

Christchurch City Council Draft Plan Change 14

Memorandum on the Qualifying Matters Relevant to Lyttelton Port Company Limited

1. Background

- 1.1 The Christchurch City Council (CCC) will be required under the Resource Management Act, 1991 (*RMA*) to notify changes to the Christchurch District Plan (*CDP*) to enable the establishment of up to three residential units, each up to three storeys high on a site zoned Residential. These changes, otherwise known as “Medium Density Residential Standards” (*MDRS*) must be notified (and take effect) by the 20 August 2022.
- 1.2 CCC will, however, be able to notify changes that are less permissive than the MDRS in relation to specific areas within residential zones if specified qualifying matters are present. These include the need to give effect to the safe and efficient operation of nationally significant infrastructure. The definition of “nationally significant infrastructure” is contained in the National Policy Statement on Urban Development (*NPS UD*) and this definition includes port facilities of a port company. Therefore, LPC’s port facilities are nationally significant infrastructure.
- 1.3 The CDP currently contains provisions to recognise and provide for the safe, efficient and effective operation and development of infrastructure, including strategic infrastructure such as port facilities, because of their benefits to the community.
- 1.4 One important means in achieving the above policy direction is protecting infrastructure from ‘reverse sensitivity’ effects. Reverse sensitivity is the vulnerability of an established land use (Lyttelton Port or the Inland Port in this instance) to complaint from a newly establishing, more sensitive land use such as new houses and other activities which might be disturbed by noise from the port or from the inland port for example.

- 1.5 Provisions to avoid reverse sensitivity in the CDP need to be carried over as a qualifying matter if the CDP is to continue to protect nationally significant infrastructure such as the port and inland port.
- 1.6 This is particularly so given the MDRS have immediate legal effect when the Intensification Planning Instrument (*IPI*) is notified, unless a qualifying matter applies. It is therefore important that the Council correctly identifies and notifies qualifying matters that prevent the construction of dwellings as-of-right where that would be inappropriate.
- 1.7 The purpose of the memorandum is to assist Council in the identification and drafting of existing and new qualifying matters for both the Lyttelton Port and the Inland Port (*CityDepot*) to include in its IPI.

2. **Lyttelton Port**

Introduction

- 2.1 Lyttelton Port Company (*LPC*) was formed in 1988 with the introduction of the Port Companies Act which separated the commercial role and the non-trading (recreational and safety) roles of the former Lyttelton Harbour Board.
- 2.2 Lyttelton Port is the primary international gateway for the South Island with Christchurch being the major distribution centre for inbound goods. Export customers include a wide variety of dairy, meat, forestry, horticultural, and manufacturing businesses, as well as coal which is an important export for the west coast region.
- 2.3 Lyttelton Port is the most significant port in the South Island in terms of total tonnages of cargo and containers handled, as well as in the value of imports received and in the value of certain exports.
- 2.4 The importance of the Port is reflected in the various statutory documents prepared under the RMA. The New Zealand Coastal Policy Statement recognises that a sustainable transport system requires an efficient network of safe ports, servicing national and international shipping. Lyttelton Port is defined as a regionally significant infrastructure under the Canterbury Regional Policy Statement, and is also variously defined as a strategic, critical, and essential infrastructure in that document.

2.5 Lyttelton Port is a port facility of LPC and is therefore defined as Nationally Significant Infrastructure in the NPS UD.

Existing provisions to manage port noise and reverse sensitivity effects at Lyttelton

- 2.6 There is an integrated package of provisions relating to port noise in the CDP as follows:
- a. Those on the management of port noise at source;
 - b. Those on the management of reverse sensitivity effects through an acoustic treatment programme for noise affected properties; and
 - c. Those on management of reverse sensitivity effects through controls on landuse within the “Lyttelton Port Influences Overlay” (*LPIO*) which is of particular relevance to this memorandum.
- 2.7 The Specific Purpose (Lyttelton Port) Zone permits “Port Activities” subject to a number of standards. There are, however, no short-term noise limits contained in the CDP. Rather, there are detailed methods that set out the requirements for a port noise management plan (along with a port liaison committee) and also a port noise mitigation plan.
- 2.8 The port noise management plan must at all times contain a map showing how much noise is generated from port activities (called port noise contours). These contours are developed from a model that is developed in accordance with NZ Standard NZS6809:1999, Acoustics - Port Noise Management and Land Use Planning.
- 2.9 The noise model is regularly reviewed to ensure any changes in intensity or character of port noise is captured, and which may result in the shifting of the noise contours.
- 2.10 Those properties that are located within the 65 dBA Ldn port noise contour become eligible for acoustic treatment that is funded by the LPC and administered by the port liaison Committee. The LPIO coincides with the 65dBA Ldn contour.
- 2.11 There are 38 residential sections within the LPIO (as shown in **Appendix 1**), and of those 29 are dwellings that are currently eligible for acoustic treatment, with 18 dwellings receiving acoustic treatment thus far. The LPIO includes all of the property no matter which part of the property falls within the contour.

