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

RECOMMENDATIONS REPORT: PART 1 - INTRODUCTION, LEGISLATIVE REQUIREMENTS AND SCOPE ISSUES, GENERAL THEMES AND SUBMISSIONS

Table of Contents

1. INTRODUCTION

Tēnā koutou katoa

Ngā mihi nui ki te mana whenua, Ngāi Tūāhuriri, ngā kaikaunihera me ngā kaimahi o te Kaunihera o Ōtautahi, ngā whānau tuku kōrero me ngā kaitohutohu kua tautoko tēnei kaupapa o Housing and Business Choice Plan Change 14.

Ngā mihi nui mō ngā mahi whaikōrero me ngā mahi pūrangiaho o te wā.

Nō reira tēnā koutou tēnā koutou tēnā koutou katoa.

To everybody who has supported the process of the proposed Housing and Business Choice Plan Change 14: Ngāi Tūāhuriri, the Councillors and staff of Christchurch Council, and the submitters, experts and advisers, we thank you for your work, participation and contributions.

[1] The Independent Hearing Panel is pleased to present our Recommendations Report on Plan Change 14 to the Council, for Council consideration and decision in accordance with cl 99 and 100 of Part 6 of Schedule 1 to the Resource Management Act 1991.

[2] The Panel acknowledges the considerable work of Council officers and their advisors and the more than 1,000 submitters and further submitters who made submissions on the notified Plan Change 14 and to those who participated in the ten-week hearing process. The Panel also extends our sincere thanks to Ms Jo Daly, who performed the role of Director, leading the secretariat services and administrative support for the Panel, during the preparations for and attendance at hearings and the deliberations period and report writing that followed.

[3] The Plan Change 14 hearing process has been challenging for all who participated, both in terms of the legal limitations of the Intensification Planning Instrument and the delays due to the Council request in December 2023 to place matters on hold to clarify the Government's signalled policy changes. Despite the uncertainty that occurred, the Panel has been clear that we must complete the process, as required under the law as it currently stands.

[4] The Council's approach to Plan Change 14, was premised on an existing oversupply of housing and business land in Christchurch which therefore justified a broad range of proposed qualifying matters, some of which were based on an over simplified and aggregate city wide built form preference. The Panel found that this approach in effect

withheld intensification from significant areas within Christchurch, and did not adequately interrogate housing need and the consequences for affordability of housing in areas where it is needed the most. The Council's use of wide-ranging qualifying matters and the changes that were proposed to the provisions of the operative Christchurch District Plan, also impacted on status quo development rights throughout the residential zones, which as we have found is not permitted within the scope of the Intensification Planning Instrument.

[5] As a consequence of the limitations of the legal scope of Plan Change 14 we have found that many of the provisions that the Council proposed, and that some submitters requested, although appearing to have merit in a broader resource management sense, we have not been able to support or recommend to the Council that it should adopt them.

[6] We understand that many submitters will seek to hone in on parts of our Report that relate to the issues and locations within the City of most concern to them. However, we encourage them to also read Part 1 of the Report, as it sets out the relevant statutory background and some of the key themes that emerged during the hearing that are relevant to the Christchurch context, not all of which are able to be resolved through this streamlined and housing intensification focused plan making process.

[7] Our report sets out our Recommendations in full, which is to be read in its entirety, however at a high level our recommendations can be summarised as follows.

2. SUMMARY OF RECOMMENDATIONS OF THE FULL REPORT

[8] The following is a high level summary of the Recommendations, and not a substitute for the details and reasons that are provided in Parts 2 - 7 of the Report and in the recommended provisions in Part 8, Appendix G. Consequential mapping changes are directed in Part 8 at Appendix I.

The City Centre and the Residential Areas within the Four Avenues:

[9] The Panel recommends that building heights in the City Centre Zone are:

(a) Permitted activity up to 28m.

(b) Controlled or restricted discretionary activities between 28 and 45m with a focus on urban design controls and other matters of discretion.

(c) Restricted discretionary activity for buildings over 45m, with a focus on urban design controls and other matters of discretion.

(d) We have recommended that the Council proposed maximum height of 90m is not required, and the provisions as we recommend will provide for building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification.

(e) We do not recommend capping building heights adjacent to Cathedral Square, New Regent Street, Cathedral Square or Victoria Street. Instead, we recommend refinements and additions to the relevant matters of control and discretion to address potential impacts on those heritage items, settings and important public spaces.

(f) We recommend that the 'walkable catchment' from the City Centre Zone is limited to the 'Four Avenues'. Within that area the High Density Residential Zone, with heights of between 22m and 39m in the Central City Residential Precinct in some areas of that zone, and the existing provisions of the Central City Mixed Use Zone, and Central City Mixed Use South Frame Zone, provide for the required heights and density of urban form required by Policy 3 of the NPS-UD.

(g) Within the Four Avenues, we have, due to the limitations of the Intensification Planning Process, not recommended the addition of new heritage items, heritage settings, Residential Heritage Areas, heritage interface areas or new and extended Residential Character Areas. We leave these new heritage issues to be addressed through Plan Change 13, which is a standard planning process. We have recommended the deletion of some heritage items in response to submissions, but recommend other requests are rejected for the reasons set out in Part 5 of the Report.

Town Centres: Riccarton, Hornby and Papanui/Northlands

[10] The Panel recommend that:

(a) The request by submitters to 'upzone' Riccarton, Hornby and Papanui/Northlands to a Metropolitan Centre Zone are rejected and those centres remain a larger Town Centre Zone.

(b) That the permitted building heights within the commercial in the larger Town Centre Zone should be increased from the notified 22m to 32m on the basis of the Council's urban design advice, and in response to submissions.

(c) That surrounding those larger Town Centres, within an approximate distance of 800m of a central location accounting for street layout, natural features and other matters, as described in Part 3 of the Report, residential land should be zoned for high density, but only to a permitted height of 14m, as notified in Plan Change 14. We recommend that the additional height precincts adjacent to the Town Centre of Riccarton, be rejected.

Town Centres Zones: Shirley/Palms, Eastgate/Linwood, Belfast/Northwood and North Halswell

[11] The Panel recommends that,

(a) The Town Centre zones be confirmed, and that the permitted building heights within those zones be confirmed at 22m.

(b) That within a distance of approximately 600m of a central location of each of those zones (except North Halswell), accounting for street layout, natural features and other matters and as described in Part 3 of the Report, are zoned for high density, with a permitted building height of 14m.

(c) For North Halswell we recommend that the relevant residential zones adjacent to that centre be zoned for Medium Density, but no less enabling than the status quo.

Local Centres: Merivale, Bush Inn/Church Corner, Sydenham North and Ferrymead

[12] The Panel recommends that:

(a) The larger Local Centres be adopted as notified, and that permitted building heights within those centres are increased to 22m.

(b) That within a distance of approximately 400m of a central location of each of those zones, accounting for street layout, natural features and other matters as described in Part 3 of the Report, are zoned for high density, with a permitted building height of 14m.

(c) That the proposed rezoning of Industrial zones adjacent to centres as Mixed Use Zones are rejected on the basis that they remove existing development rights.

Local Centres: Other

[13] The Panel recommends that:

(a) The medium and small Local Centres be amalgamated as recommended by the s42A Report authors are accepted and that permitted building heights within those centres are 14m.

(b) That within a distance of 200m of a central location of those zones, the Medium Density Residential Zone, provides the appropriate commensurate response.

Neighbourhood Centres

[14] The Panel recommends that:

(a) The Neighbourhood Centre zones, as notified in PC 14 (with a few additions), are confirmed and that the permitted building height of 14m apply within those zones.

(b) The Medium Density Residential Zone provides the appropriate commensurate response adjacent to those centres.

Relevant Residential Zones

[15] The Panel has recommended that, as a baseline, the Medium Density Residential Standards be applied to all relevant residential zones, subject to additional height in areas near centres. The exceptions being:

(a) Where an appropriate qualifying matter is recommended,

(b) Where in the case of areas affected by coastal hazards or tsunami hazards the operative Christchurch District Plan zoning should be retained; and

(c) In some parts of the Port Hills where the Residential Hills Zone is subject to outline development plans, the Operative Christchurch District Plan zoning should be retained.

Qualifying Matters

[16] The Panel recommends that, for reasons of the legal limitations of the Intensification Planning Instrument, and on merit that the following qualifying matters are not accepted:

(a) Sunlight Access

(b) Low Public Transport Accessibility Area

(c) Riccarton Bush Interface Area

(d) New heritage items and settings (to be left to Plan Change 13)

(e) Residential Heritage Areas, Heritage Interface and new and extended Residential Character Areas (to be left to Plan Change 13)

(f) Significant and Other Trees (to the extent they are in addition to the operative Christchurch District Plan provisions)

(g) City Spine Transport Corridor Setback

(h) Submitter requested qualifying matters including Inland Lyttelton Port, localised stormwater and flooding issues and general earthquake recovery.

[17] The Panel recommends that the following qualifying matters are accepted or accepted in part, with amendment from the notified version in response to changes in Council's position and submissions:

(a) Christchurch International Airport Noise Influence Area (amended to permit some intensification with appropriate acoustic insulation and ventilation)

(b) Existing heritage items and settings (with some requests to delist are recommended to be accepted, as set out in Part 5 of the Report)

(c) Existing outstanding natural features and landscapes, sites of ecological significance, indigenous vegetation, sites of cultural significance, and waterbody setbacks

(d) Slope instability and natural hazard areas, Coastal erosion (modified), Tsunami Management (modified)

(e) Wastewater Constraints (Vacuum Sewer)

(f) Setbacks for Rail, Electricity Transmission corridors and industrial zone interfaces, including the Ravensdown site at Hornby

(g) Existing heights and density in Lyttelton due to heritage values

(h) Lyttelton Port Overlay.

Tree Canopy and Financial Contributions Provisions

[18] The Panel has recommended that the Tree Canopy and Financial Contributions provisions be rejected in their current form as the rules fail to meet the legal requirements of a financial contribution rule. The Panel has acknowledged the importance of tree canopy cover to Christchurch on a city wide basis (not just residential areas) but has found that the method proposed in Plan Change 14 to be inappropriate in the context of the Intensification Planning Instrument.

Rezoning requests

[19] The Panel has recommended only a few changes to the zones as notified in Plan Change 14 for the reasons in Part 7 of the Report.

Cindy Robinson – Chair

David McMahon – Deputy Chair

Karen Coutts

Alan Matheson

Ian Munro

29 July 2024

3. GLOSSARY

C	Controlled Activity
CCMUZ	Central City Mixed Use Zone
CCMUZ-SF	Central City Mixed Use Zone South Frame
CCRP	Christchurch Central Recovery Plan
CCZ	City Centre Zone
CER Act	Canterbury Earthquake Recovery Act 2011
CERA	Canterbury Earthquake Recovery Authority
Council/ CCC	Christchurch City Council
CRPS	Canterbury Regional Policy Statement
D	Discretionary Activity
District Plan	See 'the Plan'
FUZ	Future Urban Zone
GCSP / Spatial Plan	Greater Christchurch Spatial Plan
Housing Supply Amendment Act	Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021
HRZ	High Density Residential Zone
IGZ	Industrial General Zone
IHP / the Panel	Independent Hearings Panel
IPI	Intensification Planning Instrument
ISPP	Intensification Streamlined Planning Process
JWS	Joint Witness Statement
LLRZ	Large Lot Residential Zone
LCZ	Local Centre Zone
LURP	Land Use Recovery Plan
MDRS	Medium Density Residential Standards (RMA, Part 2, Schedule 3A)
MRT	Mass Rapid Transport
MRZ	Medium Density Residential Zone
NC	Non-complying Activity
NCZ	Neighbourhood Centre Zone
NPS	National Planning Standards 2019
NPS-UD	National Policy Statement on Urban Development 2020
ODP	Operative District Plan
ONF	Outstanding Natural Features
ONL	Outstanding Natural Landscapes

OWM	Open Space Water and Margins
P	Permitted Activity
PC 13	Proposed Heritage Plan Change 13
PC 14	Proposed Housing and Business Choice Plan Change 14
QM	Qualifying Matter
RCA	Residential Character Area
RCC	Residential Central City Zone
RD	Restricted discretionary activity
RHA	Residential Heritage Area
RMA / the Act	Resource Management Act 1991
RNN	Residential New Neighbourhood Zone
s32 / s32AA	Section 32 / Section 32AA of the RMA (evaluations)
s42A Report	Section 42A report
SCS	Sites of Cultural Significance
SES	Sites of Ecological Significance
SPF	Specific Purpose (Flat Land Recovery) Zone
SPOARC/ Ōtākaro Avon River Corridor	Specific Purpose (Ōtākaro Avon River Corridor) Zone
TCZ	Town Centre Zone
the Plan / the District Plan	Christchurch District Plan
UFP	Ōtautahi Christchurch Urban Forest Plan 2023

4. BACKGROUND

[20] In response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Housing Supply Amendment Act), now incorporated into the Resource Management Act 1991 (RMA/the Act)[1], the Christchurch City Council (the Council) notified an Intensification Planning Instrument (IPI) known as Plan Change 14 (PC 14). The purpose of PC14 is to incorporate the Medium Density Residential Standards (MDRS) into all relevant residential zones, subject to a number of qualifying matters (QMs), and proposed changes to residential and non-residential urban zones to give effect to Policy 3 and Policy 4 of the National Policy Statement – Urban Development 2020 (NPS-UD), into the Operative Christchurch District Plan (ODP).

[21] This Report has been prepared by the Independent Hearings Panel (the Panel) established by the Council to hear and make recommendations on submissions and the provisions of the IPI following an Intensification Streamlined Planning Process (ISPP) set out in subpart 5A of Part 5, and Part 6 of Schedule 1 to the Resource Management Act 1991 (the Act).

[22] This Report sets out the Panel's recommendations on the whole of PC 14 as notified, with reasons for consideration and adoption and/or rejection by the Council in accordance with clauses 99 and 100 of Part 6 Schedule 1 to the Act.

[23] The Report is structured into a number of Parts as described in Section 2 below. This part of the Report is Part 1 of 8, and comprises introductory, procedural matters, findings on scope and general matters relating to all subsequent parts. Part 1 is to be read as part of all subsequent parts of the Report. Throughout the Report we refer to various appendices. These are found in Part 8 of the Report.

Preliminary Matters

Panel Members

[24] By Council delegation[2] an Independent Hearings Panel comprising five members was established to conduct hearings of submissions on the IPI and to make recommendations, after the hearing of submissions is concluded to the Council.

[1] All reference to sections in the Resource Management Act 1991, are references to the substantive Act, unless specific reference is made to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Housing Supply Amendment Act)

[2]: Cindy Robinson, David McMahon, Alan Matheson and Ian Munro appointed under Council Officer delegation 1 July 2024, Karen Coutts nominated by Te Rūnanga o Ngāi Tahu and appointed under delegation 24 August 2024

[25] The Panel comprised:[3]

(a) Cindy Robinson (Chair)

(b) David McMahon (Deputy Chair)

(c) Karen Coutts

(d) Alan Matheson

(e) Ian Munro

Conflicts of Interest

[26] Prior to and following appointment, Panel members disclosed actual and potential conflicts of interest which were recorded in an interests register available on the IHP website.[4] The register was maintained and updated throughout the hearing process once submitters were known. Where appropriate some members recused themselves from hearing certain submissions due to disclosed interests. In other cases, Panel members sought the consent of participants to hear matters where there was a known interest.

Quorum and Panel Member Participation

[27] There were a number of occasions Commissioners were absent from hearing proceedings, due to personal circumstances or recorded conflicts of interest. Except where a conflict existed Commissioners watched hearings live or reviewed video recordings for those hearing sessions during their absence.

[28] Commissioners McMahon and Matheson were not present for presentations on matters relating to the Airport Noise QM or submitters' presentations on airport related matters. This included specific submitter presentations during sessions on the morning of Wednesday 12 October, the morning of Tuesday 7 November, the morning of Wednesday 8 November and the morning session of Wednesday 29 November 2023. They were also not present for the hearings on airport related matters on Tuesday 23 April, or the morning session on Wednesday 24 April 2024.

[3] The profiles of IHP members are available at: Independent Hearings Panel - Panel
[4] Register of Interest IHP Commissioners - 9 October 2023

[29] Commissioner Coutts was not present for a submitter presentation on the morning of Wednesday 15 November. She was also not present for hearing days on Thursday 30 November 2023, Tuesday 16 April, Wednesday 17 April and Thursday 18 April 2024.

[30] Commissioner McMahon was not present during hearing sessions on the afternoon of Thursday 26 October, and a morning session on Tuesday 31 October 2023

[31] Commissioner Matheson was not present on Tuesday 21 November, Wednesday 22 November or Thursday 23 November 2023.

Hearing Procedures

[32] Prior to the commencement of hearings, the Panel prepared a draft set of hearing procedures which was pre-circulated for input by Council and submitters. A number of suggested changes were requested, considered, and made following a prehearing meeting held on 1 August 2023. A record of the prehearing meeting and final hearing procedures are available on the website.[5]

Notification and Submissions

[33] PC 14 was notified by the Council on 17 March 2023 and available for public submission until 12 May 2023[6]. Nine hundred and eighty-three (983) submissions were received along with two late submissions. Late submissions were accepted by the Panel and recorded on the website. Following the close of submissions the Council prepared a summary of submissions as required by clause 7 of Schedule 1 to the Act, which was notified on 30 June 2024. Seventy-eight (78) further submissions and three late further submissions were received.

[34] A full list of submitters and further submitters (hereafter referred to as 'submitters') is included in Appendix A to Part 8 of the Report. In each part of the Report we reference some submissions and not others, this does not diminish the significance of all submissions, we have simply made reference to submissions which are representative to issues raised, or where the submitter attended the hearing and contested or supported the position of Council. We have, however considered all submissions and further submissions.

[5] IHP Minute 4: Record of Pre-Hearing Meeting - 11 August 2023 and IHP Hearing Procedures - 23 August 2023
[6] Council Memorandum of Counsel - 5 May 2024

Site Visits

[35] The Panel undertook a preliminary site visit as part of our orientation on 19 and 20 July 2023. The purpose of the preliminary site visit was to familiarise ourselves with the geography of Christchurch, the zoning pattern and areas identified for intensification as part of PC 14 as notified. The Panel was accompanied by the IHP Director and a Council employee driver, who was not involved in the hearing process or preparation of PC 14. Our site visit included the Central City, Town Centres, New Brighton, Sumner and Lyttelton. Further subsequent site visits on foot within the Four Avenues were undertaken. After the hearings had been completed and as part of our deliberations, we undertook additional site visits to many of the town and local centres across the City, as individuals and in groups, as part of our approach to addressing NPS-UD Policy 3(d).

Hearings

[36] Hearings commenced on 10 October 2023 and continued during the following eight weeks, adjourning for 2023 on 30 November 2023. The Panel was scheduled to resume hearings on 30 January 2024 for weeks 9 and 10. However, immediately prior to the Christmas break the Panel received a memorandum from the Council[7] seeking a pause to hearings because it had requested the Minister for the Environment to put PC 14 on hold due to possible changes in policy direction signalled by the incoming government following the elections on 14 October 2023. The Panel sought the views of submitters and issued directions pausing hearings until March and April 2024 while the Council sought clarification from the relevant Minister.[8]

[37] The Panel received another memorandum from Council on 1 March 2024, which included correspondence from the Honourable Chris Bishop, Minister of Resource Management Reform and the Minister of Housing, which required the Council to complete the implementation of the NPS-UD.[9] The Minister indicated that he was considering further directions with regard to the MDRS component of PC 14.

[38] The Panel issued a further Minute on 8 March 2024 confirming our intention to complete the hearing process commencing on 15 April 2024 and continuing 16, 17, 18, 23 and 24 April.[10] In that Minute, the Panel also signalled our intention to complete the hearing of submissions on the whole of PC 14 and to issue a Report on all aspects of PC 14 due

[7] Memorandum of Counsel for Council - 22 December 2024
[8] IHP Minute 32 - 8 January 2024
[9] Memorandum of Counsel for Council - 1 March 2024
[10] IHP Minute 34 - 8 March 2024

to the complexity of unpicking PC 14 completely to separate the NPS-UD Policy 3 response to the implementation of the MDRS across all relevant residential zones.

[39] On 16 April 2024, the Minister published a gazette notice[11] amending the dates upon which the Council is required to make decisions on the Panel's recommendations on parts of the plan subject to NPS-UD Policy 3 and Policy 4 in accordance with RMA, Schedule 1, clause 102 by 12 September 2024, and notify decisions on the Panel's recommendations on parts not subject to Policy 3 and Policy 4 of the NPS-UD by 12 December 2025.

[40] The Panel issued a Minute on 2 April 2024[12] responding to Council Memoranda regarding the separation of decisions and directions to Council regarding its reply to matters raised during the hearings (the Reply).

[41] Having considered the gazette notice, the Panel remained of the view that it was appropriate for it to issue recommendations on all of PC 14, including as it relates to the MDRS, notwithstanding that the Council now had an extension of time to make decisions on the MDRS component.

Appearances

[42] During the hearing process Council was represented by a number of legal counsel and called 60 expert witnesses, including Council officers. Submitters either were represented by legal counsel, called expert evidence, and submitter representatives or appeared in person. A full list of all participants in the hearing is included in Part 8 Appendix B.

