

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 2 - STRATEGIC DIRECTION OBJECTIVES

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1. SCOPE OF THIS PART

- [1] This part of our Report relates to the amendments proposed by PC 14 to the Strategic Directions contained in Chapter 3 of the Operative District Plan (ODP).
- [2] This part should be read in conjunction with Part 1 of our Report as that sets out the framework through which we have applied the relevant sections of the Resource Management Act 1991 (RMA).

2. SUMMARY OF RECOMMENDATIONS

- [3] We recommend the following changes to the Chapter 3 Objectives as notified by PC 14:
- (a) new text to the Introduction section (3.1) is accepted,
 - (b) amendments to the following objectives as follows:
 - (i) Objective 3.3.3, accept changes;
 - (ii) Objective 3.3.4, accept changes but delete advice note;
 - (iii) Objective 3.3.7 reject all proposed changes other than incorporating the mandatory wording of MDRS Objective 1;
 - (iv) Objective 3.3.8, return to the operative plan, and
 - (v) Objective 3.3.9, delete reference to Tree Canopy.
 - (c) renumbering the objectives accordingly.
- [4] The Council's intention in inserting an objective to give effect to the requirement within Schedule 3A, RMA to include "Mandatory Objective 1" in the ODP is recommended to be accepted in part to the extent that it is included in an unencumbered and unqualified manner.
- [5] We refer to Part 8 of this Report, Appendix G where our recommended Plan provisions are set out.
- [6] In terms of the submissions, those supporting the changes proposed to Chapter 3 are recommended to be rejected and those submissions opposing the amendments are accepted and accepted in part.

3. ISSUES

- [7] As a starting point, the Independent Hearings Panel (the Panel) note that Schedule 3A of the Resource Management Act 1991 (RMA)¹ requires the Council to include, in the ODP, two mandatory objectives relating to a “well-functioning urban environment” and the role of “a relevant” residential zone in providing for a “variety of housing types and sizes”, respectively. Additionally, five policies relating to the specifics of that second objective must be incorporated into the ODP also. For the purposes of reference in this report, the Panel refer to these provisions as “Mandatory Objective 1”, “Mandatory Objective 2” and “Mandatory Policies 1 to 5”, respectively.
- [8] As notified, PC 14 sought to alter Chapter 3 Strategic Directions by adding new text to the Introduction section (3.1), amending Objectives 3.3.3, 3.3.4, 3.3.7 and 3.3.9, inserting a new objective relating to a “well-functioning urban environment” and renumbering the objectives following. The Council’s intention in inserting the new objective was to give effect to the requirement within Schedule 3A, RMA to include “Mandatory Objective 1”² in the ODP.
- [9] The changes as proposed drew a range of submissions as summarised in an attachment to Ms Oliver’s s42A Report³. Some submitters sought the retention of the provisions as notified whilst others sought their further amendment or deletion.
- [10] In response to submissions, and in the context of her s42A Report⁴, Ms Oliver recommended shifting the new objective to a primary position within Objective 3.3.1, attaching additional text to that objective, and further amending Objectives 3.3.3, 3.3.4, and 3.3.7.
- [11] The most appropriate placement of “Mandatory Objective 1” in Chapter 3 was the subject of expert conferencing by planning witnesses for the Council and submitters following direction from the Panel, and confirmation of an agreed resolution by the witnesses on matters addressed in a Joint Witness Statement (JWS) following⁵. The JWS recommended that the new objective remain positioned alongside, but distinct from, Objective 3.3.1.

¹ Specifically, clause 6

² cl. 6(1) *A territorial authority must include the following objectives in its district plan: 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:*

³ [s42A report of Sarah Oliver, 11 August 2023, Appendices A to H](#) at Appendix D – Submissions and Further Submissions – Strategic Directions Chapter 3, Strategic Issues, QMS Strategic and City Infrastructure and Coastal Hazards

⁴ [s42A Report of Sarah Oliver, 10 October 2023](#) at 9.3

⁵ [Joint Witness Statement of Planning Experts, 27 November 2023](#)

[12] The conferencing also considered, and the JWS reported on, placement options with respect to “Mandatory Objective 2” relating to the provision for a residential zone⁶ and “Mandatory Policies 1 to 5”. While the witnesses considered various options for positioning the objective and policies within Chapter 3, they concluded that they remained best placed in Chapter 14 (Residential).

