

15 August 2025

By Email: mckayla.jaggard@pncc.govt.nz

Attention: Mckayla Jaggard

C/O: David McMahon and Independent Hearing Panel for Proposed Plan Change I: Increasing Housing Supply and Choice

Palmerston North City Council
32 The Square
Palmerston North 4410

Proposed Plan Change I to the Palmerston North District Plan Scope Hearing - Crest Hospital Limited

1. Introduction

- 1.1 We act for Crest Hospital Limited (**Crest**).
- 1.2 Palmerston North City Council (**Council**) notified Proposed Plan Change I to the Palmerston North District Plan (**Plan Change**) on 20 November 2024. Crest made a submission (SO187) and further submission (FS02) on the Plan Change on 4 February 2025 and 24 March 2025 respectively.
- 1.3 Crest's primary submission requests that part of the Crest Hospital at 21 Carroll Street (**Site**) be rezoned from Residential to Institutional rather than from Residential to Medium Density Residential Zone (**MDRZ**).
- 1.4 The Council's section 42A reports for the Plan Change¹ raised matters concerning the scope of several submissions, including Crest's and has queried whether it is "on" the Plan Change.
- 1.5 In response, the Independent Hearing Panel (**IHP**) scheduled an earlier hearing to specifically consider matters of scope. In line with the IHP's direction, the Council filed legal submissions dated 13 August 2025 which address scope (**Council's legal submissions**). The Council's legal submissions conclude that Crest's submission is "on" the Plan Change.
- 1.6 Crest has opted not to appear at the scope hearing but asks that this letter be tabled before the IHP, in lieu of Crest appearing at the Scope Hearing.
- 1.7 Crest's submission includes a detailed discussion of the legal framework relating to scope and an explanation of why its submission clearly falls within the scope of the Plan Change under Clause 6 of Schedule 1 of the Resource Management Act 1991.² We would like to direct the Panel to that discussion, and we highlight the key points, in support of the Council's legal submissions below.

2. Background to Crest and its submission

- 2.1 As set out in paragraphs 6-11 of Crest's primary submission, Crest Hospital is a joint venture between Southern Cross Healthcare Limited and Aorangi Hospital, and owns and occupies Crest Hospital and Specialist Centre in Palmerston North (**Hospital**). This Site was first established as a purpose-built surgical hospital in 1987.
- 2.2 Since its establishment, the Hospital has been expanded with the purchase of the three residential sections (Lots 77, 78, and 79 DP 8236) between Carroll Street and the established hospital in 2009.

¹ Released on 25 July 2025.

² At paragraphs [20]–[37].

In 2014 the records of title for the established hospital (WN28A/691 and WN198/244) and the three residential sections (WN20B/89, WN20B/90, and WN10C/79) were amalgamated into a single allotment and record of title (Lot 1 DP 478857, RT 666143).

- 2.3 The majority of the Site is zoned Institutional, however the Specialist Centre entrance fronting Carroll Street is currently zoned Residential and is proposed to be rezoned to MDRZ under the Plan Change. Crest's submission primarily seeks that the area proposed to be rezoned MDRZ is instead rezoned Institutional, to align with the Institutional zoning that applies to the remainder of the Site.

3. Support for the Councils position on scope

- 3.1 The Council's legal submissions confirm that when determining whether a specific submission is "on" a plan change, the two-stage test established in *Palmerston North City Council v Motor Machinists Ltd* must be applied. We agree that this is the leading authority (consistent with the earlier High Court decision in *Clearwater Resorts Ltd v Christchurch City Council*).

- 3.2 By way of brief summary, the Environment Court in *Palmerston North City Council v Motor Machinists Ltd*³ establishes that whether a submission is "on" a plan change:

....requires analysis as to whether, first, the submission addresses the change to the status quo advanced by the proposed plan change [so that it can be considered to be reasonably said to fall within the ambit of the plan change] and, secondly, there is a real risk that persons potentially affected by such a change have been denied an effective opportunity to participate in the plan change process.

