

Christchurch City Council EXTRAORDINARY AGENDA

Notice of Meeting:

An extraordinary meeting of the Christchurch City Council will be held on:

Date: Thursday 30 June 2022
Time: 2pm
Venue: Council Chambers, Civic Offices,
53 Hereford Street, Christchurch

Membership

Chairperson	Mayor Lianne Dalziel
Deputy Chairperson	Deputy Mayor Andrew Turner
Members	Councillor Jimmy Chen
	Councillor Catherine Chu
	Councillor Melanie Coker
	Councillor Pauline Cotter
	Councillor Mike Davidson
	Councillor Celeste Donovan
	Councillor Anne Galloway
	Councillor James Gough
	Councillor Yani Johanson
	Councillor Aaron Keown
	Councillor Sam MacDonald
	Councillor Phil Mauger
	Councillor Jake McLellan
	Councillor Tim Scandrett
	Councillor Sara Templeton

27 June 2022

Principal Advisor

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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. If you require further information relating to any reports, please contact the person named on the report.

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Developing Resilience in the 21st Century

Strategic Framework



Whiria ngā whenu o ngā papa,
honoa ki te maurua tāuikiuki

Bind together the strands of each mat and join
together with the seams of respect and reciprocity

Ōtautahi-Christchurch is a city of opportunity for all

Open to new ideas, new people and new ways of doing things – a city where anything is possible

Principles

Being open,
transparent and
democratically
accountable

Promoting
equity, valuing
diversity and
fostering inclusion

Taking an inter-generational approach
to sustainable development,
prioritising the social, economic
and cultural wellbeing of
people and communities
and the quality of the
environment, now
and into the
future

Building on the
relationship with
Te Rūnanga o Ngāi Tahu
and the Te Hononga-Council
Papatipu Rūnanga partnership,
reflecting mutual understanding
and respect

Ensuring
the diversity
and interests of
our communities
across the city and the
district are reflected in
decision-making

Actively collaborating and
co-operating with other
local, regional
and national
organisations

Community Outcomes

Resilient communities

Strong sense of community
Active participation in civic life
Safe and healthy communities
Celebration of our identity
through arts, culture, heritage,
sport and recreation
Valuing the voices of all cultures
and ages (including children)

Liveable city

Vibrant and thriving city centre
Sustainable suburban and
rural centres
A well connected and accessible
city promoting active and
public transport
Sufficient supply of, and
access to, a range of housing
21st century garden city
we are proud to live in

Healthy environment

Healthy water bodies
High quality drinking water
Unique landscapes and
indigenous biodiversity are
valued and stewardship
exercised
Sustainable use of resources
and minimising waste

Prosperous economy

Great place for people, business
and investment
An inclusive, equitable economy
with broad-based prosperity
for all
A productive, adaptive and
resilient economic base
Modern and robust city
infrastructure and community
facilities

Strategic Priorities

Enabling active
and connected
communities
to own their future

Meeting the challenge
of climate change
through every means
available

Ensuring a high quality
drinking water supply
that is safe and
sustainable

Accelerating the
momentum
the city needs

Ensuring rates are
affordable and
sustainable

Ensuring we get core business done while delivering on our Strategic Priorities and achieving our Community Outcomes

Engagement with
the community and
partners

Strategies, Plans and
Partnerships

Long Term Plan
and Annual Plan

Our service delivery
approach

Monitoring and
reporting on our
progress

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Karakia Whakamutunga

Karakia Tīmatanga

1. Apologies Ngā Whakapāha

At the close of the agenda no apologies had been received.

2. Declarations of Interest Ngā Whakapuaki Aronga

Members are reminded of the need to be vigilant and to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

3. Plan Change 6 (Homebase Extension) Decision Recommendation

Reference / Te Tohutoro: 22/756726

Report of / Te Pou
Matua:

Mark Stevenson, Manager - Planning, Mark.Stevenson@ccc.govt.nz

General Manager /
Pouwhakarae:

Jane Davis, General Manager Infrastructure, Planning and
Regulatory Services jane.davis@ccc.govt.nz

Secretarial Note: This item was adjourned from the 9 June 2022 Council meeting. The Council requested further advice on the matters below before making a decision. The advice is provided in the supplementary report contained within the agenda.

- a. Further clarity from the Panel regarding its rationale and recommendation to reject the recommendation of a shared pedestrian/cycle path from the site to QEII Drive. The Council noted that the Panel's report (paragraph 313) does not refer to the existing pedestrian /cycle path as a shared path, which is physically separated from the road.
- b. Legal advice regarding the threshold for returning the recommendations back to the Panel for reconsideration.

The Officer Recommendations were Moved by Councillor McLellan and Seconded by Councillor Mauger.

1. Purpose of the Report Te Pūtake Pūrongo

- 1.1 The purpose of this report is to present the Hearings Panel's recommendations on Private Plan Change 6 (Homebase extension) and to recommend the Council adopts the recommendations as its decision.
- 1.2 The decision in this report is of medium significance in relation to the Christchurch City Council's Significance and Engagement Policy. The level of significance has been determined as medium on the basis of the effects and the degree of risk (i.e. concerning primarily effects on the Shirley Key Activity Centre and adjoining residential area).

2. Officer Recommendations Ngā Tūtohu

That the Council:

1. Receives the report and recommendations of the Hearings Panel on Plan Change 6 (Homebase extension);
2. Accepts, accepts in part or rejects the submissions on PC6 as recommended by the Hearings Panel and attached to their report for the reasons set out in the Hearing Panel's report in Attachment 1.
3. Adopts, as the decision of the Council, the recommendations of the Hearings Panel that Plan Change 6 be approved as per the Hearing Panel's report as Attachment 1, under clause 10 of Schedule 1 of the Resource Management Act 1991.

3. Reason for Report Recommendations Ngā Take mō te Whakatau

- 3.1 The private plan change request is to rezone the adjoining land to the north of the existing Homebase retail centre on Marshland Road from Residential Suburban zone to Commercial Retail Park.
- 3.2 The scope of the plan change is to rezone the land, remove references to the Mairehau Final Development Area from the District Plan (delete 14.3.i.i.l, 14.4.3.1.3, 14.4.3.2.7c and Figure 5) and to amend Chapter 15 Rule 15.7.2.4 by adding a new rule that applies a 32.4 degree recession plane at the western boundary of the site.
- 3.3 The staff recommendation is to adopt the recommendations of Commissioners Sarah Dawson, Ian Munro and Ken Fletcher (Referred to hereafter as ‘Hearings Panel’ or ‘Panel’) on proposed plan change 6. This has regard to the statutory process that the plan change has been through to this point and the Panel’s consideration of the submissions and evidence received by the Hearings Panel.
- 3.4 The Hearings Panel have determined that the proposed plan change is appropriate with amendments as outlined in paragraph 5.8.

4. Alternative Options Considered Ētahi atu Kōwhiringa

- 4.1 The Council can adopt the Panel’s recommendation as its own decision, but the adoption must be of the recommendations in their entirety.
- 4.2 The Council cannot reject a recommendation outright or substitute its own decision as it has not heard the submissions and evidence. Legal advice is that natural justice principles would be infringed if the Council were to make a decision on the plan change that differs from the recommendation given by the Panel unless the Council gave the submitters the right to be heard when the Council reconsiders the proposed plan change.
- 4.3 Accordingly, the options available to the Council, if it does not wish to adopt the Panel’s recommendation as its decision, are to:
 - a. Ask the Panel for clarification of any aspect of the Panel’s recommendations;
 - b. Refer the plan change back to the Panel with a direction that they reconsider all or any part of their recommendation, and then adopt the subsequent recommendation of the Panel – which may be unchanged from the current recommendation. If the Council wishes to refer the matter back to the Panel, it must be satisfied that there are sufficient grounds for doing so. For example, if an issue the plan change is seeking to address has been overlooked. Those grounds do not exist here.
 - c. Appoint different commissioners or for Council to consider the plan change and supporting reports itself, ensuring that the new decision makers hear from the submitters.

5. Detail Te Whakamahuki

Plan Change and Background

- 5.1 The private plan change request is to rezone the adjoining land to the north of the existing Homebase retail centre on Marshland Road from Residential Suburban zone to Commercial Retail Park.
- 5.2 The scope of the plan change request is to rezone the land, remove references to the Mairehau Final Development Area from the District Plan (delete 14.3.i.i.l, 14.4.3.1.3, 14.4.3.2.7c and Figure 5) and to amend Chapter 15 Rule 15.7.2.4 by adding a new rule that applies a 32.4 degree recession plane at the western boundary of the site.

- 5.3 The decision on clause 25 of Schedule 1 of the RMA to accept the plan change request for notification and processing was made at the Urban Development and Transport Committee on 7 October 2020.

Submissions and Hearing

- 5.4 The plan change was publicly notified on the 15 October 2020 with the submissions period closing on 16 November 2020. Sixty-eight (68) submissions were received on PC6, comprising 119 submission points. Of these, 11 submission points supported or supported in part PC6, 26 sought amendments to PC6, 3 were neutral, and 79 opposed or opposed in part PC6. The main issues raised by the submitters were:
- 5.4.1 Traffic effects including access from the site to Clearbrook Palms subdivision.
 - 5.4.2 Economic effects on the centres based framework for Christchurch.
 - 5.4.3 Urban Design effects and possible mitigations.
 - 5.4.4 Environmental Health concerns regarding noise and light spill.
 - 5.4.5 The loss of residential zoned land.
 - 5.4.6 Concerns regarding sufficiency of infrastructure.
- 5.5 Further submissions were sought on 18 January 2021 and closed 1 February 2021. The further submission time period was extended under s37 of the RMA by 1 week to 9 February 2021 to enable a submitter to prepare a submission due to unforeseen events.
- 5.6 Council appointed a Hearings Panel to hear the submissions. The hearing was held in July 2021 and resumed in November 2021 following a request from the Panel for additional planning and economic evidence.

Panel's Recommendation

- 5.7 The Panel's recommendation is to adopt PC6 as set out in Attachment 1 and to accept, accept in part or reject the submissions on PC6 as appended to their report.

Summary of Key Changes Recommended by the Hearings Panel

- 5.8 The Panel has recommended that the Proposed Plan Change for the rezoning of the land from Residential Suburban Zone to Commercial Retail Park Zone is approved, with the following changes:
- 5.8.1 A limit on the total amount of floorspace for all activities to 20,000 m² and limits on the total amount of floorspace for retail activities prior to October 2026 and October 2031;
 - 5.8.2 Restrictions on store types that can establish on the site prior to October 2031 including clothing or footwear stores and a supermarket;
 - 5.8.3 Specific rules for the site in respect of maximum building height, a recession plane, minimum setbacks from the boundaries, and a requirement for landscaping,
 - 5.8.4 A requirement for pedestrian and cycle access through the site from either Sanctuary Gardens or Havana Gardens to Marshland Road, and not permitting vehicle access over the western boundary,
 - 5.8.5 Additions to the matters to be assessed for any high trip generating activity exceeding thresholds defined in the Transport chapter, including pedestrian and cycle access and CPTED.
- 5.9 The Panel also supports the removal of the Mairehau Development Plan references in the District Plan.

Reasons for Recommending Approval of the Proposed Plan Change

- 5.10 The Panel referred to the economic expert's advice in stating that the site is well suited to and consistent with the locational characteristics typical of large format retail activity¹. As Council's economic expert stated, it is a "cracking site"².
- 5.11 The Panel accepted that there is currently an imbalance in the supply of large format retail across the City, with under-provision in the north and east of the City compared to the south and central areas³.
- 5.12 The Panel heard no evidence that the operative residential suburban zone would address any local housing shortage or other residential problem in the same way that they accepted the proposed Commercial Retail Park Zone would assist to address a medium to long-term shortfall of supply for retail activity in the area, reduce retail leakage out of the area, and reduce vehicle kilometres travelled⁴. These are in the Panel's view benefits to the community provided by a Commercial Retail Park Zone on this site.
- 5.13 The Panel have found that Council's economic expert's proposed staging, including the exclusion of specific store types over ten years will mitigate the adverse retail distribution effects of the proposal on The Palms, Shirley to a significant extent and avoid significant adverse effects on that District Centre (KAC)⁵.

Panel's Conclusions on Council's Recommendations

- 5.14 Council recommended that further consideration be given to the loss of residential land. It was concluded by the Panel that the anticipated residential capacity of the site (70 dwellings)) was inconsequential and would have no implications for the Council to meet its residential land supply obligations⁶.
- 5.15 Council, through planning evidence, sought to draw attention to the efficiency reduction through losing the ability to develop and use land that is located well within the City's urban area and with servicing capability already available⁷. The Panel acknowledged the Applicant's planning evidence that it had not undertaken a detailed evaluation of the costs and benefits of using this site for housing versus the need to develop alternative land elsewhere. However, the Panel were not persuaded that these matters are of sufficient consequence to demonstrate that it is more appropriate for this site to remain available to assist in meeting the City's housing requirements⁸. The Panel considered that it would have minimal implications for costs to the Council, or the community, of meeting future residential land supply requirements⁹.
- 5.16 Council's economic expert advised that the proposal would result in significant retail distributional effects on The Palms, Shirley¹⁰, being beyond the effects ordinarily associated with trade competition. Furthermore, the Panel found that The Palms has not recovered from the effects of the earthquakes and is in a vulnerable state of retail health. On this basis, staging of the development was proposed and the Panel determined that the staging

¹ Paragraph 353 of Panel's report

² Paragraph 353 of Panel's report

³ Paragraph 355 of Panel's report

⁴ Paragraph 358 of Panel's report

⁵ Paragraph 360 of Panel's report

⁶ Paragraph 249 of Panel's report

⁷ Paragraph 253 of Panel's report

⁸ Paragraph 253 of Panel's report

⁹ Paragraph 253 of Panel's report

¹⁰ Paragraph 184 of Panel's report

proposed by Council's economic expert will mitigate the adverse retail distribution effects of the proposal on The Palms, Shirley to a significant extent¹¹. The Panel went further and considered supermarkets should be added to the store type exclusions over the first 10 years¹². The Panel also determined that any development in excess of these limits as discussed should be a non-complying activity, consistent with Council's planning evidence on this point.

- 5.17 Council's evidence also raised concern about how the proposed rezoning would fit in the context of the urban form due to the proximity to The Palms, Shirley and how commercial development at the Homebase site would be consistent with the centres hierarchy of the District Plan. The Panel considered that the District Plan is silent on where or in what circumstances large format retail activities should or should not be positioned, including relative to other types of urban centres¹³. The Panel stated that they did not see the 'strategic fit' argument as having merit. The Panel considered that effects relating to the distribution of large format retail activities relate to economic effects and not to urban design effects¹⁴.
- 5.18 Both Council's urban design and landscape evidence recommended a more intensive building setback and landscape mitigation outcome along the road boundaries of QEII Drive and Marshland Road comparative to other rural urban boundaries in Christchurch. These recommendations included restrictions relating to building frontages and transparency along the road frontage, continuous building length limits and signage restrictions. The Panel accepted Council's expert evidence on the need for increased setbacks and planting, but recommended that these setbacks are reduced in extent from the level proposed by Council¹⁵. The Panel did not accept the need to include additional rules sought by Council relating to transparent glazing, continuous building length and signage¹⁶.
- 5.19 The Panel concluded that the 3m shared path recommended by Council urban design and landscape experts could be accommodated in the setback provided, but that it was Council's responsibility to provide the infrastructure as it would benefit the broader transport network around the PC6 site and there was no resource management justification to attribute this infrastructure cost to the Applicant, which is limited to addressing the effects of the proposed change in zoning¹⁷.
- 5.20 With regards to the boundary treatment for the western boundary of the site adjoining the Sanctuary Gardens subdivision, Council's urban design expert proposed a reduced height of 11m relative to what was initially proposed of 15m, and a setback from the boundary of 11m. Council's urban design expert also sought a restriction on building length. The Panel agreed with the proposed setback on the western boundary of 11m while proposing a height limit of 12m¹⁸. The Panel did not agree that there was a basis for requirements restricting building length¹⁹.
- 5.21 Council's transport expert supported access from the Sanctuary Gardens subdivision by requiring pedestrian and cycle access, but restricting vehicle access. The Panel found that prohibited activity status for vehicle access would not be justified but did recommend non-complying activity status for this activity²⁰. Many submitters opposed access including

¹¹ Paragraph 236 of Panel's report

¹² Paragraph 236 of Panel's report

¹³ Paragraph 258 of Panel's report

¹⁴ Paragraph 260 of Panel's report

¹⁵ Paragraph 269 of Panel's report

¹⁶ Paragraph 270 of Panel's report

¹⁷ Paragraph 273 of Panel's report

¹⁸ Paragraph 297 of Panel's report

¹⁹ Paragraph 295 of Panel's report

²⁰ Paragraph 279 of Panel's report

pedestrian and cycle access²¹, and the Applicant's transport expert proposed that pedestrian and cycle access should be encouraged but not required²². The Panel agreed with Council's transport expert that pedestrian and cycle access should be required and also included a Crime Prevention through Environmental Design provision to ensure that access will be provided in a safe manner²³.

- 5.22 Council's urban design expert sought for a pedestrian and cycle access to be provided from the site to QEII Drive to reflect the historic Mairehau Development Plan. The Panel considered that this was not necessary as access would be required to Marshland Road²⁴.
- 5.23 Council's ecological expert noted that although commercial land use would result in a greater occurrence of flashier flows in the waterways and an increase in the concentrations of stormwater contaminants, these effects could be mitigated through appropriate stormwater management. The Panel concluded that they were satisfied those consenting processes would enable appropriate consideration of ecological effects (as well as effects on neighbouring properties where relevant)²⁵. Council's ecological expert also sought that the references to the Mairehau Development Plan were retained due to the ecological enhancement of waterways and landscaped areas provided in the Plan to protect and improve biodiversity in the area and downstream. The Panel found that the provision in the Mairehau Development Plan would not achieve the biodiversity protection sought by Council's ecology expert, and have preferred to include specific requirements for building setbacks and landscape planning²⁶.
- 5.24 With regards to Water Supply and Wastewater infrastructure, geotechnical engineering and land contamination, both the Council experts and the Applicant experts were aligned in their opinions and the Panel accepted these positions without change.

6. Policy Framework Implications Ngā Hiraunga ā- Kaupapa here

Strategic Alignment Te Rautaki Tīaroaro

- 6.1 This report supports the [Council's Long Term Plan \(2018 - 2028\)](#):
- 6.1.1 Activity: Strategic Planning, Future Development and Regeneration
- Level of Service: 9.5.4 Process private plan change requests. - 100% of any proposed private plan changes comply with statutory processes and timeframes

Policy Consistency Te Whai Kaupapa here

- 6.2 The decision is consistent with Schedule 1 of the Resource Management Act and is consistent with Council's Plans and Policies to enable public participation and engagement.

Impact on Mana Whenua Ngā Whai Take Mana Whenua

- 6.3 The decision involves a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, having regard to waterways within and near the site. The decision therefore impacts on Mana Whenua, their culture and traditions.
- 6.4 Mana Whenua were advised of the private plan change request directly by the Applicant prior to lodgement and did not make a submission on the plan change.

²¹ Paragraph 280 of Panel's report

²² Paragraph 285 of Panel's report

²³ Paragraphs 287 – 288 of Panel's report

²⁴ Paragraph 313 of Panel's report

²⁵ Paragraph 337 of Panel's report

²⁶ Paragraph 339 of Panel's report

Climate Change Impact Considerations Ngā Whai Whakaaro mā te Āhuarangi

- 6.5 Objective 8 of the National Policy Statement on Urban Development Objective 8 requires that New Zealand's urban environments support reductions in greenhouse gases; and are resilient to the current and future effects of climate change. Notwithstanding this, the Panel concluded that there is nothing directive as to the appropriateness of one alternative zoning or the other.

Accessibility Considerations Ngā Whai Whakaaro mā te Hunga Hauā

- 6.6 The rezoning of the land for commercial activities supports access to employment and services by walking, cycling and private vehicle, with provision made for access to the adjoining residential area.
- 6.7 Access for mobility impaired will be considered through the consenting process including requirement for mobility parking.

7. Resource Implications Ngā Hīraunga Rauemi

Capex/Opex / Ngā Utu Whakahaere

- 7.1 Adopting the proposed plan change will not result in additional costs to Council beyond what has been budgeted for.
- 7.2 The costs of staff time on Proposed Plan Change 6 has been charged to the applicant consistent with Council's fees and charges policy.

8. Legal Implications Ngā Hīraunga ā-Ture

Statutory power to undertake proposals in the report / Te Manatū Whakahaere Kaupapa

- 8.1 Section 73(2) of the Resource Management Act enables any person to request a change to the District Plan and sections 74 and 75 prescribe the matters that Council is to consider in changes to the District Plan. The Panel's report has applied the appropriate considerations under the RMA.
- 8.2 The Resource Management Act requires the Council to make a decision on the Panel's recommendation on this private plan change request. The plan change proponent and submitters have the right to appeal to the Environment Court on the Council's decision on proposed plan change 6.




Other Legal Implications / Ētahi atu Hīraunga-ā-Ture

- 8.3 The process requirements if the Council wishes there to be a reconsideration of any part of the Panel's recommendations are set out in paragraph 4.3 above.

9. Risk Management Implications Ngā Hīraunga Tūraru

- 9.1 There is a risk that the applicant and/or submitters consider that there is insufficient evidence and/or inadequate consideration has been to issues raised during the process. This has been mitigated by the appointment of independent commissioners to objectively assess the merits of the request and to hear evidence and submissions. There also remains the opportunity for those parties to appeal the decision to the Environment Court for further testing.

Attachments / Ngā Tāpirihanga

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In addition to the attached documents, the following background information is available:

Document Name	Location / File Link
Not applicable	Not applicable

Confirmation of Statutory Compliance / Te Whakatūtutanga ā-Ture

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories / Ngā Kaiwaitohu

Author	Mark Stevenson - Manager Planning
Approved By	John Higgins - Head of Planning & Consents Jane Davis - General Manager Infrastructure, Planning & Regulatory Services

BEFORE THE CHRISTCHURCH CITY COUNCIL

UNDER

The Resource Management Act 1991

AND

IN THE MATTER OF

Proposed Plan Change 6 to the Christchurch
District Plan: Homebase Extension

REPORT AND RECOMMENDATIONS OF INDEPENDENT HEARING COMMISSIONERS

Sarah Dawson (Chair)

Ken Fletcher

Ian Munro

7 March 2022

Item 3

Attachment A

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PRELIMINARY

Introduction

1. This report contains the recommendations of the Panel of Independent Hearing Commissioners appointed to consider Plan Change 6 (PC6) and the decisions sought in the submissions. The Commissioners have reviewed and considered Proposed PC6, the s32 Report, the written submissions and further submissions received, the s42A Report, all evidence received at the hearing (both written and oral) and other relevant information. Having considered this information and deliberated between themselves, the Commissioners' recommendations to the Council are set out in this report.

Terminology Used in this report

2. Throughout this report the following terms and abbreviations are used:

Act	Resource Management Act 1991
Applicant	Reefville Properties Limited
Applicant's Final PC6	The version of PC6 attached to the Closing Legal Submissions for the Applicant, 3 August 2021
CCZ	Commercial Core Zone
Consented supermarket / consented supermarket site	The supermarket development and/or its site for which resource consent has been obtained on part of 215 Marshland Road (RMA20163708), located within the Homebase CRPZ and immediately to the south of the PC6 site
Council	Christchurch City Council
Council's Final PC6	Proposed PC6, with the amended provisions provided by the Council on 29 July 2021 and those attached as Appendix A to the Supplementary Evidence of Emily Allan, 4 October 2021
CRDP	Christchurch Replacement District Plan
CRPS	The operative Canterbury Regional Policy Statement, 2013, republished in July 2021 to incorporate changes made since 2013
CRPZ	Commercial Retail Park Zone
District Centre	District Centre as defined in the District Plan
District Plan	The operative Christchurch District Plan

EIC	Evidence-in-chief. May also be referred to as s42A Report when prepared on behalf of the Council.
Existing Homebase	The existing Homebase retail centre development on Marshland Road (excluding the consented supermarket to the north)
FAR	Floor area ratio
GCRA	Greater Christchurch Regeneration Act 2016
GFA	Gross floor area
GLFA	Gross leasable floor area
Homebase LFC / Homebase CRPZ	The Large Format Centre zoned CRPZ in the operative District Plan. This includes the existing Homebase and the consented supermarket site. This is referred to in the District Plan as Shirley Homebase.
Homebase extension	The retail centre that could be developed on the PC6 site, subject to the rezoning request in Proposed PC6
IHP	Independent Hearings Panel responsible for making decisions on the proposals for the CRDP, including changes to the notified proposals
JWS	Joint Witness Statement
KAC	Key Activity Centre as defined in the District Plan
LFC	Large Format Centre as defined in the District Plan
LURP	Land Use Recovery Plan
Mairehau Development Plan	Development Plan - Mairehau Final Development Area, as identified in Figure 5 of Section 14.4.3 of the District Plan
ME Report	Homebase Plan Change Economic Assessment, ME Consulting, 30 June 2020
Modelled Development	The development of the PC6 site as modelled by the Applicant and shown in Fig 3.3 of Appendix 2 to the Application
NESCS	National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
NPS-UD	National Policy Statement on Urban Development 2020
NPS-UDC	National Policy Statement on Urban Development Capacity 2016

Panel	Panel of Independent Hearing Commissioners appointed to consider Proposed PC6 and the decisions sought in the submissions
PC5	Plan Change 5 to the operative Christchurch District Plan
PC6	Plan Change 6 to the operative Christchurch District Plan
PC6 Site / PC6 site	The land subject to the rezoning request in Proposed PC6 being 229 and 241 Marshland Road, and parts of 24 Sanctuary Gardens and 215 Marshland Road
Proposed PC6	Plan Change 6 to the operative Christchurch District Plan, as publicly notified on 15 October 2020
QEII Drive	Queen Elizabeth II Drive
RMDZ	Residential Medium Density Zone
RNNZ	Residential New Neighbourhood Zone
RSZ	Residential Suburban Zone
s32 Report	The report prepared by the Applicant evaluating PC6 in terms of s32 of the Act at the time that Proposed PC6 was publicly notified (Christchurch District Plan, Private Plan Change 6, Section 32 Evaluation and AEE)
s42A Report	The Council Planning Officer's Report prepared by Emily Allan under s42A of the Act which makes recommendations on the submissions and further submissions received on Proposed PC6 (dated 25 June 2021)
Shirley / Palms	The District Centre and Key Activity Centre zoned Commercial Core Zone (including community facilities within walking distance (400 metres) of the commercial zone) in the vicinity of Marshland Road, New Brighton Road and Golf Links Road, as shown on the District Planning Maps and as described in Table 15.1 of the District Plan
The Palms	The Palms shopping centre/mall and associated carparking which forms part of the Shirley / Palms District Centre

Summary of, and Background to, Proposed Plan Change 6

- PC6 is a privately requested plan change by Reefville Properties Limited (the Applicant) which seeks to rezone approximately 4.7975ha of land, located on the south-west corner of Marshland Road and QEII Drive to the north of the existing Homebase LFC on Marshland Road, from Residential Suburban Zone (RSZ) to Commercial Retail Park Zone (CRPZ).
- The land subject to the rezoning request comprises 229 and 241 Marshland Road, and parts of 24 Sanctuary Gardens and 215 Marshland Road (the PC6 site).

5. The scope of the Plan Change is to:
 - a. rezone the land from RSZ to CRPZ by amending Planning Map 25A;
 - b. remove references to the Mairehau Final Development Area from the District Plan (delete Rules 14.3.i.i.i, 14.4.3.1.3, 14.4.3.2.7c and Figure 5); and
 - c. amend Chapter 15 Rule 15.7.2.4 by adding a new rule that applies a 32.4 degree recession plane at the western boundary of the site.
6. The PC6 site was rezoned from rural to residential in 1989 and confirmed as residential in the Christchurch City Plan in 1995¹. It was then identified as RSZ in the CRDP.
7. The existing Homebase retail centre on Marshland Road (existing Homebase) was initially established by way of resource consent approval in 2007². Variation 86 to the Christchurch City Plan (which became operative in 2009) rezoned the existing Homebase site as Business Retail Park Zone³. Through the CRDP process, the existing Homebase site and an adjoining area of vacant land to its north was zoned as CRPZ. The vacant land, which is immediately to the south of the PC6 site, is subject to a recently approved resource consent for the development of a 4,000m² supermarket⁴ with access via a new signalised intersection with Marshland Road⁵ (the consented supermarket).
8. The Applicant lodged the private plan change request with the Council on 1 July 2020. Further information was requested by the Council. On 7 October 2020, the plan change request was accepted by the Council for notification and processing. The private plan change request contained the following information, all of which was available at the time of notification to anyone interested in the requested private plan change and was also provided to the Panel prior to the hearing:
 - a. The application form;
 - b. A Section 32 Evaluation and assessment of effects on the environment (AEE) taking into account clauses 6 and 7 of Schedule 4 of the Act. This included the following Appendices:
 - i. Records of Title for the properties
 - ii. Economic Assessment;
 - iii. Retail Assessment;
 - iv. Urban Design, Landscape and Visual impact Assessment;
 - v. Integrated Transportation Assessment;
 - vi. Noise Assessment;
 - vii. Servicing Assessment;
 - viii. Flood Hazard peer Review;
 - ix. Ecological Assessment;

¹ s42A Report, at [3.2.1]

² s32 Report, at [3.1.3]

³ s32 Report, at [3.1.4]

⁴ Statement of Evidence of Derek Foy – Economics, 9 July 2021 (Foy EIC), at [27]

⁵ Statement of Evidence of David Smith – Transportation, 9 July 2021 (Smith EIC), at [18]

- x. Geotechnical Assessment;
 - xi. Soil Contamination Assessment; and
 - xii. Archaeological Assessment.
- c. The Proposed Plan Change showing the amendments sought to the District Plan;
- d. Responses to the Council's requests for further information.

Notification and Submissions

9. Proposed PC6 was publicly notified on 15 October 2020. The periods for submissions and further submissions closed on 16 November 2020 and 1 February 2021 respectively. As set out in the s42A Report⁶, 68 submissions were received requesting 119 separate decisions on the plan change (submission points). Eleven submission points expressed support or support in part for PC6. 79 submission points opposed or opposed in part PC6. 26 submission points requested specific amendments to the provisions of PC6 without indicating their general support or opposition. Three submission points were neutral to the plan change. 50 further submissions points were also received from one further submitter⁷ supporting or opposing the decisions requested in the submissions. A summary of the submissions and further submission received was attached to the s42A Report⁸.

Appointment of Commissioners

10. Under section 34A of the Act, a Panel of independent hearing commissioners was appointed to hear from the Applicant, the Council and those submitters who requested to be heard on Proposed PC6, and to make recommendations to the Council on Proposed PC6 and the submissions and further submissions received.
11. Appointed to this Panel were: Sarah Dawson, Ken Fletcher and Ian Munro. Sarah Dawson was appointed as Chair of the hearing with authority to determine procedural and jurisdictional matters consistent with the requirements of the Act.

Procedural Steps

12. On 10 June 2021, the Chair issued directions relating to the hearing and the exchange of evidence prior to the hearing date⁹. The Council's s42A Report and associated expert evidence was to be available first, followed by expert evidence from the Applicant, then expert evidence from any submitter (none was received), and finally expert rebuttal evidence (received from the Council only). Written legal submissions were also to be provided prior to the hearing. The hearing was set down to commence on 26 July 2021.
13. On 5 July 2021, the Panel requested¹⁰ the Council and the Applicant, and any submitters who wished to do so, to address us as to the implications for the Panel's consideration of PC6 of a

⁶ s42A Report, at [8.1.2]

⁷ Ann-Marie and Bob Kearney (FS1), also S10

⁸ As Appendix 2

⁹ Plan Change 6: Homebase Extension - Hearings Procedures and Panel Directions, 10 June 2021

¹⁰ Minute 1 – Relevance of NPS-UD to Proposed Plan Change 6, 5 July 2021

recent Environment Court decision¹¹ which considered the relevance of the NPS-UD to a privately requested plan change.

14. Various amendments to the Panel's earlier directions for the hearing and evidence exchange were allowed by way of Minute 2 on 25 July 2021¹², including directions for expert witness conferencing by the stormwater experts and their preparation of a JWS.
15. Following completion of the three days of hearing, the Panel considered additional economics and associated planning evidence were necessary for it to properly consider the maximum extent and staging of development on the PC6 site. Following a teleconference between the Panel Chair and counsel for the Applicant and the Council¹³, and a subsequent Joint Memorandum of Counsel¹⁴, expert witness conferencing and a JWS from the economics and retail witnesses were sought as the initial step¹⁵. Agreement was reached regarding the maximum extent of development, but not regarding the retail distribution effects of staging that development¹⁶. Counsel for the Applicant and the Council did not reach agreement as to the steps which should follow the production of the JWS¹⁷. Having considered the position of the parties, the Panel sought supplementary expert economics and retail evidence, with associated expert planning evidence and legal submissions, on the staging standards proposed by the Applicant and the Council. An indicative date for a resumed hearing was also directed¹⁸.
16. Finally, prior to the resumed hearing, the Panel requested additional information from the Applicant and the Council (as part of their legal submissions to the resumed hearing) on three matters it considered would assist it in its deliberations¹⁹:
 - a. How, where, and by whom, the Council is able to manage off-site parking associated with activity at the PC6 site;
 - b. Information regarding the content of, reasons for and relevance of Proposed PC5; and
 - c. The nature of the development occurring in the CCZ at Belfast / Northwood.

The Hearing

17. The initial hearing was held on 26th to 28th July 2021.
18. The format of the hearing reflected the Chair's procedural directions that expert evidence in chief and rebuttal evidence (where applicable) be pre-circulated. Legal submissions also were provided in advance of the hearing, at the Chair's request. As a result, expert witnesses

¹¹ *Eden-Epsom Residential Protection Society Incorporated v Auckland Council*. [2021] NZEnvC 082

¹² Minute 2 – Various Amendments to Directions, 25 July 2021

¹³ On 16 August 2021

¹⁴ Joint Memorandum of Counsel for Reefville Properties Limited and the Christchurch City Council, 19 August 2021

¹⁵ Minute 3 – Additional Economics and Associated Planning Evidence, 20 August 2021

¹⁶ JWS – Economics, 3 September 2021

¹⁷ Joint Memorandum of Counsel for Reefville Properties Limited and the Christchurch City Council, 8 September 2021

¹⁸ Minute 4, Supplementary Economics Evidence and Reconvened Hearing, d16 September 2021

¹⁹ Minute 5, Additional Information to Assist Commissioners, 29 September 2021

presented only a brief summary statement at the hearing. Lay submitters were similarly limited to a brief summary statement. In some cases, lay submitters who presented verbal representations helpfully provided us with a written statement of their presentation. As a result, the Panel was able to focus on questions of counsel and witnesses, which we found the most effective way to utilise the hearing time.

19. We note here that Mr Maw expressed concern at the length of the written legal summary provided by Mr Carranceja at the start of the Council's presentation to the hearing. Mr Carranceja responded that he had included his written responses to matters that had arisen during the hearing itself, rather than present these verbally. We accepted this as a more efficient way of proceeding.

20. Parties appearing at the hearing were:

The Applicant

- Philip Maw (Counsel) assisted by Imogen Edwards
- Glen Perkasky (Director of Reefville Properties Limited)
- Derek Foy (Retail and Urban Form Analyst)
- Nora Farren (Property Market Research consultant) by videolink
- Evan Harris (Retail Property consultant)
- Mark Taylor (Freshwater Ecologist)
- David Compton-Moen (Urban Designer / Landscape Architect)
- Neil Charters (Geotechnical Engineer)
- David Robotham (Environmental Scientist)
- Nicholas Cable (Archaeologist)
- Elliot Duke (Civil Engineer - Servicing)
- Robert Kerr (Civil Engineer – Flood Hazard)
- David Smith (Transportation Planner)
- Elizabeth White (Planner)
- Gary Walton (Acoustic consultant) – Mr Walton was excused from attending the hearing due to an injury. He responded to the Panel's question in writing.

*Diana Plesovs*²⁰

*Martinus Bakker*²¹

*Martinus Brevoort*²²

*Ray Jackson*²³

²⁰ Submission S51 & Further Submission FS2

²¹ Submission S66

²² Submission S16

²³ Submission S64

Bede Kearney²⁴

Joclyn Burnside²⁵

Council

- Cedric Carranceja (Counsel)
 - Tim Heath (Retail Analyst and Urban Demographer)
 - Jane Rennie (Urban Designer)
 - Jennifer Dray (Landscape Architect)
 - Isobel Stout (Environmental Health Officer)
 - Mark Gregory (Transport Planner)
 - Tim Preston (Civil Engineer - Stormwater) – Mr Preston provided a written statement to the hearing following the expert conferencing of stormwater and flooding experts
 - Emily Allan (Planner and author of the s42A Report)
 - Michelle McDonald (Civil Engineer - Water and Wastewater) – Ms McDonald was not required to present at the hearing as the Panel had no questions for her
 - Katie Noakes (Waterways Ecologist) – Ms Noakes was not required to present at the hearing as the Panel had no questions for her
 - Jesse Dykstra (Geotechnical Engineer) – Dr Dykstra was not required to present at the hearing as the Panel had no questions for him
21. In accordance with the Panel's Directions, the expert witnesses addressing stormwater and flooding issues for the Applicant and the Council met during the first day of the hearing to consider the stormwater modelling for the pre-developed and post-developed PC6 site and the mitigation measures necessary to managed potential effects on the site and surrounding area. Following this expert conferencing, a JWS²⁶ was prepared, signed by all witnesses involved and provided to the Panel and all parties to the hearing. The relevant witnesses were able to address this statement later in the hearing.
22. The Panel provided Mr Walton (the acoustic witness for the Applicant) with one written question, which he responded to by way of an additional statement of evidence on 27 July²⁷. Ms Stout (the Council's acoustic witnesses) was able to respond to Mr Walton's additional statement when she appeared on 28 July.
23. Following her appearance on the morning of 28 July, Ms Rennie (the Council's urban design witness) provided the Panel with a written response²⁸ to our question as to the height limit for buildings on the PC6 site that she considered would be acceptable from an urban design

²⁴ Submission S40

²⁵ Submission S45

²⁶ JWS – Stormwater, July 2021

²⁷ Statement of Evidence of Gary Walton in Response to Panel Question, 27 July 2021

²⁸ Response to Questioning by Hearing Panel, Jane Maree Rennie on behalf of Christchurch City Council, Urban Design, 28 July 2020

perspective. Ms Rennie presented her response to the Panel in the afternoon of that day.