Council Role and Approach

[43] The Council, as the proponent of PC 14 appeared throughout the hearing and made legal submissions on all topics. Prior to the hearings the Council prepared 13 reports under s42A of the Act. The purpose of those reports was to present key themes and associated issues that the Council believed the Panel needed to consider. Each report also addressed the Council's position on the scope of submissions, identified provisions

[11] Amended by Corrigendum 31 May 2024 Corrigendum—The Resource Management (Direction for the Intensification Streamlined Planning Process to the First Tranche of Specified Territorial Authorities) Amendment Notice 2024 - 2024-sl2581 - New Zealand Gazette
[12] IHP Minute 36: Response to Council memoranda - 2 April 2024

that are not the subject of submission seeking changes or those submissions that sought common relief.

[44] The authors of the s42A Reports (who were in some instances also authors of Section 32 evaluation Reports (Section 32 Reports), which formed part of the notified plan change information set) also offered their opinion or recommendations to the Panel on how we may wish to respond to submissions received.

[45] Through the various s42A Reports, significant changes were recommended by Council officers, to increase heights in and around commercial centres, updated mapping of zones and qualifying matters (QMs) and to amend proposed provisions. This approach caused some concern from a number of submitters, and possible would-be submitters. One submitter group, the Riccarton Bush Kilmarnock Residents' Association (#188, and #2062) raised an online petition in opposition to the officer recommendations. As we noted in Minute 29 we have not placed any weight on the petition because it did not accurately reflect the correct status of the officer recommendations in these proceedings, when the petition was presented in evidence.[13]

[46] The recommendations of authors of the s42A Reports are not binding on the Panel, and formed part of the information and evidence that we considered in formulating our recommendations to Council. They were not given any elevated weight and were subject to the same scrutiny as all evidence that we received.

[47] In addition to the s42A Reports, Council also called a number of subject matter experts on a range of topics on issues. These are identified in Part 8 Appendix C.

[48] The Council filed a written reply to matters raised during the hearing of submissions on Friday 17 May 2024 (the Reply), including an updated "accept and reject" table based on the s42A Report Authors final recommendations to the panel, and a set of updated PC 14 provisions which tracked the changes recommended by Council officers following the hearings (Reply version).[14] We have considered the Reply as part of our deliberations.

Submitter Presentations and Evidence

[49] Submitters appeared at the hearing in person or were represented by legal counsel. Some witnesses also called expert witnesses to support their submission points. In

[13] IHP Minute 29: Hearings Update -14 December 2023 at [5]
[14] Council Reply - 17 May 2024 and appendices at Hearings

addition to the evidence and submissions we heard at the hearings, the Panel considered all written submissions lodged on PC 14.

[50] Christchurch City Council lodged its own submission #751. Expert planning evidence in support of its submission was provided by Mr Marcus Langman, an independent planning consultant based in Christchurch.

[51] The Council made arrangements for A Friend of Submitter service to be available to submitters to assist with preparations for the hearings. Jane West fulfilled this role.

Expert Witness Conferencing

[52] Prior to and during the hearing, the Panel made available independent facilitators[15] to support expert witness conferencing on a range of topics. The purpose of the conferencing was to narrow disputed issues between related subject experts and encouraged experts to undertake "unfacilitated" conferencing. A list of all conferences that took place is contained in Part 8 Appendix D. At the conclusion of each conference, participants signed agreed Joint Witness Statements (JWS). The Panel considered all outcomes from expert conferencing in our deliberations.

Cross-examination Allowed with Leave

[53] The ISPP process provided the Panel with the discretion to allow cross-examination where it was in the interests of justice to do so. The Panel received a number of requests to cross-examine expert witnesses, which were granted.[16] No cross-examination of lay witnesses was permitted.

Hearing by Topic but Submitters Permitted to Appear Once

[54] The hearings were generally grouped by topic. However, we allowed submitters to appear once on all topics if they chose to do so. Where a submitter made multiple appearances, the hearings were managed in a way to avoid unnecessary repetition and submitters were limited to a time specified on the hearing schedule.

[15] Independent Facilitators: Philip Milne, Paul Thomas and Don Turley
[16] Memoranda requesting cross examination and Minutes recording the Chair approval are available on the IHP Website - Procedural Matters & Minutes

Close of the Hearings and Communications Following the Close of the Hearings

[55] Following the conclusion of the hearing of week 10, and the receipt of the Reply, the Panel formally closed the hearings on 10 June 2024.[17]

[56] Following the filing of the Reply we received further memoranda from the Council as to a number of corrections to documents filed with the Reply[18]. To the extent that these are purely administrative we have considered these as part of our deliberations. The Council also drew the Panel's attention to the High Court decision in *Waikanae*[19] which we discuss below at [155].

[57] The Secretariat received correspondence from a number of submitters wishing to draw matters to the Panel's attention after the hearings. To the extent these raised substantive issues or arguments the Panel has not considered those matters as part of our deliberations.

5. REPORT STRUCTURE AND APPROACH TO RECOMMENDATIONS

Statutory Requirements

[58] The Act prescribes the requirements of our recommendations to the Council on PC 14.

[59] Our recommendations must:

(a) be related to a matter identified by the Panel or any other person during the hearing, but are not limited to being within the scope of submissions[20]

(b) must be satisfied that, if the specified territorial authority were to accept the Panel's recommendations, sections 85A and 85B(2) (which relate to the protection of protected customary rights) would be complied with.[21]

[60] Further matters that must and may be included in our Report.[22]

[17] IHP Minute 49 - 10 June 2024
[18] Memorandum of Counsel for Council, Regarding corrections to Provisions supplied with Reply, 26 June 2024 and Memorandum of Counsel for Council, Regarding corrections to Council Reply, 11 July 2024
[19] *Kāipiti Coast District Council v Waikanae Land Co Ltd* [2024] NZHC 1654 [21 June 2024]
[20] RMA, Sch 1, cl 99(2)(a) and (b)
[21] RMA, Sch 1, cl 99(3)
[22] RMA, Sch 1,cl100

[61] Our Report must:

(a) set out the Panel's recommendations on the provisions of the IPI covered by the Report

(b) identify any recommendations that are outside the scope of the submissions made in respect of those provisions

(c) set out the Panel's recommendations on the matters raised in submissions made in respect of the provisions covered by the Report

(d) state the Panel's reasons for accepting or rejecting submissions

(e) include a further evaluation of the IPI undertaken in accordance with Section 32AA (s32AA-requirements for undertaking and publishing further evaluations).

[62] Each Report may also include:

(a) matters relating to any alterations necessary to the IPI as a consequence of matters raised in submissions

(b) any other matter that the Panel considers relevant to the IPI that arises from submissions or otherwise.

(c) in stating the Panel's reasons for accepting or rejecting submissions each Report may address the submissions by grouping them according to:

(i) the provisions of the IPI to which they relate; or

(ii) the matters to which they relate.

(d) The Panel is not required to make recommendations in a Report that deal with each submission individually.

Parts to the Report

[63] The Panel has prepared a single Report, divided into eight parts:

(a) Part 1: Introduction, Legislative Requirements and Scope Issues, General Themes and Submissions

(b) Part 2: Strategic Direction Objectives

(c) Part 3: NPS-UD Policy 3 Response, including City Centre Zone, Central City Mixed Use Zones, Other Commercial Zones, Mixed Use and Industrial Zones

(d) Part 4: Relevant Residential Zones, including Medium Density Residential and High Density Residential Zones, Residential Hills Zones, Hill Precincts and Alternative zones, Sunlight Access QM, Low Passenger Transport Accessibility Area QM and Christchurch International Airport Noise Influence Area QM.

(e) Part 5: City Wide Qualifying Matters

(f) Part 6: Tree Canopy and Financial Contributions and Subdivision

(g) Part 7: Rezoning Requests and Specific Purpose Zones

(h) Part 8: Appendices, including recommended provisions

[64] The Council's Reply requested (Council request) that:[23]

> Given the intended scope of the Council's initial decision in September 2024, however, it would greatly assist the Council if the Panel's recommendations expressly address the following matters, which go to the spatial extent of the 'sphere of influence' of NPS-UD policies 3 and 4:
>
> (a) the classification of Christchurch's centres into the various types of centre zones described in policy 3, being City Centre Zones (CCZ), Metropolitan Centre Zones (MCZ) (if any), Neighbourhood Centre Zones (NCZ), Local Centre Zones (LCZ), and Town Centre Zones (TCZ);
>
> (b) the areas constituting a "walkable catchment" around the CCZ and MCZs (if any) for NPS-UD policy 3(c) intensification; and
>
> (c) the areas constituting what is "adjacent" around NCZs, LCZs, and TCZs for NPS-UD policy 3(d) intensification.

[65] Throughout all parts of our Report we have endeavoured wherever possible to identify those aspects which are solely in response to the requirements of Policy 3 and 4 of the NPS-UD and those which relate solely to the mandatory implementation of the MDRS, subject to appropriate QMs set out in s77I and O (a) to (j).

[66] We have addressed Council request (a) in Part 3 of the Report. In relation to requests (b) and (c) we have defined our recommended 'walkable catchment' and areas that are 'adjacent /commensurate' in Part 3 also. Council requests (b) and (c) are further addressed in Part 3 as they relate to the Central City Mixed Use Zone (CCMUZ) and MUZ/Industrial zones, with Medium Density Residential Zone (MRZ) and High Density Residential Zone (HRZ) addressed in Part 4 of the Report.

[23] Council Reply - 17 May 2024 at 2.4

Definitions

[67] Wherever a new or change to an operative definition is recommended this will be addressed in the relevant part of the Recommendations Report where it arises.

Plan Provisions

[68] Part 8 Appendix G of the Report includes the Panel recommended set of plan provisions (Panel Recommendations version). Where practical the Panel has updated the provisions in each Chapter.

[69] The Panel recommendations are shown in dark pink underlined or strike through applied to the Reply version. Where we have accepted the Council's changes (including the notified PC 14 changes) on the Reply version these have been identified as pink, and those to be deleted have been removed, or replaced by our own version. There are some recommendations from the Panel that are not able to be shown, either because the recommendation is broad or requires the Council to undertake additional work. In that case the Panel has included instructions at the beginning of each Chapter.

[70] In relation to Chapter 14 of the district plan, we have directed the Council to revisit the drafting of the provisions in their entirety. That is because the Council's approach to drafting the changes have resulted in those provisions removing development rights in breach of RMA s80E. We address the reasons why that is in breach of s80E in more detail below. For those reasons the Panel is recommending the Council provide three development consenting pathways. These are further described in Part 4 of the Report and recorded in Part 8 Appendix G.

Planning Maps

[71] The Panel has also made recommendations for changes to be made to the planning maps because of our reasoning and to accord with the recommended text changes to the provisions. These are recorded in each relevant part of the Report in Part 8 Appendix I. We direct the Council officers to make those changes and produce a revised set of planning maps incorporating the recommended changes to be communicated to the Panel by memorandum. The Panel will review the revised planning maps and issue a Minute confirming that the mapping changes accurately reflect our recommendations.[24]

[24] IHP Minute 46: Christchurch City Council Right of Reply - 22 April 2024

Submission Accept and Reject Table

[72] The Panel has considered all submissions. However, as required by clause 100(3) of Schedule 1 RMA our recommendations and summary of evidence is grouped thematically, and not all submissions are referred to directly in the Report.

[73] The Panel has generally relied on the Council s42A report summaries and grouping of submissions by topic and provisions in instructing and making our recommendations.

[74] We have not included a full set of revised accept/reject tables as part of the Report, except in the case of Rezonings in Part 7 of the Report

6. STRUCTURE OF PART 1

[75] In this Part of the Report, we address the following matters:

(a) The purpose and scope of PC 14, including.

(i) the meaning of a 'well-functioning urban environment'.

(ii) the relevance of 'need' in the context of an excess in development capacity.

(iii) the legal scope of an IPI.

(iv) the scope of relief that submitters can seek.

(v) the scope of recommendations that can be made beyond submissions.

(b) The statutory framework for evaluating PC 14.

(c) General submissions on PC 14.

7. PURPOSE AND SCOPE OF PC 14

Statutory Requirements

[76] PC 14 is an IPI which has been prepared in accordance with the ISPP. There are both mandatory and discretionary elements required of an IPI. PC 14, although wide ranging in terms of the proposed amendments across the provisions applying to urban areas regulated by the ODP, is not a general plan change pursuant to RMA Schedule 1. As an

IPI, the ISPP restricts what matters can be included utilising a modified Schedule 1 process.[25] The mandatory and discretionary elements of an IPI are prescribed in RMA, s80E, as limited by s80G which we discuss below. RMA, Part 5, sections 77G-M set out the intensification requirements in residential zones, and sections 77N-R sets out the intensification requirements in non-residential zones. RMA sections 77E and 77T and 80E(1)(b)(i) enable a Council to include provisions relating to financial contributions.[26]

[77] During the hearings on PC 14 a number of interrelated issues arose as to the extent of changes that can be included in an IPI and changes that could be requested by submitters.

Issues

[78] In this section of Part 1 of the Report, we address the following interrelated issues:

(a) What is the purpose of PC 14?

(b) What is a 'well-functioning urban environment' for Christchurch for the purposes of informing our evaluation of PC 14 pursuant to RMA sections 32, 77G-T, and 74-76?

(c) What is the relevance of 'need for additional development capacity' when measured against a surplus of housing and business land supply in Christchurch?

(d) What is the scope of changes to the ODP that can be made by PC 14. In relation to 'scope', there are three elements to consider in relation to an IPI:

(i) What changes can the Council propose as part of an IPI;

(ii) What changes can submitters ask for the Council to make to PC 14; and

(iii) What other changes, not raised in submissions, can the Panel recommend that the Council make to PC 14.

[25] RMA, Part 5 and subpart 5A and Schedule 1, subpart 6
[26] The Council did not seek to address provisions to enable papakāinga housing in the district as enabled by s80E(1)(b)(ii):

Purpose of PC 14

Mandatory and discretionary elements of an IPI

[79] The primary purpose of PC 14 is to incorporate for the first time the MDRS[27], and to give effect to NPS-UD Policy 3 and 4 in relevant residential and non-residential urban zones. When changing its District Plan for the first time to incorporate the MDRS and to give effect to NPS-UD Policy 3 and 4, the Council must use an IPI and the ISPP.[28]

[80] In relation to relevant residential zones[29] the Council must include the objectives and policies set out in Schedule 3A clause 6 (the mandatory objectives) and may include additional objectives and policies to provide for matters of discretion to support the MDRS and to link the incorporated density standards to reflect how the Council has chosen to modify the MDRS in accordance with section 77H.[30]

[81] In relation to urban residential and non-residential zones the Council must give effect to NPS-UD Policy 3.

[82] In addition to the mandatory requirements, the Act enables a Council the discretion to include additional matters described in sections 77G and 77N as being to:

(a) create new residential zones or amend existing residential zones[31]

(b) create new urban non-residential zones or amend existing urban non-residential zones[32]

(c) amend or include related provisions including objectives, policies, rules, standards, and zones that support or are consequential upon the MDRS and NPS-UD Policy 3 and 4[33]

(d) enable a greater level of development by providing for more lenient density standards than the MDRS[34]

[27] **medium density residential standards** or **MDRS** means the requirements, conditions, and permissions set out in RMA Schedule 3A
[28] RMA section 80D
[29] Definition from RMA, Part 2:**relevant residential zone** — (a) means all residential zones; but
(b) does not include— (i) a large lot residential zone: (ii) an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment: (iii) an offshore island: (iv) to avoid doubt, a settlement zone
[30] RMA,s77G(5)
[31] RMA section 77G(4)
[32] RMA section 77N(3)(a)
[33] RMA section 80E(1)(b)(iii)
[34] RMA section 77G(5)(b)(ii)

(e) modify the requirements set out in the MDRS or NPS-UD Policy 3 to be less enabling of development provided they are a QM[35]

(f) include financial contributions.[36]

[83] Central to the issues before the Panel is the scope of what can be included in an IPI. Section 80E requires the following:

Section 80E Meaning of intensification planning instrument

(1) In this Act, **intensification planning instrument** or **IPI** means a change to a district plan or a variation to a proposed district plan—

(a) that must—

(i) incorporate the MDRS; and

(ii) give effect to,—

(A) in the case of a tier 1 territorial authority, policies 3 and 4 of the NPS-UD; or

…

(b) that may also amend or include the following provisions:

(i) provisions relating to financial contributions, if the specified territorial authority chooses to amend its district plan under section 77T:

(ii) provisions to enable papakāinga housing in the district:

(iii) related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on—

(A) the MDRS; or

(B) policies 3, 4, and 5 of the NPS-UD, as applicable.

(2) In subsection (1)(b)(iii), **related provisions** also includes provisions that relate to any of the following, without limitation:

(a) district-wide matters:

(b) earthworks:

(c) fencing:

(d) infrastructure:

(e) qualifying matters identified in accordance with section 77I or 77O:

(f) storm water management (including permeability and hydraulic neutrality):

(g) subdivision of land.

[35] RMA section 77N(3)(b)
[36] RMA section 77T

[84] Section 80G provides that the Council must not use the IPI process for any purposes other than the uses specified in 80E.

> **80G Limitations on IPIs and ISPP**
>
> *IPIs*
>
> (1) A specified territorial authority must not do any of the following:
>
> (a) notify more than 1 IPI:
>
> (b) use the IPI for any purpose other than the uses specified in section 80E:
>
> (c) withdraw the IPI.
>
> *ISPP*
>
> (2) A local authority must not use the ISPP except as permitted under section 80F(3).

[85] Section 80F sets out the mandatory requirements for the notification of an IPI and the use of the ISPP.

[86] Although the discretion to amend or include "related provisions", including objectives, policies, rules, standards and zones, that support or are consequential on the MDRS or NPS-UD Policies 3 and 4 (and including the matters specifically addressed in s80E(1)(b)(iii) and (2)), appear broad, we find that they are limited by virtue of a need to have a connection or nexus to the purpose of the IPI and cannot propose changes outside of those matters.

[87] The Council pointed to the use of the term "without limitation" in s80E(2) as further increasing the scope of changes the Council may include in an IPI, including provisions that may restrict existing development rights. This became a central issue of contention within the hearings, and as we have concluded in other parts of the Report, the Council's approach to PC 14, in reliance on this broad interpretation, added unnecessary complexity to PC 14 and introduced elements which we find to be outside of the scope of an IPI. We will address the scope issues further below.

[88] We interpret the term "without limitation" in light of the text and purpose of section 80E and conclude that the words simply inform us that the list of "related provisions" that may be amended or included in the IPI may extend to plan provisions in addition to those listed in subsection (2). In any event those related provisions must either support or be consequential on either the MDRS or NPS-UD Policies 3 and 4. Section 80G reminds us we cannot use the IPI for any other purpose.

[89] The purpose of an IPI is also relevant to the evaluation required under RMA s32 where s32(1)(b) directs us to examine whether the provisions of the proposed plan change are the most appropriate way to achieve the objective.[37] For the purposes of s32(1)(b), the only district plan 'objectives' that are required to be included in the IPI are objectives 1 and 2 in RMA, Schedule 3A, clause 6. Other related objectives may also be included to support the MDRS or are consequential on the incorporation of the MDRS or NPS-UD Policies 3 and 4.

Relevance of the Council's 'density done well' concept

[90] The Council described its approach to implementing the mandatory and discretionary elements of PC 14 as "density done well", however, it did not propose any overarching objective or definition of that term to be included in PC 14. There is no reference to the term "density done well" in the s32 evaluations that accompanied the notification of PC 14.[38]

[91] Counsel described 'density done well' in opening legal submissions for the Strategic Directions hearing as being an 'agglomeration' of the legislative requirements we are required to consider in our overall evaluation.[39]

[92] In the Reply counsel for the Council further explained that the concept sought to encapsulate, in one short phrase, the legal scheme relating to IPIs, whereby MDRS and NPS-UD Policy 3 intensification is enabled subject to the reasonable imposition of various controls, including QMs, to ensure that PC 14 does not compromise the environmental conditions, quality, and liveability of Ōtautahi Christchurch.

[93] It appears that 'density done well' is not an outcome in the sense of an 'objective' or 'purpose' of the plan change against which we are required to evaluate PC 14 under RMA s32, but rather it is the Council's self-described summary of its 'approach' to the overall evaluation it says is required by the legislation, including the matters in RMA,

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[37] RMA section 32(6) provides that in s32
objectives means-,(a) for a proposal that contains or states objectives, those objectives:(b) for all other proposals, the purpose of the proposal
proposal means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act

[38] The s32 Report, Part 3 - Residential at page 10 refers to *"The integration of MDRS within the existing District Plan needs to ensure that MDRS controls are readily able to be utilised. This needs to be done in a manner where relevant policies of the NPS-UD are also given effect to and existing elements of the District Plan do not restrict their use or function."* As an issue at page 13, para 2.2.1 and at page 46. The Social Impact Report includes a reference to: Muir, H. (2022). Density Done Well - 10 tips for Aotearoa. Retrieved from Isthmus: https://isthmus.co.nz/thinking/density-done-well-10-tips-for-aotearoa/, but this was not discussed by Council planning witnesses or Counsel.

