Before Hearing Commissioners
at Christchurch

under: the Resource Management Act 1991

in the matter of: application RMA/2021/3921 for consents to demolish the heritage-listed Grand National Stand at Riccarton Racecourse

and: **Canterbury Jockey Club**
Applicant

Closing legal submissions on behalf of Canterbury Jockey Club

Dated: 28 September 2022

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CLOSING LEGAL SUBMISSIONS ON BEHALF OF THE CANTERBURY JOCKEY CLUB

1 These closing legal submissions are made on behalf of the Canterbury Jockey Club (the *Club*), in relation to its application for consent to demolish the heritage-listed Grand National Stand (*GNS*) at Riccarton Racecourse.

2 These submissions do not seek to repeat evidence or submissions provided at the hearing, but rather respond to the Commissioner's Minute 3 dated 9 September 2022, and to issues which arose at the hearing held on 1 September 2022.

THE PLANNING FRAMEWORK

3 The Commissioner at the hearing asked a number of witnesses whether they considered the test set out in Policy 9.3.2.2.8 'Demolition of heritage items' of the District Plan was subjective or objective. In particular when considering subclause a.iii "*whether the costs to retain the heritage item (particularly as a result of damage) would be unreasonable*."

4 We say that the test must be an objective one but in light of the context of the particular case. In other words, the policy must be considered from the point of view of a reasonable landowner in the context of the Club. We say that the Club's position in this case is one of a reasonable landowner.

5 While all of the subclauses in that policy are relevant to the assessment of the appropriateness of demolition of a heritage item, subclause a.iii is of particular relevance in this case, and should be given appropriate weight when coming to a decision.

6 It has been demonstrated through the evidence that the costs of retaining the GNS would be unreasonable from the point of view of any reasonable landowner in the Club's position. It is not reasonable to expect the Club to spend in the vicinity of $16-18 million of money it does not have on the strengthening only of a building which is redundant and of no use to the Club's operations.

7 We note that section 6 of the Resource Management Act 1991 (*RMA*) provides for the protection of historic heritage from *inappropriate* subdivision, use, and development as a matter of national importance. We emphasise the word 'inappropriate' as it demonstrates there may well be instances where subdivision, use or development of historic heritage will be appropriate. It is not a complete prohibition.

8 At this point it is helpful to look to the decision of the independent hearings panel (*IHP*) on the Christchurch Replacement District Plan. For reference, we attach the relevant excerpt from the decision related to Policy 9.3.2.2.8 at **Appendix 1**. Notably, the IHP in their decision on this policy:[1]

8.1 along with Council acknowledged that there will be circumstances in which demolition might be appropriate under section 6(f) of the RMA;[2]

8.2 found that "*there is no statutory presumption that 'demolition' will be inappropriate, or that it requires avoidance in an absolute sense*";[3]

8.3 considered that "*In the Christchurch recovery context there is a need for overall flexibility in the appropriate management of historic heritage*";[4] and

8.4 notes that the Council at the hearing moved away from an 'exceptional circumstances' exemption for demolition which was in its notified version of the plan and towards a framework that '*enables an assessment of whether these costs would be in proportion with the value of the property and the heritage values in question.*' The Crown sought this matter be tied back to an assessment of whether retention/repair would be 'financially viable.' Council did not support this as this would be difficult to apply to non-commercial uses such as churches, where financial viability has little or no application.[5]

9 Ultimately the IHP decided the appropriate test was whether demolition would be appropriate having regard to those factors listed in Policy 9.3.2.2.8, including "*whether the costs to retain the heritage item (particularly as a result of damage) would be unreasonable.*"

10 The Commissioner at the hearing also asked whether the Policy was limited to demolition of earthquake damaged buildings. In short, we say no as the policy would otherwise use the word 'earthquake' and not simply refer to 'damage' more generally. We also note that the

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1 Decision 45 "Chapter 9: Natural and Cultural Heritage (Part) Topic 9.3 – Historic Heritage" Independent Hearings Panel, Christchurch Replacement District Plan, 30 September 2016.

2 At [96].

3 At [99]

4 At [99]

5 At [96]-[97].

overarching objective for the chapter states '*particularly those that have suffered from earthquake damage*' but is not exclusive of other damage. This is reflected in the IHP decisions including in various decisions the IHP made in relation to particular buildings where it decided that the cost of strengthening to NBS standards meant that buildings should be able to be demolished and would not be listed in the Plan regardless of heritage significance.[6]

MORE ALTERNATIVES

11 The Commissioner throughout the hearing raised the possibility of water proofing or capping the GNS until some indefinite point in the future when funding might be available to undertake the works on the building. We understand this has recently been done for some of the Canterbury Provincial Council Buildings in Christchurch Central.