- 3.3 In relation to the first limb of the test, the Environment Court in *Motor Machinists* held that submissions seeking zoning extensions are only permissible where no substantial additional section 32 analysis is required.⁴

- 3.4 In the Council's legal submission it notes that the Hospital is within the notified MRZ extent, but the section 32 report does not address the appropriateness of the rezoning. However, the Council considers that although the section 32 report did not evaluate the suitability of rezoning the Site to Institutional, this is not fatal to the submission passing the first limb of the *Motor Machinists* test.

- 3.5 On behalf of Crest, we agree with the Council's position that unlike the case of *Motor Machinists* and other submissions seeking additional rezoning, Crest's Site falls within the notified extent of the Plan Change. We also agree with the Council's position for the following key reasons:

- (a) The submission addresses the change to the status quo proposed by the Plan Change, namely, the rezoning of part of the Hospital site from Residential to MDRZ. Crest seeks an alternative zoning outcome for land that is already subject to rezoning, requesting that the affected portion of its site be rezoned Institutional rather than MDRZ.
- (b) This relief is not novel or unrelated to the Plan Change; rather, it is a rational and contextually appropriate response to the proposed rezoning of land that is already part of the notified spatial extent of the Plan Change.
- (c) As acknowledged in the Council's legal submissions and *Bluehaven Management Ltd v Western Bay of Plenty DC*⁵, a submission may still be within scope even if the s32 report did not explicitly evaluate the relief sought, particularly where the omission reflects a failure to consider a relevant alternative. In this case, the Site is already partially zoned Institutional and is used as a hospital. Therefore, it is arguable that the section 32 report should have considered whether rezoning the remainder of the site to Institutional would better reflect the existing use and planning context.

³ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [91](a).

⁴ *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [81].

⁵ *Bluehaven Management Limited & Rotorua District Council v Western Bay of Plenty District Council* [2016] NZEnvC 191.

- 3.6 In addition to the reasons outlined by the Council and discussed in Crest's submission, we note that the relief sought by Crest is consistent with the broader objectives of the Plan Change and the National Policy Statement on Urban Development 2020 (**NPS-UD**), which the Plan Change is intended to give effect to. The hospital is defined as 'additional infrastructure', 'social infrastructure' and a 'business' under the NPS-UD. Policy 10 provides that local authorities are to engage with providers of additional infrastructure to achieve integrated land use and infrastructure planning. The NPS-UD requires local authorities to enable not only residential intensification but also the development and expansion of essential social infrastructure, including hospitals. The rezoning of the Crest Hospital site to Institutional would support a well-functioning urban environment by ensuring that critical healthcare services are appropriately provided for in the planning framework, and would therefore give effect to the NPS-UD.
- 3.7 The Council also consider that Crest's submission meets the second limb of the *Motor Machinists Ltd* test (for the reasons set out at paragraph 51 of its legal submissions). We entirely agree with the Council's view that there is no risk that the reasonable interests of persons who may be directly affected by the relief sought by Crest, did not have a fair or reasonable opportunity to participate in the planning process.⁶
- 3.8 The land in question is already included within the notified area of the Plan Change (as explained above), and the proposed Institutional zoning aligns with the existing and long-standing use of the Site as a private hospital. As acknowledged in the Council's legal submissions, the rezoning sought by Crest would not result in appreciable changes to the planning regime that would surprise, or prejudice affected parties. Further, the relief sought by Crest will have no additional adverse effects than those already anticipated by the Plan Change and as stated by the Council, are inconsequential in terms of the impact on affected parties. The Site's current use as a hospital is well-established and publicly known. Accordingly, the relief sought cannot be said to "come out of left field," and the submission does not circumvent the participatory safeguards of the RMA.

