

Ashburton District Council

Recommendations of the Independent Hearings Commissioner

Plan Change 5: Transportation

27 February 2024

This Recommendation Report contains the following appendices:

Appendix 1: Summary table of recommendations on each submission point

Appendix 2: Recommended amendments to PC5 - Tracked from notified version

Recommendation Report

Plan Change 5: Transportation

1 Introduction

Report purpose

- 1.1 This report considers the provisions, and records the recommendations on the submissions, relating to Plan Change 5: Transportation (**PC5**) which, as notified, related to the following aspects of the Operative Ashburton District Plan (**ADP**):
- (a) Consequential amendments to various sections of the ADP resulting from the implementation of the National Policy Statement for Urban Development.
 - (b) Matters relating to Mobility Parking and Cycle Parking Standards.
 - (c) Provision for the assessment of high trip generating activities.
 - (d) Update of the Roading Hierarchy table in the Transportation section of the ADP.
- 1.2 I was appointed as Hearings Commissioner by the Ashburton District Council (the Council) on 1 September 2023. That delegation included all necessary powers under the RMA² to review and hear the submissions made on PC5 and to make recommendations to the Council on the provisions on all matters raised in those submissions.
- 1.3 PC5 has been the subject of a s32¹ report², consultation with stakeholders, and, of course, the public notification, hearing and culminating in these recommendations.

Role and report outline

- 1.4 This Report provides the recommendations as to the outcome of the Plan Change on the Council's behalf. The authority delegated by the Council includes all necessary powers under the RMA to hear and recommend on the submissions received on the Plan Change. For the reasons stated below, a Hearing was not required for PC5.
- 1.5 The purpose of this report is to satisfy the Council's various decision-making obligations and associated reporting requirements under the RMA.
- 1.6 The requirements in clause 10 of the First Schedule of the Act and section 32AA are relevant to my considerations of the submissions to PC5 provisions. In summary, these provisions require among other things:
- a. an evaluation as focused on changes to the proposed provisions arising since the notification of PC5 and its s32 reports;
 - b. the provisions to be examined as to whether they are the most appropriate way to

¹ Section 32 of the RMA sets out the requirements for preparing reports that evaluate the appropriateness of a plan change.

² Section 32 Evaluation Report – Proposed Change 5 to the Ashburton District Plan.

https://www.ashburtondc.govt.nz/__data/assets/pdf_file/0024/64554/Section-32-Report-Plan-Change-5.pdf

achieve the objectives;

c. as part of that examination, that:

- i. reasonable alternatives within the scope afforded by submissions on the provisions and corresponding evidence are considered;
- ii. the efficiency and effectiveness of the provisions is assessed;
- iii. the reasons for our recommendations are summarised; and
- iv. that the report contains a level of detail commensurate with the scale and significance of the changes recommended.

1.7 As discussed below, there has not been a need to produce a separate evaluation report under s32AA. With one exception, as detailed in paragraph 4.21, I have adopted the recommendations of the Council's s42A Report Author, Mr Nicholas Law on the basis of the commendable work undertaken between the Council Officer's and Submitters to resolve matters prior to the scheduled Hearing. Mr Law's s42A Report outlines the associated s32AA evaluation for any recommended changes post notification of PC5³. For the purposes of this Recommendation – and conciseness, that evaluation is adopted in its entirety.

Comments on the parties' assistance

1.8 In advance of setting out the Plan Change context, I would like to record my appreciation at the manner in which the proceedings were conducted by all the parties taking part. In particular, the efforts by the Council Officers and Mr Law are commendable in terms of resolving matters with submitters to the extent that provisions in the s42A Report were largely agreed, and the Hearing able to be vacated.

³ PC5, s42A Report. Law. [Appendix 2 – Section 32AA Evaluation]

