

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Plan Change 14 Housing and
Business Choice pursuant to Part 5, subpart
5A and Part 6 of Schedule 1 of the Resource
Management Act 1991

MINUTE 20:

DIRECTIONS FOR PLANNING WITNESS EXPERT CONFERENCING ON:

**OBJECTIVES AND POLICIES REQUIRED TO BE INSERTED INTO THE DISTRICT
PLAN BY SCHEDULE 3A RESOURCE MANAGEMENT ACT 1991**

AND

**METHODS TO IMPLEMENT NPS-UD 2020 POLICY 3(a), BUILDING HEIGHTS AND
DENSITY OF URBAN FORM IN THE CITY CENTRE**

- [1] This is the twentieth procedural Minute to be issued by the Independent Hearings Panel (IHP) established by the Christchurch City Council (the Council) to conduct the hearing of submissions on proposed Plan Change 14 Housing and Business Choice (PC 14) notified by the Council and to make recommendations to the Council, after the hearing of submissions is concluded, pursuant to Part 5, subpart 5A and Part 6 of Schedule 1, of the Resource Management Act 1991 (RMA).
- [2] The purpose of this Minute is to:
- (a) Direct planning experts to attend expert witness conferencing on the topics of:
 - (i) the inclusion of objectives 1 and 2 and policies 1-5 as required by Schedule 3A RMA, clause 6 (mandatory objectives and policies), and integration into the Christchurch District Plan, and
 - (ii) giving effect to NPS-UD 2020 Policies 3 and 4 through the objectives and policies of the Christchurch District Plan.
 - (iii) methods to implement NPS-UD Policy 3(a) in the City Centre zone.
- [3] The matters raised below should not be read as suggesting any preliminary or interim findings on the part of the IHP; the request we are making to expert planning witnesses is intended to assist the IHP in its inquiry.

Planners Expert Conferencing

Objectives and Policies

- [4] In the Plan Change as notified (notified version) the Council proposed that the mandatory objectives and policies and the implementation of NPS-UD Policies 3 and 4 as “related objectives and policies” should be inserted in the plan in Chapter 3 *Strategic Directions* and Chapter 14 *Residential*, 15 *Commercial* and 16 *Industrial*.
- [5] Ms Oliver’s s42A Report recommended further drafting changes to Chapter 3 after reflecting on submissions and further submissions received on PC 14 (revised version)¹ and her reconsideration of the placement of the mandatory objectives and policies in the district plan.

¹ As corrected on 10 October 2023

- [6] During the hearing of submissions and evidence in week 1, that were generally focused on the strategic direction of PC 14, the IHP tested with Ms Oliver the placement of the mandatory Objective 1 and whether it should be included in or stand alongside Objective 3.3.1 and 3.3.2 as having primacy over the remaining Objectives in Chapter 3 or be subordinate to Objectives 3.3.1 and 3.3.2.
- [7] A related issue arose as to whether it was lawful for the wording of any or all the mandatory objectives and policies to be modified in any way, as was proposed by Ms Oliver's revised version, which sought to qualify the meaning of Objective 1 by requiring the objective be met in a way that achieved a subset of outcomes.
- [8] The IHP note that in contrast to the way in which Ms Oliver proposed to deal with mandatory Objective 1, the Council has proposed to simply uplift mandatory Objective 2 and Policies 1 - 5 as they appear in clause 6, Schedule 3A of the RMA and include them into Chapter 14 Residential as new Objective 14.2.3 and new Policies 14.2.3.1 - 14.2.3.5. We note that there are also a number of amendments to other objectives and policies in Chapter 14, which we anticipate will be explained in the residential and QM hearing topics in the coming weeks.
- [9] The Council has also proposed amendments and additions to the Objectives and Policies in Chapter 15 Commercial to address the matters in NPS-UD Policy 3 and 4. Regarding Policy 3(a), as it applies to the centre zones, the Council has proposed that it be reflected in amendments to policy 15.2.4.1 and additional changes are intended by the Council to implement NPS-UD Objective 1 (i.e. mandatory Objective 1) and Policy 1 to provide for a well-functioning urban environment, or as the Council submits "density done well", either as consequential, supporting or related objectives and policies or an all of NPS-UD approach.
- [10] The IHP notes that there are proposed amendments and additions to Chapter 16 Industrial to address the matter of brownfield development. However, it is not necessary to address the changes in this chapter as part of this direction.
- [11] The IHP acknowledge the complexity of integrating the required objectives and policies into the district plan in a way that gives effect to a national policy statement that post-dates the operative district plan without creating unintended consequences, which might of themselves take PC 14 outside of the scope required by s80E.
- [12] In terms of the above context, we ask the planning expert witnesses to address the following questions:

Structure – where is the most appropriate place to locate the mandatory objectives and policies in the plan?