[39] Opening Legal Submissions of Council, 3 October 2023 at 3.19

Part 2 and section 75. The Panel asked Mr Carranceja what the difference was between 'density done well' and a 'well-functioning urban environment'.[40] We understood Mr Carranceja to say that 'density done well' is not a subset or a substitution for the requirements for a 'well-functioning urban environment', but that a well-functioning urban environment, as defined in the NPS-UD is a part of the Council's "density done well approach."

[94] We found the introduction of the phrase 'density done well' in legal submissions to be unhelpful in that it added a complexity to the hearings which was not required for our evaluation of PC 14 against the statutory requirements of s32, 74 -76, and the matters in s77G-T, as applicable to an IPI.

What is the objective against which PC 14 is to be evaluated?

[95] The Panel put to counsel for the Council, Mr Randal, that the 'purpose' of PC 14 was the incorporation of the MDRS and to give effect to Policies 3 and 4 during the airport noise QM hearing. Mr Randal initially agreed but in the Reply the Council submitted that:[41]

> The objectives of the proposal against which the PC14 provisions fall to be assessed are the objectives in PC14 and other relevant objectives being retained in the operative District Plan, in terms of section 32(3), and not any amorphous 'intensification objective'.

[96] The Council submitted that:[42]

> The objectives in PC 14 include mandatory MDRS objective 1 (almost identical to objective 1 of the NPS-UD), which is considerably more balanced than suggested by some submitters. While policy 1, which contributes to the implementation of objective 1, focuses on housing choice and related matters, objective 1 is considerably broader: "a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future". Guidance material published by the Ministry for the Environment expressly acknowledges, in reference to NPS-UD policy 3(a), that "development standards (…) may limit building and height and density, where there is evidence that doing so will contribute to a well-functioning urban environment and achieving the objectives of the NPS-UD as a whole."

[97] The Council went even further to equate NPS-UD objective 1 with RMA Section 5 'sustainable management' meaning:

> To expand on this point, the wording in objective 1 is consistent with, and reinforces, the language used in the sustainable management purpose of the RMA. Objective 1 is concerned to ensure that WFUEs [43] are those which (to paraphrase section 5) manage the use, development and protection of the urban environment in a way which enables

[40] Strategic Directions Hearing video transcript, 10 October 2023, morning session 2
[41] Council Reply, 17 May 2024 at 5.13(f)
[42] Council Reply, 17 May 2024 at 5.13(g)
[43] Well-functioning urban environments

> all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety.

[98] Counsel disputed the fact that the Housing Supply Amendment Act and NPS-UD objectives and policies were weighted in favour of intensification.[44] Counsel dismissed arguments by a number of submitters, who referenced Cabinet papers and background materials to support their position, as being self-interested and overstated.[45] We note that despite Counsel's submission, the Council's Section 32 Report, accepts the purpose of the Housing Supply Amendment Act as being:[46]

> The purpose of the Amendment Act (Enabling Housing Supply and Other Matters) is to increase housing supply in Aotearoa New Zealand's main urban areas, by removing barriers to development to allow for a variety of housing.[47] One of the main methods being the incorporation of the Medium Density Residential Standards applied to all relevant residential zones. The effect of this direction on housing supply, specifically plan-enabled and feasible capacity, within Ōtautahi Christchurch, is to substantially increase enablement.

[99] Submitter Kāinga Ora – Homes and Communities #834, #2082, #2099 (Kāinga Ora), cautioned about the Council's "balancing approach", which had been rejected by the Supreme Court in *King Salmon*[48] and submitted that the relevance of the whole of the NPS-UD is tempered by the implementation of the mandatory requirements of the MDRS and NPS-UD Policy 3 and 4, which must not be undermined.

[100] Ms Appleyard for a group of submitters[49] accepted that the whole of the NPS-UD was in play, irrespective of the requirements of s80E. That is because s75 requires the Council to give effect to the higher order planning documents but only to the extent relevant to the IPI. Ms Appleyard, also noted that the mandatory requirements of RMA, schedule 3A, clause 6 requires the Council to include new Objectives 1 and 2 and associated Policies 1-5, which we need to take into account to implement the requirements of the NPS-UD in residential zones.[50]

[101] The Counsel for the Council's point, as we understand it, was that the Housing Supply Amendment Act did not seek intensification at all costs and that PC 14 was subject to the usual s32 evaluation against higher order documents, and the ODP. We do not think

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[44] Council Reply, 17 May 2024 at 5.6 – 5.8
[45] Council Reply, 17 May 2024 at 5.9 references in footnotes page 39
[46] s32 Report, Part 1 - Overview and High Level District Issues at 3.2.1
[47] Referencing MfE document: Understanding the RMA EHS General overview July 2022
[48] Supplementary Legal Submissions for Kāinga Ora, 11 October 2023 at 3.3 *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38
[49] LMM Investments 2012 Limited #826 #2049, Carter Group Limited #814 #824 #2045, Catholic Diocese of Christchurch #823 #2044, Church Property Trustees #825 #2043, Daresbury Limited #874 #2053, Christchurch Casinos Limited #2077, NHL Properties Limited #706, Wigram Lodge (2001) Limited, Elizabeth Harris and John Harris 716 #817
[50] Memorandum of Counsel for LMM and Ors, 21 December 2023 at 40.4

the competing argument by Kāinga Ora suggests intensificaiton at all costs, just simply that the purpose of the Housing Supply Amendment Act, was to expedite increased housing and business land supply through the MDRS and NPS-UD Policy 3. We accept that it is still necessary to do so in a manner that gives effect to the objective of a well-functioning urban enviornment.[51] But promotion of a well-functioning urban environment cannot be used as its own justification to reduce the level of intensification that would otherwise result from incorporating the MDRS and NPS-UD Policy 3, after having due regard to the presence of any relevant QMs.

[102] The starting point of our evaluation of the IPI is to consider what the objective is against which PC 14 is to be evaluated. We find that the objective is the introduction of mandatory requirements of the Housing Supply Ammendment Act to increase housing and business capacity. As we also discuss in Part 2 of the Report dealing with Statutory Directions, that objective can only be qualified where it is appropriate to do so, but only to the extent necessary to address the QM. The starting point is not the introduction of provisions and QMs to restrict the intensification purpose of the Housing Supply Amendment Act.

[103] We therefore find that the purpose of PC 14, and its 'objective' is to implement the mandatory and discretionary provisions described in ss80E, as directed by s77G and s77N of the Housing Supply Amendment Act, in the most appropriate way, including through the application of QMs and related provisions that delivers a well-functioning urban environment.[52]

[104] Accordingly, and in order to evaluate the objective of PC 14, we must consider what a well-functioning urban environment is in the Christchurch context.

What is a well-functioning urban environment?

[105] MDRS Objective 1 and 2 provide:

> Objective 1
>
> (a) a well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.
>
> Objective 2:
>
> (b) a relevant residential zone provides for a variety of housing types and sizes that respond to—

[51] Through the incorporation of mandatory MDRS objective 1 and in giving effect to the NPS-UD Objective 1 and Policy 1

[52] Using 'objective' as defined by RMA section 32(6) to be the purpose of PC 14.

(i) housing needs and demand; and

(ii) the neighbourhood's planned urban built character, including 3-storey buildings.

[106] NPS-UD Objective 1 and Policy 1 provide:

> Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

[107] The term well-functioning urban environment has the meaning in NPS-UD Policy 1.[53]

> Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:
>
> (a) have or enable a variety of homes that:
>
> (i) meet the needs, in terms of type, price, and location, of different households; and
>
> (ii) enable Māori to express their cultural traditions and norms; and
>
> (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
>
> (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and
>
> (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
>
> (e) support reductions in greenhouse gas emissions; and
>
> (f) are resilient to the likely current and future effects of climate change.

[108] We accept, as did the various planning witnesses that the elements in NPS-UD Policy 1 describe a minimum requirement for a well-functioning urban environment. The Council also added 'urban form' as an important additional element.[54] Mr Willis, and Mr Ray, referenced the Ministry for the Environment (MfE) guidance on the NPS-UD.[55] We requested Mr Willis, Mr Ray and Ms Gardiner[56] to reflect on the elements they considered as relevant in the Christchurch context.

[109] The Council placed significant emphasis on 'urban form' as a relevant factor contributing to a well-functioning urban environment in the s32 evaluation.

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[53] NPS-UD, clause 1.4 Interpretation
[54] Statement of Evidence of Alistair Ray, 11 August 2023
[55] s42A Report of Andrew Willis, 11 August 2024 at 28-34 and Statement of Evidence of Alistair Ray, 11 August 2023 at 24 and 25
[56] Ms Gardiner addressed a WFUE in the context of the Central City in s42A Report of Holly Gardiner, 11 August 2023 at 5.7.9-5.7.12 and in her Supplementary Statement of Holly Gardiner, 13 December 2023

[110] Surprisingly the Council witnesses had not really considered whether the ODP already provided for a well-functioning urban environment. This limited our ability to ascertain whether the Council's proposed emphasis on urban form outcomes would be in any measurable way effective, efficient, or appropriate.

[111] Mr Carranceja submitted in the Central City and Commercial Centres hearing that the ODP was designed post-earthquake on a 'density done best', approach and described the current exercise in terms that it was less than best, by use of the term 'well'. Taken on its face, Mr Carranceja's description implied that PC 14 would if anything make Christchurch less well-functioning than the ODP, a suggestion we struggled with given one specific function of PC 14 being, in the Council's view, to introduce and align the NPS-UD and RMA Schedule 3A concept of a well-functioning urban environment into the District Plan.

[112] We find, having considered the evidence of Mr Ray and a number of lay and urban design and architectural professionals[57] that the ODP already largely provides for a well-functioning urban environment, in the unique (to New Zealand) post-earthquake environment. What the current process now requires is for additional intensification as required and otherwise where appropriate to be added and then calibrated through the use of appropriate QMs and related provisions to ensure Christchurch retains a well-functioning urban environment with the added intensification. That is the objective against which PC14 must be assessed against.

[113] The Panel now turn to consider the relevance of housing need in the Christchurch context and whether a surplus justifies a more muted response to the mandatory requirements of the Housing Supply Amendment Act.

Relevance of need in light of City-wide sufficiency of development capacity

[114] The Council's starting point for evaluating PC 14 was that the Council had largely already met the requirements for growth so the section 32 Report paid little attention to the disparate local needs or affordable housing outcomes as required by NPS-UD Policy 1(a) which provides:

> Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:
>
> (a) have or enable a variety of homes that:

[57] Hugh Nicholson #2007, New Zealand Institute of Architects Canterbury Branch #762

(i) meet the needs, in terms of type, price, and location, of different households; and

(ii) enable Māori to express their cultural traditions and norms.

[115] The Panel accept the fact, based on the uncontested evidence, that there is a surplus in housing and business supply in Christchurch as a whole as provided for in the ODP. This is largely due to the ODP being 'recast' in 2013 - 2017 to expedite the City's recovery from the Christchurch Earthquake sequence. In response to legislative requirements at the time, including specific government expectations[58], the 'Replacement Plan' as it was then known increased housing supply and provided sufficient development capacity for current and future needs.[59] Notably the government's expectations of the replacement plan as set out in Schedule 4, Order In Council were:

> The expectations of the Minister for Canterbury Earthquake Recovery and the Minister for the Environment are that the replacement district plan—
>
> (a) clearly articulates how decisions about resource use and values will be made, which must be in a manner consistent with an intention to reduce significantly (compared with the existing district plans)—
>
> (i) reliance on resource consent processes; and
>
> (ii) the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and
>
> (iii) the requirements for notification and written approval:
>
> (b) contains objectives and policies that clearly state the outcomes that are intended for the Christchurch district:
>
> (c) provides for the effective functioning of the urban environment of the Christchurch district, reflecting the changes resulting from the Canterbury earthquakes, including changes to population, land suitability, infrastructure, and transport:
>
> (d) facilitates an increase in the supply of housing, including by—
>
> (i) confirming the immediate residential intensification changes included in the Land Use Recovery Plan; and
>
> (ii) ensuring that the district plan has capacity to accommodate up to 23,700 additional dwellings by 2028 (as compared with the number of households in the 2012 post-earthquake period); and
>
> (iii) addressing further intensification opportunities, in line with the Land Use Recovery Plan principle of supporting Key Activity Centres and the Central City; and

[58] Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014. Schedule 4
[59] Opening Legal Submissions of Council, 3 October 2023 at 1.8

(iv) having regard to constraints on environmental and infrastructure capacity, particularly with regard to natural hazards; and

(v) providing for a wide range of housing types and locations:

(e) ensures sufficient and suitable development capacity and land for commercial, industrial, and residential activities:

(f) provides for a range of temporary and construction activities as permitted activities, recognising the temporary and localised nature of the effects of those activities:

(g) contains, as appropriate, transitional provisions for the future of temporary activities established under the Canterbury Earthquake (Resource Management Permitted Activities) Order 2011 after that order expires:

(h) sets a clear direction on the use and development of land for the purpose of avoiding or mitigating natural hazards:

(i) uses clear, concise language and is easy to use.

[underlining is emphasis by the Panel]

[116] As a result, the ODP is already highly enabling of housing and business supply and the Council considered the ODP already met the requirements of NPS-UD Policy 2 to provide "at least sufficient development capacity." Counsel drew our attention to the Strategic Objectives in Chapter 3 of the ODP inserted by the previous Panel, including specifically:[60]

Objective 3.3.1 – Enabling recovery and facilitating the future enhancement of the district:

The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:

(a) Meets the community's immediate and longer-term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and

(b) Fosters investment certainty; and

(c) Sustains the important qualities and values of the natural environment."

Objective 3.3.4 – Housing capacity and choice:

(a) For the period 2012 to 2028, an additional 23,700 dwellings are enabled through a combination of residential intensification, brownfield and greenfield development; and

(b) There is a range of housing opportunities available to meet the diverse and changing population and housing needs of Christchurch residents, including:

(i) a choice in housing types, densities and locations; and

(ii) affordable, community and social housing and papakāinga".

[60] Opening Legal Submissions of Council, 3 October 2023 at 3.34-3.36

[117] Counsel noted that on 21 October 2022, Objective 3.3.4(a) was changed to incorporate housing bottom lines without the need for a public submission process pursuant to clause 3.6 of the NPS-UD and s55 of the RMA.

> **Objective 3.3.4(a)** now states (Housing bottom lines and choice):
>
> (a) For the period 2021-2051, at least sufficient development capacity for housing is enabled for the Ōtautahi Christchurch urban environment in accordance with the following housing bottom lines:
>
> (i) short-medium term: 18,300 dwellings between 2021 and 2031; and
>
> (ii) long term: 23,000 dwellings between 2031 and 2051; and
>
> (iii) 30 year total: 41,300 dwellings between 2021 and 2051 (…).

[118] The ODP also includes overarching strategic directions objectives, which the Council submitted had a clear direction to increase capacity in the central city, commercial and business areas. For example: …

> Central City, **Objective 3.3.8** provides:
>
> (a) The Central City is revitalised as the primary community focal point for the people of Christchurch (objective 3.38); and (…)
>
> (c) A range of housing opportunities are enabled to support at least 5,000 additional households in the Central City between 2012 and 2028".
>
> For business land, **Objective 3.3.5** provides:
>
> The critical importance of business and economic prosperity to Christchurch's recovery and to community wellbeing and resilience is recognised and a range of opportunities provided for business activities to establish and prosper.
>
> … **Objective 3.3.10** states: The recovery and stimulation of commercial and industrial activities in a way that expedites recovery and long-term economic and employment growth through:
>
> (i) Enabling rebuilding of existing business areas, revitalising of centres, and provision in greenfield areas; and
>
> (ii) Ensuring sufficient and suitable land development capacity.

[119] The Council's Section 32 Report provided an explanation of the projected housing and business land sufficiency in the Christchurch context. It recorded that prior to the Housing Supply Amendment Act there was no issue with the provision of sufficient feasible development capacity[61] to meet expected long-term demand for Christchurch.

[61] NPS-UD Clause 1.4 defines '**feasible**': (a) for the short term or medium term, commercially viable to a developer based on the current relationship between costs and revenue (b) for the long term, commercially viable to a developer based on the current relationship between costs and revenue, or on any reasonable adjustment to that relationship.

The Greater Christchurch Housing Capacity Assessment of 2021 assessed Christchurch as having a surplus of 83,000 dwellings over the medium term (2021-2031) and 60,000 dwellings over the long term (2021-2051). The enablement achieved through MDRS, and application of Policy 3 of the NPS-UD is significantly greater.[62]

[120] Business capacity projections demonstrate a surplus of commercial land for the short and medium-term, with a deficit in the longer-term (beyond 30 years).[63] There is a surplus of Industrial zoned land for the short, medium and long-term.[64]

[121] Depending on what QM applies, the level of plan-enabled[65] and feasible development capacity changes. Notwithstanding this, the evaluation contained in Part 2 of the Section 32 Report indicates the impact on the development capacity with all (notified) QMs in place, will still result in a significant supply surplus[66] for dwellings, and for business land.[67] Council s42A officer report authors also recommended additional intensification in response to submissions, which further increased the surplus.

[122] The Council position is that intensification required by NPS-UD Policy 3 goes well beyond needing to meet needs as directed under Policy 1 and 2 of the NPS-UD. NPS-UD Policy 2 requires that as a Tier 1 local authority Christchurch must, at all times, provide at least sufficient development capacity to meet expected demand for housing

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'**development capacity'** means the capacity of land to be developed for housing or for business use, based on: (a) the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and (b) the provision of adequate development infrastructure to support the development of land for housing or business use.

[62] As summarised in Table 1 from, s32 Part 1, Introduction Issues and Strategic Directions and set out within Appendix 1 of the s32 Report Updated Housing Capacity Assessment

[63] s32 Report Part 4, Appendix 5

[64] Response to Minute 4, Strategic and Mechanics of PC14 - Sarah Oliver, 10 October 2023 The Greater Christchurch Business Capacity Assessment 2023 (BCA) was released after the notification of PC 14. The NPS-UD does not require an assessment of feasibility, as such the BCA does not include feasibility of business development capacity. The BCA notes sufficiency for Commercial and Industrial land.

[65] NPS-UD, clause 3.4.defines **plan-enabled** as:

(1) Development capacity is plan-enabled for housing or for business land if: (a) in relation to the short term, it is on land that is zoned for housing or for business use (as applicable) in an operative district plan, (b) in relation to the medium term, either paragraph (a) applies, or it is on land that is zoned for housing or for business use (as applicable) in a proposed district plan (c) in relation to the long term, either paragraph (b) applies, or it is on land identified by the local authority for future urban use or urban intensification in an FDS or, if the local authority is not required to have an FDS, any other relevant plan or strategy.

(2) For the purpose of subclause (1), land is zoned for housing or for business use (as applicable) only if the housing or business use is a permitted, controlled, or restricted discretionary activity on that land.

(3)Development capacity is infrastructure-ready if: (a) in relation to the short term, there is adequate existing development infrastructure to support the development of the land (b) in relation to the medium term, either paragraph (a) applies, or funding for adequate development infrastructure to support development of the land is identified in a long-term plan (c) in relation to the long term, either paragraph (b) applies, or the development infrastructure to support the development capacity is identified in the local authority's infrastructure strategy (as required as part of its long-term plan).

[66] s32 Report, Part 1, Introduction Issues and Strategic Directions at 3.2.2 and 3.2.3

[67] s32 Report Part 4, Appendix 5

and for business land over the short-term, medium-term, and long-term.[68] The excess of sufficiency was confirmed in the evidence of Mr Scanlon, Ms Allan, Mr Heath and Mr Lightbody (business).[69]

[123] The Council's starting point was therefore that a 'needs' driven response is not required for PC 14. Rather, the focus of the options evaluated by the Council have been formulated based on accessibility and achieving the most appropriate urban form.[70]

[124] In Part 1 of the Councils s32 Report the issue is described in this way:

> 2.3.6 In the Christchurch context, the required direction under Policy 3 in terms of directed intensification, goes well beyond needing to meet needs as directed under Policy 1 and 2 of the NPS-UD. Prior to the Enabling Act, the sufficiency of housing and business areas to meet needs over the short, medium, and long term, was assessed as not being a significant district issue.
>
> 2.3.7 With the expansive further housing enablement through the MDRS, housing choice and variety is even further increased (refer to the Updated Christchurch Housing Capacity Assessment contained in Part 1, Appendix 1 of this report). The level of enablement being considered under PC 14, is likely to provide for a population well exceeding projected long term growth rates. Therefore, a 'needs' driven response is not required for PC 14. Rather the options evaluated have been formulated based on accessibility and achieving the most appropriate urban form.[71]

[125] The Panel found that a critical omission from the Council's s32 evaluation is the evaluation of localised housing and business needs for a diverse community to support housing affordability and choice. In answer to questions from the Panel, Ms Oliver acknowledged the lack of detailed evaluation of more localised need.

[126] Ms Oliver said in her s42A Report that many of the housing issues and challenges for Christchurch City are beyond the ability of the district plan to address or resolve, such as:

(a) actual realisation of the plan-enabled and feasible capacity, particularly in locations that better support the efficiency and effectiveness of core public transport routes, and to maximise agglomeration benefits of key centres.