2 Summary of Plan Change, submissions and procedural matters

Summary of relevant provisions

- 2.1 The relevant provisions are largely contained within Section 10: Transport of the Plan, albeit there are consequential amendments to Section 17: Definition, Section 5: Business; Section 4: Residential Zones, Section 7: Aquatic Park Zone; and Section 8: Scheduled Activities.
- 2.2 As indicated in paragraph 1.1 of this Recommendation Report, the relevant provisions I address related to PC5 are largely as follows:
- (a) Address unintended consequences associated with the application of the National Policy Statement – Urban Development to the Ashburton District Plan, through:
 - i. Deleting the word 'required' in Rules 10.8.4 and 10.8.10 to ensure the application of appropriate parking space dimensions and formation where vehicle parks are provided.
 - ii. Insertion of appropriate queuing length requirements (Rule 10.8.12).
 - (b) Amendments to Rule 10.8.3 'Mobility Parking' to ensure application of the requirements for mobility spaces where larger activities may otherwise choose not to provide vehicle parking spaces, and to ensure that where 1 – 9 vehicle park spaces are provided (excluding small scale visitor accommodation as akin to a residential use), mobility spaces are required by the District Plan.
 - (c) Amendments to cycle space requirements and assessment matters (Policy 10.1E, Rule 10.8.6, Table 10-5, Assessment Matters 10.10.1).
 - (d) Insertion of a High Traffic Generation rule, to require the assessment of transport effects of activities which generate 'significant' traffic. Rule 10.8.1.
 - (e) Updating the Road Hierarchy to reflect the current roading hierarchy as maintained by the Council.

Purpose of the Plan Change

- 2.3 The purpose of PC5 as stated in the Plan Change materials as being:

"...developed in response to gaps identified in the existing Ashburton District Plan transport provisions, in part arising from the new National Policy Statement on Urban Development.

The policy statement removed requirements for minimum off-street parking and resulted in some potential gaps in managing off-street parking, including design requirements for parking areas where these are provided.

Updating mobility and cycle parking standards, and managing effects from high trip generating activities, are needed to ensure the District Plan reflects best practice, and aligns with Council strategies such as the Walking and Cycling Strategy and District Parking Strategy".

Notification and submissions

- 2.4 PC5 was publicly notified on 23 March 2023. The closing date for submissions was 28 April 2023.
- 2.5 A total of five (5) submissions on PC5 were received by the Council representing a total of 25 submission points.
- 2.6 A summary of submissions was prepared and subsequently notified for further submissions on 1 June 2023 with the closing date for receiving further submissions being 16 June 2023. Eleven further submission points were received from one submitter⁴.
- 2.7 **Table 1** below provides a list of submitters to the proposed Plan Change. A full summary of the submissions received in **Appendix 1**, including the recommendations on the relief sought by each submitter.

Table 1: List of submitters to PC5

Sub#	Submitter
S1	Canterbury Regional Council
S2	Waka Kotahi NZ Transport Agency
S3	Ministry of Education
S4	KiwiRail Holdings Ltd
S5	Fuel Companies

It is noted at the outset that the submission points were largely in support of provisions. Where opposition is noted, submission points were focused on amendments to rule thresholds or specific wording within provisions.

Matters raised in submissions

- 2.8 Without taking away from the finer detail provided in the submissions, the matters raised in those submissions to the Plan Change fall into the categories contained in the s42A Report being:
- (a) High Trip Generating Activities – Issue 1
 - (b) Definition of Transport Network – Issue 2
 - (c) Electric Vehicle Charging Stations – Issue 3
 - (d) Queuing Spaces on Entry to Service Station Sites– Issue 4
 - (e) Approve the Plan Change – Issue 5

Commissioner directions and hearing procedures

- 2.9 **Minute 1** was issued on 16 November 2023 to set down the process and programme of exchange of Evidence for a Hearing, including the scheduled Hearing Date and venue. That Minute also set out a process whereby parties would formally advise in advance of lodgement of Submitter Evidence as to whether, based on the s42A Report they still wished to attend the Hearing. Both Waka Kotahi / NZ Transport Authority and the Canterbury

⁴ Canterbury Regional Council (FS1)

Regional Council provided formal correspondence advising that they accepted the recommendations in the s42A Report.

- 2.10 **Minute 2** was issued on 13 December 2023, based on the absence of Submitter Evidence and formally enquiring as to whether residual Submitters still wished to be heard. In response, the Ministry of Education advised that they would not be attending the hearing, and the 'Fuel Companies' responded in acceptance of the s42A Report recommendations.
- 2.11 Consequently, the Hearing was vacated.
- 2.12 On 18 December 2023, a concise 'Hearing' was held via video call with the Council's s42A Reporting Officer in relation to residual questions and matters of clarity associated with the s42A Recommendations. The scope and nature of these questions were not of a nature that required a further Minute to parties.
- 2.13 The hearing was formally 'closed' on 10 January 2024.

Procedural matters I am obliged to make a determination on

- 2.14 There is one procedural matter that I am obliged to make a determination on:
- a. the scope of submissions relating to: the insertion of a definition of 'Transport Network'⁵; provisions relation to the insertion of Policy and provisions in relation to 'electric vehicle charging stations'⁶.

