

**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 GAZETTE NOTICE AND
MATTERS ARISING IN WEEK 9 OF THE HEARING**

19 April 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:

Introduction

1. This memorandum:
 - (a) provides the Panel formally with the *Gazette* notice issued this week regarding Plan Change 14 (**PC14**);
 - (b) repeats counsel's request for a short extension to the timeframe for filing the Christchurch City Council's (**Council**) reply to matters arising during the hearing of submissions on PC14;
 - (c) corrects an error in counsel's memorandum dated 17 April 2024; and
 - (d) addresses two matters that were the subject of Panel questions in relation to the proposed City Spine Qualifying Matter.

Gazette notice

2. As the Panel is aware, the *Gazette* notice relating to the Council's decision-making on PC14 has been issued. It is attached in full in **Appendix 1**.

3. Paragraph (3) reads:

(3) In accordance with section 80L of the Resource Management Act 1991 (RMA), the Minister Responsible for RMA Reform directs Christchurch City Council to notify decisions on the independent hearings panel's recommendations on parts of the plan subject to Policy 3 and Policy 4 of the National Policy Statement on Urban Development in accordance with clause 102 of Schedule 1 of the RMA by 12 September 2024, and notify decisions on the independent hearings panel's recommendations on parts not subject to Policy 3 and Policy 4 of the National Policy Statement on Urban Development by 12 September 2025.

4. The notice therefore generally accords with the earlier Ministerial correspondence reported to the Panel, such as under cover of counsel's memorandum dated 25 March 2024.¹

¹ <https://chch2023.ihp.govt.nz/assets/Council-Memo/Correspondence/Memorandum-of-Counsel-for-Christchurch-City-Council-25-March-2024.pdf>

5. Council officers are seeking guidance from the Council as to the intended scope of the Council's initial decision by 12 September 2024, and will keep the Panel informed (likely through the Council's reply).

Timeframe for the Council's reply

6. The Council reporting officers and counsel repeat their respectful request for some additional time, such as until 17 May 2024, to provide the Council's reply.
7. As previously mentioned, the Council intends to provide a reply that will be of significant assistance to the Panel by providing updated provisions, accept/reject tables, and mapping, responding to the many matters arising during a lengthy hearing, and addressing (as necessary) the various additional materials that the Panel has directed (at paragraph 8 of Minute 33) be filed by submitters before the conclusion of the hearing.

Correction regarding demolition in Residential Heritage Area interface areas

8. Counsel's memorandum of 17 April 2024 addressed, among other matters, the following question by the Panel:

Address the lawfulness of proposed rules controlling demolition of buildings within residential heritage areas (RHAs) (and associated interface areas) and residential character areas (RCAs).²

9. Counsel wish to clarify, in addition to the response provided in the memorandum, that the Council does not propose (through Plan Change 13 or PC14) any rules controlling demolition of buildings within the interface areas associated with RHAs, either in the proposals as notified or in officers' recommendations.

Panel requests regarding the City Spine Qualifying Matter

10. On 15 April 2024 Commissioner Matheson asked Mr Field if the reference to Rule 15.12 for the Central City Mixed-use Zone, at paragraph 51(c) of Mr Field's evidence, was in relation to side boundaries or frontage setbacks. For clarification, the proposed rule to which Mr Field was referring was:

² Part of request number 42.

15.12.2.1 Streetscene, landscaping and trees

a. Landscaping and trees shall be provided as follows:

i. Where buildings do not extend to the road boundary of a site, a landscaping strip with a minimum width of 3 metres shall be provided along the full frontage of the site. This area shall be planted in a combination of shrubs, trees and grasses, except that a landscaping strip is not required for any areas required for access or outdoor courtyards used by patrons in association with food and beverage outlets (...)

11. On 16 April 2024 the Panel asked Ms Oliver to provide a list of the objectives and policies in the Operative District Plan that are particularly relevant to evaluating the proposed City Spine Qualifying Matter. That information is provided in **Appendix 2** to this memorandum.

Date: 19 April 2024



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

The Resource Management (Direction for the Intensification Streamlined Planning Process to the First Tranche of Specified Territorial Authorities) Amendment Notice 2024

The Minister Responsible for RMA Reform (under section 7 of the Constitution Act 1986) gives notice of the following direction made under sections 80L and 80M of the Resource Management Act 1991 (RMA). The direction is secondary legislation for the purpose of the Legislation Act 2019 and is administered by the Ministry for the Environment.

