BEFORE INDEPENDENT HEARING COMMISSIONERS
IN CHRISTCHURCH

TE MAHERE Ā-ROHE I TŪTOHUA MŌ TE TĀONE O ŌTAUTAHI

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on Plan Change 14 (Housing and Business Choice) to the Christchurch District Plan

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OPENING LEGAL SUBMISSIONS FOR CHRISTCHURCH CITY COUNCIL

STRATEGIC OVERVIEW HEARING

Dated: 3 October 2023

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MAY IT PLEASE THE PANEL:

1. INTRODUCTION

Overview of legal submissions

1.1 Christchurch City Council (**Council**) has prepared Plan Change 14 (**PC14**) as its 'intensification planning instrument' (**IPI**).[1]

1.2 These opening legal submissions for the Council set the scene for the first of the Panel's hearing of submissions on PC14,[2] which will focus on a **strategic overview of PC14** and **submissions on the whole of PC14**.

1.3 These legal submissions provide a high-level overview of the Council's approach to implementing, through PC14, the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**Amendment Act**) and the National Policy Statement on Urban Development 2020 (**NPS-UD**), and identify a number of the strategic issues arising from PC14 and the submissions made on it, adopting the following structure:

(a) this **Part 1** contains an introduction and presents an overarching 'principal submission' summarising the Council's case;

(b) **Part 2** outlines the legal framework for the Panel's recommendations, which will be relevant to all hearings (and thus will not be repeated in Council's opening submissions for subsequent hearings). Part 2 will address, in turn:

(i) the general framework for developing and evaluating a proposed plan change, including the role of section 32 of the RMA and higher-order planning documents;

(ii) the legal framework specific to IPIs, including:

(1) key aspects of the Intensification Streamlined Planning Process (**ISPP**); and

(2) the scope of matters (some mandatory, some discretionary) to be included in an IPI; and

(3) other key RMA provisions introduced through the Amendment Act; and

(iii) the legal principles to guide the Panel's evaluation of whether relief sought by submitters in respect of PC14 is within scope;

[1] As that term is defined in section 80E of the Resource Management Act 1991 (**RMA**).
[2] From 10 to 13 October and on 18 and 19 October 2023.

(c) **Part 3** addresses matters particularly relevant to this first hearing, namely:

(i) a brief introduction to the Council's proposed strategic response to the Amendment Act and the NPS-UD, including the application of qualifying matters (**QMs**), which will be explained in more detail by the Council's witnesses;

(ii) the key issues raised by submissions on PC14 relevant to this hearing, namely generic concerns regarding the IPI and specific changes sought to the strategic directions objectives; and

(iii) introducing the seven witnesses giving evidence for the Council at the strategic overview hearing.

1.4 Subsequent weeks of the hearing will address in more detail submission points relating to the topics of **central city and commercial zones**, **residential zones**, **other zones**, and **city-wide qualifying and other matters**. Counsel intend to file opening legal submissions for the Council in advance of each of those hearings highlighting key issues for consideration by the Panel in relation to each topic (and related sub-topics).

1.5 Counsel will also file the Council's reply by the date specified by the Panel (currently 29 February 2024).

1.6 In the meantime, as foreshadowed in counsel's memorandum of 28 July 2023, at this stage the Council does not seek that the Panel make any preliminary determinations, such as on scope issues.

Principal submission

1.7 The operative Christchurch District Plan (**District Plan**) was recast in 2013 to 2017 to expedite the city's recovery from the catastrophic and city-shaping effects of the Canterbury earthquakes, and to provide for the future enhancement of Christchurch as a dynamic, prosperous, and internationally competitive city.[3]

1.8 That planning process for Ōtautahi Christchurch pre-empted urban development issues that have since emerged in other New Zealand cities and prompted central government intervention to increase housing supply and provide sufficient development capacity for current and future needs.

1.9 As a result, the District Plan is already highly enabling of development in order to meet the long-term housing and business demand projections for

[3] As reflected in District Plan strategic directions objective 3.3.1.

Ōtautahi Christchurch. These outcomes are driven by overarching strategic directions objectives in the District Plan which, among other things:

(a) establish housing 'bottom lines' over the short-, medium-, and long-term (objective 3.3.4); and

(b) highlight the critical importance of business prosperity to Christchurch's recovery, requiring a range of opportunities to be provided for such activities to establish and prosper (objective 3.3.5).

1.10 Consequently, Ōtautahi Christchurch already has, in its District Plan, *"at least sufficient development capacity"* to meet expected demand for housing and for business land over the medium to long-term, as required under policy 2 of the National Policy Statement for Urban Development (**NPS-UD**).

1.11 Central government has nonetheless directed Council, among other Tier 1 councils, to use the ISPP to:

(a) incorporate the Medium Density Residential Standards (**MDRS**) in Schedule 3A of the RMA into every *"relevant residential zone"*;[4] and

(b) give effect to policy 3 of the NPS-UD throughout the urban environment,[5] which requires increased building heights and density of urban form to be enabled to varying degrees in line with a hierarchy of centres (or proximity to them).

1.12 In both cases, however, the Council may take a less enabling approach in an area if higher density is inappropriate there due to the presence of a QM.[6]

1.13 In Ōtautahi Christchurch there is simply no need for PC14 to provide a '**Full Intensification**' response, that is, one where the MDRS and policy 3 are fully enabled without the imposition of restrictions on intensification (e.g. using QMs), in order to provide for sufficient development capacity. To do so would risk significantly compromising the quality and liveability of the city and thus be contrary to:

(a) the need to ensure a well-functioning environment in accordance with objective 1 and policy 1 of the NPS-UD;

(b) other higher-order directives in the NPS-UD and the Canterbury Regional Policy Statement (**CRPS**); and

(c) the sustainable management purpose of the RMA.

[4] Section 77G, RMA.
[5] Sections 77G and 77N.
[6] Sections 77I to 77L and 77O to 77R.

1.14 Rather, the Council is striving through PC14 to achieve "**density done well**" within the parameters of the Amendment Act and the NPS-UD.

1.15 This means still providing for significant further urban intensification pursuant to government directives – which PC14 achieves, over and above the enabling regime in the current District Plan, which already provides ample capacity to meet the needs of Ōtautahi Christchurch and its communities – while incorporating numerous important measures that will ensure that the urban environment of Ōtautahi Christchurch continues to function well. To that end, the Council proposes a range of QMs to direct and shape intensification in a way that achieves better sustainable management outcomes for the city and its communities than Full Intensification. These better "density done well" outcomes will be discussed further below.

1.16 The Council's "density done well" approach is supported by a wide-ranging suite of expert evidence and planning analysis, which will be explained to the Panel throughout the PC14 hearings.

2. LEGAL FRAMEWORK

General framework applicable to plan changes

2.1 The standard RMA considerations that apply to plan changes – discussed briefly in this part of the submissions – continue to apply to the IPI process, subject to various modifications specific to an IPI and the ISPP as introduced by the Amendment Act (discussed further below). The new Natural and Built Environment Act 2023 does not alter the process or considerations for PC14.[7]

2.2 The purpose of the RMA is to promote the sustainable management[8] of natural and physical resources. Under section 6, identified matters of national importance[9] must be recognised and provided for and, under section 7, particular regard is to be had to listed *"other matters"* which include kaitiakitanga, efficiency, amenity values, and ecosystems. Under section 8, the principles of the Treaty of Waitangi are to be taken into account.

[7] It is counsel's understanding on reading the transitional provisions in Schedule 1 of the Natural and Built Environment Act 2023, and in particular clause 9 of Schedule 1, that the planning process initiated under the RMA will only be impacted by the new legislation following the notification of the regional spatial strategies. As the regional spatial strategy has not and will not be notified during the PC14 plan change process the Natural and Built Environment Act 2023 has no impact on PC14.

[8] As that phrase is defined in s 5(2) of the RMA.

[9] Relating to the natural character of the coastal environment, the protection of outstanding natural features and landscapes, significant indigenous vegetation and habitats, the maintenance and enhancement of public access to the coastal marine area, lakes and rivers, the relationship of Maori and the culture and traditions with their ancestral lands, Waters, sites, waahi tapu and other taonga and the protection of historic heritage and customary rights.

2.3 Section 31 provides that a function of territorial authorities is, through the establishment of objectives, policies and methods, to achieve integrated management of the effects of the use, development or protection of land and natural and physical resources. The proposed provisions in PC14 must therefore be designed to accord with (and assist the Council to carry out) its functions so as to achieve the purpose of the RMA.[10]

2.4 Under section 32, an evaluation report must examine whether objectives of the plan change are the most appropriate way to achieve the purpose of the RMA, and whether the provisions (policies and other provisions) are the most appropriate way of achieving those objectives. This requires:

(a) identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions through identifying, assessing and, if practicable, quantifying the benefits and costs of the environmental, economic, social and cultural effects including opportunities for economic growth and employment; and

(b) assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

2.5 The legal framework for district plans is set out in sections 72 to 77 of the RMA. In accordance with section 74 a territorial authority must prepare and change its district plan in accordance with any regulations and must *"have regard to"* the listed instruments, which include any proposed regional policy statement, proposed regional plan, and management plans and strategies prepared under other Acts. It must take into account any relevant planning document recognised by an iwi authority.