Scope of amendments, fairness and natural justice issues

- 2.15 These matters are addressed in the s42A Report⁷.
- 2.16 For completeness, the requirement under clause 6 of Schedule 1 to the RMA is that submissions are required to be "on" (or within the ambit of) the Plan Change. Such is to avoid issues associated with natural justice and unfairness.
- 2.17 The test, as endorsed in *Motor Machinists*⁸, is:
- (a) can the submission reasonably be said to fall within the ambit of the Plan Change / does the submission address the change to the status quo advanced by the Plan Change; and
 - (b) is there a real risk that persons potentially affected by the submission would be denied an effective opportunity to respond in the Plan Change process.
- 2.18 In addition, whether the submission is "on" the Plan Change is a question of scale and degree in the particular circumstances⁹.
- 2.19 Mr Law has applied these tests on the submissions and recommended the following:
- (a) The submission from KiwiRail Holdings seeking insertion of a definition for 'transport

⁵ S4.2 [Kiwirail]

⁶ S5.1 and s5.2 [The Fuel Companies]

⁷ S42A [8.2.2 – 8.2.12]

⁸ *Clearwater Resort Ltd v Christchurch City Council*, High Court Christchurch AP34/02 (14 March 2003); *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290.

⁹ *Option 5 Inc v Marlborough District Council* (2009) 16 ELRNZ 1 (HC).

network' is on the Plan Change, as there is a nexus that the Rail network is relevant to a consideration of the transport network as associated with the management of high trip generating activities.

- (b) The submissions from the Fuel Companies, in so far, as these seek to engage with notified provisions – that is Policy 10.4F, and matters associated with the application of the High Traffic Generation rule as introduced through PC5 are within the Scope of the Change. However, a suite of provisions associated with Electric Charging stations extending to other zones and the associated Utilities and Retail Activities rules are beyond the scope of submissions¹⁰.

2.20 I therefore endorse Mr Law's recommendations in this regard.

Key legislative change since notification of PC5

2.21 The NPS-IB was gazetted in the lead up to the PC5 hearing. It came into force on 4 August 2023. This NPS has no relevance to the Change being considered.

3. Statutory considerations

Summary of statutory requirements

- 3.1 The statutory requirements for the preparation and consideration of the contents of a District Plan are set out in s31, 32, and 72-77D of the RMA.
- 3.2 In *Colonial Vineyard Ltd v Marlborough District Council*¹¹, the Environment Court updated the framework of matters to be evaluated when preparing a plan, albeit by reference to the version of the RMA that applied prior to 3 December 2013. The RMA has been amended a number of times since that date. As relevant for these purposes being the substantial rewriting of s32 and the introduction of s32AA.
- 3.3 PC5 has not been drafted within the framework of the National Planning Standards 2019 as the Plan Change is exempt from the Implementation Standards – Part 17.

Part 2 of the RMA

- 3.4 The Act's purpose and principles are set out in Part 2 of the Act.
- 3.5 Section 5 explains that the Act's purpose is to promote the sustainable management of natural and physical resources.
- 3.6 The s42A Report in-so-far as it sets out the initial evaluation of Part 2 matters in the s32 is accepted and adopted, as is – for the sake of conciseness, relevant references as to the importance of Part 2 of the RMA specifically, sections 5 and 7 (b), (c), (f) and (g).
- 3.7 Furthermore, there is no evidence to suggest there are areas of invalidity, incomplete coverage or uncertainty in the relevant plans or intervening statutory documents such that any detailed evaluation of Part 2 is required.

¹⁰ S42A [8.2.11]

¹¹ ENV-2012-CHC-108, [2014] NZEnvC 55

- 3.8 Equally, the s32 and s42A references as to the Council’s extensive duties and functions under s31 of the RMA for the purpose of giving effect to the Act’s sustainable management purpose, is adopted.

Relevant District Plan policy considerations

- 3.9 I have given consideration to PC5 consistency with s75(1) of the RMA, which requires a District Plan to state the objectives for the District, any policies to implement the objectives, and the rules (if any) to implement the policies.
- 3.10 I accept and adopt Mr Law’s findings that the PC5 amendments are the most appropriate way to achieve objectives in the Plan¹².
- 3.11 PC5 does amend operative ADP policies. Both the s32¹³ accompanying the notified changes, and the s42A Report contains an appropriate assessment of PC5 against the relevant ADP objectives and policies¹⁴. This assessment finds that PC5 will assist in achieving ADP objectives and related policies with respect to the transport network and the integration with land use. I accept and adopt these findings.