24. At the Panel's request, on 29 July Ms Allan (the Council's planning witness) provided all parties to the hearing with a compilation of the recommended amendments to Proposed PC6 from all the Council's witnesses²⁹. Ms Allan helpfully provided footnotes identifying where in the Council's evidence each recommendation could be found. These amendments did not include changes proposed by the Applicant, however the Council offered to provide additional evidence on those matters, if the Panel considered it appropriate.
25. Counsel for the Applicant presented oral closing submissions at the end of the hearing on 28 July, with written closing legal submissions being provided on 3 August.
26. In its closing legal submissions, the Applicant offered additional restrictions on development within the PC6 site, beyond those contained in Proposed PC6 or recommended by its witnesses in their evidence³⁰. These were:
 - a. A maximum building height of 12 metres;
 - b. A maximum extent of GLFA of 20,000m²; and
 - c. Staging of development on the PC6 site so that more than 10,000m² of retail GLFA can be developed during the first 3 years after rezoning.
27. As set out above, following the initial hearing, the expert economics and retail witnesses (Mr Foy, Mr Harris and Mr Heath) provided a JWS³¹. This addressed retail distribution effects on The Palms (beyond those ordinarily arising as a result of trade competition) resulting from the maximum extent of GLFA and staging of retail development on the PC6 site offered by the Applicant, as well as any additional and/or alternative staging mechanisms that the witnesses considered necessary. Mr Foy and Mr Harris stated their opinions that without any staging in place retail distribution effects³² on The Palms would not be significant and no staging or limit is required. However, Mr Heath's opinion was that, even with the Applicant's proposed staging, the retail distributional effects on The Palms would likely be significant. Mr Heath set out an alternative staging mechanism that he considered would be required to result in those effects being less than significant. On this basis, as directed by the Panel, supplementary economics and retail evidence, with associated planning evidence and legal submissions³³, were provided to address the staging standards proposed by the Applicant and the Council.
28. A resumed hearing was held on 15th November 2021. As a result of COVID 19 restrictions in Auckland, Commissioner Munro, Mr Foy and Mr Heath appeared by videolink. As with the initial hearing, expert witnesses presented only a brief summary statement of their supplementary evidence and the hearing focussed on the Panel's questions of the expert witnesses and counsel.

²⁹ Amended Provisions from PC6 reflecting Council evidence, provided on 29 July 2021

³⁰ Closing Legal Submissions for the Applicant, 3 August 2021 (Applicant's Closing Submissions), at {79} – [86] and Appendix 5

³¹ JWS – Economics, 3 September 2021

³² Beyond those ordinarily arising as a result of trade competition

³³ The three additional questions from the Panel (Minute 5) were also addressed in the legal submissions

29. Parties appearing at the resumed hearing were:

The Applicant

- Philip Maw (Counsel) assisted by Imogen Edwards
- Derek Foy (Retail and Urban Form Analyst)
- Evan Harris (Retail Property consultant)
- Elizabeth White (Planner)

Council

- Cedric Carranceja (Counsel)
- Tim Heath (Retail Analyst and Urban Demographer)
- Emily Allan (Planner)

30. Others were in attendance in support of the Applicant, as well as one submitter, Ms Joclyn Burnside³⁴.
31. Counsel for the Applicant presented oral closing submissions at the end of the resumed hearing, with these being subsequently provided in writing³⁵.
32. At the close of the hearing, it was agreed Mr Foy and Mr Heath would liaise and provide the Panel with information regarding the appropriate inflation adjusted figure that should be applied in respect of The Palms' annual turnover figure from 2009. If agreement could not be reached, then each was to provide their individual position. The information from the retail economists³⁶ was provided on 23 November, with an associated Joint Memorandum from Counsel for the Applicant and the Council.³⁷
33. The Memorandum of Counsel noted the limited nature of the Panel's request for further information regarding the appropriate inflation adjustment rate and the Panel's specific direction not to adduce further evidence beyond its specific request. Both counsel observed that Section 4 of the JWS (*Interpretation of Results*) appeared to go beyond the scope of the Panel's direction and made legal submissions accordingly. However, counsel for the Applicant and the Council made different submissions in respect of the weight the Panel should give to this additional information. We return to this matter later in our report.

Site Visits

34. On 29 July 2021, the Panel undertook a day of site visits to places of relevance to our consideration of PC6. After a site induction from a construction consultant³⁸ on behalf of the Applicant, the Panel was able to walk over the PC6 site, the consented supermarket site and the

³⁴ Submission S45

³⁵ Legal Submissions for the Applicant, 15 November 2021

³⁶ JWS - Retail Economics, 22 November 2021

³⁷ Joint Memorandum of Counsel for Reefville Properties Limited and the Christchurch City Council, 23 November 2021

³⁸ Who had not provided evidence at the hearing

surrounding road frontages. We also visited:

- The existing Homebase
- The Clearbrook Palms residential area to the west of the PC6 site, including the lots on Sanctuary Gardens and Havana Gardens that provide access to the site
- The Shirley/Palms District Centre / KAC, including the undeveloped area of CCZ to the north of The Palms and the surrounding RMDZ
- The District Centres / KACs at Papanui/Northlands, Shirley/Palms, Eastgate/Linwood, Belfast/Northwood and Riccarton
- The Large Format Centres at Moorhouse Avenue and Tower Junction, as well as the CRPZs that form parts of the District Centres at Belfast/ Northwood and Papanui/Northlands
- The Neighbourhood Centres at Prestons, Cranford and Edgeware
- The Local Centre at Hills Road / Warrington Street
- The Residential New Neighbourhood Zones at Prestons, Highfield Park and East Papanui.

STATUTORY REQUIREMENTS

General Approach

35. The statutory requirements for making a request to change the District Plan are set out in ss73(2) and Part 2 of Schedule 1 of the Act³⁹. There was no disagreement regarding the applicability of these provisions.
36. The statutory requirements for consideration of a proposed plan change can be derived generally from the comprehensive summary in the Environment Court's decision in *Colonial Vineyard Limited v Marlborough District Council*⁴⁰. We were referred to this decision by Ms Allan in the s42A Report⁴¹ and in the legal submissions for the Council^{42,43}. No party suggested we adopt a materially different approach to our consideration of PC6.
37. We note that the *Colonial Vineyard* decision predated the 2013⁴⁴ and 2017⁴⁵ amendments to the Act coming into effect. Accordingly, the tests posed by the Environment Court in *Colonial Vineyard* also need to be read subject to those amendments. Together, the *Colonial Vineyard* requirements and those recent amendments provide the legal tests we have applied in

³⁹ s32 Report, at [2.1.2] – [2.1.4]; Opening Legal Submissions for the Applicant, 23 July 2021 (Applicant's Opening Submissions), at [16] – [18]; and s42A Report, at [4.1.3]

⁴⁰ [2014] NZEnvC 55 (*"Colonial Vineyard"*)

⁴¹ At [4.1.2]

⁴² Legal Submissions for the Christchurch City Council on Proposed Private Plan Change 6, 23 July 2021 (Council's Opening Submissions), at [2.8] and Appendix 1 Case Extract

⁴³ The relevant provisions of the Act were also referred to in the Applicant's Opening Submissions, at [22] – [27]

⁴⁴ In particular, amendments to ss74(1) and s32

⁴⁵ In particular, amendments to s6(h), s31(1)(aa), s32 (to a minor extent) and ss74(1)(ea)

considering Proposed PC6.

38. PC6 must be prepared in accordance with the obligations to prepare an evaluation report for a proposed plan change in accordance with s32 of the Act and to have particular regard to that report. The Applicant prepared a s32 Report at the time of public notification which sets out the s32 requirements and evaluates Proposed PC6 in terms of those requirements⁴⁶. These requirements were addressed further by Ms White⁴⁷ and Ms Allan⁴⁸.
39. We note the requirement in s32AA to undertake a fresh evaluation of any changes we recommend to the Proposed PC6 provisions before us. A further evaluation needs to employ the same tests that should already have been applied in the initial s32 evaluation. Section 32AA(1)(c) directs that our further evaluation must be undertaken at a level of detail corresponding to the scale and significance of the changes. We have the option of either preparing a separate report or referring to those matters in our recommendation report⁴⁹. We have adopted the latter approach. Accordingly, there is no separate s32AA evaluation report and our recommending report contains our reasoning in terms of s32AA.

Higher Order Planning Documents

40. The only National Policy Statement (NPS) or National Environment Standard (NES) referred to us as being of relevance to our evaluation of PC6 was the NPS-UD⁵⁰ addressed by both the Applicant and the Council, and the NESCS⁵¹ referred to by Ms Allan.
41. Ms Allan referred us to Objectives 3 and 8 of the NPS-UD⁵² as being of relevance to our consideration of PC6. Objective 3 sets out criteria for determining appropriate locations for increased businesses and community services – in or near centres or other areas with many employment opportunities; areas well serviced by existing or planned public transport; and where there is high demand for business land in the area. Objective 8 requires that New Zealand's urban environments support reductions in greenhouse gases; and are resilient to the current and future effects of climate change.
42. We return later in this report to the question we asked counsel to address as to the relevance of the NPS-UD to a private plan change.
43. The s32 Report⁵³ referred to the National Planning Standards which were gazetted in April 2019 and, over time, require District Plans to be amended to align with the Standards to achieve consistency across the country. It pointed out that the CRPZ in the District Plan most closely

⁴⁶ At sections 4, 5 & 6 of the s32 Report

⁴⁷ Statement of Evidence of Elizabeth Jane White – Planning, 9 July 2021 (White EIC), in particular at [29] – [32]

⁴⁸ s42A Report, in particular at Section 9

⁴⁹ s32AA(1)(d)

⁵⁰ s42A Report, at [5.1]; Council's Opening Submissions, at Section 3; and Applicant's Opening Submissions, at [29] – [37]

⁵¹ s42A Report, at [5.2]

⁵² s42A Report, at [5.1]

⁵³ s32 Report, at [8.5.4]-[8.5.6]

aligns with the “*Large Format Retail Zone*” of the National Planning Standards and, when the District Plan is changed to align with the Standards, the CRPZ could be changed to this national zone. The s32 Report stated that there is nothing in Proposed PC6 that would inhibit the District Plan being amended to give effect to the National Planning Standards. The Council has until April 2026 to align its zones with those of the National Planning Standards, so there is no requirement for us to take action as part of this plan change. We received no advice to the contrary, so have proceeded accordingly.

44. Ms Allan provided an overview of those provisions of the CRPS she considered most relevant to our evaluation of PC6⁵⁴, particularly Chapter 6 – Development of Greater Christchurch. Similar provisions from Chapter 6 were assessed in the s32 Report⁵⁵. Ms White⁵⁶ also referred us to relevant objectives and policies from the CRPS.
45. We note that Chapter 6 of the CRPS provides a framework for the recovery, rebuilding and development of Christchurch City⁵⁷. Its urban form and settlement pattern is to be managed in accordance with this direction⁵⁸. This includes a focus on supporting and maintaining the existing hierarchy of the Central City, Key Activity and Neighbourhood Centres as focal points for commercial, community and service activities during the recovery period, and avoiding significant adverse effects on the function and viability of these centres⁵⁹. This focus on centres is reinforced through Policies 6.3.1 and 6.3.6 which require:
 - a. in relation to recovery and rebuilding for Christchurch, to avoid development that adversely affects the function and viability of, or public investment in, Key Activity Centres⁶⁰;
 - b. the provision, recovery and rebuilding of business land in Christchurch to reinforce the role of the Key Activity Centres; and where new commercial activities are located out of the Central City, Key Activity Centres or neighbourhood centres they are not to give rise to significant adverse distributional or urban form effects⁶¹.
46. Policy 6.3.2 of the CRPS, which is stated as implementing all the Chapter 6 objectives, sets out the principles of good urban design to be given effect to. This is emphasised for the development of business land through Policy 6.3.6(12).
47. The integration of land use and infrastructure, including strategic infrastructure and the transport network, is required through several CRPS objectives and policies⁶² including ensuring close proximity for business activities to major transport hubs and passenger transport networks⁶³.

⁵⁴ s42A Report, at [5.3]

⁵⁵ s32 Report, at [3.5.1], [5.1.7] and Section 8.11

⁵⁶ White EIC, at [34] & [102]-[103]

⁵⁷ CRPS Objective 6.2.1

⁵⁸ CRPS Objective 6.2.2

⁵⁹ CRPS Objectives 6.2.5 & 6.2.6

⁶⁰ Policy 6.3.1(6) – now Policy 6.3.1(8)

⁶¹ Policy 6.3.6(3) & (4)

⁶² Objectives 6.2.1 & 6.2.4 and Policies 6.3.4 & 6.3.5

⁶³ Policy 6.3.6(9)

48. We record that the advanced stage the District Plan has reached, its comprehensive nature, and its consideration by the IHP subsequent to the inclusion of Chapter 6 in the CRPS mean that, in our view, there is likely to be limited need to refer back to the objectives and policies in Chapter 6 of the CRPS (other than, of course, if we consider the changes sought to the District Plan are seeking to veer that plan away from the direction in the CRPS).
49. The more recent release of the NPS-UD means that we cannot rely on the District Plan capturing all elements of that document.

District Plan

50. As explained by Ms Allan⁶⁴, Chapter 3 Strategic Directions provides the overarching direction for the District Plan and all other chapters must be consistent with its objectives (Section 3.1a of the District Plan). Several of that chapter's Objectives were referred to as being relevant to our consideration of PC6 - in the s32 Report⁶⁵, the s42A Report⁶⁶ and the Closing Legal Submissions for the Applicant⁶⁷. We accept the submission of the Applicant⁶⁸ and the evidence of Ms Allan⁶⁹ that Objectives 3.3.1, 3.3.5, 3.3.7 and 3.3.10 are particularly relevant to PC6, with Objectives 3.3.8 and 3.3.4⁷⁰ having relevance in respect of the Central City and housing capacity respectively. In addition, Objective 3.3.12(b) provides direction in relation to strategic infrastructure⁷¹. In our consideration of PC6, we have taken direction from these objectives in Chapter 3.
51. There was no disagreement between the Applicant⁷² and the Council⁷³ as to the relevant provisions of Chapter 15 of the District Plan – Commercial. We accept the following as being most relevant to our consideration of PC6 – Objectives 15.2.1, 15.2.2 and 15.2.4; Policies 15.2.2.1, 15.2.2.4, 15.2.4.1 and 15.2.4.2; and Table 15.1.
52. With regard to Chapter 14 – Residential, we were particularly referred to Objectives 14.2.1 and 14.2.4; Policy 14.2.1.1; and Table 14.2.1.1a. as being relevant to our consideration of the most appropriate zoning for the PC6 site⁷⁴.

⁶⁴ s42A Report, at [6.1.2]

⁶⁵ At [5.1.6]

⁶⁶ At [6.1.2]

⁶⁷ At [71]

⁶⁸ Applicant's Closing Submissions, at [71]

⁶⁹ s42A Report, at [6.1.2]

⁷⁰ s32 Report, at [5.1.6.c]

⁷¹ s42A Report, at [6.1.2]

⁷² Applicant's Closing Submissions, at [73] – [76] and Appendix 2; s32 Report, at [2.2.5], [2.2.7], [3.2.3] & [3.2.4]; and White EIC, at [24] – [26]

⁷³ Council's Opening Submissions, at Section 4; s42A Report, at [6.1.3] - [6.1.5]; Report by Jane Maree Rennie for the Christchurch City Council's 42A Report (Urban Design), 25 June 2021 (Rennie EIC); and Rebuttal Evidence of Jane Maree Rennie on behalf of Christchurch City Council (Urban Design), 23 July 2021 (Rennie Rebuttal)

⁷⁴ s32 Report, at [2.2.2] & [3.2.3]; and Council's Opening Submissions, at Section 5

53. In the s42A Report, Ms Allan referred us to Policies 5.2.2.1.1 and 5.2.2.2.1 in relation to flood and stormwater management⁷⁵; and to Objective 7.2.1 and Policies 7.2.1.2 and 7.2.1.6 for the consideration of potential transport effects⁷⁶.
54. From these District Plan provisions, we have taken the following guidance for our consideration of the relevant aspects of PC6:

Recovery and Prosperity

- a. The expedited recovery of Christchurch as a dynamic and prosperous city, meeting immediate and longer-term needs for housing and economic development (Objective 3.3.1)
- b. Business and economic prosperity are of critical importance to Christchurch's recovery and a range of opportunities is to be provided for business activities to establish and prosper (Objective 3.3.5)
- c. Fostering investment certainty is important to the City's recovery (Objective 3.3.1)
- d. Recovery and stimulation of commercial activities to expedite recovery and long-term economic and employment growth, through revitalising centres and providing sufficient and suitable land development capacity (Objective 3.3.10)
- e. Support the recovery of centres that sustained significant damage or significant population loss from their catchment (Objective 15.2.2.a.vii.)

Centres-based Framework for Commercial Activities

- f. Commercial activity is focussed in a network of centres, including the Central City, District Centres and LFC's, to meet the wider community's and businesses' needs (Objective 15.2.2) – in a way and at a rate that is consistent with the following:
 - i. The defined role of each centre (Policy 15.2.2.1 and Table 15.1)
 - ii. Supporting intensification within centres that reflects their functions and catchment size (Objective 15.2.2 and Policy 15.2.2.1);
 - iii. Giving primacy (and supporting the recovery of) the Central City, followed by District Centres (KAC), as strategically important focal points for the community and business (Objectives 3.3.7 & 3.3.8, Objectives 15.2.2 & 15.2.4 and Policy 15.2.2.1)
 - iv. Supporting and enhancing the role of District Centres as major focal points for commercial activities, employment, transport and community activities (Objective 15.2.2 and Policy 15.2.2.1)
 - v. Maintaining the role of LFC'S (Policy 15.2.2.1)
 - vi. Providing for the integration of commercial activity with community activity, residential activity and recreation activity in locations accessible by a range of modes of transport (Objective 15.2.2)

⁷⁵ At [6.1.7]

⁷⁶ At [6.1.8]

- g. Growth of commercial activity is to be focussed within existing commercial centres. Any outward expansion of a commercial centre must ensure the centre remains commensurate with its role and does not undermine the function of other centres; and is consistent with the scale of increasing residential development opportunities in and around centres (Policy 15.2.2.4)

Form, Scale and Design of Centres

- h. The scale, form and design of development in a centre is consistent with its role, including recognising the Central City and District Centres as strategically important focal points for community and commercial investment (Objective 15.2.4 and Policy 15.2.4.1)
- i. The scale, form and design of development in a centre contributes to an urban environment that is visually attractive, safe, easy to orientate, conveniently accessible, and responds to local character and context (Objective 15.2.4 and Policies 15.2.4.1 & 15.2.4.2)
- j. Large floor plates are enabled in KAC and LFC, while maintaining a high level of amenity in the centre (Policy 15.2.4.1)

Interface with Surrounding Environment

- k. A scale, form and design of development that manages adverse effects on the surrounding environment, particularly at the interface with residential areas (Objective 15.2.4 and Policies 15.2.4.1 & 15.2.4.2)
- l. Outward expansion of a commercial centre must be undertaken in a manner that manages adverse effects at the interface with the adjoining zone (Policy 15.2.2.4)
- m. The scale, form and design of development in a centre contributes to an urban environment that is visually attractive, safe, and responds to local character and context (Objective 15.2.4)
- n. New commercial development shall achieve a visually attractive setting when viewed from the street and other public spaces (Policy 15.2.4.2)

Transport

- o. Outward expansion of a commercial centre must be integrated with the transport network (Policy 15.2.2.4)
- p. New commercial development shall facilitate movement within the surrounding area for people of all mobilities and ages, by a range of modes of transport through well-defined, convenient and safe routes (Policy 15.2.4.2)
- q. Manage the adverse effects of new high trip generating activities by assessing whether they (Objective 7.2.1 and Policies 7.2.1.2 & 7.2.1.6):
 - i. are accessible by a range of transport modes,
 - ii. encourage public and active transport use,
 - iii. would compromise the safe, efficient and effective use of the transport system or optimise its use;
 - iv. integrate and co-ordinate with the transport system, including proposed transport

infrastructure and service improvements.

Flooding / Stormwater Management

- r. Ensure that filling in areas at risk of flooding in a major flood does not transfer flooding risk to other people, property, infrastructure or the natural environment (Policy 5.2.2.2.1)

Housing

- s. An increased supply of housing that is consistent with the City's strategic requirements for housing capacity and choice and intensification targets (Objectives 3.3.4 & 3.3.7 and Objective 14.2.1)
- t. Provide for low density residential development in (*other*) existing suburban residential areas in accordance with the residential zones identified and characterised in Table 14.2.1.1a. (Policy 14.2.1.1)
- u. High quality, sustainable residential neighbourhoods which have a high level of amenity (Objective 14.2.4)

Other Relevant Planning Documents

- 55. In the s42A Report⁷⁷, Ms Allan referred us to the GCRA and the LURP, as matters for us to have regard to. Whilst we have considered those documents, we note the CRPS and the District Plan have been subsequently prepared in accordance with the direction of those documents and consider there is little need for us to refer back to their provisions. We agree with the evidence of Ms White⁷⁸ in this regard.
- 56. Ms Allan⁷⁹ also referred us to provisions of the Canterbury Regional Land Transport Strategy / Canterbury Regional Land Transport Plan 2015 – 2025; the Christchurch Transport Strategic Plan 2012 – 2042; and the Draft Ōtautahi Christchurch Climate Change Strategy 2021, as matters to us to have regard to. The s32 Report refers to the Council's Long Term Plan 2018 – 2028; the Christchurch Economic Development Strategy; the Greater Christchurch Urban Development Strategy (2007, updated in 2016); and Our Space 2018 – 2048: Greater Christchurch Settlement Pattern Update, as management plans and strategies, prepared under legislation other than the Resource Management Act, that have some relevance to PC6. To the extent we find it necessary, we have had regard to these documents in our consideration of PC6.
- 57. The s32 Report⁸⁰ and Ms Allan in the s42A Report⁸¹ set out aspects of the MIMP, as matters for us to take into account. In particular, they refer us to objectives and policies relating to the management of waterways on the PC6 site; management of stormwater, wastewater, earthworks and indigenous biodiversity; and sustainable approaches to transport, water, waste and energy. Where relevant to our consideration of PC6, we have taken these aspects of the MIMP into

⁷⁷ s42A Report, at Section 4.2

⁷⁸ White EIC, at [97]

⁷⁹ s42A Report, at Sections 5.4 – 5.6

⁸⁰ s32 Report, at Section 8.9

⁸¹ s42A Report, at Section 5.7

account.

CONSIDERATION OF PRELIMINARY LEGAL MATTERS

Scope of the Panel's Recommendation on a Privately Requested Plan Change

58. We asked counsel to address us as to whether the Panel is limited to considering the scope of changes sought by submissions when considering a private plan change request, or whether the Panel's scope is wider. We noted clause 29(4) of schedule 1 of the Act⁸² which appears to provide scope for a local authority considering a privately requested plan change to decline, approve, or approve with modifications the plan change.
59. Mr Carranceja addressed us on this matter in his oral submissions⁸³. He submitted the issue is moot in this case because there are several submissions requesting that the plan change be refused. The existence of these submissions means that the Panel has full scope to consider approval of the plan change (i.e the Proposed PC6 CRPZ), refusal of the plan change (i.e. retain the operative area-specific RSZ with the Mairehau Development Plan provisions), or something in between. Mr Carranceja provided examples of relief sought in submissions that represented something in between and CRPZ and the area-specific RSZ.
60. In his closing submissions⁸⁴ Mr Maw reached the same conclusion, albeit for different reasons. Despite the slight difference in language between the relevant clauses in Schedule 1 for council-initiated and private plan changes, it was his submission that the scope of our recommendations on this private plan change should not be approached any differently from the standard approach for council-initiated plan changes. He referred to the Environment Court's decision⁸⁵ on a private plan change request in Arrowtown which found that: "*relief that fairly and reasonably falls in the union of three sets of possibilities:*
- *the plan change; and*
 - *the operative district plan to the extent it deals with the resources, the subject of, and the issues raised in respect of them, by the plan change;*
 - *submissions on the plan change (but noting that this set is limited to submissions which are "on" the plan change: ...)*
- *is within the jurisdiction of the court to consider.... "*
61. We thank counsel for their guidance on this matter and have approached our consideration of PC6 accordingly.

⁸² Mr Maw helpfully set out the provisions of clause 29 in Appendix 1 to the Applicant's Closing Submissions

⁸³ Synopsis of Oral Submissions for the Christchurch City Council on Proposed Private Plan Change 6, 27 July 2021 (Council's Synopsis of Oral Submissions), at Section 3

⁸⁴ Applicant's Closing Submissions, at [8] – [10] and Appendix 1

⁸⁵ *Cook Adam Trustees Ltd v Queenstown Lakes District Council* [2013] NZEnvC 156

Out-of-Scope Submissions

62. In the s42A Report⁸⁶, Ms Allan listed some submissions she considered to fall outside the scope of PC6. The submissions listed seek the following:
- a. Rates relief for properties in Sanctuary Gardens if this neighbourhood is to be used by trucks from the Homebase extension (D20.2)⁸⁷;
 - b. Properties in the Clearbrook Palms / Sanctuary Gardens area should remain zoned as residential (D49.1, D58.1 & D66.1)⁸⁸.
63. Ms Allan referred us to two well-known decisions in the High Court⁸⁹ which identify two limbs which require consideration as to whether a submission is “on” a plan change:
- a. A submission can only fairly be regarded as “on” a variation if it is addressed to the extent to which the variation changes the pre-existing status quo.
 - b. But if the effect of regarding a submission as “on” a variation would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, this is a powerful consideration against any argument that the submission is truly “on” the variation.
64. It was Ms Allan's evidence that the submission points referred to above fall outside the scope of the plan change because Proposed PC6 does not include the rezoning of land within the Clearbrook Palms subdivision (the planning maps contained in the plan change request clearly show a margin of RSZ along the western boundary of the site) and rates relief is outside the scope of the Act. We received no evidence presenting a contrary position and we accept Ms Allan's view on these submissions. In Appendix 2, we have listed our recommendations to reject these submissions as being out of scope of PC6.

Approach to Comparison of Alternatives under Section 32

65. Ordinarily, s32(1)(a) & (b) requires an examination of the extent to which the objectives of the plan change are the most appropriate way to achieve the purpose of the Act; and whether the provisions of the plan change are the most appropriate way to achieve the objectives. However, as PC6 does not propose to amend existing, or introduce new, objectives to the District Plan, s32(6)(b) requires that the “objectives” requiring examination be the “purpose” of the proposal (i.e. the purpose of PC6). As the “purpose” of PC6 goes to the heart of our examination of the most appropriate of the alternatives before us, we need to give consideration to how that purpose is articulated.
66. Mr Maw's opening submissions⁹⁰ quoted the “purpose” of PC6 as set out in the plan change

⁸⁶ s42A Report, at Section 8.2

⁸⁷ Submission S20 – Joanna Krakowiak

⁸⁸ Submission S49 – Christopher Hentschel; Submission S58 – Margaret Goulden; and Submission S66 – Martinus Bakker

⁸⁹ *Clearwater Resort Ltd v Christchurch City Council* AP 34/02, 14 March 2013; and *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290

⁹⁰ Applicant's Opening Submissions, at [18] – [19] & [43]

application:

...to enable an increase in the large format retail offering in the north-east of the city through an extension of the current Commercial Retail Park zoning of the existing development known as 'Homebase'. In particular, the Plan Change seeks to provide for those activities anticipated by a Commercial Retail Park zoning to be enabled on the Site, while appropriately managing the adverse effects of the change in land use on the surrounding area.

He also summarised the reasons for PC6 as set out in the s32 Report. It was his submission that the purpose of PC6 is clearly and accurately set out in the s32 Report, and it is against this purpose that the assessment of appropriateness needs to be carried out.

67. Ms Allan⁹¹ considered PC6 to have a different “purpose” from the one set out in the plan change application. In her view, the purpose of PC6 was to rezone the site from RSZ to CRPZ. This would change the objectives which apply to the PC6 site from those in Chapter 14 to those in Chapter 15 of the District Plan. She considered this is a more accurate reflection of the purpose of PC6. Ms Allan stressed⁹² that the purpose of the plan change is fundamental to how the plan change is assessed as it directs the question that the plan change is seeking to respond to.
68. Mr Carranceja⁹³ also addressed us on this matter submitting that articulating the purpose of the plan change as stated in the s32 Report is presumptuous as to the most appropriate outcome to be achieved. It acts as a *fait accompli* that a CRPZ is inevitably the most appropriate zone to achieve the statement purpose. In his submission, this masks the full nature of the enquiry the Panel needs to make. Mr Carranceja referred us to a well-known case⁹⁴ where the Court was clear that the approach to considering zoning does not start with a presumption that one zone is more appropriate than the other. He quoted from this decision as follows:
- “The Court does not start with any presumption as to one zoning being more appropriate than the other. Its task is essentially to evaluate the provisions of the Plan which are settled, to try to ascertain the intent and context of the two zones, and then to achieve the best fit in terms of the Plan provisions for this land.”*
69. It was Mr Carranceja’s submission that stating the purpose of PC6 as being to rezone the site from RSZ to CRPZ avoids a presumption that one zoning is more appropriate than the other, and provides the Panel with clarity regarding the full scope of the s32 evaluation that needs to be made, which is to ask what zone is the most appropriate way to achieve the purpose of the Act (and we would add to that – and to achieve the settled objectives of the Plan). He submitted⁹⁵ that defining the purpose of PC6 in a manner that is neither presumptuous, nor a *fait accompli* as to the most appropriate zoning, inevitably leads to the need to describe the purpose as

⁹¹ s42 Report, at Section 9

⁹² Rebuttal Evidence of Emily Allan on behalf of Christchurch City Council (Planning), 23 July 2021 (Allan Rebuttal), at [4.2]

⁹³ Council’s Opening Submissions, at [2.9] – [2.16]

⁹⁴ *Te Kauwhata Action Group Inc v Waikato District Council* [2012] NZEnvC 83

⁹⁵ Council’s Synopsis of Oral Submissions, at [2.1] – [2.3]

rezoning from RSZ (with the “Mairehau Plan”) to a CRPZ (with no “Mairehau Plan”).

70. Mr Carranceja also pointed⁹⁶ out that, with the legal test being “*most*” appropriate, a comparison between at least two options is required. The only options available to the Panel are the existing area-specific RSZ or rezoning to CRPZ as requested in PC6, or something in between. This requires consideration of the “most appropriate” (or better) between these options.
71. In answer to our questions, Mr Maw accepted that the comparison required for PC6 is the comparison between the two zone alternatives (RSZ and CRPZ) as to what is most appropriate (or better) for this land. However, he emphasized⁹⁷ that limiting the purpose of PC6 to simply this change of zoning removes the essential element as to *why* the zoning change is required (that being to increase the large format retail offering in the north-east of the City) and, thereby, fails to accurately recognise all of the essential elements that need to be assessed under s32.
72. Mr Maw returned to this in his closing submissions⁹⁸ in which he submitted that it would be futile to compare the two zoning alternatives in a vacuum, and that it is the need for large format retail expansion in the east of Christchurch that is the “why” behind the zoning change sought, and which forms the basis of the s32 assessment. The RSZ is already deemed to be appropriate on the basis that those provisions underwent a Schedule 1 process as part of the CRDP process. In the absence of the “why” for the proposed zoning change, he submitted it would be very difficult to undertake the required assessment of the options. Verbally, he summarised the purpose of PC6 as being to change the zoning from RSZ to CRPZ in order to achieve additional large format retail offering in the north-east of Christchurch.
73. Mr Maw also addressed⁹⁹ us on the interpretation of “most appropriate” in the context of s32. In summary, we took the following from his submissions:
- a. That the “most appropriate” zoning for the PC6 site does not have to be the superior or best zoning, rather the CRPZ simply needs to be the “most suitable” for achieving the purpose of the Act and the objectives of the District Plan;
 - b. A value judgement as to what on balance is the most suitable zoning is required, examining all the relevant information, weighing that against the objectives in the District Plan and of PC6, and determining whether the CRPZ is the most suitable. In answer to our questions, he indicated this is not a “*one strike and you’re out*” situation, each and every category of effect does not need to be superior, but a broad judgement of competing considerations is required weighing the pros and cons of the alternative zonings.
74. Ms White was critical of Ms Allan’s evidence on the basis that she considered Ms Allan had come to her conclusion regarding the appropriateness of PC6 based on a break down by separate discipline as to whether the effects under each discipline are better or worse under the two

⁹⁶ Council’s Opening Submissions, at [2.16] – [2.17]

⁹⁷ Applicant’s Opening Submissions, at [44]

⁹⁸ Applicant’s Closing Submissions, at [15] – [16]

⁹⁹ Applicant’s Opening Submissions, at [38] – [42]

alternative zonings. In Ms White's opinion, the effects need to be considered in the context of the outcomes sought by the District Plan (and other relevant documents such as the CRPS).

75. Ms Allan responded¹⁰⁰ to Ms White's criticism stating she had addressed the policy framework in relation to each piece of specialist evidence to ensure that the effects raised were considered within the policy framework. She agreed with Ms White that effects need to be considered in the context of the Plan and higher order documents and she had worked with the Council experts to ensure this consideration is met.
76. As noted above, in answer to our questions, Mr Maw accepted that the "most appropriate" or "most suitable" comparison required for PC6 is the comparison between the RSZ and CRPZ as to what is the better option or outcome for this land. Mr Carranceja noted¹⁰¹ there appeared to be agreement between the Applicant and the Council on this point. He also agreed with Mr Maw that this is not about applying a "tick box" that requires each and every effect arising to be better and that the required judgement involves consideration of all s32 matters, including all costs and benefits of the effects anticipated by the different zoning options before the Panel¹⁰².
77. We did not find there to be a great deal of difference between the final positions of the Applicant and the Council on this matter. We agree that we need to compare the two zone alternatives – the existing area-specific RSZ (with the Mairehau Development Plan) and the Applicant's requested CRPZ, or something in between. We agree that our comparison is to evaluate the most appropriate, or most suitable, zoning for achieving the purpose of the Act and the settled objectives of the District Plan. This requires consideration of all s32 matters, including all costs and benefits arising from the different zoning options before the Panel. We agree with Mr Maw that our consideration is not to be in a vacuum. Our evaluation of the costs and benefits will inevitably require us to consider the reasons for the proposed rezoning to CRPZ, as this goes to the heart of the benefits put to us in evidence for the Applicant. In doing our evaluation we will need to consider achievement of the settled Chapter 14 and Chapter 15 provisions, as well as the Plan's Strategic Objectives.
78. We have approached our comparison of the alternative zonings for the PC6 site accordingly. We agree with Mr Carranceja that the purpose of the plan change is best expressed simply, as changing the zoning of the PC6 site from the operative area-specific RSZ to the Applicant's requested CRPZ. We have, therefore, compared those two zone alternatives (or something in between). However, in doing so, we have considered the Applicant's stated purpose for the plan change, by taking account of the evidence as to the benefits from achieving additional large format retail offering in the north-east of Christchurch.

¹⁰⁰ Allan Rebuttal, at [4.4]

¹⁰¹ Council's Synopsis of Oral Submissions, at [2.5] – [2.7]

¹⁰² We refer also to the Council's Opening Submissions, at [2.19] – [2.20]

Weighing of Competing Evidence

79. In his closing submissions, Mr Maw addressed the key evidential matters that remained in dispute between the Applicant's and the Council's witnesses – retail distribution effects and urban design and landscape effects. He submitted¹⁰³, to the extent that there is competing evidence, the Panel ought to consider the following principles to assist with our weighing of competing evidence:
- The expert's experience and qualifications.
 - The reasons for opinions and simplicity and ease of understanding of the evidence.
 - Whether the evidence is objective and independent or whether there has been an underlying degree of advocacy.
 - Reliability of evidence including general acceptance in the scientific community and supporting scientific studies/research.
 - The basis of analysis undertaken, and whether any key documents or assumptions relied upon are provided for examination by other experts.
80. We accept Maw's submissions on this matter and have considered the evidence accordingly.

