G	Stated on p9 that residents at the proposed site who do not comply with sentence conditions may be returned to court, this process can sometimes take weeks	
HART G	In 2012 a resident at TA entered a neighbouring property through an open door. It is suggested that events of this type are not likely with the changes to the programme at TA, however it does not clearly state what those changes are and why the view is held that the risk is reduced.	
	People in the demographic of offenders who will be in the facility will not be able to relate to the people who will be living in the surrounding area	
	Neighbours will be too afraid to complain, if there are issues, for fear of retribution.	
	The amount of bars and liquor outlets close by is not the appropriate amenities for this programme / too many bars in this location	5
	Submitter will have to invest in / considering extra fencing, gates, screens, cameras, security so they can feel safe and secure on their own property (7, 3/17, 23, 48, 48a, 53 Bristol St, 2/33, 71 Holly Rd, 50 Webb St, Pavilions Hotel)	12

	Submitters daughter has been through extreme trauma and is very anxious about security issues, this will affect her health and wellbeing. Can provide psychological evidence.	
	The purchase of 14 Bristol St providing up to 20 beds is a cheap option for Corrections compared to providing more prison beds	
	Not a good use of social housing, there is a shortage of housing already	
	High level of concern from residents, serious anticipatory effects.	2
	Alternative more appropriate sites have not been fully considered, eg 534A, B & C Ferry Road, previously used as workers accommodation. / Alternative sites available on eastern side of central city, within 4 avenues / what alternatives have been considered?	3
	What will happen if these violent criminals do not find a 'home' suitable for their 'detention' sentence. Does this group of detainees simply remain at 14 Bristol St?	
	No mention of public safety in the application.	
	The Christchurch City Council has a statutory obligation to promote the social, economic, environmental, and cultural wellbeing of this community.	
	Residents will be confronted by these violent men in public spaces, without knowing the circumstances under which they are present. We will not be able to discern whether they are legitimately 'out' from their detention, are absconders, or are in the last days of their sentence and properly at liberty for up to four hours each day. We will therefore have to treat every detainee in a public space as a threat.	
	Submitter will be forced to leave his job to avoid travelling out of town, in order to stay with his partner, who is an abuse survivor. Being forced to a single income will cause financial stress.	
	Submitter feels like she is being asked to trust a system which has previously let her down, being on the receiving end of domestic violence.	
	Council are taking away the right of submitter's children to have a relationship with their grandparents who live next door to the site.	
	Submitters would not be comfortable opening bi-fold doors or leaving doors unlocked during the day.	
	Concern about the knowledge residents of the site will gain about the neighbourhood (people's movements etc) especially as residents will constantly turnover / residents and visitors to the site will be able to identify when people area away from home / makes them a future target for crime, risk of burglary	6
	Many people in the community will withdraw from the community and become isolated	
	Will CCC pay for security patrols to protect residents?	
	Will those occupying the premises be instantly identifiable (high visibility orange clothing) at all times so everyone can keep clear of them? Will the CCC offer local men a high viz which signifies they are not a violent criminal?	
	Submitter has had their home has been broken into on several occasions over the past two years / car stolen.	2
	Activity will not be similar to the existing use rights activity / neither cerebral palsy or boarding house uses were considered a danger or unsafe / cannot be compared to the previous use for the Bristol Trust (cerebral palsy), not a like for like comparison / previous use enhanced the community	4