- 2.12 The LPIO and associated rules were introduced at the same time to control activities that are sensitive to port noise.
- 2.13 If the 65 dBA Ldn contour shifts inland then any new noise affected property owners would become eligible for acoustic treatment. The intention would also be for the LPIO to be amended in due course to align with the new position of the 65 dBA Ldn contour through a Plan Change or the next review of the CDP.
- 2.14 On-going monitoring of noise has shown the model to be accurate and the position of the 65 dBA Ldn contour to be more or less unchanging.
- 2.15 The LPIO takes in parts of the:
- a. Residential Banks Peninsula Zone;
 - b. Commercial Banks Peninsula Zone; and
 - c. The Industrial General Zone.
- 2.16 The Residential Banks Peninsula Zone within the LPIO permits up to 40m² extensions to habitable rooms in existing dwellings provided that the subject rooms are acoustically treated so that they have an internal sound design level of 40 dBA Ldn (5-day). A replacement dwelling on a site is also permitted provided it is of a similar size and also meets an internal sound design level of 40 dBA Ldn (5-day).
- 2.17 This enables home owners to replace a house in the event of fire etc. or carry out reasonable extensions to habitable rooms of an existing house as-of-right provided any new habitable rooms or extensions exposed to port noise were acoustically treated down to the 40 dBA Ldn internal design sound level.
- 2.18 Extensions and replacement dwellings exceeding the 40m² threshold are a restricted discretionary activity subject to 'no-complaints covenant' being signed by the applicant.
- 2.19 However, the intensification of residential use through multi-unit apartments are not contemplated within the LPIO, nor is the introduction of other sensitive activities, such as healthcare facilities. Such proposals would be listed as non-complying activities.
- 2.20 The Commercial and Industrial Zone rules within the LPIO classify any residential housing a non-complying activity although LPC has given written approval to some dwellings or upstairs apartments of which there was some form of equivalent development prior to the earthquakes. If the LPIO land use controls were rolled-back for the Residential Banks

Peninsula Zone, this could also be used as basis to argue for residential units (apartments) to be developed in Commercial Banks Peninsula Zone part of the LPIO which if successful would result in increased reverse sensitivity effects.

- 2.21 Subdivision within the LPIO is a non-complying activity unless a condition is proposed prohibiting noise sensitive activities on each allotment, to be complied with on a continuing basis, for the purpose of incorporation into a consent notice to be issued by the Council.

How the Port Noise Provisions at Lyttelton were developed

- 2.22 The planning framework was established in the former Banks Peninsula District Plan. Some parts of the former Council's decision on the District Plan was appealed by LPC and also by a resident.
- 2.23 In 2005, the parties to the appeals agreed to try to resolve the appeals by mediation and a Port Noise Working Party was established with former Environment Court Judge Peter Skelton appointed by the Court as the Mediator. The Court directed parties to carefully consider the agreement in the "Port Otago decisions."
- 2.24 LPC representatives and advisors (including myself) and the community group mediated regularly for just over a year to arrive at the agreed provisions summarised above. It was agreed in mediation that any acoustic control treatments and associated landuse controls be limited to inside the 65 dBA Ldn.
- 2.25 Although the agreement was outside the scope of the Appellant submissions, the Court determined that it should proceed to consider the changes by way of alteration under section 293 of the RMA. However, the Court concluded it should proceed cautiously by having the proposed agreed changes notified by the Council so that other members of the community could submit. Some did but the submissions were resolved by LPC and those submissions were withdrawn.
- 2.26 The Court, in its final decision, concluded that the new provisions represented the best opportunity for parties to seek a long-term resolution to the fairly intractable issues of noise in a port such as Lyttelton, where residential development is very close to the port.
- 2.27 The port liaison committee was established shortly after the Court decision and the port noise management and the port noise mitigation plans were prepared.

- 2.28 The land use controls relating to the Residential Banks Peninsula Zone were carried through into the Christchurch District Plan by the Hearing Panel after again hearing evidence on the matter. The provisions relating to the Commercial Zone were in fact tightened because the majority of the heritage buildings in the area were demolished and the exceptions applying to those buildings were no longer needed.
- 2.29 The above discussion highlights the fact that the CDP provisions manage port noise and reverse sensitivity effects in an integrated manner (including through restrictions on residential density and new development in the LPIO) that have been thoroughly considered by Councils and the Court and determined to be the best way to address these issues.