4. Conclusion

- 4.1 Crest supports the Council's conclusion that there is scope for the Panel to consider the relief it has sought. Crest is not seeking to rezone land outside the notified area or to introduce a novel use; it is proposing an alternative zoning for land already subject to change. This is a legitimate and foreseeable response to the Plan Change.
- 4.2 For the reasons set out above, the submission satisfies both limbs of the established legal test articulated in *Clearwater Resort Ltd* and affirmed in *Palmerston North City Council v Motor Machinists Ltd* and should therefore be considered to be "on" the Plan Change.

Yours faithfully
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⁶ For the reasons set out at paragraph [34] to [37] of Crest's submission.

SUBMISSION ON PLAN CHANGE I: INCREASING HOUSING SUPPLY AND CHOICE TO THE PALMERSTON NORTH DISTRICT PLAN UNDER CLAUSE 6 OF THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT ACT 1991

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Introduction and scope of submission

1. Crest Hospital Limited (**Crest**) appreciates the opportunity to make this submission on Proposed Plan Change I: Increasing Housing Supply and Choice to the Palmerston North District Plan (**Plan Change**). The Plan Change was notified by the Palmerston North City Council (**Council**) on 20 November 2024.
2. The primary purpose of the Plan Change is to enable medium density housing by rezoning part of the Residential zone to create a Medium Density Residential zone. It is also intended to give effect to the National Policy Statement on Urban Development 2020 ("**NPS-UD**").
3. Crest opposes the Plan Change in part.
4. This submission relates to the proposed rezoning of part of 21 Carroll Street, Palmerston North (**Site**) from "Residential" to "Medium Density Residential" (**MDRZ**). Crest seeks that the Plan Change be amended to rezone the Site as part of the Institutional Zone.
5. For completeness, Crest could not gain an advantage in trade competition through this submission.

Background to Crest Hospital and its role in providing healthcare services

6. Crest Hospital, a joint venture between Southern Cross Healthcare Limited and Aorangi Hospital, owns and occupies Crest Hospital and Specialist Centre in Palmerston North (**Hospital**). The Hospital is located at 21 Carroll Street,

Palmerston North. This site was first established as a purpose-built surgical hospital in 1987.

7. In 2009 Southern Cross Hospitals Limited purchased the three residential sections (Lots 77, 78, and 79 DP 8236) between Carroll Street and the established hospital.
8. In 2012 the Southern Cross Aorangi Hospital Partnership was formed following the amalgamation of Aorangi Hospital and Southern Cross Palmerston North Hospital.
9. In 2014 the records of title for the established hospital (WN28A/691 and WN198/244) and the three residential sections (WN20B/89, WN20B/90, and WN10C/79) were amalgamated into a single allotment and record of title (Lot 1 DP 478857, RT 666143).
10. In 2015 the Hospital consolidated its operations at the Site which was renovated, extended and reopened, providing for new facilities for the continuation of the highest quality private hospital service to Palmerston North and the surrounding regions.
11. The Hospital is a leading provider of surgical services and is the only private surgical hospital in the Manawatu. The Crest Hospital facilities include five operating theatres, one procedure room, a fully equipped ten-bed Recovery Unit, thirty inpatient beds, and nine chairs and a further seven inpatient beds in the Day Stay area. The Crest Specialist Centre comprises of three dedicated Ophthalmology Rooms, two dedicated Cardiology Rooms, seven multi-use Specialist Consulting rooms, and a fully equipped procedure room.

Crest seeks that part of the Site is rezoned to Institutional instead of Medium Density Residential under the Plan Change

12. The majority of the Site is currently zoned “Institutional”, as shown in the planning map below, however the entrance to the hospital which faces Carroll Street is currently (largely) zoned “Residential”.
13. The portion of the Site currently zoned Residential is proposed to be rezoned to MDRZ under the Plan Change.

14. Crest opposes those parts of the Plan Change which seek to rezone part of the Site from Residential to MDRZ. Crest seeks that the area of the Hospital subject to the Plan Change is rezoned to Institutional zone.
15. This is because rezoning of part of the Site from Residential to MDRZ does not recognise the historic, current, and ongoing use of the Site for hospital (or institutional) purposes. It also does not appropriately recognise the functional and operational needs of the Hospital.

