

**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

**MEMORANDUM OF COUNSEL FOR CHRISTCHURCH CITY COUNCIL
REGARDING CORRECTIONS TO PROVISIONS SUPPLIED WITH THE
COUNCIL REPLY**

26 June 2024

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MAY IT PLEASE THE INDEPENDENT HEARINGS PANEL:

1. The purpose of this memorandum is to:
 - (a) provide the Panel with corrected versions of chapter content that was supplied in the Christchurch City Council's (**Council**) Right of Reply on 17 May 2024;
 - (b) detail minor corrections in other sub-chapters supplied in the Right of Reply; and
 - (c) note the recent release of the High Court decision in *Kāpiti Coast District Council v Waikanae Land Company Limited*.¹

Corrections to chapter content and minor corrections

2. Regrettably, on 21 June 2024, Council officers became aware of missing and incorrect content in Chapter 8 – Subdivision, Development, and Earthworks as recommended by the Council planners (Attachment 2 appended to the Right of Reply) and in the annotated provisions supplied to the Panel (separately filed under cover of memorandum dated 17 May 2024).
3. On becoming aware of the missing and incorrect content in Chapter 8, Council officers immediately began reviewing all 48 chapter documents that were supplied for the Right of Reply to allay any concerns of any other missing or incorrect content. The result of this evaluation was as follows:
 - (a) The following chapters provided in Attachment 2 to the Right of Reply require replacement to missing and/or incorrect content:
 - (i) Chapter 6.8 – Signs
 - (ii) Chapter 8 – Subdivision, Development, and Earthworks
 - (iii) Appendix 8.10 of Chapter 8
 - (iv) Chapter 14.12 – Future Urban Zone
 - (v) Chapter 14.15 – [residential] Matters of Control and Discretion
 - (b) Minor errors have been identified in the following chapters provided in Attachment 2 to the Right of Reply:
 - (i) Chapter 6.1A – Qualifying Matters

¹ [2024] NZHC 1654.

- (ii) Chapter 6.4 – Temporary Earthquake Recovery
 - (iii) Chapter 13.11 Specific Purpose (Flat Land Recovery) Zone
 - (iv) Chapter 18 – Open Space, Appendix 18.11.3
4. Accordingly, the following are attached to this memorandum:
- (a) **Appendix A** provides a detailed overview of changes to chapters listed in paragraph 3(a) above.
 - (b) **Appendix B** details the minor errors identified in paragraph 3(b) above and provides corrections to those errors. Note that full replacement chapters have not been provided to reflect these minor errors.
 - (c) **Appendix C** contains replacements for the 'clean' chapters listed in paragraph 3(a) above. These are to replace the corresponding 'clean' chapters that were provided in attachment 2 to the Council's Reply.
 - (d) **Appendix D** contains replacements for the 'annotated' chapters listed in paragraph 3(a) above, except for chapter 6.8 (as there are no annotations for that subchapter). These are to replace the corresponding annotated chapters that were provided in Appendix A to the Council's memorandum dated 17 May 2024.
5. The Council notes that the corrections are consistent with the substantive content of the Council's Right of Reply.
6. The Council apologises for the inconvenience caused to the Panel.

High Court decision on *Waikanae*

7. As the Panel will likely already be aware, the High Court recently released its decision in *Kāpiti Coast District Council v Waikanae Land Company Limited*, a copy of which is provided in **Appendix E**. The High Court decision essentially upholds the earlier Environment Court decision.²

Dated: 26 June 2024


C O Carranceja / M L Mulholland
Counsel for Christchurch City Council

² *Waikanae Land Company Limited v Heritage New Zealand Pouhere Tāonga* [2023] NZEnvC 56.

APPENDIX A – OVERVIEW OF CHAPTER CHANGES AND MINOR ERRORS

Chapter 6.8 – Signs

- Right of Reply chapters contained outdated PC5 content that has now been made operative.

Chapter 8 – Subdivision, Development, and Earthworks

The following provisions were partly or wholly missing in Right of Reply chapters:

- Policy 8.2.4.5 [wholly]
- Policy 8.2.4.6 [wholly]
- Rule 8.6.1.a – modifications
- Rule 8.6.1 – Table 1 – split of RS and MRZ; Riccarton Bush Interface Area density; changes to RBP standards to remove RCA standards; Suburban and Hill Density Precinct to add RCA standards.
- Table 6 – i. FUZ exemption
- Rule 8.9.2.1.P1 – Activity Standard modifications
- Rule 8.9.2.1.P6 – New activity missing [wholly]
- Rule 8.9.2.1 Table 9 – numbering updated
- Rule 8.9.2.3 RD8 New activity missing [wholly]
- Rule 8.9.3.a.iv – LSMA and heritage item amendments missing
- Rule 8.9.3.axii - heritage item amendments missing
- Rule 8.9.4.11 – LSMA matter of discretion [wholly]
- Comments missing from annotated version: C8; RD2; RD17; 8.6.1.a; Table 1 (multiple throughout); Table 6; 8.8.12; 8.8.15.5; 8.9.2.1.P1 Activity Standard; 8.9.2.1.P6 New activity; 8.9.2.3 RD8 New activity; 8.9.3.a.iv; 8.9.3.axii; 8.9.4.11

Appendix 8.10 of Chapter 8

The following provisions were partly or wholly missing in Right of Reply chapters:

- Sections 8.10.1 to 8.10.3 were missing from Right of Reply chapters.
- A new image for 8.10.4.
- Includes all comments, where Right of Reply annotated version contained none.