(b) market delivery of a broader range of housing types, specifically apartments within the Central City and around town centres; and

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[68] NPS-UD Clause 1.4 defines **Short term** means within the next 3 years, medium term, between 3 and 10 years and long term, between 10 and 30 years.
[69], Statement of Evidence of John Scallan,11 August 2023 and Statement of Evidence of Ruth Allen, 11 August 2024 and s42A Report of Kirk Lightbody, 11 August 2023 and Rebuttal Evidence of Kirk Lightbody, 9 October 2023 and Statement of Evidence of Timothy Heath, 11 August 2023
[70] s32 Part 1, Introduction Issues and Strategic Directions at 2.3.6 and 2.3.7
[71] s32 Part 1, Introduction Issues and Strategic Directions at 2.3.6 and 2.3.7

(c) increased market delivery of more affordable housing options.[72]

[127] Some submitters were critical of PC 14 on the basis that the proposed methods in PC 14, particularly the extensive range and application of QMs disenabled housing choice for some parts of the community and prevented development in areas where there was a need for a greater degree of housing choice.

[128] For example, we heard from Mr Liggett, the Manager of Development Planning within the Urban Planning and Design Group at Kāinga Ora. Kāinga Ora manages a large portfolio of public housing, along with a statutory role in housing development.[73] The Kāinga Ora submission sought to ensure that the delivery of a planning framework in Christchurch contributes to a well-functioning urban environment that is sustainable and inclusive and contributes towards thriving communities that provide people with good quality, affordable housing choice and supports access to jobs, amenities and services.

[129] Mr Liggett acknowledged that PC 14 was more enabling of residential and business development capacity than the ODP, but considered that PC 14 as notified, compromised the extent to which planning provisions enabled 'appropriate' development within Christchurch City.

[130] In particular he was concerned that:

(a) The extensive number and coverage of QMs unreasonably and inefficiently constrain development capacity.

(b) PC 14 proposes an overly complex rule framework with a number of new zones and overlays. It does not simply permit development or provide efficient or effective consenting pathways throughout the city.[74]

(c) The ommission of a metropolitan centre zone misses an opportunity for further intensification around walkable catchments of Riccarton, Hornby and Papanui.

(d) PC 14 does not sufficently enable development in terms of housing choice and typology to the extent anticipated by the NPS-UD and Housing Supply Amendment Act.

[72] s32 Part 1, Introduction Issues and Strategic Directions at 3.26 and in the s42 A Report of Sarah Oliver, 10 October 2023 and Council Reply, 17 May 2024 at 5.4

[73] The Kāinga Ora - Homes and Communities Act 2019 and implementation of the Government Policy Statement on Housing and Urban Development 2021

[74] Mr Liggett acknowledged at the hearing that since the s42A Reports and further conferencing had been undertaken, a number of the concerns regarding the rule framework had been addressed.

[131] As we understood the position of Kāinga Ora, there were some locations, where the various QMs (particularly those relating to Residential Character Areas (RCA), Residential Heritage Areas (RHA), Tsunami Management Area (TMA), Airport Noise QM and Riccarton Bush Interface Area (RBIA)) continued to limit housing choice and affordable outcomes. The Kāinga Ora submission was that this did not meet the requirements for a well-functioning urban environment, particularly in relation to the range of housing needs for all people. [Kāinga Ora emphasis]. We address the merits of these QMs principally in in Part 5 of our Report (City Wide QM) and also in Parts 3 (Central City) and Part 4 (Residential).

[132] As an example, Mr Liggett expressed concern about the policy approach to the TMA, on the basis that it was not commensurate with the level of risk and would unduly reduce the ability to develop and deliver public housing in the TMA.[75] His evidence was that 630 land parcels owned by Kāinga Ora would be excluded from the benefits of upzoning due to the TMA, which he considered would be a disproportionate level of lost public housing intensification opportunities including opportunities to provide for a variety of housing typologies and housing choice for the community.

[133] Mr Liggett was also concerned that the effect of the proposed Airport Noise QM, and any amendment sought by Christchurch International Airport Limited (CIAL) had significant impacts on Riccarton, where Kāinga Ora (and its predecessor organisations) has owned residential land since 1937 and provided social housing since 1938, before the establishment of the airport in 1940. As a consequence of the noise contour mapping changes proposed in the s42A Report, Kāinga Ora would experience restrictions on its ongoing land use. We address the merits of the Airport Noise QM in Part 4 of our Report. Mr Liggett noted that Kāinga Ora had 26 sites located under the notified Airport Noise QM compared with 146 under the proposed amended contour in the s42A Report.[76] Many of which are located in Riccarton and Riccarton West Areas, where homes provide Kāinga Ora tenants close access to important amenities and services, public transport routes and employment centres.

[134] Continuing with the theme of housing need, the Council's Social Impact Report (peer reviewed by Ms Foy[77]) records the challenges of addressing a range of housing needs of a diverse population.[78]

[75] Summary Statement of Brendon Liggett - 16 April 2024 at 2.1
[76] Summary Statement of Brendon Liggett for Kāinga Ora, 24 April 2024 at 3.2
[77] Statement of Evidence of Rebecca Foy, 11 August 2023
[78] s42A Report of Sarah Oliver Appendix F: Draft Social Impacts of Housing Intensification Research Review, August 2023 at 4.2

The 2021 Greater Christchurch Housing Capacity Assessment concluded that over the long term (the next 30 years) the sub-region will have sufficient housing capacity and a significant surplus of over 83,700 commercially feasible households. This assessment was based on the current level of enablement provided for under the Operative District Plan. However, there are concerns that while there may be a sufficient housing supply, Urban Christchurch will require a 'very different' stock typology and more affordable housing if it is to meet the changing demands of its ageing population and be responsive to a continued decrease in owner-occupation (which is projected to drop below 60% in 2051) (Greater Christchurch Partnership, 2021; Mitchell, Saville-Smith, & James, 2021). As Gjerde and Kiddle (2022) note, the prevailing housing typology in New Zealand is the standalone dwelling, synonymous with the 'kiwi quarter-acre dream'; and the aging demographic of Ōtautahi-Christchurch is driving this current (owner-occupier) demand (Greater Christchurch Partnership, 2021). Life in Christchurch Housing and Neighbourhoods survey results support this assessment, showing couples with children who no longer live at home and families with mainly independent children to be significantly more likely than other household types to live in a standalone detached two- or three-storey home (Christchurch City Council, 2023).

… Senior and low-to modest-income households will be driven into the rental market, driving up demand for smaller and multi-unit homes (Mitchell, Saville-Smith, & James, 2021). It is important to note that senior and single-income households are the most likely to experience housing affordability stress (Mitchell, Saville-Smith, & James, 2021). Research shows that diversity in tenure, housing typology and price points will be critical in addressing unmet housing need and mitigating affordability stress in Urban Christchurch (Mitchell, Saville-Smith, & James, 2021).

…. Life in Christchurch Housing and Neighbourhoods survey respondents acknowledge this; only a quarter (25%) agree that there are affordable housing options across their city, while over half (51%) do not agree. Some respondents express concerns that new builds have done little to make the city's housing more affordable, and many express frustration that medium and high-density housing is built and/or bought for the purpose of being an Airbnb, which serves to 'perpetuate' the lack of affordable housing options in the city (Christchurch City Council, 2023). In section 4.3 of the Social Impact Report, the authors noted:

There are several factors that could see PC 14 have uneven social effects across the city, including socioeconomic deprivation levels and the extent of public service and infrastructure availability.

As is the case with most cities, socioeconomic disparities exist across Ōtautahi-Christchurch. The NZ Deprivation Index (NZDep2018) is a measure of socioeconomic deprivation that combines nine variables from the 2018 Census which reflect eight dimensions of deprivation. These dimensions are internet access, income (receiving a benefit), income (below a threshold), employment, qualifications, home ownership, support, living space and living condition. The Eastern and Southwestern parts of Christchurch City are home to some of the city's the most deprived communities, which include Shirley, Richmond, Aranui, Bromley, Woolston, New Brighton, Linwood and Phillipstown in the East and Hornby in the industrial Southwest. Towards the Port Hills and in the Northwest of the city, there are suburbs with the least deprived communities, including Fendalton and Merivale in the Northwest.

Mitchell, Saville-Smith and James (2021) note that housing affordability stress for renting households in Ōtautahi-Christchurch is a problem across the city, irrespective of sub-area. While areas in the Northeast, Northwest and Southwest have high proportions of modest-income households who are spending more than 30% of their income on rent, severe housing affordability stress with rent outgoings more than 50% of their income is more common in households on the Southeast side of the city.

[underlining is emphasis by the Panel].

[135] The Panel also heard from representatives of Te Whare Roimata #105, a community trust that works with Christchurch Inner City East and Urban Māori communities. The Trust's co-ordinator Ms Smith spoke about the paradox of intensification, that enabling more housing intensification does not of itself lead to better housing outcomes for the needs of some populations. Ms Smith and Dr Vallance's PhD[79] provided examples and case studies where housing intensification within the inner city east had in effect squeezed out lower socio-economic tenants and established communities that changed the nature of neighbourhoods in a way that did not support appropriate housing outcomes for all people.

[136] There are also concerns that deregulation and "upzoning", while increasing housing supply, are 'not enough' because they do not reduce economic and spatial inequalities and therefore undermine the purpose of new intensification policies to enable affordable housing for all.[80]

[137] Another example is the proposed Low Public Transport Accessibility Area (LPT) QM, (dealt within Part 4 of our Report) which has the potential effect of 'baking in' inadequate public transport alternatives for lower socio-economic communities located in the eastern suburban areas, perpetuating the status quo and disenabling housing choice for those communities.

[138] A related issue arises in the context of housing for an ageing population. Submitters from the retirement village sector raised concerns that PC 14 did not adequately provide for the range of housing needs for older persons. The Council had approached retirement villages, as being outside of the scope of PC 14 on the basis they were not a residential activity.[81] Later in the hearing, following expert witness conferencing, the Council agreed to amendments to enable intensification for housing within retirement complexes, consistent with other residential units.[82]

[139] Throughout the hearing, there was a consistent theme emerging about the potentially perverse outcomes for some communities in Christchurch as a consequence of not only changing densities within neighbourhoods, but also the consequences of not enabling intensification through the extensive use of QMs. The lack of a comprehensive social

[79] Presentation and Appendices of Te Whare Roimata - 22 November 2023 and Participatory Research Study - 22 November 2023
[80] Wetzstein, 2022; Dantzler, 2022; Yeoman, 2022; Rodríguez-Pose & Storper, 2020 and referred to in the written submission of Te Whare Roimata #105, and in the Christchurch City Social Impact Report at 2.1
[81] s42A Report of Ike Kleynbos, 11 August 2023 and Joint Witness Statement - Retirement Village Controls - 22 April 2024
[82] Joint Witness Statement - Retirement Village Controls, 22 April 2024 and Council PC Reply Provisions for Chapter 14

impact assessment to accompany the development of PC 14, was a recurrent theme in submissions which we address below.

[140] The Panel was also unclear as to how PC 14 enabled Māori to express their cultural traditions and norms or enabled opportunities for a range of diverse communities. The Council appeared to have taken the approach that because it has fulfilled its statutory obligations to consult with mana whenua[83], and provisions are proposed to address Papakāinga housing needs (within and outside the urban environment), then this met the required policy outcomes.[84]

[141] The Panel notes that the RMA, s8 and NPS-UD, Objective 5, and Policy 9 address the requirements in terms of taking into account Te Tiriti o Waitangi/Treaty of Waitangi. In particular NPS-UD Policy 9 addresses the involvement of hapū and iwi in the preparation of planning documents and in resource management decision making functions. It is not suggested that the Council has not followed the statutory requirements for these matters. We also acknowledge that the Council, has in the preparation of PC 14 taken into account the Mahaanui Iwi Management Plan.

[142] It was, however, apparent that in answering questions from the Panel that Council witnesses and Counsel were not clear on to what extent PC 14 enabled Māori to express their cultural traditions and norms as part of a well-functioning urban environment, as distinct from the Council's responsibilities to mana whenua in accordance with Te Tiriti o Waitangi. Aside from the mention of the Te Whare Roimata submission, which raised concerns about inequitable outcomes for urban Māori communities in the inner city, the Social Impact Report was silent on the impact of PC 14 on urban Māori populations.

[143] The Panel requested further submissions from the Council on this issue of the extent of engagement with urban Māori and other diverse populations.

[144] The Council acknowledged that the time and resource constraints on delivering the proposed plan change meant that undertaking targeted engagement with particular groups or individuals such as urban Māori was not practical or feasible. The Council also acknowledged that the technical nature of the plan change may have made it difficult for certain groups and individuals to participate in the process. The Council made attempts

[83] Mana whenua is defined in the RMA as **mana whenua** means customary authority exercised by an iwi or hapu in an identified area. **Tangata whenua**, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area

[84] Council, s42A Report of Sarah Oliver, 10 October 2023 at 5.15, s42A report of Ike Kleynbos, 11 August 2023 at 7.1 and s32 Part 1, Introduction Issues and Strategic Directions at 3.1.12-3.1.13, 3.4.2-3.4.4

to make the information more accessible through its public engagement materials and messaging.[85]

Conclusions on the 'density done well' approach and its impact on housing need

[145] The Panel's concern is that the city-wide 'density done well' approach undertaken to PC 14, whilst arguably attempting to be an 'even handed' technical planning approach:

(a) was overly simplistic and theoretical;

(b) was not convincingly integrated with the underlying requirements of the IPI and the specific statutory parameters on QMs that allow the underlying duty to incorporate the MDRS or a NPS-UD Policy 3 approach to be softened; and

(c) did not adequately address the minimum requirements of a well-functioning urban environment in so far as it relates all people, including for Māori and other diverse community groups at the level and scale of those local communities.[86]

[146] The Panel accepts, as Ms Oliver and Ms Foy noted, there is a limit to what can be achieved via the district plan to improve housing affordability outcomes for populations who may be disproportionately represented in suburbs affected by the wide-ranging agglomeration of 'other' QMs. Ms Foy also agreed in response to questions from the Panel that for many reasons there were daily household trips that would be unlikely to be compatible with passenger transport. This took nothing away from the merits of enabling more opportunities for development close to the best service access, which was a key plank of the Council's approach, but it did weaken the Council's basis to diminish opportunities for development (relative to the MDRS) in other areas. This followed through to the Council's s32 analysis, which by taking a strategic city-wide approach underestimated the likely costs of reduced intensification opportunity in local communities. We consider that such a finer-grained social impact assessment on all communities needs to be carried out when determining the appropriateness of QMs in particular locations, in the context of the national significance of urban development and the objectives of the NPS-UD.[87]

[147] Our finding is that the s32 analysis is deficient due to the absence of a comprehensive social impact assessment that identified costs and benefits of PC 14 on all people that

[85] Council Memorandum of Counsel, 29 November 2023 response item 56, Appendix O at 10.
[86] NPS-UD Policy 1(a)
[87] RMA s77L and R

included the costs and other disbenefits from those communities not being enabled with at least the MDRS as a result of a proposed QM. We found that the absence of a more targeted evaluation of housing need, resulted in a deficient s32 evaluation because it did not provide an accurate or meaningful evaluation of the costs and benefits of the MDRS and Policy 3 intensification response in a real-world way that could contribute to our evaluation of individual QMs rather than an aggregate city-wide concept. The economic evaluation was conducted at an overly high level and failed to account for localised impacts. The inadequacy of the economic evaluation was apparent in questions of Mr Osborne, during the hearing on the Coastal Hazard and Tsunami Hazard QMs where the evaluation was very high level.[88] This did not assist us to evaluate PC 14 as against the requirements of MDRS Objectives 1 and 2 or NPS-UD Objectives 1 and Policy 1.

[148] The Panel acknowledges that there are limitations on the ability of PC 14 to deliver housing affordability outcomes and as Ms Oliver has said there are other factors at play. Notwithstanding that, we find that a more targeted evaluation of housing need in particular locations would have enabled the Council to provide a wider choice of housing outcomes, not just typologies where they may be needed most. As discussed in Part 2 of our Report, those outcomes are already an uncontested Strategic Direction outcome in ODP Objective 3.3.4, further supported by the requirements to give effect to the NPS-UD objectives and policies. However, we find that when evaluating the appropriateness of individual QMs, the focus of the evaluation should be the QM, not an abstract city-wide concept. In this respect some of the Council's analysis, in the frame of the time and resources available, was misdirected.

[149] Unfortunately, we did not receive sufficient evidence from submitters or Council witnesses to attempt our own evaluation of what an appropriate outcome might be, or where greater housing choice, and affordable outcomes should be targeted (beyond the Kāinga Ora housing portfolio). We have considered this information gap in our s32AA evaluation of each QM relative to locations in other parts of our Report. We record our general concerns and recommend that the Council give further consideration of this issue in future plan change processes.

[150] The Panel's overall conclusion, is that there was an important qualitative (and also quantitative) aspect missing from the Council's evaluation of housing capacity, demand and needs that related to individual neighbourhoods, suburbs, and social groups. This

[88] City-wide Qualifying Matters and Various hearing video transcript, 15 April 2024, morning session 2

was particularly so where QMs were proposed, noting the requirement of each QM to demonstrate that within its specific area (not the city as a whole), the relevant MDRS or NPS-UD Policy 3 response was inappropriate. That "siloed" approach for each QM also meant that, at a 32 evaluation level, there was not obvious attempt by the Council to understand the cumulative or aggregated effect where various QM intersect/impact on particular locales or social groups. This was a significant failing of the s32 evaluation and provides some context to the findings and recommendations we have made in Parts 3, 4 and 5 of the Report on the appropriateness of various QM.

[151] We now move on to consider the legal scope of our jurisdiction and powers to make recommendations to the Council.

Scope of our Recommendations

[152] The issue of the 'scope' of submissions often arises in the context of plan changes, and it is commonly understood that submissions must be confined to matters that are 'on' the plan change and may not seek relief outside of that. Generally, what is 'on' the plan change falls between the status quo and the notified changes. However, in the context of the IPI and ISPP process the use of the term 'scope' has broader application. That is because the Act provides that an ISPP process can only apply to an IPI. Therefore, unlike standard Schedule 1 plan changes there is a first step to determine what the Council is required to or may include in an IPI. In this part of our Report, we have considered the issue of scope in the following contexts:

(a) the legal parameters of an IPI, and whether all matters notified in PC 14 are matters that are required to or may be included in the IPI and subject to this ISPP.

(b) the scope of the relief that submitters can seek – which also includes consideration of the legal parameters of an IPI and what is 'on' the plan change

(c) the extent to which the Panel recommendations are permitted to go beyond the relief sought by submissions.

[153] Having considered legal submissions from the Council, including in the Reply, and from a number of submitters on the issue of scope we have approached the issues of scope as follows:

(a) What does the law permit the Council to include in an IPI using the ISPP process?

(b) Have we found any provisions that the Council has included in PC 14 which cannot be properly included in an IPI using the ISPP process?

(c) For those provisions of PC 14 which we find are properly included in an IPI using the ISPP process, we then go on to consider whether submissions are 'on' the plan change, applying a modified *Motor Machinists* and *Clearwater* tests (or Motor Machinists with a 'gloss', as Mr Randal for the Council put it[89], reflecting the mandatory requirements of the Housing Supply Amendment Act).

(d) Then, where we find submissions are on the plan change, we go on to make our recommendations to the Council as to whether to accept or reject those submissions on their merits.

(e) For submissions we find are not on the plan change we have recommended that they be rejected for that reason, except to the extent they may be considered in (f).

(f) In undertaking our consideration of the submissions and evidence we heard, we have also considered whether there are any other matters not raised in submissions, but were raised at the hearing, either by the Panel or parties and their witnesses, which may advance the purposes of the IPI in accordance with clause 99 and 100 of Schedule 1. At this point we record, that we have not recommended any matters that should be included in the plan, that have not otherwise been raised in submissions. We have, however identified that there are some matters the Council sought to include in PC 14, which we find are outside of the scope of an IPI.[90]

Legal parameters of an IPI

[154] The Panel heard from a number of legal counsel representing Council and submitters, and from lay submitters, who expressed different views on what the Housing Supply Amendment Act allowed the Council to include in PC 14. The issue of the proper purpose or scope of an IPI and the extent to which a territorial authority can introduce related provisions that might serve to limit the mandatory requirements of an IPI and status quo property rights of the underlying zone was subject of a decision of the Environment Court

[89] During the presentation of Council's Residential Legal Submissions on 31 October 2023
[90] As a consequence of our findings on *Waikanae* scope matters, which we discuss below

in *Waikanae Land Company Limited v Heritage New Zealand Pouhere Taonga and Ors*.[91] (Waikanae).

Waikanae

[155] The outcome of *Waikanae*, (which was, during the hearing of PC 14 subject to an appeal to the High Court on matters of law), was a significant theme during the hearings as to its impact on our process. At the time of the Reply, the Council maintained that *Waikanae* had been incorrectly decided. However, following the close of the hearing and prior to the completion of our deliberations and recording of our recommendations, the High Court released its decision, dismissing the appeal and upholding the Environment Court decision (the High Court decision).[92]

[156] During our deliberations, and prior to the release of the High Court decision we had considered the Environment Court decision, and as a number of submitters suggested, exercised caution in applying the outcome of that case. We instead approached the issues of interpretation of the Housing Supply Amendment Act on a first principles statutory interpretation basis.[93] In other words we applied the law as we interpreted it, and in reaching our view we note that we extensively questioned all counsel, particularly Counsel for the Council, across the hearings.

