BEFORE INDEPENDENT HEARING COMMISSIONERS
AT CHRISTCHURCH

I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHAKE
KI ŌTAUTAHI

IN THE MATTER	**of the Resource Management Act 1991**
AND	
IN THE MATTER	**of the hearing of submissions and further submissions on Plan Change 14 to the Operative Christchurch District Plan**

STATEMENT OF EVIDENCE OF JONATHAN CLEASE ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES

PLANNING

RESIDENTIAL ZONES

20 SEPTEMBER 2023

Instructing solicitor:
C E Kirman
Special Counsel
Kāinga Ora - Homes and Communities
PO Box 14594
Central Auckland 1051
E: claire.kirman@kaingaora.govt.nz

Counsel instructed:
B J Matheson
Richmond Chambers
PO Box 1008
Shortland Street
Auckland 1140
E: matheson@richmondchambers.co.nz

1. EXECUTIVE SUMMARY

1.1. My name is Jonathan Clease, and I am a Director at Planz Consultants Limited. I have been engaged by Kāinga Ora-Homes and Communities (**Kāinga Ora**) to provide planning evidence in support of its primary submission (submitter #834) and further submissions (further submitter #2099) on Plan Change 14 (**PC14**) to the Operative Christchurch District Plan (**ODP**).

1.2. This evidence follows on from my primary evidence on centre hierarchies and the consequential treatment of the residential areas located in close proximity to these centres.

1.3. In this evidence I review the proposed policy and rule package for the suite of residential zones, with a primary focus on the provisions relating to the Medium Density Residential Zone (MUZ) and the High Density Residential One (HRZ).

1.4. I recommend a number of amendments to the policy and the rule packages. These amendments are either to reflect the changes to heights set out in my centre hierarchy evidence, or are to improve the efficiency and effectiveness of the provisions by removing ambiguity or unnecessary regulation where the costs of that regulation outweighs the benefits.

1.5. I conclude by assessing the amendments sought by Kāinga Ora to the earthworks, subdivision, and street tree provisions to again improve rule effectiveness and to remove unnecessary consenting hurdles that provide little benefit.

1.6. Overall I conclude that the amendments sought by Kāinga Ora will result in a more efficient and effective zone framework that gives effect to eh NPD-UD and Enabling Act directions and better achieves the purpose of the Act.

2. INTRODUCTION

2.1. My full name is Jonathan Guy Clease. I am a director of planning and resource management consulting firm Planz Consultants Limited and

work as a Senior Planner and Urban Designer. I hold a Batchelor of Science (Geography), a Master of Regional and Resource Planning, and a Master of Urban Design. I am a full member of the New Zealand Planning Institute and currently sit on the NZPI Board.

2.2. I provide a more detailed summary of my qualifications and experience in my primary evidence that addresses centre hierarchy.

2.3. In preparing evidence on the proposed Residential Zone provisions, I have considered the following material:

- Section 32 reports applicable to the Residential Zones;
- Section 42A reports prepared by Mr Ike Klyenbos (Planning), Ms Hermione Blair (Planning), Mr Kirk Lightbody (Planning), Mr David Hattam (Urban Design), and Mr Tim Heath (Economics);
- Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (**the Enabling Act**);
- National Policy Statement – Urban Development (**NPS-UD**);
- The Greater Christchurch Spatial Plan 2023 (**the Spatial Plan**).

Code of Conduct

2.4. Although this is a Council hearing, I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving evidence.

2.5. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

Scope of evidence

2.6. My evidence addresses that set out in the executive summary above, namely an assessment of the residential policy and rule frameworks with a primary focus on the MRZ and HRZ provisions. The changes

recommended dovetail with the recommendations on urban form made in my separate centre hierarchy evidence.

3. THE KĀINGA ORA SUBMISSION AND FURTHER SUBMISSIONS

3.1. The Kāinga Ora submission supported the introduction of a Medium Density Residential Zone (**MRZ**) that implements the MDRS requirements as set out in the Enabling Act. The submission likewise supported the introduction of a High Density Residential Zone (**HRZ**) in appropriate locations in close proximity to the edge of larger commercial centres.

3.2. The submission sought a number of amendments to the policy and rule frameworks for both these zones to better enable them to effectively manage urban growth in the manner anticipated by the Enabling Act and the NPS-UD.

4. RESPONSE TO THE SECTION 42A REPORTS

4.1. Strategic Overview

4.2. I discuss the high-level strategic planning framework, centre hierarchy, and associated building heights in a separate brief of evidence for Kāinga Ora (**Centre Hierarchy evidence**). Consideration of permitted heights was integral to the strategic assessment of centre hierarchies and their associated adjacent residential catchments. As such my assessment of the MRZ and HRZ height rules has been included in my separate evidence brief on centre hierarchy. Kāinga Ora have addressed the Height in Relation to Boundary rule/ Qualifying Matter via corporate evidence and legal submissions.

4.3. My colleague Tim Joll addresses the appropriateness and geographic extent of specific proposed Qualifying Matters (**QMs**) and Mr Matthew Lindenberg from Beca Ltd addresses the QM relating to Air Noise. I rely on the recommendations put forward by Mr Joll and Mr Lindenberg in relation to QMs.

4.4. This brief of evidence shifts perspective from the ‘helicopter view’ of centre hierarchy outcomes, as addressed in my separate brief of

evidence on this matter, and instead provides a more detailed assessment of the MRZ and HRZ policies and rules themselves.

4.5. I note at the outset that Mr Kleynbos, Ms Blair, and Mr Hattam have recommended a number of amendments to the policy and rule package in response to matters raised in submissions. As an overall observation, I consider that those recommendations result in a marked improvement to the rule package, particularly as compared to what was originally notified. I therefore identify below where I agree with the amended provisions as recommended by Officers, and conversely where I consider the provisions could be further refined to better achieve the outcomes sought for these two zones.

4.6. Where I recommend text amendments, to avoid overly complex track-changed provisions I have used the provision *as recommended by Council Officers* as the plain text base, with my further amendment then shown as <u>underline</u> or ~~strikethrough~~.

RESIDENTIAL ZONE POLICY FRAMEWORK

4.7. The Kāinga Ora submission sought a package of amendments to the objectives and policies related to the various residential zones. A number of these amendments are simply consequential to the separate relief sought by Kāinga Ora to delete a number of QMs i.e. if the QM is not found to be valid, then the need for the supporting policy references necessarily also falls away. As such I do not discuss QM-related policy amendments further. I work through the policy framework in the order that they appear, grouped under the lead objective and associated policy suite.

4.8. **Objective 14.2.1 - Housing supply and Policies 14.2.1.1 - 14.2.1.7:** I support the objective. I agree with the Kāinga Ora submission that Policy 14.2.1.1 (Housing distribution and density) is now silent on the locations and expectation of medium density development. Given that the MRZ is to be introduced across the majority of the residential environment, there is a need for a clear statement in the policy regarding what is now the normative housing density outcome. I

therefore recommend that a new clause (iv) be added to the policy as follows:

> (iv) medium density residential development is established across the majority of the City unless moderated by a qualifying matter.

4.9. I agree with the zone descriptions for the MRZ and HRZ as set out in the associated Table 14.2.1.1a.

4.10. **Objective 14.2.2 - Short term recovery and Policies 14.2.2.1 – 14.2.2.4:** This objective and policy package was a necessary and appropriate response in the immediate aftermath of the Canterbury earthquake sequence. It provided for short-term accommodation and provided a policy pathway for higher density development in what were at the time low density zones. Given that it is now some 13 years since the earthquakes, and that MDRS is now to be applied as the base zone across all relevant residential areas, I agree with the Kāinga Ora submission that this objective and policy package can be deleted. The only qualifier to that is if the Panel determine that the geographically extensive Public Transport and Tsunami QMs are to be retained (with accordingly large areas of low density Precincts or Residential Suburban Zoning being retained) then there may be some merit in retaining the enablement in these provisions for these areas. That said, if the intention of the QM is to limit additional density, then it would seem counter-intuitive to retain policy support for further intensification in these areas. Either way I am cautious that this objective and associated policies have ongoing value or relevance.

4.11. **Objective 14.2.3 - MDRS and Policies 14.2.3.1 – 14.2.3.9:** The Objective and Policies 14.2.3.4 – 14.2.3.5 all seek to implement the MDRS policy framework as directed by the Enabling Act and therefore are supported. I do note that in terms of the 'batting order', the policies should be rearranged so that they are sequential, i.e. MDRS Policy 1 through to Policy 5. As currently drafted the order is Policy 1, Policy 2, Policy 5, Policy 3, Policy 4. There do not appear to be any compelling reasons to adopt a different order and therefore I consider that it is simply confusing to have a different order to that directed in legislation.

4.12. Policies 14.2.3.6 and 14.2.3.7 go beyond the mandated MDRS policies and seek to provide further direction regarding anticipated building heights. I agree with the Kāinga Ora submission that both of these policies should be deleted and replaced. The Officer recommendations on Policy 14.2.3.6 go some way to addressing the concerns raised in the submission, however I consider the wording as sought by Kāinga Ora is more effective in articulating a clear policy outcome. In part, the difference between my recommended wording and that recommended by Officers is a consequence of my separate evidence on centre hierarchies where I recommend that the commercial centres of Riccarton, Papanui, and Hornby be rezoned from Town Centre Zone (**TCZ**) to Metropolitan Centre Zone (**MCZ**). The change to MCZ has flow on implications for the outcomes anticipated in the immediate residential catchments of these centres.