2.6 Under section 75, a district plan *"must give effect"* to any national policy statement, the New Zealand Coastal Policy Statement, and the regional policy statement and must *"not be inconsistent with"* a water conservation order or a regional plan (for any matter specified in section 30(1)).

2.7 Finally, sections 75(1) and 76 contemplate district plan policies implementing objectives and rules implementing policies, with rules thereby achieving the objectives and policies of a plan.

2.8 The Environment Court gave a comprehensive summary of the mandatory requirements for district plans in *Colonial Vineyard Ltd v Marlborough District Council*,[11] an extract from which is set out in **Appendix 1**. The decision

[10] See also section 72 of the RMA.
[11] *Colonial Vineyard Ltd v Marlborough District Council* [2014] NZEnvC 55, at [17].

predated the 2013[12], 2017[13] and 2021[14] amendments to the Act coming into effect so must be read subject to the effects of those amendments. Together, the *Colonial Vineyard* requirements and those amendments provide the legal tests that must be applied when considering submission and evidence on PC14 and making recommendations on PC14.

2.9 The particular implications of the Amendment Act are outlined further below.

Framework specific to IPIs

Introduction

2.10 The RMA was amended by the Amendment Act on 21 December 2021. Key changes to Part 5, Subpart 3 of the RMA are summarised below, acknowledging that the Panel will be familiar with the statutory framework.

2.11 The Amendment Act requires the Council (and other Tier 1 local authorities) to increase urban development and enable intensification in the district.

2.12 Each IPI is required to be prepared:[15]

(a) using the ISPP;

(b) in accordance with clause 95 of Schedule 1 (which identifies which provisions of Schedule 1 apply to the ISPP); and

(c) in accordance with any requirements specified by the Minister of the Environment in a direction made under section 80L.

The ISPP

2.13 Sections 77G(3) and 77N(1) specify the process for satisfying the duties imposed under the Amendment Act and the NPS-UD, including that each IPI must be prepared using the ISPP.[16]

2.14 The ISPP is set out in Part 6 of Schedule 1. Key features include:

(a) Pre-notification consultation, notification, submissions and further submissions are the same as the usual Schedule 1 process.[17]

[12] In particular, amendments to section 74(1) (which brought together and clarified the matters a District Plan must be *"in accordance with"*; and sections 32 and 32AA (which replaced the requirements for consideration of alternatives).
[13] In particular, amendments to section 6(h) (which added *"management of significant risks from natural hazards"* to the matters of national importance); section 31(1)(aa) (which added a new function for territorial authorities to ensure sufficient housing and business land development capacity); sections 32 and 32AA (further refinements and clarifications); and section 74(1)(ea) (which added *"National Planning Standards"* to the matters a District Plan must be *"in accordance with"*).
[14] That is, the Amendment Act, discussed elsewhere in these legal submissions.
[15] Section 80F(3) RMA.
[16] Section 80F(3) RMA.
[17] Clause 95 of Schedule 1.

(b) A hearing of submissions must be held by a Panel, which has the powers set out in clause 98 of Schedule 1.[18]

(c) Following the hearing of submissions, the Panel must make recommendations to the Council on its IPI.[19]

(d) The Council must decide whether to accept or reject each recommendation.[20]

(e) In making its decision, the Council cannot consider any submission or evidence unless it was made available to the Panel. However, the Council can seek clarification from the Panel on a recommendation.[21]

(f) Each rejected recommendation must be referred to the Minister for decision, including any alternative recommendation provided by the Council.[22]

(g) In making its decision, the Minister may take into account only those considerations that the Panel could have taken into account when making its recommendation, but may have regard to compliance with directions under section 80L.[23]

(h) Decisions of the Council and the Minister are to be publicly notified by the Council.[24]

(i) There is no right of appeal against a decision of the Council or the Minister; the only avenue for legal challenge is to apply to the High Court for judicial review.[25]

Key features of an IPI

2.15 The matters that may be included in an IPI are described in section 80E of the RMA. Unlike a standard plan change or variation, the IPIs:

(a) must contain the mandatory matters set out in section 80E;

(b) may contain the discretionary matters set out in section 80E; and

(c) may not be used for any purpose other than the uses specified in section 80E.[26]

[18] Clause 96 of Schedule 1.
[19] Clauses 99 and 100 of Schedule 1.
[20] Clause 101 of Schedule 1.
[21] Clause 101(4) of Schedule 1.
[22] Clause 101(2) of Schedule 1.
[23] Clause 105(2) of Schedule 1
[24] Clauses 102 and 106 of Schedule 1.
[25] Clauses 107 and 108 of Schedule 1.
[26] Section 80G(1)(b) RMA.

2.16 In broad terms, the Amendment Act directs that the IPI **must**:[27]

(a) incorporate MDRS into all relevant residential zones;[28]

(b) give effect to the urban intensification requirements of policies 3 and 4 of the NPS-UD in residential zones[29] and non-residential zones.[30]

2.17 An IPI **may** also amend or include the following provisions:[31]

(a) provisions relating to financial contributions if the Council chooses to amend its district plan under section 77T (discussed further below);

(b) provisions to enable papakāinga housing in the district.

(c) related provisions, including objectives, policies, rules, standards and zones, that support or are consequential on the MDRS or policies 3 and 4 of the NPS-UD. *"Related provisions"* expressly includes (but is not limited to) provisions that relate to district-wide matters, earthworks, fencing, infrastructure, qualifying matters, stormwater management and subdivision of land.

2.18 Sections 80E and 80G thus delimit the scope of an IPI, which gives rise to potential questions discussed in greater detail below.

2.19 Otherwise, the key modifications made by the Amendment Act to the RMA statutory tests set out above relate to the requirement to give effect to the regional policy statement under section 75(3)(c) and the matters to be considered as part of the section 32 evaluation. In particular:

(a) Section 77G(8) provides that the requirement to incorporate the MDRS into relevant residential zones prevails over the requirement to give effect to a regional policy statement, in the event of any inconsistency.

(b) Sections 77J, 77K and 77L (relating to residential zones) and sections 77P, 77Q and 77R (relating to non-residential zones) set out additional requirements for the evaluation of QMs under section 32. For instance, the evaluation report must assess the impact that limiting development capacity, building height, or density (as relevant) in accordance with a QM will have on the provision of development capacity, as well as the costs and broader impacts of imposing those limits via a QM.

[27] Section 80E(1)(a) RMA.
[28] Section 77G(1) RMA.
[29] Section 77G(2) RMA.
[30] Section 77N RMA.
[31] Section 80E(1)(b) RMA.

Medium density residential standards

2.20 Section 77G(1) requires that every relevant residential zone of a specified territorial authority must have the MDRS incorporated into that zone. As the MDRS are mandatory, councils are not required to evaluate the MDRS under section 32 of the Act, and the Panel does not have power to amend the MDRS, except where a QM applies (sections 77I and 77O) or to make them more enabling of development.[32]

Incorporation of the MDRS

2.21 The MDRS are defined to mean the requirements, conditions, and permissions set out in Schedule 3A of the RMA.[33]

2.22 Schedule 3A includes various requirements relating to activity status, notification, rules, objectives and policies, subdivision requirements and *"density standards"*, defined in Schedule 3A as:

> *"(…) a standard setting out requirements relating to building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to street, or landscaped area for the construction of a building."*

2.23 While the RMA includes a statutory requirement to incorporate the MDRS as a minimum, a specified territorial authority **may** also:

(a) include additional standards that are not *"density standards"* (additional density standards are precluded by clause 2(2) of Schedule 3A);

(b) include objectives and policies in addition to those set out in clause 6 of Schedule 3A to provide for matters of discretion to support the MDRS and to reflect any more lenient density standards;[34] and

(c) enable a greater level of development than provided for under the MDRS by omitting one of more of the density standards or including rules that are more lenient than the density standards.[35]

2.24 In carrying out the above functions, a specified territorial authority may create new residential or non-residential urban zones or amend existing zones.[36]

[32] Section 77H RMA.
[33] Section 2 RMA.
[34] Section 77G(5)(b) RMA.
[35] Section 77H RMA.
[36] Sections 77G(4) and 77N(3) RMA.

Relevant residential zones of the MDRS

2.25 The MDRS is required to be incorporated into every relevant residential zone.[37] The RMA defines a *"relevant residential zone"*[38] as well as *"residential zone"*,[39] by reference to the zone framework standard in the National Planning Standards. The District Plan has not yet been modified to reflect the National Planning Standards, so the MDRS have been applied to the District Plan equivalents of the residential zones listed in the Standards, namely the **residential suburban** zone, some **residential new neighbourhood** zones, the **residential Banks Peninsula** zone (only within Christchurch City and Lyttelton[40]), the **residential hills** zone, the **residential suburban density transition** zone, the **residential medium density** zone (to be renamed the **medium density residential zone**), and the **residential central city** zone (to be renamed the **high density residential zone**).

Policy 3 of the NPS-UD

2.26 Section 80E provides that an IPI must give effect, in the case of a tier 1 territorial authority (which includes the Council), to policies 3 and 4 of the NPS-UD.

2.27 Section 77G requires that every residential zone in an urban environment of a specified territorial authority must give effect to policy 3 in that zone.