Existing qualifying matter for Lyttelton Port

- 2.30 Lyttelton Port is recognised as nationally significant infrastructure under the NPS UD and therefore LPC is relying on section 77I(e) of the RMA to include a qualifying matter: “*a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure.*”
- 2.31 I consider it appropriate that these existing controls in the CDP are carried through as existing qualifying matters in the IPI.
- 2.32 The existing provisions have been predicated on one residential unit per site, and; as noted earlier, subdivision within the LPIO is a non-complying activity unless a condition is proposed that prohibits noise sensitive activities on each allotment.
- 2.33 While the acoustic treatment of dwellings reduces the potential for reverse sensitivity effects from occurring, there can be a portion of dwelling owners that are particularly sensitive to noise and therefore consider their amenity compromised regardless. Therefore, I consider it important that the original density controls be retained as part of the package as a means to avoid reverse sensitivity effects as far as possible, consistent with the current policy direction in the CDP.
- 2.34 An assessment of this qualifying matter against section 77K of the RMA is included at **Appendix 2.**

3. **CityDepot**

- 3.1 CityDepot is an inland container hub that serves Lyttelton Port of Christchurch. The 17-hectare facility is located between Chapmans Road and Port Hills Road in Woolston. The facility is owned and operated by LPC.
- 3.2 The container facility provides the following services:
- a. Handling and storage of up to approximately 10,000 TEU containers;
 - b. All-weather container repair facility;
 - c. Repair bays served by two 5-tonne and two 10-tonne overhead gantry cranes;
 - d. Container wash facilities; and
 - e. A mobile repair unit.
- 3.3 The facility operates 24 hours a day for five and a half days a week and has good access to the State Highway network and to the rail network via a 24 wagon rail siding.
- 3.4 CityDepot is an integral part of port operations because the facility enables LPC to better optimise container movements on and off the wharf for its key customers i.e. international shipping lines, freight forwarders and exporters and importers in the Canterbury region. As a port facility of LPC, CityDepot is Nationally Significant Infrastructure, as defined in the NPS UD.

Managing noise and reverse sensitivity effects at CityDepot

- 3.5 CityDepot is zoned Industrial Heavy apart from an approximately one hectare block at the western end of the property adjoining Port Hills Road, which is zoned Industrial General (refer to the map attached in **Appendix 3.**)
- 3.6 CityDepot has always been subject to the noise limits specified in the CDP. These noise limits are measured and set at the site receiving the noise. There is a Residential Hills Zone that is located on the opposite side of State Highway 76 (Port Hills Road) from CityDepot, which runs north towards Opawa Road.
- 3.7 The limits for any site zoned Residential Hills, located on the opposite side of Port Hills Road from CityDepot, are 50 dB L_{Aeq} and 40 L_{Aeq} for daytime and night-time noise respectively. A 65 L_{Amax} limit also applies at night.

- 3.8 Prior to 2009, CityDepot was not well integrated with the cargo handling operations at Lyttelton Port. This was because the noise limits constrained night-time operations.
- 3.9 LPC needed to obtain a resource consent for the night-time operation so a reasonable level of activity associated with the receipt and dispatch of containers could occur at night, including trains using the rail siding.
- 3.10 LPC was issued a resource consent from CCC (RMA92013975) for its night-time operations at CityDepot (and associated noise) but there are a range of conditions on the consent, including:
- a. Requirement for a noise management plan and associated techniques to mitigate noise, including shielding;
 - b. Noise limits from CityDepot operations being applied at the boundary of eight properties in the Residential Port Hills Zone opposite CityDepot;
 - c. Noise limits from CityDepot operations being applied to existing residential units located in the adjoining Industrial General Zone;
 - d. Limits on container repair operations at night; and
 - e. Limits on the number of trains that could visit the site during any night.
- 3.11 There is no overlay associated with CityDepot currently in the CDP. This is a result of the history of the establishment of this site and also the fact that LPC has had limited opportunity to consider the matter, particularly given the focus in the last decade has been on the recovery of the Lyttelton Port after the earthquake sequence, including the promulgation of the Lyttelton Port Recovery Plan and the need to get major recovery-related consents.
- 3.12 The intensification of residential sites on Port Hills Road opposite CityDepot as a result of the MDRS would likely see an increase in the number of people subject to noise from CityDepot (and would also involve new residents coming to that noise). That would, accordingly, risk exposing additional residents to potentially undesirable amenity levels (particularly given port operations are 24/7 for five days a week) and thereby expose LPC to reverse sensitivity effects which could constrain the operation of CityDepot.