4.13. I discuss below the deletion of Policy 14.2.6.2 relating to Local Centre Intensification Precincts and consider that this policy direction can be more effectively incorporated within the replacement wording of Policy 14.2.3.6 (as proposed clause (iii)).

4.14. I therefore recommend that Policy 14.2.3.6 be deleted and replaced with the following wording:

> 14.2.3.6 Framework for relevant residential zones
>
> a. Enable development within medium and high density residential zones (being the ‘relevant residential zones’) in accordance with the planned urban built outcomes for medium and high density areas whilst also enabling increased building heights as follows: ~~character for medium and high density areas, whilst also enabling increased building heights under specific conditions.~~
>
> i. At least 12 storey buildings within the Central City Intensification Precinct (the residential zones within the Four Avenues) and the Metropolitan Centre Intensification Precinct (the residential areas surrounding the Metropolitan Centre zones in Hornby, Riccarton and Papanui);

ii. At least 6 storey buildings in all other High Density Zones in close proximity to identified centres;

iii. At least 4-5 storeys in the Local Centre Intensification Precincts;

iv. At least 3 storeys everywhere else in the Medium Density Residential Zone.

~~i. This includes building heights of at least three stories in the Medium Density Residential Zone and of at least six storeys in the High Density Residential Zone;~~

~~ii. Ensure that the reverse sensitivity effects on the operation, use and redevelopment of existing emergency services and other lawfully established activities are minimised.~~

4.15. In terms of Policy 14.2.3.7, I agree with the Kāinga Ora submission that the MDRS height rule has a restricted discretionary activity status and that MDRS Policy 5 explicitly seeks to "provide for developments not meeting permitted activity status, while encouraging high quality developments". Taller buildings over permitted thresholds are therefore clearly anticipated as being potentially appropriate subject to a site-specific assessment of effects. The policy needs to properly reflect that taller buildings (above the permitted heights) are anticipated in appropriate locations and where the specific design properly manages the effects generated by the increase in height. As written this policy directly conflicts with MDRS Policy 5 given its very directive nature that heights beyond permitted levels can 'only' be provided for where a lengthy list of seven different criteria are concurrently achieved. I therefore consider that this policy should be deleted and replaced with the alternative wording advanced in the Kāinga Ora submission as follows:

Within medium and high density zoned areas, increased building heights are anticipated where:

i. The site has good accessibility to public and active transport corridors, public open space, and a town or local commercial centre; and

ii. The design of the building appropriately manages potential shading, privacy, and visual dominance effects on the surrounding environment.

4.16. As a final point on this policy, I note the Officer recommendations that Policy 14.2.3.7(a)(ii) be amended so that as an additional criterion, taller buildings can only be provided for where the building design and features reduce 'reverse sensitivity effects on existing lawfully established non-residential activities'. To a certain extent this proposed amendment overlaps with the evidence put forward by Mr Joll regarding the inappropriateness of the Industrial Interface QM. This policy however goes further than the QM in that it seeks to limit the provision of higher density residential accommodation on sites that are located next to a non-residential activity located *within* a MRZ or HRZ zone.

4.17. The policy approach recommended by Officers directly contradicts with the existing (and in my view appropriate) policy response to non-residential activities in residential areas. The Operative Plan Policy 14.2.9.4 seeks the following:

Enable existing non-residential activities to continue and support their redevelopment and expansion provided they do not:

i. Have a significant adverse effect on the character and amenity of residential zones; or

ii. Undermine the potential for residential development consistent with the zone descriptions in Table 14.2.1.1a.

4.18. The Operative Plan policy provides a clear pathway for site redevelopment and expansion, subject to rightly placing the onus on managing effects on the non-residential activity, rather than seeking to curtail the ability of neighbouring residential sites to redevelop. I understand that the recommendation is made in response to FENZ

(which have a very limited number of existing facilities and their own dedicated Policy 14.2.3.8), and the oil companies whose concern is focussed on petrol stations. The policy as worded of course extends to all non-residential activities. The vast majority of such activities are those that have long had either a permitted or readily achievable consenting pathway available e.g. preschools, churches, health facilities, community halls, or small corner shops. These non-residential activities are lawfully established and therefore are fully capable of continuing to operate without further restriction beyond their current state. They already have residential neighbours and have long needed to operate in a manner that is considerate of being located in a residential neighbourhood. Policy 14.2.3.7 relates to the effects generated by increased heights, so in the MRZ those residential neighbours can already be 3-4 stories in height and 6 stories in the HRZ 6 (or more in the city centre and as sought next to the MCZ). I struggle to see how a 6 storey apartment block located next to a preschool, health centre, or petrol station is acceptable, but a 7 or 8 storey apartment block is not.

4.19. In short, the MRZ and HRZ zones have their primary focus on providing for residential activities, not protecting the future expansion prospects of non-residential activities. An appropriate policy direction for the ongoing management of non-residential activities is already provided in the operative Policy 14.2.9.4. As such I do not consider that curtailing residential development in a residential zone is an appropriate policy direction for medium and high density residential zones.

4.20. As a final note on the management of non-residential activities, Kāinga Ora sought a minor amendment to Policy 14.2.9.4 to remove ambiguity when non-residential sites are proposed to be redeveloped for a different non-residential activity i.e. the reference to ‘redevelopment’ can be interpreted as only applying to the existing activity having new facilities, rather than enabling the site to be efficiently repurposed for a different type of non-residential activity. With neighbourhoods transitioning to medium density outcomes, it is important that residents have easy access to convenience retail and a range of community facilities. The adaption and repurposing of existing non-residential sites

is a useful tool for enabling such provision as part of delivering a well-functioning urban environment. I readily accept that such changes need to be assessed on a case-by-case basis to ensure compatibility with a residential context, with the MRZ and HRZ description both anticipating that such zones will include compatible non-residential activities.

4.21. Mr Kleynbos has recommended that this submission point be rejected on the grounds that it is out of scope. Given that Officers are clearly (and rightly) engaged with how the Plan policy framework manages non-residential activities within residential areas, I disagree with Mr Kleynbos that this matter is out of scope. It is a minor amendment to reduce ambiguity and to respond to the very live issues raised by submitters and sought to be addressed by Officers through the introduction of contradictory policy direction. The question of scope will be addressed in legal submissions.

4.22. Subject to the Panel's findings on scope, I recommend that Policy 14.2.9.4 be amended as follows:

> Enable existing sites occupied by non-residential activities to continue to be used for a range of non-residential activities and support their redevelopment and expansion provided they do not:
>
> i. have a significant adverse effect on the anticipated character and amenity of residential zones; or
>
> ii. are of a scale or activity that would undermine the role or function of any nearby commercial centres. ~~undermine the potential for residential development consistent with the zone descriptions in Table 14.2.1.1a.~~

4.23. Policy 14.2.3.8 relates to emergency services. Kāinga Ora was neutral on the policy as notified. Officers have recommended an additional clause be added to the policy to 'enable the ongoing operation, use and redevelopment of existing emergency services'. I consider this to be a more appropriate policy response than the 'reverse sensitivity' policy clause discussed above at paragraph 4.16. The proposed clause does

not seek to restrict adjacent residential development, but instead confirms that existing emergency facilities are able to be adapted to meet changing service requirements. I also note that in terms of costs and benefits there are a) far fewer existing emergency service facilities than general non-residential actives; and b) emergency services have clear functional requirements to have a well-distributed network of facilities that enable them to respond in a timely manner to potentially life-threatening events. The policy framework for such facilities can therefore be readily distinguished from non-residential activities in general.

4.24. Policy 14.2.36.9 related to meeting the housing needs of Ngāi Tahu whānui. I discuss this in the separate section below on Papakāinga**.**

4.25. **Objective 14.2.5 - High quality residential environments and Policies 14.2.5.1 – 14.2.5.11[1]:** The Kāinga Ora submission sought that references to 'high quality' be amended to 'good quality' throughout this set of provisions. I agree with Kāinga Ora that references to 'high quality' in the title and the start of the objective will not always be appropriate or realistic. Use of language around 'high standard', 'high level of amenity', 'high levels of glazing' can be used to set a bar that can be unrealistically high (or at least is very subjective). Kāinga Ora supports high quality outcomes, however such language is subjective, and in my experience can be used by opponents to any development as a subjective, extremely high, policy bar. Invariably multi-unit development involves the balancing of competing design outcomes (which are all perfectly valid), and a successful overall design outcome comes down to how these are balanced and prioritised – it often is not possible to tick the optimal outcome across every matter.

4.26. I therefore recommend that references to 'high quality' be replaced with 'good quality' as set out in the submission in relation to Objective 14.2.5, and Policies 14.2.5.2 and 14.2.5.3.

4.27. I agree with the submission that Policy 14.2.5.1 should be deleted. The outcomes sought for the remaining low density residential areas are set

[1] For completeness I note that Kāinga Ora did not submit on Objective 14.2.4 and associated policy relating to strategic infrastructure.

out in Policies 14.2.5.6-9 (covering residential areas in Banks Peninsula or in the event that the Panel retain QMs relating to Tsunami, Heritage areas, and/or Public Transport). The outcomes sought for MRZ and HRZ areas are either set out in the MDRS Policies discussed above, or are better articulated in Policy 14.2.5.3 which I agree should be retained. Policy 14.2.5.1 simply leads to duplication and more importantly policy confusion as to the outcomes sought through having multiple policies addressing similar matters in different ways.

