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03 941 8999

53 Hereford Street
Christchurch 8013

PO Box 73013
Christchurch 8154

Christchurch City Council
C/- Plan Change 14 Submission, Engagement Team
PO Box 73013
Christchurch 8154

ccc.govt.nz

Email: engagement@ccc.govt.nz

Christchurch City Council submission on the proposed Housing and Business Choice Plan Change (PC14)

Introduction

1. The Christchurch City Council appreciates the opportunity to make a submission on the proposed Housing and Business Choice Plan Change (PC14). A number of matters have come to the Council's attention since the Plan Change was notified, which the Council seeks to raise within its submission. These are outlined briefly in this section, and in more detail in the attached table and appendices to the table.
2. The Council is recommending a number of minor changes to correct errors and omissions, and increase the clarity and consistency of the notified Plan. There are also issues with the notified planning maps that need to be addressed in order to maintain the integrity of the notified planning framework. We also propose changes to ensure consistency with other plan changes that have been completed recently, or are in the process of completion. There are also a few submission points that represent more significant issues with the notified Plan. These issues and the changes proposed are summarised below.
3. The Council's submission aims to ensure a clearer and more workable and coherent plan change is adopted.
4. In a limited number of site-specific cases, there are changes to the number of property owners affected; where there is a change for individual property owners to what was originally notified, these owners are being contacted in case they wish to lodge further submissions for/ against the Council submission. The Council will send a copy of its final submission to everyone directly affected by the submission in this way.

Submission points

The following is a list of the issues that the Council submission seeks to address.

Reference should be made to the **appended table and associated attachments** for a spatial overview of proposed changes.

Appendix 1 – Submission point table and associated attachments

Appendix 2 – Updated Planning Maps & Legends

Spatial issues

1. A number of minor changes are proposed to the notified planning maps to account for updated zoning/zoning terminologies, for example Residential New Neighbourhood to Future Urban Zone, and to account for zoning changes, where they haven't already been mapped.
2. Corrections are proposed to minor wording errors on maps.
3. Changes to planning maps are sought in order to realign zoning with overlays, for example, several sites that are not within the Low Public Transport Accessibility Area (LPTAA) have been zoned Residential Suburban but should be Medium Density Residential (MRZ).
4. Within the North Halswell area, the qualifying matter overlay for the Outline Development Plan features was not added and is proposed to be included. Removal of the Meadowlands Exemplar overlay is also proposed; this was discussed in the relevant section 32 report.
5. Minor, confined revisions of Heritage Aerial Maps are proposed due to changed circumstances such as subdivision.
6. Minor amendments are proposed to the Residential Heritage Area interface maps for consistency with proposed changes to the sub-chapter.
7. Changes are proposed to ensure consistency with other plan changes and Environment Court consent orders and Environment Court decisions, for example, changes in line with Plan Change 5F and 5B.
8. Changes are proposed to apply or remove the Town Centre Intensification Precinct in relation to specific sites that are zoned MRZ, as the Precinct only pertains to the High Density Residential zone (HRZ).
9. A series of minor amendments are proposed to the notified Series D planning maps, in order to simplify the maps for Plan users, particularly in regard to qualifying matters.

Tsunami Management Area qualifying matter

There are extensive errors throughout the notified Plan Change in relation to the proposed Tsunami Management Area qualifying matter overlay, affecting a number of the planning maps. A number of properties have been zoned incorrectly, making them inconsistent with the section 32 report and the framework of rules notified. This risks significant unintended consequences for the application of the rules to these properties, most notably through setting any residential activity in the MRZ as a non-complying activity.

As notified, some properties have been zoned as either MRZ or High Density Residential (HRZ) within the tsunami overlay area; however, there should be no MRZ or HRZ within the tsunami overlay – only Residential Suburban or Residential Suburban Density Transition (RSDT). Also, some properties zoned Residential Suburban and RSDT have been incorrectly changed to MRZ instead of retaining their current zoning. As per the conclusions of the s32 evaluation reporting:

- sites with the operative zoning of Residential Suburban should retain their zoning;
- sites with the operative zoning of Residential Medium Density should be re-zoned as RSDT; and
- sites with the operative zoning of RSDT should retain their zoning.

The Council proposes that the rule now also includes the Residential Hills zone, as the tsunami overlay captures some hill properties.

Areas within the Low Public Transport Accessibility qualifying matter

The notified planning maps show areas within the LPTAA qualifying matter overlay that should not be within the overlay because they are close to the Orbiter bus route (within an 800 metre walkable catchment). This has occurred because of a mapping error that did not map all walking catchments from the Orbiter bus route.

The Council submission seeks to lift the application of the overlay in affected areas, particularly in Shirley, Beckenham, and St Albans, with lesser areas in St Martins, Hoon Hay, Huntsbury, Cracoft, Upper Riccarton, and Mairehau. Consequential changes to zoning will also be required with the removal of the overlay, i.e. Residential Suburban will need to change to MRZ.

Other issues/changes

1. A number of minor wording changes are proposed to ensure consistency throughout the Plan, to increase the clarity of the changes, to correct errors or omissions, and to address discrepancies in text between the operative and notified versions of the Plan. This includes the additional material that section 32 reporting and provisions make reference to (such as appendices to provisions or standards) but were missed from notification material.
2. A number of minor changes are proposed to ensure that new defined terms are being highlighted in the correct manner.
3. Site-specific changes are sought, including in the Historic Heritage chapter, for example, the addition of Spreydon Lodge to the Schedule of Significant Historic Heritage.
4. Small amendments to policies are sought to enhance clarity of intent. For example, to clarify that the Tsunami Management Area applies to residential zones only.
5. A minor amendment is proposed to strengthen the proposed provisions for tree canopy cover.
6. The addition of a definition of 'Intensification' to the District Plan is proposed, specifically in relation to the proposed policies for Coastal Hazard Management Area and Tsunami Management Area qualifying matters.
7. Amendments are proposed to the definitions of Building Base and Building Tower; while these are minor changes, the impact on development could be significant.
8. Additional standards proposed to support proposed changes to cycle parking controls, better managing how residential cycle parking is provided for in both residential housing and social housing complexes.