National Policy Statements

- 3.12 I accept that PC5 is, in part, to address unintended consequences associated with the application of the National Policy Statement – Urban Development (**NPS-UD**), which through the application of Sub-Part 8 in February 2022 to the District Plan requires ‘tidy up’ amendments to the ADP relating to the application of standards relating to design requirements for parking areas. I agree that the ADP, as inclusive of amendments undertaken through PC5 remains consistent with the requirements of the NPS-UD.

The Regional Policy Statements

- 3.13 In this regard, I consider that the amendments achieved through PC5 give effect to the Canterbury RPS.

National Environmental Standards

- 3.14 There are no relevant NES standards applicable to PC5.

Other statutory considerations

- 3.15 The requirement under s74 of the RMA to give regard to matters when preparing a plan extends beyond those documents referred to above to include, as relevant:
- a. National Planning Standards;
 - b. management plans and strategies prepared under other Acts; and
 - c. the plans or proposed plans of adjacent territorial authorities.
- 3.16 The purpose of the first set of National Planning Standards that came into force in 2019 is to improve the efficiency and effectiveness of New Zealand’s planning system by providing a nationally consistent structure, format, definitions, noise and vibration metrics and

¹² S42A [9.11]

¹³ https://www.ashburtondc.govt.nz/__data/assets/pdf_file/0024/64554/Section-32-Report-Plan-Change-5.pdf

¹⁴ S42A Appendix 2.

electronic functionality and accessibility for district and other RMA plans. It is understood that there is no mandatory requirement to amend the provisions introduced or amended through PC5 to accord with the 2019 Standards and that alignment is best achieved via any forthcoming District Plan review.

- 3.17 The s42A Report identifies the updated mobility and cycle parking standards are to ensure alignment with the Council’s *Walking and Cycling Strategy (2023)* and *District Parking Strategy (2021)*¹⁵. Mr Law confirmed that these strategies went through a consultative process and were amended through submissions. Accordingly, and noting the alignment introduced in PC5 with these strategies was not challenged in submissions, I accept that PC5 aligns with the intent of these strategies and plans, to the extent that they are relevant.
- 3.18 I accept the contention from Mr Law that a number of the amendments sought in PC5, particularly application of a High Traffic Generation rule, is to ensure consistency with similar regulation in adjoining territorial authorities.
- 3.19 Overall, the Council has demonstrated its regard to the relevant s74 matters in preparing PC5 and the I have had regard to the relevant matters to the extent relevant to my role.

4. Evaluation of key issues

Issue 1: High Trip Generating Activities and Transport Network Policy

Overview

Provision(s)	Commissioner recommendations
Policy 10.3H Policy 10.4E Policy 10.4F 10.6.4 – Rooding 10.8.1 High Traffic Generating Activities (HTG) Table 10-1 Thresholds for HTG	<ul style="list-style-type: none"> • No changes to s42A Recommendations

Amendments and reasons

- 4.1 Mr Law’s s42A Report addresses these matters in Section 8.4.
- 4.2 I note the discussions held between the Submitters and Council Officer’s and endorse the following for the reasons as set out in Mr Law’s report.
- 4.3 These are:
 - (a) No change to **Policy 10.3H** to ‘promote’ opportunities for safe and efficient travel. It is considered that the policy is appropriately directive in accounting for opportunities for safe and efficient travel without mandating such. The submission

¹⁵ S42A [3.1.3]

point from the Fuel Companies¹⁶ seeking 'where practicable' is rejected as otherwise weakening a purposive policy.

- (b) No change to **Policy 10.4E** to 'avoid, where practicable' adverse effects of HTG activities, noting that a consenting pathway remains for the management of adverse effects, but rightly a high bar remains as to the effects hierarchy relating to management.
- (c) Amendments to **Policy 10.4F**, including helpful submissions from the Fuel Companies¹⁷ and the Further Submission from the Canterbury Regional Council¹⁸ seeking improved clarity in the provision. The amendments seek to explicitly insert opportunities for modal choice, improvements in infrastructure, travel management and low emission transport and assist in certainty and clarity as to the application of the Policy, and the link to respective assessment matters and considerations in the application of Rule 10.8.1 HTG and associated matters in Rule 10.10.1.
- (d) No change to Reasons for **Rules – 10.6.4**, in that these appropriately reflect the recommended policy wording.
- (e) Amendments to **Rule 10.8.1**, in so far as the application of the Rule is specific to a consideration of new or expanded High Traffic Generating Activities. The amendments are considered to be the more appropriate, in terms of efficiency and effectiveness in that they would focus attention to changes in activities that generate additional vehicle trips beyond what is already consented or (lawfully) established and therefore beyond those effects otherwise considered to be a component of the 'environment' for the purposes of s104(1)(a) and s104D(1)(a) as appropriate.
- (f) No change to thresholds for Education Schools in **Table 10-1** as sought by the Ministry for Education¹⁹. The only expert evidence provided on this matter was from Mr Facey on behalf of the Council who confirmed based on a number of measures²⁰ that the threshold of 70 was the more appropriate in terms of activating the requirement for a Basic ITA and resource consent.