12 As with all of the other alternatives proposed throughout this hearing process, there is no power to require that the Club do anything (including waterproofing/capping the building). There is no mechanism by which to require this of the Club and would itself require an application for resource consent to be made which the Club cannot be compelled to do. This consent is for the demolition only and the Commissioner's decision is limited to whether the GNS should be demolished or not.

13 We further understand from **Mr Joll**, having himself been involved with the Canterbury Provincial Council Buildings that there are many ongoing costs and issues with this temporary solution.

14 At the end of the day, the Club would not invest in prolonged maintenance of an unusable and redundant building in the unlikely hope that one day its financial position might change. The simple reality is it just won't happen.

15 Lest there is some implied criticism of the Club for not taking steps sooner to prevent the deterioration of the GNS, we note that the building has long been the subject of a contentious insurance dispute and any decision to spend money on the building in this way at that time would have been for the insurer to make and not the Club.

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[6] See for example decision by IHP not to list the Public Trust Building as a heritage item: Decision 27 "Chapter 9: Natural and Cultural Heritage (Part) Topic 9.3 – Historic Heritage, in relation to a submission by Tailorspace Property Limited" Independent Hearings Panel, Christchurch Replacement District Plan, 30 September 2016.

IN RESPONSE TO SUBMISSIONS

16 The Christchurch Civic Trust and Historic Places Christchurch provided joint oral submissions at the hearing. They also provided further correspondence to the Commissioner following the hearing. We respond to some of the points raised by those submitters below.

17 Firstly, the submitters at the hearing asked multiple times what the cost of demolition for the GNS was and suggested that this in itself would be substantial. We are advised by **Mr George** that the cost of demolition of the GNS would be around $1.2 million.

A pause on the decision

18 The submitters seek a pause on the application to enable a fair assessment of the alternative ideas it has raised for the use of the building. With respect, there has already been a fair assessment of all of those alternative uses. The simple fact of the matter is that all alternative use options still incur the same costs to strengthen the building. There is no alternative use that would render the costs of reinstating the GNS more reasonable.

19 The Club cannot be expected to put all of its plans on hold while the building continues to deteriorate and detract from the overall amenity and enjoyment of the racecourse, until some unidentified benevolent philanthropist decides to gift the Club some $20 million. In any case, the RMA sets out specific timeframes for considering application and a pause on the decision as suggested by the submitters is not something the Commissioner is capable of indulging.

McLean's Mansion

20 The submitters raised the example of the Environment Court Case on the demolition of McLean's Mansion in Christchurch in support of their submission points.[7] The submitters seemed to be suggesting that the case is directly analogous to the current application for demolition, and as demonstrating that the QS estimates tend to be overstated (and therefore the evidence of **Mr Lang** should not be given as much weight). We note that the submitters did not bring their own evidence as to QS estimates.

21 While a helpful case in some respects, the case is far from analogous to the current application before the Commissioner.

22 Firstly, it involved an appeal on a decision by Heritage New Zealand Poutere Taonga (*HNZPT*) to decline an archaeological authority to demolish McLean's Mansion. The case was particularly focussed on

[7] *Taggart Earthmoving Ltd v Heritage New Zealand Pouhere Taonga* [2016] NZEnvC 123.

the interaction between the Heritage New Zealand Pouhere Taonga Act 2014 (the *HNZPT Act*) and specific Canterbury Earthquake legislation that has since been repealed. Under the District Plan, that particular demolition was a permitted activity and no resource consent was required.

23 The HNZPT Act requires that any person seeking to modify or destroy the whole or any part of an archaeological site (regardless of the requirements of the RMA) first obtain an archaeological authority from HNZPT. An 'archaeological site' is defined in the HNZPT Act as being any place in New Zealand that was associated with pre-1900 human activity, where there is evidence relating to the history of New Zealand that can be investigated using archaeological methods.[8]

24 Prior to the hearing of this application, the Club obtained a thorough archaeological assessment of the site. This assessment confirms that an archaeological authority is not required, and recommends the use of a standard accidental discovery protocol condition should consent be granted (which has been accepted by the Club). HNZPT were also consulted by the Council on this application and did not oppose it.