- 3.13 LPC has engaged acoustic expert Neville Hegley to provide advice on the likely implications of the MDRS on the noise effects of CityDepot that might be received from sensitive activities in proximity to CityDepot. In summary his advice provides:
- a. The properties potentially affected are 311 – 321 Port Hills Road;
 - b. All other Residential Hills Zone properties will not have any potential adverse noise effect from an increase in height of those dwellings;
 - c. Noise screening is currently used at CityDepot but its current design assumes two storey dwellings being constructed in the residential zone;
 - d. Should the height of an existing dwelling be increased to three storeys then the current noise screening will not achieve the necessary noise screening to that third storey;
 - e. Noise screening at CityDepot cannot be practically achieved (due to the likely height of the noise screening barriers that would be required); and
 - f. An appropriate way to resolve this issue, and to achieve compliance with the required noise limits, would be to ensure third levels of buildings be designed to achieve a minimum façade reduction of 4 – 7dBA.

3.14 In addition, if a new dwelling was established on these sites on higher ground then potentially all floors could be exposed to noise generated from night-time activities at CityDepot. Therefore, on the basis of Mr Hegley’s advice, I recommend an acoustic treatment standard should be inserted into the PC14 provisions in the manner set out in **Appendix 4**.

3.15 LPC has however decided not to seek a reduction in the number residential units allowed for each site under the MDRS provided proper acoustic treatment measures are put in place. This is because of the nature and history of the CityDepot site and operation, and the ability to screen night-time noise from activities at CityDepot to a reasonably large extent.

Potential new qualifying matter for CityDepot

- 3.16 CityDepot is recognised as nationally significant infrastructure under the NPS UD (noting that CityDepot constitutes ‘port facilities’ and not some other ancillary commercial activity).
- 3.17 I consider there is a way the plan could be amended such that the reverse sensitivity effects on CityDepot are managed, in a way that does not amend the density standards.

This is my preferred option for managing such effects, noting that the same approach has been taken in the CDP to manage reverse sensitivity effects from sensitive activities near roads and railways.

- 3.18 I note that the proposed drafting of this rule (see **Appendix 4**) would also require the introduction of two overlays shown in **Appendix 3** i.e.
- a. The extent of the CityDepot, named “Inland Port Overlay”; and
 - b. The properties that are affected by CityDepot noise named “Inland Port Influences Overlay”.
- 3.19 I consider this to be an appropriate method of managing these noise effects and that this should be included in the Council’s IPI as a ‘related provision’ under section 80E(1)(b)(iii) of the RMA. Noting that ‘related provisions’ under that section can include rules or standards that support or are consequential on the MDRS, including provisions that relate to infrastructure and/or qualifying matters.
- 3.20 However, should the Council be of the view that management of noise effects from CityDepot would be more appropriately dealt with as a qualifying matter under section 77J of the RMA, then I have provided an assessment of this at **Appendix 5**.