Issue 2 Definition of Transport Network

Provision(s)	Commissioner recommendations
Section 17 Definitions	<ul style="list-style-type: none"> • No changes to s42A Recommendations

- 4.4 As identified in paragraph 2.19(a), the submission from KiwiRail Holdings New Zealand²¹ seeking to insert a new definition for 'Transport Network' is considered to be contained within the Scope of PC5.
- 4.5 I concur with Mr Law that it is abundantly clear in reading the Transport section of the District Plan as a whole, that the rail network, infrastructure and system is included as a component of the wider transportation network²². Accordingly, in reading the instrument

¹⁶ S5.2

¹⁷ S5.4

¹⁸ FS1.7

¹⁹ S3.5

²⁰ S42A [8.4.50]

²¹ S4.2

²² S42A [8.5.4]

as a whole, the absence of a specific definition of 'Transport Network' does not represent a lacuna or a gap in the Plan.

- 4.6 Furthermore, the statutory effect of accepting the KiwiRail submission would result in unintended consequences in that the definition provided would exclude a number of accepted aspects of transport network, including cycleways and associated infrastructure, street related infrastructure (lighting, signals, poles), and the localized roading network.
- 4.7 The recommendation of Mr Law is accepted.

Issue 3 Electric Vehicle Charging Stations

Provision(s)	Commissioner recommendations
Policy 10.4F	<ul style="list-style-type: none"> • No changes to s42A Recommendations (refer Issue 1)
Policy 10.1G (as sought) Changes to Chapter 14 – Rule 14.7.1 Utilities	<ul style="list-style-type: none"> • Matters are considered to be outside the Scope of PC5

- 4.8 This Issue contends with Submissions from the Fuel Companies seeking an express suite of provisions as related to the provision of electric vehicle charging stations. These included the insertion of an explicit new Policy enabling charging stations in existing car parks, and insertion of a permitted activity pathway for charging stations and associated infrastructure.
- 4.9 The amendments to Policy 10.4F are considered above; the amendments recommended promote modal choice and low emission transport (and infrastructure) as associated with high traffic generating activities. Accordingly, Policy 10.4F provides, within the Scope of PC5, promotion of low emission transport – and by association infrastructure, in responding to those activities requiring consent under Rule 10.8.1 HTG.
- 4.10 It is also noted that there is nothing in the Plan that forecloses opportunities for the establishment of low emission transport infrastructure in those zones where such activities would not be precluded by the Permitted Activity Standards or Site Standards (bulk and location) provisions.
- 4.11 Fundamentally, the submission from the Fuel Companies seeks to establish a consistent consenting pathway for all zones within the District Plan to provide for the establishment of low emission transport as associated with existing car parks. What is not clear in the submission, is the scope and scale of the issue to be resolved; that is – is there an existing regulatory burden and a land use matter that would be better addressed as an amendment to the Plan in terms of s32 to provide a permitted consenting pathway for such infrastructure.
- 4.12 I have recorded that this submission is outside the scope of PC5. Whilst I acknowledge that PC5 is framed under the Heading 'Transportation', the notified amendments themselves are explicit and focused, concurrently narrowing the extent by which broader changes can be sought within submissions, with associated policy changes crafted specifically to link to the amendments in subsequent rules. Broader changes and the final suite of provisions as may be sought by the Fuel Companies to other provisions within the

Plan, no matter the merits, would be considered to preclude an effective opportunity by persons potentially affected to respond to amendments.

- 4.13 In this light, if the Council determines that the nature and scale of the issues are such that a review is necessary, this should be programmed on a comprehensive basis, and not in isolation via effectively a 'work around' through the specific amendments under PC5.
- 4.14 Accordingly, I recommend that Submission 5.1 and 5.7 seeking Policy and Rules for permitted low emission transport infrastructure be **rejected**.