25 Further, the McLean's Mansion case was decided prior to decisions on the Christchurch Replacement District Plan and therefore before Policy 9.3.2.2.8 which is currently being considered in this application. The regulatory frameworks between the two are therefore not comparable. The Court in the McLean's Mansion case did not have to consider the factors in policy 9.3.2.2.8, and did not have a policy direction in front of them requiring consideration of the reasonableness of the costs to retain a heritage item (despite them undertaking similar considerations with respect to costs).

26 Other notable distinguishing features of the McLean's Mansion case include:

26.1 The Court found that on the evidence, the structural timber framing of McLean's Mansion was of good quality and in sound condition.[9] By comparison, the GNS consists of steel framing (a significantly more costly material) which the evidence clearly demonstrates is not in sound condition.

26.2 For McLean's Mansion, while the building fabric had been extensively damaged, the nature of the repair work was

[8] Heritage New Zealand Pouhere Taonga Act 2014, s 6.

[9] *Taggart Earthmoving,* above n 7, at [100] and [166].

relatively straight forward,[10] such that the works required to bring the building up to 34%NBS was around $1 million.[11] With the cost of full repair and restoration to 100%NBS in the vicinity of $10 million.[12] These amounts are significantly less than the $16 million to strengthen only to 34%NBS required for the GNS.

26.3 There was clear evidence that the owners of McLean's Mansion had the means to fund the restoration if they so wanted to.[13] This is not the evidence before the Commissioner with respect to the Club.

26.4 The Court clearly contemplated that the owners of the mansion had the ability to sell the land and buildings as a counterfactual if they personally chose not to restore the building. A subsequent buyer may well be minded to restore the building. But that is not an option available here to the Club as they do not own the land.

27 With respect to the assertion by the submitters that QS estimates are often overestimated and that this is demonstrated in the McLean's Mansion case, we do not agree. In that case, the initial estimate obtained by the owner was $12.3 million which was then adjusted to $15 million to account for inflation. The evidence at the hearing was that this cost was more in the $10 million range, and could be reduced further (to around $7.7-8.8 million) taking into account:

27.1 some Building Act works that the Council may grant dispensation for; and

27.2 restoring the building to an 'office fit out standard' only.[14]

28 This is simply not the case for the GNS:

28.1 The Building Act exemptions discussed in the McLean's Mansion case only accounted for a reduction of around $300,000. We note that the evidence of **Mr Lang** apportions

[10] At [166].

[11] At [142].

[12] At [118].

[13] At [167].

[14] At [118].

around 2% of the total project cost for the GNS to these types of works.[15]

28.2 The QS estimate is already very conservative given it only relates to the strengthening of the building to meet the required standard and not what would be required to render it useable by the public.[16] For McLean's Mansion, the costs being discussed were the full restoration costs.

28.3 Unlike McLean's Mansion, it would not be possible to substantially reduce costs by a lower quality finish/fit out (such as an office level fit out) as the work required to the GNS is inherently structural and not superficial.

29 The Court accepted that there was nothing it could do to require current or future owners to restore heritage buildings and that an owner would be entitled to leave the building to deteriorate and revisit the merits for demolition later down the track.[17]

PLAN CHANGE 13 TO THE DISTRICT PLAN

30 In Minute 3, the Commissioner indicated that it wanted the Club's reply to consider proposed plan change 13 (*PC13*) to the District Plan which was expected to be notified on 23 September 2022.

31 While the Council at its meeting on 8 and 13 September 2022 voted to notify PC13, no notification date has been set down at this stage while the Council deals with its housing intensification plan change.

32 Nevertheless, we note there have been no substantive changes from the version released for feedback in April 2022 and the version Council have approved to notify. The assessment in our opening submissions remains:

32.1 The activity status will (at worst) remain the same, with no substantive changes proposed to the non-complying rule for demolition of Highly Significant heritage buildings; and

32.2 The relevant objectives and policies, including Policy 9.3.2.2.8 will remain very similarly worded, such that it will not change the consideration of the application by the Commissioner.

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15 Evidence of **Mr Lang** at [19].

16 Evidence of **Mr Lang** at [21]-[23].

17 *Taggart Earthmoving,* above n 7, at [171].

CONDITIONS

33 At the end of the hearing, **Mr Joll** noted that some of the conditions in the s 42A report were not entirely correct (in particular, the accidental discovery protocol condition was omitted).