2.28 Section 77N requires that, in giving effect to policy 3, the territorial authority must ensure that the provisions in its district plan for each urban non-residential zone within an urban environment gives effect to the changes required by policy 3.

2.29 Policy 3 of the NPS-UD (as amended by the Amendment Act) is set out in Schedule 3B of the RMA. It includes building height and density requirements that are differentiated according to a hierarchy of centre zonings, or proximity to those centre zonings. PC14 must enable:

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[37] Section 77G(1) RMA.

[38] Section 2(1). "Relevant residential zone" is defined as:

(a) means all residential zones; but

(b) does not include –

(i) a large lot residential zone:

(ii) an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment:

(iii) an offshore island:

(iv) to avoid doubt, a settlement zone.

[39] Section 2(1): *(…) all residential zones listed and described in standard 8 (zone framework standard) of the national planning standard or an equivalent zone.*

[40] This excludes the Residential Banks Peninsula zones in the Banks Peninsula Ward outside Christchurch City and Lyttelton, for example, in Wainui and Akaroa. The total population of Banks Peninsula is less than 10,000 people, which means it does not meet the threshold for qualifying as a "relevant residential zone". See section 2 RMA, and Ms Oliver's section 42A report at paragraph 5.18.

(a) in **city centre zones**, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and

(b) building heights of at least 6 storeys **within at least a walkable catchment** of (relevantly) **the edge of city centre zones**; and

(c) **within and adjacent to neighbourhood centre zones**, **local centre zones**, and **town centre zones** (or equivalent), building heights and density of urban form commensurate with the level of commercial activities and community services.

2.30 Policy 4 allows those requirements to be modified only to the extent necessary to accommodate a QM in the relevant area.

2.31 Policy 3 is also directive regarding *"metropolitan centre zones"*,[41] which the Council considers not to be a feature of Christchurch's urban environment. This will be addressed during the Central City and Commercial Zone hearings.

2.32 Although the Amendment Act specifies that an IPI must give effect to intensification policies 3 and 4 of the NPS-UD, PC14 must still give effect to the rest of the NPS-UD (not just policies 3 and 4).[42] As shall be explained further in Part 3 of these submissions, the requirement to give effect to the rest of the NPS-UD entails giving effect to matters and outcomes in the NPS-UD that align with Council striving through PC14 to achieve '**density done well**'.

2.33 Sections 77G and 77N apply to residential and non-residential zones within urban environments.[43] The Christchurch district contains various towns and villages within the Banks Peninsula ward which do not meet this definition of *"urban environment"* and thus fall outside the scope of PC14.[44] Further discussion on this issue will be provided during subsequent hearings.

[41] In metropolitan centre zones, building heights and density of urban form must be enabled to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys must be enabled.
[42] Section 75(3)(a) RMA.
[43] Urban environment" is defined in section 77F of the Act to mean: …any area of land (regardless of size, and irrespective of local authority
or statistical boundaries) that:
(a) Is, or is intended by the specified territorial authority to be, predominantly urban in character; and
(b) Is, or is intended by the specified territorial authority to be, part of a housing and labour market of at least 10,000 people.
[44] Examples include Wainui and Akaroa.

Qualifying matters

2.34 The Amendment Act[45] and NPS-UD provide the Council with a primary tool to direct, limit and restrict intensification and thus make the requirements set out in the MDRS or the relevant building height or density requirements under policy 3 less enabling of development, in a way that better:

(a) promotes sustainable management; and

(b) gives effect to higher order documents (including the NPS-UD and CRPS).

2.35 However, these tools can only be used to the extent necessary to accommodate the QMs specified in 77I (residential areas) and 77O (non-residential areas), which include:[46]

(a) a matter of national importance that decision-makers are required to recognise and provide for under section 6 of the RMA;

(b) a matter required to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement;

(c) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure;

(d) open space provided for public use;

(e) the need to give effect to a designation or heritage order;

(f) a matter necessary to implement, or to ensure consistency with, iwi participation legislation;

(g) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand; or

(h) any other matter that makes higher density, as provided for by the MDRS (in the case of residential areas) or policy 3, inappropriate in an area.

2.36 Sections 77J, 77K and 77L (in relation to residential zones) and sections 77P, 77Q and 77R (in relation to non-residential zones) set out the requirements for evaluation of QMs. These requirements differ for QMs that are:

[45] Sections 77G(6) and 77N(3) RMA.
[46] Section 77I (residential) and section 77O (non-residential).

(a) existing QMs that are operative in the relevant district plan when the IPI is notified;[47]

(b) new QMs that are notified in the IPI;[48] or

(c) other QMs under sections 77I(j) or 77O(j) which must be subject to an additional site-specific evaluation required by sections 77L or 77R.

Existing qualifying matters

2.37 Sections 77K and 77Q provide an alternative evaluation process for existing QMs. This alternative process recognises that these are matters that are already contained in an operative district plan and have therefore already been through the Schedule 1 process.

2.38 The sections set out a five-step process for existing QMs:

(a) identify by location (for example, by mapping) where an existing QM applies;

(b) specify the alternative density standards proposed for those areas identified under paragraph (a);

(c) identify in the section 32 report why the territorial authority considers that one or more existing QMs apply to those areas identified under paragraph (a);

(d) describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the QM, in comparison with the level of development that would have been permitted by the MDRS and policy 3; and

(e) notify the existing QM in the IPI.

2.39 It is important to clarify that in respect of existing QMs, such as significant natural areas identified in the District Plan, the consideration by the Panel relates to the extent to which the MDRS or policy 3 should be modified to accommodate the significant natural area. This hearing is not an opportunity to reassess the location or the attributes of the significant natural area which has already been through a Schedule 1 process.

[47] Sections 77K and 77Q RMA.
[48] Sections 77J and 77P RMA.

New qualifying matters

2.40 For new QMs identified in the IPI, the evaluation report must consider the matters identified in subsections (3) and (4) of section 77J or 77P:

(a) demonstrate why the territorial authority considers that the area is subject to a QM, and that the QM is incompatible with the level of development permitted by the MDRS or policy 3;

(b) assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity; and

(c) assess the costs and broader impacts of imposing those limits.

2.41 The Council has introduced new QMs in PC14 which will be addressed in subsequent legal submissions when QMs are heard.

"Other" qualifying matters

2.42 "*Any other matter*" which relies on sections 77I(j) or 77O(j) will also need assessment against the requirements set out in paragraph 2.40 above.

2.43 However, this category of QM must also meet the additional "site-specific" evaluation requirements in section 77L or section 77R of the RMA:[49]

(a) identify the specific characteristic that makes the level of development provided by the MDRS or by policy 3 inappropriate in the area; and

(b) justify why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD; and

(c) include a site-specific analysis that—

(i) identifies the site to which the matter relates; and

(ii) evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter; and

(iii) evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS or as provided for by policy 3 while managing the specific characteristics.

[49] Section 77L (Residential) and Section 77R (non-residential).

2.44 The Council has QMs which are *"other matters"* under sections 77I(j) or 77O(j). These QMs will be addressed in detail in subsequent legal submissions.

Financial contributions

2.45 Section 77T of the RMA provides that a specified territorial authority may, if it considers it appropriate to do so, include financial contribution provisions, or change its financial contribution provisions, as part of its IPI.

2.46 The Amendment Act inserted section 77E into the RMA, which increases and clarifies the powers of local authorities in respect of financial contributions, not only in respect of IPIs but in respect of all plans or proposed plans.

2.47 In response to issues relating to the residential intensification mandated under the Amendment Act, PC14 proposes to add a new sub-chapter 6.10A – Tree Canopy cover and Financial Contributions, which sets out a new objective, policies and rules to provide a framework for financial contributions in lieu of maintaining and enhancing urban tree canopy cover in areas of residential development. These will be addressed in greater detail in a subsequent hearing.

Permissible scope of an intensification planning instrument

2.48 Section 80G sets out statutory limitations on the purpose and scope of IPIs. Most relevantly, it provides that a specified territorial authority *"must not use the IPI for any purpose other than the uses specified in section 80E"*. The legally permissible purposes of an IPI therefore include:

(a) the mandatory requirements to incorporate the MDRS and give effect to policies 3 and 4 of the NPS-UD; and

(b) the discretionary ability to include *"related provisions"* under sections 80E(1)(b)(iii) and (2).

2.49 Related provisions are those that *"support or are consequential on"* the MDRS or the relevant policies of the NPS-UD; the RMA does not further elaborate on the meaning of those terms. Related provisions also include provisions that *"relate"* to any of the matters listed in subsection (2) e.g. infrastructure, QMs, stormwater management and subdivision of land.

2.50 On 12 June 2023 the Auckland Independent Hearings Panel (**Auckland IHP**) released Interim Guidance to provide direction on the interpretation of the

relevant IPI provisions of the RMA and to address the issue of submission scope (**Interim Guidance**).[50]

2.51 Paragraphs 63 to 71 of the Interim Guidance discuss section 80E(1)(b)(iii) of the RMA and submissions seeking to change/remove existing, or introduce new, plan provisions, such as provisions changing the activity status of land use activities.