- (a) Should all the mandatory two objectives and five policies be included in the Chapter 3 Strategic Directions or is mandatory Objective 1 appropriately located in Chapter 3 and mandatory Objective 2 and Policies 1-5 located in chapter 14, or somewhere else in the plan?
- (b) If some or all of the mandatory provisions are appropriately located in Chapter 3, should some or all have primacy along with Objectives 3.3.1 and 3.3.2 or should they be subordinate to Objectives 3.3.1 and 3.3.2?
- (c) Is it agreed that Objectives and Policies in chapter 14 and 15 (or other chapters in the plan) are sub-ordinate to Chapter 3 strategic directions. If so, does that create a hierarchy and mean that the mandatory Objective 2 and Policies 1-5 are subordinate to mandatory Objective 1? Does this give effect to the mandatory requirements of schedule 3A?

Drafting - Is it appropriate to modify the drafting of the mandatory objectives and policies to fit with the drafting of the existing objectives and policies in the plan?

- (d) Is it appropriate to incorporate the mandatory objectives and policies into existing objectives and policies; for example, as proposed by Ms Oliver in the revised version (as recommended in Chapter 3) or do they need to be incorporated as they appear in Schedule 3A, clause 6 (as proposed in Chapter 14) without modification?
- (e) Should mandatory Objective 1 stand as its own new objective and have the same primacy as objectives 3.3.1 and 3.3.2?

Matters to consider.

[13] When planning witnesses are considering the location and hierarchy of the mandatory objectives and policies, we would like them to consider:

- (a) The hierarchy of objectives between 3.3.1 and 3.3.2, with objectives 3.3.3 – 3.3.6 and between objectives in Chapter 3 with the objectives and policies in other chapters in the district plan.
- (b) The relationship between objective 3.3.1 and mandatory objectives 1 and 2.

- (c) What are the implications of inserting the mandatory objectives and policies into existing objectives and policies?
 - (i) Are there unintended consequences such as modifying the meaning of existing objectives and policies that makes them inconsistent with or out of step with national direction in the NPS-UD or other higher order statutory documents?
 - (ii) Do they change the meaning of other provisions (including the objectives, policies and rules) within the district plan that are not proposed to be amended by PC 14?
- (d) How would the inclusion of the mandatory objectives and policies into other chapters in the district plan work with the hierarchy of objectives in Chapter 3?

Methods to implement NPS-UD Policy 3(a), building heights and density of urban form in the City Centre

[14] During week 2 the IHP tested with Council and a number of submitters and their witnesses the issue of height limits in the City Centre zone and alternative methods to enable building heights and density of urban form *to realise as much development capacity as possible, to maximise benefits of intensification*. Various witnesses proposed modifications to height and density to provide for well-functioning urban environments, including access to sunlight, wind protection and protection of heritage values and amenity values. A range of activity classifications, rules and matters of discretion, were proposed.

[15] We would be assisted if the expert planning witnesses, who have provided evidence on the topic of Centre City building heights and density, could also conference and propose alternative provisions that:

- (a) Provide for the operative Christchurch District Plan Central City rule framework (i.e. do not increase the level of regulation (or other methods), for buildings up to 28m (or as limited by an existing operative qualifying matter).
- (b) Enable as much development capacity as possible to maximise benefits of intensification and provide for appropriate matters of control or discretion beyond 28m, both with or without a maximum building height. This could include

differentiating matters of control or discretion in some locations or at some building heights.

[16] These provisions could include appropriate use of alternative methods such as certification, limited notification, or other methods. For the avoidance of doubt, such methods may make the level of development more permissible than the operative plan where appropriate.

[17] When considering (a), (b) and [16] above, the IHP directs witnesses to fully consider the combined effect of all relevant proposed controls on realisable development capacity, not 'building height' or any other metric in isolation. This is important given the Council's proposed approach of differentiating realisable horizontal development capacity (tower dimensions, setbacks and separations) depending on the vertical height of a building.

[18] We anticipate that such conferencing may be on a without prejudice basis.

Drafting of objectives, policies, and other methods

[19] We ask the planners to undertake the above drafting exercises, and then collectively test the approach pursuant to s32AA, and record their conclusions in a tabular form, identifying any differences in opinion as part of a Joint Witness Statement.

[20] We direct that a Joint Witness Statement be filed with the Secretariat by 3pm on Monday 24 November 2023.

[21] Should the parties consider that the above exercise would be assisted by an independent facilitator, they are to contact the Secretariat to organise the appointment and make any other necessary arrangements required by the parties.

Dated 30 October 2023



Cindy Robinson

Chair

for Independent Hearings Panel