1. Title and Commencement

(1) This notice is the Resource Management (Direction for the Intensification Streamlined Planning Process to the First Tranche of Specified Territorial Authorities) Amendment Notice 2024.

(2) The direction comes into force on 20 April 2024.

2. Minister Responsible for RMA Reform’s amended Direction for the Intensification Streamlined Planning Process to Christchurch City Council (made under section 7 of the Constitution Act 1986)

(3) In accordance with section 80L of the Resource Management Act 1991 (RMA), the Minister Responsible for RMA Reform directs Christchurch City Council to notify decisions on the independent hearings panel’s recommendations on parts of the plan subject to Policy 3 and Policy 4 of the National Policy Statement on Urban Development in accordance with clause 102 of Schedule 1 of the RMA by 12 September 2024, and notify decisions on the independent hearings panel’s recommendations on parts not subject to Policy 3 and Policy 4 of the National Policy Statement on Urban Development by 12 September 2025.

3. Minister Responsible for RMA Reform’s additional Direction for the Intensification Streamlined Planning Process to Christchurch City Council

(4) In accordance with clause 80L(1)(d) of the Resource Management Act 1991 (RMA), the Minister Responsible for RMA Reform directs Christchurch City Council must provide a report to the Ministry for the Environment every three months from the date of this notice about its progress of the intensification streamlined planning process for Plan Change 14.

4. Principal Notice Amended

(5) This direction amends “The Resource Management (Direction for the Intensification Streamlined Planning Process to the First Tranche of Specified Territorial Authorities) Notice 2022” published in the [New Zealand Gazette, 27 April 2022, 2022-sl1594](#), only to the extent specified in this notice.

5. Previous Amendment Notice Revoked

(6) The Resource Management (Direction for the Intensification Streamlined Planning Process to the First Tranche of Specified Territorial Authorities) Amendment Notice 2023 (No.2) published in the [New Zealand Gazette, 16 August 2023, 2023-sl3774](#), is revoked.

Copies of the above notices are available free of charge on the Ministry for the Environment’s website, <http://environment.govt.nz>.

Dated at Wellington this 27th day of March 2024.

HON CHRIS BISHOP, Minister Responsible for RMA Reform.

Notes

- i. This direction must be complied with.
- ii. Part 6 of Schedule 1 of the RMA specifies the requirements of any Intensification Streamlined Planning Process.
- iii. Section 80M of the RMA provides the Minister the ability to amend this direction on their own initiative or following a request from one or more of the specified territorial authorities named in this direction.
- iv. Christchurch City Council may, in accordance with Section 80M of the RMA apply in writing to the Minister Responsible for RMA Reform for an amendment to the direction.

**Appendix 2 – Ms Oliver's response to the Panel's question on 16 April 2024
regarding relevant City Spine relevant objectives and policies**

- The s32 report (Part 2, page 396) sets out the Operative District Plan objectives and policies relevant to the proposed City Spine Qualifying Matter, with particularly relevant provisions underlined. Please refer to that document, here: [Plan-Change-14-HBC-NOTIFICATION-Section-32-Qualifying-Matters-Part-3-15-March.pdf](https://ccc.govt.nz/Plan-Change-14-HBC-NOTIFICATION-Section-32-Qualifying-Matters-Part-3-15-March.pdf) (ccc.govt.nz)
- For ease of reference, the following list repeats the relevant provisions by reference to the Council's Amended Proposal. The provisions incorporate, for the Strategic Directions Chapter 3, the changes agreed through the expert planners' conferencing to be appropriate – see the joint witness statement dated 27 November 2023, here: <https://chch2023.ihp.govt.nz/assets/Joint-Witness-Statements/Joint-Witness-Statement-Planning-Experts-IHP-Minute-20-Strategic-Directions-27-November-2023.pdf>.
- The most relevant aspects are highlighted in yellow which relate to the management (amenity and environmental conditions) of the residential and commercial areas, the interface with the road corridor, and maximising the use and function of existing infrastructure (i.e. full road width utilisation for public transport functional purposes).