4.28. I agree with the submission that Policy 14.2.5.4, regarding waste storage areas, includes an unnecessary level of detail for a policy. The policy framework rightly does not include a policy for every rule. It is therefore unclear why this specific rule requires its own dedicated policy, especially when the effects it is seeking to manage are at the lower end of priority issues for multi-unit development. I consider that this rule is already provided with the necessary policy support through the general policy direction that addresses the need for good urban design outcomes. I therefore recommend that this policy be deleted.

4.29. Policy 14.2.5.5 relates to wind effects. The submission sought that the policy be deleted in the Residential Chapter 14 and relocated to Chapter 6 (General City Rules), along with the balance of the wind-related provisions. Council Officers have agreed that the wind-related provisions are better located in Chapter 6 and that Policy 14.2.5.5 should be deleted. I agree with this restructuring.

4.30. **Objective 14.2.6 - Medium Density Residential Zone and Policies 14.2.6.1 - 14.2.6.4:** The Kāinga Ora submission sought that this objective and associated policies be deleted. The objectives for the MRZ are already addressed in the mandated MDRS provisions, and in the replacements to Policy 14.2.3.6 and 14.2.3.7 discussed above. In my view the objective is simply unnecessary. I note that Officers have recommended that Policy 14.2.6.1 be deleted which reinforces the superfluous nature of this objective.

4.31. In my separate evidence on centre hierarchy, I have confirmed that there is a role for the 'Local Centre Intensification Precinct' as a tool for identifying where 14m heights are anticipated around the medium sized

Local Centre Zones. As such it is appropriate that there is policy support for this mapping tool. I have incorporated reference to the precinct in my recommended wording for Policy 14.2.3.6(a)(iii)regarding heights. Policy 14.2.6.2 relating to these precincts can therefore be deleted.

4.32. Officers have recommended two new policies be added to this section in relation to the Public Transport and Riccarton Bush QMs. Mr Joll has recommended that both these QMs be deleted, and therefore there is no need for these policies. If the Panel is minded to retain these QMs, then Policies 14.2.6.3 and 14.2.6.4 can be relocated to sit under Objective 14.2.3. There is therefore no need to retain this section.

4.33. **Objective 14.2.7 - High Density Residential Zone and Policies 14.2.7.1 – 14.2.7.6:** As with the above discussion on having a specific MRZ-related policy section, I agree with the Kāinga Ora submission that structurally the proposed HRZ policies may be better located under Objective 14.2.3. Unlike the MRZ policies, I consider that the HRZ provisions do have some value and do not create the same duplication issues. If structurally it proves too challenging to integrate them under the Objective 14.2.3 umbrella, then an alternative would be to relocate this section immediately after 14.2.3. This would enable the policy direction on the various residential zones and associated outcomes to be read consecutively.

4.34. In terms of the actual policy outcomes sought, I agree with the submission that the objective and policies 14.2.7.1 and 14.2.7.2 should be retained. These provisions provide a clear direction as to the outcomes sought and the geographic locational context that underpins the zone locations. I note that Officers are not recommending any amendments to these three provisions.

4.35. My separate evidence on centre hierarchies examined the notified approach to intensification precincts and the location of the HRZ zones. Consistent with my separate recommendations, and drawing on the high-level recommendations of Mr Kleynbos regarding the use of precincts as a tool, I agree with the Officer recommendations that there is value in articulating the outcomes sought in the City Centre intensification precinct. I have incorporated this policy into my

recommended wording for Policy 14.2.3.6(a)(i) above and therefore Policy 14.2.7.3 can be deleted. I agree with Officers that Policies 14.2.7.4 and 14.2.7.5 be deleted (as they are now redundant).

4.36. As a final note on this objective and associated policies, I note that Policy 14.2.7.6 seeks to 'ensure' that development in the HRZ is at least 2 storeys in height. I have discussed this aspect of the HRZ height rules in my separate evidence on centre hierarchy. In that I recommend that the minimum 2 storey requirement be deleted from the rule. As a consequence of the rationale set out in my centre hierarchy evidence, I recommend that the associated policy also be deleted.

4.37. **Objective 14.2.8 - Future Urban Zone and Policies 14.2.8.1 – 14.2.8.7:** The Kāinga Ora submission was largely neutral on the outcomes sought in this set of policies. The concern raised in the submission was more in regard to the application of National Planning Standard (**NPS**) zone naming. As an organisation that works nationally, Kāinga Ora has the benefit of seeing how the NPS is being applied across New Zealand. The observations of Kāinga Ora align with my own experience that the Future Urban Zone (**FUZ**) label is only used in other District Plans for areas that are yet to have an operative urban zoning. A FUZ is a 'holding zone' that identifies where medium to long term urban growth is anticipated. The FUZ zone provisions are therefore focussed on preventing activities from occurring in what are currently rural areas that could prejudice future urbanisation e.g. quarries or intensive farming or lifestyle block subdivision. The associated FUZ provisions also invariably require a further plan change process to be undertaken to activate or 'live zone' a residential zone that can then be developed.

4.38. It appears that PC14 is unique in that it is seeking to apply the FUZ zone label to areas that already have a 'live' residential zone in the Operative Plan (typically Residential New Neighbourhood). I agree with Kāinga Ora that these operative zones, even if they are yet to be developed, should be rezoned to MRZ unless there is a QM in play. This is the approach taken in all other Tier 1 Councils going through an IPI process. For example, Selwyn Council has just issued decisions on their IPI (and District Plan Review) processes. That Plan correctly

applies MRZ to all areas with an operative residential zoning, even where those areas are yet to be developed and are vacant paddocks in their current state.

4.39. I therefore recommend that areas proposed to have a FUZ zoning in PC14 be relabelled to MRZ, or other lower density residential zone (if a QM is in play that would prevent MRZ). A 'greenfield precinct' or similar tool could be used if there needs to be a method for identifying undeveloped but live-zoned areas where specific greenfield policy direction and rules are considered necessary.

4.40. Whilst not a core focus of the Kāinga Ora submission, I agree that the use of FUZ in PC14 appears to be markedly out-of-step with how that zone has been applied elsewhere in New Zealand.

4.41. For completeness I note that the only submission points made by Kāinga Ora on the remaining residential chapter objectives and policies were the consequential deletion of Objective 14.2.12 and policy 14.2.12.1 relating to the Industrial Interface QM.

MEDIUM DENSITY RESIDENTIAL ZONE RULE FRAMEWORK

4.42. My evidence generally follows the order in which the MRZ rules are assessed in Mr Kleynbos' s42A report. I address each rule relevant to the Kāinga Ora submission with brief commentary that responds to the Officer recommendations.

4.43. **Controlled Activity status:** The Operative Plan Residential Medium Density (**RMD**) Zone currently provides a controlled activity status for proposals that breach built form rules relating to tree and garden planting, ground floor habitable space, and waste management space. The Kāinga Ora submission sought that where these existing rules have been carried through to PC14, that the controlled activity status should have also been carried through.

4.44. The use of controlled activity status is clearly contemplated by the structure of the RMA. It is likewise an activity status that is common in District Plans, especially for rules controlling matters of detailed design or where acceptable outcomes are invariably able to be achieved

through the use of appropriate conditions. I therefore consider that careful consideration should be given to the use of controlled activity status when designing zone rule frameworks. I note that no rules are proposed to have this activity status for either the MRZ or HRZ.

4.45. The legislated MDRS provisions relating to landscaping are to have a restricted discretionary status, however Councils are empowered to introduce more enabling provisions if they so choose, which in my view would extend to having more enabling activity statuses. That said, landscaping is a key element in the design of good quality multi-unit developments. As set out in my separate brief of evidence on the proposed Tree Financial Contribution provisions, Kāinga Ora takes the integration of landscaping with overall built design seriously, with all of their developments subject to alignment with a comprehensive landscape guide. Given the importance of landscaping, and the fact that the MDRS landscaping standard is more enabling than the Operative Plan RMD standard, I consider that restricted discretionary activity status is an appropriate status for assessing proposals that exceed this rule.

4.46. I however agree with Kāinga Ora that controlled activity status is an appropriate status to apply to the proposed rules controlling the provision of ground floor habitable space and waste management areas. These two rules introduce built form requirements that are in addition to those deemed to be necessary in MDRS for delivering well-functioning urban environments. I discuss the merit of both rules below, but note here that as additional built form standards over and above MDRS requirements, particular care needs to be taken that the degree of additional regulation imposed by the rules is the minimum necessary for managing the relevant potential effect. Based on my experience in preparing numerous multi-unit resource consents, I can confirm that the current controlled activity status works well. The degree of development enabled in the MRZ is not markedly different to that enabled under the current RMD Zone settings, especially not in relation to the effects generated by ground floor rooms and bin storage. Controlled activity status enables these matters to be considered, conditions imposed, and I am yet to encounter a proposal where a satisfactory outcome in

relation to these two matters (ie design refinements or conditions of consent) could not be agreed with processing planners.

4.47. I recommend below that the new rules proposed in PC14 in relation to mechanical ventilation and indoor storage be deleted. If the Panel resolve to retain them then I consider that Controlled Activity status would also be appropriate for these rules given that they are both matters of detailed design that are readily resolvable via conditions. I consider that it is disproportionate that an otherwise well-designed housing development should be open to a decline decision simply because the units contain a smaller than permitted hallway cupboard.