2.52 In this regard, the Auckland IHP considered that under section 80E(1)(b)(iii) of the RMA, so long as "*related provisions*" support or are consequential on the MDRS or Policies 3 and 4 of the NPSUD they would be within the scope of an IPI. The Auckland IHP noted that the range of lawfully acceptable "*related provisions*" able to be included in an IPI is likely to be "*extensive*", and can include changes to the status of an activity to accommodate a qualifying matter.[51]

2.53 In discussing the meaning of the words "*support*" and "*consequential*" as used in section 80E(1)(b)(iii), the Auckland IHP stated at paragraph 67:

> *"However, where the plan change as notified, or a submission on that plan change, seeks to include or amend a provision in a plan in circumstances where that inclusion or amendment does not support or follow from the MDRS or implementing Policies 3 and 4 of the NPS-UD, it cannot be considered as within the scope of an IPI as defined by section 80E, and would therefore infringe the statutory limitation on the scope of an IPI set out in section 80G(1)(b). Changes to the status of activities that are not affected by the MDRS or necessary to implement Policies 3 and 4 of the NPS-UD, or changes sought to provisions of zones outside the urban environment, are likely to be outside the scope of an IPI in the IHP's view. Moreover, such relief requests would not be salvageable under clause 99(2), because they would offend section 80G(1)(b)."*

2.54 It is submitted that:

(a) the combined effect of sections 80E and 80G(1)(b) is that the Panel must be satisfied that the proposed amendment expressly falls within one of the subsections of section 80E of the RMA;

(b) an amendment would "*support*" if it assists or enables the MDRS to be incorporated, or assists or enables policies 3 or 4 to be given effect to; and

[50] The Interim Guidance can be accessed here: https://www.aucklandcouncil.govt.nz/have-your-say/hearings/types-of-hearings/npsud-independent-hearings/LegalGuidelinesAndProcedure/pc78-interim-guidance-2023-06-12.pdf

[51] Ibid, at paragraph 66.

(c) an amendment would be "*consequential on*" if it follows or is required because of the Council's obligation to incorporate the MDRS and give effect to policy 3.

2.55 For consistency, it is considered that the same constraints and limitations as to what matters can be included in an IPI also apply to the Panel's recommendations and submissions.

2.56 The Council itself does not propose changes that are not affected by the MDRS or necessary to implement the NPS-UD. To assist the Panel, the Council's section 42A report authors have included sections in their reports identifying submission requests they consider to fall outside of the permissible scope of PC14.

Waikanae decision

2.57 The recent decision of *Waikanae Land Company Limited v Heritage New Zealand Pouhere Tāonga*[52] (**Waikanae decision**) which addressed the scope of local authorities' powers in notifying an IPI in accordance with section 80E of the RMA.

2.58 This case concerned the Kāpiti Coast District Council's (**KCDC**) IPI which sought to include a new wāhi tapu area in the District Plan by way of a QM, making status quo development rights less enabling than what the MDRS or policy 3 (as applicable) otherwise required.

2.59 The question the Environment Court considered was whether the KCDC had the statutory power to list the new wāhi tapu site as part of the IPI process.

2.60 The Court identified the following points:

(a) On its face, the consequence of section 77I is to require QMs to relate to the standards identified in the definition and clauses 10-18 of Schedule 3A and to make those standards less enabling.[53]

(b) While the reference in section 80E(2) to "*without limitation*" appeared unlimited, that was only because related provisions could extend beyond the matters identified in section 80E(2)(a)-(g).[54] Those matters were inherently limited by the qualification in section 80E(1)(b)(iii) that related provisions must "*support or be consequential on*" the MDRS or policies 3, 4 or 5 as applicable.

[52] *Waikanae Land Company Limited v Heritage New Zealand Pouhere Tāonga* [2023] NZEnvC 56.
[53] Ibid, at [25].
[54] Ibid, at [27].

2.61 The Court was not satisfied that inclusion of the site as wāhi tapu supported or was consequential on the MDRS.[55] The Court stated:[56]

> *"Changing the status of activities which are permitted on the site* [relating to earthworks and fencing] *goes well beyond just making the MDRS and relevant building height or density requirements less enabling as contemplated by s 77I. By including the Site in Schedule 9, PC2 "disenables" or removes the rights which WLC presently has under the District Plan to undertake various activities identified in para 55 as permitted activities at all, by changing the status of activities commonly associated with residential development from permitted to either restricted discretionary or non complying."*

2.62 It concluded that "*amending the District Plan in the manner which the Council has purported to do is ultra vires*".[57]

2.63 This decision has been appealed and it is counsel's understanding that this case is to be heard in February 2024. While it is possible that the High Court may have released a decision prior to the Panel's report being released, that seems unlikely.

Council's position on Waikanae

2.64 Council's position is that:

(a) The Environment Court has taken very narrow reading of section 80E.

(b) QMs that amend the status quo can and do fall for consideration under section 80E, including where existing development rights are constrained.

(c) The Panel is not bound to follow the Environment Court decision.

2.65 Under section 80E(1)(a) the IPI must incorporate the MDRS and give effect to both policies 3 and 4.

2.66 QMs are a fundamental component of incorporating the MDRS. MDRS is defined as "*the requirements, conditions, and permissions set out in Schedule 3A*".[58] Schedule 3A is more than just the density standards. The MDRS includes the objectives and policies that local authorities are directed to insert into their plans including objective 1 concerning the need for a "*well-functioning environment*" and policy 2 which explicitly provides that the MDRS is to be applied "*except in circumstances where a qualifying matter is relevant*".

[55] Ibid, at [30].
[56] Ibid, at [31].
[57] Ibid, at [32].
[58] Section 2 RMA.

2.67 Policy 4 of the NPSUD provides that the relevant building height or density requirements under policy 3 are to be modified "*only to the extent necessary (as specified in subpart 6) to accommodate a qualifying matter in that area*". Qualifying matters are therefore also an integral part of giving effect to policy 4. This direction on the scope of QMs is repeated in section 77I.

2.68 It is therefore submitted that QMs such as those considered in *Waikanae* are within scope of section 80E(1)(a). In seeking to provide for less enabling development provisions the Council must do so through the IPI via QMs. How the Council proposes for the QMs to reduce development is a matter for Council as this is not prescribed in the Amendment Act.

2.69 Alternatively, Council's position is that QMs at least fall for consideration as a "*related provision*" under section 80E(1)(b) which enables territorial authorities to amend or include "*related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on the MDRS or policies 3, 4, and 5 of the NPS-UD*" via an IPI. Section 80E explicitly provides that the list of "related provisions" in section 80E(2) are not limited.

2.70 For PC14, if the Environment Court is correct it would mean that the Council could not include any other less enabling provisions based on new QMs including those based on, for example, natural hazards.

2.71 In addition to the insertion of QMs, the Council proposes to include a number of other provisions to reduce development enablement as "related provisions" that "support" or are "consequential on" the MDRS and policies of the NPS-UD.

2.72 Section 77G(6) provides that provisions may be “less enabling of development” if authorised by section 77I, and section 77I refers to making “the MDRS and the relevant building height or density requirements under policy 3 less enabling of development”. Council's position is that QM provisions can make the MDRS and relevant building height or density requirements less enabling and are at the very least supportive or consequential on policy 4.

2.73 The Kāpiti Coast District Council Independent Hearing Panel (**Kāpiti IHP**) Report was released on 20 June 2023.[59] The Kāpiti IHP highlighted limitations in the Court’s interpretive exercise, given that without the evidence the Kāpiti IHP had heard it may not have been suitable to have been

[59] https://www.kapiticoast.govt.nz/media/jrmofuz1/ihp-report-to-kapiti-coast-district-council-on-pc2.pdf

determined as a preliminary question. It also recorded doubts about the correctness of the decision in any event, including for some of the same reasons outlined above.

2.74 The Kāpiti IHP expressed the opinion that:

> *[194] The Panel considers that if a local territory authority analysing the appropriate content of an IPI establishes that there are qualifying matters of such significance that:*
>
> *(a) The MDRS should not apply; and*
>
> *(b) The tools available in the Plan that recognise those values and impose further restrictions on land use should be used and will also achieve Objective 1 MDRS together with the aim in (a);*
>
> *then the provisions fulfilling aim (b) above can be characterised as related provisions that support or are consequential on the MDRS.*
>
> *[195] Applying the analysis to another context is helpful. Consider the situation where a territorial authority examines whether or not the MDRS should apply to land subject to flood hazards. It becomes apparent to the territorial authority when examining recent flood hazard information that certain land not previously identified as flood-prone is not only unsuitable for greater density and height but is also unsuitable for existing levels of development. As a consequence, the Council considers further restrictions on development should apply. Consequently, in its IPI, the Council extends the existing flood hazard mapping tool in its Plan to apply to land identified as flood-prone. On the Environment Court's analysis, that would not be a supporting or consequential provision of the MDRS because it has the added effect of introducing more restrictive land use controls rather than simply disqualifying the MDRS. Even though the measure is necessary to achieve a safe and well-functioning urban environment under Objective 1 of the MDRS.*
>
> *[196] It is apparent from the example above that the conclusion of the Environment Court unduly restricts sensible planning necessary to achieve Objective 1, and the 'inherent' limitation found in s 80E runs across the purpose and principles of the RMA in Part 2.*

2.75 The Council respectfully agrees with the Kāpiti IHP's position.

2.76 As noted above, to assist the Panel, the Council's section 42A report authors have included sections in their reports identifying any PC14 provisions or submission requests that they consider has the potential to be impacted by *Waikanae* because they impose additional controls or restrictions that affect status quo or pre-existing development rights.