[157] We had already landed in a similar position to the Environment Court on the interpretation of the law, and as it transpires, an interpretation which has since been upheld by the High Court, which we have applied to PC 14 and the evidence in front of us.

[158] The Panel did reflect on whether, given the timing of the release of the High Court decision, we should seek further legal submissions form the Council and submitters who engaged in the legal interpretation of RMA s80E, however, given that the interpretation was squarely on the table throughout the hearing, and thoroughly tested and informed by a range of views articulated from parties with different interests, we concluded that was not required, given where we had already landed on the issue of interpretation.

[91] *Waikanae Land Company Limited v Heritage New Zealand Pouhere Taonga and Ors Decision No [2023]* NZEnvC 056
[92] *Kāpiti Coast District Council v Waikanae Land Company Limited and Ors* [2024] NZHC 1654
[93] Section 10(1) of the Legislation Act 2019 requires the meaning of any statutory provision to be ascertained from its text and in the light of its purpose and its context. Case law notes the importance of a "purposive approach," where the overriding purpose of the legislation needs to remain a clear and separate focus. Memorandum of Counsel for LMM and Ors, 21 December 2024 at 13

[159] The *Waikanae* decision has relevance to PC 14, because it was a case where the Kāpiti Coast District Council through its IPI process included a new listing of a site of significance to Māori because of the existence of an urupā which qualified under the mandatory application of the MDRS to general residential zoned land within the Kāpiti Coast District. It was argued by the Waikanae Land Development Company, that the Council exceeded its powers by including the new listing, because not only did the listing make the MDRS less enabling (which is permitted provided the requirements of s77I are met), but also because the listing had the effect of creating a new restriction on the underlying residential zone. As a result, certain permitted activities within the zone became discretionary and some non-complying. To be clear, the issue was not that sites of significance to Māori should not have been considered as QMs, the issue was that a *new* specific site of significance that had not been in the District Plan prior to its IPI process was added. Based on how we have approached the ISPP requirements, and what the Environment Court and High Court decisions would require, is that an ISPP can identify a QM and where that already exists in a District Plan it can be carried forward. But in the case of a new QM that did not previously exist, the ISPP can only qualify the new MDRS (or NPS-UD Policy 3 response) back to the pre-existing level of District Plan enablements. A Schedule 1 plan change process would then be needed to take the QM further than is possible in an IPI and reduce or remove the enablements that existed in the District Plan prior to the commencement of the initial IPI.

[160] This issue is one that also arises in the context of PC 14, where the Council has sought to include, for example new heritage listings, new heritage and character areas and hazard overlays, which address issues that are not solely brought about by the implementation of the MDRS or giving effect to NPS-UD Policy 3, but that limit or restrict existing development enablements. In some residential zones, incorporation of the MDRS (at face value an additional enablement) has been proposed to come with more restrictive activity status (such as a change from a controlled to a restricted discretionary activity), and in some cases additional and broader restrictions of discretion. Where a developer seeks to maximise the new MDRS, we signal no concern with additional activity status or matters of discretion applying. But where a developer only seeks a scale or type of development on land commensurate with what the ODP already provides, these changes amount to an equivalent loss of existing enablement.

[161] The Environment Court and the High Court approached the issue of interpretation of the permitted scope of an IPI in light of the text and purpose of the legislation. The High

Court concluded that the meaning of s80E(1), in light of its purpose and context required Councils to notify an IPI which changed district plans:[94]…

(a) by incorporating the Density Standards; and

(b) by amending existing provisions or including new provisions that:

(i) support the Density Standards; or

(ii) are 'consequential on" the Density Standards – using that phrase in the sense that requires such amendments or inclusions strictly to be such as to moderate the effect upon the status quo that the Density Standards would otherwise have, not to limit the level of development previously permitted.

[162] The High Court found that:

> [57] To interpret s 80E(1) otherwise would undermine its purpose, by permitting territorial authorities to take the opportunity of notifying Intensification Instruments which not only did not incorporate the Density Standards in certain respects, but which were intended to undermine housing intensification.
>
> [58] In forming this view, I do not accept Mr Conway's submission that a generous interpretation of "consequential on" is the required result of ss 80E(2) and 77I, and Objective 1 and Policy 2, which form part of the Density Standards set out in cl 6, sch 3A of the Act:
>
> (a) The inclusion via s 80E(2) of a broad range of matters as "related provisions" which may be amended or included, so long as they "support or are consequential on" the Density Standards, only serves to confirm the importance of the latter phrase being interpreted so as to give effect to the apparent purpose of s 80E(1).
>
> (b) Section 77I assists to establish a broad entitlement to amend the Density Standards, by way of regular pt 1, sch 1 district plan change, following their incorporation via Intensification Instrument. Making the Density Standards "less enabling" under s 77I may extend, depending on the force of the consideration in question, to post-Intensification Instrument changes that make the Density Standards not enabling at all. And further, s 77I lends to the definition of related provisions that may be amended or included by Intensification Instrument. But it does not address the issue of what amendments or inclusions are "consequential on" the Density Standards, except to the extent its positioning as part of ss 77G to 77M supports the subtle distinction described at [41] to [44] above.
>
> (c) Including Objective 1 and (in particular) Policy 2, as part of the Density Standards for incorporation by way of an Intensification Instrument under s 80E(1)(a)(i) does serve to confirm that authorities may decline to apply Density Standards where a qualifying matter is relevant. But it does not go further, to empower authorities to amend or include provisions that limit the level of development previously permitted prior to incorporation of the Density Standards.
>
> [59] And I do not accept that the Environment Court failed to consider the Council's ongoing obligation under s 77G(1) to implement the Density Standards. As indicated above, proper interpretation of s 80E(1) does not require a narrow interpretation of s

[94] *Kāpiti Coast District Council v Waikanae Land Company Limited and Ors* [2024] NZHC 1654 at [56] – [60]

77I. Indeed, the Environment Court expressly contemplated the possibility of regular plan change under pt 1 of sch 1, implicitly approving a broad interpretation of s 77I.

[60] I note that my interpretation of s 80E(1) overcomes Mr Conway's concern that other territorial authorities might have been required to allow intensification, by incorporating the Density Standards, despite that being inappropriate in light of a qualifying matter. Those authorities were not required to allow intensification: like the Council, they could instead have maintained the status quo. And further, the ongoing obligation under s 77G(1) to implement the Density Standards subject to a broadly interpreted s 77I overcomes the concern that territorial authorities might be required to maintain permissive rules despite identifying new qualifying matters.

The listing of the Subject Land as sch 9 wāhi tapu

[61] It follows from the meaning of s 80E(1), as I interpret it, that the Council's use of its Intensification Instrument to list the Subject Land in sch 9 involved the inclusion of a related provision that, in terms of s 80E(1), neither supported nor was "consequential on" the Density Standards. The Council's approach was instead a consequence of its view of its wider obligations under s 6. As the Company accepts, those obligations are matters the Council may seek to address by way of regular plan change under pt 1 of sch 1 of the Act.

[62] I note in this connection that I do not consider there to be particular significance for present purposes in the Council's evaluation report and the independent hearing panel's report, and their conclusions that listing the Subject Land as sch 9 wāhi tapu would be consistent with the Council's obligations under s 6, whereas maintaining the status quo would not. Neither report grapples adequately with the meaning of the phrase "consequential on" the Density Standards as it appears in s 80E(1), as illustrated by the context and purpose of that provision and the Act as a whole.

[63] Finally, I observe that I disagree with Ms Irwin-Easthope's submission that the interpretation I am adopting would have required the Council to ignore the weight of evidence regarding the urupā when engaging with the Intensification Instrument process. To the contrary, the Council was required to take its view of the evidence regarding the urupā into account when engaging with the Intensification Instrument process. Had it done so, staying within the bounds of its powers to include provisions consequential upon the Density Standards, it would have notified provisions that disapplied the Density Standards in respect of the Subject Land, leaving the status quo to be addressed when reasonably practicable by way of pt 1, sch 1 plan change.

[163] We note that the approach whereby relevant MDRS building height or density requirements can be made less enabling also extends to Policy 3 pursuant to sections 77G and 77I.[95]

[164] Our approach, consistent with the findings of the High Court is that, where a s77I or s77O QM is found to be appropriate to make the MDRS and Policy 3 intensification response of building height and density requirements less enabling, and those matters have been appropriately assessed as required by sections 77J-L and P to R, then they can be included in the IPI. The inclusion of 'related' provisions as set out in s80E (1)(b)(iii) and (2) that support or are consequential on the introduction of the MDRS and

[95] RMA sections 77G and 77I

Policy 3 and 4 responses, cannot however, constrain existing development rights under the ODP.

[165] That does not mean that additional matters are unable to be addressed. Rather, for the purposes of the Housing Supply Amendment Act, they may more properly be pursued via a standard Schedule 1 RMA process. The Council is aware of this and took steps to notify Plan Change 13[96] in relation to heritage matters (both heritage sites and residential heritage areas) and told us about the intended preparation of a Coastal Hazards Plan Change (Plan Change 12) which is proposed to address coastal hazards.

[166] The Council position throughout the hearing was that *Waikanae* was wrongly decided, and the purpose of PC 14 was much broader because the Council is required, when evaluating PC 14, to give effect to the NPS-UD, and in particular when incorporating the mandatory requirements of an IPI, the Council's response to those mandatory requirements was justifiably modified in order to do so.

[167] Notwithstanding that the Council considered that *Waikanae* was wrongly decided, the s42A Report authors usefully identified where they considered submissions may fall foul of *Waikanae* and be out of scope. These are summarised in the Reply as:

(a) significant and heritage trees (as well as 'other trees'), where the methodology to measure the protection zone around each tree will change in a way that potentially results in a larger area of protection in many cases

(b) the four new residential character areas (RCAs) and additions to existing RCAs which are not currently in the operative Plan, along with changes to activity status and built form standards that are in some instances less enabling of development

(c) the residential / industrial interface, where buildings above 8m high will trigger restricted discretionary activity status where the new built form standard is not complied with, including in MRZ and HRZ where buildings up to 11m high are currently permitted.

(d) A Waikanae-related issue arose in respect of the Riccarton Bush interface area, in relation to a side-yard setback to protect views of the Bush down existing driveways. However, the Council now proposes to retain the status quo setback because of issues raised at the hearing regarding the merits of a larger setback rather than because Waikanae would prohibit that outcome.

[96] Council Proposed Heritage Plan Change (PC 13)

(e) Also highlighted in Table G1 are the following QMs, where the potential additional constraints on development exist

(i) radio communications pathways, only insofar as more restrictive activity statuses will apply for buildings encroaching within the pathways

(ii) Victoria Street and Cathedral Square building heights, but only to add additional matters of discretion to assess buildings that do not comply with the height limit of 45m.

[168] We would add to the Council list residential heritage areas (RHA) provisions and new heritage sites and settings as we address in Part 5 of the Report, and the change proposed to the Industrial General Zone to MUZ, addressed in Part 3 of the Report. In relation to new heritage items and settings PC 14 also contains some heritage related provisions that would have constrained existing development rights. In the Reply the Council introduced a new argument that suggested that because PC 13 introduced heritage provisions at the same time which by operation of RMA s86B(3) had immediate legal effect the same provisions introduced in PC 14 were somehow now 'existing' qualifying matters. We firmly reject that argument. The consequence of a notified proposed provision is simply a 'holding pattern' to protect heritage values pending the hearing of submissions. Those provisions have not been 'tested' in the same way as those which are already in the ODP.

[169] The Council argues in its Reply that the constraints on status quo development rights are modest and justifiable in light of the matters identified in the relevant QM. Although acknowledging that such matters could be considered as part of a new Schedule 1 Plan Change, the Council considers the changes have been clearly signalled and that it would be duplicative and wasteful of resources to require that to occur.[97]

[170] The Panel had some sympathy with the Council that it can be challenging to weave provisions into the ODP in a way that solely targets the new intensification otherwise enabled by PC 14, particularly given the proposed response for each QM is bespoke. However, that does not justify or permit an extended application of the IPI. In our view, s80E anticipates that situation by only enabling related provisions that "support or are consequential" on the introduction of the MDRS and NPS-UD Policy 3 and 4, but that does not extend to changes that remove existing development rights.

[97] Council Reply, 17 May 2024 at 3.21

[171] The Council endeavoured to provide drafting solutions to avoid removal of existing development rights in the context of the coastal hazards overlay by using a new definition of 'residential intensification' (considered further in Part 5 of this Report). The Panel questioned the Council on the further application of this approach for all QMs. The response was that the Council elected not to take a similar drafting technique for all QMs due to time constraints and because it maintains that *Waikanae* was incorrectly decided.[98] The Council also used the method of notifying a Schedule 1 plan change (PC 13) to potentially overcome the issue in relation to heritage matters.

[172] We think the fact that it is possible to provide appropriate drafting (as in the case of coastal hazards) or pursue a Schedule 1 process (as in the case of historic heritage) illustrates that even without *Waikanae*, the Council has acknowledged there are in fact limitations on what can be done through an IPI when the purpose and text of the Housing Supply Amendment Act are considered.

[173] As we discuss in Part 4 of the Report, the Council's approach to drafting PC 14, which essentially took the opposite direction to *Waikanae*, has left the Panel with considerable difficulty in separating out matters that are related to the mandatory requirements of the MDRS and Policy 3 response, and those which remove existing enablements. This has resulted in the Panel recommending that the Council revisit the drafting of Chapter 14 to provide three alternative pathways for development to overcome the *Waikanae* scope issue.

[174] In reaching our conclusion on the scope of an IPI we were assisted by a range of legal submissions on behalf of submitters. The submissions ranged from a highly liberal interpretation in support of changes to non-relevant residential zones or non-urban areas,[99] to submitters seeking changes to other zones and activities not proposed to be changed by the Council[100]at one end, and then submitters who took a more cautious approach.[101] Other submitters approached the interpretation in a more purposive manner, which was our preferred approach.[102]

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[98] Ibid at 3.22
[99] For example, Legal submissions of Cashmere Park Ltd, Hartward Investment Trust and Robert Brown, 7 November 2023 at 18
[100] For example, Legal Submissions of Retirement Villages Association of New Zealand Incorporated and Ryman Healthcare Limited, 7 November 2024 at 57 and 58 and Legal Submissions of Foodstuffs South Island Limited and Foodstuffs (South Island) Properties, 17 October 2023
[101] Legal Submissions of Riccarton Bush Trust and Bush Pūtaringamotu Trust Board, 15 November 2023 at 33- 40.
[102] Memorandum of Counsel for LMM and Ors, 21 December 2023 and Memorandum of Counsel for Various Submitters - Scope and Other Matters, 1 May 2024

[175] Some submitters argued that the Council had overextended the use of the IPI and ISPP process in some areas to include matters which ought to be pursued by a standard Schedule 1 process or matters that restrict existing development rights under the ODP.[103]

[176] Counsel for Kāinga Ora, Mr B Matheson submitted that the Housing Supply Amendment Act is not intended to be a complete code. However, even though the IPI is also a plan change in the normal RMA sense and must therefore give effect to a range of other instruments including the NPS-UD (e.g. s75(3)(a) RMA), it must be assessed against the 'orthodox' s32 tests, albeit there is a caveat that this broader assessment is not permitted to undermine or detract from the mandatory intensification objectives encapsulated within the MDRS provisions and NPS-UD Policy 3 and 4.[104] He submitted:

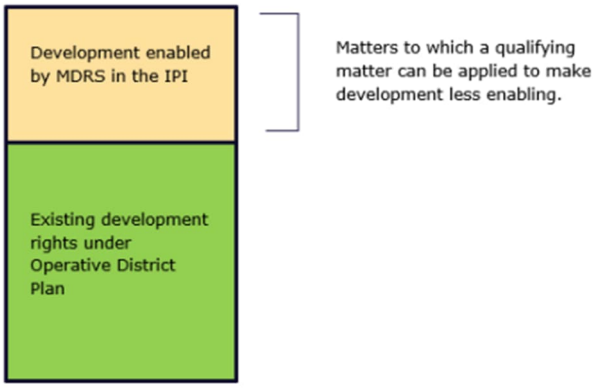
> In particular, it is not lawful for the Council to use the broader considerations to extend the ambit of countervailing factors beyond the very confined scope of s80E, and the very restricted ability to constrain this additional development (i.e. through qualifying matters).

[177] Mr B Matheson submitted that the Council's "evaluative exercise" approach bore a striking similarity to the "overall broad judgement approach" to the NZCPS that was so roundly rejected in the *NZ King Salmon*[105] decision and in others including the recent *Port of Otago*[106] decision.

[178] Ms Appleyard, Counsel for a number of submitters, who took an active role in hearings, also approached the interpretation in a purposive approach and emphasised that an IPI could not remove existing development rights.[107] Ms Appleyard illustrated this with a helpful diagram (which we find applies equally to an NPS-UD Policy 3 response).[108]

[103] For example, Red Spur Ltd #881 #2068, Kauri Lodge Rest Home 2008 Limited #2059
[104] Supplementary Legal Submissions of Kāinga Ora, 11 October 2023 at 2.4 and 3.1
[105] *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38
[106] *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112
[107] Including LMM Investments 2012 Limited #826 #2049, Carter Group Limited #814 #824 #2045, The Catholic Diocese of Christchurch #823 #2044, Church Property Trustees 3825 #2043, Daresbury Limited #874 #2053, Christchurch Casinos Limited #2077, NHL Properties Limited #706, Wigram Lodge (2001) Limited, Elizabeth Harris and John Harris #716 #817, Lyttelton Port Company #853, Orion New Zealand Limited #854, Christchurch International Airport Limited #852
[108] Memorandum of Counsel for LMM and Ors, 21 December 2024 at 31

31 We demonstrate this in the figure below:



[179] Ms Appleyard gave examples of matters she considered to be out of scope:[109]

(a) the introduction of a number of provisions in the historic heritage chapter[110] which impose additional controls to existing development rights

(b) the application of QMs over areas that are not relevant residential zones nor subject to submissions seeking that they be new residential zones

(c) additional transport provisions unrelated to intensification

(d) additional urban design rules in character areas.

[180] The Council responded to this and the views of submitters who took a different approach in the Reply. The Council maintained that *Waikanae* was wrongly decided and continued to argue that the IPI process could, as a consequence of the introduction of the MDRS and NPS-UD Policy 3 response, include provisions that had the effect of constraining pre-existing development rights, if they were necessary in order to give effect to the NPS-UD, Objective 1, and other higher order policy directives, including the CRPS and Part 2 of the Act.[111]

[181] In summary, having interpreted the provisions of the Housing Supply Amendment Act and in light of its text and purpose, considered the submissions on the scope of an IPI, and the *Waikanae* High Court decision, the Panel find that the scope of an IPI is as follows:

(a) PC 14 must implement the mandatory requirements of s80E and not be a vehicle for any other purpose.

[109] Ibid at 36
[110] Ibid at footnote 22
[111] Council Reply, 17 May 2024 at 3.13

(b) QMs introduced through the IPI process must relate to the MDRS standards identified in RMA, Schedule 3A and NPS-UD Policy 3 and 4, and only make those standards and NPS-UD Policy 3 response less enabling to the extent they are necessary to accommodate the QM and they satisfy the evaluative requirements of sections 77J, K L, P, Q and R.

(c) The standards in Schedule 3A, as modified by QMs must implement the two objectives and five policies in Schedule 3A.

(d) Implementation of Policies 3 and 4 are in part (along with the MDRS Objectives and Policies and other NPS-UD Policies) the method for implementing the Objectives of the NPS-UD. Rules and standards proposed by PC 14 applying to residential and non-residential zones in and near to centres and any proposed QMs must give effect to NPS-UD Policies 3 and 4.

(e) QMs cannot change the status of activities in underlying zones to be more restrictive, including by changing definitions or adding criteria to the matters of assessment or discretion within the same activity category, except as provided in (a).

(f) Notwithstanding that a proposed QM, or amendment to or introduction of, other objectives, policies, rules and standards (provisions) into the operative plan may achieve the wider purpose of the RMA on their own merit, unless those provisions are related to and are supportive and consequential to the mandatory requirements of an IPI, they cannot be subject to the ISPP process and should be pursued through a standard Schedule 1 process.

(g) Appeals to a well-functioning urban environment as it appears within either or both of the NPS-UD or RMA Schedule 3A, "density done well", Part 2 of the RMA, or the CRPS cannot have the effect of countermanding or broadening the matters set out above.

(h) We note that there are different statutory requirements for Financial Contributions, which we address in Part 6 of the Report and are not discussed further here.

What provisions in PC 14 are out of scope of an IPI?