Trade Competition

81. As Mr Maw stated in his opening submissions, the provisions of the Act relating to trade competition are matters we need to carefully examine. We understand s74(3) of the Act requires that, in considering a change to a plan, we must not have regard to trade competition or the effects of trade competition.
82. The Applicant and the Council referred us to case law under the Act that has considered what effects must be disregarded. Both parties agreed the Courts have recognised that:
- Effects may however go beyond trade competition and become an effect on people and communities, on their social, economic and cultural wellbeing, on amenity values and on the environment. In such situations the effects can properly be regarded as being more than the effects ordinarily associated with trade competition¹⁰⁴.*
83. Mr Maw¹⁰⁵ referred us to the Environment Court's statement that "trade competition" "*equates to those matters arising directly out of rivalrous behaviour occurring between those involved in commerce*". Direct impacts on trade competitors, even to the point of closure, may lie within the ordinary effects of trade competition, as may consequential effects on property owners in terms of reduced rentals and reduced profitability. In Mr Maw's submission, the threshold for effects that go beyond trade competition is set appropriately high, so as to avoid anti-competitive behaviour in the retail environment.
84. It is difficult to determine when effects extend beyond those ordinarily associated with trade competition. To assist us, we were referred to various Court decisions which shed some light on

¹⁰³ Applicant's Closing Submissions, at [22] – [24]. References to relevant case law were provided.

¹⁰⁴ *General Distributors Ltd v Waipa District Council* (2008) 15 ELRNZ (HC) at [87]

¹⁰⁵ Legal Submissions for the Applicant, 1 November 2021, at [25]

this, particularly when considering effects between shopping centres. We understand that:

- a. trade competition effects focus specifically on the impacts on individual trade competitors¹⁰⁶;
 - b. the direct impact on a trade competitor, even to the point of closure, lies within the effects of trade competition¹⁰⁷;
 - c. significant effects on amenity values would be those which had a greater impact on people and their communities than would be caused simply by trade competition¹⁰⁸;
 - d. social and economic effects on a neighbouring shopping centre must be “significant” before they can properly be regarded as being beyond the effects ordinarily associated with trade competition¹⁰⁹;
 - e. “significantly adverse” effects must be taken as meaning ‘more than minor, but not necessarily ruinous’¹¹⁰ or ‘major’¹¹¹;
 - f. the effects of the distribution of commercial development are relevant to the preparation of a plan change, provided they are “significant” social and economic effects (i.e. consequential upon or beyond the economic effects ordinarily associated with trade competition on trade competitors)¹¹².
85. The Applicant¹¹³ and the Council¹¹⁴ agreed it is only “significant” social and economic effects, consequential upon or beyond those ordinarily associated with trade competition, that may be taken into account, but that significant adverse effects on a shopping centre do not need to be such as to be ruinous for that centre.
86. Various examples can be ascertained from the case law of situations where significant retail distributional effects (beyond those ordinarily associated with trade competition) may arise. These include¹¹⁵:
- a. The decline of an existing shopping centre to the extent that it would no longer be viable as a centre, with consequent adverse effects on the community as a whole or at least a substantial section of it;
 - b. Loss of investment in roading and other infrastructure as well as loss of amenity which could result from the closure or serious decline in the attractiveness or viability of the centre as a whole;
 - c. Loss of employment opportunities on a significant scale;

¹⁰⁶ *Northcote Mainstreet Inc v North Shore City Council* (2004) CIV-2003-4040-5292 at [61]

¹⁰⁷ *Progressive Enterprises Ltd v North Shore City Council* (2009) NZRMA 386 at [59]

¹⁰⁸ *Discount Brands Ltd v Westfield (New Zealand) Limited* [2005] 2 NZLR 597 at [119]

¹⁰⁹ *Discount Brands Ltd v Westfield (New Zealand) Limited* [2005] 2 NZLR 597 at [120]

¹¹⁰ *Progressive Enterprises Ltd v North Shore City Council* [2009] NZRMA 386 at [59]

¹¹¹ *Westfield (New Zealand) Ltd v North Shore City Council* [2005] NZRMA 337 at [120] quoted in *Progressive Enterprises Ltd v North Shore City Council* [2009] NZRMA 386 at [58]

¹¹² *Kiwi Property Holdings Ltd v Christchurch City Council* [2012] NZ EnvC 92 at [48] to [50]

¹¹³ Applicant’s Opening Submissions, at [52] & [55]

¹¹⁴ Council’s Opening Submissions, at [4.22]; Council’s Synopsis of Oral Submissions, at [4.12]; and Evidence by Timothy Heath for the Christchurch City Council s42A Report (Heath EIC), at [10.7] & [10.9]

¹¹⁵ *Discount Brands Ltd v Westfield (New Zealand) Limited* [2005] 2 NZLR 597 at [89] & [119]

- d. Important community services associated with an existing shopping centre might cease to be appropriately located to serve persons attracted to the shopping centre;
- e. Premises within an existing centre might change to a different character, with a different mix of customers, patronage might drop, patronage of associated community facilities might drop such that the facilities might close, people may need to travel to other centres with pressure on the roading system;
- f. If there were a large number of empty shops that were not able to be re-tenanted promptly, this could affect the community investment in infrastructure associated with the shopping centre and the social / community function they provide¹¹⁶;
- g. Adverse effects on a shopping centre from a competing retail development do not need to be ruinous before they should be considered but they must, at the least, seriously threaten the viability of the centre as a whole with on-going consequential effects for the community served by that centre¹¹⁷.

87. As stated in the *Discount Brands* Court decision:

*It is of course necessary for a consent authority first to consider how trading patterns may be affected by a proposed activity in order that it can then make an informed prediction about whether amenity values may be consequentially affected*¹¹⁸."

88. The modelling of retail sales impacts shows trade competition effects, which then provide the basis for making predictions about what the wider retail distributional effects might be. Both the Applicant and the Council referred us to the questions that must be asked¹¹⁹:

- (a) *Are there effects beyond those caused by trade competition?*
- (b) *Are those effects significant?*
- (c) *Are those significant effects such that, weighed in the balance with all other relevant matters, the plan change should be approved?*

89. The main areas of contention between the Applicant and the Council appeared to us to revolve around their differing interpretations, in this case, of where (or when) significant effects (beyond those ordinarily associated with trade competition) may arise.

90. It was Mr Maw's submission for the Applicant that "*retail distributional effects on The Palms (or any other centre) must be so significant that the competing centre would no longer be viable as a centre*"¹²⁰ and that "*movement of retailers from The Palms to Homebase must be at a level that would result in The Palms becoming unviable before any adverse effects of the proposed*

¹¹⁶ *Pohutukawa Coast Community Association v Auckland Council* [2013] NZEnvC 104 at [71]

¹¹⁷ Heath EIC, at [10.9]; *Northcote Mainstreet v North Shore City Council* (HC, CIV-2003-404-5292), at [62]

¹¹⁸ *Discount Brands Ltd v Westfield (New Zealand) Limited* [2005] 2 NZLR 597 at [120]

¹¹⁹ Legal Submissions for the Applicant, 1 November 2021, at [25]; and Legal Submissions for the Christchurch City Council on Proposed Plan Change 5, 1 November 2021 (Legal Submissions for the Council, 1 November 2021), at [3.5]

¹²⁰ Applicant's Opening Submissions, at [56]

*Homebase extension could be considered to go beyond trade competition*¹²¹. Mr Maw also submitted that *“it is not sufficient for one retailer to leave The Palms and go to an expanded Homebase. Rather, there must be a mass movement of retailers from one centre to another at a level which compromises the exiting centre”*¹²².

91. In response, Mr Carranceja submitted for the Council that “mass movement” or “unviable” tests are not correct statements of the test to apply and are inconsistent with the case law¹²³.
92. Mr Carranceja¹²⁴ referred us to the *Progressive Enterprises Ltd* case which stated that adverse effects do not need to be “ruinous”. He submitted that the test is not whether a centre is ruined and no longer viable, as this goes too far. Impacts on a centre can be “significant” social and economic effects (consequential upon or beyond those ordinarily associated with trade competition) without ruining the centre or making it unviable. Mr Carranceja¹²⁵ also submitted that a “mass movement of retailers”, as referred to by Mr Maw, was simply a hypothetical example mentioned by the Court and does not establish a new “mass movement” test. A centre ceasing to be viable is at the “extreme end” and not a minimum threshold for significance.
93. Mr Carranceja¹²⁶ also pointed us to the District Plan’s centres-based approach which does not require impacts on a District Centre to be such as to make a centre ruined and no longer viable before warranting a plan change being refused. He noted the policy framework to “support” and “enhance” the role of District Centres (Policy 15.2.2.1.a.ii) and that the outward expansion of a centre must not “undermine” the function of other centres (Policy 15.2.2.4.b). In his submission, *“it is sufficient for a proposed Homebase extension to weaken or injure The Palms to find a policy basis to decline PC6”*.
94. For the Applicant, Mr Maw¹²⁷ disagreed with Mr Carranceja’s suggestion that the District Plan allows us to consider trade competition effects if we find that the Homebase extension could weaken or injure The Palms. He submitted this is a lesser test than the requirement for “significant” adverse effects as established in case law. In Mr Maw’s submission, case law demonstrates that a high threshold must be met before adverse effects could be said to go beyond trade competition¹²⁸. It remained his submission that this must be at a level that would result in The Palms becoming “unviable” before any adverse effects of the proposed Homebase extension could be considered to go beyond trade competition.

¹²¹ Applicant’s Closing Submissions, 3 August 2021, at [35]

¹²² Legal Submissions for the Applicant, 1 November 2021, at [26]

¹²³ Council’s Synopsis of Oral Submissions, at [4.11]–[4.12]; and Legal Submissions for the Council, 1 November 2021, at [3.4]

¹²⁴ Council’s Synopsis of Oral Submissions, at [4.11]–[4.13]

¹²⁵ Legal Submissions for the Council, 1 November 2021, at [3.6]–[3.12]

¹²⁶ Council’s Synopsis of Oral Submissions, at [4.11]–[4.13]; and Legal Submissions for the Council, 1 November 2021, at [3.13]–[3.17]

¹²⁷ Applicant’s Closing Submissions, at [29] – [35]

¹²⁸ *Pohutukawa Coast Community Association v Auckland Council* [2013] NZEnvC 104 at [60], [67]–[71]

95. In response to Mr Maw's submission, Mr Carranceja referred us to the Court of Appeal decision in *General Distributors Ltd*¹²⁹. This noted it is relevant to consider significant effects against the requirements of the relevant planning objectives. In the case of the District Plan, these reflect a centres-based approach, which was recognised in the High Court decision on that case as a legitimate resource management issue that can raise significant social and economic concerns.
96. We have considered the legal submissions relating to trade competition in some detail, as we have the expert evidence on this matter later in our report. Despite their disagreements, we found a considerable degree of alignment between the Applicant and the Council, with differences being predominantly around the scale and context for determining the significance of effects. We have approached our consideration of this matter as follows:
- a. We have evaluated the results of the modelling regarding changes in trading patterns and retail sales, as well as the expert opinions as to how significant these trade competition effects are;
 - b. We have considered the differing expert opinions on whether or not there are social and economic effects consequential on, or beyond, those ordinarily associated with trade competition. We have taken these into account where we have concluded they may be significant;
 - c. We do not consider significantly adverse effects for the Shirley / Palms District Centre need to be ruinous for The Palms, make it unviable, or result in a masses exodus of retailers, for us to consider them potentially significant. However, they do need to be more than minor;
 - d. We have borne in mind the various examples from the case law of situations where significant social and economic effects (beyond those ordinarily associated with trade competition effects) may arise;
 - e. When weighing any significant adverse social and economic effects in our overall conclusion on PC6, we have taken into account the relevant objectives and policies of the centres-based approach in the District Plan.

Mr Heath's Rebuttal Evidence

97. In his opening submissions for the Applicant, Mr Maw requested that the first 14 pages of Mr Heath's rebuttal evidence be struck out. In his submission, these pages did not constitute rebuttal evidence but were fresh evidence on retail theory that was not covered in his evidence-in-chief and the Applicant was not now in a position to respond to it.
98. Mr Carranceja responded¹³⁰ to Mr Maw's submission stating that Mr Heath was responding to the Applicant's expert evidence from Mr Foy, Ms Farren and Mr Harris by identifying and explaining a key difference between his evidence and that of those witnesses. Mr Carranceja stated that Mr Heath had identified the Applicant's witnesses lacked consideration of PC6 against the economic benefits associated with the centres-based policy framework of the District Plan,

¹²⁹ *General Distributors Ltd v Waipa District Council* [2009]15 ELRNZ 196 (CA), at [13]

¹³⁰ Council's Synopsis of Oral Submissions, at [4.1] – [4.5]

and the retail impacts on an identified and established Key Activity Centre; and that pages 2 to 14 of Mr Heath's rebuttal explain what that key difference is. Mr Carranceja submitted that identifying and explaining a key difference between witnesses can be raised in rebuttal evidence and can be of assistance to the Panel.

99. When asked by the Panel for his response to Mr Heath's 14 rebuttal pages regarding the centres-based policy framework, Mr Foy took no issue with the philosophy behind this approach and tended to agree with the effects and benefits outlined by Mr Heath. He stated that he agreed with the centres-based approach. Ms Farren confirmed in response to a Panel question that consideration of the centres-based policy framework is not her area of expertise.
100. Although Mr Heath's rebuttal evidence was lengthy and went into substantial detail, we accept Mr Carranceja's explanation that it was in response to identifying and explaining the key differences Mr Heath saw between his evidence and that of Mr Foy, Ms Farren and Mr Harris for the Applicant. We found his evidence helpful. We do not accept Mr Maw's request to strike out those pages of Mr Heath's rebuttal evidence. In any event, the Applicant's witnesses did not take issue with the content of Mr Heath's material and, when asked by the Panel, Mr Foy stated that he agreed with it.

Joint Witness Statement Retail Economics – Interpretation of Results

101. As we referred to earlier, Mr Foy and Mr Heath provided the Panel with a JWS¹³¹ agreeing the appropriate inflation adjusted figure that should be applied in respect of The Palms' annual turnover figure from 2009. However, the associated Joint Memorandum from Counsel for the Applicant and the Council,¹³² noted that Section 4 of the JWS (*Interpretation of Results*) appeared to go beyond the scope of the Panel's direction. Counsel for the Applicant and the Council made different submissions in respect of the weight the Panel should give to this additional information.
102. Mr Maw submitted that Mr Heath's comments in Section 4 seek to introduce fresh evidence about growth in the overall size of the Christchurch retail market, relative to growth in sales at The Palms. In contrast, Mr Foy continued to rely on the evidence he had previously given. Mr Maw pointed out that Mr Heath's new evidence had not been able to be tested through questions and in these circumstances, the Panel should disregard Section 4.
103. Mr Carranceja considered that Section 4 had been provided by both expert witnesses to assist the Panel by contextualising their answer to the Panel's request and providing a broad interpretation of the results. Mr Carranceja had no objection to Section 4 being provided. He submitted that the Panel is free to give to that section whatever weight it considers appropriate, noting that the general matters covered in Section 4 (including growth in sales of The Palms relative to the Christchurch retail market) were discussed during the course of questioning of the experts by the Panel at the hearing.

¹³¹ JWS - Economics, 22 November 2021

¹³² Joint Memorandum of Counsel for Reefville Properties Limited and the Christchurch City Council, 23 November 2021

104. We consider that the important point about Section 4 is that it makes clear that the inflation adjusted result has not caused either expert to change their position. Beyond that, we consider the matters covered were canvassed in evidence and during the hearing. Other than the confirmation that their positions are unchanged, we have made no further reference to Section 4 in this report.

Relevance of NPS-UD to a Privately Requested Plan Change

105. In Minute 1, we asked counsel to address us as to the implications for the Panel's consideration of PC6 of a recent Environment Court decision¹³³ which considered the relevance of the NPS-UD to a privately requested plan change. Mr Maw and Mr Carranceja responded to this in their opening submissions.
106. Mr Maw referred us to the Court's findings in *Eden-Epsom* that only limited objectives and policies from the NPS-UD were relevant to making "planning decisions" on the merits of a requested plan change¹³⁴. Of those limited objectives and policies, Mr Maw submitted that none had relevance in the context of PC6. Mr Maw emphasised the findings of the Court in *Eden-Epsom* that it could not pre-judge, let alone pre-empt, Schedule 1 processes that are yet to be undertaken by the Auckland Council in order to implement the NPS-UD. Mr Maw submitted that the Panel should not pre-judge or pre-empt processes that the District Council and the regional council are required to undertake, including the preparation of housing and business capacity assessments and future development strategies. For these reasons, he submitted that the NPS-UD is not relevant to PC6.
107. Mr Carranceja took a wider position on this matter. He did not consider the *Eden-Epsom* decision went so far as to conclude the NPS-UD provisions, that do not require "planning decisions" at this time, are wholly irrelevant to a private plan change. Whilst he agreed with Mr Maw that these provisions should not drive a plan change request in a manner that would pre-judge or pre-empt Council's own implementation of the provisions, Mr Carranceja considered the operative status of the NPS-UD must still be acknowledged. He submitted that the Panel can still have some regard to these provisions when assessing a private plan change request, but not to the extent that it must give effect to them at this time. In addition, Mr Carranceja referred to other NPS-UD provisions, not referenced in *Eden-Epsom*, which warrant consideration by the Panel. He submitted that not to do so would undermine the intent of the NPS-UD. In particular, he referred us to NPS-UD Objectives 3 and 8 discussed by Ms Allan, Objective 6 and Policies 1 and 6(c), which he considered we could properly consider.
108. We thank counsel for their submissions on this matter. We have turned our minds to the NPS-UD provisions referred to us by the Council. However, as will be evident later in this report, we have found nothing that directs us as to the appropriateness of one alternative zoning or the other

¹³³ *Eden-Epsom Residential Protection Society Incorporated v Auckland Council* [2021] NZEnvC 082 ("*Eden-Epsom*")

¹³⁴ None of which were the provisions referred to by Ms Allan in her evidence

for the PC6 site.

Letter from Waka Kotahi / NZ Transport Agency

109. Mr Maw raised another matter of concern to the Applicant in his opening submissions. He expressed concern that the letter provided to the Panel on 23 July from Waka Kotahi / NZ Transport Agency appears to have come about as a result of direct contact with that Agency by the Council's planner, Ms Allan, on 22 July. Mr Maw noted that Waka Kotahi is not a submitter on PC6 and has no standing at this hearing, so the letter should be disregarded by the Panel. In addition, he submitted the circumstances that led to the letter called into question the impartiality of Ms Allan, as she appeared to have contacted the Agency and encouraged it to write to the Panel. In his view, this goes to the impartiality and expert independence of the Council's planner and the Panel should consider this when weighing the planning expert evidence.
110. Mr Carranceja responded¹³⁵ to Mr Maw's suggestion regarding Ms Allan's impartiality, submitting that the allegation is unfounded. He submitted that, as the potential for a flooding issue on QEII Drive was not identified until after the period of public notification, Ms Allan was simply advising the public agency responsible for QEII Drive of Mr Preston's evidence (which identified the potential flood issues). In his submission, this was an exercise of transparency and not partiality.
111. Ms Allan also addressed the Panel on this matter. She pointed out that stormwater and flooding had been matters addressed throughout the assessment of PC6 by the Applicant and the Council. However, it was not until the evidence was being prepared and further modelling undertaken that the issue of flooding on QEII Drive was raised, after the close of submissions. Following further modelling on 20 July and associated issues raised by Mr Preston, Ms Allan discussed with others within the Council the need for transparency regarding this issue with Waka Kotahi, which is a key strategic partner of the Council. She contacted the Council's contact person within Waka Kotahi and advised them that information regarding potential flooding on QEII Drive was on the Council's website. Ms Allan advised us that she did not seek or suggest that Waka Kotahi write a letter to the Panel.
112. Mr Carranceja suggested that the Panel has the option of accepting the letter from Waka Kotahi as a late submission, taking into account factors in s37A of the Act. However, we note that although Waka Kotahi seeks reassurance from the Panel regarding stormwater flows on to QEII Drive, it does not ask for the letter to be treated as a late submission. In any event, this stormwater issue is now a matter of an agreed JWS in which the stormwater experts agree the modelling shows no increase in flood water level on QEII Drive.
113. We take no further action on this matter. We accept Ms Allan's explanation as to why she contacted Waka Kotahi. We do not wish to accept the letter from Waka Kotahi as a late submission and we have not had regard to the matters expressed in that letter.

¹³⁵ Council's Synopsis of Oral Submissions, at [7.1] – [7.4]

Withdrawal of Submission from AMP Capital Limited

114. With respect to potential trade competition effects, Mr Maw's submitted in opening¹³⁶ that the Panel can place significant weight on the fact that AMP Capital Limited (AMP), the owner of The Palms, has withdrawn its submission. He stated that AMP is a well-resourced and sophisticated owner and operator of shopping centres throughout Australasia. In his submission, if AMP considered PC6 would have a significant impact on The Palms to the extent that the viability of its shopping centre would be compromised, then surely it would have had something to say about it. Mr Maw concluded by submitting that the one party Mr Heath says is the most significantly affected (The Palms) has chosen not to call any evidence and has withdrawn its submission because it is simply not troubled by the potential trade competition that an extended Homebase may bring.
115. In response to Mr Maw, Mr Carranceja submitted¹³⁷ that withdrawal of AMP's submission should not be given "significant weight" because:
- AMP did lodge a submission opposing PC6 with a comprehensive list of reasons. This expressed concern about enabling "new commercial activity and growth, in a manner that is contrary to the strategic and commercial objectives in the District Plan", including not supporting the function of, or giving primacy to, the Shirley KAC.
 - Submissions can be withdrawn for many reasons and it is speculative to pick what that reason might have been.
 - Withdrawal of a submission is not evidence that retail distribution effects are negligible.
 - Withdrawal of a submission does not dismiss the need to consider expert retail economic evidence on what the effects will be.
116. We thank counsel for their submissions on this matter. As it is, we have not needed to come to a determination on the weight to be given to the withdrawal of AMP's submission. The question of the potential effects of PC6 on the Shirley / Palms District Centre has been front and centre to our consideration of Proposed PC6, irrespective of AMP's submission or its withdrawal.

Property Values

117. In his opening legal submissions¹³⁸, Mr Maw noted the number of submitters who have expressed concern that PC6 will decrease their property values. He noted that no submitter has filed evidence on this matter. Mr Maw referred to previous consideration by the Environment Court as to whether property values can be considered in assessing an application for a resource consent. It was his submission that several principles have been distilled from a line of cases in the 1990s regarding property values and are now well-settled. He provided us with relevant parts of an Environment Court decision¹³⁹ which helpfully summarised the relevance of property values

¹³⁶ Applicant's Opening Submissions, at [63] – [64]

¹³⁷ Council's Synopsis of Oral Submissions, at [4.9] – [4.10]

¹³⁸ Applicant's Opening Submissions, at [107] – [110]

¹³⁹ *Tram Lease Ltd v Auckland Transport* [2015] NZEnvC 137, at [57]-[60]

in Resource Management Act cases.

118. Mr Maw summarised the relevant principles as follows – the effects of proposed activities on property values should not be considered separately when assessing an application for resource consent, as the effect on property values is the quantification of relevant amenity effects. Considering property values separately essentially amounts to double counting the relevant effects. In his submission, the same can be said when considering PC6, as impacts on residential amenity have been addressed by experts in noise, transportation, urban design, landscape and visual impact.
119. We did not hear any submissions expressing a contrary view to that from Mr Maw on this matter. We did not hear evidence from submitters regarding loss of property values. Accordingly, we accept these submissions from Mr Maw and have not had separate regard to the effects of PC6 on property values in the surrounding area.

Relevance of Proposed Plan Change 5

120. In Minute 5, we requested the Applicant and the Council to provide us with information regarding the content of, reasons for and relevance of Proposed PC5. PC5 was notified on 22 October 2020, submissions had closed and its s42A Report published, but no hearing had been held by the time of the resumed PC6 hearing.
121. The Council's legal submissions¹⁴⁰ described the various topics traversed by the different parts of Proposed PC5. Parts A, B & F, which propose changes to the commercial Strategic Objectives¹⁴¹, the Commercial Chapter and the Planning Maps, were submitted as being of potential relevance to PC6. The Applicant's legal submissions¹⁴² informed us that PC5 proposes to introduce changes to the Commercial Chapter of the District Plan, including the role of centres and the types and scale of retail, offices and other activities that are anticipated in centres.
122. As submitted by Mr Carranceja, to the extent the PC5 provisions may be relevant to PC6, they have been the subject of wide-ranging submissions in support and opposition and remain subject to change following the hearing of those submissions. Both Mr Maw and Mr Carranceja agreed that little or no weight can be given to the provisions proposed in PC5 due to the early stage of that process, not yet having been subject to any independent hearing or decision-making. We accept these submissions and, whilst being mindful of the Proposed PC5 provisions, we have given no weight to them in our consideration of Proposed PC6.

Council's Closing Position to Recommend the Panel decline PC6

123. In his summary of legal submissions presented at the resumed hearing¹⁴³, Mr Maw expressed his surprise at the Council's recommendation in its legal submissions that the Panel refuse

¹⁴⁰ Legal Submissions for the Council, 1 November 2021, Section 9

¹⁴¹ Strategic Objectives 3.3.7, 3.3.8 and 3.3.10

¹⁴² Legal Submissions for the Applicant, 1 November 2021, at [44]-[48]

¹⁴³ Legal Submissions for the Applicant, 15 November 2021, at [2]-[3]

PC6¹⁴⁴. Mr Maw expressed his understanding, following the initial hearing, that there were only a few outstanding issues for determination: the retail distribution effects (the subject of the resumed hearing), and issues such as the height of buildings and some minor landscape matters. His recollection was the Council's planner, Ms Allan, had confirmed that, if the retail distribution effects were addressed through appropriate staging, PC6 was otherwise consistent with the provisions of the District Plan.

124. We were also surprised at the absolute nature of the Council's recommendation in its final legal submissions. Our notes from the initial hearing record that Ms Allan accepted amendments could be made to the PC6 provisions which would make it consistent with the District Plan's objectives and policies and which would make the Homebase extension align better with the Plan's centres-based framework. She referred to staging requirements and a maximum scale of development. However, we also noted Ms Allan was clear she would need to see the detail of these amendments to Proposed PC6 before she could indicate her support, or otherwise, of PC6.
125. In any event, the Council's closing position can only be in the form of a recommendation to the Panel. We have addressed each of the key issues arising from PC6 based on the legal submissions and evidence before us (both written and oral). The Council's final recommendation has not swayed us from our duty to examine that information carefully and with independence.

CONSIDERATION OF KEY ISSUES

Retail Distribution

126. As we have noted earlier in our report, the extent of retail distributional effects¹⁴⁵, and the resultant effect on the centres-based framework of the District Plan, was the main issue in contention between the parties. Fundamental to this issue are: the scale of the retail offer, the nature of the retail offer, the productivity of the retail offer, the catchment that the Homebase extension would draw its custom from, and the overlap between the retail offer at The Palms and that of a LFC like that enabled by Proposed PC6.

Scale of the Retail Offer

127. Proposed PC6 places no limit on the GLFA that might eventuate on the PC6 site, seeking only the rezoning of 4.7975 ha to CRPZ. The economic assessment by ME Consulting¹⁴⁶, prepared by Mr Foy, assumes the site would yield 20,000m² GLFA. This is based on the Floor Area Ratio (FAR) of the existing Homebase site plus the consented supermarket (0.41)¹⁴⁷. This retail offer on the PC6 site of 20,000m² was also used in the assessment of Mr Heath¹⁴⁸ and the MacroPlan Report¹⁴⁹, with the 4,000m² supermarket bringing the total new retail offer to be assessed to

¹⁴⁴ Legal Submissions for the Council, 1 November 2021, at [11.1]

¹⁴⁵ Beyond those ordinarily arising as a result of trade competition

¹⁴⁶ Homebase Plan Change Economic Assessment, ME Consulting, 30 June 2020 (ME Report)

¹⁴⁷ ME Report, p 8 Existing Homebase (17,388m² + Supermarket 4,000m² = 21,388m² on 5.2ha (52,000m²) = 0.411)

¹⁴⁸ Heath EIC, at [4.2]

¹⁴⁹ Homebase Christchurch Retail Assessment, MacroPlan, June 2020 (MacroPlan Report), p 16

24,000m².

128. As Mr Foy acknowledged to us, there is no magic about the FAR of 0.41. He agreed that a FAR of 0.48-0.49 is not inconceivable. We note that the FAR of the existing Homebase site alone is currently in this range. Mr Compton-Moen stated that it was 0.49¹⁵⁰, although we calculate it at 0.48. If the PC6 site was developed at a FAR of 0.49, this would yield 23,028m² of GLFA.
129. Further, Mr Percasky stated to us that, if PC6 is approved, the consented supermarket would likely be reconfigured to enable direct access from the existing Homebase site to the supermarket and the PC6 site, without the requirement to traverse Marshland Rd. This would require at least an amendment to the resource consent, and potentially a new consent. Given this, we consider it is likely that the PC6 site and the consented supermarket site will be planned and developed in an integrated form, including a supermarket, but not necessarily where or as currently consented.
130. Given the incentive on any developer to maximise the GLFA, it is possible the area of the consented supermarket site would also be developed with a FAR of 0.49. This would result in the combined development containing over 30,000m² of new retail space¹⁵¹, 50% more than that assumed by Mr Foy.

The Retail Offer

131. The ME Report assumes an indicative mix of retail activity floorspace on the PC6 site based on the average mix of activities found at other CRPZ across Christchurch.¹⁵² Average sales productivity (sales/m²) by storetype is applied to the storetype breakdown of floorspace, to derive sales by storetype, and hence estimated total sales at the PC6 site is derived. This is reproduced below.¹⁵³

Retail activity	GFA (sqm)	Share	Sales (\$m)
Department stores	6,000	30%	\$ 21.0
Sport and camping equipment	2,000	10%	\$ 8.0
Electrical, electronic and gas appliance	2,000	10%	\$ 8.0
Manchester and other textile goods	1,500	8%	\$ 6.0
Other store-based n.e.c.	1,500	8%	\$ 9.0
Cafes and restaurants	1,500	8%	\$ 6.8
Clothing	1,500	8%	\$ 6.0
Furniture	1,000	5%	\$ 3.5
Houseware	500	3%	\$ 2.3
Pharmaceutical, cosmetic and toiletry goods	500	3%	\$ 6.0
Footwear	500	3%	\$ 1.8

¹⁵⁰ Statement of Evidence of David Compton-Moen – Urban Design, Landscape and Visual Impact 9 July 2021 (Compton-Moen EIC), at [21]

¹⁵¹ 4.7975 ha PC6 site + 1.55 ha Supermarket site = 63,475m² x 0.49 = 31,102m²

¹⁵² ME Report, p8

¹⁵³ ME Report, Fig 3.3

Motor vehicle parts	500	3%	\$	3.0
Computer and computer peripheral	500	3%	\$	3.3
Other electrical and electronic goods	500	3%	\$	2.3
Total	20,000	100%	\$	86.8

132. Mr Foy advised us that the storetype productivities he used were “middle of the range”. We understand that there is no published data on storetype productivities available, and that experts like Mr Foy must draw on such data as they have accumulated in their professional practice from a variety of sources, and make judgements as to what productivities to apply in each case. We acknowledge Mr Foy’s statement that the actual tenant mix that eventuates will determine the actual effects that flow from the development of the Homebase extension, and his belief that the assumed mix above would provide a good indication of the likely effects¹⁵⁴.
133. Mr Heath accepted this assumed retail activity as a basis for assessment, having only one issue with the productivity of cafes and restaurants, considering it to be on the low side¹⁵⁵, although he noted that the consented supermarket would add \$35-40m to the sales from the PC6 site¹⁵⁶.
134. In discussion with us, Mr Foy indicated that he did not consider the result particularly sensitive to changes in the tenant mix. We accept this may be correct for changes at the margins. However, given the focus on the Chemist Warehouse as the tenant backfilling the Kmart vacancy at The Palms, and the discussions around whether it would establish at the PC6 site, we note that the Pharmaceutical, Cosmetic and Toiletry Goods storetype has an assumed productivity of \$12,000/m²¹⁵⁷, compared to the average across all storetypes of \$5,067/m², and that only 500m² had been allocated to this storetype in the assumed tenant mix. We note that most¹⁵⁸ of the former Kmart site of 4,080m² has been leased to Chemist Warehouse in The Palms¹⁵⁹. If a pharmaceutical operation of this scale established at the PC6 site, with the assumed productivity of \$12,000/m², we note that this could increase the total centre sales by something over 40%, which we consider would be significant.
135. Although we accept the assumed tenant mix and storetype productivities as a suitable basis for the assessment, we note that there is considerable uncertainty around the resultant actual centre sales outcomes. These arise from both potential variation in the actual tenant mix, including the possibility of a Chemist Warehouse or similar size operation that has not been factored into the tenant mix, and from potential deviation of actual sales productivities from those assumed.

¹⁵⁴ ME Report, p 28 and Foy EIC, at [51]

¹⁵⁵ Heath EIC, at [4.2]

¹⁵⁶ Heath EIC, at [4.5]

¹⁵⁷ \$6m in sales from 500m² = \$12,000/m²

¹⁵⁸ Supplementary Statement of Evidence of Evan Eric Harris, 18 October 2021 (Harris Supplementary), at [12(a)]

¹⁵⁹ Supplementary Statement of Evidence of Derek Richard Foy, 18 October 2021 (Foy Supplementary), at [30(b)]

The Homebase Extension Catchment

136. The catchment that the Homebase extension would draw its custom from was a major point of contention between the economic experts. It was the one of two fundamental differences that resulted in their different assessments of where the direct trade competition effects would fall, and how the Shirley / Palms District Centre in particular would be affected. This led to their different assessments of the retail distribution effects on Shirley / Palms.

Mr Foy and the ME Report

137. In assessing the impact of the Homebase extension on other centres, the ME Report *“...adopted a less rigid whole of City catchment, drawing shares of spend from across Christchurch...”*. This was influenced by how the City’s retail environment functioned, the location of major LFCs and other retail centres, as well as how geography influences consumer travel patterns. The report considered that the Homebase extension would draw from a *“broad catchment”* with the draw from different parts of the city depending on the *“...proximity ... to competitors, transport routes and topographical constraints.”*
138. In the model used in the ME Report, market share varied with distance from Homebase.¹⁶⁰ The report held that the Homebase extension would compete most with

*“...other LFR centres and centres with stores which sell the type of products typically found in larger format stores (and that) the location of those ‘competitor centres’, and the degree of competitive overlap ... will influence the penetration of the expanded Homebase LFR centre into each part of Christchurch ...”*¹⁶¹.

The ME Report held that

*“...LFR has a sub-regional pull, with broad catchments serving large geographical areas...”*¹⁶².

Mr Foy stated that the Homebase extension will

*“...attract spend from all over Christchurch, but with a heavy emphasis on attracting a larger share of spending from areas nearby, and very low shares from further away”*¹⁶³.

139. Within the city-wide catchment, the trade impacts of the Homebase extension were modelled to affect comparable retail storetypes, regardless of size. The trade impacts of the modelled development would affect both large and small format stores in every centre in Christchurch and standalone large format stores outside centres.¹⁶⁴

Ms Farren and the MacroPlan Report

140. Ms Farren defined the Homebase extension catchment (that she termed the “trade area”) to be

¹⁶⁰ ME Report, p12

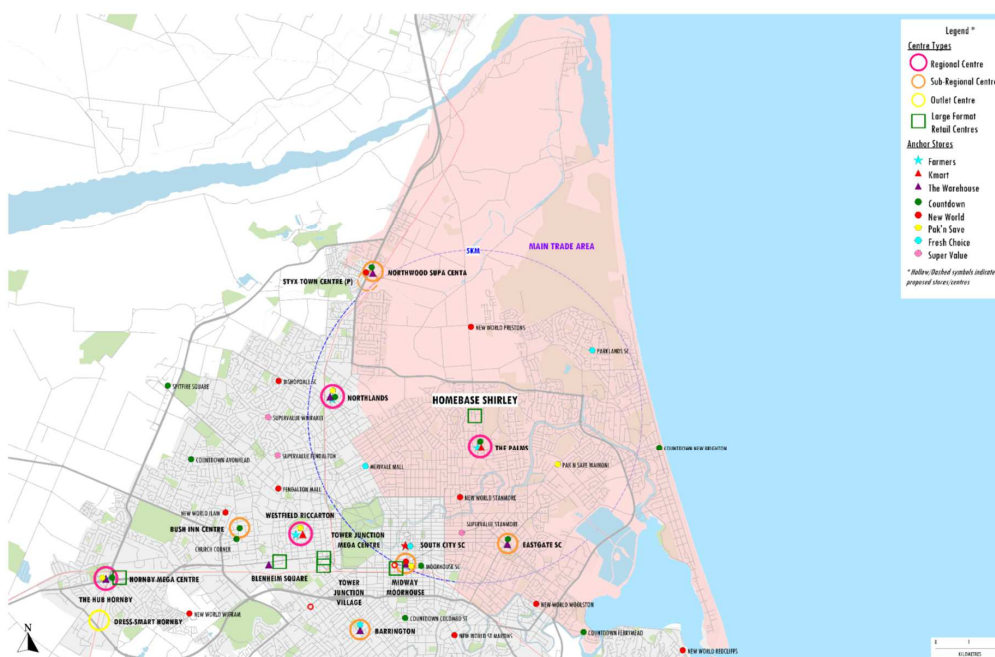
¹⁶¹ ME Report, p14

¹⁶² ME Report, p25

¹⁶³ Foy EIC, at [105]

¹⁶⁴ ME Report, p27-28

the area that is served by the retail centre¹⁶⁵. Her trade area is that shown in pink on the map below¹⁶⁶. She stated that the trade area was the result of the interaction of a number of factors, including: relative attraction compared to competing retail centres of the same type; the proximity and attractiveness of competing centres; the transportation infrastructure; and any geographical barriers¹⁶⁷. Specifically, her Homebase extension trade area was the result of: the high profile location and regional accessibility; the critical mass of the large format stores and the consented supermarket; and the location of competing retail facilities, both LFC and traditional shopping centres¹⁶⁸.



