

**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 FURTHER CLARIFICATIONS SOUGHT**

8 August 2024

BUDDLE FINDLAY

Barristers and Solicitors
Wellington

Solicitors Acting: **Dave Randal / Cedric Carranceja**
Email: david.randal@buddlefindlay.com / cedric.carranceja@buddlefindlay.com
Tel 64 4 462 0450 / 64 3 371 3532
Fax 64 4 499 4141 PO Box 2694 DX SP20201 Wellington 6011

MAY IT PLEASE THE INDEPENDENT HEARINGS PANEL:

1. Christchurch City Council (**Council**) thanks the Panel for promptly clarifying, through its minute 50 dated 6 August 2024, some initial matters identified by Council officers regarding the Panel's recommendations on Plan Change 14 (**PC14**).
2. There are a number of other matters on which the Council respectfully seeks clarification from the Panel in order to assist in its decision-making on PC14, as envisaged by clause 101(4)(c) of Schedule 1 to the Resource Management Act 1991.
3. Those matters are listed in the table in the **Appendix**.
4. The Council officers would be particularly grateful for the Panel's prompt clarification of the matters relating to mapping, given the condensed timeframes within which the Council's mapping team are operating.

Dated: 8 August 2024

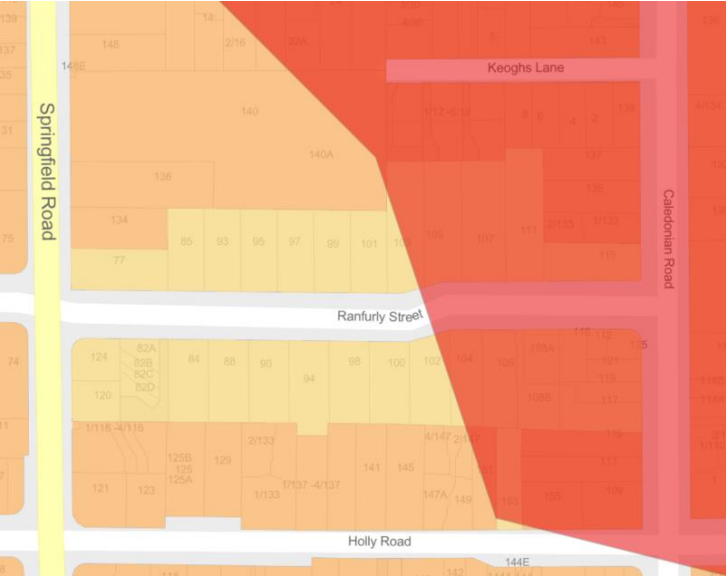


D G Randal / C O Carranceja
Counsel for Christchurch City Council

Appendix – table of matters on which clarification is sought

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
QUALIFYING MATTERS					
1.	Open Space QM	Ch18, Appendix 18.11.3	-	Part 5, s22, [513(b)], p128 – “no consequential amendments are required to be made”	<p>The Open Space QM was recommended to be accepted by the Panel. The recession planes in Appendix 18.11.3 were amended to reflect changes to recession planes in Ch 14 zones. With the Panel recommendation to reject the Sunlight QM, Ch14 recession planes Appendix 14.16.2 will need to be changed. To reflect that, Ch18 Appendix 18.11.3 will require consequential amendments.</p> <p>Can Panel please confirm that Ch18 Appendix 18.11.3 should be amended accordingly?</p>
2.	Industrial Interface QM	Ch14 MRZ and HRZ	-	Part 5, s16, para 275 “The Panel recommends that the Industrial Interface QM is accepted by the Council subject to the following amendments: (a) buildings within 40m of an industrial zone to be limited to 8m in height;”	<p>Can the Panel please confirm whether their recommended amendment to the Industrial Interface QM for an 8m building height is referring to the below rules, or whether the building height is instead of, or in addition to, these rules. If the 8m building height is instead of or in addition to these rules, what is the recommended activity status, and (if applicable) assessment matters?</p> <p>Note paragraph 257 of Part 5 does refer to the below rules (under the Inland Port Influences overlay discussion) and they remain in the Panel’s recommended provisions.</p> <p>Reference to rules (contained in the Right of Reply provisions and Panel recommended provisions): Built form standard 14.5.2.20 (MRZ) and 14.6.2.19 (HRZ) Residential units within the Industrial interface overlay (units above 8m are permitted where they provide mechanical ventilation and air conditioning, and controls on balcony orientation). Restricted discretionary status under 14.5.1.3 RD32 (MRZ) and 14.6.1.3 RD26 (HRZ) where built form standard not achieved. The assessment matters are 14.5.2.20 (MRZ) and 14.6.2.19 (HRZ) Residential units within the Industrial interface overlay.</p>