[182] Following our analysis of PC 14 as notified, Council s32 and s42A Reports and associated evidence, and the submissions and evidence of all submitters, as against the

criteria [above] we have concluded that the following provisions were included in PC 14 as notified, or recommended by the s42A Report authors, are not within the permitted scope of an IPI and should be removed from PC 14 because they introduce restrictions on existing development rights above and beyond provisions required to implement the MDRS or Policy 3 of the NPS-UD. The provisions are grouped under the following topics:

(a) Riccarton Bush Interface Area

(b) Significant and Other Trees

(c) Proposed new and extended Residential Character Areas

(d) Proposed Residential Heritage Areas and Interfaces

(e) New Heritage Items, Settings and Associated Provisions or changes to the status or increased spatial extent of those items or settings

(f) Proposed Hazards QMs, to the extent they apply to underlying activities on the basis that they can only apply to the MRZ/HRZ where they are over and above status quo

(g) Transport rules regarding – accessways, where these apply to all activities

(h) Rezoning of Industrial General zones to Mixed Use

(i) Changes to the definition of 'Building'[112] which impacts on the application of provisions across the whole plan, not just the additional intensification.

(j) Changes to operative RNN zones to FUZ, and some RHZ to LLR

[183] Part 5 of this Report addresses the above listed QMs, adopting as a starting point, our findings on scope. Where relevant we also evaluate the merits of each proposed QM.

Scope of relief sought by submissions

[184] Submitters are entitled to make submissions 'on' the plan change once it is publicly notified.[113]

[112] The notified PC 14 Chapter 2 provisions proposed the replacement of the operative definition of 'Buidling' with a narrower defintition from the NPS, which has consequences as a result of *Waikanae* which we discuss belwo and in Part 4 of the Report.
[113] RMA, Schedule 1, clause 6 and 95(2)(i)

[185] PC 14 was publicly notified along with PC 13 on 17 March 2023. The public notice was reasonably generic and opened with the following statement, followed by a high-level summary of the content of both PC 14 and PC 13.

> The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (Amendment Act) requires the Council to include Medium Density Residential Standards (MDRS) and to give effect to the National Policy Statement on Urban Development 2020 (NPS-UD) in its District Plan. This will enable the development of up to three houses of up to 12m high in most residential areas of urban Christchurch without the need to apply for a resource consent and enables higher density development in and within walking distance of commercial areas, unless a "qualifying matter" necessitates lesser development. The Qualifying Matter relating to sunlight access applies to all residential zones subject to the plan change and therefore the rules in the District Plan permitting MDRS development will take effect upon decisions being made by the Council on the recommendations of the Independent Hearings Panel. Under the Resource Management Act 1991 (RMA), all heritage-related provisions proposed will have immediate legal effect upon notification.

[186] Our observation is that the public notice conflated a number of issues including:

(a) Heritage provisions which lead to confusion by submitters as to which plan change (PC13 or PC14) they needed to submit on.

(b) What aspects of the NPS-UD were required to be implemented by the Housing Supply Amendment Act.

(c) A lack of clarity as to the relevance of walkable catchments in the context of a Policy 3 response.

[187] In legal submissions the Council sought to take a strict approach to the scope of the relief that submitters could seek. We have considered the legal principles that apply but have generally taken a more lenient approach to the scope of submissions, provided no undue prejudice arises to other would-be submitters because of the general nature of the public notice.

[188] The issue of what is "on" PC 14, is not as clear cut as might be the case in a standard Schedule 1 plan change promoted by a Council or an applicant in respect of a private plan change. That is because the mandatory requirements of the Housing Supply Amendment Act, which require the implementation of the MDRS and NPS-UD Policy 3, have required the Council to interpret what it considers to be the most appropriate means of achieving those mandatory requirements, including by proposing a number of QMs which make the intensification requirements inappropriate. It is open to submitters to respond to what the Council has proposed or offer alternatives to implementing the mandatory requirements, provided it is within the scope of matters that can be included in an IPI.

[189] A number of submitters and Council's legal counsel referred the Panel to case law which provides some guidance on the matters we should take into account when considering whether the relief sought by a submitter is on the plan change or out of scope.

[190] The case of *Clearwater Resort Ltd and Canterbury Golf International Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003 (Clearwater) established a two-limb test:

> 1. A submission can only fairly be regarded as "on" a variation if it is addressed to the extent to which the variation changes the pre-existing status quo.
>
> 2. But if the effect of regarding a submission as "on" a variation would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, this is a powerful consideration against any argument that the submission is truly "on" the variation."

[191] The Court elaborated that:

> It is common for a submission on a variation or proposed plan to suggest that the particular issue in question be addressed in a way entirely different from that envisaged by the local authority. It may be that the process of submissions and cross-submissions will be sufficient to ensure that all those likely to be affected by or interested in the alternative method suggested in the submission have an opportunity to participate. In a situation, however, where the proposition advanced by the submitter can be regarded as coming out of "left field", there may be little or no real scope for public participation. Where this is the situation, it is appropriate to be cautious before concluding that the submission (to the extent to which it proposes something completely novel) is "on" the variation.

[192] In *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290, [2014] NZRMA 519 (*Motor Machinists*) the High Court affirmed and expanded the *Clearwater* tests when considering a plan change that sought to rezone land along a ring road from residential to business zoning.

[193] In expanding on the *Clearwater* test, the High Court made the following observations:

> (a) Regarding the first limb of the Clearwater test:
>
> For a submission to be on a plan change, therefore, it must address the proposed plan change itself. That is, to the alteration of the status quo brought about by that change. The first limb in Clearwater serves as a filter, based on direct connection between the submission and the degree of notified change proposed to the extant plan. It is the dominant consideration. It involves itself two aspects: the breadth of alteration to the status quo entailed in the proposed plan change, and whether the submission then addresses that alteration.
>
> … the submission must reasonably be said to fall within the ambit of the plan change. One way of analysing that is to ask whether the submission raises matters that should have been addressed in the s 32 evaluation and report. If so, the submission is unlikely to fall within the ambit of the plan change. Another is to ask whether the management regime in a district plan for a particular resource (such as a particular lot) is altered by the plan change. If it is not, then a submission seeking a new management regime for that resource is unlikely to be "on" the plan change. … Yet the *Clearwater* approach does not exclude altogether zoning extension by submission. Incidental or

> consequential extensions of zoning changes proposed in a plan change are permissible, provided that no substantial further s 32 analysis is required to inform affected persons of the comparative merits of that change. Such consequential modifications are permitted to be made by decision makers under schedule 1, clause 10(2). Logically they may also be the subject of submission.
>
> (b) Regarding the second limb of the Clearwater test:
>
> A core purpose of the statutory plan change process is to ensure that persons potentially affected, and in particular those "directly affected", by the proposed plan change are adequately informed of what is proposed. And that they may then elect to make a submission, … thereby entitling them to participate in the hearing process. It would be a remarkable proposition that a plan change might so morph that a person not directly affected at one stage … might then find themselves directly affected but speechless at a later stage by dint of a third party submission not directly notified as it would have been had it been included in the original instrument.
>
> To override the reasonable interests of people and communities by a submissional sidewind would not be robust, sustainable management of natural resources.[footnotes omitted]

[194] Ms Appleyard also referred us to the decision of *Calcutta Farms Ltd v Matamata Piako District Council* [2018] NZEnvC 187 (Calcutta Farms).[114] That case serves as a reminder to carefully consider the nature of the plan change that is in issue and the purpose of it. In that case the Court held that:

> the purpose of the plan change is to review the future need for residential areas in Matamata, and to identify areas next to urban areas where future residential activity is proposed to occur. The method by which the latter is proposed to occur in PC47 is by the application of the Future Residential Policy Area notation. Underpinning the need for the size and scale of both new Residential Zones and the Future Residential Policy Area are the population predictions, which Calcutta Farms' submission directly sought to challenge. I agree with Mr Lang that the District Plan review process should be such that differing views on the appropriate scale of such policy areas can be considered, rather than assuming that the Council's nominated scale of policy areas represents the uppermost limit for future planning. I therefore agree with Mr Lang that the difference and scale and degree of what is proposed by Calcutta Farms is a matter going to the merits of the submission rather than to its validity.

[195] We were also referred to the High Court decision of *Albany North Landowners v Auckland Council* [2017] NZHC 138, a decision related to the special legislation for the Auckland Unitary Plan. In that process the Panel was not confined to the relief raised in submissions, and the scope of the plan change was very wide. This case serves as another reminder that we need to consider the 'classic' scope principles carefully in light of the purpose of the plan change before us.

[196] In legal submissions of Council and submitters, and in the Council s42A Reports we received differing opinions of where the line was drawn on whether a submission was "on" PC 14 or not.

[114] Memorandum of Counsel for LMM and Ors, 21 December 2024 at 51.11

[197] The views expressed ranged from a very wide approach which put anything that the Council was 'legally entitled' to include in an IPI could provide a basis for a submission, which appeared to be the approach for the group of submitters represented by Ms Appleyard as outlined in the Memorandum on Scope dated 21 December 2023, and submitters including Lendlease and Foodstuffs at one end of the spectrum. At the other end, the argument was advanced by the Council that the scope, whilst broader than a standard Schedule 1 process did not extend beyond the four corners of what was notified plus it had the ability to suggest alternative methods to achieve the mandatory requirements of the IPI.

[198] Having considered the submissions made on the issue of scope we have concluded that the following factors are relevant to determining the scope of relief sought by submitters in the context of the IPI:

(a) There is an overriding lens of fairness and natural justice to the issue of the scope of changes that a submitter may seek, such that they might be reasonably anticipated by persons affected by them.

(b) We need to consider the 'classic' scope principles from *Motor Machinists* and *Clearwater* carefully in light of the purpose of the plan change before us.

(c) An IPI is distinguishable from an ordinary plan change because the former has both mandatory and discretionary elements while the latter is entirely discretionary. An IPI compels the Council to notify a plan change including the scope of which must address the two mandatory elements, while affording Council an entitlement to choose to include other changes in an IPI as 'related provisions' (such as rezonings). Related provisions cannot be promoted beyond the scope of s80E.

(d) We agree with the Council that the unique context of an IPI, provides scope for submissions to include relief based on an assertion that the Council has not properly complied with the mandatory requirements of the RMA in terms of:

(i) incorporating the MDRS: a submitter can assert that Council has failed to incorporate all elements of the MDRS into all relevant residential zones, or that a QM should not be recognised in an area so that MDRS applies instead of the lower intensification proposed in the notified IPI, or that a new QM should apply

(ii) giving effect to NPS-UD Policy 3, including to assert that

(iii) walkable and 'adjacent' catchments have been cast too narrowly – thus effectively asking for wider areas of intensification than in the IPI as notified, or too broadly (which would not be permissible under *Clearwater / Motor Machinists* in any event)

(iv) building heights and densities in centres, catchments, and residential zones are not set as they should be, for greater or smaller, particularly in terms of whether those heights/densities:

1. realise as much development capacity as possible, to maximise benefits of intensification (in city centre zones (policy 3(a))

2. are at least 6 storeys within walkable catchments of specified areas (Policy 3(c))

3. are commensurate with the level of commercial activity and community services within and adjacent to specified types of centre zones.

[199] However, beyond those mandatory statutory matters compelling the scope of an IPI, the scope of relief that submitters can seek is still subject to *Clearwater / Motor Machinists* principles. That is because ordinary natural justice and fairness considerations continue to apply to the discretionary elements of PC 14 in same way such considerations apply to an ordinary plan change.

Consequential and incidental rezoning extensions and zone changes

[200] The Panel accept as a starting point that provided land is within a relevant residential or non-residential urban zone and adjoins a relevant residential zone or a Central City or commercial zone referred to in NPS-UD Policy 3, then there is scope to consider a submission seeking the rezoning provided that it is in support or consequential of the MDRS or NPS Policy 3 response and is subject to an appropriate s32 or s32AA analysis.[115] It must also be consistent with our previously set-out framework relating to existing development enablements on land. Depending on the zone 'package' proposed, a re-zoning *could* have the effect of impermissibly removing existing development rights.

[115] Council Reply - 17 May 2024 at 4.24, applying *Option 5 Inc v Marlborough District Council (2009)* 16 ELRNZ 1 (HC)

We address a similar issue in the context of the PC 14 proposal to rezone Industrial zones close to the CCZ, as MUZ in Part 3 of the Report.

[201] The *Motor Machinists* decision makes it clear that extensions to zones proposed in a plan change are not off the table, where they are incidental or consequential to the proposal, subject to issues of potential prejudice.

[202] The Council adopted a narrow approach to the requests for rezoning by submitters where the land in question was subject to a name change only in PC 14 to bring the zoning name in line with the requirements of the National Planning Standards, and in all other respects the activity range, density and height matters were unchanged.

[203] Some submitters, including Foodstuffs, Lendlease and members of the submitter group represented by Chapman Tripp rely on the broad argument that anything the Council could have done (including the creation of new zones or alternative 'related' provisions in s80E) is on the table for our consideration as being within scope. Those submitters argue that if it was open to the Council to rezone (either under sections 77G or N or 80E(1) and (2), but the Council elected not to, then a submitter could request the change.

[204] The Panel's approach to rezoning requests is as follows:

Outside of Scope:

(a) Submitter requests to rezone land that is not a relevant residential zone or urban non-residential zone.

(b) Submitter requests to rezone land that is a relevant residential zone or urban non-residential zone, where PC 14 does not change the zone other than a name change to reflect the equivalent zone in the National Planning Standards.

(c) Submitter requests to rezone land that is a relevant residential zone or urban non-residential zone where the request is unrelated or not required to support or as a consequence of incorporating the MDRS or implementing NPS-UD Policy 3.

In Scope:

(d) Minor incidental zone boundary realignments contemplated by *Motor Machinists* provided the land is a relevant residential zone or urban non-residential zone and the change is in support or consequential upon giving effect to the MDRS or Policy 3 response.

(e) Submitter requests to rezone land that is a relevant residential zone or urban non-residential zone where PC 14 proposes a change to that zone to give effect to the MDRS or Policy 3 response, including proposing a change from residential to a non-residential zone.

[205] Rezoning requests that are in scope are subject to the usual evaluation requirements and the absence of supporting evidence and a s32 or s32AA evaluation will result in the submission failing on its merits.

General findings on Scope for all matters

[206] The Council included in its Reply at paragraph 4.31 a table indicating the Council's position on all scope issues. We have adopted the table format and amended it to reflect our general findings on the categories of scope. We differ from the Council in two main categories:

(a) The application of *Waikanae*. We find that it is out of the scope of an IPI for the Council or submitters to seek changes to restrict status quo development rights as discussed above at [155].

(b) The scope of rezoning requests where the submitter seeks a change of zoning to a site that was rezoned by PC 14 and the submitter requests a change of zoning to another zone that was included in PC 14. The Council considered this out of scope. We disagree with the Council's reasoning but adopt a precautionary approach to issues of potential prejudice and a careful examination of the merits of the request.

[207] Within (b) above we note the inconsistent approach by the Council to changes to the zoning proposed by the Council for some Residential New Neighbourhood zones (RNN). PC 14, in some cases, rezones RNN as MRZ on the basis that RNN is a relevant residential zone to which the mandatory requirements are to apply. In other areas the Council has rezoned RNN to Future Urban Zone (FUZ). We consider FUZ would remove existing development rights and is not permitted by an IPI. We discuss this further in Part 7 of the Report.

[208] Related to this and discussed in Part 4, is that parts of the RHZ exhibit qualities of a type (or sub-zone) of Large Lot Residential Zone and, not being a relevant residential zone, should be excluded from PC 14 and as a result of that retain the ODP status entirely. The Council's proposal to formally re-zone these areas through PC 14 to a Large Lot

Residential Zone (with reduced enablements compared to the ODP) is not appropriate in terms of both the inclusion of the land in the IPI at all, and secondly via the effect of removing existing enablements.

[209] Within (b) above we also consider that a request to rezone an area proposed to be High Density Residential Zone (HRZ) in response to a NPS-UD Policy 3 response, it is within scope for a submitter to request another type of residential or non-residential urban zone, provided that in doing so it is also in response to Policy 3.

[210] The following table summarises our approach to scope issues.

Relief sought	**Within or outside scope?**	**Why?**
Higher or lower heights and densities in relevant residential zones and Policy 3 centres and catchments	In: Except where submitter seeks lower heights than ODP	The Panel agree with Council that lower heights / densities than proposed through PC 14 as notified are in scope as they lead to relief between *status quo* and PC 14 as notified. Higher heights/densities addressing a mandatory requirement are reasonably within the ambit of an IPI. Note the Panel concludes that submissions seeking lower heights / densities other than in the ODP are out of scope in terms of s80E (*Waikanae)*, as discussed above.
Larger or smaller walking / adjacent catchments	In	Smaller catchments are in scope as they lead to relief between *status quo* and change as notified. Larger catchments addressing a mandatory requirement are reasonably within the ambit of an IPI (notwithstanding that larger catchments would lead to greater intensification than as notified).

Relief sought	Within or outside scope?	Why?
Qualifying matters – too great / too small in coverage	In	Additional / expanded QM areas are in scope as they lead to relief between *status quo* and change as notified. To the extent that QMs proposed by submitters give rise to *Waikanae* issues, those aspects are out of scope (as not being 'on' the plan change, because that relief does not fall between the *status quo* and that notified). Removal of or reduced QM areas are reasonably within the ambit of an IPI as they effectively seek full implementation of a mandatory requirement notwithstanding that fewer / smaller QM areas would lead to greater intensification than as notified.
Additional controls on intensification (as consequential provisions)	In	Reasonably within the ambit of an IPI and aimed at newly enabled intensification so the new management regime for the resource would likely fall somewhere between the *status quo* and that proposed through PC 14 as notified.
Rezoning a site to include it within a centre zone that notified PC 14 has renamed, but not substantively rezoned	Out	In this case, the Council has renamed rather than rezoned centres so such a change is not an *"extension of a zoning change"* as per *Motor Machinists.*
Rezoning *a site that was rezoned in PC 14* to another zone that is of a type proposed by PC 14. For example, a Residential Suburban Zone (RSZ) which became a MRZ zone and the submitter seeks it to be a Local Commercial Zone	In: But still need to consider *Motor Machinists*	*Motor Machinists* principles – potential prejudice to neighbours of different zoning / activity mix. Incidental extensions unlikely to meet test for no prejudice, unless submitters have alerted neighbours to their submission and the neighbours have made a further submission.

Relief sought	Within or outside scope?	Why?
Rezoning a site not rezoned by PC 14 to include it within an area that notified PC 14 has proposed to substantively rezone – eg. new Mixed Use Zone (MUZ), new HRZ, new Medium Density Residential Zone (MRZ)	Out unless incidental	*Motor Machinists* principles – potential prejudice to neighbours of different zoning / activity mix. Incidental extensions unlikely to meet test for no prejudice unless submitters have alerted neighbours to their submission and the neighbours have made a further submission.
Seeking enablement of specific activities in areas rezoned MRZ or HRZ	Out, unless addressing the extent to which the PC 14 changes the *status quo* or incidental to the zoning change and no prejudice.	*Motor Machinists* principles – potential prejudice to neighbours of different activity mix, unlikely to have been addressed by direct engagement with potentially affected persons. Within scope to seek retention of controls per underlying operative zoning.
Seeking removal of heritage sites from the Plan schedule	In. provided a consequence of rejecting a QM	The Council's approach was that submissions were in, but relied on the fact that potential prejudice issues were address due to the concurrent notification of PC 13.[116] We do not think that is a scope issue, rather, if the evidence before us demonstrates that an existing heritage QM is not justified, having been evaluated under s77I, J, K or L or s77O, P, Q or R as the case may be, then removal of a heritage item is a consequence of that finding, therefore it is within scope of a submission on the IPI to request its removal.
Seeking amendment of operative overlay – e.g. change of waterbody path so overlay not required in an area	Out, unless seeking that the operative overlay is not a QM.	If the issue is removal of the QM, then it is an issue of merit, not scope. Extensions or removal of the overlay for other reasons would be outside of scope.

[211] In summary, on the issue of scope of an IPI and submissions the Panel has taken a more generous approach to the scope of submissions than the Council, in light of the way in which PC 14 was described in the public notice and the complex and wide-ranging changes the Council proposed. We have however, maintained a consistent position that the IPI, and the submissions on it can only address the mandatory

[116] Legal Submissions of Council - Heritage Items Qualifying Matter, 16 November 2023

requirements of the Housing Supply Amendment Act and related provisions to the extent the support or are consequential upon implementing the mandatory requirements. We have approached the provisions as notified, and those requested to be changed in submissions, on the basis that they must not remove status quo development rights.

[212] We have applied the above approach to our findings and recommendations in subsequent parts of the Report. Notwithstanding the above approach to scope issues, the Panel does have additional powers to make recommendations on provisions, notwithstanding the absence of submissions on the matter. Some submissions sought changes which they say we could make in reliance on that power. We address those matters below.

Recommendations on provisions not the subject of submissions

[213] We have considered our powers to making recommendations outside of the relief requested by submitters that allows us to take a more generous interpretation of scope than might be the case in a standard process.[117] We find that our extended powers, are not intended to open up the relief submitters are seeking more broadly.

[214] We view the extended powers as allowing us greater flexibility to recommend changes, which are still related to the plan change which might better enable the mandatory requirements, or support, or are consequential upon, the proper use of a mandatory requirement, QM, or related provision, as long as those matters were raised during the hearing by us or parties and their witnesses. Such matters might otherwise have been out of scope in a standard process. That power is however not unfettered, and we have applied the proviso that the recommendations do not create issues of unfairness to other submitters or would be submitters who might otherwise be impacted by our recommendation and not have had an opportunity to be heard, bearing in mind the lack of appeal rights.

