

BEFORE THE CHRISTCHURCH CITY COUNCIL

UNDER

The Resource Management Act 1991

AND

IN THE MATTER OF

Proposed Plan Change 10 to the Christchurch
District Plan: Partial removal of Meadowlands
Exemplar Overlay, North Halswell

REPORT AND RECOMMENDATIONS OF INDEPENDENT HEARING COMMISSIONER

Lindsay Daysh

17 June 2022

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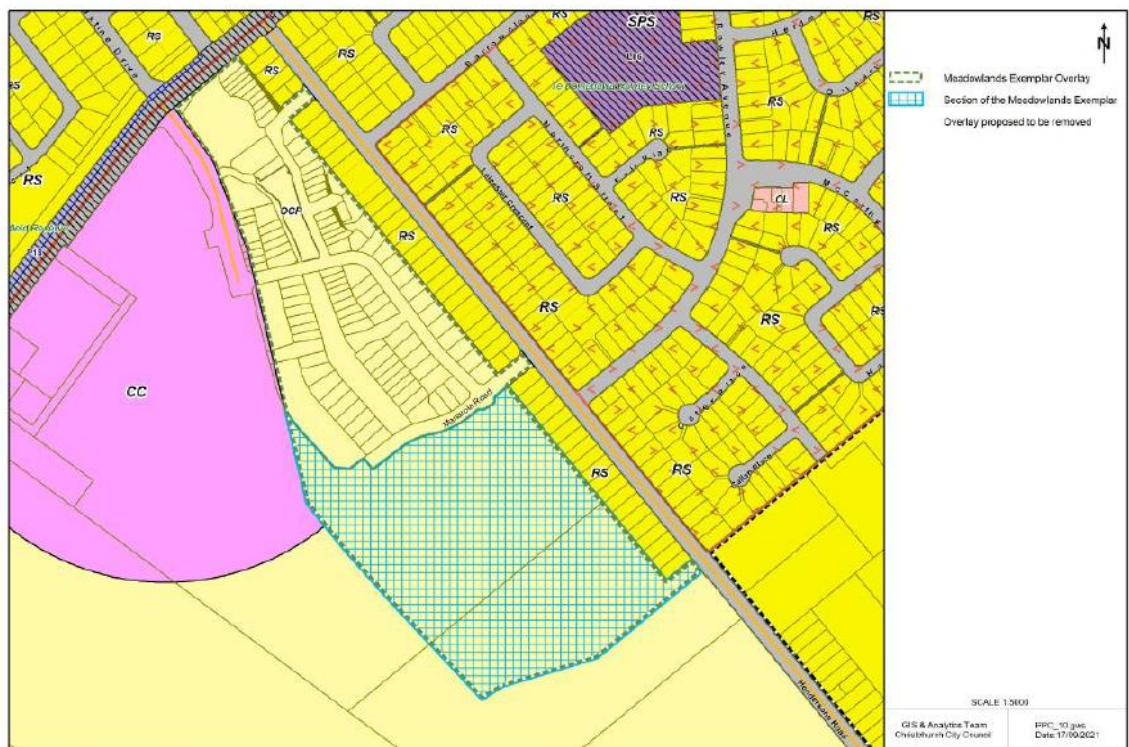
PRELIMINARY

Introduction

1. This report contains the recommendations of Lindsay Daysh, the Independent Hearing Commissioner appointed to consider Private Plan Change 10 (PC10) to the Christchurch City District Plan (the District Plan) and the decisions sought from the one submission received. PC10 relates to the removal of the south-eastern section of the Meadowlands Exemplar Overlay, south of Manarola Road, Halswell. A hearing into this matter was held on 11 May 2022.

The Plan Change

2. The land that applies to PC10 is the south-eastern section of the Meadowlands Exemplar Overlay, south of Manarola Road, Halswell. It is located within Lot 116 DP 548934 and Lot 120 DP 514570 and is shown on Planning Map 45A and the North Halswell Outline Development Plan in the District Plan. This area is shown cross hatched blue on the Plan Change Map below. Land within the north western section of the Exemplar overlay has recently been developed for housing and does not form part of PC10.



Proposed Private Plan Change 10 - Change to Planning Map 45A - Removal of section of the Meadowlands Exemplar Overlay

3. As part of the Land Use Recovery Plan a number of exemplar medium-density housing projects were identified. These projects were intended to provide models for a new standard of housing. The aim of exemplar projects was to provide best practice examples, promote interest and stimulate demand thereby encouraging additional supply of medium density housing. The exemplars were intended to showcase different approaches to urban development, with regard to planning, financing, construction processes and governance models. Ultimately exemplars

were to demonstrate that medium density housing can offer viable, diverse and attractive housing choices and living environments¹. It is my understanding that the Meadowlands Exemplar is the only exemplar medium-density housing project that has been progressed.

4. As outlined in the description of the Plan Change the Exemplar Overlay that currently applies within the District Plan requires a comprehensive design approach including the approval of a Neighbourhood Plan setting out detailed residential building design parameters at the same time as the subdivision consent. This has resulted in complexity in consenting, numerous subsequent variations to consents being required, and a very slow uptake of development opportunities.
5. By seeking to remove the south-eastern section of the Meadowlands Exemplar Overlay area, the plan change proponent, (Spreydon Lodge Limited), wishes to facilitate development of the balance of the land that is subject to the Overlay. The land will continue to be subject to the underlying Residential New Neighbourhood (RNN) provisions of the District Plan.
6. As further justification, the plan change description states that the removal of the Exemplar provision will give prospective purchasers greater autonomy to design houses that are more in line with their personal circumstances and preferences.