Mr Heath

141. Mr Heath defined the Homebase extension "core catchment" as the area from which development of the PC6 site "...would draw the majority of its sales.". He acknowledged that the Homebase extension would draw customers from beyond that area but that it would "...predominantly service ... the ... core catchment".¹⁶⁹ He derived his catchment utilising Marketview data giving the Statistical Areas the retail sales at The Palms originate from. He did not say exactly what percentage of sales at The Palms he considered would determine the boundary of his core catchment, only that over 60% of the sales at The Palms that were from residents in Christchurch City came from within that catchment. He considered this factored in

¹⁶⁵ Statement of Evidence of Nora Farren – Retail, 9 July 2021 (Farren EIC), at [13]

¹⁶⁶ Farren EIC, Map 1.1

¹⁶⁷ Farren EIC, at [13 (a) – (d)]

¹⁶⁸ Farren EIC, at [14(a)-(c)]

¹⁶⁹ Heath EIC, at [5.1]

the roading patterns, geographic features and competing commercial centres. Given the close proximity of the PC6 site to The Palms, (1.4km), he considered the two centres would have the same core catchment.¹⁷⁰ His core catchment is as shown on the map below.

142. We understand the Marketview data to be a Bank of New Zealand (BNZ) product, derived from electronic card transactions by BNZ cardholders. It gives, for every transaction in the dataset, the Statistical Area of residence, the location and storetype of the retailer (as defined by its ANZSIC¹⁷¹ classification), and the value of the transaction, all in an anonymised form. We further understand that the BNZ has 15-20% of the electronic card market, and that electronic transactions make up about 70% of retail sales¹⁷².



¹⁷⁰ Heath EIC, at Section 5

¹⁷¹ Australia and New Zealand Standard Industrial Classification

¹⁷² Heath EIC, at [8.2]

143. Mr Foy considered that Mr Heath was too restrictive in the definition of his core catchment¹⁷³. He reiterated his view that the Homebase extension would draw from a much wider area than Mr Heath had allowed¹⁷⁴. Further, if Mr Foy had defined a core catchment for the Homebase extension using Mr Heath's methodology, he would have used 70-80% of the sales (rather than Mr Heath's 51%), and this would take in 40% more population in an only slightly larger geographical area¹⁷⁵. He considered that this would have significant implications for the retail demand projections¹⁷⁶ and how the viability of The Palms was viewed.

Comparing the Different Catchments Used

144. The catchments used by the economic experts all had the eastern and northern boundaries in common – the coast and the banks of the Waimakariri River east of State Highway One. Mr Heath's core catchment was the smallest, extending in the south along the line of Bealey Ave-Hills Rd-Avonside Dr-Woodham Rd-Pages Rd-New Brighton, and in the west from SH1 motorway west of Main North Rd, cutting across in a squiggly line to Marshland Rd, then down Marshland Rd to where it crosses the Styx River, then up the river to the point where the Christchurch Northern Corridor (CNC) crosses the Styx River, then down the line of the CNC-Cranford St to Bealey Ave.
145. Ms Farren's trade area extends Mr Heath's core catchment south to the estuary, and a line along the Heathcote River-Ferry Rd then further south down Richardson Tce to SH 76, along SH76 to Waltham Rd, then north along Waltham to Ferry Rd, then north along Fitzgerald Ave to Bealey Ave, and along Bealey to Papanui Rd. On the western side, it is bounded from the Waimakariri River by the motorway before cutting across western Northwood to Englefield Rd and back to Main North Rd. The boundary then follows Main North Rd to south of QEII Drive, then running parallel to Cranford St on the south side of it, to Innes Rd, then down Papanui Rd to Bealey Ave.
146. So, as well as Mr Heath's core catchment, Ms Farren's trade area includes all of South Brighton, Linwood, Ferrymead, half of Woolston, Waltham, Philipstown, St Albans between Cranford St and Papanui Rd, part of Papanui, Redwood between the CNC and Main North Rd, and significant parts of both Northwood and Belfast.
147. Mr Foy's catchment extended Ms Farren's to include the whole city, while acknowledging that the draw from the more distant parts would be very low.
148. There was considerable discussion with the Panel on the differences between the catchments of the three experts. We understand that fundamentally they agree that sales from the Homebase extension will originate from all over the city, with the bulk coming from closer to the site, and only small amounts from further away. The difference between the experts was in how "closer to the site" was defined.

¹⁷³ Foy Supplementary, at [11]

¹⁷⁴ Foy Supplementary, at [12]

¹⁷⁵ Foy Supplementary, at [18]

¹⁷⁶ Foy Supplementary, at [19]

149. Mr Heath considered the bulk of the sales would come from the same catchment that The Palms' sales would come from, given the close proximity of the two centres, and the degree of competitive overlap between them. He used a quantitative approach, utilising the Marketview data, to determine where The Palms' sales came from, and applied that catchment to the Homebase extension.
150. Ms Farren used a qualitative approach to assess the area that would be served by the Homebase extension. Although she did not explicitly cover the point in her evidence, her Schedule of Competing Retail Facilities lists centres within her trade area and some outside her trade area. Those outside her trade area are the large CRPZs and the large District Centres of Riccarton and Papanui/Northlands, but not the smaller centres.¹⁷⁷
151. Mr Foy stated that he assumed a "...customer origin in line with Marketview data we have previously assessed for Christchurch centres..." adjusted to account for the increased large format retailing at the Homebase extension compared to the existing Homebase¹⁷⁸. He assessed the sales that the modelled development would draw from each centre, considering "...the distance and the competitive overlap between the Site and each centre."¹⁷⁹. We understand that the assessment of the "competitive overlap" between centres is central to the impact of the modelled development's sales on different centres, and that this is an application of his expert opinion. We discuss the question of the competitive overlap below.
152. Mr Foy was critical of Mr Heath's equating the catchment of The Palms to the catchment of the Homebase extension. Mr Foy considered that the 1.4km separation between the two centres, the different tenant mix, built form and proximity to major road links would result in the two centres having different catchments.¹⁸⁰ Mr Foy stated that a catchment for a centre will typically encapsulate 70-80% of the centres sales, while Mr Heath's catchment only captures 51%¹⁸¹. Mr Foy considered that if Mr Heath had defined his core catchment to be the area that 70-80% of the centre sales originate from, then Mr Heath's core catchment would be about 40% larger, with 40% more resident spend available to support a greater level of floorspace¹⁸².
153. We note that the difference between Mr Foy's 51% above, and Mr Heath's claimed "over 60%"¹⁸³ comes about due to the different *denominator* they are using. Mr Heath is using The Palms' sales into Christchurch City, while Mr Foy is using The Palms' total sales, 19% of which are to outside of Christchurch City. By our calculation, using the data presented by Mr Heath in Fig 4¹⁸⁴ Mr Heath's core catchment makes up 63% of the sales of The Palms into Christchurch.
154. In response to Mr Foy's criticism, Mr Heath told us that he accepted that the Homebase extension

¹⁷⁷ Farren EIC, at Table 1.3

¹⁷⁸ ME Report, p7

¹⁷⁹ Foy EIC, at [47-48]

¹⁸⁰ Foy EIC, at [100]

¹⁸¹ Foy EIC, at [106]-[107]

¹⁸² Foy EIC, at [112]

¹⁸³ Heath EIC, at [5.3]

¹⁸⁴ Heath EIC, Fig 4 at [8.10]

would sell into the wider city, but that the bulk (over 50%) of its sales would be to the core catchment, the same catchment that the bulk of The Palms' sales comes from. Therefore, the impact on The Palms would be that much greater than Mr Foy had predicted.

Competitive Overlap Between the Homebase Extension and The Palms

155. Having discussed the differences between the experts in terms of its catchment, we turn to the issue of the degree of competitive overlap between the Homebase extension and the retail offer at The Palms.

156. The ME Report stated that:

*"...many (of the Christchurch centres) will have only very small competitive overlap due to their different roles ... (and that) it is ... the degree of their competitive overlap (which can change over time) that will influence the penetration of the expanded Homebase LFR centre into each part of Christchurch."*¹⁸⁵.

This was confirmed by Mr Foy in his statement of evidence¹⁸⁶.

157. In determining the trade impacts, the ME Report

*"...assessed the current sales of each centre at a storetype level, and the competitive overlap between the assumed proposed development and each centre, taking into account the distance to Homebase and the quantum and type of retail activities in each centre ..."*¹⁸⁷

As a result, it assessed that the Papanui/Northlands CRPZ would be most impacted by the Homebase extension

*"...because it is the nearest CRP zone and would likely have a large competitive overlap with the Plan Change site."*¹⁸⁸

This was reiterated by Mr Foy in his evidence¹⁸⁹ where he stated

*"It is notable that four of the ten most impacted centres are CRP zones that are likely to have a significant product overlap with Homebase."*¹⁹⁰

158. Mr Foy stated that the effect of the Homebase extension on The Palms would not be significant in Resource Management Act terms as, inter alia, The Palms

*"... will have limited functional overlap with an expanded Homebase"*¹⁹¹, and *"...it's nearest main competitors (the other CRP zones) are all located 5.5-6.5km away..."*¹⁹²

¹⁸⁵ ME Report, at [4.3], p14

¹⁸⁶ Foy EIC, at [48]

¹⁸⁷ ME Report, at [5.2.1], p 27

¹⁸⁸ ME Report, at [5.2.2], p 28

¹⁸⁹ Foy EIC, at [54(a)]

¹⁹⁰ ME Report, at [5.2.2], p30

¹⁹¹ Foy EIC, at [57]

¹⁹² Foy EIC, at [58]

159. Mr Foy, supported by Mr Harris and Mr Percasky¹⁹³, clearly considers that there is only a limited degree of competitive overlap between a LFC such as the Homebase extension and a traditional shopping centre made up of smaller specialty shops, supermarkets and department stores. Mr Harris stated that LFCs and District Centres like The Palms:

“...have different catchments and different customer focused presentations and provide for different retail functions.”.

He considered that LFCs like the one proposed provide a “one stop shop” that existing centres like The Palms do not provide¹⁹⁴, and that:

“...the retailers (at the proposed development) are generally different to those that exist within traditional Shopping Centres.”¹⁹⁵

160. Ms Farren held a similar view. She stated that:

“...a critical mass of large format retailers will impact other such centres more directly, although (it) could impact traditional retail centres, whose offer bears some correlation to the offer of a large format retail centre.”¹⁹⁶

and that the Homebase extension and The Palms:

“...serve very different retail needs and would operate as independent shopping destinations”¹⁹⁷.

161. Mr Heath has a very different view of the degree of competitive overlap between LFCs like the Homebase extension and traditional shopping centres like The Palms. He considered that, although in origin LFCs sold predominantly “bulky goods”, today there was:

“...no difference in the goods sold in LFR centres and traditional shopping malls and retail centres”,

and that:

“...today (LFR) centres are just another retail centre”¹⁹⁸.

He stated that LFCs compete directly with specialty stores, as the same products are offered in both formats. As such:

“(t)hey are not separate markets, so the Homebase extension will compete directly for retail spend with these store types within The Palms KAC.”¹⁹⁹

162. As a result of his different view of the competitive overlap between the Homebase extension and

¹⁹³ Statement of Evidence of Glen Percasky, 9 July 2021 (Percasky EIC), at [26]

¹⁹⁴ Statement of Evidence of Evan Harris, 9 July 2021 (Harris EIC), at [12]-[13]

¹⁹⁵ Harris EIC, at [25]

¹⁹⁶ Farren EIC, at [42(d)]

¹⁹⁷ Farren EIC, at [49]

¹⁹⁸ Rebuttal Evidence of Timothy James Heath on behalf of Christchurch City Council, Economic, 23 July 2021 (Heath Rebuttal), at [5.5]

¹⁹⁹ Heath EIC, at [3.2]

specialty stores, Mr Heath considered that Mr Foy and the ME Report had underestimated the competition The Palms would face²⁰⁰.

163. We discussed this point of difference with the various experts at some length during the hearing. Messer Foy and Harris et al maintained that the brands and type of stores that were established at The Palms were unlikely to want to establish at the expanded Homebase site, and that the brands and type of stores which were attracted to the Homebase site were not the sort of stores that would locate in a traditional shopping mall like The Palms. This was primarily due to the large footprints of the Homebase site, the different cost structure of LFCs compared to malls, and the different parking provisions at the different centres²⁰¹.
164. Mr Heath considered that it was not the brand or type of store that mattered, but the nature of the goods being sold. He considered that goods being sold at the Homebase extension would be competing with similar goods being sold at The Palms. Using fashion goods as an example, a product range that both sides acknowledged was particularly significant to specialty retail centres like The Palms, he considered that a dollar spent on fashion at an LFC is a dollar not available to be spent elsewhere²⁰². Further, he considered that higher margin items sold in traditional specialty stores are increasingly given prominence over bulky goods in LFCs²⁰³.

Trade Competition Effects

165. The ME Report presented the modelled results of the trade competition effects of the Homebase extension for 2022 in Fig 5.1²⁰⁴, and Mr Foy presented an update of this to 2023 in Fig 5 of his evidence²⁰⁵. The update from 2022 to 2023 results in only marginal differences in the detailed results by centre, with no difference in the total sales at the Homebase extension. Mr Foy's 2023 Fig 5 is reproduced below.

Figure 5: Centre sales with and without PPCR (2023)

Centre name	Centre type	Centre sales (\$m)		Impact		Distance band (km)
		Pre Plan	Post	s	%	
		Change	Change	\$m		
Top 10 impacted centres						
Northlands	CRP	\$ 89.4	\$ 79.8	-\$ 9.6	-11%	4-6
Shirley	Commercial Core	\$ 171.8	\$ 159.8	-\$ 12.0	-7%	0-2
Aranui	Commercial Core	\$ 4.6	\$ 4.4	-\$ 0.2	-4%	4-6
Northlands	Commercial Core	\$ 342.0	\$ 327.2	-\$ 14.7	-4%	4-6
Sydenham	Commercial Core	\$ 50.3	\$ 48.5	-\$ 1.8	-4%	6-8
Moorhouse	CRP	\$ 164.8	\$ 159.9	-\$ 4.9	-3%	6-8
Northwood	CRP	\$ 105.6	\$ 102.5	-\$ 3.1	-3%	6-8
Tower Junction	CRP	\$ 103.7	\$ 101.2	-\$ 2.5	-2%	8-10

²⁰⁰ Heath EIC, at [11.8]

²⁰¹ Harris EIC, at [14]-[15]

²⁰² Heath Rebuttal, at [5.6]. Note both Messer Foy and Heath used an assumption of no net increase in spend as a result of the Homebase extension

²⁰³ Heath Rebuttal, at [5.7]

²⁰⁴ ME Report, Fig 5.1, p29

²⁰⁵ Foy EIC, Fig 5 p18

Edgware	Commercial Core	\$ 58.0	\$ 56.5	-\$ 1.4	-2%	2-4
Merivale	Commercial Core	\$ 116.5	\$ 113.7	-\$ 2.8	-2%	4-6
Sub-total top 10 impacted centres		\$ 1,206.6	\$ 1,153.6	-\$ 53.0	-4%	
Other CRP zones						
Existing Homebase	CRP	\$ 20.5	\$ 19.4	-\$ 1.1	-5%	0
Hornby	CRP	\$ 81.7	\$ 81.4	-\$ 0.3	0%	15-20
Sub-total other CRP zones		\$ 102.2	\$ 100.7	-\$ 1.4	-1%	
Most impacted centres (\$ terms) not accounted for above						
Central City MU	Central City	\$ 855.5	\$ 849.4	-\$ 6.1	-1%	6-8
Riccarton	Commercial Core	\$ 467.9	\$ 463.3	-\$ 4.6	-1%	8-10
Industrial	Industrial	\$ 923.0	\$ 919.3	-\$ 3.6	0%	20+
Residential	Residential	\$ 912.5	\$ 908.9	-\$ 3.6	0%	20+
Central City	Central City	\$ 178.3	\$ 174.9	-\$ 3.4	-2%	6-8
Sub-total other locations		\$ 3,337.1	\$ 3,315.9	-\$ 21.2	-1%	
Not accounted for above		\$ 2,888.6	\$ 2,877.0	-\$ 11.6	0%	

166. Mr Heath referred to Fig 5.1 from the ME Report²⁰⁶, reproduced it as a basis for discussion, and made comments on the results presented²⁰⁷. However, the table that Mr Heath presented does not reflect the table included in the ME Report. Mr Heath's version is for 2021 (the ME Report table is for 2022) and is significantly different from that presented in the ME Report. For example, Mr Heath's version has the effect of the Homebase extension on Riccarton at \$12.8m, while the ME Report version places this effect at only \$4.6m. We do not know how this came about. We did not notice it until after the hearing, and it appears that neither Mr Heath nor Mr Foy noticed it either. Mr Foy responded to many of the comments Mr Heath made on the results in his version of the table²⁰⁸, and even explicitly referred to Mr Heath's figure of \$12.8m for the effect on Riccarton²⁰⁹, without mentioning the discrepancy between Mr Heath's figures and those included in the ME Report. We consider that this discrepancy between the versions of the trade competition effects of the Homebase extension means that the detail of Mr Heath's comments at 11.5-11.7 and 11.9-11.12²¹⁰ are not relevant.
167. The trade competition effects presented in the ME Report and by Mr Foy are the effects of the Homebase extension alone, and do not include the effect of the consented, but as yet unbuilt, supermarket, on the basis that the consented supermarket is part of the existing environment. As such, we understand that the figures for pre-plan change sales of each centre have been modelled as if the supermarket was built and operating.²¹¹ The retail supply and demand analysis of Ms Farren did include the provision for a 4,000m² supermarket generating \$40m of sales

²⁰⁶ Heath EIC, at [11.1]

²⁰⁷ Heath EIC, at [11.2]-[11.8]

²⁰⁸ Foy EIC, at [117]-[123]

²⁰⁹ Foy EIC, at [123]

²¹⁰ Heath EIC, at [11.5]-[11.7], [11.9]-[11.12]

²¹¹ Foy EIC, at [50]

annually, in addition to the 20,000m² of large format retail floorspace²¹². As Mr Heath noted²¹³, the effects of the supermarket are yet to play out in the market, and that the total sales impact of the Homebase extension combined with the supermarket would be around \$125m rather than the \$87m included in Mr Foy's analysis. In discussion with us, Mr Foy accepted that the cumulative effect of the Homebase extension and the supermarket would be in the order of \$125m per year. It is not clear how the inclusion of the supermarket would alter Mr Foy's numbers in Fig 5 above.

168. Ms Farren approached the question of trade competition impacts differently from Mr Foy and the ME Report. Starting from the assumed 20,000m² of floorspace plus the 4,000m² of the consented supermarket, she assumed a lower level of productivity (\$2,500/m² compared to the ME Reports \$5,067/m²) to derive a sales value of \$50m for the Homebase extension component (compared to the ME Report's \$87m) plus \$40m for the supermarket, a combined total of \$90m²¹⁴. She then "estimated" the impact of these sales on the "surrounding competitive network". In her estimation, she considered for each competing centre, compared to the Homebase extension: distance, centre size in GFLA, the quality of the offer and brands present, the role (i.e. LFC, specialty, or local convenience, with or without a supermarket), relative accessibility and convenience, centre productivity, and the degree of overlap in the respective trade areas.²¹⁵ Her results are reproduced below.²¹⁶

Table 2.2											
Homebase Christchurch - estimated impact on specific centres (\$M)*											
Centre	Dist. from site (km)	Retail GLA (sq.m)	Est. sales		Projected 2023**		Proj. 2026	Impact 2023		Change with dev't (%)	
			2019		No dev't	With dev't	With dev't	\$M	%	2019-23	2019-26
Within trade area											
Large format retail											
Northwood Supa Centa	6.2	33,064	88.4	92.4	82.4	85.1	-10.0	-10.8%	-6.8%	-3.8%	
Shopping centres											
The Palms	1.6	35,500	202.0	230.1	221.1	228.2	-9.0	-3.9%	9.4%	13.0%	
Eastgate Shopping Centre	6.0	27,383	195.0	222.1	215.6	222.6	-6.5	-2.9%	10.6%	14.1%	
Merivale Mall	4.5	6,538	65.0	74.2	71.2	73.5	-3.0	-4.0%	9.5%	13.1%	
Parklands Shopping Centre	4.9	4,856	43.4	49.5	47.5	49.1	-2.0	-4.0%	9.5%	13.1%	
Supermarkets											
New World Prestons	2.5	3,576	32.2	36.8	34.3	35.4	-2.5	-6.8%	6.4%	9.8%	
New World Stanmore	3.5	3,206	27.8	31.7	29.7	30.7	-2.0	-6.3%	7.0%	10.4%	
Pak'nSave Wainoni	4.6	7,500	63.8	72.8	71.3	73.6	-1.5	-2.1%	11.8%	15.4%	
Countdown New Brighton	6.5	1,924	20.3	23.2	21.7	22.4	-1.5	-6.5%	6.8%	10.2%	
New World Woolston	8.0	3,000	24.2	27.6	26.6	27.5	-1.0	-3.6%	10.0%	13.6%	
Countdown Ferrymead	9.5	4,028	41.4	47.3	46.3	47.8	-1.0	-2.1%	11.7%	15.4%	

²¹² Farren EIC, at [38] and Table 2.1

²¹³ Heath EIC, at [4.5]

²¹⁴ Farren EIC, at [38]

²¹⁵ Farren EIC, at [42(a)-(g)]

²¹⁶ Farren EIC, Table 2.2

Total within trade area		130,575	803.5	907.7	867.7	895.8	-40.0	-4.4%	8.0%	3.2%
Beyond trade area										
Papanui	5.5	25,000	62.5	62.3	55.8	57.7	-6.5	-10.4%	-10.6%	-7.8%
Moorhouse	7.2	30,000	90.0	102.2	96.7	99.9	-5.5	-5.4%	7.5%	11.0%
Tower Junction	9.0	39,076	117.2	132.3	126.3	130.4	-6.0	-4.5%	7.8%	11.2%
Chapple Pl Hornby	14.0	27,949	76.9	87.7	83.7	86.4	-4.0	-4.6%	8.9%	12.5%
Northlands SC	5.5	41,200	290.4	331.5	325.5	336.0	-6.0	-1.8%	12.1%	15.7%
Westfield Riccarton	7.5	55,333	531.4	606.6	600.6	620.1	-6.0	-1.0%	13.0%	16.7%
All others							-16.0	n.a.	n.a.	n.a.
Total beyond							-50.0			
Total							-90.0			

170.

171. Mr Heath did not do a trade competition impact assessment in the way that Mr Foy and Ms Farren did²¹⁷.but did an analysis of the sustainable retail floorspace, which we discuss below. In his evidence Mr Heath stated that he considered the impacts on The Palms would be

“...at least double (if not more)...”

than the ME Report had assessed them to be²¹⁸.

172. Mr Heath considered that 50% of the sales from the Homebase extension would come from within its core catchment (the internalisation rate), based on the Marketview data²¹⁹. In discussion with us he applied that 50% internalisation rate to the assumed sales, giving a draw of \$43m excluding the supermarket (\$64m including the supermarket) that the Homebase extension would take from its core catchment, which is the same as the core catchment of The Palms. Thus, he considered that the sales impact on The Palms would be significantly higher than the \$12m estimated by Mr Foy. Rather than the 7% impact on The Palms that Mr Foy expects, this would equate to a 25% impact on The Palms' sales. Mr Heath summarised this in his Supplementary Evidence²²⁰.

173. Further, noting that Mr Foy's assessment had the Homebase extension so attractive that it drew 91% of its sales from centres outside the core catchment, Mr Heath was sceptical that it would only draw 9% of its sales from a similar centre only 1.4km away²²¹.

The Need for More Retail/LFC Supply

174. The purpose of Proposed PC6 was stated as being to “...enable an increase in the large format retail offering in the north-east of the city...”²²². As such, all three economic experts undertook an analysis of the supply-demand balance in the part of the city they considered relevant.

²¹⁷ Heath Rebuttal, at [5.13]

²¹⁸ Heath EIC, at [11.13]

²¹⁹ Heath EIC, at [9.22]-[9.23]

²²⁰ Supplementary Evidence of Timothy James Heath on behalf of Christchurch City Council, Economic 4 October 2021 (Heath Supplementary), at [5.5(f)]

²²¹ Heath EIC, at [9.29]

²²² Christchurch City Council Proposed Private Plan Change 6, at Explanation

175. Mr Foy analysed:

“...the need for additional LFR space in, or near, the Site”²²³

Utilising four “quadrants” – North, East, South and Central²²⁴ - he concluded that the North and East were undersupplied with large format retail floorspace provision by 23,000m² and 27,000m² respectively, while the South and Central areas were oversupplied. He estimated that these deficits would increase to 34,000m² and 42,000m² respectively by 2038. On this basis he considered that residents of the North and East must be meeting their large format retailing needs from the South and Central areas.²²⁵ Further, he concluded that Christchurch City as a whole was undersupplied by 12,000m² of large format retail floorspace, after taking into account the current demand from Waimakariri and Selwyn districts, and that this would increase to 55,000m² by 2038²²⁶. We note from the ME Report that there is currently (2022) a large format retail oversupply in Christchurch City of 13,000m², if the demand from Waimakariri and Selwyn is excluded, and that supply and demand will not come into rough equilibrium until 2033²²⁷.

176. Ms Farren also considered the balance of large format retail supply and demand, but considered her trade area, rather than the wider city that Mr Foy considered. She concluded that there was currently (2019) an undersupply of large format retail in the trade area of 15,000m², and that this would increase to 20,000m² by 2033²²⁸. The MacroPlan Report expanded on this, stating that a LFC of 20,000m² at Homebase could “*theoretically*” be accommodated over the period to 2033, given the demand growth anticipated over the period, and that a larger centre of 24,000m² was also supportable if the additional 4,000m² was a supermarket²²⁹.
177. Mr Heath assessed the “*Sustainable Retail GFA*” within his core catchment²³⁰, not just the large format retail demand that Mr Foy and Ms Farren considered. This is the retail floorspace that could be supported by the retail demand generated within the catchment adjusted for the 50% internalisation rate referred to above, producing an estimate of 58,300m² of sustainable retail floorspace within the catchment as of 2020. This would increase to 74,500m² by 2038.²³¹ Comparing this to the current supply of retail floorspace in the catchment of 60,316m², he concluded that retail supply and demand were in “*broad equilibrium*” when he completed his analysis in May 2021²³². Although his analysis indicated that there would be demand growth for retail floorspace of 16,200m² by 2038, he considered that the high level of vacant floorspace (7,193m² at The Palms and 19,764m² across the whole catchment) indicated that the demand growth should be utilised to support existing catchment supply rather than generating new

²²³ Foy EIC, at [35]

²²⁴ Foy EIC, Fig 3

²²⁵ Foy EIC, at [37(b) & (c)]

²²⁶ Foy EIC, at [37(d)]

²²⁷ ME Report, Fig 4

²²⁸ Farren EIC, at [52]

²²⁹ MacroPlan Report, p15

²³⁰ Heath EIC, at [9.17]

²³¹ Heath EIC, Table 4

²³² Heath EIC, at [9.27]

supply²³³.

178. With only 11,400m² of retail growth in the catchment over the next 10 years to 2033, Mr Heath concluded that the Homebase extension would have to draw the majority of its custom from centres outside its core catchment, a scenario that he considered “impractical and unrealistic”²³⁴.

Retail Distribution Effects

179. Having assessed the trade competition effects in their different ways, each expert considered the retail distribution effects that would flow from the trade competition effects. Mr Foy considered that the trade competition effects would not generate significant retail distribution effects on any centre²³⁵. He considered that normal market growth of at least 1.0% per year would compensate for some of the effects that the Homebase extension would have on each centre; that the Northland CRPZ, which would be affected the most, was expected to have faster growth than other centres; and that the effects would only amount to the equivalent of 2-4 years’ market growth, so within four years all centres would soon be operating at pre-PC6 levels²³⁶.

180. Further, Mr Foy considered that

“...the most affected centres are either very strong performers or will have limited functional overlap with an expanded Homebase”²³⁷.

In particular, he described The Palms as a “popular retail centre”²³⁸ and not one of the Homebase extension’s “main competitors”²³⁹. In discussion with us he considered that, even with 50% more floorspace at the Homebase extension than he had assessed, his conclusions on retail distribution effects would not change.

181. Ms Farren considered that the trade competition impacts on “traditional retail centres” were within the bounds of normal competition²⁴⁰, and that the impact on The Palms, at \$9m (3.9%), was

“...well within the reasonable bounds of normal competition...”

and that this would not threaten the viability of any retailers in The Palms²⁴¹.

182. Mr Heath had a very different view. He considered that the ME Report had understated trade competition effects on The Palms in particular “by a significant margin”²⁴², and that

“...the impacts on Shirley/The Palms are highly likely to be more than minor (by a

²³³ Heath EIC, at [9.28]

²³⁴ Heath EIC, at [9.29]

²³⁵ Foy EIC, at [55]

²³⁶ Foy EIC, at [56(a)–(c)]

²³⁷ Foy EIC, at [57]

²³⁸ Foy EIC, at [57(b)]

²³⁹ Foy EIC, at [58]

²⁴⁰ Farren EIC, at [47]

²⁴¹ Farren EIC, at [51]

²⁴² Heath EIC, at [12.2]

considerable margin)."²⁴³

183. He concluded that the core catchment would not be able to sustain both The Palms and the expanded Homebase over the "*short-medium term*"²⁴⁴. Given department stores would be enabled at the site, and had in fact been modelled, he considered that the likelihood of the relocation of Farmers from The Palms to the Homebase extension was "real", and that if this occurred it would mean that the Palms would not fulfil its role as

*"...a meaningful commercial centre and KAC in Christchurch"*²⁴⁵.

184. Mr Heath concluded that a trade diversion of 24% of The Palms' sales (36% including the supermarket) would

*"...represent a significant adverse retail distribution effect on The Palms Centre."*²⁴⁶

185. Part of Mr Heath's concern was the effect of the Homebase extension per se, and part of it arose from his view of the state of health of The Palms. He considered that The Palms was still recovering from the effects of the Canterbury earthquakes, and so was more vulnerable to the trade competition effects of the Homebase extension than other centres. We deal with this issue below.

The Palms' State of Retail Health

186. This issue is prominent in our considerations, not just due to the concerns raised by Mr Heath about the health of the centre, but also due to the attention we must give to the recovery of The Palms from the effects of the earthquakes under Objective 6.2.5 and Policies 6.3.1 and 6.3.6 of the CRPS and Objective 15.2.2 and its policies in the District Plan. We note that Shirley /Palms is a Key Activity Centre (KAC) and a District Centre, whereas Homebase is not.
187. As we set out earlier in this report, Objective 6.2.5 of the CRPS requires the existing network of centres, being the Central City, KACs and Neighbourhood Centres, to be supported and maintained, with significant adverse effects on the function and viability of these centres to be avoided. The supporting policies of the CRPS reinforce the avoidance of development that adversely affects the function and viability of, or public investment in, KACs; as well as ensuring that where new commercial activities are located out of these centres they do not give rise to significant adverse distributional effects.
188. In addition, as we described earlier, Chapter 15 of the District Plan gives effect to these provisions of the CRPS through its objectives and policies. These require business activities to be developed in a way and at a rate that supports the recovery of centres that sustained significant damage or significant population loss from their catchments; and that supports and enhances the role of District Centres as major focal points for commercial and community activities. Any

²⁴³ Heath EIC, at [12.3]

²⁴⁴ Heath EIC, at [12.1]

²⁴⁵ Heath EIC, at [11.15]

²⁴⁶ Heath Supplementary, at [5.5(f)]

outward expansion of a commercial centre is not to undermine the function of other centres.

189. Mr Heath variously described The Palms as vulnerable, in distress, not performing well²⁴⁷, and experiencing a subdued level of growth²⁴⁸. His concern arose from:
- a. The loss of population from the centre's core catchment following the earthquakes, and that it has not yet recovered that lost population²⁴⁹; and
 - b. The closure of Kmart at The Palms, which he described as a "major loss"²⁵⁰.
190. Mr Heath's core catchment lost about 10,000 (13%) of its population following the earthquakes, compared to the 2006²⁵¹ level, and is still around 5,000 people below that 2006 level. It is projected to reach that level again by 2033 under Statistics New Zealand's Medium population projections, and by 2043 it is expected to be only 5,200 more than the 2006 population. Mr Heath concluded that this indicated that the core catchment is a low growth market, and that adverse impacts are "*more enduring*" due to there being little growth in the retail market to offset any diversion of retail spend.²⁵²
191. The Kmart at The Palms closed in 2020, and the space it occupied was still vacant at the start of our hearing. During the course of the hearing, we were informed that most the space had been taken up by the Chemist Warehouse²⁵³, with the balance of the Kmart space being leased to Bed Bath and Beyond²⁵⁴. Mr Heath stated that the Bed Bath and Beyond was a relocation within the centre, not a new tenant²⁵⁵. We have no knowledge of whether the space vacated by Bed Bath and Beyond has been filled, and if so by what.
192. The backfilling of the Kmart vacancy did not mitigate Mr Heath's concerns. In response to us, he stated that he considered the Chemist Warehouse to be "significantly inferior" to Kmart as a component of The Palms' retail offer. In evidence he stated that with Kmart gone, the remaining anchors at The Palms (Farmers and Countdown) took on more importance. He pointed to the situation at Eastgate (which lost Farmers following the earthquakes) as an example of the adverse effects of losing a significant anchor in a low growth retail market, and the risk posed to smaller tenants of losing the pedestrian traffic generated by a key anchor.²⁵⁶ He considered that the loss of Kmart

"...represented a significant blow to The Palms vitality, amenity and performance."²⁵⁷

²⁴⁷ Heath Supplementary, at [5.5(o)]

²⁴⁸ Heath EIC, at [12.3]

²⁴⁹ Heath Supplementary, at [5.5(a)]

²⁵⁰ Heath Supplementary, at [5.5(c)]

²⁵¹ 2006 was the year of the Population Census prior to the earthquakes

²⁵² Heath Supplementary, at [5.5(a)]

²⁵³ Harris Supplementary, at [12(a)]

²⁵⁴ JWS – Economics, 3 September 2021, p3

²⁵⁵ Heath Supplementary, at [3.3]

²⁵⁶ Heath Supplementary, at [3.5]

²⁵⁷ Heath Supplementary, at [5.5(k)]

193. These two factors, together with other extended vacancies, the level of retail leakage out of the catchment, and the on-going effects of the Covid pandemic on retailers, all combined to paint a “concerning picture”, for Mr Heath, of a centre that “*was not performing well*”²⁵⁸.
194. Messrs Foy and Harris both disputed that The Palms was anything other than a well-performing centre²⁵⁹. Mr Harris stated that Farmers and Countdown have both recently renewed their leases at The Palms, until 2030 and 2034 respectively, and that The Palms was now up for sale²⁶⁰. He considered that The Palms did not have a significant vacancy level when compared to other Christchurch centres²⁶¹. He acknowledged that The Palms sustained considerable damage to its structure and loss of its catchment due to the earthquakes, and was “significantly affected” for 3-4 years, but he considered that it had “*clearly overcome*” that, and that turnover had not only recovered but had increased over pre-earthquake levels²⁶².
195. In support of his statement on the turnover level of The Palms, Mr Harris provided two excerpts from the Property Council of New Zealand Shopping Centre Directory. These showed the turnover of The Palms to have been \$180m in 2009 and \$203m in 2017, a 12.6% increase from before the earthquakes to 2017. The same excerpts gave figures for estimated pedestrian counts of 6,480,000 in 2009 and 5,665,447 in 2017 a decline of 13%²⁶³. Mr Harris opined that the pedestrian counts were not reliable.
196. As Mr Foy put it, relying in part on evidence of Mr Harris, The Palms
- “...is performing well, is well anchored, has a diverse range of retail and other businesses and is not vulnerable in the way Mr Heath describes.”*²⁶⁴
- He noted that the non-retail services of the wider Shirley / Palms District Centre were relatively invulnerable to any competition from the Homebase extension, insulating a large part of the centre from the effects²⁶⁵. He drew support from the 2017 Christchurch City Council Shirley Factsheet²⁶⁶, which stated that in 2016 spending at Shirley was just above the 2009 level²⁶⁷, and that the centre was performing at a level above the Christchurch average for the economic well-being indicator²⁶⁸.
197. In discussion with us, Mr Foy stated that he considered that The Palms had recovered from the effects of the earthquakes. He considered that it was fully tenanted (with the Kmart vacancy filled) with a healthy level of patronage. He stated to us that he considered the Chemist

²⁵⁸ Heath Supplementary, at [5.5(o)]

²⁵⁹ Ms Farren considered she was not in position to offer an opinion.

²⁶⁰ Harris Supplementary, at [11(a)] and [11(c)]

²⁶¹ Harris Supplementary, at [11(e)]

²⁶² Harris Supplementary, at [11(d)]

²⁶³ Harris Supplementary, Appendix A

²⁶⁴ Foy Supplementary, at [21]

²⁶⁵ Foy Supplementary, at [29]

²⁶⁶ <https://ccc.govt.nz/assets/Documents/Culture-Community/Stats-and-facts-on-Christchurch/Community-Ward-Profiles/Commercial-Centre-Factsheets/Shirley-The-Palms.pdf>

²⁶⁷ Foy Supplementary, at [38(a)]

²⁶⁸ Foy Supplementary, at [41]

Warehouse to be a "*strong*" retailer, but did not go so far as to equate it with Kmart as an anchor tenant. He noted that, post-earthquakes, the repairs to The Palms had included a reduction in the level of GLFA, which he stated represented a balancing of supply and demand.