[215] As it happened, given the breadth of the submissions on PC 14, we have not found it necessary to rely on our additional powers. In some cases, we have identified matters which the Council sought to include in PC 14, which despite no direct submissions having been received on those provisions, we have found these to be outside the legal scope of matters the Council could include for the reasons set out at above. These are:

[117] RMA, Schedule 1 cl 99

(a) Change of Industrial General Zone to MUZ for the reasons set out in Part 3 of the Report.

(b) Policy 8.2.2.1, Recovery Activities, for the reasons set out in Part 6 of the Report.

(c) A change to the definition of 'Building'

Overall findings on scope of provisions in PC 14

[216] Having considered PC 14 as notified, and the submissions received on PC 14, our findings on matters outside of the Scope of an IPI, we recommend that the Council approve the Panel Recommended version of provisions in Part 8 of the Report, Appendix G.

8. STATUTORY EVALUATION OF PLAN CHANGE 14

General Framework Applicable to Plan Changes

[217] Counsel for the Council referred us to a summary of the mandatory requirements for district plans as articulated in *Colonial Vinyard Limited v Marlborough District Council*[118] although noting that since that decision the Act had been amended multiple times, including the additional matters required of the IPI. Counsel for the Council provided an updated summary of the mandatory requirements incorporating the various amendments and the requirement of the IPI as part of the Council's legal submissions for the hearing of submissions on the Residential chapter.[119] We reproduce that in Part 8, Appendix E.

Section 74 and 75 requirements

[218] District Plans are part of a hierarchy of RMA policy and planning instruments. The RMA prescribes certain directions for how district plans are to align with other instruments.

[219] There was little dispute as to the list of RMA policy and planning instruments that we need to address as part of our functions. We have identified the relevant instruments, and the degree to which our recommendations must align as follows:

[118] *Colonial Vinyard Limited v Marlborough District Council* [2014] NZEnvC 56 at [17]
[119] Legal Submissions of Council - Residential Zones, 26 October 2023

Instrument	PC 14 alignment	Approach
New Zealand Coastal Policy Statement (NZCPS) National Policy Statement on Urban Development (NPS-UD) National Policy Statement for Freshwater Management (NPS-FM) National Policy Statement for Highly Productive Land 2022 (NPS-HPL) Canterbury Regional Policy Statement (CRPS)[120] National Planning Standards 2019 National Environmental Standards (Electricity Transmission)	Give effect to	"Give effect to" means to implement according to the applicable policy statement's intentions[121]
Regional Coastal Environment Plan Canterbury Land and Water Regional Plan	Not be inconsistent with	Are the provisions of the Strategic Directions and Outcomes Proposals compatible with the provisions of these higher order documents? Do the provisions alter the essential nature or character of what the higher order/recovery documents allow or provide for?[122]

[120] We note however, that the requirement to give effect to the CRPS, is qualified, in section 77G(8) where the CRPS is inconsistent with the requirement to implement the MDRS, we discuss the effect of that section below at [238]

[121] *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, (2014) 17 ELRNZ 442, at [80], and at [152]-[154].

[122] *Re Canterbury Cricket Association* [2013] NZEnvC 184, [51]–[52] for the first of these questions, and *Norwest Community Action Group Inc v Transpower New Zealand* EnvC A113/01, 29 October 2001, paragraphs [55]–[56] for the second question

Instrument	PC 14 alignment	Approach
Mahaanui Iwi Management Plan (IMP)	Take into account	We must address the matter and record we have done so in our recommendation; but weight is a matter for our judgment in light of the evidence.[123]
Selwyn District Council and Waimakariri District Council District Plans	Have regard to the extent to which there is a need for consistency	We have done so only where appropriate to do so.
Greater Christchurch Spatial Plan Land Use Recovery Plan (LURP) Christchurch Central Recovery Plan (CCRP) Canterbury Regional Land Transport Plan	Have regard to	Give genuine attention and thought to the matter.[124]

NPS-UD Policy 3 and 4

[220] Policy 3 of the NPS-UD requires that:

> **Policy 3:** In relation to tier 1 urban environments, regional policy statements and district plans enable:
>
> (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and
>
> (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
>
> (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
>
> (i) existing and planned rapid transit stops
>
> (ii) the edge of city centre zones
>
> (i) the edge of metropolitan centre zones; and

[123] *Bleakley v Environmental Risk Management Authority* [2001] 3 NZLR 213 (HC) at [42]
[124] *NZ Fishing Industry Assn Inc v Ministry of Agriculture and Fisheries* [1988] 1 NZLR 544 (CA) at pp 17, 24, 30 and also the Environment Court decision in *Marlborough Ridge Ltd v Marlborough District Council* (1997) 3 ELRNZ 483 and *Unison Networks Ltd v Hastings District Council* [2011] NZRMA 394, at [70] (albeit a resource consent decision, as to s104)

(d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.

Policy 4: Regional policy statements and district plans applying to tier 1 urban environments modify the relevant building height or density requirements under Policy 3 only to the extent necessary (as specified in subpart 6) to accommodate a qualifying matter in that area.

[221] NPS-UD subpart 6 at cl 3.32 provides for the types of QMs that may modify the height and density requirements of Policy 3 and is mirrored in sections 77I and O.

Policy 3(a)

[222] It is not disputed that the operative Central City Zone is a city centre zone for the purposes of Policy 3(a), and Part 3 and Part 4 of this Report addresses submissions on the required response.

Policy 3(b)

[223] In the context of PC 14 there is an issue as to whether any of the centres within Christchurch should be described as a metropolitan centre. PC 14 as notified does not propose a Metropolitan Centre, however submitters (Kāinga Ora, Scentre and Lendlease) submit that all or some of the proposed 'Large Town Centres' of Riccarton, Papanui and Hornby should have been categorised as Metroplitan Centres and subject to a Policy 3(b) response. We address this further in Part 3 of the Report.

Policy 3(c)

[224] There are no exisiting or planned rapid transport stops in Christchurch, and only a preliminary business case has been developed for future rapid transport stops. PC 14 proposes some future proofing for a future rapid transport route through the introduction of the City Spine QM, but it is accepted this does not trigger a response under Policy 3(c)(i) at this time. The merits of the City Spine QM are addressed in Part 5 of this Report.

[225] We address Policy 3(c)(ii) building heights within a walkable catchment of the "edge of the central city" in Part 3 of the Report, which includes the provision for HRZ and CCMUZ zones.

Policy 3(d).

[226] Policy 3(d) response is considered in the context of the level of commercial activity and community services in Part 3 of the Report.

RMA Schedule 3A, MDRS,

[227] Medium Density Residential Standards (MDRS) means the requirements, conditions, and permissions set out in RMA, Schedule 3A.[125]

[228] Schedule 3A sets out the activity status of permitted activities meeting the prescribed density standards in the district plan (as prescribed in the schedule) and controlled subdivision activities and restricted discretionary activities where one or more of the density standards are not met. Schedule 3A also addresses non-notification requirements for resource consents.[126]

[229] Schedule 3A requires a territorial authority to include 2 objectives and 5 policies into the district plan as follows:

> Objective 1
>
> (a) well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future:
>
> Objective 2
>
> (b) a relevant residential zone provides for a variety of housing types and sizes that respond to—
>
> (i) housing needs and demand; and
>
> (ii) the neighbourhood's planned urban built character, including 3-storey buildings.
>
> Policy 1
>
> (a) enable a variety of housing types with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments:
>
> Policy 2
>
> (b) apply the MDRS across all relevant residential zones in the district plan except in circumstances where a qualifying matter is relevant (including matters of

[125] RMA, Schedule 3A, cl 2

[126] RMA, Schedule 3A, cl 1-5. Density standards means a standard setting out requirements relating to building height, height in relation to boundary building setbacks, building coverage, outdoor living space, outlook space, windows to streets, or landscaped area for the construction of a building.

significance such as historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga):

Policy 3

(c) encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance:

Policy 4

(d) enable housing to be designed to meet the day-to-day needs of residents:

Policy 5

(e) provide for developments not meeting permitted activity status, while encouraging high-quality developments.

[230] Part 2 of Schedule 3A prescribes the density standards, including the maximum 3 residential units per site, and 11m (3 storey) height requirements. Part 2, Schedule 3A prescribes the requirements for height in relation to boundary, setbacks, building coverage and outdoor living space and outlook, landscaping and street facing window requirements for each unit.

Section 76

[231] RMA, Section 76, prescribes certain matters related to rules. We must bear in mind that rules have the force of regulation, and they need to be drafted in a manner so that they are clear and precise in their effect. Further, rules are a method to implement stated objectives and policies in a district plan, therefore, wherever a rule is to be introduced into the plan, it must have a lineage to a relevant objective and policy. We have applied that discipline to the evaluation of the notified and Reply versions of the provisions and to our own Panel Recommendation version.

Requirements of Intensification within Relevant Residential and Non-residential Zones

Section 77G, H and N

[232] We have addressed the general requirements of s77G and s77N above at [82].

[233] Section 77G(8) explicitly provides that the requirements to include the MDRS into all relevant residential zones and applies irrespective of any inconsistent objective or policy in a regional policy statement.

[234] The meaning and effect of Section 77G(8) was subject to debate in the context of the hearing on the proposed Airport Noise QM. That is because the CRPS contains specific

objectives and policies which directs the planning approach to providing for new development within the urban areas that are within the 50dBALdn Aircraft Noise Contour. The airport noise contour is shown on Map A in the CRPS and depicted on the ODP planning maps. We address the detailed evidence and policy arguments as to the effect of airport noise on residential intensification within relevant residential zones in Christchurch in Part 4 of our Report. Here we focus on the arguments as to the meaning of s77G(8) as it applies to the implementation of the MDRS to all relevant residential zones.

[235] Counsel for Council advanced the argument that s77G(8) makes it clear that the MDRS must be applied notwithstanding the existence of an inconsistent policy in the CRPS but does not alter the requirement for the Panel to 'give effect' to the CRPS when considering the appropriateness of a QM. The Council points to the orthodox approach to s32, and s74 and s75 which still apply, supplemented by the requirements of the Housing Supply Amendment Act. That position was supported by the Canterbury Regional Council / Environment Canterbury.

[236] Counsel of Kāinga Ora on this particular matter (Mr Whittington) had a different view and submitted that we must first ascertain whether there is an inconsistency between the requirement to include the MDRS and the CRPS, and if there is, then the offending policy of the CRPS must be set aside. Mr Whittington noted that s77G(8) simply reflects the fact that what is occurring here is that there is an out-of-sequence direction to include provisions in the ODP without first modifying the CRPS, and it is logical that an inconsistent policy in the CRPS could not be used to override the express legislative requirement to incorporate the MDRS. We note that s77G(8) only applies to the incorporation of the MDRS, not the additional intensification response in Policy 3. We note that Regional Policy Statements will also need to give effect to Policy 3 in due course.

[237] In support of Mr Whittington's approach, we note that in section 77M of the Housing Supply Amendment Act, where the MDRS is incorporated into an IPI, and has immediate legal effect when assessing new resource consent applications under s104 of the Act, section 77M(7) also expressly provides that:

> Any objectives or policies of a regional policy statement or proposed regional policy statement do not apply to the consent authority's consideration of the new application to the extent that they are inconsistent with the objectives and policies in clause 6 of Schedule 3A as notified in the IPI.

[238] In the Reply, the Council maintained its position on the application of s77G(8), submitting that:

> section 77G(8) applies only to the starting-point presumption of intensification, because a Regional Policy Statement may contain details about where medium-density residential development should be located, for example, which must be disregarded in incorporating the MDRS into every relevant residential zone. Section 77G(8) cannot be read, however, as rendering the CRPS irrelevant in considering the merits of the PC 14 provisions (such as provisions relating to a QM) as part of a section 32 evaluation. Nor can section 77G(8) be read as overriding the consideration, use and evaluation of QMs (anticipated by section 77G(6)). If this was Parliament's intent, it could have been reflected in sections 77J or 77L, for example, stating that the evaluation of QMs must ignore any inconsistent objective or policy in a regional policy statement, or in section 75 of the RMA. Absent such changes, the statutory requirement remains for the Plan to "give effect" to the CRPS under section 75(3)(c) of the RMA. (e) In the usual way, the effective

[239] We prefer the approach advanced by Mr Whittington. The starting point is to determine whether there is any inconsistency between the MDRS and CRPS, and only then may the offending regional policy be disregarded. We have reflected on this where relevant to our considerations in each subsequent part of the Report. We have, wherever possible endeavoured to interpret the MDRS and CRPS in a way that works, so that they are not inconsistent. It is only where the inconsistency exists that we disregard the offending CRPS policy. This approach is consistent with the accepted approach to interpreting related planning documents.[127]

[240] Section 77H allows the Council to enable greater development than provided by the MDRS, in addition to giving effect to Policy 3 in some circumstances. So even if outside of the catchment for Policy 3, the MDRS standards can be modified to be made more lenient.

[241] The MDRS or NPS-UD Policy 3 response in residential zones can be made less enabling through the inclusion of QMs in s77I, and in the case of non-residential zones, s77O. We address the legal requirements for QMs below.

Sections 77I and O

[242] Sections 77I and O sets out the circumstances where the Council may make the MDRS and relevant building height and density requirements of Policy 3 less enabling of development in relation to an area within a relevant residential zone or non-residential zone, only to the extent necessary to accommodate one or more of the QMs:

[127] *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112

(a) a matter of national importance that decision makers are required to recognise and provide for under section 6

(b) a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010

(c) a matter required to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River

(d) a matter required to give effect to the Hauraki Gulf Marine Park Act 2000 or the Waitakere Ranges Heritage Area Act 2008

(e) a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure

(f) open space provided for public use, but only in relation to land that is open space

(g) the need to give effect to a designation or heritage order, but only in relation to land that is subject to the designation or heritage order

(h) a matter necessary to implement, or to ensure consistency with, iwi participation legislation

(i) the requirement in the NPS-UD to provide sufficient business land suitable for low density uses to meet expected demand

(j) any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L (or 77R) is satisfied.

[243] QMs can be achieved by a range of methods, policies, rules, matters of discretion or assessment, or through the use of zoning or overlays. The Council has proposed a range of these methods to make the MDRS and Policy 3 less enabling in some specific locations across the City, or in the case of the Sunlight Access QM, across the whole of the City.

[244] Counsel for Kāinga Ora, Mr B Matheson, presented a flow chart which illustrates the different evaluative steps required depending on the nature of the proposed QM. With one minor modification, Counsel for the Council endorsed the content of that flow chart. We have found this graphic to be very helpful and applied it when assessing whether the requirements of s32 and sections 77 I to L and N-R have been met.[128] We reproduce that in Part 8, Appendix F:

Sections 77K and Q "Existing Qualifying Matters"

[245] Sections 77K and Q provide for an alternative evaluation pathway when considering existing QMs.

[128] Council suggested amendments to the flow chart and an updated version was provided on 29 April 2024, we have used the updated version.

[246] Subsection (3) of both sections state that an 'existing qualifying matter' is a QM referred to in sections 77I and O(a) to (i) that is operative in the relevant ODP when the IPI is notified.

[247] Mr Whittington for Kāinga Ora suggested in his submissions on airport matters, that sections 77K (and O) may only be in play once an ODP contains a QM, not for the first IPI. That was because the term qualifying matter is not one used in the ODP, as it is a new concept. He accepted however, that the approach to date, adopted by Tier 1 Councils is that 'existing qualifying matters' are those provisions in an ODP, which would make the MDRS or NPS-UD Policy 3 response less enabling. Essentially, they are treated as a 'roll over' or saving of matters of national importance or are subject to specific legislative requirements, as listed in s77I(a)-(i), that are already in the ODP. This reflects that such matters have already been through a s32 evaluation and tested through a Schedule 1 process and therefore a more limited evaluation is required to allow them to continue to limit the application of the MDRS and Policy 3 response, but only to the extent necessary to accommodate the QM. We also note that sections 77K(2), and O(2) clarifies that an existing QM in an IPI does not have immediate legal effect on notification of the IPI, but they continue to have effect as part of the ODP. We find that sections 77K(2) and O(2) lend weight to the accepted approach to sections 77K and O matters.

RMA Section 31

[248] The Council must, when preparing a plan change, do so in accordance with its functions described in Section 31 of the Act. In the context of this process, we accept that in incorporating the mandatory requirements of the Housing Supply Amendment Act, the Council is doing so in accordance with its functions as so described, to the extent they are relevant to the IPI, they do not however operate to extend the scope of an IPI. That is, they do not of themselves justify the incorporation of provisions that would not otherwise be authorised under ss80E 77G and 77N.

RMA Section 32 Reports and Section 32AA further evaluations

<u>Council Section 32 and Sections 77J, K, L, P, Q and R Evaluations</u>

[249] The Council proposed a total of 31 QMs. Some were identified as 'existing qualifying matters' and were subject to evaluation under sections 77K and Q. 'New qualifying

matters', were also evaluated under sections 77J and O, and 'other qualifying matters' were subject to more detailed evaluation under sections 77L and R.

[250] The Council s32 and s77 evaluations were published on the Council's website. The format of the Report was, while adopting a general overall standard approach, flexible in the approach of the analysis. Some evaluations were narratives with cross reference to appended technical reports and evaluations, for example in Part 4 of our Report for the Airport Noise QM, and others adopted a more tabular form identifying each of the relevant statutory considerations as applied against a range of options, for example Part 3 of our Report for CCZ and Commercial zones.

[251] It appeared to us that there was no integrated and coordinated approach to the evaluation of QMs, and each subject matter leader was largely left to undertake their own evaluations. This 'siloed' approach, led some evaluations down the wrong path, focusing first on the appropriateness of the QM under s32, tested against a broader objective of a well-functioning urban environment, or the objective of protecting the QM, rather than starting from the position of first applying the MDRS or NPS-UD Policy 3 response and then evaluating the necessity or appropriateness of the identified potential QMs making the MDRS or NPS-UD Policy 3 response less enabling only to the extent necessary to accommodate QMs. For example, we have found that the Council's approach to Residential Character Areas, Residential Heritage Areas, the Riccarton Bush Interface Area and to Airport Noise suffered from this approach. We also found this to be a problem with the Council's proposed Tree Coverage and Financial Contribution rules as discussed in Part 6 of the Report.

[252] This led in some cases to rather self-fulfilling or self-limiting identification of options because the assumption was that the identified potential QM was a non-negotiable, rather than something to be tested against the stated objective of the plan change.

[253] It also appeared that none of the Council witnesses had considered whether the ODP already delivered a well-functioning urban environment.[129] This further highlighted the problems with the siloed assessment approach. We note there was no overall s32 analysis of PC 14, undertaken by any one or combination of Council planning witness(es).

[254] Where required by the Act the Council has evaluated the effect of individual QMs on development capacity, to illustrate that even with the proposed QM, overall, the Council

[129] We refer to our discussion at [105] above.

had more than sufficient development capacity available. In some cases, the Council adopted a hybrid evaluation where they were not quite sure as to whether a QM was an 'existing' or 'new matter'. This occurred in the context of the Airport Noise QM, Residential Heritage Areas and Significant and Other Trees QM, where in fact we have found there needed to be a full assessment as a 'new' or other qualifying matter. This resulted in gaps in the published s32 Reports.

[255] The criticism of various elements of the Council's s32 approach, does not invalidate it[130] but it did make our task significantly more complex as we endeavoured to match a significant body of evidence against the required legislative framework.

[256] To assist us Ms Oliver helpfully provided a document "Table G and attachments"[131] which described each QM, its legislative origin, relevant statutory evaluation, and the impact on development capacity city wide. We found her Table G, as it was referred, to be invaluable in our deliberations and in our evaluation of the impact of QMs on PC 14 as a whole.

Submitter Sections 32 and s32AA Evaluations

[257] In the hearing procedures we invited a submitter (and Council experts) to provide a s32AA evaluation in support of any recommended changes to PC 14. Most did and whilst this does not replace our statutory obligations to provide a s32AA evaluation, this provided great assistance to the Panel when considering the relief requested by individual submitters.

Panel Approach to Section 32 Reports and to any further s32AA Evaluations.

[258] We have, in each Part of the Report had particular regard to the Council's published Section 32 Reports.

[259] Section 32AA requires that:

> 32AA Requirements for undertaking and publishing further evaluations are:
>
> (1) A further evaluation required under this Act—
>
> (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and

[130] RMA s32A
[131] Memorandum of Counsel for Council, 11 April 2024 at Appendix A

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, **proposal** means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

[260] Where the Panel agrees with a submitters request, and a s32AA evaluation has been provided and the Panel has adopted that evaluation, then the Panel notes only differences in conclusions.

[261] In the event a submitter, or the Council has not provided an additional s32AA evaluation, or the Panel recommend changes not specifically requested by submissions, the relevant report will constitute the required evaluation.

RMA, Part 2

[262] The Panel has not found it necessary to provide a detailed evaluation of PC 14 against the purpose of the Act. We have, unless there is any uncertainty with the meaning of any provision with the higher order documents, accepted that the NPS-UD and other higher order documents set out in our summary table at paragraph [219] above have been prepared in accordance with the purpose of the Act.[132] Where necessary to consider the meaning of RMA sections 5-8 in the subsequent parts of our decision we have done so.