Heritage Plan Change (PC13)

2.77 The relationship between PC13 and PC14 was outlined in paragraphs 51 to 62 of the memorandum of counsel for the Council dated 28 July 2023. As noted in that memorandum, there is a large degree of overlap between the heritage provisions in PC14 and those in PC13 due to:

(a) the need to provide for various heritage matters to 'qualify' MDRS and other development otherwise enabled through PC14 (and the Page 12 requirement in section 80E for PC14 to give effect to policy 4 of the NPS-UD);

(b) the Council's ability, again under section 80E, to include in PC14 related provisions that are consequential on the MDRS or Policies 3 and 4 of the NPS-UD;

(c) the Council's preference for the bulk of the proposed amendments to the heritage provisions to be considered by this Panel in an integrated way, because of the risks to the heritage fabric of Christchurch that could arise if significant intensification were being considered without heritage matters being appropriately central in the process; and

(d) the current uncertainty regarding the permissible scope of IPIs under section 80E, discussed above.

2.78 Counsel will provide further assistance and commentary on issues of scope in relation to heritage matters in subsequent hearings.

Scope of relief on a plan change

2.79 Under the standard plan change processes, the decision-maker has scope to consider submissions so long as they are *"on"* the plan change and are fairly and reasonably raised in submissions.

2.80 In clause 99 of Schedule 1 of the RMA, the Amendment Act introduced a new dimension to scope that applies only to an IPI. It provides (relevantly):

> *(1) An independent hearings panel must make recommendations to a specified territorial authority on the IPI.*
>
> *(2) The recommendations made by the independent hearings panel*
>
> *(a) Must be related to a matter identified by the panel or any other person during the hearing; but*
>
> *(b) Are not limited to being within the scope of submissions made on the IPI.*

2.81 Therefore while the Panel is empowered to make recommendations that are *"on"* the IPI similar to the standard process, clause 99 broadens the Panel's jurisdiction to include matters raised in the hearing, rather than those fairly and reasonably raised in submissions.

2.82 However, whether a matter raised in the hearings is *"on"* the IPI remains subject to the well-established tests. Therefore, in ascertaining whether the submissions are *"on"* the plan change, the Courts have required that:

(a) First, the submission must reasonably fall within the ambit of the plan change by addressing a change to the status quo advanced by the proposed change.

(b) Second, the decision-maker should consider whether there is a real risk that persons potentially affected by changes sought in a submission have been denied an effective opportunity to participate in the decision-making process.[60]

2.83 Appendix C of Ms Oliver's section 42A Report summarises relief sought by "whole of plan" submissions.[61] These include submissions which are generally in support of PC14, and generally opposed to PC14. Accordingly, there is scope within the submissions for the Panel to make changes that are generally somewhere in between the existing District Plan provisions, and the changes proposed by PC14 as notified.

2.84 However, the Council has received a number of submissions which are potentially beyond the scope of PC14. Some of these are not "on" PC14, others raise issues that cannot be addressed in this forum, while others are potentially out of scope pursuant to *Waikanae*.

2.85 The Council's section 42A reports have identified potential matters of scope that can be considered as part of each substantive hearing.[62]

[60] *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290 at [90]; *Clearwater Resort Limited v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003.
[61] Original section 42A Report, pages 22 to 30.
[62] For example, Ms Oliver's section 42A report identifies at paragraph 7.15 a submission by Christchurch International Airport Limited that seeks to impose additional controls and/or restrictions that affect status quo development rights under the Operative Plan, and thus potentially captured by the *Waikanae* scope limitation.

3. STRATEGIC OVERVIEW OF COUNCIL'S RESPONSE TO THE AMENDMENT ACT

3.1 Ms Oliver has prepared a section 42A report that considers and makes recommendations in response to issues raised by submissions in relation to:

(a) A strategic overview of the future urban form for Ōtautahi Christchurch. This includes a consideration of housing and business demand, the level of discretion and enablement, what constitutes a *"well-functioning urban environment"* in the Ōtautahi Christchurch context, and the Strategic Directions objectives in chapter 3.

(b) An overview of the Council's approach to identification and assessment of QMs generally, including their impact on development capacity.

3.2 In evaluating whether PC14 meets the requirements under the RMA including the Amendment Act it is essential to understand the Christchurch context concerning development capacity and demand.

No capacity-based need for greater intensification

3.3 Over 2013 to 2017 a bespoke planning process involving an Independent Hearings Panel (**IHP**) was created to support the recovery of Christchurch and respond to pressures on housing and business demand, supply and affordability which resulted in large part from the enormous damage resulting from the earthquakes.[63]

3.4 That ultimately resulted in a Replacement District Plan (now the District Plan) which included, as part of its overarching strategic directions objectives, clear direction to increase capacity for housing, such as:

(a) Objective 3.3.1 – Enabling recovery and facilitating the future enhancement of the district:

"The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:

(a) Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and

(b) Fosters investment certainty; and

[63] The unique process used for developing the proposed Christchurch Replacement District Plan was set out in the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 (Order in Council). The Order in Council was made under the Canterbury Earthquake Recovery Act 2011 (CER Act). Included in the new process was a direction that an IHP rather than Council, would make decisions on the replacement plan.

(c) *Sustains the important qualities and values of the natural environment."*

(b) Objective 3.3.4 – Housing capacity and choice:

"(a) For the period 2012 to 2028, an additional 23,700 dwellings are enabled through a combination of residential intensification, brownfield and greenfield development; and

(b) There is a range of housing opportunities available to meet the diverse and changing population and housing needs of Christchurch residents, including:

(i) a choice in housing types, densities and locations; and

(ii) affordable, community and social housing and papakāinga".

3.5 On 21 October 2022, objective 3.3.4(a) was changed to incorporate housing bottom lines without the need for a public submission process pursuant to clause 3.6 of the NPS-UD and section 55 of the RMA. Objective 3.3.4(a) now states (Housing bottom lines and choice):[64]

"(a) For the period 2021-2051, at least sufficient development capacity for housing is enabled for the Ōtautahi Christchurch urban environment in accordance with the following housing bottom lines:

(i) short-medium term: 18,300 dwellings between 2021 and 2031; and

(ii) long term: 23,000 dwellings between 2031 and 2051; and

(iii) 30 year total: 41,300 dwellings between 2021 and 2051 (…)"

3.6 The District Plan also includes overarching strategic directions objectives, with clear direction to increase capacity in the central city, commercial and business areas. For example:

(a) In relation to the Central City, Objective 3.3.8 provides:

"(a) The Central City is revitalised as the primary community focal point for the people of Christchurch (objective 3.38); and (…)

(c) A range of housing opportunities are enabled to support at least 5,000 additional households in the Central City between 2012 and 2028".

(b) For business land, Objective 3.3.5 provides:

"The critical importance of business and economic prosperity to Christchurch's recovery and to community wellbeing and resilience is

[64] See https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/district-plan/HBL-Public-Notice-Advertising-Information.PDF

recognised and a range of opportunities provided for business activities to establish and prosper."

(c) With respect to commercial and industrial land, Objective 3.3.10 states:

"The recovery and stimulation of commercial and industrial activities in a way that expedites recovery and long-term economic and employment growth through:

(i) Enabling rebuilding of existing business areas, revitalising of centres, and provision in greenfield areas; and

(ii) Ensuring sufficient and suitable land development capacity."

3.7 As Ms Oliver points out in her section 42A report, the current District Plan zoning and associated provisions give effect to the directions above.[65] The District Plan already provides at least sufficient development capacity to meet demand for housing and industrial over the short- to long-term, and demand for commercial over the short- and medium-term. In summary:

(a) The Greater Christchurch Housing Development Capacity Assessment 2021 estimated Christchurch as having a significant housing surplus (to meet expected demand with an additional competitiveness margin) of over 83,700 commercially feasible households, and this figure was exclusive of any feasible capacity over five stories. Plan-enabled capacity was assessed as over 205,000 households, being a significant surplus over the estimated long-term demand for some 35,000 additional households, close to 6 times the required capacity.[66]

(b) A Business Development Capacity Assessment 2023 (**BCA 2023**)[67] prepared in accordance with the requirements under the NPS-UD prior to PC14 identified that for Christchurch:

(i) A significant surplus of industrial land exists with short-term land sufficiency amounting to 627 hectares and 544 hectares over the long-term.[68]

(ii) There is sufficient commercial land supply over the short- and medium-term but an estimated shortfall of 110 hectares over the longer-term. However, this does not account for the capacity provided for through redevelopment of existing developed sites, nor vacant floorspace within existing buildings. Nor does it

[65] Ms Oliver's section 42A report at paragraph 10.34.
[66] Ibid, at paragraphs 10.34 and 10.35 and footnote 33.
[67] Available at https://www.greaterchristchurch.org.nz/assets/Documents/greaterchristchurch-/HuiHui-Mai/Greater-Christchurch-Business-Development-Capacity-Assessment-April-2023.pdf
[68] Ms Oliver's section 42A report, at paragraph 10.36.

account for the additional enablement proposed under PC14 with increased heights and densities enabled in the City Centre and suburban centres.[69] Furthermore, and as Mr Lightbody will explain in the later central city and commercial hearing, there is no business land capacity issue at the operative District Plan heights, as the redevelopment business capacity provided by the Town Centres and Local Centres alone (excluding Central City) provide approximately 769 hectares of capacity, which would amount to a surplus of 659 hectares in the long term.[70] In any case, clauses 3.3(2)(a) and 3.4(1)(c) of the NPS-UD confirm that the plan-enabled component of sufficient long-term capacity need not be identified in an operative or proposed district plan. Rather, the NPS-UD allows for the Council to identify that future capacity separately in a Future Development Strategy.

