

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topic 055 Social facilities

July 2016

Report to Auckland Council - Hearing topic 055 Social facilities

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1. Hearing topic overview

1.1. Topic description

Topic 055 addresses the district plan provisions of the proposed Auckland Unitary Plan (PAUP) relating to:

Topic	Proposed Auckland Unitary Plan reference	Independent Hearings Panel reference
055 Social facilities	Chapter D: Zone objectives and policies 8.2 Cemetery Zone 8.3 Healthcare Facility Zone 8.9 School Zone 8.10 Tertiary Education Zone	H24, H25, H29, H30
055 Social facilities	Chapter I: Zone rules 16 Special Purpose - Cemetery Zone 17 Special Purpose - Healthcare Facility Zone 23 Special Purpose - School Zone 24 Special purpose - Tertiary education Zone	H24, H25, H29, H30

Under the Local Government (Auckland Transitional Provisions) Act 2010, section 144 (8) (c) requires the Panel to set out:

the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

- (i) the provisions of the proposed plan to which they relate; or
- (ii) the matters to which they relate.

This report covers all of the submissions in the Submission Points Pathways report (SPP) for this topic. The Panel has grouped all of the submissions in terms of (c) (i) and (ii) and, while individual submissions and points may not be expressly referred to, all points have nevertheless been taken into account when making the Panel's recommendations.

1.2. Summary of the Panel's recommended changes to the proposed Auckland Unitary Plan

The Panel supports:

- i. the inclusion of the Special Purpose - Healthcare Facility and Hospital Zone, Special Purpose - School Zone, Special Purpose - Tertiary Education Zone and Special Purpose - Cemetery Zone in the Unitary Plan;
- ii. applying the Special Purpose - School Zone to independent and integrated schools to enable their ongoing operation and future development; and
- iii. removing the Special Purpose - School Zone from state schools and relying on designations to enable their ongoing operation and future development.

The Panel is recommending the following amendments to the provisions of the various special purpose zones.

- i. Applying design controls only where new buildings or significant additions to buildings are within 10 metres of public roads and land zoned open space in the Special Purpose - Healthcare Facility and Hospital Zone, the Special Purpose - School Zone and the Special Purpose - Tertiary Education Zone.
- ii. Not including a new Special Purpose Zone – Places of Worship. However, recognising there are merits in the development of a specific zone for places of worship, but that this should be undertaken by way of a separate plan change to enable a comprehensive region wide approach that encompasses facilities of all denominations.
- iii. Classifying activities not otherwise provided for in the activity tables as discretionary activities.
- iv. Amending the objectives, policies and rules of the Special Purpose - Hospital and Healthcare Zone and the Special Purpose - School Zone to achieve better alignment between the zones and to provide greater clarity as to the primary purpose of the zones.
- v. Reducing the riparian yard requirement from 10 metres to five metres in the Special Purpose - School Zone.
- vi. Amending the policies and rules relating to design matters to simplify the provisions, minimise the use of jargon, and to provide greater clarity and certainty.
- vii. Deleting requirements for design statements.

1.3. Overview

The Panel does not regard social facilities as ‘infrastructure’ as proposed by the definition of ‘infrastructure’ in the notified Plan. The Panel considers the term ‘infrastructure’ should be used to describe works that enable other activities to occur rather than activities which may be undertaken for their own sake and therefore the Panel recommends essentially adopting the definition of infrastructure in the Resource Management Act 1991. On that basis, social facilities should not be called ‘infrastructure’. Social facilities and the activities they support merit, in the Panel’s opinion, separate recognition and promotion in the Plan. It is for these reasons that this topic is now called Topic 055 Social Facilities and the term ‘social facilities’ has generally replaced references to ‘social infrastructure’ throughout the Unitary Plan. It is also why the Panel supports the adoption of special zones and precincts that provide for

ongoing use and development of schools, healthcare facilities and hospitals and tertiary education facilities.

The key parties involved in this topic have worked hard to reach agreement on the provisions for the zones and the Panel greatly appreciates their work and commitment. Many of the matters that have not been agreed relate to the detail of the provisions rather than any substantive matters.