	There is no New Zealand evidence on the effectiveness of 'Transitional Housing' for violent offenders.	
	Submitter experienced homeless people being housed at Camelot Motel during Covid lockdown, was confronted on more than one occasion by persons begging for money. A number of streets fights, arguments and similar disruptive behaviour was heard and seen occurring outside the Camelot. These people were not considered a danger or with a high risk of reoffending.	
	Whilst the majority may cause no issues, there is an incredibly high probability that there will be a few whose behaviour will result in serious incidents. Whether or not those incidents will directly impact on the surrounding properties is unknown however the fear of those incidents is a given.	
	The rights and feeling of the criminals here are being addressed and the rights and feelings of this community are not	
	Offenders should be working hard everyday, they need to work hard to earn the respect and security of being part of a community, it is not their right, it should be earned.	
	Submitter came to NZ for a better, safer life, moved away from the crime in previous country	3
	Perhaps reduce the number of men, seems a lot for a confined space and likely will lead to increased tension	
	Submitter owns Pavilions Hotel and feels concern for the safety of their customers	
	It is highly likely residents of the site will use the Pavilions site to cut through to the service station on Papanui Road. Submitter would not feel safe to approach them.	
	Impact on professional life – submitter is a female surgeon who sees numerous patients who are under the correction systems supervision. Live near workplace and live within 100m of the proposed Bristol St corrections facility. Worried about the prospect of some of these patients identifying where she lives. If Bristol St facility proceeds that submitter will discontinue offering services to patients from correction facilities, to protect her family.	
	Submitter was verbally abused by resident of Salisbury House	

Outside scope:

	COMMENT	
	Impacts on property values / no NZ studies on effects on property values from such facilities	14
	The process indicates a precluded outcome and lip service to consultation	
	Work on site being undertake prior to consent being obtained	2
	Earthquakes have already impacted on house values	
	There has been undue political interference (Duncan Webb) that has meant that the process has been flawed	
	Public schools have referred this proposal to Ministry of Education but the ministry will not submit against the Department of Corrections – conflict of interest	
	Residents will not be housed in accordance with the Residential Tenancies Act (RTA)	

	The Government has deep pockets and can simply outspend our community on this matter.	
	Were the Commissioner to approve the application, the onus to mount an appeal to the Environment Court would fall to our community; it would likely be unaffordable.	
	Department of Corrections should be forced to pay drop in market value of properties	
	Reports provided with the application were Commissioned by Corrections and are biased	3
	Applicant should consider other uses of the site including - building housing for first home buyers / affordable housing for poor elderly / residential use / women's refuge	4
	Health and Safety Act also applies to CCC and Department of Corrections – proposal contravenes this.	
	Inappropriate that the facility will be leased to Corrections by Kainga Ora, which is supposed to be involved in public housing, not housing violent criminals / Kainga Ora is not fulfilling it's objective as a provider of public housing to our area offering this facility to the Dept of Corrections	3
	Corrections have a secondary agenda, what is not being openly proposed is Community Residential Transitional Housing	
	Risk to 18 year old inmates within the facility being placed in with adult men.	

Appendix 4 – Relevant District Plan objectives and policies

Chapter 14

14.2.1 Objective - Housing supply

- a An increased supply of housing that will
 - i enable a wide range of housing types, sizes, and densities in a manner consistent with Objectives 3.3.4(a) and 3.3.7
 - ii meet the diverse needs of the community in the immediate recovery period and longer term, including social housing options, and
 - iii assist in improving housing affordability

14.2.1.1 Policy - Housing distribution and density

- a Provide for the following distribution of different areas for residential development in accordance with the residential zones identified and characterised in Table 14.2.1.1a in a manner that ensures
 - i new urban residential activities only occur in existing urban areas or in greenfield priority areas identified in Map A of the Canterbury Regional Policy Statement
 - ii high density residential development in the Central City that achieves an average net density of at least 50 households per hectare for intensification development
 - iii medium density residential development in and near identified commercial centres in existing urban areas where there is ready access to a wide range of facilities, services, public transport, parks and open spaces that achieves an average net density of at least 30 households per hectare for intensification development
 - iv a mix of low and medium residential density development in greenfield neighbourhoods that achieves a net density, averaged over the Outline development plan, of at least 15 households per hectare
 - v greenfield land that is available for further residential development up to 2028
 - vi low density residential environments in other existing suburban residential areas and in the residential areas of Banks Peninsula and in small settlements are maintained, but limited opportunities are provided for smaller residential units that are compatible with the low density and township suburban environment, and
 - vii within Banks Peninsula, limited low density residential development adjacent to existing residential townships and small settlements that complements the surrounding environment, is able to be efficiently serviced by public infrastructure and in some limited circumstances private infrastructure, and is in locations not subject to significant risks to life safety and property damage from natural hazards