[13] Having considered the issues raised in submissions and evidence and the amendments as proposed or otherwise recommended, the Panel consider that the findings it needs to reach can be distilled into the following:

- (a) Are the amendments to Chapter 3 as proposed by PC 14 or otherwise recommended during and subsequent to the hearing, appropriate?
- (b) To what extent can the Schedule 3A mandatory objectives (and associated policies) be qualified and where are they best placed within Chapter 3 or elsewhere?

[14] The Panel address these questions in turn in the sections below. We do so with reference to the operative Chapter 3 provisions, notified amendments, s42A Report recommendations, submissions and evidence, and JWS recommendations, where relevant.

Are the amendments to Chapter 3 as proposed by PC 14 or otherwise recommended during and subsequent to the hearing appropriate?

PC 14 as Notified

[15] As notified, PC 14 sought to:

- (a) add new text to the Introduction section (at 3.1.b.v.) relating to the Council's obligations under the National Policy Statement on Urban Development 2020 (NPS-UD) and Housing Supply Amendment Act to facilitate an increase in the supply of housing;
- (b) amend Objective 3.3.3.a.ii. to recognise and provide for Ngāi Tahu mana whenua's priorities for their well-being and prosperity in the revitalisation of

⁶ cl 6(1) *A territorial authority must include the following objectives in its district plan: 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.*

Ōtautahi (as opposed to merely recognising their aspirations to actively participate in that endeavour);

- (c) amend Objective 3.3.4.b. to add a reference to papakāinga/kāinga nohoanga housing, including within the urban area and on Māori land, as examples of housing opportunities enabled;
- (d) amend Objective 3.3.4 to include an advice note settling out the Council's NPS-UD obligations with respect to housing bottom lines as a Tier 1 authority;
- (e) amend Objective 3.3.7.a.iv. and v. to make reference to Town and Local (as opposed to Neighbourhood) Centres;
- (f) amend Objective 3.3.7.a.viii. to clarify the standard of accessibility and connectivity sought (in the context of urban growth, form and design); and
- (g) amend Objective 3.3.9 to add a new clause a.ii.E. setting out the importance of tree canopy cover in residential activity areas as a natural resource.

Submissions, Section 42A Report Recommendations and Findings

[16] The amendments summarised in above were not opposed by submitters or contested at the hearing. Broadly, the Panel agree that these amendments should proceed on the basis that they are relatively minor in nature, provide beneficial context in terms of their reference to higher level directions, and/or improve the internal consistency of the ODP provisions (as otherwise amended by PC 14). Importantly, the Panel find that they do not offend Objective 3.3.2, which sets standards of clarity of language and efficiency with respect to ODP provisions. We do, however, recommend the deletion of the word "larger" in relation to "Local" (previously neighbourhood) centres in Objective 3.3.7.a.iv. This is a consequential deletion arising from our resolution to delete the Council's construct with respect to identifying a range of centre sizes. In relation to item (d) the Panel does not consider the addition adds anything to assist with the interpretation of the Objectives, so we recommended it be deleted. In relation to item (f) the Panel has found the ODP version to suffice and recommend that the amendment be deleted.

[17] Te Hapū o Ngāti Wheke (Rāpaki) Rūnanga #695 did request a further amendment to Objective 3.3.3.a.ii. to reference papakāinga/kāinga nohoanga housing, mirroring the amendment otherwise proposed at notification to Objective 3.3.4.b. Ms Oliver

recommended, and the Panel accept, the adoption of this amendment for the reasons set out in her s42A Report.⁷

[18] Other submitters including the Carter Group Limited #814.42 and The Catholic Diocese of Christchurch #823.38 sought further minor amendments to clause a.viii. of Objective 3.3.7 (or 3.3.8 as now renumbered) that Ms Oliver recommended, and the Panel accept, the adoption of (for the reasons set out in her s42A Report and with reference to) the same guiding principles for inclusion referred to above.