The main issues that remained unresolved by the parties at the end of the hearing process were:

- i. the extent to which the design of buildings should be controlled;
- ii. the width of riparian yards;
- iii. the activity status of “activities not otherwise provided for”;
- iv. the establishment of a new special purpose zone for places of worship;
- v. the need for a Special Purpose - Tertiary Education Zone and the extent to which the zone should provide for complementary or compatible activities;
- vi. site-specific additional height controls.

The Panel has made a number of consequential changes to the Special Purpose - Healthcare and Hospital Zone, the Special Purpose - Tertiary Education Zone and the Special Purpose - School Zone to ensure there is better alignment of the zones. This is necessary as there are many similarities in the effects of the activities the zones provide for, in the functional requirements of hospitals and education facilities and in the importance of these activities to the social well-being of communities. It is therefore the view of the Panel that there should be better consistency and alignment in the provisions of the three zones, particularly with regard to objectives and policies and design provisions.

No submitters made presentations at the hearing in respect of the Special Purpose - Cemetery Zone provisions. The Council’s planning witness Mr Bang proposed only minor changes to the zone provisions. However, Mr Bang’s evidence in Topic 081 on the Silverdale 4 Precinct recommended some additional amendments to the Special Purpose - Cemetery Zone, mainly to do with the controls on mausoleums. The Panel agrees with Mr Bang’s suggested amendments.

1.4. Scope

The Panel considers that the recommendations in 1.2 above and the changes made to provisions relating to this topic (see sections 2 to 7 below) are within the scope of submissions.

For an explanation of the Panel’s approach to scope see the Panel’s Report to Auckland Council – Overview of recommendations July 2016.

1.5. Documents relied on

Documents relied on by the Panel in making its recommendations are listed below in Section 9 Reference documents.

2. Design controls

2.1. Statement of issue

The extent to which the design of buildings should be controlled in the Special Purpose – School Zone, Special Purpose -Tertiary Education Zone, and Special Purpose - Healthcare Facility and Hospital Zone.

A number of submitters, including the Education Providers (The Roman Catholic Bishop of the Diocese of Auckland; the New Zealand Marist Brothers Trust Board; the New Zealand Seventh-day Adventist Schools Association; the Saint Kentigern Trust Board; Diocesan School for Girls; St Cuthbert's College; and King's College), the Auckland District Health Board and Ascot Hospital and Clinics Limited, and the University of Auckland presented extensive evidence and legal submissions regarding the excessive regulatory burden imposed by the design objectives, policies and assessment criteria that apply in the Special Purpose - Healthcare Facility and Hospital Zone, the Special Purpose - School Zone and the Special Purpose - Tertiary Education Zone.

The submitters were also of the view that the design objectives, policies and assessment criteria did not consider the functional and operational requirements of the activities and facilities that the zones have been designed to provide for and enable. They also considered that the provisions were poorly worded, overly prescriptive or simply inappropriate.

The submitters raised particular concerns regarding requirements for buildings and activities to respond positively to their surrounding context, to engage and activate streets and open space at ground floor levels, to avoid blank walls and long unrelieved frontages and excessive bulk and scale, and to reinforce sense of place and respond to the form and quality of the surrounding area.

Ms Weeber, Council's urban design witness was of the view that the design provisions of the various zones are necessary to achieve a quality built environment and that context and sense of place are important factors in determining what makes a quality built environment.

In Ms Weeber's opinion, context is particularly relevant for these three zones as they are surrounded by different zones, and developments need to set their own positive precedent for the future context of their site. She considered new developments must also be cognisant of the relationships with the context of the street, open space, neighbourhood and city that surround them. With regard to sense of place, Ms Weeber considers that developments in these zones need to respond to the existing sense of place and also build on or craft their own positive campus sense of place.

At the request of the Panel, further expert conferencing took place following the hearing in an attempt to reach agreement on the drafting of the design assessment criteria. Unfortunately the parties were not able to agree on a set of design criteria.

2.2. Panel recommendations and reasons

It was common ground among submitters that good design is very important to generating and maintaining a quality urban environment. The primary issue of difference was the extent to which and how such good design could and should be regulated under the Plan.

The Panel is recommending a number of changes to the design provisions of the three zones to reduce the extent of control over design matters, simplify the provisions, minimise the use of jargon, and to improve the overall drafting of the provisions. The Panel has similar concerns as those raised by submitters and was not persuaded by the evidence from Council's witnesses that regulatory intervention is desirable over design matters to the extent proposed by Council.