4.48. I therefore recommend that the activity status for the rules discussed above should be controlled rather than restricted discretionary.

4.49. **Notification status:** The Kāinga Ora submission sought greater clarity regarding the use of 'notification statements' in the rule framework for both the MRZ and HRZ zones.

4.50. Plan rules are able to provide explicit direction as to how proposals that breach the rule in question are to be treated in terms of s95 tests. There are three options available, namely 1) not limited or publicly notified (i.e. 'non-notified'); 2) not publicly notified (but can be limited notified); or 3) silent on notification status and therefore subject to a full assessment under s95 where notification (either public or limited) is available as an option.

4.51. I find the proposed rule package recommended by Officers in relation to notification to be challenging to interpret and unnecessarily complex. The complexity has been introduced in the restricted discretionary rule tables for both the MRZ and HRZ zones. It is confusing as to which rules apply (and which notification status) for which built form rule breach, and for projects involving 1-2 units compared with those involving 3+ units. This rule section can be simplified through a simple repackage as follows:

1) Projects with 3+ units are subject to the urban design rule. The RD rule trigger should include an advice note that breaches to individual built form standards are set out separately below.

2) Separate RD rules then list the various built form standards and become the rule that is triggered when the standard is breached.

3) A clear notification statement can then be included with each RD built form rule.

4.52. I consider that including notification statements in rules provides significant benefits through delivering certainty to both developers and the community regarding when wider perspectives will add value to the decision-making process. As a general proposition, I consider that notification statements should align with the following rule categories:

i. Rules that are designed to control internal occupant amenity should be non-notified. Likewise rules that relate to specific expert qualitative evaluation e.g. urban design rules, should be non-notified.

ii. Rules that are designed to control neighbour amenity and that are conversely unlikely to impact on the wider neighbourhood should be open to limited notification, with public notification precluded.

iii. Rules that have the potential to effect wider neighbourhood and urban form outcomes should be open to a full s95 assessment and potential notification.

iv. For completeness I do not consider any of the MRZ or HRZ built form standards should have a statement *requiring* either limited or public notification, as is sought by some submitters.

4.53. Applying these principles to the MRZ and HRZ built form standards results in the following notification framework:

Built form rule	**Not limited or publicly notified**	**Not publicly notified**	**No statement/ open to s95 assessment**
3+ unit urban design			
Height			
HiRB			

Internal boundary Setbacks			
Road boundary setbacks			
Building coverage			
Outlook space			
Landscaping			
Windows to street			
Outdoor living			
Road boundary fencing			
Minimum unit size			
Ground floor habitable space			
Garage & carports			
Waste storage			
Fire fighting water		FENZ only	

4.54. I consider the above approach to notification is equally valid for both MRZ and HRZ zones. I also consider the above rule structuring approach provides significantly more clarity and certainty to Plan users relative to the structure recommended by Officers for the Restricted Discretionary rules.

4.55. **Conversion of Elderly Persons housing – Rule P3**: This specific category of unit occupancy provided an exemption from density standards under the Operative Plan low density Residential Suburban (**RS**) zone. This category of unit/ consenting pathway has been deleted from the MRZ rules as multi-units are now permitted regardless of the age of the occupants. The submission by Kāinga Ora sought to clarify how the conversion of existing elderly persons units for general tenure was to be treated. I generally agree with the amended wording

recommended by Mr Kleynbos[2] and Ms Blair which confirms that conversion of this specific category of units is permitted where the units existed on 17 March 2023. I recommend that the date for conversion be extended to match the date of decisions on PC14 to avoid the risk of any elderly persons complexes constructed between March 2023 and the decision being unduly caught. It is recommended that P3 is amended as follows:

Conversion of an elderly person's housing unit existing at ~~17 March 2023~~ [insert decision date], into a residential unit that may be occupied by any person(s) and without the need to be encumbered by a bond or other appropriate legal instrument.

4.56. **Wind assessment – Rule RD27:** Kāinga Ora sought that there should be a permitted pathway where compliance with wind rules is able to be demonstrated. They also sought that the wind assessment rules be relocated into Chapter 6 'general city rules' as a better fit with the Plan structure. Council Officers have agreed with both amendments which I support. I further note that Mr Kleynbos recommends an increase in the wind rule trigger height to 22m to align with the recommended heights for the residential areas surrounding the larger commercial centres. I agree with the alignment of heights so that the need for a wind assessment is only triggered by proposals that are seeking to exceed the permitted 22m height limit (or for tall buildings in HRZ areas where permitted heights are recommended by Officers to be 32m).

4.57. **Landscaped area and tree canopy cover – Rule 14.5.2.2:** Kāinga Ora supported this rule as implementing the MDRS legislative direction. The rule as notified included additional standards relating to tree canopy cover that in effect duplicated the tree canopy rules that were separately proposed as a Tree Canopy Financial Contribution (**Tree FC**) in Chapter 6.10A. Kāinga Ora opposed both the Tree FC and the duplication of the Tree FC rules in the MRZ landscape rule.

4.58. The Tree FC is addressed in the separate s42A report prepared by Ms Anita Hansbury. I have responded to the Tree FC in a separate brief of evidence. As such I simply note here that whilst Ms Hansbury

[2] Mr Kleynbos, pg. 127

recommends the retention of the Tree FC provisions, she also recommends that the duplicated provisions be deleted from the MRZ zone and replaced with an advice note that alerts plan users to the need to also refer to Chapter 6.10A.

4.59. In the event that the Panel decide to retain the Tree FC provisions, I agree that the duplicated rules should be removed from the MRZ chapter and replaced by the advice note as recommended by Ms Hansbury.

4.60. **Building Coverage – Rule 14.5.2.4 and Building Setbacks – Rule 14.5.2.7**: Kāinga Ora supported these two rules as implementing the MDRS legislative direction. Kāinga Ora also supported an eave exemption but sought that the exemption be extended from 300mm to 600mm to better reflect standard eave depths, along with porches being added to the exemptions for road boundary setbacks. Mr Kleynbos[3] and Mr Hattam recommend that eaves, overhangs (which could include porches but may not), and guttering up to 650mm, be exempt. I agree with the Officer recommendations that these exemptions provide a practical response to standard design elements without any significant increase in the visual bulk of buildings which the site coverage and setback rules are seeking to control. I likewise agree with the minor amendments recommended by Officers to add an advice note that Plan users should also be aware of Building Act requirements that may have implications for internal boundary setbacks.

4.61. I note that there are subtle differences in the recommended wording of this rule between the MRZ and HRZ zones. I am unclear of the need for the difference in wording as the outcomes relevant to this particular rule are not materially different between the zones. The Officer recommendations for the two zones are set out below. I prefer the wording for the HRZ zone as being less ambiguous in terms of the treatment of porches and general readability:

MRZ – Rule 14.5.2.7(a)(iii): Only road boundary: Eaves, overhangs, and guttering to a maximum of 650mm in width measured from the wall of a building.

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[3] Ibid, para. 10.1.43

HRZ- Rule 14.6.2.3(b)(iii): For front boundary setbacks: eaves, roof overhangs, and gutters, may intrude into the front boundary setback by a maximum of 650mm (combined measurement); and/or a porch with a maximum width of 1.2m may intrude into the front boundary setback by a maximum of 800mm.

4.62. **Outdoor Living Space - Rule 14.5.2.5 and Outlook Space – Rule 14.5.2.8:** Kāinga Ora supported these two rules as implementing the MDRS legislative direction. Retention of the rules is recommended by Mr Kleynbos[4], subject to minor amendments to improve rule clarity. I agree with the Officer recommendations.

4.63. **Windows to the Street – Rule 14.5.2.10:** Kāinga Ora supported the rule as implementing the MDRS legislative direction. Kāinga Ora also supported the gable-end and large setback exemptions. The submission also noted that clause (e) of the rule relating to a reduced glazing requirement if a front door and large ground floor windows were provided was unnecessarily complex. Mr Kleynbos[5] and Mr Hattam have reviewed this rule. I agree with the Officer recommendations for the reasons set out in the evidence of Mr Hattam.

4.64. **Fencing – Rule 14.5.2.9:** Kāinga Ora supported the need for controls on road boundary fencing to ensure good urban design outcomes regarding streetscape and opportunities for passive surveillance. The submission identified however that the Operative Plan fencing rules provide an appropriate level of design flexibility, are well understood by local design professionals, and provided a more certain and effective rule response than the alternative fencing rule proposed in PC14. Mr Hattam has recommended a minor change to the notified fence rule to enable the height of front fences to be increased from 1.5m (as notified) to 1.8m in height for no more than 50% of the site frontage. As an aside I note that with the recommended change in height there is now no difference in the approach proposed by Officers for fencing adjacent to arterial versus. local roads despite the significant difference in context between these streetscape environments.

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[4] Ibid, Appendix A
[5] Ibid, Appendix A

4.65. Mr Hattam in essence seeks to substitute the Operative Plan approach of 50% visual permeability across the entire frontage, to controls on height such that fences over 1m in height can occupy no more than 50% of the frontage, regardless of the degree of visual permeability provided.

4.66. I agree that low and/or visually permeable front fencing is generally desired from an urban design perspective. Lower fencing enables passive surveillance of the street from any road-facing windows of front units and also generally results in a more attractive and visually and physically open road edge environment. There is however often a design tension between the need to deliver an attractive streetscape and the need to provide appropriate levels of on-site amenity and security for occupants. These two outcomes are not necessarily mutually exclusive, and can generally be satisfactorily balanced through careful design and integration of fencing with landscaping and wider site design and layout. I consider the proposed fence rule to be unduly directive such that it prevents an appropriate balance between these two outcomes being reached through over-prioritisation of streetscape at the expense of the amenity of the people who live in the residential units.