Issue 4 Queuing Spaces

Provision(s)	Commissioner recommendations
Rule 10.8.12(d) Queuing Spaces Service Stations	<ul style="list-style-type: none"> Deletion of the Service Station Queuing Space requirement of 3 spaces.

- 4.15 The matter relates to the Submission from the Fuel Companies²³ opposing the requirement for queuing spaces on entry to service stations.
- 4.16 The reason for the submission can be summarised as the additional activity specific requirement for service stations inserted through PC5 is excessive and regardless, the existing requirement in Operative Rule 10.8.12 would require at a minimum a 6m queuing length be required so as to prevent queuing vehicles on the road reserve.
- 4.17 The s42A Report recommends a pragmatic compromise, which would seek to remove the certain metric of '3 queuing spaces' as notified with a requirement for the following:

"Queuing space shall be designed so that vehicles using or waiting to use fuel dispensers, electric charging stations, car washes or air hose / vacuum do not queue into the adjoining road or obstruct entry to or exit from the site".

- 4.18 In the discrete 'Hearing' on 18 December 2023, I questioned Mr Law as to the validity and nature of his recommended amendments to Rule 10.8.12(d). The concern raised with Mr Law is that the recommended provision contained in the s42A Report in responding to the submission from the Fuel Companies is somewhat unclear and ambiguous. It is noted that the purpose of a permitted activity rule is to allow a person wishing to do the activity to undertake it as of right, without dealing with the Council or imposing any discretion as to adherence. Such certainty is absent from the recommended provision.
- 4.19 Mr Law provided a written response as dated 9 January 2024 which recommends removal of the explicit Rule relating to Queuing Spaces for Service Stations on the basis of the following:
- (a) Operative Rule 10.8.12(a) ensures the requirement of a minimum 6m queuing length; and regardless
 - (b) Advice from the Council's Transport Engineer (Mr A Facey) is that Service Stations would breach the High Traffic Generating Activity thresholds, and matters associated with Queuing lengths would be appropriately addressed under the Assessment Matters. Noting that Rule 10.10.1(a) specifically focuses on the provision of access and ensuring safe, efficient, and accessible integration with the land transport

²³ S5.8

network.

- 4.20 I agree, noting that the combination of Rule 10.8.12(a) and the application of the High Traffic Generation Rule which would ostensibly require resource consent for new or large-scale amendments to existing service stations and would contain sufficient controls with regard to ascertaining and ensuring appropriate queuing distances for service stations.
- 4.21 Accordingly, this submission from the Fuel Companies²⁴ is **accepted**.

Issue 5 Approve the Plan Change – Policy 10.1E / Rule 10.8.6 / Table 10-5 / 10.10.1

Provision(s)	Commissioner recommendations
Rule 10.8.3, Table 10-2 'Mobility Parking'	<ul style="list-style-type: none"> Errata – Small scale visitor accommodation

- 4.22 Consideration of the Plan Change material identified a minor error in notified PC5. The error related to the stated exclusions in the requirement for the provision of 'mobility spaces' and, as notified would preclude requirements for such spaces for 'visitor accommodation for more than 10 guests', but otherwise require such for smaller scale visitor accommodation more akin to residential accommodation.
- 4.23 Mr Law confirmed in his written response dated 9 January 2024 that the exclusion in Table 10-2 is amended to "**up to 10 guests**" as follows (as amended in red font and underlined):

<u>Applicable to</u>	<u>Total number of standard car parking spaces provided on the site.</u>	<u>Minimum number of mobility parking spaces required.</u>
A) Any activity where standard car parking spaces are provided (except for: a. residential activities; or b. visitor accommodation for more than up to 10 guests); or B) Any activity containing buildings with a GFA of more than 2,500m ² .	<u>1 - 20 spaces</u>	<u>1 space</u>
	<u>21 – 50 spaces</u>	<u>2 spaces</u>
	<u>Every additional 50 spaces, or part thereof</u>	<u>1 space</u>

- 4.24 In addition, there are a number of references within PC5 that inconsistently use the terms 'limited mobility' and 'people with disabilities'. Amendments have been made in favor of the former (i.e. Rule 10.10.1(a) as appropriate so as to be consistent with terminology introduced through Policy 10.3F and Policy 10.4B. These changes have been made to the text.
- 4.25 It is considered that these amendments can be made with recourse to Clause 16(2) of Schedule 1 of the Act.