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					Note – under 14.5.2.3 (MRZ) Building height (iv) Buildings for a residential activity within the Industrial Interface Qualifying Matter Area have height limit of 8m, while the same rule in the HRZ is fully crossed out (14.6.2.1 d). Is the intention to only apply an 8m building height limit in MRZ, or also HRZ?
3.	Slope Instability Hazard QM	Ch5	-	Part 5, s6	<p>Please can the Panel clarify whether all the slope instability hazard overlays are accepted as QMs?</p> <p>In para 40 the Panel recommends that “the existing slope instability area provisions and mapping in Chapter 5 of the ODP be accepted as a QM”. Para 42 refers only to the Cliff Collapse Management Area 1, Cliff Collapse Management Area 2, Rockfall Management Area 1 and Mass Movement Management Area 1. The discussion on the QM does not specifically name the existing Rockfall Management Area 2, Mass Movement Management Areas 2 and 3 and the Remainder of Port Hills and Banks Peninsula Slope Instability Management Area. The Panel recommended provisions (i.e. the current Plan provisions) include all of these overlays (as does the Right of Reply recommendation and provisions). In Appendix I Table 2 mapping item #20, the Panel recommendation is to “reject the Remainder of Port Hills and Banks Peninsula Slope Instability Management Area as per Part 5 of the report” however Part 5 does not make this explicit.</p>
4.	Ranfurly Character Area	Ch14	Yes	Part 5 [393]	The Panel has recommended the removal of Ranfurly and Beverley Residential Character Areas, accepting the recommendation from Ms White due to the influence of Policy 3. However, while the Beverley Street RCA lies within the Recommended Merivale Policy 3 catchment, the Ranfurly Street RCA is only partially covered by the 200m catchment the Panel has recommended from the Edgeware LCZ – see below, showing notified zoning with the walking catchment, in red):

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					 <p data-bbox="1317 930 2123 994">Is the intention to retain the operative RCA for Ranfurly outside of the Edgeware LCZ catchment?</p>
5.	Airport Noise	Chapter 6		Part 4 – para 347, 353	<p data-bbox="1317 1042 2145 1289">In Recommendations Report Part 4 – para 347, the recommendation is <i>(a) Apply MDRS and rezone all relevant residential zones within the 50, 55 and 65 dB Ldn Noise Contours MRZ and HRZ (in accordance with our findings above and Part 3 of the Report) then...(d) the operative rule framework for residential activities within the 55dB Ldn and 65dB Ldn Contour be retained as the QM in respect of those locations i.e. non-complying and prohibited activity respectively.</i></p> <p data-bbox="1317 1313 2040 1409">Is the operative rule framework to include only those rules contained within Chapter 6 Noise, Rule 6.1.7 Activities near infrastructure?</p>