4. **Conclusion**

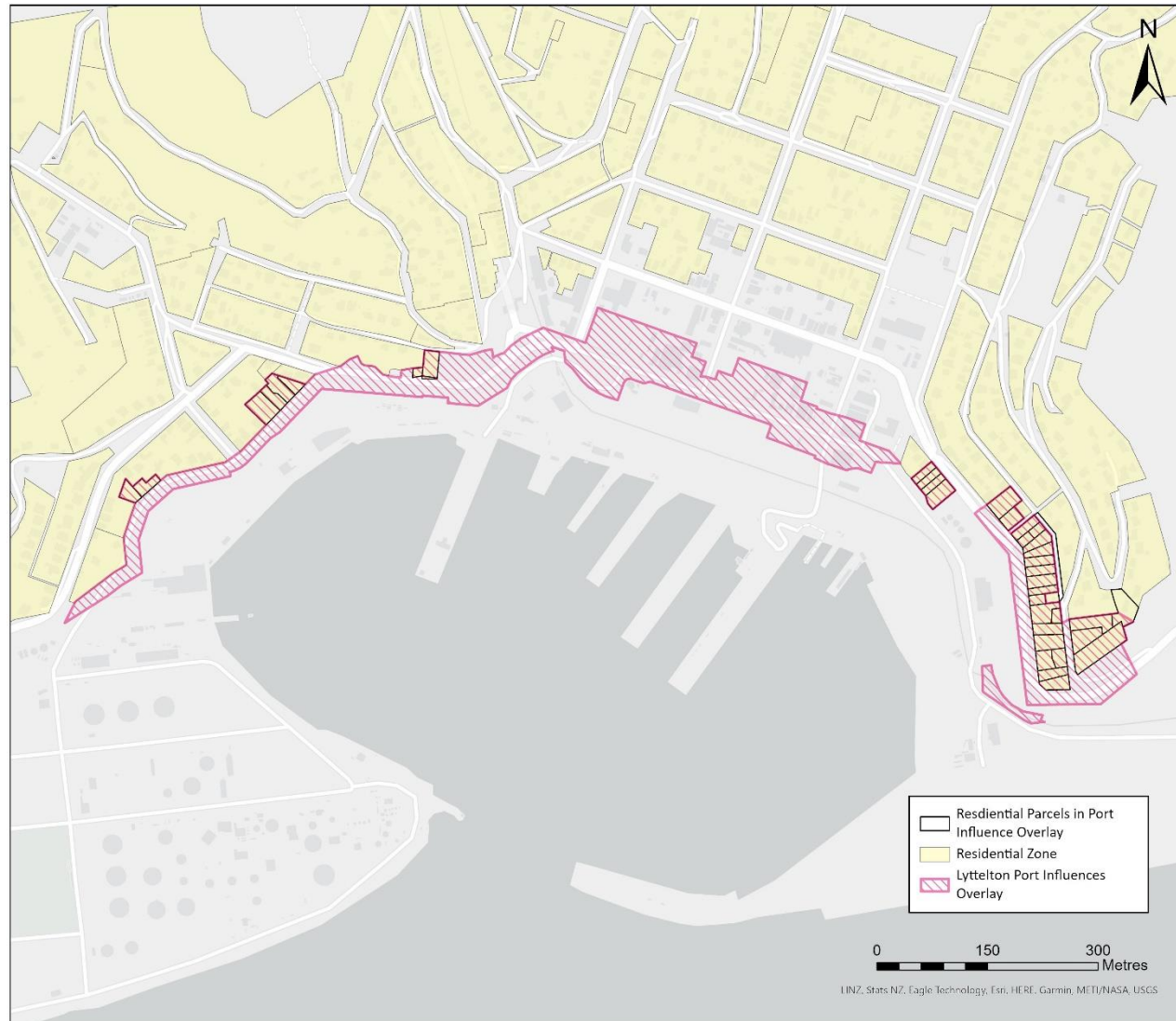
- 4.1 Lyttelton Port and the Inland Port (CityDepot) is nationally significant infrastructure in terms of s77I (e) of the RMA.
- 4.2 Lyttelton has a package of well-established and tested provisions to manage port noise.
- 4.3 The package includes an Overlay to the Residential Banks Peninsula Zone that regulates sensitive activities that could otherwise cause reverse sensitivity effects on the Lyttelton Port. This is the Lyttelton Port Influences Overlay.
- 4.4 The existing provisions that apply to Lyttelton Port Influences Overlay, including the underlying density controls that currently apply to the Residential Zone, need to be retained and therefore included as a qualifying matter.

- 4.5 Absence of the Lyttelton Port Influences Overlay and associated provisions being a qualifying matter would undermine the efficient operation of Lyttelton Port by enabling significant development of residential activity that could constrain port operations due to the reverse sensitivity effects.
- 4.6 There are no currently Overlays to manage reverse sensitivity effects on CityDepot from sensitive activities residing in the nearby Residential Hills Zone.
- 4.7 An “Inland Port Influences Overlay” is recommended to be introduced to cover seven properties in the nearby Residential Hills Zone and a new standard be introduced to require acoustic treatment of dwellings within the Overlay.
- 4.8 CityDepot already screens noise from existing dwellings but if a third floor is added to an existing dwelling, or a new dwelling is located on higher ground, then the noise cannot be practically screened.
- 4.9 The new standard would be presumably be introduced under s80E(1)(b)(iii) of the RMA but Council may wish to introduce it as a new qualifying matter under s77J of the RMA.

Andrew Purves

May 2022

Appendix 1: Location of residential parcels within the Lyttelton Port Influences Overlay



Appendix 2: Assessment of existing qualifying matter for Lyttelton Port - The Lyttelton port influences overlay