198. Mr Foy considered that The Palms had recovered by at least 2017. He acknowledged that the Covid lockdowns may have since increased the centre's vulnerability compared to pre-Covid, but he considered that the effects of any future lockdowns would have played out within the next few months, and that the Christchurch retail economy would be "back to normal" by the time the Homebase extension opened in about 2 years²⁶⁹.
199. Noting that the turnover figures provided by Mr Harris were in nominal terms, and that the statement in the Shirley Factsheet relied upon by Mr Foy also seemed to be in nominal terms, we requested Messrs Foy and Heath to provide an agreed set of the Property Council's turnover figures in real terms. The agreed, inflation adjusted, figures were a 2009 turnover of \$194m compared to the 2017 turnover of \$202m, a real increase of \$8m (4%) in turnover at The Palms over the eight years²⁷⁰. It is clear from the commentary that followed the result that both experts retain their positions in light of this information²⁷¹.

Staging

200. In response to questions from the Panel, Mr Heath indicated that, although he could not support Proposed PC6, there may be a staged approach to developing 20,000m² of additional retail floorspace at the PC6 site that he could support, but that he had not given it enough consideration to state what such a staging might look like. In response, Mr Maw in his closing submissions proposed a staged approach to development at the PC6 site²⁷². Following direction, Messrs Foy, Heath and Harris caucused on the matter of staging, prepared a JWS, and then submitted statements of evidence for the resumed hearing.
201. The staging proffered by the Applicant was:
- To develop no more than 10,000m² in the three years following rezoning;
 - After three years to develop up to a further 10,000m².
202. Mr Heath was not able to agree to Mr Maw's proposed staging, but did propose one that he could support, namely:
- To develop no more than 5,000m² in the five years following rezoning;
 - Develop no more than 10,000m² in the 10 years following rezoning;
 - Develop no more than 20,000m² beyond 10 years following rezoning; and
 - For the 10 years following rezoning preclude the establishment of department stores, clothing stores or footwear stores.

²⁶⁹ Foy Supplementary, at [42]-[44]

²⁷⁰ JWS – Retail Economics, 22 November 2021, at [3.2]

²⁷¹ JWS – Retail Economics, 22 November 2021, at [4.1]-[4.8]

²⁷² Applicant's Closing Submissions, at [85]-[86]

203. Messrs Foy and Harris maintained their view that there would be no significant retail distribution effects from development of the Homebase extension, and therefore the Applicant's proposed staging was acceptable to them, and Mr Heath's proposal was unnecessary²⁷³. Mr Heath considered that the Applicant's proposed staging was a "Clayton's staging" as it would allow the full development of the Homebase extension to open at three years plus one day from rezoning, which is effectively the time it would take to put in place anyway²⁷⁴.
204. Mr Heath supported his proposed staging on the grounds that:
- a. The core catchment population was still 5,000 below its pre-earthquake level and would not regain that level until 2033²⁷⁵;
 - b. The lower retail spending potential of the core catchment²⁷⁶;
 - c. The Palms has not recovered from the effects of the earthquakes and the implications of Covid-19 are yet to play out in the market²⁷⁷;
 - d. The Homebase extension would impose trade competition costs on The Palms equivalent to 24% of The Palms estimated turnover (36% including the consented supermarket)²⁷⁸;
 - e. By 2033 the retail market of the core catchment is expected to increase by \$109m²⁷⁹ which would sustain an estimated 20,100m² of additional retail space²⁸⁰;
 - f. Fashion stores are crucial to The Palms viability, and the possible loss of department stores, fashion stores or Countdown from The Palms to the Homebase extension is real²⁸¹;
205. Mr Heath considered that his staging proposal would link the growth in retail supply to that of retail demand growth, providing some safeguard against the demand growth not occurring as anticipated²⁸². It would allow both centres to benefit from market growth over 10 years²⁸³ while protecting the fashion and department store activities that are crucial to The Palms' recovery²⁸⁴ during the first 10 years.

Discussion and Findings on Retail Distribution Effects and Staging

Scale

206. As the GLFA that could establish on the PC6 site is not limited by Proposed PC6, and the market incentive on any developer is to maximise the GLFA established on the site, we find it is likely that (without any limitation) what eventuates on the site would exceed the 20,000m² that all the experts before us have worked with. We acknowledge the offer by the Applicant to cap

²⁷³ JWS – Economics, 3 September 2021, p2

²⁷⁴ JWS – Economics, 3 September 2021, p4

²⁷⁵ Heath Supplementary, at [5.5(a) & (b)]

²⁷⁶ Heath Supplementary, at [5.5(d)]

²⁷⁷ Heath Supplementary, at [5.5(o)]

²⁷⁸ Heath Supplementary, at [5.5(f)]

²⁷⁹ Heath Supplementary, at [5.5(h)]

²⁸⁰ Heath Supplementary, at [5.5(i)]

²⁸¹ Heath Supplementary, at [5.5(m)]

²⁸² Heath Supplementary, at [6.2]

²⁸³ Heath Supplementary, at [6.4]

²⁸⁴ Heath Supplementary, at [6.5]

development on the PC6 site to no more than 20,000m² GLFA²⁸⁵. Mr Heath agreed²⁸⁶ that this is an appropriate maximum GLFA for the site once fully developed, and we consider this appropriate.

The Retail Offer

207. We find that the assumed retail offer of the modelled development is a suitable basis for the assessments undertaken. However, we take note of the cautions given by both Mr Foy²⁸⁷ and Ms Farren²⁸⁸ that their analysis can at best be considered indicative due to the uncertainty as to what activities will actually eventuate on the site, and the range of productivities that the different experts used to estimate the sales that would accrue to those activities. Put together with the potential of a Chemist Warehouse, or similar operation, on the site, we find that there is considerable uncertainty around the actual outcome in terms of retail offer and the sales that might eventuate from the site. The only indication of the range of that uncertainty is that if a Chemist Warehouse established at the site, the sales from the site could be as much as 40% higher than that assessed.
208. We note that Mr Heath and Ms Farren modelled the cumulative effects with the consented supermarket at 4,000m², and that Mr Foy acknowledged to us that the cumulative effect of the supermarket was relevant. Mr Percasky stated that the consented supermarket would likely be reconfigured, if PC6 was approved, to enable direct access from the existing Homebase site to a new supermarket and the PC6 site. We have previously stated we consider it likely the PC6 site and the consented supermarket site will be planned and developed in an integrated form, with a supermarket not being located necessarily where, or as, currently consented. Accordingly, we have no certainty that what eventuates on the consented supermarket site is limited to the currently consented 4,000m², or will include a supermarket at all. The site is zoned as CRPZ which has no specific requirements to limit total GLFA or the type of retail offer that could establish on the site²⁸⁹.
209. All three economic experts gave clear qualifications about their estimates being at best indicative, and dependent on the modelled development, their assumption of an annual 1% increase in real retail spending from their respective catchments, and the projected growth in population. No expert assessed the impact of a supermarket on the PC6 site. They all assumed there would be a supermarket on the site where currently consented. No one considered that a supermarket could be located on the PC6 site, with the consented supermarket site then freed up for the full range of retail activities enabled within the CRPZ. The benefits of a supermarket as an anchor store in any retail facility are well known and were assumed by the economic experts before us.

²⁸⁵ Applicant's Closing Submissions, at [82]

²⁸⁶ Heath Supplementary, at [4.3]

²⁸⁷ Foy EIC, at [51]

²⁸⁸ Farren EIC, at [44]

²⁸⁹ Other than a minimum tenancy size for any single retail activity of 450m² GLFA

Ms Farren and the Macroplan Report used a supermarket productivity of \$10,000/m² ²⁹⁰ giving \$40m of annual sales. Mr Heath allowed for \$38m²⁹¹, and Mr Foy agreed that these figures were appropriate.

210. The effect of a supermarket on the PC6 site has not been considered by any of the experts. The anchor role of a supermarket, with its very high storetype productivity compared to those generally assessed for the PC6 site, is accepted by the experts. A wide range of retail activities could be developed on the consented supermarket site, and the cumulative effects of this with PC6 have not been assessed. Given this, in light of our retail distribution findings below, we consider that supermarkets should be added to those storetypes precluded from establishing in the first 10 years following rezoning in the staged development of the Homebase extension.

The Competitive Overlap

211. Mr Carranceja drew our attention to the decision of the Environment Court in *Yovich v Whangarei District Council*²⁹² para 61-63, to which we would add the closing sentence of para 66, all of which is reproduced below.

[61] Throughout the hearing we were perplexed as to why large retail stores were Bulk Format Retail. It was later conceded that neither the Warehouse, Briscoes or Rebel Sport were dealing with particularly bulky items and it was even conceded that retailers such as Noel Leemings sold many items that were easily carried.

[62] We found that the range of goods at such retailers were indistinguishable from those sold by other retailers such as Farmers which operates within the CBD...

[63] Our site visit confirmed that stores in Precinct A operate by partitioning a very large floor area and identifying the separate ranges of goods for sale; manchester, electrical, clothing, furnishing and so on. They are simply retail department stores and the size is a matter of business model, rather than making any distinction in activity.

(66)

...

Overall, we concluded that the size of the shops is based upon the retailing model of the operator and was not distinguished by either the goods they were selling or the place they were selling from.

We note that Mr Maw did not address this decision in his closing submissions.

212. This judicial finding supports Mr Heath's view that LFC stores and those in traditional shopping centres compete directly with each other on the goods they both sell. We find that we agree with Mr Heath that, to the extent that the proposed Homebase extension and The Palms offer goods

²⁹⁰ Macroplan Report, Table 2.1

²⁹¹ Heath EIC, at [11.2] (\$125m-\$87m = \$38m)

²⁹² *Yovich v Whangarei District Council* [2015] NZEnvC 199. As quoted in Council's Synopsis of Oral Submissions, at [4.16]

of the same categories (e.g. clothing and footwear), LFC stores and smaller specialty stores do compete directly with each other.

213. As both Mr Foy and Ms Farren stated, the retail activities they have modelled are only indicative, and what actually eventuates may be different. In examining the activities as modelled, we see that Sporting & Camping Equipment, Electrical etc Appliances, Manchester, Furniture, Motor Vehicle Parts, and Computer stores are not represented by stores within The Palms. However, all those types of goods other than motor vehicle parts are available in The Palms. Prior to the departure of Kmart from The Palms we suspect that all types of goods represented in the indicative retail activity of the modelled development would have also been on offer at The Palms.
214. We find that the degree of direct competition between the Homebase extension and The Palms will be dependent on the mix of retail activities that establish, and that this is unknown at this stage. However, we find that there is a high degree of overlap between the retail activities that the Applicant's experts have chosen to assess and the stores currently operating at The Palms. Further, we find that there is a very high degree of overlap between the types of goods covered by the retail activities assessed and the types of goods on offer at The Palms. We find that the degree of competitive overlap between the Homebase extension and The Palms is potentially very high.

The Catchment

215. Our finding above, that the competitive overlap is potentially very high between the Homebase extension and The Palms, has implications for its catchment. Mr Foy and Ms Farren were working from the assumption that LFCs primarily compete with other LFCs, and with traditional shopping centres to a much lesser degree, as that was where the greatest degree of competitive overlap was. As we have found that the competitive overlap with The Palms is greater than they have allowed for, the other dominant factor in the determination of centre catchment – distance – becomes more dominant. Thus, we find that the catchment of the Homebase extension will be more akin to that of Mr Heath's core catchment, rather than Ms Farren's trade area, or Mr Foy's city-wide catchment. We consider that Mr Foy's catchment spreads too much of the impacts on centres that are further from the site, and too much to other LFCs, as opposed to the much closer Shirley / Palms centre. Ms Farren's catchment likewise places too much reliance on the location of competing LFCs, and not enough on the much closer Shirley / Palms centre. We consider that Mr Heath's core catchment is a better basis for assessing the impacts of the Homebase extension on other centres.
216. We note Mr Maw's submission²⁹³ that Mr Heath excluded hardware stores in determining his catchment, that hardware stores have a wider geographic draw than speciality stores, and that the anchor tenant of the existing Homebase is Bunnings. We agree all that is true, but we are not assessing the catchment of the existing Homebase, but of the proposed Homebase extension. Hardware stores are not included in the retail activities of the modelled development

²⁹³ Applicant's Closing Submissions, at [49]

as assessed, and, given the presence of the (possibly expanded) Bunnings in the existing Homebase, we consider that to be appropriate.

Trade Competition Effects

217. We agree with Ms Farren and Mr Heath that the cumulative trade competition effects of the consented supermarket and the Homebase extension are relevant when considering the retail distribution effects. We have found that the catchment of the Homebase extension will be akin to that proposed by Mr Heath, rather than that of Mr Foy or Ms Farren. It follows that the trade competition effects of Mr Foy and Ms Farren place too much impact on the more distant centres, and not enough impact on the much closer The Palms. We note that Mr Heath's 50% draw of the Homebase extension from the core catchment still allows for the other 50% to be drawn from centres further afield, probably from other LFCs. We find that the trade competition effect on The Palms is likely to be much higher than the 7% of The Palms' sales as estimated by Mr Foy. We consider a trade competition effect in the order of \$63m (including the effect of the supermarket) as postulated by Mr Heath is more probable.

The Need for More Large Format Retail / Retail Supply

218. One of the two reasons given for Proposed PC6 is that there is currently an under-provision of large format retail in the northern part of Christchurch²⁹⁴. The ME Report and Mr Foy in his evidence highlighted the imbalance in large format retail floorspace between the north and east of the City, compared to the south and central quadrants, which we acknowledge. He also concluded that there is an overall undersupply across the City of 12,000m², rising to 55,000m² by 2038. This is predicated on the assumption that large format retail is different from specialty retail despite the competitive overlap between them that we have discussed above.
219. We note that this equates to a 4%²⁹⁵ undersupply currently and 17% by 2038, using the ME Report's figures²⁹⁶. Further, we note that the implied average productivity of this floorspace is \$4,732/m², and that this is held constant across the timespan²⁹⁷. This compares to the average productivity assumed for the Homebase extension of \$5,067/m² which Mr Foy told us was middle of the range. The productivity used for the Homebase extension is 7% higher than that used to determine that there is a city-wide supply imbalance. If the productivity assumed for the Homebase extension had been used in the assessment of the supply and demand balance, there would currently be a 3% oversupply, and the undersupply in 2038 would be only 10%, under the constant productivity assumption. We are confident that the current large format retailers would like to increase their sales per square metre, and note that a productivity increase of less than 1% per annum across all current large format retail floorspace would turn the forecast 2038 undersupply into a surplus.

²⁹⁴ Christchurch District Plan Proposed Private Plan Change 6, Explanation

²⁹⁵ $12,000 / 269,900 = 0.044$

²⁹⁶ ME Report, Fig 4.6

²⁹⁷ Sourced from ME Report, Fig 4.5 and Fig 4.6, Christchurch City Demand (\$) / Christchurch City Supply (m²)

220. We accept that there is an imbalance in the supply of large format retail across the City. However, we are uncertain that there is, or will be in the foreseeable future, an imbalance in the city-wide supply and demand, as that is very dependent on the productivity assumptions made. Under a low productivity assumption, held constant over the period, there is an under-supply now and into the future. Assume a mid-range productivity and there is a current surplus with future surplus or deficit dependent on whether productivity is assumed to be constant or assumed to rise at less than 1% pa. The related question of whether the travel inefficiency due to the imbalance across the City is better or worse than the possible inefficiency of an over-supply across the City, and the lower productivity that implies, was not covered in evidence and not canvassed at the hearing. We can make no finding on whether there is a city-wide imbalance now or in the future, or on where the balance lies between the benefits and costs of the different efficiency losses.
221. Ms Farren and the MacroPlan Report concluded that there was a 15,000m² undersupply of large format retail currently, rising to 20,000m² by 2038. Noting that this is assuming a productivity of \$2,500/m²²⁹⁸, which is considerably lower than that used by the ME Report in the analysis discussed above, and almost half the productivity assumed by Mr Foy for the Homebase extension, we consider our comments above on the ME Report also apply to the MacroPlan Report conclusions. They are predicated on large format retail being different than specialty retail and are dependent on the productivity assumptions made. We make no finding on whether there is an undersupply of large format retail in the trade area.
222. Mr Heath has used an implied average productivity across all retail within his core catchment of \$5,206/m²²⁹⁹ in assessing that there is currently a broad equilibrium in sustainable retail supply and demand within the catchment. This productivity assumption is 2.7% higher than that assumed by Mr Foy for the Homebase extension, but covers all retail not just large format retail. We would expect the productivity of all retail to be higher than that of large format retail, so this is not unreasonable. Mr Heath stated that he was generally comfortable with the productivity of \$5,067/m² assumed by the ME Report for the Homebase extension³⁰⁰. Mr Foy, in his extensive comments³⁰¹ on Mr Heath's sustainable floorspace conclusions, made no reference to Mr Heath's productivity assumption, and we assume he had no issue with it. Neither did Ms Farren in her brief comments³⁰² on Mr Heath's conclusions. We note that a higher productivity assumption would increase the oversupply, while a lower one decreases it or creates an undersupply.
223. Our comments above on the significance of the productivity assumption to the outcome also apply to Mr Heath's conclusions. However, given that both Mr Heath and Mr Foy are in general agreement on the productivity level of the Homebase extension (at \$5,067/m²) and that the productivity for all retail should be higher, there is little scope for Mr Heath to have used a lower

²⁹⁸ MacroPlan Report, at [1.6], p12

²⁹⁹ \$682m / 131,000 = \$5,206. From Heath EIC, Tables 2 and 3 respectively

³⁰⁰ Heath EIC, at [4.2]

³⁰¹ Foy EIC, at [97]-[116]

³⁰² Farren EIC, at [49]-[53]

productivity level, which would be required to produce a current undersupply, as Ms Farren and Mr Foy conclude. We find that there is currently no undersupply of sustainable retail in the core catchment. There is some uncertainty over whether there is currently an oversupply (i.e. productivity is higher than Mr Heath has assumed), but given neither Mr Foy nor Ms Farren disputed Mr Heath's assumed productivity, we accept Mr Heath's conclusion that retail supply and demand are in broad equilibrium in the core catchment. The growth in retail demand into the future is accepted by all the experts, and they all adopt the assumption of no increase in retail productivity over time, so we accept Mr Heath's conclusion of a surplus of retail demand of 16,200m² by 2038 under that assumption.

Retail Health of The Palms

224. Mr Harris informed us that The Palms centre was on the market³⁰³ and suggested to us that it indicates the centre is in good health. We consider the fact that it is on the market tells us nothing, positive or negative, about the state health of the centre. Farmers and Countdown have renewed their leases at The Palms, but Mr Harris also told us that Countdown has approached the Applicant about locating at the consented supermarket site³⁰⁴. While Mr Harris considered that the renewal of the leases demonstrated their commitment to The Palms³⁰⁵, we acknowledge Mr Heath's statement to us that they are commercial actors who will make locational decisions in their best interests, not those of the centre.
225. Mr Heath's conclusions about the poor health of The Palms arose primarily from the loss of population from the core catchment and the loss of Kmart. No-one disputed that the catchment of The Palms had lost population due to the earthquakes, or that that population was still some 5,000 short of the 2009 level within Mr Heath's core catchment. Mr Foy and Ms Farren considered the catchment should be larger and that expansion would address the population growth post-earthquake.³⁰⁶ We have addressed the catchment issue above, and accordingly find that the population of The Palms core catchment is still some 5,000 below the pre-earthquake level.
226. In regard to the Kmart relocation from The Palms to Papanui, we acknowledge the point made to us that the relocation was not a result of the earthquakes, but a commercial decision made by Kmart for purely commercial reasons. However, the CRPS objective and policy, and those of the District Plan, are about supporting and maintaining The Palms as it recovers from the earthquakes, not just about the effects of the earthquakes.
227. No-one disputed that the loss of Kmart was a significant adverse event for The Palms. Messrs Foy and Harris considered that, with the leasing of the space vacated by Kmart, The Palms had

³⁰³ Harris Supplementary, at [11(c)]

³⁰⁴ Harris Supplementary, at [40]

³⁰⁵ Harris Supplementary, at [11(a)]

³⁰⁶ Foy EIC, at [112], and Foy Supplementary, at [18]-[19]

recovered from the loss³⁰⁷. Mr Heath considered it to be “a major loss”³⁰⁸ and

“...a significant blow to The Palms’ vitality, amenity and performance”.³⁰⁹

228. We find that the loss of Kmart, representing one of three anchor stores, had a detrimental effect on the strength of the retail offer of The Palms that has not been replaced by the backfilling of the vacated space by the Chemist Warehouse and Bed Bath and Beyond.
229. Messrs Foy and Harris relied on the turnover figures from the NZ Property Council to support their view that The Palms had recovered from the effects of the earthquakes by 2017. These showed a real increase over the eight years of 4%. We note that Messrs Foy and Heath and Ms Farren all assumed a 1% pa real increase in retail spend, both in large format retail (Foy & Farren) and wider retail (Heath). Allowing for that 1% per year increase, retailers at The Palms would have expected to have had a real increase of 8% by 2017, compared to 2009. Having experienced a 4% real increase in turnover indicates that they were still 4% below where they would have been if the earthquakes had not occurred, and the full catchment population (whatever it is assumed to be) had remained stable. This is supported by the decline in pedestrian counts at The Palms over the same period. Even if there is a degree of variation in pedestrian counts as Mr Harris suggested, it would take a very large error to turn a 13% decline into an increase. We doubt that the Property Council would have included them in their publication if they considered them unreliable. If Mr Harris is going to rely on the turnover figures from the Property Council, we see no reason to discard the pedestrian counts from the same page.
230. Given the reduced population in the core catchment, the effects of the loss of Kmart and that these have not been fully offset by the filling of the vacancy by the Chemist Warehouse and the relocation of Bed Bath and Beyond, the reduced level of pedestrian traffic (2017 compared to 2009), and that turnover at The Palms had not recovered to where it would have been in 2017 (the latest data presented to us), we find that The Palms has not recovered from the effects of the earthquakes and is in a vulnerable state of retail health. Given the role of The Palms in the Shirley / Palms District Centre (KAC), we consider the same conclusions apply to the wider District Centre.

The Retail Distribution Effects

231. We have found that there is a potentially very high degree of competitive overlap between the Homebase extension and The Palms, that the ME Report/Mr Foy and MacroPlan Report/Ms Farren have spread the modelled sales of the development too widely, and that the core catchment of Mr Heath is a better reflection of where the impact of the Homebase extension will fall. We consider that the trade competition effect on The Palms of \$12m as estimated by Mr Foy is unlikely, and the effect is more probably in the order of \$63m (including the supermarket)

³⁰⁷ Foy Supplementary, at [22(d)]

³⁰⁸ Heath Supplementary, at [5.5(c)]

³⁰⁹ Heath Supplementary, at [5.5(k)]

as assessed by Mr Heath. We have accepted Mr Heath's conclusion that sustainable retail supply and demand are currently in broad equilibrium and that there is likely to be a surplus of demand over time. We consider that an effect on turnover of this magnitude (\$63m), 36% of The Palms' estimated annual turnover is not within the bounds of the effects ordinarily associated with trade competition and in itself would be a significant retail distributional effect on The Palms. Foot traffic at The Palms (as of 2017) is still well down on pre-earthquakes levels, and a reduction of 36% in centre turnover would bring about a significant further reduction. It would cause significant closures, relocations and/or reduced viability for retailers at the Palms. It would have significant effects on the vitality and amenity of The Palms and the Shirley / Palms District Centre (KAC). This would not support the recovery of the Shirley / Palms District Centre, nor support its role within the District Plan's network of centres. Rather, we consider it would undermine its role.

Staging

232. We agree with Mr Heath that staging as proposed by the applicant is no staging at all. It would allow the full 20,000m² to open three years and one day after the plan change is approved. While Mr Heath's assertion that this is the time it will take to plan, get the required consents and approvals, complete the earthworks, and construct and fit-out the development, may overstate the case a little, it is probably not too far off the mark. We note Mr Foy considers 10,000m² would require 24 months³¹⁰. The full \$63m sales impact of 20,000m² of new retail, plus the 4,000m² of the supermarket, would fall on The Palms when the sustainable retail demand in the core catchment would have only increased by about 10,000m²³¹¹.
233. Mr Heath's proposed staging is an attempt to more closely match the growth in retail supply with the expected growth in demand, given that they are currently in broad equilibrium. His excluded storetypes are intended to protect the fashion and department stores that are agreed³¹² to be important to the viability of the centre, playing "*something of an anchor role*"³¹³.
234. All parties agreed that the loss of Kmart was a significant loss to The Palms. We consider that the loss of another anchor – Countdown, Farmers or the fashion offer that together functions as an anchor – would be the same "*significant blow*" to the amenity, vitality and performance of The Palms that the Kmart loss was³¹⁴. The supermarket consent is in place, and Countdown will make their decision about when and whether to stay, relocate or duplicate at the site. The District Plan cannot control whether Countdown stays at The Palms or not. Likewise, it cannot prevent Farmers or fashion stores at The Palms from closing. Mr Heath's proposed exclusions would ensure they do not close because they, or similar operators, have set up at the Homebase extension in the 10 years following rezoning.

³¹⁰ Foy Supplementary, at [55]

³¹¹ From Heath EIC, Table 3 the midpoint between 2023 and 2028 compared to 2020

³¹² Foy Supplementary, at [32]

³¹³ Foy Supplementary, at [35]

³¹⁴ Heath Supplementary, at [5.5(k)]

235. We have concerns around the uncertainty arising from the productivity levels and actual storetype mix that does eventuate on the PC6 site, whether the anticipated retail demand growth eventuates, and how Covid-19 will impact the already vulnerable The Palms centre, and we consider a precautionary approach is appropriate.
236. We find that the Applicant's proposed staging will not mitigate the adverse retail distribution effects of the Homebase extension. Mr Heath's proposed staging, including the storetype exclusions, over ten years will mitigate the adverse retail distribution effects of PC6 on Shirley / Palms to a significant extent. In addition, as stated earlier, we consider supermarkets should be added to the storetype exclusions over the first 10 years. With this staging, PC6 should avoid significant adverse effects on the Shirley / Palms District Centre, thereby supporting its ongoing recovery and its role within the District Plan's network of centres.
237. The ongoing Covid-19 effects on the economy, along with the recent resurgence in consumer price inflation and rising interest rates, all increase the risk that the anticipated increase in retail demand will be delayed, reduced or not eventuate at all for several years. Together with the uncertainty and risk we have discussed in various places in our report, we consider that the barrier to development in excess of the maximum GLFA cap, the retail GLFA staging and the storetype exclusions should be very high. We consider that any development in excess of these limits as discussed should be a non-complying activity.

Retail Distribution Effects and the District Plan's Centres-based Framework

238. We have described the centres-based framework of the District Plan (Objectives 15.2.2 and 15.2.4 and Policies 15.2.2.1 and 15.2.2.4) earlier in our report. The strategic focus and relevance of this framework in the District Plan was not in dispute between the parties. However, they did differ in how they saw trade competition and retail distribution effects interacting with these provisions. We have discussed the difference in approach on this matter from Mr Maw and Mr Carranceja earlier in our report, where we concluded we would approach our consideration as follows:
- a. We have taken into account social and economic effects consequential on, or beyond, those ordinarily associated with trade competition, where we have concluded they may be significant;
 - b. We do not consider such adverse effects need to be ruinous for The Palms, make it unviable, or result in a mass exodus of retailers, for us to consider them potentially significant. However, they do need to be more than minor;
 - c. When weighing significant adverse social and economic effects, we have taken into account the relevant objectives and policies of the centres-based approach in the District Plan.
239. We have already found that the effects of the Homebase extension (as proposed in PC6) would be such as to exceed the effects ordinarily associated with trade competition and would be a significant retail distribution effect on The Palms. We consider it would bring about a significant

further reduction in foot traffic at The Palms (beyond that it has already experienced); significant closures, relocations and/or reduced viability for retailers at The Palms; and significant effects on the vitality and amenity of The Palms and the Shirley / Palms District Centre. We have found that this would not support the recovery of the Shirley / Palms District Centre, nor support its role within the District Plan's network of centres, rather it would undermine its role.

240. Accordingly, we consider that Proposed PC6 would not achieve the District Plan's requirements in Objectives 15.2.2 and 15.2.4 and Policies 15.2.2.1 and 15.2.2.4 as it would not only not support or enhance the Shirley / Palms District Centre as a major focal point for commercial and community activities, but would undermine its strategically important function within the District Plan's centres-based framework.
241. We have, however, found that Mr Heath's proposed staging, including the storetype exclusions³¹⁵, over ten years will mitigate the adverse retail distribution effects of PC6 on Shirley / Palms to a significant extent. With this staging, PC6 should avoid significant adverse effects on the Shirley / Palms District Centre. This is due to the additional 20,100m² of sustainable retail space enabled by the growth in retail demand to 2033. There may be some short-term weakening of the rate of recovery of the District Centre due to the potential lumpiness of the cumulative effects of the development of the Homebase extension and the consented supermarket (depending on when it was opened), relative to the gradual growth of catchment population and retail demand. If this occurs, it is more likely during the 10 years of the staging and in the years immediately after 2031, until the growth in sustainable retail demand accommodates the cumulative effects of PC6 and a supermarket. This may mean a slightly slower recovery timeframe for the Shirley / Palms District Centre than might otherwise be the case. However, overall we consider this is marginal and short-term in duration. By avoiding significant adverse effects on the Shirley / Palms District Centre, we are satisfied that PC6 (as we recommend it³¹⁶) will support this centre's ongoing recovery and its role within the District Plan's network of centres.

Uncertainty and Risk

242. At various points in our discussions above on the retail distribution effects of PC6 we have noted the uncertainties around the analysis and results presented in evidence. We consider these are significant. In summary, they arise from:
- The storetypes included in the modelled development and how these may relate to what actually eventuates on the PC6 site. The ME Report stated that the storetypes' floorspace modelled was indicative³¹⁷. We note that no-one allowed for a Chemist Warehouse, or similar operation, on the PC6 site, although that was discussed at the hearing;
 - Similar uncertainty over what will actually develop on the neighbouring site. The

³¹⁵ Including our recommended supermarket exclusion for the first 10 years

³¹⁶ In particular, with the scale and staging limitations we recommend, and non-complying activity status to exceed those limitations

³¹⁷ ME Report, p8

supermarket is likely to be reconfigured to accommodate direct access from the existing Homebase but what that might entail is unknown, and there are no specific limitations as to the total GLFA or type of retail activity that might be developed on that site within the CRPZ rules;

- c. The assumptions around storetype productivity that have been used. Mr Foy stated that the productivities he used were indicative³¹⁸;
 - d. The assumption made by all the economic experts of a 1% pa real increase in retail spending in their respective catchments;
 - e. The assumption that population growth would follow Statistics New Zealand's Medium population projection for the respective catchments;
 - f. The assumption of constant storetype productivity for all existing competitors within their respective catchments, and the growth path of net floorspace demand that will eventuate over time;
 - g. The impact of Covid-19 and how that might affect retail demand, and how long-lasting those effects might be. Mr Foy opined that the impact would play out over months³¹⁹, whereas Mr Heath considered it represents significant uncertainty, and that the long-term impacts of Covid-19 are difficult to predict³²⁰;
 - h. The uncertainties inherent in all economic modelling of the sort undertaken by the experts. There is only limited actual data available (floorspace and employment by centre), and it is not what they are trying to measure (sales and changes in sales). They have used their "models" to make "estimates", "forecasts", "predictions" and "projections. These words have real meaning, carrying with them a significant but unknown degree of uncertainty and error;
 - i. In making these predictions, there is the unknown of how other actors in the market will respond to them, and how those responses might mitigate the effects³²¹.
243. The experts rightly noted some of these uncertainties, and stated their assumptions, and were very clear at various points in their evidence that results presented were "indicative"³²². This uncertainty brings with it a comparable degree of risk, given the potential consequences for The Palms if the uncertainties combine in an adverse manner. As required by s32 of the Act, we have taken these uncertainties and risks into account in our recommendation, although we acknowledge that uncertainty is of itself not uncommon when considering the appropriateness of plan provisions.

Other Economic Benefits of PC6

244. Mr Heath drew our attention to the various economic benefits of the centres-based framework of the District Plan³²³. Mr Foy had not given this area much attention in his evidence, but he told us

³¹⁸ Foy EIC, at [45]

³¹⁹ Foy Supplementary, at [44]

³²⁰ Heath EIC, p40

³²¹ MacroPlan Report, p18

³²² E.g. MacroPlan Report, at [1.6]

³²³ Heath Rebuttal, Section 4

that he generally agreed with Mr Heath's comments. The one area that Mr Foy did cover in his evidence was travel efficiency³²⁴. We note that both experts were in alignment on this issue. Mr Heath noted that transport efficiencies were "...*fundamental when considering economic cost and benefits ... (and were) inherently linked to the level of accessibility...*"³²⁵. Mr Foy, noting that transport efficiencies are "*difficult to assess*", expected that there would be a reduction in travel kilometres arising from PC6 as consumers would be able to "...*more readily and efficiently access LFR with (PC6) than without it...*". The location would encourage trips to the Homebase extension to be "*passby traffic*" rather than separate trips, and there would be fewer across-town trips for residents of the local community.³²⁶

245. We agree that, to the extent that visits to the expanded LFC were part of other trips, and that local consumers replaced trips to other LFCs with a trip to the Homebase extension, there would be a reduction in travel kilometres. This is supported by Mr Heath's analysis that 50% of the sales to local consumers at the Homebase extension would be drawn from centres outside his core catchment³²⁷. The development would reduce leakage out of the catchment, and this would reduce the kilometres travelled.
246. We find that the Homebase extension would have an economic benefit in terms of reduced kilometres travelled that is not insignificant but unable to be quantified.

Loss of Residential Land

247. The s32 and s42A Reports³²⁸ addressed the issue of the loss of residential land, as a result of changing the zoning of the PC6 site from RSZ to CRPZ. This issue was also raised by submitters³²⁹, including Ms Plesovs³³⁰ and Ms Burnside³³¹ who addressed us at the hearing.
248. The s32 Report identified that the site would likely yield around 70 dwellings. This yield was confirmed by Ms Allan³³². Both reports referred to the Future Development Strategy (FDS) prepared for Greater Christchurch to fulfil responsibilities under the NPS-UDC – *Our Space, 2018-2048 (Greater Christchurch Settlement Pattern Update)*. This strategy projects a surplus in residential land to meet demand over the short, medium and long term (2048) for Christchurch City. The s42A Report also informed us that the Statistics NZ 2018 census population projections released in March 2021 show that the previous projections which informed the FDS have been tracking slightly lower for Christchurch City.

³²⁴ Foy EIC, at [78]-[80]

³²⁵ Heath Rebuttal, at [4.41]

³²⁶ Foy EIC, at [78]-[79]

³²⁷ The corollary of 50% coming from within the core catchment

³²⁸ s32 Report, at [2.1.6a.] & [7.3]; s42A Report, at [7.2]

³²⁹ Refer to Issue 7 in the s42A Report

³³⁰ Submission S51 & Further Submission FS2

³³¹ Submission S45

³³² Allan Rebuttal, at [4.2]

249. Mr Foy provided additional detail on this matter in his evidence³³³. He referred to the Housing Capacity Assessment undertaken for Greater Christchurch (2018), which found that Christchurch City has plan-enabled capacity for approximately 236,000 new dwellings, of which there is infrastructure in place to service at least 60,000 new dwellings. This compares with household projections out to 2048 of less than 40,000 new dwellings. In that context, it was his view that the loss of 70 dwellings potential supply is inconsequential and would have no implications for the Council to meet its residential land supply obligations.
250. The s32 Report³³⁴ points out that the existing residential zoning has not resulted in residential development on the site, such that the land is not assisting to achieve the District Plan's housing targets. While the land is within the urban boundary, its lack of use for urban purpose has resulted in an inefficient use of the land.
251. Ms White summarised the position of the Applicant³³⁵ – that the City already has more than sufficient capacity to meet the projected demand for additional dwellings. Given the minimal proportion that 70 dwellings make up in the total supply required, the loss of this land would be inconsequential and would not compromise the ability for the Council to meet its residential land supply obligations. In answer to the Panel's questions, Ms White pointed to the availability of residential sections close to the PC6 site within the Prestons development, and to the large area of undeveloped residential land in the RNNZ north of QEII Drive (Highfield Park). However, she accepted that she had not undertaken a detailed evaluation of the costs and benefits associated with residential versus commercial use of the PC6 site.
252. Ms Allan responded to Ms White³³⁶, stating that she considered her assessment to be simplistic as it did not consider the loss of greenfield development land opportunities. To provide the equivalent greenfield growth opportunity of 5ha in another location would likely result in a need to provide infrastructure and servicing to land not currently in residential use, resulting in increased costs for Christchurch. In answer to our questions, Ms Allan accepted that the loss of residential land for about 70 houses is not particularly significant and the equivalent land can be provided elsewhere in the City. However, she considered there to be an efficiency benefit from providing houses on land within the current urban boundary and already serviced, compared with the costs of providing services to new areas of RNNZ.
253. We have considered the evidence before us on this matter. We acknowledge the point made by Ms Allan that the loss of residentially zoned land is not just a matter of losing capacity for 70 new dwellings, but also an efficiency reduction through losing the ability to develop and use land that is located well within the City's urban area and with servicing capability already available. We also acknowledge Ms White's acceptance that the Applicant has not undertaken a detailed evaluation of the costs and benefits of using this site for housing versus the need to develop

³³³ Foy EIC, at [68]-[77]

³³⁴ s32 Report, at [2.1.6a.]