34 We attach a corrected version of the conditions at **Appendix 2** which we have confirmed to be acceptable with **Ms White**.[18]

35 This version of the conditions also removes the reference to 'Temporary Protection Plans' previously in condition 2(p) and advice note viii. **Ms White** is comfortable with this amendment on the basis that **Mr Wright** considers the separation distance of the GNS from the Tea House and Significant Trees is sufficient and on the basis this was not requested by submitters (including HNZPT).

36 The Club has demonstrated through its evidence at the hearing that consent to demolish the GNS as a heritage listed item is appropriate.

Dated: 28 September 2022

J M Appleyard / L M N Forrester
Counsel for Canterbury Jockey Club

[18] Noting that the wording used for this condition is as was recommended by Underground Overground Archaeology who prepared the archaeological assessment and recommended the inclusion of the condition.

APPENDIX 1

Independent Hearings Panel

Christchurch Replacement District Plan

Te paepae motuhake o te mahere whakahou a rohe o Ōtautahi

IN THE MATTER OF section 71 of the Canterbury Earthquake Recovery Act 2011 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

AND

IN THE MATTER OF proposals notified for incorporation into a Christchurch Replacement District Plan

Date of hearing: 18–25 January, 2–10 February and 9-10 May 2016

Date of decision: 30 September 2016

Hearing Panel: Hon Sir John Hansen (Chair), Environment Judge John Hassan (Deputy Chair), Ms Sarah Dawson, Dr Phil Mitchell, Ms Jane Huria

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DECISION 45

CHAPTER 9: NATURAL AND CULTURAL HERITAGE (PART)
Topic 9.3 — Historic Heritage

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

Policy 9.3.2.7 (now 9.3.2.8) Utilities

[94] The Council proposed a new policy to provide a connection between Chapter 11 Utilities and Chapter 9 Natural and Cultural Heritage, so as to ensure that utilities do not inappropriately compromise the values associated with heritage items.[57] Orion is supportive of this policy.[58] We have accepted that the policy is appropriate, subject to a minor amendment for consistency by changing the word 'specific' to 'particular', and included in the Decision Version as follows:

> **9.3.2.8 Policy - Utilities**
>
> a. Ensure that utilities, where they are required by their locational, technical or operational requirements to be located within, or on, a heritage item or heritage setting are appropriately designed, located and installed to maintain, as far as practicable, the particular heritage values of that heritage item or heritage setting.

Policy 9.3.2.8 (now 9.3.2.9) Demolition of heritage items

[95] In the Final Revised Version the policy is expressed as follows:

> **9.3.2.8 - Policy - Demolition of Heritage items**
>
> a. Avoid the demolition of heritage items unless the heritage item cannot otherwise be retained having regard to matters including the following:
>
> i. Whether there is a threat to life and property for which interim protection measures would not remove that threat.
>
> ii. Whether the extent of the work required to retain and repair the heritage item is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised.
>
> iii. Whether the costs to retain the heritage item, (particularly as a result of damage) would be unreasonable.
>
> iv. The ability to retain the overall heritage values and significance of the heritage item through a reduced degree of demolition.
>
> v. The level of significance of the heritage item.

[96] In closing legal submissions, the Council submitted that the policy primarily seeks to avoid the demolition of heritage items, in recognition of the protective directions in s 6(f) and in Objective 9.3.1. The Council submits that the drafting 'acknowledges that there will be circumstances in which demolition might be appropriate'. At the time of the hearing, the policy was drafted in a way that required the demonstration of exceptional circumstances and a list of

[57] Closing legal submissions for the Council, at 5.41-5.43.
[58] Closing legal submissions for Orion, at 7.1.

matters relevant to determining whether they existed. The Council moved away from this and now proposes a framework that 'enables an assessment of whether these costs would be in proportion with the value of the property and the heritage values in question'.[59]

[97] The Crown generally supports the Revised Version, however, it seeks to tie the cost considerations to an assessment of whether retention or repair is financially viable.[60] The Council does not support this change because it does not necessarily apply to the circumstances of non-commercial uses such as churches, where financial viability would have little or no application.