3.3.78 Objective - Urban growth, form and design

- a. A well-integrated pattern of development and infrastructure, a consolidated urban form, and a high quality urban environment that:
 - i. Is attractive to residents, business and visitors; and
 - ii. Provides for development and change over time to address the diverse and changing needs of people and communities, and
 - iii. Supports reductions in greenhouse gas emissions and is resilient to the likely current and future effects of climate change; and
 - iv. Provides for a distinctive, legible urban form and strong sense of place, comprising:
 - A. The pre-eminence of the city centre built form, supported by enabling the highest buildings;
 - B. The clustering, scale and massing of development in and around commercial centres, with an extent, intensity and built form commensurate with the role of the centre and the extent of commercial and community services provided; where
 - C. The largest scale and density of development, outside of the city centre, is provided within and around town centres, and lessening scale for centres lower in the hierarchy; and
 - D. specific design controls and lower heights and design controls for development located in more sensitive environments;
 - v. Recognises that whilst amenity values will change through the planned redevelopment of the existing urban area, the amenity values and the quality of the urban environment will be maintained and enhanced; and
 - vi. Enables Ngāi Tahu mana whenua to express their cultural traditions and norms;
 - vii. Ensures the protection and/or maintenance of specific characteristics of qualifying matters;
 - viii Provides for urban activities only:
 - A. within the existing urban areas unless they are otherwise expressly provided for in the CRPS; and

- B. on greenfield land on the periphery of Christchurch's urban area identified in accordance with the Greenfield Priority Areas in the Canterbury Regional Policy Statement Chapter 6, Map A; and
- ix. Increases the housing development opportunities in the urban area to meet the intensification targets specified in the Canterbury Regional Policy Statement, Chapter 6, Objective 6.2.2 (1); particularly:
 - A. in and around the Central City, Key Activity Centres (as identified in the Canterbury Regional Policy Statement), Town Centre, and larger Local neighbourhood centres, and nodes of core public transport routes; and
 - B. in those parts of Residential Greenfield Priority Areas identified in Canterbury Regional Policy Statement Chapter 6, Map A; and
 - C. in suitable brownfield areas; and
- x. Maintains and enhances the Central City, Key Activity Centres and Neighbourhood Centres, Town centres, and Local centres as community focal points; and
- xi. Identifies opportunities for, and supports, the redevelopment of brownfield sites for residential, business or mixed use activities; and
- xii. Promotes the re-use and re-development of buildings and land; and
- xiii. Has good Improves overall accessibility for all people between housing, jobs, community services, natural spaces, and open spaces including by way of public and active transport; and connectivity (including through opportunities for walking, cycling and public transport) for people between housing, jobs, community services, natural spaces, and open space, transport (including opportunities for walking, cycling and public transport) and services; and
- xiv. Promotes the safe, efficient and effective provision and use of infrastructure, including the optimisation of the use of existing infrastructure; and
- xv. Co-ordinates the nature, timing and sequencing of new development with the funding, implementation and operation of necessary transport and other infrastructure.

3.3.910 Objective - Natural and cultural environment

- a. A natural and cultural environment where:
 - i. People have access to a high quality network of public open space and recreation opportunities, including areas of natural character and natural landscape; and
 - ii. Important natural resources are identified and their specifically recognised values are appropriately managed, including:
 - A. outstanding natural features and landscapes, including the Waimakariri River, Lake Ellesmere/Te Waihora, and parts of the Port Hills/Nga Kohatu Whakarakaraka o Tamatea Pokai Whenua and Banks Peninsula/Te Pātaka o Rakaihautu; and

- B. the natural character of the coastal environment, wetlands, lakes and rivers, springs/puna, lagoons/hapua and their margins; and
 - C. indigenous ecosystems, particularly those supporting significant indigenous vegetation and significant habitats supporting indigenous fauna, and/or supporting Ngāi Tahu mana whenua cultural and spiritual values; and
 - D. the mauri and life-supporting capacity of ecosystems and resources; and
 - E. **Tree canopy cover in areas of residential activity that maintains and enhances the city's biodiversity and amenity, sequesters carbon, reduces stormwater runoff, and mitigates heat island effects; and**
- iii. Objects, structures, places, water/wai, landscapes and areas that are historically important, or of cultural or spiritual importance to Ngāi Tahu mana whenua, are identified and appropriately managed.

3.3.1213 Objective - Infrastructure

- a. The social, economic, environmental and cultural benefits of infrastructure, including strategic infrastructure, are recognised and provided for, and its safe, efficient and effective development, upgrade, maintenance and operation is enabled; and
- b. ...; and
- c. The adverse effects of infrastructure on the surrounding environment are managed, having regard to the economic benefits and technical and operational needs of infrastructure.