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					<p>That is, is it the case that none of the operative rules in Chapters 8 (for example a minimum allotment size of 450m² for RS zones within the 55dB Ldn) and 14 that currently apply to the locations within the 55 and 65 dB Ldn Noise Contours are to apply?</p> <p>Moreover, is it the case that within the 55dB Ldn only an insulation rule applies (Rule 6.1.7.2.2 Activities near Christchurch Airport) and if breached Rule 6.1.7.1.5 Non-complying activities applies?</p> <p>Further, is it the case that only Rule 6.1.7.1.6 Prohibited activities which manages sensitive activities within the Air Noise Boundary applies and, as a consequence, that the subdivision of land and its use for residential activity (residential units) is enabled to the medium density standards within the 55dB Ldn noise contour?</p> <p>Furthermore, Part 4 [353] outlines the redrafting exercise required to Chapter 14 to include the recommended approach to the Airport Noise Interface Area. Specifically, (c) directs the application of the evidence of Mr Selkirk's recommendations. Clarity is sought on this matter. With specific reference to the evidence of Mr Selkirk, could the Panel please detail which aspects of the evidence it recommends should be standards (either as a permitted activity or restricted discretionary activity) and what the associated matters of discretion are intended to be.</p>
ZONE CONTROLS					
6.	Residential Hills	Ch 14.7	-	Sub-chapter mark-up	The Panel recommends that the Council's Right of Reply version of this chapter be struck out. The Panel's recommendation is to retain the zone in areas where there is an operative overlay or Outline Development Plan. Please confirm the intent to retain the zone and aforementioned overlays.

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					<p>There are a number of changes relevant to the apparent direction to retain the Residential Hills Zone that require clarification – relevant to Residential Objectives and Policies:</p> <ol style="list-style-type: none"> 1. Table 14.2.1.1.a shows Residential Hills Zone description as being struck out. 2. Policy 14.2.5.11 has not been shown as struck out, despite the IHP rejecting the re-zoning and Precinct response for these areas, instead retaining the operative RHZ approach. <p>Relevant to Residential Matters of Discretion and Control:</p> <ol style="list-style-type: none"> 3. 14.15.41 – Roof Reflectivity: relates only to the Residential Hills Precinct, carrying over operative controls. <p>Please confirm the recommendations for the above.</p>
7.	Residential objectives and policies	Ch 14.2 Policy 14.2.3.7	-	Sub-chapter mark-up	The Panel recommends retention of operative heritage items and settings (with some minor modifications), operative significant trees schedule, and operative Residential Character Areas (with some modifications). Policy 14.2.3.7.a.iv.B is relevant to all of these aspects, but has been struck out. Please clarify the Panel’s recommendations in this regard.
8.	Subdivision rules	Ch 8	-	Sub-chapter mark-up	Changes to 8.6.1.a show the “Residential Hills” zone as being struck out. As above, noting the Panel’s intention to retain this zone, should those strike-outs within the associated subdivision rules be reversed?
9.	Commercial Central City Zone Rules	Rule 15.11.2.3		Sub-chapter mark-up	<p>A replacement diagram is shown in this provision to convey how the rule package is applied. This diagram is now out of date and needs updating to reflect the Panel’s recommendations that:</p> <ul style="list-style-type: none"> • The Cathedral Square/Victoria Street QMs be removed.

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					<ul style="list-style-type: none"> The 90m building height limit be removed. <p>Can the IHP please confirm that they recommend that this diagram be updated to reflect the above changes?</p>
10.	Commercial Central City Zone Rules	Rules 15.11.2.3; 15.11.2.12; 15.11.2.14		Sub-chapter mark-up	<p>As drafted with the Panel’s recommended changes, buildings on corner sites are exempt from Rules 15.11.2.3 Sunlight and Outlook and Rule 15.11.2.12 Maximum Road Wall Height, and the street boundary setback that applied to building towers above 45m in Rule 15.11.2.14 is deleted.</p> <p>The effect of the collective changes is that there is no minimum setback required for a building tower from the building base and buildings could be constructed to a height of greater than 45m as an RD activity immediately at the street intersection. Can the Panel confirm that that was their intention?</p>
11.	HRZ Landscaping standard	14.6.2.7		Sub-chapter mark-up	<p>Council has noted that sub-standard c. of HRZ landscaping standard has mistakenly shown a standard as being MDRS-derived, when only a. and b. are an MDRS density standard. Does the Panel intend for this to remain or be struck out?</p>
12.	Lyttelton RCA (& others)	14.8.3		Sub-chapter mark-up	<p>The Panel has recommended the retention of RCAs and associated operative controls. However, marked-up Panel-recommended provisions relative to the RCA for Lyttelton within the Area-specific controls for Residential Banks Peninsula do not reflect ODP controls. Please clarify.</p>
RECOMMENDATIONS					
13.	Sunlight Access	Ch 14	-	Part 4: pages 42-44, para 134, and para 145 (d) on page 48	<p>Para 134 states that the Panel stated to Counsel that “the information received was not what had been asked for” and “We did not receive any further response on the matter”. Further, page 48</p>