²⁴ S5.8.

4.26 Clause 16(2) provides a discretion ('may') to amend the Plan without a First Schedule Process, where amendments are of a minor effect or to correct any minor errors. In this instance, the amendments are rightly considered as being of minor effect and responding to drafting errors in the Notification version of the provisions.

5. Conclusions and recommended decisions

5.1 For the reasons summarised at appropriate points in **Section 4** above, I recommend the adoption of a set of changes to the PC5 provisions. My recommended amendments are shown in **Appendix 2**.

5.2 Overall, I find that these changes will ensure that PC5 better achieves the statutory requirements and national and district level policy directions and will improve its useability.

5.3 The recommended decisions in terms of the acceptance or rejection of submissions are shown in **Appendix 1**.

DATED THIS 27 DAY OF FEBRUARY 2024



Matt Bonis, Independent Commissioner

Appendix 1: Summary table of recommendations on each submission point

Submitter	Submission No.	Decision No.	Request	Decision Sought	Recommendation		
Canterbury Regional Council	S1	S1.1	Support	The Canterbury Regional Council is generally in support of the proposed plan change.	Accept in part		
Waka Kotahi	S2	S2.1	Support	Retain Policy 10.1E as proposed.	Accept		
		S2.2	Support	Retain Policy 10.3H as proposed.	Accept		
		S2.3	Support	Retain Policy 10.4E as proposed.	Accept		
		S2.4	Support	Retain Policy 10.4F as proposed.	Accept in part		
		S2.5	Support	Retain Rule 10.8.1 High Traffic Generating Activities as proposed.	Accept in part		
		S2.6	Support	Retain Table 10-1 Thresholds for High Traffic Generating Activities as proposed.	Accept		
Ministry of Education	S3	S3.1	Support	Retain Policy 10.3H as proposed.	Accept		
		S3.2	Oppose	Amend Policy 10.4E as follows: Avoid, where reasonably practicable, or else Mitigate the adverse effects of high traffic generating activities on the transport network and the amenity of the environment.	Reject		
				Further submission No.		Further Submitter	Support / Oppose
				FS1.1		Canterbury Regional Council	Oppose

Submitter	Submission No.	Decision No.	Request	Decision Sought	Recommendation		
		S3.3	Support	Retain Policy 10.4F as proposed.	Accept in part		
		S3.4	Support	Retain Rule 10.8.1 High Traffic Generating Activities as proposed (subject to amendment to Table 10-1 assessed under S3.5)	Accept in part		
		S3.5	Support in part	Amend Table 10-1: Thresholds for High Traffic Generating Activities as follows:	Reject		
			Further submission No.	Further Submitter	Support / Oppose		
			FS1.2	Canterbury Regional Council	Oppose	Accept	
		S3.6	Support	Retain Rule 10.8.6 Cycle Parking as proposed.	Accept		
		S3.7	Support	Retain Table 10-5 Minimum Cycle Parks as proposed.	Accept		

Submitter	Submission No.	Decision No.	Request	Decision Sought	Recommendation
		S3.8	Support	Retain 10.10.1 Assessment Matters as proposed.	Accept
KiwiRail	S4	S4.1	Support	KiwiRail broadly supports the proposed plan change.	Accept in part
		S4.2	Support in part	<p>KiwiRail seek that the following definition is included:</p> <p>Transport Network <u>Transport networks and operations in the Ashburton district of national or regional significance including:</u></p> <ul style="list-style-type: none"> a) <u>State highways;</u> b) <u>Arterial roads;</u> c) <u>Rail networks and systems; and</u> d) <u>The region's core public passenger transport operations.</u> 	Reject
		Further submission No.	Further Submitter	Support / Oppose	
		FS1.3	Canterbury Regional Council	Support in part	Reject
The Fuel Companies	S5	S5.1	Propose new provision	<p>Add a new policy as follows:</p> <p>Policy 10.1G <u>Enable electric vehicle charging stations to serve existing car parks.</u></p>	<p>Accept in part (incorporate in Policy 10.4F)</p> <p>Reject insertion of Policy 10.1G (Scope)</p>
		Further submission No.	Further Submitter	Support / Oppose	
		FS1.4	Canterbury Regional Council	Support	Accept in part (as above)
		S5.2	Support in part	<p>Amend Policy 10.3H as follows:</p> <p>To ensure that <u>encourage</u> high traffic generating</p>	Accept in part (incorporate in Policy 10.4F)