Also of significance to these zones is the Panel's recommendation in Topic 077 to remove the requirement for design statements from the Plan. This recommendation is due in part to concerns raised by submitters in Topic 077 regarding the Council's desire to take an active and early role in the design process of private proposals. Similar concerns have been raised by submitters in this topic.

The Panel agrees with the submitters that healthcare facilities and hospitals, schools and tertiary education facilities have specialist functions and those responsible for the facilities have a great deal of specialist experience in designing and operating these facilities to meet the needs of their owners, patients, students, and staff.

It is the view of the Panel that those responsible for the facilities are best placed to assess the design needs and functions of their developments. The external effects of this design arise primarily at the periphery of the site. Therefore, from a design perspective any regulatory intervention should only relate to the interface of a development with the street, public open space and other neighbouring sites. The provisions in the three zones relating to design have been amended to only apply to development located within 10 metres of a public road or open space zone.

Many buildings and facilities for healthcare and education due to their functional requirements (operating theatres, patient wards, emergency services, auditoriums, swimming pools, classrooms, gymnasiums) will be large in scale and bulk and, because of the activities they accommodate, cannot activate streets, respond to the surrounding environment and reinforce sense of place. The Panel recognises this reality and as a consequence has amended the provisions to remove requirements to engage and activate streets and open space.

The Panel has also made changes to the design provisions as a result of removing the design statement requirements from the Plan and to improve the overall drafting of the provisions. These are consequential changes and therefore not considered to be out of scope.

3. Riparian yards

3.1. Statement of issue

The width of riparian yards in the Special Purpose - School Zone.

The Education Providers considered the 10 metre riparian yard requirement in the Special Purpose - School Zone to be excessive and sought that the yard be reduced to 5 metres. The reasons why the Education Providers opposed the rule are that the Plan is seeking to

make more efficient use of urban land, the difficulty in acquiring additional land for schools within the existing urban area and hence the need to use school land more efficiently.

3.2. Panel recommendations and reasons

While acknowledging that some degree of protection for urban streams is reasonable, the Panel considers the requirement for a 10 metre yard on each side of a stream in the Special Purpose - School Zone to be onerous, particularly for intermittent streams.

A five metre riparian yard standard is recommended as it strikes an appropriate balance between avoiding the potential for adverse effects, while enabling future development and the efficient and sustainable use of school land.

4. Activities not provided for

4.1. Statement of issue

The activity status of 'activities not otherwise provided for' in the Special Purpose - Healthcare and Hospital Zone and Special Purpose - School Zone.

The Council proposed that activities which have not otherwise been provided for in the activity tables for the Special Purpose - Healthcare and Hospital Zone and the Special Purpose - School Zone be classified as non-complying activities. A number of the submitters did not agree with the Council and considered the appropriate activity status should be discretionary activity.

4.2. Panel recommendations and reasons

As set out in Chapter C, the Panel is recommending that across the Plan activities not specifically listed as being of any class or status be treated as discretionary activities. The Panel is not convinced by the evidence of the Council this plan-wide rule should not apply to the Special Purpose - Healthcare and Hospital Zone and Special Purpose - School Zone and that the more restrictive activity status of non-complying should apply.

The objectives and policies for both zones provide a clear direction that the predominant uses of the zones are healthcare and education and other uses should not compromise the efficient use of the zones for these activities. The zones also have comprehensive rules designed to protect activities in adjoining zones, in particular residential activities. Consequently the Panel does not have the same concerns as Council regarding the potential establishment of a broad range of inappropriate activities in these zones which will result in adverse effects on activities in adjoining zones.

5. New Special Purpose Zone – Places of Worship

5.1. Statement of issue

The establishment of a new special purpose zone for places of worship

The Roman Catholic Bishop of the Diocese of Auckland sought the rezoning of some 29 identified sites to a new Special Purpose Zone – Places of Worship. The Bishop considers that established churches should be expressly recognised and provided for by way of their own zone that would enable these activities to adapt to meet future needs of their congregations and other community groups.