[19] In the next sub-section, and with further reference to these guiding principles, the Panel recommend that a series of further amendments proposed to Objective 3.3.7 (now 3.3.8) are not proceeded with.

[20] In relation to item [15](g) above, while the proposed addition of new clause a.ii.E. to Objective 3.3.9 (or 3.3.10 as now renumbered) attracted some support, it was opposed by a number of submitters who, like Kāinga Ora – Homes and Communities #834.6, Carter Group Limited #814.43, The Catholic Diocese of Christchurch #823.39 and Daresbury Limited #874.16, sought its deletion, or further amendment. Ms Oliver relied to some extent on the evidence of Ms Hansbury⁸ in recommending the rejection of these requests⁹. While the Panel accept as a general proposition the position of the s42A Report Authors regarding the importance of retaining and increasing tree canopy we have recommended the method the Council proposed to address the issue in Part 6 of the report, therefore it is not appropriate to include the new clause a.ii.E through this IPI process so we recommend it be deleted.

[21] Overall, the Panel find that the amendments proposed to Chapter 3 provisions at notification, as set out in [15](a) to (c), and [15](e) above, together with the additional amendments described in paragraphs [17] and [18] above, are appropriate, in providing further clarity and expression and in giving effect to the objectives of PC 14. The Panel recommend amendments in [15](d), [15](f) and [15](g) be deleted.

⁷ [s42A Report of Sarah Oliver, 10 October 2023](#) at 9.13

⁸ [s42A Report of Anita Hansbury, 11 August 2023](#)

⁹ [s42A Report of Sarah Oliver, 10 October 2023](#) at 9.57

To what extent if any can “Mandatory Objective 1”, “Mandatory Objective 2” or “Mandatory Policies 1 to 5” be qualified and where are they best placed within Chapter 3 or elsewhere?

PC 14 as Notified – Mandatory Objectives

[22] Aside from the amendments addressed in paragraph [15] above, PC 14, as notified, also sought to:

- (a) add a new Objective (to be placed as 3.3.7) relating to a “well-functioning urban environment”, in intended compliance with the required inclusion of “Mandatory Objective 1”;
- (b) attach to that new objective a bespoke description of what constitutes a “well-functioning urban environment” in a Christchurch context, including a detailed expression of the urban form and “sense of place” outcomes sought in commercial and residential zones, and also recognition and provision for development and change over time, the cultural traditions and norms of Ngāi Tahu mana whenua, and the benefits of urban environments in reducing greenhouse gas emissions and their resilience to the effects of climate change; and
- (c) subsequently renumber the remaining Chapter 3 objectives.

[23] At this point the Panel note that in Chapter 3, existing Objectives 3.3.1 and 3.3.2 have primacy over all objectives and policies in the ODP, including the remaining objectives in Chapter 3. All other objectives in the Chapter “are to be expressed and achieved in a manner consistent with” those primary objectives¹⁰. This is directly relevant to our consideration of the validity of new content and location proposed for inclusion in this ODP chapter.

[24] Although not addressed in the s42A Report relating to this topic, the Panel note that s42A Report Authors had otherwise recommended the inclusion of “Mandatory Objective 2” and “Mandatory Policies 1 to 5” into Chapter 14 (Residential)¹¹. It is mentioned here only as the placement of these provisions was reconsidered in the context of the JWS referred to in paragraphs [21] and [22] above.

¹⁰ 3.3 Objectives - Interpretation

¹¹ [s42A Report of Ike Kleynbos, 11 August 2023](#)

Submissions, Section 42A Report Recommendations and Findings

[25] The proposal to add a new Objective 3.3.7 relating to a “well-functioning urban environment”, and to append to that objective a bespoke Christchurch description of such an environment, attracted the largest proportion of submissions to Chapter 3. Various, these submissions sought to:

- (a) retain the objective as notified¹²;
- (b) retain only the “Mandatory Objective 1” content as the bespoke elements were not considered to reflect the wording of the mandatory objective and risked narrowing what constitutes a “well-functioning urban environment”¹³;
- (c) add references to “natural hazards” resilience¹⁴; and
- (d) add references to other considerations¹⁵.

[26] Relatedly, Clair Higginson #657.3 sought an amendment to Objective 3.3.1 to add “sustainability and the potential effects of climate change” as overarching matters for consideration.