Notification and Submissions

7. Proposed PC10 was publicly notified on 3 November 2021 with submissions closing on 1 December 2021. One submission from the Waipuna Halswell Hornby Riccarton Community Board was received. No further submissions were received.
8. The main issues raised by the submitter as summarised in the s42A report² were:
 - a. Process concerns: Alternative processes under the RMA (by implication resource consents) could achieve the same outcome e.g., flexibility for purchasers.
 - b. Outcome concerns: The submitter considers that the Exemplar would provide a more certain outcome and higher standard of neighbourhood design, whereas departure from the Exemplar would lead to a less certain outcome and probably a lower standard of neighbourhood design.

Information Considered

9. In making this recommendation there has been consideration of:
 - Proposed PC10 and the accompanying s32 Report;
 - Two requests for further information and the applicants' responses on various matters and justification for the plan change including urban design matters;
 - The written submission from the Waipuna-Halswell-Hornby-Riccarton Community Board;
 - The s42A Report and its appendices on the plan change including the specialist evaluations on Urban Design, Provision of Reserves and Street trees, Transportation, Stormwater and

¹ PC10 s32 evaluation para 2.1.3

² s42A report para 1.1.8

Water/ Wastewater; and

- The evidence on behalf of the Plan Change Proponent Spreydon Lodge Ltd.
10. The day before the hearing I also received legal submissions from Christchurch City Council, which I discuss later in the recommendation. Updated comments on the s42A report were also prepared and legal submissions from Spreydon Lodge Ltd were presented at the commencement of the hearing.
 11. I visited the site and the wider Halswell environment including the northern part of the Exemplar Overlay prior to the hearing.

The Hearing

12. The hearing was held on 11 May 2022 at the City Council offices. Parties appearing were:

Spreydon Lodge Ltd.

- Gerard Cleary - Legal Counsel
- Ian Thompson - General Manager Danne Mora Residential, owner of Spreydon Lodge Ltd.
- Mark Brown - Planner and Director of Davie Lovell Smith
- Patricia Harte - Consultant Planner Davie Lovell Smith Ltd.

Council

- Mark Pizzey - CCC legal counsel
 - Glenda Dixon - CCC Senior Planner and s42A report author
 - Jane Rennie - Urban Design adviser Boffa Miskell
 - Russel Wedge - Team Leader, Parks Policy and Advisory, Parks Unit CCC
13. Ms Debbie Mora from the Waipuna Halswell-Hornby-Riccarton Community Board attended in an observer capacity as the Community Board had decided not to formally appear at the hearing. Darren Botha, Policy Planner at CCC, was also in attendance.
 14. After the presentation of evidence, the applicant and the City Council agreed to have further discussions on the precise District Plan provisions relating to the PC10 land area over and above the RNN requirements. These revised and agreed provisions were provided on 25 May 2022 and I was subsequently able to formally close the hearing.

Background to PC10

15. Prior to a discussion of the relevant issues raised at the hearing, it is worthwhile noting some of the long and extensive background to the Meadowlands Exemplar within the District Plan. This is best summarised in the s42A report of Ms Dixon³ and dates from the South West Area Plan produced by the Council in 2009 followed by the Land Use Recovery Plan after the Canterbury Earthquakes. This identified an area including Halswell Commons and adjoining areas as a

³ Pages 12 to 15.

Greenfields Priority area.

16. The terms of reference for the Hearings Panel for the Christchurch Replacement District Plan included rezoning for exemplar housing areas as a matter of priority and the decision in 2015 introduced the provisions currently in the District Plan for the Meadowlands Exemplar by consent between the parties.
17. As Ms Dixon has outlined⁴, this has resulted in Plan Provisions specific to:
 - a. **Chapter 8 Subdivision Objective 8.2.2.b:** A comprehensively planned development in the Meadowlands Exemplar Overlay in the RNN (North Halswell) Zone that is environmentally and socially sustainable over the long term.
 - b. **Policy 8.2.2.12:** Meadowlands Exemplar Overlay Comprehensive Development which is a lengthy policy focussed on design outcomes.
 - c. **Rule 8.5.1.3 RD15** – Comprehensive subdivision and land use activities that implement the Meadowlands Exemplar. The key elements of the rule for present purposes are:
 - i. The subdivision and land use consent shall be processed together;
 - ii. Built form standards are a maximum height of 11m, a maximum of 3 storeys and a minimum of 2 storeys facing the Key Activity Centre;
 - iii. The comprehensive subdivision and land use consent application shall be accompanied by a Neighbourhood Plan covering at least 8 ha;
 - iv. Any application should contain 3 or more of the building typologies of: standalone house, duplex, terrace and apartment, with no single typology making up more than two thirds of the total number of residential units;
 - v. The comprehensive subdivision and land use consent application shall only be in accordance with the Meadowlands Exemplar approved by the Council on 24 April 2014; and
 - vi. There is a requirement to comply with Rule 8.6.8 (e) for wastewater disposal, which includes a requirement for the outfall for wastewater disposal to be to the Pump Station 42 catchment or connected to the South East Halswell pressure sewer network once this is available.
 - d. **Rule 8.5.1.5 NC8** makes any subdivision or land use activities that are not part of a comprehensive subdivision and land use activity, non-complying activities.
 - e. **Rule 8.6.13 Neighbourhood Plan** sets out what the Neighbourhood Plan is to contain. There should be a Context and Site analysis, Detailed Design Statement and Neighbourhood Plan set, and there are detailed specifications for these.
 - f. **Rule 8.8.15 RNN zone Outline Development Plans** – North Halswell (Meadowlands Exemplar Overlay) contains Matters of Discretion for not complying with Subdivision rule

⁴ At para 3.1.4

RD15.

18. Ms Dixon then outlined the somewhat complicated series of global and specific consent applications that have occurred with the northern part of the Exemplar Area, some of which were treated as a non-complying activity. She agreed with the view that the plan complexity certainly contributed to a slow uptake of development and recommended in her report that PC10 should be approved subject to addressing a number of matters.