The Council is concerned that there are nearly 900 sites of worship within Auckland that could potentially take advantage of the proposed new zone and, if the new zone were introduced for the sites identified by the Bishop, there would be no proper planning reason for not applying the same zone to other places of worship, and insufficient consideration has been given to the impact of such a widespread change.

5.2. Panel recommendations and reasons

While the Panel acknowledges the need for places of worship to change and adapt to meet future needs, the Panel is mindful of the wider planning implications of applying the zone across Auckland as part of the Unitary Plan process. The Panel also has concerns about only applying the zoning to places of worship identified by the Roman Catholic Bishop of the Diocese of Auckland. The Panel considers there are merits in the development of a specific zone for places of worship, but considers that this should be undertaken by way of a separate plan change to enable a comprehensive region-wide approach that encompasses facilities of all denominations.

6. Tertiary Education Zone

6.1. Statement of issue

The need for a Special Purpose - Tertiary Education Zone in the Unitary Plan and the extent to which the zone should provide for complementary or compatible activities.

The Council and almost all the tertiary education providers who appeared at the hearing on Topic 055 supported the replacement of the Special Purpose - Tertiary Education Zone with a place-based precinct for each tertiary education site along with an appropriate alternative zoning. Therefore, by the end of the hearing it seemed to the Panel that the Special Purpose - Tertiary Education Zone could be deleted from the Plan.

The zoning of the various tertiary education sites subject to a precinct was addressed in Topics 080 and 081. As a result of those hearings it became evident that in a limited number of cases the Special Purpose - Tertiary Education Zone needed to be retained as an appropriate alternative zoning could not be found for all sites. It was also identified that not all tertiary education sites were subject to a place-based tertiary precinct and therefore a Special Purpose - Tertiary Education Zone was required to provide for their ongoing use and development.

With the need to retain the Special Purpose - Tertiary Education Zone in the Plan the provision of complementary or compatible activities in the zone re-emerged as an issue.

A number of tertiary education providers, including Unitec Institute of Technology and the University of Auckland, sought provision for complementary business or complementary activities as a permitted activity in the Special Purpose - Tertiary Education Zone and

proposed a definition of 'complementary activities' to support their proposed new permitted activity rule. The rationale for the inclusion of these provisions is to facilitate the integration of learning and research with business and industry.

The Council did not support a permitted activity status for complementary offices and light manufacturing, even with an associated definition, because the activities were perceived to be too uncertain and could result in unintended consequences. Complementary offices were of a particular concern for the Council.

6.2. Panel recommendations and reasons

The Panel agrees with the parties that the Special Purpose - Tertiary Education Zone should be retained in the Plan.

Including complementary or compatible activities as permitted activities in zones is a wider plan issue. However, in the case of the Special Purpose - Tertiary Education Zone the Panel recommends the inclusion of "activities compatible with tertiary education facilities" as a restricted discretionary activity in the zone. It is proposed that the matters of discretion and associated assessment criteria be restricted to the relationship of the activity with the tertiary education facility; whether the proposal will compromise the use of the zone for tertiary education purposes, and effects on the function of nearby town centres.

The Panel considers that this approach should address Council's concerns regarding uncertainty and unintended consequences while acknowledging the need to provide for the co-location of education and business activities as sought by the tertiary education providers.

7. Additional height

7.1. Statement of issue

Provision for additional height on the Ascot Hospital site in Mountain Road.

The Ascot Hospital and Clinics Limited sought the inclusion in the Special Purpose - Healthcare Facilities and Hospital Zone of a height diagram for their site in Mountain Road to enable a higher height limit on the site above that provided for by the zone rules. The height diagram seeks to recognise the existing development on the site. The site is also subject to a Volcanic Viewshafts and Height Sensitive Areas Overlay.

The primary and rebuttal evidence of the Council's planning witness Mr Bangs opposed the requested additional height for Ascot Hospital, due to the conflict between the volcanic viewshafts and the proposed heights. At the hearing Mr Bangs stated that he could accept the proposed heights on the basis that it reflected the existing buildings on the site, however, his opinion was solely in respect of the zone provisions and was not given as determinative of the volcanic viewshaft overlay matters.

Mr McGarr, the planning witness for Ascot Hospital and Clinics Limited considered that it was not appropriate that a site specific control be dictated to by the presence of a volcanic viewshaft overlay that a site may be subject to. He was of the opinion that zone provisions provide for the base bulk, scale and location of built form relative to the outcomes anticipated

by the zone, and are not intended to be cognisant of the overlays that apply in a geographically specific manner.