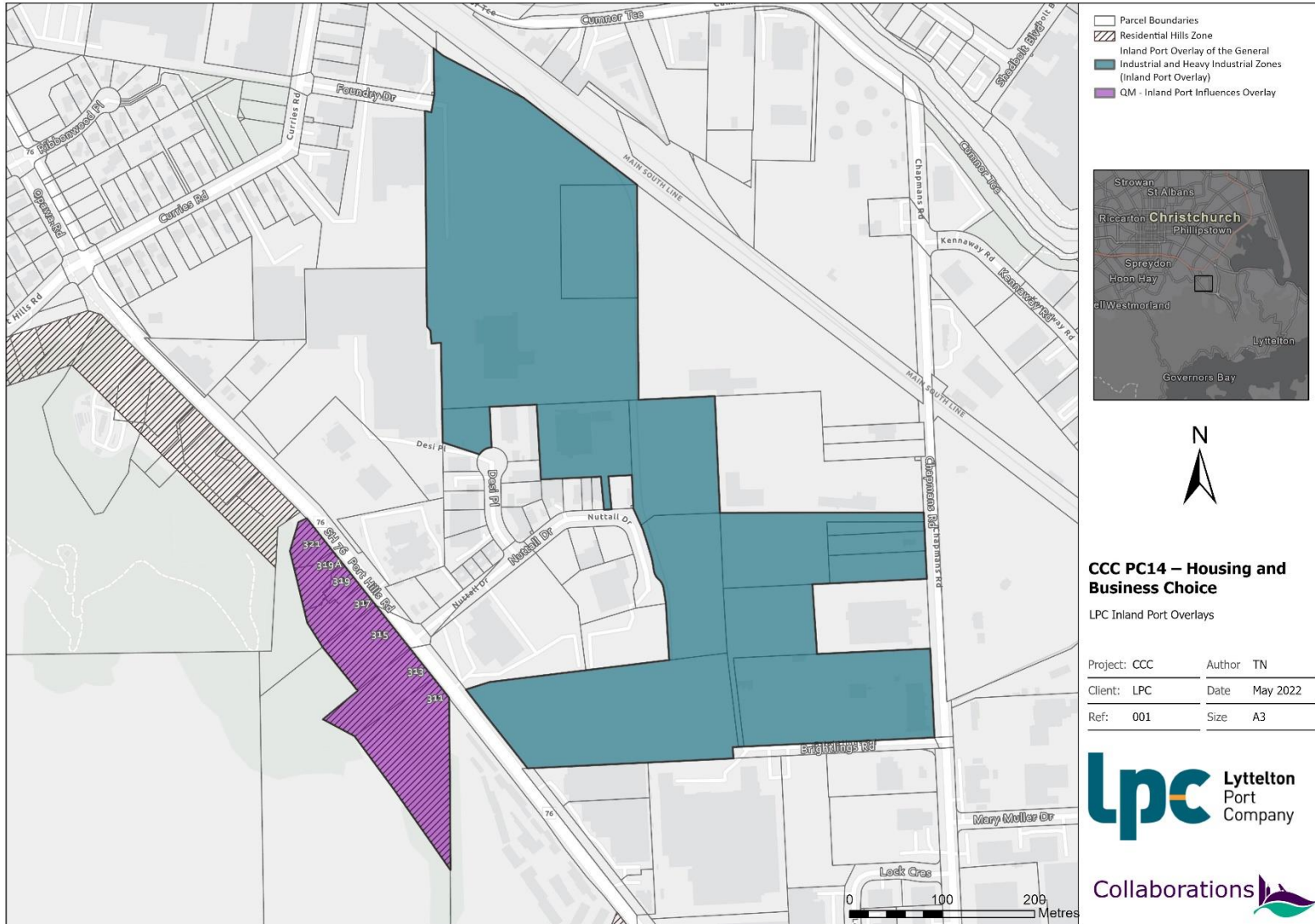
Below is an assessment against the relevant sections of the RMA. Section 77K(1) RMA sets out the process for considering existing qualifying matters.

Section	Analysis
<p>S77K(1)(a) Identify the location (for example, by mapping) where an existing qualifying matter applies</p>	<p>The area over which this qualifying matter applies is the Lyttelton Port Influences Overlay (LPIO), as marked in the CDP and shown at Appendix 1 of this memorandum. For completeness, the LPIO in Appendix 1 shows the full extent of the Overlay that currently exists in the CDP, covering the Banks Peninsula Commercial Zone and General Industrial Zone in Lyttelton as well as the Banks Peninsula Residential Zone.</p>
<p>S77K(1)(b) Specify the alternative density standards proposed for those areas identified</p>	<p>The provisions contained in the CDP should remain unchanged within the LPIO. This means the following alternative density standards should apply to the LPIO as consistent with the current CDP drafting for the Banks Peninsula Residential Zone:</p> <ul style="list-style-type: none"> • One residential unit per site (Rule 14.8.2.1(a)); • Each residential unit shall be contained on a site with a minimum net site density of 400m² (Rule 14.8.2.1(a)(i)); • The maximum height of any building shall be 7m, and the maximum height of any accessory building shall be 4.5m (Rule 14.8.2.2); • The maximum percentage of the net site area of any site covered by buildings shall be 35% (Rule 14.8.2.3). <p>I am not otherwise concerned with the other provisions of the MDRS (i.e. those not detailed above as altering the density standards) being incorporated into the Residential Banks Peninsula Zone located within the LPIO.</p> <p>Further, I also agree with the Draft PC14: that is the other provisions relevant to residential units developing within the LPIO of the Residential Banks Peninsula Zone continue to apply:</p> <ul style="list-style-type: none"> • Strategic Objective 3.3.12 and the associated definition of reverse sensitivity in the Plan; and • Objective 14.2.3 contained in Chapter 14 (Residential); and • All the area specific rules for the Residential Banks Peninsula Zone contained in Rule 14.8.3, any relevant definitions, and the requirement to comply with Rule 14.8.3.2.1; and • All references to the LPIO, as they apply to residential units, under Rule 14.8.1.1 (permitted activities); and • Subdivision Rule 8.5.1.5 (NC3) applying to the Lyttelton Port Influences Overlay.