Justification for PC10

19. As outlined previously the notified plan change is relatively simple with the removal of the overlay and the planning regime reverting to being those that apply to RNN Zone which underlies the Exemplar Overlay. The question is whether there are components of the Exemplar Overlay provisions that should remain and be in place over and above RNN provisions.

20. As context the s32 evaluation⁵ stated what the exemplar overlay was designed to do.

As part of the Land Use Recovery Plan a number of exemplar medium-density housing projects were identified. These projects were intended to provide models for a new standard of housing. The aim of exemplar projects was to provide best practice examples and promote interest and stimulate demand thereby encouraging additional supply of medium density housing. The exemplars were intended to showcase different approaches to development, with regard to planning, financing, construction processes and governance models. Ultimately exemplars should demonstrate that medium density housing can offer viable, diverse and attractive housing choices and living environments.

21. While a sound idea in principle the s32 report⁶ then stated the difficulties.

Unfortunately the comprehensive design-build approach that is inherent to the Exemplar within the District Plan has failed to materialise. The concept of the Neighbourhood Plan and Design Guide has created a level of complexity that deters potential suitors. Several attempts to salvage the Exemplar have been embarked upon, such that achieving Exemplar outcomes are contingent on a series of underlying land use consents and updates by way of variations. Unfortunately these potential solutions have only created a different but nonetheless confusing set of parameters that continue to act as a deterrent to progress.

22. The s32 report also outlines the complex planning regime applying to the land which is summarised in Ms Dixons s42A report⁷ as:

- a. *The approach is based on “comprehensive development” which involves subdivision and building design and consent occurring concurrently. It is noted that this can work well for group housing, i.e. housing that is designed, built and sold by a single entity. However the applicant has found it difficult to attract group buyers or builders as partners, e.g. for large*

⁵ S32 report para 2.1.3

⁶ Ibid 2.1.4

⁷ S42A report para 3.1.27

development lots, when these are tied by Neighbourhood Plan and Architectural Design principles.

- b. Both group and individual purchasers have been put off by the level of complexity of the Neighbourhood Plan and Design Guide.*
- c. Pre-design of all buildings is inflexible and does not allow for autonomy for purchasers to build to their own preferences. Individual houses become non-complying by definition, as they are not part of a “comprehensive” subdivision and land use consent.*
- d. There is no discretion to vary elements of Neighbourhood Plan, leading to a constant need for resource consents or variations to conditions of previous consents.*
- e. Consents involve Council discretion and interpretation about urban design matters.*
- f. Council staff in non-planning units do not always support design elements of the approved Neighbourhood Plan.*

23. The s32⁸ also states

In addition to the above rules there are numerous other references and requirements within the District Plan applying to subdivision or development within the Meadowlands Exemplar Overlay area. These include a requirement that all development must be preceded by acceptance of a Neighbourhood Plan which must address a very wide range of analyses including those relating to context, site, design and development and cultural factors. Following from this any comprehensive development application (subdivision and land use for houses) needs to be considered in relation to the neighbourhood plan and in terms of a very long list of assessment matters relating to matters such as:

- place making, context and heritage*
- building typology, mix and location*
- relationship to street and public open spaces*
- fences between residential units and road boundary*
- road network access and parking*
- infrastructure compliance with the outline development plan*
- outdoor living space service storage*
- minimum unit size*
- consistency with the exemplar statement of commitment*
- height, minimum and maximum storeys*

24. Mr Brown for Spreydon Lodge has been continuously involved with the development of the land as well as other developments in Halswell and Greater Christchurch. He was unequivocal about how difficult and complex the process has been to date in developing the northern part of the Exemplar Overlay. He outlined⁹ the following in respect of the decision to remove the Exemplar

⁸ S32 Report Para 2.4.7

⁹ Evidence of Mark Brown para 4.1

Overlay.

There are two primary factors behind the decision seeking to remove the EO by way of private plan change:

- a. To decouple the subdivision and land use delivery mechanism and to simplify the conditions under which development can occur within the Spreydon Lodge landholding; and*
- b. To remove the unique and prescriptive design parameters inherent to the Exemplar development.*

25. Mr Brown's¹⁰ evidence also outlined the implementation difficulties with the Exemplar Overlay provisions and was of the view that;

Due to the very specialised nature of design parameters informing the Exemplar, first through the Neighbourhood Plan and latterly via a 'global' land use consent, securing site (design) specific resource consents has become an increasingly frustrating undertaking

26. This was further reinforced by Mr Thompson¹¹ who further explained the barriers to development as:

My overall experience of working within the Exemplar framework is that its implementation in practice has not matched the underlying theory. It is an overly complex, impractical and commercially uneconomic form of development that is failing to deliver housing to the market at a time of ongoing, significant demand.

In comparison, my experience with the development of the RNN land owned by Spreydon Lodge is that it has proven to be a significantly more straightforward and efficient framework for land development. While less design focused, the RNN framework provides a high quality end product, particularly when supplemented by developer documentation including covenants and design/landscape guidelines.

27. At the hearing there was willingness from Mr Thompson and Mr Brown to consider acceptable provisions relating to roof pitch provision and rear lane access that enabled practical and more certain development outcomes while still maintaining some of the matters contained in the existing Exemplar Overlay.

28. Overall, I agree with the view of the Council and the Plan Change proponent that the existing provisions are complex, time consuming and unwieldy. As stated earlier, the important factor is what, if any, components of the Exemplar Overlay should remain.

S42A report Urban Design

29. I have already outlined the background to the plan change and the applicant's justification. In the s42A Ms Dixon also agreed that change was required, and the existing provisions are overly complex and an administrative burden. This has resulted in lengthy and costly consent processes

¹⁰ Ibid para 4.4

¹¹ Evidence of Ian Thompson paras 2.2 and 2.3

and development proceeding at a much slower rate than in the RNN Zone outside of the Exemplar area.