Chapter 14.12 – Future Urban Zone

The following provisions were partly or wholly missing in Right of Reply chapters:

- PC4 Consent order had not been integrated within the chapter, most notably changes to controlled activities C8 and C9, and non-complying activity NC5.
- Changes proposed by Ms Ratka via Right of Reply regarding Industrial Interface Overlay
- Changes proposed by Ms Hansbury via Right of Reply regarding financial contributions for trees under 14.12.2.7
- Changes proposed by Ms Oliver via Right of Reply to 14.12.1.3. RD26 regarding the airport noise contour QM, including adding missing operative text under the activity standards as .b.

Chapter 14.15 – [residential] Matters of Control and Discretion

- Rule 14.15.45 has been added as this was omitted operative content that had been introduced via PC5.

APPENDIX B – NOTED MINOR ERRORS WITH CHAPTERS

Chapter 6.1A – Qualifying Matters

Under heading “Safe or efficient operation of nationally significant infrastructure (Christchurch Airport)” part of the word ‘influence’ has been lost (as highlighted in yellow): [14.12.13.RD26 – Noise sensitive activities, 14.13, 14.14](#) ~~Low Density Residential Airport~~ ~~ence Zone and Airport~~(...)

Chapter 6.4 – Temporary Earthquake Recovery

References in Objective 6.4.2.1 and Policy 6.4.2.1.1 to 'Objective 3.3.16 – Temporary recovery activities' should instead be to 'Objective 3.3.15 – Temporary recovery activities'.

Chapter 13.11 Specific Purpose (Flat Land Recovery) Zone

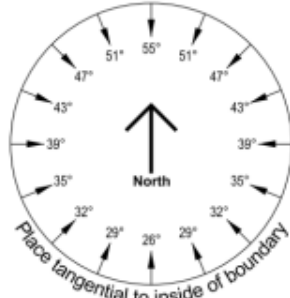
There is a minor typo in 13.11.4.1.5 NC4(a). The colon between “that is” and “not” should be deleted.

Chapter 18 – Open Space, Appendix 18.11.3

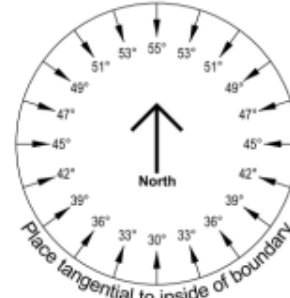
The appendix has not been updated to reflect recommended PC14 recession planes for MRZ and HRZ. The planes included here should reflect those proposed under residential appendix 14.16.2 (which is replicated overleaf for convenience).

Appendix 14.156.2 - Recession Planes

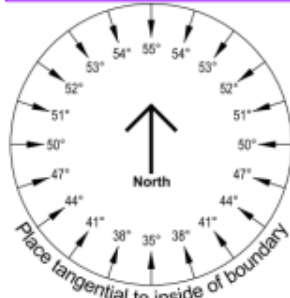
Note: North is true north



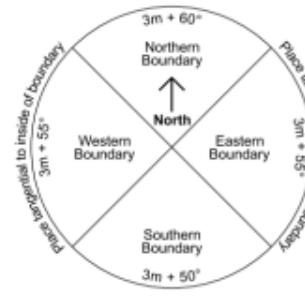
- A** Applicable to all buildings:
- in the Residential Suburban Zone
 - on sites in other non residential zones that adjoin the Residential Suburban Zone
 - in the Residential Small Settlement Zone Kainga Overlay Areas 1 and 2 and Spenceville Overlay Area



- B** Applicable to all buildings:
- in the Residential Suburban Density Transition Zone
 - on sites in other non residential zones that adjoin the Residential Suburban Density Transition Zone
 - in the Residential Hills Zone and on Māori land within the Papakāinga / Kāinga Nohoanga zone



- C** Applicable to all buildings:
- in the Residential Medium Density Zone
 - on sites in other non residential zones that adjoin the Residential Medium Density Zone
 - in the Residential New Neighbourhood Zone
 - in the Future Urban Zone



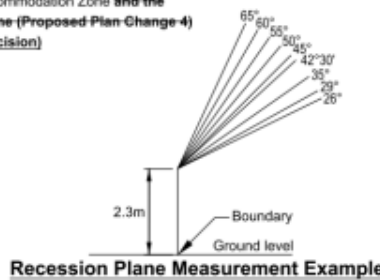
- D** Applicable to all buildings:
- in the Medium Density Residential Zone (MRZ) and High Density Residential Zone (HRZ) higher height limit zones
 - on sites in other non residential zones that adjoin the Residential zones medium density higher height limit zones
 - in the medium density higher height limit zones (except those buildings over 11 metres in height)
 - on sites in other non residential zones that adjoin the medium density (except those buildings over 11 metres in height)



- E** Applicable to all buildings:
- over 11 metres in height in the medium density higher height limit zones
 - over 11 metres in height on sites in other non residential zones that adjoin the medium density higher height limit zones
 - in the Residential Visitor Accommodation Zone and the Residential Central City Zone (Proposed Plan Change 4) (Plan Change 4 Council Decision)



- F** Applicable to all buildings:
- in the Residential Large Lot Zones



Appendix C

Replacements for the following 'clean' chapters:

- 1. Chapter 6.8 – Signs**
- 2. Chapter 8 – Subdivision, Development, and Earthworks**
- 3. Appendix 8.10 of Chapter 8**
- 4. Chapter 14.12 – Future Urban Zone**
- 5. Chapter 14.15 – [residential] Matters of Control and Discretion**

Appendix D

Replacements for the following 'annotated' chapters:

- 1. Chapter 8 – Subdivision, Development, and Earthworks**
- 2. Appendix 8.10 of Chapter 8**
- 3. Chapter 14.12 – Future Urban Zone**
- 4. Chapter 14.15 – [residential] Matters of Control and Discretion**

Appendix E – *Kāpiti Coast District Council v Waikanae Land Company Limited* [2024] NZHC 1654