6.10A.2.1 Objective – Urban tree canopy cover

- a. **Tree canopy cover in areas of residential activities is enhanced through maintaining existing trees and/or planting new trees as part of new residential development to sequester carbon from emissions, reduce stormwater runoff, mitigate heat island effects, and improve the city's biodiversity and amenity.**

6.10A.2.1.1 Policy – Contribution to tree canopy cover

- a. **Ensure that subdivision and/or development achieves the following tree canopy cover levels at maturity:**
 - i. **For residential subdivision and/or development in residential zones – 20% of the development site area;**
 - ii. **For subdivision and/or development in residential greenfield areas and brownfield sites subject to comprehensive residential development – as for (i), and an additional 15% of the future road area to be vested in Council.**

7.2.1 Objective — Integrated transport system for Christchurch District

- a. An integrated transport system for Christchurch District:
 - i. that is safe and efficient for all transport modes;
 - ii. that is responsive to the current recovery needs, future needs, and enables economic development, in particular an accessible Central City able to accommodate projected population growth;
 - iii. that supports safe, healthy and liveable communities by maximising integration with land use;

7.2.1.6 Policy – Promote public transport and active transport

- a. Promote public and active transport, by:
 - i. ensuring new, and upgrades to existing, road corridors provide sufficient space and facilities to promote safe walking, cycling and public transport, in

accordance with the road classification where they contribute to the delivery of an integrated transport system;

7.2.2.3 Policy – Effect on adjacent land uses to the Transport Zone

- a. Manage the adverse effect(s) of an activity within the Transport Zone so that the effects of the activity are consistent with the amenity values and activity of adjacent land uses, whilst providing for the transport network, in particular the strategic transport network to function efficiently and safely.
- b. To ensure adjacent land uses are designed, located and maintained in such a way as to avoid reverse sensitivity effects on the strategic transport network.

1. 14.2.45 OBJECTIVE - HIGH QUALITY RESIDENTIAL ENVIRONMENTS

- a. High quality, sustainable, residential neighbourhoods which are well designed, ~~have a high level of amenity, enhance local character and reflect in accordance with the planned urban character~~ and the Ngāi Tahu heritage of Ōtautahi and meet the community's housing needs, in particular those of Ngāi Tahu whānui.

Note: Policies 14.2.69.1, 14.2.69.2, 14.2.69.34, 14.2.69.67, and 14.2.69.8 also implement Objective 14.2.45.

2. 14.2.45.1 POLICY - NEIGHBOURHOOD CHARACTER, AMENITY AND SAFETY

- a. ~~Facilitate the contribution of~~ Provide for individual developments to high quality residential environments in all residential areas (as characterised in Table 14.2.1.1a), through design which contributes to a high quality environment through a site layout and building design that:
 - i. reflecting the context, character, and scale of building anticipated in the neighbourhood ensures buildings and planting have a greater prominence from the street than car parking and servicing areas;
 - ii. contributing to a high quality street scene prioritises pedestrian circulation through the site, particularly over vehicle movement; ensuring it is direct, safe and well integrated; with formation that supports a variety of users;
 - iii. providing a high level of on-site amenity provides a public front entrance to each street-fronting apartment building or street-fronting residential unit, separate from any private outdoor space;
 - iv. minimising noise effects from traffic, railway activity, and other sources where necessary to protect residential amenity;
 - v. providing safe, efficient, and easily accessible movement for pedestrians, cyclists, and vehicles have street facing façades that include a high level of clear glazing and design for visual interest and interaction with the street;
and
 - vi. provides prominent planting areas throughout communal areas and adjacent to the street;

vii. incorporating principles of crime prevention through environmental design.

3. 14.2.45.2 POLICY - HIGH QUALITY, MEDIUM DENSITY RESIDENTIAL DEVELOPMENT

- a. Encourage innovative approaches to comprehensively designed, high quality, medium and high density residential development, which is attractive to residents, responsive to housing demands, and provides a positive contribution to its environment (while acknowledging the need for increased densities and changes in

residential character) reflects responds the planned urban built character of an area, through:

- i. consultative planning approaches to identifying particular areas for residential intensification and to defining high quality, built and urban design outcomes for those areas;
- ii. encouraging and incentivising amalgamation and redevelopment across large-scale residential intensification areas;
- iii. providing design guidelines to assist developers to achieve high quality, medium density development;
- iv. considering input from urban design experts into resource consent applications;
- v. promoting incorporation of low impact urban design elements, energy and water efficiency, and life-stage inclusive and adaptive design; and
- vi. recognising that built form standards may not always support the best design and efficient use of a site for medium density development, particularly for larger sites.