Future Urban Zoning

In line with the National Planning Standards and section 77G of the Resource Management Act 1991, PC14 amends the Residential Chapter of the District Plan to transition Residential New Neighbourhood to Future Urban Zone (FUZ), where sites remain undeveloped and contingent on an underlying Outline Development Plan for their delivery. FUZ reserves rural land that has been identified as suitable for future urban development, and protects its capacity for this future development. It is a transitional zone.

In a number of areas, proposed PC14 planning maps identify areas as FUZ that have already been developed. This is not a significant error but it is extensive. The Council submission therefore seeks to change the zoning in relevant areas, within residential parcels, to MRZ. It also seeks to remove FUZ sites in residential hills areas, where they do not meet the FUZ criteria.

Riccarton Bush - Pūtaringamotu

A new qualifying matter was proposed as part of the notified Plan Change, to address the potential adverse effects that medium or high density intensification may have on Riccarton Bush/Pūtaringamotu. This was primarily as a result of reporting the Council commissioned WSP to undertake to investigate the historic landscape of the site, in consultation with Ngāi Tūāhuriri through Mahaanui Kirataiao Limited.

Recommendations within the WSP report were limited to those expressed in 2015 BECA reporting on residential character. The notified proposal for PC14 therefore only sought to replace all HRZ with MRZ within the Interface Area. It also applied a specific overlay area to further limit building height to two storeys in nearer proximity to the Bush, where sensitivity is greatest.

The s32 evaluation notes that the purpose of greater protections is due to the Bush's "...setting, and its protection as an outstanding natural features and landscapes, and for its value as a significant indigenous vegetation site, further its cultural significance its value as mahinga kai, wāahi tapu, and taonga". The report however only evaluated options to address building height, due to the limited detail provided in the original WSP reporting.

Additional reporting has now been completed by WSP that specifies the need for additional controls to better manage the identified historic heritage landscape of Pūtaringamotu, for both western and mana whenua significance. While the report recommended retaining the outcomes sought by operative zoning in specific areas, the key focus of recommendations was to limit building height in the Interface Area. The report also identified additional building bulk and location controls as necessary to not detract from and obscure the values for which Pūtaringamotu is considered outstanding.

The Council submission proposes additional controls within the Riccarton Bush Interface Area. These would better address site density (number of units, setbacks, subdivision), and the setbacks of buildings to better ensure the prominence of the Bush is retained. Height control over St Teresa's School, which was denoted on planning maps but not detailed in provisions, is also addressed.

Separately, the Council has identified that proposed significant tree controls would have an unintended consequence in the Riccarton Bush area by linking the newly-introduced significant tree setback method to the predator-proof fence controls under 9.4.4.1.3.RD6. The Council submission therefore seeks to have the change to insert the 'tree protection zone radius' disregarded; and to maintain the 10 metre setback control from the predator-proof fence.

Waterbody setback

The Plan no longer accurately represents the current location of waterbodies, as the waterbody setbacks are based on the location of waterbodies as identified through the Replacement District Plan process, and a large amount of subdivision and other land development has since occurred.

The Council has proposed to carry-over operative waterbody setback controls as a qualifying matter, adding a new spatial layer to alert plan users to where the setback control may apply. Whilst the purpose of adding spatial information was intended to assist Plan users, due to the above reasons, this has the potential to cause confusion and misrepresent where the rule would apply. The rule itself ties the setback to the bank of an applicable waterbody, therefore the spatial information only acts as an indication of where the qualifying matter should apply.

The Council submission therefore proposes that the introduced spatial layer for the waterbody setback is removed. Doing so will not remove the application of the setback as a qualifying matter (acknowledging its reference in proposed sub-chapter 6.1A – Qualifying Matters) and avoids any potential misrepresentation of how the qualifying matter applies.

Caselaw established during submission period

Subsequent to the public notification of Plan Change 14, the Environment Court issued a decision, *Waikanae Land Company Limited v Heritage New Zealand Pouhere Taonga* [2023] NZEnvC 056, which comments on the extent to which qualifying matter provisions introduced in an Intensification Planning Instrument can restrict development more than the operative Plan. This decision has been appealed to the High Court. There is potential for the Environment Court decision, if not overturned on appeal, to impact on the scope for qualifying matter provisions proposed in an Intensification Planning Instrument (Plan Change 14) to amend the district plan. This submission point is being made to ensure potential further submitters are aware of the above case and that the Independent Hearings Panel has regard to relevant case law as might be applicable at the time of consideration.

In addition to the above points, it is acknowledged that scale consequential changes of references, numbering, and mapping will be required to address changes to provisions proposed either as notified or through submission(s).

Lastly, it is acknowledged that Plan Change 14 has been notified in tandem with Plan Change 13 (Heritage) and there is significant cross-over due to the application of qualifying matters in the urban environment. There is a risk that submitters may be unaware of the duplicate processes underway, whereby submissions are only made on one process and not the other. This has the potential for prospective submitters being missed out of a concurrent plan change process and relevant submission points being disregarded. Council is raising this potential issue for the Panel to consider further, subject to whether submitters seek to become part of relevant plan change processes through the Further Submissions period.

Conclusion

Thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Ike Kleynbos, Ike.Kleynbos@ccc.govt.nz.

Yours faithfully,



Mary Richardson

GM Citizens & Community, Acting GM for Infrastructure, Planning & Regulatory Services