4.67. For streets with an east-west orientation, the properties on the southern side of the street face north. As such it makes good design sense for the outdoor living courts of the font units to be located between the unit and the street to take advantage of the sunny orientation. For such units there needs to be some flexibility in the fencing rule to enable a degree of privacy and security to be provided. I appreciate that the recent practice of Council's urban design team has been to recommend decline for multi-unit layouts that do not provide a clearly visible front door facing the street, with outdoor living courts located to the side of units rather than between the unit and the street. As a general proposition I agree the aforementioned layout produces good streetscape outcomes. This preferred layout does not however always work for irregularly shaped sites, larger sites with apartment blocks orientated parallel to the street, or sites on the south side of east-west streets. Sites that are adjacent to collector and arterial roads can

likewise benefit from screening from these busy roads for both acoustic and privacy reasons.

4.68. A good example of such a context is the recent three storey apartment block developed by Kāinga Ora at 219-225 Riccarton Road (Figure 1). I drafted the urban design assessment that accompanied the resource consent application. The apartments are located on the south side of Riccarton Road and therefore makes perfect sense for the ground floor units to have their outdoor living courtyards located to the north of the unit. The fencing has been carefully designed to be visually permeable and incorporates a mix of materials and landscaping to ensure an acceptable road edge is delivered. Under Mr Hattam's recommended rule, half of the fences would be restricted to 1m, which in turn renders the adjacent private courtyards functionally unusable and insecure, with an unacceptable interface with an arterial road in terms of occupant amenity.

Figure 1. Kāinga Ora development - Riccarton Road

4.69. A second example is a large 90-unit social housing complex recently developed by the Ōtautahi Community Housing Trust ('OCHT') at 356-402 Brougham Street (Figure 2). I prepared the urban design assessment for the resource consent. This development received a Christchurch Civic Trust award for projects that enhance the heritage and environmental values of the City. These units are located on the southern side of what is a major arterial route that carries heavy traffic

to Lyttelton Port. The outdoor living courts are again logically located between the units and the road to take advantage of the north-facing aspect. Fencing is 1.8m high, with a degree of visual permeability and integration with landscaping. Under Mr Hattam's rule, half these units would have their private outdoor courtyards fully exposed to Brougham Street traffic with associated loss of amenity, privacy, and security through having a front boundary fence that is no more than 1m in height.

Figure 2. OCHT social housing development - Brougham Street

4.70. In my view the rule wording recommended by Mr Hattam has some significant limitations in terms of design flexibility, with consequent significant impacts on occupant amenity and safety. Kāinga Ora seeks to maximise occupant flexibility with their properties, so that where possible any given unit can be let to a range of tenants of different ages and life stages. It is therefore common for units to be let to tenants with young children, where there is a requirement for the outdoor living space to be securely fenced. This is particularly the case for courtyards that are adjacent to road frontages. If the outdoor living space is located between the unit and the road, then the rule prevents it being securely fenced, even with pool-style rail fencing. The rule likewise places significant limitations on the ability to deliver a reasonable level of privacy to courtyards.

4.71. I agree with the solution put forward in the Kāinga Ora submission which is that the Operative Plan fencing rule be retained. The recommended wording (retention of the Operative Plan rule) is as follows:

	Fence Type	*Standard*
i	*Where at least 50% of the fence structure is visually transparent.*	*1.8m*
ii	*Where less than 50% of the fence structure is visually transparent.*	*1.2m*

4.72. **Minimum Unit Size – Rule 14.5.2.11:** Kāinga Ora supported the rule as a long-established provision that appears to be delivering adequate minimum levels of amenity and internal living space. Officers recommend that the rule be retained as notified, which I agree with.

4.73. **Ground Floor Habitable Room – Rule 14.5.2.12:** Kāinga Ora supported the rule as a long-established provision, whilst seeking amendments to improve rule clarity. In particular Kāinga Ora sought that the requirement to have a ground floor habitable room not apply to units that are wholly located at first floor level or above i.e. low-rise apartments rather than 2-3 storey townhouse typologies. Mr Hattam recommends that the rule be amended so that it clearly exempts 'any upper-level residential unit that is built over a ground floor residential unit'. I agree with the recommendation.

4.74. **Service, storage and waste management –** Rule 4.5.2.13: Kāinga Ora supported the rule as a long-established provision in relation to outdoor storage areas for bins and washing lines, whilst noting that these rules constituted a level of detail that may be better addressed via the urban design assessment matters for four or more units. Kāinga Ora opposed the proposed new rule requiring minimum volumes of indoor storage.

4.75. Mr Kleynbos[6] recommends that the rule be retained. He also recommends that where the clause relating to communal bin storage is breached, such breaches should be assessed as a controlled activity.

[6] Ibid, para.10.1.79

I have been unable to identify any new controlled activity rule in Council's consolidated set of MRZ provisions (although a controlled rule does appear in the equivalent rule in the HRZ zone). It may be that the omission of the controlled rule in the MRZ is a simple drafting error. Regardless, I agree that controlled activity status is appropriate for waste management rule breaches. As set out above, I consider controlled activity status would be equally applicable for the rule as a whole.

4.76. I agree that the management of waste areas is an important design detail that it is important to get right for multi-unit complexes. For smaller sites e.g. typical single site redevelopments of 4-5 townhouses down a driveway, bins allocated to each unit work well in terms of 'bin ownership' where individual unit-holders look after their own set of bins.

4.77. For larger developments, it is generally more efficient for a communal waste management solution to be in place. In my experience this either takes the form of a single bin storage area (where specific bins are still 'owned' by individual units), or where the body corporate organises separate waste collection via a privately contracted firm via communal mini-skips. I agree that a permitted rule pathway should be in place that enables communal waste management solutions.

4.78. I acknowledge that it can be challenging to retrofit appropriate bin store areas to developments where such as not been properly thought through and incorporated at a preliminary design stage. Whilst provision for bin storage is seemingly a detailed matter, I consider that it is necessary to have a tool available to ensure provision of suitable waste storage facilities. I consider that either tool (a built form rule or urban design assessment matter) is effective. As such for 3+ units having both tools in play is potentially overkill, whilst noting that for 1-2 unit developments recourse to the urban design assessment matters is not available Having prepared numerous resource consents for multi-unit developments in Christchurch, in my experience the Operative Plan rule and associated urban design assessment matter combination is workable and has not created undue consenting hurdles. Ultimately, I find the need for a waste management rule to be finely balanced, with

both the costs and the benefits of having a separate waste management rule to be low.

4.79. In addition to bin storage, the rule also seeks the provision of space for washing lines (3m^2 and 1.5m minimum dimension). As with waste areas these can be challenging to retrofit if not properly incorporated into the overall design at an early stage. I consider that the washing line area should be able to form part of the same space that is utilised for outdoor living, where the line is of a fold-down design. Unit occupants are more than capable of deciding for themselves whether they want the washing line up or down. As such I am not convinced that the risk of the 'perverse outcomes' referred to by Mr Kleynbos[7] are of such significance as to prevent the exemption. This practical exemption can be readily achieved through a minor amendment to clause (a)(ii) as follows:

Each ground floor residential unit shall have at least 3m^2 of dedicated outdoor space at ground floor level for washing lines. This space shall have a minimum dimension of 1.5m. Where the washing line is a fold-down design, the required space can form part of the Outdoor Living Space.

4.80. In addition to outdoor storage areas, PC14 also seeks to introduce a new rule that requires the provision of an indoor storage area. This indoor area is to be in addition to any storage provided in kitchens, bathrooms, or bedrooms. I acknowledge that indoor storage is useful and that the provision of kitchen cupboards or bedroom wardrobes is a standard expectation. That said, I agree with the submission by Kāinga Ora that this rule constitutes an unnecessary level of detail for a District Plan to be seeking to prescribe. Unit occupiers are fully capable of first determining how much storage they require to match their lifestyle and household needs and then secondly selecting a unit to rent or buy accordingly. They are likewise more than capable of adding sets of drawers or free-standing cupboards if they want more storage space (or using a spare bedroom as a convenient storage space). The provision and use of indoor storage spaces is challenging to monitor and enforce and is simply a level of detail that is unnecessary for

[7] Ibid, para. 10.1.81

managing outcomes. This is especially the case where the zone provisions also include the separate minimum unit size rule which ensures sufficient internal living space is provided to meet minimum amenity and function requirements.

4.81. I therefore recommend that Rule 14.5.2.13(b) be deleted.

4.82. **Garage and carport location – Rule 14.5.2.15:** The Kāinga Ora submission supported the intent of the rule – that carparking and garaging be recessed behind the front of units that front the street – but sought amendments to the rule to extend its coverage to surface parking areas and to improve certainty. I agree with the amendments recommended by Mr Kleynbos[8] and Mr Hattam which capture car parking located between units and the street and that provide clarify that the setback rules only apply to the front unit, rather than all units that are located behind the road-facing unit.