3.8 In summary, therefore, there simply is no capacity-based need to amend the District Plan to provide for greater intensification. The District Plan already adequately addresses housing and business demand such that Christchurch does not need more intensification for capacity purposes. Christchurch already has *"at least sufficient development capacity"* as required under policy 2 of the NPS-UD.

3.9 Irrespective of Christchurch already having a sound growth strategy that gives effect to the development capacity aim of NPS-UD policy 2, the Government has directed Council to implement the MDRS and policy 3 to enable even more intensification.

PC14 does not seek full-intensification under MDRS and policy 3

3.10 The Christchurch context must be considered and contrasted to other New Zealand cities which are facing bigger growth pressures. As noted above, Christchurch already has *"at least sufficient development capacity"* as required under policy 2 of the NPS-UD. Council's position therefore is that there is no need to enable 'development at all costs'. A '**Full Intensification**'

[69] Ibid.

[70] Mr Lightbody's section 42A report at paragraph 6.3.5 table 3 identifies that business land supply across Town and Local Centres will be 1104.4 hectares as enabled by PC14, of which 335.4 hectares being the additional amount enabled over and above the District Plan. Accordingly, the District Plan currently provides 1104.4 – 335.4 = 769 hectares of business land supply across Town and Local Centres. The 110 hectare shortfall identified in Table 30 of the BCA 2023 was based on there being a long term business demand of 211.6 hectares exceeding the total supply of 103 hectares (with a further 1.5 hectares removed for land that is unsuitable), but does not account for redevelopment potential, or vacant floorspace within existing buildings. Accounting for the 769 hectares of business land supply currently enabled just across Town and Local Centres under the District Plan, that provides a long term surplus of 769 – 110 = 659 hectares.

scenario, that is, one where the MDRS and policy 3[71] are fully enabled without the imposition of restrictions on intensification (e.g. using QMs) is considered by the Council to be:

(a) unnecessary for capacity purposes;

(b) not therefore the most appropriate way to:

(i) promote sustainable management (Part 2 RMA);

(ii) give effect to higher order documents (e.g. NPS-UD, CRPS and remainder of the District Plan); and

(c) at odds with ensuring a *"well-functioning urban environment"* which is a key requirement of the NPS-UD.

3.11 A **full-intensification** planning response to the MDRS and policy 3 would, in the Christchurch context, provide a level of enablement to serve demand well beyond the long-term 30-year planning period. Full intensification under the MDRS and policy 3 would support a population of 1 million people, or a century of growth, noting that Christchurch is only expected to grow from 389,300 as estimated in June 2022 to around 448,000 in 30 years.[72]

3.12 Accordingly, full-intensification enablement of development capacity is wholly unnecessary to meet long-term projected demand.

3.13 As the District Plan already provides a level of enablement to meet long-term housing demand projections, the Council proposes to take a measured response to the MDRS and NPS-UD policy 3 intensification requirements.

3.14 As will be discussed below, PC14 as revised in response to submissions will still enable significant additional housing and business capacity than currently provided for under the District Plan, and well beyond many decades of expected demand, even with moderations in place.

PC14 seeks to achieve 'density done well'

3.15 In contrast to pursuing full intensification, the Council is striving through PC14 to achieve '**density done well**'.

3.16 'Density done well' is a phrase intended to succinctly describe an agglomeration of outcomes and ideals that can be derived from the RMA and higher order documents in support of a form of intensification that is less than

[71] Policy 3 of the NPS-UD specifies intensification requirements that Council must implement in the District Plan. This includes enabling building heights and density of urban form to realise as much development capacity as possible in city centre zones, building heights of at least 6 storeys within at least a walkable catchment of the edge of city centre zones, and building heights and densities commensurate with the level of commercial activity and services in other centres.
[72] Ms Oliver's section 42A report at paragraphs 10.19 to 10.20.

full intensification and better promotes **sustainable management**. In other words, "density done well" describes an **outcome** where an intensification response has been moderated to better promote the purpose of the RMA (as informed by relevant provisions of higher order documents) when compared to a full-intensification planning response.

3.17 'Density done well' essentially means Council will still provide significant further urban intensification in compliance with government directives, but moderated in a manner that better provides for a well-functioning urban environment as an element of promoting sustainable management.

3.18 Determining what constitutes a well-functioning urban environment and 'density done well' in the context of Ōtautahi Christchurch is important and requires a discussion on a broad range of outcomes for the urban environments of the city, taking heed of what is better for the community in terms of promoting sustainable management. It also requires consideration of a full range of objectives and policies under the NPS-UD, CRPS and the District Plan, as these inform what constitutes promoting sustainable management in the context of the urban environment of Christchurch.

3.19 Having regard to the RMA, higher order documents and District Plan strategic directions, 'density done well' encourages a form of intensification that:

(a) recognises and provides for section 6 matters of national importance;[73]

(b) gives effect to other national policy statements and the New Zealand Coastal Policy Statement;[74]

(c) ensures the safe or efficient operation of nationally significant, and strategic, infrastructure;[75]

(d) accommodates open space provided for public use;[76]

(e) is compatible with specific characteristics of sites/areas where higher intensification would be inappropriate;[77]

[73] Such as the protection of outstanding natural features and landscapes, areas of significant indigenous vegetation and historic heritage from inappropriate subdivision, use and development; management of significant risks from natural hazards. These are also recognised in other planning documents – see for example CRPS objectives 6.2.1.4, 6.2.1.5; District Plan objective 3.3.10 (previously 3.3.9).
[74] Sections 77I(b) and 77O(b) RMA.
[75] Sections 77I(e) and 77O(e) RMA; CRPS Objective 6.2.1.10; District Plan objectives 3.3.8.a.ix (previously 3.3.7.a.ix) and 3.3.13 (previously 3.3.12).
[76] Sections 77I(f) and 77O(f) RMA; District Plan objective 3.3.10.a (previously 3.3.9.a).
[77] Sections 77I(j), 77L, 77O(j) and 77R RMA.

(f) contributes to well-functioning urban environments[78] which, at a minimum, includes:

(i) enabling a variety of homes to meet differing needs;[79]

(ii) enabling a variety of sites suitable for different business sectors;[80]

(iii) having good accessibility including via public or active transport;[81]

(iv) supports competitive land and development markets;[82] and

(v) supporting reductions in greenhouse gas emissions and resilience to the effects of climate change;[83]

(g) enables all people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety, now and into the future;[84]

(h) is directed toward areas that are:

(i) in or near centres;

(ii) well serviced by existing or planned public transport; or

(iii) where there is high demand relative to other areas;[85]

(i) allows the urban environment to develop/change over time in response to diverse/changing needs;[86]

(j) accounts for the principles of Te Tiriti o Waitangi;[87]

(k) integrates with infrastructure and infrastructure planning/funding;[88]

(l) provide a focus for high quality, and where appropriate, mixed-use development in Key Activity Centres that incorporate principles of good urban design;[89]

(m) avoids urban development outside existing urban areas or greenfield priority areas not expressly provided for in the CRPS;[90]

(n) maintains or improves water and air quality;[91]

[78] NPS-UD objective 1, policy 1.
[79] NPS-UD policy 1(a); District Plan objective 3.3.4.
[80] NPS-UD policy 1(b); District Plan objective 3.3.5.
[81] NPS-UD policy 1(c); District Plan objective 3.3.8.a.viii (previously 3.3.7.a.viii).
[82] NPS-UD objective 2 and policy 1(d).
[83] NPS-UD objective 8, policies 1(e) and 1(f); CRPS objective 6.2.4.3.
[84] NPS-UD objective 1.
[85] NPS-UD objective 3; CRPS Objective 6.2.2.2; District Plan objective 3.3.8.a.iv (previously 3.3.7.a.iv).
[86] NPS-UD objective 4.
[87] NPS-UD objective 5.
[88] NPS-UD objective 6; CRPS objectives 6.2.1.9, 6.2.1.11, 6.2.4; District Plan objective 3.3.8.a.ix and x (previously 3.3.7.a.ix and x).
[89] CRPS objective 6.2.1.2.
[90] CRPS objective 6.2.1.3, policy 6.3.1.4; District Plan objective 3.3.8.a.iii (previously 3.3.7.a.iii).
[91] CRPS objective 6.2.1.6; District Plan objective 3.3.18 (previously 3.3.17).