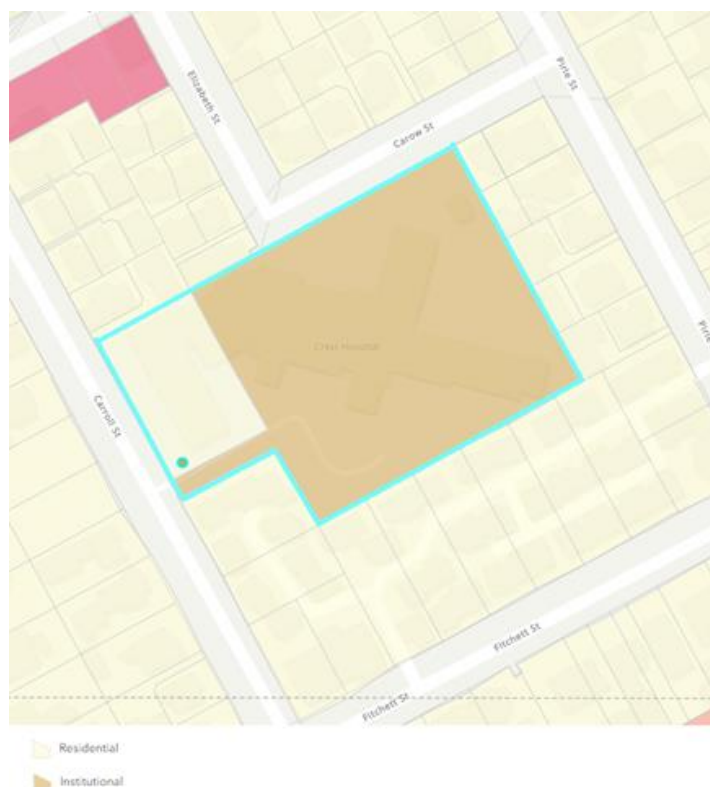


Figure 1: District Plan Map showing the zoning of Crest Hospital

16. In *Eden-Epsom Residential Protection Society Incorporated v Auckland Council* Southern Cross sought to rezone its existing hospital to the relevant hospital zone and to also rezone three sites that adjoined its existing hospital. The Environment Court recognised that although the previous expansion of the Southern Cross Brightside Hospital site at 3 Brightside Road involved ‘rights and wrongs’, the site was clearly an established hospital site as a whole.¹ The Mixed Housing Suburban zone was not an appropriate zone to accommodate the activities that had occurred on the site for over 100 years.

¹ [2024] NZEnvC 161 at [107].

17. The Environment Court concluded that the “failure of zoning to identify properly the activities that are occurring within some of these residential zones leads to the many tensions and arguments that come before this Court.” Ultimately, it found that 3 Brightside Road is being currently used as a hospital and should be zoned accordingly.²
18. In respect of the Crest Hospital and Specialist Centre, the amalgamation of the Residential zoned land with the Institutional zoned hospital site and its development into hospital facilities was authorised and carried out between 2014 and 2016. The part of the Site that is currently located in the Residential zone is part of the entrance to the Hospital (and is within the same title as the remainder of the Site) and it is entirely appropriate that it is also zoned Institutional. Zoning part of the Site as MDRZ will not properly recognise the activities that are occurring and will continue to occur within the Site. There is no clear reason why part of the Site should be recognised for its existing use and the other part should not.
19. The operational needs of the Hospital are also best served though the Institutional zoning provisions which anticipate hospital use.