7.2. Panel recommendations and reasons

Topic 055 was heard well in advance of Topic 020 Volcanic viewshafts. The Panel has now had the benefit of hearing all the evidence for Topic 020 and other topics that have addressed the structure of the Plan and the relationship of overlays with other Plan provisions.

The Panel recommends that the volcanic viewshaft that applies to the Ascot Hospital site in Mountain Road be retained. The Panel has also confirmed that in terms of the Plan's structure, the overlay provisions take precedence over zone, Auckland-wide and precinct provisions.

The Panel does not support the inclusion of the height diagram in the Special Purpose - Healthcare Facilities and Hospital Zone to enable a higher height limit on the Ascot Hospital site than that provided for by the zone rules.

The Panel agrees in principle with Mr McGarr that zoning should be based on what is appropriate for the land and should not be determined by any overlay to which the land may be subject. This is why the Panel supports the zoning of the Ascot Hospital site as Special Purpose - Healthcare Facilities and Hospital Zone. However, the Panel cannot support the inclusion of a provision that would provide for a higher height limit than that allowed for by the zone in a location where it would then be overruled by an overlay provision that imposes a significantly lower height. It would be disingenuous to allow for additional height only for it to be taken away through other plan provisions that take precedence over the zone provisions.

8. Consequential changes

8.1. Other parts of the Plan

There are no changes to other parts of the Plan as a result of recommendations made on this topic

8.2. Provisions of this topic

For the reasons set out in the Panel's Report to Auckland Council- Hearing topic 077 Sustainable design July 2016, the requirements to provide design statements in the Special Purpose - Healthcare Facility and Hospital Zone, the Special Purpose - Tertiary Education Zone and the Special Purpose - School Zone have been deleted.

9. Source documents

The documents listed below, as well as the submissions and evidence presented to the Panel on this topic, have been relied upon by the Panel in making its recommendations.

The documents can be located on the aupihp website (www.aupihp.govt.nz) on the hearings page under the relevant hearing topic number and name.

You can use the links provided to locate the documents, or you can go to the website and search for the document by name or date loaded.

(The date in brackets after the document link refers to the date the document was loaded onto the aupihp website. Note this may not be the same as the date of the document referred to in the report.)

9.1. General topic documents

Panel documents

[055-Parties & Issues Report \(28 May 2015\)](#) (29 May 2015)

[055-Submission Point Pathway Report \(30 March 2015\)](#) (30 March 2015)

[055 - Joint Mediation Statement - Cemetery Zone \(2015-04-23\)](#) (1 May 2015)

[055 - Joint Mediation Statement - Healthcare Facility Zone \(2015-04-23\)](#) (1 May 2015)

[055 - Joint Mediation Statement - Places of Worship Zone \(2015-04-23\)](#) (6 May 2015)

[055 - Joint Mediation Statement - School zone \(2015-04-22\)](#) (1 May 2015)

[055 - Joint Mediation Statement - Tertiary zone \(2015-04-22\)](#) (1 May 2015)

Interim guidance

[013 Urban Growth - PAUP Sections B2.2, B2.4, B2.5, B2.6, B2.7 and B3.1 \(PDF 1.71MB\)](#) (20 March 2015)

[Regional and District Rules - PAUP Chapter G - General Provisions \(PDF 231KB\)](#) (9 October 2015)

Auckland Council marked up versions:

[LATE Markup version \(Cemeteries\)](#) (17 Apr 2015)

[LATE Markup version \(Healthcare Facilities\)](#) (17 Apr 2015)

[LATE Markup version \(School Zone\)](#) (17 Apr 2015)

[LATE Markup version \(Tertiary Education Zone\) - With comments](#) (21 Apr 2015)

Auckland Council post-hearing marked up versions:

[Post-hearing track changes \(Healthcare Facility Zone\)](#) (28 Oct 2015)

[Post-hearing track changes \(School Zone\)](#) (28 Oct 2015)

[Post-hearing track changes \(Tertiary Education Zone\)](#) (28 Oct 2015)