(o) avoids increasing risks associated with natural hazards and the influence of climate change on those natural hazards;[92]

(p) provides for high quality urban environments incorporating good urban design, that is attractive to residents, business and visitors;[93]

(q) retains identified areas of special amenity, historic heritage value and values of importance to Tangata Whenua;[94]

(r) is healthy, environmentally sustainable, functionally efficient, and prosperous;[95]

(s) supports, maintains and enhances the existing network of centres, including avoiding development that adversely affects the function and viability of the Central City and Key Activity Centres;[96]

(t) enhances Christchurch as a dynamic, prosperous and internationally competitive city in a manner that:

(i) meets the community's needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing;

(ii) fosters investment certainty; and

(iii) sustains the important qualities and values of the natural environment;[97]

(u) supports redevelopment of brownfield sites;[98] and

(v) revitalises the Central City as the primary community focal point for the people of Christchurch.[99]

3.20 It is respectfully submitted that it would be useful for the Panel to consider through the hearings whether outcomes being sought by submitters through PC14 better promote 'density done well', having regard to the various elements summarised above.

3.21 To assist the Panel, the Council has engaged planners and a wide range of experts to give evidence that is aimed at enabling the Panel to make informed decisions on how to better achieve 'density done well' via PC14. The section 42A reports and evidence responds to submissions lodged, and

[92] CRPS objectives 6.2.1.8, 11.2.1, 11.2.3, policies 11.3.1 to 11.3.3, 11.3.8; District Plan objective 3.3.6.
[93] CRPS objective 6.2.3.1; District Plan objective 3.3.8.a.i (previously 3.3.7.a.i).
[94] CRPS objective 6.2.3.2, 6.3.3.3.
[95] CRPS objective 6.2.3.5.
[96] CRPS objective 6.2.5, policy 6.3.1.8; District Plan objective 3.3.8.a.v (previously 3.3.7.a.v)
[97] District Plan objective 3.3.1.
[98] District Plan objective 3.3.8.a.vi (previously 3.3.7.a.vi).
[99] District Plan objective 3.3.9 (previously 3.3.8).

provide recommendations accordingly. The intent is to provide for the Panel's consideration an evidential platform for the implementation of the legislation directions to enable greater intensification while managing that intensification in a way that achieves a well-functioning urban environment, while ensuring that controls are not overly restrictive, so as to better promote sustainable management.

The primary levers to promote 'density done well'

3.22 Although many of the objectives, policies and other provisions in PC14 are mandated by the Amendment Act and the NPS-UD, there still remains a number of discretionary 'levers' that could be used to adjust the way an IPI (PC14) provides for intensification in the urban environment. It is submitted that these levers can and should be used to moderate intensification in a way that better promotes 'density done well'.

3.23 The main discretionary levers available to the Panel, and utilised in PC14, are:

(a) **QMs**: These can be used to define areas where full intensification is inappropriate, and provide for alternative density standards.

(b) **Density and height in excess of MDRS/policy 3 full-intensification**: Section 77H provides for modification of MDRS to enable a greater level of development, while the language of NPS-UD policy 3 is concerned about prescribing minimum levels of intensification, rather than setting an upper limit.

(c) **Density and height commensurate with categorisation of commercial centres**: NPS-UD policy 3(d) provides for a degree of discretion in terms of applying the nearest equivalent National Planning Standards zones to the District Plan zones of various commercial centres, and determining what density/height is commensurate with the level of commercial activity and community services in those centres.

(d) **Extent of walkable catchments, and adjacency, from centres**: NPS-UD policy 3(c) provides for intensification *"within at least a walkable catchment"* of (for example) the edge of city centre zones, while policy 3(d) anticipates intensification *"adjacent to"* certain types of commercial centres. There is also a degree of discretion in ascertaining the extent of area for intensification captured by *"within at least a walkable catchment"* and *"adjacent to"* different centres.

(e) **Use of financial contribution provisions**: Sections 77E and 77T provide a discretion to use financial contribution provisions in an IPI, in relation to any class of activity (other than prohibited activities), and could include requiring financial contributions for the purpose of ensuring positive effects on the environment to offset adverse effects.

(f) **Use of related provisions that support or are consequential on MDRS or NPDS-UD policies 3 to 5**: The discretionary ability to incorporate related provisions was discussed at paragraphs 2.48 to 2.76 above.

Relevance of amenity

3.24 When considering what are the most appropriate objectives and provisions for PC14, it is important to note that NPS-UD policy 6 does not prohibit a comparative consideration of adverse amenity effects between full intensification and any alternatives that utilise the above levers, including a 'density done well' alternative.

3.25 Policy 6 is concerned about amenity values arising from changes to achieve a "*planned urban built form"* in an existing planning document, not the amenity impacts that would arise when there is a proposal to change an existing planning document to create a new (different) *"planned urban built form"*.

3.26 The relevant part of policy 6 states:

> ***Policy 6:*** *When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:*
>
> *(b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:*
>
> *(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
>
> *(ii) are not, of themselves, an adverse effect*
>
> [our underlining for emphasis].

3.27 Policy 6 is intended to acknowledge and recognise a planned urban built form in an existing planning document has already accounted for the amenity impacts of that planned built form, and thus there is no need to consider again any adverse amenity impacts of new development established up to the level already provided for by that planned urban built form.

3.28 However, PC14 is a proposal to change the planned urban built form that is currently provided for in the District Plan.[100] It is seeking to alter the existing planned urban built form, and replace it with a new planned built form. That will have amenity implications. Those amenity implications will also vary, depending on the degree and extent of additional intensification being proposed for the new planned built form. All other things being equal, the greater the additional intensification proposed, the greater the potential adverse amenity impacts. The Panel must consider the amenity implications of those changes to planned urban built form. Specifically it is relevant to consider and compare amenity effects of 'Full Intensification' with amenity effects of the Council's proposed alternative 'density done well' intensification proposal, those of the status quo, and of any other alternatives that might be proposed during the course of the hearings.

3.29 Accordingly, policy 6 does not alter the Panel's ability to undertake a comparative consideration of adverse effects on amenity values arising from PC14.

Overview of PC14 as revised

3.30 Ms Oliver's section 42A report provides an overview of both notified PC14 (at paragraphs 6.6 to 6.15), and PC14 as revised in light of section 42A officer recommendations (at paragraphs 8.1 to 8.11).

3.31 In broad terms, revised PC14 seeks to change objectives, policies and other provisions throughout the District Plan that support or are consequential to the following enablement of greater intensification:

(a) A changed urban form for Ōtautahi Christchurch that provides more intensification while continuing to give primacy to the Central City, with the greatest height of 90m proposed to be enabled in the Central City Zone, 39m within the High Density Residential Zones surrounding the Central City Zone, and 22m thereafter to a walkable catchment of at least 1.2km. Within the four avenues, 32m is enabled within the

[100] This captures matters such as scale, height, setbacks and site coverage.

Central City Mixed Use Zone and 21m in the Central City Mixed Use (South Frame) Zone.

(b) Increased building heights in most suburban commercial centres, ranging from 14 metres in the smaller neighbourhood and local centres to 32 metres in the larger Town Centre zones. Residential areas around these centres will enable increased building heights for housing (14-22 metres).

(c) High density residential development within walkable catchments of between 400m and 800m to permitted heights of 22 metres, with medium density residential development enabled across other urban residential areas subject to locations where a lower density or variations to the MDRS rules are proposed (via QMs).

(d) Changes to Specific Purpose Zones (School, Tertiary, Hospital) to give effect to proposed changes to the High Density Residential Zone and a commensurate response to enablement around centres.

(e) Change to zoning and associated policies and rules for some industrial areas located within walking distance of the central city and introduce a brownfield overlay for some industrial areas within walking distance of large commercial centres.

3.32 In addition, PC14 introduces:

(a) modification of the above enabled building heights and requirements as needed to accommodate QMs; and

(b) new/amended strategic objectives for the city relating to well-functioning urban environments, urban growth and urban form.

The use of QMs in PC14

3.33 PC14 is Council's proposal to:

(a) intensify as much as possible (as directed by the Government);

(b) while using QMs to direct, limit, restrict intensification to reduce the scale and density of buildings enabled by the MDRS and NPS-UD but only to the extent appropriate.

3.34 Council's position is that the use of QMs is necessary to:

(a) respond to the needs of the people of Christchurch;

(b) provide better sustainable management outcomes;

(c) ensure well-functioning urban environments are achieved; and

(d) better provide for the objectives and policies in the NPS-UD and CRPS as well as the remainder of the District Plan;

essentially, '**density done well**'.

3.35 Ms Oliver's section 42A report provides an overview of the QMs proposed in PC14 (at paragraphs 6.16 to 6.23, and 8.11) which we do not repeat. Council's section 42A reporters and experts will provide evidence on each of the QMs in subsequent hearings.

3.36 For present purposes, the important point to make is that even with all the proposed QMs in place, PC14 will still:

(a) enable significant greater housing and business capacity than the District Plan, well beyond many decades of projected demand and required supply; and

(b) achieve long-term market flexibility and competitiveness, and facilitate opportunities for a broad range of housing types.[101]

3.37 In particular, the revised PC14 proposal, including QMs, will:

(a) Provide an estimated total 627,600 of plan-enabled housing capacity.[102] If it is assumed that housing demand is consistently averaged at 2,000 households per annum, this would equate to 313 years of housing supply. If it is assumed only one third of this capacity is feasible over the long-term, this would equate to over 100 years of housing supply.[103] It is the evidence of Mr Scallan and Ms Allen that under PC14, including with the QMs imposed, there will be sufficient development capacity to meet expected demand of up to six storeys as well as expected demand above six storeys.