30. In terms of key issues Ms Dixon evaluated the following matters.

Urban Design

31. Ms Dixon¹² advised that Jane Rennie provided Council with an urban design assessment¹³ examining the RNN provisions (policies and rules) which would apply if PPC10 was approved and comparing them with the Exemplar Overlay provisions which currently apply. Ms Rennie also referred to the conditions which were placed on the 2019 global land use consent issued to the first part of the Halswell Commons subdivision. Ms Dixon noted that the global consent conditions are effectively a hybrid of the Exemplar and standard RNN provisions.

32. Ms Dixon summarised Ms Rennie's evidence as follows

Ms Rennie indicates that a standard RNN zone is likely to result in slightly lower density and potentially larger lot sizes than the existing Halswell Commons area, with a reduced diversity of housing types. Overall Ms Rennie considered that this would not result in sufficient coherence of design in the PPC10 area to achieve a high quality outcome, in terms of the successful delivery of medium density housing.

Ms Rennie notes that the Design Guide does not consider the relationship of individual sites to the street and to open space, and there is no consideration of rear lane access and careful garage placement to reduce the visual dominance of cars. There is a risk that there will be larger street blocks and more focus on cars, and a decrease in overall connectivity and permeability.

She concludes that PPC10, with its absence of an integrated design-led approach, merits the introduction of additional rules on an area-specific basis that would enable better alignment of the standard RNN zone here with the RNN objective and policies. This would ensure the existing sense of place and identity of the first part of the Halswell Commons development is carried through into the PPC10 area, providing a greater degree of distinctiveness beyond a standard RNN development and ensuring a variety and intensity of housing.

33. As urban design was the only matter of contention Ms Dixon¹⁴ made the following recommendation.

I recommend therefore that:

- a. *Private Plan Change 10 be approved, subject to the consideration of rules for the PPC10 area on urban design which are viable in relation to the MDRS, and that the Commissioner is minded to adopt, once legal advice is received and before a recommendation to Council is made. This recommendation relates to potential rules*

¹² S42A p7.1.3 to 7.1.14

¹³ S42A Appendix 4

¹⁴ S42A report para 10.1.2

- requiring a range of housing typologies, layout requirements for rear lane access and garage placement behind the façade of houses, and a rule on minimum roof pitch; and*
- b. *The parts of the submission on the Plan Change be accepted or rejected as set out in Appendix 10 to this report.*

34. My view is that the overall concept of providing for higher density development on the site is still possible through amended and less prescriptive provisions. At the hearing Ms Rennie also recognised the complexities of the provisions but remained concerned that development on the site without design parameters may lead to poor urban design outcomes. I also note from my site visit that the development of the northern section of the Exemplar Overlay is quite different in approach to conventional urban subdivision and as a built form was supported by Ms Rennie.
35. In light of Ms Rennie's concerns and subject to legal advice, Ms Dixon left it open for specific amendments to the Plan Change relating to potential rules to be formulated on four matters being:
- a. requiring a range of housing typologies;
 - b. layout requirements for rear lane access;
 - c. garage placement behind the façade of houses; and
 - d. a rule on minimum roof pitch.

S 42A report – Other Matters

36. For completeness Ms Dixons s42A report also included other specialist evaluations.

Provision of Reserves and Street Trees

37. Russel Wedge the Team Leader, Parks Policy and Advisory, Parks Unit CCC provided advice¹⁵ and stated that the existing reserves and open space provided in the previous stages of the Meadowlands Exemplar development, and in the nearby subdivisions being developed and proposed in the ODP area, meet the Parks Units requirements. This would mean that further reserves and open space would not be required in the Plan Change 10 area.
38. Mr Wedge also referred to the green corridor running through the Overlay area and identified in the Outline Development Plan while Ms Dixon¹⁶ noted that if there were no green corridor, the second stage of development could look rather different from the first stage, rather than having a very similar look and feel. The overall look and feel will of course also depend on other factors such as densities and building design.
39. In his addendum report and at the hearing Mr Wedge supported the provision of a green corridor through the site and I note that the agreed Outline Development Plan includes the indicative alignment of the green corridor.

¹⁵ S42A report Appendix 5.

¹⁶ S42A report para 7.1.21

Transportation

40. Andrew Milne, Senior Transportation Planner, Transport and Waste Management Unit, CCC considered the transportation effects of the Plan Change¹⁷. He was of the view that from a traffic impact perspective the proposed changes (removal of the Exemplar Overlay) are unlikely to have a noticeable effect in regard to the scale of traffic generation.
41. Mr Milne's advice endorses the applicant's commitment to retain the road network that has been established to date and to maintain key connections such as those to Hendersons Road. He notes that the collector road is a key structural transport element of the ODP and once fully established will form the key traffic route between the site and areas to the south and southeast of the ODP area, providing relief to the existing local link roads to Hendersons Road.

Stormwater

42. Brian Norton, Senior Stormwater Planning Engineer, Three Waters Unit, CCC provided stormwater comments¹⁸. Mr Norton advised that the 'first flush' and detention storage mentioned by the applicant combined with stormwater wetlands already constructed by the Council on the other side of Sparks Road in Hendersons Basin will be sufficient to ensure flooding within the Hendersons Basin, Cashmere Stream and Heathcote River is not exacerbated by the additional impervious surface coverage associated with development.

Water and Wastewater

43. Daniela Murugesh, Senior Planning Engineer, Water and Wastewater, Three Waters Unit, CCC provided advice on Water and Wastewater¹⁹. Ms Murugesh concluded that whether or not the Exemplar provisions remain on the PPC10 area, there would be no difference for water supply servicing requirements, compared to the rest of the North Halswell ODP area.

Councils position at the Hearing

44. An updated Council position was provided by Mr Pizzey in his legal submissions to me the day before the hearing. These submissions covered several matters. Mr Cleary also provided appropriate comment on these matters in his opening submissions. I comment on these matters in turn.