[98] Tailorspace submitted that there should be an additional clause, in now 9.3.2.9, requiring regard to be given to whether retention of the heritage item would enable and facilitate recovery from the impacts of the earthquakes.[61] The Council considers such an amendment to be unnecessary because matters of recovery are already inherent in the other matters already listed, in particular iii. CPT supports the changes in the Revised Version.[62]

[99] We find that there is no statutory presumption that 'demolition' will be inappropriate, or that it requires avoidance in an absolute sense. In the Christchurch recovery context, there is a need for overall flexibility in the appropriate management of historic heritage. Policy 9.3.2.9 does not sit alone. It is one of the matters that sits under Policy 9.3.2.4. We find that the list of matters in Policy 9.3.2.9, are relevant considerations for ensuring whether demolition is appropriate. On the evidence we find the listing of these matters is particularly important for the proper consideration of applications for complex restoration or rebuilding projects involving historic heritage. As we discuss below in the context of ChristChurch Cathedral, demolition can take a number of forms. It does not always mean the loss of an entire building to make way for a new and modern building. There are a range of factors that affect how much demolition is required. All of those matters are recognised in the Final Revised Version. However, we find that the policy still inappropriately framed these factors as 'exceptions', notwithstanding the Council's movement away from the phrase 'exceptional circumstances'. In the Christchurch context, we find that there should be no presumption that 'demolition' is inappropriate or that it must be avoided, or only allowed in limited circumstances.

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59 Closing legal submissions for the Council, at 5.44-5.51.
60 Closing legal submissions for the Crown, at page 21.
61 Closing legal submissions for Tailorspace, 20 June 2016, at 14 and 31.
62 Closing legal submissions of CPT, 20 June 2016, at 8.

[100] In the Decision Version we have significantly amended the way in which this policy is framed to recognise the shift in the drafting of the provisions in response to our Preliminary Minute and the evidence we heard. The Decision Version more appropriately provides:

> **9.3.2.9 Policy - Demolition of heritage items**
>
> a. When considering the appropriateness of the demolition of a scheduled heritage item have regard to the following matters:
>
> i. whether there is a threat to life and/or property for which interim protection measures would not remove that threat;
>
> ii. whether the extent of the work required to retain and/or repair the heritage item is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised;
>
> iii. whether the costs to retain the heritage item (particularly as a result of damage) would be unreasonable;
>
> iv. the ability to retain the overall heritage values and significance of the heritage item through a reduced degree of demolition; and
>
> v. the level of significance of the heritage item.

Policy 9.3.2.9 (now 9.3.2.10) Awareness and education of historic heritage

[101] This policy remained unchanged from the Notified Version. The policy was supported by Akaroa Civic Trust (3627), Dr Ian and Dr Lynne Lochhead (3633) and The Christchurch Civic Trust (3700).

[102] We accept the Notified Version as appropriate and have included in the Decision Version as follows:

> **9.3.2.10 Policy — Awareness and education of historic heritage**
>
> a. Enhance the community's awareness and understanding of the values of historic heritage, including sites of Ngāi Tahu cultural significance, through education initiatives.
>
> b. Promote the use of conservation plans.

Policy 9.3.2.10 (now 9.3.2.11) – Incentives and assistance for historic heritage

[103] The Council made a change to this Policy in the Final Revised Version in response to the Crown. The Final Revised Version provided:

APPENDIX 2

1. Except where required to meet other conditions below, the development shall proceed in accordance with the information and plans submitted for the application and saved into Council records as RMA/2021/3921 Approved Consent Document.

Demolition Management Plan

2. All proposed works shall be carried out in accordance with an accepted Demolition Management Plan (DMP). The purpose of the DMP is to ensure that any potential effects arising from deconstruction activities on the site are effectively managed. The DMP shall be prepared by suitably qualified and experienced practitioners and shall include, but not be limited to the following:

    a) Site description, topography, vegetation, soils and other reference information;

    b) Details of proposed works including preparation of a deconstruction plan in accordance with the directions of a structural engineer to avoid collapse of weakened structures and ensure demolition occurs safely.

    c) Roles and responsibilities, including contact details for the site manager appointed by the Consent Holder;

    d) Site establishment;

    e) Timing of works (including any staging required);

    f) An Erosion and Soil Control Plan (ESCP), including drawings, specifications and locations of mitigation measures as necessary;

    g) A Demolition Noise and Vibration Management Plan (DNVMP) demonstrating that noise and vibration nuisance will be minimised during demolition activities;

    h) Storage of fuel and/or lubricants and any handling procedures;

    i) Contingency plans (including use of spill kits);

    j) Protocols for the discovery of archaeological material;

    k) Construction traffic management measures, including measures to be adopted in accordance with the NZTA Code of Practice for Temporary Traffic Management; and demonstrating that vehicle and pedestrian movements will be controlled to keep the public safe;

    l) Parking areas for construction staff;

    m) Measures for identification and remediation of contaminated soil; and

    n) Confirmation of approved disposal sites for waste;

    o) Environmental compliance monitoring and reporting.