The relief sought by Crest Hospital is within scope of the Plan Change

20. Clause 6 of Schedule 1 of the RMA provides that any person can make a submission “on” a proposed policy statement or Plan change.
21. The leading authorities on the test to determine whether a submission is “on” a plan change were set by the High Court in the *Clearwater Resorts Limited v Christchurch City Council* and *Palmerston North City Council v Motor Machinists* decisions.³ For a submission to be considered on a plan change, it must satisfy the two limb test:⁴
 - (a) Limb one: the submission must reasonably be said to fall within the ambit of the plan change. This involves two aspects: the breadth of the

² Above at [108] and [109].

³ *Clearwater Resort Ltd v Christchurch City Council* AP34/02, 14 March 2003; *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290.

⁴ *Beachlands South Limited Partnership v Auckland Council* [2024] NZEnvC 035 at [34].

alteration to the status quo entailed in the plan change and whether the submission addressed that alteration; and

- (b) Limb two: whether there is a real risk that persons directly or potentially affected by the additional changes proposed in the submissions have been denied an effective response to those changes sought in the plan change process.
22. A determination on scope is context dependent and must be analysed in a way that is not unduly narrow. Two things must be considered: the breadth of the alteration to the status quo proposed in the plan change, and whether the submission addresses that alteration.
23. In comparison to a full plan review, discrete plan changes have a more limited ambit. However, the purpose of a plan change must be apprehended from its provisions and derived from the Section 32 Report.
24. As further explained below, the intention of the Plan Change is to give effect to the NPS-UD and the scope of the Plan Change is wide enough to support the relief sought, and the specific relief sought by Crest Hospital is therefore “on” the Plan Change.

Scope of the Plan Change

25. The Section 32 Evaluation states that:
- (a) The Plan Change “responds to the Council’s obligation under the NPS-UD to enable greater density, housing choice, and supply, make planning decisions that contribute to well-functioning urban environments and take into account the urban development values and aspirations of Rangitāne o Manawatū (Rangitāne or RoM) set out in the Future Development Strategy 2024.”⁵
 - (b) Whilst the primary purpose of the Plan Change is to enable medium density housing, the Plan Change “gives effect to the NPS-UD as the policy direction within the NPS-UD is largely the basis for the plan change.”

⁵ Section 32 Evaluation Report - Plan Change I: Increasing housing supply and choice – dated 30 October 2024 at 1.2.

- (c) The Plan Change will rezone approximately 815ha⁶ of land in the Palmerston North city urban area comprising of existing residential dwellings, accessory buildings and vacant residential zoned sites.
26. The scope of the Plan Change specifically excludes:
- (a) Zoning new greenfield growth areas outside the existing Residential zone.
 - (b) Enabling as a permitted activity residential intensification in those parts of the existing Residential zone which are currently impacted by flooding, stormwater capacity and management constraints.
 - (c) A review of engineering standards applicable to new development (Engineering Standards for Land Development).
 - (d) Amendments to give effect to the National Policy Statement for Indigenous Biodiversity Part 3, subpart 2 and Clause 3.24 (in relation to Significant Natural Areas).

The relief sought is within the ambit of the Plan Change

27. The relief sought does alter the status quo of what is otherwise entailed in the Plan Change. However, it is within the ambit of the Plan Change because one of the purposes of the Plan Change is to give effect to the NPS-UD. The objectives and policies of the NPS-UD are broader than just enabling residential development. Enabling the intensification, development, and expansion of essential social infrastructure, including healthcare facilities such as hospitals, is a key requirement to effectively implement and give effect to the NPS-UD.
28. As a tier 2 territorial authority the Council is required to give effect to all provisions of the NPS-UD, including the requirements to “enable” social infrastructure, community services and business land to service the additional residential capacity anticipated under the NPS-UD. The Council has not initiated any other plan changes to give effect to the NPS-UD.

⁶ We note that the Section 32 Evaluation states 815m², however this unit appears incorrect.