1. The Council's current position on key issues

45. The legal submissions state that the proponent and the Council agree that the exemplar overlay is not working with the sole live issue being whether there ought to be any special rules that apply to the PPC10 area in addition to those that apply to the underlying RNN zone. The Council's evidence is that there ought to be because of the special characteristics of the site²⁰.

¹⁷ S42A report Appendix 6

¹⁸ S42A report Appendix 7

¹⁹ S42A report Appendix 8

²⁰ Legal submissions for CCC paras 5 and 6

46. Mr Pizzey, noting that there was difference between Council’s urban designer recommendations and the planner’s recommendation particularly around any specific density controls, then further outlined the four bespoke rules recommended in the s42A report concerning.
- a. requiring a range of housing typologies;
 - b. layout requirements for rear lane access;
 - c. garage placement behind the façade of houses; and
 - d. a rule on minimum roof pitch.
47. Of the four provisions proposed in Ms Dixon’s s42A report, the ones that the Council considers are appropriate to seek are for a layout requiring rear lane access, and one that is enabling of a pitched roof if coupled with a maximum height rule that is more lenient than the Medium Density Residential Standard (MDRS) 11m (plus 1m) so as to enable three storeys.
48. The reason for dispensing with two matters are that requiring different housing typologies may be difficult particularly in respect of the forthcoming MDRS Plan Change discussed below, particularly around anticipated densities. Any density provisions were actively opposed by the plan change proponent.
49. There is also significant consideration required of having a density standard that could potentially hinder achieving the density enabled by the forthcoming MDRS provisions due to be notified on or before 20 August 2022, as it may constrain the layout of sites more than the MDRS provisions. I note the advice of Mr Pizzey that these rules may cease to have legal effect following notification of the MDRS.
50. The submissions also state²¹ that the garage placement matter is a density standard that could potentially hinder achieving the density enabled by the MDRS provisions, as it may constrain the layout of sites more than the MDRS provisions. These rules may not be in any legal effect following notification of the MDRS.
51. I agree with Council that attention should be given to workable provisions around rear lane access and minimum roof pitch, and I note that amendments to the Plan Change have been agreed with the plan change proponent to make applicable references within the relevant rules. These amendments are included in Attachment 1.

2. The legal framework

52. This outlined the provisions of the Resource Management Act 1991 (RMA or the Act) that are relevant to the consideration of district plan changes. I need not comment on these matters further.

²¹ Ibid para 54

3. Scope to make changes to PPC10

53. I agree with Mr Pizzey²² that the amendments proposed to PC10 by the Council and agreed with the applicant fall fairly and reasonably between the proposed plan change, and the current District Plan. Therefore, these changes are within scope of the Plan Change as notified.

4. Relevant planning documents

54. The s32 report and the s42A report provide an analysis of the relevant higher order planning documents to consider when evaluating this plan change. I have adopted this analysis and discuss these further in terms of statutory evaluation later in this recommendation.

5. The Council's approach to the issues here in the context of the NPS-UD

55. Mr Pizzey²³ discusses the relationship between the NPS-UD and Councils obligations under s32 of the Act.

*The Council's approach to the issues here is framed by the NPS-UD and the RMA provisions for its implementation. This is not due to any concern as to whether the Council's position on PPC10 "gives effect to" the NPS-UD in terms of s75(3) of the RMA. It is instead a result of a s32 consideration of whether the proposed rules are, **having regard to their efficiency and effectiveness**, the most appropriate method for achieving the objectives of the district plan taking into account the benefits and costs of the proposed rules.*

56. This is in the context of significant change through the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (the 2021 Amendment Act) where the Explanatory Note for the Bill, states that the Act proposes changes to maximise efficient site usage for intensified housing developments, while contributing to the rapid acceleration of housing supply.
57. Mr Pizzey further outlines²⁴ that the Council must incorporate the MDRS and give effect to policy 3 of the National Policy Statement on Urban Development 2020 (NPS-UD) in every relevant residential zone, and that it must do that in an intensification plan instrument (IPI), which is a plan change that must be notified in a special process (intensification streamlined planning process (ISPP)) by 20 August 2022.
58. Mr Cleary²⁵ also commented on the issue of consistency with the MDRS provisions and was opposed to any density standards different to that required by the MDRS.
59. In my view the key matter is whether the amendments proposed to the Plan Change as included in Attachment 1 to this recommendation will be in anyway inconsistent with what Council is required to do to implement the MDRS. I do not consider there to be an inconsistency and note

²² Ibid paras 12 to 17

²³ Ibid para 20

²⁴ Ibid paras 21 and 22

Ibid para

²⁵ Submissions on behalf of Spreydon Lodge paras 3.1 to 3.10

that the plan change proponent has also accepted some limited constraint on the site over and above that which applies to the RNN Zone.

6. Most appropriate provisions.

60. Mr Pizzey²⁶ advised that:

As a result, Ms Dixon's opinion, and the Council's position, is that of the 4 provisions proposed in Ms Dixon's evidence set out in paragraph 6 above, the ones that the Council considers that it is appropriate to seek are for a layout requiring rear lane access, and one that is enabling of a pitched roof if coupled with a maximum height rule that is more lenient than the MDRS 11m (plus 1m) so as to still enable three storeys. If the Commissioner reaches a different view on any of the other provisions put forward, the Council's position is that those bespoke rules should also be adopted.

61. During the lunch break the applicant and the Council were able to confer and agreed that the only remaining matters were rear lane access and the minimum roof pitch. On this basis an agreed set of provisions was submitted to me as part of the Plan Change proponent's right of reply.

Rear Lane Access

62. The agreed rule adds the following paragraph to the development requirements (8.10.4.D) that apply to the Area of the site known as Area 1 of the Outline Development Plan . It is also worth noting that the Outline Development Plan is being amended to clarify which area is Area 1 by adding purple boundaries on the ODP which was accepted by the proponent.