- The consent holder shall submit this DMP to the Council, Attention: Team Leader Compliance and Investigations for certification via email to rcmon@ccc.govt.nz at least 20 working days prior to the commencement of construction work associated with this consent. This DMP is to be certified by the Team Leader or their nominee as meeting the requirements of Condition 2 prior to the commencement of any

demolition or earthworks and, once certified, the DMP will thereafter form part of the Approved Consent Document.

NOTE: *The Team Leader (or their nominee) will either certify, or refuse to certify, the DMP within 10 working days of receipt. Should the Team Leader (or their nominee) refuse to certify the DMP, then they will provide a letter outlining why certification is refused based on the parameters contained in this condition.*

- Should the Team Leader *(or their nominee)* refuse to certify the DMP, the consent holder shall submit a revised DMP to the Resource Consents Manager for certification. The certification process shall follow the same procedure and requirements as outlined in condition 2.

- The DMP may be amended at any time by the Consent Holder. Any amendments to the DMP shall be submitted by the Consent Holder to the Council for certification. Any amendments to the DMP shall be:

  a) for the purposes of improving the measures outlined in the DMP for achieving the DMP purpose (see condition 2), and;

  b) consistent with the conditions of this resource consent.

  If the amended DMP is certified, then it becomes the certified DMP for the purposes of condition 16 and will thereafter form part of the Approved Consent Document.

3. The consent holder must notify Christchurch City Council no less than three working days prior to works commencing, (via email to rcmon@ccc.govt.nz) of the earthworks start date and the name and contact details of the site supervisor. The consent holder shall at this time also provide confirmation of the installation of ESCP measures as per the plan referred to in Condition 2 above.

4. Run-off must be controlled to prevent muddy water flowing, or earth slipping, onto neighbouring properties, legal road (including kerb and channel), or into a river, stream, drain or wetland. Sediment, earth or debris must not fall or collect on land beyond the site or enter the Council's stormwater system. All muddy water must be treated, using at a minimum the erosion and sediment control measures detailed in the site specific Erosion and Sediment Control Plan, prior to discharge to the Council's stormwater system.

   Note: For the purpose of this condition muddy water is defined as water with a total suspended solid (TSS) content greater than 50mg/L.

5. No earthworks shall commence until the ESCP has been implemented on site. The ESCP measures shall be maintained over the period of the deconstruction and earthworks phases, until the site is stabilised (i.e. no longer producing dust or water-borne sediment). The ESCP shall be improved if initial and/or standard measures are found to be inadequate. All disturbed surfaces shall be adequately topsoiled **and** vegetated or otherwise stabilised as soon as possible to limit sediment mobilisation.

6. Dust emissions shall be appropriately managed within the boundary of the property in compliance with the *Regional Air Plan*. Dust mitigation measures such as water carts, sprinklers or polymers shall be used on any exposed areas. The roads to and from the site, and the site entrance and exit, must remain tidy and free of dust and dirt at all times.

7. All loading and unloading of trucks with excavation or fill material shall be carried out within the subject site.

8. Any surplus or unsuitable material from the project works shall be removed from site and disposed at a facility authorised to receive such material.

9. Any backfilling in the area of the excavated foundations shall be with clean fill only.

10. All public roads and footpaths shall be kept clear of any tracked material from the demolition site.

11. Any public road, shared access, footpath, landscaped area or service structure that has been damaged, by the persons involved with the development or vehicles and machinery used in relation to the works under this consent, shall be reinstated as specified in the Construction Standard Specifications (CSS) at the expense of the consent holder and to the satisfaction of the Council.

12. Any change in ground levels shall not cause a ponding or drainage nuisance to neighbouring properties. All filled land shall be shaped to fall to the road boundary. Existing drainage paths from neighbouring properties shall be maintained.

Noise

13. The use of machinery in association with the demolition and earthworks shall be limited to between 7.30am – 6.00pm Monday to Saturday and truck movements limited to between 7.30am – 5.00pm Monday to Saturday. There shall be no works associated with the demolition on Sundays and public holidays except in cases of operational necessity where there has been prior approval of a Council Environmental Health Officer.

Vibration

14. The maximum permitted vibrations outlined in the German Standard DIN 4150-3:1999 "Structural Vibration – Part 3: Effects of Vibrations on Structures" shall be adhered to during all deconstruction and excavation works.