³³⁵ White EIC, at [55]

³³⁶ Allan Rebuttal, at [4.6]

alternative land elsewhere. However, we are not persuaded these matters are of sufficient consequence to demonstrate that it is more appropriate for this site to remain available to assist in meeting the City's housing requirements. In the context of existing plan-enabled and infrastructure-ready capacity for approximately 60,000 new dwellings, to meet household projections out to 2048 of approximately 40,000 new dwellings, we agree with Mr Foy that the loss of capacity for 70 dwellings is inconsequential. We consider it would have minimal implications for costs to the Council, or the community, of meeting future residential land supply requirements.

Urban Form and Urban Design; Landscape, Visual Amenity and Residential Amenity Effects

254. PC6 would give rise to a number of discrete amenity and built form effects and these include localised noise and traffic nuisance as well as physical effects associated with buildings and lighting. These effects would fall largely on the PC6 site, a residential development to the immediate east (Sanctuary Gardens), adjacent roads, and the generalised rural / urban interface delineated by SH74 (QEII Drive). We have addressed them in our report in the following categories, which we have identified from across the submissions and expert evidence:

- a. Landscape effects and strategic urban form 'fit';
- b. Residential amenity within Sanctuary Gardens;
- c. Effects at the Sanctuary Gardens interface; and
- d. Overall development scale and characteristics on the PC6 site.

255. We commence with an acknowledgement that by the conclusion of the hearing the differences between the Applicant's and the Council's experts had narrowed appreciably and for the most part the differences between the two were not significant.

Landscape Effects and Strategic 'Fit'

256. The District Plan is premised on a centres-based, or centres-led, framework whereby urban centres are focal points for social and economic activity, local character and amenity, and for the distribution of urban density³³⁷. This is a well-established derivative of the 'compact city' line of urban planning theory that underpins all of New Zealand's major urban planning documents and is very familiar to the Panel.

257. In terms of PC6's strategic fit within the scheme of the District Plan and its hierarchical network of urban centres, the Council's urban designer Ms Rennie and planner Ms Allen were concerned that PC6 would not reflect an appropriate fit³³⁸. By the close of the hearing, both had accepted that PC6 could be acceptable albeit subject to changes to the proposed PC6 provisions³³⁹.

258. We record that having considered the District Plan and visited numerous centres around

³³⁷ See Chapters 3 and 6 of the District Plan, specific provisions from which we have discussed earlier in this report. We also refer to the summary provided in the s42A report, at 6.12

³³⁸ Rennie EIC, at [12.2]; and s42A Report, at [6.1.4.]

³³⁹ Ms Rennie's and Ms Allan's responses to questions asked by the Panel at the hearing.

Christchurch referred to earlier in our report, we did not find any 'strategic fit' defects with PC6. The District Plan includes LFCs within its identified hierarchy and provides for them to exist in a spatial network with other types of commercial centres. The District Plan is silent on where or in what circumstances LFCs should or should not be positioned, including relative to other types of urban centre.

259. All of the economics experts we heard from agreed at the hearing that the location of PC6 - on flat, highly-accessible land at the corner of a major transport junction - is well-suited to and otherwise consistent with the locational characteristics typical for a LFC.
260. Presented with a type of centre described within the District Plan, in a location that is typical and well-suited for that type of centre, we record that we did not see the 'strategic fit' argument as having merit. This is not to say that PC6 does not raise valid questions relating to the way in which LFCs should function relative to other centres; the District Plan makes it clear that existing urban centres are very important in resource management terms and must be maintained; but that those questions relate to economic effects and not to urban design ones.
261. Turning to landscape effects, the Council's landscape expert Ms Dray was concerned with the appropriateness of a LFC in this environment³⁴⁰. For the Applicant, Mr Compton-Moen's analysis led him to the conclusion that the environment was not as sensitive to urban development of a kind that could result from PC6 as Ms Dray had concluded, and that PC6 would not have inappropriate landscape effects³⁴¹.
262. PC6 would enable a LFC into an environment that had been historically envisaged as being for more-uniformly residential activities. Plainly the type and scale of buildings that would be enabled by PC6 would be very different to residential dwellings, but we see no basis to conclude that there are inherent adverse effects with large, non-residential buildings generally, or that there is a particular sensitivity around the PC6 site that would only allow residential dwellings to be acceptable. We are also very cautious of analytically confusing the prospect of change, or of something 'different', with the resource management concept of (ultimately derived from section 7(c) of the Act) having particular regard to the maintenance and enhancement of amenity values. We do not agree that an assessment of alternative zones under s32 of the Act can properly incorporate a presumption that the alternative presenting the least visual differences with what might exist at that time necessarily aligns with the Act's focus on what might be "most appropriate" – doing so would ultimately lead to a statutory enforcement of small scale, incremental growth premised on minimum change to existing environments. These distinctions have been relevant to us based on how Ms Dray and Ms Rennie have attributed adverse effects and what might in their minds be acceptable, and why they each concluded that RSZ would be the most appropriate in their s42A reports and expert evidence.

³⁴⁰ Report by Jennifer Dray for the Christchurch City Council s42A Report (Landscape), 17 June 2021 (Dray EIC), at [9.1]

³⁴¹ Compton-Moen EIC, at [62]

263. We find that the environment, including the QEII Drive and Marshland Road intersection, sits at an urban / rural interface. Depending on one's aesthetic preferences, it is possible to focus a view on the northern rural (pastoral) view, or the southern urban view (which although it includes dense vegetative screening along the QEII drive edge is plainly of an urban character). The scale of the intersection and volumes of traffic carried is also at what we find to be an urban, rather than rural, scale and character. Having traversed Christchurch, we have observed many different configurations of urban / rural interfaces including a mixture of built form edges and transitions. We are not aware of any specific 'norm', nor does the District Plan prescribe how the urban / rural edge should or should not be managed in terms of how and in what circumstances urban centre zones might be appropriate. We are satisfied that the environment does not contain any Outstanding Natural Landscapes or Significant Natural Habitats, or other specific landscape sensitivities, that development of the sort to be enabled by PC6 might irreconcilably conflict with.
264. Looking at the local environment in its totality and considering both its urban and rural aspects, we prefer Mr Compton-Moen's approach and conclusions. We find that a LFC could be accommodated on the PC6 site without compromising either rural landscape or amenity values on land north of QEII Drive, or the qualities of QEII Drive as something of an urban / rural boundary in this part of Christchurch. We also find that there is nothing inherently problematic in an urban setting of a commercial centre sitting adjacent to an established residential area, provided that its 'edge' effects and the transitions between different activities and building forms are suitably managed to reasonably maintain different amenity values. While occupants of the rural land north of QEII Drive would be able to see parts of commercial buildings larger than residential dwellings on the PC6 site, they will be separated from the site by the road's width and also be taking in the visual scale and nuisances of the road (traffic, noise, and lighting). This is not materially different to the many other instances of either larger-scale urban activities adjacent to a rural environment (including the Christchurch International Airport), or the many clusters of industrial or larger-scale rural production activities that can also be commonly found within rural landscapes.
265. Related to this, Ms Rennie and Ms Dray were also concerned with the streetscape effects that PC6 could give rise to. They recommended a more intensive building setback and landscape mitigation outcome along the road boundaries than is the norm for the zone³⁴². Ms Dray and Ms Rennie also recommended restrictions relating to building frontages and transparency along the road frontages; continuous building length limits; and signage restrictions. Mr Compton-Moen did not agree with the extent of setbacks and landscaping, or the other measures, sought by the Council's experts³⁴³. He considered that the standard zone rules would be appropriate, noting the particular land use and built form outcomes that the LFC is intended to enable.
266. We find that for both QEII Drive and Marshland Road a LFC presents a potential for inappropriate adverse amenity effects. We prefer the evidence of Ms Rennie and Ms Dray that in this

³⁴² Dray EIC, at [3.3(e)]; and Rennie EIC, at [11.15]

³⁴³ Compton-Moen EIC, at [49]-[55]

environment there are established amenity values that can be maintained and which would help to integrate development of the sort enabled by the CRPZ into its locality. In the case of QEII Drive, there is a relatively well-established trend for a dense landscaped buffer along the road edge that PC6 should maintain. We also find that large-scale landscaping adjacent to the QEII Drive and Marshland Road intersection would be appropriate, relating to the larger-scale of buildings that PC6 would enable (than the surrounding zones and activities), and the large-scale of the intersection itself.

267. In the case of Marshland Road, its northern-section contains residential activities on its eastern side and the western side is in need of an amenity improvement as well as improvement in the quality of pedestrian and cycle facilities. We find that a setback greater than the standard zone requirement should apply along this frontage.
268. The Council sought a 20m QEII Drive setback, and a 12m setback on Marshland Road³⁴⁴. It also sought planting at a rate of 1 per 6m of frontage, for trees that would be large at maturity, rather than the zone standard of 1 per 10m³⁴⁵.
269. Having agreed that there is a strong case for a streetscape outcome superior to the standard CRPZ rules, we have not agreed with the extent of boundary setbacks sought by the Council. They would be spatially very onerous and we find that they are not necessary. We find that an acceptable level of amenity and mitigation of the potential effects of development on the PC6 site can be achieved by:
 - a. A 12m minimum building setback along the QEII Drive frontage and a 6m minimum setback along the Marshland Road frontage.
 - b. A requirement for planting at a rate of 1 tree per 6m along the QEII Drive frontage, with species that will grow to a large (15m) height at maturity and will contribute to a visually highly-landscaped edge to the highway corridor.
 - c. The normal CRPZ landscape requirement for Marshland Road.
270. We have made the above modifications to the Plan provisions, at Rule 15.7.2.6. Beyond this, we see no need for the additional rules sought by the Council relating to transparent glazing, continuous building length and signage, and could not find any analogue to them in any of the LFCs we visited across Christchurch – which are in all cases premised on buildings facing a large internal car park rather than presenting buildings along landscaped street frontages.
271. Taking this one step further, we were also concerned that there was a circularity to the Council's position and recommendations to us in these specific regards. The Council seemed simultaneously concerned that PC6 might inappropriately duplicate the function, role and amenity of the Shirley / Palms District Centre, but at the same time sought design requirements that would amongst other things force PC6 buildings to look and behave spatially more like what would be

³⁴⁴ Rennie EIC, at [11.15]; and Dray EIC, at [7.22]

³⁴⁵ Dray EIC, at [7.14] and [7.22]

found within a District Centre than the CRPZ proposed. We find that in ensuring that the PC6 LFC does not inappropriately duplicate or conflict with the Shirley / Palms District Centre, very different land use and amenity characteristics should be promoted in each. In the case of PC6 we find that more functional buildings premised on and configured to relate to car parks (and most users coming and going by private vehicle) is the most appropriate resource management outcome, and which would also best-complement the qualities and amenities available at the Shirley / Palms District Centre.

272. We record that depending on the final design and configuration of activities on the PC6 site, setbacks much larger than we have imposed as minimums might well eventuate depending on where car parking and service / loading access spaces are situated.
273. Related to the above was an additional standard recommended by the Council, for a 3m shared path to be constructed along Marshland Road by the developer of the PC6 site³⁴⁶. We agree that additional facilities will be needed along Marshland Road but we could not find any resource management justification to attribute this to the site's developer to fund as a proper means of addressing the effects of PC6. The 6m setback we have identified as being required will be sufficient to accommodate necessary pedestrian and cycle facilities, but we see that infrastructure (and any purchase or road widening into the 6m setback area) to be the Council's responsibility to provide. A key driver of demand for pedestrian and cycle facilities along Marshland Road that would result from PC6 would be pedestrians and cyclists from the Sanctuary Gardens area arriving on Marshland Road. But it has been the Council, through its expert witnesses, which has most-strongly sought the through-site linkage those persons would use as a requirement of PC6. In other words, a substantial part of the need for improved Marshland Road facilities of concern to the Council would be being created, as we see it, as a direct result of the Council's own requirements and recommendations for the benefit of a broader transport network around the PC6 site.

Residential Amenity within Sanctuary Gardens

274. In considering this category of potential effects, we have identified the following sub-categories of disagreement:
- a. Vehicle connectivity; and
 - b. Pedestrian connectivity.

Vehicle Connectivity

275. Due to the nature of the PC6 site and existing configuration of public roads, it would be possible to connect the site to one or more locations at Havana Gardens (north) and also Sanctuary Gardens (south). This could allow people to travel from those streets through the PC6 site to Marshland Road. This could be by way of a conventional public road or a specifically designed vehicle-only access way.

³⁴⁶ Dray EIC, at [7.20]; and Rennie EIC, at [3.5]

276. We heard from several residents concerned with how the operation of a LFC could adversely affect the amenity values they enjoy³⁴⁷. The Sanctuary Gardens development is a residential subdivision formed of a number of loosely-connected cul-de-sac roads and a central public reserve. Because access is only possible into it from the south along Briggs Road (via Palm Drive or Clearbrook Street) it does not accommodate through-traffic and is, as such, largely vacant except for residents and their visitors. We understand that it is this relative isolation – and a quality of peace and quiet - that the residents opposed to PC6 were concerned might be lost. Of most concern were the prospects of large trucks or service vehicles entering the PC6 site via the local residential streets, and the prospect of large volumes of customer through-traffic looking to short-cut into the PC6 site through the local streets. The potential issue of persons parking private vehicles on local streets and walking to the PC6 site was also a key concern, but we will address that separately in the context of pedestrian connectivity.
277. The counter-argument in favour of requiring, or even passively enabling, future road connectivity to occur sits within the District Plan policy framework, which promotes connectivity and movement choice, and practical benefits that could be provided such as allowing greater traffic network circulation, and more efficient travel from Sanctuary Gardens to destinations north or east of the area. We read the Plan as making it clear that there are important benefits to be achieved from requiring a well-connected road network, but that it does not go far as to require that every site or development be connected by roads to every other.
278. By the conclusion of the hearing, no party was actively seeking formal road connectivity or vehicle access to the Sanctuary Gardens area as a requirement of development within PC6 (although the matter of pedestrian connectivity will be addressed separately).
279. We find that a prohibited activity status that precluded even the making of an application for resource consent to allow vehicle access would be unjustified. This is in terms of both the nature and extent of potential adverse effects likely, and that the District Plan policy framework on overall balance can be said to promote or support integration and connectivity rather than discourage it. We prefer a non-complying activity status, which would require a stringent evaluation of all possible adverse effects of concern to occur. But it would keep open the potential for a discrete and overall sensible access arrangement, should one be possible and sought, to be applied for.

Pedestrian Connectivity

280. Following on from the above was the potential for pedestrian-only access to be provided from the Sanctuary Gardens area into the site. This was opposed by many submitters residing within Sanctuary Gardens³⁴⁸ on the basis that noise and safety nuisances could result from employees and/or customers parking on local streets and walking to the Centre. Shoppers returning to their parked vehicles, or just anti-social individuals, bringing shopping trolleys from the PC6 site into

³⁴⁷ Submitters Martinus Bakker (S66), Martinus Brevoort (S16), Ray Jackson (S64), Bede Kearney (S40), and Jo Burnside (S45)

³⁴⁸ Submitters Martinus Bakker (S66), Martinus Brevoort (S16), Ray Jackson (S64), Bede Kearney (S40), and Jo Burnside (S45)

the local streets and dumping them – along with other possible rubbish such as food packaging was a specific concern. These submitters sought that no access be provided.

281. We recognise that these outcomes can be categorised as adverse amenity effects on the existing residents.
282. We also accept that if no means of any access by any mode from Sanctuary Gardens to the PC6 site were possible, then the likelihood of the effects of concern to the submitters occurring would become very low.
283. The contrary view was advanced by the Council, on the basis that providing long-term public access from Sanctuary Gardens to Marshland Road and QEII Drive would have numerous benefits and align with the District Plan policy framework for connectivity and transport efficiency. The earlier Mairehau Development Plan (a form of structure plan) also indicated longer-term connectivity through the PC6 site and this was also an influence in the Council's thinking.
284. The Council's overall position was that pedestrian and cycle access through the PC6 site should be required by District Plan provisions³⁴⁹.
285. The Applicant's position was something of a middle-ground between the two, with pedestrian and cycle access to be encouraged but be a restricted discretionary activity that could be integrated into the likely requirement for an Integrated Traffic Assessment at the time of resource consent for development³⁵⁰.
286. We agree that any pedestrian or cycle linkages provided through the PC6 site should be attractive, safe and convenient for users.
287. We prefer the position of the Council that pedestrian and cycle access from the Sanctuary Gardens residential development through the PC6 site to Marshland Road should be a clear requirement. We find that the adverse effects of concern to submitters opposed to such connectivity are in-part speculative and overall not sufficient to warrant a deliberate spatial severance being imposed. Such adverse effects as the residents were concerned with, should they eventuate, can be managed such as through a number of statutory powers enjoyed by the Council³⁵¹ or potential conditions of consent imposed on any resource consent for PC6 activities. But in any event, we ultimately find that the benefits that would be derived from providing pedestrian and cycle access to Marshland Road simply outweigh those potential adverse effects. In light of the District Plan's unambiguous promotion of connection and integration between sites and activities, and in light of our previous acceptance that vehicle access need not be a firm requirement, we see the case in favour of pedestrian and cycle connectivity to be very compelling. Because of this, we find that not providing at least one pedestrian / cycle connection through the PC6 site between Sanctuary Gardens and Marshland Road should be a non-complying activity.

³⁴⁹ Rennie EIC, at [9.61] and [9.65] (Figure 10)

³⁵⁰ Compton-Moen EIC, at [59]

³⁵¹ Legal Submissions for the Council, 1 November 2021, at Section 8

We have added this to the Plan provisions at Rules 15.7.1.5 and 15.7.2.12.

288. However, in reaching that initial view, we accept the Applicant's concerns that the provision of a safe and attractive pedestrian and cycle linkage through the PC6 site is one that will be very dependent on the final design, location and layout of buildings or other open spaces on the site. We find that a restricted discretionary activity assessment in this respect, including considerations of Crime Prevention Through Environmental Design ("CPTED") would be the most appropriate and proportionate means of ensuring that this occurs. In reaching this view we find that there are practical efficiency and effectiveness benefits to be had by incorporating this matter into the requirements of an Integrated Transport Assessment, which the Applicant and Council both agreed would be required (as a restricted discretionary activity) due to the volumes of vehicular traffic likely to be generated within the PC6 site. We have added to Rule 7.4.4.19 accordingly.
289. Finally, we note that a related question of pedestrian connectivity into the PC6 site from QEII Drive is also relevant. We will address that in our 'Overall development scale and characteristics of the PC6 site' section as it does not in our view relate directly to amenity within the adjacent residential area.

Effects at the Sanctuary Gardens' Interface

290. The proposal for potentially large buildings to be positioned close to the residential boundary, and for noise or lighting effects to also be generated, was recognised by all parties and the Council. Submitters opposed to PC6 were concerned with the effects of noise and lighting, and the Council was concerned with the scale of development close to the boundary.
291. The Applicant's position was that compliance with the District Plan's standards for noise and lighting emission at residential boundaries would apply and would be effective. Propositions for fencing or an earth bund were discussed with us as possible solutions that could ensure compliance with the standards was achieved.
292. We received no evidence that the Plan's noise and lighting standards were inherently defective or unreliable, and we are satisfied that the requirement for compliance at the time of resource and/or building consent would ensure a suitable barrier was erected. We see no need to take those concerns further.
293. The Applicant also included in its proposal measures designed to maintain residential amenity along the PC6 site's western boundary. This included, of note, a specific height in relation to boundary plane that would require taller buildings to be well-back from the boundary. In response to the s42A report of Ms Rennie³⁵², the Applicant also accepted an 11m building setback from the residential boundary, or a limitation on continuous building length (40m) where a building was set-back between 6m and 11m³⁵³.

³⁵² Rennie EIC, at [11.16]

³⁵³ Compton-Moen EIC, at [56]-[58]

294. Ms Rennie ultimately did not consider the Applicant's methods were sufficient and identified that an additional lower building height limit, from the 15m proposed to 11m, would reduce potential adverse effects to an acceptable level³⁵⁴. In response to this, the Applicant confirmed that it would be willing to accept a 12m maximum building height restriction³⁵⁵.
295. We do not agree that there is a basis for requirements restricting building length, and we find the Applicant's proposal impractical and uncertain (such as if it led to a serrated building form that was continuous but with periodic 40m-wide build-outs projecting towards the residential boundary). We have not been persuaded that there is a need for any particular number or location of viewshafts between buildings or, if breaks were to occur between separate buildings, why they might need to be based on 40m separations or for specific neighbouring properties. We find that a uniform setback is the most reliable and appropriate means of managing the amenity of adjoining residential properties.
296. We were unable to identify any relevant adverse effect that might occur at 12m building height but not at 11m building height. We also consider that, when viewed in the round from adjacent properties or streets, and taking into account the various setback and landscaping requirements we have separately determined as most appropriate, the difference between 11m and 12m tall buildings would be largely indiscernible - noting that large barn or shed-type buildings would likely have a roof ridge in the centre of the building footprint, not the external building wall closest to the boundary.
297. We find that the combination of a 12m height limit, 11m residential boundary setback, and the Applicant's height in relation to boundary standard, would together be sufficient to substantially mitigate potential built form effects on adjacent residential amenity. We record here that we find that the extent of boundary interface mitigation we have agreed with considerably better what has historically occurred between the existing Homebase LFC and residential zone boundary immediately south of the PC6 site. Once likely boundary fencing, landscaping or bunding (or similar) to manage noise and light effects are also taken into account, we find that the adverse amenity effects of PC6-enabled buildings will not be unreasonable, including visual dominance, sunlight / daylight access, a sense of openness or spaciousness associated with back gardens, and visual amenity.
298. The 12m height limit we have found to be most appropriate has been specified at Rule 15.7.2.1.
299. Lastly, we record that one outcome of our overall findings is that from QEII Drive, mature 15m-tall trees spaced at 1 per 6m frontage, would be taller than and more visually prominent than buildings within the site. We find that this is one relevant mitigation technique that will help absorb the effects of new PC6 buildings into the environment and wider landscape setting of QEII Drive.

³⁵⁴ Response to Questioning by Hearing Panel, Jane Maree Rennie on behalf of Christchurch City Council, Urban Design, 28 July 2020, at [1.4]

³⁵⁵ Applicant's Closing Submissions, at [81]

Overall Development Scale and Characteristics on the PC6 Site

300. Overall, and having determined that the site and environment are capable of accommodating a CRPZ, we have considered the submissions and evidence that relate to the development controls and other provisions that might manage development on the site. Key matters to be addressed are:
- Landscaping and amenity;
 - Building bulk and location;
 - Crime Prevention Through Environmental Design;
 - Pedestrian and cycle connectivity to QEII Drive; and
 - Mairehau Development Plan.

Landscaping and Amenity

301. We have addressed matters relating to landscaping and amenity effects on adjacent land previously and record that in addition, Built Form Standard 15.7.2.6.a would require landscaping to also be provided within car parking areas and along pedestrian routes at a rate of 1 tree per 5 spaces. These trees would be additional to those separately required along road frontages. By way of example, 300 parking spaces within the site would require 60 trees to be planted. We find that the overall combination of building bulk and location controls and landscaping required in association with PC6 will be sufficient to acceptably mitigate adverse effects, and otherwise provide visual amenity within the site. We find that there is no need for further or additional landscaping or amenity control.

Building Bulk and Location

302. We have separately addressed issues of building bulk and location in terms of setback and height in relation to the residential boundary; setbacks from the street boundaries; and overall maximum building height. Although not premised on an urban design or landscape effect, we recognise that the controls we have found to be most appropriate in relation to staging and development within the PC6 site would also have an obvious built form effect; they may result in a somewhat incremental development pattern of increasing building scale over time. We find that this is relevant to submissions made against PC6 on the basis of overall building intensity and scale, inasmuch as PC6 would not lead to a dramatic or short-term change to the site or local environment.
303. We are satisfied that the package of bulk and location controls we have determined for PC6 is sufficient. They will in fact afford higher amenity protections, and superior amenity outcomes, for adjacent residential zoned land and adjoining roads than is the 'default' for the CRPZ within the District Plan. We see no basis to take this suite of controls further.

Crime Prevention Through Environmental Design

304. We accept that safety for all users of the environment is a very important component of providing for social and economic wellbeing. Both Ms Rennie and Ms Dray for the Council were concerned

that CPTED be incorporated into all development within the zone³⁵⁶. The witnesses did not provide any explanation to us what that would mean or what the specific principles or outcomes they wished to see on the PC6 site. We understood that what would apply would be an evaluation of development proposals on a case-by-case basis (by way of a Built Form Standard requiring a CPTED review by a suitably qualified person) against numerous principles but no predictable or specified acceptable solutions. This would make such a permitted activity standard very uncertain. We expect that, as is often the case where evaluations against principles rather than accepted metrics are undertaken, the Council's CPTED experts might not agree with those engaged by an Applicant for building consent. It is not clear whether in such scenarios the Council would seek design changes through its own CPTED experts in ways akin to a resource consent assessment.

305. In our view requiring all buildings to be designed to meet CPTED principles would almost inevitably result in all development requiring a resource consent and we questioned the witnesses why, in light of how recently the District Plan was prepared, such consent requirements were not in place across the City. We remain unable to identify anything specific to a CRPZ or the PC6 site that would make PC6 more susceptible to a particular safety problem that was not generally also applicable across the City.
306. We find that there is no need to require all development to undergo a specific CPTED evaluation and we think it reasonable to presume that any sensible developer of a commercial site requiring public access would take care to ensure the development was safe for users as a means of attracting them to the site and encouraging them to linger.
307. However, and as we have discussed previously, we have identified a need for at least one (yet to be determined) pedestrian and cycle link through the PC6 site from the Sanctuary Gardens area to Marshland Road. This link may cross in front of buildings or through parking areas. Because of its importance and public through-route role, and that it might be used at times when some or all businesses on the site are closed, we find that it would not be acceptable for this to be poorly integrated with circulation patterns or building frontages. On that basis we have added specific matters for assessment as part of an Integrated Transport Assessment required for High Trip Generators (Rule 7.4.4.18) that include a CPTED evaluation of the eventual linkage route through the site.
308. On the basis of the above, we are satisfied that PC6 will enable a development that is safe, well-designed, and comfortable for site users.

Pedestrian and Cycle Connectivity to QEII Drive

309. Ms Rennie sought a requirement for a pedestrian and cycle linkage from QEII Drive through the PC6 site to intersect with the (separately addressed) east-west pedestrian / cycle route from the Sanctuary Gardens area to Marshland Road³⁵⁷. This was largely on the basis of content from the

³⁵⁶ Rennie EIC, at [9.66]; and Dray EIC, at [7.40]

³⁵⁷ Rennie EIC, at [3.5]

historic Mairehau Development Plan, but also her own analysis of how to most appropriately integrate the PC6 site into the existing urban form.

310. The Applicant did not support this connection on the basis of Mr Compton-Moen's evidence³⁵⁸.
311. Parallel to but south of QEII Drive is Havana Gardens, which includes a dedicated pedestrian / cycle link to QEII Drive close to its intersection with Innes Road at its western side. There is no other means of access (by any mode) to Innes Road other than by way of a quite circuitous journey to Maurice Stanton Place (pedestrians and cyclists) or Briggs Road / Hills Road (vehicles).
312. We have separately determined that at least one pedestrian / cycle linkage from the Sanctuary Gardens area – which would continue the Havana Gardens axis or come from a more southerly Sanctuary Gardens connection – is required to connect to Marshland Road. We refer to our earlier discussion on the Marshland Road frontage, including our expectation that an improved pedestrian and cycle facility will be provided here by the Council in due course.
313. In this context we see no resource management need for an additional pedestrian or cycle access point from the PC6 site to QEII Drive, and do not agree that one would be justified. A viable route would exist for pedestrians and cyclists from Marshland Road through the PC6 site, along Havana Gardens and to the QEII Drive outlet with Innes Road. We in fact see this as likely being more desirable for pedestrian and cyclists undertaking such an east-west movement than travelling along the edge of QEII Drive noting its high-speed environment and traffic intensity, and lack of engaging land use edge due to the presence of dense landscape buffering (which while possibly pleasant to look at prevents any form of passive surveillance or social interaction to occur).
314. We find that on the basis of the above, PC6 will contribute appropriately to a safe, well-connected and efficient transport network and no further District Plan provisions are necessary.

Mairehau Development Plan

315. Numerous submitters³⁵⁹ and the Council sought retention, in some form, of the Mairehau Development Plan. This is a form of structure plan within the District Plan that seeks to set out something of a long-term plan for the area.
316. We are not persuaded that this is appropriate or helpful. With PC6 determined, the land the Mairehau Development Plan would be relevant to would be either fully developed or live-zoned, with no further need for a longer-term or more strategic plan. But more to the point, and as we have discussed through our evaluation of submissions and expert evidence above, the PC6 outcomes and District Plan provisions we have determined to be most appropriate to manage development of the PC6 site would be directly incorporated into the District Plan and we see no additional resource management role for the Mairehau Development Plan to contribute to.

³⁵⁸ Compton-Moen EIC, at [60]

³⁵⁹ For example, Diana Plesovs (\$51), Jo Burnside (\$45)

Transportation

317. Potential transportation effects from PC6 encompass additional vehicle traffic on arterial and local roads, road access arrangements, public transport accessibility, support for walking and cycling, and effects from parking. Numerous submissions raised transportation issues relating to access through the Clearbrook Palms subdivision; wider traffic issues around the PC6 site; and public and active transport outcomes. Transportation-related matters that may affect residential amenity within the Clearbrook Palms subdivision have been addressed earlier in this report. Here, we consider the wider transportation issues associated with the Proposed PC6 rezoning.
318. We received evidence on transportation matters from Mr Smith³⁶⁰ on behalf of the Applicant and Mr Gregory³⁶¹ for the Council, as well as from submitters³⁶² who spoke to us at the hearing. By the time of the hearing, there was considerable agreement between Mr Smith and Mr Gregory.
319. Based on the information from the Applicant in the plan change request and in the evidence from Mr Smith, Mr Gregory had assessed the effects of vehicle access from the PC6 site to Marshland Road, effects of additional traffic on the wider roading network, and integration of the site with public transport routes and active travel opportunities (pedestrian and cycling connections).
320. Mr Gregory considered the proposed vehicle access (via existing and consented traffic signals to Marshland Road) is appropriate³⁶³ and in keeping with the road's minor arterial road function³⁶⁴. He considered development on the PC6 site could occur without detriment to operations on the arterial and State Highway networks – the networks could accommodate the development without notable delays³⁶⁵. He noted potential for specific delay and safety effects at the intersection of Marshland and Briggs Roads, however, he advised that the Council already proposes a scheme to address safety at this intersection which would result in mitigation of effects from PC6³⁶⁶.
321. Regarding effects on public transport accessibility to the site³⁶⁷, Mr Gregory noted that the site fronts the Marshland Road public transport corridor where a future increase in service is anticipated as the Prestons development expands. Accessibility to public transport would be achieved by walking and cycling access between the road (where the bus stops are located) and development within the PC6 site. Access would similarly be maintained to the cycling and pedestrian connections on Marshland Road.

³⁶⁰ Smith EIC

³⁶¹ Report by Mark Gregory for the Christchurch City Council s42A Report (Transport), 23 June 2021 (Gregory EIC); and Rebuttal Evidence of Mark Gregory on behalf of Christchurch City Council (Transportation), 23 July 2021 (Gregory Rebuttal)

³⁶² Mr R Jackson (S64); Mr B Kearney (S40)

³⁶³ With no vehicle access allowed for on to the State Highway (QEII Drive)

³⁶⁴ Gregory EIC, at [5.2]

³⁶⁵ Gregory EIC, at [4.5], [5.24] & [5.31]

³⁶⁶ Gregory EIC, at [4.6], [5.25] & [5.26]

³⁶⁷ Gregory EIC, at [5.33]-[5.34] & [5.53]

322. Mr Gregory concluded his evidence³⁶⁸ by stating that *“Provided that PC6 is amended to exclude vehicle access, but enable active transport access, to Clearbrook Palms subdivision, I consider that the Transportation effects of PC6 will be acceptable.”* This is noted by Mr Smith in his evidence for the Applicant, who then addresses the outstanding point raised by Mr Gregory in relation to vehicle, pedestrian and cycling access between the PC6 site and Clearbrook Palms. We have addressed this outstanding matter in the preceding section of this report.
323. One matter the Panel put to Mr Smith and Mr Gregory was any implication for their assessments of the amount of retail floor area provided for on the PC6 site. Mr Smith confirmed that his assessment of transportation effects was based on 22,000m² GFA of future large format retailing on the PC6 site, in addition to the existing Homebase and the consented supermarket. He considered his assessment was conservative and that the transport network could accommodate some traffic from additional retail floor area. Mr Gregory said that he would have concerns about increased effects on the transport network if the amount of retail floor area on the site was greatly increased (doubled or half as much again). He expressed concern that such effects would not have been assessed as part of this plan change request and would require further assessment. In any event, the Applicant has now agreed to a maximum GLFA of 20,000m² for all activities on the PC6 site, such that any increased development on the site would require full assessment through a resource consent application or future plan change.
324. Based on the evidence from Mr Smith and Mr Gregory (and with the agreed limitation on maximum GLFA), we are satisfied PC6 will not result in adverse transportation effects at the vehicle access points to Marshland Road, on the safety or efficiency of the wider roading network, or on the ability of the site to be integrated with public transport routes and active travel connections. We have had regard to the points raised by submitters concerning additional traffic on Briggs and Marshland Roads and QEII Drive, however, we are satisfied from the evidence of Mr Gregory that the additional traffic would be manageable with some intersection improvements already being planned by the Council.

Stormwater and Flooding

325. We received evidence on stormwater and flooding effects from Proposed PC6 from Mr Duke³⁶⁹ and Mr Kerr³⁷⁰ on behalf of the Applicant and Mr Preston³⁷¹ for the Council. There had been considerable disagreement between the experts, prior to the hearing, regarding the effects of commercial development on the PC6 site on stormwater management, flooding depths on adjoining land (including roads), and whether the effects could be practically mitigated. However,

³⁶⁸ Gregory EIC, at [7.1]

³⁶⁹ Statement of Evidence of Elliot Duke – Servicing, 9 July 2021 (Duke EIC); Summary Statement of Evidence of Elliot Duke – Servicing, 27 July 2021 (Duke Summary Statement)

³⁷⁰ Statement of Evidence of Robert Kerr – Flood Hazard, 9 July 2021 (Kerr EIC); Summary Statement of Evidence of Robert Kerr – Flood Hazard, 27 July 2021 (Kerr Summary Statement)

³⁷¹ Statement of Evidence of Timothy Preston for the Christchurch City Council s42A Report (Stormwater), 24 June 2021 (Preston EIC); Rebuttal Evidence of Timothy James Preston on behalf of Christchurch City Council (Stormwater), 23 July 2021 (Preston Rebuttal); Summary Statement of Timothy Preston on behalf of Christchurch City Council (Stormwater), 28 July 2021 (Preston Summary Statement)

by the end of the hearing, considerable agreement had been reached.

326. As outlined earlier in this report, the expert witnesses addressing stormwater and flooding issues met during the first day of the hearing to consider the stormwater modelling for the pre-developed and post-developed PC6 site and the mitigation measures necessary to managed potential effects on the site and surrounding area. A JWS³⁷² was prepared, signed by all witnesses involved and provided to the Panel and all parties to the hearing.
327. The JWS outcomes included:
- (a) agreement to the assumptions for the stormwater modelling;
 - (b) that the outputs from the model showed no sign of adverse impacts outside the PC6 site area;
 - (c) that a net zero effect for stormwater management can be achieved for commercial retail park development on the site;
 - (d) reasonable commercial development on the site would be feasible; and
 - (e) the effects of likely residential and commercial development from a stormwater perspective would be similar.
328. The JWS concluded that the experts had no significant areas of disagreement and considered flood risk should not be an impediment to the proposed rezoning to CRPZ.
329. Following the preparation of the JWS, Mr Duke and Mr Kerr attended the hearing to present up-to-date summaries of their evidence and answer questions from the Panel and Mr Preston provided a written summary statement.
330. Mr Duke noted that, due to the low-lying nature of the site, any future development would require earthworks that could lead to displacement of floodwater. Mr Kerr similarly noted that the likely stormwater management system would involve a portion of the land being set aside for treating and retaining runoff and upstream flood water, as well as diverting upstream waters around the site. Mr Duke advised that changes had been made to the engineering design and the hydraulic model following concerns expressed by Mr Preston. A conceptual design of appropriate mitigation measures was remodelled, with Mr Kerr being generally in support of the updated design and modelling undertaken. It was Mr Duke's opinion that the updated modelling showed that effects would be immeasurable beyond the site, including on adjacent road corridors, with Mr Kerr agreeing. Neither Mr Duke or Mr Kerr considered flood risk and stormwater management should prevent commercial development occurring on the site.
331. In his summary statement, Mr Preston confirmed the respective experts are substantially in agreement that the different characteristics of typical residential and commercial stormwater development will have pros and cons. It is not clear whether either would have an advantage, but it is likely that any advantage would be minor. In his opinion, the modelling result itself is not highly important, and that the modelling demonstrates the feasibility of commercial development

³⁷² JWS – Stormwater, July 2021

with sufficient quality to inform the plan change process and that flood risk should not be an impediment to the proposed PC6 rezoning.