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					<p>states: “Regrettably the information we asked the Council for was not what was provided to us and despite this being communicated to the Council, <u>no further corrections or updates were provided</u>”.</p> <p>However, further information was provided by the Council as follows, accompanied by memoranda published on the Panel’s website:</p> <ul style="list-style-type: none"> • Initial Council response – Memorandum of Counsel, 29 November 2023 (Appendix M) • Final Council response – Memorandum of Counsel, 11 April 2024 (Appendix E, pages 81-103 [of PDF]) <p>The Panel recommendation refers to Appendix M, ie the original response dated 29 November 2023, but not the further response from 11 April.</p> <p>Please could the Panel consider the implications of this additional 11 April information for its recommendations.</p>
14.	Riccarton Bush Interface Area	Ch14.5		Part 5, [468]	<p>The recommendation states “... we further find that the retention of the ODP provisions, which we recommend, represents a more effective and efficient means of ensuring that the objectives of the Housing Supply Amendment Act, NPS-UD Policy 3 and PC 14 are achieved.”</p> <p>Please confirm whether the Panel recommends for all ODP zoning to be held beneath the area identified within the proposed QM extent, as per the Council Right of Reply.</p>
15.	SP (School), (Tertiary Education) and (Hospital) Zones – specified alternative zones	Sub-chapters 13.5, 13.6, 13.7		PC14 Provisions Recommendations, Panel instructions, Appendices 13.5.6.1, 13.6.6.1,	<p>The PC14 Provisions recommendations include instructions for the appendices listing the alternative zones for the SP (School), (Tertiary Education) and (Hospital Zones) along the lines of the following;</p>

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
				13.6.6.2, 13.6.6.3, 13.7.6.1	<p>[Panel Instruction - not part of the chapter The alternative zones shown in Appendix 13.6.6.1 to be updated to reflect Panel recommendations regarding zonings.]</p> <p>i. Please confirm whether the Panel requires the Council to amend the alternative zones for all sites in those SP zones to reflect the Panel’s rezoning recommendations on the adjoining residential and commercial zones even if:</p> <ul style="list-style-type: none"> • there were no submissions seeking such amended alternative zoning; and • the Panel made a recommendation on a submission for an alternative zoning for a specific SP site that differs from the recommended rezoning of the adjoining zone (should such a situation be identified). <p>ii. Please confirm whether the Panel’s instructions to update the alternative zones for the SP(School) zoned sites are limited to only Appendix 13.6.6.1 (as quoted above), which only covers State schools, or whether it was also intended to apply to the unlisted Appendices 13.6.6.2 and 13.6.6.3 which cover State Integrated and Private schools.</p> <p>Please confirm whether the Panel wishes to check the amended alternative zones as part of checking all rezoning recommended by the Panel.</p>
16.	High trip generators – greenhouse gas emissions	Transport 7.4.4.18		Chapter 7 Provisions Recommendations	The Chapter 7 Provisions Recommendations indicate the Panel’s recommendation to delete the proposed references to greenhouse gas emissions in the matters of control and discretion applying to high trip generators (7.4.4.18 a. under Strategic framework and Greenhouse gas emissions). References to greenhouse gas emissions remain in the table in Advice note 1. as vii.