NES – Contaminated soils

15. Prior to any earthworks or below ground excavations of the foundations commencing, soil testing shall be undertaken by a Suitably Qualified and Experienced Practitioner (SQEP) to determine the level of any contamination in the area of ground to be disturbed. The results of that testing shall be provided to Council by way of email to rcmon@ccc.govt.nz along with the Site Management Plan required under condition 16.

16. At least 10 working days prior to any earthworks or below ground excavations of the foundations commencing, a Site Management Plan (SMP) prepared by a Suitably Qualified and Experienced Practitioner shall be provided to Council by way of email to rcmon@ccc.govt.nz for certification. No earthworks or excavation of foundations may commence until the SMP has been certified by Council. The SMP shall include as a minimum:

    a) Risk assessment, analysis and recommendations for treatment that are consistent with the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

b) Procedures and mitigation methods to ensure that contaminated soil is excavated, handled and disposed of appropriately.

c) The consideration of stormwater and dewatering discharges, and the requirements of the Council's consents for these discharges.

d) Internal project monitoring methods to be undertaken by the SQEP, or Environmental Specialist under the supervision of a SQEP.

e) Procedures for sampling and record keeping.

f) Reporting to the Council's Team Leader, Environmental Compliance, or nominee, within 21 days of the completion of the project (Email rcmon@ccc.govt.nz).

17. All earthworks and excavation of foundations shall be undertaken in accordance with the SMP certified under condition 16.

18. Any soils removed from the site during the course of the activity shall be disposed of to a facility authorised to accept the material. The consent holder shall provide evidence of soil disposal to an authorised facility such as weighbridge receipts or waste manifest submitted to the Christchurch City Council's Environmental Compliance Team, or nominee (Email rcmon@ccc.govt.nz) within two months of the completion of works.

19. A copy of the relevant SMP required under Condition 16 shall be kept on site at all times.

20. The consent holder, and all persons exercising this consent, shall ensure that all personnel undertaking activities authorised by this consent are made aware of, and have access to, the contents of this consent document and the relevant SMP required under Condition 16 prior to the commencement of any earthworks or excavations.

Heritage

21. Prior to the letting of the contract for demolition, the consent holder shall submit to the Council Heritage Team Leader or nominee for certification, a list of those features and materials from the Grandstand that have been identified for removal and potential reuse in future redevelopment across the wider racecourse site. The purpose of this documentation is to demonstrate that the salvage of heritage features and materials is maximised wherever practicable.

22. A digital photographic record of the heritage item and heritage setting is to be lodged with Council's Heritage Team within three months of the completion of works. In order to adequately record changes to heritage fabric, photographs must be taken before commencement, at regular intervals during, and after completion of works. Photographs must be of printable quality, at least 1440 pixels by 960 pixels for a 4''x 6'' print at a minimum resolution of 240 PPI. Also see Advice Note below.

23. Prior to the commencement of any new building or structure in the location of the Grandstand or within heritage setting #183, the consent holder shall submit to the Heritage Team Leader or nominee for certification, a scheme for interpreting the history of the former Grandstand in proximity to its original location.

Accidental Discovery Protocol

24. In the event that an unidentified archaeological site is located during works, the following applies:

    a) Work shall cease immediately at that place and within 10 m around the site.

    b) The contractor must shut down all machinery, secure the area, and advise the Site Manager.

    c) The Site Manager shall secure the site and notify Underground Overground Archaeology Ltd. Further investigation by an archaeologist may be required.

    d) If the site is of Maori origin, the Site Manager or project archaeologist shall notify the Heritage New Zealand Regional Archaeologist and the appropriate iwi groups or kaitiaki representative of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (*Heritage New Zealand Pouhere Taonga Act*, Protected Objects Act).

    e) If human remains (kōiwi tangata) are uncovered the Site Manager or project archaeologist shall advise the Heritage New Zealand Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative and the above process under 4 shall apply. Remains are not to be moved until such time as iwi and Heritage New Zealand have responded.

    f) Works affecting the archaeological site and any human remains (kōiwi tangata) shall not resume until Heritage New Zealand gives written approval for work to continue. Further assessment by an archaeologist may be required.

    g) Where iwi so request, any information recorded as the result of the find such as a description of location and content, is to be provided for their records.

    h) The project archaeologist, in consultation with Heritage New Zealand, will determine if an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 is required for works to continue.