332. The Panel is grateful to the stormwater and flooding experts for the time spent undertaking additional modelling, evaluation and discussion, in order to reach agreement on these matters. We accept their expert conclusion there is no appreciable difference in the costs and benefits from a stormwater and flooding perspective if the site is zoned for residential or commercial retail park use.
333. We note the conclusion in the JWS that the extent of residential or commercial development on this site would be constrained by stormwater requirements. Each of the experts on this matter has also emphasised that substantial on-site works will require design, detailed modelling and construction to divert, store, attenuate and treat stormwater runoff and upstream floodwaters. The final modelling has been done on a specific development and mitigation scenario, agreed between the experts, which includes the proposed floor area of buildings on the site. This has reinforced our opinion that a maximum floor area for all buildings on the site is an important constraint on the allowable scale of development and, in this case, the likely stormwater and flooding effects. The agreed maximum GLFA of 20,000m² for all activities on the PC6 site would mean that any increased development on the site would require full assessment through a resource consent application or future plan change.

Ecology

334. We received evidence from Mr Taylor³⁷³ for the Applicant and Ms Noakes³⁷⁴ for the Council regarding the existing ecological values of the PC6 site, in particular the freshwater ecology, and ecological effects of development on the site under the proposed CRPZ. As with several of the issues addressed for this plan change request, outstanding areas of disagreement between the freshwater ecology experts diminished throughout the proceedings. Mr Taylor appeared before us to answer our questions, but Ms Noakes was excused as we did not have any questions for her.
335. Having exchanged expert evidence and responded to each other's concerns, by the time of the hearing Ms Noakes concluded that the majority of the earlier disagreement between her and Mr Taylor had been resolved, with only minor discrepancies that did not affect the overall purpose of the hearing.
336. Ms Noakes³⁷⁵ noted her opinion that, although commercial land use would result in a greater occurrence of flashier flows in the waterways and an increase in the concentrations of stormwater

³⁷³ Statement of Evidence of Mark James Taylor – Ecology, 9 July 2021 (Taylor EIC); Summary Statement of Evidence of Mark James Taylor - Ecology, 26 July 2021 (Taylor Summary Statement)

³⁷⁴ Report by Katie Noakes for the Christchurch City Council s42A Report (Ecology), 22 June 2021 (Noakes EIC); Rebuttal Evidence of Katie Louise Noakes on behalf of Christchurch City Council (Ecology), 23 July 2021 (Noakes Rebuttal); Summary Statement of Evidence of Katie Louise Noakes (Ecology), 28 July 2021 (Noakes Summary Statement)

³⁷⁵ Noakes Summary Statement, at [3]

contaminants, these effects could be mitigated through appropriate stormwater management. She accepted that detailed assessment of proposed stormwater management would be required in the future, either as part of resource consent applications or for connection to the Council's stormwater network. She considered that this would enable appropriate consideration and mitigation. Mr Taylor³⁷⁶ did not agree that changing from residential to commercial land use would result, per se, in an adverse change in stormwater quality and quantity, and the factors that determine stormwater quality and quantity are contingent on the detail provided at the consenting stage for either land-use type. He did, however, agree that modern stormwater treatment can be effective for both land-use types and, as they both noted, this would be assessed at the consenting and/or Council stormwater approval stage.

337. Ms Noakes and Mr Taylor also appeared to retain some disagreement or misunderstanding regarding the extent to which the existing waterways on the site are proposed to be filled or kept open and enhanced³⁷⁷. Mr Taylor confirmed that one existing waterway (CRDB No.3 flowing east through the centre of the site) would be re-routed to the west of the site, whilst the other (CRDB No.2 along the north boundary with QEII Drive) would be left in its original state. We are satisfied from the expert evidence that the waterways on the site would be treated appropriately (whether re-routed or retained) with naturalisation, landscape and ecological enhancement. However, more importantly, resource consents will be required for waterway modifications, stormwater discharge and/or earthworks from both the City Council and the Regional Council and/or consistency with the Council's global stormwater consent³⁷⁸. We are satisfied those consenting processes would enable appropriate consideration of ecological effects (as well as effects on neighbouring properties where relevant). We also note that, following the initial hearing, we were provided with³⁷⁹ a copy of a granted resource consent³⁸⁰ from the Council to realign CRDB No.3 along the western boundary of the site with associated earthworks and planting.
338. A final area of disagreement between Ms Noakes and the Applicant related to the implementation of the Mairehau Development Plan, which currently applies to the site through the District Plan³⁸¹³⁸². Ms Noakes considered the ecological enhancement of waterways and landscaped areas detailed in the Mairehau Development Plan to be important to protect and improve biodiversity in the area and downstream. The plan change request seeks that all references to the Mairehau Development Plan be deleted from the District Plan provisions applying to the PC6 site, whereas Ms Noakes recommended they be retained if the plan change is approved.

³⁷⁶ Taylor Summary Statement, at [6]-[8]

³⁷⁷ Appendix I. attached to Taylor EIC provided us with a general map of the waterways and drains on the site.

³⁷⁸ This was confirmed by Mr Taylor, Ms White and Ms Allan, including at [7.1] of Ms Allan's Rebuttal

³⁷⁹ Attached to the Applicant's Closing Submissions

³⁸⁰ Christchurch City Council RMA/2020/1576 Reefville Properties Limited

³⁸¹ Submission S51 also sought that references to the Mairehau Development Plan be retained and Ms Plesovs spoke to this at the hearing

³⁸² Rule 14.4.3.1.3 RD2 and Rule 14.4.3.2.7

339. Having looked at the relevant provisions in the District Plan, we consider Ms Noakes has overstated their strength in terms of achieving the ecological protection and enhancement she recommends. The District Plan rules require “accordance with” the Mairehau Development Plan³⁸³ for any land development within the PC6 site. With relevance to ecological values, the Plan requires a green corridor and waterway enhancement along the Marshland Road frontage of the site and landscape requirements along the QEII Drive frontage. A building setback is also required along the QEII Drive frontage although this appears to be principally for noise protection for residential units. The green corridor and waterway enhancement requirement does not include either of the two waterways identified on the site (CRDB No.2 & No.3) and we were not informed about, nor saw, an existing waterway along the Marshland Road frontage. We do not consider this provision would achieve the biodiversity protection sought by Ms Noakes. No detail is specified for the landscape requirements along QEII Drive and there is no certainty this would protect or improve biodiversity or enhance the existing waterway in this location. As we have discussed earlier in this report, we do not consider there is utility in retaining the Mairehau Development Plan requirements. We consider our specific requirements for building setbacks and landscape planting are more appropriate in the context of a CRPZ on this site (along with the waterway resource consent requirements we have referred to above).

Water Supply and Wastewater Infrastructure

340. Mr Duke on behalf of the Applicant³⁸⁴ and Ms McDonald³⁸⁵ on behalf of the Council assessed the additional demand that would be placed on water and wastewater systems from the development of the PC6 site and whether adequate servicing would be available. They agreed that there are no significant issues with potable water and wastewater servicing, additional demand as a result of PC6 would be minimal, and adequate water and wastewater capacity is available within the Council's networks to service the development proposed through the plan change.

Geotechnical Ground Conditions and Land Contamination

341. Various geotechnical investigations have been undertaken on parts of the PC6 site. These were reviewed on behalf of the Council by Dr Dykstra and for the Applicant by Mr Charters.
342. In their respective evidence, Dr Dykstra³⁸⁶ and Mr Charters³⁸⁷ addressed the natural hazard risk presented by potential liquefaction on the site during future earthquakes. They agreed³⁸⁸ that the risk from liquefaction hazard (and associated ground deformation) is relatively low and can be mitigated relatively easily through site specific foundation design and ground improvement

³⁸³ Figure 5 under Rule 14.4.3.1.3

³⁸⁴ Duke EIC

³⁸⁵ Report by Michele Ann McDonald for the Christchurch City Council s42A Report (Water and Wastewater), 21 June 2021 (McDonald EIC); and Rebuttal Evidence of Michele Ann McDonald on behalf of Christchurch City Council (Water and Wastewater), 23 July 2021 (McDonald Rebuttal)

³⁸⁶ Report of Dr Jesse Dykstra for the Christchurch City Council s42A Report (Geotechnical), 22 June 2021 (Dykstra EIC)

³⁸⁷ Statement of Evidence of Neil James Charters – Geotechnical, 9 July 2021 (Charters EIC)

³⁸⁸ Charters EIC, at [43]; and Dykstra EIC, at [7.1] & [8.1]

(where required). There is nothing to indicate that PC6 will have any adverse geotechnical impacts on the site, and site specific geotechnical issues can be considered in detail at the consenting and detailed design stages. In his Rebuttal Evidence, Dr Dykstra agreed³⁸⁹ with Mr Charter's conclusion that provided the future development takes into account the identified design ground settlements, PC6 is suitable from a geotechnical perspective. We accept this evidence on geotechnical ground conditions.

343. The PC6 site has previously been used for mixed residential, agricultural (horticulture/market gardening) and commercial (transport depot) purposes. The potential for past on-site or adjacent land contamination is a relevant matter to consider. Mr Robotham provided us with information on potential soil contamination matters on behalf of the Applicant³⁹⁰. Mr Robotham advised that investigations have been undertaken on parts of the site in the past, and some remediation is likely to have been undertaken. Based on his review of the previous investigations, he concluded³⁹¹ the potential risk from Proposed PC6 is low and any currently identified and unidentified risks from contaminated land would fall under the remit of the NESCS and should not affect the proposed rezoning. Provided the redevelopment of the PC6 site follows the requirements of the NESCS, including the additional investigations required, Mr Robotham considered that PC6 is appropriate from a contaminated land perspective³⁹². Ms Stout reviewed Mr Robotham's evidence on behalf of the Council³⁹³ and stated she agreed with his conclusion that any risk to either residential or commercial use of this site can be managed completely under the NESCS. We accept this evidence on land contamination risk.

CONCLUSIONS IN RELATION TO THE STATUTORY REQUIREMENTS

344. As we set out earlier in our report, we have compared the zone alternatives before us – the operative area-specific RSZ (with the Mairehau Development Plan) and the Applicant's requested CRPZ, or something in between. Our comparison has been to evaluate the most appropriate, or most suitable, zoning for achieving the purpose of the Act and the settled objectives of the District Plan - these being the relevant Strategic Objectives and the objectives of Chapter 14 Residential and Chapter 15 Commercial. This has required us to have regard to the efficiency and effectiveness of the alternative policies and rules, taking into account the costs and benefits of the different zoning options, and any associated risk and uncertainty. As we stated earlier, our evaluation of the costs and benefits has required us to consider the Applicant's stated purpose for the proposed plan change, as the reasons for the requested rezoning to CRPZ are at the heart of the benefits put to us in evidence for the Applicant.

³⁸⁹ Rebuttal Evidence of Dr Jesse Dykstra on behalf of Christchurch City Council (Geotechnical), 12 July 2021 (Dykstra Rebuttal), at [3.1(b)]

³⁹⁰ Statement of Evidence of David Robotham – Soil Contamination, 9 July 2021 (Robotham EIC)

³⁹¹ Robotham EIC, at [33]

³⁹² Robotham EIC, at [34]

³⁹³ Rebuttal Evidence of Isobel Stout on behalf of Christchurch City Council (Noise and Contamination), 13 July 2021 (Stout Rebuttal), at [6.1]

345. In terms of direction from the higher order planning documents, we have considered whether the zone alternatives before us would give effect to the NPS-UD and CRPS. In relation to the CRPS, we have recorded that the operative objectives, policies and methods of the District Plan were approved subsequent to the relevant aspects of the CRPS and give effect to it. We have not ignored the provisions of the CRPS, as we need to consider if the changes sought to the District Plan would mean that it would no longer give effect to the CRPS. However, we have considered the CRPS in conjunction with the requirement to consider whether the proposed policies and methods would achieve the settled objectives of the District Plan.
346. In relation to the NPS-UD, earlier in this report we set out the submissions we received from counsel regarding the relevance of the NPS-UD to a privately requested plan change. Given their opposing views on this, as a matter of caution we have briefly considered the objectives and policies of the NPS-UD we were referred to by the Council³⁹⁴. We find that either zoning alternative before us (the RSZ or the CRPZ) would give effect to the NPS-UD. The evidence before us is neutral in that regard and we have found nothing in it that would suggest that one or other zoning would not give effect to the broad requirements in Part 2 of the NPS-UD to provide sufficient and appropriately located land for housing and business. In particular, in terms of meeting the needs for homes in the City, we have found that a loss of capacity for 70 homes (through removing the RSZ) would be inconsequential and have minimal implications for costs to the Council, or the community, of meeting future residential land supply requirements. In our consideration of the key issues raised by PC6, we have found nothing in the NPS-UD that directs us as to the appropriateness of one alternative zoning or the other.
347. The area-specific RSZ (with the Mairehau Development Plan) has been included in the District Plan since consideration of the CRDP by the IHP. We heard no evidence that would suggest to us this zoning is no longer appropriate to achieve the settled objectives of the District Plan. This area of residential zoning provides for a small proportion of the housing capacity and choice requirements of the Strategic and Residential Objectives and would do so in a manner consistent with the quality, amenity and character requirements of Chapter 14.
348. However, as we have set out above, removing this area of RSZ with the loss of capacity for 70 homes would not affect achievement of the Plan's housing capacity and choice requirements. No-one clearly articulated to us that this small area of RSZ has characteristics, other than the fact that it is already serviced, that make it particularly suited to residential zoning or necessary to achieve the Strategic and Residential objectives of the District Plan.
349. In relation to quality, amenity and character requirements for residential zones (including at the interface with a commercial zone), we have found that, with the operative requirements of the CRPZ and the additional controls we are recommending for PC6, the District Plan's requirements for the adjoining RSZ can continue to be achieved. This includes effects of noise and lighting and effects from development on visual dominance, sunlight / daylight access, a sense of

³⁹⁴ NPS-UD Objectives 3,6 & 8 and Policies 1 & 6(c)

openness or spaciousness, visual amenity, and safety. In terms of the Mairehau Development Plan, we find the relevant aspects of this Plan and its associated rules can be directly incorporated into PC6, such that either zone alternative would achieve the relevant outcomes sought through the operative requirements.

350. Accordingly, we find that with either retaining the operative area-specific RSZ (with the Mairehau Development Plan), or removing it, the settled residential objectives of the District Plan would be achieved.
351. In terms of the Applicant's requested CRPZ, achievement of the settled business / commercial objectives of the District Plan (Strategic and Chapter 14) is closely aligned with the Plan's role in giving effect to the relevant provisions of the CRPS. We have considered these aspects together.
352. From our earlier summary of the District Plan's requirements, we note the importance of business to Christchurch's recovery and to meeting the City's immediate and long-term needs for economic development. Strategic objectives refer to expediting a dynamic and prosperous city; the critical importance of business and economic recovery to Christchurch's recovery; fostering investment certainty; and providing a range of opportunities for business to establish and prosper, including providing sufficient and suitable land development capacity. We acknowledge that achieving these objectives must be done in an appropriate manner, that also achieves the firm provisions of the CRPS and District Plan relating to the centres-base framework (which we consider below). However, we consider the District Plan is also clear that business and economic prosperity is critical to both the recovery and long-term needs of the City.
353. All of the economics experts we heard from agreed that the location of the PC6 site - on a large area of flat, highly-accessible land at the corner of a major transport junction, immediately adjoining an existing small CRPZ - is well-suited to and consistent with the locational characteristics typical for a LFC. As Mr Heath stated, it is a "cracking site"³⁹⁵. Clearly the Applicant sees the PC6 site as being well-suited to the expansion of the existing Homebase and rezoning to CRPZ would satisfy the Applicant's own objectives for its land. We were told, and our observations confirm, that options for the expansion of commercial centres are limited and large, well-connected, and undeveloped areas such as this are not commonly available within the City's urban area, and there were none identified in the north and east of the City. The other obviously suitable, commercially-zoned site in the north-east of the City, at Radcliffe Rd in Belfast / Northwood, is now being developed as a large retirement village³⁹⁶. These limitations indicate to us a scarcity in relation to appropriately-located, undeveloped commercial centre land, which is generally not the case in relation to residential land.
354. The District Plan requires that growth of commercial activity is focussed on existing commercial centres, including through the growth of those centres (commensurate with their roles). We heard no evidence to suggest that LFCs in general, or the Homebase CRPZ in particular, should

³⁹⁵ Applicant's Closing Submissions, 3 August 2021, at [27]

³⁹⁶ Harris Supplementary, at [15]

never expand, rather the disagreement between the economists was as to the scale and rate of the Homebase expansion and the potential effects in relation to the centres-base framework. Subject to our wider considerations, we are satisfied that the PC6 site is ideally located for expansion of the CRPZ provision in the north-east of the City.

355. We have accepted that there is currently an imbalance in the supply of large format retail across the City, with under-provision in the north and east of the City compared to the south and central areas. The Applicant's stated purpose for PC6 is to meet this need for additional large format retail in the north and east of the City. We are uncertain that there is, or will be in the foreseeable future, an imbalance in city-wide large format retail supply and demand, as that is very dependent on the productivity assumptions. However, we agree that to the extent that visits to the expanded Homebase LFC are part of other trips, and local consumers replace trips to other LFCs with a trip to the Homebase extension, there would be a reduction in travel kilometres. We have accepted that the Homebase expansion would reduce leakage out of the catchment, and this would have an economic benefit in terms of reduced kilometres travelled that is not insignificant.
356. In terms of supply and demand for all retail in the core catchment used by Mr Heath, we accept his conclusion that retail supply and demand are currently in broad equilibrium. However, growth in retail demand into the future is accepted by all the economics experts, and we have accepted Mr Heath's conclusion of a surplus of retail demand in his core catchment by 2038. Accordingly, we accept that some growth of retail supply in the core catchment will be needed in the longer-term, and that the PC6 site is well-suited to accommodate growth in the large format retail component of that growth, provided it is at a scale and rate which will ensure the expanded CRPZ remains commensurate with its role within the centres-based framework (which we return to below).
357. The District Plan, like all others relating to large urban areas, supports both commercial and residential activity and acknowledges the wellbeing benefits that each provide. In summary, the community needs both. We find no clear guidance from the Plan, in terms of whether and where one might be more important than the other, that would help us determine which might be the more appropriate zone on the PC6 land. Although we acknowledge the RSZ is the operative zone, we find nothing in the District Plan that fundamentally prioritises the retention of existing residential-zoned land ahead of the needs of the community for commercial land. If we gain any direction from the District Plan, it is that growth of commercial activity must be focussed on existing commercial centres, including through their outward expansion³⁹⁷, and this frequently involves the rezoning of existing residential land to an appropriate commercial zone
358. We find ultimately the decision between residential and commercial zone alternatives must be a context-based one that examines the particular circumstances of the alternatives involved. In this respect, we heard no evidence that the operative RSZ would address any local housing shortage

³⁹⁷ Policy 15.2.2.4, which also includes a requirement for any such expansion to ensure the centre remains commensurate with its role and not undermine the function of other centres.

or other residential problem in the same way that we have accepted the proposed CRPZ would assist to address a medium to long-term shortfall of retail supply in the area, reduce retail leakage out of the area, and reduce vehicle kilometres travelled. These are in our view benefits to the community provided by a CRPZ on this site.

359. Turning to the centres-based framework of the CRPS and Chapter 15 of the District Plan, we have described this earlier in our report. Whilst the CRPS and District Plan use somewhat different wording, their centres-based approach is consistent. We note the emphasis on supporting and enhancing District Centres / KACs as major focal points for commercial activities, employment, transport and community activities. Development that adversely affects their function and viability, or public investment in them, is to be avoided. Any outward expansion of a commercial centre (in this case an LFC) must not undermine the function of other centres and not give rise to significant adverse distributional effects. Those centres, such as Shirley / Palms, that sustained significant damage or population loss from the catchments, as a result of the earthquakes, are to be supported in their recovery. The strategic focus and relevance of this framework was not in dispute between the parties.
360. We have already examined this aspect of PC6 in some detail. We have found that Proposed PC6 would not only not support or enhance the Shirley / Palms District Centre as a major focal point for commercial and community activities, but would undermine its strategically important function within the District Plan's centres-based framework. We have, however, found that Mr Heath's proposed staging, including the storetype exclusions³⁹⁸, over ten years will mitigate the adverse retail distribution effects of PC6 on Shirley / Palms to a significant extent and avoid significant adverse effects on that District Centre (KAC).
361. We have accepted that there may be some short-term weakening of the rate of recovery of the District Centre due to the potential lumpiness of development on both the consented supermarket and PC6 sites, during the 10 years of the staging and in the years immediately after 2031, until the more continuous growth in sustainable retail demand accommodates the cumulative effects. This may mean a slightly slower recovery timeframe for the Shirley / Palms District Centre than might otherwise be the case. However, overall we consider this is marginal and of short duration. By avoiding significant adverse effects on the Shirley / Palms District Centre, we are satisfied that PC6 (as we recommend it³⁹⁹) will support this centre's ongoing recovery and its role within the District Plan's network of centres, giving effect to the CRPS; and achieving the relevant objectives and policies of the District Plan.
362. With respect to the other key issues we have considered (for example, transportation, flooding, stormwater and ecological issues), we have found nothing that would distinguish the proposed rezoning to CRPZ (with the amendments we are recommending) as being any more or less suitable than the operative RSZ for the PC6 site. The buildings and activities that will eventuate

³⁹⁸ Including our recommended supermarket exclusion for the first 10 years

³⁹⁹ In particular, with the scale and staging limitations (including the storetype limitations) we recommend, and non-complying activity status to exceed those limitations

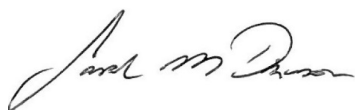
on this land (and their effects) will necessarily be different. PC6 would enable a LFC to be developed in an environment that had been historically envisaged as being more-uniformly for residential activities. However, amongst these other issues we have found no basis to conclude that the site is inherently more appropriate for residential dwellings than for large format retailing.

363. In coming to our view regarding Proposed PC6, we have not started from any presumption that one of the alternative zonings before us is more appropriate than the other. We have carefully evaluated the costs and benefits of the two zone alternatives in the context of the settled provisions of Chapters 3, 14 and 15 of the District Plan and the relevant provisions of the CRPS. Based on the information before us, we have come to our overall judgement as to the most appropriate or suitable zoning for this land.
364. This has not been an easy judgement for us to make. It has been finely balanced. We have come to our view by a narrow margin in relation to the potential for retail distribution effects on The Palms from extending the Homebase CRPZ and the implications of this for achieving the centres-based objectives and policies of the District Plan and the CRPS.
365. As we have discussed elsewhere, there is considerable uncertainty around the modelling and assumptions used as the basis for assessing the potential for retail distribution effects on The Palms. We consider a precautionary approach is warranted and we have taken such an approach in the maximum GLFA cap, the retail GLFA staging and the storetype exclusions we have recommended.
366. However, with the limitations we recommend, we consider the long-term benefits we have accepted for the Christchurch economy and community from providing for additional large format retail on this well-suited site adjoining the existing Homebase CRPZ weigh in favour of the CRPZ being the most appropriate zoning for the PC6 site.
367. For the reasons set out in our report above, and with the amendments we are recommending, we are satisfied that:
- a. the purpose of PC6 (being the rezoning from area-specific RSZ to CRPZ) is the most appropriate way to achieve the purpose of the Act;
 - b. having regard to their efficiency and effectiveness, and taking into account the potential benefits and costs and the risk and uncertainty in our evaluation, the policies and methods of PC6 are the most appropriate way to achieve the settled objectives of the District Plan;
 - c. the rules of PC6 will be efficient and effective in implementing the District Plan's policies; and
 - d. PC6 will give effect to the relevant higher-order planning direction and achieve the purpose of the Act.
368. Our recommended text for PC6 is set out in Appendix 1 to this report, including identifying our recommended amendments to Proposed PC6 as publicly notified.

OVERALL RECOMMENDATION

369. Having considered the evidence before us, and for the reasons we have set out above, we recommend the Council:
- a. adopt PC6 with the wording as set out in Appendix 1; and
 - b. accept, accept in part, or reject the submissions on PC6 as set out in Appendix 2.
370. We have not listed our recommendations for the further submissions in Appendix 2, as the result in respect of any further submission necessarily follows the recommendation on the primary submission, whether that be supported or opposed.

Dated this 7th day of March 2022



Sarah Dawson

Independent Hearings Commissioner (Chair)



Ken Fletcher

Independent Hearings Commissioner



Ian Munro

Independent Hearings Commissioner

Appendix 1- Plan Change 6 as Recommended by the Panel of
Independent Hearing Commissioners

Item 3

Attachment A

Appendix 2- Summary of Submissions with Commissioners' Recommendations

Appendix 1- Plan Change 6 as Recommended by the Panel of Independent Hearing Commissioners

CHRISTCHURCH DISTRICT PLAN

PLAN CHANGE 6 – HOMEBASE EXTENSION

Note: For the purposes of this Plan Change:

Any unchanged text from the Operative Christchurch District Plan is shown as normal text.

Any text proposed to be added by the Plan Change as publicly notified is shown as **bold underlined** and text to be deleted as ~~**bold strikethrough**~~.

Any text recommended to be added to the notified Plan Change by the Panel is shown as **red bold underlined** and text recommended to be deleted as ~~**red bold strikethrough**~~.

Text in **green** font identifies terms defined in Chapter 2 - Definitions.

Text in **blue** font indicates links to other provisions in the District Plan and/or external documents. These will have pop-ups and links, respectively, in the online Christchurch District Plan.

Amend the District Plan as follows:

Chapter 2 Abbreviations and Definitions

Add the following Abbreviation:

ANZSIC

means Australian and New Zealand Standard Industrial Classification, dated 2006

Add the following Definition:

Northern Homebase Centre

means the area zoned Commercial Retail Park within 229 and 241 Marshland Road and parts of 24 Sanctuary Gardens and 215 Marshland Road as contained in CT CB645-62, CT 737304, CT 737303, and CT 60392.

Chapter 7 – Transport

7.4.4 Rules - Matters of control and discretion

Add the following to Rule 7.4.4.18:

High trip generators

- a. The following are matters of control for Rule 7.4.2.2 C1 or matters of discretion for Rule 7.4.2.3 RD1. The following diagram shows the matters of control or discretion that apply to each activity.

...

- i. Access and manoeuvring (safety and efficiency): Whether the provision of access and on-site manoeuvring area associated with the activity, including vehicle loading and servicing deliveries, affects the safety, efficiency, accessibility (including for people whose mobility is restricted) of the site, and the transport network (including considering the road classification of the frontage road).
- ii. Design and Layout: Whether the design and layout of the proposed activity maximises opportunities, to the extent practicable, for travel other than by private car, including providing safe and convenient access for travel by such modes. Within the Northern Homebase Centre, this includes consideration of:
 - A. the provision of pedestrian and cycle access for the public and users of the Centre through the site from Sanctuary Gardens or Havana Gardens to Marshland Road;
 - B. integration of pedestrian and cycle access with development (including building frontages, circulation routes, sightlines and lighting) within the Northern Homebase Centre; and
 - C. any potential safety or nuisance effects and methods to address such effects including by way of a Crime Prevention Through Environmental Design ("CPTED") assessment.
- iii. Heavy vehicles: For activities that will generate more than 250 heavy vehicle trips per day, whether there are any effects from these trips on the roading infrastructure.
- iv. Accessibility of the location: Whether the proposed activity has demonstrated the accessibility of the site by a range of transport modes and whether the activity's location will minimise or reduce travel to and from the activity by private vehicles and encourage public and active transport use.
- v. Network effects: Having particular regard to the level of additional traffic generated by the activity and whether the activity is permitted by the zone in which it is located, whether measures are proposed to adequately mitigate the actual or potential effects on the transport network arising from the anticipated trip generation (for all transport modes) from the proposed activity, including consideration of cumulative effects with other activities in the vicinity, proposed infrastructure, and construction work associated with the activity.
- vi. Strategic framework: Whether the proposal is consistent with the local and regional transport policy framework.

Chapter 14 – Residential

14.3 How to interpret and apply the rules

Delete 14.3.i.i.l as follows:

- i. Area specific rules also apply to activities in the following areas:
 - i. Residential Suburban Zone and Residential Suburban Density Transition Zone:
 - a. Wigram, within the area of the diagram shown on Figure 6 (generally bounded by RNZAF Bequest Land, Awatea Road, and the Wigram aerodrome and runway);
 - b. Peat Ground Condition Constraint Overlay

- c. Prestons Road Retirement Village Overlay;
- d. adjacent to State Highway 73 (Southern Motorway) between Annex and Curletts Roads;
- e. adjacent to State Highway 75 (Curletts Road) between the intersection with State Highway 73 and Lincoln Road;
- f. Existing Rural Hamlet Overlay;
- g. Stormwater Capacity Constraint Overlay;
- h. Residential land abutting the western boundary of the Industrial Park Zone at Russley Road / Memorial Avenue;
- i. ~~Mairehau final development area shown on Figure 5;~~
- j. Accommodation and Community Facilities Overlay; and
- k. Character Area Overlay.

14.4 Rules – Residential Suburban Zone and Residential Suburban Density Transition Zone

14.4.3.1.3 Area-specific restricted discretionary activities

Delete Rule 14.4.3.1.3 RD2 as follows:

RD2	Mairehau Final Development Area	a. Any development of land that is not in accordance with the layout shown in the development plan in Figure 5. b. Any application arising from this rule shall not be limited or publicly notified.	a. Development plans – Rule 14.15.15
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Delete Figure 5: Mairehau final development area.

14.4.3.2.7 Noise Insulation

Delete Rule 14.4.3.2.7.c. as follows:

c.	Mairehau Final Development Area identified in Figure 5 – on land which is on the western side of Marshlands Road between Queen Elizabeth Drive and Briggs Road	a. There shall be no minimum building setback where: <ul style="list-style-type: none"> i. mounding or other physical barrier to noise transmission capable of reducing traffic noise intrusion to all parts of any site by at least 10dBA is provided within 20 metres of the road boundary across the entire width of the site; ii. the mounding in i. is screened from the adjoining road by landscaping with a minimum depth of 1.5 metres and a minimum height of 1.8 metres at time of planting; iii. the minimum building setback from a limited access road shall be 40 metres. b. where a.i. and a.ii. are complied with and all external windows and doors of a residential units including those installed in the roof are acoustically treated to achieve a sound transmission loss of at least 25dBA with windows and doors closed the minimum setback shall be 20 metres.
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		<p>c. Where a. and b. do not apply the minimum building setback shall be 80 metres.</p> <p>d. For the purpose of this rule the minimum building setback shall be measured from the road carriageway to the residential unit.</p>
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Chapter 15 – Commercial

15.2 Objectives and Policies

Amend Table 15.1 – Centre’s Role D. Large format centre as follows:

	Role	Centre and size (where relevant)
D.	<p><u>Large format centre</u></p> <p>Standalone retail centre, comprising stores with large footprints, <u>yard-based suppliers</u>, <u>trade suppliers</u> including building improvement centres, and other vehicle oriented activities.</p> <p>Provision of other <u>commercial activities</u> and residential and community uses is limited. This includes limiting <u>offices</u> to an <u>ancillary</u> function, and at Tower Junction, providing for a limited amount of <u>commercial services</u>. <u>At the Northern Homebase Centre, retail activities are limited in type until October 2031.</u></p> <p>Serves large geographical areas of the city.</p> <p>Not necessarily connected to a residential catchment.</p> <p>Primarily accessed by car with limited public transport services.</p> <p>The extent of the centre is the Commercial Retail Park Zone.</p>	Centres: Moorhouse Avenue, Shirley Homebase, Tower Junction.

Add new Policy 15.2.2.6 as follows:

15.2.2.6 Policy – Northern Homebase Centre

a. Require development within the Northern Homebase Centre to:

- i. be of a scale and type of built development and activity that:
 - A. avoids adverse effects on the safe, efficient and effective functioning of the road network;
 - B. enables stormwater to be disposed of in a manner which maintains or enhances the quality and ecological values of downstream surface waterbodies; and
 - C. avoids inundation on surrounding land, including roads;
- ii. be of a scale, type and timing of retail activity that supports the function and recovery of the Shirley / Palms District Centre;

- iii. manage adverse effects on amenity values in the adjoining residential areas to the west; and
- iv. provide safe and convenient pedestrian and cycling connectivity between the adjoining residential areas to the west and Marshland Road.

15.7 Rules – Commercial Retail Park Zone

15.7.1 Activity status tables – Commercial Retail Park Zone

Amend the Activity specific standards for P2 in Rule 15.7.1.1 as follows:

	Activity	Activity specific standard
P2	Retail activity, unless specified below	<ul style="list-style-type: none"> a. The minimum tenancy size of any single retail activity shall be 450m² GLFA. b. <u>Prior to 4 October 2031, retail activity in the Northern Homebase Centre shall not include clothing stores or footwear stores (as categorised by their primary classification under ANZSIC categories) or department stores.</u>
P3	Supermarket	a. <u>Prior to 4 October 2031, there shall be no supermarket in the Northern Homebase Centre.</u>
P4	Trade supplier	Nil
P5	Yard-based supplier	
P6	Second-hand goods outlet	
P7	Service station	
P8	Food and beverage outlet	

Add the following to Rule 15.7.1.5 Non-complying activities:

	Activity
NC1	Any <u>retail activity</u> listed in Rule 15.7.1.1 P2 that does not meet <u>one or more of</u> the activity specific standards.
NC2	Any activity or <u>building</u> not meeting the activity specific standard for Rule 15.7.1.1 P21.
NC3	<u>Any supermarket listed in Rule 15.7.1.1 P3 that does not meet the activity specific standard.</u>

	Activity
NC4	<u>Any activity or building within the Northern Homebase Centre that does not meet one or more of the built form standards in Rules 15.7.2.9, 15.7.2.10 or 15.7.2.11.</u>

15.7.2 Built form standards – Commercial Retail Park Zone

Amend Built form standard 15.7.2.1 as follows:

15.7.2.1 Maximum Building Height

- The maximum height of any building shall be 15 metres, **except for the Northern Homebase Centre.**
- For the Northern Homebase Centre, the maximum height of any building shall be 12 metres.**
- Any application arising from this rule shall not be publicly notified.

Amend Built form standard 15.7.2.2 as follows:

15.7.2.2 Minimum building setback from road boundaries

- The minimum building setback from road boundaries shall be as follows:

	Activity	Standard
i.	Any activity unless specified in ii – iii below	3 metres
ii.	<u>Ancillary offices</u>	1.5 metres
iii.	For sites with frontage to two intersecting roads in the Commercial Retail Park Zone, <u>except for the Northern Homebase Centre</u>	1.5 metres on one road boundary and 3 metres on the other road boundary
<u>iv.</u>	<u>For sites within the Northern Homebase Centre with frontage to QEII Drive</u>	<u>12 metres</u>
<u>v.</u>	<u>For sites within the Northern Homebase Centre with frontage to Marshland Road</u>	<u>6 metres</u>

- Any application arising from this rule shall not be limited or publicly notified.

Amend Built form standard 15.7.2.3 as follows:

15.7.2.3 Minimum building setback from residential or open space zones

- a. Where a site shares a boundary with a residential or open space zone, the minimum building setback from boundaries shall be 3 metres, except for the Northern Homebase Centre.
- b. For the Northern Homebase Centre, where a site shares a boundary with a residential zone, the minimum building setback from boundaries shall be 11 metres.
- c. Any application arising from this rule shall not be publicly notified.

Amend Built form standard 15.7.2.4 as follows:

15.7.2.4 Sunlight and outlook at boundary with a residential zone

- a. Except for the Northern Homebase Centre, where an internal site boundary adjoins a residential zone, no part of any building shall project beyond a building envelope contained by a recession plane measured from any point 2.3 metres above the internal boundary, in accordance with the diagrams in Appendix 15.15.9.
- b. For the Northern Homebase Centre, where an internal site boundary adjoins 30 Palm Drive, 20, 22, 24, 26, 28, 30, 32 or 34 Sanctuary Gardens or 30 and 33 Havana Gardens, no part of any building shall project beyond a building envelope contained by a 32.4 degree recession plane measured from any point 2.3 metres above the internal boundary.
- c. Where sites are located within a Flood Management Area, recession plane breaches created by the need to raise floor levels shall not be limited or publicly notified.
- d. Any application arising from this rule shall not be publicly notified.

Amend Built form standard 15.7.2.6 as follows:

15.7.2.6 Landscaping and trees

- a. Landscaping and trees shall be provided as follows:

Standard
<ol style="list-style-type: none"> i. <u>Except as specified in iii. below for the Northern Homebase Centre, the area adjoining the road frontage of all sites shall contain landscaping in accordance with the following standards:</u> <ol style="list-style-type: none"> A. Minimum width - 1.5 metres B. Minimum density of tree planting - 1 tree for every 10 metres of <u>road frontage</u> or part thereof, evenly spaced. ii. On <u>sites adjoining</u> a residential zone, trees shall be planted adjacent to the shared internal <u>boundary</u> at a ratio of at least 1 tree for every 10 metres of the <u>boundary</u> or part thereof, with the trees evenly spaced along that <u>boundary</u>.