Submitter	Submission No.	Decision No.	Request	Decision Sought		Recommendation
				activities to promote opportunities for safe and efficient travel other than by private motor-vehicle.		Reject remaining submission points.
			Further submission No.	Further Submitter	Support / Oppose	
			FS1.5	Canterbury Regional Council	Oppose	Accept in part (as above)
		S5.3	Oppose	Amend Policy 10.4E as follows: Avoid, where reasonably practicable, or else mitigate <u>Minimise as far as reasonably practicable</u> the adverse effects of high traffic generating activities on the transport network and the amenity of the environment.		Reject
			Further submission No.	Further Submitter	Support / Oppose	
			FS1.6	Canterbury Regional Council	Oppose	Accept
		S5.4	Oppose	Delete Policy 10.4F.		Accept in part
			Further submission No.	Further Submitter	Support / Oppose	
			FS1.7	Canterbury Regional Council	Support in part	Accept in part
		S5.5	Support in part	Amend note 10.6.3 as follows: 10.6.3 Rooding, Access, Vehicle Crossings and Intersections ... The rules regulating High Traffic Generating Activities are to ensure significant developments avoid or mitigate <u>minimise</u> adverse effects on		Reject

Submitter	Submission No.	Decision No.	Request	Decision Sought		Recommendation
				the transport network as far as practicable, promote opportunities for <u>alternative means of travel other than by private motor vehicle</u> , and recognise positive transport effects.		
			Further submission No.	Further Submitter	Support / Oppose	
			FS1.8	Canterbury Regional Council	Oppose	
		S5.6	Support in part	<p>Amend Rule 10.8.1 as follows:</p> <p>10.8.1 High Traffic Generating Activities</p> <p>a) Any new subdivision or land use activity, or changes in use <u>The development of a new, or expansion of an existing activity that in itself exceeds</u> thresholds set out Table 10-1 shall be classified as a High Traffic Generator and a restricted discretionary activity.</p> <p>b) A Basic Integrated Transport Assessment shall be undertaken for a <u>new or expanded</u> activity that <u>in itself exceeds</u> the threshold for a Basic Assessment in Table 10-1 below. The relevant assessment matters shall be restricted to those set out in 10.10.1 a. to c. (Safety and efficiency, Design and Layout, and ITA requirements).</p> <p>c) A Full Integrated Transport Assessment shall be undertaken for <u>new or expanded</u> activities that <u>in itself exceeds</u> the threshold for a Full Assessment in Table 10-1 below. The relevant assessment matters shall be restricted to those set out in 10.10.1 a. to e. (Safety and efficiency, Design and layout, ITA requirements, Heavy vehicles, and Network effects).</p> <p>d) Where <u>the expansion of an existing activity is proposed that in itself exceeds the threshold for a Full Assessment in Table 10-1 below, if an Integrated Transport Assessment has already</u></p>		Accept in part

Submitter	Submission No.	Decision No.	Request	Decision Sought		Recommendation
				been approved for the site as part of a granted resource consent, then these rules do not apply to any development that is within scope of that Integrated Transport Assessment and in accordance with the resource consent, unless the resource consent has lapsed.		
			Further submission No.	Further Submitter	Support / Oppose	
			FS1.9	Canterbury Regional Council	Oppose	Accept in part Reasons as above.
		S5.7	Neutral	Provide a permitted activity pathway for EV charging stations. This could be achieved as set out below. The Fuel Companies are open to alternative rules to achieve the same intent. <u>Electric Vehicle Charging Stations</u> <u>The installation of a new, or replacement of existing, electric vehicle charging stations is a permitted activity, provided that the charging unit does not exceed:</u> <u>- 2.5m in height</u> <u>- 10m² in footprint</u>		Reject (Scope)
			Further submission No.	Further Submitter	Support / Oppose	
			FS1.10	Canterbury Regional Council	Support	Reject
		S5.8	Oppose in part	Delete the requirement in 10.8.12(d) for queuing spaces on entry to service station sites.		Accept
			Further submission No.	Further Submitter	Support / Oppose	

Submitter	Submission No.	Decision No.	Request	Decision Sought		Recommendation
			FS1.11	Canterbury Regional Council	Neutral	Accept in part

Appendix 2: Recommended amendments to PC5

Additions through PC5 as notified are shown in black text underlined ~~or struck-out~~, and as amended in the s42A Report in red text underlined ~~or struck-out~~. Additional amendments as a consequence of these Recommendations are shown in green text underlined ~~or struck-out~~.