Advice notes:

i) If any dewatering is to occur separate consents may need to be obtained from Environment Canterbury.

ii) It is the consent holder's responsibility to ensure that the activity, including where carried out by contractors on their behalf, complies with the below Christchurch District Plan standard - failure to do so may result in enforcement action and the need for additional land-use consent:

- Rule 6.1.6.1.1 P2 - All earthworks related construction activities shall meet relevant noise limits in Tables 2 and 3 of NZS 6803:1999 Acoustics - Construction Noise, when measured and assessed in accordance with that standard.

- Rule 8.9.2.1 P1 Activity Standard f. - Earthworks involving mechanical equipment, other than in residential zones, shall not occur outside the hours of 07:00 and 22:00 except where compliant with NZS 6803:1999. Between the hours of 07:00

and 22:00 the noise standards in Chapter 6 Rule 6.1.5.2 apply except where NZS 6803.1999 is complied with, and the light spill standards in Chapter 6 Rule 6.3.6 apply.

iii) Earthworks involving soil compaction methods which create vibration shall comply with German Standard DIN 4150 1999-02 (*Structural Vibration – Effects of Vibration on Structures*) and compliance shall be certified via a statement of professional opinion from a suitably qualified and experienced chartered or registered engineer. The statement of professional opinion is to be submitted to the Christchurch City Council via rcmon@ccc.govt.nz a minimum of five working days prior to any compacting activities commencing.

Scope of work

iv) This consent only covers earthworks involved in the demolition of the building. Any earthworks for redevelopment or a new building on the site will need to comply with the District Plan and NES or a further resource consent obtained.

v) The applicant should not commence or should cease work on a given area if the works proposed in that area change from those in the approved consent document. Any variation should be discussed with the Christchurch City Council's Heritage Team Leader or nominee, who in consultation with Council's Resource Consents Unit will determine an appropriate consenting response. Five working days should be allowed for this process. Failure to discuss changes with the Council's Heritage Team or a Resource Consents Planner may constitute a breach of the conditions of this consent. Amended plans and information showing these changes, including any associated changes to the Temporary Protection Plan, may be required to be submitted to the Heritage Team Leader, Christchurch City Council (or nominee) for certification prior to work on that area commencing or resuming.

Submission of information

vi) Information being submitted in relation to conditions of this consent is to be sent by email to: rcmon@ccc.govt.nz. The current nominated Heritage team contact for this consent is Amanda Ohs, ph. 9418292 or email: amanda.ohs@ccc.govt.nz, or heritage@ccc.govt.nz. Alternatively please contact Gareth Wright ph. 941 8026 or email: Gareth.wright@ccc.govt.nz, or Brendan Smyth, Heritage Team Leader, ph. 941 8934 or email: brendan.smyth@ccc.govt.nz.

Photographic Record

vii) The intention of the photographic record condition is to maintain a record of the works with a focus on the areas undergoing change rather than individual elements. The same camera positions should be used for all photo sets before, during and after the works to enable comparison. Photographs should be of printable quality, at least 1440 pixels by 960 pixels for a 4''x 6'' print at a minimum resolution of 240 PPI. They should be labelled with the position on site or in relation to the site, date and photographer's name, and submitted as individual image files, with a plan showing photograph locations. Photos should be submitted to the Council's nominated Heritage team contact electronically, either by email (noting that Council's email data transfer limit is 20MB per email), or via a file transfer website such as wetransfer.com or dropbox.com to rcmon@ccc.govt.nz.

Monitoring

viii) The Council will require payment of its administrative charges in relation to **monitoring of conditions**, as authorised by the provisions of section 36 of the Resource Management Act 1991.

The current monitoring charges are:

a) A monitoring programme administration fee of $102.00 to cover the cost of setting up the monitoring programme; and

b) A monitoring fee of $175.50 *(commercial)* for the first monitoring inspection to ensure compliance with the conditions of this consent; and

c) Time charged at an hourly rate if more than one inspection, certification of conditions, or additional monitoring activities (including those relating to non-compliance with conditions), are required.

The monitoring programme administration fee and initial inspection fee will be charged to the applicant with the consent processing costs. Any additional monitoring time will be invoiced to the consent holder when the monitoring is carried out, at the hourly rate specified in the applicable Annual Plan Schedule of Fees and Charges.

ix) This resource consent has been processed under the Resource Management Act 1991 and relates to planning matters only. You will also need to comply with the requirements of the **Building Act 2004**. Please contact a Building Consent Officer (ph: 941 8999) for advice on the building consent process.