4. 14.2.5.3 POLICY – QUALITY LARGE SCALE DEVELOPMENTS

a. Residential developments of four or more residential units contribute to a high quality residential environment through site layout, building and landscape design to achieve:

- i. engagement with the street and other spaces;**
- ii. minimisation of the visual bulk of buildings and provision of visual interest;**
- iii. a high level of internal and external residential amenity;**
- iv. high quality shared spaces, including communal living spaces and accessways that provide safe, direct access for pedestrians;**
- v. a safe and secure environment; and**
- vi. public through connections for large sites with multiple public frontages; and**
- vii. Minimisation of reverse sensitivity effect on existing lawfully established non-residential activities.**

15.2.4 Objective - Urban form, scale and design outcomes

- a. A scale, form and design of development that is consistent with the role of a centre and its contribution to city form, and the intended built form outcomes for mixed use zones, and which:
 - i. recognises the Central City and District Town Centres as strategically important focal points for community and commercial investment;
 - ii. contributes to an urban environment that is visually attractive, safe, easy to orientate, conveniently accessible, and responds positively to anticipated local character and context recognising that urban environments develop and change over time;
 - iii. recognises the functional and operational requirements of activities and the anticipated existing built form;
 - iv. manages adverse effects (including reverse sensitivity effects) on the site and surrounding environment including effects that contribute to climate change; and
 - v. recognises Ngāi Tahu/ mana whenua values through landscaping and the use of low impact urban design, where appropriate; and
 - vi. Promotes a zoning and development framework that supports a reduction in greenhouse gas emissions and adverse climate change effects.

15.2.4.2 Policy – Design of new development

- a. Require new development to be well-designed and laid out by:
 - i. encouraging pedestrian activity and amenity along streets and in adjoining public spaces, to a degree that is appropriate to the location and function of the **road-street or space, and in Mixed Use Zones, to recognise and support the transition to pedestrian-friendly street environments;**
 - ii. providing a principal street facing façade, **or facades (where located on a corner site)**, of visual interest that contributes to the character and coherence of a centre;
 - iii. facilitating movement within a **site** and with the surrounding area for people of all mobilities and ages, by a range of modes of transport through well-defined, convenient and safe routes;
 - iv. enabling visitors to a centre to orientate themselves and find their way with strong visual and physical connections with the surrounding area;
 - v. promoting a safe environment for people and reflecting principles of **Crime Prevention through Environmental Design (CPTED)**;
 - vi. enabling the re-use of **buildings** and **sites** while recognising the use for which the **building** is designed;
 - vii. incorporating principles of low impact design including energy efficiency, water conservation, the reuse of stormwater, on-site treatment of stormwater and/or integration with the wider catchment based approach to stormwater management, where practicable;
 - viii. achieving a visually attractive setting when viewed from the street and other public spaces, **that embodies a human scale and fine grain**, while managing effects on adjoining environments; **and**
 - ix. providing adequate and convenient space for storage while ensuring it is screened to not detract from the **site's visual amenity values**;
- x. increasing the prominence of buildings on street corners;**
- xi. ensuring that the design of development mitigates the potential for adverse effects such as heat islands, heat reflection or refraction through glazing, and wind-related effects;**
- xii. ensuring that the upper floors (including roof form and associated mechanical plant) are well-modulated and articulated to provide visual interest to the building when viewed from beyond the Central City or from adjacent buildings above; and**
- xiii. recognising the importance of significant public open space by maintaining sunlight access to, and managing visual dominance effects on, these spaces;**
- xiv. recognising that mixed use zones are in transition and require a high quality of residential development to be achieved to mitigate and offset the industrial nature and potential conflicts between uses within the zone; and**
- xv. for larger scale developments in Mixed Use Zones, provide for future access lanes, greenways and mid-block pedestrian connections, that will contribute to a finer grain block structure that supports walking.**
- b. Recognise the scale, form and design of the **existing anticipated** built form within a **site** and the immediately surrounding area and the functional and operational requirements of activities.
- c. Require residential development to be well-designed and laid out **by ensuring to ensure** a high quality healthy living environment **including** through:
 - i. the provision of sufficient and conveniently located internal and **outdoor living spaces;**
 - ii. good **accessibility** within a development and with adjoining areas; and
 - iii. minimising disturbance from noise and activity in a centre or **mixed use zone** (and the potential for **reverse sensitivity** issues to arise).

(Plan Change 5B Council Decision)

- d. **Enable high quality small buildings on mid-block sites in the City Centre and Central City Mixed Use (South Frame) Zones, because they have minimal adverse effects on people and the environment.**