<p>S77K(1)(c) Identify why the existing qualifying matters apply to those areas</p>	<p>This has been explained in the above memorandum, however, in summary:</p> <ol style="list-style-type: none"> a. The CDP has an integrated package of provisions relating to port noise that: <ul style="list-style-type: none"> • Manages port noise at source; • Manages of reverse sensitivity effects through an acoustic treatment programme for noise affected properties funded by the Lyttelton Port Company and managed by a Port Liaison Committee; and • Avoids as far as reasonable, reverse sensitivity effects by controlling landuse within the Lyttelton Port Influences Overlay (which was defined by a 65 dBA Ldn port noise contour). b. Removing LPIO as a qualifying matter would act to unravel this package of provisions as well as undermining the efficient operation of Lyttelton Port by enabling significant development of residential activity that could constrain port operations due to reverse sensitivity effects. 															
<p>S77K(1)(d) Describe in general terms for a typical site in those areas identified the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS.</p>	<p>The existing qualifying matter includes the density provisions of the underlying zone, which of themselves provide for a level of development that is suitable for managing reverse sensitivity effects on the port. The below table compares the theoretical level of development (on a typical site) that would occur if the MDRS were permitted, and the level of development proposed accounting for the qualifying matter (being a retention of the density allowed under the Residential Banks Peninsula Zone.</p> <p>The amount of feasible development however is considerably less because of the size of existing allotments, the generally difficult terrain, and consequently difficult access onto sites and on narrow roads to the sites. There are also a number of dwellings have a heritage classification under the CDP which may limit development potential.</p> <table border="1" data-bbox="499 1003 1877 1414"> <thead> <tr> <th>Provision</th> <th>Typical site if MDRS enabled</th> <th>Typical site if LPIO qualifying matter applies</th> </tr> </thead> <tbody> <tr> <td>Number of residential units per site</td> <td>3 residential units</td> <td>1 residential unit</td> </tr> <tr> <td>Building height</td> <td>Not exceeding 14m in height</td> <td>Not exceeding 7m in height, and 4.5m for accessory buildings</td> </tr> <tr> <td>Site density</td> <td>No minimums provided other MDRS can be met</td> <td>Minimum net site area of 400m²</td> </tr> <tr> <td>Extension to an existing habitable space</td> <td>Could occur as of right provided MDRS are complied with</td> <td>Subject to limitations in the increase of gross floor area under Rule 14.8.3.1.1 and</td> </tr> </tbody> </table>	Provision	Typical site if MDRS enabled	Typical site if LPIO qualifying matter applies	Number of residential units per site	3 residential units	1 residential unit	Building height	Not exceeding 14m in height	Not exceeding 7m in height, and 4.5m for accessory buildings	Site density	No minimums provided other MDRS can be met	Minimum net site area of 400m ²	Extension to an existing habitable space	Could occur as of right provided MDRS are complied with	Subject to limitations in the increase of gross floor area under Rule 14.8.3.1.1 and
Provision	Typical site if MDRS enabled	Typical site if LPIO qualifying matter applies														
Number of residential units per site	3 residential units	1 residential unit														
Building height	Not exceeding 14m in height	Not exceeding 7m in height, and 4.5m for accessory buildings														
Site density	No minimums provided other MDRS can be met	Minimum net site area of 400m ²														
Extension to an existing habitable space	Could occur as of right provided MDRS are complied with	Subject to limitations in the increase of gross floor area under Rule 14.8.3.1.1 and														

			requires resource consent if compliance with Rule 14.8.3.2.1 (internal sound design levels) is not met.
	Replacement of residential unit	Could occur as of right provided MDRS are complied with	Subject to limitations in the increase of gross floor area under Rule 14.8.3.1.1 and requires resource consent if compliance with Rule 14.8.3.2.1 (internal sound design levels) is not met.

Appendix 3: Location of proposed Overlays to Planning Map 47 (Inland Port Overlay of the Industrial Heavy and Industrial General Zone) and the Inland Port Influences Overlay of the Residential Hills Zone



Appendix 4: Recommended new acoustic treatment standard

6.1.7.1 Activity status tables

6.1.7.1.1 Permitted activities

1. The activities listed below are permitted activities, if they meet the activity specific standards set out in the following table.
2. Activities may also be controlled, restricted discretionary, discretionary, non-complying or prohibited as specified in Rules [6.1.7.1.2](#), [6.1.7.1.3](#), [6.1.7.1.4](#), [6.1.7.1.5](#) and [6.1.7.1.6](#).