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					Can the Panel please confirm that the reference to greenhouse gas emissions in the table in Advice note 1. as vii. is also recommended to be deleted.
17.	Layout of Vehicle Crossings	Transport 7.5.11.4		Part 4, page 33, para. 98, and Chapter 7 Provisions Recommendations.	<p>Part 4 of the Panel's Recommendations indicate that the proposed new Layout of Vehicle Crossings provisions should be deleted. This is implemented in the Chapter 7 Provisions Recommendations which indicate the deletion of Rules 7.4.3.8 h., 7.4.3.13 and 7.44.28. Rule 7.4.3.13 refers to the diagram in 7.5.11.4 which illustrates those requirements. There were two slightly different diagrams under 7.5.11.4. The Provisions Recommendations show the first, at the bottom of p.76, as being deleted. However, the second, at the top of the following page, is not indicated to be deleted.</p> <p>Can the Panel please confirm that the second diagram is also to be deleted.</p>
18.	Chapter 6.13 - Wind	6.13		Unknown	<p>The IHP recommendation appears to be silent on this matter. The evidence of Ms Blair (11 August) had detailed the creation of a new sub-chapter specifically dealing with wind effects. This considered wind effects in MRZ, HRZ, TCZ, and LCZ zones.</p> <p>Is it the recommendation of the Panel that 32m commercial buildings may proceed as a permitted activity within Riccarton, Hornby, and Papanui without the consideration of wind effects above 22m?</p>
MAPPING					
19.	North Halswell catchment	-	Yes	Part 3, pages 79-82	Please clarify what the policy 3 catchment around this centre is and from where the catchment should be measured from. The Recommendation states that MRZ adjacent is sufficient. Does the

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					Panel intend that this is only adjacent residential parcels or a specific catchment?
20.	Neighbourhood centre catchments		Yes	Part 3, pages 79-82	Please clarify what the policy 3 catchment around these centres is and from where the catchment should be measured from. The Recommendation states that MRZ adjacent is sufficient. Does the Panel intend that this is only adjacent residential parcels or a specific catchment?
21.	Central City Building Heights Map			Parts 3, 4, 5	<p>Please clarify what this map should show for the City Centre Zone? As we now have urban design triggers at key building heights (28m – 45m and over 45m) and no maximum building height limit for this zone.</p> <p>An option could be to update the map to remove the rejected qualifying matters, and then only show the ‘spot area building heights’, e.g. Arts Centre; New Regent St; the CCMU zoned sites that are 22m not 32m; and the CCMU(SF) zoned block (Tuam, Manchester, Lichfield, Madras) that is now 32m not 21m.</p> <p>Please clarify the intended approach.</p>
22.	Residential Hills Precinct	14.5	Yes	Part 4, page 28	<p>There appears to be only one reference to the “Residential Hills Precinct” which is in Part 4. The Precinct was proposed to only manage vacant allotment size via Chapter 8. It further sought to carry over specific operative Residential Hills zone standards, such as Roof Reflectivity. There is no discussion of the Precinct in Part 6. The Precinct has not been justified as, and is not required to be justified as, a QM.</p> <p>Please confirm the recommendation for the Residential Hills Precinct.</p>

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
23.	MRZ spot zoning errors	14.5/14.6	Yes	Appendix I - Table 2 – Planning Map Changes – IHP Recommendations #21	<p>Please clarify what is intended by the recommendation: “reject changes except to the extent that the sites are within the Panel’s recommended commensurate catchments as described in Parts 3 and 4 of the Report”.</p> <p>Council’s submission (evidence of Marcus Langman para 102(w)) sought to correct the erroneous “downzoning” of a list of identified sites/parts of sites on the planning maps so that they have the same zoning as the surrounding sites. There is no s32 evaluation to support spot zoning of sites containing heritage items and Council is not proposing to zone these properties on a heritage basis. An option could be that the zoning of these sites is corrected to reflect the zoning of surrounding sites as amended by updated catchment recommendations.</p> <p>Please clarify the intended approach.</p>
24.	Commercial Banks Peninsula Zone	Ch 15	Yes	Part 3, pages 79-82	<p>The Panel has recommended that a catchment of 200m be applied from all local centres not otherwise specified as having an HRZ response. The Lyttelton commercial centre was notified as (and is in the Council Reply as) Commercial Banks Peninsula Zone, not LCZ. Is the intention for the same 200m LCZ catchment to apply here, as per the LCZ recommendation?</p>
25.	LCZ catchments	Ch 14	Yes	Part 3 [307] Part 4 [99](a)	<p>Part 3 of the Panel’s recommendation appears to suggest that any local centre not otherwise specified should, within 200m of the centre of each commercial centre, have MRZ applied to residential zones. However, Part 4 of the Panel’s recommendation states that HRZ should be applied within 200m from such centres.</p> <p>Please confirm what the intended residential response should be surrounding such LCZ centres.</p>
26.	Belfast / Northwood catchment	Ch 14	Yes	Part 3 [304](c) Part 7 (page 44)	<p>The Panel’s Recommendation states that “the commensurate catchment is appropriately represented by the zones shown on PC 14 notified Planning Maps and we recommend they be adopted.”</p>