8.10.4.D DEVELOPMENT REQUIREMENTS

a. The development requirements for the purposes of Rule [8.6.11\(a\)](#) and Rule [14.12.2.16](#) are described below and shown on the accompanying plan.

.....

3. OPEN SPACE, RECREATION AND COMMUNITY FACILITIES

a. Community (neighbourhood) parks throughout the neighbourhood and recreational routes along enhanced waterways, including the green corridor through and in association with the Meadowlands Exemplar development.

b. For the land within Area 1, the green corridor identified on the ODP shall be fronted by residential lots on both sides of the corridor, with vehicular access from the rear only.

63. I consider that this is a key design component that the applicant can commit to, and the green corridor remains as an indicative alignment in the Outline Development Plan. This would continue the same theme as exists in the northern part of the Exemplar Overlay.

²⁶ Legal Submissions for the Christchurch City Council para 9

Minimum Roof Pitch

64. The applicant has also agreed to a provision that relates to minimum roof pitch. This states:
- a. **Within Area 1 in Appendix 8.10.4 North Halswell ODP, if gable roofs are used:**
 - i. **The minimum pitch shall be 28°; and**
 - ii. **The maximum permitted height is 13m.**
 - iii. **If gable roofs are used for residential units on lots directly adjoining the green corridor, roofs shall have an open gable end facing the green corridor.**
65. This would continue similar roof controls to those which exist in the northern part of the Exemplar Overlay noting that Ms Dixon²⁷ referred to the Global Consent granted for the northern area that required roofs with a minimum pitch of 28 degrees, with no hip roofs facing a road. The new rule would make gable roofs optional, but if they are used on residential units that do directly adjoin the green corridor, there has to be an open gable end facing the corridor. As with rear lane access I consider that this is also key design component that the applicant can commit to.

STATUTORY REQUIREMENTS

General Approach

66. I agree with Mr Cleary²⁸ that the statutory framework against which district plans (private plan changes included) are tested is well settled. I note that Mr Cleary also adopts Mr Pizzey's Appendices setting out a summary of the statutory requirements including the relevant extract from the dominant case law on this matter being *Colonial Vineyards v Marlborough District Council* [2014] NZEnvC 55. I need not summarise these here other than to say that the issues in contention are very confined.

Higher Order Planning Documents

67. For completeness I have also must take account of the content of the higher order documents guiding (and in some cases directing) how to proceed. I adopt the conclusions of Ms Harte and Ms Dixon as to the applicability of the NPS-UD and the subsequent 2021 Amendment Act which has been explained above. In respect of the Regional Policy Statement, although relevant it is not in my view highly determinative as to the necessity or detail for PC10.
68. I also take direction from District Plan Chapter 3, Strategic Directions, in order to achieve an integrated and consistent set of Plan provisions.

Christchurch District Plan

Chapter 3 Strategic Directions

69. Ms Dixon and Ms Harte referred me to the introductory wording in Chapter 3 Strategic Directions, as follows:

²⁷ S42A Report para 3.1.24 (c) iv

²⁸ Submissions on behalf of Spreydon Lodge para 2.1

- a. *This Chapter:*
 - i. *Provides the overarching direction for the District Plan, including for developing the other chapters within the Plan, and for its subsequent implementation and interpretation; and*
 - ii. *Has primacy over the objectives and policies in the other chapters of the Plan, which must be consistent with the objectives in this Chapter.*
- e. *Within this Chapter, Objectives 3.3.1 and 3.3.2 have primacy, meaning that the remaining objectives must be expressed and achieved in a manner consistent with Objectives 3.3.1 and 3.3.2. The other objectives in this Chapter are to be read as a whole and no statutory hierarchy applies*
- f. *In all other Chapters of the Plan, the objectives and policies must be expressed and achieved in a manner consistent with the objectives in this Chapter.*

70. Objectives 3.3.1 and 3.3.2 read as follows:

3.3.1 Objective - Enabling recovery and facilitating the future enhancement of the district

- a. *The expedited recovery and future enhancement of Christchurch as a dynamic, prosperous and internationally competitive city, in a manner that:*
 - i. *Meets the community's immediate and longer term needs for housing, economic development, community facilities, infrastructure, transport, and social and cultural wellbeing; and*
 - ii. *Fosters investment certainty; and*
 - iii. *Sustains the important qualities and values of the natural environment.*

3.3.2 Objective - Clarity of language and efficiency

- a. *The District Plan, through its preparation, change, interpretation and implementation:*
 - i. *Minimises:*
 - a. *transaction costs and reliance on resource consent processes; and*
 - b. *the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and*
 - c. *the requirements for notification and written approval; and*
 - ii. *Sets objectives and policies that clearly state the outcomes intended; and*
 - iii. *Uses clear, concise language so that the District Plan is easy to understand and use.*

71. I consider that the Plan Change broadly supports enabling recovery and facilitating the future enhancement of the District in Objective 3.3.1 in that it provides for the Christchurch community's immediate and longer term needs for housing.

72. Objective 3.3.2 is particularly applicable in that it has been found that the implementation of the current Exemplar Overlay provisions has led to excessive complexity and the slowing of the realisation of new housing. With the amendments to retain two features of the Exemplar Overlay being rear lane access and minimum roof pitch controls agreed by the plan change proponent this should lead to a more straightforward consenting process.