[27] Taking the last matter first, Ms Oliver originally agreed¹⁶ that an overarching reference to “climate change” was warranted in Objective 3.3.1, and deserving of primacy over other objectives, and that this was best achieved by shifting reference to this matter previously proposed for inclusion in Objective 3.3.7 (as alluded to in paragraph [22](b) above) into and under Objective 3.3.1.b. Similarly, Ms Oliver¹⁷ agreed that a reference to “natural hazards” was also warranted at this level in response to a submission from Toka Tū Eke EQC #377.1.

[28] Ms Oliver’s more significant structural recommendation in response to submissions was that the “Mandatory Objective 1” component of Objective 3.3.7 be repositioned as Objective 3.3.1.b., thereby giving it primacy over other objectives¹⁸ and, in doing so, serving as a home for the inclusion of references to “climate change”, “natural hazards”

¹² Canterbury Regional Council / Environment Canterbury #689.4, Ara Poutama Aotearoa, The Department of Corrections #259.9, Josie Schroder #780.1, Fire and Emergency #842.11

¹³ Cameron Matthews #121.26, Winton Land Limited #814.41, The Catholic Diocese #823.37, Danne Mora Limited #903.21, Davie Lovell-Smith #914.5

¹⁴ Toka Tū Eke EQC #377.1

¹⁵ Foodstuffs #705.11, Ministry of Education #806.2, Kāinga Ora #834.3, Christchurch International Airport Limited #852.4, Lendlease Limited #855.17, Transpower New Zealand Limited #878.1

¹⁶ [s42A Report of Sarah Oliver, 10 October 2023](#) at para 9.9

¹⁷ *Ibid* at 9.10

¹⁸ [s42A Report of Sarah Oliver, 10 October 2023](#) at 9.20

and related matters as set out above. In Ms Oliver's view, however, the bespoke Christchurch description of a "well-functioning urban environment" referred to in paragraph [22](b) above would be better integrated with the existing directions under operative Objective 3.3.7 (now 3.3.8) relating to urban growth, form and design.

[29] As a starting point, the Panel can confirm that it does not accept Ms Oliver's proposed amendments to material previously positioned in Objective 3.3.7 (as notified) and transferred to Objective 3.3.7 (now 3.3.8) to the extent she recommended in her s42A Report¹⁹. The Panel does not consider that these amendments provide any particular additional clarity and expression or are necessary as a basis for giving effect to the objectives of PC 14. The Panel find that the changes proposed do not align with Objective 3.3.2 which is one of two objectives having primacy over the remainder of the chapter. The proposed additions are written more as policies than objectives, are generally imprecise as to the outcome sought and are certainly not concise.

[30] To our minds, the following recommendations of Ms Oliver also remained problematic and worthy of further, careful consideration:

- (a) the proposed placement of "Mandatory Objective 1" in Objective 3.3.1; and
- (b) the effective "qualification" of the objective via proposed references to "climate change", "natural hazards" and related matters.

[31] The first matter requires careful consideration given the two-part primacy/secondary tiering of Chapter 3 objectives alluded to in paragraph [23] above. The second matter also requires additional thought given the mandatory nature of the Schedule 3A objective.

[32] To address these matters, the Panel directed the planning witnesses to conference on options for the placement of "Mandatory Objective 1" and the extent to which modifications to it were considered appropriate²⁰. Planning witnesses for the Council, Canterbury Regional Council / Environment Canterbury #689 #2034, Kāinga Ora – Homes and Communities #834 #2082 #2099, Ara Poutama Aotearoa Department of Corrections #259 and Retirement Villages Association of New Zealand Incorporated #811 and Ryman Healthcare Limited #749²¹ participated in this exercise and co-signed the resulting JWS²².