Activity	Activity specific standards
P1 Any activity listed in: 1. Rule 6.1.7.2.1 (Sensitive activities near roads and railways); or 2. Rule 6.1.7.2.2 (Activities near Christchurch Airport) <i>3. Rule 6.1.7.2.3 (Sensitive activities near the Inland Port)</i>	1. The activities shall meet the activity standards in the following rules i. Rule 6.1.7.2.1 (Sensitive activities near roads and railways); or ii. Rule 6.1.7.2.2 (Activities near Christchurch Airport); <i>or</i> iii. Rule 6.1.7.2.3 (Sensitive activities near the Inland Port)

[New Activity standard proposed – shown in italics]

[Rule 6.1.7.2.3 – Habitable space near the Inland Port](#)

- [a. *Any new or extensions to existing habitable space of any development located within the Inland Port Influences Overlay shall be designed and constructed so that noise in any habitable space from the Inland Port will not exceed internal sound design level of 30dB L_{Aeq} with ventilating windows or doors open or with windows or doors closed and mechanical ventilation installed and operating.*](#)
- [b. *Determination of the internal design sound levels required under Clause \(a\), including any calculations, shall be based on noise from the Inland Port as follows:*](#)
 - [i. *50dB L_{Aeq} on any façade facing north to north-east towards the Inland Port Overlay shown on Planning Map 47;*](#)
 - [ii. *47dB L_{Aeq} on any façade within 90 degrees of facing north to north-east and has partial line of sight to any part of Inland Port Overlay shown on Planning Map 47;*](#)

c. Compliance with this rule shall be demonstrated by providing the Council with a design report prior to the issue of the building consent, which is prepared by a suitably qualified acoustics specialist, stating that the design proposed will meet the required internal noise levels.

Appendix 5: Assessment of new qualifying matter for CityDepot - The Inland Port Influences Overlay

Below is an assessment against the relevant sections of the RMA. Section 77J(3) RMA sets out the process for considering new qualifying matters.

Section	Analysis
<p>S77J(3)(a)(i)</p> <p>Demonstrate why the area is subject to a qualifying matter</p>	<p>Sites within the proposed “Inland Port Influences Overlay” are subject to noise effects from CityDepot that need to be managed. CityDepot is integral to the effective and efficient operation of Lyttelton Port generally and is recognised as nationally significant infrastructure under the NPS UD (noting that CityDepot constitutes ‘port facilities’ and not some other ancillary commercial activity).</p> <p>As such, this is a qualifying matter relying on section 77I(e) of the RMA, being: “a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure.”</p>
<p>S77J(3)(a)(ii)</p> <p>Demonstrate why the qualifying matter is incompatible with the level of development permitted by the MDRS</p>	<p>The MDRS would enable existing residential units to be constructed three storeys high (or greater) or enable new dwellings on the same site to be established on higher ground. Without acoustic treatment being introduced in these circumstances noise levels from CityDepot could cause reverse sensitivity effects on CityDepot and thereby constrain its operation.</p>
<p>S77J(3)(b)</p> <p>Assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity</p>	<p>The proposed qualifying matter would only limit development if an owner of a residential unit decided not incorporate acoustic treatment in accordance with the proposed standard and was refused a resource consent as a consequence. Furthermore, the standard only applies to seven properties as shown on the proposed “Inland Port Influences Overlay.” The level of acoustic treatment to address the noise that cannot be reasonably screened from CityDepot would not be substantial and is likely to be achieved through standard building design subject to appropriate mechanical ventilation.</p> <p>LPC does not seek any limits on density for the “Inland Port Influences Overlay”.</p>
<p>S77J(3)(c)</p>	<p>The cost of the acoustic treatment to the developer that would be required would be insubstantial in the context of a build and is likely to be with standard building design subject to mechanical ventilation. There will a transaction cost associated with a consenting process although for the reasons described above any owner seeking a resource consent is highly unlikely.</p>

<p>Assess the costs and broader impacts of imposing those limits</p>	<p>Conversely, LPC cannot practically screen noise generated by activities at CityDepot noise from three storey high dwellings or dwellings located on higher ground in the Inland Port Influences Overlay. Without acoustic treatment there is a risk of reverse sensitivity effects and any curtailment of the night-time activities at City Depot would, in effect, impact on its ability to integrate into the handling operations at the port. Ultimately, such an impact leads to a less efficient operation of the port with increased costs or importers and therefore the wider community.</p>
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