73. Ms Harte²⁹ and Ms Dixon³⁰ also refer to the most relevant District Plan policy provision being Objective 8.2.2 Design and amenity and the Meadowlands Exemplar Overlay in the Subdivision section, which states:

²⁹ Evidence of Patricia Harte paras 3.12 and 3.13

³⁰ S42A report paras 6.1.5 to 6.1.9

- a. *An integrated pattern of development and urban form through subdivision and comprehensive development that:

 - i. *provides allotments for the anticipated or existing land use for the zone*
 - ii. *consolidates development for urban activities*
 - iii. *improves people’s connectivity and accessibility to employment, transport, services and community facilities;*
 - iv. *improves energy efficiency and provides for renewable energy and use; and*
 - v. *enables the recovery of the district**
- b. *A comprehensively planned development in the Meadowlands Exemplar Overlay in the Residential New Neighbourhood (North Halswell) zone that is environmentally and socially sustainable over the long term.*

74. Ms Harte considered that removing the Exemplar Overlay over the undeveloped section, while not requiring the area to be “comprehensively planned”, will still require that it has an “integrated pattern of development and urban form through subdivision and comprehensive development” that addresses anticipated land uses, improves connectivity and accessibility, and enables energy efficiency. In my opinion this RNN approach is very similar to comprehensive planning but without the requirement that houses be designed at an early stage and that they require specific consent.

75. This contrasts with Objective 14.2.5 for the RNN zone and the policies under it, which would apply to both the land with the Meadowlands Exemplar Overlay and the land without it:

Co-ordinated, sustainable and efficient use and development is enabled in the Residential New Neighbourhood Zone.”

76. In my view site planning, with some constraints concerning roof pitches and rear access, can result in a co-ordinated, sustainable and efficient land use and is likely to be planned by one developer. In any event forthcoming changes to the plan resulting from the implementation of MDRS within Christchurch City may also necessitate other applicable Objectives and Policies to be changed.

Other Relevant Planning Documents

77. There are no other relevant planning documents and no evidence or legal submissions brought any particular aspect of other plans and strategies for my attention. Accordingly, I have not considered them further in the evaluation of PC10.

Submissions

78. The submission from the Waipuna Halswell - Hornby - Riccarton Community Board stated that there is an existing resource consenting option available to authorise departure from the Plan

rules. I agree with Ms Dixon's³¹ evaluation that

While this is correct, the situation in the Exemplar Overlay is that any subdivision and land use activities that are not undertaken via a comprehensive land use and subdivision consent, are non-complying activities. Since the abandonment of attempts to develop under comprehensive consents, each development (including global subdivision consents and global land use consents for whole areas) has to be authorised via a non-complying activity consent. I do not believe this is a sustainable planning approach, particularly if applied to individual developments, as it is time consuming and expensive i.e. inefficient.

79. As with Ms Dixon I therefore recommend that the Waipuna Halswell-Hornby-Riccarton Community Board's submission in relation to using resource consents to authorise departure from the current Exemplar rules be rejected.
80. The second part of the submission deals with Outcome issues where the submitter considers
- The Board considers that the Exemplar is a complex set of rules that are likely to produce a more certain outcome and a higher standard of neighbourhood design. Departure from the exemplar is likely to mean simpler/fewer rules with a less certain outcome and probably a lower standard of neighbourhood design.*
81. I do not agree and there has been considerable discussion between Council and the plan change proponent about what elements of the Exemplar Overlay can remain. To that extent on the basis of the discussion above I recommend that the second part of the Waipuna Halswell- Hornby - Riccarton Community Board submission for a higher standard of neighbourhood design in the PPC10 area be accepted in part, as layout requirements for rear lane access and minimum roof pitch provisions have been recommended.

Section 32AA

82. In light of the small breadth of the issues raised and the agreement as to amended provisions I have not found it necessary to do a further assessment of the PC10 in accordance with s32AA of the Act.

OVERALL CONCLUSION

83. The Meadowlands Exemplar Overlay aimed to produce high quality urban environments and be the precursor to best practice built development in Christchurch City. However as has been demonstrated by the plan change proponent and by Council the existing policy and rule framework for development has been found to be overly complex and unworkable.
84. There are in my view a number of good design features that have eventuated through the implementation of Stage 1 of the Meadowlands Exemplar and part of that overall concept has been carried through with additional provisions applying to rear lane access and on minimum

³¹ S42A report paras 8.15 to 8.18

roof pitch.

85. There is also the forthcoming IPI plan change due to be notified in August 2022 to implement the MDRS. With the plan change proponents' agreement it is considered that the amended provisions will not be inconsistent with the direction that Council is directed to follow in the implementation of the MDRS.
86. The recommended text and amended Outline Development Plan for PC10 is set out in Appendix 1 to this report. For the reasons set out in the above, I am satisfied that:
- a. the removal of the Meadowlands Exemplar Overlay from the subject land with amendments to the applicable rules of the District Plan is the most appropriate way to achieve the purpose of the Act and the strategic objectives of Chapter 3;
 - b. the recommended amendments to the rules of the District Plan will be efficient and effective in achieving and implementing the District Plan's policies; and
 - c. as recommended, PC10 will give effect to the relevant higher-order planning direction and achieve the purpose of the Act.

OVERALL RECOMMENDATION

87. Having considered the evidence, and for the reasons that have been set out above, it is recommended that the Council:
- a. adopt PC10 with the wording as set out in Appendix 1; and
 - b. reject the submission on PC10 as set out in Appendix 2.

Dated this 17th day of June 2022



Lindsay Daysh

Independent Hearings Commissioner

Appendix 1- Plan Change 10 as Recommended by the Commissioner

PPC10 - Area specific rules

For the purposes of these amendments, the operative Christchurch District Plan text is shown as normal text, with topic headings also in bold text.

Amendments proposed by this recommendation as a result of the PPC10 hearing are shown as **bold underlined text**.

A. RULE ON REAR LANE ACCESS

Appendix 8.10.4 North Halswell Outline Development Plan

....

8.10.4.D DEVELOPMENT REQUIREMENTS

- a. The development requirements for the purposes of Rule [8.6.11\(a\)](#) and Rule [14.12.2.16](#) are described below and shown on the accompanying plan.

.....