Table 14.2.1.1a

Residential Suburban Density Transition Zone	Covers some inner suburban residential areas between the Residential Suburban Zone and the Residential Medium Density Zone, and areas adjoining some commercial centres. The zone provides principally for low to medium density residential development. In most areas there is potential for infill and redevelopment at higher densities than for the Residential Suburban Zone.
Residential Medium Density Zone	Located close to the Central City and around other larger commercial centres across the city. The zone provides a range of housing options for people seeking convenient access to services, facilities, employment, retailing, entertainment, parks and public transport. The zone provides for medium scale and density of predominantly two or three storey buildings, including semi-detached and terraced housing and low-rise apartments, with innovative approaches to comprehensively designed, high quality medium density residential development also encouraged. Residential intensification is anticipated through well-designed redevelopments of existing sites, and more particularly through comprehensive development of multiple adjacent sites. Zone standards and urban design assessments provide for new residential development that is attractive, and delivers safe, secure, private, useable and well landscaped buildings and settings.

14.2.1.6 Policy - Provision of social housing

- a Enable small scale, medium density social housing developments throughout residential areas as a permitted activity and social housing developments generally throughout residential areas.

Note: This policy also implements Objective 14.2.2

14.2.1.7 Policy - Non-household residential accommodation

- a Enable sheltered housing, refuges, and student hostels to locate throughout residential areas, provided that the building scale, massing, and layout is compatible with the anticipated character of any surrounding residential environment.

Note: This policy also implements Objective 14.2.2

14.2.4 Objective - High quality residential environments

- a High quality sustainable residential neighbourhoods which are well designed, have a high level of amenity, enhance local character and reflect the Ngāi Tahu heritage of Ōtautahi

Note Policies 14.2.6.1, 14.2.6.2, 14.2.6.3, 14.2.6.6 and 14.2.6.8 also implement Objective 14.2.4

14.2.4.1 Policy - Neighbourhood character, amenity and safety

- a Facilitate the contribution of individual developments to high quality residential environments in all residential areas (as characterised in Table 14.2.1 'a') through design
 - i reflecting the context, character and scale of building anticipated in the neighbourhood
 - ii contributing to a high quality street scene
 - iii providing a high level of on-site amenity
 - iv minimising noise effects from traffic, railway activity and other sources where necessary to protect residential amenity
 - v providing safe, efficient and easily accessible movement for pedestrians, cyclists and vehicles and
 - vi incorporating principles of crime prevention through environmental design

14.2.4.4 Policy - Character of low and medium density areas

- a Ensure consistent with the zone descriptions in Table 14.2.1 'a' that
 - i low density residential areas are characterised by a low scale open residential environment with predominantly one or two storey detached or semi-detached housing and significant opportunities for landscaping and good access to sunlight and privacy are maintained and
 - ii medium density areas are characterised by medium scale and density of buildings with predominantly two or three storeys including semi-detached and terraced housing and low rise apartments and landscaping in publicly visible areas while accepting that access to sunlight and privacy may be limited by the anticipated density of development and that innovative approaches to comprehensively designed high quality medium density residential development are also encouraged in accordance with Policy 14.2.4.2

14.2.6 Objective - Non-residential activities

- a Residential activities remain the dominant activity in residential zones whilst also recognising the need to
 - i provide for community facilities and home occupations which by their nature and character typically need to be located in residential zones and
 - ii restrict other non-residential activities unless the activity has a strategic or operational need to locate within a residential zone or is existing guest accommodation on defined sites

Note this objective and its subsequent policies do not apply to brownfield sites.

(Proposed Plan Change 4)

14.2.6.1 Policy - Residential coherence character and amenity

- a Ensure that non-residential activities do not have significant adverse effects on residential coherence, character and amenity

Note This policy also implements Objective 14.2.4

14.2.6.2 Policy - Community activities and community facilities

- a Enable community activities and community facilities within residential areas to meet community needs and encourage co-location and shared use of community facilities where practicable
- b Enable larger scale community activities and community facilities within defined arterial locations that
 - i are within walking distance of the Central City and suburban commercial centres
 - ii front onto core public transport routes and
 - iii are not dominated by residential development