29. The NPS-UD supports more intensive housing development within urban areas along with the necessary businesses and community services required to support them. Only enabling housing intensification will fail to give effect to the NPS-UD as a whole, including Objective 1, Objective 3, Policy 1, Policy 2, Policy 5, Policy 10, Clause 3.3, and Clause 3.5 among other provisions.
30. The NPS-UD recognises the importance of hospitals (and healthcare facilities) in a number of ways, including:
- (a) **Additional infrastructure:** social infrastructure including healthcare facilities are recognised as additional infrastructure. Local authorities must be satisfied that the additional infrastructure to service the development capacity is likely to be available. Local authorities are also required to engage with providers of additional infrastructure to achieve integrated land use and infrastructure planning.⁷
 - (b) **Community services:** hospitals and healthcare facilities are essential community services. Community services in the NPS-UD include community facilities and commercial activities that serve the needs of the community. To give effect to Objective 3 and Policy 5 of the NPS-UD the Council must enable more community services to be located in certain areas of urban environments, including where there is high demand for housing or business land.⁸
 - (c) **Business land:** the District Plan must enable businesses to be located in certain areas of urban environments, including where there is high demand for business land. Crest is a business that provides healthcare services. The relief sought by Crest means the Site would be 'business land' to the extent that it would allow for business use. The NPS-UD also seeks to provide at least sufficient development capacity to meet expected demand for business land over the short, medium, and long term.⁹
31. Providing for the Hospital, through the application of the Institutional zone to the entire Site, would be an appropriate way to enable the hospital

⁷ Policy 10(b), NPS-UD.

⁸ Objective 3, NPS-UD.

⁹ Policy 2, NPS-UD.

development necessary to support an increase in the surrounding residential population and community and to enable a well-functioning urban environment as required to give effect to the NPS-UD.

32. In Crest Hospital's submission the relief sought in its submission gives effect to the NPS-UD by recognising an existing hospital and supporting its development to help meet the needs of a growing population. Without the amendments sought by Crest Hospital, the Plan Change will not appropriately give effect to the NPS-UD with respect to social infrastructure, community services, or business land.
33. Further, the relief sought by Crest outlined in this submission is not specifically excluded from the scope of the Plan Change as set out at 1.2 of the Section 32 Evaluation Report and summarised above.

There is no risk that the reasonable interests of persons who may be directly affected by the relief sought by Crest did not have a fair or reasonable opportunity to participate in the planning process

34. With respect to the second limb of the test explained above, the relief sought in this submission would not result in the Plan Change being amended without real opportunity for participation of those potentially affected.
35. As noted above, the scope of the Plan Change includes rezoning approximately 815ha of land in Palmerston North – this includes Crest Hospital. Affected parties will therefore be alive to the possibility of greater intensification in terms of both height and density at this Site, as this is the basis for the Plan Change, and any party with an interest in the zoning of the Hospital could make a submission.
36. The relief sought will also have no additional adverse effects than that already anticipated by the Plan Change. Within the Institutional zone buildings are permitted up to a maximum height of 12 m. However, because the Site adjoins the Residential zone the Hospital must currently comply with the 9 m maximum height limits of the Residential zone (in accordance with Rule 19.4.2(b) of the Institutional zone). This is to ensure that buildings within the Institutional zone relate positively to the building forms typical of a residential neighbourhood.

37. We understand that Rule 19.4.2(b) is not proposed to be amended by the Plan Change. Therefore, under the Plan Change as proposed, the Hospital will be required to comply with a new 11m maximum height limit (being the maximum height allowed in the MDRZ).

Relief sought and reasons for Submission

38. The decision sought by Crest Hospital is:
- (a) That the portion of the Site affected by the Plan Change is rezoned Institutional instead of MDRZ.
 - (b) Such relief and/or amendments to the Plan Change as may be necessary to address Crest Hospital's concerns, as outlined above, and to give effect to the NPS-UD.
39. Crest Hospital wishes to be heard in support of its submission.
40. If others make a similar submission, Crest Hospital will consider presenting a joint case with them at a hearing.

DATED this 4th day of February 2025.

Crest Hospital Limited by its solicitors and
duly authorised agents
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