3. OPEN SPACE, RECREATION AND COMMUNITY FACILITIES

- a. Community (neighbourhood) parks throughout the neighbourhood and recreational routes along enhanced waterways, including the green corridor through and in association with the Meadowlands Exemplar development.
- b. **For the land within Area 1, the green corridor identified on the ODP shall be fronted by residential lots on both sides of the corridor, with vehicular access from the rear only.**

B. ROOF PITCH

Chapter 14 Residential

14.12 - Rules - Residential New Neighbourhood Zone

14.12.2 Built form standards

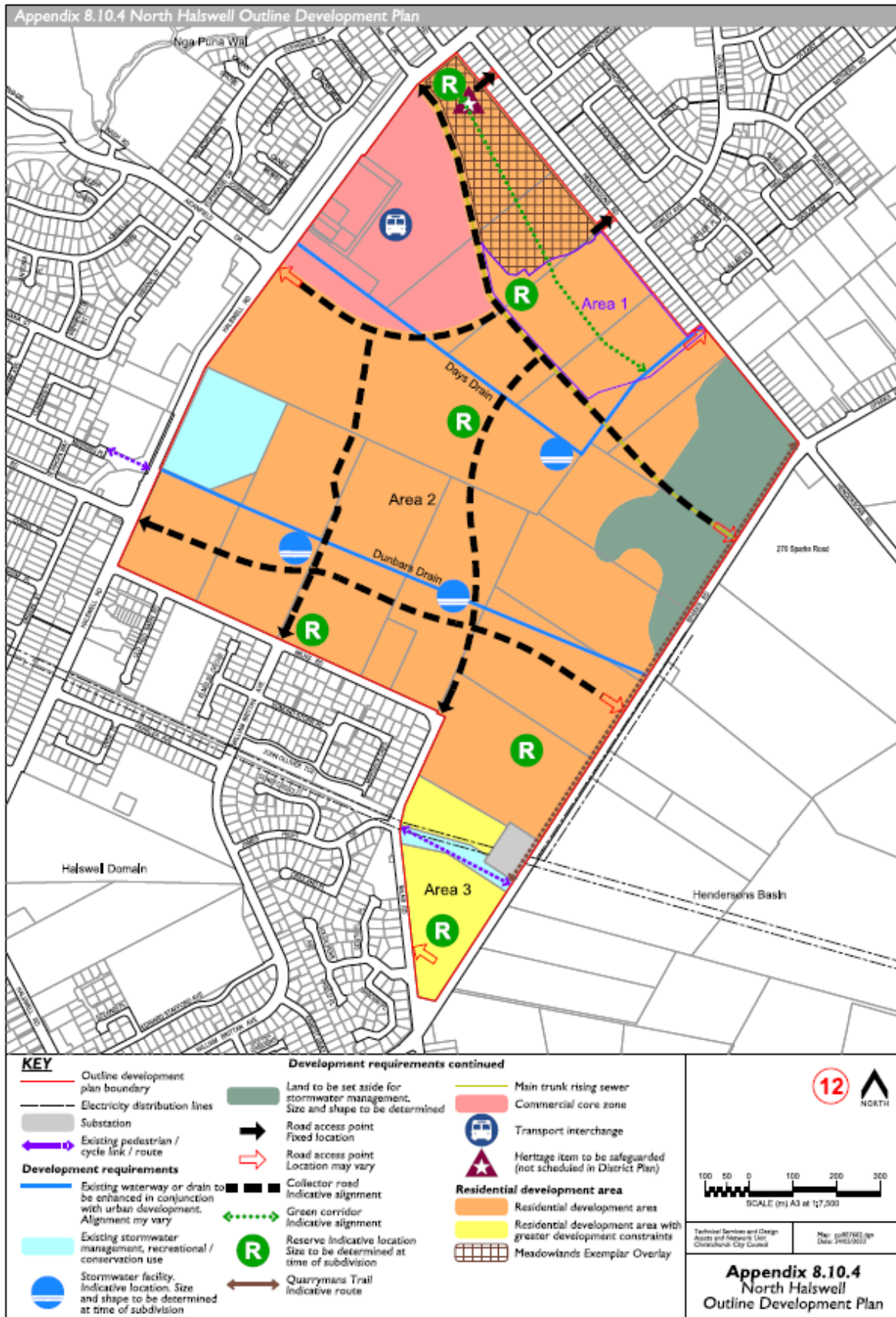
14.12.2.18 Roof form – Area 1 -Appendix 8.10.4 North Halswell ODP

- a. Within Area 1 in Appendix 8.10.4 North Halswell ODP, if gable roofs are used:
 - i. The minimum pitch shall be 28°; and
 - ii. The maximum permitted height is 13m.
 - iii. If gable roofs are used for residential units on lots directly adjoining the green corridor, roofs shall have an open gable end facing the green corridor.

14.12.1.3 Restricted discretionary activities

*** Activity		The Council's discretion shall be limited to the following matters:
RD28	Buildings that do not meet Rule 14.12.2.18 Roof form - Area 1- Appendix 8.10.4 North Halswell ODP:	<ul style="list-style-type: none"> a. <u>Impact on cohesiveness of built form within the area, and between this area and the Exemplar Overlay area to the northwest, particularly in respect of residential units fronting the green corridor.</u> b. <u>Any application arising from this rule shall not be limited or publicly notified.</u>

Amended Appendix 8.10.4 North Halswell Outline Development Plan



Appendix 2- Summary of Submission with Commissioners' Recommendations

Sub No	Submitter name	Summary of relief sought	Recommendation
S1	Waipuna Halswell Hornby Riccarton Community Board	While the Board understands the developer's desire for more flexibility, it is conscious that there is already an alternative consenting process under the RMA with proposals being separately assessed, to authorise modification of rules.	Reject
S1	Waipuna Halswell Hornby Riccarton Community Board	The Board considers that the Exemplar is a complex set of rules that are likely to produce a more certain outcome and a higher standard of neighbourhood design. Departure from the exemplar is likely to mean simpler/fewer rules with a less certain outcome and probably a lower standard of neighbourhood design.	Accept in part