[132] *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38 and *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112

9. GENERAL SUBMISSIONS

[263] A number of submissions on PC 14 were of a generic nature and raised concerns about the merit of PC 14 as a whole, including whether there is a need to change the status quo at all in response to the Housing Supply Amendment Act on the one hand, and submissions which sought the removal of all QM's and require a full intensification response.[133]

[264] A number of common themes emerged during the hearings and in written submissions which we have not addressed elsewhere in our Report and we provide some additional responses to those submissions here.

[265] The themes that emerged were:

(a) Status/stage of Christchurch in its earthquake recovery and Earthquake Recovery as a QM.

(b) Social impact and equity.

(c) The relevance and importance of amenity values.

Earthquake Recovery

[266] The devastating effects of the Christchurch Earthquake sequence of 2010 and 2011 was the impetus for the last whole of Christchurch district plan review in 2015-2017. The ODP framework was developed in response to the legislative requirements of the Canterbury Earthquake Recovery Act 2011 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014. Central City planning was also subject to a special planning process under the Christchurch Earthquake Recovery Act 2011, which led to the adoption of a blueprint that became the Central City Recovery Plan (CCRP).

[267] Key features of the earthquake planning response were:

(a) increased densities in and near key activity centres

(b) low- and mid-rise buildings

(c) removing red tape.

[133] e.g. Hamish West #500

[268] The issue of where along a spectrum of recovery, Christchurch is currently almost 14 years on from the earthquakes, arose in a number of contexts during the hearings on PC 14 and in the evidence and presentations of both lay and expert witnesses.

[269] The earthquakes are a feature of the social and economic fabric of Christchurch and affect not only the urban form and development patterns that are provided for in the ODP, and that have emerged and are emerging post-earthquakes, but also in the mental health and well-being of some members of the community.

[270] This was illustrated in a presentation by the Victoria Neighbourhood Association #61 (VNA), who were opposed to the increased height of buildings in and around the central city. Mr Banks provided the Panel with a copy of a book *The Blessings of Disaster* and referred to a number of pages for the Panel to reflect on.[134] We acknowledge that the authors of the textbook have identified a range of scenarios where a precautionary approach to statistical probability of risk is justified. This appears to us to be entirely consistent with the RMA approach to risk evaluation and embodied within the definition of 'effect'. It also supports the commonly applied 'precautionary approach' generally. Section 32 of the Act also requires us to consider the risk of acting or not acting when considering to include particular provisions into the ODP.

[271] The VNA submissions, and presentations by other submitters such as Robina Dobbie #867, and Catherine Shipton who appeared for Riccarton Bush Kilmarnock Residents' Association #188 and others raised the issue of the current and future risk of earthquakes, including from the Southern Alpine Fault, and their potential relevance to density and urban form responses.

[272] We acknowledge that for many residents in Christchurch, the experience of the Christchurch earthquakes is never far from their minds, and that there is commonly held belief that low and mid-rise urban form is an appropriate response to earthquake risk. We received evidence that the lower height city was also a response to the economic circumstances of the city post-earthquakes, and in particular the context of protecting the role and function of the Central City to allow for its recovery. We were told that the approach was to reduce the footprint of the city and encourage development on as many sites as possible.[135]

[134] Michael Bruneau, *The Blessings of Disaster* (Maryland, Prometheus Books 2022) 62-65, 105, 136, 154, 195-206, 216-217, 240, 250-256, 290-291
[135] Statement of Evidence of Timothy Heath, 11 August 2023 and s42A Report of Sarah Oliver, 10 October 2023

[273] Within the ODP there is also a consequential limitation on other commercial centres to maintain a centres hierarchy to protect the role and function of the Central City and counteract the dispersal of business activities to suburban areas. This recognised that the Central City provides an important social, economic, and cultural hub for the district. This was described in the economic evidence of Mr Heath[136] and by Mr Osborne[137] and in the planning evidence of Ms Oliver.[138]

[274] Mr Heath described the Christchurch Central City area, within the Four Avenues as still being in recovery. His evidence was that the Christchurch central city area (Four Avenues) has made a steady recovery in terms of employment since the earthquakes, but it is not back to its pre-earthquake employment level yet. The CCZ has almost 4,600 fewer employees in 2022 than in 2011 (pre-February earthquake), at the same time the wider Christchurch economy employment base grew by 18%.[139] His view was that in order to achieve the economic benefits of a centralised city and facilitate the recovery of the city centre it is considered necessary to continue with the existing limits on the basis of a hierarchy, with the CCZ and surrounds possessing the greatest development opportunity followed by the identified Large Town Centres. This hierarchy is based on the primacy of the CCZ in terms of its role and function. The CCZ fulfils a regional role providing a level of profile and potential agglomeration benefits that typically attract and sustain medium to large businesses.

[275] Mr Osborne's evidence for the Council was that Christchurch differs from other Tier 1 cities because it is a 'mature market, with an immature CBD'. This reflected the fact that as a consequence of the earthquakes, many businesses with large employment bases were forced to re-establish outside of the CCZ and had only just started to return. While significant progress had been made, his view was that, both from economic evidence, and the city scape of the CCZ, that there is still further investment required to facilitate a full recovery. Both Mr Osborne and Mr Heath were of the view there was a need to retain the CCZ competitive advantage to enable that to occur.

[276] In the context of submitters who sought greater development opportunities in the proposed larger town centres of Riccarton, Hornby, and Papanui (or their classification as Metropolitan Centres), the economic evidence from Mr Colegrave[140] and Dr

[136] Statement of Evidence of Timothy Heath, 11 August 2023
[137] Statement of Evidence of Philip Osborne, 11 August 2023
[138] s42A Report of Sarah Oliver, 10 October 2023
[139] Statement of Evidence of Timothy Heath, 11 August 2023 at 4
[140] Statement of Evidence of Fraser Colegrave for Kāinga Ora, 15 September 2024

Fairgray[141], was more optimistic and stated that Christchurch had matured economically to a point that the reins could now be loosened. Dr Fairgray acknowledged that a particular matter for Christchurch is how best to achieve an appropriate balance between continuing to foster the recovery and development of the CBD following the Christchurch earthquake of 2011, without constraining the development of Riccarton and other large centres. We discuss this in more detail in Part 3 of this Report.

[277] Mr Nicholson #2007, an urban designer who gave evidence in support of his own further submissions on PC 14 also advocated for the vision for rebuilding and recovery established in the CCRP to be considered as "qualifying matters in the application of intensification policies" under Sections 77O(j) and 77R of the Housing Supply Amendment Act. Mr Nicholson had been involved in the post-earthquake planning processes that led to the development of the CCRP and noted that approximately 80% of the buildings within the Christchurch CBD were demolished after the Canterbury earthquakes. He considered that the extent of earthquake damage in Christchurch, and the scale and national significance of the ongoing rebuild of New Zealand's second largest urban area, constitutes an appropriate QM under s77O(j) of the Housing Supply Amendment Act to modify the requirements of Policy 3 of the NPS-UD.

[278] In particular he was concerned about the potential adverse effects of allowing taller buildings in Christchurch's Central City constitute a "specific characteristic that makes the level of development required" inappropriate under s77R of the Housing Supply Amendment Act. Mr Nicholson was of the opinion that the adverse effects of raising the height limits include the concentration of future development in a small number of tall buildings while leaving existing derelict buildings, temporary carparks and vacant sites empty and undermining the integrated vision for the recovery of Christchurch incorporated in the CCRP.

[279] Mr Carranceja, submitted during his legal submissions for the CCZ and Commercial zones that the existing and emerging urban form within the Four Avenues is also a consequence of CCRP which sought to concentrate the Central City within a more limited area than that which existed pre-earthquake. The CCRP provides:

> ….the Frame in tandem with zoning provisions, reduces the extent of the central city commercial area to address the oversupply of land. This is purported to help increase the value of properties generally across the central city in a way that regulations to contain the central core, or new zoning decisions, could not. The Frame helps to deliver a more compact core while diversifying opportunities for investment and development.

[141] Statement of Evidence of James Fairgray for Scentre (New Zealand) Limited, 21 September 2024

> The Frame allows the Core to expand in the future if there is demand for housing or commercial development.
>
> Lower buildings will become a defining central city feature in the medium term and that a lower rise city fits in with the community's wishes and takes into account of the economic realities and market demand for property in the Core. It also recognises the character and sensitivity of certain areas, such as New Regent Street, and reduces wind tunnels and building shade" [142].

[280] Notably PC 14 does not seek to revisit the recovery focus of the Strategic Directions Chapter in the ODP. Rather, as stated in Part 1 of the s32 Report at 6.1.3:

> The introduction and context sections to Chapter 3 (sections 3.1 and 3.2) discuss in detail the impact of the earthquakes, make reference to documents such as the Land Use Recovery Plan and the Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011. Whilst it is potentially timely to undertake a more complete review and update of the Strategic Directions chapter, Council's preferred approach is to do that through a Schedule 1 process, or as part of the next District Plan review. The proposed changes to Chapter 3 have only focused on how the Strategic Directions Chapter may need to be amended to give effect to the requirements of the Act and the directions in the NPS-UD.

[281] The significance of the above is that the ODP earthquake recovery objectives retain their primacy in Chapter 3 Strategic Directions notwithstanding the inclusion of the mandatory MDRS Objective 1 regarding WFUE.

[282] Another legacy from the Christchurch earthquake is the constraints on sewer infrastructure in a number of eastern suburban residential areas. The Council proposed a vacuum sewer constraints QM, to account for engineering and economic limitations on servicing increased density of residential development in the affected locations. Following extensive damage to the gravity sewer system during the earthquakes, areas of residentially zoned land in Aranui, Shirley and Prestons had to be connected to a vacuum sewer system. There are engineering limitations on increasing capacity for increased density with such systems. This fact excluded some suburbs from accommodating the MDRS.

[283] During the hearings we asked the Council to consider whether there were any legal or practical impediments to including a specific QM to reflect the recovery status of Christchurch. We did not receive any further evidence or legal submissions from the Council on that question.

[284] Irrespective of whether we have sufficient evidence to satisfy the requirements of sections 77I, O, J, L, P and R, we agree that the ongoing recovery of Christchurch from the effects of the Canterbury Earthquakes is a relevant factor in understanding what

[142] Christchurch Central Recovery Plan Te Mahere 'Maraka Ōtautahi' July 2012 at pages 35 and 40

makes a well-functioning urban environment in Christchurch, and the appropriateness of methods for achieving the outcomes sought by Policy 3. We have considered this in the context of our discussion of the meaning of a well-functioning urban environment above at [82] and throughout our Report.

Social Impact and inequity

[285] As mentioned above [114], a number of submitters raised concerns that the Council had not undertaken a comprehensive social impact assessment as part of the s32 evaluation.[143] The Council acknowledged the lack of a specific social impact assessment ahead of notification although Ms Oliver pointed to social impact evaluations undertaken through the development of the Greater Christchurch Urban Development Strategy, Proposed Plan Change 1 to the CRPS and reviews of the ODP. The Council had a draft social impact report on intensification attached as Appendix F to Ms Oliver's s42A Report.[144] The report was finalised and provided to the Panel by Ms Foy who provided evidence in relation to the social impacts of intensification and the social impacts in relation to coastal hazard management.

[286] Ms Foy's evidence was:[145]

> 103. There are positive and negative effects that may arise from housing intensification policies. A well-planned compact urban form with higher residential densities has the potential to bring a wider range of residential choices and lifestyle opportunities for residents than more dispersed living environments. Higher density forms can provide better access to social infrastructure, goods and services, employment and education, and are more easily supported by public transport and active modes.
>
> 104. A more dispersed urban form also provides housing choice and affordability but is likely to lead to greater reliance on private motor vehicles to access employment, education, goods and services and social infrastructure. There are financial costs of providing infrastructure, such as roads and three waters to larger areas, which will be incurred by ratepayers and households.
>
> 105. Achieving good outcomes from housing intensification policies is reliant on planning tools that encourage growth into areas around centres that have good transport links and infrastructure capacity. By providing for capacity throughout the urban area, the MDRS (and PC 14 without the proposed Qualifying Matters) may have the following unintended consequences:
>
> (a) Higher costs for delivering transport and other infrastructure, and delays in achieving critical mass to support those projects.
>
> (b) Better housing model choices may not be provided for all parts of society, as the development sector may continue to build current proven models. This may

[143] e.g. Victoria Neighbourhood Association #61, Riccarton Bush Kilmarnock Residents' Association #188 #2062, Waipuna Halswell-Hornby-Riccarton Community Board #902 #1092
[144] s42A Report of Sarah Oliver, Appendix F: Draft Social Impacts of Housing Intensification Research Review, August 2023 at page 101
[145] Statement of Primary Evidence of Rebecca Foy, 11 August 2023 at 103 - 106

mean that the ageing population continue to live in dwellings that are too large and that homes for multigenerational families are not provided.

(c) Building designs may become more uniform, making the character and sense of place in some suburbs and communities less distinctive.

(d) There may be social tension created by more people living in closer proximity to one another, with reduced predictability about where higher density development may occur.

(e) High density dwellings may be developed in locations that are more susceptible to damage from natural hazards such as flooding, liquefaction and coastal hazards and noise impacts arising from reverse sensitivity from commercial operations (i.e. Christchurch International Airport, Lyttelton Port Company, rail etc.) which are likely to generate negative social impacts.

(f) The outcomes of the proposed policies could result in an urban environment that is inconsistent with the policies of the NPS-UD with regards to ensuring well-functioning urban environments.

106. There are likely to be negative social effects if higher residential densities are not designed well. The impacts of poorly designed intensification may be distributed throughout the city as PC 14 and the MDRS are enabling of higher density residential activity in most locations. However overall, the positive effects of higher density environments outweigh the negative social effects. Council will need to be committed to ensuring that higher density living environments are well designed and this will include engaging with communities, developing local area plans, and targeting equitable investment where it is needed.

[287] Ms Oliver stated in her s42A Report that:[146]

> … I consider the District Plan cannot address all social impacts of intensification. I encourage submitters to continue to voice the need for high quality urban environments beyond this plan change process, particularly through submissions on Long Term Plans. Such decisions are potentially more effective in achieving quality, liveable and prosperous urban environments.

[288] The primary objective of the Social Impact Report was described as a review of relevant New Zealand and international research that identifies real and anticipated social effects of housing intensification. The Report also considers how these effects might play out in Ōtautahi-Christchurch through the intensification strategies of PC 14. It draws on the Life in Christchurch survey results[147], which offer insight into resident perceptions of various aspects of life in Christchurch. Ms Foy provided the questionnaire and responses for the most recent Life in Christchurch survey which explored resident perceptions of issues related to housing and neighbourhoods, but ultimately this did not assist us interrogate the social impacts of PC 14, and the options evaluated by the Council.

[146] s42A Report of Sarah Oliver, 10 October 2023 at 11.5
[147] Memorandum of Counsel for Council – 31 October 2023 at Appendix 7

[289] We found a large degree of consistency between the Social Impact Report and evidence we heard on PC 14 from those concerned about the effects of intensification.

[290] On the other hand, however, we heard evidence that the extensive identification of QMs, which restricted intensification opportunities in some areas disenabled housing choice for some parts of the community.

[291] Although the mandatory incorporation of the MDRS and the implementation of NPS-UD Policy 3 intensification in and around centres, provided a base line for improving housing supply, the extensive use of QMs has in many cases, particularly in the eastern parts of Christchurch in some cases created an inequity which inhibits rather than supports the implementation of the Housing Supply Amendment Act.

[292] In the Reply, counsel for the Council responded to the issue of potential inequity and emphasised that the approach to the identification of QMs and their evaluation had been undertaken in an even-handed way and did not set out to disadvantage any particular group.[148]

[293] Notwithstanding that, given the emphasis in NPS-UD Policy 1 is about equitable outcomes for all people, we consider that the approach the Council took, when evaluating the impact of individual QMs as against the City-Wide housing supply, failed to consider the social impact (and other impacts) on particular locations or populations.

Amenity Values

[294] An issue arose in the context of a number of submissions as to the extent to which amenity values remained relevant to the outcomes required by an IPI to address the mandatory requirements of Housing Supply Amendment Act.

[295] The NPS-UD, provides:

> Objective 4:
>
> New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.
>
> Policy 6:
>
> When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

[148] Reply for Christchurch City Council, 17 May 2024 at 6.1 - 6.6

(a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement

(b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

(i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and

(ii) are not, of themselves, an adverse effect…

[296] Kāinga Ora argued that the NPS-UD Policy 6 recognises that changes implemented through NPS-UD Policy 3 will result in significant changes to an area, but those changes are not an adverse effect.[149]

[297] The Council submitted in its Reply that NPS-UD Policy 6 does not prohibit a comparative consideration of adverse amenity effects arising from the various intensification options and alternatives being assessed in PC 14. The Council's argument was that Policy 6 was forward looking to future assessments in planning decisions made against the plan once PC 14 gives effect to the NPS-UD rather than to the assessment of the plan change. The Council relied on the wording "planned built form" is that which has been anticipated "by those planning documents that have given effect to this NPS." The definition of 'RMA planning document' includes a "district plan," but not a "proposed district plan."[150]

[298] The Council rebutted the Kāinga Ora submission by returning to the argument that PC 14 still requires an overall evaluation of all of the NPS-UD, and that the amenity anticipated in Policy 6 is not limited to the Policy intensification response but rather to a well-functioning urban environment, including Policy 4, which Mr Randal described as the "yin to the yang" of Policy 3.

[299] The Council argued that Policy 6 did not apply to discount amenity values at all, which would effectively negate the general legal requirements of s7(b) of the RMA.

[300] Having considered the arguments presented, our interpretation is that it is not the case that the effects on amenity values are irrelevant to our consideration of PC 14. We interpret Policy 6 as making it clear, that once PC 14 is operative in whatever form is approved, it will be taken as setting the anticipated urban form, and future planning

[149] Legal Submissions of Kāinga Ora, 6 October 2023
[150] NPS-UD, 1.4 Interpretation

decisions will not be able to ascribe effects on amenity values as a consequence of that new urban form as being adverse.

[301] NPS-UD Policy 6 does not preclude us from considering how the application of QM's and related provisions can mitigate potential effects on amenity values of the city and its residents. Whether or not a method proposed to address amenity qualifies as a QM, or related provision, and whether they meet the evaluation requirements of s32 and sections 77J, L, P and R is another matter which we go on to evaluate.

Greater Christchurch Spatial Plan

[302] During the hearing process we became aware that the Council had approved The Greater Christchurch Spatial Plan, which is a statutory document prepared under the Local Government Act, and one we are required to have regard to. We requested submissions from the Council and submitters as to the status, weight and relevance of the Spatial Plan to our process (Minute 39) We received comment from the Council by way of Memorandum on 15 April 2024, and comment from Mr Lawry #873, Riccarton Bush Kilmarnock Residents Association #188 and Waipuna Halswell Hornby Riccarton Community Board #902.

[303] We note that as adopted the Spatial Plan satisfies the requirements of a future development strategy under the NPS-UD, and that it sets out how well functioning urban environments will be achieved, and how sufficient housing and business development capacity will be provided to meet expected demand over the next 30 years (page 18).

[304] At page 83 the Spatial Plan records that "The Spatial Plan is an enduring document, with the scope for new Priority Areas, key actions and initiatives, and tools being added to the joint work programme if they should arise in the future. The plan will be reviewed and updated (as needed) every five years. In accordance with the NPSUD, the Future Development Strategy component will be reviewed and updated (as needed) every three years."

[305] The Council highlighted particular parts that are relevant to PC 14. We note we have had regard to those matters and the document as a whole, and note the matters addressed align with the NPS-UD, but overall do not override the aspects of the Housing Supply Amendment Act mandatory directives that we must address in this process. Importantly we note there is emphasis on the role and function of Riccarton as an area for growth, given its proximity to the University, and to Hornby as its role and function as

a key distribution centre, and the importance of future transportation corridors in those areas, including Papanui.

[306] There is also alignment with the requirements of the NPS-UD to address not only housing choice and supply but affordability, which as we have discussed above, is an issue that is somewhat lacking in the Councils evaluation of PC 14, particularly a lack of focus on targeting intensification to help address housing affordability as we have discussed above in relation to housing need and social impacts of PC 14.

4.4 Provide housing choice and affordability

The focus on targeted intensification will support an urban form that helps address the strategic opportunities and challenges facing the city region, and to help address housing affordability for low income households

Conclusion on Preliminary Issues

[307] In this Part of the Report we have addressed the scope of an IPI, the statutory tests, and also general submissions and themes that emerged throughout the 10 week hearing process.

[308] Having set the scene we now move on to address the topics in the remaining parts of the Report:

(a) Part 2: Strategic Direction Objectives

(b) Part 3: NPS-UD Policy 3 Response, including City Centre Zone, Central City Mixed Use Zones, Other Commercial Zones, Mixed Use and Industrial Zones

(c) Part 4: Relevant Residential Zones, including Medium Density Residential and High Density Residential Zones, Residential Hills Zones, Hill Precincts and Alternative zones, Sunlight Access QM, Low Passenger Transport Accessibility Area QM and Christchurch International Airport Noise Influence Area QM.

(d) Part 5: City Wide Qualifying Matters

(e) Part 6: Tree Canopy and Financial Contributions and Subdivision

(f) Part 7: Rezoning Requests and Specific Purpose Zones

(g) Part 8: Appendices, including recommended provisions.