	Key Theme	Chapter/ Provision	Map/s	IHP Recommendation Part #	Matter for IHP clarification
					<p>Council had notified a 400m catchment, only applying the Local Centre Intensification Precinct (LCIP). Page 44 of Part 7 of the Panel’s recommendations recommends that a site adjacent to the Town Centre be zoned HRZ. Part 3 of the Panel’s recommendation recommends that LCIP be deleted.</p> <p>Does the Panel intend that LCIP is retained around the Belfast / Northwood catchment as notified, that 400m of MRZ (only) should apply, or that 400m of HRZ should apply?</p>
27.	Sydenham catchment – ChristchurchNZ site	Ch 14	Yes	Part 3, page 82 Part 3 [306](c)	<p>The Panel recommendation states that the HRZ zoning surrounding Sydenham and Sydenham South should remain “as notified”. However, minor changes to HRZ boundaries were recommended after notification, specifically: 14 Johnstone Street and 231 Milton Street (the ChristchurchNZ site). Part 3 [306](c) of the Panel’s recommendations appears to describe an area that contains this site.</p> <p>Does the Panel intend that these changes are rejected? Also, please clarify whether the HRZ zoning around the Sydenham LCZ and Sydenham South NCZ represent their surrounding policy 3 catchments, and if not, where the policy 3 catchments are and from where the catchments should be measured from.</p>
28.	Sydenham catchment	Ch 14	Yes	Part 3 [306](c)	<p>This paragraph contains roads that do not appear to be located within this catchment, being:</p> <ul style="list-style-type: none"> • “Burleigh Street” • “Johnsons Street” (Council understands this to be Johnson Street, off Milton Street) <p>Please clarify.</p>

LEGAL QUERIES

29.	High Court decision in <i>Waikanae</i>	Ch 6, Ch 14, etc	-	Part 5, from para [470] and others	<p>In a number of examples it would be helpful for the Panel to clarify the implications of the Panel rejecting a QM on <i>Waikanae</i> grounds.</p> <p>See for example:</p> <ul style="list-style-type: none"> • the Panel's findings that the Significant and Other Trees proposal should not proceed as a QM, but the ODP provisions and associated tree schedule should be retained (Part 5, from para [470]) • similar findings in respect of Residential Character Areas • similar findings in respect of the Riccarton Bush QM (ie query 14 above) <p>When finding that each of these matters should not proceed as a QM, but the ODP provisions should be retained, is it the intention of the Panel that:</p> <p>a) The ODP provisions continue to apply as they do currently; or</p> <p>b) The ODP provisions apply except if they make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area?</p> <p>If a), does the Panel consider that the ODP provisions do not need to be a QM, or that the ODP provisions are suitable as a QM?</p> <p>If b), how should that be reflected in the drafting?</p>
30.	Inland Port Influence Overlay	Ch 14, Ch 15		Part 5, para 256 Part 1 [198](d)(i)	<p>Could the Panel please explain further why it considers the Inland Port Influence Overlay is not 'on' PC14, in light of its finding at Part 1 [198](d)(i) that a submitter has scope to assert that a new QM should apply?</p>