Standard
<p>iii. <u>On sites adjoining QEII Drive within the Northern Homebase Centre, trees shall be planted adjacent to the road boundary with QEII Drive at a ratio of at least 1 tree for every 6 metres of the road boundary or part thereof, with the trees planted in singles and groupings, spaced between 6-10m apart. These trees are to be large tree species that are capable of growing to a height of 15m at maturity and must be a minimum height of 2.5m at the time of planting. These trees may be a combination of evergreen and deciduous species but must comprise at least 20% evergreen.</u></p> <p>iv. 1 tree shall be planted for every 5 car <u>parking spaces</u> within any car <u>parking area</u> and along any pedestrian routes.</p> <p>v. All <u>landscaping</u> / trees required for these rules shall be in accordance with the provisions in <u>Appendix 6.11.6</u> of Chapter 6.</p>

- b. Any application arising from clauses a.i, ~~and a.iii~~ and a.iv of this rule shall not be publicly or limited notified.

Advice notes:

- Any landscaping required by Rule 15.7.2.6 may be located in common areas, where the development comprises land and/or buildings in separate unit titles.
- Stormwater facilities that support multiple values such water quality treatment, biodiversity enhancement and landscape amenity, should be incorporated into landscaped areas, where practicable, to achieve effective stormwater management in an integrated manner.

Add the following additional Built form standards

15.7.2.9 – Scale and staging of development - Northern Homebase Centre

- Within the Northern Homebase Centre, the total amount of floorspace for all activities shall not exceed 20,000m² GLFA; and
- Within the Northern Homebase Centre, the total amount of floorspace for retail activities shall not exceed the following:
 - 5,000m² GLFA prior to 4 October 2026;
 - 10,000m² GLFA prior to 4 October 2031.

15.7.2.10 – Vehicle access - Northern Homebase Centre

- Within the Northern Homebase Centre, there shall be no vehicle access for any activity over the western boundary to Havana Gardens or Sanctuary Gardens.

15.7.2.11 – Pedestrian and cycle access - Northern Homebase Centre

- a. Prior to the occupation of any building within the Northern Homebase Centre, a pedestrian and cycle path shall be provided through the site from either Sanctuary Gardens or Havana Gardens to Marshland Road.

Planning Maps

Planning Map 25(A)

Amend Planning Map 25A by changing the zoning of the site at 229, 241 and part of 24 Sanctuary Gardens and 215 Marshland Road from Residential Suburban to Commercial Retail Park, as shown on the attached map and enlargement.

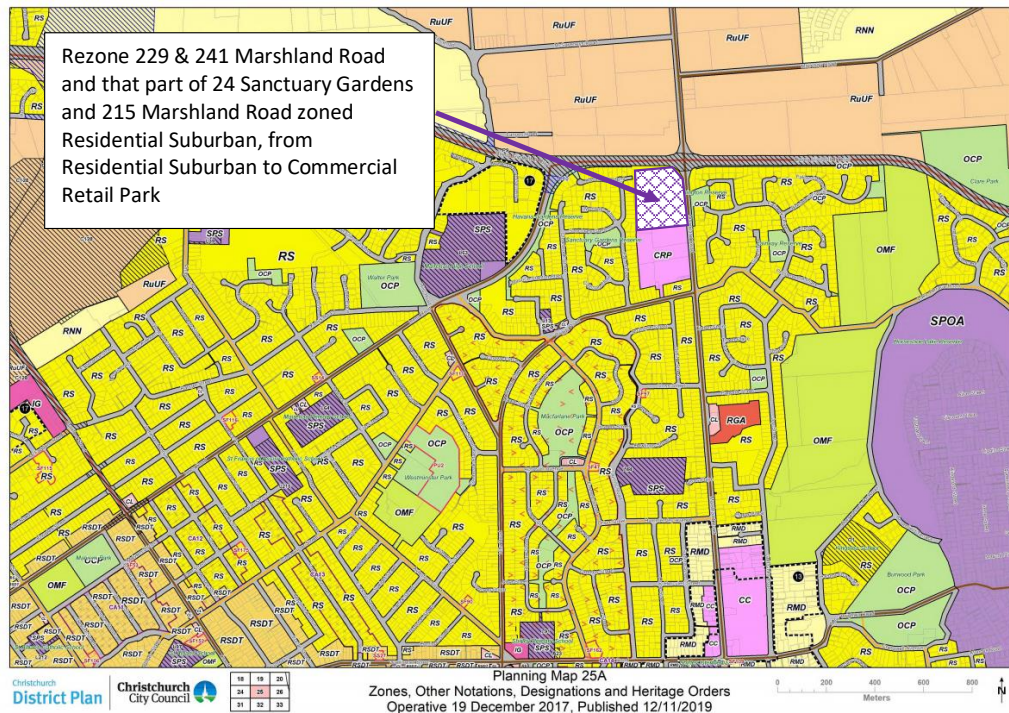


Figure 1: Plan Change site at scale of full Planning Map 25

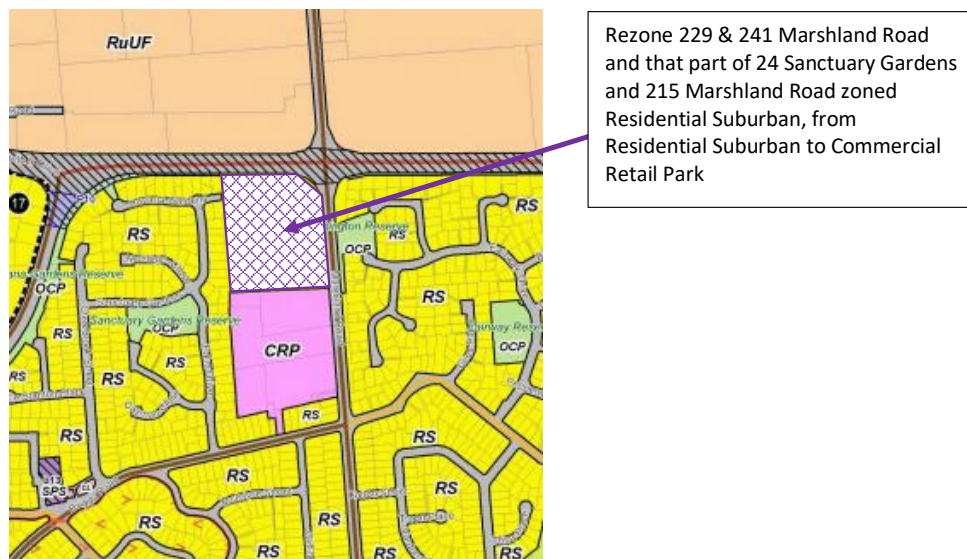


Figure 2: Plan Change site enlargement

Appendix 2- Summary of Submissions with Commissioners' Recommendations

CHRISTCHURCH DISTRICT PLAN

PLAN CHANGE 6

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
Grant Hanham	S1	D1.1	Approval for the proposed plan change.	Accept in part
Rebecca Hill	S2	D2.1	With regards to the use of Havana Gardens and Sanctuary Gardens as access points, amend the plan change to <i>"reconsider having extra traffic through a small subdivision, especially at the narrowest points of the subdivision."</i>	Accept
Lewis Webster	S3	D3.1	Approve the plan change in its entirety.	Accept in part
Mike and Denise Southern	S4	D4.1	Reject the plan change in its entirety.	Reject
Paula and Peter Halliday	S5	D5.1	Amend the plan change to <i>"ensure that there will never be road access to the proposed Commercial Centre from either Sanctuary Gardens or Havana Gardens now or in the future."</i>	Accept
Caroline Petra Mayo	S6	D6.1	Reject the plan change in its entirety.	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D6.2	Oppose <i>"the proposal to relocate the stream on Council land at 32 Sanctuary Gardens to the rear of my property."</i>	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D6.3	Amend the plan change to require the <i>"height of buildings near the boundary to be less than 15 metres."</i>	Accept.
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D6.4	Amend the plan change to ensure that no trucks or other retail park traffic have access through 24 Sanctuary Gardens.	Accept

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Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			Further Submitter	
			Ann-Marie and Bob Kearney	
Sarah McCallum	S7	D7.1	Approve the rezoning to Commercial Retail Park Zone	Accept in part
Wayne Smith	S8	D8.1	Reject the change of zone.	Reject
Ya-fen Lee	S9	D9.1	Reject the plan change.	Reject
Ann-Marie and Bob Kearney	S10	D10.1	Reject the plan change so that the <i>“land stays residential.”</i>	Reject
Dawn Chivers	S11	D11.1	Reject <i>“the use of the site at 24 Sanctuary Gardens for an accessway to the Marshland Road area for loading zone and truck turning areas plus the staff car parking in this area.”</i>	Accept in part
		D11.2	<i>“Would like to see the height and size of the proposed buildings.”</i>	Accept
Yukiko Kuroiwa	S12	D12.1	Reject the <i>“use of sections at 24 Sanctuary Gardens as a driveway.”</i>	Accept
David Conning	S13	D13.1	Amend the plan change to state <i>“that there is absolutely no access for vehicle traffic via the Clearbrook Palms subdivision.”</i>	Accept
Rosemary Joy Murray	S14	D14.1	<i>“Reject the proposed rezone of the land in planning map 25A.”</i>	Reject
Cody Cooper	S15	D15.1	Approve the rezoning.	Accept in part
Martinus J Brevoort	S16	D16.1	<i>“This [the status quo zoning] should remain the first priority.”</i>	Reject
		D16.2	Amend the plan change to exclude 24 Sanctuary Gardens from the proposed rezoning.	Accept in part
		D16.3	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens and Havana Gardens.	Accept in part
Mr and Mrs R Harland	S17	D17.1	Amend the plan change to ensure there is no access provided through the two empty lots in Clearbrook Palms.	Accept in part
The Salvation Army Christchurch City Corps	S18	D18.1	Amend the plan change to ensure <i>“prohibition of use of residential streets for staff or overflow parking.”</i>	Reject
		D18.2	Amend the plan change to ensure <i>“prohibition of using residential streets for the access of commercial delivery vehicles to the proposed site.”</i>	Accept
Jason and Nadine Dalziel	S19	D19.1	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens and Havana Gardens.	Accept in part
Joanna Krakowiak	S20	D20.1	<i>“Oppose provision of extending Homebase by Marshland Road and changing residential zone into Commercial Retail Park.”</i>	Reject
			Further Submitter	

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			Ann-Marie and Bob Kearney	
		D20.2	<i>"If 24 Sanctuary Garden is to stay as traffic for trucks Council should reconsider changing rates as quality of life in neighbourhood would deteriorate and homes would have less values."</i>	Reject as out-of-Scope of PC4
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D20.3	Amend plan change to restrict use of 24 Sanctuary Gardens as access way for loading zone.	Accept
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D20.4	Amend plan change to require traffic intersection upgrades for Briggs Road/Marshland Road intersection.	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D20.5	Amend plan change for roundabouts within subdivision [Clearbrook Palms] to be either updated or repaired	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Elizabeth Vuillermin	S21	D21.1	<i>"Reject the rezoning of the land in planning map 25A."</i>	Reject
Waitai/Coastal-Burwood Community Board	S22	D22.1	Amend the plan change to limit the type of large format retail at the proposed location so that they are complementary rather than in direct competition with the Palms shopping centre.	Accept in part
		D22.2	<i>"The impact of increased traffic volumes along [Briggs Road, Lake Terrace Road, Mairehau Road and Marshland Road and Queen Elizabeth II Drive] and other minor arterial collector roads needs further consideration"</i>	Accept in part
Ken Booth & Bee Bryant	S23	D23.1	Amend the plan change to ensure that any use of the proposed access to the developed site via Sanctuary Gardens [or Havana Gardens] be confined to delivery and business access only, and available only between 0700 and 2200 hours.	Accept in part
		D23.2	Amend the plan change to ensure that the noise mitigation option chosen for the western boundary is the use of a bund surmounted by a solid fence.	Reject
Anthony Hill	S24	D24.1	Reject the plan change in its entirety	Reject

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			Further Submitter	
			Ann-Marie and Bob Kearney	
Sharlene Bush	S25	D25.1	Reject the plan change, especially the potential for 24 Sanctuary Gardens to be an entrance way into this complex along with Havana Gardens.	Reject, except: Accept in part regarding use of 24 Sanctuary Gardens
			Further Submitter	
			Ann-Marie and Bob Kearney	
Adrian Badger	S26	D26.1	Amend the plan change to exclude 24 Sanctuary Gardens from the proposed rezoning.	Accept in part
		D26.2	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens and Havana Gardens.	Accept in part
Derek Williams	S27	D27.1	Reject the plan change to rezone the land from residential suburban to commercial retail park zone	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D27.2	Amend plan change to ensure "24 Sanctuary Gardens remains untouched and not used as Bunnings road exit."	Accept in part
			Further Submitter	
			Ann-Marie and Bob Kearney	
Christine Williams	S28	D28.1	Reject the plan change to rezone the land from residential suburban to commercial retail park zone	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Brenda Williams	S29	D29.1	Reject the plan change in its entirety	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Hilary West	S30	D30.1	Amend the plan change to exclude 24 Sanctuary Gardens from the proposed rezoning.	Accept in part
		D30.2	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens and Havana Gardens.	Accept in part
Tony West	S31	D31.1	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens.	Accept in part

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
Robert McKenzie	S32	D32.1	<i>"Can the Council advise what (if any) proposed vehicular access to the proposed development is likely via Sanctuary Gardens or Havana Gardens? If there is a plan for Heavy Vehicle access in particular, has the Council considered the adverse impacts on the residential neighbourhood (sic) (Clearbrook Palms), including safety of residents and degradation of road surfaces and roundabouts?"</i>	Accept
Mary Harbrow	S33	D33.1	Reject the rezoning of land as shown on map 25a	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D33.2	Amend the plan change to ensure that <i>"the proposals to able to use any parts of 24 Sanctuary Gardens or Havana Place [Gardens] as a regular access for Commercial vehicles removed."</i>	Accept
			Further Submitter	
			Ann-Marie and Bob Kearney	
Annette Blair	S34	D34.1	Amend plan change to require any security lighting to be angled away from residential homes	Reject
		D34.2	Amend plan change to ensure staff parking is mandated to be within the complex	Reject
		D34.3	Amend plan change to restrict the height of buildings within the site to two stories	Reject
Rebecca and Scott Dew	S35	D35.1	Amend the plan change to ensure that <i>"the CCC do not allow the developer to use our subdivision [Clearbrook Palms] for access to their development."</i>	Accept in part
Garry Duxbury	S36	D36.1	Reject the rezoning of land in planning map 25a	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Louise Silvester	S37	D37.1	Reject the plan change in its entirety	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D37.2	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens and Havana Gardens.	Accept in part
			Further Submitter	
			Ann-Marie and Bob Kearney	

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
		D37.3	Amend the plan change to restrict the use of bright lights during night time	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D37.4	Amend the plan change to reduce the height of buildings to 8 metres.	Accept in part
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D37.5	Amend the plan change to increase the setback between residential properties and commercial buildings.	Accept
		Further Submitter		
			Ann-Marie and Bob Kearney	
Waipapa/Papanui-Innes Community Board	S38	D38.1	Amend plan change to ensure that any negative amenity effects on residents are addressed.	Accept in part
Peter Retimanu	S39	D39.1	Reject the rezoning application and for properties to remain residential	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	
Bede and Alison Kearney	S40	D40.1	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens and Havana Gardens.	Accept in part
Rachel Bannister	S41	D41.1	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens, particularly for trucks to load, unload and for turning for the proposed supermarket at Homebase, and that another access way be found through the Marshland Road properties.	Accept in part
Peter and Chris Costello	S42	D42.1	<i>"Provide an assurance that traffic access to the new development will not be included in this, or any future proposal, via 24 Sanctuary Gardens and/or Havana Gardens, or any other property bordering the new development."</i>	Accept
		D42.2	Amend plan change to address the additional concern of <i>"what effect the granting of this proposal would have on the future of The Palms shopping mall."</i>	Accept
Kenneth and Aleida Orr	S43	D43.1	Reject the plan change in its entirety now and any time in the future.	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
		D43.2	24 Sanctuary Gardens should remain zoned residential suburban and not commercial retail park.	Accept in part
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D43.3	Oppose access to the Homebase extension from Clearbrook Palms as there is no through traffic with only two entry points to the subdivision, ... and they are totally unsuitable for heavy traffic.	Accept in part
		Further Submitter		
			Ann-Marie and Bob Kearney	
Dominic Orr	S44	D44.1	Reject the plan change in its entirety.	Reject
		D44.2	24 Sanctuary Gardens should remain zoned residential suburban and not commercial retail park.	Accept in part
		D44.3	Oppose access to the Homebase extension from Clearbrook Palms as there is no through traffic with only two entry points to the subdivision, ... and they are totally unsuitable for heavy traffic.	Accept in part
Joclyn Burnside	S45	D45.1	Reject the plan change as proposed.	Reject
		D45.2	Object to car parking taking precedence over soil, noise from digging and vehicles, and rain and stormwater coming into existing storm drains.	Accept in part
		D45.3	Amend plan change to provide for a different land use as <i>"there is much better use for this block bounding (sic) on QE11 Drive."</i>	Reject
		D45.4	Amend plan change to provide for 24 Sanctuary Gardens being a walkway to the consented supermarket not a road, and a lane behind the existing shops, and further shops be built where the existing consent exists.	Accept in part
AMP Capital Palms PTY Limited	S46	D46.1	Reject the plan change as notified in its entirety	Submission Withdrawn
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D46.2	Oppose the enablement of new commercial activity and growth, in a manner that is contrary to the strategic and commercial objectives in the District Plan and which among other things fails to support intensification within centres and does not 'support the function of', or 'give primacy to' the Shirley KAC	Submission Withdrawn

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D46.3	Oppose the adverse effects (particularly cumulative effects associated with future growth in the Shirley KAC) on the transport network and public and private infrastructure.	Submission Withdrawn
			Further Submitter	
			Ann-Marie and Bob Kearney	
Maree Hill	S47	D47.1	Reject the plan change in its entirety	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D47.2	Oppose access through 24 Sanctuary Gardens and the road in front of our property by heavy vehicles, and the congestion resulting from staff parking.	Accept in part
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D47.3	Oppose the loss of residential zoned land.	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Scott McIlraith	S48	D48.1	Reject the plan change in its entirety	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D48.2	Oppose the increase in traffic in the local area [Marshland and Briggs Road].	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Christopher Hentschel	S49	D49.1	Amend the plan change to exclude land within Sanctuary Gardens from the proposed rezoning.	Reject as out-of-Scope of PC6
		D49.2	Support the use of land for commercial retail park activities subject to further traffic considerations, light pollution, and updated economic evidence post Covid-19.	Accept
Lindsay Carswell	S50	D50.1	Decline the proposed plan change. <i>"The city has become a homogenised city with shopping centres and malls scattered throughout the city. If we want to have a viable central business district then further developments</i>	Reject

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			<i>of this type should be refused."</i>	
			Further Submitter	
			Ann-Marie and Bob Kearney	
Diana Plesovs	S51	D51.1	Reject the plan change in its entirety. <i>"Do not rezone land from Residential Suburban zone to Commercial Retail Park by amending Planning Map 25A."</i>	Reject
		D51.2	<i>"Keep references to the Mairehau Final Development Plan in the District Plan (keep 14.3.i.1.1, 14.4.3.2.7c, and Figure 5, and 3."</i>	Reject
		D51.3	<i>"Do not amend Chapter 15 Rule 15.7.2.4 by adding a new rule that applies to a 32.4 degree recession plane at the western boundary of the site."</i>	Reject
		D51.4	Oppose the loss of residential zoned land.	Reject
Canterbury Regional Council (Environment Canterbury)	S52	D52.1	To test through the hearing process the section 32 analysis and the economic analysis provided by the applicant, and give careful consideration to the likely economic and retail distribution effects and whether and to what extent the expansion of commercial activities on this site could undermine the existing network of centres and in particular adversely affect the function and viability of The Palms, Shirley as a Key Activity Centre and the primacy of the City Centre.	Accept
		D52.2	To test through the hearing process the section 32 analysis and transportation assessment provided by the applicant, and give careful consideration to whether and how the site can be effectively integrated with transport infrastructure, and in particular whether it will contribute to the achievement of a pattern of development that optimises use of existing network capacity, reduce dependency on private vehicles, support increased uptake of active and public transport, and provide opportunities for modal choice.	Accept
Christchurch City Council	S53	D53.1	That should the hearings panel be minded to recommend approval of the request for rezoning the subject land, it is requested that the hearings panel consider and provide for rules and other provisions to mitigate potential adverse effects, achieve better integration within the site context, and provide an outcome that is more appropriate to achieve the Objectives and Policies of the District Plan, higher order documents and the purpose of the Resource Management Act. Rules and other provisions that can be added to the plan change include:	Accept in part

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			a. requiring larger setbacks from boundaries; b. requiring additional landscaping, amenity plantings and green corridors; c. requiring active transport (i.e. pedestrian and cycle) permeability and visual permeability through the site; d. controlling maximum continuous building lengths; e. limiting the extent of the building envelope in proximity to the residential boundary; f. requiring pedestrian and cycle linkages; g. controlling site layouts; h. restricting and/or controlling access (e.g. through 24 Sanctuary Gardens and Havana Gardens); i. requiring an ODP; j. management of stormwater.	
Anne Morrell Slee	S54	D54.1	Amend plan change to ensure no increase in traffic volume especially if plan is to allow service trucks on Palm Drive.	Accept in part
Warren Agnew	S55	D55.1	Reject the plan change to keep the land in question as residentially zoned land and not change it to commercially zoned	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D55.2	<i>"Oppose the use of subdivision [Clearbrook Palms] roads for commercial vehicle use of any description."</i>	Accept
		Further Submitter		
			Ann-Marie and Bob Kearney	
Gail Agnew	S56	D56.1	Reject the plan change to keep the land in question as residentially zoned land and not change it to commercially zoned	Reject
		Further Submitter		
			Ann-Marie and Bob Kearney	
		D56.2	Oppose the plan change as <i>"a residential area should never be used for Commercial traffic of any kind"</i>	Accept in part
		Further Submitter		
			Ann-Marie and Bob Kearney	
Phillip Ormond Hill	S57	D57.1	Reject the plan change to keep the land in question as residentially	Reject

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
			zoned land and not change it to commercially zoned	
		D57.2	<i>"Oppose the use of subdivision [Clearbrook Palms] roads for commercial vehicle use of any description."</i>	Accept
Margaret Anne Goulden	S58	D58.1	<i>"My home which is residential, and should definitely remain residential, should on no account be changed ... I do not want residential status changed."</i>	Reject as out-of-Scope of PC6
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D58.2	<i>"If an exit is required for the extension to Homebase, could it not be placed direct onto Marshlands Road. Palm Drive is not wide enough for Commercial traffic, nor is Sanctuary Gardens."</i>	Accept
			Further Submitter	
			Ann-Marie and Bob Kearney	
Diane Maree Nottingham	S59	D59.1	Oppose if heavy vehicle access provided through Clearbrook Palms subdivision.	Accept
		D59.2	<i>"That number 24 Sanctuary Gardens is used as an entry and exit point."</i>	Accept in part
Jeannie Kydd	S60	D60.1	Reject the plan change to keep the zoning of this land as residential and not commercial	Reject
		D60.2	Oppose the plan change as <i>"a residential area should never be used for Commercial traffic of any kind"</i>	Accept in part
Josephine Brenda Dickson	S61	D61.1	Amend the plan change to ensure there is no access provided through Clearbrook Palms.	Accept in part
Younsik Chung	S62	D62.1	Amend the plan change to ensure there is no access provided through Clearbrook Palms.	Accept in part
Anthony Peter Maguire	S63	D63.1	Reject plan change	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D63.2	Amend the plan change to ensure there is no access provided through Palm Drive.	Accept in part
			Further Submitter	
			Ann-Marie and Bob Kearney	
Raymond Allan Jackson	S64	D64.1	Amend the plan change to ensure there is no access provided through Clearbrook Palms.	Accept in part

Submitter	Submission No.	Decision No.	Decision Sought	Accept / Reject Recommendation
Maurice Walter Grant	S65	D65.1	Reject the plan change in its entirety, due to the effects on Clearbrook Palms	Reject
			Further Submitter	
			Ann-Marie and Bob Kearney	
Martinus Bakker	S66	D66.1	Reject the rezoning of any property within the Clearbrook Palms area.	Reject as out-of-Scope of PC6
			Further Submitter	
			Ann-Marie and Bob Kearney	
		D66.2	Amend the plan change to ensure there is no access provided through Clearbrook Palms via vehicle or foot.	Accept in part
			Further Submitter	
			Ann-Marie and Bob Kearney	
Anita Gopal	S67	D67.1	Dismiss developer plans to use sites 24 Sanctuary Gardens, 195 and 215 Marshland Road	Accept in part
		D67.2	Amend the plan change to ensure there is no access provided through Clearbrook Palms.	Accept in part
Jonathan Prior	S68	D68.1	Amend the plan change to exclude 24 Sanctuary Gardens from the proposed rezoning.	Accept in part
		D68.2	Amend the plan change to ensure there is no access provided through 24 Sanctuary Gardens for delivery trucks.	Accept

4. Supplementary Paper on Plan Change 6 Homebase Extension

Reference / Te Tohutoro: 22/811153

Report of / Te Pou
Matua:

Mark Stevenson, Manager Planning, mark.stevenson@ccc.govt.nz

General Manager /
Pouwhakarae:

Jane Davis, General Manager – Infrastructure Planning and
Regulatory Services

1. Supplementary information

- 1.1 The purpose of this report is to provide additional information to Council to supplement the report to Council on 30th June 2022. That additional information is:
 - (a) a response from the Hearings Panel to a question from Council regarding pedestrian/cycle access to the site from QEII Drive; and
 - (b) Legal advice regarding the threshold for returning the recommendations back to the Panel for reconsideration.

(a) Pedestrian/cycle access from QEII Drive

- 1.2 At the Council meeting of 9th June, the Council sought further information concerning the reasons expressed by the Hearings Panel for not requiring an additional pedestrian/ cycle access from the site to the shared path adjacent to QEII Drive. Paragraph 313 of the Panel's report considers this matter and states:

"In this context, we see no resource management need for an additional pedestrian or cycle access point from the PC6 site to QEII Drive, and do not agree that one would be justified. A viable route would exist for pedestrians and cyclists from Marshland Road through the PC6 site, along Havana Gardens and to the QEII Drive outlet with Innes Road. We in fact see this as likely being more desirable for pedestrian and cyclists undertaking such an east west movement than travelling along the edge of QEII Drive noting its high-speed environment and traffic intensity, and lack of engaging land use edge due to the presence of dense landscape buffering (which while possibly pleasant to look at prevents any form of passive surveillance or social interaction to occur)."

- 1.3 The Council queried whether the Panel had taken account of the shared path being physically separated from the road and with a barrier between pedestrians/ cyclists and vehicles. Councillors noted that those travelling from the east on the shared path would need to leave the shared path and travel south on Marshland Road to enter the site rather than continuing on the shared path to have direct access to the site if there was a direct connection to the site from the shared path.

- 1.4 Officers asked that question of the Panel as follows:

The Council is unclear from paragraph 313 of the Panel's report, as to whether the Panel's recommendation that an additional pedestrian or cycle access point from the PC6 site to QEII Drive is unjustified, has taken into account the facts that:

- *the shared path on QEII Drive is physically separated from the road and with a barrier between pedestrians/ cyclists and vehicles; and*
- *those travelling from the east on the shared path would need to leave the shared path and travel south on Marshland Road to enter the site rather than continuing*

on the shared path to have direct access to the site if there was a direct connection to the site from the shared path.

Please explain whether the Panel took those two matters into account, and the weight that the Panel placed on them, when making the finding in paragraph 313 of the Panel's recommendations.

- 1.5 The Hearings Panel response is attached to this report. The Council's questions have been addressed.

(b) The threshold for returning the recommendations to the Panel for reconsideration

- 1.6 The Council's resolution of 9th June sought further information on the following matter before making a decision:

Legal advice regarding the threshold for returning the recommendations back to the Panel for reconsideration

- 1.7 This was addressed in Part 4 of the report to the Council meeting on 9th June.

- 1.8 The threshold is that it must be reasonable to do so.

- 1.9 Reasonableness needs to be assessed in the specific context.

- 1.10 The Panel's recommendations to the Council are advising the Council on the Council's decision under clause 10 of Schedule 1 of the Resource Management Act 1991, which provides:

10 Decisions on provisions and matters raised in submissions

- (1) *A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.*
- (2) *The decision—*
- (a) *must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—*
 - (i) *the provisions of the proposed statement or plan to which they relate; or*
 - (ii) *the matters to which they relate; and*
 - (ab) *must include a further evaluation of the proposed policy statement or plan undertaken in accordance with [section 32AA](#); and*
 - (b) *may include—*
 - (i) *matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and*
 - (ii) *any other matter relevant to the proposed statement or plan arising from the submissions.*
- (3) *To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.*
- (4) *The local authority must—*
- (aaa) *have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and*
 - (a) *give its decision no later than 2 years after notifying the proposed policy statement or plan under [clause 5](#); and*
 - (b) *publicly notify the decision within the same time.*

- (5) *On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.*



- 1.11 The Council chose to delegate authority to a Panel of experts to make recommendations to the Council on those matters. That is what the Panel has done. Its recommendations to the Council are a result of the Panel:
- Holding a hearing;
 - Hearing legal submissions and asking questions of lawyers;
 - Hearing evidence from council officers, applicant's experts and submitters and asking questions of those people;
 - Visiting the site;
 - Considering the proposed change to the District Plan;
 - Considering the matters raised in submissions;
 - Assessing whether to accept or reject specific matters raised in submissions;
 - Assessing whether consequential changes to other provisions of the District Plan are warranted;
 - Having particular regard to its further evaluation of the proposed changes in accordance with section 32AA of the Resource Management Act;
 - Putting its assessment of the above matters into a written recommendation to the Council that addresses all of the statutory requirements, explains its reasoning, and explains the evidential basis for its recommendations.
- 1.12 Reasonableness of returning all or some of the Panel recommendations to the Panel for reconsideration would require that there be a specific factual matter or issue, in relation to one of the above matters, that the Council has an evidential basis for concluding has been inadequately assessed by the Panel. That evidential basis might be from, for example, information possessed by the Council that the Council considers was not taken into account by the Panel (as was the case for the cycle/pedestrian access question raised above), or expert assessment that the Council has received that was not available to the Panel.
- 1.13 The Council had one such question. In the interests of efficiency, the Council asked for a Panel response as to whether the Panel had considered the matter, rather than pre-emptively returning the matter to the Panel for reconsideration. The Panel's response has explained that it has considered that matter.

2. Officer Recommendations Ngā Tūtohu

That the Council:

1. Receive the information in this Report, additional to the report seeking approval of the Hearing Panel's recommendations on Proposed Plan Change 6.

Attachments / Ngā Tāpirihanga

No.	Title	Page
A  	Response from the Hearings Panel	135

In addition to the attached documents, the following background information is available:

Document Name	Location / File Link
Not applicable	

Confirmation of Statutory Compliance / Te Whakatūturutanga ā-Ture

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

(a) This report contains:

- (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
- (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.

(b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

Signatories / Ngā Kaiwaitohu

Authors	Mark Stevenson - Manager Planning Brent Pizzey - Senior Legal Counsel
Approved By	Jane Davis - General Manager Infrastructure, Planning & Regulatory Services

Stevenson, Mark

From: Sarah Dawson
Sent: Tuesday, 21 June 2022 5:24 PM
To: Stevenson, Mark
Subject: RE: Plan Change 6 Homebase

Dear Mark

Thank you for your email of 20 June requesting the Hearing Panel for Plan Change 6 to consider and respond to questions from the Council regarding pedestrian or cycle access from the PC6 site to QEII Drive. I have liaised with Commissioners Munro and Fletcher and we respond as follows.

In summary, the Panel did consider the matters of interest to the Council. We took these matters into account when coming to the conclusion in our Report that *"we see no resource management need for an additional pedestrian or cycle access point from the PC6 site to QEII Drive, and do not agree that one would be justified"* (para 313).

We recognised that Ms Rennie, appearing for the Council, sought a requirement for a north-south pedestrian and cycling linkage from QEII Drive into the PC6 site, intersecting with an east-west link between the Sanctuary Gardens area and Marshlands Road (para 309). This was not supported by the Applicant, on the basis of its evidence from Mr Compton-Moen (para 310). Local residents from the Sanctuary Gardens area who appeared and spoke to us were generally opposed to any connectivity between the PC6 site and their residential area (para 276 & 280).

We were familiar with the shared pathway on QEII Drive, and did take account that it is physically separated from the road and with a barrier between pedestrians / cyclists and vehicles. We viewed the shared pathway on our visits to and around the PC6 site. However, despite this separation, we noted our opinion (para 313) regarding *"its high-speed environment and traffic intensity, and lack of engaging land use edge due to the presence of dense landscape buffering (which while possibly pleasant to look at) prevents any form of passive surveillance or social interaction to occur"*. We concluded that using a route through the Sanctuary Gardens area (to and from the west) as likely to be more desirable for people travelling to the PC6 site & Marshland Road than travelling along the edge of QEII Drive (para 313). By way of additional explanation, we took into account the much lower volumes and slower speeds of vehicular traffic (in terms of the amenity and intensity of the streets rather than in terms of safety) such as if a cyclist found the wind shear, noise or intensity of large trucks passing nearby frightening despite the physical separation in place; and the ability for dwellings to allow passive surveillance of the streets to occur and for residents to directly interact with cyclists (for instance in the event that a cyclist had a fall or suffered an equipment failure).

While our Report did not explicitly address the routes that would be taken by people travelling to the PC6 site from the east on the shared pathway on QEII Drive, we did take this into account when considering the need for, and development by the Council of, improved pedestrian and cycling infrastructure along the Marshland Road frontage of the site, south of the QEII Drive intersection (para 273). We agreed that that improvements to the pedestrian and cycling facilities will be needed along Marshland Road, as part of Council's requirements and recommendations, for the benefit of a broader transport network around the PC6 site (para 273). By way of additional explanation, pedestrians and cyclists arriving at the corner of QEII Drive and Marshlands Road from the east must cross the signal-controlled intersection to reach the PC6 site. From there, they would be able to enter the PC6 site from the Council's pedestrian and cycling infrastructure along the Marshland Road frontage, at whatever direct access points the development provides. In summary, we did not consider there would any demonstrable benefit to cyclists from the east travelling further along QEII Drive and then into the PC6 site from the north, compared to them turning into Marshlands Road, using the to-be-improved facilities there, and then entering the site from the east.

In our Report, we noted that Ms Rennie's recommendation for a north-south pedestrian and cycle linkage to be required from QEII Drive through the PC6 site was largely on the basis of content from the historic

Mairehau Development Plan (para 309). We were not persuaded that retaining this Development Plan in the District Plan was appropriate or helpful (para 315 & 316). The Mairehau Development Plan was prepared on the basis that the land would be developed for residential purposes. We concluded that, with our recommended PC6 provisions being directly incorporated into the District Plan, there was no additional resource management role for the Mairehau Development Plan (para 316). In addition, we did not see any notation on the Mairehau Development Plan showing a north-south pedestrian and cycle linkage from QEII Drive through the PC6 site.

We were provided with no evidence from the Council or other parties, to substantiate any demand, need or benefit in a cycle link directly from QEII Drive into the PC6 site, such as demonstrating that it would result in a greater number of cyclists, or shorter travel times.

In terms of weight, in our findings we agreed with those aspects of the Council's preferences that were supported with evidence as to resource management need or clear planning policy requirements. Accordingly, we agreed that a pedestrian and cycle linkage through the PC6 site from the Sanctuary Gardens area to Marshlands Road was required and that improvements by the Council to the existing pedestrian and cycle infrastructure on Marshlands Road were desirable, but that a direct pedestrian / cycle linkage to QEII Drive to the north was not justified.

We trust this is sufficient explanation to assist the Council.

Kind regards
Sarah Dawson
Chair – Hearings Panel for PC6

Sarah Dawson Consulting

From: Stevenson, Mark <Mark.Stevenson@ccc.govt.nz>
Sent: Monday, 20 June 2022 9:14 AM
To: Sarah Dawson
Subject: Plan Change 6 Homebase

Kia ora Sarah

I hope this finds you well.

The Council received a report at its meeting of 9th June, seeking approval of the recommendations of the Hearings Panel on Proposed Plan Change 6 to the District Plan.

A matter arising at the meeting was in relation to pedestrian/ cycle access from the site to a shared path adjacent to QEII Drive on the northern edge of the site. As a consequence, the Council has sought clarification and further information to assist in its decision.

Can you please consider the following questions and respond at the earliest opportunity.

The Council is unclear from paragraph 313 of the Panel's report, as to whether the Panel's recommendation that an additional pedestrian or cycle access point from the PC6 site to QEII Drive is unjustified, has taken into account the facts that:

*the shared path on QEII Drive is physically separated from the road and with a barrier between pedestrians/ cyclists and vehicles; and
those travelling from the east on the shared path would need to leave the shared path and travel south on Marshland Road to enter the site rather than continuing on the shared path to have direct access to the site if there was a direct connection to the site from the shared path.*

Please explain whether the Panel took those two matters into account, and the weight that the Panel placed on them, when making the finding in paragraph 313 of the Panel's recommendations.

If the Panel did not consider the matters set out in Question (a) above, can the Panel now please take them into account and provide an addendum to its recommendation report that addresses those matters.

A supplementary paper will be presented to Council on the 30th June with your response, subject to your availability to respond in the timeframe,
Thanks

Ngā mihi nui

Mark Stevenson
Manager Planning



03 941 5583



Mark.Stevenson@ccc.govt.nz



Te Hononga Civic Offices, 53 Hereford Street, Christchurch



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City Council 