4.83. **Building reflectivity – Rule 14.5.2.16:** The Kāinga Ora submission opposed the introduction of this new rule which seeks to control cladding and glazing choices across the Port Hill suburbs. I agree with the rationale set out in the submission, namely that Christchurch has had residential hill suburbs for over 100 years and these areas have not given rise to excessive glare issues from dwellings. Whilst rules controlling reflectivity can be appropriate in *rural* Outstanding Natural Landscapes where the key outcome is to minimise the visibility of structures, such an outcome is not appropriate in long-established residential suburbs where housing is an inherent part of the landscape. Requiring low light reflectance values means that buildings have to be finished in dark colours which can exacerbate urban heat island effects and require increased use of air conditioning to reduce unit heating in summer.

4.84. I therefore recommend that this rule and associated assessment matter (Rule 14.15.42) be deleted.

4.85. **Location of outdoor mechanical ventilation – Rule 14.5.2.17:** The submission by Kāinga Ora opposed this new rule as a level of detailed

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[8] Ibid, paras. 10.1.83-85

design that was unnecessary and that could be readily addressed through a combination of road boundary fencing rules and the urban design rule assessment matters. The submission likewise raised a number of drafting concerns regarding rule ambiguity.

4.86. Mr Kleynbos[9] and Mr Hattam recommend that the rule be retained, subject to amendments to simplify the rule and reduce ambiguity. I agree that the changes recommended by Officers are a significant improvement on the rule as originally drafted. That said, I also agree with the submission by Kāinga Ora that the rule is seeking to regulate at a level of detail that is unnecessary and where the effects the rule (rightly) seeks to mitigate can be readily managed through road boundary fencing (which is made easier via my fencing recommendations above) and the urban design assessment matters. I also note that in practice it is extremely uncommon for new build residential units to have their heat pump fan units located between the unit and the road boundary, especially where there is a reduced setback, due to a market desire to maximise street appeal and to minimise the risk of vandalism to the fan unit.

4.87. I therefore recommend that Rule 14.5.2.17 be deleted. The replacement set of urban design assessment matters recommended below include the ability to assess the integration of plant into the overall design.

4.88. **Building length – Rule 14.5.2.19:** The rule seeks to limit the maximum length of any building elevation to 30m. This is a new rule that is recommended by Officers and did not form part of PC14 as notified. As such Kāinga Ora was unable to submit on this specific provision. I have been unable to identify the Officer that recommends the inclusion of this rule. Mr Hattam makes reference to it in passing[10], but as an existing provision rather than providing any analysis and recommendation for its inclusion.

4.89. In the absence of being able to locate the rationale underpinning the rule, I make the following observations. The old Christchurch City Plan

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[9] Ibid, paras.10.1.86-88
[10] Mr Hattam, para. 190

included a similar rule that limited continuous building length in residential zones. My experience was that this rule resulted in numerous unnecessary consents being triggered. The rule had little bearing on the successful design outcomes of multi-unit developments, especially given the extent to which building form and layout is able to be considered in the urban design rule assessment matters.

4.90. Of significance, the merit of retaining a continuous building length rule was carefully considered in the s32 report accompanying the process to replace the District Plan following the earthquakes. Council Officers recommended that it not be carried over into the replacement District Plan due to the high costs and limited benefits of such a control. This approach was adopted by the IHP who agreed that the costs of controls of this nature outweighed their benefits.

4.91. It is surprising to see Council seeking to reintroduce a rule that has previously been tested in 'real-life' and found to be fundamentally flawed as an approach. In my view the rule addresses matters that are already subject to urban design assessment, and stifles design flexibility for little benefit.

4.92. As such I recommend that Rule 14.5.2.19 - Building Length be deleted.

5. High Density Residential Zone

5.1. There is considerable overlap between the issues raised in relation to MRZ rules and the equivalent rule in the HRZ. This section of my evidence therefore only focusses on where there is a clear difference in rule (and outcome) for the HRZ, relative to the above discussion on the equivalent provisions in the MRZ.

5.2. My above evidence on the MRZ provisions is therefore equally applicable to the following HRZ rules which address the same matter:

- Setbacks – Rule 14.6.2.3
- Outlook Space – Rule 14.6.2.4
- Fencing – Rule 14.6.2.6

- Landscaping – Rule 14.6.2.7
- Windows to the street – Rule 14.6.2.8
- Ground floor habitable room – Rule 14.6.2.9
- Waste Management and internal storage – Rule 14.6.2.11
- Garaging and carpark location – Rule 14.6.2.14
- Mechanical ventilation – Rule 14.6.2.15
- Building length – Rule 14.6.2.18
- Wind assessment (relocated to Chapter 6)

5.3. **Mix of non-residential activities:** The Operative Plan has long provided for a mix of non-residential activities that are valued and inherent part of a well-functioning residential neighbourhood. These activities include health facilities, pre-schools, spiritual, community, and educational facilities. The Operative Plan has conversely long restricted non-residential activities for the residential zones located within the Four Avenues/ City Centre, due to the specific pressures faced by these areas over time for non-residential intrusion and the associated fragmentation of residential coherence. PC14 as notified adopted the 'inside the Four Avenues' approach for managing non-residential activities and then applied that approach across the full breadth of the proposed HRZ zone across the City.

5.4. The Kāinga Ora submission raised concerns with this approach and noted the potential for it to reduce the functionality of residential neighbourhoods by preventing the provision of the sorts of community facilities that are valued elements in such neighbourhoods. Kāinga Ora sought that the rule provisions in the Operative Plan RMD zone (and as proposed in the MRZ zone) be applied to the HRZ areas outside the Four Avenues.

5.5. Mr Kleynbos[11] has recommended that the Kāinga Ora submission on this matter be accepted and that the Operative Plan's more restrictive

[11] Ibid, pg. 149

approach only apply to those parts of the HRZ located within the Four Avenues, with the rules aligned with those in the Operative Plan RMD zone for HRZ areas outside the Four Avenues. I agree with this approach, noting that the scale of such activities is still controlled by the rule framework, with permitted activity status generally subject to performance standards relating to matters such as floor space, hours of operation etc., and a restricted discretionary consenting pathway thereafter. The recommended approach will help to ensure that residential neighbourhoods are able to include a mix of activities that are anticipated elements in well-functioning residential environments.

5.6. Unfortunately, the recommendation of Mr Kleynbos does not appear to have been accurately transposed into the Council's consolidated set of text amendments. The HRZ text amendments simply reduce the activity status from discretionary to restricted discretionary activity status. They do not amend the permitted activity rules to match those in the Operative RMD zone or in the MRZ zone for the same activities. In short, the 'inside the Four Aves' rules have a much more restrictive permitted activity starting point relative to the equivalent provisions in the MRZ zone.

5.7. This matter is easily resolved by simply 'copy and pasting' the MRZ rules 14.5.1.1 (P5-P9) into the HRZ provisions. HRZ (P7) should only apply to these activities where they are located inside the Four Avenues[12]. Consequential amendments to RD24 are limited to referencing the updated rule numbers.

5.8. **Commercial use of apartment tower ground floors:** The Kāinga Ora submission sought that a consenting pathway be provided for small-scale non-residential use of the ground floor of apartment buildings as a restricted discretionary activity. Mr Kleynbos[13] has recommended that this submission point be rejected on the grounds that such enablement would be 'contrary to the centres-based approach under the NPS-UD'.

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[12] An equally simple alternative is to simply copy and paste Rule 14.6.3.1(P1) from the Accommodational and community facilities overlay (potentially with a reduction in permitted GLFA from 500m^2 to 250m^2).
[13] Ibid, pg. 153

5.9. In my experience it is common for apartment buildings to contain a small-scale commercial activity on the ground floor, often adjacent to the entrance foyer and as a means of buffering residential activity from what can be busy frontage roads. The provision of such services can likewise have significant convenience benefits for residents and is consistent with a good quality, high density neighbourhood. The ability to provide shared workspaces in apartment buildings is consistent with emerging remote working trends where people still seek companionship during the day whilst working remotely from their employer.

5.10. Conceptually, the relief sought by Kāinga Ora is little different to that already provided in the Accommodation and Community Facilities overlay via rule 14.6.3.1.1(P1). This overlay applies to discrete areas in the HRZ that are in close proximity to large commercial centres. The overlay permits a wide range of community facilities subject to a cap of 500m^2 Gross Leasable Floor Area[14]. The Kāinga Ora submission simply seeks to extent this provision to the balance of the HRZ, only where integrated into an apartment complex, and only where commercial floor area is less than 200m^2.

5.11. I agree that the scale of such activities needs to be limited to ensure they do not result in a de facto extension of commercial centres. Provided the scale of non-residential facilities is limited there is minimal potential for such to undermine the role and function of nearby commercial centres. It is important to emphasise that the HRZ zone locations are either adjacent to the City Centre or adjacent to the City's largest suburban commercial centres. In my opinion, small scale co-working spaces, a café, a qym, or a dairy incorporated within an apartment complex would not individually or collectively ever reach a scale that resulted in distributional effects on nearby commercial centres such that centre viability and function was materially affected.

5.12. I note that Mr Kleynbos' recommendation is not based on any economic evidence from Mr Heath that identifies significant risks to centre function

[14] As an aside, I note that in the overlay rules as recommended by Officers, there does not appear to be any consequential rule if the P1 activity standards are exceeded – it is not covered by either of the two RD rules and there are no D, NC, or P rules.

and viability if small-sale non-residential tenancies are enabled at the base of apartment towers. Conversely Mr Colgrave has assessed this matters and has concluded that the effects on centre role and function will be minimal.