(b) Enable 1101.4 hectares of commercial development capacity floorspace (including above ground level) across the Town Centre and Local Centres, equating to an additional 335.4 hectares of enablement across the centres hierarchy.[104] Notably, these additional capacity figures are conservative, as they do not account for enablement capacity in the Central City.

[101] Ms Oliver's section 42A report at paragraph 11.1.
[102] Ms Oliver's section 42A report at paragraph 8.10; Mr Scallan's evidence-in-chief at table 1.
[103] Ms Oliver's section 42A report at paragraph 8.10.
[104] Mr Lightbody's section 42A report, at paragraph 6.3.5 table 3. Mr Lightbody's evidence is scheduled to be heard during the central city/commercial hearing.

3.38 Having assessed the economic impact of PC14 it is the evidence of Messrs Heath and Osborne that:

(a) PC14 as recommended by Council represents a substantial increase to the development opportunity and capacity of both residential and commercial activity relative to the status quo of the District Plan. These material increases would enable, and accommodate, a level of residential and commercial growth that is more than the demand requirement of those land uses in Christchurch, and go well beyond the 30-year timeframe.[105]

(b) The PC14 intensification outcomes, including its proposed use of QMs which reduce development capacity from that of a 'full intensification' scenario, is better than 'full intensification' from a cost-benefit perspective.[106]

3.39 In considering the social effects of housing intensification, it is the evidence of Ms Foy that the achievement of good outcomes from housing intensification policies is reliant on planning tools that encourage growth into areas around centres that have good transport links and infrastructure capacity. By providing for capacity throughout the urban environment, the MDRS (and PC14 without the proposed QMs) may have numerous unintended consequences, including higher transport and infrastructure costs, higher density developments in locations susceptible to hazards (with associated social costs), and inconsistencies with policies seeking to ensure well-functioning urban environments.[107]

Key strategic matters raised in submissions

3.40 Ms Oliver's section 42A report identifies, considers and provides a response to submissions on strategic matters including the following:

(a) Submissions seeking to amend various strategic directions objectives in chapter 3 of the District Plan.[108]

(b) Submissions that consider PC14 should be more, or conversely less, enabling of development with corresponding different positions on the future urban form of Ōtautahi Christchurch.[109]

[105] Mr Heath's evidence-in-chief, at paragraph 1 and 45.
[106] Mr Osborne's evidence-in-chief provides favourable cost-benefit assessments of various QMs, where benefits of the QMs outweigh costs associated with resulting reduction in capacity compared to full-intensification (i.e. no QMs).
[107] Ms Foy's evidence-in-chief, at paragraph 105.
[108] Ms Oliver's section 42A report, at paragraphs 9.1 to 9.59.
[109] Ibid, at paragraphs 10.9 to 10.12.

(c) Submissions questioning the need for additional intensification.[110]

Most appropriate objectives and provisions

3.41 The legal test for ascertaining what is the *"most appropriate"* under section 32 of the RMA, whether for objectives, policies or other provisions, requires a comparison to be made between at least two options. The Courts have often described the comparative test by asking which is the *"better"* option or outcome.[111]

3.42 It is submitted that:

(a) Retention of the status quo (existing District Plan) is an unavailable option. A change to the status quo District Plan via an IPI is mandated by the Amendment Act and the NPS-UD.

(b) For the reasons discussed above a full-intensification planning response is not necessary in the case of Christchurch and is also not the most appropriate option.

(c) While notified PC14 was proposed to provide for better intensification (density done well) than full intensification, it is submitted that revised PC14 as proposed by section 42A reporters is now the *"most appropriate"* option in terms of objectives, policies and other provisions for implementing more intensification in Christchurch. This is due to Revised PC14 being informed and refined following a consideration of submissions and evidence received.

Witnesses for the Council

3.43 The Council is calling seven witnesses for the strategic overview hearing:

(a) Ms Sarah Oliver (strategic overview, strategic directions, particular sections 1 to 11 of her section 42A report);

(b) Mr Ian Mitchell (housing demand);

(c) Mr John Scallan (development capacity);

(d) Ms Ruth Allen (development capacity);

(e) Mr Tim Heath (economics);

(f) Mr Phil Osborne (economics, particularly paragraphs 36-40 of his evidence-in-chief);

[110] Ibid, at paragraphs 10.13 to 10.43.
[111] See for example *Griffiths v Auckland Council* [2013] NZEnvC 203 at [26].

(g) Ms Rebecca Foy (social impacts, particularly paragraphs 102 to 106 of her evidence-in-chief).

DATED 3 October 2023

……..

D G Randal / C O Carranceja

Counsel for the Christchurch City Council

APPENDIX 1: CASE EXTRACT

Colonial Vineyard Ltd v. Marlborough District Council [2014] NZEnvC 55 at [17] (bolded emphasis original):

A. General requirements

*1. A district plan (change) should be designed to **accord with**[112], and assist the territorial authority to **carry out** – its functions[113] so as to achieve, the purpose of the Act[114].*

*2. The district plan (change) must be prepared **in accordance with** any regulation[115] (there are none at present) and any direction given by the Minister for the Environment[116];*

*3. When preparing its district plan (change) the territorial authority **must give effect to** any national policy statement or New Zealand Coastal Policy Statement[117].*

4. When preparing its district plan (change) the territorial authority shall:

(a) have regard to any proposed regional policy statement[118];

(b) give effect to any operative regional policy statement[119].

5. In relation to regional plans:

*(a) the district plan (change) must **not be inconsistent** with an operative regional plan for any matter specified in section 30(1) or a water conservation order[120]; and*

*(b) **must have regard to** any proposed regional plan on any matter of regional significance etc[121];*

6. When preparing its district plan (change) the territorial authority must also:

- ***have regard to** any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations[122] to the extent that their content has a bearing on resource management issues of the district, and to consistency with plans and proposed plans of adjacent territorial authorities[123];*

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[112] Section 74(1) of the Act.
[113] As described in section 31 of the Act.
[114] Sections 72 and 74(1) of the Act.
[115] Section 74(1) of the Act.
[116] Section 74(1) of the Act added by section 45(1) Resource Management Amendment Act 2005.
[117] Section 75(3) Act.
[118] Section 74(2)(a)(i) of the Act.
[119] Section 75(3)(c) of the Act [as substituted by section 46 Resource Management Amendment Act 2005].
[120] Section 75(4) of the Act [as substituted by section 46 Resource Management Amendment Act 2005].
[121] Section 74(2)(a)(ii) of the Act.
[122] Section 74(2)(b) of the Act.
[123] Section 74(2)(c) of the Act.

- ***take into account*** *any relevant planning document recognised by an iwi authority[124]; and*
- *not have regard to trade competition[125] or the effects of trade competition;*

7. *The formal requirement that a district plan (change) must[126] also state its objectives, policies and the rules (if any) and may[127] state other matters.*

B. *Objectives [the section 32 test for objectives]*

8. *Each proposed objective in a district plan (change) **is to be evaluated** by the extent to which it is the most appropriate way to achieve the purpose of the Act.[128]*

C. *Policies and methods (including rules) [the section 32 test for policies and rules]*

9. *The policies are to **implement** the objectives, and the rules (if any) are to **implement** the policies[129];*

10. *Each proposed policy or method (including each rule) is to be examined, having **regard to its efficiency and effectiveness**, as to whether it is the most appropriate method for achieving the objectives[130] of the district plan **taking into account**:*

    (i) the benefits and costs of the proposed policies and methods (including rules); and

    (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods[131]; and

    (iii) if a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances[132].

D. *Rules*

11. *In making a rule the territorial authority must **have regard to** the actual or potential effect of activities on the environment[133].*

12. *Rules have the force of regulations[134] .*

13. *Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive[135] than those under the Building Act 2004.*

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[124] Section 74(2A) of the Act.
[125] Section 74(3) of the Act as amended by section 58 Resource Management (Simplifying and Streamlining) Act 2009.
[126] Section 75(1) of the Act.
[127] Section 75(2) of the Act.
[128] Section 74(1) and section 32(3)(a) of the Act.
[129] Section 75(1)(b) and (c) of the Act (also section 76(1)).
[130] Section 32(3)(b) of the Act.
[131] Section 32(4) of the Act.
[132] Section 32(3A) of the Act added by section 13(3) Resource Management Amendment Act 2005.
[133] Section 76(3) of the Act.
[134] Section 76(2) Act.
[135] Section 76(2A) Act.

14. *There are special provisions for rules about contaminated land[136].*

15. *There must be no blanket rules about felling of trees[137] in any urban environment[138].*

E. *Other statutes:*

16. *Finally territorial authorities may be required to comply with other statutes.*

[136] Section 76(5) as added by section 47 Resource Management Amendment Act 2005 and amended in 2009.
[137] Section 76(4A) as added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.
[138] Section 76(4B) — this 'Remuera rule' was added by the Resource Management (Simplifying and Streamlining) Amendment Act 2009.