9.2. Specific evidence

The Roman Catholic Bishop of the Diocese of Auckland

[Hearing evidence \(Graham Upton and Malcolm Bowes\) - Architecture - School Zone](#) (20 May 2015)

[Hearing evidence \(Iain McManus\) - Planning - School Zone](#) (19 May 2015)

Hearing evidence (Michael Stride) (21 May 2015)
Hearing notes (Graham Upton and Malcolm Bowes) (12 June 2015)
Hearing presentation (8 June 2015)
LATE Hearing evidence (Craig Haughey) - Planning (21 May 2015)
LATE Hearing evidence (Iain McManus) - Planning (21 May 2015)
Legal submissions (8 June 2015)
Legal submissions (Places of Worship) (8 June 2015)
Pre-hearing evidence (with appendices) (4 March 2015)
Supplementary statement on Places of Worship (Craig Haughey) (8 June 2015)
Supplementary statement on Places of Worship (Craig Haughey) - Annexure 1 (8 June 2015)

The New Zealand Marist Brothers

Hearing evidence (Graham Upton and Malcolm Bowes) - Architecture - School Zone (20 May 2015)
Hearing evidence (Iain McManus) - Planning - School Zone (19 May 2015)
Hearing notes (Graham Upton and Malcolm Bowes) (12 June 2015)
Hearing presentation (8 June 2015)

King's College

Hearing evidence (Graham Upton and Malcolm Bowes) - Architecture - School Zone (20 May 2015)
Hearing evidence (Iain McManus) - Planning - School Zone (19 May 2015)
Hearing presentation (8 June 2015)
Legal submissions (8 June 2015)

St Cuthbert's School for Girls

Hearing evidence (Graham Upton and Malcolm Bowes) - Architecture - School Zone (20 May 2015)
Hearing evidence (Iain McManus) - Planning - School Zone (19 May 2015)
Hearing evidence (John Childs) - Planning (20 May 2015)
Hearing notes (Graham Upton and Malcolm Bowes) (12 June 2015)
Hearing presentation (8 June 2015)
Legal submissions (8 June 2015)

New Zealand Seventh-day Adventist Schools Association;

Hearing evidence (Iain McManus) - Planning - School Zone (19 May 2015)
Hearing evidence (Graham Upton and Malcolm Bowes) - Architecture - School Zone (20 May 2015)
Hearing notes (Graham Upton and Malcolm Bowes) (12 June 2015)

[Hearing presentation](#) (8 June 2015)

The Saint Kentigern Trust Board;

[Hearing evidence \(Graham Upton and Malcolm Bowes\) - Architecture - School Zone](#) (20 May 2015)

[Hearing evidence \(Iain McManus\) - Planning - School Zone](#) (19 May 2015)

[Hearing presentation](#) (8 June 2015)

[Legal submissions](#) (8 June 2015)

Diocesan School for Girls;

[Hearing evidence \(Graham Upton and Malcolm Bowes\) - Architecture - School Zone](#) (20 May 2015)

[Hearing evidence \(Iain McManus\) - Planning - School Zone](#) (19 May 2015)

[Hearing notes \(Graham Upton and Malcolm Bowes\)](#) (8 June 2015)

[Hearing presentation](#) (8 June 2015)

[Legal submissions](#) (8 June 2015)

Auckland Kindergarten Association,

[Hearing evidence \(Catherine Richards\) - Planning](#) (18 May 2015)

Auckland District Health Board

[Hearing evidence \(Craig McGarr\) - Planning](#) (20 May 2015)

[Hearing evidence \(Lisa Mein\) - Urban Design](#) (20 May 2015)

[Legal submissions](#) (9 June 2015)

Ascot Hospital and Clinics Limited:

[Hearing evidence \(Craig McGarr\) - Planning](#) (20 May 2015)

[Hearing evidence \(Lisa Mein\) - Urban Design](#) (20 May 2015)

[Legal submissions](#) (9 June 2015)

The University of Auckland

[Hearing day statement \(Karl Cook\)](#) (9 June 2015)

[Hearing evidence \(Karl Cook\) - Planning](#) (21 May 2015)

[Legal submissions](#) (9 June 2015)

[Pre-hearing evidence](#) (3 March 2015)

[Suggested changes following the presentation of evidence](#) (12 June 2015)