¹⁹ Ibid at 9.24

²⁰ [IHP Minute 20 - 30 October 2023](#)

²¹ Ms Oliver, Mr Kleynbos, Ms Buddle, Mr Cleave, Mr Dale and Mr Turner, respectively

²² [Joint Witness Statement of Planning Experts, 27 November 2023](#)

- [33] The witnesses were able to reach a common position on the above matters. Having considered the options they concluded that the best location for “Mandatory Objective 1” would be a primary position, “as part of” but “standing alone” from the content of Objective 3.3.1. As such, they proposed that it sit under Objective 3.3.1 (retitled as “3.3.1.A”) and be afforded its own numbering and title i.e., “3.3.1B Medium Density Residential Standards (MDRS) Objective 1 – Well-functioning urban environment”.
- [34] The Panel consider that it is not possible for two objectives to be part of each other but also stand alone at the same time. Having given careful consideration to the options canvassed by the witnesses, the Panel prefer and recommend the adoption of their “Option 2” as set out in the JWS. This sees “Mandatory Objective 1” inserted in the secondary tier of Chapter 3 as a retained “Objective 3.3.7”, subject to the deletion or relocation of all “qualifying” content as previously proposed and also recommended for adoption. The Panel note that this alteration would avoid any upsetting of the tiering arrangement in the chapter and would ensure that all secondary content remains subsidiary to the “recovery” function of Objective 3.3.1. The Panel does not consider there is any particular issue with the Chapter 3 objectives transcending from the more prescriptive to the generic in this regard, as alluded to by the witnesses. The Panel note that the witnesses have no fundamental concern with this option; they do not foresee the ODP operating any less effectively, and they considered Option 1 to be only “marginally” more appropriate.
- [35] The planning witnesses proposed that the inclusion of “Mandatory Objective 1” follows the exact wording set out in Schedule 3A and that the references to “climate change”, “natural hazards” and related matters be relocated and recast under Objective 3.3.7.a.iii. (now 3.3.8.a.iii.) relating to urban growth, form and design as *“Supports reductions in greenhouse gas emissions and is resilient to the likely current and future effects of climate change; and ...”* (absent any reference to “natural hazards”).
- [36] In their view the retention of reference to such matters (with the exception of “natural hazards”) is warranted given their alignment with NPS-UD Policy 1. However, given their encapsulation in the NPS-UD within policy (as opposed to an objective), their inclusion within a secondary Chapter 3 objective, namely Objective 3.3.7, would be more appropriate. While the Panel agrees that “Mandatory Objective 1” should be incorporated into the ODP without qualification or change, it does not agree, and does not recommend, the adoption of the proposal to include references to such matters in Objective 3.3.7 (now 3.3.8), having applied the discipline that Objective 3.3.2 demands. Further, the Panel consider it unnecessary to essentially repeat NPS-UD directives

which have appropriately guided the development of PC 14 but would add little or no direction to the consideration of individual proposals were they to be included in Chapter 3²³.

[37] For completeness, the Panel note that it agrees with the witnesses that all other locational options would be inappropriate for the reasons outlined in the JWS.

[38] Further, the JWS also reported on the outcomes of the witnesses' consideration of options for the placement of "Mandatory Objective 2" and "Mandatory Policies 1 to 5", following a s42A Report Author recommendation that they be included in Chapter 14 (Residential), as alluded to in paragraph [24] above. The Panel simply note here that those options included the canvassing of alternative locations in either the primary or secondary tier within Chapter 3. This matter is addressed in the recommendation report relating to the Residential topic. However, suffice to say that the Panel concur with the witnesses that a location in Chapter 14 remains more appropriate, given the focus of "Mandatory Objective 2" and "Mandatory Policies 1 to 5" on residential matters.

[39] Overall, the Panel find that the amendments proposed to Chapter 3 provisions as set out in the JWS, together with the additional amendments described in paragraph [34] above, are appropriate, in avoiding the qualification of mandatory provisions, presenting a "best fit" approach to incorporation in the chapter, providing further clarity and expression and in giving effect to the objectives of PC14.

Section 32AA Evaluation of Recommended Changes

[40] In s32AA terms, it is our finding that the amendments to Chapter 3 adopted or otherwise recommended in our report, represent the most efficient and effective means of the achieving the enabling purpose of the Housing Supply Amendment Act, NPS-UD Policy 3, and aligning with the objectives of the ODP and PC14.

²³ Specifically, the references to 'greenhouse gas emissions' and 'the effects of climate change' in NPS-UD Objective 8 and Policy 1.