14.2.6.4 Policy - Other non-residential activities

- a Restrict the establishment of other non-residential activities, especially those of a commercial or industrial nature, unless the activity has a strategic or operational need to locate within a residential zone, and the effects of such activities on the character and amenity of residential zones are insignificant

Chapter 7

7.2 Objectives and Policies

7.2.1 Objective - Integrated transport system for Christchurch District

- a. An integrated transport system for Christchurch District
 - i. that is safe and efficient for all transport modes
 - ii. that is responsive to the current recovery needs future needs and enables economic development in particular an accessible Central City able to accommodate projected population growth.
 - iii. that supports safe healthy and liveable communities by maximising integration with land use.
 - iv. that reduces dependency on private motor vehicles and promotes the use of public and active transport
 - v. that is managed using the one network approach

Advice note

1. The 'One Network Approach' is an approach where the transport network is considered as a whole. The aim of this approach is to ensure that the management and provision of all transport infrastructure (including all transport modes) is well connected and undertaken in an efficient and integrated manner. For more guidance on how the 'one network approach' is applied please refer to the Greater Christchurch Transport Statement 2012 and Christchurch Transport Strategic Plan 2012
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7.2.1.3 Policy - Vehicle access and manoeuvring

- a. Provide vehicle access and manoeuvring including for emergency service vehicles, compatible with the road classification, which ensures safety, and the efficiency of the transport system.

Advice note:

1. Policy 7.2.1.3 also achieves Objective 7.2.2.
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7.2.1.4 Policy - Requirements for car parking and loading

- a. Outside the Central City
 - i. Require car parking spaces and loading spaces which provide for the expected needs of an activity in a way that manages adverse effects
 - ii. Enable a reduction in the number of car parking spaces required in circumstances where it can be demonstrated that
 - A. the function of the surrounding transport network and amenity of the surrounding environment will not be adversely affected, and/or
 - B. there is good accessibility by active and public transport and the activity is designed to encourage public and active transport use and/or
 - C. the extent of the reduction is appropriate to the characteristics of the activity and its location and/or
 - D. the extent of the reduction will maintain on-site parking to meet anticipated demand
 - b. Within the Central City
 - i. Enable activities to provide car parking spaces and loading spaces whilst minimising any adverse effects on the efficiency and safety of the transportation networks including public transport to the extent practicable
 - ii. Manage the development of commercial car parking buildings and parking lots within the Central City so that they
 - A. support the recovery of the Central City
 - B. are easily accessible for businesses within the Central City.
 - C. minimise any adverse effects on the efficiency and safety of the transportation networks of all users to the extent practicable
 - D. protect the amenity values of the Central City
 - E. reduce the need for activities to provide their own on-site parking
 - F. do not significantly adversely affect the demand for public transport to from or within the Central City
 - iii. Allow for temporarily vacant sites to be used for car parking areas within the Central City until 30 April 2018
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7.2.1.5 Policy - Design of car parking areas and loading areas

- a Require that car parking areas and loading areas are designed to
 - i operate safely and efficiently for all transport modes and users
 - ii function and be formed in a way that is compatible with the character and amenity values of the surrounding environment and
 - iii be accessible for people whose mobility is restricted

Advice note

- 1 Policy 7.2.1.5 also achieves Objective 7.2.2

7.2.1.6 Policy - Promote public transport and active transport

- a Promote public and active transport by
 - i ensuring new and upgrades to existing road corridors provide sufficient space and facilities to promote safe walking cycling and public transport in accordance with the road classification where they contribute to the delivery of an integrated transport system.
 - ii ensuring activities provide an adequate amount of safe, secure and convenient cycle parking and, outside the Central City, associated end of trip facilities
 - iii encouraging the use of travel demand management options that help facilitate the use of public transport cycling walking and options to minimise the need to travel, and
 - iv requiring new District Centres to provide opportunities for a public transport interchange
 - v encouraging the formation of new Central City lanes and upgrading of existing lanes in the Central City where appropriate to provide for walking and cycling linkages and public spaces
 - vi developing a core pedestrian area within the Central City which is compact convenient and safe with a wider comprehensive network of pedestrians and cycle linkages that are appropriately sized direct legible prioritized, safe have high amenity, ensure access for the mobility impaired and are free from encroachment
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