5.13. Based on the evidence of Mr Colgrave that such activities will have a minimal effect on the functioning of large commercial centres (provided there is a cap on overall scale), combined with the economic benefits to residents being able to conveniently access services, I recommend that such activities be permitted, with a restricted discretionary pathway where scale is exceeded. An alternative if the Panel were particularly concerned about retail distribution effects would be to lift the base activity status so the activity is restricted discretionary, which then in turn then lifts to fully discretionary where the activity standards are exceeded. The recommended rule wording below is framed as a permitted activity, but could be easily repackaged with restricted discretionary status as the starting point.

Retail, office, gymnasium, and commercial service activities	
a. Activity status: Permitted	Where: i. the retail, office, gymnasium, or commercial service activity is limited to the ground floor tenancy of an apartment buildings; ii. The gross floor area of the activity/ activities does not exceed 200m^2; and iii. The hours of operation are between 7:00am- 9:00pm Monday to Friday; and 8:00am-7:00pm Sat, Sun, and public holidays.
RDx. Activities that do not meet one or more of the activity specific standards in Rule x	The Council's discretion shall be limited to the following matters: a. The design, appearance and siting of the activity;

	b. Noise and illumination; c. Signage; d. Retail distribution and effects on nearby commercial centres.

5.14. **Building separation – Rule 14.6.2.5:** PC14 as notified included a rule requiring that building elements higher than 12m needed to be separated from other 12m+ elements by at least 10m. The Kāinga Ora submission raised concerns with the rule drafting and associated ambiguity in how it was intended to apply. The submission separately identified that the outcomes sought to be controlled by the built form rule may be more effectively addressed through urban design assessment matters.

5.15. Council Officers have recommended that the rule be retained, but have also recognised that the drafting of the rule required amendment to improve clarity and certainty. The recommended change in wording confirms that the rule is seeking to achieve a minimum separation between distinct towers where they are located on the same site. I agree that the recommended wording is effective in clarifying the 'on the same site' issue.

5.16. I do however agree with the Kāinga Ora submission that on-site layout issues are matters that can be readily considered through the urban design rule. Effects on neighbours are already managed through height, setbacks, outlook, and height in relation to boundary rules.

5.17. Given that the permitted height across the HRZ is at least 22m, I am likewise cautious that the rule may simply result in some unintended consequences whereby rather than being applied to two distinctly separate buildings or two towers sharing a podium base (as I think the rule intends), it instead arguably captures design elements on the same building. For instance, two rooftop penthouses with a roof terrace between the units, or steps-in-plan in the built form to improve modulation and visual interest. In practice I expect the rule will inadvertently capture far more of the below scenarios than it will capture rare 'twin tower' proposals.

5.18. I therefore recommend that the rule be deleted. That said, if the Panel is satisfied that the rule is a necessary control and that the benefits of the rule clearly outweighs the costs, then whilst the rule as recommended by Officers is an improvement over that as notified, it requires further refinement and may be assisted by some diagrams to help further clarify what it is seeking to capture.

5.19. **Outdoor living space – Rule 14.6.2.10:** This rule has been largely addressed above in the MRZ section. I note that the HRZ rule correctly applies the MDRS standard, but also includes a reduction in the outdoor living space required for smaller studio and one-bed units. The Kāinga Ora submission supported the notified rule. I agree that the reduction in required outdoor area is appropriate and commensurate with the smaller sizes of these units. It is also reflective of the HRZ locations which are invariably in close proximity to larger commercial centres and areas of public open space.

5.20. **Building coverage – Rule 14.6.2.12:** The minor amendments to the rule to exempt eaves and overhangs up to 650mm as recommended by officers are discussed above. The Kāinga Ora submission sought that building coverage in the HRZ be increased to 60% as a means of further differentiating MRZ and HRZ zones. Kāinga Ora are no longer pursuing this submission point and therefore are accepting of the Officer recommendation that building coverage remain at 50%.

6. Papakāinga

6.1. The Operative Plan currently provides for Papakāinga/ Kāinga Nohoanga forms of housing to meet the needs of mana whenua through a specific zone which applies to several small pockets of Māori land i.e. land held under the Te Ture Whenua Māori Act 1993. The Kāinga Ora submission sought that provision of specific housing typologies to meet the cultural needs of mana whenua be broadened in its application so it was a matter that had a clear pathway across all residential zones.

6.2. I understand from Officer reports that Officers have been engaging with mana whenua and in particular have carefully considered the submission made by Te Hapū o Ngāti Wheke (Rāpaki) Rūnanga (#695) to develop a set of planning provisions that align with the aspirations of

mana whenua. Provided mana whenua have been able to be properly engaged in the process then I am happy to defer to the solution that has been developed.

6.3. I note that Officers have recommended approval of the text changes sought by Kāinga Ora to Strategic Objective 3.3.3(a)(ii) which broadens the 'landing place' of Papakāinga/ Kāinga Nohoanga to encompass the 'urban area' rather than being limited to Māori land. Amendments to Objectives 3.3.4(b)(ii) and 3.3.7(a)(v) and the new Policy 14.2.3.9 recommended by Officers likewise seeks to "Recognise the benefits of providing housing suited to Ngāi Tahu whānui within the relevant residential zones". Mr Kleynbos[15] likewise recommends a series of amendments to the residential policy framework (Policies 14.2.3.9, 14.2.5.7, 14.2.5.8, Objective 14.2.5) to provide clear policy support for alternative housing typologies that meet cultural needs.

7. ASSESSMENT MATTERS

7.1. The key set of assessment matters that are in play for multi-unit developments are those that are triggered by the 'urban design rule' for 3+ units. PC14 continues the Operative Plan approach of a 'long list' that extends to over 40 individual matters (Rule 14.15.1). The Enabling Act was quite clear in its direction to facilitate increased housing opportunities. Part of this enablement was a restricted discretionary activity status (rather than full discretion). The Kāinga Ora submission raised concerns that the length and complexity of the assessment matters is such that in practice multi-unit developments are subject to a fully discretionary activity status given both the breadth and the level of detail proposed in the assessment matters. In my experience, 'long-list' approaches mean that it is easy to 'lose site of the wood for the trees' as there are simply too many matters in play with too much level of detail to work through. Invariably the optimal design solutions for one matter result in a compromised outcome for another, such that any design has to be assessed 'in the round' rather than as a point-by-point box ticking exercise.

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[15] Ibid, paras. 9.1.9-12 and table on pg. 181

7.2. The Kāinga Ora submission proposed a more focussed set of assessment matters that nonetheless still properly enabled Council and decision makers to exercise an appropriate level of control over built form and amenity outcomes commensurate with a medium density residential environment. The more focussed set of provisions sought by Kāinga Ora is conceptually similar to the well-established 'short list' approach to urban design assessment adopted in the Commercial Zones (Rule 15.14.2.6). The Commercial Zone assessment matters provide seven simple, clear matters of assessment. In my experience the 'short-list' approach still provides for an appropriate level of design assessment to ensure good outcomes are delivered. This is despite these large-scale commercial projects invariably being far more complex and visually prominent than typical multi-unit developments. I note that PC14 Officer recommendations are not to amend the approach in the Commercial Zones, apart from the introduction of some additional matters that deal specifically with tall buildings.

7.3. Mr Hattam assesses the alternative set proposed in the submission[16]. I agree with him that the two options address the same core principles, and that the main difference is in the level of complexity and the level of detail provided. That is the key point of the relief sought – namely to reduce the level of complexity. He raises concerns that "whilst they identify things to be considered, they do not point to an expected outcome". I again agree – the point of assessment matters is to identify the topic or matter to be assessed, not to proscribe specific design solutions or outcomes in recognition that contexts vary and what might be an appropriate outcome in one circumstance may be a poor design outcome in another setting.

7.4. I agree with Mr Hattam that consideration of Crime Prevention Through Environmental Design ('CPTED') is a topic that should be open to assessment (added as clause (vi)), as should explicit consideration of site layout (incorporated into clause (i)). I have also recommended that mechanical plant be included in matter (iv) to ensure consideration of the amenity effects of its design and location can be assessed.

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[16] Mr Hattam, paras. 206-217

7.5. I therefore recommend that the existing assessment matters be deleted and replaced with a more focussed set of assessment matters as follows:

Rule 14.15.1

(i) *Whether the design and layout of the development is in keeping with, or complements, the scale and character of development anticipated for the surrounding area and relevant significant natural, heritage and cultural features.*

(ii) *The relationship of the development with adjoining streets or public open spaces including the provision of landscaping, and the orientation of glazing and pedestrian entrances;*

(iii) *Privacy and overlooking within the development and on adjoining sites, including the orientation of habitable room windows and balconies;*

(iv) *The provision of adequate outdoor living spaces, outdoor service spaces, waste and recycling bin storage, and the location and design of mechanical plant, including the management of amenity effects of these on occupants and adjacent streets or public open spaces;*

(v) *Where on-site car parking is provided, the design and location of car parking (including garaging) as viewed from streets or public open spaces;*

(vi) *Crime Prevention Through Environmental Design (CPTED) and the delivery of a safe environment for both occupants and users of any adjacent streets or public open space areas.*

7.6. Turning to assessment matters more broadly, I agree with the proposed rationalised links between the built form rule breaches and the applicable matters of discretion that are recommended by Mr Kleynbos and Ms Blair.

7.7. I likewise generally agree with the revised content of the assessment matters, subject to the following discrete areas of disagreement:

7.8. Rule 14.15.3 addresses impacts on neighbouring properties. These matters are triggered by breaches of the building setback rule. I do not agree that these matters should include clause (vi) “fire risk mitigation incorporated to avoid horizontal spread of fire across boundaries”. This is a matter that is properly dealt with under the Building Act.

7.9. For the reasons discussed above in the policy assessment regarding reverse sensitivity for non-residential activities located within residential zones, I do not consider that clause (vii) is appropriate "reverse sensitivity effects on existing lawfully established non-residential activities". A similar clause should be deleted from 14.15.4(v).

7.10. The parts of Rule 14.15.3(x) that references the lack of communal open space for tall buildings should be removed as a consequential amendment to my above discussion on this matter.

8. OTHER MATTERS

8.1. **Chapter 8 – Subdivision, Rule 8.6.1 minimum net site area and dimension:** Clause (c) of the rule specifies that allotments in the MRZ and HRZ zones are to have a minimum dimension of 10m. This requirement is combined with a minimum site area requirement for vacant sites of 400m^2 in the MRZ and 300m^2 in the HRZ (Table 1(a) and (c)).

8.2. The Kāinga Ora submission sought that rather than be subject to a minimum vacant lot requirement, the rule should instead be based on a minimum shape factor requirement of 8m x 15m. This alternative control is being sought on a consistent basis across the various Teir 1 IPI processes by Kāinga Ora. I note that architectural testing (by Tauranga City Council[17]), has recently been undertaken on a 8m x 15m shape factor. This testing concluded that this dimension will be capable of accommodating a dwelling in compliance with the MDRS of building height, height in relation to boundary, setbacks, building coverage, outdoor living space, outlook space, windows to street and landscaping.

8.3. Given that a complaint unit can be accommodated, the proposed shape factor approach is considered to be more effective and efficient in both enabling development whilst concurrently ensuring that new vacant lots are only created where they are capable of plausibly containing a compliant unit.

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[17] S32-eval-report-vol8.pdf (Tauranga.govt.nz) https://www.tauranga.govt.nz/Portals/0/data/council/city_plan/plan_changes/pc33/files/s32-eval-report-vol8.pdf

8.4. I therefore recommend that 8.6.1(c) be amended as follows:

Allotments in the Medium Density and High Density Residential Zones shall have a minimum dimension of 8m x 17m ~~10m~~…

8.6.1 - Table 1

a	*Residential Suburban* *~~Medium Density Residential Zone~~*	*450m²* *~~400m² for a vacant allotment~~*
~~c~~	*~~High Density Residential Zone~~*	*~~300m² for a vacant allotment~~*

8.5. **Chapter 8 – Earthworks, Rule 8.9.2.1.** Earthworks (outside of Flood Management Areas) are permitted through Rule 8.9.2.3(P1), provided they comply with the volumes specified Table 9. Clause (d) of that table limits the total volume of earthworks to 20m^3 per site in the residential zones. As noted in the Kāinga Ora submission, whilst these volumes do not include earthworks associated with a Building Consent i.e foundation construction, in my experience the 20m^3 limit is invariably triggered for low density suburban development let alone medium density outcomes. As an example, a standard driveway for a single dwelling is 4m wide by say 30m long = 120m^2. To build the driveway requires existing earth to be removed to a depth of 20cm, and then replaced with basecourse prior to being gravelled or asphalted. There is no change to existing ground levels. The cut is 24m^3 (120m^2 x 0.2m depth), with fill being the same, resulting in 48m^3. The rule threshold is therefore considered to be unrealistically low.

8.6. In my experience I cannot recall a multi-unit project where the rule has not been triggered, yet I likewise cannot recall a project where earthworks have generated effects worthy of specific assessment. The key effects that need to be controlled with earthworks are erosion and sediment control during construction, and permanent changes to finished ground levels that would result in overlooking of neighbouring properties i.e. forming raised mounds or terraces. Earthworks in sensitive locations (e.g. flood management areas, adjacent to

waterways, or significant cultural or ecological sites) are all subject to separate rules.

8.7. I therefore agree with the submission that the rule should be amended so that the volume is net fill above existing ground levels and the volume increased to 50m^3. The modest increase in volume still enables larger projects involving significant earthworks to be subject to assessment. It also captures projects that are seeking to markedly increase ground levels above pre-existing conditions. I recommend the increase in volume be accompanied by a requirement that the works be accompanied by the implementation of an erosion and sediment control plan, reflecting the increase in volumes involved. If Council receives complaints about the site conditions and finds that the ESCP is not effective then the activity will be in breach of the permitted activity standard and enforcement action can be taken.

8.8. The amendments will significantly reduce unnecessary consenting whilst still enabling controls in situations where effects requiring assessment are more likely. As such the amendment is more effective and efficient, and better balances costs and benefits, relative to the operative provision.

Table 9(d)

residential and Papakāinga/Kāinga Nohoanga	*i. All residential zones…*	*20m^3/ site or* *<u>50m^3/site net fill above existing ground level where an effective erosion and sediment control plan is in place for the duration of the earthworks</u>*

8.9. **Chapter 9, Rule 9.4.4.1.1 (P12) – earthworks near street and park trees:** This rule controls earthworks adjacent to trees located in road reserves and public open space. As the rule is currently drafted, the only permitted pathway for such earthworks is where they are "undertaken by, or under the supervision of, a works arborist employed or contracted by the Council or a network utility operator".

8.10. The Kāinga Ora submission sought that the reference to who employs the arborist be deleted, thereby enabling works to be undertaken under the supervision of an arborist employed by other agencies or homeowners. Having been involved in numerous resource consents for Kāinga Ora and private developers, I can confirm that this rule is frequently triggered by any multi-unit development that takes place in a location where there are trees located in the road reserve. Invariably the construction of foundations, and/or the formation of a vehicle crossing results in earthworks within 5m of the base of the tree. In my experience such consents are invariably granted subject to conditions that the works be undertaken under the supervision of an appropriately qualified arborist. The rule as currently drafted is therefore resulting in a high proportion of multi-unit projects triggering the need for resource consent (costs) with little material benefit over what could be achieved through standard conditions requiring that the works be appropriately supervised.

8.11. The amendment sought by Kāinga Ora does not remove the need for arborist supervision. It simply seeks to broaden the scope of the rule so that non-Council agencies have a similar permitted pathway. The rule likewise only provides a permitted pathway where the trees in question are small (6m in roads or 10m in parks), and therefore works adjacent to any large mature trees remain subject to a site-specific assessment.

8.12. Mr Toby Chapman (Council arborist) has opposed the relief sought on the basis that Council knows that the arborists it appoints are appropriately qualified and have also been able to be trained by Council regarding specific issues in play with street trees. He appears to be concerned that amending the rule will result in 'cowboy' arborists being engaged by other parties[18].

8.13. I agree that the supervising arborist needs to be appropriately trained and qualified. The simple solution is for Council to maintain a list of approved arborists. This is conceptually no different from the urban design certification approach for commercial developments, whereby

[18] Mr Chapman, Paras. 26-38

Council holds a list of approved urban designers (following an open 'Request for Proposal' process).

8.14. As an alternative, Mr Chapman suggests that the 5m metric could be replaced with a 'tree protection zone radius', which is defined in the Plan (via PC14) as meaning "*the protection area around a scheduled tree, which is equivalent to 15 times the trunk diameter at 1.4m above ground level, where activities and development are managed to prevent damage to a scheduled tree. The maximum extent of a tree protection zone radius is restricted to 15m*".

8.15. Given that the permitted pathway is only available to trees less then 6m (roads) or 10m (parks) this alternative may work. For instance, 6m high trees are seldom more than approximately 200mm in diameter at 1.4m trunk height. 15 x 0.2 = 3m which whilst not providing a permitted pathway for all works does reduce the likelihood of the rule being triggered in the first place.

8.16. I therefore recommend that the rule be amended as follows:

Rule 9.4.4.1.1(P12)(a)

a. Earthworks within 5 metres of the base of any tree…	*Activities shall be undertaken by, or under the supervision of, a works arborist employed or contracted by the Council or a network utility operator<u>, or who is on a Council approved list….</u>*

8.17. If however the Panel have concerns regarding the 'approved list' approach, then the alternative option for resolving the issue as put forward by Mr Chapman is also a valid response, albeit with a somewhat different regulatory outcome.

a. Earthworks within ~~5 metres of the base of any tree~~ the tree protection zone radius…	*Activities shall be undertaken by, or under the supervision of, a works arborist employed or contracted by the Council or a network utility operator…*

9. CONCLUSION

9.1. The strategic direction of the Enabling Act, the NPS-UD, and the Spatial Plan, is to enable the management of urban growth through intensification. The District Plan rule framework needs to be integrated with this strategic direction.

9.2. The national direction contained in the NPS-UD requires the Council to provide for well-functioning urban environments which are able to develop and change over time. This national direction seeks to specifically acknowledge that urban environments need to provide sufficient opportunities for the development of housing and business land to meet demand and the needs of people and communities as well as future generations. In my opinion, the underlying principles that have informed the proposed changes set out in the Kāinga Ora submissions for PC14 will better align the provisions with the NPS-UD and the purpose and principles of the RMA as amended by the Enabling Act.

9.3. In conclusion, I am of the opinion that the amendments sought by Kāinga Ora (as outlined and refined in this evidence) are appropriate and will assist in striking the balance controlling the effects of development and enabling opportunities to facilitate the outcomes of the District Plan and PC14.

9.4. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the Plan and other relevant statutory documents including the NPS-UD.

Dated 20 September 2023